



## The Legal Aspect and the Economic Perspective of the Foreign Direct Investment: The Case of Kosovo

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**Abstract:** Foreign direct investment (hereinafter referred to as FDI) are an important segment of economic-financial activity in the national economy. Being so important they deserve special attention from the politicians as well as an analytical review in scientific terms. FDI are one of the key factors for promoting the country's sustainable economic development. They have economic and financial impact, but their legal aspect is also very important. This paper elaborates the concept of foreign direct investment, their impact on the national economy and the legal basis of foreign direct investment. As an analytical case is used the Republic of Kosovo, whose institutions are creating policies and are adopting laws for an appropriate environment that affects the attraction of foreign investors and investments. The focus of this paper is the analysis of the concept of FDI, the legal infrastructure, the factors that impact the attraction of investments, and their role in the economic development of the country. The purpose of this paper is to analyse the role and importance of FDI for national economic development as well as the legal security of investments in the Republic of Kosovo. In the elaboration of the paper was used the literature of foreign authors, statistical reports of local and international institutions as well as local legislation dealing with the regulation of this issue. The main methods used are descriptive methods, methods of analysis and synthesis, statistical methods, legal methods and comparative methods.

**Keywords:** foreign direct investment; economic development; legal infrastructure; Kosovo.

### Pravni vidik in ekonomska perspektiva neposrednih tujih investicij: primer Kosova

**Povzetek:** Neposredne tuje investicije (v nadaljnjem besedilu: NTI) so pomemben segment gospodarsko-finančne dejavnosti v nacionalnem gospodarstvu. Ker so tako pomembne, si zaslužijo posebno pozornost s strani politikov, pa tudi analitični pregled v znanstvenem smislu. NTI so eden ključnih dejavnikov za spodbujanje trajnostnega gospodarskega razvoja države. Imajo gospodarski in finančni vpliv, zelo pomemben pa je tudi njihov pravni vidik. V prispevku je predstavljen koncept neposrednih tujih naložb, njihov vpliv na nacionalno gospodarstvo in njihova pravna podlaga. Kot analitični primer se uporablja Republika Kosovo, njegove ustanove oblikujejo politike in sprejemajo zakone za primerno okolje, ki vpliva na privlačnost tujih vlagateljev in naložbe. Fokus tega prispevka je analiza koncepta NTI, pravne infrastrukture, dejavnikov, ki vplivajo na privlačnost naložb in njihove vloge v gospodarskem razvoju države. Namen tega prispevka je analizirati vlogo in pomen neposrednih tujih naložb za nacionalni gospodarski razvoj ter pravno varnost naložb v Republiki Kosovo. Pri pripravi prispevka je bila uporabljena literatura tujih avtorjev, statistična poročila lokalnih in

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mednarodnih institucij ter lokalna zakonodaja, ki ureja to problematiko. Glavne uporabljene metode so: opisna metoda, analiza in sinteza, statistične metode, pravne metode in primerjalne metode.

*Ključne besede:* neposredne tuje investicije; ekonomski razvoj; pravna infrastruktura; Kosovo.

## 1. Introduction

The Republic of Kosovo, as a small country with major political problems, with no clear perspective on European integration processes, is understandable that the level of economic development is slower in growth. This is based on the processes that have passed as a post-communist and post-conflict transition country. With the deployment of international administration under the United Nations Interim Mission recognized as UNMIK in 1999, Kosovo started a new stage in political, administrative, legal and economic development. In Kosovo, for the first time, business activity began to develop based on the principles of a free market economy. The constitutional and legal basis adopted by the Assembly of Kosovo as part of the self-governing institutions received the approval of the UNMIK Mission. This dualistic political and legal situation continued until Kosovo's declaration of independence on February 17, 2008, where UNMIK<sup>1</sup> mission was politically paralyzed by the institutions of the Republic of Kosovo. With the entry into force of the Constitution on 15 June 2008, the Kosovo Assembly was established as a constitutional basis for the adoption of the laws of the Republic of Kosovo. Considering the political and legal anarchy that existed in Kosovo for about a decade and it is quite understandable to expect stagnation in other economic and social processes.

