The intersection of EU competition law and sanctions policies presents a complex legal landscape that poses significant challenges for companies operating in sanctioned countries. This article explores how EU authorities are addressing anti-competitive behavior for companies that still operating in these countries and the impact of recent developments in EU competition law and sanctions policies.

Navigating the interaction between EU competition law and sanctions laws is one of the biggest hurdles for businesses operating in sanctioned nations. Foreign policy goals like deterring violations of human rights or halting the spread of weapon of mass destruction are frequently advanced by the use of sanctions. However, these actions may also have unexpected effects that harm competition, such as lowering the supply of goods and services or distorting the market.

EU authorities have created a variety of mechanisms to uphold competition law in the context of sanctions to overcome these difficulties. The European Commission, for instance, has clarified the conditions in which anti-competitive behavior may be permitted in the context of restrictive measures in its guidelines on the implementation of EU competition law concerning those restrictions. The Commission has also established a sanction review mechanism to ensure that sanctions do not undermine the effectiveness of EU competition law.

In addition, EU competition authorities have taken enforcement action against companies that have engaged in anti-competitive behavior and use the sanctioned countries as markets for their goods and services. For example, in 2022, the...
European Commission fined a number of consumer electronics manufacturers for engaging in price-fixing and other anti-competitive practices in Russia, which is subject to EU sanctions.

However, there are particular difficulties in executing competition legislation in sanctioned nations, such as gathering proof and collaborating with local authorities. Additionally, businesses may have trouble adhering to both EU sanctions policies and competition law, particularly when the two frameworks contradict. For instance, a business might be forced to sign an anti-competitive contract to abide by the penalty, which might be against EU competition law.

Companies that had business with sanctioned nations should be diligent about compliance to reduce these risks. This entails creating strict compliance policies and procedures, conducting regular risk assessments to identify potential competition law and penalty issues, and giving staff members ongoing training. Additionally, businesses should think about consulting with EU competition authorities to get advice on how to implement EU competition legislation in the context of sanctions.

In conclusion, the intersection of EU competition law and sanctions policies poses significant challenges for companies that operated in sanctioned countries. However, with careful planning and proactive compliance efforts, companies can mitigate these risks and ensure that they comply with both legal frameworks. The EU authorities continue to adapt and refine their approach to address these challenges, and companies must stay up-to-date with these developments to remain compliant.

Keywords: EU Competition Law, Sanctions, Anti-Competitive Behavior, EU Authorities, Trade Restrictions, Market Dominance, Cartels, Mergers, Acquisitions, International Trade, Economic Sanctions, EU Foreign Policy, Compliance, Enforcement, Exemptions, Due Process, Human Rights, Jurisdiction, International Law.
перешкоди для компаній, які працювали у підсанкційних країнах. У цій статті досліджується, як органи ЄС борються з антиконкурентною поведінкою компаній, що продовжують працювати або створювати підконтрольні компанії в цих країнах, а також вплив останніх змін у законодавстві ЄС про конкуренцію та політику санкцій.

Однією з головних проблем для суб’єктів господарювання, які працюють у країнах, під які введено санкції, є співвідношення між конкурентним законодавством ЄС і політикою санкцій. Санкції часто вводяться для досягнення цілей зовнішньої політики, таких як перешкодження порушенням прав людини, запобігання розповсюдженню зброї масового знищення, та, що найбільш актуально, збройної агресії одних країн щодо інших. Однак ця політика також може мати непередбачувані наслідки для ринку, де можуть спостерігатися викривлення через дефіцит товарів і послуг, порушення ланцюгів постачання, тощо.

Щоб подолати ці виклики, влада ЄС розробила низку заходів для забезпечення виконання законодавства про конкуренцію в контексті санкцій. Наприклад, Європейська комісія опублікувала вказівки щодо застосування законодавства ЄС про конкуренцію щодо обмежувальних заходів, які роз’яснюють обставини, за яких антиконкурентна поведінка може бути дозволена в контексті санкцій. Комісія також створила механізм перегляду санкцій, щоб гарантувати, що санкції не підтримують ефективність законодавства ЄС про конкуренцію. Окрім того, використовується індивідуальний підхід до кожної групи товарів та послуг, що постачаються учасниками ринку, аналізується наслідки санкційної політики.

Крім того, органи ЄС з питань конкуренції вжили примусових заходів проти компаній, які порушують конкуренцію в країнах, на які поширюються санкції. Наприклад, у 2022 році Європейська комісія оштрафувала низку виробників споживчої електроніки за участь у фіксації цін та інших антиконкурентних діях у Росії, яка перебуває під санкціями ЄС.

