



Kosovo is situated in the middle of the South-East Europe, positioned in the centre of Balkan Peninsula. It represents an important crossroad between South Europe and Middle Europe, Adriatic sea and Black sea.

On February 17, 2008 the Kosovo's Assembly declared independence which has been recognised by most democratic countries of the world (about 89).

## Economy

The economic policies include building and implementation of modern concepts of market economies, EU rules and most advanced international standards.

In terms of the last macroeconomic projections the average growth of real GDP during the planned period 2011-2013 is expected to be 5.6 percent. Approximately 40 percent of Kosovo's citizens are unemployed (the unemployment of youth is estimated to be 50 to 75 percent). Every year 30,000 new work force are available to the job market. Economic growth of 7 percent over 15 years is needed to reduce the level of unemployment by half. The young population of Kosovo mostly (50 percent of the overall population is 25 years old) presents a challenge and opportunity.<sup>1</sup>

Kosovo Privatisation Agency (KPA) provides administration, support, sale and liquidation of the social owned enterprises (SDE) and their assets in compliance with law. The KPA privatises social owned enterprises by using two methods: spin-off method and voluntary liquidation. Based on the last reports of KPA, 290 enterprises have been privatised so far, and it is realised over Euro520mn revenue. Currently KPA is in the 53<sup>rd</sup> wave of privatisation. Concessioning the Pristina International airport, preparation of the bids for privatisation of the PostTelecom (VALA), and preparation of the bidding documents for privatisation of the energy sector (distribution of the energy) shall have the great impact in Kosovo's economy.<sup>2</sup>

PROFILE	
Population:	1.807 mn***
GDP (Current US\$):	6.445 bn***
Per Capita Income: (Current US\$)	3600 (Atlas method)***
Surface Area:	10,908 sq. km
Life Expectancy:	70 years***
Literacy (%):	
HDI Rank:	87*
<i>Sources:</i> - World Development Indicators Database, World Bank, 2012 (* ) Kosovo Human Development Report 2012 (***) For the year 2012	

## Competition Evolution and Environment

The business environment in the Republic of Kosovo is becoming more and more competitive. The continuous efforts in improvement of tax system, usage of natural resources, comparative advantages we are having with others fast and easy registration of business, permanent improvement of the road infrastructure, transparent laws for foreign investments, etc, become the Kosovo's environment more attractive and favourable for investors. Still more needs to be done.<sup>3</sup>

Kosovo Competition Commission has been established by a decision of the Assembly of the Republic of Kosovo, in 2008, but in fact was active in March 2009. Now the competition in Kosovo is regulated by the Law on Protection of Competition nr.03/l-229, of October 07, 2010 (official gazette of Republic of Kosovo). This law amended the Law 2004/36. The law set out the opportunity of market monitoring by two methods:

- by controlling actions of enterprises, and
- by controlling the market structure

❖ <https://www.rks-gov.net/en-US/Qytetaret/Liria%20Qytetare/Pages/MbrojtjaKonsumatorit.aspx> (State Portal of Republic of Kosovo)

The Constitution of the Republic of Kosovo, article 10 lays down economic system of Kosovo as a system based in free market economy and freedom of economic activity. Private companies produce products bringing profit, whereas the consumption is defined by individuals who benefit from their work or ownership. Price, quantity and production method is set out by market. To fulfill this function the market must have competition rules and such rules to be implemented. There shall not be a free market economy where the production opportunities are kept away from companies with dominant position in market, whether they are private or public. When a company achieves to have a considerable position in market (point where the demand equals with offer), by this company itself, in this case consumers are not able to play their role in setting the prices and are affected by loosing.

The difference between the investigation of agreements and the dominant position from one side and concentration of companies in the other side consists by analysing two cases: the first case is based on:

- Past (is performed *ex post*), whereas the second case
- Is based prognosis for the future (performed *ex ante*)

Law on protection of competition respects share of control *ex ante* and *ex post*, by treating from one side forbidden agreements and excluding from prohibition (article 4 of Law) and abuse of the Companies in dominant position (article 10) and the other side and anticipatory control of concentrations (article 13). In the other part the law lays down the competition authority as responsible body for law implementation (article 24).

