KOSOVO

INVESTMENT CLIMATE STATEMENT

2017

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1. Executive Summary

The Republic of Kosovo is Europe's youngest country – and one of its poorest – but it has managed to record positive economic growth rates, 2.8 percent on average since 2012. Kosovo declared independence on 17 February 2008 and has been recognized by more than 100 UN Member States. Since 1999 the United Nations Interim Administrative Mission in Kosovo (UNMIK) has continued to implement its mandate in a status-neutral manner, operating under Security Council resolution 1244 (1999).

Kosovo has a flat corporate tax of 10 percent. In 2016, Kosovo ratified a strategic investment law intended to ease market access for investors in key sectors, and partnered with international donors to launch the Credit Guarantee Fund, which improves access to credit. With USAID assistance, the Ministry of Trade and Industry has made strides on efforts to enhance its rankings in the World Bank's Doing Business Index. All legal, regulatory, and accounting systems in Kosovo have been created in line with EU standards and international best practices. Publicly listed companies comply with international accounting standards. In an attempt to improve commercial legislation, the Assembly approved a new Law on Bankruptcy in July 2016.

Kosovo's economy – while outperforming its neighbors – is characterized by: extremely limited regional or global economic integration; political instability; corruption; unreliable energy supply; a large informal economy estimated at 35 percent of GDP; and a tenuous rule of law, including a lack of contract enforcement. It continues to rely on significant international financial support.

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.

Despite the challenges, Kosovo's relatively young population, low labor costs, and natural resources have attracted some foreign investment, with several international firms and franchises already present in the market. Additionally, its significant diaspora community in foreign labor markets provides a steady stream of remittances back to the economy. Subject to market conditions, GOK plans to launch diaspora bonds – a coupon based treasury bill specifically tailored to attract investment remittances – in late 2017.

In 2016, Foreign Direct Investment (FDI) in Kosovo was estimated at €234.8 million, down from €338 million in 2015. Portfolio investment in 2015 totaled €1.388 billion, with equity securities of €1.085 billion and debt securities of €302 million. These totals compared to €1.025 billion in equity securities and €250 million in debt securities in 2014. 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 hold the most potential to attract new FDI.

Kosovo's official unemployment rate was 32.9 percent in 2015, although some estimates are as high as 40 percent. Unemployment levels for youth and first-time job seekers are considerably higher than the official rate.

Table 1

Measure	Year	Index/Rank	Website Address
TI Corruption Perceptions Index	2016	95 of 175	transparency.org/news/feature/corruption_perceptions_index_2016
World Bank's Doing Business Report "Ease	2016	60 of 190	doingbusiness.org/rankings
Global Innovation Index	2016	x of 128	globalinnovationindex.org/content/page/data-analysis
U.S. FDI in partner country ($M USD, stock positions)	2015	$26.4 million	http://bqk-kos.org/?id=55
World Bank GNI per capita	2015	$3,970	data.worldbank.org/indicator/NY.GNP.PCAP.CD

2. Openness To, and Restrictions Upon, Foreign Investment

Policies Towards Foreign Direct Investment

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

Limits on Foreign Control and Right to Private Ownership and Establishment

Foreign and domestic private entities have the right on an equal basis to establish and own business enterprises, and engage in all forms of remunerative activity. Kosovo legislation does not interfere with the establishment, acquisition, expansion, 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 government approval, 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 of sector-specific restrictions from U.S. investors. There are no licensing restrictions particular to foreign investors and no mandatory domestic partners for joint ventures.

Other Investment Policy Reviews

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. Kosovo is not a member of OECD, WTO, or UNCTAD; there are no investment policy reviews from these organizations. Kosovo made significant gains in the 2017 World Bank "Doing Business" Index.

Business Facilitation

The Kosovo Business Registration Agency (KBRA) under the Ministry of Trade and Industry registers all new businesses, business closures, and business modifications. The KBRA website is available in English and can be accessed through the following link: www.arbk.org. 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, a fiscal number, and a VAT 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 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, investment facilitation, assistance to female and young business owners, and the provision of business space with complete infrastructure at industrial parks, at minimal cost.

