

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

No. 13 (April/May 2017)

Dear Reader,

this is the 13th issue of the review of current, important developments in EU law, EU legal analysis and EU legal approximation in Ukraine prepared in the framework of the project “Support for the Implementation of the EU-Ukraine Association Agreement”. This issue covers the period 1 April - 15 May 2017. We hope you will find it useful. Your comments and contributions that could improve the next issues of this review are welcome.

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

*Project Team & Government Office for European
and Euro-Atlantic Integration*

I. LEGAL ASPECTS OF EU-UKRAINE RELATIONS

- **European Parliament adopted a legislative resolution (6/04/2017)** on the proposal for a regulation of the European Parliament and of the Council amending Regulation (EC) No 539/2001 listing the third countries whose nationals must be in possession of visas when crossing the external borders and those whose nationals



are exempt from that requirement (Ukraine). [Text adopted \(provisional edition\)](#).

- **European Parliament approved (6/04/2017) Ukraine visa waiver.** Ukrainian citizens will be exempted from EU short-stay visa requirements, after Parliament endorsed an informal deal with the Council earlier. Under the new law, Ukrainians who hold a biometric passport will be able to enter the EU without a visa for 90 days in any 180-day period, for tourism, to visit relatives or friends, or for business purposes, but not to work.
- **The Council of the EU adopted (11/05/2017) a regulation on visa liberalisation for Ukrainian citizens travelling to the EU.** The regulation formally amends regulation 539/2001, moving Ukraine from Annex I (countries whose nationals need a visa to enter the Schengen area) to Annex II (visa free countries). Ukrainian citizens with a biometric passport travelling to the EU for up to 90 days for business, tourist or family purposes will no longer need a visa.
- **Відкрий Європу: сайт - частина всеукраїнської інформаційної кампанії про безвізовий режим з країнами Європейського Союзу.** Ціль кампанії - роз'яснити громадянам України, які мандрують до ЄС, правила перетину кордону і перебування у ЄС.
- **Без віз, та не без правил: як працюватиме на практиці безвізовий режим з Євросоюзом.** У матеріалі наведені правила перетину кордону Україна-ЄС, які будуть актуальні зі вступом в силу безвізового режиму. Стаття «Європейської правди», 6 квітня 2017
- **ЄС: жителі Криму зможуть поїхати в ЄС без віз лише з біометричним паспортом України.** Стаття «Європейської правди», 7 квітня 2017

II. IMPLEMENTATION OF THE ASSOCIATION AGREEMENT

- **Верховною Радою України ухвалено (13/04/2017) Законопроект №4493 Про ринок електричної енергії України.** Документ впроваджує норми Третього енергетичного пакета ЄС, у тому числі в питанні розділення компаній за напрямками розподілу і передачі електроенергії. [Стаття «Європейської правди»](#), 13 квітня 2017; [Стаття «Дзеркала тижня»](#), 21 квітня 2017; [Стаття Better Regulation Delivery Office](#), 25 квітня 2017; [Стаття Delo.ua](#), 25 квітня 2017
- **Експерти розповіли, як запобігти «бурі» у виконанні Угоди про Асоціацію.** Було представлено результати моніторингу імплементації Україною Угоди про асоціацію з ЄС у сферах енергетики та довкілля за 2016 рік, зокрема щодо газу, ядерної безпеки, електроенергії та енергоефективності, бізнес-клімату тощо.
- **European system for monitoring greenhouse gases emission to be introduced in Ukraine.** Стаття «KyivPost», 24 квітня 2017
- **Trade MEPs back (04/05/2017) further trade preferences to Ukraine with some exceptions.** EU offers further trade preferences to Ukraine, but some sensitive agricultural products don't need additional EU support, as concluded by Members of the International Trade Committee in a resolution adopted on Thursday, May 4th. [Стаття «Європейської правди»](#), 4 травня 2017

