



KOSOVO
INVESTMENT CLIMATE STATEMENT
2015

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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 6,765 square miles, landlocked Kosovo is considered Europe's poorest country, yet it does have some mineral and coal deposits.

Kosovo's official unemployment rate is 30.9 percent, although some estimates are as high as 45 percent. In an effort to foster economic development, the Government of Kosovo (GoK) has implemented reforms to improve the investment climate, prompting improved rankings in the World Bank's Doing Business reports from 81 (2014) to 75 (2015). Kosovo is continuing efforts to transform its socialist legacy to a market-oriented economy, and the GoK is working to strengthen the legal environment necessary to attract and retain foreign investment.

Corruption, practiced and perceived, and a lack of contract enforcement create high barriers to foreign investment. 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. Vocal political opposition to the government's privatization policies, corruption, political or self-interested interference by government officials, disagreements over asset ownership between Kosovo and Serbia, and unreliable energy supply increase the risk and cost of investments in Kosovo.

Despite these 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. There are opportunities for U.S. businesses to invest, especially in the food, IT, infrastructure, and energy sectors. The newly-elected government is seeking to further improve the business climate through the adoption of a multi-year development program focused on providing incentives for economic growth. These include amendments to tax and foreign investment legislation. The banking sector in Kosovo is stable and liquid, but high interest rates stifle commercial endeavors, prompting the government to enter into credit-guarantee arrangements with international donors to improve access to credit for businesses.

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), Kosovo Investment and Enterprise Support Agency (KIESA), Ministry of Finance (MOF), and Ministry of Economic Development (MED) – actively promotes foreign investment and welcomes the expansion of the private sector. However, the lack of a single GoK organization empowered and responsible for coordinating all foreign investment opportunities is a hurdle to some projects. While the Kosovo economy continues to transition from socialism to capitalism, some public distrust of the private sector remains.

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 a "Doing Business 2015" Economic Profile for Kosovo. Additionally, in late 2014, the NGO "RIINVEST INSTITUTE" and the European Union issued "Business Climate in Kosovo, A Cross Regional Perspective." This report reviews the development of the business environment in Kosovo from 2009 to 2012, as well as the current business climate, and identifies mid-term opportunities and risks.

The report is available online in English at:

http://www.riinvestinstitute.org/publikimet/pdf/Business_Climate_in_Kosovo1421852590.pdf

Laws/Regulations of Foreign Direct Investment

The legal system in Kosovo has three layers of legislation operating simultaneously. This includes 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 follows European standards. Although the legislative framework for a market-oriented economy is in place, poor enforcement, uncertainties regarding legal recognition of foreign arbitral awards, and the need for additional judicial reform hinder economic growth and investment. To address these challenges, the U.S. Government and the EU provide assistance aimed at enhancing Kosovo's judiciary. Licensed private enforcement agents began assisting enforcement of contract dispute decisions in 2014 and have experienced 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, 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 in the production and selling of military goods, where foreign firms cannot hold more than a 49 percent ownership (Reg. No. 2001/3, Section 6). 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 Communautaire. The law creates separate definitions for a concession versus a PPP, allowing FDI transactions to be structured more flexibly. Limits on the length of investment projects and a provision allowing for unsolicited proposals were removed. The Kosovo Assembly passed the Law on Foreign Investment in late 2013, improving the legal infrastructure and addressing inconsistencies that had unduly discouraged foreign investment. The GoK is currently amending the law to further streamline bureaucracies and strengthen protection for foreign investors.

Kosovo's commercial laws are available to the public in Kosovo's official languages (Albanian and Serbian), as well as in English. They can be found on the Kosovo Assembly's website at: www.assembly-kosova.org/?cid=2,191 and on the Government's Official Gazette website at: <http://www.gazetazyrtare.com/e-gov/index.php?lang=en>.

Business registration information can be found in English on the website of the Kosovo Business Registration Agency at <http://www.arbk.org/en/Home>.

Industrial Promotion

Kosovo does not yet have a comprehensive industrial policy/investment program. The Investment and Enterprise Support Agency of the Ministry and Trade and Industry lists IT, agribusiness, mining, and textiles as priority sectors for investment. The Agency has held several tradeshows abroad to promote investment opportunities in Kosovo, but has experienced limited success. Kosovo's Investment and Promotion Agency (KIPA) is charged with promoting Kosovo's brand to potential investors. However, KIPA has not been fully functional since 2014 due to continued vacancies in key KIPA leadership positions and expected revisions to Kosovo's investment policy.

