

## Kosovo

### LAW NO. 08/L-209 ON SUSTAINABLE INVESTMENTS (2024)

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# **LAW NO. 08/L-209 ON SUSTAINABLE INVESTMENTS**

Assembly of the Republic of Kosovo;

Based on Article 65 (1) of the Constitution of the Republic of Kosovo,

Adopts:

## LAW ON SUSTAINABLE INVESTMENTS

### CHAPTER I GENERAL PROVISIONS

#### Article 1 Purpose

1. The purpose of this Law is to promote, encourage and protect the sustainable investments and exports in the Republic of Kosovo, including the determination of priority sectors for development.
2. This Law is in partial compliance with Regulation (EU) 2019/452 of the European Parliament and of the Council of 19 March 2019 establishing a framework for the screening of foreign direct investments into the Union.

#### Article 2 Scope

This Law shall define the rights and obligations of the institutions, public authorities and investors related to investments in the Republic of Kosovo.

#### Article 3 Definitions

1. The terms used in this Law shall have the meaning defined by this Article:
  - 1.1. Investment - the capital used to develop an economic activity in the Republic of Kosovo, for the purpose of generating income and profits. Investments may be:
    - 1.1.1. currency;
    - 1.1.2. the right over movable or immovable property, such as ownership, lease or similar right;
    - 1.1.3. share or other form of participation in a business organization;
    - 1.1.4. intellectual or industrial property rights, such as copyright, patent, trademark, industrial design, copyright, technical progress, practical know-how, trade secret, geographical indication, trade name related to the investment;
    - 1.1.5. financial instrument;
    - 1.1.6. permit, licence, or other commercial right defined by law, contract or other act;
  - 1.2. Investor:
    - 1.2.1. a natural person with citizenship of the Republic of Kosovo or foreign citizenship, whose purpose is to invest in the Republic of Kosovo according to this law;
    - 1.2.2. a legal person or any entity established in accordance with the provisions of the law in force or foreign laws that aims to invest in the Republic of Kosovo according to this law;
  - 1.3. Foreign investor- is an investor as follows:
    - 1.3.1. the person who does not have citizenship of the Republic of Kosovo;
    - 1.3.2. business organization established in accordance with the laws of a foreign country;
    - 1.3.3. business organization established under the laws of the Republic of Kosovo, where a person under sub-paragraphs 1.3.1-1.3.3 of this Article owns the majority of decisionmaking;

- 1.4. Strategic investment - an investment in the priority sectors and/or objectives defined in this Law;
- 1.5. Sustainable investment - a long-term investment in the Republic of Kosovo in an economic activity that contributes to the fulfilment of one or more of the objectives and priority sectors defined by this Law;
- 1.6. Exporter -refers to the business organization identified as exporter, according to the data of the Tax Administration of Kosovo, Kosovo Customs, and registered in the state registry administered by AIE;
- 1.7. Public institution - a central or local body with legislative, executive, administrative and regulatory competence in the Republic of Kosovo;
- 1.8. Freely convertible currency - any easily convertible currency recognized by the Central Bank of Kosovo, the European Central Bank or the International Monetary Fund;
- 1.9. Investment dispute - the dispute or claim related to the investment, which is submitted for resolution through mediation, to the national Commercial Court or the Arbitration Tribunal.
- 1.10. Council - the Investment Council of the Republic of Kosovo;
- 1.11. Ministry - the ministry responsible for industry, entrepreneurship and trade;
- 1.12. Minister - the minister responsible for industry, entrepreneurship and trade;
- 1.13. Agency for Investments and Exports (AIE) - the Agency for promotion, increase of investments and exports within the Office of the Prime Minister;
- 1.14. Agency for Innovation and Support to the Enterprises in the Republic of Kosovo (AISEK) - the Agency for supporting the development of SMEs, start-ups and relevant ecosystems, tourism, and the development and monitoring of industrial and technological parks, within the Ministry of Industry, Entrepreneurship and Trade;
- 1.15. Complaints Panel - the Investment Complaints Panel of the Republic of Kosovo.

#### **Article 4 Basic principles**

- 1.The Republic of Kosovo shall promote and protect responsible and sustainable investments, in line with the following instruments:
- 1.1. Principles for Responsible Investment supported by the United Nations;
- 1.2. Declaration and Decisions on International Investment and Multinational Enterprises of the Organization for Economic Co-operation and Development (OECD).

## **CHAPTER II RIGHTS AND OBLIGATIONS OF INVESTOR**

#### **Article 5 Right to invest**

The person shall have the right to invest in any kind of economic activity and in any part of the territory of the Republic of Kosovo in accordance with the legislation in force.

#### **Article 6 Equality before the Law**

1. All investors and their investments shall be equal before the Law.
2. The foreign investor shall have the same rights and legal obligations as the domestic investor.

3. The investor shall be subject to the obligation to comply with the law according to Article 9 of this Law.

4. The investor may enjoy special benefits or advantages according to international agreements, especially with regards to:

4.1. method of resolving investment disputes;

4.2. customs, economic or monetary union, common market, free trade area or regional and international economic organizations;

4.3. avoidance of double taxation or other tax issues.

#### **Article 7 Protection and security**

1. The investor and investments shall enjoy complete and continuous protection and security in compliance with the legislation in force.

2. The protection and security of the investors and investments shall not be less favourable than it is required by this Law or the generally accepted norms of the international law.

#### **Article 8 Respect of rights**

1. Public institutions shall:

1.1. act within their legal authorizations vis-à-vis the investor;

1.2. recognize and respect the investor rights defined by the legislation in force,

1.3. develop the procedure in accordance with the legislation in force, by acting in particular in accordance with the principle of proportionality and other procedural principles;

1.4. provide reasonable opportunity to the investor to present facts and arguments in the administrative procedure, to the extent allowed by the nature of procedure and public interest;

1.5. enable the exercise of legal remedies according to the Constitution and the Law.

2. The right emerging from this Law may be limited in cases when public order, morality, national security, public health, environment and legislation in force are violated.

#### **Article 9 Compliance with the Law**

1. The investor shall be subject to domestic legislation and international agreements ratified by the Republic of Kosovo.

