

(UN) LEVELING THE FIELD – A Competition tale!

–

September 2018



Group for Legal and Political Studies

is an independent, non-partisan and non-profit public policy organization based in Prishtina, Kosovo.

Our mission is to conduct credible policy research in the fields of politics, law and economics and to push forward policy solutions that address the failures and/or tackle the problems in the said policy fields.

Policy Report 04/2018

(Un) Leveling the field. A Competition tale!

Authors: Erëza Pula*, Delfinë Elshani**

September 2018

© Group for Legal and Political Studies, September, 2018.

The opinions expressed in this document do not necessarily reflect those of Group for Legal and Political Studies donors, their staff, associates or Board(s). All rights reserved. No part of this publication may be reproduced or transmitted in any form or by any mean without the permission. Contact the administrative office of the Group for Legal and Political Studies for such requests.

Group for Legal and Political Studies
“Rexhep Luci” str. 16/1
Prishtina 10 000, Kosovo
Web-site: www.legalpoliticalstudies.org
E-mail: office@legalpoliticalstudies.org
Tel/fax.: +381 38 234 456

* ** Senior Research Fellow, Group for Legal and Political Studies, Prishtina

“This report is published with the support of the Swedish International Development Cooperation Agency (Sida), managed by the Kosovo Foundation for Civil Society (KCSF). The content of this publication is a sole responsibility of the Group for Legal and Political Studies and does not reflect the opinions of Sida and KCSF”

This page is left intentionally blank

(UN) LEVELING THE FIELD. A COMPETITION TALE!

I. Introduction

Fair competition is the backbone of a well-functioning market economy. Regulating market competition is of paramount importance; it provides the foundation for the market supply and demand, drives creative innovation, promotes efficiency, protects consumers' interest, and, most importantly, provides market competitiveness through fair economic policies. The main aim of competition policies rests upon the creation of effective rules, which in turn lead to a proper functioning of the market, by promoting better quality, lower prices, enhanced innovation and wider variety for customers.

Free market is the cornerstone of the European construction process already introduced in the Treaty of Rome in 1957, thus current EU institutions put a substantial emphasis on the field to prospective member states. Given Western Balkan countries have been committed towards the European integration path through the Stabilization and Association Process (SAP), competition policy, amongst others, also became crucial to achieve trade liberalization between WB and EU countries. Yet, the development of a real competition policy in the former has been progressing with a slower pace due to the complex market environment of these countries, lack of independent market regulators, and other factors such as challenging privatization processes, political influence, and economic and political instability.¹

This said, market competition in Kosovo is regulated by the Law on Protection of Competition, which extends the mandate of regulating and ensuring fair market competition to the Kosovo Competition Authority (KCA), established in 2008. The law defines the role and responsibilities of this independent market regulator. Given its significance and being a crucial principle of the single market, the majority of competition reforms and policies have been undertaken through two (2) main frameworks, drafted specifically to accelerate the implementation of Stabilization and Association Agreement (SAA), namely the National Programme for the Implementation of the SAA (NPISAA), and European Reform Agenda (ERA).

Competition policies remain crucial for the functioning of the market, especially considering the risks posed by highly concentrated markets, where monopolies and other anti-competitive agreements that distort the market are common. For this purpose, this study is primarily divided into two main parts; it first analyses briefly the performance of the Kosovo Competition Authority throughout the years, and then, it provides results of the monitoring of the National Programme for the Implementation of the SAA as well as the ERA, with special reference to the competition area. More precisely, the study is constructed as follow: Section II assesses the performance of KCA by focusing on its human resource and budgetary capacities, the Authority's Commission, cooperation with other market regulators, and challenges faced throughout the years. Also, this section briefly elaborates on recent developments regarding the State Aid area. Section III provides an analysis of the results of the monitoring process of NPISAA and ERA's competition chapters and identifies the progress of institutions and their willingness to fulfill objectives deriving from these two crucial documents, whereas the last section provides concluding remarks on competition.

¹ Penev, S., Marusic, A., Mancellari, A., Milovic, N., Causevic, F. and Hyseni, D. (2013) Competition Policy in Western Balkan Countries. *Research Report*. Westminster Foundation for Democracy (WFD). Available at: http://www.npcbalkan.net/admin/doc/Competition_Policy_in_Western_Balkan_Countries.pdf [Accessed: 5 July 2018]

2. Kosovo Competition Authority

As said, the market in Kosovo is regulated by the Law No. 03/L-229 on Protection of Competition, which was amended and supplemented by Law No. 04/L-226 in 2014. According to the Law, the independent public institution which ensures fair market competition is the Kosovo Competition Authority, established by the Assembly in 2008. This legislative framework specifies the main rules and procedures towards guaranteeing free and effective market competition as well as the activities and responsibilities of KCA. The law tackles all the actions that limit and distort competition inside or outside the territory of Kosovo, including prohibited agreements in the form of cartels, the abuse of dominant position, and mergers/acquisitions.

Authority's Commission

As stipulated in the legal framework, the daily activities of the Authority are governed by the Commission for Protection of Competition, composed of five members. The Commission is entitled to propose sub-legal acts, issue decisions to initiate and direct the process of determining anti-competitive practices, impose sanctions, propose deadlines and execute sanctions, as well as define measures, conditions, and deadlines to reinstate competition in the market. In addition, it is also entitled to launch investigations for a certain entity without prior consent with judicial approval, and to promote and increase awareness about fair market competition. It also plays a role in the legislative field, as it shall provide opinions regarding the compliance of draft-laws and other regulations with the Law on Protection of Competition, define regulations and measures for the protection of competition, and collaborate with international organizations and institutions on issues related to market competition. The Commission is also responsible for drafting the annual work report of KCA and submitting it to the Assembly.²

Since its establishment in 2008, the Authority was unable to engage and perform its daily responsibilities due to a Commission's long period of inactivity, leaving the market profoundly unscrutinised. This situation was a consequence of Government's inability to propose the new members of the Commission. As portrayed in the figure below, the Commission was active since its establishment until November 2013; however, from November 2011 it operated only with three members. By 2013, the mandate of two of these members expired which led to the Commission becoming inactive with only one member until 2015, and with no members whatsoever until June 2016. Therefore, from November 2013 until June 2016 the Authority's Commission was inactive, as a result paralyzing all its activities/decisions and market investigations for almost three years.³ In June 2016, the Commission resumed its responsibilities after the Assembly finally approved the proposed members by the Government.⁴

²Law on Protection of Competition no. 03/L-229, amended and supplemented by Law no. 04/L-226

³Hoxha, D. (2013) "Rregullatori i Konkurrencës Nën Menaxhim të Çrregullt". [Online] *Jeta ne Kosove*. 5 August 2013. Available at: <http://kallxo.com/gjnk/rregullatori-i-konkurrences-nen-menaxhim-te-crregullt/> [Accessed: 10 July 2018]

⁴TELEGRAFI (2016) "Pas pesë vjetësh kompletohet Autoriteti i Konkurrencës". [Online] Available at: <http://telegrafi.com/pas-pese-vjetesh-kompletohet-autoriteti-konkurrences/> [Accessed: 20 July 2018]

Fig 1: Composition of the KCA's Commission

2008-2011	•Active •5 Members
2011-2013	•Active •5 Members
2013-2015	•Active •3 Members
2015-2016	•Inactive •1 Member
2016- Present	•Active •5 Members

There were many claims suggesting that the proposed members for the latest appointment were either politically affiliated and/or professionally incompetent. According to the then-members of the Committee for Economic Development, Infrastructure, Trade and Industry, the nominees only formally fulfilled the requirements, lacking the necessary professional references and experience to regulate market competition.⁵ Similar opinions were expressed also by experts and representatives of the civil society claiming that the candidates were just political appointees.⁶ On this note, the Government neglected the continuous requests of relevant stakeholders to reconsider the appointment decision for the members of the Commission.⁷