- **Комітет Європарламенту проголосував за розширення квот на українську аграрну продукцію.** Комітет Європейського парламенту з питань міжнародної торгівлі 31 голосом проти чотирьох проголосував за розширення безмитних квот для України. Орієнтовно збільшення квот надає 196,95 млн. доларів (Прес-служба Мінагрополітики).
- **Україна розпочала запровадження сучасної європейської системи морського екологічного моніторингу та розробляє нову Морську стратегію, яка базується на європейських принципах.** Сайт Міністерства екології, 19 квітня 2017. [Завантажити додатки.](#)
- **Меморандум про взаєморозуміння щодо Стратегічного Енергетичного Партнерства між Україною та ЄС спільно з Європейським Співтовариством з атомної енергії,** Сайт Міністерства енергетики та вугільної промисловості України, 30 березня 2017
- **Уряд унормував (26/04/2017) підзаконні акти з енергозбереження відповідно до європейських стандартів.** На засіданні Уряду схвалено, розроблену Держенергоефективності, постанову Уряду, мета якої – привести неактуальні законодавчі акти з питань контролю у сфері енергозбереження у відповідність до чинного законодавства та правової практики країн ЄС.
- **Проект Twinning з наближення законодавства у сфері захисту рослин до вимог ЄС офіційно розпочав свою роботу в Україні.** Відбулося офіційне відкриття в Україні проекту Twinning «Наближення законодавства України до законодавства ЄС у сфері засобів захисту рослин відповідно до вимог ЄС для забезпечення належного використання засобів захисту рослин та поліпшення пов'язаних інспекцій та лабораторних послуг».

III. RECENT DEVELOPMENTS AND ANALYSES IN EU LAW

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

- **01 GENERAL, FINANCIAL AND INSTITUTIONAL MATTERS**
 - **European Council published (29/04/2017) [guidelines](#) following the United Kingdom's notification under Article 50 TEU.** These guidelines define the framework for negotiations under Article 50 TEU and set out the overall positions and principles that the Union will pursue throughout the negotiation. [Стаття «Європейської правди»](#), 29 квітня 2017
 - **The Special Issue of Think Tank Review on Brexit compiled by the EU Council Library.** This special issue on Brexit provides links to both the full text and a short abstract of all the papers published by major think tanks world-wide between July 2016 and February 2017.
- **02 CUSTOMS UNION AND FREE MOVEMENT OF GOODS**
 - **Anti-dumping - European Commission [adopted \(5/04/2017\) a Commission Implementing Regulation \(EU\) 2017/649](#) imposing a definitive anti-dumping duty**

on imports of certain hot-rolled flat products of iron, non-alloy or other alloy steel originating in the People's Republic of China.

- **Imports of organic products - A new EU system of electronic certification to better monitor imports of organic products became applicable as of April 19, 2017.** The new electronic certification system will contribute to enhancing food safety provisions and reducing potential fraud. It will also reduce the administrative burden for operators and authorities, and provide much more comprehensive statistical data on organic imports.

- **03 AGRICULTURE**

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- **04 FISHERIES**

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

- **European Pillar of Social Rights - the European Commission presented the Communication on European Pillar of Social Rights and launched a reflection on the social dimension of Europe by 2025.** The Pillar sets out 20 key principles and rights to support fair and well-functioning labour markets and welfare systems and it is accompanied by a number of concrete legislative and non-legislative initiatives. It is presented both as a Commission Recommendation and as a proposal for a joint proclamation by the Parliament, the Council and the Commission.
- **Working time - the European Commission presented the Report on the implementation by Member States of Directive 2003/88/EC concerning certain aspects of the organisation of working time.**

Directive 2003/88/EC of the European Parliament and of the Council of 4 November 2003 concerning certain aspects of the organisation of working time is to be implemented by Ukraine in the framework of Association Agreement (Annex XL to Chapter 21 Cooperation on Employment, Social Policy and Equal Opportunities).

