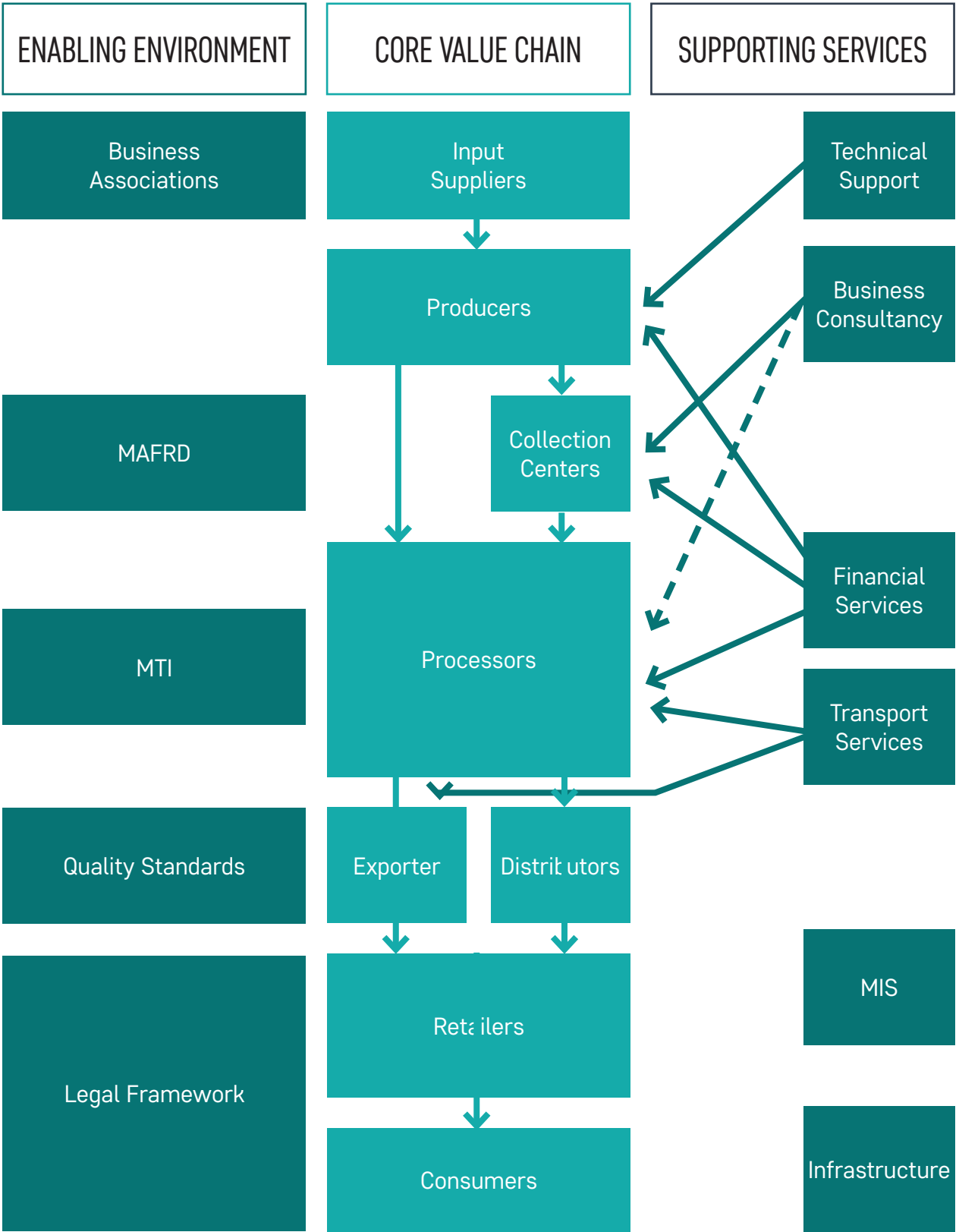



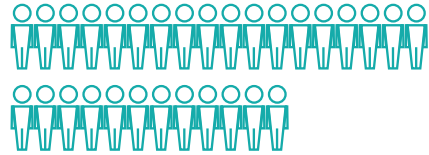









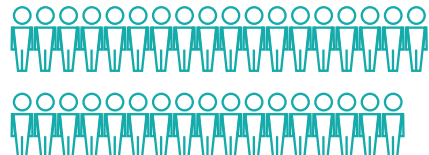








GRAPH 1: CORE VALUE CHAIN



SOURCE: PPSE, 2013

FIGURE 1: RETAIL CHAINS IN KOSOVO

Retail chain	NUMBER OF STORES	NUMER OF EMPLOYEES
① ALBI-MALL	14 	200 
② VIVA FRESH STORE	35 	3000 
③ INTEREX	5 	350 
④ MERIDIAN EXPRESS	35 	500 
⑤ MAXI	15 	300 
⑥ EMONA CITY	13 	550 
⑦ ETC	25 	3500 
⑧ SUPER VIVA	18 	800 
⑨ NERTILI	3 	160 
⑩ STAR MARKET	3 	25 

SOURCE: AUTHORS' CALCULATIONS

Besides IntereX, which targets low to medium income customers, and Meridian, which has small to medium sized stores, and targets medium to high income customers, other retailers do not have a clear segmentation strategy. The rivalry in this industry is very high as retail chains at time sell product at no profit just to increase the market share and gain market share from their competitors. The majority of these retail chains (6 out of 10) are distributors of imported products. Retailers who are distributors to well-known brands benefit from marketing budgets that those brands allocate to their distributors. As such, the retailers are motivated to promote and sell products they distribute themselves. Furthermore, another incentive to promote imported products is that profit margins typically are higher for imported products than those realized with local products (USAID, 2007). Until consumers demand more local products, retailers have little incentive to push them over imports when both are available (USAID, 2007). As such, local producers are at a disadvantage.

Regarding producers/processors, Kosovo struggles to maintain a healthy internal market where domestic producers/processors have a stable presence in the market. This is due to a weak economy and a young food industry. Kosovo’s domestic market is composed mostly of small-scale food processors, ranging from women associations that produce home-made products (PPSE, 2014) such as pickled food, fruit, vegetables preserves and canned vegetables to slightly larger companies that operate mainly in the dairy industry and to a minor scale vegetable and fruit processing. However, Kosovar domestic producers/processor struggle to compete with regional food processing companies as they mostly operate in the same industry. The biggest competition comes from neighboring countries of Macedonia, Serbia, Croatia, Slovenia and Albania.

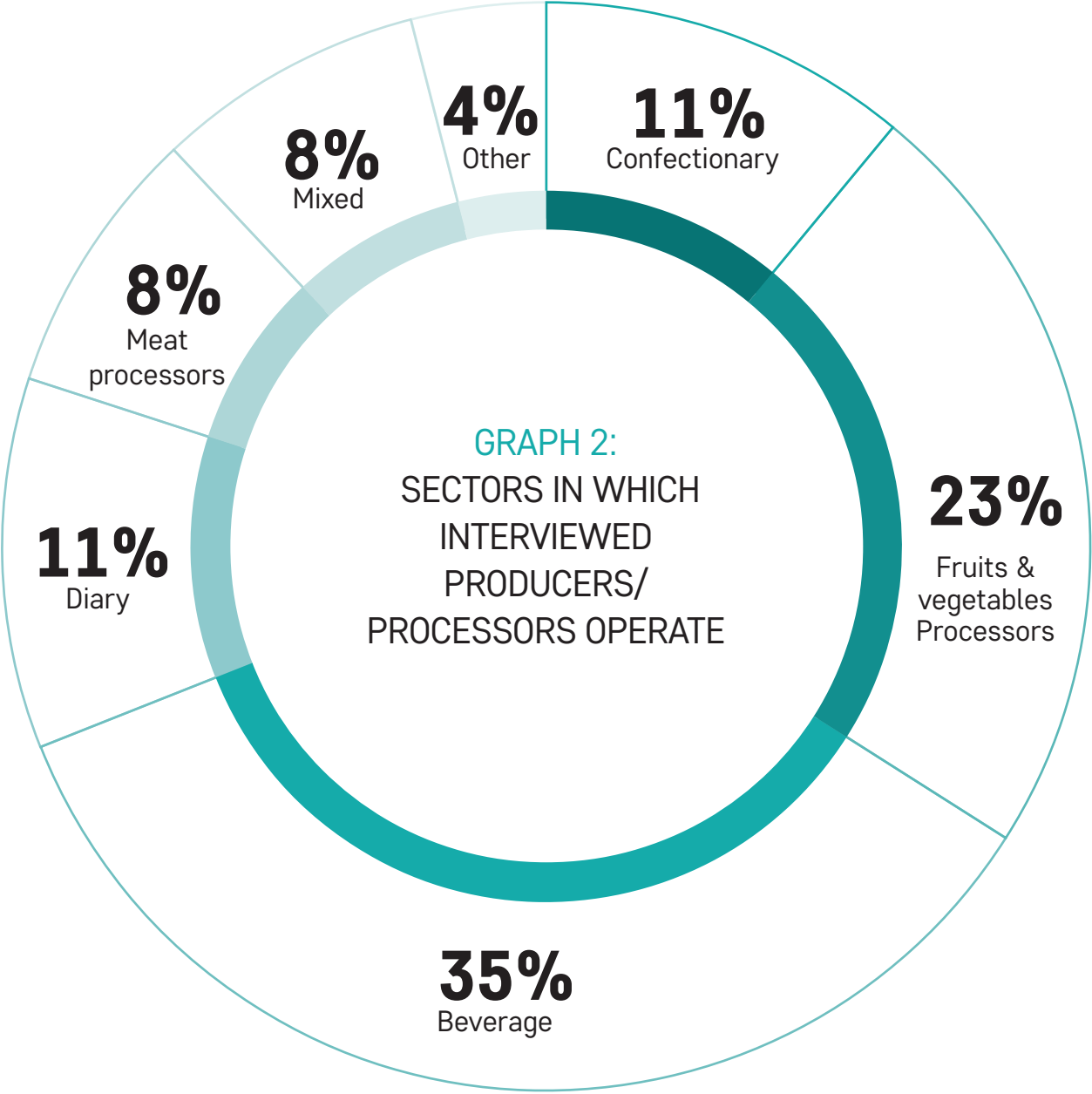
According to the PPSE study on food processing sector (2014), the tendency of consumers in Kosovo to consume domestic products has increased over the years. However, even with this increase, domestic products have limited competitiveness alongside imported products. The low level of competitiveness that domestic producers have in Kosovo is also mirrored in the annual Trade Balance Statistics. Data from Kosovo Agency of Statistics show a trade deficit of 2.5 billion Euros for year 2016, or in percentage trade deficit was higher by 4.6% compared to 2015 (KAS, 2017). So even for the last year the trade balance trend is negative.

