



Republika e Kosovës - Republika Kosovo - Republic of Kosovo  
AGJENCIA KOSOVARE E PRIVATIZIMIT - KOSOVSKA AGENCIJA ZA PRIVATIZACIJU - PRIVATISATION AGENCY OF KOSOVO

# Privatisation Agency of Kosovo

**Work Report**  
**August 2008 – August 2009**



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# 1. EXECUTIVE OVERVIEW

Honourable President and distinguished members of the Assembly of the Republic of Kosovo,

I am delighted to observe that the Privatisation Agency of Kosovo (PAK) is fully operational and heading forward in achieving its goals in privatizations and liquidations. During the reporting period, we have completed tasks deriving from business plan for 2008 and significant part of 2009.

In the short history of PAK (established in late August 2008) the world has witnessed a creation of a new state and problems with the transfer of competencies from UNMIK to the Institutions of the Republic of Kosovo, and PAK is the best example of it.

The major constraints in evidence during the reporting period and prior years have not gone away. PAK continues to struggle with deficient ownership documents and outdated cadastral records. The Special Chamber of the Supreme Court of Kosovo (SCSC) is swamped with cases from creditors and employees. Moreover, Law on SCSC according to the Comprehensive Proposal for the Kosovo Status Settlement dated 26 March 2007 has not been adopted yet, and as such creates additional problems on the work of the Agency in relation to workers lists and other issues related to PAK.

***I would also like to raise very important issue of non recognition of PAK by the SCSC and involvement of UNMIK in court cases, where the latter is representing Kosovo Trust Agency (KTA), the predecessor agency, which de facto and de jure is inexistent institution.***

Breach of commitment Agreements of SOEs privatised through SSO are occupying a disproportionate amount of the PAK Board's time and energy as new strategies and initiatives have been developed and adopted to address problems. In this regard, PAK has complied with its legal obligations and is continuing to address the issue by engaging external specialised auditors to evaluate performance of New Cos privatised by the KTA through Special Spin – Off method.

PAK has also inherited 9 SOEs commercialised by UNMIK. Most of commercialisation contracts expire after 2011, and these will be closely monitored during this period, and all legal actions will be undertaken in case of any breach of the commercialisation contract.

We have also managed to streamline issue of 20% and we have accomplished promises given in the beginning of PAK` operations. Moreover, we have inherited from a predecessor Agency a number of 166 pending contracts and I am delighted to announce that most of those have been completed and we continue to prepare all contracts from the privatisation waves launched by PAK.

PAK's mission and strategy will however not change. We will continue with the task of administering enterprises and assets in trust for the benefit of owners and creditors. We will sell, transfer or liquidate without undue delay and press on with the task of distributing trust funds to creditors, employees and owners as quickly as we can. That said, we will also comply with our statutory duty to ensure that all claims are properly handled and correctly treated before we make distributions.

PAK inherited the work practices and procedures created by its predecessor Agency. We have managed to build on these but also improved and streamlined to increase the workflow.

In the end, allow me to reiterate that we are committed to achieve tasks deriving from PAKs overall strategy and business plan; however the wider implications of the continuing global economic crisis and amendments of the laws related to the work of the Agency may cause unavoidable deviations from plan.

Moreover, PAK is ready to provide written explanations on all requirements that You may have in relation to specific issues referred in this report.

Finally, I would like to express my gratitude to the European Commission Liaison Office (ECLLO) in Kosovo for the financial support.

Dino Asanaj,

Chairman of the Board of Directors  
Privatisation Agency of Kosovo

## 2. INTRODUCTION

Over 590 business enterprises in Kosovo have been identified as potentially being Socially Owned Enterprises (“SOE-s”).

The SOE sector employed an estimated 20,000 people with up to 60,000 people listed as employees (i.e. 40,000 were on unpaid leave). SOEs operated in a variety of sectors including metal processing, plastics, paper, hotels, mining, agro-industrial, agriculture, forestry, building materials, construction, textiles, wineries and vineyards, brewing, tobacco, retail and wholesale trade.

It is estimated that SOEs represented 90 percent of Kosovo’s industrial and mining base, 50 percent of commercial retail space, and less than 20 percent of agricultural land - including all prime commercial agricultural land and the vast majority of Kosovo’s forests.

Most of Kosovo’s industrial assets, prime agricultural land, forests, urban commercial land, and commercial properties were owned by SOE-s. Privatization of these assets – and the attraction of local, regional, diasporas, and international investors to the privatization programme is expected to have a profound and positive impact on the economy and job creation.

**It is important to note that privatisation process in Kosovo can not be compared with privatisations in other countries, due to its economic and political specifics. SOEs of Kosovo were disintegrated for more than one decade by the interim measures. Kosovo is a country that has suffered a lot during the war, and SOEs were no exemption to it. We should also bear in mind that the economy of Kosovo was conducted centrally by the previous regimes in ex Yugoslavia and significant number of factories was built for a certain markets. It should be also noted that previous market was lost and current market is dominated by products of foreign countries. All of the above make Privatisation in Kosovo specific and also an overarching problem for PAK.**

An overview of the privatisation program shows that up to 30th of June 2008, the predecessor Agency (the KTA) had launched 30 waves of privatization.

498 NewCo-s have been tendered for sale and 397 sales contracts signed, with total privatization proceeds (received and banked) amounting at € 392,281,978.

Employees’ entitlement amounted at € 76,166,646 of which € 15,558,654 have been paid out by the Independent Union of Trade Unions of Kosovo for distribution to workers. In addition, the Board of predecessor Agency has approved a total of 120 liquidations, with proceeds amounting to €3,804,992.

At KTA Board meeting held on 21 May 2008, Chairman of the Board and Managing Director had scheduled another Board meeting on the 4 June 2008 and a consequent last farewell Board meeting, which for unknown reasons were never held. I have contacted many times the former KTA management and Board members with the purpose to push Board meetings to be convoked, their answer was that some international Board members are out of country and some of them had health problems. Therefore, the minutes of the last KTA Board meeting were not approved and no actions for a proper transition or handover to the PAK were undertaken, and current management is not aware what have happened in between, despite the fact that I have personally requested a report on the performance of the local Board members.

The Kosovo Trust Agency (KTA) has ceased its operation on 30<sup>th</sup> of June 2008.

### 2.1 PRIVATISATION AGENCY OF KOSOVO (PAK) – Executive Activities

The Privatisation Agency of Kosovo (hereafter the “PAK”) was established as the successor of the Kosovo Trust Agency regulated by UNMIK Regulation 2002/12 “On the establishment of the Kosovo Trust Agency”, as amended, all assets and liabilities of the latter shall be assets and liabilities of the PAK.

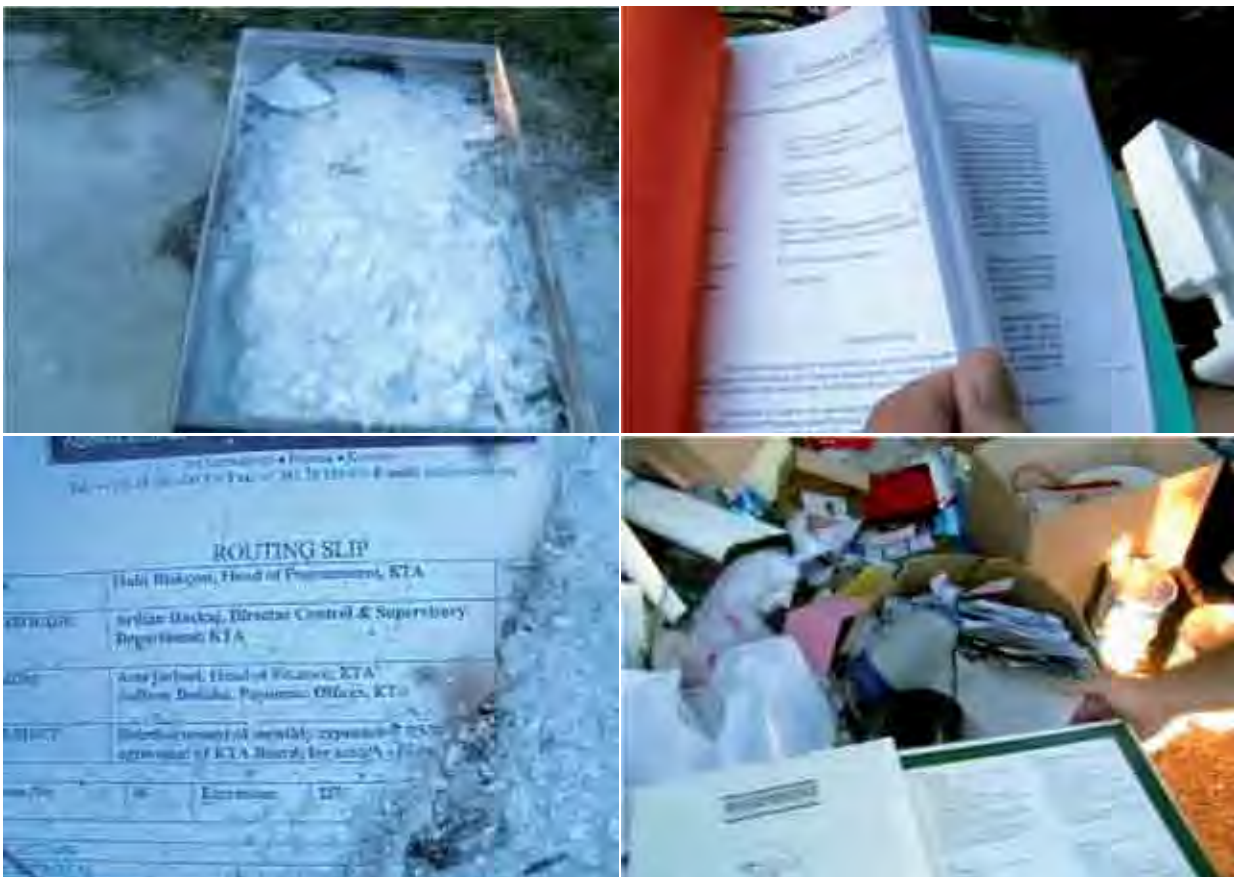
The PAK, is established with the promulgation of the Law on the Privatization Agency of Kosovo (Law No. 03/L-067) that entered into force on 15 June 2008 (hereinafter the "Law"). This Law implements relevant provisions of the Comprehensive Proposal for the Kosovo Status Settlement dated 26 March 2007 (Annex VII, Article 2 thereof), which is an integral part of the Constitution of the Republic of Kosovo (Article 145 of the Constitution of the Republic of Kosovo).

The PAK is established as an independent public body that shall carry out its functions and responsibilities with full autonomy. The Agency shall possess full juridical personality and in particular the capacity to enter into contracts, acquire, hold and dispose of property and have all implied powers to discharge fully the tasks and powers conferred upon it by the present law; and to sue and be sued in its own name.

Initially, members of the PAK Board of Directors were appointed by the Assembly of the Republic of Kosovo as well as PAK international members by International Civilian Representative in accordance with the provisions of Law on establishment of PAK and this board has the full jurisdiction over the PAK.

The first step was acceleration of PAK functioning and in order to achieve this it was necessary to enable access to previous KTA premises as well as the legal obligation of PAK Board of Directors to exercise the mandate set by law.

I have managed to access the former Kosovo Trust Agency HQ, now Privatization Agency of Kosovo HQ, on the 24th of August 2008. We found out that all equipments in the offices were missing, in the yard were found traces of burned documents. Some of those were original documents and some of them had clear stamps standing confidential that were on the trash, and finally the entire former KTA Board of Directors documents were missing. We also found a server where the electronic copy of the former KTA documentation was kept. Moreover, five regional offices were closed and entire equipment and documents were removed and offices in PAK HQ were empty, and safe boxes, where the confidential documents such as evaluation of SOEs privatised through Special Spin Off method were kept, resulted to be empty. Officers of Kosovo Police have witnessed the above and everything was recorded and included in report.





On August 26, 2008 the first constitutive meeting of PAK Board of Directors was held, and apart from the appointment of new PAK management, with the approval of PAK Board of Directors, official documents were sent to Mr. Lamberto Zannier – UNMIK SRSG and Mr. Paul Acda UNMIK DSRSG, where among others we have requested the immediate return of missing documents and equipment that were previously used by KTA, always with the aim to start the functioning of the new Agency as soon





REPUBLIKA E KOSOVËS – REPUBLIKA KOSOVO – REPUBLIC OF KOSOVO  
 AGJENCIA KOSOVARE E PRIVATIZIMIT – KOSOVSKA AGENCIJA ZA PRIVATIZACIJU – PRIVATISATION AGENCY OF KOSOVO

To: Mr. Lamberto Zannier  
 SRSG

26 August 2008

Dear Mr. Zannier,

As you are aware, the Law on the Privatization Agency of Kosovo (Law No. 03/L-067) has entered into force on 15 June 2008 (hereinafter the "Law"). This Law implements relevant provisions of the Comprehensive Proposal for the Kosovo Status Settlement dated 26 March 2007 (Annex VII, Article 2 thereof), which is an integral part of the Constitution of the Republic of Kosovo (Article 145 of the Constitution of the Republic of Kosovo).

Pursuant to the Law, the Privatization Agency of Kosovo is established as an independent public body. It is set up as the successor of the Kosovo Trust Agency established by UNMIK Regulation No. 2002/12 on the Establishment of the Kosovo Trust Agency, as amended, and all assets and liabilities of the Kosovo Trust Agency are transferred to the Privatization Agency of Kosovo.

As the Assembly of Kosovo and the International Civilian Representative have appointed their respective members of the Board of Directors, the Privatization Agency of Kosovo is ready to exercise its mandate under the Law. As you also know, the European Commission has made a commitment to fund the payment of salaries of local staff who have previously been employed with the Kosovo Trust Agency in order to ensure the highest possible degree of operational continuity.

As you have rightly explained in the Security Council meeting dated 25 July 2008, as a result of the European Union's decision to end funding for UNMIK's Pillar IV (economic reconstruction), has left UNMIK without technical capacities and budget to perform any functions in the field of economic development, including matters related to socially-owned enterprises. Furthermore, by passing a new Law on the Privatization Agency of Kosovo, the Republic of Kosovo has declared its sovereign will that any political and administrative functions with respect to matters formerly under the authority of the Kosovo Trust Agency are as of now under the authority of the Privatization Agency of Kosovo, which is an independent public body of the Republic of Kosovo.

In view of the above, I herewith inform you that the Privatization Agency of Kosovo, has taken into its possession and control the premises which formerly constituted the Headquarters of the Kosovo Trust Agency. This action was necessary in order to ensure proper legal protection of legitimate interests of the Republic of Kosovo as well as of rights and interests of potential owners, creditors and employees of enterprises under the administrative authority of the Privatization Agency of Kosovo. The Kosovo Trust Agency had effectively ceased to operate and at the same time the Privatization Agency of Kosovo was denied access to the premises and essential properties/records necessary for maintaining a smooth continuation of privatization and liquidation process and fulfilling its lawful mandate.

Dino Asanaj  
 Chairman of the Board of Directors

Privatisation Agency of Kosovo

27.08.08  
 08:33

UNMIK

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I would like to reiterate that all public institutions of the Republic of Kosovo have shown full commitment to cooperate in good faith with international organizations lawfully operating in Kosovo, including UNMIK, and it is expected that UNMIK is reciprocally committed to such good faith cooperation. I do believe that it is not in the interest of UNMIK and of the United Nations Organization; to be exposed to potential liabilities should legitimate rights and interests of creditors, owners and employees be infringed in a manner that is attributable to UNMIK's eventual refusal to grant/return to the Privatization Agency of Kosovo access to premises and relevant properties/records. Therefore, in order to avoid such consequences, I invite you to arrange for an expedited and uneventful transfer of all relevant properties/records from the Kosovo Trust Agency to the Privatization Agency of Kosovo in an appropriate manner agreed between UNMIK, EU Pillar and the Privatization Agency of Kosovo.

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Yours sincerely



Dino Asanaj  
Chairman of the PAK Board of Directors

CC: Dr. Fatmir Sejdiu  
President of the Republic of Kosovo

Mr. Hashim Thaqi  
Prime Minister of the Republic of Kosovo

Mr. Pieter Feith  
EU Special Representative in Kosovo





REPUBLIKA E KOSOVËS – REPUBLIKA KOSOVO – REPUBLIC OF KOSOVO  
AGJENCIA KOSOVARE E PRIVATIZIMIT – KOSOVSKA AGENCIJA ZA PRIVATIZACIJU – PRIVATISATION AGENCY OF KOSOVO

To: Mr. Paul Acda  
DSRSG – EU Pillar IV

26<sup>th</sup> August 2008

Dear Mr. Acda,

As you are aware, the Law on the Privatization Agency of Kosovo (Law No. 03/L-067) entered into force on 15 June 2008 (hereinafter the “Law”). This Law implements relevant provisions of the Comprehensive Proposal for the Kosovo Status Settlement dated 26 March 2007 (Annex VII, Article 2 thereof), which is an integral part of the Constitution of the Republic of Kosovo (Article 145 of the Constitution of the Republic of Kosovo).

Pursuant to the Law, the Privatization Agency of Kosovo is established as an independent public body. It is set up as the successor of the Kosovo Trust Agency established by UNMIK Regulation No. 2002/12 (as amended) on the Establishment of the Kosovo Trust Agency, and provides that all assets and liabilities of the Kosovo Trust Agency are transferred to the Privatization Agency of Kosovo.

As the Assembly of Kosovo and the International Civilian Representative have appointed their respective members of the Board of Directors, the Privatization Agency of Kosovo is ready to exercise its mandate under the Law. Furthermore, we have signed the grant agreement with the European Commission to fund the payment of salaries for the majority of the local staff who were previously employed by the EU Pillar of UNMIK and assigned to the Kosovo Trust Agency in order to ensure the highest possible degree of operational continuity.

In view of the above, I herewith inform you that the Privatization Agency of Kosovo, has taken into its possession and control the premises which formerly constituted the Headquarters of the Kosovo Trust Agency. This action was necessary in order to ensure proper legal protection of legitimate interests of the Republic of Kosovo as well as the rights and interests of potential owners, creditors and employees of enterprises under the administrative authority of the Privatization Agency of Kosovo. The Kosovo Trust Agency has under an Executive Decision of the SRSR ceased to operate and at the same time the Privatization Agency of Kosovo was denied access to the premises and essential properties/records necessary for maintaining a smooth continuation of the privatization and liquidation process and fulfilling its lawful mandate. In addition the KCB equipment held in the premises is the property of the Republic of Kosovo and as such should have been handed over to its rightful owner.

Nevertheless, I would like to reiterate that the Privatization Agency of Kosovo is fully committed to cooperate with all public institutions of the Republic of Kosovo and the international organizations lawfully operating in Kosovo, and the same reciprocal commitment for cooperation is expected. I do believe that it is in the best interest of the Republic of Kosovo, the EU Pillar of UNMIK, UNMIK itself and of the United Nations that the Privatization Agency of Kosovo is made operational as quickly as possible in order to avoid exposure to potential liabilities should legitimate rights and interests of creditors, owners and employees be infringed in a manner that is attributable to the predecessor of the Privatization Agency of Kosovo if refusal to grant/return to the Privatization Agency of Kosovo access to other premises and relevant properties/records continues. Therefore, in order to avoid such consequences, I invite you to

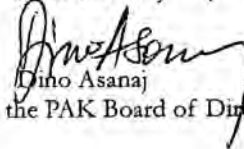
arrange for an expedited and uneventful transfer of all relevant properties/records (hard copies and electronic) from the Kosovo Trust Agency to the Privatization Agency of Kosovo in an appropriate manner agreed between the EU Pillar of UNMIK and the Privatization Agency of Kosovo.

In addition, being aware of the fact that you were closely engaged in the past in the capacity of Chairman of the Board of Directors of the Kosovo Trust Agency, I have no doubt that you would like to assist in any manner that is possible to ensure that the Privatization Agency of Kosovo as a successor Agency will carry on toward the successful completion of the work left uncompleted by the Kosovo Trust Agency regarding the privatization and liquidation process. Therefore, I would like to respectfully request for the donation for the needs of the Privatization Agency of Kosovo of all of the equipment that I understand is property of the EU Pillar of UNMIK which was utilized by the Kosovo Trust Agency (in the KTA HQ and in the KTA Regional Offices) including all records but not limited to, and computers, printers, plotters, desks, chairs, vehicle, servers, phones, fax machines etc, utilized in the past by the KTA staff members.

I would like to use this opportunity and express my gratitude for the role that the EU Pillar of UNMIK had in support of the economic development of Kosovo.

Should you require any additional information or assistance please do not hesitate to contact me.

Yours sincerely



Dino Asanaj  
Chairman of the PAK Board of Directors

CC: Dr. Fatmir Sejdiu  
President of the Republic of Kosovo

Mr. Hashim Thaqi  
Prime Minister of the Republic of Kosovo

Mr. Pieter Feith  
EU Special Representative in Kosovo

Mr. Lamberto Zannier  
SRSG UNMIK

08:20/11/1  


The abovementioned documentation was returned into the possession of PAK and the servers were activated in which the electronic versions of documents are saved including all data from regional offices and Agency HQ. It remains to be seen if the entire documentation is there and we reserve the right on disclaimer at any time.

As a consequence Press Office of the UNMIK issued the following press release confirming the above.



UNMIK/PR/1737

Tuesday, 9 September 2008

**SRSG visits the Privatization Agency of Kosovo**

PRISTINA – Special Representative of the UN Secretary-General (SRSG), Lamberto Zannier, and Paul Acda, the head of UNMIK's Pillar IV, today visited the compound of the former Kosovo Trust Agency (KTA), now the Privatization Agency of Kosovo (PAK).

***“So far it seems that there is no evidence of anything missing, besides the complete hardcopy set of the documents of the KTA Board of Directors which is in UNMIK's possession. I have received assurances from EU Pillar representatives, that there is an electronic back-up of all KTA documents including claims. In removing these documents, Mr. Acda acted on behalf of UNMIK. However, if there is evidence of anything else missing, there will be a police investigation,” said SRSG Zannier.***

*“Representatives of the new PAK are also in possession of a server, to which I received assurances from representatives of EU Pillar IV, that contains the complete KTA archive, which consists of electronic copies of all official documents and correspondence including KTA Board of Directors records,” added Zannier.*

On September 1, 2008 the second meeting of PAK Board of Directors was held, and during this meeting were approved all sub-legal acts that create the work-frame of the executive part of the PAK and enable simultaneously the PAK functioning, as well as preparatory works for the PAK operation on time.

On September 10, 2008 PAK complied with its legal obligations deriving from the Law on the Establishment of PAK and delivered its first report to the Assembly of the Republic of Kosovo, which is presented below.



**Republika e Kosovës - Republika Kosovo - Republic of Kosovo**  
AGJENCIA KOSOVARE E PRIVATIZIMIT - KOSOVSKA AGENCIJA ZA PRIVATIZACIJU - PRIVATISATION AGENCY OF KOSOVO

10 September 2008

**To: Mr. Jakup Krasniqi, President of the Assembly of Republic of Kosovo**

**Subject: Information on development of works of Privatization Agency of Kosovo**

Honourable President,

As you are aware of, with the entrance into of force of Constitution of the Republic of Kosovo, respectively pursuant to the section 65 (1) of the Constitution of the Republic of Kosovo, the Assembly of the Republic of Kosovo has approved the Law no. 03/L-067 on establishment of Privatization Agency of Kosovo (PAK) as an independent public body that shall carry out its functions and responsibilities with full autonomy and as the successor of the Kosovo Trust Agency, which was established based on UNMIK Regulation 2002/12.

Also, in compliance with Law provisions on establishment of PAK was appointed the PAK Board of Directors by the Assembly of Republic of Kosovo as well as international members of PAK by International Civilian Representative and this board has all competences over PAK.

In continuation, the next step was the fast functionalizing of PAK and to do this was necessary the access to the ex KTA premises and legal obligation to PAK Board of Directors to exercise the mandate determined by law especially safety and saving of respective documents. Preliminarily, in the capacity of President of PAK Board of Directors, always in compliance with legal provisions was obtained the consent by Prishtina Municipal Assembly to continue with the use of premises by PAK, which were in use of former KTA, since the premises in question are property of Municipal Assembly of Prishtina. Also, in compliance with legal provisions I have requested the assistance of Kosovo Police members in case we face an obstacle while exercising the mandate determined by Law and decision of the Parliament of Republic of Kosovo to appoint PAK Board of Directors.

In the capacity of Chairman of PAK Board of Directors for the first time I was enabled the access to the premises of former KTA on 24<sup>th</sup> of August 2008, and in this case I would like to inform you that the whole process was evidenced by Kosovo Police members as well. The situation, which we faced was that there was no equipment in the HQ offices (such as: computers, printers, telephone, etc) we have faced the traces of burnt documents, we faced various documents (in some of them can be seen clearly that they were not copies, but original documents and have in them clearly the notice as confidential documents) thrown in the waste bins, and more concerning was the fact that it was lacking the entire documentation of KTA Board of Directors decisions. In this case I would like to point out we have faced packed various documents in some of the offices, and most of the documents can be said to be from the archives of Regional Offices of former KTA. We have also found electronic equipment for saving of data ("server"), where we think that electronic copies of documents of former KTA are saved.

By facing, such an usual situation, I was obliged to urgently request the engagement of some of former KTA employees to undertake immediate actions for preserving of thrown documents and traces of burnt documents as well as physical security of premises by Kosovo Police and initiation of preparatory works for the constitutive meeting of PAK Board of Directors.

On 26<sup>th</sup> of August 2008 was held the constitutive meeting of PAK Board of Directors and apart from the appointment of Agency management, with the approval of PAK Board of Directors were addressed the letters to Mr. Lamberto Zannier – UNMIK SRSG and Mr. Paul Acda UNMIK DSRSG, where among others was requested the immediate return of the various equipment, which were earlier in use of former KTA in order to functionalize as soon as possible the successor Agency. Until now, we did not receive any respond.

On 29<sup>th</sup> of August 2008 was held the meeting with Mr. Renzo Daviddi, Head of Liaison Office of European Commission in Kosovo and his co-workers, with whom I in the capacity of Chairman of PAK Board of Directors have signed the agreement on financing PAK at the amount of €3 million, foreseen to cover the expenses for salaries of PAK local professional staff. Mr. Daviddi was informed closely on the situation which we face and up to now development as well as steps, which will be undertaken on improving as soon as possible of situation in order that the Agency is able to fulfil the conditions deriving from the abovementioned agreement despite all difficulties, which we could not foresee both parties in the case of signing the agreement for financing.

On 1<sup>st</sup> of September 2008 was held the second meeting of PAK Board of Directors where all sub-legal acts which form the framework of executive part of the Agency were approved, and enable in parallel of work for functionalizing of the Agency also the initiation of the preparatory works of Agency operation on time.

I would like to point out the fact that for each meeting of Board of Directors at the end were issued press releases by the Agency for the local media in order to inform public on development of the Agency and Board of Directors decisions. However, as a consequence of several local daily newspaper, and in this case I would like to point out that almost none of them does not comply with press releases issued by the Agency, on 9<sup>th</sup> of September 2008 I have been informed on the visit of Mr. Lamberto Zannier – UNMIK SRSG and Mr. Paul Acda UNMIK DSRSG in the Agency's HQ in order to see closely the current situation. During this visit and the talk with the abovementioned UNMIK representatives I have informed regarding the situation and also from them I have received confirmation that all KTA Board of Directors documents are in possession of UNMIK, and that also the entire electronic archive of KTA is in one of the electronic equipment for saving of data, which is located in the PAK HQ and that all copies of the documents, which were received will return in possession of PAK.

Among others, during the visit it was offered to me for signature the agreement on donations of technical equipment, which were earlier in use of KTA personnel, the signature of which I in the capacity of Chairman of the PAK Board of Directors have conditioned with the return of the abovementioned documentation, having into account the fact that the return of documents is the most relevant factor for continuation of PAK.

Finally, allow me to inform you that the next meeting of PAK Board of Directors will be held on 11 September 2008, where it will be presented for approval PAK Organogram together with the operational policies and also the reconfirmation of the approval of wave 31 of the process of privatization in Kosovo, where the date of the announcement of this wave is in direct dependence on the fact of returning the abovementioned documents.

The decisions made in this meeting of the Board of Directors will conclude the cycle of the necessary decisions for initiation of PAK functionalizing by including PAK Organogram, employment and staff policies, banking policies, By-laws, initial charter as well operational procedures.

Having into account the abovementioned difficulties as well as preparations and previous evaluation by the professional personnel of PAK, the potential scenarios of PAK functionalizing are dependant directly by expected mutuality of UNMIK and UNMIK Pillar IV in the legal and reasonable requests of PAK to return the documentation of the potential donation of the necessary equipment. In the best possible case (so the immediate return of documents as well as donation of equipment) the accelerated procedures of procurement of premises for the needs of PAK regional offices (5 offices: Prishtina, Peja, Gjilan, Prizren and Mitrovica) completion of necessary instalments of information network, testing and updating of electronic archive, employment of necessary staff (approximately 250 employees) could be implemented within the period of two months. Every other scenario would cause delays and by all means unnecessary complications and normally the consequences would be severe.

However, I would like to assure you that regardless of expected scenarios of the abovementioned developments and other alternative options, which might be imposed to the Agency, you would be informed on time.

By thanking you for the entrusted faith to me and other local members of the PAK Board of Directors, please for further clarifications do not hesitate to contact me.

With respect,

Dino Asanaj

Chairman of the Board of Directors  
Privatization Agency of Kosovo

On September 11, 2008, the third meeting of PAK Board of Directors was held, and during this meeting the PAK Organizational Structure was approved together with staff policies and reconfirmation of approval of Wave 31 of privatization process in Kosovo.

The fourth meeting of Board of Directors was held on October 14, and in this meeting the business plan for period September- December 2008 was approved, and Board also approved the amendments in operational policies as well as approved Wave 32 of Privatization.

The fifth meeting of Board of Directors was held on 6 November, and during this meeting were approved amendments of the Agency By-laws as well as approval of Wave 33 of privatization.

During this short period of time, the PAK has achieved to publish and conclude successfully three Waves of privatization by creating 21 NewCos.

The sixth meeting of Board of Directors was held on December 11, 2008 and during this meeting the sales from Waves 31 and 32 of privatization were approved by the Board.

On December 23, 2008 PAK delivered its second quarterly report to the Assembly of the Republic of Kosovo in relation to its activities and operations.





REPUBLIKA E KOSOVËS - REPUBLIKA KOSOVO - REPUBLIC OF KOSOVO  
AGJENCIA KOSOVARE E PRIVATIZIMIT - KOSOVSKA AGENCIJA ZA PRIVATIZACIJU - PRIVATISATION AGENCY OF KOSOVO

December 23, 2008

**To: Presidency of the Assembly of the Republic of Kosovo**

**Subject: Quarterly report over the activities of the Privatization Agency of Kosovo (PAK)**

Dear President and Members of the Presidency of the Assembly of Republic of Kosovo,

As you are aware of, with the entrance into force of Constitution of Republic of Kosovo, respectively pursuant to section 65 (1) of Constitution of Republic of Kosovo, the Assembly of Republic of Kosovo has approved the Law No. 03/L-067 on establishment of Privatization Agency of Kosovo (PAK) as a public independent body with a full legal validity and as a successor of the Kosovo Trust Agency (KTA) that was established according to UNMIK Regulation No. 2002/12.

Pursuant to Section 20, item 20.1 of Law on PAK establishment, Board submits to the Kosovo Assembly and publishes the quarterly reports which summarize the activities of the Agency and reflect financial results.

On this occasion, please allow me to inform you on the developments of PAK activities until today.

Initially, the PAK Board of Directors was established by the Kosovo Republic Assembly as well as PAK international members by International Civilian Representative in accordance with the provisions of Law on establishment of PAK and this board has the full jurisdiction over PAK.

The first step was acceleration of PAK functioning and to achieve this it was necessary to enable access to previous KTA premises as well as the legal obligation of PAK Board of Directors to exercise the mandate set by law. As the Chairman of PAK Board of Directors and in accordance with legal provisions I have requested the assistance of Kosovo Police members in case an obstacle occurs while exercising the mandate set by the Law and the decision of the Parliament of Republic of Kosovo for the appointment of PAK Board of Directors.

In the capacity of the Chairman of PAK Board of Directors for the first time I was enabled the access the previous KTA premises on August 24, 2008 and in this case I would like to inform you that the whole process was accompanied also by the members of Kosovo Police. The situation that we faced was that there was no equipment in Headquarter offices, there were burned documents, various documents thrown in garbage cans and most concerning was the lack of entire documents of KTA Board of Directors decisions. It is worth mentioning the fact that most of the documents were found packed and later on it was concluded that this documentation belongs to archives of previous KTA regional offices, which now with the opening of PAK regional offices have been turned into respective offices.

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Facing with an unusual situation, I was obliged to ask for an urgent engagement of some previous KTA employees to undertake some urgent actions in order to protect the thrown documentation, and take care of burned documentation traces, as well as to provide physical protection of premises by Kosovo Police and start with the preparatory activities in order to organize the constitutive meeting of PAK Board of Directors. However, we reserve the right to state at the certain point of time that not the entire documentation was returned, since the documentation was once removed and there was no official handover by predecessor Agency.

On September 26, 2008 the constitutive meeting of PAK Board of Directors was held, and apart from the appointment of new Agency management, with the approval of PAK Board of Directors, official documents were sent to Mr. Lamberto Zannier – UNMIK SRSG and Mr. Paul Acda UNMIK DSRSG, where among others we have requested the immediate return of documents missing, different equipment that were used previously by KTA, always with the aim to start the functioning of the new Agency as soon as possible.

On September 1, 2008 the second meeting of PAK Board of Directors was held, and during this meeting were approved all sub-legal acts that create the work-frame of the executive part of the Agency and enable simultaneously the Agency functioning, as well as preparatory works for the Agency operation on time.

On September 9, 2008 Z. Lamberto Zannier – UNMIK SRSG and Mr. Paul Acda UNMIK DSRSG have visited the premises of the Agency in order to see the current situation.. During this visit and discussions with the abovementioned UNMIK representatives I have offered information regarding the situation and from them I have got the confirmation that all documents of KTA Board of Directors are under the UNMIK possession and the whole electronic archive of KTA is in one electronic database located in PAK HQ and that all copies of documents taken will be returned in possession of PAK. The abovementioned documentation was returned into the possession of Agency and the servers were activated in which the electronic version of all documents is saved including all data from regional offices and Agency HQ. It remains to be seen if the entire documentation is there.

On September 11, 2008, the third meeting of PAK Board of Directors was held, and during this meeting the PAK Organizational Structure was approved together with staff policies and reconfirmation of approval of Wave 31 of privatization process in Kosovo.

The fourth meeting of Board of Directors was held on October 14, and in this meeting the business plan for period September- December 2008 was approved, and Board also approved the amendments in operational policies as well as approved the Wave 32 of Privatization.

The fifth meeting of Board of Directors was held on 6 November, and during this meeting were approved amendments of the Agency By-laws as well as approval of Wave 33 of privatization.

Regarding the privatization process, I would like to inform you that the Agency during this short period of time has achieved to publish and conclude successfully three Waves of privatization by establishing 21 NewCos.

The Bid Day for Wave 31 of privatization was on November 19, including seven SOEs in nine NewCos. The number of accepted bids with ordinary spin-off was 84, with total amount of € 7,840,666.

The Bid Day for Wave 32 of privatization was on December 3, 2008, including four SOEs in six NewCos. The number of received bids with ordinary spin-off was 18, with a total amount of € 1,922,150.

The Bid Day for wave 33 of privatization was held on December 17, 2008, including four SOEs in five NewCos. The total number of received bids with ordinary spin-off was 15, with a total amount of € 909.072.

The sixth meeting of Board of Directors was held on December 11, 2008 and during this meeting the sales from Waves 31 and 32 of privatization were approved by Board, whereas regarding the results of wave 33 the PAK Board of Directors will decide in the next meeting which will be held on January of 2009.

One of the main activities set as a priority by PAK Board of Directors is distribution of 20% lists from sales of enterprises. Within this short period PAK, despite all difficulties, has managed to distribute 7 lists for SOE employees:

-IMN Dukagjini	(€ 1,099,220.39 – 227 Employees)
-Fabrika e Plastikes (Plastic Factory)	(€ 85,335.61 - 142 Employees)
-Fan	(€ 450,297.77 – 420 Employees)
-Eximkos	(€ 547,685.31 – 110 Employees)
-Stacioni i Veterinës (Veterinary station)	(€ 32,573.39 – 5 Employees)
-Kosova Kontroll	(€ 17,476.67 – 6 Employees)
-Bujqësia Zahaq (Agriculture Zahaq)	(€ 145,933.61 – 115 Employees)
<hr/>	
Total	€ 2,478,522.75 -1025 Employees

It is necessary to be emphasized that PAK by having into consideration the importance and implications from the delay of the distribution of 20% for eligible employees, has increased the number for four times of staff that deals with drafting and review of the lists and claims related to 20%. Number of staff that worked in the previous Agency (KTA) was totally three, whereas now there are two units (unit for employees' lists and committee for claims review) that in total include 11 staff members that will work exclusively on employee lists.

PAK has also achieved to open all regional offices (Pristina, Peja, Prizren, Mitrovica and Gjilan) by creating the basis for full functioning of PAK. By opening the regional offices and hiring necessary professional staff have been fulfilled all preconditions for re-foundation of approximately 120 committees of Liquidation that will be approved in the next meeting of Board of Directors which will be held on January 2009.

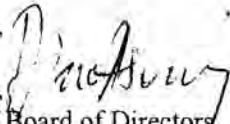
Another activity of the Agency was the procedure for selection of the Managing Director of Southern Trepça, an activity that started on October of this year through a public ad. After interviewing the selected candidates by the interviewing panel which consisted of members of the Board of Directors of PAK, representatives of the Ministry of Finances and Economy, Ministry of Energy and Mines and representatives of Trepça, the most successful candidate that was chosen is Mr. Ferat Shala, and he will exercise this position starting on December 15, 2008.

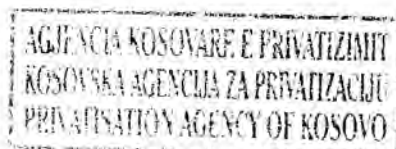
Regarding the proceeds from privatization process that are held at the Central Bank of Republic of Kosovo (CBRK), immediately after the constitution of Board of Directors of PAK and PAK management appointment the signatures of PAK official persons were deposited and in this case funds were set under the PAK control. We want to emphasize the fact that PAK has requested

continuously from CBRP to confirm that the Agency proceeds are guaranteed and from CBRP we got the information that these proceeds are safe and that investments done by CBRK result with benefits (the copy of the letter is attached).

In the end please let me inform you that completed financial statements of PAK will be presented to you after January 31, 2009 at the time set by Law for conclusion of financial reports for PAK.

Best regards,

Dino Asanaj,   
Chairman of Board of Directors  
Privatization Agency of Kosovo



The seventh meeting of Board of Directors was held on January 21 and 22, 2009, and during these meetings the sales from wave 33 were approved.

The PAK Board has taken the decision that the liquidation of the 120 Enterprises is reconfirmed and re commenced on 01 February 2009 or such later date as the Two Deputy Managing Directors may, in their discretion, determine and subject, where applicable, to the privatisation sales coming into effect; and the two Deputy Managing directors are authorized to appoint members of the Liquidation Committee for each liquidation and to appoint such replacements as may be required from time to time.

The PAK Board has taken the decision to make all endeavours to exercise the Call Option; and to attempt to impose the financial penalties due to the clear egregious breach of the Commitment Agreement with respect to NewCo Llamkos LLC.

The eighth (8) meeting of PAK Board of Directors was held on 27-28 February 2009. In this meeting was reported on the situation and issues inherited from former Kosovo Trust Agency (KTA) which in general represent an extraordinary burden for the PAK work dynamic for 2009, as it is the case of 166 pending contracts (from the sales made by former KTA through method of spin-off as well as the sale in liquidation), a considerable number of cases in Courts as well as claims (over 45.000 claims) and the problems during the phase of reconstruction and reorganizing of PAK.

In this meeting, PAK Board of Directors has approved the PAK business plan for 2009, where apart the continuation of privatization process there will be announced 8 Waves, there will also be a continuation of eight sales of assets through the procedure of liquidation. In the business plan it is also foreseen the work dynamic of Agency part regarding the publication of provisional lists as well as of the final ones of eligible employees to benefit from the distribution of 20% share.

Therefore, one of the main activities set as a priority by PAK Board of Directors is distribution of 20% lists from sales of enterprises.

