KOSOVO

INVESTMENT CLIMATE STATEMENT

2016

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Executive Summary

The Republic of Kosovo declared independence from Serbia in 2008. Kosovo's neighbor to the north, Serbia, does not recognize it as a sovereign state but has begun to normalize relations in accordance with the Brussels Agreement of April 2013. With a population of 1.8 million and land area 6,675 square miles, landlocked Kosovo is considered Europe's poorest country.

Kosovo's official unemployment rate is 35.3 percent, although some estimates are as high as 45 percent. Unemployment levels for youth and first-time job seekers are considerably higher than the official rate. According to the World Bank, Kosovo's economy is characterized by: limited integration into the global economy; the success of its Diaspora in foreign labor markets resulting in a steady stream of remittances; pro-growth budgetary priorities; and continued international financial support. Political instability coupled with corruption -- practiced and perceived -- unreliable energy supply, a large informal economy estimated at 35 percent of GDP, and a lack of contract enforcement have created significant barriers to foreign investment.

Despite the challenges, Kosovo's relatively young population, low labor costs, and abundant natural resources have attracted foreign investment, with several international firms and franchises already present in the market. In 2015, Foreign Direct Investment (FDI) in Kosovo was estimated at €338 million, up from €151 million in 2014 and €280 million in 2013. Real estate and leasing activities have received the most FDI, followed by financial services and construction. The food, IT, infrastructure, and energy sectors are growing and could attract new FDI. Portfolio investment in 2015 totaled €1,388, with equity securities of €1,086 billion and debt securities of €302 million. These totals compared to €1,025 billion in equity securities in 2014 and €250 million in debt securities the same year. The Government of Kosovo (GoK) has implemented several policies aimed at fostering sustainable, private-sector led growth that has improved the overall business climate. It adopted a new fiscal package in 2015 aimed at strengthening its public finances and attracting FDI, and drafted a strategic investment law intended to ease market access for potential strategic investors. In addition, the GoK and international donors created a Credit Guarantee Fund that will improve access to credit for businesses. With USAID assistance, the Ministry of Trade and Industry is working on improving the World Bank's Doing Business index.

Table 1

Measure	Year	Index or Rank	Website Address
TI Corruption Perceptions index	2015	103 of 168	transparency.org/cpi2015/results
World Bank's Doing Business Report "Ease of Doing Business"	2016	66 of 189	doingbusiness.org/rankings
Global Innovation Index	2015	x of 143	globalinnovationindex.org/content/page/data-analysis

U.S. FDI in partner country ($M USD, stock positions)	2014	$84 million	IMF
World Bank GNI per capita	2014	$4,000	data.worldbank.org/indicator/NY.GNP.PCAP.CD

Millennium Challenge Corporation Country Scorecard

The Millennium Challenge Corporation, a U.S. Government entity charged with delivering development grants to countries that have demonstrated a commitment to reform, produced scorecards for countries with a per capita gross national income (GNI) of $4,125 or less. A list of countries/economies with MCC scorecards and links to those scorecards is available here: http://www.mcc.gov/pages/selection/scorecards. Details on each of the MCC's indicators and a guide to reading the scorecards are available here: http://www.mcc.gov/pages/docs/doc/report-guide-to-the-indicators-and-the-selection-process-fy-2015.

1. Openness To, and Restrictions Upon, Foreign Investment

Attitude toward Foreign Direct Investment

Kosovo's laws do not discriminate against foreign investors. The GoK – specifically the Prime Minister's Office, Ministry of Trade and Industry (MTI) through its Kosovo Investment Enterprise and Support Agency (KIESA), Ministry of Finance, and the Ministry of Economic Development – actively promote foreign direct investment and welcome expansion of the private sector. However, the lack of a single GoK organization empowered and responsible for coordinating all foreign direct investment opportunities is a hurdle to some projects.

Other Investment Policy Reviews

Kosovo is not a member of OECD, WTO, or UNCTAD; there are no investment policy reviews from these organizations. However, the World Bank Group has published its "Ease of Doing Business 2016" report for Kosovo. Additionally, in late 2014, the NGO "RIINVEST Institute" and the European Union issued "Business Climate for Kosovo, A Cross Regional Perspective." The report reviewed the business environment in Kosovo from 2009-2012, as well as the current business climate, and identified mid-term opportunities and risks. The report is available in English at: http://www.riinvestinstitute.org/publikimet/pdf/Business_Climate_in_Kosovo1221852590.pdf.

Laws/Regulations on Foreign Direct Investment

The legal system in Kosovo has three layers of legislation operating simultaneously -- laws enacted by the former Yugoslavia through 1989, regulations issued by the United Nations Interim Administrative Mission in Kosovo (UNMIK), and laws passed by the Kosovo Assembly. With international assistance, the GoK has been moving towards a legal structure that complies with European standards. These efforts are likely to intensify in accordance with the entry into force of the European Union's Stabilization and Association Agreement (SAA) with Kosovo on

April 1, 2016. Although the legislative framework for a market-oriented economy is in place, poor enforcement, uncertainties regarding legal recognition of foreign arbitral awards, and a nascent modern judiciary hinder economic growth and investment. To address these challenges, the U.S. Government and the EU provide assistance aimed at improving Kosovo's judiciary. Licensed private enforcement agents began assisting enforcement of judicial decisions in 2014; they have had moderate success in executing collections on non-performing loans.

All major sectors of the Kosovo economy are open to foreign investment. The Kosovo Assembly and UNMIK, which governed Kosovo until 2008 under UN Security Council Resolution 1244, have passed pro-business legislation that specifically seeks to attract foreign investment. Under Kosovo law, foreign firms operating in Kosovo are granted the same privileges as local businesses except that foreign investors may not hold more than 49 percent ownership in a business producing or selling military-related products (Reg. No. 2001/3, Section 6). The Law on Foreign Investment, passed by the Assembly in late 2013, further improves the legal infrastructure and helps address inconsistencies in current legislation that unduly discourage foreign investment.

