

UNIVERSITY OF LJUBLJANA

FACULTY OF ECONOMICS

DIPLOMA PAPER

PETRA FARČNIK

UNIVERSITY OF LJUBLJANA

FACULTY OF ECONOMICS

DIPLOMA PAPER

**THE PRIVATISATION PROCESS IN KOSOVO:
AN OVERVIEW AND SOME
RECOMMENDATIONS**

Ljubljana, December 2007

PETRA FARČNIK

STATEMENT

I, Petra Farčnik, student of the Faculty of Economics, state that I am the author of this diploma paper, whose mentor was doc. dr. Polona Domadenik. I do permit this paper to be published on the faculty's web pages.

In Ljubljana, date _____ Signature: _____

TABLE OF CONTENT

1. INTRODUCTION.....	1
2. PRIVATISATION.....	2
2.1. Definition of privatisation	2
2.2. Why privatise	3
2.3. The objectives of privatisation	4
2.4. Constrains facing privatisation policies	4
2.5. Do the different privatisation methods matter?.....	5
2.5.1. Mass privatisation to outsiders and insiders.....	7
2.5.2. Direct sale.....	7
2.5.3. Other privatisation methods	8
2.6. Privatisation proceeds	8
2.7. Privatisation in former Yugoslavia	10
2.8. Can we learn lessons from the different privatisation methods?	10
2.9. How to attract foreign investors?	12
3. PRIVATISATION IN KOSOVO.....	14
3.1. Kosovo in general.....	14
3.1.1. Key economic factors.....	14
3.1.2. The United Nations Mission in Kosovo	16
3.1.3. The resolution of Kosovo's political status.....	17
3.2. The start of privatisation	17
3.3. The Kosovo Trust Agency (KTA)	19
3.4. Methods for privatising the SOEs based on the KTA's rules	19
3.4.1. Voluntary liquidations.....	19
3.4.2. Spin-offs.....	20
3.5. The privatisation process.....	21
3.6. Privatisation proceeds and the KTA trust fund	23
3.7. The problems of the privatisation process.....	24
3.7.1. The value and ownership of the assets	24
3.7.2. Socially-owned immovable property	24
3.7.3. Redundant workforce	25
3.7.4. Decline in first bidders completing their purchases.....	25
3.7.5. Participation of the Serbian government.....	25
3.7.6. Problems with the special spin-offs	25
3.8. Has privatisation in Kosovo been a success?	26
4. PROPOSAL FOR THE CONTINUING PRIVATISATION IN KOSOVO.....	29
5. USE OF THE PROCEEDS	32
5.1. Further development of the private sector.....	33
5.2. Development of infrastructure	34
5.3. Subsidiaries for the special spin-offs	34
5.4. Institutional framework and law enforcement	34
5.5. Existence credit	35
5.6. Financial sector development.....	35
5.7. Investment promotion	35
5.8. Country integration	36

6. CONCLUSION	36
POVZETEK	39
BIBLIOGRAPHY	49
SOURCES	51
APPENDIXES	1

CONTENTS OF TABLES

Table 1: Method of privatisation in European transition countries.....	6
Table 2: Proposal for the continuing privatisation in Kosovo	29
Table 2: Proposal for continuing privatisation in Kosovo, continuing from previous page	30
Table 2: Proposal for continuing privatisation in Kosovo, continuing from previous page	31

CONTENTS OF FIGURES

Figure 1: Benchmark model.....	12
Figure 2: SOEs available for privatisation	18
Figure 3: SOEs and NewCos in the process of privatisation	20
Figure 4: Privatisation proceeds received and estimated value of paid and pending sales contracts for December 1, 2006 (1) and October 1, 2007 (2)	22

LIST OF ABBRIVIATIONS

BIS	Bank for International Settlement
CBAK	Central Banking Authority of Kosovo
CEE	Central-eastern European countries
CIS	Commonwealth of independent states
EBRD	European Bank for Restructuring and Development
ECIKS	Economic Initiative for Kosovo
FDI	Foreign direct investment
EU	European Union
GDP	Gross domestic product
IMF	International Monetary Fund
IPAK	Investment Promotion Agency of Kosovo
KEK	Kosovo electric company
KTA	Kosovo Trust Agency
N.A.	not available data
NATO	North Atlantic Treaty Organization
NewCo	New Company
PIGS	Provisional Institutions of Self-government
POE	Publicly Owned Enterprise
SEE	South-eastern European countries
SME	Small and Medium Sized Enterprises
SOE	State Owned or Socially Owned Enterprise
SRSG	Special Representative of Secretary General
UN	United Nations
UNMIK	United Nations Mission in Kosovo
WB	World Bank

1. INTRODUCTION

“Kosovo Trust Agency has successfully privatised 311 former Socially owned enterprises and received 340.790.796 EUR privatisation proceeds, which are locked on KTA special frozen account. Kosovo privatisation process showed success on every step and we are very satisfied with the privatisation process revival from 2004 to date.” Ahmet Shala, Deputy Director of Kosovo Trust Agency, Vienna, November 7, 2007

The numbers are breathtaking and reveal the Kosovo economy’s progress, but can privatisation that has occurred there be considered as successful? Later on the question arises of why the proceeds have been locked up and not reinvested. In order to make any judgement about the success of privatisation, it should be studied more thoroughly. In addition, a closer study of the process should provide answer as to, whether privatisation in Kosovo has resulted in enhanced the enterprises’ efficiency and how much the success has been dependant on foreign investors.

The objective of this thesis is, after a study of other privatisation processes in transition countries, to develop a benchmark for a successful privatisation method and to compare the Kosovo process of privatisation and based on, to make suggestions for the efficient use of the proceeds to create a favourable environment economic development. In addition I will try to estimate whether privatisation in Kosovo and the method itself is appropriate to attract foreign investment, which would bring know-how and technology. My hypothesis is, that given the fact that Kosovo’s privatisation was considered to enhance the development of its economy much more can still be done to enhance firm efficiency, and more importantly to attract investments. Further I assume that foreign ownership can be encouraged by the better allocation of privatisation proceeds. The reason I decided to study the case of Kosovo’s privatisation is that, in my opinion Kosovo promises investors good opportunities, which can generate development of Kosovo and the region as a whole.

State and public enterprises are considered as being less efficient for a number of reasons, including political interference and their pursuit of objectives other than profit maximisation, their employment of redundant workers, the lower quality of their managers and low level of innovation, less product differentiation and customer orientation, and insufficient resource allocation. Greater efficiency can be achieved with a change of ownership – privatisation.

Privatisation is crucial for the development of the economy and is one of the most important elements of the continuing global phenomenon of the growing use of markets to allocate resources. With the change of ownership together with the introduction of new technologies, ideas, management styles and fresh capital, greater enterprise efficiency can be achieved. In addition to boosting economic development and growth, the proceeds of privatisation can be used efficiently by the government. Overall privatisation leads to an increase in the efficiency of the national economy and helps to secure efficiency gains for the economy as a whole.

Privatisation is still an ongoing process in many transition countries; however, the aim of this paper is to study privatisation in Kosovo. Privatisation is essential for Kosovo's sustainable economic development because it promotes the productive use of state-owned assets and land, promotes long-term investment in industry, creates new businesses, creates new job opportunities and promotes a growing private sector. The stagnation of agricultural and industrial production in Kosovo has turned Kosovo's economy into one that is import-driven with an immense trade deficit. Privatisation which would transfer the ownership of socially-owned enterprises into private hands would also enable a change in ownership in the agricultural and industrial sectors. The new capital hopefully generated by foreign investments would provide much needed restructuring and enhance enterprise efficiency and generate the economy's development. In addition, new enterprises would provide new competitive products for both the domestic and foreign markets and hopefully reduce the trade deficit. In addition, privatisation and the restructuring of the telecom, mining and energy sectors must also be introduced.

In order to understand the privatisation process in Kosovo I will study the privatisation in other transition countries to assess whether the privatisation method in Kosovo was efficient enough to attract foreign investment, which is the factor believed to bring the most benefits to newly privatised companies. First, a study of the privatisation process in transition countries is conducted. For a better understanding of privatisation in Kosovo a short outline of privatisation in former Yugoslavia is also given in this chapter. The second chapter concludes with attempts to develop a best practice model (a benchmark) for privatisation. In third chapter, privatisation in Kosovo is described. First a short outline of the Kosovo economy is given followed by an overview of the privatisation process in Kosovo. In Chapter 4 a proposal for continuing the privatisation based on a benchmark model is made, which is complemented in the next chapter by the use of the proceeds. I conclude with a short outline and the results of my study and establish whether my hypothesis is confirmed.

2. PRIVATISATION

2.1. Definition of privatisation

Privatisation has been underway in transition countries since the end of the 1980s. A transition country is a country whose economy is changing from a planned to a market economy (Falke 2002, pp. 2 – 5). A transition country seeks the liberalisation of economic activity, prices, market operations and the efficient allocation of resources; macroeconomic stability with the development of indirect, market-oriented instruments; providing better initiatives and corporate governance which enables companies to respond to market activity which is mostly realised with privatisation; applying hard budget constraints which enable better efficiency and the creation of an institutional and legal framework (Havrylyshyn, Wolf, 2001, pp. 12 - 15).

All the countries in Europe and Central Asia that have gone through the process of transition and privatisation can be divided into three groups¹ (EBRD Transition Report, 2006, p. 34):

- Central and Eastern Europe and the Baltic States (Czech Republic, Estonia, Hungary, Latvia, Lithuania, Poland, Slovak Republic and Slovenia) – hereinafter referred to as ‘CEE’,
- South-east Europe (Albania, Bosnia and Herzegovina, Bulgaria, Croatia, FYR Macedonia, Montenegro, Romania and Serbia) – hereinafter referred to as ‘SEE’; and,
- The Commonwealth of Independent States and Mongolia (Armenia, Azerbaijan, Belarus, Georgia, Kazakhstan, Kyrgyz Republic, Moldova, Mongolia, Russia, Tajikistan, Turkmenistan, Ukraine, Uzbekistan) – hereinafter referred to as ‘CIS’.

Since Kosovo is formally still part of Serbia, Kosovo is also a transitional country with an economy in transition among the SEE countries.

One of the primary goals of transition is the privatisation of state-owned and socially-owned enterprises (‘SOEs’), which enables the transformation from a socialist to a market economy. SOEs are enterprises in state hands and carry out government orders. In social systems socially-owned enterprises emerged, meaning the same as the state-owned ones except that society is deemed to be the owner. Privatisation generally means the governmental sale of companies and other property in state hands to private economic agents (Megginson, Netter, 2001, pp. 2, 3). Privatisation is defined as the transfer of controlling rights from the public to the private sector (Lopez-Calva, 1998, p. 1). It is a transaction or a series of transactions reliant upon sound laws and defensible property rights. It is also a process via which governments convert state-owned businesses into corporations, undertake financial and operational restructuring to prepare enterprises for sale, define procedures to ensure transparency and fairness, and allocate proceeds (WB definition, 2007). Privatisation programmes in transition economies change the principals of the economy and the enterprise, functioning through the creation of corporate governance mechanisms, the market institutions and establishment of a self-sustaining economic and political reform process (Djankov, Murell, 2002, pp. 739 - 792).

State enterprises typically achieve productivity levels that are only one-third to one-half of private firm productivity and the level is often significantly lower. Some reasons for this are that SOEs lack investment capital, leading to the poor delivery of service that has a wide economic impact (Megginson, Netter, 2001, p. 42).

2.2. Why privatise

Privately-owned firms are believed to be more efficient than state-owned ones (Hanousek, Kocenda, Svejnar, 2005). One reason is the difference in objectives between government and

¹ Among transition countries which are not part of Europe and the Central Asia group of Eastern Asia and Pacific countries, the Middle East and South Africa, South Asia, Latin America with Caribbean Islands and Sub-Saharan Africa.

private agents because politicians are preserving different goals other than economic efficiency. While the shareholder-wealth-maximising model of a corporate organisation is becoming increasingly dominant, governments have objectives other than profit or shareholder-wealth maximisation (Megginson, Netter, 2001, p. 9). Further, government objectives can change from one administration to the next and the inability to credibly commit to a policy and the lack of commitment can significantly reduce the efficiency of a firm's operations and governance.

Privatisation is expected to boost the efficiency of the allocation of resources. Privatisation sets up the correct incentive structure in the economy, attracts managerial and technological resources from the private sector, and broadens private ownership. There are also benefits at the macroeconomic level. If done correctly, privatisation can lead to lower fiscal deficits and a more developed financial sector (Lopez-Calva, 1998, p. 30). In addition, the greater efficiency of the private sector also has a multiplying effect on the growth and development of the economy. Using data from 21 developing countries and 79 newly privatised companies, significant increases were found in profitability, operating efficiency, capital investment spending, output, total employment and dividends (Boubakri, Cosset, 1998, pp. 1091–1110).

2.3. The objectives of privatisation

In order to understand why transition countries are so devoted to privatisation, the objectives of privatisation have to be discussed. The theory argues the main objective is greater efficiency and this is achieved by better allocation and production, a better matching between managerial talent and productive assets and better incentives for managers. Greater efficiency goes hand in hand with restructuring in newly privatised companies. Restructuring can be defensive, which means taking measures to reduce costs and scale down unprofitable enterprise activity with the goal of the immediate survival of the enterprise and the long-lasting goal of maximising the enterprise's value. It can also be strategic, which refers to the innovation and investment necessary to enhance enterprise performance with new product lines, technologies and investment. However, both can be done simultaneously (Roland, 2000, pp. 232-236).

Others objectives followed by governments aim to strengthen the role of the private sector in the economy, to improve public sector finance and to free up resources for allocation to other important areas of government activity, to improve the fiscal position, particularly where governments have been unwilling or unable to continue to finance the deficit in the public enterprise sector, and the development of the domestic capital market (Lopez-Calva, 1998, pp. 9, 10). Also the maximisation of the revenue from the sale is one of the objectives of privatisation.

2.4. Constrains facing privatisation policies

Privatisation policies must consider the large amount of assets needed to be privatised and many constraints slow down the success of privatisation. We can outline five constraints that are important in the case of Kosovo (Lopez-Calva, 1998, pp. 7-11; Roland, 2000, pp. 236-239):

Political environment

The political environment is a relative constraint in two basic ways. First, transparency plays a very important role in enhancing political acceptability because competitive and open processes are politically more acceptable. Second, the way in which the process affects insiders like unions and managers influences the outcome of the sale. A successful arrangement with insiders opens up more options during the sale by, for example, bringing in more potential buyers.

The Stock-Flow Constraints

Due to the absence of pre-existing private wealth the stock of state assets could be sold against the flow of annual savings of the population plus a small stock of pre-existing savings. The stock-flow constraints can be partially relaxed through the importing of capital but cannot be eliminated because of international capital market imperfections, exchange rate risks, a lack of information, and uncertainty surrounding the institutions of transition economies.

Informational constraints

Privatisation agencies face informational constraints of the best owner to whom the allocation of state assets would be maximised. Information constraints are even higher in markets where basic instruments do not function well and in countries in transition.

Administrative constraints

The rareness of good administrative skills is a problem in many privatisation processes. The demand on the administration varies with the different privatisation policies.

Market Structure Constraints

The market structure in which firms operate after their privatisation is a key to the design of their sale. A well-functioning market is believed to contribute to faster privatisation; unfortunately however this was not the case in transition economies where competitive markets had to be established first.

2.5. Do the different privatisation methods matter?

The method ought to be chosen after considering the specific objectives of the privatisation process, as well as the political and institutional constraints the government faces, and the market structure in which the firms will operate after their sale (Lopez-Calva, 1998, p. 5).

Despite the fact that many transition countries in Europe and Central Asia have tackled more or less the same problems, the type of privatisation they have applied varies amongst them. In general, the privatisation method depends on the following factors (Megginson, Netter, 2001, p. 17): i) the history of asset ownership; ii) the financial and competitive positions in SOE; iii) the government's ideological view of the market and regulation; iv) the past, present and future regulatory structure; v) the interest of different groups about payment from privatisation funds; vi) the government's ability to be seen as credible and to win the respect of investors and their rights; vii) the requirements of financial markets and the present institutional framework; and

viii) the sophistication of potential investors and willingness of the government to allow foreign ownership.

Due to the enormous size of the total assets to be privatised in transition countries and the fact that pre-existing wealth was not present, new privatisation methods needed to be created. The first method is mass privatisation through vouchers with the main objective of speed, and the opposite method of a gradual sale which is believed to enhance economic efficiency and achieve revenue maximisation. The answer to the question of why the privatisation method matters goes beyond the core corporate governance of the privatised firms and the restructuring outcomes because the method also has an impact on the macroeconomic situation, on public finances, on the development of the financial sector, and more broadly on political and institutional stability. Dealing with privatisation can also have more lasting effects on wealth distribution and the evolution of laws and political institutions (Roland, 2000. pp. 229-230).

The methods of privatisation differ among the transitional countries and different combinations of direct sales, managerial buyouts and vouchers have been used (see Appendix 1). Among privatisation methods, one of the distinctions is whether firms are sold (cash and non-cash sales – the case of Hungary) or given away. The second distinction is whether assets are transferred to outsiders, namely outside domestic and foreign investors, or to insiders, usually managers and sometimes workers. The third distinction is between top-down privatisation where the government takes the initiative for privatisation and bottom-up privatisation where the initiative comes from outside investors or managers of the firm.

Table 1: Method of privatisation in European transition countries

	<i>Top-down</i>	<i>Bottom-up</i>
<i>Giveaway:</i>		
To insiders	Russia	
To outsiders	Czech Republic	
<i>Sales:</i>		
To insiders		Poland (non-cash), Hungary (non-cash)
To outsiders	East Germany	

Source: Roland, 2000, p. 231.

An active privatisation policy is efficient for the growth of the private sector in terms of percentage of GDP. Countries like Russia and the Czech Republic, which have undergone mass privatisation, had the highest growth of the private sector with respect to GDP (Russia from 25 to 50 percent between 1992 and 1994 and the Czech Republic from 30 percent in 1992 to 65 percent in 1994), whereas countries like Slovenia and Ukraine that did not have very active privatisation policies had the slowest private sector growth (Roland, 2000, p. 233).

Some privatisation methods may also generate more government revenue than others. Greater revenue will tend to raise a government's ability to spend on infrastructure with a potential

positive feedback on aggregate productivity. Different privatisation methods also have different effects on capital market development.

2.5.1. Mass privatisation to outsiders and insiders

Mass privatisation occurs when a substantial portion of an economy's public assets is transferred to a large group of private buyers in order to achieve dispersed ownership (Lopez-Calva, 1998, p. 12). This is generally done through the public distribution of shares to the citizens, either for free or for a minimum charge. The distribution is carried out by giving vouchers to the population that can be exchanged for stock in a bidding process. Privatisation to outsiders is preferred to the method involving insiders because efficient matching and the replacement of incompetent managers are achieved. During the process of mass privatisation privatisation funds are also established and a decision on insiders' versus outsiders' participation has to be made.

This policy has chiefly been taken on in transition economies, namely Russia, the Czech and Slovak Republics, Lithuania, and Poland, with slight variations in each case. In the Czech Republic, the aims of managers to start with restructuring signalled to potential investors which are the best companies and which are more prone to bring in fresh capital. Second, also small shareholders were able to sell their shares after a year, which made the problem of dispersed ownership less acute.

Mass privatisation to insiders can bring even more inefficient management and no strong outsider control than mass privatisation to outsiders. Both types tend to provide insufficient outside finance for strategic restructuring (Roland, 2000, pp. 245, 246). In addition, insiders do not tend to have knowledge about the competitive environment nor the necessary market experience, let alone the drive and vision to undergo a restructuring (Frydman et al., 1997, pp. 44, 45). Mass voucher privatisation would have had a better chance of producing more restructuring and less corruption if the legal framework, investment funds, and capital markets activities had been sharply enhanced and enforced from the very beginning (Transition: the first ten years: analysis and lessons for Eastern Europe and former Soviet Union, 2002, p.78).