Budget and organizational structure

The budget for the daily activities of the KCA is allocated from Kosovo's budget, approved by the Assembly. Until 2018, the Authority had an insufficient budget allocation, which negatively affected its performance and efficiency. After continuous requests by this regulatory body, the budget increase for its daily activities was finally approved. The increase in 2018, amounting to roughly 31%, was entirely attributed to the category of wages and salaries. Thus, the Authority increased its capacities by hiring four new employees, which were essential towards conducting adequate market investigations. It should be noted that the Commission is in the process of hiring three other employees, in accordance with the allocated budget.⁸

Table I: KCA's Budget and Employees

Year	Budget (€)	No. of approved employees	No. of actual employees
2013	255,043	23	15

⁵ Kosova Sot (2016) "Autoriteti i Konkurrencës, në mëshirën e Kuvendit" [Online] Available at: <http://kosova-sot.info/lajme/104414/autoriteti-i-konkurrences-ne-meshiren-e-kuvendit/> [Accessed: 03 August 2018];

Kosova Press (2016) "Emrat për Autoritetin e Konkurrencës pa përvojë të duhur". [Online] Available at: <http://www.kosovapress.com/sq/biznes/emrat-per-autoritetin-e-konkurrences-pa-pervoje-nuk-reflektojne-per-mbrojtjen-e-konkurrences-71113/> [Accessed: 25 July 2018]

⁶[2] Kosova Sot (2016) Autoriteti i Konkurrencës, në shërbim të mafio-oligarkëve. [Online] Available at: <http://www.kosova-sot.info/lajme/198846/autoriteti-i-konkurrences-ne-sherbim-te-mafio-oligarkeve/> [Accessed: 15 July 2018]

⁷Halimi, S. (2016) Militantë edhe në Bordin e Konkurrencës. [Online] Available at: <http://zeri.info/ekonomia/81303/militante-edhe-ne-bordin-e-konkurrences/>[Accessed: 2 July 2018]

⁸ Interview with Mr. Valon Prestreshi, President of the Kosovo Competition Authority, 24 July 2018

2014	255,043	23	13
2015	266,350	23	12
2016	224,810	23	17
2017	252,965	23	18
2018	332,409	25	22

Source: Data retrieved from Kosovo's Budget, OECD report 2016, and Kosovo Competition Authority

Until 2018, the organizational structure of the Authority was composed of the Commission, Secretariat, Administrative and Judicial Department, and Market Supervision Department. Nonetheless, the budget increase by 31% paved the way towards creating four new divisions within the Market Supervision Department, including:

- division of analysis, methodology, and exclusive agreements;
- division of concentrations;
- division of dominant position; and,
- division of prohibited agreements (cartels).

Accordingly, employees with more than six years of experience were promoted to directors of each division.

The recent positive changes, including the increase in budget and the number of employees as well as the new divisions created, might positively affect the overall performance and efficiency of the Authority, leading to a more efficient market regulation in Kosovo. According to the Chairman of the Commission, market investigation cases will be classified accordingly to the respective divisions, facilitating the overall case management. Moreover, in the long term, each division will enhance its expertise and will be specialised in one specific area of competition.⁹

Moreover, it should be noted that the administrative office for controlling the state aid, namely State Aid Office, was originally established within the KCA. However, according to the new Law on State Aid, the State Aid Department has been transferred within the Ministry of Finance since 2017.¹⁰ It currently has seven employees; most of them employed in May 2018. Moreover, in order to enhance further its capacities, the Department has been receiving technical assistance from the European Union and is expected to receive an expert from the British Embassy.¹¹

The Law on State Aid also stipulated that the decision-making body for the State Aid Department, namely the State Aid Commission, should be composed of five members with expertise on the field. The members of the Commission are appointed by the Assembly of the Republic of Kosovo for a mandate of three years, with the possibility of being elected for an additional mandate.¹² On this note, the Assembly has initiated the election procedures for the members of the State Aid Commission, application for which remained open from 17 – 31 July 2018. According to the

⁹ Interview with Mr. Valon Prestreshi, President of the Kosovo Competition Authority, 24 July 2018

¹⁰ Law on State Aid no. 05/L-100

¹¹ Interview with Mr. Agim Krasniqi, Director of the Department of State Aid, Ministry of Finance, 24 August 2018

¹² Law on State Aid no. 05/L-100

Assembly's agenda, subsequent appointment procedures will continue right after the Assembly reconvenes its daily functions.¹³

Since the appointment of the members of the Commission has not been finalized thus far, the effective implementation of the Law on State Aid has yet to be demonstrated. According to the EU Country Report 2018, the State Aid Department currently does not have the capacity to perform its responsibilities, namely screen the existing aid schemes, as stipulated in the SAA.¹⁴ Thus, the actual capacity to implement the law on State Aid cannot be assessed until the State Aid Commission's members are appointed.

KCA: Responsibilities and cases investigated

Kosovo Competition Authority, in order to ensure free and effective competition in the market, focuses on three main pillars; the abuse of dominant position, the conclusion of prohibited agreements in the form of cartels, and mergers or concentrations of undertakings.¹⁵ The KCA is entitled to provide professional opinions on the legal framework regulating competition and on the compatibility of the existing legislation with the EU acqui; raising awareness on competition by sharing information and knowledge; and comparing legislative practices and market competition policies when requested by the Assembly and central or local Governments.¹⁶ Pursuant to the law, the KCA should release special decisions when assessing small-value agreements, determining the abuse of dominant positions and providing administrative sanctions for violations, assessing the eligibility of mergers/concentrations, identifying measures for restoring competition, and determining necessary measures for undertakings not complying with KCA's decisions. Moreover, KCA may pursue unannounced inspections of businesses and their relevant documents, and if necessary, sequester items of interest, with judicial approval.¹⁷

Table 2: KCA cases/decisions 2016-2018

Year → Decisions ↓	2016 (Jun-Dec)	2017	2018 (Jan-Jul)	Total
Cartels	1	11	4	16
Dominant Position	0	1	2	3
Concentrations	1	2	5	8
Professional Opinions	2	5	0	7
Total	4	19	11	34

Source: Data retrieved from Kosovo Competition Authority's website

¹³ Koha Net (2018). "Kuvendi përgatitet për pushime, ligjet barten për miratim në vjeshtë" [Online] 7 July 2018. Available at: <https://www.koha.net/arberi/103789/kuvendi-pergatitet-per-pushime-ligjet-barten-per-miratim-ne-vjeshte/> [Accessed: 26 Aug 2018]

Kosovo's Assembly is usually on annual leave during August

¹⁴ European Commission. (2018). Kosovo 2018 Report. *Commission Staff Working Document*. Available at: <https://ec.europa.eu/neighbourhood-enlargement/sites/near/files/20180417-kosovo-report.pdf> [Accessed: 22 Aug 2018]

¹⁵ Kosovo Competition Authority. Mission . [Online] Available from: <http://ak.rks-gov.net/?cid=2,21> [Accessed: 12 July 2018]

¹⁶ Law on Protection of Competition no. 03/L-229, amended and supplemented by Law no. 04/L-226, art. 23, para. 1 and 2

¹⁷ Law on Protection of Competition no. 03/L-229, amended and supplemented by Law no. 04/L-226, art. 54

Regarding the cases handled and the decisions issued by the Authority, since the Commission recommenced its work (June 2016), there have been 34 cases handled, including professional opinions. The table above portrays the number of cases in different categories investigated from June 2016 until July 2018, whereas Box 1 provides detailed information regarding the cases. However, it is worth noting that cases investigated by the Authority and its annual work reports since its establishment (2008) until June 2016 are not publicly available.

Box 1: Cases investigated by the Authority

In 2016, the authority investigated only four (4) cases:

- Cartels (1) – Raspberry price fixing agreement in Podujeve;
- Concentrations (1) – Concentration between Phoenix Pharma DOOEL and Exclusive Pharma LLC;
- Professional Opinion (2) – Limak (Limited Ground Handling Service Incentive) and Ministry of Internal Affairs and Moneta (prohibited agreements).

