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Review of the case-law of the Court of Justice of the European Union related to areas covered by the EU-Ukraine Association Agreement

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Preface

Manual on case-law of the Court of Justice was developed as user-friendly tool to assist everyday work of the Ukrainian law-makers, in particular the law approximation effort. Association Agreement between the EU, its Member States and Ukraine provides in the annexes long lists of EU secondary legislation, which Ukraine needs to bring its domestic law in line with. In practice, this obligation goes beyond EU secondary legislation but also stretches to jurisprudence of the Court of Justice. The role of the Court is to clarify and to interpret EU legislation and this, very often, it does in a creative fashion. This manual demonstrates how rich and important is the case-law of the Court of Justice.

The Manual has been designed as a working instrument for civil servants engaged in law approximation. It may also be used as a teaching tool, although it is not its primary aim. The centre of gravity is on jurisprudence based on EU secondary legislation listed in the annexes to the Association Agreement or in the associated national action plans/road maps. It does not extend to more general jurisprudence on EU values or on the legal character of association agreements in EU law as they are not directly linked with the hard-core approximation effort (but more generally with implementation of the association as such). The text is organised in accordance with the structure of the Association Agreement. Where a piece of secondary legislation listed in the Association Agreement is no longer valid in the EU, it is clearly marked and accompanied by a link to the new legal act. The lists of jurisprudence contain hyperlinks to the relevant judgments allowing readers to access the texts with single click of a computer mouse. The Manual also offers summaries of the most important judgments of the Court of Justice. While selecting the judgments for the lists and for the summaries the Author was governed by their relevance for the approximation effort. The judgments which would be of no use for the Ukrainian law-makers have been skipped on purpose. Each summary offers a quick insight into the background of a case, the decision of the Court and the relevance of the given judgment for the Ukrainian authorities.

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Part 1 – Introduction to Jurisprudence of the Court of Justice of the European Union

1. Court of Justice of the European Union

1.1. Introduction

There is no doubt that the Court of Justice of the European Union is one of the most important EU institutions. It is a very powerful institution which often takes the lead when it comes to the European integration project. As per Article 19 TEU the Court of Justice of the European Union has the task of making sure that the law is observed in the application of the Founding Treaties.

The Court of Justice of the European Union is composed of the following courts (in the order of their importance and hierarchy):
- Court of Justice,
- General Court,
- specialised courts.

The Court of Justice deals with the majority of cases, including all infraction cases (Articles 258-260 TFEU), all references for preliminary ruling (Article 263 TFEU) and actions for annulment submitted by the Member States against EU institutions (with the exception of the European Commission) and actions for annulment submitted by EU institutions against other EU institutions. The General Court has limited jurisdiction covering, *inter alia*, actions for annulment submitted by individuals against EU institutions as well as similar actions submitted by the Member States against the European Commission. This means that majority of cases handled by the General Court deal with competition law, state aid and antidumping. It also hears appeals from decisions of the Office for the Harmonisation on the Internal Market, which is in charge of Community Trade Marks and Community Designs. The only specialised court created thus far is the European Union Civil Service Tribunal, which has the jurisdiction to deal with staff cases. It will cease to exist in 2016.

1.2. Composition and powers

The Court of Justice is composed of 28 judges and 11 advocates general. Every Member State of the European Union has the right to have a judge at the Court. Advocates general are modeled on the French *Conseil d'Etat* and provide independent advice to the Court of Justice (in majority of cases). Note that opinions do not have to be followed by the judges. The General Court is also composed of 28 judges (one judge per state rule), however this number will be doubled to 56 in the coming years. The judges and advocates general (at the Court of Justice) are appointed by the common accord of the Member States for six years terms.

The Court of Justice of the European Union deals with direct actions, including, *inter alia* infraction procedures (Articles 258-260 TFEU) and actions for annulment (Article 263 TFEU). It also deals with references for preliminary ruling from national courts (Article 267 TFEU).

2. Case-law of the Court of Justice

Jurisprudence of the Court of Justice of the European Union is of fundamental importance in the EU legal order and, thus, also for the third countries engaged in the law approximation exercise. In many respects EU law is a case-law driven regime, which frequently surprises those who deal with EU law. Judgments of the Court clarify when the Member States are in breach of EU and how it should be interpreted and applied at the national level. In this section of the chapter the reader will find necessary details about two leading types of cases: infringements and preliminary rulings. The first are submitted by the European Commission against Member States that are in breach of EU law. In certain circumstances this may even lead to imposition of financial penalties on recalcitrant Member States. The second, are references submitted by national courts to the Court of Justice when they have EU law based cases in their docket. Infringement proceedings are elaborated on in section 7.2, while the preliminary rulings follow in section 7.3. In section 7.4 a sample judgment of the Court of Justice is reproduced to give readers a point of departure for the analysis that follows in the next chapters of this Manual.

2.1. Infringement proceedings

2.1.1. Introduction

There are three types of actions for infringement. They are listed in the table below:

LEGAL BASIS	APPLICANT	DEFENDANT	SUBJECT
Article 258 TFEU	European Commission	Member State	Infringement of EU law
Article 259 TFEU	Member State	Member State	Infringement of EU law
Article 260 TFEU	European Commission	Member States	Non implementation of Article 258 TFEU judgment

These types of infringement actions are separated based on the category of an applicant and the subject of the action. The procedure which is most often used is initiated by the European Commission against Member States. It is based on Article 258 TFEU. The second type of procedure is envisaged in Article 259 TFEU. Such action may be submitted by a Member State against another Member State. The latter cases are more than rare with only four judgments of the Court of Justice delivered so far (see, for instance, Case 141/78 *French Republic v. United Kingdom*). The judgments rendered by the Court of Justice as per Article 258 and 259 TFEU procedures are of declaratory character only. However, there is one exception which was added by the Treaty of Lisbon. If a Member State fails to notify provisions giving effect to a directive the European Commission may request the Court of Justice to impose a financial penalty. In such a case the Court of Justice may impose a periodical payment and/or lump sum. There is one caveat though - the Court of Justice may not impose a penalty that is higher than the amount requested by the European Commission. Judgments rendered as per Articles 258 and 259 TFEU are binding on the Member States and create an obligation to bring an infringement to an end. If this is not the case actions based on Article 260 TFEU may follow. This time the European Commission may request imposition of a financial penalty in any case when a Member State fails to give effect to a judgment rendered under Article 258 TFEU procedure.

Things to remember

There are three types of infringement proceedings though the most important ones are actions based on Articles 258 and 260 TFEU where the European Commission is a plaintiff.

2.1.2. Infringement procedure (Article 258 TFEU)

Infringement procedure in its basic form is an indispensable tool in the hands of the European Commission, which is equipped with powers to serve as guardian of the Treaties. One of its tasks is to keep under tight scrutiny application of EU law by the Member States. It is only the European Commission that has a *locus standi* in this framework, however many of its actions are inspired by individual complaints submitted by natural and legal persons. Even when such complaints are justified the European Commission has a wide degree of discretion to take up the case. Under no circumstances does it have an obligation to do so.

Practice proves that there are many types of actionable infringements. The list of the most standard ones includes:

- non-transposition or partial/incomplete transposition of a directive,
- non-implementation of directives,
- copying of self-executing provisions of regulations, which in effect undermines their direct applicability,
- non-implementation of decisions (this is especially the case when it comes to state aid repayment decisions adopted by the European Commission),
- non-application of EU law (particularly to public tenders),
- breach of FEU Treaty by domestic legislation (for example principle of free movement of goods).

The infringement procedure does not always end at the Court of Justice. The starting point is an administrative phase conducted solely by the European Commission. At this stage it engages into a dialogue with a Member State concerned. The purpose of this exercise is twofold. On the one hand, it allows such Member State to bring the infringement to an end. On the other hand, it allows it to prepare the defence. As far as the latter is concerned it is important that the same set of complaints and arguments is used by the European Commission at the preliminary stage as well as in its action to the Court of Justice. If the complaints are well founded the Court of Justice will declare the Member State to be in breach of EU law. As already noted, as of the entry into force of the Treaty of Lisbon, the Court of Justice has the jurisdiction to impose financial penalties under this procedure if a Member State fails to notify measures giving effect to an EU directive.

Things to remember

Article 258 TFEU can be invoked when the Member States are in breach of EU law. The latter may take different faces. As a matter of principle, no financial penalties are imposed on the Member States at this stage.

2.1.3. Infringement procedure (Article 260 TFEU)

Following the CoJ judgment declaring infringement of EU law, a Member State concerned has an obligation to take all measures in order to bring the breach to an end. Failure to do so may result in

yet another infraction procedure potentially leading to imposition of a financial penalty. There are two types of penalties, which may be imposed by the Court of Justice. The first is a periodical payment; the second is the lump sum. Their amount depends on type, seriousness and duration of the infringement concerned. For instance in Case C-387/97 *Commission of the European Communities v. Hellenic Republic* the Court of Justice imposed a penalty of 20 000 Euros per day. One of the highest penalties ever was imposed on Italy in 2011 for failure to recover illegally granted state aid (Case C-496/09 *European Commission v. Republic of Italy*). Italy was ordered to pay a lump sum of 30 million euros and a periodical payment (every six months 30 million euros multiplied by percentage of non-recovered aid).

Things to remember

If a Member State fails to comply with a judgment based on Article 258 TFEU the Court of Justice has the jurisdiction, should the European Commission submit an action based on Article 260 TFEU, to impose a financial penalty.

2.2. Preliminary rulings

2.2.1. Introduction

The preliminary ruling procedure is the main communication channel between national courts of all Member States and the Court of Justice. The latter provides its services whenever requested to do so by a national court faced with problems of interpretation and validity of EU law. Preliminary rulings are essential in law approximation exercise as they provide interpretation of EU legislation. This may be essential for the shaping of Ukrainian legislation approximating domestic law with EU *acquis*.

It should be remembered that national courts are entrusted with everyday application of EU law, as per principles of primacy, direct effect, indirect effect and state liability. Preliminary ruling procedure is regulated in Article 267 TFEU. Apart from this we will find more detailed provisions in the Statute of the Court of Justice and in its Rules of Procedure. Last but not least, the Court of Justice prepared a tailor-made note for national courts, where it explains a lot of nitty gritty details. The basic rules on the preliminary ruling procedure are as follows:

- all national courts or tribunals are allowed or sometimes obliged to make references to the Court of Justice,
- such references will only be admissible if questions of EU law are raised in the domestic litigation and the assistance of the Court of Justice is required in order to resolve the case. In other words questions must not be theoretical. It is the responsibility of the national court to prove that it really needs a response from the Court of Justice in order to adjudicate in the case,
- in the case of national courts from which there is no further remedy there is an obligation to make a reference whenever the court has doubts as to interpretation of EU law or the validity of secondary legislation,
- questions may not explicitly deal with conformity of national law with EU law, however there are ways explained below in which a domestic judge may ask the Court of Justice for an interpretation of EU law in such a way as to find out whether national legislation is/isn’t in conformity with EU law,
- interpretation provided by the Court of Justice is binding for the referring court.

These features of the preliminary ruling procedure are elaborated further in the next subsections of this Manual.

2.2.2. Who can submit references for preliminary ruling?

Article 267 TFEU does not contain a definition of the words “court or tribunal of a member state”. This however is an EU law concept that has been developed over the years by the Court of Justice. Although its jurisprudence is not always entirely coherent, we may list certain factors that the Court of Justice will take into account when deciding if the reference was from a tribunal or court. In one of the classic cases C-54/96 *Dorsch Consult Ingenieurgesellschaft mbH v. Bundesbaugesellschaft Berlin mbh*) the Court of Justice had to consider whether the German Federal Procurement Awards Supervisory Board was a court within the meaning of Article 267 TFEU. A reference was submitted in the course of proceedings concerning a procedure for an award of public procurement contract. Due to the specific status of the referring body (which was *quasi* judicial-*quasi* administrative) the Court of Justice had to verify the admissibility before looking at the merits of the reference. In order to do so it developed a six element test. It was formulated in the following way:

> *“In order to determine whether a body making a reference is a court or tribunal for the purposes of Article 177 of the Treaty [now Article 267 TFEU], which is a question governed by Community law [now Union law] alone, the Court takes account of a number of factors, such as whether the body is established by law, whether it is permanent, whether its jurisdiction is compulsory, whether its procedure is inter partes, whether it applies rules of law and whether it is independent’ (para 23 of the judgment).”*

Since then this test has served as a general standard, however, depending on the facts of the case, the Court of Justice has a tendency of not following all the elements very strictly.

Experience so far leads to the conclusion that the following types of national courts may make references:
- civil courts (with the exception of courts acting as registration courts, to this end see case C-119/94 *Job Centre*), including courts or (independent!) adjudicators hearing labour matters,
- criminal courts,
- administrative courts,
- supreme courts,
- constitutional courts.

As a general rule, administrative authorities do not have the jurisdiction to make references. Problems arise with hybrid bodies, which have features of both administrative authorities and courts and perform functions similar to a court. In case of references from such bodies the Court of Justice will proceed with its six elements test in order to verify whether the referring body may be considered as a court/tribunal within the meaning of Article 267 TFEU. For instance in case C-53/03 *Syfait*) the Court of Justice held that the Greek Competition Authority was not a court or tribunal within the meaning of Article 267 TFEU.

Things to remember

There is no statutory definition of a court or tribunal for the purposes of preliminary ruling. However, the Court of Justice developed a set of criteria that can be used to verity the status of a domestic authority.

2.2.3. The right and the obligation to refer

As a matter of principle the national courts have the right to make a reference. In some cases, however, an obligation will arise. First of all, domestic courts have an obligation to refer only where there is no further remedy, that is they are the courts of last instance. In case C-99/00 *Lyckeskog* the Court of Justice held that the court from which there is no further remedy is the one which in fact will serve as the court of last instance. In *Lyckeskog* it was the Swedish Supreme Court which before looking at the merits of cassation has an obligation to verify admissibility and - as held by the Court of Justice - at that stage of domestic proceedings it may have an obligation to refer.

Does it mean that such courts always have the obligation to refer? This may be the conclusion stemming from literal interpretation of Article 267 TFEU. However, the Court of Justice takes a realistic approach that under certain circumstances domestic courts from which there is no further remedy do not have to refer. They will be freed from the obligation to refer when one of the following conditions is fulfilled:

1) interpretation of EU law does not raise any doubts or as the Court of Justice has put it 'is so obvious as to leave no scope for any reasonable doubt' (so called principle of *acte clair* established by the ECJ in case 283/81 *Srl CILFIT and Lanificio di Gavardo SpA v Ministry of Health* confirmed ever since (see i.e. case C-344/04 *The Queen, on the application of International Air Transport Association and European Low Fares Airline Association v Department for Transport*).

2) the Court of Justice has already answered similar questions and therefore there is no need to refer back again (so called principle of *acte éclairé* established by the Court of Justice in joined cases 28-30/62 *Da Costa en Schaake NV, Jacob Meijer NV, Hoechst-Holland NV v Netherlands Inland Revenue Administration*).

Things to remember

As a matter of principle, national courts from which there is a further remedy have the obligation to proceed with references for preliminary ruling. All other courts have the right to send a reference.

2.2.4. What can be the subject of reference for preliminary ruling?

The preliminary references shall in principle deal with interpretation of primary law or interpretation and validity of secondary law. In principle references on conformity of national law with EU law will not be admissible. Based on both, the text of relevant treaty provisions as well as practice of the Court of Justice the following references will be admissible:

- interpretation of EU, FEU and EAEC Treaties,
- interpretation of the Charter of Fundamental Rights,
- interpretation of Accession Treaties,

- interpretation and validity of secondary legislation (regulations, directives, decisions) as well as soft law acts (i.e. recommendations),
- interpretation of international treaties concluded by the European Union (for instance EU-Ukraine Association Agreement) as well as legal acts adopted on their basis (i.e. decisions of association councils),
- interpretation of earlier judgments of the Court of Justice and general principles of law established therein.

As a matter of fact a large number of references deal indirectly or even directly with conformity of national law with EU legislation. Although such cases are in principle not admissible, the Court of Justice usually finds a way to provide the referring court with assistance. If a national court is faced with this kind of a problem then it is advisable to ask formally for an interpretation of EU law however put it in the context of national legislation. For example when we have doubts as to conformity of our national law with Article 34 TFEU on free movement of goods (prohibition of quantitative restrictions and measures having an equivalent effect) then the best way to formulate the question is: “Does Article 34 TFEU allow/prohibit national law, which …”

Things to remember

Preliminary rulings deal with interpretation of EU law and validity of secondary legislation.

2.3. Example

At this stage it is worth for readers to familiarise themselves with a sample judgment of the Court of Justice. For the purposes of this exercise a judgment on interpretation of Regulation 261/2004/EC is reproduced below. A short commentary as to the format of judgments is provided in section 7.5 of this chapter, while this judgment is also analysed from substantive point of view in the chapter that follows.

JUDGMENT OF THE COURT (Third Chamber)

4 October 2012 (*)

(Air transport — Regulation (EC) No 261/2004 — Compensation for passengers in the event of denied boarding — Concept of 'denied boarding' — Exclusion from characterisation as 'denied boarding' — Cancellation of a flight caused by a strike at the airport of departure — Rescheduling of flights after the cancelled flight — Right to compensation of the passengers on those flights)

In Case C-22/11,

REFERENCE for a preliminary ruling under Article 267 TFEU from the Korkein oikeus (Finland), made by decision of 13 January 2011, received at the Court on 17 January 2011, in the proceedings

Finnair Oyj

v

Timy Lassooy,

THE COURT (Third Chamber),

composed of K. Lenaerts, President of the Chamber, J. Malenovský, E. Juhász, T. von Danwitz and D. Šváby (Rapporteur), Judges,

Advocate General: Y. Bot,

Registrar: C. Strömholm, Administrator,

having regard to the written procedure and further to the hearing on 1 March 2012,

after considering the observations submitted on behalf of:

– Finnair Oyj, by T. Väätäinen, asianajaja,

– Mr Lassooy, by M. Wilska, kuluttaja-asiamies, and P. Hannula and J. Suurla, lakimiehet,

– the Finnish Government, by H. Leppo, acting as Agent,

– the French Government, by G. de Bergues and M. Perrot, acting as Agents,

– the Italian Government, by G. Palmieri, acting as Agent, and by G. Aiello, avvocato dello Stato,

– the Austrian Government, by A. Posch, acting as Agent,

– the Polish Government, by M. Szpunar, acting as Agent,

– the European Commission, by I. Koskinen and K. Simonsson, acting as Agents,

after hearing the Opinion of the Advocate General at the sitting on 19 April 2012,

gives the following

Judgment

1 This reference for a preliminary ruling concerns the interpretation of Articles 2(j), 4 and 5 of Regulation (EC) No 261/2004 of the European Parliament and of the Council of 11 February 2004 establishing common rules on compensation and assistance to passengers in the event of denied boarding and of cancellation or long delay of flights, and repealing Regulation (EEC) No 295/91 (OJ 2004 L 46, p. 1).

2 The reference has been made in proceedings between, on the one hand, the airline Finnair Oyj ('Finnair') and, on the other, Mr Lassooy, following Finnair's refusal to compensate Mr Lassooy for not allowing him to board a flight from Barcelona (Spain) to Helsinki (Finland) on 30 July 2006.

Legal framework

Regulation (EEC) No 295/91

3 Council Regulation (EEC) No 295/91 of 4 February 1991 establishing common rules for a denied-boarding compensation system in scheduled air transport (OJ 1991 L 36, p. 5), which was in force until 16 February 2005, provided at Article 1:

'This Regulation establishes common minimum rules applicable where passengers are denied access to an overbooked scheduled flight for which they have a valid ticket and a confirmed reservation departing from an airport located in the territory of a Member State to which the [EC] Treaty applies, irrespective of the State where the air carrier is established, the nationality of the passenger and the point of destination.'

Regulation No 261/2004

4 Recitals 1, 3, 4, 9, 10, 14 and 15 in the preamble to Regulation No 261/2004 state:

'(1) Action by the Community in the field of air transport should aim, among other things, at ensuring a high level of protection for passengers. Moreover, full account should be taken of the requirements of consumer protection in general.

…

(3) While [Regulation No 295/91] created basic protection for passengers, the number of passengers denied boarding against their will remains too high, as does that affected by cancellations without prior warning and that affected by long delays.

(4) The Community should therefore raise the standards of protection set by that Regulation both to strengthen the rights of passengers and to ensure that air carriers operate under harmonised conditions in a liberalised market.

…

(9) The number of passengers denied boarding against their will should be reduced by requiring air carriers to call for volunteers to surrender their reservations, in exchange for benefits, instead of denying passengers boarding, and by fully compensating those finally denied boarding.

(10) Passengers denied boarding against their will should be able either to cancel their flights, with reimbursement of their tickets, or to continue them under satisfactory conditions, and should be adequately cared for while awaiting a later flight.

…

(14) As under the Montreal Convention, obligations on operating air carriers should be limited or excluded in cases where an event has been caused by extraordinary circumstances which could not have been avoided even if all reasonable measures had been taken. Such circumstances may, in particular, occur in cases of political instability, meteorological conditions incompatible with the operation of the flight concerned, security risks, unexpected flight safety shortcomings and strikes that affect the operation of an operating air carrier.

(15) Extraordinary circumstances should be deemed to exist where the impact of an air traffic management decision in relation to a particular aircraft on a particular day gives rise to a long delay, an overnight delay, or the cancellation of one or more flights by that aircraft, even though all reasonable measures had been taken by the air carrier concerned to avoid the delays or cancellations.'

5 Article 2 of Regulation No 261/2004, entitled 'Definitions', provides:

'For the purposes of this Regulation:

…

(j) "denied boarding" means a refusal to carry passengers on a flight, although they have presented themselves for boarding under the conditions laid down in Article 3(2), except where there are reasonable grounds to deny them boarding, such as reasons of health, safety or security, or inadequate travel documentation;

…'

6 Article 3 of that regulation, entitled 'Scope', provides in paragraph 2:

'Paragraph 1 shall apply on the condition that passengers:

(a) have a confirmed reservation on the flight concerned and, except in the case of cancellation referred to in Article 5, present themselves for check-in:

– as stipulated and at the time indicated in advance and in writing (including by electronic means) by the air carrier, the tour operator or an authorised travel agent,

or, if no time is indicated,

– not later than 45 minutes before the published departure time; or

…'

7 Article 4 of Regulation No 261/2004, entitled 'Denied boarding', reads as follows:

'1. When an operating air carrier reasonably expects to deny boarding on a flight, it shall first call for volunteers to surrender their reservations in exchange for benefits under conditions to be agreed between the passenger concerned and the operating air

carrier. Volunteers shall be assisted in accordance with Article 8, such assistance being additional to the benefits mentioned in this paragraph.

2. If an insufficient number of volunteers comes forward to allow the remaining passengers with reservations to board the flight, the operating air carrier may then deny boarding to passengers against their will.

3. If boarding is denied to passengers against their will, the operating air carrier shall immediately compensate them in accordance with Article 7 and assist them in accordance with Articles 8 and 9.'

8 Article 5 of Regulation No 261/2004, entitled 'Cancellation', provides in paragraph 3:

'An operating air carrier shall not be obliged to pay compensation in accordance with Article 7, if it can prove that the cancellation is caused by extraordinary circumstances which could not have been avoided even if all reasonable measures had been taken.'

9 Article 7 of Regulation No 261/2004, entitled 'Right to compensation', provides in paragraph 1:

'Where reference is made to this Article, passengers shall receive compensation amounting to:

…

(b) EUR 400 for all intra-Community flights of more than 1 500 kilometres, and for all other flights between 1500 and 3500 kilometres;

…'

10 Articles 8 and 9 of that regulation, read in conjunction with Article 4 thereof, provide a right to reimbursement or re-routing and a right to care for passengers who are denied boarding.

11 Article 13 of Regulation No 261/2004, entitled 'Right of redress', provides:

'In cases where an operating air carrier pays compensation or meets the other obligations incumbent on it under this Regulation, no provision of this Regulation may be interpreted as restricting its right to seek compensation from any person, including third parties, in accordance with the law applicable. In particular, this Regulation shall in no way restrict the operating air carrier's right to seek reimbursement from a tour operator or another person with whom the operating air carrier has a contract. Similarly, no provision of this Regulation may be interpreted as restricting the right of a tour operator or a third party, other than a passenger, with whom an operating air carrier has a contract, to seek reimbursement or compensation from the operating air carrier in accordance with applicable relevant laws.'

The dispute in the main proceedings and the questions referred for a preliminary ruling

12 Following a strike by staff at Barcelona Airport on 28 July 2006, the scheduled 11.40 flight from Barcelona to Helsinki operated by Finnair had to be cancelled. In order that the passengers on that flight should not have too long a waiting time, Finnair decided to reschedule subsequent flights.

13 Accordingly, those passengers from the flight in question were taken to Helsinki on the 11.40 flight the following day, 29 July 2006, and also on a specially arranged flight departing later that day at 21.40. The consequence of that rescheduling was that some of the passengers who had bought their tickets for the 11.40 flight on 29 July 2006 had to wait until 30 July 2006 to go to Helsinki on the scheduled 11.40 flight and on a 21.40 flight specially arranged for the occasion. Similarly, some passengers, like Mr Lassooy, who had bought their tickets for the 11.40 flight on 30 July 2006 and who had duly presented themselves for boarding, went to Helsinki on the special 21.40 flight later that day.

14 Taking the view that Finnair had for no valid reason denied him boarding, within the meaning of Article 4 of Regulation No 261/2004, Mr Lassooy brought an action before the Helsingin käräjäoikeus (Helsinki District Court) for an order against Finnair to pay him the compensation provided for in Article 7(1)(b) of that regulation. By

decision of 19 December 2008, the Helsingin käräjäoikeus dismissed Mr Lassooy's application for compensation on the ground that the regulation only concerned compensation where boarding is denied as a result of overbooking for economic reasons. That court held that Article 4 of Regulation No 261/2004 did not apply in this case, since the airline company had rescheduled its flights as a result of a strike at Barcelona airport and that strike amounted to an extraordinary circumstance in respect of which Finnair had taken all the measures that could be required of it.

15 By a judgment of 31 August 2009, the Helsingin hovioikeus (Helsinki Court of Appeal) set aside the judgment of the Helsingin käräjäoikeus and ordered Finnair to pay Mr Lassooy the sum of EUR 400. To that effect, the Helsingin hovioikeus held that Regulation No 261/2004 applies not only to overbooking but also in some instances to operational reasons for denying boarding, and thus prevents an air carrier from being exempted, for reasons connected with a strike, from its obligation to pay compensation.

16 In the context of Finnair's appeal to the Korkein oikeus (Supreme Court), that court relates its doubts concerning the scope of the obligation to compensate passengers who have been 'denied boarding', as referred to in Article 4 of Regulation No 261/2004, the grounds that may justify 'denied boarding' within the meaning of Article 2(j) of that regulation, and whether an air carrier may rely on the extraordinary circumstances referred to in Article 5(3) of that same regulation, with respect to flights after the flight which was cancelled because of those circumstances.

17 In that context, the Korkein oikeus decided to stay the proceedings and to refer the following questions to the Court of Justice for a preliminary ruling:

'1. Is Regulation No 261/2004 and in particular Article 4 thereof to be interpreted as meaning that its application is limited only to cases where boarding is denied because of overbooking by [an] air carrier for economic reasons, or is [that] regulation applicable also to situations in which boarding is denied for other reasons, such as operational reasons?

2. Is Article 2(j) of [Regulation No 261/2004] to be interpreted as meaning that the reasonable grounds laid down therein are limited only to factors relating to passengers, or may a denial of boarding be reasonable on other grounds? If the regulation is to be interpreted as meaning that a denial of boarding may be reasonable on grounds other than those relating to passengers, is it to be interpreted as meaning that such a denial may also be reasonable on the grounds of the rescheduling of flights as a result of the extraordinary circumstances mentioned in recitals 14 and 15?

3. Is [Regulation No 261/2004] to be interpreted as meaning that an air carrier may be exempted from liability under Article 5(3) in extraordinary circumstances not only with respect to a flight which it cancelled, but also with respect to passengers on later flights, on the ground that by its actions it attempts to spread the negative effects of the extraordinary circumstances it encounters in its operations, such as a strike, among a wider class of passengers than the cancelled flight's passengers by rescheduling its later flights so that no passenger's journey was unreasonably delayed? In other words, may an air carrier rely on extraordinary circumstances also with respect to a passenger on a later flight whose journey was not directly affected by that factor? Does it make a significant difference whether the passenger's situation and right to compensation are assessed in accordance with Article 4 of the regulation, which concerns denied boarding, or with Article 5, which relates to flight cancellation?'

Consideration of the questions referred

The first question

18 By its first question the referring court asks, in essence, whether the concept of 'denied boarding', within the meaning of Articles 2(j) and 4 of Regulation No 261/2004, must be interpreted as relating exclusively to cases where boarding is denied because of overbooking or whether it applies also to cases where boarding is denied on other grounds, such as operational reasons.

19 It should be noted that the wording of Article 2(j) of Regulation No 261/2004, which defines the concept of 'denied boarding', does not link that concept to an air carrier's 'overbooking' the flight concerned for economic reasons.
20 As regards the context of that provision and the objectives pursued by the legislation of which it is part, it is apparent not only from recitals 3, 4, 9 and 10 of Regulation No 261/2004, but also from the travaux préparatoires for that regulation — and in particular from the Proposal for a regulation of the European Parliament and of the Council establishing common rules on compensation and assistance to air passengers in the event of denied boarding and of cancellation or long delay of flights, presented by the Commission of the European Communities on 21 December 2001 (COM(2001) 784 final) — that the European Union ('EU') legislature sought, by the adoption of that regulation, to reduce the number of passengers denied boarding against their will, which was too high at that time. This would be achieved by filling the gaps in Regulation No 295/91 which confined itself to establishing, in accordance with Article 1 thereof, common minimum rules applicable where passengers are denied access to an overbooked scheduled flight.
21 It is in that context that by means of Article 2(j) of Regulation No 261/2004 the EU legislature removed from the definition of 'denied boarding' any reference to the ground on which an air carrier refuses to carry a passenger.
22 In so doing, the EU legislature expanded the scope of the definition of 'denied boarding' beyond merely situations where boarding is denied on account of overbooking referred to previously in Article 1 of Regulation No 295/91, and construed 'denied boarding' broadly as covering all circumstances in which an air carrier might refuse to carry a passenger.
23 That interpretation is supported by the finding that limiting the scope of 'denied boarding' exclusively to cases of overbooking would have the practical effect of substantially reducing the protection afforded to passengers under Regulation No 261/2004 and would therefore be contrary to the aim of that regulation — referred to in recital 1 in the preamble thereto — of ensuring a high level of protection for passengers. Consequently, a broad interpretation of the rights granted to passengers is justified (see, to that effect, Case C-344/04 IATA and ELFAA [2006] ECR I-403, paragraph 69, and C-549/07 Wallentin-Hermann [2008] ECR I-11061, paragraph 18).
24 As the Advocate General observed in point 37 of his Opinion, to accept that only situations of overbooking are covered by the concept of 'denied boarding' would have the effect of denying all protection to passengers who, like the applicant in the main proceedings, find themselves in a situation for which, as in the case of overbooking for economic reasons, they are not responsible, by precluding them from relying on Article 4 of Regulation No 261/2004; paragraph 3 of that Article refers to the provisions of that regulation relating to rights to compensation, reimbursement or re-routing and to care, as laid down in Articles 7 to 9 of that regulation.
25 Consequently, an air carrier's refusal to allow the boarding of a passenger who has presented himself for boarding in accordance with the conditions laid down in Article 3(2) of Regulation No 261/2004, on the basis that the flights arranged by that carrier have been rescheduled, must be characterised as 'denied boarding' within the meaning of Article 2(j) of that regulation.
26 In the light of the foregoing, the answer to the first question is that the concept of 'denied boarding', within the meaning of Articles 2(j) and 4 of Regulation No 261/2004, must be interpreted as relating not only to cases where boarding is denied because of overbooking but also to those where boarding is denied on other grounds, such as operational reasons.

The second and third questions

27 By its second and third questions, which should be examined together, the referring court asks, in essence, whether the occurrence of 'extraordinary circumstances' resulting in an air carrier rescheduling flights after those circumstances

occurred can give grounds for denying boarding to a passenger on one of those later flights and for exempting that carrier from its obligation, under Article 4(3) of Regulation No 261/2004, to compensate a passenger to whom it denies boarding on such a flight.

28 In the first place, the referring court seeks to establish whether characterisation as 'denied boarding', within the meaning of Article 2(j) of Regulation No 261/2004, may be precluded solely on grounds relating to passengers as such, or whether grounds unrelated to them and, in particular, relating to an air carrier's rescheduling of its flights as a result of 'extraordinary circumstances' which affected it, may also preclude such characterisation.

29 In that connection, it should be noted that the wording of Article 2(j) of Regulation No 261/2004 precludes characterisation as 'denied boarding' on two sets of grounds. The first relates to the failure of the passenger presenting himself for boarding to comply with the conditions laid down in Article 3(2) of that regulation. The second concerns cases where there are reasonable grounds to deny boarding 'such as reasons of health, safety or security, or inadequate travel documentation'.

30 The first set of grounds does not apply to the case in the main proceedings. As regards the second set of grounds, it must be noted that none of the reasons specifically referred to in Article 2(j) is relevant to the main proceedings. However, in using the expression 'such as', the EU legislature intended to provide a non-exhaustive list of the situations in which there are reasonable grounds for denying boarding.

31 None the less, it cannot be inferred from such wording that there are reasonable grounds to deny boarding on the basis of an operational reason such as that in question in the main proceedings.

32 The situation in question in the main proceedings is comparable to cases where boarding is denied because of 'initial' overbooking, since the air carrier had reallocated the applicant's seat in order to transport other passengers, and it therefore chose itself between several passengers to be transported.

33 Admittedly, that reallocation was done in order to avoid the passengers affected by flights cancelled on account of extraordinary circumstances having excessively long waiting times. However, that ground is not comparable to those specifically mentioned in Article 2(j) of Regulation No 261/2004, since it is in no way attributable to the passenger to whom boarding is denied.

34 It cannot be accepted that an air carrier may, relying on the interest of other passengers in being transported within a reasonable time, increase considerably the situations in which it would have reasonable grounds for denying a passenger boarding. That would necessarily have the consequence of depriving such a passenger of all protection, which would be contrary to the objective of Regulation No 261/2004 which seeks to ensure a high level of protection for passengers by means of a broad interpretation of the rights granted to them.

35 In the second place, the referring court asks the Court of Justice whether an air carrier may be exempted from its obligation to compensate a passenger for 'denied boarding', laid down in Articles 4(3) and 7 of Regulation No 261/2004, on the ground that boarding is denied due to the rescheduling of that carrier's flights as a result of 'extraordinary circumstances'.

36 In that connection, it is to be noted that, unlike Article 5(3) of Regulation No 261/2004, Articles 2(j) and 4 of that regulation do not provide that, in the event of 'denied boarding' owing to 'extraordinary circumstances' which could not have been avoided even if all reasonable measures had been taken, an air carrier is exempted from its obligation to compensate passengers denied boarding against their will (see, by analogy, IATA and ELFAA, paragraph 37). It follows that the EU legislature did not intend that compensation may be precluded on grounds relating to the occurrence of 'extraordinary circumstances'.

37 In addition, it is apparent from recital 15 in the preamble to Regulation No 261/2004 that 'extraordinary circumstances' may relate only to 'a particular aircraft on a particular day', which cannot apply to a passenger denied boarding because of the rescheduling of flights as a result of extraordinary circumstances affecting an earlier flight. The concept of 'extraordinary circumstances' is intended to limit the obligations of an air carrier — or even exempt it from those obligations — when the event in question could not have been avoided even if all reasonable measures had been taken. As the Advocate General observed in point 53 of his Opinion, if such a carrier is obliged to cancel a scheduled flight on the day of a strike by airport staff and then takes the decision to reschedule its later flights, that carrier cannot in any way be considered to be constrained by that strike to deny boarding to a passenger who has duly presented himself for boarding two days after the flight's cancellation.
38 Consequently, having regard to the requirement to interpret strictly the derogations from provisions granting rights to passengers, which follows from the settled case-law of the Court (see, to that effect, Wallentin-Hermann, paragraph 17 and the case-law cited), an air carrier cannot be exempted from its obligation to pay compensation in the event of 'denied boarding' on the ground that its flights were rescheduled as a result of 'extraordinary circumstances'.
39 Furthermore, it must be reiterated that the discharge of obligations by air carriers pursuant to Regulation No 261/2004 is without prejudice to their rights to seek compensation from any person who has caused the 'denied boarding', including third parties, as Article 13 of the regulation provides. Such compensation accordingly may reduce or even remove the financial burden borne by the air carriers in consequence of those obligations (IATA and ELFAA, paragraph 90).
40 In the light of the foregoing considerations, the answer to the second and third questions is that Articles 2(j) and 4(3) of Regulation No 261/2004 must be interpreted as meaning that the occurrence of 'extraordinary circumstances' resulting in an air carrier rescheduling flights after those circumstances arose cannot give grounds for denying boarding on those later flights or for exempting that carrier from its obligation, under Article 4(3) of that regulation, to compensate a passenger to whom it denies boarding on such a flight.

Costs

41 Since these proceedings are, for the parties to the main proceedings, a step in the action pending before the national court, the decision on costs is a matter for that court. Costs incurred in submitting observations to the Court, other than the costs of those parties, are not recoverable.

On those grounds, the Court (Third Chamber) hereby rules:

1. The concept of 'denied boarding', within the meaning of Articles 2(j) and 4 of Regulation (EC) No 261/2004 of the European Parliament and of the Council of 11 February 2004 establishing common rules on compensation and assistance to passengers in the event of denied boarding and of cancellation or long delay of flights, and repealing Regulation (EEC) No 295/91, must be interpreted as relating not only to cases where boarding is denied because of overbooking but also to those where boarding is denied on other grounds, such as operational reasons.
2. Articles 2(j) and 4(3) of Regulation No 261/2004 must be interpreted as meaning that the occurrence of 'extraordinary circumstances' resulting in an air carrier rescheduling flights after those circumstances arose cannot give grounds for denying boarding on those later flights or for exempting that carrier from its obligation, under Article 4(3) of that regulation, to compensate a passenger to whom it denies boarding on such a flight.

2.4. Commentary

This reference for preliminary ruling deals with interpretation of the concept of denied boarding, which, as explained earlier, is fundamental when it comes to Regulation 261/2004/EC. At this stage, however, we shall focus on form, not on the contents of this ruling. In many ways it is a typical judgment of the Court of Justice, particularly when it comes to its structure. Thus, this commentary is a short guide to the reader on how to approach judgments of the Court of Justice.

Judgments start with information as to which chamber of the Court of Justice dealt with it and when the judgment was rendered. If a case was handled by the Grand Chamber it means it is a precedent that deserves particular attention. For instance, if the Ukrainian authorities are drafting a piece of domestic legislation giving effect to an EU regulation or EU directive and the inventory of EU *acquis* (compiled as per chapter 3 of this manual) shows a long list of cases it is worth to start (or, should the pressure of time be daunting) with Grand Chamber cases. This particular judgment which we use as an example was rendered by a small chamber composed of 5 judges, whose names are listed on the front page. For every judgment there is a judge rapporteur, that is a judge whose chambers take the lead in a given case.

Things to remember

Court of Justice may sit in different compositions. For the approximation effort judgments of the Grand Chamber are of particular importance.

Right below the date of the judgment the readers will find a list of key words, which allow us to quickly identify if a particular decision of the Court of Justice is relevant for our work on approximation. The case number is also provided. Judgments of the General Court have prefix T, while judgments of the Court of Justice have prefix C. A prefix is followed by the case number and a year in which the case was submitted to the Court of Justice.

After the number there is a short paragraph pinpointing the type of proceedings as well as the names of parties. This is followed by the list of judgments, the name of the Advocate General and a list of Member States that intervened in the case. As we can see in our example, judgment C-22/11 *Finner Oyj v. Timy Lassooy* attracted attention of several Member States.

Things to remember

The opening sections of judgments are very technical and comprise, *inter alia*, case number, date of the judgment, composition of the Court, reference to the type of procedure.

The main body of the judgment always starts with a short description of the case (see paras. 1-2 of judgment *Lassooy* reproduced above). It is followed by analysis of the legal framework of a case. In this section provisions of relevant EU and domestic laws are reproduced (see paras. 3-11 of judgment *Lassooy* reproduced above).

The opening paragraphs are followed by detailed analysis of the facts of a case and main legal issues. (see paras. 12-16 of judgment *Lassooy* reproduced above) and followed by arguments raised by the European Commission (infringement proceedings) or questions submitted by domestic courts (preliminary rulings), (see para. 17 of judgment *Lassooy* reproduced above).

This leads to the main part of a judgment where the Court of Justice deals with the substance of the case (see paras. 18-40 of judgment *Lassooy* reproduced above). It is notable that in preliminary rulings the Court is free to answer only selected questions raised by the domestic courts, which will

happen, if some questions are simply irrelevant. The Court of Justice is also free to answer questions *en block*. Every judgment will have a conclusion. In case of infringement proceedings the Court of Justice will declare/or not a Member State to be in breach of EU law. In preliminary ruling the Court will provide a national court with interpretation of a given legal act and, should it be asked to do so, also a decision on validity of a legal act. A word of warning is fitting here. Judgments of the Court are not always accompanied by a comprehensive reasoning. Since there are no dissenting opinions the judges sitting in chambers have to agree to a particular text. This, sometimes, comes at a price and reasoning is cryptic.

Part 2 – Overview of jurisprudence relevant for the Ukrainian authorities

Chapter 1 Technical regulations, standards, and conformity assessment

1.1. Lists of jurisprudence

EU Legal Act	Jurisprudence
Decision No 768/2008/EC of the European Parliament and of the Council of 9 July 2008 on a common framework for the marketing of products	- no case-law as of 31 December 2017
Regulation (EC) No 765/2008 of the European Parliament and of the Council of 9 July 2008 setting out the requirements for accreditation and market surveillance relating to the marketing of products	- no case-law as of 31 December 2017
Directive 2001/95/EC of the European Parliament and of the Council of 3 December 2001 on general product safety	- C-132/08 Lidl Magyarország Kereskedelmi bt v Nemzeti Hírközlési Hatóság Tanácsa, ECLI:EU:C:2009:281
Council Directive 80/181/EEC of 20 December 1979 on the approximation of the laws of the Member States relating to units of measurement	- no case-law as of 31 December 2017
Council Directive 85/374/EEC of 25 July 1985 on the approximation of the laws, regulations and administrative provisions of the Member States concerning liability for defective products	- C-621/15 N. W and Others v Sanofi Pasteur MSD SNC and Others, ECLI:EU:C:2017:484 - Joined cases C-503/13 and C-504/13 Boston Scientific Medizintechnik GmbH v AOK Sachsen-Anhalt - Die Gesundheitskasse (C-503/13) and Betriebskrankenkasse RWE (C-504/13), ECLI:EU:C:2015:148 - C-310/13 Novo Nordisk Pharma GmbH v S., ECLI:EU:C:2014:2385 - C-495/10 Centre hospitalier universitaire de Besançon v Thomas Dutrueux and Caisse primaire d'assurance maladie du Jura, ECLI:EU:C:2011:869 - C-358/08 Aventis Pasteur SA v OB, ECLI:EU:C:2009:744

EU Legal Act	Jurisprudence
	- C-258/08 Moteurs Leroy Somer v Dalkia France and Ace Europe, ECLI:EU:C:2009:351 - C-315/05 Lidl Italia Srl v Comune di Arcole (VR), ECLI:EU:C:2006:736 - C-127/04 Declan O'Byrne v Sanofi Pasteur MSD Ltd and Sanofi Pasteur SA, ECLI:EU:C:2006:93 - C-402/03 Skov Æg v Bilka Lavprisvarehus A/S and Bilka Lavprisvarehus A/S v Jette Mikkelsen and Michael Due Nielsen, ECLI:EU:C:2006:6 - C-183/00 María Victoria González Sánchez v Medicina Asturiana SA, ECLI:EU:C:2002:255 - C-154/00 Commission of the European Communities v Hellenic Republic, ECLI:EU:C:2002:254 - C-52/00 Commission of the European Communities v French Republic, ECLI:EU:C:2002:252 - C-203/99 Henning Veedfald v Århus Amtskommune, ECLI:EU:C:2001:258 - C-300/95 Commission of the European Communities v United Kingdom of Great Britain and Northern Ireland, ECLI:EU:C:1997:255
Directive 2006/42/EC of the European Parliament and of the Council of 17 May 2006 on machinery, and amending Directive 95/16/EC	- no case-law as of 31 December 2017
Directive 2014/30/EU of the European Parliament and of the Council of 26 February 2014 on the harmonisation of the laws of the Member States relating to electromagnetic compatibility	- no case-law as of 31 December 2017

EU Legal Act	Jurisprudence
Directive 2014/29/EU of the European Parliament and of the Council of 26 February 2014 on the harmonisation of the laws of the Member States relating to the making available on the market of simple pressure vessels	- no case-law as of 31 December 2017
Directive 2014/68/EU of the European Parliament and of the Council of 15 May 2014 on the harmonisation of the laws of the Member States relating to the making available on the market of pressure equipment	- no case-law as of 31 December 2017
Directive 2010/35/EU - transportable pressure equipment of 16 June 2010 on transportable pressure equipment and repealing Council Directives 76/767/EEC, 84/525/EEC, 84/526/EEC, 84/527/EEC and 1999/36/EC	- no case-law as of 31 December 2017
Directive 95/16/EC of the European Parliament and of the Council of 29 June 1995 on the approximation of the laws of the Member States relating to lifts (NOTE: this Directive has been repealed by Directive 2014/33/EU of the European Parliament and of the Council of 26 February 2014 on the harmonisation of the laws of the Member States relating to lifts and safety components for lifts)	- no case-law as of 31 December 2017
Directive 2009/48/EC of the European Parliament and of the Council of 18 June 2009 on the safety of toys	- no case-law as of 31 December 2017
Directive 2014/35/EU of the European Parliament and of the Council of 26 February 2014 on the harmonisation of the laws of the Member States relating to the making available on the market of electrical equipment designed for use within certain voltage limits	- no case-law as of 31 December 2017

EU Legal Act	Jurisprudence
Council Directive 92/42/EEC of 21 May 1992 on efficiency requirements for new hot-water boilers fired with liquid or gaseous fuels (**Note:** this Directive is partly repealed by Commission Regulation (EU) No 813/2013 of 2 August 2013 implementing Directive 2009/125/EC of the European Parliament and of the Council with regard to ecodesign requirements for space heaters and combination heaters)	- no case-law as of 31 December 2017
Directive 2009/142/EC of the European Parliament and of the Council of 30 November 2009 relating to appliances burning gaseous fuels (**Note:** as of 2018 replaced by Regulation (EU) 2016/426 of the European Parliament and of the Council of 9 March 2016 on appliances burning gaseous fuels and repealing Directive 2009/142/EC)	- no case-law as of 31 December 2017
Commission Regulation (EC) No 643/2009 of 22 July 2009 implementing Directive 2005/32/EC of the European Parliament and of the Council with regard to ecodesign requirements for household refrigerating appliances	- no case-law as of 31 December 2017
Directive 2014/31/EU of the European Parliament and of the Council of 26 February 2014 on the harmonisation of the laws of the Member States relating to the making available on the market of non-automatic weighing instruments	- no case-law as of 31 December 2017
Directive 2014/32/EU of the European Parliament and of the Council of 26 February 2014 on the harmonisation of the laws of the Member States relating to the making available on the market of measuring instruments	- no case-law as of 31 December 2017

EU Legal Act	Jurisprudence
Council Directive 96/98/EC of 20 December 1996 on marine equipment (**Note:** as of 17 September 2016 replaced by Directive 2014/90/EU of the European Parliament and of the Council of 23 July 2014 on marine equipment and repealing Council Directive 96/98/EC)	- no case-law as of 31 December 2017
Council Directive 93/42/EEC of 14 June 1993 concerning medical devices	- C-329/16 Syndicat national de l'industrie des technologies médicales (Snitem) and Philips France v Premier ministre and Ministre des Affaires sociales et de la Santé, ECLI:EU:C:2017:947 - C-662/15 Lohmann & Rauscher International GmbH & Co. KG v BIOS Medical Services GmbH, ECLI:EU:C:2016:903 - C-219/15 Elisabeth Schmitt v TÜV Rheinland LGA Products GmbH, ECLI:EU:C:2017:128 - C-109/12 Laboratoires Lyocentre v Lääkealan turvallisuus- ja kehittämiskeskus and Sosiaali- ja terveysalan lupa- ja valvontavirasto, ECLI:EU:C:2013:626 - C-219/11 Brain Products GmbH v BioSemi VOF and Others, ECLI:EU:C:2012:742 - C-288/08 Kemikalieinspektionen v Nordiska Dental AB, ECLI:EU:C:2009:718
Council Directive 90/385/EEC of 20 June 1990 on the approximation of the laws of the Member States relating to active implantable medical devices	- no case-law as of 31 December 2017
Directive 98/79/EC of the European Parliament and of the Council of 27 October 1998 on in vitro diagnostic medical devices (NOTE: this Directive will be replaced by Regulation (EU) 2017/746 of the European Parliament and of the Council of 5 April 2017 on in vitro diagnostic	- C-277/15 Servoprax GmbH v Roche Diagnostics Deutschland GmbH, ECLI:EU:C:2016:770

EU Legal Act	Jurisprudence
medical devices and repealing Directive 98/79/EC and Commission Decision 2010/227/EU)	
Directive 2014/34/EU of the European Parliament and of the Council of 26 February 2014 on the harmonisation of the laws of the Member States relating to equipment and protective systems intended for use in potentially explosive atmospheres	- no case-law as of 31 December 2017
Directive 2014/53/EU of the European Parliament and of the Council of 16 April 2014 on the harmonisation of the laws of the Member States relating to the making available on the market of radio equipment and repealing Directive 1999/5/EC	- no case-law as of 31 December 2017
Directive 2000/9/EC of the European Parliament and of the Council of 20 March 2000 relating to cableway installations designed to carry persons (note as of 21 April 2018 to be replaced by Regulation (EU) 2016/424 of the European Parliament and of the Council of 9 March 2016 on cableway installations and repealing Directive 2000/9/EC)	- no case-law as of 31 December 2017
Directive 2013/53/EU of the European Parliament and of the Council of 20 November 2013 on recreational craft and personal watercraft and repealing Directive 94/25/EC	- no relevant case-law as of 31 December 2017
Regulation (EU) No 305/2011 of the European Parliament and of the Council of 9 March 2011 laying down harmonised conditions for the marketing of construction products and repealing Council Directive 89/106/EEC	- no relevant case-law as of 31 December 2017
Commission Implementing Regulation (EU) No 1062/2013 of 30 October 2013 on the format of the European Technical Assessment for construction products	- no relevant case-law as of 31 December 2017

EU Legal Act	Jurisprudence
European Parliament and Council Directive 94/62/EC of 20 December 1994 on packaging and packaging waste	- Joined Cases C-313/15 and C-530/15 Eco-Emballages SA and Others v Sphère France SAS and Others and Melitta France SAS and Others v Ministre de l'Écologie, du Développement durable et de l'Énergie, ECLI:EU:C:2016:859 - C-309/02 Radlberger Getränkegesellschaft mbH & Co. and S. Spitz KG v Land Baden-Württemberg, ECLI:EU:C:2004:799 - C-463/01 Commission of the European Communities v Federal Republic of Germany, ECLI:EU:C:2004:797 - C-341/01 Plato Plastik Robert Frank GmbH v Caropack Handelsgesellschaft mbH, ECLI:EU:C:2004:254 - C-444/00 The Queen, on the application of Mayer Parry Recycling Ltd, v Environment Agency and Secretary of State for the Environment, Transport and the Regions, and Corus (UK) Ltd and Allied Steel and Wire Ltd (ASW), ECLI:EU:C:2003:356
Directive 2014/28/EU of the European Parliament and of the Council of 26 February 2014 on the harmonisation of the laws of the Member States relating to the making available on the market and supervision of explosives for civil uses	- no relevant case-law as of 31 December 2017
Directive 2010/30/EU of the European Parliament and of the Council of 19 May 2010 on the indication by labelling and standard product information of the consumption of energy and other resources by energy-related products (NOTE: this Directive is replaced by Regulation (EU) 2017/1369 of the European Parliament and of the Council of 4 July 2017 setting a framework for energy labelling and repealing Directive 2010/30/EU)	- no relevant case-law as of 31 December 2017

1.2. Summaries of selected judgments

1.2.1. Decision 768/2008 on a common framework for the marketing of products

Case	Summary
	No case-law as of 31 December 2017

1.2.2. Regulation (EC) No 765/2008 setting out the requirements for accreditation and market surveillance relating to the marketing of products

Case	Summary
	No case-law as of 31 December 2017

1.2.3. Directive 2001/95 on general product safety

Case	Summary
Case C-132/08 Lidl Magyarország Kereskedelmi bt v Nemzeti Hírközlési Hatóság Tanácsa	**Facts:** This was a reference for preliminary ruling submitted by *Fővárosi Bíróság* (Hungary) in course of proceedings between Lidl and Nemzeti Hírközlési Hatóság Tanácsa (Council of the National Communications Authority) concerning the latter's objection to the marketing by Lidl of radio equipment in Hungary manufactured by a company with its head office in Belgium. The factual background of the dispute was as follows: Lidl markets, in Hungary, products manufactured by a Belgian company which affixes the 'CE' marking and issues declarations of conformity for these products. The disputed product uses a frequency which is not harmonised. Following an inspection at one of Lidl's retail outlets, the Hatóság claimed that equipment did not satisfy the declaration of conformity provided for by Hungarian law and therefore it prohibited Lidl from marketing the equipment in question until a declaration of conformity issued in accordance with Hungarian law had been submitted. The Hatóság argued that Lidl was to be regarded as the manufacturer of the equipment since it placed the equipment on the market in Hungary and did not accept the declaration of conformity issued in Belgium. The decision of Hatóság was challenged by Lidl. The Hungarian court seized with the dispute expressed doubts as to interpretation of several provisions of Directive 2001/95 and Directive 1999/5 (on radio equipment and telecommunications terminal equipment and the mutual recognition of

	their conformity) and therefore proceeded with a reference for preliminary ruling to the Court of Justice (for exact questions see para. 21 of the judgment). **Judgment:** The Court of Justice ruled that the Member States cannot, under Directive 1999/5 require a person who places radio equipment on the market to provide a declaration of conformity even though the producer of that equipment, whose head office is situated in another Member State, has affixed the 'CE' marking to that product and issued a declaration of conformity in its regard. Furthermore, the Court held that Directive 2001/95 does not apply to the determination of questions concerning the obligation of a person to provide a declaration of conformity of radio equipment. The judges added that a person who markets a product may be regarded as being the producer of that product only under the conditions laid down by Directive 2001/95 itself in Article 2(e), and as being the distributor of that product only under the conditions set out in Article 2(f). The producer and the distributor may be bound only by obligations which Directive 2001/95 imposes on each of them respectively. **Relevance:** This judgment has limited relevance for Ukraine as it largely deals with matters applicable to the Member States only. However, it is important to be familiar with it as it gives a proper systemic context and sheds a light on interpretation of free movement of goods within the internal market.

1.2.4. Directive 80/181/EEC on units of measurement

Case	Summary
	No case-law as of 31 December 2017

1.2.5. Directive 85/374/EEC on liability for defective products

Case	Summary
Joined cases C-503/13 and C-504/13 Boston Scientific Medizintechnik GmbH v AOK Sachsen-Anhalt - Die	**Facts:** Two references for preliminary ruling were submitted by *Bundesgerichtshof* (Germany) in course of proceedings between Boston Scientific Medizintechnik GmbH and AOK Sachsen-Anhalt — Die Gesundheitskasse (case C-503/13), Betriebskrankenkasse RWE (C-504/13). The dispute concerned a request for compensation submitted by two patients who had faulty pacemakers and implantable cardioverter defibrillators implanted. Since the case raised questions about interpretation of Directive 85/374 the national court decided to proceed with

Case	Summary
Gesundheitskasse (C-503/13) and Betriebskrankenkasse RWE (C-504/13)	references for preliminary ruling. In particular, the national court wished to find out if Article 6(1) of Directive 85/374 was to be interpreted as meaning that a product in the form of a medical device implanted in the human body (in this case, a pacemaker [and an implantable cardioverter defibrillator]) is already defective if [pacemakers] in the same product group have a significantly increased risk of failure [or where a malfunction has occurred in a significant number of defibrillators in the same series], but a defect has not been detected in the device which has been implanted in the specific case in point? If so, would the costs of an operation to remove the product and to implant another pacemaker [or another defibrillator] constitute damage caused by personal injury for the purposes of Article 1 and section (a) of the first paragraph of Article 9 of Directive 85/374? More on the factual background of this case see paras. 12-28 of the judgment. **Judgment:** The Court of Justice held that as per Article 6(1) of Directive 85/374 where it is found that products belonging to the same group or forming part of the same production series, such as pacemakers and implantable cardioverter defibrillators, have a potential defect, such a product may be classified as defective without there being any need to establish that that product has such a defect. The judges also held that Article 1 and section (a) of the first paragraph of Article 9 of Directive 85/374 mean that the damage caused by a surgical operation for the replacement of a defective product, such as a pacemaker or an implantable cardioverter defibrillator, constitutes 'damage caused by death or personal injuries' for which the producer is liable, if such an operation is necessary to overcome the defect in the product in question. **Relevance:** This judgment of the Court of Justice clarifies the meaning of several provisions of Directive 85/374 and thus is of importance for the Ukrainian law-makers. It should be taken into account when relevant domestic provisions approximating the Ukrainian legislation with this Directive are drafted.
C-310/13 Novo Nordisk Pharma GmbH v S	**Facts:** A reference for preliminary ruling was submitted by *Bundesgerichtshof* (Germany) in domestic proceedings between Novo Nordisk Pharma GmbH and Ms S. concerning a request for information on the adverse and other effects of a medicinal product manufactured by that company. During the period from 2004 to June 2006, Ms S., who suffers from diabetes, was prescribed and administered Levemir, a medicinal product manufactured by Novo Nordisk Pharma, which caused her to suffer lipoatrophy, which is the loss of subcutaneous fat tissue at the injection sites. Bearing this in mind Ms S has requested information on side effects of the medication in question. One of the key issues that arose at the national court was interpretation of Article 13 of Directive 85/374. It provides: "This

Case	Summary
	Directive shall not affect any rights which an injured person may have according to the rules of the law of contractual or non-contractual liability or a special liability system existing at the moment when this Directive is notified.” To put it differently, the question was if the German provisions on the special liability system envisaged in national law were permitted under Directive 85/374 on liability for defective products. **Judgment:** Court of Justice held that must be interpreted as not precluding the German legislation, establishing a special liability system for the purposes of Article 13 of that Directive — under which, in consequence of an amendment to that legislation made after the Directive had been notified to the Member State concerned, the consumer has the right to require the manufacturer of the medicinal product to provide him with information on the adverse effects of that product. **Relevance:** This judgement sheds a light on the relationship between pre-existing special liability regimes and the general one provided by Directive 85/374. It demonstrates that the Member States have a bit of flexibility in this respect and the same applies to Ukraine.
C-495/10 Centre hospitalier universitaire de Besançon v Thomas Dutrueux and Caisse primaire d'assurance maladie du Jura	**Facts:** This was a reference for preliminary ruling submitted by Conseil d’État (France). The dispute was between (i) the Centre hospitalier universitaire (University Hospital), Besançon (‘Besançon CHU’) and (ii) Mr Dutrueux and the Caisse primaire d’assurance maladie du Jura (primary sickness insurance fund of the Department of the Jura) concerning compensation for burns caused to Mr Dutrueux by a heated mattress in the course of an operation. For further details see paras. 11-16 of the judgment. One of the questions raised was whether a user of a faulty equipment, who is not a producer thereof, can be held liable as per Directive 85/374 on liability for defective products. **Judgment:** Liability of a service provider which, in the course of providing services such as treatment given in a hospital, uses defective equipment or products of which it is not the producer within the meaning of Article 3 of Directive 85/374 and thereby causes damage to the recipient of the service does not fall within the scope of that Directive. Directive 85/374 does not therefore prevent a Member State from applying rules, like the French law at stake, under which such a provider is liable for damage thus caused, even in the absence of any fault on its part, provided, however, that the injured person and/or the service provider retain the right to put in issue the producer’s liability on the basis of the Directive when the conditions laid down by the latter are fulfilled.

Case	Summary
	Relevance: This judgment too adds a lot of useful information to interpretation of Article 13 of Directive 85/374 on liability for defective products. It clarifies further how special liability systems may co-function alongside the rules envisaged in the Directive.
C-358/08 Aventis Pasteur SA v OB	**Facts:** This reference for preliminary ruling originated from the House of Lords (United Kingdom). It was submitted in the course of proceedings between Aventis Pasteur SA ('APSA'), a company established in France, and OB following the putting into circulation of an allegedly defective vaccine (further facts available in paras 13-32 of the judgment). In a nutshell, the House of Lords asked if Directive 85/374 precludes national legislation which, in the context of proceedings instituted on the basis of the system of liability laid down by that Directive, allows the substitution of one defendant for another after the expiry of the 10-year period laid down in Article 11 of that Directive, although the person named as a defendant in those proceedings before the expiry of that period did not fall within the scope of the Directive, as defined in Article 3 thereof. **Judgment:** Article 11 of Directive 85/374 does not preclude a national court from holding that, in the proceedings instituted within the period prescribed by that article against the wholly-owned subsidiary of the 'producer', within the meaning of Article 3(1) of Directive 85/374, that producer can be substituted for that subsidiary if that court finds that the putting into circulation of the product in question was, in fact, determined by that producer. Furthermore, Article 3(3) of Directive 85/374 must be interpreted as meaning that, where the person injured by an allegedly defective product was not reasonably able to identify the producer of that product before exercising his rights against the supplier of that product, that supplier must be treated as a 'producer' for the purposes, in particular, of the application of Article 11 of that Directive, if it did not inform the injured person, on its own initiative and promptly, of the identity of the producer or its own supplier, which it is for the national court to determine in the light of the circumstances of the case (see further paras. 34-64 of the judgment). **Relevance:** This judgment is of relevance for the Ukrainian legislators. It adds a clarification regarding the relationship between parent companies and subsidiaries as far as liability for defective product is concerned. It should be taken into account for interpretation of relevant Ukrainian rules and also it could be used to shape the Ukrainian legislation.

Case	Summary
C-258/08 Moteurs Leroy Somer v Dalkia France and Ace Europe	**Facts:** This was a reference for preliminary ruling submitted by the French *Cour de cassation* in course of proceedings between Société Moteurs Leroy Somer and Société Dalkia France, Société Ace Europe. The factual background was as follows. A generator installed in 1995 in a hospital in Lyon by a company Wartsila caught fire because the alternator manufactured and put into circulation in 1994 by Moteurs Leroy Somer overheated. Dalkia France, which was responsible for the maintenance of this installation, and its insurer, Ace Europe, paid compensation for the material damage caused to the hospital by that accident and then, having taken over the hospital's rights, brought an action against Moteurs Leroy Somer so as to obtain reimbursement of the sums paid by them. One of the key legal issues was whether Articles 9 and 13 of Directive 85/374 precluded the interpretation of domestic law or settled domestic case-law such that it enabled an injured person to seek compensation for damage to an item of property intended for professional use and employed for that purpose, where that person simply proved damage, the defect in the product and the causal link between that defect and the damage' **Judgement:** Court of Justice held that Directive 85/374 did not preclude the domestic law at stake. To put it differently, the Member States are free to provide in their national laws or interpretation thereof that an injured person can seek compensation for damage to an item of property intended for professional use and employed for that purpose, where that injured person simply proves the damage, the defect in the product and the causal link between that defect and the damage. **Relevance:** As most of judgments based on Directive 85/374 this one, too, sheds a light on the discretion of Member States to regulate certain issues in their national laws. This judgment, like the others in this section of the Manual, should be considered when Ukraine proceeds with approximation of its domestic law with Directive 85/374.
C-127/04 Declan O'Byrne v Sanofi Pasteur MSD Ltd and Sanofi Pasteur SA	**Facts:** The reference was made by the the High Court of Justice of England and Wales, Queen's Bench Division (United Kingdom) in course of proceedings between Declan O'Byrne and Sanofi Pasteur MSD Ltd, formerly Aventis Pasteur MSD Ltd ('APMSD'), and Sanofi Pasteur SA, formerly Aventis Pasteur SA ('APSA'), concerning the putting into circulation by the latter of an allegedly defective vaccine, the use of which, it is claimed, had caused him serious injury (see further on the factual background of the case paras. 9-18 of the judgment). The domestic court asked the Court of Justice for clarification as to the meaning of Article 11 of Directive 85/374 (see para. 19 for the questions).

Case	Summary
	Judgment: Court of Justice held that a product is put into circulation when it is taken out of the manufacturing process operated by the producer and enters a marketing process in the form in which it is offered to the public in order to be used or consumed. Furthermore, Court of Justice clarified that when an action is brought against a company mistakenly considered to be the producer of a product whereas, in reality, it was manufactured by another company, it is as a rule for national law to determine the conditions in accordance with which one party may be substituted for another in the context of such an action. A national court examining the conditions governing such a substitution must, however, ensure that due regard is had to the personal scope as regulated in Articles 1 and 3 of Directive 85/374 (for reasoning see paras. 20-39 of the judgment). **Relevance:** This judgment clarifies the meaning of the term "put into circulation", which is used in Article 11 of Directive 85/374. Hence, it can be a point of reference for the Ukrainian law-makers. Furthermore, the Court of Justice shed a light on the power of national legislator to develop rules applicable in cases when an action is brought against an undertaking that is mistakenly considered to be a producer of a product.
C-183/00 María Victoria González Sánchez v Medicina Asturiana SA	**Facts:** The reference for preliminary ruling was submitted by *Juzgado de Primera Instancia e Instrucción no 5 de Oviedo* (Spain) in course of proceedings between María Victoria González Sánchez and Medicina Asturiana SA for compensation for damage allegedly caused in premises belonging to Medicina Asturiana in the course of a blood transfusion. The national court considered it fitting to proceed with a question to the Court of Justice on interpretation of Article 13 of Directive 85/374. In particular, the Spanish court wished to find out whether the provision in question meant that the rights conferred under the legislation of a Member State on victims of damage caused by a defective product may be limited or restricted as a result of the Directive's transposition into the domestic law of that State (see further paras. 9-13 of the judgment). **Judgment:** the rights conferred under the legislation of a Member State on the victims of damage caused by a defective product under a general system of liability having the same basis as that put in place by Directive 85/374 may be limited or restricted as a result of the Directive's transposition into the domestic law of that State (for reasoning see paras. 23-34 of the judgment). **Relevance:** just like the other judgments summarized in this section of the Manual, this decision clarifies the scope and meaning of Article 13 of Directive 85/374. As such it is an important development that should be considered

Case	Summary
	by the Ukrainian authorities when they proceed with a legislative gap assessment and, consequentially, drafting of domestic provisions aiming at full approximation with the directive in question.
C-154/00 Commission of the European Communities v Hellenic Republic	**Facts:** the European Commission submitted an infringement action against Greece (Article 258 TFEU) and claimed that by not providing for the threshold of EUR 500 laid down in Article 9(b) of Directive 85/374 Greece has transposed that provision only partially. **Judgment:** the Court of Justice held that Greece was indeed in breach of Article 9(b) of Directive 85/374 (see further paras. 8-34 of the judgment). **Relevance:** this judgment makes it clear that a threshold of EUR 500 must be provided in national law to make it fully compatible with Directive 85/374.
C-52/00 Commission of the European Communities v French Republic	**Facts:** the European Commission submitted an action for annulment claiming that France was in breach of Articles 9, 3(3) and 7 of Directive 85/374. One of the main issues was the level of discretion that was left to the Member States in transposition of the Directive in question and, accordingly, the level of compliance achieved by the French legislator. **Judgment:** the Court of Justice held that: - by including damage of less than EUR 500 in Article 1386-2 of the French Civil Code; - by providing in the first paragraph of Article 1386-7 thereof that the supplier of a defective product is to be liable in all cases and on the same basis as the producer, and - by providing in the second paragraph of Article 1386-12 thereof that the producer must prove that he has taken appropriate steps to avert the consequences of a defective product in order to be able to rely on the grounds of exemption from liability provided for in Article 7(d) and (e) of Council Directive 85/374/EEC; the French Republic has failed to fulfil its obligations under Articles 9(b), 3(3) and 7 of this Directive (for a detailed account see paras. 26-48 of the judgment). **Relevance:** this judgment is definitely of relevance for the Ukrainian law-makers. It is a very informative account on the levels of harmonisation envisaged by the Directive in question (paras. 13-25 of the judgment) as well as compliance of the French provisions with EU law. It clarifies what is not permitted under Directive 85/374/EEC.

Case	Summary
Case C-621/15 N. W and Others v Sanofi Pasteur MSD SNC and Others	**Facts:** This was a reference for preliminary ruling submitted by the French Cour de cassation in proceedings between N., L. and C.W and the Caisse primaire d'assurance maladie des Hauts-de-Seine and Carpimko, an independent pension and insurance fund, concerning the plaintiffs' potential liability for an allegedly defective vaccination manufactured by it. The referring court submitted a few questions on the interpretation of Directive 85/347/EEC. **Judgment:** Article 4 of this Directive must be interpreted as not precluding national evidentiary rules such as those at issue in the main proceedings under which, when a court ruling on the merits of an action involving the liability of the producer of a vaccine due to an alleged defect in that vaccine, in the exercise of its exclusive jurisdiction to appraise the facts, may consider that, notwithstanding the finding that medical research neither establishes nor rules out the existence of a link between the administering of the vaccine and the occurrence of the victim's disease, certain factual evidence relied on by the applicant constitutes serious, specific and consistent evidence enabling it to conclude that there is a defect in the vaccine and that there is a causal link between that defect and that disease. National courts must, however, ensure that their specific application of those evidentiary rules does not result in the burden of proof introduced by Article 4 being disregarded or the effectiveness of the system of liability introduced by that directive being undermined. Furthermore, Article 4 of this Directive precludes evidentiary rules based on presumptions according to which, where medical research neither establishes nor rules out the existence of a link between the administering of the vaccine and the occurrence of the victim's disease, the existence of a causal link between the defect attributed to the vaccine and the damage suffered by the victim will always be considered to be established when certain predetermined causation-related factual evidence is presented. **Relevance:** this judgment is of relevance for the Ukrainian authorities. It sheds a light on interpretation of the Directive in question and clarifies the room for manouvre left to the domestic authorities.

1.2.6. Directive 2006/42/EC on machinery

Case	Summary

	No case-law as of 31 December 2017

1.2.7. Directive 2014/30/EU on electromagnetic compatibility

Case	Summary
	No case-law as of 31 December 2017

1.2.8. Directive 2014/29/EU on simple pressure vessels

Case	Summary
	No case-law as of 31 December 2017

1.2.9. Directive 2014/68/EU on pressure equipment

Case	Summary
	No case-law as of 31 December 2017

1.2.10. Directive 2010/35 on transportable pressure equipment

Case	Summary
	No case-law as of 31 December 2017

1.2.11. Directive 95/16/EC on lifts

Case	Summary
	No case-law as of 31 December 2017

1.2.12. Directive 2010/35 on transportable pressure equipment

Case	Summary

	No case-law as of 31 December 2017

1.2.13. Directive 2009/48/EC on the safety of toys

Case	Summary
	No case-law as of 31 December 2017

1.2.14. Directive 2014/35/EU on electrical equipment designed for use within certain voltage limits

Case	Summary
	No case-law as of 31 December 2017

1.2.15. Directive 92/42/EEC on efficiency requirements for new hot-water boilers fired with liquid or gaseous fuels

Case	Summary
	No case-law as of 31 December 2017

1.2.16. Directive 2009/142/EC on appliances burning gaseous fuels

Case	Summary
	No case-law as of 31 December 2017

1.2.17. Commission Regulation (EC) No 643/2009 on ecodesign requirements for household refrigerating appliances

Case	Summary
	No case-law as of 31 December 2017

1.2.18. Directive 2014/31/EU on non-automatic weighing instruments

Case	Summary

	No case-law as of 31 December 2017

1.2.19. Directive 2014/32/EU on making available on the market of measuring instruments

Case	Summary
	No case-law as of 31 December 2017

1.2.20. Directive 2014/90/EU on marine equipment

Case	Summary
	No case-law as of 31 December 2017

1.2.21. Directive 93/42/EEC on medical devices

Case	Summary
C-109/12 Laboratoires Lyocentre v Lääkealan turvallisuus- ja kehittämiskeskus and Sosiaali- ja terveysalan lupa- ja valvontavirasto	**Facts:** this reference for preliminary ruling was submitted by *Korkein hallinto-oikeus* (Finland) in course of proceedings between Laboratoires Lyocentre, a pharmaceutical company which manufactures a vaginal capsule containing live lactobacilli intended to restore balance to bacterial flora in the vagina, called 'Gynocaps', and the Lääkealan turvallisuus– ja kehittämiskeskus (the Centre for Safety and Development in the pharmaceutical sectors) and the Sosiaali– ja terveysalan lupa– ja valvontavirasto (Social and Health Authorisation and Supervision Authority), concerning the classification of Gynocaps as a medicinal product (for further details see paras. 25-33 of the judgment). **Judgment:** The Court of Justice held that the classification of a product in one Member State as a medical device bearing a CE marking, in accordance with Council Directive 93/42/EEC of 14 June 1993 concerning medical devices does not preclude the competent authorities of another Member State from classifying the same product, on the basis of its pharmacological, immunological or metabolic action, as a medicinal product within the meaning of Article 1(2)(b) of Directive 2001/83/EC on the Community code relating to medicinal products for human use. Furthermore, the Court of Justice added that on order to classify as a medicinal product in accordance with Directive 2001/83 a product already classified in another Member State as a medical device bearing a CE marking, in accordance with Directive 93/42, the competent authorities of a Member State must, before applying the classification procedure under

Case	Summary
	Directive 2001/83 apply the procedure under Article 18 of Directive 93/42 and, where appropriate, the procedure under Article 8 of Directive 93/42. Last but not least, the Court of Justice ruled that within the same Member State, a product which, while not identical to another product classified as a medicinal product, none the less has in common with it an identical substance and the same mode of action, cannot, in principle, be marketed as a medical device in accordance with Directive 93/42 unless, as a result of another characteristic that is specific to that product and relevant for the purposes of Article 1(2)(a) of Directive 93/42, it must be classified and marketed as a medical device (see further paras. 35-60 of the judgment). **Relevance:** This judgment is of relevance for the Ukrainian authorities as it clarifies the relationship between Directive 93/42/EEC and other legal acts dealing with medicinal products.
C-219/11 Brain Products GmbH v BioSemi VOF and Others	**Facts:** this was a reference for preliminary ruling submitted by *Bundesgerichtshof* (Germany). The questions as to the interpretation of Directive 93/42 arose in course of proceedings between (i) Brain Products GmbH and (ii) BioSemi VOF and Messrs Kuiper, Honsbeek and Metting van Rijn concerning the application of Directive 93/42 to a product, for which the non-medical use has been defined by its manufacturer, which is intended for investigation of a physiological process. The German court seized with this dispute decided to proceed with a reference for preliminary ruling and to ask the following question: "Does a product which is intended by the manufacturer to be applied for human beings for the purpose of investigation of a physiological process constitute a medical device, within the terms of the third indent of Article 1(2)(a) of Directive 93/42/EEC, only in the case where it is intended for a medical purpose?" **Judgment:** The Court of Justice held that as per Article 1(2)(a) of Directive 93/42/EEC the concept of 'medical device' covers an object conceived by its manufacturer to be used for human beings for the purpose of investigation of a physiological process only if it is intended for a medical purpose. **Relevance:** This judgment is relevant for the Ukrainian law-makers, who are in charge of approximation of domestic law with Directive 93/42. It can be used to clarify the meaning of the term "medical device" used in the Directive in question.

Case	Summary
C-288/08 Kemikalieinspektionen v Nordiska Dental AB	**Facts:** This was a reference for preliminary ruling submitted by *Svea hovrätt* (Sweden). It was submitted in course of proceedings between Kemikalieinspektionen (Swedish Chemicals Inspectorate) and Nordiska Dental AB regarding the refusal of the application submitted by Nordiska Dental for a waiver of the prohibition on the exportation of mercury, or of chemical compounds containing mercury, in the course of marketing amalgam for dental use during the period from 1 January 2007 to 31 December 2009 (see further paras. 12-15 of the judgment). **Judgment:** Article 4(1) of Council Directive 93/42/EEC precludes the legislation of a Member State, such as the Finnish legislation at issue in the main proceedings, under which the commercial exportation of dental amalgams containing mercury and bearing the 'CE' marking provided for in Article 17 of that Directive is prohibited on grounds relating to protection of the environment and of health. **Relevance:** This judgment should be taken into account by the Ukrainian law-makers as it clarifies the meaning of Article 4(1) of Directive 93/42/EEC and its relationship to national law.
C-329/16 Syndicat national de l'industrie des technologies médicales (Snitem) and Philips France v Premier ministre and Ministre des Affaires sociales et de la Santé,	Case C-329/16 Syndicat national de l'industrie des technologies médicales (Snitem) and Philips France v Premier ministre and Ministre des Affaires sociales et de la Santé, **Facts:** This was a reference for preliminary ruling submitted by *Conseil d'État* (France) in course of proceedings between the Syndicat national de l'industrie des technologies médicales (Snitem) and Philips France, on the one hand, and the Premier ministre (Prime Minister, France) and the ministre des Affaires sociales et de la Santé (Minister for Social Affairs and Health, France), on the other, concerning the legality of French legislation. In order to consider the claim the French Court decided to seek advice of the Court of Justice in interpretation of Article 1(1) and Article 1(2)(a) of Council Directive 93/42/EEC of 14 June 1993 concerning medical devices (see further paras. 17-20 of the judgment). **Judgment:** Article 1(1) and Article 1(2)(a) of Council Directive 93/42/EEC must be interpreted as meaning that software, of which at least one of the functions makes it possible to use patient-specific data for the purposes, *inter alia*, of detecting contraindications, drug interactions and excessive doses, is, in respect of that function, a medical device within the meaning of those provisions, even if that software does not act directly in or on the human body.

Case	Summary
	Relevance: this judgment is of relevance for the Ukrainian authorities and should be taken into account when domestic provisions are drafted and interpreted.

1.2.22. Council Directive 90/385/EEC on active implantable medical devices

Case	Summary
	No case-law as of 31 December 2017

1.2.23. Directive 98/79/EC on in vitro diagnostic medical devices

Case	Summary
	No relevant case-law as of 31 December 2017

1.2.24. Directive 2014/34/EU on equipment and protective systems intended for use in potentially explosive atmospheres

Case	Summary
	No case-law as of 31 December 2017

1.2.25. Directive 2014/53/EU on making available on the market of radio equipment

Case	Summary
	No case-law as of 31 December 2017

1.2.26. Directive 2000/9/EC on cableway installations designed to carry persons

Case	Summary
	No case-law as of 31 December 2017

1.2.27. Directive 2013/53/EU on recreational craft and personal watercraft

Case	Summary
	No case-law as of 31 December 2017

1.2.28. Regulation (EU) No 305/2011 laying down harmonised conditions for the marketing of construction products

Case	Summary
	No case-law as of 31 December 2017

1.2.29. Implementing Regulation (EU) No 1062/2013 on the format of the European Technical Assessment for construction products

Case	Summary
	No case-law as of 31 December 2017

1.2.30. Directive 94/62/EC of 20 December 1994 on packaging and packaging waste

Case	Summary
C-309/02 Radlberger Getränkegesellschaft mbH & Co. and S. Spitz KG v Land Baden-Württemberg	**Facts:** This was a reference for preliminary ruling submitted by *Verwaltungsgericht Stuttgart* (Germany) and touched upon interpretation of Directive 94/62 as well as Article 28 EC Treaty (now Article 34 TFEU). Only the first part is of interest of Ukrainian authorities as the TFEU provision in question applies only to the Member States of the European Union. The claimants in the main proceedings brought an action against Land Baden-Württemberg before the referring court in which they submit that the rules laid down in the German law on quotas for reusable packaging and the related deposit and return obligations were contrary to Articles 1(1) and (2), 5, 7 and 18 of Directive 94/62 and Article 28 EC (now Article 34 TFEU) (see further paras. 15-18 of the judgment). **Judgment:** The Court of Justice held that Article 1(2) of Directive 94/62/EC of 20 December 1994 on packaging and packaging waste does not preclude the Member States from introducing measures designed to promote systems for the reuse of packaging. Furthermore, the Court added that while Article 7 of Directive 94/62 does not confer on the producers and distributors concerned any right to continue to participate in a given packaging-waste management system, it precludes the replacement of a global system for the collection of packaging waste with a deposit and return system

Case	Summary
	where the new system is not equally appropriate for the purpose of attaining the objectives of Directive 94/62/EC or where the changeover to the new system does not take place without a break and without jeopardising the ability of economic operators in the sectors concerned actually to participate in the new system as soon as it enters into force. **Relevance:** This judgment is of relevance for the Ukrainian law-makers. It provides essential information on what the Member States can keep in their domestic legislation and how to approximate with the Directive in question.
C-341/01 Plato Plastik Robert Frank GmbH v Caropack Handelsgesellschaft mbH	**Facts:** the reference for preliminary ruling was submitted by the Landesgericht Korneuburg (Germany) in course of litigation between Plato Plastik Robert Frank GmbH, which manufactures and distributes plastic bags and Caropack Handelsgesellschaft mbH, which markets them, concerning the latter's refusal to provide confirmation that it has joined the system for the collection and recovery of packaging waste (see further paras. 14-21 of the judgment). The referring court considered that Caropack was not required to give the confirmation requested by Plato Plastik because the carrier bags referred to in the main proceedings were not packaging within the meaning of Directive 94/62 or because Plato Plastik was not deemed to be a packaging producer. In any case, according to the national court, there was no obligation to participate in the ARA system or to pay the fee in question in so far as the provisions of the German law were contrary to EU law. To verify its findings the German court submitted seven questions to the Court of Justice (see para. 23 of the judgment). **Judgment:** the Court of Justice ruled that Article 3(1) of Directive 94/62 means that the plastic carrier bags handed to customers in shops, whether free of charge or not, constitute packaging within the meaning of that Directive. Furthermore, the Court held that in the context of the first subparagraph of Article 3(1) of Directive 94/62, "producer" refers to the producer of the goods, not the manufacturer of the packaging products. **Relevance**: This judgment of the Court of Justice provides an important clarification as to the scope of Article 3(1) of Directive 94/62. It further clarifies the meaning of the term "producer" used in the same Directive. Both are of relevance for the Ukrainian law-makers.
C-444/00 The Queen, on the application of Mayer Parry Recycling Ltd, v Environment	**Facts:** This was a reference for preliminary ruling submitted by the High Court of Justice of England and Wales, Queen's Bench Division (Administrative Court) in course of proceedings between Mayer Parry Recycling Ltd and the Environment Agency concerning the latter's refusal to grant Mayer Parry's application for accreditation as a 'reprocessor', which is

Case	Summary
Agency and Secretary of State for the Environment, Transport and the Regions, and Corus (UK) Ltd and Allied Steel and Wire Ltd (ASW)	defined as a person who carries out the activities of waste recovery or recycling. One of the key legal issues was the interpretation of term “recycling.” **Judgment:** the Court of Justice held that “recycling”, within the meaning of Article 3(7) Directive 94/62/EC, did not include including the reprocessing of metal packaging waste when it was transformed into a secondary raw material such as material meeting the specifications of Grade 3B, but as covering the reprocessing of such waste when it is used to produce ingots, sheets or coils of steel. **Relevance:** this judgment of the Court of Justice is definitely of relevance for the Ukrainian authorities as it clarifies the scope of the term “recycling” used in Directive 94/62.
C-313/15 and C-530/15 Eco-Emballages SA and Others v Sphère France SAS and Others and Melitta France SAS and Others v Ministre de l’Écologie, du Développement durable et de l’Énergie.	**Facts:** the references for preliminary ruling were submitted by Tribunal de commerce de Paris (France) and *Conseil d’État* (France). In both instances, the French courts expressed a desire to receive assistance of the Court of Justice in interpretation of Article 3 of Directive 94/62/EC of the European Parliament and of the Council of 20 December 1994 on packaging and packaging waste (see further paras. 11-20 of the judgment). The main issue at stake was compatibility of the French legislation with the Directive in question, in particular, the scope of the term “packaging” used in national law. **Judgment:** Article 3(1) of Directive 94/62/EC on packaging and packaging waste must be interpreted as meaning that roll cores in the form of rolls, tubes or cylinders, around which flexible material is wound and sold to consumers, constitute ‘packaging’ within the meaning of that provision. **Relevance:** this judgment of the Court of Justice is of relevance for the Ukrainian authorities as it provides a useful guideline for lawyers in charge of approximation. Particular attention should be paid to the fact that, as the Court of Justice emphasised in para. 24 of the judgment, the term “packaging” must be interpreted broadly.

1.2.31. Directive 2014/28/EU on making available on the market and supervision of explosives for civil uses

Case	Summary
	No case-law as of 31 December 2017

1.2.32. Directive 2010/30/EU on the indication by labelling and standard product information of the consumption of energy and other resources by energy-related products

Case	Summary
	No case-law as of 31 December 2017

Chapter 2 Sanitary and phytosanitary and animal welfare legislation

2.1. Lists of jurisprudence

EU Legal Act	Jurisprudence
Regulation (EC) № 178/2002 of the European Parliament and of the Council laying down the general principles and requirements of food law, establishing the European Food Safety Authority and laying down procedures in matters of food safety	- Case C-111/16 Criminal proceedings against Giorgio Fidenato and Others, ECLI:EU:C:2017:676 - Case C-282/15 Queisser Pharma GmbH & Co. KG v Bundesrepublik Deutschland, ECLI:EU:C:2017:26 - Case C-636/11 Karl Berger v Freistaat Bayern, ECLI:EU:C:2013:227
Regulation (EC) № 852/2004 of the European Parliament and of the Council of 29 April 2004 on the hygiene of foodstuffs	- Case C-381/10 Astrid Preissl KEG v Landeshauptmann von Wien, ECLI:EU:C:2011:638 - Case C-382/10 Erich Albrecht and Others v Landeshauptmann von Wien, ECLI:EU:C:2011:639
Regulation (EC) № 854/2004 of the European Parliament and of the Council of 29 April 2004 laying down specific rules for the organisation of official controls on products of animal origin intended for human consumption (NOTE: this Regulation will be replaced by Regulation (EU) 2017/625 of the European Parliament and of the Council of 15 March 2017 on official controls and other official activities performed to ensure the application of food and feed law, rules on animal health and welfare, plant health and plant protection products, amending Regulations (EC) No 999/2001, (EC) No 396/2005, (EC) No 1069/2009, (EC) No 1107/2009, (EU) No 1151/2012, (EU) No 652/2014, (EU) 2016/429 and (EU) 2016/2031 of the European Parliament and of the Council, Council Regulations (EC) No 1/2005 and (EC) No 1099/2009 and Council Directives 98/58/EC, 1999/74/EC, 2007/43/EC, 2008/119/EC and 2008/120/EC, and repealing	- Case C-402/13 Cypra Ltd v Kypriaki Dimokratia, ECLI:EU:C:2014:2333

EU Legal Act	Jurisprudence
Regulations (EC) No 854/2004 and (EC) No 882/2004 of the European Parliament and of the Council, Council Directives 89/608/EEC, 89/662/EEC, 90/425/EEC, 91/496/EEC, 96/23/EC, 96/93/EC and 97/78/EC and Council Decision 92/438/EEC)	
Regulation (EC) № 16/2011 of the European Parliament and of the Council of 10 January 2011 laying down implementing measures for the Rapid alert system for food and feed	- no case-law as of 31 December 2017
Commission Implementing Regulation (EU) № 931/2011 of 19 September 2011 on the traceability requirements set by Regulation (EC) № 178/2002 of the European Parliament and of the Council for food of animal origin	- no case-law as of 31 December 2017
Commission Implementing Regulation (EU) № 208/2013 of 11 March 2013 on traceability requirements for sprouts and seeds intended for the production of sprouts	- no case-law as of 31 December 2017
Commission Regulation (EC) № 669/2009 of 24 July 2009 implementing Regulation (EC) № 882/2004 of the European Parliament and of the Council as regards the increased level of official controls on imports of certain feed and food of №n-animal origin and amending Decision 2006/504/EC	- no case-law as of 31 December 2017
Regulation (EC) № 853/2004 of the European Parliament and of the Council of 29 April 2004 laying down specific hygiene rules for food of animal origin	- Case C-453/13 The Queen, on the application of Newby Foods Ltd v Food Standards Agency, ECLI:EU:C:2014:2297

EU Legal Act	Jurisprudence
Regulation (EC) № 882/2004 of the European Parliament and of the Council of 29 April 2004 on official controls performed to ensure the verification of compliance with feed and food law, animal health and animal welfare rules (NOTE: this Regulation will be replaced by Regulation (EU) 2017/625 of the European Parliament and of the Council of 15 March 2017 on official controls and other official activities performed to ensure the application of food and feed law, rules on animal health and welfare, plant health and plant protection products, amending Regulations (EC) No 999/2001, (EC) No 396/2005, (EC) No 1069/2009, (EC) No 1107/2009, (EU) No 1151/2012, (EU) No 652/2014, (EU) 2016/429 and (EU) 2016/2031 of the European Parliament and of the Council, Council Regulations (EC) No 1/2005 and (EC) No 1099/2009 and Council Directives 98/58/EC, 1999/74/EC, 2007/43/EC, 2008/119/EC and 2008/120/EC, and repealing Regulations (EC) No 854/2004 and (EC) No 882/2004 of the European Parliament and of the Council, Council Directives 89/608/EEC, 89/662/EEC, 90/425/EEC, 91/496/EEC, 96/23/EC, 96/93/EC and 97/78/EC and Council Decision 92/438/EEC (Official Controls Regulation)	- Case C-519/16 Superfoz - Supermercados Lda v Fazenda Pública, ECLI:EU:C:2017:601 - Case C-112/15 Kødbranchens Fællesråd v Ministeriet for Fødevarer, Landbrug og Fiskeri and Fødevarestyrelsen, ECLI:EU:C:2016:185 - Case C-636/11 Karl Berger v Freistaat Bayern, ECLI:EU:C:2013:227 - Case C-523/09 Rakvere Piim AS and Maag Piimatööstus AS v Veterinaar- ja Toiduamet, ECLI:EU:C:2011:460
Council Directive № 97/78/EC of 18 December 1997 laying down the principles governing the organization of veterinary checks on products entering the Community from third countries (NOTE: this Regulation will be replaced by Regulation (EU) 2017/625 of the European Parliament and of the Council of 15 March 2017 on official controls and other official activities performed to ensure the application of food and feed law, rules on animal health and welfare, plant health and plant protection products, amending Regulations (EC) No 999/2001, (EC) No 396/2005, (EC) No 1069/2009, (EC) No 1107/2009, (EU) No 1151/2012, (EU) No 652/2014, (EU) 2016/429 and (EU) 2016/2031 of the European Parliament and of the Council, Council Regulations (EC) No 1/2005 and (EC) No 1099/2009 and	- Joined cases C-129/05 and C-130/05 NV Raverco (C-129/05) and Coxon & Chatterton Ltd (C-130/05) v Minister van Landbouw, Natuur en Voedselkwaliteit, ECLI:EU:C:2006:613

EU Legal Act	Jurisprudence
Council Directives 98/58/EC, 1999/74/EC, 2007/43/EC, 2008/119/EC and 2008/120/EC, and repealing Regulations (EC) No 854/2004 and (EC) No 882/2004 of the European Parliament and of the Council, Council Directives 89/608/EEC, 89/662/EEC, 90/425/EEC, 91/496/EEC, 96/23/EC, 96/93/EC and 97/78/EC and Council Decision 92/438/EEC (Official Controls Regulation)	
Council Directive 91/496/EEC of 15 July 1991 laying down the principles governing the organisation of veterinary checks on animals entering the Community from third countries (NOTE: this Regulation will be replaced by Regulation (EU) 2017/625 of the European Parliament and of the Council of 15 March 2017 on official controls and other official activities performed to ensure the application of food and feed law, rules on animal health and welfare, plant health and plant protection products, amending Regulations (EC) No 999/2001, (EC) No 396/2005, (EC) No 1069/2009, (EC) No 1107/2009, (EU) No 1151/2012, (EU) No 652/2014, (EU) 2016/429 and (EU) 2016/2031 of the European Parliament and of the Council, Council Regulations (EC) No 1/2005 and (EC) No 1099/2009 and Council Directives 98/58/EC, 1999/74/EC, 2007/43/EC, 2008/119/EC and 2008/120/EC, and repealing Regulations (EC) No 854/2004 and (EC) No 882/2004 of the European Parliament and of the Council, Council Directives 89/608/EEC, 89/662/EEC, 90/425/EEC, 91/496/EEC, 96/23/EC, 96/93/EC and 97/78/EC and Council Decision 92/438/EEC (Official Controls Regulation)	- no relevant case-law as of 31 December 2017
Council Directive 2002/99/EC of 16 December 2002 laying down the animal health rules governing production, processing, distribution and introduction of products of animal origin for human consumption (NOTE: this Directive will be repealed by Regulation (EU) 2016/429 of	- no case-law as of 31 December 2017

EU Legal Act	Jurisprudence
the European Parliament and of the Council of 9 March 2016 on transmissible animal diseases and amending and repealing certain acts in the area of animal health ('Animal Health Law'))	
Regulation 1169/2011 of the European Parliament and of the Council of 25 October 2011 on the provision of food information to consumers (NOTE: this Regulation will be repealed by Regulation (EU) 2016/429 of the European Parliament and of the Council of 9 March 2016 on transmissible animal diseases and amending and repealing certain acts in the area of animal health ('Animal Health Law'))	- no case-law as of 31 December 2017
Directive 2011/91 of the European Parliament and of the Council of 13 December 2011 on indications or marks identifying the lot to which a foodstuff belongs	- no case-law as of 31 December 2017
Regulation 1924/2006 European Parliament and of the Council of 20 December 2006 on nutrition and health claims made on foods	- C-177/15 Nelsons GmbH v Ayonnax Nutripharm GmbH and Bachblütentreff Ltd, ECLI:EU:C:2016:888 - C-19/15 Verband Sozialer Wettbewerb eV v Innova Vital GmbH, ECLI:EU:C:2016:563 - C-157/14 Société Neptune Distribution v Ministre de l'Économie et des Finances, ECLI:EU:C:2015:823 - C-137/13 Herbaria Kräuterparadies GmbH v Freistaat Bayern, ECLI:EU:C:2014:2335 - C-609/12 Ehrmann AG v Zentrale zur Bekämpfung unlauteren Wettbewerbs eV., ECLI:EU:C:2014:252 - C-299/12 Green - Swan Pharmaceuticals CR, a.s. v Státní zemědělská a potravinářská inspekce, ústřední inspektorát, ECLI:EU:C:2013:501

EU Legal Act	Jurisprudence
	- C-544/10 Deutsches Weintor eG v Land Rheinland-Pfalz, ECLI:EU:C:2012:526
Regulation 432/2011 of 4 May 2011 refusing to authorise certain health claims made on foods, other than those referring to the reduction of disease risk and to children's development and health	- no case-law as of 31 December 2017
Regulation (EC) № 1925/2006 of the European Parliament and of the Council of 20 December 2006 on the addition of vitamins and minerals and of certain other substances to foods	- no relevant case-law as of 31 December 2017
Regulation (EC) № 1170/2009 of 30 November 2009 amending Directive 2002/46/EC of the European Parliament and of Council and Regulation (EC) № 1925/2006 of the European Parliament and of the Council as regards the lists of vitamin and minerals and their forms that can be added to foods, including food supplements	- no case-law as of 31 December 2017
Regulation (EC) № 432/2012 of 16 May 2012 establishing a list of permitted health claims made on foods, other than those referring to the reduction of disease risk and to children's development and health	- no case-law as of 31 December 2017
Commission Regulation (EU) № 1047/2012 of 8 November 2012 amending Regulation (EC) № 1924/2006 with regard to the list of nutrition claims	- no case-law as of 31 December 2017

EU Legal Act	Jurisprudence
Commission Implementing Decision 2013/63/EU of 24 January 2013 adopting guidelines for the implementation of specific conditions for health claims laid down in Article 10 of Regulation (EC) N 1924/2006 of the European Parliament and of the Council	- no case-law as of 31 December 2017
Regulation (EC) № 37/2005 of 12 January 2005 on the monitoring of temperatures in the means of transport, warehousing and storage of quick-frozen foodstuffs intended for human consumption	- no case-law as of 31 December 2017
Decision 2002/226 of 15 March 2002 establishing special health checks for the harvesting and processing of certain bivalve molluscs with a level of amnesic shellfish poison (ASP) exceeding the limit laid down by Council Directive 91/492/EEC	- no case-law as of 31 December 2017
Council Directive 2001/110/EC of 20 December 2001 relating to honey	- no case-law as of 31 December 2017
Regulation (EC) № 1331/2008 of 16 December 2008 establishing a common authorisation procedure for food additives, food enzymes and food flavourings	- no case-law as of 31 December 2017
Regulation (EC) № 1333/2008 of 16 December 2008 on food additives	- no case-law as of 31 December 2017
Commission Regulation (EC) № 231/2012 of 9 March 2012 laying down specifications for food additives listed in Annexes II and III to Regulation (EC) № 1333/2008 of the European Parliament and of the Council	- no case-law as of 31 December 2017
Regulation (EC) № 234/2011 of 10 March 2011 implementing Regulation (EC) № 1331/2008 of the European Parliament and of the Council establishing a common authorisation procedure for food additives, food enzymes and food flavourings	- no case-law as of 31 December 2017

EU Legal Act	Jurisprudence
Regulation 1334/2008 of 10 March 2011 on flavourings and certain food ingredients with flavouring properties for use in and on foods (**Note:** this Regulation has been partially repealed by Regulation 1169/2011)	- no case-law as of 31 December 2017
Commission Implementing Regulation (EU) № 872/2012 of 1 October 2012 adopting the list of flavouring substances provided for by Regulation (EC) № 2232/96 of the European Parliament and of the Council, introducing it in Annex I to Regulation (EC) № 1334/2008 of the European Parliament and of the Council and repealing Commission Regulation (EC) № 1565/2000 and Commission Decision 1999/217/EC	- no relevant case-law as of 31 December 2017
Regulation (EC) № 2065/2003 of 10 November 2003 on smoke flavourings used or intended for use in or on foods	- no relevant case-law as of 31 December 2017
Commission Regulation (EU) № 873/2012 of 1 October 2012 on transitional measures concerning the Union list of flavourings and source materials set out in Annex I to Regulation (EC) № 1334/2008 of the European Parliament and of the Council	- no case-law as of 31 December 2017
Regulation (EC) № 1332/2008 of 16 December 2008 on food enzymes and amending Council Directive 83/417/EEC, Council Regulation (EC) № 1493/1999, Directive 2000/13/EC, Council Directive 2001/112/EC and Regulation (EC) № 258/97 (partially repealed by Regulation 1169/2011) on food enzymes	- no case-law as of 31 December 2017
Regulation (EC) № 1935/2004 of the European Parliament and of the Council of 27 October 2004 on materials and articles intended to come into contact with food and repealing Directives 80/590/EEC and 89/109/EEC	- no case-law as of 31 December 2017

EU Legal Act	Jurisprudence
Regulation (EC) № 2023/2006 of 22 December 2006 on good manufacturing practice for materials and articles intended to come into contact with food	- no case-law as of 31 December 2017
Directive № 82/711 of 18 October 1982 laying down the basic rules necessary for testing migration of the constituents of plastic materials and articles intended to come into contact with foodstuffs	- no case-law as of 31 December 2017
Directive 85/572 of 22 December 1985 laying down the list of simulants to be used for testing migration of constituents of plastic materials and articles intended to come into contact with foodstuffs	- no case-law as of 31 December 2017
Directive 78/142 of 30 January 1978 on the approximation of the laws of the Member States relating to materials and articles which contain vinyl chloride monomer and are intended to come into contact with foodstuffs	- no case-law as of 31 December 2017
Decision 2010/169 of 19 March 2010 concerning the Non-inclusion of 2,4,4'-trichloro-2'-hydroxydiphenyl ether in the Union list of additives which may be used in the manufacture of plastic materials and articles intended to come into contact with foodstuffs under Directive 2002/72/EC (NOTE: this Decision has been annulled by General Court in case T-262/10 Microban International Ltd and Microban (Europe) Ltd v European Commission)	- no relevant case-law as of 31 December 2017
Directive 84/500 of 15 October 1984 on the approximation of the laws of the Member States relating to ceramic articles intended to come into contact with foodstuffs	- no case-law as of 31 December 2017

EU Legal Act	Jurisprudence
Directive 2007/42 of 29 June 2007 relating to materials and articles made of regenerated cellulose film intended to come into contact with foodstuffs	- no case-law as of 31 December 2017
Regulation (EC) № 1895/2005 of 18 November 2005 on the restriction of use of certain epoxy derivatives in materials and articles intended to come into contact with food	- no case-law as of 31 December 2017
Regulation (EC) № 450/2009 of 29 May 2009 on active and intelligent materials and articles intended to come into contact with food	- no case-law as of 31 December 2017
Regulation (EC) № 10/2011 of 14 January 2011 on plastic materials and articles intended to come into contact with food	- no case-law as of 31 December 2017
Directive 93/11 of 15 March 1993 concerning the release of the N-nitrosamines and N-nitrosatable substances from elastomer or rubber teats and soothers	- no case-law as of 31 December 2017
Commission Regulation (EU) № 284/2011 of 22 March 2011 laying down specific conditions and detailed procedures for the import of polyamide and melamine plastic kitchenware originating in or consigned from the People's Republic of China and Hong Kong Special Administrative Region, China	- no case-law as of 31 December 2017
Regulation (EC) № 282/2008 of 17 March 2008 recycled plastic materials and articles intended to come into contact with foods	- no case-law as of 31 December 2017
Commission Regulation (EC) № 28/2012 of 11 January 2012 laying down requirements for the certification for imports into and transit through the Union of certain composite products and amending Decision 2007/275/EC and Regulation (EC) № 1162/2009	- no case-law as of 31 December 2017

EU Legal Act	Jurisprudence
Decision 2007/275 of 11 April 2007 concerning lists of animals and products to be subject to controls at border inspection posts under Council Directives 91/496/EEC and 97/78/EC	- no case-law as of 31 December 2017
Regulation 641/2004 of 6 April 2004 on detailed rules for the implementation of Regulation (EC) № 1829/2003 as regards the application for the authorisation of new genetically modified food and feed, the notification of existing products and adventitious or technically unavoidable presence of genetically modified material which has benefited from a favourable risk evaluation	- no case-law as of 31 December 2017
Regulation 1829/2003 of 22 September 2003 on genetically modified food and feed	- C-111/16 Criminal proceedings against Giorgio Fidenato and Others, ECLI:EU:C:2017:676 -C-313/11 Commission v Poland,ECLI:EU:C:2013:481 -C-36/11 Pioneer Hi Bred Italia,ECLI:EU:C:2012:534 -C-58/10 Monsanto and Others, ECLI:EU:C:2011:553 -C-442/09 Bablok and Others,ECLI:EU:C:2011:541
Regulation 1830/2003 of 22 September 2003 concerning the traceability and labelling of genetically modified organisms and the traceability of food and feed products produced from genetically modified organisms	- no case-law as of 31 December 2017
Regulation (EC) № 396/2005 of the European Parliament and of the Council of 23 February 2005 on maximum residue levels of pesticides in or on food and feed of plant and animal origin and amending Council Directive 91/414/EEC	-C-229/09 Hogan Lovells International,ECLI:EU:C:2010:673
Commission Regulation (EC) № 1881/2006 of 19 December 2006 setting maximum levels for certain contaminants in foodstuffs	- no case-law as of 31 December 2017

EU Legal Act	Jurisprudence
Regulation 401/2006 of 23 February 2006 sampling laying down the methods of sampling and analysis for the official control of the levels of mycotoxins in foodstuffs	- no case-law as of 31 December 2017
Regulation 333/2007 of 28 March 2007 laying down the methods of sampling and analysis for the official control of the levels of lead, cadmium, mercury, inorganic tin, 3-MCPD and benzo(a)pyrene in foodstuffs sampling	- no case-law as of 31 December 2017
Regulation 589/2014 of 2 June 2014 laying down methods of sampling and analysis for the control of levels of dioxins, dioxin-like PCBs and №n-dioxin-like PCBs in certain foodstuffs and repealing Regulation (EU) № 252/2012 (NOTE: this Regulation has been replaced by Commission Regulation (EU) 2017/644 of 5 April 2017 laying down methods of sampling and analysis for the control of levels of dioxins, dioxin-like PCBs and non-dioxin-like PCBs in certain foodstuffs and repealing Regulation (EU) No 589/2014)	- no case-law as of 31 December 2017
Regulation 1882/2006 of 19 December 2006 laying down methods of sampling and analysis for the official control of the levels of nitrates in certain foodstuffs	- no case-law as of 31 December 2017
Commission Directive 2002/63 of 11 July 2002 establishing Community methods of sampling for the official control of pesticide residues in and on products of plant and animal origin and repealing Directive 79/700/EEC	- no case-law as of 31 December 2017
Regulation (EC) № 37/2010 of 22 December 2009 on pharmacologically active substances and their classification regarding maximum residue limits in foodstuffs of animal origin	- no case-law as of 31 December 2017

EU Legal Act	Jurisprudence
Council Directive 96/23 of 29 April 1996 on measures to monitor certain substances and residues thereof in live animals and animal products and repealing Directives 85/358/EEC and 86/469/EEC and Decisions 89/187/EEC and 91/664/EEC	- no case-law as of 31 December 2017
Regulation 258/97 of 27 January 1997 concerning novel foods and novel food ingredient (currently the issue of cloning subject to the provisions relating to the novel food) (NOTE: this Regulation has been replaced by Regulation (EU) 2015/2283 of the European Parliament and of the Council of 25 November 2015 on novel foods, amending Regulation (EU) No 1169/2011 of the European Parliament and of the Council and repealing Regulation (EC) No 258/97 of the European Parliament and of the Council and Commission Regulation (EC) No 1852/2001)	- no case-law as of 31 December 2017
Directive 1999/2 of 22 February 1999 on the approximation of the laws of the Member States concerning foods and food ingredients treated with ionising radiation	- no case-law as of 31 December 2017
Directive 1999/3 of 22 February 1999 on the establishment of a Community list of foods and food ingredients treated with ionising radiation	- no case-law as of 31 December 2017
Decision 2010/57 of 3 February 2010 laying down health guarantees for the transit of equidae being transported through the territories listed in Annex I to Council Directive 97/78/EC	- no case-law as of 31 December 2017
Decision 2009/712 of 18 September 2009 implementing Council Directive 2008/73/EC as regards Internet-based information pages containing lists of establishments and laboratories approved by Member	- no case-law as of 31 December 2017

EU Legal Act	Jurisprudence
States in accordance with Community veterinary and zootechnical legislation	
Directive 2009/156 of 30 November 2009 on animal health conditions governing the movement and importation from third countries of equidae (NOTE: this Regulation will be repealed by Regulation (EU) 2016/429 of the European Parliament and of the Council of 9 March 2016 on transmissible animal diseases and amending and repealing certain acts in the area of animal health ('Animal Health Law')	- no case-law as of 31 December 2017
Decision 2004/211 of 6 January 2004 establishing the list of third countries and parts of territory thereof from which Member States authorise imports of live equidae and semen, ova and embryos of the equine species, and amending Decisions 93/195/EEC and 94/63/EC	- no case-law as of 31 December 2017
Decision 93/197 of 5 February 1993 on animal health conditions and veterinary certification for imports of registered equidae and equidae for breeding and production	- no case-law as of 31 December 2017
Decision 2010/471 of 26 August 2001 on imports into the Union of semen, ova and embryos of animals of the equine species as regards lists of semen collection and storage centres and embryo collection and production teams and certification requirements	- no case-law as of 31 December 2017

EU Legal Act	Jurisprudence
Directive 64/432 of 26 June 1964 on animal health problems affecting intra-Community trade in bovine animals and swine (this Directive will be replaced by Regulation (EU) 2016/429 of the European Parliament and of the Council of 9 March 2016 on transmissible animal diseases and amending and repealing certain acts in the area of animal health (‘Animal Health Law’))	- no case-law as of 31 December 2017
Directive 89/556 of 25 September 1989 on animal health conditions governing intra-Community trade and importation from third countries of embryos of domestic animals of the bovine species (this Directive will be replaced by Regulation (EU) 2016/429 of the European Parliament and of the Council of 9 March 2016 on transmissible animal diseases and amending and repealing certain acts in the area of animal health (‘Animal Health Law’))	- no case-law as of 31 December 2017
Decision 86/474 of 11 September 1986 on the implementation of the on-the-spot inspections to be carried out in respect of the importation of bovine animals and swine and fresh meat from №n-member countries	- no case-law as of 31 December 2017

EU Legal Act	Jurisprudence
Directive 90/429 of 26 June 1990 laying down the animal health requirements applicable to intra- Community trade in and imports of semen of domestic animals of the porcine species (this Directive will be replaced by Regulation (EU) 2016/429 of the European Parliament and of the Council of 9 March 2016 on transmissible animal diseases and amending and repealing certain acts in the area of animal health ('Animal Health Law'))	- no case-law as of 31 December 2017
Decision 2008/185 of 21 February 2008 on additional guarantees in intra-Community trade of pigs relating to Aujeszky's disease and criteria to provide information on this disease	- no case-law as of 31 December 2017
Directive 2009/158 of 30 November 2009 on animal health conditions governing intra-Community trade in, and imports from third countries of, poultry and hatching eggs (this Directive will be replaced by Regulation (EU) 2016/429 of the European Parliament and of the Council of 9 March 2016 on transmissible animal diseases and amending and repealing certain acts in the area of animal health ('Animal Health Law'))	- no case-law as of 31 December 2017
Regulation 798/2008 of 8 August 2008 laying down a list of third countries, territories, zones or compartments from which poultry and poultry products may be imported into and transit through the Community and the veterinary certification requirements	- no case-law as of 31 December 2017
Decision 2006/605 of 6 September 2006 on certain protection measures in relation to intra-Community trade in poultry intended for restocking of wild game supplies	- no case-law as of 31 December 2017

EU Legal Act	Jurisprudence
Regulation № 1251/2008 of 12 December 2008 implementing Council Directive 2006/88/EC as regards conditions and certification requirements for the placing on the market and the import into the Community of aquaculture animals and products thereof and laying down a list of vector species	- no case-law as of 31 December 2017
Directive 2006/88 of 24 October 2006 on animal health requirements for aquaculture animals and products thereof, and on the prevention and control of certain diseases in aquatic animals (this Directive will be replaced by Regulation (EU) 2016/429 of the European Parliament and of the Council of 9 March 2016 on transmissible animal diseases and amending and repealing certain acts in the area of animal health ('Animal Health Law'))	- no case-law as of 31 December 2017
Decision 2006/767/EC of 6 November 2006 amending Commission Decisions 2003/804/EC and 2003/858/EC, as regards certification requirements for live molluscs and live fish of aquaculture origin and products thereof intended for human consumption	- no case-law as of 31 December 2017
Directive 2006/88 of 24 October 2006 on animal health requirements for aquaculture animals and products thereof, and on the prevention and control of certain diseases in aquatic animals (this Directive will be replaced by Regulation (EU) 2016/429 of the European Parliament and of the Council of 9 March 2016 on transmissible animal diseases and amending and repealing certain acts in the area of animal health ('Animal Health Law'))	- no case-law as of 31 December 2017
Regulation № 1251/2008 of 12 December 2008 implementing Council Directive 2006/88/EC as regards conditions and certification requirements for the placing on the market and the import into the	- no case-law as of 31 December 2017

EU Legal Act	Jurisprudence
Community of aquaculture animals and products thereof and laying down a list of vector species	
Regulation № 853/2004 of 24 April 2004 laying down specific hygiene rules for food of animal origin (Chapter VII)	- C-453/13 The Queen, on the application of: Newby Foods Ltd v Food Standards Agency, ECLI:EU:C:2014:2297
Regulation № 1251/2008 of 12 December 2008 implementing Council Directive 2006/88/EC as regards conditions and certification requirements for the placing on the market and the import into the Community of aquaculture animals and products thereof and laying down a list of vector species	- no case-law as of 31 December 2017
Directive 2009/158 of 30 November 2009 on animal health conditions governing intra-Community trade in, and imports from third countries of poultry and hatching eggs (this Directive will be replaced by Regulation (EU) 2016/429 of the European Parliament and of the Council of 9 March 2016 on transmissible animal diseases and amending and repealing certain acts in the area of animal health ('Animal Health Law'))	- no case-law as of 31 December 2017
Directive 88/407 of 14 June 1988 laying down the animal health requirements applicable to intra- Community trade in and imports of deep-frozen semen of domestic animals of the bovine species (this Directive will be replaced by Regulation (EU) 2016/429 of the European Parliament and of the Council of 9 March 2016 on transmissible animal diseases and amending and repealing certain acts in the area of animal health ('Animal Health Law'))	- Case C-301/98 KVS International BV v Minister van Landbouw, Natuurbeheer en Visserij, ECLI:EU:C:2000:269

EU Legal Act	Jurisprudence
Directive 92/65 of 13 July 1992 laying down animal health requirements governing trade in and imports into the Community of animals, semen, ova and embryos №t subject to animal health requirements laid down in specific Community rules referred to in Annex A (I) to Directive 90/425/EEC (this Directive will be replaced by Regulation (EU) 2016/429 of the European Parliament and of the Council of 9 March 2016 on transmissible animal diseases and amending and repealing certain acts in the area of animal health ('Animal Health Law'))	- C-314/95 Commission v Italy, ECLI:EU:C:1997:36
Decision 2004/211 of 6 January 2004 establishing the list of third countries and parts of territory thereof from which Member States authorise imports of live equidae and semen, ova and embryos of the equine species, and amending Decisions 93/195/EEC and 94/63/EC	- no case-law as of 31 December 2017
Decision 2011/630 of 20 September 2011 on imports into the Union of semen of domestic animals of the bovine species	- no case-law as of 31 December 2017
Directive 90/429 of 26 June 1990 laying down the animal health requirements applicable to intra- Community trade in and imports of semen of domestic animals of the porcine species (this Directive will be replaced by Regulation (EU) 2016/429 of the European Parliament and of the Council of 9 March 2016 on transmissible animal diseases and amending and repealing certain acts in the area of animal health ('Animal Health Law'))	- no case-law as of 31 December 2017
Commission implementing Decision 2012/137/EC of 1 March 2012 on imports into the Union of semen of domestic animals of the porcine species	- no case-law as of 31 December 2017