Limits on Foreign Control

Generally, Kosovo Law 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 ownership (Reg. No. 2001/3, Section 6). Foreign investors can receive private ownership rights. Foreign investment is not subject to approval by the Government of Kosovo, 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.

Privatization Program

The GoK has been progressively privatizing the assets of state-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 2015, PAK had created a trust fund of over EUR 600 million from the sale of approximately 300 SOEs. The privatization process is open to foreign investors and follows Kosovo's public procurement laws. However, bidding processes have often been criticized in the media as non-transparent and illegal. Kosovo's energy distribution and supply system was privatized in mid-2012, and sold in May 2013 to a Turkish consortium – Limak/Çalik. After 10 years of preparations and several specification changes, the government issued a tender for a new coal-fired power plant, "Kosovo C," in 2014. A single bid from American company was received in 2015 and is currently under evaluation. A concession for the construction and operation of a year-round ski and tourism

resort in Brezovica is also expected to be finalized in 2015. Recent amendments to the Publicly Owned Enterprise (POE) law that gave the GoK authority to transform current SOEs into government-controlled POEs could lead to backsliding in Kosovo's commitment to a private sector-driven economy.

Screening of FDI

Kosovo law does 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 of most private investment activities.

Competition Law

Aimed at limiting unfair competition, the Law on Competition and the 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 Authority has been nonfunctional since November 2013 due to the expiration of its members' mandates and a prolonged delay by the Kosovo Assembly in appointing new members.

Investment Trends

According to Kosovo Central Bank (CBK) data, FDI in 2014 (January to September) totaled EUR 104.6 million, representing a 44.7 percent decrease compared to the same period in 2013. Explanations cited for this dramatic decrease include the uncertain investment climate created by the lack of a new government in the second half of 2014 and the lingering impact of the EU financial crisis. Public investment, according to CBK decreased by 22.3 percent compared to 2013 for the same reasons.

Table 1

Measure	Year	Index or Rank	Website Address
TI Corruption Perceptions index	2014	110 of 175	transparency.org/cpi2014/results
World Bank's Doing Business Report "Ease of Doing Business"	2015	75 of 189	doingbusiness.org/rankings
Global Innovation Index	2014	N/A of 143	globalinnovationindex.org/content.aspx?page=data-analysis
World Bank GNI per capita	2013	USD 3,940	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 USD 4,125 or less. In 2014 Kosovo scored "green" only on democratic rights. 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>

2. Conversion and Transfer Policies

Foreign Exchange

Kosovo adopted the Euro in 2002; however, it is not an official Eurozone member. The 2013 Foreign Investment Law guarantees unrestricted use of income from foreign investment following the 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 and represented over 12 percent of GDP (or over EUR 600 million) in 2014. The majority of remittances come from Kosovo's diaspora in European countries, especially Germany and Switzerland. The Central Bank reports that remittances are mainly used for personal consumption with negligible amounts for investment purposes. Kosovo is not identified as a country of "primary concern," "of concern," or "monitored" in the Bureau of International Narcotics and Law Enforcement's 2014 International Narcotics Control Strategy Report (INCSR) at <http://www.state.gov/j/inl/rls/nrcrpt/2014/database/index.htm>.

3. Expropriation and Compensation

Articles 7 and 8 of Kosovo's Foreign Investment Law protect foreign investments from expropriation not in the public interest, and guarantees due process and timely compensation 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 (SOEs). While there are no specific sectors prone to expropriation, recent highway construction has led to expropriations of households, farm land, and businesses along construction routes. There have been no recent changes to Kosovo's expropriation laws and regulations.

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. In January 2013, Kosovo enacted a Law on Enforcement Procedures permitting 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 a 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 actions 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, the Law on the Reorganization of Certain Enterprises and their Assets (Trepca Law), and the Law on the Special Chamber of the Supreme Court of Kosovo. Comprised of eight international judges and 12 local judges, the Special Chamber adjudicates disputes and claims related to privatization and economic restructuring. It has primary jurisdiction over appeals against decisions by the PAK involving 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, which also entered into force in 2013, significantly changed and simplified the current structure of the courts. Kosovo's court structure includes Basic Courts, a Court of Appeals, and a Supreme Court. The Basic Courts and Court of Appeals each have a Department for Administrative Cases, Department for Serious Crimes, General Department, and Department for Minors.