In 2011, the government took substantive steps to further open Kosovo to foreign investment through the passage of the Public Private Partnership (PPP) Law. The PPP Law was harmonized with European Council regulations and EU Acquis Communitaire. The law creates separate definitions for concessions and PPPs, meaning that FDI transactions can be structured more flexibly. Limits on the length of investment projects and a provision allowing unsolicited proposals, which could have allowed procurement outside a competitive bidding process, have been removed. In 2015, the Assembly passed amendments to the Public Procurement Law mandating electronic procurement to improve transparency and prevent corruption.

In September 2015, amended tax laws intended to improve the business climate entered into force. The laws authorize tax breaks for new investments, which will enter into force in the first half of 2016 after the GoK drafts the necessary sub-legal acts. The GoK is also working on a new Strategic Investment Law enabling fast-track negotiations with strategic investors and bypassing current procurement practices.

The courts are perceived as being influenced by the executive branch. USAID, the EU Rule of Law Mission in Kosovo (EULEX), and other international partners are working to reform the judicial system by assisting the local institutions with court reform and decentralization. In addition, USAID is implementing programs on contract enforcement and property rights.

Kosovo's commercial laws are available to the public in Kosovo's official languages (Albanian and Serbian), as well as English. They can be found on the Kosovo Assembly's website at: www.assembly-kosova.org/?cid=2,191 and on Official Gazette website at: http://gzk.rks-gov.net/default.aspx.

Business Registration

The Kosovo Business Registration Agency (KBRA) under the Ministry of Trade and Industry registers all new businesses, closes businesses, and modifies business data. The KBRA website is available in English and can be accessed through the following link: http://www.arbk.org/en/. Business registration must be submitted in person at a KBRA center. Application documents and instructions can be downloaded from the website. Successful applicants will receive a business-registration certificate, the business-information document, and a fiscal number. New businesses must register employees for tax and pension programs with the Tax Administration under the Ministry of Finance. Business registration takes one day for an individual business and up to three days for joint ventures. A notary is not required when opening a new business unless the business registration also involves transaction of real property.

The Kosovo Investment and Enterprise Support Agency (KIESA) is the GoK's official investment promotion agency, providing investment-support services to all potential investors. The KIESA website is available in English and can be accessed at: http://www.invest-ks.org/en/.

Enterprises with up to nine employees are classified as micro enterprises; 10-49 employees are small enterprises; and 50-249 employees are medium enterprises. Per the amended Law on Support to Small and Medium Enterprises, KIESA offers support to both domestic and foreign-owned micro, small, and medium enterprises (MSMEs), without any specific criteria. Such services include voucher programs for training and advisory services, one-stop-shops for foreign companies to facilitate investment, assistance to female business owners, and provision of business spaces with complete infrastructure at industrial parks at minimal costs.

Industrial Promotion

Kosovo does not yet have a comprehensive industrial policy/investment program. KIESA promotes ICT, agribusiness, tourism, mining, and energy as potential sectors for investment. It does so by publishing information on their website, attending tradeshows and conferences in Kosovo and abroad, and organizing workshops with local and foreign companies.

Limits on Foreign Control and Right to Private Ownership and Establishment

Foreign and domestic private entities have the right to establish and own business enterprises, and engage in all forms of remunerative activity. Kosovo legislation does not interfere with the establishment, acquisition, or sale of interests in enterprises by private entities. Under Kosovo law, foreign firms operating in Kosovo are granted the same privileges as local businesses except in the production and selling of military related-goods, where foreign firms cannot hold more than 49 percent of ownership (Reg. No. 2001/3, Section 6). Foreign investors can receive private ownership rights. Foreign investment is not subject to approval by the GoK, except when such approval would be required for similar domestic businesses. The following rights also apply:

a) Foreign investors may transfer property rights, including permits, to other legally-qualified persons in the same manner and to the same extent as domestic investors;
b) Foreign investors have the right to purchase residential and non-residential property to the same extent as domestic entities;
c) Foreign investors with less than a majority stake in an investment are protected as domestic minority shareholders in accordance with applicable law;
d) Foreign investments are subject to the same tax obligations as domestic businesses; and

e) Foreign investors may establish subsidiary enterprises, branches, and representative offices in the same manner and to the same extent as domestic businesses.

We have no reports that U.S. investors have alleged sector-specific restrictions. There are no licensing restrictions particular to foreign investors and no mandatory domestic partners for joint ventures.

Privatization Program

The GoK has been progressively privatizing the assets of former socially-owned enterprises (SOEs) since the early 2000s. The Privatization Agency of Kosovo (PAK), an independent agency, is legally mandated to handle the disposition of Kosovo's SOE assets. As of February 2016, PAK has created a trust fund of over €660 million from the sale of approximately 400 SOEs. The privatization process is open to foreign investors and follows Kosovo's public procurement procedures. Bidding processes often have been criticized in the media as non-transparent and illegal. The Law on Publically Owned Enterprises (POEs) was amended in 2015, giving the GoK authority to transform current SOEs to government-controlled POEs.

Screening of FDI

Kosovo laws do not require FDI to be screened, reviewed, or approved. However, the lack of predictable government processes or procedures to attract and secure FDI creates uncertainty, allows for abuse and corruption, and permits the politicization (or appearance thereof) for many private investments.

Competition Law

The Law on Competition and Law on Antidumping and Countervailing Measures were adopted in 2010 and amended in 2014. The Competition Authority, established in 2008 and consisting of four members and a chairperson appointed by the Assembly, is in charge of implementing these laws, as well as the Law on Consumer Protection. However, the Authority has been nonfunctional since November 2013 due to the expiration of its members' mandates and a prolonged delay by the Assembly in appointing new members. In April 2016, the government approved a slate of candidates, who must be approved by the Assembly.

2. Conversion and Transfer Policies

Foreign Exchange

Kosovo adopted the euro in 2002; however, it is not an official eurozone member. The Foreign Investment Law guarantees unrestricted use of income from foreign investment following payment of taxes and other liabilities. This guarantee includes rights for transfers to other foreign markets or foreign-currency conversions, which must be processed in accordance with EU banking procedures. Conversions are made at the market rate of exchange. Foreign investors are permitted to open bank accounts in any currency.