2.5.2. Direct sale

A direct sale to a strategic investor is the transfer of ownership and control to private investors whose expertise ought guarantee the successful performance of the firm in a competitive environment (Lopez-Calva, 1998, p. 13). The main disadvantages of this method are the lack of competition – a small number of investors bidding for the company and uncertainty regarding the real value of the assets. Further on this method does not contribute to the development of the financial market, nor does it give an opportunity to small investors. The advantage, however, is that this type of transaction allows the government to sell off small firms when a public offering of stock in the market would not be cost-effective. In addition, higher revenues can also be accumulated, especially in low-income countries. The transfer of ownership can be done through either competitive bidding or a privately negotiated deal. An open competitive bidding process has several advantages over a privately negotiated sale: it enhances political acceptability; it maximises revenues for the government when properly designed; it reduces the possibility of ex-

post political distress and, from a theoretical point of view, it assigns the company to the most efficient investor (Lopez-Calva, 1998, p. 13). A direct sale has two forms (Roland, 2000, pp. 246-248):

Top-bottom sales to outsiders

Top-bottom sales mean that the state's share of enterprises is sold at competitive auctions and is more likely to allocate assets efficiently and reduce the speed of privatisation so as to increase the revenues from it. Further, competitive auctions decrease information asymmetry and increase the likelihood of selling the assets to more efficient buyers. They also lead more naturally to strategic restructuring since buyers are willing and able to put up the funds necessary for new investments. The privatisation agency faces a dilemma between a fast sale and low revenues and a slow sale and high revenues. The top-bottom sale approach was in use in East Germany.

Gradual bottom-up sale to outsiders

A gradual bottom-up sale to outsiders means that one or several potential buyers, insiders or outsiders, signal their interest to purchase a firm. As private investors are more interested in high quality assets good firms tend to be privatised first.

2.5.3. Other privatisation methods²

There are also other methods of privatisation. Also very common among transition countries is a management-employee buyout. This method was mostly used in the primary privatisation of medium-sized and large enterprises. The aim of this method is to enable the previous management and employees to purchase the company for which they work.

2.6. Privatisation proceeds

Overall privatisation is a revenue-generating process which means that when state-owned assets are privatised the market receives an extra inflow of capital. The cumulative value of proceeds raised by privatising governments exceeded USD 1 trillion during the second half of 1999 (Gibbon, 2000, pp. 4, 5). As an added benefit, this revenue has come to governments without them having to raise taxes or cut other government services. According to the World Bank Proceeds Survey in Appendix 2 privatisation was a great contributor to the national budget in transition economies after 2000. The peak came in 2005 when the revenue amounted to a total of USD 32,586 million in Europe and Central Asia. The highest privatisation proceeds were gathered in the Czech Republic, Poland, Turkey, Hungary and the Slovak Republic, while the others are still far behind (i.e. the Kirgiz Republic). Gross receipts transferred to the budget are affected by actions prior to the sale, the sale process and of course the privatisation process. A direct sale generates more revenue for the government than mass privatisation.

² One of the other methods is a public offering ('IPO'), mostly in use in countries where the capital market is developed and for large enterprises. The second method is a mixed sale which involves a mixture of a direct sale to a strategic investor and an IPO. Also the method through restitution is in use when land or an enterprise can be returned to the original owner.

Every government should evaluate the different uses of proceeds and should reflect the implications for the government's net worth and the macroeconomic impact which depends on whether the receipts come from domestic or foreign sources, the degree of capital mobility and the exchange regime. Privatisation proceeds are usually seen as allowing (Bennett et al. 2000, pp. 1-43):

- **higher expenditure;** privatisation receipts are temporary and often uncertain, thus it is unadvisable to rely on them for current spending. Targeted use to help cushion the short-term social impact of privatisation may be appropriate;
- **a reduction in net debt,** which is achieved by retiring debt or building up assets, with the choice determined by debt management considerations;
- **relaxing the fiscal constraint,** when proceeds might play a limited role in providing a temporary cushion for countries pursuing aggressive adjustment and reform programmes;
- **paying off the liquidation stakeholders;**
- **decrease the tax rate,** when privatisation revenues can compensate lost tax income when the tax rate is lower, which increases the competitiveness of companies in the world market due to their lower tax expenditure;
- **financing economic programmes;** and
- **boosting reserves** or forming a reserve fund in a foreign currency that can be held abroad.

The most efficient method is to use proceeds to retire debt, both domestic and foreign, due to the widespread economic benefits because it can help lower interest rates, reduce borrowing and inflation and boost overall growth (Kikeri, Nellis, 2002, p. 14).

The best way to use privatisation proceeds for Kosovo is to see how other countries have proceeded. Several countries (including Hungary and Poland) have used privatisation proceeds to pay off public sector debt. But most countries have used their privatisation receipts for general government expenditure or for capital spending and other unspecified uses. Only the Czech Republic used its privatisation proceeds to settle the liabilities of divested firms and the remainder was spent on housing and infrastructure development, which helped smooth the impact on aggregate demand (Mihaljek, 2005, p. 84).

The sector distribution of privatisation proceeds from 1990 to 2003 shows that half of the privatisation proceeds were invested in infrastructure, following contributions to increase the competitiveness of the economy (19%), the energy sector (15%) and financial activities (13% of the proceeds) (Kikeri, Kolo, 2001, p. 13).

Many emerging market economies have channelled at least some of the receipts from the sale of state assets through special privatisation accounts set up at the central bank or other government agencies in order to eliminate currency risk (Czech Republic, Poland and Hungary).

2.7. Privatisation in former Yugoslavia

Privatisation in Eastern European countries was a vital component of any attempt to restructure the centrally planned economy. In contrast to other centrally planned economies where the state sector was responsible for the vast majority of products, in Yugoslavia the private sector as a more developed and socially-owned sector was responsible for a smaller proportion of the total output. The state, however, assisted SOEs through subsidiaries or rescued them from bankruptcy by writing off their debts (Mulaj, 2006a).

The privatisation of SOEs was facilitated by the Law on Social Capital (Official Gazette of the Socialist Federal Republic of Yugoslavia Nos. 84/89 and 46/90), also known as the Marković Law. Very favourable terms were provided to employees to buy internal shares³. The implementation of this privatisation programme continued till 1991 when the privatisation of social ownership remained a challenge for the newly established successor states. Each adopted their own privatisation law and established privatisation agencies to continue with the privatisation process (see Appendix 3). The methods were adopted variations to the Marković law whereby enterprise assets were sold to insiders on very favourable conditions. Kosovo, however, decided on a different privatisation method due to time differences.

Because of the inside ownership of employees, restructuring was the main obstacle to enhanced efficiency. Due to a lack of capital investment consequently reducing costs by closing unprofitable activities down, job cuts, and getting rid of outdated and non-productive technology, a secondary privatisation to outside investors followed.

The new diverse owners had little knowledge about companies and the restructuring was therefore slow. The lesson learned was that whenever outside investors were present in the ownership, corporate governance and enterprise performance was better than in those that were privatised differently (Mulaj, 2006b). Because of a privatisation method which favoured insider ownership, the poor political and economic environment and insufficient transparency, foreign investment to support restructuring and improve corporate governance was less than expected (Mulaj, 2006b).

Another problem was the insufficiency and inexperience of institutions and policy-makers to carry out privatisation in a consistent way (Mulaj, 2006b). This has undermined the results significantly. In addition, the threat of a winners' group made up of people well-connected to the government could occur, like in Croatia and Serbia. This may lead to great corruption. The overall privatisation of a SOE in a successor state has not benefited economic efficiency in the short and medium term.

2.8. Can we learn lessons from the different privatisation methods?

Overall mass privatisation is acceptable for countries where the transition process has just started in order to achieve a critical mass of private enterprises and for countries with high political

³ A discount of 30%, which was enhanced by another 1% for each year of employment – thus the overall discount could be as high as 70% of the nominal value of shares. Each employee could buy shares at a nominal value up to three times their annual personal incomes.

constraints. Because both methods of mass privatisation tend to violate fiscal constraints, the danger of a loss of governmental wealth might emerge which can lead to macroeconomic instability. Even though mass privatisation was so common in transition countries, problems occur by forgetting the core investors. Further, usually the cost of mass privatisation cannot be estimated in due time.

According to a study by Lopez-Calva (Lopez-Calva, 1998, p. 31), the best method to enhance micro efficiency as well as to maximise revenues is direct sale. A direct sale is also appropriate when a country has a competitive market structure or is trying to achieve one. Small firms should also be directly sold, whereas for large enterprises mass privatisation is more appropriate. A full list of recommendations is shown in Appendix 4.

Surveys conducted at the end of the 1990s report that the most effective owners are managers, concentrated individual ownership, investment funds, and foreigners (Djankov, Murell, 2000, p. 12). Foreign ownership brings a significant improvement to revenue performance (Frydman, 1997, p. 30) and provides more resources and skills for restructuring (Transition: the first ten years: analysis and Lessons for Eastern Europe and the former Soviet Union, 2002, pp. 71-80). Further, foreign owners reduce employment to a significantly lower level (Frydman, 1997, p. 31). As can be seen in Appendix 5, insiders were identified as being less productive owners than any other owners.

In the case of transition probably the best method of privatisation is one which generates money and/or enables a firm's long-term survival. On these grounds, the Hungarian government decided to chose direct sale to transfer governmental assets to private hands. The decision to allow foreign investment enabled much needed investment, know-how and enhanced competition. The government decision to allow banks to be purchased by reputable foreign investors should be followed in other transitional countries. All these right decisions contributed to some extent to the high economic growth seen in the second half of the 1990s. Further, the considerable FDI flows helped solve the external sector's instability and macroeconomic stability, created financial and capital markets and increased exports.

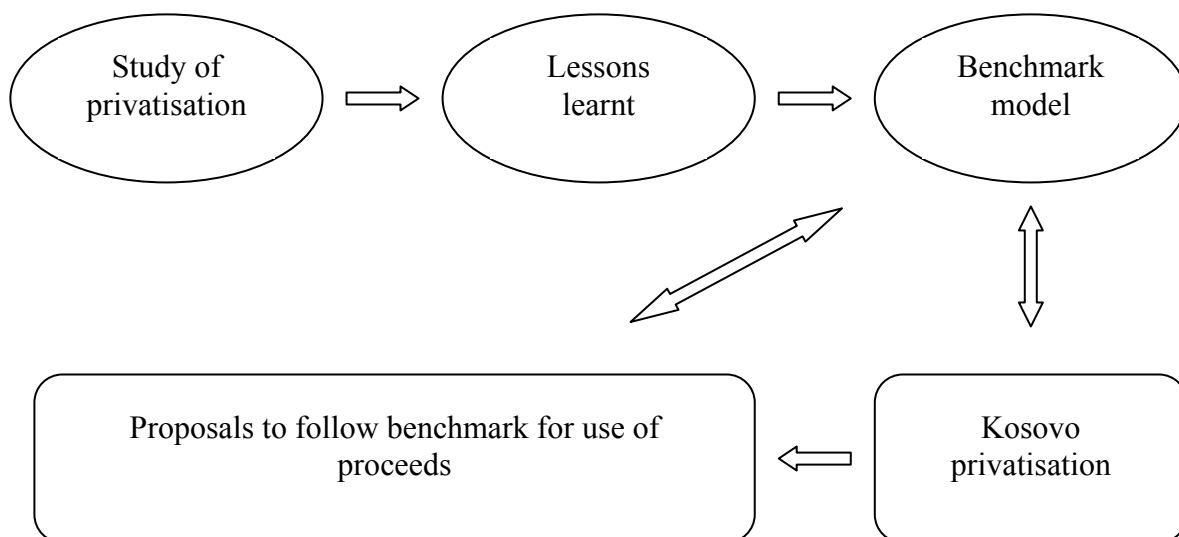
After researching the privatisation methods and studying the transition countries in Southern and Central Europe and some selected countries in CIS, privatisation proceeds and FDI (Appendix 1) my opinion is that a direct sale to foreigners is the best method, which should be done on a case-by-case basis. The reason is that the proceeds are far larger than with mass privatisation or a sale to insiders and can be effectively used for macroeconomic stabilisation (the reduction of debt) or to introduce better infrastructure in order to attract more foreign investment. Further on, foreign investment can largely contribute to firm restructuring and implement better technologies and know-how. Despite the fact that there is a fear of the too widespread foreign ownership and ownership of strategic sectors, a direct sale is still the best method to achieve a market economy. Sufficient government regulations which may stop foreigners intervening in strategic sectors must be in place.

Based on my study it can be presumed that the method of privatisation is correlated with the private sector's share in GDP and the inflow of FDI. The theory that privatisation through a direct sale attracts foreign investors has been shown to be applicable. The Czech Republic, Estonia, Hungary and the Slovak Republic, where primary or secondary privatisation was done through direct sales, enjoy the highest cumulative inflows of FDI per capita. However, the case of selected CIS countries indicates that even the direct sale method did not attract foreign investors. Probably the reason for this is the still high share of the state sector in GDP; therefore foreign investors do not have many options to invest.

2.9. How to attract foreign investors?

The survey on privatisation methods shows that foreign investors are crucial for successful privatisation. In this chapter I will attempt to develop a model of privatisation that would attract foreign investors. After conducting a study of privatisation methods, literature and experiences in transition countries a benchmark for successful privatisation will be developed which will favour foreign investors. Following this model, in Chapter 4 each factor of success in comparison with privatisation in Kosovo will be examined and any mistakes will be highlighted. Then the proposition to continue with privatisation will be given and the use of proceeds and other reforms will show how to achieve this proposal. The aim of the model is not to create a new privatisation method in Kosovo but to propose some adjustments to attract foreign investors.

Figure 1: Benchmark model



Source: personal proposals.

The privatisation model (benchmark) which favours foreign investors comprises:

- **the transformation of assets as rapidly as possible** to individual investors or concentrated groups of strategic investors through an open, fair and transparent method;
- **the overall strategy** which must consider the privatisation strategy, which should be compliant with the reforms imposed by the government and should be one of the main goals in the transition process;
- **small firms should be privatised through direct sales**, which is most cost-effective and should be done quickly and directly to new owners through an open and competitive auction, regardless of who may bid for the shares (foreigners are allowed);
- **the case-by-case privatisation of medium and large enterprises** to avoid the concentration of insider ownership and therefore enable the availability of shares to strategic investors; further, outside investors are preferable to make the best use of an enterprise's assets, which should be prepared for sale by financial advisers who should be present during the sale;
- **the autonomy of the privatisation agency** is needed in order to apply its functions with transparency and without political interference and to preserve spontaneous privatisation;
- **a special privatisation account** should be established where foreign exchange proceeds from large sales of state property are to be deposited;
- **the prevention of asset stripping** is achieved by ensuring privatisation is not too slow;
- **hard budget constraints** must be a priority;
- **the power of new owners**, incentives and the capability to practice effective corporate governance should be allowed for the transparent functioning of the new owners;
- **the development of an institutional framework** is very important during privatisation in order to ensure a successful market economy and prevent asset stripping; the framework must include a strong mechanism of corporate governance, rules to protect minority shareholders, rules against insider deals and conflicts of interest, adequate accounting, auditing and disclosure standards, takeovers, insolvency and collateral legislation; the dual-track system might be a solution for transitional institutions because it indeed builds on the pre-existing institutions that are retained in order to preserve existing rents and to prevent disorganisation while at the same time letting the market develop;
- **law enforcement** to protect investors and to assure that laws are applicable to foreigners and do not discriminate against them;
- **divide conglomerate enterprises into individual companies** to give economic viability to the new firms and to increase the number of potential buyers by reducing the amount that is needed to acquire a division of a previously large conglomerate;
- **a clarification of property rights** for privatised enterprise and enterprises in which the state continues to hold an ownership stake;
- **regulations to protect the public interest** for sectors characterised by a natural monopoly and an oligopoly must be enforced;

- **the participation of employees must be defined** whether based on no participation whatsoever, the participation of ownership via non-voting shares, and participation via voting shares or control will be allowed; and
- **the privatisation of promising companies** should be done first in order to enhance the motivation for privatisation, persuade the general public of the benefits of privatisation as well as to attract foreigners to play an important role in the privatisation process.

3. PRIVATISATION IN KOSOVO

3.1. Kosovo in general

Kosovo is an autonomous province in the southern part of Serbia. The war in the 1990s which has devastated Kosovo and its economy has persuaded the United Nations, NATO as well as other international institutions to intervene in Kosovo. The United Nations Mission in Kosovo ('UNMIK') was established on 10 June 1999 under Resolution 1244 of the UN Security Council. According to the resolution, Kosovo is still technically part of Serbia, although Serbia has no role in governing Kosovo. The mission pursues the main goal to provide and maintain administration which during the transition period would enable provisional democratic governmental institutions. Additional administration is provided by the local Provisional Institutions of Self-Governance ('PISG'). The UNMIK proceeded with the legal framework to establish the department of reconstruction, customs duties, central fiscal authority to collect taxes, the banking and payment authority of Kosovo – CBAK (a sort of a central bank without the right to print money and regulate monetary policy), a department of trade and industry, and other basic institutions to support the functioning of the economy.

The UNMIK exercises its administration through four pillars in the following areas: Pillar I – humanitarian affairs (led by the UN); Pillar II – civil administration (also led by the UN); Pillar III – democratisation and institution-building (under the direct control of the Organisation for Security and Co-operation in Europe – the OSCE); and Pillar IV – economic reconstruction (directed by the European Union).

3.1.1. Key economic factors

Economy activity in Kosovo has been very unstable and dependant on donors. Overall GDP growth has been low or non-existent over the last few years (Appendix 6). After some growth recovery in 2006, when GDP growth driven by public sector investment, banking sector loans and FDI was estimated at 3% (CBAK Annual Report, 2006, p. 15), the predictions for 2007 are pessimistic that GDP will fall again due to the downsizing of the UNMIK's help and the resolution of Kosovo's status.

Due to the high level of imports and lack of competitiveness of Kosovo exports the current account deficit was a very high 44% in 2006. The consolidated budget was after two years (2004, 2005) in 2006 again positive with 3.4% of nominal GDP resulting from an out-

performance in revenue collection and government underspending (CBAK Annual Report, 2006 p. 16). The fiscal sector was brought up from the ground with UNMIK help which now collects taxes (15% VAT and 20% tax on profit) and is considered favourable for foreign investors. Kosovo is currently not servicing any external debt, but might inherit EUR 900 million of such after its status has been resolved (Transition Report 2006, 2007, p. 170).

With the use of the Euro as the official currency inflation in 2006 was below the EU level at 0.7%. The financial sector did not exist after the war and the whole system had to be established. The financial sector is dominated by banks and has enjoyed development with the entrance of foreign banks and growth in the development of privately-owned commercial banks, while other financial intermediaries still have large potential for growth. At the end of 2006 interest rates on deposits stood at 2.97%, while lending rates were 13.37% (CBAK Annual Report, 2006, p. 25) which makes the sector unattractive to foreign investors.

The industrial sector was largely devastated during the war but industry aims to recover through reconstruction, investment and privatisation. The agriculture sector, which represents one-third of GDP, could also be boosted by privatisation. As one of the strategic sectors in Kosovo, mining promises one of the largest stocks of lignite in Europe and other natural resources which should be privatised in order to revitalise the sector. Agriculture, energy and mining, as well as telecommunications, boosted by privatisation, are likely to be essential for starting the engine of growth (Domadenik, Mulaj, Redek, 2006, pp. 363-374).

