Chapter 7
Investment Policy Design, Process and Implementation in Kosovo

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1 Introduction

The scope of this chapter is to evaluate the policies adopted by countries in the Western Balkans to ensure regulation and attract foreign investment, and to examine the actors behind these policies. The chapter will be focused particularly on the role of different groups of policy actors in Kosovo in designing investment policies and the impact this has had in the country's economic development. Investment policies set the basis for a strong legislative framework, which in turn provides the best environment for investments, both local and foreign.

While foreign direct investment (FDI) encompasses a wide range of investments, it is often divided into two categories: investments in privatized or existing non-state owned enterprises and direct investments in new ventures, known as greenfield investments. Matija Rojec (2005) identifies three different levels of FDI deriving from privatization, '(i) partial or full acquisition of a state-owned company; (ii) additional investment in a state-owned company; and (iii) joint venture with a state-owned company'. In such terms, for transition economies with significant state-owned assets, privatization constitutes an important channel for FDI. As these state-owned assets are privatized, they are often a major attraction for foreign investors.

Following the reforms undergone by Central and East European countries in establishing a market economy, the privatization of state-owned enterprises is a step towards both increasing efficiency of the respective industries as well as establishing the economy as potentially attractive for other forms of investment. Conversely, greenfield investments in the countries of South East Europe (SEE) have been relatively low. The 2010 OECD Investment Report Index, focusing on SEE countries, identifies the lack of greenfield investments as one of the most concerning issues for the region (OECD 2010).

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A major concern is that FDI through privatization may, at least in the short run, lead to employee retrenchment as assets are restructured for increased efficiency. This poses a political and economic problem in transitioning countries with high structural unemployment levels. Botrić and Skuflic (2005) argue that changes caused by privatization in the managing and operating structure of the enterprises may result in layoffs as means of increasing productivity and profitability (Botrić and Škuflić 2005). Another concern, pointed out by Botric, is the dependence on privatization as a source of FDI in the Western Balkans and the implications for projected FDI inflows as privatizations taper off (Botrić 2010). These countries must enhance their competitiveness as locations for FDI to attract greenfield investments and benefit from job creation, market access and new technologies.

The social and political unrest, which has been a significant part of the transition narrative of the Western Balkan economies over the past few decades, has had a negative impact on the reputation of the region as a destination for FDI as reflected in the relatively low levels of greenfield FDI.

While there is an extensive body of work on the various determinants and trends of private investment flows to Central and Eastern Europe following the first wave of economic transition that led to the accession of the EU Ten, relatively little work has been done on private investment in the Western Balkans. The following section provides a brief survey of the literature on investment flows to the Western Balkans.

Estrin and Uvalic (2013) have examined whether the Western Balkans are *sui generis* in terms of investment in transitioning and developing economies and found that there are three sets of factors influencing the level of FDI in the region. These factors are size of the domestic economy (all relatively small with the exception of Romania); distance from investor source countries and 'remoteness' from the EU and other trading blocs—the announcement of potential EU accession has a significant positive effect for some countries in the region; and finally, institutional quality, or lack thereof. Penev and Rojec (2011)—in examining the competitiveness of a subset of Western Balkan countries for FDI—noted a number of weaknesses that overlap with the findings of Estrin and Uvalic. These include small domestic markets with low per capita income, relatively high country risk, slow progress in structural and institutional reforms, underdeveloped infrastructure, inefficient government bureaucracy and high administrative barriers.

Demekas et al. (2005) further examine the impact of FDI policies, while considering specific factors impacting the level of FDI in the Western Balkans. However, this analysis does not include data from Kosovo; thus, this chapter will only reference the theory of the Demekas et al. paper and use it as a basis to built new comparisons with the recent data and policies in the region. This chapter will focus more on the existing legislation of the countries in the Western Balkans and the opportunities that this legislation offers for potential investors. Furthermore, the dedication of governments of the region to improve the business environment will be examined and compared. One of the indicators that will be looked at is the Doing Business Rankings (DBRs) of the World Bank, which, though it may not serve as a basis for decision making for most investors, serves as a good starting point for policy and business environment reform in the Western Balkan countries.

Finally, this chapter attempts to highlight the policy-making procedures for attracting investments and the key players designing these procedures. Moreover, it will look into identifying cooperation areas in the countries of the Western Balkans to learn from the best practices of policy making.

