

LEGAL REGULATION OF INDIVIDUAL BUSINESSES IN KOSOVO AND THE IMPACT OF THE COVID-19 PANDEMIC

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Abstract: *This paper aims to present the real situation of individual businesses in Kosovo, the way of establishment and operation according to the legislation in Kosovo, as well as how much these businesses affect the economic development of the country. In addition to the legal regulation of individual businesses, some statistical data, which will shed light on the real situation of this type of business and how negatively the Covid-19 pandemic has affected the way individual businesses operate in Kosovo, will be presented. The Covid-19 pandemic has negatively affected many businesses in the world, as well as in Kosovo in almost all types of business organisations in the country and abroad. Individual businesses, in terms of registration, are simpler and managed by a single owner and this makes them more interesting to be established as a type of business organisation. This type of business organisation, if it does not find support from the state at the time of the Covid-19 pandemic, will have it more difficult to survive in the market. Therefore, it is required that the executive body of the country create well-researched and easily feasible strategies so that, in this time of pandemics these businesses find support in various forms in order to stay in the market and operate according to the purpose established at the moment of registration.*

Keywords: *Individual businesses; legal regulation; economic development; competition; impact of the Covid-19 pandemic*

I. INTRODUCTION

The manner of organization and operation of individual businesses is regulated by Law No. 06/L-016 on Business Organizations in Kosovo. This type of business, as well as other types of business organisation has a positive impact on the economic development of the country. For this reason, it is important for readers to treat individual businesses in legal and economic terms, and in particular, in the way they operate. Significance is also given to the way these businesses operated in the last year, from March 2020, when the first positive cases of Covid-19 in Kosovo began.

Individual businesses bring development not only to the individual, as the owner of that business, but also to society and the state, because individual businesses directly affect the economic development of the country.

Considering that there are several types of businesses in Kosovo, a large part of them are established as individual businesses. It is known that the establishment method is easier and makes the individual person independent in their way of living and doing business in the place where they live and work.

If residents want to do business, an individual business is the easiest type to establish and operate, and after maturing in doing this type of business, they can expand and also

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establish another type of business. But, the most important thing is to always keep in mind the observance of Law No. 08/L-056 on Protection of Competition¹ and all other acts related to competition. It should be borne in mind that competition is the determinant and provider of a stable market, which guarantees quality products, efficient services, and coverage of customer demands in the market.

Individual businesses are dependent on a single owner, but the degree of their dependence on a single owner has not been formally studied.² Canadians have studied this issue by analyzing it on a national level for individual businesses through two main issues: the dependence of the individual business on a single person and the factors that influence their support.³

A study conducted by some researchers who surveyed 526 individual businesses in 14 cities in Turkey, stressed that the intensity of individual business owners and environmental difficulties are predictive of their growth aims.⁴ Researchers from the analysis made on three factors of the growth plan: technology improvement, resource aggregation, and market expansion, pointed out that financing problems hindered resource aggregation and technology improvement, while know-how hindered market expansion.⁵

To be competitive in the market, businesses must first follow the guidelines in the place where they operate, then consider the quality of the product and the most efficient service in order to distinguish them from each other.⁶ Most individual businesses aim to bring new ideas to the existing market, while some of them only aim to provide an existing service in an existing market.⁷ However, there are many cases when individual business owners have created their business for nonpecuniary benefits.⁸

It is worth mentioning that the dominant majority of businesses registered in Kosovo are micro enterprises (1-9 employees) about 98.9 percent,⁹ and businesses are also mostly registered as individual businesses. Statistical data shows that since the beginning of business registration after the war (1999), most businesses have operated in the trade sector.¹⁰ According to data from KBRA, by the end of 2020, we will have about 23 percent of businesses dealing with this activity.¹¹

¹ Law No. 08/L-056 on Protection of Competition in Kosovo. In: *Gazeta Zyrtare* [online]. [2022-10-20]. Available at: <<https://gzk.rks-gov.net/ActDetail.aspx?ActID=2727>> .

