

Press release

Brussels, 05 October 2011

CMS pan-European study into “green” lease clauses: a converging patchwork

Leading European legal and tax services provider CMS today launches the *CMS e-guide: Study on the use of Green Lease Clauses in Europe*, the first pan-European study into the existing regulations and market practices around “green” clauses in leases. Combining information from 21 European countries, the Study is an invaluable tool for comparing current regulations and practices between jurisdictions. The Study also includes recommendations on how to draft green leases.

Bruno Duquesne, partner with CMS DeBacker and Head of Real Estate in Belgium, explains: “With so much focus on green buildings, we wanted to find out what was being done across Europe, identifying best practice. The Study provides investors, asset managers and users with precise information to ensure that buildings stay green throughout their lifetime.”

The study shows an increasing use of “green” clauses amid a patchwork of regulations and market practice. “This shouldn’t be surprising,” says **Pierre-Axel Chabot**, real estate partner with CMS DeBacker, “environmentally friendly and sustainable buildings are only starting to become the norm across Europe in a push to reduce emissions and energy consumption in a region fully committed to the Kyoto Protocol. So ensuring buildings stay green during their entire lifetime is essential to future-proof investments.”

“In Belgium, there is a lot of talk about “green” buildings and “green” leases,” says **Stacey Smits**, real estate senior associate with CMS DeBacker, “however the inclusion of “green” clauses is still marginal. Yet, the evolution is clear: ever increasing environmental constraints will be reflected in tougher contractual obligations for occupiers and landlords alike. This is already visible in Germany, the UK and the Netherlands. Moreover, it is also supported by occupiers, keen to show their green credentials, at any cost.”

One of the main findings is that at the moment, there is little consensus on a standard for energy certification. The increasing use of three leading standards, LEED (Leadership in Energy and Environment Design), BREEAM (Building Research Establishment Environmental Assessment Method), in some countries, closely followed by DGNB (the German Sustainable Building Association), demonstrates an increasing importance of certification across Europe, although with strong national differences. One of these is the development of national standards in Belgium, the Czech Republic, France and Italy, while other countries, such as The Netherlands and Poland, opt to adapt international standards to their national requirements. “These certifications are very useful but not entirely comparable with each other. This can be confusing to both investors and users alike,”

explains **Bruno Duquesne**. “A national harmonization of standards would be beneficial to the European Real Estate industry. However, given the small percentage of new build in relation to the existing stock, the emerging use of certification standards for existing properties is a positive evolution.”

Across Europe, the incentives for landlords to keep their buildings current in terms of energy efficiency are very limited. With the emergence of certification standards for existing buildings, and given the huge existing stock available throughout Europe, CMS experts believe that responsible authorities should look at expanding incentives for landlords and lessees alike. This will be beneficial in terms of energy conservation as well as to the construction industry, in what are challenging economic times with high unemployment.

For the Study, CMS real estate law experts reviewed the legal framework and market practice in Austria, Belgium, Bosnia and Herzegovina, Bulgaria, Croatia, the Czech Republic, France, Germany, Hungary, Italy, The Netherlands, Poland, Romania, Russia, Serbia, Slovakia, Slovenia, Spain, Switzerland, Ukraine and the United Kingdom (including England & Wales, Northern Ireland and Scotland).

The *CMS e-guide: Study on the use of Green Lease Clauses in Europe* is only available online and can be accessed from: <http://equides.cmslegal.com/greenleases/index.aspx>.

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Press contact:

Xavier Veldeman
CMS Business Developer
CMS DeBacker
Chaussée de La Hulpe 178
B-1170 Bruxelles
T: +32 (0)2 743 69 05
M: +32 (0)471 200 075
E: xavier.veldeman@cms-db.com

Leading standards

For more information about LEED, see: <http://www.usgbc.org/DisplayPage.aspx?CMSPageID=1988>

More information about BREEAM, can be found on: <http://www.breeam.org/>

For more information about DGNB, see: <http://www.dgnb.de/en/index.php>

About the CMS Real Estate practice

The CMS Real Estate and Construction Group is comprised of more than 115 partners and nearly 340 qualified lawyers. Its broad, full-service expertise allows it to help clients with every tax and legal issue related to real estate and construction – from simple lease negotiations to large-scale construction projects, including financing, investment funds and structuring. The group’s excellent reputation is rooted in its ability to deliver swift, precise advice, extensive industry knowledge and a detailed understanding of its markets.

About CMS DeBacker

CMS DeBacker has offices in Brussels, Antwerp and Luxembourg. It numbers about 90 lawyers, including 25 partners. CMS DeBacker handles all legal and tax issues its clients face, in Belgium, Luxembourg and anywhere in Europe.

www.cms-db.com

About CMS

CMS DeBacker is the Belgian member of CMS, who aims to be recognised as the best European provider of legal and tax services. CMS operates in 29 countries, with 54 offices in Western and Central Europe and beyond. CMS was established in 1999 and today comprises nine CMS firms, employing over 2,800 lawyers. CMS is headquartered in Frankfurt, Germany.

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