The ninth (9) meeting of PAK Board of Directors was held on 26-27 March 2009. In this meeting the Secretary of the Board of Directors participated for the first time, who was recently appointed by the representative of International Civilian Office (ICO). In this consecutive meeting the 34th wave of the privatization process was approved, in which are included 11 NewCo's.

It is important to note that PAK, having taken account of the importance and implications of delays in distributing the 20% for eligible employees, has quadrupled the number of staff dealing with drafting and review of the lists and claims related to the 20%. In the previous Agency (KTA), only three staff worked on Employee Lists, whereas now there are two units (unit for employees' lists and committee for claims review) that in total include 11 staff members that will work exclusively on employee lists.

PAK has also succeeded in reopening all regional offices (Prishtina, Peja, Prizren, Mitrovica and Gjilan) those creating the basis for full functioning of the PAK. By opening the regional offices and hiring necessary professional staff, the PAK fulfilled all preconditions for re-establishment of approximately 120 Liquidation Committees.

The PAK was also involved in the procedure for selection of the Managing Director of Southern Trepça, an activity that started in October 2008 through a public advertisement. After interviewing the selected candidates by a panel which consisted of members of the Board of Directors of PAK, representatives of the Ministry of Finances and Economy, Ministry of Energy and Mines and representatives of Trepça, the most successful candidate was chosen and has commenced his duties as of December 15, 2008.

On April 6, 2009 Chairman of the PAK Board of Directors delivered its third quarterly report to the Assembly of the Republic of Kosovo in relation to its activities and operations.



REPUBLIKA E KOSOVËS - REPUBLIKA KOSOVO - REPUBLIC OF KOSOVO

AGJENCIA KOSOVARE E PRIVATIZIMIT - KOSOVSKA AGENCIJA ZA PRIVATIZACIJU - PRIVATISATION AGENCY OF KOSOVO

6 April 2009

**To: The Presidency of Assembly of the Republic of Kosovo**

**Subject: Quarterly report on activities of Privatization Agency of Kosovo (PAK)**

Dear Chairman and Members of Presidency of the Assembly of the Republic of Kosovo,

As you are aware of, with the entrance into force of Constitution of the Republic of Kosovo, respectively pursuant to the section 65 (1) of Constitution of the Republic of Kosovo, Assembly of Republic of Kosovo has approved the Law No. 03/L-067 for the establishment of Privatization Agency of Kosovo (PAK) as an independent public body with full juridical autonomy and as successor of Kosovo Trust Agency (KTA), which was established pursuant to UNMIK Regulation No. 2002/12.

Pursuant to the Article 20, point 20.1 of the Law on establishment of PAK, Board submits to the Kosovo Assembly and makes public quarterly reports which summarize the activity of Agency and reflect financial results.

On this occasion allow me first to inform you with the development of PAK activities for the period January – March 2009.

The seventh (7) meeting of PAK Board of Directors was held on 21-22 January 2009. In this board meeting for the first time have participated two new members recently appointed by the representative of International Civilian Office (ICO). Having into consideration the fact that now with the establishment of 5 (five) PAK regional offices have been created all pre-conditions for reestablishment of 120 Liquidation Committees, and also in this meeting PAK Board of Directors has given the approval for the beginning of reestablishment of 120 Liquidation Committees and the appointment of members of Liquidation Committees. It should be mentioned the fact that in each of these committees should also be as a member one representative appointed by ICO. In this meeting Board of Directors has also approved transactions of round 33 of privatization and it was also discussed on the developments in New.Cos privatized through the method of Special Spin-off.

The eighth (8) meeting of PAK Board of Directors was held on 27-28 February 2009. In this meeting was reported on the situation and issues inherited from former Kosovo Trust Agency (KTA) which in general represent an extraordinary burden for the PAK work dynamic for 2009, as it is the case of 166 pending contracts (from the sales made by former KTA through method of spin-off as well as the sale in liquidation), a considerable number of cases in Courts as well as claims (over 45.000 claims) and the problems during the phase of reconstruction and reorganizing of PAK.

In this meeting, PAK Board of Directors has approved the PAK business plan for 2009, where apart the continuation of privatization process where there will be announced 8 Waves, there will also be a continuation of eight sales of assets through the procedure of liquidation.. In the business plan it is also foreseen the work dynamic of Agency part regarding the publication of provisional lists as well as of the final ones of eligible employees to benefit from the distribution of 20% share. It is important to be mentioned the fact that in this meeting after the review of all claims (1.317 claims in provisional list with 480 names) by the Review Committee on claims of employees, Board of Directors has approved and was published final list of SOE Ramiz Sadiku – Prishtina.

In this meeting was also continued with discussions for needed and necessary actions related to the all NewCos privatized through Special Spin-off.

During this period PAK also drafted an overview of three years strategy of activities and operational overview, which were presented to the Board of Directors.

The ninth (9) meeting of PAK Board of Directors was held on 26-27 March 2009. In this meeting for the first time the Secretary of the Board of Directors participated for the first time, who was recently appointed by the representative of International Civilian Office (ICO). In this consecutive meeting the 34th wave of the privatization process was approved, in which are included 11 New.Cos, as well as following the claims review by the claim review committee 5 Final Lists of SOE were approved which will be published within the time limit determined by the law, respectively for the enterprises Ballkani in Suhareka; Ramiz Sadiku in Prizren, Aromatiku in Prizren, Krikos in Prishtina, and 16 June in Decan. It should be emphasized that a certain number of employee lists is in the process of review and the same ones will be presented to the Board of Directors for approval in the next meeting.

Finally in this meeting it was reported on categorization of all enterprises privatized through Special Spin-Off and soon is expected to start the independent specialized auditing procedure of all these New Companies regarding the investment and employment commitments reported by them.

In regard to this, I would like to inform you that PAK has also signed a Memorandum of Understanding with the Ministry of Trade and Industry through which are made official the procedures in relation to statutory changes of the Enterprises sold through Special Spin-Off.

PAK has also signed a Memorandum of Understanding with the Ministry of Internal Affairs related to verification of winning bidders in the privatization process.

I would also like to inform you that as for the publication of workers lists (being provisional or final ones), their publication is continuing without problems within the territory of the Republic of Kosovo and also in the Republic of Montenegro, while publication in the Republic of Serbia was prohibited by direct intervention of the authorities of the Republic of Serbia. Notwithstanding the agreement for such a publication that PAK signed with daily newspaper BLIC, the latter informed PAK that after the first publication they are not able to further continue with the publication since such an action is considered against the law of the Republic of Serbia. Currently, PAK Board of Directors has decided to continue with the list publication in the local newspapers and in the Republic of Montenegro as well as in PAK's official webpage, and at the same time they are considering the possibility for enlargement of the information base through the assistance of the Ministry for Community and Return of the Republic of Kosovo, for which PAK addressed to the Ministry for Community and Return through official request.

PAK wants to inform you that it has received information by the management of Socially Owned Enterprises that the Privatization Agency of Serbia is making the sale of assets of Socially Owned Enterprises of Kosovo, which are located in different towns of the Republic of Serbia.

PAK has undertaken immediate actions by requesting from Privatization Agency of Serbia to interrupt such sales since these assets fall under PAK jurisdiction. With this letter are informed Legal Office of the President of the Republic of Kosovo, Legal Office of Assembly of the Republic of Kosovo, Legal Office of Prime Minister of the Republic of Kosovo, Office of the International Civilian Representative in Kosovo as well as Legal Office of EULEX in Kosovo.

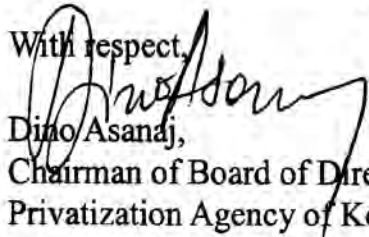
PAK is currently completing all necessary preparations in regard to acceleration of liquidation procedures which are expected to be finished by the mid of 2009, PAK has also started concluding the remained contracts, as well as to inform that currently the Office of General Auditor of the Republic of Kosovo is auditing the PAK's financial statements for the period of time July-December 2008.



It should be emphasized also the fact that PAK has received a considerable number of requests by Municipal Assemblies and by the Central Institutions of the Republic of Kosovo related to the swap of properties of the Socially Owned Enterprises for the general interest of the citizens of the Republic of Kosovo (e.g. for the new stations of Kosovo Police, hospitals, schools, etc). PAK is reviewing the existing legislation, which earlier has enabled such actions and we believe that very soon it will come up with necessary proposals for the necessary changes in the part of legislation, which regulates this process.

Finally, allow me to inform you that attached to this report you will find PAK's completed financial statements for reporting period July-December 2008.

With respect,

  
Dino Asanaj,  
Chairman of Board of Directors  
Privatization Agency of Kosovo

AGJENCIA KOSOVARE E PRIVATIZIMIT  
KOSOVSKA AGENCIJA ZA PRIVATIZACIJU  
PRIVATISATION AGENCY OF KOSOVO

The tenth (10) meeting of PAK Board of Directors was held on 29 April 2009. In this board meeting the final employees' lists for SOEs: "Kosovatrans", Gjilan; "Luboteni "Brick Factory", Ferizaj; "Anamorava", Gjilan; "Energomontimi", Prishtina; "Tool Factory", Ferizaj; "Mushroom Factory", Prishtina; "Trasing", Prishtina; and "Hotel Theranda" were approved. PAK Board of Directors approved wave 35 of privatisation in which are included 9 New Co-s and also wave 36 in which are included 9 New Co-s. In this meeting Board of Directors has also approved transactions of wave 33 of privatization and it was also discussed on the developments in NewCos privatized through the method of Special Spin-off.

On May 19, 2009 Chairman of the PAK Board of Directors provided a written report to the Assembly of Kosovo in relation to the quires made by the group of Assembly members, namely with respect to Special Spin Off sales of Ferronikeli and Llamkos and Agricultural Land.



## Republika e Kosovës

Republika Kosovo – Republic of Kosovo  
Kuvendni-Skupština-Assembly

Pursuant to section 67.6 of the Constitution of Republic of Kosovo and Rule 6 of Labor Assembly Regulation, the Presidency of Assembly, in the meeting held on 6<sup>th</sup> of April 2009, after it reviewed the request of six members of Parliament to debate in the plenary session regarding the process of privatization in Kosovo, issued this:

### CONCLUSION

1. It is required that the Privatization Agency of Kosovo prepares Information for privatization process, according to the request of the group of MPs.
2. The required information, according to the paragraph one (1) of this conclusion be prepared and be sent to the Assembly as soon as possible.

No. 03-P-091/k  
Prishtina, 6<sup>th</sup> of April 2009

President of the Assembly  
Jakup Krasniqi

Conclusion to be sent to:

- Assembly Administration
- Privatization Agency of Kosovo
- Assembly Archive



**Republika e Kosovës - Republika Kosovo - Republic of Kosovo**  
**AGJENCIA KOSOVARE E PRIVATIZIMIT - KOSOVSKA AGENCIJA ZA PRIVATIZACIJU - PRIVATISATION AGENCY OF KOSOVO**

19 May 2009

**To:** Presidency of Assembly of the Republic of Kosovo

**Subject:** Regarding your request No.03-P-091/k addressed to the Privatization Agency of Kosovo (PAK)

**Honorable President and members of the Presidency of the Assembly of Republic of Kosovo,**

As you are aware of, with the entrance into of force of Constitution of the Republic of Kosovo, respectively pursuant to the section 65 (1) of the Constitution of the Republic of Kosovo, the Assembly of the Republic of Kosovo has approved the Law no. 03/L-067 on establishment of Privatization Agency of Kosovo (PAK) as an independent public body with full juridical personality and as the successor of the Kosovo Trust Agency, which was established according to UNMIK Regulation 2002/12.

Initially, allow me to inform you on the development of activities of PAK up to now.

In compliance with Law provisions on establishment of PAK was appointed the PAK Board of Directors by the Assembly of Republic of Kosovo as well as international members of PAK by International Civilian Representative and this board has all competences over PAK.

First step was the fast functionalizing of PAK and to do this was necessary the access to the former KTA premises and legal obligation to PAK Board of Directors to exercise the mandate determined by law.

For the first time the access to the premises of former KTA, now PAK, was enabled on 24<sup>th</sup> of August 2008, and it should be mentioned the fact that there was no official handover from former KTA to PAK. This made the new Agency (so PAK) to face with extraordinary difficulties, because the situation which we faced was that there was no equipment in the HQ offices, we have faced the traces of burnt documents, we faced various thrown documents, and more concerning was the fact that it was lacking the entire documentation of KTA Board of Directors decisions.

Having faced with such unusual situation, we were obliged to urgently request the engagement of some local experts to undertake immediate actions, among them was the initiation of preparatory works for the constitutive meeting of PAK Board of Directors, which was held on 26<sup>th</sup> of August 2008.

Following this meeting, PAK (in less than three months) achieved to firstly return the documentation, which was earlier taken from UNMIK in order to prepare and issue all sub-legal acts, which have to do with executive part of the Agency (such as: operational procedures, By-laws, Initial Charter, Financial Procedures, Organogram of the Agency), establishment and opening of five regional offices, recruiting of over 200 employees of the Agency in the entire territory of Kosovo, announcement of three rounds of privatization, preparation and distribution of 20% share for over 1,000 employees (or at the amount of over €2,5m), review of thousand claims in a high number of employee lists and their publication (a process that still continues and will continue), initiation and preparation as well as signing of the first contracts (from over 166 pending contracts, inherited from former KTA) reinitiating of the establishment of 120 Liquidation Committees, signing of a certain number of memorandums with relevant institutions and at the same time it is started with the intensive monitoring of all privatized enterprises through special spin-off method.

In short, having into consideration all difficulties, it can be said that PAK has made extraordinary work, but it still remains to be done. Currently, the burden inherited from former KTA can be considered as the only element that can potentially impact on the dynamic of PAK works, which situation is thought to be overcome within the first half of 2009.

As I mentioned above, since the establishment of PAK an intensive work has been made regarding privatized enterprises by former KTA through special spin-off method. I have to say that initially we have noticed deficiencies from the past (from former KTA), which mainly have to do with a prequalification and weak selection of potential investors and potentially new owners of these enterprises privatized through special spin-off, which enabled the purchase of these enterprises in several cases also the individuals/companies that do not have any certain expertise in the respective fields. The second deficiency is the issue of generalized terms, which were used in the contracts with special spin-off. There are cases where terms of reference change dependant on the contract with certain buyer. This creates a lot of problems in the practice. Another deficiency can also be mentioned and that is the very weak mechanisms of monitoring made in the past by former KTA in relation with the level of commitment fulfillment made for investments and employment by the buyers. This has resulted with a very serious negligence by the side of former KTA regarding the interference/intervention on time, which was also a legal obligation toward companies, which in continuation failed in fulfillment of commitments made.

PAK is reviewing all privatized enterprises through the method of special spin-off, and at the same time it has put in place a more efficient procedure to monitor them.

**Subsequently allow me to respond to your specific questions, which were addressed to me in written by the Parliament (members of parliament) of the Republic of Kosovo, which have to do with Ferronikel, Llamkos as well as privatization of agricultural lands in general.**

**Regarding the case of Ferronikel, is one of the privatized enterprises with special spin-off from former KTA. The contract was signed on 20<sup>th</sup> of April 2006, and the commitment for investments and employment were €20,000.000, respectively 1,000 employees. Up to now have been reported as investments €59, 677, 464, 00 (so around three times more than they were committed) while for employment 1064 employed employees according to the recent reports. The monitoring period will be finished on 20<sup>th</sup> of April 2009, when it will be made the independent external auditing of reported investments and employment.**

**While, Llamkos is also enterprise privatized through special spin-off by former KTA. The contract is signed on 21<sup>st</sup> of July 2005 and commitment for investments and employment were €15,000,000 respectively 500 employees. Up to now have been reported as investments €1,670,338.61 while for employment this company has 599 men months less than it was foreseen with contract (this means 50 employees less per month than it was foreseen with contract). Board of Directors of former of KTA on 21<sup>st</sup> of May 2008 has made a decision to initiate the procedure for exercising the call option for the NewCo Llamkos L.L.C. The same decision after the restructuring of PAK the PAK Board of Directors has reconfirmed and currently PAK is undertaking all necessary actions to execute this decision.**

**I can tell you with my full competency that continuously in PAK Board of Directors meetings was discussed (and continues to be discussed) on enterprises privatized through the method of special spin-off, meaning the fulfillment of commitments made by buyers regarding the investments and employment. It should be understood clearly that as a new Agency it is required some time to review all cases and undoubtedly PAK will undertake all necessary actions in full compliance with Law and mutual contractual obligations.**

**Currently, PAK is in procedure of engagement of independent auditing companies, where apart the financial auditing it is required also professional expertise in various technical and legal sectors in order to audit all enterprises privatized through the method of special spin-off. Dependant on professional independent reports at the certain moment will be undertaken necessary actions.**

**While, regarding privatization of agricultural lands allow me to inform you that PAK continues with their privatization and all agricultural lands are privatized with the same destination that they had. PAK does not allow, and it can't even if it wanted to, to change the destination of a certain land and this was said clearly in all documents of privatization of lands. In essence such a thing is regulated clearly by applicable**

**legislation (such as: Law on Spatial Planning, Law on Protection of Environment, Law on Kosovo Forestry, Law on Agricultural Land no.02/L-26 etc), which determines and authorizes the respective Municipal Assemblies for such an action.**

Subsequently, allow me to inform you on some of the recent developments that have to do with the work of Agency:

Firstly, I would like to inform you regarding the publication of employee lists (being provisional or final) review of a high number of claims in the final lists and their publication is now continuing with an extraordinary accelerated dynamic. We remain in hope that the Special Chamber of Supreme Court of Kosovo as a last instance will be ready to make decisions on merit within the deadlines determined by law.

Secondly, I would like to inform you that PAK has received information from management of Socially Owned Enterprises (concrete case JATEX –Gjakova) that Privatization Agency of Serbia is conducting the sale of assets of Socially Owned Enterprises, which are located in various cities of the Republic of Serbia. PAK has undertaken immediate actions by requesting from Privatization Agency of Serbia to stop such sales, since those assets fall under PAK jurisdiction. With this letter have been informed Legal Office of President of Republic of Kosovo, Legal Office of the Assembly of the Republic of Kosovo, Legal Office of the Prime Minister of the Republic of Kosovo, Office of the International Civilian Representative in Kosovo, as well as Legal Office of EULEX in Kosovo.

Finally, I would like to inform you that PAK currently is completing all necessary preparations regarding the accelerations of liquidation procedures, which are expected to be finished between 2009 (by foreseeing the necessary international representatives in these committees appointed by International Civilian Representative), also PAK has started with signature of pending contracts, as well as inform you that currently the Office of General Auditor of the Republic of Kosovo is conducting the auditing of financial statements of PAK for the period of July-December 2008.

With respect,

Dino Asanaj,  
Chairman of Board of Directors  
Privatization Agency of Kosovo

The eleventh (11) meeting of PAK Board of Directors was held on 29 May 2009. In this meeting the following final employees' lists were approved: "Utva", Peja; "28 November", Gjilan; "Çyçavica", Vushtrri; "Kosovatrans" Kamenicë; "Mustafë Goga", Ferizaj; "Agromorava", Viti; and "Agriculture Station", Gjakovë. Moreover, in this meeting, PAK Board of Directors has approved the Liquidation Procedures and updated forms and was reported that new liquidation database is created. In this meeting, Board of Directors approved transactions of 34 wave of privatization and also approved wave 37 in which are included 10 New Cos.

The twelfth (12) meeting of PAK Board of Directors was held on 26 June 2009. In this meeting three below described final employee lists were approved: "Peja Brewery", Peja; "Plantation", Ferizaj; and "Kosovarja", Prishtina. Board of Directors approved wave 38 of privatization with 12 NewCos and wave 39 with 10 NewCos. Moreover Board approved most of the transactions from wave 35.

I would also like to inform that in this meeting, Board of Directors had approved unanimously proposal to acknowledge full compliance with commitment agreement with regard to NewCo Banja e Klllokotit and to release them from further reporting duties towards PAK. Proposed strategy for companies privatised through SSO was also approved.

Finally in this meeting it was reported the independent specialized auditing procedure of all New Companies privatised through Special Spin Off method is ongoing.

I would also like to inform you that as for the publication of workers lists (being provisional or final ones), their publication is continuing without problems within the territory of the Republic of Kosovo and also in the Republic of Montenegro, whilst problems with publications of lists in the Republic of Serbia has been resolved and PAK is entirely fulfilling its legal obligations.

***In relation to this, I would like to draw your attention on the SCSC and its decisions related to the workers' lists, namely list of SOE Ramiz Sadiku and other issues when SCSC is not recognizing composition of PAK review committees, nor PAK as a legal successor of the KTA.***

***Furthermore, the issue of workers' list is becoming an overwhelming problem for the PAK and which requires more proactive role of the interested parties. Last protest of workers of SOE Ramiz Sadiku is a clear example that situation may result in social unrest, and as such we will be unable to exercise our mandate, which derives from the Law on establishment of PAK.***

On 3 July 2009, we have prepared and delivered regular quarterly report for the period April – June 2009 to the Assembly of the Republic of Kosovo pursuant to the Article 20, point 20.1 of the Law on establishment of PAK, Board submits to the Kosovo Assembly and makes public quarterly reports which summarize the activity of Agency and reflect financial results.



REPUBLIKA E KOSOVËS - REPUBLIKA KOSOVO - REPUBLIC OF KOSOVO  
AGJENCIA KOSOVARE E PRIVATIZIMIT - KOSOVSKA AGENCIJA ZA PRIVATIZACIJU - PRIVATISATION AGENCY OF KOSOVO

3 July 2009

**To: The Assembly of the Republic of Kosovo**

**Subject: Quarterly report on activities of Privatization Agency of Kosovo (PAK)**

Dear Members of the Assembly of the Republic of Kosovo,

As you are aware of, with the entrance into force of Constitution of the Republic of Kosovo, respectively pursuant to the section 65 (1) of Constitution of the Republic of Kosovo, Assembly of Republic of Kosovo has approved the Law No. 03/L-067 for the establishment of Privatization Agency of Kosovo (PAK) as an independent public body with full juridical autonomy and as successor of Kosovo Trust Agency (KTA), which was established pursuant to UNMIK Regulation No. 2002/12.

Pursuant to the Article 20, point 20.1 of the Law on establishment of PAK, Board submits to the Kosovo Assembly and makes public quarterly reports which summarize the activity of Agency and reflect financial results.

On this occasion allow me to inform you with the development of PAK activities for the period April – June 2009.

The tenth (10) meeting of PAK Board of Directors was held on 29 April 2009. In this board meeting the final employees' lists for SOEs: "Kosovatrans", Gjilan; "Luboteni "Brick Factory", Ferizaj; "Anamorava", Gjilan; "Energomontimi", Pristina; "Tool Factory", Ferizaj; "Mushroom Factory", Pristina; "Trasing", Pristina; and "Hotel Theranda" were approved. PAK Board of Directors approved wave 35 of privitisation in which are included 9 New Co-s and also wave 36 in which are included 9 New Co-s.

In this meeting Board of Directors has also approved transactions of wave 33 of privatization and it was also discussed on the developments in New.Cos privatized through the method of Special Spin-off (SSO).



The eleventh (11) meeting of PAK Board of Directors was held on 29 May 2009. In this meeting the following final employees' lists were approved: "Utva", Peja; "28 November", Gjilan; "Cycavica", Vushtrri ; "Kosovatrans" Kamenica; "Mustafe Goga", Ferizaj; "Agromorava", Viti; and "Agriculture Station", Gjakove. Moreover, in this meeting, PAK Board of Directors has approved the Liquidation Procedures and updated forms and was reported that new liquidation database is created. In this meeting, Board of Directors approved transactions of 34 wave of privatization and also approved wave 37 in which are included 10 New Cos.

The twelfth (12) meeting of PAK Board of Directors was held on 26 June 2009. In this meeting three below described final employees lists were approved: "Peja Brewery", Peja; "Plantation", Ferizaj; and "Kosovarja", Prishtina. Board of Directors approved wave 38 of privatization with 12 NewCos and wave 39 with 10 NewCos. Moreover Board approved most of the transactions from wave 35.

I would also like to inform that in this meeting, Board of Directors had approved unanimously proposal to acknowledge full compliance with commitment agreement with regard to NewCO Banja e Klokotit and to release them from further reporting duties towards PAK. Proposed strategy for companies privatised through SSO was also approved.

Finally in this meeting it was reported the independent specialized auditing procedure of all New Companies privitised through Special Spin Off method is ongoing.

I would also like to inform you that as for the publication of workers lists (being provisional or final ones), their publication is continuing without problems within the territory of the Republic of Kosovo and also in the Republic of Montenegro, whilst problems with publications of lists in the Republic of Serbia has been resolved and PAK is entirely fulfilling its legal obligations.

In relation to this, I would like to draw your attention on the SCSC and its decisions related to the workers' lists, namely list of SOE Ramiz Sadiku and other issues when SCSC is not recognizing composition of PAK review committees, nor PAK as a legal successor of the KTA.

I would like to inform you that PAK has received a decision of Appeal Court of Montenegro in relation to the assets of SOE Rekreators, where the Court has rejected appeal of PAK claiming that PAK is not party in this legal matter. Therefore, the institutions of the Republic of Kosovo should contact Montenegrin authorities in order to assist PAK in its endeavors to protect and increase the value of SOE assets located outside the territory of Kosovo.

PAK has also undertaken immediate actions by requesting from Montenegrin authorities to recognize PAK as independent legal body established under the constitution of the Republic of Kosovo. With this letter are informed Legal Office of the President of the Republic of Kosovo, Legal Office of Assembly of the Republic of Kosovo, Legal Office of Prime Minister of the Republic of Kosovo, Office of the International Civilian Representative in Kosovo as well as Legal Office of EULEX in Kosovo, which returned the letter and advised PAK to address the letter to UNMIK and not to EULEX..

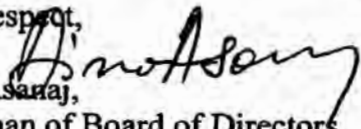
PAK has also completed all necessary preparations in regard to liquidation procedures and is on hold due to the non appointment of international representatives in liquidation committees by ICO.

It should be noted that PAK is continuing to receive a considerable number of requests by Municipal Assemblies and by the Central Institutions of the Republic of Kosovo related to the swap of properties of the Socially Owned Enterprises for the general interest of the citizens of the Republic of Kosovo. We are notified that the Ministry of Local Administration and Government is preparing legal framework that will enable Municipalities and PAK to undertake such swaps.

Finally, in accordance with the latest requirement of the Parliamentary Commission for Budget and Finance, please find attached financial reports for the period January – June 2009. In the future, PAK will provide quarterly financial reports, as attachments to the regular reports submitted to the Assembly of the Republic of Kosovo.

In case you request any additional information, please do not hesitate to contact me.

With respect,

  
Dino Asanaj,  
Chairman of Board of Directors  
Privatization Agency of Kosovo

The thirteenth (13) meeting of PAK Board of Directors was held on 29 and 30 July 2009. In this meeting three below described final employee's lists were approved: "KHT Kosova", Prishtinë; "Kosova Hidrotehnika", Prishtinë; and "Kosova Construction", Vushtrri. Board of Directors approved wave 40 of privatization with 9 NewCos and wave 41 with 10 NewCos. Moreover Board approved most of the transactions from wave 36.

I would also like to inform that in this meeting, Board of Directors had approved unanimously proposal to acknowledge full compliance with commitment agreement with regard to NewCo "Ferronikeli", "Peja Brewery" and "IMN in Gjakova" and to release them from further reporting duties towards PAK. Management also reported that several big companies will be presented for approval by the BoD and subsequent privatisation.

### 3. MISSION

The PAK will continue with privatizations through three methods:

"Spin-Off"- The assets and a limited number of liabilities of the SOE-s are transferred to newly established joint stock companies ("NewCo-s") with the shares of the new companies then tendered for sale to private investors. Remaining liabilities and employees remain with the SOEs.

"Special Spin-Off"- Is similar to a spin-off but it would allow PAK to attach conditions (for example, maintaining a minimum level of employment, investment commitments, remaining in the same line of business) to the tender. Special spin-offs are to be used generally for only the largest, most strategic SOE-s (if the existing Law is amended. As it stands currently the legislation enables PAK to utilise only ordinary spin off and liquidation sales).

"Voluntary Liquidation"- For those SOE-s that are not viable, their assets will generally be liquidated through a public auction.

#### 3.1 Vision

Within the next three years PAK will privatise and/or liquidate approximately 599 SOE-s with a view to distributing funds from the privatisation/ liquidation into the economy of Kosovo.

#### 3.2 Mission

Sell, transfer or liquidate Enterprises and Assets in accordance with the law on the establishment of Privatization Agency of Kosovo, without undue delay.

#### 3.3 Objectives

As detailed in Article 2 of the PAK Regulation, the Agency, in accordance with the terms of the present law, has the authority to administer:

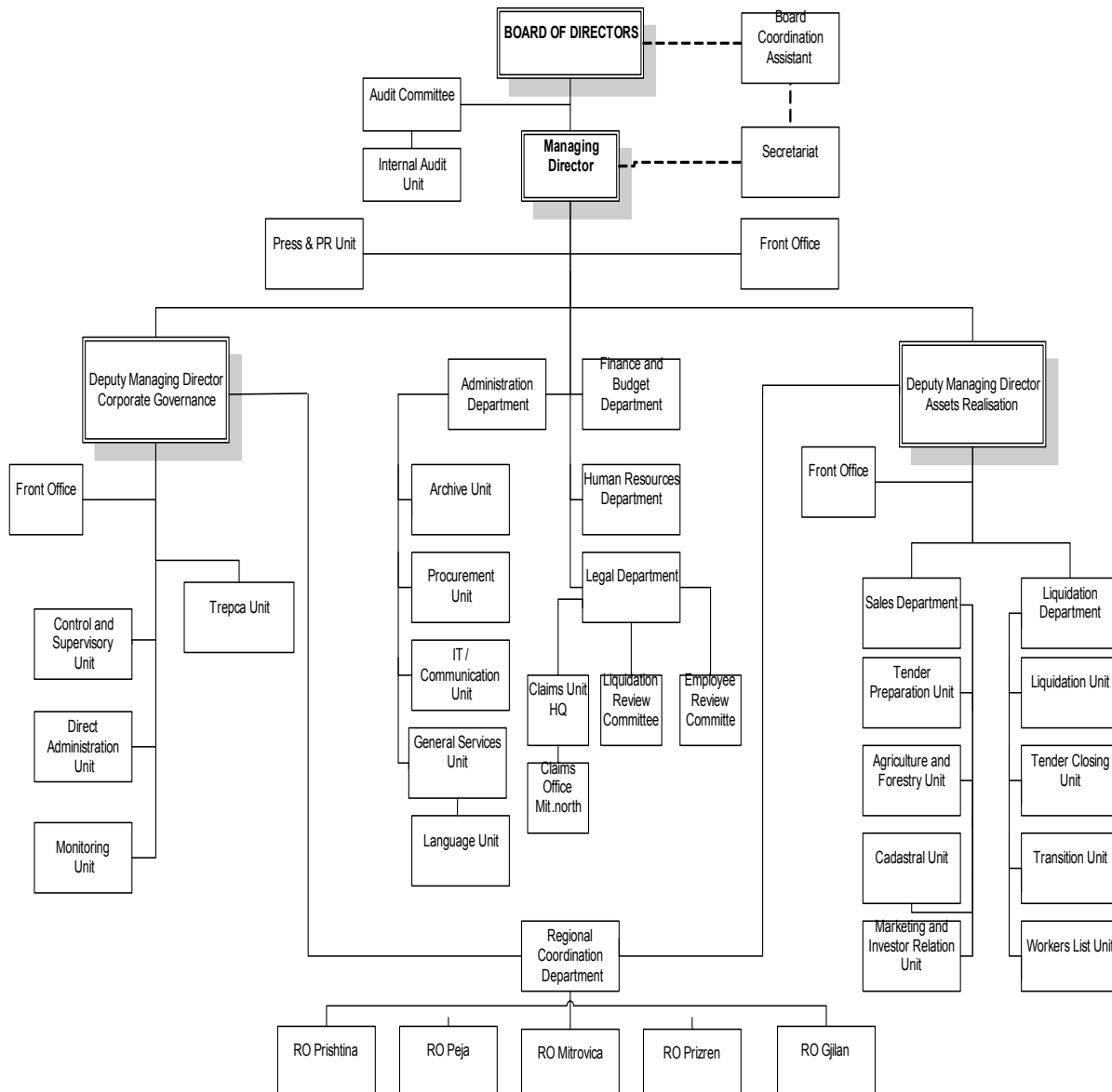
- Socially-owned Enterprises, regardless of whether they underwent a Transformation;
- Any assets located in the territory of Kosovo, whether organized into an entity or not, which comprised socially-owned property on or after 22 March 1989;
- Minority Stakes, regardless of whether the relevant legal entity underwent a transformation.

To serve this objective, the Agency shall:

- Hold and administer Enterprises and Assets in trust for the benefit of the relevant Creditors and Owners in accordance with the present law and other Applicable Law;
- Satisfy, as provided for in the present law, timely and valid claims from Creditors and Owners relating to Enterprises or Assets from those monetary proceeds that have been derived from the administration, sale, transfer or liquidation of such Enterprise and/or such Assets; for which purpose all such funds shall be held in trust for the benefit of the relevant Creditors and Owners and preserved by the Agency;

Transfer all residual funds held in trust by the Agency to the Government of Kosovo after the satisfaction of all Creditor and Ownership claims that have been timely filed and determined to be valid and the expiry of the applicable time limits for the submission of such claims;

### 3.4 PAK Organogram



### 3.5 Finances

In the first meeting of the Board of Directors held on 26 August 2008, it was envisaged that PAK executive part should be focused on following priorities regarding the financial part as essential for functioning of PAK:

- Identification of new expenses and budget preparation for 2008;
- Preparation of banking procedure;
- Preparation of new software for PAK financial report (Kosova Budget funds);
- Preparation of new software for PAK financial report (donors funds);
- Preparation of budget project for fiscal year 2009;
- Monthly Reconciliation of accounts in trust;
- Monthly report in relation to expenses of Kosova budget from Management and Authorized Officers of PAK;
- Reconciliation of expenses reports with MEF and monthly report to Director of Treasury MEF;
- Monthly preparation of MIS and regular report to the Management and Board of PAK;
- Design and preparation of database from the beginning regarding the salary payment system;

According to Law on Public Financial Management and Accountability, PAK is defined as a budgetary organization; therefore it acquires budgetary appropriation from Kosova Consolidated Budget, necessary to complete its legal mandate.

In compliance with administrative instruction of Ministry of Economy and Finance (MEF), in every fiscal year, the PAK analysis and identifies minimum needs for funding from KCB, for each economic category of expenses by submitting budgetary request to the Ministry of Economy and Finance.

One of the obstacles in budget return and delays caused in contracting services is the law on public procurement, which should be amended in order to reflect different nature of the work of respective institutions.

It should be emphasised that operational costs of the Agency are covered from the KCB, and I would like to thank all relevant institutions of the Republic of Kosovo for providing necessary assistance in obtaining funds for operational costs. The purpose of required funds is ensuring a better PAK function.

Privatisation Agency of Kosova operates in accordance with banking procedures approved by the Board of Directors in relation to Privatisation and Liquidation.

Procedures regarding funds in trust were prepared to serve as direction to PAK related to Preparation of Transfer Orders, Bank Statement, Reconciliation, Report etc.

## KOSOVA BUDGET FUNDS

PAK operates with the database in compliance with International Accounting Standards and policies of Treasury Department, MEF Freebalance, that itself contains all transactions within PAK: budget data, allocations, commitments and expenses. Report of these transactions is daily updated.

Main purpose is to monitor and control budget and its realization effectively and in compliance with applicable law on public financial management.

PAK inherited liabilities of former KTA toward suppliers in amount of 40,848€, which are paid based on law no. 03/L-067 from Kosova Consolidated Budget. Therefore, the PAK complies in strict manner with directions and rules of Treasury and Budget Department of the Ministry of Finance and Economy.

Once in a month, the PAK summarizes its activities regarding privatisation and liquidation in a report called Management Information Summary (MIS). Current PIM every time is compared to the previous MIS.

In relation to the decision taken by the Board of Directors of the Privatization Agency of Kosovo (PAK) on 22 January 2009 concerning the so-called "repatriation" of funds held in trust by the PAK, allow me to inform you as following:

In its decision dated 22 January 2009, the PAK Board of Directors decided by a majority vote of 6 Board members that:

1. Trust funds of the Privatisation Agency of Kosovo shall not be invested nor placed in international financial institutions and shall not be deposited in the corresponding banks of the Central Bank of Kosovo; and
2. All trust funds of the Privatisation Agency of Kosovo shall be returned immediately in Kosovo.

Furthermore, the Chairman of the PAK Board was authorized to instruct the Central Bank of Kosovo to act in accordance with the decision referred to above and to send the attached letter to the Central Bank of Kosovo.

The PAK Board has taken this decision in accordance with Article 19.2, which explicitly provides that proceeds held in trust by the PAK shall be "invested by the Agency [i.e. PAK] in accounts, instruments or other means rated as investment grade by international rating agencies and in accordance with reasonable and prudent investment criteria". Thus, applicable law vests the authority to make investment decisions with respect to proceeds held in trust in the PAK and no other entity. The authorization vested in PAK pursuant to Article 19.2 must be read and understood in conjunction with Articles 2.1, 2.2 (d) and (c), and 8.5, which obligate PAK to hold proceeds from sale or liquidation of enterprises and assets under its jurisdiction in trust for the benefit of the relevant owners and creditors. Article 2.2 (e) explicitly requires PAK to preserve such proceeds to meet obligations as referred to above.

The Board has taken this decision in view of the fact that the Central Bank of Kosovo has continuously declined to issue a written guarantee that proceeds held in trust are secured. Given the current fluctuations of international financial markets and the enormous financial risks associated with that, PAK has considered that it would be safest if all funds are returned to Kosovo. The decision dated 22 January 2009 does not mean that the funds will be invested in infrastructure projects or commercial banks in Kosovo, as unfortunately falsely asserted in media and public pronouncements of individuals outside PAK. Once the funds are in Kosovo, the PAK Board will consider investment options in compliance with the parameters established in Article 19.2 of the PAK Law in order to ensure the safest investment modality that will preserve the proceeds for the benefit of owners and creditors.

Said decision of PAK was preceded, as of 17 October 2008, by several communications with the Central Bank of Kosovo whereby PAK requested CBK to provide a written guarantee that all trust funds of the PAK at the Central Bank of the Republic of Kosovo:

- have not negatively been affected and are secured from any loss due to the financial fluctuations in the world market or corresponding banks of the Central Bank of the Republic of Kosovo; and
- that the PAK funds are entirely available for execution of PAK banking transfers.

PAK has requested such written guarantee in view of financial fluctuations and losses that occurred in the world financial markets, banks, and financial institutions in different countries, including Europe. The concerns were

raised by PAK given its responsibility under law to preserve the trust funds of PAK as explained above.

However, the Central Bank of Kosovo was not able to provide such written guarantee and instead replied that it "assures [you] that all funds of Privatisation Agency of Kosovo deposited at Central Bank of Kosovo are safe." The Board's concerns are supported by evidence on declining interest rates on funds held in trust with the Central Bank of Kosovo as outlined in the following:

- |  |                 |
|--|-----------------|
| • From 1 July 2008 to 8 August 2008          | 3.00 % p.a.     |
| • From 9 August 2008 to 17 October 2008      | 3.25 % p.a.     |
| • From 18 October 2008 to 10 December 2008   | 2.50 % p.a.     |
| • From 11 December 2008 to 17 December 2008  | 1.75 % p.a.     |
| • From 18 December 2008 to 20 March 2009     | 1.25 % p.a.     |
| • From 20 March 2009 to 13 June 2009         | 0.25 % p.a. and |
| • From 13 June 2009 and until further notice | 0.10 % p.a.     |

Despite PAK's consecutive written requests that the Central Bank of Kosovo explicitly guarantees (and not only assure) in writing that all the trust funds are secured of any loss, PAK still did not receive an adequate response.

In addition to CBK's inadequate response, the PAK Board has taken said decision in consideration of the following:

1. Lack of written guarantee by Central Bank of Kosovo that the PAK funds deposited at CBK are secured of any loss and these funds are entirely available for execution of PAK banking transfers;
2. Financial fluctuation and losses occurring in the world financial markets, banks and financial institutions in different countries, including Europe.
3. Announcements by world news agencies that a considerable number of famous banks, with headquarters in European Union States, reported potential losses around €10 (ten) billion.
4. Continuous decrease of interest of PAK deposited funds in CBK;
5. Mandate and legal responsibility of PAK for protecting the trust funds of the Privatisation Agency of Kosovo;
6. The fact that the primary interest of the PAK is the safeguarding of trust funds from possible loss from investments of PAK funds by CBK in international financial institutions and its correspondent banks and not the gained interest from investments of these funds.

