

Ministry of Education and Science of Ukraine

Yaroslav Mudryi National Law University

European Union Law Department

SYLLABUS OF ACADEMIC DISCIPLINE
« Competition (Antimonopoly) law of the European Union»

Level of higher education – the second (master’s) level

Degree of higher education – master

Field of Knowledge – 29 «International Relations»

Speciality – 293 «International Law»

Educational programme / specialization – «International Law»

Discipline status – optional

Recruitment year– 2022

Kharkiv – 2022

Syllabus of the study discipline " Competition (Antimonopoly) law of the European Union" for students of the second (master's) level of higher education in the field of knowledge 29 "International Relations", specialty 293 "International Law". Kharkiv: Yaroslav Mudryi National Law University of Ukraine, 2022. 16 p.

Developers:

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Approved at the meeting of the EU Law Department

(minutes No.1 dated "01" September 2022)

The head of the department – Yakovyuk Ivan Vasyliovych, doctor of legal sciences, professor, professor

The updated version (with changes and additions) was approved at a meeting of the Department of Law of the European Union (minutes No 12 of 22 June 2023)

The head of the department – Komarova Tatyana Vyacheslavovna, doctor of legal sciences, professor, professor

Information about the lecturer

Title of the course	" Competition (Antimonopoly) law of the European Union"
Status of the course	Optional
Lecturer	Ihor Zhukov, Associate Professor of the Department of European Union Law, Candidate of Law, Associate Professor
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Tutorials	The lecturer is available at the department in accordance with the developed schedule of individual consultations. 7 Dynamivska St., room. 810.
On-line tutorials	Zoom conference: 5803725912, код доступу: W162Xa

Abstract of the academic discipline

The purpose and essence of the competition policy of the European Union and EU member states, the provisions of the EU treaties on competition and EU legislation in its economic and market context, international issues and the globalization of competition law are revealed.

Basic concepts of numerous and diverse issues arising as a result of the market behavior of subjects in the conditions of deepening regional integration, key concepts and methods of EU competition law, as well as extraterritoriality of antimonopoly (competition) law of the European Union, investigation procedures, punishments, mitigation of punishment are considered in case of violation of the requirements of Art. 101 TFEU, the consequences for competition law of such business phenomena as distribution agreements, licenses for intellectual property rights, cartels, legal aspects of merger control in the EU and member states, and the treatment of joint ventures. Directions for applying competition legislation to price discrimination and other atypical types of cartel activity are outlined. In addition, the emphasis is placed on the role of the EU Court in the development of competition legislation and practical recommendations at the EU level.

The purpose and tasks of the educational discipline

The purpose of the academic discipline is to form a system of scientific knowledge in the field of competitive policy of the European Union; development of basic abilities and skills in key concepts and methods of competition law, as well as a comprehensive understanding of the legal regulation of competition protection at the level of the European Union at the current stage and the main tools of EU

antimonopoly policy, the structure of EU institutions and bodies exercising control over compliance with competition law .

Tasks:

- to understand the essence, place and significance of competition policy in the modern economy in general and in the European Union in particular;
- to acquire basic knowledge about the institutional and legal foundations of the formation and implementation of the competition policy of the European Union;
 - study of the provisions of founding treaties, acts of secondary law of the European Union and decisions of the EU Court in the field of competition protection;
 - study of the structure and competence of EU institutions and bodies that perform functions in the field of competition protection;
- be able to identify and analyze forms of anti-competitive behavior of economic entities in the internal market of the European Union;
- development of students' skills of independent analysis and assessment of EU law, as well as law enforcement practice in the field of competition protection.
- to be able to predict and propose ways to solve the difficulties that the subjects of the domestic market will have to face in the process of implementing the European integration course of Ukraine.

Educational discipline in the structure of the educational and professional program. Interdisciplinary connections

Prerequisites: Legal regulation of the EU internal market, Competition (antimonopoly) law, Tax law.

Corequisites: European private international law, European Internet law, WTO law, International contract law, International tax law.

Postrequisites: Corporate law and EU governance, International intellectual property law, Legal aspects of e-commerce, Judicial protection in the European Union.