² FELTHAM, T. S., FELTHAM, G., BARNETT, J. J. The dependence of family Businesses on a Single Decision - Market. *Journal of Small Business Management*. 2005, Vol. 43, No.1, pp. 1–15.

³ *Ibid.*

⁴ KOZAN, K. M., ÖKSOY, D., ÖZSOY, O. Growth plans of small businesses in Turkey: Individual and environmental influences. *Journal of Small Business Management*. 2006, Vol. 44, No.1, pp. 114–129.

⁵ *Ibid.*

⁶ ISMAJLI, H., PRENAJ, V. Definition of Enterprises in the European Union, Western Balkans and Kosovo. *Baltic Journal of Real Estate Economics and Construction Management*. 2018, Vol.6, pp. 62–73.

⁷ HURST, E., PUGSLEY, B. W. What do small businesses do? *Brookings Papers on Economic Activity*, 2011, No. 2, pp. 73–118.

⁸ *Ibid.*, pp. 73–118.

⁹ KOSOVO AGENCY OF STATISTICS. Statistical Repertoire on Economic Enterprises in Kosovo, Prishtina. 2020. In: *ask* [online]. 2020 [2021-02-16]. Available at: <<https://ask.rks-gov.net/>>.

¹⁰ *Ibid.*

¹¹ *Ibid.*

II. TYPES OF BUSINESS ORGANISATIONS IN KOSOVO

According to Law No. 06/L-016 on Business Organizations in Kosovo, types or forms of business organizations are:

1. *Individual Businesses*
2. *General Partnership*
3. *Limited Partnership*
4. *Limited Liability Company*
5. *Joint Stock Company*
6. *Foreign Business Organisation*
7. *Representative Office of a Foreign Business Organization*
8. *Socially Owned Enterprise*
9. *Publicly Owned Enterprise*.¹²

However, in this paper, individual businesses will be treated as one of the types of businesses in Kosovo. According to Law no. 06/L-016 on Business Organizations in Kosovo, the owner has unlimited liability, is not a legal entity, and a person can only have one individual business.¹³ The owner of an individual business bears unlimited personal liability for all debts and other obligations incurred or imposed on that individual business by a law or contract.¹⁴ This is a unlimited responsibility and it included the entire property and assets of every kind which are in the direct or indirect ownership of this person, depending on the fact whether such property or assets are utilized for business, personal or domestic purposes, except the property or assets defined by applicable law on execution procedure.¹⁵ For registration of Individual Business, the Owner of Individual Business or Authorized Representative or Representative with Power of Attorney, shall fill in and submit at the KBRA the form prepared by KBRA for this purpose, along with a copy of personal identification document of the Owner or Authorized Representative or Representative with Power of Attorney.¹⁶ The individual business, according Business Organizations in Kosovo, could have an official name or only the legal surname of the owner.¹⁷

III. THE INFLUENCE OF THE STATE ON THE ESTABLISHMENT AND DEVELOPMENT OF INDIVIDUAL BUSINESSES

Reform of legislation

By reforming the legislation, we mean that the law is reformed in line with the requirements of the owners of individual businesses that they have in the market, so that the reg-

¹² Article 5 paragraphs 1, 2 and 3 of Law no. 06/L-016 on Business Organizations in Kosovo. In: *Gazeta Zyrtare* [online]. 2020 [2021-02-16]. Available at: <<https://gzk.rks-gov.net/actdetail.aspx?actid=2585>>.

¹³ Article 48 paragraph 1 of Law no. 06/L-016 on Business Organizations in Kosovo. In: *Gazeta Zyrtare* [online]. 2020 [2021-02-16]. Available at: <<https://gzk.rks-gov.net/actdetail.aspx?actid=2585>>.

¹⁴ *Ibid.*, Article 48 paragraph 1 of the LBOK.

¹⁵ *Ibid.*, Article 48 paragraph 1 of the LBOK.