#### **AUDIT OF FINANCIAL STATEMENTS 2008**

Office of the Auditor General of Kosovo (OAG) has audited the Financial Statements of PAK for the period July 2008 to December 2008.

OAG has issued an unqualified audit opinion in its final audit report. The link on the OAG's website is <http://www.ks.gov.net/oag/Raportet%20Anglisht/Agjensionet/AKP%20-%202008%20eng.pdf>.



**Annex IV**  
**Balance in Bank Accounts**  
**(for the year ended on 31 December 2008)**

<b>CASH FLOW STATEMENT YEAR 2008</b>				
For period as of 1 July 2008 until 31 December 2008				
<b>Name</b>	<b>Opening Balance 1 Jan 2008</b>	<b>Receipts</b>	<b>Payments</b>	<b>Balance on 31 Dec 08</b>
Petty Cash from KCB	-	9,965.66	9,965.66	€ -
Bank Accounts (CBK)	398,811,984.56	9,629,018.38	5,127,883.63	€ 403,313,119.31
Bank Accounts (PCB)	214,107.70	18,750.00	6.00	€ 232,851.70
Bank Accounts (RZB)	0.02	-	-	€ 0.02
<b>PAK ACCOUNTS IN CENTRAL BANK OF KOSOVO (CBK)</b>				
		<b>balance as of 1 Jan 2008</b>	398,811,984.56	
		income and interest 1 July 2008 - 31 Dec 2008	€ 9,629,018.38	
		expenses 1 July 2008 - 31 Dec 2008	5,127,883.63	
		<b>Balance as of 31 Dec 2008</b>	<b>€ 403,313,119.31</b>	
<b>PAK ACCOUNTS IN PROCREDIT BANK</b>				
		<b>balance as of 1 Jan 2008</b>	214,107.70	
		income and interest 1 July 2008 - 31 Dec 2008	18,750.00	
		expenses 1 July 2008 - 31 Dec 2008	6.00	
		<b>Balance as of 31 Dec 2008</b>	<b>€ 232,851.70</b>	
<b>PAK ACCOUNTS IN RAIFFEISEN BANK</b>				
		<b>balance as of 1 Jan 2008</b>	0.02	
		income and interest 1 July 2008 - 31 Dec 2008	-	
		expenses 1 July 2008 - 31 Dec 2008	-	
		<b>Balance as of 31 Dec 2008</b>	<b>€ 0.02</b>	
<b>Cash Flow on all three banks (CBK, PCB and RZB)</b>				
<b>A</b>		<b>balance as of 1 Jan 2008</b>	<b>399,026,092.28</b>	
<b>B</b>		income and interest 1 July 2008 - 31 Dec 2008	9,647,768.38	
<b>C</b>		expenses 1 July 2008 - 31 Dec 2008	5,127,889.63	
<b>D=B-C</b>		Cash Flow Balance 1 July 2008 - 31 Dec 2008	4,519,878.75	
<b>E=A+B-C</b>		<b>Balance on PAK as of 31 Dec 2008</b>	<b>403,545,971.03</b>	

**Annex V**  
**PAK Annual Accounts 2008**

<b>Budget Report (Kosovo Consolidated Budget)</b>						
For period as of 1 July 2008 until 31 Dec 2008						
Description	Original Budget Reg. 2008/13	Mid Year Reviewed Budget Admin. Dir. 2008/xx	Final Budget KFMIS [30 June 2008]	Differences in %	Differences in %	Differences in %
a	b	c	d	e=c/b	f=d/b	g=d/c
<b>Total Budget 2008</b>	<b>€ 4,878,600.00</b>	<b>€ 4,878,600.00</b>	<b>€ 5,078,600.00</b>	<b>100%</b>	<b>104%</b>	<b>104%</b>
Wages and Salaries	2,888.00	2,888.00	35,738.00	100%	1237%	1237%
Goods and Services	2,039,465.00	2,039,465.00	1,972,560.00	100%	97%	97%
Utilities	-	-	34,055.00			
Subsidies and Transfers	784,058.00	784,058.00	984,058.00	100%	126%	126%
Capital Investments	2,052,189.00	2,052,189.00	2,052,189.00	100%	100%	100%
<b>Budget Report (Designated Donor Grants)</b>						
For the period ended on 31 December 2008						
Description	Original Budget Reg. 2008/13	Mid Year Reviewed Budget Admin. Dir. 2008/xx	Final Budget KFMIS [30 June 2008]	Differences in %	Differences in %	Differences in %
a	b	c	d	e=c/b	f=d/b	g=d/c
<b>Total Donor Budget 2008</b>	<b>€ 1,499,949.00</b>	<b>€ 1,499,949.00</b>	<b>€ 1,499,949.00</b>	<b>100%</b>	<b>100%</b>	<b>100%</b>
Wages and Salaries	149,949.00	149,949.00	149,949.00	100%	100%	100%
Goods and Services						
Utilities						
Subsidies and Transfers						
Capital Investments						
<b>Budget Report (Kosovo Consolidated Budget including Donor Grants)</b>						
For the period ended on 31 December 2008						
Description	Original Budget Reg. 2008/13	Reviewed Budget Admin. Dir. 2008/xx	Final Budget KFMIS [30 June 2008]	Differences in %	Differences in %	Differences in %
a	b	c	d	e=c/b	f=d/b	g=d/c
<b>Total Budget 2008</b>	<b>€ 6,378,549.00</b>	<b>€ 6,378,549.00</b>	<b>€ 6,578,549.00</b>	<b>100%</b>	<b>103%</b>	<b>103%</b>
General Grant	€ 4,878,600.00	€ 4,878,600.00	€ 5,078,600.00	100%	104%	104%
Own Source Revenues of 2008	€ -	€ -	€ -			
Own Source Revenues Carried Forward from 2007	€ -	€ -	€ -			
Internal Grants	€ -	€ -	€ -			
External Grants	€ 1,499,949.00	€ 1,499,949.00	€ 1,499,949.00	100%	100%	100%



Republika e Kosovës – Republika Kosovo – Republic of Kosovo  
 Agjencia Kosovare e Privatizimit – Kosovska Agencija za Privatizaciju – Privatisation Agency of Kosovo

MANAGEMENT INFORMATION SUMMARY AS OF 31-Jul-09

	Latest Data 31-Jul-09	Change since last month 30-Jun-09	Change since 31-Dec-08	Change since PAK is established 1-Jul-08
1* Number of SOEs Tendered	249	1	4	5
2 Number of NewCo-s Tendered	532	8	18	26
3 Number of Sales Contracts Signed	467	6	49	49
3a OSO Contracts Signed	443	6	49	49
3b SSO Contracts Signed	24	-	-	-
4 Number of Sales Contracts "PENDING" - (Provisional Winning Bidder named)	65	2	(31)	(14)
4a Estimated OSO Contracts Pending	64	2	(30)	(13)
4b Estimated SSO Contracts Pending	1	-	(1)	(1)
5-3+4 Number of Contracts Signed & Pending	532	8	18	35
5a Number of OSOs (Signed & Pending; 3a and 4a)	507	8	19	36
5b Number of SSOs (Signed & Pending; 3b and 4b)	25	-	(1)	(1)
6** Total Privatisation Proceeds Received and Banked [(6c-6g)]	€409,270,703	781,533	21,624,893	25,380,156
6a Privatisation Money (net of 20% employee entitlement)	€327,416,563	625,227	17,299,914	20,312,125
6b Employees' Entitlement (from Privatisation Proceeds)	€81,854,141	156,307	4,324,979	5,078,031
6c Out of Which Paid to BSPK from Privatisation Proceeds	€19,050,869	526,115	1,000,305	3,483,045
6d Balance of Transfers to Employees Entitlement Accounts minus further transfers to BSPK	€1,370	-	(134,034)	(134,034)
6b-6c Remained to be transferred to BSPK (from privatisation proceeds)	€62,803,272	(369,809)	3,324,674	1,594,986
6e Transferred to the Liquidation Accounts (80% of the particular privatisation sale)	€149,331,454	-	41,446,372	41,450,827
6f Newco Shareholder money paid by bidders and transferred to Ministry of Finance	€436,250	-	8,750	8,750
6g Privatisation Money Remaining at Bank	€240,450,760	255,418	(20,696,500)	(19,418,432)
6h Number of SOE Workers' Lists Approved by the Special Chamber and Paid	66	1	1	7
7 Estimated Amount of Sales Contracts SIGNED and PENDING	€406,791,929	2,955,826	5,165,897	15,685,036
7a Value of OSO Sales Contracts Signed	€270,812,339	2,151,666	10,165,381	10,165,381
7b Value of SSO Sales Contracts Signed	€91,723,495	-	-	-
7c Estimated Value of OSO Sales Contracts PENDING	€44,153,095	804,160	(844,484)	9,674,655
7d Estimated Value of SSO Sales Contracts PENDING	€103,000	-	(4,155,000)	(4,155,000)
8 Amount of SSO investment contractually agreed	€196,342,564	-	-	-
9 Number of SSO employees to be hired contractually agreed	8,114	-	-	-
10 Amount of SSO investment evaluated	€134,323,212	2,000,303	12,604,705	35,315,541
11 Number of SSO employees hired	7,294	136	456	927
12 Number of investors current in the database (prequalified & other)	10,217	80	199	671
12a Number of pre-qualified investors	2,932	31	140	229
12b Number of other investors registered	7,285	49	59	442
13 Number of approved SOEs for liquidation	120	-	-	-
13a SOE directly sent in liquidation ( item 13a is included in item 13 )	9	-	-	-
14 Number of Liquidation Sales Launched	106	-	-	-
14a Number of Liquidation Sale Contracts SIGNED	85	8	49	49
14b Number of Liquidation Sale Contracts PENDING	21	(8)	(49)	(49)
15 Value of Liquidation Sales Contracts Signed	€13,418,612	1,599,730	9,125,448	9,125,448
16 Estimated Value of Liquidation Sales Contracts Pending	€5,063,686	(1,599,730)	(9,125,448)	(9,125,448)
17 Total Liquidation Sales Money Received and Banked	€16,451,428	-	5,355,899	5,355,899
18 Paid to BSPK from Liquidation Proceeds	€96,301	-	11,221	11,221
19 Number of SOEs that the liquidation process has been completed	-	-	-	-

Explanations:

OSO - Ordinary Spin-off; SSO - Special Spin-off

\*Total number of additional enterprises re-tendered during July not included in 1 above = 0

\*\* Includes interest earned on the accounts

This MIS is prepared\*\* and managed by:

*Harbi*

Avni J. Jashari, CA, CFE  
 Director of Finance and Budget  
 Privatisation Agency of Kosovo

Signed on:

7-Aug-09

\*\*Based on information collected from PAK  
 Departments.

## 4. ASSET REALISATION DIVISION

### 4.1 Privatisations of Predecessor Agency

The Kosovo Trust Agency (KTA) was established as the Agency responsible for the administration of Public and Socially Owned Enterprises (SOE's) and the privatisation and liquidation of all SOE's through UNMIK Regulation 2002/12 on 13 June 2002 (the KTA Regulation). This Regulation was amended on 22 April 2005 by the promulgation of UNMIK Regulation 2005/18.

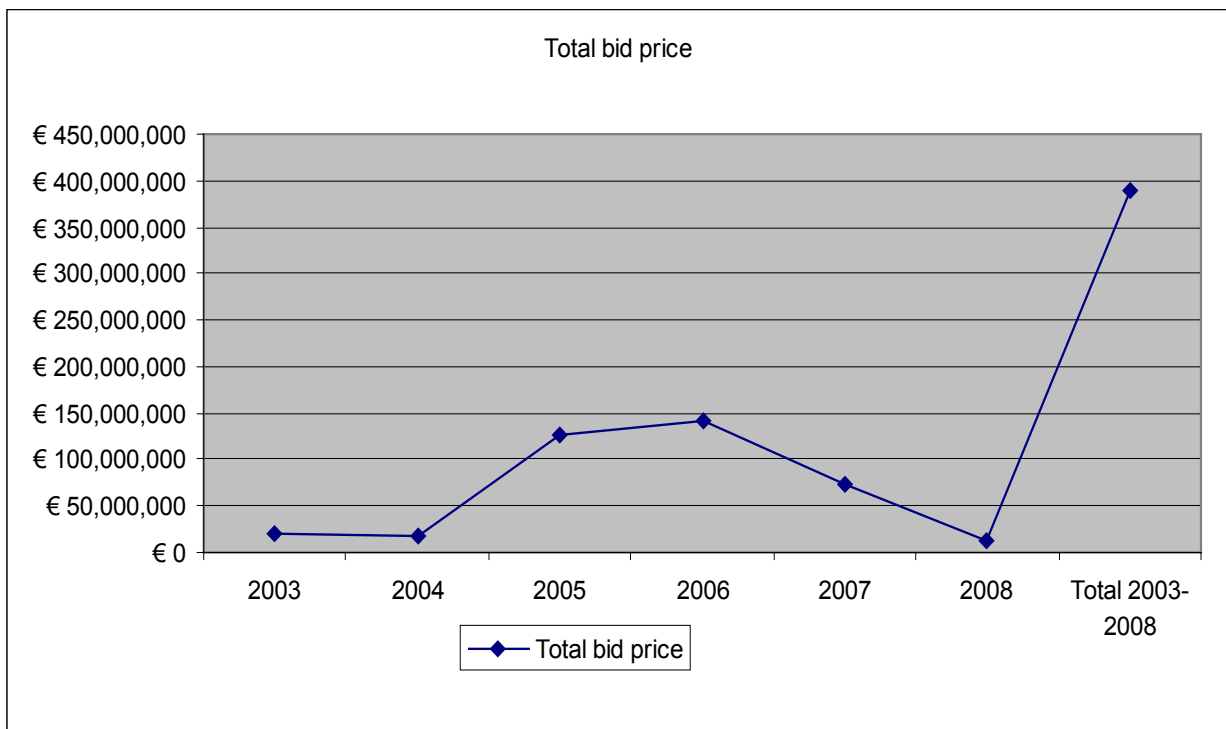
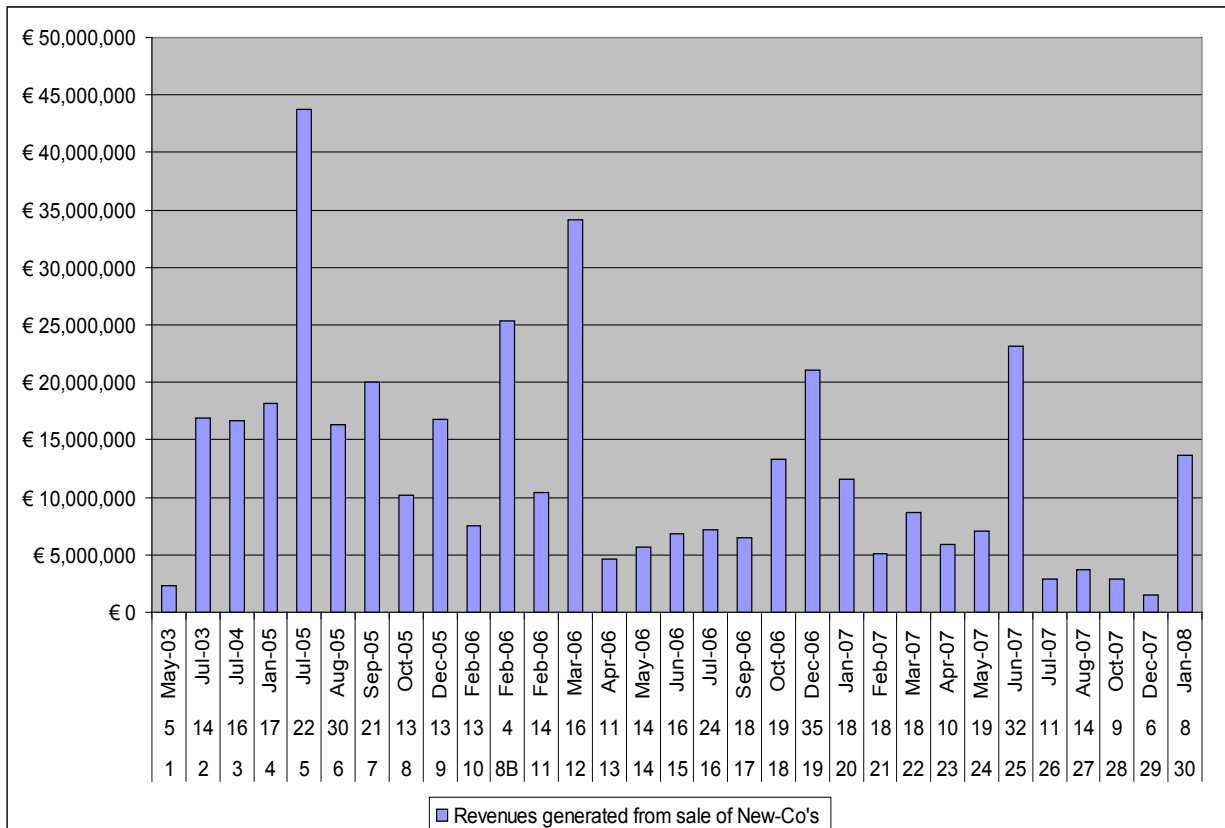
An overview of the privatisation program shows that up to 30th of June 2008, Kosovo Trust Agency (the KTA) had launched 30 waves of privatization. The amount collected from both OSO and SSO tenders held from May 2003 until January 2008 is € 392,281,978.

498 NewCo-s have been tendered for sale and 397 sales contracts signed, with total privatization proceeds (received and banked) amounting to € 392,281,978.

The Kosovo Trust Agency (KTA) has ceased its operation on 30th of June 2008.

Wave no	No of New Co-s sold	Bid day date	Revenues generated from sale of New-Co's
1	5	May/03	€ 2,335,875
2	14	Jul/03	€ 16,934,009
3	16	Jul/04	€ 16,617,676
4	17	Jan/05	€ 18,228,850
5	22	Jul/05	€ 43,703,200
6	30	Aug/05	€ 16,364,688
7	21	Sep/05	€ 19,789,927
8	13	Oct/05	€ 10,229,961
9	13	Dec/05	€ 16,742,836
10	13	Feb/06	€ 7,507,799
8B	4	Feb/06	€ 27,942,900
11	14	Feb/06	€ 10,428,113
12	16	Mar/06	€ 34,171,066
13	11	Apr/06	€ 4,638,075
14	14	May/06	€ 5,674,397
15	16	Jun/06	€ 6,810,594
16	24	Jul/06	€ 7,199,734

Wave no	No of New Co-s sold	Bid day date	Revenues generated from sale of New-Co's
17	18	Sep/06	€ 6,443,533
18	19	Oct/06	€ 13,340,558
19	35	Dec/06	€ 21,013,228
20	18	Jan/07	€ 11,584,839
21	18	Feb/07	€ 5,075,582
22	18	Mar/07	€ 8,721,695
23	10	Apr/07	€ 5,867,817
24	19	May/07	€ 7,089,873
25	32	Jun/07	€ 23,153,009
26	11	Jul/07	€ 2,947,075
27	14	Aug/07	€ 3,681,991
28	9	Oct/07	€ 2,876,859
29	6	Dec/07	€ 1,457,255
30	8	Jan/08	€ 13,707,715
<b>Total:</b>	<b>498</b>		<b>€ 392,280,728</b>



## 4.2 Privatisation by PAK

During the period September – December 2008, the PAK Board of Directors met on a regular basis and held six meetings (including constitutive meeting held on 26th of August 2008). During this period the PAK Management was appointed (the two Deputy Managing Directors) and subsequently a considerable number of the former KTA local staff was engaged in order to restart the operation. Subsequently the PAK was able to prepare, review and approve the PAK Operational Policies, By-Laws, Statute, Banking Procedures, Organisational Structure (the Organogram) etc

Following the adoption of the above documents, the PAK Board of Directors approved the PAK Business Plan covering period September – December 2008, which allowed PAK management to launch and hold successfully three waves of privatisation (namely wave 31st, 32nd and 33rd), comprising in total sixteen (16) SOE's in twenty (20) NewCo's tendered.

The PAK was not able to hold any liquidation sales due to the lack of the Liquidation Committees which could not be established in absence of the Regional Offices and required personnel. All assets sales are to be run centrally by Sales Department and in close cooperation with respective Liquidation Committees. The Sales Department is responsible for the process of privatisation and liquidation sales of the SOE's.

The Bid Day for Wave 31 of privatization was held on November 19, including seven SOE's in nine New Cos. The number of accepted bids with ordinary spin-off was 84, with total amount of €4,230,111.

The Bid Day for Wave 32 of privatization was held on December 3, 2008, including four SOEs in six New Co's. The number of received bids with ordinary spin-off was 18, with a total amount of €1,922,150.

The Bid Day for Wave 33 of privatization was held on December 17, 2008, including four SOEs in five NewCo's. The total number of received bids with ordinary spin-off was 15, with a total amount of €909,072.

The Bid Day for the 34th Wave of privatization was held on 20th of May 2009, comprising of ten (10) SOE-s in ten (10) New Co-s. The total number of bids received for Ordinary Spin Off was 39, with total amount of €7,955,971.

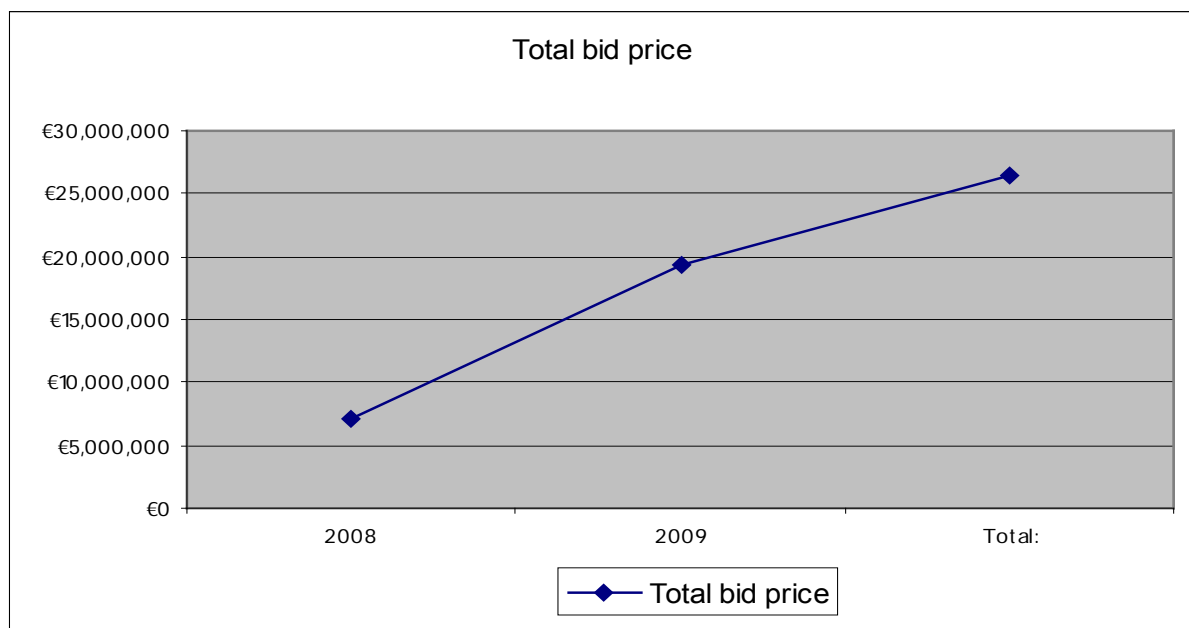
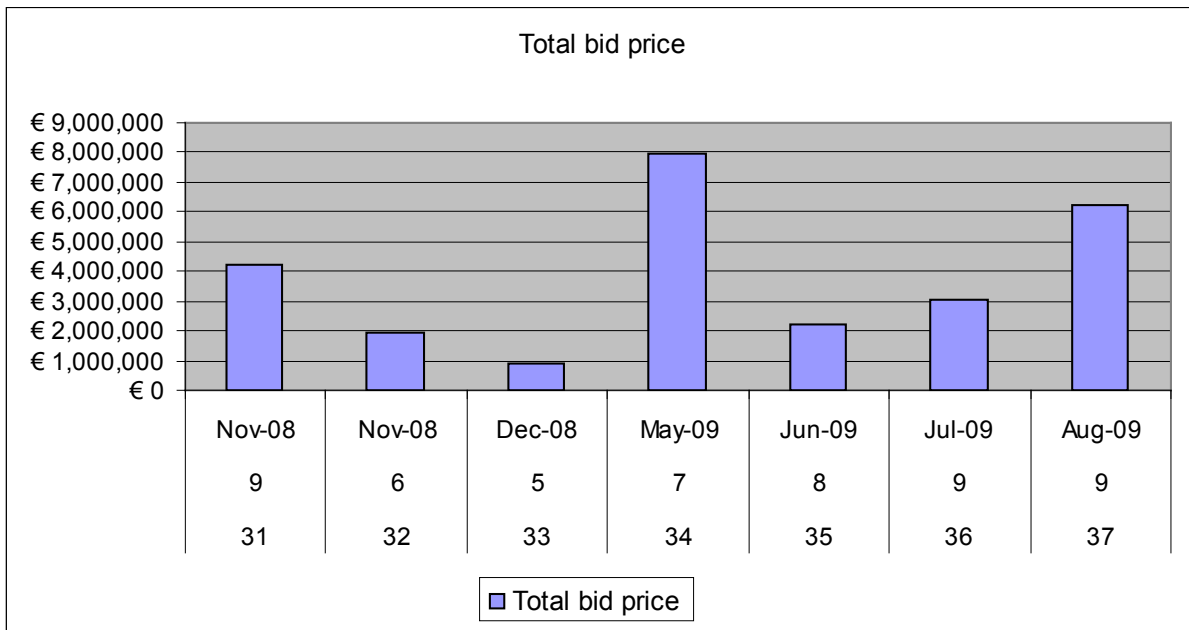
The Bid Day for the 35th Wave of privatization was held on 10th of June 2009, comprising of Nine SOEs in Nine New Co-s. The total number of bids received for Ordinary Spin Off was 28, with total amount of €2,301,810.

The Bid Day for the 36th Wave of privatization was held on 08th of July 2009, comprising of Seven SOEs in Nine New Co-s. The total number of bids received for Ordinary Spin Off was 34, with total amount of € 3,011,825.

The Bid Day for the 37th Wave of privatization was held on 12th of August 2009, comprising of Nine SOEs in Nine New Co-s. The total number of bids received for Ordinary Spin Off was 34, with total amount of €6,200,756.

An overview of the privatisation program shows that up to 12<sup>th</sup> of August 2009, the predecessor Agency (the PAK) had launched 7 waves of privatization.

Wave no	No of New Co-s sold	Bid day date	Total bid price
31	9	Nov/08	€ 4,230,111
32	6	Nov/08	€ 1,922,150
33	5	Dec/08	€ 909,072
34	7	May/09	€ 7,955,971
35	8	Jun/09	€ 2,213,010
36	9	Jul/09	€ 3,011,825
37	9	Aug/09	€ 6,200,756
<b>Total:</b>	<b>53</b>		<b>€ 26,442,895</b>



### 4.3 Privatisation of Agricultural Land

**In relation to Agricultural land, I would like to inform that PAK continues to privatise those, and agricultural lands are privatised with the same destination that they had before. PAK does not allow and cannot allow even if it wishes to change the destination of a certain land and this is clearly stipulated in all privatisation materials of agricultural land. In essence, such issue is clearly regulated in applicable legislation such as; Law on Spatial Planning, Law on Protection of Environment, Law on Agricultural Land Nr.02/L-26 that determines and authorises Municipal Assemblies for such actions.**

As the following table shows, from the outset the total portfolio of land entrusted to KTA/PAK was actually only slightly more than 40,000 Hectares, of which KTA sold nearly 60% (112 transactions over 27 waves -3:30).



Since then PAK has sold slightly more 2,000 Hectares (18 transactions over five waves -30:35). As regards sales, four transactions totalling 543 Hectares were actually re-offers of lots offered by KTA and for which bids were rejected. Recent practice shows that PAK was able to more than double previous offers (from €170,000 to €420,000).

Status	Hectares	%
Sold by KTA	23,930	52%
Sold by PAK	2,015	4%
To be Sold	20,200	44%
<b>Total</b>	<b>46,145</b>	<b>100%</b>
Sharrprodhimi	22,550	
<b>Total</b>	<b>68,695</b>	

**In short, going forward, PAK now only has a portfolio of slightly more than 20,000 Hectares of land to be sold spread out over nearly 90 SOE's.** This however, is in of itself is a misleading picture, for as the analysis shows, and of this amount, nearly 65% or 13,100 Hectares is in the hands of seven SOE's, with the next 24% or 5,000 hectares in the hands of nine SOE's, leaving the remaining balance being minor plots of land in the hands of 70 SOE's.

**In other words, the process of selling SOE land in Kosovo was largely completed by KTA, with the remaining portfolio consisting of a hard core of enterprises, most of which require the resolution of a hitherto set of intractable legal and other problems to be resolved before sales can be made.**

We would like to turn now to the sales process. Firstly, as you must know, notwithstanding transition issues- the processes and procedures used by PAK were inherited from KTA. As far as I know, they reflect international best practice (they were developed by international specialists, supported by International Consultants).

Having said the above, let me be clear, I think we all wish to set our performance sights higher than those of KTA and PAK is committed to exceeding their performance.

As to the market, as the attached graphic shows, overall average land prices in Kosova show an upward trend, and as you yourself noted prices reached are admirable.

As to comments concerning whether selling large lots might be leading to poor results, based upon the following tables we do not see a real evidence of that, particularly when one considers that small plots are inevitable unsustainable for agriculture and therefore are almost always real estate plays.

TOTAL KTA/PAK LAND SOLD				
Plot Size Hectare	No of Plots	Total Hectares	Price paid	Average Price per Hectare
<5	100	66	€18,782,702	€283,801
>5<10	7	114	€2,601,051	€22,812
>10 <100	50	2,913	€25,189,540	€8,647
>100<500	56	12,515	€33,337,812	€2,664
>500<1000	4	3,009	€3,501,090	€1,163
<1500	2	2,346	€5,398,332	€2,301
<2500	1	2,200	€4,302,900	€1,956
<b>TOTAL</b>	<b>220</b>	<b>23,164</b>	<b>€93,113,427</b>	<b>€4,020</b>

<b>Average Ag Land &gt;10 - 2,500ha</b>		<b>22,983</b>	<b>€71,729,674</b>	<b>€3,121</b>
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**In accordance with the preliminary analysis carried by PAK in relation to the land prices, the initial indication based upon the results to date, PAK has more than doubled the average price per hectare of land sold compared to KTA.**

Going forward, we think that you will agree that the issue PAK should be focussing on is strategy; how do we complete our task of completing privatisation and Liquidations. In this regard, PAK will prioritise the remaining portfolio so that focussed plans of action can then be developed which move us efficiently and effectively towards our goal.

## 4.4 Brezovica

Tourist Center Brezovica is located in Shtërpce municipality in the south-western corner of the Gjilan region. The neighbouring municipalities are Prizren, Suharekë/Suva Reka, Ferizaj, and Kaçanik. The municipality borders the Former Yugoslav Republic of Macedonia to the south.

SOE Brezovica Ski Centre- is the only Winter Tourism Centre in Kosovo having exceptional natural conditions for skiing. The Enterprise currently employs 225 people who are mainly working in the hotel facilities. Due to the fact that similar facilities do not exist in Kosovo, there are no significant local winter tourism competitors for Tourist Center Brezovica especially as far as skiing is concerned. Ski Centre Brezovica is able to attract 100% of this market in Kosovo. Tourist Center Brezovica has all prerequisites to become the best recreation/ski resort in this part of the Balkans. It provides attractive views from the Sharr mountain range and offers excellent climatic conditions enabling skiing from November to May.

Tourist Center Brezovica marketing efforts are very limited as the main activity consists of direct personal contacts with customers. The resort doesn't support its' tourism products through other marketing activities. The resort gained considerable recognition through the years, but currently needs an overall marketing plan and extensive promotion in order to capitalise an available market development opportunities.

PAK in close cooperation with the European Commission has carefully planned the necessary steps needed to be taken, before the Privatisation of Tourist Center Brezovica.

Therefore a strong international wide spread marketing campaign should be undertaken in order to attract foreign investors that are specialised in this field of tourism. Moreover, PAK is also planning to organise a big International Investor Conference that will gather all big international companies interested to invest in this attractive asset.

*Tourist Center Brezovica is attractive for the following reasons:*

- Is located in the far south of Kosovo, in the Sharr Mountains
- Typical features of Alpine mountains.
- Settlement lies 900m above sea level.
- Trsenja at the foot of the mountain massif is 1.200m above the sea level.
- Ski Centre is approximately 230 ha and lies 1.700 to 2.500m above sea level

Brezovica lies between two major international airports, Prishtina International Airport (60 km) and Skopje International Airport (70 km) in Macedonia Transfer times for passengers arriving on international flights to either Skopje or Prishtina airports are less than two hours and following indicators are strong prerequisite for future investors:

- Year-round resort, including winter and summer sports, conferences, and music festivals
- Significant potential for new sub-developments under the control of a master developer
- Renovation or replacement of the nine ski lifts
- Major new hospitality projects, in addition to the renovation of existing facilities
- New residential accommodation for longer-term visitors
- Architectural standards in keeping with the traditions of the region
- Restrictions on building height and limits on the use of available land area
- Possible self-sufficiency in electric power, taking advantage of local hydro-electric potential

It is worth mentioning that it was an overall understanding that Brezovica has the potential to be the best Tourist Center in the region, but it requires substantial investments and very careful planning. The Tourist Center Brezovica needs a year-round master plan that will attract visitors not only during the winter, but throughout the year.

## 4.5 Gjakova Enterprises

One of the challenges that PAK is facing and which inherited from the predecessor Agency is the unresolved status of Gjakova Enterprises. PAK chairman and the management team of PAK have had several meetings with the President of Gjakova Municipality and directors of Gjakova Enterprises. A consensus was reached that the issue of Gjakova Enterprises will be on a priority list of the Agency and a team consisting of PAK lawyers, internal auditors, expert provided by Phol -Consulting Team (project funded by ECLO in support to PAK) and representatives of those companies will be established in order to review their status on cases by case bases

This is an overview in relation to the subject and the following situation regarding the Status Determinations of Gjakova Enterprises:

**Gorenje Elektromotori** – KTA Board released its jurisdiction over the Company on December 2006.

**Dukagjini** – KTA Board released its jurisdiction over the Company on April 2006.

**Jatex** - Based upon the draft Status Determination Review (SDR) for Jatex, Legal Department of the predecessor Agency requested an auditors' review of the percentage of transformation.

**Emin Duraku** – Legal Department of predecessor Agency also requested an audit in relation to percentage of transformation, based on its examination of the draft SDR. Emin Duraku and Jatex were formerly part of the same SOE, and consequently their circumstances are similar.

**Deva** – PAK Legal Department will determine the status of this entity during the following months, although the enterprise failed to provide financial documents related to transformation. Management of the enterprise and other managers of alleged JSC continue to request from PAK to release its jurisdiction over Gjakova companies based on the Court Registration, due to the fact that financial documents are missing as a result of the events of the last 15 years in Kosovo. PAK will request from the management to provide additional documents in order to substantiate the transformation.

**Ening** – The management of the enterprise showed its cooperation and submitted the documents for compilation of SDR. The document is prepared and will be reviewed in a due course.

**Ereniku Group** – PAK and the management of Ereniku agreed on further cooperation. PAK will send official request for submission of documents for compilation of SDRs.

**Metaliku** – The SDR concluded that the transformation is not substantiated. The SOE is on the list of entities falling under the Trepça Moratorium (inappropriately, it seems) and as such it cannot be privatized unless the SCSC decides to take the SOE from the list of entities falling under the Trepça moratorium. Consequently, it had to be withdrawn from a recent privatization wave. PAK is attempting to get the SCSC to withdraw Metaliku from the moratorium list.

**Metaliku Ena** – claims to have been validly separated from the holding of Metaliku in 1991. SOE director was advised by the predecessor Agency that if the Agency disregards the transformation of Metaliku, then the separation of Ena from mother enterprise Metaliku should be automatically considered as invalid. PAK Legal Department is not in a position to sign the SDR, pending SCSC decision on Trepça moratorium.

PAK management reminded the managers of the companies that they always have the right to present their transformation claims to the SCSC in if the PAK determines that the entity falls under its jurisdiction and disregards previous transformations. They were also advised to consider the positive aspects of the privatization process as a means of attracting investment and revitalizing these companies.

The predecessor Agency has so far successfully privatized a considerable number of enterprises, and most of the claimed transformations were in most cases disregarded by the Agency as invalid and which were not carried out in accordance with the law.

Privatised Gjakova Enterprises, formerly among the association of Gjakova "JSC's" resisting privatisation:

**Modeli**

**IMN Brick Factory**

**Mulliri**

**Agimi Mishi**

**Agimi,**

**Ereniku - Poultry Farm**

**Ereniku - Primary Production,**

*Privatised Gjakova companies, various types of transformations but not part of Gjakova association of JSC's:*

**Elast**

**Pashtriku**

**Kompresori**

**Agricultural Station**

**AC Skivjan,**

**AC Lipovec**

## 4.6 SOE Bauxite Mine

The Bauxite Mine in Volljake is situated in the west part of Kosovo and it is the only mining operation in Peja Region. In this area for the first time the bauxites started to be explored in 1953. Between 1953 and 1956 the Geological Service of "Trepça" carried out a regional mineral survey there. The SOE "Boksitet e Kosovës" was created in 1966 in order to extract mineral resources in Klinë region. From its creation until 1990, 3 million tones of bauxites reserves were used and an estimate of 1.7 million tones were left unused. In 1987, a fines mixing and bagging facility was added, to enable the SOE to produce materials suitable for plastering walls and carrying out home repairs. This plant operated until 1990, by producing and selling some 5000t pa of bagged plaster in 20-40kg sacks for the Kosovar, Macedonian and Montenegro markets.

The costs associated with long distance transportation of bauxite will need to be intensively studied by any prospective purchaser. However, historically high mineral prices, the proximity of international rail transportation along with the relative high grade of materials, may make this mining operation an interesting proposition for mining companies. Nevertheless, it is possible to transport the material to the recently privatized Montenegro Aluminium smelter. There are as well two aluminium plants in Bosnia and Herzegovina, at Mostar in the Federation and at Zvornik in RS, which are the main processing facilities in the region.

Boksitet e Kosovës is the only bauxite mine in Kosovo. Bauxite can be found in the region as well in the following countries: Albania, Croatia, Bosnia and Herzegovina, Montenegro and Serbia.

With proven reserves of 1,700,000 tons of bauxite, which is the ore of aluminum metal, the Bauxite Mine's reserves should produce about 425,000 tons of aluminum metal as a mining rule of thumb is that, four tons of bauxite is held to contain two tons of alumina, which in turn yields about one ton of aluminum metal. With the Aluminum price at approximately \$2,600 per ton at the time of writing, the Bauxite Mine represents an opportunity for further development. Another market opportunity is the red mud which is a bi-product of extraction, was traditionally an environmental hazard, however, recent developments associated with acid mine drainage make this a potentially valuable secondary product. Associated limestone overburden totals approximately 40 million tones. Limestone is also utilized for many other construction applications. Furthermore, the potential for supply of high grade limestone to Trepça, to the Ferronikeli and FeNi smelters is significant

The SOE "Boksitet e Kosovës" is licensed by the ICMM (Independent Commission for Mines and Minerals) for the exploitation of Bauxite; Coal and Bitumen and Construction Materials. After 1999 "Boksitet e Kosovës" employed around 247 people.

Bauxite is an unusual property which is, to a large extent, at the mercy of transportation costs as well as world commodity prices. However, the limestone assets offer credible construction potential, and, the current market for minerals presents an ideal opportunity for potentially revitalizing these mining assets.

## 4.7 SOE Sharr Prodhimi

The Sharrprodhimi SOE in the Dragash municipality contains more than 50% of the land area with approximately 23,000 ha in this beautiful but geographically isolated area. The predecessor Agency commissioned a mountain area specialist, who worked closely with the Regional and Agricultural teams to review options for this SOE. The work undertaken by this group encompassed consultation with a large number of stakeholders including: Ministry of Agriculture, Forestry and Rural Development (MAFRD), the Kosovo Forestry Agency (KFA), the EAR, USAID, the World Bank, GTZ, SIDA, the Austrian Development Agency, the FAO, UNDP, the Dragash/ Dragaš Municipality, the workers of the SOE, the private investors and the private farmers of the area. The area is characterized by high alpine zones which drain into a fertile lowland area which is often referred to as the Garden of Kosovo. Economic development will be achieved by harnessing some of the hydroelectric generation potential, reinvigorating the agricultural economy, and, ultimately through eco and mountain tourism.