Kosovo, though a small country, is considered to have economic potential to be valued. In this regard, it is worth mentioning the World Bank Report "Doing Business 2018" (Doing Business 2018, page 4), in which report Kosovo ranks 40th in the world rank list for doing business facilities. This report shows that Kosovo has had a big increase compared to previous years. In the Doing Business 2014 report, Kosovo was ranked 81st. According to the 2018 report, the start of a business in Kosovo has increased in this ranking, respectively, in the 10th place. These changes have come about as a result of improving legislation and eliminating bureaucratic procedures to start a business. Despite this, the level of unemployment remains worrying and concrete measures are needed in building employment policies. According to the Kosovo Agency of Statistics (2018), labor force participation rate 41.6%, inactivity rate 58.4%, unemployment rate total 35.3%, unemployment rate of males 33.1%, unemployment rate of women 41.6%, unemployment rate of young people (aged 15-24) 61.0%. Given these indicators, it is noticed the country's economic sustainability.

The Kosovo Chamber of Commerce, from 2014 on a regular basis, publishes its annual report on business barriers in Kosovo by identifying top 10 barriers, economic, administrative, infrastructural, and internal sector specific constraints. In the research published in 2018, it identified 10 major obstacles to doing business in the Republic of Kosovo, as follows (Kosovo Chamber of Commerce, 2018, p. 12):

Table 1: Ten major obstacles to business activity in Kosovo in 2017

Category	Percentage
Unfair competition from the gray economy	60.9
Regular and stable power supply	51.1
The cost of electricity	50.1
High Interest and other costs for bank transactions	37.9
Customers do not pay on time	32.5
Lack of skilled workforce	31.6
Corruption	28.5
Profitability too low	26.2

<sup>1</sup> The United Nations Interim Administration Mission in Kosovo is the officially mandated mission of the United Nations in Kosovo. The mandate of the UNMIK was established by the Security Council in its resolution 1244 (1999). The Mission is mandated to help ensure conditions for a peaceful and normal life for all inhabitants of Kosovo and advance regional stability in the Western Balkans. Official web site: <https://unmik.unmissions.org/>.

Category	Percentage
Insufficient demand	25.2
No adequate business plan has been developed	24.1

Source: Kosovo Chamber of Commerce, 2018.

Foreign direct investments (hereinafter referred to as FDI) are an important segment of economic-financial activity in the national economy. Being so important deserve special attention from policy makers and analytical review in scientific terms.

This paper deals with the concept of FDI, their impact on the national economy and the legal basis of FDI. An analytical case is taken by the Republic of Kosovo, whose institutions are creating policies and adopting laws for an appropriate environment that affects attracting foreign investors and investors.

The purpose of this paper is to explain in the theoretical aspect the link between FDI and the economic growth of a country, with special emphasis on the Republic of Kosovo, including statistical analysis of FDI in various sectors of the economy and the impact of legislation in the "withdrawal" of FDI in our country.

The objectives of this study relate to the FDI analysis as an important factor for developing countries such as the Republic of Kosovo in terms of economic integration and globalization, as well as the direct impact they have on the local economy. Another objective is to analyze the determinants of FDI, including the study of the link between the national environment for doing business and the FDI impact analysis in the national economy both macro economically and micro economically, the importance of economic stability, as well as to show the role of local legislation on invested capital security.

### 1.1 Legal aspects of foreign direct investment in the Republic of Kosovo

The presence of numerous international missions and assistance from the European Union Office and projects funded by international professional organizations (USAID, GIZ, etc.), the Republic of Kosovo has adopted a good legal and legal basis in general but in especially for foreign direct investment.

The constitution was adopted based on the Ahtisaari Plan<sup>2</sup> and is considered as one of the most progressive constitutions in terms of recognizing and accepting international obligations, international law, and guaranteeing the freedoms and human rights and minority communities living in Kosovo. Article 16, third paragraph of the Constitution expressly states, "*The Republic of Kosovo respects international law*". This definition is reinforced by Article 19 [International Law Enforcement], which strongly emphasizes the supremacy of international law on domestic law:

1. The international agreements ratified by the Republic of Kosovo become part of the internal legal system after being published in the Official Gazette of the Republic of Kosovo. They apply directly, unless they are self-applicable, and their implementation requires the issuance of a law.
2. The ratified international agreements and the legally binding norms of international law have precedence over the laws of the Republic of Kosovo (Constitution of the Republic of Kosovo, Article 19).