Based on similar studies conducted for this sector, it is perceived that the agriculture sector, namely, the fruits and vegetables processing sector shows strong potential for growth and employment, and it is designated as a priority for Kosovo’s Ministry of Agriculture, Forestry and Rural Development (PPSE 2014; Recura Financials, 2014). Furthermore, our findings complements the overall situation of this sector where most of the food producers and processors focus on fresh production of fruits and vegetables and some of the producers also focus on fruit and vegetable processing. There is also a small but stable market in the dairy sector, comprised of several companies that have been established in past years such as Abi, RUGOVA, DRENA and Bylmeti as some of the largest ones operating in Kosovo. They also have voiced their concern and dissent surrounding their limited competitiveness and bargaining power, unfair trade practices and inefficient institutional supervision from the Government’s side regarding producers-retailers relationships¹.

Graph 2 shows the sectors in which producers/processors who are interviewed by the team operate in. The share in percentage stands as a sample that represent also the current market share of different producers/processors in industries in which they operate.

Business Membership Organizations (BMO) are an important stakeholder in the food processing sector. Currently, all BMOs in Kosovo, except Kosovo Chamber of Commerce (KCC), are non-governmental organizations (NGOs) operating on financial autonomy. The membership is based on voluntary principle. Until now, there are still no separate laws which regulate the activities of BMOs. There is a special law only for the establishment and the functioning of KCC. In general, there are few large BMOs in Kosovo, specifically KCC, American Chamber of Commerce in Kosovo (AmCham), and Kosovar Businesses Alliance (KBA), and many smaller BMOs that are established in recent years and are focused mainly on sectoral issues. An important sectoral BMO is Kosovo Manufacturing Club (KMC) which has been established in November 2015, as a non-for-profit organization. Members of the KMC are the biggest manufacturers in Kosovo, they own 23 factories with more than 15,000 people directly or indirectly employed by them.

¹ RTV21 (2017) – Standardi Yne.



SOURCE: AUTHORS' CALCULATIONS

The main goals of KMC are to develop forums and meetings that promote discussion and cooperation between members and government institutions for the development of the manufacturing sector, to organize activities in cooperation with state and private institutions in order to empower and promote products labeled 'Made in Kosova', to raise awareness among citizens about the positive role that domestic product consumption plays in the economic development of the country. Recently established BMOs are small in terms of staff and budget. Sectorial BMOs (at national level) are still in initial phases of establishment. BMO that operate in the food processing sector are mainly Organika, Pepeko, and Rukolla. In 2014, nine (9) different BMO that were operating in the agricultural sector and food processing were united under the umbrella of the Union of Agricultural Associations of Kosovo. BMOs that were included under the umbrella were Association of Milk Producers, Association of Poultry and Animal Food, Union of Vegetable Producers of Kosovo, Beekeepers League of Kosovo, Association of medicinal plants; Association of sheep breeders and Kosovo goats, Kosovo Millers Association, Umbrella of women farmers, and Union of Farmers' Associations of Mitrovica region. Sector level BMOs lack budget and other resources to develop activities and to provide services for their members. Currently, they finance themselves all activities, and many of the members do not see immediate benefits, therefore do not pay their membership fee regularly (Rinvest Institute, 2015). Every sectoral based BMO is small in financial capacities and has very few full-time workers, in some cases none (such as Organika, Pepeko, and Rukolla). This represents one of the key challenges for sector oriented BMOs in Kosovo. Essentially, their professionalism depends primarily on their financial and human resources capacity. As a rule, all sectoral BMOs are self-administered however they have tried to build democratic internal structures. Still, majority of them lack resources (especially human resources) to implement such structures.

The study focuses on four main aspects linked to relationship between retailers and domestic producers. Initially, the study analyses how are the terms of trade and contractual agreements made between retailers and producers. The study then analyses how are products selected by retailers and how are the products placed in store shelves. The study also depicts the legal infrastructure regulating the relationship between retailers and producers. Furthermore, the study presents and analyses the advocacy initiatives taken by domestic producers or business membership organizations to increase the negotiating

and bargaining power of domestic producers. Finally, the study presents recommendations that would help balance the relationship between retailers and domestic producers.

Results of the study show that the negotiating power between retailers and domestic producers is imbalanced, with retailers having higher power. As a result, retailers are taking advantage of that position by delaying payments to producers/processors, requesting sales rebates and volume rebates², and returning unsold products. Retailers request from producers to pay for shelf space. The prices vary depending on the position and time. Front positions are more expensive than secondary ones. Some retailers even ask producers to pay for regular shelf space. Retail chains also ask producers to put on hold an initial deposit. The amounts required for the initial deposit vary from 1000 to 5000 Euros. That amount of money is put on hold for a period of time, lasting up to one year. Retail chains also ask producers to offer in-store promotions/discounts for their products. In order for the product to be placed in the retail store promotional magazines, the producer need to offer promotional prices, which a times leads to a 30% discount. Some retail stores require from producers that the first badge of inventory be offered for free to the retail chain. Furthermore, producers are required to take back the products that have expired dates or substitute them with new ones. Producers do not complain to the enforcing authorities due to the fear that the retailers might terminate their contract and discontinue cooperation in the future.

This study is organized as follows: the second section presents the research methodology. Here a detailed description of the research process is outlined. The third section presents the findings from literature review. Here an analysis of the initiatives undertaken in Albania, Macedonia, Montenegro, Serbia, Croatia, Romania and Bulgaria to balance the relationship between producers and retailers is outlined. The fourth section presents the findings from the interviews conducted with five different stakeholders: i) producers, ii) retailers, iii) subject matter experts, iv) government representatives; and v) business membership organizations. The fifth section provides conclusions and policy recommendations.

2 "Rebate" means the return of a payment or a partial payment that serves as a discount or reduction in price. Rebates are usually given by retailers or producers in certain products.

2. Methodology

In order to provide accurate and valid data for the research study, Riinvest team has conducted semi-structured in-depth interviews with large and small domestic producers/processors, retail chains operating in Kosovo, subject matter experts, representatives of state institutions (i.e. Ministry of Trade and Industry, Food Agency, National Food Authority), and business membership associations and chambers of commerce in Kosovo. The main reason for interviewing different stakeholders was to get a clear picture from all the stakeholders involved in the final stage of the supply chain, more specifically producers and retailers. Interviews were conducted face to face, at the respondent's place of work. Potential respondents were initially contacted by Riinvest and invited to participate in the study. The sampling procedure for the survey was non-random. However, Riinvest team has interviewed majority of retail chains operating in Kosovo, including those that operate and cover only specific regions of Kosovo. In order to have a more comprehensive understanding of this relationship, a total of 25 interviews were conducted with domestic producers in Kosovo ranging from small producers to large and already established producers. The sectors in which they operate are mostly in food production/processing with one exception in the hygiene sector. The concept of interviews and the content of the questionnaires were in line with the above mentioned objectives of the study. Interviews were conducted between January 2017 and February 2017.

With an initial list of the interviewees determined beforehand, and following a snowball sampling procedure, Riinvest team have managed to interview 48 different stakeholders. Interviews conducted are the following: i) Domestic producers/processors (25); ii) Largest local retail chains (10); iii) Representatives of business associations and chambers in Kosovo (5); iv) Local experts of the respective field (3); and v) Representatives of state institutions in Kosovo (5).

The interviews were semi-structured around a consistent set of topics based on the objectives of the study. Within each topic area, questions were open and broad in nature. So, whilst we have at-

tempted to provide an indication of how widely the reported perceptions and views were held, such information should be treated with some caution. For anonymity's sake, they have not been attributed to particular individuals. Unlike structured interviews, which contain a strict sequence of questions, semi-structured interviews are open and flexible, encouraging two-way communication and thus allowing new ideas to be brought up during the interviews. In this way, the interviews will deliver not just answers, but also details and explanations on the answers. Semi-structured interviews mostly contain open-ended questions, however, some closed questions (yes-no answers) are also included. Every session is tape recorded (with the respondent's consent), transcribed and carefully analyzed. A standardized interview guide with set questions is followed, to enable comparison between answers of different respondents. Since five different stakeholders were interviewed, five different questionnaires were drafted. Each questionnaire was tailor-made to the type of stakeholder to be interviewed. Special attention and time was devoted to the questionnaires since they were the main mechanism through which primary data were gathered. The questionnaires contained questions related to: (i) the presence of domestic products in retail chains; (ii) conditions, tariffs, and contract modalities that determine the presence of local products in retail chains; (iii) identification of formal and informal barriers to domestic producers/processors (taking into consideration differences according to their size and bargaining power) that hinder their access in retail chains; (iv) conditions and rules for access and product placement in retail chains between local producers/processors (small and big) and imported products. Questionnaires were tested before interviews started and necessary amendments were made.

Another part of the research methodology consisted of findings drawn from secondary research for countries such as Macedonia, Albania, Montenegro, Serbia, Croatia, Romania and Bulgaria. It is important to note that the findings from secondary research have shown that the regulation of the relationship between producers and retailers is a current issue in both the EU member countries and

regional countries. All initiatives undertaken to regulate this relationship have not yet produced any substantial results as they are recently introduced or are in the way of being introduced. Therefore, little information was drawn regarding the experiences of other countries in regulating the relationship between producers and retailers.

The findings drawn from the semi-structured interviews, opinions of industry experts and available studies will reveal the relationship between retailers and producers/processor operating in Kosovo. Accordingly, a relationship that is imbalanced in power creates unfair competition and may lead to unfair trading practices (UTPs). Thus, the final conclusions on the how to balance the relationship between retailers and producers/processors will be highly instructive in developing important policy recommendations.



