



TIMOTHY LYONS QC BL
ADVOCAAT/AVOCAT, BRUSSELS
BAR

Year called 1980

Silk 2003

timothy.lyons@39essex.com



“Excellent at what he does – client-friendly and efficient.”

The Legal 500

“He has an exceptional knowledge and understanding of EU law.”

The Legal 500

“He is brilliant...”

Chambers & Partners

Timothy Lyons QC, BL, Advocaat/Avocat Brussels Bar, was called to the Bar in 1980 and took Silk in 2003. He has also been called to the Bar of the Republic of Ireland (1998 – please [click here](#) for his web profile) and is a member of a number of EU law organisations including the Irish Centre for European Law. He is a member of the London Court of International Arbitration.

The early years of Timothy’s career were spent doing general chancery work. He then spent a considerable time in revenue chambers and now deals with a wide range of public and commercial law matters. Particular areas of interest include:

- UK and EU trade law and customs duties; anti-dumping and countervailing duties.
- Direct and indirect tax disputes (VAT, excise duty, national insurance) – including EU and international aspects.
- Arbitrations under double tax and bilateral investment treaties.

- Trade and WTO law – disputes and arbitrations. Timothy has been acting in recent litigation concerning Brexit, WTO law and customs.
- General EU law – internal market; environment, external relations.
- EU state aid and public procurement law
- All aspects of the community infrastructure levy
- Private client – trusts, succession, conflict of laws, taxation and Court of Protection work.
- Access to information in particular where held by European Institutions.

Timothy's interest in international matters has led to him advising foreign governments as well as businesses and high net wealth individuals. He represents in court, and advises, trustees of both domestic and international trusts on a wide range of issues and is a former member of STEP's Cross-Border Estates Group and its EU Committee. He is a member of the standing committee of scientific advice of the Center for Legal and Economic Research (CIJE), Faculty of Law, University of Porto, Portugal.

Publications include: *EC Customs Law* (OUP, 2nd ed, 2008); *European Cross-Border Estate Planning* (Sweet & Maxwell) General editor. *State Aid, Tax and Abuse of Law in Prohibition of Abuse of Law: A New General Principle of EU Law?* (Hart Publishing, 2011); *Ways to tackle inheritance cross-border tax obstacles facing individuals within the EU* (European Commission Expert Group, 2016) and regular contributions to the *British Tax Review*.

RECENT PUBLICATIONS ON TAX, CUSTOMS, TRADE AND THE EU

- [The EU/UK TCA: Tax and Customs Tax Journal 7 January 2021](#)
- [Ireland and Apple v European Commission: the competent exercise of competences \[2020\] British Tax Review 609](#)
- [Tax and the UK/Japan Comprehensive Economic Partnership Agreement \[2020\] British Tax Review 605.](#)

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SIGNIFICANT CASES

- *HMRC v Naghshineh* – (2020) concerning income tax sideways loss relief for farming losses
- A case concerning capital gains tax and usufructs in which the issue was whether or not there should be a reference to the CJEU
- *P v Asst Dir. Adult Social Care, Newcastle CC and CICA (CoP – trusts of property)* [2015] EWCOP 87
- *Case C-84/15 Sonos Europe BV v Staatssecretaris van Financiën* (EU customs law – reference from the Hoge Raad der Nederlanden to the CJEU, 2015).
- *Targetti (UK) Ltd v HMRC* – (2012) validity of EU anti-dumping regulation.

- BUPA v HMRC heard together with Halifax plc v CCE [2006] ECR I-1609 (VAT input tax and abuse of law).
- R v Dimsey [2002] 1 AC 509, transfer of assets abroad, human rights law and taxation.
- Case C-296/95 The Queen v CCE, ex parte EMU Tabac SARL [1998] ECR I-1605 (excise duty on cross-border movements of goods).

PRACTICE AREAS

- UK and EU Trade and Customs Law
- Brexit and General EU Law
- Indirect Tax
- Direct Tax
- Private Client
- Arbitration

PRACTICE AREAS

UK AND EU TRADE AND CUSTOMS LAW

Timothy's trade practice includes disputes over anti-dumping duties and countervailing duties, for example in relation to Chinese light bulbs and US biofuels. The first of those cases was in the First-tier tribunal and the Upper Tribunal in the UK (*Targetti (UK) Ltd v HMRC*). The second concerned a dispute with the Belgian authorities. More recently he has advised on rules of origin in relation to safeguards imposed by the EU in relation to imports from third countries. He has worked on a number of cases involving the rules of origin in relation to fish and fish products.

In customs matters he often has tariff classification cases to deal with and on occasions is asked to assist EU practitioners in relation to their cases such as in Case C- 84/15 *Sonos* which was a reference to the CJUE from the Netherlands Supreme Court. Another non-UK case involved imports from Kaliningrad into Riga. He has already advised on the UK's Global Tariff.

Other customs cases have involved matters such as customs valuation and authorisation for customs procedures.

Timothy has written and lectured widely on EU customs law and his book "EU Customs Law" 3rd ed 2018, is widely regarded as a leading textbook for practitioners. He has already advised on the roll-over trade agreements of the UK in relation to tariff quotas. His note on the UK/Japan trade agreement is awaiting publication.

BREXIT AND GENERAL EU LAW

From the start of the Brexit process Timothy has been deeply involved in both advising and writing on matters

relating to Brexit from both the perspective of governments and commercial enterprises. That has required him to consider not only customs and tax matters (especially VAT) but also a great deal of WTO law and the relationship between national law and WTO law. He has advised on WTO law in association with leading lawyers in other jurisdictions around the world.

