

Corruption Risk Assessment Kosovo Extractive Industries Sector

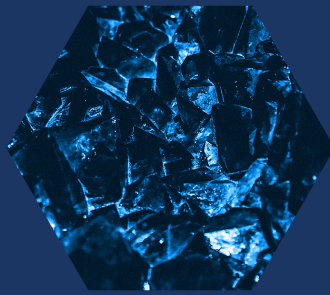
Findings and Recommendations



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The analysis and conclusions of this report do not necessarily represent the views of UNDP or SDC. References to Kosovo in this report (including its cover page) shall be understood to be in the context of Security Council Resolution 1244 (1999). The designations employed and the presentation of material throughout this report do not imply the expression of any opinion whatsoever on the part of

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LIST OF ABBREVIATIONS

EITI	Extractive Industries Transparency Initiative
ERO	Energy Regulatory Office
ICMM	Independent Commission for Mines and Minerals
KEK	Kosovo Energy Corporation
KFOR	Kosovo Force
KPA	Kosovo Privatization Agency
MAFRD	Ministry of Agriculture, Forestry and Rural Development
MED	Ministry of Economic Development
MESP	Ministry of Environment and Spatial Planning
SAEK	Support to Anti-Corruption Efforts in Kosovo
UNDP	United Nations Development Programme
UNMIK	UN Interim Administrative Mission in Kosovo

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EXECUTIVE SUMMARY

This report presents conclusions of a corruption risk assessment in the extractive industries sector in Kosovo carried out as part of the Support to Anti-Corruption Efforts in Kosovo project (2012 – 2020) with the support of the UNDP Extractive Industries for Sustainable Development program. The assessment consists of a desk review of pertinent laws and regulatory documents that govern extractive industry operations in Kosovo, and in-depth interviews conducted with major stakeholders active in the sector, including ministries, regulatory institutions, industry representatives, civil society, academia and media. The report is the first assessment to follow UNDP's newly developed methodology for corruption risk assessments for the extractive industries, and takes into consideration the likelihood and the impact of corruption along the governance value chain.

The analysis of corruption risks in the extractive industries sector shows that key risks are at the levels of license and contract negotiations, and in monitoring and regulatory compliance. License and contract negotiation in particular is an important area, as the registry system in which licenses are recorded constitutes the basis for all subsequent phases, including tax collection. A high exposure to corruption risk in this area can significantly distort further efforts to regulate and control the sector through democratic institutions, and to ensure that resource revenues are adequately collected and accounted for.

In license and contract negotiations, outdated geo-survey data, and the lack of an open and useful license and contract registry were identified as high risk, while the first-come-first-serve system for awarding licenses was highlighted as a medium risk. In monitoring and regulatory compliance, high risk areas included ineffective compliance monitoring, an ineffective judicial process, and low fines for illegal operations.

Based on the detailed analysis of corruption risks, the report recommends changes in the legal framework to rebalance power between the Independent Commission for Mines and Minerals (ICMM) and the Department for Mines and Minerals at the Ministry of Economic Development (MED), and the introduction of an auction based licensing system. In particular, the report recommends to:

- Separate licensing processes out of the ICMM and integrate it into the Department for Mines and Minerals at the MED;
- Build and maintain a good understanding of the resource base on the territory of Kosovo;
- Auction licenses instead of awarding concessions on a first-come first-serve basis, and introduce an e-tendering system
- Ensure full public disclosure of license and contract information through an online mining cadaster portal;
- Implement a better grievance management system for the public to report possible license violations and related issues;
- Accelerate judicial process for violations in the extractive industries, and set more appropriate fines;
- Ensure full disclosure of annual mining-related revenues in a special format based on geo-survey data;
- Encourage pro-active public communication on all matters related to mining policy.

BACKGROUND

Kosovo's extractive industry is a sector of significant political and some economic importance. Once the source of wealth and pride beyond the autonomous province during the years of the Socialist Federal Republic of Yugoslavia, key mining locations have since been the site of protests and strikes that heralded the disintegration of the former Yugoslavia, and have all but ceased to produce during the years of upheaval and conflict in the late 1990s. Today, the sector accounts for less than 2% of GDP and produces on a level that is moderate by both regional and world standards¹. Still, the extractive industries continue to be the focal point of key debates around political status, national identity, economic potential, and corruption.

This phenomenon is not limited to Kosovo alone. The extractive industries sector has been the focus of discussions around corruption and sustainable development in many parts of the world. Despite a significant potential to develop Kosovo's economy and create sustainable wealth for its citizens, in too many cases resource-rich countries perform no better – or even worse – on key economic and governance indicators. Some of the factors that render the extractive industries sector susceptible to mismanagement and create opportunities for corruption are large inflows of investment capital necessary to develop the sector, large resource rents that extractive operations can generate under favorable conditions of the world market, complex contract arrangements between governments and companies, the strategic importance of resource production, and the deployment of highly specialized assets.

This assessment is the third in a series of assessments on corruption risks in sectors of key importance to the sustainable development of Kosovo coordinated by UNDP Kosovo's "Support to Anti-Corruption Efforts in Kosovo" (SAEK) project. SAEK focuses on sector-specific anti-corruption assessments that address leakages and mismanagement of allocated resources to promote institutional integrity in sectors.

This paper is also the first assessment to follow UNDP's newly developed methodology for the corruption risk assessment for extractive industries. This "Practitioner's Guide for Corruption Risk Mitigation in Extractive

¹ See production levels for key metals and coal in USGS (2014). 2012 Minerals Yearbook. Europe and Central Eurasia [Advance Release]. Reston, VA: U.S. Geological Service. Retrieved from <http://minerals.usgs.gov/minerals/pubs/Kosovo/2012/myb3-sum-2012-europe-eurasia.pdf>, pp. 15 - 33

Industries” seeks to support countries in developing the legal framework as well as tools and approaches to address and mitigate corruption risks in the extractive industries sector. It provides a framework to identify, analyze, and mitigate corruption risks before they materialize into loss of natural resource wealth that societies could otherwise benefit from. Specifically, the document helps to identify corruption risks in the various phases of resource extraction, develop a plan to effectively mitigate corruption risks, and monitor and assess corruption risks in the extractive industries regularly.

For the purpose of this paper, corruption is defined as the abuse of power for personal gain, and we limit our assessment to extractive resources defined as non-renewable resources, minerals and petroleum.

Ninety seven (97) percent of Kosovo’s energy is produced by thermal power stations that use locally mined lignite as fuel. As a result, the extractive industry sector and the energy sector in Kosovo are closely linked. However, in this assessment the focus is only on the extractive industries for methodological reasons. This means that while issues around energy security have framed many of the conversations around the research for this report, the analysis ends at the moment the lignite arrives at the power station. The report follows the extractive industries governance value chain, and looks at corruption risks at the following levels:

- Designing policies, institutional and legal frameworks;
- Award of contracts and licenses;
- Regulation and monitoring of operations;
- Collection of taxes and royalties;
- Revenue distribution and management.

Two factors inform the analysis of corruption risk: First, the likelihood of the identified risk occurring, and second the material impact the risk would have if it was to occur.

For this report, an initial desk-review of the legal framework that regulates extractive sector activities was followed up by one week of interviews in Kosovo, conducted by an international expert on extractive resource governance and an analyst from UNDP’s Extractive Industries for Sustainable Development Unit, in November 2015. Insights gleaned from the legal analysis and interviews were supplemented by material shared by interlocutors and the authors’ personal networks, as well as open source material. A draft report was then sent to key stakeholders with an invitation for comment, and a review meeting held in February

2016 was organized as an additional opportunity to discuss the report findings and recommendations. Comments, critiques and opinions received were collated and included in the final version.

