

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

No. 4 (June 2016)

Dear Reader,

this is the fourth number of the review of current, important developments in EU law, EU legal analysis and EU legal approximation prepared in the framework of the project “[Support for the Implementation of the EU-Ukraine Association Agreement](#)”. This number covers the 6th – 30th June period. We hope you will find it useful. Your comments and contributions that could improve next issues of the review are welcome.

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

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I. LEGAL ASPECTS OF EU-UKRAINE RELATIONS

- **EU sanctions** - the EU [Council extended \(17 June 2016\) the restrictive measures](#) in response to the illegal annexation of Crimea and Sevastopol by Russia until 23 June 2017. [Council decision 2016/982](#).
- **EU sanctions against Russia** - the [EU Council prolonged the economic sanctions](#) targeting specific sectors of the Russian economy until 31 January 2017



- **Ukraine joins the [Euratom Research and Training Programme](#)** - the agreement was signed on 27th June 2016 in Brussels by Carlos Moedas, European Commissioner for Research, Science and Innovation, and Pavlo Klimkin, Minister of Foreign Affairs of Ukraine. The agreement will still need to be ratified by the Ukrainian Parliament. Nevertheless, Ukrainian legal entities will be able to already participate in the Euratom call for proposals funded under the 2016 and 2017 budget, as this association covers the period 2014-2018. Five-year Euratom Research and Training Programme, running from 2014 until 2018, complements Horizon 2020, the EU's €77 billion research and innovation programme (2014-2020). The budget for the three remaining years (2016-2018) for direct and indirect actions in fission and fusion is €872.5 million. Ukraine was also associated to the previous Euratom research programmes between 2007 and 2013.
- **Cooperation Agreement between Eurojust and Ukraine signed (27th June 2016)** by Michèle Coninx, President of Eurojust and Yuriy Lutsenko, Prosecutor General of Ukraine. The agreement will strengthen judicial cooperation to better fight crime, including organised crime and terrorism.

II. IMPLEMENTATION OF THE ASSOCIATION AGREEMENT

- **“Євроінтеграція у Раді: від металобрухту до пива”** - Європейська правда, Денис Черніков, Парламентська експертна група з євроінтеграції, 13 червня 2016

III. RECENT DEVELOPMENTS AND ANALYSES IN EU LAW¹

- **01 GENERAL, FINANCIAL AND INSTITUTIONAL MATTERS**
 - **The British referendum on the EU membership – a few legal comments**
 - [“The process of withdrawing from the European Union”](#), - the report of the EU Committee of the House of Lords
 - [What next after the UK vote to leave the EU?](#) – 9 questions and answers by Prof. Steve Peers on EU Law Analysis Blog
 - [Brexit, the Referendum and the UK Parliament: Some Questions about Sovereignty](#) – article by Sionaidh Douglas-Scott, Queen Mary University of London on EUtopia Law blog
 - [Can the EU force the UK to trigger the two-year Brexit process?](#) – article on Public Law for Everyone Blog, by Prof. Mark Elliott
 - [Pulling the Article 50 ‘Trigger’: Parliament’s Indispensable Role](#), article by Nick Barber, Tom Hickman and Jeff King on UK Constitutional Law Association blog
 - [There may be an Article 50 route to a second Brexit referendum and the UK remaining in the EU](#) - article by Prof. Eoin O’Dell on Cearta.ie blog
 - [Push Me, Pull You: Whose Hand on the Article 50 Trigger?](#) – article by

¹ This part of the review follows well established systematization of EU legislation, even if not in every reporting period there are substantial or relevant developments under each chapter.

Prof. Kenneth Armstrong on UK Constitutional Law Association blog

- [After the referendum and before Brexit... Where now for workers' rights in the EU?](#) – article on European Law Blog by Rebecca Zahn
- [What Brexit Means for EU Trade Marks](#) – article by Ron Moscona on JDSupra
- [Beyond Notification: How to Leave the European Union without using Article 50 TEU](#) – Prof. Leonard F.M. Besselink, University of Amsterdam on UK Constitutional Law Association blog
- Newest corrected and **consolidated versions of EU Treaties** published in all 24 EU official languages:
 - [Treaty establishing the European Atomic Energy Community](#)

• 02 CUSTOMS UNION AND FREE MOVEMENT OF GOODS

- **Customs Cooperation with the Eastern Neighbouring Countries** – [The European Commission Progress report on Customs Cooperation with the Eastern Neighbouring Countries](#)

