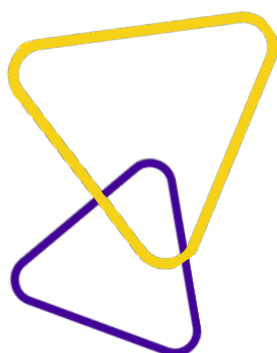


Analytical Brief

DEVELOPMENT OF UKRAINE'S COMPETITION POLICY ACCORDING TO EU STANDARDS AND RULES

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Chapter 8 of the European Union acquis, dedicated to competition policy, is of key importance for Ukraine in the context of preparation for accession in terms of creating equal conditions for entrepreneurial activity. In this regard, special attention should be paid to the implementation of Regulation (EU) No. 1/2003, which modernizes the approach to antitrust regulation in the EU, granting antitrust authorities the powers for effective investigation and termination of violations of Articles 101 and 102 of the Treaty on the Functioning of the European Union (TFEU).¹

The Importance of Competition Policy

Regulation No. 1/2003 radically changed the approach to antitrust law enforcement in the EU itself. Its goal is to create a transparent, effective and decentralized system in which national authorities and courts receive real tools for detecting and terminating violations of competition law, particularly Articles 101 and 102 of the Treaty on the Functioning of the EU. It provides for the following:

1. It abolishes the mandatory system of obtaining prior authorization for agreed actions between companies, replacing it with an approach of assessing the legality of actions post facto (*ex post*).
2. Expansion of investigation tools. The relevant authorities receive the right to conduct unannounced visits, interview company employees, seize documents, including in electronic form, and impose sanctions for failure to provide information.
3. A separate section is devoted to cooperation between national antitrust authorities and the European Commission within the European Competition Network, which provides for coordination of actions in cross-border cases.
4. The Regulation establishes clear frameworks for imposing fines and other liability measures for violations of competition law, ensuring effective deterrence of anti-competitive behavior.

These provisions are aimed at forming a predictable, transparent and competitive economic environment.



¹ 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 (Text with EEA relevance). *Official Journal L 001*, 04/01/2003 P. 0001 - 0025. Source: <https://eur-lex.europa.eu/eli/reg/2003/1/oj/eng>

Current State of Harmonization of Ukrainian Legislation with EU Norms and Challenges

Although Regulation (EU) No. 1/2003 is not directly mentioned in the Ukraine-EU Association Agreement, Section 10 of the Agreement (competition) provides for gradual approximation of Ukrainian legislation to the EU *acquis*, particularly to the enforcement practice of the European Commission.² Therefore, the Regulation has been partially implemented within the framework of realizing the provisions of the Association Agreement: amendments to the law “On Protection of Economic Competition” have been adopted,³ access to decisions of the Antimonopoly Committee (AMCU) has been simplified, and the transition to *ex post* control has begun.⁴

At the same time, a number of critical gaps remain in Ukrainian legislation. In particular, there are no effective mechanisms for unscheduled inspections without company consent, tools for cooperation in investigations, and specialized antitrust chambers or independent tribunals capable of ensuring effective appeal of AMCU decisions. These and other problems can be solved through full implementation of the Regulation. This requires not only legislative changes but also reform of the judicial system and law enforcement agencies, because without these institutions even the best competition legislation will not provide real protection for honest business.⁵

Today in Ukraine there is no reliable mechanism for appealing AMCU decisions — enterprises are forced to turn to administrative or commercial courts of general jurisdiction, which do not always have proper specialization. The formal right to judicial review of AMCU decisions is provided for by the Law of Ukraine “On Protection of Economic Competition,” adopted in 2001,⁶ however, in practice courts mostly check only compliance with procedures, and not the validity of conclusions on the merits.