2. Expected learning outcomes

As a result of mastering the academic discipline, the student of higher education must demonstrate the following learning outcomes:

LO -1. Demonstrate knowledge of the main areas of activity of the European Union in the field of competition protection

LO -2. Demonstrate knowledge and understanding of the process of evolution of formation and legal consolidation of competition protection regulation in the European Union, including the state of legal regulation at the current stage.

LO -3. Know the functions, structure and powers of institutions and bodies of the European Union in the field of competition protection.

LO -4. Demonstrate knowledge of procedures for conducting investigations by European Union institutions into violations of competition rules.

LO -5. To be able to interpret and use the norms of sources of law of the European Union in the field of competition protection, taking into account the interpretation of their provisions in the practice of the Court of the European Union.

LO -6. Demonstrate the ability to determine the legal regimes of anti-competitive behavior, types of anti-competitive agreements, decisions and concerted actions.

LO -7. Know the requirements for exempt agreements, the circumstances and criteria for exemptions and block exemptions.

LO - 8. Demonstrate knowledge of the content of abuse of a dominant position, factors causing a possible dominant position in the market and criteria for determining dominance.

LO -9. Demonstrate knowledge and understanding of economic concentration criteria, procedures for their application, and conditions of liability for violation of concentration rules in the law of the European Union.

LO -10. Characterize the causes of the negative impact of state aid on the functioning of the internal market and demonstrate knowledge of the legal regime of compatibility of state aid with the EU internal market, the regulation of exceptions and the practice of their application.

LO -11. Demonstrate knowledge of the evolution of relations between Ukraine and the European Union, the legal regulation of their current state, and explain the provisions of the Association Agreement between Ukraine and the EU in the field of competition protection.

LO -12. To provide professional advice and conclusions on the essence of cooperation between Ukraine and the European Union in the implementation of the provisions of the Association Agreement in the field of compliance with competition rules.

STRUCTURE OF THE DISCIPLINE

for full-time students

№	Classroom classes (contact)		Independent work (in hours)
	Topics of lectures	Topics of practical training	
1	Legal basis of competition regulation in the European Union.	Legal basis of competition regulation in the European Union.	
2	Institutional structure of the competition regulation system in the European Union.	Institutional structure of the competition regulation system in the European Union.	
3	Sources of competition law of the European Union.	Sources of competition law of the European Union.	
4	Antitrust policy of the European Union.	Antitrust policy of the European Union.	
5	Abuse of dominant position.	Abuse of dominant position.	
6	Control over economic concentration.	Control over economic concentration.	
7	State aid and activities of state enterprises.	State aid and activities of state enterprises.	
8	Ways to adapt the antimonopoly legislation of Ukraine to the law of the European Union.	Ways to adapt the antimonopoly legislation of Ukraine to the law of the European Union.	

For part-time student

№	Topics of lectures	Topics of practical training	Independent work (in hours)
1.	Legal basis of competition regulation in the European Union.	Legal basis of competition regulation in the European Union.	110
2.	Institutional structure of the competition regulation system in the European Union.	Institutional structure of the competition regulation system in the European Union.	
3.	Antitrust policy of the European Union.	Antitrust policy of the European Union.	
4.	Abuse of dominant position..	Abuse of dominant position.	
5.	Control over economic concentration.		

Independent work of students

The forms of independent work of students are:

- written homework;
- assimilation of theoretical material on the topics of practical classes;
- revision of lecture materials;
- work in information networks;
- development of additional literature;
- development of cases;
- essay on highly specialized issues;
- creation of a training course portfolio and its presentation;
- writing abstracts, reports and their presentation;
- preparation and publication of scientific articles, theses of scientific reports;
- participation in student scientific and practical conferences;
- compiling a bibliography on the relevant topic;
- generalization of court practice;
- other forms of work.

Tasks and methodical recommendations for independent work are given in Methodical materials for the study discipline "Competition (antimonopoly) law of the European Union" for students of the second (master's) level of higher education in the field of knowledge, field of knowledge 29 "International Relations", specialty 293 "International Law".