Exhibit 1: List of Institutions Interviewed

Ministries	Ministry of Economic Development, Department for Mines and Minerals
Assembly of Kosovo	Parliamentary Committee on Economic Development, Infrastructure, Trade and Industry
Judicial Branch	Prosecutorial Council, Economic Crimes Unit
Independent Institutions	Anti-Corruption Agency Office of the Auditor General
Regulatory Institutions	Independent Commission on Mines and Minerals Energy Regulatory Office
Industry Representatives	American Chamber of Commerce in Kosovo Mining company (wishes to remain anonymous)
Civil Society	Kosovo Foundation for Open Society KOSID Çohu – Kosovo Center for Investigative Journalism European Stability Initiative Various independent experts
Media	Zeri Kallxo.com
Donor Organizations	World Bank UNDP USAID GIZ

POLITICS AND ECONOMY OF KOSOVO

Kosovo is a landlocked territory in Southeastern Europe. It is small both in terms of population and area, with an estimated 1.8 million people living on slightly under 11,000 sq. km. The population density of 167.5 people per sq. km² is significantly higher than the population densities of the neighboring countries.

The transition to a market economy and the tumultuous recent history have, together with remaining structural problems, limited the economic development of Kosovo. The economy remains small and with restricted potential, which makes it vulnerable to external developments. Key sectors of the economy are services, industry, and agriculture, which constitute 55, 22, and 14 percent of the GDP respectively³.

With a GDP per capita of US\$3,579, a poverty rate of almost 30 percent, and an unemployment rate of 35.1 percent, Kosovo is one of the poorest countries in Europe⁴. The difficult labor market conditions are especially severe for youth and women, and an unemployment rate of 60.2 percent among 16 to 24 year olds that is even more alarming when considering that around 20 percent of the population is in that age group.

The World Bank classifies Kosovo as a “lower-middle-income place with a solid economic growth performance since the end of the war in 1999”, but notes that this growth is only partially due to the government’s own economic policies.⁵ Impressive growth rates of 3.4 percent in 2013 and 3.3 percent in 2014 (estimate)⁶ are above European rates, and can be partially explained by starting from a low base. Another important variable that contributes to the growth rate is the pro-growth composition of the Kosovo’s budget, but Kosovo otherwise owes its economic resilience to external factors like Kosovo’s limited integration into global markets, strong remittances from diaspora mainly in Europe, and a steady influx of donor support.

2 World Bank (2015). World Development Indicators. Retrieved from <http://databank.worldbank.org/data/reports.aspx?source=2&Kosovo=KSV&series=&period=>

3 Government of Kosovo (2015). 2015 National Economic Reform Program (NERP). Pristina: Government of Kosovo. Retrieved from <https://mf.rks-gov.net/en-us/Reports/Reports-and-Publications/National-Economic-Reform-Programme>, p. 19

4 UNDP Kosovo Info Kosovo. Retrieved from <http://www.ks.undp.org/content/kosovo/en/home/Kosovoinfo.html>

5 World Bank Overview Kosovo. Retrieved from <http://www.worldbank.org/en/Kosovo/kosovo/overview>

6 Government of Kosovo (2015), p. 18

THE EXTRACTIVE INDUSTRIES SECTOR

Reserves and Economic Significance

The extractive industries are a sector of historical importance in Kosovo, both in terms of the economy and of national identity. Kosovo possesses significant reserves of mineral fuels – overwhelmingly lignite coal – and has large reserves of base metals, industrial minerals, and some precious metals.

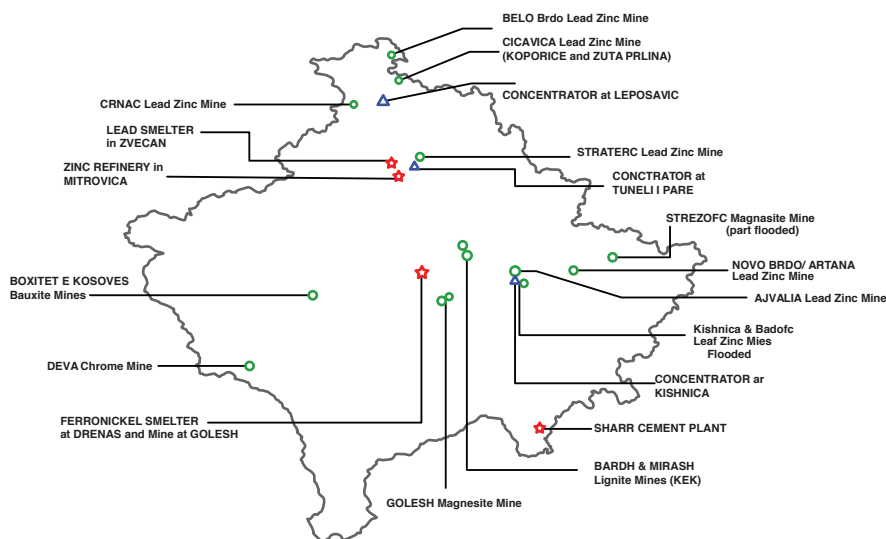


Exhibit 2: Map of Mines in Kosovo

The most significant resource is lignite, of which there is an estimated 12,442,461,000 tons in geological reserves in three main basins (Kosovo, Dukagjini, and Drenica).⁷ This puts Kosovo in 5th place in terms of size of proven lignite reserves, behind Germany, Australia, USA and China. Lignite is the key energy mineral for Kosovo. It contributes to 97 percent of the Kosovo's electricity generation and is mined exclusively by the government-owned Kosovo Energy Corporation (KEK).

Another key mineral asset is lead and zinc mining at the Trepça/Trepça complex. With an estimated reserve of 2,615,578 tons of lead and 2,508,321 tons of zinc,⁸ Trepça/Trepça has significant potential,

7 Government of Kosovo (2012). Mining Strategy of the Republic of Kosovo 2012 – 2025. Pristina: Ministry of Economic Development. Retrieved from http://www.kuvendikosoves.org/common/docs/Strategjia_Minerare_e_R_Kosoves_2012_-_225_Ang.pdf, p. 14

8 Government of Kosovo (2012), p. 24

and used to employ upwards of 20,000 workers during the 1980s. The mines also hold a significant place in the collective memories of both Kosovo Albanians and Serbs, as one of the first large scale strikes that fueled the disintegration of Yugoslavia took place here in 1989.⁹ The mine is split into a part on the territory of Serb majority municipalities in northern Kosovo, and a part that is controlled by the government, and continues to be the subject of fierce struggles around national identity and ownership.¹⁰

Nickel is another important mineral in Kosovo, and is exploited mainly by Newco Ferronikeli in Drenas. The estimated reserves here are 13,000 tons of ore with an average nickel content of 1.31 percent.¹¹ Other key extractive resources are silver, chrome, bauxite, magnesite, rare earths as well as construction materials.

Total natural resources rents (% of GDP)

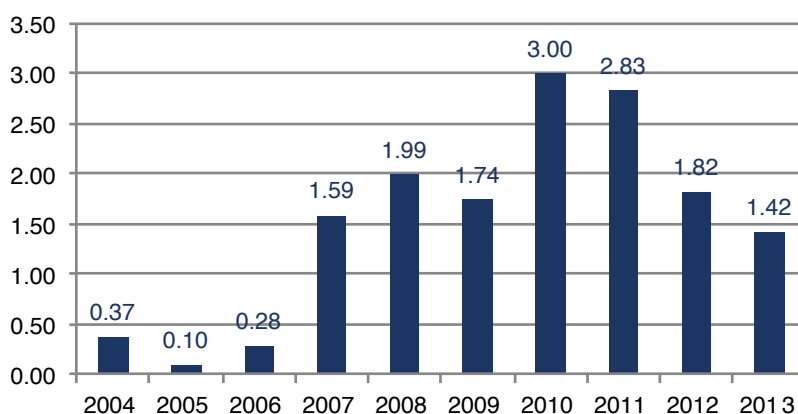


Exhibit 3: Total natural resource rents as share of the GDP¹²

In 2005, the World Bank estimated the mineral resources of Kosovo to be worth 13.5 billion Euro, and capable of generating 35,000 jobs.¹³ Yet it has proven problematic to realize these potentials, and to date the production of minerals in Kosovo continued to be small by regional and world standards. Between 2004 and 2013, the share of natural resource rents of the GDP of Kosovo has averaged 1.5 percent (see Exhibit 3).

