

Beyond ECN+ Directive: Empirical Study Mapping Judicial review of national competition law decisions

Coding-book

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Introduction

Welcome to the Beyond ECN+ Directive project!

This project is the first to undertake a comprehensive empirical study, mapping out the judicial review of decisions by national competition law authorities in the European Union. While there has been considerable research and literature in the US on judicial controls of administrative agencies, there is only limited study in the EU context. This project, therefore, will be posited in the context of the literature on agency discretion and judicial control, building on earlier research.

Together with our national rapporteurs, we will create a new, open-access dataset comprised of all judicial review judgments of public enforcement actions of Articles 101 and 102 TFEU and the national equivalent provisions, rendered by the national courts of the EU 27 Member States and the UK. The dataset will cover a 17-year period, starting from the decentralisation of EU competition law enforcement in May 2004 and ending in April 2021. We are hoping that this will offer a vital resource for academics and policymakers to reflect on the current practices and future reforms.

This coding book and attached Excel file offer the instructions and details for the creation of the national databases. While this may seem rather tedious, following the exact instructions of the coding book and using the Excel file are highly important to ensure the uniformity between the various national rapporteurs, that the database will be useful as a whole, and that we will be able to compare between jurisdictions.

If you have any questions on how to code a specific field or believe that the coding book not fully applicable to your jurisdiction, please contact Or Brook (o.brook@leeds.ac.uk) and Barry Rodger (barry.j.rodger@strath.ac.uk).

IP terms

By participating in this project, you agree that the Excel file will be published as part of this project, under the terms of CC BY-NC license (<https://creativecommons.org/licenses/by-nc/4.0/>). This license allows reusers to distribute, adapt, and build upon the material in any medium or format for non-commercial purposes only, and only so long as attribution is given to the creator.

Accordingly, you will also be able to use the coding for your own research purposes. However, you agree to do so only after the Excel sheet has been made publicly available.

Definitions

Term	Definition
Article 101	Article 101 TFEU. Unless indicated otherwise, those references also include all national equivalent provisions
Article 102	Article 102 TFEU. Unless indicated otherwise, those references also include all national equivalent provisions National laws on abuse of economic dependence or relative market power do <u>not</u> qualify as a national equivalent provision to Article 102 for the purpose of this study
Courts	All national courts reviewing appeals on NCAs' administrative enforcement of Articles 101 and 102

Case Selection Criteria

The database will include information on all judicial review by national courts, fulfilling the following criteria:

1. Time frame

- Any judgments *issued and made public* between 1 May 2004 and 31 April 2021.
- The database should not include appeals on old NCAs decisions, rendered prior to the modernisation of EU competition law in May 2004.
- In case not all judicial review decisions are being published in your jurisdiction, please indicate that in the Excel sheet, under the “source” tab. In that case, please include as many judgments as possible.

2. Subject matter

- Judicial review of the NCAs’ *administrative* enforcement of Articles 101 and 102 TFEU and *national equivalents* (namely, including cases where there was no effect on trade between Member States).
- The database should not include:
 - the judicial review of criminal or private cases
 - Appeals on decisions of independent regional competition authorities (non-independent regional offices should be included in the coding)
 - Internal review proceedings of the NCA
 - Appeals on injunctions or monitoring/compliance orders adopted by NCAs
- In case of a Member State with a judicial model (i.e., the NCA is a court, such as in Austria), only appeals on infringement decisions should be included.

3. Decisions type

- Judicial review of final decisions of the NCAs.
- The database should include appeals on:
 - Infringement decisions
 - No ground for action findings
 - Settlements
 - Commitments
 - Individual administrative sanctions imposed in connection to an infringement of Article 101 and 102 TFEU and/or the national equivalent provisions
 - Decisions of sector regulators, if they enforce competition law

- If in your jurisdiction the NCA takes formal decisions to close or not to pursue a case (rejection of complaints, decisions not to investigate or stop investigation), the database will also include appeals launched against those decisions.
- NCAs decisions on recalculation of fines, adopted following an appeal.
- Rejected application for leave to appeal

- The database should not include appeals on:
 - Interim measures (e.g., granting a deadline or seizing certain documents)
 - Procedural decisions (e.g., fines for lack of cooperation or non-compliance)
 - Procedures that were paused and referred to preliminary references (yet, such appeals will be coded once the ECJ returned its ruling to the national court).
 - Decisions related to monitoring previously adopted NCA decisions.
 - Accepted application for leave to appeal

4. Information source

The database will only include information extracted from the decisions, without reference to exogenous information. However, you can indicate any other relevant information in the “comment” section.