On the basis of the constitutional principles, laws have been adopted which complete the legal basis for foreign direct investments but also for strategic investments. In this dispute the main laws are:

1. Law on Foreign Investments, Law no. 04 / L-220 (Official Gazette of the Republic of Kosovo, No. 1/09, January 2014), and
2. Law on Strategic Investments in the Republic of Kosovo, Law no. 05 / L - 079 (Official Gazette of the Republic of Kosovo, No. 6/08, February 2017).

<sup>2</sup> Comprehensive settlement plan for Kosovo's final status known as the "Ahtisaari Package" on the basis of which Kosovo declared independence on February 17, 2008.

## 1.2 Law on foreign investments

The Law on Foreign Investments has been approved by the Assembly of the Republic of Kosovo on 12 December 2013 and entered into force at the end of January 2014.

The law consists of 26 articles and constitutes a good legal basis for foreign investment in the territory of the Republic of Kosovo.

The purpose of this law is to regulate the protection, promotion and encouragement of foreign investments in the Republic of Kosovo, to offer to foreign investors the right and basic guarantees that assure foreign investors that their investments are protected and treated in a manner right in accordance with internationally accepted standards and practices. The law relies on the principles and conditions set out in the applicable legislation on state aid and those arising from the Stabilization and Association Agreement<sup>3</sup> signed between the European Union and Kosovo (Law no. 04 / L-220, Article 1, paragraphs 1 and 3).

According to this law, respectively Article 1 paragraph 2 "*Foreign Investor is* - a foreign person making an investment in the Republic of Kosovo". Based on the name of the law but also of this definition, the law does not define only the direct investor, but allows investment opportunities by the persons who want to invest in the Republic of Kosovo. The law also defines the term "investment" and the content of the investment.

"1.4. *Investment* - any asset owned or otherwise legally owned by a Foreigner in the Republic of Kosovo for the purpose of performing legitimate commercial activities, including but not limited to:

- 1.4.1. Movable or immovable property, including rights to and from such property as mortgages, pledges, guarantees, leases and servitudes.
  - 1.4.2. Intangible and intangible property, including property rights in question, as well as goodwill, technical processes and knowledge.
  - 1.4.3. Cash, funds, securities, shares or other types of property interests in a business organization of the Republic of Kosovo or foreign; bonds, debt certificates, other loan instruments.
  - 1.4.4. Claims or rights in money, goods, services and performance under contract.
  - 1.4.5. Concessions or licenses regulated by law, administrative act or contract, and
  - 1.4.6. Accumulated profits from an investment in the Republic of Kosovo or any investment elsewhere."
- (Law no. 04/L-220, Article 2, paragraph 4).

Also under the same law, "*Foreign Investment Company*" may acquire the status of a business organization of the Republic of Kosovo if it meets the criteria: "At least ten percent (10%) of own capital is directly or indirectly contributed by an investor foreigner, or controlled by one or more foreign investors on the basis of a written contract, the right to exercise the majority of the voting shares of the organization or similar property rights, or the right to appoint the most large board of directors or other supervisory bodies" (Law no. 04/L-220, Article 2, paragraph 8).

By this law, the Republic of Kosovo undertakes to treat equally foreign investors with local investors. Any public authority that violates or in any way fails to respect the rights and guarantees provided by this law for foreign investors and their investments shall be liable to pay compensation in accordance with this law for losses and expenses incurred as a consequence of such a violation or failure. No legal immunity shall serve as protection for the liability established by this law. The Republic of Kosovo does not interfere with the legitimate activities and rights and legitimate interests of a foreign investor. The Republic of Kosovo treats the same foreign investors regardless of the basis of citizenship, origin, and domicile, place of establishment of business or control. Foreign investors and their investments will be in compliance and will have the right and obligations under the applicable law in the Republic of Kosovo, just as domestic investors and their investments. Also, the law provides that foreign investment will not be expropriated or nationalized directly or indirectly, and will not be subject to any other measure equivalent to them, except

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<sup>3</sup> The SAA was signed on 27 October 2015 and entered into force in April 2016.

for special cases in the interest of public use as defined by law, without discrimination, with immediate, appropriate and effective compensation in accordance with legal procedures (Law no. 04 / L-220, Articles 3,4 and 7).