9 ICG (1999). Trepca. Making Sense of the Labyrinth. ICG Balkans Report Nr. 82. Washing and Pristina: International Crisis Group. Retrieved from <http://www.crisisgroup.org/~media/Files/europe/Kosovo%2015.pdf>, p. 2

10 Hopkins, Valerie (2015). Set the Trojan Horse on Fire. In: Foreign Policy, February 4, 2015. Retrieved from <http://foreignpolicy.com/2015/02/04/set-the-trojan-horse-on-fire-kosovo-serbia-protests-mining/>

11 Government of Kosovo (2012), p. 25

12 World Bank (2015). World Bank Data. Retrieved from <http://data.worldbank.org/indicator/NY.GDP.TOTL.RT.ZS>

13 KosovaReport (2005). World Bank survey puts Kosovo's mineral resources at 13.5bn euros. Retrieved from <http://kosovareport.blogspot.com/2005/01/world-bank-survey-puts-kosovos-mineral.html>

According to the Independent Commission for Mines and Minerals (ICMM), as of November 2015 there are 241 licensed mining operations in Kosovo¹⁴, which in 2012 employed slightly over 3,000 workers.¹⁵ While lignite is mined exclusively for domestic energy consumption, base metals and minerals are important export products. In 2013, the total value of Kosovo's exports was €293.9 million. Base metals constituted for about €144 million in exports (49 percent), while the exports of other mineral products was valued at an additional €48.2 million (16 percent). While impressive on paper, the share of base metals in total exports has declined from 63 percent in 2009, and continues to fall as other sectors of Kosovo's economy such as prepared foodstuffs and beverages, textiles, vegetable products, and plastics are gaining in importance in relation to minerals and metals.¹⁶

The sustainable development of extractive sector resources in Kosovo is complicated due to a number of factors. First, the ownership of the Trepça/Trepča conglomerate introduces significant legal and political risks into any discussion around private ownership. In addition, the massive slide in prices for extractive commodities - including minerals and metals exported by Kosovo - since their historic peaks in 2014, will likely persist in the medium term, and limits the economic feasibility of many projects. These factors constrain the availability of external investments necessary to introduce modern mining of metals consistent with EU environmental legislation and other standards.

The Kosovo Energy Strategy 2009 – 2018 is focused on developing a lignite-based energy sector. This would require a significant expansion of extraction from its current levels, which is the subject of a controversial debate among key stakeholders in Kosovo. Lignite has the lowest heat and carbon content of all coals, and produces high levels of air pollution emissions. Because of its high weight relative to its calorific fuel value, it is mostly used in thermal power plants close to extraction sites and seldom transported over distances. This speaks against a significant export potential of the lignite itself. Another option to profit from the significant lignite reserves would be to add generation capacity for export. However, the construction of coal-fired power stations with a generation capacity beyond Kosovo's domestic consumption, which is necessary to open up the possibility of exporting electric power regionally, would require significant investments into generation and into additional transmission infrastructure. The economic feasibility of such projects is not guaranteed given the costs of investments, as well as social, environmental and political costs associated with such a project.¹⁷ Internationally, the

¹⁴ Interview with ICMM, Pristina, November 2015

¹⁵ Government of Kosovo (2014). Statistical Yearbook of the Republic of Kosovo 2014. Pristina: Kosovo Agency of Statistics. Retrieved from <https://ask.rks->

¹⁶ Government of Kosovo (2015), p. 20

¹⁷ For an overview of problems associated with generating sufficient electricity to satisfy domestic demand see World Bank (2012). The World Bank Group Support to Kosovo's Energy Sector.

development of coal mining projects in general and lignite in particular has become more difficult for mining companies, as prices for coal have declined and public opposition to using fossil fuels in energy generation has grown considerably. Experts calculate that 72.8 percent of Europe's fossil fuel resources need to remain underground in order to keep global warming below the 2 degrees Celsius benchmark.¹⁸ The world's largest mining companies are now quietly exiting coal¹⁹, and some of the most important institutional investors are divesting from their coal assets.²⁰ The climate risk raises the costs of capital for necessary investments into a lignite-based energy sector. Critics of developing Kosovo's lignite resources in open pit mining further point to high population density, limited water resources in lignite-rich areas, and potential conflicts with the agriculture development necessities over the use of arable land.²¹ The resettlement of some 7,000 people necessary for the expansion of a World Bank-funded coal power plant is currently underway, but has proved to be controversial, lengthy, and costly. As of December 2015, a formal complaint of affected citizens to the World Bank Inspection Panel filed in June 2015 is being investigated.²² Against these trends, the government's goal of expanding lignite extraction in order to further develop a coal based energy sector seems ambitious.

Given these limitations, it is likely that Kosovo will remain a modest producer of mineral commodities including lignite, and that the extractive industries sector will trail in importance to other industry verticals despite frequent expressions of significant public interest in developing the sector.

Washington, DC: World Bank Group. Retrieved from http://siteresources.worldbank.org/KOSOVOEXTN/Resources/297769-1329940905064/kosovo_slideshow.pdf

18 Novethic (2015). Risque Carbone. Conséquences Financières de la Dévalorisation des Energies Fossiles. Retrieved from <http://www.novethic.fr/climat/risque-carbone.html>

19 Grigg, Angus (2015). BHP and Rio are quietly exiting coal. In: Australian Financial Review Weekend, December 2, 2015. Retrieved from <http://www.afr.com/business/mining/coal/bhp-and-rio-tinto-are-quietly-exiting-coal-20151202-gldo0o>

20 Hower, Mike (2015). Morgan Stanley, Wells Fargo Join Banks Cutting Out Coal. In: Sustainable Brands, December 1, 2015. Retrieved from: http://www.sustainablebrands.com/news_and_views/behavior_change/mike_hower/morgan_stanley_wells_fargo_join_banks_cutting_out_coal Also: Esser, Christian, Sha Hua and Martina Morawietz (2015). Allianz will Investments aus der Kohleindustrie abziehen. In: ZDF Frontal21, November 24, 2015. Retrieved from <http://www.zdf.de/frontal-21/allianz-ausstieg-aus-der-kohle-41104912.html>

21 Shllaku, Luan and Ekrem Beqiri (2007). A Modern Tale – Kosova C 2100. Pristina: Kosovo Foundation for Open Society. Retrieved from <http://kfos.org/wp-content/uploads/2012/04/A-Modern-Tale.pdf>

22 <http://ewebapps.worldbank.org/apps/ip/Pages/ViewCase.aspx?CaselD=108>

Kosovo and the Extractive Industries Transparency Initiative

The Extractive Industries Transparency Initiative (EITI) is a global coalition of governments, companies, and civil society, working together to improve open and accountable management of revenues from natural resources. EITI was first launched in September 2002 at the World Bank Summit on Sustainable Development in Johannesburg. EITI maintains the EITI Standard, a guideline for promoting transparency, accountability, and better governance in countries that are rich in oil, gas, and mineral resources.

