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Assessment of Legal Services in Kosovo

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Table of contents

Acronyms 05

1. Introduction 06
2. General Methodology 07
3. Global Trends in Legal Services 08
4. Structural Profile and Performance of Legal Services 10
5. Regulatory Review of Legal Services 17
    - 5.1. Legal Services Exercised Through Lawyers: Regulatory Review 17
        - 5.1.1. Legal Services in Kosovo – Regulatory Review 17
        - 5.1.2. Legal Services in the European Union 22
        - 5.1.3. Legal Services in EU Member States 26
        - 5.1.4. Legal Services under CEFTA Agreement 29
        - 5.1.5. Comparative Legal Framework: European Union and Kosovo 30
    - 5.2. Other Free Legal Professions: Regulatory Review 32
        - 5.2.1. Notary and Notarial Provisions 32
        - 5.2.2. Private Enforcement Agents (Bailiffs) and Their Services 35
        - 5.2.3. Mediation Services 36
6. Main Survey Findings 39
7. Conclusion and Recommendations 46
8. Annexes 49

Figures and tables

Figure 1: Employed persons in legal services (2018-2020) 12

Figure 2: Average legal enterprise size in Kosovo and the EU 12

Figure 3: Enterprise density in the legal service sector in Kosovo, the EU and other peer countries (2019) 13

Figure 4: Legal service enterprises, by gender 13

Figure 5: Types of legal service enterprises 14

Figure 6: Legal service enterprises, by main municipalities 14

Figure 7: Share of legal services in GVA in Kosovo, EU, and other peer countries (2019) 15

Figure 8: Labor productivity index in legal services 16

Figure 9: Location of legal companies, by Kosovo regions (in %) 39

Figure 10: Legal companies, by period of establishment (in %) 39

Figure 11: Legal services companies, by legal status 40

Figure 12: Legal services companies, by origin 40

Figure 13: Main services provided by legal services companies (% of cases) 40

Figure 14: Distribution of employment, in % 41

Figure 15: Cooperation with international associates in delivering services (in %) 41

Figure 16: Perceived competitiveness level of the sector compared to the EU (in %) 41

Figure 17: Change of turnover in 2021 compared to 2019 (in %) 42

Figure 18: Distribution of by type of clients (in %) 42

Figure 19: Ranking of obstacles by legal companies (average score) 43

Figure 20: Legal companies with clients abroad (in %) 44

Figure 21: Foreign clientele by country of origin (in %) 44

Figure 22: Means of provision of services (in %) 45

Figure 23: Means used to identify client (in % of cases) 45

Table 1: Number of active legal enterprises, by source (2018-2020) 11

Table 2: Registered and closed legal service enterprises 11

Table 3: GVA of legal services (2018-2020) 15

Table 4: Licensed legal service providers in Kosovo 16

Acronyms

AI	Artificial Intelligence
CAGR	Compound Annual Growth Rate
CEFTA	Central European Free Trade Agreement
EU	European Union
GDP	Gross Domestic Product
GVA	Gross Value Added
KAS	Kosovo Agency of Statistics
KBA	Kosovo Bar Association
KBRA	Kosovo Business Registration Agency
LLC	Limited Liability Company
MIET	Ministry of Industry, Entrepreneurship and Trade
NACE	Statistical Classification of Economic Activities in the European Community
SAA	Stabilization and Association Agreement
TAK	Tax Administration of Kosovo
UK	United Kingdom

1. Introduction

Laws and regulations form the foundations of a thriving economy, playing a vital role in protecting the rights of citizens, businesses, and institutions. A well-functioning and effective legal services sector is critical for implementing laws and regulations and also essential for achieving stable economic growth. Legal services include advisory and representation services and a wide range of other activities related to the administration of justice. Lawyers, notaries, private enforcement agents, legal advisors – to name a few, are all practitioners operating in the field of legal services.

There is an ongoing and widespread debate about the regulation of legal services in many jurisdictions worldwide. A reoccurring topic in this debate has been to determine the rationale for regulating the sector. Regulation has often been justified on the basis of three main objectives involving the asymmetry of information between clients and legal service providers, externalities (impact on third parties), and value creation for the society having in mind that legal services generate public goods. It is worth noting that the type of activity within the legal services sector is essential in determining the extent of regulation. Criminal matters, for example, differ significantly from commercial matters, both in terms of nature and implications they have in society, and as such, are usually differently regulated.

For the legal services sector to function well and serve its purpose, it should have regulations that create a level-playing field and promote fair competition and innovation to the benefit of the public. Nonproportional regulations can be dangerous and hinder growth. That said, striking the right regulatory balance is necessary to foster the sector's growth.

Like any services sector in Kosovo, the legal services sector encounters barriers of various kinds. In particular, Kosovo has seen little progress in identifying and addressing the obstacles related to the right of establishment and freedom to provide services and in aligning parts of the legislation of the services sector with the EU acquis, as committed in the Stabilization and Association Agreement (SAA). To identify the most pressing regulatory barriers and other barriers, review the extent of approximation with the EU acquis, and better understand the specificities of services in Kosovo, the Trade Department of the Ministry of Industry, Entrepreneurship, and Trade (MIET) has started to conduct a series of sector-specific assessments. This particular report analyzes the legal services sector and is the third one in this series after accounting and auditing, and logistics. Similar to the other two, this assessment sheds light on the structure and performance of the legal sector, reviews the relevant regulatory framework for legal services in light of the EU acquis, and identifies legal service providers' main barriers.

The rest of this report is structured as follows. Section 2 provides a general overview of the methodology used to conduct this analysis. Section 3 highlights the main global trends characterizing legal services. Section 4 provides an overview of the sector's structure and performance, relying on macro statistics from administrative sources. Section 5 mainly discusses the regulatory framework of legal services both in the EU and Kosovo and draws relevant comparisons between the two. Section 6 presents the main findings of a survey conducted with a sample of legal service providers. Section 7 concludes.

2. General Methodology

To obtain relevant insights and have a better understanding of the legal services sector, we have undertaken the following research steps: (i) desk research; (ii) open-ended interviews with relevant stakeholders; (iii) a semi-structured online/phone survey; and finally (iv) a validation meeting with the beneficiary. All these sources of information combined have enabled a comprehensive analysis of the sector.

As is usually the case, the desk research was carried out at the beginning of the analysis. First, various reports and studies were consulted to determine the conceptual underpinnings of the sector and examine the international trends and developments. Second, Kosovo's relevant legislative and institutional framework was reviewed and compared with the EU acquis to identify the areas that need harmonization in the future. The collected information through desk research was closely analyzed, stored, and classified based on source, relevance, and reliability. This process, amongst others, served as a basis for the primary research and the other subsequent activities carried out in this analysis.

Open-ended face-to-face meetings (interviews) were arranged and conducted with the identified institutional stakeholders. See the list of the interviewed stakeholders in Annex 1. Together with the representatives from MIET, a set of guiding questions was prepared before conducting these meetings. In parallel, officials from the Kosovo Business Registration Agency (KBRA), the Kosovo Agency of Statistics (KAS) and the Tax Administration of Kosovo (TAK) have been contacted for statistical data and other relevant material of this kind.

To solicit more detailed information on the performance and barriers of the sector, an online/phone survey was carried out with 83 economically active firms spread in different regions of Kosovo operating in the area of legal services. The sample was mainly drawn from the databases provided by the respective associations of the sector. Online searching was also used to find contact information for the selected firms.

A draft questionnaire was designed for the survey (see Annex 2). This draft was first piloted with a service provider to ensure that all the questions were clear and straightforward. The finalization of the questionnaire was done in collaboration with the Trade Department.

Once the questionnaire was finalized, it was disseminated online via an official e-mail to all the sampled firms, along with detailed instructions on how to complete it. Those firms that struggled to fill out the questionnaire correctly were given further assistance over the phone. The survey process was continuously monitored to verify on time the accuracy of the answers provided in the completed questionnaires. The questionnaire with the collected data was inserted automatically into an excel database and labeled accordingly. After addressing some small specification errors, descriptive tables and graphs were produced. In the end, a meeting with the beneficiary was organized to validate the generated findings, and the draft report was shared with the interviewed stakeholder for comments.

3. Global Trends in Legal Services

The global legal services market was estimated to be around USD 713.7 billion in 2020, having risen at a CAGR rate of 3.4 percent since 2015.[3] Particular areas of legal services have seen faster growth than others. Large multinationals and mid-sized companies from different industries, which comprise the most significant share in the demand for legal services, have shown a growing interest in receiving services in regulatory and global compliance, mergers and acquisitions, and litigation. In addition, there has been an increasing demand for legal services providers that also have industry, commercial, and non-legal expertise. The expectations nowadays are to have a set of services, not only legal ones, in one single package.[4] This is something that traditional law firms very rarely offer.

Since costs for legal services are rising, new legal delivery patterns are emerging. There is a growing tendency to seek assistance from non-licensed service providers, including legal self-help websites, virtual assistants, and offshore legal vendors for less serious legal issues such as contract law, patent law, bankruptcy law, tax law, and divorce cases. These new legal delivery models are enabling disadvantaged populations to access services at affordable rates.[5]

Commoditization of legal services is a new development that is growing and expected to persist in the future. The legal work, which has been mainly about the customized service of legal professionals, now in many parts has become standardized, thereby reducing the demand for the services of traditional lawyers. While this routinization is presenting a threat to the conventional law firm, on the flip side, it could contribute to further reducing the complex work of legal practitioners to some kind of reusable commodity, which in turn would benefit clients in terms of lower costs for legal services.[6]

Legal firms are constantly consolidating their presence in international markets. What they are doing in this regard is the acquisition of smaller counterparts in regions where they have a limited presence. In some other cases, law firms are inserting themselves into legal networks to internationalize their business. The latter arrangement is advantageous as it allows for central coordination, a single billing point, and local advice.[7]

Outsourcing is another trend that has impacted the legal services sector and has contributed to its internationalization. Akin to other companies, law firms outsource parts of their administrative business processes to lower their operating costs. In

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3 Law.com (2021) Global Legal Services Market (2020 to 2030) - Opportunities and Strategies with COVID-19 Impact and Recovery.
Available at: https://www.law.com/legalnewswire/news.php?id=2890258

4 Deloitte (2016) Future Trends for Legal Services Global research study June 2016.
Available at: https://www2.deloitte.com/content/dam/Deloitte/global/Documents/Legal/dttl-legal-future-trends-for-legal-services.pdf

5 Solicitors Regulation Authority (2016). Research and Analysis The changing legal services market.
Available at: https://www.sra.org.uk/globalassets/risk/resources/changing-legal-services-market.pdf

6 CBA (2012). Key Trend in the Legal Marketplace. Available at: https://www.cba.org/CBAMediaLibrary/cba_na/PDFs/CBA%20Legal%20Futures%20PDFS/Susskind-Linked-eng.pdf

7 The Business Research Company (2021) Top Five Trends In The Global Legal Services Market 2021. Available at: https://finance.yahoo.com/news/top-five-trends-global-legal-163000721.html

addition, many law firms are increasingly outsourcing part of their core business associated with legal work. Outsourcing in legal services, though not an entirely new trend, with first forays already reported in the 90s, continues to be a growing phenomenon, mainly in the form of offshoring to other jurisdictions. There is no reliable and consolidated data on outsourcing destinations; however, it is believed that India, with roughly 80,000 new lawyers every year, is the leading destination for outsourcing legal services.[8]

Law firms have invested more in professional personnel to manage operations in recent years. Apart from their core administrative staff in finance, human resources, IT, marketing, and business development, firms have recruited specialists full-time for functions like data analysis, client relationships, client value, innovation, and pricing.[9]

Law is interacting with technology more than ever and is redefining what it constitutes to practise legal services. Technology presents legal service providers with the opportunity to use innovative business models to deliver services effectively and monitor business and financial standing.

As in other sectors, the development and use of online services in the legal services sector is rising, particularly for will-writing and divorce advice and other similar legal areas. In part, this reflects the fact that consumers have increasingly become interested in convenience and low-cost services. The growing shift towards online services, amongst others, has enabled the provision of legal services beyond traditional office hours – which is something people, businesses, and other organizations have come to expect and appreciate in recent years.[10]

Due to increasing cyberattack incidents, a growing number of legal firms are investing in data security technologies to protect their clients' data. The adoption of such technologies is happening particularly among legal firms that deal with criminal cases, as they tend to possess sensitive data that are more often prone to attacks. Some of the technologies and practices adopted by these firms include email encryption, two-factor authentication, breach response plans – to name a few. Apart from adopting data security technologies to safeguard themselves and their clients from cyberattacks, legal firms around the world are also specialising in offering cybercrime legal consulting services to their clients. Some typical forms of cybercrimes include cyber-stalking, counterfeiting, money laundering, and the like.[11]

Over the coming years, like many sectors, the legal services sector is expected to experience transformation due to developments in artificial intelligence (AI) and automation. While AI could be helpful to accelerate and automate decisions, increase the quality of work, and decrease costs, it may also have a knock-on effect on the

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8 WTO (2010) Legal Services. Available at: https://docs.wto.org/dol2fe/Pages/FE_Search/FE_S_S009-DP.aspx?language=E&CatalogueIdList=93951,65273,16540,41871,2539,28812,5291&CurrentCatalogueIdIndex=0&FullTextHash=&HasEnglishRecord=True&HasFrenchRecord=True&HasSpanishRecord=True#:~:text=28.,Central%20Product%20Classification%20of%201991.

9 Altman Weil (2020) Law Firms in Transition 2020. Available at: http://www.altmanweil.com//dir_docs/resource/474829CC-0945-4A99-B321-2BFD3DAB146D_document.pdf

10 Solicitors Regulation Authority (2016). Research and Analysis The changing legal services market. Available at: https://www.sra.org.uk/globalassets/risk/resources/changing-legal-services-market.pdf

11 The Business Research Company (2021) Top Five Trends In The Global Legal Services Market 2021. Available at: https://finance.yahoo.com/news/top-five-trends-global-legal-163000721.html

workforce.[12] The risk of automation is highest in legal professional associates and legal secretaries. Although, in general, legal services roles may be at a lower risk of automation, the level of impact could still have notable implications for the sector's labour force. It is estimated that 22 percent of the existing lawyer's job could be automated in the future.[13] An analysis conducted in the UK predicts that by 2038 the legal service sector could have around 20 percent less employment than it would otherwise have because of new automation technology.[14] Despite expectations for employment reduction, growth of the sector is expected to continue.

4. Structural Profile and Performance of Legal Services

This section presents the general structure and performance of legal services in Kosovo, as covered by NACE Rev 2 Group 691. In addition to providing indicators portraying the state of legal services in Kosovo, it also provides a comparative perspective by introducing indicators from the EU and other peer countries. The analysis provided in this section predominantly draws on statistics gathered from key administrative sources.

