

FORMER YUGOSLAV REPUBLIC OF MACEDONIA			
COMPETITION FRAMEWORK			
Competition Law	The Law on Protection of Competition (“LPC”) of 2010, entered into force in November 2010 and was last amended in 2011.		
Competition Authority	The Commission for Protection of Competition, responsible for enforcing the Law on Protection of Competition. Website: http://www.kzk.gov.mk/eng/index.asp		
STATUS OF THE COMPETITION AUTHORITY			
Accountability			
Does the Competition Authority have obligations before the executive?	Yes	✓	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. The Commission is accountable for its work to the Assembly of the Republic of Macedonia and submits an annual report for its activities no later than by March 31st. <i>See</i> LPC, Part III, article 26(6).
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.
		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. Decisions of the Commission can be challenged before the Administrative Court of Macedonia. The procedure before the court is governed by the Law on Administrative Disputes (Official Gazette of RM, no. 62/06).
Independence			
Are the criteria for appointment and removal of the head/board members clear and transparent?	Yes	Appointment and Dismissal of the president and members of the Commission for Protection of the Competition. <i>See</i> LPC, Part III, article 27.	
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?	Yes	The Government of the Republic of Macedonia, upon proposal of the Commission for Protection of Competition, shall prescribe conditions for the agreements of minor importance. <i>See</i> LPC, article 8(4).	
Is the Competition Authority obliged to publish its reasoned decisions to ensure transparency?	Yes	Decisions and Data subject to publication in the “Official Gazette of the Republic of Macedonia.” <i>See</i> LPC, Part VI, “Publications,” article 69.	
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 268,000. <i>See</i> LPC, Part III, article 26(4).	
Can the Competition Authority be financed by its own means (notification fees, fines, etc.)?	No	The Commission for Protection for Competition can impose fines, but the fines go directly to the state budget.	
GOVERNANCE OF THE COMPETITION AUTHORITY			
Is the Competition Authority governed by a single chairman or by a collegiate body?	Chairman	<i>See</i> LPC, Part III, article 26(2), “The Commission for Protection of Competition shall consist of a president, four members, and a team of supporting staff.”	
Does a minister appoint the heads?	No	The president and members of the Commission for Protection of Competition shall be appointed and dismissed by the Assembly of the Republic of Macedonia, acting upon a proposal by the Commission for appointment and dismissal matters of the Assembly of the Republic of Macedonia, for a period of five years with the right to reappointment. <i>See</i> LPC, article 27(1).	
Do representatives of more than one government branch appoint the heads?	No		
Is there a fixed period during which removal is prohibited?	No	<i>See</i> LPC, article 27(9).	
Is the tenure of the heads renewable?	Yes	The president and members shall be appointed for a period of five years with the right to reappointment. <i>See</i> LPC, article 27(1).	
Are the heads required to have certain minimum qualifications (degree in law or economics, age, experience)?	Yes	<i>See</i> LPC, article 27(2).	
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	St. Mito Hadzivasilev Jasmin no. 50 (6th floor), 1000 Skopje, Republic of Macedonia.	
POLICY-MAKING AGENTS			

-DIVERSIFICATION-			
How many agencies are responsible for competition enforcement?	One Agency	Under article 6, LPC “[t]he supervision of the implementation of the Law on Protection of Competition is under the competence of the Commission for Protection of Competition.”	
Do sector regulators have competition policy enforcement mandate?	No		
Have the Competition Authority and other agencies signed protocols or memoranda of understanding?	Telecommunications regulator	Yes	
	Energy regulator	Yes	
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.
PORTFOLIO INSTRUMENTS			
Law Enforcement			
Does the Competition Authority have powers to investigate cartels?	Yes	<i>See</i> LPC, Part II, Chapter 1 “Agreements, Decisions and Concerted Practices,” article 7(1) “all agreements concluded between undertakings, decisions by associations of undertakings and concerted practices which have as their object or effect the distortion of competition shall be prohibited.”	
Does the Competition Authority have powers to conduct dawn raids at premises?	Yes	<i>See</i> LPC, article 41 “Inspections,” <i>see also</i> article 40 “Requesting Data.”	
Can the Competition Authority investigate <i>ex officio</i> cases?	Yes	<i>See</i> LPC, Part II, Chapter 2 “Dominant Market Position and Distortion of Competition,” article 11(1) “[a]ny abuse by one or more undertakings of a dominant position on the relevant market or a substantial part of it shall be prohibited.”	
Does the Competition Authority have powers to accept leniency applications?	Yes	<i>See</i> LPC, article 65 “Leniency” stating that “. . . the Commission for misdemeanor matters, acting upon request from an undertaking that has admitted its participation in a cartel, will grant full immunity from the fine”	
Does the Competition Authority have powers to seek criminal punishment?	No	<i>See</i> Part V “Sanctions,” articles 59-63 where the Law outlines the amount of fines the NCA can impose. <i>See in particular</i> LPC, article 64 “Determination of a Fine.”	
Advocacy			
Can the Competition Authority issue opinions on draft legislation?	Yes	<i>See</i> LPC, article 28(4). 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?	Yes	<i>See</i> LPC, article 28(5).	
Rulemaking			
Can the Competition Authority issue guidelines or other type of secondary legislation?	Yes	√	Guidelines on the calculation of fines.
		√	Guidelines on merger control.
		√	Guidelines on the economic analysis of dominant cases
Research & Reporting			
Can the Competition Authority carry out market studies?	No		
Can the Competition Authority report to the legislature on the results of market studies?	No		
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?	No		
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		