The Commission is the decision-making body and the Secretariat an investigative body. The Commission is an independent state body with a status of a legal entity, is independent in its work, and in making the decisions with the scope of its competencies determined by the law on Protection of Competition. The Commission must report to the Assembly of Republic of Kosovo, and must submit to the Assembly a detailed annual work report. The Commission consists of a President and four members. The president and members of the KCA are appointed by the Assembly of Kosovo for the period of five years, with the right to reappointment. The president represents and manages the work of the KCA. The investigative and other expert activities of the Commission are performed by a department, managed by a Secretary General. The total staff at the moment, including the Commission members is 18.<sup>4</sup>

The objective of the law on Protection is the protection of the free and effective competition in the market. This can be achieved by setting rules for actions of the companies. Market participants are clients and consumers demanding goods and services from the companies which are offering them. The law lays down economic rules of these participants with the view to make them act fairly in the competition. By protection of legal interest of every participant in the market, in this way can be indirectly protected fair competition. The implementation of the Law on Protection of Competition is not limited only to practices undertaken within the territory of Republic of Kosovo but also abroad, if they produce certain effects within the territory of Republic of Kosovo.<sup>5</sup>

**Box 1: Investigation of the Insurance market for obligatory vehicle insurance**

The Competition Authority has investigated the market of insurance for obligatory vehicle insurance product (TPL) applicable within the Republic of Kosovo. At the end of investigation, the Competition Commission has taken a decision on price fixing for sale of the vehicle insurance policies among the insurance companies: The Object– Agreement of Insurance Companies to fix the prices for sale of insurance policies of vehicle insurance policies at thir parties (TPL). Parties in investigation were 10 insurance companies, operating in Kosovo’s market.

The Kosovo Competition Commission after a couple of months investigations and completion of the documentation, collection of facts and meetings has noticed that there is a based suspicion for cooperative practice among the insurance companies in price fixing of the insurance polices for vehicle insurance. During these investigations the Competition Commission has found the copy of the written agreement by Insurance Companies, of 03.07.2009, held in Gjakova to disallow the price discount of the insurance market. Even though the fact that the Insurance Companies always have refused

that exists an agreement for price fixing, the Kosovo Competition Commission during the investigations has found a written agreement signed by 10 Insurance Companies, with the following text “No price discount by insurance companies, and at the same time the insurance market must be kept”, which has meant that there was a cooperated practice for price fixing of insurance polices.

The Kosovo Competition Commission has assessed this as horizontal agreement and it is in contradiction with Law on Competition. The Competition Commission has verified that there is an agreement between insurance companies. By this agreement there was a price fixing of the insurance polices and in this way the consumer was disabled to choose the most favourable company. In this way there was limitation and disorder in the market which is in contradiction with article 3 of the Law on Competition. It has proved that insurance companies mentioned above as parties under the investigation have signed this agreement and has sanctioned them in amount €100,000.

Source: Kosovo Competition Authority

Competition advocacy is an important element of the competition policies in the economies in transition, also for Kosovo’s economy. It reflects comments provided (offered) by competition authorities for the impact of competition in other policies, particularly in the field of regulative policies and privatisation. Benefits coming out by incorporation of the competition principles in the laws and regulations are very high, in particular for economies in transition have privatised infrastructure network for which there was no adequate regulatory expertise. The competition advocacy is not only one of the law standards, but it is a vital need for activities of the competition authority to have a real influence in achievement of functional market.

**Anticompetitive Business Practices**

The Law on protection of competition (article 4) determines the term “agreement” as agreement of any form, signed by companies with or without obligatory power, decisions or recommendations of the groupings of the companies as well as coordinated practices between companies acting in the same level, which means horizontal agreements or in different levels, vertically. As it is clearly written in the law, the agreement with the meaning of this law can be contracts or other agreements between companies, even when they do not have obligatory power, and other acts «unilateral», as are the recommendations of the associations of the companies.

Pursuant to article 10, any abuse by one or more companies with dominant position is prohibited. This article clearly explains the principle of misuse. Based on this principle the dominant position is not prohibited. In article 10 is

given the definition about dominant position, while in article 11 are given criteria for evaluation of the dominant position, individual or joined. A company can be considered to have a dominant position if the participation in the market of such company is more than (40 percent). This participation is not considered dominant position if such company can argue that is exposed in front of competition or does not have superior position in the market comparing with other competitors.

Article 13 of the law on competition treats the system of authorisations about concentrations of the large commercial companies. According to this article; the concentration between companies is considered the joint of two or more companies, to benefit the control in one or more companies as well as foundation of a joined company.