In Kosovo, the number of active legal enterprises (those generating at least some turnover during the year) varies depending on the data source. The sources considered for this measure are the Kosovo Business Registration Agency (KBRA), the Tax Administration of Kosovo (TAK), and the Kosovo Agency of Statistics (KAS). Table 1 compares the number of active enterprises as per these three sources. According to the KBRA data, there have been 1,657 active legal enterprises in Kosovo in 2020. KAS data, by contrast, show that the number of active legal enterprises in the same year has been notably lower (966). The figure provided by TAK stands somewhere in the middle. In all three cases, the number of active enterprises increased each year in the period under consideration. It is observed that in the KAS data, there was a huge jump from 2018 to 2019, which does not correspond with the other two sources. After a careful analysis of the data, it was established that this is because the 2018 figure could most likely be a statistical inaccuracy. Another observation is that the KBRA numbers might present an exaggerated view, given that enterprise representatives in Kosovo generally do not take the effort to formally close their enterprises in cases when they cease to be operational. As TAK provides an arguably more balanced picture regarding the number of active enterprises, its figure was decided to be used to generate the sector's enterprise density and the average enterprise size presented later in this section.

12 KPMG (2018). Unlocking the value of artificial intelligence. Available at: https://assets.kpmg/content/dam/kpmg/nl/pdf/2018/advisory/unlocking-the-value-of-artificial-intelligence.pdf

13 KPMG (2020) Contribution of the UK Legal Services Sector to the Economy. Available at: https://assets.kpmg/content/dam/kpmg/uk/pdf/2020/10/kpmg-contributions-of-legal-services-sector-in-the-uk.pdf

14 Ibid.

Table 1: Number of active legal enterprises, by source (2018-2020)

Source	2018	2019	2020
Kosovo Business Registration Agency (KBRA)	1,345	1,511	1,657
Tax Administration of Kosovo (TAK)	1,076	1,241	1,385
Kosovo Agency of Statistics (KAS)	394	870	966

Source: KBRA, TAK and KAS data

An indicator that would show the intention of entering the market for legal services is the registration of legal service enterprises. Table 2 reveals the number of legal service enterprises established and closed in Kosovo from 2001 to 2020, as per the KBRA data. Throughout this period, a total of 1,602 legal service enterprises have been registered in Kosovo. Data expressed in four-year aggregates reveal that there has been a constant increase in the number of registered legal service enterprises, reaching a peak of 607 in the period 2017-2020. On the other hand, the number of legal service enterprises that have been closed during the entire period under consideration is much smaller, totaling 226. As indicated previously, this is most likely an underreported figure considering that a great number of enterprises that cease to be operational do not report the end of their activity to the KBRA. For more details about the established and closed legal service enterprises, refer to Table 2.

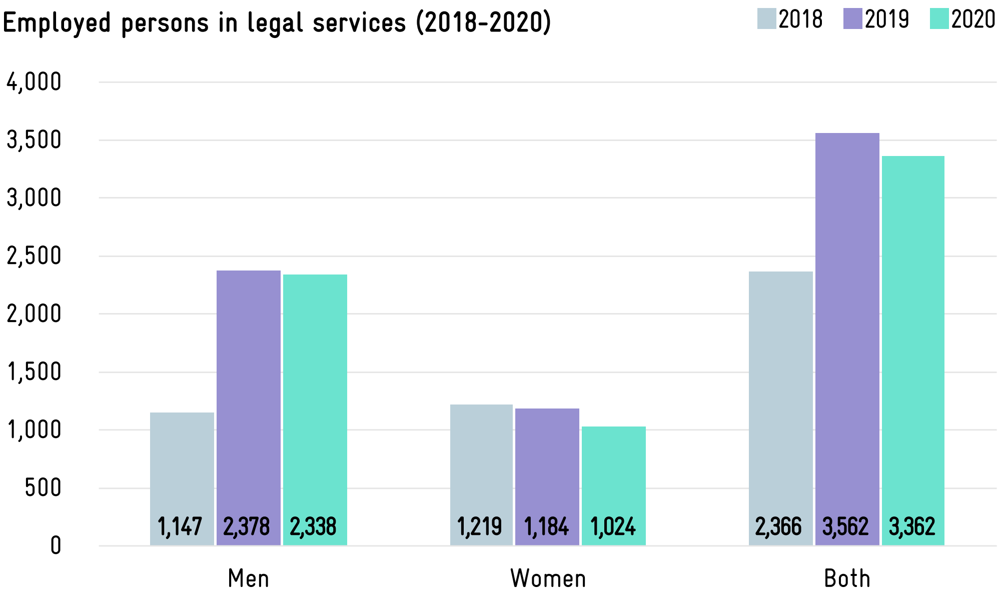
Table 2: Registered and closed legal service enterprises

Years	Established	Closed
2001-2004	130	12
2005-2008	218	57
2009-2012	281	55
2013-2016	366	60
2017-2020	607	42
Total	**1,602**	**226**

Source: Authors' calculations based on KBRA data

In 2020, the legal service sector in Kosovo employed 3,362 persons; this is estimated to be around 1 percent of the overall number of employed persons in the country. When the data were broken down by gender, it was realized that 70 percent were men, while 30 percent women. Compared to 2019, there has been a slight drop in the number of persons employed in the legal service sector, most probably due to the pandemic. In 2018, the sector employed considerably less persons. Again, this figure looks dubious, and as such it should be interpreted with caution. For more details, see Figure 1.

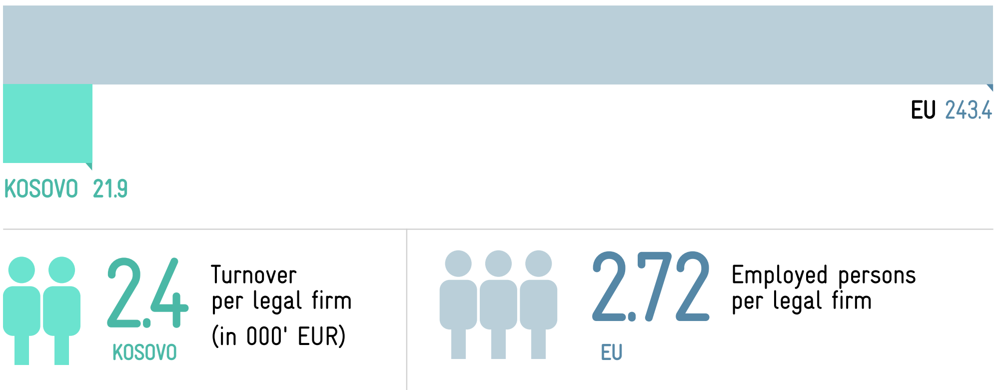
Figure 1: **Employed persons in legal services (2018-2020)**



Source: Authors' calculations based on KAS data

A legal service enterprise in Kosovo, on average, generates a turnover of EUR 21.9 thousand. By contrast, an enterprise operating in this sector in the EU generates a turnover that is eleven times higher, on average. In regard to employment, on the other hand, the average does not differ much. This discrepancy points to the fact that labor productivity in Kosovo is lower. For concrete figures on the average legal enterprise size in Kosovo and the EU, see Figure 2 .

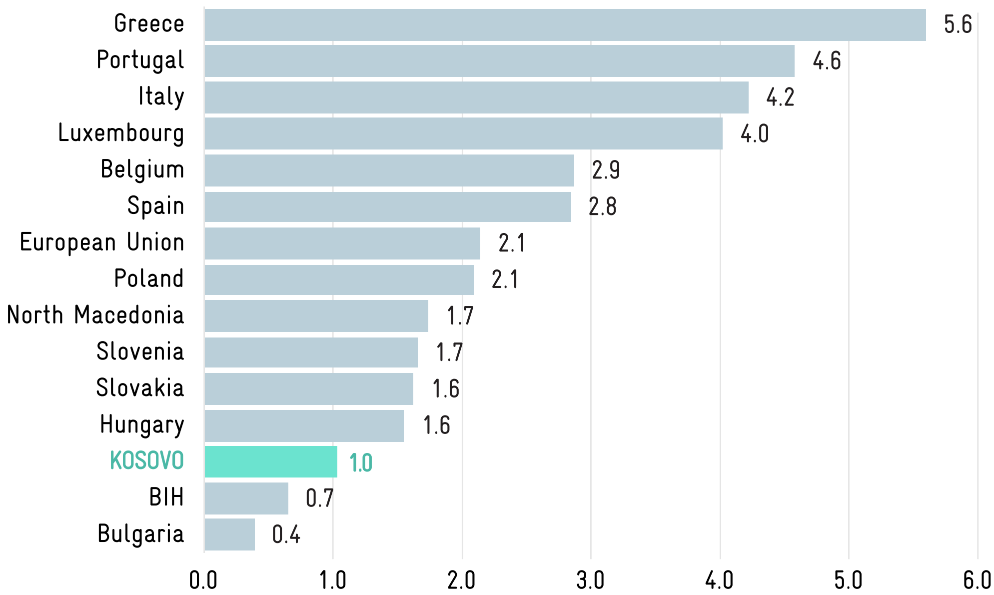
Figure 2: **Average legal enterprise size in Kosovo and the EU**



Source: Authors' calculations based on KAS and Eurostat data

Enterprise density in the legal service sector, which represents the number of legal service enterprises per thousand inhabitants aged 15-64, is used as a proxy measure for the competition level in the sector market. In 2019, enterprise density in the legal services sector in Kosovo stood at only 1.0 – that is slightly less than half of the EU average. In this regard, Kosovo compares with Bosnia and Herzegovina and is better than Bulgaria, while it is notably worse compared to the other peer countries covered in the analysis (for more information, see Figure 3).

Figure 3: **Enterprise density in the legal service sector in Kosovo, the EU and other peer countries (2019)**



Source: Authors' calculations based on TAK, KAS, Eurostat, and WB data

The data on ownership according to gender, legal status, and geographical distribution have been provided by the KBRA – so the figures presented below will be according to this source.

Figure 4 shows that 73.7 percent of legal enterprises in Kosovo are men-owned, while 26.3 percent women-owned or mixed. Though the proportion of women-owned legal enterprises is low, it is still higher compared to the overall ratio, which hovers around 1:10 in favor of men.[15] It is worth noting that this proportion captures only those enterprises for which the information about owner's gender was available.

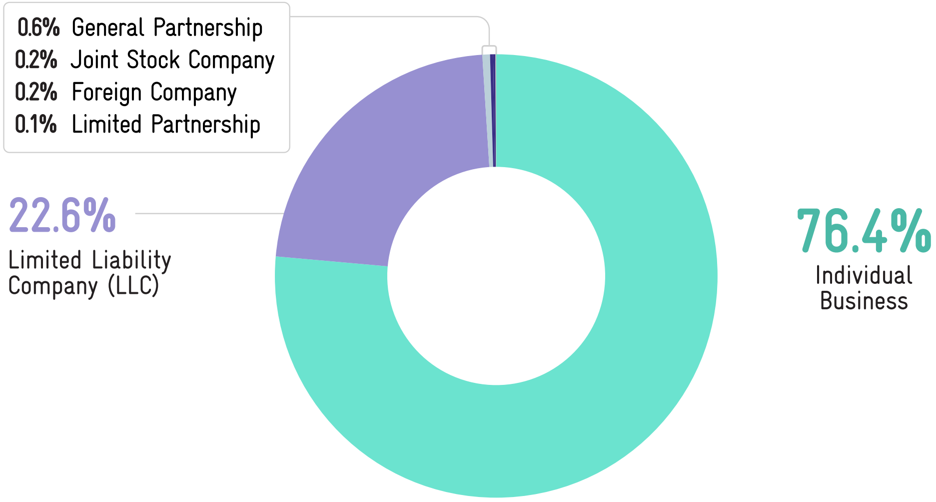
Figure 4: **Legal service enterprises, by gender**

Source: Authors' calculations based on KBRA data

Data in Figure 5 reveal that 76.4 percent of the active legal service providers are individual businesses and 22.6 percent limited liability companies (LLC); the rest consist of general partnerships (0.6 percent), foreign companies (0.2 percent), joint stock companies (0.2 percent), and limited partnerships (0.1 percent).

15 Open Business Platform. Available at: https://biznesetehapura.com/en/vizualizimet#

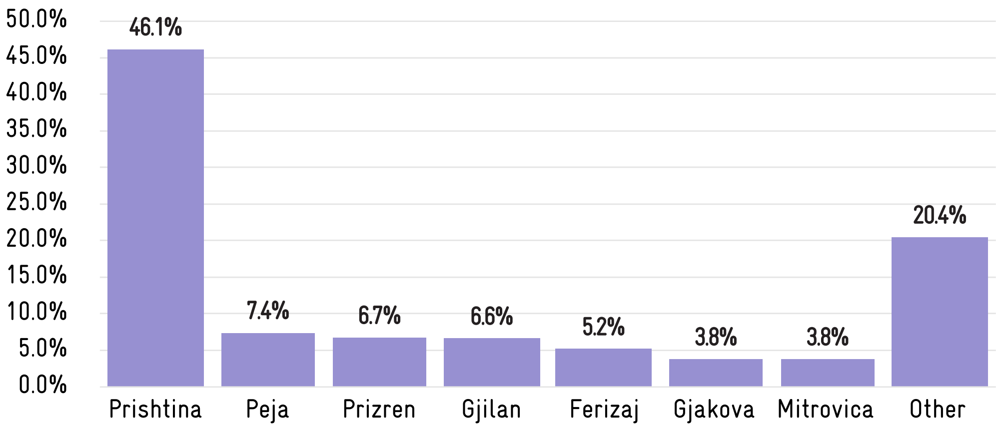
Figure 5: **Types of legal service enterprises**



Source: Authors' calculations based on KBRA data

Further, the analysis shows that 46.1 percent of the active legal enterprises are located in Prishtina. Peja and Prizren are the following two municipalities with 7.4 percent and 6.7 percent of legal service enterprises, respectively. To see the distribution in other municipalities, refer to Figure 6.

Figure 6: **Legal service enterprises, by main municipalities**



Source: Authors' calculations based on KBRA data

The economic activity of legal services is measured by using the output (production) approach. Based on this approach, Gross Value Added (GVA), which is the difference between output and intermediate consumption, was generated for legal activities. In 2020, GVA in legal services amounted to EUR 10.3 million. When compared to 2018 and 2019, this represents a decrease of around 21 percent and 37 percent, respectively. The average share of legal services in national GVA for the last three years (2018-2020) stood at 0.24 percent. The share in 2020 decreased by 0.11 percentage points (pp) when compared to 2019, indicating that this sector has been hit particularly hard by the Covid-19 pandemic. During 2018-2020, legal services contribute about 13 percent, on average, in the "professional, scientific and technical activities" section, and 65.6 percent in the "legal and accounting activities" division. At this level also, the share dropped notably when compared to the previous two years. For more detailed information, see Table 3.