At a minimum, the EITI requires participating countries to implement seven requirements:

1. Effective oversight by a multi-stakeholder group;
2. Timely publication of EITI Reports;
3. EITI Reports that include contextual information about the extractive industries;
4. The production of comprehensive EITI Reports that include full government disclosure of extractive industry revenues, and disclosure of all material payments to government by oil, gas, and mining companies;
5. A credible assurance process applying international standards;
6. EITI Reports that are comprehensible, actively promoted, publicly accessible, and contribute to public debate;
7. The multi-stakeholder group to take steps to act on lessons learned and review the outcomes and impact of EITI implementation.

Countries are explicitly encouraged to go beyond these minimum standards where national stakeholders agree that this is appropriate.

The most important tool that EITI uses to document the efforts towards the promotion of transparency, accountability and better governance in extractive economies is the publication of EITI Reports at the national level by participating countries. These reports are meant to disclose the revenues from the extraction of Kosovo's natural resources. Companies report payments to government – taxes, royalties, etc. – and the government reports the revenues it has received. The figures are audited and reconciled by an independent administrator.

The EITI Standard

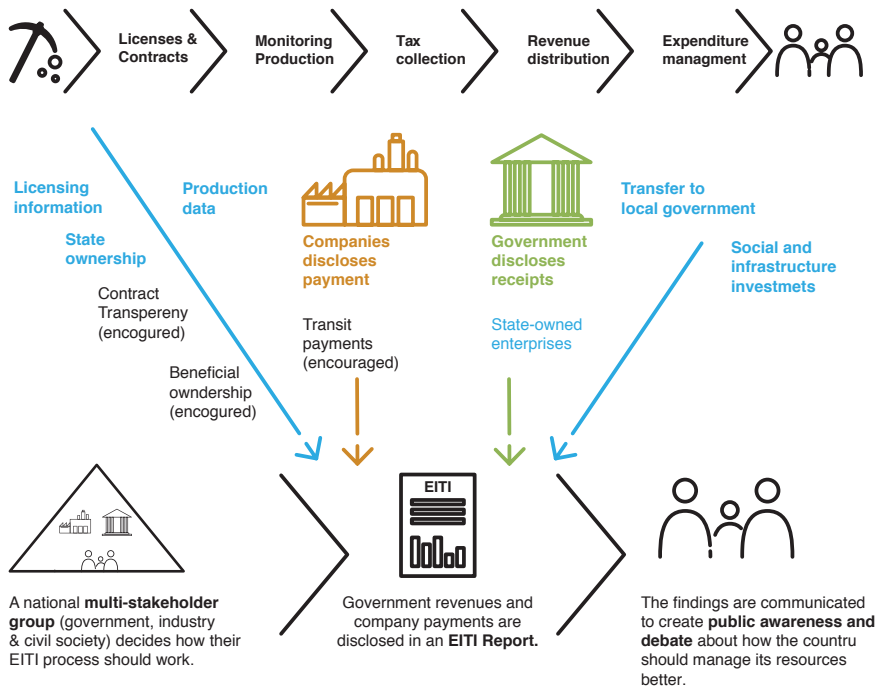


Exhibit 4: The EITI Standard²³

Another important mechanism that EITI uses to promote transparency, accountability and better governance in extractive economies is by designating a status to participating countries. Countries can be designated either as “applicant country” or as “compliant country”. Compliance is confirmed via a validation mechanism that is overseen by the global EITI Board. The status “EITI Compliant” means that the global EITI Board confirms that the country in question has met all of the requirements set forth in the EITI Standard.

²³ Exhibit taken from Extractive Industries Transparency Initiative (2013). The EITI Standard. Oslo: EITI Secretariat. Retrieved from https://eiti.org/files/English_EITI%20STANDARD_11July_0.pdf, p. 8

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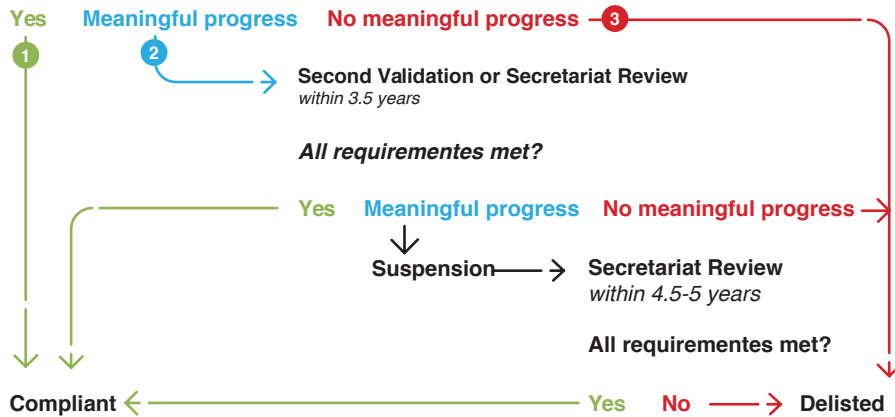


Exhibit 5: EITI Validation Process²⁴

In Kosovo, the Ministry of Foreign Affairs has indicated its interest to join the EITI. To this end, a delegation that included a member of the Parliament organized a joint meeting with officials from Albania – which is an EITI Compliant Country – to learn more about the initiative and explore options for Kosovo, yet there were no concrete outcomes of this trip. The International EITI Secretariat, an office that supports the global EITI Board, has been cautious about the prospect of Kosovo joining the EITI. The share of natural resource rents of the national GDP of Kosovo is lower than in most countries that would traditionally be considered rich in extractive resources. The high costs of setting up a national EITI secretariat for the implementation of the EITI at a national level would require funding by external donors, which could limit the national sense of ownership over the initiative.

²⁴ Ibid., p. 16

Key Mining Sector Institutions and Enterprises: Mandate, Role, and Responsibilities

Kosovo Assembly: the Kosovo Assembly is the legislative branch of Kosovo. Of its 120 members, 100 are elected while 20 are members of national minorities. The Assembly discusses and passes all laws. Through its committees, the Assembly elects the board members of independent regulatory bodies like the Independent Commission on Mines and Minerals, and the Energy Regulatory Office. It can also request reporting from the Board of Directors of these independent institutions, which usually occurs twice per year.

Ministry of Economic Development (MED): the MED, through its Department for Mines and Minerals, is the main agency responsible for drafting legislation, policies and strategies for the mining sector. Another key responsibility is the systematic collection, archiving, drafting, processing, and publishing of all geo-scientific data on Kosovo's geological resources. The Department for Mines and Minerals currently has a staff of three, and an annual budget of \$35,000.²⁵ The MED also has a Department of Energy, which is pertinent to mining only as it pertains to the extraction of lignite to fuel the two fossil-fuel power stations, Kosova A and Kosova B. The MED is the successor ministry to the Ministry of Energy and Mining.

Independent Commission on Mines and Minerals (ICMM): the ICMM is the most important institution in the mining sector of Kosovo. It is the responsible authority to issue licenses, to supervise and monitor operations, and to collect royalties from mining companies. The ICMM is one of few independent regulatory bodies in Kosovo in which the director is not appointed by the board of the agency, but directly by the Assembly. As of December 2015, there were 241 licensed mining operations, of which none were awarded through a tendering process. The commission employs 13 inspectors that had carried out 1,720 inspections in 2015, of which 16 were conducted on weekends. The ICMM also operates a hotline to receive citizens' complaints.²⁶

Energy Regulatory Office (ERO): the ERO is responsible for all regulatory issues in the energy sector, which is composed of electricity, heating, and natural gas. Among the key tasks is setting tariffs for electricity and heating, and issuing licenses to energy sector companies. In terms of mining, its authority is limited to overseeing the lignite mines operated by the vertically integrated Kosovo Energy Corporation, which operates Kosovo's two power stations.