2 Factors Influencing Investment Policy Making

Politics provides the context for policy making and often determines policy outcomes. Although objective policy making is the ideal, particularly for developing and transition economies, the reality is that politics influences policy. As a result, policies designed during the governance of a certain political party or coalition often reflect the ideologies of the ruling party. Moreover, policy design and implementation remains highly dependent on the electoral cycle, especially in the developing countries. As noted by Haggard and Webb (1993), developing countries lack a clear system of accountability due to the paucity and limitations of independent media to investigate the relationship between the interests of the electorate, political interests and public policy. It has been observed that electoral business cycles often drive the timing of policy reforms with most policy reforms and the launch of policy initiatives concentrated closer to upcoming elections to suit personal agendas of politicians rather than the economic exigencies of the country.

Sound investment policies and the related legal and regulatory framework are critical for economies seeking FDI to drive economic growth. There are differing theories about the main drivers of FDI, especially in developing and transition economies, ranging from the most basic factors identified by the gravity model of trade such as the relative size of the host and source economies and the distance between the two (Carr et al. 2001), to factors such as governance, the rule of law and policy frameworks.

Since the size of the economy and the proximity of the host and investing economy cannot be changed, we must look at other factors that determine FDI—those directly influenced and determined by policy actors. Recognizing that the policy environment is an important factor in attracting or deterring investments in a country, the examination of investment policies from the perspective of the policy environment by Demekas et al. (2005) concluded that the policy environment represents a major problem, especially in the Western Balkans. This conclusion is based on the fragile state of the institutions in these countries as well as a high level of corruption and organized crime, which directly influence the policy actors and the policies to be implemented.

This chapter examines the role of policy actors and coalitions in developing and implementing the investment policy framework for FDI, drawing on the experience of Kosovo. Kosovo is a transition economy for which FDI in privatizing entities and greenfield investment is a critical driver of economic growth and employment creation. In view of the ongoing policy-making process, Kosovo provides a good prism for examining the role of policy actors and institutions in developing and implementing policies aimed at enhancing the competitiveness of Kosovo as a location for investment.

3 Designing Investment Policies in the Western Balkans

While the global economic situation has contributed greatly to a decrease in FDI, not only in Kosovo, but in the Balkan region in general, the legal framework that regulates foreign investments in the countries of the region largely aims at ensuring an environment that is most suitable for attracting investors. Mateev and Tsekovb (2012) have conducted a study, which, apart from explanatory factors known as gravity factors (proximity, market size and factor endowments), also cites infrastructure and human capital and identifies trade openness, labour cost, regional integration, and tax policies and incentives as important in determining FDI. In the Western Balkans, regional integration plays an especially important role, considering the market size of each Western Balkan country. There are several important areas of the legal framework, which differ from country to country, that can affect the level of investment a country receives, and the following comparative analysis will highlight them.

4 FDI Legislation in the Region

Policies regarding investment regulation, with special focus on foreign investment, differ from one country to another, depending on a number of factors ranging from the governmental development plans, and social and economic structure of the country, to specific industrial sectors to be developed. Based on a comparative analysis of the legal framework regulating foreign investments in countries of the Western Balkans, it is clear that there are certain areas that continue to require regulation through legislation. The following sections discuss the most important fields to be regulated by investment legislative framework and relate issues that differ among countries in the Western Balkans. This part of the chapter will compare specific issues regulated by laws on investments in the countries of the Western Balkan, as identified by a careful analysis of these laws (Table 7.1).

4.1 Investment Policies and Their Impact on Private Investment Levels

Countries of the Western Balkans region have employed different strategies and different policies for attracting foreign investment and encouraging domestic investment. Although differences in legislation remain negligible, strategies to ensure a better business environment for investment have differed between countries. Looking at the World Bank data on the indicators of Doing Business, it is easy to see that Macedonia has been most dedicated in improving policies and legislation that, if implemented, lead to a better business environment. Below are the data for the