¹⁶ *Ibid.*, Article 30 of the LBOK.

¹⁷ KOSOVO AGENCY OF STATISTICS. Statistical Repertoire on Economic Enterprises in Kosovo, Prishtina. 2020. In: *ask* [online]. 2020 [2021-01-25]. Available at: <<https://ask.rks-gov.net/>>.

istration of individual businesses creates facilities and digitizes all registration services and changes of certain data. It is also necessary for these businesses to be exempt from some taxes in the initial stage, especially for the first year of registration. The law and other by-laws, in addition to being harmonized with the most developed countries in Europe, must also take into account the requirements of individual business owners in order to have as much security and stability as possible in the existence of these individual businesses and also positively influence the awakening of curiosity in others to establish as many individual businesses as possible.

Development strategies

Development strategies to be developed by the state for the next 10 (ten) years on what the state's policies to support individual businesses in the country are, in order to have as many individual businesses present in the market.

Providing relief facilities during business registration

The state needs to reform legislation and administrative instructions in order to provide relief and facilitate business registration. In addition to the fact that there should be no registration fee, the possibility of registration through the online form should be created, always respecting the principles of reality and truthfulness, as well as reliability and security.

Financial support of individual businesses

In addition to support from the government, individual businesses receive grants from various donors, aimed at their existence and development. Individual businesses manage to benefit from grants through strategy-based programs provided in Kosovo by many different organizations. Mainly, the most creative businesses, which in addition to their activity within the country, aim to expand their activity outside the state borders, have the greatest support.

Preventive measures have also been taken in Kosovo, as in the rest of the world, with the appearance of the first cases of Covid-19. The Government of Kosovo immediately after the start of the restrictive measures prepared the first fiscal emergency package. Then the working group consisting of the Prime Minister's Office, relevant ministries of the economy, the Central Bank, the Kosovo Credit Guarantee Fund, the business community, and external experts began designing the second package for economic recovery.¹⁸

During the Covid-19 pandemic period, the Government of Kosovo took measures to support businesses. The Operational Plan for the Emergency Fiscal Package was approved on April 3, 2020, as was the rent subsidy for April and May, up to 50 percent of the rent value for small and medium-sized businesses.¹⁹ Then an additional payment in the amount of 100 euros was provided to employees of grocery stores, pharmacies, and

¹⁸ GOVERNMENT OF KOSOVO. Decision no. 31/2020, of 3. 4. 2020, pp. 1–16. In: *Ministria e Financave, Punës dhe Transferev* [online]. 2020 [2021-04-26]. Available at: < <https://mf.rks-gov.net/desk/inc/media/>>.

¹⁹ Ibid.

bakeries who worked during the period when the entire population was in quarantine, and this category of employees faced the risk of the virus.²⁰ One of the measures undertaken by the government was to provide financial liquidity for micro-enterprises and the self-employed through the programs of the Kosovo Credit Guarantee Fund in the amount of up to 10,000 euros for a period of 24 months.²¹ The emergency support of the business community was also extended through the postponement of loan instalments for businesses with problems, as well as the postponement of deadlines for payment of tax obligations.²²

The consequences of the Covid-19 pandemic, as in all businesses around the world, have affected businesses in general in Kosovo, and individual businesses in particular. So in these difficult times, in order to stay attentive, we need to exercise wisdom, that is, to create a sense of perspective and balance.²³

In addition to affecting public health, Covid-19 has also had a major impact on the economy, especially in closing down individual businesses that were financially more fragile.²⁴ As individual enterprises are among the hardest hit by Covid-19, some have closed, while many others face cash flow constraints, raising questions about how many of them will manage to survive this recession.²⁵ The state still has to do research and make a decision to support businesses that were closed during the Covid-19 pandemic period, as well as to enable employment for all workers who lost their jobs during the pandemics. In addition to having a negative impact on their economic situation, the Covid-19 pandemic has also had an emotional and psychological impact on employees who have lost their jobs. Whereas the influence of the Covid-19 pandemic on the mental health population must be considered as it would also affect social health and the economy globally.²⁶

Therefore, the state should not delay its support for this category and at the same time, at all times, be advisor and supporter for existing businesses operating in the market, but also to arouse curiosity for the establishment of new businesses. According to the authors, Boettke and Powell, it has been a terrible irony that Covid-19 policy has not been led by economics, the discipline that specializes in the evaluation of costs and benefits, but by epidemiologists, who have little expertise in comparing health benefits against other expenses.²⁷

²⁰ Ibid.