Database of judgments

As part of the project, we will also create a database of all the judgments that were coded. The database will be saved on a cloud, and will be accessible to all of the project participants. If it is not possible to create a database of judgments in your jurisdiction (e.g., due to IP rights), please let us know.

Please use the following file name format: [docket number] [case name] [(year)].

e.g., 1054-1-1-05 Mastercard (2006)

You may need to replace certain symbols (e.g. “/”, “:”) in the docket number by “-” to be able to save the file name

Please upload the judgments using the following links. All participants should be able to view the whole database using this link: <https://drive.google.com/drive/folders/1hJMOzRFmQqTGieqSBleqyxdjPKfIE6Z?usp=sharing>

Participants can upload and make changes only to the cases in their jurisdiction, using the following links:

- Austria: https://drive.google.com/drive/folders/1XS3yoL5HXFUIKKw5I9qwLU5_nmHi6ooD?usp=sharing
- Belgium: <https://drive.google.com/drive/folders/14iHwlzhgeCVRUfg3umN94OFw3BR RjSFC?usp=sharing>
- Bulgaria: <https://drive.google.com/drive/folders/1r3gLfgV8phhczipX7gObRc1DyCGS0-bU?usp=sharing>
- Croatia: <https://drive.google.com/drive/folders/1eO8LZ7ORAnZcEyCGK-9JycbHUheIQji8?usp=sharing>
- Cyprus: <https://drive.google.com/drive/folders/1W2rdxn58Lnf7b0r883RFQbpM4IBN TI-X?usp=sharing>
- Czech Republic: <https://drive.google.com/drive/folders/1oiqlvET7L1rt9Ujgz132WOp X1wN7ahg9?usp=sharing>
- Denmark: https://drive.google.com/drive/folders/1Q1tVIOjx6vLPOF7_ks1AGPhA6Uced_Po?usp=sharing
- Estonia: https://drive.google.com/drive/folders/13RBVg9-8Ec_mD-4LaRvJCgdw0WpB9kkX?usp=sharing
- Finland: https://drive.google.com/drive/folders/1KFrtE-lobvuvVuSY52b_6EkP8NAPwyGk?usp=sharing
- France: https://drive.google.com/drive/folders/1j_t8PzomZphhVi8cqFiEPprQPAICqBF?usp=sharing
- Germany: https://drive.google.com/drive/folders/1X18vsC-Cpm14Lpf1Y5_p5nEQhml8WPat?usp=sharing

- Greece:<https://drive.google.com/drive/folders/1PZ79Ydzi0aLMI6MpsHzoYbNFotKnCXuh?usp=sharing>
- Hungary:https://drive.google.com/drive/folders/1PJ79PzyPDPS_xMs7Z3kpol1Y1Quas6O0?usp=sharing
- Ireland:<https://drive.google.com/drive/folders/14a45YQ7MT9sVkpZhADQ7hUxzc9jrbuA?usp=sharing>
- Italy:<https://drive.google.com/drive/folders/1UGEzvOlj2RYD00As4NO7aCl4cKkrRHoR?usp=sharing>
- Latvia:<https://drive.google.com/drive/folders/1okP7RWqImI9h7QEEY84kfQu6u4KLT2TG?usp=sharing>
- Lithuania:<https://drive.google.com/drive/folders/17ZLZ1Gx0if4vzbC7OStD8pdxA4vcFLol?usp=sharing>
- Luxembourg:<https://drive.google.com/drive/folders/17ZLZ1Gx0if4vzbC7OStD8pdxA4vcFLol?usp=sharing>
- Malta: <https://drive.google.com/drive/folders/1gf4wLtQK50VqdwgRQYHDzF-C5lrVypXU?usp=sharing>
- Netherlands:<https://drive.google.com/drive/folders/1SeIT3CX92GUALu0bXmOCDcj18bJ8JYg?usp=sharing>
- Poland:https://drive.google.com/drive/folders/1igKL0sScDXzN3t_mq7mAGKh1v2OXMpY7?usp=sharing
- Portugal:<https://drive.google.com/drive/folders/1HTZa5mC2sFwKuOYWXifpJ9he2kUs-tJa?usp=sharing>
- Romania:https://drive.google.com/drive/folders/1UvDWxcxc4CYkKI_Z_DLhhSy_trlSI7Xj?usp=sharing
- Slovakia:https://drive.google.com/drive/folders/18NaBr7nLRdyJWcyQ_XYGo5SSw_TV_4UO?usp=sharing
- Slovenia:https://drive.google.com/drive/folders/1skeU5g5890u0Y0ObYw_a3eneBMuDyfWu?usp=sharing
- Spain: <https://drive.google.com/drive/folders/1DiNn6gqbl44wKBtSt8TJ7W05-0jAEu1G?usp=sharing>
- Sweden:<https://drive.google.com/drive/folders/1XdVasPIW5w4NQLSgrWmtKOGC8ahWeXR?usp=sharing>
- United Kingdom:<https://drive.google.com/drive/folders/1j7kjFlx2LroNpITsiu1FjfPFDMUuLISt?usp=sharing>

