

KOSOVO			
COMPETITION FRAMEWORK			
Competition Law	The Law on Competition no. 2004/36, enacted on September 2004, was amended by Law on Protection of Competition no. 2010/03-L-229, which was approved by Assembly on October 07, 2010 and promulgated on October 25, 2010.		
Competition Authority	The Kosovo Competition Commission (“KCC”) started functioning in 2009.		
STATUS OF THE COMPETITION AUTHORITY			
Accountability			
Does the Competition Authority have obligations before the executive?	No	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.
		X	The Competition Authority has to report on an annual basis to the executive.
		Other obligations/comments: The KCC drafts a report of its work, but it is submitted to the Parliament for approval according to the Law, and not to the executive.	
Does the Competition Authority have obligations before the legislature?	Yes	√	Obligation to publish an annual report on its activities.
		√	Obligation to stand before parliament and to respond to congressmen on an annual basis.
		√	Its activities are monitored by an independent auditor or by oversight committees.
		Other obligations/comments: See articles 24.1 and 24.2 of the Law on Competition (2004).	
Does the Competition Authority have obligations before the judiciary?	No	X	Decisions of the Competition Authority are subject to judicial review.
		Other obligations/comments: According to Law on Protection of Competition (2010), article 62 “(1) [a]ppealing is not permitted against the decision of the Authority however, the party, within a period of thirty days, may initiate an administrative conflict by filing a lawsuit at the Competent court of Kosovo. (2) Appealing against the conclusion of the Authority ruled out during the procedure is not allowed, however, an administrative conflict may be initiated by filing a lawsuit at the Competent Court of Kosovo. (4) Initiation of the administrative conflict does not stop execution of the decision.”	
Independence			
Are the criteria for appointment and removal of the head/board members clear and transparent?	Yes	See Competition Law of 2004, Title V, article 25, “Appointment of Members,” and Competition Law of 2010, article 25.	
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	See Competition Law of 2010, article 55 “[d]elivery and Publication of Authority’s Decisions and other Acts” [. . .] (3) The decision of the Authority pursuant to subparagraph 1 to 7, paragraph 1 of Article 54 of this law shall be published in the Official Gazette.”	
Is there a provision of the national budget allocated by law to the Competition Authority to ensure its proper functioning?	Yes	Fiscal year budget for 2012: Approximately EUR 296,000. The KCC has a budget allowed by the Assembly of Kosovo.	
Can the Competition Authority be financed by its own means (notification fees, fines, etc.)?	No		
GOVERNANCE OF THE COMPETITION AUTHORITY			
Is the Competition Authority governed by a single chairman or by a collegiate body?	Collegiate body	The KCC is composed from five members, including the chairman. All of them are selected by the executive branch and appointed by the Assembly (Competition Law of 2010, article 25).	
Does a minister appoint the heads?	No	See Competition Law of 2010, article 25 “[t]he President and other members of the Commission shall be selected by the Government through an open announcement and submits it to the Assembly of Kosovo for nomination.”	
Do representatives of more than one government branch appoint the heads?	Yes		
Is there a fixed period during which removal is prohibited?	Yes	Five years. See Competition Law of 2010, article 26(2).	
Is the tenure of the heads renewable?	Yes	Only once.	
Are the heads required to have certain minimum qualifications (degree in law or economics, age, experience)?	Yes	See Competition Law of 2010, article 26(1) “Commission member should be citizen of the Republic of Kosovo who has senior qualification in the field of law, economy or any equivalent field and has at least seven years of professional 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	The KCC is an independent body and has responsibility and authority for law enforcement and promoting competition among undertakers and protection of consumers in Kosovo. However, the KCC does not have an independent physical location. The KCC's work facilities are in the Assembly building (fourth floor), the Commission has two offices with a total of four desks and about nine chairs and five computers.	
POLICY-MAKING AGENTS -DIVERSIFICATION-			
How many agencies are responsible for competition enforcement?	One agency.		
Do sector regulators have competition policy enforcement mandate?	No.		
Have the Competition Authority and other agencies signed protocols or memoranda of understanding?	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	X	Concurrent consumer protection mandate.
		X	Concurrent IP mandate.
		Other mandates: Non.	
PORTFOLIO INSTRUMENTS			
Law Enforcement			
Does the Competition Authority have powers to investigate cartels?	Yes	See Competition Law of 2010, Chapter II "Enterprise Agreements."	
Does the Competition Authority have powers to conduct dawn raids at premises?	Yes	See Competition Law of 2010, article 28-1.6.	
Can the Competition Authority investigate <i>ex officio</i> cases?	Yes	See Competition Law of 2010, Chapter IV.	
Does the Competition Authority have powers to accept leniency applications?	Yes	See Competition Law of 2010, article 60.	
Does the Competition Authority have powers to seek criminal punishment?	No		
Advocacy			
Can the Competition Authority issue opinions on draft legislation?	Yes	See Competition Law of 2010, Chapter VI. The opinions are not binding.	
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	X	Guidelines on the calculation of fines.
		X	Guidelines on merger control.
		X	Guidelines on the economic analysis of abuse of dominance cases.
Research & Reporting			
Can the Competition Authority carry out market studies?	Yes	See Competition Law of 2010, article 28.	
Can the Competition Authority report to the legislature on the results of market studies?	Yes	See Competition Law of 2010, Chapter VI.	
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	