Table 7.1 Specific issues in the foreign investment law

Definition of foreign investor	The main problem with this definition has been whether to include the diaspora as foreign investors. In the Western Balkans, where the diaspora represent a substantial part of investments, this inclusion is crucial. While all other Western Balkan countries include diaspora as foreign investors, in Kosovo this remained a challenge until the final 2013 draft of the law, when diaspora were included in the definition
Treatment of investors	While laws of all countries call for compliance with international legislation and regulations, there are still questions about how foreign investors are treated, especially in comparison to domestic investors. In the Western Balkans foreign investors are expected to be given preferential treatment. The first draft of the new Law on Foreign Investments in Kosovo contained a debated article, which outlined that foreign investors will not be treated any less favourably than domestic investors. This, however, has been addressed in the latest draft of the law, to state that foreign investors and investments will have the same and equal treatments as domestic ones. Therefore, apart from the application of international legislation and norms, countries in the Western Balkans, through their legislation, ensure equality of treatment of foreign and domestic investments
Standardized procedures of investment legislation	Mechanisms for resolving disputes—all countries in the Western Balkans, by law must apply the standard resolving of disputes; this includes respecting all agreements on foreign investments agreed upon by the government and investor, national judiciary branch, as well as international courts and international courts of arbitrage
	Expropriation and compensation—this is to be done in a fair and timely manner, and interest must be paid to investors to whom payment is delayed
	Transfer of financial capital—investors are permitted by law to transfer the capital out of the investment country. However, this must be done in accordance with the taxation requirements of the receiving country, the Law on Foreign Investments in the country, as well as all secondary legislation

Doing Business Rankings of the countries as reported by the World Bank Doing Business Report 2008–2013 (Fig. 7.1).

However, to have a clearer view of the relation between legislation improvement and investment we look at the changes in both the Doing Business ranking and the changes in the level of investment in these countries, in the past 5 years, starting from 2008 (Fig. 7.2).

It is clear that foreign direct investment is influenced by more than just the policies, which are considered in formulating the rankings in the Doing Business Report of the World Bank. However, there is no clear correlation between FDI and the DBR rankings to conclude whether the impact is negative or positive. When looking closely at the data, we find that Macedonia, despite all the improvements in its DBR rankings, has not gained significantly in attracting foreign investors. On the other hand, Croatia, which made a number of improvements to its institutions to ensure accession to the European Union, has seen increased investment.

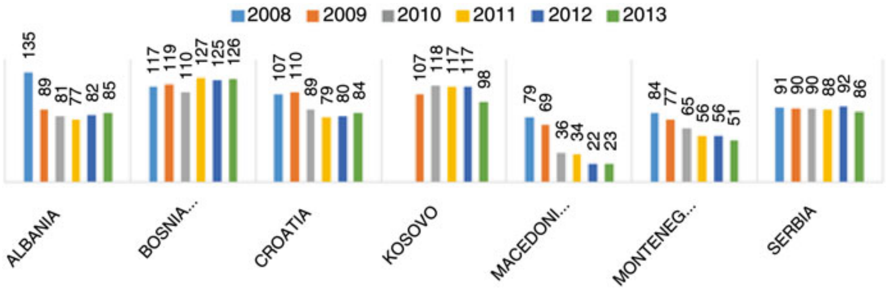

Fig. 7.1 Western Balkan rankings in the World Bank doing business report 2008–2013 (Source: World Bank Doing Business Report 2008–2013)

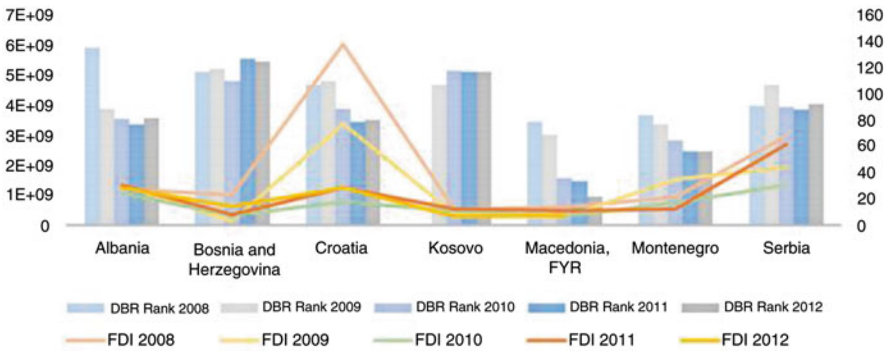

Fig. 7.2 FDI and DBR rank in the Western Balkans 2008–2012 (Source: World Bank doing Business Report (2013a) and Foreign Direct Investment in Western Balkans 2008–2013 (2013b))

The preferences of foreign investors differ, however, the existence of a favourable policy and legal framework are not enough to attract investors in one country. It is the proof of implementation of those policies and laws that remains crucial for investors.

On the other hand, looking at other indicators, such as Transparency International's Corruption Perception Index, we find that the region's rankings show little improvement, suggesting that efforts to fight corruption are either absent or ineffective. In the latest Transparency International Report on the Corruption Perception Index, Montenegro is ranked 66th with a 4.0 index, Macedonia is 69th with a 3.9 index, Serbia is ranked 86th with a 3.3 index, Bosnia and Herzegovina has an index of 3.2 and is ranked 91st, Albania has a 3.1 index and is ranked 95th, and Kosovo with a 2.9 index is ranked 112th—the worst in the region. These numbers indicate problematic rankings for the countries of the Western Balkans for perception of corruption.