Before you start coding: assigning court codes

Before you start coding the cases in the Excel, please go to the “Courts” tab in Excel and (i) list the relevant national courts in the period between 2004-2021 (in case of a reform in the judicial system, please list all relevant courts); (ii) indicate if they are the first, second, or third instance of appeal; (iii) and assign each of them a 3-letter code of your choosing.

The Coding Book Variables

Case Identification

1	Jurisdiction	
	Variable Name Jurisdiction	Format 2 letters code
	This variable indicates the relevant jurisdiction.	
	Value labels	<ul style="list-style-type: none"> • AT: Austria • BE: Belgium • BG: Bulgaria • CY: Cyprus • CZ: Czech Republic • DE: Germany • DK: Denmark • EE: Estonia • ES: Spain • FI: Finland • FR: France • GR: Greece • HR: Croatia • HU: Hungary • IE: Ireland • IT: Italy • LT: Lithuania • LU: Luxembourg • LV: Latvia • MT: Malta • NL: Netherlands • PL: Poland • PT: Portugal • RO: Romania • SE: Sweden • SI: Slovenia • SK: Slovakia • UK: United Kingdom

2	Judgment Date	
	Variable Name Judgment Date	Format Date (dd/mm/yyyy)
	<p>This variable indicates the date the judgment was rendered</p> <p>If more than one judgment was granted with respect to a single NCA's decision, two (or more) dates would be listed, each one in a separate row in the excel</p>	
	Value labels	Date (dd/mm/yyyy)

3	Court	
	Variable Name Court	Format 3 letters code
	<p>This variable indicates which judicial body rendered the judgment</p> <p>Please assign an appropriate 3 letter code to each one of the relevant courts in your jurisdiction, and indicate the full name under the “Courts” tab in excel</p>	
	Value labels	<p>e.g.:</p> <ul style="list-style-type: none"> • CAT = Competition Appeal Tribunal • CoA = Court of Appeal

4	Judges	
	Variable Name Judges	Format Text
	<p>This variable indicates the full name of the judge/s rendering the judgments. If more than one judge set on the panel, please separate their names with a semicolon (;)</p> <p>If this information is not available in your jurisdiction, please indicate n/a</p>	
	Value labels	<p>e.g.:</p> <ul style="list-style-type: none"> • Pauline Weetman • Pauline Weetman; Andrew Lenon QC; Michael Cutting

5	Judge rapporteur	
	Variable Name Judge rapporteur	Format Text
	<p>This variable indicates the full name of the relevant judge rapporteur</p> <p>If this information is not available/applicable in your jurisdiction, please indicate n/a</p>	
	Value labels	e.g.: <ul style="list-style-type: none"> • Pauline Weetman

6	Case ID (Docket Number)	
	Variable Name Case ID	Format Numbers/letters
	<p>This variable indicates the case docket number. Please use the appropriate format according to your jurisdiction</p> <p>In case of more than one docket number (e.g., in the case of joint cases), please mention the full ID of each case to allow for searchability (e.g., 1275/1/12/17; 1276/1/12/17 and NOT 1275-1276/1/12/17)</p>	
	Value labels	e.g.: 1275/1/12/17