The specialist proposal to the Agency described a new methodology for the Sharrprodhimi. The Sharrprodhimi presents a unique case: It is the largest SOE in the territory, and is critically important for the preservation/ protection of a number of sectors: bio-diversity and large fauna, water-shed and water management, agriculture development and pasture protection, and importantly economic development to combat the out-migration from the municipality and loss of cultural heritage of emigrating minority groups.

Researches of tourist experts were carried out in order to outline economic development and repositioning opportunities for the region given the significant land holdings of the Socially Owned Enterprise (SOE) Sharrprodhimi. This Opportunity Assessment was the first step toward creating a vision for the community's economic repositioning as well as the initial steps for implementation of that vision.

Regarding, this issue and proposals from the tourism expert was presented to the predecessor Agency (KTA) Board where has been requested the Approval for strategy of Sharrprodhimi SOE dated 20<sup>th</sup> February 2007. Approval of the Sharrprodhimi Strategy was simply a matter of supporting further studies, and that the strategy would be pursued in consultation with other relevant parties, this issue was approved unanimously from the members of the predecessor Agency Board dated 5 April 2007

Based on discussions with the Municipality of Dragash and concerned government ministries, the expert's recommendations was to create a kind of Sharrprodhimi stewardship authority (or management trust) consisting of the Municipality of Dragash, Ministry of Environment and Spatial Planning and Ministry of Agriculture, Forestry and Rural Development, and Agency (KTA).

UNDP has initiated a development project on Dragashi Municipality in furthering Agency's recommendations related to regional development, sector feasibility studies for Dragashi area including also SOE Sharprodhimi pastures and forest.

The purpose of this project is to provide assistance for Dragash Municipality in formulation of an integrated development strategy as well as implementing a series of pilot activities in several sectors. In addition one of the aims is to assist Dragash Municipality in preparing the Municipal Development Plan which will be focusing on Agriculture and potentially agro-processing development, infrastructure development, bio-diversity management, potential areas of eco-tourism, etc. Development of such plans will assist the PAK in the preparation stages of the potential privatizations in these areas.

## 5. LIQUIDATION

With the establishment of the Privatization Agency of Kosovo (PAK) as a successor of the former KTA, the Agency exercises its powers to liquidate Enterprises in accordance with the Law Nr. 03/L-067 and UNMIK Regulation 2005/48 through Liquidation Committees.

During the previous mandate of the former Kosovo Trust Agency (KTA), through its Board of Directors and under its authority, had initiated the liquidation process on 6 July 2005 and subsequently approved a launch of liquidation of some 120 specific SOE assets, until the end of their mandate.

It has been agreed by the Board of Directors that (i) Liquidation process is reconfirmed and re commenced on 01 February 2009 or such later date as the two Deputy Managing Directors may, in their discretion, determine and subject, where applicable, to the privatisation sales coming into effect; and (ii) the two Deputy Managing directors are authorized to appoint members of the Liquidation Committee for each liquidation and to appoint such replacements as may be required from time to time.

On the Board meeting held on 29 May 2009, in relation to Liquidation matters is resolved that the Enterprise Liquidation Committees reconfirmed and recommenced on 1st February 2009 complete the preparation phase for the asset sales until the remaining members of Liquidation Committees are appointed by ICR.

There are 120 Liquidation Committees working on liquidation of 120 SEO assets. Each liquidation committee shall have an international member, who is appointed by the International Civilian Representative (ICO) (*sec. 9.2 Law on Establishment of PAK*). The ICO members are deployed on the PAK Regional Offices, and the preparations for the further liquidations selling will begin.

It should be noted that during the mandate of predecessor agency there was no unique liquidation procedures guide to assist Liquidation Committees in performing their daily tasks arising from applicable laws and operational policies of the Agency. However there were only bits and pieces produced by so called Regional Liquidation Steering Committee, which was established to coordinate activities between Privatisation Department and Liquidation Unit (during KTA mandate).

PAK has successfully produced Liquidation Guide for Liquidation Committees, reflecting changes of applicable law, namely Law on Establishment of PAK, Law on Business Organisation and Operational Policies of PAK.

Also, the team from the Liquidation Department and the POHL& Consulting conducted trainings- presentation for the officers in five PAK Regional Offices and relevant department in the PAK HQ, where the Liquidation Guide and the Compendium of relevant Kosovar laws regarding liquidation is presented.

PAK has also amended all forms related to liquidation procedures in order to reflect changes of the above mentioned laws and procedures.

ICO representative are supplied with the copies of Liquidation Guide, Compendium of relevant Kosovar laws on liquidation, liquidation chart and other documents as per their request.



## THE PROCESS OF LIQUIDATION AND DEALING WITH CLAIMS

Pursuant to Pak Law, PAK Operation policies, UNMIK “SCSC” Regulations 2008/4 and 2008/19 & Administrative Direction 2008/6

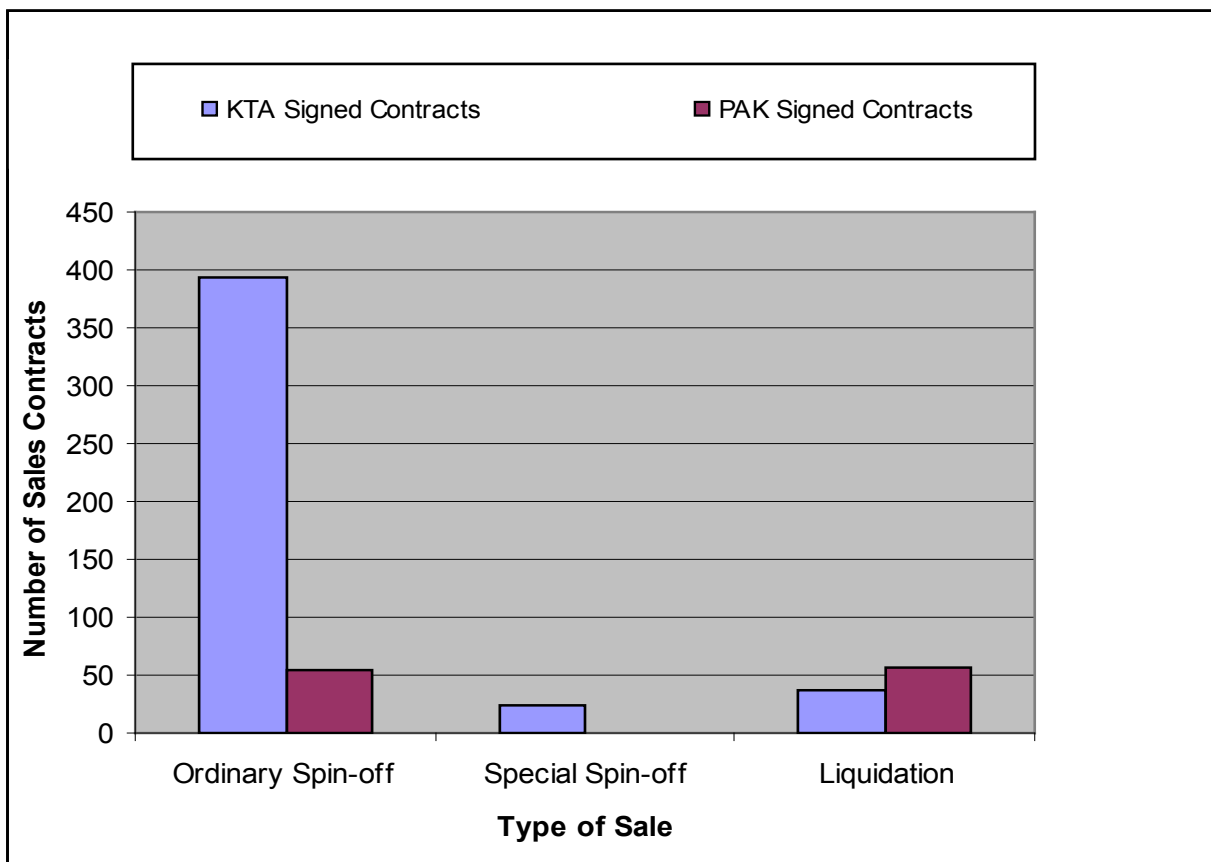
No	Phase	Controlling Body	Step	Reference	Ready Reckoner				
					Days	Cum Days from Start	Days to End		
1	Liquidation	Liquidation Committee ("LC") (1 ICO Member)	1	Board Decision to Liquidate SOE			1,264		
			2	Liquidation notice to Business Registry	PAK Op Pol 6.4	5	5	1,259	
			3	Minimum notice of sale of assets	PAK Op Pol 6.4 (d)	30	35	1,229	
			4	Examination of SOE Books and Records	PAK Op Pol 6.5		35	1,229	
			5	Inventory of Assets	PAK Op Pol 6.5		35	1,229	
			6	Notices to all known Creditors	PAK Op Pol 6.5		35	1,229	
			7	Determination of method of Assets Sale	PAK Op Pol 6.5		35	1,229	
			8	Advertise Liquidation - 1st Advert	PAK Op Pol 6.5		35	1,229	
			9	Advertise Liquidation - 2nd Advert	PAK Op Pol 6.5		35	1,229	
			10	Publish List of Assets for Sale	PAK Op Pol 6.5		35	1,229	
			11	Notification to Courts to suspend legal actions	UNMIK Reg 2005/48 S.49.1		35	1,229	
			12	Claims to be received within 60 days of 2nd advert	PAK Op Pol 6.9.1		60	95	1,169
			13	Organise Sale of Assets	PAK Op Pol 6.11.1 (Sale< 60 days of step 9) - LC may adjourn			95	1,169
						30	125	1,139	
						5	130	1,134	
						60	190	1,074	
2	Appeal 1 (Internal)	Liquidation Case Review Committee ("LCRC") -ICO Chairred	16	Creditor appeal against LC assessment of claim	PAK Law S.24.3	60	190	1,074	
			17	LCRC review of LC assessment of claim	PAK Law S.24.6	60	250	1,014	
			18	Time allowed for LCRC review	PAK Law S.24.7	30	280	984	
			19	Notification of LCRC decision	UNMIK 2008/6 s.69.3	14	294	970	
			20	LCRC Advert in the event of non delivery or returned notifications	UNMIK AD 2007/1 S 8.3	14	308	956	
3	Appeal 2 (1st Instance)	SCSC Trial Panel	21	Notification of Creditor appeal against LCRC decision	UNMIK 2008/6 s.69.5	30	338	926	
			22	Creditor appeal to SCSC against LCRC review	PAK Law S.24.8 & UNMIK 2008/6 S.28.2 (d)	270	608	656	
			23	PAK defence of a Claim to be filed with SCSC	UNMIK 2008/6 S.29.1 - may be extended by SCSC	30	638	626	
			24	SCSC Proceedings to consider Claims	UNMIK 2008/6 S.28. Duration not specified - Estimated	90	728	536	
			25	Creditor deadline for submission of corrected Claim	UNMIK 2008/6 S.28.5 Duration not specified - Estimated	14	742	522	
			26	SCSC Proceedings to consider corrected Claims	UNMIK 2008/6 S.28.5 Duration not specified - Estimated	30	772	492	
			27	Supplementation of Claim & defence by reply and rejoinder	UNMIK 2008/6 S.30 Duration not specified - Estimated	90	862	402	
			28	SCSC preliminary report following close of written proceedings	UNMIK 2008/6 S.34.1	30	892	372	
			29	SCSC orders further burdens of proof	UNMIK 2008/6 S.34.3 Duration not specified - Estimated	30	922	342	
			30	Application to set a default judgment aside	UNMIK 2008/6 S.53.2	30	952	312	
4	Appeal 3 (2nd Instance)	SCSC Appeal	31	Appeal to the SCSC Appellate Panel	UNMIK 2008/6 S.59.1	60	1,012	252	
			32	Filing a response to appeal to the SCSC Appellate Panel	UNMIK 2008/6 S.61.1	60	1,072	192	
			33	SCSC Proceedings to appeal and response	UNMIK 2008/6 S.61.4 Duration not specified - Estimated	60	1,132	132	
			34	Reply and rejoinder by parties to the appeal	UNMIK 2008/6 S.62	30	1,162	102	
			35	Parties may submit additional evidence to Appellate Panel	UNMIK 2008/6 S.64	15	1,177	87	
			36	SCSC Disposal of Appellate Proceedings	UNMIK 2008/6 S.65 Duration not specified - Estimated	30	1,207	57	
5	Closure	LC (1 ICO Member)	37	Final Distribution of Funds	PAK Law S 5.7 (b) Interims not ruled out	10	1,217	47	
			38	Board Approval of Conclusion of Liquidation	Board Meetings Once a Month (PAK Op Policy 6.17.1	29	1,246	18	
			39	Application to SCSC for Order of Closure	Estimated	15	1,261	3	
			40	Notice to Business Registry of Case Closure	Estimated	3	1,264		

The laws and regulations governing liquidations have been researched and the individual steps and time allowances mapped. It is now obvious that a liquidation going through all the mapped steps will take, on average, 42 months to be completed. It has been identified a relatively unknown provision in the SCSC law (apparently unknown to or recognised by the KTA) that allows a claimant 9 months in which to lodge an appeal at SCSC. In fact, the liquidation time line map highlights that the majority of the time taken (approximately 19 months) is outside the control of PAK. **This time line map we would like to have much shorter than the current one.**

PAK is continuing developing the procedures on the creation of Liquidation Data Base. The latter is a web based application designed to make possible the registering, editing and searching of the information for the SOE's in liquidation and their assets. The first version of the application in the SQL format has been installed and presented to the ROs' staff (EDOs) and it is functioning very well. In all of the PAK ROs, have been developed trainings on the new Liquidation Database, so the PAK employees who are authorized to use the application are introduced to it, and they started to insert the required information. Currently, the financial outcomes are being modified, and soon will start the second phase of the application development which will consist mainly on the technicalities and forms of reports for the management of PAK in the HQ. We do believe that this is a sophisticated data base. To date 201 contracts for the Service Providers are signed (126- Privatization and 75 -Liquidation)

The PAK inherited from the KTA 166 pending Contracts. In other words the KTA since establishment or in 6 years of the operations, 394 Ordinary Spin-off Sales Contracts, 24 Special Spin-off Sales Contracts, and 36 Liquidation Contracts has completed or in total 454 Contracts. After the consolidation of the PAK Legal Department in the beginning of the March 2009 and up to date, in total 110 Sales Contracts are completed and the remained are being processed (including new once from the PAK sales). The table and the chart below show in detail the achievement of the PAK during the period of time of first week of the March 2009, up to the end of July 2009 or in less of 5 months.

	Ordinary Spin-off		Special Spin-off		Liquidation	
	In number	In value (€)	In number	In value (€)	In number	In value (€)
<b>KTA Signed Contracts</b>	394	€ 260,646,958	24	€ 91,723,495	36	€ 4,293,164
<b>KTA Pending Contracts</b>	77	€ 34,478,440	2	€ 4,258,000	70	€ 14,189,134
<b>PAK Signed Contracts</b>	54	€ 12,337,132	0	€ 0.00	56	€ 11,456,438.90



### Workers List

Workers List Unit remains committed to push forward the process of distribution of 20% employee entitlement. Hence, since the PAK establishment Workers List Unit did an unprecedented job in order to meet the Agency's commitments for acceleration of this very important process for economic development and improvement of social welfare of the Kosovo citizens as well.

PAK has distributed more than €3.5 million to the 2752 employees of 16 SOEs making the total amount distributed so far in €19.2 million. It means that if predecessor of PAK (KTA) during its whole mandate has distributed €15.5 million, on the other hand only during the first 10 months of PAK's operation more than 18% of total amount is distributed to eligible employees.

Table below shows amount of 20% distributed to each SOE and number of employees that realized 20% sale share of the SOE they were working for, while the charts shows the distribution of 20% month by month since PAK establishment and the parallelism about 20% proceeds during KTA mandate and PAK.

SOE Name	Region	Amount distributed	No. of employees
IMN Dukagjini	Peja	€ 1,216,899.39	227
Plastic Factory	Mitrovica	€ 185,335.61	142
FAN	Prishtina	€ 496,765.43	420
Eximkos	Prishtina	€ 605,156.20	110
Kosova Control	Prishtina	€ 17,476.67	6
Veterinary Station Prizren	Prizren	€ 32,573.39	5
Bujqësia Pejë	Peja	€ 145,933.60	115
Llapi	Prishtina	€ 39,541.02	123
Lux	Mitrovica	€ 87,790.36	438
IMB	Mitrovica	€ 28,403.61	182
Trepça Confenction	Mitrovica	€ 11,221.34	46
1 Maj	Mitrovica	€ 14,682.72	160
17 Nëntori	Peja	€ 90,304.37	345
Auto House "Mustafë Rexhepi"	Gjilan	€ 40,592.69	262
TE Rugova	Peja	€ 8,728.51	14
NHTT Rugova	Peja	€ 526,115.44	157

Table 1: Distribution of 20% by PAK - List of SOEs

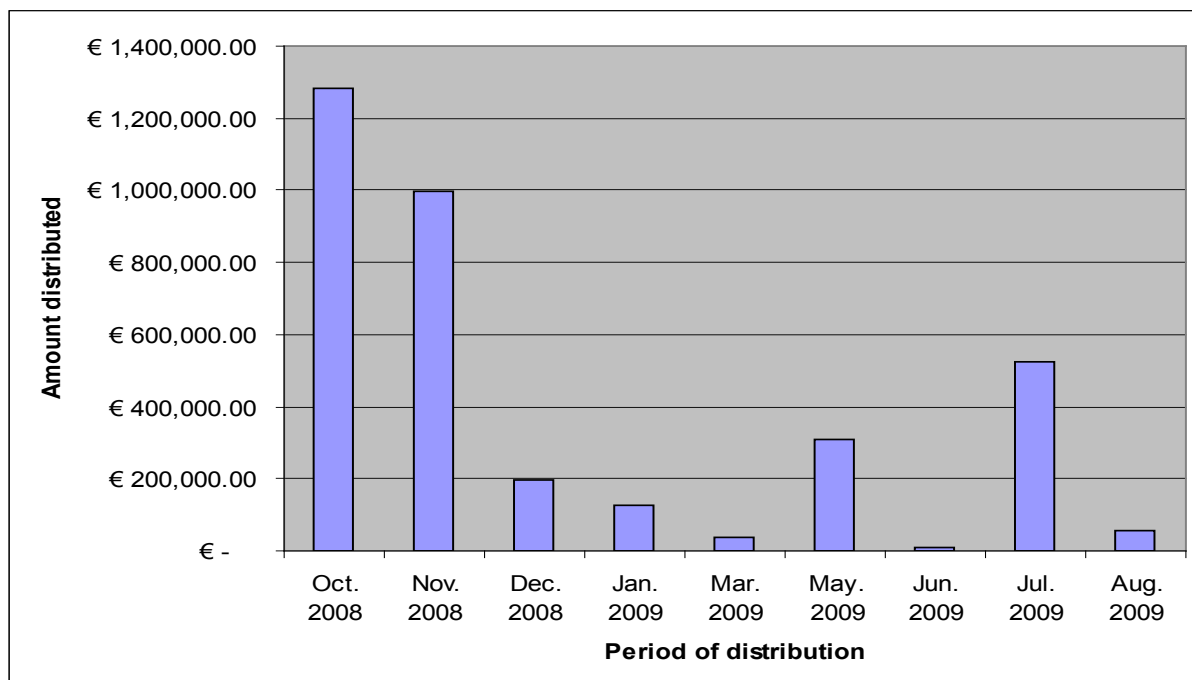


Chart 1: Distribution of 20% by PAK – Sorted by months

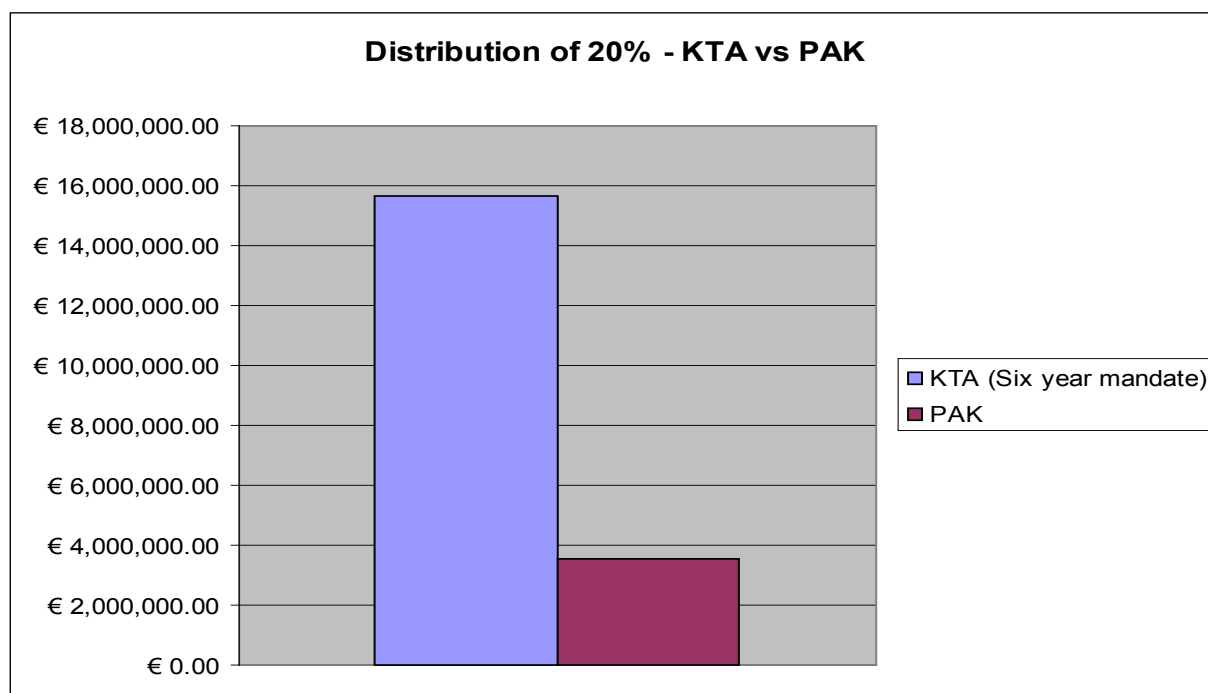


Chart 2: Distribution of 20% – Comparison between PAK and its predecessor (KTA)

A total number of 80 employee lists have been published since March 2009 where 27 were final whereas 53 preliminary. During the coming weeks we intend to publish on the average 10 Employee Lists weekly. In the tables below are presented names of the SOE's employee lists that PAK has already published in daily newspapers (both Albanian and Serbian language) and PAK website as well.

Name of the SOE	Region	Final Date of publication of final list - Last date	Deadline for filing claims with the SCSC	No. of employees on the list
KNI Ramiz Sadiku Prishtinë	Prishtina	7-Mar-09	27-Mar-09	536
Ramiz Sadiku Prizren	Prizren	9-May-09	30-May-09	323
Ballkan	Prizren	9-May-09	30-May-09	1259
Krikos	Prishtina	9-May-09	30-May-09	14
Aromatik	Prizren	9-May-09	30-May-09	22
16 Qershori	Peja	9-May-09	30-May-09	16
Trasing	Prishtina	23-May-09	13-Jun-09	242
Energomontimi	Prishtina	23-May-09	13-Jun-09	48
Theranda	Prizren	23-May-09	13-Jun-09	56
Mushrooms Factory	Prishtina	23-May-09	13-Jun-09	25
Anamorava	Gjilan	23-May-09	13-Jun-09	13
Tools and Apparatus Factory	Gjilan	23-May-09	13-Jun-09	229
Kosovatrans Gjilan	Gjilan	30-May-09	20-Jun-09	158
Luboten Brick Factory	Gjilan	30-May-09	20-Jun-09	4
28 Nëntori	Gjilan	13-Jun-09	4-Jul-09	255
Agromorava Viti	Gjilan	13-Jun-09	4-Jul-09	123

Name of the SOE	Region	Final Date of publication of final list - Last date	Deadline for filing claims with the SCSC	No. of employees on the list
Kosovatrans Kamenica	Gjilan	13-Jun-09	4-Jul-09	42
Mustafa Goga	Gjilan	13-Jun-09	4-Jul-09	115
Çyçavica	Mitrovica	13-Jun-09	4-Jul-09	186
Agr. Station Gjakova	Peja	13-Jun-09	4-Jul-09	4
Utva	Peja	13-Jun-09	4-Jul-09	179
Peja Brewery	Peja	11-Jul-09	01-Aug-09	508
Kosovarja	Prishtina	11-Jul-09	01-Aug-09	138
Plantacioni Ferizaj	Gjilan	11-Jul-09	01-Aug-09	26
KHT Kosova	Prishtina	08-Aug-09	28-Aug-09	692
Kosova Construction	Mitrovica	08-Aug-09	28-Aug-09	252
Kosova Hidroteknika	Prishtina	08-Aug-09	28-Aug-09	58

Table 2: Final lists published

SOE Name	Region	Publication of list (last date)	Deadline for filing claims with the PAK	No. of employees on the list
Bujqësia Prishtinë	Prishtina	09-May-09	30-May-09	49
KB Orllani	Prishtina	09-May-09	30-May-09	8
Fertrans Ferizaj	Gjilan	09-May-09	30-May-09	13
KB Skivjani	Peja	09-May-09	30-May-09	11
Workers University	Gjilan	09-May-09	30-May-09	3
Standard	Peja	16-May-09	8-Jun-09	111
KBI Agrokultura	Gjilan	16-May-09	8-Jun-09	255
Metalografika	Gjilan	16-May-09	8-Jun-09	11
Filigran	Prizren	16-May-09	8-Jun-09	44
Ferronikeli	Prishtina	06-Jun-09	27-Jun-09	1866
Inginiering	Prishtina	06-Jun-09	27-Jun-09	28
Jometalet Kaolini	Gjilan	04-Jul-09	25-Jul-09	27
KB Banja	Peja	04-Jul-09	25-Jul-09	11
KB Bujku-Rogana	Gjilan	04-Jul-09	25-Jul-09	14
KB Vitia	Gjilan	04-Jul-09	25-Jul-09	21
KB Mirusha	Gjilan	04-Jul-09	25-Jul-09	8
Qëndresa/Morava-Kamenicë	Gjilan	04-Jul-09	25-Jul-09	48
Vetfarm-Viti	Gjilan	04-Jul-09	25-Jul-09	5
Teuta/Vrella	Peja	04-Jul-09	25-Jul-09	278
AC Istog	Peja	18-Jul-09	8-Aug-09	9
AC Kosova Lipjan	Prishtina	18-Jul-09	8-Aug-09	47
Seed Factory	Peja	18-Jul-09	8-Aug-09	40
Drithnaja	Prishtina	18-Jul-09	8-Aug-09	6
Pioniri	Gjilan	18-Jul-09	8-Aug-09	178
SHAM Drita	Gjilan	18-Jul-09	8-Aug-09	4
XIQ Karaqeva	Gjilan	18-Jul-09	8-Aug-09	459
Malishgan	Peja	18-Jul-09	8-Aug-09	95

SOE Name	Region	Publication of list (last date)	Deadline for filling claims with the PAK	No. of employees on the list
Agimi - Mishi Gjakovë	Peja	25-Jul-09	15-Aug-09	70
Bentokos	Gjilan	25-Jul-09	15-Aug-09	25
Dardania	Prishtina	25-Jul-09	15-Aug-09	170
IMF Kosova-Industria e mishit F.Kosovë	Prishtina	25-Jul-09	15-Aug-09	109
KB Ferizaj	Gjilan	25-Jul-09	15-Aug-09	8
Mulliri Gjakovë	Peja	25-Jul-09	15-Aug-09	86
Qarkullimi/Promet	Gjilan	25-Jul-09	15-Aug-09	68
Stacioni për mbrojtjen e bimeve	Peja	25-Jul-09	15-Aug-09	5
Pasuria Bujqësore	Gjilan	25-Jul-09	15-Aug-09	16
Tregtia e Kosovës	Prishtina	25-Jul-09	15-Aug-09	12
Dobrusha	Peja	01-Aug-09	21-Aug-09	9
Dubrava	Peja	01-Aug-09	21-Aug-09	79
Dardania/Putnik	Prizren	01-Aug-09	21-Aug-09	59
Hidromont	Peja	01-Aug-09	21-Aug-09	11
Kosovashped	Prishtina	01-Aug-09	21-Aug-09	36
Kosovatex	Prishtina	01-Aug-09	21-Aug-09	386
Prizrencoop	Prizren	01-Aug-09	21-Aug-09	15
Vet. Station Skenderaj	Mitrovica	01-Aug-09	21-Aug-09	5
Elan	Mitrovica	15-Aug-09	5-Sep-09	218
Artizanati	Prizren	15-Aug-09	5-Sep-09	31
Banesa	Prizren	15-Aug-09	5-Sep-09	10
1 Maj Rahovec	Prizren	15-Aug-09	5-Sep-09	77
IFS Progresi	Prizren	15-Aug-09	5-Sep-09	864
Klinapremix	Peja	15-Aug-09	5-Sep-09	45
Thertorja Eksportuese Prizren	Prizren	15-Aug-09	5-Sep-09	68
Vinex	Gjilan	15-Aug-09	5-Sep-09	228

Table 3: Preliminary lists published

One of the main challenges of the Agency was to accelerate the Process of 20% employee entitlement, ever since PAK took over the Privatization Process in Kosovo.

In order to accomplish successfully such an important process, the PAK has increased its human capacities and therefore has established a separate special unit within Legal Department called Workers Lists Reviving Panel (WLRP) which will be dealing only with reviewing the claims regarding 20%. This panel has been established by PAK in accordance with UNMIK Administrative Direction 2006/17. Because the ICO still did not appoint any person for the above motioned position, the SCSC is often challenging workers list published by PAK, such as the SOE KNI "Ramiz Sadiku" in Prishtina and others which have undergo the same reviewing procedure.

As the outcome of the dedicated efforts by PAK there are 80 published SOE's employee lists within five months, while KTA during its mandate in total has published 106 lists (40 preliminary and 66 final).

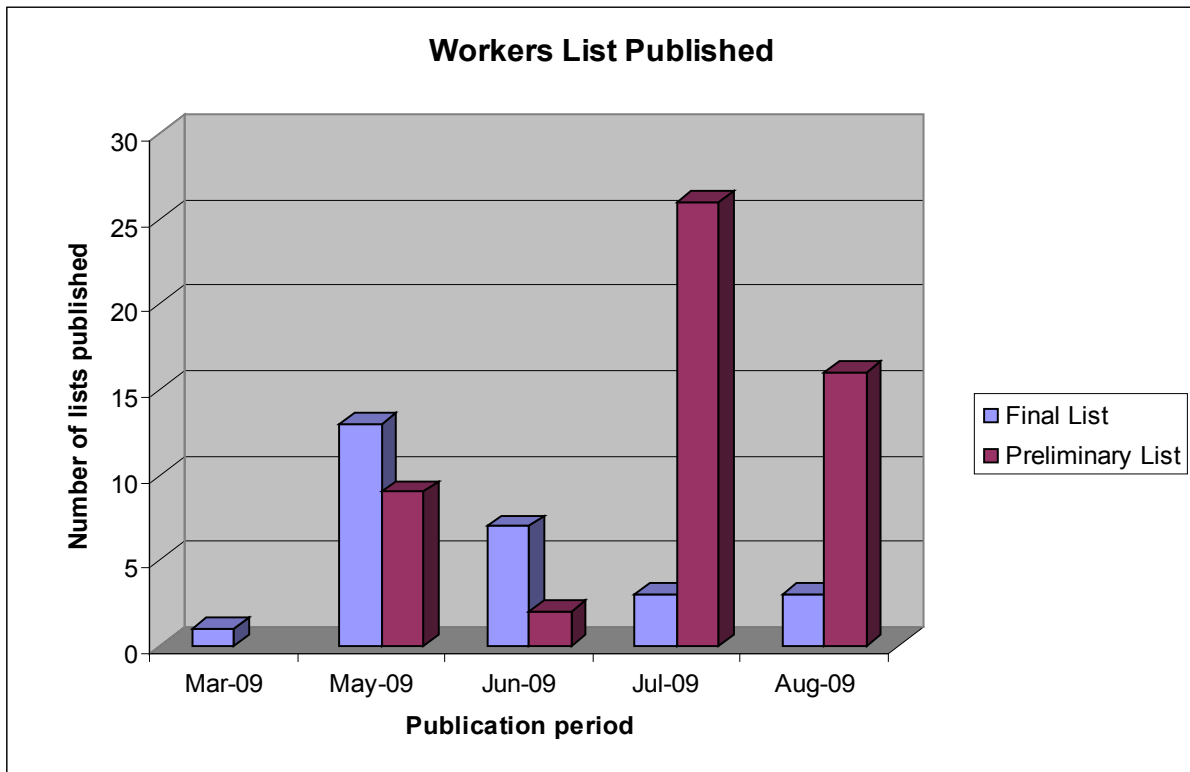


Chart 3: Published SOE Workers List since March 2009

Although there have been some political obstacles with respect to the publishing of Workers List in Serbian newspapers, PAK remained persistent on its commitments and therefore unblocked the process through alternative solutions. Advances are quite obvious – in average 16 workers list published monthly. This distinctive progress is presented in the following chart.



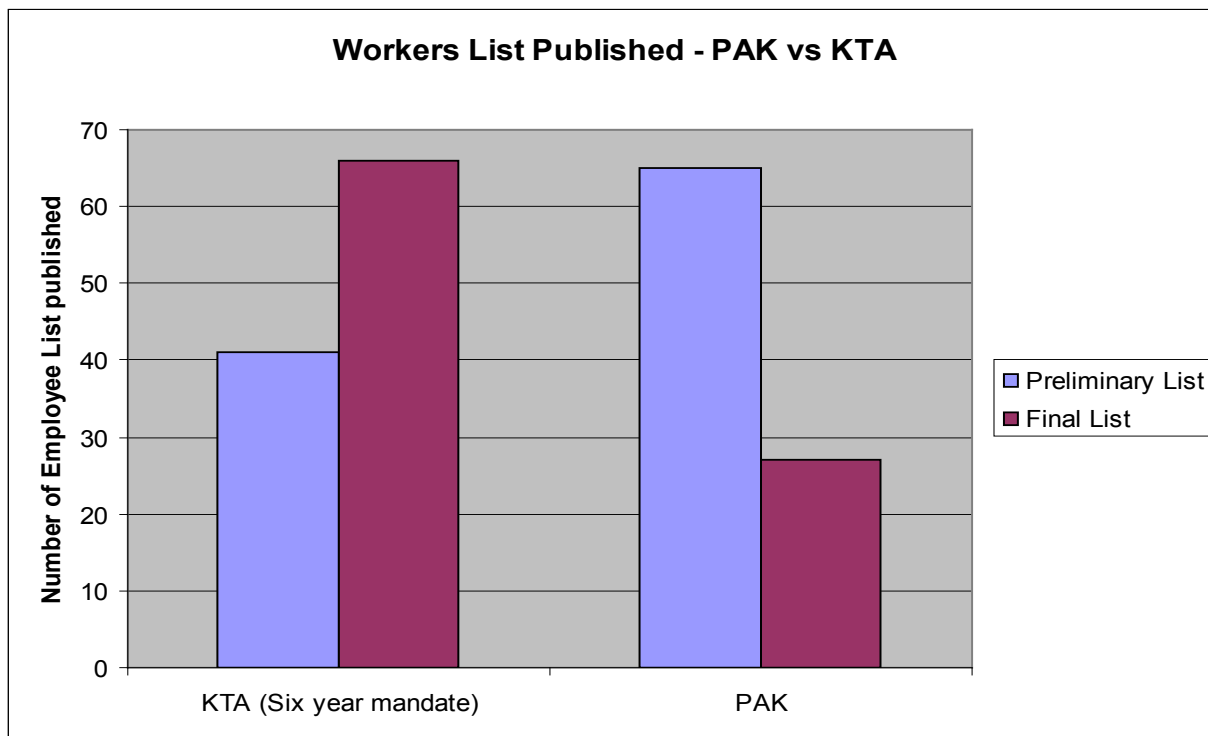


Chart 4: Published SOE Workers List - Comparison between PAK and its predecessor (KTA)

It should be noted that due to the inefficiency of the Special Chamber – Supreme Court of Kosovo to proceed with all final list published, PAK may not go ahead with the distribution of 20% to the eligible employees as the latter is legally constrained to be waiting for SCSC final decision for each Workers List published, before any distribution.

Based on the experiences to date, on the average it takes 3-6 months for SCSC to review claims submitted for each list published and issue a respective decision.

Despite of this fact PAK is strongly determined to continue publishing of new Workers List as the process has been stalled and a considerable number of Lists are ready for publishing.

PAK has composed a detailed plan about publishing of Workers List in particular. By the end of this year it is predicted to be published all remained unpublished lists.

Workers list Unit in close cooperation with Legal Department is in process of finalizing the guidelines of 20% mainly focused on eligibility criteria, claiming procedures and distributions.

## 6. CORPORATE GOVERNANCE DIVISION

### 6.1 Special Spin Off

During the privatisation process some SOE are estimated to have a significant importance for the Kosovo economy in the meaning that particular industry or business is estimated to be of a crucial importance for further economical development both the region where the business is located and the economy in general, employees a large number of people, has the potential to grow, possess a well known history of its brand, the form of Special Spin Off privatisation is applied.

Special Spin Off privatisations took place during the KTA mandate based on the article 10.2(b) of the UNMIK/REG/2002/12, which states that the operational policies (to be issued by the Board to guide the Agency) will set out "the circumstances under which the Agency may require parties bidding for shares in Corporations to present a viable business plan including proposed activities, investments and employment levels, and evidence of the financial means to make the investments anticipated in the business plan...".

Whereas, the law No. 03/L-067 on the Privatisation Agency of Kosovo does not contain the specific article as the UNMIK Regulation 2002/12, article 10.2(b), which specifically regulated the special spin off conditions. In this regard the legal basis for the special spin off privatisation according to this law needs to be added / improved.

In general the "special spin-off" (SSO) privatisation consists of additional requirement for bidders to submit investment and employment commitments, business and investment plans. PAK Operational Policies define special spin off as a process when the Agency in addition to the highest bid price give credit to the following criteria:

- Investment undertakings offered by the bidder.
- The business and investment plan submitted by the bidder.
- Additional performance requirements determined by the Management and approved by the Board.

Other criteria that might be of the importance in certain SSO cases could be a proof of sufficient expertise in a pertinent field so as to be able to properly carry out the intended business activities of NewCo, and, if necessary, proof of qualification for any operational licenses, which must be transferred or re-issued to the NewCo. All requirements for the bid criteria for SSO-s are to be foreseen on the Rules of Tender that are subject to the approval by the BoD for each SSO specifically (Please note: no Special Spin – off might occur unless the current legislation is amended accordingly).

For the enterprise to qualify for special spin-off procedures that SOE must meet specific criteria in regards to employment of and regular payroll tax payment over a certain period of time and for a certain number of employees and total revenue at the specific amount prior to privatization.

The Management or a member of the Board may propose to the Board that a particular SOE, which does not meet any of the criteria under the specific criteria's set out in the operational policies, will nevertheless be spin-off under the special spin-off procedure, if the privatization of such SOE will have an extraordinary economic impact on Kosovo, and the Board approves so.

In accordance with PAK Operational Policies, PAK BoD will commission evaluations in connection with Special Spin-Offs, and other situations the BoD deems appropriate. The evaluations must be conducted by institutions or teams of international and local experts. Results of the evaluations can not be made public and do not obligate the Board in the bid selection process.

For special spin-offs, the Agency requires winning bidders to sign a contract with the Agency, which stipulates for the winning bidder provisions with respect to the performance, investment, and employment criteria on a case-by-case basis.

The first SSO sale was concluded on 23 March 2005. Until now there were 24 SOE's that were sold through SSO procedures. During the KTA 2 (two) SSO were released from further reporting and monitoring as a result of

fulfilment of their commitments. During the PAK mandate 4 (four) SSO were released from further reporting and monitoring since the external audit showed that they fulfilled their commitments in accordance with the commitment agreement. On the other side we have a number of SSO-s that are already in egregious breach of the commitment agreement in regards to the investments and employment commitment. For 1 (one) SSO PAK is exercising its right in accordance with the commitment agreement to return shares under PAK Administration due to breach of the commitment agreement by the Buyer.