Considering that the Republic of Kosovo is considered a country with fragile political stability and with security institutions in construction, the Law on Foreign Investment has foreseen adequate mechanisms for the settlement of foreign disputes. The law expressly defined dispute settlement mechanisms as follows:

"1. A foreign investor has the right to request that an investment dispute be resolved under any applicable terms or procedures that have been agreed upon in writing between foreign investors and the Republic of Kosovo.

2. By the lack of procedure the foreign investor has the right to demand on the contesting investment to be solved through court procedures in Republic of Kosovo or through the international arbitration. The foreign investor may choose one of the rules mentioned below to solve the issue of contesting investment:

2.1. The ICRC<sup>4</sup> Convention, if the foreign investor is a national of a foreign country and that country and Kosovo are both parties to that convention at the time of submission of the request for arbitration.

2.2. Additional Supplementary Rules of the ICRC, if the *ration personae* legal conditions of Article 25 of the Convention are not fulfilled at the time of submission of the request for arbitration.

2.3. UNCITRAL Rules, in such a case, the appointing authority mentioned therein shall be the Secretary-General of the ICRC; or

2.4. ICC<sup>5</sup> rules.

3. The consent of the Republic of Kosovo for submitting an investment dispute for arbitration under this Article in this manner is given under the authority of this law. The consent of the foreign investor may be granted at any time, either by filing an application for arbitration or by submitting to the Agency a written request granting the consent.

4. The above-mentioned consents are deemed to satisfy the requirements for forms of consent under Chapter II of the Convention, the Supplementary Rules of the ICRC, the UNCITRAL Rules, the OEN Rules, and the New York Convention. In particular, if an arbitral award is taken by a foreign or international arbitration body under the procedures authorized by this article; such a decision shall be enforceable under the applicable law on arbitration and enforcement of a foreign arbitration award.

5. Unless the foreign investor and the Republic of Kosovo otherwise agree in writing, any arbitration under this Law shall be held in an EU Member State that is also a party to the New York Convention" (Law no. 04/L-220, Article 16).

The law has also envisaged the issue of legislation applicable in the event of the existence of a dispute and the appearance of a case before an arbitral tribunal or tribunal. Thus Article 17 of this law provides:

1. The court or tribunal of arbitration which considers an investment dispute shall decide on matters of dispute in accordance with the substantive rules or laws agreed in writing by the parties.

2. In the absence of such consent, the court or arbitral tribunal shall apply the applicable law in the Republic of Kosovo, excluding the private rules of international law and such rules of international public law that may be applicable to disputed matters. All arbitration decisions taken in connection with an investment dispute covered by this law shall be considered as binding and enforceable to the parties to the dispute, including the Republic of Kosovo (Law no. 04/L-220, Articles 17 and 18).

<sup>4</sup> *ICRC Convention* - Convention of the International Center for the Settlement of Investment Disputes between States and Citizens of Different Countries

<sup>5</sup> *ICC Rules* - Arbitration Rules of the International Chamber of Commerce

The law also envisages compensation for foreign investors in case of armed conflict or civil unrest. If such situations arise, then the Republic of Kosovo shall treat such foreign investor or foreign person as regards compensation or other settlement, equal treatment and equal with any local investor and local investment. A foreign investor has the right to receive compensation in accordance with Article 8 paragraph 1 of the law in the case of:

- Acquisition of an asset by a public authority.
- Destruction or damage to an asset by the public authority if such destruction or damage was not necessary according to the situation; or
- Failure of the Republic of Kosovo to ensure protection and security in accordance with the obligations assumed under this Law unless such protection and security provisions were impossible as a result of force major.

The law also foresees the possibility of termination of a foreign investor's business activity or foreign investment and is entitled to repatriate all physical and non-monetary assets acquired as a result of liquidation. Monetary assets earned, the foreign investor has the right to convert to another currency and transfer it to other countries after the advance payments of all taxes and obligations to the Republic of Kosovo.

The foreign investor is obliged to comply with local laws and standards as well as domestic investors.

The law obliges the Ministry of Trade and Industry of the Republic of Kosovo to keep a register of foreign investments. In this way, the Ministry creates the basic data and statistical data for investments and foreign investors in the country. According to this law, Article 20 "1. The Ministry establishes and maintains a register for all foreign investors and foreign investments. 2. The register shall be public and updated at least twice a year, on 30 June and 31 December. 3. The form and contents of the register shall be determined by a sub-legal act issued by the Ministry." (Law no. 04/L-220, Article 20).

