

Review of European Union Law and EU legal approximation developments and analyses

No. 8 (October/November 2016)

Dear Reader,

this is the 8th issue of the review of current, important developments in EU law, EU legal analysis and EU legal approximation in Ukraine prepared in the framework of the project [“Support for the Implementation of the EU-Ukraine Association Agreement”](#). This issue covers the period 20 October – 25 November. We hope you will find it useful. Your comments and contributions that could improve the next issues of this review are welcome.

Some developments are reflected on daily basis on a dedicated [Twitter profile](#).

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I. LEGAL ASPECTS OF EU-UKRAINE RELATIONS

- **Visa liberalisation** - on 17 November, [the Permanent Representatives Committee \(Coreper\) agreed](#), on behalf of the EU Council, a negotiating position on visa liberalisation for Ukraine. It confirmed the Commission proposal to provide for visa-free travel for EU citizens when travelling to the territory of Ukraine and for citizens of this country when travelling to the EU, for a period of stay of 90 days in any 180-day period.



- **EU - Ukraine energy cooperation** - European Commission Vice-President for Energy Union Maroš Šefčovič and Energy Minister of Ukraine, Ihor Nasalyk, [signed \(24/11/2016\) a new Memorandum of Understanding on a Strategic Energy Partnership between the EU and Ukraine](#). The new agreement will broaden the cooperation in all areas, including energy efficiency and renewable energy, as well as aim to create more certainty for investors. Up until now cooperation focused mainly on energy security, nuclear safety, infrastructure and market reforms.
- **Ратифікація Угоди про асоціацію між Україною** - [Постанова Верховної Ради України](#) (26/10/2016) про Звернення Верховної Ради України до держав-членів Європейського Союзу, парламентів іноземних держав, парламентських асамблей та міжнародних організацій щодо завершення процесу ратифікації Угоди про асоціацію між Україною, з однієї сторони, та Європейським Союзом, Європейським співтовариством з атомної енергії і їхніми державами-членами, з іншої сторони.
- [Заплутаний трикутник. Чи вдасться ЄС розблокувати Угоду про асоціацію](#), Яна Бровдій, VoxUkraine, для Європейської правди
- [ЗВТ між Україною та ЄС діятиме незалежно від рішення Нідерландів з асоціації](#) - радник прем'єра України, УНІАН, 26/10/2016
- [“Відмовившись від асоціації з Україною, Нідерланди порушують принципи ЄС”](#) — Тарас Качка, Громадського радіо
- [Рецепти розблокування Відкритого неба для України](#), Катерина Кульчицька, Ірина Сушко, 29 жовтня, ZN.UA

II. IMPLEMENTATION OF THE ASSOCIATION AGREEMENT

- [“Lawmaking and implementation of the EU-Ukraine Association Agreement”, analytical review No 1](#), September–October 2016, Parliamentary Expert Group on European Integration, including inter alia the list of European Integration bills considered currently by the Verkhovna Rada / [“Законотворчість і виконання Угоди про Асоціацію Україна-ЄС”, аналітичний огляд No1](#), вересень-жовтень 2016 року, Парламентська експертна група з європейської інтеграції (ПЕГ)
- [“Рада не хоче прибирати сміття. Як врятувати реформу поводження з відходами”](#), Денис Черніков, Ольга Рябуха, Парламентська експертна група з євроінтеграції
- [“Рада ніяк не вкурить. Чому блокуються антитютюнові ініціативи з пакету ЄС”](#), Любов Акуленко, Український центр європейської політики
- [EU Support Group for Ukraine First Report](#) (28/10/2016) - Created in Spring 2014 and fully operational since Autumn of that year, the Support Group deploys 32 experts in Brussels and Kyiv to provide hands-on advice and expertise, as well as extensive financial support for institutional and legislative reforms. It works closely with the European External Action Service, the European Union's Delegation in Kyiv, and increasingly also with EU Member States. The level and depth of assistance, unprecedented in the European Union's relations with a third country, is outlined in a

report on the impact of the Support Group for Ukraine in the first 18 months of its activities. [Press release](#)

- **The President of Ukraine vetoed Law on Environmental Impact Assessment (31/10/2016)** ([Закон про оцінку впливу на довкілля](#), №2009а-д) adopted by the Verkhovna Rada of Ukraine on 4th October 2016 (base for the implementation by Ukraine of Directive 2003/4/EC on public access to environmental information and Directive 2011/92/EU on the assessment of the effects of certain public and private projects on the environment). **and Law on Strategic Environmental Assessment.** ([Закон про стратегічну екологічну оцінку](#), №3259) transposing Directive 2001/42/EC on the assessment of the effects of certain plans and programmes on the environment and the *Protocol on Strategic Environmental Assessment to the Convention on Environmental Impact Assessment in a Transboundary Context*. [Стаття Європейської правди](#); [Аналіз Пропозицій Президента - МБО "Екологія-Право-Людина"](#)
- ["Поглиблення відносин між ЄС та Україною Що, чому і як?"](#). Під редакцією Майкла Емерсона і Вероніки Мовчан, Центр європейських політичних досліджень (CEPS), Брюссель, Інститут економічних досліджень та політичних консультацій (ІЕД), Київ