Ministry of Environment and Spatial Planning (MESP): the MESP has a key role in regulating mining activities on the territory of Kosovo by granting permits related to environmental impacts, including water

²⁵ Interview with MED Department of Mines and Minerals, Pristina, November 2015

²⁶ Interview with ICMM, Pristina, November 2015

and water discharging permits. It also conducts environmental impact assessments. These documents are necessary for a license application with the ICMM. Because of that function, the MESP also has an important role in drafting secondary legislation that is pertinent for the minerals and mining sector. In another key role, the MESP supervises any community resettlements related to the development of mining areas.

Ministry of Agriculture, Forestry and Rural Development (MAFRD): the legislation on mines and minerals requires consent from the MESP and other public authorities, but the question what constitutes “other public authorities” remains open. The ICMM requires consent from the MAFRD for license applications for any extractive sector activity that is scheduled for forest areas managed by the MAFRD.

Municipal Authorities: the ICMM requires consent from municipalities to ensure that licenses do not contradict urban or other zone planning by the municipalities. As it is the case with the approval from the MAFRD, the legal base for this practice is the unclear definition of “other public authorities” in the law on mines and minerals.

Kosovo Privatization Agency (KPA): the KPA is the successor of the Kosovo Trust Agency that was established by UNMIK to oversee the privatization of socially owned enterprises in Kosovo. Assets for sale are tendered out for bids by interested investors. The KPA is governed by a board of eight directors.

Kosovo Energy Corporation (KEK): KEK is a state-owned enterprise that constitutes the electric power sector public utility. As such, it owns and operates all electricity generation assets in Kosovo. Until the creation of the Kosovo Energy Distribution and Supply Company (KEDS) in 2013, it was also the sole operator of transmission and distribution. KEK’s Coal Production Division operates the Sibovc South-West lignite mine, which currently employs 3,600 employees.

Trepça: Trepça/Trepča is the successor company to the Yugoslav-era mining-industrial complex Trepça/Trepča. It included some 40 mines and companies, and in the late 1980s employed up to 22,000 workers and accounted for up to 70 percent of the Yugoslav mining production. The main facilities are located in the town of Mitrovica, which is still divided along ethnic lines. The facility effectively went out of production in 1999, and today employs 2,500 workers plus another 2,500 that are supported by low-income schemes funded by the public budget.²⁷

NewCo Ferronikeli: Ferronikel operates two open pit mines and a foundry in Drenas. It was privatized in 2006 and is now owned by an Israeli-Greek consortium. It currently employs some 1,000 workers.²⁸

²⁷ Government of Kosovo (2012), p. 10

²⁸ Ibid.

Legal Framework

The extractive sector in Kosovo is regulated through a number of laws and regulations that govern all aspects of mining operations throughout the life of a project. The following is an exhaustive list of pertinent documents:²⁹

- Law No. 03/L-163 on Mines and Minerals (2010);
- Law No. 04/L-158 on Amending and Supplementing the Law 03/L-163 on Mines and Minerals (2013)
- Law No. 2004/28 on Precious Metals (2004);
- Law No. 03/L-215 on Access to Public Documents (2010);
- Law No. 03/L-139 on Expropriation of Immovable Property (2009);
- Law No. 04/L-045 on Public-Private Partnerships (2011);
- Law No. 03/L-184 on Energy (2010);
- Law No. 03/L-185 on Energy Regulator (2010);
- Law No. 03/L-201 on Electricity (2010);
- Law No. 03-L-133 on Natural Gas (2009);
- Law No. 03/L-116 on Central Heating (2008);
- Law No. 04/L-174 on Spatial Planning (2013);
- Law No. 03/L-025 on Environmental Protection (2009);
- Law No. 04/L-035 on Reorganization of Certain Enterprises and their Assets (2011);
- Law No. 04/L-033 on the Special Chamber of the Supreme Court of Kosovo on Kosovo Privatization Agency related matters (2011);
- Law No. 04/L-246 Law on amending and supplementing the Law no. 04/L-033 on the Special Chamber of the Supreme Court of Kosovo on Privatization Agency of Kosovo related matters (2014);
- Law No. 04/L-034 on the Privatization Agency of Kosovo (2011);
- Law No. 2004/42 on Science (2004);
- Law No. 04/L-135 on Scientific Research Activity (2013);
- Law No. 04/L-220 on Foreign Investment (2013);
- Law No. 03/L-229 on Protection of Competition (2010);
- Law No. 03/L-087 on Publicly Owned Enterprises (2008);
- Law No. 04/L-111 on Law on Amending and Supplementing of the

²⁹ A comprehensive data base of laws and amendments is available on the website of the Kosovo Assembly at <http://www.kuvendikosoves.org/?cid=2,122>

Law No.03/L-087 on Publicly Owned Enterprises (2012);

- Law No. 02/L-123 on Business Organizations (2007);
- Law No. 04/L-006 Law on Amending and Supplementing the Law No. 02/L-123 on Business Organizations (2011);
- Law No. 03/L-226 on Allocation for Use and Exchange of Immovable Property of the Municipality (2012);
- Administrative Instruction No. 01/2011 on Rules and Procedures for the Collection of Mineral Royalties (2011);
- Regulation No. 02/2011 on the Content of Geological Research Programs and Elaborations of Geological Research Results (2011);
- Regulation No. 04/2011 on Treatment of the Mining Sector Community (2011);
- Regulation No. 05/2011 on Organization and Functions of the State Museum of Crystals and Minerals (2011);
- Regulation No. 06/2011 on Mining Safety (2011);
- Government Decisions on Property Policies for Central Public Enterprises No. 11/39 and No. 13/39;
- Government Decision on KEK J.S.C. restructuring, No. 06/2005;
- Government Decision on KEK J.S.C. unbundling, No. 04/36 of 2008;
- Government Decision No. 02/46 of 02.11.2011 on prohibition of the use of inert materials from riverbeds, banks and spaces adjacent to rivers throughout the Republic of Kosovo

The most relevant discussion around the legal framework for mining in Kosovo relates to 2013 amendments to the 2010 law on mines and minerals. Key changes that attracted attention was the provision that suspends the competitive process not only for “energy security reasons” and for businesses that “operate substantial energy generation facilities” or supply coal to these facilities, but also for the reason of attracting “considerable direct investment”. While the government notes that these changes were necessary to attract direct foreign investment, the World Bank opined that less restrictive tendering provisions will result in less transparency, presupposes the ability of the ICMM to ensure due process in awarding licenses, will negatively price discovery mechanisms, and lead to public perception of corruption in the sector.³⁰

30 Olters, Jan-Peter (2014). Energy Mineral Operations: Sustainability and FDI. Pristina: Speech at Regional Environment Center and Baker Tilly Kosovo Conference. Retrieved from <http://www.worldbank.org/en/news/speech/2014/06/03/remarks-jan-peter-olters-regional-environment-center-baker-tilly-kosovo-conference>

CORRUPTION RISKS

Corruption remains a problematic issue in most if not all countries of the world, but for many observers Kosovo faces especially heavy and entrenched corruption. The Transparency International Corruption Perception Index (CPI), which uses a combination of surveys and expert assessments to measure the perception of public sector corruption around the world, ranks Kosovo 110th out of 174 countries around the world in its 2014 edition.³¹ This puts Kosovo – together with Albania – at the very last place among its neighbors in Southeastern Europe. A 2011 study by UNODC finds that people in Kosovo rank corruption as the second most important problem after unemployment in their daily lives, and the prevalence of corruption to be the highest among judges and prosecutors.³²

In the extractive industries sector, the interface is between businesses and officials, so the experience of corruption is a different one than administrative corruption experienced in situations of the daily lives of citizens. This also means that there is less empiric data to base any analysis beyond anecdotal data relayed by interlocutors and stories reported in newspapers. The purpose of this report is not to uncover instances of perceived or actual corruption, but rather to highlight the risks in the processes and legal frameworks that govern the extractive industries sector in Kosovo.

This report classifies corruption risks as high, medium, or low, based on the likelihood of corruption occurring and an assessment of the material impact of corruption.

31 Transparency International (2014). Corruption Perceptions Index 2014: Results. Retrieved from: <http://www.transparency.org/cpi2014/results>

32 UNODC (2011). Corruption in Kosovo: Bribery as Experienced by the Population. Vienna: UNDOC. Retrieved from https://www.unodc.org/documents/data-and-analysis/statistics/corruption/CORRUPTION_KOSOVO_Population.pdf, p. 18

Designing Policies, Institutional and Legal Frameworks

The legal and regulatory framework pertinent to the extraction of mineral resources is based, like most of the legal and regulatory framework of Kosovo, on UN-led state-building efforts under UNMIK after 2001. A new Law on Mines and Minerals was passed in 2010 by the government after the declaration of independence, and the law was amended in 2013. One of the more unusual features of the institutional framework to govern the extraction of mineral resources in Kosovo is the lack of separation between licensing, oversight, and revenue collection functions that are central to the regulation of extractive activities. Powerful key functions are concentrated in the hands of the ICMM, which issues licenses, monitors the operation of extractive industry companies, and collects royalty payments. The Department of Mines and Minerals at the MED plays little role beyond developing policy and legislation, and consists of only three staff. The Tax Administration Office only collects corporate income tax according to reported income statements from extractive industry companies. The lack of separation of powers in key functions raises the risk of abuse of discretion of ICMM officials, or the perception thereof.

A potentially problematic issue is a possible capture of the policy process through external industrial actors. The discussions around changing the 2010 Law on Mines and Minerals that resulted in the 2013 amendments to the law coincided with discussions around a possible \$8 billion investment into a massive underground coal gasification³³ project proposed by the Canadian company Envidity. At that time, Envidity was represented by Wesley Clark, a former US General who was in charge of the NATO intervention into the Kosovo conflict who is greatly revered by Kosovo Albanians.³⁴ The 2010 law specified that licenses in coal mining areas can only be issued for energy security reasons, and that only businesses that operate substantial energy generation facilities or supply coal to such facilities could be eligible to receive a license to exploit lignite. Under this definition, the Envidity project would have been illegal. The 2013 amendments to the 2010 law increase the scope of licensing lignite resources for reasons of attracting considerable direct investment, which would make the coal gasification project legal. Conversations with representatives of the extractive industries in Kosovo itself did not suggest an urgent need to change the 2010 law at the time.³⁵ Ultimately, at the time of writing the coal gasification

33 Underground coal gasification (UGC) is a technology in which underground coal deposits are converted into gas (mainly methane, hydrogen, carbon monoxide and carbon dioxide) by way of injecting oxidants and steam into coal seams. UGC is in trial stage, and pilots are being conducted in Australia, China, South Africa, and Uzbekistan.

34 Collaku, Petrit and Fatmir Aliu (2012). Wesley Clark Seeks Licence For Oil in Kosovo. In: Balkan Insights, June 8, 2012. Retrieved from <http://www.balkaninsight.com/en/article/wesley-clark-seeks-licence-for-oil-in-kosovo>

35 Interview with American Chamber of Commerce, Pristina, November 2015

project with Envidity project had not advanced. Yet, it is reminiscent of the controversial construction of two highways worth \$2 billion by the U.S. construction company Bechtel, which was represented by the former U.S. ambassador to Kosovo, Mr. Christopher Dell.³⁶

Award of Contracts and Licenses

The award of contracts and licenses is an area that is particular prone to corruption risks in many countries with a large extractive industries sector. In the process of awarding contracts and licenses, award criteria, access to information, and the selection process can be manipulated for personal gain, and companies can be tempted to bribe officials in order to receive favorable terms or otherwise preferential treatment.

In Kosovo, the extractive industry is moderate in terms of its importance to the national economy, yet awarding contracts and licenses has proven to a problematic area nonetheless. In one case of possible patronage reported by media in Kosovo, a company run by the brother of a former Prime Minister had registered a quarry to produce gravel with the Kosovo Business Registration Agency, but had not licensed the quarry with the ICMM.³⁷ The case is of particular importance because that company became a key subcontractor for Bechtel in the construction of the controversial highway project, in which gravel was allegedly budgeted at thrice the going market rate.³⁸

As stated in Law No. 03/L-163 on Mines and Minerals (2010) and Law No. 04/L-158 on Amending and Supplementing the Law 03/L-163 on Mines and Minerals (2013),³⁹ Kosovo operates a first-come-first-served system for all licenses that fall outside of eleven “Areas of Special Interest” as defined by the government of Kosovo (see Exhibit 6). In these areas of special interest, licenses are tendered in a process led by the Ministry of Economic Development in cooperation with a Public-Private Partnership Committee. At the time of writing of this report, not a single active license had been tendered out. In one case that was brought to the attention of the authors a company felt that it had unfairly been denied a license. Here, the ICMM had received the application by the company on a Friday and advised the company to withdraw the

³⁶ Interview with American Chamber of Commerce, Pristina, November 2015
Brunwasser, Matthew (2015). Steamrolled. A Special Investigation of Doing Business Abroad. In: Foreign Policy. Retrieved from <http://foreignpolicy.com/2015/01/30/steamrolled-investigation-bechtel-highway-business-kosovo/> Also: Collaku, Petrit et al (2014). Albania-Kosovo Highway Costs Soar To 2 Billion Euros. In: BalkanInsight, April 23, 2014. Retrieved from <http://www.balkaninsight.com/en/article/albania-kosovo-highway-costs-soar-to-2-billion-euro>

³⁷ Liridon Llapashtica (2015). *Mbi 200 gurëthyes, demolojnë Kosovën*. In: Zeri, June 25, 2015. Retrieved from <http://zeri.info/ekonomia/38764/mbi-200-gurethyes-demolojne-kosoven/>

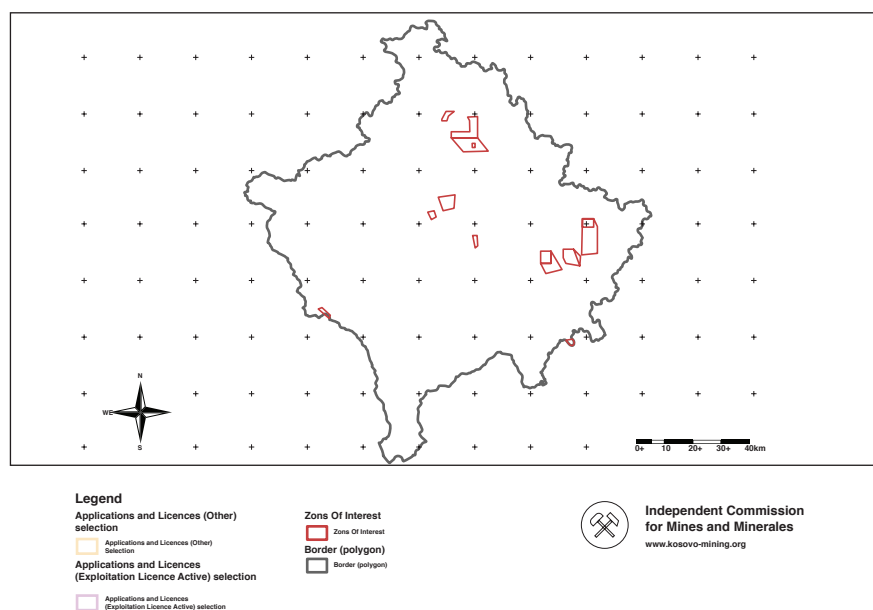
³⁸ Brunwasser (2015)

³⁹ Copies of these laws can be found in the comprehensive data base of laws and amendments available on the website of the Republic of Kosovo Assembly at <http://www.kuvendikosoves.org/?cid=2,122>

application because it did not include all necessary documents. When the company reapplied with all necessary documents on the following Monday it was told that a license for that particular area had just been granted to a competing company.⁴⁰ It is unclear whether these were the result of bureaucratic errors, clientilism or collusion.

Exhibit 6: Map of “Areas of Special Interest”

Geosurvey data that is necessary to properly regulate license areas



and manage royalty payments was last updated in 2009.⁴¹ This limits the ICMM’s ability to accurately and efficiently administer license and royalty payments, and puts the government at a disadvantage vis-à-vis companies who might be in possession of younger and more accurate geospatial data.

In general, Kosovo lacks an open and useful license and contract registry. License data is available upon request from the ICMM, but in some cases it appears as if necessary information was made available only against payment,⁴² or not at all. A list that ICMM made available to the author on December 2, 2015 contained 241 active licenses. Key contracts like the contract between the government and NewCo Feronikeli are not publicly available at all.

40 Interview with the American Chamber of Commerce, Pristina, November 2015
 41 Interview with Department of Mines and Minerals, MED, Pristina, November 2015
 42 Interview with GIZ, Pristina, December 2015

Regulation and Monitoring of Operations

Effective compliance monitoring and strict enforcement of environmental and social regulations as well as technical monitoring to determine production levels that revenue management can be based on are key functions for extractive resource governance. Good practice includes the establishment of an independent, competent authority charged with regulation and monitoring of extractive operations, as well as a separation of roles between ministries and independent organizations.

While Kosovo has a sound regulatory framework comprised of numerous laws and regulations as well as ICMM as a competent monitoring authority, in practice numerous problems in the regulation and monitoring of the sector are apparent. The Office of the Auditor General has repeatedly reported on the failure of ICMM to efficiently perform the oversight duties vested in the institution. In particular, the auditor general notes that ICMM has in some cases failed to provide regular reporting on production volumes of license holders, has failed to revoke licenses or permits for companies that could not provide bank warranties or insurance policies, and has failed to prevent illegal operations.⁴³

In some widely reported cases, individuals affiliated with the ICMM have been accused of accepting bribes, and in at least one case a senior inspector has been convicted of corruption.⁴⁴ In other cases, ICMM inspectors have been unable⁴⁵ or unwilling⁴⁶ to shut down illegal extractive operations, particularly in gravel mining. One company that had its licenses revoked has questioned the legality of ICMM's rulings, and has speculated that cronyism rather than noncompliance with regulations was the reason for ICMM's decisions.⁴⁷ At the NewCo Ferronikeli site environmental regulations seem to have been flouted for years without apparent intervention from ICMM.⁴⁸

At the ICMM, a key source of frustration is the lack of support the agency receives from the judicial system. In 2015, more than 1,700 inspections were conducted, of which 65 identified illegal operations

43 Office of the Auditor General (2015). *Audit Report on the Statement of the Commissions for Mines and Minerals for the Year Ended 31 December 2014*. Pristina: office of the Auditor General. Retrieved from http://www.oag-rks.org/repository/docs/RaportiAuditimit_KPMM_2014_Eng_377341.pdf

44 Drejtësia në Kosovë (2013a). *Korrupsioni ne KPMM*. In: Drejtësia në Kosovë, December 22, 2013. Retrieved from <http://www.drejtësianekosove.com/sq/Emisione/Korrupsioni-ne-KPMM-1054>

45 Drejtësia në Kosovë (2013b). *Eksplotimi Ilegal I Zhavorrit*. In: Drejtësia në Kosovë, June 23, 2013. Retrieved from <http://www.drejtësianekosove.com/sq/Emisione/Eksplotimi-illegal-i-zhavorrit-1026>

46 Drejtësia në Kosovë (2014). *Eksplotimi Ilegal I Zhavorrit Në Rajonin E Dukagjinit*. In: Drejtësia në Kosovë, May 4, 2014. Retrieved from <http://www.drejtësianekosove.com/sq/Emisione/Eksplotimi-illegal-i-zhavorrit-ne-Rajonin-e-Dukagjinit-1096>

47 Xharra, Jeta and Petrit Collaku (2012). *Fox Marble Cries Foul Over Kosovo Lost Licenses*. In: Balkan Insights, December 10, 2012. Retrieved from <http://www.balkaninsight.com/en/article/fox-marble-cries-foul-over-kosovo-lost-licenses>

48 Blau, Uri (2011). *Israeli Black Hole in Kosovo*. In: Haaretz, August 12, 2011. Retrieved from <http://www.haaretz.com/israel-news/israeli-black-hole-in-kosovo-1.378338>

mostly in gravel. All cases of illegal operations were reported to law enforcement authorities. ICMM staff described a situation where the speed in which cases are processed by both the prosecutor and the courts is lacking, and that in some case illegal operation violations filed in 2009 are still pending. In cases where convictions were achieved ICMM management felt that the fines leveled by courts were not in accordance with the environmental and economic damage caused by the violation.⁴⁹ In general, ICMM management feels that both the slowness of the judicial process, and the amount of money operators in violation of regulations have to pay, does not effectively deter illegal extractive operations.⁵⁰

Collection of Taxes and Royalties

Royalty and other payments as well as corporate income taxes, generated by extractive industries operations, can amount to great volumes of revenue for institutions in resource rich countries.. To limit opportunities of embezzlement, it is advisable to conduct the collection of taxes and royalties as transparent as possible.

The Office of the Auditor General notes that the ICMM has not been able to receive legally required regular reports on amount or volume of minerals produced by some companies. The Auditor General's notes contain no information as to why reports are missing for some companies. In these cases, it might not have been possible to accurately determine the value of liabilities these companies has against the ICMM. Furthermore, the auditor general notes inefficiencies in collecting debt incurred by mining companies.⁵¹ While information on royalty, fines, and administrative fees payments is available upon request from the ICMM, Kosovo lacks comprehensive pro-active public disclosure on payments received from the extractive industries sector through taxes, royalties and other revenues, in a manner that is useful for the broader public.

49 Interview with ICMM, Pristina, November 2015

50 Interview with ICMM, Pristina, November 2015

51 Office of the Auditor General (2015), p. 14; p.21

Key Findings: Corruption Risks in Kosovo’s Extractive Industries Sector

As detailed in the preceding paragraphs, the key corruption risks in the value chain are at the levels of license and contract negotiations, and monitoring and regulatory compliance. It is in these areas where stakeholders should consider focusing reform efforts to facilitate an equitable exploitation of the natural resources found on the territory of Kosovo based on the principles of transparency and accountability.

All risks identified in the research and the field interviews for the report are summarized in Exhibit 6 below. Risk levels were computed by assessing the likelihood of corruption occurring, and the potential impact of corruption when self-interested actors exploit the risks.

Exhibit 7: Corruption Risks in Kosovo’s Extractive Industries Sector

Extraction phase	Corruption Risk	Risk Level	Comment on Actors and Background
Policy, institutional and legal framework design	Lack of separation between licensing, oversight, and revenue collection functions	High	Concentration of power in the institution of ICMM indicates weak separation of powers between governmental stakeholders
	Extractive companies may exert undue influence on policy making	Medium	Unclear what triggered 2013 amendments of 2010 law on mines and minerals, little vocal demand for regulatory change from domestic companies

Extraction phase	Corruption Risk	Risk Level	Comment on Actors and Background
License and contract negotiations	First come, first serve system of awarding licenses	Medium	Some indications of problems with first come, first served system; not a single license was awarded through a tender
	Transferability of exploration licenses to exploitation licenses	Low	
	Outdated geosurvey data	High	Latest data available from 2009, puts government at a disadvantage in contract and licensing negotiations
	Lack of open and useful license and contract registry	High	Institutional weaknesses in generating, sharing and using information about mining activities limits the capacity of authorities to plan, control and offer services to the sector, and lowers the levels of accountability toward citizens.
Monitoring and regulatory compliance	Ineffective compliance monitoring	High	The ICMM has been criticized in governmental audits and media reporting for being inefficient in key instances of monitoring and enforcing compliance with regulations.
	Ineffective judicial process	High	Cases from 2009 and older are still pending decision in court, by the time a verdict is made the deterrent effect of prosecution has vanished
	Low fines for illegal operations	High	Level of fines for illegal operations not set in relation to profits made and/or environmental damages incurred from illegal operations
Collection of taxes and royalties	Lack of public disclosure on payments received through taxes, royalties and other revenues in a pro-active and useful manner	High	Inability to share and use information on revenues derived from mining and other extractive activities lead to public perception of corruption in the sector

RECOMMENDATIONS

Based on the findings of the research and the interviews for this report, the authors have prepared several recommendations to help guide extractive resource governance in Kosovo.

Key recommendations include changes in the legal framework that would result in a rebalancing of power vested in the authorities of ICMM and the Department for Mines and Minerals at the MED, and the introduction of an auction-based licensing system to replace the current first-come first-serve approach. In addition, stakeholders invested in better outcomes of the exploitation of extractive resources in Kosovo should consider fast-tracking complaints and grievances related to extractive industry operations in the judicial system, and ensure that fines can sufficiently deter operations that are non-licensed or non-compliant with pertinent regulations.

Further recommendations encourage a better use of technology and data to ensure transparency and accessibility of information on extractive resource activities to the broader public.

1. Separate licensing process out of ICMM and integrate it into the Department for Mines and Minerals at the MED.

The concentration of licensing, monitoring, and revenue collection function within the ICMM indicates a weak separation of powers, and renders the system vulnerable to capture by private interests due lack of necessary checks and balances between institutional stakeholders. Separating the licensing process from the monitoring and royalty collecting functions of the ICMM would create a more focused institution, which would strengthen the monitoring function in which several problematic areas have been identified. It would also free professional capacity in the ICMM to further develop its role as an advisor on matters related to mining policy and application of legislation to the MED and the Assembly of Kosovo. Including licensing as a service to the remit of the Department of Mines and Minerals of the MED would strengthen the currently understaffed and underfunded department, and result in a more meaningful balance of powers between institutions. Examples of good practice in institutional design of the extractive industries sector include Norway, Nigeria, and South Africa.

2. Build and maintain a good understanding of the resource base on the territory of Kosovo

Without a thorough understanding of the amount and quality of minerals and their geographic distribution there is no sound base to inform key decisions around the establishment of property rights and licenses, as well as around setting the rate of exploitation. It is also impossible to discuss expectations of potential future revenues against future social and environmental impacts. A lack of understanding of the Kosovo's resource base will also put the government of Kosovo in a disadvantage in negotiations with external investors who might have a more detailed understanding of quantity, quality, and location of mineral resources due to advanced technical capacities. With the latest officially available geosurvey information dating back to 2009, the MED should allocate sufficient resources to the Department of Mines and Metals to allow for building and maintaining an accurate register of Kosovo's resource base.

3. Auction licenses instead of awarding concessions on a first-come first-serve basis, and introduce an e-tendering system

The overriding principle in allocating licenses is that the method adopted should be transparent and accountable, and include not only fairness but also recourse to a fair and speedy adjudication of possible conflicts. Rather than giving licenses on a first-come first-serve basis, Kosovo should as a rule tender out licenses in a sufficiently streamlined process. The relatively small size of the extractive industry company community active in Kosovo allows for a system in which once a company applies for a license all other registered companies are informed and can enter competing bids on the license. Competitive bidding would result in a less arbitrary allocation of licenses, and would help to secure greater value for the Kosovo. Auctions can also help overcome information deficits that the government may have relative to international companies. An e-tendering system analogous to the one established in the Indian state of Uttar Pradesh in 2012 would allow Kosovo to institute this change of policy in a manner that is transparent for all stakeholders, as well as being fast and efficient.

4. Ensure full public disclosure of license and contract information through an online mining cadastre portal.

One of the key requirements of good extractive sector governance is the existence of a publicly accessible registry that provides full information on each pertinent license and allows stakeholders – including the general public – to know how many licenses exist, their locations, and the identity of the companies that hold them. Integration with a public e-tendering system would allow for the real-time integration of available information. Data that is to be disclosed in such a registry should include:

- License holder
- Coordinates of the license area
- Date of application, award, and duration
- For exploitation licenses, the commodity being produced
- Beneficial ownership of the license holder company
- Contracts and other agreements associated with the license
- Production levels as established by quarterly reports
- Project-level payments made by companies to the government on an annual basis (royalties, fines, administrative fees, taxes)

The license registry system should be implemented as an online portal that is publicly accessible, and include search and filter functions as well as a GIS interface to display license areas on a topographical map. The existence of such a system is recognized as good practice in the Extractive Industry Transparency Initiative (EITI) standards. For a well-executed example of such a system, Kosovo could look to the mining cadastre portal of the Ministry of Mineral Resources in Mozambique.

5. Implement a better grievance management system for the public to report possible license violations and related issues

A fully functional grievance management system is one of the key mechanisms to build trust in effective oversight over extractive operations. The ICMM already has a rudimentary grievance management system in place, but should consider upgrading to a system that is less based on direct human intervention for basic informational purposes. For example, citizens should be able to report issues, concerns, and grievances through a variety of channels, including web form, SMS,

and interactive voice response (IVR). Every submission into the system should create a report, and whoever has submitted a report should be automatically informed of status and resolution of the report as the case progresses. The system should also enable ICMM to publish information and statistics on issues reported, status, and resolution in real time.

6. Accelerate judicial process for violations in extractive industries, and set more appropriate fines

One of the key problems observed is the efficiency of the judicial process. Given the special nature of mining sector active in the public conscious, as well as significant and long-term damage environmental and social damage that violations of extractive sector regulations can cause, a special accelerated process for license violations reported by the ICMM should be established within the prosecutor and court system in Kosovo. As a target benchmark, the adjudication of extractive sector-related cases should be less than 6 months. In addition, fines should be set to better reflect environmental, social, and economic damages incurred by unlawful extractive operations. Accelerating the judicial process and setting more appropriate fines will result in better deterrence against unregulated extractive sector operations.

9. Full disclosure of annual mining-related revenues (taxes, royalties, other revenues) in special format based on geosurvey data

In addition to being publicly available by license via the online mining cadastre system, ICMM should compile a detailed annual report of extractive sector-related revenues at the end of each financial year. This report should pay special attention to relating revenues from extractive operations to revenues from earlier years, and to expected future revenues based on geosurvey data and long-term market data.

10. Pro-active public communication on all matters related to mining policy

The Department of Mines and Minerals at the MED, the ICMM, and the Assembly of Kosovo need to pay more attention to better communicating policy changes and other matters related to extractive sector activity. While it is likely that Kosovo will remain a modest producer of mineral commodities including lignite, the extractive sector is of outsized public

visibility due to the historic importance of the sector and the economic difficulties experienced by large groups of the population. In such an environment an informational vacuum on sector-related matters is quickly filled with rumors about illicit operations and corruption. Besides public information campaigns, the government should publicly support initiatives by civil society and media initiatives like Kallxo.com that serve as an outlet for citizens concerned about illegal activity and bribery.

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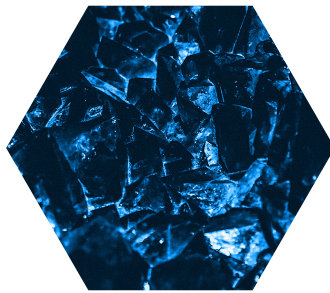
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