The law on competition is implemented in all fields where there is a violation of the competition. Correction of unfair competition is oriented in those fields where economic subjects have relevant influence in the market. The reason of investigation and their correction consists that these large companies have influence in the market and easy control such market. Some of the most sensitive sectors are:

- Telecommunication (telephony operators, fix prices and agreements for fixing of the prices, share of the products and market),
- Insurance Companies (insurance policies, agreements in price fixing for services offered),
- Banking system (price fixing for interest rates for the services offered by banks, payments and other provisions),

<b>Box 2: Investigation in the Market of Fiscal Cash Boxes</b>	
<p>In November 2009, a decision was taken by the Ministry of Economy that all business operators must be equipped with fiscal cash–box. Also the Ministry has drafted an Administrative Instruction by which shall be founded a Commission for licensing of business operators (through tendering) for sale, installation and maintenance of the fiscal cash boxes. In December of 2009, the Commission through the tendering process has licenced only two business operators for sale, installation and maintenance of these equipments such as: “Dukagjini” and “Gekos”.</p> <p>From the licenced business operators, only the second business operator “GEKOS” has started to implement this programme, while the business operator is justifying in the malpractice of the laboratory for licensing of products. The competition authority has investigated this matter and decided: ”On coordinated practice for sale of fiscal cash boxes among the abovementioned business operators”.</p>	<p>Based on the inspections carried out in these companies, the Commission has provided the documentation considering appropriate for investigation of this market, as it is the decision for selection of business operator, licence and appropriate legal base. After the assessment that there is a dominant position in the Kosovo’s market Kosovo Competition Commission has decided to invite the owners, respectively the representatives of <i>SH.P.K. “GEKOS and SH.P.K. “DUKGJINI”</i> in a meeting. After the discussions in this meeting it was decided that cash box fiscal equipments within the territory of the Republic of Kosovo is sold, installed and maintained by the Company <i>SH.P.K. “GEKOS”</i>, through a sub-contractor with joint logo of three Companies “<i>ENTERNET</i>”. For this reason both Companies have been sanctioned €100,000 for each Company individually. Also the Competition Commission has recommended to Ministry of Economy and Finance to liberalise the market and they should licence more business operators, who sell, install and maintain fiscal electronic equipments (FEE).</p>
<p>Source: Kosovo Competition Authority</p>	

- Import of oil (agreements on price fixing, share of market, geographical and regional share of market),
- Energy sector (fixing of tariffs for electricity and other forms of monopoly),
- Health sector (granting of licensed for import of medicines or for import of only one medicinal product),
- Procurement sector (tendering without economical justification and disorganisation of market and competition), and
- Media (granting of different licenses for operation with frequencies) and others.

## Sectoral Regulation

### Energy

The deficiency in credible supply of electricity is the main obstacle for the development of private sector and economic growth in Kosovo. Electricity sector is also one of the sectors which expend a part of national budget due to the subvention for import of energy that continues. In 2009 and 2010 this import was at the level of 40–60 million € per year. The existing power plants (Kosova A and B) are old and not in a good state and always exposes to risk of large break up. The both power plants run on coal as the only resource available in Kosovo. The general reform of the sector includes the privatisation and it is very crucial to achieve this by attracting new financially and technically well prepared investors.

As signatory of Energy Community Treaty for South-East Europe (ECT), reform and restructuring of Kosovo's energy sector shall respect the obligations and requirements of the ECT as well as EU obligations for markets and environmental standards.<sup>6</sup>

### Financial Sector

The banking sector in Kosovo and the development of financial system has been done after 1999.

Based on market principles and it was a very important element to Kosovo's economy. Foundation of Banking and Payment Authority in 1999 and latter in 2008 was transformed in Central Bank of the Republic of Kosovo presents an important success in this sector. Banking sector is consisted by two levels, where the Central Bank of Kosovo operates as bank of first level and commercial banks that operate as banks of second level. Banking system forms an important component of Kosovo's financial system consisted of banking sector, insurance market and micro financial institutions.

Now in Kosovo operate 8 commercial banks, two most important are: Pro-Credit Bank and Reiffesien Bank which their loans and deposits cover approximately 68 percent of banking market. About 77.4 percent of all assets of banking system are managed by three largest banks. There is a high concentration of the banks. At the same time should be highlighted that the continuous growth of activity

of small banks has influenced that concentration level in a banking market to be reduced continuously since the anticipatory year.<sup>7</sup>

The banking sector in Kosovo persists to be one of the most productive sectors. Regardless of the enforcement of the conditions for loans, loans permitted by commercial banks are increased in their volume.

### Telecommunication

Telecommunication and business operators in the field of telecommunication offer a good quality of their services, but the prices for some products are still highest in the region (roaming calls). For this reason the development of competition in this field remains a permanent challenge.