Report conclusions: Customs cooperation with the Eastern Partnership countries, in particular with Ukraine, the Republic of Moldova and Georgia has intensified. The Commission focused on the implementation of the AA/DCFTAs and the Strategic Frameworks for customs cooperation by supporting customs reforms. Progress was made in implementation of the AEO programmes, accession to the Common Transit Procedure and accession to the Regional Convention on pan-Euro-Mediterranean preferential rules of origin. The countries concerned participated in the Customs 2020 Programme, Technical Assistance and Information Exchange instrument (TAIEX) activities and twinning projects which assisted them in obtaining better understanding of EU customs activities and thus implementing good practices. The Member States supported the capacity building activities.

Customs cooperation with Russia was limited during this period and was influenced by political and trade developments. The Commission has insisted on Russia implementing fully the TIR Convention and abstaining from unjustified customs controls. Dialogue is important to avoid disruptions in trade flows.

Cooperation in the customs area with Belarus and the Eurasian Economic Union was limited.

• 03 AGRICULTURE

- **Animal health – Regulation 2016/1012 of 8 June 2016 on zootechnical and genealogical conditions for the breeding, trade in and entry into the Union of purebred breeding animals, hybrid breeding pigs and the germinal products thereof ('Animal Breeding Regulation')**. The Regulation repeals Directives 87/328/EEC, 88/661/EEC, 89/361/EEC, 90/118/EEC, 90/119/EEC, 90/427/EEC, 91/174/EEC, 94/28/EC and 2009/157/EC and Decision 96/463/EC in the area of animal breeding.

The Regulation is not covered by AA but could be of importance for Ukrainian

animals' exporters.

- **Animal health – The European Commission Implementing Regulation 2016/973 concerning the authorisation of zinc bislysinate as a feed additive for all animal species.** Implementation of the regulation 1831/2003 on additives for use in animal nutrition.

According to “Comprehensive Strategy for the implementation Chapter IV (Sanitary and Phytosanitary Measures)” (point 58) the Government of Ukraine intends to implement the regulation 1831/2003 and related delegated legislation by the end of 2018.

- **International Agreement on Olive Oil and Table Olives – draft Council decision on the signing, on behalf of the European Union, and the provisional application of the agreement**

- **04 FISHERIES**

- **Sustainable fishing** - the European Commission report on Member States' efforts during 2014 to achieve a **sustainable balance between fishing capacity and fishing opportunities**

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

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

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- **07 TRANSPORT POLICY**

- **Passenger ships safety – proposal for a Directive on ro-ro ferries' and high-speed passenger crafts' inspections** published. The objectives of the proposal are to simplify and streamline the existing EU passenger ship safety regulatory framework, in order to (i) maintain EU rules where necessary and proportionate; (ii) ensure their correct implementation; and (iii) eliminate potential overlap of obligations and inconsistencies between related pieces of legislation.

If approved, the Directive will repeal the [Directive 1999/35/EC on ro-ro ferries' and high-speed passenger crafts' surveys](#) that should be implemented by Ukraine by the end of 2018 (ANNEX XXXII TO CHAPTER 7 TRANSPORT of the AA).

- **Railway safety – regulation 2016/919 of the European Commission on the technical specification for interoperability relating to the 'control-command and signalling' subsystems of the rail system in the European Union.**

The regulation is implementing the [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](#), that should be implemented by Ukraine by the end of 2023 (ANNEX XXXII TO AA, CHAPTER 7 TRANSPORT)

- **Inland waterway transport** – The EU Council adopted (16 June 2016) a revised [directive](#) which sets out how technical requirements for inland waterway vessels. The new rules are intended to improve legal certainty, avoid differing safety levels and reduce administrative burdens for the sector. They will also help to avoid distorting competition and make it easier and quicker to introduce new innovations across Europe.

The new directive will repeal the directive 2006/87/EC of the European Parliament and of the Council of 12 December 2006 laying down technical requirements for inland waterway vessels. The Government of Ukraine has planned its implementation till July 2017 (point 316 of the [AA Implementation Plan](#)).

- **08 COMPETITION POLICY**

- **09 TAXATION**

- **Cross-border invoices** – Important judgment of the CJEU in [Case C-15/15 New Valmar BVBA v Global Pharmacies Partner Health Srl](#). The obligation to draw up cross-border invoices exclusively in a particular language, failing which they are null and void, infringes EU law. Parties must have the possibility of drawing up such invoices in another language they know and that is no less authentic than the required language.

