


THE CHALLENGING PATH OF  
REFORMS IN LEBANON

**THE COMPETITION LAW:  
SIGNIFICANCE AND  
CHALLENGES**





This report is part of a series of reports produced by Maharat Foundation to track the progress of reforms highlighted in the Lebanon Reform, Recovery and Reconstruction Framework (3RF) which is part of a comprehensive response to the massive explosion on the Port of Beirut on August 4, 2020, launched by the European Union (EU), the United Nations (UN) and the World Bank Group (WBG).

On April 2023, stakeholders involved in the Reform, Recovery and Reconstruction Framework (3RF), agreed that it should be continued as a platform for inclusive policy dialogue and to make progress on implementing reforms to unlock international support for investments in reconstruction, considering that structural reforms are key to overcome this unprecedented crisis and return to the path of sustainable development. Moreover, the 3RF will not extend its focus on recovery efforts, as there are other coordination structures in Lebanon that are more capable of addressing recovery and humanitarian needs.

Maharat is a member of the Independent Oversight Board (IOB) which is comprised of civil society representatives providing broad oversight on 3RF implementation progress and use of financing.

## **OVERVIEW AND IMPORTANCE OF THE COMPETITION LAW**

According to the Global Competitive Index (2019), Lebanon achieved a score of 48.8 out of 100 in terms of domestic competition, placing it 92nd out of 141 countries in the ranking<sup>1</sup>. This score can be explained by various factors influencing the Lebanese market.

The institutional framework governing market competition in the Lebanese economy has historically been characterized by its weakness as regulations pertaining to market participants were weak and rules related to monopolistic structures suffered from a lack of efficiency and implementation. Those institutional weaknesses were further amplified by the nature of the Lebanese market, distinguished by its small size and high concentration, which is reflected in the existence of oligopolies in various sectors such as cement and steel.<sup>2</sup>

In addition, exclusive dealerships and exclusive commercial representation, which were previously protected under Decree-Law No. 34/67 undermined competition, prompting consumers to buy imported goods at high prices.

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1-World Economic Forum. (2019). The Global Competitiveness Report 2019. Retrieved from [https://www3.weforum.org/docs/WEF\\_TheGlobalCompetitivenessReport2019.pdf](https://www3.weforum.org/docs/WEF_TheGlobalCompetitivenessReport2019.pdf)

2-United Nations Economic and Social Commission for Western Asia (UN ESCWA). (2022). Competition Assessment of Lebanon. Retrieved from <https://www.unescwa.org/sites/default/files/pubs/pdf/competition-lebanon-english.pdf>

This market structure allowed a few firms to dominate the market. In light of this, safeguarding consumer's rights through the promotion of competition became an imperative as well as preserving the interests of small and medium-sized enterprises (SMEs) over dominant firms.

Consequently, Law No.281, known as the Competition Law, was enacted on the 15th of February 2022, abolishing exclusive dealerships and exclusive commercial representation.

This law aims to promote free competition while prohibiting monopolies, cartels and trusts. It also seeks to restrict anti-competitive practices, thereby improving consumer welfare and enhancing innovation, production and economic efficiency.

According to ESCWA, the enactment of this law will boost job creation by decreasing barriers to entry in markets, lower inequality levels and advance investment flows<sup>3</sup>.

### **COMPETITION LAW: THE ABSENCE OF A DEDICATED WORKING GROUP WITHIN THE 3RF TO MONITOR THE LAW IMPLEMENTATION**

As mentioned above, the Competition Law plays a fundamental role in structural and macroeconomic reforms. Therefore, it was included in the 3RF's agenda in 2022 as part of the private sector working group. However, this group was dissolved.

Currently, efforts are being made to form a working group that will integrate the implementation of the Competition Law in its priorities. This working group will include experts capable of conducting dialogues with the relevant parties and monitoring the implementation of the Competition Law.