Remittance Policies

Remittances are an important source of finance for at least 43 percent of Kosovo's population, representing over 12 percent of GDP (or over €700 million) in 2015. The majority of remittances come from Kosovo's diaspora in European countries, especially Germany and Switzerland. The Central Bank reports remittances are mainly used for personal consumption, not for investment purposes.

Kosovo is identified as a country "of concern" in the Financial Action Task Force and the Bureau Control Strategy Report (INSCR) at:
http://www.state.gov/j/inl/rls/nrcrpt/2015/vol2/index.htm.

3. Expropriation and Compensation

Articles 7 and 8 of the Foreign Investment Law protect foreign investments from unreasonable expropriation not in the public interest. They guarantee due process and timely compensation payment based on fair market prices. UNMIK approved the addition of an eminent domain clause to Kosovo's expropriation regulations in April 2005 to curtail lawsuits arising from the expropriation and sale of property through the privatization of state owned enterprises.

The Law on Expropriation of Immovable Property permits the expropriation of private properties by the government or municipalities when such action is in the public interest. In the mining sector, the expropriation of properties is conducted through the Resettlement Framework Policy, which the GoK drafted with World Bank support.

4. Dispute Settlement

Legal System, Specialized Courts, Judicial Independence, Judgments of Foreign Courts

Kosovo has a civil legal system. Ownership of property and contracts are enforced according to relevant legislation. The Law on Enforcement Procedures permits claimants to utilize bailiffs licensed by the Ministry of Justice to execute court-ordered judgments. The 2012 Law on Obligations repeals the former Yugoslav Law on Obligations and provides the basic legal framework for contracts and torts. In addition, the government adopted Laws on Arbitration and Mediation in 2007, and later harmonized these laws with the Law on Contested Procedures. These have all addressed key impediments to enforcing arbitral awards.

In 2011, the Kosovo Assembly passed three laws of particular importance to privatization matters: the Law on the Privatization Agency of Kosovo, Law on the Reorganization of Certain Enterprises and their Assets (the "Trepca Law"), and Law on the Special Chamber of the Supreme Court of Kosovo. Comprised of 13 international and seven local judges, the Special Chamber adjudicates disputes and claims related to privatization and economic restructuring. It has primary jurisdiction over appeals against decisions of the Privatization Agency of Kosovo (PAK), claims arising from the privatization and liquidation of SOEs, and creditor, ownership, and property claims brought against SOEs and POEs. The procedures for claimants wishing to institute proceedings are detailed in the PAK Law.

Significant legislation overhauling the 2004 UNMIK-based Criminal Code and the Criminal Procedure Code went into force in 2013. This legislation brought Kosovo's Criminal Law in compliance with the EU Convention on Human Rights and updated definitions and best practices. The Criminal Code contains penalties for tax evasion, bankruptcy, fraud, intellectual property offenses, antitrust, securities fraud, money laundering, and corruption offenses.

The Law on Courts also changed the structure and jurisdiction of the Commercial Court, creating a Department for Commercial Matters within the Basic Court of Pristina that has jurisdiction for the entire territory of Kosovo and a Department within the Court of Appeals. The Court's jurisdiction changed to specifically include "disputes between domestic and foreign economic persons in their commercial affairs." It also includes reorganization, bankruptcy, and liquidation of economic persons; disputes regarding impingement of competition; and protection of property rights and intellectual property. The Department for Commercial Matters has jurisdiction over economic disputes between both legal and natural persons. Commercial cases take on average six months to one year to resolve. The Court of Appeals also includes a Commercial Matters Department and addresses all appeals coming from the Pristina Basic Court's Department for Commercial Matters.

Kosovo's judicial system, although improving, still suffers from many weaknesses. The judicial branch is perceived as being influenced by the executive branch. Local courts recognize foreign arbitral awards, but not foreign court awards. Enforcement is weak and time-consuming. There are no specialized courts that have standing to hear intellectual property claims, and Kosovo's judiciary lacks the subject-matter expertise to effectively handle complex economic issues.

Bankruptcy

Bankruptcy is criminalized under the Criminal Code. In the World Bank's 2016 Doing Business report, Kosovo ranked 163 out of 171 in addressing insolvency, the same ranking as in the previous year. A new Law on Bankruptcy is with the Assembly and is expected to improve the commercial legislation**.**

Investment Disputes

Article 16 of the Foreign Investment Law assigns exclusive jurisdiction for business dispute resolution to domestic courts. Foreign investors are free, however, to agree upon arbitration or another alternative dispute resolution mechanism. There have been no investment disputes involving U.S. citizens or companies over the last 10 years.

International Arbitration

In 2009, Kosovo became a party to the International Center for Settlement of Investment Disputes (ICSID) Convention and has incorporated the Convention into national law. The Foreign Investment Law stipulates that investors may utilize the following alternative dispute resolution mechanisms:

a) The ICSID Convention if both the foreign investor's country of citizenship and Kosovo are parties to said convention at the time of the request for arbitration;
b) The ICSID Additional Facility Rules if the jurisdictional requirements for personal immunities per Article 25 of the ICSID Convention are not fulfilled at the time of the request for arbitration;

c) The United Nations Commission on International Trade Law Rules. In this case, the appointing authority referred to therein will be the Secretary General of ICSID; or
d) The International Chamber of Commerce Rules.

Since 2011, arbitration services have been available at arbitral tribunals within the Kosovo Chamber of Commerce and American Chamber of Kosovo. Kosovo's Arbitration Rules are a set of model rules based on the 2010 United Nations Commission on International Trade Law (UNCITRAL) Model Rules for Commercial Arbitration. They are consistent with international best practices. The Law on Foreign Investment also favors the use of arbitration. To utilize this option, the law requires the disputed agreement/contract include an arbitration clause.

In addition, in accordance with the Law on Mediation, the Ministry of Justice has established a Mediation Commission, which has adopted the necessary rules to create mediation services and has trained and certified several mediators. For more information, visit http://www.kosovo-arbitration.com/en.