Another part of the research methodology consisted of findings drawn from secondary research for countries such as Macedonia, Albania, Montenegro, Serbia, Croatia, Romania and Bulgaria. It is important to note that the findings from secondary research have shown that the regulation of the relationship between producers and retailers is a current issue in both the EU member countries and regional countries.

3. Literature Review

Business-to-business (B2B) relations in the food supply chain are a key element of a functional commercial system. Imbalances in the B2B relationships which result from deviations from “good commercial conduct, contrary to good faith and are unilaterally imposed by one trading partner on another” are known as unfair trade practices (UTPs) (European Commission, 2014). UTPs are not necessarily unlawful, instead they result from the different bargaining powers of the parties involved in the supply chain and the level of market concentration.

UTPs can be of two types, first, there are unfair practices that take place during negotiations between parties in the supply chain and which lead to contracts that are highly favorable to one of the parties and unfair to the party with the lower negotiating power. Second, there are UTPs which occur at the stage of the execution of the contract (European Parliament, 2015). In the latter group belong unfair commercial acts like breaches of contract, delays in payments, pricing below the costs of production, unfairly switching costs or risk, use of confidential information, requesting a fee for services not rendered or that are provided although not contracted, unilateral or retroactive changes and terminations of contracts with or without an adequate notice, etc.

Unfair practices in the B2B relations are harmful for SME-s and consumers in general. The inability of SME-s to successfully access retailers results in financial imbalances for them, as well as loss of ability to invest or expand the business. Consequently, consumers are harmed by the damaged competition in the market and the reduced choice.

Attempts to fix UTPs are relatively new in the regional and European markets. Finding legal means to address problems related to UTPs in the B2B relationships of the food supply chain has been an important topic for the South-eastern European countries and a high priority on the agenda of the European Commission (EC) and the European Parliament since 2009.

Following previous discussions of market failures in the food commercial chain at the EU level, in 2010 the EC established the ‘High Level Forum for a Better Functioning Food Supply Chain’ with the purpose of finding ways to protect small producers and retailers from UTPs. The information collected by the commission proved a high level of exposure to UTPs for all participants in the food supply chain. Subsequently in 2013 the commission presented a green paper (a tentative government report on proposed policies) which reviewed the legislation against unfair practices as well as competition legislation. An important issue raised was that the legislation against UTPs aim to regulate contractual relationships between parties by determining the terms and conditions of the relationship, regardless of its effects on competition and the economy. The report suggested granting powers to national authorities to accept anonymous complaints and impose appropriate measures (Green Paper, 2013). To this day, the EC remains of the position that there is no ‘one-size-fits-all’ solution to unfair commercial practices and there cannot be an EU level legislation that regulates the B2B relationships, instead it suggests that the regulations must be made at the national level (European Parliament, 2016).

In the region, problems arising from the UTPs in the food supply chain are mainly addressed by Competition Law, Contract Law, Laws on Internal Trade and Regulatory Measures. The approaches to these laws can either (1) give provisions for an individual treatment of the cases of UTPs or (2) specify UTPs in detail and make them illegal. The first approach is resource costly but flexible, as it provides a case-by-case economic and contractual assessment of commercial practices, whereas the second approach is easier to enforce, but less flexible (European Commission, 2016).

In Kosovo, commercial conduct is regulated by the Law on Internal Trade, Law on Competition, Law on Private Enforcement procedures, Law on Obligational Relationships and Law on Late Payments in Commercial Transactions. These laws partly cover



An important limitation of the Kosovo competition legislation is the treatment of cases that involve a dominant position player only. This means that unless there is a firm with more than 40 percent of the market involved, hence a dominant position, the competition authorities will not legally see commercial conduct as unfair.

the relationship between parties in different stages of the supply chain but are not exclusively dedicated to legally regulating B2B relations. UTPs are not explicitly identified or treated. The Kosovo laws mentioned address elements on the design of contracts, execution, and enforcement procedures.

An important limitation of the Kosovo competition legislation is the treatment of cases that involve a dominant position player only. This means that unless there is a firm with more than 40 percent of the market involved, hence a dominant position, the competition authorities will not legally see commercial conduct as unfair. SMEs will inherently suffer from low bargaining power and the resulting UTPs in relationships with strong players which are very important but have less than 40 percent of the market. To illustrate, a common problematic B2B relationship in Kosovo is the relationship between SMEs and big retailers, as retailers have bigger negotiating power and are privileged when deciding the terms of commerce (in the following sections we provide detailed data on this topic).

It must be noted that, in overall, a drawback of executing laws against UTPs is the 'fear factor'. So, even when the legislation is in place there is possibility that the weaker party does not take legal action against UTPs but accepts them due to concerns that the strong party would end the commercial partnership if they do so.

The Law on Late Payments in Commercial Transactions in Kosovo is an example of new legislation that addresses unfair practices from failures to execute contractual agreements. Yet, the authorities will only consider misdemeanor related to the cases of delayed payments that are declared by the parties engaged in the contract. Ultimately the success of this law in resolving the unfair practice of delayed payments will be constrained by the 'fear factor'.

The Macedonian government seems to have realized this limitation and stipulated an additional

element to their law on the issue of delayed commercial payments, the Financial Discipline Act. To reduce the effect of the 'fear factor' and the difference in power among commercial parties, Article 14 of this law authorizes public institutions (Financial Inspection in the Public Sector and the Public Revenue Office) to initiate misdemeanor proceeding in situations where they find a breach of the act during their inspections, regardless of whether the creditor has filed a lawsuit (Gjorgjioski, 2015).

Countries of the region are also at a stage of identifying UTPs, holding public debates and creating regulatory measures or legislation against them. Romania has been one of the first countries in the region to pass a bill that directly deals with UTPs in the producer-retailer relationship. In 2016, with the purpose of balancing the negotiation power and economic benefits among producers and retailers, Romania passed the Law on the Protection of Domestic Products that obligated all supermarkets with more than 2 million euro turnovers to offer at least 51 percent of their food range from local producers (Romania-Insider, 2016). This measure was accepted with enthusiasm by local producers, but the EC reacted on Feb 15, 2017 to it by requesting an immediate review of the law as it argued that the law runs counter the EU principle of the freedom of movement of goods and freedom of establishment (European Commission, 2017).

Similar developments have characterized the situation in Bosnia and Croatia. Bosnia is at a stage of leading public debate on identifying remedies against unfair practices. The intention of the administration is to introduce protectionist measures for local producers which require 50 percent of food merchandise in supermarkets to originate from local producers. Croatia has also drafted the law on the Prohibition of UTPs in the first quarter of 2017. The purpose of this law is to prohibit systemic unfair commercial practices that damage domestic producers including practices such as 'unfairly switching costs or entrepreneurial risk, requesting

a fee for services that are provided although not contracted, unilateral changes to contractual terms and termination of contracts with suppliers without or with inappropriate short notice, etc.’ (Hina, 2017). Among the most important remarks about this law raised by the EU agency, Enterprise Europe Network in Croatia are the complaints that (1) there is an overall ambiguity in the law, (2) the prohibition of the logistics fee is considered disproportional towards the retailers since all parties engaged in the supply chain benefit from the logistics, (3) there is lack of discretion available to the authorities in dealing with law violations, and (4) contracts with retailers should go through longer periods of re-negotiations (12 month) (Stipić, 2017).

The situation in Albania, Montenegro, Macedonia and Serbia is similar to that in Kosovo, where commercial conduct is regulated by laws on competition and trade. Instead of determining legislation that directly addresses UTPs, there have been multiple non-regulatory initiatives. For instance, to protect small local producers from their weaker position in the market, countries have set up promotional campaigns that aim to raise the awareness of purchasing from local businesses.

The ‘Macedonian Sun’ campaign is an example of a project implemented for the promotion of domestic products. Within the project implementation, the national sun symbol and text ‘Made in Macedonia’ were put on product packaging and fiscal bills of local products. In order to get the national sun promotional sign, products have to meet specific requirements. Therefore the sign not only builds a broader national and international recognition, but it also reflects a higher quality of the product (Faktor, 2013).

3.1 RETAIL SHELF-SPACE MANAGEMENT AND SALES

The discussion of legal regulations above shows that regulating shelf-space is a common form of addressing UTPs between retailers and producers in the Western Balkans. To explore the relevance of this legislation as well as the importance of shelf space, we review the literature on the effect of shelf space on sales. The methodology employed in testing the importance of shelf space allocation is typically experimental with researchers manipulating the customer experience and supermarket traffic through different store layouts and product positioning.

Among the earlier influential experiments, Dreze et al (1994) tested through field experiments the role of two different shelf management techniques, (1) customized shelf sets that were based on customer movement patterns and (2) reorganization of product placement to facilitate cross-category shopping. The modelling of the impact of shelf space showed that there was a large impact of product allocation on sales, with sales of individual products increasing significantly once relocated to follow movement patterns.

Except for the overall organization of shelves, there are many arguments about the influence of different product positioning within the retail shelves (the aisles, the center of the shelves, etc.). Sigurdsson et al (2009) tested the effect of sales of the same potato chips when placed on the high, medium or low shelf of the supermarket. Sales of the tested potato chips brand were highest when the chips were positioned on the middle shelf, in which case, on average the tested brand received a 12 percent higher proportion of sales.

Thus, as it is intuitively expected, studies of different shelf positioning of products in the retail chain affect sales differently. Although, this relationship is not uniform among all products or stores

4. Main findings from interviews

This section of the report presents the findings from the interviews conducted with five different stakeholders from the retail sector such as: 1) producers, 2) retailers, 3) business membership organizations; 4) experts; and 5) government institutions. Section 4.1 presents information on the terms of trade and contractual agreements; section 4.2 presents information on product selection and shelf placement; the following section, 4.3 depicts the legislative infrastructure regulating the relationship between retailers and producers; and the final section of this part, 4.4 presents advocacy initiatives undertaken by businesses membership organizations.

