



EUROPEAN COMMISSION

SAP TRACKING MECHANISM FOR KOSOVO

(Third meeting, Pristina, October 2003)

Sectoral Questionnaire¹: Economic legislation – selected chapters² - STM 0302

Initial discussion: Meeting of October 2003

1. Company Law

Legal Framework

- 1.1. Do companies **raise their own finance**, i.e. issue shares? If so, are shareholders protected (please provide details)? Is there a minimum capital requirement for companies? If so, what is it? Are there safeguard clauses to protect authorised capital? [**Lead**: PISG/MTI, MFE; also: OLA, **KTA**]
- 1.2. Are enterprises subject to particular obligations regarding the **protection of creditors** and if so, what are they? [**Lead**: PISG/MTI, MFE; also: OLA, **KTA**]
- 1.3. Are companies required to **publish information** about major decisions affecting them? [**Lead**: PISG/MTI; also: OLA, **KTA**]
- 1.4. Do any particular regulations **depend on the size** of an enterprise? If so, what are they? [**Lead**: PISG/MTI; also: OLA, **KTA**]
- 1.5. **What types of companies** are recognised by your law? Do you have figures about the total number of enterprises in each category? [**Lead**: PISG/MTI; also: OLA, **KTA**]

Administrative Capacity

- 1.6. Is there a **central register** for companies? If not, are there any plans in this respect? If yes, how does the register hold the company information (in electronic form, on paper form, etc.). Please provide details about the information held by the register, e.g. company name and objects, financial details, identity of those running the company, authorised representatives, etc. [**Lead**: PISG/MTI]
- 1.7. How is the company information published? Is there an **Official Gazette**? [**Lead**: PISG/MTI]
- 1.8. How can the **public get access** to the company information register, e.g. in person, by mail, by electronic means, etc.? Is anyone entitled to consult the

¹ The purpose of the paper is to structure a discussion of the overall reforms, which will be required in order to achieve EU standards in this sector. It is not expected that precise replies can be provided, at the first discussion, to all points raised in this paper. Further more detailed questions will be sent at a later time.

² A short summary of the key features of the relevant legislation would be helpful.

register without having to prove a legitimate interest in the enquiry? What is the fee for consultation? [Lead: PISG/MTI]

- 1.9. What is the average **time-scale** between application for registration and effective registration of a company? [Lead: PISG/MTI]
- 1.10. Are there any **penalties or fines** imposed on companies if annual accounts are not deposited at the company register? If so, what is the amount of such fines? [Lead: PISG/MTI; also: MFE, **Pillar IV (FAO)**]
- 1.11. Please identify the **administrative or judicial authority** responsible for the incorporation of companies. [Lead: PISG/MTI; also: OLA, **KTA**]

2. Accounting and audit

Accounting

- 2.1. What **legal instruments** do you have in the accounting field? Are there any official instructions or recommendations by a standard-setting body? [Lead: PISG/MFE; also: **KTA**, PISG/MTI]
- 2.2. **Which enterprises** fall within the scope of the general regulations? Are there special regulations for limited liability companies? Are there exceptions for small and medium sized companies? [Lead: PISG/MFE; also: PISG/MTI, **KTA**]
- 2.3. Are **consolidated accounts** (the accounts of groups of companies) as well as the accounts of individual companies regulated? If so, are there exceptions for any groups of enterprises (e.g. size thresholds, legal forms) from the requirement to draw up consolidated accounts? [Lead: PISG/MFE; also: PISG/MTI, **KTA**]
- 2.4. What **sanctions** exist for not complying with financial reporting requirements? [Lead: PISG/MFE; also: **KTA**, PISG/MTI]
- 2.5. Are **any reforms** of the legal instruments in the accounting area are planned? If so, what is their content and when are they programmed for adoption? [Lead: PISG/MFE; also: **KTA**]
- 2.6. Are **International Accounting Standards** applied in Kosovo? If so, have international standards or practices had an impact? [Lead: PISG/MFE; also: PISG/MTI, **KTA**]

Statutory auditors

- 2.7. If auditors exist, **what authority** is issuing them certificates and is responsible for their supervision? Approximately how many such certificates have been issued to date? [Lead: PISG/MFE]
- 2.8. What **requirements** must be fulfilled to work as an auditor (training, experience, ethical rules)? What provision has been made for the necessary training? How many individuals underwent training in 2002 (or the most recent year for which reliable data is available; please specify which year)? [Lead: PISG/MFE]
- 2.9. What **sanctions** exist in cases where statutory audit is carried out by an unauthorised person? [Lead: PISG/MFE]
- 2.10. What requirements apply to statutory audits in relation to **quality assurance and auditor independence**? Do such requirements, if applicable, have a legal basis? [Lead: PISG/MFE]