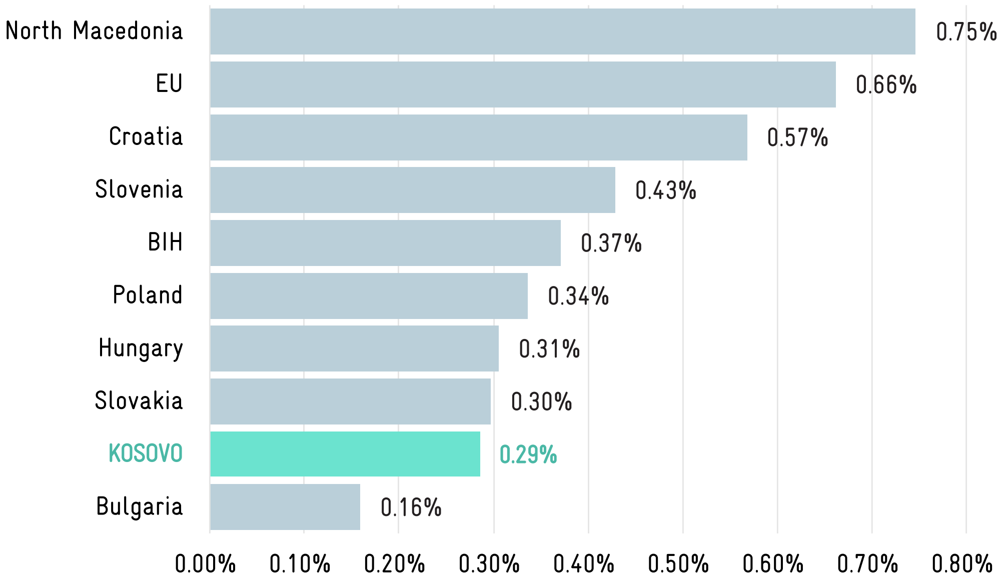
Table 3: **GVA of legal services (2018-2020)**

NACE Classification	2018	2019	2020
M: GVA of Proffesional, scientific and technical activities (in 000s in EUR)	97,762	99,929	107,358
69: GVA of Legal and accounting activities (in 000s EUR)	19,169	19,744	21,990
6910: GVA of Legal activities (in 000s EUR)	12,955	16,290	10,278
National GVA (in 000' EUR)	5,379,793	5,698,635	5,590,522
Share (%) of Legal activities in Division 69	67.6%	82.5%	46.7%
Share (%) of Legal activities in Section M	13.3%	16.3%	9.6%
Share (%) of Legal activities in National GVA	0.24%	0.29%	0.18%

Source: Authors' calculations based on KAS data

In relative terms, the size of legal services in Kosovo's GVA is approximately half of the EU average. In this respect, Kosovo stands close to Slovakia and Hungary, while it is better than Bulgaria. For other comparisons, see Figure 7.

Figure 7: **Share of legal services in GVA in Kosovo, EU, and other peer countries (2019)**

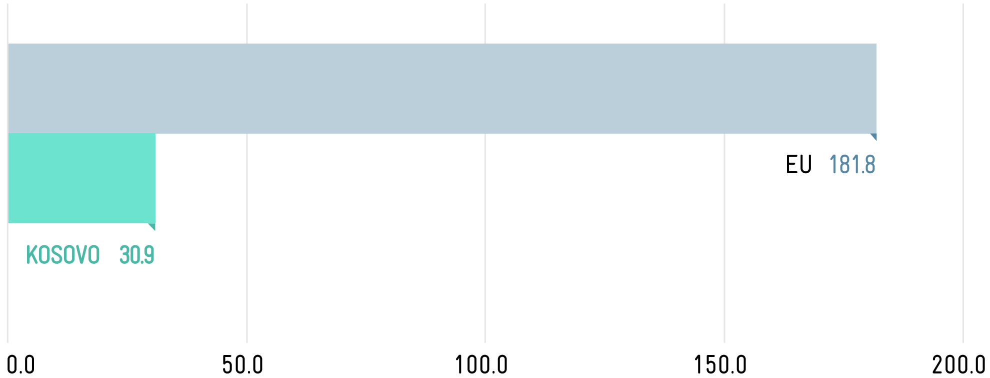


Source: Authors' calculations based on KAS and Eurostat data

Labor productivity based on value added is a commonly used productivity statistics, indicating – amongst others – the efficiency level as well. Labor productivity index constitutes a single factor measure of performance, relating a quantity index of output (gross value added) to a single quantity index of labor (number of persons employed).

The higher the value of the index, the higher the productivity. Figure 8 depicts the value of this index for legal services in Kosovo and the EU. Kosovo seems to have a much lower labor productivity in legal services as opposed to the EU, with the index value of the former being six times lower than that of the latter.

Figure 8: **Labor productivity index in legal services**



Source: Authors' calculations based on KAS and Eurostat data

The Central Bank of Kosovo (CBK) is responsible for producing trade in services data in Kosovo using BPM6 methodology by the International Monetary Fund (IMF). Services trade data produced by this institution are not disaggregated to show the trade flow in legal services.

In Kosovo, akin to other countries, almost all activities in the domain of legal services require licensing to be able to exercise the profession. Table 4 shows the number of licensed service providers broken down by the field of legal services. The majority (1,162) consist of lawyers, followed by notaries (57), private enforcement agents (41), and bankruptcy administrators (18). In the case of notaries and private enforcement agents, there are corresponding quotas for the maximum permissible number of service providers. The major criterion for setting the quota is the population number. As per the decisions in place, there should be one notary per 10 thousand inhabitants and one private enforcement agent per 20 thousand inhabitants. In both cases, the current number is way below the allowed maximum, leading to reduced economic efficiency and limited access to services in the respective markets.

Table 4: **Licensed legal service providers in Kosovo**

Legal Field	#
Lawyers	1,162
Notaries	57
Private enforcement agents	41
Bankruptcy administrators	18

5. Regulatory Review of Legal Services

5.1. Legal Services Exercised Through Lawyers: Regulatory Review

One of the specific objectives of the assignment is to conduct the sectoral analyses of services in legal services sector in terms of performance of the sector, barriers to trade and alignment with the EU acquis (acquis relevant for provision of legal services, alignment with EU services Directive, Kosovo Law on Services and CEFTA requirements).

Legal services provided through lawyers and free legal professions in the Republic of Kosovo are regulated by primary and secondary legislation. Therefore, the main purpose of this document lies in the analysis of legal services how they are regulated in case of Kosovo. Taking into account the fact that Kosovo is part of the integration processes in the European Union and a member of CEFTA, then the analysis of legal services in Kosovo will be done in the spirit of how these services are regulated in the EU level and also in the legal framework of CEFTA.

Legal services at the EU level are within the scope of the freedom to provide services and on this basis the EU has adopted only few directives as secondary legislation through which it has established some of the principles on how these services can be exercised in the member states of the European Union. Therefore, in order to have an even clearer picture of how the legal (lawyer) services sector works within the EU and the member states, three EU Member States have been chosen as practical examples to be elaborated in this report.

It is expected that even countries aiming for EU membership should gradually begin to harmonize national legislation with that of the EU. From this perspective, this section analyzes the extent to which Kosovo has harmonized the relevant legislation (that of legal services) with EU law (EU Acquis). The same will be done during the comparative analysis with the CEFTA agreement. This review first analyzes the legal services provided by lawyers to see to what extent such a market is regulated and is open in relation to third countries (mainly EU countries). Then it continues with the analysis of free legal professions, such as notaries, private bailiffs, and mediators.

5.1.1. Legal Services in Kosovo – Regulatory Review

The profession of lawyers in the Republic of Kosovo is regulated through relevant legislation such as the law on advocacy and other accompanying acts. The Kosovo Bar Association is the institution called to organize and administer the work of lawyers in Kosovo.

5.1.1.1. Legislation

Law on the BAR - The purpose of the Law on the Bar is to regulate conditions to practice bar, ways and methods of work, rights, obligations and responsibilities of lawyers and law interns; organization and work of the Kosovo Bar Association (hereinafter KBA) and other important issues for the performance of bar. According to the legislation in force in Kosovo, the right to practice as a lawyer is granted following registration in the Kosovo Bar Association (KBA).

The KBA will register a candidate who meets the following conditions:

- ***a.*** Is a citizen of the Republic of Kosovo;
- ***b.*** Holds a diploma from a law faculty in Kosovo or a diploma from a law faculty of a foreign country that is recognized in accordance with laws regulating the higher education in the Republic of Kosovo;
- ***c.*** Is fully capable to work;
- ***d.*** Has passed the bar exam in the Republic of Kosovo;
- ***e.*** Is not employed;
- ***f.*** Has not been subject to criminal proceedings or been tried for a criminal offence carries a sentence of imprisonment of up to one year;
- ***g.*** Complies with the Code of Ethics;
- ***h.*** Has a suitable office for the performance of legal activities;
- ***i.*** Has passed the KBA's Lawyers Code of Ethics examination

Only Kosovan lawyers registered with the KBA can provide legal assistance (this includes: provision of legal advice and opinions; preparation of lawsuits, claims, proposals, pleadings, legal remedies and other submissions; drafting of contracts, agreements, testaments, statements, general and specific acts and other documents; representing and defending natural and legal persons, business companies and other legal entities in front of courts and other state bodies).

Professors and associate professors of law subjects in the Republic of Kosovo are authorized to give paid legal advice and legal opinions, but not other forms of legal assistance, but they must inform the KBA of their activities.

Although lawyers from other countries which offer reciprocal access may practice in the territory of the Republic of Kosovo. The decision to grant reciprocal access is given by the Ministry of Justice on the advice of the Kosovo Bar Association.

According to the legislation in force Kosovan lawyers may be self-employed or practice through joint law offices, law firms, general, limited and limited liability partnerships. Practice may only be conducted from one office.

Ethical requirements may be found in the Code of Ethics and in the Statute of the Bar Association.

When it comes to the law firms, they must be entered in a register held by the Kosovo Bar Association in order to be licensed. The Kosovo Bar Association issues licenses to individuals and authorizes law firms.

The Law on the Bar does not distinguish between requalification or temporary practice (fly in/fly out) or the practicing of international or local law on a permanent basis, by a foreign lawyer in Kosovo. Foreign lawyers wishing to practice home country and international law in Kosovo must register with the Kosovo Bar Association.

Furthermore, according to the existing legislation in Kosovo, a foreign lawyer must have the right to practice in his or her home country in order to be admitted as a foreign advocate in Kosovo. However, any foreign advocate wishing to establish in

Kosovo will be subject to the same requirements as domestic advocates. A foreign citizen may serve as a mediator in Kosovo in individual cases and under the condition of reciprocity, with the prior consent from the Ministry of Justice.[16]

The Law on the Bar stipulates the following: A foreign lawyer who has earned the right to practice the profession of lawyer in their home country, may practice the profession of a lawyer in the Republic of Kosovo under the conditions prescribed by the Law on the Bar and other acts of the KBA. The Kosovo Bar Association keeps a register of foreign lawyers which contains the same information as the register for local lawyers, as well as the information about registration from the relevant authority of the country where the lawyer is licensed and the information regarding the Eligibility Exam. The eligibility exam is organized only upon request submitted by foreign lawyers. The Eligibility Exam for Foreign Lawyers is conducted in one of the official Kosovo languages and includes the testing of basic knowledge on: Kosovo's legal system, Rules and procedures under which the represented case is handled, and the Code of Ethics and disciplinary system of KBA. Neither law nor the statute of the Kosovo Bar Association specifies whether foreign lawyers practicing home/international law on a temporary or permanent basis need to undertake the eligibility test.

5.1.1.2. Law on the Bar and its Deficiency

According to the KBA the law in force has some shortcomings which make it necessary to amend it. At present, according to the legislation in force, a person can be licensed as a lawyer with only one year of work experience. According to the KBA this rule should be changed and instead of 1 year it should be a minimum of 3 years of relevant working experience.

The Kosovo Bar Association considers that the law on the Bar, should define two criteria or administrative requirements: first it should clearly define the period up to which age a person can be licensed as a lawyer to practice law in the Republic of Kosovo and the second, up to what age a lawyer can practice law.[17] These two aspects are not defined yet. Such an arrangement would help create a more competitive market in the field of advocacy but also in the context of legal services that are provided through lawyers. This is about administrative criteria. Even in the EU member states some the legal and administrative requirements are implemented differently from one member states to another. [18]

It should be noted that although it is a legal requirement the provision of "the reciprocity" for foreign lawyers has never been applied. There are discrepancies between the provisions within the law, as well as between the law and the KBA statute regarding the issue of foreign lawyers.

As there are discrepancies within the law on the Bar at the same time there is discrepancy between the law on the Bar and the KBA statute regarding the issue of foreign lawyers. In the law on the Bar, initially it is stated that the profession of

16 Note: A foreign lawyer must have passed the eligibility exam and be registered with the KBA in order to exercise the right to appear in court - Regulation on Licensing Foreign Lawyers in Kosovo

17 Note: Such a request was presented during the meeting with the Kosovo Bar Association.

18 See "Evaluation of the Legal Framework for the Free Movement of Lawyers" study has been financed by the European Commission, DG Internal Market and Services (MARKT/2011/071/E)

lawyer can be exercised by foreigners while respecting reciprocity measures[19], then on the same article 40 paragraph 4, this right is 'limited' only to those lawyers coming from EU member states and US. Furthermore, there is no reference at all to the EFTA countries (Iceland, Lichtenstein, Norway and Switzerland) nor to United Kingdom since they are no member of EU. The statute, on the other hand, further regulates this issue only for lawyers or candidates from the EU member states.

Without going into further details and brining additional arguments I think that only the latter are sufficient to take into account the need to harmonize the law on the Bar and other acts deriving from this law. All this to create a greater legal certainty at least in the formal legal aspect.

Another legal act adopted by Kosovo Bar Association is the Regulation on Licensing Foreign Lawyers in Kosovo stipulates for the foreign advocates that they are eligible to practice law. In legal terms this regulation is not legally binding because it precedes the law adopted in 2013.[20] Consequently, the Kosovo Bar Association has to prepare a new regulation. This new regulation must be in line with the law in force and harmonized also with the Articles 6 and 12 of the on Law on Services (that implements EU Services Directive and also to transpose Lawyers Services Directive 77/249/EEC).