Outward Investment

Kosovo does not promote or incentivize outward investment. There are no restrictions on investments abroad.

3. Bilateral Investment Agreements and Taxation Treaties

Kosovo is signatory of the Central European Free Trade Agreement (CEFTA) and has finalized negotiations on a free trade agreement with Turkey that has not yet been ratified by the Kosovo Assembly. The United States does not have a bilateral investment or taxation treaty with Kosovo, but 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 with Hungary, Netherlands, Germany, Finland, and Belgium from the time of the former Yugoslavia still apply for Kosovo.

4. Legal Regime

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.

Rule-making and regulatory authority lies at the central level with the Kosovo Assembly, while government ministries and agencies draft and authorize secondary legislation (i.e. implementing regulations). Municipal assemblies have regulatory authority at the local level. All legal, regulatory, and accounting systems in Kosovo have been 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 are held on proposed laws, including for investment laws. The 2016 regulation on the Minimum Standards for Public Consultation Process clarifies the standards, principles, and procedures for consultations during the drafting of legislation. The GOK recently developed an online platform for public comments, at http://konsultimet.rks-gov.net/ and publishes rules, regulations, and laws in the official Kosovo Gazette at https://gzk.rks-gov.net/, and on the Kosovo Assembly website at http://www.kuvendikosoves.org/?cid=2,191.

Kosovo's Better Regulation Strategy 2014-2020 is a government initiative to implement a smart regulatory system with sound implementation and effective communication. The Law on Public Financial Management and Accountability requires a detailed impact assessment of any budgetary implications before new regulations can be implemented.

International Regulatory Considerations

Kosovo is a CEFTA member and is pursuing EU integration. Through the Stabilization and Association Agreement (SAA) with the EU, Kosovo is working to harmonize its laws and regulations with EU standards. Kosovo is not a member of the WTO.

Legal System and Judicial Independence

Kosovo's judicial system, although improving, still faces many challenges. In 2016, the Kosovo Assembly amended the constitution to enhance the independence of the judiciary in line with EU requirements. Enforcement remains weak and time-consuming. The judiciary lacks the subject-matter expertise to effectively handle complex economic issues. Regulations and enforcement actions may be challenged in the regular court system, as well as the constitutional court.

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 local institutions with court reform and decentralization. In addition, USAID is implementing programs on contract enforcement and property rights.

Kosovo has a civil legal system. Property and contracts ownership is 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.

Significant legislation overhauling the 2004 Criminal Code and the Criminal Procedure Code, developed by the United Nations Mission in Kosovo (UNMIK), 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 can take anywhere from six months to two years 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.

Laws and 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. The Law on Foreign Investment, passed by the Assembly in late 2013, has improved the legal infrastructure and helped address any inconsistencies in current legislation that unduly discourage foreign investment. With international assistance, GOK has been moving towards a legal structure that complies with European standards. These efforts have intensified in accordance with the 2016 entry into force of the European Union's Stabilization and Association Agreement (SAA) with Kosovo. 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 United States 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).

In 2016, Kosovo passed a series of laws with bearing on economic issues. Most notably, the Law on Strategic Investments enables fast track negotiations between the GoK and private companies in targeted sectors. The Law on Late Payments in Commercial Transactions seeks to discourage late payments and regulates the calculation of interest on late payments. The Law on Bankruptcy regulates all matters related to the insolvency of business organizations; the provisions for the protection, liquidation and distribution of the assets of a bankrupt debtor to its creditors; and the reorganization and discharge of debt for qualified business organizations. The Law on Prevention of Money Laundering and Combating Terrorist Financing enabled Kosovo to join Egmont Group, an inter-governmental network of 152 Financial Intelligence Units whose members exchange expertise and financial intelligence to combat money laundering and terrorist financing. The Credit Guarantee Fund Law increased access to finance for all micro- and SMEs in Kosovo in an effort to increase employment, boost local production, and improve the trade balance.