2. The investor shall respect in particular:

2.1. legislation on labour, health, security and environment;

2.2. principles of free movement of goods, services and capital;

2.3. principles of equal treatment and rules of free competition and state aid;

2.4. relevant liability insurance obligations;

2.5. the obligation to register beneficial owners and legislation against money laundering, offshore investments and terrorist financing;

2.6. legislation on the implementation of international sanctions;

2.7. obligations of the Republic of Kosovo from the Stabilisation and Association Agreement with the European Union.

3. The investor or investment may be subject to screening in accordance with Chapter VII of this Law.

4. The public institution may ask the investor for compensation of the damage caused by the violation of this law or another act. Compensation is determined according to Article 13 of this Law.

5. The competent institution may impose a sanction on the investor for violation of the law or other act, in accordance with the legislation in force.

#### **Article 10 Protection from expropriation**

1. The investment may not be expropriated directly or indirectly.

2. Notwithstanding paragraph 1 of this Article, the investment may be expropriated only in cases when it is necessary for the purpose or public interest, according to the legal provisions of the Law on Expropriation.

#### **Article 11 Currency conversion and transfers**

1. For any payment, obligation or profit related to the investment company or investment in the Republic of Kosovo, the investor may convert:

1.1. legal local currency into freely convertible currency;

1.2. freely convertible currency into a legal local currency.

2. The investor may transfer cash into a convertible currency in the Republic of Kosovo and abroad.

3. The investor may convert or transfer currency as referred to in paragraphs 1 or 2 of this Article whenever he deems necessary:

3.1. to increase the declared or operating capital of the investment company or other investment in the Republic of Kosovo;

3.2. to retain, repatriate or otherwise dispose of returns, profits, payments or income received in connection with the investment company or other investment in the Republic of Kosovo;

3.3. to make a payment under the contract;

3.4. to retain, repatriate or otherwise dispose of the proceeds from the alienation of control of the investment company or other investment in the Republic of Kosovo;

3.5. to retain, repatriate or otherwise dispose of the payment received as compensation from the settlement of a dispute or as a result of the implementation of this Law.

4. The conversion (exchange) or transfer of money shall be carried out without delay in accordance with the relevant law on the payment system, the law on the prevention of money laundering and terrorist financing and other legislation in force.

5. Conversion shall be made at a market rate of exchange.

6. The right from this article may be subject to the fulfilment of obligations to the public authority or otherwise limited according to paragraph 2 of Article 8 of this Law.

### **Article 12 Liquidation of an investment**

1. An investor may liquidate an investment or terminate the economic activity, in accordance with the legislation in force.
2. An investor may repatriate non-monetary assets received as a result of the liquidation of investment.
3. The investor may convert and transfer the money received as a result of the liquidation of investment in accordance with Article 11 of this Law.
4. The right from this Article may be subject to the fulfilment of obligations to the public authority or be otherwise limited in accordance with paragraph 2 of Article 8 of this Law.

### **Article 13 Compensation for expropriation**

1. Compensation for expropriation related to investments:
  - 1.1. shall be determined according to the value of the asset in the market before the initiation of the expropriation procedure, provided the value is not influenced by:
    - 1.1.1. expropriation; or
    - 1.1.2. awareness or anticipation of expropriation.
  2. Compensation from this Article shall not include compensation for the lost profit or compensation for the cost of implementation of the new legislation.
  3. The right from this Article may be subject to the fulfilment of obligations to the public authority or otherwise limited according to paragraph 2 of Article 8 of this Law.

## **CHAPTER III PRIORITIES AND FACILITATIONS**

### **Article 14 National objectives**

1. State objectives that Republic of Kosovo intends to fulfil through promotion and protection of investments are:
  - 1.1. increase of manufacturing and exports;
  - 1.2. promotion of the circular economy;
  - 1.3. increase competitiveness of domestic industry;
  - 1.4. develop innovation and technology;
  - 1.5. enhance the industrial ecosystem;
  - 1.6. train and employ the work force;
  - 1.7. empower youth, women, non-majority communities and marginalized groups;
  - 1.8. sustainability of the movement of people;
  - 1.9. engagement of diaspora;
  - 1.10. regional development;
  - 1.11. environmental sustainability.

### **Article 15 Priority sectors**

1. Priority sectors for investments in the Republic of Kosovo shall be:

- 1.1. manufacturing and processing industry
- 1.2. agriculture;
- 1.3. information and communication technology;
- 1.4. education and training, research and innovation;
- 1.5. health;
- 1.6. tourism;
- 1.7. sewage and waste administration;
- 1.8. transport;
- 1.9. energy;
- 1.10. mines.

#### **Article 16 Facilitations**

1. Investors may benefit from the following facilitations for investment that fulfils the national objectives and/or the priority sectors referred to in Article 14 and 15 of this Law, and they are:

- 1.1. facilitation in imports for manufacturing or processing purposes, such as the import of machinery, raw materials, semi-products or other products;
- 1.2. exemption from export duty;
- 1.3. subsidies for the salaries of citizens of the Republic of Kosovo employed or trained according to the legal norms in force;
- 1.4. support for research and development;
- 1.5. support in the purchase of manufacturing or processing machinery;
- 1.6. advantage in access to industrial and technology parks;
- 1.7. support for access to finance;
- 1.8. support for the purchase of goods and services from domestic suppliers;
- 1.9. support through administrative burden reduction and coverage or reduction of administrative cost;
- 1.10. other facilitations defined by the legislation in force.

2. Facilitations from paragraph 1 of this Article shall be provided in compliance with the legislation in force.

3. Priority to facilitations from paragraph 1 of this Article shall be granted to:

- 3.1. strategic investment;
- 3.2. the sustainable investment that helps more in achieving the national objectives referred to in Article 14 of this Law.

4. Notice on the facilitations referred to in paragraph 1 of this Article shall be published in line with paragraph 2 of Article 26 of this Law.



## **CHAPTER IV COMPETENT BODIES FOR INVESTMENTS**

### **Article 17 Policies for investments**

The relevant Ministry of Industry, Entrepreneurship and Trade shall be responsible for drafting the policies and legislation in the field of strategic investments and general investments in Kosovo.