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3-United Nations Economic and Social Commission for Western Asia (UN ESCWA). (2022). Competition Assessment of Lebanon. Retrieved from <https://www.unescwa.org/sites/default/files/pubs/pdf/competition-lebanon-english.pdf>




## **AN INCOMPLETE INSTITUTIONAL FRAMEWORK: THE NATIONAL COMPETITION AUTHORITY IS YET TO BE ESTABLISHED**

Despite the enactment of the Competition Law, its full implementation is still pending due to the absence of a National Competition Authority. This authority, which is subject to the supervision of the Minister of Economy and Trade, is endowed with legal personality and enjoys administrative and financial independence. The authority plays a crucial role in overseeing and promoting competition in Lebanon. Furthermore, the National Competition Authority holds the exclusive right to make decisions regarding competition matters.

The National Competition Authority is composed of a Board of Directors called the Competition Council, an investigation department, and a secretary. In addition, the government appoints the commissioner to the Authority for the Board's term through a decree issued in the Council of Ministers, based on the Minister of Economy and Trade proposal.


Among the 7 members composing the Competition Council, two must be judges from commercial and bankruptcy courts, with a minimum rank of the tenth degree, nominated by the Supreme Judicial Council. Two members should possess expertise in trade and will be proposed by the Chamber of Commerce and Industry. One member will be a qualified lawyer with experience in commercial law, and/or economic freedoms, and/or consumer rights, and/or international commercial law, nominated by the Beirut and Tripoli Bar Associations. A rotation principle will be followed between the Bar Associations. Additionally, one member will be a university professor specializing in competition, and/or economics, and/or rights, and/or foreign trade, proposed by the Lebanese University Council. The final member will be nominated by the Economic and Social Council, excluding employers.

Each competent entity is entitled to propose three candidates for each position, totaling 21 potential nominees. The final selection of seven members is made by the Council of Ministers in accordance with the provisions outlined in the initial chapter of the Competition Law.



With regards to the investigation department, it is composed of a General Rapporteur supported by assistants, responsible for conducting investigations in cases and files brought before the Authority in accordance with the provisions of Article 50 of the Competition Law. The General Reporter is appointed for a non-renewable term of four years by a decree issued in the Council of Ministers from a list of three judges of at least the tenth degree, nominated by the Supreme Judicial Council from among judges of commercial and bankruptcy courts.

However, it is important to note that the National Competition Authority has not been formed yet due to the absence of a President and the failure of the Council of Ministers to convene. The Minister of Economy and Trade, Amin Salam emphasized, in this context, that:



The Competition Law has been published in the Official Journal, rendering it effective. The Ministry of Economy and Trade has completed all the details regarding the National Competition Authority, and we are awaiting the next Council of Ministers session or the one that follows to propose the Competition Council. Hence, we have already adhered to the requirements of the Competition Law with regard to the National Competition Authority, and only the approval of its members and its establishment remain pending.