In the second half of the 2010s, this became the subject of active discussions in the business community and among experts, who emphasized the absence of an effective

² Association Agreement between Ukraine, on the one hand, and the European Union, the European Atomic Energy Community and their member states, on the other hand. *Agreement of Ukraine dated 27.06.2014: as of November 30, 2023*. Source: https://zakon.rada.gov.ua/laws/show/984_011#Text

³ On Protection of Economic Competition: *Law of Ukraine dated 11.01.2001 No. 2210-III: as of May 16, 2024*. Source: <https://zakon.rada.gov.ua/laws/show/2210-14#Text>

⁴ Report on the results of conducting a primary assessment of the state of implementation of acts of European Union law (*Acquis EU*). Brussels, 8.11. 2023. SWD (2023) 699 final, *European integration portal*. Source: https://eu-ua.kmu.gov.ua/wp-content/uploads/Zvit_UA.pdf

⁵ European Commission. Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions. *Enlargement and Eastern Neighbourhood*. Brussels, 8.11. 2023. SWD (2023) 699 final. Source: https://enlargement.ec.europa.eu/system/files/2023-11/SWD_2023_699%20Ukraine%20report.pdf

⁶ On Protection of Economic Competition: *Law of Ukraine ...*

appellate mechanism and proposed creating specialized judicial chambers following the example of the EU Court. Despite the adoption in 2023 of Law No. 3295-IX,⁷ which introduced changes to AMCU activity procedures (particularly through the introduction of *leniency*⁸ and *settlement*⁹ mechanisms), the issue of creating specialized antitrust chambers or independent tribunals capable of conducting full substantive review remains unresolved. Therefore, the urgent problem is creating either specialized antitrust chambers within commercial courts or substantially improving the qualifications of judges in the field of competition law.

In European countries, the implementation of Regulation No. 1/2003 led not only to increased antitrust activity by state authorities, which was expressed among other things in the number of unannounced inspections (raids), but also to strengthening business confidence in the competition protection system. In the Ukrainian context, the priority should be not mechanical increase in the number of inspections or sanctions, but creating predictable and understandable rules for investigations, imposing sanctions and protecting business rights. Otherwise, the risks of abuse by authorities increase, which contradicts the spirit of EU competition policy.¹⁰

What Regulation No. 1/2003 says:

- 1. Building a decentralized system for applying competition law norms): national competition authorities and courts of member states are empowered to apply Articles 101 and 102 of the TFEU, in parallel with the European Commission.**
- 2. Expansion of investigation authorities' powers, including: conducting unannounced inspections (*dawn raids*); access to all documents related to the subject of investigation; interviewing officials and employees of companies; and imposing sanctions for failure to provide information.**
- 3. Abolition of the agreement notification system.**
- 4. Legal certainty in the matter of assessing the admissibility of agreements (especially vertical and horizontal ones).**
- 5. Cooperation within the European Competition Network (ECN).**

⁷ On Amendments to Certain Legislative Acts of Ukraine Regarding Improvement of Legislation on Protection of Economic Competition and Activities of the Antimonopoly Committee of Ukraine: *Law of Ukraine dated 09.08.2023 No. 3295-IX: as of November 15, 2024.*

Source: <https://zakon.rada.gov.ua/laws/show/3295-20#Text>

⁸ Leniency program, i.e., a mechanism where a company participating in a cartel voluntarily reports the violation and cooperates with the antitrust authority, receiving reduction or exemption from fines.

⁹ Settlement procedure, where a company acknowledges its participation in a violation and agrees to a simplified procedure in exchange for a reduced fine.

¹⁰ OECD. Assessing the Impact of Competition Authorities' Activities. *OECD*, 2025.

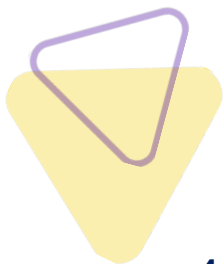
Source: https://www.oecd.org/content/dam/oecd/en/publications/reports/2025/04/assessing-the-impact-of-competition-authorities-activities_4faf82a6/eaafdba8-en.pdf

Implementation of these provisions in Ukraine may have the following potential impact on domestic legislation:

1. Expansion of AMCU powers. Regulation No. 1/2003 essentially requires defining AMCU's rights regarding conducting investigations, introducing clear rules for demanding evidence and responsibility for failing to provide it, enshrining in the Law "On Protection of Economic Competition" norms regarding unscheduled inspections without the consent of the business entity, with appropriate safeguards against abuse.¹¹
2. Decentralization and strengthening the role of courts in competition law enforcement. It is necessary to enhance the role of commercial courts in applying competition legislation, especially in delicate cases of abuse of dominant position and anti-competitive concerted actions. It is also worth considering creating specialized antitrust judicial chambers or improving judges' qualifications in this area.¹²
3. Abandoning the procedure for granting permission for concerted actions. **Ukraine should** transition to an *ex post* evaluation system, as in the EU, where according to Regulation No. 1/2003 (Article 20) inspections do not require a prior court decision. This requires:
 - amending Articles 10, 11 of the Law of Ukraine "On Protection of Economic Competition,"
 - developing guiding principles for assessing the admissibility of agreements, analogous to the European Commission's approach.
4. Implementation of an effective sanctions mechanism. It is necessary to increase fines for obstructing investigations or failing to provide information to a level corresponding to the EU (up to 1% of annual turnover for failing to provide information). As well as introducing a cooperation mechanism with AMCU that provides for fine reduction in exchange for providing evidence of cartel collusion.
5. International cooperation and harmonization. It is necessary to define the legal foundations for information exchange between AMCU and the European Commission. During the transitional stage, an analogue of the ECN mechanism should be provided, ensuring data exchange and the possibility of parallel proceedings in cases involving transnational violations. After Ukraine's integration into the EU, AMCU will be able to formally join the ECN and coordinate within a unified European system.

¹¹ On Protection of Economic Competition: *Law of Ukraine ...*

¹² Benedisyuk S. Reform of competition legislation – harmonization with EU norms. *Legal Gazette*. April 30, 2025. Source: <https://yur-gazeta.com/dumka-eksperta/reformuvannya-konkurentnogo-zakonodavstva--garmonizaciya-z-normami-es.html>



It is also important to note that the implementation of Regulation (EU) No. 1/2003 should be accompanied by:

- **reform of the judicial system with strengthening court specialization;**
- **reform of police and prosecutor's office in the part of investigating economic crimes;**
- **creation of a transparent mechanism for reviewing complaints against AMCU actions, which consists of clear procedural regulations, independent instances and electronic submission of complaints against AMCU actions;**
- **creation of specialized antitrust chambers.¹³**

The consequences of implementing Regulation No. 1/2003 for Ukraine will be increasing AMCU's institutional capacity, particularly in terms of strengthening its effectiveness, independence and transparency of activities. An important consequence will also be reducing legal uncertainty for business, which will contribute to forming a more predictable environment for economic activity. This, in turn, will improve the investment climate thanks to clear and understandable competition rules.

At the same time, business will face increased costs for legal expertise of agreements, since companies independently assess their legality within the self-assessment system. Under the new conditions, AMCU will check agreements after their conclusion, and responsibility for preliminary legal assessment and compliance with competition legislation is placed on business itself. Companies will no longer need mandatory approval from AMCU before concluding an agreement, but they will be obliged to independently assess the risks of violation, since in case of error they may face fines. In the sphere of law enforcement, difficulties may arise if adequate improvement of judges' competence and effective functioning of specialized judicial instances is not ensured.

International Experience

The implementation of European competition policy standards in Central and Eastern European countries contributed to noticeable improvement in the market environment, growth in economic efficiency and strengthening business confidence in institutions. In countries that carried out comprehensive reforms, combining adaptation of Regulation (EU) No. 1/2003 with strengthening the capacity of antitrust authorities and specialization of the judicial system, results became tangible within the first years.

¹³ Khavronyuk M. Analysis of the draft Law of Ukraine "On Amendments to Certain Legislative Acts of Ukraine Regarding Improvement of the Activities of the Antimonopoly Committee of Ukraine." *Center for Political and Legal Reforms*. 15.12.2022. Source: <https://pravo.org.ua/blogs/analiz-proyektu-zakonu-ukrayiny-pro-vnesennya-zmin-do-deyakih-zakonodavchyh-aktiv-ukrayiny-shhodo-vdoskonalennya-diyalnosti-antymonopolnogo-komitetu-ukrayiny/>

In **Romania**, modernization of competition legislation and strengthening of institutions within the first year of active law enforcement not only contributed to price reduction of 7-10% in the pharmaceutical and agricultural sectors, but also **strengthened competitive pressure**, which allowed attracting new market participants.¹⁴ In **Poland** effective implementation of ex post policy, court specialization and strengthened control in retail trade and telecommunications made it possible to reduce price markups, expand product assortment and **contribute to consumer benefits estimated at 0.6% to 1% of GDP annually**.¹⁵ In the **Czech Republic** active control over abuses and mergers led not only to **markup reduction of 3-5% in a number of product groups, but also to the emergence of new competitors** in segments with traditionally high concentration.