### **Article 18 The establishment of the agencies**

1. Upon entry into force of this Law, Investment and Enterprise Support Agency in the Republic of Kosovo (KIESA) established with the Law on Foreign Investment shall be seized, and instead of it, following agencies shall be established:

1.1. Agency of Investments and Exports (AIE);

1.2. Agency for Innovation and Support to Enterprises in the Republic of Kosovo (AISEK).

### **Article 19 Agency of Investments and Exports**

1. AIE shall be established under the Office of the Prime Minister of the Republic of Kosovo as an executive agency according to the relevant legislation on the organization and functioning of state administration and independent bodies.

2. The competences of AIE shall be as follows:

2.1. Promote Investments:

2.1.1. collect up-to-date information on investment trends and identify promising segments to promote investments;

2.1.2. develop and manage promoting campaigns with intention to contact potential investors;

2.1.3. develop and update of the marketing material;

2.1.4. organize events in cooperation with partners to reach the targeted audience in order to increase investments and exports;

2.1.5. promotion through in fairs and commercial events at national and international level;

2.1.6. build and maintain a network of mediators in Kosovo and at international level;

2.2. Facilitate Investments:

2.2.1. screen investors and investment projects;

2.2.2. provide customer-oriented information on relevant characteristics of the investment environment as well as administrative processes related to investments;

2.2.3. pre-select investment sites and organize field visits relevant to the scope;

2.2.4. connect investors, among others, with central and local public authorities and institutions, potential business partners;

2.2.5. assist investors in finding the right employees and facilitate contacts with relevant universities and training providers;

2.2.6. assist with business registration procedures and applications for permits and licences;

2.2.7. navigate and fast-track administrative processes by undertaking structured problem-solving with individual investors;

### 2.3. Investor After Care:

2.3.1. organize regular one-on-one meetings with existing investors to discuss previous and planned projects, challenges and needed support;

2.3.2. clarifies, eases and consolidates processes related to the requests of the potential investors and exporters, including but not limited to clear guidelines for action of responsible institutions investors;

2.3.3. support investors in dealing with administrative procedures in relation with their investing and exporting projects;

2.3.4. help potential investors and exporters with the purpose of extension of their activities, using synergies with services of easing investment and exports;

2.3.5. creates and maintains a network of partners for services, in order to offer a comprehensive portfolio of the supporting services for the investors;

2.3.6. gathering of information on needs and perception of investors, and their presentation within the council for policies on reforms of the investment climate;

2.3.7. implementation of national programmes and international projects that support after care measures.

### 3. Review and evaluate requests for strategic investments refers to:

3.1. acceptance of proposals for strategic investments;

3.2. preparation of the records for evaluation of the investment project;

3.3. request of necessary data and documents for evaluation of the proposal;

3.4. evaluation of the proposal with the help of the responsible and supporting institutions from the sectors and the relevant persons responsible for the strategic investment;

3.5. presentation before the Council for adoption, recommendation for proclamation, refusal or revocation of the strategic investment;

3.6. care for the services to the investor, according to the provisions of this law;

3.7. evaluation of the prepared projects from the public institutions for strategic investments, in the priority sectors according to Article 15 of this Law;

3.8. recommendation to the Council and the coordination of the public institutions in preparation of the projects of strategic investments;

3.9. monitoring and reporting on the implementation of the strategic investments;

3.10. additional verification of the investments aimed and those made which might affect public order or state security, based on which gives Council the recommendation;

3.11. performing of the services of the secretariat for the Council and the Complaints Panel;

3.12. eases consultation, monitors dispute resolution of the investments, as well as recommends preventive measures according to the Chapter VII of this law.

4. AIE promotes exports through following activities:

4.1. research of competitive advantage for the products with the export potential in international markets;

4.2. establishment, making official and maintenance of the state database of exporters;

4.3. offering of the individual information and advisory services;

4.4. organization of the events in order to help the exporters in finding buyers and partners;

4.5. development of the marketing means to address potential buyers in the export markets by national companies;

4.6. establishment and maintenance of a network of mediators within Kosova and in international level;

4.7. identification of the challenges of the exporting companies, their offering within the processes of planning, in coordination with relevant ministries;

4.8. drafting of yearly plans and carries out activities in accordance with the requests for extension of markets for export.

5. AIE is responsible for coordination with competent bodies of the ministries and agencies for processes of evaluation and additional verification of investments.

6. AIE shall be headed by the Executive Director who is a civil employee of the senior management category, that is appointed and dismissed according the relevant Law on Public Officials. The Executive Director in exercising his functions shall be assisted by one (1) deputy director who is a civil employee of the senior management category that is appointed and dismissed according to the relevant Law on Public Officials.

7. Internal organization and systematization of job positions in the AIE shall be done by a sub-legal act, in compliance with the relevant Law on Organization and Functioning of the State Administration and Independent Agencies.

#### **Article 20 Agency for Innovation and Support of the Enterprises in the Republic of Kosovo (AISEK)**

1. AISEK is the executive agency established with this Law under the Ministry for Industry, Entrepreneurship and Trade.

2. Competencies of the AISEK are as follows:

2.1. Innovation and development of the Entrepreneurship:

2.1.1. gathering of information on the innovation and the dynamics of the start;

2.1.2. filling of the financial aid with adapted trainings and monitoring support in cooperation with partners;

2.1.3. offer of information and advices for the programs of financial support and alternative sources of financing;

2.1.4. services of compliance for initiation and ease of the projects and relations of the cooperating innovation;

2.1.5. support for SME and starting businesses in finding and recruiting talents (programs for support of internships);