Ministry of Trade and Industry of the Republic of Kosovo, in conformity with the legal obligation, has adopted Administrative Instruction (MTI) Nr. 01/2015 on the form and content of the Foreign Investment Registry. According to this instruction, the Foreign Investment Registry should contain: Company name; Main activity; The Company's short history; The main brand (product); Production capacity; Number of employees; Number of seasonal workers; Exporting countries; Collaborative Institutions; Company vision; Name and surname of the owner; The contact person; as well as address and phone number. (Administrative Instruction (MTI) No. 01/2015, Article 3).

From this brief summary of the Law on Foreign Investments, we have realized that this law is in line with the accepted European and world standards and creates a sound basis for the guarantee and security of foreign investors and foreign investments in the Republic of Kosovo.

### **1.3 Law on strategic investments in the Republic of Kosovo**

The Law on Strategic Investments has been approved by the Assembly of the Republic of Kosovo on 11 October 2016 and entered into force at the end of February 2017. The law has a total of 28 articles.

The first Article establishes the purpose of adopting this law.

"1. The purpose of this law is to promote, attract and create conditions for realization of strategic investments in the Republic of Kosovo, as well as to define the administrative procedures and criteria for the evaluation, selection, implementation and supervision of strategic projects as well as the determination of the procedures for allocation property of the Republic of Kosovo for the purpose of implementing projects for strategic investments.

2. Institutions and authorities of the Republic of Kosovo for the implementation of this Law shall respect the principles of free movement of goods, services and capital, principles of free competition and equal treatment, the principle of non-discrimination, transparency, proportionality and mutual respect.

3. This Law shall supersede the principles and conditions laid down in the applicable State aid legislation and those arising under the Stabilization and Association Agreement." (Law no. 05 / L - 079, Article 1).

The law does not cover all areas of economic and business activity but only those that are considered vital to a country's economy.

1. The status of strategic investment or strategic investment project may be obtained according to the criteria and procedures established by the Law on projects from the priority sectors of economic and social development that contribute to economic growth, employment and the implementation of new technologies, capacity building competitiveness of Kosovo's economy, export growth and trade deficit reduction, and generally affect the welfare and living conditions of citizens of the Republic of Kosovo in sectors such as:

- 1.1. Energy with infrastructure and mining.
- 1.2. Transport and telecommunications.
- 1.3. Tourism.
- 1.4. Processing industry.
- 1.5. Agriculture and Food Industry.
- 1.6. Health.
- 1.7. Industrial and technological parks.
- 1.8. Wastewater and wastewater management.

2. The minimum investment volume to qualify for strategic investment status is as follows: for sub-paragraphs 1.1.; 1.2. and 1.6. at least thirty (30) million euros; for sub-paragraphs 1.3 and 1.4. at least twenty (20) million euros for sub-paragraphs 1.5; 1.7. and 1.8. at least ten (10) million euros.

3. Priority in the selection of projects to obtain strategic investment status will be given to larger-volume projects that generate more jobs.

4. According to this Law, the status of strategic investment may also take the projects that are realized within the framework of interstate agreements, projects that are realized in cooperation with the EU and those with international financial institutions.

5. Proposed investments to be considered strategic in the sense of this law shall also meet the following criteria:

5.1. the investing entity at the time of application for obtaining the status of strategic investment must present evidence of its sufficient financial capability for the realization of investments.

5.2. the proposed investments should be in compliance with the environmental standards set forth in the legislation of the Republic of Kosovo and the European Union.

5.3. the proposed investments should not be in contradiction with the Constitution and the obligations of the Republic of Kosovo as defined by international conventions and agreements.

6. The manner and methods for verifying the fulfillment of the criteria set out in this Article shall be regulated by sub-legal acts (Law no. 05/L-079, Article 2).

The law provides in detail the procedure for submitting the request and approving the investor status and strategic investment in the Republic of Kosovo. The final decision on the selection of the strategic project is taken by the Government of the Republic of Kosovo after the proposal of the Inter-Ministerial Commission on Strategic Investment, which is established on the basis of this law. "The Commission consists of: Minister of Trade and Industry, Chair; Minister of Finance; Minister of Environment and Spatial Planning; Minister of Agriculture, Forestry and Rural Development; Minister of Economic Development; one (1) Minister from another community not majority in Kosovo; Mayor in which strategic investment is realized; Minister of Ministry in which strategic investment is realized; State Attorney General" (Law no. 05/L-079, Article 6).