7	Case Name	
	Variable Name Case Name	Format letters
	<p>This variable indicates the name of the case (name of the first listed party or the subject matter), according to the convention applicable in your jurisdiction</p> <p>In case this is an appeal on a previous courts' judgment, please use the same name as the first appeal</p>	
	Value labels	e.g.: <ul style="list-style-type: none"> • Wouters; or • GlaxoSmithKline

Parties Identification

8	Applicants	
	Variable Name Applicants	Format 4 letters code
	<p>This variable indicates the type of the appellants</p> <p>In case there are multiple applicants (e.g., appeal and a cross-appeal), all should be listed, separated by a semicolon (;)</p>	
	Value labels	<ul style="list-style-type: none"> • COMP – the competition authority • UNDR – the undertakings concerned • INDI – the individuals subject to the decision • THRD – third parties

9	Third parties	
	Variable Name Third parties	Format 2-4 letters code
	This variable indicates whether any other third parties joined the procedure. In case there are multiple types of third parties, all should be listed, separated by a semicolon (;)	
	Value labels	<ul style="list-style-type: none"> • COMS – the EU Commission • GOVR – a national governmental agency/government • CNSM – a consumer organisation • CMPL – the complainant in front of the NCA • UNDR – undertakings that were part of the NCA’s decision but are not applicants/respondents in the appeal • INDI - individuals that were part of the NCA’s decision but are not applicants/respondents in the appeal • OTHR – other third parties [+details in the comment section] • NO – no third parties have joined the procedure

NCA's decision subject to appeal

10	Decision reviewable	
	Variable Name Decision reviewable	Format Numbers/letters
	<p>This variable indicates the docket number of the NCA's case or the previous court's judgment subject to appeal by this judgment</p> <p>If no docket number is available, please indicate "n/a" and number the decision</p> <p>In case of more than one docket number of the NCA's case or previous court's judgment (e.g., in the case of joint cases), please mention the full ID of each case to allow for searchability (e.g., 1275/1/12/17; 1276/1/12/17 and NOT 1275-1276/1/12/17)</p> <p>NCA's decisions on recalculation of fines, adopted following an appeal, should be coded according to the docket number of the NCA's new proceeding</p>	
	Value labels	e.g.: <ul style="list-style-type: none"> • e.g.: 1275/1/12/17 • n/a(1)

11	Rule		
	Variable Name Source	Format A number between 0-6	
	This variable indicates the legal provision subject to the NCA's decision Please indicate the relevant national equivalent prohibitions to Article 101 and 102 TFEU under the "national law" tab in Excel. Please note that national equivalent does not include prohibitions on economic dependence or relative market power		
	Value labels	0	= Not indicated
		1	= Article 101 TFEU and the national equivalent provision
		2	= Article 102 TFEU and the national equivalent provision
		3	= Articles 101 and 102 TFEU and the national equivalent provisions
		4	= Only the national prohibition on anti-competitive agreements
		5	= Only the national prohibition on abuse of dominance
		6	= the national prohibitions on anti-competitive agreements and abuse of dominance (no effect on trade)

12 Restriction	
Variable Name Restriction	Format 2-4 letters code
This variable indicates the restriction/s of competition subject to the NCA's decision. Include all types of restrictions, even if only some were subject to an appeal	
Value labels	<p>Article 101 and/or the national equivalent provision:</p> <ul style="list-style-type: none"> • 101H – horizontal restrictions • 101V – vertical restrictions • 101M – both horizontal and vertical restrictions <p>Article 102 and/or the national equivalent provision:</p> <ul style="list-style-type: none"> • 102P – exploitative abuse • 102C – exclusionary abuse • 102M – both exploitative and exclusionary abuse <p>Articles 101 and 102 and/or the national equivalent provisions:</p> <ul style="list-style-type: none"> • HP – horizontal restrictions and exploitative abuse • VP - vertical restrictions and exploitative abuse • MP - both horizontal and vertical restrictions and exploitative abuse • HC – horizontal restrictions and exclusionary abuse • VC - vertical restrictions and exclusionary abuse • MC - both horizontal and vertical restrictions and exclusionary abuse • HM – horizontal restrictions and both exploitative and exclusionary abuse • VM - vertical restrictions and both exploitative and exclusionary abuse • MM - horizontal and vertical restrictions and both exploitative and exclusionary abuse