Since the Kosovo economy relies on donors' help the threat of downsizing could be fatal. On this basis Kosovo desperately needs fresh capital from other sources – through foreign direct investment (FDI). In order to attract FDI a favourable environment should be created, together with law enforcement and the development of infrastructure.

Potential investors are reluctant to invest due to the unstable political environment, trade barriers, insufficient infrastructure, low opportunities for external financing, corruption, and disputes over property rights and problems with electricity distribution. A positive fact encouraging FDI is the use of the Euro as the official currency and the stable monetary policy, growth in the financial sector (banks), the young population, developing border countries, export encouragement and the unsaturated market.

According to UNMIK Regulation no. 2001/3, foreign investors are granted the same treatment as national investors. Therefore, foreign investors may establish subsidiaries, branches and representative offices to the same extent as domestic business organisations while no less favourable tax should be applied to foreigners (Company Foundations, taxes and Employment Law in Kosovo, 2007, p. 23):

- foreign investments will be governed by the principle of national treatment, meaning that they will be treated no less favourably than similar domestic enterprises; foreign investments will be protected against unreasonable expropriations;
- income from foreign investment may be freely transferred abroad and otherwise used in an unrestricted manner; foreign investments are protected against the retroactive application of laws; and
- foreign investors are able to employ foreign nationals.

Foreign investors may open bank accounts in the currencies that are legally permitted, transfer into and out of Kosovo profits after the payment of taxes, use their investments and any income lawfully received for a lawful purpose and retain the profits of their investment, and convert such into another currency in any domestic or foreign market.

Kosovo has become more attractive to foreign investors. After a change in the legislation, the tax rules are now in accordance with the practice seen in European countries. Whereas a foreign entrepreneur used to pay taxes as soon as he entered Kosovo, he will now only be taxed after 180 days. Amendments to the Regulation on Personal Income Tax and on Corporate Income Tax have recently been signed by the Special Representative of the Secretary-General, SRSJ Joachim Ruecker.

3.1.2. The United Nations Mission in Kosovo

Since its establishment the UNMIK has so far spent about EUR 2.6 billion on personnel, goods and services. Total injections have ranged between EUR 75 million and EUR 120 million annually. The share of injections in total spending has increased every year (from 16% in 2000 to 31% in 2006), reflecting among other things the enhanced ability of local business to provide the UNMIK with goods and services (UNMIK Impact on the Kosovo Economy, 2006, p. 6). Further, the UNMIK employs around 3,250 local employees. Although a lot of effort and money was invested in building institutional fundamentals for a dynamic and modern market economy in addition to the achieved macroeconomic stability, the actual growth in the past three years has not been promising and below regional levels. In particular, the continuous trade deficit reflects the lack of competitiveness of the Kosovo economy.

Even though the UNMIK should encourage development, Kosovo still has relatively fragile institutions, poor governance and an unsatisfactory economic performance and is still threatened by poverty. Despite what is probably the largest continuous investment of the UN in any one place, Kosovo still has one of the highest unemployment rates in Europe, which varies from 20% to 60% (as measured by different organisations).

The UNMIK has laid the institutional fundamentals for a dynamic and modern market economy. However, while an impressive degree of macroeconomic stability has been achieved it is still a long way to a competitive environment. The UNMIK plan is to slowly withdraw from the

Kosovo administration and it has started to slowly slash support which will have a major effect on GDP growth and the whole economy (i.e. the trade balance, taxes, unemployment and so on).

3.1.3. The resolution of Kosovo's political status

Another of the Mission's tasks is to establish a political process to determine Kosovo's future status. In February 2007 the United Nation's special envoy Martti Ahtisaari released the Comprehensive Proposal for the Kosovo Status Settlement, which outlines the future of Kosovo and the withdrawal of the UNMIK (Judah, 2007, pp. 2, 3). Mr Ahtisaari's proposal does not suggest the independence of Kosovo, but proposes the right of self governance which will enable membership in international organisations and bodies and, at the same time, the proposal suggests maintaining the international civil and army supervision of performing new agreements (UNMIK). A 120-day transition period would occur after the acceptance of the new agreements and the withdrawal of the UNMIK. Ahtisaari's proposal was warmly accepted by the Kosovo Albanians on one hand, but wholly rejected by the Kosovo Serbs and Belgrade on the other hand. After negotiations in Vienna on 10 March 2007 Ahtisaari decided that independence under the regulation of the international community (mainly the EU) is the only solution. A special envoy from the UN has suggested to General Secretary Ban Ki-moon that in the province where the Albanians outnumber the Serbian minority by nine to one, independence must be introduced in order to enable political stability and economic development since the PISG and Belgrade cannot even agree on practical everyday issues (Juddah, 2007, pp. 2, 3). Achieving a final consensus will probably last for some time.

3.2. The start of privatisation

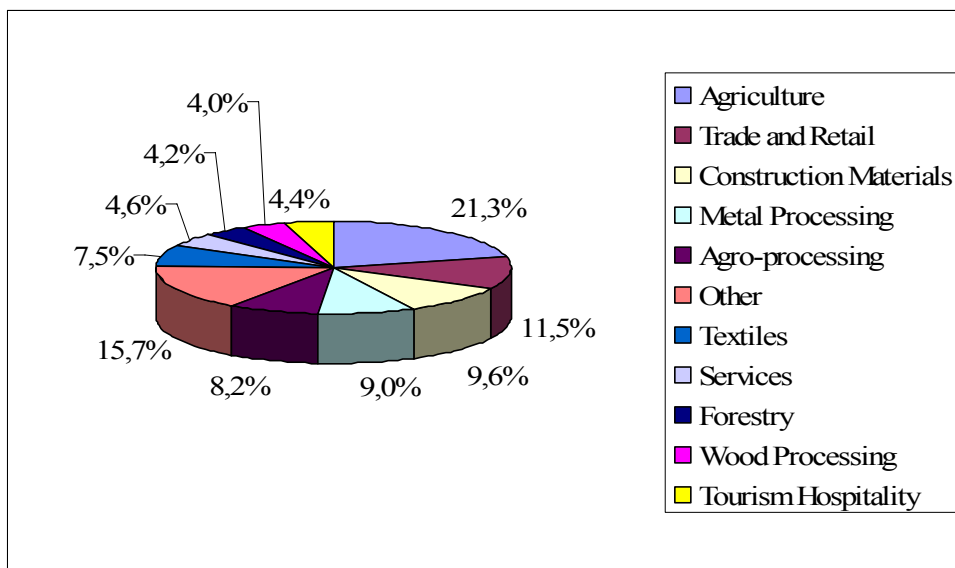
Kosovo was the last of the successor states to start on its privatisation. Since privatisation is one of the priorities in most transition countries, it did not come on to the UNMIK priority list for a long time and privatisation only started quite late, in 2003. Even though Kosovo had the opportunity to learn from the mistakes of former Yugoslav countries, according to an opinion poll, the government still seems to lack the ability to carry out privatisation in a consistent way. Since privatisation lasts for more than four years there is no need to invent a new method but an adjustment to the specific conditions in Kosovo is needed in order to attract further investment to boost the Kosovo economy.

The available data suggests that Kosovo had been substantially 'deindustrialised' when Yugoslavia collapsed. Only a few socially-owned enterprises ('SOEs'), enterprises owned by workers and managed by them, had any promise of successfully operating in a market economy; therefore privatisation has a larger role to play in shifting the focus to market conditions. The main activity that SOEs were engaged in after 1999 was the renting out of their assets, mainly land and premises, to private people. Because improvements in SOEs were impossible with their own internal resources, outside investors were essential for their transformation and restructuring. Consequently, the privatisation method had to be attractive to investors, preferably foreign ones. Initially, before the privatisation process started 90% of Kosovo's industrial assets

were under social ownership as were a further 20% of prime agricultural real estate and 60% of Kosovo forests (Shala, 2007).

Overall a little less than 600 SOEs needed to be privatised, among which the biggest percentage was agricultural SOEs. The SOEs available for privatisation structured by sectors are shown in the following graph.

Figure 2: SOEs available for privatisation



*Other: chemicals, plastics, rubber, glass, mining, transport and pharmaceuticals

Source: KTA, 2007

Privatisation in Kosovo has proved to be the biggest challenge among the SEE countries because of its undefined political status, the consequences of the emergency measures introduced by Serbia in Kosovo's SOEs during the 1990s and Serbia's attempts to legalise the ownership claims made during that time, problems with records of property rights, too many stakeholders involved in managing the process (international administration, Kosovo's institutions, and Serbia), limited management capacities and non-transparency (Mulaj, 2006b). Privatisation in Kosovo is a must to rebuild the economy and establish market economy principles, attract investors, generate exports, and resume employment and incomes.

With the acceptance of UNMIK Regulation 2002/12 on 13 June 2002, complete control over all assets of publicly-owned enterprise ('POE') and socially-owned enterprise ('SOE') assets was transferred to the newly established Kosovo Trust Agency (KTA), an agency independent of both the UNMIK and local government institutions. Regulation 2002/12 allows the transformation of the assets of POEs and SOEs and initiatives to attract private investment capital, while any claims against those assets must be asserted before then. To help resolve disputes arising during the privatisation process, a Special Chamber of the Supreme Court of Kosovo with exclusive jurisdiction and international judges was established (Reinvest, 2004a, pp. 17-32).

3.3. The Kosovo Trust Agency (KTA)

The KTA was established to preserve or enhance the value, viability and corporate governance of SOEs and POEs in Kosovo (Muharremi, 2005, p. 11). A major objective of the KTA is to privatise around 600 SOEs, including around 140 agro-industrial ones, while the POEs must stay under the KTA administration and must be restructured and incorporated. To prevent any further deterioration of social assets, fast and significant investment was essential; therefore privatisation had to be fast. The Agency's preferred method is to carry out the privatisation process through spin-off or voluntary liquidation in a fast, transparent and simple way (Shala, 2007). The Agency shall only complete the sale of a subsidiary at the highest bid price (Regulation 2002/12). Socially-owned immovable property remains in social hands and is not transferred to a New Company ('NewCo').

The KTA is financed by the EU and the UN and less so by the PISG. In 2005 the amount spent for privatisation was around EUR 4 million (KTA, 2007). Another source for financing the KTA is a non-refundable bid submission fee of EUR 300 for each bid in an ordinary spin-off and EUR 1000 for a special spin-off.

The Agency co-operates closely with the Economic Initiative for Kosovo ('ECIKS') and the Investment Promotion Agency of Kosovo (IPAK) to attract foreign investors and show them possibilities to be present in the privatisation process. I attended one of the promotions in Vienna on 7 November 2007. Kosovo and its investment opportunities from privatisation were presented in the best light, to some extent even too ideally; however, conferences like this can enhance investors' knowledge about Kosovo and generate some potential investors.

3.4. Methods for privatising the SOEs based on the KTA's rules

According to the KTA's Deputy Managing Director the ideal strategy was that 1% of SOEs would be sold through a very special spin-off, around 5% via special spin-offs, 40% through an ordinary spin-off and the remainder through liquidation (Shala, 2007). In Appendix 7 the difference between spin-offs and liquidation is explained.

3.4.1. Voluntary liquidations

Voluntary liquidations allow an exit from the market for those enterprises that clearly have no prospects of survival. Liquidation is the process whereby the KTA will 'close down' an enterprise. The assets of the enterprise are sold for a reasonable price to pay of the debts of the enterprise. Liquidation is therefore another method of privatisation but is less bureaucratic as the KTA can sell assets such as small pieces of land, scrap metal, individual warehouses or shops or the miscellaneous stock of an enterprise without having to establish a NewCo.

During the process of liquidation everyone with a potential claim or who is potentially owed money by the enterprise is notified and has an opportunity to submit their claim. An independent Committee (known as the 'Liquidation Committee') then assesses all the claims and payments are made for accepted claims. To sum up, the process of liquidation has two elements: (i) the sale

of assets/real estate; and (ii) the collection, assessment and payment of claims. The procedures are largely out of court and primarily follow the liquidation procedures found in the Regulation on Business Organisations. The proceeds of liquidations are kept in a trust by the KTA.

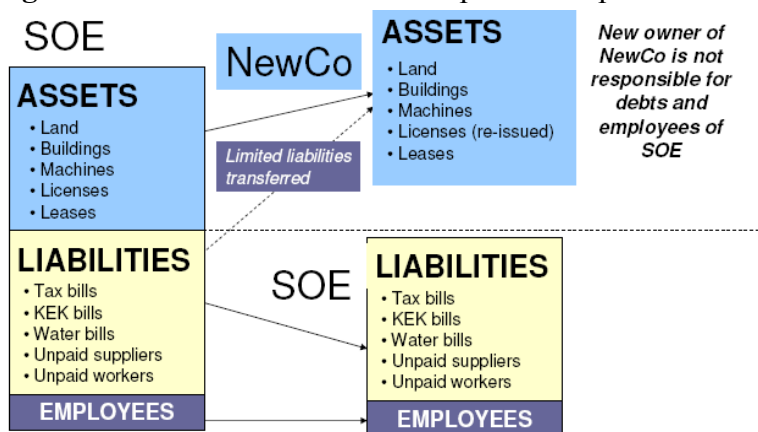
3.4.2. Spin-offs

The first step by the KTA is the creation of a new company ('NewCo') in the form of a Joint Stock Company or a Limited Liability Company. The assets are partially or completely transferred to the new company, while the liabilities of the old enterprise are not transferred but remain with the old enterprise. Shares in the new corporation are temporarily owned by the old enterprise which is then turned into a holding company fully administered by the KTA. The KTA also holds the shares in trust for the old enterprise while creditors of the old enterprise can bring their claim to an International Chamber of the Kosovo Supreme Court. The problem is that it is hard to conclude who is an eligible owner of the former SOE and who has the right to claim.

In the second step the KTA sells the NewCo shares which were held in trust to domestic and foreign private investors. The proceeds are held in trust by the KTA in frozen accounts for the settlement of any claims of creditors and any owners of the company, without prejudice to ownership or creditor claims against the old enterprise.

In making these exchanges the KTA is committed to conducting its transactions in a transparent and competitive manner in order to ensure that a fair price is received. By the method called a 'special spin-off' the KTA in addition to the price also consider the proposed activities, investment commitment and employment commitment. The investors should sign an agreement with the KTA to maintain the defined level of redundant workforce and to invest a certain amount in production. Mostly large SOEs in the strategic sector are considered to be tendered through the 'special spin-off' method (e.g. the Ferronikeli mining company). The tender consists of two rounds of bidding and in the second round the price and investment commitment can be changed which in means there is a risk that the bidding price and commitments can be influenced via collusion between the bidders.

Figure 3: SOEs and NewCos in the process of privatisation



Source: KTA, 2007

Spin-offs can potentially create new opportunities for attracting and increasing investment in Kosovo enterprises because the investors do not need to be afraid of any inherited debts and other problems related to the SOE. The KTA has also introduced regulation to enable certain legal guarantees that are necessary to encourage foreign investment in Kosovo.

3.5. The privatisation process

Among the first SOEs to be privatised were those which represented the biggest share of the social assets because the KTA wanted to first sell those enterprises which would significantly decrease the social assets. By the end of 2006 around 60% of assets had been privatised.

Before privatisation, it should be assessed whether prospective investors in a SOE would be interesting in purchasing it if there is a possibility to create a profitable business and whether support from the management, employees and other stakeholders can be expected. SOEs which satisfy these criteria are privatised first.

Privatisation is conducted in privatisation waves in which several NewCos are tendered. Each wave must be approved by the KTA board and each NewCo should be described (assets, sector...). After each wave the results of the tender are published. For each NewCo the amount of the bid is announced as well as the provisional winner (i.e. P06). For a better understanding see Appendix 8 regarding the 28th wave of privatisation. The KTA also announces how many bids have been received (in the 28th wave there were 40) and the total amount of the highest bids. The results and winners are initially provisional and then the KTA works to finalise all sales and conducts background checks and completes the sale with payments and sales contracts.

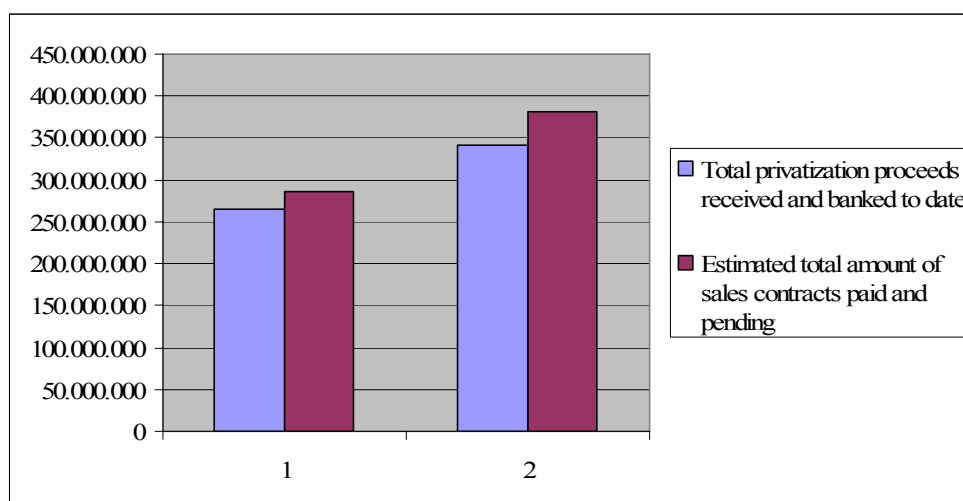
Privatisation started on 23 February 2003 but was blocked for three months by the UNMIK's lawyers and was also apposed by Belgrade. After resolution of the conflict and property rights privatisation continued in three waves and was again blocked in October 2003 by the new Deputy SRSG from the EU, Mr. Lamsdorff, due to concerns and confusion about legal immunity and claims by Serbs, believing that certain enterprises were not in the jurisdiction of the KTA. Freezing the privatisation led to the discouragement of foreign investors. Privatisation resumed in mid-2004 but progress in public enterprise restructuring and law enforcement has been limited. Since the change in the management board of the KTA in summer 2004, several waves of privatisation have been launched since then (Privatisation in Kosova: Forwards and Backwards, 2004, pp. 17-32).

The KTA planned to complete the process by mid-2005 and tender or liquidate 20 to 25 SOEs a month (The status of Socially Owned Property in Kosovo: Contests and Privatisation, 2004, pp. 44-54), although by mid-2007 it had privatised only half of the 600 SOEs, involving enormous difficulties and controversies. Under Regulation 2005/18 the KTA is no longer obliged to determine the ownership status of an SOE before its privatisation, but can clarify the issue after assets are sold and allow a 99-year lease of the NewCos' immovable assets which are technically

still owned by the SOE. This shows the government's determination to more rapidly continue with privatisation.

On 2 October 2007 the 29th wave of privatisation was launched. By 1 October 2007 311 enterprises had been tendered, 539 NewCos established and overall 325 contracts were signed, of which 19 were for special spin-offs (KTA, 2007, Appendix 9). The KTA generated around EUR 147 million in investment commitments and registered 9,183 investors (Shala, 2007). According to latest data available, on 1 October the privatisation proceeds received in the KTA account were EUR 340,790,796. Further, the KTA has started with the privatisation of strategic enterprises like the promising mining company Ferronikeli, which is believed to have a potential real impact on Kosovo's employment and exports.

Figure 4: Privatisation proceeds received and estimated value of paid and pending sales contracts for December 1, 2006 (1) and October 1, 2007 (2)



Source: Shala, 2007.

In the graph above it can be seen that the total proceeds should be higher; however, the contracts have not yet been signed and therefore a difference remains. The problem of the withdrawal of investors should be prevented by the KTA. I suggest that on the day of a bid at least a certain percentage of the bidding amount should be transferred to the KTA's account to show the investor's good faith. However, if contracts are not signed due to the KTA's fault, then this should be resolved by the KTA.