In 2017, the Authority investigated a more considerable number of cases, amounting to 19:

- Cartels (11) – Price fixing agreements in Lipjan, Peja, and Mitrovica, complaint of hindering Post of Kosovo activities, price fixing agreement of processing and selling grain in Kosovo, conclusions on authorization of bodies for conformity assessment, decision on reserved area protection by market operators in Kosovo, on Trust vs Insurance economic operators (Vienna Insurance, Siguria), tendering of services and maintenance of vehicles (Ministry of Justice vs bidding companies), violation of competition (VIVA Fresh Store vs Municipality of Suhareke), and the request to obtain the licence for thermo mineral water (Visar Turkaj);
- Dominant Positions (1) – Abuse of dominant position (Liridon Aliu vs ‘24 Yjet’ enterprise)
- Concentrations (2) – British American Tobacco and Bulgar Tabac Holding, and CDC-Kosovo and Emona City;
- Professional Opinion (5) – Correction of the previous decision, signing of the cooperation agreement on the distribution of social assistance payment scheme among MLSW-BPB-PK, complaint of Railtrans enterprise against NP Trainkos for provision of services, assessment of the Law no. 05 / L-132 on vehicles and draft- administrative Instruction on determining the conditions and procedures for vehicle homologation.

From January - July 2018, the Authority investigated and issued decisions 11 cases:

- Cartels (4) – Price fixing agreement in Peja, conclusions on prohibited agreements or concerted practices of enterprises in tenders of the Ministry of Health, violation of the Law on Competition (IPKO vs VALA and Z-Mobile), and violation of possible market competition (IPKO and Digit Alb, SH.A);
- Dominant Positions (2) – Conclusions on abuse of dominant position of funeral services (various economic operators vs BIK) and abuse of dominant position in the market of digital cable services (Grupi Koha vs IPKO telecommunications);
- Concentrations (5) – request for notification on the concentration and decision on concentration between NewCo Ferronikeli Complex LLC and NKL Limited, request for notification on the concentration and decision on concentration between Neregelia Trading Ltd/Beta Group and All Balcans Corporation, and request for notification on the concentration between American Hospital and Hygeia Hospital.

The Authority neglected investigating core sectors characterized by monopolies and abuses of dominant position for a very long period. Nonetheless, the KCA has been tasked, as highlighted by the European Reform Agenda, to conduct research, investigate, and draft a report on the current state of monopolies in Kosovo. By the end of 2017, the Authority compiled a report which highlights the main findings regarding the market structure of enterprises and their dominant position on 14 different sectors/markets, including telecommunications, energy, insurance, petroleum products, pharmaceuticals, transport, media and cinematography, procurement, banking, fiscal equipment, gambling, mining, waste management, and water supply. The report also provides recommendations for relevant institutions and independent agencies on these 14 sectors/markets.¹⁸

In order to identify the cases of dominant position and monopolies in specific sectors, the Authority used the share of annual turnover of a specific company in proportion to the total annual turnover of other companies in the sector. Pursuant to the law, a company or enterprise which has more than 25 percent share of a specific sector is considered to have a dominant position.¹⁹ The analysis suggests that some of the investigated sectors are not competitive, subject to both situations of monopoly and of a single company enjoying a clear dominant position.²⁰ Given the fact that the Authority provided only a preliminary report on the current state of affairs, the report lacks detailed and thorough analysis as such, as well as an investigation of possible abuses of fair competition. Thus, the authority has a long way forward to regulate these markets in order to ensure a competitive free market in Kosovo.

As the report limited itself to portray a general view of the above mentioned 14 sectors, the Authority has been tasked to thoroughly analyse and investigate - until the end of 2018 - two crucial sectors of economic development in Kosovo, telecommunication and homologation.²¹ The former is composed of four sub-sectors: landline, mobile, internet provision, and the postal services. It should be noted that in all these sub-sectors one or two companies were determined to enjoy a dominant position. However, according to the Authority, regardless of having one or more dominant economic operators, these four telecommunication sub-sectors are considered either generally competitive or competitive to some degree.²²

Table 3: Dominant positions of companies in the telecommunication sector

Sub-sectors	Company	Dominant position (>25%)
Landline service	Kosovo Telecomm	80%
Mobile service	Kosovo Telecomm– Vala	59.8%
	Ipko Telecommunication LLC	32.6%
Internet provision	IPKO	48%

¹⁸ Kosovo Competition Authority (2017) "Report on Performance of Duties Deriving from the European Reform Agenda". Prishtinë. Available at: <https://ak.rks-gov.net/assets/cms/uploads/files/Report%20on%20ERA.pdf> [Accessed: 25 June 2018]

¹⁹ Law on Protection of Competition no. 03/L-229, amended and supplemented by Law no. 04/L-226, Article 10

²⁰ Kosovo Competition Authority (2017) "Report on Performance of Duties Deriving from the European Reform Agenda". Prishtinë. Available at: <https://ak.rks-gov.net/assets/cms/uploads/files/Report%20on%20ERA.pdf> [Accessed: 25 June 2018]

²¹ Interview with Mr. Valon Prestreshi, President of the Kosovo Competition Authority, 24 July 2018

²² Kosovo Competition Authority (2017) "Report on Performance of Duties Deriving from the European Reform Agenda". Prishtinë. Available at: <https://ak.rks-gov.net/assets/cms/uploads/files/Report%20on%20ERA.pdf> [Accessed: 25 June 2018]

	Kujtesa Net	25%
Postal services	Post of Kosovo	67.1%

Source: Authors' adaptation based on Kosovo Competition Authority's report on performance of duties deriving from the European Reform Agenda

The latter, on the other hand, is a service sub-category within the road transport sector. The homologation has been one of the topics highly debated and voiced from the civil society in Kosovo. Since 2009, the Ministry of Transport and Post Telecommunication (now Ministry of Infrastructure) signed a contract with one economic operator - EuroLab -, granting it the exclusive rights to provide homologation services for vehicles in Kosovo for a 10 year period. Since then, this economic operator, a natural monopoly, has been charging very high prices compared to other countries in the region and Europe. On the contrary, these countries properly regulate this sector by granting the opportunity to various companies to provide homologation services and simultaneously promote fair competition in the market.²³

Through this contract, the Ministry provided no scope for other economic operators to provide homologation services. In 2015, the Mustafa Government took a decision to initiate procedures for eliminating all activities against free competition, such as establishment or abuse of dominant position as well as practices that effect citizens.²⁴ Despite this decision, the situation of homologation deteriorated further when the Ministry of Infrastructure drafted the Administrative Instruction no. 2/2018 for determining the conditions and procedures for vehicle homologation, which hinders the liberalization of this sector. On this note, this AI suggests that the vehicle A-test, which until 2018 was conducted by the Faculty of Technical Sciences of the University of Prishtina, will be offered by the same company that currently provides vehicle homologation services. This in turn will further deepen the existing monopoly in this sector, by impeding other economic operators to enter the market.

Even though the Authority insistently recommended the Ministry to review certain provisions of the Administrative Instruction in contradiction with the Law on Protection of Competition, the Ministry approved it on April 12, 2018. Consecutively, the Authority expressed its concern towards the complete disregard of its recommendations and requested from the Ministry to immediately consider its opinion and amend these provisions. Furthermore, the Authority is determined to use all legal remedies and raise this issue to other relevant institutions.²⁵ Besides the Authority, civil society representatives have also opposed the approval of this AI that further deteriorates the situation of the existing monopoly in this sector.²⁶

²³ Pula, E., Elshani, D., and Ajeti, D. (2017) *The performance of the Kosovo Competition Authority*. Group for Legal and Political Studies. Available at: <http://www.legalpoliticalstudies.org/wp-content/uploads/2017/10/GLPS-Policy-Report-KCA-Performance.pdf>

²⁴ Government of the Republic of Kosovo. Decision no. 17/44. August 12, 2015. Available at: http://www.kryeministri-ks.net/repository/docs/Vendimet_e_Mbledhjes_se_44-te_te_Qeverise_se_Republikes_se_Kosoves_2015.pdf [Accessed: 20 June 2018]

²⁵ Press release. Kosovo Competition Authority. April 25, 2018.

