



Munich Personal RePEc Archive

**Delayed privatization in Kosovo: causes,
consequences, and implications in the
ongoing process**

Mulaj, Isa

Johann Wolfgang von Goethe University

January 2005

Online at <https://mpra.ub.uni-muenchen.de/103217/>
MPRA Paper No. 103217, posted 06 Oct 2020 09:21 UTC

Contribution to a Compendium: “Path-dependent Development in the Western Balkans – the Impact of Privatization”

Johann Wolfgang Goethe – University, Frankfurt/Main, Germany, 2004.

Delayed Privatisation in Kosovo: Causes, Consequences, and Implications in the Ongoing Process

Isa Mulaj*

PhD Student

Staffordshire University Business School

E-mail: Isa.Mulaj@staffs.ac.uk; ISa_LM2000@yahoo.co.uk

Quote this article as: Mulaj, Isa (2005). “Delayed Privatization in Kosovo: Causes, Consequences, and Implications in the Ongoing Process”, in *Path-dependent Development in Western Balkans: The Impact of Privatization*, Siniša Kušič, ed., Frankfurt: Peter Lang, pp. 123-163.

Introduction

Kosovo is distinguished from other transition countries by being the last country to embark on privatisation. The wave of revolutionary political and economic changes spreading like wildfire across the Central and Eastern European countries and in former Soviet Union since 1989 found Kosovo under occupation for a full decade. Privatisation as one of the most crucial elements of market-oriented reforms was not extended to socially owned enterprises (SOEs) in Kosovo, despite the fact that it was originally initiated by the last president of the Federal Executive Council of former Yugoslavia, Ante Marković and used in a limited number of enterprises. The overwhelming majority of SOEs in Kosovo came under a series of the so-called ‘emergency measures’ introduced by Serbia during the 1990s, resulting in the dismissal of the Albanian employees at large, the de facto occupation of Kosovar SOEs, and the forced merger with Serbian companies. For nearly a decade, SOEs in Kosovo became subject to illegal ownership transactions and transformation with serious implications for the post-war legal privatisation.

With the disappearance of the Serbian state control after the 1999 war, the people of Kosovo expressed their desire to build a democratic market economy. Since June

* I am grateful to Professor Iraj Hashi for his comments and remarks. The data used in this paper for analysis come from a survey that I conducted with a group of enterprises in the Gjakova region. The second set of data for comparative analysis with socially-owned and newly established private enterprises come from the Riinvest Institute, where I was involved as a member of the team in conducting surveys and processing the resulting data.

1999, in accordance with United Nations Security Council Resolution 1244, the United Nations Interim Administration Mission in Kosovo (UNMIK) has been in charge of Kosovo's development. According to this Resolution, Kosovo is to have substantial autonomy and self-government over her affairs. With the beginning of the transition to a market system, the discussion of privatisation also resurfaced under the UNMIK. One particular problem that UNMIK has faced was the issue of social ownership and SOEs. For many UNMIK officials it was not clear who the real owners of SOEs were and whether social ownership was the same as state ownership. This led to UNMIK's hesitation in deciding on its approach to managing SOEs in Kosovo. It took nearly one year to come with the first privatisation proposal. Other proposals followed, until June 2002 when the final proposal, envisaging privatisation via the 'spin-off' approach and reorganisation or liquidation through the bankruptcy process was approved. After a good start in July 2003, the continuation of privatisation was called into question and temporarily suspended in October.

In this paper we look at the specific features of the delayed privatisation in Kosovo, emphasising in particular two stages: i) the events during 1990s, including the consequences of emergency measures, ii) the impact of a autonomous privatisation in the early 1990s in a limited number of SOEs in the Gjakova region based on a survey of these enterprises, and iii) the critical assessment of the privatisation proposals and the challenges in continuing the ongoing privatisation process after the war.

To find out and understand why privatisation has been subject to so much delay, it is necessary to look back and discuss the roots of the problem. Section one of this paper gives a background of Kosovo under former Yugoslavia and self-management socialism. Section two then provides insights on the incidence of SOEs during 1990s, namely emergency measures, transformation through forced merger and their consequences. The impact of privatisation limited to a number of enterprises in the Gjakova region is assessed in section three. Section four treats privatisation addressed under new institutional settings after the war. Then this is expanded in sub-sections dealing with critical assessment of the privatisation proposals and the approved model of privatisation. An overview of the privatisation progress limited to the first two rounds is given in section five. It also discusses the difficulties to implementation of the privatisation and identifies the causes and implication of interim suspension of the process. Section six concludes and addresses some remarks.

1. Background of Kosovo under former Yugoslavia and Self-management Socialism

Kosovo was one of the eight federal units of former Yugoslavia alongside Slovenia, Croatia, Bosnia and Herzegovina, Serbia, Vojvodina, Montenegro, and Macedonia. In this respect, Kosovo was an equal member, including the right of a veto. It had her own constitution that regulated the principles of political, economic and, social system, territorial organisation, and her relations with Serbia and the federation. According to Article 399 of the 1974 Constitution of Socialist Autonomous Province of Kosovo (SAPK), neither the federal nor Serbia's Constitution could be changed without compliance of the Parliament of SAPK.

Social and economic relationships in Kosovo were the same with those in other federal units. The base of economic system was social ownership over the means of production managed by the workers. The definition of social ownership by the 1974 Constitution of Kosovo as well as of Yugoslavia (section III of basic principles of both Constitutions) stated that society at large is the owner and no one in particular has full ownership right over socially-owned means of production. This specific type of property that was central to the concept of self-management socialism gave rise to much discussion among social scientists (especially economists, sociologists and legal experts).¹

The definition of SOEs in this paper has been adopted as provided by the reform of 1974 when enterprises were reorganised into Basic Organisations of Associated Labour (BOALs). Statistical Yearbook of Yugoslavia (1990) showed that there were 558 BOALs in Kosovo in 1988 dealing with economic and non-economic activities. They could be merged to form larger organisations of associated labour such as Working Organisations and Composite Organisations. SOEs also cooperated and could voluntarily merge with enterprises in other federal units, vertically (enterprises with similar type of activity) or horizontally (cluster or related activities).

¹ In absence of a detailed and multidisciplinary analysis many argued and came to an ambiguous and unclear conclusion that social ownership is a property of 'everyone' and 'no one' at the same time. A clearer and broader approach on the specific features of social property in legal, social and economic terms is provided by Horvat (1982: 235-239, 2001). Further clarifications between legal and economic concepts of social property were introduced by Bajt (1988: 152-154). On the deficiencies of definition of social property and implications see an earlier article by Furubotn and Pejovich (1970). To identify deficiencies and incomplete definition of social property compare it with some modern definitions on complete ownership rights provided in Grossman and Hart (1986), Hart (1995), Blair (1995), Anderson and Huggins (2003), etc.

2. Emergency Measures and Transformation through Forced Mergers

After the illegal abolishment of Kosovo's autonomy by Serbia² on 23 March 1989, the era of the destruction of SOEs in Kosovo began. One year before its disintegration, the Federal Parliament passed the 'Yugoslav Programme of Measures and Activities for Stopping the Emigration of Serbs and Montenegrins from the Socialist Autonomous Province of Kosovo (SAPK), Quick Return of those that Emigrated and Immigration of all those who Want to Live and Work in Kosovo' (Official Gazette of SFRY No. 8, 9 February 1990).³ The Programme in Article 49 highlighted 'tight integration of self-management entities from Kosovo with entities in Serbia and other parts of the country, for their faster development'. The programme was prepared by Serbia for her own interests but was passed on behalf of Yugoslavia. However, after less than two months, Serbia passed the 'Programme for Realisation of Peace, Freedom, Equality of Rights, Democracy and Prosperity in SAPK' (Official Gazette of the Socialist Republic of Serbia-SRS, No. 15, 30 March 1990). Article 55 of the Serbian programme reiterated one of the main points of the Federal Programme, i.e. integration of SOEs from Kosovo with enterprises in Serbia.

To implement the above-mentioned programmes the Parliament of Serbia passed a considerable number of laws and acts to be implemented in Kosovo. Firstly, the 'Law on Republican Bodies Acting in Exceptional Circumstances' (Official Gazette of SRS No. 30), was passed on 26 June 1990. Provisions of this Law had many similarities with those of the Federal and Kosovo's Constitutions in relation to the imposition of special measures on SOEs.⁴ An important element was Article 11 by which the Serbian

² This was an act that directly violated not only the federal and Kosovo's Constitution but even Serbia's own Constitution. Articles 394 and 398 of the 1974 Constitution of Kosovo state that the Constitution can be changed only by the decision of the Parliament of Socialist Autonomous Province of Kosovo (SAPK). The Constitutional Court of SAPK was entrusted with the protection of that Constitution (Article 106).

³ The main objectives of this programme were to encourage Serbs from different parts of Yugoslavia to settle, live and work in Kosovo. To achieve these objectives the programme anticipated the use of federal funds to develop the regions of Kosovo in which Serbs and Montenegrins were already living, or where the national composition is mixed, and also places where the new settlers were expected to come (Section II of the Programme). Funds were to be used for granting of credits primarily to Serbs and Montenegrins, then to all non Albanians as it stated in Article 64, to build apartments, houses, plants, and farms.