## 2. The economic perspective of foreign direct investment - Kosovo's case

Foreign Direct Investment (FDI) establishes direct, lasting, and long-term links between economies, and allows economies to promote their products in international markets. FDI are a key element in international economic integration and represent an additional source of funding for new ongoing investments. There is always a need to have the host country's favorable fiscal policy so that FDI is also an important element for more economic development.

Analyzing and relying on macroeconomic factors such as technological advances, globalization, and increased competition as well as market liberalization, we conclude that FDI has a very important role in global economic developments. They have positive effects in both the economies of the countries where the investment is carried out, as well as in the countries of origin.

The many benefits that FDI brings to the economy of a country today are widely recognized, so all countries have the claim to absorb more investment, all with the sole aim of developing the country's economy by creating new jobs working, increasing production, services, tourism, etc.

FDI is characteristic for developing countries more than for developed countries. Kosovo is a country in transition, and since the post-war period, progress has been made in the economic sphere on an annual basis. The post-2000-2008 post-war period for the country's economy is mainly characterized by donations from abroad, with remittances from compatriots, trade development and much more oriented toward the production sphere. Although there were many financial flows in the aforementioned forms, their orientation was in personal consumption, so we did not have any economic impact on these cash flows.

The manufacturing sphere has received the greatest boost after the rehabilitation of war damages, especially from 2007-08 onward, when FDI has begun to grow which have had a positive impact on economic development.

Kosovo's economy has a low level of development, where industrial production is small; imports dominate in relation to exports (exports cover only about 12% of imports):

Table 2: Import - Export Report 2017-2018

Exports value of goods in € 000 2017 2018	2017	2018	Change in %
Import (IM4)	3.006,455	3,325,693	+9.60%
	313,002	329,210	+4.92%
Re-Export according to the value of the Single Customs Document (EX3)	124,269	147,666	+15.84%
Total export Export + Re-Export	437,271	476,876	+8.3%
	% e Ex ne Im	% e Ex ne Im	
	14.50%	14.33%	

Source: Kosovo Custom, 2019.

Kosovo is characterized by a low level of investment and a high level of unemployment. GDP growth is mainly a result of donations and remittances from abroad, not the result of any economic activity, respectively all these have been elements that have negatively impacted the absorption of foreign direct investment. Kosovo cannot boast of any strategic investor, except the contract signed in 2018 with the US Company "Contour Global", which is expected to invest over 1 billion euros in the construction of a new Kosovo New Power Plant, expected to functionalize in 2025.

"During 2017, FDI received in Kosovo was characterized by an annual growth of 30.8 percent over the previous year and amounted to Euro 287.8 million. FDI growth was mainly evidenced by the financial services sector, the real estate sector and the construction sector, while the trade and industry sectors declined." (CBK, 2018, p. 35). Even though there is a marked increase in FDI, they are mainly oriented to construction and financial services, not to the manufacturing sector, where the impact of FDI on the development of the economy could be observed. "In Kosovo, during 2018, FDI are concentrated in the economy sectors such as real estate, construction, financial services and trade. Higher FDI growth was recorded in the financial services sector and in construction (32.6 and 22.6 million euros respectively

compared to the same period last year), while the trade sector was characterized by a decrease of 7.4 percentage points. As far as FDI originates, Germany represents the country from which the highest FDI came (Euro 29.9 million), followed by Switzerland with Euro 22.6 million, Austria with Euro 20.5 million, Great Britain with Euro 19.7 million, etc." (CBK, 2017, p. 27).

Capital investments in Kosovo were mainly carried out on motorways but were payments from Kosovo taxpayers and as such do not represent FDI.

According to a study conducted by IOM and UNDP (Gashi, Shabani, Rizvanolli, 2013), about 60% of Kosovo's diaspora investments are channeled to the real estate sector. These investments are mainly carried out on real estate purchases, but they do not generate any income in any aspect of employment or fiscal payments (except for property tax).

Some strategic investment efforts have failed due to political problems, where FDI is located in Trepca and Brezovica. Local institutions did not guarantee foreign investors for their investment because there was political interference from home and abroad and for this reason millions of Euro FDI were lost which would have employed more than 7,000 people in Kosovo.