EU Legal Act	Jurisprudence
Decision 2010/471 of 30 August 2010 on imports into the Union of semen, ova and embryos of animals of the equine species as regards lists of semen collection and storage centres and embryo collection and production teams and certification requirements	- no case-law as of 31 December 2017
Decision 2010/472 of 26 August 2010 on imports of semen, ova and embryos of animals of the ovine and caprine species into the Union (this Decision will be replaced by Regulation (EU) 2016/429 of the European Parliament and of the Council of 9 March 2016 on transmissible animal diseases and amending and repealing certain acts in the area of animal health ('Animal Health Law'))	- no case-law as of 31 December 2017
Directive 89/556 of 25 September 1989 on animal health conditions governing intra-Community trade in and importation from third countries of embryos of domestic animals of the bovine species (this Directive will be replaced by Regulation (EU) 2016/429 of the European Parliament and of the Council of 9 March 2016 on transmissible animal diseases and amending and repealing certain acts in the area of animal health ('Animal Health Law'))	- no case-law as of 31 December 2017
Decision 2006/168 of 4 January 2006 establishing the animal health and veterinary certification requirements for imports into the Community of bovine embryos	- no case-law as of 31 December 2017
Regulation 1739/2005 of 21 October 2005 laying down animal health requirements for the movement of circus animals between Member States	- no case-law as of 31 December 2017
Council Regulation (EC) № 338/97 of 9 December 1996 on the protection of species of wild fauna and flora by regulating trade therein	- Case C-532/13 Sofia Zoo v Országos Környezetvédelmi, Természetvédelmi és Vízügyi Főfelügyelőség, ECLI:EU:C:2014:2140

EU Legal Act	Jurisprudence
	- Case C-344/08 Criminal proceedings against Tomasz Rubach, ECLI:EU:C:2009:482
Commission Decision 2010/270/EC of 6 May 2010 amending Parts 1 and 2 of Annex E to Council Directive 92/65/EEC as regards the model health certificates for animals from holdings and for bees and bumble bees (this Directive will be replaced by Regulation (EU) 2016/429 of the European Parliament and of the Council of 9 March 2016 on transmissible animal diseases and amending and repealing certain acts in the area of animal health ('Animal Health Law'))	- no case-law as of 31 December 2017
Directive 92/119 of 17 December 1992 introducing general Community measures for the control of certain animal diseases and specific measures relating to swine vesicular disease (this Directive will be replaced by Regulation (EU) 2016/429 of the European Parliament and of the Council of 9 March 2016 on transmissible animal diseases and amending and repealing certain acts in the area of animal health ('Animal Health Law'))	- no relevant case-law as of 31 December 2017
Decision 2000/428 of 4 July 2000 establishing diagnostic procedures, sampling methods and criteria for the evaluation of the results of laboratory tests for the confirmation and differential diagnosis of swine vesicular disease	- no case-law as of 31 December 2017
Directive 82/894 of 21 December 1982 on the notification of animal diseases within the Community (this Directive will be replaced by Regulation (EU) 2016/429 of the European Parliament and of the Council of 9 March 2016 on transmissible animal diseases and amending and repealing certain acts in the area of animal health ('Animal Health Law'))	- no case-law as of 31 December 2017

EU Legal Act	Jurisprudence
Directive 92/35 of 29 April 1992 laying down control rules and measures to combat African horse sickness (this Directive will be replaced by Regulation (EU) 2016/429 of the European Parliament and of the Council of 9 March 2016 on transmissible animal diseases and amending and repealing certain acts in the area of animal health ('Animal Health Law'))	- no relevant case-law as of 31 December 2017
Commission Decision 2009/3/EC of 18 March 2009 establishing Community reserves of vaccines against African horse sickness	- no case-law as of 31 December 2017
Council Directive 2000/75/EC of 12 March 2000 laying down specific provisions for the control and eradication of bluetongue	- no case-law as of 31 December 2017
Commission Regulation № 789/2009 of 28 August 2009 amending Regulation (EC) № 1266/2007 as regards protection against attacks by vectors and minimum requirements for bluetongue monitoring and surveillance programmes	- no case-law as of 31 December 2017
Decision 2008/855 of 3 November 2008 concerning animal health control measures relating to classical swine fever in certain Member States (NOTE: no longer in force, replaced by Commission Implementing Decision 2013/764/EU of 13 December 2013 concerning animal health control measures relating to classical swine fever in certain Member States)	- no case-law as of 31 December 2017
Directive 2001/89 of 23 October 2001 on Community measures for the control of classical swine fever	-C-501/01 Netherlands v Commission,ECLI:EU:C:2003:603 -C-293/00 Netherlands v Commission, ECLI:EU:C:2003:593
Directive 92/119 of 17 December 1992 introducing general Community measures for the control of certain animal diseases and specific measures relating to swine vesicular disease (NOTE: this Directive will be replaced by Regulation (EU) 2016/429 of the European Parliament and	- no relevant case-law as of 31 December 2017

EU Legal Act	Jurisprudence
of the Council of 9 March 2016 on transmissible animal diseases and amending and repealing certain acts in the area of animal health ('Animal Health Law'))	
Commission Decision 2005/217/EC of 9 March 2005 establishing the animal health conditions and the veterinary certification requirements for imports into the Community of bovine embryos	- no case-law as of 31 December 2017
Commission Decision 92/260/EEC of 10 April 1992 on animal health conditions and veterinary certification for temporary admission of registered horses	- no case-law as of 31 December 2017
Decision 93/197 of 5 February 1993 on animal health conditions and veterinary certification for imports of registered equidae and equidae for breeding and production	- no case-law as of 31 December 2017
Directive 2002/60 of 27 June 2002 laying down specific provisions for the control of African swine fever and amending Directive 92/119/EEC as regards Teschen disease and African swine fever (NOTE: this Directive will be replaced by Regulation (EU) 2016/429 of the European Parliament and of the Council of 9 March 2016 on transmissible animal diseases and amending and repealing certain acts in the area of animal health ('Animal Health Law'))	- no case-law as of 31 December 2017
Decision 2003/634 of 28 August 2002 approving programmes for the purpose of obtaining the status of approved zones and of approved farms in Non-approved zones with regard to viral haemorrhagic septicaemia (VHS) and infectious haematopoietic necrosis (IHN) in fish	- no case-law as of 31 December 2017
Decision 2003/466 of 13 June 2003 establishing criteria for zoning and official surveillance following suspicion or confirmation of the presence	- no case-law as of 31 December 2017

EU Legal Act	Jurisprudence
of infectious salmon anaemia (ISA) (NOTE: this Decision has been replaced by Commission Implementing Decision (EU) 2015/1554 of 11 September 2015 laying down rules for the application of Directive 2006/88/EC as regards requirements for surveillance and diagnostic methods)	
Commission Implementing Regulation (EU) 2015/262 of 17 February 2015 laying down rules pursuant to Council Directives 90/427/EEC and 2009/156/EC as regards the methods for the identification of equidae	- no case-law as of 31 December 2017
Regulation № 1760/2000 of 17 July 2000 establishing a system for the identification and registration of bovine animals and regarding the labelling of beef and beef products	-C-45/05 Maatschap Schonewille-Prins,ECLI:EU:C:2007:296
Regulation № 911/2004 of 29 April 2004 implementing Regulation (EC) № 1760/2000 of the European Parliament and of the Council as regards eartags, passports and holding registers	- no case-law as of 31 December 2017
Decision 2006/28 of 18 January 2006 on extension of the maximum period for applying eartags to certain bovine animals	- no case-law as of 31 December 2017
Regulation № 494/98 of 27 February 1998 laying down detailed rules for the implementation of Council Regulation (EC) № 820/97 as regards the application of minimum administrative sanctions in the framework of the system for the identification and registration of bovine animals	- no case-law as of 31 December 2017

EU Legal Act	Jurisprudence
Regulation 1082/2003 of 23 June 2003 laying down detailed rules for the implementation of Regulation (EC) № 1760/2000 of the European Parliament and of the Council as regards the minimum level of controls to be carried out in the framework of the system for the identification and registration of bovine animals	- no case-law as of 31 December 2017
Regulation № 1505/2006 of 11 October 2006 implementing Council Regulation (EC) № 21/2004 as regards the minimum level of checks to be carried out in relation to the identification and registration of ovine and caprine animals	- no case-law as of 31 December 2017
Regulation № 21/2004 of 17 December 2003 establishing a system for the identification and registration of ovine and caprine animals	- C-101/12 Herbert Schaible v Land Baden-Württemberg, ECLI:EU:C:2013:661
Commission Decision of 15 December 2006 implementing Council Regulation (EC) No 21/2004 as regards guidelines and procedures for the electronic identification of ovine and caprine animals	- no case-law as of 31 December 2017
Directive 2008/71 of 15 July 2008 on the identification and registration of pigs (NOTE: this Directive will be replaced by Regulation (EU) 2016/429 of the European Parliament and of the Council of 9 March 2016 on transmissible animal diseases and amending and repealing certain acts in the area of animal health (‘Animal Health Law’))	- no case-law as of 31 December 2017
Decision 2000/678 of 23 October 2000 laying down detailed rules for registration of holdings in national databases for porcine animals as foreseen by Council Directive 64/432/EEC	- no case-law as of 31 December 2017
Regulation № 1069/2009 of 21 October 2009 laying down health rules as regards animal by-products and derived products №t intended for human consumption	- no relevant case-law as of 31 December 2017

EU Legal Act	Jurisprudence
Regulation № 142/2011 of 25 February 2011 implementing Regulation (EC) № 1069/2009 of the European Parliament and of the Council laying down health rules as regards animal by-products and derived products №t intended for human consumption and implementing Council Directive 97/78/EC as regards certain samples and items exempt from veterinary checks at the border under that Directive	- no case-law as of 31 December 2017
Commission Regulation (EU) № 749/2011 of 29 July 2011 amending Regulation (EU) №. 142/2011 implementing Regulation (EC) №. 1069/2009 of the European Parliament and of the Council laying down health rules as regards animal by-products and derived products №t intended for human consumption and implementing Council Directive 97/78/EC as regards certain samples and items exempt from veterinary checks at the border under that Directive.	- no case-law as of 31 December 2017
Regulation (EC) № 2160/2003 of 17 November 2003 of the European Parliament and of the Council on the control of salmonella and other specified food-borne zoonotic agents	C-443/13 Ute Reindl v Bezirkshauptmannschaft Innsbruck, ECLI:EU:C:2014:2370
Directive 2003/99 of 17 November 2003 on the monitoring of zoonoses and zoonoic agents	- no case-law as of 31 December 2017
Regulation (EC) № 183/2005 of the European Parliament and of the Council of 12 January 2005 laying down requirements for feed hygiene	- no case-law as of 31 December 2017
Regulation (EC) № 1831/2003 of the European Parliament and of the Council of 22 September 2003 on additives for use in animal nutrition	- no case-law as of 31 December 2017
Commission Regulation (EU) № 16/2011 of 10 January 2011 laying down implementing measures for the Rapid alert system for food and feed	- no case-law as of 31 December 2017

EU Legal Act	Jurisprudence
Regulation № 429/2008 of 25 April 2008 on detailed rules for the implementation of Regulation (EC) № 1831/2003 of the European Parliament and of the Council as regards the preparation and the presentation of applications and the assessment and the authorisation of feed additives	- no case-law as of 31 December 2017
Commission Regulation (EC) № 1876/2006 of 19 December 2006 concerning the provisional and permanent authorisation of certain additives in feedingstuffs	- no case-law as of 31 December 2017
Regulation № 378/2005 of 4 March 2005 on detailed rules for the implementation of Regulation (EC) № 1831/2003 of the European Parliament and of the Council as regards the duties and tasks of the Community Reference Laboratory concerning applications for authorisations of feed additives	- no case-law as of 31 December 2017
Regulation № 1270/2009 of 21 December 2009 concerning the permanent authorisations of certain additives in feedingstuffs	- no case-law as of 31 December 2017
Commission Regulation (EU) № 892/2010 of 8 October 2010 on the status of certain products with regard to feed additives within the scope of Regulation (EC) № 1831/2003 of the European Parliament and of the Council	- no case-law as of 31 December 2017
Regulation № 767/2009 of 13 July 2009 on the placing on the market and use of feed	- no case-law as of 31 December 2017
Directive 2008/38 of 5 March 2008 establishing a list of intended uses of animal feedingstuffs for particular nutritional purposes	- no case-law as of 31 December 2017

EU Legal Act	Jurisprudence
Recommendation 2011/25/EU of 14 January 2011 establishing guidelines for the distinction between feed materials, feed additives, biocidal products and veterinary medicinal products	no case-law as of 31 December 2017
Commission Regulation (EU) № 68/2013 of 16 January 2013 on the Catalogue of feed materials	- no case-law as of 31 December 2017
Regulation 767/2009 of 13 July 2009 on the placing on the market and use of feed	- no case-law as of 31 December 2017
Recommendation 2004/704 of 11 October 2004 on the monitoring of background levels of dioxins and dioxin-like PCBs in feedingstuffs	- no case-law as of 31 December 2017
Directive 90/167 of 26 March 1990 laying down the conditions governing the preparation, placing on the market and use of medicated feeding stuffs in the Community	- no case-law as of 31 December 2017
Directive 2001/82/EC of the European Parliament and of the Council of 6 November 2001 on the Community code relating to veterinary medicinal products	- no relevant case-law as of 31 December 2017
Directive 2004/28/EC of the European Parliament and of the Council of 31 March 2004 amending Directive 2001/82/EC on the Community code relating to veterinary medicinal products	- no case-law as of 31 December 2017
Commission Regulation (EU) № 37/2010 of 22 December 2009 on pharmacologically active substances and their classification regarding maximum residue limits in foodstuffs of animal origin	- no case-law as of 31 December 2017

EU Legal Act	Jurisprudence
Regulation (EC) № 470/2009 of the European Parliament and of the Council of 6 May 2009 laying down Community procedures for the establishment of residue limits of pharmacologically active substances in foodstuffs of animal origin, repealing Council Regulation (EEC) № 2377/90 and amending Directive 2001/82/EC of the European Parliament and of the Council and Regulation (EC) № 726/2004 of the European Parliament and of the Council	- no case-law as of 31 December 2017
Council Regulation (EC) № 1099/2009 of 24 September 2009 on the protection of animals at the time of killing	- no case-law as of 31 December 2017
Commission Implementing Decision 2013/188/EC of 18 April 2013 on annual reports on Non-discriminatory inspections carried out pursuant to Council Regulation (EC) № 1/2005 on the protection of animals during transport and related operations and amending Directives 64/432/EEC and 93/119/EC and Regulation (EC) № 1255/97	- no case-law as of 31 December 2017
Commission Decision 2006/778/EC of 14 November 2006 concerning minimum requirements for the collection of information during the inspections of production sites on which certain animals are kept for farming purposes	- no case-law as of 31 December 2017
Council Directive 1999/74/EC of 19 July 1999 laying down minimum standards for the protection of laying hens	- no case-law as of 31 December 2017
Commission Directive 2002/4/EC of 30 January 2002 on the registration of establishments keeping laying hens, covered by Council Directive 1999/74/EC	- no case-law as of 31 December 2017
Council Directive 2007/43/EC of 28 February 2007 laying down minimum rules for the protection of chickens kept for meat production	- no case-law as of 31 December 2017

EU Legal Act	Jurisprudence
Council Directive 2008/119/EC of 18 December 2008 laying down minimum standards for the protection of calves	- no case-law as of 31 December 2017
Council Directive 2008/120/EC of 18 December 2008 laying down minimum standards for the protection of pigs	- no case-law as of 31 December 2017
Directive 2000/29 of 8 May 2000 on protective measures against the introduction into the Community of organisms harmful to plants or plant products and against their spread within the Community (NOTE: partially repealed by Regulation (EU) 2016/2031 of the European Parliament of the Council of 26 October 2016 on protective measures against pests of plants, amending Regulations (EU) No 228/2013, (EU) No 652/2014 and (EU) No 1143/2014 of the European Parliament and of the Council and repealing Council Directives 69/464/EEC, 74/647/EEC, 93/85/EEC, 98/57/EC, 2000/29/EC, 2006/91/EC and 2007/33/EC)	- no case-law as of 31 December 2017
Directive 98/22 of 15 April 1998 laying down the minimum conditions for carrying out plant health checks in the Community, at inspection posts other than those at the place of destination, of plants, plant products or other objects coming from third countries	- no case-law as of 31 December 2017
Directive 92/90 of 3 November 1992 establishing obligations to which producers and importers of plants, plant products or other objects are subject and establishing details for their registration	- no case-law as of 31 December 2017
Directive 93/51 of 24 June 1993 establishing rules for movements of certain plants, plant products or other objects through a protected zone, and for movements of such plants, plant products or other objects originating in and moving within such a protected zone	- no case-law as of 31 December 2017

EU Legal Act	Jurisprudence
Directive 92/105 of 3 December 1992 establishing a degree of standardization for plant passports to be used for the movement of certain plants, plant products or other objects within the Community, and establishing the detailed procedures related to the issuing of such plant passports and the conditions and detailed procedures for their replacement	- no case-law as of 31 December 2017
Commission Directive 2004/102/EC of 5 October 2004 amending Annexes II, III, IV and V to Council Directive 2000/29/EC on protective measures against the introduction into the Community of organisms harmful to plants or plant products and against their spread within the Community	- no case-law as of 31 December 2017
Directive 94/3 of 21 January 1994 establishing a procedure for the notification of interception of a consignment or a harmful organism from third countries and presenting an imminent phytosanitary danger	- no relevant case-law as of 31 December 2017
Directive 2004/103 of 7 October 2004 on identity and plant health checks of plants, plant products or other objects, listed in Part B of Annex V to Council Directive 2000/29/EC, which may be carried out at a place other than the point of entry into the Community or at a place close by and specifying the conditions related to these checks	- no case-law as of 31 December 2017
Directive 2004/105 of 15 October 2004 determining the models of official phytosanitary certificates or phytosanitary certificates for re-export accompanying plants, plant products or other objects from third countries and listed in Council	- no case-law as of 31 December 2017
Directive 69/464 of 8 December 1969 on control of Potato Wart Disease (NOTE this Directive will be repealed by Regulation (EU) 2016/2031 of	- no case-law as of 31 December 2017

EU Legal Act	Jurisprudence
the European Parliament of the Council of 26 October 2016 on protective measures against pests of plants, amending Regulations (EU) No 228/2013, (EU) No 652/2014 and (EU) No 1143/2014 of the European Parliament and of the Council and repealing Council Directives 69/464/EEC, 74/647/EEC, 93/85/EEC, 98/57/EC, 2000/29/EC, 2006/91/EC and 2007/33/EC)	
Directive 93/85 of 4 October 1993 on control of Potato Ring Rot (NOTE this Directive will be repealed by Regulation (EU) 2016/2031 of the European Parliament of the Council of 26 October 2016 on protective measures against pests of plants, amending Regulations (EU) No 228/2013, (EU) No 652/2014 and (EU) No 1143/2014 of the European Parliament and of the Council and repealing Council Directives 69/464/EEC, 74/647/EEC, 93/85/EEC, 98/57/EC, 2000/29/EC, 2006/91/EC and 2007/33/EC)	- no case-law as of 31 December 2017
Council Directive 98/57/EC of 20 July 1998 on the control of Ralstonia solanacearum (Smith) Yabuuchi et al. (NOTE this Directive will be repealed by Regulation (EU) 2016/2031 of the European Parliament of the Council of 26 October 2016 on protective measures against pests of plants, amending Regulations (EU) No 228/2013, (EU) No 652/2014 and (EU) No 1143/2014 of the European Parliament and of the Council and repealing Council Directives 69/464/EEC, 74/647/EEC, 93/85/EEC, 98/57/EC, 2000/29/EC, 2006/91/EC and 2007/33/EC)	- no case-law as of 31 December 2017
Directive 2007/33 of 11 June 2007 on the control of potato cyst nematodes (NOTE this Directive will be repealed by Regulation (EU) 2016/2031 of the European Parliament of the Council of 26 October 2016 on protective measures against pests of plants, amending	- no case-law as of 31 December 2017

EU Legal Act	Jurisprudence
Regulations (EU) No 228/2013, (EU) No 652/2014 and (EU) No 1143/2014 of the European Parliament and of the Council and repealing Council Directives 69/464/EEC, 74/647/EEC, 93/85/EEC, 98/57/EC, 2000/29/EC, 2006/91/EC and 2007/33/EC)	
Commission Implementing Decision 2011/787/EU of 29 November 2011 authorising Member States temporarily to take emergency measures against the dissemination of Ralstonia solanacearum (Smith) Yabuuchi et al. as regards Egypt	- no case-law as of 31 December 2017
Commission Implementing Decision 2012/535/EU of 26 September 2012 on emergency measures to prevent the spread within the Union of Bursaphelenchus xylophilus (Steiner et Buhrer) Nickle et al. (the pine wood nematode)	- no case-law as of 31 December 2017
Decision 2012/138 of 1 March 2012 as regards emergency measures to prevent the introduction into and the spread within the Union of Anoplophora chinensis (Forster)	- no case-law as of 31 December 2017
Regulation 1756/2004 of 11 October 2004 specifying the detailed conditions for the evidence required and the criteria for the type and level of the reduction of the plant health checks of certain plants, plant products or other objects listed in Part B of Annex V to Council Directive 2000/29/EC	- no case-law as of 31 December 2017
Directive 2008/61 of 17 June 2008 establishing the conditions under which certain harmful organisms, plants, plant products and other objects listed in Annexes I to V to Council Directive 2000/29/EC may be introduced into or moved within the Community or certain protected	- no case-law as of 31 December 2017

EU Legal Act	Jurisprudence
zones thereof, for trial or scientific purposes and for work on varietal selections	
Commission Directive № 97/46 of 25 July 1997 on the importation and circulation of harmful agents and plant products (NOTE: this Directive has been implicitely repealed by Commission Regulation (EC) No 1664/2006 of 6 November 2006 amending Regulation (EC) No 2074/2005 as regards implementing measures for certain products of animal origin intended for human consumption and repealing certain implementing measures)	- no case-law as of 31 December 2017
Council Regulation (EC) № 2100/94 of 27 July 1994 on Community plant variety rights	- C-481/14 Hansson, ECLI:EU:C:2016:419 - C-242/14 Saatgut-Treuhandverwaltung, ECLI:EU:C:2015:422 - C-546/12 P Schräder v CPVO, ECLI:EU:C:2015:332 - C-56/11 Raiffeisen-Waren-Zentrale Rhein-Main, ECLI:EU:C:2012:713 - C-534/10 P Brookfield New Zealand and Elaris v CPVO and Schniga, ECLI:EU:C:2012:813 - C-509/10 Geistbeck, ECLI:EU:C:2012:416 - C-140/10 Greenstar-Kanzi Europe, ECLI:EU:C:2011:677 - C-38/09 P Schräder v CPVO, ECLI:EU:C:2010:196 - C-478/07 Budějovický Budvar, ECLI:EU:C:2009:521 - C-7/05 Saatgut-Treuhandverwaltung, ECLI:EU:C:2006:376 - C-336/02 Brangewitz, ECLI:EU:C:2004:622 - C-182/01 Saatgut-Treuhandverwaltungsgesellschaft, ECLI:EU:C:2004:135 - C-305/00 Schulin, ECLI:EU:C:2003:218

EU Legal Act	Jurisprudence
Council Regulation (EC) № 2506/95 of 25 October 1995 amending Regulation (EC) № 2100/94 on Community plant variety rights	- C-534/10 P Brookfield New Zealand and Elaris v CPVO and Schniga, ECLI:EU:C:2012:813 - C-38/09 P Schräder v CPVO,ECLI:EU:C:2010:196
Council Regulation (EC) № 2470/96 of 17 December 1996 providing for an extension of the terms of a Community plant variety right in respect of potatoes	- no case-law as of 31 December 2017
Commission Regulation (EC) № 1238/95 of 31 May 1995 establishing implementing rules for the application of Council Regulation (EC) № 2100/94 as regards the fees payable to the Community Plant Variety Office	- no case-law as of 31 December 2017
Commission Regulation (EC) № 1768/95 of 24 July 1995 implementing rules on the agricultural exemption provided for in Article 14 (3) of Council Regulation (EC) № 2100/94 on Community plant variety rights	- C-242/14 Saatgut-Treuhandverwaltung, ECLI:EU:C:2015:422 - C-56/11 Raiffeisen-Waren-Zentrale Rhein-Main, ECLI:EU:C:2012:713 - C-509/10 Geistbeck, ECLI:EU:C:2012:416 - C-7/05 Saatgut-Treuhandverwaltung, ECLI:EU:C:2006:376 - C-336/02 Brangewitz, ECLI:EU:C:2004:622 - C-182/01 Saatgut-Treuhandverwaltungsgesellschaf, ECLI:EU:C:2004:135 - C-305/00 Schulin, ECLI:EU:C:2003:218
Commission Regulation (EC) № 874/2009 of 17 September 2009 establishing implementing rules for the application of Council Regulation (EC) №2100/94 as regards proceedings before the Community Plant Variety Office	- C-546/12 P Schräder v CPVO, ECLI:EU:C:2015:332

EU Legal Act	Jurisprudence
Commission Regulation (EC) № 2605/98 of 3 December 1998 amending Regulation (EC) № 1768/95 implementing rules on the agricultural exemption provided for in Article 14(3) of Council Regulation (EC) № 2100/94 on Community plant variety rights	- C-7/05 Saatgut-Treuhandverwaltung, ECLI:EU:C:2006:376
Regulation № 188/2011 of 25 February 2011 laying down detailed rules for the implementation of Council Directive 91/414/EEC as regards the procedure for the assessment of active substances which were №t on the market 2 years after the date of notification of that Directive	- no case-law as of 31 December 2017
Regulation № 540/2011 of 25 May 2011 implementing Regulation (EC) № 1107/2009 of the European Parliament and of the Council as regards the list of approved active substances	- no case-law as of 31 December 2017
Regulation № 541/2011 of 1 June 2011 amending Implementing Regulation (EU) № 540/2011 implementing Regulation (EC) № 1107/2009 of the European Parliament and of the Council as regards the list of approved active substances	- no case-law as of 31 December 2017
Regulation № 544/2011 of 10 June 2011 implementing Regulation (EC) № 1107/2009 of the European Parliament and of the Council as regards the data requirements for active substances (NOTE: this Regulation has been replaced by Commission Regulation (EU) No 283/2013 of 1 March 2013 setting out the data requirements for active substances, in accordance with Regulation (EC) No 1107/2009 of the European Parliament and of the Council concerning the placing of plant protection produc)	- no case-law as of 31 December 2017
Regulation № 545/2011 of 10 June 2011 implementing Regulation (EC) № 1107/2009 of the European Parliament and of the Council as regards	- no case-law as of 31 December 2017

EU Legal Act	Jurisprudence
the data requirements for plant protection products (NOTE: this Regulation has been replaced by Commission Regulation (EU) No 284/2013 of 1 March 2013 setting out the data requirements for plant protection products, in accordance with Regulation (EC) No 1107/2009 of the European Parliament and of the Council concerning the placing of plant protectio	
Regulation № 546/2011 of 10 June 2011 implementing Regulation (EC) № 1107/2009 of the European Parliament and of the Council as regards uniform principles for evaluation and authorisation of plant protection products	- no case-law as of 31 December 2017
Regulation № 547/2011 of 8 June 2011 implementing Regulation (EC) № 1107/2009 of the European Parliament and of the Council as regards labelling requirements for plant protection products	- no case-law as of 31 December 2017
Regulation № 702/2011 of 20 July 2011 approving the active substance prohexadione, in accordance with Regulation (EC) № 1107/2009 of the European Parliament and of the Council concerning the placing of plant protection products on the market, and amending the Annex to Commission Implementing Regulation (EU) № 540/2011	- no case-law as of 31 December 2017
Regulation № 703/2011 of 20 July 2011 approving the active substance azoxystrobin, in accordance with Regulation (EC) № 1107/2009 of the European Parliament and of the Council concerning the placing of plant protection products on the market, and amending	- no case-law as of 31 December 2017
Regulation № 704/2011 of 20 July 2011 approving the active substance azimsulfuron, in accordance with Regulation (EC) № 1107/2009 of the	- no case-law as of 31 December 2017

EU Legal Act	Jurisprudence
European Parliament and of the Council concerning the placing of plant protection products on the market, and amending	
Commission Implementing Regulation (EU) No 705/2011 of 20 July 2011 approving the active substance imazalil, in accordance with Regulation (EC) No 1107/2009 of the European Parliament and of the Council concerning the placing of plant protection products	- no case-law as of 31 December 2017
Regulation № 706/2011 of 20 July 2011 approving the active substance profoxydim, in accordance with Regulation (EC) № 1107/2009 of the European Parliament and of the Council concerning the placing of plant protection products on the market, and amending t	- no case-law as of 31 December 2017
Regulation № 736/2011 of 26 July 2011 approving the active substance fluroxypyr, in accordance with Regulation (EC) № 1107/2009 of the European Parliament and of the Council concerning the placing of plant protection products on the market, and amending the Annex to Commission Implementing Regulation (EU) № 540/2011	- no case-law as of 31 December 2017
Regulation № 740/2011 of 27 July 2011 approving the active substance bispyribac, in accordance with Regulation (EC) № 1107/2009 of the European Parliament and of the Council concerning the placing of plant protection products on the market, and amending the Annex to Commission Implementing Regulation (EU) № 540/2011	- no case-law as of 31 December 2017
Regulation № 786/2011 of 5 August 2011 approving the active substance 1-naphthylacetamide, in accordance with Regulation (EC) № 1107/2009 of the European Parliament and of the Council concerning the placing of plant protection products on the market, and amending	- no case-law as of 31 December 2017

EU Legal Act	Jurisprudence
the Annex to Commission Implementing Regulation (EU) № 540/2011 and Commission Decision 2008/941/EC	
Regulation № 787/2011 of 5 August 2011 approving the active substance 1-naphthylacetic acid, in accordance with Regulation (EC) № 1107/2009 of the European Parliament and of the Council concerning the placing of plant protection products on the market, and amending the Annex to Commission Implementing Regulation (EU) № 540/2011 and Commission Decision 2008/941/EC	- no case-law as of 31 December 2017
Regulation № 788/2011 of 5 August 2011 approving the active substance fluazifop-P, in accordance with Regulation (EC) № 1107/2009 of the European Parliament and of the Council concerning the placing of plant protection products on the market, and amending the Annex to Commission Implementing Regulation (EU) № 540/2011 and Commission Decision 2008/934/EC	- no case-law as of 31 December 2017
Regulation № 797/2011 of 9 August 2011 approving the active substance spiroxamine, in accordance with Regulation (EC) № 1107/2009 of the European Parliament and of the Council concerning the placing of plant protection products on the market, and amending the Annex to Commission Implementing Regulation (EU) № 540/2011	- no case-law as of 31 December 2017
Regulation № 798/2011 of 9 August 2011 approving the active substance oxyfluorfen, in accordance with Regulation (EC) № 1107/2009 of the European Parliament and of the Council concerning the placing of plant protection products on the market, and amending the Annex to	- no case-law as of 31 December 2017

EU Legal Act	Jurisprudence
Commission Implementing Regulation (EU) № 540/2011 and Commission Decision 2008/934/EC	
Regulation № 800/2011 of 11 August 2011 approving the active substance tefluthrin, in accordance with Regulation (EC) № 1107/2009 of the European Parliament and of the Council concerning the placing of plant protection products on the market, and amending the Annex to Commission Implementing Regulation (EU) № 540/2011 and amending Commission Decision 2008/934/EC	- no case-law as of 31 December 2017
Regulation № 807/2011 of 10 August 2011 approving the active substance triazoxide, in accordance with Regulation (EC) № 1107/2009 of the European Parliament and of the Council concerning the placing of plant protection products on the market, and amending the Annex to Commission Implementing Regulation (EU) № 540/2011	- no case-law as of 31 December 2017
Commission Implementing Regulation (EU) No 810/2011 of 11 August 2011 approving the active substance kresoxim-methyl, in accordance with Regulation (EC) No 1107/2009 of the European Parliament and of the Council concerning the placing of plant protection	- no case-law as of 31 December 2017
Commission Implementing Regulation (EU) No 974/2011 of 29 September 2011 approving the active substance acrinathrin, in accordance with Regulation (EC) No 1107/2009 of the European Parliament and of the Council concerning the placing of plant protection products on the market, and amending the Annex to Commission Implementing Regulation (EU) No 540/2011 and Commission Decision 2008/934/EC	- no case-law as of 31 December 2017

EU Legal Act	Jurisprudence
Regulation № 993/2011 of 6 October 2011 approving the active substance 8-hydroxyquinoline, in accordance with Regulation (EC) № 1107/2009 of the European Parliament and of the Council concerning the placing of plant protection products on the market, and amending the Annex to Commission Implementing Regulation (EU) № 540/2011	- no case-law as of 31 December 2017
Regulation № 1143/2011 of 10 November 2011 approving the active substance prochloraz, in accordance with Regulation (EC) № 1107/2009 of the European Parliament and of the Council concerning the placing of plant protection products on the market	- no case-law as of 31 December 2017
Regulation № 359/2012 of 25 April 2012 approving the active substance metam, in accordance with Regulation (EC) № 1107/2009 of the European Parliament and of the Council concerning the placing of plant protection products on the market	- no case-law as of 31 December 2017
Regulation (EC) № 882/2004 of the European Parliament and of the Council as of 29 April 2004 on official controls performed to ensure the verification of compliance with feed and food law, animal health and animal welfare rules (NOTE: this Regulation has been repealed by Regulation (EU) 2017/625 of the European Parliament and of the Council of 15 March 2017 on official controls and other official activities performed to ensure the application of food and feed law, rules on animal health and welfare, plant health and plant protection products, amending Regulations (EC) No 999/2001, (EC) No 396/2005, (EC) No 1069/2009, (EC) No 1107/2009, (EU) No 1151/2012, (EU) No 652/2014, (EU) 2016/429 and (EU) 2016/2031 of the European Parliament and of the Council, Council Regulations (EC) No 1/2005 and (EC) No 1099/2009 and Council Directives 98/58/EC, 1999/74/EC, 2007/43/EC, 2008/119/EC	- Case C-519/16 Superfoz - Supermercados Lda v Fazenda Pública, ECLI:EU:C:2017:601 - Case C-112/15 Kødbranchens Fællesråd v Ministeriet for Fødevarer, Landbrug og Fiskeri and Fødevarestyrelsen, ECLI:EU:C:2016:185 - Case C-636/11 Karl Berger v Freistaat Bayern, ECLI:EU:C:2013:227 - Case C-523/09 Rakvere Piim AS and Maag Piimatööstus AS v Veterinaar- ja Toiduamet, ECLI:EU:C:2011:460

EU Legal Act	Jurisprudence
and 2008/120/EC, and repealing Regulations (EC) No 854/2004 and (EC) No 882/2004 of the European Parliament and of the Council, Council Directives 89/608/EEC, 89/662/EEC, 90/425/EEC, 91/496/EEC, 96/23/EC, 96/93/EC and 97/78/EC and Council Decision 92/438/EEC)	
Directive 2009/128/EC of the European Parliament and of the Council of 21 October 2009 establishing a framework for Community action to achieve the sustainable use of pesticides	- no case-law as of 31 December 2017
Regulation (EC) № 1107/2009 of the European Parliament and of the Council of 21 October 2009 concerning the placing of plant protection products on the market and repealing Council Directives 79/117/EEC and 91/414/EEC	- C-442/14 Bayer CropScience SA-NV and Stichting De Bijenstichting v College voor de toelating van gewasbeschermingsmiddelen en biociden, ECLI:EU:C:2016:890 - C-108/13 Mac, ECLI:EU:C:2014:2346 - C-11/13 Bayer CropScience,ECLI:EU:C:2014:2010
Commission Implementing Regulation (EU) № 582/2012 of 2 July 2012 approving the active substance bifenthrin, in accordance with Regulation (EC) № 1107/2009 of the European Parliament and of the Council concerning the placing of plant protection products on the market, and amending the Annex to Commission Implementing Regulation (EU) № 540/2011	- no case-law as of 31 December 2017
Commission Implementing Regulation (EU) № 589/2012 of 4 July 2012 approving the active substance fluxapyroxad, in accordance with Regulation (EC) № 1107/2009 of the European Parliament and of the Council concerning the placing of plant protection products on the market, and amending the Annex to Commission Implementing Regulation (EU) No 540/2011	- no case-law as of 31 December 2017

EU Legal Act	Jurisprudence
Commission Implementing Regulation (EU) № 595/2012 of 5 July 2012 approving the active substance fenpyrazamine, in accordance with Regulation (EC) № 1107/2009 of the European Parliament and of the Council concerning the placing of plant protection products on the market, and amending the Annex to Commission Implementing Regulation (EU) No 540/2011	- no case-law as of 31 December 2017
Commission Implementing Regulation (EU) № 746/2012 of 16 August 2012 approving the active substance Adoxophyes orana granulovirus, in accordance with Regulation (EC) № 1107/2009 of the European Parliament and of the Council concerning the placing of plant protection products on the market, and amending the Annex to Commission Implementing Regulation (EU) № 540/2011	- no case-law as of 31 December 2017
Commission Implementing Regulation (EU) № 571/2014 of 26 May 2014 approving the active substance ipconazole, in accordance with Regulation (EC) № 1107/2009 of the European Parliament and of the Council concerning the placing of plant protection products on the market, and amending the Annex to Commission Implementing Regulation (EU) № 540/2011	- no case-law as of 31 December 2017
Commission Implementing Regulation (EU) № 632/2014 of 13 May 2014 approving the active substance flubendiamide, in accordance with Regulation (EC) № 1107/2009 of the European Parliament and of the Council concerning the placing of plant protection product on the market, and amending the Annex to Commission Implementing Regulation (EU) No 540/2011	- no case-law as of 31 December 2017
Regulation (EC) № 396/2005 of the European Parliament and of the Council of 25 February 2005 on maximum residue levels of pesticides in	C-229/09 Hogan Lovells International, ECLI:EU:C:2010:673

EU Legal Act	Jurisprudence
or on food and feed of plant and animal origin and amending Council Directive 91/414/EEC	
Regulation (EC) № 2003/2003 of the European Parliament and of the Council of 13 October 2003 relating to fertilisers	- no case-law as of 31 December 2017
Regulation (EC) № 1829/2003 of the European Parliament and of the Council of 22 September 2003 on genetically modified food and feed	- C-111/16 Criminal proceedings against Giorgio Fidenato and Others, ECLI:EU:C:2017:676 - C-313/11 Commission v Poland, ECLI:EU:C:2013:481 - C-36/11 Pioneer Hi Bred Italia, ECLI:EU:C:2012:534 - C-58/10 Monsanto and Others, ECLI:EU:C:2011:553 - C-442/09 Bablok and Others, ECLI:EU:C:2011:541
Regulation (EC) № 1830/2003 of the European Parliament and of the Council of 22 September 2003 concerning the traceability and labelling of genetically modified organisms and the traceability of food and feed products produced from genetically modified organisms and amending Directive 2001/18/EC	- no case-law as of 31 December 2017
Commission Implementing Regulation (EU) № 485/2013 of 24 May 2013 amending Implementing Regulation (EU) № 540/2011, as regards the conditions of approval of the active substances clothianidin, thiamethoxam and imidacloprid, and prohibiting the use and sale of seeds treated with plant protection products containing those active substances	-no case-law as of 31 December 2017
Council Directive 66/401/EEC of 14 June 1966 on the marketing of fodder plant seed	- no case-law as of 31 December 2017

EU Legal Act	Jurisprudence
Council Directive 66/402/EEC of 14 June 1966 on the marketing of cereal seed	- no case-law as of 31 December 2017
Council Directive 98/56/EC of 20 July 1998 on the marketing of propagating material of ornamental plants	- no relevant case-law as of 31 December 2017
Council Directive 2002/54/EC of 13 June 2002 on the marketing of beet seed	- no case-law as of 31 December 2017
Council Directive 2002/55/EC of 13 June 2002 on the marketing of vegetable seed	- C-59/11 Association Kokopelli, ECLI:EU:C:2012:447
Council Directive 2002/56/EC of 13 June 2002 on the marketing of seed potatoes	- no case-law as of 31 December 2017
Council Directive 2002/57/EC of 13 June 2002 on the marketing of seed of oil and fibre plants	- no case-law as of 31 December 2017
Council Directive 2008/72/EC of 15 July 2008 on the marketing of vegetable propagating and planting material, other than seed	- no case-law as of 31 December 2017
Council Directive 2008/90/EC of 29 September 2008 on the marketing of fruit plant propagating material and fruit plants intended for fruit production	- no case-law as of 31 December 2017
Commission Implementing Directive 2014/20/EU of 6 February 2014 determining Union grades of basic and certified seed potatoes, and the conditions and designations applicable to such grades	- no case-law as of 31 December 2017
Commission Implementing Directive 2014/21/EU of 6 February 2014 determining minimum conditions and Union grades for pre-basic seed potatoes	- no case-law as of 31 December 2017

EU Legal Act	Jurisprudence
Commission Implementing Directive 2014/96/EU of 15 October 2014 on the requirements for the labelling, sealing and packaging of fruit plant propagating material and fruit plants intended for fruit production, falling within the scope of Council Directive 2008/90/EC	- no case-law as of 31 December 2017
Commission Implementing Directive 2014/97/EU of 15 October 2014 implementing Council Directive 2008/90/EC as regards the registration of suppliers and of varieties and the common list of varieties	- no case-law as of 31 December 2017
Commission Implementing Directive 2014/98/EU of 15 October 2014 implementing Council Directive 2008/90/EC as regards specific requirements for the genus and species of fruit plants referred to in Annex I thereto, specific requirements to be met by suppliers and detailed rules concerning official inspections	- no case-law as of 31 December 2017
Commission Implementing Decision 2012/340/EU of 25 June 2012 on the organisation of a temporary experiment under Council Directives 66/401/EEC, 66/402/EEC, 2002/54/EC, 2002/55/EC and 2002/57/EC as regards field inspection not under official supervision for basic seed and bred seed of generations prior to basic seed	- no case-law as of 31 December 2017
Commission Regulation (EC) № 217/2006 of 8 February 2006 laying down rules for the application of Council Directives 66/401/EEC, 66/402/EEC, 2002/54/EC, 2002/55/EC and 2002/57/EC as regards the authorisation of Member States to permit temporarily the marketing of seed not satisfying the requirements in respect of the minimum germination	no case-law as of 31 December 2017

EU Legal Act	Jurisprudence
Commission Implementing Decision 2014/367/EU of 16 June 2014 amending Council Directive 2002/56/EC as regards the date laid down in Article 21(3) until which Member States are authorised to extend the validity of decisions concerning equivalence of seed potatoes from third countries (notified under document C(2014) 3877)	- no case-law as of 31 December 2017
Commission Implementing Decision 2014/362/EU: Commission Implementing Decision of 13 June 2014 amending Decision 2009/109/EC on the organisation of a temporary experiment providing for certain derogations for the marketing of seed mixtures intended for use as fodder plants pursuant to Council Directive 66/401/EEC	- no case-law as of 31 December 2017
Council Decision 2003/17/EC of 16 December 2002 on the equivalence of field inspections carried out in third countries on seed-producing crops and on the equivalence of seed produced in third countries	- no case-law as of 31 December 2017
Recommendation 2010/2001/01 of 13 July 2010 on guidelines for the development of national co-existence measures to avoid the unintended presence of GMOs in conventional and organic crops	- no case-law as of 31 December 2017
Decision 2008/495 of 7 May 2008 concerning the provisional prohibition of the use and sale in Austria of genetically modified maize (Zea mays L. line MON 810) pursuant to Directive 2001/18/EC	- no case-law as of 31 December 2017
Decision 2009/244 of 16 March 2009 concerning the placing on the market, in accordance with Directive 2001/18/EC of the European Parliament and of the Council, of a carnation (Dianthus caryophyllus L., line 123.8.12) genetically modified for flower colour	- no case-law as of 31 December 2017
Directive 2009/41 on the contained use of genetically modified micro-organisms	- C-281/11 Commission v. Poland, ECLI:EU:C:2013:855

EU Legal Act	Jurisprudence
Decision 2009/770 of 13 October 2009 establishing standard reporting formats for presenting the monitoring results of the deliberate release into the environment of genetically modified organisms, as or in products, for the purpose of placing on the market, pursuant to Directive 2001/18/EC	- no case-law as of 31 July 2016
Commission Decision 2010/135 of 2 March 2010 concerning the placing on the market, in accordance with Directive 2001/18/EC of the European Parliament and of the Council, of a potato product (Solanum tuberosum L. line EH92-527-1) genetically modified for the purpose of placing on the market, pursuant to Directive 2001/18/EC of the European Parliament and of the Council (notified under document C(2009) 7680	- Case T-240/10 Hungary v. European Commission, ECLI:EU:T:2013:645 NOTE: as per this judgment the Decision 2010/135 has been annulled.

2.2. Summaries of selected judgments

2.2.1. Regulation (EC) № 178/2002 laying down the general principles and requirements of food law, establishing the European Food Safety Authority and laying down procedures in matters of food safety

Case	Summary
Case C-636/11 Karl Berger v Freistaat Bayern	**Facts:** this was a reference for preliminary ruling submitted by *Landgericht München I* (Germany) in course of proceedings between Karl Berger and the Freistaat Bayern which put in issue the latter's administrative liability on account of information made available to the public in relation to the former's products (see further paras. 15-26 of the judgment). The question dealt with interpretation of Article 10 of Regulation 179/2002. It provides as follows: "'Without prejudice to the applicable provisions of Community and national law on access to documents, where there are reasonable grounds to suspect that a food or feed may present a risk for human or animal health, then, depending on the nature, seriousness and extent of that risk, public authorities shall take appropriate steps to inform the general public of the nature of the risk to health, identifying to the fullest extent possible the food or feed, or type of food or feed, the risk that it may present, and the measures which are taken or about to be taken to prevent, reduce or eliminate that risk." **Judgment:** Article 10 of Regulation 178/2002 does not preclude national legislation allowing information to be issued to the public mentioning the name of a food and the name or trade name of the food manufacturer, processor or distributor, in a case where that food, though not injurious to health, is unfit for human consumption. The second subparagraph of Article 17(2) of Regulation 178/2002 allows national authorities to issue such information to the public in accordance with the requirements of Article 7 of Regulation (EC) No 882/2004 on official controls performed to ensure the verification of compliance with feed and food law, animal health and animal welfare rules. **Relevance:** this judgment is definitely of relevance for the Ukrainian authorities. It clarifies that the Member States (*mutatis mutandis* Ukraine) are allowed to provide in their domestic legislation a system whereby the national authorities are allowed to inform the members of the public about food products, which are unfit for human consumption.

2.2.2. Regulation (EC) № 852/2004 on the hygiene of foodstuffs

Case	Summary
Case C-381/10 Astrid Preissl KEG v Landeshauptmann von Wien	**Facts:** this was a reference for preliminary ruling submitted by *Unabhängiger Verwaltungssenat Wien* (Austria) regarding interpretation of paragraph 4 of Chapter 1 of Annex II to Regulation (EC) No 852/2004. It was submitted in course of proceedings between Astrid Preissl KEG and Landeshauptmann von Wien regarding a decision concerning the installation of a washbasin in the toilet of the establishment managed by the applicant in the main proceedings, in which food is sold. By decision of 10 March 2010, the Landeshauptmann von Wien ordered the applicant to install a washbasin with hot and cold running water, a soap dispenser and a paper towel dispenser in the staff toilet of the establishment managed by it. It was also laid down that the taps may not be hand-operable. The referring court asked, in a nutshell, whether paragraph 4 must be interpreted as requiring that a washbasin within the meaning of that provision must be used exclusively for washing hands and that it must be possible to use the water tap and hand-drying material without touching them. **Judgment:** Regulation 852/2004 does not require that a washbasin, within the meaning of that provision, must be used exclusively for washing hands or that it be possible to use the water tap or hand-drying material without touching by hand. **Relevance:** this judgment, although trivial at first sight, has implications for the Ukrainian measures giving effect to Regulation 852/2004 and its implementation in hundreds of national food outlets. Thus, it should be taken into account, when the national provisions are drafted and applied.
Case C-382/10 Erich Albrecht and Others v Landeshauptmann von Wien	**Facts:** this reference for preliminary ruling was submitted by *Unabhängiger Verwaltungssenat Wien* (Austria). It dealt with interpretation of paragraph 3 of Chapter IX of Annex II to Regulation (EC) No 852/2004. The case itself was brought by Messrs Albrecht, Neumann, Sundara, Svoboda and Toth againts the Landeshauptmann von Wien (head of government of the province of Vienna) challenging decisions concerning the construction of containers for self-service retail of bread and bakery products. The Austrian authorities instructed those traders to construct containers for self-service retail of those products in such a way that the products in question can be removed only by technical means, such as tongs or a sliding mechanism, and items already removed from the container cannot be replaced (see further paras. 9-13 of the judgment).

Case	Summary
	Judgment: the Court of Justice ruled that with regard to containers used for self-service retail of bread and bakery products, the fact that a potential purchaser could conceivably have touched the foodstuffs offered for sale by hand or sneezed on them does not make it possible, on that basis alone, to hold that those foodstuffs were not protected against any contamination likely to render them unfit for human consumption, injurious to health or contaminated in such a way that it would be unreasonable to expect them to be consumed in that state. **Relevance:** Just like in case of the previous judgement it looks like a development of minor importance. Nevertheless, it should be taken into account by the Ukrainian authorities as it provides some useful details as to interpretation of Regulation 852/2004.

2.2.3. Regulation (EC) № 854/2004 laying down specific rules for the organisation of official controls on products of animal origin intended for human consumption

Case	Summary
Case C-402/13 Cypra Ltd v Kypriaki Dimokratia	**Facts:** this was a reference for preliminary ruling submitted by Anotato Dikastirio Kiprou (Cyprus). It concerned interpretation of Regulation 854/2004. It was submitted in course of proceedings between Cypra Limited, owner of a slaughterhouse for pigs, sheep and goats in the district of Nicosia (Cyprus), and the Kipriaki Dimokratia (Republic of Cyprus), represented by the Minister for Agriculture, Natural Resources and Environment and the Director of veterinary services, concerning the latter's refusal to send veterinary officers to its slaughterhouse to supervise slaughter on particular days and at particular time (see further paras. 9-13). Having expressed doubts as to interpretation of Regulation 854/2004 the national court sent the following questions to the Court of Justice: "1. Do the provisions of Regulation (EC) No 854/2004 confer upon the competent authority a discretion to determine the time at which a particular slaughter of animals takes place, in view of its obligation to appoint an official veterinarian for the purposes of carrying out supervision in relation to the slaughter of animals, or is it obliged to appoint such a veterinarian at the time that the slaughter will take place, as determined by the slaughterer? 2. Do the provisions of Regulation (EC) No 854/2004 confer upon the competent authority a discretion to refuse to appoint an official veterinarian for the carrying out of veterinary supervision of the lawful slaughter of animals when it is informed that the slaughter of animals will take place at a particular time, at a licensed slaughterhouse?"

Case	Summary
	Judgment: Court of Justice held that Regulation 854/2004 does not preclude the competent authority determining the time at which the slaughter of animals takes place, with a view to the appointment of an official veterinarian for the purposes of supervising the slaughter, and refusing to provide such a veterinarian on the day and at the time determined by the slaughterer, unless it is objectively necessary for the slaughter to take place on a specific day. The latter is for a national court to verify. **Relevance:** this judgment sheds the light on interpretation of Regulation 854/2004 and as such it should be taken into account by the Ukrainian legislator when domestic provisions giving effect to this piece of EU *acquis* are drafted.

2.2.4. Regulation (EC) № 16/2011 laying down implementing measures for the Rapid alert system for food and feed

Case	Summary
	No case-law as of 31 December 2017

2.2.5. Commission Implementing Regulation (EU) on the traceability requirements set by Regulation (EC) № 178/2002 of the European Parliament and of the Council for food of animal origin

Case	Summary
	No case-law as of 31 December 2017

2.2.6. Implementing Regulation 931/2011(EU) on traceability requirements for sprouts and seeds intended for the production of sprouts

Case	Summary
	No case-law as of 31 December 2017

2.2.7. Regulation 669/2009(EC) implementing Regulation (EC) № 882/2004 of the European Parliament and of the Council as regards the increased level of official controls on imports of certain feed and food of non-animal origin and amending Decision 2006/504/EC

Case	Summary
	No case-law as of 31 December 2017

2.2.8. Regulation (EC) № 853/2004 laying down specific hygiene rules for food of animal origin

Case	Summary
Case C-453/13 The Queen, on the application of Newby Foods Ltd v Food Standards Agency	**Facts:** this was a reference for preliminary ruling from High Court of Justice (England and Wales) submitted in course of proceedings between Newby Foods Ltd ('Newby Foods') and the Food Standards Agency ('the FSA') concerning a decision of the FSA published on 4 April 2012 and entitled 'Moratorium on desinewed meat'. The reference itself dealt with interpretation of points 1.14 and 1.15 of Annex I to Regulation (EC) No 853/2004 (more on the factual background of the dispute see paras. 18-27 of the judgment). **Judgment:** Points 1.14 and 1.15 of Annex I to Regulation (EC) No 853/2004 mean that the product obtained by the mechanical removal of meat from flesh-bearing bones after boning or from poultry carcases must be classified as 'mechanically separated meat' within the meaning of that point 1.14, since the process used results in a loss or modification of the muscle fibre structure which is greater than that which is strictly confined to the cutting point, irrespective of the fact that the technique used does not alter the structure of the bones used. Such a product cannot be classified as a 'meat preparation' within the meaning of that point 1.15 (see further paras. 40-67 of the judgment). **Relevance:** this judgment is of relevance for the Ukrainian authorities in charge of approximation of domestic law with Regulation 853/2004. It clarifies the meaning of Points 1.14 and 1.15 of Annex I of the Regulation in question.

2.2.9. Regulation (EC) № 882/2004 on official controls performed to ensure the verification of compliance with feed and food law, animal health and animal welfare rules

Case	Summary
Case C-112/15 Kødbranchens Fællesråd v Ministeriet for	**Facts:** this was a reference for preliminary ruling submitted by Østre Landsret (Eastern Regional Court, Denmark) in course of proceedings between Kødbranchens Fællesråd (livestock sector's trade organisation) acting as the authorised representative for seven slaughterhouses, namely, Århus Slagtehus A/S, Danish Crown A.m.b.A. Oksekødsdivisionen, Hadsund Kreaturslagteri A/S, Hjalmar Nielsens Eksportslagteri A/S, Kjellerup Eksportslagteri A/S,

Case	Summary
Fødevarer, Landbrug og Fiskeri and Fødevarestyrelsen	Mogens Nielsen Kreaturslagteri A/S et Vejle Eksportslagteri A/S and Ministeriet for Fødevarer, Landbrug og Fiskeri (Ministry for Food, Agriculture and Fisheries) and Fødevarestyrelsen (Danish Veterinary and Food Administration) concerning the payment of fees incurred for the official control of feed and food (see further paras. 21-26 of the judgment). The referring court expressed doubts as to interpretation of Regulation 882/2004 and asked the following question to the Court of Justice: 'Must Article 27(4)(a) and points 1 and 2 of Annex VI to Regulation No 882/2004 be interpreted as meaning that the Member States, in setting the fee charged to food establishments, are precluded from including expenditure for the salaries and training of the public-sector staff who are hired for the purpose of completing training which fulfils the requirements for "official auxiliary" under Regulation No 854/2004 but who, prior to being accepted into the training or in the course of their training, do not conduct meat inspections?' **Judgment:** Article 27(4)(a) and Annex VI, points (1) and (2), of Regulation (EC) No 882/2004 precludes the Member States, when they prescribe the fees charged to food sector establishments, from including the costs connected to the compulsory basic training of official auxiliaries. **Relevance:** this judgment clarifies the meaning and scope of Article 27(4)(a) and Annex VI, points (1) and (2), of Regulation (EC) No 882/2004 and thus could be used by the Ukrainian authorities to draft domestic legislation giving effect to it.
Case C-523/09 Rakvere Piim AS and Maag Piimatööstus AS v Veterinaar- ja Toiduamet	**Facts:** this reference for preliminary ruling was submitted by Tartu ringkonnakohus (Estonia) in course of proceedings between Rakvere Piim AS and Maag Piimatööstus AS, companies established under Estonian law, and the Veterinaar- ja Toiduamet (Veterinary and Food Office) concerning the calculation of the fees payable for health inspections and controls in respect of milk production. The referring court wished to have a clarification of the meaning of Article 27(3), (4)(a) and (6) of Regulation (EC) No 882/2004 (see further paras. 9-14 of the judgment). **Judgment**: Article 27(3) and (4) of Regulation (EC) No 882/2004 enable a Member State to levy fees at the minimum rates laid down in Annex IV, section B to that regulation without having to adopt a measure of application at national level, even though the costs borne by the competent authorities in connection with the health inspections and controls

Case	Summary
	laid down in that regulation are lower than those rates, when the specified conditions for applying Article 27(6) of that regulation are not satisfied (more on the reasoning of the Court see paras. 16-29 of the judgment). **Relevance:** this judgment is of relevance for the Ukrainian authorities, which will be in charge of drafting of domestic legislation ensuring full compliance with Regulation 882/2004. It clarifies the scope of Article 27(3-4) of Regulation 882/2004.

2.2.10. Directive № 97/78/EC laying down the principles governing the organization of veterinary checks on products entering the Community from third countries

Case	Summary
Joined cases C-129/05 and C-130/05 NV Raverco (C-129/05) and Coxon & Chatterton Ltd (C-130/05) v Minister van Landbouw, Natuur en Voedselkwaliteit	**Facts:** this reference for preliminary ruling was submitted by College van Beroep voor het bedrijfsleven (the Netherlands). The references arose in proceedings between, firstly, NV Raverco ('Raverco') and, secondly, Coxon & Chatterton Ltd ('Coxon') and the Minister van Landbouw, Natuur en Voedselkwaliteit (Minister for Agriculture, Nature and Food Quality) concerning the latter's decisions rejecting as unfounded Raverco's and Coxon's complaints against decisions of 1 and 22 March 2002 ordering the destruction of rejected import consignments of meat from China (see further paras. 6-11 of the judgment). **Judgment:** According to Article 17(2)(a) of Council Directive 97/78/EC objection to the redispatch of a consignment that does not satisfy the import conditions must be based on the failure to meet Community [Union] requirements. Furthermore, Article 22(2) of Directive 97/78, read in conjunction with Article 5 of Council Regulation (EEC) No 2377/90 of 26 June 1990 laying down a Community procedure for the establishment of maximum residue limits of veterinary medicinal products in foodstuffs of animal origin, is to be interpreted as meaning that it imperatively requires the competent veterinary authorities to seize and destroy products which, following veterinary inspections carried out pursuant to that directive, are revealed to contain a substance listed in Annex IV to that regulation. **Relevance:** This judgment should be taken into account by the Ukrainian authorities when they prepare domestic measures giving effect to Directive 97/78. It clarifies the scope and meaning of Articles 17(2)a and Artilce 22(2) of Directive 97/78/EC.

2.2.11. Directive 91/496/EEC laying down the principles governing the organisation of veterinary checks on animals entering the Community from third countries

Case	Summary
	No case-law as of 31 December 2017

2.2.12. Council Directive 2002/99/EC of 16 December 2002 laying down the animal health rules governing production, processing, distribution and introduction of products of animal origin for human consumption

Case	Summary
	No case-law as of 31 December 2017

2.2.13. Regulation 1169/2011 on the provision of food information to consumers

Case	Summary
	No case-law as of 31 December 2017

2.2.14. Regulation 1924/2006 on nutrition and health claims made on foods

Case	Summary
C-157/14 Société Neptune Distribution v Ministre de l'Économie et des Finances	**Facts:** this was a reference for preliminary ruling submitted by Conseil d'État (Council of State, France) in course of proceedings between Neptune Distribution SNC and the Minister for Economic Affairs and Finance concerning the legality of the implementing decision of 5 February 2009 taken by the Head of the Departmental Unit for Allier of the Regional Directorate for Competition, Consumption and Suppression of Fraud for the Auvergne, and the decision of the Minister for the Economy, Industry and Employment of 25 August 2009 rejecting the appeal through the appropriate channels brought by Neptune Distribution. The reference dealt with, *inter alia*, interpretation of annex to Regulation (EC) No 1924/2006 as well as validity of Article 2(1) of Directive 2000/13/EC of the European Parliament and of the Council of 20 March 2000 on the approximation of the laws of the Member States relating to the labelling, presentation and advertising of foodstuffs, Article 9(1) and (2) of Directive 2009/54/EC of the European Parliament

Case	Summary
	and of the Council of 18 June 2009 on the exploitation and marketing of natural mineral waters, and Annex III thereto, read in the light of the annex to Regulation No 1924/2006 (see further paras. 21-32 of the judgment). **Judgment:** Article 8(1) of Regulation 1924/2006 prohibits the use of the claim ‘very low in sodium/salt’ and any claim likely to have the same meaning for the consumer as regards natural mineral waters and other waters. Furthermore, Article 9(2) of Directive 2009/54/EC on the exploitation and marketing of natural mineral waters, read in conjunction with Annex III thereto, must be interpreted as meaning that it precludes packaging, labels or advertising for natural mineral waters from displaying claims or indications suggesting to the consumer that the waters concerned are low in sodium or salt or are suitable for a low-sodium diet where the total sodium content, in all the chemical forms present, is equal to or more than 20 mg/l. The Court of Justice rejected claims challenging the validity of EU secondary legislation raised in the reference. **Relevance:** This judgment sheds light on interpretation of Regulation 1924/2006 and as such it should be taken into account by the Ukrainian authorities in charge of approximation of domestic law with EU *acquis*.

Case	Summary
C-137/13 <u>Herbaria Kräuterparadies GmbH v Freistaat Bayern</u>	**Facts:** this was a reference for preliminary ruling submitted by *Bayerisches Verwaltungsgericht München* (Germany) in course of proceedings between Herbaria Kräuterparadies GmbH and the Freistaat Bayern concerning the possibility of using a reference to organic production in the labelling, advertising and marketing of a fruit juice mixture with herbal extracts which contains, in addition to the organic ingredients, non-organic vitamins and ferrous gluconate (see further paras. 19-23 of the judgment). **Judgment:** Court of Justice held that Article 27(1)(f) of Commission Regulation (EC) No 889/2008 of 5 September 2008 laying down detailed rules for the implementation of Council Regulation (EC) No 834/2007 on organic production and labelling of organic products must be interpreted as meaning that the use of one of the substances referred to is legally required only when a provision of EU law or a provision of national law compatible therewith directly requires that that substance be added to a foodstuff in order for that foodstuff to be placed on the market. The Court added that the use of such a substance is not legally required within the meaning of that provision where a foodstuff is marketed as a food supplement, with a nutrition or health claim or as a foodstuff for a particular nutritional use, although that implies that, in order to comply with the provisions governing the incorporation of substances into foodstuffs, included in: – Directive 2002/46/EC of the European Parliament and of the Council of 10 June 2002 on the approximation of the laws of the Member States relating to food supplements, as amended by Regulation (EC) No 1137/2008 of the European Parliament and of the Council of 22 October 2008; – Regulation (EC) No 1924/2006 of the European Parliament and of the Council of 20 December 2006 on nutrition and health claims made on foods and Commission Regulation (EU) No 432/2012 of 16 May 2012 establishing a list of permitted health claims made on foods, other than those referring to the reduction of disease risk and to children's development and health; and – Directive 2009/39/EC of the European Parliament and of the Council of 6 May 2009 on foodstuffs intended for particular nutritional uses and Commission Regulation (EC) No 953/2009 of 13 October 2009 on substances that may be added for specific nutritional purposes in foods for particular nutritional uses; that foodstuff must contain a determined quantity of the substance in question.

Case	Summary
	Relevance: this judgment should be taken into account by the Ukrainian authorities in charge of approximation with Regulation 889/2008 as it clarifies the scope of Article 27 of the regulation in question.
C-299/12 Green - Swan Pharmaceuticals CR, a.s. v Státní	**Facts:** this reference for preliminary ruling was submitted by Nejvyšší správní soud (Czech Republic) in course of proceedings between Green – Swan Pharmaceuticals CR, a.s. and the Státní zemědělská a potravinářská inspekce, ústřední inspektorát (the State Agricultural and Food Inspection Authority, Central Inspectorate) regarding the

Case	Summary
zemědělská a potravinářská inspekce, ústřední inspektorát	classification of a communication appearing on the packaging of a food supplement (see further paras. 11-19 of the judgment). **Judgment:** the Court of Justice held as follows: 1. Article 2(2)(6) of Regulation (EC) No 1924/2006 means that in order to be considered a 'reduction of disease risk claim' within the meaning of that provision, a health claim need not necessarily expressly state that the consumption of a category of food, a food or one of its constituents 'significantly' reduces a risk factor in the development of a human disease. 2. Article 28(2) of Regulation No 1924/2006 must be interpreted as meaning that a commercial communication appearing on the packaging of a food may constitute a trade mark or brand name, within the meaning of that provision, provided that it is protected, as a mark or as a name, by the applicable legislation. It is for the national court to ascertain, having regard to all the legal and factual considerations of the case before it, whether that communication is indeed a trade mark or brand name thus protected. 3. Article 28(2) of Regulation No 1924/2006 must be interpreted as referring only to foods bearing a trade mark or brand name which must be considered a nutrition or health claim within the meaning of that regulation and which, in that form, existed before 1 January 2005. **Relevance:** this judgment should be taken into account by the Ukrainian authorities in charge of approximation of the domestic law with Regulation 1924/2006. It clarifies the scope and meaning of Articles 2(2)(6) and 28(2) of Regulation 1924/2006.
C-544/10 Deutsches Weintor eG v Land Rheinland-Pfalz	**Facts:** this was a reference for preliminary ruling submitted by *Bundesverwaltungsgericht* (Germany). It was submitted in course of dispute between Deutsches Weintor eG, a German winegrowers' cooperative, and the department responsible for supervising the marketing of alcoholic beverages in the Land of Rhineland-Palatinate concerning the description of a wine as 'easily digestible' ('bekömmlich'), indicating reduced acidity levels. The authority responsible for supervising the marketing of alcoholic beverages in the Land of Rhineland-Palatinate objected to the use of the description 'easily digestible' on the ground that it is a 'health claim' within the meaning of Article 2(2)(5) of Regulation No 1924/2006, which, pursuant to the first subparagraph of Article 4(3) of that regulation, is not permitted for alcoholic beverages (see further paras. 13-25).

Case	Summary
	Judgment: the first subparagraph of Article 4(3) of Regulation (EC) No 1924/2006 means that the words "health claim" cover a description such as 'easily digestible' that is accompanied by a reference to the reduced content of substances frequently perceived by consumers as being harmful. Furthermore, the fact that a producer or distributor of wine is prohibited under Regulation No 1924/2006 without exception, from using a claim of the kind at issue in the main proceedings, even if that claim is inherently correct, is compatible with the first subparagraph of Article 6(1) TEU. **Relevance:** this judgment is relevant for the Ukrainian authorities. It clarifies the meaning of Article 4(3) of Regulation 1924/2006. This should be taken into account by the law-drafters in Ukraine as well as those in charge of implementation of relevant rules.
C-19/15 Verband Sozialer Wettbewerb eV v Innova Vital GmbH	**Facts:** this was a reference for preliminary ruling submitted by Landgericht München I (Regional Court, Munich I, Germany) in course of proceedings between the Verband Sozialer Wettbewerb eV, a German association safeguarding competition, and Innova Vital GmbH concerning the applicability of Regulation No 1924/2006 to nutrition or health claims made in a written document addressed exclusively to health professionals (see further paras. 13-20 of the judgment). **Judgment:** Article 1(2) of Regulation (EC) No 1924/2006 on nutrition and health claims made on foods must be interpreted as meaning that nutrition or health claims made in a commercial communication on a food which is intended to be delivered as such to the final consumer, if that communication is addressed not to the final consumer, but exclusively to health professionals, falls within the scope of that regulation. **Relevance:** this judgment is of relevance for the Ukrainian authorities. It clarifies the scope of application of the Regulation and, thus, it should be taken into account when the national authorities proceed with law approximation effort.

2.2.15. Regulation 432/2011 refusing to authorise certain health claims made on foods, other than those referring to the reduction of disease risk and to children's development and health

Case	Summary
	No case-law as of 31 December 2017

2.2.16. Regulation (EC) № 1925/2006 on the addition of vitamins and minerals and of certain other substances to foods

Case	Summary
	No case-law as of 31 December 2017

2.2.17. Regulation (EC) № 1170/2009 amending Directive 2002/46/EC of the European Parliament and of Council and Regulation (EC) № 1925/2006 of the European Parliament and of the Council as regards the lists of vitamin and minerals and their forms that can be added to foods, including food supplements

Case	Summary
	No case-law as of 31 December 2017

2.2.18. Regulation (EC) № 432/2012 establishing a list of permitted health claims made on foods, other than those referring to the reduction of disease risk and to children's development and health

Case	Summary
C-137/13 Herbaria Kräuterparadies GmbH v Freistaat Bayern	See section 2.2.14 above.

2.2.19. Commission Regulation (EU) № 1047/2012 of 8 November 2012 amending Regulation (EC) № 1924/2006 with regard to the list of nutrition claims

Case	Summary
	No case-law as of 31 December 2017

2.2.20. Decision 2013/63/EU adopting guidelines for the implementation of specific conditions for health claims laid down in Article 10 of Regulation (EC) No 1924/2006 of the European Parliament and of the Council

Case	Summary
	No case-law as of 31 December 2017

2.2.21. Regulation (EC) № 37/2005 on the monitoring of temperatures in the means of transport, warehousing and storage of quick-frozen foodstuffs intended for human consumption

Case	Summary
	No case-law as of 31 December 2017

2.2.22. Decision 2002/226 establishing special health checks for the harvesting and processing of certain bivalve molluscs with a level of amnesic shellfish poison (ASP) exceeding the limit laid down by Council Directive 91/492/EEC

Case	Summary
	No case-law as of 31 December 2017

2.2.23. Council Directive 2001/110/EC of 20 December 2001 relating to honey

Case	Summary
	No case-law as of 31 December 2017

2.2.24. Regulation (EC) № 1331/2008 establishing a common authorisation procedure for food additives, food enzymes and food flavourings

Case	Summary
	No case-law as of 31 December 2017

2.2.25. Regulation (EC) № 1333/2008 on food additives

Case	Summary

	No case-law as of 31 December 2017

2.2.26. Commission Regulation (EC) № 231/2012 laying down specifications for food additives listed in Annexes II and III to Regulation (EC) № 1333/2008 of the European Parliament and of the Council

Case	Summary
	No case-law as of 31 December 2017

2.2.27. Regulation (EC) № 234/2011 of 10 March 2011 implementing Regulation (EC) № 1331/2008 of the European Parliament and of the Council establishing a common authorisation procedure for food additives, food enzymes and food flavourings

Case	Summary
	No case-law as of 31 December 2017

2.2.28. Regulation 1334/2008 on flavourings and certain food ingredients with flavouring properties for use in and on foods

Case	Summary
	No case-law as of 31 December 2017

2.2.29. Commission Implementing Regulation (EU) № 872/2012 of 1 October 2012 adopting the list of flavouring substances provided for by Regulation (EC) № 2232/96 of the European Parliament and of the Council, introducing it in Annex I to Regulation (EC) № 1334/2008 of the European Parliament and of the Council and repealing Commission Regulation (EC) № 1565/2000 and Commission Decision 1999/217/EC

Case	Summary
	No case-law as of 31 December 2017

2.2.30. Regulation (EC) № 2065/2003 on smoke flavourings used or intended for use in or on foods

Case	Summary

	No case-law as of 31 December 2017

2.2.31. Regulation (EU) № 873/2012 on transitional measures concerning the Union list of flavourings and source materials set out in Annex I to Regulation (EC) № 1334/2008 of the European Parliament and of the Council

Case	Summary
	No case-law as of 31 December 2017

2.2.32. Regulation (EC) № 1332/2008 on food enzymes

Case	Summary
	No case-law as of 31 December 2017

2.2.33. Regulation (EC) № 1935/2004 on materials and articles intended to come into contact with food and repealing Directives 80/590/EEC and 89/109/EEC

Case	Summary
	No case-law as of 31 December 2017

2.2.34. Regulation (EC) № 2023/2006 on good manufacturing practice for materials and articles intended to come into contact with food

Case	Summary
	No case-law as of 31 December 2017

2.2.35. Directive № 82/711 laying down the basic rules necessary for testing migration of the constituents of plastic materials and articles intended to come into contact with foodstuffs

Case	Summary
	No case-law as of 31 December 2017

2.2.36. Directive 85/572 of 22 December 1985 laying down the list of simulants to be used for testing migration of constituents of plastic materials and articles intended to come into contact with foodstuffs

Case	Summary
	No case-law as of 31 December 2017

2.2.37. Directive 78/142 on the approximation of the laws of the Member States relating to materials and articles which contain vinyl chloride monomer and are intended to come into contact with foodstuffs

Case	Summary
	No case-law as of 31 December 2017

2.2.38. Decision 2010/169 concerning the Non-inclusion of 2,4,4'-trichloro-2'-hydroxydiphenyl ether in the Union list of additives which may be used in the manufacture of plastic materials and articles intended to come into contact with foodstuffs under Directive 2002/72/EC

Case	Summary
	No case-law as of 31 December 2017

2.2.39. Directive 84/500 on the approximation of the laws of the Member States relating to ceramic articles intended to come into contact with foodstuffs

Case	Summary
	No case-law as of 31 December 2017

2.2.40. Directive 2007/42 of 29 June 2007 relating to materials and articles made of regenerated cellulose film intended to come into contact with foodstuffs

Case	Summary
	No case-law as of 31 December 2017

2.2.41. Regulation (EC) № 1895/2005 on the restriction of use of certain epoxy derivatives in materials and articles intended to come into contact with food

Case	Summary
	No case-law as of 31 December 2017

2.2.42. Regulation (EC) № 450/2009 on active and intelligent materials and articles intended to come into contact with food

Case	Summary
	No case-law as of 31 December 2017

2.2.43. Regulation (EC) № 10/2011 of 14 January 2011 on plastic materials and articles intended to come into contact with food

Case	Summary
	No case-law as of 31 December 2017

2.2.44. Directive 93/11 concerning the release of the N-nitrosamines and N-nitrosatable substances from elastomer or rubber teats and soothers

Case	Summary
	No case-law as of 31 December 2017

2.2.45. Commission Regulation (EU) № 284/2011 of 22 March 2011 laying down specific conditions and detailed procedures for the import of polyamide and melamine plastic kitchenware originating in or consigned from the People's Republic of China and Hong Kong Special Administrative Region, China

Case	Summary
	No case-law as of 31 December 2017

2.2.46. Regulation (EC) № 282/2008 of 17 March 2008 recycled plastic materials and articles intended to come into contact with foods

Case	Summary
	No case-law as of 31 December 2017

2.2.47. Regulation (EC) № 28/2012 laying down requirements for the certification for imports into and transit through the Union of certain composite products and amending Decision 2007/275/EC and Regulation (EC) № 1162/2009

Case	Summary
	No case-law as of 31 December 2017

2.2.48. Decision 2007/275 concerning lists of animals and products to be subject to controls at border inspection posts under Council Directives 91/496/EEC and 97/78/EC

Case	Summary
	No case-law as of 31 December 2017

2.2.49. Regulation 641/2004 on detailed rules for the implementation of Regulation (EC) № 1829/2003 as regards the application for the authorisation of new genetically modified food and feed, the notification of existing products and adventitious or technically unavoidable presence of genetically modified material which has benefited from a favourable risk evaluation

Case	Summary
C-36/11 Pioneer Hi Bred Italia	**Facts:** this was a reference for preliminary ruling submitted by Consiglio di Stato (Italy) in course of proceedings between Pioneer Hi Bred Italia Srl and the Ministero delle Politiche agricole alimentari e forestali (Ministry of Agricultural, Food and Forestry Policies) concerning the legality of a note from the latter informing Pioneer that, pending the adoption by the regions of rules to ensure the coexistence of conventional, organic and genetically

	modified crops, it could not consider that company's application for authorisation to cultivate hybrids of genetically modified maize derived from MON 810 which were already listed in the common catalogue of varieties of agricultural plant species (see further paras. 43-53). **Judgment:** in relation to Regulation 641/2004 the Court of Justice held that the cultivation of genetically modified organisms (such as the MON 810 maize varieties) cannot be made subject to a national authorisation procedure when the use and marketing of those varieties are authorised pursuant to Article 20 of Regulation (EC) No 1829/2003on genetically modified food and feed and those varieties have been accepted for inclusion in the common catalogue provided for in Council Directive 2002/53/EC on the common catalogue of varieties of agricultural plant species. The Court also held that Article 26a of Directive 2001/18/EC on the deliberate release into the environment of genetically modified organisms does not entitle a Member State to prohibit in a general manner the cultivation on its territory of such genetically modified organisms pending the adoption of coexistence measures to avoid the unintended presence of genetically modified organisms in other crops (see further 43-75). **Relevance:** this judgment is of relevance for the Ukrainian civil servants who are in charge of approximation of Ukrainian law with Regulation 641/2004. Furthermore, it will be of interest of those who deal with Directive 2001/18/EC. It clarifies the interpretation of several provisions contained in these legal acts.

2.2.50. Regulation 1829/2003 of 22 September 2003 on genetically modified food and feed

Case	Summary
C-36/11 Pioneer Hi Bred Italia	See section 2.2.49 above.
C-442/09 Bablok and Others	**Facts:** this was a reference for preliminary ruling submitted by *Bayerischer Verwaltungsgerichtshof* (Germany) in course of proceedings between Messrs Bablok, Egeter, Stegmeier and Müller and Ms Klimesch, beekeepers, on the one hand, and Freistaat Bayern (Free State of Bavaria), on the other, with Monsanto Technology LLC, Monsanto Agrar Deutschland GmbH and Monsanto Europe SA/NV as intervening parties, concerning the presence, in apicultural products, of pollen from genetically modified maize (see further paras. 28-52 of the judgment). While the referring court submitted altogether 3 questions to the Court of Justice (see para. 53 of the judgment) the first one was of crucial importance as it sought to clarify if the term [GMO] defined in Article 2.5 of [Regulation No 1829/2003] be

	interpreted as meaning that it includes also material from genetically modified plants (in this case, pollen from the genetically modified MON 810 strain of maize) which, although containing genetically modified DNA and genetically modified proteins (in this case, Bt toxin) at the time of entering a food (in this case, honey) or designation for use as a food/food supplement, does not possess (or no longer possesses) a specific and individual capacity to reproduce? **Judgment:** the Court of Justice held that the concept of a genetically modified organism within the meaning of Article 2.5 of Regulation (EC) No 1829/2003 must be interpreted as meaning that a substance such as pollen derived from a variety of genetically modified maize, which has lost its ability to reproduce and is totally incapable of transferring the genetic material which it contains, no longer comes within the scope of that concept. Furthermore, Article 2.1, 2.10 and 2.13 and Article 3(1)(c) of Regulation No 1829/2003, Article 2 of Regulation (EC) No 178/2002 of the European Parliament and of the Council of 28 January 2002 laying down the general principles and requirements of food law, establishing the European Food Safety Authority and laying down procedures in matters of food safety, and Article 6(4)(a) of Directive 2000/13/EC of the European Parliament and of the Council of 20 March 2000 on the approximation of the laws of the Member States relating to the labelling, presentation and advertising of foodstuffs must be interpreted as meaning that, when a substance such as pollen containing genetically modified DNA and genetically modified proteins is not liable to be considered as a genetically modified organism, products such as honey and food supplements containing such a substance constitute 'food … containing ingredients produced from [genetically modified organisms]' within the meaning of Article 3(1)(c) of Regulation No 1829/2003. That classification may be made irrespective of whether contamination by the substance in question was intentional or adventitious. Last but not least, the Court of Justice held that Articles 3(1) and 4(2) of Regulation No 1829/2003 must be interpreted as meaning that, when they imply an obligation to authorise and supervise a foodstuff, a tolerance threshold such as that provided for in respect of labelling in Article 12(2) of that Regulation may not be applied to that obligation by analogy. **Relevance:** this judgment sheds light on a very controversial matter, that is the interpretation of Regulation 1829/2003 on genetically modified food and feed. It should be taken into account by the Ukrainian authorities when the prepare domestic provisions giving it effect.

2.2.51. Regulation 1830/2003 concerning the traceability and labelling of genetically modified organisms and the traceability of food and feed products produced from genetically modified organisms

Case	Summary
C-58/10 Monsanto and Others	**Facts:** This was a reference for preliminary ruling submitted by *Conseil d'État* (France) in course of eleven sets of proceedings between, on the one hand, Monsanto SAS, Monsanto Agriculture France SAS, Monsanto International SARL, Monsanto Technology LLC, Monsanto Europe SA and various other applicants, including individuals and legal entities, and, on the other hand, the Ministre de l'Agriculture et de la Pêche (French Minister for Agriculture and Fisheries), with, as interveners, Association France Nature Environnement and Confédération paysanne, concerning the lawfulness of two provisional national measures which suspended, successively, the transfer and use of MON 810 maize seeds, which are genetically modified organisms ('GMOs'), and subsequently prohibited the planting of seed varieties derived from the line of that maize. For a full analysis of the factual background of the case see paras. 25-37 of the judgment. **Judgment:** genetically modified organisms such as MON 810 maize, which were authorised as, inter alia, seeds for the purpose of planting under Council Directive 90/220/EEC on the deliberate release into the environment of genetically modified organisms and which were notified as existing products in accordance with the conditions set out in Article 20 of Regulation (EC) No 1829/2003 on genetically modified food and feed, and were subsequently the subject of a pending application for renewal of authorisation, may not have their use or sale provisionally suspended or prohibited, by a Member State, under Article 23 of Directive 2001/18/EC on the deliberate release into the environment of genetically modified organisms; such measures may, however, be adopted pursuant to Article 34 of Regulation No 1829/2003. The Court of Justice also added that Article 34 of Regulation No 1829/2003 authorises a Member State to adopt emergency measures only in accordance with the procedural conditions set out in Article 54 of Regulation (EC) No 178/2002 laying down the general principles and requirements of food law, establishing the European Food Safety Authority and laying down procedures in matters of food safety, compliance with which it is for the national court to ascertain. Finally, with a view to the adoption of emergency measures, Article 34 of Regulation No 1829/2003 requires Member States to establish, in addition to urgency, the existence of a situation which is likely to constitute a clear and serious risk to human health, animal health or the environment.

Case	Summary
	Relevance: This judgment is relevant for the Ukrainian authorities. It clarifies the powers of the Member States to adopt emergency measures under Article 34 of Regulation 1829/2003 and thus it should be taken into account by the law-makers and law enforcers.

2.2.52. Regulation (EC) № 396/2005 on maximum residue levels of pesticides in or on food and feed of plant and animal origin and amending Council Directive 91/414/EEC

Case	Summary
	No relevant case-law as of 31 December 2017

2.2.53. Regulation (EC) № 1881/2006 setting maximum levels for certain contaminants in foodstuffs

Case	Summary
	No case-law as of 31 December 2017

2.2.54. Regulation 401/2006 sampling laying down the methods of sampling and analysis for the official control of the levels of mycotoxins in foodstuffs

Case	Summary
	No case-law as of 31 December 2017

2.2.55. Regulation 333/2007 of 28 March 2007 laying down the methods of sampling and analysis for the official control of the levels of lead, cadmium, mercury, inorganic tin, 3-MCPD and benzo(a)pyrene in foodstuffs sampling

Case	Summary
	No case-law as of 31 December 2017

2.2.56. Regulation 589/2014 laying down methods of sampling and analysis for the control of levels of dioxins, dioxin-like PCBs and №n-dioxin-like PCBs in certain foodstuffs and repealing Regulation (EU) № 252/2012

Case	Summary
	No case-law as of 31 December 2017

2.2.57. Regulation 1882/2006 laying down methods of sampling and analysis for the official control of the levels of nitrates in certain foodstuffs

Case	Summary
	No case-law as of 31 December 2017

2.2.58. Commission Directive 2002/63 establishing Community methods of sampling for the official control of pesticide residues in and on products of plant and animal origin and repealing Directive 79/700/EEC

Case	Summary
	No case-law as of 31 December 2017

2.2.59. Regulation (EC) № 37/2010 on pharmacologically active substances and their classification regarding maximum residue limits in foodstuffs of animal origin

Case	Summary
	No case-law as of 31 December 2017

2.2.60. Council Directive 96/23 on measures to monitor certain substances and residues thereof in live animals and animal products

Case	Summary
	No case-law as of 31 December 2017

2.2.61. Regulation 258/97 concerning novel foods and novel food ingredient (currently the issue of cloning subject to the provisions relating to the novel food)

Case	Summary
C-383/07 M-K Europa	**Facts:** this was a reference for preliminary ruling submitted by Bayerischer Verwaltungsgerichtshof (Germany) in course of proceedings between M-K Europa GmbH & Co. KG and Stadt Regensburg concerning the latter's decision prohibiting the marketing of a food product from Japan called 'Man-Koso 3000'. Man-Koso is a food product obtained from over 50 plant ingredients by means of a fermentation process. It contains, among other things, brown and red algae, burdock roots, lotus roots and akebi or shiso leaves. M-K Europa describes this product as a high-class food with positive health benefits. Man-Koso was introduced to the public on a German television programme, which led the German authorities to take steps to investigate its composition. In the light of the results of a scientific analysis of Man-Koso, Stadt Regensburg, by decision of 24 October 2002, prohibited the marketing of that food product (see further paras. 8-12 of the judgment). **Judgment:** the Court of Justice ruled that the fact that all the individual ingredients of a food product meet the requirement laid down in Article 1(2) of Regulation No 258/97, or have a safe history, cannot be regarded as sufficient for that Regulation not to apply to the food product concerned. In order to decide whether that food product should be classified as a novel food within the meaning of Regulation No 258/97, the competent national authority must proceed on a case-by-case basis, taking into account all the characteristics of the food product and of the production process. The fact that all of the algae contained in a food product within the meaning of Article 1(2)(d) of Regulation No 258/97 meet the requirement relating to human consumption to a significant degree within the European Union, within the meaning of Article 1(2) of that Regulation, is not sufficient for that regulation not to apply to that product. Furthermore, experience regarding the safety of a food product existing exclusively outside Europe is not sufficient to establish that the product concerned falls within the category of food products 'having a history of safe food use' within the meaning of Article 1(2)(e) of Regulation No 258/97. Last but not least, it was not incumbent upon an undertaking to initiate the procedure laid down in Article 13 of Regulation No 258/97 (see further paras. 14-44 of the judgment).

Case	Summary
	Relevance: this judgment is of importance for the Ukrainian law-makers and should be kept on their radars. It should be taken into account when relevant provisions of Ukrainian law are drafted/amended.
C-236/01 Monsanto Agricoltura Italia and Others	**Facts:** this reference for preliminary ruling was submitted by *Tribunale amministrativo regionale del Lazio* (Italy) in course of proceedings between a number of companies involved in the development of genetically modified food plants for use in agriculture, and the Associazone Nazionale per lo Sviluppo delle Biotecnologie (Assobiotec) (National Association for the Development of Biotechnology) against a number of Italian authorities regarding a measure suspending the trade in and use of certain transgenic products in Italy (see further paras. 17-47). **Judgment:** Article 3(4) of Regulation (EC) No 258/97 provides that that the mere presence in novel foods of residues of transgenic protein at certain levels does not preclude those foods from being considered substantially equivalent to existing foods and, consequently, use of the simplified procedure for placing those foods on the market. However, that is not the case where the existence of a risk of potentially dangerous effects on human health can be identified on the basis of the scientific knowledge available at the time of the initial assessment. As a matter of principle, the issue of the validity of the use of the simplified procedure laid down in Article 5 of Regulation No 258/97 for the placing of novel foods on the market does not affect the power of the Member States to adopt measures falling under Article 12 of the Regulation. **Relevance:** this judgment is important for the Ukrainian authorities in charge of approximation with this Regulation. It clarifies the scope of powers given to the national authorities as well as important solutions to interpretation of Article 3(4) of Regulation 258/97.

2.2.62. Directive 1999/2 on the approximation of the laws of the Member States concerning foods and food ingredients treated with ionising radiation

Case	Summary
	No case-law as of 31 December 2017

2.2.63. Directive 1999/3 on the establishment of a Community list of foods and food ingredients treated with ionising radiation

Case	Summary
	No case-law as of 31 December 2017

2.2.64. Decision 2010/57 laying down health guarantees for the transit of equidae being transported through the territories listed in Annex I to Council Directive 97/78/EC

Case	Summary
	No case-law as of 31 December 2017

2.2.65. Decision 2009/712 implementing Council Directive 2008/73/EC as regards Internet-based information pages containing lists of establishments and laboratories approved by Member States in accordance with Community veterinary and zootechnical legislation

Case	Summary
	No case-law as of 31 December 2017

2.2.66. Directive 2009/156 on animal health conditions governing the movement and importation from third countries of equidae

Case	Summary
	No case-law as of 31 December 2017

2.2.67. Decision 2004/211 of 6 January 2004 establishing the list of third countries and parts of territory thereof from which Member States authorise imports of live equidae and semen, ova and embryos of the equine species, and amending Decisions 93/195/EEC and 94/63/EC

Case	Summary
	No case-law as of 31 December 2017

2.2.68. Decision 93/197 on animal health conditions and veterinary certification for imports of registered equidae and equidae for breeding and production

Case	Summary
	No case-law as of 31 December 2017

2.2.69. Decision 2010/471 on imports into the Union of semen, ova and embryos of animals of the equine species as regards lists of semen collection and storage centres and embryo collection and production teams and certification requirements

Case	Summary
	No case-law as of 31 December 2017

2.2.70. Directive 64/432 on animal health problems affecting intra-Community trade in bovine animals and swine

Case	Summary
	No relevant case-law as of 31 December 2017

2.2.71. Directive 89/556 on animal health conditions governing intra-Community trade and importation from third countries of embryos of domestic animals of the bovine species

Case	Summary
	No case-law as of 31 December 2017

2.2.72. Decision 86/474 on the implementation of the on-the-spot inspections to be carried out in respect of the importation of bovine animals and swine and fresh meat from №n-member countries

Case	Summary
	No case-law as of 31 December 2017

2.2.73. Directive 64/432 on animal health problems affecting intra-Community trade in bovine animals and swine

Case	Summary

	No relevant case-law as of 31 December 2017

2.2.74. Directive 90/429 laying down the animal health requirements applicable to intra- Community trade in and imports of semen of domestic animals of the porcine species

Case	Summary
	No relevant case-law as of 31 December 2017

2.2.75. Decision 2008/185 of 21 February 2008 on additional guarantees in intra-Community trade of pigs relating to Aujeszky's disease and criteria to provide information on this disease

Case	Summary
	No case-law as of 31 December 2017

2.2.76. Directive 2009/158 of 30 November 2009 on animal health conditions governing intra-Community trade in, and imports from third countries of, poultry and hatching eggs

Case	Summary
	No case-law as of 31 December 2017

2.2.77. Regulation 798/2008 of 8 August 2008 laying down a list of third countries, territories, zones or compartments from which poultry and poultry products may be imported into and transit through the Community and the veterinary certification requirements

Case	Summary
	No case-law as of 31 December 2017

2.2.78. Decision 2006/605 of 6 September 2006 on certain protection measures in relation to intra-Community trade in poultry intended for restocking of wild game supplies

Case	Summary
	No case-law as of 31 December 2017

2.2.79. Regulation № 1251/2008 implementing Council Directive 2006/88/EC as regards conditions and certification requirements for the placing on the market and the import into the Community of aquaculture animals and products thereof and laying down a list of vector species

Case	Summary
	No case-law as of 31 December 2017

2.2.80. Directive 2006/88 on animal health requirements for aquaculture animals and products thereof, and on the prevention and control of certain diseases in aquatic animals

Case	Summary
	No case-law as of 31 December 2017

2.2.81. Decision 2006/767/EC of 6 November 2006 amending Commission Decisions 2003/804/EC and 2003/858/EC, as regards certification requirements for live molluscs and live fish of aquaculture origin and products thereof intended for human consumption

Case	Summary
	No case-law as of 31 December 2017

2.2.82. Directive 2006/88 of 24 October 2006 on animal health requirements for aquaculture animals and products thereof, and on the prevention and control of certain diseases in aquatic animals

Case	Summary
	No case-law as of 31 December 2017

2.2.83. Regulation № 1251/2008 implementing Council Directive 2006/88/EC as regards conditions and certification requirements for the placing on the market and the import into the Community of aquaculture animals and products thereof and laying down a list of vector species

Case	Summary
	No case-law as of 31 December 2017

2.2.84. Regulation № 853/2004 of 24 April 2004 laying down specific hygiene rules for food of animal origin (Chapter VII)

Case	Summary
	No relevant case-law as of 31 December 2017

2.2.85. Regulation № 1251/2008 implementing Council Directive 2006/88/EC as regards conditions and certification requirements for the placing on the market and the import into the Community of aquaculture animals and products thereof and laying down a list of vector species

Case	Summary
	No case-law as of 31 December 2017

2.2.86. Directive 2009/158 on animal health conditions governing intra-Community trade in, and imports from third countries of poultry and hatching eggs

Case	Summary
	No case-law as of 31 December 2017

2.2.87. Directive 88/407 of 14 June 1988 laying down the animal health requirements applicable to intra-Community trade in and imports of deep-frozen semen of domestic animals of the bovine species

Case	Summary
	No relevant case-law as of 31 December 2017

2.2.88. Directive 92/65 laying down animal health requirements governing trade in and imports into the Community of animals, semen, ova and embryos №t subject to animal health requirements laid down in specific Community rules referred to in Annex A (I) to Directive 90/425/EEC

Case	Summary
	No relevant case-law as of 31 December 2017

2.2.89. Decision 2004/211 establishing the list of third countries and parts of territory thereof from which Member States authorise imports of live equidae and semen, ova and embryos of the equine species

Case	Summary
	No case-law as of 31 December 2017

2.2.90. Decision 2011/630 on imports into the Union of semen of domestic animals of the bovine species

Case	Summary
	No case-law as of 31 December 2017

2.2.91. Directive 90/429 laying down the animal health requirements applicable to intra- Community trade in and imports of semen of domestic animals of the porcine species

Case	Summary
	No case-law as of 31 December 2017

2.2.92. Commission implementing Decision 2012/137/EC on imports into the Union of semen of domestic animals of the porcine species

Case	Summary
	No case-law as of 31 December 2017

2.2.93. Decision 2010/471 on imports into the Union of semen, ova and embryos of animals of the equine species as regards lists of semen collection and storage centres and embryo collection and production teams and certification requirements

Case	Summary

	No case-law as of 31 December 2017

2.2.94. Decision 2010/472 on imports of semen, ova and embryos of animals of the ovine and caprine species into the Union

Case	Summary
	No case-law as of 31 December 2017

2.2.95. Directive 89/556 on animal health conditions governing intra-Community trade in and importation from third countries of embryos of domestic animals of the bovine species

Case	Summary
	No case-law as of 31 December 2017

2.2.96. Decision 2006/168 establishing the animal health and veterinary certification requirements for imports into the Community of bovine embryos

Case	Summary
	No case-law as of 31 December 2017

2.2.97. Regulation 1739/2005 laying down animal health requirements for the movement of circus animals between Member States

Case	Summary
	No case-law as of 31 December 2017

2.2.98. Council Regulation (EC) № 338/97 on the protection of species of wild fauna and flora by regulating trade therein

Case	Summary

Case	Summary
Case C-344/08 Criminal proceedings against Tomasz Rubach	**Facts:** this was a reference for preliminary ruling submitted by Sąd Rejonowy w Kościanie (Poland) in course of criminal proceedings against Tomasz Rubach (see further paras. 12-18 of the judgment). In course of those proceedings the Polish court raised doubts as to interpretation of Regulation 338/97, in particular Article 8(5) thereof (see further para. 19 of the judgment). **Judgment:** Article 8(5) of Council Regulation (EC) No 338/97 o on the protection of species of wild fauna and flora by regulating trade therein must be interpreted as meaning that, in the context of criminal proceedings brought against a person accused of having infringed that provision, any type of evidence accepted under the procedural law of the Member State concerned in similar proceedings is in principle admissible for the purpose of establishing whether specimens of animal species listed in Annex B to that regulation were lawfully acquired. In the light also of the principle of the presumption of innocence, such a person may adduce any such evidence to prove that those specimens came lawfully into his possession in accordance with the conditions laid down in that provision. **Relevance:** this judgment is of relevance for the Ukrainian authorities as it sheds light on the interpretation of the Regulation in question. It is particularly important as it deals with a provision, which requires further domestic measures (even though it is a regulation, which in the Member States benefits from direct applicability).

2.2.99. Commission Decision 2010/270/EC amending Parts 1 and 2 of Annex E to Council Directive 92/65/EEC as regards the model health certificates for animals from holdings and for bees and bumble bees

Case	Summary
	No case-law as of 31 December 2017

2.2.100. Directive 92/119 introducing general Community measures for the control of certain animal diseases and specific measures relating to swine vesicular disease

Case	Summary
	No relevant case-law as of 31 December 2017

2.2.101. Decision 2000/428 establishing diagnostic procedures, sampling methods and criteria for the evaluation of the results of laboratory tests for the confirmation and differential diagnosis of swine vesicular disease

Case	Summary
	No case-law as of 31 December 2017

2.2.102. Directive 82/894 on the notification of animal diseases within the Community

Case	Summary
	No relevant case-law as of 31 December 2017

2.2.103. Directive 92/35 laying down control rules and measures to combat African horse sickness

Case	Summary
	No relevant case-law as of 31 December 2017

2.2.104. Commission Decision 2009/3/EC establishing Community reserves of vaccines against African horse sickness

Case	Summary
	No case-law as of 31 December 2017

2.2.105. Council Directive 2000/75/EC laying down specific provisions for the control and eradication of bluetongue

Case	Summary
	No case-law as of 31 December 2017

2.2.106. Commission Regulation № 789/2009 amending Regulation (EC) № 1266/2007 as regards protection against attacks by vectors and minimum requirements for bluetongue monitoring and surveillance programmes

Case	Summary
	No case-law as of 31 December 2017

2.2.107. Decision 2008/855 concerning animal health control measures relating to classical swine fever in certain Member States

Case	Summary
	No case-law as of 31 December 2017

2.2.108. Directive 2001/89 on Community measures for the control of classical swine fever

Case	Summary
	No relevant case-law as of 31 December 2017

2.2.109. Directive 92/119 introducing general Community measures for the control of certain animal diseases and specific measures relating to swine vesicular disease

Case	Summary
	No case-law as of 31 December 2017

2.2.110. Commission Decision 2005/217/EC establishing the animal health conditions and the veterinary certification requirements for imports into the Community of bovine embryos

Case	Summary
	No case-law as of 31 December 2017

2.2.111. Commission Decision 92/260/EEC on animal health conditions and veterinary certification for temporary admission of registered horses

Case	Summary
	No case-law as of 31 December 2017

2.2.112. Decision 93/197 on animal health conditions and veterinary certification for imports of registered equidae and equidae for breeding and production

Case	Summary
	No case-law as of 31 December 2017

2.2.113. Directive 2002/60 laying down specific provisions for the control of African swine fever and amending Directive 92/119/EEC as regards Teschen disease and African swine fever

Case	Summary
	No case-law as of 31 December 2017

2.2.114. Decision 2003/634 approving programmes for the purpose of obtaining the status of approved zones and of approved farms in Non-approved zones with regard to viral haemorrhagic septicaemia (VHS) and infectious haematopoietic necrosis (IHN) in fish

Case	Summary
	No case-law as of 31 December 2017

2.2.115. Decision 2003/466 establishing criteria for zoning and official surveillance following suspicion or confirmation of the presence of infectious salmon anaemia (ISA)

Case	Summary
	No case-law as of 31 December 2017

2.2.116. Commission Implementing Regulation (EU) 2015/262 laying down rules pursuant to Council Directives 90/427/EEC and 2009/156/EC as regards the methods for the identification of equidae

Case	Summary
	No case-law as of 31 December 2017

2.2.117. Regulation № 1760/2000 establishing a system for the identification and registration of bovine animals and regarding the labelling of beef and beef products

Case	Summary
	No relevant case-law as of 31 December 2017

2.2.118. Regulation № 911/2004 implementing Regulation (EC) № 1760/2000 of the European Parliament and of the Council as regards eartags, passports and holding registers

Case	Summary
	No relevant case-law as of 31 December 2017

2.2.119. Decision 2006/28 on extension of the maximum period for applying eartags to certain bovine animals

Case	Summary
	No case-law as of 31 December 2017

2.2.120. Regulation № 494/98 laying down detailed rules for the implementation of Council Regulation (EC) № 820/97 as regards the application of minimum administrative sanctions in the framework of the system for the identification and registration of bovine animals

Case	Summary
	No case-law as of 31 December 2017

2.2.121. Regulation 1082/2003 laying down detailed rules for the implementation of Regulation (EC) № 1760/2000 of the European Parliament and of the Council as regards the minimum level of controls to be carried out in the framework of the system for the identification and registration of bovine animals

Case	Summary
	No case-law as of 31 December 2017

2.2.122. Regulation № 1505/2006 implementing Council Regulation (EC) № 21/2004 as regards the minimum level of checks to be carried out in relation to the identification and registration of ovine and caprine animals

Case	Summary
	No case-law as of 31 December 2017

2.2.123. Regulation № 21/2004 establishing a system for the identification and registration of ovine and caprine animals

Case	Summary
	No relevant case-law as of 31 December 2017

2.2.124. Decision 2006/968 implementing Council Regulation (EC) № 21/2004 as regards guidelines and procedures for the electronic identification of ovine and caprine animals

Case	Summary
	No case-law as of 31 December 2017

2.2.125. Directive 2008/71 of 15 July 2008 on the identification and registration of pigs

Case	Summary
	No case-law as of 31 December 2017

2.2.126. Decision 2000/678 laying down detailed rules for registration of holdings in national databases for porcine animals as foreseen by Council Directive 64/432/EEC

Case	Summary
	No case-law as of 31 December 2017

2.2.127. Regulation № 1069/2009 laying down health rules as regards animal by-products and derived products №t intended for human consumption

Case	Summary
	No case-law as of 31 December 2017

2.2.128. Regulation № 142/2011 implementing Regulation (EC) № 1069/2009 of the European Parliament and of the Council laying down health rules as regards animal by-products and derived products №t intended for human consumption and implementing Council Directive 97/78/EC as regards certain samples and items exempt from veterinary checks at the border under that Directive

Case	Summary
	No case-law as of 31 December 2017

2.2.129. Regulation (EU) № 749/2011 amending Regulation (EU) №. 142/2011 implementing Regulation (EC) №. 1069/2009 of the European Parliament and of the Council laying down health rules as regards animal by-products and derived products №t intended for human consumption and implementing Council Directive 97/78/EC as regards certain samples and items exempt from veterinary checks at the border under that Directive

Case	Summary
	No case-law as of 31 December 2017

2.2.130. Regulation (EC) № 2160/2003 on the control of salmonella and other specified food-borne zoonotic agents

Case	Summary
	No case-law as of 31 December 2017

2.2.131. Directive 2003/99 on the monitoring of zoonoses and zoonoic agents

Case	Summary
	No case-law as of 31 December 2017

2.2.132. Regulation (EC) № 183/2005 of the European Parliament and of the Council of 12 January 2005 laying down requirements for feed hygiene

Case	Summary
	No case-law as of 31 December 2017

2.2.133. Regulation (EC) № 1831/2003 of the European Parliament and of the Council of 22 September 2003 on additives for use in animal nutrition

Case	Summary
	No case-law as of 31 December 2017

2.2.134. Commission Regulation (EU) № 16/2011 of 10 January 2011 laying down implementing measures for the Rapid alert system for food and feed

Case	Summary
	No case-law as of 31 December 2017

2.2.135. Regulation № 429/2008 of 25 April 2008 on detailed rules for the implementation of Regulation (EC) № 1831/2003 of the European Parliament and of the Council as regards the preparation and the presentation of applications and the assessment and the authorisation of feed additives

Case	Summary
	No case-law as of 31 December 2017

2.2.136. Commission Regulation (EC) № 1876/2006 of 19 December 2006 concerning the provisional and permanent authorisation of certain additives in feedingstuffs

Case	Summary
	No case-law as of 31 December 2017

2.2.137. Regulation № 378/2005 of 4 March 2005 on detailed rules for the implementation of Regulation (EC) № 1831/2003 of the European Parliament and of the Council as regards the duties and tasks of the Community Reference Laboratory concerning applications for authorisations of feed additives

Case	Summary
	No case-law as of 31 December 2017

2.2.138. Regulation № 1270/2009 of 21 December 2009 concerning the permanent authorisations of certain additives in feedingstuffs

Case	Summary
	No case-law as of 31 December 2017

2.2.139. Commission Regulation (EU) № 892/2010 of 8 October 2010 on the status of certain products with regard to feed additives within the scope of Regulation (EC) № 1831/2003 of the European Parliament and of the Council

Case	Summary
	No case-law as of 31 December 2017

2.2.140. Regulation № 767/2009 of 13 July 2009 on the placing on the market and use of feed

Case	Summary
	No case-law as of 31 December 2017

2.2.141. Directive 2008/38 of 5 March 2008 establishing a list of intended uses of animal feedingstuffs for particular nutritional purposes

Case	Summary
	No case-law as of 31 December 2017

2.2.142. Recommendation 2011/25/EU of 14 January 2011 establishing guidelines for the distinction between feed materials, feed additives, biocidal products and veterinary medicinal products

Case	Summary
	No case-law as of 31 December 2017

2.2.143. Commission Regulation (EU) № 68/2013 of 16 January 2013 on the Catalogue of feed materials

Case	Summary
	No case-law as of 31 December 2017

2.2.144. Regulation 767/2009 of 13 July 2009 on the placing on the market and use of feed

Case	Summary
	No case-law as of 31 December 2017

2.2.145. Recommendation 2004/704 of 11 October 2004 on the monitoring of background levels of dioxins and dioxin-like PCBs in feedingstuffs

Case	Summary
	No case-law as of 31 December 2017

2.2.146. Directive 90/167 of 26 March 1990 laying down the conditions governing the preparation, placing on the market and use of medicated feeding stuffs in the Community

Case	Summary
	No case-law as of 31 December 2017

2.2.147. Directive 2001/82/EC of the European Parliament and of the Council of 6 November 2001 on the Community code relating to veterinary medicinal products

Case	Summary

	No relevant case-law as of 31 December 2017

2.2.148. Directive 2004/28/EC amending Directive 2001/82/EC on the Community code relating to veterinary medicinal products

Case	Summary
	No case-law as of 31 December 2017

2.2.149. Regulation (EU) № 37/2010 on pharmacologically active substances and their classification regarding maximum residue limits in foodstuffs of animal origin

Case	Summary
	No case-law as of 31 December 2017

2.2.150. Regulation (EC) № 470/2009 laying down Community procedures for the establishment of residue limits of pharmacologically active substances in foodstuffs of animal origin

Case	Summary
	No case-law as of 31 December 2017

2.2.151. Regulation (EC) № 1099/2009 on the protection of animals at the time of killing

Case	Summary
	No case-law as of 31 December 2017

2.2.152. Implementing Decision 2013/188/EC on annual reports on Non-discriminatory inspections carried out pursuant to Council Regulation (EC) № 1/2005 on the protection of animals during transport and related operations

Case	Summary
	No case-law as of 31 December 2017

2.2.153. Decision 2006/778/EC concerning minimum requirements for the collection of information during the inspections of production sites on which certain animals are kept for farming purposes

Case	Summary
	No case-law as of 31 December 2017

2.2.154. Directive 1999/74/EC laying down minimum standards for the protection of laying hens

Case	Summary
	No case-law as of 31 December 2017

2.2.155. Directive 2002/4/EC on the registration of establishments keeping laying hens, covered by Council Directive 1999/74/EC

Case	Summary
	No case-law as of 31 December 2017

2.2.156. Directive 2007/43/EC laying down minimum rules for the protection of chickens kept for meat production

Case	Summary
	No case-law as of 31 December 2017

2.2.157. Directive 2008/119/EC laying down minimum standards for the protection of calves

Case	Summary
	No case-law as of 31 December 2017

2.2.158. Directive 2008/120/EC laying down minimum standards for the protection of pigs

Case	Summary
	No case-law as of 31 December 2017

2.2.159. Directive 2000/29 of 8 May 2000 on protective measures against the introduction into the Community of organisms harmful to plants or plant products and against their spread within the Community

Case	Summary
	No relevant case-law as of 31 December 2017

2.2.160. Directive 98/22 laying down the minimum conditions for carrying out plant health checks in the Community, at inspection posts other than those at the place of destination, of plants, plant products or other objects coming from third countries

Case	Summary
	No case-law as of 31 December 2017

2.2.161. Directive 92/90 establishing obligations to which producers and importers of plants, plant products or other objects are subject and establishing details for their registration

Case	Summary
	No case-law as of 31 December 2017

2.2.162. Directive 93/51 establishing rules for movements of certain plants, plant products or other objects through a protected zone, and for movements of such plants, plant products or other objects originating in and moving within such a protected zone

Case	Summary
	No case-law as of 31 December 2017

2.2.163. Directive 92/105 establishing a degree of standardization for plant passports to be used for the movement of certain plants, plant products or other objects within the Community, and establishing the detailed procedures related to the issuing of such plant passports and the conditions and detailed procedures for their replacement

Case	Summary
	No case-law as of 31 December 2017

2.2.164. Directive 2004/102/EC amending Annexes II, III, IV and V to Council Directive 2000/29/EC on protective measures against the introduction into the Community of organisms harmful to plants or plant products and against their spread within the Community

Case	Summary
	No case-law as of 31 December 2017

2.2.165. Directive 94/3 establishing a procedure for the notification of interception of a consignment or a harmful organism from third countries and presenting an imminent phytosanitary danger

Case	Summary
	No case-law as of 31 December 2017

2.2.166. Directive 2004/103 on identity and plant health checks of plants, plant products or other objects, listed in Part B of Annex V to Council Directive 2000/29/EC, which may be carried out at a place other than the point of entry into the Community or at a place close by and specifying the conditions related to these checks

Case	Summary
	No case-law as of 31 December 2017

2.2.167. Directive 2004/105 determining the models of official phytosanitary certificates or phytosanitary certificates for re-export accompanying plants, plant products or other objects from third countries and listed in Council

Case	Summary
	No case-law as of 31 December 2017

2.2.168. Directive 69/464 on control of Potato Wart Disease

Case	Summary
	No case-law as of 31 December 2017

2.2.169. Directive 93/85 on control of Potato Ring Rot

Case	Summary
	No case-law as of 31 December 2017

2.2.170. Directive 98/57/EC on the control of Ralstonia solanacearum (Smith) Yabuuchi et al.

Case	Summary
	No case-law as of 31 December 2017

2.2.171. Directive 2007/33 on the control of potato cyst nematodes

Case	Summary
	No case-law as of 31 December 2017

2.2.172. Implementing Decision 2011/787/EU authorising Member States temporarily to take emergency measures against the dissemination of Ralstonia solanacearum (Smith) Yabuuchi et al. as regards Egypt

Case	Summary
	No case-law as of 31 December 2017

2.2.173. Implementing Decision 2012/535/EU on emergency measures to prevent the spread within the Union of Bursaphelenchus xylophilus (Steiner et Buhrer) Nickle et al. (the pine wood nematode)

Case	Summary
	No case-law as of 31 December 2017

2.2.174. Decision 2012/138 as regards emergency measures to prevent the introduction into and the spread within the Union of Anoplophora chinensis (Forster)

Case	Summary
	No case-law as of 31 December 2017

2.2.175. Regulation 1756/2004 specifying the detailed conditions for the evidence required and the criteria for the type and level of the reduction of the plant health checks of certain plants, plant products or other objects listed in Part B of Annex V to Council Directive 2000/29/EC

Case	Summary
	No case-law as of 31 December 2017

2.2.176. Directive 2008/61 establishing the conditions under which certain harmful organisms, plants, plant products and other objects listed in Annexes I to V to Council Directive 2000/29/EC may be introduced into or moved within the Community or certain protected zones thereof, for trial or scientific purposes and for work on varietal selections

Case	Summary
	No case-law as of 31 December 2017

2.2.177. Directive № 97/46 on the importation and circulation of harmful agents and plant products

Case	Summary
	No case-law as of 31 December 2017

2.2.178. Regulation (EC) № 2100/94 on Community plant variety rights

Case	Summary
C-481/14 Hansson	**Facts:** this was a reference for preliminary ruling submitted by *Oberlandesgericht Düsseldorf* (Higher Regional Court, Düsseldorf, Germany) in course of proceedings between Mr Jørn Hansson and Jungpflanzen Grünewald

Case	Summary
	GmbH concerning compensation for the damage resulting from infringements of a Community plant variety right (see further paras. 12-24 of the judgment). The German court hearing the case expressed doubts as to interpretation of Regulation 2100/94 and submitted 8 questions to the Court of Justice (see para. 25 of the judgment). In a nutshell, it wished to receive a clarification as to the principles governing calculation of compensation. **Judgment:** the Court of Justice held that the right to compensation Article 94 of Regulation 2100/94 establishes for the holder of a plant variety right that has been infringed encompasses all the damage sustained by that holder, although that article cannot serve as a basis either for the imposition of a flat-rate 'infringer supplement' or, specifically, for the restitution of the profits and gains made by the infringer. Furthermore, the Court of Justice held that the concept of "reasonable compensation" must be interpreted as meaning that it covers, in addition to the fee that would normally be payable for licensed production, all damage that is closely connected to the failure to pay that fee, which may include, *inter alia*, payment of default interest. It is for the referring court to determine the circumstances which require that fee to be increased, bearing in mind that each of them may be taken into account only once for the purpose of determining the amount of reasonable compensation. Furthermore, the Court of Justice added that Article 94(2) of Regulation No 2100/94 provides that the amount of the damage referred to in that provision must be determined on the basis of the specific matters put forward in that regard by the holder of the variety infringed, if need be using a lump-sum method if those matters are not quantifiable. It is not contrary to that provision if the costs incurred in an unsuccessful interlocutory application are left out of account in the determination of that damage or if the out-of-court expenses incurred in connection with the main action are not taken into consideration. However, a condition for not taking those expenses into account is that the amount of the legal costs that are likely to be awarded to the victim of the infringement is not such, in view of the sums he has incurred in respect of out-of-court expenses and their utility in the main action for damages, as to deter him from bringing legal proceedings in order to enforce his rights. **Relevance:** this judgment is of crucial importance for the Ukrainian authorities as it clarifies a fundamental issue, which is largely left to the Member States decisions. Hence, it sheds a light on how this gap can be filled in domestic legislation.