III. RECENT DEVELOPMENTS AND ANALYSES IN EU LAW

This part of the review follows well established systematization of EU legislation, even if not in every reporting period there will be substantial or relevant developments in each chapter

- **01 GENERAL, FINANCIAL AND INSTITUTIONAL MATTERS**
 - **The European Commission Work Programme** for the coming year - [this year's Work Programme](#) proposes 21 key initiatives, as well as a further 18 REFIT proposals to improve the quality of existing EU legislation and ensure our rules are fit for purpose. To ensure a focus on delivery, the Commission Work Programme identifies 34 priority pending proposals we have made in the past two years where swift adoption by the Parliament and Council can make a tangible impact on the ground. On the basis of the Work Programme, the Commission, European Parliament and Council will work on a Joint Declaration on commonly agreed objectives and priorities for 2017, to swiftly turn proposals into action and bring concrete results for citizens. [Press release](#)
 - **Court of Justice of the EU and its interaction with other international courts** – [series of articles in Geneva Jean Monnet Working Paper](#) 2016
- **02 CUSTOMS UNION AND FREE MOVEMENT OF GOODS**
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- **03 AGRICULTURE**
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- **04 FISHERIES**

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- **05 FREEDOM OF MOVEMENT FOR WORKERS AND SOCIAL POLICY**

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- **06 RIGHT OF ESTABLISHMENT AND FREEDOM TO PROVIDE SERVICES**

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- **07 TRANSPORT POLICY**

- [2016 EU Transport Scoreboard](#) - the 2016 edition of the EU Transport Scoreboard compares Member State performance in 30 transport-related categories and highlights the five top and bottom performers in each of these categories.

- **08 COMPETITION POLICY**

- **State aid** – an [important judgment of the EU Court of Justice in Case C-590/14P Dimosia Epicheirisi Ilektrismou AE \(DEI\) v Alouminion tis Ellados VEAE](#). The Court ruled that the extension of the period of validity of existing State aid must be regarded as the alteration of that aid and, therefore, as new aid. [Press release](#).

- **09 TAXATION**

- **Corporate taxation** - the [European Commission has announced plans](#) (26/10/2016) to overhaul the way in which companies are taxed in the Single Market, delivering a growth-friendly and fair corporate tax system. The Common Consolidated Corporate Tax Base (CCCTB) will make it easier and cheaper to do business in the Single Market and will act as a powerful tool against tax avoidance. First tabled in 2011, the CCCTB was designed to strengthen the Single Market for businesses. While Member States made considerable progress on many core elements of the previous CCCTB proposal, they were unable to reach a final agreement. Having sought the views of Member States, businesses, civil society and the European Parliament, we are today bolstering the pro-business elements of the previous proposal to help cross-border companies cut costs, red tape and to support innovation. The re-launched CCCTB will also create a level-playing field for multinationals in Europe by closing off avenues used for tax avoidance. [Press release](#)

- **10 ECONOMIC AND MONETARY POLICY AND FREE MOVEMENT OF CAPITAL**

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- **11 EXTERNAL RELATIONS**

- **EU sanctions against Russia** - the [EU Council has added](#) 6 members of the Russian Federation State Duma elected from the illegally annexed Autonomous

Republic of Crimea and the city of Sevastopol to the list of persons subject to restrictive measures in respect of actions undermining Ukraine's territorial integrity, sovereignty and independence. [Press release](#)

- **Anti-dumping and anti-subsidy in EU external trade** - [34th Annual Report](#) from the Commission to the European Parliament and the Council on the EU's Anti-Dumping, Anti-Subsidy and Safeguard activities (2015)
- [EU and Canada sign CETA](#) - 30 October 2016, in Brussels, the European Union and Canada signed the Comprehensive Economic and Trade Agreement (CETA) and a new Strategic Partnership Agreement that deepens cooperation across numerous policies.
- **12 ENERGY**
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- **13 INDUSTRIAL POLICY AND INTERNAL MARKET**
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- **14 REGIONAL POLICY AND COORDINATION OF STRUCTURAL INSTRUMENTS**
 -
- **15 ENVIRONMENT, CONSUMERS AND HEALTH PROTECTION**
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- **16 SCIENCE, INFORMATION, EDUCATION AND CULTURE**
 - **Space Strategy for Europe** - [Communication from the European Commission](#)
- **17 LAW RELATING TO UNDERTAKINGS**
 - **EU Trade Marks** - the EU Court of Justice annulled ([case C-30/15 P Simba Toys GmbH & Co. KG v EUIPO](#)) registration of the shape of the Rubik's Cube as an EU trade mark as potentially granting an undertaking a monopoly on technical solution or functional characteristics. It will be now a matter for European Union Intellectual Property Office to adopt a new decision taking into account the findings set out by the Court in the present judgment. According to the Court judgement, in examining whether registration ought to be refused on the ground that that shape involved a technical solution, EUIPO should also take into account non-visible functional elements represented by that shape, such as its rotating capability. [Press release](#)
- **18 COMMON FOREIGN AND SECURITY POLICY**
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- **19 AREA OF FREEDOM, SECURITY AND JUSTICE**

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- **20 PEOPLE'S EUROPE**

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The content of this Review does not reflect the official opinion of the European Union. Responsibility for the information and views expressed in the Review lies entirely with the authors.