⁴ Some of these measures amounting to suspension of self-management rights were done under the provisions of SFRY and SAPK Constitutions regarding the so-called 'interim measures'. The possibility of introducing such measures in SOEs was stipulated in Article 130 of the 1974 Kosovo's Constitution. The measures would apply only if self-management relations were disrupted and as such harmed the social interest. If it came to such a situation, then the Assembly of the socio-political community would dissolve the workers' council or other corresponding management organs and appoint provisional organs according to a procedure specified by statute. The aim of the measures was to protect the self-management rights of working people and of social property on the initiative of workers, organisation of associated labour, trade

parliament could unilaterally decide on the presence of reasons justifying emergency measures without involving those who could initiate them, primarily the workers of SOEs. This decision violated the provisions of the procedure for interim measures since it ignored the opinion and initiative of other stakeholders. Moreover, imposing such measures was not a matter for one republic or province over enterprises in another federal unit, but for each federal unit over their own enterprises and for a limited period.⁵

Secondly, the ‘Law on Labour Relations in Exceptional Circumstances’ (Official Gazette of SRS No. 40) was passed on the same day as the Law No. 30/90, and amended on 27 September 1990 (Official Gazette of SRS No. 54). The new labour relations meant emergency measures which could be imposed even without public announcement (Article 3). They were to be implemented by the director appointed by the socio-political community. The existing workers could be dismissed for disobedience of rules, including hampering the work of the others. With changes made to Article 8, the director could dismiss the workers without giving them the reasons for his decision. The Albanian employees, however, did not accept these decisions as they considered them unlawful.

Members of the Parliament of SAPK reacted against these actions by declaring Kosovo as a republic within the Yugoslav Federation on 2 July 1990 in front of the closed doors of the Parliament building in Prishtina. Three days later, the Parliament of Serbia passed the ‘Law on Abolishing the Operation of the Parliament of SAPK and the Executive Council of the Parliament of SAPK’, (Official Gazette of SRS No. 33, of 5 July 1990). The implementation of this and other above mentioned laws removed all the competencies of administrative institutions of Kosovo and centralised the power in the hands of the leadership in Serbia. The measures were imposed in different forms, including the use of force.⁶ Whenever applied, they were associated with massive dismissal of the Albanian employees.

unions and other socio-political organisations, state organs, and citizens. As long as these parties did not take this initiative, self-management and social property were guaranteed special social protection by the socio-political communities, courts, public prosecutors, and social attorney of self-management (Article 129 and Article 131).

⁵ The Kosovo ‘Law on interim measures for protecting self-management rights and social ownership’ (Official Gazette of SAPK, No. 46/1977, 52/1986 and 21/1988) envisaged that, if introduced, the measures cannot last more than a year. In case it was estimated that an enterprise needs interim measures, then the municipal council of the district in which this case appeared was in charge of introducing them, including enterprise units or subsidiaries in other districts. The parliament of SAPK was to undertake interim measures only in enterprises of strategic interest for the province (Article 2).

⁶ The same day (on 5 July 1990) that the SRS Law No. 33 (on the Abolishing the Operation of the Parliament of SAPK) was passed, the militia from Serbia took over by force the only public broadcasting TV in Kosovo, the Radio and Television of Prishtina – RTP. Sometime after 3 p.m. RTP disappeared from the air. After several days it was back on air again, initially broadcasting the programme of RTS from

By 1993, emergency measures were implemented in 237 SOEs.⁷ After the occupation of SOEs Serbia began their privatisation pursuant to her Law on the Conditions and Procedures for Transformation of Social Ownership into other Ownership Forms (Official Gazette of SRS No. 48, 5 August 1991). The decision on privatisation was to be made by SOEs themselves. Current employees were entitled to a discount 20% plus 1% further discount for each year of employment (Article 16) with proceedings going to: i) Serbian Development Fund (SDF) (60%); ii) Serbian Pension Fund (30%); and iii) Serbian Labour Market Fund (10%) (Article 17). This scheme clearly shows that Serbia was engaged in plundering the social capital of Kosovo.

2.1. Consequences of Emergency Measures

The consequences of emergency measures soon became obvious. From 5 July 1990 to the end of December 1991 they resulted in the dismissal of the following number of directors and/or their deputies in SOEs: 291 Albanians, 54 Serbs and Montenegrins, 20 Bosnians and Turks. They were replaced by: 13 Albanians, 370 Serbs and Montenegrins and, 8 Bosnians and Turks. Most of the appointed Albanians were not even consulted in advance. They were appointed to give the impression that the management in charge of executing emergency measures constituted a wider ranging ethnic composition, including Albanians. Most of the appointed Albanians did not accept the offered positions, thus they were replaced by Serbs and Montenegrins (Fetahu, 1992: 150-151). From a total number of 164,000 Albanian employees at the end of 1989 in social sector, emergency leadership forcefully dismissed more than 130,000 of them between 1990 and 1992 and began to hire new Serb workers from Kosovo, Serbia, Bosnia and Herzegovina, Croatia, including some Serb newcomers from Albania and Romania (Association of Lawyers of Kosovo, 2003).

The plan for the transformation of 237 SOEs was carried out more efficiently than expected as the ownership of 80-90% of their assets were transferred to the account of enterprises in Serbia. The Kosovo Serbian newspaper 'Jedinstvo' of 17.04.1995 reported that there were cases when even 100% of the ownership of assets were transferred.⁸ Another 100 enterprises were fully merged with other enterprises in Serbia and 96 linked

Belgrade, then it operated with a number of Serb employees, and very few Albanian-speaking new workers. This marked the first case of imposing emergency measures.

⁷ The Serbia's daily newspaper 'Borba' of 27 January, 1993 indicated that emergency measures also included: 101 education, health, science and cultural institutions; 20 agriculture cooperatives; and 9 media companies, including the only daily newspaper in Albanian 'Rilindja', which was closed down.

⁸ These cases included 17 agriculture combines that were merged with PKB combine in Belgrade.

to SDF (Jedinstvo, 29.03.1993). Such a quick transformation and merger was made possible simply by ignoring economic criteria and by merging the assets of one SOE from Kosovo with several entities in Serbia from different sectors and ownership types.⁹ The misuse of social ownership resulted in disputes and protests even by those who at the beginning, were benefiting from this type of transformation.¹⁰ Furthermore, the appointed managers (and their relatives) also embarked on misusing social ownership.¹¹

The Federation of Independent Trade Unions of Kosovo (BSPK) was closely observing the situation and made it known to Serbia the damages and economic and social consequences of forceful mergers. At the same time, through various international trade union organisations, BSPK appealed to foreign investors not to make any agreement with Serbia regarding SOEs in Kosovo under those circumstances as it will consider such agreements illegal and invalid with investors running the risk of losing their investment (BSPK, 1993; Association of Lawyers of Kosovo, 2003).¹² Similarly, the Kosovo government in exile, through her ministries and the directors of SOEs, was observing the situation and on 18 March 1992 declared all transactions related to ownership transformation in Kosovo by the Serbian apparatus illegal and invalid (Bujku, 19.03.1993).

⁹ To illustrate this, the assets of the Sharr cement plant in Hani i Elezit were transferred to the following account of enterprises in Serbia: SDF (5%), 'Kopaonik' the company for trading of construction materials in Belgrade (20%), JSC irrigation system 'Dunav-Tisa-Dunav' in Novi-Sad (15%), water supply 'Južna Morava' in Niš (5%), Institute for Market Research in Belgrade (5%) and, holding company 'Termoelectron' in Belgrade (5%). The assets of metalwork Metamb from Prishtina were transferred to: SDF (9%), pharmaceutical company 'Zorka' in Šabac (10%), aluminium processing plant 'Valaonica' in Sevonjo (10%), glass plant in Paračin (10%), mineral water plant 'Voda Vrnjci' in Vernjačka Banja (10%), 'Elan' in Subotica (10%), etc. (Fetahu, 1997). These examples clearly indicate that mergers did not have any economic logic.

¹⁰ It was not a surprise when 129 workers (almost all Serbs) of the metalwork plant in Ferizaj (Kosovo) went on strike for 45 days because they had not received their salaries for 6 months, and blamed the emergency leadership for abuse and extreme poverty caused in the factory and demanded that the factory get rid of integration with Jugoasbest from Mlladenovac in Serbia (Jedinstvo, 14.09.1995).

¹¹ For example, after the transformation and forceful merge of Minex from Ferizaj (Kosovo) with Bambi from Požarevac (Serbia), 126 employees managed to buy only 2.36% of the shares, while the appointed emergency director together with his wife, son and friends who never worked for Minex, obtained more than 50% of the shares (Jedinstvo, 12.10.1993). Another example, the Serb newspaper 'Borba' of 11.10.1993 reported on financial transactions in two large Kosovar companies Trepča and Ferronikel with some private firms from Belgrade, in which some individuals had stolen around \$6 million and DM7 million. Suspected included Kosta Prstić (in management positions in Trepča and, Feronikel), and Radomir Kilibarda (the emergency director of Eximkos company, and then of Feronikel). Outright theft and misuse had forced the chairman of the trade unions of Serbia for Kosovo (Momir Popović) to complain that: i) ownership transformation in Kosovo was implemented in a quite different way than in 'other regions'; ii) this transformation was one-sided because trade unions and workers were not involved; and iii) transformation was implemented by emergency management for their personal interests through transferring the assets to outside of Kosovo, etc. (Jedinstvo, 17.04.1995). In Serbia too, the appointed directors of SOEs, especially of large ones, turned social ownership into the tool of regime to benefit through economic criminality and fraudulent operations (Tijanić and Čuruvija, 1999; Palairat, 2001).

¹² The sources do not provide the names of any international trade unions or organisations for such appeal.