### 3. FDI Report in Kosovo and neighboring countries

FDI represent an important element in the economic development of each country. Although each country has its national characteristics, however, a comparative analysis of FDI in Kosovo and the countries of the region provide us with a good picture of fiscal policies for absorbing foreign direct investment.

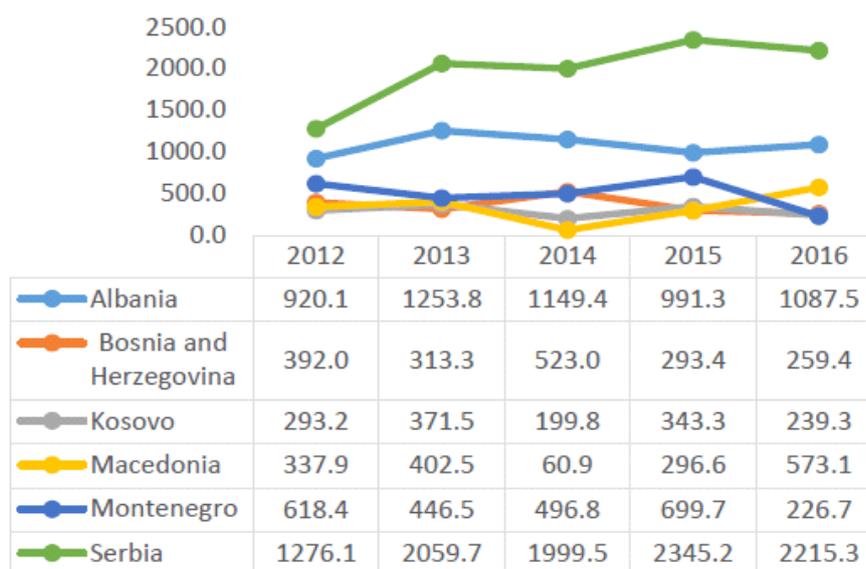


Figure 1: Fluxes of IHD in western European countries (in millions) USD

Source: Democracy for Development, 2017, p. 17.

The data presented in Figure 1 show that the distribution of FDI flows was uneven. Serbia has so far attracted the largest amount of FDI inflows, which can be explained by the fact that it represents the relatively large size economy along with its largest population number (about 7 million). Albania comes second, attracting relatively constant amounts of FDI flows over the years (on average about \$ 1 billion)

Other neighboring countries like Macedonia, Montenegro, and Bosnia and Herzegovina have managed to attract lower FDI flows throughout this period. By analyzing the economies of these countries by their size and development, we notice that all these economies have similar characteristics. These countries have policies not conducive to FDI, but also political instability. In this regard, we can say that Kosovo does not differ much from other countries and has not managed to exploit the potential of Kosovo emigrants around the world, but not a good geographical position.

The failure of FDI in Brezovica is a big loss for Kosovo's economy. When the company "MDP Consulting" - France was declared the winner of this investment, the contract foresaw an investment of 400m euros, and the creation of more than 4000 jobs.

On the base of these circumstances, it is imperative to create a friendly business environment and an adequate institutional environment for attracting foreign direct investment as one of the most important priorities of the country's economic policies. FDI needs to be created in education, health, mining, telecommunications, agriculture, industry, metallurgy, etc. because only in this way can Kosovo be economically developed.

Very important element to absorb foreign direct investment - FDI is the education of the population. Kosovo needs to be reoriented by the "academic" tuition in vocational education to prepare for the labor market, because foreign investors require a certain percentage of staff with academic knowledge and the majority should be professional staff which is prepared for operational work in production.

Kosovo as a country with economies in transition has a population of very young and educated average (the average age is about 30 years old) which is a very important determinant for FDI absorption.

#### 4. Conclusions and recommendations

Foreign direct investments today represent one of the most important impetuses for economic development, especially in transition countries. To attract these investments, countries must undertake a series of legal, economic and political measures to improve economic conditions in the country.

In this regard, we can conclude that in Kosovo a good legal basis for FDI, where the supremacy of international law is dominated by domestic laws. The laws regulating the field of Foreign Direct Investment - FDI are compatible with the EU legal regulation and international law.