²⁶ Osmani, T. (2018) "Trashja e monopolit në homologim" [Online] Kallxo.com 18 May 2018. Available at: <https://kallxo.com/gjnk/trashja-e-monopolit-ne-homologim/> [Accessed: 5 July 2018]

Until the approval of this AI, EuroLab had a monopoly on vehicle homologation, first technical inspection (violating the Law on Consumer Protection), and supervision of vehicle technical inspection centers.

Cooperation

The Kosovo Competition Authority has been constantly trying to establish good relations with other competition authorities in the region and beyond, in order to share expertise, experience, and best practices of market investigation. On this note, in 2018 KCA signed memorandums of understanding with competition authorities of Croatia and Turkey. The main aim of these MoUs is to enhance the efficiency of the respective Authorities through exchange of legislative information, experience on investigative cases, experts and best practices, law enforcement and competition policies, as well as organize mutual study visits, trainings and consultations on various competition matters. The close cooperation between these authorities is expected to lead towards the enhancement of bilateral relations, as fair market competition remains one of the crucial pillars of economic development. According to the Chairman of the Commission, the Authority is in the process of signing another memorandum with Austria in order to further enhance their bilateral relations and share experiences based on successful market investigation cases.²⁷ Moreover, the Authority is benefiting from a twinning project aiming to support Kosovo institutions on the implementation of the SAA, funded by the European Union.²⁸

In the regional context, a sub-committee on competition and state aid will be created by CEFTA member states through a regional memorandum. It aims to create a regional online program for the exchange of databases among CEFTA countries in order to share experiences and procedures related to the investigated cases on competition. This memorandum is expected to be finalized by the end of this year.²⁹ As a result, this would positively contribute in the KCA's investigative technique.

Challenges/Issues faced by the Authority

The KCA encountered several challenges which negatively affect and undermine its work and performance.

- First, the professional opinions provided by the Authority are not always considered by relevant institutions, such as the recent case of vehicle homologation. Despite repeated warnings from the Authority, the Ministry moved forward with the AI that deepened an already identified monopolistic situation.
- Second, the Authority is rarely consulted by other Institutions when laws and regulation affecting competition area are drafted, amended or supplemented. This results in a possible conflict/mismatch among the existing and new laws.
- Third, judges handling competition cases lack adequate expertise in the field, substantially protracting procedures. Moreover, the courts tend to concentrate on procedural questions, side-lining the substance of competition cases.³⁰

3. Competition under SAA

The Stabilization and Association Agreement (SAA) is the first contractual relation between Kosovo and the European Union, within the framework of the SAP, which paves the way towards European integration for Western Balkan countries. The SAA anchors various chapters, including

²⁷ Interview with Mr. Valon Prestreshi, President of the Kosovo Competition Authority, 24 July 2018

²⁸ Ibid

²⁹ Ibid

³⁰ Interview with Mr. Valon Prestreshi, President of the Kosovo Competition Authority, 24 July 2018

political dialogue, regional cooperation, free movement of goods, approximation with the EU acquis, law enforcement and competition rules, freedom, security and justice and, financial cooperation.

Through the SAA, Kosovo's institutions should implement a series of reforms within a specified timeframe. On this note, in order to expedite this cumbersome process and reap all the benefits stemming from the agreement, the implementation of the SAA relies on two main frameworks: the National Programme for the Implementation of the SAA (NPISAA), and the Action Plan for the Implementation of the Key Priorities deriving from ERA.

a) Monitoring Methodology

The main objective of this study is to assess and monitor the performance of Kosovo's institutions towards meeting the criteria deriving from SAA, with special focus on monitoring the achievement of measures and priorities falling under the competition area identified in the NPISAA and ERA. Relevant institutions were contacted through email, phone or face-to-face meetings. Institutions which were monitored included the Kosovo Competition Authority, the Agency of Statistics the Assembly, the Office of Prime Minister, and the Ministries of Trade and Industry, Finance, and Economic Development.

The monitoring results, portrayed in the Assessment Table below, highlight the progress and the remaining challenges of relevant institutions from January to June 2018. More precisely, the Assessment Table categorizes the progress of the measures and indicators in five categories: a) achieved, b) partially achieved, c) not achieved, d) work-in-progress, and e) no information provided.³¹

b) Monitoring Results - NPISAA

The newly revised NPISAA 2018-2022 priorities, short and medium term, are categorized into three main blocks: Political Criteria, Economic Criteria and European Standards - Approximation of Kosovo's Legislation with the EU acquis. The latter, Block III, includes a variety of public policies which require reforming of the entire government through the harmonization of the national legislation with the EU acquis, accompanied by necessary administrative capacities. The third Block is composed of 36 chapters, including the one on the Competition Policies.³² In general, this Chapter focuses on the agreements between enterprises, abuse of dominant position and mergers and acquisitions.³³ This said, the NPISAA has foreseen several short and mid-term objectives to be fulfilled by relevant institutions which regulate market competition.

NPISAA 2017 foresaw a number of relevant Administrative Instructions to be issued by the relevant institutions, both the Kosovo Competition Authority and the Ministry of Trade and Industry. All the SAA objectives foreseen for 2017 were fulfilled:

- Administrative Instruction on group exemptions for horizontal agreements;
- Administrative Instruction on group exemptions for vertical agreements;
- Administrative Instruction on group exemptions for agreements in the insurance sector;

³¹ d) Work-in-progress- All measures foreseen to be finalized during the 3rd or 4th quarter of the year.

e) When no information is provided by relevant institutions, such measures and indicators are classified as 'no information provided'.

³² Block III is composed of 35 chapters and one chapter on the legal framework for the approximation of the legislation

³³ National Programme for the Implementation of the Stabilization and Association Agreement (NPISAA) 2018 – 2022. May 2018. Prishtinë

- Administrative Instruction on group exemptions for agreements in the transport sector, and,
- Administrative Instruction on group exemptions for agreements in the sector of distribution and vehicle servicing.

According to NPISAA 2018, in order to continue the approximation with the acquis the following regulations need to be enacted:

- the amendment and supplementation of the Law No. 03 / L-229 on Protection of Competition,
- Administrative Instruction on determination of fines, and
- Administrative Instruction for determining the relevant market.

According to the Chairman of KCA, the procedures for these three national acts have been initiated and are in progress, foreseen to be finalized by the 4th quarter of 2018.³⁴

Similarly, the regulatory act regarding State Aid which should be harmonized with the EU acquis by the end of 2018 is the amendment and supplementation of the Regulation on Procedures and Format of Notification for State Aid. The State Aid Department already finished the draft of this regulatory act which has been sent to relevant institutions for further approval procedures.³⁵

c) Monitoring results – ERA

The European Reform Agenda is a document drafted by the Government of Kosovo and the European Commission with the purpose of supporting and accelerating the implementation of the Stabilization and Association Agreement. ERA, composed of short term priorities aiming to maximise the economic and political benefits stemming from SAA, is categorized into three main areas: Rule of Law and Good Governance, Competitiveness and Investment Climate, and Education and Employment. For the purpose of this study, we have closely monitored the implementation of the 2nd pillar - Competitiveness and Investment Climate.