In short, having into consideration all difficulties, it can be said that PAK has made extraordinary work, but it still remains to be done. Currently, the burden inherited from former KTA can be considered as the only element that can potentially impact on the dynamic of PAK works, which situation is thought to be overcome within the first half of 2009.

In this respect, since the establishment of PAK an intensive work has been made regarding privatized enterprises by former KTA through special spin-off method. First noticed deficiencies from the past (from former KTA), have mainly to do with a prequalification and weak selection of potential investors and potentially new owners of these enterprises privatized through special spin-off, which enabled the purchase of these enterprises in several cases also by the individuals/companies that do not have any certain expertise in the respective fields. The second deficiency is the issue of the contracts (sales agreements) with special spin-off. Another deficiency can also be mentioned and that is the very weak mechanisms of monitoring made in the past by former KTA in relation with the level of commitment fulfillment made for investments and employment by the buyers. This has resulted with a very serious negligence by the side of former KTA regarding the interference/intervention on time, which was also a legal obligation toward companies, which in continuation failed in fulfillment of commitments made.

It should be noted that PAK Board of Directors have approved detailed strategy on dealing with SOEs privatised by KTA through Special Spin Off method.

In the following section of this report you will find the detailed information about each Special Spin Off privatised enterprise:

<b>Name of the NewCo:</b>	NewCo Banja e Kllokotit
<b>Place/Municipality:</b>	Viti / Gjilani Region
<b>Commencement of Contract:</b>	24/11/2005
<b>Sale Price:</b>	€1,805,550
<b>Investment Commitment:</b>	€3,100,000
<b>Employment Commitment:</b>	50 employee's first six months 101 at the end of sixth month and 201 until the end of year one, 201 to be kept for one year
<b>Business / Sector:</b>	Production of CO <sub>2</sub> and mineral water

**Enterprise / Product:** Banja e Kllokotit has an excellent reputation in the local market for the quality and taste of mineral water. The enterprise has two mineral water wells that are located in a distance of 150 meters and respectively 7 km from the factory. Besides, its name is well known in a large part of former Yugoslavia. The enterprise is working at the borders of its technical capacities and recently has reached European markets as well. Further more, the enterprise is the only producer of CO<sub>2</sub> in Kosova.

**Investments:** Even though until 31/12/2005, the company was not committed to do any reporting, they started immediately with new investments to revitalize production. The Buyer reported until 23.11.2007, Q8 (last quarter) €4,096,000 from which based on the auditors report €844,000 was not recognized as capital investments in accordance with the commitment agreement. The audit found that the enterprise until 23.11.2007, Q8 (last quarter) has done investments in amount of €3,252,000 or 105% of the committed investment. Investments were mainly done in repairing the existing facilities, building new facilities, advancing the information technologies of the NewCo, repairing of the production lines and installment of new production line, purchase of the transportation vehicles, etc.

**Employment:** Even though the Buyer committed to employ 50 employees in the first six months, he employed 139 employees from the beginning of his work. Based on the external auditors report until 23.11.2007, Q8 (last quarter) the company employed 201 employees or 100% of employment commitment.

**Issues:** As per the commitment agreement and the monitoring of this Special Spin Off enterprise there are no issues to report, the Buyer has done remarkable investment in the SOE which has been noted by the municipality and the region as well as the Kosovo economy as whole.

**Summary:** External Auditor's final report shows that the NewCo Banja e Kllokotit managed to fulfill employment and investment commitments successfully. PAK Board of Directors on its meeting held on June 2009 has decided to release the NewCo from further monitoring and reporting.

<b>Name of the NewCo:</b>	NewCo Ferronikeli
<b>Place/Municipality:</b>	Drenas / Prishtina Region
<b>Commencement of Contract:</b>	20/12/2005
<b>Sale Price:</b>	€30,554,371
<b>Committed Investment:</b>	€20,000,000 for three years
<b>Committed Employment:</b>	250 workers first six months 500 at the end of six months and 1,000 at the end of year one, 1,000 workers to be kept for one year
<b>Business / Sector:</b>	Mining and Mineral Processing

**Enterprise / Product:** The Ferronikeli Ore Mining/Metallurgical Operation at its operational height in 1989; employed 2,000 people and produced and exported 6,800 ton's of contained Nickel in ferro-nickel ingots. Originally built in 1984 to produce ferro-nickel for export the mine and plant were both under-utilized and degraded during the 1990's, and eventually ceased to function in 1998.

12,000 ton's per annum Nickel producer with 12 or more years of life remaining (mining at the design rate of 1.2 million tones of ore per year). Currently there are 13.8 million tones of ore grading 1.32% Nickel in reserves

**Investments:** Based on the auditors report the Buyer until 30.06.2009, Q12, has done investments in amount of €60,000,000 or 300% of the committed investments. Investments mainly were done in repairing the existing equipment, purchase of the new machinery and parts for the machinery, installment of the electrical lines, and improvement of the systems in general.

**Employment:** In regards to the employment, based on the auditors report until 30.06.2009, Q12-last quarter, the Buyer has employed 1,045 employees or 104% of the committed employment.

**Issues:** During the monitoring period the agency had no issues with the NewCo, the Buyer has done remarkable investments in the NewCo since the privatization.

**Summary:** External Auditor's final report shows that the NewCo Ferronikeli managed to fulfill and exceed employment and investment commitments, PAK Board of Directors on it's meeting on July 2009 has decided to release the NewCo from further monitoring and reporting.

<b>Name of the NewCo:</b>	NewCo IMN Brick Factory LLC
<b>Place/Municipality:</b>	Gjakova / Peja Region
<b>Commencement of the contract:</b>	28/07/2006
<b>Sale Price:</b>	€5,689,432
<b>Investments committed:</b>	None
<b>Employment Committed:</b>	167 employees at the beginning of the six month period, 333 at the end of the sixth month and 666 at the end of year one, 666 to be employed for the one year.
<b>Business/Sector:</b>	Production of bricks, roof tiles and other products for construction sector.

**Enterprise / Product:** The enterprise was founded in 1974 and has produced bricks and tiles. The enterprise produces different sizes of bricks and possesses a degree of flexibility regarding the type of brick that can produce. The cutting machine within its capacity can produce bricks of different dimensions depending on requirements. Thus the range of products that this enterprise can produce is vast. The market for construction materials usually requires standardized bricks, so the company mainly is focused on supplying the market with these types of product. The NewCo also produces concrete for construction use, ceramics of different kind, gravel, etc.

**Investments:** IMN Brick Factory has no investment commitments in the sale contract.

**Employment:** Although the enterprise had pledged that it will employ 167 workers in the first six months, the company's new owner has hired almost 333 at the beginning of its activity. Until 27 Jul 2008, Q8 (last quarter), the company has reported 667 worker or 100% of the number of employees committed.

**Issues:** According to the report of the auditor, the Buyer has achieved to fulfill the employment commitments as per the agreement and there were no issues to be reported.

**Summary:** External Auditor's final report shows that the NewCo managed to fulfill employment commitments, PAK Board of Directors on it's meeting on July 2009 has decided to release the NewCo from further monitoring and reporting.

<b>Name of the NewCo:</b>	NewCo Peja Brewery
<b>Place / Municipality:</b>	Peja / Peja Region
<b>Commencement of Contract:</b>	29/06/2006
<b>Sale Price:</b>	€11,130,000
<b>Committed Investments:</b>	€15,206,000
<b>Committed Employment:</b>	153 workers first six months 306 at the end of six months and 612 at the end of year one, 612 workers to be kept for one year
<b>Business / Sector:</b>	Beer production

**Enterprise/ products:** Peja Brewery is the only Beer producer in Kosovo, holding 45% of the local beer market. The "Birrë e Pejës" is well-known in several Balkan countries, notably those with ethnic Albanian populations. Peja Brewery's main product is a light, full-flavored, Pilsner-type beer, which is branded "Birrë e Pejës". It is sold in glass bottle (0.5 liters and 0.33 liters) and in keg (50 liters). "Birrë e Pejës" is the leading beer in Kosovo, where it enjoys strong brand recognition. The company also produces malt (the main raw material in beer) from barley, for its own use and for third-party sales. Since the privatization the NewCo has replaced the packing lines on bottling and installed a new line for can beer. Lately, the NewCo produces, besides the regular beer, premium beer and alcohol free beer. This enterprise it is and keeps being a well known brand within Kosovo, as well as abroad.

**Investments:** Investments are made on new composition of beer production, new packing lines, new products, and installment of the malt factory, improvement of boiling and fermentation process, new equipment for fermentation and the repairing of the existing equipment, improvement of electrical systems and electric installations in the factory. Upon the request from the Buyer it has been granted one additional year of extension for fulfilling investments. The Buyer reported €15,800,000 investments from which the external independent auditor did not recognize €565,000 as a capital investment in accordance with the commitment agreement. As per the external independent auditors report the Buyer until the 28.06.2009, Q12 (last one), has done investment in amount of €15,235,000 or over 100% of the committed investments. The NewCo as specified in the Commitment Agreement was obliged to purchase for two years period, at least 5,000 Tones of barley from the local supplying farmers, which according to the audit the Buyer fulfilled this commitment by purchasing 5,114 Tones in value of €1,050,000 of barley for the period foreseen in the commitment agreement.

**Employment:** Based on the auditors report, until the 28-Jun-08, Q8, (last quarter), has employed 612 employees or 100% of the committed employment.

**Issues:** Results of the independent external auditor's report show that the NewCo has fulfilled investment in the level of the committed amount of investment and has reached the required level of the employment for two years as per the agreement.

**Summary:** Due to the fact that the Buyer has done remarkable investments in the SOE and has fulfilled the investment and employment commitments as per the agreement, PAK Board of Directors on its meeting on July 2009 has decided to release the NewCo from further monitoring and reporting.

In relation to the four above mentioned Companies that are released from further monitoring and reporting, it should be noted that those present success stories not only for PAK but also for the respective municipalities and Kosovo economy as well.

<b>Name of the NewCo:</b>	NewCo Balkan
<b>Place/Municipality:</b>	Suhareka / Prizren Region
<b>Commencement of Contract:</b>	21/07/2005
<b>Sale Price:</b>	€1,400,000
<b>Investment Commitment:</b>	€6,000,000 for three years
<b>Employment Commitment:</b>	50 workers first six months 179 at the end of sixth month and 375 at the end of year one 375 employees to be kept for one year.
<b>Business / Sector:</b>	Rubber-base production

**Enterprise / Products:** Located in the town of Suhareka in the Prizren Region, NewCo is situated on an industrial site with a surface area of 15 hectare. NewCo's buildings include production sites and administrative facilities, as well as warehouses (representing a total of 58,088 m<sup>2</sup>). NewCo produces a variety of belt conveyors including conveyors belts with textile structure. It also produces narrow V-belts, poly-belts, technical fabrics, rubber meshes, and a number of spare parts and tools for other industries. Products are usually tailor-made and serve a great number of sectors, notably the car making, chemical industry, energy supply, food processing and mining industries.

**Investments:** Based on the auditors report the Buyer claims that the total investments done at the enterprise is €6,035,000 from which the auditor subtracted the amount of €133,000 since he found that there was a mathematical error in calculating the individual amounts on the reported investments. The external independent auditor states that from the total invested amount of €5,902,000 the amount of €4,160,000 represent investments on the machinery purchased mainly from the company ÖZER KONVEYOR BAND from Turkey, which is the same company that privatized the NewCo and some other companies also from Turkey. The auditor recommended that PAK shall verify the purchase prices of the equipment reported as investment, since the Buyer did not disclose the purchase information between the NewCo and ÖZER KONVEYOR BAND as a related party, and the auditing company had to use alternative means to verify and compare prices where it found that the prices and the differences between the purchase prices of the machinery were unusual which disabled the auditor to draw any final conclusion about the real value of the machines. Recommendation is for PAK to engage an independent specialized company to evaluate the real value of this amount invested in the machinery. Most of investments have been done on the building refurbishment, new machinery and transportation equipment, equipment repair. PAK did not receive yet the last quarterly report on investments from the Buyer.

**Employment:** Although it was committed that 179 workers had to be hired in the first 6 months, new owner of the company has employed 182 workers from almost beginning of his activity. Based on the auditors report until the 21 April 2009, (Q15 – the last one), the enterprise employed 375 employees or 100% of the employees committed. PAK did not receive yet the last quarterly report on employment yet.

**Issues:** Although the reported investments are encouraging, there are issues with purchase prices of the certain equipment. Independent external auditor listed this machinery in the report (which makes the majority of the amount invested) and recommended to further evaluate their real prices and value. Regarding employment, external auditor's opinion is that the number of employees employed by the Buyer corresponds with number of employees according to the Commitment Agreement.

**Summary:** Based on final report of external auditor, there are ground to suspect that the prices of the certain machinery were not reported as the real purchase prices, and PAK will take all the necessary steps in accordance with the external auditor's opinion to hire an independent specialized entity to evaluate reported prices for the items listed in the auditors report.



<b>Name of the NewCo:</b>	NewCo Modeli LLC
<b>Place/Municipality:</b>	Gjakova / Peja Region
<b>Beginning of the Contract:</b>	13/04/2008
<b>Sale Price:</b>	€630,000
<b>Committed Investments:</b>	€2,200,000
<b>Committed Employment:</b>	29 employees in first six months 85 in the end of six month and 170 in the end of year one, 170 employees to be kept next one year.

**Business / Sector:** Processing of woods, production of wooden parts and final wooden products.

**Enterprise / Product:** The Enterprise was established in 1947 by a group of craftsmen. By 1950 the Enterprise employed 40 workers and by 1977 the Enterprise had an installed capacity for 60,000 wooden windows per year, employing 500 individuals. During the 1990s its output and operations decreased and in 2001 the number of employees dropped to 176. The NewCo has not commenced with the production, since its privatization.

**Investments:** Enterprise until 13 April 2009, (the last quarter– Q8), has reported investments in an amount of €1,550,000 or 70% of committed investments but as per the independent external auditor this amount is questionable since most of the contracts were done with individuals and persons that are not registered as business entities and can not be effectively traced and validated. Some of the receipts are in the name of the company who purchased the NewCo; some of the receipts reported do not contain stamps, etc.

**Employment:** according to the independent external auditor, the NewCo even though until 13 April 2009, (the last – Q8), has reported 171 employees in the report of the independent auditor it can be seen that a big number of reported employees from the company have not worked full-time and they have received minimal payment of only €80. All the salaries were paid from the cashbox. Only 10 to 15 employees is estimated to have been working full time as specified in the commitment agreement under the employment commitment terms.

**Issues:** According to the external auditor the company has not produced during whole period between 13.04.2007 until 13.04.2009, and did not generate any revenues from its core business.

**Summary:** PAK is in process of evaluating this report and will in the near future decide to take the necessary steps in full accordance with the commitment agreement and the approved strategy for SSO by the PAK BoD.

<b>Name of the NewCo:</b>	NewCo FAN LLC
<b>Place/Municipality:</b>	Podujevë / Prishtina Region
<b>Commencement of Contract:</b>	23/03/2006
<b>Sale Price:</b>	€2,310,000
<b>Investment Commitment:</b>	€2,800,000
<b>Employment Commitment:</b>	59 employees first six months 118 at the end of sixth month and 236 at the end of year one, 236 to be kept for one year.

**Business / Sector:** Production of steel forms, for reinforcement

**Enterprise / Product:** SOE FAN now NewCo FAN is a producer of profiled armory from steel utilized in the construction industry. It is located in the town of Podujeva municipality in north-eastern Kosova. FAN was founded as a socially-owned enterprise in 1983, at which time the construction and installation of most of the existing facility was completed. FAN operated with approximately 90% of the planned capacities until 1990, until production was reduced due to imposed measures and conditions in the region. The primary operation of FAN is the transforming of smooth steel bars into simple and complicated forms of profiled steel reinforcement. Such reinforcement enables concrete to absorb additional tensile and flexural stress. Steel wire is initially cold drawn to retain its high tensile strength, after which profiles are pressed into it to enable it to remain well-anchored in concrete. The creation of frameworks of various sizes and shapes is then done according to market demands.

**Investments:** Based on the external independent auditors report (period 24 March 2006 – 23 March 2008) from the amount of investment reported from Buyer of €4,550,000 the amount of €3,367,500 of these Investments appears to be done outside of the company business and facilities, which does not meet the requirements specified in the commitment agreement under Capital Investment terms and conditions. The amount of the capital investment as per the commitment agreement is €1,186,000 or 42% of investments committed.

**Employment:** In regards to employees as per the external auditors report the Buyer until 23 March 2008 (Q8 – last one) has employed 236 employees or 100.00% of employees committed.

**Issues:** Final report of external auditor shows that total amount of investment of €3,367,500 has been done outside the Company's business and facilities and do not comply with the committed investments terms and conditions. These investments include flourmill purchased in Gjilan, parts of land purchased in the different places, apartment purchased in Prishtina. The Buyer claims that the invested amount is higher than what the report shows, thus PAK will take all the necessary steps to evaluate these claims and make final decision.

**Summary:** The Buyer claims that due to the financial crisis he was forced to invest outside the SOE facilities. However the terms and conditions set in the commitment agreement are clear as far as per the capital investments and PAK will follow the commitment agreement and take all the steps in accordance with it and the strategy for SSO-s approved by the BoD.

<b>Name of the NewCo:</b>	NewCo IDGJ Tobacco
<b>Place/Municipality:</b>	Gjilan / Gjilan Region
<b>Commencement of Contract:</b>	14/08/2006
<b>Sale Price:</b>	€1,400,000
<b>Committed Investment:</b>	€5,599,504 for two years
<b>Committed Employment:</b>	200 workers first six months 400 at the end of six months and 799 at the end of year one, 799 workers to be kept for next one year.

**Business / Sector:** Agribusiness and agro-processing (tobacco)

**Enterprise / Product:** SOE IDGJ Tobacco is the only tobacco producer in Kosovo. It was established in 1960 and until 1980 IDGJ Tobacco had a production agreement with "Rothman's International" using tobacco leaf purchased from 8,000 local farmers. Capacities declined over 90's during international sanctions and it was interrupted during 1999 conflict. Although production restarted after 1999, the sale has been stopped until 2005. Production equipment at the time of privatization was in a good condition. The main location which is in Gjilan corner is approximately 4.05ha, adding three suburban points or collection centers (for tobacco reap) where 0.5ha are registered as an SOE and 0.38 are registered as another SOE (equivalent land value with €307,000 per ha). The enterprise produced different types and brands of cigarettes.

**Investments:** Based on the external independent auditors report the Buyer until the 14.08.2008, Q8 (last quarter), has done investments in the amount of €1,060,000 or only 19% of the committed investments. These investments were mainly done in areas such as; office equipment, transportation/distribution vehicles, air-conditioning system, agro-training center, agricultural equipment, etc. The auditor on his report states that the Buyer sold the vehicles reported as investment to pay salaries of some of the employees, which means that he was reporting the same amount of money in two commitment positions.

**Employment:** In regards to the employment the Buyer, based on the auditors report, until the 14.08.2008 has fulfilled only 34% of the committed employment. It must be emphasized that the Buyer has reported the individual farmers as employees under the payroll of the NewCo. However as per the auditors report and the legal opinion of the PAK Legal Department, they can not be recognized as employees in accordance with the Employment Commitment and applicable laws. The NewCo and the Buyer kept most of the reported employees (individual farmers as well) on the pay scale of €80 per month with sole intention to avoid paying taxes for the reported employees.

**Issues:** The external auditor report shows that the NewCo did not to fulfill investment and employment commitments as per the commitment agreement. Further more, he was using illegal means to achieve employment commitments and when he felt he is being discovered started to sale the invested equipment, which clearly shows that the Buyer is not intending to further develop the NewCo.

In the Board meeting held on 26 and 27 February 2009, has been discussed about the general situation created in NewCo and the Board recommended to PAK Management to calculate and enforce the penalties based on section 6.1 of Commitment Agreement.

The totals of calculated penalties as per the agreement are: penalties for non-fulfillment of investments €1,223,000, penalties for non-fulfillment of employment €1,547,000. PAK has continuously contacted the Buyer, in full accordance with the provisions of the signed agreement to try to find a solution for the situation. The Buyer most of the time did not responded, and did not show the serious desire to work with us up to this point. The company shareholders did not contacted PAK, and lately the management of the NewCo was changed very often and we had hard time to know who is managing the NewCo. PAK has meet recently with a legal representative, who was not certain if she represent all shareholders, who asked for little more time to try to find a new investor to help achieve investment commitments. According to her, the Buyer of the NewCo currently is under bankruptcy.

**Summary:** At this point PAK is strictly following the commitment agreement provisions and expecting a concrete proposal from the Buyer. Since the situation is not very promising in regards to further expecting that the Buyer will be able to fulfill the agreement in the near future PAK management will be forced to recommend to the Board of Directors to exercise call option, known as the right to return shares of the NewCo under PAK in full accordance with the Commitment Agreement.

<b>Name of the NewCo:</b>	NewCo Sillosi Flourmill LLC
<b>Place/Municipality:</b>	Rahoveci-Xërxë / Prizren Region
<b>Beginning of the Contract:</b>	11/05/2005
<b>Sale price:</b>	€1,000,000
<b>Committed Investments:</b>	€19,887,564
<b>Committed Employment:</b>	50 employees in the first six months 179 at the end of the six month and 358 at the end of year one, 358 employees to be for next one year.

**Business / Sector:** Procedure of Agro-food: storage of grains: flour production, appetizers and cakes.

**Enterprise / Product:** Enterprise has a wide line of the equipment for the grain storage and for the flour production, snacks, appetizers and small pastas, and most of these lines are functional. Enterprise produces different kinds of flour and other products which emerge from the flour production and which include:

- Types of flour: T500 (for white bread: 75% of the production), T400 (muffin), T850 (for black bread), bran (food for livestock)
- Appetizers and small pasta (macaroni)
- Special pasta (spaghettis).

**Investments:** Enterprise until the last quarter which ended on 10 November 2007, has reported €18,534,000. Recently Corporate Governance Division received another report where is reported that the Buyer invested additionally the amount of €1,315,000 The NewCo is in process of independent external audit and in a short period of time PAK will receive the auditors report on investments

**Employment:** Enterprise until 10 November 2007, Q10 (the last quarter), has reported 370 employees or 103% of the number of committed employees. This reported employment is currently being audited as well and will be subject of the external independent audit opinion.

**Issues:** Due to the ending of the KTA Mandate and the improper hand over of the mandate to PAK, this SSO was not monitored properly because the audit should have been done earlier and the reports collected on time by the KTA. PAK contacted the Buyer immediately after reviewing of the data possessed and requested the reports to be delivered and initiated the audit as foreseen in the commitment agreement.

**Summary:** In general the Buyer had activated the enterprise and made notable investments as per the reports provided by the Buyer. After PAK receives the auditors report, it will take necessary steps in full accordance with the results of the audit and provisions of the Commitment Agreement.

<b>Name of the NewCo:</b>	New Co Rahoveci Winery
<b>Place/Municipality:</b>	Rahovec / Prizren Region
<b>Commencement of the contract:</b>	31/07/2006
<b>Sale Price:</b>	€4,302,900
<b>Investments Committed:</b>	€5,000,000
<b>Employment Committed:</b>	125 employees at the beginning of the six month period. 125 at the end of the sixth month and 250 at the end of year one. 250 employees to be kept for one year.

**Business / Sector:** Alcoholic drinks – Red and white wine

**Enterprise / Product:** NewCo Rahoveci Winery and vineyards consisting of Brnjaka 1 and Brnjaka 2 known as the largest complex grape and wine production in Kosovo. Currently, winery is committed to maintaining the vineyards and the production of bottles of white and red wine. A large part of sales is concentrated in the export where they have a contract with Amselfelder Weinhandel GmbH Germany, and distribution of wine in Kosovo local market, the enterprises management in cooperation with KTA has made progress to find markets in the region and beyond. It is recognized as the largest producer of wine in the Kosovo and produces Cabernet Sauvignon, Merlot, Vranac, Game, Kosovo Red, Chardonnay, in Italian Riesling, Riesling Rigne, and wines from local grapes, varieties such as Prokupe (red) and Smederevka (white).

**Investments:** New investments are reported mainly in rehabilitating of existing vineyards, construction of main office and winery workshop. The enterprise until 10 August 2009, has reported investments in the amount of €5,440,000 or 108% of committed investments. These reported investments are currently being audited by the external independent auditor in accordance with the commitment agreement.

**Employment:** Although the company was committed to employ 125 workers in the first six months, the company's new owner has hired nearly 162 workers from the beginning of its activity. Up to August 2009 the Buyer reported 252 worker or 101% of the number of committed employees. These reports are also being audited by the external independent auditor.

**Issues:** Due to the real obstacles that faced during the first two years, the enterprise has asked for extension of the deadline for meeting commitments for investment. KTA Board on 13.06.2008 after reviewing the request for postponement of the investment deadline approved this request for one year extension. The problem associated with claims of several villagers regarding a piece of the enterprises property, claiming that the land belongs to them since it was taken by the municipality in the year 1958. Most of these problems were passed now and the company is operating normally.

**Summary:** Based on the submitted reports and visits from monitoring unit it can be said that NewCo Rahoveci Winery is in a good position regarding the fulfillment of investments and employment commitment. PAK has engaged an independent external auditor to audit the terms of contract and based on this report, further steps will be taken.

<b>Name of NewCo:</b>	NewCo Zhitopromet Mulliri F. Kosova LLC
<b>Place/Municipality:</b>	Fushë Kosova / Prishtina Region
<b>Commencement of Contract:</b>	10/07/2007
<b>Sale Price:</b>	€2,505,555
<b>Investment Commitment:</b>	€15,000,000 for two years
<b>Employment Commitment:</b>	10 employees first six months 130 at the end of sixth month 130 and 130 until end of year one, 260 to be kept for next one year.

**Business / Sector:** Producing of Flour and Bread and storage of grains and flour

**Enterprise / Product:** The enterprise has a long history of development. The enterprise started since 1950 when a private primitive mill was erected called Mlin in Fushë Kosova. Mlini cooperated with private cooperatives and farms and had a capacity of 55 MT/ per hour. In the late 70s the enterprise expanded its capacity and built a mill with a capacity of 200 MT/per 24 hours. Sillosi had a capacity of 4,200 MT to fill and a warehouse with the capacity to keep 600 MT. The enterprise reached its peak during 1980s distributing its products through the shops and stands chain. After the end of conflict in 1999 despite the enterprise's financial restrictions it undertook actions for work commencement until the year 2003 when its activities are terminated due to lack of financial means.

**Investments:** Since 10/07/2007 until 10/07/2009, Q8 (the last quarter) the enterprise reported investments in the amount of €12,502,000 or 83% of the commitment for investment. The reported investments are currently being audited by the independent external auditor. As per the reports, investments were mainly done in purchasing the new equipment for the enterprise, construction of a new building, repairing of the existing facilities, upgrading of the electrical systems within the facilities, etc.

**Employment:** As for employment commitment, reported number of employees from the enterprise until 10/07/2009, (Q8) (the last quarter) is 260 employees or 100% of employment commitment. Reported employment currently is being audited as well.

**Issues:** In New Co IMB Mulliri in Fushë Kosova 260 employees are employed, however from the total number, 220 employees receive a salary of €80. The Buyer has submitted a request for extension of the commitment period.

**Summary:** The Corporate Governance Division is monitoring this SSO closely and after the final report of the external auditor, will make appropriate recommendations to PAK BoD.

<b>Name of the NewCo:</b>	New Co Steel Welded Pipes LLC
<b>Place/Municipality:</b>	Ferizaj / Gjilan Region
<b>Commencement of the contract:</b>	20/11/2007
<b>Sale Price:</b>	€3,657,000
<b>Investments Committed:</b>	€13,200,000
<b>Employment Committed:</b>	60 employees first six months period. 180 at the end of the six months and 360 at the end of year one, 360 employees to be kept for one year
<b>Business / Sector:</b>	Production of steel welded pipes

**Enterprise / Product:** Steel Welded Pipes based in Ferizaj, is one of the most well known factories in the metal processing activities in Kosovo. It was established in 1979. The factory produces various products, such as pipes for gas-lines, oil pipelines of all dimensions (from 114 to 2.020 mm). Products of this enterprise were of a high quality based on the most known international standards for production and inspection, such as: API, DIN, ASTM, BS, ISO, NF, UNI etc.

**Investments:** The enterprise until the 12 August 2009, Quarter 7 has reported investments in the amount of €2,298,000 or 18% e committed investments. Having in mind that there is very little time to fulfill the rest of the committed investment PAK is looking closely into the seriousness and dynamics of the current investments. The reported amount of the investment is subject to independent external audit which will be done very soon.

**Employment:** By 12 August 2009 the enterprise has reported 366 employees or 101% of the committed employees. The reported employment is subject to independent external audit which will be done very soon.

**Issues:** PAK has determined that the company has not fulfilled the employment commitments on several occasions and has failed to meet the investment commitments for this reason the company was asked to make an early report for the sixth quarter. In these reports the company has presented the excess number of employees for the reporting period and investment in value of €1,033,856.

PAK has engaged an external auditor and based on the report of this audit further steps will be taken in accordance with the commitment agreement. The Buyer has already submitted the request for a one year extension of the commitment period.

**Summary:** The factory has resumed its functioning recently, and based on the information available for PAK has increased the number of employees. The NewCo is regularly reporting new investments and based on the results of the external audit Corporate Governance Division will make necessary recommendations to PAK BoD for further steps.

<b>Name of the NewCo:</b>	NewCo Iliria
<b>Place/Municipality:</b>	Prishtina / Prishtina Region
<b>Commencement of Contract:</b>	31/07/2006
<b>Sale Price:</b>	€1,610,000
<b>Investment Commitment:</b>	€3,000,000 for two years
<b>Investment Commitment:</b>	65 employees first six months 125 at the end of sixth month and 250 at end of year one, 250 to be kept for next one year.

**Business / Sector:** Accommodation, food and service

**Enterprise / Product:** Hotel "Iliria" is located in Prishtina in the center of the town, it is a building constructed specifically for hotel purposes. The building was constructed in 1958 and it was built from the construction materials available at that time meaning the combination of concrete, bricks and timber. In 1999 a part of the building was demolished which was used as a shelter for refugees from Croatia and Bosnia. Beside this, hotel Iliria provides services and accommodation for its visitors and the available space is convenient for conferences, trainings, seminars as well as other social events.

**Investments:** Until 31 July 2009, Q12 (the last quarter) the Buyer has reported investments in the amount of €2,950,000 or 98% of committed investments which are subject to independent external audit.

**Employment:** Even though at the beginning there were satisfying employment fulfillment reported, starting from Q6 (November 2007), a noticeable decrease on the employment has occurred. Until 31.07.2009, Q12 (the last one), 195 employees or 78% are reported. The reported employment is subject to external independent audit.

**Issues:** The Buyer has requested an extension for fulfillment of investment and employment commitment claiming that they had difficulties in obtaining municipality permits necessary to proceed with making the committed investments due to unpaid taxes by the SOE. KTA BoD has asked for more information's that support this request, due to unclear situation. Since there was no BoD meeting in the following months this request was not discussed.

**Summary:** The Buyer is working in the entire building and it is expected that they fulfill the committed investments as they are working with higher capacity. They are working in construction of underground parking-lot, room arrangements, halls, etc. Currently, PAK is closely monitoring the development of the investment that is being done by the Buyer and in one of the upcoming board meetings will make necessary recommendation in accordance with the auditor's report which is expected to be obtained shortly.



<b>Name of the NewCo:</b>	New Co NBI Suhareka LLC
<b>Place/Municipality:</b>	Suharekë / Prizren Region
<b>Commencement of the contract:</b>	27/08/2007
<b>Sale Price:</b>	€4,175,999
<b>Investments Committed:</b>	€8,600,000
<b>Employment Committed:</b>	80 employees during first the six months. 173 at the end of the sixth month and 345 at the end of year one, 345 employees to be kept for one year.

**Business / Sector:** Alcoholic Beverages/Red and white wine.

**Enterprise / Product:** The Enterprise was founded as Agricultural Cooperative Suhareka year 1965. Originally, the Enterprise was part of the larger agro-kombinat, KBI "Progres-Eksport" Prizren established in 1959. In 1975, the Enterprise separated from the agro-kombinat KBI "Progres-Eksport", and continued working as the Agricultural Industrial Enterprise Suharekë. In 1978 the Enterprise established a unit for bottling of non alcoholic drinks. In 1981 a new section was added to the winery and in 1983 unit for bottling of alcoholic drinks was established. An additional section was added to the Enterprise following the Municipal land transfer decision of 25<sup>th</sup> November 1992. This section was for a period of time the object of several user transfer decision but returned to the Enterprise in May 2006. In 2001, the non-alcoholic beverages bottling unit separated from the Enterprise by a workers referendum and became an independent enterprise. Currently this enterprise is privatized through special Spin Off method and it's having difficulties re-activating its capacities due to low investments made by the Buyer.

**Investments:** Until date 27 May 2009, Quarter 7, the enterprise has reported investments in the amount of €273,000 or 6% of the committed investments. As per the request of the PAK for extraordinary report on investments, the Buyer stated that there are no changes from the last submitted reports on this aspect.

**Employment:** Although the Buyer committed that will employ 167 workers in the first six months, the enterprises new owner has reported nearly 333 employees at the beginning of its activity. Until 27 May 2009, Quarter 7, the company has reported 298 employees or 86% of the number of employees committed.

**Issues:** Numerous disputes between shareholders have resulted in the failure to fulfill the investment commitments. Considering this situation created and the approaching deadline for meeting the investments commitment PAK-s management continuously has expressed their concerns about the low rate of fulfillment of commitments and for this reason has held several meetings with shareholders, top management officials, the buyer's legal representatives. At these meetings it was requested from the shareholders that they need to find a common solution to this situation as soon as possible, otherwise PAK will be obligated to take steps that are clearly specified in the sale contract in case the buyer fails to meet the commitments. PAK has engaged independent external auditors to verify the fulfillment of the commitment agreement; this auditing process is in progress.

**Summary:** In order to find a reasonable solution PAK-s management held meetings with the shareholders of this enterprise several times. Shareholders promised that they will try to come up with a concrete proposal to PAK in order to fulfill the commitments, and PAK is expecting this proposal. Depending on the outcome of this discussion and according to the independent external audits report, PAK will decide on further steps. It must be emphasized that the situation with this SSO it is very difficult, and there are no indications that the Buyers could reach a common solution for the situation. At this point the only option that PAK has is the right to exercise call option, known as the right to return the shares of the NewCo under PAK ownership.

<b>Name of the NewCo:</b>	New Co Tullara LLC
<b>Place/Municipality:</b>	Kamenica / Gjilan Region
<b>Commencement of the contract:</b>	04/06/2008
<b>Sale Price:</b>	€160,189
<b>Investments Committed:</b>	None
<b>Employment Committed:</b>	40 employees during first the six month period. 40 at the end of the sixth month and 80 at the end of year one, 80 employees to be kept for one year

**Business / Sector:** Production of bricks/ construction material

**Enterprise / Product:** The construction company N.SH "Tullara – Cigllana" was established in 1945 as "CREPO -CIGLLANA" Donje Korminjan, Kamenica. On 1977 enterprise was merged with enterprise "GRADEVINA" from Kamenica and following the merge the whole company was named GPP Trajko Peric. In 1989 SOE separated from Trajko Peric and become DPP "Trajko Peric" - Cigllana. The production of bricks has always been the core business of the Enterprise. The manufacturing of bricks proved to be a sustainable operation that enabled the company to supply the local market of Gjilan/Gnjilane and adjacent areas - as well as the entire Kosovo market. Current operating capacity is about 10,000 5NF specification (19\*20\*25) bricks per day.

**Investments:** New Co Tullara does not have investment commitments on the sale contract.

**Employment:** Until the date 04 June 2009, Q4 (last reporting quarter) the enterprise has reported 83 employees or over 200% of the committed number of employees for this period.

**Issues:** The NewCo is currently being audited by the external independent auditor.

**Summary:** The enterprise is in the process of external audit and, depending on the auditor's report the necessary steps will be undertaken.

<b>Name of the NewCo:</b>	NewCo Mulliri/Fabrika e Bukës Ferizaj LLC
<b>Place/Municipality:</b>	Ferizaj / Gjilan Region
<b>Beginning of the Contract:</b>	28/04/2008
<b>Sale Price:</b>	€568,750
<b>Committed Investments:</b>	€5,000,000
<b>Committed Employment:</b>	40 employees in the first six months at the end of the sixth month and 80 at the end of year one, 80 employees to be kept for one year

**Business / Sector:** Production of flour and bread and storage of flour

**Enterprise / Product:** The unit of furnace was established in 1984 and started the production in 1985. Is located in industrial zone of Ferizaj. The furnace unit is separated in four different departments,

- unit of the bread production, including a big and a small unit of the production,
- unit of the production of roster,
- unit of the flour storage with a capacity around 360 tones, and
- unit of collection and grain storage with a capacity of 13.000 tones.

**Investments:** Until 28 July 2009, quarter 5, the Buyer has reported investments in amount of €940,000 or 19% of committed investments. This amount of reported investment is subject to independent external audit.

**Employment:** Until 28 July 2009, quarter 5, the Buyer has reported 80 employees or 100% of the committed employee's number for this period which is also subject to independent external audit.

**Issues:** PAK has engaged external auditors for auditing the level of fulfilling the commitments for employment and investments. Judging from the investment report and the time left for fulfilling the investment commitments it is clear that the Buyer is falling behind in completing the investments in accordance with the committed investment plan.

**Summary:** The independent external audit will be done in regards to the investments and employment as per the commitment agreement. After PAK receives the report of the auditor, it will decide on further steps in full accordance with the commitment agreement and the strategy for SSO approved by the PAK BoD.

<b>Name of the NewCo:</b>	NewCo Kosovatex
<b>Location/Municipality:</b>	Prishtina / Prishtina Region
<b>Commencement of Contract:</b>	31/08/2006
<b>Sale Price:</b>	€3,112,001
<b>Committed Investment:</b>	€4.000.000 for two years
<b>Committed Employees:</b>	50 workers first six months 100 at the end of six months and 200 at the end of 12 months, 200 workers to be kept for next 12 months.
<b>Business / Sector:</b>	Textile industry and confection

**Enterprise / Product:** Kosovatex was one of the big textile and confection producer in Kosovo since the establishment of the enterprise in 1952 until early 1990's, and a former employer of 1,700 people. Kosovatex has mainly manufactured clothes for clothing but has also supplied cloth for industrial products. NewCo has the potential to serve the Kosovo market with respect to many products, such as work-wear, basic apparel etc.

**Investments:** By 31 May 2009 (QR11), Kosovatex has reported €1,356,000 or 34%. From the reported amount €453,300 are reported as investments within the NewCo whereas €900,000 it's the amount paid for obtaining the municipality permit/license to build the business center.

**Employment:** By the end of Q11, from 200 committed employees it has reported 198 employed workers or 99% of committed employment. According to the monitoring officers based on the on site visits, employees are not working full time at the factory and are on paid leave. They are receiving by € 80 per month for salaries.

**Issues:** Privatisation of this SOE was done through special spin off method, but in this case after the winning of the bid and right before the Buyer signed the contract, he requested from former KTA to review the requirement for maintaining the same business activity of the SOE under the SSO Rules of Tender. The Buyer justified this request with the analyses that some international experts have done and concluded that the textile and confection industry are not profitable in Kosovo anymore, herewith the current business activity of Kosovatex would not be possible. At that time the KTA chairman of the Board decided to allow the Buyer to change the destination of the investments and the business activity of the enterprise through an executive decision. Since then the Buyer has submitted a request for building a business center within the enterprise territory, but has never clarified the future of the NewCo business activity and its facilities. Regarding the employment the legal opinion recommends to impose penalties toward the buyer since did not fulfill the employment commitment. Kosovatex has obtained a two years extension for fulfillment of investment and employment commitment from former KTA.

**Summary:** NewCo is not in a good condition, since the Buyer did not invest in the business of the NewCo. This resulted with full termination of the production and therefore the employees were sent home with minimum pay. At this stage the independent external auditor is performing the audit of the level of investments and employment fulfillment. After the final audit report is received PAK will take all the necessary steps in accordance with the report results and commitment agreement. Moreover, PAK will undertake legal due diligence in order to clarify the lawfulness of executive decision with regards of changing of business activity.

<b>Name of the NewCo:</b>	NewCo Hotel Grand
<b>Place/Municipality:</b>	Prishtina / Prishtina Region
<b>Commencement of Contract:</b>	13/10/2006
<b>Sale Price:</b>	€8,160,000
<b>Investment Commitment:</b>	€20,200,000 for two years
<b>Investment Commitment:</b>	135 employees first six months 270 at the end of sixth month and 570 at the end of year one, 570 employees to be kept for one year.