4.1 TERMS OF TRADE AND CONTRACTUAL AGREEMENTS

First part of the interview was related to terms of trade and contractual agreement between producers and retailers. However, before dwelling into such questions, producers were asked to provide information on their value chain. Most of the domestic producers operating in Kosovo obtain the raw materials domestically, whereas, packaging, containers, and some other ingredients are imported from abroad. Domestic producers need to import packaging and containers, since they cannot complete the value chain of their products in the domestic market. This creates additional costs for producers and influences to a large scale the final price of their products. Majority of the domestic producers serve the domestic market and all of them stated that their aim is to increase the level of export since they find it more cost-friendly to focus on the export. Around 90 percent of the producers interviewed already export abroad. The average ratio of export and selling the products in the domestic market is 80 percent to 20 percent in favor of serving the domestic market. Majority of producers interviewed stated that they sell their

products through retail chains operating in Kosovo. They also stated that they incur additional costs while selling their products through retailers.

All producers stated that they are the ones who approach the retailers and present their products. Producers sell their products in the majority of the retailer chains in Kosovo. The most mentioned ones are Elkos-ETC, Albi, Viva Fresh, Super Viva, Meridian, Interex, Emona City, etc. It is noteworthy to mention that smaller producers have also partnerships with regional retailers that only serve a region or a city in Kosovo such as Abi-Elif in Prizren or Nertili in Gjakova. When it comes to deciding the final price, domestic producers present the price of their product to retail chains, which then add their margin and set the final price of the product to be sold in their stores. This is a common practice worldwide as retailers set their own profit margins.

Regarding payments, almost all produces stated that retail chains do not pay on time. Although both parties agree together on the payment terms, retailers do not respect the time. They prolong the payments, causing in this way liquidity problems for businesses especially for smaller producers who need the money. Meanwhile, according to producers, distributors who import products in Kosovo pay the foreign producers upon ordering the product. This procedure puts domestic producers at a disadvantage toward foreign producers who get the money. Domestic producers end up with liquidity problems which impacts their operations and quality. Foreign producers, on the other hand, can continue to operate and maintain the quality of their products.

According to producers the conditions that retailers set for selling products under retail chains are: i) sales rebates varying from 3% to 10% (2% once the producer distributes the product and 8% at the end of the year), ii) volume rebates varying from 2% to 5%, iii) payments for shelf spaces, iv) initial deposit which is held on hold for a year, v) offer in-store

FIGURE 2: CONDITIONS FOR SELLING PRODUCTS UNDER RETAIL CHAINS



SOURCE: AUTHORS' CALCULATIONS

promotion/discounts (weekly and/or monthly, percentages vary from 10%-30% additional discounts) vi) offer the first badge of inventory for free, vii) return the expired products to producers or substitute the expired products with new ones. All the conditions set, impose extra costs to domestic producers. Showing that, in the value chain, significant costs for producers are added at the retailer part.

Domestic producers claimed that the conditions that retailers set for producers create substantial costs for their companies. Furthermore, due to high competition from imported products, domestic producers have to lower their final price in order to be more competitive. This puts domestic products at a disadvantage compared to imported products, as imported products have marketing budgets and financial resources to afford costs set by retailers. Furthermore, majority of retail chains in Kosovo are distributors of imported products, and as such they get marketing budgets from producers of imported products. Retailers can use those marketing budgets to promote products they distribute and offer in-store promotions and discounts. Domestic producers do not have such options.

A number of producers have also complained about dumping practices. They stated that imported products are being sold at a price lower than production cost or below the price charged in its home market. Such practices enable imported products to be priced

lower than domestic products and as a result impact negatively the sale of domestic products. To avoid such practices by retailers, producers required tighter control from governmental institutions.

Producers also stated that retail chains do not offer storage space in their warehouses to domestic products. Meanwhile, they reserve the space for imported products that they bring in bulk. As a result, domestic producers are required to constantly check for inventory in each store and send the products as needed. This complicates their logistics activities and increases their logistics and transportation costs. Furthermore, an employee from the company needs to do frequent inventory checks in retail chain stores in order to know if the store has enough stock.

Furthermore, producers stated that retailers return unsold products or products that have expired date to producers. This is especially true for dairy products. Meanwhile for dairy products that are imported, retail stores usually offer in-store promotions in order to make sure that they are sold. Domestic producers are again at a disadvantaged position compared to imported products as imported ones are sold while domestic producer has to bear the cost of returned goods.

All producers stated that the contractual agreements made with retailers are written and signed by both parties. When it comes to the level of respecting

the stipulated contractual agreements, almost all domestic producers stated that the agreements are respected, however, the way in which these agreements were designed to a large degree work against the domestic producers and usually these contracts are written based on the conditions that retailers set and usually inclined to their benefit. According to producers, they are obliged to accept the terms of trade that retailers set for them as they have no other option. This leads to producers ending up selling at a lower price and incurring more costs, affecting in this way the operations of the company and profitability.

Producers stated that they do not see it reasonable to terminate the contract with a retailer since the retail chains are their main source of contact with the final customer. Nevertheless, the majority of domestic producers claimed that the negotiations of the contract, and the subsequent changes and conditions that retailers might set for producers are a constant part of the relationship and business-to-business practices with retailers. Only a couple of producers have stated that they have terminated the contract with a retailer and that has happened due to payment delays. Producers stated that these terminations were unavoidable since the strong negotiating-power of retailers made it impossible to further continue business activities with them. This uneven relationship further exacerbates the already difficult position of the domestic producers in the market. Because of not wanting to jeopardize the business relations with retail chains businesses end up agreeing to the often unfair conditions of the counter-party with greater bargaining power. This impacts negatively the operations, profitability, and growth of the company.

Opposite from producers, all retailers that were interviewed stated that the terms of trade are decided in close cooperation with distributors of imported products and domestic producers. According to retailers, both parties reach agreements on the terms of payment, price, and targets on the amount of products to be sold during a year. The terms agreed are usually signed in a contract that is valid for one year. Retailers also stated that the terms of trade are dependent on the type of product and how long can it be used for. Only one retailer stated that retailers are in advantage when negotiating with producers and that is due to the fact that imported products are sold in much higher quantities than domestic ones. One reason for higher sale of imported products could be the narrow line of domestic products. Few retailers mentioned that there are usually minor complaints from producers.

Another retailer mentioned that there are usually a lot of complaints from producers for the terms of trade and stated that producers are to be blamed due to lack of planning and mismanagement of their production. A different retailer mentioned that the main complaints are related to shelf space and position. Another retailer mentioned complaints come mainly due to the fact that domestic producers “try to present themselves as social welfare cases and require from retailers to support them because they ought to support domestic producers”. From these statements it can be concluded that retail chains have a tendency to see domestic producers, especially smaller ones, as unprofessional business partners. One of the retailers went one step further to propose that domestic producers need consultancy services in how to negotiate with retailers and stated that retailers are the ones who need to complain since domestic producers are usually late in delivering the products. Another retailer stated that with a larger distributor of imported products they do not have a lot of room for negotiations, meanwhile with smaller ones they have more room for negotiating. Such information provides ground to believe that retailers have a similar negotiating power with large distributors of imported products. However, the same is not true for domestic producers who are smaller and have a much lower negotiating power. This means that large distributors can negotiate on the price, sales rebates, volume rebates, and shelf price. Furthermore they can require immediate or shorter payment terms. Domestic producers, especially smaller ones, are in the opposite end of spectrum. They do not have the power to dictate conditions or payments terms. As a result, they end up agreeing to unfavorable conditions and have lots of account receivable, impacting in this way their everyday operations. Producers have claimed that they end up having problems paying their suppliers and employees, putting at risk the functioning of the company.

Regarding terms of payment, retailers mentioned that payments for products range from 7 days to 90 days. The time depends on the type of product and how long does it last. If it is a dairy product the payment deadline is usually 7 days after having received the product. If it is a hygiene product it can go up to 90 days. The payments terms are stipulated in the contract and according to retailers they are respected. One retailer mentioned that it does not depend on the type of product but on the distributor or producer. The larger the distributor is the more rules the distributor or producer can impose

and can require faster payments. The smaller the distributor is the longer the payment time. Retailers also mentioned that there are no differences on the terms of payment between imported products and domestic products when it comes to terms of payment. One of the retailers mentioned that for some imported products they have to make the payment once the product is received. This shows once more that foreign producers are at an advantage over domestic producers. They get the payments on time and can plan their activities accordingly. Meanwhile, domestic producers end up with liquidity problems.

Retailers mentioned that no changes in the terms of the contract ever happened from either side. However, there were cases of contract termination which usually have occurred by larger retailers and they occurred when the distributor or domestic producer did not provide the quantity of products as agreed or the supply was not done on time. According to retailers, the main reason for unsatisfactory supply is mismanagement from domestic producers. The mismanagement is mainly noticed from smaller producers who do not have enough financial and human resource capacities. Retailers blamed the mismanagement on the fact that domestic producers handle the distribution of the products themselves. According to retailers, domestic producers need to focus only on production and have the products distributed through an authorized distributor. Only few producers, that are mainly large and well established, have created their own distribution companies and distribute the products on time. Another reason for contract termination is inconsistent quality of the product. Inconsistent quality happens when two packages of the same product do not have the same quality or quality is decreased through time. Retailers stated that domestic products are not consistent in quality. Rather, as time passes producers tend to decrease the quality. Retailers have stated that consumers notice when a product is not consistent in quality. For those products that were inconsistent in quality, retailers decided to terminate the contract.

According to experts, business to business relations in the retail market are not equal in terms of power. Retailers have higher negotiating power than domestic producers. This is mainly as a result of a high concentration of domestic producers on similar products resulting in this way in a higher offer. Another reason for higher negotiating

power is the large number of alternative products from import. As a result of higher power, retailers have the last say in negotiating agreements and producers end up agreeing to deals that are not satisfied with because otherwise they will not be able to sell their products. Based on experts' views, the main obstacles faced by producers are liquidity problems due to delayed payments by retailers. One expert mentioned that the payments are delayed not due to lack of money by retailers, but retailers give priority in terms of payment to importers or big distributors such as Cola Cola. This statement is similar to what producers have stated. Such a practice puts domestic products at a great disadvantage compared to foreign ones. By getting the payments on time, large distributors do not have liquidity problems and can grow. Domestic producers have problems operating due to liquidity problems caused by delayed payments. Some producers even end up shortening the number of employees due to financial problems. As a result, producers end up putting their focus on trying to figure out how to function every day and cannot plan on expanding. Experts also stated that contractual agreements are not respected by retailers as they delay payments to distributors and ask for rebates at the end of the year. Producers cannot file a complaint at the respective institutions or take the case to court since if they do so they will lose market and cannot sell their products at the specific retailer anymore. In this way, producers are left in limbo, where they do not have the power to act but rather need to wait until a resolution is offered by the government as the third party.