Case	Summary
C-242/14 Saatgut-Treuhandverwaltung	**Facts:** this was a reference for preliminary ruling submitted by *Landgericht Mannheim* (Germany) in course of proceedings between Saatgut-Treuhandverwaltungs GmbH, which represents the interests of the holder of Community plant variety rights in respect of the winter barley variety 'Finita', and Gerhard und Jürgen Vogel GbR, an agricultural company, Mr G. Vogel and Mr J. Vogel, the personally liable partners in that company concerning the Vogels' planting of that variety. The referring court, in principle, wished to learn if the period within which a farmer who has planted propagating material obtained from a protected plant variety (farm-saved seed) without having concluded a contract for so doing with the holder of the plant variety right concerned must comply with the requirement to pay the equitable remuneration due under the fourth indent of Article 14(3) of Regulation No 2100/94 in order to be able to benefit from the derogation from the obligation to obtain the holder's authorisation provided for in Article 14. **Judgment:** the Court of Justice held that in order to be able to benefit from the derogation provided for in Article 14 of Regulation (EC) No 2100/94 from the obligation to obtain the authorisation of the holder of the plant variety right concerned, a farmer who has planted propagating material obtained from a protected plant variety (farm-saved seed) without having concluded a contract for so doing with the holder is required to pay the equitable remuneration due under the fourth indent of Article 14(3) of that Regulation within the period that expires at the end of the marketing year during which that planting took place, that is, no later than 30 June following the date of reseeding. **Relevance:** this judgment is important for approximation of Ukrainian legislation with Regulation 2100/94 as it clarifies the scope and meaning of Article 14 of this legal act. It should be taken into account when relevant provisions are drafted/updated.
C-509/10 Geistbeck	**Facts:** this was a reference for preliminary ruling submitted by *Bundesgerichtshof* (Germany) in course of proceedings between two farmers, Josef and Thomas Geistbeck, and Saatgut-Treuhandverwaltungs GmbH— a company which represents the interests of the holders of the rights relating to the protected plant varieties, Kuras, Quarta, Solara and Marabel — with regard to the planting of those varieties by the Geistbecks in a way which did not fully accord with the declaration made (see further paras. 13-18 of the judgment). One of the main issues raised by the referring court was the amount of compensation due (see further paras. 13-18 of the judgment).

Case	Summary
	Judgment: the Court of Justice held that in order to determine the "reasonable compensation" payable, under Article 94(1) of Council Regulation (EC) No 2100/94, by a farmer who has used the propagating material of a protected variety obtained through planting and has not fulfilled his obligations under Article 14(3) of that regulation, read in conjunction with Article 8 of Commission Regulation (EC) No 1768/95 it is appropriate to base the calculation on the amount of the fee payable for the licensed production of propagating material of protected varieties of the plant species concerned in the same area. Furthermore, the payment of compensation for costs incurred for monitoring compliance with the rights of the plant variety holder cannot enter into the calculation of the "reasonable compensation" provided for under Article 94(1) of Regulation No 2100/94 (see further paras. 20-51 of the judgment). **Relevance:** this judgment is yet another example where the Court of Justice was asked to assist a domestic court in interpretation of Article 94 of Regulation 2100/94. It sheds a light into domestic rules that need to be adopted in order to fill the gaps left by the EU legislator when it comes to compensation for breaches of Regulation 2100/94.
C-140/10 Greenstar-Kanzi Europe	**Facts:** this was a reference for preliminary ruling submitted by *Hof van Cassatie* (Belgium) in course of proceedings between Greenstar-Kanzi Europe NV, on the one hand, and Mr Hustin and Mr Goossens, on the other, concerning an alleged infringement by Mr Hustin and Mr Goossens of the Kanzi trade mark and the Nicoter apple tree variety and of the associated trade mark and Community plant variety rights, on account of the fact that Mr Hustin and Mr Goossens marketed apples under the Kanzi trade mark (see further paras. 10-19). The referring court asked the Court of Justice 2 questions as to interpretation of Article 94 of Regulation 2100/94 (see para. 20 of the judgment). **Judgment:** Article 94 of Regulation 2100/94 means that the holder or the person enjoying the right of exploitation may bring an action for infringement against a third party which has obtained material through another person enjoying the right of exploitation who has contravened the conditions or limitations set out in the licensing contract that that other person concluded at an earlier stage with the holder to the extent that the conditions or limitations in question relate directly to the essential features of the Community plant variety right concerned. Furthermore, it is of no significance for the assessment of the infringement that the

Case	Summary
	third party which effected the acts on the material sold or disposed of was aware or was deemed to be aware of the conditions or limitations imposed in the licensing contract. **Relevance:** this judgment should be taken into account by the Ukrainian authorities dealing with approximation of domestic law with Regulation 2100/94. It sheds additional light on interpretation of this crucial provision and what domestic law can provide to make the legal framework for compensation complete.

2.2.179. Regulation (EC) № 2506/95 amending Regulation (EC) № 2100/94 on Community plant variety rights

Case	Summary
	No relevant case-law as of 31 December 2017

2.2.180. Regulation (EC) № 2470/96 providing for an extension of the terms of a Community plant variety right in respect of potatoes

Case	Summary
	No case-law as of 31 December 2017

2.2.181. Regulation (EC) № 1238/95 establishing implementing rules for the application of Council Regulation (EC) № 2100/94 as regards the fees payable to the Community Plant Variety Office

Case	Summary
	No case-law as of 31 December 2017

2.2.182. Regulation (EC) № 1768/95 implementing rules on the agricultural exemption provided for in Article 14 (3) of Council Regulation (EC) № 2100/94 on Community plant variety rights

Case	Summary
C-242/14 Saatgut-Treuhandverwaltung	See s. 2.2.178 above.

C-509/10 Geistbeck	See s. 2.2.178 above.

2.2.183. Regulation (EC) № 874/2009 establishing implementing rules for the application of Council Regulation (EC) №2100/94 as regards proceedings before the Community Plant Variety Office

Case	Summary
	No relevant case-law as of 31 December 2017

2.2.184. Regulation (EC) № 2605/98 amending Regulation (EC) № 1768/95 implementing rules on the agricultural exemption provided for in Article 14(3) of Council Regulation (EC) № 2100/94 on Community plant variety rights

Case	Summary
	No relevant case-law as of 31 December 2017

2.2.185. Regulation № 188/2011 laying down detailed rules for the implementation of Council Directive 91/414/EEC as regards the procedure for the assessment of active substances which were №t on the market 2 years after the date of notification of that Directive

Case	Summary
	No case-law as of 31 December 2017

2.2.186. Regulation № 540/2011 of 25 May 2011 implementing Regulation (EC) № 1107/2009 of the European Parliament and of the Council as regards the list of approved active substances

Case	Summary
	No case-law as of 31 December 2017

2.2.187. Regulation № 541/2011 amending Implementing Regulation (EU) № 540/2011 implementing Regulation (EC) № 1107/2009 of the European Parliament and of the Council as regards the list of approved active substances

Case	Summary

	No case-law as of 31 December 2017

2.2.188. Regulation № 544/2011 implementing Regulation (EC) № 1107/2009 of the European Parliament and of the Council as regards the data requirements for active substances

Case	**Summary**
	No case-law as of 31 December 2017

2.2.189. Regulation № 545/2011 implementing Regulation (EC) № 1107/2009 of the European Parliament and of the Council as regards the data requirements for plant protection products

Case	**Summary**
	No case-law as of 31 December 2017

2.2.190. Regulation № 546/2011 implementing Regulation (EC) № 1107/2009 of the European Parliament and of the Council as regards uniform principles for evaluation and authorisation of plant protection products

Case	**Summary**
	No case-law as of 31 December 2017

2.2.191. Regulation № 547/2011 implementing Regulation (EC) № 1107/2009 of the European Parliament and of the Council as regards labelling requirements for plant protection products

Case	**Summary**
	No case-law as of 31 December 2017

2.2.192. Regulation № 702/2011 approving the active substance prohexadione, in accordance with Regulation (EC) № 1107/2009 of the European Parliament and of the Council concerning the placing of plant protection products on the market, and amending the Annex to Commission Implementing Regulation (EU) № 540/2011

Case	Summary
	No case-law as of 31 December 2017

2.2.193. Regulation № 703/2011 approving the active substance azoxystrobin, in accordance with Regulation (EC) № 1107/2009 of the European Parliament and of the Council concerning the placing of plant protection products on the market, and amending the Annex to Commission Implementing Regulation (EU) № 540/2011

Case	Summary
	No case-law as of 31 December 2017

2.2.194. Regulation № 704/2011 approving the active substance azimsulfuron, in accordance with Regulation (EC) № 1107/2009 of the European Parliament and of the Council concerning the placing of plant protection products on the market, and amending the Annex to Commission Implementing Regulation (EU) № 540/2011

Case	Summary
	No case-law as of 31 December 2017

2.2.195. Regulation № 705/2011 approving the active substance imazalil, in accordance with Regulation (EC) № 1107/2009 of the European Parliament and of the Council concerning the placing of plant protection products on the market, and amending the Annex to Commission Implementing Regulation (EU) № 540/2011

Case	Summary
	No case-law as of 31 December 2017

2.2.196. Regulation № 706/2011 of 20 July 2011 approving the active substance profoxydim, in accordance with Regulation (EC) № 1107/2009 of the European Parliament and of the Council concerning the placing of plant protection products on the market, and amending the Annex to Commission Implementing Regulation (EU) № 540/2011

Case	Summary
	No case-law as of 31 December 2017

2.2.197. Regulation № 736/2011 approving the active substance fluroxypyr, in accordance with Regulation (EC) № 1107/2009 of the European Parliament and of the Council concerning the placing of plant protection products on the market, and amending the Annex to Commission Implementing Regulation (EU) № 540/2011

Case	Summary
	No case-law as of 31 December 2017

2.2.198. Regulation № 740/2011 approving the active substance bispyribac, in accordance with Regulation (EC) № 1107/2009 of the European Parliament and of the Council concerning the placing of plant protection products on the market, and amending the Annex to Commission Implementing Regulation (EU) № 540/2011

Case	Summary
	No case-law as of 31 December 2017

2.2.199. Regulation № 786/2011 of 5 August 2011 approving the active substance 1-naphthylacetamide, in accordance with Regulation (EC) № 1107/2009 of the European Parliament and of the Council concerning the placing of plant protection products on the market, and amending the Annex to Commission Implementing Regulation (EU) № 540/2011 and Commission Decision 2008/941/EC

Case	Summary
	No case-law as of 31 December 2017

2.2.200. Regulation № 787/2011 approving the active substance 1-naphthylacetic acid, in accordance with Regulation (EC) № 1107/2009 of the European Parliament and of the Council concerning the placing of plant protection products on the market, and amending the Annex to Commission Implementing Regulation (EU) № 540/2011 and Commission Decision 2008/941/EC

Case	Summary
	No case-law as of 31 December 2017

2.2.201. Regulation № 788/2011 approving the active substance fluazifop-P, in accordance with Regulation (EC) № 1107/2009 of the European Parliament and of the Council concerning the placing of plant protection products on the market, and amending the Annex to Commission Implementing Regulation (EU) № 540/2011 and Commission Decision 2008/934/EC

Case	Summary
	No case-law as of 31 December 2017

2.2.202. Regulation № 797/2011 approving the active substance spiroxamine, in accordance with Regulation (EC) № 1107/2009 of the European Parliament and of the Council concerning the placing of plant protection products on the market, and amending the Annex to Commission Implementing Regulation (EU) № 540/2011

Case	Summary
	No case-law as of 31 December 2017

2.2.203. Regulation № 798/2011 approving the active substance oxyfluorfen, in accordance with Regulation (EC) № 1107/2009 of the European Parliament and of the Council concerning the placing of plant protection products on the market, and amending the Annex to Commission Implementing Regulation (EU) № 540/2011 and Commission Decision 2008/934/EC

Case	Summary
	No case-law as of 31 December 2017

2.2.204. Regulation № 800/2011 approving the active substance tefluthrin, in accordance with Regulation (EC) № 1107/2009 of the European Parliament and of the Council concerning the placing of plant protection products on the market, and amending the Annex to Commission Implementing Regulation (EU) № 540/2011 and amending Commission Decision 2008/934/EC

Case	Summary
	No case-law as of 31 December 2017

2.2.205. Regulation № 807/2011 approving the active substance triazoxide, in accordance with Regulation (EC) № 1107/2009 of the European Parliament and of the Council concerning the placing of plant protection products on the market, and amending the Annex to Commission Implementing Regulation (EU) № 540/2011

Case	Summary
	No case-law as of 31 December 2017

2.2.206. Regulation № 810/2011 approving the active substance kresoxim-methyl, in accordance with Regulation (EC) № 1107/2009 of the European Parliament and of the Council concerning the placing of plant protection products on the market, and amending the Annex to Commission Implementing Regulation (EU) № 540/2011

Case	Summary
	No case-law as of 31 December 2017

2.2.207. Regulation № 974/2011 approving the active substance acrinathrin, in accordance with Regulation (EC) № 1107/2009 of the European Parliament and of the Council concerning the placing of plant protection products on the market, and amending the Annex to Commission Implementing Regulation (EU) № 540/2011 and Commission Decision 2008/934/EC

Case	Summary
	No case-law as of 31 December 2017

2.2.208. Regulation № 993/2011 approving the active substance 8-hydroxyquinoline, in accordance with Regulation (EC) № 1107/2009 of the European Parliament and of the Council concerning the placing of plant protection products on the market, and amending the Annex to Commission Implementing Regulation (EU) № 540/2011

Case	Summary
	No case-law as of 31 December 2017

2.2.209. Regulation № 1143/2011 approving the active substance prochloraz, in accordance with Regulation (EC) № 1107/2009 of the European Parliament and of the Council concerning the placing of plant protection products on the market, and amending the Annex to Commission Implementing Regulation (EU) № 540/2011 and Commission Decision 2008/934/EC

Case	Summary
	No case-law as of 31 December 2017

2.2.210. Regulation № 359/2012 approving the active substance metam, in accordance with Regulation (EC) № 1107/2009 of the European Parliament and of the Council concerning the placing of plant protection products on the market, and amending the Annex to Commission Implementing Regulation (EU) № 540/2011

Case	Summary
	No case-law as of 31 December 2017

2.2.211. Regulation (EC) № 882/2004 on official controls performed to ensure the verification of compliance with feed and food law, animal health and animal welfare rules

Case	Summary
Case C-112/15 Kødbranchens Fællesråd v Ministeriet for Fødevarer, Landbrug og Fiskeri and Fødevarestyrelsen	**Facts:** this was a reference for preliminary ruling submitted by Østre Landsret (Eastern Regional Court, Denmark) in course of proceedings between Kødbranchens Fællesråd (livestock sector's trade organisation) and Ministeriet for Fødevarer, Landbrug og Fiskeri (Ministry for Food, Agriculture and Fisheries) and Fødevarestyrelsen (Danish Veterinary and Food Administration) concerning the payment of fees incurred for the official control of feed and food (see further paras. 21-26 of the judgment). The referring court wished to know the extent of powers of the Member States to set fees related to meat inspections (see para. 27 of the judgment). **Judgment:** Article 27(4)(a) and Annex VI, points (1) and (2), of Regulation (EC) No 882/2004 precludes the Member States, when they prescribe the fees charged to food sector establishments, from including the costs connected to the compulsory basic training of official auxiliaries.

Case	Summary
	Relevance: this judgment should be taken into account by the Ukrainian authorities in charge of this chapter of EU *acquis*. It clarifies an important aspect of setting fees for meat inspections conducted by relevant domestic authorities.
Case C-523/09 Rakvere Piim AS and Maag Piimatööstus AS v Veterinaar- ja Toiduamet	**Facts:** this was a reference for preliminary ruling submitted by Tartu ringkonnakohus (Estonia) in course of proceedings between Rakvere Piim AS and Maag Piimatööstus AS, companies established under Estonian law, and the Veterinaar- ja Toiduamet (Veterinary and Food Office) concerning the calculation of the fees payable for health inspections and controls in respect of milk production (see further paras. 9-14 of the judgment). **Judgment:** Article 27(3) and (4) of Regulation (EC) No 882/2004 enables a Member State to levy fees at the minimum rates laid down in Annex IV, section B to that Regulation without having to adopt a measure of application at national level, even though the costs borne by the competent authorities in connection with the health inspections and controls laid down in that regulation are lower than those rates, when the specified conditions for applying Article 27(6) of that Regulation are not satisfied. **Relevance:** this judgment should be taken into account by the Ukrainian law-makers, who are in charge of approximation with Regulation 882/2004.

2.2.212. Directive 2009/128/EC establishing a framework for Community action to achieve the sustainable use of pesticides

Case	Summary
	No case-law as of 31 December 2017

2.2.213. Regulation (EC) № 1107/2009 concerning the placing of plant protection products on the market and repealing Council Directives 79/117/EEC and 91/414/EEC

Case	Summary
	No relevant case-law of the Court of Justice as of 31 December 2017

2.2.214. C Implementing Regulation (EU) № 582/2012 approving the active substance bifenthrin, in accordance with Regulation (EC) № 1107/2009 of the European Parliament and of the Council concerning the placing of plant protection products on the market, and amending the Annex to Commission Implementing Regulation (EU) № 540/2011

Case	Summary
	No case-law as of 31 December 2017

2.2.215. Implementing Regulation (EU) № 589/2012 approving the active substance fluxapyroxad, in accordance with Regulation (EC) № 1107/2009 of the European Parliament and of the Council concerning the placing of plant protection products on the market, and amending the Annex to Commission Implementing Regulation (EU) № 540/2011

Case	Summary
	No case-law as of 31 December 2017

2.2.216. Implementing Regulation (EU) № 595/2012 approving the active substance fenpyrazamine, in accordance with Regulation (EC) № 1107/2009 of the European Parliament and of the Council concerning the placing of plant protection products on the market, and amending the Annex to Commission Implementing Regulation (EU) № 540/2011

Case	Summary
	No case-law as of 31 December 2017

2.2.217. Implementing Regulation (EU) № 746/2012 approving the active substance Adoxophyes orana granulovirus, in accordance with Regulation (EC) № 1107/2009 of the European Parliament and of the Council concerning the placing of plant protection products on the market, and amending the Annex to Commission Implementing Regulation (EU) № 540/2011

Case	Summary
	No case-law as of 31 December 2017

2.2.218. Implementing Regulation (EU) № 571/2014 approving the active substance ipconazole, in accordance with Regulation (EC) № 1107/2009 of the European Parliament and of the Council concerning the placing of plant protection products on the market, and amending the Annex to Commission Implementing Regulation (EU) № 540/2011

Case	Summary
	No case-law as of 31 December 2017

2.2.219. Implementing Regulation (EU) № 632/2014 approving the active substance flubendiamide, in accordance with Regulation (EC) № 1107/2009 of the European Parliament and of the Council concerning the placing of plant protection products on the market, and amending the Annex to Commission Implementing Regulation (EU) № 540/2011

Case	Summary
	No case-law as of 31 December 2017

2.2.220. Regulation (EC) № 396/2005 on maximum residue levels of pesticides in or on food and feed of plant and animal origin and amending Council Directive 91/414/EEC

Case	Summary
	No relevant case-law as of 31 December 2017

2.2.221. Regulation (EC) № 2003/2003 relating to fertilisers

Case	Summary
	No case-law as of 31 December 2017

2.2.222. Regulation (EC) № 1829/2003 on genetically modified food and feed

Case	Summary
C-58/10 Monsanto and Others	See s. 2.2.51 above

C-442/09 Bablok and Others	See s. 2.2.50 above

2.2.223. Implementing Regulation (EU) № 485/2013 of 24 May 2013 amending Implementing Regulation (EU) № 540/2011, as regards the conditions of approval of the active substances clothianidin, thiamethoxam and imidacloprid, and prohibiting the use and sale of seeds treated with plant protection products containing those active substances

Case	Summary
	No case-law as of 31 December 2017

2.2.224. Directive 66/401/EEC of 14 June 1966 on the marketing of fodder plant seed

Case	Summary
	No case-law as of 31 December 2017

2.2.225. Directive 66/402/EEC of 14 June 1966 on the marketing of cereal seed

Case	Summary
C-58/10 Monsanto and Others	See s. 2.2.51 above

2.2.226. Directive 98/56/EC of 20 July 1998 on the marketing of propagating material of ornamental plants

Case	Summary
	No case-law as of 31 December 2017

2.2.227. Directive 2002/54/EC of 13 June 2002 on the marketing of beet seed

Case	Summary
	No case-law as of 31 December 2017

2.2.228. Directive 2002/55/EC of 13 June 2002 on the marketing of vegetable seed

Case	Summary
	No relevant case-law as of 31 December 2017

2.2.229. Directive 2002/56/EC of 13 June 2002 on the marketing of seed potatoes

Case	Summary
	No case-law as of 31 December 2017

2.2.230. Directive 2002/57/EC of 13 June 2002 on the marketing of seed of oil and fibre plants

Case	Summary
	No case-law as of 31 December 2017

2.2.231. Directive 2008/72/EC of 15 July 2008 on the marketing of vegetable propagating and planting material, other than seed

Case	Summary
	No case-law as of 31 December 2017

2.2.232. Directive 2008/90/EC of 29 September 2008 on the marketing of fruit plant propagating material and fruit plants intended for fruit production

Case	Summary
	No case-law as of 31 December 2017

2.2.233. Implementing Directive 2014/20/EU of 6 February 2014 determining Union grades of basic and certified seed potatoes, and the conditions and designations applicable to such grades

Case	Summary

	No case-law as of 31 December 2017

2.2.234. Implementing Directive 2014/21/EU of 6 February 2014 determining minimum conditions and Union grades for pre-basic seed potatoes

Case	Summary
	No case-law as of 31 December 2017

2.2.235. Implementing Directive 2014/96/EU of 15 October 2014 on the requirements for the labelling, sealing and packaging of fruit plant propagating material and fruit plants intended for fruit production, falling within the scope of Council Directive 2008/90/EC

Case	Summary
	No case-law as of 31 December 2017

2.2.236. Implementing Directive 2014/97/EU of 15 October 2014 implementing Council Directive 2008/90/EC as regards the registration of suppliers and of varieties and the common list of varieties

Case	Summary
	No case-law as of 31 December 2017

2.2.237. Implementing Directive 2014/98/EU of 15 October 2014 implementing Council Directive 2008/90/EC as regards specific requirements for the genus and species of fruit plants referred to in Annex I thereto, specific requirements to be met by suppliers and detailed rules concerning official inspections

Case	Summary
	No case-law as of 31 December 2017

2.2.238. Implementing Decision 2012/340/EU of 25 June 2012 on the organisation of a temporary experiment under Council Directives 66/401/EEC, 66/402/EEC, 2002/54/EC, 2002/55/EC and 2002/57/EC as regards field inspection not under official supervision for basic seed and bred seed of generations prior to basic seed

Case	Summary
	No case-law as of 31 December 2017

2.2.239. Regulation (EC) № 217/2006 of 8 February 2006 laying down rules for the application of Council Directives 66/401/EEC, 66/402/EEC, 2002/54/EC, 2002/55/EC and 2002/57/EC as regards the authorisation of Member States to permit temporarily the marketing of seed not satisfying the requirements in respect of the minimum germination

Case	Summary
	No case-law as of 31 December 2017

2.2.240. Implementing Decision 2014/367/EU amending Council Directive 2002/56/EC as regards the date laid down in Article 21(3) until which Member States are authorised to extend the validity of decisions concerning equivalence of seed potatoes from third countries

Case	Summary
	No case-law as of 31 December 2017

2.2.241. Implementing Decision 2014/362/EU of 13 June 2014 amending Decision 2009/109/EC on the organisation of a temporary experiment providing for certain derogations for the marketing of seed mixtures intended for use as fodder plants pursuant to Council Directive 66/401/EEC

Case	Summary
	No case-law as of 31 December 2017

2.2.242. Decision 2003/17/EC of 16 December 2002 on the equivalence of field inspections carried out in third countries on seed-producing crops and on the equivalence of seed produced in third countries

Case	Summary
	No case-law as of 31 December 2017

2.2.243. Recommendation 2010/2001/01 of 13 July 2010 on guidelines for the development of national co-existence measures to avoid the unintended presence of GMOs in conventional and organic crops

Case	Summary
	No case-law as of 31 December 2017

2.2.244. Decision 2008/495 concerning the provisional prohibition of the use and sale in Austria of genetically modified maize (Zea mays L. line MON 810) pursuant to Directive 2001/18/EC

Case	Summary
	No case-law as of 31 December 2017

2.2.245. Decision 2009/244 concerning the placing on the market, in accordance with Directive 2001/18/EC of the European Parliament and of the Council, of a carnation (Dianthus caryophyllus L., line 123.8.12) genetically modified for flower colour

Case	Summary
	No case-law as of 31 December 2017

2.2.246. Directive 2009/41 on the contained use of genetically modified micro-organisms

Case	Summary
	No relevant case-law as of 31 December 2017

2.2.247. Decision 2009/770 establishing standard reporting formats for presenting the monitoring results of the deliberate release into the environment of genetically modified organisms, as or in products, for the purpose of placing on the market, pursuant to Directive 2001/18/EC

Case	Summary
	No case-law as of 31 December 2017

2.2.248. Decision 2010/135 concerning the placing on the market, in accordance with Directive 2001/18/EC of the European Parliament and of the Council, of a potato product (Solanum tuberosum L. line EH92-527-1) genetically modified for enhanced content of the amylopectin component of starch

Case	Summary
	No relevant case-law as of 31 December 2017

Chapter 3 Customs legislation

3.1. Lists of judgments

EU Legal Act	Jurisprudence
Regulation (EC) No 450/2008 of the European Parliament and of the Council of 23 April 2008 laying down the Community Customs Code (NOTE: replaced by Regulation (EU) No 952/2013 of the European Parliament and of the Council of 9 October 2013 laying down the Union Customs Code)	- no case-law as of 31 December 2017
Council Regulation (EC) No 1186/2009 of 16 November 2009 setting up a Community system of reliefs from customs duty	- C-528/14 X v Staatssecretaris van Financiën, ECLI:EU:C:2016:304 - C-250/11 Lietuvos geležinkeliai AB v Vilniaus teritorinė muitinė and Muitinės departamentas prie Lietuvos Respublikos finansų ministerijos, ECLI:EU:C:2012:496
Council Regulation (EC) No 1383/2003 of 22 July 2003 concerning customs action against goods suspected of infringing certain intellectual property rights and the measures to be taken against goods found to have infringed such rights (NOTE: replaced by Regulation (EU) No 608/2013 of the European Parliament and of the Council of 12 June 2013 concerning customs enforcement of intellectual property rights and repealing Council Regulation (EC) No 1383/2003)	- C-98/13 Martin Blomqvist v Rolex SA and Manufacture des Montres Rolex SA, ECLI:EU:C:2014:55 - C-583/12 Sintax Trading OÜ v Maksu- ja Tolliamet, ECLI:EU:C:2014:244 - Joined cases C-446/09 and C-495/09 Koninklijke Philips Electronics NV (C-446/09) v Lucheng Meijing Industrial Company Ltd and Others and Nokia Corporation (C-495/09) v Her Majesty's Commissioners of Revenue and Customs, ECLI:EU:C:2011:796 - C-302/08 Zino Davidoff SA v Bundesfinanzdirektion Südost, ECLI:EU:C:2009: - C-93/08 Schenker SIA v Valsts ieņēmumu dienests, ECLI:EU:C:2009:93

EU Legal Act	Jurisprudence
Commission Regulation (EC) No 1891/2004 of 21 October 2004 laying down provisions for the implementation of Council Regulation (EC) No 1383/2003 concerning customs action against goods suspected of infringing certain intellectual property rights and the measures to be taken against goods found to have infringed such rights (NOTE: replaced by Commission Implementing Regulation (EU) No 1352/2013 of 4 December 2013 establishing the forms provided for in Regulation (EU) No 608/2013 of the European Parliament and of the Council concerning customs enforcement of intellectual property rights)	- no case-law as of 31 December 2017

3.2. Summaries of selected judgments

3.2.1. Regulation (EU) No 952/2013 laying down the Union Customs Code

Case	Summary
	No case-law as of 31 December 2017

3.2.2. Council Regulation (EC) No 1186/2009 setting up a Community system of reliefs from customs duty

Case	Summary
C-528/14 X v Staatssecretaris van Financiën	**Facts:** this was a reference for preliminary ruling, which was submitted by the Hoge Raad der Nederlanden (Supreme Court, Netherlands) in course of proceedings between X and the Staatssecretaris van Financiën (State Secretary for Finance) concerning the latter's refusal to allow X's personal property to be transferred from Qatar to the Netherlands free of import duties. The factual background of this dispute was as follows: until 1 March 2008, the applicant in the resided and worked in the Netherlands. From 1 March 2008 until 1 August 2011, he worked in Qatar, where accommodation was made available to him by his employer. The applicant had both occupational and personal ties with that third country. His wife continued to live and work in the Netherlands. She visited him six times, the total duration of her visits being 83 days. During the period in question, the applicant spent 281 days outside Qatar, during which he visited his wife, his adult children and his family in

	the Netherlands and went on holiday in other States. With a view to his return to the Netherlands, the applicant requested authorisation to import his personal property into the European Union from Qatar free of import duties, pursuant to Article 3 of Regulation No 1186/2009. That request was refused by decision of the Inspector of Taxes on the ground that there was no transfer of the normal place of residence to the Netherlands within the meaning of that article. He was deemed to have maintained his normal place of residence in that Member State throughout his stay in Qatar, so that that third country had never been his normal place of residence (see further paras. 15-19 of the judgment). **Judgment:** the Court of Justice held that Article 3 of Regulation 1186/2009/EC means that, for the purposes of the application of that provision, a natural person may not have at the same time a normal place of residence in both a Member State and in a third country. In the circumstances like in the main proceedings where the person concerned has both personal and occupational ties in a third country and personal ties in a Member State, it is necessary, for the purpose of determining whether the normal place of residence of that person within the meaning of Article 3 of Regulation 1186/2009/EC is in the third country, to attach particular importance to the length of that person's stay in the third country when carrying out an overall assessment of the relevant facts (see further paras. 21-41 of the judgment). **Relevance:** this judgment is of relevance for the Ukrainian law-makers in charge of approximation with Regulation 1186/2009. It sheds light on an important practical issue that arose in course of application of the Regulation in question in the Netherlands.

3.2.3. Council Regulation (EC) No 1383/2003 concerning customs action against goods suspected of infringing certain intellectual property rights and the measures to be taken against goods found to have infringed such rights (replaced by Regulation (EU) No 608/2013 concerning customs enforcement of intellectual property rights)

Case	Summary
C-98/13 Martin Blomqvist v Rolex SA and Manufacture des Montres Rolex SA	**Facts:** this was a reference for preliminary ruling submitted by *Højesteret* (Denmark) in course of proceedings between Rolex SA and Manufacture des Montres Rolex SA against Mr Blomqvist concerning the destruction of a counterfeit watch which Mr Blomqvist had bought through a Chinese online sales website and which was seized by the customs authorities (see further paras. 16-21 of the judgment). The referring court submitted a question regarding interpretation of Regulation 1383/2003 as well as other pieces of EU secondary legislation (see para. 22 of the judgment).

Case	Summary
	Judgment: Regulation 1383/2003 provides that the holder of an intellectual property right over goods sold to a person residing in the territory of a Member State through an online sales website in a non-member country enjoys the protection afforded to that holder by that Regulation at the time when those goods enter the territory of that Member State merely by virtue of the acquisition of those goods. It is not necessary, in addition, for the goods at issue to have been the subject, prior to the sale, of an offer for sale or advertising targeting consumers of that State (see further paras. 23-35 of the judgment). **Relevance:** this judgment clarifies the scope of protection offered by Regulation 1383/2003 and thus it should be taken into account by the Ukrainian law-makers in charge of law approximation in this area of law. It could be used either for drafting of new/revision of old provisions or merely applied in practice by the Ukrainian customs authroties.
C-583/12 Sintax Trading OÜ v Maksu- ja Tolliamet	**Facts:** this was a reference for preliminary ruling submitted by *Riigikohus* (Estonia) in course of a dispute between Sintax Trading OÜ and Maksu- ja Tolliamet (Tax and Customs Office) concerning the refusal by the latter to grant the release of goods detained on suspicion that they infringed an intellectual property right although the right-holder had not initiated the proceedings to determine whether there had been an infringement of such a right (see further paras. 24-28). The Estonian Supreme Court expressed doubts as to interpretation of Regulation 1383/2003 and therefore proceeded with a reference for preliminary ruling to the Court of Justice (see para. 29). **Judgment:** Article 13(1) of Council Regulation (EC) No 1383/2003 does not preclude the customs authorities, in the absence of any initiative by the holder of the intellectual property right, from initiating and conducting the proceedings referred to in that provision themselves, provided that the relevant decisions taken by those authorities may be subject to appeal ensuring that the rights derived by individuals from EU law and, in particular, from that regulation are safeguarded. **Relevance:** this judgment offers an important clarification of the applicable rules, mainly, that the customs authorities can proceed *ex officio* and initiate proceedings as per Regulation 1383/2003. It should be taken into account when the Ukrainian provisions giving effect to Regulation 1383/2003 are drafted.
Joined cases C-446/09 and C-495/09 Koninklijke Philips Electronics NV (C-	**Facts:** this was a reference for preliminary ruling *Rechtbank van eerste aanleg te Antwerpen* (Belgium) submitted in course of proceedings between numerous undertakings concerning the entry into the customs territory of the European Union of goods allegedly infringing designs and copyright held by Philips (C-446/09) and, second, Nokia Corporation ('Nokia') and Her Majesty's Commissioners of Revenue and Customs ('HMRC') concerning the entry into that customs territory of goods

Case	Summary
446/09) v Lucheng Meijing Industrial Company Ltd and Others and Nokia Corporation (C-495/09) v Her Majesty's Commissioners of Revenue and Customs	allegedly infringing a trade mark of which Nokia is the proprietor (C-495/09) (see further paras. 32-46). The Dutch Court hearing the case decided to proceed with a reference for preliminary ruling and asked the following question: "Are non-Community goods bearing a Community trade mark which are subject to customs supervision in a Member State and in transit from a non-member State to another non-member State capable of constituting "counterfeit goods" within the meaning of Article 2(l)(a) of Regulation [No 1383/2003] if there is no evidence to suggest that those goods will be put on the market in the [European Community], either in conformity with a customs procedure or by means of an illicit diversion?" **Judgment:** Regulation 1383/2003 provides that: –goods coming from a non-member State which are imitations of goods protected in the European Union by a trade mark right or copies of goods protected in the European Union by copyright, a related right or a design cannot be classified as "counterfeit goods" or "pirated goods" within the meaning of those regulations merely on the basis of the fact that they are brought into the customs territory of the European Union under a suspensive procedure; –those goods may, on the other hand, infringe the right in question and therefore be classified as "counterfeit goods" or "pirated goods" where it is proven that they are intended to be put on sale in the European Union, such proof being provided, inter alia, where it turns that the goods have been sold to a customer in the European Union or offered for sale or advertised to consumers in the European Union, or where it is apparent from documents or correspondence concerning the goods that their diversion to European Union consumers is envisaged; - in order that the authority competent to take a substantive decision may profitably examine whether such proof and the other elements constituting an infringement of the intellectual property right relied upon exist, the customs authority to which an application for action is made must, as soon as there are indications before it giving grounds for suspecting that such an infringement exists, suspend the release of or detain those goods; and – those indications may include, *inter alia*, the fact that the destination of the goods is not declared whereas the suspensive procedure requested requires such a declaration, the lack of precise or reliable information as to the identity or address of the manufacturer or consignor of the goods, a lack of cooperation with the customs authorities or the discovery of documents or correspondence concerning the goods in question suggesting that there is liable to be a diversion of those goods to European Union consumers.

Case	Summary
	Relevance: this judgment is very relevant for the Ukrainian authorities in charge of approximation with Regulation 1383/2003 and enforcement of domestic measures. It offers interpretation of two crucial terms employed by the EU legislator, that is: “counterfeit goods” and “pirated goods”. Thus this decision of the Court of Justice should remain on the radars of the Ukrainian authorities.
C-93/08 Schenker SIA v Valsts ieņēmumu dienests	**Facts:** this was a reference for preliminary ruling submitted by *Augstākās tiesas Senāta Administratīvo lietu departaments* (Latvia) in course of proceedings between Schenker SIA and the Valsts ieņēmumu dienests relating to a fine imposed on Schenker following the destruction of goods suspected of infringing certain intellectual property rights. **Judgment:** The initiation, with the agreement of an intellectual property right-holder and of the importer, of the simplified procedure laid down in Article 11 of Council Regulation (EC) No 1383/2003 does not deprive the competent national authorities of the power to impose, on the parties responsible for importing those goods into the Community customs territory, a ‘penalty’, within the meaning of Article 18 of that regulation, such as an administrative fine. **Relevance:** this judgment clarifies the powers of the national authorities in charge of enforcement of intellectual property rights and thus is of relevance for the Ukrainian authorities. For instance, it can be used by the law-makers when they draft relevant Ukrainian provisions approximating with Regulation 1383/2003.

3.2.4. Regulation (EC) No 1891/2004 laying down provisions for the implementation of Council Regulation (EC) No 1383/2003 concerning customs action against goods suspected of infringing certain intellectual property rights and the measures to be taken against goods found to have infringed such rights (replaced by Implementing Regulation (EU) No 1352/2013 of 4 December 2013 establishing the forms provided for in Regulation (EU) No 608/2013 concerning customs enforcement of intellectual property rights)

Case	Summary
	No case-law as of 31 December 2017

Chapter 4 Financial services

4.1. Lists of judgments

EU Legal Act	Jurisprudence
Directive 2006/48/EC of the European Parliament and of the Council of 14 June 2006 relating to the taking up and pursuit of the business of credit institutions (NOTE: this Directive has been repealed by Directive 2013/36/EU of the European Parliament and of the Council of 26 June 2013 on access to the activity of credit institutions and the prudential supervision of credit institutions and investment firms, amending Directive 2002/87/EC and repealing Directives 2006/48/EC and 2006/49/EC)	- no relevant case-law as of 31 December 2017
Directive 2007/44/EC of the European Parliament and of the Council of 5 September 2007 amending Council Directive 92/49/EEC and Directives 2002/83/EC, 2004/39/EC, 2005/68/EC and 2006/48/EC as regards procedural rules and evaluation criteria for the prudential assessment of acquisitions and increase of holdings in the financial sector (NOTE: this Directive has been repealed by Directive 2014/65/EU of the European Parliament and of the Council of 15 May 2014 on markets in financial instruments and amending Directive 2002/92/EC and Directive 2011/61/EU)	- C-18/14 CO Sociedad de Gestión y Participación and Others, ECLI:EU:C:2015:419
Directive 2006/49/EC of the European Parliament and of the Council of 14 June 2006 on the capital adequacy of investment firms and credit institutions (NOTE: this Directive has been repealed by Directive 2013/36/EU of the European Parliament and of the Council of 26 June 2013 on access to the activity of credit institutions and the prudential supervision of credit institutions and investment firms, amending	- no relevant case-law as of 31 December 2017

EU Legal Act	Jurisprudence
Directive 2002/87/EC and repealing Directives 2006/48/EC and 2006/49/EC)	
Directive 2002/87/EC of the European Parliament and of the Council of 16 December 2002 on the supplementary supervision of credit institutions, insurance undertakings and investment firms in a financial conglomerate and amending Council Directives 73/239/EEC, 79/267/EEC, 92/49/EEC, 92/96/EEC, 93/6/EEC and 93/22/EEC, and Directives 98/78/EC and 2000/12/EC of the European Parliament and of the Council	- no relevant case-law as of 31 December 2017
Directive 2009/110/EC of the European Parliament and of the Council of 16 September 2009 on the taking up, pursuit and prudential supervision of the business of electronic money institutions amending Directives 2005/60/EC and 2006/48/EC and repealing Directive 2000/46/EC	- no relevant case-law as of 31 December 2017
Directive 94/19/EC of the European Parliament and of the Council of 30 May 1994 on deposit-guarantee schemes (NOTE: this Directive will be repealed by Directive 2014/49/EU of the European Parliament and of the Council of 16 April 2014 on deposit guarantee schemes)	- C-76/15 Paul Vervloet and Others v Ministerraad, ECLI:EU:C:2016:975 - C-127/14 Surmačs, ECLI:EU:C:2015:522 - C-671/13 Indėlių ir investicijų draudimas and Nemaniūnas, ECLI:EU:C:2015:418 - C-222/02 Paul and Others, ECLI:EU:C:2004:606
Council Directive 86/635/EEC of 8 December 1986 on the annual accounts and consolidated accounts of banks and other financial institutions	- no relevant case-law as of 31 December 2017

EU Legal Act	Jurisprudence
Directive 2001/65/EC of the European Parliament and of the Council of 27 September 2001 amending Directives 78/660/EEC, 83/349/EEC and 86/635/EEC as regards the valuation rules for the annual and consolidated accounts of certain types of companies as well as of banks and other financial institutions (NOTE: this Directive has been partly repealed by Directive 2013/34/EU of the European Parliament and of the Council of 26 June 2013 on the annual financial statements, consolidated financial statements and related reports of certain types of undertakings, amending Directive 2006/43/EC of the European Parliament and of the Council and repealing Council Directives 78/660/EEC and 83/349/EEC)	- no relevant case-law as of 31 December 2017
Directive 2003/51/EC of the European Parliament and of the Council of 18 June 2003 amending Directives 78/660/EEC, 83/349/EEC, 86/635/EEC and 91/674/EEC on the annual and consolidated accounts of certain types of companies, banks and other financial institutions and insurance undertakings	- no relevant case-law as of 31 December 2017
Directive 2006/46/EC of the European Parliament and of the Council of 14 June 2006 amending Council Directives 78/660/EEC on the annual accounts of certain types of companies, 83/349/EEC on consolidated accounts, 86/635/EEC on the annual accounts and consolidated accounts of banks and other financial institutions and 91/674/EEC on the annual accounts and consolidated accounts of insurance undertakings (NOTE: this Directive has been partly repealed by Commission Implementing Regulation (EU) No 1352/2013 of 4 December 2013 establishing the forms provided for in Regulation (EU) No 608/2013 of the European Parliament and of the Council concerning customs enforcement of intellectual property rights)	- no relevant case-law as of 31 December 2017

EU Legal Act	Jurisprudence
Council Directive 89/117/EEC of 13 February 1989 on the obligations of branches established in a Member State of credit institutions and financial institutions having their head offices outside that Member State regarding the publication of annual accounting documents	- no relevant case-law as of 31 December 2017
Directive 2001/24/EC of the European Parliament and of the Council of 4 April 2001 on the reorganisation and winding up of credit institutions	- C-526/14 Tadej Kotnik and Others v Državni zbor Republike Slovenije, ECLI:EU:C:2016:570 - C-85/12 LBI hf v Kepler Capital Markets SA and Frédéric Giraux, ECLI:EU:C:2013:697
Directive 2009/138/EC of the European Parliament and of the Council of 25 November 2009 on the taking-up and pursuit of the business of Insurance and Reinsurance (Solvency II)	- no relevant case-law as of 31 December 2017
Directive 2009/103/EC of the European Parliament and of the Council of 16 September 2009 relating to insurance against civil liability in respect of the use of motor vehicles, and the enforcement of the obligation to insure against such liability	- C-503/16 Luís Isidro Delgado Mendes v Crédito Agrícola Seguros - Companhia de Seguros de Ramos Reais, SA, ECLI:EU:C:2017:681 - C-334/16 José Luís Núñez Torreiro v AIG Europe Limited, Sucursal en España and Unión Española de Entidades Aseguradoras y Reaseguradoras (UNESPA), ECLI:EU:C:2017:1007 - C-587/15 Lietuvos Respublikos transporto priemonių draudikų biuras v Gintaras Dockevičius and Jurgita Dockevičienė, ECLI:EU:C:2017:463 - Joined Cases C-359/14 and C-475/14 "ERGO Insurance" SE v "If P&C Insurance" AS and "Gjensidige Baltic" AAS v "PZU Lietuva" UAB DK, ECLI:EU:C:2016:40 - C-371/12 Enrico Petillo and Carlo Petillo v Unipol Assicurazioni SpA, ECLI:EU:C:2014:26 - C-306/12 Spedition Welter GmbH v Avanssur SA., ECLI:EU:C:2013:650

EU Legal Act	Jurisprudence
	- C-409/11 Gábor Csonka and Others v Magyar Állam, ECLI:EU:C:2013:512 - C-442/10 Churchill Insurance Company Limited v Benjamin Wilkinson and Tracy Evans v Equity Claims Limited, ECLI:EU:C:2011:799 - C-484/09 Manuel Carvalho Ferreira Santos v Companhia Europeia de Seguros SA, ECLI:EU:C:2011:158
Council Directive 91/674/EEC of 19 December 1991 on the annual accounts and consolidated accounts of insurance undertaking	- no relevant case-law as of 31 December 2017
92/48/EEC: Commission Recommendation of 18 December 1991 on insurance intermediaries	- no relevant case-law as of 31 December 2017
Directive 2002/92/EC of the European Parliament and of the Council of 9 December 2002 on insurance mediation (NOTE: this Directive has been replaced by Directive (EU) 2016/97 of the European Parliament and of the Council of 20 January 2016 on insurance distribution (recast)	- C-555/11 Enosi Epangelmation Asfaliston Ellados (EEAE) and Others v Ypourgos Anaptyxis and Omospondia Asfalistikon Syllogon Ellados, ECLI:EU:C:2013:668
Directive 2003/41/EC of the European Parliament and of the Council of 3 June 2003 on the activities and supervision of institutions for occupational retirement provision (NOTE: this Directive will be repealed by Directive (EU) 2016/2341 of the European Parliament and of the Council of 14 December 2016 on the activities and supervision of institutions for occupational retirement provision (IORPs))	- no relevant case-law as of 31 December 2017

EU Legal Act	Jurisprudence
Directive 2004/39/EC of the European Parliament and of the Council of 21 April 2004 on markets in financial instruments amending Council Directives 85/611/EEC and 93/6/EEC and Directive 2000/12/EC of the European Parliament and of the Council and repealing Council Directive 93/22/EEC (NOTE: this Directive is repealed by Directive 2014/65/EU of the European Parliament and of the Council of 15 May 2014 on markets in financial instruments and amending Directive 2002/92/EC and Directive 2011/61/EU)	- C-678/15 Mohammad Zadeh Khorassani v Kathrin Pflanz, ECLI:EU:C:2017:451 - C-658/15 Robeco Hollands Bezit NV and Others v Stichting Autoriteit Financiële Markten (AFM), ECLI:EU:C:2017:870 - C-321/14 Banif Plus Bank Zrt. v Márton Lantos and Mártonné Lantos, ECLI:EU:C:2015:794 - C-671/13 «Indėlių ir investicijų draudimas» VJ and Virgilijus Vidutis Nemaniūnas, ECLI:EU:C:2015:418 - C-140/13 Annett Altmann and Others v Bundesanstalt für Finanzdienstleistungsaufsicht, ECLI:EU:C:2014:2362 - C-604/11 Genil 48 SL and Comercial Hostelera de Grandes Vinos SL v Bankinter SA and Banco Bilbao Vizcaya Argentaria SA, ECLI:EU:C:2013:344 - C-248/11 Criminal proceedings against Rareş Doralin Nilaş and Others, ECLI:EU:C:2012:166
Commission Directive 2006/73/EC of 10 August 2006 implementing Directive 2004/39 as regards organisational requirements and operating conditions for investment firms and defined terms for the purposes of that Directive	- C-604/11 Genil 48 SL and Comercial Hostelera de Grandes Vinos SL v Bankinter SA and Banco Bilbao Vizcaya Argentaria SA, ECLI:EU:C:2013:344
Commission Regulation (EC) No 1287/2006 of 10 August 2006 implementing Directive 2004/39/EC of the European Parliament and of the Council as regards record-keeping obligations for investment firms, transaction reporting, market transparency, admission of financial instruments to trading, and defined terms for the purposes of that Directive	- no relevant case-law as of 31 December 2017

EU Legal Act	Jurisprudence
Directive 2003/71/EC of the European Parliament and of the Council of 4 November 2003 on the prospectus to be published when securities are offered to the public or admitted to trading and amending Directive 2001/34/EC (NOTE: this Directive will be replaced by Regulation (EU) 2017/1129 of the European Parliament and of the Council of 14 June 2017 on the prospectus to be published when securities are offered to the public or admitted to trading on a regulated market, and repealing Directive 2003/71/EC)	- C-441/12 Almer Beheer BV and Daedalus Holding BV v Van den Dungen Vastgoed BV and Oosterhout II BVBA, ECLI:EU:C:2014:2226 - C-359/12 Michael Timmel v Aviso Zeta AG, ECLI:EU:C:2014:325 - C-174/12 Alfred Hirmann v Immofinanz AG, ECLI:EU:C:2013:856 - C-430/05 Ntionik Anonymi Etaireia Emporias H/Y, Logismikou kai Paroxis Ypiresion Michanografisis and Ioannis Michail Pikoulas v Epitropi Kefalaiagoras, ECLI:EU:C:2007:410
Commission Regulation (EC) No 809/2004 of 29 April 2004 implementing Directive 2003/71/EC of the European Parliament and of the Council as regards information contained in prospectuses as well as the format, incorporation by reference and publication of such prospectuses and dissemination of advertisements	- C-359/12 Michael Timmel v Aviso Zeta AG, ECLI:EU:C:2014:325
Commission Regulation (EC) No 1787/2006 of 4 December 2006 amending Commission Regulation (EC) 809/2004 implementing Directive 2003/71/EC of the European Parliament and of the Council as regards information contained in prospectuses as well as the format, incorporation by reference and publication of such prospectuses and dissemination of advertisements	- no relevant case-law as of 31 December 2017
Directive 2004/109/EC of the European Parliament and of the Council of 15 December 2004 on the harmonisation of transparency requirements in relation to information about issuers whose securities are admitted to trading on a regulated market and amending	- no relevant case-law as of 31 December 2017
Commission Directive 2007/14/EC of 8 March 2007 laying down detailed rules for the implementation of certain provisions of Directive 2004/109/EC on the harmonisation of transparency requirements in	- no relevant case-law as of 31 December 2017

EU Legal Act	Jurisprudence
relation to information about issuers whose securities are admitted to trading on a regulated market	
Directive 97/9/EC of the European Parliament and of the Council of 3 March 1997 on investor-compensation schemes	- C-671/13 Proceedings brought by VJ „Indėlių ir investicijų draudimas“ and Virgilijus Vidutis Nemaniūnas, ECLI:EU:C:2015:418
Directive 2003/6/EC of the European Parliament and of the Council of 28 January 2003 on insider dealing and market manipulation (market abuse) (NOTE: replaced by Regulation (EU) No 596/2014 of the European Parliament and of the Council of 16 April 2014 on market abuse (market abuse regulation) and repealing Directive 2003/6/EC of the European Parliament and of the Council and Commission Directives 2003/124/EC, 2003/125/EC and 2004/72/EC)	Case-law based on Directive 59/EC which may be of relevance: - C-628/13 Jean-Bernard Lafonta v Autorité des marchés financiers, ECLI:EU:C:2015:162 - C-174/12 Alfred Hirmann v Immofinanz AG, ECLI:EU:C:2013:856 - C-19/11 Markus Geltl v Daimler AG, ECLI:EU:C:2012:397 - C-445/09 IMC Securities BV v Stichting Autoriteit Financiële Markten, ECLI:EU:C:2011:459 - C-45/08 Spector Photo Group NV and Chris Van Raemdonck v Commissie voor het Bank-, Financie- en Assurantiewezen (CBFA), ECLI:EU:C:2009:806
Commission Directive 2004/72/EC of 29 April 2004 implementing Directive 2003/6/EC of the European Parliament and of the Council as regards accepted market practices, the definition of inside information in relation to derivatives on commodities, the drawing up of lists of insiders, the notification of managers' transactions and the notification of suspicious transactions (NOTE: replaced by Regulation (EU) No 596/2014 of the European Parliament and of the Council of 16 April 2014 on market abuse (market abuse regulation) and repealing Directive 2003/6/EC of the European Parliament and of the Council and Commission Directives 2003/124/EC, 2003/125/EC and 2004/72/EC	- no relevant case-law as of 31 December 2017

EU Legal Act	Jurisprudence
Commission Directive 2003/124/EC of 22 December 2003 implementing Directive 2003/6/EC of the European Parliament and of the Council as regards the definition and public disclosure of inside information and the definition of market manipulation (NOTE: replaced by Regulation (EU) No 596/2014 of the European Parliament and of the Council of 16 April 2014 on market abuse (market abuse regulation) and repealing Directive 2003/6/EC of the European Parliament and of the Council and Commission Directives 2003/124/EC, 2003/125/EC and 2004/72/EC)	- C-628/13 Jean-Bernard Lafonta v Autorité des marchés financiers, ECLI:EU:C:2015:162 - C-19/11 Markus Geltl v Daimler AG, ECLI:EU:C:2012:397
Commission Directive 2003/125/EC of 22 December 2003 implementing Directive 2003/6/EC of the European Parliament and of the Council as regards the fair presentation of investment recommendations and the disclosure of conflicts of interest (NOTE: replaced by Regulation (EU) No 596/2014 of the European Parliament and of the Council of 16 April 2014 on market abuse (market abuse regulation) and repealing Directive 2003/6/EC of the European Parliament and of the Council and Commission Directives 2003/124/EC, 2003/125/EC and 2004/72/EC)	- no relevant case-law as of 31 December 2017
Commission Regulation (EC) No 2273/2003 of 22 December 2003 implementing Directive 2003/6/EC of the European Parliament and of the Council as regards exemptions for buy-back programmes and stabilisation of financial instruments (NOTE: replaced by Regulation (EU) No 596/2014 of the European Parliament and of the Council of 16 April 2014 on market abuse (market abuse regulation) and repealing Directive 2003/6/EC of the European Parliament and of the Council and Commission Directives 2003/124/EC, 2003/125/EC and 2004/72/EC)	- no relevant case-law as of 31 December 2017
Regulation (EC) No 1060/2009 of the European Parliament and of the Council of 16 September on Credit Rating Agencies	- no relevant case-law as of 31 December 2017

EU Legal Act	Jurisprudence
Directive 2000/64/EC of the European Parliament and of the Council of 7 November 2000 amending Council Directives 85/611/EEC, 92/49/EEC, 92/96/EEC and 93/22/EEC as regards exchange of information with third countries (NOTE: this Directive is no longer in force).	- no relevant case-law as of 31 December 2017
Directive 2001/34/EC of the European Parliament and of the Council of 28 May 2001 on the admission of securities to official stock exchange listing and on information to be published on those securities	- no relevant case-law as of 31 December 2017
Directive 2006/31/EC of the European Parliament and of the Council of 5 April 2006 amending Directive 2004/39/EC on markets in financial instruments, as regards certain deadlines (NOTE: this Directive is no longer valid, its validity was extended to 2 January 2018 by Directive (EU) 2016/1034 of the European Parliament and of the Council of 23 June 2016 amending Directive 2014/65/EU on markets in financial instruments)	- no relevant case-law as of 31 December 2017
Commission Regulation (EC) No 211/2007 of 27 February 2007 amending Regulation (EC) No 809/2004 implementing Directive 2003/71/EC of the European Parliament and of the Council as regards financial information in prospectuses where the issuer has a complex financial history or has made a significant financial commitment	- no relevant case-law as of 31 December 2017
Commission Regulation (EC) No 1569/2007 of 21 December 2007 establishing a mechanism for the determination of equivalence of accounting standards applied by third country issuers of securities pursuant to Directives 2003/71/EC and 2004/109/EC of the European Parliament and of the Council	- no relevant case-law as of 31 December 2017

EU Legal Act	Jurisprudence
Directive 2008/10/EC of the European Parliament and of the Council of 11 March 2008 amending Directive 2004/39/EC on markets in financial instruments, as regards the implementing powers conferred on the Commission (NOTE: validity extended by Directive (EU) 2016/1034 of the European Parliament and of the Council of 23 June 2016 amending Directive 2014/65/EU on markets in financial instruments, as of 2 January 2018 repealed by Directive 2014/65/EU of the European Parliament and of the Council of 15 May 2014 on markets in financial instruments and amending Directive 2002/92/EC and Directive 2011/61/EU)	- no relevant case-law as of 31 December 2017
Directive 2008/11/EC of the European Parliament and of the Council of 11 March 2008 amending Directive 2003/71/EC on the prospectus to be published when securities are offered to the public or admitted to trading, as regards the implementing powers conferred on the Commission (this Directive will be implicitely repealed by Directive 2008/11/EC of the European Parliament and of the Council of 11 March 2008 amending Directive 2003/71/EC on the prospectus to be published when securities are offered to the public or admitted to trading, as regards the implementing powers conferred on the Commission	- no relevant case-law as of 31 December 2017
Directive 2008/26/EC of the European Parliament and of the Council of 11 March 2008 amending Directive 2003/6/EC on insider dealing and market manipulation (market abuse), as regards the implementing powers conferred on the Commission	- no relevant case-law as of 31 December 2017
Commission Regulation (EC) No 1289/2008 of 12 December 2008 amending Commission Regulation (EC) No 809/2004 implementing	- no relevant case-law as of 31 December 2017

EU Legal Act	Jurisprudence
Directive 2009/65/EC of the European Parliament and of the Council of 13 July 2009 on the coordination of laws, regulations and administrative provisions relating to undertakings for collective investment in transferable securities (UCITS) (recast)	-no relevant case-law as of 31 December 2017
Commission Directive 2010/43/EU of 1 July 2010 implementing Directive 2009/65/EC of the European Parliament and of the Council as regards organisational requirements, conflicts of interest, conduct of business, risk management and content of the agreement between a depositary and a management company	- no relevant case-law as of 31 December 2017
Commission Directive 2010/42/EU of 1 July 2010 implementing Directive 2009/65/EC of the European Parliament and of the Council as regards certain provisions concerning fund mergers, master-feeder structures and notification procedures	- no relevant case-law as of 31 December 2017
Commission Regulation (EU) No 583/2010 of 1 July 2010 implementing Directive 2009/65/EC of the European Parliament and of the Council as regards key investor information and conditions to be met when providing key investor information or the prospectus in a durable medium other than paper or by means of a website	- no relevant case-law as of 31 December 2017
Commission Regulation (EU) No 584/2010 of 1 July 2010 implementing Directive 2009/65/EC of the European Parliament and of the Council as regards the form and content of the standard notification letter and UCITS attestation, the use of electronic communication between competent authorities for the purpose of notification, and procedures for on-the-spot verifications and investigations and the exchange of information between competent authorities	- no relevant case-law as of 31 December 2017

EU Legal Act	Jurisprudence
Commission Directive 2007/16/EC of 19 March 2007 implementing Council Directive 85/611/EEC on the coordination of laws, regulations and administrative provisions relating to undertakings for collective investment in transferable securities (UCITS) as regards the clarification of certain definitions	- no relevant case-law as of 31 December 2017
Directive 2002/47/EC of the European Parliament and of the Council of 6 June 2002 on financial collateral	- C-156/15 Private Equity Insurance Group SIA v Swedbank AS, ECLI:EU:C:2016:586
Directive 2009/44/EC of the European Parliament and of the Council of 6 May 2009 amending Directive 98/26/EC on settlement finality in payment and securities settlement systems and Directive 2002/47/EC on financial collateral arrangements as regards linked systems and credit claims	- no relevant case-law as of 31 December 2017
Directive 98/26/EC of the European Parliament and of the Council of 19 May 1998 on settlement finality in payment and securities settlement systems	- no relevant case-law as of 31 December 2017
Directive 2007/64/EC of the European Parliament and of the Council of 13 November 2007 on payment services in the internal market amending Directives 97/7/EC, 2002/65/EC, 2005/60/EC and 2006/48/EC and repealing Directive 97/5/EC (NOTE: this Directive has been replaced by Directive (EU) 2015/2366 of the European Parliament and of the Council of 25 November 2015 on payment services in the internal market, amending Directives 2002/65/EC, 2009/110/EC and 2013/36/EU and Regulation (EU) No 1093/2010, and repealing Directive 2007/64/EC)	- C-375/15 BAWAG PSK Bank für Arbeit und Wirtschaft und Österreichische Postsparkasse AG v Verein für Konsumenteninformation, ECLI:EU:C:2017:38 - C-235/14 Safe Interenvios, SA v Liberbank, SA and Others, ECLI:EU:C:2016:154 - C-616/11 T-Mobile Austria GmbH v Verein für Konsumenteninformation, ECLI:EU:C:2014:242

EU Legal Act	Jurisprudence
Directive 2008/26/EC of the European Parliament and of the Council of 11 March 2008 amending Directive 2003/6/EC on insider dealing and market manipulation (market abuse), as regards the implementing powers conferred on the Commission	- no case-law as of 31 December 2017
Commission Regulation (EC) No 1289/2008 of 12 December 2008 amending Commission Regulation (EC) No 809/2004 implementing Directive 2003/71/EC of the European Parliament and of the Council as regards elements related to prospectuses and advertisements	- no case-law as of 31 December 2017
Directive 2009/65/EC of the European Parliament and of the Council of 13 July 2009 on the coordination of laws, regulations and administrative provisions relating to undertakings for collective investment in transferable securities (UCITS) (recast)	- no relevant case-law as of 31 December 2017

4.2. Summaries of selected judgments

4.2.1. Directive 2006/48/EC on the taking up and pursuit of the business of credit institutions

Case	Summary
	No case-law as of 31 December 2017

4.2.2. Directive 2007/44/EC of the European Parliament and of the Council of 5 September 2007 amending Council Directive 92/49/EEC and Directives 2002/83/EC, 2004/39/EC, 2005/68/EC and 2006/48/EC as regards procedural rules and evaluation criteria for the prudential assessment of acquisitions and increase of holdings in the financial sector

Case	Summary
C-18/14 CO Sociedad de Gestión y Participación and Others	**Facts:** This was a reference for preliminary ruling submitted by *College van Beroep voor het bedrijfsleven* (the Netherlands) in course of proceedings between between CO Sociedad de Gestión y Participación and Others, on the one hand, and De Nederlandsche Bank NV (Netherlands Central Bank), on the other hand, concerning the requirements to which the latter subjected the approval of proposed acquisitions of the qualifying holding in the capital of Atradius NV (for details of the factual background see paras. 13-23 of the judgment). The Dutch court seized with this dispute decided to proceed with a reference for preliminary ruling and to refer several questions on interpretation of Directive 92/49 (as amended by Directive 2007/44) (see para. 24 of the judgment). The main issue raised was the powers of national authorities, in particular the competence to impose restrictions or requirements on approvals of acquisitions. **Judgment:** The Court of Justice held that EU law does not preclude a Member State, in a situation in which the competent national authority could validly oppose a proposed acquisition pursuant to Article 15b(2) of Directive 92/49, from authorising that authority, pursuant to its national legislation, to attach restrictions or requirements to the approval of the proposed acquisition, either on its own initiative or by formalising commitments given by the proposed acquirer, provided that the rights of the proposed acquirer under that directive are not adversely affected. The Court of Justice added further that competent national authority is not required to impose restrictions or requirements on the proposed acquirer before it can oppose the proposed acquisition. It clarified that if that authority decides to attach restrictions or requirements to the approval of a proposed acquisition, those requirements cannot be based on a criterion which is not among those set out in Article 15b(1) of Directive 92/49, nor can they go beyond what is necessary in order for the acquisition to satisfy those criteria. Finally, the Court held that the Directive in question does not preclude the competent national authority from imposing a requirement relating to corporate governance concerning, as in this case, the composition of the supervisory boards of the insurance companies concerned by the proposed acquisition (For detailed reasoning see paras. 25-56 of the judgment). **Relevance:** This judgment provides very useful information as to the powers of national authorities and the degree of flexibility that the Member States have when transposing Directive 92/49 (as amended by Directive 2007/44). This judgment should be considered by the Ukrainian legislator when drafting (or revising) the domestic legislation giving effect to these EU legal acts.

4.2.3. Directive 2006/49/EC on the capital adequacy of investment firms and credit institutions

Case	Summary
	No case-law as of 31 December 2017

4.2.4. Directive 2002/87/EC on the supplementary supervision of credit institutions, insurance undertakings and investment firms in a financial conglomerate

Case	Summary
	No case-law as of 31 December 2017

4.2.5. Directive 2009/110/EC on the taking up, pursuit and prudential supervision of the business of electronic money institutions

Case	Summary
	No case-law as of 31 December 2017

4.2.6. Directive 94/19/EC of the European Parliament and of the Council of 30 May 1994 on deposit-guarantee schemes

Case	Summary
C-127/14 Surmačs	**Facts:** This was a reference for preliminary ruling submitted by *Augstākā Tiesa* (Latvia) in course of proceedings between *Mr Surmačs* and the *Finanšu un kapitāla tirgus komisija* (Financial and Capital Market Commission, concerning its refusal to recognise Mr Surmačs as a depositor entitled to the guarantee laid down by Directive 94/19. This was because the plaintiff held a number of functions in the bank that ceased operations (*inter alia*, vice president for international and financial law matters) (see further paras. 11-15). The Supreme Court of Latvia, which was seized with the dispute at hand, decided to proceed with a reference for preliminary ruling to the Court of Justice. It submitted a number of questions on interpretation of Directive 94/19 (see para. 16 of the judgment). **Judgment:** The Court of Justice held that the deposits excluded under point 7 of Annex I to Directive 94/19/EC are listed exhaustively. To put it differently, the Member States cannot provide in their national law for other categories of depositors who are not covered, in terms of the functions carried out, by the concepts listed in that point, in order

Case	Summary
	for the exclusion from the deposit-guarantee to be applied to them. The Court added that as per point 7 of Annex I to Directive 94/19 the Member States may exclude from the guarantee managers, that is persons who, because of the function exercised within the credit institution, have, irrespective of the title of that function, a level of information and expertise which enables them to assess the actual financial situation and the risks associated with the activity of the credit institution. **Relevance:** This judgment clarifies the meaning of Annex I to Directive 94/19 and a list of exclusions provided therein. It should be taken into account by the Ukrainian legislator when domestic provisions are drafted/reviewed with the view of approximation of relevant domestic rules with EU *acquis*.
C-671/13 Indėlių ir investicijų draudimas and Nemaniūnas	**Facts:** This was a reference for preliminary ruling submitted by *Lietuvos Aukščiausiasis Teismas* (Lithuania) in course of proceedings between 'Indėlių ir investicijų draudimas' VĮ and Mr Nemaniūnas concerning the validity of an agreement for the acquisition of a certificate of deposit and a number of bond subscription agreements (paras. 19-29). The Lithuanian court hearing the case expressed doubts as to interpretation of several provisions of Directive 94/19/EC and therefore decided to proceed with a reference for preliminary ruling (see para. 30 of the judgment). **Judgment:** the Court of Justice held that Article 7(2) of Directive 94/19/EC means that the Member States may exclude from the guarantee provided for by that Directive certificates of deposit issued by a credit institution if those certificates are negotiable, there being no need for it to satisfy itself that those certificates have all the characteristics of a financial instrument within the meaning of Directive 2004/39/EC. Furthermore, Directive 94/14/EC means that when claims against a credit institution are such as to be encompassed by both the concept of 'deposit' within the meaning of Directive 94/19 and that of 'instrument' within the meaning of Directive 97/9, and the national legislature has made use of the option provided for in point 12 of Annex I to Directive 94/19 to exclude those claims from the protection scheme provided for by Directive 94/19, such an exclusion cannot result in those claims also being excluded from the protection scheme provided for by Directive 97/9, other than under the conditions mentioned in Article 4(2) of that Directive. The Court of Justice also held that Articles 2(2) and 4(2) of Directive 97/9 preclude national legislation) such as that at issue in the main proceedings) which makes entitlement to compensation under the scheme provided for by that Directive conditional upon the credit institution concerned having transferred or used the funds or securities in question without the investor's consent.

Case	Summary
	Relevance: this judgment is definitely relevant for the Ukrainian law-makers. It clarifies, *inter alia*, that national law may not make entitlement to compensation under the scheme provided for by that Directive conditional upon the credit institution concerned having transferred or used the funds or securities in question without the investor's consent. This decision of the Court of Justice should be taken into account when Ukraine proceeds with approximation of its laws with the Directive in question.
C-222/02 Paul and Others	**Facts:** this was a reference for preliminary ruling submitted by *Bundesgerichtshof* (Germany) in course of proceedings between Mr Paul, Ms Sonnen-Lütte and Ms Mörkens, on the one hand, and the Bundesrepublik Deutschland, on the other, from which they claim compensation for the belated transposition of Directive 94/19 and for defective supervision of a bank by the Bundesaufsichtsamt für das Kreditwesen (Federal office for the supervision of credit institutions). In order to render a judgment in the case at hand the German court needed assistance as to interpretation of EU law and therefore proceeded with a reference for preliminary ruling to the Court of Justice. For a detailed account of facts see paras. 11-22 of the judgment. **Judgment:** If the compensation of depositors prescribed by Directive 94/19/EC is ensured, Article 3(2) to (5) of that directive cannot be interpreted as precluding a national rule to the effect that the functions of the national authority responsible for supervising credit institutions are to be fulfilled only in the public interest, which under national law precludes individuals from claiming compensation for damage resulting from defective supervision on the part of that authority. **Relevance:** this judgment is of relevance for the Ukrainian law-makers as it clarifies a number of issues regarding interpretation of this Directive. It should be taken into account when relevant provisions are drafted/redrafted.

4.2.7. Directive 86/635/EEC on the annual accounts and consolidated accounts of banks and other financial institutions

Case	Summary
	No case-law as of 31 December 2017

4.2.8. Directive 2001/65/EC amending Directives 78/660/EEC, 83/349/EEC and 86/635/EEC as regards the valuation rules for the annual and consolidated accounts of certain types of companies as well as of banks and other financial institutions

Case	Summary
	No case-law as of 31 December 2017

4.2.9. Directive 2003/51/EC amending Directives 78/660/EEC, 83/349/EEC, 86/635/EEC and 91/674/EEC on the annual and consolidated accounts of certain types of companies, banks and other financial institutions and insurance undertakings

Case	Summary
	No case-law as of 31 December 2017

4.2.10. Directive 2006/46/EC 2006 amending Council Directives 78/660/EEC on the annual accounts of certain types of companies, 83/349/EEC on consolidated accounts, 86/635/EEC on the annual accounts and consolidated accounts of banks and other financial institutions and 91/674/EEC on the annual accounts and consolidated accounts of insurance undertakings

Case	Summary
	No case-law as of 31 December 2017

4.2.11. Council Directive 89/117/EEC on the obligations of branches established in a Member State of credit institutions and financial institutions having their head offices outside that Member State regarding the publication of annual accounting documents

Case	Summary
	No case-law as of 31 December 2017

4.2.12. Directive 2001/24/EC of the European Parliament and of the Council of 4 April 2001 on the reorganisation and winding up of credit institutions

Case	Summary
C-85/12 LBI hf v Kepler Capital	**Facts:** this was a reference for preliminary ruling from Cour de cassation (France) in course of proceedings between LBI hf, formerly Landsbanki Islands hf, an Icelandic credit institution, and Kepler Capital Markets SA and Mr Giraux concerning two attachment orders instituted in France by Mr Giraux against LBI, at a time when LBI was the subject

Case	Summary
Markets SA and Frédéric Giraux	of a moratorium on payment in Iceland (for further details see paras. 15-19 of the judgment). The referring court expressed doubts as to compliance of French law with Directive 2001/24 and thus proceeded with a reference for preliminary ruling to the Court of Justice (for questions see para. 20 of the judgment). **Judgment:** Articles 3 and 9 of Directive 2001/24/EC mean that reorganisation or winding-up measures in regard to a financial institution, such as those based on the transitional provisions in point II of Law No 44/2009, are to be regarded as measures adopted by an administrative or judicial authority for the purposes of those articles of Directive 2001/24, where those transitional provisions take effect only by means of judicial decisions granting a moratorium to a credit institution. Furthermore, Article 32 of Directive 2001/24 must be interpreted as not precluding a national provision, as Article 98 of Law No 161/2002 on financial institutions, which prohibited or suspended any legal action against a financial institution once it benefitted from a moratorium, from being effective in regard to interim protective measures, such as those at issue in the main proceedings, adopted in another Member State before the declaration of the moratorium. **Relevance:** this judgment is of relevance for the Ukrainian authorities as it provides useful interpretation of several provisions contained in Directive 2001/24/EC. Bearing this in mind, it should be taken into account when the law-makers proceed with approximation of Ukrainian law with EU *acquis*.

4.2.13. Directive 2009/138/EC on the taking-up and pursuit of the business of Insurance and Reinsurance (Solvency II)

Case	Summary
	No case-law as of 31 December 2017

4.2.14. Directive 2009/103/EC relating to insurance against civil liability in respect of the use of motor vehicles, and the enforcement of the obligation to insure against such liability

Case	Summary
C-306/12 Spedition Welter GmbH v Avanssur SA.	**Facts:** The reference for preliminary ruling was submitted by *Landgericht Saarbrücken* (Germany). It was submitted in course of proceedings between Spedition Welter GmbH, a transport company whose registered office is in Germany, and Avanssur SA, an insurance company whose registered office is in France, regarding the settlement of a claim. On 24 June 2011, a lorry owned by Spedition Welter was damaged in a motor vehicle accident in the outskirts of Paris by another vehicle, insured by Avanssur. At first instance, Spedition Welter sought from the German court compensation in the amount of EUR 2 382.89. Notice of those proceedings was served not on Avanssur, but on its designated representative in Germany, that is to say, AXA Versicherungs AG. That court declared the application inadmissible because it had not been validly served on AXA, which was not authorised to accept service. Spedition Welter appealed against that decision before the Landgericht Saarbrücken. The referring court decided to proceed with a reference for preliminary ruling and ask for assistance in interpretation of Article 21(5) of Directive 2009/103/EC. **Judgment:** Article 21(5) of Directive 2009/103/EC must be interpreted as meaning that the claims representative's sufficient powers must include authority validly to accept service of judicial documents necessary for proceedings for settlement of a claim to be brought before the court having jurisdiction. **Relevance:** this judgment is of relevance for the Ukrainian authorities as it clarifies the meaning of Article 21(5) of Directive 2009/103/EC. Thus, it should be taken into account when relevant provisions of Ukrainian law are drafted/prepared for revision.
C-334/16 José Luís Núñez Torreiro v AIG Europe Limited, Sucursal en España and Unión Española de Entidades Aseguradoras y Reaseguradoras (UNESPA)	**Facts:** this was a reference for preliminary ruling submitted by Audiencia Provincial de Albacete (Provincial Court of Albacete, Spain). It covered questions regarding interpretation of Articles 3 and 5 of Directive 2009/103, which arose in course of proceedings between Mr José Luis Núñez Torreiro and AIG Europe Limited, Sucursal en España, formerly Chartis Europe Limited, Sucursal en España ('AIG') and the Unión Española de Entidades Aseguradoras y Reaseguradoras (Unespa), concerning the payment of compensation under compulsory civil liability insurance in respect of the use of motor vehicles ('compulsory insurance'), following an accident that occurred in a military exercise area (see further on the facts paras. 11-17 of the judgment). **Judgment: t**he first paragraph of Article 3 of Directive 2009/103/EC relating to insurance against civil liability in respect of the use of motor vehicles, and the enforcement of the obligation to insure against such liability, must be interpreted as precluding national legislation, such as that at issue in the main proceedings, which makes it possible to exclude

Case	Summary
	from compulsory insurance cover injuries and damage that result from the driving of motor vehicles on roads or terrain that are not 'suitable for use by motor vehicles', with the exception of roads or terrain which, although not suitable for that purpose, are nonetheless 'ordinarily so used'. **Relevance:** this judgment is of relevance to the Ukrainian authorities as it clarifies the room for manoeuvre left to the national legislation when transposing the directive in question. In the case at hand, the Spanish legislation at stake was contrary to Directive 2009/103/EC.

4.2.15. Council Directive 91/674/EEC on the annual accounts and consolidated accounts of insurance undertaking

Case	Summary
	No case-law as of 31 December 2017

4.2.16. Commission Recommendation 92/48/EEC on insurance intermediaries

Case	Summary
	No case-law as of 31 December 2017

4.2.17. Directive (EU) 2016/97 on insurance distribution (recast)

Case	Summary
C-555/11 Enosi Epangelmation Asfaliston Ellados (EEAE) and Others v Ypourgos Anaptyxis and Omospondia	**Facts:** this was a reference for preliminary ruling submitted by *Simvoulio tis Epikratias* (Greece) in course of proceedings between a number of professional associations in the insurance mediation sector and the *Ipourgos Anaptixis* (Minister for Development) and the *Omospondia Asfalistikon Sillogon Ellados* (Federation of Hellenic Insurance Associations), concerning an action for annulment in part of Decision K3-8010 of the State Secretary for Development of 8 August 2007, which defines the requirements to be met by insurance intermediaries in order to prove their experience, skills and general commercial and professional knowledge (see further paras. 15-16 of the

Case	Summary
Asfalistikon Syllogon Ellados	judgment). The referring court decided to proceed with a reference for preliminary ruling in order to check interpretation of Article 2(3) of Directive 2002/92/EC (now Directive 2016/97). **Judgment:** The second subparagraph of Article 2(3), in conjunction with Article 4(1), of Directive 2002/92/EC precludes an employee of an insurance undertaking who does not possess the qualifications required under the latter provision from pursuing – on an incidental basis and not as his main professional activity – the activity of insurance mediation where such an employee does not act as a subordinate of that undertaking, even though the latter in any event supervises that person's activities. **Relevance:** This judgment is relevant for the Ukrainian law-makers as it clarifies the scope of Article 2(3) of Directive 2002/92/EC. It should be taken into account for the purposes of drafting domestic legislation giving effect to the Directive in question.

4.2.18. Directive 2003/41/EC on the activities and supervision of institutions for occupational retirement provision

Case	Summary
	No case-law as of 31 December 2017

4.2.19. Directive 2004/39/EC on markets in financial instruments

Case	Summary
C-321/14 Banif Plus Bank Zrt. v Márton Lantos and Mártonné Lantos	**Facts:** this was a reference for preliminary ruling submitted by *Ráckevei járásbíróság* (District Court, Ráckeve, Hungary) in course of proceedings between Banif Plus Bank Zrt. and Mr and Mrs Lantos concerning a foreign currency denominated consumer loan (see paras. 20-25 of the judgment). **Judgment:** Article 4(1)(2) of Directive 2004/39/EC must be interpreted as meaning that, subject to verification by a domestic court, an investment service or activity within the meaning of that provision does not encompass certain foreign exchange transactions, effected by a credit institution under clauses of a foreign currency denominated loan agreement such as the one at issue in the main proceedings, consisting in fixing the amount

Case	Summary
	of the loan on the basis of the purchase price of the currency applicable when the funds are advanced and in determining the amounts of the monthly instalments on the basis of the sale price of that currency applicable when each monthly instalment is calculated. **Relevance:** this judgment is of relevance for the Ukrainian law-makers and should be taken into account by the Ukrainian law-makers when they prepare relevant domestic provisions for approximation of Ukrainian law with Directive 2004/39/EC.
C-140/13 Annett Altmann and Others v Bundesanstalt für Finanzdienstleistungsaufsicht	**Facts:** this was a reference for preliminary ruling submitted by *Verwaltungsgericht Frankfurt am Main* (Germany) in course of proceedings between several individuals and the Bundesanstalt für Finanzdienstleistungsaufsicht (Federal Office for the Supervision of Financial Services), on the other, concerning the latter's decision of 9 October 2012 refusing access to certain documents and information regarding Phoenix Kapitaldienst GmbH Gesellschaft für die Durchführung und Vermittlung von Vermögensanlagen. The referring court found it fitting to proceed with a reference for preliminary ruling in order to clarify interpretation of Directive 2004/39/EC. **Judgment:** Article 54(1) and (2) of Directive 2004/39/EC must be interpreted as meaning that, in administrative proceedings, a national supervisory authority may rely on the obligation to maintain professional secrecy against a person who, in a case not covered by criminal law and not in a civil or commercial proceeding, requests it to grant access to information concerning an investment firm which is in judicial liquidation, even where that firm's main business model consisted in large scale fraud and wilful harming of investors' interests and several executives of that firm have been sentenced to terms of imprisonment. **Relevance:** this judgment is of relevance for the Ukrainian authorities and should be taken into account when domestic rules aimed at approximation are drafted.
C-604/11 Genil 48 SL and Comercial Hostelera de Grandes Vinos SL v Bankinter SA and Banco Bilbao Vizcaya Argentaria SA	**Facts:** this was a reference for preliminary ruling submitted by Juzgado de Primera Instancia No 12 de Madrid (Spain), in course of proceedings between Genil 48 SL and Bankinter SA and between Comercial Hostelera de Grandes Vinos SL and Banco Bilbao Vizcaya Argentaria SA concerning swap agreements to protect Genil 48 and CHGV against the risk of variations of interest rates on financial products for which they subscribed with those two banks. The agreements were supposed to protect Genil 48 and CHGV against changes in variable interest

Case	Summary
	rates, in this case the Euro interbank offered rates (Euribor), on the financial products for which they subscribed with those banks (see further paras. 13-21). In course of those proceedings the Spanish court decided to proceed with a reference for preliminary ruling to the Court of Justice on interpretation of several provisions of Directive 2004/39/EC (for questions see para. 22). **Judgment:** Article 19(9) of Directive 2004/39/EC means that firstly, that an investment service is offered as part of a financial product only when it forms an integral part thereof at the time when that financial product is offered to the client and, secondly, that the provisions of European Union legislation and the common European standards referred to by that provision must enable there to be a risk assessment of clients and/or include information requirements, which also encompass the investment service which forms an integral part of the financial product in question, in order for that service no longer to be subject to the obligations laid down in Article 19. Furthermore, Article 4(1)(4) of Directive 2004/39/EC must be interpreted as meaning that the offering of a swap agreement to a client in order to cover the risk of variation of interest rates on a financial product for which that client has subscribed constitutes investment advice, as defined in that provision, provided that the recommendation to subscribe to such a swap agreement is made to that client in his capacity as an investor, it is presented as suitable for that person or based on a consideration of the circumstances of that person and it is not made solely through distribution channels or intended for the public. Last but not least, It is for the internal legal order of each Member State to determine the contractual consequences where an investment firm offering an investment service fails to comply with the assessment requirements laid down in Article 19(4) and (5) of Directive 2004/39/EC, subject to observance of the principles of equivalence and effectiveness. **Relevance:** this judgment is of relevance for the Ukrainian law-makers as it clarifies several important points regulated in Directive 2004/39/EC. It should be taken into account for approximation of Ukrainian law with EU acquis in the financial services area.
C-248/11 Criminal proceedings against Rareş Doralin Nilaş and Others	**Facts:** this was a reference for preliminary ruling submitted by Curtea de Apel Cluj (Romania) in course of criminal proceedings made in criminal proceedings against Messrs Nilaş, Gânscă, Dascăl, Baboş and Ms Oprean, who are charged with manipulation of the prices of shares in a public limited company on the Rasdaq market in financial instruments.

Case	Summary
	Judgment: Article 4(1)(14) of Directive 2004/39/EC means that a market in financial instruments which does not satisfy the requirements in Title III of that directive does not fall within the concept of 'regulated market', as defined in that provision, notwithstanding the fact that its operator merged with the operator of such a regulated market. Furthermore, as per Article 47 of Directive 2004/39/EC the inclusion of a market on the list of regulated markets referred to in that article is not a precondition for the classification of that market as a regulated market within the meaning of this Directive. **Relevance:** this judgment clarifies the interpretation of Article 4(1)(14) as well as Article 47 of Directive 2004/39/EC and therefore it should be taken into account the Ukrainian law-makers. For instance, it may be used to make the domestic provisions more precise.
C-678/15 Mohammad Zadeh Khorassani v Kathrin Pflanz	**Facts:** this was a reference for preliminary ruling submitted by *Bundesgerichtshof* (Federal Court of Justice, Germany). It was submitted in course of proceedings between Mr Mohammad Zadeh Khorassani and Ms Kathrin Pflanz concerning the brokering by the latter in connection with an asset management agreement concluded by Mr Khorassani and a third party. The referring Court expressed doubts as to interpretation of Article 4 of Directive 2004/39 (see further paras. 13-22 of the judgment). **Judgment:** Article 4(1)(2) of Directive 2004/39/EC, read in conjunction with point 1 of Section A of Annex I to that Directive, must be interpreted as meaning that the investment service consisting in the reception and transmission of orders in relation to one or more financial instruments does not include brokering with a view to concluding a contract covering portfolio management services. **Relevance:** this judgment is of relevance for the Ukrainian authorities as it clarifies the scope of application of Directive 2004/39/EC and, therefore, should be a point of reference for the Ukrainian civil servants in charge of approximation with this legal act.
C-658/15 Robeco Hollands Bezit NV and Others v Stichting Autoriteit Financiële Markten (AFM)	**Facts:** this was a reference for preliminary ruling submitted by College van Beroep voor het Bedrijfsleven (Administrative Court of Appeal for Trade and Industry, the Netherlands). It was submitted in course of proceedings between Robeco Hollands Bezit NV and 10 other companies, on the one hand, and the Stichting Autoriteit Financiële Markten (AFM) (Financial Markets Authority), on the other, concerning the imposition of

Case	Summary
	charges on those companies for costs incurred by the AFM in performing its supervisory duties (see further paras. 11-22 of the judgment). The referring court had doubts as to interpretation of Article 4 of Directive 2004/39/EC and therefore proceeded with the reference (see para. 23 of the judgment). **Judgment:** Article 4(1)(14) of Directive 2004/39/EC must be interpreted as meaning that the concept of a 'regulated market' within the meaning of that provision covers a trading system in which multiple fund agents and brokers represent, respectively, 'open end' investment funds and investors, the sole purpose of which is to facilitate those investment funds in their obligation to execute the purchase and selling orders for shares placed by those investors. **Relevance:** this judgment is of relevance for the Ukrainian law-makers as it clarifies the scope of the application of Directive 2004/39/EC. Hence, it should be taken as a point of reference when approximation works are conducted.

4.2.20. Commission Directive 2006/73/EC implementing Directive 2004/39 as regards organisational requirements and operating conditions for investment firms and defined terms for the purposes of that Directive

Case	Summary
C-604/11 Genil 48 SL and Comercial Hostelera de Grandes Vinos SL v Bankinter SA and Banco Bilbao Vizcaya Argentaria SA	See section 4.2.19 above.

4.2.21. Commission Regulation (EC) No 1287/2006 implementing Directive 2004/39/EC of the European Parliament and of the Council as regards record-keeping obligations for investment firms, transaction reporting, market transparency, admission of financial instruments to trading, and defined terms for the purposes of that Directive

Case	Summary
	No case-law as of 31 December 2017

4.2.22. Directive 2003/71/EC on the prospectus to be published when securities are offered to the public or admitted to trading and amending Directive 2001/34/EC

Case	Summary
C-441/12 Almer Beheer BV and Daedalus Holding BV v Van den Dungen Vastgoed BV and Oosterhout II BVBA	**Facts:** this was a reference for preliminary ruling submitted by *Hoge Raad der Nederlanden* (Netherlands). It was submitted in course of proceedings between Almer Beheer BV and Daedalus Holding BV, on one hand, and Van den Dungen Vastgoed BV and Oosterhout II BVBA, on the other, concerning Almer and Daedalus' action claiming that the enforced sale of securities held by them should be subject to the obligation to publish a prospectus (see further paras. 12-22 of the judgment). The referring court expressed doubts as to interpretation of Article 3(1) of Directive 2003/71 and therefore decided to proceed with a reference to the Court of Justice. **Judgment:** Article 3(1) of Directive 2003/71/EC means that the obligation to publish a prospectus prior to any offer of securities to the public is not applicable to an enforced sale of securities. **Relevance:** this judgment is of relevance for the Ukrainian law-makers as it clarifies the scope of Article 3(1) of Directive 2003/71/EC. Therefore it can be taken into account when relevant
C-174/12 Alfred Hirmann v Immofinanz AG	See section 16.2.2 of this Manual.
C-430/05 Ntionik Anonymi Etaireia Emporias H/Y, Logismikou kai Paroxis Ypiresion Michanografisis and Ioannis Michail Pikoulas v Epitropi Kefalaiagoras	**Facts:** the reference for preliminary ruling was submitted by Simvoulio tis Epikratias (Greece), which was submitted in course of proceedings between a Greek company against the Epitropi Kefalaiagoras (Capital Market Commission), regarding fines imposed on them by the CMC owing to the inaccuracy of certain information contained in listing particulars (a prospectus) published in connection with an increase in that company's capital (see further paras. 24-35 of the judgment). **Judgment:** Article 21 of Directive 2003/71/EC does not preclude a national legislature from laying down, for cases where the information recorded in listing particulars published with a view to admitting securities to official stock exchange listing proves to be inaccurate or misleading, administrative penalties imposable not only upon the persons expressly mentioned in those particulars as responsible but also upon the issuer of the securities and, indiscriminately,

Case	Summary
	upon the members of the issuer's board of directors, regardless of whether the board members have been identified as responsible in the listing particulars. **Relevance:** this judgment is of relevance for Ukrainian law-makers as it provides it with interpretation of Article 21 of Directive 2003/71/EC. It should be taken into account when relevant provisions are drafted.

4.2.23. Regulation (EC) No 809/2004 implementing Directive 2003/71/EC of the European Parliament and of the Council as regards information contained in prospectuses as well as the format, incorporation by reference and publication of such prospectuses and dissemination of advertisements

Case	Summary
C-359/12 Michael Timmel v Aviso Zeta AG	**Facts:** this reference for preliminary ruling was submitted by *Handelsgericht Wien* (Austria). The request was made in proceedings between Mr Timmel and Aviso Zeta AG concerning termination of a contract by which Mr Timmel subscribed for 40 000 units of the security 'Dragon FG Garant' offered for sale through Aviso Zeta (see further paras.20-25 of the judgment). The referring court expressed doubts about interpretation of Regulation 809/2004, in particular Article 22 thereof. **Judgment:** information required under Article 22(1) which, although not known at the time of publication of the base prospectus, nevertheless is known at the time of publication of a supplement to that prospectus must be published in that supplement if the information involves a significant new factor, material mistake or inaccuracy capable of affecting the assessment of the securities, within the meaning of Article 16(1) of Directive 2003/71/EC. Furthermore, the requirements of Article 22 of Regulation No 809/2004 are not satisfied by the publication of a base prospectus not including the information required under Article 22(1), in particular the information referred to in Annex V to the regulation, if that publication is not supplemented by publication of the final terms. In order that the information which must be contained in the base prospectus in accordance with Article 22(1) of Regulation No 809/2004 may be inserted in the final terms, it is necessary for the base prospectus to indicate the information that will be included in those final terms and for that information to comply with the conditions laid down in Article 22(4) of the Regulation.

Case	Summary
	The Court of Justice also added that Article 29(1)(1) of Regulation No 809/2004 means that the requirement that a prospectus must be easily accessible on the website on which it is made available to the public is not fulfilled where there is an obligation to register on that website, entailing acceptance of a disclaimer and the obligation to provide an email address, where a charge is made for that electronic access or where consultation of parts of the prospectus free of charge is restricted to two documents per month. Last but not least, the Court of Justice also ruled that Article 14(2)(b) of Directive 2003/71 is to be interpreted as requiring the base prospectus to be made available to the public both at the registered office of the issuer and at the offices of the financial intermediaries. **Relevance:** this judgment is of relevance for the Ukrainian law-makers as it clarifies a number of issues regarding interpretation of Regulation 809/2004/EC. Therefore, it should be taken into account when relevant provisions are drafted and adopted.

4.2.24. Commission Regulation (EC) No 1787/2006 amending Commission Regulation (EC) 809/2004 implementing Directive 2003/71/EC of the European Parliament and of the Council as regards information contained in prospectuses as well as the format, incorporation by reference and publication of such prospectuses and dissemination of advertisements

Case	Summary
	No case-law as of 31 December 2017

4.2.25. Directive 2004/109/EC on the harmonisation of transparency requirements in relation to information about issuers whose securities are admitted to trading on a regulated market and amending Directive 2001/34/EC

Case	Summary
	No case-law as of 31 December 2017

4.2.26. Commission Directive 2007/14/EC laying down detailed rules for the implementation of certain provisions of Directive 2004/109/EC on the harmonisation of transparency requirements in relation to information about issuers whose securities are admitted to trading on a regulated market

Case	Summary
	No case-law as of 31 December 2017

4.2.27. Directive 97/9/EC on investor-compensation schemes

Case	Summary
C-671/13 Proceedings brought by VJ „Indėlių ir investicijų draudimas“ and Virgilijus Vidutis Nemaniūnas	See section section 4.2.6 above.

4.2.28. Regulation (EU) No 596/2014 on market abuse (market abuse regulation), which replaced Directive 2003/6/EC of the European Parliament and of the Council of 28 January 2003 on insider dealing and market manipulation (market abuse)

Case	Summary
C-628/13 Jean-Bernard Lafonta v Autorité des marchés financiers	**Facts:** this was a reference for preliminary ruling submitted by Cour de cassation (France) in course of proceedings between Mr Lafonta and the Autorité des marchés financiers (French Financial Markets Authority) concerning the decision of 13 December 2010 by which the Penalties Commission of the AMF ordered Mr Lafonta to pay a financial penalty for failing to make public, inter alia, information relating to a financial operation which enabled Wendel SA to acquire a significant shareholding in the Saint-Gobain group. The referring court expressed doubts as to interpretation of Article 1 of Directive 2003/6/EC and therefore proceeded with a reference (see further paras. 12-20 of the judgment). **Judgment:** On a proper construction of point (1) of Article 1 of Directive 2003/6/EC on insider dealing and market manipulation (market abuse) and Article 1(1) of Commission Directive 2003/124/EC in order for information to be regarded as being of a precise nature for the purposes of those provisions, it need not be possible to infer from that

	information, with a sufficient degree of probability, that, once it is made public, its potential effect on the prices of the financial instruments concerned will be in a particular direction. **Relevance:** this judgment is of importance for the Ukrainian authorities as it clarifies the interpretation of Article 1 of the Directive in question (and Directive 2003/124 implementing it). It should be taken into account when the Ukrainian law-makers proceed with law approximation.
Case C-19/11 Markus Geltl v Daimler AG	**Facts:** this was a reference for preliminary ruling submitted by Bundesgerichtshof (Germany) in course of proceedings between Mr Geltl and Daimler AG concerning the loss he claims to have suffered as a result of the allegedly late public disclosure by that company of information relating to the early departure of the Chairman of its Board of Management (see further paras. 12-22 of the judgment). The referring court expressed doubts as to interpretation of Directive 2003/6 and Directive 2003/124 and decided to proceed with the reference (see para. 23 of the judgment). **Judgment:** Point 1 of Article 1 of Directive 2003/6/EC on insider dealing and market manipulation (market abuse) and Article 1(1) of Directive 2003/124/EC must be interpreted as meaning that, in the case of a protracted process intended to bring about a particular circumstance or to generate a particular event, not only may that future circumstance or future event be regarded as precise information within the meaning of those provisions, but also the intermediate steps of that process which are connected with bringing about that future circumstance or event. **Relevance:** this judgment is of relevance for the Ukrainian authorities as it clarifies the scope of the directives in question. Bearing this in mind, it should be taken into account when the law-makers proceed with approximation in this field.

4.2.29. Regulation (EC) No 1060/2009 on Credit Rating Agencies

Case	Summary
	No case-law as of 31 December 2017

4.2.30. Directive 2000/64/EC Council Directives 85/611/EEC, 92/49/EEC, 92/96/EEC and 93/22/EEC as regards exchange of information with third countries

Case	Summary
	No case-law as of 31 December 2017

4.2.31. Directive 2001/34/EC on the admission of securities to official stock exchange listing and on information to be published on those securities

Case	Summary
	No relevant case-law as of 31 December 2017

4.2.32. Directive 2006/31/EC amending Directive 2004/39/EC on markets in financial instruments as regards certain deadlines

Case	Summary
	No case-law as of 31 December 2017

4.2.33. Regulation (EC) No 211/2007 amending Regulation (EC) No 809/2004 implementing Directive 2003/71/EC of the European Parliament and of the Council as regards financial information in prospectuses where the issuer has a complex financial history or has made a significant financial commitment

Case	Summary
	No case-law as of 31 December 2017

4.2.34. Regulation (EC) No 1569/2007 establishing a mechanism for the determination of equivalence of accounting standards applied by third country issuers of securities pursuant to Directives 2003/71/EC and 2004/109/EC of the European Parliament and of the Council

Case	Summary
	No case-law as of 31 December 2017

4.2.35. Directive 2008/10/EC amending Directive 2004/39/EC on markets in financial instruments, as regards the implementing powers conferred on the Commission

Case	Summary
	No case-law as of 31 December 2017

4.2.36. Directive 2008/11/EC amending Directive 2003/71/EC on the prospectus to be published when securities are offered to the public or admitted to trading, as regards the implementing powers conferred on the Commission

Case	Summary
	No case-law as of 31 December 2017

4.2.37. Directive 2008/26/EC amending Directive 2003/6/EC on insider dealing and market manipulation (market abuse), as regards the implementing powers conferred on the Commission

Case	Summary
	No case-law as of 31 December 2017

4.2.38. Commission Regulation (EC) No 1289/2008 of 12 December 2008 amending Commission Regulation (EC) No 809/2004 implementing Directive 2009/65/EC of the European Parliament and of the Council of 13 July 2009 on the coordination of laws, regulations and administrative provisions relating to undertakings for collective investment in transferable securities (UCITS) (recast)

Case	Summary
	No case-law as of 31 December 2017

4.2.39. Directive 2009/65/EC on the coordination of laws, regulations and administrative provisions relating to undertakings for collective investment in transferable securities (UCITS) (recast)

Case	Summary

	No case-law as of 31 December 2017

4.2.40. Directive 2010/43/EU implementing Directive 2009/65/EC of the European Parliament and of the Council as regards organisational requirements, conflicts of interest, conduct of business, risk management and content of the agreement between a depositary and a management company

Case	Summary
	No case-law as of 31 December 2017

4.2.41. Directive 2010/42/EU implementing Directive 2009/65/EC of the European Parliament and of the Council as regards certain provisions concerning fund mergers, master-feeder structures and notification procedures

Case	Summary
	No case-law as of 31 December 2017

4.2.42. Regulation (EU) No 583/2010 implementing Directive 2009/65/EC of the European Parliament and of the Council as regards key investor information and conditions to be met when providing key investor information or the prospectus in a durable medium other than paper or by means of a website

Case	Summary
	No case-law as of 31 December 2017

4.2.43. Regulation (EU) No 584/2010 implementing Directive 2009/65/EC of the European Parliament and of the Council as regards the form and content of the standard notification letter and UCITS attestation, the use of electronic communication between competent authorities for the purpose of notification, and procedures for on-the-spot verifications and investigations and the exchange of information between competent authorities

Case	Summary
	No case-law as of 31 December 2017

4.2.44. Directive 2007/16/EC implementing Council Directive 85/611/EEC on the coordination of laws, regulations and administrative provisions relating to undertakings for collective investment in transferable securities (UCITS) as regards the clarification of certain definitions

Case	Summary
	No case-law as of 31 December 2017

4.2.45. Directive 2002/47/EC on financial collateral

Case	Summary
C-156/15 Private Equity Insurance Group SIA v Swedbank AS	**Facts:** this was a reference for preliminary ruling submitted by *Augstākā tiesas Civillietu departaments* (Supreme Court, Civil Division, Latvia) in course of proceedings 'Private Equity Insurance Group' SIA and 'Swedbank' AS concerning a claim for damages brought by the former company against the latter (see further paras. 12-19 of the judgment). **Judgment:** Court of Justice held that Directive 2002/47/EC confers on the taker of financial collateral, whereby monies deposited in a bank account are pledged to the bank to cover all the account holder's debts to the bank, the right to enforce the collateral, notwithstanding the commencement of insolvency proceedings in respect of the collateral provider, only if, first, the monies covered by the collateral are deposited in the account in question before the commencement of those proceedings or those monies are deposited on the day of commencement, the bank having proved that it is not aware, nor should have been aware, that those proceedings had commenced and, second, the account holder is prevented from disposing of those monies after they had been deposited in that account. **Relevance:** this judgment is of relevance for the Ukrainian law-makers as it sheds light on interpretation of Directive 2002/47/EC. Bearing this in mind, it should be taken into account when relevant provisions of Ukrainian law are drafted.

4.2.46. Directive 2009/44/EC amending Directive 98/26/EC on settlement finality in payment and securities settlement systems and Directive 2002/47/EC on financial collateral arrangements as regards linked systems and credit claims

Case	Summary
	No case-law as of 31 December 2017

4.2.47. Directive 98/26/EC on settlement finality in payment and securities settlement systems

Case	Summary
	No case-law as of 31 December 2017

4.2.48. Directive (EU) 2015/2366 on payment services in the internal market, amending Directives 2002/65/EC, 2009/110/EC and 2013/36/EU and Regulation (EU) No 1093/2010, and repealing Directive 2007/64/EC)

Case	Summary
	No relevant case-law as of 31 December 2017

4.2.49. Directive 2008/26/EC amending Directive 2003/6/EC on insider dealing and market manipulation (market abuse), as regards the implementing powers conferred on the Commission

Case	Summary
	No case-law as of 31 December 2017

4.2.50. Regulation (EC) No 1289/2008 amending Commission Regulation (EC) No 809/2004 implementing Directive 2003/71/EC of the European Parliament and of the Council as regards elements related to prospectuses and advertisements

Case	Summary
	No case-law as of 31 December 2017

4.2.51. Directive 2009/65/EC on the coordination of laws, regulations and administrative provisions relating to undertakings for collective investment in transferable securities (UCITS) (recast)

Case	Summary
	No case-law as of 31 December 2017

Chapter 5 Anti-money laundering

5.1. Lists of judgements

EU Legal Act	Jurisprudence
Directive 2005/60/EC of the European Parliament and of the Council of 26 October 2005 on the prevention of the use of the financial system for the purpose of money laundering and terrorist financing (NOTE: this Directive has been repealed by Directive (EU) 2015/849 of the European Parliament and of the Council of 20 May 2015 on the prevention of the use of the financial system for the purposes of money laundering or terrorist financing, amending Regulation (EU) No 648/2012 of the European Parliament and of the Council, and repealing Directive 2005/60/EC of the European Parliament and of the Council and Commission Directive 2006/70/EC)	- C-676/16 CORPORATE COMPANIES s.r.o. v Ministerstvo financí ČR, ECLI:EU:C:2018:13 - C-235/14 Safe Interenvios, SA v Liberbank, SA and Others, ECLI:EU:C:2016:154 - C-212/11 Jyske Bank Gibraltar Ltd v Administración del Estado, ECLI:EU:C:2013:270
Commission Directive 2006/70/EC of 1 August 2006 laying down implementing measures for Directive 2005/60/EC of the European Parliament and of the Council as regards the definition of politically exposed person and the technical criteria for simplified customer due diligence procedures and for exemption on grounds of a financial activity conducted on an occasional or very limited basis (NOTE: this Directive has been repealed by Directive (EU) 2015/849 of the European Parliament and of the Council of 20 May 2015 on the prevention of the use of the financial system for the purposes of money laundering or terrorist financing, amending Regulation (EU) No 648/2012 of the European Parliament and of the Council, and repealing Directive 2005/60/EC of the European Parliament and of the Council and Commission Directive 2006/70/EC)	- no relevant case-law as of 31 December 2017
Regulation (EC) No 1781/2006 of the European Parliament and of the Council of 15 November 2006 on information on the payer accompanying transfers of funds (NOTE: this Regulation has been repealed by Regulation (EU) 2015/847 of the European Parliament	- no case-law as of 31 December 2017

and of the Council of 20 May 2015 on information accompanying transfers of funds and repealing Regulation (EC) No 1781/2006	

5.2. Summaries of selected judgments

5.2.1. Directive 2005/60/EC on the prevention of the use of the financial system for the purpose of money laundering and terrorist financing

Case	Summary
C-235/14 Safe Interenvios, SA v Liberbank, SA and Others	**Facts:** This was a reference for preliminary ruling submitted by Audiencia Provincial de Barcelona (Spain) in course of a dispute between Safe Interenvíos SA (a payment institution) and, three credit institutions (Liberbank SA, Banco de Sabadell and Banco Bilbao Vizcaya Argentaria SA) concerning the closure by the banks of the accounts held by Safe because they suspected money laundering. Safe is a company that transfers customers' funds to Member States other than the Member State in which it is established and to third countries through accounts which it holds with credit institutions. After discovering irregularities regarding the agents who transferred funds through the accounts which Safe held with the banks, the latter requested information from Safe, pursuant to domestic law. When Safe refused to provide them with that information, the banks closed the accounts which it held with them (for further details see paras. 39-55 of the judgment). The crux of the dispute was whether Directive 2005/60 precludes a Member State from authorising a credit institution to apply customer due diligence measures to a payment institution. It should be noted that Article 13 requires enhanced customer due diligence in situations presenting a higher risk of money laundering or terrorist financing. Moreover, Article 5 authorises the Member States to impose stricter obligations than those laid down in other provisions of this Directive. The Spanish court, when considering the case, decided to proceed with a reference for preliminary ruling on interpretation of Directive 2005/60/EC, in particular Article 11(1), read in conjunction with Articles 5, 7 and 13 (for questions see para. 56 of the judgment). **Judgment:** The Court of Justice held that Articles 5, 7, 11(1) and 13 of Directive 2005/60/EC do not preclude national legislation which: - authorises the application of standard customer due diligence measures in so far as the customers are financial institutions whose compliance with due diligence measures is supervised when there is a suspicion of money laundering or terrorist financing within the meaning of Article 7(c) of that directive and, - requires the institutions and persons covered by Directive 2005/60/EC to apply, on a risk-sensitive basis, enhanced customer due diligence measures in situations which by their nature can present a higher risk of

Case	Summary
	money laundering or terrorist financing within the meaning of Article 13(1) of Directive 2005/60, such as that of the transfer of funds. Even in the absence of such a suspicion or such a risk, Article 5 of Directive 2005/60 allows the Member States to adopt or retain in force stricter provisions where those provisions seek to strengthen the fight against money laundering and terrorist financing. The judges also added that Directive 2005/60 must be interpreted as meaning that the institutions and persons covered by it may not compromise the task of supervising payment institutions with which the competent authorities are entrusted pursuant to Article 21 of Directive 2007/64/EC on payment services in the internal market and may not take the place of those authorities. Furthermore, Directive 2005/60 must be interpreted as meaning that, whilst a financial institution may, in performing the supervisory obligation which it owes in respect of its customers, take account of the due diligence measures applied by a payment institution in respect of its own customers, all the due diligence measures that it adopts must be appropriate to the risk of money laundering and terrorist financing. Finally, the Court of Justice shed a light on compatibility of the Spanish law with the Directive in question. It ruled that Articles 5 and 13 of Directive 2005/60 must be interpreted as meaning that national legislation - adopted pursuant either to the discretion which Article 13 of that directive grants the Member States or to the power in Article 5 of this Directive - must be compatible with EU law, in particular the fundamental freedoms guaranteed by the Treaties. Whilst such national legislation designed to combat money laundering or terrorist financing pursues a legitimate aim capable of justifying a restriction on the fundamental freedoms and whilst to presume that transfers of funds by an institution covered by that directive to States other than the State in which it is established always present a higher risk of money laundering or terrorist financing is appropriate for securing the attainment of that aim, that legislation exceeds, however, what is necessary for the purpose of achieving the aim which it pursues. This is because the presumption which it establishes applies to any transfer of funds, without providing for the possibility of rebutting the presumption in the case of transfers of funds not objectively presenting such a risk. **Relevance:** This judgment of the Court sheds light on interpretation of Directive 2005/60 and discretion that national legislator has while transposing it into national law. The Ukrainian law-drafters should find it very useful in designing the domestic provisions and their future revisions. Furthermore, it is worth consulting the opinion of Advocate General Sharpston in this case.
C-212/11 Jyske Bank Gibraltar Ltd v	**Facts:** This was a reference for preliminary ruling submitted by *Tribunal Supremo* (Spain) in course of dispute between The request has been made in proceedings between Jyske Bank Gibraltar Ltd, a credit institution situated in Gibraltar

Case	Summary
Administración del Estado	operating in Spain under the rules on the freedom to provide services, and the *Administración del Estado* concerning the decision of the *Consejo de Ministros* (Spanish Council of Ministers). In the contested decision the Spanish authorities of rejected the application for review brought against the decision of that Consejo de Ministros of 17 April 2009 imposing on Jyske two financial penalties for a total amount of EUR 1 700 000 and two public reprimands following a refusal or lack of diligence to provide the information requested by the Spanish Executive service for the prevention of money laundering (for more on facts of the case see paras. 22-30 of the judgment). The Spanish Court decided to proceed with a reference for preliminary ruling asking for interpretation of Article 22(2) of Directive 2005/60 (see para. 31 of the judgment). **Judgment:** Directive 2005/60 does not preclude legislation of a Member State which requires credit institutions to communicate the information required for the purpose of combating money laundering and terrorist financing directly to the financial intelligence units of that Member State where the institutions carry out their activities in that State under the freedom to provide services. This, however, to the extent that such legislation does not compromise the effectiveness of Directive 2005/60 and of Council Decision 2000/642/JHA of 17 October 2000 concerning arrangements for cooperation between financial intelligence units of the Member States in respect of exchanging information. **Relevance:** This judgment provides good insight into discretion that the Member States have when transposing Directive 2005/60 to the national law and, thus, it should remain on the radars of the Ukrainian law-drafters.