**Business / Sector:** Accommodation and food services

**Enterprise / Product:** Grand Hotel Prishtina was inaugurated on 25<sup>th</sup> of April 1978. "Grand Hotel Prishtina" comprises approximately of 32.000 m<sup>2</sup>. The Hotel has 202 single bedrooms, 142 double bed rooms, 9 triple bedrooms, 9 apartments and 2 residencies (526 beds in total). The hotel is equipped with other facilities: restaurants, tavern, coffee bar, and night bar and as well provides conference rooms. Grand Hotel Prishtina offers elegant venues for business events, corporate meetings, gala banquets, and private receptions and parties of varying sizes.

Meetings for up to 340 people can be held in the elegant congress-hall enhancing the private and relaxed atmosphere. The Grand Hotel can host up to 100 guests in the banquet-hall, 60 for a conference and up to 30 for a collegiums-hall meeting.

**Investments:** By the 13 July 2009, Q11s, investments in the amount of €3,025,000, or 15% of committed investment are reported.

**Employment:** Regarding the employment, until 13 July 2009, Q11s, 541 employees or 100% of committed employees are reported.

**Issues:** Grand Hotel based on the reported investments, is in serious breach of the commitment agreement. PAK has engaged external auditor to audit up to date investments and employment. On the other side the reported employees do not correspond with the business of the NewCo. In general the structure of the reported employment more corresponds with a construction company then the accommodation and food service business. The Buyer has obtained a one year extension from former KTA and the right to put the Hotel under mortgage for loan. Recently, the buyer claims that he is waiting on loan approval from few financial institutions. Until now PAK was not supplied with any information if this loan was approved.

**Summary:** From the site visits by the Monitoring Unit, it was observed that a part of the hotel was demolished and work was mainly done in changing tiles of the outer part of the building replacing them with aluminum tiles. In general the work and investments can not be qualified as noticeable in comparison with the amount of committed investments and the capacities of this NewCo to develop increasingly in the field of its business. PAK is closely monitoring the developments with this NewCo and as soon as the external audit is done the necessary recommendation will be made for the BoD in accordance with commitment agreement and SSO strategy.

<b>Name of the NewCo:</b>	NewCo XIM & Strezoc Magnezite Mine LLC
<b>Place/Municipality:</b>	Kamenica / Gjilan Region
<b>Beginning of the Contract:</b>	13/12/2007
<b>Price of the sale:</b>	€730,000
<b>Committed Investments:</b>	€14,200,000
<b>Committed Employment:</b>	40 employees in the first six months 119 at the end of the 6th month and 238 at the end of year one, 238 employees to be kept for one year

**Business/ Sector:** Mining and Mineral Processing (magnesium)

**Enterprise / Product:** The reserve of the magnesium mine, known also as the reserve of White Rock in the beginning it counted that it contains 1.75 million tone of magnesium. Later explorations count that the magnesium reserves are around 5.5 million tones. In 1960 the extraction of magnesium has began, which than was transported 48 km to Bujanofc for further transportation with train. One separation factory with capacity of 40/t/h was build in 1972, and in 1973 mine has produced 97,227 tones of magnesium. In the same period was build also a processing factory/rotating furnace with the capacity of 45, 000t/v. As a consequence of the embargo XIM Strezovci has stopped the production of the magnesium between the years 1991-1999. After the 1999 conflict employees were returned into Enterprise and it began to operate mainly in the sale of gravel.

**Investments:** Until 31 July 2009, the Buyer has reported investments in amount of €546,000 or 7% of committed investments, subject to independent external audit.

**Employment:** Until 31 July 2009, the Buyer has reported up to 30 employees or 12% of the number of committed employees, subject to independent external audit.

**Issues:** Due to extremely low level of fulfillment of the commitments by the Buyer, the enterprise is in bad condition. The Buyer has been notified that he is in breach of the commitment agreement, and further steps will taken if concrete steps are not taken by the Buyer to cure the deficiencies in fulfilling it's commitments. The Buyer claims that they were unable to make investments because they could not obtain the licenses from the Independent Commission for Mines and Minerals. However, according to the interpretation of the sale contract by PAK Legal Office, the KTA was not obliged to transfer any licenses and the responsibility for obtaining or renewal of any permit or license lays solely on the Buyer and the NewCo. According to the information's that PAK has the mines were not activated at all and the most of the employees are not working, the facilities were mainly used to produce gravel for building roads and general road construction. Mines and mining equipment is continuously deteriorating. The Buyer has submitted a request for extension of the period for fulfilling the commitments, but did not supply PAK with enough credible proof in order to recommend this for BoD approval.

**Summary** It must be emphasized that this NewCo has suffered a considerable damage by not making the committed investments and it appears that the Buyer did not provide a serious proof that his intentions are to invest and reactivate the mines. Instead, every time PAK asked for information's he only supplied complaints and documents that are related to licenses and permits which for PAK were outside of its competency to resolve. The independent external auditing is in process and after the final report is received PAK will make all the necessary recommendations to the BoD for further decisions in this case.

<b>Name of the NewCo:</b>	NewCo Mine & Magnezite Golesh LLC
<b>Place/Municipality:</b>	Lipjan / Prishtina Region
<b>Beginning of the Contract:</b>	11/12/2007
<b>Sale price:</b>	€810,000
<b>Committed Investments:</b>	€16,200,000
<b>Committed Employment:</b>	40 employees in the first six months <sup>178</sup> at the end of the six month and 355 at the end of year one, 355 employees to be kept for one year

**Business/ Sector:** The mineral production and mines (magnesium)

**Enterprise/Product:** The NewCo possesses a mine of magnesium and the production operation in Kosova, with evidenced reserves from around 2.4 million of the medium level until the high level of magnesium, around 45,000 t/v production factories (rotating furnace), also machinery for locomotion of argil and the machine for other equipment. Reserves spread out with the material for road construction near Prishtina, with good access in the street and railway network, make this area attractive for molding.

**Investments:** Until 10 August 2009, the Buyer has reported investments in amount of €788,000 or 8% of committed investments, subject to external audit.

**Employment:** Until 10 August 2009, the Buyer has reported up to 67 employees or 17% of the number of committed employees, subject to external audit.

**Issues:** The Company is in egregious breach of the commitment agreement as a result of non-fulfillment of the committed investments and employment. Since the buyer of this NewCo is also the buyer of the NewCo XIM & Strezoc Magnezite Mine LLC we are facing the same problems in boot cases. He also claims that was unable to fulfill commitments due to the fact that KTA did not transfer the operating licenses to the Buyer at the time when the SOE was privatized. After the clarification of the contracts terms and condition's in this regard, PAK concludes that renewing of the licenses are clearly the responsibility of the Buyer and no licenses are transferred to any Buyer at the moment of the privatization. The Buyer has been notified that he is in breach of the commitment agreement, and further steps will be taken if concrete steps are not taken by the Buyer to cure the deficiencies in fulfilling its commitments. According to the information's that PAK has the mines were not activated at all and the most of the employees are not working, the facilities were mainly used to produce gravel for building roads and general road construction. Mines and mining equipment is continuously deteriorating. The Buyer has submitted a request for extension of the period for fulfilling the commitments, but did not supply PAK with enough credible proof in order to recommend this for BoD approval. Enterprise is in the process of external auditing where will be reported for the real condition of fulfillment of commitments and upon the receiving of the report PAK will make the necessary.

**Summary:** Available data from the submitted reports, show that the NewCo M&M Goleshi LLC is in a very unfavorable position regarding to the investment and employment commitments. PAK has engaged external independent auditor to audit the conditions of the contract and based on this report, PAK will make necessary recommendation to the BoD for further decisions.

<b>Name of the NewCo:</b>	NewCo Llamkos
<b>Location:</b>	Vushtrri/ Mitrovica Region
<b>Contract Signed:</b>	21/07/2005
<b>Sale Price:</b>	€ 4,151,000.00
<b>Investment Commitment:</b>	€ 15,000,000.00
<b>Employment Commitment:</b>	200 workers first six months 250 end of six month and 500 end of year one 500 workers to be kept for next one year

**Business/ Sector:** Metal Processing

**Enterprise/ Products:**

The company is located on a fenced industrial land with a surface area of 183,288 m<sup>2</sup>. The company includes several buildings of approximately 40,000 m<sup>2</sup> of production and office space. The NewCo produces rolls and sheets of galvanized steels. The galvanizing plant was designed to produce up to 120,000 tons of galvanized steel per annum. Additionally, the company has a manufacturing unit, which was designed to produce up to 50,000 tons per year of finished products from galvanized sheet. Most of the production of finished products is targeted towards the services and construction industries.

**Investment:** Until July 21, 2007, the Buyer has reported €1,545,000 of investment or 10%.

**Employment:** Until July 21, 2007 the Buyer has reported 450 employees close to 90% of workers committed.

**Issues:** KTA BoD on its meeting held on the 21 May 2008, decided to impose penalties and exercise the share Call Option due to the egregious breach of the commitment agreement by the Buyer. KTA BoD has never held the next meeting, which would result in ratification of the Board Minutes of the Meeting required to validate decisions. Having this in mind, PAK BoD on its meeting 22 January 2009 reconfirmed the decision to exercise the share call option and impose penalties as a result of egregious breach of the commitment agreement and non-fulfilment of the commitment. At that time, PAK was informed that the Buyer, Kremikovtzi AD from Bulgaria is under bankruptcy. PAK has evaluated the situation and initiated procedures for exercising the call option, calculating and imposing the penalties as a claim in a front of the Administrator of Kremikovtzi and the competent Bulgarian court. For this purpose PAK has engaged a law firm in Bulgaria to represent the interests of the PAK. Since the second half of 2008 NewCo has stopped production and employees did not receive their salaries. There are indications that the Buyer intentionally has charged the NewCo with mortgages and other liabilities to overload the enterprise with debts. The damage to the Company in regards to unpaid employee salaries and other liabilities is considerable and PAK is taking all required steps to determine the exact amount.

**Summary:** Llamkos L.L.C is the first failed privatisation through the Special Spin Off method. The failure comes as a result of the failure of the Buyer to maintain the required level of the investments and changes at the mother company "ownership" which directly reflected in the development of the NewCo and had an adverse effect on the fulfilment of the commitments. As soon as the application for change of the ownership of the shares, which is filed by PAK, is processed by the Agency for Business Registry, and the ownership of the shares is returns to PAK, PAK will take all the necessary steps in regards to administration with the enterprise, valuation of the assets and liabilities and propose the strategy for further handling of the NewCo to the PAK BoD.



## 6.2 Commercialised SOE's

### Background

Between 2000 and 2003, the Mission of Interim Administration of United Nations in Kosovo has applied concession of Socially Owned Enterprises "SOE" in compliance with the Resolution 1244 of UN Security Council and with UNMIK Regulation no. 1999/1 with all changes that followed.

All Commercialization Contracts contain and specify duties and liabilities of commercialisator during the period of commercialization.

In general the program was shown to be successful only in certain cases where it has created revenues from the rental payments, has offered employment for SOE employees has increased the experience and knowledge of the employees of certain enterprises for business and above all has preserved and even enhanced the value of assets by making the required investments. In other cases Commercialized SOE-s did not reach expected results and suffered considerable damage of their assets and business.

### Monitoring and verification of Commercialization Contract

The first commercialization was made on 13<sup>th</sup> of June 2000. Up to 2003, there were 18 (eighteen) enterprises given with concession and which in other words are known as Commercialized Enterprises. Following the signing of contract, the receiver took over the enterprise at the same time it was started with the procedures of monitoring. Below is the summary table of Commercialized Enterprises, in which it is noticed that out of 18 (eighteen) enterprises, 9 (nine) are active, 4 (four) have been privatized and for five of them the contract has been terminated due to the non-fulfillment of obligations by the receiver.

Summary table of Commercialized SOEs

No.	Name of SOE	Municipality	Commercialisator	Date of signing the contract	Current state
1	SharrCem	Elez Han	Holderbank (Switz)	13.06.2000	Active
2	Food Industry	Prizren	Abi/Elif 19	19.04.2001	Active
3	Betonjerka	Mitrovica	2K group (Albania)	25.06.2001	Active
4	Fapol	Podujevo	CRK/Kosovo	03.07.2001	Active
5	Poultry	Lipjan	ADI/Kosovo	03.07.2001	Active
6	Termovent	Lipjan	Dajti/Kosovo	01.12.2001	Active
7	Fan Besiana	Podujevo	CRK/Kosovo	01.12.2002	Active
8	Zdrukhëtaria	Prizren	Egi Bau/Prizren	16.09.2002	Active
9	Remont Servis	Prizren	Euro Food	08.09.2003	Active
10	Oil Factory	Ferizaj	Alcon	N/A	Privatized
11	Minex	Ferizaj	Neraimpex	N/A	Privatized
12	Handicraft	Prizren	Astra-B	N/A	Privatized
13	Tullara	Kamenica	Vëllezërit Borovci	N/A	Privatized
14	Industry for meat processing	Prizren	Fructus	N/A	Contract terminated
15	IMN Kosova	Prishtina	Ital Kosova	N/A	Contract terminated
16	Brick Factory "M.Goga"	Ferizaj	Tullorja	N/A	Contract terminated
17	Mirusha	Klina	Sacet	N/A	Contract terminated
18	Gjeravica	Deçan	Wood Industry	N/A	Contract terminated

**Transition period from KTA to PAK**

With the cease of Kosovo Trust Agency "KTA" and establishment of Privatization Agency of Kosovo "PAK", as successor of KTA, immediately was started with the recruitment of personnel and notification of the commercialized SOE-s that we are resuming our monitoring activities. The systematic filing of the document in possession of PAK (very limited information's were found in files), and at the same time, visits were performed and review of data's was done.

The main obstacle as of the beginning until now is that the Monitoring Unit did not inherit any clear and accurate overview on fulfillment of conditions of commercialization contracts. All electronic data have been deleted and KTA did not maintain the database on monitoring the Commercialized Enterprises as it is the case with special spin-offs. Also the reports were not updated and almost all enterprises have reported only until the end of 2007.

**Auditing of Commercialized Enterprises**

To overcome this situation, the Corporate Governance Division has made a plan for auditing of enterprises on fulfillment of contractual obligations as specified in commercialization contracts, including the investments, employment, rent and reporting. The procedure of procurement was initiated and the tender was announced. The aim of external auditing is to provide PAK with an independent opinion on investments undertaken as well as monetary value paid by receiver in order to fulfill the commitment for investment based on investment plan, which is part of Commercialization Contract. The auditors will also verify the fulfillment of employment commitment as well as payment of the rent.

It is worth mentioning that KTA has engaged external auditors for the period of contract signing up to 2005, but these auditing have included only investments, while the employment commitment and rental payments were not audited.

**Designing of database on monitoring of Commercialized Enterprises**

The division of Corporate Governance has initiated the procurement procedure for designing of a database, which will enable to provide information on time at the level of fulfillment of contract conditions.

**Issues**

Monitoring Unit will continue with the procedures of auditing and designing of database during 2009. The received reports from the external audits will be the basis for further steps stipulated in the contract. As stipulated in the commercialization contracts in order clarify each situation individually.

Specific report about each commercialized SOE is described below:

<b>Name of enterprise:</b>	Food industry/Abi&Elif 19
<b>Place/Municipality:</b>	Prizren/Prizren Region
<b>Date of signing the contract:</b>	19 April 2001
<b>Date of termination of contract:</b>	18 April 2011
<b>Investment commitment:</b>	€3,558,600
<b>Employment commitment:</b>	145-240 regular employees and 200-270 seasonal employees
<b>Annual rent:</b>	€30,677.51

**Business/Sector:** Processing of fruits and vegetables as well as packing of ready-made products from them.

### **Enterprise and products:**

The enterprise has a surface of 8.76 hectares and is located in the industrial zone of Prizren municipality. In this surface are included the administration building, warehouses, production buildings, refrigerators, etc. There are several lines of processing the fruits and vegetables as well as lines for food packing (including here cucumbers, peppers, tomato's, peas etc.), line of packing the plastic, metal and glass, line for processing of frozen food as well as line of dairy products.

During 1999 and 2000 (prior commercialization), the enterprise has worked with losses and was very close to total collapse as well as it had unpaid debts for salaries, utilities and for suppliers.

On 19 April 2001, the commercialization contract was signed with "Abi&Elif 19", hereinafter, "receiver", who is eligible to operate, manages, improve and use the industrial compound for ten years.

Since the first years of commercialization, the receiver has achieved not only to revitalize and reactivate the process of production, but also to reactivate the agriculture in the entire region of Prizren. At the beginning of commercialization the needs for local agricultural products have been fulfilled at the level of 45-50% by local farmers, while now the needs of production are fulfilled 90-95% by the local farmers, which means that absorption of some thousand tones of redundancy of agricultural products will be made.

Products of "Abi&Elif 19" are very competitive in Kosovo and also are exported outside the country such as: England, Germany, Netherlands, Belgium, Switzerland, Sweden, Australia, Dubai, Albania, etc.

### **Investments:**

Based on the report of independent auditor, the receiver has invested €1,826,000 during the period of January 2003 - June 2006, out of which €1,695,000 has been invested in fixed assets. Mainly the investments were made in: buildings, equipment, parts of equipments and vehicles.

Investments for period 2001-2002 were not well documented therefore were not included in the total of investments realized in auditor's report, even though in this period almost all lines of production on food and vegetable processing have been activated. The justification of receiver for not proving to have made investments is that during this period they have been under huge pressure for initiation of process of production and did not pay attention to the fact of evidencing the investments. However, the enterprise is in the process of auditing by the external and independent auditors.

### **Employment:**

As of the beginning of commercialization, the level of employment with full working hours was around 145 up to 150 employees and all of them are employees of Socially Owned Enterprise prior commercialization. Based on the received reports up to December 2008, €3,666,000 has been paid for salaries. Also the level of seasonal employment reaches up to 300 engaged employees.

The company has a strong support by the employees of Worker's Council and up to now it was not noticed any conflict between the management and employees, on the contrary they are very pleased with their treatment.

**Issues:**

The Agency has received a request for privatization by "Abi&Elif 19" prior to the termination of the commercialization contract. This happens due to the reason that the company is able to make new investments and which are not foreseen by commercialization contract. Also the privatization of enterprise would enable the signing of long-term contracts with external buyers and in this way would impact on increase of business and stimulation of agriculture in the region of Prizren.

**Summary:**

The receiver has done an excellent job by increasing the daily product, developing new products and by penetrating to the international markets. The Agency has engaged external and independent auditors to audit fulfillment of conditions of commercialization contract and it is in the process of updating the data of possession list and copy of plan in order that the Board of Directors approves the privatization of enterprise.

<b>Name of the Enterprise:</b>	Sharr Cement/Sharr Beteiligungs GmbH
<b>Location/Municipality:</b>	Hani i Elezit, Gjilan Region
<b>Contract Signing Date:</b>	13 June 2000
<b>Contract Ending Date:</b>	12 June 2010
<b>Investment Commitments:</b>	€11,043,905, max €16,361,340
<b>Employment Commitments:</b>	750 up to 2005,
<b>Annual Rent:</b>	€511,292 up to max €1,022,584 or 10 % of EBITDAs
<b>Business/Sector:</b>	Cement production

### **Enterprise and products**

Sharr Cement is one of the four units of Sharr Holding located in the municipality of Hani i Elezit. The SOE consists of marl stone-pit, limestone, clay and collective areas, premise for preparation of raw material, premise for sinter production, the area for cement production and laboratory.

On 13<sup>th</sup> June 2000, a commercialization contract between Transitional Mission of the United Nations in Kosovo and Sharr Beteiligungs GmbH has been signed, further in the text "Leaseholder" who has the right to operate and manage with the enterprise in a time period of ten years. At the same time this enterprise is known as the biggest and most successful enterprise in the range of commercialized enterprises.

Sharr Cement has achieved to be the most dominant producer of the cement in Kosovo where it also sells its products. The enterprise works with the capacity of 80%. Despite the competition which is a result of import, Sharr Cement with its productions covers the most part of the market and plans to increase its capacity further more.

The increase in production and presence in the market year after year is noticeable in the financial statements submitted by the leaseholder which according to the article 5.3 of the commercialization contract, should be audited by an international audit company.

In the first three year of commercialization the enterprise has worked with loses due to the investments made in the enterprise. Whereas, starting from the year of 2004, the enterprise started to generate profit which increased year after year.

### **Investments:**

The latest reported investments during the period 2000-2005 are approximately €21 million, mainly made in machinery and production lines.

### **Employment:**

Sharr Cement is the biggest commercialized enterprise with the biggest number of employees. The leaseholder has a huge support from employees due to his good treatment as: good working conditions, high salaries, annual bonuses etc.

Initially there were employed 750 persons and this number has been gradually decreased to 650 in the fifth year of commercialization, as it has been provided by the contract. Whereas, currently, there are approximately 500 regular employees Starting from the year of 2006, Sharr Cement and the Agency have reached an agreement for the paid leave program for 137 employees; their salaries are given 60% from the lease income and 40% from Sharr Cement.

Apart from the regular salary, the leaseholder is obliged to pay annual bonus in the amount of 20% of the profit. Based on the reports that we received, the leaseholder for the year of 2008 has paid €3,630,200 for salaries. The total of the paid salaries from the year of 2000 until the end of 2008 is over €28,900,000.

### **Lease:**

Based on the commercialization contract, the leaseholder is obliged to pay on behalf of the lease at least €511,300 up to the maximum of €1,022,600, based on the 10 % of EBITDA. From the beginning of commercialization up to the end of 2008, the leaseholder has paid on behalf of the lease €5,921,000 and does not have any unpaid liability.

**Issues:**

Sharr Cement has applied for the extension of the license at the independent Commission, in compliance with the applicable legislation and regulations. Whereas, the license issue is subject to the payment of royalty for the extracted marl which serves as first raw material for cement production. Sharr Cement has complained for this decision and contested the royalty payment based on the fact that from the year of 2000 up to now it has never paid for royalty because based on the commercialization contract it is released from this payment. To further explain the issue of the release from the royalty payments, the Corporate Governance Division has requested a legal opinion from the Agency's Legal Department.

The enterprise has liabilities inherited from the pre-war period which are now presented as act decisions or as final judgments.

Until now the final judgments, paid from the account of the lease incomes are approximately €2.5 million. Whereas, claims in judicial proceedings, catch the amount of over €8.5 million.

Another important issue is the verification of completion of the commercialization contract terms through external audit. This process has already begun and covers the time period up to June 12<sup>th</sup> 2009.

**Summary:**

Sharr Cement Enterprise is one the biggest commercialized enterprises, that will be subject to future privatization. Nevertheless, due to the contractual obligations deriving from the commercialization contract, prior to any privatization the following requirements are to be meet such as: evaluation of the overall assets subject to external independent professional evaluator and independent external auditing of the overall reported investments and employment commitments. Once that the above procedure is carried and completed the proposal will be submitted for review and approval of the PAK Board of Directors to decide on the method of privatization.

<b>Name of enterprise:</b>	Betonjerka/2K Group
<b>Place/municipality:</b>	Mitrovica / Mitrovica Region
<b>Date of signing the contract:</b>	25 June 2001
<b>Date of contract termination:</b>	24 June 2011
<b>Investment commitment:</b>	€680,018.20
<b>Employment commitment:</b>	30 employees for the period 2001-2010
<b>Annual rent:</b>	€6,135.50

**Business / Sector:** Productions from concrete and reinforced concrete

#### **Enterprise and products:**

Betonjerka was established in 1952 for production of all kinds of fabricates and prefabricates from concrete and reinforced concrete such as: engineering assembly construction, all kinds of road construction elements, pipes, tiles, plates, landline pipes, blocks, various bearings and poles, manholes for water supply and similar products.

#### **Investments**

The majority part of the investments was made on increase and renovation of the premises, renovation of production hall, construction of the wall at the boarder of asset, improvement and renovation of supply with power, rehabilitation and purchase of equipment, purchase of computers and necessary equipment for office, etc.

Based on the auditor's report, the enterprise from 01/06/2001 up to 31/12/2005, has realized €629,500 of the amount of committed investments.

#### **Employment:**

By the contract of commercialization it is foreseen that the leaseholder employees and keeps 30 employees for ten years of commercialization with an average salary of €350. Based on the reports submitted by the leaseholder, it has employed 31 employees or 103% of committed employment, while the obligation for one average salary of €350 is not fulfilled entirely. Based on the received reports until December 2007, €682,000 has been paid for the salaries, which are subject to external auditing.

On the other hand, the Independent Trade Union of former working organization Betonjerka, is dissatisfied and revolted with commercialization of the SOE, the employees are concerned because according to them the hopes for the future of this factory are getting worse every day and continuously they are expressing dissatisfaction.

#### **Issues:**

The Leaseholder did not report for the year 2008. The division of Corporate Governance has contacted the management of enterprise and has asked that as soon as possible they submit the necessary reports in compliance with Commercialization Contract. Also the auditing of contract conditions by the external independent auditors is in the process.

#### **Summary:**

Following the receipt of auditor's report and depending on his opinion the Agency will take further steps as stipulated in the contract.

<b>Name of Enterprise:</b>	Fan Besiana/ CRK
<b>Place/Municipality:</b>	Podujeva / Podujeva Region
<b>Date of Signing Contract:</b>	01 December 2002
<b>Date of Completion of Contract:</b>	01 December 2012
<b>Investment Commitments:</b>	€1,200,000.00
<b>Employment Commitments:</b>	33 - 81 employees
<b>Annual Lease:</b>	€12,000.00

**Business / Division:** Hospitality/Housing, meal and accommodation

**Enterprise and products:**

Fan Besiana is a commercialized enterprise located in Podujeva, it is in the seventh commercialization year. On 01 December 2002, the commercialization contract was signed with CRK, hereinafter "Leaseholder" which is entitled to operate, manage, improve and utilize the complex for ten years. The building was built especially for hotel reasons. It is useful for seminars, conferences, trainings and other social events.

**Investments:**

Major part of investments was done on construction of an Olympic Swimming Pool, on improvement and refurbishment of the building, children garden games, tennis field, fitness club and other investments. Based on auditor's report the enterprise from signing the contract till 31/12/2005, has accomplished €574,000 of commitment investment which are subject to control and external audit.

**Employment:**

On the commercialization contract it was foreseen that the lessee initially employed 33 employees and shall increase it year by year up to 81 with a minimum salary of €175 with the possibility of salary increase. Based on submitted reports by the leaseholder, by the end of 2007, the enterprise reported 35 employees and paid €498,000 for salaries.

**Issues:**

The activities of the enterprise were stopped from September 2007 because of debts toward Tax Administration of Kosovo (TAK) in amount of €68,000. With PAK mediation, it is agreed to re-programme the debt and on 01 May 2009 the hotel restarted working.

Apart from unpaid liabilities to TAK, the enterprise has other unpaid liabilities as concession fees and it can clearly be seen that there are problems with the cash flow. The leaseholder did not submit reports for period 2008-2009.

**Summary:**

Available data from submitted reports show that the leaseholder is not in a good situation due to the cash flow problems and fulfillment of the terms of Commercialization Contract. Because of this, Corporate Governance Division is in a selection phase of independent external auditor to audit terms of Commercialization Contracts and based on reports of this report, further steps will be undertaken.



<b>Name of Enterprise:</b>	Fapol/Consortium for Reconstruction of Kosovo "CRK"
<b>Place/Municipality:</b>	Podujeva / Prishtina Region
<b>Date of Signing Contract:</b>	03 July 2001
<b>Date of Completion of Contract:</b>	02 July 2011
<b>Investment Commitments:</b>	€1,896,893
<b>Employment Commitments:</b>	40-180 employees
<b>Annual Lease:</b>	€9,203.25

**Business / Section:** Industry of lightening, production of polyester pole.

**Enterprise and productions:**

Enterprise Fapol is a commercialized enterprise located in Podujeva, under third year on commercialization. On 03 July 2002, was signed the commercialization contract with CRK hereinafter "Leaseholder", with powers to operate, manage, improve and utilize the complex for ten years. This enterprise is facing serious problem in promotion of own production as polyester pole which have a great consistency and are extremely expensive.

Apart from production part, in the area of the enterprise there was a Customs Terminal built, from which most of the income is generated.

**Investments:**

Major part of investment was done on refurbishment of existing administrative building, customs terminal and the line for installment of kitchen elements. Based on existing data, the leaseholder has invested €1,348,500 which are subject to control and external audit.

**Employment:**

On the Commercialization Contract, on the annex on employment plan it was foreseen that the lessee shall employ 40-180 employees for ten years of commercialization with a minimum salary of €175 as well as a daily meal fee. Based on provided reports from the enterprise till the end of 2008, the enterprise has reported 112 employees and a total of € 2,048,000 were paid on behalf of salary.

**Issues:**

Corporate Governance Division is in process of selecting external auditors to audit the completion of terms of Commercialization Contract.

**Summary:**

Depending on the audit report, necessary steps shall be taken as emphasized on the Commercialization Contract.

<b>Name of Enterprise:</b>	Remont Servis/Euro Food
<b>Place/Municipality:</b>	Prizren / Prizren Region
<b>Date of Signing the Contract:</b>	22 December 2003
<b>Date of Completion of Contract:</b>	21 December 2013
<b>Investment Commitment:</b>	€653,335.00
<b>Employment Commitment:</b>	34-43 employees
<b>Annual Lease:</b>	€18,406.51

**Business/ Section:** Service and technical control of vehicles and food stuff production

**Enterprise/Production:**

Socially Owned Enterprise Remont - Servis has exercised activities for repair and fixing of transport and passenger vehicle, providing service and technical control for all types of vehicles and completion of works for registration of vehicles.

The Enterprise also deals with food stuff production, ketchup, mayonnaise, different types of jams and it is very competitive in Kosovo market as well as the region.

**Investment:**

Major part of investments was done in the new building, refurbishment of the building and equipments, purchase of new equipments, maintenance of building, trainings for employees and management. Based on annex 3 on investment plan of the commercialized contract, the enterprise committed to invest an amount of €653,000 whereas based on external auditor's report the enterprise till 31.08.2006 has accomplished investment in amount to €954,800.

**Employment:**

On the commercialized contract it was foreseen that the leaseholder shall employ and keep 43 employees with a net salary of €250 and a daily meal fee. Based on received reports till December 2008, 34 employees are reported and €430,800 was paid for salaries.

**Issues:**

The leaseholder has applied for technical control license since 2004 and finally in 2008 Ministry of Transport and Post-Telecommunication has approved the license on technical control. Other issue is that the Enterprise has a litigation case regarding a shop which was part of the commercialized contract and was torn down due to the construction near the shop. All relevant institutions are informed on time regarding the case and now it is expecting the court's decision.

**Summary:**

The leaseholder is doing a good work and based on provided reports, it is in compliance with terms of contract, excluding employment commitment. With regard to employment, the leaseholder has declared that due to difficulties equipping with license for vehicles technical control was not able to increase number of employees as foreseen in Commercialization Contract, however during this year will entirely fulfill the employment commitment.

Although, selection of independent external auditor is on the ongoing process in order to audit completion of terms of contract and depending on auditor's report, further steps will be taken.

<b>Name of Enterprise:</b>	Zdrukthëtaria / Egi-Bau
<b>Place/Municipality:</b>	Prizren / Prizren Region
<b>Date of Commencement of Contract:</b>	16 September 2002
<b>Date of Completion of Contract:</b>	15 September 2012
<b>Investment Commitment:</b>	€1,444,300
<b>Employment Commitment:</b>	30-65 employees
<b>Annual Lease:</b>	€6,120.00

**Business / Section:** Production of constructional material

**Enterprise/Product:**

The Enterprise has a surface of 1.5 hectares of land, from which 3,803 m<sup>2</sup> are production buildings, warehouses and shops. Activities of the Enterprise is production of constructional material as ceiling brick, walls and panels with different thickness and consistency, it deals also with production of woodwork, doors, windows and furniture. Products of this enterprise have some priorities as: flexibility, reduction of construction costs, and reducing of construction time etc.

**Investments:**

Major part of investments was done on renovation of peak, concreting the floor, internal installations, doors, windows, painting and plastering. Also it is invested on new production lines for "Polyesterol", chaff pressing, packing workroom, repair of existing equipments, purchase of vehicles for company needs, cleaning wastes in the building yard, lying of gravel and other investments. Based on annex 3 on investment plan in Commercialized Contract, the Enterprise was committed to invest in amount of €1,444,300 whereas based on external auditor's report until 31.07.2005 the enterprise accomplished investments in amount of €1,096,900

**Employment:**

On the Commercialized Contract it was foreseen that the leaseholder initially shall employ 30 employees and increase the number as per years up to 65 employees, with an average salary of €215. Based on provided reports until December 2008 number of employees is 24 and on behalf of salaries there were paid €439,900. Justification of the leaseholder for incompleteness of Employment Commitment is that from the commencement of commercialization till now, all shops which were part of Commercialization Contract were usurped and there was no possibility neither to increase incomes nor the number of employees.

**Issues:**

In general, the Enterprise has operated well, but from the commencement of the commercialization until now all shops which were part of Commercialization Contract were usurped and this caused considerable financial loss and resulted with un-fulfillment of employment commitment as well as non payment of annual lease. The Agency is dealing with litigation process in order that this issue to be closed as soon as possible.

**Summary:** The Enterprise made a request for privatization and the Agency initiated an update of cadastral data. Also the selection of an independent external auditor is on the ongoing process to fulfill terms of contract.

<b>Name of Enterprise:</b>	IMN Kosova / N.P.T. Italkosova
<b>Place/Municipality:</b>	Prishtina / Prishtina Region
<b>Date of signing the contract:</b>	01 December 2001
<b>Date of completion of contract:</b>	07 June 2007
<b>Investment commitments:</b>	€3,505,000
<b>Employment commitments:</b>	78 employees
<b>Annual lease:</b>	€10,225.83

**Business / Sector:** Manufacturing of construction material, bricks from argil.

**Enterprise and products:**

The Brick Factory IMN Kosova was established in 1947 for brick manufacturing, located in Prishtina suburb. In 1975 the Factory extended its capacities and until 1990 operated with almost full capacities. The factory's surface is of an area of 9.07 ha.

ITALKOSOVA commercialized the Enterprise IMN Kosova and continued manufacturing these products from the signature of Commercialization Contract until November 2006, when this factory was closed due to electricity debts and many other obligations.

**Investments:**

ITALKOSOVA has not submitted any report on the value of accomplished investments in this enterprise. Based on the visits and investment of employees in previous years, the leaseholder has fulfilled part of investments, however, he never reported despite constant requests from the Agency.

**Employment:**

With the Commercialization Contract it was foreseen that the leaseholder employs 78 full time employees and ensures minimal payment of €204 and maximal payment of €1,022. Also, based on the agreement the leaseholder is obliged to ensure a monthly payment of €77 for 20 employees based on their age (over 60) and health problems. The leaseholder never reported on the employees and the situation with the employment. Currently, there are only some employees who voluntarily secure the building (guards) while waiting for a solution to be found for this enterprise.

**Issues:**

In March, a meeting was held with the employees representatives, wherein some issues were raised and it was decided that a solution be urgently found by PAK for the building security and to start the enterprise privatization as soon as possible.

**Summary:**

The concession agreement was terminated with the decision of KTA Board in the meeting held on 07 June 2007, when the decision for privatization of this enterprise was also made. Since then no other step to handle this situation was taken. The leaseholder was also informed about this decision. In February 2009 a visit was carried out in the SOE by PAK officers and recommendations and requirements were introduced by employee's representatives of this enterprise on the initiation of privatization procedure. This case is being treated by the Legal Department of PAK in order to clarify the situation and determine potential responsibilities of the leaseholder in non-fulfillment of the contract. On the procedures to be pursued in the future PAK Board shall decide.

<b>Name of Enterprise:</b>	Termovent /L.L.C. Dajti
<b>Place/Municipality:</b>	Lipjan / Prishtina Region
<b>Date of commencement of contract:</b>	29 November 2001
<b>Date of completion of contract:</b>	28 November 2011
<b>Investment commitments:</b>	€619,695.76
<b>Employment commitments:</b>	60- 85 employees
<b>Annual lease:</b>	€20,451.67

**Business / Sector:** Manufacturing of ventilators, doors, windows, and façade with aluminum profile and glass refinement.

**Enterprise / Product:**

The Enterprise Termovent was established in 1986 for manufacturing of cooling, airing ventilators, and roof axis. It has an area of 3.43 ha and with buildings such as Directorate, working Hall and House of Boiler with an area of 60.21 ari in Lipjan Municipality. During 1999, the Enterprise started to work with 30 employees and on 29 November 2001 the Commercialization Contract with L.L.C. Dajti was signed.

L.L.C. Dajti started with its productions in 2002 manufacturing at the same time aluminium doors and windows and decoration pieces from wood which were exported to the Italian market for a short time.

**Investments:**

According to the external auditor's report, the enterprise for the period 2001-2007 made investments in purchase of assets, reparation of machinery and existing equipments. Based on the commercialization contract and the investment plan, the enterprise committed to invest an amount of €620,000, whereas according to the external auditor's report the enterprise made investments in the amount of €534,000 until 28 February 2007.

**Employment:**

With the Commercialization Contract it is foreseen that the enterprise employs 60 employees for the first two years of commercialization, whereas 80 employees for the following years with a minimum net payment of €150 and daily meal feed. Based on the obtained reports by PAK, L.L.C. Dajti paid €1,281,000 for salaries until December 2007 and reported for 52 employees for this time period. During the monitoring visit it was noticed that except the guards for the building, all other employees were on unpaid leave with under the justification that there is no production.

**Issues:**

All production lines are out of function since September 2008 due to lack of funds and termination of cooperation with partners outside the country. Accordingly, except the guards for the building, all employees are on unpaid leave.

The poor situation with cash flow came as a result of the leaseholder's investment on purchasing of a property near the enterprise and erection of a building in it where the line for detergent production is installed. This investment is not related to the Commercialization Contract; however it had an impact on the financial situation of the leaseholder.

**Summary:**

After the monitoring visit, it was observed that the leaseholder has financial problems and this caused the interruption of production and caused the situation where employees had to be sent on unpaid leave. Nevertheless, selection of an independent external auditor is in process and after receiving the report other steps foreseen by the contract will be taken.

<b>Name of Enterprise:</b>	Shpezëtaria/ADI
<b>Place/Municipality:</b>	Lipjan/ Prishtina Region
<b>Date of commencement of contract:</b>	02 July 2001
<b>Date of completion of contract:</b>	01 July 2011
<b>Investment commitments:</b>	€2,190,885.70
<b>Employment commitments:</b>	60-112 for the following years
<b>Annual lease:</b>	€3,579.04
<b>Business / Sector:</b>	Chicken and fish farm

**Enterprise / Product:**

The enterprise ADI commercialized former enterprise Shpezëtaria in Lipjan in 2001. ADI Chicken and Fish Farm deals with production of eggs and chicken breed. ADI has also build capacity for fish breeding and has started selling fresh fish in the market. Eggs, chicken and fish are mainly sold in the Kosovar market.

**Investments:**

Based on the investments plan, the enterprise had to invest €1,997,000 until 31 December 2005, while total committed investments for the concession period are €2,191,000. According to the external auditor's report, until 31 December 2005, the investments were in the amount of €877,000.

**Employment:**

With the Commercialization Contract it is foreseen that leaseholder employs 60 full time employees for the first working year, whereas until the end of contract the number of employees should not be less than 112. The Lessee is also obliged to ensure a daily unpaid meal feed for the employees. Until the end of 2007 the company reported on the number of employees which differs from year to year however the approximate number of employees for this period is 55.

**Issues:**

During 2006, the leaseholder has submitted a request for release from annual lease for the time period 2005-2006, as a result of bird flue which directly affected the financial situation of the enterprise causing huge financial losses. This request was approved by Board of Directors for a one year time period. Nevertheless in the name of these losses, since then the leaseholder has not paid the lease obligations and has constantly reported losses. In order to verify the reported information as well as the fulfillment of Commercialization Contract conditions, selection of external auditor is in process for auditing of fulfillment of contract conditions.

**Summary:**

The external auditor's report for the time period 2001-2005 displays non-realization of the foreseen investments. The enterprise did not fulfill commitments provided in the agreement regarding the number of employees it should have employed and since 2006 reported losses and did not pay the lease obligations. After receiving the auditor's report, necessary steps foreseen in the contract will be undertaken by PAK.

### 6.3 Direct Administration

Direct Administration Unit operates within the Corporate Governance Department of the Privatization Agency of Kosovo and exercises its activity and competencies based on the Law on Privatization Agency of Kosovo 03/L-067, respectively based on article 5 and 6 of this Law.

The group of five (5) people composes the personnel of this Unit, consisting of: Head of Unit, three (3) Unit Officers and a legal officer of the Unit, which serves also as a legal officer for the whole Corporate Governance Department.