Kosovo's commercial laws are available to the public in English, as well as Kosovo's official languages (Albanian and Serbian). 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.

Competition and Anti-Trust Laws

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. The Competition Authority's board was reconstituted in late 2016 after three years of inactivity.

Expropriation and Compensation

Articles 7 and 8 of the Foreign Investment Law protect foreign investments from unreasonable expropriation not in the public interest, guaranteeing due process and timely compensation payment, based on fair market prices. 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. Articles 5 through 13 of the Law on Expropriation of Immovable Property define expropriation procedures. An eminent domain clause additionally limits the possibility of lawsuits arising from the expropriation and sale of property through the privatization of state owned enterprises.

In the mining sector, the expropriation of properties is conducted through the Resettlement Framework Policy, which GOK drafted with World Bank support.

Dispute Settlement

ICSID Convention and New York Convention

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. 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. Kosovo is not a signatory to the New York Convention of 1958 on the Recognition and Enforcement of Foreign Arbitral Law.

Investor-State Dispute Settlement

The Commercial Department of Pristina Basic Court has jurisdiction over investment disputes involving SOEs. There are no records available detailing the frequency with which domestic courts have ruled in SOEs' favor.

Kosovo's courts recognize international arbitration awards. There is no history of extrajudicial action against foreign investors.

Kosovo is party to ICSID. Over the past ten years, Kosovo has had three investment dispute claims brought by foreign investors. Kosovo's state-owned telecom company has lost two cases before the London Court of International Arbitration (LCIA), with one case involving a foreign investor. In May 2013, the LCIA determined Post & Telecom Kosovo owed an Israeli company €8.7 million following a breach of contract. In July 2016, the International Court of Arbitration in Paris determined Kosovo owed an Austrian printing company €5 million for illegally terminating a passport manufacturing contract. In June 2015, a German company filed a case before ICSID related to the failed privatization of Kosovo's telecom company; as of March 2017, the case is pending.

International Commercial Arbitration and Foreign Courts

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.

Bankruptcy Regulations

In the World Bank's 2017 Doing Business report, Kosovo ranked 163 out of 171 countries in addressing insolvency. In an attempt to improve commercial legislation, the Assembly approved a new Law on Bankruptcy in July 2016. The law regulates bankruptcy and insolvency procedures; provisions for the protection, liquidation, and distribution of the assets of a bankrupt debtor to its creditors; and the reorganization and discharge of debt for qualified business organizations. Under the law, foreign creditors have the same rights as domestic investors and creditors when launching and participating in bankruptcy proceedings.

5. Industrial Policies

Investment Incentives

To encourage investment, the government can grant 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.

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, 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.

Performance and Data Localization Requirements

Depending on the tender, GOK may require foreign IT providers to turn over source code and/or provide access to surveillance. Kosovo does not yet have standard rules on data transmission or storage. The Agency for Information Society is charged with storage of government-level data, and other institutions store their respective data as well.

Otherwise, GOK 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. Investment incentives apply uniformly to both domestic and foreign investors, on a case-by-case basis.

6. Protection of Property Rights

Real Property

In 2017, the World Bank's Doing Business Report ranked Kosovo 33 out of 190 economies for ease of registering property. The 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.

Property rights are enforced based on the Law on Property and other Real Rights and the Law on Contested Procedure. Other laws that directly regulate property rights issues include the Law on Obligational Relationships, Law on Sale of the Apartments in which there is Tenure Right, Law on the Condominium, Law on Expropriation and Immovable Property, and Law on Enforcement Procedure. The Law on Property Rights and other Real Rights 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 in cadastral records by the Kosovo Cadastral Agency, while 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. Enforcement is handled through municipal courts or extra-judicial procedures.