Educational, methodical and information support of the educational discipline

Normative legal acts

1. Constitution of Ukraine. Adopted at the fifth session of the Verkhovna Rada of Ukraine on June 28, 1996 // Official Gazette of Ukraine. - 2010. - No. 72 /1. - Art. 2598 // URL: <http://zakon2.rada.gov.ua/laws/show/254k/96-вр>.
2. Treaty on the Functioning of the European Union (1957) (Consolidated version 2012) // Official Journal C 326. 26.10.2012. P. 47–390.
3. Treaty on European Union (1992) (Consolidated version 2012) // Official Journal C 326. 26.10.2012. P. 13–390.
4. Charter of Fundamental Rights of the European Union // Official Journal C 202. 07.06.2016. P. 389-405.
5. Treaty establishing the European Coal and Steel Community (ECSC), 18.04.1951.
6. Treaty establishing the European Economic Community (EEC), 25.03.1957.
7. 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 // Official Journal L 1. 04.01.2003. P. 1-25.
8. Council Regulation (EEC) No. 17/62 of 21 February 1962, First Regulation implementing Articles 85 and 86 of the Treaty // Official Journal 013. 21.2.1962. P. 204-211.
9. Regulation No. 27 of the Commission: First Regulation implementing Council Regulation No. 17 of 6 February 1962 (EEC) // Official Journal 035. 10.5.1962. P. 1118-1135.
10. Regulation No. 19/65/EEC of 2 March 1965 of the Council on application of Article 85 (3) of the Treaty to certain categories of agreements and concerted practices // Official Journal 036. 6.3.1965. P. 533 - 535.

11. Council Regulation (EEC) No. 4064/89 of 21 December 1989 on the control of concentrations between undertakings // Official Journal L 395. 30.12.1989. P. 1–12.

12. Council Regulation (EC) No. 139/2004 of 20 January 2004 on the control of concentrations between undertakings (the EC Merger Regulation) // Official Journal L 024. 29.1.2004. P. 1-22.

13. Commission Regulation (EU) No 461/2010 of 27 May 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 in the motor vehicle sector // Official Journal L 129. 28.5.2010. P. 52–57.

14. Commission Regulation (EU) No. 316/2014 of 21 March 2014 on the application of Article 101(3) of the Treaty on the Functioning of the European Union to categories of technology transfer agreements // Official Journal L 93. 28.3.2014 . P. 17–23.

15. Commission Regulation (EU) No 1217/2010 of 14 December 2010 on the application of Article 101(3) of the Treaty on the Functioning of the European Union to certain categories of research and development agreements // Official Journal L 335. 18.12 .2010. P. 36–42.

16. Council Directive 84/450/EEC of 10 September 1984 relating to the approximation of the laws, regulations and administrative provisions of the Member States concerning misleading advertising // Official Journal L 250. 19.09.1984. P. 17-20.

17. Directive (EU) 2019/1 of the European Parliament and of the Council of 11 December 2018 to empower the competition authorities of the Member States to be more effective enforcers and to ensure the proper functioning of the internal market // Official Journal L 11. 14.01.2019. P. 3–33.

18. 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 ('Directive on electronic commerce') // Official Journal L 178. 17.07.2000. P. 1–16.

19. Judgment of the Court of 21 December 1954. French Republic v High Authority of the European Coal and Steel Community. Case 1-54 // English special edition. 1954-1956. 00001. ECLI identifier: ECLI:EU:C:1954:7.

20. Judgment of the Court of 21 December 1954. Italian Republic v High Authority of the European Coal and Steel Community. Case 2-54 // English special edition. 1954-1956. 00037. ECLI identifier: ECLI:EU:C:1954:8;

21. Judgment of the Court of 20 March 1957. Mining undertakings of the Ruhr Basin being members of the Geitling selling agency for Ruhr coal, and the Geitling selling agency for Ruhr coal v High Authority of the European Coal and Steel Community. Case 2-56 // English special edition. 1957-1958. 00003. ECLI identifier: ECLI:EU:C:1957:4;