After declaring SOEs in Kosovo as state property, Serbia passed the 'Law on Ownership Transformation' (Official Gazette of SRS No. 32/97) on 21 July 1997, providing a framework for the privatisation of state property. By that time, the ownership of most of the assets of SOEs from Kosovo had been transferred to different entities in Serbia. Current and former employees had the right to acquire shares for free at an equivalent of DM 400 for each year of employment. Employees could also buy the shares at a discount of 20% plus 1% for each year of employment (Article 12), with the proceeds from the sale of shares going to: SDF (50%), Republican Labour Market Fund (25%) and Republican Pension Fund (25%) (Article 23). This Law did not bring any advantage or comfort to the dismissed Albanians. Since the shares of Kosovar enterprises could have been acquired by employees of Serbian enterprises that had merged with them, it was clear that the Serbian employees would also become large shareholders of SOEs in Kosovo. The provision in Article 29, which stipulated that companies' debts can be converted into shares for creditors, meant that the ownership of a further part of Kosovo's enterprises was transferred to Serbian companies and institutions.

To sum up, Serbia abolished Kosovo's 1974 Constitution and imposed interim measures in the SAPK, both illegally. It then proceeded to appoint interim managers to SOEs and dismissed the vast majority of Albanian workers. It then passed laws to provide the framework for transformation and integration of Kosovo's enterprises with Serbian enterprises and institutions. Following the privatisation laws of Serbia the bulk of the ownership of these companies was transferred to Serb employees and institutions. The transformation of Kosovo's enterprises following the dismissal of Albanian employees was illegal. And so were the subsequent changes in the status of these enterprises. These illegal actions of Serbia in Kosovo became one of the main sources of the events in the first half of 1999 which dominated the world's news headlines and forced the international community to intervene and take the province under administration.

3. Privatisation through Employee Ownership: The Experience of a Group of Firms in the Gjakova Region

Following the deterioration in the performance of self-management socialism, in the late 1980s, the Federal Executive Council of former Yugoslavia decided to privatise socially-owned assets. The proposed method of privatisation as envisaged by the Law on Social Capital (Official Gazette of SFRY No. 84/89, 46/90 and 61/90) known as the Marković Law (named after the last president of Federal Executive Council of former Yugoslavia) was similar or effectively like Management and Employee Buy-outs (MEBOs). Normally it amounted to the purchase of the firm from the government. In the case of Gjakova the employees did not buy the companies from the government since proceeds from the sale of internal shares were paid into the account of the companies' own fund and not into the account of the government. This was made possible by the provision of Article 2 of the Law on Social Capital or the Marković Law.

The process was supervised by the commercial court in Gjakova, though it has remained unfinished even today.¹³ The causes of this incomplete privatisation in Gjakova and, the non-implementation in other SOEs in Kosovo are already explained in previous section. The decision for privatisation in some SOEs in Gjakova was made before June 26, 1990 when the Serbian Parliament enacted the emergency measures through the Law No. 30/90. By embarking on ownership transformation enterprises could at least try to avoid the emergency measures legally since the state's interference in an enterprise transformed into private hands would have been very limited if anything at all. The first step in this direction was the registration at the commercial court in Gjakova as JSCs, before June 1991 when the effect of the Serbian Law No 30/90 began to appear in Gjakova for the first time.¹⁴ The Court was forcibly closed down by the Serbian regime in August 1992, thus stopping any further legal attempt at ownership transformation. Until then, 20 SOEs (all enterprises in the social sector in Gjakova) had gone through the court,

¹³ In relation to the enterprises undergoing ownership transformation in Kosovo from August 1990 to April 1994, Uvalić (1997: 287) has cited Zec that 253 or 83% of all SOEs in economic sector were involved in ownership transformation. The capital of the overwhelming majority (235) of these enterprises was being transformed to other enterprises or to the Republican Development Fund directly by the Serbian government. According to the same source only 19 enterprises had completed the process, 18 of them in autonomous way. This group may be well identified with the enterprises in the Gjakova region which are the subject of investigation in this paper, but the process has never been completed.

¹⁴ Of course, in enterprises that were of greater interest to the Serbian regime, legal defence was useless and could not stop the regime if it really wanted to impose emergency measures, even though enterprises were legally transformed. Emergency measures were imposed in Ereniku company on June 25, 1991, just 5 days after the company changed its legal status into a JSC and was registered at the Commercial Court in Gjakova.

carried out registration procedures for ownership transformation with some having begun to sell shares to their employees.

It did happen that in Gjakova, emergency measures were less common and with smaller consequences than in other districts, likely because of embarking on privatisation earlier. The Serbian regime did not take any immediate measures to reverse the transformations that had already occurred in Gjakova, i.e., after the closure of commercial court, but later showed that it had not forgotten these transformations. In May 1995, the Serbian Agency for Privatisation issued 5 decrees to abolish ownership transformation that had taken place in Gjakova, the reason being that they were transformed under the Marković Law, and that the money from the sale of shares was not paid into the account of Serbian government but into the account of enterprises themselves. Enterprises complained to the Serbian Supreme Court which decided in favour of the complainants (Jedinstvo, 11.08.1995).

3.1 Theory of Employee Ownership

A firm may be an employee-owned firm (EOF) from its inception when it is established by a group of people who work together for their mutual interests, and after privatisation through MEBOs. The main theoretical features applying to employee ownership are related to: objective function, salaries and employment, investment and, other economic and non-economic indicators (Bartlett, *et al.*, 1992).

The theory assumes that an EOF maximises personal incomes of its members as opposed to the maximisation of profit by the capitalist firm (CF). Other features of the firm's performance are derived from the established objective function and the relevant constraints. Under the assumption of two firms that make the same level of profit, workers in CFs will receive salaries fixed by the manager or owner that is usually determined by the market. In contrast, workers in EOFs have the power through participation to acquire higher salaries which are expected to move together with the firm's profit (Commander, *et al.* 1991). In the long run, as a higher proportion of enterprise profit is distributed as labour income, EOF have less to invest in comparison with the CF. Since workers in EOFs are decision makers, they are more likely to stay with the firm for a long time and employ less new workers. Their workers are encouraged to work longer hours thus the depreciation of capital is higher (Ireland and Law, 1982). Diffused decision-making process is expected to reduce EOFs ability to enforce a strong

discipline at work (in general workers do not penalise themselves). There is a general and widespread concern that EOFs are economically less efficient than CFs, although a meta-analysis by Doucouliagos (1995) found that worker participation in decision-making in EOFs usually was positively correlated with productivity, though not always statistically significant. In non-economic performance, there is more evidence for the superiority of EOF over CF.¹⁵

Employee ownership in transition economies, which is of particular relevance to this Paper, is used to speed up the transformation of enterprises into LMFs (Bogetić, 1993). However, the difference between the LMFs as SOEs and EOFs is that the workers in SOEs of former Yugoslavia had some undefined and non-transferable ownership claims while ownership in EOFs is clearly defined and fully transferable. After SOEs were transformed into EOFs they still remained LMFs depending on ownership structure of employees and managers. Elsewhere in former socialist countries state enterprises became LMFs only after they were transformed into EOFs.

The theory suggests that once enterprises are transformed into employee ownership, their performance is affected in different ways, having impacts for enterprise efficiency in the short term and for corporate governance in the longer term (Buck, *et al.*, 1994). Berg and Berg (1997) have generally criticised insider domination as a relatively inefficient and inflexible form of ownership, maintain that privatised firms through employee-ownership are little different from state-owned firms. Jones and Mygind (2000) see this inefficiency arising from the conflict between short-run benefits and long-run interests and, limited ability to conduct comprehensive restructuring. These are also the reasons for which Smith (1994) judged the insider domination a source of inefficiency that has its costs in decision making practices (delay to gain the collective's consensus).

The privatisation process in some transition countries (e.g. Russia, Poland, Estonia, etc.) generated many EOFs and it is useful to mention some of their experiences briefly. Earle (1998) investigated the impact of ownership structure on the productivity

¹⁵ If EOFs are economically less efficient, they should be more efficient in non-economic terms, more humane and make workers happier (Horvat, 1986). Findings of Bartlett, *et al.* (1992) which refer to the comparative performance of 35 CFs and 49 EOFs in the North-central Italy, go in favour of greater non-economic benefits for the latter. On average, 40% of CFs have had strikes over the previous five years. Strikes were absent among EOFs. There were on average 3.8 missing days at work in EOFs vs. 7.9 in CFs. Lower rates of absenteeism were explained by the environment of cooperation and trust among members of EOFs. CFs had not used any programme of the European Commission for training, while 1.2% of the entire work force of EOFs were involved in these training programmes.

performance of Russian industrial enterprises by comparing the effects of several types of new private owners, e.g. insiders, outsiders and the state. Private share ownership had a positive impact on labour productivity in comparison to state ownership, while the impact of insider ownership was statistically insignificant.

Hashi (1998) used a small sample of twenty firms privatised through MEBOs in Poland to assess their performance. In spite of employees' expectation, job cuts had to be accepted as a direct consequence of the competitive pressure faced by those firms. This pressure and the factor market had forced EOFs to undertake defensive restructuring and adjust their operations to improve productivity and financial position. Even though this study is based on a small sample, it may confirm the results of Shachmurove and Spiegel (1995) who also pointed out that EOFs in transition economies adjust their operation as dictated by the market forces. In Estonia, Kalmi (2002) found that firms privatised to foreign investors outperformed EOFs and generated employment while in EOFs employment declined.