The relation between the Corruption Perception Index and the flow of investments is expected to be the inverse, considering that the lower the perception of corruption, the more suitable the environment is for investing. As we can see, the

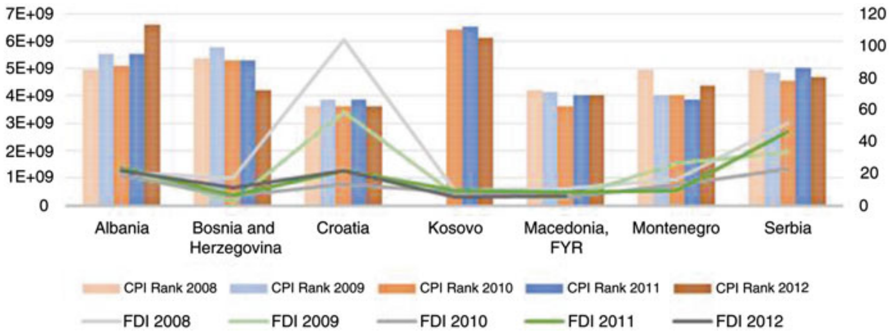

Fig. 7.3 FDI and CPI rank in the Western Balkans 2008–2012 (Source: Transparency International Corruption Perception Index and Foreign Direct Investment in Western Balkans 2008–2013)

Doing Business Rankings seem consistent with the Corruption Perception for the Western Balkan countries, although the two indexes are in no way directly interlinked to one another (Fig. 7.3).

5 Kosovo: An Overview

Investments, both domestic and foreign, play a highly important role in the economic development of Kosovo. In 2012, foreign direct investments (FDI) accounted for roughly 9 % of Kosovo's GDP compared with around 13 % in 2007.[1] Since 2000, there has been a visible decrease of FDI as a percentage of GDP, both due to decreasing FDI and to an increasing GDP in Kosovo. However, in 2010 and 2011 FDI increased from 2009 levels.[2] Based on data from the Central Bank of Kosovo, the trend of the sectors, which attract the FDI has changed over the past 5 years. There has been a significant increase in investments in the construction sector, particularly during 2010 and 2011, while investment in the finance sector has declined from around 35 % in 2008 to roughly 12 % in 2011.[3] Other sectors that dominate in attracting investments are manufacturing, real estate, telecommunications and transport. The data for 2012 is expected to show an increase of FDI in the energy sector, resulting from the privatization of the distribution and transmission network of the Kosovo Energy Corporation.[4] Investments in real estate and construction have grown steadily, largely reflecting investments by the Kosovo diaspora.

In Kosovo, apart from FDI, domestic investment plays a very important role in local economic development. The Law on Foreign Investments, adopted by the

[1] Government of Republic of Kosovo, Central Bank of Kosovo 2012, p. 81.

[2] Government of Republic of Kosovo, Central Bank of Kosovo, *Yearly Reports* 2001–2012.

[3] Government of Republic of Kosovo, Central Bank of Kosovo 2012, p. 65.

[4] Ibid., p. 82.

Assembly of the Republic of Kosovo in 2005 is set to be replaced with the new Law on Foreign Investments, which has been drafted by the Ministry of Trade and Industry and passed the first reading at the Assembly of Kosovo in 2013. The review of the law at the assembly level will present an important milestone for the ministry to overcome, since during the past legislative year the proposed draft laws on foreign investments have been returned to the ministry twice by the Assembly of Kosovo and was regarded inadequate and incomplete by both members of the Assembly, experts of the field, and the general public.

In a country where investments play a key role in economic development, the legal framework and investment policies need to regulate both foreign investments and domestic investments, while reflecting their importance and Kosovo's commitment to ensure a more suitable environment for these investments. As a step towards this, Kosovo has worked to improve the World Bank Doing Business indicators; however, many gaps—not considered by this report—still remain that affect the investment environment in Kosovo, and as a result contribute to lack of investments. Some of the most prominent tasks to encourage foreign investments include, but are not limited to, reducing the corruption level, improving infrastructure and ensuring a stable political state.

However, in developing economies, such as those of the Western Balkans, foreign direct investment remains both one of the most important goals of the government and one of the most common promises made during political campaigns. Considering the stagnating economic development, high unemployment rates, and low-to-average local production, countries in the Western Balkans rely heavily on FDI to improve the economic situation and generate employment. As such, policies facilitating investments have a hidden social dimension in that they play a role in easing social issues of unemployment and lack of growth.