According to representatives of government institutions, the overall retail market in Kosovo, in regard to business-to-business relations, is stable. However, there are still obstacles that producers face when dealing with retailers. The main obstacle faced by producers in day-to-day business with retailers is delays in payments, causing in this way liquidity problems for producers, especially smaller ones. Another obstacle faced by retailers is constant demand by retailers towards producers to decrease the prices of their products by offering in-store promotions and end of year rebates. Lately, the Kosovo Dairy Association has filed a complaint at the Ministry of Trade and Industry, more specifically at the Trade Department and Trade Inspectorate, complaining about the unfair treatment of retailers towards milk processors. Their claim was that retailers require a lot of financial payments in order to place their products in shelves, but produc-

ers cannot afford those payments. Retailers also ask for rebates at the end of the year which are not specified in the contract. Almost all government representatives stated that local producers are not in the position to fully exercise the rights set in the contractual agreement. Furthermore, government representatives stated that retailers have higher bargaining power than producers, resulting in this way in unfair competition. One government representative stated that domestic producers are in the phase of development which is characterized by inferior behavior. One public institution representative stated that frequent controls in supermarkets would help increase the bargaining power of domestic producers. Another public institution representative suggested that the government should offer subsidies to producers. Another government representative suggested that the government should improve the legal infrastructure such that it is regulated by law that retailers cannot require extra conditions besides the ones stipulated in the contract.

Business Membership Organizations in Kosovo play an integral part in the efforts to deal with lobbying and improving trade practices between domestic producers and retailers. As such, in this report they are represented in a sample of five interviews analyzing the general situation of the domestic producers in regard to business-to-business practices with retailers in Kosovo. Interviews were conducted with women's association SHE-ERA, Kosovo Chamber of Commerce (KCC), American Chamber in Kosovo (AmCham), Kosovo Business Agency (KBA) and Organika.

BMO representatives stated that there are barriers that domestic producers face in their relationship with retailers. The most important barriers that they emphasized are trade conditions set by retailers, placement fees, payments for storage and delays in payments which cause liquidity problems for producers. These barriers, especially delays in payments are the same for small producers and large ones. According to BMOs, domestic producers are in an imbalanced relationship with retailers and this is reflected in their low negotiating power. All of the BMOs representatives have stated that smaller producers face lack of negotiating power and financial capacity to promote their products and as a result are unable to reach agreements on a long-term basis. Larger domestic producers are able to reach long-term agreements but lack human resources capacities. The high cost of do-

mestic production is justified by lack of economies of scale, unfavorable fiscal policies, payment of customs duties on raw materials, while imported products are subsidized by the countries of origin and enter the market with lower prices. Regarding contracts, BMO representatives stated that contractual agreements between producers and retailers are always signed but they are not respected by retailers. That is mainly due to lack of negotiating power of domestic producers and ineffectiveness of the courts to proceed with cases. Private enforcement agencies are doing a good job in terms of contract enforcement, but there is still a gap in the legal framework. AmCham offers arbitration services and recommends that its members include arbitration clauses in their contracts, but this service is rarely used. KCC also offers arbitration services if agreements are not respected and insists on being included in the contract but so far very few businesses use the service. According to BMO representatives, businesses are obliged to agree to changes in conditions in the contract only not to jeopardize their reports with retailers.

4.2 PRODUCT SELECTION AND SHELF PLACEMENT

Another important part of the interview was product placement, procedures and conditions which are needed to be fulfilled by producers in order for the product to be placed in shelves. In most cases, producers have stated that they have little decision-making power where their product is placed on the shelves. Retail chains have their internal rules on how they place products in their stores and they set the prices for shelf places. Producers who have the financial resources to pay for front shelf spaces can have a say where their product is placed. However, as long as the producers cannot pay for favorable shelf space, retailers can position the products wherever they see fit. Yet, producers stated that even when they have paid for a specific position, there were cases where the agreement negotiated on product position was not respected and in some cases retailers exercised their power and delisted the product without the consent of the producer. Furthermore, producers claimed that the shelf space provided is insufficient for their products, and that products are usually placed in less accessible places to the consumer's reach. This impacts negatively the sale of domestic products



Experts related to the field were also asked about products placement in retail chains. Similar to retailers, they also stated that the product placement ratio of imported products to domestic products in

90% to 10%

as shelf space is very important factor for the sale of a product. Producers are fully aware of the importance of shelf placement for products where a better placement of their products brings higher sales. In order to make sure that their products are placed well, producers have to spend energy and additional finances to control and inspect the shelf placement of their products which is required based on their experiences with wrongdoings from the retailers side. Moreover, this unfavorable position affects especially small and newly established producers, who because of their low bargaining power have to face more arbitrary conditions and accept the contractual agreements even though it can lead to business losses.

There have been multiple cases, as claimed by producers, that because of not wanting to jeopardize the business relations they ended up agreeing with unilateral conditions set by retailers. Although domestic producers never complained with any agency or institution dealing with producers-retailers relationship, namely, Kosovo Competition Authority (KCA), they have employed private enforcement agents to deal with cases where there were delays in payments. However, it should be noted that these cases are very few. The reason for not contracting a private enforcement agent is that producers fear that retailers will not continue to sell their products. Producers also mentioned that they have very low confidence in the judicial system. Another important issue, for which producers have expressed concern, is the payment for sales rebates and volume rebates which are demanded by retailers but which are not included

in the initial contract and is considered as one of the most unfavorable conditions set for domestic producers. Such rebates increase the cost of goods sold to domestic producers, impacting in this way their finances and profitability.

Taking into account the high level of trade deficit in Kosovo, almost 2.5 billion euros for end of year 2016 (ASK, 2017) or stated otherwise percentage of imports covered by exports is only 11.1%, the present situation seems to be very difficult for domestic producers. Domestic producers claimed that although they have raised the issue of their unfavorable position in the domestic market with KCC, the results have not been satisfactory. This, by producers, is due to connections that retailers have with importers where almost all retailers are also distributors of imported products. As such, producers end up operating in an environment full of challenges that does not allow them to use their potential to the fullest and compete effectively with imported products.

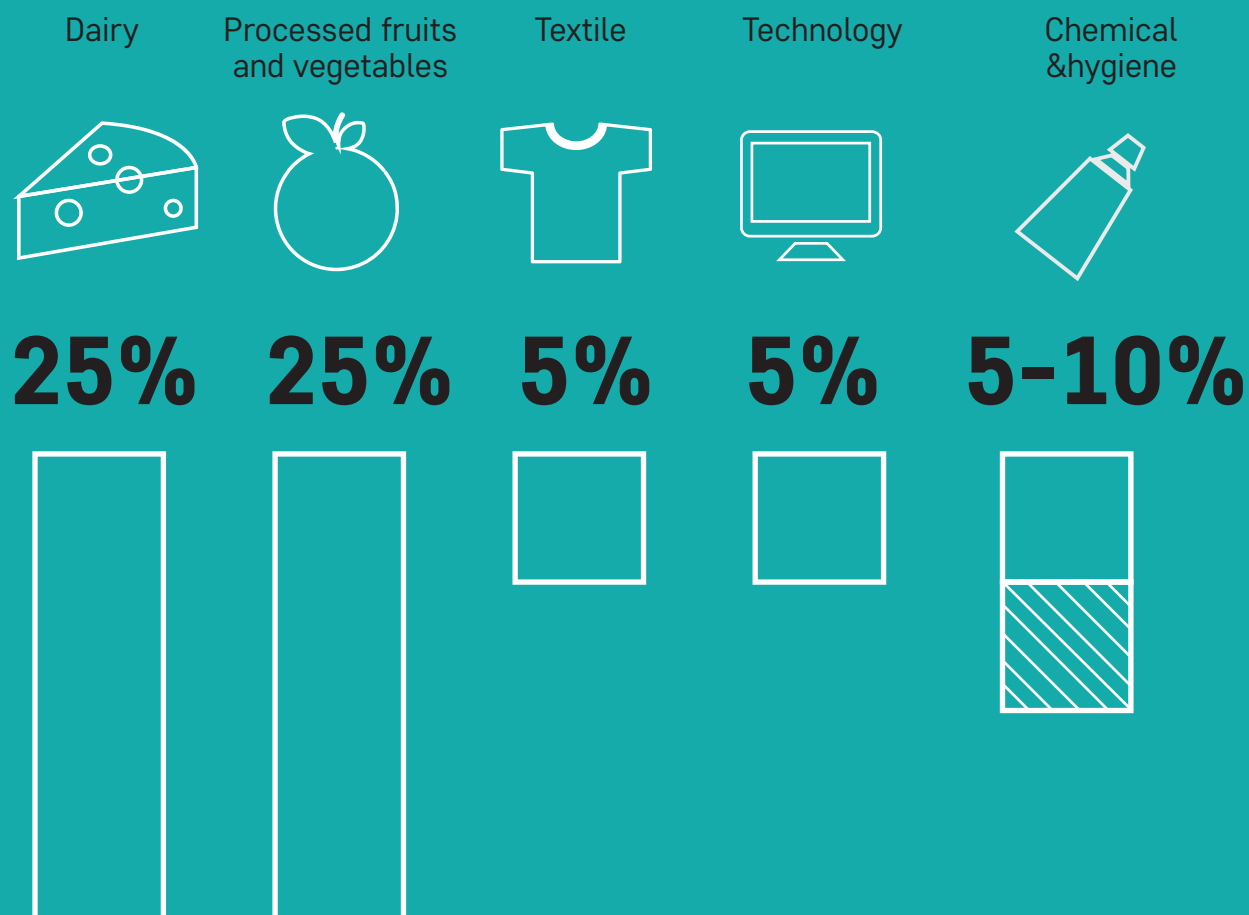
Besides producers, retailers were also asked about the procedure of selecting and placing products in their stores. According to them, the number of products that retail chains sell in their stores depends on the size of the stores, whether it is category A, B, or C (see Table 1 for details). All retailers stated that they get the products from two channels: distributors of imported products and domestic producers. Retailers stressed that they get the products from both parties in the same way; usually the distributors and producers approach the retail chains and present the products to responsi-

TABLE 1: TYPES OF RETAILERS (BY STORE SIZE)

Category	Number of Items
A	15,000-20,000
B	6,000-10,000
C	5,000-6,000

SOURCE: AUTHORS' CALCULATIONS

TABLE 2: RATIO OF DOMESTIC PRODUCTS TO IMPORTED (PER CATEGORY)



ble managers. However, there are cases when retailers contact the distributors or domestic producers themselves. Usually this is the case when there is a demand by customers for a specific product. It is important to mention that majority of retailers interviewed (6 out of 10) are exclusive distributors of imported products. As exclusive distributors, they sell those products to retail chains and sell them in their stores as well. They are interested to promote these products and sell them as much as they can. In this way, they are motivated to promote and sell the products they distribute by offering better shelf space and in-store promotions. Distributors also have marketing budgets available to promote the products.