There are two business operators in the field of telecommunication so far Vala 900 and Ipkonet. Vala 900 has taken the possession the assets of Kosovo's Post and Telecom and it's in the phase of privatisation. Regarding to the mobile phone, market have been licensed two network business operators (2GMNO) by TRA: In 2004, PTK-Vala was licensed in the waves 900MHz and in 2007 was licensed the consortium IPKO/Telecom Slovenija/Mobitel (waves 900/1800MHz). After approval of the framework for Mobile Virtual Network Operator (MVNO) by Telecommunication Regulatory Authority in May of 2008, have been licensed another two operators in the field of telecommunication: Dukagjini Telecommunications (D3mobile) operates based on the commercial agreement with *IPKO*, and Dardafon.net (Zmobile) has signed the agreement with public company *PTK/VALA*. Even that all telecommunication services are liberalised, even so there is an authentic competition in the sector of internet services and mobile telephony, and whereas for cable telephone services we can say that they are partly competitive. The problem in this field presents that Kosovo does not have its own international code.<sup>8</sup>

### Consumer Protection

Consumer means any natural person who buys and uses goods or services primarily for his/her personal needs, but not for the purposes related to commercial activity, namely for the resale of such goods.

The Law on Consumer Protection regulates the protection of fundamental right of consumers upon purchasing goods and services, as well as on other forms of receiving goods and services in the market such as:

- The right to protect economic interests of consumers,
- The right to life protection, health and asset,
- The right to legal protection of consumers,
- The right to information and re-education of consumers,
- The right in consumer associations in order to protect the consumers' interests,
- The right of representation and participation in representation of consumers in the work of bodies dealing with issues related to the interest of consumers.

The rights of consumers may be limited in extraordinary circumstances, for the purpose of protection the interest and security of Kosovo, its nature, environment, human health, but not such that it would bring the consumers in an unequal positions.

The Consumer Association is established for the protection of the rights of consumers and their interests. The Consumer Association is a civil organisation, independent from producers, suppliers or providers of services. The Consumer Protection Association presents its members and interests of all consumers. Through its representative, it gives opinions on proposed bylaws that may have influence on consumers, participates in meetings which are important for consumers, mediates between central bodies and consumers, as well as between the seller and consumer, for the purpose of protecting the latter's interest.

The Consumer Protection Association informs consumers on their right, and draws up the list of retailers that have damaged consumers in the past years, or have purposefully sold goods which were dangerous to the health and safety of consumers.

For every right that has been violated, the consumer or the consumer protection association can appeal at the competent administrative bodies, which are legally accountable for the protection of consumers. Producers and providers of services are liable to place safe goods and services in the market. Safe goods and services are considered such goods and services which meet:

- Domestic standards,
- European standards defined in International Covenants,
- Legitimate consumers requirements related to safety.

The rules and regulations regarding the specific health and safety standards and requirements which a product or service must satisfy in order to be placed in the market, shall be established pursuant to special laws on this subject. The tasks regarding the establishment of consumer protection policies, in particular regarding follow up and evidencing of jobs carried out under the Consumer Protection Programme, are administered by the Ministry of Trade and Industry.

The Consumer Protection Programme of Kosovo in particular sets out:

- The principles and goals of consumer protection policies,
- Tasks with priority upon drafting the consumer protection policies,
- The program for utilisation of financial resources required for the implementation of tasks outlined in the national programme,
- The size of the programme framework for the utilisation of financial funds required to promote development and activities of consumer organisations.

## **Concluding Observations and future scenario**

The Kosovo Competition Authority as institution who implements the law on protection of competition, the protection and development of competition must be oriented in two main directions:

1. Permanent correction of forbidden agreements, control of concentrations and market analyse and competition in the market.
2. Reading of the laws and other by-laws documents who may create favors and certain monopolies and their improvement.

Particularly, it is very important to have more advocacies regarding to the importance of competition and introduction to law on protection of competition. There is a need that the authority should have regular cooperation with economic regulatory bodies with a view to create fair competition (energy regulatory office, telecommunication regulatory office, media, procurement, etc). The market liberalisation must take place with a view to increase the number of business operators, particularly those who have relevant influence in the market. More political support must be given to the Kosovo Competition Commission who implements the Law on Protection of Competition. This institution must be independent body and should not be under the influence of the politics. Penalties and other sanctions must be lowest and these sanctions to be taken as the last measure.

There is a need to be implemented the Law on State Aid, which was adopted by the Assembly of Kosovo in July 2011 and entered into force on January 01, 2012 and these assistances to be monitored by Competition Authority with a view to not disorganise the market and different favours harming the market economy. All these acts shall create sustainable environment for further development of free competition and its protection, as one the fundamental condition for sustainable economic development and protection of consumer health.

## **Literature**

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**Endnotes**

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