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. Its jurisdiction 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 legal and natural persons. The Court of Appeals also includes a Commercial Matters Department that addresses all appeals coming from the Pristina Basic Court's Department for Commercial Matters. Commercial cases take on average six months to one year to resolve.

Kosovo's judicial system, although improving, still suffers from many weaknesses. The judicial branch often is perceived as 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 crimes.

Bankruptcy

Through USAID support, Kosovo is drafting a bankruptcy law in line with U.S. best practices. Currently, bankruptcy is criminalized under the Criminal Code. In the World Bank's 2015 Doing Business report, Kosovo ranked 164 out of 171 in addressing insolvency, a slight improvement from the previous year's ranking of 166.

Investment Disputes

Article 16 of Kosovo's Foreign Investment Law assigns exclusive jurisdiction for business disputes to the domestic courts. Foreign investors are free, however, to agree to arbitration proceedings or another alternative dispute resolution mechanism. There are no statistics on investment disputes from the last 10 years.

International Arbitration

In 2009, Kosovo became a party to the International Centre 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 Commerce in Kosovo. Kosovo's Arbitration Rules use 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 to the ICSID convention in 2009, but is not a signatory to the Recognition and Enforcement of Foreign Arbitral Law (1958 New York Convention).

Duration of Dispute Resolution

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 the finalization of a judgment by the court, the execution of judgment is often lengthy and problematic. The Law on Enforcement Procedure through the private bailiff system has slightly improved execution of court decisions. Foreign investors are litigants in about 10 percent of the cases, most of which relate to trademarks.

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 2015.

Investment Incentives

The Government of Kosovo is currently drafting comprehensive investment incentive legislation. All investment incentives are presently negotiated on an ad-hoc basis.

A 16 percent across-the-board value added tax (VAT) came into force in January 2009. Article 27 of the Law on Value Added Tax provides exemptions for VAT on certain goods, such as medicines, medical services, pharmaceutical products, agricultural inputs, and public education services. Reduced VAT rates as low as 5 percent and enhanced rates up to 21 percent are also provided for certain goods and services. The Kosovo Assembly is currently assessing VAT changes to include a general VAT increase to 18 percent and a parallel reduction in targeted categories to stimulate economic development.

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 Kosovo Customs internal Administrative Instruction (AI) has reduced required paperwork for imports and exports. Only two documents are currently required to export goods: a commercial invoice and a customs export declaration. Three documents are required for imports: a commercial invoice, a customs import declaration, and a certificate of origin.

Suppliers may claim tax credits on their inputs. A 10 percent flat corporate tax helps attract FDI. To improve the investment climate, the new government plans to introduce legislative changes

beginning in 2016 to exempt more goods from Customs duties and to provide tax breaks for businesses that provide a certain level of investment and employment.

Research and Development

There are no government financed and/or subsidized research and development programs in Kosovo.

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 permission to invest.

Data Storage

Kosovo does not have rules on data storage.

6. Right to Private Ownership and Establishment

Both foreign and domestic private entities have the right to establish and own business enterprises and engage in all forms of remunerative activity in Kosovo.

7. Protection of Property Rights

Real Property

Interests in property are enforced based on the Law on Property and other Real Rights, adopted in 2009. The law defines the following security interests on property: pledges used over tangible/intangible assets except on immovable property, mortgage used only over immovable property, and personal guarantees. Mortgage agreements must be registered with municipal cadastral offices, while their enforcement may be through courts or extra-judicial procedures. In practice, enforcement of mortgages is challenging because banks sell 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. As a result of regime changes, confiscation, and conflict, a complex legal and regulatory framework prevails. 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 the 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 relocated 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 record taken in 1999 from Kosovo by Serbia. The Kosovo Property Agency (KPA), formerly the Housing and Property Directorate (HPD), has the authority to receive, register, and resolve property claims from the 1998-1999 conflict 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 only 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 Housing and Property Claims Commission (HPCC) decisions 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.