13	Object/effect	
	Variable Name Object/effect	Format 2-4 letters code
	<p>In cases involving Article 101 TFEU and/or the national equivalent, this variable indicates whether the NCA’s decision classified the agreement/s as having the object or effect of restricting competition</p> <p><i>Please only indicate the NCA’s classification, even if you believe it should have been classified otherwise</i></p> <p>If Article 101 TFEU and/or the national equivalent provision was not examined in the case, please enter n/a</p>	
	Value labels	<ul style="list-style-type: none"> • OBJC – all or some of the restrictions were classified as by-object (including, if they also had the effect) • EFCT – all of the restrictions were classified as by-effect • BOTH – all of the restrictions were classified as having the “object and effect” or the “object or effect”, without indicating which • n/a – the NCA did not classify the types of the restrictions, or the cases did not involve the infringement of Article 101 TFEU and/or the national equivalent provision

14	Procedure	
	Variable Name Procedure	Format 4 letters code
	This variable indicates the type of NCA's decision that is subject to appeal	
	Value labels	<ul style="list-style-type: none"> • COMM – proceeding ended by accepting formal commitments • GRUD – a decision finding there is no ground for action on the NCA's part, including a positive or non-infringement decision • CLSR – a decision to reject a complaint or to close the investigation • FINE – a finding of infringement, imposition of fine (at least on some of the parties) • NOFI – a finding of infringement, with no imposition of fine on any of the parties • OTHR – other outcome [+detail in comments]

15	Remedies	
	Variable Name Remedies	Format 2-4 letters code
	<p>This variable indicates the type of remedies imposed by the NCA’s decision that is subject to appeal (either as part of a commitment or infringement decision)</p> <p>Please note that a NCA’s decision requiring to bring an infringement to an end or attaching reporting requirements to commitments should <u>not</u> be included as a remedy</p>	
	Value labels	<ul style="list-style-type: none"> • STRC – structural remedies • BHAV – behavioral remedies • NO - no structural/behavioral remedies have been imposed (or if the decision required the infringement to be brought to an end)

16	Original Fine	
	Variable Name Original Fine	Format Number
	<p>This variable indicates the fine imposed by the NCA on the parties subject to this appeal for the breach of Articles 101 and 102 TFEU and/or the national equivalent provisions</p> <p>Please only include the fines imposed on the relevant applicants/defendants</p> <p>If no fine was imposed, please indicate "0"</p> <p>Please indicate the currency under the "national law" tab in excel</p> <p>If the amount of fine is confidential this variable will be marked with "n/a"</p>	
	Value labels	[fine]

17	Leniency	
	Variable Name Leniency	Format 2 letters code
	This variable indicates whether the NCA's original decision involved one or more party that has successfully applied for leniency	
	Value labels	<ul style="list-style-type: none"> • NO – no leniency • YS – leniency application successfully submitted

18	Settlement	
	Variable Name Settlement	Format 2 letters code
	<p>This variable indicates whether the NCA's original decision involved one or more party that has successfully applied for a settlement</p> <p>In this context, settlement entails a fine reduction in favor of admission of guilt</p>	
	Value labels	<ul style="list-style-type: none"> • NO – no settlement • YS – settlement agreed upon by at least some of the parties

Grounds of appeal

19	Admissibility	
	Variable Name Admissibility	Format 2 letters code
	This variable indicates whether the appeal was deemed admissible (e.g., statute of limitations, standing requirements)	
		<ul style="list-style-type: none"> • YS – the appeal was deemed fully admissible • PR – the appeal was only partly admissible (only some grounds or with respect to some applicants) • NO – the appeal was fully rejected due to inadmissibility

20	Grounds: procedural	
	Variable Name Procedural argued	Format 2 letters code
	<p>This variable indicates whether procedural grounds were argued by one or more applicants, including:</p> <ul style="list-style-type: none"> A breach of the right to be heard The right of defense Lack of due reasoning Lack of competence Admissibility of evidence (but not lack of sufficient evidence to support a fact) Illegally obtained evidence Limitation period of the NCA’s decision Ne bis in idem <p><i>Please consider the examples above as procedural grounds, even if they are defined differently in your jurisdiction</i></p> <p>Do <u>not</u> include grounds that are directly related to the imposition and calculation of fines</p>	
		<ul style="list-style-type: none"> • YS – procedural grounds were argued • NO – procedural grounds were not argued