3.2 EOFs in Gjakova

The impact of privatisation through employee ownership in Gjakova was found weak and difficult to assess because of the extraordinary conditions on the eve of, and shortly after, privatisation. In addition, the analysis is to some extent constrained because not all SOEs in Gjakova were transformed to EOFs. Having taken into consideration different degrees of ownership transformation in the group of 20 companies transformed into JSCs, we identified and classified the following three sub-groups for comparative analysis: i) *Group A* – 8 companies that completed the process by selling and distributing a majority of their shares to employees; ii) *Group B* – 7 companies that registered their transformation to JSCs, but there is no evidence that they sold or distributed their shares; and iii) *Group C* – 5 companies which made a decision to convert to JSCs and registered the decision at the Commercial Court but their ownership transformation was rescinded by the imposition of emergency measures. Table 1 shows the companies in the three groups.

Table 1: Overview of ownership transformation in 20 Gjakova companies

Groups	Number of companies	Shares allocated to employees (%)
Group A Companies that completed the process by selling and distributing a majority of their shares to employees	1. Deva	64
	2. Dukagjini	94
	3. Elektromotori	100
	4. Emin Duraku ^{a)}	50
	5. Ena	70 ^{b)}
	6. IMN	70
	7. Jatex	53
	8. Metaliku	60
Group B^{c)} Companies that registered their transformation to JSCs, but there is no evidence that they sold or distributed their shares	9. Agimi	50
	10. BEC	57
	11. Email & Fonderia ^{a)}	55
	12. Ening	49
	13. Mishi ^{a)}	54
	14. Modeli	42
Group C Companies where transformation was rescinded by the imposition of emergency measures	15. Mulliri	49
	16. Elast ^{a)}	—
	17. Ereniku	—
	18. Kompresor	—
	19. Kosovotrans	—
	20. Pashtriku	—

a) Inactive companies. It does not mean they are closed down as two of them continued to generate some revenues (Elast, and Emin Duraku) either through leasing or sale of their assets, and pay a number of their workers. Two others (Mishi and Email & Fonderia) are temporarily closed down and due to the missing data (non-operation) are not included in the survey. The data for Mishi include only employment in 1989.

b) The shares have remained registered but the evidence of selling and distribution to employees could not be confirmed.

c) Shares allocated to employees in this group companies implies that these proportions went free of charge on discount basis as stipulated by the Marković Law (employees were entitled to a discount of 30% in buying internal shares, enhanced by another 1% for each year of employment).

Whether the Gjakova JSCs are fully or partially EOFs, their management style remains similar to that in the previous self-management system. Under the new ownership status the workers' council, as the central decision-making organ during self-management, has been replaced by the shareholders' assembly (this applies to Group A only). The assembly elects the management board and a general director as did the workers' council.

3.3 Employment and Personnel

Here we shall consider changes in the level of employment of the 19 companies (18 plus one company that had information for employment) in the survey. Table 2 shows the trend for the whole group as well as for the 3 sub-groups identified earlier. The result can be compared with those in the group of SOEs (Group D) and newly established private enterprises (SMEs or Group E). The major feature of Table 2 is the downward trend in employment in all groups.

Table 2: Number of actual employees (1989-2001)

Groups		JSCs	A	B	C	D (SOEs)	E (SMEs)
No. of firms		19	8	7	4	169	300
Years	1989	10,426	7,106	2,437	883	67,313	n/a ^{f)}
	1991	8,566 ^{a)}	6,556	1,835	175 ^{c)}	n/a ^{f)}	n/a ^{f)}
	1998	5,437 ^{a)}	4,554	816	67 ^{c)}	n/a ^{f)}	n/a ^{f)}
	1999	2,249 ^{b)}	1,805	240	204 ^{d)}	15,327	3,510 ^{g)}
	2000	2,196 ^{b)}	1,739	223	234 ^{d)}	21,578	3,900 ^{g)}
2001*	2,211 ^{b)}	1,730	262	219 ^{d)}	20,451	7,620 ^{h)}	
Index	1998/1989	0.84 ^{e)}	0.64	0.33	0.30 ^{e)}	n/a ^{f)}	n/a ^{f)}
	2001/1989	0.21 ^{e)}	0.24	0.11	0.33 ^{e)}	0.30	n/a ^{f)}
	2000/1999	0.98 ^{e)}	0.96	0.93	1.15	1.41	1.11
	2001/1999	0.98 ^{e)}	0.96	1.09	1.07	1.33	1.09
	2001/2000	1.01 ^{e)}	0.99	1.17	1.15	0.95	0.98
Mean	1989	549	888	348	221	398	n/a ^{f)}
	1999	125	226	34	68	91	n/a ^{f)}
	2000	122	217	32	78	128	11.7
	2001*	123	216	37	73	121	12.7

a) 16 firms;

b) 18 firms;

c) One firm;

d) Three firms;

e) This index is calculated by taking the mean number of employees. The number of employees per firm in 1998 (67) was divided by this mean. The same mean is multiplied by 3 to find the index for 2001 vs. 1989, i.e. $10,426 / (18 \times 123) = 0.21$, or $219 / (3 \times 221) = 0.33$.

f) Data not available

g) 300 firms

h) 600 firms

* Includes only the second half of 1999 and the first half of 2001, and full year for SOEs and SMEs in 2001.

The expected objective of the workers in EOFs to try to save their job through employee ownership in transition economies was a desire which did not materialise in the Gjakova companies (as in other countries). What is also important, is that Group A was the only group with job cuts throughout the period under consideration. In spite of this, job security was greater in this group in the pre-war period since nearly 2/3 of their 1989 work force was maintained in 1998. The largest job cut over the same period was in Group C, explained by the impact of emergency measures. Apart from Group A which had a continuous downward trend, other groups had some fluctuations in the number of actual employees. The similarity between SOEs and Group C should be emphasised: both groups increased employment in 2000 but returned to cuts in 2001.

The gradual downward tendency in actual employment¹⁶ in Group A, especially after the war, is explained by the fact that employees with well-defined ownership rights were more motivated to decide on careful job cuts to adjust their activity to market

¹⁶ Actual employees are identified with those actively engaged in the company. Because of downsized level of activity after the war not all employees registered with the company were actively engaged. The companies keep their register with the intention that after a better performance to (re)employ them. A considerable number of these registered employees as shown in the Table below were on unpaid leave, with a small share of those who received social assistance from the company.

Groups	Total number of registered employees			Actual employees (%)			Employees receiving social assistance (%)			Employees not paid (%)		
	1999	2000	2001	1999	2000	2001	1999	2000	2001	1999	2000	2001
JSCs	4,902	4,846	4,757	45.9	45.3	46.5	5.4	4.9	2.1	48.7	49.8	51.4
A	3,592	3,544	3,433	50.3	49.1	50.4	4.4	0.5	0.9	45.5	50.5	48.7
B	680	643	690	35.3	34.7	38.0	15.9	34.4	9.7	48.8	30.9	52.3
C	630	659	634	32.4	35.5	34.5	0.0	0.0	0.0	67.7	64.5	65.5
D (SOEs)	28,185	38,671	37,380	54.4	55.8	54.7	8.2	8.1	7.3	37.4	36.1	38.0

conditions. The tendency towards faster job cuts in 2001 observed among SOEs was that, although decision-makers, employees were not private owners with defined stakes, thus they could search for other possibilities outside the company easier than their counterpart in Group A. However, this was not the case for Group B which is similar to SOEs. There is no clear-cut interpretation except the psychological feelings of employees in Group B who believe to be different from SOEs or effective owners.

A growing concern is that almost all actual employees are the former employees whose average age was over 40, and it is to believe that they will stay with the company for a longer time, as the theory of EOFs has established. Moreover, if it comes to any possible recruitment, the primary candidates are those on the waiting list who are also old. Their level of skills has not changed much since the early 1990s or before. Only privatisation which may be applied to SOEs and Group C, can stop the further aging of employment structure. For the two other groups the hope of bringing about any change in this respect, lies in secondary privatisation.

3.4 Financial Performance¹⁷

All Gjakovar SOEs covered by the survey were performing profitably before embarking on privatisation, i.e. before 1990 or 1989. Financial results went through a drastic decline throughout the 1990s reaching their lowest level during the war. By 1998 half of them were loss-makers. In spite of a mild recovery in the post-war period, they are still far from their pre-1990 level. The results are presented in Table 3, consisting of a number of performance indicators for all groups, including few indicators of Group E or private SMEs with which we can compare JSCs.

¹⁷ The figures in this section appear in Deutschemarks (DM) and in Appendix to this paper in Euro (€).