5.2.2. Directive (EU) 2015/849 on the prevention of the use of the financial system for the purposes of money laundering or terrorist financing

Case	Summary
	No case-law as of 31 December 2017

5.2.3. Regulation (EU) 2015/847 on information accompanying transfers of funds

Case	Summary
	No case-law as of 31 December 2017

Chapter 6 Telecommunications

6.1. Lists of judgments

EU Legal Act	Jurisprudence
Directive 2002/21/EC of the European Parliament and of the Council of 7 March 2002 on a common regulatory framework for electronic communications networks and services (Framework Directive) as amended by Directive 2009/140/EC of the European Parliament and of the Council of 25 November 2009	- C-112/16 Persidera SpA v Autorità per le Garanzie nelle Comunicazioni and Ministero dello Sviluppo Economico delle Infrastrutture e dei Trasporti, ECLI:EU:C:2017:597 - C-560/15 Europa Way Srl and Persidera SpA v Autorità per le Garanzie nelle Comunicazioni and Others, ECLI:EU:C:2017:593 - C-424/15 Xabier Ormaetxea Garai and Bernardo Lorenzo Almendros v Administración del Estado, ECLI:EU:C:2016:780 - C-240/15 Autorità per le Garanzie nelle Comunicazioni v Istituto Nazionale di Statistica - ISTAT and Others, ECLI:EU:C:2016:608 - C-231/15 Prezes Urzędu Komunikacji Elektronicznej and Petrotel sp. z o.o. w Płocku v Polkomtel sp. z o.o., ECLI:EU:C:2016:769 - C-28/15 Koninklijke KPN NV and Others v Autoriteit Consument en Markt (ACM), ECLI:EU:C:2016:692 - C-416/14 Fratelli De Pra SpA and SAIV SpA v Agenzia Entrate - Direzione Provinciale Ufficio Controlli Belluno and Agenzia Entrate - Direzione Provinciale Ufficio Controlli Vicenza, ECLI:EU:C:2015:617 - C-395/14 Vodafone GmbH v Bundesrepublik Deutschland, ECLI:EU:C:2016:9 - C-3/14 Prezes Urzędu Komunikacji Elektronicznej and Telefonia Dialog sp. z o.o. v T-Mobile Polska SA, ECLI:EU:C:2015:232 - C-282/13 T-Mobile Austria GmbH v Telekom-Control-Kommission, ECLI:EU:C:2015:24 - C-475/12 UPC DTH Sàrl v Nemzeti Média- és Hírközlési Hatóság Elnökhelyettese, ECLI:EU:C:2014:285

EU Legal Act	Jurisprudence
	- C-518/11 UPC Nederland BV v Gemeente Hilversum, ECLI:EU:C:2013:709 - C-410/09 Polska Telefonia Cyfrowa sp. z o.o. v Prezes Urzędu Komunikacji Elektronicznej, ECLI:EU:C:2011:294 - C-522/08 Telekommunikacja Polska SA w Warszawie v Prezes Urzędu Komunikacji Elektronicznej, ECLI:EU:C:2010:135 - C-192/08 TeliaSonera Finland Oyj, ECLI:EU:C:2009:696 - C-424/07 European Commission v Federal Republic of Germany, ECLI:EU:C:2009:749 - C-262/06 Deutsche Telekom AG v Bundesrepublik Deutschland, ECLI:EU:C:2007:703 - C-64/06 Telefónica O2 Czech Republic a.s. v Czech On Line a.s., ECLI:EU:C:2007:348 - C-380/05 Centro Europa 7 Srl v Ministero delle Comunicazioni e Autorità per le garanzie nelle comunicazioni and Direzione generale per le concessioni e le autorizzazioni del Ministero delle Comunicazioni, ECLI:EU:C:2008:59
Directive 2002/20/EC of the European Parliament and of the Council of 7 March 2002 on the authorisation of electronic communications networks and services (Authorisation Directive) as amended by Directive 2009/140/EC of the European Parliament and of the Council of 25 November 2009	- C-112/16 Persidera SpA v Autorità per le Garanzie nelle Comunicazioni and Ministero dello Sviluppo Economico delle Infrastrutture e dei Trasporti, ECLI:EU:C:2017:597 - C-560/15 Europa Way Srl and Persidera SpA v Autorità per le Garanzie nelle Comunicazioni and Others, ECLI:EU:C:2017:593 - C-240/15 Autorità per le Garanzie nelle Comunicazioni v Istituto Nazionale di Statistica - ISTAT and Others, ECLI:EU:C:2016:608 - C-416/14 Fratelli De Pra SpA and SAIV SpA v Agenzia Entrate - Direzione Provinciale Ufficio Controlli Belluno and Agenzia Entrate - Direzione Provinciale Ufficio Controlli Vicenza, ECLI:EU:C:2015:617 - C-397/14 Polkomtel sp. z o.o. v Prezes Urzędu Komunikacji Elektronicznej, ECLI:EU:C:2016:256

EU Legal Act	Jurisprudence
	- C-85/14 KPN BV v Autoriteit Consument en Markt (ACM), ECLI:EU:C:2015:610 - C-517/13 Proximus SA v Province de Namur, ECLI:EU:C:2015:820 - C-454/13 Proximus SA v Commune d'Etterbeek, ECLI:EU:C:2015:819 - C-346/13 Ville de Mons v Base Company, anciennement KPN, ECLI:EU:C:2015:649 - Joined Cases C-256/13 and C-264/13 Provincie Antwerpen v Belgacom NV van publiek recht (C-256/13) and Mobistar NV (C-264/13), ECLI:EU:C:2014:2149 - C-375/11 Belgacom SA and Others v Belgian State, ECLI:EU:C:2013:185 - Joined Cases Joined Cases C-228/12 to C-232/12 and C-254/12 to C-258/12, Vodafone Omnitel NV (C-228/12, C-231/12 and C-258/12), Fastweb SpA (C-229/12 and C-232/12), Wind Telecomunicazioni SpA (C-230/12 and C-254/12), Telecom Italia SpA (C-255/12 and C-256/12) and Sky Italia srl (C-257/12) v Autorità per le Garanzie nelle Comunicazioni Presidenza del Consiglio dei Ministri (C-228/12 to C-232/12, C-255/12 and C-256/12), Commissione di Garanzia dell'Attuazione della Legge sullo Sciopero nei Servizi Pubblici Essenziali (C-229/12, C-232/12 and C-257/12) and Ministero dell'Economia e delle Finanze (C-230/12), ECLI:EU:C:2013:495 - Joined Cases C-55/11 to C-58/11 Vodafone España SA v Ayuntamiento de Santa Amalia (C-55/11) and Ayuntamiento de Tudela (C-57/11) and France Telecom España SA v Ayuntamiento de Torremayor (C-58/11), ECLI:EU:C:2012:446 - C-71/12 Vodafone Malta ltd. and Mobisle Communications ltd. v Avukat Ġenerali and Others, ECLI:EU:C:2013:431
Directive 2002/19/EC of the European Parliament and of the Council of 7 March 2002 on access to, and interconnection of, electronic	- C-227/16 Polkomtel sp. z o.o. v Prezes Urzędu Komunikacji Elektronicznej, ECLI:EU:C:2017:989

EU Legal Act	Jurisprudence
communications networks and associated facilities (Access Directive) as amended by Directive 2009/140/EC of the European Parliament and of the Council of 25 November 2009	- C-397/14 Polkomtel sp. z o.o. v Prezes Urzędu Komunikacji Elektronicznej, ECLI:EU:C:2016:256 - C-556/12 TDC A/S v Teleklagenævnet, ECLI:EU:C:2014:2009 - C-227/07 Commission of the European Communities v Republic of Poland, ECLI:EU:C:2008:620
Directive 2002/22/EC of the European Parliament and of the Council of 7 March 2002 on universal service and users' rights relating to electronic communications networks and services (Universal Service Directive) as amended by Directive 2009/136/EC of the European Parliament and of the Council of 25 November 2009	- C-536/15 Tele2 (Netherlands) BV and Others v Autoriteit Consument en Markt (ACM), ECLI:EU:C:2017:214 - C-327/15 TDC A/S v Teleklagenævnet and Erhvervs- og Vækstministeriet, ECLI:EU:C:2016:974 - C-508/14 Český telekomunikační úřad v T-Mobile Czech Republic a.s. and Vodafone Czech Republic a.s., ECLI:EU:C:2015:657 - C-397/14 Polkomtel sp. z o.o. v Prezes Urzędu Komunikacji Elektronicznej, ECLI:EU:C:2016:256 - C-326/14 Verein für Konsumenteninformation v A1 Telekom Austria AG, ECLI:EU:C:2015:782 - C-85/14 KPN BV v Autoriteit Consument en Markt (ACM), ECLI:EU:C:2015:610 - C-1/14 Base Company NV and Mobistar NV v Ministerraad, ECLI:EU:C:2015:378 - Case C-134/10 European Commission v Kingdom of Belgium, ECLI:EU:C:2011:117 - Case C-16/10 The Number Ltd and Conduit Enterprises Ltd v Office of Communications and British Telecommunications plc., ECLI:EU:C:2011:92 - C-543/09 Deutsche Telekom AG v Bundesrepublik Deutschland, ECLI:EU:C:2011:279 - C-99/09 Polska Telefonia Cyfrowa sp. z o.o. v Prezes Urzędu Komunikacji Elektronicznej, ECLI:EU:C:2010:395 - - C-389/08 Base NV and Others v Ministerraad, ECLI:EU:C:2010:584

EU Legal Act	Jurisprudence
	- Joined cases C-317/08, C-318/08, C-319/08 and C-320/08, Rosalba Alassini v Telecom Italia SpA (C-317/08), Filomena Califano v Wind SpA (C-318/08), Lucia Anna Giorgia Iacono v Telecom Italia SpA (C-319/08) and Multiservice Srl v Telecom Italia SpA (C-320/08), ECLI:EU:C:2010:146 - C-222/08 European Commission v Kingdom of Belgium, ECLI:EU:C:2010:583 - C-336/07 Kabel Deutschland Vertrieb und Service GmbH & Co. KG v Niedersächsische Landesmedienanstalt für privaten Rundfunk, ECLI:EU:C:2008:765 - C-274/07 Commission of the European Communities v Lithuania, ECLI:EU:C:2008:497 - C-438/04 Mobistar SA v Institut belge des services postaux et des télécommunications (IBPT), ECLI:EU:C:2006:463
Decision 676/2002/EC of the European Parliament and of the Council of 7 March 2002 on a regulatory framework for radio spectrum policy in the European Community	No relevant case-law as of 31 December 2017
Commission Directive 2002/77/EC of 16 September 2002 on competition in the markets for electronic communications networks and services	- C-112/16 Persidera SpA v Autorità per le Garanzie nelle Comunicazioni and Ministero dello Sviluppo Economico delle Infrastrutture e dei Trasporti, ECLI:EU:C:2017:597 - C-560/15 Europa Way Srl and Persidera SpA v Autorità per le Garanzie nelle Comunicazioni and Others, ECLI:EU:C:2017:593 - C-380/05 Centro Europa 7 Srl v Ministero delle Comunicazioni e Autorità per le garanzie nelle comunicazioni and Direzione generale per le concessioni e le autorizzazioni del Ministero delle Comunicazioni, ECLI:EU:C:2008:59
Directive 98/84/EC of the European Parliament and of the Council of 20 November 1998 on the legal protection of services based on, or consisting of, conditional access	- Joined cases C-403/08 and C-429/09 Football Association Premier League Ltd and Others v QC Leisure and Others (C-403/08) and Karen

EU Legal Act	Jurisprudence
	Murphy v Media Protection Services Ltd (C-429/08), ECLI:EU:C:2011:631
Directive 2000/31/EC of the European Parliament and of the Council of 8 June 2000 on certain legal aspects of information society services, in particular electronic commerce in the Internal Market ("E-Commerce"- Directive)	- C-339/15 Criminal proceedings against Luc Vanderborght, ECLI:EU:C:2017:335 - C-484/14 Tobias Mc Fadden v Sony Music Entertainment Germany GmbH, ECLI:EU:C:2016:689 - C-291/13 Sotiris Papasavvas v O Fileleftheros Dimosia Etaireia Ltd and Others, ECLI:EU:C:2014:2209 - C-657/11 Belgian Electronic Sorting Technology NV v Bert Peelaers and Visys NV, ECLI:EU:C:2013:516 - C-360/10 Belgische Vereniging van Auteurs, Componisten en Uitgevers CVBA (SABAM) v Netlog NV, ECLI:EU:C:2012:85 - C-292/10 G v Cornelius de Visser, ECLI:EU:C:2012:142 - C-70/10 Scarlet Extended SA v Société belge des auteurs, compositeurs et éditeurs SCRL (SABAM), ECLI:EU:C:2011:771 -Joined cases C-509/01 and C-161/1 eDate Advertising GmbH v X (C-509/09) and Olivier Martinez and Robert Martinez v MGN Limited (C-161/10), ECLI:EU:C:2011:685 - C-324/09 L'Oréal SA and Others v eBay International AG and Others, ECLI:EU:C:2011:474 - C-108/09 Ker-Optika bt v ÀNTSZ Dél-dunántúli Regionális Intézete, ECLI:EU:C:2010:725 - Joined cases C-585/08 and C-144/09 Peter Pammer v Reederei Karl Schlüter GmbH & Co. KG (C-585/08) and Hotel Alpenhof GesmbH v Oliver Heller (C-144/09), ECLI:EU:C:2010:740 - Joined cases C-236/08 to C-238/08 Google France SARL and Google Inc. v Louis Vuitton Malletier SA (C-236/08), Google France SARL v Viaticum SA and Luteciel SARL (C-237/08) and Google France SARL v

EU Legal Act	Jurisprudence
	Centre national de recherche en relations humaines (CNRRH) SARL and Others (C-238/08), ECLI:EU:C:2010:159 - C-557/07 LSG-Gesellschaft zur Wahrnehmung von Leistungsschutzrechten GmbH v Tele2 Telecommunication GmbH, ECLI:EU:C:2009:107 - C-298/07 Bundesverband der Verbraucherzentralen und Verbraucherverbände - Verbraucherzentrale Bundesverband eV v deutsche internet versicherung AG, ECLI:EU:C:2008:54 - C-275/06 Productores de Música de España (Promusicae) v Telefónica de España SAU, ECLI:EU:C:2008:54
Directive 1999/93/EC of the European Parliament and of the Council of 13 December 1999 on a Community framework for electronic signatures (NOTE: this Directive has been replaced by Regulation (EU) No 910/2014 of the European Parliament and of the Council of 23 July 2014 on electronic identification and trust services for electronic transactions in the internal market and repealing Directive 1999/93/EC)	- no case-law as of 31 December 2017

6.2. Summaries of selected judgments

6.2.1. Directive 2002/21 on a common regulatory framework for electronic communication networks and services

Case	Summary
C-28/15 Koninklijke KPN NV and Others v Autoriteit Consument en Markt (ACM)	**Facts:** this was a reference for preliminary ruling submitted by *College van Beroep voor het bedrijfsleven* (Administrative Court of Appeal for Trade and Industry, Netherlands). It was submitted in course of proceedings between several mobile phone operators and Autoriteit Consument en Markt (Authority for Consumers and Markets), regarding a decision setting price caps for fixed and mobile call termination services (for an overview of the factual background see paras. 19-26 of the judgment). The reference concerned interpretation of several provisions of Directive 2002/21 (see para. 27 of the judgment). **Judgment:** Article 4(1) of Directive 2002/21/EC read in conjunction with Articles 8 and 13 of Directive 2002/19/EC provides that a national court, hearing a dispute concerning the legality of a tariff obligation imposed by the national regulatory authority for the provision of fixed and mobile call termination services, may depart from Commission Recommendation 2009/396/EC of 7 May 2009 on the regulatory treatment of fixed and mobile termination rates in the EU advocating the 'pure Bulric' (Bottom-Up Long-Run Incremental Costs) cost model as the appropriate price regulation measure in the termination market only where it considers that this is required on grounds related to the facts of the individual case, in particular the specific characteristics of the market of the Member State in question. Furthermore, a national court hearing a dispute concerning the legality of a tariff obligation imposed by the national regulatory authority for the provision of fixed and mobile call termination services can assess the proportionality of that obligation in the light of the objectives set out in Article 8 of Directive 2002/21 and Article 13 of Directive 2002/19, and take into account the fact that the obligation has the effect of promoting the interests of end-users on a retail market which has not been earmarked for regulation. A national court may not, when carrying out a judicial review of a decision of the national regulatory authority, require that authority to demonstrate that the obligation actually attains the objectives set out in Article 8 of Directive 2002/21. **Relevance:** this is an important judgment that should be taken into account by the Ukrainian authorities when they proceed with approximation of Ukrainian law with the Directive in question. It clarifies a number of important issues related to application of Directive 2002/21 by national courts.
C-395/14 Vodafone GmbH v	**Facts:** this was a reference for preliminary ruling submitted by *Bundesverwaltungsgericht* (Federal Administrative Court, Germany) submitted in course of proceedings between Vodafone GmbH and the Bundesrepublik

Case	Summary
Bundesrepublik Deutschland	Deutschland (Federal Republic of Germany) concerning a decision of the Federal Network Agency authorising, on a provisional basis, Vodafone's mobile call termination fees (see further paras. 22-28 of the judgment). The national court proceeded with a reference for preliminary ruling in order to clarify interpretation of Article 7(3) of Directive 2002/21. **Judgment:** the Court of Justice held that Article 7(3) of Directive 2002/21/EC means that when an national regulatory authority has required an operator which has been designated as having significant market power to provide mobile call termination services and has made the fees charged for this subject to authorisation following the procedure laid down in that provision, that national regulatory authority is required to carry out the procedure again before each authorisation of those fees to that operator, where that authorisation is likely to affect trade between the Member States within the meaning of that provision. **Relevance:** this judgment is of relevance for the Ukrainian authorities as it provides useful interpretation of Article 7(3) of Directive 2002/21/EC. It clarifies the obligations of the national regulatory authorities and thus it should be taken into account when the Ukrainian law-makers proceed with drafting and adoption of domestic provisions approximating with Directive 2002/21/EC.
C-282/13 T-Mobile Austria GmbH v Telekom-Control-Kommission	**Facts:** this was a reference for preliminary ruling submitted by *Verwaltungsgerichtshof* (Austria) in course of proceedings between T-Mobile Austria GmbH and the Telekom-Control-Kommission (Telecommunications Control Commission) concerning the TCK's refusal to grant T-Mobile Austria status as a 'party' to a procedure for the authorisation of the modification of the ownership structure resulting from the takeover of Orange Austria Telecommunication GmbH by Hutchison 3G Austria GmbH, now Hutchison Drei Austria GmbH, and the possibility of bringing an appeal against the decision adopted by the TCK at the end of that procedure (see further paras. 12-25 of the judgment). The referring court decided to proceed with a reference in order to clarify interpretation of Articles 4 and 9b of Directive 2002/21 as well as Directive 2002/20/EC on the authorisation of electronic communications networks and services (see para. 26 of the judgment). **Judgment:** Articles 4 and 9b of Directive 2002/21 as well as Article 5(6) of Directive 2002/20 provide that an undertaking, in circumstances such as those of the case before the referring court, may be regarded as a person 'affected', for the purposes of Article 4(1) of Directive 2002/21, where that undertaking, which provides electronic communications networks or services, is a competitor of the undertaking or undertakings party to a procedure for the authorisation of a transfer of rights to use radio frequencies provided for in Article 5(6) and the addressees of

Case	Summary
	the decision of the national regulatory authority, and where that decision is likely to have an impact on that first undertaking's position on the market. **Relevance:** this judgment is of relevance for the Ukrainian law-makers as it sheds light on interpretation of Directives 2002/21 and 2002/20. It should be taken into account for drafting of relevant Ukrainian provisions approximating the domestic law with EU *acquis* in the telecommunication sector.
C-475/12 UPC DTH Sàrl v Nemzeti Média- és Hírközlési Hatóság Elnökhelyettese	**Facts:** this was a reference for preliminary ruling submitted by Fővárosi Törvényszék (Hungary) in course of proceedings between UPC DTH Sàrl, a company governed by Luxembourg law, and the Nemzeti Média- és Hírközlési Hatóság Elnökhelyettese (Deputy Chairman of the National Media and Communications Authority), concerning market surveillance proceedings relating to the Hungarian electronic communications market brought against UPC (see further paras. 19-29 of the judgment). The referring court submitted a number of questions regarding interpretation of Directive 2002/21 as well as provisions of TFEU. For Ukrainian authorities only the questions relating to the former are of relevance and therefore this summary is limited only to that aspect of the judgement. **Judgment:** the Court of Justice held that Article 2(c) of Directive 2002/21/EC means that a service consisting in the supply, for consideration, of conditional access to a package of programmes which contains radio and television broadcast services and is retransmitted by satellite falls within the definition of "electronic communications service" within the meaning of that provision. The fact that that service includes a conditional access system within the meaning of Article 2(ea) and (f) of Directive 2002/21 is irrelevant in that regard. Furthermore, an operator supplying a service such as that at issue in the main proceedings must be regarded as a provider of electronic communications services under Directive 2002/21. **Relevance:** this judgment is of relevance for the Ukrainian authorities and should be taken into account when they approximate domestic law with Directive 2002/21/EC. As noted above the Court of Justice clarified the meaning of term "electronic communications service" which is laid down in the legal act in question.
C-518/11 UPC Nederland BV v Gemeente Hilversum	**Facts:** this was a reference for preliminary ruling submitted by *Gerechtshof te Amsterdam* (the Netherlands). It was submitted in course of proceedings between UPC Nederland BV and the Gemeente Hilversum (municipality of Hilversum) concerning a contract relating to the sale by that municipality of the cable television undertaking owned by it (see paras.16-33 of the judgment). The referring court submitted eight questions dealing with different aspects of EU law, including interpretation of Directive 2002/21/EC (see para. 34 of the judgment).

Case	Summary
	Judgment: Article 2(c) of Directive 2002/21/EC must be interpreted as meaning that a service consisting in the supply of a basic package of radio and television programmes via cable, the charge for which includes transmission costs as well as payments to broadcasters and royalties paid to copyright collecting societies in connection with the transmission of programme content, falls within the definition of an "electronic communications service". Therefore it falls within the scope of Directive 2002/21 as well as other legal acts listed by the Court of Justice. Furthermore, these directives preclude an entity such as that at issue in the main proceedings, which is not a national regulatory authority, from intervening directly in retail tariffs in respect of the supply of a basic package of radio and television programmes via cable. **Relevance:** this judgment is of relevance for the Ukrainian law-makers as it sheds the light on the scope of application of Directive 2002/21/EC and other legal acts in this area of law. Thus, it should be taken into account by the Ukrainian law-makers when they proceed with approximation of domestic law with EU *acquis* in this field.
C-522/08 Telekommunikacja Polska SA w Warszawie v Prezes Urzędu Komunikacji Elektronicznej	**Facts:** this was a reference for preliminary ruling submitted by *Naczelny Sąd Administracyjny* (Poland) in course of proceedings between Telekomunikacja Polska SA w Warszawie and the Prezes Urzędu Komunikacji Elektronicznej (President of the Office for Electronic Communications), concerning the prohibition, imposed on TP, on making the conclusion of a contract for the provision of services contingent on the conclusion, by the end-user, of a contract for the provision of other services (see further paras. 15-16 of the judgment). The referring court wished to find out if EU law allows/prohibits domestic law making of the conclusion of a contract for the provision of services contingent on the conclusion, by the end-user, of a contract for the provision of other services (see para. 17 of the judgment). **Judgment:** Directive 2002/21 does not preclude domestic law which prohibits making the conclusion of a contract for the provision of services contingent on the conclusion, by the end-user, of a contract for the provision of other services. At the same time, Directive 2005/29/EC concerning unfair business-to-consumer commercial practices in the internal market must be interpreted as precluding national legislation which, with certain exceptions, and without taking account of the specific circumstances, imposes a general prohibition of combined offers made by a vendor to a consumer. **Relevance:** this judgment of the Court of Justice is definitely of importance for the Ukrainian law-makers as it clarifies what the Member States (and mutatis mutandis Ukraine) are allowed to provide in national law. Therefore, this ruling needs to be taken into account when the Ukrainian law is approximated with EU *acquis*.

Case	Summary
C-424/07 European Commission v Federal Republic of Germany	**Facts:** the European Commission submitted a case to the Court of Justice claiming that newly adopted German legislation was in breach of several telecommunication directives. In particular, the applicant claimed that Germany, in violation of Articles 8(1) and (2), 15 and 16 of Directive 2002/21/EC, Article 8(4) of Directive 2002/19/EC and Article 17(2) Directive 2002/22/EC, limited the discretion of the NRAs by defining the concept of 'new markets' in the new provisions of the TKG, by laying down in them the principle of non-regulation of those markets, by imposing more restrictive conditions in them than those provided for by the common regulatory framework when, exceptionally, those markets may be subject to regulation, and by giving priority to a specific regulatory objective in the analysis of those markets. The second complaint alleges failure to comply with the consultation and consolidation procedures laid down in Articles 6 and 7 of the Framework Directive (see further paras. 25-30 of the judgment). **Judgment:** the Court of Justice held that Germany was indeed in breach of these Directives. **Relevance:** this judgment is of relevance for the Ukrainian authorities as it clarifies what the Member States are not allowed to do under the Directives in question. Thus, it should remain on the radars of the Ukrainian law-makers.
C-262/06 Deutsche Telekom AG v Bundesrepublik Deutschland	**Facts:** this was a reference for preliminary ruling submitted by *Bundesverwaltungsgericht* (Germany) in course of proceedings between Deutsche Telekom AG and German authorities regarding a decision of 8 June 2004 by which the regulatory authority found that the tariffs charged by Deutsche Telekom and the related clauses of its general terms and conditions in respect of certain 'offer packages' fell within the requirement for authorisation within the meaning of Paragraph 25(1) of the Law on Telecommunications (Telekommunikationsgesetz) of 25 July 1996. In course of those proceedings the German court expressed doubts as to interpretation of Article 27 of Directive 2002/21/EC and Article Article 16(1)(a) of Directive 2002/22/EC and therefore decided to proceed with a reference for preliminary ruling to the Court of Justice (see further paras. 12-17 of the judgment). **Judgment:** Article 27 (1) of Directive 2002/21/EC and Article 16(1)(a) of Directive 2002/22/EC must be interpreted as meaning that a statutory requirement for the approval of tariffs for the supply of retail voice telephony services provided by undertakings with a dominant position in that market, such as that provided for in Paragraph 25 of the Law on Telecommunications (Telekommunikationsgesetz) of 25 July 1996, enacted by national law and preceding the regulatory framework resulting from those directives, together with administrative measures confirming that requirement.

Case	Summary
	Relevance: this judgment should be taken into account when the Ukrainian authorities are approximating the domestic legislation with EU *acquis*.
C-112/16 Persidera SpA v Autorità per le Garanzie nelle Comunicazioni and Ministero dello Sviluppo Economico delle Infrastrutture e dei Trasporti	**Facts:** this was a reference for preliminary ruling submitted by Consiglio di Stato (Council of State, Italy) in course of proceedings between Persidera SpA, on the one hand, and the Autorità per le Garanzie nelle Comunicazioni (Communications supervisory authority, Italy) and the Ministero dello Sviluppo economico, delle Infrastrutture e dei Trasporti (Ministry for Economic Development, Infrastructure and Transport, Italy), on the other, concerning the assignment of rights to use radio frequencies for digital terrestrial television broadcasting. In course of these proceedings the referring court expressed doubts as to interpretation of EU law, including Directive 2002/21, and proceeded with the reference in question (see further paras. 12-21 of the judgment). **Judgment:** Article 9 of Directive 2002/21/EC on a common regulatory framework for electronic communications networks and services (Framework Directive), Articles 3, 5 and 7 of Directive 2002/20/EC of the European Parliament and of the Council of 7 March 2002 on the authorisation of electronic communications networks and services and Articles 2 and 4 of Directive 2002/77/EC on competition in the markets for electronic communications networks and services must be interpreted to the effect that they preclude a national provision which, for the purposes of converting existing analogue channels into digital networks, takes into consideration unlawfully managed analogue channels, where that leads to an unfair competitive advantage being prolonged, or even reinforced. Furthermore, the Court added that the principles of non-discrimination and proportionality must be interpreted to the effect that they preclude a national provision which, on the basis of the same conversion criterion, leads to a proportionately larger reduction in the number of digital networks assigned compared with the number of analogue channels operated to the detriment of one operator compared to its competitors, unless it is objectively justified and proportionate to its objective. According the Court of Justice, the continuity of television output constitutes a legitimate objective capable of justifying such a difference in treatment. However, a provision which would lead to operators already present on the market being assigned a number of digital radio frequencies which is greater than the number that is sufficient to ensure the continuity of their television output would go beyond what is necessary to achieve that objective and would, thus, be disproportionate. **Relevance:** this judgment is of relevance for the Ukrainian authorities as it clarifies the scope of obligations stemming from Directive 2002/21/EC and other selected directives applicable in the area in question. It should be taken into account by the Ukrainian law-makers when they proceed with approximation.

Case	Summary
C-231/15 Prezes Urzędu Komunikacji Elektronicznej, Petrotel sp. z o.o. w Płocku v Polkomtel sp. z o.o.	**Facts:** this was a reference for preliminary ruling submitted by Sąd Najwyższy (Supreme Court, Poland) in course of proceedings between (i) the Prezes Urzędu Komunikacji Elektronicznej (President of the Office for Electronic Communications) and Petrotel sp. z o.o. w Płocku and (ii) Polkomtel sp. z o.o., concerning a decision taken by the President of the UKE in the context of a dispute between those two undertakings relating to the call termination rates applied by Polkomtel on its mobile telephone network (see further paras. 4-13 of the judgment). In course of those proceedings the Supreme Court of Poland raised doubts as to powers of national courts to annul decisions of national regulatory authority. **Judgment:** Article 4(1), first subparagraph, first and third sentences, and second subparagraph, of Directive 2002/21/EC of 7 March 2002 on a common regulatory framework for electronic communications networks and services, in conjunction with Article 47 of the Charter of Fundamental Rights of the European Union, is to be interpreted as meaning that a national court hearing an appeal against a decision of the national regulatory authority must be able to annul that decision with retroactive effect if it finds that to be necessary in order to provide effective protection for the rights of the undertaking which has brought the appeal. **Relevance:** this judgment is of relevance for the Ukrainian authorities in charge of approximation with EU telecommunications directives. It provides a useful clarification of powers vested in national courts and thus it should be taken into account when the Ukrainian authorities work on the enforcement of the legal acts in question.

6.2.2. Directive 2002/20 on the authorization of electronic communications networks and services

Case	Summary
Joined Cases C-256/13 and C-264/13 Provincie Antwerpen v Belgacom NV van publiek recht (C-256/13) and Mobistar NV (C-264/13)	**Facts:** This was a reference for preliminary ruling submitted by *Hof van beroep te Antwerpen* (Belgium) in course of disputes between the province of Antwerp and two undertakings. The subject of litigation was legality of decisions making both companies liable to pay a general provincial tax in respect of these companies' establishments in the province of Antwerp. They established several mobile-phone communication masts, pylons and antennae, which are necessary for provision of electronic communications. The crux of the reference is whether Articles 6 and 13 of Directive 2002/20 permits a tax as in the case in question.

Case	Summary
	Judgment: Articles 6 and 13 of Directive 2002/20 do not preclude operators providing electronic communication networks or services from being subject to a general tax on establishments, on account of the presence on public or private property of cellular phone communication masts, pylons or antennae, which are necessary for their activity. **Relevance:** This judgment is relevant for the Ukrainian law-makers. It clarifies what is permitted in terms of taxation of companies providing electronic communications.
C-454/13 Proximus SA v Commune d'Etterbeek	**Facts:** this reference for preliminary ruling was submitted by *tribunal de première instance de Bruxelles* (Court of First Instance, Brussels, Belgium) in course of proceedings between Proximus SA, formerly Belgacom SA, and the commune d'Etterbeek (municipality of Etterbeek, Belgium) concerning a charge on mobile telephony antennae installed in that municipality (paras. 11-15). The referring court expressed doubts as to interpretation of Articles 12 and 13 of Directive 2002/20/EC and therefore decided to proceed with a reference for preliminary ruling (see para. 16). **Judgment:** Articles 12 and 13 of Directive 2002/20/EC does not preclude a charge, such as that at issue in the main proceedings, being imposed on any natural or legal persons who are proprietors of a right in rem over, or of a right to operate, a mobile telephony antenna. **Relevance:** This judgment is of relevance for the Ukrainian authorities as it specifies an important matter that is not explicitly regulated in Directive 2002/20/EC. It should be taken into account when the relevant legislation is drafted and adopted.
C-346/13 Ville de Mons v Base Company, anciennement KPN	**Facts:** this was a reference for preliminary ruling submitted by *Cour d'appel de Mons* (Belgium). It was submitted in course of proceedings between Base Company SA, formerly KPN Group Belgium SA, and the ville de Mons (the city of Mons) concerning a tax on mobile telephone transmission pylons and masts located in that city (see paras. 10-11). **Judgment:** Article 13 does not preclude a tax, such as in the case at hand, being imposed on the owner of free-standing structures, such as transmission pylons or masts intended to support the antennas required for the functioning of the mobile telecommunication network, and which it was not possible to place on an existing site.

Case	Summary
	Relevance: This judgment is of importance for the Ukrainian authorities as it clarifies the scope of regulatory autonomy of the Member States. It can be applied *mutatis mutandis* to Ukraine.
C-375/11 Belgacom SA and Others v Belgian State	**Facts:** this was a reference for preliminary ruling submitted by *Cour constitutionnelle* (Belgium) in course of proceedings between Belgacom SA, Mobistar SA and KPN Group Belgium SA, on the one hand, and the Belgian State, on the other, concerning the conformity of fees due by those mobile telephone operators under the national law (see further paras. 16-27 of the judgment). The national court raised several doubts as to interpretation of Directive 2002/20 and therefore decided to proceed with a reference for preliminary ruling (see para. 28 of the judgment). **Judgment:** the Court of Justice held that Articles 12 and 13 of Directive 2002/20/EC do not preclude a Member State from charging mobile telephone operators holding rights of use for radio frequencies a one-off fee payable for both a new acquisition of rights of use for radio frequencies and for renewals of those rights, in addition to an annual fee for making the frequencies available, intended to encourage optimal use of the resources, and also to a fee covering the cost of managing the authorization. This is subject to a condition that those fees genuinely are intended to ensure optimal use of the resource made up of those radio frequencies and are objectively justified, transparent, non-discriminatory and proportionate in relation to their intended purpose and take into account the objectives in Article 8 of Directive 2002/21/EC. **Relevance:** this judgment is definitely of relevance for the Ukrainian authorities. It exemplifies the leverage that the national authorities have in the area in question. Thus it should be taken into account for the approximation purposes.
Joined Cases Joined Cases C-228/12 to C-232/12 and C-254/12 to C-258/12, Vodafone Omnitel NV (C-228/12, C-231/12 and C-258/12), Fastweb SpA (C-229/12 and C-232/12), Wind	**Facts:** this was a reference for preliminary ruling submitted by *Tribunale amministrativo regionale per il Lazio* (Italy) in course of proceedings between several undertakings and the Ministerio dell'Economia e delle Finanze (Ministry of Economy and Finance) concerning the annulment of decisions requiring payment of a contribution by operators providing services or electronic network communications in order to cover all the costs of the national regulatory authority which are not borne by the budget of the Member State (see further paras. 15-21 of the judgment). The referring court expressed doubts as to the compatibility of domestic law with Directive 2002/20 and therefore proceeded with a reference for preliminary ruling. **Judgment:** Article 12 of Directive 2002/20/EC does not preclude legislation of a Member State, such as that at issue in the main proceedings, pursuant to which undertakings providing electronic communications services or

Case	Summary
Telecomunicazioni SpA (C-230/12 and C-254/12), Telecom Italia SpA (C-255/12 and C-256/12) and Sky Italia srl (C-257/12) v Autorità per le Garanzie nelle Comunicazioni Presidenza del Consiglio dei Ministri (C-228/12 to C-232/12, C-255/12 and C-256/12), Commissione di Garanzia dell'Attuazione della Legge sullo Sciopero nei Servizi Pubblici Essenziali (C-229/12, C-232/12 and C-257/12) and Ministero dell'Economia e delle Finanze (C-230/12)	networks are liable to pay a charge intended to cover all the costs incurred by the NRA which are not financed by the State, the amount of which being determined according to the income received by those undertakings, provided that that charge is exclusively intended to cover the costs relating to the activities mentioned in Article 12(1)(a), that the totality of the income obtained in respect of that charge does not exceed the total costs relating to those activities and that that charge is imposed upon individual undertakings in an objective, transparent and proportionate manner, which is for the national court to ascertain. **Relevance:** this judgment is of relevance for the Ukrainian authorities as it clarifies the leverage that the Member States have to impose various charges on undertakings. Bearing this in mind it should be taken into account by the Ukrainian legislators.
Joined Cases C-55/11 to C-58/11 Vodafone España SA v Ayuntamiento de Santa Amalia (C-55/11) and	**Facts:** this was a reference for preliminary ruling submitted by Tribunal Supremo (Spain) in course of proceedings between first, Vodafone España SA and the Ayuntamientos de Santa Amalia (C-55/11) and de Tudela (C-57/11), and, second, France Telecom España SA and the Ayuntamiento de Torremayor (C-58/11) concerning the fees which Vodafone España and France Telecom España were subject to for the private use and the special right of use for the area under and on municipal public land. The referring court wished to know if Directive 2002/20 precludes domestic law allowing for such fees (see further paras. 13-20 of the judgment).

Case	Summary
Ayuntamiento de Tudela (C-57/11) and France Telecom España SA v Ayuntamiento de Torremayor (C-58/11)	**Judgment:** the Court of Justice held that Article 13 of Directive 2002/20/EC precludes the imposition of a fee for the right to install facilities on, over or under public or private property on operating undertakings which, without being proprietors of those facilities, use them to provide mobile telephony services. **Relevance:** the judgment is relevant as it demonstrates a kind of charge that is not permitted under EU law. Thus, it should remain on the radars of the Ukrainian authorities.
C-71/12 Vodafone Malta ltd. and Mobisle Communications ltd. v Avukat Ġenerali and Others	**Facts:** this reference for preliminary ruling was submitted by *Qorti Kostituzzjonali* (Malta) in course of proceedings between mobile phone operators and several Maltese authorities concerning the levying of excise duty (see further paras. 10-16 of the judgment). The referring court wished to find out if the domestic charge was permissible under EU law. **Judgment:** Article 12 of Directive 2002/20/EC does not preclude the legislation of a Member State under which operators providing mobile telephony services are liable to pay 'excise' duty, calculated as a percentage of the charges paid to them by the users of those services, provided the trigger for that duty is not linked to the general authorisation procedure for access to the electronic communications services market but to the use of mobile telephony services provided by the operators and the duty is ultimately borne by the user of those services. **Relevance:** this judgment is of relevance for the Ukrainian law-makers as it clarifies the leverage that the domestic authorities have to impose such charges. Thus, it should be taken into account by the Ukrainian law-makers in charge of legal approximation.

6.2.3. Directive 2002/19 on access to, and interconnection of, electronic communications networks and associated facilities

Case	Summary
C-556/12 TDC A/S v Teleklagenævnet	**Facts:** This was a reference for preliminary ruling from *Østre Landsret* (Denmark) in course of a dispute between TDC A/S (a telecommunications operator) and Teleklagenævnet (Danish Telecommunications Complaints Board) concerning the obligation to install drop cables, at the request of another communications operator, to enable end-users to have access to the fibre optic network. The plaintiff challenged the decision of Teleklagenævnet, claiming it exceeded the power laid down in Directive 2002/19, that is that the concept of granting "access" laid down therein does not comprise installation of infrastructure as per contested decision. Furthermore, the plaintiff claimed, that

Case	Summary
	compliance with the decision in question would amount to a considerable financial burden that would exceed the limits of principle of proportionality. The application of the latter is required under Article 8(1) of Directive 2002/19. **Judgment:** Articles 2(a), 8 and 12 of Directive 2002/19 must be interpreted as giving the national regulatory authority the power to impose on an electronic communications operator, which has significant market power, pursuant to the obligation to meet reasonable requests for access to and use of, specific network element and associated facilities, an obligation to install, at the request of competing operators, a drop cable not exceeding 30 metres in length connecting the distribution frame of an access network to the network termination point at the end-user's premises. This is subject to the following caveats: - the obligation is based on the nature of the problem identified, - it is proportionate, - it is justified in the light of objectives laid down in Article 8(1) of Directive 2002/19. **Relevance:** This judgment is very relevant for the Ukrainian decision-makers, who oversee the approximation with Directive 2002/19. Firstly, it clarifies the scope of the term "access" employed in Article 2(a) of Directive in question. Secondly, it brings into equation the financial side of such decisions of national regulatory authorities, which give decisions on access and interconnection of networks. Thirdly, it demonstrates, that the Court of Justice frequently goes beyond literal interpretation of EU legislation and ventures into teleological interpretation of applicable rules. It is advisable that this judgment is considered by the Ukrainian law-drafters.
C-227/07 Commission of the European Communities v Republic of Poland	**Facts:** The European Commission argued that Poland did not fully comply with Articles 4(1) and 5(1) of Directive 2002/19. The first lays down an obligation for operators of public telecommunication networks to negotiate interconnection and concerns interconnection of networks. Furthermore, the Commission claimed that the national regulatory authority should only intervene in exceptional circumstances. The obligation laid down in the Polish law was too general. See further paras 23-34 of the judgment. The European Commission also claimed that the Polish provisions in question were too general for implementation of Article 5(1) of Directive 2002/19 (see further paras 50-60 of the judgment). **Judgment:** The Court of Justice held that by imposing on operators of public communications networks a general obligation to negotiate agreements for access to the telecommunications network Poland failed to transpose correctly Article 4(1) of Directive 2002/19. See further paras 35-49 of the judgment. The Court dismissed the remainder of the action on procedural grounds.

Case	Summary
	Relevance: This judgment is important for approximation of Ukrainian law with Directive 2002/19. It clarifies the scope of Article 4(1) and the power with which the national legislator has to equip the national regulatory authority.
C-277/16 Polkomtel sp. z o.o. v Prezes Urzędu Komunikacji Elektronicznej	**Facts:** this was a reference for preliminary ruling submitted by Sąd Najwyższy (Supreme Court, Poland) in course of proceedings between Polkomtel sp. z o.o. and the Prezes Urzędu Komunikacji Elektronicznej concerning a decision taken by the latter setting the fees for terminating voice calls on Polkomtel's public mobile network. In course of these proceedings the referring court expressed doubts as to interpretation of Article 8(4) and Article 13 of Directive 2002/19/EC and thus proceeded with a reference for preliminary ruling (see paras. 14-25 of the judgment). **Judgment:** Article 8(4) and Article 13 of Directive 2002/19/EC must be interpreted as meaning that, where an obligation in regard to cost orientation of prices is imposed by a national regulatory authority on an operator, designated as having significant market power on a specific market, that national regulatory authority may, in order to promote efficiency and sustainable competition, set the prices of the services covered by such an obligation below the level of the costs incurred by that operator to provide them, if those costs are higher than the costs of an efficient operator, which is for the referring court to verify. Furthermore, Article 8(4) and Article 13(3) of Directive 2002/19, read in combination with Article 16 of the Charter of Fundamental Rights of the European Union, must be interpreted as meaning that a national regulatory authority may require an operator, designated as having significant market power on a specific market and under an obligation in regard to cost orientation of prices, to set its prices annually on the basis of the most up-to-date data and to submit those prices to it for verification together with justification before they become applicable, provided that such obligations are based on the nature of the problem identified, are proportionate and are justified in the light of the objectives laid down in Article 8 of Directive 2002/21/EC. Finally, Article 13(3) of Directive 2002/19 must be interpreted as meaning that, where an obligation in regard to cost orientation of prices has been imposed on an operator on the basis of Article 13(1) of that Directive, that operator may be required to adjust its prices before or after it has started to apply them. **Relevance:** this Directive is of relevance for the Ukrainian authorities as it clarifies the scope of powers that the national regulatory authority has as per Directive 2002/19/EC.

6.2.4. Directive 2002/22 on universal service and users' rights relating to electronic communications networks and services

Case	Summary
C-508/14 Český telekomunikační úřad v T-Mobile Czech Republic a.s. and Vodafone Czech Republic a.s.	**Facts:** The reference for preliminary ruling was submitted by the *Nejvyšší správní soud* (Czech Republic) in course of a dispute between the Czech telecommunications regulatory authority and several mobile phone operators. The undertakings challenged the legality of a decision adopted by the regulatory authority, setting the amount of loss connected with the provision of universal service for 2004 by another mobile phone operator (now O2 Czech Republic). The crux of the dispute was not the loss itself but rather the calculation method employed by the regulatory authority. The main provisions at stake were Articles 12 and 13 of Directive 2002/22 dealing with costing of universal service obligations and financing of universal service obligations (respectively). **Judgment:** The Court of Justice held that although Directive 2002/22 does not contain express references to the possibility of including the cost of equity capital or "reasonable profit" in the calculation of the net cost borne by the undertaking that provides universal service, nevertheless teleological interpretation employed by the Court of Justice permits such an option (see further paras. 33-45 of the judgment). **Relevance:** This judgment sheds a light on interpretation of one of the crucial provisions laid down in Directive 2002/22. Hence, it will be essential to take it into account when proceeding with approximation of Ukrainian law with EU *acquis*.
Joined cases C-317/08, C-318/08, C-319/08 and C-320/08, Rosalba Alassini v Telecom Italia SpA (C-317/08), Filomena Califano v Wind SpA (C-318/08), Lucia Anna Giorgia Iacono v Telecom Italia SpA (C-319/08) and Multiservice Srl v Telecom Italia SpA (C-320/08)	**Facts:** A reference for preliminary ruling was submitted by *Guidice di Pace di Ischia* (Italy) in course of several disputes between individuals and providers of telephone services. The subject matter was alleged breaches of contracts between the parties and provision the services in question. The references to the Court of Justice dealt with interpretation of several EU legal acts, in particular Directive 2002/22 as well as Recommendation 98/275/EC on the principles applicable to the bodies responsible for out-of-court settlement of consumer disputes. The crux of the dispute was whether Italian law, which envisaged compulsory recourse to out-of-court settlement mechanism prior to submission of a case to a court, was compatible with the mentioned legal acts as well as the principle of effective judicial protection. Article 34 of Directive 2002/22 was at the heart of the judgment. It provides that the Member States shall ensure that transparent, simple and inexpensive out-of-court procedures are available to disputes related to this Directive. Such disputes shall be settled fairly and promptly and may adopt a system of reimbursement and/or compensation. **Judgment:** Article 34 of Directive 2002/22 must be interpreted as not precluding national law providing that admissibility of actions before courts dealing with disputes between end-users and providers of electronic

Case	Summary
	communications services is conditional upon an attempt to settle the dispute out of court. Furthermore, it is not contrary to the principle of effective judicial protection, however subject to the following caveats: - procedure does result in a decision which is binding for the parties, - it does not cause a substantial delay for the purposes of bringing legal proceedings, - it suspends – for the parties - the period for time-barring of claims, - it does not give rise to costs (or gives rise to low costs), - electronic means is not the only modus operandi to access the settlement procedure, - interim measures are possible in exceptional cases when required by urgency. **Relevance:** This judgment is relevant for the Ukrainian legislator for several reasons. Firstly, it touches upon a type of provision that typically is troubling for domestic law-makers. As per principle of procedural autonomy of the Member States, EU legislation deals with substantive rights and obligations, while *modi operandi* for their enforcement are provided in national law. Hence, EU secondary legislation frequently comprises provisions like Article 34 of Directive 2002/22. This judgment clarifies what domestic law of the Member States and, *mutatis mutandis*, of Ukraine may provide for. As the Court ruled in para. 35, procedures for dealing with disputes, as per this Directive, must not merely involve an attempt to bring parties together to convince them to find a solution by common consent but must also lead to settling of the dispute through active intervention of a third party who proposes or imposed a solution. Secondly, this judgment sheds light on the role of recommendations, and more broadly, soft law in approximation as well as application of EU law. The Court of Justice clarified that they need to be considered by national judges when they apply EU law. The same goes for the legislators. In case of Ukraine it is highly advisable to take recommendations for the purposes of approximation of domestic law with EU *acquis*, including – in this case – Directive 2002/22.
Case C-134/10 European Commission v Kingdom of Belgium	**Facts:** The European Commission claimed that Belgium failed to transpose correctly Article 31 of Directive 2002/22 (see paras. 27-34 of the judgment). The provision in question provides that the Member States may impose reasonable "must carry" obligations, for the transmission of specified radio and television broadcast channels and services, on undertakings under their jurisdiction providing electronic communications networks used for the distribution of radio or television broadcasts to the public where a significant number of end-users of such networks use them as their principal means to receive radio and television broadcasts. The European Commission claimed that the criteria used by the national authorities to select television broadcasts that would benefit from "must-carry" status were not defined precisely enough in the Belgian law. Furthermore, the applicant argued that the

Case	Summary
	procedure followed by the national authorities was not transparent. Finally, the European Commission submitted that the scope of Article 31 of Directive 2002/22 was disregarded. **Judgment:** The Court of Justice confirmed that as per Directive 2002/22 the "must-carry" obligations may be imposed only where they are necessary to meet clearly defined general interest objective and meet the tests of proportionality and transparency. The Court held that Belgium was in breach of Directive 2002/22 by failing to transpose its Article 31 fully. **Relevance:** This is an important judgment, which clarifies the scope of Article 31 of Directive 2002/22. It also demonstrates how crucial it is to consider not only provisions contained in the main body of EU secondary legislation but also recitals of preambles that frequently clarify the meaning of provisions.
Case C-16/10 The Number Ltd and Conduit Enterprises Ltd v Office of Communications and British Telecommunications plc.,	**Facts:** this was a reference for preliminary ruling submitted by Court of Appeal (England & Wales) (Civil Division) (United Kingdom) in course of proceedings between two providers of directory enquiry services and directories in the United Kingdom, and British Telecommunications plc concerning amounts charged by BT for providing information from a database containing the details of subscribers to the telecommunications service which BT is required to maintain as a universal service provider (see further paras. 16-23 of the judgment). **Judgment:** Article 8(1) of Directive 2002/22/EC permits Member States, where they decide to designate one or more undertakings under that provision to guarantee the provision of universal service, or different elements of universal service, as identified in Articles 4 to 7 and 9(2) of that same Directive, to impose on such undertakings only the specific obligations, provided for in the Directive, which are associated with the provision of that service, or elements thereof, to end-users by the designated undertakings themselves. **Relevance:** this judgment is of relevance as it clarifies the scope of Article 8(1) of Directive 2002/22/EC. Thus it should be taken into account by the Ukrainian law-makers in charge of legal approximation.
C-543/09 Deutsche Telekom AG v Bundesrepublik Deutschland	**Facts:** this was a reference for preliminary ruling submitted by Bundesverwaltungsgericht (Germany) in course of proceedings between Deutsche Telekom AG and Germany concerning the obligation, imposed by the Telekommunikationsgesetz (German Law on Telecommunications), on undertakings which assign telephone numbers to make available, to other undertakings whose activity consists in providing publicly available directory enquiry services and directories, data in their possession relating to subscribers of third-party undertakings (see further paras. 19-26 of the judgment).

Case	Summary
	Judgment: Article 25(2) of Directive 2002/22/EC does not preclude national legislation under which undertakings assigning telephone numbers to end-users must make available to undertakings whose activity consists in providing publicly available directory enquiry services and directories not only data relating to their own subscribers but also data in their possession relating to subscribers of third-party undertakings. **Relevance:** This judgment is of relevance for the Ukrainian authorities and should be taken into account for the purposes of approximation of Ukrainian law with EU *acquis*.
C-99/09 Polska Telefonia Cyfrowa sp. z o.o. v Prezes Urzędu Komunikacji Elektronicznej	**Facts:** this was a reference for preliminary ruling submitted by *Sąd Najwyższy* (Poland) in course of proceedings between Polska Telefonia Cyfrowa sp. z o.o. and Prezes Urzędu Komunikacji Elektronicznej (the President of the Office for Electronic Communications) concerning the decision of 1 August 2006 by which the President of the UKE imposed a fine of PLN 100 000 (approximately EUR 24 350) on PTC (see paras. 9-11 of the judgment). The referring court decided to proceed with a reference for preliminary ruling to receive assistance in interpretation of Article 30 of Directive 2002/22/EC (see para. 12 of the judgment). **Judgment:** Article 30(2) of Directive 2002/22/EC obliges the national regulatory authority to take account of the costs incurred by mobile telephone network operators in implementing the number portability service when it assesses whether the direct charge to subscribers for the use of that service is a disincentive. However, it retains the power to fix the maximum amount of that charge levied by operators at a level below the costs incurred by them, when a charge calculated only on the basis of those costs is liable to dissuade users from making use of the portability facility. **Relevance:** this is an important judgment of the Court of Justice, which sheds the light on interpretation of Article 30(2) of Directive 2002/22/EC. Bearing this in mind, it should be taken into account when Ukraine proceeds with approximation of its domestic law with EU *acquis* in this area.

Case	Summary
C-389/08 Base NV and Others v Ministerraad	**Facts:** this was a reference for preliminary ruling submitted by Grondwettelijk Hof (Belgium) in course of proceedings brought by Base NV and Others for annulment of several provisions of a Belgian law (see paras. 17-18 of the judgment). The referring court decided to seek assistance of the Court of Justice in interpretation of Article 12 of Directive 2002/22/EC and therefore decided to proceed with a reference for preliminary ruling (see para. 19 of the judgment). **Judgment:** the Court of Justice held that Directive 2002/22/EC does not in principle preclude, by itself, the national legislature from acting as national regulatory authority within the meaning of Directive 2002/21/EC provided that, in the exercise of that function, it meets the requirements of competence, independence, impartiality and transparency laid down by those directives and that its decisions in the exercise of that function can be made the object of an effective appeal to a body independent of the parties involved. Furthermore, Article 12 of Directive 2002/22 does not preclude a national regulatory authority from determining generally and on the basis of the calculation of the net costs of the universal service provider which was previously the sole provider of that service that the provision of universal service may represent an 'unfair burden' for those undertakings designated as universal service providers. Last but not least, the Court of Justice held that Article 13 of Directive 2002/22 precludes that authority from deciding in the same way and on the basis of the same calculation that those undertakings are effectively subject to an unfair burden because of that provision, without having undertaken a specific examination of the situation of each of them. **Relevance:** this judgment clarifies several important issues related to Directive 2002/22 and the regulatory autonomy of the Member States. It should be taken into account when the Ukrainian authorities proceed with approximation of national law with EU *acquis* in the area in question.
Joined cases C-317/08, C-318/08, C-319/08 and C-320/08, Rosalba Alassini v Telecom Italia SpA (C-317/08), Filomena Califano v Wind SpA (C-318/08), Lucia Anna Giorgia Iacono v	**Facts:** this was a reference for preliminary ruling submitted by Giudice di Pace di Ischia (Italy) in course of proceedings between, on the one hand, Ms Alassini, Ms Iacono and Multiservice Srl against Telecom Italia SpA and, on the other hand, by Ms Califano against Wind SpA, regarding alleged breaches of the contracts binding the parties to the main proceedings and concerning the provision of telephone services to the applicants in the main proceedings by Telecom Italia SpA or Wind SpA, providers of those services (see further paras. 18-20 of the judgment). In order to render its judgment the domestic court decided first to proceed with a reference for preliminary ruling.

Case	Summary
Telecom Italia SpA (C-319/08) and Multiservice Srl v Telecom Italia SpA (C-320/08)	**Judgment:** Article 34 of Directive 2002/22/EC does preclude domestic law under which the admissibility before the courts of actions relating to electronic communications services between end-users and providers of those services, concerning the rights conferred by that directive, is conditional upon an attempt to settle the dispute out of court. Nor do the principles of equivalence and effectiveness or the principle of effective judicial protection preclude national legislation which imposes, in respect of such disputes, prior implementation of an out-of-court settlement procedure, provided that that procedure does not result in a decision which is binding on the parties, that it does not cause a substantial delay for the purposes of bringing legal proceedings, that it suspends the period for the time-barring of claims and that it does not give rise to costs – or gives rise to very low costs – for the parties, and only if electronic means is not the only means by which the settlement procedure may be accessed and interim measures are possible in exceptional cases where the urgency of the situation so requires. **Relevance:** this judgment is of relevance for the Ukrainian authorities. Although it does not deal with substantive rules envisaged in Directive 2002/22, it does however cover the compatibility of domestic law with key EU principles governing the enforcement of law. Hence, it should be taken into account by the Ukrainian authorities.
C-336/07 Kabel Deutschland Vertrieb und Service GmbH & Co. KG v Niedersächsische Landesmedienanstalt für privaten Rundfunk	**Facts:** this was a reference for preliminary ruling submitted by Verwaltungsgericht Hannover (Germany) in course of proceedings between Kabel Deutschland Vertrieb und Service GmbH & Co. KG and the Niedersächsische Landesmedienanstalt für privaten Rundfunk (media authority for private radio of the Land of Lower Saxony) regarding the obligation imposed on Kabel Deutschland by the NLM to broadcast over its analogue cable network the television channels of certain broadcasters designated by the NLM (see further paras. 12-17 of the judgment). The referring court expressed doubts as to compliance of domestic law with EU legislation and therefore decided to proceed with a reference for preliminary ruling (see para. 18). **Judgment:** Article 31(1) of Directive 2002/22/EC does not preclude national legislation, which requires a cable operator to provide access to its analogue cable network to television channels and services that are already being broadcast terrestrially, thereby resulting in the utilisation of more than half of the channels available on that network, and which provides, in the event of a shortage of available channels, for an order of priority of applicants which results in full utilisation of the channels available on that network, provided that those obligations do not give rise to unreasonable economic consequences, which is a matter for the national court to establish. Furthermore, the concept of 'television services', within the meaning of Article 31(1) of Directive 2002/22, includes services of

Case	Summary
	broadcasters of television programmes or providers of media services, such as teleshopping, provided that the conditions laid down in that provision are met, which is a matter for the national court to establish. **Relevance:** this judgment is highly relevant for the Ukrainian authorities and it should be taken into account when relevant domestic provisions are drafted.

6.2.5. Decision 676/2002/EC of the European Parliament and of the Council of 7 March 2002 on a regulatory framework for radio spectrum policy in the European Community

Case	Summary
	No relevant judgments as of 31 December 2017

6.2.6. Directive 2002/77/EC of 16 September 2002 on competition in the markets for electronic communications networks and services

Case	Summary
	No relevant judgments as of 31 December 2017

6.2.7. Directive 98/84 on the legal protection of services based on, and consisting of, conditional access

Case	Summary
	No relevant jurisprudence of the Court of Justice as of 31 December 2017

6.2.8. Directive 2000/31 on certain legal aspects of information society services (E-Commerce Directive)

Case	Summary
C-484/14 Tobias Mc Fadden v Sony Music Entertainment Germany GmbH	**Facts:** this reference for preliminary ruling was submitted by *Landgericht München I* (Regional Court, Munich I, Germany) in course of proceedings between Mr Tobias Mc Fadden and Sony Music Entertainment Germany GmbH concerning the potential liability of Mr Mc Fadden for the use by a third party of the wireless local area network (WLAN) operated by Mr Mc Fadden in order to make a phonogram produced by Sony Music available to the general public without authorization (see further paras. 22-32 of the judgment). The referring courts expressed

Case	Summary
	doubts as to interpretation of Directive 2000/31/EC and decided to proceed with a reference for preliminary ruling in which it asked 10 questions (see para. 33 of the judgment). **Judgment:** Article 12(1) read in conjunction with Article 2(a) of that directive and with Article 1(2) of Directive 98/34/means that a service - such as that at issue in the main proceedings - provided by a communication network operator and consisting in making that network available to the general public free of charge constitutes an 'information society service' within the meaning of Article 12(1) of Directive 2000/31 where the activity is performed by the service provider in question for the purposes of advertising the goods sold or services supplied by that service provider. Furthermore, Article 12(1) of Directive 2000/31 means that, in order for the service referred to in that article, consisting in providing access to a communication network, to be considered to have been provided, that access must not go beyond the boundaries of a technical, automatic and passive process for the transmission of the required information, there being no further conditions to be satisfied. The Court of Justice also added that Article 12(1) of Directive 2000/31 means that the condition laid down in Article 14(1)(b) of that directive does not apply *mutatis mutandis* to Article 12(1) of Directive 2000/31. Article 12(1) of Directive 2000/31, read in conjunction with Article 2(b) of that directive, must be interpreted as meaning that there are no conditions, other than the one mentioned in that provision, to which a service provider supplying access to a communication network is subject. The Court of Justice further ruled that Article 12(1) of Directive 2000/31 must be interpreted as meaning that a person harmed by the infringement of its rights over a work is precluded from claiming compensation from an access provider on the ground that the connection to that network was used by a third party to infringe its rights and the reimbursement of the costs of giving formal notice or court costs incurred in relation to its claim for compensation. However, that article must be interpreted as meaning that it does not preclude such a person from claiming injunctive relief against the continuation of that infringement and the payment of the costs of giving formal notice and court costs from a communication network access provider whose services were used in that infringement where such claims are made for the purposes of obtaining, or follow the grant of injunctive relief by a national authority or court to prevent that service provider from allowing the infringement to continue. Having regard to the requirements deriving from the protection of fundamental rights and to the rules laid down in Directives 2001/29 and 2004/48, Article 12(1) of Directive 2000/31, read in conjunction with Article 12(3) of that directive, must be interpreted as, in principle, not precluding the grant of an injunction such as that at issue in the

Case	Summary
	main proceedings, which requires, on pain of payment of a fine, a provider of access to a communication network allowing the public to connect to the internet to prevent third parties from making a particular copyright-protected work or parts thereof available to the general public from an online (peer-to-peer) exchange platform via an internet connection, where that provider may choose which technical measures to take in order to comply with the injunction even if such a choice is limited to a single measure consisting in password-protecting the internet connection, provided that those users are required to reveal their identity in order to obtain the required password and may not therefore act anonymously, a matter which it is for the referring court to ascertain. **Relevance**: this judgment is of high relevance for Ukrainian authorities as it clarifies a number of pertinent issues related to this Directive. Thus, it should be taken into account when the law-drafters proceed with approximation of Ukrainian law.
C-291/13 Sotiris Papasavvas v O Fileleftheros Dimosia Etaireia Ltd and Others	**Facts:** this was a reference for preliminary ruling submitted by Eparkhiako Dikastirio Lefkosias (Cyprus) in course of proceedings between Mr Papasavvas, on the one hand, and O Fileleftheros Dimosia Etairia Ltd, Mr Kounnafi and Mr Sertis, on the other, concerning an action for damages brought by Mr Papasavvas as a result of harm suffered by him caused by acts considered to constitute defamation. The referring court expressed doubts as to interpretation of several provisions of Directive 2000/31 and therefore decided to proceed with a reference for preliminary ruling (for a detailed account of facts and questions referred to the Court of Justice see paras. 17-20 of the judgment). **Judgment:** the concept of 'information society services', within the meaning of Article 2(a) of Directive 2000/31/EC that provision, covers the provision of online information services for which the service provider is remunerated, not by the recipient, but by income generated by advertisements posted on a website. In a case such as that at issue in the main proceedings, Directive 2000/31 does not preclude the application of rules of civil liability for defamation. Furthermore, the limitations of civil liability specified in Articles 12 to 14 of Directive 2000/31 do not apply to the case of a newspaper publishing company which operates a website on which the online version of a newspaper is posted, that company being, moreover, remunerated by income generated by commercial advertisements posted on that website, since it has knowledge of the information posted and exercises control over that information, whether or not access to that website is free of charge. Finally, the limitations of civil liability specified in Articles 12 to 14 of Directive 2000/31 are capable of applying in the context of proceedings between individuals relating to civil liability for defamation, where the conditions referred to in those articles are satisfied.

Case	Summary
	Relevance: this judgment touches upon a number of interesting issues regarding defamation proceedings as provided in national law. It sheds the light on what is allowed under the national rules of the Member States and thus, it should be taken into account when Ukraine proceeds with approximation with the Directive in question.
C-298/07 Bundesverband der Verbraucherzentralen und Verbraucherverbände - Verbraucherzentrale Bundesverband eV v deutsche internet versicherung AG	**Facts:** this was a reference for preliminary ruling submitted by *Bundesgerichtshof* (Germany) in course of proceedings between the Bundesverband der Verbraucherzentralen und Verbraucherverbände – Verbraucherzentrale Bundesverband eV and deutsche internet versicherung AG concerning whether a service provider operating exclusively on the internet is under an obligation to communicate its telephone number to clients prior to the conclusion of a contract (see paras. 6-11 of the judgment). In course of those proceedings the referring court decided to proceed with a reference for preliminary ruling to the Court of Justice (see para. 12 of the judgment). **Judgment:** Article 5(1)(c) of Directive 2000/31/EC means that a service provider is required to supply to recipients of the service, before the conclusion of a contract with them, in addition to its electronic mail address, other information which allows the service provider to be contacted rapidly and communicated with in a direct and effective manner. That information does not necessarily have to be a telephone number. That information may be in the form of an electronic enquiry template through which the recipients of the service can contact the service provider via the internet, to whom the service provider replies by electronic mail except in situations where a recipient of the service, who, after contacting the service provider electronically, finds himself without access to the electronic network, requests the latter to provide access to another, non-electronic, means of communication. **Relevance:** this judgment is of relevance for the Ukrainian authorities as it clarifies the meaning of Article 5(1)(c) of Directive 2000/31 and therefore it should be taken into account when Ukrainian law-makers proceed with approximation of national law with EU *acquis*.

6.2.9. Directive 1999/93/EC on a Community framework for electronic signatures

Case	Summary
	No relevant case-law as of 31 December 2017

Chapter 7 Postal and courier services

7.1. Lists of judgments

EU Legal Act	Jurisprudence
Directive 97/67/EC of the European Parliament and of the Council of 15 December 1997 on common rules for the development of the internal market of Community postal services and the improvement of quality of service	- C-368/15 Proceedings brought by Ilves Jakelu Oy, ECLI:EU:C:2017:462 - C-2/15 DHL Express (Austria) GmbH v Post-Control-Kommission and Bundesminister für Verkehr, Innovation und Technologie, ECLI:EU:C:2016:880 - C-185/14 "EasyPay" AD and "Finance Engineering" AD v Ministerski savet na Republika Bulgaria and Natsionalen osiguritelen institute, ECLI:EU:C:2015:716 - C-340/13 bpost SA v Institut belge des services postaux et des télécommunications (IBPT), ECLI:EU:C:2015:77 - C-148/10 DHL International NV, formerly Express Line NV v Belgisch Instituut voor Postdiensten en Telecommunicatie, ECLI:EU:C:2011:654 - Joined Cases C-287/06 to C-292/06 Deutsche Post AG (C-287/06, C-288/06 and C-291/06), Magdeburger Dienstleistungs- und Verwaltungs GmbH (MDG) (C-289/06), Marketing Service Magdeburg GmbH (C-290/06) and Vedat Deniz (C-292/06) v Bundesrepublik Deutschland, ECLI:EU:C:2008:141 - C-162/06 International Mail Spain SL v Administración del Estado and Correos, ECLI:EU:C:2007:681 - C-240/02 Asociación Profesional de Empresas de Reparto y Manipulado de Correspondencia (Asempre) and Asociación Nacional de Empresas de Externalización y Gestión de Envíos y Pequeña Paquetería v Entidad Pública Empresarial Correos y Telégrafos and Administración General del Estado, ECLI:EU:C:2004:140

EU Legal Act	Jurisprudence
Directive 2002/39/EC of the European Parliament and of the Council of 10 June 2002 amending Directive 97/67/EC with regard to the further opening to competition of Community postal services	See jurisprudence based on Directive 97/67/EC listed above.
Directive 2008/6/EC of the European Parliament and of the Council of 20 February 2008 amending Directive 97/67/EC with regard to the full accomplishment of the internal market of Community postal services	See jurisprudence based on Directive 97/67/EC listed above.

7.2. Summaries of selected judgments

7.2.1. Directive 97/67/EC on common rules for the development of the internal market of Community postal services and the improvement of quality of service

Case	Summary
C-2/15 DHL Express (Austria) GmbH v Post-Control-Kommission and Bundesminister für Verkehr, Innovation und Technologie	**Facts:** this was a reference for preliminary ruling submitted by Verwaltungsgerichtshof (Administrative Court, Austria). Several questions on interpretation of Directive 97/67 were referred to the Court of Justice in course of proceedings between DHL Express (Austria) GmbH and the Post-Control-Kommission (Commission monitoring postal services, Austria) concerning the latter's decision requiring DHL to make a financial contribution to the operational costs' of the Rundfunk und Telekom Regulierungs-GmbH (regulatory authority of the postal sector). For facts see further paras. 12-16 of the judgment. The main question was whether Directive 97/67, in particular Article 9 thereof, preclude or allow national rules under which postal service providers are obliged to contribute to the financing of the national regulatory authority's operational costs irrespective of whether they provide universal services. **Judgment:** the Court of Justice held that Article 9 of Directive 97/67 does not preclude domestic rules which impose on all postal service providers, including those which do not provide postal services falling within the scope of the universal service, the obligation to contribute to the financing of the national regulatory authorities responsible for that sector. **Relevance:** this judgment is of relevance for Ukrainian legislator as it defines the limits of the regulatory autonomy of the national legislator. It makes it clear that the Member States (and *mutatis mutandis* third countries with the

Case	Summary
	obligation to approximate their national laws with Directive 97/67) can establish a system whereby postal service providers may be required to contribute to the financing of the regulatory authority. Thus, a comparable model can be used (if justified) in Ukraine.
C-185/14 "EasyPay" AD and "Finance Engineering" AD v Ministerski savet na Republika Bulgaria and Natsionalen osiguritelen institute	**Facts:** this was a reference for preliminary ruling submitted by Varhoven administrativen sad (Supreme Administrative Court, Bulgaria). It was submitted in course of proceedings between 'EasyPay' AD and 'Finance Engineering' AD and the Ministerski savet na Republika Bulgaria (Council of Ministers of the Republic of Bulgaria) and the Natsionalen osiguritelen institut (National Social Security Institute) seeking the annulment or repeal of certain articles of the Order on pensions and periods of insurance (Naredba za pensiite i osiguritelniya stazh). The Bulgarian Court referred two main questions to the Court of Justice. While Article 107 TFEU on state aid was the centre of gravity the referring court also touched upon interpretation of Directive 97/67. **Judgment:** the Court of Justice held that a money order service by which the sender, in the case at hand the Bulgarian State, transfers sums of money to a beneficiary through the postal operator entrusted with providing the universal postal service does not fall within the scope of that Directive. **Relevance:** This judgment is of relevance for the Ukrainian authorities as it clarifies the scope of application of Directive 97/67. Therefore, it should be taken into account by the Ukrainian law-makers.
C-340/13 bpost SA v Institut belge des services postaux et des télécommunications (IBPT)	**Facts:** this was a reference for preliminary ruling submitted by cour d'appel de Bruxelles (Belgium) in course of proceedings between bpost SA, a universal postal service provider in Belgium, and Institut belge des services postaux et des télécommunications (the national regulatory authority for postal services in Belgium), concerning a decision of IBPT to impose a fine on bpost owing to its breach of the principle of non-discrimination in the implementation of the contractual tariffs for 2010 (see further paras. 9-21). The bone of contention was the scope of the fifth indent of Article 12 of Directive 97/67 and on the interpretation which the Court has made of that provision in the judgment in joined cases C-287/06 to C-292/06 Deutsche Post and Others (see below). **Judgment:** the Court of Justice held that the fifth indent of Article 12 of Directive 97/67/EC precludes refusal to apply to businesses which consolidate, on a commercial basis and in their own name, postal items from various senders the special tariffs which the national universal postal service provider grants, within the scope of its exclusive licence, to business customers for the deposit of minimum quantities of pre-sorted mail at its sorting offices.

Case	Summary
	Relevance: this judgment is of relevance for the Ukrainian authorities. It clarifies the scope of Directive 97/67/EC, in particular its Article 12. It should be taken into account by the law-makers when they prepare Ukrainian provisions approximating domestic law with EU *acquis*.
C-148/10 DHL International NV, formerly Express Line NV v Belgisch Instituut voor Postdiensten en Telecommunicatie	**Facts:** this was a reference for preliminary ruling submitted by Hof van beroep te Brussel (Belgium). A number of questions was referred to the Court of Justice in course of dispute between DHL International NV, formerly Express Line NV, and the Belgisch Instituut voor Postdiensten en Telecommunicatie (Belgian Institute for Postal Services and Telecommunications) concerning payment of the fee to the financing of the postal sector ombudsman service which Express Line is required to pay (see further paras. 18-22 of the judgment). One of the main issues raised by the referring court was whether Directive 97/67/EC (as amended) precluded or allowed the Member States to impose a mandatory external complaints scheme on providers of non-universal postal services (see further para. 23 of the judgment). **Judgment:** the Court of Justice held that Directive 97/67/EC (as amended) does not preclude national legislation which imposes on providers of postal services, which are outside the scope of the universal service, a mandatory external procedure for dealing with complaints from users of those services. **Relevance:** this judgment is of relevance for the Ukrainian authorities. It clarifies the scope of Directive and the power of the Member States to set-up national regimes for handling of complaints. Bearing this in mind it should be taken into account by the Ukrainian legislator.
Joined Cases C-287/06 to C-292/06 Deutsche Post AG (C-287/06, C-288/06 and C-291/06), Magdeburger Dienstleistungs- und Verwaltungs GmbH (MDG) (C-289/06), Marketing Service Magdeburg GmbH (C-290/06) and Vedat Deniz (C-292/06) v	**Facts:** this was a reference for preliminary ruling submitted by *Verwaltungsgericht Köln* (Germany). It was submitted in course of litigation between a number of German companies, including state post (Deutsche Post) and the Bundesrepublik Deutschland concerning decisions of the Bundesnetzagentur (Federal Network Agency) relating to the grant and conditions of access of those intermediaries to the partial services of the Deutsche Post postal network (see paras. 13-23). **Judgment:** the Court of Justice held that Article 12 of Directive 97/67/EC precludes refusal to apply to businesses which consolidate, on a commercial basis and in their own name, postal items from various senders the special tariffs which the national universal postal service provider grants, within the scope of its exclusive licence, to business customers for the deposit of minimum quantities of pre-sorted mail at its sorting offices.

Case	Summary
Bundesrepublik Deutschland	**Relevance:** this judgment is of relevance for the Ukrainian authorities and should be taken into account when approximating Ukrainian law with EU *acquis*. It provides an example of practice that is not permitted by Directive 97/67/EC.
C-162/06 International Mail Spain SL v Administración del Estado and Correos	**Facts:** this was a reference for preliminary ruling submitted by Tribunal Supremo (Spain) in course of proceedings between International Mail Spain and the Administración del Estado and the Correos concerning the decision of 16 June 1999 by the Secretaría General de Comunicaciones (Ministerio de Fomento) (Secretariat-General of Communications, Ministry of Development) penalising International Mail for providing postal services reserved to the universal postal service provider, without the latter's authorisation. The question referred by the national court asked, in essence, whether Article 7(2) of Directive 97/67 must be interpreted as allowing Member States to reserve cross-border mail to the universal postal service provider only in so far as they establish that, in the absence of such a reservation, the financial equilibrium of that provider would be in danger, or whether other considerations relating to the general situation of the postal sector, including mere expediency, are sufficient to justify that reservation (see further on the factual background of the case paras. 12-16). **Judgment:** Article 7(2) of Directive 97/67/EC allows Member States to reserve cross-border mail to the universal postal service provider only in so far as they establish –that, in the absence of such a reservation, achievement of that universal service would be precluded, or –that that reservation is necessary to enable that service to be carried out under economically acceptable conditions. **Relevance:** this judgment provides important interpretation of Article 7(2) of Directive 97/67/EC and should be taken into account by the Ukrainian law-makers when they proceed with approximation of Ukrainian law.

7.2.2. Directive 2002/39/EC amending Directive 97/67/EC with regard to the further opening to competition of Community postal services

Case	Summary
	See case-law above in section 7.2.1.

7.2.3. Directive 2008/6/EC amending Directive 97/67/EC with regard to the full accomplishment of the internal market of Community postal services

Case	Summary

	See case-law above in section 7.2.1.

Chapter 8 Maritime transport

8.1. Lists of judgments

EU Legal Act	Jurisprudence
Council Directive 94/57/EC of 22 November 1994 on common rules and standards for ship inspection and survey organizations and for the relevant activities of maritime administrations (NOTE: this Directive has been replaced by Directive 2009/15/EC of the European Parliament and of the Council of 23 April 2009 on common rules and standards for ship inspection and survey organisations and for the relevant activities of maritime administrations)	- no case-law as of 31 December 2017
Regulation (EC) No 336/2006 of the European Parliament and of the Council of 15 February 2006 on the implementation of the International Safety Management Code within the Community and repealing Council Regulation (EC) No 3051/95	- no case-law as of 31 December 2017
Council Directive 95/21/EC of 19 June 1995 concerning the enforcement, in respect of shipping using Community ports and sailing in the waters under the jurisdiction of the Member States, of international standards for ship safety, pollution prevention and shipboard living and working conditions (port State control) (NOTE: this Directive has been replaced by Directive 2009/16/EC of the European Parliament and of the Council of 23 April 2009 on port State control)	- no case-law as of 31 December 2017
Directive 2002/59/EC of the European Parliament and of the Council of 27 June 2002 establishing a Community vessel traffic monitoring and information system and repealing Council Directive 93/75/EEC	- no relevant case-law as of 31 December 2017
Council Directive 98/18/EC of 17 March 1998 on safety rules and standards for passenger ships (NOTE: this Directive has been replaced by	- no relevant case-law as of 31 December 2017

EU Legal Act	Jurisprudence
Directive 2009/45/EC of the European Parliament and of the Council of 6 May 2009 on safety rules and standards for passenger ships)	
Council Directive 1999/35/EC of 29 April 1999 on a system of mandatory surveys for the safe operation of regular ro-ro ferry and high-speed passenger craft services (NOTE: this Directive has been repealed by Directive (EU) 2017/2110 of the European Parliament and of the Council of 15 November 2017 on a system of inspections for the safe operation of ro-ro passenger ships and high-speed passenger craft in regular service and amending Directive 2009/16/EC)	- no case-law as of 31 December 2017
Directive 2003/25/EC of the European Parliament and of the Council of 14 April 2003 on specific stability requirements for ro-ro passenger ships	- no case-law as of 31 December 2017
Regulation (EC) No 417/2002 of the European Parliament and of the Council of 18 February 2002 on the accelerated phasing-in of double hull or equivalent design requirements for single hull oil tankers and repealing Council Regulation (EC) No 2978/94 (NOTE: this Regulation has been replaced by Regulation (EU) No 530/2012 of the European Parliament and of the Council of 13 June 2012 on the accelerated phasing-in of double-hull or equivalent design requirements for single-hull oil tankers)	- no case-law as of 31 December 2017
Directive 2001/96/EC of the European Parliament and of the Council of 4 December 2001 establishing harmonised requirements and procedures for the safe loading and unloading of bulk carriers	- no case-law as of 31 December 2017
Directive 2001/25/EC of the European Parliament and of the Council of 4 April 2001 on the minimum level of training of seafarers (NOTE: this Directive has been replaced by Directive 2008/106/EC of the European Parliament and of the Council of 19 November 2008 on the minimum level of training of seafarers)	- no case-law as of 31 December 2017

EU Legal Act	Jurisprudence
Directive 2000/59/EC of the European Parliament and of the Council of 27 November 2000 on port reception facilities for ship-generated waste and cargo residues	- no relevant case-law as of 31 December 2017
Regulation (EC) No 782/2003 of the European Parliament and of the Council of 14 April 2003 on the prohibition of organotin compounds on ships	- no case-law as of 31 December 2017
Directive 2002/6/EC of the European Parliament and of the Council of 18 February 2002 on reporting formalities for ships arriving in and/or departing from ports of the Member States of the Community (NOTE: this Directive has been repealed by Directive 2010/65/EU of the European Parliament and of the Council of 20 October 2010 on reporting formalities for ships arriving in and/or departing from ports of the Member States and repealing Directive 2002/6/EC)	- no relevant case-law as of 31 December 2017
Council Directive 92/29/EEC of 31 March 1992 on the minimum safety and health requirements for improved medical treatment on board vessels	- no case-law as of 31 December 2017
Council Directive 1999/63/EC of 21 June 1999 concerning the Agreement on the organisation of working time of seafarers concluded by the European Community Shipowners' Association (ECSA) and the Federation of Transport Workers' Unions in the European Union (FST) - Annex: European Agreement on the organisation of working time of seafarers, except Clause 16	- no case-law as of 31 December 2017
Directive 1999/95/EC of the European Parliament and of the Council of 13 December 1999 concerning the enforcement of provisions in respect of seafarers' hours of work on board ships calling at Community ports	- no relevant case-law as of 31 December 2017
Directive 2005/65/EC of the European Parliament and of the Council of 26 October 2005 on enhancing port security	- no relevant case-law as of 31 December 2017

EU Legal Act	Jurisprudence
Regulation (EC) No 725/2004 of the European Parliament and of the Council of 31 March 2004 on enhancing ship and port facility security	- no relevant case-law as of 31 December 2017

8.2. Summaries of selected judgments

8.2.1. Directive 94/57/EC on common rules and standards for ship inspection and survey organizations and for the relevant activities of maritime administrations

Case	Summary
	No case-law as of 31 December 2017

8.2.2. Regulation (EC) No 336/2006 on the implementation of the International Safety Management Code within the Community

Case	Summary
	No case-law as of 31 December 2017

8.2.3. Directive 95/21/EC concerning the enforcement, in respect of shipping using Community ports and sailing in the waters under the jurisdiction of the Member States, of international standards for ship safety, pollution prevention and shipboard living and working conditions (port State control)

Case	Summary
	No case-law as of 31 December 2017

8.2.4. Directive 2002/59/EC establishing a Community vessel traffic monitoring and information system and repealing Council Directive 93/75/EEC

Case	Summary
	No case-law as of 31 December 2017

8.2.5. Directive 98/18/EC on safety rules and standards for passenger ships

Case	Summary

	No case-law as of 31 December 2017

8.2.6. Directive 1999/35/EC on a system of mandatory surveys for the safe operation of regular ro-ro ferry and high-speed passenger craft services

Case	Summary
	No case-law as of 31 December 2017

8.2.7. Directive 2003/25/EC oon specific stability requirements for ro-ro passenger ships

Case	Summary
	No case-law as of 31 December 2017

8.2.8. Regulation (EC) No 417/2002 on the accelerated phasing-in of double hull or equivalent design requirements for single hull oil tankers and repealing Council Regulation (EC) No 2978/94

Case	Summary
	No case-law as of 31 December 2017

8.2.9. Directive 2001/96/EC establishing harmonised requirements and procedures for the safe loading and unloading of bulk carriers

Case	Summary
	No case-law as of 31 December 2017

8.2.10. Directive 2001/25/EC on the minimum level of training of seafarers

Case	Summary
	No case-law as of 31 December 2017

8.2.11. Directive 2000/59/EC on port reception facilities for ship-generated waste and cargo residues

Case	Summary
	No case-law as of 31 December 2017

8.2.12. Regulation (EC) No 782/2003 on the prohibition of organotin compounds on ships

Case	Summary
	No case-law as of 31 December 2017

8.2.13. Directive 2002/6/EC on reporting formalities for ships arriving in and/or departing from ports of the Member States of the Community

Case	Summary
	No case-law as of 31 December 2017

8.2.14. Directive 92/29/EEC on the minimum safety and health requirements for improved medical treatment on board vessels

Case	Summary
	No case-law as of 31 December 2017

8.2.15. Directive 1999/63/EC concerning the Agreement on the organisation of working time of seafarers concluded by the European Community Shipowners' Association (ECSA) and the Federation of Transport Workers' Unions in the European Union (FST) - Annex: European Agreement on the organisation of working time of seafarers, except Clause 16

Case	Summary
	No case-law as of 31 December 2017

8.2.16. Directive 1999/95/EC concerning the enforcement of provisions in respect of seafarers' hours of work on board ships calling at Community ports

Case	Summary
	No case-law as of 31 December 2017

8.2.17. Directive 2005/65/EC on enhancing port security

Case	Summary
	No case-law as of 31 December 2017

8.2.18. Regulation (EC) No 725/2004 on enhancing ship and port facility security

Case	Summary
	No case-law as of 31 December 2017

Chapter 9 Public procurement

9.1. Lists of judgments

EU Legal Act	Jurisprudence
Directive 2014/24/EU of the European Parliament and of the Council of 26 February 2014 on public procurement and repealing Directive 2004/18/EC	No case-law as of 31 December 2017
Directive 2014/25/EU of the European Parliament and of the Council of 26 February 2014 on procurement by entities operating in the water, energy, transport and postal services sectors and repealing Directive 2004/17/EC	No case-law as of 31 December 2017
Directive 2014/23/EU of the European Parliament and of the Council of 26 February 2014 on the award of concession contracts	No case-law as of 31 December 2017
Council Directive 89/665/EEC of 21 December 1989 on the coordination of the laws, regulations and administrative provisions relating to the application of review procedures to the award of public supply and public works contracts	- C-131/16 Archus sp. z o.o. and Gama Jacek Lipik v Polskie Górnictwo Naftowe i Gazownictwo S.A., ECLI:EU:C:2017:358 - C-76/16 INGSTEEL spol. sro and Metrostav as v Úrad pre verejné obstarávanie, ECLI:EU:C:2017:549 - C-391/15 Marina del Mediterráneo SL and Others v Agencia Pública de Puertos de Andalucía, ECLI:EU:C:2017:268

EU Legal Act	Jurisprudence
	- C-335/15 Bietergemeinschaft Technische Gebäudebetreuung GesmbH und Caverion Österreich GmbH v Universität für Bodenkultur Wien and VAMED Management und Service GmbH & Co KG, ECLI:EU:C:2016:988 - C-171/15 Connexxion Taxi Services BV v Staat der Nederlanden (Ministerie van Volksgezondheid, Welzijn en Sport) and Others, ECLI:EU:C:2016:948 - Joined Cases C-439/14 and C-488/14 SC Star Storage SA and Others v Institutul Naţional de Cercetare-Dezvoltare în Informatică (ICI) and Others, ECLI:EU:C:2016:688 - C-166/14 MedEval - Qualitäts-, Leistungs- und Struktur-Evaluierung im Gesundheitswesen GmbH, ECLI:EU:C:2015:779 - C-61/14 Orizzonte Salute - Studio Infermieristico Associato v Azienda Pubblica di Servizi alla persona San Valentino – Città di Levico Terme and Others, ECLI:EU:C:2015:655 - C-689/13 Puligienica Facility Esco SpA (PFE) v Airgest SpA, ECLI:EU:C:2016:199 - C-538/13 eVigilo Ltd v Priešgaisrinės apsaugos ir gelbėjimo departamentas prie Vidaus reikalų ministerijos, ECLI:EU:C:2015:166 - C-19/13 Ministero dell'Interno v Fastweb SpA., ECLI:EU:C:2014:2194 - C-120/12 Fastweb SpA v Azienda Sanitaria Locale di Alessandria, ECLI:EU:C:2013:448 - C-314/09 Stadt Graz v Strabag AG and Others, ECLI:EU:C:2010:567 - C-570/08 Symvoulio Apochetefseon Lefkosias v Anatheoritiki Archi Prosforon, ECLI:EU:C:2010:621 - C-568/08 Combinatie Spijker Infrabouw-De Jonge Konstruktie and Others v Provincie Drenthe, ECLI:EU:C:2010:751 - C-456/08 European Commission v Ireland, ECLI:EU:C:2010:46 - C-406/05 Uniplex (UK) Ltd v NHS Business Services Authority, ECLI:EU:C:2010:45

EU Legal Act	Jurisprudence
	- C-492/06 Consorzio Elisoccorso San Raffaele v Elilombarda Srl and Azienda Ospedaliera Ospedale Niguarda Ca' Granda di Milano, ECLI:EU:C:2007:583 - C-450/06 Varec SA v Belgian State, ECLI:EU:C:2008:91 - C-444/06 Commission of the European Communities v Kingdom of Spain, ECLI:EU:C:2008:190 - C-241/06 Lämmerzahl GmbH v Freie Hansestadt Bremen, ECLI:EU:C:2007:597 - C-129/04 Espace Trianon SA and Société wallonne de location-financement SA (Sofibail) v Office communautaire et régional de la formation professionnelle et de l'emploi (FOREM), ECLI:EU:C:2005:521 - C-15/04 Koppensteiner GmbH v Bundesimmobiliengesellschaft mbH, ECLI:EU:C:2005:345 - C-26/03 Stadt Halle and RPL Recyclingpark Lochau GmbH v Arbeitsgemeinschaft Thermische Restabfall- und Energieverwertungsanlage TREA Leuna, ECLI:EU:C:2005:5 - C-230/02 Grossmann Air Service, Bedarfsluftfahrtunternehmen GmbH & Co. KG v Republik Österreich, ECLI:EU:C:2004:93 - C-424/01 CS Communications & Systems Austria GmbH v Allgemeine Unfallversicherungsanstalt, ECLI:EU:C:2003:213 - C-410/01 Fritsch, Chiari & Partner, Ziviltechniker GmbH and Others v Autobahnen- und Schnellstraßen-Finanzierungs-AG (Asfinag), ECLI:EU:C:2003:362 - C-315/01 Gesellschaft für Abfallentsorgungs-Technik GmbH (GAT) v Österreichische Autobahnen und Schnellstraßen AG (ÖSAG), ECLI:EU:C:2003:360 - C-314/01 Siemens AG Österreich and ARGE Telekom & Partner v Hauptverband der österreichischen Sozialversicherungsträger, ECLI:EU:C:2004:159

EU Legal Act	Jurisprudence
	- C-249/01 Werner Hackermüller v Bundesimmobiliengesellschaft mbH (BIG) and Wiener Entwicklungsgesellschaft mbH für den Donauraum AG (WED), ECLI:EU:C:2003:359 - C-448/01 EVN AG and Wienstrom GmbH v Republik Österreich, ECLI:EU:C:2003:651 - C-410/01 Fritsch, Chiari & Partner, Ziviltechniker GmbH and Others v Autobahnen- und Schnellstraßen-Finanzierungs-AG (Asfinag), ECLI:EU:C:2003:362 - C-315/01 Gesellschaft für Abfallentsorgungs-Technik GmbH (GAT) v Österreichische Autobahnen und Schnellstraßen AG (ÖSAG), ECLI:EU:C:2003:360 - C-314/01 Siemens AG Österreich and ARGE Telekom & Partner v Hauptverband der österreichischen Sozialversicherungsträger, ECLI:EU:C:2004:159 - C-249/01 Werner Hackermüller v Bundesimmobiliengesellschaft mbH (BIG) and Wiener Entwicklungsgesellschaft mbH für den Donauraum AG (WED), ECLI:EU:C:2003:359 - C-57/01 Makedoniko Metro and Michaniki AE v Elliniko Dimosio, ECLI:EU:C:2003:47 - C- 327/00 Santex SpA v Unità Socio Sanitaria Locale n. 42 di Pavia, and Sca Mölnlycke SpA, Artsana SpA and Fater SpA., ECLI:EU:C:2003:109 - C-214/00 Commission of the European Communities v Kingdom of Spain, ECLI:EU:C:2003:276 - C-92/00 Hospital Ingenieure Krankenhaustechnik Planungs-Gesellschaft mbH (HI) v Stadt Wien, ECLI:EU:C:2002:379 -
Council Directive 92/13/EEC of 25 February 1992 coordinating the laws, regulations and administrative provisions relating to the application of Community rules on the procurement procedures of entities operating in the water, energy, transport and telecommunications sectors	- C-131/16 Archus sp. z o.o. and Gama Jacek Lipik v Polskie Górnictwo Naftowe i Gazownictwo S.A., ECLI:EU:C:2017:358

EU Legal Act	Jurisprudence
	- Joined Cases C-439/14 and C-488/14 SC Star Storage SA and Others v Institutul Naţional de Cercetare-Dezvoltare în Informatică (ICI) and Others, ECLI:EU:C:2016:688 - C-161/13 Idrodinamica Spurgo Velox srl and Others v Acquedotto Pugliese SpA, ECLI:EU:C:2014:307 - C-348/10 Norma-A SIA and Dekom SIA v Latgales plānošanas regions, ECLI:EU:C:2011:721 - C-199/07 Commission of the European Communities v Hellenic Republic, ECLI:EU:C:2009:693 - Joined cases C-21/03 and C-34/03 Fabricom SA v Belgian State, ECLI:EU:C:2005:127 - C-394/02 Commission of the European Communities v Hellenic Republic, ECLI:EU:C:2005:336

9.2. Summaries of selected judgments

9.2.1. Directive 2014/24/EU of the European Parliament and of the Council of 26 February 2014 on public procurement and repealing Directive 2004/18/EC

Case	Summary
	No relevant case-law as of 31 December 2017

9.2.2. Directive 2014/25/EU of the European Parliament and of the Council of 26 February 2014 on procurement by entities operating in the water, energy, transport and postal services sectors and repealing Directive 2004/17/EC

Case	Summary
	No relevant case-law as of 31 December 2017

9.2.3. Directive 2014/23/EU of the European Parliament and of the Council of 26 February 2014 on the award of concession contracts

Case	Summary
	No relevant case-law as of 31 December 2017

9.2.4. Council Directive 89/665/EEC of 21 December 1989 on the coordination of the laws, regulations and administrative provisions relating to the application of review procedures to the award of public supply and public works contracts

Case	Summary
C-166/14 MedEval - Qualitäts-, Leistungs- und Struktur-Evaluierung im Gesundheitswesen GmbH	**Facts:** This was a reference for preliminary ruling submitted by *Verwaltungsgerichtshof* (Administrative Court, Austria) in course of proceedings between MedEval — Qualitäts-, Leistungs- und Struktur-Evaluierung im Gesundheitswesen GmbH against a decision of the Bundesvergabeamt (Federal Procurement Office), by which the latter rejected MedEval's application for a declaration of the unlawfulness of the public procurement procedure held by the Hauptverband der österreichischen Sozialversicherungsträger and concerning the implementation of an electronic medical prescription management system, which public contract was awarded to the Pharmazeutische Gehaltskasse für Österreich (see further paras. 15-24 of the judgment). The referring court expressed doubts as to interpretation of Directive 89/665 and therefore proceeded with a reference for preliminary ruling. **Judgment:** the Court of Justice held that EU law, in particular the principle of effectiveness, precludes national legislation which makes bringing an action for damages in respect of the infringement of a rule of public procurement law subject to a prior finding that the public procurement procedure for the contract in question was unlawful because of the lack of prior publication of a contract notice, where the action for a declaration of unlawfulness is subject to a six-month limitation period which starts to run on the day after the date of the award of the public contract in question, irrespective of whether or not the applicant in that action was in a position to know of the unlawfulness affecting the decision of the awarding authority. **Relevance:** this judgment is of relevance for the Ukrainian authorities. It is recommended to take it into account when compliance check between Ukrainian law and EU *acquis* is conducted and approximation is planned.
C-61/14 Orizzonte Salute - Studio Infermieristico Associato v Azienda Pubblica di Servizi alla persona San	**Facts:** this was a reference for preliminary ruling submitted by *Tribunale regionale di giustizia amministrativa di Trento* (Italy) in course of proceedings between Orizzonte Salute — Studio Infermieristico Associato and several Italian authorities concerning (i) the extension of a contract for the provision of nursing services and a call for tenders issued at a later stage and (ii) court fees for bringing administrative judicial challenges relating

Case	Summary
Valentino – Città di Levico Terme and Others, ECLI:EU:C:2015:655	to public procurement (see paras. 15-27 of the judgment). The referring courts expressed doubts as to compliance with EU law of Italian provisions which lay down high amounts for the standard fee for access to administrative proceedings relating to public contracts. **Judgment:** the Court of Justice held that neither Directive 665/89 nor the principles of equivalence and effectiveness preclude national legislation which requires the payment of court fees such as the standard fee at issue in the main proceedings when an action relating to public procurement is brought before administrative courts. Furthermore, they do not preclude the charging of multiple court fees to an individual who brings several court actions concerning the same award of a public contract or that individual from having to pay additional court fees in order to be able to raise supplementary pleas concerning the same award of a public contract within ongoing judicial proceedings. However, in the event of objections being raised by a party concerned, it is for the national court to examine the subject-matter of the actions submitted by an individual or the pleas raised by that individual within the same proceedings. The Court of Justice added that if the national court finds that the subject-matter of those actions is not in fact separate or does not amount to a significant enlargement of the subject-matter of the dispute that is already pending, it is required to relieve that individual of the obligation to pay cumulative court fees. **Relevance:** this judgment is of relevance for the Ukrainian authorities as it sheds light into an important aspect of enforcement of public procurement rules, which – however – is left to the national authorities to regulate. It is recommended to take it into account when compliance check between Ukrainian law and EU acquis is conducted and approximation is planned.
C-538/13 eVigilo Ltd v Priešgaisrinės apsaugos ir gelbėjimo departamentas prie Vidaus reikalų ministerijos	**Facts:** this was a reference for preliminary ruling submitted by *Lietuvos Aukščiausiasis Teismas* (Lithuania) in course of proceedings between eVigilo Ltd and the Priešgaisrinės apsaugos ir gelbėjimo departamentas prie Vidaus reikalų ministerijos (General Department of Fire and Rescue at the Ministry of the Interior)) concerning the evaluation of tenders in a public procurement procedure. In course of this litigation the referring court decided to proceed with a reference and request for assistance in interpretation of Directive 89/665/EEC (see paras. 14-29 of the judgment). **Judgment:** the Court of Justice held, inter alia, that the third subparagraph of Article 1(1) of Directive 89/665, and Articles 2, 44(1) and 53(1)(a) of Directive 2004/18 (no longer in force), must be interpreted as requiring a right to bring an action relating to the lawfulness of the tender procedure to be open, after the expiry of the

Case	Summary
	period prescribed by national law, to reasonably well-informed and normally diligent tenderers who could understand the tender conditions only when the contracting authority, after evaluating the tenders, provided exhaustive information relating to the reasons for its decision. Such a right to bring an action may be exercised until the expiry of the period for bringing proceedings against the decision to award the contract. **Relevance:** this judgment is of relevance for the Ukrainian authorities as it provides useful interpretation of Directive 89/665 and thus could be used for approximation of national law with EU public procurement legislation.
C-120/12 Fastweb SpA v Azienda Sanitaria Locale di Alessandria	**Facts:** this was a reference for preliminary ruling submitted by *Tribunale amministrativo regionale per il Piemonte* (Italy) in course of proceedings between Fastweb SpA and, on the other, Azienda Sanitaria Locale di Alessandria (ASL), Telecom Italia SpA and one of its subsidiaries, Path-Net SpA, concerning the award of a public procurement contract to Path-Net (see further paras. 10-17 of the judgment). The referring court raised doubts as to interpretation of Directive 89/665 and therefore decided to proceed with a reference for preliminary ruling (see para. 18 of the judgment). **Judgment:** Article 1(3) of Directive 89/665/EEC must be interpreted to the effect that, if, in review proceedings, the successful tenderer – having won the contract and filed a counterclaim – raises a preliminary plea of inadmissibility on the grounds that the tenderer seeking review lacks standing to challenge the award because its bid should have been rejected by the contracting authority by reason of its non-conformity with the technical requirements under the tender specifications, that provision precludes that action for review from being declared inadmissible as a consequence of the examination of that preliminary plea in the absence of a finding as to whether those technical requirements are met both by the bid submitted by the successful tenderer, which won the contract, and by the bid submitted by the tenderer which brought the main action for review. **Relevance:** this judgment is of relevance for the Ukrainian authorities as it sheds a light on interpretation of Directive 89/665 and the scope of Article 1(3) thereof. It is recommended to take it into account when compliance check between Ukrainian law and EU *acquis* is conducted and approximation is planned.

Case	Summary
C-314/09 Stadt Graz v Strabag AG and Others	**Facts:** this was a reference for preliminary ruling submitted by *Oberster Gerichtshof* (Austria) in course of proceedings between Stadt Graz and Strabag AG, Teerag-Asdag AG and Bauunternehmung Granit GesmbH, following the unlawful award of a public procurement contract by Stadt Graz. The referring court expressed doubts as to interpretation of Directive 89/665 and therefore decided to proceed with a reference for preliminary ruling to the Court of Justice. In particular, it wished to learn if German law in question was compatible with this Directive (see paras. 10-29 of the judgment). **Judgment:** Directive 89/665 precludes national legislation which makes the right to damages for an infringement of public procurement law by a contracting authority conditional on that infringement being culpable, including where the application of that legislation rests on a presumption that the contracting authority is at fault and on the fact that the latter cannot rely on a lack of individual abilities, hence on the defence that it cannot be held accountable for the alleged infringement. **Relevance:** this judgment is of relevance for the Ukrainian authorities and it is recommended to take it into account when compliance check between Ukrainian law and EU *acquis* is conducted and approximation is planned.
C-570/08 Symvoulio Apochetefseon Lefkosias v Anatheoritiki Archi Prosforon	**Facts:** this was a reference for preliminary ruling submitted by *Anotato Dikastirio tis Kipriakis Dimokratias* (Cyprus). It was submitted in course of proceedings between the Simvoulio Apokhetefseon Lefkosias (Nicosia Sewage Council), a legal body governed by public law acting as contracting authority, and the Anatheoritiki Arkhi Prosforon (Tenders Review Authority), an administrative body which examines appeals brought against decisions taken by the contracting authorities in procurement matters, concerning the right of the Simvoulio to appeal to a judicial body against a decision adopted by the Anatheoritiki Arkhi Prosforon. The referring court expressed doubts as to interpretation of Directive 89/665, in particular Article 2(8) of it. The question was whether the provision in question recognises contracting authorities as having a right to judicial review of cancellation decisions by bodies responsible for review procedures which are not judicial bodies. **Judgment:** the provision in question does not require the Member States to provide, also for contracting authorities, a right to seek judicial review of the decisions of non-judicial bodies responsible for review procedures concerning the award of public contracts. The Court of Justice also ruled that that provision does not prevent the Member States from providing, in their legal systems, such a review procedure in favour of contracting authorities.

Case	Summary
	Relevance: this judgment contributes to understanding of Directive 89/665 and as such should be taken into account for approximation of Ukrainian law with EU *acquis*.
C-406/05 Uniplex (UK) Ltd v NHS Business Services Authority	**Facts:** this was a reference for preliminary ruling submitted by High Court of Justice (England and Wales), Queen's Bench Division (United Kingdom) in course of proceedings Uniplex (UK) Ltd and NHS Business Services Authority concerning the conclusion of a framework agreement (see paras. 7-23). **Judgment:** the Court of Justice held that Directive 89/665 requires that the period for bringing proceedings seeking to have an infringement of the public procurement rules established or to obtain damages for the infringement of those rules should start to run from the date on which the claimant knew, or ought to have known, of that infringement. At the same time, Directive 89/665 precludes a national provision which allows a national court to dismiss, as being out of time, proceedings seeking to have an infringement of the public procurement rules established or to obtain damages for the infringement of those rules on the basis of the criterion, appraised in a discretionary manner, that such proceedings must be brought promptly. Last but not least, Directive 89/665 requires the national court, by virtue of the discretion conferred on it, to extend the limitation period in such a manner as to ensure that the claimant has a period equivalent to that which it would have had if the period provided for by the applicable national legislation had run from the date on which the claimant knew, or ought to have known, of the infringement of the public procurement rules. **Relevance:** this judgment is of relevance for the Ukrainian law-makers as it clarifies some of the general principles laid down therein and what they require from national law in terms of deadlines for submission of challenges to decisions of contracting authorities.
C-492/06 Consorzio Elisoccorso San Raffaele v Elilombarda Srl and Azienda Ospedaliera Ospedale Niguarda Ca' Granda di Milano	**Facts:** this reference for preliminary ruling was submitted by *Consiglio di Stato* (Italy) in course of proceedings between Consorzio Elisoccorso San Raffaele and Elilombarda Srl, the leader of a consortium in the process of being formed, regarding a procedure for the award of a public contract. The Italian court expressed doubts as to interpretation of Article 1 of Directive 89/665 and the scope of *locus standi* it provides for (see paras. 8-16 of the judgment). **Judgment:** Article 1 of Directive 89/665/EEC does not preclude the possibility, under national law, for an individual member of a consortium without legal personality which has participated as such in a procedure for

Case	Summary
	the award of a public contract and has not been awarded that contract to bring an action against the decision awarding that contract. **Relevance:** this is an important judgment for Ukrainian law-makers as it clarifies the scope of locus standi determined in Article 1 of Directive 89/665/EEC. It should be taken into account when compliance check is conducted as part of the approximation exercise.
C-26/03 Stadt Halle and RPL Recyclingpark Lochau GmbH v Arbeitsgemeinschaft Thermische Restabfall- und Energieverwertungsanlage TREA Leuna	**Facts:** this was a reference for preliminary ruling submitted by Oberlandesgericht Naumburg (Higher Regional Court, Naumburg, Germany in course of proceedings between Stadt Halle and RPL Recyclingpark Lochau GmbH and Arbeitsgemeinschaft Thermische Restabfall- und Energieverwertungsanlage TREA Leuna concerning the lawfulness, from the point of view of the EU rules, of the award without a public tender procedure of a contract for services concerning the treatment of waste by the City of Halle to RPL Lochau, a majority of whose capital is held by the City of Halle and a minority by a private company (see paras. 14-19 of the judgment). **Judgment:** the obligation of the Member States to ensure that effective and rapid remedies are available against decisions taken by contracting authorities laid down in Article 1 of Directive 89/665 extends also to decisions taken outside a formal award procedure and decisions prior to a formal call for tenders, in particular the decision on whether a particular contract falls within the personal and material scope of Directive 92/50, as amended. That possibility of review is available to any person having or having had an interest in obtaining the contract in question who has been or risks being harmed by an alleged infringement, from the time when the contracting authority has expressed its will in a manner capable of producing legal effects. The Member States are not therefore authorised to make the possibility of review subject to the fact that the public procurement procedure in question has formally reached a particular stage. **Relevance:** this is an important judgment, which clarifies the scope of application of Directive 89/665 and therefore it should remain on the radars of the Ukrainian law-makers. It be used as a point of reference when relevant provisions of Ukrainian law are revised/checked as to their compatibility with EU *acquis*.
C-315/01 Gesellschaft für Abfallentsorgungs-Technik GmbH (GAT) v Österreichische	**Facts:** this was a reference for preliminary ruling submitted by *Bundesvergabeamt* (Austria) in course of proceedings between a number of Austrian companies and Autobahnen- und Schnellstraßen-Finanzierungs-AG concerning the award of a public service contract for which Fritsch and Others had tendered (see further

Case	Summary
Autobahnen und Schnellstraßen AG (ÖSAG)	paras. 16-21). The referring court expressed doubts as to interpretation of Directive 89/665 and decided to proceed with a reference for preliminary ruling. **Judgment:** Directive 89/665 does not preclude the court responsible for hearing review procedures, in an action brought by a tenderer, with the ultimate aim of obtaining damages, for a declaration that the decision to award a public contract is unlawful, from raising of its own motion the unlawfulness of a decision of the contracting authority other than the one contested by the tenderer. Furthermore, Directive 89/665 precludes a national court from dismissing an application by a tenderer on the ground that, owing to the unlawfulness raised of its own motion, the award procedure was in any event unlawful and that the harm which the tenderer may have suffered would therefore have been caused even in the absence of the unlawfulness alleged by the tenderer. **Relevance:** this judgment is of relevance for the Ukrainian law-makers as it sheds light on what is permitted under Directive 89/665 in terms of powers of national courts. It is recommended to take it into account when relevant provisions of Ukrainian law are scrutinized as to their compliance with EU law.
C-249/01 Werner Hackermüller v Bundesimmobiliengesellschaft mbH (BIG) and Wiener Entwicklungsgesellschaft mbH für den Donauraum AG (WED)	**Facts:** this was a reference for preliminary ruling submitted by *Bundesvergabeamt* (Austria) in course of proceedings between Mr Hackermüller, architect and qualified engineer, and the companies Bundesimmobiliengesellschaft mbH and Wiener Entwicklungsgesellschaft mbH für den Donauraum AG concerning the defendants' decision not to accept the bid submitted by Mr Hackermüller for a public services contract (see paras. 8-15). The referring court decided to proceed with a reference for preliminary ruling and ask for interpretation of Article 1(3) of Directive 89/665. **Judgment:** Article 1(3) of Directive 89/665/EEC does not preclude the review procedures laid down by the directive being available to persons wishing to obtain a particular public contract only if they have been or risk being harmed by the infringement they allege. Article 1(3) of Directive 89/665 does not permit a tenderer to be refused access to the review procedures laid down by this Directive to contest the lawfulness of the decision of the contracting authority not to consider his bid as the best bid on the ground that his bid should have been eliminated at the outset by the contracting authority for other reasons and that therefore he neither has been nor risks being harmed by the unlawfulness which he alleges. In the review procedure thus open to the tenderer, he must be allowed to challenge the ground of exclusion on the basis of which the review body intends to conclude that he neither has been nor risks being harmed by the decision he alleges to be unlawful.

Case	Summary
	Relevance: this judgment provides an important interpretation of Article 1(3) of Directive 89/665 and therefore it should be taken into account when Ukrainian law is reviewed/checked as to its compliance with EU public procurement legislation.
C-448/01 EVN AG and Wienstrom GmbH v Republik Österreich	**Facts:** this was a reference for preliminary ruling submitted by *Bundesvergabeamt* (Austria) in course of proceedings between a group of undertakings consisting of EVN AG and Wienstrom GmbH on the one hand, and the Republik Österreich in its capacity as the contracting authority on the other concerning the award of a public supply contract in respect of which the applicants in the main proceedings had submitted a tender (see further paras. 15-25 of the judgment). The referring court decided to proceed with a reference for preliminary ruling in order to receive assistance in interpretation of several legal acts, including 2(1)(b) of Directive 89/665/EEC. **Judgment:** EU law requires the contracting authority to cancel an invitation to tender if it transpires in review proceedings under Article 1 of Directive 89/665 that a decision relating to one of the award criteria laid down by that authority is unlawful and it is therefore annulled by the review body. **Relevance:** this judgment is of relevance for the Ukrainian authorities as it provides useful interpretation of Article 2(1)(b) of Directive 89/665/EEC. It should be taken into account when the Ukrainian law-makers proceed with verification of compliance of domestic law with the directive in question.
C-92/00 Hospital Ingenieure Krankenhaustechnik Planungs-Gesellschaft mbH (HI) v Stadt Wien	**Facts:** this was a reference for preliminary ruling submitted by *Vergabekontrollsenat des Landes Wien (Austria).* It was submitted in course of proceedings between the German company Hospital Ingenieure Krankenhaustechnik Planungs-GmbH and the City of Vienna, concerning the latter's withdrawal of an invitation to tender for a public service contract for which HI had submitted a tender (see paras 12-22 of the judgment). The referring court expressed doubts as to interpretation of Article 1 of Directive 89/665 and therefore decided to proceed with a reference for preliminary ruling to the Court of Justice (see para. 23 of the judgment). **Judgment:** Article 1(1) of Directive 89/665 requires the decision of the contracting authority to withdraw the invitation to tender for a public service contract to be open to a review procedure, and to be capable of being annulled where appropriate, on the ground that it has infringed EU law on public contracts or national rules implementing that law. Furthermore, Directive 89/665 precludes national legislation from limiting review of

Case	Summary
	the legality of the withdrawal of an invitation to tender to mere examination of whether it was arbitrary. Last but not least, determination of the time to be taken into consideration for assessing the legality of the decision by the contracting authority to withdraw an invitation to tender is a matter for national law. This, however, is subject to the requirement that the relevant national rules are not less favourable than those governing similar domestic actions and that they do not make it practically impossible or excessively difficult to exercise rights conferred by EU law. **Relevance:** this judgment is of relevance for the Ukrainian law-drafters in charge of law approximation. It provides useful interpretation of Article 1(1) of Directive 89/665 and therefore it should be taken into account when relevant provisions of Ukrainian law are drafted. **Relevance:** this judgment is important for the Ukrainian authorities as it encapsulates practical problems that may arise in approximation with EU public procurement directives. Bearing this in mind, it is recommended this judgment remains on the radars of the Ukrainian law-makers.

9.2.5. Council Directive 92/13/EEC of 25 February 1992 coordinating the laws, regulations and administrative provisions relating to the application of Community rules on the procurement procedures of entities operating in the water, energy, transport and telecommunications sectors

Case	Summary
Joined Cases C-439/14 and C-488/14 SC Star Storage SA and Others v Institutul Naţional de Cercetare-Dezvoltare în Informatică (ICI) and Others	**Facts:** the references for preliminary ruling were submitted by two Romanian courts: Curtea de Apel Bucureşti (Court of Appeal, Bucharest) and the Curtea de Apel Oradea (Court of Appeal, Oradea) in course of domestic proceedings concerning public procurement tenders (see paras. 9-20 of the judgment). The referring courts raised doubts as to interpretation of Directive 92/13 (and Directive 89/665) and therefore proceeded with references for preliminary ruling. **Judgment:** the Court of Justice held that neither Directive 92/13 nor Directive 89/665 preclude national legislation, which makes the admissibility of any action against an act of the contracting authority subject to the obligation for the applicant to constitute a good conduct guarantee that it provides to the contracting authority, if that guarantee must be refunded to the applicant whatever the outcome of the action.

Case	Summary
	Relevance: this judgment is of relevance for the Ukrainian authorities. It provides useful interpretation of both directives on remedies in public procurement and clarifies the scope of regulatory autonomy of the Member States.
C-161/13 Idrodinamica Spurgo Velox srl and Others v Acquedotto Pugliese SpA	**Facts:** this was a reference for preliminary ruling submitted by *Tribunale amministrativo regionale per la Puglia* (Italy) in course of proceedings between Idrodinamica Spurgo Velox srl and four other applicants, on the one hand, and Acquedotto Pugliese SpA, the contracting authority, on the other, concerning the lawfulness of the procedure for the award of a contract by that authority to the ad hoc tendering consortium led by the undertaking Giovanni XXIII Soc. coop. arl. The Italian court hearing the case decided to proceed with a reference for preliminary ruling in order to verify if the domestic rules on time-limits were compatible with EU directives on remedies in public procurement. **Judgment:** the Court of Justice held that Directive 92/13 must be interpreted as that the time allowed for bringing an action for the annulment of the decision awarding a contract starts to run again where the contracting authority adopts a new decision, after the award decision has been adopted but before that contract is signed, which may affect the lawfulness of that award decision. That period starts to run from the communication of the earlier decision to the tenderers or, in the absence thereof, from when they became aware of that decision. **Relevance:** this judgment is definitely of relevance for the Ukrainian authorities. It sheds a light on a tricky legal issue, that is the domestic rules on time-limits for submission of actions to the national authorities. This matter per se is not regulated in Directive 92/13, however general provisions contained therein constitute an important indicator.