This Unit is completed with staff on February 18<sup>th</sup> 2009 and at that time under Direct Administration were 12 (twelve) SOE's

During this period of time two enterprises have been taken out from Direct Administration, which are: SOE "18 Nëntori" Hoqë e Madhe, Rahovec and SOE "Thertorja Eksportuese" Prizren. Thus, at this time there are 10 enterprises under Direct Administration.

#### **Why an enterprise is placed under Direct Administration?**

Reasons why the enterprises are being placed under Direct Administration are many but the major ones are as follows:

1. Financial misuses,
2. Mismanagement ,
3. Legal disputes,
4. As well as misuses and disputes of various forms.

It is necessary to mention that decisions for the enterprises to be placed and decision to be taken out from the Direct Administration are done by the Board of Directors of PAK while proposals to be placed under Direct Administration are done by Control and Supervisory Unit and PAK Regional Offices. Direct Administration Unit gives a proposal for the enterprise to be taken out from the Direct Administration when it deems necessary and reasonable.

#### **Direct Administration procedures**

1. Identification of enterprises with abovementioned problems by the Regional Offices
2. Direct Administration planning,
3. Direct Administration measures,
4. Direct Administration implementation, and
5. Return of the enterprises under the Regional Offices competencies.

#### **Direct Administration obligations**

1. Protection of the enterprises assets,
2. Elimination of the enterprise problems which has brought the enterprise under the Direct Administration,
3. Increase of the enterprise incomes,
4. Limitation of the excessive expenses,
5. Increase of the enterprise assets value,
6. Arrangement for the privatization of any asset of the enterprise that doesn't have problems.

Detailed report for each enterprise currently under direct administration is as follows:

**Name of Enterprise/SOE:** Emin Duraku  
**Place/Municipality:** Gjakova / Gjakova

### **Background**

Socially Owned Enterprise "Emin Duraku" is positioned/spread out in the area of 16.048 ha. The enterprise buildings include production part and administrative premises, steamer premises, workers canteen premises as well as part of the courtyard and other surrounding parcels.

The combine has been established in 1957/58 initially with two departments, and afterward the process of establishment of departments has continued with formation of other departments (spinning department, expansion, engine fixing and modernization of the initial departments, premises of the factory for the process of fabric dry out and premises of workers medical center).

### **The Enterprise activities**

The combine was engaged with spin production using cotton as a raw material, with production of all kinds of fabrics from cotton which afterward are being finalized through the process of whitening, coloring and processing with adequate devices as well as production of artificial leathers and which products were used in the shoe industry, joinery, etc.

The enterprise after the war could not start the work in previous activity because there were no necessary investments.

### **Reason to place the enterprise under the Direct Administration**

The enterprise was placed under Direct Administration with the proposal of the Board of Directors of PAK on April 9<sup>th</sup> 2008.

Reasons for placing the enterprise under Direct Administration was: Misuses of the enterprise management, sale of the machinery for cotton processing as a scrap. The entire departments/units of the SOE were sold out for scrap.

### **Achievements during the Direct Administration Management**

Since the entry of Direct Administration measures the situation was stabilized and the sale of the enterprise tools was interrupted.

The old management has been changed and the new management was selected. Cooperation of the enterprise management with Direct Administration is satisfactory. It is necessary to mention that the enterprise has no chance for revitalization and to restart production due to the poor condition of the equipment.

Also in this case, same as in many enterprises in Gjakova, it is pretended that this enterprise is a shareholding company but there is no documentation for such claim.

After some time in this enterprise PAK started the process of collection of rent from lessees where employees and current management are being paid.

### **Workers**

During the full time capacity operation of the enterprise there were engaged a thousand employees. At the moment in the enterprise engaged are only actual management Board while 40 employees are under technical assistance.

### **Legal issues**

In the enterprise "Emin Duraku" there are no property disputes and it is expected only the definition of its statute. There are some unpaid rents for lessees of this enterprise and some unpaid salaries for ex-employees.



**Name of Enterprise/SOE:** IAC Progress-Lavërtaria-Blegtoria-Drejtoria  
**Place/Municipality:** Prizren / Prizren

### **Background**

This enterprise in the beginning was part of the Agricultural- Industrial Combine IAC "Progres" which was established in year 1962, precisely SOE Lavërtaria Blegtoria, was the founder of the Combine, due to the result of its activity (agriculture, farming) in its own land, other enterprises have been developed within the Combine.

Until year 1974, it was part of the Combine, during that year in this Combine a new arrangement of the United Work Organization were created, whereas in year 1975 at the abovementioned Combine a new reorganization proceeded and other bylaws come to force, and Municipality takes over the competencies according to the workers council's decision, will and agreement of the employees.

In this case from this Combine new Enterprises were divided and created, which enterprises later on operate and work independently, without any rights or obligation towards the Progres Combine. In the same way this Enterprise continues to function until year 1991, when the temporary measures come to effect, and as a result of this directors were replaced, and new directors were placed, which belonged to Serb nationality. After the war this Enterprise was reorganized and starts development of its activity very successfully.

### **Enterprise Activity**

This enterprise owns in total the surface of approximately 600 ha land which is evidenced on the enterprises name. This land surface includes agriculture land, various premises for development of agriculture and farming activities, Machinery Park, as well as two hotel buildings, "Hotel Tirana" and Restaurant "Pojata".

This land surface constantly has been changed and will change in the future, due to the ownership disputes, precisely return of property to ex-owners, from which the land was taken by the Industrial Agricultural Combine IAB "Progres".

Cultivation of Agricultural and Farming productivity is the major activity of this enterprise. This enterprise each season processes 200 to 300 ha of agricultural land. It has achieved to protect Machinery Park, as well as to maintain Machinery which serves to carry out activities of this enterprise. Also it has on its disposal two live-stock farms which are on the production process, precisely they are on lease.

These two farms own 100 to 150 heads of cattle. Also other premises (stables) were preserved. It is worth mentioning that one of this two farms has served as a training centre for training of Prizren region farmers, project financed by German KFOR and which is successfully functional for more than 8 years.

### **Reasons to place the Enterprise under Direct Administration**

SOE IAC "Progres" Lavërtaria-Blegtoria-Drejtoria Prizren was placed under Direct Administration by the decision of the Kosovo Trust Agency Board date 20.07.2009.

Placement under Direct Administration of the Agency resulted due to the below-mentioned elements:

- Expenditure of the Enterprise cash by the Management in economically inappropriate manner and base of required bank standards.
- Bulk un-argued expenses, such as salaries and other expenses.
- Numerous ownership –legal disputes
- Numerous problems related to rent collection
- Protection and increase of Enterprise values
- Completion of sufficient documents for preparation of the Enterprise for privatization process.
- To avoid cash misuses

### **Achievements during the Direct Administration Management**

Since the exercise of the Direct Administration measures the situation has improved and the Enterprise has started to function normally.

Out of that time all financial services have been made through the commercial banks and the approach to these accounts was collective, which indicates that each transaction or payment was done with the approval and signature of persons in charge from the Enterprise and from the Direct Administration Official. Board and the Management of the Enterprise reports about everything and the cooperation with the Direct Administration Unit are in required level. Also despite many problems, the rent collection of the used premises of this Enterprise has been increased pronouncedly due to the engagement of the Direct Administration Unit.

For the time being many persons that use premises which are in the ownership of the Enterprise, pay regularly their obligations.

Due to this cooperation and positive approach from the both sides, it is achieved to increase the income and at the same time to decrease expenses pronouncedly.

Direct Administration in cooperation with the Regional Office of PAK in Prizren and the management of the enterprise has achieved to prepare some of the assets of this enterprise for the privatization process.

### **Workers**

This enterprise has in total 57 workers out of which 50 work as full time employees, while others are under the assistance and occasionally they are invited to work.

### **Legal issues**

About 80% of the land on the ownership of the IAB "Progres" Lavërtaria-Blegtoria – Drejtoria, Prizren has been created from the private property. It is important to mention that all property of SOE Lavërtaria-Blegtoria - Drejtoria is still presented under the name of Agricultural Combine IAC "Progres". These 80% of private property were taken from private persons from year 1962 until year 1965, by the Municipal Committee of that time, violence and pressure was exercised towards them in order to make them sell their land to the Combine, for a price which was determined in discriminatory manner by the authority.

So without any willingness the parties were forced to entered the property transaction Contracts. (This fact is familiar for all citizens of Prizren). Almost all ex property-owners have made the charges at the Municipal Court in Prizren, and as a result Municipal Court have issued all-powerful court decisions, which decisions has declared non-effective all contracts entered between IAC "Progres", part of which was also this Enterprise, and ex property-owners of private property.

Due to the volume of all these subjects, Municipal Court could not manage to annul all transaction Contracts done during the 1990 years and for these reasons after war ex property-owners started to make charges for return of real estates.

For the time being there are many property-legal disputes in the process, mainly charges for return of real-estate, as well as disputes which were initiate by the Enterprise towards the users of the premises owned by the enterprise, related to the their debts for unpaid monthly rent.

**Name of Enterprise/SOE:**

Nerezina

**Place/Municipality:**

Mushtishtë / Suhareka

### **Background**

The Enterprise was established in year 1992 as a confection factory and was the most modern and productive textile factory in Kosovo equipped with modern machinery. SOE "Nerezina" Mushtishtë owns a surface of 3,851m<sup>2</sup> and 2.12.ha of land that surrounds the factory.

On February 8<sup>th</sup> 2006, the Chairman of the KTA Board approved the request of the KTA Management/ Regional Office – Prizren to place the SOE "Nerezina" under the KTA Direct Administration Procedures.

### **Reason to place the Enterprise under the Direct Administration**

SOE "Nerezina" under the Kosovo Trust Agency Board decision it was placed under Direct Administration measures on date 08.02.2006, stating the below reasons:

The ownership of the Enterprise is undefined due to the fact that there are three potential owners of the Enterprise.

- a) Ballkan Suharekë,
- b) Municipality of Suhareka,
- c) Zelengora Umka,

In order to protect the Enterprise assets until the definition of the final statute, it is proposed by the Management of the KTA/RO Prizren that the SOE "Nerezina" Mushtishtë to be placed under Direct Administration measures.

### **Achievements during the Direct Administration Management**

SOE "Nerezina" surely is the most modern and productive textile company in Kosovo equipped with modern machinery dated since year 1992.

SOE has been leased to ArtaTex and monthly incomes are €80. Lessee pays monthly salary to 20 employees of the SOE (€150 for each employee) in total of €3,000. Lease agreement will terminate on 31 December 2009.

Despite the fact that SOE is being leased, the premises of the enterprise is guarded by the SOE employees which are being paid by the Direct Administration Unit, the total amount of the employees payment is €740 per month. The incomes from the rent are being placed in a separate account until the time when Municipal Court makes a decision.

### **Legal issues**

There is an existing court decision related to ownership of the Enterprise which indicates that Municipality of Suhareka is the owner of the enterprise.

Also the WO "Zelengora" Umka has two requests related to the ownership of the SOE "Nerezina" Mushtishtë.

Direct Administration Unit has made a request to Legal Department of PAK regarding the definition of statute of this enterprise. Request has been preceded from Legal Department to Special Chamber of Supreme Court and now we are expecting a decision.

**Name of Enterprise/SOE:** Qendra Kulturore Sportive Ekonomike – Pallati i Rinisë  
**Place/Municipality:** Prishtinë / Prishtina

### Background

The enterprise was established in year 1976 as a Working Organization - Sport and Social Center "Boro e Ramizi". In year 1999 it was registered as a SOE "Qendra-Kulturore-Sportive-Ekonomike- Pallati i Rinisë" with a business registration number 80096585.

The incomes of the Enterprise are mainly from rent, cultural activities, economic activities (ads), from parking and fairs.

SOE "Pallati i Rinisë Kulturës dhe Sporteve" has the surface of 48,000m<sup>2</sup> where included are as follows:

- Small Hall
- Wrestling Hall
- Boxing Hall
- Ping-Pong Hall
- Gym Hall
- Red Hall
- Parlor/Gallery
- 117 business premises
- 8 Offices
- 8 Warehouses

On 24 May 2006, Chairman of the KTA Board, approved the request from the KTA Management/ Regional Office-Prishtina to place the SOE "Qendra për Kulturë, Rini dhe Sport" under procedures of the KTA Direct Administration.

### Reason to place of the Enterprise under Direct Administration

On date 22 May 2006, Managing Director of the Enterprise has submitted a written request for assistance to the Head of Pillar IV, where he stated that the interference from outside in the operation of the Enterprise affects the capacity to manage the Enterprise based on the operative instructions given by KTA and good governance that was implemented at the enterprises during the past years. Initially he had reported to Regional Office of KTA that he is facing problems with rent collection, which was the responsibility of the specific members of his management team.

This has lead up to the evident reduction of incomes, approximately 200,000 € in the begging of May 2006. He reported that it is expected that the situation of rent collection will get worse because some of the members of the Management Board are not supportive as they used to be.

On 23 May 2006, RO of KTA has attended the Management Board meeting in order to research and address the actual difficulties, and afterwards they learned that 5 managers have boycotted meeting and have organized their own meeting. During the meeting of the RO of KTA with Managing Director and 4 managers, head of Workers Assembly announced that the had arranged a meeting of the Workers Assembly on date May 24<sup>th</sup> 2006, with one topic of the agenda which was the discharge of the Managing Director. A written announcement was prepared including the agenda described in details and it is cited that Management Director has been accused for mistakes, law breaches, etc. Moreover this announcement informs that the President of the Prishtina Municipality should participate in the Workers Assembly meeting.

The President of the Municipality earlier has requested to return the Enterprise under the Municipality control and his participation at the Workers Assembly meeting, where was proposed to discharge the actual Managing Director, could have been taken as a support to this proposal.

### Achievements during the Direct Administration Management

Direct Administration Unit of PAK exercises the direct management at the Enterprises in order to protect and increase the value, viability and corporate governance of the Enterprise.

*Department of Central Administration* – All issues related to human resources were managed by the legal department of the Enterprise. For the moment the enterprise has 125 registered employees, out of which five are on paid leave receiving 50% of their salary.

Activities of the Human Resources done by Direct Administration have included organization chart of the restructuring processes, amendment of the contracts of all employees in compatibility with applicable Labor Law in Kosovo, review of personnel duties and update of the job description. There is a project that includes the improvement in the field of the information technology, as a result of it all the information technology equipment has been replaced with a new more updated version, and within that program there are ongoing computer and English language courses organized for the employees. Respective administrative structure has been modified slowly in order to reflect recent situation and forthcoming challenges for Center for Youth and Sport.

*Financial situation of the enterprise* – It has to be emphasized that 90% of incomes of the SOE has resulted from collection of rent. List with new rent prices has increased for 20%, and this list was presented in February 2009 when the renewal of the rent contracts was done. The purpose of the price increase was the adjustment of the rent towards current market and creation of funds which will be used for investments in improvement of service quality as well as further investment planning, mainly in the field of maintenance.

Many efforts were taken in order to increase income from other ad activities, such as for example through trade fairs.

*Cultural Unit* – Altogether the percentage of the fulfilled programs, respectively the realized activities for the year 2009 are as follows:

1) Cultural Programs	65%
2) Economic Programs	10%
3) Promoting , humanitarian, and academic programs	25%

*Sport activities unit* –The sport activities that took place during that period of time are as follows:

1) Trainings in Small Hall	2,600 trainings
2) Matches in Small Hall	400 matches
3) Trainings in exercise Halls	3,070 exercises

During this period of time many National and International championship were organized, in handball, box, ping-pong, karate, basketball, volleyball, wrestling, judo etc.

All these cultural, sport, youth and education activities are being performed at the Center without any compensation, for the sake of good cooperation with Municipal and Government Institution, as well as for the reason to be supportive to youth in general.

*Activities of the Technical Department (Maintenance)* - Better part of the maintenance and repair work now are being done by the internal personnel. This has a direct impact on reduction of the unnecessary expenses through the third party contracts. Also, the service quality towards the lessee has improved and a required form for service requests has been developed.

*Protection and Safety Activities* – Protection and safety situation has improved evidently. Monitoring video-digital centers, including also other security equipment (various alarm systems) are operation and are being maintained and controlled very precisely.

### **Legal issues**

The court disputes between the users of the warehouses and SOE "Youth, Sport and Cultural Center", the case where the part of the object of the Enterprise was burnt down in the year 2000, by the lessees. Court dispute between 16 warehouseman (plaintiff) and the SOE "Youth, Sport and Cultural Center" (defendant) reaches the value of €5,300.000 and this case was delegated to the Special Chamber of Supreme Court.

**Name of Enterprise/SOE:** Unimont  
**Place/Municipality:** Prizren / Prizren

### **Background**

The Enterprise was established in 1978 as a Mounting and Construction Working Organization "Unimont" Prizren. In the year 1989 the transformations of the Enterprise form Working Organization to the Socially Owned Mounting and Construction Enterprise "Unimont" Prizren.

The activities of the enterprise mainly has to do with the production of the various types of concrete elements, prefabricates from the concrete for halls, farms and other prefab objects (with high rise construction objects), production and exploitation of the gravel, production of the bitumen material, preparing of the plot for construction, construction of the road construction objects, other projects from its activity such as, transportation of goods through the road transporting means, construction of the hydro-construction objects, and other engineering activities.

Because of the difficult financial situation and large liabilities toward the suppliers, SOE "Unimont" has stopped its production activity until the privatization of this SOE.

SOE Unimont has the following assets:

Working unit in Krusha e Vogël (unit of asphalt base, two units of concrete base, separation, factory for pipe production and concrete elements); Machinery Park with 2.67ha, and administration object with 560 m<sup>2</sup>.

On 21 September 2006, Chairman of the KTA Board, approved the request from KTA Management/ Regional Office – Prizren to place the SOE "Unimont" under the Direct Administration of the KTA.

### **Reasons to place the enterprise under Direct Administration**

In June 2006 the general manager passed away. Since then there was a lack of required management of the SOE. Ex-general manager took away with him many of secrets that have to do with agreements between suppliers and clients. Moreover, the SOE has left a mortgage to ABU and unpaid amount is €1.1 million. The mortgage is applicable to all assets of the SOE, including also the real estate, which is the major asset of the SOE.

A delegation of workers of the SOE has discussed the issue with the RO of the KTA in Prizren where they have expressed their concerns regarding the realization of the SOE asset and verbally was requested that the SOE to be placed under Direct Administration.

This request was confirmed through the written request on 8 August 2006. Also, there are third parts that are using mobile equipment (movable) of the SOE.

### **Achievements during the Direct Administration Management**

The enterprise is specialized in construction works that comprise of several operational products/lines, such as: separation of gravel in two units, unit for pressing of stones for asphalt production, concrete production in two units, production of concrete poles Fi100-150mm, production of concrete construction for industrial buildings and farms, as well as asphalt production with "Gradis" base.

UNIMONT have a lease contract, agreement expires at the end of the year 2009. The agreement between the SOE and lease holder are for asphalt base, for two bases of concrete, for factory of pipe production concrete elements as well as administration premises. From the rent income, the SOE pays 130 employees of the Enterprise.

Due to some actual difficulties all major activities of the SOE have been interrupted and 80 workers are under technical assistance, and they have been informed in time about that.

Direct Administration of the KTA have appointed two contact persons which report and cooperate with the Officer in charge on daily basis.

**Legal issues**

There are two disputes related to this Enterprise. For the moment there is a Charge from a microfinance organization called ABU, which has entered an agreement for financing of the Enterprise, and they have taken the Machinery of the Enterprise as collateral. Also there are two other charges that were presented by the Suppliers.

Despite the fact that some of the disputes are at the initial phase of the procedures we hope that these disputes will be resolved. Legal Officer of the Direct Administration Unit is engaged for these cases, related to credit obligation of the Enterprise towards the ABU.

**Name of Enterprise/SOE:** Vreshtaria  
**Place/Municipality:** Landovica / Prizren

### **Background**

In the beginning this Enterprise was a part of the Agricultural – Industrial Kombinat AIC-“Progres” which was established in 1962.

In year 1962 Kombinat consisted mainly of 10 (ten) enterprises which were a part of the Kombinat “Progres” and one of them is SOE “Vreshtaria” Landovica.

As a result of this structure approximately 80% of land possessed by AIC “progress” were created from the private property. The 80% of private properties were taken from year 1962 till 1965.

In year 1992, SOE “Vreshtaria” merged with SOE “Kosovavera” and they have continued to function on that way till June of year 2002.

In June of 2002, SOE “Vreshtaria” was registered as a separate legal entity apart from SOE “Kosovavera” and they have opened a bank account with the name of the Enterprise.

Socially Owned Enterprise – SOE “Vreshtaria” has 4 (four) vineyards, with a total surface of 1,000.00 ha. Vineyards are located in four different areas as are Landovica, Arbanasi i Epërm, Uji i Bardhë, Pirana and Tarzhda e Mamushës.

Because of the difficult financial situation, SOE “Vreshtaria” has stopped the production activity till the moment of the Enterprise privatization.

On June 14, 2004, the Chairman of KTA Board approved the decision request of KTA management/ Regional Office – Prizren to put SOE - “Vreshtaria” under KTA Direct Administration procedures.

### **Reasons for putting the enterprise under Direct Administration**

Problem linked to the legal issue with Kosovavera and many other legal disputes. Because of financial sources lack, vineyards with a surface of approximately 1,000 hectares are not maintained.

### **Achievements during Direct Administration management**

SOE “Vreshtaria” has a renting agreement for the agricultural land which is in Prizren in the place called “parcel Belloshe” with a surface of 50 hectares and a renting agreement for the cows’ barn which is located in the premises of SOE “Vreshtaria” Landovica MA Prizren.

In order to protect assets from damages and to offer a permanent protection for vineyards from any harmful party, PAK Direct Administration has hired 19 guards of SOE and the enterprise coordinator, who at the same time will prepare the list of assets required from PAK Direct Administration Unit. Twenty employees of this enterprise are paid by the Kosovo Consolidated Budget.

Direct Administration Unit in coordination with RO of Prizreni are working in order to clear the situation with legal disputes whereas the assets of the enterprise for which there are no disputes, may be privatized..

### **Legal issues**

Many disputes related to ownership verification because this enterprise in the past has been a part of AIC “Progres”. Currently many ownership- legal disputes are in process, mainly complaints for returning the real estate.



**Name of Enterprise/SOE:** Artizanati-Kosovarja  
**Place/Municipality:** Prishtina / Prishtina

### **Background**

The enterprise was established in year 1980 as a working organization "Artizanati Shtëpiak- Kosovarja". Till the year 1988 when the new shopping mall was built in Fushë Kosova, all activities of this enterprise were developed in Prishtina.

By time, SOE. Artizanati-Kosovarja was transformed many times and had different names.

Within the "alleged" property, this Enterprise includes premises in Lakrishte area. Tirana Str., nn, with a surface of 500 m<sup>2</sup> and the shopping mall in the Industrial Area in Fushë Kosova with a surface of 0.26.00 hectares.

### **Reasons for putting the enterprise under Direct Administration**

SOE "Artizanati-Kosovarja" with a Board resolution of the Kosovo Trust Agency – KTA was put under Direct Administration on 20.06.2006 by emphasizing following reasons:

- Preserve the value of premises
- Possibility to find documents basing on which we would verify the ownership
- Consider at least welfare of employees.

### **Achievements during Direct Administration Management**

Since putting Direct Administration measures it is managed to avoid further destruction and damages in this enterprise.

This preceded the contract signed between SOE Kosovarja-Artizanati and Ministry of Internal Affairs for renting the building of the enterprise located in Lakrishte neighborhood, Tirana Street, n/n in surface of 500 m<sup>2</sup> in amount of €3.000 per month from 01.07.2006 to 01.07.08 which was extended for one more year to 01.07.2009, where it is expected extension of contract for this year as well, since there is no prior notice of contract termination.

### **Employees**

Socially Owned Enterprise SOE Artizanati-Kosovarja" currently counts 16 employees paid on monthly basis and their wages are provided from Lease Agreement the enterprise has with Ministry of Internal Affairs as mentioned above.

### **Legal Issues**

With regard to legal issues based on incomplete documentation we have and impossibility to define status of the enterprise, we have addressed the request to Legal Office for review and clarification of status definition, respectively future of enterprise.

We expect a respond from Legal Office and subsequently will make further steps in compliance with applicable laws and regulations based on which the Privatization Agency of Kosova work.

**Name of Enterprise/SOE:** Rekreatours  
**Place/Municipality:** Prishtina / Prishtina

### **Background**

SOE "Rekreatours" as a Socially Owned Enterprise in 1957 bought a surface of 3.3 ha land in place called Kamenovo. This Enterprise was co-owner of that land together with two other enterprises from Kosova.

Assets of the Enterprise mainly served as resort for kosovarian workers.

- Prishtina – business premises (Offices) in surface of 100 m<sup>2</sup>
- Resort in Kamenovo, Republic of Monte Negro in surface of 3.31.00ha property in the most elite part of St. Stephan Riviera – tourism hospitality and business building with capacity of 2000 m<sup>2</sup> and its own infrastructure.
- In Ulcinj, a Resort which was torn down in 1982, the capacity of which was 700 apartments – B hotel category with 2,000 beds.

### **Reasons of putting enterprise under Direct Administration**

On 20/03/2008 this Enterprise was put under Direct Administration, because Director of the Enterprise misused his official duty, concretely presented fake documentation on the ownership of Enterprise.

Also the reason for putting under Administration is sale of shares percentage of this Enterprise from the director, without KTA prior approval.

### **Achievements during Direct Administration Management**

During Administration of this Enterprise, PAK managed to establish legal officers' team in order to represent at best the interest of this enterprise to the Supreme Court of Montenegro. An appeal is prepared on decision of the Court of Montenegro; a decision which was taken to the prejudice of the Socially Owned Enterprise.

### **Employees**

According to the letter of the Director of SOE "Rekreatours" addressed to KTA, on 11.09.2003 employed in this Enterprise there are 4 employees (3 in Prishtina and 1 in Kamenovo).

### **Legal Issues**

With regard to legal problems, the Enterprise is mainly facing with its legal status and property located outside Kosova territory, respectively Montenegro. Although from the documentation it is clearly seen the legal basis of this ownership which is obviously evident, as always it existed in the name of SOE "Rekreatours", the Court of Montenegro was deceived from actions of parallel structures of the Enterprise in Montenegro. In 1999 the then management of the Enterprise obtained permission from the parallel Court of Prishtina located in Kraljevo to register the Enterprise in Montenegro.

Due to this action this Enterprise was privatized in Montenegro and registered in the name of the buyer called "Atlas Group". After this action Enterprise Representatives in Prishtina reacted and initiated legal proceedings in Montenegro to annul registration of the Enterprise in Montenegro. Regarding this initiation of procedure by the Enterprise from Prishtina, the Court of Montenegro started to review the case.

With regard to this contentious case, KTA collected all necessary documentation based on Court requirements. At the moment contentious case is ongoing in Supreme Court of Montenegro. The main problem on this contentious case is non-recognition of PAK legitimacy; PAK Legal Officers are preparing a strategy for a better representation and protection of property of the Enterprise.

**Name of Enterprise/SOE:** Sharr-Sallonit  
**Place/Municipality:** Hani i Elezit / Hani i Elezit

### **Background**

Regarding the status of Socially Owned Enterprise of 28/11/1989 and from registration of in the Commercial Court of Prishtina dt. 21/12/2009 this entity Fi. 605/89, dt. 21.12.1989 SOEPCM "Sharr" was Socially Owned Enterprise in 1989 (in March 1989 this entity was still an Operating Organization).

Article 1 of the status of Socially Owned Enterprise of 28/11/1989 states that the Operating Organization for production of Construction Material "Sharr" from Hani i Elezit, was transformed into SOE. Total number of employees in SOE Sharr-Sallonit in 1989 was 309.

Today, the entity operates in four units, respectively four Socially Owned Enterprises separated from each other (since 1999):

1. "Sharr Cement" - GJI042
2. "NP "Silcapori" - GJI040
3. KAP "Sharr-Salloniti" - GJI039 and
4. FGG "Lepenci" - GJI038

The location of Enterprise consists of 9.70 HA land, as well as other supplementary buildings where the administration offices are located, warehouse and the building where the Customs of Kosova is located – Terminal Hani i Elezit.

Since 1999 in SOE Sharr-Salloniti the Terminal of Customs is located near boarder Kosova/Macedonia and all accompanying services of terminal are performed here, such as entrances, exits, and other technical aspects.

Supervision and technical activities regarding the terminal welfare are done by the Management and employees of SOE Sharr-Salloniti who are also paid from the income of the terminal and rented buildings for different services, such as freight company offices, banks, etc.

### **Reasons for putting the Enterprise under Direct Administration**

With the decision of the Board of Kosovo Trust Agency dt. 20.06.2006, SOE Sharr-Salloniti goes under Direct Administration.

This measure came as a result of following stated elements:

- Spending the SOE's money improperly by the Management on economic basis and on the basis of required banking standards.
- Notional charge Expenses not reasoned, such as in salaries and expenditures.
- The issue of pollution from Azbest Çimentoja in which case hazardous material would be removed from the Enterprise (which thing is already done).
- To preserve and enhance the value of enterprise.
- To collect sufficient documents in order to prepare the Enterprise for Privatization.
- To avoid misuse of cash.

### **Achievements during Direct Administration Management**

Since applying the measures of Direct Administration the situation has been settled down and the Enterprise has started to function normally, and this has shown improvements from year to year. Since then all financial services have been done through business banks and the access in these accounts was collectively, which means that each transaction or payment was done with the approval and signature of the person in charge in the Enterprise and the Officer of Direct Supervision.

The SOE's Board and Management reports for everything and cooperation with Direct Administration Unit is in a proper level.

Due to this cooperation and positive approach from both parties, income increase is realized and at the same time there are obvious decreases of expenditures.

Seeing the Enterprise's stabilization in every aspect and increase of income from different activities, in 2009 various projects with significant importance for Customs terminal and for the Enterprise itself have started.

### **Employees**

In the Social enterprise SOE Sharr-Salloniti it is a notable number of regular workers, those on social assistance and aid given to families of war heroes and war martyrs.

Below we present the current situation for all categories:

- Regular workers are 152
- On social assistance are 83
- While 23 are in the list of missing persons, killed or died after the war.

### **Legal issues**

In the Social enterprise SOE Sharr-Salon, the legal issues that the enterprise lawyers in cooperation with the legal adviser from the unit from the direct administration are dealing with, are mainly related to claims from employees or former employees for compensation with financial means for allegedly violation of their rights by the enterprise.

**Name of Enterprise/SOE:** Virxhinia  
**Place/Municipality:** Gjakovë / Gjakova

### **Background**

The Socially Owned Enterprise SOE "Virginia" until 1989 was part of KBI "Ereniku". Later the enterprise is called: The Social owned enterprise for the collection and processing of Tobacco Virginia, Gjakovë.

According to the FI document. 5347/91 (registration of transformation) they claim that they transformed into a Joint Venture Enterprise "Virginia".

This unclear situation has continued until 1999 and was reopened when the company was being prepared for privatization in year 2007.

The company has an area of 13,015 hectares, including construction land, administrative buildings, and industrial infrastructure.

### **The reason for putting the enterprise under Direct Administration**

SOE, "Virginia" was approved for privatization by the KTA-s Board in the wave 27 on the 07 June 2007. With all the preparations for the privatization of this enterprise, this did not happen because the management of the company has complained that "Virginia" has been transformed into joint-stock company in 1991 and privatization of this enterprise is not valid.

After this the management has been invited to provide documentation for the alleged transformation, but the management has not provided sufficient documentation.

Due to the refusal of cooperation with the KTA, the enterprise is put under direct administration starting date 14.01.2008.

### **Achievements during the Management of Direct Administration**

Since putting the Enterprise under Direct Administration, there has been hesitancy on the part of the Management for cooperation with the Direct Administration with the purpose of blocking the work. With time, it has come to a relaxation of these relations and cooperation was established in order to find a solution to current the current problems and how to achieve and overcome the situation and clarify the future of the Enterprise.

Cooperation is established between the DA and the Enterprise, with which is gained access to the enterprises bank accounts, control of finances and the registration of enterprise assets is in progress.

### **Employees**

In the socially owned enterprise "Virxhinia" are 35 active employees, 50 are in social assistance. Management claims that there are 192 shareholders.

### **Legal issues**

Only one claim was submitted against a leaseholder and the case is in process

## 6.4 TREPÇA

Trepça is a conglomerate located in Mitrovica region with the assets and branches located in various regions of the Republic of Kosovo and former Yugoslavia. In the past it used to be one of the largest enterprises of former Yugoslavia with at one stage over 20,000 employees.

Trepça Conglomerate has three key components: the mines, the Mitrovicë/a industrial park and the Zveçan smelter complex on which the conglomerate was founded. In addition there are numerous downstream activities that used lead, zinc, cadmium or silver in the process. As a whole, it includes a total of 41 sites, including several located outside the Republic of Kosovo. Politically, economically and socially, the enterprise has great significance for Kosovo and all of the communities; however the following can be considered the principal stakeholders:

- Creditors and Owners
- Trepça Management and Workers,
- The Government of the Republic of Kosovo
- Donors.

### **Brief history and past developments concerning Trepça**

The Trepça mine activities have functioned since ancient times (were known also in the times of Romans). Recent history records that the British company Seltrust founded a modern industry during the 1930s around Mitrovica and batteries from Trepça were an important resource during the Second World War. Since then Trepça has experienced a period of massive growth through the 60's and 70's when downstream industries were established and upwards of 20,000 people were employed. Throughout the 1990s, Trepça went through a series of dubious transformations. In 1989, Trepça Combine was a conglomerate of independent enterprises of which the main body was Trepça Lead & Zinc. Before 1989, Trepça Combine centralized some functions (such as finance, purchasing, sales and quality control) and the entities that were part of the conglomerate kept their independent legal personality. From the 27 enterprises that were part of the Trepça conglomerate, 26 had Commercial Court registrations and/or statutes that indicate that they were SOE's in 1989 or were organizations of associated labour in the process of being transformed into SOEs. The only exception is Trepça Bank (Financial Institution).

During December 1989 an Integration Agreement was signed by 26 SOE's and 1 Financial Organization. On 10 January 1990 the Commercial Court registered the Agreement of 26 SOE's and 1 Financial Organization. Under this new Agreement the enterprises kept juridical personality and a series of critical functions were centralized in Trepça Combine, such as: finance, research, purchase and sales. Despite the centralization of the more critical functions, it can be considered that in 1989 Trepça Combine was a group of independent SOEs with Trepça Lead & Zinc as the core business, however, the Integration Agreement did not change the status of the enterprises. In 1990 the Serbian government introduced Interim Measures in 14 of the 19 companies belonging to the Trepça group at that time. The interim measures resulted in the dismissal and replacement of Albanian managers by Serbian managers and an abolishment of the Workers Councils of the companies, which were the main supervisory body of the Enterprises. This led to widespread protest and strikes amongst the Albanian workers; as a result, many of them lost their jobs, in the period 1990 – 1992.

On 22 November 1991, 19 enterprises belonging to the Trepça Group (18 SOEs and 1 Financial Organisation) were merged into SOE Trepça Combine. The remaining 8 kept their independence.

In accordance with the legal review and analysis of the available documentation to predecessor Agency- Kosovo Trust Agency (KTA), the SOE Trepça Combine was transformed from SOE into JSC on 11 November 1992, and the issue regarding the validity of this transformation has been put before the Special Chamber of the Supreme Court of Kosovo. Under the KTA Regulation (as amended) where an Enterprise was the subject of a Transformation, such Transformation will not affect the rights and powers of the KTA under sections 6, 8 and 9 of the Regulation, which case is identical also under the Law on the establishment of the Privatisation agency of Kosovo (PAK) as legal successor of the KTA.

The enterprises that took part in the merger the “Merged Enterprises” are:

- Battery Factory, Peja
- Trailer Factory, Mitrovica
- Zinc Metallurgy, Mitrovica
- Chemical Industry, Mitrovica
- Battery Factory, Mitrovica
- Trepça Commerce, Zveçan
- Trepça Standard, Zveçan
- Lead Metallurgy, Zveçan
- Trepça Trans, Zveçan
- Electro Auditing Centre, Zveçan
- Trepça Laboratory, Zveçan
- Property Insurance, Zveçan
- Mine and Flotation Stan Tërg and Tuneli i Parë, Mitrovica
- Mines and Flotation Kishnica and Novo Brdo, Prishtina
- Trepça Institute, Zveçan
- Health Institute, Zveçan
- Trepça Banka, Zveçan
- Mines and Flotation, Leposavic
- Energetika, Zveçan

The assets of all of the above enterprises are wholly or largely located within the territory of the Republic of Kosovo.

While the enterprises that did not take part in the merger are:

- Famipa Metal and Plastics Products Factory Prizren Kosovo
- Hunting Ammunition Factory Skenderaj Kosovo
- Metaliku Metals Industry Gjakova Kosovo
- Llamkos Galvanised Metal Production Vushtrri Kosovo
- Nickel Cadmium Battery Factory Gjilan Kosovo
- Extra Paint and Varnish Factory Vushtrri Kosovo, etc.

It is clear that with assets of Trepça outside the territory of the Republic of Kosovo, and other jurisdictions outside of Republic of Kosovo, any action will greatly depend on the co-operation of the governments concerned.

In February 1995, Novak Bjelic was appointed General Director of Trepça, and subsequently Bjelic re-establishes credit, and re-integrates the Trepça subsidiaries. Due to the massive expulsion of the Albanian mine workers, new mine workers are brought in from Czech Republic, Poland, Bulgaria, Bosnia and Serbia. From 1995 – 2000, Bjelic engaged in a series of financial maneuvers which leveraged increasing debt against Trepça’s limited real assets. The management installed from Serbia in Trepça not only that it caused technical and technological stagnation but also entered into suspicious and harmful arrangements for Trepça.

In 1999, after NATO forces entered in Kosovo, in the northern part of Trepça the business continued functioning, whereas in the southern part the Albanian employees could not enter at their working places until December 1999 when an agreement between UNMIK and Trepça Trade Union was reached allowing 214 workers to enter Stan Tërg to preserve and rehabilitate the mine for production. In August 2000, KFOR and UNMIK were forced to close the Metallurgic capacities in Zveçan due to the environmental pollution, at this time close to 1000 Serb workers were employed directly and all other Serbian workers, in total 2316 started to gain regular social support by KCB (at the time Kosovo Consolidated Budget). During the September 2001, close to 1000 Albanian workers get employed in the southern side while over 5000 Albanian employees remained without solved status and social support. This situation forces on June 2003, the PISG (at the time Provisional Institutions of the Self – Government of Kosovo) to approve the Administrative Direction for early retirement for all Trepça workers older than 50 years. Significant number of other remained workers (that failed medical checks) receives the early retirement; in addition they were receiving additional €30 from Trepça funds. Again in 2005, due to the strikes from workers of Trepça, the PISG is forced to increase the amount for early retirement from €40 to €50 per month.

Taking into account the size of the conglomerate and the fact that during the 1990's 27 SOEs were at one time merged into RMHK Trepça (which currently has significant financial claims against it), in case of Trepça it was impossible to be treated in the same way as other enterprises under the KTA's remit at the time. It seems that this was the main driver for the promulgation of UNMIK Regulation 2005/48 (promulgated in November 2005 a new UNMIK Regulation 2005/48 - similar to US Chapter 11) which in essence allows for the appointment of an Administrator who then would undertake the reorganization of the enterprise. In December 2005, the KTA Board authorized application to the Special Chamber of the Supreme Court of Kosovo (SCSC) for Trepça Administration, and subsequently on March 2006, the Special Chamber of the Supreme Court of Kosovo issued "**Moratorium Decision**" for the reorganization of "Trepça under KTA Administration".

This meant that until such time as the administrator is appointed, the SCSC has agreed to a temporary moratorium to freeze actions in the Kosovo courts and to prevent the payment/execution of claims required by courts outside of Kosovo against the enterprise. The Reorganization Regulation also set out the timetable within which the KTA was obliged to organize the tender for the services of an administrator. The KTA at the time applied for an extension to this timetable in order to ensure that EU procurement rules were met and to ensure that as many suitable expressions of interest would have been received for the position. Subsequently the KTA, with the support of the PISG conducted the tender for the services of an administrator and several compliant expressions of interests were reported to have been received. The Reorganization Regulation, as confirmed in the Moratorium Decision, required from the KTA to submit to the SCSC the expressions of interests and complete bids received from potential bidders, together with an evaluation report with recommendations as to the most suitable bidder for the position of administrator. The appointment of the Administrator was ultimately an appointment by the SCSC and not the KTA. The Report with a recommendation as to the appointment of an Administrator was due to be submitted by 9 November 2006. However the KTA was not able to submit a report to the SCSC with its recommendations as to the most suitable bidder administrator and the process of reorganization for Trepça was stalled since then. From the filled reports it seems that the PISG at the time while expressing the support for the reorganization of Trepça it had expressed serious concerns toward the administrator, that the administrator will not fully appreciate the importance of Trepça to the people of Kosovo and that the administrator will not be able to deal with all of the issues and liabilities that affect Trepça. Namely the PISG expressed concerns regarding the contribution of from the KCB (at the time amounting to over €60 million – as stipendies and subsidies toward Trepça), the issue of the 20% for the workers of Trepça (in case of the privatisation of its assets), and the issue of the huge environmental liabilities (pollutions over the years of operations of Trepça).