Однак застосування законодавства про конкуренцію в країнах, до яких застосовані санкції, пов’язане з проблемами, як, наприклад, отримання доказів і питання співпраці з місцевою владою. Більше того, компанії можуть зіткнутися з труднощами у дотриманні законодавства ЄС про конкуренцію, так і політики санкцій, особливо якщо ці дві системи суперечать одна одній. Наприклад, компанія може бути зобов’язана укласти антиконкурентну углу для виконання санкцій, що може порушувати конкурентне законодавство ЄС.

Щоб пом’якшити ці ризики, компанії, які працюють у країнах, до яких застосовані санкції, повинні застосовувати проактивний підхід до дотримання законодавства. Це включає проведення регулярних оцінок для виявлення потенційних ризиків, пов’язаних із законодавством про конкуренцію та
sanctions, and procedures to comply with requirements, as well as regular training of employees. Enterprises must also consider the possibility of cooperation with competent EU organs to obtain guidelines on the application of EU competition law in the context of sanctions.

Concluding the presented, it is necessary to note that the simultaneous application of EU competition law and sanctions creates significant challenges for companies that continue to work in the sanctioned countries. However, with careful planning and active efforts to comply with requirements, companies can reduce these risks and ensure compliance with legal frameworks. EU authorities continue to adapt and improve their approach to solving these problems, and it is important for companies to keep abreast of these events.

**Key words:** EU competition law, sanctions, anticompetitive behavior, EU authorities, trade restrictions, market dominance, cartels, mergers and acquisitions, international trade, economic sanctions, EU foreign policy, compliance, legal application, international law.

**Formulation of the Problem:** The intersection of EU competition law and sanctions has become an increasingly important issue in the current global economic landscape. The EU has implemented a series of sanctions against Russia and other aggressive countries, which has led to a complex interplay between trade restrictions and competition law for EU companies that used to sell their goods and services in such countries. This has raised questions about the effectiveness of EU competition law in sanctioned countries, and how EU authorities are addressing anti-competitive behavior in such countries.

**Analysis of Recent Research and Publications:** Recent research and publications have explored various aspects of the intersection of EU competition law and sanctions. Some studies have examined the challenges posed by the extraterritorial application of competition law in the context of economic sanctions, while others have focused on the impact of sanctions on mergers and acquisitions in the affected countries. Additionally, there has been discussion on the role of EU foreign policy in shaping competition law enforcement in sanctioned countries, as well as the need to ensure due process and respect for human rights in the implementation of sanctions. The article examines theses and opinions of such scientists as Anna Lyle-Smythe and Ramunas Audzevicius, Pietro Manzini and Federico M. Mucciarelli, Katarzyna Kuharczyk, Michal Krol and others.

**Purpose of the Article:** The purpose of this article is to provide an overview of the current state of the intersection of EU competition law and sanctions, and to
examine how EU authorities are addressing anti-competitive behavior in sanctioned countries. The article will explore the challenges posed by this intersection, including issues related to compliance and enforcement, exemptions, and jurisdiction. Additionally, the article will discuss the potential impact of EU foreign policy on competition law enforcement, and the need to balance economic sanctions with due process and respect for human rights. Overall, this article aims to contribute to a better understanding of the complex interplay between EU competition law and sanctions, and the strategies being employed by EU authorities to address anti-competitive behavior.

**Presentation of the main material.** The intersection of EU competition law and sanctions has become an increasingly relevant topic in recent years, as the EU has sought to address anti-competitive behavior in countries subject to EU sanctions. In this article, we will examine how the EU is using its competition policy and sanctions regimes to promote competition and deter anti-competitive behavior of the companies that used to or still working in sanctioned countries, as well as the challenges and limitations of this approach.

A level playing field for all businesses operating within the EU is a fundamental tenet of EU competition law, as is the prevention of anticompetitive conduct that could hurt consumers and stifle the market. This includes outlawing cartels, abusing dominating market positions, and merging in a way that would materially reduce market competition. EU competition legislation can be applied in the context of sanctioned countries to stop businesses from acting in an anti-competitive manner that affects consumers and distorts the market, even if the businesses are based in a sanctioned nation\(^1\).

However, applying EU competition law can be challenging due to limited access and information. Moreover, companies in sanctioned countries may not be subject to EU competition law or may not recognize the authority of EU regulators. To address these challenges, the EU has developed sanctions regimes that target specific sectors of the economy in sanctioned countries, such as energy or financial sectors. These sanctions are designed to limit the ability of companies in sanctioned countries to engage in anti-competitive behavior in these sectors and promote competition by limiting the market power of these companies.