Table 3: Financial performance of JSCs, SOEs, and private SMEs (in DM)

Groups* by years	Financial results per company				Financial results per active worker				Proportion of total financial indicators		
	Revenues	Costs ^{a)}	Salaries	Profit/Loss ^{b)}	Revenues	Costs	Salaries	Profit/Loss	Salaries as % of revenues	Costs as % of revenues	Profit as % of revenues
1999^{c)}											
JSCs	434,439	357,527	118,301	-41,389 ^{d)}	3,477	2,861	947	-331 ^{d)}	27.2	82.3	-9.5
A	647,498	604,550	184,845	-141,897 ^{e)}	2,870	2,679	819	-629 ^{e)}	28.5	93.4	-21.9
B	151,205	42,231	47,278	61,696	4,410	1,232	1,379	1,799 ^{b)}	31.3	27.9	40.8
C	291,555	178,777	56,238	56,540	4,288	2,629	827	831	19.3	61.3	19.4
D (SOEs)	1,053,885	741,996	234,825	77,064 ^{g)}	6,601	4,647	1,471	483	22.3	70.4	7.3
E (SMEs)	109,153	n/a	39,948	n/a	8,707	n/a	3,187	n/a	36.6	n/a	n/a
2000											
JSCs	1,257,390	780,010	345,512	131,868	10,306	6,394	2,832	1,081	27.5	62.0	10.5
A	2,000,990	1,523,903	516,072	-38,985	9,205	7,010	2,374	-179	25.8	76.2	-1.9
B	344,216	47,311	112,258	184,647	10,805	1,485	3,524	5,796	32.6	13.7	53.6
C	1,055,163	269,159	237,647	548,357 ^{h)}	13,528	3,451	3,047	7,030 ^{b)}	22.5	25.5	52.0
D (SOEs)	2,374,746	1,067,555	459,608	847,583 ⁱ⁾	12,876	5,788	2,492	4,596	19.4	45.0	35.7
E (SMEs)	99,115	n/a	38,032	n/a	7,116	n/a	2,731	n/a	38.4	n/a	n/a
2001^{c)}											
JSCs	780,249	449,532	211,305	119,412	6,352	3,660	1,720	972	27.1	57.6	15.3
A	1,461,780	819,033	322,099	320,648	6,760	3,787	1,489	1,483	22.0	56.0	21.9
B	181,134	25,507	45,217	110,410	4,839	681	1,208	2,950	25.0	14.1	61.0
C	216,009	134,555	155,803	-74,349	2,959	1,843	2,134	-1,018	72.1	62.3	-34.4
D (SOEs)	1,583,460	1,235,839	483,603	-135,982 ^{j)}	10,143	7,916	3,098	-871	30.5	78.0	-8.6
E (SMEs)	91,628	n/a	28,853	n/a	6,854	n/a	2,682	n/a	39.1	n/a	n/a

* Number of observations: 18 for JSCs (8 for Group A, 7 for Group B, 3 for Group C), SOEs (96 for 1999, 117 for 2000, and 131 for 2001), SMEs (280 for 1999 and 2000, and 570 for 2001).

^{a)} In the Yugoslav accounting standards costs exclude labour costs. Many companies still retain this convention;

^{b)} Profit before taxes. There was no such a tax at that time; ^{c)} Explanation for the year 1999 and 2001 as in previous table;

^{d)} 8 companies loss-makers;

^{e)} 3 out of 8 companies profitable;

^{f)} 2 out of 7 companies loss-makers;

^{g)} 11 out of 96 SOEs loss-makers;

^{h)} 1 out of 3 companies was a loss-maker;

ⁱ⁾ 10 out of 117 SOEs loss-makers;

^{j)} 46 out of 131 SOEs loss-makers.

Revenue per company has constantly increased over years in all groups with the exception of Group E. The decline in this group is caused by new entries of small enterprises, thus making revenues per company on average fall. The largest revenue per company for the first two years was reported among SOEs resulting from higher level of capacity utilisation. In 2001, revenue per SOE seem to have been far smaller than in Group A companies which are reported for the first half of 2001. The same can be said for revenue per active worker (except in 1999 where they were highest in Group E). In any case, revenues alone do not indicate which group is more efficient. The groups, in particular SOEs also had high costs, both per company and per active worker. The most cost-efficient Group per active worker in 2001 was B, probably because of smaller volume of activity. However, this group is also distinguished for the whole period under consideration in having the lowest costs as a proportion of revenues.

A more important indicator in terms of financial performance is the average salary per active worker. In theory, Group E was not expected to pay its workers higher salaries on average in 1999 and 2001. Further mixed evidence was found between SOEs and groups of JSCs. Being more profitable, SOEs distributed higher level of salaries per active worker in 1999, lower than Groups B and C in 2000, and again higher in 2001. The reason why SOEs were doing so was that in initial phase the workers needed to make themselves better off immediately without thinking much in longer run. JSCs were not only paying lower salaries to active workers, but even that lower level paid represented higher proportion of revenues (especially in Groups A and B) than in SOEs.

In 2000, Group A in general was still unprofitable, but it made some improvements. Salaries and costs as a proportion of revenues declined from the previous year. A further decline in 2001 turned the group to profitability with a profit amounting to around 20% of revenues. Just the opposite has happened with the behaviour of SOEs and Group C which turned from profitability in the first two years to loss-makers in 2001. The causes of this behaviour should be traced in undefined property rights and unresolved ownership issues, which made workers more willing to distribute the firms' revenues as labour incomes or salaries. Both these groups, especially SOEs, were also not careful against the rise in costs as a proportion of revenues.

The figures on financial performance lead to the following conclusions. That Group A distributed the highest proportion of profit as salaries only in 1999, confirms the theory of

LMFs and EOFs on profit allocation in the short-run. However, in the following two years the group gradually adjusted its performance through reducing the costs and began accumulating some profit for longer term objectives. On the other hand, although SOEs were in a better position at the beginning, it was expected they allocate more and more revenues as labour incomes. Such an incentive was influenced by their undefined ownership and uncertainty about method of privatisation in the future which may not make them the owners of the companies they were working for. Under this uncertainty, the workers in SOEs were expected to take advantage and make themselves individually better off in the short-run than those in Group A where ownership is defined. It follows the conclusion that ownership does matter in different objectives, i.e. the owners of the companies look after their longer interest more than non-defined owners.

The results were mixed and can be divided into two groups. The first group refers to expected findings, some of which included: i) in companies with well-defined ownership rights (Group A) less job cuts were made in response of gradual performance improvement; ii) the behaviour of SOEs and all groups of JSCs with respect to objective function was found to correspond with the theoretical expectations, i.e. they maximise personal incomes. This incentive was stronger in other groups, in particular among SOEs, and weaker in Group A. It was not a surprise why SOEs on average became loss-makers after their behaviour towards the salaries. The second group of results among others refers to an unexpected finding and not in line with the theory, i.e. the highest level of salaries per worker in private SMEs. Furthermore, the level of salaries as a proportion of revenues was the highest in this group in 1999 and 2000. Lack of available data on costs which the theory suggests strong incentives to have them lower than in any other non-private ownership in order to maximise the profit (for which the data were also not available), did not enable drawing of a conclusion about efficiency of this group firms.

To conclude this section, privatisation in Gjakova had positive effects from legal point of view as it prevented full impact of emergency measures. This effect was not sufficient to guarantee a better economic performance. Of course, the circumstances before as well as after the war were such that did not made possible that. In a more stable environment the effects of this partial transformation probably would have been clearer and easier to assess. Anyway, leaving aside the circumstances, privatisation in Gjakova has had very small or no effects due to poor management which has not changed. The main lesson for

SOEs to be learned from the experience of Gjakova companies is that internal privatisation cannot be preferred for two main reasons. First, employees in SOEs were not at work for nearly a decade and significantly lagged behind in skills, and second, they do not have resources to restructure enterprises in bad shape.

4. Approaches to Privatisation and the Critical Assessment of the Privatisation Proposals

After the end of the Serbian rule, UNMIK took charge of Kosovo's economic development. According to Article 17 of the UN Security Council Resolution 1244, UNMIK was to develop a comprehensive approach to the development of a democratic market economy. This formulation was too general and did not specifically refer to privatisation. There were some discussions on whether UNMIK had the mandate and authority to privatise SOEs. It may be argued that UNMIK had this authority from the very early days of its establishment by the essence of paragraph 103 of the Report of the UN Secretary General on UNMIK of 12 July 1999 which stated: *the Special Representative will seek to create a viable, market-based economy and to develop a comprehensive approach to the economic and social development of Kosovo*. Paragraph 105 also restated *the creation of a viable market economy*. Being a trustee of social ownership and having to create a viable market economy, implied that UNMIK should have considered the privatisation of SOEs as one of its major task. UNMIK was of course aware about this interpretation but did not know what to do with transformations that had been forcefully undertaken under Serbian rule in the 1990s. The answer to this problem could have been provided by the notion of Applicable Law. Initially UNMIK through the Regulation 1999/1 (on the Authority of the Interim Administration in Kosovo) decided that the law applicable in Kosovo should be Regulations promulgated by the Special Representative of the Secretary General (SRSG), and the laws in force in Kosovo before 22 March 1989. A separate Regulation on the Law Applicable (Regulation 1999/24) and amendments that followed in Regulation 2000/59 made the meaning of Applicable Law ambiguous, by allowing some of the laws passed after 22 March 1989 which were not discriminatory, and did not violate the Universal Declaration on Human Rights of 1948. In the absence of clear references to particular Serbian laws of the 1990s (for example those authorising ownership transactions), the ambiguity about which of these laws are or are not

applicable has continued to the present time. This deficiency in definition explains some of UNMIK's problems in approaching the privatisation.

Under growing pressure from various local institutions, including SOEs themselves,¹⁸ UNMIK began to deal with the question of their ownership. While discussions about privatisation continued, UNMIK embarked on a policy of 'commercialisation' (leasing or managements contracts) as an interim measure and a preparatory phase towards later privatisation. At the same time, the DTI began addressing proposals for privatisation to UNMIK.