Almost all retailers mentioned that in general, the ratio of imported products to domestic is 90% to 10%. According to BMO representatives, the ratio of domestic to imported products, correlates with the current trade balance, 80% imported products and 20% domestic products. Regarding specific categories such as processed fruits and vegetables and dairy products, the percentage of domestic product available in the stores can go up to 25%. The reason for a higher percentage is that there is a higher number of domestic producers of dairy products and according to retailers consumers purchase those products because they trust those products. Hygiene products account for 5% to 10% because there are fewer producers and a high majority of retailers complained about the quality of such products. Retailers mentioned that domestic producers tend to decrease the quality of hygiene products due to the need to charge lower prices. This makes the prices of domestic products uncompetitive towards imported products. Textile products account as well for only 5% (see Table 2). The study on consumption of domestic products (INDEP, 2016) also concluded that the portfolio of domestic products is very narrow. For the moment, domestic products present in the market are: food products, agricultural, textile, and furniture

For retailers with larger stores, the main criteria for selecting a product are consumer demand and availability of quantity. For retailers with smaller stores the main criteria for product selection is consumer demand. This is due to the fact that smaller retailers hold only top products that are mostly required by consumers due limited store space and hence limited shelf space. Representatives of retail chains mentioned that they usually allocate shelf space for a new product up to 3 months. If the sales

figures show that the product is successful they decide to keep the product. If not, they discard it. One of the retail chains mentioned that they give priority to large distributors and domestic producers that have the capacity to allocate marketing budgets and have a sustainable line of production. The reason for selecting such producers is that they can offer a stable line of products for 12 months and they can be creative with marketing campaigns that can attract customers and increase sales. With such a strategy, smaller producers do not have financial resources to promote their products face difficulties in accessing well-established retail chains. According to retailers only large established domestic producers manage to have a stable line of products and organize creative marketing campaigns. All interviewed retailers mentioned that product branding and packaging is yet another important criterion they look at when making the decision whether to place a product in shelves or not. Compared to domestic products, imported products have better branding and packaging. According to retailers, better packaging impacts consumers' buying decisions.

Retailers stated that consumption of local products is not at a satisfactory level. One of the reasons for lower consumption is inconsistent quality. One example was provided for that was the top consumed product in one of the large retail stores. Due to decreased quality the sales of the product have decreased. According to the manager, consumers understand when the quality of the product is not the same as it used to be. Another reason for low consumption is the belief that imported products are of higher quality. As such, almost all retailers mentioned that domestic producers should not focus on trying to deliver the lowest priced product. Instead they should focus on maintaining consistent quality and match the price to quality. A further reason for low consumption is lack of information regarding domestic products that are in the market which comes as a result of very little marketing and promotion. According to retailers, consumers are mainly purchasing those domestic products that have maintained consistent quality, stable supply of products, and were creative in marketing and promotion strategies and had good packaging. Most prominent examples given were Rugova Water and Cheese, Frutomania, Fluidi, RC Cola, Golden Eagle, and Princ Coffee.

One of the retailers stated that until year 2015 they tried to promote domestic products by offering them front shelf space. However, even though

they did so, consumers still did not purchase domestic products in satisfactory amount. One reason from the specific retailer is that consumers still do not fully trust domestic products. As a result, the company decided to import products from Serbia and since having done so their sales have increased.

A report on consumption of domestic products by Kosovo citizens (INDEP, 2016) found out that more than 90% of surveyed respondents (1074 respondents) stated that they consume domestic products. However, almost 79% of respondents think that Kosovars do not consume sufficient domestic products. One conclusion for insufficient consumption is lack of information (INDEP, 2016). The same report also concluded that marketing of products is very important determinant for the consumption of domestic products. The reason why authors arrived at this conclusion is that only 5% of respondents were able to name 10 domestic products when they were surveyed. Around 60% of respondents consume domestic products on monthly bases and their basket contains from 30% to 70% domestic products. Roughly 7% have declared that their basket contains 70% of the products consumed in a month. Around 27% have declared that their basket contains less than 30% of the products consumed in a month. Almost 8% stated that their basket contains less than 10% of the products consumed in a month. Regarding quality, around 44 % of respondents stated that domestic products do not have the adequate quality. Such a high figure is worrisome as almost 70% of respondents stated that quality of the product is the most important criterion for purchasing a product. Based on the results of the study, INDEP (2016) concluded that citizens are willing and able to pay the price for domestic products as long as domestic producers offer products of high quality.

Experts related to the field were also asked about products placement in retail chains. Similar to retailers, they also stated that the product placement ratio of imported products to domestic products in 90 percent to 10 percent. Experts stated that the main reasons for low level of domestic products in stores are usually quality, low variety of products, and smaller domestic businesses compared to imported ones. In order to improve placement, positioning and access to market for domestic products, experts recommended that producers should improve and increase quality,

improve packaging and design of their products, and allocate money for marketing and promotion of their products, and pay special attention to maintaining consistent quality. Experts also suggested that producers should conduct market research prior to starting production in order to find out if there is a market for their products. Due to lack of market research, there are a lot of similar domestic products in the market.

Regarding shelf placement, retailers with larger stores place products in shelves based on prior agreements with distributors of imported products and domestic producers. It all depends on the space and position of the shelf. Most retailers rent the regular shelf space while some retailers rent front shelf space or space allocated for refrigerators. As a result, the producer that has enough financial resources can pay for a better shelf space and this usually happens for big established domestic businesses. Retailers that have medium or smaller stores place the products based on the number of sales. The highest sold product in a specific category is placed first. As a result, imported products dominate shelf space since consumer demand those products as they have gained consumers' trust. Retailers also insisted that there is no difference between imported and domestic products. All the retailers mentioned that larger domestic producer can afford to pay for shelf space while smaller ones cannot afford. Experts also stated that distributors of imported products and big domestic producers usually pay for better shelf space while smaller producers cannot afford to pay and as a result are placed at less desirable positions. Retailers also mentioned that when there is free space in the shelves they allocate that space to domestic products in order to promote them; however this usually happens with retailers that have larger stores.

One of the retailers mentioned that they usually tend to allocate new products in places that are easy to notice. They also put signs in the store to notify that new products are in the store. This specific retailer stated that due to limited shelf space they arrange the products in shelves based on the number of barcodes from a specific producer. An example is a chocolate producer; if there are 10 different types of chocolates (barcodes) from that producer they place 10 products in the shelf. They rent shelf space only for two large distributors of domestic products as they do not have enough space in their stores. Retailers mentioned

that producers ask for better shelf space, especially the ones who are more aware about the effect of shelf space on sales. However, retailers that have smaller to medium sized stores respond to such requests by saying that products are placed based on selling data.

Regarding storage, smaller retail chains with stores ranging from 200 -300 m² do not have warehouses. Retail chains that have medium sized stores mentioned that they have a central warehouse where they store only top products that they cannot afford not to have in stock. The space in the warehouse is organized in such a way that category managers reserve the places for the top products based on selling data. Some of the products mentioned were pasta and flour. Some of the retailers also mentioned that they allocate more space for imported products as they make the orders in bulk in order to secure a lower price per product. Other retailers insisted that there is no difference between imported and domestic products, as well as between big and small domestic producers.

4.3 LEGAL ASPECTS

An important issue that was addressed and asked to all stakeholders interviewed is the necessary legislative measures that need to be taken in order to improve the current situation of the internal market in Kosovo. All domestic producers have stated that they are unaware of any regulation governing the relations between producers and retailers. According to them, the Government should enact a law or a regulation that assigns a quota of shelf space in favor of domestic products. Furthermore, some of the producers would prefer that the supermarkets have special shelf sections that clearly indicate the origin of the products, information of the product content and routine quality controls to be administered by the relevant government agencies.

It is interesting to note that all domestic producers have indicated that there is a first and foremost need for a law that regulates the relationship between producers and retailers and which stipulates the conditions that need to be maintained by the both sides in regard to contractual agreements. Majority of the producers' interviewed by Riinvest team stated that the Government must abolish the excise tax for raw materials for domestic producers in order for producers to be more competitive with imported products. All producers interviewed claimed that delays in payments cause huge consequences in their day-to-day business activities. As such, the payment deadline should also be regulated by law, for example the maximum time limit to be accorded to 30 days for domestic producers. Some

producers have expressed that there may be other ways to increase the level of bargaining power such as easier access for producers and lower prices for advertisement, and also lowering the price of actions in supermarkets.

In general, domestic producers expressed that they face high levels of unfair commercial practices in the domestic market. They have identified some aspects that make their business activity very volatile. In particular, delays in payment are a critical issue that needs to be addressed since it affects directly the finances of domestic producers. Also, domestic producers complain about their limited opportunities to promote their products as a result of market saturation with imported products. They see as detrimental the need for a law that not only regulates the relationship between producers and retailers but also a special law that would assign shelf spaces to domestic products in the supermarkets. However, most of the interviewed domestic producers stated that they have not established any cooperation with other producers or BMOs to try to increase their negotiating power. They have tried to lobby for more protection by the government and better fiscal policies but not for a higher negotiating power. The milk processors were the only ones to try to increase their negotiating power. They did so through the Dairy Association which required from KCC to help them. What KCC did is notify MTI about the problems faced by milk processors.