²¹ Ibid.

²² MINISTRY OF FINANCE AND TRANSFERS. Economic recovery package, pp. 1–21. In: *Ministria e Financave, Punës dhe Transferev* [online]. 2020 [2021-04-26]. Available at: < <https://mf.rks-gov.net/desk>>.

²³ ALLEN, D. W. Covid-19 Lockdown Cost/Benefits: A Critical Assessment of the Literature. *International Journal of the Economics of Business*. 2022, Vol. 29, Issue 1, pp. 1–32.

²⁴ BARTIK, A.W., BERTRAND, M., CULLEN, Z.B., GLAESER, E.L., LUCA, M., STANTON, C. T. How Are Small Businesses Adjusting to COVID-19? Early Evidence from a Survey. *National Bureau of Economic Research*. 2020, pp. 2–35.

²⁵ BAKER, T. H., JUDGE, K. How to Help Small Businesses Survive COVID-19. *Columbia Law and Economics Working Paper*. 2020, No. 620, pp. 1–11.

²⁶ CLEMENTE-SUÁREZ, V. J., NAVARRO-JIMÉNEZ, E., MORENO-LUNA, L., SAAVEDRA-SERRANO, M. C., JIMENEZ, M., SIMÓN, J. A., TORNERO-AGUILERA, J. F. The Impact of the COVID-19 Pandemic on Social, Health, and Economy. *Sustainability*. 2021, Vol.13, No. 6314.

²⁷ BOETTKE, P., POWELL, B. The political economy of the COVID -19 pandemic. *Southern Economic Journal*. 2021, Vol. 87, No. 4, pp. 1090–1106.

Enforcement of competition

In Kosovo, the legal infrastructure has been drafted and the competent institution with the name of the Kosovo Competition Authority has been established.²⁸ The Authority is a legal entity with public authorization that autonomously and independently carries out its activities based on the provisions²⁹ of the Constitution of the Republic of Kosovo.³⁰ In the Republic of Kosovo, competition is governed by Article 10 of the Constitution of the Republic of Kosovo of 2008, which states that: “A market economy with free competition is the basis of the economic order of the Republic of Kosovo”.³¹ Furthermore, Article 119, paragraph 3 of the 2008 Constitution, provides that: “Actions limiting free competition through the establishment or abuse of a dominant position or practices restricting competition are prohibited, unless explicitly allowed by law.”³²

And the provisions of Law No. 03/L-229 on Protection of Competition, Law No. 04/L-226 on amending and supplementing the Law No. 03/L-229 on Protection of Competition, and the Statute of the Kosovo Competition Authority No. 04-V-312.³³ In 2022, the Law on Protection of Competition No. 08/L-056³⁴ entered into force, as a new law and repealed the Law No. 03/L-229 on Protection of Competition, Law No. 04/L-226 on amending and supplementing the Law No. 03/L-229 on Protection of Competition. In order for competition to be enforceable well, the legal regulation is not sufficient, it also requires the will of the state to act through the competent institution for protection of competition, which is the Kosovo Competition Authority,³⁵ supervising the competition in the market and applying the law promptly. It must also be impartial in making decisions and be as transparent as possible with all citizens about the state of competition in the country.

Furthermore, it should request cooperation from citizens and all other local institutions to inform the Kosovo Competition Authority about possible competition violations. It is known that the more competition there is, the higher the value of individual businesses because, as a result of competition, they provide better quality products and also more efficient services.