Chapter 10 Competition law (including State aid)

10.1. Lists of jurisprudence

EU Legal Act	Jurisprudence
Council Regulation (EC) No 1/2003 of 16 December 2002 on the implementation of the rules on competition laid down in Articles 81 and 82 of the Treaty (as per Article 256 AA only Article 30 of Regulation 1/2003 is relevant)	- C-162/15P Evonik Degussa GmbH v European Commission, ECLI:EU:C:2017:205 - T-465/12 AGC Glass Europe and Others v European Commission, ECLI:EU:T:2015:505 - T-462/12 Pilkington Group Ltd v European Commission, ECLI:EU:T:2015:508 - T-345/12 Akzo Nobel NV and Others v European Commission, ECLI:EU:T:2015:50 - T-341/12 Evonik Degussa GmbH v European Commission, ECLI:EU:T:2015:51 - T-534/11 Schenker AG v European Commission, ECLI:EU:T:2014:854
Council Regulation (EC) No 139/2004 of 20 January 2004 on the control of concentrations between undertakings (as per Article 256 AA only articles 1, 5(1-2) and 20 are relevant)	- no relevant case-law as of 31 December 2017 (existing jurisprudence cover provisions of the Regulation, which are of no approximation relevance).
Commission Regulation (EU) No 330/2010 of 20 April 2010 on the application of Article 101(3) of the Treaty on the Functioning of the European Union to categories of vertical agreements and concerted practices (as per Article 256 AA only articles 1-8 are relevant)	- C-230/16 Coty Germany GmbH v Parfümerie Akzente GmbH, ECLI:EU:C:2017:941
Commission Regulation (EC) No 772/2004 of 27 April 2004 on the application of Article 81(3) of the Treaty to categories of technology transfer agreements (as per Article 256 AA only articles 1-8 are relevant) NOTE: this Regulation is no longer in force.	- no case-law as of 31 December 2017
Articles 106-107 TFEU	- C-449/14P DTS Distribuidora de Televisión Digital, SA v European Commission, ECLI:EU:C:2016:848

EU Legal Act	Jurisprudence
	- C-185/14 "EasyPay" AD and "Finance Engineering" AD v Ministerski savet na Republika Bulgaria and Natsionalen osiguritelen institute, ECLI:EU:C:2015:716 - C-327/12 Ministero dello Sviluppo economico and Autorità per la vigilanza sui contratti pubblici di lavori, servizi e forniture v SOA Nazionale Costruttori — Organismo di Attestazione SpA, ECLI:EU:C:2013:827 - C-437/09 AG2R Prévoyance v Beaudout Père et Fils SARL, ECLI:EU:C:2011:112
Article 93 TFEU	- no relevant case-law as of 31 December 2017
Council Regulation (EU) 2015/1589 of 13 July 2015 laying down detailed rules for the application of Article 108 of the Treaty on the Functioning of the European Union	- no case-law as of 31 December 2017
Council Regulation (EU) No 734/2013 of 22 July 2013 amending Regulation (EC) No 659/1999 laying down detailed rules for the application of Article 93 of the EC Treaty (NOTE repealed by Council Regulation (EU) 2015/1589 of 13 July 2015 laying down detailed rules for the application of Article 108 of the Treaty on the Functioning of the European Union)	- no case-law as of 31 December 2017
Commission Regulation (EC) No 794/2004 of 21 April 2004 implementing Council Regulation (EC) No 659/1999 laying down detailed rules for the application of Article 93 of the EC Treaty	- C-467/15P Commission v Italy, ECLI:EU:C:2017:799 - C-519/14P Dimosia Epicheirisi Ilektrismou AE (DEI) v European Commission, ECLI:EU:C:2016:797 - C-89/14 A2A SpA v Agenzia delle Entrate, ECLI:EU:C:2015:537 - C-690/13 Trapeza Eurobank Ergasias AE v Agrotiki Trapeza tis Ellados AE (ATE) and Pavlos Sidiropoulos, ECLI:EU:C:2015:235 - C-269/09P ISD Polska sp. z o.o. and Others v European Commission, ECLI:EU:C:2011:175

EU Legal Act	Jurisprudence
Commission Regulation (EC) No 372/2014 of 9 April 2014 amending Regulation (EC) No 794/2004 implementing Council Regulation (EC) No 659/1999 laying down detailed rules for the application of Article 93 of the EC Treaty	- no case-law as of 31 December 2017
Commission Notice on Simplified procedure for the treatment of certain types of State aid	- no case-law as of 31 December 2017
Commission Notice on a Best Practices Code on the conduct of State aid control proceedings	- no case-law as of 31 December 2017
Notice from the Commission — Towards an effective implementation of Commission decisions ordering Member States to recover unlawful and incompatible State aid	- no case-law as of 31 December 2017
Commission notice on the determination of the applicable rules for the assessment of unlawful State aid	- no case-law as of 31 December 2017
Commission notice on the enforcement of State aid law by national courts	- no case-law as of 31 December 2017
Commission communication of 1 December 2003 on professional secrecy in State aid decisions	- no case-law as of 31 December 2017
Council Regulation (EC) No 994/98 of 7 May 1998 on the application of Articles 92 and 93 (now 87 and 88 respectively) of the Treaty establishing the European Community to certain categories of horizontal State aid (NOTE: replaced by Council Regulation (EU) 2015/1588 of 13 July 2015 on the application of Articles 107 and 108 of the Treaty on the Functioning of the European Union to certain categories of horizontal State aid)	- no case-law as of 31 December 2017
Commission Regulation (EU) No 1407/2013 of 18 December 2013 on the application of Articles 107 and 108 of the Treaty on the Functioning of the European Union to de minimis aid	- no case-law as of 31 December 2017

EU Legal Act	Jurisprudence
Commission Regulation (EC) No 800/2008 of 6 August 2008 declaring certain categories of aid compatible with the common market in application of Article 87 and 88 of the Treaty (NOTE: repealed and replaced by Commission Regulation (EU) No 651/2014 of 17 June 2014 declaring certain categories of aid compatible with the internal market in application of Articles 107 and 108 of the Treaty)	- C-245/16 Nerea SpA v Regione Marche, ECLI:EU:C:2017:521 - C-493/14 Dilly's Wellnesshotel GmbH v Finanzamt Linz, ECLI:EU:C:2016:577 - T-671/14 Bayerische Motoren Werke AG v European Commission, ECLI:EU:T:2017:599
Commission Recommendation of 6 May 2003 concerning the definition of micro, small and medium-sized enterprises	- C-110/13 HaTeFo GmbH v Finanzamt Haldensleben, ECLI:EU:C:2014:114
Commission communication - Model declaration on the information relating to the qualification of an enterprise as an SME	- no case-law as of 31 December 2017
Commission Communication Recapitalisation of financial institutions in the current financial crisis: limitation of the aid to the minimum necessary and safeguards against undue distortions of competition	- no case-law as of 31 December 2017
Communication from the Commission on the treatment of impaired assets in the Community banking sector	- no case-law as of 31 December 2017
Commission communication on the return to viability and the assessment of restructuring measures in the financial sector in the current crisis under the State aid rules	- no case-law as of 31 December 2017
Communication from the Commission on the application, from 1 January 2011, of State aid rules to support measures in favour of banks in the context of the financial crisis	- no case-law as of 31 December 2017
Communication from the Commission on the application, from 1 January 2012, of State aid rules to support measures in favour of financial institutions in the context of the financial crisis	- no case-law as of 31 December 2017

EU Legal Act	Jurisprudence
Communication from the Commission on the application, from 1 August 2013, of State aid rules to support measures in favour of banks in the context of the financial crisis	- C-526/14 Tadej Kotnik and Others v Državni zbor Republike Slovenije, ECLI:EU:C:2016:570
Communication from the Commission - Criteria for the compatibility analysis of training state aid cases subject to individual notification	- no case-law as of 31 December 2017
Communication from the Commission - Criteria for the compatibility analysis of state aid to disadvantaged and disabled workers subject to individual notification	- no case-law as of 31 December 2017
Guidelines on regional State aid for 2014-2020	- no case-law as of 31 December 2017
Communication from the Commission concerning the criteria for an in-depth assessment of regional aid to large investment projects	- no case-law as of 31 December 2017
Community Framework for State aid for Research and Development and Innovation	- no case-law as of 31 December 2017
Community guidelines on State aid for environmental protection	- no case-law as of 31 December 2017
Communication from the Commission — Guidelines on certain State aid measures in the context of the greenhouse gas emission allowance trading scheme post-2012	- no case-law as of 31 December 2017
Community guidelines on State aid to promote risk capital investments in small and medium-sized enterprises (NOTE these Guidelines are no longer applicable)	- no case-law as of 31 December 2017
Communication from the Commission amending the Community guidelines on State aid to promote risk capital	- no case-law as of 31 December 2017
Communication from the Commission — Guidelines on State aid to promote risk finance investments	- no case-law as of 31 December 2017

EU Legal Act	Jurisprudence
Communication from the Commission - Community guidelines on State aid for rescuing and restructuring firms in difficulty	- no case-law as of 31 December 2017
Communication from the Commission on State aid for films and other audiovisual works	- no case-law as of 31 December 2017
Communication from the Commission on the application of State aid rules to public service broadcasting	- no case-law as of 31 December 2017
Commission Communication relating to the methodology for analysis State aid linked to stranded cost	- no case-law as of 31 December 2017
Notice from the Commission on the application of the competition rules to the postal sector and on the assessment of certain State measures relating to postal services	- no case-law as of 31 December 2017
Revised rules for assessing state aid for shipbuilding (NOTE: no longer applicable)	- no case-law as of 31 December 2017
Communication from the Commission: Rescue and restructuring aid closure aid for the steel sector (NOTE: no longer applicable)	- no case-law as of 31 December 2017
Communication from the Commission: Multisectoral framework on regional aid for large investment projects (NOTE: replaced by Communication from the Commission: Multisectoral framework on regional aid for large investment projects)	- no case-law as of 31 December 2017
Communication from the Commission: Community Guidelines for the application of State aid rules in relation to rapid deployment of broadband networks	- no case-law as of 31 December 2017
Communication from the Commission - Community guidelines on State aid for railway undertakings	- no case-law as of 31 December 2017
Community guidelines on State aid to maritime transport	- no case-law as of 31 December 2017

EU Legal Act	Jurisprudence
Communication from the Commission providing guidance on State aid complementary to Community funding for the launching of the motorways of the sea	- no case-law as of 31 December 2017
Communication from the Commission providing guidance on State aid to ship- management companies	- no case-law as of 31 December 2017
Communication from the Commission - Guidelines on State aid to airports and airlines	- no case-law as of 31 December 2017
Council Decision of 10 December 2010 on State aid to facilitate the closure of uncompetitive coal mines	- T-176/11 Federación Nacional de Empresarios de Minas de Carbón (Carbunión) v Council of the European Union, ECLI:EU:T:2013:686
Commission Notice on the application of Articles 87 and 88 of the EC Treaty to State aid in the form of guarantees	- no case-law as of 31 December 2017
Commission Communication on State aid elements in sales of land and buildings by public authorities (NOTE: replaced by Commission Notice on the notion of State aid as referred to in Article 107(1) of the Treaty on the Functioning of the European Union)	- no case-law as of 31 December 2017
Communication from the Commission to the Member States on the application of Articles 107 and 108 of the Treaty on the Functioning of the European Union to short- term export-credit insurance	- no case-law as of 31 December 2017
Commission Notice on the application of the State aid rules to measures relating to direct business taxation	- no case-law as of 31 December 2017
New Communication from Commission on the revision of the method for setting the reference and discount rates	- no case-law as of 31 December 2017
Commission communication to the Member States: Application of Articles 92 and 93 [now 87 and 88] of the EEC Treaty and of Article 5 of the	- no case-law as of 31 December 2017

EU Legal Act	Jurisprudence
Commission Directive 80/723/EEC to public undertakings in the manufacturing sector	
Commission Directive 2006/111/EC of 16 November 2006 on the transparency of financial relations between Member State and public undertakings as well as on financial transparency within certain undertakings	- C-284/12 Deutsche Lufthansa AG v Flughafen Frankfurt-Hahn GmbH, ECLI:EU:C:2013:755
Communication from the Commission on the application of the European Union State aid rules to compensation granted for the provision of services of general economic interest	- no case-law as of 31 December 2017
Commission Decision of 20 December on the application of Article 106(2) of the Treaty on the Functioning of the European Union to State aid in the form of public service compensation granted to certain undertakings entrusted with the operation of services of general economic interest	- no case-law as of 31 December 2017
Communication from the Commission — European Union framework for State aid in the form of public service compensation (2011)	- no case-law as of 31 December 2017

10.2. Summaries of selected judgments

10.2.1. Regulation No 1/2003 on the implementation of the rules on competition laid down in Articles 81 and 82 of the Treaty

Case	Summary
C-162/15P Evonik Degussa GmbH v European Commission	**Facts:** this was an appeal from the judgment of the General Court in case T-341/12, in which that court dismissed an action for the annulment of Commission Decision C(2012) 3534 final of 24 May 2012 rejecting a request for confidential treatment submitted by the appellant under Article 8 of Decision 2011/695/EU of the President of the European Commission of 13 October 2011 on the function and terms of reference of the hearing officer in certain competition proceedings (see further paras. 16-32 of the judgment)

Case	Summary
	Judgment: the Court of Justice set aside the judgment of the General Court of the European Union of 28 January 2015, Evonik Degussa v Commission (T-341/12, EU:T:2015:51) in so far as by that judgment the General Court held that the hearing officer was correct to decline competence to answer the objections, raised by Evonik Degussa GmbH on the basis of the observance of the principles of the protection of legitimate expectations and equal treatment, to the proposed publication of a detailed, non-confidential version of Commission Decision C(2006) 1766 final of 3 May 2006. Furthermore, the Court of Justice annuled Commission Decision C(2012) 3534 final of 24 May 2012, rejecting a request for confidential treatment submitted by Evonik Degussa GmbH in so far as, by that decision, the hearing officer declined competence to answer the objections referred to in point 1 of the operative part of this judgment. **Relevance:** this judgment is of limited relevance for the Ukrainian authorities as it touches upon interpretation of provisions, which apply only within EU context. Nevertheless, it is worth paying attention to for general educational purposes.

10.2.2. Regulation (EC) No 139/2004 on the control of concentrations between undertakings

Case	Summary
	No relevant case-law as of 31 December 2017

10.2.3. Regulation (EU) No 330/2010 on the application of Article 101(3) of the Treaty on the Functioning of the European Union to categories of vertical agreements and concerted practices

Case	Summary
C-230/16 Coty Germany GmbH v Parfümerie Akzente GmbH	Facts:

10.2.4. Regulation (EC) No 772/2004 on the application of Article 81(3) of the Treaty to categories of technology transfer agreements

Case	Summary

	No relevant case-law as of 31 July 2016

10.2.5. Articles 106-107 TFEU

Case	Summary
C-185/14 "EasyPay" AD and "Finance Engineering" AD v Ministerski savet na Republika Bulgaria and Natsionalen osiguritelen institute	**Facts:** this was a reference for preliminary ruling submitted by Varhoven administrativen sad (Supreme Administrative Court, Bulgaria) in course of proceedings between EasyPay' AD and 'Finance Engineering' AD and the Ministerski savet na Republika Bulgaria (Council of Ministers of the Republic of Bulgaria) and the Natsionalen osiguritelen institut (National Social Security Institute) seeking the annulment or repeal of certain articles of the Order on pensions and periods of insurance (see further paras. 23-26 of the judgment). The referring court expressed doubts as to interpretation of, inter alia, Articles 106-107 TFEU and therefore decided to proceed with a reference for preliminary ruling (see para. 27 of the judgment). **Judgment:** Article 107(1) TFEU means, if the activity of money order operations enabling the payment of retirement pensions constitutes an economic activity, the grant by a Member State of an exclusive right to pay retirement pensions by money order to an undertaking such as that at issue in the main proceedings is not, however, caught by that provision, in so far as that service constitutes a service of general economic interest, the remuneration for which represents compensation for the services carried out by that undertaking to discharge its public service obligation. **Relevance:** this judgment is of relevance for the Ukrainian authorities as it sheds light on the interpretation of Article 107 TFEU. It should be taken into account when relevant provisions of the Association Agreement and Ukrainian law are interpreted.
C-437/09 AG2R Prévoyance v Beaudout Père et Fils SARL	**Facts:** this reference for preliminary ruling was submitted by Tribunal de grande instance de Périgueux (France) in course of proceedings between AG2R Prévoyance, a provident society governed by the French Social Security Code, and Beaudout Père et Fils SARL concerning the latter's refusal to join the scheme for supplementary reimbursement of healthcare costs managed by AG2R for the French traditional bakery sector (see further paras. 17-21 of the judgment). The referring court expressed doubts as to interpretation of Article 101-102 TFEU and therefore decided to proceed with a reference for preliminary ruling (see para. 22 of the judgment). **Judgment:** Article 101 TFEU, read in conjunction with Article 4(3) EU, must be interpreted as not precluding the decision by the public authorities to make compulsory, at the request of the organisations representing employers and employees within a given occupational sector, an agreement which is the result of collective bargaining and which

Case	Summary
	provides for compulsory affiliation to a scheme for supplementary reimbursement of healthcare costs for all undertakings within the sector concerned, without any possibility of exemption. Inasmuch as the activity consisting in the management of a scheme for supplementary reimbursement of healthcare costs such as that at issue in the main proceedings is to be classified as economic – this being a matter for the national court to determine – Articles 102 TFEU and 106 TFEU must be interpreted as not precluding, in circumstances such as those of the case in the main proceedings, public authorities from granting a provident society an exclusive right to manage that scheme, without any possibility for undertakings within the occupational sector concerned to be exempted from affiliation to that scheme. **Relevance:** this judgment is of general educational relevance for the Ukrainian authorities but as such it does not have to be the subject of approximation effort. It is largely applies to EU Member States only.

10.2.6. Regulation (EC) No 372/2014 amending Regulation (EC) No 794/2004 implementing Council Regulation (EC) No 659/1999 laying down detailed rules for the application of Article 93 of the EC Treaty

Case	Summary
	No relevant case-law as of 31 July 2016

10.2.7. Commission Notice on Simplified procedure for the treatment of certain types of State aid

Case	Summary
	No relevant case-law as of 31 July 2016

10.2.8. Commission Notice on a Best Practices Code on the conduct of State aid control proceedings

Case	Summary
	No relevant case-law as of 31 July 2016

10.2.9. Notice from the Commission — Towards an effective implementation of Commission decisions ordering Member States to recover unlawful and incompatible State aid

Case	Summary
	No relevant case-law as of 31 July 2016

10.2.10 Commission notice on the determination of the applicable rules for the assessment of unlawful State aid

Case	Summary
	No relevant case-law as of 31 July 2016

10.2.11. Commission notice on the enforcement of State aid law by national courts

Case	Summary
	No relevant case-law as of 31 July 2016

10.2.12. Commission communication of 1 December 2003 on professional secrecy in State aid decisions

Case	Summary
	No relevant case-law as of 31 July 2016

10.2.13. Regulation (EU) 2015/1588 on the application of Articles 107 and 108 of the Treaty on the Functioning of the European Union to certain categories of horizontal State aid)

Case	Summary
	No relevant case-law as of 31 July 2016

10.2.14. Regulation (EU) No 1407/2013 on the application of Articles 107 and 108 of the Treaty on the Functioning of the European Union to de minimis aid

Case	Summary
	No relevant case-law as of 31 July 2016

10.2.15. Regulation (EU) No 651/2014 of 17 June 2014 declaring certain categories of aid compatible with the internal market in application of Articles 107 and 108 of the Treaty

Case	Summary
	No relevant case-law as of 31 July 2016

10.2.16. Commission Recommendation of 6 May 2003 concerning the definition of micro, small and medium-sized enterprises

Case	Summary
	No relevant case-law as of 31 July 2016

10.2.17. Commission communication - Model declaration on the information relating to the qualification of an enterprise as an SME

Case	Summary
	No relevant case-law as of 31 July 2016

10.2.18. Commission Communication Recapitalisation of financial institutions in the current financial crisis: limitation of the aid to the minimum necessary and safeguards against undue distortions of competition

Case	Summary
	No relevant case-law as of 31 July 2016

10.2.19. Communication from the Commission on the treatment of impaired assets in the Community banking sector

Case	Summary
	No relevant case-law as of 31 July 2016

10.2.20. Commission communication on the return to viability and the assessment of restructuring measures in the financial sector in the current crisis under the State aid rules

Case	Summary

	No relevant case-law as of 31 July 2016

10.2.21. Communication from the Commission on the application, from 1 January 2011, of State aid rules to support measures in favour of banks in the context of the financial crisis

Case	Summary
	No relevant case-law as of 31 July 2016

10.2.22. Communication from the Commission on the application, from 1 January 2012, of State aid rules to support measures in favour of financial institutions in the context of the financial crisis

Case	Summary
	No relevant case-law as of 31 July 2016

10.2.23. Communication from the Commission on the application, from 1 August 2013, of State aid rules to support measures in favour of banks in the context of the financial crisis

Case	Summary
C-526/14 Tadej Kotnik and Others v Državni zbor Republike Slovenije	**Facts:** this was a reference for preliminary ruling submitted by *Ustavno sodišče* (Constitutional Court, Slovenia). The questions to the Court of Justice were submitted in course The request has been made in proceedings for review of the constitutionality of certain provisions of the Zakon o bančništvu (law on the banking sector) of 23 November 2006, which provide for exceptional measures designed to ensure the recovery of the banking system (see further paras. 23-29). The referring court expressed doubts as to interpretation of several provisions of EU law and submitted in this respect seven questions to the Court of Justice (see para. 30). The covered, *inter alia*, the legal character of Communication on state aid rules regarding support for banks in the context of financial crisis. **Judgment:** the Court of Justice ruled that the Communication is not binding on the Member States. Articles 107 to 109 TFEU must be interpreted as not precluding points 40 to 46 of the Banking Communication in so far as those points lay down a condition of burden-sharing by shareholders and holders of subordinated rights as a prerequisite to the authorisation of State aid. Furthermore, the Banking Communication must be interpreted as meaning that the measures for converting hybrid capital and subordinate debt or writing down their principal, as provided for in point 44 of that Communication, must not exceed what is necessary to overcome the capital short-fall of the bank concerned. **Relevance:** this judgment is of relevance for the Ukrainian authorities as it sheds light on the legal character of EU soft law instruments and their application. It also provides useful information on the substance of the Communication and therefore should be taken into account when the Ukrainian authorities proceed with law approximation.

10.2.24. Communication from the Commission - Criteria for the compatibility analysis of training state aid cases subject to individual notification

Case	Summary
	No relevant case-law as of 31 July 2016

10.2.25. Communication from the Commission - Criteria for the compatibility analysis of state aid to disadvantaged and disabled workers subject to individual notification

Case	Summary
	No relevant case-law as of 31 July 2016

10.2.26. Guidelines on regional State aid for 2014-2020

Case	Summary
	No relevant case-law as of 31 July 2016

10.2.27. Communication from the Commission concerning the criteria for an in-depth assessment of regional aid to large investment projects

Case	Summary
	No relevant case-law as of 31 July 2016

10.2.28. Community Framework for State aid for Research and Development and Innovation

Case	Summary
	No relevant case-law as of 31 July 2016

10.2.29. Community guidelines on State aid for environmental protection

Case	Summary
	No relevant case-law as of 31 July 2016

10.2.30. Communication from the Commission — Guidelines on certain State aid measures in the context of the greenhouse gas emission allowance trading scheme post-2012

Case	Summary
	No relevant case-law as of 31 July 2016

10.2.31. Community guidelines on State aid to promote risk capital investments in small and medium-sized enterprises

Case	Summary
	No relevant case-law as of 31 July 2016

10.2.32. Communication from the Commission amending the Community guidelines on State aid to promote risk capital

Case	Summary
	No relevant case-law as of 31 July 2016

10.2.33. Communication from the Commission — Guidelines on State aid to promote risk finance investments

Case	Summary
	No relevant case-law as of 31 July 2016

10.2.34. Communication from the Commission - Community guidelines on State aid for rescuing and restructuring firms in difficulty

Case	Summary
	No relevant case-law as of 31 July 2016

10.2.35. Communication from the Commission on State aid for films and other audiovisual works

Case	Summary
	No relevant case-law as of 31 July 2016

10.2.36. Communication from the Commission on the application of State aid rules to public service broadcasting

Case	Summary
	No relevant case-law as of 31 July 2016

10.2.37. Commission Communication relating to the methodology for analysis State aid linked to stranded cost

Case	Summary
	No relevant case-law as of 31 July 2016

10.2.38. Notice from the Commission on the application of the competition rules to the postal sector and on the assessment of certain State measures relating to postal services

Case	Summary
	No relevant case-law as of 31 July 2016

10.2.39. Revised rules for assessing state aid for shipbuilding

Case	Summary
	No relevant case-law as of 31 July 2016

10.2.40. Communication from the Commission: Rescue and restructuring aid closure aid for the steel sector

Case	Summary
	No relevant case-law as of 31 July 2016

10.2.41. Communication from the Commission: Multisectoral framework on regional aid for large investment projects

Case	Summary
	No relevant case-law as of 31 July 2016

10.2.42. Communication from the Commission: Community Guidelines for the application of State aid rules in relation to rapid deployment of broadband networks

Case	Summary
	No relevant case-law as of 31 July 2016

10.2.43. Communication from the Commission - Community guidelines on State aid for railway undertakings

Case	Summary

	No relevant case-law as of 31 July 2016

10.2.44. Community guidelines on State aid to maritime transport

Case	Summary
	No relevant case-law as of 31 July 2016

10.2.45. Communication from the Commission providing guidance on State aid complementary to Community funding for the launching of the motorways of the sea

Case	Summary
	No relevant case-law as of 31 July 2016

10.2.46. Communication from the Commission providing guidance on State aid to ship- management companies

Case	Summary
	No relevant case-law as of 31 July 2016

10.2.47. Communication from the Commission - Guidelines on State aid to airports and airlines

Case	Summary
	No relevant case-law as of 31 July 2016

10.2.48. Council Decision of 10 December 2010 on State aid to facilitate the closure of uncompetitive coal mines

Case	Summary
	No relevant case-law as of 31 July 2016

10.2.49. Commission Notice on the application of Articles 87 and 88 of the EC Treaty to State aid in the form of guarantees

Case	Summary
	No relevant case-law as of 31 July 2016

10.2.50. Commission Notice on the application of Articles 87 and 88 of the EC Treaty to State aid in the form of guarantees

Case	Summary
	No relevant case-law as of 31 July 2016

10.2.51. Commission Notice on the notion of State aid as referred to in Article 107(1) of the Treaty on the Functioning of the European Union)

Case	Summary
	No relevant case-law as of 31 July 2016

10.2.52. Communication from the Commission to the Member States on the application of Articles 107 and 108 of the Treaty on the Functioning of the European Union to short- term export-credit insurance

Case	Summary
	No relevant case-law as of 31 July 2016

10.2.53. Commission Notice on the application of the State aid rules to measures relating to direct business taxation

Case	Summary
	No relevant case-law as of 31 July 2016

10.2.54. New Communication from Commission on the revision of the method for setting the reference and discount rates

Case	Summary
	No relevant case-law as of 31 July 2016

10.2.55. Commission communication to the Member States: Application of Articles 92 and 93 [now 87 and 88] of the EEC Treaty and of Article 5 of the Commission Directive 80/723/EEC to public undertakings in the manufacturing sector

Case	Summary

	No relevant case-law as of 31 July 2016

10.2.56. Commission Directive 2006/111/EC of 16 November 2006 on the transparency of financial relations between Member State and public undertakings as well as on financial transparency within certain undertakings

Case	Summary
C-284/12 Deutsche Lufthansa AG v Flughafen Frankfurt-Hahn GmbH	**Facts:** this was a reference for preliminary ruling submitted by *Oberlandesgericht Koblenz* (Germany). Questions were referred in course of proceedings between Lufthansa and Flughafen Frankfurt-Hahn GmbH, the operator of Frankfurt-Hahn Airport (Germany), concerning the cessation and recovery of state aid which FFH allegedly granted to a no frills airline Ryanair (see further paras. 10-17 of the judgment). In order to render a judgment in the case at hand the German court decided to proceed with a reference for preliminary ruling to the Court of Justice and submitted 3 questions in this regard (see para. 18 of the judgment). This included a question regarding interpretation of Directive 2006/111. **Judgment:** the Court of Justice held that where, in accordance with Article 108(3) TFEU, the European Commission has initiated the formal examination procedure under Article 108(2) TFEU with regard to a measure which has not been notified and is being implemented, a national court hearing an application for the cessation of the implementation of that measure and the recovery of payments already made is required to adopt all the necessary measures with a view to drawing the appropriate conclusions from an infringement of the obligation to suspend the implementation of that measure. To that end, the national court may decide to suspend the implementation of the measure in question and order the recovery of payments already made. It may also decide to order provisional measures in order to safeguard both the interests of the parties concerned and the effectiveness of the European Commission's decision to initiate the formal examination procedure. The Court of Justice also ruled that where the national court entertains doubts as to whether the measure at issue constitutes State aid within the meaning of Article 107(1) TFEU or as to the validity or interpretation of the decision to initiate the formal examination procedure, it may seek clarification from the European Commission and, in accordance with the second and third paragraphs of Article 267 TFEU, it may or must refer a question to the Court of Justice of the European Union for a preliminary ruling. **Relevance:** this judgment is of very limited relevance for law approximation purposes. It mainly touches upon matters which are relevant only for the Member States of the European Union. It should be noted that the Court of Justice did not answer the question regarding Directive 2006/111.

10.2.57. Communication from the Commission on the application of the European Union State aid rules to compensation granted for the provision of services of general economic interest

Case	Summary
	No relevant case-law as of 31 July 2016

10.2.58. Commission Decision of 20 December on the application of Article 106(2) of the Treaty on the Functioning of the European Union to State aid in the form of public service compensation granted to certain undertakings entrusted with the operation of services of general economic interest

Case	Summary
	No relevant case-law as of 31 July 2016

10.2.59. Communication from the Commission — European Union framework for State aid in the form of public service compensation (2011)

Case	Summary
	No relevant case-law as of 31 July 2016

Chapter 11 Energy

11.1. Lists of judgments

EU Legal Act	Jurisprudence
Directive 2003/54/EC concerning common rules for the internal market in electricity (NOTE: no longer in force, replaced by Directive 2009/72/EC of the European Parliament and of the Council of 13 July 2009 concerning common rules for the internal market in electricity	- no relevant case-law as of 31 December 2017
Regulation (EC) 1228/2003 on conditions for access to the network for cross-border exchanges in electricity, as amended by the Commission Decision 2006/770/EC (NOTE: no longer in force, replaced by Regulation (EC) No 714/2009 of the European Parliament and of the Council of 13 July 2009 on conditions for access to the network for cross-border exchanges in electricity)	- no relevant case-law as of 31 December 2017
Directive 2005/89/EC concerning measures to safeguard security of electricity supply and infrastructure investment	- no relevant case-law as of 31 December 2017
Directive 2003/55/EC concerning common rules for the internal market in gas (NOTE: no longer in force, replaced by Directive 2009/73/EC of the European Parliament and of the Council of 13 July 2009 concerning common rules for the internal market in natural gas	- C-596/13P European Commission v Moravia Gas Storage a.s., ECLI:EU:C:2015:203 - C-510/13 E.ON Földgáz Trade Zrt v Magyar Energetikai és Közmű-szabályozási Hivatal, ECLI:EU:C:2015:189
Regulation (EC) no 1775/2005 on conditions of access to the natural gas network (NOTE: no longer in force, replaced by Regulation (EC) No 715/2009 of the European Parliament and of the Council of 13 July 2009 on conditions for access to the natural gas transmission networks	- C-51/13 E.ON Földgáz Trade Zrt v Magyar Energetikai és Közmű-szabályozási Hivatal, ECLI:EU:C:2015:189
Directive 2004/67/EC concerning measures to safeguard security of natural gas supply	- no relevant case-law as of 31 December 2017

EU Legal Act	Jurisprudence
Directive 2006/67/EC on maintaining minimum stocks of crude oil and/or petroleum products (NOTE: no longer in force, replaced by Council Directive 2009/119/EC of 14 September 2009 imposing an obligation on Member States to maintain minimum stocks of crude oil and/or petroleum products	- no relevant case-law as of 31 December 2017
Directive 94/22/EC on the conditions for granting and using authorisations for the prospection, exploration and production of hydrocarbons	- no relevant case-law as of 31 December 2017
Directive 2004/8/EC on the promotion of cogeneration (NOTE: repealed by Directive 2012/27/EU of the European Parliament and of the Council of 25 October 2012 on energy efficiency)	- C-195/12 Industrie du bois de Vielsalm & Cie (IBV) SA v Région wallonne, ECLI:EU:C:2013:598
Directive 2002/91/EC on the energy performance of buildings (NOTE: replaced by Directive 2010/31/EU of the European Parliament and of the Council of 19 May 2010 on the energy performance of buildings)	- C-67/12 European Commission v Kingdom of Spain, ECLI:EU:C:2014:5
Directive 2006/32/EC on energy end-use efficiency and energy services (NOTE: replaced by Directive 2012/27/EU of the European Parliament and of the Council of 25 October 2012 on energy efficiency, amending Directives 2009/125/EC and 2010/30/EU and repealing Directives 2004/8/EC and 2006/32/EC)	- no relevant case-law as of 31 December 2017
Directive 2005/32/EC on establishing a framework for the setting eco-design requirements for energy using products (NOTE: repealed by Directive 2009/125/EC of the European Parliament and of the Council of 21 October 2009 establishing a framework for the setting of ecodesign requirements for energy-related products	- no relevant case-law as of 31 December 2017
Commission Regulation (EC) No 278/2009 on eco-design requirements for no-load condition electric power consumption and average active efficiency of external power supplies	- no relevant case-law as of 31 December 2017

EU Legal Act	Jurisprudence
Commission Regulation (EC) No 245/2009 on eco-design requirements for fluorescent lamps without integrated ballast, for high intensity discharge lamps, and for ballasts and luminaires able to operate such lamps	- no relevant case-law as of 31 December 2017
Commission Regulation (EC) No 244/2009 on eco-design requirements for non-directional household lamps	- no relevant case-law as of 31 December 2017
Commission Regulation (EC) No 107/2009 on eco-design requirements for simple set-top boxes	- no relevant case-law as of 31 December 2017
Commission Regulation (EC) No 1275/2008 on eco-design requirements for standby and off mode electric power consumption of electrical and electronic household and office equipment	- no relevant case-law as of 31 December 2017
Council Directive 92/42/EEC on efficiency requirements for new hot-water boilers fired with liquid or gaseous fuels	- no relevant case-law as of 31 December 2017
Directive 96/57/EC on energy efficiency requirements for household electric refrigerators, freezers and combinations thereof (NOTE: replaced by Commission Regulation (EC) No 643/2009 of 22 July 2009 implementing Directive 2005/32/EC of the European Parliament and of the Council with regard to ecodesign requirements for household refrigerating appliances)	- no relevant case-law as of 31 December 2017
Directive 2000/55/EC on energy efficiency requirements for ballasts for fluorescent lighting (NOTE: repealed by Commission Regulation (EC) No 245/2009 of 18 March 2009 implementing Directive 2005/32/EC of the European Parliament and of the Council with regard to ecodesign requirements for fluorescent lamps without integrated ballast, for high intensity discharge lamps, and for ballasts and luminaires able to operate such lamps, and repealing Directive 2000/55/EC of the European Parliament and of the Council)	- no relevant case-law as of 31 December 2017

EU Legal Act	Jurisprudence
Directive 92/75/EEC on the indication by labelling and standard product information of the consumption of energy and other resources by household appliances (NOTE: replaced by Directive 2010/30/EU of the European Parliament and of the Council of 19 May 2010 on the indication by labelling and standard product information of the consumption of energy and other resources by energy-related products)	- no relevant case-law as of 31 December 2017
Commission Directive 2003/66/EC on energy labelling of household electric refrigerators, freezers and their combinations (NOTE: implicitly repealed by Commission Delegated Regulation (EU) No 1060/2010 of 28 September 2010 supplementing Directive 2010/30/EU of the European Parliament and of the Council with regard to energy labelling of household refrigerating appliances)	- no relevant case-law as of 31 December 2017
Commission Directive 2002/40/EC on energy labelling of household electric ovens (NOTE: replaced by Commission Delegated Regulation (EU) No 65/2014 of 1 October 2013 supplementing Directive 2010/30/EU of the European Parliament and of the Council with regard to the energy labelling of domestic ovens and range hoods)	- no relevant case-law as of 31 December 2017
Commission Directive 2002/31/EC on energy labelling of household air-conditioners (NOTE: repealed by Commission Delegated Regulation (EU) No 626/2011 of 4 May 2011 supplementing Directive 2010/30/EU of the European Parliament and of the Council with regard to energy labelling of air conditioners)	- no relevant case-law as of 31 December 2017
Commission Directive 98/11/EC on energy labelling of household lamps (NOTE: repealed by Commission Delegated Regulation (EU) No 874/2012 of 12 July 2012 supplementing Directive 2010/30/EU of the European Parliament and of the Council with regard to energy labelling of electrical lamps and luminaires)	- no relevant case-law as of 31 December 2017

EU Legal Act	Jurisprudence
Commission Directive 97/17/EC on energy labelling of household dishwashers as amended by Commission Directive 1999/9/EC on energy labelling of household dishwashers (NOTE: replaced by Commission Delegated Regulation (EU) No 1059/2010 of 28 September 2010 supplementing Directive 2010/30/EU of the European Parliament and of the Council with regard to energy labelling of household dishwashers)	- no relevant case-law as of 31 December 2017
Commission Directive 96/60/EC on energy labelling of household combined washer-driers	- no relevant case-law as of 31 December 2017
Commission Directive 95/13/EC on energy labelling of household electric tumble driers (NOTE: replaced by Commission Delegated Regulation (EU) No 392/2012 of 1 March 2012 supplementing Directive 2010/30/EU of the European Parliament and of the Council with regard to energy labelling of household tumble driers)	- no relevant case-law as of 31 December 2017
Commission Directive 95/12/EC on energy labelling of household washing machines (NOTE: replaced by Commission Delegated Regulation (EU) No 1061/2010 of 28 September 2010 supplementing Directive 2010/30/EU of the European Parliament and of the Council with regard to energy labelling of household washing machines)	- no relevant case-law as of 31 December 2017
Directive 96/29/Euratom laying down basic safety standards for the protection of the health of workers and the general public against the dangers arising from ionizing radiation (NOTE: replaced Council Directive 2013/59/Euratom of 5 December 2013 laying down basic safety standards for protection against the dangers arising from exposure to ionising radiation, and repealing Directives 89/618/Euratom, 90/641/Euratom, 96/29/Euratom, 97/43/Euratom and 2003/122/Euratom)	- no relevant case-law as of 31 December 2017

11.2. Summaries of selected judgments

11.2.1. Directive 2003/54/EC concerning common rules for the internal market in electricity

Case	Summary
	No case-law as of 31 December 2017

11.2.2. Regulation (EC) 1228/2003 on conditions for access to the network for cross-border exchanges in electricity

Case	Summary
	No case-law as of 31 December 2017

11.2.3. Directive 2005/89/EC concerning measures to safeguard security of electricity supply and infrastructure investment

Case	Summary
	No case-law as of 31 December 2017

11.2.4. Directive 2003/55/EC concerning common rules for the internal market in gas

Case	Summary
	No relevant case-law as of 31 December 2017

11.2.5. Regulation (EC) no 1775/2005 on conditions of access to the natural gas network

Case	Summary
	No relevant case-law as of 31 December 2017

11.2.6. Directive 2004/67/EC concerning measures to safeguard security of natural gas supply

Case	Summary
	No case-law as of 31 December 2017

11.2.7. Directive 2006/67/EC on maintaining minimum stocks of crude oil and/or petroleum products

Case	Summary
	No case-law as of 31 December 2017

11.2.8. Directive 94/22/EC on the conditions for granting and using authorisations for the prospection, exploration and production of hydrocarbons

Case	Summary
	No case-law as of 31 December 2017

11.2.9. Directive 2004/8/EC on the promotion of cogeneration

Case	Summary
C-195/12 Industrie du bois de Vielsalm & Cie (IBV) SA v Région wallonne	**Facts:** this was a reference for preliminary ruling submitted by Cour constitutionnelle (Belgium) in course of proceedings between Industrie du bois de Vielsalm & Cie SA and Région wallonne concerning the refusal by Région wallonne to allow it to benefit from an enhanced support scheme providing for the grant of additional 'green certificates' (see further paras. 24-33 of the judgment). The referring court expressed doubts as to interpretation of Article 7 of Directive 2004/8 and therefore decided to proceed with a reference for preliminary ruling (see para. 34 of the judgment). **Judgment:** the Court of Justice ruled that Article 7 of Directive 2004/8/EC is not limited solely to cogeneration plants which are high efficiency cogeneration plants within the meaning of that Directive. Furthermore, the principle of equal treatment and non-discrimination laid down in particular in Articles 20 and 21 of the Charter of Fundamental Rights of the European Union does not preclude the Member States, when introducing national support schemes for cogeneration and electricity production from renewable energy sources, such as those referred to in Article 7 of Directive 2004/8 and Article 4 of Directive 2001/77/EC from providing for an enhanced support measure such as that at issue in the main proceedings capable of benefiting all cogeneration plants principally using biomass with the exclusion of cogeneration plants principally using wood and/or wood waste.

11.2.10. Directive 2002/91/EC on the energy performance of buildings

Case	Summary
	No case-law as of 31 December 2017

11.2.11. Directive 2006/32/EC on energy end-use efficiency and energy services

Case	Summary
	No case-law as of 31 December 2017

11.2.12. Directive 2005/32/EC on establishing a framework for the setting eco-design requirements for energy using products

Case	Summary
	No case-law as of 31 December 2017

11.2.13. Regulation (EC) No 278/2009 on eco-design requirements for no-load condition electric power consumption and average active efficiency of external power supplies

Case	Summary
	No case-law as of 31 December 2017

11.2.14. Regulation (EC) No 245/2009 on eco-design requirements for fluorescent lamps without integrated ballast, for high intensity discharge lamps, and for ballasts and luminaires able to operate such lamps

Case	Summary
	No case-law as of 31 December 2017

11.2.15. Regulation (EC) No 244/2009 on eco-design requirements for non-directional household lamps

Case	Summary
	No case-law as of 31 December 2017

11.2.16. Regulation (EC) No 107/2009 on eco-design requirements for simple set-top boxes

Case	Summary
	No case-law as of 31 December 2017

11.2.17. Regulation (EC) No 1275/2008 on eco-design requirements for standby and off mode electric power consumption of electrical and electronic household and office equipment

Case	Summary
	No case-law as of 31 December 2017

11.2.18. Directive 92/42/EEC on efficiency requirements for new hot-water boilers fired with liquid or gaseous fuels

Case	Summary
	No case-law as of 31 December 2017

11.2.19. Directive 96/57/EC on energy efficiency requirements for household electric refrigerators, freezers and combinations thereof

Case	Summary
	No case-law as of 31 December 2017

11.2.20. Directive 2000/55/EC on energy efficiency requirements for ballasts for fluorescent lighting

Case	Summary
	No case-law as of 31 December 2017

11.2.21. Directive 92/75/EEC on the indication by labelling and standard product information of the consumption of energy and other resources by household appliances

Case	Summary
	No case-law as of 31 December 2017

11.2.22. Directive 2003/66/EC on energy labelling of household electric refrigerators, freezers and their combinations

Case	Summary
	No case-law as of 31 December 2017

11.2.23. Directive 2002/40/EC on energy labelling of household electric ovens

Case	Summary
	No case-law as of 31 December 2017

11.2.24. Directive 2002/31/EC on energy labelling of household air-conditioners

Case	Summary
	No case-law as of 31 December 2017

11.2.25. Directive 98/11/EC on energy labelling of household lamps

Case	Summary
	No case-law as of 31 December 2017

11.2.26. Directive 97/17/EC on energy labelling of household dishwashers as amended by Commission Directive 1999/9/EC on energy labelling of household dishwashers

Case	Summary
	No case-law as of 31 December 2017

11.2.27. Directive 96/60/EC on energy labelling of household combined washer-driers

Case	Summary
	No case-law as of 31 December 2017

11.2.28. Directive 95/13/EC on energy labelling of household electric tumble driers

Case	Summary
	No case-law as of 31 December 2017

11.2.29. Directive 95/12/EC on energy labelling of household washing machines

Case	Summary
	No case-law as of 31 December 2017

11.2.30. Directive 96/29/Euratom laying down basic safety standards for the protection of the health of workers and the general public against the dangers arising from ionizing radiation

Case	Summary
	No case-law as of 31 December 2017

Chapter 12 Taxation

12.1. Lists of jurisprudence

EU Legal Act	Jurisprudence
Council Directive 2006/112/EC of 28 November 2006 on the common system of value added tax*	- C-552/16 „Wind Inovation 1“ EOOD v Direktor na Direktsia „Obzhalvane i danachno-osiguritelna praktika“ – Sofia, ECLI:EU:C:2017:849 - C-534/16 BB construct, ECLI:EU:C:2017:820 - C-507/16 Entertainment Bulgaria System EOOD v Direktor na Direktsia „Obzhalvane i danachno-osiguritelna praktika“ – Sofia, ECLI:EU:C:2017:864 - C-499/16 AZ v Minister Finansów, ECLI:EU:C:2017:846 - C-462/16 Finanzamt Bingen-Alzey v Boehringer Ingelheim Pharma GmbH & Co. KG, ECLI:EU:C:2017:1006 - C-441/16 SMS group GmbH v Direcţia Generală Regională a Finanţelor Publice Bucureşti, ECLI:EU:C:2017:712 - C-404/16 Lombard Ingatlan Lízing Zrt. v Nemzeti Adó- és Vámhivatal Fellebbviteli Igazgatóság, ECLI:EU:C:2017:759 - C-392/16 Marcu Dumitru v Agenţia Naţională de Administrare Fiscală (ANAF) and Direcţia Generală Regională a Finanţelor Publice Bucureşti, ECLI:EU:C:2017:519 - C-386/16 'Toridas' UAB v Valstybinė mokesčių inspekcija prie Lietuvos Respublikos finansų ministerijos, ECLI:EU:C:2017:599 - Joined Cases C-374/16 and C-375/16 Rochus Geissel v Finanzamt Neuss and Finanzamt Bergisch Gladbach v Igor Butin, ECLI:EU:C:2017:867

* Several judgments listed in the table are based on Sixth Council Directive 77/388/EEC of 17 May 1977 on the harmonisation of the laws of the Member States relating to turnover taxes. However, they retain their relevance under Council Directive 2006/112/EC.

EU Legal Act	Jurisprudence
	- C-308/16 Kozuba Premium Selection sp. z o.o. z siedzibą w Warszawie v Dyrektor Izby Skarbowej w Warszawie, ECLI:EU:C:2017:869 - C-305/16 Avon Cosmetics Ltd v The Commissioners for Her Majesty's Revenue and Customs, ECLI:EU:C:2017:970 - C-288/16 'L.Č.' IK v Valsts ieņēmumu dienests, ECLI:EU:C:2017:502 - C-273/16 Agenzia delle Entrate v Federal Express Europe Inc, ECLI:EU:C:2017:733 - C-262/16 Shields & Sons Partnership v The Commissioners for Her Majesty's Revenue and Customs, ECLI:EU:C:2017:756 - C-254/16 Glencore Agriculture Hungary Kft., formerly Glencore Grain Hungary Kft. v Nemzeti Adó- és Vámhivatal Fellebbviteli Igazgatóság, ECLI:EU:C:2017:522 - C-164/16 Commissioners for Her Majesty's Revenue & Customs v Mercedes-Benz Financial Services UK Ltd, ECLI:EU:C:2017:734 - C-154/16 „Latvijas Dzelzceļš” VAS v Valsts ieņēmumu dienests, ECLI:EU:C:2017:392 - C-132/16 Direktor na Direktsia „Obzhalvane i danachno-osiguritelna praktika“ - Sofia v „Iberdrola Inmobiliaria Real Estate Investments“ EOOD, ECLI:EU:C:2017:683 - C-101/16 SC Paper Consult SRL v Direcţia Regională a Finanţelor Publice Cluj-Napoca and Administraţia Judeţeană a Finanţelor Publice Bistriţa Năsăud, ECLI:EU:C:2017:775 - C-90/16 The English Bridge Union Limited v Commissioners for Her Majesty's Revenue & Customs, ECLI:EU:C:2017:814 - C-37/16 Minister Finansów v Stowarzyszenie Artystów Wykonawców Utworów Muzycznych i Słowno-Muzycznych SAWP (SAWP), ECLI:EU:C:2017:22 - C-36/16 Minister Finansów v Posnania Investment SA, ECLI:EU:C:2017:361

EU Legal Act	Jurisprudence
	- C-33/16 Proceedings brought by A Oy, ECLI:EU:C:2017:339 - C-26/16 Santogal M-Comércio e Reparação de Automóveis Lda v Autoridade Tributária e Aduaneira, ECLI:EU:C:2017:453 - C-21/16 Euro Tyre BV – Sucursal em Portugal v Autoridade Tributária e Aduaneira, ECLI:EU:C:2017:106 - C-699/15 Commissioners for Her Majesty's Revenue & Customs v Brockenhurst College, ECLI:EU:C:2017:344 - C-624/15 UAB „Litdana“ v Valstybinė mokesčių inspekcija prie Lietuvos Respublikos finansų ministerijos, ECLI:EU:C:2017:389 - C-616/15 European Commission v Federal Republic of Germany, ECLI:EU:C:2017:721 - C-605/15 Minister Finansów v Aviva Towarzystwo Ubezpieczeń na Życie S.A. w Warszawie, ECLI:EU:C:2017:718 - C-592/15 Commissioners for Her Majesty's Revenue and Customs v British Film Institute, ECLI:EU:C:2017:117 - C-576/15 ET „Maya Marinova“ v Direktor na Direktsia „Obzhalvane i danachno-osiguritelna praktika“ Veliko Tarnovo pri Tsentralno upravlenie na Natsionalnata agentsia za prihodite, ECLI:EU:C:2016:740 - C-573/15 État belge v Oxycure Belgium SA, ECLI:EU:C:2017:189 - C-564/15 Tibor Farkas v Nemzeti Adó- és Vámhivatal Dél-alföldi Regionális Adó Főigazgatósága, ECLI:EU:C:2017:302 - C-435/15 Criminal proceedings against A and B, ECLI:EU:C:2016:933 - C-432/15 Odvolací finanční ředitelství v Pavlína Baštová, ECLI:EU:C:2016:855 - C-412/15 TMD Gesellschaft für transfusionsmedizinische Dienste mbH v Finanzamt Kassel II – Hofgeismar, ECLI:EU:C:2016:738 - C-390/15 Proceedings brought by Rzecznik Praw Obywatelskich (RPO), ECLI:EU:C:2017:174

EU Legal Act	Jurisprudence
	- C-263/15 Lajvér Meliorációs Nonprofit Kft. and Lajvér Csapadékvízrendezési Nonprofit Kft. v Nemzeti Adó- és Vámhivatal Dél-dunántúli Regionális Adó Főigazgatósága (NAV), ECLI:EU:C:2016:392 - C-40/15 Minister Finansów v Aspiro SA, ECLI:EU:C:2016:172 - C-607/14 Bookit, Ltd v Commissioners for Her Majesty's Revenue and Customs, ECLI:EU:C:2016:355 - C-550/14 Envirotec Denmark ApS v Skatteministeriet, ECLI:EU:C:2016:354 - C-546/14 Proceedings brought by Degano Trasporti Sas di Ferrucio Degano & C, ECLI:EU:C:2016:206 - C-520/14 Gemeente Borsele v Staatssecretaris van Financiën and Staatssecretaris van Financiën v Gemeente Borsele, ECLI:EU:C:2016:334 - C-463/14 Asparuhovo Lake Investment Company OOD v Direktor na Direktsia 'Obzhalvane i danachno-osiguritelna praktika' Varna pri Tsentralno upravlenie na Natsionalnata agentsia za prihodite, ECLI:EU:C:2015:542 - C-419/14 WebMindLicenses Kft. v Nemzeti Adó- és Vámhivatal Kiemelt Adó- és Vám Főigazgatóság, ECLI:EU:C:2015:832 - C-335/14 Les Jardins de Jouvence SCRL v État belge, ECLI:EU:C:2016:36 - C-276/14 Gmina Wrocław v Minister Finansów, ECLI:EU:C:2015:635 - C-264/14 Skatteverket v David Hedqvist, ECLI:EU:C:2015:718 - C-256/14 Lisboagás GDL - Sociedade Distribuidora de Gás Natural de Lisboa SA v Autoridade Tributária e Aduaneira, ECLI:EU:C:2015:387 - Joined cases C-226/14 and C-228/14 Eurogate Distribution GmbH v Hauptzollamt Hamburg-Stadt and DHL Hub Leipzig GmbH v Hauptzollamt Braunschweig, ECLI:EU:C:2016:405

EU Legal Act	Jurisprudence
	- C-209/14 NLB Leasing d.o.o. v Republika Slovenija, ECLI:EU:C:2015:440 - C-187/14 Skatteministeriet v DSV Road A/S, ECLI:EU:C:2015:421 - C-183/14 Radu Florin Salomie and Nicolae Vasile Oltean v Direcția Generală a Finanțelor Publice Cluj, ECLI:EU:C:2015:454 - C-174/14 Saudaçor – Sociedade Gestora de Recursos e Equipamentos da Saúde dos Açores SA v Fazenda Pública, ECLI:EU:C:2015:733 - C-161/14 European Commission v United Kingdom of Great Britain and Northern Ireland, ECLI:EU:C:2015:355 - C-144/14 Cabinet Medical Veterinar Dr. Tomoiagă Andrei v Direcția Generală Regională a Finanțelor Publice Cluj Napoca prin Administrația Județeană a Finanțelor Publice Maramureș, ECLI:EU:C:2015:452 - C-126/14 UAB "Sveda" v Valstybinė mokesčių inspekcija prie Lietuvos Respublikos finansų ministerijos, ECLI:EU:C:2015:712 - C-114/14 European Commission v. Kingdom of Sweden, ECLI:EU:C:2015:249 - C-111/14 GST – Sarviz AG Germania v Direktor na Direktsia „Obzhalvane i danachno-osiguritelna praktika“ Plovdiv pri Tsentralno upravlenie na Natisonalnata agentsia za prihodite, ECLI:EU:C:2015:267 - C-108/14 and C-109/14 Beteiligungsgesellschaft Larentia + Minerva mbH & Co. KG and Finanzamt Hamburg-Mitte v Finanzamt Nordenham and Marenave Schiffahrts AG, ECLI:EU:C:2015:496 - C-105/14 Criminal proceedings against Ivo Taricco and Others, ECLI:EU:C:2015:555 - C-97/14 SMK kft v Nemzeti Adó- és Vámhivatal Dél-alföldi Regionális Adó Főigazgatósága and Nemzeti Adó- és Vámhivatal, ECLI:EU:C:2015:290

EU Legal Act	Jurisprudence
	- C-55/14 Régie communale autonome du stade Luc Varenne v État belge, ECLI:EU:C:2015:29 - C-42/14 Minister Finansów v Wojskowa Agencja Mieszkaniowa w Warszawie, ECLI:EU:C:2015:229 - C-16/14 Property Development Company NV v Belgische Staat, ECLI:EU:C:2015:265 - C-662/13 Surgicare, ECLI:EU:C:2015:89 - C-595/13 Fiscale Eenheid X, ECLI:EU:C:2015:801 - C-594/13 «go fair» Zeitarbeit, ECLI:EU:C:2015:164 - C-526/13 Fast Bunkering Klaipėda, ECLI:EU:C:2015:536 - C-502/13 Commission v Luxembourg, ECLI:EU:C:2015:143 - C-499/13 Macikowski, ECLI:EU:C:2015:201 - C-492/13 Traum, ECLI:EU:C:2014:2267 - C-479/13 Commission v France, ECLI:EU:C:2015:141 - C-446/13 Fonderie 2A, ECLI:EU:C:2014:2252 - C-438/13 BCR Leasing, ECLI:EU:C:2014:2093 - C-337/13 Almos Agrárkülkereskedelmi, ECLI:EU:C:2014:328 - C-272/13 Equoland, ECLI:EU:C:2014:2091 - C-219/13 K, ECLI:EU:C:2014:2207 - C-204/13 Malburg ,ECLI:EU:C:2014:147 - C-151/13 Le Rayon d'Or, ECLI:EU:C:2014:185 - C-144/13 VDP Dental Laboratory,ECLI:EU:C:2015:116 - C-107/13 FIRIN, ECLI:EU:C:2014:151 - C-92/13 Gemeente 's-Hertogenbosch, ECLI:EU:C:2014:2188 - C-18/13 Maks Pen, ECLI:EU:C:2014:69 - C-7/13 Skandia America (USA), ECLI:EU:C:2014:2225 - C-606/12 Dresser Rand, ECLI:EU:C:2014:125

EU Legal Act	Jurisprudence
	- C-605/12 Welmory, ECLI:EU:C:2014:2298 - C-599/12 Jetair and BTWE Travel4you, ECLI:EU:C:2014:144 - C-563/12 BDV Hungary Trading, ECLI:EU:C:2013:854 - C-495/12 Bridport and West Dorset Golf Club, ECLI:EU:C:2013:861 - C-494/12 Dixons Retail, ECLI:EU:C:2013:758 - C-454/12 Pro Med Logistik, ECLI:EU:C:2014:111 - C-440/12 Metropol Spielstätten, ECLI:EU:C:2013:687 - C-431/12 Rafinăria Steaua Română, ECLI:EU:C:2013:686 - C-424/12 Fatorie Principles, objectives and tasks of the Treaties, ECLI:EU:C:2014:50 - C-323/12 E. ON Global Commodities, ECLI:EU:C:2014:53 - C-319/12 MDDP, ECLI:EU:C:2013:778 - C-283/12 Serebryannay vek, ECLI:EU:C:2013:599 - C-273/12 Harry Winston, ECLI:EU:C:2013:466 - C-259/12 Rodopi-M 91, ECLI:EU:C:2013:414 - C-249/12 Tulică, ECLI:EU:C:2013:722 - C-169/12 TNT Express Worldwide (Poland), ECLI:EU:C:2013:314 - C-155/12 RR Donnelley Global Turnkey Solutions Poland, ECLI:EU:C:2013:434 - C-142/12 Marinov, ECLI:EU:C:2013:292 - C-138/12 Rusedespred, ECLI:EU:C:2013:233 - C-125/12 Promociones y Construcciones BJ 200, ECLI:EU:C:2013:392 - C-124/12 AES-3C Maritza East 1,ECLI:EU:C:2013:488 - C-91/12 PFC Clinic ECLI:EU:C:2013:198 - C-78/12 Evita-K, ECLI:EU:C:2013:486 - C-62/12 Kostov, ECLI:EU:C:2013:391 - C-18/12 Město Žamberk, ECLI:EU:C:2013:95

EU Legal Act	Jurisprudence
	- C-643/11, LVK – 56, ECLI:EU:C:2013:55 - C-642/11 Stroy trans, ECLI:EU:C:2013:54 - C-618/11 TVI, ECLI:EU:C:2013:789 - C-557/11 Kozak, ECLI:EU:C:2012:672 - C-550/11 PIGI, ECLI:EU:C:2012:614 - C-549/11 Orfey Balgaria, ECLI:EU:C:2012:832 - C-543/11 Woningstichting Maasdriel, ECLI:EU:C:2013:20 - C-532/11 Leichenich, ECLI:EU:C:2012:720 - C-527/11 Ablessio, ECLI:EU:C:2013:168 - C-525/11 Mednis, ECLI:EU:C:2012:652 - C-424/11 Wheels Common Investment Fund Trustees and Others, ECLI:EU:C:2013:144 - C-392/11 Field Fisher Waterhouse, ECLI:EU:C:2012:597 - C-360/11 Commission v Spain, ECLI:EU:C:2013:17 - C-324/11 Tóth, ECLI:EU:C:2012:549 - C-318/11, Daimler, ECLI:EU:C:2012:666 - C-299/11 Gemeente Vlaardingen, ECLI:EU:C:2012:698 - C-285/11 Bonik,ECLI:EU:C:2012:774 - C-284/11 EMS-Bulgaria Transport, ECLI:EU:C:2012:458 - C-273/11 Mecsek-Gabona, ECLI:EU:C:2012:547 - C-263/11 Rēdlihs, ECLI:EU:C:2012:497 - C-257/11 Gran Via Moineşti, ECLI:EU:C:2012:759 - C-234/11 TETS Haskovo, ECLI:EU:C:2012:644 - C-225/11 Able UK, ECLI:EU:C:2012:252 - C-224/11 BGŻ Leasing, ECLI:EU:C:2013:15 - C-189/11 Commission v Spain, ECLI:EU:C:2013:587 - C-160/11 Bawaria Motors, ECLI:EU:C:2012:492

EU Legal Act	Jurisprudence
	- C-153/11 Klub, ECLI:EU:C:2012:163 - C-118/11 Eon Aset Menidjmunt, ECLI:EU:C:2012:97 - C-85/11 Commission v Ireland, ECLI:EU:C:2013:217 - C-80/11 Mahagében, ECLI:EU:C:2012:373 - C-44/11 Deutsche Bank, ECLI:EU:C:2012:484 - C-621/10 Balkan and Sea Properties, ECLI:EU:C:2012:248 - C-617/10 Åkerberg Fransson, ECLI:EU:C:2013:105 - C-588/10 Kraft Foods Polska, ECLI:EU:C:2012:40 - C-524/10 Commission v Portugal, ECLI:EU:C:2012:129 - C-504/10 Tanoarch, ECLI:EU:C:2011:707 - C-480/10 Commission v Sweden, ECLI:EU:C:2013:263 - C-414/10 Véleclair, ECLI:EU:C:2012:183 - C-351/10 Laki, ECLI:EU:C:2011:406 - C-280/10 Polski Trawertyn, ECLI:EU:C:2012:107 - C-274/10 Commission v Hungary, ECLI:EU:C:2011:530 - C-203/10, Auto Nikolovi, ECLI:EU:C:2011:118 - C-180/10 Słaby, ECLI:EU:C:2011:589 - C-107/10 Enel Maritsa Iztok 3, ECLI:EU:C:2011:298 - C-106/10 Lidl & Companhia, ECLI:EU:C:2011:526 - C-546/09 Aurubis Balgaria, ECLI:EU:C:2011:199 - C-539/09 Commission v Germany, ECLI:EU:C:2011:733 - C-530/09 Inter-Mark Group, ECLI:EU:C:2011:697 - C-497/09 Bog, ECLI:EU:C:2011:135 - C-395/09 Oasis East, ECLI:EU:C:2010:570 - C-392/09 Uszodaépítő, ECLI:EU:C:2010:569 - C-385/09 Nidera Handelscompagnie, ECLI:EU:C:2010:627 - C-368/09 Pannon Gép Centrum, ECLI:EU:C:2010:441

EU Legal Act	Jurisprudence
	- C-270/09 Macdonald Resorts, ECLI:EU:C:2010:780 - C-222/09 Kronospan Mielec, ECLI:EU:C:2010:593 - C-97/09 Schmelz, ECLI:EU:C:2010:632 - C-94/09 Commission v France, ECLI:EU:C:2010:253 - C-86/09 Future Health Technologies, ECLI:EU:C:2010:334 - C-84/09 X, ECLI:EU:C:2010:693 - C-58/09 Leo-Libera, ECLI:EU:C:2010:333 - C-53/09 Loyalty Management UK, ECLI:EU:C:2010:590 - C-49/09 Commission v Poland, ECLI:EU:C:2010:644 - C-41/09 Commission v Netherlands, ECLI:EU:C:2011:108 - C-582/08 Commission v United Kingdom, ECLI:EU:C:2010:429 - C-581/08 EMI Group, ECLI:EU:C:2010:559 - C-492/08 Commission v France, ECLI:EU:C:2010:348 - C-29/08 AB SKF, ECLI:EU:C:2009:665 - C-488/07 Royal Bank of Scotland, ECLI:EU:C:2008:750 - C-371/07 Danfoss and AstraZeneca, ECLI:EU:C:2008:711 - C-357/07 TNT Post UK, ECLI:EU:C:2009:248 - C-291/07 Kollektivavtalsstiftelsen TRR Trygghetsrådet,ECLI:EU:C:2008:609
Council Directive 2007/74/EC of 20 December 2007 on the exemption from value added tax and excise duty of goods imported by persons travelling from third countries	No case-law as of 31 December 2017
Council Directive 92/83/EEC of 19 October 1992 on the harmonization of the structures of excise duties on alcohol and alcoholic beverages	- C-306/14 Direktor na Agentsia "Mitnitsi" v Biovet AD, ECLI:EU:C:2015:689

EU Legal Act	Jurisprudence
	- C-285/14 Directeur général des douanes et droits indirects and Directeur régional des douanes et droits indirects d'Auvergne v Brasserie Bouquet SA, ECLI:EU:C:2015:353 - C-503/10 Evroetil AD v Direktor na Agentsia "Mitnitsi", ECLI:EU:C:2011:872 - C-163/09 Repertoire Culinaire Ltd v The Commissioners of Her Majesty's Revenue & Customs, ECLI:EU:C:2010:752 - C-83/08 Glückauf Brauerei GmbH v Hauptzollamt Erfurt, ECLI:EU:C:2009:228 - C-458/06 Skatteverket v Gourmet Classic Ltd, ECLI:EU:C:2008:338 - C-63/06 UAB Profisa v Muitinės departamentas prie Lietuvos Respublikos finansų ministerijos, ECLI:EU:C:2007:233 - C-475/01 Commission of the European Communities v Hellenic Republic, ECLI:EU:C:2004:585 - C-428/98 Italian Republic v Commission of the European Communities, ECLI:EU:C:2000:672 - C-455/98 Tullihallitus v Kaupo Salumets and others, ECLI:EU:C:2000:352 - C-166/98 Société Critouridienne de Distribution (Socridis) and Receveur Principal des Douanes, ECLI:EU:C:1999:316 - C-434/97 Commission of the European Communities v French Republic, ECLI:EU:C:2000:98
Council Directive 2003/96/EC of 27 October 2003 restructuring the Community framework for the taxation of energy products and electricity	- Joined cases C-215/16, C-216/16, C-220/16 and C-221/16 Elecdey Carcelen SA and Others v Comunidad Autónoma de Castilla-La Mancha, ECLI:EU:C:2017:705 - C-56/16 „Vakarų Baltijos laivų statykla“ UAB v Valstybinė mokesčių inspekcija prie Lietuvos Respublikos finansų ministerijos, ECLI:EU:C:2017:537

EU Legal Act	Jurisprudence
	- C-465/15 Hüttenwerke Krupp Mannesmann GmbH v Hauptzollamt Duisburg, ECLI:EU:C:2017:640 - C-189/15 Istituto di Ricovero e Cura a Carattere Scientifico (IRCCS) - Fondazione Santa Lucia v Cassa conguaglio per il settore elettrico and Others, ECLI:EU:C:2017:17 - C-64/15 BP Europa, ECLI:EU:C:2016:62 - C-418/14 ROZ-ŚWIT, ECLI:EU:C:2016:400 - C-355/14 Polihim-SS, ECLI:EU:C:2016:403 - C-5/14 Kernkraftwerke Lippe-Ems, ECLI:EU:C:2015:354 - C-606/13 OKG, ECLI:EU:C:2015:636 - C-349/13 Oil Trading Poland, ECLI:EU:C:2015:84 - C-152/13 Holger Forstmann Transporte,ECLI:EU:C:2014:2184 - C-43/13 Kronos Titan, ECLI:EU:C:2014:216 - C-426/12 X, ECLI:EU:C:2014:2247 - C-272/12 P, Commission v Ireland and Others, ECLI:EU:C:2013:812 - C-503/10 Evroetil, ECLI:EU:C:2011:872 - C-366/10, Air Transport Association of America and Others, ECLI:EU:C:2011:864 - C-79/10 Systeme Helmholz, ECLI:EU:C:2011:797 - C-201/08 Plantanol, ECLI:EU:C:2009:539 - C-517/07 Afton Chemical, ECLI:EU:C:2008:751 - C-226/07 Flughafen Köln v Bonn, ECLI:EU:C:2008:429 - C-145/06 Fendt Italiana, ECLI:EU:C:2007:411
Council Directive 2008/118/EC of 16 December 2008 concerning the general arrangements for excise duty and repealing Directive 92/12/EEC	- Joined Cases C-215/16, C-216/16, C-220/16 and C-221/16 Elecdey Carcelen SA and Others v Comunidad Autónoma de Castilla-La Mancha, ECLI:EU:C:2017:705

EU Legal Act	Jurisprudence
	- C-189/15 Istituto di Ricovero e Cura a Carattere Scientifico (IRCCS) - Fondazione Santa Lucia v Cassa conguaglio per il settore elettrico and Others, ECLI:EU:C:2017:17 - C-126/15 European Commission v Portuguese Republic, ECLI:EU:C:2017:504 - C-64/15 BP Europa SE v Hauptzollamt Hamburg-Stadt, ECLI:EU:C:2016:62 - C-402/14 Viamar – Elliniki Aftokiniton kai Genikon Epicheiriseon AE v Elliniko Dimosio, ECLI:EU:C:2015:830 - C-355/14 „Polihim-SS" EOOD v Mitnitsa – Svishtov, ECLI:EU:C:2016:403
Council Directive 2011/64/EC of 21 June 2001 on the structure and rates of excise duty applied on manufactured tobacco	- C-638/15 Eko-Tabak s.r.o. v Generální ředitelství cel, ECLI:EU:C:2017:277 - C-221/15 Criminal proceedings against Etablissements Fr. Colruyt NV, ECLI:EU:C:2016:704 - C-428/13 Yesmoke Tobacco, ECLI:EU:C:2014:2263
Thirteenth Council Directive 86/560/EEC of 17 November 1986 on the harmonization of the laws of the Member States relating to turnover taxes - Arrangements for the refund of value added tax to taxable persons not established in Community territory	- C-388/11 Le Crédit Lyonnais, ECLI:EU:C:2013:541 - C-421/10 Stoppelkamp, ECLI:EU:C:2011:640 - C-582/08 Commission v United Kingdom, ECLI:EU:C:2010:429 - C-433/08 Yaesu Europe, ECLI:EU:C:2009:750 - C-1/08 Athesia Druck, ECLI:EU:C:2009:108 - C-73/06 Planzer Luxembourg, ECLI:EU:C:2007:397 - C-335/05 Řízení Letového Provozu, ECLI:EU:C:2007:321 - C-452/03 RAL (Channel Islands) and Others, ECLI:EU:C:2005:289

12.2. Summaries of selected judgments

12.2.1. Council Directive 2006/112/EC of 28 November 2006 on the common system of value added tax

Case	Summary
C-390/15 Proceedings brought by Rzecznik Praw Obywatelskich (RPO)	**Facts:** this was a reference for preliminary ruling submitted by Trybunał Konstytucyjny (Constitutional Court, Poland) in course of proceedings submitted by the Ombudsman (Commissioner for Civic Rights, Poland). The applicant asked for a ruling that national provisions precluding the application of a reduced rate of value added tax (VAT) to the supply of books and other digital publications electronically do not comply with the Polish constitution. In course of those proceedings the referring court expressed doubts as to validity of Directive 2006/112/EC and decided to proceed with a reference for preliminary ruling to the Court of Justice (see further paras. 16-21 of the judgment). In the first question the referring court asked if point 6 of Annex III to Directive 2006/112 was invalid on the ground that, during the legislative procedure, the essential formal requirement of consultation with the European Parliament was not complied with. In the second question the referring court asked if Article 98(2) of Directive 2006/112/EC, in conjunction with point 6 of Annex III to that Directive, was invalid on the ground that it infringed the principle of fiscal neutrality to the extent to which it excluded the application of reduced tax rates to electronic books and other electronic publications. **Judgment:** Directive 2006/112//EC is valid. The difference in treatment between the supply of digital books electronically and the supply of books on all physical means of support must be regarded as duly justified. Article 98(2) of Directive 2006/112 as amended, read in conjunction with point 6 of Annex III thereto, which has the effect of ruling out the possibility for the Member States of applying a reduced rate of VAT to the supply of digital books electronically, while permitting them to apply a reduced rate of VAT to the supply of digital books on all physical means of support, does not infringe the principle of equal treatment **Relevance:** this judgment is of relevance for the Ukrainian authorities. It confirmed that national tax legislation may differentiate the taxation of supply of digital books electronically and on all other means of support.
C-276/14 Gmina Wrocław v Minister Finansów	**Facts:** this was a reference for preliminary ruling submitted by Naczelny Sąd Administracyjny (Poland). It was submitted in course of proceedings between the Gmina Wrocław and the Minister Finansów concerning whether a municipal budgetary entity may be regarded as a taxable person for the purposes of value added tax. Since the Polish court expressed doubts as to interpretation of Directive 2006/112/EC it proceeded with a reference for preliminary ruling to the Court of Justice (see further paras. 8-21 of the judgment). **Judgment:** Article 9(1) of Directive 2006/112/EC must be interpreted as meaning that bodies governed by public law, such as the municipal budgetary entities at issue in the main proceedings, cannot be regarded as taxable persons for the purposes of value added tax in so far as they do not satisfy the criterion of independence set out in that provision.

Case	Summary
	Relevance: this judgment is of relevance for the Ukrainian law-drafters and tax authorities. It clarifies that as per Directive 2006/112/EC municipalities are not taxable persons for the purposes of VAT as they do not meet the independence criterion laid down therein.
C-520/14 Gemeente Borsele v Staatssecretaris van Financiën and Staatssecretaris van Financiën v Gemeente Borsele	**Facts:** this was a reference for preliminary ruling submitted by *Hoge Raad der Nederlanden* (Supreme Court, Netherlands) in course of proceedings between Geemente Borsele (municipality of Borsele) and the Staatssecretaris van Financiën (Secretary of State for Finance) concerning the right to deduct the value added tax claimed by that municipality (see further paras. 11-15 of the judgment). The Dutch court decided to proceed with a reference for preliminary ruling in order to receive clarification as to interpretation of Directive 2006/112/EC. **Judgment:** Article 9(1) of Directive 2006/112/EC must be interpreted as meaning that a regional or local authority which provides a service for the transport of schoolchildren under conditions such as those described in the main proceedings does not carry out an economic activity and is not therefore a taxable person. **Relevance:** this judgment is of relevance for the Ukrainian authorities as it provides a clarification as to VAT status of a municipality. Although it was rendered in the EU context it remains relevant – *mutatis mutandis* – for Ukraine, which has the obligation to approximate its laws with Directive 2006/112/EC.
C-607/14 Bookit, Ltd v Commissioners for Her Majesty's Revenue and Customs	**Facts:** this was a reference for preliminary ruling submitted by First-tier Tribunal (Tax Chamber) in course of proceedings between Bookit Ltd and the Commissioners for Her Majesty's Revenue and Customs concerning a refusal to grant an exemption from value added tax to certain supplies of services made by Bookit (see further paras. 8-20). The English court seized with the dispute expressed doubts as to interpretation of several provisions of Directive 2006/112/EC as well as previous judgments of the Court of Justice. Bearing this in mind it decided to proceed with a reference for preliminary ruling (see para. 21). **Judgment:** Article 135(1)(d) of Directive 2006/112/EC must be interpreted as meaning that the exemption from value added tax provided for therein for transactions concerning payments and transfers is not applicable to a 'card handling' service, supplied by a taxable person, the provider of that service, where an individual purchases, via that service provider, a cinema ticket which the service provider sells for and on behalf of another entity, and which the individual pays for by debit card or by credit card.

Case	Summary
	Relevance: this judgment is of relevance for the Ukrainian authorities as it clarifies the meaning of Article 135(1)(d) of Directive 2006/112/EC. It makes it clear that the VAT exemptions provided in the provision in question do not apply to card handling services as in the case at hand.
C-209/14 NLB Leasing d.o.o. v Republika Slovenija	**Facts:** this was a reference for preliminary ruling submitted by Vrhovno sodišče (Slovenia). It was submitted in course of proceedings between NLB Leasing d.o.o. and the Republika Slovenija, represented by the Ministrstvo za finance, concerning the latter's refusal to allow NLB to adjust the amount of value added tax paid following the conclusion of two lease agreements (see further paras. 13-22 of the judgment). **Judgment:** Articles 2(1), 14 and 24(1) of Directive 2006/112/EC must be interpreted as meaning that where a lease agreement relating to immovable property provides either that ownership of that property is to be transferred to the lessee on the expiry of that agreement or that all the essential powers attaching to ownership of that property are to be enjoyed by the lessee and, in particular, substantially all the rewards and risks incidental to legal ownership of that property are transferred to the lessee and the present value of the amount of the lease payments is practically identical to the market value of the property, the transaction resulting from that agreement must be treated as an acquisition of capital goods. Furthermore, the Court ruled that Article 90(1) of Directive 2006/112 does not permit a taxable person to reduce the taxable amount where that person has in fact received all the payments in consideration for the service which he supplied or where, without the agreement having been refused or cancelled, the recipient of that service is no longer liable to the taxable person for the agreed price. Finally, the Court of Justice ruled that the principle of fiscal neutrality does not preclude, first, a leasing service relating to immovable property and, second, the sale of that property to a person who is a third party to the lease agreement, being taxed separately for value added tax purposes, where those transactions cannot be regarded as forming a single supply. **Relevance:** this judgment is of relevance for the Ukrainian law-makers as it clarifies the meaning of several provisions laid down in Directive 2006/112/EC. Thus, it should be taken into account when relevant national rules are drafted, adopted and applied in practice by the tax authorities and courts.

Case	Summary
C-126/14 UAB "Sveda" v Valstybinė mokesčių inspekcija prie Lietuvos Respublikos finansų ministerijos	**Facts:** this was a reference for preliminary ruling submitted by *Lietuvos vyriausiasis administracinis teismas* (Supreme Administrative Court, Lithuania) submitted in course of proceedings between 'Sveda' UAB and the Valstybinė mokesčių inspekcija prie Lietuvos Respublikos finansų ministerijos concerning a decision refusing deduction of the input value added tax paid by Sveda in the context of the creation of a Baltic mythology recreational and discovery path (see paras. 8-13 of the judgment). In course of these proceedings the Lithuanian court expressed doubts as to interpretation of Article 168 of Directive 2006/112/EC and decided to send a reference for preliminary ruling to the Court of Justice (see para. 14 of the judgment). **Judgment:** Article 168 of Directive 2006/112/EC grants, in circumstances such as those in the main proceedings, a taxable person the right to deduct the input value added tax paid for the acquisition or production of capital goods, for the purposes of a planned economic activity related to rural and recreational tourism, which are (i) directly intended for use by the public free of charge, and may (ii) enable taxed transactions to be carried out, provided that a direct and immediate link is established between the expenses associated with the input transactions and an output transaction or transactions giving rise to the right to deduct or with the taxable person's economic activity as a whole, which is a matter for the referring court to determine on the basis of objective evidence. **Relevance:** this judgment is of relevance for the Ukrainian law-makers. It clarifies the meaning of Article 168 of Directive 2006/112/EC and therefore it should be taken into account when relevant domestic provisions are drafted.
C-114/14 European Commission v. Kingdom of Sweden	**Facts:** this infringement action was submitted by the European Commission to the Court of Justice as per Article 258 TFEU. The applicant requested the Court to declare that, by failing to exempt from value added tax: - the supply by the public postal services of services other than passenger transport and telecommunications services, - the supply of goods incidental thereto, - the supply at face value of postage stamps valid for use for postal services within national territory, Sweden has failed to fulfil its obligations under Articles 132(1)(a) and 135(1)(h) of Directive 2006/112/EC. **Judgment:** the Court of Justice ruled that Sweden was in breach of Directive 2006/112/EC (see paras. 26-45 of the judgment). **Relevance:** this judgment is of relevance for the Ukrainian law-makers. It demonstrates what the Member States are not permitted to do when it comes to taxation of some types of postal services.

Case	Summary
C-97/14 <u>SMK kft v Nemzeti Adó- és Vámhivatal Dél-alföldi Regionális Adó Főigazgatósága and Nemzeti Adó- és Vámhivatal</u>	**Facts:** this was a reference for preliminary ruling submitted by *Gyulai Közigazgatási és Munkaügyi Bíróság* (Hungary) in course of proceedings between SMK kft, a company established in Hungary, and Nemzeti Adó- és Vámhivatal Dél-alföldi Regionális Adó Főigazgatósága (Dél-Alföld Regional Tax Directorate of the National Tax and Customs Administration) and Nemzeti Adó- és Vámhivatal (National Tax and Customs Administration) concerning a decision subjecting SMK kft to payment of value added tax (VAT) for 2007 to 2009 and January to March 2010 (see further paras. 10-25 of the judgment). The Hungarian court hearing the case expressed doubts as to interpretation of Directive 2006/112/EC and therefore submitted 5 questions on its interpretation to the Court of Justice (see para. 26 of the judgment). **Judgment:** Article 55 of Directive 2006/112/EC does not apply in circumstances such as those at issue in the main proceedings in which the recipient of the supplies of services was identified for VAT purposes both in the Member State in which the services were physically carried out and in another Member State, and later only in the other Member State, and the tangible movable property to which those services related was dispatched or transported out of the Member State in which the services were physically carried out not following the supplies of services but following the later sale of the goods. **Relevance:** this judgment is of relevance for the Ukrainian authorities as it clarifies the scope of Article 55 of Directive 2006/112/EC. While, in itself, it does not have to be reflected in the wording of Ukrainian provisions it should, nevertheless, be taken into account when VAT provisions are applied.
C-438/13 <u>BCR Leasing</u>	**Facts:** this was a reference for preliminary ruling submitted by *Curtea de Apel Bucureşti* (Romania) in course of proceedings between BCR Leasing IFN SA against the Agenţia Naţională de Administrare Fiscală — Direcţia generală de administrare a marilor contribuabili and the Agenţia Naţională de Administrare Fiscală — Direcţia generală de soluţionare a contestaţiilor concerning the payment of value added tax on goods leased under a financial leasing contract but deemed missing after not being returned to the leasing company (for a detailed account of facts see paras. 13-20 of the judgment). The Romanian court hearing the case expressed doubts as to interpretation of Directive 2006/112/EC and proceeded with a reference for preliminary ruling (see para. 21 of the judgment). **Judgment:** Articles 16 and 18 of Council Directive 2006/112/EC must be interpreted as meaning that the impossibility, for a leasing company, of recovering from the lessee the goods let under a financial leasing contract following its termination as a result of the lessee's breach, despite the steps undertaken by that company to recover those goods and despite the lack of any consideration following such termination, may not be treated as a supply of goods for consideration for the purposes of those articles.

Case	Summary
	Relevance: this judgment is of relevance for the Ukrainian authorities as it sheds light on interpretation of Articles 16 and 18 of Directive 2006/112/EC.
C-85/11 Commission v Ireland	**Facts:** the European Commission submitted an infringement action to the Court of Justice as per Article 258 TFEU. It requested the Court to declare that, by permitting non-taxable persons to be members of a group of persons regarded as a single taxable person for purposes of value added tax, Ireland has failed to fulfil its obligations under Articles 9 and 11 of Directive 2006/112/EC (see further paras. 20-34 of the judgment). **Judgment:** the Court of Justice dismissed the action. It held that Ireland was not in breach of Directive 2006/112/EC. The judges ruled that it is not apparent from the wording of Article 11 of Directive 2006/112/EC that non-taxable persons cannot be included in a VAT group. It is notable that the Court of Justice engaged in literal and contextual interpretation of the provision in question. **Relevance:** this judgment is relevant for the Ukrainian authorities and should be taken into account when relevant provisions of domestic law are drafted.
C-552/16 'Wind Inovation 1' EOOD, in liquidation, v Direktor na Direktsia 'Obzhalvane i danachno-osiguritelna praktika' — Sofia,	**Facts:** this was a reference for preliminary ruling submitted by Administrativen sad Sofia- grad (Administrative Court of the City of Sofia, Bulgaria) in course of proceedings between 'Wind Inovation 1' EOOD, in liquidation and Direktor na Direktsia 'Obzhalvane i danachno-osiguritelna praktika' — Sofia concerning the decision to remove that company from the value added tax (VAT) register (see further paras. 14-23 of the judgment). The referring court raised doubts as to interpretation of Article 176 of the VAT Directive and decided to seek assistance of the Court of Justice. **Judgment:** Council Directive 2006/112/EC does not preclude national legislation pursuant to which the compulsory removal from the value added tax (VAT) register of a company whose dissolution has been ordered by court decision results in the obligation to calculate the input VAT due or paid on the available assets on the date of the dissolution of that company and to pay it to the State, on condition that that company no longer carries out economic transactions as from its dissolution. Furthermore, Directive 2006/112, in particular Article 168 thereof, precludes national legislation, such as that at issue in the main proceedings, pursuant to which the compulsory removal from the VAT register of a company whose dissolution has been ordered by court decision results, even where that company continues to carry out economic transactions whilst being placed under liquidation, in the obligation to calculate the input VAT due or paid on the available assets on the date of that dissolution and to pay it to the State and which, therefore, makes the right to deduct subject to compliance with that obligation.

Case	Summary
	Relevance: this is one many judgments of the Court of Justice dealing with the Directive 2006/112/EC. It deals with an important matter, that is removal of companies from the VAT register and powers of the national authorities in this regard. Bearing this in mind it should be taken into account by the Ukrainian law-makers with they proceed with approximation of the Ukrainian law with the Directive in question.
C-374/16 and C-375/16 Rochus Geissel v Finanzamt Neuss and Finanzamt Bergisch Gladbach v Igor Butin, ECLI:EU:C:2017:867	**Facts:** those were references for preliminary ruling submitted by Bundesfinanzhof (Federal Finance Court, Germany). Due to similarity of issues raised they were joined for the adjudication by the Court of Justice. The requests have been made in proceedings between, first, Rochus Geissel, in his capacity as liquidator of RGEX GmbH i.L., and the Finanzamt Neuss (Tax Office, Neuss, Germany) and, second, the Finanzamt Bergisch Gladbach (Tax Office, Bergisch Gladbach, Germany) and Igor Butin, concerning the refusal by those tax authorities to allow a deduction of input value added tax (VAT) on the basis of invoices containing the address where the issuer of those invoices may be reached by post, but where he does not carry out any economic activity (see further paras. 13-27 of the judgment). **Judgment:** Article 168(a) and Article 178(a) of Council Directive 2006/112/EC, read in conjunction with Article 226(5) thereof, preclude national legislation, such as that at issue in the main proceedings, which makes the exercise of the right to deduct input VAT subject to the condition that the address where the issuer of an invoice carries out its economic activity must be indicated on the invoice. **Relevance:** this is an important judgment clarifying the meaning of Articles 168(a) and 178(a) of Directive 2006/112/EC. It should be taken into account when Ukrainian authorities proceed with approximation of national law with the Directive in question.
C-37/16 Minister Finansów v Stowarzyszenie Artystów Wykonawców Utworów Muzycznych i Słowno-Muzycznych SAWP (SAWP)	**Facts:** this was a reference for preliminary ruling submitted by Naczelny Sąd Administracyjny (Supreme Administrative Court, Poland) in course of proceedings between the Minister Finansów (Minister for Finance, Poland) and Stowarzyszenie Artystów Wykonawców Utworów Muzycznych i Słowno-Muzycznych SAWP (SAWP) (Society for performers of musical works with or without words (SAWP), established in Warsaw (Poland)) concerning whether the fee on devices for recording or reproducing copyright works or the subject matter of related rights and on media for recording or copying such works or subject matter is subject to value added tax (VAT) (see further paras. 14-17 of the judgment). The Supreme Administrative Court expressed doubts as to interpretation of Directive 2006/112/EC and proceeded with a reference for preliminary ruling (see para. 18 of the judgment).

Case	Summary
	Judgment: Council Directive 2006/112/EC must be interpreted as meaning that holders of reproduction rights do not make a supply of services, within the meaning of that Directive, to producers and importers of blank media and of recording and reproduction devices on whom organisations collectively managing copyright and related rights levy on behalf of those rightholders, but in their own name, fees in respect of the sale of those devices and media. **Relevance:** this judgment is of relevance to the Ukrainian law-makers as it clarifies the scope of Directive 2006/112/EC. Bearing this in mind it should be taken into account when the Ukrainian authorities proceed with approximation of domestic law with EU *acquis* on VAT.

12.2.2. Directive 2007/74/EC on the exemption from value added tax and excise duty of goods imported by persons travelling from third countries

Case	Summary
	No case-law as of 31 July 2016

12.2.3. Council Directive 92/83/EEC of 19 October 1992 on the harmonization of the structures of excise duties on alcohol and alcoholic beverages

Case	Summary
C-306/14 Direktor na Agentsia "Mitnitsi" v Biovet AD	**Facts:** this was a reference for preliminary ruling submitted by *Varhoven administrativen* sad (Bulgaria) in course of proceedings between the Direktor na Agentsia 'Mitnitsi' and Biovet AD concerning the subjection of the ethyl alcohol used by Biovet for cleaning and disinfecting purposes to harmonised excise duty (see paras. 9-14 of the judgment). The Bulgarian court proceeded with a reference for preliminary ruling and asked 3 questions to the Court of Justice (see para. 15 of the judgment). **Judgment:** Article 27(1)(d) of Directive 92/83/EEC means that the obligation to exempt laid down in that provision applies to ethyl alcohol used by an undertaking for cleaning or disinfecting equipment and facilities used in the production of medicines. **Relevance:** this judgment is of relevance for the Ukrainian law-makers as it clarifies the scope of Article 27(1)(d) of Directive 92/83/EEC. It should be taken into account when relevant national provisions are drafted.
C-285/14 Directeur général des douanes	**Facts:** this was a reference for preliminary ruling submitted by *Cour de cassation* (France) in course of proceedings between the Directeur général des douanes et droits indirects, the Directeur régional des douanes et droits indirects d'Auvergne, and

Case	Summary
et droits indirects and Directeur régional des douanes et droits indirects d'Auvergne v Brasserie Bouquet SA	Brasserie Bouquet SA concerning the application of the reduced rate of excise duty to beer produced by it between 2007 and 2010 (see paras. 6-12 of the judgment). The referring court expressed doubts as to interpretation of Article 4(2) of Directive 92/83/EEC and therefore proceeded with a reference for preliminary ruling to the Court of Justice. **Judgment:** For the purpose of applying the reduced rate of excise duty on beer the condition laid down in Article 4(2) of Directive 92/83/EEC according to which a brewery must not operate under licence, is not met if the brewery concerned makes its beer in accordance with an agreement pursuant to which it is authorised to use the trade marks and production process of a third party. **Relevance:** this judgment is of relevance for the Ukrainian law-makers as it clarifies the interpretation of Article 4(2) of Directive 92/83/EEC. Bearing this in mind it should be taken into account for purposes of approximation of Ukrainian law with this Directive.
C-503/10 Evroetil AD v Direktor na Agentsia "Mitnitsi"	**Facts:** this was a reference for preliminary ruling submitted by *Varhoven administrativen sad* (Bulgaria). It was submitted in course of proceedings between Evroetil AD and the Direktor na Agentsia 'Mitnitsi' (Director, Customs Agency) concerning the lawfulness of an order for recovery of excise duties relating to November and December 2006 and also January, March and May 2007 (see further paras. 24-30 of the judgment). The referring courts expressed doubts as to interpretation of Directive 2003/30/EC of the European Parliament and of the Council of 8 May 2003 on the promotion of the use of biofuels or other renewable fuels for transport as well as Directive 92/83/EC. **Judgment:** a product which contains more than 98.5% ethyl alcohol and has not been denatured in a special denaturing procedure must be subject to the excise duty provided for in Article 19(1) of Directive 92/83, even where it was obtained from biomass using a technology which differs from the technology for the production of agricultural ethyl alcohol, contains substances making it unsuitable for human consumption, satisfies the requirements laid down in European standard prEN 15376 for bioethanol used as fuel and potentially meets the definition of bioethanol in Article 2(2)(a) of Directive 2003/30. **Relevance:** this judgment provides a useful clarification on the scope of Article 19(1) of Directive 92/83. Hence, it should be taken into account when the Ukrainian authorities proceed with approximation of domestic law with this Directive.
C-163/09 Repertoire Culinaire Ltd v The Commissioners of	**Facts:** this was a reference for preliminary ruling submitted by First-tier Tribunal (Tax Chamber) (United Kingdom) in course of proceedings between Repertoire Culinaire Ltd and the Commissioners for Her Majesty's Revenue and Customs concerning the tax arrangements applicable to the alcohol contained in cooking wine, cooking port and cooking cognac (see further paras.

Case	Summary
Her Majesty's Revenue & Customs	10-21 of the judgment). The referring court sent four questions to the Court of Justice aiming at clarification of Directive 92/83 (see para. 22 of the judgment). **Judgment:** Article 20, first indent, of Directive 92/83/EEC means that the definition of 'ethyl alcohol' provided therein applies to cooking wine and cooking port. In circumstances such as those at issue in the main proceedings, an exemption from the harmonised excise duty for cooking wine, cooking port and cooking cognac falls under Article 27(1)(f) of Directive 92/83. If products such as the cooking wine, cooking port and cooking cognac at issue in the main proceedings, which have been treated as not being subject to excise duty or as being exempted from that duty under Directive 92/83 and released for consumption in the Member State of manufacture, are intended to be put on the market in another Member State, the latter must treat those products in the same way in its territory. That is unless there is concrete, objective and verifiable evidence that the first Member State has failed to apply the provisions of Directive 92/83 correctly or that, in accordance with Article 27(1) thereof, it is justifiable to adopt measures to combat any evasion, avoidance or abuse which may arise in the field of exemptions and to ensure the correct and straightforward application of such exemptions. Article 27(1)(f) of Directive 92/83 must be interpreted as meaning that the exemption contained in that provision may be made conditional on compliance with conditions such as those laid down by the national legislation at issue in the main proceedings, that is to say, the restriction of the persons authorised to make a claim for recovery, a four-month period for bringing such a claim and the establishment of a minimum amount of repayment, only if it is apparent from concrete, objective and verifiable evidence that those conditions are necessary to ensure the correct and straightforward application of the exemption in question and to prevent any evasion, avoidance or abuse. **Relevance:** this is an important judgment, which clarifies the meaning of Article 20 and 27 of Directive 92/83. Bearing this in mind it should be taken into account by the Ukrainian authorities when they proceed with approximation with this piece of EU legislation.

12.2.4. Council Directive 2003/96/EC of 27 October 2003 restructuring the Community framework for the taxation of energy products and electricity

Case	Summary
C-418/14 ROZ-ŚWIT	**Facts:** this reference for preliminary ruling was submitted by Wojewódzki Sąd Administracyjny we Wrocławiu (Regional Administrative Court, Wrocław, Poland). It was submitted in course of proceedings between a Polish company: ROZ-ŚWIT Zakład Produkcyjno-Handlowo-Usługowy Henryk Ciurko, Adam Pawłowski spółka jawna and the Dyrektor Izby Celnej we Wrocławiu (Director of the Wrocław Customs Chamber) concerning the refusal of the Director to grant ROZ-ŚWIT the benefit

Case	Summary
	of the rate of excise duty applicable to heating fuel because of its failure to submit within the specified period a list of statements that the fuel purchased was for heating purposes. The Polish court expressed doubts as to interpretation of Articles 2(3) and 21(4) of Directive 2003/96 and asked the Court of Justice for assistance. The crux of the problem at stake was whether selected provisions of Polish law were compatible with the Directive in question (see further paras. 11-18 of the judgment). **Judgment:** Court of Justice held that Directive 2003/96/EC and the principle of proportionality must be interpreted as: – not precluding national legislation under which sellers of heating fuel are required to submit, within a prescribed time limit, a monthly list of statements from purchasers that the products purchased are for heating purposes, and – precluding national legislation under which, if a list of statements from purchasers is not submitted within a prescribed time limit, the excise duty applicable for motor fuels is applied to the heating fuel sold, even though it has been found that the intended use of that product for heating purposes is not in doubt. **Relevance:** this judgment is of relevance for the Ukrainian authorities. It determines the room for manoeuvre left to the Member States when they transpose this Directive to national law. It applies, *mutatis mutandis*, to Ukraine, which has to the obligation to approximate its domestic law with the Directive in question. Hence, it should remain on the radars of the Ukrainian authorities.
C-355/14 Polihim-SS	See section 12.2.5. of this Chapter.
C-5/14 Kernkraftwerke Lippe-Ems	**Facts:** this was a reference for preliminary ruling submitted by *Finanzgericht Hamburg* (Germany) in course of proceedings between Kernkraftwerke Lippe-Ems GmbH, the operator of the Emsland nuclear power station in Lingen (Germany) and the Hauptzollamt Osnabrück (Principal Customs Office, Osnabrück) concerning a levy on nuclear fuel for which KLE is liable under the Kernbrennstoffsteuergesetz (Law on excise duty on nuclear fuel) of 8 December 2010 (BGB1. 2010 I, p. 1804) in respect of the use by that company in June 2011 of fuel assemblies in the nuclear reactor of that power station (see further paras. 17-27 of the judgment). The German court hearing the case expressed doubts as to interpretation of several provisions of EU law and therefore proceeded with a reference for preliminary ruing to the Court of Justice (see para. 28 of the judgment). **Judgment:** Article 14(1)(a) of Council Directive 2003/96/EC and Article 1(1) and (2) of Council Directive 2008/118/EC are to be interpreted as not precluding national legislation, which levies a duty on the use of nuclear fuel for the commercial production of electricity. The remaining answers provided by the Court of Justice are not relevant for Ukraine, hence they are not covered in this Manual.

Case	Summary
	Relevance: parts of this judgment are relevant for the Ukrainian authorities. The Court of Justice provided useful interpretation of Directives 2003/96 and 2008/118, clarifying that the Member State are allowed to levy duty on the use of nuclear fuel for the commercial production of electricity. This conclusion applies, *mutatis mutandis*, to Ukraine and therefore this judgment should be taken into account when national provisions are drafted.
C-606/13 OKG	**Facts:** this was a reference for preliminary ruling submitted by *Kammarrätten i Sundsvall* (Sweden) in course of proceedings between OKG AB and the Skatteverket (Swedish Tax Agency) concerning the latter's decision to tax OKG by way of tax on the thermal power of nuclear reactors (see further paras. 16-21 of the judgment). The Swedish court hearing the case expressed doubts as to interpretation of Directive 2003/96/EC and Directive 2008/118 and therefore decided to proceed with a reference for preliminary ruling to the Court of Justice (see para. 22 of the judgment). **Judgment**: Articles 4(2) and 21(5) of Directive 2003/96/EC do not preclude a national rule, such as the one at issue in the main proceedings, which provides for the levying of a tax on the thermal power of nuclear reactors, in so far as such a tax does not come within the scope of that Directive. Furthermore, Directive 92/12/EEC must be interpreted as meaning that a tax on the thermal power of a nuclear reactor is not an excise duty for the purposes of that Directive. **Relevance:** this judgment is of relevance for the Ukrainian authorities. Although it does not have to be reflected directly in Ukrainian law, it should be taken into account when relevant provisions are drafted and applied.

12.2.5. Council Directive 2008/118/EC of 16 December 2008 concerning the general arrangements for excise duty and repealing Directive 92/12/EEC

Case	Summary
C-64/15 BP Europa SE v Hauptzollamt Hamburg-Stadt	**Facts:** this was a reference for preliminary ruling submitted by the Bundesfinanzhof (Federal Finance Court, Germany) in course of proceedings between between BP Europa SE and the Hauptzollamt Hamburg-Stadt concerning the tax claimed from BP Europa as energy tax on the quantity of gas oil missing on delivery of that product to a tax warehouse in Germany (see further paras. 16-19 of the judgment). The German court expressed doubts as to interpretation of Directive 2008/118/EC and proceeded with a reference for preliminary ruling to the Court of Justice (questions reproduced in para. 20 of the judgment). **Judgment:** Article 20(2) must be interpreted as meaning that the movement of excise goods under a duty suspension arrangement ends, for the purpose of that provision, in a situation such as that in the main proceedings, when the consignee of those goods has found, on unloading in full from the means of transport carrying the goods in question, that there were

Case	Summary
	shortages of the goods in comparison with the amount which should have been delivered to him. Furthermore, the combined provisions of Articles 7(2)(a) and 10(2) of Directive 2008/118 must be interpreted as meaning that: – the situations which they govern are outside that referred to in Article 7(4) of that Directive and – the fact that a provision of national law transposing Article 10(2) of Directive 2008/118, such as that at issue in the main proceedings, does not expressly state that the irregularity governed by that provision of the directive must have given rise to the release for consumption of the goods concerned, such an omission cannot prevent the application of that national provision to the discovery of shortages, which of necessity entail such a release for consumption. The Court of Justice also ruled that Article 10(4) of Directive 2008/118 applies not only where the total amount of goods moving under a duty suspension arrangement failed to arrive at its destination, but also where only a part of those goods failed to arrive at its destination. **Relevance:** this judgment is of relevance for the Ukrainian authorities as it clarifies the meaning of several provisions contained in Directive 2008/118. Thus it should be taken into account when relevant provisions of Ukrainian law are drafted/redrafted to make them fully approximated with EU law.
C-402/14 Viamar – Elliniki Aftokiniton kai Genikon Epicheiriseon AE v Elliniko Dimosio	**Facts:** this was a reference for preliminary ruling submitted by *Dioikitiko Efeteio Athinon* (Administrative Court of Appeal, Athens, Greece). It was referred in course of proceedings between Viamar — Elliniki Aftokiniton kai Genikon Epicheiriseon AE and the Elliniko Dimosio (Greek State), represented by the Director of the Athens Customs Office (Telonio Athinon) concerning the refusal to refund Viamar the registration taxes paid by it following the import of passenger vehicles into Greek territory (see further paras. 12-21 of the judgment). The referring court asked the Court of Justice to assist it with interpretation of Article 1(3) of Directive 2008/118. **Judgment:** the Court of Justice held that Article 1(3) of Directive 2008/118 fulfils the conditions for producing direct effect allowing individuals to rely on it before a national court in a dispute between them and a Member State. **Relevance:** this judgment is of limited relevance for the Ukrainian authorities. The doctrine of direct effect of EU law applies only in the Member States of the European Union.
C-355/14 „Polihim-SS" EOOD v Mitnitsa – Svishtov	**Facts:** this was a reference for preliminary ruling submitted by *Administrativen sad Pleven* (Administrative Court, Pleven, Bulgaria. It was submitted in course of proceedings between ‘Polihim-SS’ EOOD and the Nachalnik na Mitnitsa Svishtov concerning fines imposed on Polihim for having removed energy products from a tax warehouse without having paid the corresponding excise duties (see further paras. 29-36 of the judgment). The Bulgarian court hearing the case expressed doubts as to interpretation of several terms laid down in Directive 2003/96 and in Directive 2008/118.

Case	Summary
	Judgment: Court of Justice held that Article 7(2) of Council Directive 2008/118/EC means that the sale of excise goods held by an authorised warehousekeeper in a tax warehouse does not bring about their release for consumption until the time at which those goods are physically removed from that tax warehouse. Furthermore, Article 14(1)(a) of Council Directive 2003/96/EC, read in conjunction with Article 7 of Directive 2008/118, precludes a refusal by the national authorities to exempt from excise duty energy products which, after having been sold by an authorised warehousekeeper to an intermediate purchaser, are sold on by that purchaser to an end-user who satisfies all the requirements under national law to benefit from an exemption of excise duty on those products and to whom those products are delivered directly by that authorised warehousekeeper from his tax warehouse, on the sole ground that the intermediate purchaser, declared by that warehousekeeper as the consignee of those products, does not have the status of end-user authorised under national law to receive energy products exempt from excise duty. **Relevance:** this judgment is of relevance for the Ukrainian law-makers. It clarifies the scope of application of this Directive and thus should be taken into account either when relevant rules of domestic law are drafted or they should be taken into account when manuals for tax authorities are prepared.

12.2.6. Council Directive 2011/64/EC of 21 June 2001 on the structure and rates of excise duty applied on manufactured tobacco

Case	Summary
C-428/13 Yesmoke Tobacco	**Facts**: this was a reference for preliminary ruling submitted by *Consiglio di Stato* (Italy) in course of proceedings between on the one hand, the Ministero dell'Economia e delle Finanze (Ministry of Economic Affairs and Finance) and the Amministrazione Autonoma dei Monopoli di Stato (Independent Authority for the Administration of State Monopolies) and, on the other, Yesmoke Tobacco SpA concerning a decision of the Director-General of the AAMS entitled 'Ripartizione dei Prezzi delle sigarette — Tabella A' (Break-down of cigarette prices — Table A), of 11 January 2012 (GURI No 16 of 20 January 2012), introducing a minimum excise duty only for cigarettes with a retail selling price lower than that of cigarettes in the most popular price category (see further paras. 14-18 of the judgment). The Italian court hearing the case expressed doubts as to interpretation of Article 8(2) of Directive 95/59 and Article 7(2) of Directive 2011/64 and thus proceeded with a reference for preliminary ruling to the Court of Justice. **Judgment:** Articles 7(2) and 8(6) of Council Directive 2011/64/EU must be interpreted as precluding a provision of national law, such as that at issue in the main proceedings, which, rather than establishing an identical minimum excise duty that is

Case	Summary
	applicable to all cigarettes, establishes a minimum excise duty that is applicable only to cigarettes with a retail selling price lower than that of cigarettes in the most popular price category. **Relevance:** this judgment is of relevance for the Ukrainian authorities as it clarifies what the Member States are not allowed to provide in their national law. This, mutatis mutandis, applies to Ukraine, which as per the Association Agreement has the obligation to approximate its domestic law with Directive 2011/64/EU. Bearing this in mind this judgment should be taken into account by the domestic authorities.
C-638/15 Eko-Tabak s. r. o. Generální ředitelství cel	**Facts:** this was a reference for preliminary ruling submitted by Nejvyšší správní soud (Supreme Administrative Court, Czech Republic) in course of proceedings between Eko-Tabak s. r. o. and Generální ředitelství cel (General Directorate of Customs, Czech Republic) concerning the confiscation of goods considered to be manufactured tobacco subject to excise duty (see paras. 8-14 of the judgment). The Czech Supreme Court expressed doubts as to interpretation of the Directive in question and proceeded with two questions to the Court of Justice. **Judgment:** Article 2(1)(c) and Article 5(1) of Council Directive 2011/64/EU must be interpreted as meaning that dried, flat, irregular, partly stripped leaf tobacco and/or parts thereof which have undergone primary drying and controlled dampening, which contain glycerine and which are capable of being smoked after simple processing by means of crushing or hand- cutting, fall within the definition of 'smoking tobacco' for the purpose of those provisions. **Relevance:** this judgment is of relevance for the Ukrainian authorities. It clarifies the meaning of the term 'smoking tobacco', which is of essential for proper understanding and application of Directive 2011/64/EU. Therefore, it has to be taken into account by the Ukrainian legislator when it proceeds with approximation with the Directive in question.

12.2.7. Thirteenth Council Directive 86/560/EEC of 17 November 1986 on the harmonization of the laws of the Member States relating to turnover taxes - Arrangements for the refund of value added tax to taxable persons not established in Community territory

Case	Summary
C-73/06 Planzer Luxembourg	**Facts:** this was a reference for preliminary ruling submitted by *Finanzgericht Köln* (Germany) in course of proceedings between Planzer Luxembourg Sàrl, a company incorporated under Luxembourg law, and the Bundeszentralamt für Steuern (the German tax authority) concerning the latters' rejection of applications for refund of value added tax paid by the company on fuel supplies in Germany (see further paras. 17-31 of the judgment). The German Court hearing the case expressed doubts as

Case	Summary
	to interpretation of several EU law acts and proceeded with a reference for preliminary ruling to the Court of Justice (see para. 32 of the judgment). **Judgment:** Article 1(1) of Directive 86/560/EEC must be interpreted as meaning that the place of a company's business is the place where the essential decisions concerning its general management are taken and where the functions of its central administration are exercised. The remaining parts of the answer are not relevant for the Ukrainian authorities. **Relevance:** interpretation of Directive 89/560/EC is of relevance for the Ukrainian authorities and should be taken into account when national provisions are drafted. Bearing this in mind this judgment should remain on the radars of the Ukrainian law-makers.
C-335/05 Řízení Letového Provozu	**Facts:** this was a reference for preliminary ruling submitted by *Finanzgericht Köln* (Germany). A question on interpretation of Article 2(2) of Directive 89/560/EC was referred to the Court of Justice in course of proceedings between Řízení Letového Provozu ČR, s.p., a company incorporated under Czech law, against the Bundesamt für Finanzen (Federal Finance Office), which is responsible in Germany for the collection of value added tax, regarding the refund of VAT paid by ŘLP in Germany (see further paras. 8-13 of the judgment). **Judgment:** Article 2(2) of Directive 86/560/EEC means that the 'third States' referred to in that provision include all third States and that that provision is without prejudice to the ability and the responsibility of the Member States to comply with their obligations under international agreements such as the General Agreement on Trade in Services. **Relevance:** this judgment is of limited relevance for the Ukrainian authorities, nevertheless it should remain on the radars of the law-makers as it gives an insight into more general context of Directive 86/560/EC.