Slovakia and Lithuania, along with growth in the number of new players and revival of private investments, **recorded price markup reduction of 2-4% in key segments of retail trade and energy**, which created additional consumer effect and strengthened competitive pressure on market dominants.^{16,17,18} These effects prove that adaptation of Regulation (EU) No. 1/2003 can create long-term macroeconomic benefits, provided that reforms are implemented comprehensively — taking into account institutional design, regulator independence, judicial support and political will.

High economic results were achieved through several channels of influence. First, **effective investigation of cartels and abuses reduced the market power of large players**, which directly affected prices. Second, the *ex post* approach stimulated companies to independently be responsible for the legality of agreements, reducing state costs for permitting procedures and accelerating market activity.¹⁹ Third, fighting collusion in public procurement — especially in construction, energy, procurement of medicines and food — allowed saving the budget up to 2-3% of the cost of large projects. Finally, transparency and predictability of competition policy became important signals for foreign investors, especially in capital-intensive and strategic sectors.²⁰

¹⁴ Wils, Wouter P. J., Regulation 1/2003: An Assessment After Twenty Years (November 4, 2022). World Competition, Volume 46, Issue 1, March 2023, pp. 3-36, Available at SSRN: <https://ssrn.com/abstract=4268365>

¹⁵ Kadar, Massimiliano, Evaluating 20 Years of Regulation 1/2003: Are EU Antitrust Procedures 'Fit for the Digital Age'? (September 23, 2022). Forthcoming (subject to revisions) in the Antitrust Law Journal, Available at SSRN: <https://ssrn.com/abstract=4227830> or <http://dx.doi.org/10.2139/ssrn.4227830>

¹⁶ Jurkowska-Gomułka, A. (2018). Mind the Gap! ECN+ Directive Proposal on its Way to Eliminate Deficiencies of Regulation 1/2003: Polish Perspective. *Market and Competition Law Review*, 2(2), 125-150. Source: <https://doi.org/10.7559/mclawreview.2018.327>

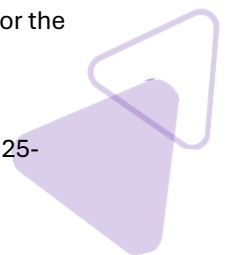
¹⁷ Wils, Wouter P. J., Regulation 1/2003: An Assessment After Twenty Years ...

¹⁸ Kadar M. Evaluating 20 Years of Regulation 1/2003: Are EU Antitrust Procedures ...

¹⁹ OECD. Assessing the Impact of Competition Authorities' Activities. OECD. 2025. Source: https://www.oecd.org/content/dam/oecd/en/publications/reports/2025/04/assessing-the-impact-of-competition-authorities-activities_4faf82a6/eaafdba8-en.pdf

²⁰ EBRD. Regional Economic Prospects. EBRD. May 2025.

Source: https://www.ebrd.com/content/dam/ebrd_dxp/assets/pdfs/office-of-the-chief-



An indicator of active law enforcement was the growth in the number of inspections in the region. **On average, the number of dawn raids in the region's states grew from less than three to approximately 10-12 per year.** The highest dynamics were recorded in Romania (from 1 in 2022 to 22 in 2023),^{21,22} as well as in Poland, where after launching the leniency program and judicial reform, inspections grew from 3 to 18 per year.²³

Assessment of the Effect for Ukraine

Implementation of the provisions of Regulation (EU) No. 1/2003 in Ukraine is capable of ensuring annual consumer savings at the level of 0.6-1% of GDP, which equals approximately EUR 1.1-1.8 bn.²⁴

This assessment is based on the experience of EU countries after implementing the Regulation and assumes a similar positive effect for Ukraine's GDP. In the energy sector, this may mean reduction of surcharges in tariff structure and creation of conditions for competition between suppliers. In pharmaceuticals — strengthening tender transparency, availability of cheaper alternative drugs and elimination of advantages for large players at the distribution stage. In the agricultural sector — this is expanding farmers' access to the market, reducing barriers when concluding contracts and reducing dependence on vertically integrated holdings. In the sphere of transport and logistics — reducing entry barriers for new operators, as well as optimizing end-consumer service costs through greater competition in freight transportation.