Conditions for practicing the profession of lawyer in Kosovo	
Is there a legislation governing legal sector?	Law on BAR Law on Services
Under what title do lawyers practice their profession?	Lawyer
How does an individual lawyer obtain a "license" to practice law?	The KCA will register a candidate who meets the following conditions: (i) Is a citizen of the Republic of Kosovo; (ii) Holds a diploma from a law faculty in Kosovo or a diploma from a law faculty of a foreign country that is recognized in accordance with laws regulating the higher education in the Republic of Kosovo; (iii) Is fully capable to work; (iv) Has passed the bar exam in the Republic of Kosovo; (vi) Is not employed; (vii) Has not been subject to criminal proceedings or been tried for a criminal offence carries a sentence of imprisonment of up to one year;)viii) Complies with the Code of Ethics; (viii) Has a suitable office for the performance of legal activities; (ix) Has passed the KBA's Lawyers Code of Ethics examination.
How often must the license be renewed?	It is not clear

19 See Article 40 paragraph 1 of the Law on Bar

20 Note: The same was confirmed by Kosovo Bar Association, during our meeting with them on 22 December 2021.

Does this entitle the holder to practice throughout the country? If the law license only permits one to practice on a sub-national level, please explain the jurisdictional limits	A licensed lawyer can practice throughout the country
Are there certain activities that are "reserved" to those who are licensed to practice law in the jurisdiction?	Only Kosovan lawyers registered with the KBA can provide legal assistance
Do you need to hold local nationality to be eligible to practice law?	Yes, although lawyers from other countries which offer reciprocal access may practice in the territory of the Republic of Kosovo. The decision to grant reciprocal access is given by the Ministry of Justice on the advice of the Kosovo Bar Association.
What legal forms can lawyers work in?	Lawyers in Kosovo may be self-employed or practice through joint law offices, law firms, general, limited and limited liability partnerships.
What other ethical or regulatory requirements must a licensed lawyer comply with?	Ethical requirements are enshrined in the Code of Ethics and in the Statute of the Kosovo Bar Association
Do law firms need to receive a "license" (or permission/approval) to practice law?	Yes, they should be registered within Kosovo Bar Association
Which authority issues licenses? Are there different authorities for individuals and firms?	The Kosovo Bar Association issues licenses to individuals and authorizes law firms.

5.1.2. Legal Services in the European Union

European Union (EU) lawyers have, uniquely among the liberal professions in Europe, a distinct regime governing the free movement of lawyers in the EU (hereafter referred to as the “EU regime on free movement of lawyers”), including their own sectoral Directives. The present guidelines for bars and law societies aim to outline this specific structure. The guidelines are divided into seven parts, as follows:

1. Being a lawyer – in other words, who can take advantage of the EU regime on free movement of lawyers;
2. Double deontology – in other words, how to deal with potential conflicts between professional rules from different bars under the EU regime on free movement of lawyers;
3. Establishment – when a lawyer moves permanently to another Member State to practice law in that State under his professional home title (covered principally by the Establishment Directive (98/5/ EC));
4. Temporary provision of services – when a lawyer provides cross-border legal services temporarily under his professional home title (covered principally by the Services Directive (77/249/EEC));
5. Acquisition of professional title of another Member State – when a lawyer obtains a lawyer’s title in another Member State and uses it in the host State, in his home Member State or in any other Member State (in other words, requalification);
6. Lawyers who are not fully qualified – when a person with some legal training and experience but who has not yet been admitted to a bar or by a law society as fully qualified lawyer is able to take advantage of the EU’s free movement (the Morgenbesser case);

These aspects are described in greater detail in the Guidelines for Bars & Law Societies on Free Movement of Lawyers within the European Union.

Each of the Directives mentioned in this Guide will be implemented through national legislation. The first place to seek guidance regarding the interpretation of a Directive’s provisions will therefore be in the national implementing legislation for the relevant jurisdiction. On the Commission’s website, there is a page summarizing the national provisions on the transposition of EU law into national law in the different Member States. In addition, in 2018, the CCBE put together an overview table to access at a glance key information on national/local rules (and their relevant references) applicable to lawyers who want to provide services or be established in another country in the EU.

5.1.2.1. Being a Lawyer

There is one fundamental condition which needs to be satisfied before a person can take advantage of the Directives: being a lawyer. This condition is common to both the Services Directive and the Establishment Directive (the Lawyers’ Directives). The definition of the term “lawyer”, which follows in the next section, is consistent across these directives.

Only those persons recognized by the Directives as being lawyers can benefit from the EU's free movement provisions for lawyers. The Establishment Directive defines a lawyer by listing two cumulative conditions:

a. the person must be an EU national; and

b. the person must hold one of the professional titles listed within the Directive.

In both Directives, the term 'lawyer' is not defined by area or length of years of practice[21], nor by educational qualifications or years of study, but only by whether the person concerned holds one of the recognized legal professional titles listed in the Establishment Directive. The titles refer to fully qualified lawyers. The holding of such a title, together with being a national of a Member State, entitles any fully qualified lawyer to take advantage of both of the Lawyers' Directives. The rights in the Directives to establish and to provide services, derived from Articles 49 and 56 TFEU, can be asserted not only against the host State but also against the home State, and both must facilitate the exercise of the fundamental freedoms found in the Treaty.

5.1.2.2. Double Deontology

Lawyers practicing under the EU regime on free movement of lawyers are subject simultaneously to two professional codes of conduct - the code of their home State and the code of the host State - in respect of all activities pursued in the host State. This kind of situation is referred to as 'double deontology'. Double deontology' refers to the Article 6 of the Establishment Directive and Article 4 of the Services Directive.

Article 6 of the Establishment Directive:

"A lawyer practicing under his/her home Member State professional title remains subject to the rules of professional conduct of his/her home State only to the extent that these do not conflict expressly or impliedly with the rules of professional conduct of the host State. In case of conflict between rules of conduct, host State rules override home State rules."

Article 4 of the Services Directive:

With regard to the representation of clients in legal proceedings, according to Article 4.1, the lawyer pursues that activity "under the conditions laid down" for lawyers established in the host Member State. The "conditions laid down for lawyers established" in the host country for the pursuit of such representation do comprise specific proceeding-related professional rules in some jurisdictions. Rules that are considered to be rules of civil or criminal procedure in one Member State may be considered to be professional conduct rules in another Member State. Temporarily servicing lawyers have to comply with these rules without regard to their qualification as procedural or professional conduct rules. Article 4.2 stipulates that "a lawyer pursuing these activities shall observe the rules of professional conduct of the host Member State, without prejudice to his obligations in the Member State from which he comes".

21 Note: Area or length of years of practice are defined with by National Bar Associations either through basic law or statute.

5.1.2.3. Lawyer from another Member State established Under his Home Member State Professional Title (Establishment Directive)

This category is governed by the Establishment Directive, the full title of which is 'Directive 98/5/EC to facilitate practice of the profession of lawyer on a permanent basis in a Member State other than that in which the qualification was obtained'[22]. It is available in all official languages of the EU here. On the Commission's website, there is a page summarizing the national provisions on the transposition of EU law into national law in the different Member States. Two basic conditions:

a. being a lawyer, and

b. being established

After having ascertained that the person is a lawyer, the host bar has to verify his or her establishment.

Establishment Directive defines establishment as the pursuit of practice by a lawyer on a permanent basis in another Member State, without giving further details. But Article 10, which provides certain rights after three years of such permanent practice, provides more detail by saying that the lawyer must have 'effectively and regularly pursued' the activity, and further sets out that "Effective and regular pursuit means actual exercise of the activity without any interruption other than that resulting from the events of everyday life" (Article 10.1 of the Establishment Directive).

As until now there is no clear case law regarding the meaning of this wording when translated into the actual circumstances of lawyers' lives. However, there was a seminal case decided by the Court of Justice of the European Union at a time before the passage of the Establishment Directive– the Gebhard case (Case C-55/94) – which gives some indication of the difference between establishment and the temporary provision of services by lawyers. The wording is rather general, but the Court said that the temporary nature of the provision of services is to be determined 'in the light of its duration, regularity, periodicity and continuity'; and that establishment implies 'a stable and continuous basis' of professional activity in another Member State.

5.1.2.4. Lawyers from Another Member State Providing Services in a Host Member State

European lawyers maintain their professional status and continue to be bound by their ethical obligations, when practicing in another European country; they meet colleagues, ethics and professional law of the host country. They communicate with courts, be it civil, criminal or administrative. They communicate with the government or the police. At the same time, they must be aware of the differences with their home jurisdiction and act accordingly. Their activity is based on the freedom to provide services (Article 56 TFEU). The Code of Conduct for European lawyers and Article 4 of the Services Directive define the requirements: Activities relating to the representation of a client in legal proceedings or before public authorities shall be pursued in each host Member State under the conditions laid down for lawyers established in that State, with the exception of any conditions requiring residence, or registration with a professional organization, in that State. A lawyer pursuing these

22 See, Directive 98/5/EC of the European Parliament and of the Council of 16 February 1998 to facilitate practice of the profession of lawyer on a permanent basis in a Member State other than that in which the qualification was obtained' (OJ L 77, 14.3.1998, p. 36

activities shall observe the rules of professional conduct of the host Member State, without prejudice to his obligations in the Member State from which he comes. It should be noted that some services may be reserved in a Member State to a specific category of service providers (e.g. authentication of signatures on official land deeds). Lawyers who are not established in the Member State involved are not necessarily entitled to render these services in that specific Member State, even if they may render these services in their home State (see Case C-342/15, Piringer). When a lawyer exercises the right of freedom to provide services on an occasional basis, local bars must work out how to balance various European and national requirements, arising from law and case law:

a. Articles 56 and 57 TFEU,

b. Lawyers' Services Directive 77/249/EEC,

c. The local legislation regarding the legal profession,

d. Directive 2006/123/EC of 12 December 2006 on services in the internal market,

e. The Gebhard judgment (C-55/94), in particular its proportionality principle,

f. The CCBE Code of Conduct for European lawyers, where applicable,

g. The Lahorgue judgment (C-99/16), regarding the question whether denial of access to e-services for lawyers providing services is justified or not.

5.1.2.5. Lawyer from Another Member State Obtaining a Host Member State Professional Title

European lawyers may in addition to the qualification obtained in one Member State wish to acquire another Member State's professional title. It appears that a significant number of professionals seek to enhance their career development in this way. Lawyers established under their home title in another Member State may seek to acquire the host Member State's professional title in order integrate into the host Member State's profession. This is a choice. Establishment under the home Member State's title is in no way a transitory measure that is intended necessarily to end up in the integration into the host Member State's profession. Lawyers established under their home title enjoy all the desirable practising rights and consequently, in general do not see the need to practise under the host Member State title. The regulation of the legal professions of the Member States is not harmonized by EU Law and so the exercise of the profession is subject to national legislation. European lawyers wishing to obtain an additional professional title have a choice between two different routes – both routes take into account the fact that a lawyer fully qualified in one of the Member States does not need to start professional training in another Member State from scratch:

a. Recognition of Qualifications - Admission to the host Member State's professional title via the Professional Qualifications Directive which means passing an aptitude test or an adaptation period.

b. Three years' practice - Admission to host Member State profession and use of their professional title via the Establishment Directive through practice under home State title in the host State law.

5.1.2.6. Lawyers not Fully Qualified

The free movement provisions found in primary EU law and the Professional Qualifications Directive, as interpreted by case law of the Court of Justice of the European Union, apply not just to fully qualified professionals, but also to those who are partly qualified, whereas the Lawyers' Directives apply only to fully qualified legal professionals. The principle of application of primary law to such circumstances was decided in the Morgenbesser case (C-313/01)). Ms Morgenbesser had completed university law studies in France, and had some professional experience in both France and Italy. She was not a lawyer in France and applied to the Bar of Genoa to be put on the list of trainee lawyers; this request was refused. The Court of Justice held that Italy was wrong to obstruct Ms Morgenbesser's entry to the Italian register of trainee lawyers by reason of the fact that her university legal education took place in France. The governing authorities should have assessed the overall experience and skills obtained by the candidate at the time of application. If there were a gap in the legal education Ms Morgenbesser had gained when compared with the requirements stipulated by Italy, the competent authority could then require any gaps to be compensated for.

5.1.2.7. Barriers and Difficulties

Barriers and difficulties that have been encountered by lawyers that have made use of the Lawyers' Directives are of two categories: First, barriers and difficulties with regard to establishment in another country and second, barriers and difficulties related to the temporary provision of services.

Some lawyers do not want to BE establish abroad because they expect too many difficulties. Among the most expected difficulties are dealing with the necessary administrative formalities (by 54%, leaving family and friends (35%) those related to social insurance (33%), finding a job for the partner or spouse (33%), difficulties with income tax (33%), and having pension rights transferred (32%).[23]

However, the most important expected difficulty is lack of professional expertise in the law of another EU Member State.

5.1.3. Legal Services in EU Member States

This part of the analysis provides information on how the legal profession of lawyers is regulated in three EU member states. In all three countries, the relevant directives (lawyers Directive 98/5/EC of the European Parliament and the Council; the Establishment Directive 98/5/EC" and Services Directive 77/249/EEC - 2006 of the European Parliament and the Council) have been transposed into the national legal system.

23 See, "Legal obstacles in Member States to Single Market rules" Policy Department for Economic, Scientific and Quality of Life Policies Directorate-General for Internal Policies, European Parliament, November 2020

5.1.3.1. Slovenia

Article 137 of the Constitution of the Republic of Slovenia states that the attorneyship is an autonomous independent service within the justice system and is governed by law. The Attorneys' Act states that, in the performance of their duties, attorneys provide legal advice, represent and defend parties before the courts and other state bodies, draw up documents and represent parties in their legal relations.

Anyone who meets the following conditions may be an attorney:

- he/she is a Slovenian citizen,
- he/she has operational capacity,
- he/she has obtained the following professional title in the Republic of Slovenia or has obtained an equivalent qualification abroad, as recognised in accordance with the law on the recognition and evaluation of education
- he/she has passed the State examination in law,
- he/she has four years' work experience as a lawyer with a university degree in law, at least one year of which, after passing the state law examination, must be with a lawyer or law firm, a court, state prosecutor's office, state attorney's office or notary in a regular employment relationship concluded through a full-time employment contract.
- he/she has an active command of the Slovenian language,
- he/she can be trusted to practice as an attorney,
- he/she has the necessary equipment and premises to practise as an attorney,
- he/she has passed an examination to test knowledge of the law on attorneyship, the official tariff for attorneys' fees and the Code of Conduct for Attorneys at the Bar Association of Slovenia

An attorney's country of origin is the country in which he or she is entitled to practise as an attorney under the professional title obtained under the regulations of that country.

Under this Act, an attorney from another country which is a Member State of the European Union is an attorney who is entitled to practise as an attorney in any of the Member States of the European Union under the professional title obtained under the regulations of that country. An attorney from another country which is a Member State of the European Union is entered in the directory of foreign attorneys who may practise as an attorney in the Republic of Slovenia under the professional title of 'attorney' with all the rights and duties applicable to a practising attorney if that person meets the statutory conditions and passes the examination to test knowledge of the national law of the Republic of Slovenia. More details of the examination and the procedure for taking it, are laid down by the Decree on the examination for attorneys from other countries.