The difference between signed and not signed contracts is 166 contracts (Appendix 8) and is higher than at the beginning of 2007; however here the fact that last privatisation waves were recently conducted should be taken into account.

Further privatisation processes

The KTA will start with the privatisation of more strategic enterprises with the aim to attract foreign investors. The KTA has already started promotional activities for the privatisation of the Brezovica ski resort to inform investors interested in investing in tourism, which is believed to

become one of the fastest development sectors in Kosovo due to the great potential it has (UNMIK Impact on the Kosovo Economy, 2005, pp. 6-10). One Slovenian tourism company, which must remain unnamed, was interested in bidding for this NewCo but realised that, due to the bad infrastructure and Serb ethnicity, Brezovica would not be appealing for investment. Another resort is Dragash Sharrprodhimi. It is also in the south and is a stunningly beautiful area for eco-tourism and wellness facilities. As tourism is growing enormously in Slovenia, some Slovenian companies like Sava or Istrabenz may invest there. The reason I consider this sector to be important for Slovenians is that our companies have the necessary knowledge, experience and are very well known by foreign tourists which could be attracted to Kosovo. Among the other SOEs planned to be privatised soon and appealing to investment is the Rilindja complex of an 18 storey office building.

3.6. Privatisation proceeds and the KTA trust fund

During the privatisation process immense proceeds were generated in the KTA account. The amount of the proceeds differs on two levels. On one hand the amount represents all proceeds which should have been generated by the privatisation process according to the bid obligations while the second level represents how much is generated in the KTA account because not all of the contracts have been signed yet.

The level of proceeds during the privatisation process rose to EUR 275 million at the end of 2006 and accounted for 11.3% of GDP, which is a level comparable with countries in the region. In October 2007 the proceeds should have risen to over EUR375 million, but the contracts were signed for around EUR 340 million. What I find very interesting here is that the KTA database is inconsistent as regards the total amount of proceeds in each wave. According to the KTA's press releases proceeds, EUR 361,309,032 (including liquidation) should have resulted from regular spin-offs and an additional EUR 93,541,250 from special spin-offs so all together the amount should be more than EUR 450 million. Different results show the collusion of the KTA, which does not present a transparent amount of proceeds. The proceeds should be some EUR 100 million higher had all the bidders signed contracts with the KTA.

Based on Regulation 2003/13 employees are entitled to 20% of the proceeds of the sale of an SOE as compensation for the loss of their self-management rights after privatisation. To be eligible for a share of the proceeds, employees must have been employed by the enterprise at the time of the privatisation and on the payroll of the enterprise for no less than three years, although 2003/13 provides an exception to these eligibility requirements in cases where the employee would have been eligible if they had not been subjected to discrimination. By October 2007 just EUR 15 million had been paid to workers (Shala, 2007) and only 57 employee lists were approved. Considering that the employees' repayments are pending, the people of Kosovo do not trust the privatisation because they do not benefit from it. The slow process of distributing the proceeds shows that the privatisation process lacks initiatives to fulfil its obligations.

The remaining 80% is reserved for any claims of previous owners and debtors. When the claims are resolved the funds remain in the KTA's frozen account despite demands by local politicians

to force the KTA to transfer the trust fund to local commercial banks to increase the local banks ability to provide bigger credit lines to enterprises (Gould, 2001, p. 7). The problem was that when the KTA attempted to deposit money in local banks only two banks (Reiffeisen and Procredit) met the high criteria; therefore no money was distributed to local banks due to the high risk involved. The KTA argued that the money should be locked away until proper owners can be repaid. Further, the Kosovo public has expected that the proceeds would be reinvested in Kosovo. More about the use of the proceeds will be discussed in Chapter 5.

According to the KTA's Deputy Managing Director distribution of the proceeds should satisfy the investors because it would give a clear title without legacy debts, compensate the workforce, deal with claims through the KTA liquidation process and leave assets free for immediate investment utilisation. Proceeds remaining after the repayment of workers and claims will be distributed to infrastructure, the pension fund, electricity, and other sectors of the Kosovo economy. In Chapter 5 my proposals on how to invest them efficiently are given.

3.7. The problems of the privatisation process

During the privatisation Kosovo has faced many problems. A few of them are listed below.

3.7.1. The value and ownership of the assets

The KTA has had a problem estimating the real value of the assets. The Yugoslav accounting system did not appreciate assets; therefore the value of an enterprise was highly inflated. Also trademarks and goodwill are impossible to value (Kosovo (under UNSCR 1244) 2005 Progress Report, 2005, pp. 28-32). On this basis, the KTA sets a minimum bid of EUR 20,000 and then the bidders try to assess the value through an auction.

During privatisation several opponents argued that some assets of SOEs were being sold without knowing the real SOE owner. The KTA argued that the privatisation benefits outweighed the risks of accidentally selling off legitimately privately-owned assets and that the process does allow for compensation in these cases.

3.7.2. Socially-owned immovable property

The KTA initially did not permit the privatisation of socially-owned immovable property (land and buildings) which were considered to be the only valuable assets in many enterprises. Without the privatisation of these assets, any privatisation of an SOE would be unsuccessful. The initial phase of privatisation offered SOEs to private investors under a ten-year lease, which proved to be unsuccessful, attracting insufficient interest from private investors and was resisted by the management of SOEs. Instead, Kosovo should follow the example of other successor states (i.e. Slovenia and Croatia), where immovable assets were privatised together with an SOE. The goal to attract foreign and domestic investors demanded the transfer of the right to use socially-owned property to private hands. This problem was solved by Resolution 2005/18 which allows a 99-year lease and leasehold to be freely transferred and used as collateral to secure credits (Muharremi, 2005, pp. 14-19).

3.7.3. Redundant workforce

The heritage of the social system left behind high employment levels in the SOEs. When the SOEs were privatised a fear of redundancy arose, which was a normal reaction known in many transition countries (Roland, 2000, p. 238). For example, in the NewCo Arda Rei that was privatised in the first wave the number of employees dropped from 40 to 16, the company however did enhance its productivity and efficiency (Privatisation in Kosova: Forwards and Backwards, 2004, p. 31). On the other hand, many successfully privatised companies have in contrast expanded their workforce (Appendix 10). During privatisation productive workers remain whereas the others find jobs in other sectors. In order to compensate for the loss of work, 20% of the proceeds are intended for employees registered on the day of its property transformation.

3.7.4. Decline in first bidders completing their purchases

Suspicious of collusion between bidders to reduce the price of the SOEs became increasingly evident from one wave to another. It is estimated that the KTA has lost EUR 40 million since the beginning of the process as 45% of the bidders with the highest prices have withdrawn their offers leaving the companies to be bought by the second or third bidder at a lower price. Between April 2005 and March 2006, approximately 18% of the first bidders declined to complete their purchase. This raised fears of collusion between bidders and generated protests from employees who resented the corresponding reduction in their 20% of the proceeds (Gould, 2007, p. 7). The proposition to avoid such a mismatch would be a new regulation which would enforce a higher deposit for participation in a tender and negotiations with the second-best bidder when the first bidder withdraws.

3.7.5. Participation of the Serbian government

There is no clause in the Regulation to prohibit a transfer to Serbian ownership. Kosovo's newly established enterprises can be purchased – legally – by the government of Serbia directly or through intermediaries (i.e. a private company).

3.7.6. Problems with the special spin-offs

As already stated, the special spin-offs require some investment commitments that need to be satisfied in three years. The problem arises when new owners first spend enormous sums of money on the bid and then lack the investment capital to satisfy their commitment. According to a trustworthy source from Kosovo, this is the case of most spin-offs. In addition, no penalties are given for those not complying with their commitments. Also the NewCos bought by foreigners do not abide by their commitments. For example, Lamkos, bought by Bulgarians, did not meet its investment commitment and then argued that the reason was the insufficient electricity distribution. Further, with Hotel Grand, Pristina's landmark, which was bought by Silcapor and is partially owned by the richest Kosovar, Mr. Pacolli, only half a million EU has been invested after one year.

3.7.7. The lack of investors

One problem which should be emphasised is the lack of investors. The main reason for the low participation of foreign investors is the unstable environment and the largely unresolved political status of Kosovo. Investors are afraid that they would buy something that might later be taken from them by the Serbs.

3.8. Has privatisation in Kosovo been a success?

Privatisation has largely enhanced the private sector and is the key first step in development of the private sector according to the KTA's Director of Privatisation, Kirk Adams. The 'Post Privatisation Survey' conducted on 50 SMEs privatised in the past two years, where the buyers of the new companies were not subject to special conditions, has shown that on average revenues in the NewCos have been multiplied by seven since their privatisation. In addition, planned investment in the capital infrastructure of the companies is more than EUR 450,000 and new employees have also been hired (Appendix 11). The decision to allow a 99-year lease has also positively affected private sector growth because the enterprises were able to use encumbrances to support new loans. However, not every company has been a success although the KTA is convinced that this survey shows that the main goal of the KTA to preserve and enhance the value of former SOEs has been achieved. In order to say whether privatisation in Kosovo has been successful some privatised SOEs must be studied and some examples of successful privatised enterprises must be given.

The privatisation of the Ferronikeli Mining Company was considered one of the most successful privatisation stories (Shala, 2006, p. 7). In April 2006 the largest private foreign investment in Kosovo since 1999 was concluded when International Mining Resources IMR/Alferon bought Ferronikeli for EUR 30.5 million. Ferronikeli became part of one of the world's largest private mining and metal groups, the Euroasian Natural Resources Group. The new owner had to sign a EUR 20 million investment commitment to be realised in three years and a commitment to employ 1,000 local workers. 20% or EUR 6 million will be paid to eligible workers of Ferronikeli by the KTA. By March 2007 in Ferronikeli more than EUR 25 million of capital investments had taken place and over 1,000 new employees had found a job there. In addition, the new contractors employ almost an additional 400 Kosovars. According to Joachim Ruecker, DSRSG, the presence of an international enterprise has sent a strong signal to international investors that Kosovo is ready for investment. In addition, the revival of the mining company should be a great opportunity for the creation of new jobs for workers from the surrounding area (UNMIK Impact on the Kosovo Economy, 2006).

The other positive message to investors was the privatisation of Peja Brewery L.L.C., which was considered the 3rd largest private investment in Kosovo made by hometown businessman Ekrem Lluka, who purchased the brewery for EUR 11.1 million and also signed a more than EUR 15 million investment commitment. Later on the brewery was bought by the Slovenian company Pivovarna Laško.

Privatisation has also proven to be successful for most of the regular spin-offs. For example, in the NewCo Trofta Fish Farm, which was sold for EUR 2 million in March 2004, EUR 2 million has been invested by the new owners which have increased production capacity by 300% and employed 88 workers. Also other NewCos like the Silcapor factory for the production of thermo isolating bricks, which was sold for EUR 1.8 million, has generated new investments of EUR 2 million since March 2005, increased its production capacity by 200% and employed 240 workers. These cases show that many NewCos have also generated large investments and massively increased their production capacity. In addition, the special spin-off, as already described, provides a large amount of investment for the revival of the private sector. Not only are the new owners obliged to realise their investment commitment, but some have also exceeded their commitment levels.

The survey has shown (Appendix 11) the enormous growth of NewCos' revenues of more than 700%. This fact presented by the KTA is a little ambiguous because such high growth in revenues should have contributed to GDP growth, but GDP growth was even negative in 2005 and only 3% in 2006, which shows that privatisation did not benefit enough to create growth. In addition, the results could even be better had the privatisation been realised more thoroughly, meaning the better due diligence of the SOEs and monitoring of the NewCos after the process concluded.

According to the KTA's statements, privatisation is believed to create more than 5,900 new jobs, even though some newly privatised companies tend to reduce their workforce (Appendix 10). Most vacancies have been created through a special spin-off process of privatisation which require commitments from the investors to employ a certain number of workers. Despite the fact that privatisation as a main principle cuts jobs, Kosovo has managed to enhance the available workforce with the special spin-off privatisation method. However, privatisation does not resolve the problem of unemployment. Even though around 6,000 jobs were created, the unemployment rate is still alarmingly high.

In the short term, privatisation has increased the efficiency of firm performances, transferred assets into private hands and increased equity in absolute terms, even if not in relative terms and attracted some foreign investors. To date 31 foreign investors have been successful in bidding for the NewCos. The foreign investors come from the following countries: USA (6), Switzerland (5), Albania (5), Macedonia (3), Croatia (2), Slovenia (2), and one from Bulgaria, Turkey, Italy, Austria, the Netherlands, UAE and Japan (KTA, 2007). Interesting enough, Slovenian investors are considered to be the best and enjoy the most respect from the Kosovo community. The reason foreign investors have not played a larger part in the privatisation process lies in the unresolved political status. Further, investors are reluctant due to the bad infrastructure, insufficient institutional framework and since they do not know the business culture. One potential investor, who will remain unnamed, stressed that the reasons he would consider investing in Kosovo are the legal system compliant with the EU, the absence of exchange risk, the presence of foreign banks and the favourable treatment of foreign investors. Also the

privatisation method is believed to bring in fresh investors because investors do not inherit any debt because the workforce is recompensed, claims are dealt with by the KTA and assets are free for use in immediate investment.

Probably the privatisation could have been even more successful or have generated more money had restructuring been undertaken before the sale, which would have increased the value of the SOEs. In addition, a higher value could have been achieved through the better advertising of the NewCos to enhance competition among bidders and consequently generate higher bids. The privatisation process should also be more transparent to increase integrity, gain credibility with potential investors, ensure public support and reinforce trust in information provided.

For a better consideration of whether privatisation has been successful I conducted an interview with a few Kosovars. The general opinion was that expectations before the announcement of privatisation was high and they hoped for the involvement of foreign investors. They thought that the proceeds would be reinvested in the Kosovo economy. In addition, scepticism about any further investment by the new owners remains. What I found most interesting is that many new owners realise that the production capacities are obsolete and that the products are uncompetitive and they are therefore selling the machinery for a low price and using company assets as a warehouse.

The privatisation process is highly affected by Serbian demands to stop the process because Belgrade believes that the enterprises which are for sale are its property. This way of thinking hugely affects foreign investors who are reluctant to invest because they are afraid that the Serbian government might later demand the enterprise from them. This Serbian disagreement also has a significant effect on the privatisation proceeds because the KTA is afraid to start the process of distributing the proceeds.

4. PROPOSAL FOR THE CONTINUING PRIVATISATION IN KOSOVO

Table 2: Proposal for the continuing privatisation in Kosovo

BENCHMARK	KOSOVO'S CURRENT PRIVATISATION PROCESS	PROPOSALS FOR FURTHER PRIVATISATION PROCESS, REFORMS AND USE OF THE PROCEEDS
Rapid transformation of assets	Privatisation has now lasted for more than four years. The privatisation is rapid and conducted through waves; however, this may cause some asset stripping.	Waves should include more enterprises and be entirely conducted and bidders should be selected. The process should continue with the privatisation of strategic sectors and SOEs which will contribute to the revival of exports (tourism, mining).
Privatisation as part of a growth strategy	The UNMIK did not attribute enough importance to the privatisation process from the start; therefore privatisation became part of the strategy fairly late.	Privatisation must go hand in hand with the overall development strategy and must be further supported by the government; however the institutional and legal framework should first be developed. The establishment of agencies to promote investment in the privatisation process is advisable.
Direct sale for small firms	Implemented through the spin-off method.	Direct sale was in place; however, it should be designed to be more attractive to foreign investors (i.e. better marketing and due diligence conducted in advance) and the proceeds should be spent on further development.
Case-by-case privatisation of medium and large enterprises	Non-promising enterprises were liquidated, whereas others were sold by the special spin-off method.	The special spin-off method was appropriate because due to the undeveloped stock market an IPO, the best method for medium and large enterprises, was unavailable. Some subsidiaries for a special spin-off should be introduced to make it more attractive to foreign investors and further marketing should also be in place. In addition, the government should avoid mass privatisation programmes for medium and large enterprises. Cash sales are more likely to produce owners with a long-term business plan and the resources to implement it.
Autonomy of privatisation agency	The KTA was established to be independent; however, the SRSG interventions stopped privatisation after the 3rd wave. The management board comprises representatives of the SRSG and PISG.	Autonomy was given by the UNMIK but privatisation is still affected by political decisions.

Table 3: Proposal for continuing privatisation in Kosovo, continuing from previous page

BENCHMARK	KOSOVO CURRENT PRIVATISATION PROCESS	PROPOSALS FOR FURTHER PRIVATISATION PROCESS, REFORMS AND USE OF PROCEEDS
Special privatisation account	The KTA has a special frozen account for privatisation proceeds.	The KTA should unfreeze the account, because it can not harm the currency to a large extent, because no risk of exchange risk is present. Proceeds should be reinvested in the Kosovo economy and used for i) further development of the private sector; ii) the development of infrastructure; iii) subsidies for special spin-offs; iv) the institutional framework and law enforcement; v) existence credit; vi) financial sector development; vii) investment promotion; and viii) country integration.
Prevention of asset stripping	Not many SOEs had huge assets, therefore asset stripping was not so common but corruption is still believed to be present. Some asset stripping was protected by municipalities which owned the land.	Asset stripping is correlated with the speed of privatisation, however, privatisation should continue in a fast way.
Hard budget constraints	The KTA is unable to check the restructuring of all privatised companies.	Hard budget constraints should be implemented to enforce restructuring and better discipline. Also the introduction of new tax areas and maintaining a low level of bad lending is required.
Power of new owners	New owners have limited power due to their use of the land (99-year lease). Special spin-offs require investment and employment commitments.	The limited power is not compelling investors. Special spin-offs should have more flexible constraints, however an understanding of the local situation should also be considered. As stated before, some subsidies for special spin-offs could be introduced.
Development of the institutional framework	Despite the UNMIK's initiatives, the institutional framework is not well developed so as to allow many foreign investors to enter. The institutional framework set up to distinguish between legitimate and illegitimate claims is underperforming. The inefficiency and inexperience of institutions to carry out privatisation in a consistent way has undermined the results significantly.	New institutions will need to be introduced when the future status is resolved. More resources should be invested in determining the current ownership status prior to privatisation in order to calculate future ownership claims. Some of the proceeds could be used for further development of the institutional framework to enable foreign investment and to create a high quality civil service that facilitates the interaction of the government with the private sector.
Law enforcement	Weak law enforcement is present and inadequate bankruptcy laws are in force, however the laws are in line with European Union laws.	A modern bankruptcy law would be required in order to be able to liquidate the devastated and hopeless SOEs which are not worth privatising. The assets of these SOEs should be available to private companies, especially SMEs, through a public tender and after claims of creditors have been settled (Muharremi, 2005, p. 21).