Initially, the Competitiveness and Investment Climate pillar was composed of seven (7) measures, decomposed into 75 actions and indicators. The priorities include:

- Promoting the foreign direct investment;
- Improving the business environment;
- Systematically implementing and adopting the strategy and action plan to fight the informal economy;
- Supporting the SME development;
- Developing a number of sectoral statistics key to policy making in the area of national accounts, trade and business statistics, energy and social statistics;
- Enhancing the regional connectivity;
- Enhancing energy security and adopting a comprehensive energy strategy for the period 2017-2026.³⁶

³⁴ Interview with Mr. Valon Prestreshi, President of the Kosovo Competition Authority, 27 August 2018

³⁵ Interview with Ms. Antoneta Shtufi Gojani, Senior Official for Control Surveillance of State Aid, State Aid Department, 21 August 2018

³⁶ European Reform Agenda (ERA) (2016) Kosovo – EU High Level Dialogue on Key Priorities. Prishtinë. Available at: https://www.meiks.net/repository/docs/era_final.pdf [Accessed: 12 July 2018]

During 2017, the monitoring results for the Competitiveness and Investment Climate pillar showed that the 32.9 percent of actions and indicators were achieved, 53.7 percent of them were partially achieved, and 13.4 percent were not achieved. With regards to the competition area, the main measure for relevant institutions was to align legislation and enhance the capacity of the Competition Authority and the State Aid bodies, composed of four (4) indicators:

- a) Strengthen internal procedures and capacity in the Kosovo Competition Authority to conduct investigations – This indicator was partially achieved in 2017. KCA has constantly requested an increase in budget, especially in the category of wages and salaries. This request was approved for the 2018 budget, which led to KCA increasing the number of staff by four employees. Thus, this indicator was fully fulfilled in 2018.
- b) Competition Authority to research and prepare a report in the state of play of monopolies in the market in Kosovo with appropriate recommendations – This indicator was fully achieved in 2017. KCA compiled a report which highlights the state of affairs in the competition area, assessing the market structure of enterprises and any situation of dominant position on 14 different sectors/markets. The report also provides recommendations for relevant institutions and independent agencies, and was submitted to the Assembly, the Government, and the European Commission.
- c) Align and amend the Law on State Aid and align the secondary legislation – This indicator was fully achieved in 2017. The Draft Law on State Aid was approved by the Government on May 2016, and passed into Law by the Assembly on December 2016. The Law on State Aid then entered into force after its publication in the Official Gazette on January 2017.
- d) The law on State Aid ensures the operational independence of and sufficient capacity for the State Aid Commission to improve the effectiveness of its control on State Aid – This indicator was fully achieved in 2017. The Law on State Aid provides that the State Aid Commission should consist of five (5) members, independent experts in the field of state aid for a term of three (3) years.

Regarding 2018, the 2nd pillar - Competitiveness and Investment Climate – is composed of 12 measures grouped into five (5) different categories: promoting foreign direct investment, improving business environment, statistics, interconnectivity agenda, and energy. These 12 measures are decomposed into 44 actions and indicators, falling within the five mentioned categories. The monitoring results show that 38.64 percent of measures and indicators were *achieved*, 11.36 percent are *partially achieved*, 13.63 percent are *not achieved*, and 36.36 percent of them are still *work-in-progress* which should be fulfilled either during the 3rd or 4th quarter of 2018. It should be noted that during this monitoring phase relevant institutions pertaining to the 2nd pillar were cooperative and provided information requested for the progress of each measure; thus, there are no measures classified in the category '*no information provided*'. Since actions and indicators *not achieved* and *partially achieved* compose 25 percent of all measures of the 2nd pillar, there should be a higher dedication and willingness from relevant institutions to fulfil these measures and accelerate the process of SAA implementation.

During this monitoring process, relevant institutions managed to approve the Law on Accounting, Financial Reporting and Audit, the Energy Strategy 2017-2026, improve the production and publication of short-term business statistics, and, amongst others, improve the publication

results of statistics for Labour Force Survey. For a detailed progress on each measure pertaining to this pillar, refer to the Assessment Table below.

However, even though ERA is considered as a tool to successfully implement the Agreement, the monitoring results for 2018 show that institutions did not fully commit to achieve all the indicators foreseen for this period. More precisely, relevant institutions failed to restructure the Kosovo Investment Agency, develop its capacities and establish an advisory board within it; functionalize the Commission on State Aid; and create the fund for the energy efficiency.

Table 4: Assessment of ERA

I. FOREIGN DIRECT INVESTMENT PROMOTION

A. RESTRUCTURING OF KOSOVO INVESTMENT AND ENTERPRISE SUPPORT AGENCY - KIESA

RESPONSIBLE INSTITUTION	MINISTRY OF TRADE AND INDUSTRY	MINISTRY OF TRADE AND INDUSTRY	MINISTRY OF TRADE AND INDUSTRY
PRIORITIES	A.1) Restructuring of KIESA to enable it to efficiently fulfill its responsibilities and implement priorities, distribute the needed sources and recruit qualified employees	A.2) Development of capacities of the personnel in KIESA to design and implement services and programs	A.3) Establishment of the Advisory Board within KIESA with the participation of the business community and a strong inclusion of the Office of the Prime minister
STATUS	NOT ACHIEVED	NOT ACHIEVED	NOT ACHIEVED
TIMEFRAME	Q1 2018	Q1 2018	Q1 2018
PROGRESS	<p><u>PROGRESS DURING K1 AND K2 2018</u></p> <p>The Ministry of Trade and Industry should propose to the Government the organizational structure of KIESA, which is foreseen to be done jointly with the Regulation for the inner organization of MTI as agreed upon in the meeting of the Ministerial Council for Integration.</p>	<p><u>PROGRESS DURING K1 AND K2 2018</u></p> <p>Given the restructuring of KIESA has not been achieved by the responsible institutions, the capacity development of KIESA's employees for the design and implementation of services and programs has not been done yet.</p>	<p><u>PROGRESS DURING K1 AND K2 2018</u></p> <p>The draft-list of the members of Team Kosova and KIESA Advisory Board has been prepared and sent for approval to the Ministry. MTI should send to the Government for approval the draft decision for the establishment of the Advisory Board.</p>

B. THE APPROVAL OF THE AFTER-CARE PROGRAM AND SERVICES FOR INVESTORS

RESPONSIBLE INSTITUTION	MINISTRY OF TRADE AND INDUSTRY
PRIORITIES	B.1) Preparation and initiation of implementation of services and after-care programs for investors
STATUS	WORK IN PROGRESS
TIMEFRAME	Q1 2018
PROGRESS	<u>PROGRESS DURING K1 AND K2 2018</u> The approval of the after-care program and services for investors should be approved by the end of September 2018. However, it should be noted that this program cannot be approved until the restructuring of KIESA is finalized.

II. BUSINESS ENVIRONMENT IMPROVEMENT

C. APPROVAL OF THE LAW ON FINANCIAL REPORTING, ACCOUNTING AND AUDITING

RESPONSIBLE INSTITUTION	ASSEMBLY
PRIORITIES	C.1) Approval of the Law by the Assembly
STATUS	ACHIEVED
TIMEFRAME	Q1 2018

PROGRESS DURING K1 AND K2 2018

PROGRESS

The Law was approved by the Assembly on March, 30, 2018, whereas it was published in the official gazette of the Republic of Kosovo on April, 19, 2018. Even though the Law has been approved, the Assembly has decided that the Law should enter into force in January 2019.

D. UPDATING THE CENTRAL REGISTER FOR PERMITS AND LICENSES

RESPONSIBLE INSTITUTION	THE PRIME MINISTER OFFICE	THE OFFICE OF PRIME MINISTER
PRIORITIES	D.1) The forms for permits/licenses have been sent for translation in Albanian and English PMO	D.2) Promotion events for the updated version of the register have been organized
STATUS	NOT ACHIEVED	PARTIALLY ACHIEVED
TIMEFRAME	Q2 2018	Q2 2018
PROGRESS	<p><u>PROGRESS DURING K1 AND K2 2018</u></p> <p>The Central Register of Permits and Licenses, https://lejelicenca.rks-gov.net, is translated in Albanian, Serbian and English languages. The updated version contains information for around 488 permits/licenses issued from 25 central institutions in 21 fields of economic activity, i.e., permits, licenses, certificates, authorizations.</p>	<p><u>PROGRESS DURING K1 AND K2 2018</u></p> <p>The events to promote the new updated version of the electronic register for permits/licenses are dependent on the agenda of the Prime Minister and representatives of the World Bank. However, they are expected to be held during the upcoming quarter.</p>