4.1. The Critical Assessment of the Privatisation Proposals

Since the problem of privatisation was addressed and UNMIK decided to deal with it, the problem itself became how to find a formula, or how to privatise. After nearly a year of discussions and analysis, Pillar IV¹⁹ of UNMIK published a proposal known as the White Paper. UNMIK and DTI claimed that the Office of Legal Affairs at the UN did not support its implementation. Another gateway to privatisation was by the DTI's proposal to transform SOEs into JSCs (in the spirit of the Marković Law) with the majority of shares distributed to employees. It is not known why this proposal was not approved, but the suspicions remained that it had met the same fate as the White Paper and been opposed by the UN Legal Office, though there is no evidence of either refusal or rejection. Another draft proposal prepared by DTI containing three approaches to privatisation, served as a basis for preparing the Regulation on Kosovo Trsut Agency (KTA) which made privatisation a reality. Before discussing this Regulation, it is important to look at earlier proposals in more details and critically assess their advantages and shortcomings.

¹⁸ The Riinvest (2001) survey of SOEs revealed that about 80% of their managers supported privatisation and thought that this process is necessary and urgent. The survey does not provide any explanation to crucial questions as to what do they expect from privatisation, which methods they would prefer, or whether they understood what privatisation was? Some answers to these questions can be extracted from the survey of private SMEs by Riinvest (2002b) where privatisation is also strongly supported (78% of the respondents). Some 65% of the surveyed private businesses emphasised their readiness to be included in privatisation: 35% of them would be ready to buy a proportion of shares in SOEs, 19% were interested in leasing, and 14% would be ready to buy an entire SOE.

¹⁹ UNMIK exercises its administration through 4 Pillars in the following areas: Pillar I – police and justice (led by the UN); Pillar II – civil administration (also led by the UN); Pillar III – democratisation and institution building (under the direct of the Organisation for Security and Cooperation in Europe – OSCE); and Pillar IV – in charge of reconstruction and economic development (directed by the European Union).

4.2. The First Proposal: The White Paper or Enterprise Development Strategy

The Paper wanted to make clear that, if UNMIK's responsibility as defined in section 6 of the Regulation No. 1999/1 on the Authority of the Interim Administration in Kosovo was to administer the state property, then administration meant a more efficient use of that property. Efficiency could not be ensured if the property was not transferred to private hands. To establish that UNMIK was able to engage in privatisation, the Paper referred to paragraph 11g of the Resolution 1244, i.e. the UNMIK's mandate *to support the reconstruction of key infrastructure and other economic reconstruction*, was interpreted as it included the responsibility to transform SOEs. This interpretation then was related to the Report of the Secretary General when he had mentioned the establishment of a market-based economy. Obviously, that type of economy could not be worked up with a bulk of the assets in social ownership.

Among initial measures for SOEs, it was proposed a strategy to deal with large enterprises at first. The strategy was especially concerned with those SOEs that were inoperative, because of the fear that the longer their inactivity continues, the more they will decapitalise. Having in mind that their ownership could not be resolved overnight, the programme proposed initial measures including leasing or management contracts in order to preserve the value of assets and encourage economic activity. The proposal recognised that these measures (leasing, management contracts) were second best options in comparison with privatisation and suggested that they should be limited to a certain number of large SOEs. The implementation of this programme would have been preceded by an Ownership Adjudication Commission that had to be established as an independent judicial body to resolve ownership claims. This body would also decide if the laws in force between 1989 and 1999 were discriminatory or implemented in a discriminatory manner. The Commission would take into consideration claims against SOEs, especially the claims of enterprises or other entities from Serbia. This idea of the proposal was strongly criticised and opposed by the Kosovo people and institutions, with the strongest opposition coming from SOEs.²⁰ The proposal was clearly not aware of the difficulties of resolving the issue of claims which it considered as a gateway to enterprise privatisation (described in chapter 5 of the Paper).

²⁰ Similar remark has been addressed to the Paper when it mentioned the possibility of UNMIK applying the 1997 Serbian Law on Ownership Transformation, as it considered the Marković Law as unsuitable and proposed that they could be complemented by new rules on private sector in Kosovo.

Pillar IV recommended to UNMIK that the White Paper should be implemented as soon as possible. UNMIK thought that they should seek permission from UN to embark on privatisation. Although no official statement about either the referral of the issue to, or its rejection by the UN Legal Office, UNMIK and DTI authorities maintained that the proposal had not received the necessary approval, because of the absence of the mandate for privatisation. The White Paper had tried to argue that the mandate was implicit in Resolution 1244 but was clearly not able to convince the UN authorities.

4.3. The Second Proposal: Transformation of SOEs into JSCs with Majority of Shares Distributed to Employees

The proposal envisaged that SOEs should be transformed to JSCs with 60% of shares distributed to employees and the remaining 40% going to a Kosovo Development Fund who would try to find strategic buyers for these blocks of shares. The proposal (as pointed out earlier was prepared in the spirit of Marković Law) was publicised as being fair and acceptable to employees. The DTI thought that the current workers in SOEs are largely the same as before the introduction of emergency measures, that this method would limit the opportunity for political interference and would enjoy large support from SOEs themselves, thus enabling transformation to be completed more quickly.

If applied, the transformation would have meant extending the process that had taken place in Gjakova in the early 1990s to other SOEs. A major potential problem here was the diffused ownership structure emerging from the proposed distribution of shares and, entrenched management. The importance of the proposal should be viewed from another perspective, i.e. the psychological on SOEs' workers. Since the workers were to become the main beneficiaries by the proposed privatisation plan, they were expected to take care of the assets.

There was public opposition to the second proposal with the main concern related to delaying the restructuring of SOEs (Riinvest, 2001a) and even though DTI tried to defend the proposals, it realised that the proposal was not a workable proposition as it would not lead to an improvement in efficiency or the regeneration of enterprises. The second proposal was removed from public discussion without any explanation.

The DTI prepared yet another model to resolve the problem of SOEs. This determination ensured that the UNMIK's mission cannot succeed in providing economic

growth without resolving the privatisation problem. A new document entitled Proposals for Privatisation of Socially-Owned Enterprises in Kosovo, with three ideas to promote ownership transformation and recommended that UNMIK adopt a policy for privatisation of SOEs through: i) transformation plan with 60% of shares going to employees and 40% to a Kosovo Trust Agency (KTA); ii) spin-off approach; and iii) reorganisation or liquidation through bankruptcy. In terms of contents, time and ideas, this document elaborated had an intermediate phase for two reasons: first, it did not give up but went on to recommend the second proposal for some firms (the transformation plan); and, second, it introduced two methods which later were elaborated and adopted in a new regulation that became the legal basis for privatisation in Kosovo (spin-off model).

The intermediate proposal, however, had the same fate as the previous ones and did not get very far. The difficulties of finding an appropriate privatisation model acceptable to the majority of stakeholders and obtaining the approval of the UN (if it was to require such approval), resulted in further delay in the process. The delay was a real concern for all, because of the fear that it would lead to further decapitalisation of SOEs.

4.4. The Third (Approved) Proposal: Regulation on Kosovo Trust Agency

The problem of privatisation in Kosovo seems to have eventually found a solution. The approval and signing of the UNMIK Regulation 2002/2 on the establishment of KTA (which is analogous to the agency for privatisation in other countries) on 13 June 2002 by the SRSG (Michael Steiner) was the first serious step in this process. As such, KTA was established as an independent agency under the reserved power of the SRSG, i.e. UNMIK continues to retain the right to administer SOEs and Publicly-owned Enterprises (POEs).²¹ KTA became responsible for the privatisation of SOEs and the reform of POEs during its mandate which expires on 13 June 2005. POEs were excluded from privatisation at this stage, a process which has also happened in other countries in their early transition.

²¹ The approval of the Constitutional Framework for Provisional Self-government in Kosovo marked the beginning of gradual transfer of competencies from the international community to Kosovo's newly created government. The transfer of power is not full and a number of key decision-making areas are earmarked as the 'reserved power' for SRSG, whose power is derived from the Resolution 1244. A long list of competencies falling in the reserved power for SRSG as laid down in section 8 of the Framework includes the following economic areas: approval of the Kosovo Budget; monetary policy; controlling the UNMIK's customs service; administration of social, state, and public property; appointing of members in economic and fiscal council; appointing of tax inspectors, etc.

The Agency took full control of SOEs, including appointing and replacing directors and workers' councils, monitoring enterprise operation, administering their accounts and assets, restructuring, transforming, initiating bankruptcy proceedings, etc. This makes privatisation highly centralised and, in theory, creates the conditions for the resolution of problems in managing social property after the war (by putting such property under state control).²²

The Agency exercises its power through a Board of Directors consisting of 8 members (4 internationals and 4 Kosovars). The Chairman of the Board is *ex officio* the head of EU Pillar IV and one of the 4 Kosovar directors is appointed as Vice Chairman. The three other Kosovar Directors are also appointed by the SRSG from the ministries of Provisional Institutions of Self-government (the Minister of Trade and Industry, and the Minister of Economy and Finance), the Chairman of BSPK, and a minister from the Serb community (Article 12). The composition of the Board seems to have equally distributed the power between Kosovars and internationals in number, though the main power still remains with the SRSG.

The methods of privatisation as determined in Articles 8 and 9 of the KTA Regulation included: the establishment of subsidiary companies of SOEs (spin-offs) and, voluntary liquidation.²³ The implementation of these methods is outlined in Article 10 and elaborated in more details in Operational Policies of KTA (to be discussed in the next section). Despite the fact that the results of commercialisation were below expectations,²⁴ the process remained as an option in operational policies as spin-off and liquidation, and its opportunity of implementation is envisaged in certain or limited SOEs (Article 5.1.3).