The sources that regulate the question of sanctions in EU competition law are primarily the Treaty on the Functioning of the European Union (TFEU) and the secondary legislation adopted under it\(^2\).

Under Article 23 of the TFEU, the European Commission has the power to impose fines and other sanctions on companies that violate EU competition law. The level of these fines and sanctions is set out in Regulation 1/2003, which establishes the rules on the implementation of Articles 101 and 102 of the TFEU.
The European Commission's power to impose fines is further regulated by the 2006 Guidelines on the method of setting fines imposed under Article 23(2)(a) of Regulation 1/2003, which provides a framework for the calculation of fines based on the severity of the infringement, the duration of the infringement, and the size of the company.

National competition authorities and courts also have the power to impose fines and other sanctions under EU competition law. The rules governing these sanctions are set out in national legislation that implements EU competition law, as well as in the case law of national courts.

In recent years, the EU has used both EU competition law and sanctions regimes to address anti-competitive behavior of the companies that used to or still working in sanctioned countries in sanctioned countries.

The EU has imposed massive and unprecedented sanctions against Russia in response to the war of aggression against Ukraine, which started on 24 February 2022, and the illegal annexation of Ukraine's Donetsk, Luhansk, Zaporizhzhia, and Kherson regions.

Sanctions include targeted restrictive measures (individual sanctions), economic sanctions, and visa measures.

As part of the economic sanctions, the EU has imposed several import and export restrictions on Russia. This means that European entities cannot sell certain products to Russia (export restrictions) and that Russian entities are not allowed to sell certain products to the EU (import restrictions).

According to the European Commission, since February 2022, the EU has banned over €43.9 billion in exported goods to Russia and €91.2 billion in imported goods. This means that 49% of exports and 58% of imports are currently sanctioned, compared to 2021.

The list of sanctioned products includes among others:
- crude oil (from December 2022) and refined petroleum products (from February 2023), with limited exceptions;
- coal and other solid fossil fuels;
- steel, steel products, and iron;
- gold, including jewelry;
- cement, asphalt, wood, paper, synthetic rubber, and plastics;
- seafood and liquor (e.g. caviar, vodka);
- cigarettes and cosmetics.

This sanction has direct impacts on competition, including the EU internal market. Sanctions can lead to inflation and currency devaluation, which can increase the costs of doing business and make it more difficult for smaller companies to compete with larger, more established players.
To address these challenges, competition authorities in the EU will need to be vigilant in identifying and investigating instances of anti-competitive behavior in sanctioned countries and will need to work closely with businesses to ensure that they can operate in a competitive and compliant manner. This will require close cooperation between competition authorities and other regulators, such as those responsible for enforcing sanctions regimes, to ensure that the objectives of both regimes are aligned and that competition is not undermined by the imposition of sanctions.

It is also necessary to note the following examples of the application of sanctions that have had an impact on competition policy in the European Union. In 2020, the European Council adopted new sanctions against individuals and entities responsible for cyberattacks, including those originating from Russia, China, and North Korea. These sanctions include travel bans and asset freezes and are designed to deter cyberattacks and promote a secure digital environment.

Another example of applying restriction was the Huawei case. Even amid political unrest and penalties against other nations, the EU is committed to fostering competition, as evidenced by the European Commission's inquiry into Huawei. Since this inquiry includes a firm with its headquarters in a nation that is subject to US sanctions, it is especially pertinent in the context of sanctions.

A charge against Huawei is that it has engaged in predatory pricing, which is selling items below cost to drive rivals off the market. This is blatantly against EU competition law, which forbids using a dominating market position unfairly to hurt rival businesses. In addition, Huawei is also accused of discriminating against rivals by offering better prices and terms to its customers, while imposing more restrictive terms on its competitors. This is also a violation of EU competition law, which requires companies to compete fairly and on equal terms.

The EU has a range of tools at its disposal for enforcing competition law, including fines of up to 10% of a company's global revenue, and orders to change its business practices.

This case highlights the importance of promoting competition in the face of sanctions and political tensions. By enforcing competition law, the EU is helping to create a level playing field for businesses operating in the EU, and sending a message to companies that anti-competitive behavior will not be tolerated.

In 2019, the European Commission fined several companies for participating in a cartel in the steel abrasives sector, including Turkish company Erdemir, which was subject to EU sanctions at the time.

