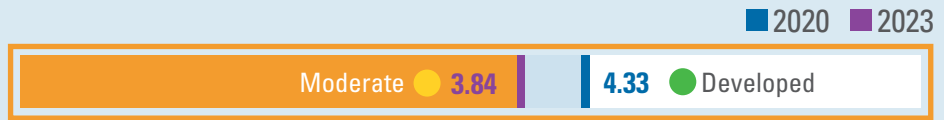




# ARAB BUSINESS LEGISLATIVE FRAMEWORKS



## COMPETITION

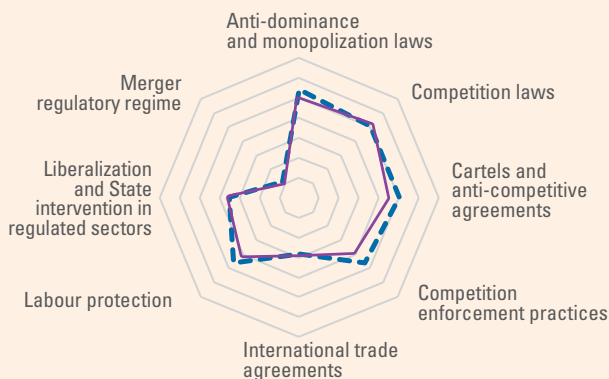


Very strong Strong Developed Moderate Basic Weak Very weak

COMPONENTS	2020	2023
Anti-dominance and monopolization laws	5.44	4.90 ▼
Competition laws	5.09	5.09 ▶
Cartels and anti-competitive agreements	5.00	4.38 ▼
Competition enforcement practices	4.67	3.82 ▼
International trade agreements	2.80	2.80 ▶
Labour protection	4.67	4.00 ▼
Liberalization and State intervention in regulated sectors	3.50	3.50 ▶
Merger regulatory regime	1.17	0.88 ▼

### COMPONENTS

2020 2023



### ELEMENTS

2020 2023



The competition regime in Iraq is managed by Law No. 14/2010. No amendments to the law occurred in the past two years. In 2023, the Competition Council in Iraq was established.



## Competition laws

Article 1 of the Competition Law clearly defines several key competition concepts such as market, monopoly and mergers. However, other concepts, such as collusion, cartel and crowding out are not covered. Although articles 2 and 3(1) guarantee fair competition practices in the

market, article 3(2) allows for exceptions and exemptions as it grants the Ministry of Industry and Minerals the power to fix prices under specific conditions and circumstances. If these conditions are not restricted, such exemptions may perpetuate State interventions in the market.



## Anti-dominance and monopolization laws

The law includes a definition of monopoly (article 1(2)), but not of dominance and the abuse of dominance. Monopoly is defined as acts, agreements or understandings fulfilled by natural and/or legal persons (or those who mediate between them) to control the price or quality of goods and services in a way that will harm the society. Article 10 of the Competition Law lists some anti-dominance and monopolization practices.

The law didn't specify any threshold to determine whether a business is in a dominant position. Article 13 sets the sanctions for breaching the Competition Law, and they include imprisonment from 1 to 3 years or a fine of 1,000,000 to 3,000,000 Iraqi Dinars.



## Cartels and anti-competitive agreements

Article 10 prohibits anti-competitive agreements, such as conventions, understandings (even if verbal) and collisions. The law also lists several anti-competitive practices, such as barriers to market entry, fixing prices, limiting and controlling production, imposing conditions for sales and disrupting the sale or provision of a service. Also, according to article 12, commercial agreements

where parties agree to impose restrictions on prices or the supply of products and/or agree to share information or data should be registered within the Competition Council. However, pursuant to article 12(4), exemptions are granted to agreements that lead to a decrease in prices.

It is worth noting that cartels are neither defined nor prohibited.



## Competition enforcement practices

Article 4 of the Competition Law stipulates the establishment of an administratively and financially independent competition council. The council is responsible before the Council of Ministers. Article 3(1) states that the Law is to be enforced on business activities inside Iraq and outside it if they impact the internal market.

Articles 7 and 8 clarify the functions of the council, such as investigating competition cases, advising on competition

matters, assessing concentration practices, cooperating with foreign authorities in the field of data and information sharing and developing an integrated database for assessments and investigations. Also, pursuant to articles 13 and 15, a sanction regime is adopted, and the Supreme Judicial Council is required to convene courts to consider disputes arising from consumer protection, competition, anti-monopoly and other commercial practices.



## International trade agreements

This part looks at the agreement signed between Iraq and the European Union for example, as it includes investment provisions that cover several competition issues. For instance, article 48(5) states that a procurement entity should neither seek nor accept, in a manner that would have the effect of precluding competition, advice that may be used in the

preparation of adoption of any technical specification for a specific procurement from a person that may have a commercial interest in the procurement. Also, article 56 guarantees information confidentiality in tenders so as not to harm or prejudice competition. Moreover, this trade agreement has a special section on dispute management.



## Merger regulatory regime

The Competition Law does not provide a well-developed economic concentration regime. Article 9 of the Competition Law prohibits mergers between companies if they were to control 50 per cent or more of the total production of a particular good or service, or 50 per cent or more of the total sales of a particular good or

service. Specifying the threshold is not sufficient for an effective merger control regime. There is also a need for developing other concepts within the law, such as the pre-merger notification regime, veto power, vertical/horizontal agreements and criteria for assessment.



## Labour protection

The Competition Law has several shortcomings regarding labour protection. It should be noted,

however, that article 12 of the Labour Law No. 37/2015 has provisions targeting the non-compete clause.

## RECOMMENDATIONS

- The Competition Law should include definitions for several basic anti-competition practices, such as monopoly, cartel, transparency and veto power (in mergers and acquisitions).
- The Competition Council should be independent of ministers and/or political figures.
- Further cooperation is needed, including the development of a memorandum of understanding with other competition authorities (regional and international).
- Markets should be liberalized for some vital sectors, (especially where State-owned enterprises operate), and State interventions should be based on specific conditions/circumstances.
- Stricter conditions for allowing exemptions should be introduced, with sanctions for non-compliance.
- A clear economic concentration regime must be established. Studies on the market (the impact of economic concentration) should include clear criteria and conditions (effect on prices, investments, veto power, etc.). Also, a clear definition for vertical and horizontal agreements should be included.
- Labour protection provisions should be added, such as the non-compete clause.
- A robust sanction regime, with a deterring effect, should be established.
- Publishing studies and/or decisions by the Competition Council is important to ensure transparency.