²⁸ Kosovo Competition Authority. In: *The Competition Authority of the Republic of Kosovo* [online]. [2022-10-20]. Available at: <<https://ak.rks-gov.net/>>.

²⁹ MULAJ, V. Improvement of the Kosovo Market through Implementation of the Competition Legal Framework. *The Lawyer Quarterly*. 2020, Vol. 10, No. 3, pp. 348.

³⁰ Article 119 paragraph 3 of the Constitution of the Republic of Kosovo. In: *Official Gazette of the Republic of Kosovo* [2022-10-20]. 2008 [online]. Available at: <<https://gzk.rks-gov.net/ActDetail.aspx?ActID=3702>>.

³¹ MULAJ, V. Protection of Competition from Abuse with Dominant Positions and Anticompetitive Agreements in the Kosovo Market. *Studia Iuridica Lublinensia*. 2022, Vol. 31, No 2, pp. 211.

³² MULAJ, V. *Improvement of the Kosovo Market through Implementation of the Competition Legal Framework*. pp. 349.

³³ MULAJ, V. Improvement of the Kosovo Market through Implementation of the Competition Legal Framework. *The Lawyer Quarterly*. 2020, Vol. 10, No. 3, pp. 348.

³⁴ Law No. 08/L-056 on Protection of Competition in Kosovo. In: *Gazeta Zyrtare* [online]. [2022-10-20]. Available at: <<https://gzk.rks-gov.net/ActDetail.aspx?ActID=2727>>.

³⁵ Kosovo Competition Authority. In: *The Competition Authority of the Republic of Kosovo* [online]. [2022-10-20]. Available at: <<https://ak.rks-gov.net/>>.

IV. THE POSITIVE IMPACT OF INDIVIDUAL BUSINESSES ON THE ECONOMIC DEVELOPMENT OF THE COUNTRY

Generation of state revenues from individual businesses

It is known that the more individual businesses are established, the more positive the impact on the state is because the founding owner begins to generate income for him/herself and his/her family from the moment of establishment. And this directly affects the economic development of the country and the reduction of social cases for the state. The more individual businesses are established, the more they increase the budget of Kosovo through the turnover that they realize from that business, by implementing the laws in force where they are obliged to pay taxes to the state.

Employment of employees in individual businesses

Individual businesses: despite the fact that their establishment is a small business, if it is successful and has a good turnover, they can also employ a certain number of employees, always taking into account the intention of the founding owner. And the more employment increases, the better it is for the state because the number of social cases decreases. For this reason, the state must do more than just facilitate business; it must also support them financially so that all individual business owners have a starting point to take the first steps of development. Individual business owners have the will to expand their business, but they are dependent on whether the state stimulates them, guarantees the implementation of applicable laws and also respects competition in the market. This makes their business more secure. The state should also require educational institutions to harmonize their curricula in step with market demands in order to have educated and qualified workers to meet the needs of businesses. This then affects the absorption of foreign investment.

V. INDIVIDUAL BUSINESSES DURING THE PERIOD 2000–2020

In the following, we will present some data on individual businesses in Kosovo for the period 2000–2020, whereby these data show the real situation of the operation of these businesses in the country. Furthermore, the existing practical shortcomings over the years will be presented in order to make some recommendations regarding the improvement of the current situation in the country.