ICSID Convention and New York Convention

Kosovo became a member state of the ICSID convention in 2009, but is not a signatory to the Recognition and Enforcement of Foreign Arbitral Law (1958 New York Convention). There is no specific legislation providing for the enforcement of the ICSID Convention, but in accordance with the Law on Foreign Investments, investors may agree upon arbitration or other alternative dispute resolution mechanisms.

Duration of Dispute Resolution – Local Courts

Kosovo's courts recognize international arbitration awards. The court system has a backlog of cases mostly related to utility bills and loan collections. These cases often take months or years to resolve. Following finalization of a judgment by a court, the execution of a judgment is often lengthy and problematic. The Law on Enforcement Procedures has slightly improved execution of court decisions through the private bailiff system. Foreign investors are litigants in approximately 10 percent of the cases, most of which are trademark cases.

5. Performance Requirements and Investment Incentives

WTO/TRIMS

Kosovo is not a World Trade Organization (WTO) member, but it plans to apply for observer status in 2016.

Investment Incentives

The GoK's new fiscal package entered into force in September 2015, replacing a 16 percent flat rate of value added tax (VAT) with an eight percent rate on basic goods and 18 percent for all other items. VAT was eliminated on production line expenses, raw materials, machinery used in production, and for the purchase of IT equipment. An administrative instruction granting tax holidays for new investments is expected to enter into force in the first half of 2016.

To encourage investment, the government grants businesses certain VAT-related privileges, such as a six-month VAT deferment upon presentation of a bank guarantee for companies importing capital goods. Suppliers may export goods and services without being required to collect VAT from foreign buyers. A Customs internal administrative instruction reduces the number of documents required for export and import. Only two documents are needed to export – a commercial invoice and a customs export declaration – and only three are now required to import – a commercial invoice, a customs import declaration, and a certificate of origin. Suppliers may claim credit for taxes on inputs by offsetting those taxes against gross VAT liabilities or claiming a refund. Kosovo's flat corporate tax of 10 percent helps attract FDI.

Building on the amended law on Publicly Owned Enterprises and in another attempt to boost investment, the GoK is working on a new law on strategic investment through which the government can transfer ownership of lands under administration of PAK to the state and offer it to strategic investors. If approved, the law will enable the GoK to directly negotiate with potential strategic investors, without going through tendering procedures.

Research and Development

Kosovo has no government financed and/or subsidized research and development programs.

Performance Requirements

The Government of Kosovo does not specify performance requirements as a condition for establishing, maintaining, or expanding investments in Kosovo. There are no onerous requirements that would inhibit the mobility of foreign investors or their staff. There are no conditions on permissions to invest, and the government does not mandate local employment.

Data Storage

Depending on the tender, there may be requirements for foreign IT providers to turn over source code and/or provide access to surveillance. Kosovo complies with international best practices for such requirements and does not have a standard policy for such requests. Similarly, Kosovo does not yet have standard rules on data storage, but the government follows international best practices. The Agency for Information Society is charged with storage of government-level data, and other institutions store their respective data as well.

6. Protection of Property Rights

Real Property

Property rights are enforced based on the Law on Property and other Real Rights, adopted in 2009. The law defines security interests on property as a pledge used over tangible/intangible assets except on immovable property, and a mortgage as a pledge used only over immovable property and personal guarantees. Mortgage agreements must be registered with municipal cadastral offices. Enforcement is through municipal courts or extra-judicial procedures. In practice, enforcement of mortgages is challenging because banks sell the properties below market value, leading to conflicts between the new and former owners. Pledge agreements must be registered with the pledge registry that is a centralized registry office in the Business Registration Agency. Personal guarantees do not need to be registered.

Generally, Kosovo's de jure property-related laws are well structured and provide for security and transferability of rights. The country's legal and regulatory framework is complex. Although general agreement exists that many of Kosovo's property laws reflect international best practice, the pluralistic legal environment would benefit from harmonization. Government ministries, municipal authorities, and independent agencies often have overlapping jurisdictions, and the court system is backlogged with property-related cases. Many cadastral records were destroyed, lost, or moved out of the country in 1999 (see below), though the registry is being rebuilt. Issues with records limit the development of the formal property market needed for more stable economic growth. Concerns about restitution of property and the privatization of SOEs have not yet been fully resolved, and issues related to the rights of minority communities sometimes lead to inter-ethnic tensions.

Resolution of residential, agricultural, and commercial property claims remains a serious and contentious issue in Kosovo. Most property records were destroyed or removed to Serbia by the Serbian government during the 1998-1999 conflict, making determination of rightful ownership for the majority of properties complex. Cases of multiple ownership claims on a single property with each claimant presenting a variety of ownership documents as proof are common. The EU-facilitated Kosovo-Serbia dialogue process is helping address the cadastral records taken from Kosovo. The Kosovo Property Agency (KPA), formerly the Housing and Property Directorate (HPD), has the authority to receive, register, and resolve property claims on private immovable property, including agricultural and commercial property. Decisions taken by the Kosovo Property Claims Commission within the KPA are subject to a right of appeal to the Supreme Court. KPA has received 42,696 total claims, of which 37,645 relate to agricultural property. The KPA is also mandated to deal with a limited number of activities that formerly belonged to the UNMIK-era HPD and to implement decisions of the Housing and Property Claims Commission (HPCC) pending enforcement. Legislation currently in the National Assembly will transform the KPA into the Kosovo Property Comparison and Verification Agency with the additional mandate of implementing the EU dialogue agreement on cadastral records. The KPA is expected to complete adjudication of all claims by the end of 2016, and is preparing to transfer its mandate to the new agency once it is approved by the Assembly.

In an attempt to better identify owners of agricultural lands, the government conducted an agricultural census in November 2014, over 50 years after the last such census took place. The Kosovo-Serb northern municipalities did not participate. The results show 413,635 hectares of agricultural land in use, of which 405,429 are in use by agricultural households and individual businesses and the rest by legal persons. The government is currently negotiating with the northern municipalities to incorporate their data into the national census.