In an attempt to better identify owners of agricultural lands, the government conducted an agricultural census in November 2014. This effort took place over 50 years after the last census and without participation of northern Serb-majority municipalities. The final results of the census will be published in September 2015.

The World Bank's Doing Business report noted that Kosovo made transferring property easier in 2014 by introducing a new notary system and combining procedures for drafting and legalizing sale and purchase agreements.

Intellectual Property Rights

The Law on Patents, Law on Trademarks, and Law on Industrial Design, 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. In 2013, the Assembly adopted the Law on Geographical Indices, bringing Kosovo's IPR legal base closer to that of the EU. 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 1991 Law on Authors Rights are also considered applicable law 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 interagency coordination, the government has adopted an IPR Strategy and established the National Intellectual Property Council and a Task Force against Piracy. The Council and Task Force have similar structures and are comprised of the

IPO, Copyright Office, Customs, Kosovo Police Departments for Economic and Cyber Crimes, Market Inspectorate, and Ministry of Justice. The Council also includes the Kosovo Prosecutorial Council, courts, and other government and non-governmental institutions. All IPR-related laws are scheduled to be amended in 2015 to further comply with the related EU directives.

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 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 items and initiation of several criminal procedures. Customs reported in 2014 confiscation of counterfeit goods valued at over EUR 4 million and the initiation of five court cases.

Kosovo is not a WIPO member. There is no WIPO profile for Kosovo.

Resources for Rights Holders

Embassy POC: Ardiana Meholli

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

Embassy Pristina's list of attorney's is available at:
[www.http://photos.state.gov/libraries/kosovo/231771/acs/Kosovo_List_of_Attorneys_2015.pdf](http://photos.state.gov/libraries/kosovo/231771/acs/Kosovo_List_of_Attorneys_2015.pdf)

8. Transparency of the Regulatory System

The 2011 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 March 2014, the Kosovo Assembly passed amendments to the Law on Public Procurement in line with a request by business associations to encourage the purchase of domestic goods through public contracts. All legal, regulatory, and accounting systems in Kosovo were created in line with EU standards and best international practices. Draft laws are published on the website of the Assembly and distributed to stakeholders; public hearings on proposed laws are also held.

In practice, public procurement practices in Kosovo are still being reformed. While the government seeks transparency in the process, 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 watch dogs or organize stakeholder input on

regulatory processes. The GoK has prioritized the implementation of an e-procurement system to help regulate public tenders in a transparent manner.

The government publishes the rules, regulations, and procedures of the tendering process 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 the www.businessfacilitation.org and is not a member of UNCTAD.

9. Efficient Capital Markets and Portfolio Investment

The Central Bank of Kosovo (CBK) is an independent body responsible for fostering the development of competitive, sound, and transparent 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, combating money laundering, 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 proposed Stabilization and Association Agreement with the EU require the free flow of capital. The government respects IMF Article VIII. Kosovo has an open market economy and interest rates are determined by the market. Credit allocation by financial institutions is conducted by individual banks implementing risk profiles. Access to credit for the private sector is limited, with high interest rates imposed by commercial banks and micro-financial institutions.

Money and Banking System, Hostile Takeovers

As of the beginning of 2015, Kosovo has 10 commercial banks and 14 licensed insurance companies. The official currency of Kosovo is the Euro even though the country is not a member of the Eurozone. Given that the Central Bank of Kosovo does not have an independent monetary policy, prices react heavily to market trends in the larger Euro zone.

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 there were signs of improvement during 2014. This cautious approach is evident in their excess reserves, which are above the minimum level required by the Central Bank of Kosovo. Total assets of the three largest banks, which are international, amount to 67.2 percent of Kosovo's entire banking sector assets. As of December 2014, total assets stood at EUR 3.2 billion. In 2014, the lending activities of commercial banks increased at an annual rate of 4.2 percent, indicating a faster pace of growth compared to the 2013 rate of 2.4 percent. This growth, according to the Central Bank, was due to a public-sector salary increase in the second half of 2014 that resulted in increased consumption. Approximately 70 percent of all lending activity is to businesses.

Despite positive trends, relatively little lending is directed toward long-term investment activities. Prevailing high interest rates (averaging approximately 10.6 percent) and collateral requirements act as disincentives to borrowers. Slower lending is notable in the northern part of Kosovo due to a weak judiciary, slow economic growth characterized by informal business activities, and few qualified borrowers.