21	Grounds: fine	
	Variable Name fine argued	Format 2 letters code
	This variable indicates whether one or more applicants argued for a fine reduction/increase	
		<ul style="list-style-type: none"> • YS – reduction/increase was requested • NO – reduction/increase was not requested

22	Grounds: substantive	
	Variable Name Substantive argued	Format 2 letters code
	<p>This variable indicates whether the applicant appealed matters related to any element of the prohibitions of Articles 101 and 102 TFEU and/or the national equivalent provisions (both matters of fact and law), including the interpretation and application of:</p> <ul style="list-style-type: none"> Definition of undertakings (inc. state action, public/mix bodies, liability of parents/subsidiaries) Existence of agreements/concerned practices Restrictions by object/effect Article 101(3) TFEU individual exemptions and BERs Market definition Dominance Abuse of dominance De minimis Any EU or national exemptions/exceptions to the competition rules Lack of sufficient evidence to support a fact (but not admissibility of evidence) Burden of proof <p><i>Please consider the examples above as substantive grounds, even if they are defined differently in your jurisdiction</i></p>	
		<ul style="list-style-type: none"> • YS – substantive grounds were argued by at least some parties • NO – substantive grounds were not argued

23	Grounds: national/EU	
	Variable Name National/EU argued	Format 2 letters code
	<p>This variable indicates whether the applicant raised issues related to the tension between EU and national competition laws, for example:</p> <ul style="list-style-type: none"> The application of the effect on trade test The interpretation of the obligations of Article 3 of Regulation 1/2003 Questions over the primacy of EU competition law or a uniform application 	
		<ul style="list-style-type: none"> • YS – issues related to the tension between EU and national competition laws were argued • NO – issues related to the tension between EU and national competition laws were not argued

24	outcome: procedural	
	Variable Name Procedural outcome	Format 2 letters code
	<p>This variable indicates whether procedural grounds were accepted, including:</p> <ul style="list-style-type: none"> A breach of the right to be heard The right of defense Lack of due reasoning Lack of competence Admissibility of evidence (but not lack of sufficient evidence to support a fact) Illegally obtained evidence Limitation period of the NCA's decision Non bis in idem <p><i>Please consider the examples above as procedural grounds, even if they are defined differently in your jurisdiction</i></p> <p>Do <u>not</u> include grounds that are directly related to the imposition and calculation of fines</p>	
		<ul style="list-style-type: none"> • YS – all procedural grounds raised by all parties were fully accepted • PR - procedural grounds were partially accepted, or only with respect to some of the parties • NO – procedural grounds were fully rejected or not raised/discussed

25	outcome: fine	
	Variable Name fine outcome	Format 2 letters code
	This variable indicates whether the court accepted the claim for a fine reduction/increase	
		<ul style="list-style-type: none"> • YS – all claims for reduction/increase were fully accepted (with respect to all parties) • PR - reduction/increase claims were partially accepted, or accepted with respect to only some of the parties • NO – reduction/increase grounds were fully rejected with respect to all parties or not raised/discussed

26	Outcome: substantive	
	Variable Name Substantive accepted	Format 2 letters code
	<p>This variable indicates whether the court accepted the claims related to any element of the prohibitions of Articles 101 and 102 TFEU and/or the national equivalent provisions (both matters of fact and law), including the interpretation and application of:</p> <ul style="list-style-type: none"> Definition of undertakings (inc. state action, public/mix bodies, liability of parents/subsidiaries) Existence of agreements/concerned practices Restrictions by object/effect Article 101(3) TFEU individual exemptions and BERs Market definition Dominance Abuse of dominance De minimis Any EU or national exemptions/exceptions to the competition rules Lack of sufficient evidence to support a fact (but not admissibility of evidence) Burden of proof <p><i>Please consider the examples above as substantive grounds, even if they are defined differently in your jurisdiction</i></p>	
		<ul style="list-style-type: none"> • YS – all substantive grounds raised by all parties were fully accepted • PR - substantive grounds were partially accepted, or only with respect to some of the parties • NO – substantive grounds were fully rejected or not raised/discussed