22. Judgment of the Court of First Instance (Fifth Chamber) of 7 June 2006. Osterreichische Postsparkasse AG and Bank fur Arbeit und Wirtschaft AG v Commission of the European Communities. Joined cases T-213/01 and T-214/01 // European Court Reports. – 2006. II-01601. ECLI identifier: ECLI:EU:T:2006:151;

23. Judgment of the Court of First Instance (Fourth Chamber, extended composition) of 27 September 2006. GlaxoSmithKline Services Unlimited v Commission of the European Communities. Case T-168/01 // European Court Reports. – 2006. II- 02969. ECLI identifier: ECLI:EU:T:2006:265;

24. Judgment of the Court of 1 June 1999. Eco Swiss China Time Ltd v Benetton International NV. Case C-126/97 // European Court Reports. - 1999. I-3055. ECLI identifier: ECLI:EU:C:1999:269;

25. Judgment of the Court (First Chamber) of 17 February 2011. Konkurrensverket v TeliaSonera Sverige AB. Case C-52/09 // European Court Reports.– 2011. I-00527. ECLI identifier: ECLI:EU:C:2011:83;

26. Judgment of the Court (Third Chamber) of 10 March 2016. HeidelbergCement v Commission EU. Case C-247/14 P // ECLI identifier: ECLI:EU:C:2016:149;

27. Judgment of the Court of 15 July 1963. Plaumann & Co. v Commission of the European Economic Community. Case 25-62 // English special edition. - 1963. -00095. ECLI identifier: ECLI:EU:C:1963:17;

Literature

Basic literature

1. Olefir. A. WTO Government Procurement Agreement: Legal Consequences for Ukraine. Entrepreneurship, economy and law. No. 3. 2017. P. 79-84

2. Basics of competition law of the European Union and "Europeanization" of competition law of Ukraine: training. manual / K. V. Smirnova – K.: VOC "Kyiv University", 2021. –223 p.

3. Proskurnya O.M. Global and competitive policy of the countries of the European Union: lecture notes / O.M. Proskurnya // National Technical University "Kharkiv Polytechnic Institute". -Kharkiv: NTU "KhPI", 2020. - 41 p.

4. Smirnova K.V. Legal regulation of competition in the European Union: theory and practice: monogr. – 2nd ed., add. – Odesa: Phoenix, 2017. – 490 p.

5. Smirnova K.V. Extraterritorial effect of the law of the European Union: experience for Ukraine. P. 153-159.

6. Shvidka T. I. Economic competition: the current state of legislative provision and prospects for its modernization: monograph / T. I. Shvidka – Kharkiv: Pravo, 2020. – 376 p.

Further reading

1. Zayats O., & Yarema T. (2022). EU COMPETITION POLICY. Norwegian journal of development of the international science, 89, 19–21. <https://doi.org/10.5281/zenodo.6912716>

Internet resources:

1. Official website of the EU. URL: <http://europa.eu.int>

2. European Parliament. URL: <https://www.europarl.europa.eu/portal/en>

3. Council of the EU. URL: <http://www.consilium.europa.eu>
4. European Commission. URL: <http://ec.europa.eu>
5. General Directorate for Competition. URL: https://competition-policy.ec.europa.eu/index_en
6. Court of the EU. URL: <http://curia.europa.eu/>
7. European Accounting Chamber. URL: eca.europa.eu
8. European Central Bank. URL: www.ecb.int
9. Information about the legislative process on the official website of the EU. URL: http://europa.eu/eu-law/decision-making/procedures/index_en.htm
10. Database of EU legislation. URL: <http://eur-lex.europa.eu/en/index.htm>
11. The official platform for the public who want to participate in the EU legislative process. URL: http://ec.europa.eu/yourvoice/consultations/index_en.htm
12. Center of official documentation of the EU. URL: publications.europa.eu
13. Catalogs. URL: www.europa.eu.int/libraries
14. Eurostat. URL: epp.eurostat.ec.europa.eu
15. SOLVIT. URL: https://ec.europa.eu/solvit/index_en.htm
16. European space. URL: <http://eu.prostir.ua/>
17. Historical archives of the EU. URL: <http://www.iue.it/ECArchives/EN/Eurhistar.shtml>
18. Representation of the EU in Ukraine. URL: http://eeas.europa.eu/delegations/ukraine/index_uk.htm
19. Bulletin of the EU Representation in Ukraine. URL: <http://euukrainecoop.net/>
20. European integration / Official website of the Cabinet of Ministers of Ukraine. URL: http://www.kmu.gov.ua/control/uk/publish/article?art_id=246396130&cat_id=223223535