There are no restrictions for foreigners to open bank accounts. They can do so upon submission of valid ID documentation.

10. Competition from State-Owned Enterprises

Kosovo has 61 state-owned enterprises, 44 of which are municipality managed. These state-owned enterprises are primarily in the central heat, waste, and water sectors. The list of state-owned enterprises is published on the website of the Ministry of Economic Development, which monitors their operations: <http://mzhe.rks-gov.net/?page=2,1>

The majority of Kosovo's state-owned enterprises operate at a loss and need government subsidies to survive. A few, such as Post and Telecommunications (PTK) and the Kosovo Energy Corporation (KEK), generate profits and have statutory requirements to distribute dividends to the government annually. State-owned enterprises 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 state-owned enterprises 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.

OECD Guidelines on Corporate Governance of SOEs

POEs are led by boards of directors that report to the Ministry of Economic Development. Appointment of boards and senior executives is largely based on political patronage, with little importance placed on qualifications. All directors must complete an annual training course on corporate governance. State-owned enterprises must submit annual reports and are subject to external audits. State-owned enterprises are generally perceived as corrupt and nepotistic by the public due to their political and governmental ties. 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.

11. Corporate Social Responsibility

Corporate Social Responsibility (CSR) is a relatively new concept in Kosovo, but is a policy priority for the new government. The private sector has begun to implement CSR principles within their own organizations and through the leadership of CSR-focused NGOs.

OECD Guidelines for Multinational Enterprises

As stated above, CSR is a new concept in Kosovo, and the government has not yet promoted CSR-related principles or the Guidelines for Multinational Enterprises.

12. Political Violence

Kosovo has experienced minor civil unrest in the form of demonstrations and sporadic ethnic clashes. Demonstrations often focus on high unemployment and dissatisfaction with government policies. These protests have sometimes involved physical intimidation, destruction of public property, and violence. The frequency of protests increases during times of political tension. Demonstrations often take place in the downtown area near government or international organization buildings.

13. Corruption

Kosovo has enacted strong legislation to combat corruption, but the government has thus far been unsuccessful in efforts to investigate, prosecute, confiscate the assets of, and jail 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 is widespread. The Embassy is unaware of any government activity to encourage private companies to establish internal codes of conduct. 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 recognized as one of Kosovo's largest obstacles to attracting FDI.

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.

Resources to Report Corruption

Contact at government agency or agencies are responsible for combating corruption:

Hasan Preteni

Director

Kosovo Anti-Corruption Agency

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Contact at "watchdog" organization (international, regional, local or nongovernmental organization operating in the country/economy that monitors corruption, such as Transparency International):

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14. Bilateral Investment Agreements

Kosovo signed Free Trade Agreements (FTA) with Albania and Macedonia in 2003 and 2005 respectively. The Kosovo-Macedonia FTA stipulates that Kosovo imports have complete duty-free access to the Macedonian market. In reality, however, Macedonia still imposes some duties at the border, particularly on agricultural imports. In September 2013, Kosovo and Macedonia had a 10-day trade dispute over Macedonia's failure to remove restrictions on wheat imports by the deadline set by the Central European Free Trade Area (CEFTA). As a result, Kosovo authorities banned imports of all Macedonian goods, leading to a border blockade by the Macedonian transporters' association.

In 2006, Kosovo, through UNMIK assistance, signed FTAs with Croatia and Bosnia-Herzegovina, and became a signatory to CEFTA and EU Common Aviation Area. CEFTA came into force in July 2007. By September 2007, all signatories ratified the agreement, including Serbia. As with the FTA with Macedonia, CEFTA signatories continue to charge various fees for Kosovo goods. Kosovo's FTA with Turkey will come into force in 2015. In 2015, Kosovo aims to liberalize trade with the EU as part of a Stabilization and Association Agreement.

In March 2015, Kosovo and Austria started preparations to negotiate a double-taxation treaty.

Kosovo's membership in the Athens Process on Energy for the Southeastern 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 bilateral investment or taxation treaties with Kosovo, but the United States designated Kosovo 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.

15. 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 incentives agreement with Kosovo, which streamlines OPIC's ability to support U.S. companies' investments. With OPIC assistance, U.S. investors are currently involved in 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).