The World Bank's Doing Business report noted Kosovo made transferring property easier in 2014 by introducing a new notary system and combining procedures for drafting and legalizing sale and purchase agreements. In 2015, the same report stated Kosovo made transferring of property more difficult by increasing the fee for the registration of property transactions.

Intellectual Property Rights

Resources for Rights Holders

The Law on Patents, Law on Trademarks, Law on Industrial Design, and Law on Geographical Indices together with the relevant Criminal Code provisions, provide for strong protection of intellectual property rights, authorize enforcement of trademark, copyright, and patent laws, and comply with related international conventions. The IPR laws were amended in 2015 to strengthen legal remedies for right holders and to further align them with the EU standards. MTI established the Industrial Property Rights Office (IPO) in 2007, which is tasked with IPR protection. The 1981 Yugoslav Law on Protection of Inventions, Technical Improvements, and Distinctive Signs, and the 1991 Law on Authors Rights are also considered applicable laws in Kosovo's courts. These laws adhere to international treaties and conventions, such as the Paris Convention, Madrid Protocol, Trade-Related Aspects of Intellectual Property Rights (TRIPS) Agreement, Budapest Treaty, and several European Council Directives on protection of IPR.

To enhance IPR enforcement and increase inter-agency coordination, the government has adopted an IPR strategy, and established the National Intellectual Property Council and a Task Force Against Piracy. The Council and the Task Force have similar structures and are comprised of the IPO, the Copyright Office, Customs, Kosovo Police Departments for Economic and Cyber Crimes, Market Inspectorate, and the Ministry of Justice. The Council also includes the Kosovo Prosecutorial Council, courts, and other government and non-governmental institutions.

Registration of intellectual property is based on regional and international practices. A trademark registration process takes approximately nine months to be completed, while patents take about 18 months. Public awareness on the importance of brand protection and associated IPR is low. A number of counterfeit consumer goods, notably CDs, DVDs, and clothing items, are available for sale and are openly traded. The government tracks and reports on seizures of counterfeit goods. In 2013, the government began implementing an anti-piracy awareness campaign resulting in the confiscation of more than 40,000 pirated materials and initiation of several criminal procedures. Customs reported confiscation of counterfeit goods valued at over €1.3 million and the initiation of six court cases in 2015.

Evidence suggests there is little domestic production of counterfeit goods in Kosovo, but the importation of counterfeit goods, especially apparel, is a concern. IPR protections are improving slowly, limited by a persistent lack of awareness among the public and judicial system.

Kosovo is not listed in USTR's Special 301 report. Kosovo is not a WIPO member. There is no WIPO profile for Kosovo.

The contact for IP issues at post is:

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The American Chamber of Commerce in Kosovo's website is: www.amchamksv.org.

Embassy Pristina's list of attorneys is available at:
http://pristina.usembassy.gov/attorney_information.html.

7. Transparency of the Regulatory System

The Law on Public Procurement devolves the power of procurement to budgetary units (i.e., ministries, municipalities, and independent agencies) except when the government authorizes the Ministry of Finance's Central Procurement Agency to procure goods and/or services on its behalf. All tenders are advertised in Albanian and Serbian, as well as in English in cases of large tenders. The Public Procurement Regulatory Commission (PPRC) initiates procurement audits of the various Kosovo ministries, municipal authorities, and agencies receiving funds from the Kosovo consolidated budget. In 2015, the law was amended to mandate the use of electronic procurement as means of increasing transparency in tendering procedures. All legal, regulatory, and accounting systems in Kosovo were created in line with EU standards and international best practices. Publicly listed companies comply with international accounting standards. Draft laws are published on the Assembly website and distributed to stakeholders; public hearings on proposed laws are also held, including for investment laws.

The Embassy is not aware of any allegations by U.S investors of informal regulatory processes discriminating against foreign investors. Private-sector associations and non-governmental organizations do not manage informal regulatory processes.

Public procurement practices in Kosovo are still being reformed. While the government seeks transparency, international companies competing in high-value public procurement projects have reported numerous irregularities. Some procurement managers in Kosovo's budgetary units have been indicted for corruption. Few private-sector associations and non-governmental organizations serve as watchdogs or organize stakeholder input on regulatory processes.

The GoK publishes the rules, regulations, and procedures for tenders on the Public Procurement Regulatory Commission (PPRC) website at: http://krpp.rks-gov.net/Default.aspx?LID=2.

Public procurement appeals are managed by the Public Procurement Review Body (PPRB). Kosovo is not listed on www.businessfacilitation.org and it is not a member of UNCTAD.

8. Efficient Capital Markets and Portfolio Investment

The Central Bank of Kosovo (CBK) is an independent government body responsible for fostering the development of competitive, sound, and transparent practices in the banking and financial sectors. It supervises and regulates Kosovo's banking sector, insurance industry, pension funds, and micro-finance institutions. The CBK also performs other standard central bank tasks, including cash management, transfers, clearing, management of funds deposited by the Ministry of Finance and other public institutions, collection of financial data, and management of a credit register. The regulatory system is in line with EU directives and international standards. There are no restrictions beyond normal regulatory requirements related to capital sourcing, fit, and properness of the investors. The CBK has taken all required measures to improve policies for the free flow of financial resources. Requirements under the SAA with the EU oblige the free flow of capital. The government respects the IMF's Article VIII. Kosovo has an open-market economy, and the market determines interest rates. Individual banks implementing risk-profile analysis conduct credit allocation by financial institutions. Access to credit for the private sector is improving although still limited. Interest rates imposed by commercial banks and micro-financial institutions have slowly declined but remain high compared to most developed banking sectors.

The Law on the Establishment of the Kosovo Credit Guarantee Fund was adopted in December 2015 to improve access to finance for MSMEs. The Fund will become operational in the first half of 2016. It has received funding commitments of approximately €12 million from donors and the government, including $6.5 million from USAID.

Money and Banking System, Hostile Takeovers

As of the beginning of 2016, Kosovo has 10 commercial banks and 15 licensed insurance companies. The official currency of Kosovo is the euro even though the country is not a member of the eurozone. In the absence of an independent monetary policy, prices are highly responsive to market trends in the larger eurozone.