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

- **Digital Single Market - the European Commission published (10/05/2017) the mid-term review of its Digital Single Market strategy.** It takes stock of the progress made, calls on co-legislators to swiftly act on all proposals already presented, and outlines further actions on online platforms, data economy and cybersecurity. [EURACTIV article](#), 10 May 2017
- **Services and online platforms - the Advocate General of the EU Court of Justice Maciej Szpunar published (11/05/2017) the opinion**, according to which the Uber electronic platform, whilst innovative, falls within the field of transport: Uber can thus be required to obtain the necessary licences and authorisations under national law. Uber cannot claim the benefit of the principle of the freedom to provide services guaranteed by EU law for information society services. [Full text of the Advocate General's Opinion in Case C-434/15](#)

- **07 TRANSPORT POLICY**
 - **Travel compensations – the Court of Justice of the EU ruled (11/05/2017) that an air carrier which is unable to prove that a passenger was informed of the cancellation of his flight more than two weeks before the scheduled time of departure is required to pay compensation to that passenger.** This applies not only when the contract for carriage was concluded directly between the passenger and the air carrier, but also when it was concluded through an online travel agency. [Full text of the judgement in the case C-302/16](#)

- **08 COMPETITION POLICY**
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- **09 TAXATION**
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- **10 ECONOMIC AND MONETARY POLICY AND FREE MOVEMENT OF CAPITAL**
 - **Simpler and more efficient derivatives rules – The European Commission proposed (4/05/2017) some targeted reforms to improve the functioning of the derivatives market in the EU.** The reforms provide simpler and more proportionate rules for over-the-counter derivatives to reduce costs and regulatory burdens for market participants without compromising financial stability. A good example of better regulation in practice, this is essential to the creation of a Capital Markets Union (CMU), a key part of the Investment Plan for Europe, and for investments, growth and jobs by improving the efficiency of the market while maintaining prudential objectives.

- **11 EXTERNAL RELATIONS**
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- **12 ENERGY**
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- **13 INDUSTRIAL POLICY AND INTERNAL MARKET**
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- **14 REGIONAL POLICY AND COORDINATION OF STRUCTURAL INSTRUMENTS**
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- **15 ENVIRONMENT, CONSUMERS AND HEALTH PROTECTION**
 - **Food law - The EU's general food law regulation.** A [publication](#) features an in-depth analysis of the the General Food Law Regulation (Regulation (EC) No 178/2002), an act underpinning current EU food and feed legislation and defines its general principles, requirements and aims and establishing the European Food Safety Authority (EFSA).

- **16 SCIENCE, INFORMATION, EDUCATION AND CULTURE**
 - **Copyright law – The Court of Justice of the EU ruled (24/04/2017) that the sale of a multimedia player which enables films that are available illegally on the internet to be viewed easily and for free on a television screen could constitute an infringement of copyright.** The temporary reproduction on a multimedia player of a copyright-protected work obtained by streaming is not exempt from the right of reproduction. [Full text of the judgement in the case C-527/15](#)
 - **17 LAW RELATING TO UNDERTAKINGS**
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 - **18 COMMON FOREIGN AND SECURITY POLICY**
 - **Judicial Review of the EU's Common Foreign and Security Policy: Lessons from the Rosneft case.** Article by [Peter van Elsuwege](#) at [Verfassungsblog](#), April 6th 2017
 - **19 AREA OF FREEDOM, SECURITY AND JUSTICE**
 - **European public prosecutor's office** - Sixteen member states notified the three institutions of their intention to launch an enhanced cooperation to establish a European public prosecutor's office (EPPO) to fight fraud against the EU budget. [European Council Press release](#), April 3rd 2017.
 - **Rights of third-country nationals – The Court of Justice of the EU ruled (10/05/2017) that a third-country national may, as the parent of a minor child who is an EU citizen, rely on a derived right of residence in the EU.** The fact that the other parent, an EU citizen, could assume sole responsibility for the primary day-to-day care of the child is a relevant factor, but is not in itself a sufficient ground to refuse a residence permit. It must be determined that there is not, between the child and the third-country national parent, such a relationship of dependency that a decision to refuse a right of residence to that parent would compel the child to leave the EU. [Full text of the judgement in the case Case C-133/15](#)
 - **20 PEOPLE'S EUROPE**
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- IV. EU law and EU legal approximation tools**
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