

## COMPARATIVE ASPECTS OF THE PROTECTION OF COMPETITION IN KOSOVO AND ALBANIA

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**Abstract.** The protection of free competition in the market is essential because it has positive effects on enterprises, traders, consumers, and others. Hence, the issue is how to ensure the adequate protection of free competition through the legal and institutional framework. In this regard, I have provided answers from a comparative perspective on the regulation of competition protection in the Republic of Kosovo and the Republic of Albania. This topic is then further developed by assessing the harmonization of the legislation of these countries with the EU *acquis*. In order for all the analyses conducted in this paper to be well-founded, the relevant legislation, the role of the authorities, strategic documents, legal doctrines, and other sources have been examined. Finally, the protection of free competition and the concrete actions that must be undertaken by the competent bodies are also assessed. After this topic has been addressed from a comparative point of view, conclusions are drawn.

**Keywords:** protection of competition, legal framework, institutional framework, competition authority, enterprises.

### Introduction

The protection of free competition is granted a special place within applicable legislation because clear legal and institutional definitions must be made in order to guarantee it. Dealing with competition protection is always necessary because it involves a wide range of enterprises and relevant institutional mechanisms. In addition to these issues, another matter for treatment relates to the concrete measures that must be undertaken by the competent bodies to ensure free competition in the market.

It is essential to correctly understand the role and the positive impact that fair competition has – not only between enterprises, but also among consumers. Bearing this in mind, it is in the general interest to have effective competition in the market and to provide safe and high-quality products. Hence, competition which is developed in compliance with the law has positive effects when it comes to market participants and consumers who seek to purchase products or provide services. However, to achieve all of this, effective legal and institutional frameworks are essential.

In this study, the legal normative, descriptive, comparative, statistical, and deductive methods are used to assess the legislation, legal doctrine, practical cases, and annual reports of the competition authorities in Kosovo and Albania. Hence, through these methods and resources, the protection of free competition in these two countries is analyzed.

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The *normative legal method* is used to analyze and evaluate the legal framework of the two countries concerning the protection of competition. This enables the legal perspectives, the legal acts that foresee protection, and the manner of regulation by legal provisions to be highlighted. By underlining these aspects of the legal framework, it becomes clear that it is essential in the field of the protection of free competition in the market.

Through the use of the *descriptive method*, the aim is to present these issues correctly in terms of the legal regulations of the respective countries. Therefore, in various parts of the paper, several articles of legal acts, mission statements, and definitions related to objectives as determined by the respective competition authorities are highlighted. This method is used because it makes possible the fair presentation of the legal regulation of the competition field, as stipulated by legal provisions.

Because this paper considers comparative aspects of the protection of competition, the *comparative method* is essential in order to observe the manner of regulating the protection of competition in these countries. Therefore, using this method enables the observation of similarities and differences as far as the protection of competition is concerned, from both the legal and institutional points of view. This enables an understanding of the legal frameworks and the manner of institutional organizations employed to ensure the protection of competition.

The *statistical method* serves to present data related to the number of cases handled by the competition authorities in Kosovo and Albania in tabular form for the 2017–2021 period. In addition to the number of cases handled by the authorities, qualitative aspects of the legislation of these countries are also presented. The data presented in this paper were obtained from the official websites of the competition authorities of the countries in question.

The *analysis method* enables the assessment of the manner of regulating competition protection in these two countries, alongside various practical cases handled by the competition authorities, which are published on their official websites. In addition to the legal aspect, this analysis highlights how cases are handled when it comes to practice. In several cases, it can be observed that the competition authorities handle cases in compliance with the applicable legislation.

The *deductive method* is used to first present more general aspects of competition protection and then to draw special conclusions, ensuring the coherence of the content of the paper. The manner of protecting competition in both countries is presented by handling the legal and institutional frameworks separately. Hence, both a general and specific overview of competition protection is provided.

When the protection of competition in the Republic of Kosovo and the Republic of Albania is mentioned, several questions automatically emerge concerning the legal standpoints of these countries: Do they have a legal framework for the protection of competition? What is the special legal framework for this field? Is the existing legal framework harmonized with EU legislation? To answer these questions, the legal framework for the protection of competition in these two countries is analyzed and addressed, before the legal definition of the protection of competition according to the hierarchy of legal acts is then presented.

Another important aspect is the institutional framework for the protection of free competition in the Republic of Kosovo and the Republic of Albania. The legal framework foresees rights and responsibilities, but when it comes to the matter of the supervision and implementation of legislation, the institutional framework is key. Regarding the institutional framework, the manner of regulation in both countries is assessed, emphasizing the role of the competition authorities, the organizational structure, decisions rendered, memorandums of cooperation, and memberships in various important international mechanisms.

Based on this research, specific works carried out by the competent bodies in the field of competition in these countries are mentioned (see Tosheva & Dimeski, 2019). Some of the necessary actions that must be undertaken by the competition authorities to ensure free and effective competition protection in the market are thus made

clear, alongside the goals and objectives of the respective competition authorities. To advance best practices in the field of competition, both countries have signed a memorandum of cooperation. Keeping in mind the ongoing European integration processes in the two countries, the progress made in the field of competition is also analyzed.

The protection of free competition is important for both the state and society because it directly affects many areas, including enterprises, businesses, and consumers. If there is no supervision of the market according to applicable legislation, this could lead to inequality between enterprises and the violation of consumer rights. Referring to several international instruments, such as in the Treaty on the Functioning of the European Union (2012), it can be observed that competition protection is guaranteed (Borchardt, 2010; Hetemi, 2005).

When it comes to the protection of competition, the COVID-19 pandemic presented a difficult situation for businesses (Mulaj & Prenaj, 2023), but the matter of market functioning and supervision was also challenging. This must be emphasized because the pandemic has caused difficulties concerning the supervision of competition and the protection of consumer rights (Braholli, 2022). Even in cases of requests for supervision or consumer complaints regarding product prices, it has not been easy to address or resolve them.

## **1. The legal and institutional framework regarding the protection of competition in Kosovo**

### **1.1. Legal framework**

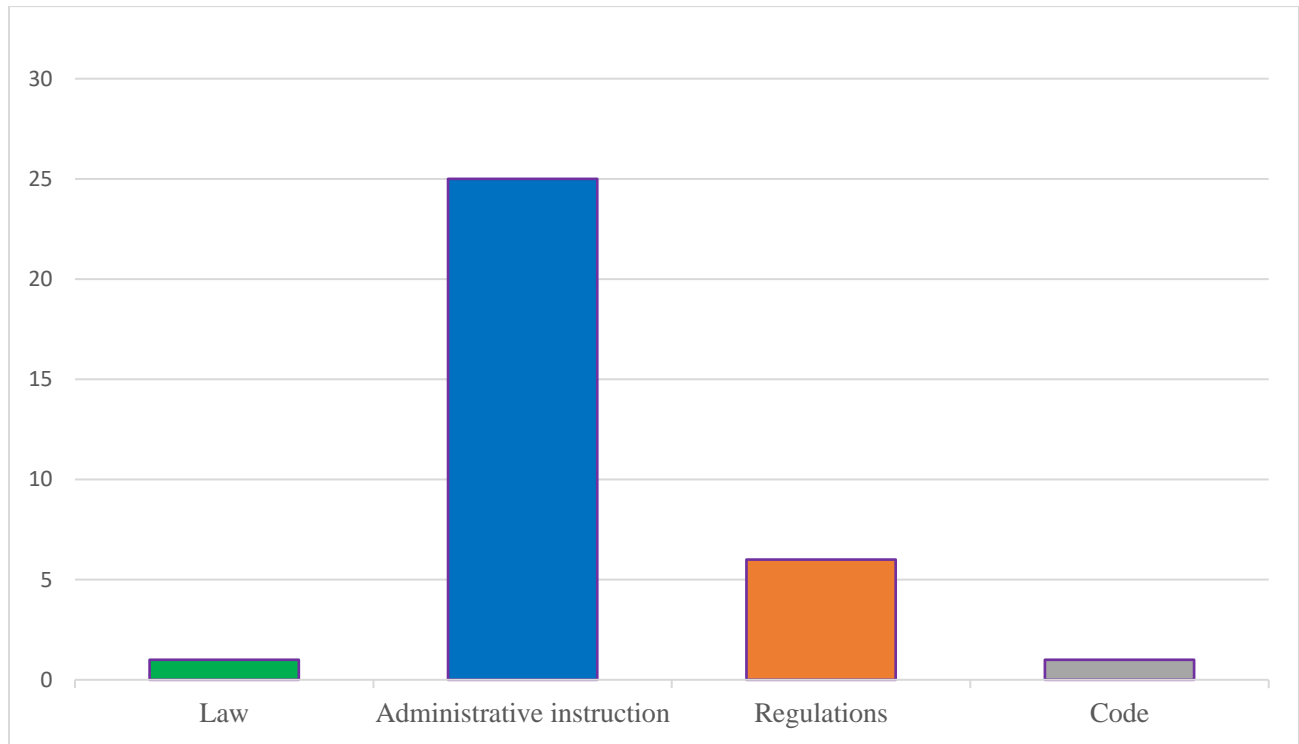
The Republic of Kosovo has a legal framework concerning the field of competition (Mulaj, 2020). The protection of free competition is foreseen by the Constitution, highlighting constitutional guarantees (Constitution of Kosovo of 2008, Art. 10 and 119(3); Hasani & Čukalović, 2013). In addition to the relevant provisions of the Constitution, Kosovo also possesses Law No. 08/L-056 on the Protection of Competition (hereinafter Law No. 08/L-056; Skara, 2023). In Art. 1 of this law, matters related to the protection of competition are specifically foreseen, and the following are defined: free and effective competition in the market, the competition authority, the enforcement of the law, and the partial compatibility of the law with the legal acts of the EU.

“This law applies to all forms of prevention, limitation or distortion of competition by enterprises in the territory of the Republic of Kosovo or outside the territory if their actions affect the market of the Republic of Kosovo” (Law No. 08/L-056, Art. 2(1)). Additionally, chapters two and three of this law provide for *agreements* (Art. 5, Prohibited agreements-cartels; Art. 6, Group exclusion; Art. 7, Agreements of minor importance) and the definition of a *dominant position* (Art. 8, Determination of dominant position; Art. 9, Misuse of dominant position; Art. 10 Ascertainment of misuse of dominant position).

In addition to the law, by-laws have been issued for the protection of competition, such as: Administrative Instruction No. 04/2012 on the Form and Content of the Legitimation; Administrative Instruction No. 05/2012 on the Criteria and Conditions for Assigning Agreements of Small Value; Administrative Instruction No. 06/2012 on the Manner of Submitting the Request and the Criteria for Determining the Concentration of Enterprises, etc. Where they assess that it is necessary to complete the amendment of legal acts, repeal them, or issue new legal acts, competent bodies must undertake concrete procedural actions to protect competition.

In terms of its legal framework, Kosovo has made significant progress over the years, which affects not only the provision of free competition but also the fulfillment of obligations derived from the agreements signed as part of European integration processes. Here the alignment of the legislation in the field of competition with the *acquis* of EU (Law No. 05/L-069) should be mentioned, especially regarding legislative matters of particular importance. As emphasized, the law on the protection of competition is partially in line with several EU legal acts. This implies the need to work in terms of harmonizing domestic legislation with that of the EU.

Regarding the fulfillment of obligations as part of European integration processes, which also include the field of competition, it is worth analyzing the report produced by the European Commission for Kosovo in 2023, where it may be observed that progress has been made in certain matters. In the report, it appears that current legislation regarding the field of competition is partially in line with the EU *acquis*. Therefore, further efforts are needed. Nonetheless, the use of the word “partial” implies that Kosovo is heading in the right direction in terms of drafting, approximating, and harmonizing its domestic legislation with that of the EU.



**Figure 1. The legal framework for the protection of competition in Kosovo**

*Source: Kosovo Competition Authority (n.d.-a)*

From Figure 1 it can be seen that Kosovo possesses legislation for the protection of competition in the areas of law, administrative instructions, regulations, and a code of ethics.

## 1.2. Institutional framework

In addition to the legal framework, the institutional framework is very important when it comes to the protection of free competition in the market. In November 2008, Kosovo established the Competition Authority (<https://ak.rks-gov.net/>), which plays a key role in terms of protecting free competition in the market (Kosovo Competition Authority, 2019b, p. 4; Art. 20 of Law No. 2004/36 on Competition). The establishment of this Authority was foreseen by law, where the obligations it has as an independent agency are clearly defined.

According to Art. 21 of Law No. 08/L-056, the Competition Authority is answerable to the Assembly of the Republic of Kosovo, and is headquartered in Pristina. The role and importance of the Competition Authority can be seen when analyzing its legal responsibilities, the matter of appointing committee members, and the manner in which it reports. The Commission is appointed by the Assembly, via a governmental proposal after the termination of the public vacancy (Law No. 08/L-056, Art. 22(3)). This fulfills the legal duties of the Competition Authority, and at the same time contributes to the functioning of free competition in the market.

The Competition Authority is independent and impartial in its work (Asllani et al., 2021). This is significant for any authority because it cannot work efficiently if independence is not guaranteed. Independence and impartiality are necessary when it comes to conducting work based on legal competencies. To achieve their intended objectives, it is required that such institutions have an organizational structure related to the performance of concrete tasks. In this regard, it should be emphasized that the Competition Authority is structured as an organogram that includes the Commission and the Secretariat (Kosovo Competition Authority, n.d.-b).

Law No. 08/L-056 stipulates that the Competition Commission is a collegial body, and the conditions that must be fulfilled to be a member of the Commission are also outlined. In Art. 23(1), it is stated that: “Conditions to be a member of the Commission, the appointed person must: 1.1. be a citizen of the Republic of Kosovo; 1.2. have a high qualification in jurisprudence, economics or equivalent field; and, 1.3. have five (5) years of professional work experience.” These conditions for the selection of Commission members aim to ensure the appointment of qualified experts who will perform their duties professionally.

Regarding the responsibilities of the Secretariat, in Art. 29 of Law No. 08/L-056, the following is stated: “Responsibilities of the Secretariat: 1. For application of this law, the Secretariat has the following responsibilities: 1.1. monitors and analyzes market conditions for the development of free and effective competition; 1.2. conducts investigations by the Law on General Administrative Procedure, this law and other applicable legislation; 1.3. drafts investigation reports and submits them to the Commission for decision-making; 1.4. ensures the publication of decisions and other publishable acts, of by-laws approved according to this law, as well as of the Authority’s annual work report; 1.5. takes care concerning the application of the Commission’s decisions; 1.6. conducts other work foreseen by the Competition Authority statute.”

Special attention should also be paid to the organizational structure: within the Competition Authority, the number of professional administrative personnel is small, and this should be increased in order to increase efficiency. This could be achieved through legal amendments.

The Competition Authority conducts procedures based on the Law on Protection of Competition. If there is no adequate provision foreseen by this law, then the provisions of the Law on Administrative Procedure apply (Law No. 08/L-056, Art. 33; Law No. 05/L-031). This concerns cases where the procedural aspect is ambiguous. Regarding the issue of handling competition cases, the special law applies.

The Kosovo Competition Authority (2019b) has issued Strategy 2020–2023 (hereinafter, the Strategy). In this strategy, the objectives that are expected to be achieved for advancement in the protection of competition are outlined: “1. strengthening of professional and administrative capacities in the function of the Competition Law application; 2. promotion of competition policies; and 3. realization of the obligations arising from the European Integration process” (p. 8). The Strategy also foresees the values and principles of the Competition Authority, such as: “Transparency and cooperation, integrity and impartiality, quality, efficiency and effectiveness” (p. 5).

According to the report of the European Commission (2023b, pp. 90–91) for Kosovo, the institutions of Kosovo have undertaken several actions to ensure free competition. It is important to have continuous functioning of the relevant institutional mechanisms. This is emphasized because in the framework of this report it is stated that the non-functioning of the Commission for a certain period has affected stagnation in the realization of legal obligations. In short, the Commission must be functional to achieve its goal of protecting competition.

Hence, it is of particular importance that the Commission be in full composition. Even in the cases where a seat is vacant as a result of the resignation of a member of the Commission, a new member should be appointed according to the law as rapidly as possible. The Competition Authority publishes its decisions, conclusions, and recommendations on its website, which can be summarized as follows (Table 1).

<b>Year</b>	<b>2017</b>	<b>2018</b>	<b>2019</b>	<b>2020</b>	<b>2021</b>
Prohibited Agreements	10	6	4	5	4
Dominant Position	1	2	-	2	1
Concentrations of Enterprises in the Market	2	3	4	5	10
Professional Opinions/Recommendations	5	-	10	4	2
Monitored Markets	-	-	-	5	8
<b>Total:</b>	<b>18</b>	<b>11</b>	<b>18</b>	<b>21</b>	<b>25</b>

**Table 1. Cases examined and other actions performed by the Kosovo Competition Authority during the 2017–2021 period**

*Source: Kosovo Competition Authority (2018, 2019a, 2020, 2021, 2022)*

Table 1 covers the 2017–2021 period, in which it can be seen that the number of cases reviewed each year by the Competition Authority of the Republic of Kosovo differs. In addressing and investigating certain matters, the Competition Authority of Kosovo renders decisions and conclusions. These decisions are made regarding prohibited agreements, dominant positions, and concentrations. In addition to decisions and conclusions, the Competition Authority also provides professional opinions, thus playing an active role.

Considering the number of decisions that have been rendered over the years, it is clear that there is the practical protection of competition in Kosovo. Here, some cases reviewed by the Competition Authority can be mentioned, such as Decision No. 138/18-02/D, dated March 30, 2018, by which it was decided, after monitoring the price of standard bread, that the price of bread from bakers would be determined based on market supply and demand. Likewise, with Conclusion No. 356/23-02/D, dated August 3, 2023, the Competition Authority Commission initiated investigative procedures against several commercial enterprises on suspicion of prohibited agreements and abuse of dominant position regarding the determination of a single price for sunflower oil. They were then asked to submit the documents as requested by the Authority.

The start of the *ex officio* procedures of the Competition Authority is foreseen by law, regarding the finding of prohibited agreements and a dominant position (Law No. 08/L-056, Art. 36). However, in cases where it finds that there is no sufficient basis for undertaking such an action, then such a procedure is not initiated. This can also be argued based on the conclusion drawn by the Competition Authority in case No. 42/2023, dated April 24, 2023, regarding not initiating a procedure against the Ministry of Health.

The Kosovo Competition Authority also provides professional opinions, including the following: Professional Opinion of the Competition Authority No. 355/19-02/D, dated November 19, 2019, addressed to the Ministry of Infrastructure and Transport [in this case, the Ministry submitted a request regarding the assessment of the Incentive Project Proposal for the development of the air transport market. The Authority issued a professional opinion, and in point three of this opinion, it is stated that the prerequisites for eligibility should not be discriminatory and must not exclude competitors with the potential to provide the necessary services]; Professional Opinion of the Competition Authority of Kosovo No. 147/21-02/D dated April 22, 2021 on Protected Commercial Products in Parallel Import [in this professional opinion, it is stated that Parallel Import has both legal and economic aspects. From an economic perspective, it promotes the availability of trademarked goods at different prices, contributing to the prevention of commercial monopolies. From a legal perspective, it is essential to prevent fraud and consumer confusion regarding product quality and to protect the economic interests of trademark owners]; and others.

## **2. The legal and institutional framework for the protection of competition in Albania**

### **2.1. Legal framework**

The Republic of Albania also has a legal framework for the protection of competition (Constitution of the Republic of Albania, 1998, Art. 11): Law No. 9121, dated July 28, 2003, for the Protection of Competition (hereinafter, Law No. 9121), and its amendments. This law provides general provisions, competition

restrictions, and measures on the abuse of a dominant position, concentrations of enterprises, the Competition Authority and administrative procedures, and others (Law No. 9121; Law No. 9499; Law No. 10 317; Nazifi & Broka, 2015).

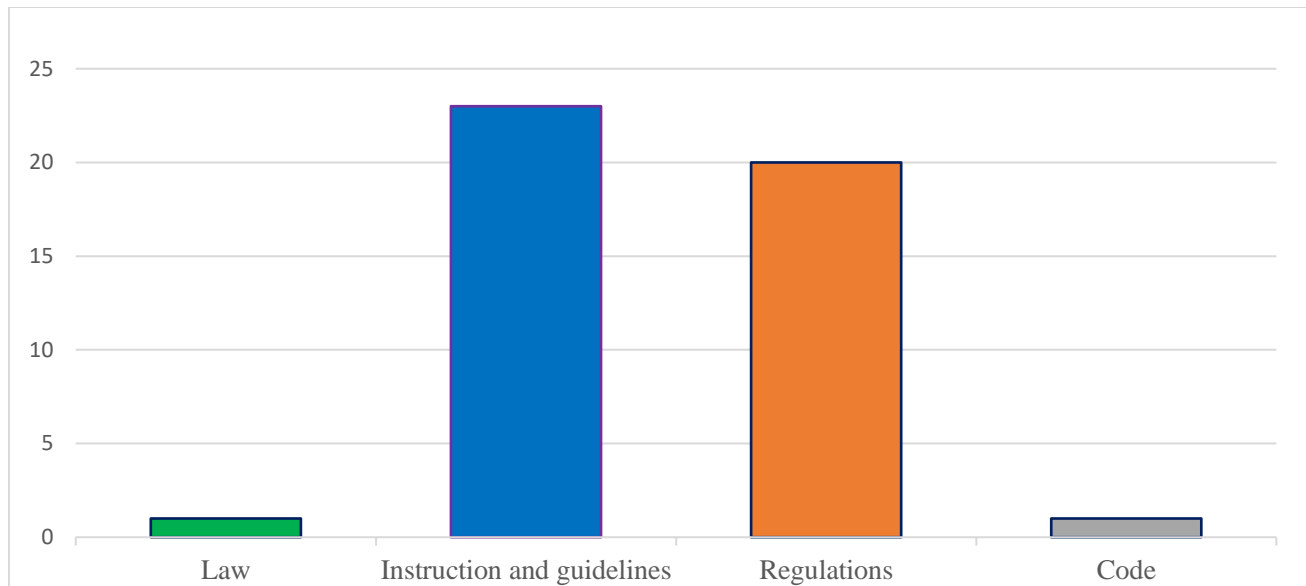
To protect free competition in the market, in addition to legal acts, the competent bodies have also regulations and administrative instructions, including: the Regulation on the Organization and Functioning of the Competition Authority; the Regulation on Agreements of Minor Importance; and the Internal Regulation for the Prevention of Conflict of Interests in the Exercise of Public Functions in the Competition Authority.

“The purpose of this law is the protection of free and effective competition in the market, by defining the rules of conduct of enterprises, as well as the institutions responsible for the protection of competition and their liabilities” (Law No. 9121, Art. 1). As outlined in this article of the law, several significant provisions regarding the protection of competition can be identified. First, it concerns the protection of free and effective competition, which is an essential condition for the proper functioning of the market. Secondly, the matter concerns the behavior of enterprises, obliging them to act in compliance with the legal provisions which affect respect and competitiveness in the market. Third, this law defines the institutions responsible for the protection of free competition in the market and their responsibilities under the law.

The aforementioned law provides a list of prohibited agreements as follows: “1. All agreements prohibited, which have as their object or as a consequence the obstruction, limitation or distortion of competition in the market, especially agreements that: a) determine, directly or indirectly, the purchase or sale prices, or any other terms of trading; b) limit or control production, markets, technical development or investments; c) share markets or sources of supply; d) apply different conditions for the same transactions with other commercial parties, by placing them in an unfavorable competitive situation; e) condition the conclusion of contracts with the acceptance by the other contracting parties of additional obligations that, by their nature or commercial use, are not related to the object of these contracts” (Law No. 9121, Art. 4(1)).

Thus, the law specifically provides that those agreements which negatively affect free competition in the market are prohibited. The Competition Authority, which has the legal task of supervising and ensuring free competition in the market, investigates and prevents such actions.

The competent institutions of Albania have issued legal acts in the field of competition protection, establishing a consolidated legal framework. This may also be observed in the Albania Progress Report of 2023 produced by the European Commission (2023a). Among other things, it is presented that there is progress in the field of competition, including the harmonization of legislation with: the EU *acquis*, the Stabilization and Association Agreement, and Art. 101 and 102 of the Treaty on the Functioning of the European Union (p. 86).



**Figure 2. The legal framework for the protection of competition in Albania**

*Source: Competition Authority of Albania, n.d.-c*

Based on Figure 2, it can be seen that Albania provides legislation for the protection of competition, including the law, instructions and guidelines, regulations, and a code of ethics.

## 2.2. Institutional framework

Albania also possesses an institutional framework for protecting free market competition, having established the Competition Authority (<https://caa.gov.al/>) in March 2004 based on the Law on the Protection of Competition of 2003.

The mission of the Competition Authority of Albania (n.d.-d) is stated as follows: “The Competition Authority acts to ensure a free and effective competition in the market in compliance with the law [...] by relying on three main pillars that determine the protection of competition: abuse with the dominant position; prohibited agreements in the form of cartels and mergers or concentrations of enterprises, as well as the entire legal framework that regulates the activity of an independent institution in the Republic of Albania.” Thus, the Competition Authority clearly defines the goals that need to be achieved where the matter of free competition and the pillars for its protection are concerned.

Likewise, Albania has addressed important aspects related to prohibited agreements, highlighting the relevant legal framework. The supervision of competition and the application of what is determined by law are the responsibilities of the Competition Authority, in its aim of ensuring the protection of free competition in the market. The Competition Authority, as a public body (Law No. 9121, Art. 18(1)), was established to supervise the implementation of the Law on the Protection of Competition.

The Competition Authority of Albania (n.d.-e) is structured as an organogram, as follows: “Chairman, Cabinet, Commissioners, Secretary General, Directorate of Supervision of Productive Markets, Directorate of Supervision of Service/Non-Productive Markets, Directorate of Analysis and Methodology of Markets, Legal Directorate, Integration and Judicial Affairs, Directorate of Human Resources, Budget and Communication (Human Resources and Budget Sector and Communication Sector)”. The Competition Authority is a legal entity headquartered in Tirana, consisting of the Commission and the Secretariat (Law No. 9121, Art. 18(1); Nazifi & Broka, 2016).



Law No. 9121 specifies that the Commission has five members (Art. 19) – the same number as the Kosovo Commission. Art. 20 determines the conditions for electing members of the Commission, where the following is stated: “A candidate who meets the following conditions may be elected a member of the Commission: a) be an Albanian citizen; b) have at least 15 years of experience in the profession; c) be known for the contribution given in the field of economic and legal sciences or for the management skills and professionalism shown in different sectors of the economy; d) not to have been dismissed from work or civil service by disciplinary measure.”

Art. 27 of Law No. 9121 stipulates that the Secretariat is led by the General Secretary who is elected by the Commission, and that the employees of the Secretariat are civil servants. Art. 28 states that “when it comes to the application of legal provisions of this law, the Secretariat has the following responsibilities: a) monitors and analyzes market conditions for the development of free and effective competition; b) conducts investigations, in compliance with the Administrative Procedure Code, this law and the applicable legislation; c) drafts and submits investigation reports to the Commission for decision-making; d) ensures the publication of the rendered decisions of the by-laws issued in implementation of this law, as well as of the annual report of the Authority; e) follows and controls the application of the decisions rendered by the Commission.”

<b>Year</b>	<b>2017</b>	<b>2018</b>	<b>2019</b>	<b>2020</b>	<b>2021</b>
Prohibited Agreements	-	8	4	7	28
Abuse of Dominant Position	9	14	11	7	16
Concentrations of Enterprises in the Market	16	-	24	19	31
Professional Opinions/Recommendations	9	9	26	10	8
Closure of Investigations	3	-	-	-	-
Temporary Measures	2	2	2	3	-
Bylaws	1	-	4	4	2
Legal Assessments	-	11	-	-	-
Others	5	6	19	22	8
Fine	-	6	-	11	-
Agreements	2	-	-	-	-
Terms and Obligations	-	-	3	3	-
Exceptions to Agreements	-	1	-	-	1
Investigative Procedures	-	30	-	-	-
Commitments	-	-	-	1	-
<b>Total:</b>	47	87	93	87	94

**Table 2. Cases examined and other actions performed by the Competition Authority of Albania during the 2017–2021 period**

*Source: Competition Authority of Albania (2017, 2018, 2019, 2020, 2021)*

Table 2 covers the 2017–2021 period, during which it can be seen that there were varying numbers of cases resolved each year. The Competition Authority of Albania also conducts investigations regarding the abuse of a dominant position. Concerning practical cases, case Decision No. 279/10 Prot., dated September 21, 2023, closing the investigation procedure stands out. In those cases where it is ascertained that there is no misuse of a dominant position, the authority renders a decision to end the investigation. However, there are cases in which the Competition Authority undertakes temporary measures. For example, in Decision No. 272/12 Prot., dated May 24, 2023, the Competition Authority “imposed a temporary measure for restoring competition in the taxi service market [...]” This is just one example in which the active role of the Competition Authority in protecting free competition in the market may be observed.

The Competition Authority of Albania also conducts legal assessments: in Decision No. 308/2 Prot., dated June 8, 2023, on the approval of the instruction “On unofficial instructions regarding new or unresolved issues

concerning Articles 4 and 9 of the Law No. 9121/2003 on the protection of competition for individual cases” [the first point of this decision states that the purpose of this guidance is to provide certainty to enterprises regarding the legality of their actions in relation to an agreement or practice they wish to implement in cases of uncertainty due to new or unresolved questions regarding the implementation of these two articles of the law]; and in Decision No. 699, dated July 20, 2020, on “some recommendations for the Financial Supervision Authority regarding the licensing of the General Directorate of Road Transport Services for exercising the activity of an insurance agent” [in this decision, the Commission recommended to the Financial Supervisory Authority that, prior to licensing, it request the Directorate to undertake several actions, including: concluding separate contracts, not setting unfair purchase prices, not applying unequal conditions for the same commercial transactions, and not concluding contracts with additional obligations].

The Competition Authority also provides bulletins on its website related to decisions rendered on a monthly basis. Based on these bulletins, it is possible to observe cases that have been handled and the manner of decision-making, thus assessing the success of the Competition Authority in its main task of supervising the implementation of the law for the protection of competition.

### **3. A comparative analysis of the protection of competition in Kosovo and Albania**

From a comparative point of view, it should be emphasized that both countries have competition authorities, and both possess legal frameworks regarding the protection of competition. Using laws and by-laws, the role and the organizational structure of the Competition Authority is clearly defined in both countries. However, it should be noted that in terms of organization, the Competition Authority of Albania employs a larger number of administrative officials. Special attention should then be paid to the organizational and institutional protection of competition.

The Competition Authority of Albania was established earlier than the Kosovo Competition Authority. The Competition Authority of Albania (n.d.-b) has signed several bilateral and multilateral agreements, along with memorandums of understanding within the country. The Competition Authority of Albania (n.d.-a) is also a member and participant in several international organizations, such as the International Competition Network (ICN), the Organization for Economic Cooperation and Development (OECD), and the United Nations Conference on Trade and Development (UNCTAD).

Kosovo Competition Authority is a member of the ICN. Likewise, it has signed memorandums of understanding and cooperation with several countries and institutions, such as the 2009 Memorandum of Understanding between the Kosovo Competition Commission and the Competition Authority of Albania.

Unlike the Law on the Protection of Competition of Kosovo, which requires 5 years of professional work experience as one of the conditions to be elected a member of the Commission, the Law on the Protection of Competition of Albania requires no less than 15 years of professional work experience for the same position.

If we analyze the progress reports of the European Commission, we can observe progress in the protection of competition in both countries. However, progress is more pronounced in Albania than in Kosovo. The latter still has work to do in advancing the institutional structure for the protection of competition, as in certain years the competition commission has been non-functional due to the non-appointment of commission members.

The comparative analysis of the protection of competition highlights the real state of competition protection in the two aforementioned countries. Albania initiated competition protection earlier than Kosovo, and there are certain key factors that influenced this development. It should be kept in mind, that, unlike Albania, Kosovo has been in a transitional phase as a state and has had to work continuously both in the legislative and institutional spheres. Kosovo should deepen its cooperation with Albania to advance best practices in the area of the

protection of competition. This could be achieved by reviewing existing legal acts and conducting detailed analyses regarding the institutional framework so that the intended level of protection is achieved.

In terms of the practical implementation of competition protection in Kosovo and Albania, it is useful to examine and analyze the practical work of the competition authorities. The authorities in each country have addressed various cases regarding the protection of competition, the outcomes of which are published on their websites. The analysis of these decisions makes it clear that the authorities are active in protecting free competition in the market. To make progress in this direction, the commissions must be continuously functional. The Commission of the Competition Authority of Kosovo has not operated continuously as a result of resignations and delays in the appointment of new members.

The competition authorities of Kosovo and Albania publish agreements related to their institutions on their official websites: memberships in the respective organizations, memorandums of understanding, decisions taken, and other items. The publication of the decision bulletin increases transparency towards the general public, but at the same time raises awareness that must then be acted on via the legislation in force. This practice is important because it provides the possibility to observe the measures taken by the Competition Authority regarding certain cases.

As for the findings highlighted in this paper, it is worth mentioning that they concern the real existing situation in both countries, assessing applicable legislation, decisions, and data published on the official websites of the authorities.

## **Conclusion**

Kosovo and Albania have a consolidated legal framework concerning the field of competition. Regulation is based on legal acts that specifically foresee intended goals based on what is defined within their respective laws. In addition to laws, both countries have issued by-laws to further specify several important procedural issues regarding the protection of free competition in the market.

From an institutional point of view, Kosovo and Albania have respective competition authorities established according to the laws on the protection of competition. Bearing in mind the missions envisioned for these competition authorities, they aim to ensure free competition in the market by implementing legal obligations. To enhance transparency, the competition authorities also publish the decisions rendered by their commissions on their websites.

To protect free competition in the market, it is important to invest as much as possible in an adequate legal framework and effective regulation concerning it. In the first case, relevant institutions should analyze the legislation to observe how adequate results are being achieved in practice. In the second case, it is crucial to analyze whether there are sufficient administrative capacities to protect free competition in the market, taking into account the necessity of ensuring protection that is in compliance with the law.

Based on the analyses conducted, advancements in the protection of competition in certain years can be observed. This is supported by both case practice data from annual reports and statistical data which is accessible on the official websites of the competition authorities. Legal amendments made in the direction of competition protection also support this view.

With respect to the field of competition, the further alignment of the national legislations of Kosovo and Albania with that of the EU is also crucial. This is emphasized because the further approximation and harmonization of legislation regarding the protection of competition in these two countries is quite significant. In this regard, Albania has made more advances than Kosovo; however, the latter continues to make progress in the field of competition.

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