Kosovo's private banking sector remains well-capitalized and profitable. Difficult economic conditions, weak contract enforcement, and a risk-averse posture have limited banks' lending activities, although marked improvement occurred in the past two years. Their cautious approach is evident in banks' excess reserves, which are above the minimum level required by the CBK. Total assets of the three largest banks, which are international, amount to 64.3 percent of Kosovo's entire banking sector assets, which by December 2015 stood at €3.39 billion. As of December 2015, the lending activities of commercial banks increased at an annual rate of 7.3 percent, indicating a much faster pace of growth compared to the rate of 4.2 percent in 2014. According to the CBK, this growth was due to banks' relaxation of lending terms and conditions for households and businesses, a decrease in interest rates, and an increase in bank liquidity. Approximately 66 percent of all lending activity is with businesses. Despite positive trends, relatively little lending is directed toward long-term investment activities. High interest rates (averaging approximately 7.7 percent) and collateral requirements act as disincentives to borrowers. Slower lending is notable in the northern part of Kosovo due to a weak judiciary, informal business activities, and fewer qualified borrowers.

There are no restrictions for foreigners to open bank accounts, and they can do so upon submission of valid ID documentation. Kosovo is a signatory country to the United States' Foreign Account Tax Compliance Act (FATCA) aimed at addressing tax evasion by U.S. citizens or permanent residents with foreign bank accounts. For more information, visit the FATCA website: https://www.irs.gov/Businesses/Corporations/Foreign-Account-Tax-Compliance-Act-FATCA.

Under the Law on Business Organizations, Law on Foreign Investment, and Law on Obligational Relationships, rules for hostile takeovers are applied in a non-discriminatory manner.

9. Competition from State-Owned Enterprises

Kosovo has 61 state-owned enterprises (SOE), 44 of which are municipality managed. These SOEs are primarily in the central heat, waste, and water sectors. The Ministry of Economic Development monitors their operations and publishes a list of SOEs at: http://mzhe.rks-gov.net/.

The majority of Kosovo's SOEs operate at a loss and need government subsidies to survive. A few, such as Kosovo Telecom and the Kosovo Energy Corporation (KEK), generate profits. SOEs do not receive a larger percentage of government contracts in sectors that are open to foreign competition, and they purchase goods and services from the private sector, including international firms.

Kosovo is not a WTO member and does not have a Government Procurement Agreement in place. Private companies can compete with SOEs in terms of market share and other incentives in relevant sectors. There are no state-owned banks, development banks, or sovereign funds in Kosovo. State-owned enterprises are subject to the same tax laws as private companies. They do not receive material advantages and are not subject to hard budget constraints. The percentage of expenditures SOEs allocate to research and development (R&D) is unavailable.

OECD Guidelines on Corporate Governance of SOEs

Kosovo exercises ownership over SOEs through the Law on Publicly Owned Enterprises, which mirrors OECD principles of corporate governance. The law classifies these enterprises into central- and local-level institutions. The government exercises shareholder rights by appointing the boards of central SOEs, while municipalities appoint boards of the local ones. The Ministry of Economic Development implements government decisions related to central SOEs. Municipal shareholder committees implement municipal decisions related to local SOEs. Appointment of boards and senior executives in both central and local SOEs is largely based on political patronage, with little consideration of qualifications. All SOEs are required to adopt a mandatory code of ethics and corporate governance, while all directors must complete an annual training course on corporate governance. SOEs must submit annual reports and are subject to external audits. SOEs are generally perceived as corrupt and nepotistic by third parties due to their political and governmental ties, and they are often overstaffed and inefficiently run. Court cases involving state-owned enterprises are often delayed by the large judicial backlog. Decisions are not made public.

Sovereign Wealth Funds

Kosovo does not have sovereign wealth funds.

10. Responsible Business Conduct

There is marginal awareness of expectations for Responsible Business Conduct (RBC), with very few businesses engaged in the issue. With a growing number of foreign investors, the topic of RBC has begun to surface in public discussions. AmCham Kosovo has been a leader on RBC issues, establishing the Corporate Social Responsibility (CSR) Network in 2011. With the exception of some existing legislation dealing to a limited extent with environmental, social, and governance aspects (corporate governance and financial accountability), there has not been a campaign on the part of the government to promote and encourage RBC. A small number of investors have embraced CSR through the establishment of sector-related vocational training programs that pull from the University of Pristina student body. Upon completion of coursework and internships, students are offered permanent jobs in the respective sectors.

The government does not factor RBC principles into procurement decisions, and in most cases, tenders are awarded to the economic operator with the lowest price offer and highest technical score. Kosovo has not witnessed any major cases of corporate impact on human rights. There are occasional complaints and media reports that the life of citizens in the area near the power plant in Obilic/q is being endangered due to high levels of pollution, but no significant actions have been taken. There is sound legislation protecting individuals from adverse business impacts, such as the Law on Consumer Protection, but implementation is limited. The government has not undertaken any significant action to raise awareness on consumer rights.

The Law on Business Organizations, which will address corporate governance structures and regulations, is currently being amended. The new corporate governance structures foreseen in the law will give greater protection to shareholders, but also demand greater responsibility. The Embassy is not aware of any executive compensation standards to protect shareholders.

Companies generally are not required to make a public disclosure of related policies, procedures, or practices. However, if a company is registered as a joint stock company, there are added responsibilities for the documentation of policies, procedures, and practices related to financial reporting and auditing. AmCham is one of the few business associations actively promoting RBC and CSR concepts, mainly through awareness raising. In the past few years, AmCham has organized a number of round tables and workshops in an effort to bring RBC principles to the forefront of discussions. AmCham and other entities engaged in RBC issues are able to advocate and monitor freely.

The government does not require foreign and local enterprises to follow generally accepted RBC principles such as the OECD Guidelines for Multinational Enterprises, and there is no National Point of Contact for adherence to OECD MNE guidelines. The government does not require adherence to the OECD Due Diligence Guidance for Responsible Supply Chains of Minerals from Conflict-Afflicted and High-Risk Areas. There are no domestic transparency measures requiring the disclosure of payments made to governments for projects related to the commercial development of oil, natural gas, or minerals. Kosovo does not participate in the Extractive Industries Transparency Initiative (EITI).

11. Political Violence

Since the summer of 2015, three opposition parties have repeatedly disrupted the Assembly's work and attacked government officials and institutions with tear gas, eggs, stones, and Molotov cocktails. While their official demand is for Kosovo to rescind an EU-brokered agreement with Serbia to establish an association comprised of Kosovo Serb municipalities and a border demarcation agreement with Montenegro, their primary goal is to force the resignation of the governing coalition (whose parties won a two-thirds majority in parliament in June 2014) and bring about early elections. They also held three demonstrations in Pristina, one of which degenerated into violence as protestors vandalized the government building and clashed with the police. Despite the disruptions, the Assembly has continued to legislate and elected the new president of Kosovo in February.

12. Corruption

Kosovo has enacted strong legislation to combat corruption, but the government has thus far been unsuccessful in efforts to investigate, prosecute, jail, and confiscate the assets of corrupt individuals. The Anti-Corruption Agency and the Office of Auditor General are government agencies mandated to fight corruption. The Law on Prevention of Conflict of Interest and Discharge in Public Function as well as the Law on Declaration, Origin, and Control of Property of Public Officials are intended to combat nepotism. They require senior public officials and their family members to disclose their property and its origins. The Criminal Code also punishes bribery and corruption; however, corruption remains widespread. The Embassy is unaware of any government activity to encourage private companies to establish internal codes of conduct.

The government recently completed a draft law on Combating Money Laundering (AML). The law is EU-compliant and is expected to be presented for government approval in April 2016 before moving to the Assembly for approval. Laundering is most common in the construction, petroleum, and gambling sectors. Kosovo's Financial Intelligence Agency (FIU) is an independent governmental agency that leads the GoK's efforts to investigate economic crimes.

U.S. companies operating in Kosovo adhere to their FCPA requirements, but the Embassy is unaware of any local company that has internal control systems to detect and prevent corruption. Kosovo participated in 2013 as an observer member in the anti-corruption conference organized by the United Nations Convention against Corruption (UNCAC), and has attended several international conferences on anti-corruption with the support of the Council of Europe and UNDP. Kosovo's laws protect NGOs that investigate corruption. Corruption is most wide-spread in public procurement and is recognized by both local and international businesses as one of Kosovo's largest obstacles to attracting investment.

UN Anticorruption Convention, OECD Convention on Combatting Bribery

Kosovo is not a UN or OECD member, and it is not a signatory to these anti-corruption conventions. Kosovo is actively seeking membership in both organizations.

Resources to Report Corruption

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13. Bilateral Investment Agreements

Kosovo signed Free Trade Agreements (FTA) with Albania and Macedonia in 2003 and 2005 respectively. In 2006, Kosovo (with UNMIK's assistance) signed FTAs with Croatia and Bosnia-Herzegovina; it also became a signatory to the Central European Free Trade Area (CEFTA) and the EU Common Aviation Area. CEFTA came into force in July 2007. By September 2007, all signatories ratified the agreement, including Serbia. CEFTA signatories, however, intermittently impose non-tariff barriers on Kosovo. In 2013, Kosovo signed an FTA with Turkey, which is awaiting Assembly ratification. In October 2015, Kosovo signed the Stabilization and Association Agreement with the EU, which entered into force April 1, 2016.

Kosovo's membership in the Athens Process on Energy for the Southern Europe Energy Community Treaty is a significant step for Kosovo toward achieving increased regional cooperation and securing alternate sources of energy.

Bilateral Taxation Treaties

The United States does not have a bilateral investment or taxation treaty with Kosovo, but the United States designated Kosovo as a beneficiary developing country under the Generalized System of Preferences (GSP) program in 2008. While only a few companies currently take advantage of this designation, the GSP program provides an incentive for investors to export certain products duty-free to the United States.

Kosovo has signed double-taxation treaties with Albania, Macedonia, Slovenia, Turkey, and the United Kingdom. Older treaties exist from the time of the former Yugoslavia.

14. OPIC and Other Investment Insurance Programs

The U.S. Overseas Private Investment Corporation (OPIC) has been active in Kosovo since 2000. OPIC provides financing, political risk insurance, and other investment vehicles to U.S. investors. In June 2009, OPIC signed an investment agreement with Kosovo, which streamlines OPIC's ability to support U.S. investments. With OPIC assistance, U.S. investors are currently involved with projects in the energy and real estate development sectors. Kosovo is also a member of the World Bank Group's Multilateral Investment Guarantee Agency (MIGA), the International Monetary Fund (IMF), and the European Bank for Reconstruction and Development (EBRD).

15. Labor

According to the Kosovo Statistical Office, almost two thirds of Kosovo's 1.2 million population are of working age (15-64). The official unemployment rate is 35.3 percent, with youth unemployment as high as 61 percent. Unemployment is 64.6 percent among the uneducated and

18.9 percent among university-level graduates. There are no reliable statistics on Kosovo's informal economy, but it is believed to be at around 40 percent of GDP. Informality dominates the agriculture, trade, and services sectors.

Kosovo's education system has been criticized for not sufficiently linking its curriculum to the needs of Kosovo's business community. Kosovo's large, young labor force often remains idle due to mismatches between applicant skills and employer needs. Kosovo's Law on Labor requires employers to observe all applicable employee protections, including a 40-hour full-time work week, payment of overtime, adherence to occupational health and safety standards, respect for annual leave benefits, and up to 12 months of maternity leave (six months of paid leave at a reduced rate, followed by six months of unpaid leave). The Labor Law distinguishes between layoffs and firings and calls for a monthly minimum wage, which the government set in 2011 at €130 for employees under 35 and €170 for those over 35 years of age. Kosovo has no unemployment insurance or any other safety net programs for workers laid off for economic reasons. Private-sector employers often do not provide contracts to their employees and pay them in cash. In the public sector, employers sometime hire employees as contract workers and enroll them in the regular payroll when the budget for salaries becomes available. In some SOEs and POEs, employment rolls contain significant numbers of personnel who perform little or no work.