5.1.3.2. Croatia

The legal profession is an independent and autonomous service that provides legal assistance to natural and legal persons so that they can exercise and defend their rights and legal interests. Lawyers in Croatia may in particular, they may provide legal advice, draft documents (contracts, wills, statements, etc.) and draw up actions, complaints, motions, requests, applications, extraordinary legal remedies and other pleadings, and represent their clients. They may carry out their legal practice autonomously or in a joint office or a law firm, and they must refrain from performing activities which are incompatible with a lawyer's reputation and independence.

Attorneys must preserve the confidentiality of all information provided by their clients and all knowledge which they acquire in another way by representing them. This confidentiality must also be preserved by all other persons who work, or have worked, in the law firm.

An attorney is entitled to a fee for legal services and to the reimbursement of any costs incurred in connection with the work done, according to the tariff established by the Croatian Bar Association and approved by the minister for justice.

When an attorney provides defence ex officio, the level of the fee for such work is established by the Ministry of Justice.

Only an attorney may represent a defendant before a county court, which means that only an attorney with at least eight years' experience as an attorney or an official in a judicial body may provide defence ex officio or defence which is paid for by the state in criminal proceedings for a criminal offence which is punishable by a long-term prison sentence.

Attorneys must issue their clients with an invoice upon performance of a service. In the case of cancellation or revocation of the power of attorney, the attorney issues an invoice within 30 days of the day on which the power of attorney was cancelled or revoked.

Attorneys must join the Croatian Bar Association, which is an autonomous and independent organisation with the characteristics of a legal person. The Croatian Bar Association represents the legal profession of the Republic of Croatia as a whole.

A person acquires the right to work as an attorney in the Republic of Croatia by being enrolled on the list of attorneys.

5.1.3.3. Hungary

In the course of practicing their profession, lawyers help their clients to assert their rights and perform their obligations. Lawyers can provide legal representation in all cases and before all authorities. Lawyers are independent in the course of their professional work, which means that they may not be influenced and may not undertake such liabilities that would endanger this independence.

Activities subject to fees that may be performed only by attorneys include: Representation and defence in criminal cases; Legal consultation; The preparation and editing of legal documents;

In order to obtain admission to the bar, a person must have: Citizenship of a member state of the European Economic Area; No criminal record; A university degree and Hungarian professional examination in law; Liability insurance and a suitable office space.

Attorneys from the Member States of the European Union may conduct attorneys' activities in three basic forms in Hungary: as providers of ad hoc services, on a regular basis and as a member admitted to the bar. Providers of ad hoc services are obliged to notify their services to the bar association having competence in the place in which the services are provided, while those wishing to provide regular attorney's services must register with the competent bar association.

European Union lawyers entered in the register can seek admission to the bar if they meet the requirements prescribed by law e.g. the practice period prescribed by law has passed, they prove their competence in Hungarian law (as well as European Union law), they have adequate command of the Hungarian language to conduct their activities, etc.

A European Union lawyer who has been admitted to the bar is entitled to use the professional title of attorney and is subject to the same rules as Hungarian attorneys.

Attorneys have a confidentiality obligation in relation to all facts and data provided to them in the course of carrying out their professional activities.

As a general rule, attorneys' compensation is subject to free agreement between attorneys and their clients. Attorneys' fees are only regulated if they act as public defenders (kirendelt védő) in court proceedings.

5.1.4. Legal Services under CEFTA Agreement

CEFTA continues to be the main regional trade agreement in the Western Balkans. The aim of this agreement is to mobilize efforts to integrate into the western European Institutions and eventually join European political, economic, security and legal system.

The European Union confirmed that CEFTA would be a substantial step forward for these countries, both economically and politically.[24] As one of its members, Kosovo is obliged to continue to implement the Central European Free Trade Agreement under article 16 of its SAA with the EU, which will help the country to prepare for the accession to the EU Single Market

Along with many other sectors, CEFTA envisages the liberalization of the services market, including those offered by regulated professions.

CEFTA Protocol 6 (Additional Protocol 6) on Trade in Services or is it know was adopted in 2019 and entered into force on 11 January 2021.[25] This document extended the principle of free trade within CEFTA to the service sector. Additional Protocol 6 provides a framework for the removal of restrictions on trade in services that includes also legal services.

Additional Protocol on Trade in Services (AP6) should enable companies to mutually recognize specific licenses, professional qualifications, and simplification of e-commerce. More specifically, it should mean that when one is licensed in one of the markets, it will be valid in all seven. This protocol provides a legal basis for the future mutual recognition of professional qualifications.

24 Council of the European Union, Presidency Conclusions, 12 February 2007
25 Note: AP6 has not yet been ratified by the Assembly of Kosovo and it is not yet in force in Kosovo.

Taking into account that the legislation which regulates the legal services sector in Kosovo is harmonized with the EU legislation, at the same time, it can be concluded that the same is in line with the requirements arising from AP6 (Additional Protocol on Trade in Services).

5.1.5. Comparative Legal Framework: European Union and Kosovo

European Union

In their activity, lawyers are governed by professional organizations or authorities within their Member State – the bars and law societies – which are responsible for the laying down of rules of professional conduct and the administration of discipline of lawyers.

European Union law does not regulate the conditions for exercising a legal profession. Directive 98/5/EC of the European Parliament and the Council to facilitate practice of the profession of lawyer on a permanent basis in a Member State other than that in which the qualification was obtained is also known as "the Establishment Directive 98/5/EC" allows a lawyer who is qualified in one EU Member State (and who is an EU national) to practice on a permanent basis in another Member State under their home professional title. Services Directive (77/249/EEC - 2006) of the European Parliament and the Council provides for first legal instrument that regulates (based on the provisions of the TFEU) freedom to provide services – including also lawyers services.

In general, both the Lawyers' Services Directive and the Lawyers' Establishment Directive have largely been implemented correctly in the Member States. As far as irregularities are concerned, these are most notably encountered with regard to the administrative requirements for registration under the home title (on the basis of article 3 of the Lawyers' Establishment Directive) and to a lesser extent to the introduction of limitations on professional activity

Kosovo

Legal services in Kosovo are regulated by the law on BAR and legislation which derives from this law. The legislation that derives from the law mainly refers to three internal acts: Statute, Code of Conduct and Regulation on licensing foreign lawyers, all of these documents approved by Kosovo Bar Association. To make the legislation in force even clearer than it would probably be good to review all abovementioned acts (Statute, Code of Conduct and Regulation on licensing foreign lawyers) in the near future and to harmonize it further with the provisions of the Law on Services (in particular with Article 10 on authorization schemes and Article 12 on Conditions for granting of authorization). Another reason why the same legislation should be amended lies also in the fact that it is necessary to have harmonized internal legislation with the acts approved by the Kosovo Bar Association (KBA).[26] It is emphasized above that there is a disharmony or inconsistency between the law in force on the one hand and other acts (i.e. the KBA Statute, the regulation on the practice of the profession of lawyer by foreigners, etc.) which logically should stem from applicable law and not the other way around.

26 Note: This was confirmed also from the Kosovo Bar Association during our meeting with them.

Law on Services

As it is stated in the general provision, the aim of this Law is to establish general principles and criteria that enable the right of establishment and exercise of activity for service providers in Kosovo, while at the same time guaranteeing a high level of safety and quality of services to their recipients. Law on services is in line with the SAA agreement and is partly in compliance with Directive 2006/123/EC of the European Parliament and of the Council of 12 December 2006 on services in the internal market.

Law on Services states clearly that "Laws and other acts governing the conditions for establishment and access to, or exercise of, service activities in Kosovo shall be harmonized with the provisions of this Law".[27] This implies also that any amendment in the future to the Law on Kosovo Bar Association should be always in line with the law on services. In particular, the provisions of Article 40 of the law on BAR as well as those provisions that in one way or another refer to the possibility of providing the 'services' must be harmonized with the law on services. Furthermore, the alignment of possible amendments to the law on BAR with the provisions of the law on services is also guaranteed through the notification system provided by Article 22 of the law on services. The Regulation on Licensing Foreign Lawyers in Kosovo should also be harmonized with the law on services whenever it is drafted as the existing one as we have said above does not produce any legal effect.

It is worth mentioning that the whole drafting process of the law on services was done while taking into account the principles established by Court of Justice of the European Union such as "in order to ensure that directives are fully applied in fact as well as in law, Member States must provide a precise legal framework in the field in question" which allows "individuals to know their rights and rely on them before the national courts".[28] This means that Kosovo has adopted provisions of a binding nature so that service providers and recipients can rely on the rights granted to them by the Services Directive.[29]

27 See Article 5 paragraph 1 of the Law on Services

28 See amongst others: Judgment of 18 January 2001, Commission v Italy, Case C-162/99; Judgment of 15 June 1995, Commission v Luxembourg, Case C-220/94; Judgment of 30 May 1991, Commission v Germany, Case C-361/88.

29 Note: As a result, a five-year Action Plan for the Implementation of the EU Services Directive has been adopted, being a detailed blue print of Government legislative interventions in period 2018 – 2022.

5.2. Other Free Legal Professions: Regulatory Review

5.2.1. Notary and Notarial Provisions

Since 2008, after the approval of the Law no. 03 / L-010 for the Notary, has started the process of functionalization of the notary, while from 2012, the notary service in Kosovo is fully functional.[30]

Given the large number of cases in our judicial system and not having specialised judges in the areas or services performed by the notary system, especially in the non-contentious and administrative field, the notary service presents the opportunity to increase judicial efficiency and better protection of the human rights.

The presentation of legal circumstances places the notary service or profession at a high level of importance in terms of the rule of law, transparency, ease of doing business (better functioning of the free market economy), legal certainty and quality enhancement of the justice system.

The notary service is a public service, which is exercised by notaries in accordance with the positive legislation or legislation in force, who are impartial and independent in the exercise of the notary service.[31] Notary as a legal service has the main purpose of accelerating legal work and actions, where the protection of legal interests of natural and legal persons is one of the main purposes of the notary service. Thus, notaries are authorized to exercise public services licensed by the state body - the Ministry of Justice.

Furthermore, the notary service, in addition to being exercised in accordance with the constitution and laws, also applies the Deontology and rules of organization of notaries approved at the General Meeting of notaries as members of the International Union of Latin Notaries system (UINL), in 2005 in Rome (Italy).[32]

Legal Framework

Legal framework that regulates notary system in Kosovo includes both primary and secondary legislation such us:

- Law on notary
- Administrative Instruction No. 2/2012 on temproary notary tariffs
- Administrative Instruction No. 6/2010 on diciplinary procedure of notaries
- Administrative Instruction No.01/2014 for keeping notarial books, registers and other lists
- Administrative Instruction No. 08/2011 for the number and location of notary offices as well as the necessary premises and equipment of the notary

30 https://www.noteria-ks.org/per-ne/historiku/
31 See Article 2 of the Law No. 06/L-010 on notary
32 https://www.noteria-ks.org/wp-content/uploads/2019/09/Deontologjia-dhe-rregullat-e-organizim-it-te-noterive.pdf

Law no. 06 / L-010 on Notary regulates the organization, conditions for exercising notary, notary examination, competencies of notary, as well as other issues related to the exercise of the duty of notary in the territory of the Republic of Kosovo.[33]

The Law on Notaries, in Article 2, clearly defines the notary service as a public service which is exercised by notaries appointed by the state body - the Minister of Justice. Also, this provision requires notaries to exercise this function independently, impartially and professionally in accordance with the Law on Notary and the legislation in force of the Republic of Kosovo.

Regarding the responsibility of the notary, the latter is responsible according to the Law on Notaries and the Law on Obligations. Also, Article 2 of the Law on Notary, defines the right of the notary to access the electronic database of public bodies, in order to provide notary services. The notary can exercise the notary service up to the age of 65.

While analyzing Article 2 of the Law on notary, it is noticed that the definition of the notary service differs from the repealed Law no. 03/010 on notary, as the repealed law defines the notary service as a “legal and public service”, while the current law in force defines it only as a public service. The definition according to the repealed law, should be taken into consideration as it was a requirement that notaries be initially professional lawyers before being a public official, while the notary service itself was defined as a legal and public service.

The Law on Notary, in Article 3, defines in a taxative way the authorizations of the notary and the notary documents.

In some of the European Union member states of the Latin notarial service, notarial deeds are also required in the registration of immovable property or real estate transactions. In contrast, in Kosovo, the notary system is more limited to real estate transactions. Furthermore, the legislation stipulates that the competent bodies for the registration of property rights are the Municipal Cadastral Offices, while the Kosovo Cadastral Agency is a central level body of the second instance, in the capacity of an appeal body. In these cases we do not have a specification of the competencies of the notary services and these competencies can be exercised by the notary as well as by the court. So, the real estate system is managed by a single register - Cadastral Agency.

In this regard, the amendment of the legislation in this field should result in the clarification of the competencies of the notary service regarding the transfer of immovable property from the initial stage to the conclusion of the contract, simplifying the procedure. Also, direct access to the registers of the Cadastral Agency - the database, by notaries would accelerate the exercise of the function of notary and to analyze the possibility of entering data by notaries in these databases.

The Law on Notary, in Article 4 defines the criteria for exercising the duty of notary, as follows:

- To be a citizen of the Republic of Kosovo;
- Have the ability to act;
- Enjoy personal and professional integrity;

33 See Article 1 of the Law on Notary

- Have graduated from one of the law faculties according to the four (4) year program or have completed master studies in the Republic of Kosovo or in any law faculty of another country, after the nostrification of the diploma in the Republic of Kosovo;
- Have work experience in the legal field for at least three (3) years;
- Has passed the notary exam in Kosovo;
- To prove that he / she is in a position to provide the relevant premises and equipment necessary for the exercise of the function of notary.

From this article it results that the citizens of the member states of the European Union or any other citizen, except the citizen of the Republic of Kosovo can not practice this profession in the territory of our country. Given that Kosovo has a clear agenda for integration and membership in the European Union, then it should be prepared that in the future, when Kosovo is a member of the European Union to fully implement the EU acquis on the recognition of professional qualifications.

In this regard, it is worth mentioning the case of the Court of Justice of the European Union 24 May 2011, European Commission v. The Federal Republic of Germany.[34] The lawsuit was mainly related to citizenship to practice the profession of notary in the state of Germany and the dilemma was whether in this case the criterion of citizenship should apply as we are dealing with the exercise of official authority according to supporters of the idea of citizenship as a criterion for exercising of this profession.[35] While justifying the notary service as one of the services that is not all related to the exercise of official authority, the Court finally finds that the establishment of citizenship as a criterion for the exercise of the notary profession is contrary to Article 43 of the EC Treaty. Article 43 of the EC deals with the right of establishment.

Greater commitment regarding the issue of notary service should be in the case of inheritance or transfer of inheritance by preparing in advance with the harmonization of local legislation with that of the European Union, as follows:

- European Union Regulation (EU) no. 650/2012 on jurisdiction, applicable law, recognition and enforcement of judgments and acceptance of the execution of the authentic instrument in matters of property and in the creation of a European certificate of inheritance
- Implementing Regulation adopted by the European Commission of 9 December 2014;
- European Certificate of Succession as one of the forms according to the Succession Regulation.