Timothy has also published widely on the negotiations between the UK and the EU from 2016 to the present day. His articles cover the level playing field clause and the draft agreements of the UK and the EU as they concern tax and customs. He has written on UK VAT after Brexit for a Dutch publication and has written a chapter on customs and excise in a book on Brexit to be published by Bloomsbury in 2021.

Cases on more general areas of EU law have covered the EU fundamental freedoms in relation to taxation, EU state aid law, the UK's Prüm Convention concerning DNA and fingerprints and EU moneylaundering law.

INDIRECT TAX

Taxes such as VAT and Excise Duty are matters on which Timothy regularly advises. One recent dispute in which he drafted successful representations for a client concerned the availability of the exemption for education. More recently he has been advising on the availability of the reduced rate of VAT in respect of a significant building project in London. VAT is one of the areas in which is asked to address seminars.

Timothy is well-placed to consider topics such as the availability of the doctrine of abuse having been junior counsel before the CJEU in a case heard with *Halifax*.

On excise duty he has represented clients in disputes over duty on tobacco and advised in relation to duty on alcohol.

DIRECT TAX

Timothy recently acted for the taxpayer in *Naghshineh v HMRC* which is to be heard before the Court of Appeal in 2021. The case concerns the availability of farming losses and will provide the Court of Appeal with the opportunity to rule on an area of law that has been covered by a number of cases in lower tribunals.

In *Findlay* Timothy advanced contentions concerning the ability of an English taxpayer to rely on EU discrimination law to ensure that the CGT of a French usufruct followed the rules which would have been applied to a life-rent in Scots' law. The case required some familiarity with both French and Scots' law and expert evidence of both. It is expected to be concluded in 2021.

Another recent matter involved an analysis of whether individuals involved in professional activities were independent contractors or employees for income tax purposes.

PRIVATE CLIENT

Cases have concerned the domicile of private clients, the application of the EU's Succession Regulation 650/2012, on which Timothy has lectured for STEP, and the valuation of shares in a private company. For other private client work see the Direct Taxation tab.

As a result of being the General Editor of the loose-leaf "Capital Taxes and Estate Planning in Europe" Timothy has a good range of contacts in the private client field outside the UK and is frequently called on to address conferences.

ARBITRATION

Arbitration in the context of both commercial matters and in relation to disputes between states has always been

an area in which Timothy has had a strong interest. He is a member of the London Court of International Arbitration and has published on arbitration in bilateral investment treaties and tax disputes. He has also acted in commercial arbitrations and is available to act as arbitrator as well as counsel.

RECOMMENDATIONS

“Incisive mind; good tactician; excellent grasp of the legal principles involved in a complex piece of litigation.”
Legal 500 2021

“Well connected in the EU. A recognised leading thinker in this area.” Legal 500 2021

“He was commercial and produced an excellent work product.” “He’s brilliant. He wrote the book on customs duty and knows everything about it.” Chambers & Partners 2017

“Extremely responsive, user-friendly, efficient and professional.” The Legal 500 2016

“Highly experienced in the interplay between EU law and tax.” The Legal 500 2016

“He has a breadth of expertise in tax and European law which is extremely helpful and unusual.” “Absolutely top quality and very commercially minded.” Chambers & Partners 2016

“He has a calming presence and makes issues easy for lay clients to understand.” The Legal 500 2015

“Approachable and a pleasure to work with.” The Legal 500 2015

APPOINTMENTS

Hon. Visiting Professor: Law School of City University

Fellow of the European Law Institute

Visiting Professor: London School of Economics; Porto University

Occasional lecturer: Leiden International Tax Centre and Academy of European Law (Trier)

Assistant Editor (European Law) British Tax Review

Member of the editorial board of Global Trade and Customs Journal

Occasional lecturer: Leiden International Tax Centre, Academy of European Law (Trier) and University of Münster

MEMBERSHIPS

Member of the Brussels Bar

QUALIFICATIONS

- LLB
- LLM
- PhD
- CIOT (Fellow)
- TEP

ADDITIONAL INFORMATION

PUBLICATIONS

Report: *Way to tackle inheritance cross-border tax obstacles facing individuals within the EU*

The Interaction of Customs and Non-tariff Barriers – 2015 European Yearbook of International Economic Law.

European Cross – Border Estate Planning Sweet and Maxwell 20 December 2012

State Aid, Tax and Abuse of Law in – Prohibition of Abuse of Law: A New General Principle of EU Law? Hart Publishing, 2011 2011

Value Added Tax: Commentary and Analysis (contributor) Sweet & Maxwell

International Guide to the Taxation of Trusts IBFD

EC Customs Law Oxford University Press 27 March 2008

ARTICLES

Global Arbitration Review – Treaty Arbitration: The limited role of tax carve-outs in BITs

The modernisation of EU state aid law and taxation

The Financial Transaction Tax and the EU.

FA 2013: TV production and video games

FA 2013: Overpayment relief and EU law

FA 2013: heritage maintenance settlements

The financial crisis, tax avoidance and an EU GAAR

EU Commission Tackles IHT Cross-Border Obstacles

Heading for the dump? Will an EU investigation into “dumping” by Chinese solar panel suppliers undermine Decc’s assumption that solar subsidies can be slashed?

Section 199: relief from VAT on low value goods: restriction relating to Channel Islands – Low Value Consignment Relief for VAT

Commission and Spain v Gibraltar and the United Kingdom: a landmark case on engineered tax regimes

EU Commission Tackles IHT Cross-Border Obstacles

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