5.1 Kosovo: An Analysis of the Policy-Making Process and Actors

Policy-making procedures in Kosovo are regulated by Government Regulation 13/2013 on Government Legal Services, which outlines the steps for drafting legislation with the government's initiative. This regulation was drafted in May 2013, and enacted on June 30, 2013, the first time such a regulation was enacted by the Kosovo government.

The steps for drafting legislation are outlined below. Responsible policy actors for each step are also shown.

The most important part of the policy-making process is the legislative component, the steps of which are outlined below. This procedure entails cooperation between the executive and legislative branches, and the inclusion of external interest groups. Figure 7.4 lists the steps in chronological order along with actors responsible for the steps.

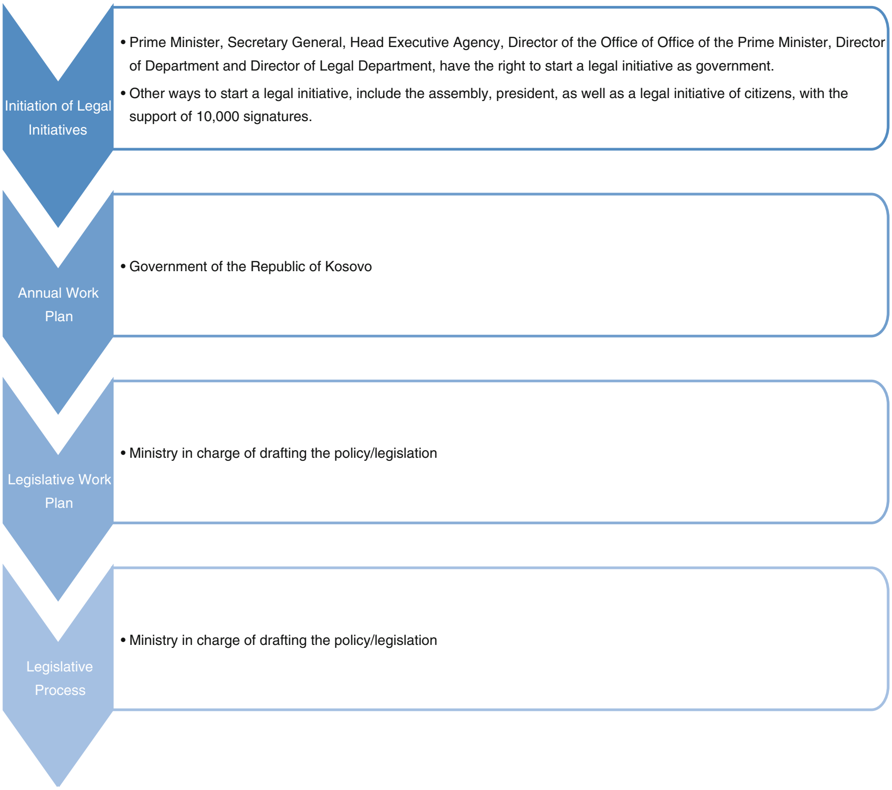

Fig. 7.4 Policy making steps and responsible actors in Kosovo (Source: Kosovo Government Regulation 13/2013 on Government Legal Services)

The ministry in charge of drafting the policy or legislation must draft the preliminary version of the draft law, and follow it up first by a preliminary and then a public consultation, The preliminary consultation takes place over a period of 15 days with relevant actors within the institutions as well as with other interest groups, such as members of the private sector and civil society. The public consultation is open for comments from the public. Through this process, civil society organizations (CSOs) as well as other relevant parties, which will be affected by draft legislation, are to be consulted both at the preliminary phase and at the public consultations phase. This enables the more active involvement of CSOs and the public at large in the policy-making cycle. Furthermore, this provides a unique opportunity for civil society to keep track of their recommendations on draft legislation, as line ministries for the draft laws must include explanations on consultation processes and subsequent recommendations in the Memorandum of Explanation for the draft law. After the first three steps are carried out by the ministry, the new draft including changes from the consultations is sent to the government for review and approval. The procedures are also sent to the government for review and approval. After approval by the government, the final draft of the law is completed by the ministry in charge and sent to the Assembly of Kosovo (Fig. 7.5).

