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**Legal framework for foreign
investments in Kosovo**

Overview of the Presentation

- Law on Foreign Investments
- Improvements in Business Registration Procedures
- Reforms in the Judiciary
- Other Relevant Considerations

Law on Foreign Investments

- Key Definitions
- Key Protections
- Resolution of Investment Disputes
- Status of the Law

Law on Foreign Investments

■ Key Definitions

- **Foreign Investor:** A foreign physical person or legal entity that has made an investment in Kosovo
- **Foreign Investment:** Any asset that has been contributed or leased to a Kosovo business organization for business purposes
- **Asset:** Any item of value, whether tangible or intangible, and includes, immovable and movable property, intellectual property, cash, securities, receivables, licenses etc

Law on Foreign Investments

■ Key Protections

- Prohibition of Discrimination
- Equal Treatment
- Stability of the Investment Regime
 - No retroactive application of detrimental laws
 - Compensation for detrimental change(s) of law
 - The change(s) of law occurred within five years from the date the investment was made
 - The foreign investor suffered damages from the change(s) of law
 - Government of Kosovo is liable by law to compensate the damage and expenses
 - The rights of the foreign investor are irrevocably acquired at the moment the investment is made

Law on Foreign Investments

■ Key Protections (*continued*)

■ Rights and Privileges

- Compensation for damages suffered for actions of public authorities that are in violation of domestic or international law
- Compensation for destruction of or damage of an asset
- Compensation for failure of Kosovo to offer protection and security in accordance with the requirements of the law
- Facilitation of entry and assistance in obtaining visas and residence permits for expatriate personnel

Law on Foreign Investments

- **Resolution of Investment Disputes**
 - **International Arbitration**
 - **Freedom to choose the procedural rules for the resolution of investment disputes:**
 - ICSID Convention
 - ICSID Additional Facility Rules
 - UNCITRAL Rules
 - ICC Rules
 - **Consent of Kosovo for the submission of an investment dispute is given by law**

Law on Foreign Investments

- **Resolution of Investment Disputes** (*continued*)
 - **Applicable Law:**
 - Freedom to agree on applicable law
 - In absence of agreement Kosovo law and relevant public international law applies
 - **Place of Arbitration:**
 - Freedom to agree on the place of arbitration
 - In absence of agreement arbitration shall be held in any EU country that is also member of the New York Convention

Law on Foreign Investments

- **Resolution of Investment Disputes** (*continued*)
 - **Status of the Arbitral Award:**
 - Arbitral award has final and binding effect
 - Arbitral award is enforceable within Kosovo to the same extent and degree as if it was the final decision of the highest court of competent jurisdiction
 - Enforcement in accordance with the New York Convention
 - No legal immunity can be claimed and served to prevent the enforcement of the arbitral award

Law on Foreign Investments

■ Status of the Law

- Repeals any previous laws or other normative acts that are in contradiction with it
- Supersedes any other laws or normative acts that are not in accordance with it, unless:
 - Such a normative act is a law; and
 - The law contains a clearly expressed intention to avoid the application of this law.

Improvements in Business Registration Procedures

- **Recent Amendments in the Laws Governing the Registration of Business Organizations**
 - No requirement to have charter capital to register a limited liability company
 - The charter capital of a joint stock company reduced from EUR 25,000 to EUR 10,000
 - Deadlines for the procedures before the Business Registry shortened in half
 - Revocation of the Municipal Work Permit

Reforms in the Judiciary

- **Reappointment of Judges and Prosecutors**
 - Internationally funded and implemented project
 - Comprehensive competence evaluation
 - Vetting of candidates, including background checks and full financial disclosure
 - A refreshed justice system with 60.48% new judges and prosecutors

Reforms in the Justice System

■ Legislative Reforms

- New law on the Courts, streamlining the structure of the court system and providing for specialized departments within courts
- New laws on the Judicial Council and the Prosecutorial Council, strengthening the structural and functional independence of the justice system
- Considerable increase of the salaries of judges and prosecutors
- Major infrastructural investments in the justice system

Other Relevant Considerations

- **Laws and Instruments Enabling Foreign Investments**
 - Privatization of Socially Owned Companies
 - Privatization of Publically Owned Companies
 - Public Private Partnerships
 - Long-Term Use of Municipal Land
- **New Law on Merger Control**
- **Intellectual Property Rights**
 - Considerable number of patents, trademarks and industrial designs registered with the Industrial Property Office
 - Commercial Court issued its first decisions sanctioning the infringement intellectual property rights
 - A new law providing for efficient Customs procedures to prevent counterfeited goods from entering Kosovo enacted



Thank you for your attention