²² Under institutional and legal vacuum managing of many SOEs became a problem between various groups who seized control over them. There were two main political groups behind this control that generated disputes: the Democratic League of Kosovo (LDK) and the Democratic Party of Kosovo (PDK). The two sides of the dispute were related to the appointment of management, in particular the directors. The management of SOEs in many cases turned controversial for the workers after the appointments of the directors by the provisional government of Kosovo of PDK. The workers did not agree and often rebelled against the director whether because he was not running SOEs on their behalf or failed to pay their salaries regularly. After LDK won elections at the local level in December 2000, the municipal management demanded to change the management appointed by PDK (ESI, 2002).

²³ Although liquidation is not often used as a standard method of privatisation, Kaufmann and Siegelbaum (1996) regard it as a very transparent method with least chance of incorporating corruption. They support this view by emphasising that liquidation procedures are quick, that the new owners usually are without historical corruption background or linked to the previous control rights that may delay privatisation. Nevertheless, they do not reject the possibility that even this method can face delays in implementation by bureaucratic procedures.

²⁴ Out of 65 tenders announced, the DTI was able to sign the contracts for commercialisation of 11 SOEs. The preliminary outcome of this process was 5 complete failures and 2 cases associated with problems. Only in 4 SOEs commercialisation seemed to have produced moderate results (ESI, 2002).

For disputes arising from privatisation and the manners of resolving them, the Regulation envisages the establishment of a Special Chamber of the Supreme Court of Kosovo (Article 18.4). The proceeds generated from the sale of SOEs will go to KTA's account (Article 8.6) and will remain frozen in closed accounts. The Regulation is silent about their eventual use, but they are expected to meet the ownership and creditors' claims after privatisation. No exclusion has been made on the type of creditors' claims to be submitted against SOEs. Article 5.3. determines how KTA will treat the transformation of SOEs taken place during emergency measures. It states that the transformation of an SOE affects its status only if it 'occurred before 22 March 1989' or was 'based on Applicable Law and implemented in a non-discriminatory manner' if it occurred thereafter. The re-registration or merger of SOEs and POEs has been addressed with the same definition in Article 5.4. While it is clear this formulation is addressed to transformation of Gjakova enterprises, the re-registration, mergers, and transformation of the rest of SOEs during emergency measures remains ambiguous, as the formulation of 'non-discriminatory manner' itself is not clearly defined. The fact is that UNMIK may or may not interpret some of the Serbian Laws in the early 1990s as either discriminatory or implemented in a discriminatory manner. The KTA Regulation is also silent about the huge damages inflicted by Serbia against SOEs in Kosovo and, instead of addressing these claims against Serbia, as a trustee of social ownership in Kosovo, it is offering the opportunity to Serbian enterprises to make claims against those that they forcefully and illegally integrated in their enterprises.

4.3.1. Operational Policies of the KTA

Although the Regulation on KTA was approved in June 2002, it was necessary to undertake two additional steps to make privatisation a reality: i) the preparation and approval of the Operational Policies; and ii) the establishment of the Special Chamber of the Supreme Court, which was approved as a separate Regulation. The operational policies are not a separate regulation but the part of the KTA Regulation, or the elaboration of its Article 10 in greater details and approved separately. The fact that they were approved with a considerable delay (on 25 February 2003) led to a further postponement of the implementation of privatisation.

On the issue of ownership transformation during emergency measures, Operational Policies continue to apply the same definition as Article 2.2.2 of the KTA Regulation. In

further explanation it is noted that the Agency should confirm the evidence for any transformation of an SOE. As the Regulations leave room for ‘whatever evidence’ to be considered, and given the ambiguous definition of the Applicable Law, the possibility exists that many SOEs may be found to have been transformed.

The essence of the ‘spin-off’ is that the assets of SOEs in better condition are transferred partially or fully to newly established companies. Liabilities or debts will not be transferred and will remain with the old company. They will be resolved after privatisation by the Special Chamber of the Supreme Court which will consider the ownership and creditor claims lodged against enterprises. The advantage of this model is that it separates the privatisation process from the ownership issues and thus facilitates faster privatisation. It is attractive to investors, who do not need to worry about the debts or ownership disputes that a company may be subject to. The KTA will tender²⁵ new companies for sale to investors. For small and medium SOEs privatisation is by auctions, and for large SOEs by special spin-off. Bankruptcy or voluntary liquidation would apply to SOEs that have no prospects of survival. The employees are entitled to 20% of the proceeds according to their number of years of employment (Article 7.14.2) which the regulation has not clarified which years will be taken into consideration.

4.3.2. The establishment of a Special Chamber of the Supreme Court of Kosovo

The establishment of the Special Chamber of the Supreme Court was authorised by the UNMIK Regulation No. 2002/13, on the same date as the KTA. The Chamber has full jurisdiction over the KTA (Article 30.1) and falls under the authority of the SRSG in terms of his ‘reserved power’. Given that the Regulation does not exclude any claimant from filing a claim and that claimants have enough time (up to 9 months) to submit claims challenging the decision of the KTA (Article 6.1), may result in increasing the volume of work of the Chamber and delaying solutions to the claims.

Claims addressed to the Chamber may also face counterclaims (Article 6.3). The Chamber may order any person in Kosovo to provide necessary information to prove the validity of the claims. A major problem is that SOEs in Kosovo are at a disadvantage when it comes to the settling of claims. The Chamber deals only with the claims related to the

²⁵ The rules for tender prohibit from bidding individuals who have been found guilty of a crime after June 1999, but fail to say anything for similar cases before that period.

property in Kosovo and not outside. The right to compensation (which is meant to respond to counterclaims, but not restitution) is also restricted with the property in the territory of Kosovo. As it was shown earlier, much of the assets of SOEs in Kosovo have been transferred or taken away to Serbia. SOEs in Kosovo do not have a chance to trace their claims in enterprises or individuals in Serbia, while Serbian institutions and individuals are able to use the Chamber to pursue claims in Kosovo. If the Serbian claims during the 1990s are not rejected, there is a probability that ownership claims will be so huge that total proceeds from the sale of SOEs in Kosovo will not be sufficient to cover them.

The last step in completing the necessary legal framework for privatisation was the approval of the Regulation 2003/13 on Land Use on 13 May 2003, almost one year after the Regulation on KTA was approved, thus contributing to further delay in privatisation. This delay occurred in the UN Legal Office in New York where the Regulation was reviewed before its signing by SRSG in Kosovo. It is interesting to note that all proposals and the regulations regarding privatisation in Kosovo are prepared by international experts. Local stakeholders involved in KTA seem not be interested more in anything else than their salaries as employees. And here we come again to the objective function in the short run, maybe much shorter than in the theory of LMF and OEF. These stakeholders are comfortable in pursuing this objective as long as they are ignorant and do not care as they should do for privatisation of the property of society in which they are part of.

5. Progress and Retreat in Privatisation: A Preliminary Assessment

After the necessary legal framework seemed to have been completed, the mission of the KTA was to privatise SOEs quickly. This section assesses the progress of privatisation, limited to two rounds so far, by considering the main features of the privatised SOEs. Since the formal sale of SOEs alone does not imply complete deal of privatisation, the assessment will emphasise the difficulties, delays and associated problems in implementation.

The first bids for privatisation of 6 SOEs were opened on 14 July, the date which marks the beginning of privatisation after the war. A total of 18 SOEs, transformed into 21 newly established companies (NewCos), were announced for privatisation in the second round. A comparison of the two rounds shows that KTA provided more information in the Internet to interested buyers on company profile for SOEs of the first round than for the second round. In spite of providing less information, buyers expressed more interest in the

second round, both in terms of the number of bids received and the price that SOEs were sold at. For example, the average price of companies sold also increased from less than half a million to over €1.37 million (see Appendix). Lower prices in the first round which prevailed despite the fact that companies of this round were in a better position in terms of turnover, employment, and profit, acted as a signal to encourage more buyers to enter the process in the second round. By all means, prices that the companies were sold at should be considered as extremely low, even though SOEs were seriously decapitalised.

Both rounds have generally attracted domestic buyers, mostly private businesses. This may correspond to the point made earlier about the readiness of private businesses to participate in privatisation or buy an entire SOE. Foreign buyers were not present as it was expected. Some foreign participation showed in Appendix belongs to Albanians living abroad who wanted to return or invest in their country (mostly Kosovar Albanians). Foreign (real) investors should not have been expected because of political uncertainty.

The privatisation of SOEs in both rounds was expected to bring a total of €29,335,570 into the KTA's account. That did not happen as some winners did not pay the amount they had offered in time. Moreover, court order stopped the ownership transformation in another first round company (Montazhi).²⁶ Six winning bids of the second round were cancelled. They remain to be re-entered in future rounds together with two others from the first round (companies in shadowed rows in Appendix).