Table 4: Proposal for continuing privatisation in Kosovo, continuing from previous page

BENCHMARK	KOSOVO CURRENT PRIVATISATION PROCESS	PROPOSALS FOR FURTHER PRIVATISATION PROCESS, REFORMS AND USE OF PROCEEDS
Divide conglomerate enterprises into individual companies	Of 311 privatised companies 539 NewCos were established.	I estimate that this division was conducted reasonably. The liquidation also enabled the selling off of parts of a company (i.e. just land, stocks).
Increasing competition of products from privatised companies	Many companies have introduced new, more compatible products; however, many changes still need to be implemented.	More foreign ownership would bring better technology, fresh capital and know-how to increase firms' efficiency and produce more competitive products for domestic use as well as for exports which would have immense consequences for the trade balance.
Clarification of state property rights	Arguments about the state's immovable assets have largely affected the speed of privatisation and produced bad signals for potential investors. Regulation 2005/18 now allows a 99-year lease of enterprise land.	Property rights should be resolved before the privatisation process starts and should be tagged to SOEs.
Regulation to protect the public interest	The KTA's task was to administer POEs, but some did not go through vital restructuring.	More effort should be put into restructuring POEs (especially the energy sector in order to provide continuous electricity). Privatisation of the energy sector might be a solution.
Participation of employees	The workers' protection regime requires the transfer of 20% of proceeds to workers. Collusion has appeared when bids were withdrawn.	The workers' protection regime in Kosovo should not be inconsistent and possibly ethnically-biased (Serbian workers were sometimes illegitimately deprived). An in-depth analysis should be made of former and present employees in order to avoid confusion. Possibly this could be done simultaneously with property rights research and no additional funds would be necessary.
Privatisation of state champions	Kosovo started with the privatisation of SOEs which had the most socially-owned assets in their hands.	The fact that the leading companies with larger amounts of assets were sold is encouraging. After privatisation is considered effective strategic enterprises should also be tendered (i.e. mining, telecom). Some proceeds could be used to promote investment in mining and agriculture (a further 140 SOEs to be privatised).

Source: Own proposals.

5. USE OF THE PROCEEDS

The KTA has privatised 311 SOEs and gathered around EUR 350 million in proceeds in its special frozen account. Claimants on SOEs are entitled to 80% of the proceeds and, if no in-depth analysis of the potential owners is made, the incomes generated from the newly established enterprises will not be used for the development of the environment or infrastructure but will serve to pay the debts to creditors of the previous SOE. In fact, the vast majority of these creditors are Serb companies or individuals. As a consequence, Kosovo itself will not benefit from the income generated but the Serbs will.

The problem of proceeds is that the decision on where to invest is highly linked to politics. First of all the KTA tends to lock the proceeds away in case Kosovo remains under Serbian control and the claims are to be repaid. The second thing is that they cannot invest back in these companies because they might be taken by the Serbs if the status resolution does not occur fast enough. An additional reason is that an investment back into the Kosovo economy would not be as beneficial as it could be because the UNMIK still regulates too much of the Kosovo economy. Despite these good reasons why the proceeds should be locked away, proposals on how to efficiently use the proceeds once the status of Kosovo has been resolved are given.

Some transition countries (Hungary, Poland) have used the proceeds to pay off external debt which has multiplied effects on the economy. Kosovo might inherit EUR 900 million in external debt, but the government should predict different revenues to be allocated to cover this. Proceeds should also not be included in the government budget because they are hard to rely on. In addition, the Kosovo government should consolidate the budget without the proceeds.

The investment rate in post-conflict Kosovo has been very low by regional and world standards (Fuelling Kosovo's Growth Engines, 2005). The IMF has calculated that investment in the domestic sector in 2003 was 22.3% and the estimate for 2004 was 22.8% (Kosovo – Gearing policies toward growth and development, 2004, pp. 5 - 6). Investments are crucial for the further economic development of today's relatively unsustainable growth. Some of the proceeds generated by the privatisation process should be used to create a sustainable environment for further investment. In addition, foreign investors also play an important role. The necessary conditions for attracting foreign investors have to be clearly kept in mind; namely political, legal, economic environment and administrative institutions. The privatisation process is also aiming to attract FDI not only because of the superior technology and management skills that come with it, but also as a signal of a good business environment for other interested foreign investors.

After the study of other transition countries and the Kosovo privatisation process and the current situation the remaining proceeds after the repayment of claims and workers can be reinvested in Kosovo to enable further development and a better business environment. Proposals for distributing the proceeds are explained below.

5.1. Further development of the private sector

SME are believed to be the engine of post-socialist economies for many reasons. Small enterprises tend to be more responsive to consumer demand than state-owned enterprises and large formerly state-owned enterprises. They also provide employment outside of the state sector which, in turn, enables the state to restructure its enterprises. Small enterprises compete with the old state-owned enterprises, and this competition can generate restructuring and growth in the state sector. The private sector is facing a poor regulatory environment, infrastructure and management skills. The additional impeding factors are the high interest rate, the short-term maturity of loans, supply of energy and competition from the informal sector. Other factors include the unresolved property rights and lack of sustainable foreign investment.

Given these problems the proceeds should be used for the establishment of an SME Support Agency within the Ministry of Trade and Industry⁴ to help the growing number of SOEs (99.9% of all companies in the private sector). The Agency could provide or subsidise a lower interest rate for credits intended to achieve greater efficiency, enable easier access to credits or promote SMEs in Kosovo to foreign investors to bring in fresh capital. Even a small step by the KTA to put some amount of the proceeds into local bank accounts to extend credit lines and enable credits for local enterprises could enormously benefit the private sector. This will also reduce the need for external financing by banks. Despite the fact that the private sector is growing, a still greater effect could be achieved when the regulatory framework provides fast entrances and exits to and from the market. The Agency should also provide short management courses to enhance the managers' knowledge.

Improving the public administration

The staff of the public administration is an important barrier to enterprise formulation and investment. Some small amount of the proceeds should be given to conduct effective training in public relations and public service for the staff.

Restructuring

From the special account of the KTA some proceeds could be generated to establish a restructuring fund which would service the POE and SOE with much needed financial support for restructuring. Restructuring would ensure the competitiveness of products and services. The fund would provide financing for those enterprises which must still undergo a transformation to a market-driven enterprise. Further, the more access enterprises have to outside finance and the more successful they are at restructuring and innovating the greater will be their capacity to adapt to the market economy.

⁴ Kosovo was one of the Western Balkan signatories to the European Charter for Small Enterprises in June 2003 and obliged to obligations in the ten principal areas of the Charter.

5.2. Development of infrastructure

It is important for private sector development and for other sectors to enable basic infrastructure. As basic infrastructure is currently insufficient and of poor quality, it will require considerable investment for which financing is particularly difficult to secure. Therefore, the suggestion is to use some funds from the proceeds and maybe create public-private ownership in order to extend the scope of financing. Connections should be improved with the main regional transport corridors in order to take full advantage of trade opportunities and enable exports. The railway infrastructure is very outdated and needs to be repaired to service the growing mining sector. Prishtina airport has gradually been modernised over the last few years but in order to meet international standards it needs to be further upgraded. Telecommunication infrastructure is vital for the establishment and maintenance of international commercial relationships; however, the source of financing will be given by Telekom Slovenije, which will invest EUR 200 million to build the most modern telecommunication infrastructure. As a poor electricity supply is one of the most constraining factors on the enabling environment, KEK's (Kosovo Electric Company) electricity transmission network needs important investments for rehabilitation and extension, expected to be undertaken by an independent transmission operator once the company is privatised.

5.3. Subsidiaries for the special spin-offs

By special spin-off method bidders need to sign the contract to obtain certain level of employees and to invest certain amount of money in new technology and restructuring. In order to obey special rules more investment is needed and not to mention that productivity is not as high as it could be. Considering that I suggest that these NewCos would receive financial injections to help new owners to make the production efficient by subsidies. Even though subsidies are sometimes regarded as soft budget constraints, in this context they would not be considered as that.

5.4. Institutional framework and law enforcement

Weak legal institutions securing property rights and law enforcement lead more quickly to chaos than to successful markets and substantially deter the entry of new enterprises. Many transition countries applied a dual-track system which enabled the building of new institutions and maintaining of previous ones at the same time. This solution is inappropriate for Kosovo due to the non-existence of former institutions. On this basis, Kosovo should invest in rebuilding the newly built UNMIK institutions which are apparently insufficient to foster successful privatisation.

Despite early successes in the emergency phase of reconstruction, the creation of institutions and a policy environment and conditions for stable and lasting economic growth as well as framework for investments remain incomplete. There has been continuing progress in creating the legal framework for business and commerce, but enforcement mechanisms are still not in place. My suggestion is to finance enforcement mechanisms but not only from the proceeds but also from the government budget because the benefits will be multiplied to all sectors and the whole economy. Also corruption is still considered a large obstacle. Improved accountability and

responsibility for the implementation of existing laws is needed for a business environment that is more appealing to investors. In addition, a court system which ensures that disputes are resolved in an effective and timely way needs to be enforced. Critical issues within the legal framework include the protection of intellectual and industrial property rights and clarity regarding land ownership. The proceeds should be used to cover claims for land of the SOEs because the establishment of property rights remains a challenge. Legal uncertainty and weaknesses in law implementation and contract enforcement continue to hinder the private sector's development and investment. Market exits remain difficult and lengthy owing mainly to weaknesses in the judiciary.

It is crucial to develop the institutional framework in order to encourage foreign investors. A poor institutional framework was one of the reasons why foreign investment has not been big enough. In addition, law enforcement is also very important since investors' rights as well as employees' and public rights have to be secured and clearly stated to avoid lengthy disputes.

5.5. Existence credit

Following the Hungarian model credits could be made available at commercial banks but would be refinanced by the National Bank. So-called existence credit – a privatisation credit facility for inhabitants – would enable the purchase of state property at a significantly lower interest rate, relatively low resources for buyers and for a long duration. Part of the proceeds could be delivered for the refinancing and refinance lower interest rate and reduce the spread by a few percentage points if the credit were used for bidding for an SOE.

5.6. Financial sector development

Financial sector development has been found to have a significant effect on growth, especially in economies with low initial levels of financial development. Following the example of Hungary, which led to foreign investors' ownership of banks and enjoyed higher growth rates than its neighbouring countries, Kosovo should also allow further foreign ownership. In addition, transition countries have reported difficulties in getting credit. The suggestion is that all reforms or the use of proceeds should follow the greater efficiency of the financial sector because better access to finance will not only encourage privatisation but also attract outside investors, which would be more willing to invest if they know that additional resources are available.

5.7. Investment promotion

Investments are one of the determinants of growth. In a stable political and economic environment foreign and national enterprises will be more willing to invest in new lines of economic activity. According to the experiences of other transition countries, foreign investors are likely to achieve the highest level of efficiency. They bring in fresh capital, new ideas, new technology and new knowledge and are more market-driven. The overall competitiveness of the economy increases. The entrance of new investors positively affects SMEs which provide products and services for a large privatised SOE. If the legal framework and institutional framework are efficient even more foreigners are interested in investing. In addition, if the

financial sector is sufficient in offering sources of finance the environment becomes even more attractive to foreign investors.

In certain areas, the government should not just create an enabling environment but also stimulate investment through carefully designed and administrated incentives. The proceeds can most likely be granted to the Investment Promotion Agency within the Ministry of Trade and Industry, which would help with activities including: i) venture capital; ii) the matching of grants; iii) research & development; iv) extension services and agriculture; v) marketing and distribution assistance; vi) technological assistance; vii) the adoption of agriculture technology from neighbouring countries; viii) investment co-ordination; ix) product quality and safety; and x) the harmonisation of standards (UNMIK Impact on the Kosovo Economy, 2005, p. 20). The Economic Initiative of Kosovo – ECIKS⁵ is one step towards promoting the Kosovo economy in terms of FDI. They offer studies for potential investors, opportunities and provide basic information about investment in Kosovo.

One important element of investment promotion is assistance with financing. No commercial banks are willing to give credit to start-ups because the costs of a newly established company are hard to assess. In addition, lending to other enterprises is only short term and requires collateral of 150-200% of the amount. The proceeds could be used as collateral for the start-ups and might also provide credits for start-ups in non-traditional sectors.

5.8. Country integration

Further design of trade policy that on one hand does not hurt consumers and, on the other, encourages the development of a healthy private sector is vital. The kind of trade policy which must be used would provide incentives for the emergence of non-traditional activities, the privatisation of SOEs and attract FDI.

6. CONCLUSION

The thesis ‘The Privatisation Process in Kosovo: an overview and some recommendations’ establishes the theoretical basis for successful privatisation in Kosovo based on the experiences of transition countries in the CEE and SEE regions. Through the research I have realised that privatisation is essential to enhance the firm efficiency of state-owned or socially-owned companies. Privatisation is needed for comprehensive restructuring and to attract FDI which brings in new technologies, management and capital to the enterprises involved. Privatisation does not enhance market competition but increases the competitiveness of companies’ products and services. Further, privatisation has a positive effect on the macro economy by enhancing its efficiency and benefits people by providing stable and sustainable real economic growth. Privatisation proceeds can be efficiently used to develop a transition economy.

⁵ More about ECIKS can be found at <http://www.eciks.org/english/projekte.php>.

The selection of the privatisation method depends on the specific objectives of the government as well as the institutional, political and market-related constraints it faces. After studying different privatisation methods, I can conclude that the most effective is the sale of an enterprise on a competitive, open and transparent basis to outside strategic investors (preferably foreign ones), whereas mass privatisation is believed to produce the worst results. In addition, the privatisation method of direct sale increases the revenues from privatisation which can then be reinvested in the economy.

Kosovo as a developing economy has started on its privatisation relatively late. The method of privatisation through regular or special spin-offs and liquidation itself is considered to have been correctly chosen due to the study of the literature which sees a direct sale as the best method because it gives an opportunity to investors not to inherit any debt, gives 20% compensation to workers, deals with claims through the KTA and the Special Chamber of the Supreme Court and gives investors a chance to start investing right away after their purchase. However, the process has not occurred as planned. A problem has occurred due to the selection of the previous owners, claims, rights to socially-owned immovable property, a redundant workforce, a decline in the first bidders' purchases, a blockade of the UNMIK's authority, and so on.

Privatisation run by the KTA is considered to be efficient to some extent. However, the process lacks transparency and is not as fast as it could have been. The KTA's main goal to attract foreign investors to generate new capital and new know-how has not been achieved. I found several arguments to confirm that my hypothesis that much more can be done to attract foreign investors is correct, because the data show that only a few more than 30 have purchased a NewCo. The greatest obstacle to investors is the unstable environment; however the KTA is now trying more than ever to attract new investors through several promotional activities, yet even more could be done if the suggestions made in this thesis were taken into account.

The KTA has generated around EUR 350 million in privatisation proceeds which are frozen in a special KTA account and are not being reinvested in the Kosovo economy. As immense sums of money are locked away and not being reinvested in the economy to boost the vitally needed economic growth, ideas on how to make better use of the proceeds have evolved. Noting the experience of different transition countries I have made some suggestions as to how the money could be invested now or when all the claims are resolved. According to the model of privatisation which attracts foreign investors, progress has to be made in: i) further development of the private sector; ii) the development of infrastructure; iii) subsidies for special spin-offs; iv) the institutional framework and law enforcement; v) existence credit; vi) financial sector development; vii) investment promotion; and viii) country integration. All these reforms cannot be implemented at the same time and therefore a gradual approach is advisable, but it also should not be too slow.

In my opinion privatisation could be even more successful if it were better planned and if the economic environment were more attractive to foreign investors. Further, it can be stated that

privatisation and the participation of foreigners would grow enormously when the future status is resolved and would to some extent eliminate political risk because the fear of Belgrade's interference would then disappear. I think that Kosovo has learned some lessons from other transition countries, for example by choosing the right method. However, even more can be done in advance to enhance the efficiency of the process. I am convinced that the privatisation proceeds could be efficiently used to attract vital foreign investors. Overall, I think that Kosovo holds great potential for development which could be exploited by foreign investors, including Slovenian investors.

To conclude, I would like to say that in the four years of privatisation Kosovo has realised the importance of privatisation for the Kosovo economy and development. Although privatisation started very late, the process is going fast enough if the long process seen in other CEE countries is considered. A final estimation of the success of privatisation in Kosovo can only be given after a few years when research will show whether the privatisation method and the process itself was indeed an engine of economic development in the region.

POVZETEK

UVOD

Kosovo Trust Agency (KTA) je med leti 2003 in 2007 privatizirala 311 podjetij in prejela 340.790.796 prihodkov od prodaje. Številke kažejo na velik napredek kosovskega gospodarstva, vendar se je potrebno vprašati, ali je privatizacija na Kosovu res uspešna. Nadalje se poraja vprašanje, zakaj prihodki od prodaje družbenih podjetij ostajajo nedotaknjeni in jih ne namenijo za investicije v kosovsko gospodarstvo. Šele kasnejša študija bi pokazala uspešnost kosovske privatizacije in vpliv na učinkovitost podjetij ter odvisnost od tujih investitorjev.

Cilj diplomske naloge je preučitev procesov privatizacije v tranzicijskih državah in izdelati model najuspešnejše metode privatizacije ter jo primerjati s kosovsko metodo, na tej podlagi pa podati predloge za porabo prihodkov od privatizacije za spodbuditev gospodarske rasti. Poleg tega bom poskušala oceniti, ali je bila privatizacija na Kosovu in njena metoda primerna za pritegnitev tujih investitorjev, ki bi prinesli znanje in tehnologijo. Moja hipoteza je da kljub temu da naj bi privatizacija na Kosovu po mnenju politikov pripomogla k gospodarskemu razvoju, bi lahko veliko bolj pripomogla k učinkovitosti podjetij in večjemu zanimanju investitorjev, saj menim, da bi povečanje zanimanja lahko dosegli z boljšo razporeditvijo privatizacijskih prihodkov. Razlog za izbiro teme je v mojem prepričanju, da privatizacija na Kosovu ponuja veliko priložnosti za investitorje, ki bi gradili razvoj Kosova in regije kot celote.

Državna in javna podjetja naj bi bila manj učinkovita zaradi mnogih razlogov, med njimi predvsem zaradi: političnega vmešavanja in zasledovanja drugih ciljev kot maksimiziranje dobička; zaposlovanja odvečnih delavcev; nizke kakovosti menedžerskih znanj in inovacij; manjše diferenciacije proizvodov in orientiranosti na kupce; neustrezne razporeditve proizvodnih dejavnikov. Večja učinkovitost pa se lahko doseže s spremembo lastništva, torej privatizacijo.

Privatizacija igra odločilno vlogo pri razvoju gospodarstva in je eden najpomembnejših elementov globalnega fenomena učinkovitejše rabe trga za porazdelitev proizvodnih dejavnikov. Spremembe lastništva skupaj z uvajanjem novih tehnologij, idej, menedžerskih stilov in svežega kapitala pripomorejo k večji učinkovitosti podjetja. Privatizacijski prihodki so lahko učinkovito uporabljeni, hkrati pa pripomorejo h gospodarskemu razvoju in rasti. Na splošno bi lahko trdili, da privatizacija vpliva na celotno gospodarstvo pozitivno.

Privatizacija je še vedno prisotna v mnogih tranzicijskih državah, vendar se bom v diplomski nalogi posvetila predvsem privatizaciji na Kosovu. Privatizacija je ključnega pomena za vzdržen razvoj kosovskega gospodarstva, saj zagotavlja učinkovito rabo državnega premoženja in zemlje, promovira dolgoročne investicije v industrijo, ustanavlja nova podjetja, odpira nove možnosti zaposlovanja in vzpodbuja rast zasebnega sektorja. Kosovsko gospodarstvo je zaradi stagnacije kmetijske in industrijske proizvodnje začelo vedno več uvažati, kar je povzročilo visok primanjkljaj v trgovinski bilanci, zato je privatizacija v teh sektorjih izjemnega pomena. Nov

kapital bi pripomogel k pomembnemu prestrukturiranju in povečal učinkovitost vseh ravni podjetja ter pripomogel k razvoju gospodarstva. Poleg tega bi nova podjetja ponudila nove proizvode, ki bi bili konkurenčni tudi na tujem trgu, kar bi vplivalo na zmanjšanje primanjkljaja. Za doseganje teh ciljev pa je pomembna tudi privatizacija in prestrukturiranje v sektorju telekomunikacij, rudarstva in energije.