16. 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 30.9 percent, with youth unemployment as high as 55.9 percent. Unemployment is 59.9 percent among the uneducated and 15.5 percent among university-level graduates. There are no reliable statistics on Kosovo's informal economy, but it is believed to be around 40 percent of the GDP. Informality dominates the agriculture, trade, and services sectors. Labor unions are active in certain sectors. They often lobby aggressively to limit foreign competition.

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 remains idle due to mismatches between applicant skills and employer needs. The 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, 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 Inspectorate within the Ministry of Labor and Social Welfare is responsible for ensuring these rights. The Labor Law distinguishes between layoffs and firings and calls for a monthly minimum wage, which the government set in 2011 at EUR 130 for employees under 35 and EUR 170 for those over 35 years of age.

The previous government negotiated public-sector salary annual increases of 25 percent for 2014-2016. The first increase took effect in May 2014 and caused inflationary pressures on private-sector wages. The new government respected the 2014 increase, but rejected subsequent increases of 25 percent for 2015 and 2016. In March 2014, the previous government, labor unions, and private-sector representatives signed a collective bargaining agreement. However, the new government only implemented one provision of the agreement that allows for a 0.5 percent salary increase for each year of credible work experience for public sector teachers. The

new government is arguing for more comprehensive revisions to the Labor Law. Public-sector employees, including doctors, teachers, and judges, sporadically went on strike to demand implementation of the entire agreement and better working conditions.

The Ministry of Labor and Social Welfare established a compliance office with the authority to inspect employer adherence to labor laws. Labor disputes are formally adjudicated in local courts, but access to courts and the unpredictability of judicial decisions create significant risks to investors.

Kosovo requires businesses pay a 5 percent social security contribution per employee, one of the lowest rates in Europe. A new Law on Health Insurance, adopted in April 2014 and scheduled to take effect in 2016, will establish an additional 3.5 percent payment per employee for national health insurance.

17. Foreign Trade Zones/Free Ports/Trade Facilitation

The Kosovo Customs and Excise Code is business friendly. 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, with the aim of facilitating trade and stimulating export growth. 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. The government has approved economic zones in the municipalities of Gjakova/Djakovo and South Mitrovica/e, but they have not begun operations.

18. Foreign Direct Investment and Foreign Portfolio Investment Statistics

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

	Host Country Statistical source*		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)	2014	6	2013	7	www.worldbank.org/en/country
Foreign Direct Investment	Host Country Statistical source*		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)	2013	81.2	2013	85	IMF
Host country's FDI in the United States (\$M USD, stock positions)	2013	7.9	2013	10	IMF
Total inbound stock of FDI as % host GDP	2013	5.3%	2013	5.4%	IMF

*Government of Kosovo

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	3,914	100%	Total Outward	205	100%
Turkey	407	10%	Albania	51	25%
Germany	327	8%	Germany	26	12%
Slovenia	299	8%	Macedonia	13	6%
Switzerland	215	5%	Switzerland	13	6%
Netherlands	201	5%	United States	10	5%

"0" reflects amounts rounded to +/- USD 500,000.

Source: IMF Coordinated Direct Investment Survey

Table 4: Sources of Portfolio Investment

IMF data presented in table 3 differ slightly from the Central Bank of Kosovo's (CBK) data. CBK data for 2013 show a total USD 3.573 billion in Inward Direct Investment, with major investors being Germany (USD 426 million), Turkey (USD 302 million), Slovenia (USD 234 million), Switzerland (USD 232 million), and the Netherlands (USD 93 million). Likewise, total outward investment from the CBK is USD 145 million, including Albania (USD 37 million), Germany (USD 18 million), Macedonia (USD 10.5 million), Switzerland (USD 9.2 million), and the United States (USD 7.9 million).

Portfolio Investment Assets**Top Five Partners (Millions, US Dollars)**

Total			Equity Securities			Total Debt Securities		
All Countries	1,645	100%	All Countries	562	100%	All Countries	1,082	100%
Ireland	616	37%	Ireland	562	100%	Luxembourg	290	27%
Luxembourg	290	18%				Germany	217	20%
Germany	217	13%				France	207	19%
France	207	13%				Belgium	76	7%
Belgium	76	5%				Ireland	54	5%

Source: IMF Coordinated Portfolio Investment Survey

19. Contact for More Information

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