- 2.1.6. drafting and implementation of measures of communication for promotion of local entrepreneurs, as well as the innovative and entrepreneur ecosystem;
- 2.1.7. development of partnerships with start-up centres in the international level;
- 2.1.8. identification of challenges for development of the ecosystem and offering of advices for relevant policies;
- 2.1.9. implementation of national programs, grant schemes and international projects which support development of SMEs, starting businesses and relevant ecosystems;
- 2.1.10. organization of events for networking of national and international businesses B2B and G2B in all industrial, service and processing sectors.
- 2.2. Development of production capacities destined for export:
  - 2.2.1. evaluation of existing capacities;
  - 2.2.2. technical assistance for planning and increase of competition;
  - 2.2.3. support with the grant schemes for improvement of quality and increase of competition, training and specialization of human resources, technology advancement, digitalization and innovation;
  - 2.2.4. increase of access to finance through programs for increase of competition;
  - 2.2.5. organization of training programs for increase of competition;
  - 2.2.6. organization of joint economic and trade forums in implementation of bilateral and international agreements for economic cooperation.
- 2.3. Promotion of Tourism:
  - 2.3.1. collection of updated information on the main market trends and identification of promising segments for promotional measures;
  - 2.3.2. designing and implementing advertising and communication campaigns using different channels;
  - 2.3.3. organization and attendance of trade and tourism fairs, events and business missions to promote Kosovo as a tourist destination;
  - 2.3.4. contribution to product development (tourist routes);
  - 2.3.5. planning and implementation of programs adapted for capacity building with partners;
  - 2.3.6. cooperation with embassies and other partners at the international level, providing them with the necessary information to promote Kosovo as a tourist destination;
  - 2.3.7. identifying challenges for the development of the destination and the tourist industry and providing policy advice;
  - 2.3.8. implementation of national programs, grant schemes and international projects that promote the competition of tourism products and services and their promotion.
- 2.4. Industrial and Technological Parks:

- 2.4.1. supporting the policy-making role of the Ministry of Industry, Enterprise and Trade, in defining new areas, supervising their implementation, monitoring performance based on Key Performance Indicators (KPI);
  - 2.4.2. preparation and evaluation of feasibility studies and master plans for the development of areas;
  - 2.4.3. selection of economic operators for the development and construction of areas;
  - 2.4.4. distribution of resources in industrial and technological parks;
  - 2.4.5. participation in the functionalization processes of industrial parks and land use;
  - 2.4.6. design and provision of infrastructure in industrial and technological parks;
  - 2.4.7. ensuring close coordination with municipalities for the development and operation of industrial and technological parks;
  - 2.4.8. cooperation, acceptance, review and evaluation of applications provided by the municipalities of Kosovo for the establishment and construction of industrial and technological parks, as well as cooperation for the placement of investors within these parks;
  - 2.4.9. providing investors with information on specific characteristics;
  - 2.4.10. assistance to investors for registration in certain industrial and technological parks and administrative processes.
- 2.5. Regarding industrial and technological parks, AISEK shall:
- 2.5.1. examine the requirements for the establishment of the industrial and technological park;
  - 2.5.2. administer the industrial and technological park together with the founder, except in cases where the municipality or business organization finances its construction and operation;
  - 2.5.3. performs Secretariat services for the administrator of the industrial and technological park;
  - 2.5.4. keeps a public register for industrial and technological parks and business incubators, and makes it available to public government institutions, stakeholders and organizations.
3. AISEK shall be headed by the Executive Director who is a civil employee of the senior management category, that is appointed and dismissed according the relevant Law on Public Officials.
4. Internal organization and systematization of job positions in the AISEK shall be done by a sub-legal act, in compliance with the relevant Law on Organization and Functioning of the State Administration and Independent Agencies.

#### **Article 21 Council**

1. The Investment Council of the Republic of Kosovo shall evaluate, select, implement, supervise and decide on strategic investment projects in accordance with the legal provisions of this Law.
2. The Council shall consist of:
  - 2.1. Prime Minister, Chair;

- 2.2. Minister responsible of industry, entrepreneurship and trade, deputy chair;
  - 2.3. Minister responsible of finance;
  - 2.4. Minister responsible of environment, spatial planning and infrastructure;
  - 2.5. Minister responsible of economy;
  - 2.6. Minister responsible of agriculture;
  - 2.7. Minister responsible for local governance.
3. The Government can add the number of the members of the Council as per need.
4. The Council shall have the following responsibilities:
- 4.1. approve action plans and publish reports on the promotion and protection of investments, paying attention to the identification of interests, improving the environment of economic activity, development opportunities and comparative advantages of the Republic of Kosovo;
  - 4.2. issue decisions on strategic investments as defined by Article 36 of this Law;
  - 4.3. publish invitations and negotiate agreements concluded with strategic investments as defined by Articles 29 and 35 of this Law;
  - 4.4. define measures, procedures, terms and obligations of the public authorities related to the design and implementation of strategic investment projects;
  - 4.5. oversee the implementation of strategic investments;
  - 4.6. request screening of investments and issue decisions on screening as defined by Chapter VII of this Law.
  - 4.7. Performs other functions related to the field of investments and exports determined by the decision of the Government.
5. The member of the Council cannot be involved in the strategic investment activity that has been reviewed without passing five (5) years from the end of the member's mandate.
6. AIE performs the role of secretariat for the Council.
7. AIE prepares proposals for action plans, reports and decisions of the Council for the promotion and protection of investments and exports.
8. The work of the Council is regulated by a sub-legal act of the Government.

#### **Article 22 Complaints Panel**

1. The Investment Complaints Panel of the Republic of Kosovo shall review the complaints of investors as defined by Article 45 of this Law.
2. The Complaints Panel shall be appointed by a decision of the Government.
3. The Complaints Panel shall have five (5) members with a four (4) year mandate who shall be experts of the field.
4. AIE shall perform secretary services for the Complaints Panel.
5. The Complaints Panel shall adopt the procedural rules in line with the applicable legislation.

6. The Government shall, by a sub-legal act, determine the status and compensation of the Complaints Panel members.

#### **Article 23 Obligation of cooperation**

1. Every public authority has the duty to cooperate with the Council, AIE and the Complaints Panel and to help in the implementation of this Law.
2. The failure of the public official to cooperate according to paragraph 1 of this Article constitutes a serious breach of duty, according to the relevant Law on Public Officials.

## **CHAPTER V STRATEGIC INVESTMENTS**

#### **Article 24 General conditions**

1. Strategic investment shall enjoy special advantages and support under to this Law.
2. Strategic investment that meets the following conditions may be declared an investment project:
  - 2.1. the project helps in fulfilling the national objectives referred to in Article 14 of this Law;
  - 2.2. the project belongs to the priority sectors referred to in Article 15 of this Law;
  - 2.3. the proposer has demonstrated the financial ability to implement the investment;
  - 2.4. the project is in accordance with Article 30 of this Law;
  - 2.5. the project has been subject to screening if required as defined by Chapter VII of this Law and a decision has been made to allow investment under Article 40 of this Law.
3. The strategic investment must reach the value of at least ten (10) million Euros.
4. Priority in selection shall be given to the project that has greater value and helps more in fulfilling the state objectives from Article 14 of this Law, especially the objectives of employment, increasing manufacturing and exports, regional development and environmental sustainability.