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

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- **11 EXTERNAL RELATIONS**

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- **12 ENERGY**

- **Energy Union** – the EU Council [agreed](#) on the [proposal for a decision establishing an information exchange mechanism with regard to intergovernmental agreements \(IGA\) and non-binding instruments between member states and third countries in the field of energy](#). The aim of the proposed decision - which is one of the building blocks of the Energy Union Strategy - is to enhance the transparency and consistency of the EU's external energy relations and to strengthen its negotiating stance vis-à-vis third countries. According to the compromise reached the Commission will conduct an assessment of gas-related IGAs before they are signed.

- **13 INDUSTRIAL POLICY AND INTERNAL MARKET**

- [The 'Blue Guide' on the implementation of EU product rules 2016](#) - The Guide to the implementation of directives based on the New Approach and the Global

Approach (the “Blue Guide”) was published in 2000. Since then, it has become one of the main reference documents explaining how to implement the legislation based on the New Approach, now covered by the New Legislative Framework. The new version of the Guide builds on the past edition, but includes new chapters, for example on the obligations of economic operators or accreditation, or completely revised chapters such as those on standardisation or market surveillance. The Guide is intended to contribute to a better understanding of EU product rules and to their more uniform and coherent application across different sectors and throughout the single market. It is addressed to the Member States and others who need to be informed of the provisions designed to ensure the free circulation of products as well as a high level of protection throughout the Union (e.g. trade and consumer associations, standardisation bodies, manufacturers, importers, distributors, conformity assessment bodies and trade unions).

- **14 REGIONAL POLICY AND COORDINATION OF STRUCTURAL INSTRUMENTS**

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- **15 ENVIRONMENT, CONSUMERS AND HEALTH PROTECTION**

- **EU passenger rights: Equal treatment for all?** – [overview on Euractiv](#)

- **16 SCIENCE, INFORMATION, EDUCATION AND CULTURE**

- **EU strategy for international cultural relations** - the European Commission communication

- **Europeana** – [EU Council conclusions on the role of Europeana for the digital access, visibility and use of European cultural heritage](#). Europeana which was launched in 2008 is an online common multilingual access point for digital cultural material and since then connects digital collections of cultural heritage from Member States.

- **Lifelong learning** – The European Commission has adopted [draft EU Council Recommendation on the European Qualifications Framework for lifelong learning](#).

If adopted, the Recommendation will repeal the Recommendation of the European Parliament and of the Council of 23 April 2008 on the establishment of the European Qualifications Framework for lifelong learning. The provisions of this recommendation (Annex XLII to the AA) should take into consideration in the framework of the EU-Ukraine cooperation under “Education, training, and youth” chapter (Article 435 of the AA).

- **17 LAW RELATING TO UNDERTAKINGS**

- **Trade secrets directive published** - [directive 2016/943 of the European Parliament and of the Council of 8 June 2016 on the protection of undisclosed know-how and business information \(trade secrets\) against their unlawful acquisition, use and disclosure](#). Transposition deadline for EU Member States 9/06/2018.

- **18 COMMON FOREIGN AND SECURITY POLICY**

- **A Global Strategy for the European Union's Foreign and Security Policy** presented by Federica Mogherini, High Representative [at the EU summit](#), after one year of preparations. Key passage for Ukraine:

“However, peace and stability in Europe are no longer a given. Russia’s violation of international law and the destabilisation of Ukraine, on top of protracted conflicts in the wider Black Sea region, have challenged the European security order at its core. The EU will stand united in upholding international law, democracy, human rights, cooperation and each country’s right to choose its future freely. (...) We will not recognise Russia’s illegal annexation of Crimea nor accept the destabilisation of eastern Ukraine. We will strengthen the EU, enhance the resilience of our eastern neighbours, and uphold their right to determine freely their approach towards the EU. At the same time, the EU and Russia are interdependent. We will therefore engage Russia to discuss disagreements and cooperate if and when our interests overlap.” (p. 33)

- **EU Macro-financial assistance to third countries** - the European Commission published the [report on the implementation of macro-financial assistance to third countries, including Ukraine, in 2015](#).

- **19 AREA OF FREEDOM, SECURITY AND JUSTICE**

- **New EU Partnership Framework with third countries under the European Agenda on Migration** - communication from the European Commission. The Communication explains how the EU's external action will help addressing the fate of migrants and refugees and managing the migration, including on the scale we see today, in a sustainable way.

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- **20 PEOPLE'S EUROPE**

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