Regarding the connectivity of the notary service and the amendment of the laws on inheritance and non-contentious procedure, we have an extension of competencies making them equal to judges with certain competencies or duties regarding the inheritance procedure. Also, from this change arise challenges regarding the

34 https://eur-lex.europa.eu/legal-content/EN/ALL/?uri=CELEX:62008CJ0054

35 Note: The Federal Republic of Germany contested the notary service to be exercised by non-citizens of Germany as this was within the first paragraph of Article 45 of the Treaty of the European Community which was related to the exercise of the concept of official authority. For more see: https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:12002E/TXT&from=EN , p. 53, article 45, par.1

implementation of the law of non-contentious procedure where there are different positions from judges and notaries until the first say that the Law no. 06 / l-007 on Amending and Supplementing Law no. 03 / l-007 on Non-Contested Procedure should be fully implemented, while notaries have some concerns regarding the implementation of Article 161 A regarding information sessions. One hearing should suffice according to notaries. More than one information session is seen by them as an obstacle to the efficiency of their work in the inheritance procedure.

In addition to the above issues, another competence that will need to be clarified is that between notaries and lawyers regarding the right to draft contracts, where notaries are claiming that this is in their competence.

In order to preserve the integrity of notaries and the role they play in the rule of law, and given that the Notary Service is designed to facilitate the work of the courts and expedite legal action, the criteria for selecting notaries should be more strict. In this way, Kosovo would have an even more efficient, impartial and independent notary service system.

Currntly the age limit for practicing the profession of notary has been reduced from 70 years to 65. However the experience required for licensing of notary has been 2 years and now it is 6 months. This adversely affects quality of the notary system.[36] According to the Chamber of Notary at least 3 years of work experience must be required and a bar exam must be required.[37]

From the meeting with the Chamber of Notaries, two recommendations have emerged, which could be necessary to be highlighted in this report: the first that is more than necessary to increase the number of notaries compared to the existing one and at the same time it should be invested in the digitalization of notary services.

5.2.2. Private Enforcement Agents (Bailiffs) and Their Services

Execution as the last stage of a court process, represents the guarantee of the realization of the rights acquired by judgment. In order to achieve this realization of the rights acquired by the judgment, two elements must be taken into account in this process, the effective execution as well as the reasonable time. These two elements or qualities in our legal system are related to Article 6 of the European Convention on Human Rights. Also, the European Charter of Human Rights, in Title 6, Justice, Article 47 defines the right to effective remedies, a fair trial and a fair and public hearing in a timely manner.[38]

In this sense, the legislation must also be clear, predictable and effective, which means that it must be easily implemented in practice.

Law no. 04 / L-139 on Enforcement Procedure in Article 1, paragraph 1, stipulates as follows: “regulates the procedure through which Courts and private bailiffs determine and enforce enforcement on the basis of enforcement documents and confidential documents, unless by special law otherwise provided”.[39] Thus, the enforcement procedure is regulated according to the Law on Enforcement Procedure.

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36 Note: This is one of the recommendations from the meeting with the Chamber of Notaries, 24th of December 2021.

37 Note: Since there is no standard norm regarding the profession of notaries and that states (including EU member states) are free to determine or choose those criteria that make the functioning of the notary system easier and more efficient.

38 https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:12012P/TXT&from=EN

39 https://gzk.rks-gov.net/ActDetail.aspx?ActID=2870

Also, this law defines the private bailiff as a natural person appointed by the Minister of Justice who in the exercise of public authority, decides on actions within his competence in the implementation of permitted execution and undertakes actions for execution.[40]

Greater commitment regarding the issue of private bailiffs should be in the preliminary preparation with the harmonization of local legislation with that of the European Union in order to implement the obligations deriving from the legislation of the European Union, international instruments, as follows:

- Regulation EC.No. 44-2001 on jurisdiction and recognition and enforcement of judgments;
- European Execution Order EC 805-2004 for uncontested claims;
- EC Regulation no. 861-2007 establishing a European procedure for minor damages;
- EC Regulation no. 606-2013 on mutual recognition of protection measures.

However there are some harmful and strange provisions in the current law:[41]

- Institutions as creditors have the opportunity to choose the bailiff. This affects that there is no proportional division.
- The Municipality of Prishtina has announced a tender for the election of a bailiff. There should be no tender for judicial services, including enforcement. There is no basis for competition. The fees are the same, as are the competencies as long as the licensing process exists.
- In the latest legal changes, it is foreseen that the efficiency fee will not be fixed. This obligation, which derives from the law, is expected to be operationalized by secondary legislation. If the efficiency fee is subject to bargaining, the bailiff loses objectivity as a judicial functionary, loses judicial independence.

Membership in the chamber of private enforcement agents is mandatory. It is a membership fee paid on an annual basis.

5.2.3. Mediation Services

Within the free legal professions, mediation is an out-of-court procedure for resolving disputes and disputes between subjects of law in accordance with the conditions provided by law.[42] So mediation is an alternative method of resolving disputes in an out-of-court procedure. This extrajudicial method or procedure is regulated by law and is conducted at the will of the parties. In this procedure the decision is taken by the parties, but to help the parties reach a satisfactory or acceptable solution for both parties choose mediators.[43] Mediators are chosen by the parties themselves and who are impartial in the performance of their duties.

40 See Article 2 paragraph 1.11. of the law on enforcement procedure
41 Note: The same was confirmed by Kosovo Chamber of Bailiffs, during our meeting with them on 22 December 2021
42 See Article 3 paragraph 1.1. of the Law No.06/L009 on mediation
43 See https://md.rks-gov.net/page.aspx?id=1,41

The expression of will is sanctioned by Article 4 of Law no. 06 / L-009 on Mediation (hereinafter: the law) which stipulates the following: "The mediation procedure is conducted with the free will of the parties, expressed orally and in writing, in accordance with the Law." So, without the will of the parties there is no mediation.

Regarding the equality of the parties in the procedure, this principle is already sanctioned in Article 5 as follows: "In the mediation procedure the parties are equal and have rights and obligations in accordance with the law."

Regarding impartiality and privacy as well as privacy and confidentiality, are defined in Articles 6 and 7 of the law. So, as principles of mediation are established four principles, as the principle of free will of the parties, equality of the parties, impartiality and independence as well as privacy and confidentiality. These four principles of mediation must be respected and applied throughout the mediation procedure.

The mediation procedure can be initiated by the parties, which means the possibility without referring the case to the court, but also after the initiation of their case in court, at all stages of the court proceedings.[44]

Also, the mediation procedure can be initiated by the court, the prosecution or the competent administrative body according to the legislation in force.[45]

The law in Article 9 stipulates mandatory mediation, but this does not mean that this procedure must necessarily end with mediation as the law stipulates that in cases of inability to resolve their case, the parties are not denied the right of access to court. In this regard, the law in Article 9, paragraph 4 stipulates that "The parties may not proceed with the mediation procedure and may return to court proceedings, no longer than thirty (30) days." In this case, within the prescribed time limit, the case may be returned to court proceedings, but the parties must present written evidence, signed by the parties and the mediator, that the parties have tried mediation.[46] In addition, the cases are defined when or which cases can be referred to the compulsory mediation procedure, in accordance with Article 9, paragraphs 1 and 2, as follows:

1. When the parties file a lawsuit in court, for disputes from family relations related to cases of alimony, custody, contacts, child custody and division of joint marital property, the judge in the preparatory hearing and after the preliminary review of the lawsuit, must inform and oblige the parties in the mediation procedure ".

2. "When the parties file a lawsuit in court, for property disputes related to the rights and obligations from the rights of servitudes, and compensation of expropriated property, the judge in the preparatory hearing and after the preliminary review of the lawsuit, is obliged to inform and instruct the parties in the mediation procedure ".

44 See, "Udhëzues për lëndët e gjykatave të përshtatshme për ndërmjetësim", supported by USAID Commercial Justice Program, p 3, January 2020.

45 See Article 8 of the Law No.06/L009 on mediation

46 See article 9, paragraph 5 the Law No.06/L009 on mediation

The mediation procedure in cases in civil disputes takes place in the disputed relations of the subjects of law in the legal-property, commercial, family, labor relations, other cases of disputes from the property right, such as the rights related to the acquisition of property rights through contractual or acquired relationships through inheritance, bankruptcy proceedings, other civil, administrative relations.[47]

In all cases the parties are not obliged to enter into agreements without their free will. The parties voluntarily select the mediator from the register of mediators who are licensed by the Ministry of Justice.

Regarding the legal effect of the agreement reached in the mediation procedure, depending on who referred the case, to that body is addressed the agreement reached which has the force of an executive document, while in cases where the case is referred by the prosecution has the power of final document.

The law in article 21 determines the establishment of the chamber of mediators, while in article 22 defines the conditions for licensing as a mediator, where there must be a university degree; ability to act; have successfully completed mediation training, including resolving practical cases within the training and under the supervision of a licensed mediator. The Ministry of Justice licenses mediators after ascertaining that they have not been convicted of a criminal offense and that the mediator has a high professional reputation and moral integrity.

Regarding the possibility of practicing the profession of mediator by a foreign citizen, foreigners can serve as a mediator in Kosovo in individual cases and under the condition of reciprocity, after obtaining the prior consent of the Ministry of Justice. Reciprocity is assumed to exist as long as one party does not object and in cases of eventual reciprocity objection, then the burden of proof falls on the opposing party.[48]

It is worth mentioning that this law is in full compliance with the Directive 2008/52 / EC of the European Parliament and of the Council of 21 May 2008 on Certain Aspects of Mediation in Civil and Commercial Matters.[49] The requirements arising from this directive are transposed into law, and it is worth noting, among other things, that the directive emphasizes the importance of maintaining confidentiality in mediation.[50] So, this principle is of special importance and should be taken into account by all mediators.

Regarding the development and strengthening of the mediation procedure, more awareness or information campaigns should be organized for the public, the role of the mediation chamber should be strengthened, trainings or training modules for beginners and continuing trainings should be organized and the way of strengthening should be analyzed. of supervision in the field of mediation.

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47 See "Udhëzues për lëndët e gjykatave të përshtatshme për ndërmjetësim", supported by USAID Commercial Justice Program, p 5 and 6, January 2020 https://www.gjyqesori-rks.org/wpcontent/uploads/lgsl/2548_Udhezues_per_lendet_gjykatave_te_pershtatshme_per_ndermjetesim.pdf .

48 Article 25 of the Law No.06/L009 on mediation

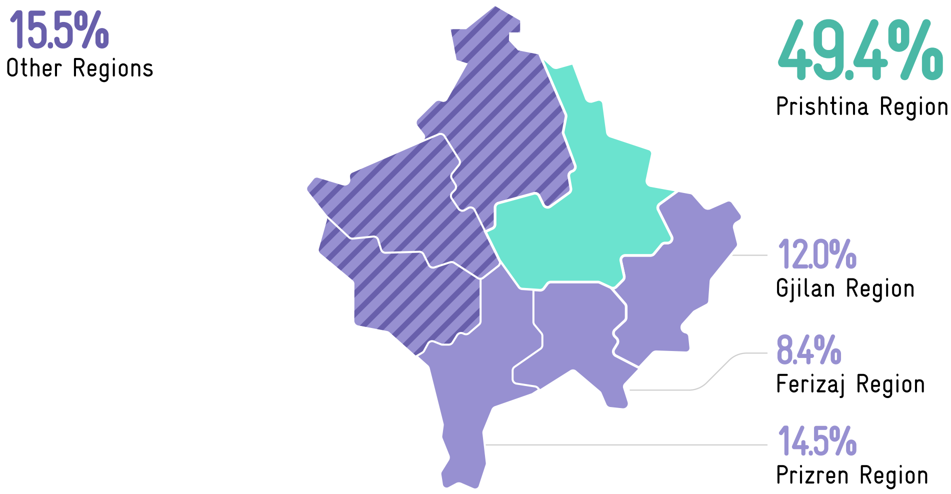
49 https://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2008:136:0003:0008:EN:PDF

50 Article 7 of the Directive 2008/52 / EC of the European Parliament and of the Council of 21 May 2008 on Certain Aspects of Mediation in Civil and Commercial Matters

6. Main Survey Findings

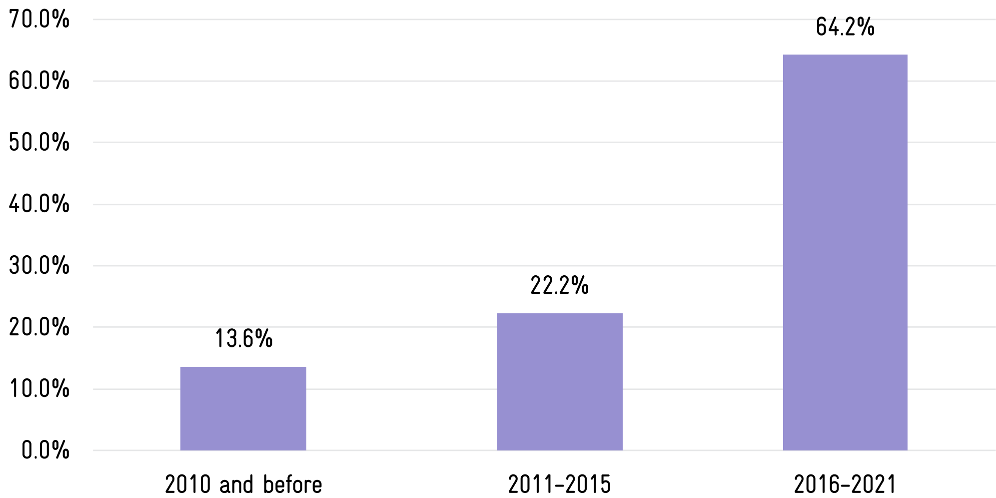
This section presents the main findings compiled from a survey conducted with legal services companies in Kosovo. Out of more than 1,000 legal companies contacted by the survey team, only 83 completed the questionnaire. Of those who completed the questionnaires, 75.9 percent were company owners, 3.6 percent were managers, and 18.1 percent were both owners and managers; a small percentage of respondents (2.4 percent) held other positions in the company. Around half of the companies surveyed are located in the region of Prishtina, 14.4 percent in the region of Prizren, and 12.0 percent in the region of Gjilan; the rest (24.1 percent) are located in other regions of Kosovo (see Figure 9).

Figure 9: Location of legal companies, by Kosovo regions (in %)



The majority of the legal companies surveyed (64.2 percent) were established between 2016 and 2021, 22.2 percent between 2011 and 2015, and 13.6 percent in 2010 or before (see Figure 10). There were fewer companies from the latter period particularly because apart from lawyers, the rest of the regulated legal professions that are currently present (for example, notaries) did not exist in Kosovo then.