Nevertheless, not having an Administrator in place, implied the risk to Trepça (if no action is taken), is that Trepça may be placed into liquidation. This means that with the Moratorium Decision in place there is a stay on all claims against Trepça, however, the SCSC at the time has stated clearly in the Moratorium Decision that actions suspended as a result of the moratorium "*may continue with the permission of the Special Chamber and that "if there is undue delay, any aggrieved person may apply to the Special Chamber for a lifting of the moratorium."* In case of the evident failure to appoint the Administrator (by applying from the KTA side or by a decision of the SCSC) the legislation in place (still applicable) provides clearly the conversion to liquidation, which in case of Trepça would have produced unpredicted and extremely tense political and social situation. Therefore, the SCSC addressed at the time to the SRSO (OLA) requesting additional clarifications in respect to the application of the legislation in this particular case.

Despite all the above, more efforts were made into finding a way forward regarding Trepça. In August 2007, the Committee for Economy, Trade, Industry, Mines, Transport and Telecommunication (CETIMTT) of the Assembly of Kosovo (AoK) prepared a draft resolution in which the AoK would declare Trepça as an Enterprise of Special Public Interest for Kosovo and as a Public Owned Enterprise (POE). In addition that resolution required that the procedures for the reorganization of Trepça and the appointment of an Administrator be cancelled. According to the CETIMTT, the main concern was the fact that neither the Government of Kosovo nor the AoK have a say in relation to Trepça. By this time it was evident that the appointment of an administrator proved extremely complex not to say impossible. Subsequently, several meetings took place between the representatives of CETIMTT, UNMIK and KTA and it was agreed an independent advice will be sought from a sitting bankruptcy judge, following this consultant funded by USAID would prepare a proposal for further discussion.. The analysis which came out of this work galvanized the stakeholders to seek for a consensus way forward using as far as possible the existing legislation. In October 2007 a paper entitled Trepça Revitalization Approach was issued for consultation.



In essence, the new plan envisaged forming a stand alone Reorganization Team which would have consist of several international mining and bankruptcy experts supported by a similar team of local experts. This donor funded team would initiated than after, the formal process of identifying all claims appertaining to the Trepça conglomerate whilst also mapping out a reorganization plan for submission to the SCSC. The plan envisaged reorganizing Trepça into a viable business operation and rearranging its debts, under the supervision of the SCSC, subject to creditors' rights and subject to consultation with relevant stakeholders.

Subsequently, the elections took place by the end of the 2007, and the beginning of 2008 found Kosovo in line with greater priorities than Trepça. Further more, the predecessor Agency (KTA) ceased all operations by 30<sup>th</sup> of June 2008, and also the reorganization of the SCSC at the time (transfer from UNMIK to EULEX). Therefore the situation in regards to Trepça remained un-resolved.

### **Current Situation:**

As it stands, it appears that the moratorium decision is still in place. The newly established Privatisation Agency of Kosovo (PAK), initially faced with enormous difficulties had managed to reorganize and restructure itself, in addition it had managed to assist and control the Trepça situation so far to the extend possible. Trepça still receives significant funding from the Kosovo Budget and recent positive trends in the global market (post latest crises) by a good chance had positive impact in the overall Trepça financial situation, though there is no doubt that this status – quo is not sustainable long term solution at all. It should be clearly understood that Trepça would not stand a chance without the financial support that receives and apparent legal protection.

The moratorium decision prevents PAK and the SOE's of any actions regarding all assets of Trepça (core and non-core). The assets belonging to the Merged Enterprises allow them to be broadly divided into categories and this might help to define the strategy for restructuring of the company, as listed below:

### **Mines and Concentrators (core mining and mineral processing assets)**

- Mine and Flotation Stan Tërg and Tuneli i Parë, Mitrovica
- Mines and Flotation Kishnica and Novo Brdo, Prishtina
- Mines and Flotation, Leposavic

### **Industrial Facilities**

- Battery Factory, Mitrovica
- Chemical Industry, Mitrovica
- Zinc Metallurgy, Mitrovica
- Lead Metallurgy, Zveçan
- Battery Factory, Peja
- Trailer Factory, Mitrovica

### **Commercial Property**

- Trepça Commerce, Mitrovica
- Trepça Standard, Mitrovica
- Trepça Trans, Zveçan
- Electro Auditing Centre, Mitrovica
- Trepça Laboratory, Zveçan
- Property Insurance, Zveçan
- Trepça Banka, Zveçan
- Energetika, Zveçan

### **Companies registered as SOEs after 1999**

- Battery Factory, Peja
- Ni- Cd Battery Factory, Gjilan
- Hunting Ammunition Factory, Skenderaj
- Llamkos, Vushtrri
- Famipa Prizren
- Metaliku, Gjakova

**Other Assets**

- Trepça Institute, Zvečan
- Health Institute, Zvečan, etc.

**Way Forward:**

The current status-quo is not an option. It is an imperative that all relevant parties will soon be able to prepare, agree and confirm a “new” approach that will finally enable and create conditions to essentially remove Trepça from currently being a spender of Kosovo Budget to a contributor of the Kosovo Budget.

In this respect, I would like to bring into your attention the following facts and steps that I believe are essential to potential solving of the Trepça case;

1. The political status of Kosovo has changed essentially from the period of time when decisions that put Trepça in a deadlock were made.
2. Now is the time with utmost urgency to carry necessary interventions in the current legislation covering this matter. Namely, many of the UNMIK Regulations and several of the AD's (such is UNMIK Reg. 2005/48 etc) should be amended/promulgated as Laws of the Republic of Kosovo including amending relevant provisions always in compliance with the Comprehensive Settlement Plan (CSP– *Ahtisaari Plan*).
3. Reorganisation of the Special Chamber of the Supreme Court of Kosovo – in accordance with the Annex VII – CSP – article 3.2 – under v.) – Promulgation of the Law of the Republic of Kosovo on the SCSC of Kosovo.

The current PAK stand is clear and remained unchanged, as this is dictated by the applicable legislation; this being that any other proposals outside of the reorganisation through a Court appointed administrator for the revitalisation of Trepça are legally impossible and therefore prone to creating more damage to the enterprise. The implications to the rule of law with respect to property and creditor rights and therefore the reputation of the Republic of Kosovo as an investment destination could be also be seriously undermined. Furthermore, human rights as defined under ECHR might be violated as due process in relation to dealing with property and creditor rights cannot be assured outside of the reorganisation process as defined by UNMIK Regulation 2005/48 as it currently stands. The (any) new approach and subsequently any Trepça revitalization plan MUST meet all internationally recognised standards regarding the reorganisation and restructuring of strategic enterprises, as well as all other stakeholders.

This implies and requires that sufficient funds and expertise are available to initiate, proceed and complete the restructuring and reorganisation process under the direct supervision of the relevant court (SCSC) and serious engagement from the relevant institutions of the Republic of Kosovo.

Essentially the proposed way forward which is as a result of the lessons learn from the failures of the recent past, is as following:

1. A special international Judge who is an expert in bankruptcy reorganisations and workouts is appointed to the SCSC to deal with Trepça exclusively, and oversees Trepça reorganisation.
2. Trepça management is to operate the enterprise throughout the reorganisation process with the advice and guidance of a Reorganisation Team comprised of international and local experts.
3. Trepça obtains working capital to fund its revitalisation by selling its non – core assets after first obtaining the authorisation of the Special Judge (and the SCSC of Kosovo).
4. Reorganisation Team is provided to Trepça to assist Trepça with (i) revitalizing Trepça's operations (ii) reviewing and, where appropriate, submitting to the SCSC legal challenges to creditor claims that may be filled, and (iii) developing Trepça's plan for reorganisation and commenting on any reorganization plan that may be submitted by another party.
5. It is recommendable that the Government of the Republic of Kosovo hires a special legal team representing the government in connection with filling and advocating its own creditor claim, reviews and where appropriate submitting to the SCSC of Kosovo legal challenges to other creditor claims and also might have the possibility to develop the government's own plan of reorganisation for Trepça and comments on any reorganisation plan that may be submitted by another party. In addition this can also ensure that any reorganisation plan deals with Social, Environmental and Ownership issues.

The significant Advantages of this approach are based namely on the failures and disagreements of the past, while they content to adhere international legal standards and preserve reputation of the Republic of Kosovo:

1. This approach will allow reorganisation process to go forward without putting Trepça under an Administrator (since it will act under the guidance of a professional reorganisation team and oversight of the SCSC).
2. It provides to the Government of the Republic of Kosovo with possibility to engage substantial expertise devoted to protect and preserve its interests in the content of the plan of reorganisation. This provides the legal way to the Government of the Republic of Kosovo and the representation on the creditors committee and therefore the Government is ensured the role of a relevant stake holder on the development of the reorganisation plan for Trepça.
3. It provides Trepça management with substantial professional expertise devoted to protecting Trepça's interest throughout the reorganisation process and revitalisation efforts.
4. It preserves the very valuable protection from creditors currently enjoyed by Trepça – under UNMIK Regulation no. 2005/48.
5. It ensures that Trepça will continue to be able to deal with its creditors in only one judicial forum, and one consolidated process, within the Republic of Kosovo in full compliance with the international standards.

#### **Successful Restructuring/ Reorganization / Revitalization of Trepça**

It is obvious that in order to implement any of the above mentioned, significant efforts are required, starting from amending current legislation, ensuring financial assets for implementation and execution of the project etc. The successful revitalisation of Trepça essentially implies that Trepça is freed of legal constraints due to its past heritage in respect to the liabilities and claims. This is the first step that will enable (or even as the process goes along) to prepare and release to the market economy significant resources under Trepça assets, being it through privatisation or concessions or liquidation of those (in case of peripheral non-core asset of Trepça).

In any event (without prejudicing the outcome of the reorganisation and restructuring process) eventual sale of mines (as core asset of Trepça) is a complex matter that cannot be done quickly since new investors will need to undertake comprehensive due diligence exercises. Mining investors are forced to invest where the deposit is and must therefore accept the risks that are inherent to the location, however to make investment in Trepça attractive, as much as possible must be done to minimise or remove other risks.

## 7. STRATEGIES

**The purpose of this document is to provide a condensed overview of business strategy planned operations for period 2009 through 2011.**

Whilst every effort will be made to stay within the guidelines of PAK's overall strategy designed to complete its mandate within the 3 year period under review, the wider implications of the continuing global economic crisis may cause unavoidable deviations from plan.

It must also be recognised that PAK cannot control the pace of legal processing at the SCSC of Kosovo nor can it influence significant political initiatives or governmental policy changes that impact Privatisation and Liquidation. PAK is also not anticipating any privatisation or liquidation of 28 SOEs that fall under the Trepça Moratorium. Liquidation activity is forecast in relation to 30 agricultural SOEs that have no assets and privatisation of 40 SOEs will be privatised in the near future and for this purpose PAK has established Satellite Office in Shterpce Municipality and very soon will open such offices in Gracanica and Leposavic.

### **General Administrative Activities**

The Executive Branch, Finance and Budget Department, Administration Department, Human Resources Department will continue to perform their tasks in accordance with PAK Organogram in order to support operations of the Agency in exercising its mandate under the applicable Law.

The Sales Department will be responsible to ensure continuation of spin off sales and all liquidation asset sales that are proposed by the Liquidation Committees, and which are to be run solely by PAK HQ. These asset sales will assist the agency to maintain its profile in the public view by filling the gaps in the waves of spin off privatisation as the number of New Cos becomes smaller.

Liquidation Department will continue to implement liquidation procedures and policy papers in order to enable swift liquidation of SOE, and also coordinate activities with Liquidation Committees (LCs) in Regional Offices.

The Legal Department will provide significant input into all the activities including privatization, liquidation, procurement and specific cases such as Trepça.

### **2009 Major Initiatives**

All inherited work practices and procedures of Liquidation Committees created by its predecessor Agency will be reviewed, amended and improved to reflect legislative changes and benchmark best practice, which has been already achieved in great part.

The Liquidation Database will be converted from 'Access' to 'SQL' with new cross cutting security arrangements and significant improvements in capacity and report generation. This will facilitate more efficient LC reviews of creditor claims and accelerates the liquidation process.

PAK will increase its supervision over the SOEs in order to avoid the imposition of Direct Administration and also improve administration and management of the ones under the Direct Administration, which will be necessary to enable the Agency to continue with Privatisation and/or Liquidation.

The business plan indicates that by end 2009, a cumulative total of 250 SOEs will be fully or partially privatised.

PAK has inherited 166 privatisation contracts that remain to be completed, and it is planned that those will be dealt within 2009, which as mentioned earlier has been achieved in great part.

45 new Liquidations were planned to be presented the Board of Directors for approval (plus the restart of 120 inherited cases) and 55 Liquidation cases that were initially planned to be closed. However due to significant delays (over 12 months) regarding the appointment of the ICO representatives in the LC this targets obviously are not realistic anymore.

PAK will publish 53 initial lists that will be provided by five Regional Offices and 34 that are already with Liquidation department, respectively Workers Lists Unit. Agency has published 41 provisional lists, and PAK will aim to review all claims arising from initial lists in order to publish final lists, which has already been achieved.

With the assistance of ECLC funded Technical Assistance Team, emphasis will be on training staff so they will be fully trained and equipped with the technical knowledge to close Liquidation cases.

Preparatory work in relation to the SOE 'Tourist Centre Brezovica' will start. This will require the development of a thorough marketing plan, assistance of all interested parties and extensive promotion in order to capitalise an available market development opportunities.

### **2010 Major Initiatives**

During 2010, PAK will potentially initiate privatisation of around 50 SOEs (pending the results of the legal and financial analysis in relation to the alleged transformations claimed), by creating significant number of NewCo's in Gjakova municipality, which are claiming to be transformed into JSCs. This exercise will absorb a significant amount of staff attention due to complexity of the transformations.

Mid 2010 will see the breaking point where the pace of process shifts from privatisation to liquidation. This due the fact that all SOEs with no ownership problems, or so called clean SOEs, are already privatised and PAK will turn its attention to SOEs with difficult ownership issues. The shift from privatisations to liquidations is graphically illustrated in the overview summary below. Initially were planned 150 new liquidations to be started in 2010 and 120 existing cases will be closed, however this initial figures will have to be adapted as a result of the significant delays regarding the ICO appointments.

### **2011 Major Initiatives**

SOE Dragash Sharrprodhimi, SOE Bauxite Mine, and SOE Sharr Cement Factory are the ones that will be the main pending transaction in relation to privatisation. A number of SOEs that may present real challenge for privatisation may increase during 2010 and 2011 such as Trepça.

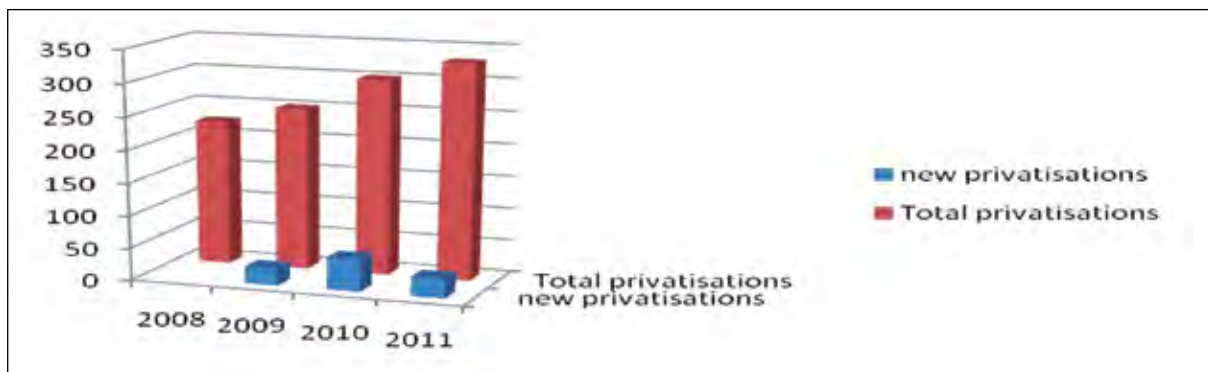
In 2011, PAK will make all endeavours to initiate and close the last group of around 140 liquidations and 170 cases will be closed. Depending on the status of the moratorium, attention may be focussed on Trepça issues through privatisation. PAK is likely to continue with privatising any remaining SOEs not yet privatised due to their complexity.

### **3 Year Privatisation Overview**

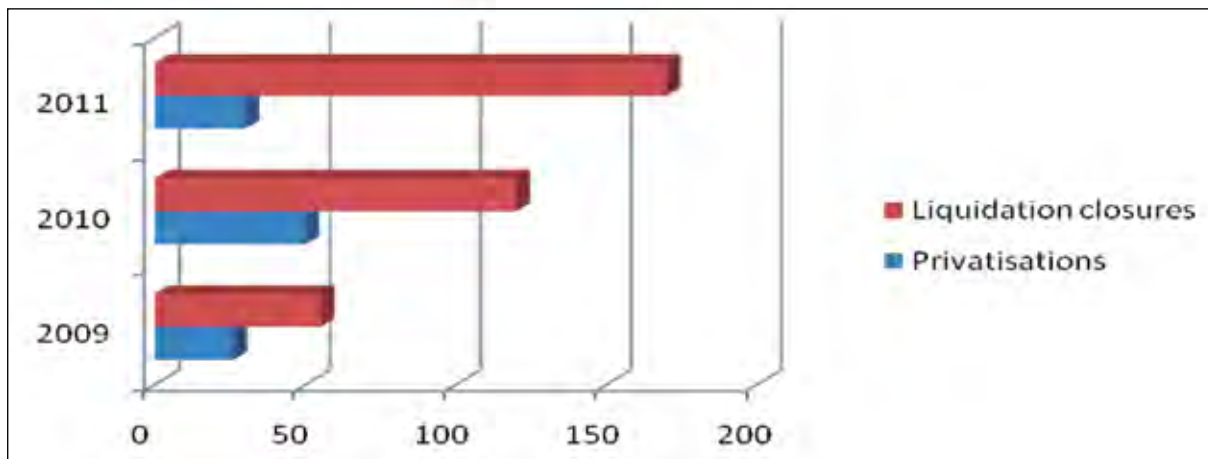
Privatisation for the 3 years under review will result in an estimated total of 106 cases over the period with 50 privatisations planned for 2010. The PAK currently will continue with sales through two methods: Spin – Off and Liquidation, while potential special spin offs are subject to possible amendments of the current legislation.

"Spin-Off"- "Liquidation"

An overview of privatisation activity follows:

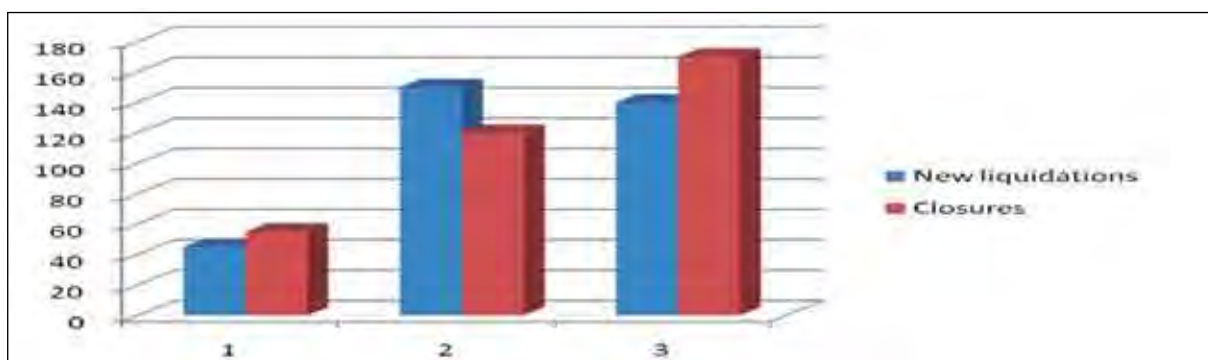


Privatisation is forecast to slow down whereas liquidation activity will increase as demonstrated in the chart below:



**3 Year Liquidations Overview**

Excluding the 120 existing cases that must be restarted in 2009, total of 335 new liquidation are planned. The total planned new liquidations and liquidation closures are shown in the following chart:



**Commercialisations (brought forward from UNMIK or DTI (former Department of Trade and Industry)**

There are several SOE’s commercialised by UNMIK. Since most of commercialisation contracts expire after 2011, these will be monitored during the 3 years under review. In the event that defaults occur, legal action will be initiated as appropriate.

## 8. OBSTACLES AND WAY FORWARD

### **Brief background on cease of mandate of former KTA**

Kosovo Trust Agency (former-KTA) was established by UNMIK Regulation no. 2002/12 and carried out its function within UNMIK Pillar IV. This Agency carried out its mandate until the end of June 2008.

On 04 of June 2008, KTA Managing Director, Jasper Dick has notified through a circular (submission) all courts in the territory of Kosovo including the Special Chamber of Supreme Court of Kosovo related to the possibility of ceasing of KTA mandate and inability of this Agency to deal with court cases related to its mandate.

In that submission it is stated as following, that whilst KTA transfers its authority to SRSG, Kosovo Government works to implement the legislation, which will establish the new Privatization Agency of Kosovo, which will have the same mandate as KTA.

Therefore, KTA Managing Director, Jasper Dick has requested through the abovementioned submission to suspend all court processes, in which being KTA or any other SOE, which is under KTA Administration, is a party, and this suspension starts to be implemented as **of 01 June 2008 up to 01 September 2008**, when it is expected to be functional the new Agency – PAK.

### **Suspension of procedural activities of courts in the territory of Kosovo including the Special Chamber**

Referring to the submission of Mr. Jasper Dick – Managing Director of former KTA of the date 04 June 2008 and Executive Decision no. 2008/34 for temporary suspension of Kosovo Trust Agency activity, Special Chamber of Supreme Court of Kosovo and other courts at the level of municipalities and of district in Kosovo have suspended all court proceeding that have to do with SOEs and their assets, in which KTA was a party.

Even though through this letter it was required the suspension of court proceeding and of activities as of 01 June 2008 up to 01 September 2008, this suspension has continued until the end of 2008, while for some cases even after January 2009. This happened due to the transfer of competences from former KTA to PAK, as independent public body established by law, as well as due to the fact of starting to functionalize the Special Chamber of Supreme Court, with UNMIK staff, by transferring the responsibility to EULEX staff.

### **Establishment of Privatization Agency of Kosovo**

Pursuant to the section 65(1) of Constitution of the Republic of Kosovo; The Privatization Agency of Kosovo is established as an independent public body that carries out its functions and responsibilities with full autonomy, by the Assembly of Kosovo Law No. 03/L-067, on the Privatization Agency of Kosovo.

PAK is established as the successor of the Kosovo Trust Agency regulated by UNMIK Regulation 2002/12 “on the establishment of the Kosovo Trust Agency”, as amended. All assets and liabilities of KTA shall be assets and liabilities of PAK.

The Agency takes upon all liabilities pursuant to UNMIK Regulation 2002/12, as amended, which the Agency itself or its successor caused. Board and the management of Agency fulfil all responsibilities of the Board or successor management appointed pursuant to UNMIK Regulation 2002/12 as amended.

Agency, respectively PAK Board is convened for the first time in August 2008, in order to continue the privatization process on which occasion was made the approval of organogram and operational policies of PAK in compliance with applicable law. Hereinafter the launch of Wave 34 of privatization for September 2008 is approved, etc. Without a delay, the Agency and its management, has started the work in organizing the staff and practical exercise of its mandate. As of this date until now the Agency has achieved to complete the recruitment of around 95% of the staff envisaged by PAK organogram.

### **Challenges with which PAK as successor of KTA is faced**

As of the begging the Agency in its work faced with several difficulties, which have impacted in the process of privatization and the work of Agency in general.

**- Key problem of the Agency was and continues to be the non-recognition of subjectivity of Privatization Agency of Kosovo by the Special Chamber of Supreme Court of Kosovo and on the other hand Kosovo Trust Agency continues to be recognized as litigant party and UNMIK Legal Office is invited, which is represented by KTA. The Special Chamber of Supreme Court of Kosovo by not recognizing PAK legitimacy as litigant party creates enormous difficulties in completion of court proceeding initiated in this Chamber, and which are connected directly with PAK and the process of privatization.**

-It is concerning on how UNMIK Legal Office through a submission of the date 22 June 2009 addressed to all courts in the territory of Republic of Kosovo by requesting that:

*"Having into account the fact that UNMIK will be responsible regarding administration and supervision of Socially Owned Enterprises and their property by Kosovo Trust Agency, this office needs all copies of orders and decisions issued as of June 2008 by the respective court of Kosovo, which have to do with Socially Owned Enterprises and their assets.*

*Due to this, this office would be grateful if you could order the secretary of the court to draft a list of court cases, which have to do with SOE related matters where would be included the orders and decisions issued as of June 2008.*

*This office would also be grateful if you provide us with copies of orders and decisions and permit the access to the files of a court to a representative appointed by UNMIK based on the list provided by the court secretariat and allow to this representative to get or make copy at the court as necessary".*

This request creates uncertainty and confusion that impact directly on the delay of privatization process.

Apart from the legal obstacles and the abovementioned practices it is worth to mention the fact that as of 17. 2. 2008, in Kosovo, all legal authorizations and competences, which SRSG and UNMIK possessed for administration of social and public property, were transferred to the legitimate bodies of the Republic of Kosovo, whilst through the Law on PAK, this right was entrusted exclusively to Privatization Agency of Kosovo by excluding UNMIK to be the legal successor of former KTA, which ceased to exist as well as its own Legal Offices.

- Also, the stance of Special Chamber of Supreme Court of Kosovo creates bigger confusion and dilemma, which by its own Directive **SCA - 09 - 0024** of the date 02 July 2009 requires from Privatization Agency of Kosovo to declare if the PAK official is the member of Chamber of Advocates of Kosovo or Serbia. This means that Special Chamber of Supreme Court of Kosovo does not recognize at all the existence de jure and de facto of PAK, which was established in compliance with Constitution of the Republic of Kosovo and Law on Privatization Agency of Kosovo approved by the Assembly of the Republic of Kosovo.

Subsequently, such a request, which is required by Special Chamber is in contradiction with the section 24.1 of Administrative Directive No. 2008/6, in which it is envisaged, that the Agency is excluded from this rule in relation to other parties in court procedure, because the Agency, according to the Law, can be represented by qualified lawyers from its own staff. Such a directive as it is this of Special Chamber is not understandable and it is illegal.

Another problem, which brings legal uncertainty and not regular functioning of PAK during the process of privatization in the Republic of Kosovo, is also the application of Law provisions for Privatization Agency of Kosovo in selective way, in the appealing procedure related to the workers list eligible to receive the 20% share of the proceeds from privatization of SOEs. The question can be posed whether which Law is relevant to the Special Chamber to review the processing of appeals, whether it is the Regulation no. 2008/4 as applicable law for the concrete case, or is the Law on Privatization Agency of Kosovo no. 03/L-067 of the date 21 may 2008. This court, due to formal reasons, which did not have impact on making the right decision to draft the final list of employees, annuls the list and hereby obstructs and makes more difficult the process of distribution of the proceeds from the 20% fund of SOEs.

The decisions of Special Chamber in many cases are based on another legal ground, on that of Law on Privatization Agency of Kosovo, and it does not recognize the subjectivity of PAK. Subsequently, the Special Chamber does not have a clear legal stance on which law is applicable in Kosovo. Promulgation of the law on SCSC as per Ahtisari plan is an imperative for the work of PAK.

Having into account, these circumstances, the Agency considers that it is more than necessary to harmonize the matters that have to do with legislative framework on which it is based the process of privatization in the Republic of Kosovo including also the stances of Special Chamber of Supreme Court in Kosovo. Also it is more than necessary to draw the law for the Special Chamber of Supreme Court of Kosovo through which law would be made the substitution of UNMIK Regulation.



**Assets of Socially Owned Enterprises Abroad**

Another important issue with which PAK is facing are also properties/ assets of SOEs which are out of territory of Republic of Kosovo and transformation of these properties from unauthorized persons, especially properties/ assets in Montenegro and Serbia.

Serbian Privatisation Agency is already selling assets of SOEs that are situated in the territory of the Republic of Serbia, such as the case of several shops of SOE Jatex, for which all relevant institutions of the Republic of Kosovo were duly informed. It should be noted that 55 SOEs have more than 155 assets in different republics of Former Yugoslavia.

In the courts of this state are being developed legal disputes since 2001 regarding SOE Rekreatours-Prishtina which has its assets in Kamenova - Budva (3.3 hectares) and Meat Industry with freezing – Fushë Kosova ( assets of this enterprise are located in different cities of Montenegro).

Researches are being done for identification of all properties of SOEs that are abroad, and one of them is the summer camp for children in Beçiq and Sutomore.

But despite the efforts of the Privatization Agency of Kosovo, the judicial authorities of Montenegro refuse to recognize the Privatization Agency of Kosovo as a party in the procedure related to these SOEs and at the same time they refuse the subjectivity of this Agency.

This makes the implementation of Article 5.2 of Law on Privatization Agency of Kosovo impossible.

Agency, in its own capacity has acted many times, exercising its legal mandate, and has undertaken correct actions related to representation and protection of SOEs interests and their assets. PAK staff was present in Montenegro courts two times for two SOEs, in separate cases, but we have faced insuperable obstacles from the courts of this state by not recognizing the subjectivity of the Privatization Agency of Kosovo as a party in the procedure which according to the law is a body with an exclusive competency for administration, management, sale and privatization of SOEs in Kosovo and abroad.

Unable to participate in court proceedings in a capacity of a party, the Agency has hired a legal company from Montenegro to represent the Privatization Agency of Kosovo related to protection of interests of SOE Rekreatours Prishtina. The same company is dealing with the case of the other SOE Meat Industry with freezing “ Kosova” located in Fushë Kosova in the legal dispute of the ownership issue of the SOE assets ( stores and administrative premises) in Montenegro.

The two cases are very complex and are almost similar regarding the nature of problems because in these cases we have to do with property transfer by unauthorized persons and transfer of SOE headquarters from Kosova to Montenegro.

Considering the developments with which is facing the Agency, in its scope of work, we think that concrete steps need to be taken in order to increase awareness of the relevant institutions of Republic of Kosovo and to require from them a communication in interstate diplomatic sphere by raising and tackling the above mentioned issues with the aim of finding an adequate solution.

**SOE assets occupied by UNMIK, KFOR, EULEX and Kosovo Institutions**

It is very important to emphasise that significant number of assets of SOEs are occupied by different international and local institutions such as: KFOR, UNMIK, EULEX, Government and Municipalities and privatisation of those will be delayed until such time that they are released and handed over to SOEs. PAK has already signed the Memorandum of Understanding with the Ministry of Public Administration in relation to assets occupied by the Institutions of the Republic of Kosovo. PAK is continuing to negotiate with other International Institutions in order to formalise lease agreements.

**Proposal for amendment of law on Privatization Agency Of Kosovo No. 03/L-067**

The new circumstances created in the Republic of Kosovo after February 17, 2008, had an impact in the course of Agency's exercise of mandate with difficulties and legal gaps of the procedural nature that resulted with a need for update and amendment of Law on Privatization Agency of Kosovo.

In this case, the Agency has presented some proposals for updating and amending the Law on Privatization Agency of Kosovo.;

**Proposal 1**

In Article 10.2, insert new paragraph c)

"c) shall establish the circumstances under which the Agency may require parties bidding for shares in Corporations to present a viable business plan for that Corporation, including proposed activities, investments and employment levels, and evidence of the financial means to make the investments anticipated in the business plan and specify how these criteria shall be taken into account by the Agency in evaluating a bid."

**Reasons**

The proposed new text is verbatim the same provision that existed under UNMIK Regulation No. 2005/18, which governed the operations of the Kosovo Trust Agency before succeeded by the Privatization Agency of Kosovo (PAK). Paragraph c) is a very important provision as it provides the legal authorization on the basis of which the PAK Board of Directors is entitled to regulate special spin-off procedures by operational policies. Paragraph c) has not been included into the PAK Law for reasons that are unknown to PAK. However, given that PAK has still many special spin-off contracts under its administration, and that the operational policies that PAK has adopted explicitly deal with such procedures it is considered necessary to reinstate the provision that has originally existed under preceding legislation as an enabling clause for the existing operational policies.

**Proposal 2**

Amend Articles 12.1 and 12.3 to read as follows:

"12.1 The Board shall consist of eight Directors.

12.3 The International Civilian Representative shall appoint three internationals as Directors of the Board and an international as Director of the Executive Secretariat of the Board, who shall not serve as a member of the Board. The Board shall also appoint one of its members, other than the Chairman, to serve as Vice Chairman."

**Proposal 3**

Amend Article 16.3 to read as follows:

"The Managing Director and the two Deputy Managing Directors shall be appointed by the Board on nomination by the Chairman. The procedures for appointment of candidates for Managing Director and Deputy Managing Directors nominated by the Chairman shall be set out in rules issued by the Agency. The Managing Director and the Deputy Managing Directors may at any time be dismissed by the Board. The Board shall determine the remuneration and other terms of service of the Managing Director and the two Deputy Managing Directors, without prejudice to Article 16.5 below. The Managing Director or one of the Deputy Managing Directors appointed by the Managing Director shall participate on a regular basis in the meetings of the Board; they may propose and discuss any agenda item but they shall have no right to vote."

**Reasons:**

Current Article 12 of the PAK Law provides that the Board of Directors, which is the decision-making body of PAK, has the Managing Director among its members. On the other side, the Managing Director is responsible for conducting the ordinary business of the Agency and for performing other executive functions as determined by law. This puts the Managing Director in a situation where he/she has at the same time decision-making powers and executive powers, i.e. he/she may vote on matters that he/she has to execute. This may clearly result in a conflict of interest, which under good governance considerations must be avoided. For the purpose of avoiding such conflict of interest, the proposed amendments intend to establish a clear separation between Board and executive management, which is an organizational structure applied among other independent bodies in Kosovo.

**Proposal 4**

Insert a new Article 31.4, which reads as follows:

"31.4 Whenever executive decisions issued by the Special Representative of the Secretary-General related to the administration, privatization and liquidation of socially-owned enterprises, and contracts to which the Kosovo Trust Agency is designated as party, require the approval, permission or in any other form an authorization of the Special Representative of the Secretary-General, such approval, permission or authorization shall be given by the Board of Directors of the Privatization Agency of Kosovo."

**Reasons:**

Prior to the entry into force of the Constitution of the Republic of Kosovo, the operations of the Kosovo Trust Agency - now succeeded by the Privatization Agency of Kosovo - have been governed by UNMIK legislation under so-called reserved powers of the Special Representative of the UN Secretary-General (SRSG). Acting under such reserved powers, the SRSG has been designated in contracts as the authority to approve certain transactions, e.g. to approve the exercise of a call-option under commitment agreements signed between the Agency and the buyer of a socially-owned enterprise under special spin-off procedures. The SRSG was imposed as the authorizing authority to ensure that UNMIK keeps control of operations that are undertaken under SRSG reserved powers and to ensure conformity with UNSC resolution 1244. This is no longer required under Kosovo's new constitutional order.

While the PAK Law has been adjusted to replace any reference to UNMIK and SRSG, this has not happened yet with other legislation related to the operations of the Agency. Further to that, there are a number of contracts to which the Agency is a party, which also need to be adjusted to reflect the new legal framework under the Constitution and the Comprehensive Proposal for the Kosovo Status Settlement (the Proposal). The proposed new article 31.4 is meant to be an enabling clause allowing the Board to succeed in the authority of the SRSG to approve certain transactions.

The Board is considered to be the most appropriate body to succeed in said powers of the SRSG. Under the Proposal, the Agency is the public body that has exclusive authority to administer, privatize and liquidate socially-owned enterprises and their assets. The Agency is set up as an independent body, which is accountable to the Assembly and which is independent of the executive branch. For these reasons, the Prime Minister and the Government have been excluded as possible successors to aforementioned SRSG authorities as otherwise the Agency, as an independent body, would have been placed under a certain degree of control by the executive branch, which is contrary to the wording and spirit of the Proposal and existing legislation.

Vesting the authority to approve certain transactions in the Assembly would result in a politicization of a technical and managerial operation. The conditions under which the Agency can exercise a call-option are set out in detail in the respective commitment agreements. Politicizing such an operation would bear many risks, including that of delayed action, which would result in financial losses possibly with significant social and economic impact.

The Board itself is composed of international and local members. It also has the requisite legal and procedural safeguards to ensure that any decision taken by the Board is in accordance with applicable law and recognized human rights standards. In view of these safeguards and given the fact that the Board is most familiar with any contractual arrangements the Agency has entered into, the Board is considered most suitable for succeeding in the authority of the SRSG as explained above.

**Amendments in relation to liquidation process**

Legal Department considers that it is needed to make changes and update the Law on PAK. As well as regarding the liquidation procedure even though according to this law this procedure is very long and overloaded and as such is unfavourable for the parties and the agency as well.

According to Law on PAK the liquidation procedure till the final realization of a creditors request including the appeal procedure, lasts till 270 days for each request.

The Agency in its action plan for liquidation, has created 120 Committees of Liquidation for liquidation of assets of enterprises which are privatized and for those that are sold for the first time through liquidation.

We consider that during the liquidation process it is needed to harmonize the Law on PAK with the Administrative Directive 2007/1 and to make efforts to shorten deadlines for review or requests of claiming creditors by Liquidation Committees and Liquidation Review Committees and to find a reasonable timeframe in order to precipitate the procedure of request review.

All this with the aim of effective and successful implementation of PAK mandate.

Agency has prepared a Manual which is about to be approved by PAK Board of Directors which regulates the procedure for distribution of 20% from proceeds of SOE privatization. This manual regulates the whole procedure of distribution of 20% from privatization proceeds starting from compilation of provisional lists till the completion of administrative procedure within PAK and Special Chamber of Supreme Court of Kosovo.

**Draft law granting the use and exchange of real estate between SOE and municipality**

PAK has formed the working group which is dealing with drafting the law for granting the use and exchange of the real estate between the SOE and municipality.

The aim of this draft law is to set the procedure according to which the municipality grants the use of the municipal real estate and its exchange with a socially owned real estate under administration of the Privatization Agency of Kosovo for purposes of public interest.

This draft law determines the method of granting the short-term use till 10 years and the long-term over 10 years and not more than 99 years, exchange of municipal the real estate with a socially owned property under administration of Privatization Agency of Kosovo, monitoring and registration of the municipal real estate.

## Conclusion

PAK strongly believes that there is an urgent need regarding the amendments to the current legislation related to the activities of PAK and the Special Chamber of the Supreme Court of Kosovo and their full compliance with the provisions of the Comprehensive Status Proposal of President Ahtisari.

These necessary adjustments in the current legislation are required in order to enable the proper functioning of the PAK and SCSC of Kosovo which un-doubtedly will accelerate the overall process of privatization and in particular liquidation and the distribution of 20% to the eligible employees by allowing the PAK to fulfil its mandate within given time frame.

Nevertheless, until such amendments take place, the PAK will adhere to the full extend and will continue its operations in full accordance with the current legislation. Bearing in mind that the current legislation, in particularly to the liquidation, foresees that completion off a single liquidation process for one SOE, post privatization of its assets, takes approximately 42 months. Considering the fact that the portfolio of the enterprises under the PAK administration counts 599 SOE's, despite the evidence that significant numbers of Liquidations can be carried simultaneously and that the liquidation process of 120 of SOE had been restarted, still in practice, it is impossible to complete all of them within minimum next 5 years.

In addition, due to the very high uncertainty in relation to the SOE assets outside the territory of the Republic of Kosovo, impossibility of PAK to privatise strategic SOEs through Special Spin Off method, it is expected that PAK will be faced with probable delays in completion of those respective privatisation and liquidations.

I would also like to reiterate the outmost need of promulgation of the law that will enable land swap procedures between different institutions of the Republic of Kosovo and SOEs for the general interest.

Finally, I would like to express my gratitude to the European Commission Liaison Office (ECLLO) in Kosovo for the financial support.

Dino Asanaj,

Chairman of the Board of Directors  
Privatisation Agency of Kosovo