3. Protection of Intellectual and Industrial Property Rights

General

- 3.1. Please describe the **legal framework** in this field, incl. copyright and related rights (see also below), patents, trademarks, models and designs. To what extent are international conventions relating to intellectual, industrial and commercial property applied in Kosovo? [Lead: PISG/MCYSNR; also: PISG/MTI, OLA, **KTA**]
- 3.2. Which **system of exhaustion** of intellectual, industrial and commercial property rights applies in Kosovo? In particular, does Kosovo apply a system of local or international exhaustion of trademarks? [Lead: PISG/MCYSNR; also: PISG/MTI, OLA, **KTA**]
- 3.3. Does Kosovo have **specialised courts or tribunals** to hear intellectual or industrial and commercial property cases? What is the average length of the judicial procedures for such cases? [Lead: PISG/MCYSNR; also: PISG/MTI, OLA]
- 3.4. Does Kosovo provide for a **specific border regime** preventing importation, exportation and transit of counterfeited and pirated subject matter? [Lead: **UNMIK Customs**; also: PISG/MCYSNR, Pillar I]
- 3.5. What provisions does your **legislation** make to effectively combat counterfeiting and piracy? What measures and procedures are available, e.g. provisional or precautionary measures, damages, seizure and destruction of counterfeit or pirated goods? [Lead: PISG/MCYSNR; also: **UNMIK Customs**, OLA, Pillar I]
- 3.6. If no legislative provisions exist yet, **what measures are envisaged** in order to establish an efficient system to fight against counterfeiting and piracy? [Lead: PISG/MCYSNR; also: **UNMIK Customs**, OLA, Pillar I]
- 3.7. Do the administrative and enforcement authorities dispose of **sufficient and sufficiently trained staff**? [Lead: **UNMIK Customs**; also: Pillar I, PISG/MCYSNR]

Copyright and Related Rights

- 3.8. What are main provisions in your **copyright legislation**, for example concerning the duration of authors' rights and related rights, authors' exclusive rights (reproduction, communication and distribution) and exceptions thereto, the protection of technological measures, as well as rental and lending rights? Does your copyright law provide for a resale right for the benefit of authors of an original work of art? [Lead: PISG/MCYSNR; also: **KTA**, **UNMIK Customs**, Pillar I]
- 3.9. Do you have any **sectoral legislation** in any areas such as semiconductors, databases, satellite broadcasting and cable retransmission, etc.? [Lead: PISG/MCYSNR; also: PISG/MTPT, OLA, **KTA**]

Industrial Property Rights

- 3.10. What are the legal requirements regulating the activities of **patent agents**? Please describe the main provisions. Are there any restrictions on the provision of services by foreign patent agents in Kosovo? [Lead: PISG/MTI, OLA, **KTA**]
- 3.11. Do inventions in the **pharmaceutical, chemical and foodstuffs sectors** enjoy product patent protection in Kosovo? If not, is the introduction of product patent

protection for this kind of invention planned? [**Lead**: PISG/MTI; also: PISG/MAFRD, PISG/MH, OLA]

- 3.12. Are **Supplementary Protection Certificates** for (a) medicinal products and (b) plant protection products available in Kosovo? If yes, since when? If not, please indicate a target date by which Kosovo intends to introduce such a system. [**Lead**: PISG/MTI; also: PISG/MAFRD, PISG/MH, OLA]
- 3.13. What means does a holder of a registered trademark have to **prevent third parties** from using his trademark for products or services other than those for which the trademark has been registered? [**Lead**: PISG/MTI; also: OLA]

4. Key principles of civil law

- 4.1. Briefly describe the overall **legislative framework**, notably on contracts and torts, as well as the responsible bodies and procedures. [**Lead**: OLA; also: Pillar III]
- 4.2. Describe any legislation on **civil liability for defective products** (scope, definition of deficiency, concept of damage, liable producers, degree of liability, burden of proof). [**Lead**: PISG/MTI; also: OLA]
- 4.3. Describe legislation on **agents** (agent's status, relation to principal, etc.). [**Lead**: OLA; also: PISG/MTI]

5. Competition Law

Antitrust

- 5.1. **Scope of application:** Are there sectoral exceptions from antitrust law? Coverage of public enterprises? Does the law cover goods as well as services? [**Lead**: PISG/MTI; also: OLA, **KTA**]
- 5.2. **Restrictive agreements:** Is there a general prohibition of restrictive agreements? Please describe the scope of prohibition and the legal consequences of its violation. [**Lead**: PISG/MTI; also: OLA, **KTA**]
- 5.3. **Abuse of a dominant position:** Is there a general prohibition of abuse of dominance? [**Lead**: PISG/MTI; also: OLA, **KTA**]
- 5.4. **Merger control:** Is there a legal base providing for merger control? Please give a short description of scope and procedure. [**Lead**: PISG/MTI; also: **KTA**, OLA]
- 5.5. **Procedures:** Please describe relevant procedures and authorities implementing competition law. Staffing/training of responsible authorities? Describe investigative powers, decision making powers (including penalties, fines) and rights of defendants. [**Lead**: PISG/MTI; also: **KTA**]

State Aid

- 5.6. When do you intend to introduce a law for the control of State aid? Are there currently any budgetary rules regarding state aid? Please describe the planned structure of any future authorities and their competencies. [**Lead**: PISG/MFE; also: **KTA**]

Public undertakings and undertakings with special or exclusive rights

- 5.7. Which public or private enterprises have exclusive or special rights? Please describe the legal status of these enterprises and the subject, scope and duration of these rights. Are these enterprises obligated to fulfil tasks of a general economic interest? Have regulatory and commercial functions been entrusted to separate organisms? [**Lead**: PISG/MTI; also: OLA, **KTA**]

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