E. APPROVAL OF LAW ON INSPECTIONS

RESPONSIBLE INSTITUTION	GOVERNMENT	MINISTRY OF TRADE AND INDUSTRY	MINISTRY OF TRADE AND INDUSTRY
PRIORITIES	E.1) Approval of Concept document from the Government	E.2) A drafted law on general inspections	E.3) Public consultations with civil society and other relevant actors have been held
STATUS	ACHIEVED	WORK IN PROGRESS	WORK IN PROGRESS
TIMEFRAME	Q3 2018	Q3 2018	Q3 2018
PROGRESS	<p><u>PROGRESS DURING K1 AND K2 2018</u></p> <p>The concept document was drafted by the inter-ministerial group and approved by the government on March, 9, 2018.</p>	<p><u>PROGRESS DURING K1 AND K2 2018</u></p> <p>The working group during the first six months of 2018 has only drafted the concept document. This action is foreseen to end during the third quarter of 2018.</p>	<p><u>PROGRESS DURING K1 AND K2 2018</u></p> <p>The working group during the first six months of 2018 has only drafted the concept document. This action is foreseen to end during the third quarter of 2018.</p>
RESPONSIBLE INSTITUTION	GOVERNMENT	ASSEMBLY	
PRIORITIES	E.4) Approval of draft law by the Government	E.5) Approval of the draft law by the Assembly	
STATUS	WORK IN PROGRESS	WORK IN PROGRESS	
TIMEFRAME	Q3 2018	Q3 2018	
	<u>PROGRESS DURING K1 AND K2 2018</u>	<u>PROGRESS DURING K1 AND K2 2018</u>	

PROGRESS	The working group during the first six months of 2018 has only drafted the concept document. This action is foreseen to end during the third quarter of 2018.	The working group during the first six months of 2018 has only drafted the concept document. This action is foreseen to end during the third quarter of 2018.
----------	---	---

F. APPROVAL OF SECONDARY LEGISLATION FOR STATE AID AND OPERATIONALIZATION OF THE COMMITTEE AND DEPARTMENT FOR STATE AID

RESPONSIBLE INSTITUTION	MINISTRY OF FINANCE	MINISTRY OF FINANCE	ASSEMBLY
PRIORITIES	F.1) Approval of secondary legislation for State Aid	F.2) Operationalization of the Department for State Aid	F.3) Operationalization of the Committee for State Aid
STATUS	PARTIALLY ACHIEVED	ACHIEVED	NOT ACHIEVED
TIMEFRAME	Q2 2018	Q2 2018	Q2 2018
PROGRESS	<p><u>PROGRESS DURING K1 AND K2 2018</u></p> <p>Up to now two regulations have been drafted: draft-regulation for the procedures of notifications for State aid and draft-regulation for the work of the Committee for State Aid. Draft-regulation for the Procedures and Format of Notification for State Aid after being finalized from the Working Group, has been sent to the Legal Department for the final consultations before it is open for public</p>	<p><u>PROGRESS DURING K1 AND K2 2018</u></p> <p>The director for the State Aid Department has been appointed and other employees were employed by May, 2018. The functionalities of the State Aid Department are regulated with Article 8 of the Law no. 05/L-100 for State Aid.</p>	<p><u>PROGRESS DURING K1 AND K2 2018</u></p> <p>The Committee for State Aid has to be elected from the Assembly and the Law on State Aid stipulated that the Commission should be constituted of five members not affiliated with politics with a three-year mandate. The vacancy for selection of candidates has been announced in July, 2018, after the second quarter of 2018.</p>

consultations.

G. IMPLEMENTATION OF PLAN TO FIGHT INFORMAL ECONOMY

RESPONSIBLE INSTITUTION	MINISTRY OF FINANCE	MINISTRY OF FINANCE	MINISTRY OF FINANCE
PRIORITIES	G.1) Conduct independent sectorial risk assessment.	G.2) Review/Approval of the Plan of Action considering the findings from the risk assessment	G.3) Further improvement of tax compliance and implementation to protect the fiscal interest of the country
STATUS	ACHIEVED	ACHIEVED	ACHIEVED
TIMEFRAME	Q3 2018	Q3 2018	Q3 2018
PROGRESS	<p><u>PROGRESS DURING K1 AND K2 2018</u></p> <p>In 2017, gambling, construction and real estate sectors have been assessed. During 2018, NGO sector risk assessment has finished, as such, completing three risk assessments. After finishing the risk assessment, the working group has approved the final reports and submitted them for approval in the Ministry of Finance.</p> <p>This objective is considered accomplished for this time period, but it is still work-in-progress.</p>	<p><u>PROGRESS DURING K1 AND K2 2018</u></p> <p>In October 2017, the Secretariat of the Permanent Group for Prevention of Informal Economy was created. The final report of the informal economy assessment together with the risk assessment has served for drafting the action plan in 2018, approved in June. These findings will serve to draft the new strategy to fight the informal economy and money laundering 2019-2024, which will be examined during 2018.</p>	<p><u>PROGRESS DURING K1 AND K2 2018</u></p> <p>During the first quarter 2018, TAK has generated 7,084 visits through which it has issued 555 mandatory fines. It also had around half a million Euros decrease in the VAT crediting and around 2 million Euros decrease in losses. During this period, 220 controls have been conducted and around 9 million Euros in decreased losses. There were also 595 visits to businesses that have not been fiscalized and businesses which do not issue fiscal coupons; 171 mandatory fines were issued for a value of around 35 thousand euros. During the first three months, there were 46 activities against tax</p>

evasion, 29 interviews with suspects and witnesses, 67 consultations with prosecutors and 10 cases for suspecting tax avoidance. There were also 22 intelligence information with the FIUK, Police and Kosovo Customs.

RESPONSIBLE INSTITUTION	MINISTRY OF FINANCE	MINISTRY OF FINANCE
PRIORITIES	G.4) Empowerment of the inter-institutional access and mechanisms in the field of money laundry, financial crime, terrorism financing and corruption, including prevention, investigations, evaluations and operations	G.5) Regularly prepared, consulted and published quarter reports
STATUS	WORK IN PROGRESS	ACHIEVED
TIMEFRAME	Q3 2018	Q3 2018
PROGRESS	<p><u>PROGRESS DURING K1 AND K2 2018</u></p> <p>Kosovo joined the Egmont Group organization of Financial Intelligence Units in February, 2017. The number of requests for international cooperation has increased as a result of the membership in 2017, but in 2018 as well. As such, during the first quarter of 2018, FIUK has accepted 37(IRD) requests for information from the law enforcement; whereas FIUK has sent 69 (ORD) requests for information to the reporting and law enforcing agencies.</p>	<p><u>PROGRESS DURING K1 AND K2 2018</u></p> <p>The quarter report from the Ministry of Finance should have started in 2017. This objective has been postponed to be finalized until the end of September, 2018. However, according to the report in MEI, reports for 2015 and 2016 are prepared and published in the Ministry of Finance website. According to the website of the Ministry of Finance, the annual financial report 2017 was published in April. MF has drafted the quarter financial report for January-March period published in</p>

Internationally, 3 (IRI) requests for information have been sent and 3 (ORI) requests for information sent from FIUK to their international homologues. As such, FIUK has issued a freezing order worth 230 thousand euros and 26 thousand American dollars towards a domestic company. They also participated in international meetings related to risk assessment, in the capacity of Egmont Group member.

May, 2018, a month later than the completion of the first quarter. This objective will continue to be monitored in order to see if the upcoming quarter reports will be published regularly.