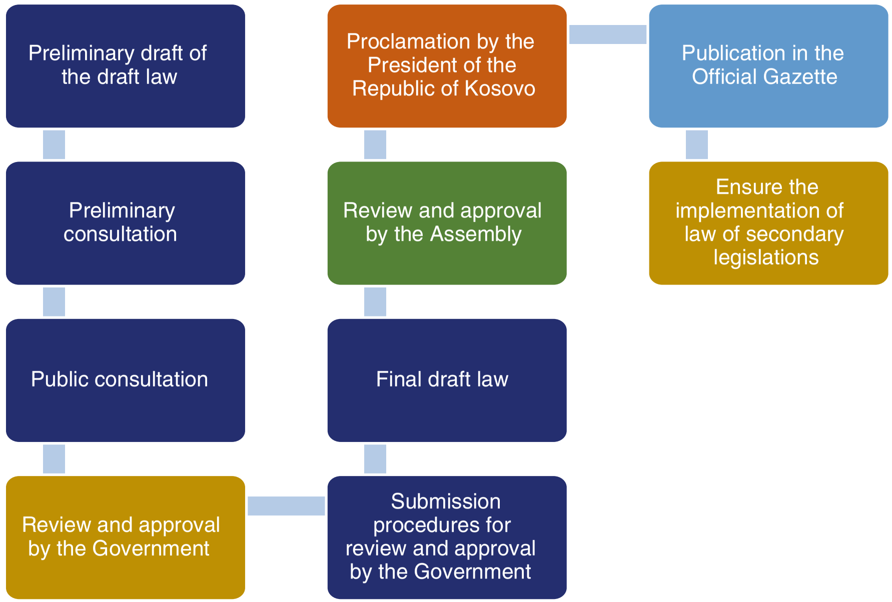

Fig. 7.5 Policy making process in Kosovo (Source: Kosovo Government Regulation 13/2013 on Government Legal Services)

The draft law is sent to the Assembly of Kosovo and is discussed by the members of parliament in the first hearing. If the draft law passes the first hearing, it is discussed by the functional committees within the assembly. The functional committees can propose amendments to the law during the working groups on the law. The working groups within the functional committees of the Assembly of Kosovo consist of representatives of the line ministry, members of the committee, civil society representatives, as well as representatives from other interest groups. After the proposed changes by the committee, they are sent first to the ministry and then to the government for approval. If these amendments are approved, they are sent to the Assembly of Kosovo for a vote; if it receives the necessary votes, it is sent to the president of Kosovo to be approved and signed into law. After this step, the law is published in the *Official Gazette* and implemented by the line ministry and the government of Kosovo.

The formulation of Kosovo's legislative framework and regulations allow the involvement of individuals from various areas in the policy-making process. However, these regulations are yet to be fully implemented, and the readiness of the government to cooperate with civil society seems to be the biggest obstacle to their implementation.

5.2 *Policy Actors in Kosovo*

5.2.1 Kosovo Government

As seen above, the policy- and law-making processes generally start at the government level. Ministries in charge of specific areas are also responsible for proposing and drafting laws and policies that regulate their particular area or its specifics. Moreover, ministries can also propose amendments to existing laws or propose new laws to replace old laws.

The executive branch of the Kosovo government, in addition to proposing legislation, is in charge of including other relevant actors in the consultation process, working closely with the legislative branch to include amendments to the proposed draft, as well as ensuring the implementation of the legislation once it is approved. If the proposed legislation does not pass the hearing at the assembly, the line ministry must submit a new draft of the law to the assembly, and go through the entire cycle of procedures again.

5.2.2 Assembly of Kosovo

The government sends draft laws to the Assembly of Kosovo for the first hearing of the draft law. If the law passes the first hearing, it is sent to functional committees that must hold a public hearing at the assembly level with all relevant actors. After the public hearing, work groups are formed by the members of the committee, representatives from the line ministry, as well as other interest groups such as representatives from the civil society and the private sector. However, the inclusion of external partners in work groups is not mandatory for the committees. The amendments made at the functional committee along with the proposed draft from the ministry are sent for approval to the standing committees.

The process continues in the second hearing at the assembly session, where the new draft of the law with the changes proposed by the committees is debated. After the debate, members of parliament vote on each article of the law, and finally on the law as a whole. If the law passes, it is sent to the president of the Republic of Kosovo to be signed into law.