**AMIN SALAM**  
Minister of Economy  
and Trade

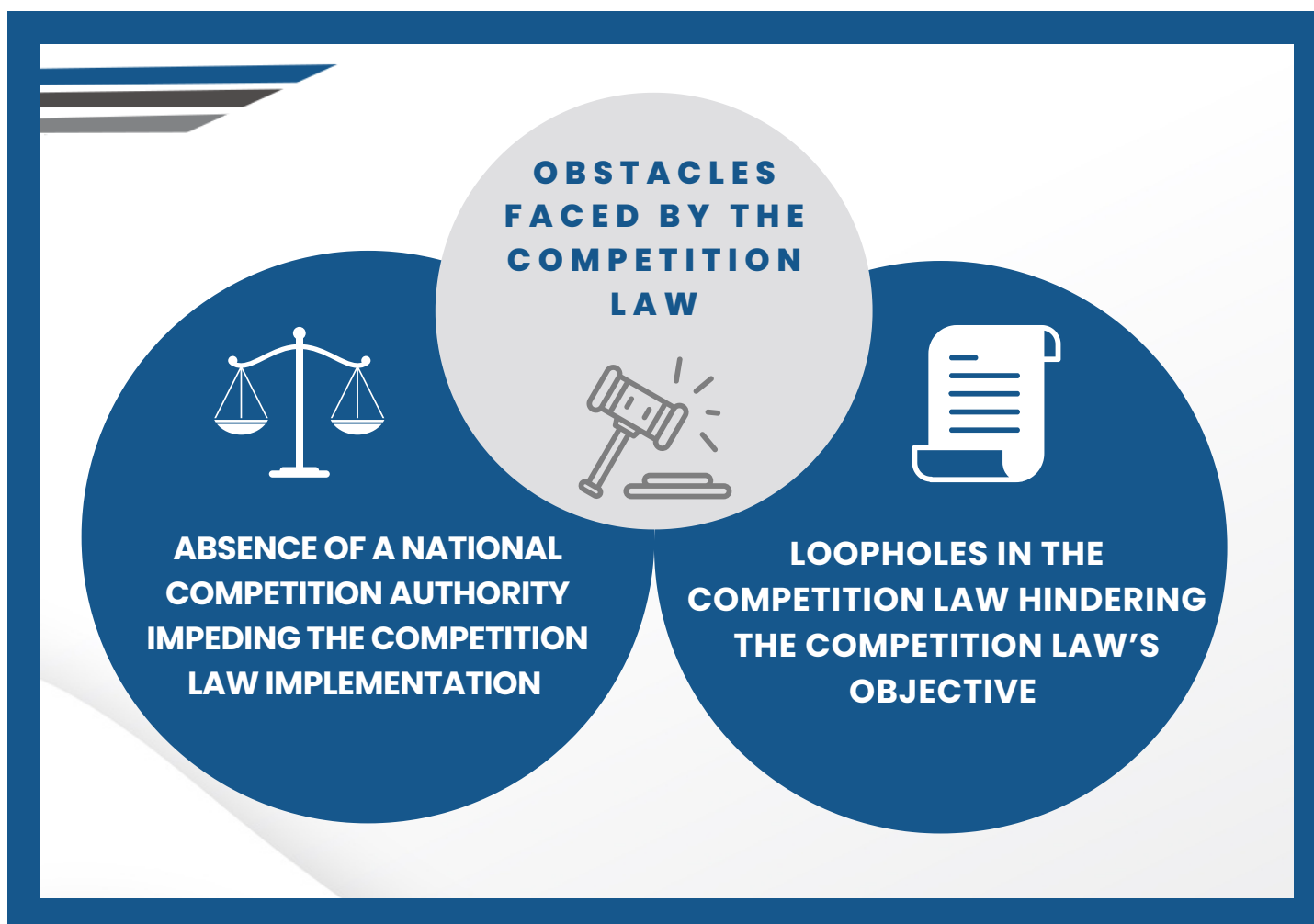


Salam also highlighted the fact that establishing the National Competition Authority is a very important step today to save the economy.

## LOOPHOLES IN THE COMPETITION LAW: END OF MONOPOLIES OR CONSECRATION?

The Competition Law has faced several criticisms, particularly with regard to Article 9, which presents a loophole that allows for market dominance of up to 35%. Consequently, the President of the Consumer Protection Association, described this law as “a law consecrating monopolies”, believing that it will not break up monopolies. According to his views, companies with shares exceeding 35% might merely restructure or establish new companies under different names to maintain their dominance over the market. Furthermore, this high threshold for market<sup>4</sup>. Furthermore, this high threshold for market dominance might allow for three companies to dominate the market, hindering real competition.

It is also worth mentioning that according to Article 9, a group of individuals or companies are considered to be in a dominant position in a particular market if the group consists of 3 or less entities holding 45% of the market share, or if they consist of 5 or less entities, holding 55% of the market share. Hence, Article 9 was deemed inadequate by some legal experts to prevent anti-competitive practices and economic concentration.





## **CONCLUSION**

The enactment of the Competition Law constitutes one of the first steps toward economic recovery as extensive research has consistently demonstrated the positive impact of increased levels of competition on productivity, innovation, investment and trade. However, the existence of loopholes in the text might hinder the intended objective of the law. Furthermore, actions are still needed in the areas of institutionalization and enforcement to enable the Lebanese economy to benefit from the advantages presented in this law.