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 Comparison and Verification Agency (KPCVA), formerly 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 KPCVA are subject to a right of appeal to the Supreme Court. KPCVA has received 42,749 total claims, the vast majority of which relate to agricultural property. The KPCVA is also mandated to deal with a limited number of activities that formerly belonged to the UNMIK-era HPD and to implement the decision of the Housing and Property Claims Commission (HPCC) pending enforcement. In June 2016, the National Assembly passed legislation to expand the agency's mandate, allowing it to implement the EU dialogue agreement on cadastral records. The legislation came into effect in December 2016, following a challenge to the new law in the Constitutional Court.

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 municipalities in the north and, to a lesser degree, in the south 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.

While Article 121.2 of the Constitution states foreign nationals and organizations may acquire ownership rights over immovable property in accordance with conditions established by law or international agreement, Kosovo has no specific legislation establishing relevant conditions. In early 2017, the GoK launched the national strategy on land and property rights reform, which includes a provision to clarify and codify regulations regarding property ownership by foreign and/or non-resident investors.

Per Article 40 in the Law on Property and Other Real Rights, a proprietary possessor acquires ownership of immovable property after ten years of uninterrupted and uncontested possession.

Intellectual Property Rights

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 2016, Customs confiscated counterfeit goods valued at over €2.5 million.

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.

The Law on Patents, Law on Trademarks, Law on Industrial Design, and Law on Geographical Indices, together with the relevant Criminal Code and Customs 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.

The Ministry of Trade and Investment 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.

Since signing the Stabilization and Association Agreement (SAA) between Kosovo and the EU in 2016, Kosovo Customs has begun drafting an amendment to the Law on Customs Measures for Protection of Intellectual Property Rights in order to harmonize it with EU regulations. Customs anticipates the law will strengthen protection for rights-holders, fuel creativity and innovation, and provide consumers with reliable and high quality products, which should in turn strengthen cross-border transactions between consumers, businesses, and traders. The Law on Copyright and Related Rights was amended in October 2016 in order to reflect copyright developments within the EU and includes a mechanism to take action against intermediaries, such as internet service providers. The amendments improve enforcement against digital piracy and copyright infringement.

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.

Kosovo is not listed in USTR's Special 301 report or the notorious market report. Kosovo is not a WIPO member, and there is no WIPO country profile for Kosovo.

7. Financial Sector

Capital Markets and Portfolio Investment

Kosovo has an open-market economy, and the market determines interest rates. Individual banks implementing risk-profile analysis conduct credit allocation by financial institutions. Foreign and domestic investors can get credit on the local market. Access to credit for the private sector is improving, although still limited. The Credit Guarantee Fund established in 2016 is enhancing access to credit for micro- and SMEs in Kosovo. Interest rates imposed by commercial banks and micro-financial institutions have slowly declined but remain high compared to most developed banking sectors.

The country generally has a positive attitude towards foreign portfolio investment. Kosovo does not have its own stock exchange. 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.

Money and Banking System

As of the beginning of 2017, 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.

The Central Bank of Kosovo (CBK) was established in 2008. It 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.

Foreign banks and branches are allowed to establish operations in the country. They are subject to the same licensing requirements and regulations as local banks. The country has not lost any correspondent banking relationships in the past three years and no such relationship is currently in jeopardy. There are no restrictions for foreigners to open bank accounts, and they can do so upon submission of valid identification documentation.

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. At the end of 2016, the rate of non-performing loans decreased to 4.8 percent, the lowest rate in the last ten years. The estimated total assets of the country's three largest banks are approximately $2.3 billion. 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.

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.

Foreign Exchange and Remittances

Foreign Exchange

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. Kosovo adopted the euro in 2002; however, it is not an official eurozone member. The CBK administers euro exchange rates on a daily basis as referenced by the European Central Bank.

Remittance Policies

Remittances are an important source of income for at least 43 percent of Kosovo's population, representing over 12 percent of GDP (or over €700 million) in 2016. The majority of remittances come from Kosovo's diaspora in European countries, particularly Germany and Switzerland. The Central Bank reports remittances are mainly used for personal consumption, not for investment purposes.