Labor laws are not waived for investment purposes. There are no additional or different labor laws for special economic zones or free zones. A labor market agreement with neighboring Albania was implemented in March 2015. Labor unions are independent by law, but not in practice, as many of them are divided and cannot survive without political/government support.

A collective bargaining agreement between the government, labor unions, and private sector representatives was signed in 2014 and has been partially implemented. Kosovo's Statistical Agency and the Ministry of Labor and Social Welfare do not collect specific data on implementation. Public-sector employees, including doctors, teachers, and judges sporadically go on strike to demand implementation of the entire agreement and better working conditions. Labor disputes are formally adjudicated in local courts, but access to the courts and the unpredictability of judicial decisions create significant risks to investors.

The Ministry of Labor and Social Welfare established a compliance office with the authority to inspect employer adherence to labor laws. The International Labor Organization office in the country is project-focused and does not serve as a government advisor on labor legislation or international labor standards. The Labor Inspectorate suffers from inadequate staffing and a limited budget. With 50 inspectors conducting inspections in 38 municipalities, the Inspectorate cannot meet all the inspection needs of the labor market. The Inspectorate issues fines and penalties depending on the extent of the violation of labor legislation. Investigation and prosecution of labor practice violations is conducted and executed by the Labor Inspectorate and the judicial system. Child labor occurrences are investigated and reported by municipal social work centers to the Ministry of Labor and Social Welfare, while the Labor Inspectorate inspects violations of child labor practices for children aged 15-18 years. The Labor Law is in the process of being amended.

The Human Rights Report for Kosovo is available at: http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/#wrapper.

The Child Labor Report is available at: http://www.dol.gov/ilab/reports/child-labor/kosovo.htm.

16. Foreign Trade Zones/Free Ports/Trade Facilitation

The Kosovo Customs and Excise Code is business-friendly with the aim of facilitating trade and stimulating export growth. It is compliant with EU and World Customs Organization standards, and addresses topics such as bonded warehouses, inward and outward processing, transit of goods, and free-trade zones. In addition to imported goods, some domestically-produced goods from designated industries can be stored in bonded warehouses when these goods meet export criteria. Foreign firms are permitted to import production inputs for the manufacture of export goods without paying taxes or customs duties.

The Customs Code permits the establishment of zones for manufacturing and export purposes, and the Law on Economic Zones regulates their establishment. In 2014, the GoK established three economic zones in the municipalities of Mitrovica/e, Gjakovë/Djakovica, and Prizren. Currently only the economic zone of Mitrovica/e has completed the legal and administrative procedures for building infrastructure. Three business parks and one business incubator are operational, while investment is being made in several others.

17. Foreign Direct Investment and Foreign Portfolio Investment Statistics

Table 2: Key Macroeconomic Data, U.S. FDI in Host Country/Economy

	Central Bank of Kosovo		**USG or international statistical source**		**USG or International Source of Data: BEA; IMF; Eurostat; UNCTAD, Other**
Economic Data	**Year**	**Amount**	**Year**	**Amount**	
Host Country Gross Domestic Product (GDP) ($B USD)	2015	$6.4	2014	$7.4	World Bank
Foreign Direct Investment	**Central Bank of Kosovo**		**USG or international statistical source**		**USG or international Source of data: BEA; IMF; Eurostat; UNCTAD, Other**
U.S. FDI in partner country ($M USD, stock positions)	2014	$81.6	2014	$84	IMF
Host country's FDI in the United States ($M USD, stock positions)	2014	$8.7	2014	$10	IMF

Total inbound stock of FDI as % host GDP	2014	2.2%	2014	2.25%	IMF

Table 3: Sources and Destination of FDI

Direct Investment from/in Kosovo Counterpart Economy Data					
From Top Five Sources/To Top Five Destinations *(US Dollars, Millions)*					
Inward Direct Investment			**Outward Direct Investment**		
Total Inward	3,595	100%	Total Outward	212	100%
Turkey	354	10%	Albania	48	23%
Germany	308	9%	Germany	26	12%
Slovenia	263	7%	Netherlands	18	9%
Netherlands	228	6%	Macedonia	13	6%
Switzerland	217	6%	Switzerland	13	6%
"0" reflects amounts rounded to +/- $500,000.					

Note: IMF data presented in Table 3 differ from the Central Bank of Kosovo's (CBK) data. CBK data for 2014 show a total of $2.8 billion in Inward Direct Investment, with major investors being Germany ($476 million), the United Kingdom ($294 million), Turkey ($287.6 million), Switzerland ($284 million), and Slovenia ($233 million). Likewise, CBK's Outward Direct Investment data for 2014 show a total of $192.4 million, with the biggest investment being in Albania ($43.9 million), Germany ($23.4 million), Netherlands ($16.6 million), Macedonia ($11.6 million), and Switzerland ($11.3 million).

Table 4: Sources of Portfolio Investment

Portfolio Investment Assets								
Top Five Partners (Millions, US Dollars)								
Total			**Equity Securities**			**Total Debt Securities**		
All Countries	1,548	100%	All Countries	1,244	100%	All Countries	304	100%
Ireland	685	44%	Ireland	685	55%	Germany	65	21%
Luxembourg	535	35%	Luxembourg	513	41%	Netherlands	53	18%
Germany	65	4%	France	45	4%	Belgium	43	14%
France	64	4%	United States	1	0%	United States	28	9%
Netherlands	53	3%	Germany	0	0%	Denmark	23	8%

Data from the CBK is consistent with IMF data in terms of ranking of the top five partners in each column of the table, but amounts for each country in each category are different. According to the CBK, total portfolio investment assets in 2014 were €1,275 billion, with total equity securities of €1,025 billion, and total debt securities of €250 million. There are no tax havens in portfolio investment.

18. Contact for More Information

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