5.2.3 Civil Society

Kosovo has a strong and diverse civil society, which, as external partners to the government, is active in policy making through public hearings and participation in working groups. However, cooperation between state institutions and civil society still leaves a lot to be desired. Civil society inclusion in policy-making processes is often undertaken as a mere formality (to satisfy requirements of the rules and regulations to consult all relevant parties); in rare cases, the inclusion of civil society reflects readiness for cooperation from both sides. The Assembly of Kosovo remains significantly more accessible to civil society, and cooperation between the two is more frequent; whereas the Kosovo government is still relatively closed to cooperation with civil society. At the government level, civil society continues to be consulted only when this is required by laws and regulation.

5.2.4 Private Sector

Kosovo is still developing advocacy and lobbying as part of the process of proposing and changing policies. As a result, the private sector is not yet adept at using all available channels to push its agendas and requests. Although there are a considerable number of chambers of commerce in Kosovo, there is little advocacy in policy making to represent the requests of business. Nevertheless, given that several members of parliament have experience and connections in the private sector, such issues are addressed by them. However, there is a need for more active involvement of the chambers of commerce as advocates for the private sector.

5.2.5 Actors in Investment Policies: Kosovo

In 2012, the Kosovo government, namely the Ministry of Trade and Industry proposed a new Law on Foreign Investments. As the most important legislation in regulating foreign investments, the new law aimed at improving the investment environment as well as transmitting the message that Kosovo was working towards a better environment for investors.

The main reasons behind the new law were to guarantee protection of investors; establish a framework for equal treatment of investors, foreign or local; and acknowledge investments from the diaspora as foreign investments. Furthermore, the law was drafted to establish the basis of a legal framework for investments, to be further expanded by laws and strategies.

Following the drafting procedures, the law was sent for review to the Assembly of Kosovo. This draft was considered inadequate in many aspects and was not passed by members of parliament, who required a more comprehensive draft to be sent within the designated time limit. The law did not receive the necessary votes to pass the second review by the assembly, and was returned to the Ministry of Trade and Industry. The issues marked as important by members of parliament had not been addressed in either of the proposed laws; thus the ministry was required to draft a new law.

The new draft law was drafted with extensive consultation and involvement of CSO representatives with expertise in economic policies and members of the chambers of commerce. The outlined procedures for drafting the law were followed in substantial detail. The drafting of the law was done in work groups comprising the Ministry of Trade and Industry, the Kosovo Investment Promotion Agency, legal experts, as well as the aforementioned third parties, business associations and CSO representatives. This cooperation between different institutions produced informed debate on the articles and regulations of the law, resulting in a law that passed the first hearing in the Assembly of Kosovo.

Inputs from all relevant actors were taken into consideration and included in the law to a reasonable extent. This law has shown the readiness of both the Kosovo government and other non-political actors to collaborate in drafting policies that work best for the country. The law is yet to be amended by the functional committee at the assembly, which will most likely include relevant institutions and organizations in the process.

5.3 Policy Environment and Positioning of Policy Actors

The major debate on the Law on Foreign Investments has taken place within the Assembly of Kosovo, where both ruling and opposition political parties have voiced their positions. While the parties that are in the Kosovo government have shown their support for the law proposed by the Ministry of Trade and Industry, opposition parties have largely deemed it inadequate and requested it be redrafted. The opposition called for an investment strategy, which would expand the investment policy framework and ensure implementation of the law. The debate on the third version of the law took place in September 2013 in a regular assembly session.[5]

The majority party, the Democratic Party of Kosovo (PDK), has voiced its support for the law while emphasizing the importance of this legislation in attracting

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[5] Government of Republic of Kosovo (2013).

potential investors. The New Kosovo Coalition, a party in the government, has also supported the law, while emphasizing the importance of regulating foreign investments on a national level rather than through supranational treaties.

On the other hand, opposition parties highlighted the shortcomings of the law. As noted by the Foreign Investment Advisory Service (FIAS) report in 2007, corruption and absence of the rule of law remain the highest concerns and require policy improvement to attract potential investors to the Western Balkans (World Bank 2007). These two concerns also dominated debates over investment policies in Kosovo and were noted as the most urgently in need of reform, and most detrimental to investment if no measures are taken.

The main opposition party, the Democratic League of Kosovo (LDK) states that a primary concern is that the law envisions the merging of two different agencies, one responsible for investment promotion and the other for support to small and medium enterprises, as the majority of Kosovo's businesses fall within the small and medium enterprises definition. Furthermore, this merger undoes the Council of Foreign Investment within the Office of the Prime Minister due to its important role in analysing the business climate and aiding the government in designing policies, and thus it becomes an independent body outside of the Office of the Prime Minister. LDK also stated that the lack of a Strategy for Investment and an investment stimulation package are shortcomings in the overall investment policy framework. As a supplement to the proposed Strategy for Investment, LDK called for the implementation of the existing Anti-Corruption Strategy to tackle the most problematic issue in both Kosovo and the entire Western Balkans region. Moreover, government investment in education, as a means of creating an educated labour force, was also identified as an important strategy to attract investments.