PRIVATIZACIJA

Privatizacija je v tranzicijskih državah prisotna od konca osemdesetih let prejšnjega stoletja. Tranzicijska država je država, katere gospodarstvo se spreminja iz planskega v tržno (Falke 2002, str. 2 – 5). Tranzicijska država zasleduje cilj liberalizacije gospodarskih aktivnosti, cen, tržnih operacij in učinkovite razporeditve resursov; makroekonomske stabilnosti z razvojem tržno orientiranih instrumentov; razvoja boljših spodbud za upravljanje podjetja, ki omogočajo podjetjem boljše prilagajanje trgu, kar se doseže predvsem s privatizacijo; vzpostavitev višjih proračunskih omejitev, ki omogočajo večjo učinkovitost in oblikovanje institucionalnega in pravnega okvirja (Havrylyshyn in Wolf, 2001). Med tremi skupinami tranzicijskih držav Evrope in osrednje Azije spada Srbija, zato tudi Kosovo, v skupino južnih in vzhodnih držav (SEE).

Eden izmed ključnih ciljev tranzicije je privatizacija državnih oziroma družbenih podjetij (SOE), ki omogoča transformacijo iz socialističnega v tržno gospodarstvo. Na splošno privatizacija pomeni prodajo državnih podjetij privatnim gospodarskim subjektom (Megginson, Netter, 2001, str. 2, 3). Privatizacija je definirana kot proces kontrolnih pravic iz državnih v privatne roke (Lopez-Calva, 1998, str. 1). Privatizacija je tudi proces, kjer država spremeni državna podjetja v korporacije, izvede prestrukturiranje, pripravi podjetja na prodajo, definira pregledne in pravične postopke in razporedi prihodke od privatizacije (definicija Svetovne banke, 2007). Državna podjetja naj bi dosegala tretjino ali vsaj polovico nižjo raven produktivnosti kot zasebna podjetja, in sicer zaradi pomanjkanja investicijskega kapitala, ki pripomore k slabši kvaliteti storitev in proizvodov (Megginson, Netter, 2001, str. 42).

Glavni razlog za privatizacijo je dejstvo, da so podjetja v zasebnih rokah bolj učinkovita (Hanousek, Kocenda, Svejnar, 2005). Poleg tega naj bi privatizacija izboljšala učinkovito razporeditev proizvodnih faktorjev in hkrati z uporabo nove tehnologije in znanj omogočila boljše sodelovanje znotraj zasebnega sektorja. Po raziskavi v 21 državah v razvoju je privatizacija pomembno vplivala na dobičkonosnost, operativnost, učinkovito kapitalsko investiranje, produkte, zaposlenost in dividende (Boubakri and Cosset, 1998, str. 1091 – 1110). Privatizacija pa ima pozitivne učinke tudi na makroekonomskem področju, saj pripomore k znižanju fiskalnega deficita in omogoča razvoj finančnega sektorja (Lopez-Calva, 1998, str. 30).

Glavni cilj privatizacije je doseganje večje učinkovitosti, ki je rezultat boljše razporeditve, proizvodnje, menedžerskih znanj, produktivnosti in menedžerskih vzpodbud. Privatizacija sama pa ni dovolj za doseg cilja, zato je drugi cilj privatizacije tudi prestrukturiranje (Roland, 2000,

str. 232 - 236). Med ostale cilje uvrščamo povečanje vloge zasebnega sektorja, izboljšanje javnih financ, izboljšanje fiskalne pozicije in razvoj domačega kapitalskega trga (Lopez-Calva, 1998, str. 9, 10). Cilj je tudi iztržiti čim večji prihodek od prodaje državnega premoženja.

Pri procesu privatizacije mora država upoštevati omejitve, ki se pri tem pojavljajo. Na Kosovu so v ospredju politično okolje, finančna sposobnost kupcev, informacijska asimetrija, administrativne ovire in struktura trga (Lopez-Calva, 1998, str. 7 – 11; Roland, 2000, str. 236 – 239).

Ali je metoda privatizacije pomembna?

Čeprav naj bi imela večina tranzicijskih držav podobno stanje gospodarstva, so se metode privatizacije znotraj njih razlikovale. Izbira metode je odvisna od več dejavnikov, najpogostejši so: zgodovina državnih podjetij in njihova finančna in konkurenčna pozicija, vladne politike reform, državne regulative, želje različnih subjektov za izplačilo privatizacijskih prihodkov, zaupanja v vlado, zahteve kapitalskih trgov in institucionalni okvir, potencialnih investitorjev in dovoljenja vlad za sodelovanje tujih investitorjev.

Med metodami, za katere se odločajo tranzicijske države sta med najpogostejšimi, masovna privatizacija preko certifikatov, katere glavni cilj je hitrost, medtem ko naj bi metoda postopne prodaje pozitivno vplivala na učinkovitost in omogočala največjo raven privatizacijskih prihodkov (Roland, 2000. str. 229 – 230). Metode se med seboj razlikujejo na treh nivojih, in sicer je razlika, ali je državno podjetje prodano ali pa je dano novemu lastniku, druga razlika je med tem ali so sredstva dana zunanjim lastnikom, domačim in tujim, ali pa notranjim, upravi in delavcem, tretje razlikovanje pa je med tem, ali privatizacijo predlaga država ali pa drugi investitor. Metode se med seboj razlikujejo tudi po tem, koliko denarja prinese posamezna metoda v državni proračun. Prihodke vlada lahko porabi za različne namene.

Masovna privatizacija je metoda privatizacije, kjer se državna podjetja prenesejo na širše zasebne lastnike z namenom, da bi dosegla razpršeno lastništvo (Lopez-Calva, 1998, str. 12). V ta namen država izda vavčerje (certifikate), ki jih državljanji dobijo ali pa po nizki ceni kupijo. Med tem se ustanovijo tudi privatizacijski skladi. Metoda z vavčerji je bila najpogosteje v ospredju v tranzicijskih državah (Rusija, Češka, Slovaška, Latvija, Poljska), vendar se posamezne izbire metod med seboj malenkostno razlikujejo. Metoda ni dobra, saj ne more zagotoviti potrebnih virov financiranja za prestrukturiranje; v primeru, da je lastništvo podeljeno notranjim subjektom, pa grozi problem slabih vodstvenih znanj in kadrov (Roland, 2000, str. 245, 246).

Direktna prodaja je druga metoda, ki omogoča prodajo strateškim investitorjem, ki garantirajo večjo učinkovitost in konkurenčnost podjetja (Lopez-Calva, 1998, str. 13). Slabost te metode je v tem, da majhno število potencialnih investitorjev zmanjša možnost prodaje najboljšemu lastniku, hkrati pa je težko predvideti optimalno vrednost podjetja namenjenega prodaji. Prednost te metode je v tem, da omogoča prodajo manjših podjetij in hkrati omogoča visoke privatizacijske

prihodke. Direktna prodaja ima dve obliki, in sicer prodajo na dražbi in prodajo investitorjem, ki se zanimajo za nakup državnega podjetja.

V tranzicijskih državah med ostalimi metodami prevladuje menedžerski odkup, ki je najpogostejša pri srednje velikih in velikih podjetjih, v razvitih državah pa je pogosta metoda uvrstitev delnic podjetja na borzo (IPO).

Poleg spremembe lastništva so posledica privatizacije tudi privatizacijski prihodki. Do leta 1999 naj bi ti že znašali okrog 1000 milijard dolarjev (Gibbon, 2000, str. 4, 5). Tudi v tem stoletju naj bi prihodki od prodaje državnih podjetij veliko pripomogli k izboljšanju proračunov, saj naj bi samo v letu 2005 evropske in centralno-azijske države prejele 32 milijard dolarjev, med njimi največ Češka, Poljska, Turčija, Madžarska in Slovaška. Prihodki se največkrat uporabijo za financiranje višje proračunske porabe, pokrivanje zunanjega dolga, znižanje fiskalnih obveznosti, plačila likvidacijskih udeležencev, znižanje davčne stopnje, financiranje gospodarskih programov in povečanje državnih rezerv (Bennett et. al. 2000, str. 1- 43). Po raziskavah je najučinkovitejši način uporabe razdelitev prihodkov za pokrivanje dolga, ker naj bi imelo najširši učinek, saj lahko vpliva na nižje obrestne mere, inflacijo in večjo gospodarsko rast (Kikeri, Nellis, 2002, str. 14). Veliko držav je porabilo prihodke prav v ta namen, a še vedno prevladujejo tiste, ki so jih uporabile za druge državne izdatke, katerih je bil več kot polovica namenjenih za infrastrukturo (Kikeri, Kolo, 2001, str. 13).

Privatizacija v Vzhodni Evropi je bila ključnega pomena za prehod iz planskega v tržno gospodarstvo. Država je večini podjetij pomagala z državno podporo in jih s tem reševala pred bankrotom. Prodaja podjetij v Jugoslaviji je potekala po Markovičevem zakonu, ki je pri nakupu dajal prednost zaposlenim. Po razpadu skupne države je vsaka nova država sprejela svoj zakon, vendar so bili v osnovi podobni prejšnjemu, medtem ko so se na Kosovu odločili za drugačno metodo. Prestrukturiranje je bilo počasno, saj so imeli novi lastniki premalo znanja o vodenju podjetij, poleg tega pa so bili zaradi slabe preglednosti in korupcije tesno povezani z državo. Tudi notranje lastništvo, politično in gospodarsko okolje in slaba preglednost transakcij negativno vplivali na sodelovanje tujih investitorjev (Mulaj, 2006b).

Kaj se lahko naučimo?

Na splošno je masovna privatizacija primerna za države, ki skušajo čim prej doseči ustrezno raven zasebnega lastništva, vendar pri tem država tvega velike izgube prihodkov. Po raziskavah naj bi bila najboljša metoda, ki bi povečala učinkovitost in maksimizirala dobiček, direktna prodaja (Lopez-Calva, 1998, str. 31). Za manjša podjetja je primernejša direktna prodaja, medtem ko je za večja boljše postopna prodaja. Po raziskavah naj bi bili najboljši lastniki menedžerji, koncentrirani posamezni investitorji, investicijski skladi in tuji vlagatelji (Djankov, Murell, 2000, str. 12). Tuje lastništvo pozitivno vpliva na prihodke (Frydman, 1997, str. 30), hkrati pa omogoča več virov in znanj za prestrukturiranje (Transition: the first ten years: analysis and Lessons for Eastern Europe and the former Soviet Union, 2002, str. 71 – 80) ter v manjši meri vpliva na zmanjšanje delovne sile (Frydman, 1997, str. 31).

Po študiji različnih metod, privatizacijskih prihodkov in sodelovanja tujih investitorjev se za najboljšo metodo izkaže postopna prodaja državnih podjetij tujim investitorjem. Razlog za to je predvsem v visokih prihodkih, ki jih država lahko učinkovito uporabi. Tukaj je potrebno poudariti, da država tujega lastništva ne sme dovoliti v vseh podjetjih, saj je potrebno ohraniti domače lastništvo v nekaterih strateških sektorjih.

Kako pritegniti tuje investitorje?

Tuji investitorji so ključni element uspešne privatizacije, zato sem izdelala model, ki bi jih pritegnil. Model je oblikovan s pomočjo študije in izkušenj drugih tranzicijskih držav. V nadaljevanju sem model primerjala s stanjem na Kosovu in podala predloge, kako bi lahko glede na te smernice učinkovito porabili prihodke od privatizacije.

Metoda, ki bi pritegnila tuje investitorje, mora vsebovati naslednje elemente:

- postopen prenos sredstev,
- privatizacijo kot del celotne strategije države,
- neposredno prodajo malih podjetij,
- postopno privatizacijo srednje velikih in velikih podjetij,
- avtonomijo agencije, ki skrbi za izvedbo procesov privatizacije,
- poseben račun za privatizacijske prihodke,
- dosledna vpeljava trdih proračunskih omejitev,
- razvoj institucionalnega okvirja,
- ustrezno zakonodajo,
- razdelitev večjih podjetij na manjše enote,
- upoštevanje lastniških pravic,
- ščitenje javnega interesa,
- definiranje pravic zaposlenih in
- privatizacijo paradnih konjev.

PRIVATIZACIJA NA KOSOVU

Na splošno o Kosovu

Kosovo je avtonomna provinca v južnem delu Srbije. Vojna v devetdesetih letih prejšnjega stoletja je opustošila pokrajino in njegovo gospodarstvo, kar je botrovalo k intervenciji Združenih narodov (ZN), NATA in drugih mednarodnih institucij. 10. junija 1999 so ZN z resolucijo 1224 ustanovili Misijo Združenih narodov na Kosovu (UNMIK), po kateri je Kosovo še vedno del Srbije, vendar le-ta nima nanj nikakršnega vpliva. Misija je ustanovila tudi lokalno vlado, imenovano Provisional Institutions of Self-Governance (PISG), izoblikovala institucionalni in zakonski okvir, fiskalno politiko, carino, nacionalno banko, ministrstvo za trgovino in industrijo in ostale pomembne institucije.

Gospodarska aktivnost na Kosovu je bila vedno precej nestabilna in zelo odvisna od donacij. Rast bruto domačega proizvoda (BDP) je bil majhna in se je leta 2006 dvignila komaj na 3 % (CBAK Annual Report, 2006, str. 15), nadaljnje napovedi pa so zelo pesimistične. Zaradi nekonkurenčnosti kosovskega izvoza in velikega uvoza je leta 2006 deficit na tekočem računu plačilne bilance leta 2006 znašal že 44 %. Po dveh letih proračunskega primanjkljaja je Kosovo leta 2006 zopet beležilo proračunski presežek 3,4 % nominalnega BDP (CBAK Annual Report, 2006 str. 16). Fiskalna politika je bila uvedena že takoj na začetku in je dokaj konkurenčna z 15 % DDV in 20 % davkom na dobiček. Kosovo trenutno ne servisira zunanega dolga, vendar bo podedovalo 900 milijonov EUR dolga iz naslova nekdanje skupne države, ko bo urejen status (EBRD Transition Report 2006, 2007). Zaradi uvedbe evra kot uradne valute se Kosovo spretno izogiba inflaciji, ki znaša le 0,7 %. Kljub vstopu tujih bank je finančni sektor še dokaj nerazvit, problem pa predstavlja predvsem razlika med depozitno obrestno mero 2,97 % in posojilno obrestno mero 13,37 % (CBAK Annual Report, 2006, str. 25). Industrijski sektor je med vojno utrpel velike posledice, zato je zanj ključna privatizacija skupaj s prestrukturiranjem in dodatnimi investicijami. Med strateškimi sektorji je potrebno izpostaviti rudarstvo, saj ima Kosovo eno izmed največjih zalog lignita v Evropi.

Kosovsko gospodarstvo je močno odvisno od pomoči donatorjev, zato je po umiku Misije Združenih narodov na Kosovu ključno vprašanje tujih investicij. Gospodarsko okolje trenutno ne privablja zadosti tujih investorjev, zaradi nestabilnega političnega položaja, trgovinskih omejitev, nezadostne infrastrukture, težke dostopnosti zunanjih virov financiranja, korupcije, sporov glede privatne lastnine in pomanjkanje elektrike. Pozitivno dejavniki pa so uvedba evra, stabilna monetarna politika, razvoj finančnega sektorja, mlada populacija, razvijajoče sosednje države, spodbujanje izvoza in nenasičen trg. Kosovo se dobro zaveda pomembnosti tujih investorjev, zato so sprejeli Resolucijo 2001/3, ki investitorjem omogoča enake pogoje kot domačim podjetjem.

Misija je do sedaj za donacije in delo porabila že okrog 2,6 milijard EUR, vsako leto pa so donirali od 75 do 120 milijonov EUR. Kljub velikim naporom ZN in največji denarni pomoč do sedaj pa je gospodarska rast nizka, institucionalni okvir nezadosten, največji problem pa je visoka brezposelnost, saj le-ta znaša že 40 %. Ena izmed prioritet je tudi razrešitev kosovskega vprašanja o bodočem statusu. Po predlogu posebnega odposlanca ZN Marti Ahtisaarija naj bi Kosovo dobil največjo stopnjo neodvisnosti znotraj Srbije, vendar je bil predlog zavrnjen tako iz Beograda kot iz Prištine. Po mnenju Ahtisaarija je v provinci, kjer kosovski Albanci predstavljajo 90 % populacije, neodvisnost edina prava rešitev. Dokončna razrešitev kosovskega vprašanja pa se zdi še daleč.

Proces privatizacije

Privatizacija se je na Kosovem začela zelo pozno, saj je prišla na seznam prioritet šele leta 2003. Kljub temu, da so ostale države nekdanje Jugoslavije, kot tudi druge tranzicijske države, že imele

izkušnje s privatizacijo, se zdi, da Kosovo ni dovolj upoštevalo napak pa tudi slabih praks ostalih držav v prehodu.

Po vojni je bila večina izmed 600 kosovskih družbenih podjetij nekonkurenčnih in so imela malo možnosti za razvoj, zato je bila privatizacija skupaj s prestrukturiranjem življenjsko potrebna. Problem je nastal zaradi pomanjkanja sredstev, zato so bili tuji investitorji nujni. S sprejemom regulative 2002/12 13. junija 2002 so bila vsa sredstva javnih (POE) in družbenih (SOE) podjetij prenesene na Kosovo Trust Agency (KTA), agencijo za privatizacijo, za reševanje lastniških sporov pa je bil ustanovljen Posebni oddelek vrhovnega sodišča.

Glavna naloga KTA je privatizacija 600 podjetij s pomočjo metode spin-off – nastanka novih podjetij in likvidacije po najhitrejši, pregledni in preprosti poti (Shala, 2007). V želji po čim večji povezavi investitorjev KTA sodeluje z Economic Initiative for Kosovo (ECIKS) in Investment Promotion Agency of Kosovo (IPAK). Promocijske aktivnosti se odvijajo predvsem v tujini, v ospredju pa je Dunaj.

Metoda prostovoljne likvidacije je namenjena podjetjem, ki nimajo nobenega tržnega potenciala. Po najboljši ceni so prodana sredstva podjetja, zato da se z njimi poplača upnike in delavce ter se tako omogoči vsakemu, ki misli, da je do njih upravičen, možnost prijave svojega deleža za izplačilo pri posebnem komiteju.

Druga, bolj pogosta, metoda je metoda spin-off, pri kateri se z ustanovitvijo novega podjetja (NewCo) sredstva deloma ali popolno prenesejo na novo podjetje, obveznosti pa ostanejo pri starem podjetju, kar omogoča nakup državnega podjetja brez predhodnih starih obveznosti. V drugem koraku KTA novo podjetje proda na dražbi novemu ponudniku in dovoli 99-letni najem nepremičnin podjetja. Posebna oblika te metode je prodaja novega podjetja, kjer se mora novi lastnik zavezati, da bo investiral v naprej določeno vsoto in zaposlil določeno kvoto delavcev in je najprimernejša za strateška družbena podjetja. Obe obliki te metode naj bi privabljala tuje investitorje, saj dolg in obveznosti ne prenesejo na novega lastnika.

Med prvimi podjetji so privatizirali tiste, ki so predstavljala največji delež družbenih sredstev. Privatizacija poteka postopoma v valovih, vsak val pa mora odobriti KTA. Privatizacija se je začela 23. februarja 2003, vendar je bila dvakrat zaustavljena, zaradi Misije in evropskega odposlanca, poleti 2004 pa se je proces nadaljeval. Prvotno naj bi bila privatizacija končana sredi 2005, vendar je bilo do leta 2006 olastninjenih šele polovica podjetij. Privatizacijo je pospešila nova regulativa 2005/18, ki omogoča 99 letni najem nepremičnin in omogoča hitrejšo prodajo. 2. oktobra 2007 je bil objavljen že 29. val privatizacije. Do oktobra 2007 so privatizirali 311 podjetij in iz njih ustanovili 539 novih, prihodki od privatizacije pa so narasli že na 340.790.795 EUR, ki pa bi bili večji, če bi KTA uspelo zmanjšati razliko med nepodpisanimi in podpisanimi pogodbami. Nadalje bo KTA privatizirala še preostala podjetja, tudi v sektorju turizma, ki naj bi veljal za zelo perspektivnega. Pri tem bi lahko sodelovali tudi slovenski vlagatelji.