This case is particularly important because Erdemir was under EU sanctions at the time of the cartel. The EU has demonstrated that it will not put up with anti-competitive activity, even from businesses in nations that have been sanctioned.
EU is promoting fair competition and establishing a level playing field for companies doing business in the EU by implementing competition law in this way. The fact that the cartel's members were hit with a punishment of more than €30 million shows how seriously the EU views violations of its competition laws. The EU may apply further sanctions in addition to fines, such as directives to modify business practices or even asset sales.

This case shows that promoting competition in sanctioned countries requires a strong commitment to enforcing competition law, regardless of the country of origin of the companies involved. By taking a tough stance on anti-competitive behavior, the EU is helping to promote fair competition and protect consumers in the EU market.

For example, in 2018, the European Commission fined Russian energy company Gazprom €4.34 billion for abusing its dominant market position in Central and Eastern European gas markets, which included using the gas supply as a political tool to exert pressure on certain EU member states. The EU has also fined banks and companies for violating EU sanctions against Russia, including Barclays, Citigroup, Credit Suisse, JPMorgan, MUFG, Royal Bank of Scotland, Société Générale, Deutsche Bank, and French oil and gas company Total.

Finally, The EU should take steps to clarify the interaction between sanctions and competition law, and to ensure that the objectives of both regimes are aligned to promote greater competition and economic growth.

Except for horizontal cartels, where an increase of 15 to 20% of the turnover will be applied, the fundamental amount of the fine in the European Union will be 30% of the turnover of the product in issue depending on how serious the conduct was. Additionally, the fine may be increased and the maximum amount may not exceed 10% of the total revenue of the sanctioned company in the prior tax year in cases where the party in question owns a sizeable portion of the business outside of the product in question and the amount of additional income as a result of the violation is known.

While the use of EU competition law and sanctions to address anti-competitive behavior in sanctioned countries can be effective, there are also limitations and challenges to this approach. One challenge is that companies in sanctioned countries may be less willing to cooperate with EU authorities, which can make it difficult to gather evidence and enforce competition law. Another challenge is that sanctions may not always be effective in promoting competition, and may instead create unintended consequences such as limiting access to essential goods and services.

The EU may consider other strategies for fostering competitiveness in sanctioned nations to address these issues. For instance, the EU might try to forge closer contacts with regulatory agencies in sanctioned nations or engage in focused
technical assistance to support the development of these nations' capacity for competition enforcement. To encourage competition and deal with anti-competitive activity globally, the EU could potentially collaborate with international organizations.

Promoting free market access and fostering a climate that encourages foreign investment are also strategies. To facilitate business operations, this can be accomplished by removing regulatory roadblocks and streamlining administrative procedures. To attract foreign investment, which can assist to diversify the market and fostering competition, governments can also provide tax incentives and other benefits.

Promoting innovation and the use of new technology is a good option for competition. Countries can increase opportunities for competition and lessen reliance on existing industries that might be subject to penalties by investing in research and development. Funding for innovation hubs, business incubators, and academic research initiatives can help achieve this.

Promoting collaboration between corporations and governments is a fourth strategy. Businesses can share information, resources, and expertise and create fresh approaches to encourage competition by cooperating. Governments and corporations can collaborate to create industry standards and rules that encourage fair competition.

Last but not least, it is critical to remember that encouraging competition necessitates a comprehensive strategy that considers a variety of variables, including political stability, economic conditions, and social issues. To identify and address the issues faced by companies doing business in sanctioned nations, governments must collaborate with businesses, civil society organizations, and other stakeholders.

**Conclusion.** In conclusion, the intersection of EU competition law and sanctions presents a complex regulatory landscape that requires careful consideration and balancing of competing interests. The EU authorities have adopted a pragmatic approach to address anti-competitive behavior, by relying on existing competition law tools and collaborating with other regulatory bodies, such as the US Office of Foreign Assets Control (OFAC) and the UN Security Council.

Legal clarity, jurisdictional overlaps, and potential inconsistencies with international law are issues that are brought up by the use of extraterritorial jurisdiction to enforce EU competition law and impose sanctions on non-EU corporations. However, the EU authorities have shown that they are committed to fostering fair competition and consumer welfare while upholding an even playing field in the global market.

The junction of competition law and sanctions will continue to be a crucial area of regulatory convergence and divergence as the world becomes more linked and geopolitical tensions increase. While retaining its essential ideals and principles,
the EU authorities will need to adjust to new challenges and developing trends. In the end, the coherence and consistency of their enforcement, as well as the cooperation and coordination among various regulatory authorities and stakeholders, will determine how effectively EU competition laws and penalties address anti-competitive activity.

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