SEEMC

Standardized electronic educational and methodological complex of the Department of Law of the European Union. URL: http://library.nlu.edu.ua/index.php?option=com_k2&view=itemlist&task=category&id=605:

Open access to the online resources of Oxford University Press, to the information and legal systems LIGA:LAW (the GRAND system and the VERDICTUM judgment analysis system).

Access is possible in the legal information hall of the Educational Library Complex (84-A Pushkinska St., 3rd floor).

Requirements of the teacher

Applicants of higher education *must*: regularly attend lectures and practical classes; systematically and actively work on them; convincingly present arguments when solving tasks; qualitatively perform written tasks, control and independent work, etc. Practical classes missed for valid reasons can be made up after prior agreement with the teacher.

Applicants of higher education are *recommended to*: participate in scientific conferences, competitions of scientific works, the work of the scientific circle of the department, mut-courts, prepare theses of scientific reports, etc.

A *mandatory requirement* is for students of higher education to comply with the norms of the "Code of Academic Ethics of the Yaroslav the Wise National Law University" (https://nlu.edu.ua/files/norm_doc/kodeks_academichnoyi_etyky.pdf).

During classroom classes, it is allowed to use gadgets only for educational purposes (for example, to view lecture presentations). It is allowed to use laptops and tablets for keeping lecture notes and tracking the necessary information.

Control measures

Evaluation of the results of learning the educational discipline "Competition (anti-monopoly) law of the European Union" involves current and final control and is carried out on the basis of a cumulative point-rating system.

Current control of students' knowledge includes:

- quality control of the students' assimilation of the program material of the educational discipline in practical classes using the following means: oral, written or express survey, performance of test tasks, solving practical tasks or problems, participation in case development, defense of a portfolio on important topics, defense of an essay at the initiative of the student, etc. Current control is aimed at checking the level of student preparation for studying the current material. In the course of the practical session, the student can receive an assessment on a five-point scale (1, 2, 3, 4, 5);

- quality control of the students' assimilation of the program material of the educational discipline, which is carried out at the end of the modules in the form of a test or colloquium;

Based on the results of practical classes from each of the two modules, the total number of points is calculated (the maximum score for each module is 40 points), which is included in the final assessment of knowledge.

During the semester, students perform tasks *for independent work* (processing of statistical data of EU institutions, decisions of the Court of the European Union; preparation of abstracts of reports for scientific and practical conferences and articles; conducting a research (project) on a narrow issue with its subsequent presentation, etc.). The work is individual and independent, and therefore co-authorship of students and other forms of assistance to each other are not allowed. When performing independent work, the student is obliged to comply with the rules regarding academic integrity and the direct prevention of plagiarism. The maximum number of points for independent work is 20.

The form of final control of the knowledge of higher education students in the academic discipline is the assessment. The minimum number of points to receive credit is 60.

Distribution of points between forms of organization of the educational process and types of control measures of the discipline "Competition (antimonopoly) law of the European Union":

Scale of final pedagogic control

Grade according to ECTS	Description	Grade under national system of assessment	Grade under 100-grades scale of the YMNLU
A	Excellent - Excellent execution, with only a small number of errors	passed	90 – 100
B	Very good - above average with a few errors		80 – 89
C	Good - generally correct work with a number of minor errors		75 – 79
D	Satisfactory - not bad, but with a significant number of shortcomings		70 – 74
E	Sufficient – performance meets minimum criteria		60 – 69
FX	Unsatisfactory - work needs to be done before rewriting	failed	35 – 59
F	Unsatisfactory - serious further work is required, a mandatory repeat course		0 – 34