Določitev prave vrednosti, družbena lastnina nepremičnin, višek zaposlenih, odpovedi investitorjev, prisotnost srbske vlade, problemi pri posebni metodi novih podjetij in pomanjkanje investitorjev so zelo pogoste težave, izstopa pa poraba privatizacijskih prihodkov. Le ti so 20 % namenjeni prejšnjim zaposlenim, vendar so izplačila nekonsistentna in časovno predolgo odložena, 80 % pa je namenjenih poravnavi lastninskih zahtevkov, vendar ostajajo zaklenjena na računu KTA. Poleg tega je pregled posameznih valov razkril, da naj bi bili privatizacijski prihodki višji od sredstev na KTA računu za približno 100 milijonov EUR, kar kaže na nepregledno poslovanje.

Ali je privatizacija na Kosovu uspešna?

Privatizacija na Kosovu naj bi spodbudila zasebni sektor in pripomogla k njegovi rasti. Po raziskavi naj bi privatizacija povečala prihodke od prodaje in investicije v infrastrukturo. Med uspešnejše prodaje družbenih podjetij lahko štejemo rudarsko podjetje Ferronikeli, katerega je kupilo tuje podjetje IMR/Alferom za 30,5 milijonov EUR, Pivovarno Peja, katere lastnik je tudi Pivovarna Laško, gojilnica rib Trofta, Silcapor in druge, ki so bili prodani skupaj z investicijskimi in zaposlitvenimi zahtevami. Kljub nekaterim dobrim rezultatom novih podjetij je rast še vedno nizka. Zanimivo je tudi dejstvo, da naj bi ustvarili 6000 novih delovnih mest, vendar je brezposelnost še vedno izjemno visoka. Tudi tuji investitorji niso bili preveč zavzeti, saj jih je od sedaj sodelovalo šele 32, med njimi največ Američanov in Švicarjev, pomemben delež imajo tudi slovenski investitorji.

Metoda privatizacije je bila primerna, saj v osnovi želi pritegniti tuje investitorje, vendar bi bila uspešnejša, če bi podjetja začela s prestrukturiranjem predhodno. Na splošno so bila pričakovanja Kosovcev večja, saj so računali na tuj kapital, ki pa se ni pojavil v zadostni meri. Deloma je razlog za to tudi politični položaj, saj se investitorji bojijo, da bi lahko nova podjetja zasegli Srbi, KTA pa se boji, da bi Srbi vztrajali pri procesi delitve premoženja.

Na podlagi poučevanja metode privatizacije v državah v prehodu in stanjem na Kosovu sem izoblikovala predloge o učinkoviti uporabi privatizacijskih prihodkov. Pri razporeditvi je potrebno poudariti, da so vsa sredstva zaenkrat zaklenjena, saj se KTA boji vmešavanja Srbije. Kljub dejstvu, da naj bi bilo pokrivanje dolga, ki ga bo Kosovo podedovalo, najboljša uporaba, pa menim, da so za to potrebna druga sredstva. Prihodki naj bodo tako namenjeni izboljšanju poslovnega okolja za sodelovanje tujih investitorjev, ki pozitivno vplivajo z novo tehnologijo in znanjem. Predlogi za uporabo privatizacijskih prihodkov, ki bi hkrati vzpodbudili tuje investicije oziroma izboljšali poslovno okolje za privabljanje investitorjev, pa imajo pozitivni učinek na razvoj kosovskega gospodarstva. Predlogi so:

- nadaljnji razvoj privatnega sektorja preko ustanovitve podporne agencije, izboljšanje javne uprave in prestrukturiranja;
- razvoj infrastrukture, predvsem cestne, in mobilnega omrežja, ki ga bo vzpostavil Telekom Slovenije;
- pomoč novim podjetjem, ki so bila prodana s posebno metodo;

- vzpostavitev institucionalnega okvirja in zakonodaje;
- posojila za državljane, da bi lahko sodelovali pri nakupu družbenih podjetij;
- razvoj finančnega sektorja s pomočjo tujih investorjev;
- promocija investicijskih priložnosti in
- integracija države.

ZAKLJUČEK

Diplomska naloga *The Privatisation Process in Kosovo: overview and recommendations* postavi teoretični okvir za uspešno privatizacijo na Kosovu glede na pretekle izkušnje evropskih držav v tranziciji. Predpostavka, da je privatizacija odločilna za večjo učinkovitost podjetij, se je izkazala za pravilno, saj je privatizacija potrebna za prestrukturiranje, privabljanje tujih investicij, novih tehnologij, menedžmenta in kapitala. Privatizacija ne poveča konkurence na trgu, ampak pa konkurenčnost proizvodov teh podjetij. Poleg tega ima privatizacija pozitivne posledice tudi na makro ravni, saj pripomore k večji splošni učinkovitosti in k stabilnemu in vzdržnemu gospodarskemu razvoju, privatizacijski prihodki pa so lahko porabljeni uspešno.

Izbor privatizacijske metode je odvisen tako od specifičnih ciljev vlade kot tudi institucionalnega in političnega okvirja ter omejitev trga. Po proučevanju različnih metod se je za najprimernejšo izkazala konkurenčna, odprta in pregledna prodaja zunanjim strateškim investorjem, med tem ko je imela masovna privatizacija najslabše rezultate. Dodatna prednost direktne prodaje so tudi visoki prihodki od prodaje državnih podjetij.

Privatizacija se je začela na Kosovu pozno. Po študiju literature, kjer je za najboljšo metodo privatizacije izbrana direktna prodaja, je metoda privaitzacije preko likvidacije in ustanavljanja novih podjetij (spin-off) in posebne prodaje (special spin-off) v tem trenutku zdi najboljša, ker omogoča, da investitorji ne podedujejo slabih dolgov podjetij, prejšnjim delavcem nameni 20 % prihodkov za nadomestilo, z zahtevki se ukvarja KTA in za to pristojno sodišče in daje možnost takojšnjega investiranja, vendar se proces ni nadaljeval po načrhih. Problemi so sledeči: določitev prejšnjih lastnikov, številni zahtevki, lastniške pravice za nepremičnine, odvečna delovna sila, odstopanje investitorjev od ponudbe, prekinjanje procesa s strani misije in številni drugi.

KTA vodi privatizacijo do določene mere uspešno, vendar ne dovolj pregledno in hitro. Njihov cilj privabiti čim več tujih investorjev, ki bi prinesli nov kapital, tehnologijo in znanje, žal ni bil dosežen, kar nam potrjuje podatek, da je nova podjetja kupilo le nekaj več kot 30 tujih investorjev. Ta podatek potrjuje mojo hipotezo, da bi bilo večje sodelovanje tujih investorjev možno, če bi izvedli več aktivnosti. Največja ovira pri sodelovanju tujih vlagateljev je bilo nestabilno okolje, vendar se zdi, da se prizadevanja za pritegnitev tujih investorjev vedno bolj povečujejo, vendar bi lahko naredili še več, če bi sledili predlogom te diplomske naloge.

Med procesom privaitzacije je KTA prejel 350 milijonov privaitzacijskih prihodkov, ki ostajajo zakljenjeni na računu, in niso ponovno investirani v kosovsko gospodarstvo. Prav zamrznitev

prihodkov je bila povod oblikovanja predlogov za učinkovito uporabo teh sredstev. Predlogi so oblikovani glede na izkušnje drugih tranzicijskih držav in upoštevajo, da bo del sredstev namenjen poplačilu lastniških zahtevkov. Predlogi so sledeči: nadaljnji razvoj privatnega sektorja, razvoj infrastrukture, pomoč novim podjetjem, vzpostavitev institucionalnega okvirja in zakonodaje, posojili za državljanke, razvoj finančnega sektorja, promocija investicijskih priložnosti in integracija države. Seveda se predlogov ne da upoštevati istočasno, zato je potrebno postopno uvajanje, ki pa ne sme biti prepočasno.

Menim, da bi bila privaitzacija uspešnejša, če bi bila bolje načrtovana in bi gospodarsko okolje omogočalo večjo udeležbo tujih investitorjev. Večja udeležba pa se pričakuje po določitvi končnega statusa Kosova, ko bo v veliki meri izključeno politično tveganje. Mislim, da je Kosovo premalo upoštevalo lekcije drugih tranzicijskih držav, kar dokazuje izbira prave metode, vendar bi lahko dosegli še več. Trdno verjamem, da bi lahko privatizacijski proces pritegnil tuje vlagatelje v večji meri. Na splošno bi lahko dejali, da ima Kosovo velik potencial za razvoj, ki bi ga lahko izkoristili tudi tuji investitorji, med njimi tudi slovenski.

Na koncu je potrebno poudariti, da Kosovo spoznava velik pomen privatizacije za gospodarsko rast in razvoj. Kljub temu da se je proces začel pozno, pa v primerjavi z ostalimi državami CEE in SEE proces napreduje hitro. Končno oceno o uspešnosti privatizacije na Kosovu pa bomo lahko podali šele čez nekaj let, ko bodo študije pokazale, ali je bil način privatizacije gonilo gospodarskega napredka.

BIBLIOGRAPHY

1. Barnett Steven et al.: Fiscal and Macroeconomic Impact of Privatisation. Washington D.C. : IMF 2000. 43 p.
2. Bennett et al.: Privatisation Methods and Economic Growth in Transition Economies. Michigan : University of Michigan, 2004. 29 p.
3. Boubakri Narjess, Cosset Jean-Claude: The Financial and Operating Performance of Newly-Privatised Firms: Evidence From Developing Countries. Journal of Finance, New York, 53(1998), 3, pp. 1081-1110.
4. Djankov Simeon, Murrell Peter: The Determinants of Enterprise Restructuring in Transition: An Assessment of the Evidence. Washington D.C. : World Bank, 2000. 32 p.
5. Djankov Simeon, Murrell Peter: Enterprise Restructuring in Transition: a Quantitative Survey. Journal of Economic Literature, Stanford, 40(2002), 3, pp. 739-792.
6. Domadenik Polona, Mulaj Isa, Redek Tjaša: Kosovo na poti v tržno gospodarstvo. Poslovna konferenca Portorož - Priložnosti finančnega sektorja v tranzicijskih državah. Časnik Finance in Ekonomska fakulteta Univerze v Ljubljani. Ljubljana : Časnik Finance, 2006, pp. 363 – 374.
7. Domadenik Polona et al.: Nekatere ključne panoge kosovskega gospodarstva s prikazom študij primerov. Poslovna konferenca Portorož: Priložnosti finančnega sektorja v tranzicijskih državah. Časnik Finance in Ekonomska fakulteta Univerze v Ljubljani. Ljubljana : Časnik Finance, 2006, pp. 379 - 395.
8. Falke Mike: Community Interests: An Insolvency Objective in Transition Economies?. No.01/02. Frankfurt : Frankfurter Institut für Transformationsstudien, 2002. 29 p.
9. Frydman Roman et al.: Private ownership and corporate performance: Lessons from transition economies. Washington D.C. : World Bank, 1997. 56 p.
10. Fuelling Kosovo's Growth Engines: A Strategic Vision and Policy Priorities. Prishtina : UNMIK EU Pillar: UNMIK, 2005. 20 p.
11. Gibbon Henry: Worldwide Economic Orthodoxy. Privatisation International, London, 123(2000), pp. 4-5.

12. Gould John: Privatisation and Political Institution Building in Kosovo and Bosnia & Herzegovina. Colorado : Colorado College, 2007. 7 p.
13. Havrylyshyn Oleh, Wolf Thomas: Determinants of Growth in Transition Countries. Finance & Development, Washington, 36(1999), pp. 12 - 15.
14. Hanousek Jan, Kocenda Evzen, Svejnar Jan: Privatisation and Performance over the transition: A reassessment. Berkely, 2005.
15. Judah Tim: The EU must keep its promise to the Western Balkans. London : Centre for European Reforms, 2007. 8 p.
16. Kikeri Sunita, Nellis John: Privatisation in Competitive Sectors: The Record to Date. WB Policy Research Working Paper No. 2860. Washington D.C. : World Bank, 2002. 60 p.
17. Kikeri Sunita and Kolo Aishetu: Privatisation: trends and recent development. WB Policy Research Working Paper No. 3765. Washington D.C. : World Bank, 2005. 31 p.
18. Lopez-Calva Luis Felipe: On Privatisation Methods. Development discussion Paper No. 665. Boston : Harvard University, 1998. 42 p.
19. Mihaljek Dubravko: Local complications of global economic integration: privatisation receipts and volatile export earnings. BIS papers no. 23. Basel: Bank for International Settlement, 2005. 84 p.
20. Megginson William L., Netter Jeffrey M.: From State to Market: A Survey of Empirical Studies On Privatisation. Journal of Economic Literature, W.P., 2001, pp. 321 – 389.
21. Muharremi Robert: UNMIK and the Privatisation of Socially Owned Property: A critical outline of the present privatisation process in Kosovo. Prishtina : UNMIK, 2005. 28 p.
22. Mulaj Isa: Redefining Property Rights with Specific Reference to Social Ownership in Successor States of Former Yugoslavia: Did it Matter for Economic Efficiency?. Munich : MPRA, 2006. 28 p.
23. Perritt H. Henry Jr: Economic Sustainability and final status for Kosovo. University of Pennsylvania Journal of International Economic Law, Pennsylvania, 25(2004), 1, pp. 259 – 321.
24. Roland Gerard: Transition and Economics: Politics, Markets, and Firms. Cambridge : MIT Press, 2000. 400 p.

25. Shala Ahmet: Privatisation in Kosovo: the Best in the Balkans?. Prishtina : KTA, 2006. 7 p.
26. Shala Ahmet: Privatisation in Kosovo. Prishtina : KTA, 2007.

SOURCES

1. Aide Memoire of the IMF Staff Mission to Kosovo. Geneva : IMF, 2006. 12 p.
2. Annual report 2006. Pristina : Central Banking Authority of Kosovo, 2007. 150 p.
3. Company Foundation, taxes and Employment Law in Kosovo. Vienna : ECIKS/IPAK 2007. 46 p.
4. Early Warning Report. Pristina : Central Banking Authority of Kosovo: 2007, no. 15.
5. EBRD Transition report 2005: Business in Transition. London : EBRD, 2006. 208 p.
6. EBRD Transition report 2006: Finance in Transition. London : EBRD, 2007. 204 p.
7. ECIKS. [URL: <http://www.eciks.org/english/index.php>], 20.10.2007.
8. Fotiadis Apostolis: Privatisation Pick Up in Kosovo. Prishtina. [URL: <http://ipsnews.net/news.asp?idnews=38989>], 2007.
9. IMF Technical Assistance Evaluation Program. Geneva : IMF, 2006. 31 p.
10. Kosovo Development Strategy, 2006.
11. Kosovo – Gearing policies toward growth and development. Geneva : IMF, 2004. 105 p.
12. Kosovo Trust Agency. [URL: <http://kta-kosovo.org/html/>], 1.10.2007.
13. Kosovo (under UNSCR 1244) 2005 Progress Report. Brussels : European Commission, 2005. 63 p.
14. Kosovo (under UNSCR 1244) 2006 Progress Report. Commission staff working documents. Brussels : European Commission, 2006. 44 p.
15. KTA Press releases, several issues, [URL: <http://ktakosovo.org/html/index.php?module=htmlpages&func=display&pid=24>], 20.10.2007.

16. Mulaj Isa: Forgotten Status of Many: Kosovo's Economy under the UN and the EU Administration. Memo, 2006a.
17. Mulaj Isa: Economic and Social Stability. Memo, 2006b.
18. Privatisation in Kosova: Forwards and Backwards. Prishtina : Reinvest Institute for Development Research, 2004. 63 p.
19. Privatisation of Ferronikeli. [URL: http://www.ferronikeli.com/eng/download/Rules_of_Tender-Special_Spin_Off-Ferronikeli-ENG.pdf], 2.10.2007.
20. Privatisation of the Ski resort Brezovica. Conference. Vienna : ECIKS/IPAK, 7.11.2007.
21. Privatisation proceeds. World Bank. [URL: <http://rru.worldbank.org/Privatisation/Region.aspx?regionid=434>], 2.10.2007.
22. Privatisation success stories. Kosovo Trust Agency. [URL: <http://kta-kosovo.org/html/index.php?module=htmlpages&func=display&pid=24>], 21.10.2007.
23. Report of the Special Envoy of the Secretary-General on Kosovo's future status. Vienna : United Nations Security Council, 2007. 9 p.
24. The status of Socially Owned Property in Kosovo: Contests and Privatisation. Prishtina, Reinvest Institute for Development Research, 2004. 63 p.
25. Transition: the first ten years: analysis and Lessons for Eastern Europe and the former Soviet Union. Washington D.C. : World Bank, 2002. 128 p.
26. UNMIK. [URL: www.unmikonline.org], 3.10.2007.
27. UNMIK Impact on the Kosovo Economy. Prishtina : UNMIK EU Pillar, 2006. 80 p.
28. UNMIK Press Releases, several issues.
29. Use of proceeds. [URL: http://www.freema.org/index.php/research/analysis_of_possible_uses_of_income_from_privatisation/2626], 2.10.2007.
30. World Bank explanation of privatisation. [URL: <http://web.worldbank.org/WBSITE/EXTERNAL/TOPICS/EXTLAWJUSTICE/0,,conten>

tMDK:20372395~menuPK:1696164~pagePK:148956~piPK:216618~theSitePK:445634,00.html], 3.11.2007.