H. THE APPROVAL OF THE LEGAL PACKAGE TO IMPROVE THE INFRASTRUCTURE AND QUALITY STANDARDS, AND OPERATIONALIZATION OF FOUR METROLOGY LABORATORIES

RESPONSIBLE INSTITUTION	MINISTRY OF TRADE AND INDUSTRY	MINISTRY OF TRADE AND INDUSTRY	MINISTRY OF TRADE AND INDUSTRY	MINISTRY OF TRADE AND INDUSTRY
PRIORITIES	H.1) Advancement and regular update of the website	H.2) Organizing 10 workshops to inform businesses for the website promotion	H.3) Organizing 30 modules for human capacity development regarding infrastructure and quality standards	H.4) Approval of 1500 standards focused in the harmonized area
STATUS	ACHIEVED	WORK IN PROGRESS	WORK IN PROGRESS	WORK IN PROGRESS
TIMEFRAME	Q3 2018	Q3 2018	Q3 2018	Q3 2018
PROGRESS	<u>PROGRESS DURING K1 AND K2 2018</u> MTI's website has been redesigned and filled with data in 2017 and continues to be	<u>PROGRESS DURING K1 AND K2 2018</u> The organization of 10 workshops has started in 2016 and has continued in 2017; but	<u>PROGRESS DURING K1 AND K2 2018</u> During 2018 officials of relevant fields have participated in different trainings or business	<u>PROGRESS DURING K1 AND K2 2018</u> During the first half of 2018, Technical Committees within Kosovo Standardization Agency

	updated on daily basis in 2018, too. It is an ongoing activity.	they have not finished in the fourth quarter of the last year, as foreseen by the agreement with the EU. In May and June, 2018, a conference to denote the World Metrology Day and a manifestation for the World Accreditation Day were held.	meetings outside of the country such as the business meeting with Quality Infrastructure institutions, organized from the Quality Infrastructure project in Western Balkan Countries, financed by SIDA in Stockholm; SIDA Project Steering Committee Meeting in Stockholm; Regional Forum for Market Supervision in Sarajevo; Training related to the implementation of ISO/IEC 17025:2017 (NE16) in Belgrade; and Conference on legal Metrology (NE17) in Belgrade.	(KAS) have adopted as Kosovo standards 544 European EN and international ISO/IEC standards in the following areas: 167 in Environment, 74 in Oil Derivatives, 1 in Metrology and 312 in electrotechnics. In total, for a year and a half, 1191 standards have been approved.
RESPONSIBLE INSTITUTION	MINISTRY OF TRADE AND INDUSTRY	MINISTRY OF TRADE AND INDUSTRY	ASSEMBLY	MINISTRY OF TRADE AND INDUSTRY
PRIORITIES	H.5) Furnishing existing metrology laboratories	H.6) Drafting the Law on Services and consultations with civil society and other relevant actors	H.7) Approval of the Law on Services	H.8) Establishment and operationalization of the only contact point for services
STATUS	WORK IN PROGRESS	ACHIEVED	ACHIEVED	WORK IN PROGRESS
TIMEFRAME	Q3 2018	Q3 2018	Q3 2018	Q3 2018
PROGRESS	<u>PROGRESS DURING K1 AND K2 2018</u> Equipment furnishing for 6 labs, e.g. of pressure, precious	<u>PROGRESS DURING K1 AND K2 2018</u> The drafting of the Law on Services, consultations, and its	<u>PROGRESS DURING K1 AND K2 2018</u> The drafting of the Law on Services, consultations, and its	<u>PROGRESS DURING K1 AND K2 2018</u> The Administrative Instruction on The Manner of Functioning of the

metals, force, temperature measurement, relative humidity, time and frequency, has been completed. The two-day training for capacity enhancement to use these laboratories has been conducted as well. Equipment furnishing for the existing metrology labs occurs on annual basis. For 2018, a bid was announced for lab equipment furnishing and the bid opening is expected to happen soon.

approval have been completed in 2017. The Law has been approved and published in the official gazette on April 3, 2017.

approval have been completed in 2017. The Law has been approved and published in the official gazette on April 3, 2017.

Point of Single Contact was drafted in 2017 and approved by the Government on March 16, 2018. However, the single point of contact is not operational yet.

I. THE IMPLEMENTATION OF ELECTRONIC PROCUREMENT IN CENTRALIZED PROCUREMENT

RESPONSIBLE INSTITUTION	MINISTRY OF FINANCE
PRIORITIES	I.1) The implementation of electronic procurement in centralized procurement continues
STATUS	ACHIEVED
TIMEFRAME	K3 2018
PROGRESS	<p><u>PROGRESS DURING K1 AND K2 2018</u></p> <p>During 2017, the amendments for the law on electronic platform of procurement have been implemented, central and local level officials have been trained and certified, and the government has started publishing standard procurement contracts data. All foreseen actions have</p>

been completed. Bidding for high and medium values is being conducted in an electronic manner.

III. STATISTICS

J. DEVELOPMENT OF BUSINESS, ENERGY AND SOCIAL SECTORIAL STATISTICS

RESPONSIBLE INSTITUTION	KOSOVO AGENCY OF STATISTICS	KOSOVO AGENCY OF STATISTICS	KOSOVO AGENCY OF STATISTICS
PRIORITIES	J.1) Delays in reduced publication for annual and quarter GDP and statistics on government accounts, including timely publication of financial statistics of the government with ESA 2010 methodology	J.2) Generating and publishing improved short-term business statistics (industrial production volume and price indexes)	J.3) Results from Labor Force Survey, in quarter basis, with improved quality
STATUS	ACHIEVED	ACHIEVED	ACHIEVED
TIMEFRAME	Q3 2018	Q3 2018	Q3 2018

PROGRESS	<u>PROGRESS DURING K1 AND K2 2018</u> Currently, the GDP is regularly published on quarterly basis, in accordance with ESA2010 methodology and Eurostat calendar (T+ 90 days). Moreover, the deadline to publish the annual GDP is shorter. Government accounts for the first quarter of 2018 have been published on June 22, 2018. The abovementioned publications are done in compliance with ESA 2010 where 36% of the methodology has been applied.	<u>PROGRESS DURING K1 AND K2 2018</u> Statistics and the industrial production publication should have been finalized by the end of 2017. However, in 2017 the only data that were published were on industrial production turnover according to economic activities. Kosovo Agency of Statistics (KAS) has published for the first time Short Term Industry Statistics, on June 29, 2018, which includes the industrial volume for the first quarter (Q1) 2018 (2017 = 100). Whereas, on March 12, 2018 was published the harmonized consumer price index for 2017.	<u>PROGRESS DURING K1 AND K2 2018</u> From the beginning of April until December 5, 2017 KAS has published four Labor Force Surveys (LFS) on annual and quarterly basis as per the foreseen deadline in the KAS Publishing Calendar. The LFS in the fourth quarter of 2017 has been published on March 19th, 2018 and the annual data were published on March 20, 2018. The LFS data for the first quarter of 2018 have been published on June 18, 2018, which means they only needed 18 days for publication, showing an improvement in the speed of publishing data.
RESPONSIBLE INSTITUTION	KOSOVO AGENCY OF STATISTICS	KOSOVO AGENCY OF STATISTICS	
PRIORITIES	J.4) Survey on income and living conditions	J.5) Publishing reduced energy statistics and annual energy efficiency statistics generated in compliance with international standards	
STATUS	ACHIEVED	WORK IN PROGRESS	
TIMEFRAME	Q3 2018	Q3 2018	
PROGRESS	<u>PROGRESS DURING K1 AND K2 2018</u> During April 1 – November 30, 2017, preparatory activities and planning for time and resources for the field survey have	<u>PROGRESS DURING K1 AND K2 2018</u> Energy efficiency statistics for 2011-2016(for industry sector and households) were published for the first time on March 9, 2018	

been carried out. The Household Budget Survey (HBS) for 2017 was published in KAS' website on June, 12, 2018.

whereas, for the service and transport sector, they will be published at a later stage. According to the last decision of the Prime Minister, these need to be completed by the end of September this year.