Kosovo does not apply any type of capital controls or limitations on international capital flows. As such, access to foreign exchange for investment remittances is fully liberalized. Subject to market conditions, GOK plans to launch diaspora bonds – a coupon based treasury bill specifically tailored to attract investment remittances – in late 2017.

Sovereign Wealth Funds

Kosovo does not have any sovereign wealth funds.

8. State-Owned Enterprises

Kosovo has 61 state-owned enterprises (SOEs) surviving from its Yugoslavia legacy, 44 of which are municipality managed. These enterprises are primarily in the central heat, waste, and water sectors. Among Kosovo's 17 largest SOEs, there are total assets of €332.8 million and 11,261 employees. SOEs are generally governed through boards whose members are selected by the government. The Ministry of Economic Development monitors SOE operations and publishes a list of firms at: http://www.mzhe-ks.net/npmnp/?page=1,1.

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.

The majority of Kosovo's SOEs operate at a loss and depend on government subsidies for their survival. 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.

Privatization Program

Kosovo adopted the Law on Strategic Investment in 2016 in an effort to boost foreign direct investment. Through the law, the government can transfer ownership of lands under administration of the Privatization Agency of Kosovo (PAK) to the state and offer it to strategic investors. The law also enables GOK to directly negotiate with potential strategic investors without going through tendering procedures in special cases. Administrative instructions detailing the practical implementation of the law will be drafted in 2017.

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. The agency covers assets in the agriculture, hospitality, mining, and minerals sectors. PAK plans to finalize all remaining privatizations over the next three years, but the process could be slowed depending on legal challenges. The privatization process is open to foreign investors and follows Kosovo's public procurement procedures.

The Law on Publically Owned Enterprises (POEs) was amended in 2015, giving the GoK authority to transform current SOEs to government-controlled POEs. The PAK Law envisions any privatizations will be done through an open, competitive bidding procedure. PAK provides a live feed of bidding day procedures on its website www.pak-ks.org. The website also includes bidding information, the results of sales, and other information. Some bidding processes have been criticized in the media as non-transparent and illegal.

9. Responsible Business Conduct

There is marginal awareness of best practices 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 Kosovo Corporate Social Responsibility (CSR) Network in 2011 that actively promotes RBC concepts, mainly through awareness raising. AmCham, Kosovo CSR Network, and other entities engaged in RBC are able to advocate and monitor freely. With the exception of some existing legislation addressing environmental, social, corporate governance, and financial accountability aspects of business operations, there has not been a campaign on the part of the government to promote and encourage RBC.

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. As a result of those concerns, the Kosovo Assembly approved a 2016 Law on Environmentally Endangered Zone of Obiliq/ć and its Surroundings, which returns 20 percent of any royalties collected in the area to the municipality.

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. Companies generally are not required to make a public disclosure of policies, procedures, or practices. However, if a company is registered as a joint stock company, there are added responsibilities for the disclosure of policies, procedures, and practices related to financial reporting and auditing.

The Law on Consumer Protection exists but implementation is limited. The government has not undertaken any significant action to raise awareness on consumer rights. The government does not promote the OECD Due Diligence Guidance for Responsible Supply Chains of Minerals from Conflict-Afflicted and High-Risk Areas. Kosovo does not participate in the Extractive Industries Transparency Initiative (EITI). 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.

10. 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. 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.

In 2016, the Kosovo Assembly approved amendments to the Law on Anti Money Laundering. The EU-compliant law supported Kosovo's membership in the Egmont Group, a network of 152 Financial Intelligent Units (FIU) where the members exchange expertise, financial intelligence to combat money laundering and terrorist financing. Laundering is most common in the construction, petroleum, and gambling sectors. Kosovo's FIU is an independent governmental agency that leads GOK efforts to investigate economic crimes.

U.S. companies operating in Kosovo must 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.