Although FDI is treated by the country's institutions as vital for sustainable economic development, the share of FDI in Kosovo's economy is small and consists mainly of remittances and donations, Given the lack of FDI in manufacturing companies, they are mainly focused on real estate and financial services, with no multiplier effect on the economy. Orientation of governments in strategic investment mainly on the highways was only realized through public money and did not include any public-private partnerships that could potentially involve FDI. Although Kosovo faces internal political problems that have affected its image, often unjustly, it has potential sectors for investment in the country, including FDI.

Kosovo has a new population which can be an important element to attract FDI more than so far. Youth should be trained and trained to be ready to deal with the jobs that companies that enter the Kosovo market through FDI will be offered.

Given the elaboration made in this paper, we recommend some steps to improve the economic, legal and political climate, including:

- The country's institutions need to implement FDI relief provisions not only to treat FDI as very important for economic development,
- Mechanisms should be created that would enable FDI to come into many sectors of the economy,
- Conditions must be created through economic and fiscal policies to attract strategic investors, which would have an impact on economic development in the long run,
- FDI is important to focus on manufacturing, telecommunications, development of manufacturing and service infrastructure,
- The country needs to have a political stability, where institutions need to gain a political culture in order to improve the image of the country,
- The country's institutions need to reform the education system so that youth can be oriented to vocational education, in line with market demands.

- Health needs to be reformed to attract FDI that would have an impact on increasing professionalism and reducing export of cash to health in the region and beyond.
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## References

1. CBK. (2017). *Financial Stability Report: Number 12*. Pristina: Central Bank of the Republic of Kosovo.
2. CBK. (2018). *Financial Stability Report: Number 13*. Pristina: Central Bank of the Republic of Kosovo.
3. Constitution of the Republic of Kosovo. (2008 and amend.). *Official Gazette of the Republic of Kosovo*, No. 25/12, 6/13, 20/15, 9/16, Available at: <https://gzk.rks-gov.net/ActDetail.aspx?ActID=3702>.
4. Democracy for Development. (2017). *Foreign Direct Investment and Exports: Kosovo and the Western Balkans*. Pristina: Democracy for Development Institute. Available at: [https://d4d-ks.org/wp-content/uploads/2018/03/D4D\\_Analize\\_5\\_ENG\\_FIN.pdf](https://d4d-ks.org/wp-content/uploads/2018/03/D4D_Analize_5_ENG_FIN.pdf).
5. Gashi, A., Shabani, A., Rizvanolli, A. (2013). *Facilitating Diaspora investment in Kosovo: Assessing and planning new strategies at local and central level*. Pristina: IOM and UNDP.
6. Kosovo Chamber of Commerce. (2018). *Opening the road to better business in Kosovo: What are the obstacles to business growth in Kosovo? Pristina: Kosovo Chamber of Commerce*. Available [https://www.oek-kcc.org/uploads/files/2018/May/24/2017\\_HAPJA\\_E\\_RRUGS\\_PR\\_BIZNES\\_M\\_T\\_MIR\\_N\\_KOSOV1527160051.pdf](https://www.oek-kcc.org/uploads/files/2018/May/24/2017_HAPJA_E_RRUGS_PR_BIZNES_M_T_MIR_N_KOSOV1527160051.pdf)
7. Kosovo Agency of Statistics. (2018). Available: <http://ask.rks-gov.net/>.
8. Kosovo Customs. (2019). *Annual Report 2018*. Available at: <https://dogana.rks-gov.net/en/>.
9. Law no. 04/L-220 on Foreign Investments. (2014). *Official Gazette of the Republic of Kosovo*, No. 1/14.
10. Law no. 05/L-079 on Strategic Investments in the Republic of Kosovo. (2017). *Official Gazette of the Republic of Kosovo*, No. 6/17.
11. Ministry of Trade and Industry (2015). *Administrative Instruction (MTI) No. 01/2015 on the Form and Contents of the Foreign Investment Register*. Available at: [https://www.mti-ks.org/repository/docs/UA\\_01\\_2015\\_211307.pdf](https://www.mti-ks.org/repository/docs/UA_01_2015_211307.pdf).
12. World Bank. (2018). *Doing Business 2018*. Available at: <http://www.doingbusiness.org/content/dam/doingBusiness/media/Annual-Reports/English/DB2018-Full-Report.pdf>.