Chapter 13 Statistics

13.1. Lists of judgments

EU Legal Act	Jurisprudence
Regulation (EC) No 223/2009 of the European Parliament and of the Council of 11 March 2009 on European statistics	- No case-law as of 31 December 2017
Regulation (EU) 2015/759 of the European Parliament and of the Council of 29 April 2015 amending Regulation (EC) No 223/2009 on European statistics	- No case-law as of 31 December 2017
Commission Decision 2012/504/EU of 17 September 2012 on Eurostat	- No case-law as of 31 December 2017
Regulation (EU) No 99/2013 of the European Parliament and of the Council of 15 January 2013 on the European statistical programme 2013-17	- No case-law as of 31 December 2017
Regulation (EU) No 1383/2013 of the European Parliament and of the Council of 17 December 2013 amending Regulation (EU) No 99/2013 on the European statistical programme 2013-17	- No case-law as of 31 December 2017
Commission Regulation (EU) No 557/2013 of 17 June 2013 implementing Regulation (EC) No 223/2009 of the European Parliament and of the Council on European Statistics as regards access to confidential data for scientific purposes	- No case-law as of 31 December 2017
Council Directive 89/130/EEC, Euratom of 13 February 1989 on the harmonization of compilation of gross national product at market prices (Article 6, GNP Committee)	- No case-law as of 31 December 2017

13.2. Summaries of selected judgments

13.2.1. Regulation (EC) No 223/2009 of the European Parliament and of the Council of 11 March 2009 on European statistics

Case	Summary
	No case-law as of 31 December 2017

13.2.2. Regulation (EU) 2015/759 amending Regulation (EC) No 223/2009 on European statistics amending Regulation (EC) No 223/2009 on European statistics

Case	Summary
	No case-law as of 31 December 2017

13.2.3. Decision 2012/504/EU on Eurostat

Case	Summary
	No case-law as of 31 December 2017

13.2.4. Regulation (EU) No 99/2013 on the European statistical programme 2013-17

Case	Summary
	No case-law as of 31 December 2017

13.2.5. Regulation (EU) No 1383/2013 amending Regulation (EU) No 99/2013 on the European statistical programme 2013-17

Case	Summary
	No case-law as of 31 December 2017

13.2.6. Regulation (EU) No 557/2013 implementing Regulation (EC) No 223/2009 of the European Parliament and of the Council on European Statistics as regards access to confidential data for scientific purposes

Case	Summary
	No case-law as of 31 December 2017

13.2.7. Directive 89/130/EEC, Euratom of 13 February 1989 on the harmonization of compilation of gross national product at market prices (Article 6, GNP Committee)

Case	Summary
	No case-law as of 31 December 2017

Chapter 14 Environment

14.1. Lists of judgments

EU Legal Act	Jurisprudence
Directive 2011/92 on the assessment of the effects of certain public and private projects on the environment	- Joined Cases C-196/16 and C-197/16 Comune di Corridonia and Others v Provincia di Macerata and Provincia di Macerata Settore 10 – Ambiente, ECLI:EU:C:2017:589 - C-645/15 Bund Naturschutz in Bayern e.V. and Harald Wilde v Freistaat Bayern, ECLI:EU:C:2016:898 - C-348/15 Stadt Wiener Neustadt v Niederösterreichische Landesregierung, ECLI:EU:C:2016:882 - C-141/14 Commission v. Bulgaria ECLI:EU:C:2016:8 - C-137/14 Commission v. Germany, ECLI:EU:C:2015:683 - C-570/13 Karoline Gruber v Unabhängiger Verwaltungssenat für Kärnten and Others, ECLI:EU:C:2015:231
Directive 2001/42/EC on the assessment of the effects of certain plans and programmes on the environment	- C-444/15 Associazione Italia Nostra Onlus v Comune di Venezia and Others, ECLI:EU:C:2016:978 - C-379/15 Association France Nature Environnement v Premier ministre and Ministre de l'Écologie, du Développement durable et de l'Énergie, ECLI:EU:C:2016:603 - C-290/15 Patrice D'Oultremont and Others v Région wallonne, ECLI:EU:C:2016:816 - C-473/14 Dimos Kropias Attikis v Ypourgos Perivallontos, Energeias kai Klimatikis Allagis, ECLI:EU:C:2015:582 - C-463/11 L v M, ECLI:EU:C:2013:247 - C-177/11 Syllogos Ellinon Poleodomon kai Chorotakton v Ypourgos Perivallontos, Chorotaxias & Dimosion Ergon and Others, ECLI:EU:C:2012:378

EU Legal Act	Jurisprudence
	- C-41/11 Inter-Environnement Wallonie ASBL and Terre wallonne ASBL v Région wallonne, ECLI:EU:C:2012:103 - C-567/10 Inter-Environnement Bruxelles ASBL, Pétitions-Patrimoine ASBL and Atelier de Recherche et d'Action Urbaines ASBL v Région de Bruxelles-Capitale, ECLI:EU:C:2012:159 - C-474/10 Department of the Environment for Northern Ireland v Seaport (NI) Ltd and Others, ECLI:EU:C:2011:681 - C-295/10 Genovaitė Valčiukienė and Others v Pakruojo rajono savivaldybė and Others, ECLI:EU:C:2011:608 - C-43/10 Nomarchiaki Aftodioikisi Aitoloakarnanias and Others v Ypourgos Perivallontos, Chorotaxias kai Dimosion ergon and Others, ECLI:EU:C:2012:560 - Joined cases C-105/09 and C-110/09 Terre wallonne ASBL (C-105/09) and Inter-Environnement Wallonie ASBL (C-110/09) v Région wallonne, ECLI:EU:C:2010:355
Directive 2003/4/EC on public access to environmental information	- C-442/14 Bayer CropScience SA-NV and Stichting De Bijenstichting v College voor de toelating van gewasbeschermingsmiddelen en biociden, ECLI:EU:C:2016:890 - C-71/14 East Sussex County Council v Information Commissioner and Others, ECLI:EU:C:2015:656 - C-279/12 Fish Legal and Emily Shirley v Information Commissioner and Others, ECLI:EU:C:2013:853 - C-515/11 Deutsche Umwelthilfe eV v Bundesrepublik Deutschland, ECLI:EU:C:2013:523 - C-416/10 Jozef Križan and Others v Slovenská inšpekcia životného prostredia, ECLI:EU:C:2013:8 - C-71/10 Office of Communications v Information Commissioner, ECLI:EU:C:2011:525

EU Legal Act	Jurisprudence
	- C-524/09 Ville de Lyon v Caisse des dépôts et consignations, ECLI:EU:C:2010:822 - C-266/09 Stichting Natuur en Milieu and Others v College voor de toelating van gewasbeschermingsmiddelen en biociden, ECLI:EU:C:2010:779 - C-240/09 Lesoochranárske zoskupenie VLK v Ministerstvo životného prostredia Slovenskej republiky, ECLI:EU:C:2011:125 - C-204/09 Flachglas Torgau GmbH v Bundesrepublik Deutschland, ECLI:EU:C:2012:71 - C-552/07 Commune de Sausheim v Pierre Azelvandre, ECLI:EU:C:2009:96
Directive 2003/35/EC providing for public participation in respect of the drawing up of certain plans and programmes relating to the environment	- C-137/14 European Commission v Germany, ECLI:EU:C:2015:683 - C-570/13 Karoline Gruber v Unabhängiger Verwaltungssenat für Kärnten and Others, ECLI:EU:C:2015:231 - C-72/12 Gemeinde Altrip and Others v Land Rheinland-Pfalz, ECLI:EU:C:2013:712 - C-530/11 European Commission v United Kingdom of Great Britain and Northern Ireland, ECLI:EU:C:2014:67
Directive 2008/50/EC on ambient air quality and cleaner air for Europe	- C-404/13 The Queen, on the application of ClientEarth v The Secretary of State for the Environment, Food and Rural Affairs, ECLI:EU:C:2014:2382
Directive 2004/107/EC relating to arsenic, cadmium, mercury, nickel and polycyclic aromatic hydrocarbons in ambient air	- no case-law as of 31 December 2017
Directive 98/70/EC relating to the quality of petrol and diesel fuels	- C-251/14 György Balázs v Nemzeti Adó- és Vámhivatal Dél-alföldi Regionális Vám- és Pénzügyőri Főigazgatósága, ECLI:EU:C:2015:687 - C-26/11 Belgische Petroleum Unie VZW and Others v Belgische Staat, ECLI:EU:C:2013:44

EU Legal Act	Jurisprudence
	- C-343/09 Afton Chemical Limited v Secretary of State for Transport, ECLI:EU:C:2010:419
Directive 1999/32/EC on reduction of sulphur content of certain liquid fuels (NOTE: this Directive has been replaced by Directive (EU) 2016/802 of the European Parliament and of the Council of 11 May 2016 relating to a reduction in the sulphur content of certain liquid fuels)	- no relevant case-law as of 31 December 2017
Directive 94/63/EC on the control of volatile organic compound emissions resulting from the storage of petrol and its distribution from terminals to service stations	- no case-law as of 31 December 2017
Directive 2004/42/EC on the limitation of emissions of volatile organic compounds due to the use of organic solvents in certain paints and varnishes and vehicle refinishing products	- no case-law as of 31 December 2017
Directive 2008/98/EC on waste	- C-335/16 VG Čistoća d.o.o. v Đuro Vladika and Ljubica Vladika, ECLI:EU:C:2017:242 - C-129/16 Túrkevei Tejtermelő Kft. v Országos Környezetvédelmi és Természetvédelmi Főfelügyelőség, ECLI:EU:C:2017:547 - C-147/15 Città Metropolitana di Bari, formerly Provincia di Bari v Edilizia Mastrodonato Srl, ECLI:EU:C:2016:606 - C-584/14 European Commission v Hellenic Republic, ECLI:EU:C:2016:636 - C-551/13 Società Edilizia Turistica Alberghiera Residenziale (SETAR) SpA v Comune di Quartu S. Elena, ECLI:EU:C:2014:2467 - C-292/12 Ragn-Sells AS v Sillamäe Linnavalitsus, ECLI:EU:C:2013:820 - C-358/11 Lapin elinkeino-, liikenne- ja ympäristökeskuksen liikenne ja infrastruktuuri -vastuualue v Lapin luonnonsuojelupiiri ry, ECLI:EU:C:2013:142

EU Legal Act	Jurisprudence
Directive 1999/31/EC on the landfill of waste	- C-225/13 Ville d'Ottignies-Louvain-la-Neuve and Others v Région wallonne, ECLI:EU:C:2014:245 - C-121/11 Pro-Braine ASBL and Others v Commune de Braine-le-Château, intervener: Veolia es treatment SA, ECLI:EU:C:2012:225 - C-172/08 Pontina Ambiente Srl v Regione Lazio, ECLI:EU:C:2010:87 - C-442/06 Commission of the European Communities v Italian Republic, ECLI:EU:C:2008:216 - C-6/03 Deponiezweckverband Eiterköpfe v Land Rheinland-Pfalz, ECLI:EU:C:2005:222
Directive 2006/21/EC on the management of waste from extractive industries	- C-147/15 Città Metropolitana di Bari, formerly Provincia di Bari v Edilizia Mastrodonato Srl, ECLI:EU:C:2016:606
Directive 2000/60/EC establishing a framework for Community action in the field of water policy	- C-686/15 Vodoopskrba i odvodnja d.o.o. v Željka Klafurić, ECLI:EU:C:2016:927 - C-346/14 European Commission v Republic of Austria, ECLI:EU:C:2016:322 - C-348/13 European Commission v Republic of Poland, ECLI:EU:C:2016:490 - C-461/13 Bund für Umwelt und Naturschutz Deutschland e.V. v Bundesrepublik Deutschland, ECLI:EU:C:2015:433 - C-525/12 European Commission v Federal Republic of Germany, ECLI:EU:C:2014:2202 - C-151/12 European Commission v Kingdom of Spain, ECLI:EU:C:2013:690 - C-43/10 Nomarchiaki Aftodioikisi Aitoloakarnanias and Others v Ypourgos Perivallontos, Chorotaxias kai Dimosion ergon and Others, ECLI:EU:C:2012:560 - C-32/05 Commission of the European Communities v Grand Duchy of Luxemburg, ECLI:EU:C:2006:749

EU Legal Act	Jurisprudence
	- C-239/03 Commission of the European Communities v French Republic, ECLI:EU:C:2004:598
Directive 2007/60/EC on the assessment and management of flood risks	- no case-law as of 31 December 2017
Directive 2008/56/EC on establishing a framework for Community action in the field of maritime environmental policy	- no case-law as of 31 December 2017
Directive 91/271/EC on urban waste water treatment	- C-398/14 European Commission v Portuguese Republic, ECLI:EU:C:2016:61 - C-395/13 European Commission v Kingdom of Belgium, ECLI:EU:C:2014:2347 - C-301/10 European Commission v United Kingdom of Great Britain and Northern Ireland, ECLI:EU:C:2012:633 - C-188/08 Commission of the European Communities v Ireland, ECLI:EU:C:2009:670 - C-348/07 Commission of the European Communities v Kingdom of Sweden, ECLI:EU:C:2009:613 - C-335/07 Commission of the European Communities v Republic of Finland, ECLI:EU:C:2009:612 - C-252/05 The Queen on the application of Thames Water Utilities Ltd v South East London Division, Bromley Magistrates' Court, ECLI:EU:C:2007:276 - C-416/02 Commission of the European Communities v Kingdom of Spain, ECLI:EU:C:2005:511 - C-280/02 Commission of the European Communities v French Republic, ECLI:EU:C:2004:548 - C-419/01 Commission of the European Communities v Kingdom of Spain, ECLI:EU:C:2003:285 - C-396/00 Commission of the European Communities v Italian Republic, ECLI:EU:C:2002:261

EU Legal Act	Jurisprudence
Directive 98/83/EC on quality of water intended for human consumption	- C-32/05 Commission of the European Communities v Grand Duchy of Luxemburg, ECLI:EU:C:2006:749 - C-316/00 Commission of the European Communities v Ireland, ECLI:EU:C:2002:657
Directive 91/676/EC concerning the protection of waters against pollution caused by nitrates from agricultural sources	- C-237/12 European Commission v French Republic, ECLI:EU:C:2014:2152 - C-41/11 Inter-Environnement Wallonie ASBL and Terre wallonne ASBL v Région wallonne, ECLI:EU:C:2012:103 - Joined cases C-105/09 and C-110/09 Terre wallonne ASBL (C-105/09) and Inter-Environnement Wallonie ASBL (C-110/09) v Région wallonne, ECLI:EU:C:2010:355 - C-526/08 European Commission v Grand Duchy of Luxemburg, ECLI:EU:C:2010:379 - C-390/07 European Commission v United Kingdom of Great Britain and Northern Ireland, ECLI:EU:C:2009:765 - C-239/03 Commission of the European Communities v French Republic, ECLI:EU:C:2004:598 - C-221/03 Commission of the European Communities v Kingdom of Belgium, ECLI:EU:C:2005:573 - C-396/01 Commission of the European Communities v Ireland, ECLI:EU:C:2004:136 - C-322/00 Commission of the European Communities v Kingdom of the Netherlands, ECLI:EU:C:2003:532 - C-266/00 Commission of the European Communities v Grand Duchy of Luxemburg, ECLI:EU:C:2001:152 - C-258/00 Commission of the European Communities v French Republic, ECLI:EU:C:2002:400 - C-161/00 Commission of the European Communities v Federal Republic of Germany, ECLI:EU:C:2002:170 - C-127/99 Commission of the European Communities v Italian Republic, ECLI:EU:C:2001:597

EU Legal Act	Jurisprudence
	- C-69/99 Commission of the European Communities v United Kingdom of Great Britain and Northern Ireland, ECLI:EU:C:2000:675 - C-274/98 Commission of the European Communities v Kingdom of Spain, ECLI:EU:C:2000:206 - C-293/97 The Queen v Secretary of State for the Environment and Ministry of Agriculture, Fisheries and Food, ex parte H.A. Standley and Others and D.G.D. Metson and Others, ECLI:EU:C:1999:215 - C-195/97 Commission of the European Communities v Italian Republic, ECLI:EU:C:1999:100 - C-71/97 Commission of the European Communities v Kingdom of Spain, ECLI:EU:C:1998:455
Directive 2009/147/EC on the conservation of wild birds	- C-502/15 European Commission v United Kingdom of Great Britain and Northern Ireland, ECLI:EU:C:2017:334 - C-461/14 European Commission v Kingdom of Spain, ECLI:EU:C:2016:895 - C-414/14 European Commission v Republic of Bulgaria, ECLI:EU:C:2016:8
Directive 92/43/EC on the conservation of natural habitats and of wild fauna and flora	- C-281/16 Vereniging Hoekschewaards Landschap v Staatssecretaris van Economische Zaken, ECLI:EU:C:2017:774 - C-142/16 European Commission v Federal Republic of Germany, ECLI:EU:C:2017:301 - C-664/15 Protect Natur-, Arten- und Landschaftsschutz Umweltorganisation v Bezirkshauptmannschaft Gmünd, ECLI:EU:C:2017:987 - C-502/15 European Commission v United Kingdom of Great Britain and Northern Ireland, ECLI:EU:C:2017:334 - C-444/15 Associazione Italia Nostra Onlus v Comune di Venezia and Others, ECLI:EU:C:2016:978

EU Legal Act	Jurisprudence
	- Joined Cases C-387/15 and C-388/15 Hilde Orleans and Others v Vlaams Gewest, ECLI:EU:C:2016:583 - C-243/15 Lesoochranárske zoskupenie VLK v Obvodný úrad Trenčín, ECLI:EU:C:2016:838 - C-461/14 European Commission v Kingdom of Spain, ECLI:EU:C:2016:895 - C-399/14 Grüne Liga Sachsen eV and Others v Freistaat Sachsen, ECLI:EU:C:2016:10 - C-141/14 European Commission v Republic of Bulgaria, ECLI:EU:C:2016:8 - C-521/12 T. C. Briels and Others v Minister van Infrastructuur en Milieu, ECLI:EU:C:2014:330 - C-301/12 Cascina Tre Pini Ss v Ministero dell'Ambiente e della Tutela del Territorio e del Mare and Others, ECLI:EU:C:2014:214 - C-258/11 Peter Sweetman and Others v An Bord Pleanála, ECLI:EU:C:2013:220 - C-340/10 European Commission v Republic of Cyprus, ECLI:EU:C:2012:143 - C-182/10 Marie-Noëlle Solvay and Others v Région wallonne, ECLI:EU:C:2012:82 - C-43/10 Nomarchiaki Aftodioikisi Aitoloakarnanias and Others v Ypourgos Perivallontos, Chorotaxias kai Dimosion ergon and Others, ECLI:EU:C:2012:560 - C-2/10 Azienda Agro-Zootecnica Franchini sarl and Eolica di Altamura Srl v Regione Puglia, ECLI:EU:C:2011:502 - C-538/09 European Commission v Kingdom of Belgium, ECLI:EU:C:2011:349 - C-404/09 European Commission v Kingdom of Spain, ECLI:EU:C:2011:768 - C-383/09 European Commission v French Republic, ECLI:EU:C:2011:369

EU Legal Act	Jurisprudence
	- C-308/08 European Commission v Kingdom of Spain, ECLI:EU:C:2010:281 - C-241/08 European Commission v French Republic, ECLI:EU:C:2010:114 - C-226/08 Stadt Papenburg v Bundesrepublik Deutschland, ECLI:EU:C:2010:10 - C-535/07 European Commission v Republic of Austria, ECLI:EU:C:2010:602 - C-179/06 Commission of the European Communities v Italian Republic, ECLI:EU:C:2007:578 - C-388/05 Commission of the European Communities v Italian Republic, ECLI:EU:C:2007:533 - C-342/05 Commission of the European Communities v Republic of Finland, ECLI:EU:C:2007:341 - C-304/05 Commission of the European Communities v Italian Republic, ECLI:EU:C:2007:532 - C-244/05 Bund Naturschutz in Bayern eV and Others v Freistaat Bayern, ECLI:EU:C:2006:579 - C-183/05 Commission of the European Communities v Ireland, ECLI:EU:C:2007:14 - C-508/04 Commission of the European Communities v Republic of Austria, ECLI:EU:C:2007:274 - C-418/04 Commission of the European Communities v Ireland, ECLI:EU:C:2007:780 - C-239/04 Commission of the European Communities v Portuguese Republic, ECLI:EU:C:2006:665 - C-221/04 Commission of the European Communities v Kingdom of Spain, ECLI:EU:C:2006:329 - C-209/04 Commission of the European Communities v Republic of Austria, ECLI:EU:C:2006:195

EU Legal Act	Jurisprudence
	- C-6/04 Commission of the European Communities v United Kingdom of Great Britain and Northern Ireland, ECLI:EU:C:2005:626 - C-441/03 Commission of the European Communities v Kingdom of the Netherlands, ECLI:EU:C:2005:233 - C-117/03 Società Italiana Dragaggi SpA and Others v Ministero delle Infrastrutture e dei Trasporti and Regione Autonoma Friuli Venezia Giulia, ECLI:EU:C:2005:16 - C-98/03 Commission of the European Communities v Federal Republic of Germany, ECLI:EU:C:2006:3 - C-209/02 Commission of the European Communities v Republic of Austria, ECLI:EU:C:2004:61 - C-143/02 Commission of the European Communities v Italian Republic, ECLI:EU:C:2003:178 - C-127/02 Landelijke Vereniging tot Behoud van de Waddenzee and Nederlandse Vereniging tot Bescherming van Vogels v Staatssecretaris van Landbouw, Natuurbeheer en Visserij, ECLI:EU:C:2004:482 - C-72/02 Commission of the European Communities v Portuguese Republic, ECLI:EU:C:2003:369 - C-434/01 Commission of the European Communities v United Kingdom of Great Britain and Northern Ireland, ECLI:EU:C:2003:601 - C-324/01 Commission of the European Communities v Kingdom of Belgium, ECLI:EU:C:2002:729 - C-75/01 Commission of the European Communities v Grand Duchy of Luxemburg, ECLI:EU:C:2003:95 - C-117/00 Commission of the European Communities v Ireland, ECLI:EU:C:2002:366 - C-103/00 Commission of the European Communities v Hellenic Republic, ECLI:EU:C:2002:60 - C-220/09 Commission of the European Communities v French Republic, ECLI:EU:C:2001:434

EU Legal Act	Jurisprudence
	- C-71/99 Commission of the European Communities v Federal Republic of Germany, ECLI:EU:C:2001:433 - C-67/99 Commission of the European Communities v Ireland, ECLI:EU:C:2001:432 - C-374/98 Commission of the European Communities v French Republic, ECLI:EU:C:2000:670 - C-371/98 The Queen v Secretary of State for the Environment, Transport and the Regions, ex parte First Corporate Shipping Ltd, interveners: World Wide Fund for Nature UK (WWF) and Avon Wildlife Trust, ECLI:EU:C:2000:600 - C-256/98 Commission of the European Communities v French Republic, ECLI:EU:C:2000:192 - C-96/98 Commission of the European Communities v French Republic, ECLI:EU:C:1999:580 - C-166/97 Commission of the European Communities v French Republic, ECLI:EU:C:1999:149 - C-44/95 Regina v Secretary of State for the Environment, ex parte: Royal Society for the Protection of Birds, ECLI:EU:C:1996:297
Directive 2010/75/EU on industrial emission (integrated pollution prevention and control)	- C-137/14 European Commission v Federal Republic of Germany, ECLI:EU:C:2015:683
Directive 96/82/EC on the control of major accident hazards involving dangerous substances (NOTE: this Directive has been replaced by Directive 2012/18/EU of the European Parliament and of the Council of 4 July 2012 on the control of major-accident hazards involving dangerous substances, amending and subsequently repealing Council Directive 96/82/EC)	- C-53/10 Land Hessen v Franz Mücksch OHG, ECLI:EU:C:2011:585
Directive 2003/87/EC establishing a scheme for greenhouse gas emission allowance trading within the Community	- C-80/16 ArcelorMittal Atlantique et Lorraine SASU v Ministre de l'Écologie, du Développement durable et de l'Énergie, ECLI:EU:C:2017:588

EU Legal Act	Jurisprudence
	- C-461/15 E.ON Kraftwerke GmbH v Bundesrepublik Deutschland, ECLI:EU:C:2016:648 - C-460/15 Schaefer Kalk GmbH & Co. KG v Bundesrepublik Deutschland, ECLI:EU:C:2017:29 - C-457/15 Vattenfall Europe Generation AG v Bundesrepublik Deutschland, ECLI:EU:C:2016:613 - C-272/15 Swiss International Air Lines AG v The Secretary of State for Energy and Climate Change and Environment Agency, ECLI:EU:C:2016:993 - C-180/15 Borealis AB and Others v Naturvårdsverket, ECLI:EU:C:2016:647 - C-158/15 Elektriciteits Produktiemaatschappij Zuid-Nederland EPZ NV v Bestuur van de Nederlandse Emissieautoriteit, ECLI:EU:C:2016:422 - C-506/14 Yara Suomi Oy and Others v Työ-ja elinkeinoministeriö, ECLI:EU:C:2016:799 - C-148/14 Bundesrepublik Deutschland v Nordzucker AG, ECLI:EU:C:2015:287 - C-43/14 ŠKO–Energo s. r. o. v Odvolací finanční ředitelství, ECLI:EU:C:2015:120 - C-203/12 Billerud Karlsborg AB and Billerud Skärblacka AB v Naturvårdsverket, ECLI:EU:C:2013:664 - Joined Cases C-566/11, C-567/11, C-580/11, C-591/11, C-620/11 and C-640/11 Iberdrola, SA and Others v Administración del Estado and Others, ECLI:EU:C:2013:660 - C-366/10 Air Transport Association of America and Others v Secretary of State for Energy and Climate Change, ECLI:EU:C:2011:864 - C-524/09 Ville de Lyon v Caisse des dépôts et consignations, ECLI:EU:C:2010:822 - C-127/07 Société Arcelor Atlantique et Lorraine and Others v Premier ministre, Ministre de l’Écologie et du Développement durable and Ministre de l'Économie, des Finances et de l'Industrie, ECLI:EU:C:2008:728

EU Legal Act	Jurisprudence
Regulation 842/2006 on certain fluorinated greenhouse gases (NOTE: this Regulation has been replaced by Regulation (EU) No 517/2014 of the European Parliament and of the Council of 16 April 2014 on fluorinated greenhouse gases and repealing Regulation (EC) No 842/2006)	- no relevant case-law as of 31 December 2017
Regulation (EC) 2037/2000 on substances that deplete the ozone layer (NOTE: this Regulation has been replaced by Regulation (EC) No 1005/2009 of the European Parliament and of the Council of 16 September 2009 on substances that deplete the ozone layer)	- no relevant case-law as of 31 December 2017
Directive 2001/18/EC of the European Parliament and of the Council on the deliberate release into environment of genetically modified organisms	- C-36/11 Pioneer Hi Bred Italia Srl v Ministero delle Politiche agricole alimentari e forestali, ECLI:EU:C:2012:534 - Joined cases C-58/10 to C-68/10 Monsanto SAS and Others v Ministre de l'Agriculture et de la Pêche, ECLI:EU:C:2011:553 - C-442/09 Karl Heinz Bablok and Others v Freistaat Bayern, ECLI:EU:C:2011:541 - C-165/08 Commission of the European Communities v Republic of Poland, ECLI:EU:C:2009:473 - C-552/07 Commune de Sausheim v Pierre Azelvandre, ECLI:EU:C:2009:96 - C-121/07 Commission of the European Communities v French Republic, ECLI:EU:C:2008:695
Regulation No 1946/2003 of the European Parliament and of the Council of 15 July 2003 on transboundary movements of genetically modified organisms	- no relevant case-law as of 31 December 2017
Directive 2009/41/EC of the European Parliament and of the Council of 6 May 2009 on the contained use of genetically modified micro-organisms	- C-281/11 European Commission v Republic of Poland, ECLI:EU:C:2013:855

14.2. Summaries of selected judgments

14.2.1. *Directive 2011/92 on the assessment of the effects of certain public and private projects on the environment*

Case	Summary
C-141/14 Commission v. Bulgaria	**Facts:** the European Commission triggered infringement proceedings against Bulgaria and claimed that in a number of cases that Member State failed to comply with Directive 2011/92 (see further para. 1 and paras. 9-16 of the judgment). **Judgment:** the Court of Justice held that Bulgaria acted in breach of Directive 2011/92. Firstly, the Bulgarian authorities failed to include all the territories of the important bird areas in the special protection area covering the Kaliakra region. They failed to classify as special protection areas the most suitable territories in number and size for the conservation, first, of the biological species listed in Annex I to Directive 2009/147/EC on the conservation of wild birds and, secondly, of the migratory species not listed in that annex but regularly occurring in the geographical sea and land area where that directive applies, with the result that that Member State has failed to fulfil its obligations under Article 4(1) and (2) of that Directive. Secondly, Bulgarian authorities acted in breach of Article 4(4) of Directive 2009/147 by approving the implementation of the projects 'AES Geo Energy', 'Disib' and 'Longman Investment' in the territory of the important bird area covering the Kaliakra region which was not classified as a special protection area, although it should have been. Thirdly, by approving the implementation of the projects 'Kaliakra Wind Power', 'EVN Enertrag Kavarna' and 'Vertikal — Petkov & Cie', and of the 'Thracian Cliffs Golf & Spa Resort', in the territory of the special protection areas covering the regions of Kaliakra and Belite Skali respectively, the Republic of Bulgaria has failed to fulfil its obligations under Article 6(2) of Directive 92/43/EEC on the conservation of natural habitats and of wild fauna and flora. Fourthly, by failing, first, to assess properly the cumulative effect of the projects 'Windtech', 'Brestiom', 'Eco Energy' and 'Longman Investment' in the territory of the important bird area covering the Kaliakra region which was not classified as a special protection area, although it should have been, and, secondly, by none the less authorising the implementation of the 'Longman Investment' project, the Republic of Bulgaria has failed to fulfil its obligations under Article 4(2) and (3) of Directive 2011/92/EU. **Relevance:** this judgment is of limited relevance for the Ukrainian law-makers. While it does not add much to interpretation of respective EU directives, it demonstrates, however, idiosyncrasies of application of EU law by the Member States. Hence, this judgment should serve the general educational purposes.

Case	Summary
C-137/14 Commission v. Germany	**Facts:** the European Commission submitted infringement proceedings as per Article 258 TFEU against Germany. It argued that Germany was in breach of EU law, in particular Directive 2011/92/EU (see further para. 1 and paras. 16-19 of the judgment). **Judgment:** the Court of Justice ruled that, by restricting: – under Paragraph 46 of the Law on Administrative Procedure (Verwaltungsverfahrensgesetz), the annulment of decisions on the ground of procedural defect to where there has been no environmental impact assessment or pre-assessment and to cases where the applicant establishes that there is a causal link between the procedural defect and the outcome of the decision; –in accordance with Paragraph 2(3) of the Law on supplementary provisions governing actions in environmental matters under Directive 2003/35/EC (Umwelt-Rechtsbehelfsgesetz) of 7 December 2006, as amended by the Law of 21 January 2013, the standing to bring proceedings and the scope of the review by the courts to the objections which have already been raised within the time-limit set during the administrative procedure which led to the adoption of the decision; –under Paragraph 5(1) of the Law on supplementary provisions governing actions in environmental matters under Directive 2003/35/EC (Umwelt-Rechtsbehelfsgesetz) of 7 December 2006, as amended by the Law of 21 January 2013, in procedures initiated after 25 June 2005 and closed before 12 May 2011, the standing to bring proceedings of environmental associations to the legal provisions which confer individual public-law rights; –in accordance with Paragraph 2(1), read in conjunction with Paragraph 5(4) of the Law on supplementary provisions governing actions in environmental matters under Directive 2003/35/EC (Umwelt-Rechtsbehelfsgesetz) of 7 December 2006, as amended by the Law of 21 January 2013, in procedures which were initiated after 25 June 2005 and closed before 12 May 2011, the scope of the review by the courts of actions brought by environmental associations to the legal provisions which confer individual public-law rights, and –by excluding, in accordance with Paragraph 5(1) and (4) of the Law on supplementary provisions governing actions in environmental matters under Directive 2003/35/EC (Umwelt-Rechtsbehelfsgesetz) of 7 December 2006, as amended by the Law of 21 January 2013, from the scope of the national legislation administrative procedures initiated before 25 June 2005, Germany was in breach of Article 11 of Directive 2011/92/EU and Article 25 of Directive 2010/75/EU on industrial emissions (integrated pollution prevention and control).

Case	Summary
	Relevance: this judgment is of relevance for the Ukrainian authorities. It should be analysed and taken into account as a point of reference when relevant provisions of domestic law are drafted.
C-570/13 Karoline Gruber v Unabhängiger Verwaltungssenat für Kärnten and Others	**Facts:** this was a reference for preliminary ruling submitted by V*erwaltungsgerichtshof* (Austria) in course of proceedings between Ms Gruber, on the one hand, and the Unabhängiger Verwaltungssenat für Kärnten, the EMA Beratungs- und Handels GmbH and the Bundesminister für Wirtschaft, Familie und Jugend (Federal Minister for Economic Affairs, the Family and Youth), concerning a decision authorising the construction and operation of a retail park on land bordering property belonging to Ms Gruber (see further paras. 16-24 of the judgment). The Austrian court hearing the case proceeded with a reference and submitted two questions to the Court of Justice (see para. 25 of the judgment). **Judgment:** Court of Justice held that Article 11 of Directive 2011/92/EU precludes national legislation, such as that at issue in the main proceedings, pursuant to which an administrative decision declaring that a particular project does not require an environmental impact assessment, which is binding on neighbours who were precluded from bringing an action against that administrative decision, where those neighbours, who are part of the 'public concerned' within the meaning of Article 1(2) of that Directive, satisfy the criteria laid down by national law concerning 'sufficient interest' or 'impairment of a right'. **Relevance:** this judgment is of relevance for the Ukrainian authorities. Although it does not have to be explicitly reflected in the wording of Ukrainian provisions it should, nevertheless, serve as an important point of reference for the law-makers.

14.2.2. Directive 2001/42/EC on the assessment of the effects of certain plans and programmes on the environmentirective 2001/42/EC on the assessment of the effects of certain plans and programmes on the environment

Case	Summary
C-473/14 Dimos Kropias Attikis v Ypourgos Perivallontos, Energeias kai Klimatikis Allagis	**Facts:** this was a reference for preliminary ruling submitted by Simvoulio tis Epikratias (Greece) in course of proceedings between the Dimos Kropias Attikis (municipality of Kropia, Attica) and the Ipourgos Perivallontos, Energias kai Klimatikis Allagis (Minister for the Environment, Energy and Climate Change) for the annulment of presidential decree No 187/2011 of 14 June 2011 on the establishment of protection measures in respect of the Mount Hymettus area and the Goudi and Ilissia metropolitan parks (see further paras. 24-40 of the judgment). The Greek court seized with the dispute sent 4 questions to the Court of Justice (see para. 41 of the judgment).

Case	Summary
	Judgment: Articles 2(a) and 3(2)(a) of Directive 2001/42/EC must be interpreted as meaning that the adoption of a measure containing a plan or programme relating to town and country planning and land use falling within the scope of Directive 2001/42 that modifies an existing plan or programme may not be exempted from the obligation to carry out an environmental assessment under that Directive on the ground that that measure is intended to give more specific expression to and implement a master plan established by a hierarchically superior measure that has not itself been the subject of such an environmental assessment. **Relevance:** this judgment is of relevance for the Ukrainian law-makers. It clarifies the meaning of Articles 2(a) and 3(2)(a) of Directive 2001/42/EC and therefore it should be taken into account when relevant provisions of domestic law are drafted. It does not have to be reflected *expressis verbis*, however, it may serve as a point of reference.
C-463/11 L v M	**Facts:** this was a reference for preliminary ruling submitted by *Verwaltungsgerichtshof Baden-Württemberg* (Germany) in course of proceedings between L and M, a municipality, concerning the legal validity of a building plan prepared by M without an environmental assessment, as required by the Directive 2001/42/EC, having been carried out (see further paras. 14-24 of the judgment). **Judgment:** Article 3(5) of Directive 2001/42/EC, read in conjunction with Article 3(4) thereof, must be interpreted as precluding national legislation such as that at issue in the main proceedings, pursuant to which breach of a qualitative condition, imposed by the implementing provision of that directive to exempt the adoption of a particular type of building plan from an environmental assessment under that directive, is irrelevant to the legal validity of that plan. **Relevance:** this judgment is of relevance for the Ukrainian authorities as it clarifies the scope of Article 3 of Directive 2001/42/EC. It should be taken into account when relevant Ukrainian provisions are checked as to their compliance with this piece of EU legislation and when they are revised.
C-177/11 Syllogos Ellinon Poleodomon kai Chorotakton v Ypourgos Perivallontos, Chorotaxias &	**Facts:** this was a reference for preliminary ruling submitted by Simvoulio tis Epikrateias (Greece) in course of proceedings between the association Sillogos Ellinon Poleodomon kai Khorotakton (Greek Association of Urban and Regional Planners), the seat of which is in Athens, seeking annulment of Ministerial Decision No 107017 of 28 August 2006 transposing the SEA Directive into Greek law (see paras. 14-15 of the judgment). **Judgment:** Article 3(2)(b) of Directive 2001/42/EC must be interpreted as meaning that the obligation to make a particular plan subject to an environmental assessment depends on the preconditions requiring an assessment under

Case	Summary
Dimosion Ergon and Others	Council Directive 92/43/EEC on the conservation of natural habitats and of wild fauna and flora, including the condition that the plan may have a significant effect on the site concerned, being met in respect of that plan. The examination carried out to determine whether that latter condition is fulfilled is necessarily limited to the question as to whether it can be excluded, on the basis of objective information, that that plan or project will have a significant effect on the site concerned. **Relevance:** this judgment of the Court of Justice is of relevance for the Ukrainian authorities. While it may not need to be explicitly reflected in the domestic law itself, it may – nevertheless – be treated as a point of reference.
C-567/10 Inter-Environnement Bruxelles ASBL, Pétitions-Patrimoine ASBL and Atelier de Recherche et d'Action Urbaines ASBL v Région de Bruxelles-Capitale	**Facts:** this was a reference for preliminary ruling submitted by *Cour constitutionnelle* (Belgium). The proceedings were brought by Inter-Environnement Bruxelles ASBL, Pétitions-Patrimoine ASBL and Atelier de Recherche et d'Action Urbaines ASBL, which are non-profit-making organisations governed by Belgian law, against Région de Bruxelles-Capitale (the Brussels-Capital Region) for annulment of certain provisions of the Order of 14 May 2009 amending the Order of 13 May 2004 ratifying the Brussels Town and Country Planning Code (ordonnance du 14 mai 2009 modifiant l'ordonnance du 13 mai 2004 portant ratification du code bruxellois de l'aménagement du territoire; Moniteur belge of 27 May 2009, p. 38913; 'the 2009 Order') (see further paras. 12-18 of the judgment). The Belgian court seized with the dispute proceeded with a reference for preliminary ruling in order to receive assistance in interpretation of Article 2a of Directive 2001/42/EC (see para. 19 of the judgment). **Judgment:** Court of Justice ruled that the concept of plans and programmes 'which are required by legislative, regulatory or administrative provisions', appearing in Article 2(a) of Directive 2001/42/EC, must be interpreted as also concerning specific land development plans, such as the one covered by the national legislation at issue in the main proceedings. Article 2(a) of Directive 2001/42 must be interpreted as meaning that a procedure for the total or partial repeal of a land use plan, such as the procedure laid down in Articles 58 to 63 of the Brussels Town and Country Planning Code, as amended by the Order of 14 May 2009, falls in principle within the scope of that Directive, so that it is subject to the rules relating to the assessment of effects on the environment that are laid down by the Directive. **Relevance:** this judgment is of relevance for the Ukrainian authorities. It clarifies the meaning and scope of Article 2(a) of Directive 2001/42 and therefore it should be taken into account by the law-makers.
C-474/10 Department of the Environment for Northern Ireland v	**Facts:** this was a reference for preliminary ruling submitted by Court of Appeal in Northern Ireland (United Kingdom) in course of proceedings between on the one hand, the Department of the Environment for Northern Ireland and, on the other, Seaport (NI) Ltd and Magherafelt District Council, F P McCann (Developments) Ltd, Younger Homes Ltd,

Case	Summary
Seaport (NI) Ltd and Others	Heron Brothers Ltd, G Small Contracts and Creagh Concrete Products Ltd, concerning the validity of the draft plans for Northern Ireland entitled 'Draft Northern Area Plan 2016' and 'Draft Magherafelt Area Plan 2015' (see further paras. 15-30 of the judgment). **Judgment:** Article 6(3) of Directive 2001/42/EC does not require that another authority to be consulted as provided for in that provision be created or designated, provided that, within the authority usually responsible for undertaking consultation on environmental matters and designated as such, a functional separation is organised so that an administrative entity internal to it has real autonomy, meaning, in particular, that it is provided with administrative and human resources of its own and is thus in a position to fulfil the tasks entrusted to authorities to be consulted as provided for in Article 6(3) and, in particular, to give an objective opinion on the plan or programme envisaged by the authority to which it is attached. Furthermore, Article 6(2) of Directive 2001/42 does not require that the national legislation transposing the directive lay down precisely the periods within which the authorities designated and the public affected or likely to be affected for the purposes of Article 6(3) and (4) should be able to express their opinions on a particular draft plan or programme and on the environmental report upon it. Consequently, Article 6(2) does not preclude such periods from being laid down on a case-by-case basis by the authority which prepares the plan or programme. However, in that situation, Article 6(2) requires that, for the purposes of consultation of those authorities and the public on a given draft plan or programme, the period actually laid down be sufficient to allow them an effective opportunity to express their opinions in good time on that draft plan or programme and on the environmental report upon it. **Relevance:** this judgment is of relevance for the Ukrainian authorities as it clarifies the scope of Article 6 of Directive 2001/42/EC. Furthermore, it touches upon touches upon the relationship between this Directive and domestic law. For that reason it should be on the radars of the Ukrainian law-makers.
C-295/10 Genovaitė Valčiukienė and Others v Pakruojo rajono savivaldybė and Others	**Facts:** this was a reference for preliminary ruling submitted by *Vyriausiasis administracinis teismas* (Lithuania). It was submitted in course of proceedings between, on the one hand, Ms Valčiukienė and Ms Pekelienė, the Lietuvos žaliųjų judėjimas (Lithuanian Green Movement), Mr Girinskis and Mr Arimantas Lašas and, on the other, the Pakruojo rajono savivaldybė (Pakruojas District Council), Šiaulių visuomenės sveikatos centras (Šiauliai Centre for Public Health) and Šiaulių regiono aplinkos apsaugos departamentas (Šiauliai Regional Department for Environmental Protection) concerning, inter alia, two decisions of 23 March and 20 April 2006 of the Pakruojo rajono savivaldybė confirming two detailed plans governing the construction of an intensive pig-rearing complex with capacity for 4 000 pigs and the proper use of plots of land where the complexes would be based (see further paras. 22-33 of the judgment).

Case	Summary
	Judgment: Article 3(5) of Directive 2001/42/EC, in conjunction with Article 3(3) thereof, must be interpreted as precluding national legislation, such as that in question in the main proceedings, which provides, in fairly general terms and without assessment of each case, that assessment under that Directive is not to be carried out where mention is made, in the land planning documents applied to small areas of land at local level, of only one subject of economic activity. Article 11(1) and (2) of Directive 2001/42 must be interpreted as meaning that an environmental assessment carried out under Council Directive 85/337/EEC, does not dispense with the obligation to carry out such an assessment under Directive 2001/42. However, it is for the referring court to assess whether an assessment which has been carried out pursuant to Directive 85/337, as amended, may be considered to be the result of a coordinated or joint procedure and whether it already complies with all the requirements of Directive 2001/42. If that were to be the case, there would then no longer be an obligation to carry out a new assessment pursuant to Directive 2001/42. Finally, Article 11(2) of Directive 2001/42 must be interpreted as not placing Member States under an obligation to provide, in national law, for joint or coordinated procedures in accordance with the requirements of Directive 2001/42 and Directive 85/337, as amended. **Relevance:** this judgment is of relevance for the Ukrainian authorities as it sheds the light on interpretation of Directive 2001/42/EC. It clarifies what kind of measures are not permitted as per this Directive. This judgment should be taken into account when relevant provisions of national law are drafted.
C-43/10 Nomarchiaki Aftodioikisi Aitoloakarnanias and Others v Ypourgos Perivallontos, Chorotaxias kai Dimosion ergon and Others	**Facts:** this reference for preliminary ruling was submitted by *Simvoulio tis Epikratias* (Greece). It was submitted in course of proceedings between the Nomarchiaki Aftodioikisi Aitoloakarnanias (Prefectural Authority of Aitoloakarnania) and other legal persons against the Ipourgos Perivallontos, Khorotaxias kai Dimosion Ergon (Minister for the Environment, Regional Planning and Public Works) and other ministers, seeking the annulment of measures relating to the project for the partial diversion of the upper waters of the river Acheloos (Western Greece) to the river Pinios, in Thessaly (see further paras. 30-40 of the judgment). The referring court expressed doubts as to interpretation of several pieces of EU environmental acquis and submitted a total of 14 questions to the Court of Justice (see para. 41 of the judgment). **Judgment:** in relation to Directive 2001/42/EC the Court of Justice held that a project for the partial diversion of the waters of a river, such as that at issue in the main proceedings, is not to be regarded as a plan or programme falling within the scope of Directive 2001/42/EC.

Case	Summary
	Relevance: this judgment is of relevance for the Ukrainian authorities. Firstly, it clarifies the scope of Directive 2001/42/EC. Secondly, it demonstrates rather well the complexities associated with application of EU secondary legislation in environmental field. No doubt this judgment should be considered as a point of reference for Ukrainian law-makers.
Joined cases C-105/09 and C-110/09 Terre wallonne ASBL (C-105/09) and Inter-Environnement Wallonie ASBL (C-110/09) v Région wallonne	**Facts:** these two references for preliminary ruling were submitted by *Conseil d'État* (Belgium) and merged together by the Court of Justice for joint consideration. They were submitted by (i) Terre wallonne ASBL and (ii) Inter-Environnement Wallonie ASBL against Région wallonne (the Region of Wallonia) for annulment of the order of the Walloon Government of 15 February 2007 amending Book II of the Environment Code, which forms the Water Code, as regards the sustainable management of nitrogen in agriculture (see further on factual background paras. 25-29 of the judgment). The Belgian court expressed doubts as to interpretation of Directive 91/676 and thus proceeded with references for preliminary ruling to the Court of Justice. **Judgment:** An action programme adopted pursuant to Article 5(1) of Council Directive 91/676/EEC concerning the protection of waters against pollution caused by nitrates from agricultural sources is in principle a plan or programme covered by Article 3(2)(a) of Directive 2001/42/EC since it constitutes a 'plan' or 'programme' within the meaning of Article 2(a) of the latter Directive and contains measures compliance with which is a requirement for issue of the consent that may be granted for carrying out projects listed in Annexes I and II to Council Directive 85/337/EEC on the assessment of the effects of certain public and private projects on the environment. **Relevance:** This judgment is of relevance for the Ukrainian authorities. It clarifies interpretation of Directive 91/676/EEC and its interaction with Directive 2001/42/EC. Bearing both in mind it should be taken into account by the Ukrainian authorities when they proceed with approximation of domestic law with relevant EU *acquis*.

14.2.3. *Directive 2003/4/EC on public access to environmental information*

Case	Summary
C-71/14 East Sussex County Council v Information Commissioner and Others	**Facts:** this was a reference for preliminary ruling submitted by First-tier Tribunal (General Regulatory Chamber, Information Rights) in course of proceedings between East Sussex County Council and the Information Commissioner concerning the Commissioner's decision notice declaring unlawful a charge imposed by the County Council for supplying environmental information to PSG Eastbourne, a property search company (see

Case	Summary
	further paras. 17-25 of the judgment). The referring court expressed doubts as to interpretation of Article 5(2) of Directive 2003/4 and proceeded with a reference for preliminary ruling to the Court of Justice. **Judgment:** Article 5(2) of Directive 2003/4/EC must be interpreted as meaning that the charge for supplying a particular type of environmental information may not include any part of the cost of maintaining a database, such as that at issue in the main proceedings, used for that purpose by the public authority, but may include the overheads attributable to the time spent by the staff of the public authority on answering individual requests for information, properly taken into account in fixing the charge, provided that the total amount of the charge does not exceed a reasonable amount. Furthermore, Article 6 of Directive 2003/4 must be interpreted as not precluding national legislation under which the reasonableness of a charge for supplying a particular type of environmental information is the subject only of limited administrative and judicial review as provided for in English law, provided that the review is carried out on the basis of objective elements and, in accordance with the principles of equivalence and effectiveness, relates to the question whether the public authority making the charge has complied with the conditions in Article 5(2) of that Directive, which is for the referring tribunal to ascertain. **Relevance:** this judgment is of relevance for the Ukrainian authorities as it clarifies the scope of Article 5(2) of Directive 2003/4/EC. Bearing this in mind it should be taken into account when relevant provisions of domestic law are drafted. Furthermore, it also clarifies the room for manoeuvre left to the Member States. Bearing this in mind it should remain on the radars of Ukrainian authorities.
C-279/12 Fish Legal and Emily Shirley v Information Commissioner and Others	**Facts:** this was a reference for preliminary ruling submitted by Upper Tribunal (Administrative Appeals Chamber) (United Kingdom). It was submitted in course of proceedings between, on the one hand, Fish Legal and Mrs Shirley and, on the other, the Information Commissioner and United Utilities Water plc, Yorkshire Water Services Ltd and Southern Water Services Ltd relating to the refusal by those companies of requests made by Fish Legal and Mrs Shirley for access to certain information relating to sewerage and water supply (see further paras. 15-25 of the judgment). The English court seized with this dispute expressed doubts as to interpretation of Directive 2003/4 and proceeded with a reference for preliminary ruling (for questions see para. 26 of the judgment).

Case	Summary
	Judgment: the Court of Justice ruled that in order to determine whether entities such as United Utilities Water plc, Yorkshire Water Services Ltd and Southern Water Services Ltd can be classified as legal persons which perform 'public administrative functions' under national law, within the meaning of Article 2(2)(b) of Directive 2003/4/EC, it should be examined whether those entities are vested, under the national law which is applicable to them, with special powers beyond those which result from the normal rules applicable in relations between persons governed by private law. Furthermore, the Court held that undertakings, such as United Utilities Water plc, Yorkshire Water Services Ltd and Southern Water Services Ltd, which provide public services relating to the environment are under the control of a body or person falling within Article 2(2)(a) or (b) of Directive 2003/4, and should therefore be classified as 'public authorities' by virtue of Article 2(2)(c) of that Directive, if they do not determine in a genuinely autonomous manner the way in which they provide those services since a public authority covered by Article 2(2)(a) or (b) of the Directive is in a position to exert decisive influence on their action in the environmental field. Finally, the Court of Justice ruled that Article 2(2)(b) of Directive 2003/4 must be interpreted as meaning that a person falling within that provision constitutes a public authority in respect of all the environmental information which it holds. Hence, commercial companies, such as United Utilities Water plc, Yorkshire Water Services Ltd and Southern Water Services Ltd, which are capable of being a public authority by virtue of Article 2(2)(c) of the Directive only in so far as, when they provide public services in the environmental field, they are under the control of a body or person falling within Article 2(2)(a) or (b) of the Directive are not required to provide environmental information if it is not disputed that the information does not relate to the provision of such services. **Relevance:** this judgment is of relevance for the Ukrainian law-makers. It clarifies important principles governing the application of this Directive to particular types of entities. Bearing this in mind it should be taken into account when relevant provisions of Ukrainian law are drafted and then, once adopted, when applied in practice.
C-515/11 Deutsche Umwelthilfe eV v Bundesrepublik Deutschland	**Facts:** this was a reference for preliminary ruling submitted by *Verwaltungsgericht Berlin* (Germany). It was submitted in course of proceedings between Deutsche Umwelthilfe eV and the Bundesrepublik Deutschland concerning the former's request for access to information held by the Bundesministerium für Wirtschaft und Technologie in the Ministry's correspondence with representatives of the German automotive industry during the consultation which preceded the adoption of legislation on energy consumption labelling (for a detailed account of the factual background see paras. 13-16 of the judgment). The German court seized with this dispute

Case	Summary
	expressed doubts as to interpretation of Article 2(2) of Directive 2003/4/EC and proceeded with a reference for preliminary ruling (see para. 17 of the judgment). **Judgment:** The first sentence of the second subparagraph of Article 2(2) of Directive 2003/4/EC means that the option given to Member States by that provision of not regarding 'bodies or institutions acting in a … legislative capacity' as public authorities, required to allow access to the environmental information which they hold, may not be applied to ministries when they prepare and adopt normative regulations which are of a lower rank than a law. **Relevance:** this judgment is of relevance for the Ukrainian authorities as it clarifies the scope of Article 2(2) of Directive 2003/4/EC. It definitely should be taken into account when relevant provisions of domestic law are drafted and, once approved, when they are applied.
C-71/10 Office of Communications v Information Commissioner	**Facts:** this was a reference for preliminary ruling submitted by the Supreme Court of the United Kingdom. The reference has been made in proceedings between the Office of Communications and the Information Commissioner concerning an application for information relating to the precise location of mobile phone base stations in the United Kingdom (see paras. 8-19 of the judgment). The Supreme Court expressed doubts as to interpretation of Article 4 of Directive 2003/4/EC and therefore decided to proceed with a reference for preliminary ruling to the Court of Justice. **Judgment:** Article 4(2) of Directive 2003/4/EC means that, where a public authority holds environmental information or such information is held on its behalf, it may, when weighing the public interests served by disclosure against the interests served by refusal to disclose, in order to assess a request for that information to be made available to a natural or legal person, take into account cumulatively a number of the grounds for refusal set out in that provision. **Relevance:** this judgment is of relevance for the Ukrainian authorities as it clarifies the scope of Article 4(2) of Directive 2003/4//EC. It should be taken into account when relevant provisions of domestic law are drafted.
C-266/09 Stichting Natuur en Milieu and Others v College voor de toelating van	**Facts:** this was a reference for preliminary ruling submitted by College van Beroep voor het bedrijfsleven (Netherlands). It was made in course of proceedings brought by Stichting Natuur en Milieu, Vereniging Milieudefensie and Vereniging Goede Waar & Co. for annulment of the decision of the College voor de toelating van gewasbeschermingsmiddelen en biociden, formerly College voor de toelating van bestrijdingsmiddelen,

Case	Summary
gewasbeschermingsmiddelen en biociden	refusing to disclose to them certain studies and reports on field trials concerning residues and effectiveness of the active substance propamocarb on or in lettuce (see further paras. 14-24 of the judgment). **Judgment:** The term 'environmental information' in Article 2 of Directive 2003/4/EC includs information submitted within the framework of a national procedure for the authorisation or the extension of the authorisation of a plant protection product with a view to setting the maximum quantity of a pesticide, a component thereof or reaction products which may be present in food or beverages. Furthermore, Article 4 of Directive 2003/4 must be interpreted as meaning that the balancing exercise it prescribes between the public interest served by the disclosure of environmental information and the specific interest served by a refusal to disclose must be carried out in each individual case submitted to the competent authorities, even if the national legislature were by a general provision to determine criteria to facilitate that comparative assessment of the interests involved. **Relevance:** this judgment is relevant for the Ukrainian authorities for number of reasons. Firstly, it clarifies the scope of the term 'environmental information', which is provided in Article 2 of this Directive. Secondly, it clarifies the meaning of its Article 4. Bearing this in mind, this judgment should be taken into account when relevant provisions of Ukrainian law are drafted.
C-204/09 Flachglas Torgau GmbH v Bundesrepublik Deutschland	**Facts:** this was a reference for preliminary ruling submitted by *Bundesverwaltungsgericht* (Germany) in course of proceedings between Flachglas Torgau GmbH and the Federal Republic of Germany concerning the rejection by the latter of Flachglas Torgau's request for access to information relating to the Law on the national allocation plan for greenhouse gas emission licences in the allocation period 2005-2007 (Gesetz über den nationalen Zuteilungsplan für Treibhausgas Emissionsberechtigungen in der Zuteilungsperiode 2005 bis 2007) (for a detailed account of facts see paras. 22-28 of the judgment). The referring court expressed doubts as to interpretation of, *inter alia*, the term "public authority" and decided to proceed with a reference for preliminary ruling to the Court of Justice. **Judgment:** The first sentence of the second subparagraph of Article 2(2) of Directive 2003/4/EC means that the option given to Member States by that provision of not regarding 'bodies or institutions acting in a … legislative capacity' as public authorities may be applied to ministries to the extent that they participate in the legislative process, in particular by tabling draft laws or giving opinions, and that option is not subject to the conditions set out in the second sentence of the second subparagraph of Article 2(2) of that Directive. According to the

Case	Summary
	same provision the option given to Member States by that provision of not regarding 'bodies or institutions acting in a … legislative capacity' as public authorities may be applied to ministries to the extent that they participate in the legislative process, in particular by tabling draft laws or giving opinions, and that option is not subject to the conditions set out in the second sentence of the second subparagraph of Article 2(2) of that Directive. Finally, indent (a) of the first subparagraph of Article 4(2) of Directive 2003/4 must be interpreted as meaning that the condition that the confidentiality of the proceedings of public authorities must be provided for by law can be regarded as fulfilled by the existence, in the national law of the Member State concerned, of a rule which provides, generally, that the confidentiality of the proceedings of public authorities is a ground for refusing access to environmental information held by those authorities, in so far as national law clearly defines the concept of 'proceedings', which is for the national court to determine. **Relevance:** this judgment is of relevance for the Ukrainian authorities as it clarifies the scope of Directive 2003/4/EC and the scope of its application. It should be taken into account when the domestic law is approximated with the Directive in question.

14.2.4. Directive 2003/35/EC providing for public participation in respect of the drawing up of certain plans and programmes relating to the environment

Case	Summary
C-570/13 Karoline Gruber v Unabhängiger Verwaltungssenat für Kärnten and Others	**Facts:** The reference for preliminary ruling was submitted by *Verwaltungsgerichtshof* (Austria) in course of proceedings between Ms Gruber, on the one hand, and the Unabhängiger Verwaltungssenat für Kärnten, the EMA Beratungs- und Handels GmbH and the Bundesminister für Wirtschaft, Familie und Jugend (Federal Minister for Economic Affairs, the Family and Youth), concerning a decision authorising the construction and operation of a retail park on land bordering property belonging to Ms Gruber (see further paras. 16-24 of the judgment). In course of those proceedings the Austrian court raised doubts as to compatibility of domestic law with Directive 2003/35/EC and decided to submit a reference for preliminary ruling to the Court of Justice (see para. 25 of the judgment). **Judgment:** Article 11 of Directive 2011/92/EU precludes national legislation pursuant to which an administrative decision declaring that a particular project does not require an environmental impact assessment, which is binding on neighbours who were precluded from bringing an action against that administrative decision, where those neighbours, who are part of the 'public concerned' within the meaning of Article 1(2) of that Directive, satisfy the criteria laid down

Case	Summary
	by national law concerning 'sufficient interest' or 'impairment of a right'. It is for the domestic courts to verify whether that condition is fulfilled. **Relevance:** this judgment is of relevance for the Ukrainian authorities. It provides a useful interpretation of Article 11 of Directive 2011/92/EU and should be taken into account when relevant domestic provisions are drafted.
C-530/11 European Commission v United Kingdom of Great Britain and Northern Ireland	**Facts:** the European Commission proceeded with action for infringement claiming that the United Kingdom acted in breach of Directive 2003/35/EC by failing to transpose it fully. In particular, the European Commission claimed that the United Kingdom had not complied with its obligations under Articles 3(7) and 4(4) of that Directive inasmuch as those provisions require judicial proceedings not to be prohibitively expensive (see further paras. 12-32 of the judgment). **Judgment:** Court of Justice agreed with the European Commission and concluded that the United Kingdom was indeed in breach of Directive 2003/35/EC. According to the Court of Justice the domestic rules provided for judicial proceedings which were prohibitively expensive and – therefore – not compliant with Directive 2003/35/EC. **Relevance:** this judgment, together with accompanying opinion of Advocate General should be taken into account when the domestic provisions are drafted.

14.2.5. Directive 2008/50/EC on ambient air quality and cleaner air for Europe

Case	Summary
	- no relevant case-law as of 31 December 2017

14.2.6. Directive 2004/107/EC relating to arsenic, cadmium, mercury, nickel and polycyclic aromatic hydrocarbons in ambient air

Case	Summary
	- no case-law as of 31 December 2017

14.2.7. Directive 98/70/EC relating to the quality of petrol and diesel fuels

Case	Summary
C-251/14 György Balázs v Nemzeti Adó- és Vámhivatal Dél-alföldi Regionális Vám- és Pénzügyőri Főigazgatósága	**Facts:** this was a reference for preliminary ruling submitted by *Kecskeméti Közigazgatási és Munkaügyi Bíróság* (Administrative and Labour Court, Kecskemét, Hungary). It was submitted in course of proceedings between Mr Balász and the Nemzeti Adó- és Vámhivatal Dél-alföldi Regionális Vám- és Pénzügyőri Főigazgatósága (Regional Customs and Tax Directorate of Dél-alföld, forming part of the National Treasury and Customs Authority) concerning the lawfulness of an administrative decision imposing on him, *inter alia*, a tax fine for not paying excise duties owed on his diesel fuel reserves (see further paras. 19-23 of the judgment). The Hungarian court hearing the case raised doubts as to interpretation of Directive 98/70/EC and decided to proceed with a reference for preliminary ruling as per Article 267 TFEU (see para. 24 of the judgment). **Judgment:** Articles 4(1) and 5 of Directive 98/70/EC does not preclude a Member State from laying down in its national law quality requirements that are additional to the ones contained in that Directive for the marketing of diesel fuels, such as that relating to the flash point at issue in the main proceedings, since it does not constitute a technical specification of diesel fuels relating to the protection of health and the environment for the purposes of that Directive. Article 1(6) and (11) of Directive 98/34/EC must be interpreted as meaning that a Member State is not precluded from making a national standard such as Hungarian standard MSZ EN 590:2009 at issue in the main proceedings mandatory. Last but not least, Article 1(6) of Directive 98/34/EC must be interpreted as meaning that it does not require a national standard within the meaning of that provision to be made available in the official language of the Member State concerned. **Relevance:** this judgment is of relevance for the Ukrainian authorities as it provides important interpretation of Directive 98/70/EC. It should be taken into account when relevant provisions of Ukrainian law are shaped to make them compatible with EU *acquis*.
C-26/11 Belgische Petroleum Unie VZW and Others v Belgische Staat	**Facts:** this was a reference for preliminary ruling submitted by *Grondwettelijk Hof* (Belgium). It was submitted in course of proceedings between several Belgian companies and the Belgische Staat concerning the Law of 22 July 2009 on the obligation to blend fossil fuels released for consumption with biofuels (see paras. 20-21 of the judgment). **Judgment:** Articles 3 to 5 of Directive 98/70/EC do not preclude national legislation, such as that at issue in the main proceedings, which, in accordance with the objective of promoting the use of biofuels in transport, set for each Member State by Directives 2003/30/EC and 2009/28/EC, requires petroleum companies placing petrol and/or diesel fuels on the market also to place on the market, in the same calendar year, a quantity of biofuels by blending them

Case	Summary
	with those products, where this quantity is calculated as a percentage of the total amount of those products which they market annually, and where those percentages comply with the maximum limits set by Directive 98/70. **Relevance:** this judgment is of relevance for the Ukrainian authorities as it clarifies the scope of Articles 3-5 of Directive 98/70/EC. It should be taken into account when domestic provisions are approximated with the Directive in question. It clarifies the room maneuver left to the Member States, which – *mutatis mutandis* – applies to Ukraine.

14.2.8. Directive 1999/32/EC on reduction of sulphur content of certain liquid fuels

Case	Summary
	- no case-law as of 31 December 2017

14.2.9. Directive 94/63/EC on the control of volatile organic compound emissions resulting from the storage of petrol and its distribution from terminals to service stations

Case	Summary
	- no case-law as of 31 December 2017

14.2.10. Directive 2004/42/EC on the limitation of emissions of volatile organic compounds due to the use of organic solvents in certain paints and varnishes and vehicle refinishing products

Case	Summary
	- no case-law as of 31 December 2017

14.2.11. Directive 2008/98/EC on waste

Case	Summary
C-551/13 Società Edilizia Turistica Alberghiera Residenziale (SETAR)	**Facts:** this was a reference for preliminary ruling submitted by *Commissione tributaria provinciale di Cagliari* (Italy). The questions were referred to the Court of Justice in course of proceedings between Società Edilizia Turistica Alberghiera Residenziale (SETAR) SpA, proprietor of a hotel complex in the locality of S'Oru e Mari (Italy) in the Comune di Quartu S. Elena, concerning SETAR's refusal to pay the municipal tax for the disposal of solid urban waste. The Italian

Case	Summary
SpA v Comune di Quartu S. Elena	court expressed doubts as to compatibility of national rules with EU legislation and proceeded with a reference for preliminary ruling. **Judgment:** Court of Justice held that Article 15(1) of Directive 2008/98, read in conjunction with Articles 4 and 13 of that directive, does not preclude national legislation under which no provision is made permitting a waste producer or waste holder to dispose of that waste independently and accordingly to be exempted from liability for payment of a municipal tax for the disposal of waste, provided that that legislation meets the requirements entailed by the principle of proportionality. **Relevance:** this judgment is of relevance for the Ukrainian authorities. It clarifies the room for maneuver left to the Member States and thus – *mutatis mutandis* – to Ukraine.

14.2.12. Directive 1999/31/EC on the landfill of waste

Case	Summary
C-121/11 Pro-Braine ASBL and Others v Commune de Braine-le-Château, intervener: Veolia es treatment SA	**Facts:** this was a reference for preliminary ruling submitted by Conseil d'État (Belgium). It was submitted in course of a dispute between Pro-Braine ASBL and Others and the local authority of Braine-le-Château concerning Pro-Braine's action for the annulment of the decision authorising the carrying on of operations at the 'Cour-au-Bois Nord' landfill site until the end of the existing authorisation period, that is, 27 December 2009, repealing the previous conditions of operation and imposing new conditions of operation (see further paras. 10-17 of the judgment). The referring court decided to ask the Court of Justice for assistance in interpretation of Directive 1999/31 in connection with Directive 85/337/EEC of 27 June 1985 on the assessment of the effects of certain public and private projects on the environment. **Judgment:** the Court of Justice held that a definitive decision relating to the carrying on of operations at an existing landfill site, taken on the basis of a conditioning plan, pursuant to Article 14(b) of Council Directive 1999/31/EC does not constitute a 'consent' within the meaning of Article 1(2) of Council Directive 85/337/EEC, unless that decision authorises a change to or extension of that installation or site, through works or interventions involving alterations to its physical aspect, which may have significant adverse effects on the environment within the meaning of point 13 of Annex II to Directive 85/337, and thus constitute a 'project' within the meaning of Article 1(2) of that Directive.

Case	Summary
	Relevance: this judgment is of relevance for the Ukrainian law-makers as it clarifies the interpretation of the term 'consent' and its relationship to Directive 85/337/EEC. It should be taken into account when national provisions are drafted/adopted as part of the approximation exercise.
C-172/08 Pontina Ambiente Srl v Regione Lazio	**Facts:** this was a reference for preliminary ruling submitted by *Commissione tributaria provinciale di Roma* (Italy). It was submitted in course of proceedings between Pontina Ambiente Srl and Regione Lazio relating to two tax assessments finding that Pontina Ambiente had been late in paying the special levy on the disposal of solid waste in landfills for the third and fourth quarters of 2004 and imposing penalties on it, together with interest (see further paras. 18-23 of the judgment). The referring court proceeded with a reference for preliminary ruling, however, since the questions were not prepared in accordance with the formal requirement they were reformulated by the Court of Justice (see paras. 25-31 of the judgment). **Judgment:** Article 10 of Directive 1999/31/EC does not preclude a national provision, which makes the operator of a landfill site subject to a levy to be reimbursed by the local authority depositing the waste and which provides for financial penalties to be imposed on that operator for late payment of the levy, on condition that those rules are accompanied by measures to ensure that the levy is actually reimbursed within a short time and that all the costs of recovery, and in particular, the costs resulting from late payment of amounts which that authority owes to the site operator on that account, including costs incurred in order to avoid any financial penalty which might be imposed on the site operator, are passed on in the price to be paid by the authority to that operator. **Relevance:** this judgment is of relevance for the Ukrainian authorities as it clarifies the room for manoeuvre of domestic authorities. It should be taken into account when relevant provisions of Ukrainian law are drafted.
C-6/03 Deponiezweckverband Eiterköpfe v Land Rheinland-Pfalz	**Facts:** this was a reference for preliminary ruling submitted by *Verwaltungsgericht Koblenz* (Germany) in course of proceedings between the association Deponiezweckverband Eiterköpfe and Land Rheinland-Pfalz (the Land of Rhineland-Palatinate) concerning authorisation to operate a landfill site. The referring court expressed doubts as to compatibility of German law with Directive 1999/31 and therefore decided to proceed with a reference for preliminary ruling to the Court of Justice (see paras. 21-22 of the judgment). **Judgment:** It is not contrary to Article 5(1) and (2) of Directive 1999/31/EC that a measure of domestic law should:

Case	Summary
	– fix limits in respect of the acceptance of biodegradable waste for landfill lower than those fixed by the Directive, even if those limits are so low that they call for treatment by mechanical and biological processes or the incineration of such waste before it is landfilled, – fix earlier time-limits than those under the Directive in order to reduce the amount of waste going to landfill, – apply not only to biodegradable waste but also to non-biodegradable organic substances, and – apply not only to municipal waste but also to waste that may be disposed of as municipal waste. **Relevance:** this judgment is of relevance for the Ukrainian authorities as it clarifies the room for maneuver of domestic authorities. The judges made it clear that domestic law may provide stricter requirements than Directive 1999/31/EC. It should be taken into account when the Ukrainian provisions aiming at approximation are prepared and approved.

14.2.13. Directive 2006/21/EC on the management of waste from extractive industries

Case	Summary
C-147/15 Città Metropolitana di Bari, formerly Provincia di Bari v Edilizia Mastrodonato Srl	**Facts:** this was a reference for preliminary ruling submitted by *Consiglio di Stato* (Council of State, Italy) in course of proceedings between the Città Metropolitana di Bari (Metropolitan City of Bari, Italy), formerly Provincia di Bari (Province of Bari, Italy) and Edilizia Mastrodonato Srl concerning the authorisation regime to which backfilling operations in respect of disused quarries must be subject (paras. 18-23 of the judgment). The Italian court expressed doubts as to interpretation of Article 10(2) of Directive 2006/21/EC and proceeded with reference for preliminary ruling to the Court of Justice. **Judgment:** Article 10(2) of Directive 2006/21/EC is not having the effect of making an operation entailing the backfilling of a quarry using waste other than extractive waste subject to the requirements of Council Directive 1999/31/ on the landfill of waste, where that operation amounts to a recovery of waste, which is a matter to be determined by the national court. **Relevance:** this judgment is relevant for the Ukrainian authorities. Although it does not have to be explicitly reflected in the Ukrainian legal order it shed a light on relationship between two different pieces of EU environmental law. Hence, it should remain on the radars of the law-makers.

14.2.14. Directive 2000/60/EC establishing a framework for Community action in the field of water policy

Case	Summary
C-686/15 <u>Vodoopskrba i odvodnja d.o.o. v Željka Klafurić</u>	**Facts:** this was a reference for preliminary ruling submitted by *Općinski sud u Velikoj Gorici* (Municipal Court, Velika Gorica, Croatia). It was submitted in course of proceedings between Vodoopskrba i odvodnja d.o.o. and Ms Željka Klafurić concerning the latter's refusal to pay the fixed component included in the price of her water consumption. The Croatian court raised doubts as to existence/applicability of EU rules governing calculation of bills for water consumption and therefore it decided to proceed with a reference for preliminary ruling (see paras. 11-15 of the judgment). **Judgment:** Directive 2000/60/EC does not preclude national legislation, such as that at issue in the main proceedings, which provides that the price of water services invoiced to the consumer includes not only a variable component calculated according to the volume of water actually consumed by the person concerned, but also a fixed component which is not connected with that volume. **Relevance:** this judgment is of relevance for the Ukrainian authorities as it clarifies the scope of the Directive 2006/21/EC and the room for maneuver left to the Member States of the European Union. It applies, *mutatis mutandis*, to Ukrainian authorities.
C-461/13 <u>Bund für Umwelt und Naturschutz Deutschland e.V. v Bundesrepublik Deutschland</u>	**Facts:** this was a reference for preliminary ruling submitted by *Bundesverwaltungsgericht* (Germany). It was submitted in course of proceedings between Bund für Umwelt und Naturschutz Deutschland eV (German federation for the environment and the conservation of nature) and Bundesrepublik Deutschland concerning a scheme to deepen various parts of the river Weser in the north of Germany, intended to enable larger container vessels to call at the German ports of Bremerhaven, Brake and Bremen (see paras. 16-27 of the judgment). The German court seized with the dispute raised doubts as to interpretation of Article 4 of Directive 2000/60/EC and decided to proceed with a reference for preliminary ruling (questions reproduced in para. 28 of the judgment). **Judgment:** Article 4(1)(a)(i) to (iii) of Directive 2000/60/EC means that the Member States are required — unless a derogation is granted — to refuse authorisation for an individual project where it may cause a deterioration of the status of a body of surface water or where it jeopardises the attainment of good surface water status or of good ecological potential and good surface water chemical status by the date laid down by the directive. Furthermore, the concept of 'deterioration of the status' of a body of surface water in Article 4(1)(a)(i) of Directive 2000/60 must be interpreted as meaning that there is deterioration as soon as the status of at least one of the quality elements, within

Case	Summary
	the meaning of Annex V to the directive, falls by one class, even if that fall does not result in a fall in classification of the body of surface water as a whole. However, if the quality element concerned, within the meaning of that annex, is already in the lowest class, any deterioration of that element constitutes a 'deterioration of the status' of a body of surface water, within the meaning of Article 4(1)(a)(i). **Relevance:** this judgment is of relevance for the Ukrainian authorities. It clarifies the meaning of Article 4 of Directive 2006/21/EC and therefore it should be taken into account when relevant provisions of Ukrainian law are drafted. In particular the interpretation of phrase 'deterioration of the status' should be analysed and, possibly, reproduced in domestic law.
C-43/10 Nomarchiaki Aftodioikisi Aitoloakarnanias and Others v Ypourgos Perivallontos, Chorotaxias kai Dimosion ergon and Others	**Facts:** this was a reference for preliminary ruling submitted by *Simvoulio tis Epikratias* (Greece). It was submitted in course of proceedings between Nomarchiaki Aftodioikisi Aitoloakarnanias (Prefectural Authority of Aitoloakarnania) and other legal persons against the Ipourgos Perivallontos, Khorotaxias kai Dimosion Ergon (Minister for the Environment, Regional Planning and Public Works) and other ministers, seeking the annulment of measures relating to the project for the partial diversion of the upper waters of the river Acheloos (Western Greece) to the river Pinios, in Thessaly (see paras. 30-40 of the judgment). The Greek court expressed doubts as to interpretation of Directive 2006/21/EC as well as other pieces of secondary legislation. Bearing this in mind it referred 14 questions to the Court of Justice (see para. 41 of the judgment). **Judgment:** Directive 2000/60 must be interpreted as meaning that: - it does not preclude, in principle, a provision of national law whereby consent is given, prior to 22 December 2009, to a transfer of water from one river basin to another or from one river basin district to another where the managements plans for the river basin districts concerned were not yet adopted by the competent national authorities; –such a transfer must not be such as seriously to jeopardise the realisation of the objectives laid down by that directive; – however, to the extent that that transfer is liable to have adverse effects on water of the kind stated in Article 4(7) of that directive, consent may be given to it, at the very least if the conditions set out in Article 4(7)(a) to (d) are satisfied, and – the fact that it is impossible for the receiving river basin or river basin district to meet from its own water resources its needs in terms of drinking water, electricity production or irrigation is not a sine qua non for such a transfer of water to be compatible with that directive provided that the conditions listed above are satisfied.

Case	Summary
	Furthermore, the fact that a national parliament approves management plans for river basins, such as the plans at issue in the main proceedings, where no procedure for public information, consultation or participation has been implemented does not fall within the scope of Article 14 of Directive 2000/60, and in particular the scope of Article 14(1) thereof. **Relevance:** this judgment is of limited relevance for the Ukrainian authorities, nevertheless it should be taken into account when relevant provisions of domestic law are drafted.

14.2.15. Directive 2007/60/EC on the assessment and management of flood risks

Case	Summary
	- no case-law as of 31 December 2017

14.2.16. Directive 2008/56/EC on establishing a framework for Community action in the field of maritime environmental policy

Case	Summary
	- no case-law as of 31 December 2017

14.2.17. Directive 91/271/EC on urban waste water treatment

Case	Summary
C-252/05 The Queen on the application of Thames Water Utilities Ltd v South East London Division, Bromley Magistrates' Court	**Facts:** this was a reference for preliminary ruling submitted by *High Court of Justice of England and Wales, Queen's Bench Division (Administrative Court).* It was submitted in course of proceedings between Thames Water Utilities Ltd v South East London Division, Bromley Magistrates' Court (see further paras. 20-21 of the judgment). **Judgment:** Waste water which escapes from a sewerage network maintained by a statutory sewerage undertaker pursuant to Council Directive 91/271/EEC constitutes waste within the meaning of Council Directive 75/442/EEC of 15 July 1975 on waste. Furthermore, Directive 91/271 is not 'other legislation' within the meaning of Article 2(1)(b) of Directive 75/442. It falls to the national court to ascertain whether the national rules may be regarded as being 'other legislation' within the meaning of that provision. Such is the case if those national rules contain precise provisions organising the management of the waste in question and if they are such as to ensure a level of protection of the

Case	Summary
	environment equivalent to that guaranteed by Directive 75/442, and, more particularly, by Articles 4, 8 and 15. Directive 91/271 cannot be considered, as regards the management of waste water which escapes from a sewerage network, to be special legislation (a lex specialis) vis-à-vis Directive 75/442 and cannot therefore be applied pursuant to Article 2(2) of Directive 75/442. **Relevance:** this judgment is of relevance for the Ukrainian authorities and shall remain on their radars when the domestic law is approximated with Directive 91/271/EC. It sheds light on interaction between the Directive in question and Directive 75/442.

14.2.18. Directive 98/83/EC on quality of water intended for human consumption

Case	Summary
	No relevant case-law of the Court of Justice as of 31 December 2017

14.2.19. Directive 91/676/EC concerning the protection of waters against pollution caused by nitrates from agricultural sources

Case	Summary
Joined cases C-105/09 and C-110/09 Terre wallonne ASBL (C-105/09) and Inter-Environnement Wallonie ASBL (C-110/09) v Région wallonne	See above section 14.2.2 of this Chapter.
C-293/97 The Queen v Secretary of State for the Environment and Ministry of Agriculture, Fisheries and Food, ex parte	**Facts:** this was a reference for preliminary ruling submitted by High Court of Justice of England and Wales, Queen's Bench Division. Those questions were raised in two actions brought by Messrs Standley and Othersand Metson and Others for the annulment of decisions by which the Secretary of State for the Environment and the Minister of Agriculture, Fisheries and Food identified the Rivers Waveney, Blackwater and Chelmer and their tributaries as waters which could be affected by pollution within the meaning of Article 3(1) of the Directive and designated the areas of land draining into those waters as vulnerable zones within the meaning of Article 3(2) thereof (see further paras. 14-

Case	Summary
H.A. Standley and Others and D.G.D. Metson and Others	19 of the judgment). The English court seized with the dispute expressed doubts as to interpretation of Directive 91/676/EEC and proceeded with a reference for preliminary ruling to the Court of Justice (see para. 20 of the judgment). **Judgment:** Articles 2(j) and 3(1) of Directive 91/676/EEC must be interpreted as requiring the identification of surface freshwaters as 'waters affected by pollution', and therefore the designation as 'vulnerable zones' in accordance with Article 3(2) of that directive of all known areas of land which drain into those waters and contribute to their pollution, where those waters contain a concentration of nitrates in excess of 50 mg/l and the Member State concerned considers that the discharge of nitrogen compounds from agricultural sources makes a 'significant contribution' to that overall concentration of nitrates. **Relevance:** this judgment is of relevance for the Ukrainian authorities. It provides for interpretation of Articles 2-3 of Directive 91/676/EEC and this should be taken into account when relevant provisions of Ukrainian law are drafted.

14.2.20. Directive 2009/147/EC on the conservation of wild birds

Case	Summary
C-461/14 European Commission v Kingdom of Spain	**Facts:** the European Commission submitted triggered infringement proceedings (as per Article 258 TFEU) against Spain. In its submission the applicant claimed that Spain failed to comply fully with Directive 2009/147/EC (see further paras. 14-21 of the judgment). **Judgment:** the Court of Justice ruled that by failing to take appropriate steps to avoid, in the special protection area 'Campiñas de Sevilla', the deterioration of natural habitats and the habitats of species as well as disturbance of the species for which that area was established Spain failed, in respect of the period before 29 July 2008, to fulfil its obligations under Article 4(4) of Directive 2009/147/EC, in respect of the period after that date, has failed to fulfil its obligations under Article 6(2) of Council Directive 92/43/EEC of 21 May 1992 on the conservation of natural habitats and of wild fauna and flora. **Relevance:** this judgment is of limited relevance for the Ukrainian law-makers, however it may serve as exemplification as to how EU law applies in the Member States.

14.2.21. Directive 92/43/EC on the conservation of natural habitats and of wild fauna and flora

Case	Summary
Joined Cases C-387/15 and C-388/15 Hilde Orleans and Others v Vlaams Gewest	**Facts:** this was a reference for preliminary ruling sent by *Raad van State* (the Netherlands). It was sent in course of proceedings between Ms Hilde Orleans, Mr Rudi Van Buel and Ms Marina Apers in the first case, and Mr Denis Malcorps, Ms Myriam Rijssens and Mr Guido Van De Walle in the second case, and the Vlaams Gewest (Flemish Region, Belgium), concerning challenges to the validity of decisions establishing the Regional Development Implementation Plan for the 'Demarcation of the maritime port area of Antwerp — Port development on the left bank' (see further paras. 11-27 of the judgment). **Judgment:** Article 6(3) of Directive 92/43/EEC must be interpreted as meaning that measures, contained in a plan or project not directly connected with or necessary to the management of a site of Community importance, providing, prior to the occurrence of adverse effects on a natural habitat type present thereon, for the future creation of an area of that type, but the completion of which will take place subsequently to the assessment of the significance of any adverse effects on the integrity of that site, may not be taken into consideration in that assessment. Such measures can be categorised as 'compensatory measures', within the meaning of Article 6(4), only if the conditions laid down therein are satisfied. **Relevance:** this judgment is of relevance for the Ukrainian authorities as it clarifies the interpretation of Article 6(3) of Directive 92/43/EEC. Thus, it should be taken into account when relevant provisions of Ukrainian law are drafted.
C-399/14 Grüne Liga Sachsen eV and Others v Freistaat Sachsen	**Facts:** this was a reference for preliminary ruling submitted by *Bundesverwaltungsgericht* (Federal Administrative Court, Germany). It was submitted in course of proceeding between Grüne Liga Sachsen eV and Others, on the one hand, and the Freistaat Sachsen, on the other, regarding a decision taken by the authorities of the latter approving the construction of a bridge over the Elbe in Dresden (see further paras. 17-28 of the judgment). In its reference for preliminary ruling the referring court raised a number of questions on interpretation of Directive 92/43/EEC (see para. 29 of the judgment). **Judgment:** Article 6(2) of Directive 92/43/EEC means that a plan or project not directly connected with or necessary to the management of a site, and authorised, following a study that did not meet the requirements of Article 6(3) of that Directive, before the site in question was included in the list of SCIs must be the subject of a subsequent review, by the competent authorities, of its implications for that site if that review constitutes the only appropriate step for avoiding that the implementation of the plan or project referred to results in deterioration or disturbance that could

Case	Summary
	be significant in view of the objectives of that Directive. Article 6(2) of this Directive must be interpreted as meaning that if, in circumstances such as those in the main proceedings, a subsequent review of the implications for the site concerned of a plan or project which began to be put in hand after that site was included in the list of SCIs proves necessary, that review must be carried out in accordance with the requirements of Article 6(3) of that Directive. Such a review must take into account all factors existing at the date of that inclusion and all implications arising or likely to arise following the partial or total implementation of the plan or project on the site in question after that date as well. Furthermore, the Directive in question must be interpreted as meaning that, where a new assessment of the implications for a site carried out in order to rectify errors identified in relation to the prior assessment conducted before the inclusion of that site in the list of SCIs or in relation to the subsequent review under Article 6(2), even though the plan or project has already been implemented, the requirements of a check made in the context of such a review may not be amended on account of the fact that the planning decision approving that plan or project was immediately enforceable, that an application for interim measures had been dismissed and that that dismissal decision was no longer open to appeal. Moreover, that review must take into account the risks of deterioration or disturbance that could be significant, within the meaning of Article 6(2) of that Directive, which may have arisen because the plan or project has been carried out. Finally, Article 6(4) of the Directive must be interpreted as meaning that the requirements of the check made in the context of the review of alternative solutions may not be amended on account of the fact that the plan or project has already been implemented. **Relevance:** this judgment is of relevance for the Ukrainian authorities. It provides a very useful interpretation of Directive 92/43/EEC, which could be used for shaping of relevant national legislation. Bearing this in mind this judgment should remain on the radars of the Ukrainian authorities.
C-43/10 Nomarchiaki Aftodioikisi Aitoloakarnanias and Others v Ypourgos Perivallontos, Chorotaxias kai Dimosion ergon and Others	**Facts:** this was a reference for preliminary ruling submitted by *Simvoulio tis Epikratias* (Greece). Facts discussed above in section 14.2.14. **Judgment:** Directive 92/43, and in particular Article 6(3) and (4) thereof, must be interpreted as precluding development consent being given to a project for the diversion of water which is not directly connected with or necessary to the conservation of a special protection area, but likely to have a significant effect on that special protection area, in the absence of information or of reliable and updated data concerning the birds in that area. Furthermore, Directive 92/43, and in particular Article 6(4) thereof, must be interpreted as meaning that grounds linked, on the one hand, to irrigation and, on the other, to the supply of drinking water, relied on in support of a project for the diversion of water, may constitute imperative reasons of overriding public interest capable of justifying the

Case	Summary
	implementation of a project which adversely affects the integrity of the sites concerned. Where such a project adversely affects the integrity of a site of Community importance hosting a priority natural habitat type and/or a priority species, its implementation may, in principle, be justified by grounds linked with the supply of drinking water. In some circumstances, it might be justified by reference to beneficial consequences of primary importance which irrigation has for the environment. On the other hand, irrigation cannot, in principle, qualify as a consideration relating to human health and public safety, justifying the implementation of a project such as that at issue in the main proceedings. The Court of Justice also added that under Directive 92/43, and in particular the first sentence of the first subparagraph of Article 6(4) thereof, for the purposes of determining the adequacy of compensatory measures account should be taken of the extent of the diversion of water and the scale of the works involved in that diversion. Finally, Directive 92/43, and in particular the first subparagraph of Article 6(4) thereof, interpreted in the light of the objective of sustainable development, as enshrined in Article 6 EC Treaty, permits, in relation to sites which are part of the Natura 2000 network, the conversion of a natural fluvial ecosystem into a largely man-made fluvial and lacustrine ecosystem provided that the conditions referred to in that provision of the directive are satisfied. **Relevance:** this judgment is relevant for the Ukrainian authorities as it clarifies several provisions contained in Directive 92/43/EC. It is for the Ukrainian law-makers to decide if this judgment should be reflected in newly drafted/re-drafted provisions of domestic law or, perhaps, it would be enough to have it included in information/training materials for civil servants and practitioners.
C-127/02 Landelijke Vereniging tot Behoud van de Waddenzee and Nederlandse Vereniging tot Bescherming van Vogels v Staatssecretaris van Landbouw, Natuurbeheer en Visserij	**Facts:** this was a reference for preliminary ruling submitted by *Raad van State* (Netherlands). It was submitted in course of proceedings between Landelijke Vereniging tot Behoud van de Waddenzee (National association for conservation of the Waddenzee) and the Nederlandse Vereniging tot Bescherming van Vogels (Netherlands association for the protection of birds) on the one hand and the Staatssecretaris van Landbouw, Natuurbeheer en Visserij (Secretary of State for agriculture, nature conservation and fisheries) on the other in respect of licences which the latter issued to the Coöperatieve Producentenorganisatie van de Nederlandse Kokkelvisserij UA (Cooperative producers' association of Netherlands cockle fisheries) for the mechanical fishing of cockles in the special protection area (SPA) of the Waddenzee (see further paras. 11-18 of the judgment). The Dutch court expressed several doubts as to interpretation of Directive 92/43/EC and therefore decided to proceed with a reference for preliminary ruling to the Court of Justice (questions reproduced in para. 19 of the judgment). **Judgment:** the Court of Justice ruled that mechanical cockle fishing which has been carried on for many years but for which a licence is granted annually for a limited period, with each licence entailing a new assessment both of the

Case	Summary
	possibility of carrying on that activity and of the site where it may be carried on, falls within the concept of 'plan' or 'project' within the meaning of Article 6(3) of Directive 92/43/EEC. This provision establishes a procedure intended to ensure, by means of a preliminary examination, that a plan or project which is not directly connected with or necessary to the management of the site concerned but likely to have a significant effect on it is authorised only to the extent that it will not adversely affect the integrity of that site, while Article 6(2) of that Directive establishes an obligation of general protection consisting in avoiding deterioration and disturbances which could have significant effects in the light of the Directive's objectives, and cannot be applicable concomitantly with Article 6(3). The Court added that the first sentence of Article 6(3) of Directive 92/43 must be interpreted as meaning that any plan or project not directly connected with or necessary to the management of the site is to be subject to an appropriate assessment of its implications for the site in view of the site's conservation objectives if it cannot be excluded, on the basis of objective information, that it will have a significant effect on that site, either individually or in combination with other plans or projects. The judges emphasized that pursuant to the first sentence of Article 6(3) of Directive 92/43, where a plan or project not directly connected with or necessary to the management of a site is likely to undermine the site's conservation objectives, it must be considered likely to have a significant effect on that site. The assessment of that risk must be made in the light inter alia of the characteristics and specific environmental conditions of the site concerned by such a plan or project. Under Article 6(3) of Directive 92/43, an appropriate assessment of the implications for the site concerned of the plan or project implies that, prior to its approval, all the aspects of the plan or project which can, by themselves or in combination with other plans or projects, affect the site's conservation objectives must be identified in the light of the best scientific knowledge in the field. The competent national authorities, taking account of the appropriate assessment of the implications of mechanical cockle fishing for the site concerned in the light of the site's conservation objectives, are to authorise such an activity only if they have made certain that it will not adversely affect the integrity of that site. That is the case where no reasonable scientific doubt remains as to the absence of such effects. **Relevance:** this judgment is of relevance for the Ukrainian authorities as it clarifies the scope and meaning of Article 6(3) of Directive 92/43/EC. It is recommended to take it into account as part of the law approximation exercise. For instance, it could be reflected in the wording of national provisions or used in awareness raising materials that should accompany the new legislation.

14.2.22. Directive 2010/75/EU on industrial emission (integrated pollution prevention and control)

Case	Summary
	No relevant case-law of the Court of Justice as of 31 December 2017.

14.2.23. Directive 96/82/EC on the control of major accident hazards involving dangerous substances

Case	Summary
	No case-law as of 31 December 2017

14.2.24. Directive 2003/87/EC establishing a scheme for greenhouse gas emission allowance trading within the Community

Case	Summary
C-457/15 Vattenfall Europe Generation AG v Bundesrepublik Deutschland	**Facts:** this was a reference for preliminary ruling submitted by *Verwaltungsgericht Berlin* (Administrative Court, Berlin, Germany). It was submitted in course of proceedings between Vattenfall Europe Generation AG and the Bundesrepublik Deutschland concerning the determination of the time at which an installation which generates electricity starts to be subject to the reporting and surrender obligations of greenhouse gas emission allowances provided for by Directive 2003/87 (see further paras. 19-24 of the judgment). The German court expressed doubts as to interpretation of the directive in question and therefore it decided to proceed with a reference for preliminary ruling to the Court of Justice. **Judgment:** In so far as Annex I to Directive 2003/87/EC includes the 'combustion of fuels in installations with a total rated thermal input exceeding 20 MW' in the list of categories of activities to which that Directive applies, it must be interpreted as meaning that the emissions trading obligation of an installation for the generation of electricity starts on the date of the first emissions of greenhouse gases, and thus potentially before the date of the first generation of electricity. **Relevance:** this judgment is of relevance as it clarifies when emission trading obligations start. Bearing this in mind it should be reflected in the Ukrainian legislation.
C-180/15 Borealis AB and Others v Naturvårdsverket	**Facts:** this was a reference for preliminary ruling submitted by *Nacka tingsrätt — Mark- och miljödomstolen* (Court of First Instance of Nacka — Property and Environmental Affairs Chamber, Sweden). It was submitted in course of proceedings between several operators of greenhouse gas-emitting installations and the Naturvårdsverket (Swedish Environmental Protection Agency), regarding the legality of the decision adopted by that agency on 21 November 2013 on the final allocation of greenhouse gas emission allowances for the period of 2013 to 2020, after the

Case	Summary
	application of uniform cross-sectoral correction factor referred to in Article 10a(5) of Directive 2003/87 (see further paras. 21-29 of the judgment). The Swedish court hearing the case expressed doubts as to interpretation and validity of Directive 2003/87/EC and proceeded with a reference for preliminary ruling (see questions reproduced in para. 30 of the judgment). **Judgment:** the Court of Justice ruled, among others, that Article 10a of Directive 2003/87/EC must be interpreted as permitting, in order to avoid a double allocation, non-allocation of allowances to a heat benchmark sub-installation when it exports, to private households, heat which it has recovered from a fuel benchmark sub-installation. Furthermore, Article 10a(1) and (4) of Directive 2003/87 must be interpreted as permitting the non-allocation of additional free greenhouse gas emission allowances related to the production of measurable heat by burning waste gases generated by a hot metal benchmark installation, when the amount of greenhouse gas emission allowances determined based on the heat benchmark is lower than the median annual historical emissions related to the production of that heat. **Relevance:** this judgment is of relevance for the Ukrainian authorities. It clarifies the meaning of Article 10a of Directive 2003/87/EC as well as several other legal acts. Bearing this in mind it should be taken into account when relevant provisions are drafted.
C-158/15 Elektriciteits Produktiemaatschappij Zuid-Nederland EPZ NV v Bestuur van de Nederlandse Emissieautoriteit	**Facts:** this was a reference for preliminary ruling submitted by *Raad van State* (Council of State, Netherlands). It was submitted in course of proceedings between Elektriciteits Produktiemaatschappij Zuid-Nederland EPZ NV and the Bestuur van de Nederlandse Emissieautoriteit (administration of the Netherlands emissions authority) concerning the inclusion of greenhouse gas emissions resulting from the self-heating of coal while in storage. The Dutch court seized with the dispute decided to proceed with a reference for preliminary ruling in order to clarify, inter alia, the meaning of the term “installation” laid down in Article 3(e) of Directive 2003/87 (see further paras. 18-23 of the judgment). **Judgment:** Court of Justice ruled that a fuel storage site of a coal-fired power plant is part of an “installation” within the meaning of Article 3(e) of Directive 2003/87/EC. Furthermore, the first subparagraph of Article 27(2) of Regulation (EU) No 601/2012 means that coal lost as a result of the process by which it naturally self-heats while in storage on a site that is part of an installation within the meaning of Article 3(e) of Directive 2003/87 cannot be regarded as coal exported from that installation.

Case	Summary
	Relevance: this judgment is of relevance for the Ukrainian authorities as it clarifies the meaning of the term "installation" laid down in Directive 2003/87/EC. It may be used when relevant provisions of Ukrainian law are drafted/redrafted as part of approximation process.
C-148/14 Bundesrepublik Deutschland v Nordzucker AG	**Facts:** this was a reference for preliminary ruling submitted by *Bundesverwaltungsgericht* (Germany). It was submitted in course of proceedings between Germany, represented by the Deutsche Emissionshandelsstelle im Umweltbundesamt (German Emissions Trading Authority at the Federal Environment Agency) and Nordzucker AG concerning a decision imposing a penalty of EUR 106 920 on the latter for infringement of its obligation to surrender sufficient greenhouse gas emission allowances to cover its emissions during the preceding year (see further paras. 14-21 of the judgment). The German court hearing this case expressed doubts as to interpretation of Articles 16(3) and (4) of Directive 2003/87 and proceeded with a reference for preliminary ruling to the Court of Justice. **Judgment:** Article 16(3) of Directive 2003/87/EC must be interpreted as meaning that it does not apply to an operator who surrenders a number of greenhouse gas emission allowances equal to the emissions for the preceding year as reported and verified in accordance with Article 15 of that Directive, where it is established, following an additional verification carried out by the competent national authority after the expiry of the time-limit for surrender, that those emissions were understated, so that the number of allowances surrendered is insufficient. The Court added that it is for the Member States to determine the penalties which may be imposed in such a situation, in accordance with Article 16(1) of Directive 2003/87. **Relevance:** this judgment is of relevance for the Ukrainian law-makers. To begin with, it clarifies the meaning of Article 16 of Directive 2003/87. Furthermore, it clarifies that it is for the Member States (*mutatis mutandis* for Ukraine) to determine penalties for breaches of this legislation.
C-43/14 ŠKO–Energo s. r. o. v Odvolací finanční ředitelství	**Facts:** this was a reference for preliminary ruling submitted by *Nejvyšší správní soud* (Supreme Administrative Court of the Czech Republic). It was submitted in course of proceedings between ŠKO-Energo s. r. o. and Odvolací finanční ředitelství (Tax Appeal Board), concerning the payment of a tax on the allocation of greenhouse gas emission allowances for the years 2011 and 2012 (see further paras. 12-15 of the judgment). The Czech court expressed doubts whether Article 10 of Directive 2003/87 prevented the application of provisions of national law which make the allocation free of charge of emission allowances in the relevant period subject to gift tax. Bearing this in mind it proceeded with a reference for preliminary ruling to the Court of Justice.

Case	Summary
	Judgment: Court of Justice ruled that Article 10 of Directive 2003/87/EC precludes the imposition of a gift tax if it does not respect the 10% ceiling on the allocation of emission allowances for consideration laid down in that article. **Relevance:** this judgment is of relevance for the Ukrainian authorities. It clarifies what is not permitted under Article 10 of Directive 2003/87/EC. It should be taken into account when the national law is checked as to compatibility with the Directive in question or new provisions are drafted.
C-203/12 Billerud Karlsborg AB and Billerud Skärblacka AB v Naturvårdsverket	**Facts:** this was a reference for preliminary ruling submitted by *Högsta domstolen* (Sweden). The request was made in proceedings between Billerud Karlsborg AB and Billerud Skärblacka AB and the Naturvårdsverket, which imposed penalties on those companies for having failed to surrender in time the carbon dioxide equivalent allowances equal to their actual emissions in 2006 (see further paras. 17-19 of the judgment). The Swedish court expressed doubts as to interpretation of Article 16 of Directive 2003/87/EC and therefore proceeded with a reference for preliminary ruling to the Court of Justice (see para. 20 of the judgment). **Judgment:** Article 16(3) and (4) of Directive 2003/87/EC precludes operators who have not surrendered, by 30 April of the current year, the carbon dioxide equivalent allowances equal to their emissions for the preceding year, from avoiding the imposition of a penalty for the excess emissions for which it provides, even where they hold a sufficient number of allowances on that date. **Relevance:** this judgment is relevant for the Ukrainian law-makers as it clarifies the meaning of Articles 16 (3-4) of Directive 2003/87/EC. It can be used for approximation purposes, especially for domestic instruments supporting the application of Ukrainian legislation approximating with the directive in question.
Joined Cases C-566/11, C-567/11, C-580/11, C-591/11, C-620/11 and C-640/11 Iberdrola, SA and Others v Administración del Estado and Others	**Facts:** this was a reference for preliminary ruling submitted by *Tribunal Supremo* (Spain). It was submitted in course of proceedings between a number of electricity producers and the *Administración del Estado* (the national administration) concerning the reduction in the remuneration for electricity production (see further paras. 19-23 of the judgment). In course of these proceedings the Spanish Supreme Court expressed doubts as to interpretation of Article 10 of Directive 2003/87/EC and referred a question to the Court of Justice. **Judgment:** Article 10 of Directive 2003/87/EC does not preclude application of national legislative measures the purpose and effect of which are to reduce remuneration for electricity production by an amount equal to the increase in such remuneration brought about through the incorporation, in the selling prices offered on the wholesale electricity market, of the value of the emission allowances allocated free of charge.

Case	Summary
	Relevance: this judgment is of general relevance for the Ukrainian authorities. It clarifies the room for maneuver available to the Member States under Directive 2003/87/EC, in particular Article 10.

14.2.25. Regulation 842/2006 on certain fluorinated greenhouse gases

Case	Summary
	No case-law as of 31 December 2017

14.2.26. Regulation (EC) 2037/2000 on substances that deplete the ozone layer

Case	Summary
	No case-law as of 31 December 2017

14.2.27. Directive 2001/18/EC of the European Parliament and of the Council on the deliberate release into environment of genetically modified organisms

Case	Summary
C-36/11 Pioneer Hi Bred Italia Srl v Ministero delle Politiche agricole alimentari e forestali	**Facts:** this was a reference for preliminary ruling submitted by *Consiglio di Stato* (Italy). It was submitted in course of proceedings between Pioneer Hi Bred Italia Srl and the Ministero delle Politiche agricole alimentari e forestali (Ministry of Agricultural, Food and Forestry Policies) concerning the legality of a note from the latter informing Pioneer that, pending the adoption by the regions of rules to ensure the coexistence of conventional, organic and genetically modified crops, it could not consider that company's application for authorisation to cultivate hybrids of genetically modified maize derived from MON 810 which were already listed in the common catalogue of varieties of agricultural plant species (see further paras. 43-53 of the judgment). **Judgment:** Court of Justice ruled, *inter alia*, that Article 26a of Directive 2001/18/EC does not entitle a Member State to prohibit in a general manner the cultivation on its territory of such genetically modified organisms pending the adoption of coexistence measures to avoid the unintended presence of genetically modified organisms in other crops.

Case	Summary
	Relevance: this judgment is of relevance for the Ukrainian authorities as it determines the room for maneuver of the Member States under Article 26a of Directive 2001/18/EC. It applies *mutatis mutandis* to Ukraine, hence this judgment should be taken into account when relevant provisions of national law are considered.
C-552/07 Commune de Sausheim v Pierre Azelvandre	**Facts:** this was a reference for preliminary ruling submitted by *Conseil d'État* (France). It was submitted in course of proceedings between Commune de Sausheim and Mr Azelvandre concerning the refusal to disclose to Mr Azelvandre prefectoral correspondence and planting records relating to deliberate test releases of genetically modified organisms (see further paras. 15-21 of the judgment). The French court hearing the case expressed doubts as to interpretation of EU law and proceeded with a reference for preliminary ruling to the Court of Justice (see para. 22 of the judgment). **Judgment:** the 'location of release', within the meaning of the first indent of Article 25(4) of Directive 2001/18/EC is determined by all the information relating to the location of the release submitted by the notifier to the competent authorities of the Member State on whose territory that release is to take place in the context of the procedures referred to in Articles 6, 7, 8, 13, 17, 20 or 23 of that Directive. Furthermore, an exception relating to the protection of public order or other interests protected by law cannot be relied on against the disclosure of the information set out in Article 25(4) of Directive 2001/18. **Relevance:** this judgment is of relevance for the Ukrainian authorities as it clarifies the interpretation of Directive 2001/18/EC and thus it should be taken into account when relevant provisions of national law are attended to.

14.2.28. Regulation No 1946/2003 of the European Parliament and of the Council of 15 July 2003 on transboundary movements of genetically modified organisms

Case	Summary
	No relevant case-law as of 31 December 2017

14.2.29. Directive 2009/41/EC of the European Parliament and of the Council of 6 May 2009 on the contained use of genetically modified micro-organisms

Case	Summary
	No relevant case-law as of 31 December 2017

Chapter 15 Transport

15.1. Lists of judgments

EU Legal Act	Jurisprudence
Council Directive 92/6/EEC of 10 February 1992 on the installation and use of speed limitation devices for certain categories of motor vehicles in the Community ,	- no relevant case-law as of 31 December 2017
Council Directive 96/53/EC of 25 July 1996 laying down for certain road vehicles circulating within the Community the maximum authorized dimensions in national and international traffic and the maximum authorized weights in international traffic	- no relevant case-law as of 31 December 2017
Directive 2009/40/EC of the European Parliament and of the Council of 6 May 2009 on roadworthiness tests for motor vehicles and their trailers (NOTE: this Directive is being replaced by Directive 2014/45/EU of the European Parliament and of the Council of 3 April 2014 on periodic roadworthiness tests for motor vehicles and their trailers and repealing Directive 2009/40/EC)	- no relevant case-law as of 31 December 2017
Council Directive 91/439/EEC of 29 July 1991 on driving licences (NOTE: this Directive has been replaced by Directive 2006/126/EC of the European Parliament and of the Council of 20 December 2006 on driving licences (Recast)	- C-195/16 Criminal proceedings against I, ECLI:EU:C:2017:815 - C-632/15 Costin Popescu v Guvernul României and Others, ECLI:EU:C:2017:303 - C-339/14 Criminal proceedings against Andreas Wittmann, ECLI:EU:C:2015:333 - C-664/13 VAS „Ceļu satiksmes drošības direkcija“ and Latvijas Republikas Satiksmes ministrija v Kaspars Nīmanis, ECLI:EU:C:2015:417 - C-260/13 Sevda Aykul v Land Baden-Württemberg, ECLI:EU:C:2015:257 - C-356/12 Wolfgang Glatzel v Freistaat Bayern, ECLI:EU:C:2014:350 - C-467/10 Criminal proceedings against Baris Akyüz, ECLI:EU:C:2012:112 - C-419/10 Wolfgang Hofmann v Freistaat Bayern, ECLI:EU:C:2012:240

EU Legal Act	Jurisprudence
	- C-224/10 Criminal proceedings against Leo Apelt, ECLI:EU:C:2011:655
Directive 2008/68/EC of the European Parliament and of the Council of 24 September 2008 on the inland transport of dangerous goods	- no relevant case-law as of 31 December 2017
Regulation (EC) No 561/2006 of the European Parliament and of the Council of 15 March 2006 on the harmonisation of certain social legislation relating to road transport	- C-102/16 Vaditrans BVBA v Belgische Staat, ECLI:EU:C:2017:1012 - C-325/15 Z.Š. and Others v X w G, ECLI:EU:C:2016:107 - C-501/14 EL-EM-2001 Ltd v Nemzeti Adó- és Vámhivatal Dél-alföldi Regionális Vám- és Pénzügyőri Főigazgatósága, ECLI:EU:C:2016:777 - C-287/14 Eurospeed Ltd v Szegedi Törvényszék, ECLI:EU:C:2016:420 - C-317/12 Criminal proceedings against Daniel Lundberg, ECLI:EU:C:2013:631 - C-222/12 A. Karuse AS v Politsei- ja Piirivalveamet, ECLI:EU:C:2014:142 - C-210/10 Márton Urbán v Vám- és Pénzügyőrség Észak-alföldi Regionális Parancsnoksága, ECLI:EU:C:2012:64 - C-554/09 Andreas Michael Seeger, ECLI:EU:C:2011:523 - C-388/09 Yellow Cab Verkehrsbetriebs GmbH v Landeshauptmann von Wien, ECLI:EU:C:2010:814
Council Regulation (EEC) 3821/85 of 20 December 1985 on recording equipment in road transport (NOTE: this Regulation has been repealed by Regulation (EU) No 165/2014 of the European Parliament and of the Council of 4 February 2014 on tachographs in road transport, repealing Council Regulation (EEC) No 3821/85 on recording equipment in road transport and amending Regulation (EC) No 561/2006 of the European Parliament and of the Council on the harmonisation of certain social legislation relating to road transport)	- C-501/14 EL-EM-2001 Ltd v Nemzeti Adó- és Vámhivatal Dél-alföldi Regionális Vám- és Pénzügyőri Főigazgatósága, ECLI:EU:C:2016:777 - C-287/14 Eurospeed Ltd v Szegedi Törvényszék, ECLI:EU:C:2016:420 - C-317/12 Criminal proceedings against Daniel Lundberg, ECLI:EU:C:2013:631 - C-210/10 Márton Urbán v Vám- és Pénzügyőrség Észak-alföldi Regionális Parancsnoksága, ECLI:EU:C:2012:64 - C-554/09 Andreas Michael Seeger, ECLI:EU:C:2011:523 - C-124/09 Smit Reizen BV v Minister van Verkeer en Waterstaat, ECLI:EU:C:2010:238 - C-128/04 Criminal proceedings against Annic Andréa Raemdonck and Raemdonck-Janssens BVBA, ECLI:EU:C:2005:188

EU Legal Act	Jurisprudence
	- Joined cases C-228/01 and C-289/01 Criminal proceedings against Jacques Bourrasse (C-228/01) and Jean-Marie Perchicot (C-289/01), and Union régionale syndicale des petits et moyens transporteurs du Sud-Ouest (Unostra Aquitaine) (C-228/01), Fédération générale des transports et de l'équipem, ECLI:EU:C:2002:646 - C-297/99 Criminal proceedings against Skills Motor Coaches Ltd, B.J. Farmer, C.J. Burley and B. Denman, ECLI:EU:C:2001:37
Directive 2006/22/EC of the European Parliament and of the Council of 15 March 2006 on minimum conditions for the implementation of Council Regulations (EEC) No 3820/85 and (EEC) No 3821/85 concerning social legislation relating to road transport activities	- No relevant case-law as of 31 December 2017
Regulation (EC) No 1071/2009 of the European Parliament and of the Council of 21 October 2009 establishing common rules concerning the conditions to be complied with to pursue the occupation of road transport operator	- No relevant case-law as of 31 December 2017
Directive 2002/15/EC of the European Parliament and of the Council of 11 March 2002 on the organisation of the working time of persons performing mobile road transport activities	- No relevant case-law as of 31 December 2017
Directive 2003/59/EC of the European Parliament and of the Council of 15 July 2003 on the initial qualification and periodic training of drivers of certain road vehicles for the carriage of goods or passengers, amending Council Regulation (EEC) 3820/85 and Council Directive 91/439/EEC	- C-447/15 Ivo Muladi v Krajský úřad Moravskoslezského kraj, ECLI:EU:C:2016:533
Directive 99/62/EC on the charging of heavy goods vehicles for the use of certain infrastructures	- Joined Cases C-497/15 and C-498/15, Euro-Team Kft. and Spirál-Gép Kft v Budapest Rendőrfőkapitánya, ECLI identifier: ECLI:EU:C:2017:229 - C-18/08 Foselev Sud-Ouest SARL v Administration des douanes et droits indirects, ECLI:EU:C:2008:647

EU Legal Act	Jurisprudence
	- C-157/02 Rieser Internationale Transporte GmbH v Autobahnen- und Schnellstraßen-Finanzierungs- AG (Asfinag), ECLI:EU:C:2004:76
Council Directive 91/440/EEC of 29 July 1991 on the development of the Community's railways (NOTE: this Directive has been repealed by Directive 2012/34/EU of the European Parliament and of the Council of 21 November 2012 establishing a single European railway area)	No relevant case-law as of 31 December 2017
Council Directive 95/18/EC of 19 June 1995 on the licensing of railway undertakings (NOTE: this Directive has been repealed by Directive 2012/34/EU of the European Parliament and of the Council of 21 November 2012 establishing a single European railway area)	No relevant case-law as of 31 December 2017
Directive 2001/14/EC of the European Parliament and of the Council of 26 February 2001 on the allocation of railway infrastructure capacity and the levying of charges for the use of railway infrastructure and safety certification (NOTE: this Directive has been repealed by Directive 2012/34/EU of the European Parliament and of the Council of 21 November 2012 establishing a single European railway area)	- C-489/15 CTL Logistics GmbH v DB Netz AG, ECLI:EU:C:2017:834 - C-136/11 Westbahn Management GmbH v ÖBB-Infrastruktur AG, ECLI:EU:C:2012:740
Regulation (EU) 913/2010 of the European Parliament and of the Council of 22 September 2010 concerning a European rail network for competitive freight	No relevant case-law as of 31 December 2017
Directive 2004/49/EC of the European Parliament and of the Council of 29 April 2004 on safety on the Community's railways and amending Council Directive 95/18/EC on the licensing of railway undertakings and Directive 2001/14/EC on the allocation of railway infrastructure capacity and the levying of charges for the use of railway infrastructure and safety certification (Railway Safety Directive) (NOTE: this Directive will be replaced as of 2020 by Directive (EU) 2016/798 of the European Parliament and of the Council of 11 May 2016 on railway safety)	No relevant case-law as of 31 December 2017

EU Legal Act	Jurisprudence
Directive 2007/59/EC of the European Parliament and of the Council of 23 October 2007 on the certification of train drivers operating locomotives and trains on the railway system in the Community	No relevant case-law as of 31 December 2017
Directive 2008/68/EC of the European Parliament and of the Council of 24 September 2008 on the inland transport of dangerous goods	No relevant case-law as of 31 December 2017
Regulation (EEC) 1192/69 of the Council of 26 June 1969 on common rules for the normalisation of the accounts of railway undertakings (NOTE: this Regulation has been repealed by Regulation (EU) 2016/2337 of the European Parliament and of the Council of 14 December 2016 repealing Regulation (EEC) No 1192/69 of the Council on common rules for the normalisation of the accounts of railway undertakings)	No relevant case-law as of 31 December 2017
Directive 2008/57/EC of the European Parliament and of the Council of 17 June 2008 on the interoperability of the rail system within the Community (NOTE: as of 2020 this Directive will be repealed by Directive (EU) 2016/798 of the European Parliament and of the Council of 11 May 2016 on railway safety)	No relevant case-law as of 31 December 2017
Council Directive 92/106/EEC of 7 December 1992 on the establishment of common rules for certain types of combined transport of goods between Member States	- C-96/94 Centro Servizi Spediporto Srl v Spedizioni Marittima del Golfo Srl, ECLI:EU:C:1995:308
Regulation (EC) 1370/2007 of the European Parliament and of the Council of 23 October 2007 on public passenger transport services by rail and by road	- C-292/15 Hörmann Reisen GmbH v Stadt Augsburg and Landkreis Augsburg, ECLI:EU:C:2016:817
Regulation (EC) 1371/2007 of the European Parliament and of the Council of 23 October 2007 on rail passengers' rights and obligations	- C-261/15 Nationale Maatschappij der Belgische Spoorwegen NV v Gregory Demey, ECLI:EU:C:2016:709 - C-509/11 ÖBB-Personenverkehr AG, ECLI:EU:C:2013:613 - C-136/11 Westbahn Management GmbH v ÖBB-Infrastruktur AG, ECLI:EU:C:2012:740

EU Legal Act	Jurisprudence
Directive 2009/15/EC of the European Parliament and of the Council of 23 April 2009 on common rules and standards for ship inspection and survey organisations and for the relevant activities of maritime administrations	No case-law as of 31 December 2017
Regulation (EC) No 391/2009 of the European Parliament and of the Council of 23 April 2009 on common rules and standards for ship inspection and survey organisations	No case-law as of 31 December 2017
Directive 2009/21/EC of the European Parliament and of the Council of 23 April 2009 on compliance with flag State requirements	No case-law as of 31 December 2017
Directive 2009/16/EC of the European Parliament and of the Council of 23 April 2009 on port State control	No case-law as of 31 December 2017
Regulation (EC) No 336/2006 of the European Parliament and of the Council of 15 February 2006 on the imple-mentation of the International Safety Management Code within the Community	No case-law as of 31 December 2017
Regulation (EC) No 392/2009 of the European Parliament and of the Council of 23 April 2009 on the liability of carriers of passengers by sea in the event of accidents	No relevant case-law as of 31 December 2017
Directive 2002/59/EC of the European Parliament and of the Council of 27 June 2002 establishing a Community vessel traffic monitoring and information system	No relevant case-law as of 31 December 2017
Directive 2009/45/EC of the European Parliament and of the Council of 6 May 2009 on safety rules and standards for passenger ships	No relevant case-law as of 31 December 2017
Directive 2008/106 on the minimum level of training of seafarers	No relevant case-law as of 31 December 2017

EU Legal Act	Jurisprudence
Council Directive (EC) No 96/75 on the systems of chartering and pricing in national and international inland waterway transport in the Community	- C-92/15 Sven Mathys v De Grave Antverpia NV, ECLI:EU:C:2016:761
Council Directive (EEC) No 87/540 on access to the occupation of carrier of goods by waterway in national and international transport and on the mutual recognition of diplomas, certificates and other evidence of formal qualifi-cations for this occupation	No relevant case-law as of 31 December 2017
Council Directive 96/50/EC on the harmonization of the conditions for obtaining national boat masters' certificates for the carriage of goods and passengers by inland waterway in the Community (NOTE this Directive will be repealed by Directive (EU) 2017/2397 of the European Parliament and of the Council of 12 December 2017 on the recognition of professional qualifications in inland navigation and repealing Council Directives 91/672/EEC and 96/50/EC)	No relevant case-law as of 31 December 2017
Directive 2006/87/EC of the European Parliament and of the Council of 12 December 2006 laying down technical requirements for inland waterway vessels (NOTE this Directive has been replaced by Directive (EU) 2016/1629 of the European Parliament and of the Council of 14 September 2016 laying down technical requirements for inland waterway vessels, amending Directive 2009/100/EC and repealing Directive 2006/87/EC)	No relevant case-law as of 31 December 2017
Directive 2008/68/EC of the European Parliament and of the Council of 24 September 2008 on the inland transport of dangerous goods	No relevant case-law as of 31 December 2017
Directive 2005/44/EC of the European Parliament and of the Council of 7 September 2005 on harmonised river information services (RIS) on inland waterways in the Community	No relevant case-law as of 31 December 2017

15.2. Summaries of selected judgments

15.2.1. Directive 92/6/EEC on the installation and use of speed limitation devices for certain categories of motor vehicles in the Community

Case	Summary
	No case-law as of 31 December 2017

15.2.2. Directive 96/53/EC laying down for certain road vehicles circulating within the Community the maximum authorized dimensions in national and international traffic and the maximum authorized weights in international traffic

Case	Summary
	No case-law as of 31 December 2017

15.2.3. Directive 2009/40/EC on roadworthiness tests for motor vehicles and their trailers

Case	Summary
	No case-law as of 31 December 2017

15.2.4. Directive 91/439/EEC on driving licences

Case	Summary
	No relevant case-law as of 31 December 2017

15.2.5. Directive 2008/68/EC of the European Parliament and of the Council of 24 September 2008 on the inland transport of dangerous goods

Case	Summary
	No case-law as of 31 December 2017

15.2.6. Regulation (EC) No 561/2006 on the harmonisation of certain social legislation relating to road transport

Case	Summary
C-325/15 Z.Ś. and Others v X w G	**Facts:** this was a reference for preliminary ruling submitted by Sąd Rejonowy dla Wrocławia-Śródmieścia we Wrocławiu (District Court, Wrocław-Śródmieście, Wrocław, Poland) in course of proceedings between Ś, M. and P., who are drivers of motor vehicles engaged in international transport and X, their former employer, concerning X's refusal to pay certain allowances as consideration for nights spent in their vehicle (paras. 10-13 of the judgment). The referring court expressed doubts as to interpretation of Regulation 561/2006 and proceeded with a reference for preliminary ruling to the Court of Justice (see para. 14 of the judgment). **Judgment:** Court of Justice held that Regulation 561/2006, in particular Article 8(8) thereof does not preclude national legislation which lays down the conditions under which the driver of a vehicle may claim reimbursement of accommodation costs incurred in the course of his employment. **Relevance:** this judgment should be taken into account by the relevant Ukrainian authorities, which are in charge of approximation of domestic legislation with EU transport *acquis*. It sheds light on powers of the domestic authorities to adopt domestic rules in the area of road transport.
C-501/14 EL-EM-2001 Ltd v Nemzeti Adó- és Vámhivatal Dél-alföldi Regionális Vám- és Pénzügyőri Főigazgatósága	**Facts:** this was a reference for preliminary ruling submitted by Szegedi közigazgatási és munkaügyi bíróság (Administrative and Labour Court, Szeged, Hungary) in course of proceedings between EL-EM-2001 Ltd and the Nemzeti Adó- és Vámhivatal Dél-alföldi Regionális Vám- és Pénzügyőri Főigazgatósága (Regional Directorate General of Customs and Finance, Dél-Alföld, Hungary) concerning the immobilisation of a heavy goods vehicle owned and operated by EL-EM-2001 in order to guarantee payment of a fine imposed on the driver of that vehicle who was then employed by that company (see further paras. 13-18 of the judgment). The national court had doubts as to interpretation of Article 19(1) of Regulation 561/2006 and therefore decided to proceed with a reference for preliminary ruling to the Court of Justice (see para. 19 of the judgment). **Judgment:** Court of Justice held that Regulation 561/2006 precludes national legislation which authorises, as a precautionary measure, the immobilisation of a vehicle owned by a transport undertaking in a situation where, firstly, the driver of that vehicle, employed by the undertaking, drove it in breach of the provisions of Council Regulation (EEC) No 3821/85 of 20 December 1985 on recording equipment in road transport and, secondly, the competent national authority did not establish the liability of that undertaking, since such a precautionary measure does not meet the requirements of the principle of proportionality.

Case	Summary
	Relevance: this is an important judgment that should be taken into account when the Ukrainian authorities approximate domestic legislation with the Regulation in question.
C-287/14 Eurospeed Ltd v Szegedi Törvényszék	**Facts:** this was a reference for preliminary ruling submitted by *Gyulai törvényszék* (Regional Court, Gyula, Hungary) in course of proceedings between Eurospeed Ltd and the Szegedi törvényszék (Regional Court, Szeged, Hungary) concerning compensation for the damage resulting from fines imposed by that court on three of Eurospeed's employees, to whose rights that company is subrogated, for infringements of obligations under Regulation No 561/2006 (see further paras. 15-26 of the judgment). **Judgment:** Regulation 561/2006 does not preclude national legislation which, instead of or in addition to the transport undertaking employing the driver, holds the driver liable for infringements of that regulation which he has himself committed. **Relevance:** this judgment is of relevance for the Ukrainian law-makers in charge of the transport area. It clarifies what kind of room for maneuver the domestic legislators have when approximating with Regulation 561/2006.
C-317/12 Criminal proceedings against Daniel Lundberg	**Facts:** the reference for preliminary ruling was submitted by *Svea hovrätt* (Sweden) in course of criminal proceedings against Mr Lundberg for infringement of the obligation to install and use an approved tachograph in a heavy goods vehicle (see further paras. 8-13 of the judgment). The referring court asked the Court of Justice for interpretation of the term "non-commercial carriage of goods" laid down in Article 3(h) of Regulation No 561/2006. **Judgment:** The concept of "non-commercial carriage of goods" laid down in Article 3(h) of Regulation (EC) No 561/2006 covers the carriage of goods by a private individual for his own purposes purely as part of his hobby where that hobby is in part financed by financial contributions from external persons or undertakings and where no payment is made for that carriage *per se*. **Relevance:** this judgment clarifies the meaning of the term "non-commercial carriage of goods" and for that reason it should remain on the radars of the Ukrainian authorities. It could be used for approximation of Ukrainian law with Regulation 561/2006.
C-222/12 A. Karuse AS v Politsei- ja Piirivalveamet	**Facts:** this was a reference for preliminary ruling submitted *Tartu ringkonnakohus* (Estonia) in course of proceedings between A. Karuse AS and the Politsei- ja Piirivalveamet (Lõuna Politseiprefektuur) (public order department, Southern Prefecture of Police) concerning the decision of a public official to subject a vehicle owned by that company and not equipped with a tachograph in accordance with the law to an extraordinary technical inspection (see further paras.