IV. INTERCONNECTIVITY AGENDA

K. IMPLEMENTATION OF ALL "SOFT MEASURES" WITHIN THE INTERCONNECTIVITY AGENDA

RESPONSIBLE INSTITUTION	MINISTRY OF ECONOMIC DEVELOPMENT – ERO, KOSTT.	MINISTRY OF ECONOMIC DEVELOPMENT – ERO, KOSTT.	MINISTRY OF ECONOMIC DEVELOPMENT – ERO, KOSTT.
PRIORITIES	K.1) Approval of the secondary legislation, derived from the primary one	K.2) Establishment of a joint electricity Market with Albania	K.3) Establishment of electricity shares Market with Albania – KOSTT (one day ahead and during the day)
STATUS	ACHIEVED	WORK IN PROGRES	WORK IN PROGRESS
TIMEFRAME	Q3 2018	Q3 2018	Q3 2018
PROGRESS	<p><u>PROGRESS DURING K1 AND K2 2018</u></p> <p>On, March 29, 2018, the Government has approved the One-Stop-Shop Regulation for renewable energy. The rule to establish the prices of the electricity public supplier does not exist anymore, and it has been replaced with the "Methodology to determine the</p>	<p><u>PROGRESS DURING K1 AND K2 2018</u></p> <p>This issue has been put on hold due to the lack of implementation of the reached agreement with Serbia.</p>	<p><u>PROGRESS DURING K1 AND K2 2018</u></p> <p>The new electricity suppliers for the Republic of Kosovo are:</p> <ul style="list-style-type: none"> • "KESC" j.s.c • "HEP-KS" l.t.d. • "GSA ENERGY" l.t.d.

	price for offering universal services” which was approved on April, 2017.	
RESPONSIBLE INSTITUTION	MINISTRY OF ECONOMIC DEVELOPMENT – ERO, KOSTT.	MINISTRY OF ECONOMIC DEVELOPMENT – ERO, KOSTT.
PRIORITIES	K.4) Implementing the Agreement between KOSTT – EMS	K.5) Harmonizing KOSTT network code with that of ENTSO-E
STATUS	WORK IN PROGRESS	WORK IN PROGRESS
TIMEFRAME	Q3 2018	Q3 2018
PROGRESS	<u>PROGRESS DURING K1 AND K2 2018</u> The Energy Committee recently was asked by the Government of Germany to facilitate the negotiations between KOSTT and EMS due to huge delays in the operationalization of the interconnectivity line.	<u>PROGRESS DURING K1 AND K2 2018</u> KOSTT has transposed the dispositions from Demand Connection Code (Rule 2016/1388) and Requirements for Grid Connection of Generators (Rule 2016/631) in the KOSTT Network Code. KOSTT has finished this process. The draft version with the respective transpositions of this Code has been sent for examination/approval in the Governance Committee for Operation Codes (GCOC) and in the end is sent for approval in the ERO.

- "SHARRCEM" I.t.d.
- "JAHA Company" I.t.d.
- Future Energy Trading and Exchange Dynamics" I.t.d.

IV. ENERGY

L. INCREASE OF ENERGY SECURITY AND APPROVAL OF THE COMPREHENSIVE STRATEGY FOR ENERGY FOR 2017-2026 PERIOD

RESPONSIBLE INSTITUTION	MINISTRY OF ECONOMIC DEVELOPMENT	MINISTRY OF ECONOMIC DEVELOPMENT	MINISTRY OF ECONOMIC DEVELOPMENT
PRIORITIES	L.1) Approval of energy strategy 2017-2026 from the Assembly	L.2) Approval of implementation program of the energy strategy 2018-2020	L.3) New investments in generating electricity
STATUS	ACHIEVED	PARTIALLY ACHIEVED	PARTIALLY ACHIEVED
TIMEFRAME	Q1 2018	Q1 2018	Q1 2018
PROGRESS	<p><u>PROGRESS DURING K1 AND K2 2018</u></p> <p>The Assembly of Kosovo has approved the Energy Strategy for the Republic of Kosovo 2017-2026 on January 26th, 2018. The strategy was approved with 41 votes in favor, 18 against and 9 abstentions.</p>	<p><u>PROGRESS DURING K1 AND K2 2018</u></p> <p>The program for the implementation of the energy strategy has begun in February, 2018 (immediately after the approval of the energy strategy 2017-2026). The document is completed; it has passed all the phases of public consultations (from May 14 to June 1, 2018) and all the statements/opinions from MEI, MF and the office for strategic planning have been obtained. The document is being prepared to be sent to government for approval. Since it was not approved in 2017 as it was foreseen, the program for implementation includes the 2018-2020 period</p>	<p><u>PROGRESS DURING K1 AND K2 2018</u></p> <p>MED reports the investments within the renewable energy sources. Hydropower plants with final authorizations that have become operational with an installed capacity of 31.25MW. Capacities based on final authorizations issued by ERO for 61.9 MW – Hydro energy are in process. Solar photovoltaic energy – capacities of 0.6kW are operational. Wind energy – the capacity of 1.35 is operational, whereas the final authorization has been issued for the capacity of 32.4 MW.</p>

RESPONSIBLE INSTITUTION	MINISTRY OF ECONOMIC DEVELOPMENT	MINISTRY OF ECONOMIC DEVELOPMENT
PRIORITIES	L.4) Drafting and approving the action plan for renewable energy resources	L.5) Creating the Fund for Energy Efficiency
STATUS	PARTIALLY ACHIEVED	NOT ACHIEVED
TIMEFRAME	Q1 2018	Q1 2018
PROGRESS	<p><u>PROGRESS DURING K1 AND K2 2018</u></p> <p>According to MED, the action plan for renewable energy (reviewed) is drafted, translated in three languages, formatted and it's currently in the public consultation phase. Public consultation will last from July 12 to August 1, 2018, which means, it will end in the third quarter. As soon as this consultation phase end, it will be further processed for approval in the government.</p>	<p><u>PROGRESS DURING K1 AND K2 2018</u></p> <p>Energy Efficiency Fund is part of the draft law for Energy Efficiency, which is already in assembly procedures for approval. Since the law is not approved yet, the fund has not been created either.</p>

4. Conclusion

Competition policies remain crucial for the well-functioning of a market economy and the protection of free and fair competition. The Kosovo Competition Authority holds a vital role for the economic development by ensuring the creation of competitive markets, as well as protecting consumers. As elaborated in the study, KCA, after a long period of inactivity, resumed its functions in June 2016 after the successful approval of members for the Commission. Even though since then the Authority has been active and carried out its responsibilities, it still has a long way forward in order to ensure a well-functioning economy and free and fair market competition. In this regards, the specialization of judges handling the competition cases, a well-harmonized legislative framework which does not produce additional conflicting laws and regulations, and a higher degree of consideration of Authority's opinions by relevant institutions would only smooth and pave the way for an effective and result-oriented performance of the Authority.

Competition policies represent a crucial chapter of the SAA, implementation of which has been facilitated by the NPISAA and the ERA. On this note, this study has monitored all the measures under the competition area stemming from these two frameworks, which have been foreseen to be implemented by relevant institutions. Regarding NPISAA, all legislative acts to be harmonized with the EU acquis are foreseen to be fulfilled by the end of 2018. It should be noted that all the necessary procedures have been initiated by relevant institutions.

On the other hand, regarding measures stemming from ERA, results from the monitoring phase, January – June 2018, show a lack of dedication and commitment from responsible institutions towards fulfilling all measures foreseen. During this monitoring phase, only 17 out of 44 measures (38.64 percent) falling under the Competitiveness and Investment Climate pillar have been completely fulfilled. This implies an unsatisfactory degree of implementation within this pillar.

To conclude, key institutions should show a higher dedication and commitment towards fulfilling all the measures foreseen in ERA and NPISAA in accordance with the specified timelines in order to accelerate competition policies and reforms in Kosovo. Since the implementation of the SAA remains one of the most crucial processes for Kosovo's European integration, the inclusion, cooperation, and support from relevant institutions, including the civil society, political parties, and, among others, the business community, is of utmost importance.

This page intentionally left blank

“This project is financed from the Swedish International Development Cooperation Agency (Sida), managed by the Kosovar Foundation for Civil Society (KCSF)”

POLICY REPORTS

Policy Reports are lengthy papers which provide a tool/forum for the thorough and systematic analysis of important policy issues, designed to offer well informed scientific and policy-based solutions for significant public policy problems. In general, Policy Reports aim to present value-oriented arguments, propose specific solutions in public policy – whereby influencing the policy debate on a particular issue – through the use of evidence as a means to push forward the comprehensive and consistent arguments of our organization. In particular, they identify key policy issues through reliable methodology which helps explore the implications on the design/structure of a policy. Policy Reports are very analytical in nature; hence, they not only offer facts or provide a description of events but also evaluate policies to develop questions for analysis, to provide arguments in response to certain policy implications and to offer policy choices/solutions in a more comprehensive perspective. Policy Reports serve as a tool for influencing decision-making and calling to action the concerned groups/stakeholders.