Retailers were also asked about the legal aspects that regulate the relationship between them and producers. Most of retailers were not aware if there is any law that regulates the relationships between producers and retailers. Some of them mentioned that any legal disputes that they have they address the Department for Commercial Matters at the Basic Court. Majority of retailers agreed that domestic products should be protected and promoted through a specific law. However, most of them thought that the law should not regulate shelf space. Only one manager proposed that 35 percent of shelf space to be allocated to domestic products. Other producers mentioned that the state should offer subsidies for production, better fiscal policies, or put tariffs on imports. They did not agree for allocation of shelf space to domestic products as they stated that there is not enough production in order to do so. Furthermore, they stated that imported products still dominate the selves as consumer demand such products.

Experts stated that there is no sector specific legislation that deals specifically with the relationship between retailers and producers. Furthermore, the existing laws that regulate business to business relations are not being implemented. As a result, experts suggested that producers should try to increase their bargaining power through business associations that represent them. Experts also

suggested that government can support domestic products by imposing technical restraints to imported products in order to limit imports. One of the experts stated that the government can draft a law that requires retailers to hold a certain ratio of domestic to imported products in the markets. The ratio can be set based on the availability of existing products in the market.

Representatives of government institutions stated that the Trade Department and KCA are responsible to monitor trade practices and competition between retailers and domestic producers. KCA operates under the Law on Protection of Competition 03/I-229, Law no. 04/I-226 and amending the Law no. 03/I-229 Protection of Competition, and Law no. 04/L-024 on State Aid. However, no information was provided by competent authorities on the implementation of these laws. The only mechanism used by KCA to ensure equal treatment of both parties is through trying to increase public awareness on the benefits of competition.

Retailers were also asked to provide alternative methods to protect and promote domestic producers and improve positioning, placement, and access to market for domestic products. One recommendation provided was to organize awareness campaigns and marketing campaigns to inform citizens about the domestic products that are available in the market. The reasoning for such a proposition is that consumers are still not purchasing domestic products at a satisfactory level and that there is a narrow assortment of domestic products. In order to allocate shelf space a wider assortment of domestic products that meet consumers' demands is needed. One of the retailers even stated that until there are very few domestic products with high quality, retailers cannot impose to consumers to purchase products that do not meet their quality standards. Another recommendation provided was for the government to subsidize secondary placement on shelves for domestic products. The idea is to secure secondary placement on shelves for domestic products and subsidize the placement by paying 50 percent of the amount of rent. Another reason is that consumers do not have the information on the types of products available. Another recommendation was for the KCA to create a database or business directory of all domestic producers in Kosovo. The directory would help potential consumers and investors get information on the producers operating in Kosovo.

According to BMO representatives, since it is problematic to interfere with the flow of trade in the free market, it is up to the free will of retailers to promote local products. Based on the answers given from BMOs, it is highly unlikely that any laws that directly protect domestic products could be adopted because it would be contrary to the free market economy. Higher quality control, better packag-

ing, in-store promotions, frequent marketing campaigns, competitive product prices would be the only format to achieve an improvement of the position of local products.

4.4 ADVOCACY INITIATIVES

Some of BMOs have stated that they have undertaken advocacy initiatives, but the results have been minimal at most. For example, KCC has held trainings together with the Austrian Institute for capacity building, negotiation and strengthening the contracting procedures. Another initiative undertaken to improve the negotiating power of domestic producers has been the possibility of participation in trade fairs home and abroad and organization of the fair 'VERS'. The fair will be organized every year and there is room for improvement in structuring the best presentation for producers. Initiatives have been quite good but the problem is that the knowledge gained from all these activities rarely have been put into practice. Some other organizations have also held activities such as 'The Week of Domestic Products' and 'Made in Kosova Campaign', the latter one organized by KMC, to increase awareness among consumers for domestic products and to promote domestic producers. In 2011, AmCham started lobbying for a separate law related to delays in payments and this law, titled the Law no. 05/I-110 on Late Payments in Commercial Transactions was passed by the end of 2016. PPSE in collaboration with KMC and MTI continued with the advocacy initiative in Late Payments Law, by initially organizing the conference "Contract Financing and Late Payments", during which there was commitment from the private sector and Bankers' Association to start with the advocacy processes on the Late Payments Law. As a result of these initiatives, the law has been approved in the Parliament by the end of 2016.

According to representatives of BMOs, there is not much that could be done in order to improve the position of domestic producers in a short period and domestic producers understand that in a free market economy with free trade agreements governments seldom choose policies that can distort the free market. Besides the private enforcement agents which are mostly used by the domestic producers to solve contractual disputes, the Commercial Court would be the most appropriate body responsible for disagreements between producers and retailers, but unfortunately due to a weak judiciary system in Kosovo it is not as functional as it should have been.

5. Conclusion

The aim of this study was to assess the most prominent issues that prevail in the relationship between retail chains and local producers/processors (with emphasis in food processing sector) in Kosovo. Through interviews with retailers, producers, business membership organizations, subject matter experts, and representatives of government institutions, Riinvest team has managed to find out that the relationship between producers and retailers is not balanced in power, with retailer chains having much more power. The reasons for a higher power of retail chains are numerous. First, retail chains are the final point of contact with the customer, and breaching a contract with them means that producers lose the contact with final customers. Second, majority of retail chains interviewed (6 out of 10) are official distributors of imported products. Being a distributor puts the retail chains in a very powerful position towards domestic producers as they are motivated to promote and sell the products they distribute, putting in this way domestic producers at a very disadvantaged position. Furthermore, retail chains who are distributors gain marketing budgets to promote imported products, being able in this way to promote the products and offer in-store promotions. This puts imported products at an advantage compared to domestic ones. Third, retail chains in Kosovo operate in an oligopolistic market as there are relatively few retail-chains. A small number of them have expanded throughout all municipalities in a very short period of time. There are cases when a retailer managed to establish 35 outlets around Kosovo in less than 5 years. Although the competitive rivalry is very high between retail chains, two of them have still managed to grow very fast and establish 35 stores around Kosovo. Having such a large base of stores provides negotiating power to retail chains. Finally, a wide range of imported products and a relatively narrow range of domestic products is another source of power for retail chains.

The unbalanced negotiating power puts domestic producers at a disadvantage when negotiating contracts. Producers have to agree to conditions set by the retail chains or they risk losing the contact with the final customer. Conditions that retail chains set to producers are: i) sales rebates, ii) volume rebates, iii) paying for shelf space, iv) initial deposit which is held on hold for a year, v) offer in store promotions, vi) offer the first badge of inventory for free, vii) return the expired products to producers or substitute the expired products with new ones. All the conditions imposed impact negatively profitability of producers and hence competitiveness. Furthermore,

producers have also complained that retailers do not make the payments on time, causing in this way liquidity problems to businesses and as a result distorting the value chain.

Retailers, on the other hand, stated that domestic producers need to be more creative with marketing, promotion and packaging of their products. According to retailers, existing producers, especially small ones, do not align packing of their products with customer preferences but instead they tend to copy the packaging from an imported product that is a best seller. This impacts the sales of the product negatively as customers notice that the packaging is not authentic to the product. Furthermore, producers do not offer in-store promotions nor do they organize interesting and frequent marketing campaigns. This is as a result of lack of awareness on behalf of producers regarding the importance of marketing. Moreover, domestic producers, especially smaller ones, do not have financial resources to organize marketing campaigns. Furthermore, domestic producers lack market intelligence regarding their target market. They are not aware of customers' needs and wants. According to retailers and subject matter experts, producers should spend more time in planning both production and selling costs. Due to lack of market intelligence, most producers end up planning their production and selling costs wrongly. As a result, producers end up offering their products to retailers with low margins that do not give them room to offer in-store promotions. Another problem with domestic producers, according to retailers, is distribution. Currently, majority of producers distribute their product themselves and this creates delays and operational problems to both producers and retailers. A further problem is consistency in quality. According to retailers, currently, very few domestic products are consistent in quality. One reason for inconsistency in quality is lack of qualified domestic food technologists. Another reason is that domestic producers still are not aware of the important role that food technologists play in the quality of a product. A further reason is bad planning of production and selling costs. The last problem identified is narrow line of domestic products which can come as a result of lack of technical expert and lack of market demand.

Retailers also reported that the ratio of imported products to domestic products is 90% to 10%, with some products such as dairy products and processed food accounting for 25%. The reason for such a remark is that the line of production currently is very narrow. This result is in line with the findings of INDEP (2016) report where respondents stated that from

domestic products they mainly consume agricultural and food products. The same study also concluded that there is a narrow line of domestic products (INDEP, 2016).

Regarding legislation, in Kosovo there is no specific law that regulates the relationship between retailers and producers, hence the relationship between the two parties is not structured. Furthermore there is no specific law that regulates unfair trading practices. Currently, in Kosovo, commercial conduct is regulated by the Law on Internal Trade, Law on Competition, Law on Private Enforcement procedures, Law on Obligational Relationships and Law on Late Payments in Commercial Transactions. These laws partly cover the relationship between parties in different stages of the supply chain but are not exclusively dedicated to legally regulating B2B relations. The laws address elements on the design of contracts, execution, and enforcement procedures. The existing laws do not impose punitive measures for the parties that engage in unfair commercial practices. Furthermore, the Law no. 2004/36 on Competition and Law no. 03/L-229 on Protection of Competition are mainly concerned with dominant market power.

Literature review has revealed that countries that are EU member states and countries from the region have started to deal formally with unfair commercial practices in 2010. Methods undertaken by each country are different. Some countries have amended the Competition Law to regulate issues beyond dominant position, or they have better enforced the Contract Law. Romania, on the other hand, has enacted a specific law that requires retail chains to place in their shelves 51% domestic products. However, the EC reacted on Feb 15, 2017 by requesting an immediate review of the law as it argued that the law runs counter the EU principle of the freedom of movement of goods and freedom of establishment (European Commission, 2017). Croatia, has drafted the law on the Prohibition of UTPs in the first quarter of 2017 that tends to prohibit systemic unfair commercial practices that damage domestic producers. However, the Law is under review at the Ministry of Agriculture as it is needed to make sure that it complies with EU regulations on freedom of movement of goods. Furthermore, the scope of the draft law is unclear, and will create legal uncertainty about its interpretation after adoption. The situation in Albania, Montenegro, Macedonia and Serbia is similar to that in Kosovo, where commercial conduct is regulated by laws on competition and trade.