Figure 10: Legal companies, by period of establishment (in %)



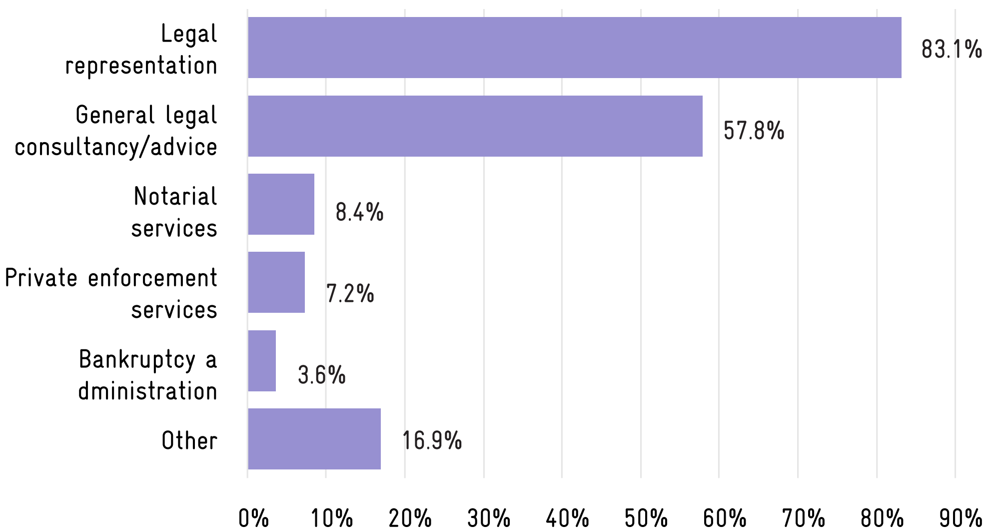
As per the legal status, 69.9 percent of the companies surveyed reported being individual businesses, while 30.1 percent were limited liability companies (LLCs) (see Figure 11). The vast majority of companies, 96.4 percent, were domestic, while a small portion (3.6 percent) were of mixed origin (see Figure 12). There were no companies that were 100 percent foreign.

Figure 11: **Legal services companies, by legal status**

Figure 12: **Legal services companies, by origin**

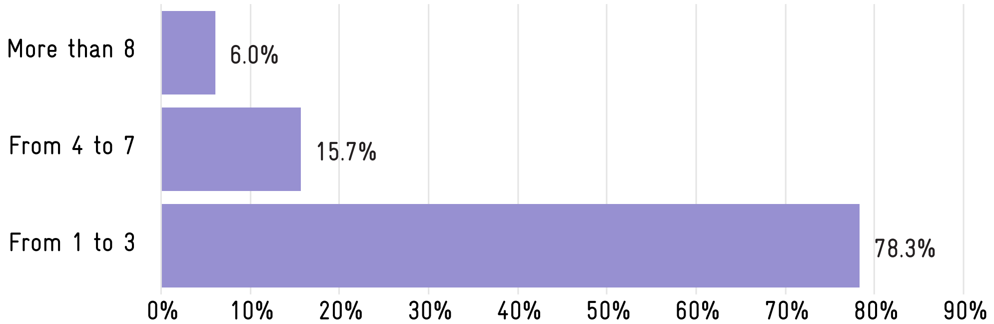
As depicted in Figure 13, the most common services provided by the surveyed companies are legal representation (83.1 percent) and general legal consultancy/advice (57.8 percent). Further analysis reveals that most lawyers are also engaged in legal advice, except for providing legal representation services. Notaries and private enforcement are two other services with a frequency of 8.4 percent and 7.2 percent, respectively. Almost all the companies providing notary or private enforcement services do not provide any additional legal service apart from the one they have been licensed. Bankruptcy administration is a less common service provided by only 3.2 percent of the legal companies surveyed. There are also other services which companies provide (i.e., meditation), which constitute 16.9 percent of all cases. It is worth pointing out that companies in the legal services sector have restrictions emanating from the current legislation, which prevent them to provide various legal services under one undertaking.

Figure 13: **Main services provided by legal services companies (% of cases)**



The survey findings on employment show that 78.3 percent of the legal companies surveyed have from one to three persons employed, 15.7 percent from four to seven, and only 6 percent more than eight persons employed (see Figure 14). On average, they employee (including owners) 2.47 persons. This figure corresponds with the one generated from the administrative sources (see Section 4). Almost half of the surveyed companies are single-person companies; the largest surveyed company employs no more than ten persons.

Figure 14: **Distribution of employment, in %**

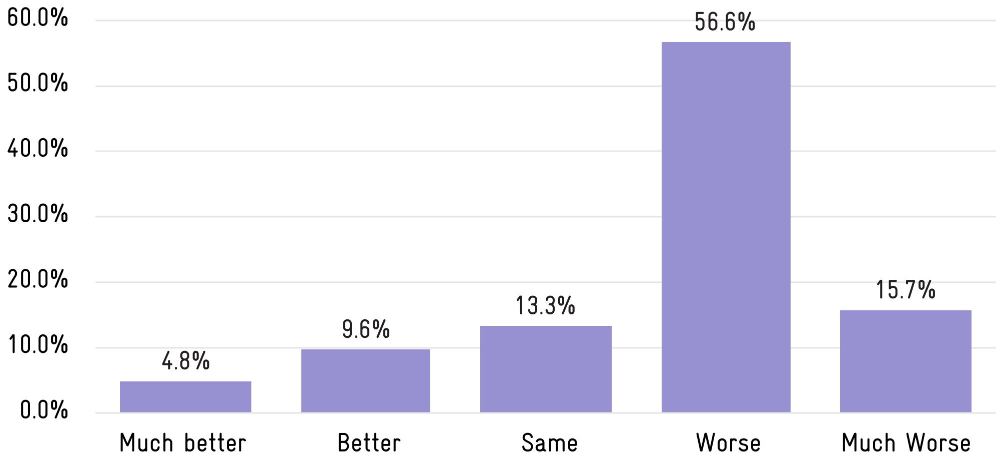


In the question about whether they have cooperation with international associates in delivering their services, close to one-third of the companies surveyed said yes (see Figure 15). Almost all in this group are companies that provide legal representation.

Figure 15: **Cooperation with international associates in delivering services (in %)**

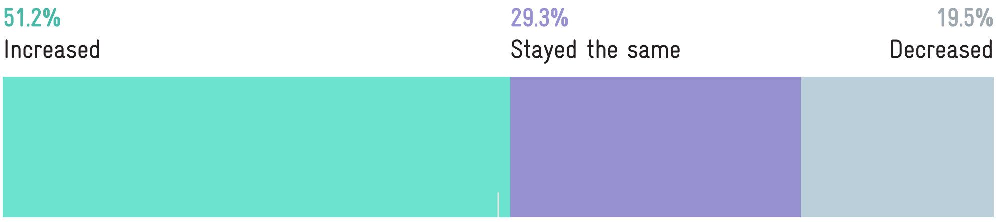
In the question regarding the competitiveness level of the sector in Kosovo compared to the EU, the majority of the legal companies surveyed (72.3 percent) perceive it to be "worse" or "much worse." On the other hand, 14.5 percent of the companies perceive it to be "better" or "much better," while the rest believe that there is no difference (see Figure 16).

Figure 16: **Perceived competitiveness level of the sector compared to the EU (in %)**



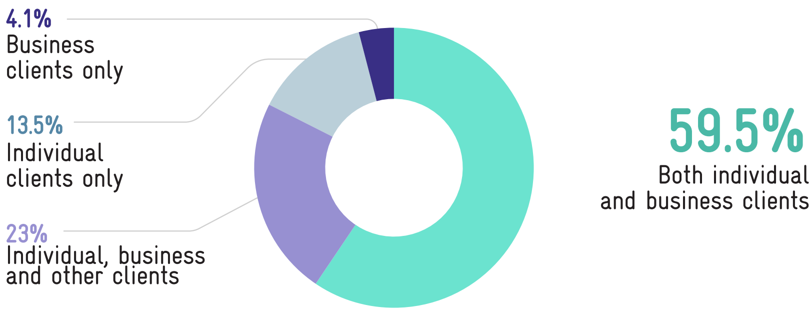
The sector appears to have recovered the turnover decline of 2020 (see Section 4) that occurred due to the pandemic outbreak and the restrictions that followed. Of all the surveyed companies, 51.2 percent declared to have experienced an increase in turnover in 2021 compared to 2019 with an average magnitude of 37 percent. On the other hand, 29.3 percent of the companies reported no changes in turnover, while 19.5 percent declared to have seen a decline with an average magnitude of 33 percent (see Figure 17).

Figure 17: **Change of turnover in 2021 compared to 2019 (in %)**



As depicted in Figure 18, the clientele structure for 59.5 percent of the companies surveyed consists of both individuals and businesses; 23 percent, apart from serving individual and business clients, reported having other clients (i.e., public institutions) as well. Companies with only individual clients or business clients make up a smaller share; specifically, those with individual clients only constitute 13.5 percent of the total, whereas those with business clients only account for 4.1 percent of the total. Lawyers have an average number of individual clients standing at 63.2 and business clients at 14.5. For other legal companies, especially notaries, the accurate number of clients was hard to be determined as they have a vast clientele base reaching thousands in many cases.

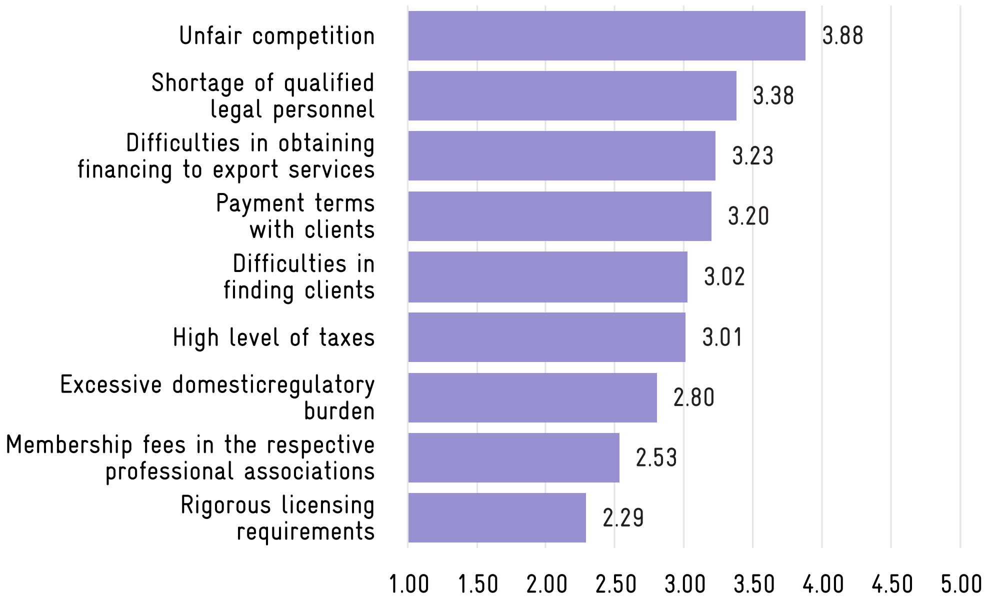
Figure 18: **Distribution of by type of clients (in %)**



Further in the survey, legal companies were asked about the main weaknesses or challenges characterizing the legal services sector. The first most mentioned weakness (challenge) according to the companies surveyed is of an exogenous nature (demand-related). It has to do with the inefficiency of the judiciary in general, namely the unnecessary prolongation of cases in courts, which appears to greatly affect lawyers' efficiency and their ability to perform well. According to one respondent, a random civil proceeding in the Basic Court of Prishtina may take up to eight years until the case is closed. The second most frequently cited challenge is unfair competition. This issue mainly occurs in legal representation services, where there seems to be lawyers who perform better not because of their quality of work but because of the close connections they have created with certain judges. Lack of specialization and professionalism in the provision of legal services, job insecurity, and low lawyer tariffs are some other weaknesses (challenges) also frequently mentioned. One weakness relevant to the notary services is the insufficient number of notaries with monopolistic consequences.

In addition to the question about the weaknesses (challenges) of the sector, companies were presented with a list of potential obstacles and were asked to rate them on a scale from 1 to 5, where 1 means not an obstacle at all and 5 means a large obstacle. Figure 19 shows the ranking of obstacles based on the average rates. The most severe obstacle perceived by the companies surveyed is "unfair competition", followed by "shortage of qualified legal personnel" and "difficulties in obtaining financing to export services." An interesting finding here is that "rigorous licensing requirements" is seen by legal service providers as the least serious barrier.

Figure 19: **Ranking of obstacles by legal companies (average score)**



Companies were also asked to list and elaborate three interventions that would upgrade the legal services sector. The following are the main interventions proposed. Note that in this case the order does not reflect the level of importance.

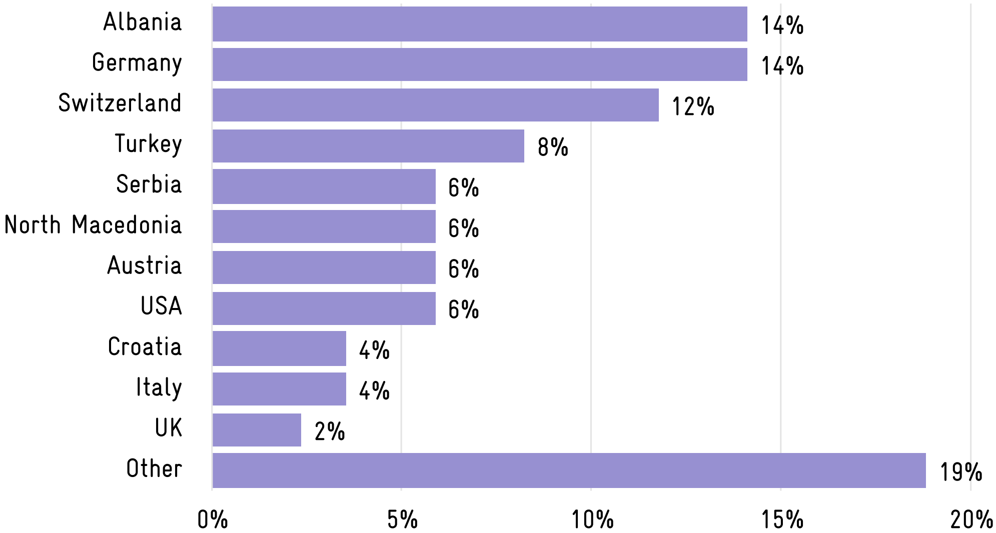
- Increase the number of licensed notaries
- Introduce higher ex officio tariffs
- Improve the efficiency of the judiciary
- Make the regulation of legal services more demanding to improve professionalism
- Increase transparency in the payment of legal services
- Ensure better education and training in legal subjects
- Do not allow retired judges to get a lawyer's license to avoid conflict of interest
- Develop mechanisms that allow for a fair and objective performance assessment
- Make a stricter division of duties and responsibilities between free legal professions
- Support the development of linkages between lawyers to create packages of multiple legal services
- Introduce a retirement age for lawyers
- Change the code of ethics for lawyers to allow them to search for clients through advertising

Provided that the Central Bank of Kosovo (CBK) still does not produce services trade data disaggregated at the level of legal services, it was necessary to include a set of questions in the questionnaire that measure trade aspects, exports in particular. An important finding in this part is that 41 percent of the surveyed companies have clients abroad (see Figure 20), with an average number standing at 11.6. On average, foreign clients made up 19.8 percent of the turnover in exporting legal companies in 2021, up from 17.8 percent in 2019. A cross-tabulation of data reveals that companies with more employed persons are more likely to be engaged in exports of legal services. The most common types of services provided to foreigners include legal consultancy or advice, assistance in drafting contracts, legal representation before the Kosovo courts, and registration of trademarks or patents. In the case of private enforcement, the most frequent service to foreigners is debt collection from local debtors.