#### **Article 25 Investor care**

1. AIE shall provide the following investor care services:
  - 1.1. facilitation in preparing the request and following the administrative procedure for equipment with a permit, license, consent, authorization or similar act of the administrative body;
  - 1.2. support for access to basic infrastructure;
  - 1.3. support for access to industrial and technology parks;
  - 1.4. other services defined by this Law and a sub-legal act of the Government.
2. Priority shall be given to services referred to in paragraph 1 of this Article:
  - 2.1. strategic investment;
  - 2.2. investment that helps more in achieving the national objectives referred to in Article 14 of this Law;
  - 2.3. investment in the priority sectors referred to in Article 15 of this Law.

## **Article 26 Register and announcements of investments**

1. AIE shall maintain and publish the investment register with the following content:
  - 1.1. list of foreign investors and exporting enterprises;
  - 1.2. list of strategic investments;
  - 1.3. list of projects prepared for strategic investments according to Article 24 of this Law;
  - 1.4. list of public immovable properties that can be used according to Article 28 of this Law;
  - 1.5. list of industrial parks, technology parks and business incubators;
  - 1.6. list of permits and licenses and the competent bodies for their issuance, in accordance with the relevant law on the system of permits and licenses.
2. AIE shall prepare and publish the necessary announcements for investments, including:
  - 2.1. national objectives from Article 14 of this Law;
  - 2.2. priority sectors from Article 15 of this Law;
  - 2.3. facilities from Article 16 of this Law;
  - 2.4. investor care services from Article 25 of this Law;
  - 2.5. information needed for strategic investments;
  - 2.6. required information for access to industrial parks, technology parks and business incubators;
  - 2.7. information on administrative procedures for obtaining a permit, license, consent, authorization or similar act of the administrative body related to investments.
3. The Government shall, by a sub-legal act, determine the manner of keeping the register and announcements.

## **Article 27 Services to strategic investors**

1. High priority shall be given to administrative procedures related to the preparation, review, implementation and supervision of strategic investments.
2. AIE shall provide the following services to the investor regarding strategic investments:
  - 2.1. individualized support through the officer responsible for the strategic investment;
  - 2.2. facilitation in preparing the request and following the administrative procedure for equipment with a permit, license, consent, authorization or similar act of the administrative body;
  - 2.3. priority support for access to industrial parks;
  - 2.4. availability of immovable state property for the implementation of the strategic investment;
  - 2.5. other services defined by a sub-legal act of the Government.
3. AIE shall forward the request from sub-paragraph 2.2 of this Article to the competent body within five



(5) days from the submission of the complete request.

4. The administrative body shall review the request referred to in sub-paragraph 2.2 of this Article within half of the term set by the relevant law concerning the general administrative procedure or by the special legislation. When the request is complex, the deadline may be extended only once according to the legislation in force.

5. The investor shall submit data and documents, complete and accurate, according to the legislation in force.

#### **Article 28 Use of property**

1. Immovable public property shall be leased for strategic investment:

1.1. after the approval of the Assembly of the Republic and in accordance with the relevant Law on expropriation of immovable property, if it is socially-owned;

1.2. after the approval of the Assembly of the Republic of Kosovo, if the property is owned by the Republic of Kosovo;

1.3. after the approval of the relevant municipal assembly, if the property is a municipal property;

1.4. in accordance with the relevant Law on publicly-owned enterprises, if the property is owned by a public enterprise, as well as other legislation managing the public property.

2. Immovable state property may be leased for the duration of the strategic investment for up to ninety-nine (99) years, according to the relevant Law on allocation for use of property.

3. The Government shall, by sub-legal act, determine the manner of granting the use of immovable state property for strategic investment, in accordance with the spatial and urban planning regulation and the applicable legislation on state aid, state and public property, property rights, obligational relationships, public-private partnership and public procurement.

4. The decision for revocation of the strategic investment shall terminate the right to use immovable state property.

## **CHAPTER VI PROCEDURE**

#### **Article 29 Proposer and implementer of the investment project**

1. The investment project that is prepared, proposed or implemented by the following may be announced a strategic investment:

1.1. privately-owned business organization;

1.2. public-private partnership;

1.3. public institution;

1.4. public or social enterprise;

1.5. contracting cooperation of public authority and public or social enterprise;

1.6. non-governmental organization;

1.7. entity under an international agreement; or

1.8. entity in cooperation with the European Union or another international financial institution.

2. The party from paragraph 1 of this Article may be a Kosovo or foreign citizen.
3. AIE shall assess whether the project prepared according to paragraph 1 of this Article is in accordance with the Law.
4. The Council shall examine and take a decision regarding the project after the recommendation of AIE.
5. The Government shall, by a sub-legal act, determine:
  - 5.1. the procedure for reviewing projects prepared for strategic investments;
  - 5.2. financial support of projects prepared for strategic investments.

### **Article 30 Strategic investment proposal**

1. The strategic investment proposal shall be submitted to AIE.
2. In the strategic investment proposal form, the proposer shall specify if they request preliminary or final review.
3. For the preliminary review, the strategic investment proposal shall contain the following data and documents:
  - 3.1. the form with the general data for the strategic investment proposal and project;
  - 3.2. detailed description of the project, including:
    - 3.2.1. project title;
    - 3.2.2. value of the capital proposed to be invested within three (3) years;
    - 3.2.3. location where the investment is proposed;
    - 3.2.4. description of the property or facility where the investment is proposed;
    - 3.2.5. description of the investment financing method;
    - 3.2.6. dynamic work plan for the duration of the project implementation;
  - 3.3. detailed description of the proposer, in particular the natural person, legal person, responsible person, parent entity, subsidiaries, joint venture entities and partners, including:
    - 3.3.1. legal form of organization;
    - 3.3.2. ownership and beneficial owners;
    - 3.3.3. detailed profile;
    - 3.3.4. objectives;
    - 3.3.5. values and ethics;
    - 3.3.6. permits and licenses;
    - 3.3.7. criminal history;
    - 3.3.8. legal disputes and unsatisfied claims;
    - 3.3.9. conflict of interest statement in the proposed project;
    - 3.3.10. blacklisting notification by financial institutions and other subjects;

3.3.11. statement of compliance with the norms against money laundering, offshore investments and the financing of terrorism, according to the legislation in force and international guidelines;

3.4. investment business plan, including:

3.4.1. product description;

3.4.2. operational plan;

3.4.3. human resources management plan;

3.4.4. legal issue plan and liability insurance;

3.4.5. sales and marketing plan;

3.4.6. environmental and social management plan;

3.4.7. description of social and environmental responsibilities;

3.4.8. financial management plan;

3.5. authorization given to AIE to verify the submitted data and documents.

4. For the final review, the strategic investment proposal shall contain the following data and documents:

4.1. data and documents from paragraph 3 of this Article, if they were not submitted before;

4.2. references of experience in similar projects;

4.3. audit reports of the proposer, including financial statements, for the last three (3) years;

4.4. financial proof to implement the project;

4.5. proof for a bank guarantee;

4.6. evidence of compliance with the law according to Article 9 of this Law;

4.7. data and documents necessary for screening if it is required according to Chapter V of this Law.

#### **Article 31 Submission of the proposal**

1. The strategic investment proposal shall be submitted to AIE for review.

2. Fifteen (15) days from the submission of the strategic investment proposal, AIE shall start the proposal review.

3. If AIE finds that the strategic investment proposal has not been submitted complete, it shall request the proposer, in writing, within ten (10) days, to submit the missing data and documents.

4. The strategic investment proposal shall not be approved in silence.

#### **Article 32 Proposal review**

1. The proposal review shall include the verification of data and documents and the technical, financial and legal evaluation of the proposal.

2. AIE shall examine the strategic investment proposal based on the opinions of the supporting institutions:

2.1. line ministries, represented in the Council composition;

2.2. municipalities where the investment is proposed to be made;

2.3. responsible office of state aid;

2.4. public institution regulating the sector where the investment is proposed.

3. The supporting institution shall appoint the official responsible for the requested opinion. The official shall be a professional in the relevant field and act in accordance with the relevant law on the prevention of conflict of interest.

4. On AIE proposal, the Chairman of the Investments Council in the Republic of Kosovo may appoint representatives from all the Ministries and Municipalities that have the objective of strategic investment, as well as one representative of the relevant institution for State Aid or external experts to assist AIE in reviewing the proposal.

conducting duties and responsibilities as stipulated according to this Article.

5. According to paragraph 4 of this Article, the representatives are obliged to professionally support AIE in

#### **Article 33 Review period**

1. AIE shall request an opinion from the supporting institution within fifteen (15) days from the complete submission of the proposal. The supporting institution shall give an opinion within thirty (30) days.

2. AIE shall review the strategic investment proposal within the following time period:

2.1. sixty (60) days from the complete submission of the proposal for preliminary review;

2.2. ninety (90) days from the complete submission of the proposal for final review;

2.3. sixty (60) days from the complete submission of data and documents requested for final review, if the preliminary review has finished.

3. Notwithstanding paragraph 2 of this Article, a shorter period may be determined to review the proposal for the implementation of the project prepared by parties according to Article 29 of this Law.

4. If the Council approves the preliminary recommendation of AIE for the announcement of the strategic investment or rejects the preliminary recommendation of AIE for the rejection of the strategic investment, AIE may request the proposer the necessary data and documents for the final review. The proposer shall submit the requested data and documents within sixty (60) days.

5. If the Council suspends decision-making and obliges AIE to perform an additional review, AIE shall perform the additional review within thirty (30) days.

6. If screening is required according to Chapter VII of this Law, the proposer may request AIE to perform the screening before or alongside the final review of the proposal of the strategic investment. If the screening is carried out before the final examination, the period from paragraph 5 of this Article shall begin to run after the decision on the authorization of the investment according to Article 40 of this Law.

7. After the screening of the proposal, AIE shall review the strategic investment proposal within the following period:

7.1. thirty (30) days from the complete submission of the proposal for preliminary review;

7.2. sixty (60) days from the complete submission of the proposal for final review;

7.3. thirty (30) days from the complete submission of the data and documents requested for final review, if the preliminary review has been performed.

#### **Article 34 AIE recommendations**

1. AIE shall provide the following recommendations:

1.1. preliminary recommendation for the announcement of the strategic investment according to the proposal, if the preliminary review finds that the proposal meets the conditions and criteria set forth in this Law;

1.2. final recommendation for the announcement of the strategic investment according to the proposal, if the final review finds that the proposal meets the conditions and criteria provided by this Law;

1.3. preliminary recommendation for the rejection of the strategic investment according to the proposal, if the preliminary review finds that the proposal does not meet the conditions and criteria set forth in this Law;

1.4. final recommendation for the rejection of the strategic investment according to the proposal, if the final review finds that the proposal does not meet the conditions and criteria provided by this Law;

1.5. recommendation for the approval or rejection of the project prepared by the relevant proposer for strategic investment according to Article 29 of this Law;

1.6. other recommendations provided by the legislation in force or requested by the Council in order to implement the provisions of this Chapter.

2. AIE shall present the recommendation from paragraph 1 of this Article to the Council.

#### **Article 35 Special selection of the investor**

1. The Council may open a call to select a partner for the implementation of the strategic investment, according to the evaluation criteria in line with the legislation in force.

2. Notwithstanding paragraph 1 of this Article, the Council may select by direct negotiation the trust company as the proposer, implementer or partner for the implementation of the strategic investment, according to the evaluation criteria in line with the legislation in force. The business organization with a reputation and internationally recognized references in terms of economic activity, business ethics and advanced corporate governance, proven by financial and auditing institutions, shall be considered a trust company.

3. The Council may enter into a preliminary agreement with the proposer, implementer or partner under this Article. The agreement may replace the proposal from Article 33 of this Law, but must be in accordance with the general conditions from Article 24 of this Law.

#### **Article 36 Decision of the Council**

1. The Council with a decision shall:

- 1.1. approve the preliminary recommendation of AIE for the announcement of the strategic investment and oblige the Agency to perform the final review;
  - 1.2. approve the final recommendation of AIE for the announcement of the strategic investment and announce the strategic investment;
  - 1.3. reject the recommendation of AIE for the announcement of the strategic investment and reject the strategic, if it deems that the conditions or criteria provided by this Law have not been met;
  - 1.4. approve the recommendation of AIE to reject the strategic investment, and reject the strategic investment;
  - 1.5. reject the preliminary recommendation of AIE to reject the strategic investment, and oblige the Agency to conduct the final review, if it deems that the conditions or criteria provided by this Law have not been met;
  - 1.6. reject the final recommendation of AIE to reject the strategic investment and recommend to the Government the announcement of the strategic investment, if it deems that the conditions or criteria provided by this Law have not been met;
  - 1.7. announce the strategic investment, after fulfilling the obligations under the previous agreement referred to in Article 35 of this Law;
  - 1.8. suspend decision-making and oblige AIE to perform an additional review, if it deems that the data presented are insufficient for decision-making or that there is a risk of compliance with the Law;
  - 1.9. approve the public project;
  - 1.10. cancel or repeal the decision on strategic investment under Article 39 of this Law.
2. If screening is required in accordance with Chapter VII of this Law, the Council shall review the final recommendation of AIE for the announcement or rejection of the strategic investment after the decision on the authorization of the investment according to Article 40 of this Law.
3. Decision from sub-paragraphs 1.2, 1.3, 1.4, 1.6, 1.7, 1.9 or 1.10 of this Article shall be a final administrative act within the meaning of the relevant law on the general administrative procedure. A lawsuit against the decision referred to in Article 46 of this Law and the relevant law on administrative conflicts shall be allowed.
4. The decision of the Council from this Article shall be published on the official website of AIE within seven (7) days.

#### **Article 37 Content of the decision**

1. The decision on the announcement of the strategic investment shall contain:
  - 1.1. project title;
  - 1.2. name of investor and investor's partners;
  - 1.3. value of the capital invested within three (3) years;
  - 1.4. location where the investment is made;
  - 1.5. description of the property or facility where the investment is made, including the duration for which the immovable state property is required to be used;

1.6. the rationale for the announcement of the strategic investment, including the description of the importance of the investment for the Republic of Kosovo and the statement that the proposal fulfils the conditions and criteria provided by law; 1.7. legal advice.

#### **Article 38 Agreement on strategic investment**

1. After the announcement of the strategic investment, the Council shall negotiate an agreement with the investor for the implementation of the investment.
2. The Council shall authorize the Minister to negotiate the agreement for the implementation of the strategic investment.
3. In addition to the elements defined by the legislation and the decision, the agreement for the implementation of the strategic investment shall contain:
  - 3.1. commitments of the Republic of Kosovo and the investor for the implementation of the project;
  - 3.2. deadline for fulfilling the commitments;
  - 3.3. mechanisms for protection of the interests of the Republic of Kosovo in case of exceeding the deadlines or abandoning the project;
  - 3.4. mechanisms for the resolution of disagreements and investment disputes;
  - 3.5. other elements necessary for the implementation of the project or legislation.
4. The duration of the strategic investment agreement may not be shorter than five (5) years.

#### **Article 39 Annulment and abrogation of the decision for strategic investment**

1. If it is ascertained that the proposer or investor has submitted incorrect data or has concealed data that influenced the decision to announce the strategic investment, the Council may annul the decision. The decision may be made during the preparation or during the implementation of the strategic investment.
2. If the implementer at their own fault fails to initiate the implementation of the strategic investment within six (6) months from the strategic investment agreement, the Council may abrogate the decision.
3. Annulment or abrogation of the decision for the announcement of the strategic investment according to this Article shall not release the proposer or implementer from the responsibility for the damage caused by the non-implementation of the strategic investment.
4. The decision from this Article shall be the final administrative act within the meaning of the relevant Law on the general administrative procedure. A lawsuit against the decision shall be allowed in accordance with Article 46 of this Law and the relevant law on administrative conflicts.

## **CHAPTER VII SCREENING**

#### **Article 40 Determination of screening**

1. Targeted investment or an investment performed by a foreign person that is likely to affect public order or national security may be subject to screening.

2. Screening shall mean the procedures for the evaluation, investigation, authorization, conditionality, prohibition or removal of investment, in accordance with this Law and other applicable legislation.
3. Screening shall pay special attention to compliance with:
  - 3.1. norms against money laundering, offshore investments and terrorist financing, in accordance with applicable legislation and international guidelines;
  - 3.2. the relevant legislation on the implementation of international sanctions.
  - 3.3. in the event of unfair trade, the Republic of Kosovo has the right to protect its national resources, in accordance with the relevant legislation for foreign trade.
4. During screening and decision-making, trade secret shall be protected by the applicable legislation.
5. The Government shall, by a sub-legal act, determine the circumstances and causes, required data and documents, and the manner of screening in accordance with this Chapter.

#### **Article 41 Circumstances and causes**

1. Screening may be required particularly for investments related to:
  - 1.1. critical infrastructure;
  - 1.2. critical technology and dual-use goods under applicable legislation;
  - 1.3. supply of critical goods, including energy, raw materials and food;
  - 1.4. access to or control over sensitive information; and
  - 1.5. media freedom and pluralism.
2. In assessing whether the investment is likely to affect public order or national security, consideration shall be given to the following:
  - 2.1. if the foreign person is directly or indirectly controlled or owned by the public authority of a foreign state;
  - 2.2. if the foreign person has been involved in an activity that affects public order or national security; or
  - 2.3. if there is a serious risk that the foreign person will be involved in illegal or criminal activities.

#### **Article 42 Procedure and deadlines**

1. AIE shall initiate the screening:
  - 1.1. at the request of the foreign person who aims to make or has made an investment;
  - 1.2. at the request of the interested party;
  - 1.3. at the request of the Council, Minister or another competent body;
  - 1.4. ex officio.
2. AIE shall perform the screening with the assistance of the competent bodies.



3. The screening shall be performed within sixty (60) days from the complete submission of the screening request or the beginning of the ex officio procedure.

4. After the screening, AIE shall submit the relevant recommendation for decision to the Council.

#### **Article 43 Screening decision**

1. Based on AIE's recommendation on the investment screening, the Council shall, by a decision:

1.1. authorize the investment that does not violate public order or national security;

1.2. set appropriate conditions and deadlines for preventing or eliminating circumstances that threaten public order or national security;

1.3. prohibit or order the removal of investment that violates public order or state security.

2. The party shall submit to AIE the evidence for fulfilling certain conditions under the decision from subparagraph 1.2 of this Article. A party may request the Council to change the terms and conditions.

3. AIE shall monitor the fulfilment of the conditions set by the decision from sub-paragraph 1.2 of this article and shall submit the monitoring report to the Council.

4. Based on the request of the party or the monitoring report from paragraphs 2 and 3 of this Article, the Council shall, by a decision:

4.1. ascertain the fulfilment of conditions according to the decision from sub-paragraph 1.2 of this Article and authorize the investment;

4.2. change the conditions or deadlines set by the decision from sub-paragraph 1.2 of this Article;

4.3. ascertain the non-fulfilment of conditions according to the decision from sub-paragraph 1.2 of this Article and shall prohibit or order the removal of the investment for violation of public order or national security.

5. The decision from this Article shall be a final administrative act within the meaning of the relevant law on general administrative procedure. A lawsuit against the decision shall be allowed according to Article 46 of this Law and the relevant Law on administrative conflicts.

## **CHAPTER VIII CONSULTATIONS, DISAGREEMENTS AND DISPUTES**

#### **Article 44 Consultation**

1. The investor may ask AIE for assistance in resolving disputes with public institutions or public service providers through consultation.

2. AIE shall facilitate the consultation procedure.

#### **Article 45 Investor's complaint**

1. The investor may file a complaint at the Complaints Panel against the public institution for the investment disagreement resolution, except from complaints against a decision of the Council.

2. The Complaints Panel shall review the investor's complaint, hear the investor and the public institution as needed, and issue a recommendation within ninety (90) days of the submission of the request.

3. Within fifteen (15) days from the recommendation of the Complaints Panel, the public institution shall notify the Panel in writing of the actions taken on the recommendation or the reasons for non-compliance with the recommendation.

4. The investor may use another legal remedy regardless of whether or not it has filed a complaint under paragraph 1 of this Article.

#### **Article 46 Court**

1. In addition to legal remedies provided by the Constitution and the Law, the following shall also be allowed:

1.1. investment dispute lawsuit;

1.2. administrative conflict lawsuit, including lawsuit against decisions from Articles 36, 39 and 43 of this Law.

2. The competent court for commercial matters shall decide on lawsuits referred to in this Article.

#### **Article 47 Mediation and Arbitration**

1. The Republic of Kosovo and the investor may agree to resolve the investment dispute through mediation or arbitration, determining in advance the terms and conditions of the procedure.

2. Mediation and arbitration, according to this Article, shall be held in the Republic of Kosovo or in a member state of the European Union which is part to the Convention on Recognition and Enforcement of Foreign Arbitral Awards (New York Convention).

3. The mediation agreement and arbitral award shall be recognized and enforced in accordance with the relevant Law.

#### **Article 48 Applicable law**

Unless the Republic of Kosovo and the investor have agreed otherwise, the court or arbitral tribunal shall resolve the investment dispute in accordance with the law of the Republic of Kosovo.

#### **Article 49 Monitoring**

1. The Agency monitors the resolution of investment disputes and recommends preventive measures.

2. The government shall, by sub-legal act, determine the manner of implementation of this Article.

## **CHAPTER IX FINAL PROVISIONS**

#### **Article 50 Implementation of the Law**

1. This Law shall be implemented in accordance with ratified international agreements and other international obligations of the Republic of Kosovo.

2. Ratified international agreements on investment protection shall prevail over this Law.

#### **Article 51 Sub-legal acts**

1. The sub-legal acts provided for in this Law shall be issued within one (1) year.
2. Insofar as they are not in conflict with this Law, they shall apply until the following sub-legal acts are replaced:
  - 2.1. Administrative Instruction (MTI) No. 01/2015 on the Form and Content of the Foreign Investment Register;
  - 2.2. Administrative Instruction (GRK) No. 11/2017 on the Form and Content of the Register related to Projects that have gained the Title of Strategic Investments;
  - 2.3. Administrative Instruction (GRK) No. 19/2017 on the Work and Functioning of the Inter-Ministerial Committee for Strategic Investments;
  - 2.4. Administrative Instruction (GRK) No. 01/2018 on the Manner of Making Available Real Estate owned by Public Enterprises for Development and Implementation of Strategic Investment Projects;
  - 2.5. Administrative Instruction (GRK) No. 15/2018 on the Means and Methods for Verifying the Eligibility for obtaining the Status of a Strategic Investor.

#### **Article 52 Transitional provisions**

1. Regulation and organization of AIE and AISEK shall be regulated by special sub-legal acts.
2. Investment and Enterprise Support Agency in the Republic of Kosovo, established with the Law No.04/L-220 for Foreign Investments, exercises all competences within the Ministry of Industry, Entrepreneurship and Trade, until the entry into force of sub-legal acts in accordance with paragraph 1 of this Article.
3. Upon the structuring of the Agency according to this Article:
  - 3.1. The Ministry undertakes the systematization of civil servants.
  - 3.2. AIE and AISEK shall each take the responsibilities, properties under administration, contracts, obligations to third parties and ongoing administrative procedures related to their scopes.

#### **Article 53 Abrogation**

Upon entry into force of this Law, the Law No. 04/L-220 on Foreign Investment and Law No. 05/L-079 on Strategic Investments in the Republic of Kosovo shall be abrogated.

#### **Article 54 Entry into force**

This Law shall enter into force fifteen (15) days after its publication in the Official Gazette of the Republic of Kosovo.

Law No. 08/L-209

19 October 2023

Promulgated by Decree No. DL-120/2024 dated 20.08.2024 President of the Republic of Kosovo Vjosa Osmani-Sadriu