A separate vector of influence is the efficiency of state expenditures. Public procurement, particularly in infrastructure projects, remains a sensitive area from the point of view of competitive integrity. **Fighting concerted actions of tender participants** following the example of Poland, Czech Republic or Romania **will allow Ukraine to avoid systematic budget overspending** and improve the quality of infrastructure project implementation.²⁵

[economist/economic-surveys/regional-economic-prospects/2025/regional-economic-prospects-may-2025/RegionalEconomicProspects-May2025.pdf](https://one.oecd.org/document/DAF/COMP/AR(2024)50/en/pdf)

²¹ Directorate for Financial and Enterprise Affairs. Annual Report on Competition Policy Developments in Romania. *OECD*, 2024. Source: [https://one.oecd.org/document/DAF/COMP/AR\(2024\)50/en/pdf](https://one.oecd.org/document/DAF/COMP/AR(2024)50/en/pdf)

²² Directorate for Financial and Enterprise Affairs. Competition in the Food Supply Chain – Contribution from Romania. *OECD*, 2024.

Source: [https://one.oecd.org/document/DAF/COMP/GF/WD\(2024\)33/en/pdf](https://one.oecd.org/document/DAF/COMP/GF/WD(2024)33/en/pdf)

²³ Krasnodębska-Tomkiel M. Competition Policy in Poland. *Office of Competition and Consumer Protection*. The online magazine for global competition policy. 20 August -08 (2).

Source: [https://www.competitionpolicyinternational.com/assets/0d358061e11f2708ad9d62634c6c40ad/Krasnodebska-Tomkiel%20GCP%20Aug-08\(2\).pdf](https://www.competitionpolicyinternational.com/assets/0d358061e11f2708ad9d62634c6c40ad/Krasnodebska-Tomkiel%20GCP%20Aug-08(2).pdf)

²⁴ Based on 2024 data.

²⁵ Fazio E. Adapting Competition Law to the Digital Transition. Two Challenges. *European Papers - A Journal on Law and Integration*. Vol. 7, 2022, № 3, pp. 981-992 (European Forum, 23 December 2022)

Source: https://www.europeanpapers.eu/en/system/files/pdf_version/EP_EF_2022_I_030_Emanuele_Fazio_00601.pdf

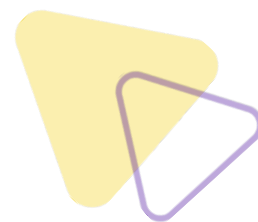
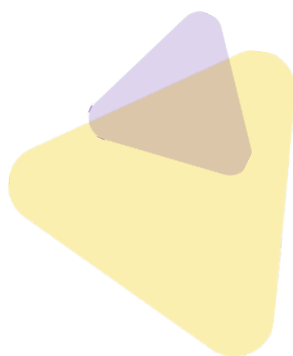
Full implementation of Regulation No. 1/2003 in Ukraine may lead to an increase in the number of antitrust inspections by at least five to ten times. This is an expert assessment made based on the experience of EU countries after implementing the Regulation.

If currently in Ukraine AMCU conducts only 1-2 similar inspections per year, then 2-3 years after implementing the corresponding norms (following the Polish or Romanian scenario) one can expect up to 10-20 raids per year. At the same time, economic benefits from such intensification of antitrust activity are possible only with parallel judicial system reform, proper budget financing of AMCU and clear political support for fighting anti-competitive practices.

Conclusions

Implementation of Regulation No. 1/2003 in Ukraine requires deep reform of antitrust legislation, especially regarding investigation procedures, AMCU powers, the role of courts and transparency of enforcement mechanisms. This is an important step on the path to European integration, which can significantly improve the competitive environment in Ukraine, but requires proper adaptation of procedures, judicial practice and institutional guarantees.

The economic effect of implementing this regulation for Ukraine encompasses not only GDP growth and consumer welfare, but also strengthening macroeconomic stability, improving resource allocation efficiency and building confidence in the institutional environment.





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