Figure 20: **Legal companies with clients abroad (in %)**

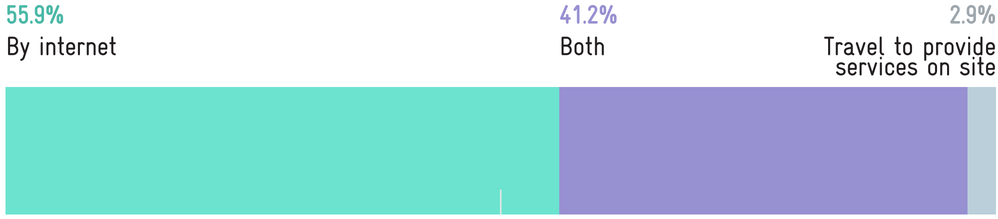
A breakdown of clients by their origin reveals that those from Albania and Germany are on top of the list comprising 14 percent in each case; followed by those from Switzerland (12 percent) and Turkey (12 percent). To see other countries along with their share, refer to Figure 21.

Figure 21: **Foreign clientele by country of origin (in %)**



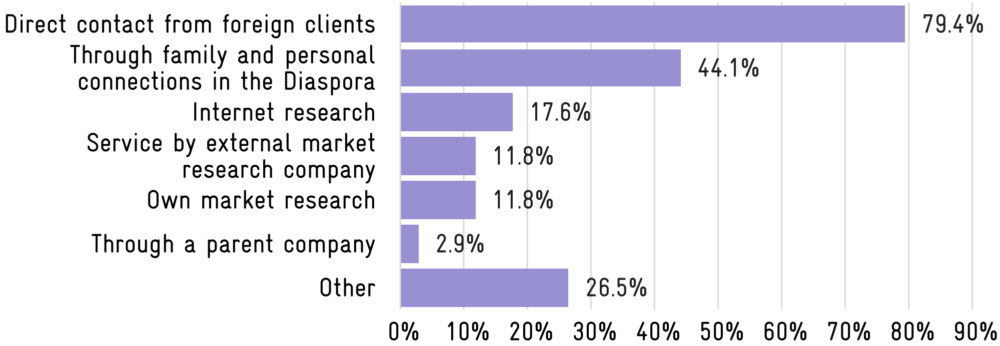
Further, the survey findings show that 55.9 percent of the companies surveyed provide the services to clients aboard through internet, only 2.9 percent travel to meet them, and 41.2 percent do both (see Figure 22).

Figure 22: **Means of provision of services (in %)**



Regarding the most common means of identifying clients abroad, companies say that foreign clients contact them directly in 79.5 percent of the cases. Family or personal connections in the diaspora (44.1 percent) is another common way companies identify clients. Other means of finding clients abroad are depicted in Figure 23. Note that this was a multiple-answer question; that is why the total exceeds 100 percent.

Figure 23: **Means used to identify client (in % of cases)**



The surveyed companies (not only the exporting ones) were asked to list the main barriers that prevent them from selling their services abroad or increasing their sales with foreign clients. Restrictive licensing required by foreign jurisdictions, lack of a visa-free regime, language, difficulties in finding clients, and the absence of business linkages are the most frequently cited barriers in this regard.

Finally, companies were asked to indicate the main policies required to support the sector companies in their efforts to provide services to clients abroad. Below are outlined the most relevant suggestions:

- Provide trainings covering differences between Kosovo legislation and legislations in relevant foreign markets
- Build cooperation with foreign associations and facilitate mutual recognition
- Organize match-making meetings and seminars that help local legal service providers establish ongoing cooperation with foreign business clients
- Develop a database of legal professionals with their portfolio of services
- Engage foreign diplomatic missions to provide support in the search for foreign clients
- Build a platform that provides information on market demands for legal services
- Build networks with experts from the region and EU

7. Conclusion and Recommendations

Laws and regulations constitute the foundations of a prosperous economy, playing a crucial role in protecting the rights of citizens, businesses, and institutions. A sound and effective legal services sector is critical for implementing laws and regulations and is essential for achieving harmonious economic development.

In Kosovo, the legal services sector makes up only 0.24 percent of the country's economy. This share is just about half of the EU average. The contribution of the sector to employment, on the other hand, is higher, accounting for around 1 percent. Kosovo has about one legal firm per thousand inhabitants aged 15-64. This figure compares low with the EU average, where enterprise density is twice as high, suggesting that Kosovo has plenty of room to increase the number of legal firms and through this competition as well. Furthermore, Kosovo appears to have low labor productivity in the legal services sector, having a productivity level six times lower than that in the EU.

In general, the legislation governing the legal services sector does not present a particular obstacle in relation to those found in the Member States of the European Union regarding foreign nationals. So we can say that the legislation of Kosovo in this sector follows, in most cases, the practices of EU member states.

However, some aspects such as licensing procedures, simplification of administrative procedures, and the like need to be amended or supplemented in some areas. Amendments must always be in line with the requirements deriving from the law on services, specifically Articles 6 - 12 of the law on services.

The possible amendments of the law on bar should be followed with the issuance or adoption of all internal acts of the Kosovo Bar Associations in line with the new law.

Of particular importance is the drafting and approval by the Kosovo Bar Associations of the new regulation on Licensing Foreign Lawyers in Kosovo. The drafting of such a regulation should be done in accordance with the Law on Bar as well as in line with the provisions of the law on services (law that implements the EU services directive) as well as in line with Lawyers Services Directive 77/249/EEC.

Regarding the regulation of free legal professions, it can be concluded that from the legal point of view they are in line with the advanced standards from EU member states as well as in line with EU standards, wherever these standards exist at the EU level (i.e. notary services, mediations services, etc).

A survey with legal service providers has been conducted to enrich the analysis further. The most common legal services provided in Kosovo, as per the survey, include legal representation and general legal consultancy/advice, followed by notaries and private enforcement services. Two-thirds of the companies serve both individual and business clients. In terms of international cooperation, close to one-third of the companies surveyed (almost all of them lawyers) declare that they cooperate with international associates in delivering their services. The vast majority of the companies surveyed share the opinion that the competitiveness level of the sector in Kosovo is worse or much worse compared to the EU.

The most commonly cited challenge turns out to be external to the sector but with profound implications. It relates to the inefficiency of the judiciary, namely the unnecessary prolongation of cases in courts. This inefficiency, which basically falls on the demand side, seems to impact negatively the lawyers' ability to perform well. Lack of specialization and professionalism in legal services, job insecurity, and low lawyer tariffs are other frequently mentioned challenges. One challenge relevant to the notary services is the insufficient number of notaries, which has produced monopolistic tendencies in the market for those services.

As there are no official export data on legal services, the survey sought to shed some light on this topic as well. The findings show that over 41 percent of the surveyed companies have clients abroad, mainly in Albania and Germany. Foreign clients make up one-fifth of the turnover among the exporting legal companies. The most commonly provided services to these clients include legal consultancy or advice, assistance in drafting contracts, legal representation before the Kosovo courts, and registration of trademarks or patents. The surveyed companies identify several barriers that prevent them from selling their services abroad or increasing their sales with foreign clients. Restrictive licensing required by foreign jurisdictions, lack of a visa-free regime, language, difficulties in finding clients, and the absence of business linkages are the most frequently highlighted barriers in this regard.

The main recommendations of this report are outlined below:

- Article 40 of the Law on Bar should be amended in order to address the discrepancy between paragraph 1 and 4. This paragraph refers only to the lawyers coming from EU Member States and US while leaving aside EFTA countries.
  In the same vein, the statute of KBA should be amended, as it regulates only status of lawyers or candidates from the EU member states leaving aside (US and EFTA countries).
- Law on Bar should be amended also when it comes to the licensing procedure of the Lawyers; instead of 1 year it should be a minimum of 3 years of relevant working experience.
- Law on Bar should also be amended to define two criteria or administrative requirements: first it should clearly define the period up to which age a person can be licensed as a lawyer to practice law in the Republic of Kosovo and the second, up to what age a lawyer can practice law.
- Provisions of the Law on Bar dealing with the administrative procedural aspects should be further harmonized with Law on Services in particular with Articles 6 to 12 of the Law on Services;
- The new Regulation on Licensing Foreign Lawyers in Kosovo should be prepared always in line with the Law on Services (Article 6 to 12) and EU Lawyers directives.
- Higher tariffs should be introduced for ex officio lawyers and other possible unjustifiable discrepancies in tariffs for lawyers should be eliminated.
- A mechanism that allows for a fair and objective performance assessment of legal practitioners should be developed.
- Legal firms, especially those dealing with criminal cases, should be encouraged to invest in data security technologies to protect their clients' data; in addition, legal firms should be encouraged to specialize in offering cybercrime legal consulting services as there is a growing need for such services.

- The KBA's code of ethics should change to allow lawyers to promote their firms and the services offered while keeping minimal restrictions in sensitive areas.
- The number of notaries should be increased to ensure fair competition and better delivery of services.
- Legal firms should be encouraged to insert themselves into legal networks to internationalize their business.
- Training sessions covering differences between Kosovo legislation and legislations in relevant foreign markets should be systematically organized to improve capacities for services exports.
- Match-making meetings and seminars that help local legal services providers establish ongoing cooperation with foreign business clients should be regularly organized.
- Foreign diplomatic missions should be engaged to provide support to legal service providers in their search for foreign clients.
- A platform that provides information on market demand dynamics for legal services should be developed.

8. Annexes

Annex 1: List of interviewed stakeholders

Name of Institution	Contact Person	Meeting Schedule
Free Professions Department, Ministry of Justice	Elbasan Dervishaj, Head of Department	15 December 2021
Kosovo Bar Association (KBA)	Besim Curri, Executive Director Besim Abdullahu, Communication Officer Albulena Ukimeraj, Training Center Coordinator	22 December 2021
Notary Chamber of the Republic of Kosovo	Aliriza Beshi, President Erdon Gjinolli, General Secretary	24 December 2021
Chamber of Private Enforcement Agents	Arben Gashi, President	24 December 2021

Annex 2: Questionnaire

A. General Information

1. Name of company: ____________________

2. Name of owner(s): ____________________

3. Municipality: _________________________

4. Type of business/company [Legal status]:

- ***a.*** Individual Business
- ***b.*** General Partnership
- ***c.*** Limited Partnership
- ***d.*** Limited Liability Company
- ***e.*** Joint Stock Company

5. Status of the person who fills the questionnaire:

- ***a.*** Owner
- ***b.*** Manager
- ***c.*** Both
- ***d.*** Other, please specify: ______________________

6. Year of establishment: ____________________

7. Please select the main services provided by your company. [Note: More than one answer is possible!]

a. Legal representation
b. Notarial services
c. Private enforcement services
d. Bankruptcy administration
e. Mediation services
f. General legal consultancy/advice
g. Other, please specify: ____________

B. Overall Structure and Performance

8. Ownership in your company is:

a. Domestic only
b. Foreign only
c. Mixed

9. How many employees (including you) does your company have? Please insert the number: __________

10. Do you have any sort of cooperation with international associates in delivering your services?

a. Yes
b. No

11. How would you compare the competitiveness level (price and quality) of legal services in Kosovo with similar services provided in the EU?

a. Much better
b. Better
c. Same
d. Worse
e. Much Worse

12. Compared to 2019, how did the turnover of your company change in 2021?

a. Increased: _______%
b. Decreased: _______%
c. No change

13. How many employees (including you) does your company have?

a. Individual clients (if applicable): __________
b. Business clients (if applicable): __________
c. Other clients (if applicable): ________

14. Could you please list up to three STRENGTHS characterising the legal services sector in Kosovo?

a. __________________
b. __________________
c. __________________

15. Could you please list up to three WEAKNESES characterising the legal services sector in Kosovo?

a. __________________
b. __________________
c. __________________

16. How would you rate the following on a scale from 1 to 5, where 1 – not an obstacle at all, and 5 – a large obstacle?

1. Excessive domestic regulatory burden	1	2	3	4	5
2. Rigorous licensing requirements	1	2	3	4	5
3. Payment terms with clients	1	2	3	4	5
4. Level of taxes	1	2	3	4	5
5. Difficulties in obtaining financing to provide international services	1	2	3	4	5
6. Shortage of qualified legal personnel	1	2	3	4	5
7. Difficulties in finding clients	1	2	3	4	5
8. Membership fees in the respective professional associations	1	2	3	4	5
Other (specify):	1	2	3	4	5

17. Please list and elaborate three interventions that would upgrade legal services in Kosovo:

a. ____
b. ____
c. ____

C. Trade (Exports of Legal Services)

18. Does your company have clients abroad?

a. Yes, specify the number ________
b. No

19. [Only for companies with clients abroad] What specific services does your company provide to clients abroad?

a. ____________________

b. _____________________

c. _____________________

20. [Only for companies with clients abroad] How does your company provide services to clients abroad?

a. Travel to provide services on site

b. By internet

c. Both

21. [Only for companies with clients abroad] What was the share of turnover from foreign clients in the overall turnover of your company in the following years?

a. 2019 __________%

b. 2020 __________%

c. 2021 __________%

22. [Only for companies with clients abroad] Could you please specify the nationalities of your clients abroad?

a. __________________

b. __________________

c. __________________

d. __________________

23. [Only for companies with clients abroad] How does your company identify clients in foreign markets? [Note: More than one answer is possible.]

a. Own market research

b. Service by external market research company

c. Through family and personal connections in the Diaspora

d. Internet research

e. Trade fairs

f. Direct contact from clients

g. Through a parent company

h. Other, please specify: ___________

24. Could you please list three main barriers that prevent you to offer your services abroad or to increase/expand your business with clients abroad?

a. __________________

b. __________________

c. __________________

25. What domestic policies may be required to support you in your efforts to provide services to clients abroad and what impact will they have on your business?

Open answer: