AGREEMENT BETWEEN THE GOVERNMENT OF THE REPUBLIC OF KOSOVO AND THE COUNCIL OF MINISTERS OF THE REPUBLIC OF ALBANIA ON PROMOTING THE PROTECTION OF INVESTMENTS

Preamble

The Government of the Republic of Kosovo and the Council of Ministers of the Republic of Albania,

Desiring the intensification of economic cooperation in the common interest of both States,

Aiming to create and maintain favorable conditions for investments from the Contracting Party's investments in the capital of the other Contracting Party,

Recognizing the need to promote and protect foreign investments, with the aim of promoting economic prosperity and sustainable development of both States,

Given that these objectives can be achieved by facilitating the implementation of general health, safety, labor and environmental standards,

Aiming to encourage investors to observe internationally accepted standards and principles on corporate social responsibility,

We hereby agree as follows:

Article 1. Definitions

For the purposes of this Agreement:

(1) The term "investment" means any type of property created or acquired by an investor of one Contracting Party in the territory of the other Contracting Party, which has characteristics such as the commitment of capital or other resources. revenue or profit expectations, or assumption of risk, including:

(a) movable and immovable property, as well as other related rights, such as easements, mortgages, guarantees and pledges;

(b) a company or shares, shares or any other form of participation in a company:

(c) claims for money or any performance that has an economic value, with the exception of claims for money that arise only from commercial contracts for the sale of goods and services;

(d) intellectual property rights, industrial property rights (such as patents, designs or industrial models, trademarks or service marks, trade names. indication of origin), expertise and goodwill;

(e) the rights granted based on the law, contract or decision of an authority such as concessions, licenses, authorizations and permits.

The term "investment" shall also be applied to "income" kept for the purpose of re-investment, or income from "liquidation"; these terms are defined below.

The change in the form in which the assets are invested or reinvested does not affect their character as investments.

(2) The term "investor" refers to both Contracting Parties for:

(a) A natural person, who obtains the status as a citizen of a Contracting Party, in accordance with its laws in force

(b) A legal person, including companies, corporations, business associations and other organizations, which are established or are regularly organized under the law of that Contracting Party and have their headquarters, together with real economic activities, in the territory of this Contracting Party.

(c) A juridical person created under the law of that Contracting Party but owned or effectively controlled by a natural person as defined in point (a) above or by a juridical person; defined in point (b) above.

(3) The term "income" means amounts earned from an investment and includes in particular profits, interest, capital gains, dividends, royalties, or other fees and payments, including payments in kind.

(4) The term "territory" means:

a) in relation to the Republic of Albania means the territory under the sovereignty of the Republic of Albania that includes the territorial waters and the airspace above them, as well as any area beyond the territorial waters of the Republic of Albania, over which the Republic of Albania, in accordance with its legislation and with international law it exercises its sovereign legal rights.

b) in relation to the Republic of Kosovo means the territory over which it has jurisdiction or sovereign rights in accordance with the Constitution of the Republic of Kosovo and international law.

Article 2. Object of the Agreement

This Agreement applies to investments in the territory of one Contracting Party created or acquired in accordance with its laws and regulations by investors of the other Contracting Party, whether before or after the entry into force of this Agreement. However, this Agreement does not apply to claims or disputes arising from events that occurred before its entry into force.

Article 3. Promotion, Admission

(1) Each Contracting Party will promote in its territory, as much as possible, investments from investors of the other Contracting Party and accepts these investments in accordance with its laws and regulations.

(2) When a Contracting Party accepts an investment carried out in its territory, it ensures, in accordance with its laws and regulations, all necessary permits or authorizations in relation to such an investment, including the necessary authorizations for the activities of managerial and technical personnel selected by the investor.

(3) Each Contracting Party publishes or makes available to the public, without delay, its laws and regulations as well as international agreements, which may affect the investments of investors of the other Contracting Party.

Article 4. National Treatment and Favored Nation Treatment

(1) Each Contracting Party shall ensure a fair, equal and transparent treatment of the investments of the investors of the other Contracting Party.

(2) No Contracting Party shall offer in its territory for the investments of existing or new investors of the other Contracting Party, a less favorable treatment than that which it offers to the investments of its own investors or to the investments of the investors of a state third, whichever is more favorable for the investors in question.

(3) No Contracting Party shall offer in its territory for the investors of the other Contracting Party, in terms of management. maintenance, enjoyment, use or disposal of their investment, a treatment which is less favorable than that which it offers to its own investors or to investors of a third country, whichever is more favorable to the investors in question.

(4) The provisions of paragraphs l and 2 of this Article should not be interpreted in such a way as to compel a Contracting Party to grant the investors of the other Contracting Party the benefits of a treatment, preference or privilege derived from the former Contracting Party by:

a) any existing or future customs union, or economic union, free trade area or similar international agreement;

b) any international agreement or agreement or internal legislation, totally or partially related to taxation.

Article 5. Expropriation and Compensation

(1) None of the Contracting Parties shall expropriate, nationalize or undertake measures having the same effect (hereinafter referred to as "expropriation") against the investments of the investors of the other Contracting Party. unless:

a) This expropriation is in the interest of the public and according to a regular legal process,

b) This expropriation is carried out on a non-discriminatory basis, and

c) Immediate, appropriate and effective compensation is provided.

(2) The compensation mentioned in point 1 (c) of paragraph (1) of this Article will be equivalent to the market value of the expropriated investment, immediately before the expropriation or when the imminent expropriation is made known to the public, whichever happens with the deed, and must be paid without undue delay. The compensation must include interest calculated on the basis of LIBOR from the date of expropriation until the date of full payment.

(3) the investors whose assets are being expropriated should, without prejudice to their rights according to Article 8 of this Agreement. enjoy the right to prompt review by the appropriate judicial or other competent and independent authorities of the expropriating Contracting Party to determine whether such expropriation, and any related compensation, complies with the principles of this Article and the laws and regulations of the Contracting Party for expropriation.

Article 6. Compensation for Damage or Loss

(1) An investor of a Contracting Party who has suffered losses in connection with his investment in the territory of the other Contracting Party due to war or another armed conflict, state of emergency, revolution, insurrection, civil commotion, or any other similar event in the territory of that Contracting Party shall be accorded by that Contracting Party in terms of restitution, indemnity, compensation or any other remedy, treatment no less favorable than that which was given to its investors or to investors of a third country, whichever is more favorable for the investor.

(2) Regardless of paragraph 1, each Contracting Party must offer to an investor of the other Contracting Party, who, in any of the situations referred to in this paragraph, incurs a loss in its territory resulting from

(a) Requisitioning the investment or a part of it by its forces or authorities or

(b) The destruction of the investment or a part of it by its forces or authorities, which was not necessary considering the situation,

the return or compensation that in each case must be immediate, appropriate and effective, and in terms of compensation, it must be in accordance with Article 5 of this Agreement.

Article 7. Free Transfer

(1) Each Contracting Party shall guarantee that all payments related to investments in its territory, by the investors of the other Contracting Party can be transferred inside and outside its territory. without limitations or delays in an easily convertible currency. Such transfers include:

(a) initial capital and additional amounts to maintain or increase the investment;

(b) income;

(c) amounts related to the loan or other contractual obligations undertaken for investment;

(d) the amounts determined to cover the expenses related to investment management;

(e) royalties and other payments derived from the rights referred to in Article 1, paragraph (1), letters (c), (d) and (e) of this Agreement;

(f) earnings and other payments of personnel who are engaged from abroad in connection with the investment;

(g) income from the partial or full sale or liquidation of the investment, including potential growth values;

(h) payments resulting from the resolution of a dispute.

(2) Unless otherwise agreed with the investor, each Contracting Party guarantees that the investor can carry out such transfers at the exchange rate applicable on the date of the transfer in accordance with the exchange regulations in force of the Contracting Party in the territory of which the investment was made.

Article 8. Subrogation

If a Contracting Party or its designated agency ("First Contracting Party") makes payment under a guarantee or insurance contract in connection with an investment in the territory of the other Contracting Party ("Second Contracting Party"), The second Contracting Party accepts:

a) assignment to the first Contracting Party by law or by legal act of all the rights and claims of the injured party; and

b) that the first Contracting Party has the right to exercise such rights and enforce such claims in accordance with the subrogation, in the same manner as the indemnified party.

Article 9. Essential Security Interests

This Agreement does not exclude the implementation by each Contracting Party of the measures necessary for the maintenance of public order, the fulfillment of its obligations in relation to the maintenance or restoration of international peace or security, or the protection of its essential security interests.

Article 10. Favorable Conditions

If the provisions in the legislation of a Contracting Party and its judicial or administrative practice, specific commitments regarding an investment or international obligations between the Contracting Parties contain a rule, whether general or specific, which gives the right to investments by investors of To the other Contracting Party for more favorable treatment than the treatment provided by this Agreement, such a rule would take precedence over this Agreement to the extent that it is more favorable.

Article 11. Disputes between a Contracting Party and an Investor of the other Contracting Party

(1) Without prejudice to Article 12 (Disputes between Contracting Parties), disputes between an investor of a Contracting Party and the other Contracting Party in relation to an investment by the first Contracting Party carried out in the territory of the second Contracting Party, which are based on an alleged violation of the obligations under this Agreement, to the extent possible, shall to be resolved amicably through consultations through a written request from one of the parties to the dispute ("the parties to the dispute").

(2) If these consultations do not result in a solution within six months from the date of the written request for consultations, the investor may submit the dispute either to the courts or administrative tribunals of the Contracting Party in question or to international arbitration. In the latter case, the investor can choose any of the following:

(a) The International Center for Settlement of Investment Disputes ("ICSID"), provided for in the Convention on the Settlement of Investment Disputes between States and Nationals of Other States ("CSID Convention"), open for signature in Washington on March 18, 1965;

(b) Additional Facility Rules of lCSID, if one of the Contracting Parties is not a member of the lCSID Convention, but not both; or

(c) a special arbitral tribunal which, unless otherwise agreed by the parties to the dispute, shall be established under the arbitration rules of the United Nations Commission on International Trade Law ("UNCITRAL").

(3) Each Contracting Party hereby gives its irrevocable and unconditional consent to the submission of an investment dispute to international arbitration, in accordance with paragraph 2.

(4) After the investor has referred the investment dispute to international arbitration, as provided in paragraph 2, the choice of jurisdiction will be final.

(5) None of the Contracting Parties has the right to exercise diplomatic protection or to make international claims in relation to an investment dispute submitted to international arbitration by its investor in accordance with paragraph 2, except if the other Contracting Party disagree with the arbitration award.

(6) Arbitration procedures based on this Article will be conducted at the request of a party to the dispute in a country that is a party to the United Nations Convention on the Recognition and Enforcement of Foreign Arbitral Awards, signed in New York on 10 June 1958.

(7) The interested Contracting Party must never, during the process, use its immunity or the fact that the investor has accepted as a defense, based on insurance, a compensation that covers, fully or partially, the loss or damage caused.

(8) The arbitration tribunal, established in accordance with paragraph 2, decides on the issues of disagreement in accordance with this Agreement and with other rules in force of international law.

(9) The decision is binding and is not subject to any appeal or improvement other than those provided for in the ICSID Convention or the Arbitration Rules on which the arbitration procedures chosen by the investor are based. The decision is implemented without delay by the Contracting Parties as a final and final decision, according to the internal law.

Article 12. Disputes between the Contracting Parties

(1) Any disagreement between the Contracting Parties regarding the interpretation or implementation of this Agreement shall, to the extent possible, be resolved through direct consultations. If the Contracting Parties agree on the conflict resolution, a written agreement may be reached. in connection with the interpretation or implementation of any provision of this Agreement, which is binding on any arbitration tribunal established on the basis of this Agreement.

(2) If the Contracting Parties cannot reach an agreement within six months after the request for consultations, the disagreement, at the request of any Party, shall be submitted to arbitration.

(3) Each of the Contracting Parties appoints an arbitrator and these arbitrators appoint the chairman, who must be from a third country. If one of the Contracting Parties has not appointed its own arbitrator and has not attended the invitation of the other Contracting Party for the first meeting within two months of the request for arbitration, the arbitrator is appointed at the request of that Contracting Party by the General Secretary of ICS1D. If the two arbitrators cannot agree on the election of the chairman within two months of their appointment, the latter shall be appointed at the request of any Contracting Party by the Secretary General of ICSID.

(4) If the Secretary General of ICSID is prevented from performing the above functions or is a citizen of one of the Contracting Parties, the President of the International Court of Justice acts as the appointing authority. In the event that the President of the International Court of Justice is prevented from performing the above functions or is a citizen of one of the Contracting Parties, the appointments are made by the Vice-President, and if the latter is prevented or is a citizen of one of the Contracting Parties, the appointments are made by another senior member of the Court who is not a citizen of one of the Contracting Parties.

(5) Subject to the other provisions agreed by the Contracting Parties, the tribunal determines its own procedure. The Tribunal decides on the issues of disagreement in accordance with this Agreement and other rules in force of international law. The decision of the tribunal is final and binding for all Contracting Parties.

(6) Each of the Contracting Parties covers the cost of its own member of the tribunal and of its representation in the arbitration procedure. The cost of the chairman and the remaining costs are divided into equal parts by the Contracting Parties. unless the arbitral tribunal decides otherwise.

Article 13. Consultations and Exchange of Information

At the request of each Contracting Party, the surviving Contracting Party shall immediately agree to consultations. for the interpretation or implementation of this Agreement.

At the request of each Contracting Party, information will be exchanged regarding the impact that the laws, regulations, decisions, practices or administrative procedures, or policies of the Contracting Party (other Contracting Parties) may have on the investments covered by this Agreement.

Article 14. Denial of Benefits

(1) The Contracting Party may deny the benefits of this Agreement, including the right to initiate or continue dispute resolution proceedings, to an investor of the other Contracting Party and the investments of that investor, if:

a) the investor is owned or controlled by persons who have the citizenship of a country that is not a Contracting Party or a denying Party; or

b) the investor does not carry out essential business activities in the territory of the other Contracting Party."

Article 15. Other Provisions

Each Contracting Party, in accordance with its laws, regulations and administrative practices followed, favorably examines requests for the entry and stay of investors, employees and workers of the other Party, who are involved in investment-related activities.

Article 16. Final Provisions

(1) This Agreement enters into force on the day of acceptance of the second notification. which confirms that both Contracting Parties have respected the legal requirements for the entry into force of international agreements.

(2) This Agreement remains binding for a period of ten years. Unless written notice is given for its termination within six months before the expiration of this period, the Agreement is considered renewed under the same conditions for a period of two years and so on.

(3) This Agreement may be amended with the written consent of both Contracting Parties. The amendments shall enter into force in accordance with the same legal procedure required for the entry into force of this Agreement.

(4) In the event of the termination of this Agreement through written notice, the provisions of Articles 1 to 16 continue to be in force for a period of ten years, unless a longer term is specifically agreed upon, for the investments made before the effective date of termination.

IN WITNESS WHEREOF, the undersigned, duly authorized by their respective Governments, have signed this Agreement.

Done in two copies, in Tirana, on May 3, 2016, in English, Albanian and Serbian languages, where each text is equally authentic. In case of differences in interpretation, the English text shall prevail.

For the Government of the Republic of Kosovo

For the Council of Public Ministers of Albania