27	Accepted: national/EU	
	Variable Name National/EU accepted	Format 2 letters code
	<p>This variable indicates whether the court accepted the claims related to the tension between EU and national competition laws, for example:</p> <p style="padding-left: 40px;">The application of the effect on trade test</p> <p style="padding-left: 40px;">The interpretation of the obligations of Article 3 of Regulation 1/2003</p> <p style="padding-left: 40px;">Questions over the primacy of EU competition law or a uniform application</p>	
		<ul style="list-style-type: none"> • YS - issues related to the tension between EU and national competition laws raised by all parties were fully accepted • PR - issues related to the tension between EU and national competition laws were partially accepted, or only with respect to some of the parties • NO – issues related to the tension between EU and national competition laws were fully rejected or not raised/discussed

28	Preliminary reference	
	Variable Name Preliminary	Format 2 letters code
	This variable indicates whether the court has referred a question to a preliminary ruling during the procedure	
		<ul style="list-style-type: none"> • YS – yes, a question was referred • NO – no, a question was not referred

Outcome

29	Success	
	Variable Name Success	Format 4 letters code
	This variable indicates the success of the action for judicial review	
		<ul style="list-style-type: none"> • RJCT – the appeal was rejected/dismissed in its entirety, with respect to all parties • ACPT – the appeal was accepted in its entirety, with respect to all parties • PART – the appeal was partially accepted or only with respect to some of the parties • WTHD – appeal withdrawn by the parties • OTHR – another [+details in the comment section]

30	Outcome	
	Variable Name Outcome	Format 4 letters code
	<p>This variable indicates the outcome of the judicial review.</p> <p>If the appeal was withdrawn or fully rejected, please indicate RJCT</p> <p>In the case in your jurisdiction there is no formal annulment of the NCA's decision, but a procedure having a similar effect, please regard it as annulment for the purpose of coding this variable</p>	
		<ul style="list-style-type: none"> • ANUL – the NCA's/previous instance's decision was fully annulled • ANPR - the NCA's/previous instance's decision was partly annulled • RPLC – the court fully annulled the NCA's/previous instance's decision, and replaced it with its own • RPPR – the court partly annulled the NCA's/previous instance's decision, and replaced it with its own • ANRE – the NCA's/previous instance's decision was fully annulled, and returned to the NCA/previous instance • PRRE - the NCA's/previous instance's decision was partly annulled, and returned to the NCA/previous instance • FINE – the NCA's/previous instance's decision was amended only with respect to the fine imposed • LEAV – the application for leave to appeal was rejected • OTHR – another outcome [+details in the comment section] • RJCT – the appeal was withdrawn or fully rejected

31	Fine	
	Variable Name Fine	Format Number/REC
	<p>This variable indicates the new fine imposed, following the judicial review. Please only indicate the sum of fines imposed on the relevant parties to the judgment</p> <p>If the fine was <u>not</u> amended, please indicate the fine that was imposed by the NCA's/previous instance's decision (namely, the sum indicated in variable no. 16 – original fine). If no fine was originally imposed, please indicate "0"</p> <p>If the fine imposed by the NCA/previous instance's decision was annulled, please indicate "0"</p> <p>In case the decision was returned by a court to the NCA for fine re-calculation, please indicate "REC". Any appeals launched against the NCA's fine re-calculation would be coded in a separate row in the excel, and would correspond to the new NCA decision (see the "decision reviewable" variable)</p> <p>In case the decision was returned by a court to the <i>previous instance</i> for fine re-calculation, please indicate "REC". The previous instance's new decision of the fine would be coded in a separate row in the excel, and would correspond to the same "decision reviewable"</p> <p>Please indicate the currency under the "national law" tab in excel</p> <p>If the amount of fine is confidential this variable will be marked with "n/a"</p>	
	Value labels	[fine]/REC

Descriptive fields

32	Comments	
	Variable Name Comments	Format text
	<p>This variable contains any relevant comments about the appeal and procedure that have not been recorded by the previous variables (free text)</p> <p>Please only include comments in exceptional cases and try to limit the comment to no more than 150 words</p> <p>Please <u>do not</u> include comments regarding the coding here (but rather, discuss it with the team directly)</p>	