The Vetëvendosje (Self-Determination) Movement has opposed the law entirely. The prevalent issues have been the importance given by the law to protecting investors but not Kosovo from bad investments. Political implications of non-discrimination of investors based on country of origin was another major issue. Given the political past and the current situation in the Western Balkans, such legislative provisions are cause for concern, according to Vetëvendosje. Furthermore, the importance of limiting sectors where foreign investment is allowed highlights a security concern; many Western Balkans countries have addressed that concern by prohibiting investment in certain sectors of the economy. The limitation of investment to only certain sectors also attracts foreign investment to those sectors, which have remained underdeveloped. The necessity of social responsibility as a component of investment was also suggested by this political party.

Another opposition party in the Assembly of Kosovo, the Alliance for the Future of Kosovo (AAK), also opposed the law as it was presented by the ministry. Besides stressing the importance of fighting corruption and organized crime, strengthening the rule of law and supporting a strategy for investment, AAK highlighted the need to support local investors as they remain the backbone of the economy.

The policy environment remains fragile due to a range of problems and institutional deficiencies. The widespread problem characterised by the close links between politics and economics in the Western Balkans is evident in the concerns voiced by Kosovo's policy actors. There is no clear separation of politics and the private sector, as is the case with most transitioning economies. This connection impedes unbiased policy making by the majority of policy actors, who are also involved in the state institutions and hold political offices. On the other hand, the overlap between trade unions and politics represents a similar problem.

Furthermore, corruption and the absence of the rule of law still remain major problems that must be addressed by institutions to ensure an environment that is desirable for doing business. The current political situation exacerbated by a troubled past also creates a barrier not only for each Western Balkan country, but for the region as a whole.

5.4 Implications of Investment Policy Changes

Apart from its importance in regulating foreign investment, this Law on Foreign Investments has been an important step towards showing the readiness of Kosovo institutions to reform its policies and create a stable environment for investment and doing business. Additionally, the cooperation between institutions and non-institutional actors shows positive signs in the improvement of the policy environment in Kosovo. The involvement of a wider spectrum of experts and stakeholders allows for better and more comprehensive policies, but more importantly, allows for policies that are more likely to be implemented.

However, positive developments will occur if along with existing policies, the new policies necessary to supplement the current legislative framework are implemented. As expressed by many policy actors, a strategy is required that considers all forms of investment, encompasses all existing legislation and provides an action plan for its successful implementation.

The final draft of the Law on Foreign Investments has eliminated some potentially negative effects for local investors, although much ambiguity still remains in the role of the state in investment and in providing a secure and stable environment for investment in all areas.

Based on existing legislation regulating the economy, many issues continue to be regulated through by-laws and secondary legislation. Investment policies, however, are a sensitive area and should be regulated largely through primary legislation. This remains a challenge for the future, especially in terms of the specifics of investments that derive from investment agreements.

6 Conclusions

While investments are determined by various factors, many factors are unchangeable such as the size of a national market or economy. Nevertheless, one of the most important factors, especially for the Western Balkans, remains institutional stability and the readiness of institutions for policy reform.

First, even though a lot of wide-ranging work has been done in the Western Balkans to ensure a better environment for investment, governance and institutional issues continue to determine the investment environment. Countries in the Western Balkans remain fragile democracies requiring support to build stable institutions.

Second, the Western Balkans suffer from "chronic corruption", which largely mars the attractiveness of these countries for investors. Although reports frequently assess the high level of corruption in these countries, little is actually done to combat corruption. One of the biggest priorities for the government should remain decreasing the level of corruption and improving the rule of law as cornerstones of a good investment environment.

Third, necessary policy reforms should be undertaken in a multidimensional manner by including a more comprehensive list of relevant actors. This will serve to design more comprehensive policies that encompass a wider spectrum of parties to ensure easier implementation of those policies. Cooperation between policy actors is key to both the design and implementation of policies.

Finally, policies must be implemented. While most Western Balkan countries have adopted sound policies, not all of these have been implemented; and those that are, are never fully implemented. Although this demonstrates institutions' readiness for sound policies, it also shows lack of effort in ensuring these policies in fact achieve their expected results. So far, the EU accession process has served as an effective incentive for the design of good policies; the EU must remain an incentive, but now for the actual implementation of those policies.

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