Case	Summary
	14-23). The Estonian Court expressed doubts and decided to proceed with a reference for preliminary ruling to the Court of Justice asking about interpretation of Article 13 of Regulation 561/2006 (see para. 24 for questions that were referred). **Judgment:** The concept of "vehicles used in connection with road maintenance", in Article 13(1)(h) of Regulation (EC) No 561/2006, which deals with vehicles can be exempted from the use of a tachograph, must be interpreted as meaning that it covers vehicles transporting material to a road maintenance works site, provided that the transport is wholly and exclusively connected with those works and constitutes an ancillary activity to them. **Relevance:** this is an important judgment which clarifies the meaning of one of the terms used in Regulation 561/2005. Bearing this in mind it should be taken into account by the Ukrainian authorities in charge of approximation with this legal act.
C-210/10 Márton Urbán v Vám- és Pénzügyőrség Észak-alföldi Regionális Parancsnoksága	**Facts:** this was a reference for preliminary ruling submitted by *Hajdú-Bihar Megyei Bíróság* (Hungary) in course of proceedings between Mr Urbán and the Vám- és Pénzügyőrség Észak-alföldi Regionális Parancsnoksága (Észak-Alföld Regional Customs and Finance Headquarters) concerning the imposition of a fine for non-compliance with the provisions governing the use of record sheets for recording equipment in the heavy goods vehicle driven by the applicant in the main proceedings. The key question was the compatibility of the Hungarian provisions providing sanctions for breaches of Regulation 561/2006 (see further paras. 13-17 of the judgment). Judgment: the requirement of proportionality laid down in Article 19(1) and (4) of Regulation (EC) No 561/2006 must be interpreted as precluding a system of penalties, such as that introduced by Government Decree No 57/2007 fixing the amount of fines for breaches of certain provisions concerning the transport by road of goods and persons, which provides for the imposition of a flat-rate fine for all breaches, no matter how serious, of the rules on the use of record sheets laid down in Articles 13 to 16 of Council Regulation (EEC) No 3821/85 of 20 December 1985 on recording equipment in road transport. Furthermore, the requirement of proportionality laid down in Article 19(1) and (4) of Regulation No 561/2006 must be interpreted as not precluding a system of penalties, such as that introduced by Government Decree No 57/2007 of 31 March 2007 fixing the amount of fines for breaches of certain provisions concerning the transport by road of goods and persons, which lays down strict liability. By contrast, that requirement must be interpreted as precluding the severity of the penalty provided for by that system.

Case	Summary
	Relevance: this judgment is of great relevance for the Ukrainian authorities. Traditionally sanctions for breaches of EU law are provided in national law and they vary from one jurisdiction to another. This judgment demonstrates where the domestic legislator has to find the balance between severity of penalty and proportionality.

15.2.7. Regulation (EEC) 3821/85 on recording equipment in road transport

Case	Summary
	No case-law as of 31 December 2017

15.2.8. Directive 2006/22/EC oon minimum conditions for the implementation of Council Regulations (EEC) No 3820/85 and (EEC) No 3821/85 concerning social legislation relating to road transport activities

Case	Summary
	No case-law as of 31 December 2017

15.2.9. Regulation (EC) No 1071/2009 establishing common rules concerning the conditions to be complied with to pursue the occupation of road transport operator

Case	Summary
	No case-law as of 31 December 2017

15.2.10. Directive 2002/15/EC on the organisation of the working time of persons performing mobile road transport activities

Case	Summary
	No case-law as of 31 December 2017

15.2.11. Directive 2003/59/EC on the initial qualification and periodic training of drivers of certain road vehicles for the carriage of goods or passengers, amending Council Regulation (EEC) 3820/85 and Council Directive 91/439/EEC

Case	Summary

C-447/15 Ivo Muladi v Krajský úřad Moravskoslezského kraj	**Facts:** this was a reference for preliminary ruling submitted by *Krajský soud v Ostravě* (Regional Court, Ostrava, Czech Republic) in course of proceedings between Mr Ivo Muladi and the Krajský úřad Moravskoslezského kraje concerning the issue of a driver's professional competence card (see further paras. 20-30 of the judgment). The Hungarian court wished to learn if Article 4 of Directive 2003/59 precludes national legislation which imposes additional conditions for exemption from the requirement on drivers of certain road vehicles for the carriage of goods or passengers to obtain an initial qualification? **Judgment:** Article 4 of Directive 2003/59/EC does not preclude national legislation, such as that at issue in the main proceedings, under which, before the driving activity in question may be carried out, periodic training of 35 hours duration has to be completed by persons who are exempted, under Article 4, from the requirement that drivers of certain road vehicles for the carriage of goods or passengers obtain an initial qualification. **Relevance:** this judgment is of relevance for the Ukrainian law-makers in charge of this Directive. It sheds light on interpretation of Article 4 and should be taken into account when domestic provisions are drafted/amended.

15.2.12. Directive 99/62/EC on the charging of heavy goods vehicles for the use of certain infrastructures

Case	Summary
	No relevant case-law as of 31 December 2017

15.2.13. Directive 91/440/EEC on the development of the Community's railways

Case	Summary
	No case-law as of 31 December 2017

15.2.14. Directive 95/18/EC on the licensing of railway undertakings

Case	Summary
	No case-law as of 31 December 2017

15.2.15. Directive 2001/14/EC on the allocation of railway infrastructure capacity and the levying of charges for the use of railway infrastructure and safety certification

Case	Summary
C-489/15 CTL Logistics GmbH v. DB Netz AG	**Facts:** This was a reference for preliminary ruling submitted by Landgericht Berlin (Regional Court, Berlin, Germany). It was submitted in course of proceedings between CTL Logistics GmbH and DB Netz AG concerning the reimbursement of cancellation and modification charges in connection with the use of the rail infrastructure managed by DB Netz (see further paras. 24-32 of the judgment). The referring court expressed doubts as to interpretation of Directive 2001/14/EC and submitted 7 questions to the Court of Justice. **Judgment:** The provisions of Directive 2001/14/EC, in particular Article 4(5) and Article 30(1), (3), (5) and (6) of that Directive, must be interpreted as meaning that they preclude the application of national legislation, such as that at issue in the main proceedings, which provides for a review of the equity of charges for the use of railway infrastructure, on a case-by-case basis, by the ordinary courts and the possibility, if necessary, of amending the amount of those charges, independently of the monitoring carried out by the regulatory body provided for in Article 30 of Directive 2001/14, as amended by Directive 2004/49. **Relevance:** this is the first judgment of the Court of Justice dealing with Directive 2001/14/EC. It provides an important clarification as to room manoeuvre left in the hands of the Member States. It is notable that the Court of Justice ruled that the German law in question was incompatible with Directive 2001/14/EC.

15.2.16. Regulation (EU) 913/2010 concerning a European rail network for competitive freight

Case	Summary
	No case-law as of December 2017

15.2.17. Directive 2004/49/EC on safety on the Community's railways and amending Council Directive 95/18/EC on the licensing of railway undertakings and Directive 2001/14/EC on the allocation of railway infrastructure capacity and the levying of charges for the use of railway infrastructure and safety certification (Railway Safety Directive)

Case	Summary
	No case-law as of 31 December 2017

15.2.18. Directive 2007/59/EC on the certification of train drivers operating locomotives and trains on the railway system in the Community

Case	Summary
	No case-law as of 31 December 2017

16.2.19. Directive 2008/68/EC on the inland transport of dangerous goods

Case	Summary
	No case-law as of 31 December 2017

15.2.20. Regulation (EEC) 1192/69 of the Council of 26 June 1969 on common rules for the normalisation of the accounts of railway undertakings

Case	Summary
	No case-law as of 31 December 2017

15.2.21. Directive 2008/57/EC of the European Parliament and of the Council of 17 June 2008 on the interoperability of the rail system within the Community

Case	Summary
	No case-law as of 31 December 2017

15.2.22. Directive 92/106/EEC on the establishment of common rules for certain types of combined transport of goods between Member States

Case	Summary
	No relevant case-law as of 31 December 2017

15.2.23. Regulation (EC) 1370/2007 on public passenger transport services by rail and by road

Case	Summary
C-292/15 Hörmann Reisen GmbH v Stadt	**Facts:** this reference for preliminary ruling was submitted by *Vergabekammer Südbayern* (Public Procurement Board for Southern Bavaria, Germany) in course of proceedings between Hörmann Reisen GmbH, on the one hand, and Stadt

Case	Summary
Augsburg and Landkreis Augsburg	Augsburg (the City of Augsburg, Germany) and Landkreis Augsburg (the district authority of Augsburg) (together 'the contracting authorities'), on the other, concerning the lawfulness of a call for tenders relating to public passenger transport services by bus. See further for facts paras. 22-26 of the judgment. The referring court proceeded with several questions to the Court of Justice with the view of determining the scope of application of Regulation 1370/2007 and its relationship with the EU public procurement directives (see para. 27 of the judgment). **Judgment:** Article 5(1) of Regulation (EC) No 1370/2007 means that, in a contract award procedure for public passenger transport services by bus, Article 4(7) of that regulation remains applicable to that contract. Furthermore, Article 4(7) of Regulation No 1370/2007 must be interpreted as meaning that it does not preclude the contracting authority from setting at 70% the proportion of self-provision by the operator responsible for the administration and performance of a contract for public passenger transport by bus, such as that at issue in the main proceedings. **Relevance:** this judgment is of relevance for the Ukrainian authorities in charge of the transport area. It clarifies an important intersection between this Regulation and EU secondary legislation governing the public procurement procedures. It should be taken into account when the Ukrainian authorities proceed with approximation of domestic law with the Regulation in question.

15.2.24. Regulation (EC) 1371/2007 on rail passengers' rights and obligations

Case	Summary
C-509/11 ÖBB-Personenverkehr AG	**Facts:** this was a reference for preliminary ruling submitted by *Verwaltungsgerichtshof* (Austria) in course of proceedings between ÖBB-Personenverkehr AG against the decision of the Schienen-Control Kommission (Rail Network Control Commission) of 6 December 2010 relating to the terms governing compensation payable to rail passengers by ÖBB-Personenverkehr (see further paras. 21-26 of the judgment). The referring court asked the Court of Justice two questions on interpretation of Regulation 1371/2007 (see para. 27 of the judgment). **Judgment:** The first subparagraph of Article 30(1) of Regulation (EC) No 1371/2007 means that the national body responsible for the enforcement of that Regulation may not, in the absence of any national provision to that effect, impose upon a railway undertaking whose compensation terms do not meet the criteria set out at Article 17 of that Regulation the specific content of those terms. Furthermore, Article 17 of Regulation No 1371/2007 means that a railway undertaking is not entitled to include in its general terms and conditions of carriage a clause under which it is

Case	Summary
	exempt from its obligation to pay compensation in the event of a delay where the delay is attributable to force majeure or to one of the reasons set out at Article 32(2) of the Uniform Rules concerning the Contract for International Carriage of Passengers and Luggage by Rail of the Convention concerning International Carriage by Rail of 9 May 1980, as amended by the Vilnius Protocol of 3 June 1999. **Relevance:** this judgment should be taken into account by the Ukrainian authorities when they approximate domestic transport law with this piece of EU *acquis*. It provides a clarification as to interpretation of several provisions laid down therein.
C-136/11 Westbahn Management GmbH v ÖBB-Infrastruktur AG	**Facts:** this was a reference for preliminary ruling submitted by Schienen-Control Kommission (Austria) in course of proceedings between Westbahn Management GmbH and ÖBB-Infrastruktur AG concerning the refusal of ÖBB-Infrastruktur to provide Westbahn Management with real time data relating to other railway undertakings which would allow Westbahn Management to inform its passengers of the actual departure times of connecting trains (see further paras. 17-24 of the judgment). **Judgment:** Article 8(2) of, in conjunction with Part II of Annex II to, Regulation (EC) No 1371/2007 provides that the information on main connecting services must, in addition to scheduled departure times, also include delays to or cancellations of those connecting services, whichever railway undertaking operates them. Furthermore, Article 8(2) of, in conjunction with Part II of Annex II to, Regulation No 1371/2007 and Article 5 of, in conjunction with Annex II to, Directive 2001/14/EC of the European Parliament and of the Council of 26 February 2001 on the allocation of railway infrastructure capacity and the levying of charges for the use of railway infrastructure provides that the infrastructure manager is required to make available to railway undertakings, in a non-discriminatory manner, real time data relating to trains operated by other railway undertakings, in so far as those trains constitute main connecting services within the meaning of Part II of Annex II to Regulation No 1371/2007. **Relevance:** this is the first judgment on interpretation of Regulation 1371/2007 and provides important information as to the meaning of Article 8(2) of it. It should remain on the radars of the Ukrainian law-makers in charge of approximation with this Regulation and, perhaps, could be used for drafting of domestic provisions.

15.2.25. Directive 2009/15/EC of the European Parliament and of the Council of 23 April 2009 on common rules and standards for ship inspection and survey organisations and for the relevant activities of maritime administrations

Case	Summary
	No case-law as of 31 December 2017

15.2.26. Regulation (EC) No 391/2009 on common rules and standards for ship inspection and survey organisations

Case	Summary
	No case-law as of 31 December 2017

15.2.27. Directive 2009/21/EC on compliance with flag State requirements

Case	Summary
	No case-law as of 31 December 2017

15.2.28. Directive 2009/16/EC on port State control

Case	Summary
	No case-law as of 31 December 2017

15.2.29. Regulation (EC) No 336/2006 on the implementation of the International Safety Management Code within the Community

Case	Summary
	No case-law as of 31 December 2017

15.2.30. Regulation (EC) No 392/2009 on the liability of carriers of passengers by sea in the event of accidents

Case	Summary
	No case-law as of 31 December 2017

15.2.31. Directive 2002/59/EC establishing a Community vessel traffic monitoring and information system

Case	Summary

	No case-law as of 31 December 2017

15.2.32. Directive 2009/45/EC on safety rules and standards for passenger ships

Case	Summary
	No case-law as of 31 December 2017

15.2.33. Directive 2008/106 on the minimum level of training of seafarers

Case	Summary
	No case-law as of 31 December 2017

15.2.34. Directive (EC) No 96/75 on the systems of chartering and pricing in national and international inland waterway transport in the Community

Case	Summary
	No case-law as of 31 December 2017

15.2.35. Directive (EEC) No 87/540 on access to the occupation of carrier of goods by waterway in national and international transport and on the mutual recognition of diplomas, certificates and other evidence of formal qualifi-cations for this occupation

Case	Summary
	No case-law as of 31 December 2017

15.2.36. Council Directive 96/50/EC on the harmonization of the conditions for obtaining national boat masters' certificates for the carriage of goods and passengers by inland waterway in the Community

Case	Summary
	No case-law as of 31 December 2017

15.2.37. Directive 2006/87/EC laying down technical requirements for inland waterway vessels

Case	Summary
	No case-law as of 31 December 2017

15.2.38. Directive 2008/68/EC on the inland transport of dangerous goods

Case	Summary
	No case-law as of 31 December 2017

15.2.39. Directive 2005/44/EC on harmonised river information services (RIS) on inland waterways in the Community

Case	Summary
	No case-law as of 31 December 2017

Chapter 16 Company law

16.1. List of judgments

EU Legal Act	Jurisprudence
First Council Directive 68/151/EEC of 9 March 1968, as amended by Directive 2003/58 on co-ordination of safeguards which, for the protection of the interests of members and others, are required by Member States of companies within the meaning of the second paragraph of Article 58 of the Treaty, with a view to making such safeguards equivalent throughout the Community (NOTE: repealed by Directive 2009/101/EC of the European Parliament and of the Council of 16 September 2009 on coordination of safeguards which, for the protection of the interests of members and third parties, are required by Member States of companies within the meaning of the second paragraph of Article 48 of the Treaty, with a view to making such safeguards equivalent)	- C-174/12 Alfred Hirmann v Immofinanz AG, ECLI:EU:C:2013:856
Second Council Directive 77/91/EEC of 13 December 1976, as amended by Directives 92/101/EEC and 2006/68/EC on co-ordination of safeguards which, for the protection of the interests of members and others, are required by Member States of companies within the meaning of the second paragraph of Article 58 of the Treaty, in respect of the formation of public limited liability companies and the maintenance and alteration of their capital, with a view to making such safeguards equivalent (NOTE: this Directive has been replaced by Directive 2012/30/EU of the European Parliament and of the Council of 25 October 2012 on coordination of safeguards which, for the protection of the interests of members and others, are required by Member States of companies within the meaning of the second paragraph of Article 54 of the Treaty on the Functioning of the European Union, in respect of the formation of public limited liability	- C-41/15 Gerard Dowling and Others v Minister for Finance, ECLI:EU:C:2016:836 - C-174/12 Alfred Hirmann v Immofinanz AG, ECLI:EU:C:2013:856 - C-338/06 Commission of the European Communities v Kingdom of Spain, ECLI:EU:C:2008:740 - C-373/97 Dionysios Diamantis v Elliniko Dimosio (Greek State) and Organismos Ikonomikis Anasygkrotisis Epicheiriseon AE (OAE), ECLI:EU:C:2000:150 - C-367/96 Alexandros Kefalas and Others v Elliniko Dimosio (Greek State) and Organismos Oikonomikis Anasygkrotisis Epicheiriseon AE (OAE), ECLI:EU:C:1998:222

EU Legal Act	Jurisprudence
companies and the maintenance and alteration of their capital, with a view to making such safeguards equivalent and then subsequently by Directive (EU) 2017/1132 of the European Parliament and of the Council of 14 June 2017 relating to certain aspects of company law)	
Third Council Directive 78/855/EEC of 9 October 1978 based on Article 54 (3) (g) of the Treaty concerning mergers of public limited liability companies, as amended by Directive 2007/63/EC (NOTE: repealed by Directive 2011/35/EU of the European Parliament and of the Council of 5 April 2011 concerning mergers of public limited liability companies)	- C-343/13 Modelo Continente Hipermercados SA v Autoridade Para As Condições de Trabalho - Centro Local do Lis (ACT), ECLI:EU:C:2015:146 - C-483/14 KA Finanz AG v Sparkassen Versicherung AG Vienna Insurance Group, ECLI:EU:C:2016:205
Sixth Council Directive 82/891/EEC of 17 December 1982 based on Article 54 (3) (g) of the Treaty, concerning the division of public limited liability companies, as amended by Directive 2007/63/EC (NOTE: this Directive has been repealed by Directive (EU) 2017/1132 of the European Parliament and of the Council of 14 June 2017 relating to certain aspects of company law)	No relevant case-law as of 31 December 2017
Eleventh Council Directive 89/666/EEC of 21 December 1989 concerning disclosure requirements in respect of branches opened in a Member State by certain types of company governed by the law of another State (NOTE: this Directive has been repealed by Directive (EU) 2017/1132 of the European Parliament and of the Council of 14 June 2017 relating to certain aspects of company law)	- C-167/01 Kamer van Koophandel en Fabrieken voor Amsterdam v Inspire Art Ltd, ECLI:EU:C:2003:512 - C-418/11 Texdata Software GmbH, ECLI:EU:C:2013:588
Twelfth Council Law Directive 89/667/EEC of 21 December 1989 on single-member private limited-liability companies (NOTE: repealed by Directive 2009/102/EC of the European Parliament and of the Council of 16 September 2009 in the area of company law on single-member private limited liability companies)	- No relevant case-law as of 31 December 2017

EU Legal Act	Jurisprudence
Directive 2004/25/EC of the European Parliament and of the Council of 21 April 2004 on takeover bids	- No relevant case-law as of 31 July 2016
Directive 2004/109/EC of the European Parliament and of the Council of 15 December 2004 on the harmonisation of transparency requirements in relation to information about issuers whose securities are admitted to trading on a regulated market and amending Directive 2001/34/EC	- C-140/13 Annett Altmann and Others v Bundesanstalt für Finanzdienstleistungsaufsicht, ECLI:EU:C:2014:2362
Commission Directive 2007/14/EC of 8 March 2007 laying down detailed rules for the implementation of certain provisions of Directive 2004/109/EC on the harmonisation of transparency requirements in relation to information about issuers whose securities are admitted to trading on a regulated market	- No relevant case-law as of 31 December 2017
Directive 2007/36/EC of the European Parliament and of the Council of 11 July 2007 on the exercise of certain rights of shareholders in listed companies	- No relevant case-law as of 31 December 2017
Fourth Council Directive of 25 July 1978 based on Article 54(3)(g) of the Treaty on the annual accounts of certain types of companies (78/660/EEC) (NOTE: repealed by Directive 2013/34/EU of the European Parliament and of the Council of 26 June 2013 on the annual financial statements, consolidated financial statements and related reports of certain types of undertakings, amending Directive 2006/43/EC of the European Parliament and of the Council and repealing Council Directives 78/660/EEC and 83/349/EEC)	- Joined Cases C-444/16 and C-445/16 Immo Chiaradia SPRL and Docteur De Bruyne SPRL v État belge, ECLI:EU:C:2017:465 - C-322/12 État belge v GIMLE SA, ECLI:EU:C:2013:632 - C-528/12 Mömax Logistik GmbH v Bundesamt für Justiz, ECLI:EU:C:2014:51
Seventh Council Directive of 13 June 1983 based on the Article 54 (3) (g) of the Treaty on consolidated accounts (83/349/EEC) (NOTE: repealed by Directive 2013/34/EU of the European Parliament and of the Council of 26 June 2013 on the annual financial statements, consolidated financial statements and related reports of certain types of undertakings,	- No relevant case-law as of 31 December 2017

EU Legal Act	Jurisprudence
amending Directive 2006/43/EC of the European Parliament and of the Council and repealing Council Directives 78/660/EEC and 83/349/EEC)	
Regulation (EC) No 1606/2002 of the European Parliament and of the Council of 19 July 2002 on the application of international accounting standards	- No relevant case-law as of 31 December 2017
Directive 2006/43/EC of the European Parliament and of the Council of 17 May 2006 on statutory audits of annual accounts and consolidated accounts, amending Council Directives 78/660/EEC and 83/349/EEC and repealing Council Directive 84/253/EEC	- No relevant case-law as of 31 December 2017
Commission Recommendation of 14 December 2004 fostering an appropriate regime for the remuneration of directors of listed companies (2004/913/EC).	- No relevant case-law as of 31 December 2017
Commission Recommendation of 15 February 2005 on the role of non-executive or supervisory directors of listed companies and on the committees of the (supervisory) board (2005/162/EC)	- No relevant case-law as of 31 December 2017

16.2. Summaries of selected judgments

16.2.1. Directive 68/151/EEC (now Directive 2001/109 on coordination of safeguards which, for the protection of the interests of members and third parties, are required by Member States of companies within the meaning of the second paragraph of Article 48 of the Treaty, with a view to making such safeguards equivalent)

Case	Summary
	No relevant case-law as of 31 December 2017

16.2.2. Second Council Directive 77/91/EEC on coordination of safeguards which, for the protection of the interests of members and others, are required by Member States of companies within the meaning of the second paragraph of Article 58 of the Treaty, in respect of the formation of public limited liability companies and the maintenance and alteration of their capital, with a view to making such safeguards equivalent

Case	Summary
C-41/15 Gerard Dowling and Others v Minister for Finance	**Facts:** this was a reference for preliminary ruling submitted by High Court (Ireland) in course of proceedings between, on the one hand, Mr Gerard Dowling, Mr Padraig McManus, Mr Piotr Skoczylas and Scotchstone Capital Fund Limited and, on the other, the Minister for Finance, where the former seek the setting aside of the direction order made by the High Court on 26 July 2011, directing a company, of which the applicants in the main proceedings are members and shareholders, to increase its share capital and to issue, in favour of the Minister, new shares at a price lower than their nominal value (see paras. 19-31 of the judgment). **Judgment:** the Court of Justice held that Article 8(1) and Articles 25 and 29 of Directive 77/91/EEC must be interpreted as not precluding a measure, such as the Direction Order at issue in the main proceedings, adopted in a situation where there is a serious disturbance of the economy and the financial system of a Member State threatening the financial stability of the European Union, the effect of that measure being to increase the share capital of a public limited liability company, without the agreement of the general meeting of that company, new shares being issued at a price lower than their nominal value and the existing shareholders being denied any pre-emptive subscription right. **Relevance:** this judgment is of relevance for the Ukrainian law-makers as it sheds the light on powers of the Member States to adopt legislation like in the case at hand. It should be taken into account when relevant domestic measures are drafted with the aim to approximation of Ukrainian law with EU *acquis*.
C-174/12 Alfred Hirmann v Immofinanz AG	**Facts:** this was a reference for preliminary ruling submitted by *Handelsgericht Wien* (Austria) in course of proceedings between Mr Hirmann and Immofinanz AG concerning an application for the cancellation of an acquisition of shares in the latter. Mr Hirmann claimed that the referring court should cancel the contract for the purchase of the shares and award damages. To that end, he claimed, in particular, that Immofinanz should be ordered to pay a sum equivalent to the initial purchase price of the shares, together with interest, in exchange for the restoration of those shares to Immofinanz. According to Immofinanz, that claim is contrary to overriding principles of national and European Union law governing limited liability companies, in particular to the requirement that those companies should maintain their capital. If that company were held liable to Mr Hirmann that would amount to protecting one shareholder at the expense of all other shareholders and also of its creditors (see further paras. 16-20 of the judgment). **Judgment:** the Court of Justice held that Articles 12, 15, 16, 18, 19 and 42 of Directive 77/91/EEC must be interpreted as not precluding national legislation which, in the context of the transposition of: –Directive 2003/71/EC

Case	Summary
	–Directive 2004/109/EC –Directive 2003/6/EC first, provides that a public limited liability company, as an issuer of shares, may have a liability to a purchaser of shares in that company based on a breach of the information requirements laid down in those directives, and, secondly, imposes, under that liability, an obligation on the company concerned to repay to the purchaser a sum equivalent to the purchase price of the shares and to redeem those shares. Furthermore, they also means that liability established by the national legislation at issue is not necessarily restricted to the value of shares, calculated according to the price of those shares if the company is publicly listed, at the time when the claim is brought. **Relevance:** this judgment is definitely of relevance for the Ukrainian authorities as it clarifies the meaning and scope of Directive 77/91. Bearing this in mind, it should be taken into account when domestic legislation approximating the Ukrainian law with this Directive is drafted/adopted.
C-338/06 Commission of the European Communities v Kingdom of Spain	**Facts:** the European Commission submitted the application to the Court of Justice claiming that Spain has failed to fulfil its obligations under Articles 29 and 42 of Directive 77/91/EEC: – by allowing the general meeting of shareholders to approve the issue of new shares without pre-emptive subscription rights, at a price below their fair value; – by granting the right to pre-emptive subscription of shares in the event of a capital increase by consideration in cash, not only to shareholders, but also to holders of bonds convertible into shares; –by granting the right to pre-emptive subscription rights for bonds convertible into shares not only to shareholders, but also to holders of bonds convertible into shares pertaining to earlier issues, and – by failing to provide that the shareholders' meeting may decide to withdraw pre-emptive subscription rights for bonds convertible into shares (see further paras. 12-22 of the judgment). **Judgment:** the Court of Justice partly agreed with the applicant and ruled that Spain was indeed in breach of the Directive by: - by granting a pre-emption right in respect of shares in the event of a capital increase by consideration in cash, not only to shareholders, but also to holders of bonds convertible into shares; - by granting a pre-emption right in respect of bonds convertible into shares not only to shareholders, but also to holders of bonds convertible into shares pertaining to earlier issues; and

Case	Summary
	- by failing to provide that the shareholders' meeting may decide to withdraw pre-emption rights in respect of bonds convertible into shares (see further paras. 23-57). **Relevance:** this judgment is of relevance for the Ukrainian law-makers as it clarifies what the Member States are not permitted to provide in their domestic legislation. Thus it should be taken into account when Ukraine proceeds with approximation of its domestic law with Directive 77/91/EC.

16.2.3. Third Council Directive 78/855/EEC of 9 October 1978 based on Article 54 (3) (g) of the Treaty concerning mergers of public limited liability companies, as amended by Directive 2007/63/EC

Case	Summary
	No case-law as of 31 December 2017

16.2.4. Sixth Council Directive 82/891/EEC of 17 December 1982 based on Article 54 (3) (g) of the Treaty, concerning the division of public limited liability companies, as amended by Directive 2007/63/EC

Case	Summary
	No case-law as of 31 December 2017

16.2.5. Eleventh Council Directive 89/666/EEC concerning disclosure requirements in respect of branches opened in a Member State by certain types of company governed by the law of another State

Case	Summary
C-418/11 Texdata Software GmbH	**Facts:** this was a reference for preliminary ruling submitted by Oberlandesgericht Innsbruck (Austria) in course of proceedings submitted by Texdata Software GmbH, contesting the periodic penalties imposed on it by the Landesgericht Innsbruck (Regional Court, Innsbruck) for its breach of the obligation to submit its annual accounts to that court, which is responsible for maintaining the commercial register (for a detailed account of facts see paras. 17-24 of the judgment). The domestic court seized with the dispute decided to proceed with a reference for preliminary ruling in order to verify if Austrian rules on penalties imposed on companies for failure to submit annual accounts are compatible with EU law (see para. 25 of the judgment).

Case	Summary
	Judgment: Articles 49 TFEU and 54 TFEU, the principles of effective judicial protection and respect for the rights of the defence, and Article 12 of Eleventh Council Directive 89/666/EEC do not preclude national legislation, such as that at issue in the main proceedings, which provides that, where the statutory nine-month period for disclosing accounting documents is exceeded, a minimum periodic penalty of EUR 700 is to be imposed immediately on the capital company whose branch is located in the Member State concerned, without prior notice and without the company first being given an opportunity to state its views on the alleged breach of the disclosure obligation. **Relevance:** this judgment is of relevance for the Ukrainian law-makers as it sheds a light on domestic rules imposing sanctions for breaches of EU law. Traditionally this is the domain of the Member States as penalties are hardly ever regulated at EU level (see in particular paras. 48-61 of the judgment).

16.2.6. Twelfth Council Law Directive 89/667/EEC of 21 December 1989 on single-member private limited-liability companies (now: Directive 2009/102/EC in the area of company law on single-member private limited liability companies)

Case	Summary
	No case-law as of 31 December 2017

16.2.7. Directive 2004/25/EC on takeover bids

Case	Summary
	No case-law as of 31 December 2017

16.2.8. Directive 2004/109/EC on the harmonisation of transparency requirements in relation to information about issuers whose securities are admitted to trading on a regulated market and amending Directive 2001/34/EC

Case	Summary
C-140/13 Annett Altmann and Others v Bundesanstalt für Finanzdienstleistungsaufsicht	**Facts:** this was a reference for preliminary ruling submitted by Verwaltungsgericht Frankfurt am Main (Germany) in course of proceedings between a group of applicants and the Bundesanstalt für Finanzdienstleistungsaufsicht (Federal Office for the Supervision of Financial Services) concerning the latter's decision of 9 October 2012 refusing access to certain documents and information regarding Phoenix

Case	Summary
	Kapitaldienst GmbH Gesellschaft für die Durchführung und Vermittlung von Vermögensanlagen (see paras. 12-19). **Judgment:** Article 54(1) and (2) of Directive 2004/39/EC means that, in administrative proceedings, a national supervisory authority may rely on the obligation to maintain professional secrecy against a person who, in a case not covered by criminal law and not in a civil or commercial proceeding, requests it to grant access to information concerning an investment firm which is in judicial liquidation, even where that firm's main business model consisted in large scale fraud and wilful harming of investors' interests and several executives of that firm have been sentenced to terms of imprisonment. **Relevance:** this judgment is of relevance for the Ukrainian authorities as it provides useful interpretation of Article 54 (1-2) of Directive 2004/39. Thus, it should be taken into account when Ukraine proceeds with approximation of its domestic law with this piece of EU *acquis*.

16.2.9. Directive 2007/14/EC laying down detailed rules for the implementation of certain provisions of Directive 2004/109/EC on the harmonisation of transparency requirements in relation to information about issuers whose securities are admitted to trading on a regulated market

Case	Summary
	No case-law as of 31 December 2017

16.2.10. Directive 2007/36/EC on the exercise of certain rights of shareholders in listed companies

Case	Summary
	No case-law as of 31 December 2017

16.2.11. Fourth Council Directive based on Article 54(3)(g) of the Treaty on the annual accounts of certain types of companies (78/660/EEC) (now: Directive 2013/34/EU on the annual financial statements, consolidated financial statements and related reports of certain types of undertakings, amending Directive 2006/43/EC of the European Parliament and of the Council and repealing Council Directives 78/660/EEC and 83/349/EEC)

Case	Summary
	No case-law as of 31 December 2017

16.2.12. Seventh Council Directive of 13 June 1983 based on the Article 54 (3) (g) of the Treaty on consolidated accounts (83/349/EEC) (now: Directive 2013/34/EU of the European Parliament and of the Council of 26 June 2013 on the annual financial statements, consolidated financial statements and related reports of certain types of undertakings, amending Directive 2006/43/EC of the European Parliament and of the Council and repealing Council Directives 78/660/EEC and 83/349/EEC)

Case	Summary
	No case-law as of 31 December 2017

17.2.13. Regulation (EC) No 1606/2002 on the application of international accounting standards

Case	Summary
	No case-law as of 31 December 2017

16.2.14. Directive 2006/43/EC on statutory audits of annual accounts and consolidated accounts, amending Council Directives 78/660/EEC and 83/349/EEC and repealing Council Directive 84/253/EEC

Case	Summary
	No case-law as of 31 December 2017

16.2.15. Commission Recommendation fostering an appropriate regime for the remuneration of directors of listed companies (2004/913/EC)

Case	Summary
	No case-law as of 31 December 2017

16.2.16. Commission Recommendation of 15 February 2005 on the role of non-executive or supervisory directors of listed companies and on the committees of the (supervisory) board (2005/162/EC)

Case	Summary
	No case-law as of 31 December 2017

Chapter 17 Audiovisual policy

17.1. Lists of judgments

EU Legal Act	Jurisprudence
Directive 2007/65/EC of 11 December 2007 amending Council Directive 89/552/EEC on the co-ordination of certain provisions laid down by law, regulation or administrative action in Member States concerning the pursuit of television broadcasting activities and as repealed by Directive 2010/13/EU of the European Parliament and of the Council of 10 March 2010 on the coordination of certain provisions laid down by law, regulation or administrative action in Member States concerning the provision of audiovisual media services (NOTE: this Directive has been partly replaced by Directive 2010/13/EU of the European Parliament and of the Council of 10 March 2010 on the coordination of certain provisions laid down by law, regulation or administrative action in Member States concerning the provision of audiovisual media services)	- no case-law as of 31 December 2017

17.2. Summaries of selected judgments

17.2.1. Directive 2007/65/EC of 11 December 2007 amending Council Directive 89/552/EEC on the co-ordination of certain provisions laid down by law, regulation or administrative action in Member States concerning the pursuit of television broadcasting activities and as repealed by Directive 2010/13/EU of the European Parliament and of the Council of 10 March 2010 on the coordination of certain provisions laid down by law, regulation or administrative action in Member States concerning the provision of audiovisual media services

Case	Summary
	No case-law as of 31 December 2017

Chapter 18 Agriculture and rural policy

18.1. Lists of judgments

EU Legal Act	Jurisprudence
Council Regulation (EC) No 510/2006 of 20 March 2006 on the protection of geographical indications and designations of origin for agricultural products and foodstuffs (NOTE: this Regulation has been repealed by Regulation (EU) No 1151/2012 of the European Parliament and of the Council of 21 November 2012 on quality schemes for agricultural products and foodstuffs)	No relevant case-law as of 31 December 2017
Commission Regulation (EC) No 1898/2006 of 14 December 2006 laying down detailed rules of implementation of Council Regulation (EC) No 510/2006 on the protection of geographical indications and designations of origin for agricultural products and foodstuffs (NOTE: this Regulation has been replaced by Commission Delegated Regulation (EU) No 664/2014 of 18 December 2013 supplementing Regulation (EU) No 1151/2012 of the European Parliament and of the Council with regard to the establishment of the Union symbols for protected designations of origin, protected geographical indications and traditional specialities guaranteed and with regard to certain rules on sourcing, certain procedural rules and certain additional transitional rules)	No case-law as of 31 December 2017
Regulation (EC) No 110/2008 of the European Parliament and of the Council of 15 January 2008 on the definition, description, presentation, labelling and the protection of geographical indications of spirit drinks	- C-75/15 Viiniverla Oy v Sosiaali- ja terveysalan lupa- ja valvontavirasto, ECLI:EU:C:2016:35 - Joined cases C-4/10 and C-27/10 Bureau national interprofessionnel du Cognac v Gust. Ranin Oy, ECLI:EU:C:2011:484
Council Regulation (EC) No 479/2008 of 29 April 2008 on the common organisation of the market in wine, namely, Title III "Regulatory measures" and Article 117 on controls as repealed by Regulation	No relevant case-law as of 31 December 2017

EU Legal Act	Jurisprudence
491/2009 of 25 May 2009 and as incorporated into the Single CMO Council Regulation (EC) No 1234/2007 of 22 October 2007 (NOTE: this Regulation has been replaced by Council Regulation (EC) No 479/2008 of 29 April 2008 on the common organisation of the market in wine, amending Regulations (EC) No 1493/1999, (EC) No 1782/2003, (EC) No 1290/2005, (EC) No 3/2008 and repealing Regulations (EEC) No 2392/86 and (EC) No 1493/1999 and subsequently by Regulation (EU) No 1144/2014 of the European Parliament and of the Council of 22 October 2014 on information provision and promotion measures concerning agricultural products implemented in the internal market and in third countries and repealing Council Regulation (EC) No 3/2008)	
Commission Regulation (EC) No 555/2008 of 27 June 2008 laying down detailed rules for implementing Council Regulation (EC) No 479/2008, as regard support programmes, trade with third countries, production potential and on controls in the wine sector, namely, Title V "controls in the wine sector" (NOTE: this Regulation has been amended several times. The consolidated version of Regulation 555/2008 is available here).	- no case-law as of 31 December 2017
Council Regulation (EC) No 509/2006 of 20 March 2006 on agricultural products and foodstuffs as traditional specialities guaranteed (NOTE: this Regulation has been replaced by Regulation (EU) No 1151/2012 of the European Parliament and of the Council of 21 November 2012 on quality schemes for agricultural products and foodstuffs)	- no case-law as of 31 December 2017
Commission Regulation (EC) No 1216/2007 of 18 October 2007 laying down detailed rules for the implementation of Council Regulation (EC) No 509/2006 on agricultural products and foodstuffs as traditional specialities guaranteed (NOTE: this Regulation has been replaced by Commission Delegated Regulation (EU) No 664/2014 of 18 December 2013 supplementing Regulation (EU) No 1151/2012 of the European	- no case-law as of 31 December 2017

EU Legal Act	Jurisprudence
Parliament and of the Council with regard to the establishment of the Union symbols for protected designations of origin, protected geographical indications and traditional specialities guaranteed and with regard to certain rules on sourcing, certain procedural rules and certain additional transitional rules)	
Council Regulation (EC) No 834/2007 of 28 June 2007 on organic production and labelling of organic products and repealing Regulation (EEC) No 2092/91	- no case-law as of 31 December 2017
Commission Regulation (EC) No 889/2008 of 5 September 2008 laying down detailed rules for the implementation of Council Regulation (EC) No 834/2007 on organic production and labelling of organic products with regard to organic production, labelling and control	- C-137/13 Herbaria Kräuterparadies GmbH v Freistaat Bayern, ECLI:EU:C:2014:2335
Commission Regulation (EC) No 1235/2008 of 8 December 2008 laying down detailed rules for implementation of Council Regulation (EC) No 834/2007 as regards the arrangements for imports of organic products from third countries	- no case-law as of 31 December 2017
Commission Recommendation on guidelines for the development of national strategies and best practices to ensure the co-existence of genetically modified crops with conventional and organic farming of 23 July 2003 (NOTE: Replaced by Commission Recommendation of 13 July 2010 on guidelines for the development of national co-existence measures to avoid the unintended presence of GMOs in conventional and organic crops)	- no case-law as of 31 December 2017
Council Regulation (EC) No 870/2004 of 24 April 2004 establishing a Community programme on the conservation, characterisation, collection and utilisation of genetic resources in agriculture and repealing	- no case-law as of 31 December 2017

EU Legal Act	Jurisprudence
Regulation (EC) No 1467/94 Marketing standards for plants, seeds of plants, products derived from plants, fruits and vegetables	
Commission Regulation (EEC) No 890/78 of 28 April 1978 laying down detailed rules for the certification of hops (NOTE: replaced by Commission Regulation (EC) No 1850/2006 of 14 December 2006 laying down detailed rules for the certification of hops and hop products)	- no case-law as of 31 December 2017
Council Regulation (EC) No 1234/2007 of 22 October 2007 establishing a common organisation of agricultural markets and on specific provisions for certain agricultural products (Single CMO Regulation) (NOTE: repealed by Regulation (EU) No 1308/2013 of the European Parliament and of the Council of 17 December 2013 establishing a common organisation of the markets in agricultural products and repealing Council Regulations (EEC) No 922/72, (EEC) No 234/79, (EC) No 1037/2001 and (EC) No 1234/2007)	- no relevant case-law as of 31 December 2017
Commission Regulation (EC) No 1295/2008 of 18 December 2008 on the importation of hops from third countries (Codified version)	- no case-law as of 31 December 2017
Council Directive 66/401/EEC of 14 June 1966 on the marketing of fodder plant seed	- no relevant case-law as of 31 December 2017
Commission Regulation (EC) No 382/2005 of 7 March 2005 laying down detailed rules for the application of Council Regulation (EC) No 1786/2003 on the common organisation of the market in dried fodder	- no case-law as of 31 December 2017
Council Directive 66/402/EEC of 14 June 1966 on the marketing of cereal seed	- no case-law as of 31 December 2017
Council Directive 92/34/EEC of 28 April 1992 on the marketing of fruit plant propagating material and fruit plants intended for fruit production	- no case-law as of 31 December 2017

EU Legal Act	Jurisprudence
(NOTE: replaced by Council Directive 2008/90/EC of 29 September 2008 on the marketing of fruit plant propagating material and fruit plants intended for fruit production (Recast version))	
Council Directive 98/56/EC of 20 July 1998 on the marketing of propagating material of ornamental plants	- no case-law as of 31 December 2017
Council Directive 1999/105/EC of 22 December 1999 on the marketing of forest reproductive material	- no case-law as of 31 December 2017
Council Directive 2001/111/EC of 20 December 2001 relating to certain sugars intended for human consumption	- no case-law as of 31 December 2017
Council Directive 76/621/EEC of 20 July 1976 relating to the fixing of the maximum level of erucic acid in oils and fats intended as such for human consumption and in foodstuffs containing added oils or fats (NOTE: repealed by Regulation (EU) 2015/2284 of the European Parliament and of the Council of 25 November 2015 repealing Council Directive 76/621/EEC relating to the fixing of the maximum level of erucic acid in oils and fats and Council Regulation (EC) No 320/2006 establishing a temporary scheme for the restructuring of the sugar industry)	- no case-law as of 31 December 2017
Commission Regulation (EEC) No 2568/91 of 11 July 1991 on the characteristics of olive oil and olive-residue oil and on the relevant methods of analysis	- no case-law as of 31 December 2017
Art. 52 of Council Regulation (EC) No 1782/2003 of 29 September 2003 establishing common rules for direct support schemes under the common agricultural policy and establishing certain support schemes for farmers and amending Regulations (EEC) No 2019/93, (EC) No 1452/2001, (EC) No 1453/2001, (EC) No 1454/2001, (EC) 1868/94, (EC) No 1251/1999, (EC) No 1254/1999, (EC) No 1673/2000, (EEC) No 2358/71 and (EC) No 2529/2001 (NOTE: repealed by Council Regulation	- no relevant case-law as of 31 December 2017

EU Legal Act	Jurisprudence
(EC) No 73/2009 of 19 January 2009 establishing common rules for direct support schemes for farmers under the common agricultural policy and establishing certain support schemes for farmers, amending Regulations (EC) No 1290/2005, (EC) No 247/2006, (EC) No 378/2007 and repealing Regulation (EC) No 1782/2003 which was later repealed by Regulation (EU) No 1307/2013 of the European Parliament and of the Council of 17 December 2013 establishing rules for direct payments to farmers under support schemes within the framework of the common agricultural policy and repealing Council Regulation (EC) No 637/2008 and Council Regulation (EC) No 73/2009)	
Council Directive 2002/53/EC of 13 June 2002 on the common catalogue of varieties of agricultural plant species	- no relevant case-law as of 31 December 2017
Council Directive 2002/54/EC of 13 June 2002 on the marketing of beet seed	- no relevant case-law as of 31 December 2017
Council Directive 2002/55/EC of 13 June 2002 on the marketing of vegetable seed	- no relevant case-law as of 31 December 2017
Council Directive 2002/56/EC of 13 June 2002 on the marketing of seed potatoes	- no relevant case-law as of 31 December 2017
Commission Regulation (EC) No 1345/2005 of 16 August 2005 laying down detailed rules for the application of the system of import licences for olive oil (NOTE repealed by Commission Delegated Regulation (EU) 2016/1237 of 18 May 2016 supplementing Regulation (EU) No 1308/2013 of the European Parliament and of the Council with regard to the rules for applying the system of import and export licences and supplementing Regulation (EU) No 1306/2013 of the European Parliament and of the Council with regard to the rules on the release and forfeit of securities lodged for such licences, amending Commission	- no case-law as of 31 December 2017

EU Legal Act	Jurisprudence
Regulations (EC) No 2535/2001, (EC) No 1342/2003, (EC) No 2336/2003, (EC) No 951/2006, (EC) No 341/2007 and (EC) No 382/2008 and repealing Commission Regulations (EC) No 2390/98, (EC) No 1345/2005, (EC) No 376/2008 and (EC) No 507/2008)	
Council Directive 2002/57/EC of 13 June 2002 on the marketing of seed of oil and fibre plants	- no case-law as of 31 December 2017
Commission Regulation (EC) No 1019/2002 of 13 June 2002 on marketing standards for olive oil (NOTE: replaced by Commission Implementing Regulation (EU) No 29/2012 of 13 January 2012 on marketing standards for olive oil)	- no relevant case-law as of 31 December 2017
Commission Regulation (EC) No 507/2008 of 6 June 2008 laying down detailed rules for the application of Council Regulation (EC) No 1673/2000 on the common organisation of the markets in flax and hemp grown for fibre	- no case-law as of 31 December 2017
Directive 2000/36/EC of the European Parliament and of the Council of 23 June 2000 relating to cocoa and chocolate products intended for human consumption	- no relevant case-law as of 31 December 2017
Council Directive 2001/113/EC of 20 December 2001 relating to fruit jams, jellies and marmalades and sweetened chestnut purée intended for human consumption	- no case-law as of 31 December 2017
Directive 1999/4/EC of the European Parliament and of the Council of 22 February 1999 relating to coffee extracts and chicory extracts	- no relevant case-law as of 31 December 2017
Commission Regulation (EC) No 223/2008 of 12 March 2008 laying down conditions and procedures for the recognition of producer organisations of silkworm rearers (NOTE: repealed by Commission Delegated Regulation (EU) 2016/232 of 15 December 2015 supplementing	- no case-law as of 31 December 2017

EU Legal Act	Jurisprudence
Regulation (EU) No 1308/2013 of the European Parliament and of the Council with regard to certain aspects of producer cooperation)	
Council Directive 2001/112/EC of 20 December 2001 relating to fruit juices and certain similar products intended for human consumption	- no case-law as of 31 December 2017
Commission Regulation (EC) No 1580/2007 of 21 December 2007 laying down implementing rules of Council Regulations (EC) No 2200/96, (EC) No 2201/96 and (EC) No 1182/2007 in the fruit and vegetable sector (NOTE: repealed by Commission Implementing Regulation (EU) No 543/2011 of 7 June 2011 laying down detailed rules for the application of Council Regulation (EC) No 1234/2007 in respect of the fruit and vegetables and processed fruit and vegetables sectors)	- no relevant case-law as of 31 December 2017
Regulation (EC) No 1760/2000 of the European Parliament and of the Council of 17 July 2000 establishing a system for the identification and registration of bovine animals and regarding the labelling of beef and beef products and repealing Council Regulation (EC) No 820/97	- no case-law as of 31 December 2017
Commission Regulation (EC) No 566/2008 of 18 June 2008 laying down detailed rules for the application of Council Regulation (EC) No 1234/2007 as regards the marketing of the meat of bovine animals aged 12 months or less	- no case-law as of 31 December 2017
Commission Regulation (EC) No 589/2008 of 23 June 2008 laying down detailed rules for implementing Council Regulation (EC) No 1234/2007 as regards marketing standards for eggs	- no case-law as of 31 December 2017
Commission Regulation (EC) No 1249/2008 of 10 December 2008 on the implementation of the Community scale for the classification of beef, pig and sheep carcasses and the reporting of prices thereof	- no case-law as of 31 December 2017

EU Legal Act	Jurisprudence
Commission Regulation (EC) No 617/2008 of 27 June 2008 laying down detailed rules for implementing Regulation (EC) No 1234/2007 as regards marketing standards for eggs for hatching and farmyard poultry chicks	- no case-law as of 31 December 2017
Council Regulation (EC) No 2991/94 of 5 December 1994 laying down standards for spreadable fats (NOTE: repealed by Council Regulation (EC) No 1234/2007 of 22 October 2007 establishing a common organisation of agricultural markets and on specific provisions for certain agricultural products (Single CMO Regulation)	- no case-law as of 31 December 2017
Commission Regulation (EC) No 445/2007 of 23 April 2007 laying down certain detailed rules for the application of Council Regulation (EC) No 2991/94 laying down standards for spreadable fats and of Council Regulation (EEC) No 1898/87 on the protection of designations used in the marketing of milk and milk products (Codified version)	- no case-law as of 31 December 2017
Council Directive 2001/114/EC of 20 December 2001 relating to certain partly or wholly dehydrated preserved milk for human consumption	- no case-law as of 31 December 2017
Commission Regulation (EC) No 273/2008 of 5 March 2008 laying down detailed rules for the application of Council Regulation (EC) No 1255/1999 as regards methods for the analysis and quality evaluation of milk and milk products	- no case-law as of 31 December2017
Council Regulation (EEC) No 3220/84 of 13 November 1984 determining the Community scale for grading pig carcases (NOTE: repealed by Council Regulation (EC) No 1234/2007 of 22 October 2007 establishing a common organisation of agricultural markets and on specific provisions for certain agricultural products (Single CMO Regulation)	- no case-law as of 31 December 2017
Commission Regulation (EC) No 543/2008 laying down detailed rules for the application of Council Regulation (EC) No 1234/2007 as regards the marketing standards for poultry meat	- no relevant case-law as of 31 December 2017

18.2. Summaries of selected judgments

18.2.1. Regulation (EC) No 510/2006 on the protection of geographical indications and designations of origin for agricultural products and foodstuffs

Case	Summary
	No relevant case-law as of 31 December 2017

18.2.2. Regulation (EC) No 1898/2006 laying down detailed rules of implementation of Council Regulation (EC) No 510/2006 on the protection of geographical indications and designations of origin for agricultural products and foodstuffs

Case	Summary
	No relevant case-law as of 31 December 2017

18.2.3. Regulation (EC) No 110/2008 on the definition, description, presentation, labelling and the protection of geographical indications of spirit drinks

Case	Summary
C-75/15 Viiniverla Oy v Sosiaali- ja terveysalan lupa- ja valvontavirasto	**Facts:** this was a reference for preliminary ruling from markkinaoikeus (Market Court, Finland) submitted in course of proceedings between Viiniverla Oy, a company established under Finnish law, and the Sosiaali- ja terveysalan lupa- ja valvontavirasto (Social and Health Sector Licensing and Supervisory Authority) concerning the latter's decision of 18 November 2013 to prohibit Viiniverla from marketing a drink named 'Verlados' as from 1 February 2014 (see further paras. 10-15). The national court decided to proceed with a reference for preliminary ruling in order to verify, *inter alia*, the meaning of the term "evocation" used in Article 16(b) of Regulation 110/2008. **Judgment:** the Court of Justice held that in order to assess whether there is an "evocation" within the meaning of that provision, the national court is required to refer to the perception of the average consumer who is reasonably well informed and reasonably observant and circumspect, that concept being understood as covering European consumers and not only consumers of the Member State in which the product giving rise to the evocation of the protected geographical indication is manufactured. Furthermore, the Court of Justice held that in order to assess whether the name 'Verlados' constitutes an "evocation" of the protected geographical indication 'Calvados' with respect to similar products, the referring court must take into consideration the phonetic and visual relationship between those names and any evidence that may show that such a relationship is not fortuitous, so as to ascertain whether, when the

Case	Summary
	average European consumer, reasonably well informed and reasonably observant and circumspect, is confronted with the name of a product, the image triggered in his mind is that of the product whose geographical indication is protected. Last but not least, the Court held that Article 16(b) of Regulation No 110/2008 must be interpreted as meaning that the use of a name classified as an "evocation" within the meaning of that provision of a geographical indication referred to in Annex III to that regulation may not be authorised, even in the absence of any likelihood of confusion. **Relevance:** this judgment is relevant for the Ukrainian authorities as it sheds the light on practical difficulties that may arise in application of domestic provisions giving effect to Regulation 110/2008. Thus, it should be studied and potentially taken into account when the Ukrainian law-makers prepare or revise relevant national legislation.
Joined cases C-4/10 and C-27/10 Bureau national interprofessionnel du Cognac v Gust. Ranin Oy	**Facts:** this was a reference for preliminary ruling submitted by Korkein hallinto-oikeus (Finland) in course of proceedings between Bureau national interprofessionnel du Cognac concerning the registration in Finland, by the Patentti- ja rekisterihallitus (National Board of Patents and Registration), of two figurative marks for spirit drinks (see further paras. 16-21 of the judgment). **Judgment:** the Court of Justice held that Regulation 110/2008 is applicable to the assessment of the validity of the registration of a trade mark containing a geographical indication protected by that regulation, where registration took place before the regulation entered into force. Furthermore: Articles 23 and 16 of Regulation No 110/2008 must be interpreted as meaning that: – the competent national authorities must, on the basis of Article 23(1) of Regulation No 110/2008, refuse or invalidate the registration of a mark which contains a protected geographical indication and which is not covered by the temporary derogation provided for in Article 23(2) of that Regulation, where the use of that mark would lead to one of the situations referred to in Article 16 thereof; - a situation such as that referred to in the second question referred for a preliminary ruling – that is to say, the registration of a mark containing a geographical indication, or a term corresponding to that indication and its translation, in respect of spirit drinks which do not meet the specifications set for that indication – falls within the situations referred to in Article 16(a) and (b) of Regulation No 110/2008, without prejudice to the possible application of other rules laid down in Article 16. See further paras. 24-66 of the judgment.

Case	Summary
	Relevance: this judgment demonstrates practical difficulties, which may arise in interpretation and direct application of Regulation 110/2008. Thus, it is advisable that they remain on the radars of the Ukrainian authorities in charge of this piece of EU legislation.

18.2.4. Regulation (EC) No 479/2008 on the common organisation of the market in wine, namely, Title III "Regulatory measures" and Article 117 on controls as repealed by Regulation 491/2009 of 25 May 2009 and as incorporated into the Single CMO Council Regulation (EC) No 1234/2007 of 22 October 2007

Case	Summary
	No relevant case-law as of 31 December 2017

18.2.5. Regulation (EC) No 555/2008 laying down detailed rules for implementing Council Regulation (EC) No 479/2008, as regard support programmes, trade with third countries, production potential and on controls in the wine sector, namely, Title V "controls in the wine sector"

Case	Summary
	No relevant case-law as of 31 December 2017

18.2.6. Regulation (EC) No 509/2006 on agricultural products and foodstuffs as traditional specialities guaranteed

Case	Summary
	No relevant case-law as of 31 December 2017

18.2.7. Regulation (EC) No 1216/2007 laying down detailed rules for the implementation of Council Regulation (EC) No 509/2006 on agricultural products and foodstuffs as traditional specialities guaranteed

Case	Summary
	No relevant case-law as of 31 December 2017

18.2.8. Regulation (EC) No 834/2007 on organic production and labelling of organic products and repealing Regulation (EEC) No 2092/91

Case	Summary
	No relevant case-law as of 31 December 2017

18.2.9. Regulation (EC) No 889/2008 laying down detailed rules for the implementation of Council Regulation (EC) No 834/2007 on organic production and labelling of organic products with regard to organic production, labelling and control

Case	Summary
C-137/13 Herbaria Kräuterparadies GmbH v Freistaat Bayern	**Facts:** this was a reference for preliminary ruling submitted by *Bayerisches Verwaltungsgericht München* (Germany). It was submitted in course of proceedings between Herbaria Kräuterparadies GmbH and the Freistaat Bayern concerning the possibility of using a reference to organic production in the labelling, advertising and marketing of a fruit juice mixture with herbal extracts which contains, in addition to the organic ingredients, non-organic vitamins and ferrous gluconate (see further paras. 19-23 of the judgment). **Judgment:** the Court of Justice held that Article 27(1)(f) of Commission Regulation (EC) No 889/2008 must be interpreted as meaning that the use of one of the substances referred to is legally required only when a provision of EU law or a provision of national law compatible therewith directly requires that that substance be added to a foodstuff in order for that foodstuff to be placed on the market. The Court added that the use of such a substance is not legally required within the meaning of that provision where a foodstuff is marketed as a food supplement, with a nutrition or health claim or as a foodstuff for a particular nutritional use, although that implies that, in order to comply with the provisions governing the incorporation of substances into foodstuffs, included in: — Directive 2002/46/EC of the European Parliament and of the Council of 10 June 2002 on the approximation of the laws of the Member States relating to food supplements, as amended by Regulation (EC) No 1137/2008 of the European Parliament and of the Council of 22 October 2008; — Regulation (EC) No 1924/2006 of the European Parliament and of the Council of 20 December 2006 on nutrition and health claims made on foods and Commission Regulation (EU) No 432/2012 of 16 May 2012 establishing a list of permitted health claims made on foods, other than those referring to the reduction of disease risk and to children's development and health; and — Directive 2009/39/EC of the European Parliament and of the Council of 6 May 2009 on foodstuffs intended for particular nutritional uses and Commission Regulation (EC) No 953/2009 of 13 October 2009 on substances that may be added for specific nutritional purposes in foods for particular nutritional uses;

Case	Summary
	that foodstuff must contain a determined quantity of the substance in question (see further paras. 32-51 of the judgment). **Relevance:** this judgment is relevant for the Ukrainian authorities. It should be taken into account when domestic provisions giving it effect are drafted and adopted (or revised).

18.2.10. Regulation (EC) No 1235/2008 laying down detailed rules for implementation of Council Regulation (EC) No 834/2007 as regards the arrangements for imports of organic products from third countries

Case	Summary
	No relevant case-law as of 31 December 2017

18.2.11. Commission Recommendation on guidelines for the development of national strategies and best practices to ensure the co-existence of genetically modified crops with conventional and organic farming of 23 July 2003

Case	Summary
	No relevant case-law as of 31 December 2017

18.2.12. Regulation (EC) No 870/2004 establishing a Community programme on the conservation, characterisation, collection and utilisation of genetic resources in agriculture and repealing Regulation (EC) No 1467/94 Marketing standards for plants, seeds of plants, products derived from plants, fruits and vegetables

Case	Summary
	No relevant case-law as of 31 December 2017

18.2.13. Regulation (EEC) No 890/78 laying down detailed rules for the certification of hops

Case	Summary
	No relevant case-law as of 31 December 2017

18.2.14. Regulation (EC) No 1234/2007 establishing a common organisation of agricultural markets and on specific provisions for certain agricultural products (Single CMO Regulation)

Case	Summary
	No relevant case-law as of 31 December 2017

18.2.15. Regulation (EC) No 1295/2008 on the importation of hops from third countries (Codified version)

Case	Summary
	No relevant case-law as of 31 December 2017

18.2.16. Directive 66/401/EEC on the marketing of fodder plant seed

Case	Summary
	No relevant case-law as of 31 December 2017

18.2.17. Regulation (EC) No 382/2005 laying down detailed rules for the application of Council Regulation (EC) No 1786/2003 on the common organisation of the market in dried fodder

Case	Summary
	No relevant case-law as of 31 December 2017

18.2.18. Directive 66/402/EEC on the marketing of cereal seed

Case	Summary
	No relevant case-law as of 31 December 2017

18.2.19. Directive 92/34/EEC on the marketing of fruit plant propagating material and fruit plants intended for fruit production

Case	Summary
	No relevant case-law as of 31 December 2017

18.2.20. Council Directive 2001/111/EC of 20 December 2001 relating to certain sugars intended for human consumption

Case	Summary
	No relevant case-law as of 31 December 2017

18.2.21. Directive 76/621/EEC relating to the fixing of the maximum level of erucic acid in oils and fats intended as such for human consumption and in foodstuffs containing added oils or fats

Case	Summary
	No relevant case-law as of 31 December 2017

18.2.22. Regulation (EEC) No 2568/91 on the characteristics of olive oil and olive-residue oil and on the relevant methods of analysis

Case	Summary
	No relevant case-law as of 31 December 2017

18.2.23. Regulation (EC) No 1782/2003 establishing common rules for direct support schemes under the common agricultural policy and establishing certain support schemes for farmers

Case	Summary
	No relevant case-law as of 31 December 2017

18.2.24. Directive 2002/53/EC on the common catalogue of varieties of agricultural plant species

Case	Summary
	No relevant case-law as of 31 December 2017

18.2.25. Directive 2002/54/EC on the marketing of beet seed

Case	Summary
	No relevant case-law as of 31 December 2017

18.2.26. Council Directive 2002/55/EC of 13 June 2002 on the marketing of vegetable seed

Case	Summary
	No relevant case-law as of 31 December 2017

18.2.27. Directive 2002/56/EC on the marketing of seed potatoes

Case	Summary
	No relevant case-law as of 31 December 2017

18.2.28. Directive 98/56/EC on the marketing of propagating material of ornamental plants

Case	Summary
	No relevant case-law as of 31 December 2017

18.2.29. Commission Regulation (EC) No 1345/2005 of 16 August 2005 laying down detailed rules for the application of the system of import licences for olive oil

Case	Summary
	No relevant case-law as of 31 December 2017

18.2.30. Directive 2002/57/EC on the marketing of seed of oil and fibre plants

Case	Summary
	No relevant case-law as of 31 December 2017

18.2.31. Commission Regulation (EC) No 1019/2002 of 13 June 2002 on marketing standards for olive oil

Case	Summary
	No relevant case-law as of 31 December 2017

18.2.32. Regulation (EC) No 507/2008 laying down detailed rules for the application of Council Regulation (EC) No 1673/2000 on the common organisation of the markets in flax and hemp grown for fibre

Case	Summary
	No relevant case-law as of 31 December 2017

18.2.33. Directive 2000/36/EC relating to cocoa and chocolate products intended for human consumption

Case	Summary
	No relevant case-law as of 31 December 2017

18.2.34. Directive 2001/113/EC relating to fruit jams, jellies and marmalades and sweetened chestnut purée intended for human consumption

Case	Summary
	No relevant case-law as of 31 December 2017

18.2.35. Directive 1999/4/EC relating to coffee extracts and chicory extracts

Case	Summary
	No relevant case-law as of 31 December 2017

18.2.36. Commission Regulation (EC) No 223/2008 of 12 March 2008 laying down conditions and procedures for the recognition of producer organisations of silkworm rearers

Case	Summary
	No relevant case-law as of 31 December 2017

18.2.37. Council Directive 2001/112/EC of 20 December 2001 relating to fruit juices and certain similar products intended for human consumption

Case	Summary
	No relevant case-law as of 31 December 2017

18.2.38. Commission Regulation (EC) No 1580/2007 of 21 December 2007 laying down implementing rules of Council Regulations (EC) No 2200/96, (EC) No 2201/96 and (EC) No 1182/2007 in the fruit and vegetable sector

Case	Summary
	No relevant case-law as of 31 December 2017

18.2.39. Regulation (EC) No 1760/2000 establishing a system for the identification and registration of bovine animals and regarding the labelling of beef and beef products and repealing Council Regulation (EC) No 820/97

Case	Summary
	No relevant case-law as of 31 December 2017

18.2.40. Commission Regulation (EC) No 566/2008 of 18 June 2008 laying down detailed rules for the application of Council Regulation (EC) No 1234/2007 as regards the marketing of the meat of bovine animals aged 12 months or less

Case	Summary
	No relevant case-law as of 31 December 2017

18.2.41. Regulation (EC) No 589/2008 laying down detailed rules for implementing Council Regulation (EC) No 1234/2007 as regards marketing standards for eggs

Case	Summary
	No relevant case-law as of 31 December 2017

18.2.42. Regulation (EC) No 1249/2008 on the implementation of the Community scale for the classification of beef, pig and sheep carcasses and the reporting of prices thereof

Case	Summary
	No relevant case-law as of 31 December 2017

18.2.43. Regulation (EC) No 617/2008 laying down detailed rules for implementing Regulation (EC) No 1234/2007 as regards marketing standards for eggs for hatching and farmyard poultry chicks

Case	Summary
	No relevant case-law as of 31 December 2017

18.2.44. Regulation (EC) No 2991/94 laying down standards for spreadable fats

Case	Summary
	No relevant case-law as of 31 December 2017

18.2.45. Regulation (EC) No 445/2007 laying down certain detailed rules for the application of Council Regulation (EC) No 2991/94 laying down standards for spreadable fats and of Council Regulation (EEC) No 1898/87 on the protection of designations used in the marketing of milk and milk products (Codified version)

Case	Summary
	No relevant case-law as of 31 December 2017

18.2.46. Council Directive 2001/114/EC of 20 December 2001 relating to certain partly or wholly dehydrated preserved milk for human consumption

Case	Summary
	No relevant case-law as of 31 December 2017

18.2.47. Regulation (EC) No 273/2008 laying down detailed rules for the application of Council Regulation (EC) No 1255/1999 as regards methods for the analysis and quality evaluation of milk and milk products

Case	Summary
	No relevant case-law as of 31 December 2017

18.2.48. Regulation (EEC) No 3220/84 determining the Community scale for grading pig carcases

Case	Summary
	No relevant case-law as of 31 December 2017

18.2.49. Regulation (EC) No 543/2008 laying down detailed rules for the application of Council Regulation (EC) No 1234/2007 as regards the marketing standards for poultry meat

Case	Summary
	No relevant case-law as of 31 December 2017

Chapter 19 Consumer protection

19.1. Lists of judgments

EU Legal Act	Jurisprudence
Directive of the European Parliament and of the Council of 3 December 2001 on general product safety (2001/95/EC)	- C-132/08 Lidl Magyarország Kereskedelmi bt v Nemzeti Hírközlési Hatóság Tanácsa, ECLI:EU:C:2009:281
Council Directive of 25 June 1987 on the approximation of the laws of the Member States concerning products which, appearing to be other than they are, endanger the health or safety of consumers (87/357/EEC)	- No relevant case-law as of 31 December 2017
Commission Decision of 21 April 2008 requiring Member States to ensure that magnetic toys placed or made available on the market display a warning about the health and safety risks they pose (2008/329/EC) (NOTE: this Decision is no longer in force)	- No relevant case-law as of 31 December 2017
Commission Decision of 11 May 2006 requiring Member States to take measures to ensure that only lighters which are child-resistant are placed on the market and to prohibit the placing on the market of novelty lighters (2006/502/EC) (NOTE: this Decision is no longer in force)	- No relevant case-law as of 31 December 2017
Directive 1999/44/EC of the European Parliament and of the Council of 25 May 1999 on certain aspects of the sale of consumer goods and associated guarantees	- C-247/16 Heike Schottelius v Falk Seifert, ECLI:EU:C:2017:638 - C-133/16 Christian Ferenschild v JPC Motor SA, ECLI:EU:C:2017:541 - C-149/15 Sabrina Wathelet v Garage Bietheres & Fils SPRL, ECLI:EU:C:2016:840 - C-497/13 Froukje Faber v Autobedrijf Hazet Ochten BV, ECLI:EU:C:2015:357 - C- 32/12 Soledad Duarte Hueros v Autociba SA and Automóviles Citroën España SA, ECLI:EU:C:2013:637 - Joined cases C-65/09 to C-87/09 Gebr. Weber GmbH v Jürgen Wittmer (C-65/09) and Ingrid Putz v Medianess Electronics GmbH (C-87/09), ECLI:EU:C:2011:396

EU Legal Act	Jurisprudence
	- C-381/08 Car Trim GmbH v KeySafety Systems Srl., ECLI:EU:C:2010:90 - Joined cases C-317/08, C-318/08, C-319/08 and C-320/08, Rosalba Alassini v Telecom Italia SpA (C-317/08), Filomena Califano v Wind SpA (C-318/08), Lucia Anna Giorgia Iacono v Telecom Italia SpA (C-319/08) and Multiservice Srl v Telecom Italia SpA (C-320/08), ECLI:EU:C:2010:146 - C-300/07 Hans & Christophorus Oymanns GbR, Orthopädie Schuhtechnik v AOK Rheinland/Hamburg, ECLI:EU:C:2009:358 - C-404/06 Quelle AG v Bundesverband der Verbraucherzentralen und Verbraucherverbände, ECLI:EU:C:2008:231
Council Directive 93/13/EEC of 5 April 1993 on unfair terms in consumer contracts	- Joined Cases C-381/14 & C-385/14 Jorge Sales Sinués v Caixabank SA (C-381/14), and Youssouf Drame Ba v Catalunya Caixa SA (Catalunya Banc SA) (C-385/14), ECLI:EU:C:2016:252 - C-377/14 Ernst Georg Radlinger, Helena Radlingerová v Finway a.s., ECLI:EU:C:2016:283 - C-49/14 Finanmadrid EFC SA v Jesús Vicente Albán Zambrano, María Josefa García Zapata, Jorge Luis Albán Zambrano, Miriam Elisabeth Caicedo Merino, ECLI:EU:C:2016:98 - C-169/14 Juan Carlos Sánchez Morcillo, María del Carmen Abril García v Banco Bilbao Vizcaya Argentaria, SA, ECLI:EU:C:2014:2099 - C-169/14 Horațiu Ovidiu Costea v SC Volksbank România SA, ECLI:EU:C:2015:538 - C-96/14 Jean-Claude Van Hove v CNP Assurances SA, ECLI:EU:C:2015:262 - C-32/14 ERSTE Bank Hungary Zrt. v Attila Sugár, ECLI:EU:C:2015:637 - C-8/14 BBVA SA, formerly Unnim Banc SA, v Pedro Peñalva López, Clara López Durán, Diego Fernández Gabarro, ECLI:EU:C:2015:731 - C-567/13 Nóra Baczó, János István Vizsnyiczai v Raiffeisen Bank Zrt, ECLI:EU:C:2015:88 - C-537/13 Birutė Šiba v Arūnas Devėnas, ECLI:EU:C:2015:14

EU Legal Act	Jurisprudence
	- C-497/13 Froukje Faber v Autobedrijf Hazet Ochten BV, ECLI:EU:C:2015:357 - Joined Cases C-482/13, C-484/13, C-485/13 and C-487/13, Unicaja Banco, SA v José Hidalgo Rueda, María del Carmen Vega Martín, Gestión Patrimonial Hive SL, Francisco Antonio López Reina, Rosa María Hidalgo Vega (C-482/13), and Caixabank SA v Manuel María Rueda Ledesma (C-484/13), Rosario Mesa Mesa (C-484/13), José Labella Crespo (C-485/13), Rosario Márquez Rodríguez (C-485/13), Rafael Gallardo Salvat (C-485/13), Manuela Márquez Rodríguez (C-485/13), Alberto Galán Luna (C-487/13), Domingo Galán Luna (C-487/13), ECLI:EU:C:2015:21 - C-280/13 Barclays Bank SA v Sara Sánchez García, Alejandro Chacón Barrera, ECLI:EU:C:2014:279 - C-143/13 Bogdan Matei, Ioana Ofelia Matei v SC Volksbank România SA, ECLI:EU:C:2015:127 - C-34/13 Monika Kušionová v SMART Capital a.s., ECLI:EU:C:2014:2189 - C-26/13 Árpád Kásler, Hajnalka Káslerné Rábai v OTP Jelzálogbank Zrt, ECLI:EU:C:2014:282 - C-470/12 Pohotovosť s. r. o. v Miroslav Vašuta, intervening parties: Združenie na ochranu občana spotrebiteľa HOOS, ECLI:EU:C:2014:101 - C-413/12 Asociación de Consumidores Independientes de Castilla y León v Anuntis Segundamano España SL, ECLI:EU:C:2013:800 - C-226/12 Constructora Principado SA v José Ignacio Menéndez Álvarez, ECLI:EU:C:2014:10 - C-488/11 Dirk Frederik Asbeek Brusse, Katarina de Man Garabito v Jahani BV, ECLI:EU:C:2013:341 - C-472/11 Banif Plus Bank Zrt, v Csaba Csipai, Viktória Csipai, ECLI:EU:C:2013:88 - C-453/10 Jana Pereničová, Vladislav Perenič v SOS financ spol. s r. o., ECLI:EU:C:2012:144

EU Legal Act	Jurisprudence
	- C-484/08 Caja de Ahorros y Monte de Piedad de Madrid v Asociación de Usuarios de Servicios Bancarios (Ausbanc), ECLI:EU:C:2010:309 - C-243/08 Pannon GSM Zrt. v Erzsébet Sustikné Győrfi, ECLI:EU:C:2009:350 - C-137/08 VB Pénzügyi Lízing Zrt. v Ferenc Schneider, ECLI:EU:C:2010:659 - C-40/08 Asturcom Telecomunicaciones SL v Cristina Rodríguez Nogueira, ECLI:EU:C:2009:615 - C-429/05 Max Rampion, Marie-Jeanne Rampion, née Godard, v Franfinance SA, K par K SAS, ECLI:EU:C:2007:575 - Joined Cases C-222/05 to C-225/05, J. van der Weerd, Maatschap Van der Bijl, J.W. Schoonhoven (C-222/05), H. de Rooy, sen., H. de Rooy, jun. (C-223/05), Maatschap H. en J. van 't Oever, Maatschap F. van 't Oever en W. Fien, B. van 't Oever, Maatschap A. en J. Fien, Maatschap K. Koers en J. Stellingwerf, H. Koers, Maatschap K. en G. Polinder, G. van Wijhe (C-224/05), B.J. van Middendorp (C-225/05), v Minister van Landbouw, Natuur en Voedselkwaliteit, ECLI:EU:C:2007:318 - C-168/05 Elisa María Mostaza Claro v Centro Móvil Milenium SL, ECLI:EU:C:2006:675 - C-237/02 Freiburger Kommunalbauten GmbH Baugesellschaft & Co. KG and Ludger Hofstetter, Ulrike Hofstetter, ECLI:EU:C:2004:209 - C-473/00 Cofidis SA and Jean-Louis Fredout, ECLI:EU:C:2002:705 - Joined cases C-541/99 and C-542/99 Cape Snc and Idealservice Srl (C-541/99), and between Idealservice MN RE Sas and OMAI Srl (C-542/99), ECLI:EU:C:2001:625 - Joined cases C-240/98 to C-244/98 Océano Grupo Editorial SA and Rocío Murciano Quintero (C-240/98) and between Salvat Editores SA

EU Legal Act	Jurisprudence
	And José M. Sánchez Alcón Prades (C-241/98), José Luis Copano Badillo (C-242/98), Mohammed Berroane (C-243/98), Emilio Viñas Feliu (C-244/98), ECLI:EU:C:2000:346
Council Directive 90/314/EEC of 13 June 1990 on package travel, package holidays and package tours (NOTE: replaced by Directive (EU) 2015/2302 of the European Parliament and of the Council of 25 November 2015 on package travel and linked travel arrangements, amending Regulation (EC) No 2006/2004 and Directive 2011/83/EU of the European Parliament and of the Council and repealing Council Directive 90/314/EEC)	- no relevant case-law as of 31 December 2017
Directive 2008/122/EC of the European Parliament and of Council of 14 January 2009 on the protection of consumers in respect of certain aspects of timeshare, long-term holiday product, resale and exchange contracts	- no relevant case-law as of 31 December 2017
Council Directive 85/577/EEC of 20 December 1985 to protect the consumer in respect of contracts negotiated away from business premises (NOTE: replaced by Directive 2011/83/EU of the European Parliament and of the Council of 25 October 2011 on consumer rights, amending Council Directive 93/13/EEC and Directive 1999/44/EC of the European Parliament and of the Council and repealing Council Directive 85/577/EEC and Directive 97/7/EC of the European Parliament and of the Council)	- no relevant case-law as of 31 December 2017
Directive 2002/65/EC of the European Parliament and of the Council of 23 September 2002 concerning the distance marketing of consumer financial services and amending Council Directive 90/619/EEC and Directives 97/7/EC and 98/27/EC	- no relevant case-law as of 31 December 2017

EU Legal Act	Jurisprudence
Directive 2008/48/EC of the European Parliament and of the Council of 23 April 2008 on credit agreements for consumers and repealing Council Directive 87/102/EEC	- C-375/15 BAWAG PSK Bank für Arbeit und Wirtschaft und Österreichische Postsparkasse AG v Verein für Konsumenteninformation, ECLI:EU:C:2017:38 - C-127/15 Verein für Konsumenteninformation v INKO, Inkasso GmbH, ECLI:EU:C:2016:934 - C-42/15 Home Credit Slovakia a.s. v Klára Bíróová, ECLI:EU:C:2016:842 - case C-377/14 Ernst Georg Radlinger and Helena Radlingerová v FINWAY a.s., ECLI:EU:C:2016:283, - case C-449/13 CA Consumer Finance v Ingrid Bakkaus and Others, ECLI:EU:C:2014:2464 - case C-565/12 LCL Le Crédit Lyonnais SA v Fesih Kalhan, ECLI:EU:C:2014:190 - case C-602/10 SC Volksbank România SA v Autoritatea Naţională pentru Protecţia Consumatorilor - Comisariatul Judeţean pentru Protecţia Consumatorilor Călăraşi (CJPC), ECLI:EU:C:2012:443
Recommendation on principles applicable to out-of-court settlement (98/257/EC) Commission Recommendation of 30 March 1998 on the principles applicable to the bodies responsible for out-of-court settlement of consumer disputes	- no relevant case-law as of 31 December 2017
Recommendation on consensual resolution out-of-court (2001/310/EC) Commission Recommendation of 4 April 2001 on the principles for out-of-court bodies involved in the consensual resolution of consumer disputes	- no relevant case-law as of 31 December 2017
Directive 98/27/EC of the European Parliament and of the Council of 19 May 1998 on injunctions for the protection of consumers' interests (NOTE: this Directive has been repealed by Directive 2009/22/EC of the European Parliament and of the Council of 23 April 2009 on injunctions for the protection of consumers' interests)	- no relevant case-law as of 31 December 2017

EU Legal Act	Jurisprudence
Regulation (EC) No 2006/2004 of the European Parliament and of the Council of 27 October 2004 on cooperation between national authorities responsible for the enforcement of consumer protection laws (the Regulation on consumer protection cooperation)	- no case-law as of 31 December 2017

19.2. Summaries of selected judgments

19.2.1. Directive 2001/95/EC on general product safety

Case	Summary
	No relevant case-law as of 31 December 2017

19.2.2. Directive on the approximation of the laws of the Member States concerning products which, appearing to be other than they are, endanger the health or safety of consumers (87/357/EEC)

Case	Summary
	No relevant case-law as of 31 December 2017

19.2.3. Decision 2008/329/EC requiring Member States to ensure that magnetic toys placed or made available on the market display a warning about the health and safety risks they pose

Case	Summary
	No relevant case-law as of 31 December 2017

19.2.4. Decision 2006/502/EC requiring Member States to take measures to ensure that only lighters which are child-resistant are placed on the market and to prohibit the placing on the market of novelty lighters

Case	Summary
	No relevant case-law as of 31 December 2017

19.2.5. Directive 1999/44/EC of the European Parliament and of the Council of 25 May 1999 on certain aspects of the sale of consumer goods and associated guarantees

Case	Summary
C-497/13 Froukje Faber v Autobedrijf Hazet Ochten BV	**Facts:** this was a reference for preliminary ruling submitted by *Gerechtshof Arnhem-Leeuwarden* (the Netherlands) in course of proceedings between Ms Faber and Autobedrijf Hazet Ochten BV concerning a claim for compensation for the damage caused by the lack of conformity which allegedly marred the vehicle that Ms Faber purchased at the Hazet garage (see further paras. 17-30 of the judgment). The Dutch court hearing the case expressed doubts as to interpretation of several provisions laid down in Directive 1999/44 and therefore it proceeded with a reference for preliminary ruling to the Court of Justice (see para. 31 of the judgment). **Judgment:** the Court of Justice ruled as follows: Directive 1999/44/EC means that a national court before which an action relating to a contract which may be covered by that Directive has been brought, is required to determine whether the purchaser may be classified as a consumer within the meaning of that Directive, even if the purchaser has not relied on that status, as soon as that court has at its disposal the matters of law and of fact that are necessary for that purpose or may have them at its disposal simply by making a request for clarification. Furthermore, Article 5(3) of Directive 1999/44 means that it must be regarded as a provision of equal standing to a national rule which ranks, within the domestic legal system, as a rule of public policy and that the national court must of its own motion apply any provision which transposes it into domestic law. Article 5(2) of Directive 1999/44 must be interpreted as not precluding a national rule which provides that the consumer, in order to benefit from the rights which he derives from that directive, must inform the seller of the lack of conformity in good time, provided that that consumer has a period of not less than two months from the date on which he detected that lack of conformity to give that notification, that the notification to be given relates only to the existence of that lack of conformity and that it is not subject to rules of evidence which would make it impossible or excessively difficult for the consumer to exercise his rights. At the same time, Article 5(3) of Directive 1999/44 must be interpreted as meaning that the rule that the lack of conformity is presumed to have existed at the time of delivery of the goods –applies if the consumer furnishes evidence that the goods sold are not in conformity with the contract and that the lack of conformity in question became apparent, that is to say, became physically apparent, within six months of delivery of the goods. The consumer is not required to prove the cause of that lack of conformity or to establish that its origin is attributable to the seller;

Case	Summary
	–may be discounted only if the seller proves to the requisite legal standard that the cause or origin of that lack of conformity lies in circumstances which arose after the delivery of the goods. **Relevance:** this judgment is of relevance for the Ukrainian authorities in charge of approximation of domestic law with Directive 1999/44. It clarifies a number of legal issues that are crucial for application of this legal act and therefore should be taken into account when the domestic provisions are drafted.
C- 32/12 Soledad Duarte Hueros v Autociba SA and Automóviles Citroën España SA	**Facts:** this reference for preliminary ruling was submitted by Juzgado de Primera Instancia no 2 of Badajoz (Spain) in course of proceedings between Ms Duarte Hueros, on the one hand, and Autociba SA and Automóviles Citroën España SA, on the other hand, concerning her request for the rescission of a contract for the sale of a vehicle due to the vehicle's lack of conformity with that contract (see further paras. 17-22 of the judgment). **Judgment:** Directive 1999/44 precludes legislation of a Member State, such as that at issue in the main proceedings, which does not allow the national court hearing the dispute to grant of its own motion an appropriate reduction in the price of goods which are the subject of a contract of sale in the case where a consumer who is entitled to such a reduction brings proceedings which are limited to seeking only rescission of that contract and such rescission cannot be granted because the lack of conformity in those goods is minor, even though that consumer is not entitled to refine his initial application or to bring a fresh action to that end. **Relevance:** this is an important judgment clarifying the power of the domestic courts in cases involving application of national provisions giving effect to this Directive.
Joined cases C-65/09 to C-87/09 Gebr. Weber GmbH v Jürgen Wittmer (C-65/09) and Ingrid Putz v Medianess Electronics GmbH (C-87/09)	**Facts:** the references for preliminary ruling were submitted by the Bundesgerichtshof (C-65/09) and by the Amtsgericht Schorndorf (C-87/09) (Germany). The first reference was submitted in the proceedings between Gebr. Weber GmbH and Mr Wittmer concerning the delivery of tiles in conformity with the contract of sale and the payment of financial compensation. The second reference was submitted in proceedings between Ms Putz and Medianess Electronics GmbH concerning the reimbursement of the purchase price of a dishwasher which was not in conformity with the contract of sale, instead of the replacement of the machine (for a detailed account of facts see paras. 16-31 of the judgment). The national courts decided to proceed with references for preliminary ruling asking for interpretation of Article 3 of Directive 1999/44. **Judgment:** the Court of Justice held that Article 3 (2-3) of Directive 1999/44 provides that where consumer goods not in conformity with the contract which were installed in good faith by the consumer in a manner consistent with their

Case	Summary
	nature and purpose, before the defect became apparent, are restored to conformity by way of replacement, the seller is obliged either to remove the goods from where they were installed and to install the replacement goods there or else to bear the cost of that removal and installation of the replacement goods. That obligation on the seller exists regardless of whether he was obliged under the contract of sale to install the consumer goods originally purchased. Furthermore, Article 3(3) of Directive 1999/44 precludes national legislation from granting the seller the right to refuse to replace goods not in conformity, as the only remedy possible, on the ground that, because of the obligation to remove the goods from where they were installed and to install the replacement goods there, replacement imposes costs on him which are disproportionate with regard to the value that the goods would have if there were no lack of conformity and the significance of the lack of conformity. That provision does not, however, preclude the consumer's right to reimbursement of the cost of removing the defective goods and of installing the replacement goods from being limited, in such a case, to the payment by the seller of a proportionate amount. **Relevance:** this judgment is of relevance for the Ukrainian authorities as it clarifies the scope of Article 3 of Directive 1999/44. Bearing this in mind, it should be taken into account when the law-makers draft/re-draft provisions approximating Ukrainian law with this Directive.
C-404/06 Quelle AG v Bundesverband der Verbraucherzentralen und Verbraucherverbände	**Facts:** This reference for preliminary ruling was submitted by *Bundesgerichtshof* (Germany). The reference has been made in the course of proceedings between Quelle AG, a mail-order company, and the Bundesverband der Verbraucherzentralen und Verbraucherverbände, an authorised consumers' association acting on behalf of Ms Brüning, one of Quelle's customers (for factual background of this case see paras. 12-15 of the judgment). The referring court expressed doubts as to compliance of German laws with the Directive in question. **Judgment:** the Court of Justice held that Article 3 of Directive 1999/44/EC precludes national legislation under which a seller, who has sold consumer goods which are not in conformity, may require the consumer to pay compensation for the use of those defective goods until their replacement with new goods. **Relevance:** this judgment is relevant for the Ukrainian authorities as it demonstrates what type of domestic rules are prohibited by Directive 1999/44.

19.2.6. Directive 93/13/EEC on unfair terms in consumer contracts

Case	Summary
C-169/14 Horaţiu Ovidiu Costea v SC Volksbank România SA	**Facts:** the reference for preliminary ruling was submitted by *Judecătoria Oradea* (Romania) in course of proceedings between Mr Costea and and SC Volksbank România SA concerning an application for a declaration of unfairness of a term of a loan agreement. The key question that emerged during the domestic proceedings was whether the plaintiff, who was a practicing lawyer, could be considered as a consumer within the meaning of Directive 93/13/EC. **Judgment:** the Court of Justice held that Article 2(b) of Council Directive 93/13/EEC means that a natural person who practises as a lawyer and concludes a credit agreement with a bank, in which the purpose of the credit is not specified, may be regarded as a 'consumer' within the meaning of that provision, where that agreement is not linked to that lawyer's profession. The fact that the debt arising out of the same contract is secured by a mortgage taken out by that person in his capacity as representative of his law firm and involving goods intended for the exercise of that person's profession, such as a building belonging to that firm, is not relevant in that regard. **Relevance:** this judgment should be taken into account by the Ukrainian authorities as it contributes to the definition of term "consumer" used in Directive 93/13 as well as in other consumer protection directives.
C-96/14 Jean-Claude Van Hove v CNP Assurances SA	**Facts:** the reference for preliminary ruling was submitted by *tribunal de grande instance de Nîmes* (France) in course of proceedings between Mr Van Hove and CNP Assurances SA ('CNP Assurances') concerning an allegedly unfair contractual term in an insurance contract that includes the definition of 'total incapacity for work' for the purposes of that company's cover of repayments on mortgage loans taken out by Mr Van Hove (see further paras. 10-24). **Judgment:** Article 4(2) of Council Directive 93/13/EEC means that a term of an insurance contract intended to ensure that loan repayments payable to the lender will be covered in the event of the borrower's total incapacity for work falls within the exception set out in that provision only where the referring court finds: – first, that, having regard to the nature, general scheme and the stipulations of the contractual framework of which it forms part, and to its legal and factual context, that term lays down an essential component of that contractual framework, and, as such, characterises it, and, – secondly, that that term is drafted in plain, intelligible language, that is to say that it is not only grammatically intelligible to the consumer, but also that the contract sets out transparently the specific functioning of the arrangements to which the relevant term refers and the relationship between those arrangements and the arrangements laid down in respect of other contractual terms, so that that consumer is in a position to evaluate, on the basis of precise, intelligible criteria, the economic consequences for him which derive from it.

Case	Summary
	Relevance: this judgment is of relevance for the Ukrainian law-makers as the Court of Justice provided interpretation of Article 4(2) of Directive 93/13/EEC. It is worth reading, *inter alia*, paragraphs 33-39 where the Court interpreted the term 'main subject-matter of the contract' and paragraphs 40-49 dealing with interpretation of the concepts of 'plain, intelligible language'.
C-143/13 Bogdan Matei, Ioana Ofelia Matei v SC Volksbank România SA	**Facts:** this was a reference for preliminary ruling which was submitted by Tribunalul Specializat Cluj (Romania) in course of proceedings between Mr and Mrs Matei and SC Volksbank România SA concerning allegedly unfair terms in consumer credit contracts providing, first, for a 'risk charge' applied by Volksbank and, second, authorising the latter to alter the rate of interest unilaterally under certain conditions (see further paras. 24-35). **Judgment:** Article 4(2) of Council Directive 93/13/EEC means that 'main subject-matter of the contract' and 'adequacy of the price and remuneration, on the one hand, as against the services or goods supplies in exchange, on the other' do not, in principle, cover the types of terms in the credit agreements concluded between a professional and consumers such as those at issue in the case at hand, which, on one hand, allow, under certain conditions, the lender unilaterally to alter the interest rate and, on the other hand, provide for a 'risk charge' applied by the lender. **Relevance:** this judgment is of relevance for the Ukrainian law-makers. It adds to the existing interpretation of Article 4(2) of Directive 93/13 and should be taken into account when relevant domestic provisions are drafted.

Case	Summary
C-34/13 Monika Kušionová v SMART Capital a.s.,	**Facts:** this was a reference for preliminary ruling submitted by *Krajský súd v Prešove* (Slovakia) in course of proceedings between Mrs Kušionová and SMART Capital a.s. concerning the methods of enforcement of a charge provided by way of guarantee for a mortgage loan agreement and the lawfulness of terms included in that agreement (see further paras. 25-29 of the judgment). The referring court expressed doubts as to interpretation of Directive 93/13 and Directive 2005/29 and therefore it decided to proceed with a reference for preliminary ruling to the Court of Justice (see para. 30 of the judgment). **Judgment:** the Court of Justice held that Directive 1999/44 did not preclude national legislation, which allows the recovery of a debt that is based on potentially unfair contractual terms by the extrajudicial enforcement of a charge on immovable property provided as security by the consumer, in so far as that legislation does not make it excessively difficult or impossible in practice to protect the rights conferred on consumers by that directive, which is a matter for the national court to determine. Furthermore, the judges ruled that Article 1(2) of Directive 93/13 means that a contractual term included in a contract concluded by a seller or supplier with a consumer falls outside the scope of Directive 1999/44 only if that contractual term reflects the content of a mandatory statutory or regulatory provision, which is a matter for the national court to determine. **Relevance:** this judgment is of relevance for the Ukrainian authorities as it clarifies two things. Firstly, it sheds a light on what kind of solutions are permitted under Directive 1999/44 when it comes to national law. Secondly, it clarifies the scope of Article 1(2) of this Directive. The latter may be taken into account when relevant provisions of Ukrainian law are drafted.
C-26/13 Árpád Kásler, Hajnalka Káslerné Rábai v OTP Jelzálogbank Zrt	**Facts:** this was a reference for preliminary ruling submitted by *Kúria* (Hungary) in course of proceedings between Kásler and Ms Káslerné Rábai and OTP Jelzálogbank Zrt concerning the allegedly unfair contractual term relating to the exchange rate applicable to repayments of a loan denominated in a foreign currency (see paras. 20-34 of the judgment). The referring court asked, in particular, about interpretation of terms “the main subject-matter of the contract” and “the adequacy of the price and remuneration on the one hand, as against the services or goods supplied, on the other”. Both terms are used in Directive 1999/44 (see para. 35 of the judgment). **Judgment:** the Court of Justice held that the expression the “main subject-matter of a contract” used in Article 4(2) of Directive 1999/44 covers a term, incorporated in a loan agreement denominated in foreign currency concluded between a seller or supplier and a consumer and not individually negotiated, such as that at issue in the main proceedings, pursuant to which the selling rate of exchange of that currency is applied for the purpose of calculating

Case	Summary
	the repayment instalments for the loan, only in so far as it is found, which it is for the national court to ascertain having regard to the nature, general scheme and stipulations of the contract and its legal and factual context, that that term lays down an essential obligation of that agreement which, as such characterises it. Furthermore, such a term, in so far as it contains a pecuniary obligation for the consumer to pay, in repayment of instalments of the loan, the difference between the selling rate of exchange and the buying rate of exchange of the foreign currency, cannot be considered as "remuneration" the adequacy of which as consideration for a service supplied by the lender cannot be the subject of an examination as regards unfairness under Article 4(2) of Directive 93/13. Furthermore, the requirement that a contractual term must be drafted in plain intelligible language requires not only that the relevant term should be grammatically intelligible to the consumer, but also that the contract should set out transparently the specific functioning of the mechanism of conversion for the foreign currency to which the relevant term refers and the relationship between that mechanism and that provided for by other contractual terms relating to the advance of the loan, so that that consumer is in a position to evaluate, on the basis of clear, intelligible criteria, the economic consequences for him which derive from it. Finally, the Court of Justice ruled that in a situation whereby a contract concluded between a seller or supplier and a consumer cannot continue in existence after an unfair term has been deleted, that provision does not preclude a rule of national law enabling the national court to cure the invalidity of that term by substituting for it a supplementary provision of national law. **Relevance:** this judgment is relevant for the Ukrainian authorities for several reasons. To begin with, it clarifies the meaning of a phrase employed by the EU legislator in Article 4(2) of Directive 1999/44. It is recommended to take this ruling into account when relevant provisions of Ukrainian law are drafted. Secondly, this judgment also sheds light on the requirement that contractual terms must be drafted in plain and intelligible language. The interpretation provided by the Court of Justice may be also used for drafting of Ukrainian provisions. Thirdly, the analysis of what is permitted under national law in terms of powers of national courts is an important addition to what is already known in terms of regulatory autonomy of the Member States regarding the areas not covered by this Directive.
C-226/12 Constructora Principado SA v	**Facts:** this was a reference for preliminary ruling submitted by *Audiencia Provincial de Oviedo* (Spain) in course of proceedings between Constructora Principado SA and Mr Menéndez Álvarez concerning the refund of sums paid by the latter pursuant to a contract for the purchase of immovable property concluded with that company (for a detailed account of facts see paras. 9-15 of the judgment). The referring court expressed doubts as to interpretation of the

Case	Summary
José Ignacio Menéndez Álvarez	phrase “a significant imbalance in the parties’ rights and obligations arising under the contract”, which is used in Article 3(1) of Directive 1999/44. To this end it decided to proceed with a reference for preliminary ruling (see para. 16 of the judgment). **Judgment:** the Court of Justice held that the existence of a “significant imbalance” does not necessarily require that the costs charged to the consumer by a contractual term have, as regards that consumer, a significant economic impact having regard to the value of the transaction in question, but can result solely from a sufficiently serious impairment of the legal situation in which that consumer, as a party to the contract, is placed by reason of the relevant national provisions. This is irrespective whether this be in the form of a restriction of the rights which, in accordance with those provisions, he enjoys under that contract, or a constraint on the exercise of those rights, or the imposition on him of an additional obligation not envisaged by the national rules. Furthermore, the judges held that in assessing whether there is a significant imbalance, it is for a national court to take into account the nature of the goods or services for which the contract was concluded by referring to all the circumstances attending the conclusion of that contract, as well as all the other terms of contract. **Relevance:** this judgment is of relevance for the Ukrainian authorities as it sheds the light on interpretation of one of the fundamental provisions of Directive 1999/44. It is recommended to take it into account when relevant provisions of Ukrainian law are drafted.
C-243/08 Pannon GSM Zrt. v Erzsébet Sustikné Győrfi	**Facts:** this was a reference for preliminary ruling submitted by *Budaörsi Városi Bíróság* (Hungary) in course of proceedings between Pannon GSM Zrt. and Mrs Sustikné Győrfi relating to the performance of a telephone subscription contract concluded between those parties (see further paras. 12-18 of the judgment). The referring court expressed doubts as to interpretation of Article 6(1) of Directive 1999/44 and therefore it decided to proceed with a reference for preliminary ruling (see para. 19 of the judgment). **Judgment:** the Court of Justice held that Article 6(1) of Directive 1999/44 means that an unfair contract term is not binding on the consumer, and it is not necessary, in that regard, for that consumer to have successfully contested the validity of such a term beforehand. Furthermore, the judges ruled that it is for the national court to determine whether a contractual term satisfies the criteria to be categorised as unfair within the meaning of Article 3(1) of Directive 93/13. In so doing, the national court must take account of the fact that a term, contained in a contract concluded between a consumer and a seller or supplier, which has been included without being individually negotiated and which confers

Case	Summary
	exclusive jurisdiction on the court in the territorial jurisdiction of which the seller or supplier has his principal place of business may be considered to be unfair. **Relevance:** this judgment is relevant for the Ukrainian authorities as it clarifies the meaning of Article 6(1) of Directive 1999/44. Bearing this in mind it should be taken into account when relevant provisions of national law are drafted.
Joined cases C-541/99 and C-542/99 Cape Snc and Idealservice Srl (C-541/99), and between Idealservice MN RE Sas and OMAI Srl (C-542/99)	**Facts:** this was a reference for preliminary ruling submitted by *Giudice di pace di Viadana* (Italy) in course of proceedings between Cape Snc and Idealservice Srl and between Idealservice MN RE Sas and OMAI Srl concerning the performance of standard contracts containing a clause granting jurisdiction to the Giudice di pace di Viadana, which was contested by Cape and OMAI on the basis of the Directive 1999/44 (see further paras. 6-9). The referring court expressed doubts as to interpretation of the term "consumer". **Judgment:** the Court of Justice held that the term "consumer", as defined in Article 2(b) of Directive 93/13/EEC, refers only to natural persons. **Relevance:** this judgment is of relevance for the Ukrainian law-makers as it clarifies the meaning of the term "consumer" laid down in Directive 1999/44 as well as other EU directives dealing with consumer protection.

19.2.7. Directive 90/314/EEC on package travel, package holidays and package tours (NOTE: replaced by Directive (EU) 2015/2302 of the European Parliament and of the Council of 25 November 2015 on package travel and linked travel arrangements, amending Regulation (EC) No 2006/2004 and Directive 2011/83/EU of the European Parliament and of the Council and repealing Council Directive 90/314/EEC)

Case	Summary
	No relevant case-law as of 31 December 2017

19.2.8. Directive 2008/122/EC on the protection of consumers in respect of certain aspects of timeshare, long-term holiday product, resale and exchange contracts

Case	Summary
	No relevant case-law as of 31 December 2017

19.2.9. Directive 85/577/EEC to protect the consumer in respect of contracts negotiated away from business premises

Case	Summary
	No relevant case-law as of 31 December 2017

19.2.10. Directive 2002/65/EC concerning the distance marketing of consumer financial services and amending Council Directive 90/619/EEC and Directives 97/7/EC and 98/27/EC

Case	Summary
	No relevant case-law as of 31 December 2017

19.2.11. Directive 2008/48/EC on credit agreements for consumers and repealing Council Directive 87/102/EEC

Case	Summary
C-377/14 Ernst Georg Radlinger and Helena Radlingerová v FINWAY a.s.	**Facts:** this was a reference for preliminary ruling submitted by *Krajský soud v Praze* (Regional Court, Prague, Czech Republic) in course of proceedings between Mr Radlinger and Ms Radlingerová and Finway a.s. concerning debts arising from a consumer credit agreement which were declared in insolvency proceedings. The referring court expressed doubts as to interpretation of Directive 2008/48/EC and therefore proceeded with a reference for preliminary ruling to the Court of Justice (see further paras. 26-41 of the judgment). **Judgment:** Articles 3(1) and 10(2) of Directive 2008/48 and point I of Annex I to that directive mean that the total amount of the credit and the amount of the drawdown together designate the sums made available to the consumer, which excludes those used by the lender to pay the costs connected with the credit concerned and which are not actually paid to that consumer. **Relevance:** Some questions related to enforcement of EU law in national courts of the Member States, hence they are not of relevance for the Ukrainian authorities. However, interpretation of Articles 3(1) and 10(2) of Directive 2008/48 is of relevance hence it should be taken into account by the Ukrainian law-makers when they proceed with approximation of domestic law with EU a*cquis*.
C-449/13 CA Consumer Finance v Ingrid Bakkaus and Others	**Facts:** this was a reference for preliminary ruling submitted by *Tribunal d'instance d'Orléans* (France) in course of proceedings between CA Consumer Finance SA, on the one hand, and, on the other, Ms Bakkaus, and Mrs Bonato, née Savary, and Mr Bonato concerning payment requests for sums due on personal loans which that company had granted to the borrowers and which those borrowers have defaulted on (see further paras. 12-18 of the judgment). The

Case	Summary
	referring court expressed doubts as to interpretation of Directive 2008/48/EC and therefore proceeded with a reference for preliminary ruling to the Court of Justice (for questions see para. 19 of the judgment). **Judgment:** the Court of Justice ruled that Directive 2008/48/EC precludes national law according to which the burden of proving the non-performance of the obligations laid down in Articles 5 and 8 of Directive 2008/48 lies with the consumer. Furthermore, this Directive also precludes a national court from having to find that, as a result of a standard term, a consumer has acknowledged that the creditor's pre-contractual obligations have been fully and correctly performed, with that term thereby resulting in a reversal of the burden of proving the performance of those obligations such as to undermine the effectiveness of the rights conferred by Directive 2008/48. The Court of Justice also ruled that Article 8(1) of Directive 2008/48 does not preclude the consumer's creditworthiness assessment from being carried out solely on the basis of information supplied by the consumer, provided that that information is sufficient and that mere declarations by the consumer are also accompanied by supporting evidence. It also does not require the creditor to carry out systematic checks of the veracity of the information supplied by the consumer. Last but not least, the Court of Justice held that Article 5(6) of Directive 2008/48 does not preclude a creditor from providing the consumer with adequate explanations before assessing the financial situation and the needs of that consumer, it may be that the assessment of the consumer's creditworthiness means that the adequate explanations provided need to be adapted, and that those explanations must be communicated to the consumer in good time before the credit agreement is signed, without this, however, requiring a specific document to be drawn up. **Relevance:** this judgment is of relevance for the Ukrainian law-makers as it clarifies the meaning of several provisions laid down in Directive 2008/48. To this end it is recommended to take it into account when relevant provisions aiming at approximation with this Directive are being drafted.
C-565/12 LCL Le Crédit Lyonnais SA v Fesih Kalhan	**Facts:** the reference for preliminary ruling was submitted by *tribunal d'instance d'Orléans* (France) in course of proceedings between LCL Le Crédit Lyonnais SA and Mr Kalhan concerning a claim for payment of the outstanding amount of a personal loan which LCL granted to Mr Kalhan and in respect of which he is in default of payment (see paras. 14-28 of the judgment). The referring court expressed doubts as to interpretation of Article 23 of Directive 2008/48, which requires the Member States to provide in their national law effective, proportionate and dissuasive penalties for breaches of this Directive. **Judgment:** the Court of Justice held that Article 23 of Directive 2008/48 precludes the application of a national system of penalties envisaged in the French law in question. It was designed in the following way. In the event of failure on

Case	Summary
	the part of the creditor to comply with its obligation, prior to conclusion of an agreement, to assess the borrower's creditworthiness by consulting the relevant database, that creditor forfeited its entitlement to contractual interest but was automatically entitled to interest at the statutory rate, payable from the date of delivery of a court decision ordering that borrower to pay the outstanding sums. The amount was further increased by five percentage points if, on expiry of a period of two months following that decision, the borrower failed to repay his debt in full, where the referring court found out that — in a case such as that in the main proceedings, in which the outstanding amount of the principal of the loan is immediately payable as a result of the borrower's default — the amounts which the creditor was in fact likely to receive following the application of the penalty of forfeiture of entitlement to contractual interest were not significantly lower than those which it could have received had it complied with its obligation to assess the borrower's creditworthiness. **Relevance:** this judgment is of relevance for the Ukrainian authorities as it gives a good example of a system that is precluded by Directive 2008/48. In order to approximate with Article 23 it may be worth exploring different models developed in national courts.
C-602/10 SC Volksbank România SA v Autoritatea Naţională pentru Protecţia Consumatorilor - Comisariatul Judeţean pentru Protecţia Consumatorilor Călăraşi (CJPC)	**Facts:** this was a reference for preliminary ruling submitted by *Judecătoria Călăraşi* (Romania). It was submitted in course of proceedings between SC Volksbank România SA and the Autoritatea Naţională pentru Protecţia Consumatorilor − Comisariatul Județean pentru Protecția Consumatorilor Călărași (National Consumer Protection Authority − District Commissariat for Consumer Protection of Călăraș) concerning certain clauses included in consumer credit agreements entered into between Volksbank and its customers which, according to the ANPC, are contrary to the national legislation designed to transpose Directive 2008/48 (see paras. 19-35 of the judgment). The referring court expressed doubts as to interpretation of the Directive in question, in particular the extent to which it allows the Member States to adopt rules going beyond the scope required by the EU legislator. **Judgment:** the Court of Justice ruled that Directive 2008/48 did not preclude domestic law from including in its material scope credit agreements concerning the grant of credit secured by immovable property, even though such agreements are expressly excluded from the material scope of this Directive by virtue of Article 2(2)(a) thereof. Furthermore, Directive 2008/48 did not preclude a national measure designed to transpose that directive into domestic law from including in its material scope credit agreements concerning the grant of credit secured by immovable property, even though such agreements are expressly excluded from the material scope of the Directive by virtue of Article 2(2)(a) thereof. The judges also ruled that Directive 2008/48 allowed a national measure designed to transpose that Directive into domestic law from imposing on credit institutions obligations not provided for by the

Case	Summary
	Directive as regards the types of charges that they may levy in connection with consumer credit agreements falling within the scope of that measure. Finally, Directive 2008/48 also permitted national rules which allow consumers to have direct recourse to a consumer protection authority, which may subsequently impose penalties on credit institutions for infringement of that national measure, without having to use beforehand the out-of-court resolution procedures provided for by national legislation for such disputes. **Relevance:** this judgment is of relevance for the Ukrainian authorities and should be taken into account when relevant provisions of Ukrainian law are drafted. It sheds a light on a fundamental issue of regulatory autonomy of the Member States (which *mutatis mutandis* also applies to Ukraine), that is room for maneuver when it comes to going beyond the scope of Directive 2008/48.