Resources to Report Corruption

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11. Political and Security Environment

Kosovo is emerging from a chaotic political year, in which considerable parliamentary business was disrupted by extreme tactics from Kosovo's strident opposition bloc. During the latter half of 2015 and first half of 2016, opposition parties repeatedly released tear gas during parliamentary sessions while their supporters threw Molotov cocktails in the streets. There were no casualties reported from these incidents. After the government withdrew the bill to ratify a border demarcation agreement with Montenegro (BDA) in September 2016, opposition parties suspended their violent tactics. Some political parties have threatened to resume use of teargas and other means to block any renewed efforts to ratify the BDA.

In August 2016, there was a late-night RPG attack on the Assembly building and unexploded grenades left at the homes of the public broadcasting director and the government's lead negotiator for the BDA. There were no casualties. Four opposition activists were later indicted on terrorism charges in relation to the Assembly attack, but there have been no indictments for the grenade incidents. It is generally believed that these incidents were in some way connected to the BDA debate, though details remain unclear.

12. Labor Policies and Practices

According to the Kosovo Statistical Agency, almost two thirds of Kosovo's 1.8 million population is of working age (15-64). The official unemployment rate is 32.9 percent, with youth unemployment as high as 57.7 percent. There are no reliable statistics on Kosovo's informal economy, but it is believed to be around 35 percent of GDP. Informality dominates the agriculture, trade, and services sectors.

A labor market agreement with neighboring Albania was implemented in March 2015.

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 mandates severance payments only for laid off workers (when at least 10 percent of employees are dismissed collectively).

The law also establishes 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.

The Labor Law does not require the hiring of Kosovo nationals. Labor laws are not waived for investment purposes. There are no additional or different labor laws for special economic zones or free zones.

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.

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.

13. 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. 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).

14. Foreign Direct Investment and Foreign Portfolio Investment Statistics

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

	Kosovo Statistical Agency		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) ($M USD)	2015	$6,277	2015	$6,401	World Bank
Foreign Direct Investment	**Central Bank of Kosovo**		**USG or international statistical source**		**USG or international Source of data: BEA; IMF; Eurostat; UNCTAD, Other**
U.S. FDI in partner country ($M USD, stock positions)	2015	$26.4	2015	$26.1	IMF
Host country's FDI in the United States ($M USD, stock positions)	2015	$0.23	2015	$0.23	IMF
Total inbound stock of FDI as % host GDP	2015	1.53%	2015	1.52%	IMF

Table 3: Sources and Destination of FDI

Direct Investment from/in Counterpart Economy Data					
From Top Five Sources/To Top Five Destinations *(US Dollars, Millions)*					
Inward Direct Investment			**Outward Direct Investment**		
Total Inward	3,543	100%	Total Outward	230	100%
Turkey	380	11%	Albania	51	22%
Germany	326	9%	Germany	29	13%
Switzerland	261	7%	Macedonia	21	9%
Slovenia	242	7%	Netherlands	17	7%
Netherlands	200	6%	Switzerland	14	6%
"0" reflects amounts rounded to +/- USD 500,000.					

Data from the CBK is consistent with the 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 inward direct investment was $3,270 million and total outward direct investment was $212 million.

Table 4: Sources of Portfolio Investment

Portfolio Investment Assets								
Top Five Partners (Millions, US Dollars)								
Total			**Equity Securities**			**Total Debt Securities**		
All Countries	1,511	100%	All Countries	1,183	100%	All Countries	329	100%
Ireland	630	42%	Ireland	629	53%	Germany	80	24%
Luxembourg	555	37%	Luxembourg	513	43 %	Netherlands	45	14%
Germany	80	5%	France	38	3%	Luxembourg	42	13%
France	56	4%	United States	1	0%	United States	28	9%
Netherlands	45	3%	Germany	0	0%	Italy	28	9%

Data from the CBK is consistent with the 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 for 2015 were €1.388 billion, with total equity securities €1.085 billion, and total debt securities of €302 million. There are no tax havens in portfolio investment.

15. Contact for More Information

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