

BOSNIA & HERZEGOVINA			
COMPETITION FRAMEWORK			
Competition Law	The Competition Act no. 48/05 was enacted on June 29, 2005 and amended on April 26, 2007 (Act No. 76/07) and in 2009 (Act No. 80/09).		
Competition Authority	The Competition Council (“CC”) started functioning on May 1, 2004. Website: http://www.bihkonk.gov.ba/en/		
STATUS OF THE COMPETITION AUTHORITY			
Accountability			
Does the Competition Authority have obligations before the executive?	Yes	X	Obligations to report to the executive on on-going investigations upon request.
		X	The decisions of the Competition Authority may be vetoed by a ministry or by the executive branch.
		√	The Competition Authority has to report on an annual basis to the executive.
		Other obligations/comments: The CC reports and submits the annual report to the Council of Ministers.	
Does the Competition Authority have obligations before the legislature?	No	X	Obligation to publish an annual report on its activities.
		X	Obligation to stand before parliament and to respond to congressmen on an annual basis.
		X	Its activities are monitored by an independent auditor or by oversight committees.
Does the Competition Authority have obligations before the judiciary?	Yes	√	Decisions of the Competition Authority are subject to judicial review.
		Other obligations/comments: The decisions of the CC are final. Unsatisfied party to the proceedings may start administrative proceedings before the Court of Bosnia and Herzegovina within thirty days of receipt of the decision, or from the date of publication of the decision. <i>See</i> article 46 of the Act.	
Independence			
Are the criteria for appointment and removal of the head/board members clear and transparent?	Yes	<i>See</i> article 22 of the Act.	
Does the executive have powers to decide on specific cases based on public interest?	No		
Does the executive retain decision-making powers over the Competition Authority?	No		
Is the Competition Authority obliged to publish its reasoned decisions to ensure transparency?	Yes		
Is there a provision of the national budget allocated by law to the Competition Authority to ensure its proper functioning?	No		
Are the criteria for appointment and removal of the head/board members clear and transparent?	No	Article 60 of the Act rules that “fees and fines that are imposed in decisions of the Council of Competition are the Budget revenues of institutions of Bosnia and Herzegovina.”	
GOVERNANCE OF THE COMPETITION AUTHORITY			
Is the Competition Authority governed by a single chairman or by a collegiate body?	Chairman	A chairman that is independently appointed by the Council of Ministers.	
Are the heads appointed by a minister?	Yes	The Council of Ministers, at the proposal of the CC, each year, shall appoint the president from among the members of the CC for a period of one year, without the right to be re-elected during the mandate of the members of the Council of Competition. <i>See</i> article 22 of the Act.	
Are the heads appointed by representatives of more than one government branch?	Yes	a) Three members are appointed by Council of Ministers of Bosnia and Herzegovina, with one member per each of the three constituent nations; b) Two members are appointed by the Government of the Federation of Bosnia and Herzegovina; c) One member is appointed by the Government of the Republic of Srpska.	
Is there a fixed period during which removal is prohibited?	Yes	Six years. The mandate of the members of the CC can be terminated in the following cases: a) death, b) resignation, c) revocation of the mandate, at the proposal of the CC, for the following reasons: 1) performance of an incompatible duty; 2) unexcused absence from three successive sessions of the Council of Competition; 3) irresponsible, negligent or poor job performance.	
Is the tenure of the heads renewable?	No	The chairman cannot be re-elected for more than one year, but all the Commissioners can be re-elected for one period more.	
Are the heads required to have certain minimum	Yes	<i>See</i> article 22(2) of the Act.	

qualifications (degree in law or economics, age, experience)?		
ARCHITECTURE		
Is the Competition Authority a stand-alone agency with an independent physical location or is it part of a bigger entity such as a minister?	Stand-alone agency	Radiceva 8/4 – Sarajevo.
POLICY-MAKING AGENTS -DIVERSIFICATION-		
How many agencies are responsible for competition enforcement?	One agency.	
Do sector regulators have competition policy enforcement mandate?	Communications Regulatory Agency	Horizontal agreements, vertical restraints, abuse of dominance, and merger control. The CC cooperates with the Communications Regulatory agency on issues related to the protection of competition.
	Electricity Regulatory Commission	Horizontal agreements, vertical restraints, abuse of dominance, and merger control. The CC cooperates with the State Electricity Regulatory Commission on issues related to the protection of competition.
Have the Competition Authority and other agencies signed protocols or memoranda of understanding with sector regulators?	Telecommunications regulator	No
	Energy regulator	No
	Transport regulator	No
	Other	No
POLICY DUTIES		
Does the Competition Authority have exclusive mandate on competition or multiple mandates?	Exclusive competition mandate	<input checked="" type="checkbox"/> Concurrent consumer protection mandate.
		<input checked="" type="checkbox"/> Concurrent IP mandate.
		Other mandates: Not applicable.
PORTFOLIO INSTRUMENTS		
Law Enforcement		
Does the Competition Authority have powers to investigate cartels?	Yes	
Does the Competition Authority have powers to conduct dawn raids at premises?	Yes	
Can the Competition Authority investigate <i>ex officio</i> cases?	Yes	
Does the Competition Authority have powers to accept leniency applications?	Yes	<i>See article 54 of the Act.</i>
Does the Competition Authority have powers to accept seek criminal punishment?	No	
Advocacy		
Can the Competition Authority issue opinions on draft legislation?	Yes	The opinions are not binding. Article 25(f) of the Act states that the CC can issue “opinions and recommendations on any aspect of competition, either ex officio or at the request of the state authorities, economic entity or company.”
Is the executive and/or the legislature obliged to request the opinion of the Competition Authority when drafting legislation that may impact competition?	No	
Rulemaking		
Can the Competition Authority issue guidelines or other type of secondary legislation?	Yes	<input checked="" type="checkbox"/> Guidelines on the calculation of fines.
		<input checked="" type="checkbox"/> Guidelines on merger control.
		<input checked="" type="checkbox"/> Guidelines on the economic analysis of abuse of dominance cases.
Research & Reporting		
Can the Competition Authority carry out market studies?	Yes	
Can the Competition Authority report to the legislature on the results of market studies?	Yes	
DECISION-MAKING FUNCTIONS		
Aggregated Functions		
Does the Competition Authority make the decision to investigate and to prosecute cases?	Yes	
Does the Competition Authority make guilty findings?	Yes	
Does the Competition Authority impose punishments?	Yes	

Is there a single body that carries out the investigation and the guilty findings within the Competition Authority?	Yes	
Can the Competition Authority's decisions be appealed to a court?	Yes	
Disaggregated Functions—Prosecutorial Model		
Are there different authorities that make the decision to investigate and to prosecute cases?	No	
Are disputes presented for decision to a separate entity/tribunal?	No	