However, one limitation that should be noted regarding literature review is that all the countries that have undertaken initiatives to regulate the relationship between retailers and producers/processor are in the early stages of implementation and there are no concrete results or lessons to learn from. Furthermore, Riinvest team has contacted officials from Foreign Trade Chamber of Bosnia and Herzegovina, Croatia Chamber of Economy, and Romanian International Chamber of Commerce, in order to hold skype interviews and get more information on the legislative measures taken from these countries. However, although Riinvest team has contacted them three times, officials from respective countries responded that they did not have the time to organize interviews. From all the officials contacted, only the officials from the Croatia Chamber of Economy sent a short document providing brief information regarding the Law on Prohibition of Unfair Commercial Practices in the Food Supply Chain, and the information provided has been reflected in the literature review part.

Therefore, based on the findings from initiatives taken in other countries and based on the fact that Kosovo has signed the SAA agreement, a specific law that imposes quotas on retail markets would contradict with *acquis communautaire* and would be in contradiction with free trade agreements signed by the Government of Kosovo. Instead, a law that regulates directly unfair commercial practices would help regulate and balance the power between retail chain and producers.

In conclusion, the relationship between producers and retailers is by no means balanced or equal in terms of power. Retailers have much more negotiating power and they make sure that they use the extra power to their advantage. Nevertheless, it should be stated that domestic producers need to work on making sure that the quality of their product is consistent, that they allocate marketing budgets, design interesting packaging for their products, and work on increasing the awareness of consumers regarding domestic products that are in the market. If producers undertake those activities, the demand for their products will increase and as a result they will have more negotiating power. The government, on the other hand, should enact legislation that structures and regulates the relationship between producers and retailers and makes sure that unfair commercial practices are clearly stipulated and regulated.

6. Recommendations

The recommendations section is divided in two parts. The first part will present recommendations on how to increase the demand and consumption of domestic products. The second part of recommendations will provide legislative measures that need to be undertaken in order to prevent unfair commercial practices from retail chain to producers/processors.

FOLLOWING ARE THE RECOMMENDATIONS RELATED TO COMPETITIVENESS:

1

The first recommendation is related to marketing, packaging, and planning of production and selling costs. In order to improve marketing, packaging, and to better plan production and selling costs, producers need marketing intelligence services which can be provided by business associations that producers are members. Market intelligence would help domestic producers know the target market, understand their needs and the importance of correct marketing. Besides getting market intelligence from business associations, domestic producers can contract consulting companies that offer affordable tailor-based services. Another alternative would be for small producers to receive mentoring from well-established business that organize creative marketing campaigns and understand their market well. These businesses would share their experience with small producers and mentor them. Domestic producers also need tailored consulting services for sales strategies.

2

The second recommendation is related to distribution of domestic products. Domestic producers should make sure that they sell their products through distributors. Having another partner or company distribute the product will allow the producer to focus only on production and not worry about logistics of distribution. In this way division of labor will be ensured and distribution of the product will be done more efficiently and effectively. One alternative is for several companies to establish a joint-distrib-

3

tion company that would be responsible to distribute the products of specific companies. Another alternative is for a domestic distribution company to be established that would distribute only domestic products. That company would be responsible to negotiate with retail chains and make sure the products are placed in right spots.

The third recommendation is related to quality and product diversification. Some of domestic producers tend to decrease the quality of their products, affecting in this way the sales of their products negatively. One alternative to ensure consistent quality is for the government to offer institutional support to businesses by securing a pool of food technologists that domestic producers could contract. Another alternative is for the University of Prishtina to update the curriculum and make sure that highly qualified food technologists are available in the domestic market. By having a full time technologists, domestic producers would be able to not just maintain consistent quality but also diversify their line of production. A further alternative would be for domestic producers to organize exchange visits at international companies where they could benefit from the experiences of other companies in maintaining consistent quality.

4

The fourth recommendation is related to retail chains. All retail chains operating in Kosovo can contribute to better placement of domestic products by offering a specific amount of shelf space where new domestic products would be exposed. Such a preferential treatment for new domestic products would encourage producers to diversify their products. Furthermore, retail chains should offer more shelf space to seasonal products. Moreover, retailers should organize thematic weeks where they would promote domestic products.

FOLLOWING ARE THE RECOMMENDATIONS RELATED TO LEGISLATIVE MEASURES:

- 1 The Law on Trade, that is to be re-written completely during 2017, should introduce articles that clearly define what unfair commercial practices in the B2B relationships are and make them illegal. Furthermore, the law should introduce prohibition of abusive conduct by a contracting party, especially by the party which has considerable market power (to be decided based on the scope or value of the sales). To ensure enforcement, the Kosovo Competition Authority and Trade Inspectorate should overview for implementation of good practices.
- 2 The Law on Trade that is to be re-written completely during 2017, should include an article that enforces punitive measures for retailers that engage in unfair commercial practices. Measures set can be in line with the ones that are proposed in the Croatian Law titled Prohibition of Unfair Commercial Practices in the Food Supply Chain that is to be presented in the first quarter of 2017.
- 3 The Law on Trade that is to be re-written completely during 2017, should introduce a specific article that requires retail chains to regulate labeling of the products on shelves according to country of the origin. MTI has already supported and partially financed the "Made in Kosova" campaign initiated and organized by KMC and as such the same practice can be followed and extended in the future. The article should require from all retailers to clearly mark shelves where domestic products are placed. The law can also require domestic producers to put a logo/stamp on their products that clearly identifies domestic products. Ministry of Trade and Industry would be responsible to design and choose the logo in close cooperation with business representatives and once agreed it can be printed in the packaging of every domestic product. One option for the logo would be "Made in Kosovo". This recommendation is in line with steps undertaken in Macedonia where domestic products have a unique logo which identifies them. However, similar to Macedonia, in order to get the logo, products have to meet specific requirements. In this way, the logo would not only contribute to a broader national and international recognition, but also will reflect a higher quality of the products.
- 4 The Law on Trade that is to be re-written completely during 2017, should ensure that a more structured cooperation is built between retailers and domestic producers/processors. This would help avoid oligopoly behavior by retail-chains. More specifically, the law should standardize the conditions that need to be respected for sales rebates and volume rebates which would eliminate the use of arbitrary impositions of rates and prices by retailers. We recommend that these rates should be lower for newly introduced products.
- 5 Secondary legislation of the new law on trade could also be issued to regulate B2B practices in Kosovo. The regulation could be tailored specifically to regulating the relationship between retailers and producers.
- 6 In case the new law on trade does not include unfair trade practices than one alternative is for Law no. 2004/36 on Competition and Law no. 03/L-229 on Protection of Competition to be extended beyond dominant market power. The laws could be amended to regulate unfair trading practices. This recommendation is in line with practices used by EU member states to fight unfair commercial practices. In order to ensure implementation of the amended law, the government should allocate funds that would help strengthen human resources capacities and skills of Kosovo Competition Authority. The Kosovo Government on the Kosovo – EU High Level Dialogue on Key Priorities – European Reform Agenda has committed that it will enhance the capacity of competition authority and State Aid bodies and ensure they start implementing their mandates as KCA was not functional for a period of more than 3 years. Strengthened capacities would enable KCA to deal with any potential complaints from domestic producers or retailers.
- 7 In case the new law on trade does not include unfair trade practices than one alternative is to adopt a Law on Prohibition of Unfair Commercial Practices in the Food Supply Chain or B2B relations. This initiative would be similar to the one undertaken by Croatia. Therefore, the Government of Kosovo should try to learn from the experience of Croatia and adopt the law based on lessons learned from Croatia. The law would clearly specify what constitutes unfair commercial practices and penalize the ones who engage in such activities.

8

Draft and adopt a Contract Law. Currently, the Law No. 2011/04-L-077 on Obligational Relationships regulates issues related to contracts. Countries from the European Union have used the Contract Law as one tool to fight unfair commercial practices. Therefore, adopting a law specifically on contracts would help fight unfair commercial practices in Kosovo as well. This recommendation is in line with practices used by EU member states to fight unfair commercial practices.

9

Ministry of Trade and Industry can amend the Law no. 05/l-110 on Late Payments in Commercial Transactions, so that an article clearly states that if the Trade Inspectorate or Kosovo Tax Administration determine breach of Law in the course of their controls they are entitled to initiate an infringement proceeding. This is similar to the Macedonian Financial Discipline Act no. 187/2013, 201/2014 and 215 which stipulates that the “if the Financial Inspection or Public Revenue Office determine breach of Act in the course of their regular or extraordinary controls they are entitled to initiate an infringement proceeding”. The Act enables supervisory bodies to institute misdemeanor proceedings in situations when they have recorded violation, regardless of whether the creditor has filed a lawsuit with the competent court. In this way, a third party would report the late payments. This is very necessary as most producers do not report late payments due to fear that they would risk the cooperation with retailers. An alternative option to amending the law is drafting and adopting an administrative instruction to the existing law where the above mentioned points would be specified.

10

Ministry of Trade and Industry should enact a long-term fund that subsidizes quarterly Business Weeks for domestic producers. Examples of business weeks organized so far are “Made in Kosovo” week as well as the “Domestic Products Week” which is managed by KBA. Organization of business weeks or promotional campaigns would directly increase consumers’ awareness for domestic products. Awareness campaigns organized by the government should be long-term in order to ensure a sustainable impact.

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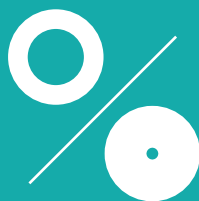
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Almost all retailers mentioned that in general, the ratio of imported products to domestic is 90% to 10%. According to BMO representatives, the ratio of imported to domestic products, correlates with the current trade balance, 80% imported products and 20% domestic products. Regarding specific categories such as processed fruits and vegetables and dairy products, the percentage of domestic product available in the stores can go up to 25%.

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