31. World development report 2002: Building Institutions for Markets. Oxford : Oxford University Press, 2002. 249 p.

APPENDIXES

Appendix 1: Study of transition countries and privatisation method and FDI..... 2

Appendix 2: Proceeds from privatisation transactions per year (\$US Millions) 3

Appendix 3: Different privatisation methods in new Successor states 4

Appendix 4: Benefits of different privatisation methods 5

Appendix 5: How ownership affects firm performance after privatization 6

Appendix 6: Kosovo basic economic facts 6

Appendix 7: Difference between spin-offs and liquidation 7

Appendix 8: KTA Press release 8

Appendix 9: KTA Management Information Summary 9

Appendix 10: Some NewCos which offered new jobs 10

Appendix 11: KTA Survey Shows Success of Privatisation..... 10

Appendix 1: Study of transition countries and privatisation method and FDI

Table 1: Study of transition countries and privatisation method and FDI

Country	Direct sale	Vouchers	Management - employee buyout	Private sector share of GDP	Cumulative FDI inflows 1989 - 2005	Cumulative FDI inflows p.c. 1989 - 2005
				in %	in US\$ mln	US\$
CSB						
Albania	n.a.	Secondary	Primary	75	1,711	535
Bosnia and Hercegovina	Secondary	Primary	n.a.	55	1,961	516
Bulgaria	Primary	Secondary	n.a.	75	12,151	1,575
Croatia	n.a.	Secondary	Primary	60	10,549	2,376
Czech Republic	Secondary	Primary	n.a.	80	51,882	5,061
Estonia	Primary	Secondary	n.a.	80	6,296	4,674
Macedonia, FYR	Secondary	n.a.	Primary	65	1,277	639
Hungary	Primary	n.a.	Secondary	80	42,624	4,229
Latvia	Primary	Secondary	n.a.	70	4,214	1,827
Lithuania	Secondary	Primary	n.a.	75	4,873	1,423
Poland	Primary	n.a.	Secondary	75	71,151	1,866
Romania	Secondary	n.a.	Primary	70	24,12	1,11
Slovak Republic	Primary	Secondary	n.a.	80	13,746	2,556
Slovenia	n.a.	Secondary	Primary	65	3,057	1,536
Serbia				55	5,437	725
CIS (selected countries)						
Belarus	n.a.	Secondary	Primary	25	2,444	251
Kazakhstan	Primary	Secondary	n.a.	65	23,692	1,568
Moldova	Secondary	Primary	n.a.	65	1,087	321
Russia	Secondary	Primary	n.a.	65	8,846	61
Ukraine	Secondary	n.a.	Primary	65	16,115	342

Source: Transition: the first ten years: analysis and Lessons for Eastern Europe and the former Soviet Union, 2002, pp. 71 – 80; EBRD transition report 2006, 2007

Appendix 2: Proceeds from privatisation transactions per year (\$US Millions)

Table 2: Proceeds from privatisation transactions per year (\$US Millions)

Region / Country	2000	2001	2002	2003	2004	2005
Europe & Central Asia	10,480	7,926	10,577	8,909	14,800	32,886
Albania	96	..	..	139	6	41
Armenia	..	..	67	25	136	..
Azerbaijan	..	..	..	6	10	..
Bosnia and Herzegovina	25	23	..	4	18	35
Bulgaria	351	43	109	794	1,248	444
Croatia	300	192	281	1,037	53	48
Czech Republic	677	2,231	4,692	1,932	785	3,932
Estonia	127	116	..	..	..	..
Georgia	11	..	..	7	3	282
Hungary	116	87	17	729	1,226	2,617
Kazakhstan	300	108	..	192	..	138
Kyrgyz Republic	..	..	..	..	..	2
Latvia	..	..	71	15	..	..
Lithuania	171	88	56	297	37	13
Macedonia, FYR	..	345	..	11	..	..
Moldova	52	2	..	4	5	..
Poland	6,174	2,078	818	1,079	2,704	1,855
Romania	97	7	29	815	2,163	4,809
Russia	31	1,103	121	287	4,633	165
Serbia	..	..	258	1,164	9	1,085
Slovakia	1,923	1,047	3,604	143	197	1,091
Slovenia	..	278	390	..	..	..
Tajikistan	..	..	..	..	..	1
Turkey	..	..	..	..	1,087	11,517
Ukraine	29	179	44	221	470	4,800
Uzbekistan	..	..	20	8	10	10

Source: Privatisation Proceeds. World Bank, 2007

Appendix 3: Different privatisation methods in new Successor states

Table 3: Different privatisation methods in new Successor states

	Slovenia	Croatia	Macedonia	Serbia	Montenegro	Bosnia and Herzegovina	Kosova
Total number of SOEs slated for privatization	2,500 ^{a)}	3,619 ^{b)}	1,216 ^{c)}	3,486 ^{d)}	354 ^{e)}	2,591 ^{f)}	558 ^{g)}
Year and the month the first privatization law was passed	November 1992	April 1991	June 1993	August 1993	January 1992	December 1997 and June 1998	June 2002
Approaches to privatization	Decentralized	Highly centralized	Decentralized	Centralized	Decentralized	Highly decentralized	Highly centralized
Primary method of privatization	Employee buy-outs	Employee buy-outs	Employee buy-outs	Employee buy-outs	Employee buy-outs	MPP	Direct sales (spin-off)
Secondary method of privatization	MPP	MPP	Direct sales	None	MPP	Direct sales	Liquidation
Transfers to the funds	40% ^{h)}	30% ⁱ⁾	15% ^{j)}	40% ^{k)}	Up to 60% ^{l)}	15% (RS) ^{m)}	None
Discount for insiders	50% ^{h)}	20% ⁱ⁾	30-50% ^{j)}	20% ^{k)}	30% ^{l)}	None	None
Additional discount per each year of employment	None	1% ⁱ⁾	1% ^{j)}	1% ^{k)}	1% ^{l)}	None	None
Maximum discount to insiders	50% ^{h)}	60% ⁱ⁾	70%-90% ^{j)}	60% ^{k)}	70% ^{l)}	None	20% ^{o)}
Repayment period	5 years ^{h)}	5 years (20 years in the second phase) ^{j)}	5 years ^{j)}	5 years ^{k)}	10 years ^{l)}	None	None
Limits on sales of internal shares per employee (DM)	None	20,000 ⁱ⁾	25,000 ^{j)}	20,000-30,000 ^{k)}	18,000 ^{l)}	None	None
Progress with large scale privatization during the 1990s	Significant	Moderate	Moderate	Significant until 1994, retreat and no progress until 2002	Very slow	Very slow or no progress	No progress Slow since 2002
Corporate governance	Moderate	Weak	Poor	Very poor	Very poor	Very poor	n/a
Enterprise restructuring	Moderate	Little	Little	Very little	Very little	Very little or no restructuring	n/a
Private sector share to GDP (2002) ^{o)}	65%	60%	60%	45%	n/a	45%	n/a
Privatization revenues as a share of GDP (in 2002) ^{o)}	4.9%	15.8%	n/a	n/a	n/a	2.9%	n/a

Sources:

- a) EBRD (1994); b) Čučković (1996); c) Privatization Agency of Macedonia (2002a); d) Lazić and Sekelj (1997); e) Bojović and Vlahović, 2002;
 f) Privatization Agency of the Federation of BiH and of Republika Srpska (2003); g) Statistical Yearbook of Yugoslavia (1990)
 h) Official Gazette of the Republic of Slovenia, No. 55/92, Articles 22, 23, and 25; i) Official Gazette of the Republic of Croatia, No. 84/92, Articles 25 and 31;
 j) Official Gazette of the Republic of Macedonia, No. 38/93, Articles 26 and 28; k) Official Gazette of the Republic of Serbia, No. 48/91, Articles 16 and 17;
 l) Official Gazette of the Republic of Montenegro, No. 2/92, Articles 7, 8, 9 and 11; m) Official Gazette of the Republika Srpska No. 24/98, Article 26;
 n) EBRD (2002);
 o) Not a discount but the share of proceeds from the sale of SOEs going to workers according to provisions of the Regulation No. 2002/2 on the establishment of the Kosova Trust Agency on 13 June 2002 by the Special Representative of the Secretary General (Michael Steiner) was the first serious step in this process. The Regulation was amended on 22 April 2005 by Regulation No. 2005/18; and author's own compilation.

Source: Mulaj, 2006

Appendix 4: Benefits of different privatisation methods

Table 4: Benefits of different privatisation methods

	Mass Privatization	Direct Sale through negotiation	Direct Sale/Competitive Bidding	Public Offering	Mixed Sale ^a	Concessions ^b
OBJECTIVES						
Enhance Micro Efficiency		✓ Provided deregulation and opening	✓ Provided deregulation and opening	✓ Provided deregulation and opening	✓ Provided deregulation and opening	✓ Provided proper regulation
Maximize Revenue	X	✓	✓	Underpricing	✓ Proper Timing	
CONSTRAINTS						
Political Acceptability	✓		✓		✓	✓ Properly designed
Transparency		X	✓	✓	✓	✓
Market Structure: Competitive		✓	✓	✓	✓	
Market Structure: Natural Monopoly	X	X		X		✓
Development of Capital Market	Not a Constraint	Not a Constraint	Not a constraint	✓ Considering absorption capacity	✓ Considering absorption capacity	Not a constraint
Size: Small Firms		✓	✓			
Size: Large firms	✓			✓	✓	

✓ = recommended.

X = not recommended

a/ We assume that the first stage is carried out through a competitive bidding.

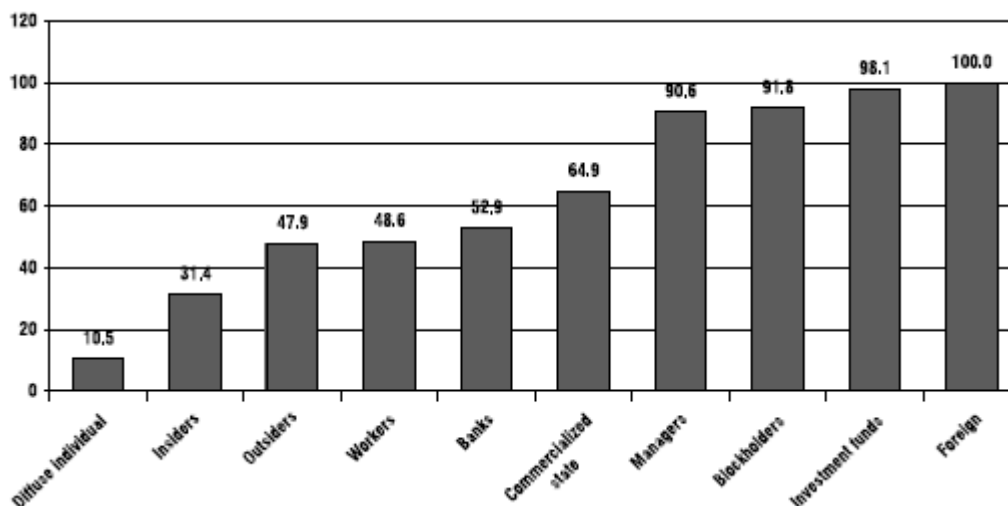
b/ We assume that they are assigned through competitive bidding.

Source: Lopez-Calva, 1998, p. 31

Appendix 5: How ownership affects firm performance after privatization

In the figure below it can be seen how changing from traditional state ownership to different private owners have other relative effects.

Figure 1: Relative effects of privatizing to specific type of owner



Source: Djankov, Murell, 2000, p. 11

Appendix 6: Kosovo basic economic facts

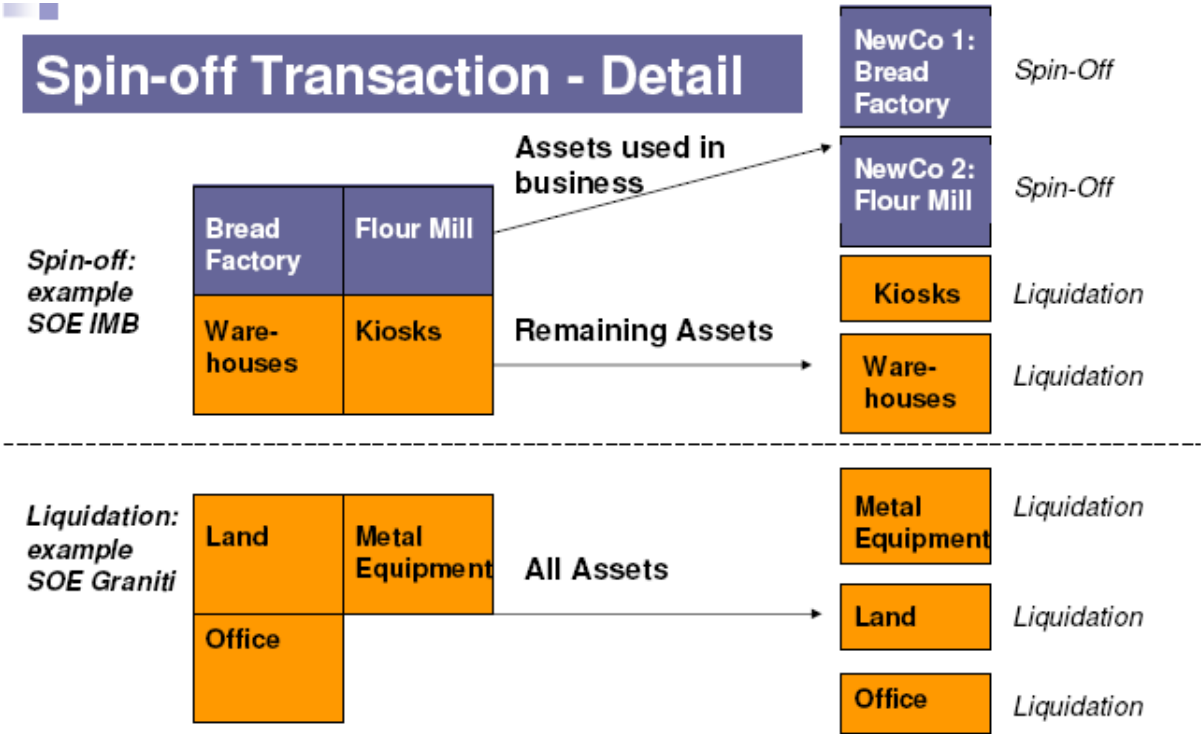
Table 5: Kosovo basic economic facts

	2004	2005	2006
Population (in million)		1,999	2,033
GDP (in million of EUR)	2,282	2,238	2,270
GDP per capita	1161	1120	1117
Real growth rates (in percent)	2,1	0,3	3,0
GDP growth (in percent) per capita	0,4	-1,4	1,3
Government budget balance (in percent of GDP)	-6,0	-3,1	3,7
Current account balance	-36	-36,9	-39,6
Current account balance after foreign assistance	-11,3	-15	-19,1

Source: Early Warning Report, 2007

Appendix 7: Difference between spin-offs and liquidation

Figure 2: Difference between spin-offs and liquidation



Source: KTA, 2007

Appendix 8: KTA Press release



Pristina ♦ Kosovo
Tel: ++381 38 500 400 101 Fax: ++ 381 38 248 076 E-mail: kta@eumik.org

PRESS RELEASE

October 17th, 2007

KTA Announces Provisional Winners of the 28th Wave

PRISTINA – The Kosovo Trust Agency (KTA) announced the provisional winners of the 28th Wave of Privatisation at today's Bid Opening Ceremony.

A total of 10 NewCo's were available for purchase. All of them were available for sale via "Regular Spin-off."

Bids were received at the KTA HQ in Prishtina from 10:00 until 12:00.

The bid opening ceremony started at 13:00 at the UNMIK HQ / Cinema Hall and the provisional winners were announced.

Forty bids were received in total.

The value of the highest bids, in total, was 2,876,859 €.

The results, and winners, given below are provisional. The Kosovo Trust Agency is now working to finalize all sales, contingent upon background checks and the completion of payments by the provisional winning bidders, and finalization of all sales contracts.

New Cos:	Bidders	Price
1. Bujqësia - Agricultural Land Dugajevë/Dugenjive	P37	222,100€
2. Bujqësia - Agricultural Land Rosulë/Rosuje	P39	315,235€
3. Dubrava Livestock Dairy farm	P20	1,625,616€
4. 17 Nëntori Shop Lypjan	P02	72,199€
5. Textile Factory Letnica	P24	185,000€
6. Letnica Viti Properties	P04	266,666€
7. Kosovaelektro Administration	P34	135,000€
8. Zhupa Recane –Supermarket in Gornje Selo	P07	15,013€
9. Ççavica Shops Vushtrri/Vucitrn	P26	40,030€
10. White House Shops	0	0€

For further information, please contact: Besa Kabashi Ramaj
038-500-400 ext 1045 or besa.kabashi@eumik.org

Source: KTA Press Release, 2007

Appendix 9: KTA Management Information Summary



KTA Management Information Summary as of 1st October 2007

	<u>To Date</u>	<u>September '07</u>
1 Total Number of Enterprises Tendered to date	311	0
2 Total Number of NewCos Tendered to date	539	0
3 Number of Sales Contracts Signed	325	5
3a OSO Contracts Signed	306	5
3b SSO Contracts Signed	19	0
4 Number of Sales Contracts "PENDING" - (Provisional Winning Bidder named)	166	51
4a Estimated OSO Contracts Pending	159	50
4b Estimated SSO Contracts Pending	7	1
5 Total Number of OSOs (3a and 4a)	465	55
6 Total Number of SSOs (3b and 4b)	26	1
7 Total Number of Contracts Signed & Pending	491	56
8 Total Privatisation Proceeds Received and Banked to Date	€340,790,796	€9,112,595
8a Privatisation Money at Bank (net of 20% employee entitlement)	€272,632,637	€7,290,076
8b Employees' Entitlement	€68,158,159	€1,822,519
8c Of which paid out to BSPK	€15,138,902	-€1
8d* Privatisation Money Remaining at Bank	€325,651,894	€9,112,595
8e Number of SOE Workers' Lists Approved by the Special Chamber and Paid by KTA	57	0
9 Estimated Total amount of Sales Contracts PAID and PENDING	€382,307,107	€23,495,383
9a Value of OSO Sales Contracts Signed	€215,059,571	€2,213,893
9b Value of SSO Sales Contracts Signed	€85,797,556	€0
9c Estimated Value of OSO Sales Contracts PENDING	€73,821,041	€21,178,490
9d Estimated Value of SSO Sales Contracts PENDING	€7,628,939	€103,000
10 Total amount of SSO investment contractually agreed	€147,642,564	€0
11 Total number of SSO employees to be hired contractually agreed	7,081	0
12 Amount of SSO investment evaluated to date	€72,945,324	€178,798
13 Total number of SSO employees hired to date	5,081	349
14 Total number of investors current in KTA databases (prequalified & other)	9,183	45
14a Total number of 'pre-qualified' investors	2,619	25
14b Total number of other investors registered	6,564	20
15 Total Number of KTA Board approved liquidations to date	106	9
16 Total Number of Liquidations Launched to Date	99	3
17 Value of Liquidation Sales Contracts Signed	€2,206,437	€0
18 Estimated Value of Liquidation Sales Contracts Pending	€9,838,193	€6,549,916

*Total amount includes those funds transferred to Liquidation Trust Accounts (80% of NewCo sale)

Source: KTA, 2007

Appendix 10: Some NewCos which offered new jobs

Table 6: Some NewCos which offered new jobs

<i>NewCo</i>	<i>Production</i>	<i>Investment</i>	<i>No. of new employees</i>
Banja e Kllokotit Mineral Water Bottling Plant	Water bottling company	500.000 EUR since Nov. 2005	207
Perparimi	Bricks production	2 million EUR	154
Peja Brewery	Premiere brewery	5 million EUR	330
Silosi Flourmill	Agriculture	15 million EUR	367
<i>NewCo</i>	<i>Production</i>	<i>Investment</i>	<i>No. of employees</i>
Agriculture Land Kravarica*	Cherry production	600.000 EUR	22 plus 220 seasonal workers
Energomontimi*	Retail	2 million EUR	200
Bottling Plant Suhareka*	Production, bottling and distribution of soft drinks	1,6 million EUR	82
Silcapor factory*	Construction materials		300**
Trofta Fish Farm*	breeding and commercialization of trout fish, fish restaurant	2 million EUR	88

* NewCos were sold thru ordinary spin-off and had no obligation to invest or employ.

** The NewCo now employ more workers than the previous SOE

Source: Privatisation success stories, 2007

Appendix 11: KTA Survey Shows Success of Privatisation

Table 7: KTA Survey 2007

	<i>Gjilan</i>	<i>Mitrovica</i>	<i>Peja</i>	<i>Pristina</i>	<i>Prizren</i>	<i>Total</i>
Revenue Information						
Total Fully Answered Survey	8	6	7	6	10	37
SCE Revenues pa (past)	3,486,204	208,754	996,301	5,111,668	1,424,458	11,227,385
Forecast Revenues Newco	5,066,000	3,060,000	3,545,000	33,700,000	41,180,160	86,551,160
% Change Revenues	145%	1466%	356%	659%	2891%	771%
Employment Analysis						
Total Fully Answered Survey	12	8	7	7	11	45
SCE Active Employees (Past)	705	236	336	179	227	1683
Newco Active Employees (Present)	490	261	221	310	517	1799
% Change (present)	70%	111%	66%	173%	228%	107%
Investment Analysis						
Total Answered Survey	12	8	7	10	11	48
Investments in progress	2,591,000	2,505,000	2,430,000	5,397,000	8,890,000	21,813,000
Investment/Newco	215,917	313,125	347,143	539,700	808,182	454,438

Source: KTA, 2007