19.2.12. Recommendation on principles applicable to out-of-court settlement (98/257/EC) Commission Recommendation of 30 March 1998 on the principles applicable to the bodies responsible for out-of-court settlement of consumer disputes

Case	Summary
	No relevant case-law as of 31 December 2017

19.2.13. Recommendation on consensual resolution out-of-court (2001/310/EC) Commission Recommendation of 4 April 2001 on the principles for out-of-court bodies involved in the consensual resolution of consumer disputes

Case	Summary
	No relevant case-law as of 31 December 2017

19.2.14. Recommendation on consensual resolution out-of-court (2001/310/EC) Commission Recommendation of 4 April 2001 on the principles for out-of-court bodies involved in the consensual resolution of consumer disputes

Case	Summary
	No relevant case-law as of 31 December 2017

19.2.15. Directive 98/27/EC on injunctions for the protection of consumers' interests

Case	Summary

	No relevant case-law as of 31 December 2017

19.2.16. Regulation (EC) No 2006/2004 on cooperation between national authorities responsible for the enforcement of consumer protection laws (the Regulation on consumer protection cooperation)

Case	**Summary**
	No relevant case-law as of 31 December 2017

Chapter 20 Employment, Social Policies and Equal Opportunities

20.1. Lists of jurisprudence

EU Legal Act	Jurisprudence
Council Directive 91/533/EEC of 14 October 1991 on an employer's obligation to inform employees of the conditions applicable to the contract or employment relationship	- C-306/07 Ruben Andersen v Kommunernes Landsforening, ECLI:EU:C:2008:743 - C-350/99 Wolfgang Lange v Georg Schünemann GmbH, ECLI:EU:C:2001:84 - Joined cases C-253/96, C-254/96, C-255/96, C-256/96, C-257/96 and C-258/96 Helmut Kampelmann and Others v Landschaftsverband Westfalen-Lippe (C-253/96 to C-256/96), Stadtwerke Witten GmbH v Andreas Schade (C-257/96) and Klaus Haseley v Stadtwerke Altena GmbH (C-258/96), ECLI:EU:C:1997:585
Council Directive 1999/70/EC of 28 June 1999 concerning the framework agreement on fixed-term work concluded by ETUC, UNICE and CEEP	- C-158/16 Margarita Isabel Vega González v Consejería de Hacienda y Sector Público del gobierno del Principado de Asturias, ECLI:EU:C:2017:1014 - C-631/15 Carlos Álvarez Santirso v Consejería de Educación, Cultura y Deporte del Principado de Asturias, ECLI:EU:C:2016:725 - C-614/15 Rodica Popescu v Direcția Sanitar Veterinară și pentru Siguranța Alimentelor Gorj, ECLI:EU:C:2016:726 - Joined Cases C-184/15 and C-197/15 Florentina Martínez Andrés and Juan Carlos Castrejana López v Servicio Vasco de Salud and Ayuntamiento de Vitoria, ECLI:EU:C:2016:680 - C-16/15 María Elena Pérez López v Servicio Madrileño de Salud (Comunidad de Madrid), ECLI:EU:C:2016:679 - C-596/14 Ana de Diego Porras v Ministerio de Defensa, ECLI:EU:C:2016:683

EU Legal Act	Jurisprudence
	- C-238/14 European Commission v Grand Duchy of Luxembourg, ECLI:EU:C:2015:128 - C-177/14 María José Regojo Dans v Consejo de Estado, ECLI:EU:C:2015:450 - C-117/14 Grima Janet Nisttahuz Poclava v Jose María Ariza Toledano (Taberna del Marqués), ECLI:EU:C:2015:60 - Joined cases C-362/13, C-363/13 and C-407/13 Maurizio Fiamingo (C-362/13), Leonardo Zappalà (C-363/13) and Francesco Rotondo and Others (C-407/13) v Rete Ferroviaria Italiana SpA, ECLI:EU:C:2014:2044 - C-190/13 Antonio Márquez Samohano v Universitat Pompeu Fabra, ECLI:EU:C:2014:146 - C-38/13 Małgorzata Nierodzik v Samodzielny Publiczny Psychiatryczny Zakład Opieki Zdrowotnej im. dr Stanisława Deresza w Choroszczy, ECLI:EU:C:2014:152 - Joined Cases C-22/13, C-61/13 to C-63/13 and C-418/13 Raffaella Mascolo and Others v Ministero dell'Istruzione, dell'Università e della Ricerca and Comune di Napoli, ECLI:EU:C:2014:2401 - C-361/12 Carmela Carratù v Poste Italiane SpA, ECLI:EU:C:2013:830 - C-290/12 Oreste Della Rocca v Poste Italiane SpA, ECLI:EU:C:2013:235 - C-363/11 Epitropos tou Elegktikou Sinedriou sto Ipourgio Politismou kai Tourismou v Ipourgio Politismou kai Tourismou – Ipiresia Dimosionomikou Elenchou, ECLI:EU:C:2012:825 - Joined Cases C-302/11 to C-305/11 Rosanna Valenza and Others v Autorità Garante della Concorrenza e del Mercato, ECLI:EU:C:2012:646 - C-268/06 Impact v Minister for Agriculture and Food, Minister for Arts, Sport and Tourism, Minister for Communications, Marine and Natural Resources, Minister for Foreign Affairs, Minister for Justice, Equality and Law Reform, Minister for Transport, ECLI:EU:C:2008:223

EU Legal Act	Jurisprudence
	- C-212/04 Adeneler and others, ECLI:EU:C:2006:443 - C-144/04 Werner Mangold v. Rüdiger Helm, ECLI:EU:C:2005:709
Council Directive 97/81/EC of 15 December 1997 concerning the Framework Agreement on part-time work concluded by UNICE, CEEP and the ETUC	- C-354/16 Ute Kleinsteuber v Mars GmbH, ECLI:EU:C:2017:539 - C-98/15 María Begoña Espadas Recio v Servicio Público de Empleo Estatal (SPEE), ECLI:EU:C:2017:833 - C-527/13 Lourdes Cachaldora Fernández v Instituto Nacional de la Seguridad Social (INSS) and Tesorería General de la Seguridad Social (TGSS), ECLI:EU:C:2015:215 - C-221/13 Teresa Mascellani v Ministero della Giustizia, ECLI:EU:C:2014:2286 - C-476/12 Österreichischer Gewerkschaftsbund v Verband Österreichischer Banken und Bankiers, ECLI:EU:C:2014:2332 - C-415/12 Bianca Brandes v Land Niedersachsen, ECLI:EU:C:2013:398 - C-361/12 Carmela Carratù v Poste Italiane SpA, ECLI:EU:C:2013:830 - C-393/10 Dermod Patrick O'Brien v Ministry of Justice, ECLI:EU:C:2012:110 - C-486/08 Zentralbetriebsrat der Landeskrankenhäuser Tirols v Land Tirol, ECLI:EU:C:2010:215 - Joined Cases C-395/08 to C-396/08 Istituto nazionale della previdenza sociale (INPS) v Tiziana Bruno, Massimo Pettini (C-395/08), and Istituto nazionale della previdenza sociale (INPS) v Daniela Lotti, Clara Matteucci (C-396/08), ECLI:EU:C:2010:329 - Joined Cases C-55/07 and C-56/07 Othmar Michaeler (C-55/07 and C-56/07), Subito GmbH (C-55/07 and C-56/07) and Ruth Volgger (C-56/07) v Amt für sozialen Arbeitsschutz and Autonome Provinz Bozen, ECLI:EU:C:2008:248

EU Legal Act	Jurisprudence
	- C-313/02 Nicole Wippel v Peek & Cloppenburg GmbH & Co. KG, ECLI:EU:C:2004:607
Council Directive 91/383/EEC of 25 June 1991 supplementing the measures to encourage improvements in the safety and health at work of workers with a fixed- duration employment relationship or a temporary employment relationship	- No relevant case-law as of 31 December 2017

EU Legal Act	Jurisprudence
Council Directive 98/59/EC of 20 July 1998 on the approximation of the laws of the Member States relating to collective redundancies	- C-429/16 Małgorzata Ciupa and Others v II Szpital Miejski im. L. Rydygiera w Łodzi obecnie Szpital Ginekologiczno-Położniczy im dr L. Rydygiera Sp. z o.o. w Łodzi, ECLI:EU:C:2017:711 - C-149/16 Halina Socha and Others v Szpital Specjalistyczny im. A. Falkiewicza we Wrocławiu, ECLI:EU:C:2017:708 - C-201/15 Anonymi Geniki Etairia Tsimenton Iraklis (AGET Iraklis) v Ypourgos Ergasias, Koinonikis Asfalisis kai Koinonikis Allilengyis, ECLI:EU:C:2016:972 - C-422/14 Cristian Pujante Rivera v Gestora Clubs Dir SL and Fondo de Garantía Salarial, ECLI:EU:C:2015:743 - C-229/14 Ender Balkaya v Kiesel Abbruch- und Recycling Technik GmbH, ECLI:EU:C:2015:455 - C-80/14 Union of Shop, Distributive and Allied Workers (USDAW) and B. Wilson v WW Realisation 1 Ltd and Others, ECLI:EU:C:2015:291 - C-392/13 Andrés Rabal Cañas v Nexea Gestión Documental SA and Fondo de Garantía Salarial, ECLI:EU:C:2015:318 - C-182/13 Valerie Lyttle and Others v Bluebird UK Bidco 2 Limited, ECLI:EU:C:2015:317 - Joined cases C-235/10 to C-239/10 David Claes (C-235/10), Sophie Jeanjean (C-236/10), Miguel Rémy (C-237/10), Volker Schneider (C-238/10) and Xuan-Mai Tran (C-239/10) v Landsbanki Luxembourg SA, ECLI:EU:C:2011:119 - C-323/08 Ovido Rodríguez Mayor and Others v v Herencia yacente de Rafael de las Heras Dávila and Others, ECLI:EU:C:2009:770 - C-44/08 Akavan Erityisalojen Keskusliitto AEK ry and Others v Fujitsu Siemens Computers Oy, ECLI:EU:C:2009:533 - C-12/08 Mono Car Styling SA, in liquidation v Dervis Odemis and Others, ECLI:EU:C:2009:466

EU Legal Act	Jurisprudence
	- C-385/05 Confédération générale du travail (CGT) and Others v Premier ministre and Ministre de l'Emploi, de la Cohésion sociale et du Logement, ECLI:EU:C:2007:37 - C-270/05 Athinaïki Chartopoïïa AE v L. Panagiotidis and Others, ECLI:EU:C:2007:101 - C-188/03 Irmtraud Junk v Wolfgang Kühnel, ECLI:EU:C:2005:59 - C-55/02 Commission of the European Communities v Portuguese Republic, ECLI:EU:C:2004:605 - C-32/02 Commission of the European Communities v Italian Republic, ECLI:EU:C:2003:555

EU Legal Act	Jurisprudence
Council Directive 2001/23/EC of 12 March 2001 on the approximation of the laws of the Member States relating to the safeguarding of employees' rights in the event of transfers of undertakings, businesses or parts of undertakings or businesses	- C-416/16 Luís Manuel Piscarreta Ricardo v Portimão Urbis EM SA and Others, ECLI:EU:C:2017:574 - C-200/16 Securitas - Serviços e Tecnologia de Segurança SA v ICTS Portugal – Consultadoria de Aviação Comercial SA and Others, ECLI:EU:C:2017:780 - C-126/16 Federatie Nederlandse Vakvereniging and Others v Smallsteps BV, ECLI:EU:C:2017:489 - Joined Cases C-680/15 and C-681/15 Asklepios Kliniken Langen-Seligenstadt GmbH v Ivan Felja and Asklepios Dienstleistungsgesellschaft mbH v Vittoria Graf, ECLI:EU:C:2017:317 - C-336/15 Unionen v Almega Tjänsteförbunden and ISS Facility Services AB, ECLI:EU:C:2017:276 - C-509/14 Administrador de Infraestructuras Ferroviarias (ADIF) v Luis Aira Pascual and Others, ECLI:EU:C:2015:781 - C-160/14 João Filipe Ferreira da Silva e Brito and Others v Estado português, ECLI:EU:C:2015:565 - C-688/13 Proceedings brought by Gimnasio Deportivo San Andrés SL, ECLI:EU:C:2015:46 - C-328/13 Österreichischer Gewerkschaftsbund v Wirtschaftskammer Österreich - Fachverband Autobus-, Luftfahrt- und Schifffahrtsunternehmungen, ECLI:EU:C:2014:2197 - C-458/12 Lorenzo Amatori and Others v Telecom Italia SpA and Telecom Italia Information Technology Srl, ECLI:EU:C:2014:124 - C-426/11 Mark Alemo-Herron and Others v Parkwood Leisure Ldt, ECLI:EU:C:2013:521 - C-463/09 CLECE SA v María Socorro Martín Valor and Ayuntamiento de Cobisa, ECLI:EU:C:2011:24

EU Legal Act	Jurisprudence
	- C-386/09 Jhonny Briot v Randstad Interim, Sodexho SA, Council of the European Union, ECLI:EU:C:2010:526 - C-242/09 Albron Catering BV v FNV Bondgenoten and John Roest, CLI:EU:C:2010:625 - C-151/09 Federación de Servicios Públicos de la UGT (UGT-FSP) v Ayuntamiento de La Línea de la Concepción, María del Rosario Vecino Uribe and Ministerio Fiscal, ECLI:EU:C:2010:452 - C-561/07 Commission of the European Communities v Italian Republic, ECLI:EU:C:2009:363 - C-466/07 Dietmar Klarenberg v Ferrotron Technologies GmbH, ECLI:EU:C:2009:85 - C-396/07 Mirja Juuri v Fazer Amica Oy, ECLI:EU:C:2008:656 - C-313/07 Kirtruna SL and Elisa Vigano v Red Elite de Electrodomésticos SA and Others, ECLI:EU:C:2008:574 - C-485/05 Mohamed Jouini and Others v Princess Personal Service GmbH (PPS), ECLI:EU:C:2007:512 - Joined cases C-232/04 and C-233/04 Nurten Güney-Görres (C-232/04) and Gul Demir (C-233/04) v Securicor Aviation (Germany) Ltd and Kötter Aviation Security GmbH & Co. KG, ECLI:EU:C:2005:778

EU Legal Act	Jurisprudence
Directive 2002/14/EC of the European Parliament and of the Council of 11 March 2002 establishing a general framework for informing and consulting employees in the European Community	- C-176/12 Association de médiation sociale v Union locale des syndicats CGT and Others, ECLI:EU:C:2014:2 - C-405/08 Ingeniørforeningen i Danmark v Dansk Arbejdsgiverforening, ECLI:EU:C:2010:69 - C-385/05 Confédération générale du travail (CGT) and Others v Premier ministre and Ministre de l'Emploi, de la Cohésion sociale et du Logement, ECLI:EU:C:2007:37
Council Directive 2000/43/EC of 29 June 2000 implementing the principle of equal treatment between persons irrespective of racial or ethnic origin	- C-668/15 Jyske Finans A/S v Ligebehandlingsnævnet, acting on behalf of Ismar Huskic, ECLI:EU:C:2017:278 - C-83/14 "CHEZ Razpredelenie Bulgaria" AD v Komisia za zashtita ot diskriminatsia, ECLI:EU:C:2015:480 - C-451/10 Galina Meister v Speech Design Carrier Systems GmbH, ECLI:EU:C:2012:217 - C-54/07 Centrum voor gelijkheid van kansen en voor racismebestrijding v Firma Feryn NV, ECLI:EU:C:2008:397
Council Directive 2000/78/EC of 27 November 2000 establishing a general framework for equal treatment in employment and occupation	- C-143/16 Abercrombie & Fitch Italia Srl v Antonino Bordonaro, ECLI:EU:C:2017:566 - C-548/15 J.J. de Lange v Staatssecretaris van Financiën, ECLI:EU:C:2016:850 - C-539/15 Daniel Bowman v Pensionsversicherungsanstalt, ECLI:EU:C:2016:977 - C-443/15 David L. Parris v Trinity College Dublin and Others, ECLI:EU:C:2016:897 - C-423/15 Nils-Johannes Kratzer v R+V Allgemeine Versicherung AG, ECLI:EU:C:2016:604 - C-406/15 Petya Milkova v Izpalnitelen direktor na Agentsiata za privatizatsia i sledprivatizatsionen control, ECLI:EU:C:2017:198 - C-395/15 Mohamed Daouidi v Bootes Plus SL and Others, ECLI:EU:C:2016:917

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	- C-258/15 Gorka Salaberria Sorondo v Academia Vasca de Policía y Emergencias, ECLI:EU:C:2016:873 - C-188/15 Asma Bougnaoui and Association de défense des droits de l'homme (ADDH) v Micropole SA, ECLI:EU:C:2017:204 - C-157/15 Samira Achbita and Centrum voor gelijkheid van kansen en voor racismebestrijding v G4S Secure Solutions NV, ECLI:EU:C:2017:203 - C-188/15 Asma Bougnaoui and Association de défense des droits de l'homme (ADDH) v Micropole SA, ECLI:EU:C:2017:204 - C-548/15 J.J. de Lange v Staatssecretaris van Financiën, ECLI:EU:C:2016:850 - C-539/15 Daniel Bowman v Pensionsversicherungsanstalt, ECLI:EU:C:2016:977 - C-443/15 David L. Parris v Trinity College Dublin and Others, ECLI:EU:C:2016:897 - C-423/15 Nils-Johannes Kratzer v R+V Allgemeine Versicherung AG, ECLI:EU:C:2016:604 - C-406/15 Petya Milkova v Izpalnitelen direktor na Agentsiata za privatizatsia i sledprivatizatsionen control, ECLI:EU:C:2017:198 - C-395/15 Mohamed Daouidi v Bootes Plus SL and Others, ECLI:EU:C:2016:917 - C-258/15 Gorka Salaberria Sorondo v Academia Vasca de Policía y Emergencias, ECLI:EU:C:2016:873 - C-159/15 Franz Lesar v Beim Vorstand der Telekom Austria AG eingerichtetes Personalamt, ECLI:EU:C:2016:451 - C-122/15 Proceedings brought by C, ECLI:EU:C:2016:391 - C-441/14 Dansk Industri (DI), acting on behalf of Ajos A/S v Estate of Karsten Eigil Rasmussen, ECLI:EU:C:2016:278 - C-432/14 O v Bio Philippe Auguste SARL, ECLI:EU:C:2015:643 - C-530/13 Leopold Schmitzer v Bundesministerin für Inneres, ECLI:EU:C:2014:2359

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	- C-529/13 Georg Felber v Bundesministerin für Unterricht, Kunst und Kultur, ECLI:EU:C:2015:20 - C-515/13 Ingeniørforeningen i Danmark v Tekniq, ECLI:EU:C:2015:115 - C-417/13 ÖBB Personenverkehr AG v Gotthard Starjakob, ECLI:EU:C:2015:38 - C-416/13 Mario Vital Pérez v Ayuntamiento de Oviedo, ECLI:EU:C:2014:2371 - C-354/13 Fag og Arbejde (FOA) v Kommunernes Landsforening (KL), ECLI:EU:C:2014:2463 - C-20/13 Daniel Unland v Land Berlin, ECLI:EU:C:2015:561 - Joined cases C-501/12 to C-506/12, C-540/12 and C-541/12 Thomas Specht (C-501/12), Jens Schombera (C-502/12), Alexander Wieland (C-503/12), Uwe Schönefeld (C-504/12), Antje Wilke (C-505/12) and Gerd Schini (C-506/12) v Land Berlin and Rena Schmeel (C-540/12) and Ralf Schuster (C-541/12) v Bundesrepublik Deutschland, ECLI:EU:C:2014:2005 - C-492/12 Siegfried Pohl v ÖBB Infrastruktur AG., ECLI:EU:C:2014:12 - C-363/12 Z. v A Government department and The Board of management of a community school, ECLI:EU:C:2014:159 - C-286/12 European Commission v Hungary, ECLI:EU:C:2012:687 - C-267/12 Frédéric Hay v Crédit agricole mutuel de Charente-Maritime et des Deux-Sèvres, ECLI:EU:C:2013:823 - C-81/12 Asociaţia ACCEPT v Consiliul Naţional pentru Combaterea Discriminării, ECLI:EU:C:2013:275 - C-546/11 Dansk Jurist- og Økonomforbund, acting on behalf of Erik Toftgaard v Indenrigs- og Sundhedsministeriet, ECLI:EU:C:2013:603 - C-476/11 HK Danmark acting on behalf of Glennie Kristensen v Experian A/S, ECLI:EU:C:2013:590 - Joined Cases C-335/11 and C-337/11 HK Danmark, acting on behalf of Jette Ring v Dansk almennyttigt Boligselskab (C-335/11) and HK Danmark,

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	acting on behalf of Lone Skouboe Werge v Dansk Arbejdsgiverforening, acting on behalf of Pro Display A/S (C-337/11), ECLI:EU:C:2013:222 - C-152/11 Johann Odar v Baxter Deutschland GmbH, ECLI:EU:C:2012:772 - C-141/11 Torsten Hörnfeldt v Posten Meddelande AB, ECLI:EU:C:2012:421 - C-132/11 Tyrolean Airways Tiroler Luftfahrt Gesellschaft mbH v Betriebsrat Bord der Tyrolean Airways Tiroler Luftfahrt Gesellschaft mbH, ECLI:EU:C:2012:329 - Joined cases C-124/11, C-125/11 and C-143/11 Bundesrepublik Deutschland v Karen Dittrich (C-124/11) and Robert Klinke (C-125/11) and Jörg-Detlef Müller v Bundesrepublik Deutschland (C-143/11), ECLI:EU:C:2012:771 - C-415/10 Galina Meister v Speech Design Carrier Systems GmbH, ECLI:EU:C:2012:217 - Joined cases C-297/10 and C-298/10 Sabine Hennigs (C-297/10) v Eisenbahn-Bundesamt and Land Berlin (C-298/10) v Alexander Mai, ECLI:EU:C:2011:560 - Joined cases C-159/10 and C-160/10 Gerhard Fuchs (C-159/10) and Peter Köhler (C-160/10) v Land Hessen, ECLI:EU:C:2011:508 - C-447/09 Reinhard Prigge and Others v Deutsche Lufthansa AG, ECLI:EU:C:2011:573 - C-356/09 Pensionsversicherungsanstalt v Christine Kleist, ECLI:EU:C:2010:703 - Joined cases C-250/09 and C-268/09 Vasil Ivanov Georgiev v Tehnicheski universitet - Sofia, filial Plovdiv, ECLI:EU:C:2010:699 - C-246/09 Susanne Bulicke v Deutsche Büro Service GmbH, ECLI:EU:C:2010:418 - C-109/09 Deutsche Lufthansa AG v Gertraud Kumpan, ECLI:EU:C:2011:129

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	- C-45/09 Gisela Rosenbladt v Oellerking Gebäudereinigungsges. mbH., ECLI:EU:C:2010:601 - C-499/08 Ingeniørforeningen i Danmark v Region Syddanmark, ECLI:EU:C:2010:600 - C-341/08 Domnica Petersen v Berufungsausschuss für Zahnärzte für den Bezirk Westfalen-Lippe, ECLI:EU:C:2010:4 - C-229/08 Colin Wolf v Stadt Frankfurt am Main, ECLI:EU:C:2010:3 - C-147/08 Jürgen Römer v Freie und Hansestadt Hamburg, ECLI:EU:C:2011:286 - C-88/08 David Hütter v Technische Universität Graz, ECLI:EU:C:2009:381 - C-555/07 Seda Kücükdeveci v Swedex GmbH & Co. KG., ECLI:EU:C:2010:21 - C-388/07 The Queen, on the application of The Incorporated Trustees of the National Council for Ageing (Age Concern England) v Secretary of State for Business, Enterprise and Regulatory Reform, ECLI:EU:C:2009:128 - C-427/06 Birgit Bartsch v Bosch und Siemens Hausgeräte (BSH) Altersfürsorge GmbH, ECLI:EU:C:2008:517 - C-303/06 S. Coleman v Attridge Law and Steve Law, ECLI:EU:C:2008:415 - C-267/06 Tadao Maruko v Versorgungsanstalt der deutschen Bühnen, ECLI:EU:C:2008:179 - C-411/05 Félix Palacios de la Villa v Cortefiel Servicios SA, ECLI:EU:C:2007:604 - C-13/05 Sonia Chacón Navas v Eurest Colectividades SA, ECLI:EU:C:2006:456 - C-144/04 Werner Mangold v Rüdiger Helm, ECLI:EU:C:2005:709
Council Directive 2004/113/EC of 13 December 2004 implementing the principle of equal treatment between men and women in the access to and supply of goods and services	- C-236/09 Association Belge des Consommateurs Test-Achats ASBL and Others v Conseil des ministres, ECLI:EU:C:2011:100

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Council Directive 92/85/EEC of 19 October 1992 on the introduction of measures to encourage improvements in the safety and health at work of pregnant workers and workers who have recently given birth or are breastfeeding (tenth individual Directive within the meaning of Article 16(1) of Directive 89/391/EEC)	- C-531/15 Elda Otero Ramos v Servicio Galego de Saúde and Instituto Nacional de la Seguridad Social, ECLI:EU:C:2017:789 - C-335/15 Maria Cristina Elisabetta Ornano v Ministero della Giustizia, Direzione Generale dei Magistrati del Ministero, ECLI:EU:C:2016:564 - C-65/14 Charlotte Rosselle v Institut national d'assurance maladie-invalidité (INAMI) and Union nationale des mutualités libres (UNM), ECLI:EU:C:2015:339 - C-167/12 C.D. v S.T.., ECLI:EU:C:2014:169 - C-5/12 Marc Betriu Montull v Instituto Nacional de la Seguridad Social (INSS), ECLI:EU:C:2013:571 - Joined cases C-512/11 and C-513/11 Terveys- ja sosiaalialan neuvottelujärjestö (TSN) ry v Terveyspalvelualan Liitto ry (C-512/11) and Ylemmät Toimihenkilöt (YTN) ry v Teknologiateollisuus ry and Nokia Siemens Networks Oy (C-513/11), ECLI:EU:C:2014:73 - C-232/09 Dita Danosa v LKB Līzings SIA, ECLI:EU:C:2010:674 - C-471/08 Sanna Maria Parviainen v Finnair Oyj, ECLI:EU:C:2010:391 - C-194/08 Susanne Gassmayr v Bundesminister für Wissenschaft und Forschung, ECLI:EU:C:2010:386 - C-63/08 Virginie Pontin v T-Comalux SA., ECLI:EU:C:2009:666 - C-506/06 Sabine Mayr v Bäckerei und Konditorei Gerhard Flöckner OHG, ECLI:EU:C:2008:119 - C-460/06 Nadine Paquay v Société d'architectes Hoet + Minne SPRL., ECLI:EU:C:2007:601 - C-116/06 Sari Kiiski v Tampereen kaupunki, ECLI:EU:C:2007:536 - C-147/02 Michelle K. Alabaster v Woolwich plc and Secretary of State for Social Security, ECLI:EU:C:2004:192 - C-342/01 María Paz Merino Gómez v Continental Industrias del Caucho SA., ECLI:EU:C:2004:160 - C-109/00 Tele Danmark A/S v Handels- og Kontorfunktionærernes Forbund i Danmark (HK), ECLI:EU:C:2001:513

EU Legal Act	Jurisprudence
	- C-438/99 Maria Luisa Jiménez Melgar v Ayuntamiento de Los Barrios, ECLI:EU:C:2001:509 - C-333/97 Susanne Lewen v Lothar Denda, ECLI:EU:C:1999:512 - C-411/96 Margaret Boyle and Others v Equal Opportunities Commission, ECLI:EU:C:1998:506 - C-394/96 Mary Brown v Rentokil Ltd., ECLI:EU:C:1998:331
Council Directive 79/7/EEC of 19 December 1978 on the progressive implementation of the principle of equal treatment for men and women in matters of social security	- C-137/15 María Pilar Plaza Bravo v Servicio Público de Empleo Estatal Dirección Provincial de Álava, ECLI:EU:C:2015:771 - C-527/13 Lourdes Cachaldora Fernández v Instituto Nacional de la Seguridad Social (INSS) and Tesorería General de la Seguridad Social (TGSS), ECLI:EU:C:2015:215 - C-318/13 Proceedings brought by X., ECLI:EU:C:2014:2133 - C-123/10 Waltraud Brachner v Pensionsversicherungsanstalt, ECLI:EU:C:2011:675 - C-577/08 Rijksdienst voor Pensioenen v Elisabeth Brouwer, ECLI:EU:C:2010:449 - C-537/07 Evangelina Gómez-Limón Sánchez-Camacho v Instituto Nacional de la Seguridad Social (INSS), Tesorería General de la Seguridad Social (TGSS) and Alcampo SA, ECLI:EU:C:2009:462 - Joined cases C-231/06 to C-233/06 Office national des pensions v Emilienne Jonkman (C-231/06) and Hélène Vercheval (C-232/06) and Noëlle Permesaen v Office national des pensions (C-233/06), ECLI:EU:C:2007:373 - C-423/04 Sarah Margaret Richards v Secretary of State for Work and Pensions, ECLI:EU:C:2006:256 - C-303/02 Peter Haackert v Pensionsversicherungsanstalt der Angestellten, ECLI:EU:C:2004:128 - C-172/02 Robert Bourgard v Institut national d'assurances sociales pour travailleurs indépendants (Inasti), ECLI:EU:C:2004:283 - C-351/00 Pirkko Niemi, ECLI:EU:C:2002:480

EU Legal Act	Jurisprudence
	- C-382/98 The Queen v Secretary of State for Social Security, ex parte John Henry Taylor, ECLI:EU:C:1999:623 - C-196/98 Regina Virginia Hepple v Adjudication Officer and Adjudication Officer v Anna Stec, ECLI:EU:C:2000:278 - C-104/98 Johann Buchner and Others v Sozialversicherungsanstalt der Bauern, ECLI:EU:C:2000:276 - Joined cases C-377/96 to C-384/96 August De Vriendt v Rijksdienst voor Pensioenen (C-377/96), Rijksdienst voor Pensioenen v René van Looveren (C-378/96), Julien Grare (C-379/96), Karel Boeykens (C-380/96) and Frans Serneels (C-381/96) and Office national des pensions (ONP) v Fredy Parotte (C-382/96), Camille Delbrouck (C-383/96) and Henri Props (C-384/96), ECLI:EU:C:1998:183 - C-154/96 Louis Wolfs v Office national des pensions (ONP), ECLI:EU:C:1998:494 - C-139/95 Livia Balestra v Istituto Nazionale della Previdenza Sociale (INPS), ECLI:EU:C:1997:45 - C-77/95 Bruna-Alessandra Züchner v Handelskrankenkasse (Ersatzkasse) Bremen, ECLI:EU:C:1996:425 - C-66/95 The Queen v Secretary of State for Social Security, ex parte Eunice Sutton, ECLI:EU:C:1997:207 - C-280/94 Y. M. Posthuma-van Damme v Bestuur van de Bedrijfsvereniging voor Detailhandel, Ambachten en Huisvrouwen and N. Oztürk v Bestuur van de Nieuwe Algemene Bedrijfsvereniging, ECLI:EU:C:1996:27 - Joined cases C-245/94 and C-312/94 Ingrid Hoever and Iris Zachow v Land Nordrhein-Westfalen, ECLI:EU:C:1996:379 - C-228/94 Stanley Charles Atkins v Wrekin District Council and Department of Transport, ECLI:EU:C:1996:288 - C-137/94 The Queen v Secretary of State for Health, ex parte Cyril Richardson, ECLI:EU:C:1995:342

EU Legal Act	Jurisprudence
	- C-92/94 Secretary of State for Social Security and Chief Adjudication Officer v Rose Graham, Mary Connell and Margaret Nicholas, ECLI:EU:C:1995:272 - C-8/94 C. B. Laperre v Bestuurscommissie beroepszaken in de provincie Zuid-Holland, ECLI:EU:C:1996:36 - C-444/93 Ursula Megner and Hildegard Scheffel v Innungskrankenkasse Vorderpfalz, now Innungskrankenkasse Rheinhessen-Pfalz, ECLI:EU:C:1995:442 - C-317/93 Inge Nolte v Landesversicherungsanstalt Hannover, ECLI:EU:C:1995:438 - C-297/93 Rita Grau-Hupka v Stadtgemeinde Bremen, ECLI:EU:C:1994:406 - C-128/93 Geertruida Catharina Fisscher v Voorhuis Hengelo BV and Stichting Bedrijfspensioenfonds voor de Detailhandel, ECLI:EU:C:1994:353 - C-57/93 Anna Adriaantje Vroege v NCIV Instituut voor Volkshuisvesting BV and Stichting Pensioenfonds NCIV, ECLI:EU:C:1994:352 - C-7/93 Bestuur van het Algemeen Burgerlijk Pensioenfonds v G. A. Beune, ECLI:EU:C:1994:350 - C-420/90 Elizabeth Bramhill v Chief Adjudication Officer, ECLI:EU:C:1994:280 - C-410/92 Elsie Rita Johnson v Chief Adjudication Officer, ECLI:EU:C:1994:401 - C-343/92 M. A. De Weerd, née Roks, and others v Bestuur van de Bedrijfsvereniging voor de Gezondheid, Geestelijke en Maatschappelijke Belangen and others, ECLI:EU:C:1994:71 - C-154/92 Remi van Cant v Rijksdienst voor pensioenen, ECLI:EU:C:1993:282 - C-338/91 H. Steenhorst-Neerings v Bestuur van de Bedrijfsvereniging voor Detailhandel, Ambachten en Huisvrouwen, ECLI:EU:C:1993:857

EU Legal Act	Jurisprudence
	- C-337/91 A. M. van Gemert-Derks v Nieuwe Industriële Bedrijfsvereniging, ECLI:EU:C:1993:856 - C-328/91 Secretary of State for Social Security v Evelyn Thomas and others, ECLI:EU:C:1993:117 - C-226/91 Jan Molenbroek v Bestuur van de Sociale Verzekeringsbank, ECLI:EU:C:1992:451 - C-165/91 Simon J. M. van Munster v Rijksdienst voor Pensioenen, ECLI:EU:C:1994:359 - Joined cases C-63/91 and C-64/91 Sonia Jackson and Patricia Cresswell v Chief Adjudication Officer, ECLI:EU:C:1992:329 - C-9/91 The Queen v Secretary of State for Social Security, ex parte Equal Opportunities Commission, ECLI:EU:C:1992:297 - C-243/90 The Queen v Secretary of State for Social Security, ex parte Florence Rose Smithson, ECLI:EU:C:1992:54 - C-208/90 Theresa Emmott v Minister for Social Welfare and Attorney General, ECLI:EU:C:1991:333 - Joined cases C-87/90, C-88/90 and C-89/90 A. Verholen and others v Sociale Verzekeringsbank Amsterdam, ECLI:EU:C:1991:314 - C-31/90 Elsie Rita Johnson v Chief Adjudication Officer, ECLI:EU:C:1991:311 - C-377/89 Ann Cotter and Norah McDermott v Minister for Social Welfare and Attorney General, ECLI:EU:C:1991:116 - C-373/89 Caisse d'assurances sociales pour travailleurs indépendants "Integrity" v Nadine Rouvroy, ECLI:EU:C:1990:414 - C-262/88 Douglas Harvey Barber v Guardian Royal Exchange Assurance Group, ECLI:EU:C:1990:209 - C-102/88 M. L. Ruzius-Wilbrink v Bestuur van de Bedrijfsvereniging voor Overheidsdiensten, ECLI:EU:C:1989:639 - Joined cases 48/88, 106/88 and 107/88 J. E. G. Achterberg-te Riele and others v Sociale Verzekeringsbank, ECLI:EU:C:1989:261

EU Legal Act	Jurisprudence
	- 151/87 Cornelis G. Bakker v Rijksdienst voor Werknemerspensionen, ECLI:EU:C:1988:191 - 80/87 A. Dik, A. Menkutos-Demirci and H. G. W. Laar-Vreeman v College van Burgemeester en Wethouders Arnhem and Winterswijk, ECLI:EU:C:1988:133 - 384/85 Jean Borrie Clarke v Chief Adjudication Officer, ECLI:EU:C:1987:309 - 286/85 Norah McDermott and Ann Cotter v Minister for Social Welfare and Attorney-General, ECLI:EU:C:1987:154 - 192/85 George Noel Newstead v Department of Transport and Her Majesty's Treasury, ECLI:EU:C:1987:522 - 150/85 Jacqueline Drake v Chief Adjudication Officer, ECLI:EU:C:1986:257 - 71/85 State of the Netherlands v Federatie Nederlands Vakbeweging, ECLI:EU:C:1986:465 - 30/85 J. W. Teuling v Bestuur van de Bedrijfsvereniging voor de Chemische Industrie, ECLI:EU:C:1987:271 - 262/84 Vera Mia Beets-Proper v F. Van Lanschot Bankiers NV, ECLI:EU:C:1986:86 - 152/84 M. H. Marshall v Southampton and South-West Hampshire Area Health Authority (Teaching), ECLI:EU:C:1986:84 - 151/84 Joan Roberts v Tate & Lyle Industries Limited, ECLI:EU:C:1986:83 - 275/81 G.F. Koks v Raad van Arbeid, ECLI:EU:C:1982:316 - 19/81 Arthur Burton v British Railways Board, ECLI:EU:C:1982:58

EU Legal Act	Jurisprudence
Directive 89/391/EEC of 12 June 1989 on the introduction of measures to encourage improvements in the safety and health of workers at work	- C-335/15 Maria Cristina Elisabetta Ornano v Ministero della Giustizia, Direzione Generale dei Magistrati del Ministero, ECLI:EU:C:2016:564 - C-65/14 Charlotte Rosselle v Institut national d'assurance maladie-invalidité (INAMI) and Union nationale des mutualités libres (UNM), ECLI:EU:C:2015:339 - C-127/05 Commission of the European Communities v United Kingdom of Great Britain and Northern Ireland, ECLI:EU:C:2007:338 - C-428/04 Commission of the European Communities v Republic of Austria, ECLI:EU:C:2006:238 - C-5/00 Commission of the European Communities v Federal Republic of Germany, ECLI:EU:C:2002:81 - C-241/99 Confederación Intersindical Galega (CIG) v Servicio Galego de Saúde (Sergas), ECLI:EU:C:2001:371 - C-303/98 Sindicato de Médicos de Asistencia Pública (Simap) v Conselleria de Sanidad y Consumo de la Generalidad Valenciana, ECLI:EU:C:2000:528
Council Directive 89/654/EEC of 30 November 1989 concerning the minimum safety and health requirements for the workplace (first individual Directive within the meaning of Article 16(1) of Directive 89/391/EEC)	No relevant case-law as of 31 December 2017
Council Directive 89/655/EEC of 30 November 1989, concerning the minimum safety and health requirements for the use of work equipment by workers at work (second individual Directive within the meaning of Article 16(1) of Directive 89/391/EEC) (NOTE: repealed by Directive 2009/104/EC of the European Parliament and of the Council of 16 September 2009 concerning the minimum safety and health requirements for the use of work equipment by workers at work (second individual Directive within the meaning of Article 16(1) of Directive 89/391/EEC))	No relevant case-law as of 31 December 2017

EU Legal Act	Jurisprudence
Directive 2001/45/EC of the European Parliament and of the Council of 27 June 2001 amending Council Directive 89/655/EEC concerning the minimum safety and health requirements for the use of work equipment by workers at work (second individual Directive within the meaning of Article 16(1) of Directive 89/391/EEC) (NOTE: repealed by Directive 2009/104/EC of the European Parliament and of the Council of 16 September 2009 concerning the minimum safety and health requirements for the use of work equipment by workers at work (second individual Directive within the meaning of Article 16(1) of Directive 89/391/EEC))	No relevant case-law as of 31 December 2017
Council Directive 92/91/EEC of 3 November 1992 concerning the minimum requirements for improving the safety and health protection of workers in the mineral-extracting industries through drilling (eleventh individual Directive within the meaning of Article 16(1) of Directive 89/391/EEC)	No relevant case-law as of 31 December 2017
Council Directive 92/104/EEC of 3 December 1992 on the minimum requirements for improving the safety and health protection of workers in surface and underground mineral-extracting industries (twelfth individual Directive within the meaning of Article 16(1) of Directive 89/391/EEC)	No relevant case-law as of 31 December 2017
Council Directive 89/656/EEC of 30 November 1989 on the minimum health and safety requirements for the use by workers of personal protective equipment at the workplace (third individual Directive within the meaning of Article 16(1) of Directive 89/391/EEC)	- C-103/01 Commission of the European Communities v Federal Republic of Germany, ECLI:EU:C:2003:301
Council Directive 92/57/EEC of 24 June 1992 on the implementation of minimum safety and health requirements at temporary or mobile construction sites (eight individual Directive within the meaning of Article 16(1) of Directive 89/391/EEC)	- C-224/09 Criminal proceedings against Martha Nussbaumer, ECLI:EU:C:2010:594

EU Legal Act	Jurisprudence
Council Directive 83/477/EEC of 19 September 1983 on the protection of workers from the risks related to exposure to asbestos at work (second individual Directive within the meaning of Article 8 of Directive 80/1107/EEC) (NOTE: repealed by Directive 2009/148/EC of the European Parliament and of the Council of 30 November 2009 on the protection of workers from the risks related to exposure to asbestos at work)	No relevant case-law as of 31 December 2017
Council Directive 91/382/EEC of 25 June 1991 amending Directive 83/477/EEC on the protection of workers from the risks related to exposure to asbestos at work (second individual Directive within the meaning of Article 8 of Directive 80/1107/EEC) (NOTE: repealed by Directive 2009/148/EC of the European Parliament and of the Council of 30 November 2009 on the protection of workers from the risks related to exposure to asbestos at work)	No relevant case-law as of 31 December 2017
Directive 2003/18/EC, of the European Parliament and of the Council of 27 March 2003 amending Council Directive 83/477/EEC on the protection of workers from the risks related to exposure to asbestos at work (NOTE: repealed by Directive 2009/148/EC of the European Parliament and of the Council of 30 November 2009 on the protection of workers from the risks related to exposure to asbestos at work)	No relevant case-law as of 31 December 2017
Directive 2004/37/EC of the European Parliament and of the Council of 29 April 2004 on the protection of workers from the risks related to exposure to carcinogens or mutagens at work (sixth individual Directive within the meaning of Article 16(1) of Directive 89/391/EEC)	No relevant case-law as of 31 December 2017
Directive 2000/54/EC of the European Parliament and of the Council of 18 September 2000 on the protection of workers from risks related to exposure to biological agents at work (seventh individual Directive within the meaning of Article 16(1) of Directive 89/391/EEC)	No relevant case-law as of 31 December 2017

EU Legal Act	Jurisprudence
Council Directive 90/270/EEC of 29 May 1990 on the minimum safety and health requirements for work with display screen equipment (fifth individual Directive within the meaning of Article 16(1) of Directive 89/391/EEC)	- Joined cases C-74/95 and C-129/95 Criminal proceedings against X, ECLI:EU:C:1996:491 - C-11/99 Margrit Dietrich v Westdeutscher Rundfunk, ECLI:EU:C:2000:368 - C-455/00 Commission of the European Communities v Italian Republic, ECLI:EU:C:2002:612
Council Directive 92/58/EEC of 24 June 1992 on the minimum requirements for the provision of safety and/or health signs at work (ninth individual Directive within the meaning of Article 16(1) of Directive 89/391/EEC)	No relevant case-law as of 31 December 2017
Council Directive 98/24/EC of 7 April 1998 on the protection of the health and safety of workers from the risks related to chemical agents at work (fourteenth individual Directive within the meaning of Article 16(1) of Directive 89/391/EEC)	No relevant case-law as of 31 December 2017
Directive 1999/92/EC of the European Parliament and of the Council of 16 December 1999 on minimum requirements for improving the safety and health protection of workers potentially at risk from explosive atmospheres (fifteenth individual Directive within the meaning of Article 16(1) of Directive 89/391/EEC)	No relevant case-law as of 31 December 2017
Directive 2002/44/EC of the European Parliament and of the Council of 25 June 2002 on the minimum health and safety requirements regarding the exposure of workers to the risk arising from physical agents (vibration) (sixteenth individual Directive within the meaning of Article 16(1) of Directive 89/391/EEC)	No relevant case-law as of 31 December 2017

EU Legal Act	Jurisprudence
Directive 2003/10/EC of the European Parliament and of the Council of 6 February 2003 on the minimum health and safety requirements regarding the exposure of workers to the risk arising from physical agents (noise) (seventeenth individual Directive within the meaning of Article 16(1) of Directive 89/391/EEC)	- Joined cases C-256/10 and C-261/10 David Barcenilla Fernández (C-256/10) and Pedro Antonio Macedo Lozano (C-261/10) v Gerardo García SL, ECLI:EU:C:2011:326
Directive 2004/40/EC of the European Parliament and of the Council of 29 April 2004 on the minimum health and safety requirements regarding the exposure of workers to the risks arising from physical agents (electromagnetic fields) (18th individual Directive within the meaning of Article 16(1) of Directive 89/391/EEC) (NOTE: repealed by Directive 2013/35/EU of the European Parliament and of the Council of 26 June 2013 on the minimum health and safety requirements regarding the exposure of workers to the risks arising from physical agents (electromagnetic fields) (20th individual Directive within the meaning of Article 16(1) of Directive 89/391/EEC) and repealing Directive 2004/40/EC)	No relevant case-law as of 31 December 2017
Directive 2006/25/EC of the European Parliament and of the Council of 5 April 2006 on the minimum health and safety requirements regarding the exposure of workers to risks arising from physical agents (artificial optical radiation) (19th individual Directive within the meaning of Article 16(1) of Directive 89/391/EEC)	No relevant case-law as of 31 December 2017
Council Directive 93/103/EC of 23 November 1993 concerning the minimum safety and health requirements for work on board fishing vessels (thirteenth individual Directive within the meaning of Article 16(1) of Directive 89/391/EEC)	No relevant case-law as of 31 December 2017
Council Directive 92/29/EEC of 31 March 1992 on the minimum safety and health requirements for improved medical treatment on board vessels	No relevant case-law as of 31 December 2017

EU Legal Act	Jurisprudence
Council Directive 90/269/EEC of 29 May 1990 on the minimum health and safety requirements for the manual handling of loads where there is a risk particularly of back injury to workers (fourth individual Directive within the meaning of Article 16(1) of Directive 89/391/EEC	No relevant case-law as of 31 December 2017
Commission Directive 91/322/EEC of 29 May 1991 on establishing indicative limit values by implementing Council Directive 80/1107/EEC on the protection of workers from the risks related to exposure to chemical, physical and biological agents at work	No relevant case-law as of 31 December 2017
Commission Directive 2000/39/EC establishing a first list of indicative occupational exposure limit values in implementation of Council Directive 98/24/E on the protection of the health and safety of workers from the risks related to chemical agents at work	No relevant case-law as of 31 December 2017
Commission Directive 2006/15/EC establishing a second list of indicative occupational exposure limit values in imple-mentation of Council Directive 98/24/EC and amending Directives 91/322/EEC and 2000/39/EC	No relevant case-law as of 31 December 2017

20.2. Summaries of selected judgments

20.2.1. Directive 91/533/EEC on an employer's obligation to inform employees of the conditions applicable to the contract or employment relationship

Case	Summary
C-306/07 Ruben Andersen v Kommunernes Landsforening	**Facts:** this was a reference for preliminary ruling submitted by *Højesteret* (Denmark). It was submitted in course of domestic proceedings between Mr Andersen and Kommunernes Landsforening (National Association of Municipalities), acting on behalf of Slagelse Kommune (formerly Skælskør Kommune) (Denmark), which was Mr Andersen's employer, concerning the applicability to him of a collective agreement governing employment in Danish municipalities (see further paras. 17-20). The referring court expressed doubts as to interpretation of Directive 91/533 and therefore decided to proceed with a reference for preliminary ruling. It submitted three questions dealing, inter

Case	Summary
	alia, with the applicability of collective agreement to the plaintiff as well as interpretation of terms “temporary contract” and “temporary ... employment relationship” which were used in Article 8 of this Directive. **Judgment:** Article 8(1) of Directive 91/533 does not prohibit national rules, which provide that a collective agreement which is intended to transpose the provisions of Directive 91/533 into national law, are to apply to an employee even though he is not a member of an organisation which is a party to that agreement. Article 8(2) of Directive 91/533 does not prevent an employee who is not a member of a union which is a party to a collective agreement governing his employment relationship being regarded as ‘covered by’ that agreement within the meaning of the abovementioned provision. Furthermore, the Court of Justice ruled that ‘a temporary contract or employment relationship’ in the second subparagraph of Article 8(2) of Directive 91/533 must be interpreted as referring to contracts and employment relationships entered into for a short period. The judges added that if no norm has been laid down for that purpose in a Member State’s rules, it is for the national courts to determine the duration in each case in the light of the specific characteristics of certain sectors or certain occupations or activities. That duration must, however, be fixed so as to provide effective protection of the rights conferred on workers by Directive 91/533. **Relevance:** this is an important judgment clarifying the meaning of Article 8 of Directive 91/533 and the room for maneuver available to the Member States. It should be taken into account when Ukrainian authorities proceed with approximation of national rules with the Directive in question.
C-350/99 Wolfgang Lange v Georg Schünemann GmbH	**Facts:** this was a reference for preliminary ruling submitted by Arbeitsgericht Bremen (Germany) in course of proceedings between Wolfgang Lange and Georg Schünemann GmbH concerning the validity of Mr Lange's dismissal by Georg Schünemann on the ground that Mr Lange refused to work overtime (see further paras. 9-13 of the judgment). The German court hearing the case decided to proceed with a reference for preliminary ruling and asked 3 questions on interpretation of Directive 91/533. It wished to know, inter alia, if Article 2(2)(i) of Directive 91/533 applies to agreements by the employee by which he undertakes in general terms to work overtime. **Judgment:** Article 2(2)(i) of Directive 91/533 does not relate to working of overtime. However, as per Article 2(1) of Directive 91/533 an employer is obliged to notify the employee of any term having the nature of an essential element of the contract or employment relationship and requiring the employee to work overtime whenever requested to do so by his employer. That information must be notified under the same conditions as those laid down by the Directive for the elements expressly mentioned in Article 2(2) thereof. The judges added that it may, where appropriate, by analogy with the rule which applies, in particular, to normal working hours by virtue of Article 2(3) of the Directive,

Case	Summary
	take the form of a reference to the relevant laws, regulations and administrative or statutory provisions or collective agreements. Furthermore, no provision of Directive 91/533 requires an essential element of the contract or employment relationship that has not been mentioned in a written document delivered to the employee or has not been mentioned therein with sufficient precision to be regarded as inapplicable. Last but not least, the Court of Justice ruled that where an employer fails to comply with his obligation under Directive 91/533 to provide information, that Directive does not require the national court to apply, or refrain from applying, principles of national law under which the proper taking of evidence is deemed to have been obstructed where a party to the proceedings has not complied with his legal obligations to provide information. **Relevance:** this is an important judgment which shed light on interpretation of Directive 91/533, in particular its Article 2. It should be taken into account when Ukrainian authorities proceed with approximation of domestic rules with EU *acquis*.
Joined cases C-253/96, C-254/96, C-255/96, C-256/96, C-257/96 and C-258/96 Helmut Kampelmann and Others v Landschaftsverband Westfalen-Lippe (C-253/96 to C-256/96), Stadtwerke Witten GmbH v Andreas Schade (C-257/96) and Klaus Haseley v Stadtwerke Altena GmbH (C-258/96)	**Facts:** this was a reference for preliminary ruling submitted by *Landesarbeitsgericht Hamm* (Germany). It was raised in several domestic proceedings concerning the employers' refusals to promote the employees to a higher grade on the ground that they had not proved that they had the required length of service in performing the work corresponding to the relevant level and degree of qualification, notwithstanding the written information to the contrary communicated to them by their employers several years earlier (for a detailed account of facts see paras. 12-22 of the judgment). **Judgment:** The notification referred to in Article 2(1) of Council Directive 91/533 in so far as it informs an employee of the essential aspects of the contract or employment relationship and, in particular, of the points listed in Article 2(2)(c), enjoys the same presumption as to its correctness as would attach, in domestic law, to any similar document drawn up by the employer and communicated to the employee. The employer must none the less be allowed to bring any evidence to the contrary, by showing that the information in the notification is either inherently incorrect or has been shown to be so in fact. Furthermore, Article 9(2) Directive 91/533, properly construed, does not preclude the Member States from exempting an employer from the obligation to give an employee written notification of the essential aspects of the contract or employment relationship, even at the employee's request, when those aspects are already set out in a document or contract of employment drawn up before the measures transposing the Directive entered into force.

Case	Summary
	Relevance: this is an important judgment, which clarifies numerous provisions laid down in Directive 91/533. It should be taken on board when Ukrainian authorities proceed with approximation of national rules with the Directive in question.

20.2.2. Directive 1999/70/EC concerning the framework agreement on fixed-term work concluded by ETUC, UNICE and CEEP

Case	Summary
C-268/06 Impact v Minister for Agriculture and Food, Minister for Arts, Sport and Tourism, Minister for Communications, Marine and Natural Resources, Minister	**Facts:** this was a reference for preliminary ruling submitted by *Labour Court* (Ireland). It was submitted in course of proceedings between the Irish trade union Impact, acting on behalf of Irish civil servants, against the government departments which employ them concerning, first, the pay and pension conditions applied to those civil servants on the basis of their status as fixed-term workers and, second, the conditions for the renewal of certain fixed-term contracts by one of those government departments (for a detailed account of facts see paras. 17-35 of the judgment). The referring court submitted 5 questions dealing with the enforcement of applicable rules at national level as well as interpretation of substantive rules laid down in this Directive (see para. 36 of the judgment).

Case	Summary
for Foreign Affairs, Minister for Justice, Equality and Law Reform, Minister for Transport	**Judgment:** Clause 4 of the framework agreement on fixed-term work (annexed to Directive 1999/70) must be interpreted as meaning that employment conditions within the meaning of that clause encompass conditions relating to pay and to pensions which depend on the employment relationship, to the exclusion of conditions relating to pensions arising under a statutory social- security scheme. Answers provided in sections 1-4 of the Court's conclusions deal with the enforcement of this Directive in national courts. **Relevance:** conclusions of the Court of Justice laid down in sections 1-4 do not have relevance for the Ukrainian authorities as they apply only to EU Member States. However, interpretation of Clause 4 of the framework agreement should be taken into account by the Ukrainian law-makers when they proceed with approximation of Ukrainian law with the Directive in question.
C-212/04 Adeneler and others	**Facts:** this was a reference for preliminary ruling submitted by *Monomeles Protodikio Thessalonikis* (Greece) in course of proceedings between Mr Adeneler and 17 other employees against their employer, Ellinikos Organismos Galaktos (Greek Milk Organisation; 'ELOG'), concerning ELOG's failure to renew their fixed-term employment contracts (for a detailed account of facts see paras. 24-32 of the judgment). The Greek court seized with the dispute decided to proceed with a reference for preliminary ruling and submitted four questions to that end (see para. 33 of the judgment). **Judgment:** Clause 5(1)(a) of the framework agreement on fixed-term work concluded on 18 March 1999, which is annexed to Council Directive 1999/70/EC is to be interpreted as precluding the use of successive fixed-term employment contracts where the justification advanced for their use is solely that it is provided for by a general provision of statute or secondary legislation of a Member State. On the contrary, the concept of 'objective reasons' within the meaning of that clause requires recourse to this particular type of employment relationship, as provided for by national legislation, to be justified by the presence of specific factors relating in particular to the activity in question and the conditions under which it is carried out. Furthermore, Clause 5 of the framework agreement is to be interpreted as precluding a national rule under which only fixed-term employment contracts or relationships that are not separated from one another by a period of time longer than 20 working days are to be regarded as 'successive' within the meaning of that clause. The Court of Justice also ruled that the framework agreement on fixed-term work is to be interpreted as meaning that, in so far as domestic law of the Member State concerned does not include, in the sector under consideration, any other effective measure to prevent and, where relevant, punish the misuse of successive fixed- term contracts, that framework agreement precludes the application of national legislation which, in the public sector alone, prohibits absolutely the conversion into an employment contract of indefinite duration of a

Case	Summary
	succession of fixed-term contracts that, in fact, have been intended to cover 'fixed and permanent needs' of the employer and must therefore be regarded as constituting an abuse. **Relevance:** this is one of many judgments of the Court of Justice based on Directive 1990/70. It is importance as it clarifies several fundamental rules laid down in the framework agreement, which is annexed to the Directive in question. It should be taken into account when the Ukrainian law-makers proceed with approximation with this Directive.
C-144/04 Werner Mangold Rüdiger Helm	**Facts:** this was a reference for preliminary ruling submitted by *Arbeitsgericht München* (Germany) submitted in course of proceedings brought by Mr Mangold against Mr Helm concerning a fixed-term contract by which the former was employed by the latter (for a detailed account of facts see paras. 20-30 of the judgment). The referring court expressed doubts as to interpretation of Directive 1990/70 as well as Directive 2000/78 (see para. 31 of the judgment). **Judgment:** On a proper construction of Clause 8(3) of the Framework Agreement on fixed-term contracts concluded on 18 March 1999, put into effect by Council Directive 1999/70/EC, domestic legislation such as that at issue in the main proceedings, which for reasons connected with the need to encourage employment and irrespective of the implementation of that agreement, has lowered the age above which fixed-term contracts of employment may be concluded without restrictions, is not contrary to that provision. At the same time, Article 6(1) of Directive 2000/78 precluded a provision of domestic law such as that at issue in the main proceedings which authorised, without restriction, unless there was a close connection with an earlier contract of employment of indefinite duration concluded with the same employer, the conclusion of fixed-term contracts of employment once the worker has reached the age of 52. **Relevance:** this judgment is relevant for the Ukrainian authorities to the extent it clarifies the interpretation of Directives 1990/70 and 2000/78.

20.2.3. Directive 97/81/EC concerning the Framework Agreement on part-time work concluded by UNICE, CEEP and the ETUC

Case	Summary
C-527/13 Lourdes Cachaldora Fernández v Instituto Nacional	**Facts:** this was a reference for preliminary ruling submitted by Tribunal Superior de Justicia de Galicia (Spain) in course of proceedings between Ms Cachaldora Fernández and the Instituto Nacional de la Seguridad Social (INSS) and the Tesorería General de la Seguridad Social (TGSS) concerning the determination of the basis for the calculation of a

Case	Summary
de la Seguridad Social (INSS) and Tesorería General de la Seguridad Social (TGSS)	pension for total permanent invalidity (see further paras. 13-22 of the judgment). The referring court expressed doubts as to interpretation of Directive 79/7/EEC on the progressive implementation of the principle of equal treatment for men and women in matters of social security as well as Directive 97/81 (see para. 23 of the judgment). **Judgment:** Article 4(1) of Directive 79/7 does not preclude a rule of national law which provides that the contribution gaps existing within the reference period for calculating a contributory invalidity pension, after a period of part-time employment, are taken into account by using the minimum contribution bases applicable at any time, reduced as a result of the reduction coefficient of that employment, whereas, if those gaps follow full- time employment, there is no provision for such a reduction. Furthermore, The Framework Agreement on part-time work, concluded on 6 June 1997, set out in the Annex to Council Directive 97/81/EC must be interpreted as not applying to legislation of a Member State which provides that the contribution gaps existing within the reference period for calculating a contributory invalidity pension, after a period of part-time employment, are taken into account by using the minimum contribution bases applicable at any time, reduced as a result of the reduction coefficient of that employment, whereas, if those gaps follow full-time employment, there is no provision for such a reduction. **Relevance:** this is an important judgment clarifying the scope of application of Directive 97/81, in particular the Framework Agreement on part-time work which is attached to it. It should be taken into account by the Ukrainian authorities in charge of approximation of domestic law with this Directive. Furthermore, it should be of interest of the persons in charge of approximation with Directive 79/7.
C-313/02 Nicole Wippel v Peek & Cloppenburg GmbH & Co. KG	**Facts:** this was a reference for preliminary ruling submitted by *Oberster Gerichtshof* (Austria) in course of proceedings between Ms Wippel, who was employed part-time on the basis of a framework contract of employment based on the principle of 'work on demand', and her employer, Peek & Cloppenburg GmbH & Co. KG, concerning the absence in her contract of employment of an agreement as to hours of work and organisation of working time (for a detailed account of facts see paras. 19-27 of the judgment). The German court seized with the dispute submitted several questions to the Court of Justice on interpretation of Article 157 TFEU (the then Article 141 EC Treaty) as well as several pieces of secondary legislation. **Judgment:** the Court of Justice, sitting as Grand Chamber, ruled that a worker with a contract of employment, such as that in the main proceedings, under which hours of work and the organisation of working time are dependent upon the quantity of available work and are determined only on a case-by-case basis by agreement between the parties, comes within the scope of Directive 76/207/EEC on the implementation of the principle of equal treatment for men

Case	Summary
	and women as regards access to employment, vocational training and promotion, and working conditions. The Court of Justice added that such workers also come within the scope of the Framework Agreement annexed to Council Directive 97/81/EC of 15 December 1997 concerning the Framework Agreement on part-time work concluded by UNICE, CEEP and the ETUC. This happens when: - they have a contract or employment relationship as defined by the law, collective agreement or practices in force in the Member State; – they are employees whose normal working hours, calculated on a weekly basis or on average over an employment period which may be up to a year, are less than those of a comparable full-time worker within the meaning of Clause 3(2) of that framework agreement, and – in regard to part-time workers working on a casual basis, the Member State has not excluded them, wholly or partly, from the benefit of the terms of that agreement. Furthermore, the Court of Justice ruled that Clause 4 of the Framework Agreement annexed to Directive 97/81 and Articles 2(1) and 5(1) of Directive 76/207 must be interpreted as meaning that: – they do not preclude a provision, such as Paragraph 3 of the Arbeitszeitgesetz (Law on working time), which lays down a basic maximum working time of 40 hours per week and eight hours per day, and which thus also regulates maximum working time and the organisation of working time in regard to both full-time and part-time workers; – in circumstances where all the contracts of employment of the other employees of an undertaking make provision for the length of weekly working time and for the organisation of working time, they do not preclude a contract of part-time employment of workers of the same undertaking, such as that in the main proceedings, under which the length of weekly working time and the organisation of working time are not fixed but are dependent on quantitative needs in terms of work to be performed determined on a case-by-case basis, such workers being entitled to accept or refuse that work. **Relevance:** this judgment is of relevance for the Ukrainian authorities. It clarifies interpretation of numerous acts of EU law, including Directive 97/81 and the Framework Agreement annexed to it. It should remain on the radars of the Ukrainian law-makers as it deserves to be taken into account when national provisions aimed at approximation with these legal acts are drafted.

20.2.4. Directive 91/383/EEC supplementing the measures to encourage improvements in the safety and health at work of workers with a fixed-duration employment relationship or a temporary employment relationship

Case	Summary
	No relevant case-law as of 31 December 2017

20.2.5. Directive 98/59/EC on the approximation of the laws of the Member States relating to collective redundancies

Case	Summary
C-201/15 Anonymi Geniki Etairia Tsimenton Iraklis (AGET Iraklis) v Ypourgos Ergasias, Koinonikis Asfalisis kai Koinonikis Allilengyis	**Facts:** this was a reference for preliminary ruling submitted by *Symvoulio tis Epikrateias* (Council of State, Greece). It was submitted in course of proceedings between Anonymi Geniki Etairia Tsimenton Iraklis and the Ypourgos Ergasias, Koinonikis Asfalisis kai Koinonikis Allilengyis concerning a decision by which the minister decided not to authorise AGET Iraklis to make a number of workers collectively redundant (for a detailed account of facts see paras. 12-24 of the judgment). **Judgment:** Council Directive 98/59/EC does not preclude, in principle, national legislation under which, if there is no agreement with the workers' representatives on projected collective redundancies, an employer can effect such redundancies only if the competent national public authority which must be notified of the projected collective redundancies does not adopt, within the period prescribed by that legislation and after examining the documents in the file and assessing the conditions in the labour market, the situation of the undertaking and the interests of the national economy, a reasoned decision not to authorise some or all of the projected redundancies. The Court of Justice added that the position is different, however, if — a matter which is, as the case may be, for a national court to ascertain — in the light of the three assessment criteria to which that legislation refers and of the specific application of them by the public authority, subject to review by the courts having jurisdiction, that legislation proves to have the consequence of depriving the provisions of that directive of their practical effect. It should be added that this interpretation is irrespective whether a Member State may be one of acute economic crisis and a particularly high unemployment rate. **Relevance:** this judgment is of relevance for the Ukrainian authorities as it sheds light on the scope of regulatory autonomy of Member States and the relationship between national law and the Directive in question. It should be taken into account by the Ukrainian law-makers when they proceed with approximation of domestic law with Directive 98/59.

20.2.6. Directive 2001/23/EC on the approximation of the laws of the Member States relating to the safeguarding of employees' rights in the event of transfers of undertakings, businesses or parts of undertakings or businesses

Case	Summary
C-509/14 Administrador de Infraestructuras Ferroviarias (ADIF) v Luis Aira Pascual and Others	**Facts:** this was a reference for preliminary ruling from *Tribunal Superior de Justicia de la Comunidad Autónoma del País Vasco* (High Court of Justice of the Basque Country, Spain). It was submitted in course of proceedings between Administrador de Infraestructuras Ferroviarias (ADIF), on the one hand, and Mr Aira Pascual, the Fondo de Garantía Salarial (Wages Guarantee Fund) and Algeposa Terminales Ferroviarios SL ('Algeposa'), concerning the collective dismissal for economic reasons of Mr Aira Pascual (for a detailed account of facts see paras. 10-20 of the judgment). The referring court expressed doubts as to interpretation of Directive 2001/23 and therefore proceeded with a reference for preliminary ruling to the Court of Justice. **Judgment:** Article 1(1) of Directive 2001/23/EC means that the scope of that directive covers a situation in which a public undertaking, responsible for the economic activity of handling intermodal transport units, entrusts, by a public service operating agreement, the performance of that activity to another undertaking, providing to the latter undertaking the necessary facilities and equipment, which it owns, and subsequently decides to terminate that agreement without taking over the employees of the latter undertaking, on the ground that it will henceforth perform that activity itself with its own staff. **Relevance:** this judgment clarifies the meaning of Article 1(1) of Directive 2001/23/EC and it may be used to shape the Ukrainian provisions approximating national law with EU *acquis*. Hence, it should be taken into account early in the law-drafting process.
C-160/14 João Filipe Ferreira da Silva e Brito and Others v Estado português	**Facts:** this was a reference for preliminary ruling submitted by Varas Cíveis de Lisboa (Portugal) in course of proceedings between (i) Mr Ferreira da Silva e Brito and 96 other individuals and (ii) the Estado português (Portuguese State) concerning an alleged infringement of EU law which is said to be attributable to the Supremo Tribunal de Justiça (Supreme Court of Justice). The referring court expressed doubts as to, *inter alia*, interpretation of phrase "transfer of a business" employed in Directive 2001/23/EC and therefore decided to proceed with a reference for preliminary ruling to the Court of Justice (see further paras. 8-22 of the judgment). **Judgment:** Article 1(1) of Council Directive 2001/23/EC means that the concept of a 'transfer of a business' encompasses a situation in which an undertaking active on the charter flights market is wound up by its majority shareholder, which is itself an air transport undertaking, and the latter undertaking then takes the place of the

Case	Summary
	undertaking that has been wound up by taking over aircraft leasing contracts and ongoing charter flight contracts, carries on activities previously carried on by the undertaking that has been wound up, reinstates some employees that have hitherto been seconded to that undertaking, assigning them tasks identical to those previously performed, and takes over small items of equipment from the undertaking that has been wound up. It should be noted that the remaining part of the judgment is related to a procedural matter that is relevant only for the EU Member States. **Relevance:** this judgment clarifies the term 'transfer of a business', which is fundamental for application of Directive 2001/23/EC and therefore should be taken into account when Ukrainian authorities approximate domestic law with EU *acquis*.
C-426/11 Mark Alemo-Herron and Others v Parkwood Leisure Ldt	**Facts:** this was a reference for preliminary ruling submitted by the Supreme Court of the United Kingdom. It was referred in course of proceedings between Mr Alemo-Herron and Others and Parkwood Leisure Ltd concerning the application of a collective agreement (paras. 9-18 of the judgment). The Supreme Court decided to proceed with a reference for preliminary ruling and, in a nuthsell, asked whether Article 3 of Directive 2001/23/EC must be interpreted as precluding a Member State from providing, in the event of a transfer of an undertaking, that dynamic clauses referring to collective agreements negotiated and agreed after the date of transfer are enforceable against the transferee. **Judgment:** Court of Justice held that Article 3 of Directive 2001/23/EC precludes a Member State from providing, in the event of a transfer of an undertaking, that dynamic clauses referring to collective agreements negotiated and adopted after the date of transfer are enforceable against the transferee, where that transferee does not have the possibility of participating in the negotiation process of such collective agreements concluded after the date of the transfer. **Relevance:** this judgment is of relevance for the Ukrainian law-makers as it clarifies what the Member States are not allowed to do as per Article 3 of Directive 2001/23/EC. Hence, it should be taken into account when Ukrainian authorities scrutinize the compliance of domestic law with EU *acquis*.
C-151/09 Federación de Servicios Públicos de la UGT (UGT-FSP) v Ayuntamiento	**Facts:** this was a reference for preliminary ruling submitted by *Juzgado de lo Social Único de Algeciras* (Spain) in course of proceedings between the Federación de Servicios Públicos de la UGT (UGT-FSP) [a trade union], the Ayuntamiento de la Línea de la Concepción, Ms M. del Rosario Vecino Uribe and 19 other defendants, and the

Case	Summary
de La Línea de la Concepción, María del Rosario Vecino Uribe and Ministerio Fiscal	Ministerio Fiscal, is the refusal of the Ayuntamiento de La Línea to recognise as lawfully appointed employee representatives those persons elected to carry out that function in various undertakings responsible for outsourced public services which were transferred to that municipal authority (see further paras. 12-16 of the judgment). The Spanish court expressed doubts as to interpretation of Article 6(1) and proceeded with a reference for preliminary ruling to the Court of Justice. **Judgment:** A transferred economic entity preserves its autonomy, within the meaning of Article 6(1) of Directive 2001/23/EC provided that the powers granted to those in charge of that entity, within the organisational structures of the transferor, namely the power to organise, relatively freely and independently, the work within that entity in the pursuit of its specific economic activity and, more particularly, the powers to give orders and instructions, to allocate tasks to employees of the entity concerned and to determine the use of assets available to the entity, all without direct intervention from other organisational structures of the employer, remain, within the organisational structures of the transferee, essentially unchanged. The Court added that the mere change of those ultimately in charge cannot in itself be detrimental to the autonomy of the entity transferred, except where those who have become ultimately in charge have available to them powers which enable them to organise directly the activities of the employees of that entity and therefore to substitute their decision-making within that entity for that of those immediately in charge of the employees. **Relevance:** this judgment is of relevance for the Ukrainian authorities and should be taken into account when national rules are drafted. It contributes to interpretation of Article 6(1) of Directive 2001/23/EC.

Case	Summary
C-466/07 Dietmar Klarenberg v Ferrotron Technologies GmbH	**Facts:** this was a reference for preliminary ruling submitted by *Landesarbeitsgericht Düsseldorf* (Germany). It was submitted in course of proceedings between Mr Klarenberg against Ferrotron Technologies GmbH for a declaration that the employment contract had been transferred to that company (for further details see paras. 11-22 of the judgment). The referring court expressed doubts as to interpretation of Article 1 of Directive 2001/23/EC and therefore decided to proceed with a reference for preliminary ruling (see para. 23 of the judgment). **Judgment:** Article 1(1)(a) and (b) of Directive 2001/23/EC means that this Directive may also apply in a situation where the part of the undertaking or business transferred does not retain its organisational autonomy, provided that the functional link between the various elements of production transferred is preserved, and that that link enables the transferee to use those elements to pursue an identical or analogous economic activity. **Relevance:** this is an important judgment that should remain on the radars of Ukrainian law-makers. It clarifies the scope of application of Directive 2001/23/EC and therefore needs to be taken account for the purposes of law approximation exercise.

20.2.7. Directive 2002/14/EC establishing a general framework for informing and consulting employees in the European Community

Case	Summary
C-405/08 Ingeniørforeningen i Danmark v Dansk Arbejdsgiverforening	**Facts:** this was a reference for preliminary ruling submitted by *Vestre Landsret* (Denmark). It was referred in course of proceedings between Danish Association of Engineers, acting on behalf of Mr Holst, a former employee of the company Babcock & Wilcox Vølund ApS, and the Confederation of Danish Employers, acting on behalf of BWV, concerning the dismissal of Mr Holst by BWV (see further paras. 24-32 of the judgment). The Danish court hearing the case expressed doubts as to interpretation of several provisions of Directive 2002/14/EC and therefore decided to proceed with a reference for preliminary ruling to the Court of Justice (questions reproduced in para. 33 of the judgment). **Judgment:** Directive 2002/14/EC may be transposed by way of a collective agreement which results in a group of employees being covered by the agreement in question, even though the employees in that group are not members of the union which is a party to that agreement and their field of activity is not represented by that union, provided that the collective agreement is such as to guarantee to the employees coming within its scope effective protection

Case	Summary
	of the rights conferred on them by Directive 2002/14. Furthermore, Article 7 of Directive 2002/14 must be interpreted as not requiring that more extensive protection against dismissal be granted to employees' representatives. However, any measure adopted to transpose that directive, whether provided for by legislation or by collective agreement, must comply with the minimum protection threshold laid down in that Article 7. **Relevance:** this judgment is of relevance for the Ukrainian law-makers for two main reasons. Firstly, it clarifies that Directive 2002/14/EC may be approximated with *qua* a collective agreement. Secondly, it sheds a light on interpretation of Article 7 of this Directive. It emphasises that minimum standard of protection, as guaranteed by Article 7, needs to be maintained.
C-385/05 Confédération générale du travail (CGT) and Others v Premier ministre and Ministre de l'Emploi, de la Cohésion sociale et du Logement	**Facts:** this was a reference for preliminary ruling submitted by *Conseil d'État* (France) in course of proceedings commenced by Confédération générale du travail (CGT), the Confédération française démocratique du travail (CFDT), the Confédération française de l'encadrement (CFE-CGC), the Confédération française des travailleurs chrétiens (CFTC) and the Confédération générale du travail-Force ouvrière (CGT-FO) and seeking the annulment of Order No 2005-892 of 2 August 2005 on the Adaptation of the Rules for the Calculation of Staff Numbers in Undertakings (see paras. 19-24 of the judgment). The French court expressed doubts as to interpretation of Directive 2002/14/EC as well as Directive 1998/59/EC and therefore decided to proceed with a reference for preliminary ruling to the Court of Justice. **Judgment:** Article 3(1) of Directive 2002/14/EC precludes national legislation which excludes, even temporarily, a specific category of workers from the calculation of staff numbers within the meaning of that provision. **Relevance:** this judgment is of relevance for the Ukrainian law-makers as it clarifies the scope of Article 3(1) of Directive 2002/14/EC. It leaves no doubts that even temporary exclusion of certain types of workers from calculation of staff numbers is prohibited. This judgment should be taken into account when domestic rules approximating Ukrainian law with the Directive in question are drafted.

20.2.8. Council Directive 2000/43/EC implementing the principle of equal treatment between persons irrespective of racial or ethnic origin

Case	Summary
C-83/14 "CHEZ Razpredelenie Bulgaria" AD v	**Facts:** this was a reference for preliminary ruling submitted by Administrativen sad Sofia-grad (Bulgaria) in course of proceedings by which CHEZ Razpredelenie Bulgaria AD seeks the annulment of a decision of the Komisia za zashtita ot dikriminatsia (Commission for Protection against Discrimination; 'the KZD') by which it ordered CHEZ RB to bring

Case	Summary
Komisia za zashtita ot diskriminatsia	discrimination against Ms Nikolova to an end and to refrain from discriminatory behaviour of that type in the future (see paras. 21-36 of the judgment). The Bulgarian court expressed doubts as to interpretation of several provisions of EU law and decided to proceed with a reference for preliminary ruling to the Court of Justice. It asked 10 questions covering, inter alia, Directive 2000/43/EC (see para. 37 of the judgment). **Judgment:** The concept of 'discrimination on the grounds of ethnic origin', for the purpose of Council Directive 2000/43/EC applies when in an urban district mainly lived in by inhabitants of Roma origin, all the electricity meters are placed on pylons forming part of the overhead electricity supply network at a height of between six and seven metres, whereas such meters are placed at a height of less than two metres in the other districts — irrespective of whether that collective measure affects persons who have a certain ethnic origin or those who, without possessing that origin, suffer, together with the former, the less favourable treatment or particular disadvantage resulting from that measure. Furthermore, Directive 2000/43, in particular Article 2(1) and (2)(a) and (b) thereof, preclude a national provision which lays down that, in order to be able to conclude that there is direct or indirect discrimination on the grounds of racial or ethnic origin in the areas covered by Article 3(1) of the Directive, the less favourable treatment or the particular disadvantage to which Article 2(2)(a) and (b) respectively refer must consist in prejudice to rights or legitimate interests. The Court of Justice also added that Article 2(2)(a) of Directive 2000/43 that positioning of electric meters, as described above, constitutes direct discrimination if that measure proves to have been introduced and/or maintained for reasons relating to the ethnic origin common to most of the inhabitants of the district concerned. This, in each and every case, has to be verified by a national court. Last but not least, the Court of Justice also interpreted Article 2(2)b of Directive 2000/43. It held that: – that provision precludes a national provision according to which, in order for there to be indirect discrimination on the grounds of racial or ethnic origin, the particular disadvantage must have been brought about for reasons of racial or ethnic origin; – the concept of an 'apparently neutral' provision, criterion or practice as referred to in that provision means a provision, criterion or practice which is worded or applied, ostensibly, in a neutral manner, that is to say, having regard to factors different from and not equivalent to the protected characteristic; – the concept of 'particular disadvantage' within the meaning of that provision does not refer to serious, obvious or particularly significant cases of inequality, but denotes that it is particularly persons of a given racial or ethnic origin who are at a disadvantage because of the provision, criterion or practice at issue;

Case	Summary
	– assuming that a measure, such as the one described above, does not amount to direct discrimination within the meaning of Article 2(2)(a) of the Directive, such a measure is then, in principle, liable to constitute an apparently neutral practice putting persons of a given ethnic origin at a particular disadvantage compared with other persons, within the meaning of Article 2(2)(b); – such a measure would be capable of being objectively justified by the intention to ensure the security of the electricity transmission network and the due recording of electricity consumption only if that measure did not go beyond what is appropriate and necessary to achieve those legitimate aims and the disadvantages caused were not disproportionate to the objectives thereby pursued. That is not so if it is found, either that other appropriate and less restrictive means enabling those aims to be achieved exist or, in the absence of such other means, that that measure prejudices excessively the legitimate interest of the final consumers of electricity inhabiting the district concerned, mainly lived in by inhabitants of Roma origin, in having access to the supply of electricity in conditions which are not of an offensive or stigmatising nature and which enable them to monitor their electricity consumption regularly. **Relevance:** this judgment is definitely of relevance for the Ukrainian authorities. It demonstrates potential challenges in application of domestic laws giving effect to Directive 2000/43/EC in everyday practice. It is certainly worth being studied extensively and taken into account in course of law approximation exercise.
C-451/10 Galina Meister v Speech Design Carrier Systems GmbH	**Facts:** this was a reference for preliminary ruling submitted by *Bundesarbeitsgericht* (Germany) in course of proceedings between Ms Meister and Speech Design Carrier Systems GMbH concerning the discrimination on the grounds of sex, age and ethnic origin that she claims to have suffered during a recruitment procedure (see further paras. 26-30 of the judgment). The referring court submitted several questions regarding interpretation of EU non-discrimination directives. **Judgment:** Article 8(1) of Council Directive 2000/43/EC, Article 10(1) of Council Directive 2000/78/EC and Article 19(1) of Directive 2006/54/EC must be interpreted as not entitling a worker who claims plausibly that he meets the requirements listed in a job advertisement and whose application was rejected to have access to information indicating whether the employer engaged another applicant at the end of the recruitment process. Nevertheless, it cannot be ruled out that a defendant's refusal to grant any access to information may be one of the factors to take into account in the context of establishing facts from which it may be presumed that there has been direct or indirect discrimination.

Case	Summary
	Relevance: this judgment should be taken into account when Ukraine proceeds with approximation of its domestic law with EU non-discrimination *acquis*. It encapsulates practical problems with application of such rules in everyday practice.
C-54/07 Centrum voor gelijkheid van kansen en voor racismebestrijding v Firma Feryn NV	**Facts:** this was a reference for preliminary ruling submitted by *Arbeidshof te Brussel* (Belgium) in course of proceedings between Centrum voor gelijkheid van kansen en voor racismebestrijding, applicant in the main proceedings, and Firma Feryn NV, defendant in the main proceedings, following the remarks of one of its directors publicly confirming that his company did not wish to recruit 'immigrants' (see further paras. 15-17 of judgment). **Judgment:** The fact that an employer states publicly that it will not recruit employees of a certain ethnic or racial origin constitutes direct discrimination in respect of recruitment within the meaning of Article 2(2)(a) of Council Directive 2000/43/EC. Such statements are likely to strongly dissuade certain candidates from submitting their candidature and, accordingly, to hinder their access to the labour market. Public statements by which an employer lets it be known that under its recruitment policy it will not recruit any employees of a certain ethnic or racial origin are sufficient for a presumption of the existence of a recruitment policy which is directly discriminatory within the meaning of Article 8(1) of Directive 2000/43. The Court of Justice added that it is then for that employer to prove that there was no breach of the principle of equal treatment. It can do so by showing that the undertaking's actual recruitment practice does not correspond to those statements. Furthermore, the Court of Justice added that Article 15 of Directive 2000/43 requires that rules on sanctions applicable to breaches of national provisions adopted in order to transpose that directive must be effective, proportionate and dissuasive, even where there is no identifiable victim. **Relevance:** this judgment is definitely of relevance for the Ukrainian law-makers. It gives a very good example of direct discrimination. Furthermore, it sheds a light on burden of proof and sanctions that need to be provided for in national law for breaches of this Directive.

20.2.9. Directive 2000/78/EC establishing a general framework for equal treatment in employment and occupation

Case	Summary
C-157/15 Samira Achbita and Centrum voor gelijkheid van kansen en voor	**Facts:** this was a reference for preliminary ruling submitted by *Hof van Cassatie* (Court of Cassation, Belgium) in course of proceedings between Ms Samira Achbita and the Centrum voor gelijkheid van kansen en voor racismebestrijding, and G4S Secure Solutions NV, a company whose registered office is in Belgium, concerning the prohibition by G4S on its employees wearing any visible signs of their political, philosophical or religious beliefs in the workplace and on

Case	Summary
racismebestrijding v G4S Secure Solutions NV	engaging in any observance of those beliefs (see paras. 10-20 of the judgment). The referring court decided to proceed with a reference for preliminary ruling in order to clarify interpretation of Article 2(2)(a) of Directive 2000/78 (see para. 21 of the judgment). **Judgment:** According to Article 2(2)(a) of Directive 2000/78 must be interpreted as meaning that the prohibition on wearing an Islamic headscarf, which arises from an internal rule of a private undertaking prohibiting the visible wearing of any political, philosophical or religious sign in the workplace, does not constitute direct discrimination based on religion or belief within the meaning of that directive. However, such an internal rule of a private undertaking may constitute indirect discrimination within the meaning of Article 2(2)(b) of Directive 2000/78 if it is established that the apparently neutral obligation it imposes results, in fact, in persons adhering to a particular religion or belief being put at a particular disadvantage, unless it is objectively justified by a legitimate aim, such as the pursuit by the employer, in its relations with its customers, of a policy of political, philosophical and religious neutrality, and the means of achieving that aim are appropriate and necessary, which it is for the referring court to ascertain. Relevance: this is an interesting judgment, which should be on the radars of Ukrainian authorities. It raises an interesting, yet very sensitive issue related to prohibitions on the use of political, philosophical or religious signs at workplaces. It should be taken into account when Ukraine proceeds with approximation of domestic law with this Directive.
C-188/15 Asma Bougnaoui and Association de défense des droits de l'homme (ADDH) v Micropole SA,	**Facts:** this was a reference for preliminary ruling submitted by Cour de cassation (Court of Cassation, France) in course of proceedings between Ms Asma Bougnaoui and the Association de défense des droits de l'homme, and Micropole SA, formerly Micropole Univers SA concerning the latter's dismissal of Ms Bougnaoui because of her refusal to remove her Islamic headscarf when sent on assignment to customers of Micropole (see paras. 13-18 of the judgment). The referring court expressed doubts as to interpretation of Article 4(1) of Directive 2000/78 and therefore decided to proceed with a reference for preliminary ruling to the Court of Justice (see para. 19 of the judgment). **Judgment:** the Court of Justice ruled that Article 4(1) of Directive 2000/78 must be interpreted as meaning that the willingness of an employer to take account of the wishes of a customer no longer to have the services of that employer provided by a worker wearing an Islamic headscarf cannot be considered a genuine and determining occupational requirement within the meaning of that provision.

Case	Summary
	Relevance: this judgment is of relevance as it clarifies an important aspect of interpretation and application of Directive 2000/78. It should be taken into account for approximation purposes and also it should be included in the trainings for lawyers and civil servants in charge of application of Ukrainian provisions giving effect to this Directive.
C-258/15 Gorka Salaberria Sorondo v Academia Vasca de Policía y Emergencias	**Facts:** This was a reference for preliminary ruling submitted by *Tribunal Superior de Justicia de la Comunidad Autónoma del País Vasco* (High Court of Justice of the Autonomous Community of the Basque Country, Spain) in course of proceedings between Mr Gorka Salaberria Sorondo and the Academia Vasca de Policía y Emergencias on the latter's decision to issue a notice of competition containing the requirement that candidates for posts as police officers in the Autonomous Community of the Basque Country should be under 35 years old (see paras. 16-21 of the judgment). The referring court expressed doubts if the setting of a maximum age of 35 years as a condition for participation in the selection process for recruitment to the post of officer of the police force of the Autonomous Community of the Basque Country was compatible with the interpretation of Article 2(2), Article 4(1) and Article 6(1)(c) of Council Directive 2000/78. In order to verify that it proceeded with a reference for preliminary ruling to the Court of Justice. **Judgment:** Article 2(2) of Council Directive 2000/78/EC read together with Article 4(1) of that directive, must be interpreted as not precluding legislation, such as that at issue in the main proceedings, which provides that candidates for posts as police officers who are to perform all the operational duties incumbent on police officers must be under 35 years of age. **Relevance:** this judgment is of relevance as it clarifies an important aspect of interpretation and application of Directive 2000/78. It should be taken into account for approximation purposes and also it should be included in the trainings for lawyers and civil servants in charge of application of Ukrainian provisions giving effect to this Directive.
C-441/14 Dansk Industri (DI), acting on behalf of Ajos A/S v Estate of Karsten Eigil Rasmussen	**Facts:** this was a reference for preliminary ruling submitted by *Højesteret* (Supreme Court, Denmark) in course of proceedings between Dansk Industri (DI), acting on behalf of Ajos A/S, and the legal heirs of Mr Rasmussen concerning Ajos's refusal to pay Mr Rasmussen a severance allowance (see paras. 10-19 of the judgment). One of the issues raised in the domestic case touched upon prohibition of age discrimination and to this end the referring court decided to proceed with a reference for preliminary ruling to the Court of Justice see para. 20 of the judgment). **Judgment:** the general principle prohibiting discrimination on grounds of age, as given concrete expression by Council Directive 2000/78/EC must be interpreted as precluding, including in disputes between private persons, national legislation, which deprives an employee of entitlement to a severance allowance where the employee is entitled to

Case	Summary
	claim an old-age pension from the employer under a pension scheme which the employee joined before reaching the age of 50, regardless of whether the employee chooses to remain on the employment market or take his retirement. **Relevance:** this is an important judgment clarifying the interpretation of Directive 2000/78 and, in more general terms, the general principle of law prohibiting discrimination on grounds of age. As such it should remain on the radars of the Ukrainian authorities.
C-530/13 Leopold Schmitzer v Bundesministerin für Inneres	**Facts:** this was a reference for preliminary ruling submitted by *Verwaltungsgerichtshof* (Austria) in course of proceedings between Mr Schmitzer and the Bundesministerin für Inneres (concerning the legality of the system for remuneration of public servants adopted by the Austrian legislature with a view to ending age-based discrimination (see paras. 16-20 of the judgment). The referring court expressed doubts as to interpretation of EU law and sent 6 questions for preliminary ruling to the Court of Justice (para. 21 of the judgment). **Judgment:** the Court of Justice held that Article 2(1) and (2)(a) and Article 6(1) of Council Directive 2000/78/EC precludes national legislation which, with a view to ending age-based discrimination, takes into account periods of training and service prior to the age of 18 but which, at the same time, introduces — only for civil servants who suffered that discrimination — a three-year extension of the period required in order to progress from the first to the second incremental step in each job category and each salary group. Furthermore, Articles 9 and 16 of Directive 2000/78 must be interpreted as meaning that a civil servant who has suffered age-based discrimination — resulting from the method by which the reference date taken into account for the calculation of his advancement was fixed — must be able to rely on Article 2 of that directive in order to challenge the discriminatory effects of the extension of the period for advancement, even though, at his request, that reference date has been revised. **Relevance:** this judgment is of approximation relevance. It clarifies interpretation of Directive 2000/78 and therefore should be taken into account when Ukrainian provisions are aligned with EU law in the area in question. It should be also used for training of officials on non-discrimination matters.
C-363/12 Z. v A Government department and The Board of management of a community school	**Facts:** this reference for preliminary ruling was submitted by Equality Tribunal (Ireland) in course of proceedings between Ms Z., a commissioning mother who has had a baby through a surrogacy arrangement, and an Irish Government department and the Board of management of a community school concerning the refusal to grant Ms Z. paid leave equivalent to maternity leave or adoptive leave following the birth of that child (paras. 34-44 of the judgment). Since the referring court expressed doubts as to interpretation of relevant provisions of EU law and therefore decided to proceed with a reference for preliminary ruling (see para. 45 of the judgment).

Case	Summary
	Judgment: Directive 2000/78/EC means that a refusal to provide paid leave equivalent to maternity leave or adoptive leave to a female worker who is unable to bear a child and who has availed of a surrogacy arrangement does not constitute discrimination on the ground of disability. The Court added that the validity of that Directive cannot be assessed in the light of the United Nations Convention on the Rights of Persons with Disabilities, but that Directive must, as far as possible, be interpreted in a manner that is consistent with that Convention. Furthermore, Directive 2006/54/EC, in particular Articles 4 and 14 thereof, must be interpreted as meaning that a refusal to provide paid leave equivalent to maternity leave to a female worker who as a commissioning mother has had a baby through a surrogacy arrangement does not constitute discrimination on grounds of sex. The situation of such a commissioning mother as regards the grant of adoptive leave is not within the scope of that directive. **Relevance:** this judgment has approximation relevance as it clarifies the interpretation of Directive 2000/78 and Directive 2006/54. It should be taken into account for the purposes of approximation of Ukrainian law with EU *acquis* and also used in trainings of civil servants and practitioners.
C-447/09 Reinhard Prigge and Others v Deutsche Lufthansa AG	**Facts:** this was a reference for preliminary ruling submitted by *Bundesarbeitsgericht* (Germany). The German court decided to ask the Court of Justice for assistance in course of proceedings between three pilots: Mr Prigge, Mr Fromm and Mr Lambach and, on the other hand, their employer Deutsche Lufthansa AG concerning the automatic termination of their employment contracts at age 60 pursuant to a clause in a collective agreement (see paras. 22-35 of the judgment). The key question was whether such a clause was compatible with prohibition of age discrimination laid down in EU law. **Judgment:** Article 2(5) of Council Directive 2000/78/EC must be interpreted as meaning that the Member States may authorise, through rules to that effect, the social partners to adopt measures within the meaning of Article 2(5) in the areas referred to in that provision that fall within collective agreements on condition that those rules of authorisation are sufficiently precise so as to ensure that those measures fulfil the requirements set out in Article 2(5). A measure such as that at issue in the main proceedings, which fixes the age limit from which pilots may no longer carry out their professional activities at 60 whereas national and international legislation fixes that age at 65, is not a measure that is necessary for public security and protection of health, within the meaning of the said Article 2(5). Furthermore, Article 4(1) of Directive 2000/78 must be interpreted as precluding a clause in a collective agreement, such as that at issue in the main proceedings, that fixes at 60 the age limit from which pilots are considered as no longer possessing the

Case	Summary
	physical capabilities to carry out their professional activity while national and international legislation fix that age at 65. Finally, the first paragraph of Article 6(1) of Directive 2000/78 must be interpreted to the effect that air traffic safety does not constitute a legitimate aim within the meaning of that provision. **Relevance:** this judgment is of relevance for the Ukrainian law-makers. It sheds a light on interpretation of several provisions of Directive 2000/78 and as such should be taken into account when relevant provisions of national law are applied.
C-499/08 Ingeniørforeningen i Danmark v Region Syddanmark	**Facts:** this was a reference for preliminary ruling submitted by *Vestre Landsret* (Denmark). A question on interpretation of Directive 2000/78 was submitted in course of proceedings between the Ingeniørforeningen i Danmark and the Region Syddanmark concerning Mr Andersen's dismissal (see paras. 11-16 of the judgment). **Judgment:** Articles 2 and 6(1) of Council Directive 2000/78 must be interpreted as precluding national legislation pursuant to which workers who are eligible for an old-age pension from their employer under a pension scheme which they have joined before attaining the age of 50 years cannot, on that ground alone, claim a severance allowance aimed at assisting workers with more than 12 years of service in the undertaking in finding new employment. **Relevance:** this judgment is of relevance for the Ukrainian authorities as it demonstrates what kind of national law is precluded by Directive 2000/78. It adds to very voluminous case-law based on this directive and encapsulates practical problems with its application at domestic level.
C-341/08 Domnica Petersen v Berufungsausschuss für Zahnärzte für den Bezirk Westfalen-Lippe	**Facts:** this was a reference for preliminary ruling submitted by the *Sozialgericht Dortmund* (Germany) in course of proceedings between Ms Petersen and the Berufungsausschuss für Zahnärzte für den Bezirk Westfalen-Lippe (Appeals board for dentists for the district of Westphalia and Lippe) concerning the board's refusal to authorise Ms Petersen to practise as a panel dentist after the age of 68 years (see paras. 18-26 of the judgment).

20.2.10. Directive 2004/113/EC implementing the principle of equal treatment between men and women in the access to and supply of goods and services

Case	Summary
C-236/09 Association Belge des Consommateurs Test-Achats ASBL and Others v Conseil des ministres	**Facts:** this was a reference for preliminary ruling from *Cour constitutionnelle* (Belgium) submitted in course of proceedings between Association belge des Consommateurs Test-Achats ASBL, Mr van Vugt and Mr Basselier against the Conseil des ministres (Council of Ministers) of the Kingdom of Belgium for annulment of the Law of 21 December 2007 which amended, as regards the treatment of gender in insurance matters, the Law of 10 May 2007 combating discrimination between men and women. The question raised by the applicants and by the referring court was whether Article 5(2) of Directive 2004/113 was valid. **Judgment:** Article 5(2) of Council Directive 2004/113/EC is invalid with effect from 21 December 2012. **Relevance:** this judgment is of relevance for the Ukrainian authorities and should be taken into account. The effects of this judgment are discussed in Guidelines on the application of Council Directive 2004/113/EC to insurance, in the light of the judgment of the Court of Justice of the European Union in Case C-236/09 (Test- Achats).

20.2.11. Directive 92/85/EEC on the introduction of measures to encourage improvements in the safety and health at work of pregnant workers and workers who have recently given birth or are breastfeeding (tenth individual Directive within the meaning of Article 16(1) of Directive 89/391/EEC)

Case	Summary
C-167/12 C.D. v S.T..,	**Facts:** this was a reference for preliminary ruling submitted by Employment Tribunal, Newcastle upon Tyne (United Kingdom) in course of proceedings between Ms D., an intended mother (also referred to as a commissioning mother) who has had a baby through a surrogacy arrangement, and S. T., her employer, a National Health Service Foundation Trust, concerning the refusal to grant her paid leave following the birth of the baby (see paras. 17-26 of the judgment). The referring court submitted seven questions on interpretation of Directive 92/85 to the Court of Justice. The main issue was to what extent this Directive applies to beneficiaries of surrogacy arrangements (see para. 27 of the judgment). **Judgment:** Directive 92/85 must be interpreted as meaning that Member States are not required to provide maternity leave pursuant to Article 8 of that Directive to a female worker who as a commissioning mother has had a baby through a surrogacy arrangement, even in circumstances where she may breastfeed the baby following the birth or where she does breastfeed the baby. Furthermore, it does not constitute discrimination on grounds of sex as per Article 14 of Directive 2006/54/EC. **Relevance:** this judgment is of approximation relevance as it clarifies the scope of application of Directive 92/85, in particular its non-application to beneficiaries of surrogacy arrangements. It should be taken into account when Ukrainian authorities proceed with law approximation in this area.
C-506/06 Sabine Mayr v Bäckerei und Konditorei Gerhard Flöckner OHG	**Facts:** this was a reference for preliminary ruling submitted by Oberster Gerichtshof (Austria) in course of proceedings between Ms Mayr, appellant in the main proceedings, and her former employer Bäckerei und Konditorei Gerhard Flöckner OHG, respondent in the main proceedings, following the dismissal of Ms Mayr by Flöckner (see paras. 16-27 of the judgment). The main issue raised in the reference for preliminary ruling to the Court of Justice was whether a worker, who undergoes in vitro fertilisation, is a "pregnant worker" within the meaning of the first part of Article 2(a) of [Directive 92/85] if, at the time at which she was given notice of dismissal, the woman's ova had already been fertilised with the sperm cells of her partner and "in vitro" embryos thus existed, but they had not yet been implanted within her?' **Judgment:** Directive 92/85/EEC does not extend to a female worker who is undergoing in vitro fertilisation treatment where, on the date she is given notice of her dismissal, her ova have already been fertilised by her partner's sperm cells, so that in vitro fertilised ova exist, but they have not yet been transferred into her uterus. However, Article 2(1) and 5(1) of Council Directive 76/207/EEC preclude the dismissal of a female worker who, in circumstances such as those in the main proceedings, is at an advanced stage of in vitro fertilisation treatment, that is, between the follicular

Case	Summary
	puncture and the immediate transfer of the in vitro fertilised ova into her uterus, inasmuch as it is established that the dismissal is essentially based on the fact that the woman has undergone such treatment. **Relevance:** This judgment is of relevance for the Ukrainian law-makers as it clarifies the scope of Directive 92/85 as well as its interaction with Directive 76/207 (now Directive 2006/54/EC of the European Parliament and of the Council of 5 July 2006 on the implementation of the principle of equal opportunities and equal treatment of men and women in matters of employment and occupation). It should be taken into account by the Ukrainian authorities when they proceed with approximation of domestic law with EU *acquis* in the area in question.

20.2.12. Directive 79/7/EEC on the progressive implementation of the principle of equal treatment for men and women in matters of social security

Case	Summary
C-527/13 Lourdes Cachaldora Fernández v Instituto Nacional de la Seguridad Social (INSS) and Tesorería General de la Seguridad Social (TGSS)	**Facts:** this was a reference for preliminary ruling submitted by Tribunal Superior de Justicia de Galicia (Spain) in course of proceedings between Ms Cachaldora Fernández and the Instituto Nacional de la Seguridad Social and the Tesorería General de la Seguridad Social concerning the determination of the basis for the calculation of a pension for total permanent invalidity (paras. 13-22). The Spanish court expressed doubts as to compatibility of domestic law with EU legislation and thus decided to proceed with a reference for preliminary ruling (see para. 23). **Judgment:** Article 4(1) of Council Directive 79/7/EEC does not preclude a rule of national law which provides that the contribution gaps existing within the reference period for calculating a contributory invalidity pension, after a period of part-time employment, are taken into account by using the minimum contribution bases applicable at any time, reduced as a result of the reduction coefficient of that employment, whereas, if those gaps follow full-time employment, there is no provision for such a reduction. **Relevance:** this judgment is of relevance for the Ukrainian authorities as it clarifies the scope of regulatory autonomy of the Member States.
C-123/10 Waltraud Brachner v Pensionsversicherungsanstalt	**Facts:** this was a reference for preliminary ruling submitted by *Oberster Gerichtshof* (Austria) in course of proceedings between Ms Brachner and the Pensionsversicherungsanstalt (Pension Insurance Office) concerning the increase in the amount of the retirement pension granted to her under the pension adjustment scheme for the year 2008 (see paras. 16-37).

Case	Summary
	Judgment: annual pension adjustment scheme, such as that at issue in the main proceedings, comes within the scope of Directive 79/7 and is therefore subject to the prohibition of discrimination laid down in Article 4(1) of that Directive. Article 4(1) of Directive 79/7 must be interpreted as meaning that, taking into account the statistical data produced before the national court and in the absence of evidence to the contrary, that court would be justified in taking the view that that provision precludes a national arrangement which leads to the exclusion, from an exceptional pension increase, of a significantly higher percentage of female pensioners than male pensioners. Furthermore, Article 4(1) of Directive 79/7 must be interpreted as meaning that if, in the examination which the referring court must carry out in order to reply to the second question (see para. 38 of the judgment), it should conclude that a significantly higher percentage of female pensioners than male pensioners may in fact have suffered a disadvantage because of the exclusion of minimum pensions from the exceptional increase provided for by the adjustment scheme at issue in the main proceedings, that disadvantage cannot be justified by the fact that women who have worked become entitled to a pension at an earlier age or that they receive their pension over a longer period, or because the compensatory supplement standard amount was also subject to an exceptional increase in respect of the same year 2008. **Relevance:** this judgment is of relevance to Ukrainian authorities. It clarifies the scope of Directive 79/7 and hence it should be taken into account when domestic rules are drafted.
Joined cases C-231/06 to C-233/06 Office national des pensions v Emilienne Jonkman (C-231/06) and Hélène Vercheval (C-232/06) and Noëlle Permesaen v Office national des pensions (C-233/06)	**Facts:** this was a reference for preliminary ruling submitted by *Cour du travail de Brussels* (Belgium). It was submitted in course of proceedings between Ms Jonkman, Ms Vercheval and Ms Permesaen and the National Pensions Office (see further paras. 3-14 of the judgment). The referring court expressed doubts as to interpretation of Directive 79/7 and decided to proceed with a reference for preliminary ruling (see para. 15 of the judgment). **Judgment:** Directive 79/7 precludes a Member State, when it adopts rules intended to allow persons of a particular sex, originally discriminated against, to become eligible for the pension scheme applicable to persons of the other sex, from requiring the payment of adjustment contributions to be made together with interest other than that to compensate for inflation. That directive also precludes a requirement that that payment be made as a single sum, where that condition makes the adjustment concerned impossible or excessively difficult in practice. That is the case in particular where the sum to be paid exceeds the annual pension of the interested party.

Case	Summary
	Relevance: this judgment is relevant for the Ukrainian authorities as it clarifies what the Member States are not permitted to do under Directive 79/7. It should be taken into account when relevant provisions are drafted.
C-196/98 Regina Virginia Hepple v Adjudication Officer and Adjudication Officer v Anna Stec	**Facts:** this was a reference for preliminary ruling submitted by Social Security Commissioner (United Kingdom). It was submitted in course of proceedings between Ms Hepple and four other persons and the Adjudication Officer concerning the latter's refusal to grant them reduced earnings allowance (see paras. 16-17 of the judgment). The referring court sent a reference for preliminary ruling in order to verify interpretation of relevant provisions of Directive 79/7 (see para. 18 of the judgment). The main point raised was the competence of the Member States to provide exceptions as per Article 7 of that Directive. **Judgment:** derogation provided for in Article 7(1)(a) of Council Directive 79/7/EEC applies to a benefit, such as the reduced earnings allowance at issue in the case at hand, which was introduced into national legislation after expiry of the period prescribed for transposition of the Directive and is subject to age conditions which differ according to sex. **Relevance:** this judgment is of relevance for the Ukrainian authorities as it determines the scope of exception provided for in Article 7. It should be taken into account when relevant provisions of Ukrainian law are drafted.

20.2.13. Directive 89/391/EEC on the introduction of measures to encourage improvements in the safety and health of workers at work

Case	Summary
C-241/99 Confederación Intersindical Galega (CIG) v Servicio Galego de Saúde (Sergas)	**Facts:** this was a reference for preliminary ruling submitted by *Tribunal Superior de Justicia de Galicia* (Spain). It was submitted in course of proceedings brought by Confederación Intersindical Galega against Servicio Galego de Saúde, concerning the working hours of personnel providing outside emergency services in the area of the Autonomous Community of Galicia (see further paras. 21-23 of the judgment). **Judgment:** the Court of Justice held that an activity such as that of the medical and nursing staff providing services for Servicio Galego de Saúde in the on-call service, in primary care teams and in other services which treat outside emergencies in the area of the Autonomous Community of Galicia does not come within the scope of the exception or exclusions laid down in Article 2 of Council Directive 89/391/EEC. However, such an activity may come under the

Case	Summary
	derogations provided for in Article 17 of Directive 93/104, in so far as the conditions set out in that provision are fulfilled. **Relevance:** this judgment is of relevance to the Ukrainian authorities as it clarifies the scope of application of Directive 89/391. Bearing this in mind it should be taken into account for law approximation purposes.
C-303/98 Sindicato de Médicos de Asistencia Pública (Simap) v Conselleria de Sanidad y Consumo de la Generalidad Valenciana	**Facts:** this was a reference for preliminary ruling submitted by *Tribunal Superior de Justicia de la Comunidad Valenciana* (Spain) in course of proceedings between the *Sindicato de Médicos de Sanidad de Asistencia Pública* (Union of Doctors in the Public Health Service, hereinafter and the Conselleria de Sanidad y Consumo de la Generalidad Valenciana (Ministry of Health of the Valencia Region), Simap having brought a collective action against the latter on behalf of medical staff providing primary care at health centres in that region (see paras. 22-27 of the judgment). **Judgment:** An activity such as that of doctors in primary health care teams falls within the scope of Council Directive 89/391/EEC on the introduction of measures to encourage improvements in the safety and health of workers at work and Council Directive 93/104/EC concerning certain aspects of the organisation of working time. **Relevance:** this judgment is of relevance for the Ukrainian authorities as it clarifies the scope of Directive 89/391. This should be taken into account for approximation purposes.

20.2.14. Directive 89/654/EEC concerning the minimum safety and health requirements for the workplace (first individual Directive within the meaning of Article 16(1) of Directive 89/391/EEC)

Case	Summary
	No relevant case-law as of 31 December 2017

20.2.15. Directive 89/655/EEC concerning the minimum safety and health requirements for the use of work equipment by workers at work (second individual Directive within the meaning of Article 16(1) of Directive 89/391/EEC)

Case	Summary
C-2/97 Società italiana petroli SpA (IP) v Borsana Srl	**Facts:** this was a reference for preliminary ruling submitted by *Tribunaledi Genova* (Italy) in course of proceedings between *Società Italiana Petroli SpA* and Borsana Srl concerning the supply of petrol with the lowest possible benzene content and gas and fumes recovery devices to be fitted to the distribution system, requested by the latter on the

Case	Summary
	basis of Directives 89/655 and 90/394 (see further paras. 16-23 of the judgment). In order to render a judgment in the case at hand the referring court decided to proceed with a reference for preliminary ruling to the Court of Justice. **Judgment:** Article 4 of Council Directive 89/655/EEC does not preclude a Member State from setting a time-limit for adapting existing working equipment that expires before 31 December 1996, provided that the time-limit is not so short that it does not enable employers to effect such adaptation or entail a cost that is clearly excessive as compared with what they would have had to meet if the time-limit had been longer. The judges also answered questions dealing with Directive 90/394. **Relevance:** this judgment is of limited relevance for the Ukrainian authorities as it deals with a subject matter that is confined to the Member States only. Still, however, it should be studies for the purposes of general knowledge.

20.2.16. Directive 2001/45/EC amending Council Directive 89/655/EEC concerning the minimum safety and health requirements for the use of work equipment by workers at work (second individual Directive within the meaning of Article 16(1) of Directive 89/391/EEC)

Case	Summary
	No relevant case-law as of 31 December 2017

20.2.17. Directive 92/91/EEC concerning the minimum requirements for improving the safety and health protection of workers in the mineral-extracting industries through drilling (eleventh individual Directive within the meaning of Article 16(1) of Directive 89/391/EEC)

Case	Summary
	No relevant case-law as of 31 December 2017

20.2.18. Directive 92/104/EEC on the minimum requirements for improving the safety and health protection of workers in surface and underground mineral-extracting industries (twelfth individual Directive within the meaning of Article 16(1) of Directive 89/391/EEC)

Case	Summary
	No relevant case-law as of 31 December 2017

20.2.19. Directive 89/656/EEC on the minimum health and safety requirements for the use by workers of personal protective equipment at the workplace (third individual Directive within the meaning of Article 16(1) of Directive 89/391/EEC)

Case	Summary
C-103/01 Commission of the European Communities v Federal Republic of Germany	**Facts:** the European Commission submitted an action against Germany (as per Article 258 TFEU) arguing that it failed to comply fully with Directive 89/656/EEC (see paras. 5-10 of the judgment). **Judgment:** the Court of Justice ruled that by subjecting, by means of the legislation of certain Länder, personal protection equipment for firefighters to additional requirements despite the fact that it complies with the requirements of Council Directive 89/686/EEC and bears the EC marking, the Federal Republic of Germany has failed to fulfil its obligations under Articles 1 and 4 of that Directive. **Relevance:** this judgment is of importance for the Ukrainian law-makers as it clarifies the room for maneuver available to the national authorities and the power to provide stricter rules than those envisaged by Directive 89/656/EEC.

20.2.20. Directive 92/57/EEC on the implementation of minimum safety and health requirements at temporary or mobile construction sites (eight individual Directive within the meaning of Article 16(1) of Directive 89/391/EEC)

Case	Summary
C-224/09 Criminal proceedings against Martha Nussbaumer	**Facts:** this was a reference for preliminary ruling submitted by *Tribunale di Bolzano* (Italy) in course of criminal proceedings against Martha Nussbaumer, who was charged with failing to have regard to the safety duties that fall to the client supervisor or the project supervisor on temporary or mobile construction sites (see further paras. 12-15 of the judgment). In order to render a judgment in this case the referring court decided to proceed with a reference for preliminary ruling to the Court of Justice. **Judgment:** Article 3(1) of Council Directive 92/57/EEC precludes national legislation under which, for private works not subject to planning permission on a construction site on which more than one contractor is to be present, it is possible to derogate from the requirement imposed on the client or project supervisor to appoint a coordinator for safety and health matters at the project preparation stage or, in any event, before the works commence. Furthermore, Article 3(2) precludes national legislation under which the requirement for the coordinator responsible for the execution stage of the works to draw up a safety and health plan is confined to the situation in which more than one

Case	Summary
	contractor is engaged on a construction site involving private works that are not subject to that obligation and which does not use the particular risks such as those listed in Annex II to the Directive as criteria for that requirement. **Relevance:** this judgment is of relevance for the Ukrainian authorities as it clarifies the scope of Article 3(1) of Directive 92/57/EC. It explains what the Member States are allowed to keep in their national legislation and what is precluded by Directive 92/57.

20.2.21. Directive 83/477/EEC on the protection of workers from the risks related to exposure to asbestos at work (second individual Directive within the meaning of Article 8 of Directive 80/1107/EEC)

Case	Summary
	No relevant case-law as of 31 December 2017

20.2.22. Directive 91/382/EEC amending Directive 83/477/EEC on the protection of workers from the risks related to exposure to asbestos at work (second individual Directive within the meaning of Article 8 of Directive 80/1107/EEC)

Case	Summary
	No relevant case-law as of 31 December 2017

20.2.23. Directive 2003/18/EC amending Council Directive 83/477/EEC on the protection of workers from the risks related to exposure to asbestos at work

Case	Summary
	No relevant case-law as of 31 December 2017

20.2.24. Directive 2004/37/EC on the protection of workers from the risks related to exposure to carcinogens or mutagens at work (sixth individual Directive within the meaning of Article 16(1) of Directive 89/391/EEC)

Case	Summary
	No relevant case-law as of 31 December 2017

20.2.25. Directive 2000/54/EC on the protection of workers from risks related to exposure to biological agents at work (seventh individual Directive within the meaning of Article 16(1) of Directive 89/391/EEC)

Case	Summary
	No relevant case-law as of 31 December 2017

20.2.26. Directive 90/270/EEC on the minimum safety and health requirements for work with display screen equipment (fifth individual Directive within the meaning of Article 16(1) of Directive 89/391/EEC)

Case	Summary
Joined cases C-74/95 and C-129/95 Criminal proceedings against X	**Facts:** two references for preliminary ruling were submitted by the *Procura della Repubblica presso la Pretura Circondariale di Torino* (Italy) and by the *Pretura Circondariale di Torino* (Italy). They were submitted in course of criminal proceedings against persons unknown for a presumed breach of Legislative Decree No 626 of 19 September 1994, in particular Title VI thereof, which implements the provisions of the Directive in Italian law (see paras. 3-16). In order to adjudicate in the case at hand several questions were submitted to the Court of Justice. **Judgment:** Article 9(1) of Council Directive 90/270/EEC must be interpreted as meaning that the regular eye tests for which it provides are to be carried out on all workers to whom the Directive applies and Article 9(2) is to be interpreted as meaning that workers are entitled to an ophthalmological examination in all cases where the eye and eyesight test carried out pursuant to Article 9(1) shows that this is necessary. Furthermore, on a proper construction of Articles 4 and 5 of Directive 90/270, the obligations they impose apply to all workstations as defined in Article 2(b), even if they are not used by workers as defined in Article 2(c), and workstations must be adapted to comply with all the minimum requirements laid down in the Annex. **Relevance:** this judgment is of relevance for the Ukrainian law-makers as it clarifies the meaning of several provisions provided for in Directive 90/270. It should be taken into account when relevant provisions of Ukrainian law are drafted.
C-11/99 Margrit Dietrich v Westdeutscher Rundfunk	**Facts:** this was a reference for preliminary ruling submitted by Arbeitsgericht Siegen (Germany) in course of proceedings between Ms Dietrich and her employer, Westdeutscher Rundfunk, a public utility broadcasting body governed by public law, which produces and broadcasts radio and television programmes in the Land of Nordrhein-Westfalen. Those proceedings are concerned with determining the limits to the time Ms Dietrich should spend each day working at her screen (see further paras. 13-23 of the judgment). In order to render a judgment the domestic

Case	Summary
	court decided to proceed with a reference for preliminary ruling to the Court of Justice and sent a set of 3 questions (see para. 24 of the judgment). **Judgment:** the Court of Justice ruled that the term 'graphic display screen', for the purposes of Article 2(a) of Council Directive 90/270/EEC includes screens that display film recordings in analogue or digital form. Furthermore, Article 1(3)(a) of Directive 90/270 is to be interpreted as meaning that the term 'control cabs for... machinery' does not extend to a job such as that at issue in the main proceedings, in which analogue or digital images are processed with the aid of technical devices and/or computer programmes in order to produce television broadcasts. **Relevance:** This judgment is of relevance for the Ukrainian authorities as it clarifies the meaning of provisions laid down in Directive 90/270. Bearing this in mind it should be taken into account when relevant rules of domestic law are drafted.

20.2.27. Directive 92/58/EEC on the minimum requirements for the provision of safety and/or health signs at work (ninth individual Directive within the meaning of Article 16(1) of Directive 89/391/EEC)

Case	Summary
	No relevant case-law as of 31 December 2017

20.2.28. Directive 98/24/EC on the protection of the health and safety of workers from the risks related to chemical agents at work (fourteenth individual Directive within the meaning of Article 16(1) of Directive 89/391/EEC)

Case	Summary
	No relevant case-law as of 31 December 2017

20.2.29. Directive 1999/92/EC on minimum requirements for improving the safety and health protection of workers potentially at risk from explosive atmospheres (fifteenth individual Directive within the meaning of Article 16(1) of Directive 89/391/EEC)

Case	Summary
	No relevant case-law as of 31 December 2017

20.2.30. Directive 2002/44/EC on the minimum health and safety requirements regarding the exposure of workers to the risk arising from physical agents (vibration) (sixteenth individual Directive within the meaning of Article 16(1) of Directive 89/391/EEC)

Case	Summary
	No relevant case-law as of 31 December 2017

20.2.31. Directive 2003/10/EC on the minimum health and safety requirements regarding the exposure of workers to the risk arising from physical agents (noise) (seventeenth individual Directive within the meaning of Article 16(1) of Directive 89/391/EEC)

Case	Summary
Joined cases C-256/10 and C-261/10 David Barcenilla Fernández (C-256/10) and Pedro Antonio Macedo Lozano (C-261/10) v Gerardo García SL	**Facts:** this was a reference for preliminary ruling submitted by *Tribunal Superior de Justicia de Castilla y León* (Spain) in course of course of two sets of proceedings brought by Mr Barcenilla Fernández (C-256/10) and by Mr Macedo Lozano (C-261/10) against Gerardo García SL concerning the obligation of the latter to make an extra payment under a provision of national law providing for such an extra payment where the conditions of the work station are particularly arduous (see further paras. 13-18 of the judgment). The Spanish court seized with this dispute decided to proceed with a reference for preliminary ruling in order to clarify interpretation of Directive 2003/10 (see para. 19 of the judgment). **Judgment:** According to Directive 2003/10 an employer in a company in which the workers' daily noise exposure level is above 85 dB(A), measured without taking account of the effect of individual hearing protectors, fails to fulfil the obligations resulting from Directive 2003/10 by simply providing the workers with such hearing protectors so that the daily noise exposure level is reduced to less than 80 dB(A), as that employer is obliged to implement a programme of technical or organisational measures intended to reduce such noise exposure to a level of less than 85 dB(A), measured without taking into account the effect of the individual hearing protectors. Furthermore, Directive 2003/10 does not require an employer to make an extra payment to workers who are exposed to a noise level above 85 dB(A), measured without taking into account the effect of the individual hearing protectors on the sole ground that it has not implemented a programme of technical or organisational measures intended to reduce the daily noise exposure level. However, national law must provide appropriate mechanisms to ensure that a worker who is exposed to a noise level above 85 dB(A), measured without taking into account the effect of the individual hearing protectors, can require the employer to comply with the preventive obligations set out in Article 5(2) of Directive 2003/10.

Case	Summary
	Relevance: This judgment is of relevance for the Ukrainian law-makers as it clarifies the meaning of Directive 2003/10. Bearing this in mind it should be taken into account when relevant provisions of domestic law are drafted.

20.2.32. Directive 2004/40/EC on the minimum health and safety requirements regarding the exposure of workers to the risks arising from physical agents (electromagnetic fields) (18th individual Directive within the meaning of Article 16(1) of Directive 89/391/EEC)

Case	Summary
	No relevant case-law as of 31 December 2017

20.2.33. Directive 2006/25/EC on the minimum health and safety requirements regarding the exposure of workers to risks arising from physical agents (artificial optical radiation) (19th individual Directive within the meaning of Article 16(1) of Directive 89/391/EEC)

Case	Summary
	No relevant case-law as of 31 December 2017

20.2.34. Directive 93/103/EC concerning the minimum safety and health requirements for work on board fishing vessels (thirteenth individual Directive within the meaning of Article 16(1) of Directive 89/391/EEC)

Case	Summary
	No relevant case-law as of 31 December 2017

20.2.35. Directive 92/29/EEC on the minimum safety and health requirements for improved medical treatment on board vessels

Case	Summary
	No relevant case-law as of 31 December 2017

20.2.36. Directive 90/269/EEC on the minimum health and safety requirements for the manual handling of loads where there is a risk particularly of back injury to workers (fourth individual Directive within the meaning of Article 16(1) of Directive 89/391/EEC

Case	Summary

	No relevant case-law as of 31 December 2017

20.2.37. Commission Directive 91/322/EEC of 29 May 1991 on establishing indicative limit values by implementing Council Directive 80/1107/EEC on the protection of workers from the risks related to exposure to chemical, physical and biological agents at work

Case	Summary
	No relevant case-law as of 31 December 2017

20.2.38. Commission Directive 2000/39/EC establishing a first list of indicative occupational exposure limit values in implementation of Council Directive 98/24/EC on the protection of the health and safety of workers from the risks related to chemical agents at work

Case	Summary
	No relevant case-law as of 31 December 2017

20.2.39. Directive 2006/15/EC establishing a second list of indicative occupational exposure limit values in imple-mentation of Council Directive 98/24/EC and amending Directives 91/322/EEC and 2000/39/EC

Case	Summary
	No relevant case-law as of 31 December 2017