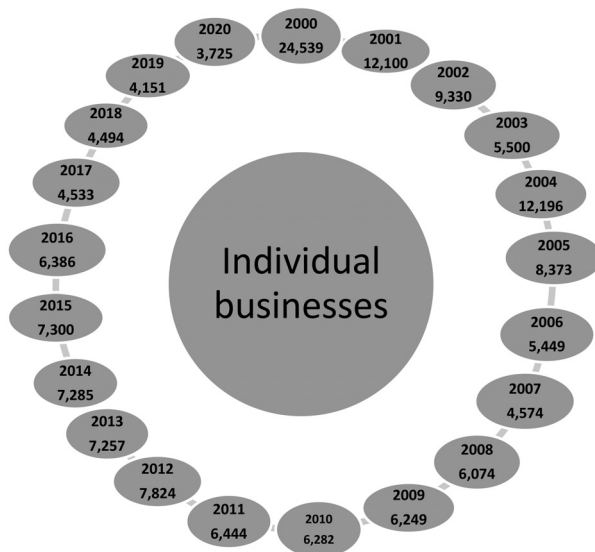


Figure 1: Individual businesses registered during the years 2000–2020

Source: Business Registration Agency, Ministry of Trade and Industry. See the official website: <https://ask.rks-gov.net/> (accessed January 2021)³⁶

Based on Figure 1 presented above, we can see that in 2020 we will have a lower number of business registrations as a result of the occurrence of the Covid-19 pandemic. Covid-19 has influenced the lack of interest in establishing new individual businesses as it has also negatively affected individual businesses established in previous years. It is understandable that there was no will to register individual businesses because it was seen as a risk to the existence of current businesses. The Covid-19 pandemic, with its occurrence, has frightened all of humanity, especially business owners. For them, it has been a new challenge and a new confrontation, first with a total lockdown, then with a gradual opening. The same challenge for businesses is continuing even now, but with a higher maturity for both the businesses and the state. Therefore, the present situation might serve as a wake-up call for the government, policymakers, businessmen, and environmentalists to cooperate together and manage ongoing issues.³⁷

³⁶ The request sent by the author to the Business Registration Agency in Kosovo regarding this data, and the receipt of these data were accepted by the General Director of KBRA, Mrs. N.S., on 16. 2. 2021.

³⁷ DEBATA, B., PATNAIK, P., MISHRA, A. COVID-19 pandemic! It's impact on people, economy, and environment. *Journal of Public Affairs*. 2020, Vol. 20, No. 4, Article 2372.



Figure 2: Businesses registered during the period 2000–2020

Source: Kosovo Business Registration Agency - Report on Basic Performance Indicators on Business Registration in Kosovo for 2020 [online]. [2021-02-17]. Available at: <<https://arbk.rks-gov.net/>>.

From Figure 2 presented above, we can see the number of businesses registered for the 20-year period. Of the total registered companies, about 77.22 percent of them are registered as individual businesses.³⁸ Some studies show that individual businesses generally have little desire to grow large, taking into account various reasons due to non-property benefits such as: being someone's boss, having flexibility in hours, etc.³⁹ A person who owns an individual business has unlimited personal liability for all debts and other obligations incurred, or imposed by law or contract, on an individual business.⁴⁰ This gives the owners as much confidence as possible in what they are establishing. Of course, some of them, after a certain experience, will have aroused the interest to transform this type of business organisation into another type of business organisation by joining the power with other partners.

³⁸ In: Kosovo Business Registration Agency – Report on Basic Performance Indicators on Business Registration in Kosovo for 2020 [online]. [2021-02-17]. Available at: <<https://arbk.rks-gov.net/>>.

³⁹ HURST, E., PUGSLEY, B. W. What do small businesses do? *Brookings Papers on Economic Activity*. 2011, No. 2, pp. 73–118.

⁴⁰ Article 48 paragraph of Law no. 06/L-016 on Business Organizations in Kosovo. In: Gazeta Zyrtare [online]. [2021-02-16]. Available at: <<https://gzk.rks-gov.net/actdetail.aspx?actid=2585>>.

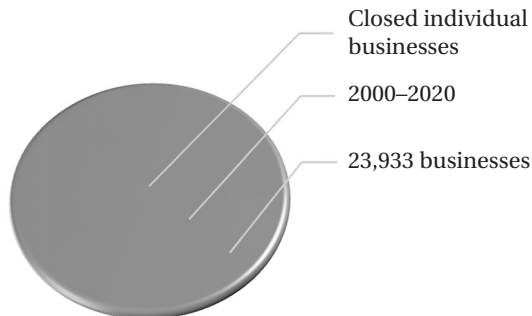


Figure 3: Closed individual businesses, during the period 2000–2020

Source: Business Registration Agency, Ministry of Trade and Industry. See the official website: <https://ask.rks-gov.net/> (accessed on January 2021)⁴¹

Much research has generally focused on the growth and success of businesses, with less on their failure.⁴² From a survey of 158 unsuccessful businesses, the results show that inefficiency in crisis management and a lack of marketing, financial resources, and human resource management are among the main factors influencing the failure of individual businesses.⁴³

The competition between individual businesses in Kosovo, within the branch where they operate, is intensifying every day, and this is for the benefit of consumers. The most successful individual business leaders need wisdom, a strong will to stay in a competitive environment, and to always be a fighter against negative phenomena in the market. To cope with rapid change, they need to make quick and complex decisions. Every business owner, in order to achieve their goals and objectives, needs a vision to assess the market situation, customers' demands, and protect the business from non-competitive actions that affect the closure of their business.

In the figure below you can see the businesses registered in the third quarter over the 6-year period.

⁴¹ The request sent by the author to the Business Registration Agency in Kosovo regarding this data, and the receipt of these data were accepted by the General Director of KBRA, Mrs. N.S., on 15. 2. 2021.

⁴² ARASTI, Z., ZANDI, F., TALEBI, K. Exploring the effect of individual factors on business failure in Iranian new established small businesses. *International Business Research*. 2012, Vol. 5, No. 4, pp. 2–11.

⁴³ *Ibid.*, pp. 2–11.

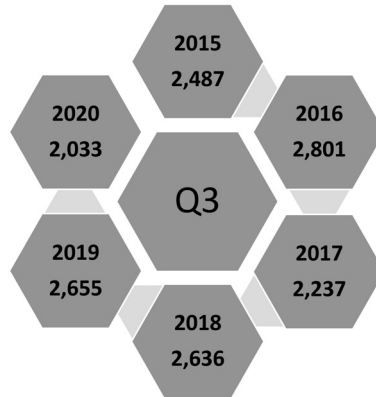


Figure 4: Businesses registered during the period 2015–2020 for the third quarter (Q3)

Source: Kosovo Agency of Statistics, *Statistical Repertoire on Economic Enterprises in Kosovo – Prishtina* (2020). See the official website: <https://ask.rks-gov.net/> (Accessed on: 23. 2.2021)

In Figure 4, we see the number of business registrations in the third quarter. If we analyse them by years, it can be seen that in 2020, the number of registered businesses is smaller compared to the years: 2019, 2018, 2017, 2016, 2015.

VI. CONCLUSIONS AND RECOMMENDATIONS

Individual businesses have the highest market share of all types of business organizations in Kosovo, and this may be due to the characteristics of their industry. The Government of Kosovo should have no registration fee for this type of business organisation. Also, for the first year after registration, they should be exempt from all state taxes so that, at first, they do not have a high financial burden.

The state should conduct research not only on the number of closures of these businesses but also on the factors that have influenced their closure. It is known that in 2020, the closure of these businesses was as a result of the Covid-19 pandemic, because the state had not taken decisions in time to financially support them to face the Covid-19 Pandemics. Individual businesses, even though they are small businesses, should seek opportunities for financial support not only at the time of the Covid-19 pandemics, but also after the end of the pandemics. The state must guarantee legal certainty not only for this type of business organisations but for all types of business organisations. The state must reform the legislation whenever it goes in favour of businesses and consumers. Furthermore, the state should base its policies on supporting businesses in times of pandemics and non-pandemics and include in their governing program the continued support of businesses in the country.

Although it is known that the state has its basis on the available budget, in order to increase budget revenues, it must nevertheless issue adequate decisions that pave the way for cooperation with businesses, to create facilities for their existence and development, so that together they can cope with this situation.