Specific tender cancellations highlight the shortcomings that the rules of tender contain. The Board of KTA abandoned the winning bid of tobacco plant IDGJ because it estimated that the price of €581,000 does not reflect the real value of IDGJ (Koha Ditore, 06.09.2003). Has the Board estimated or considered that the price of other companies sold out corresponded to their real value? One winning bid in the second round was cancelled (Mladost/Agrokultura) when the local Serbs on site had gathered not to allow the company fall in the hands of an Albanian buyer (Koha Ditore 09.09.2003). The situation was not better with the approved bids either. Even though the buyers paid the bid price for the companies in

²⁶ In October the media reported that the workers of Montazhi were refusing to hand over the company, or allowing the buyer to enter the company. The workers insisted that their bid to buy the company was only by €2,000 smaller than the winning bid (€208,000 vs. €210,000). The rules of tender did not specify if the 20% of proceeds to be allocated to the workers could be incorporated in the bid price when the workers bid for the company in which they work. Thus if the 20% of the proceeds are treated as a discount to the workers, their bid would have been the highest price. The case remains to be resolved by the Special Chamber when the workers have accused the KTA.

time, the KTA did not sign the sale agreement with them within the 30 days as required by the rules of tender (the first sale agreement between the KTA and the new owner was signed on 19.12.2003 and even this agreement was not ratified by the KTA Board until 9 March 2004). Consequently, the new owners did not have access to their enterprises and did not know what was going on there.²⁷ By implication, employees had not received their 20% either, which has been stopped over the issue who are the eligible employees.

Serbia was not silent and began to pay attention about privatisation in Kosovo. The Serbian minister for economy and privatisation, Aleksandar Vlahović, announced that the register of Serbia's ownership claims in Kosovo would be opened in Belgrade, and this attitude was supported by the World Bank (Glas Javnosti, 20.09.2002). Suddenly on 7 October, the Pillar IV through a press release announced that the third round of privatisation has been cancelled due to some necessary explanations from the UN Office of Legal Affairs in New York (Kosova Sot, 08.10.2003). Suspension occurred after the change in the KTA's management who began to introduce changes in operational policies. Privatisation resumed with the third round after a year (in October 2004) associated with similar problems from the previous rounds. In less than two months (in December) the KTA again proposed changes in the operational policies. Certainly these will not be the last changes and it remains unclear how the process will proceed under frequent reshuffling the cards and when it will be completed.

6. Conclusions and remarks

The whole of point of this paper was to show how unique and controversial privatisation in Kosovo is. It was impossible to prove that without looking back at many hang ups from the past and current different institutional settings that made it so. Such a phenomenon has come as a result of many factors, which made privatisation delay significantly and begin at the time when this process in most transition countries has been completed. The first delay and with greatest consequences was caused by the imposition of emergency measures. By those illegal measures Serbia dismissed in wholesale the Albanian

²⁷ In this vacuum, decapitalisation of the companies sold grew either by non-operation or the current management taking advantage and clearing out the cash before the new owners moved in. The new owners threatened to sue the KTA (Bota Sot, 29.11.2003). Unemployment in these companies also was rising and the workers were demanding their salaries from KTA (Koha Ditore, 25.08.2003).

employees and carried out various experiments with social and public ownership of Kosovo. After all, the experiments resulted in violence and ethnic conflict which brought condemnation by the international community. This of course seemed to have brought at an end the experiments with social ownership that emergency management was carrying out, but unfortunately was not the end of Serbia's claims based on those experiments. Serbia's ownership claims and demands to review the status of SOEs for alleged transformation during emergency measures, are illegal. Kosovo had the same authorisations to manage her social ownership like every other federal unit of former Yugoslavia. Therefore, Serbia is responsible for all the consequences and huge damages inflicted against SOEs and POEs in Kosovo during the 1990s.

Under the Marković Law it was possible to implement privatisation in Gjakova, the process which has not been completed, again because of Serbia's impediments. The experience of privatised enterprises in Gjakova is mixed as it both confirmed and unconfirmed the theories of EOFs' behaviour. The results would have been more conclusive if all enterprises were fully privatised and operating in a more stable environment. In any case, the process in mid-way must be completed through a new regulation for Group A companies, while reprivatisation of companies in Group B and C should be considered.

Ambiguities concerning UNMIK's mandate to privatise SOEs were nothing else just (miss)interpretation of the Resolution 1244 in various ways, or attempting to undermine the mission of UNMIK that was clearly defined but in a broader sense. Difficulties to find an appropriate model of privatisation and misunderstanding the nature of social ownership represent the second delay of privatisation in Kosovo. The decision of UNMIK, KTA respectively, to take full control over SOEs and make them like KTA-owned enterprises, was a step back compared to self-management. UNMIK made mistake by identifying or mixing social property with state property. The latter was not recognised in the self-management system. State property is something illegally created by Serbia.

Proposals for privatisation generated the ideas that were more the outcome of observed circumstances. For example, the White Paper elaborated the problem in a broader view. It proposed restructuring and many other issues to be resolved before privatisation. The DTI made the second proposal after it had started to be familiar with the characteristics of social ownership and the previous system. The issue of economic efficiency could be resolved later through secondary privatisation if primary privatisation was to completed

quickly. Spin-off is an appropriate model that provides opportunity for fresh capital and investment, badly needed by SOEs.

Problems in implementation and interim suspension of privatisation should be listed as the third delay, the delay which continues. The consequences of this delay are apparent making the declared mission of the KTA to privatise all SOEs by mid 2005 an unattainable illusion. Until then, the KTA will be still dealing with problems in implementation of the process. While UNMIK on the one hand continues to keep privatisation as a reserved power, continuation of the process cannot be a hostage of the Serbian laws, and UNMIK is responsible for that. The biggest failure of UNMIK is that it continues to be silent about those laws that generated so many problems. Since UNMIK is not abrogating them, then that means legalising emergency measures and further complications, not limited to privatisation alone but also to other processes of transition in Kosovo. Coming back to local Kosovo stakeholders, with limited competencies they have, still have done very little for privatisation or below expectations. It should be accepted that UNMIK has the merits vis-à-vis domestic institutions and ‘experts’ (?) in launching the process. Local players should struggle to take the governance of every segment that they believe can handle. A more professional commitment to this very important economic process should be considered for a longer time. At any time the Government of Kosovo feels that it has sufficient expertise and is capable of carrying out privatisation, there is no reason why not taking tough line against the ‘reserved power’. However, based on the experience so far, one may very easy and rightly guess that locals may make the fragile process much worse.

As what impact spin-off privatisation will bring, that is something that remains to be seen later. The biggest problem now is how to come to the ending point when all SOEs fall in private hands without further delay. Regardless how the process will evolve in the future and who the buyers will be, one thing is certain: that the impact of privatisation in overall economic activity will be far smaller than it was in any other transition country. And finally, the process will be unique by unresolved problems from the past halting current process and undermining its prospects for the future, and maybe will leave implications even after its completion.

Appendix: Fact sheet of the privatised SOEs in the first and second round

First round: tender announcement on 15 May, bid day on 14 July, 2003.									
Name of company	Sector of activity	Price of sale in €	Number of actual workers in 2002 ^{a)}	Proceeds in € per worker (20%) ^{b)}	Capacity utilisation		Turnover (in €)		Profit/Loss
					2001 ^{c)}	2002 ^{d)}	2001 ^{c)}	2002 ^{d)}	2001 ^{c)}
1. Energoinvest assembly unit	Electric pylons and high voltage carriers	750,000			n/a	20%	540,816	710,714	-10,204
1a. Energoinvest NewCo	Electric fuses	525,125	187 (200)	1,565	n/a	10%			
2. Montazhi	Engineering/General Contracting	210,750	163 (179)	259	100%	40%	2,140,807	1,667,075	63,522
3. Lepenci ^{f)}	Stonemason	650,000	229 (266)	798	50%	25%	1,612,873	1,400,000 ^{e)}	1,510,731
4. Termosistemi	Commercial refrigerators unit	200,000	55 (64)	245	25%	n/a	806,338	n/a	6,561
5. Përparimi ^{f) g)}	Factory of perforated bricks	2,298,749	103 (400)	2,821	n/a	50%	n/a	800,000	n/a
6. Ringovi ^{g)}	Brick factory	-	84 (100)	-	70%	n/a	614,670	n/a	34,121
Average	-	467,175	159 (177)	717	58%	24%	1,143,101	1,144,447	392,653
Second round: tender announcement on 2 July, bid day on 3 September, 2003.									
7. IMN 19 Qershori	Construction materials	805,500	112	1,438	n/a	n/a	n/a	602,548	n/a
8. Plastika	Industrial plastic products	2,875,000	28	20,536	n/a	n/a	n/a	289,645	n/a
9. ENG Beton	Gravel and concrete	425,235	110 (162)	773	50%	n/a	29,592	339,559	-77,551
10. Kosovoplast	Building and insulation material	1,555,555	98	3,175	n/a	n/a	n/a	3,193,368	n/a
11. Silçapor	Concrete blocks producer	2,824,153	343 (338)	1,647	47%	n/a	2,408,488	1,792,910	-106,818
12. Mladost/Agrokultura ^{g)}	Refrigeration plant	733,750	42 (250)	3,494	65%	n/a	205,731	n/a	2,853
13. Kosovo Construction	Construction concrete plant	332,335	n/a (235)	n/a	n/a	20%	545,570	400,000	-37,208
14. Kombinati i Drurit	Wood processing	2,555,000	105 (121)	4,867	n/a	25%	230,510	184,962	-58,776
15. IDGJ ^{g)}	Tobacco	581,000	236 (240)	492	n/a	60%	1,101,052	949,178	97,166
16. LUX	Shopping mall	2,025,000	333 (350) ^{h)}	1,216	n/a	50% ^{h)}	58,626 ^{h)}	264,000	21,511 ^{h)}
17. Hotel Adriatik	Tourism and catering	464,800	60 (204)	1,549	n/a	30%	50,630	n/a	1,582
18. Progresi ^{g)}	Printing	215,199	42 (63)	1,025	n/a	30%	39,199	90,000	7,653
19. IMB Bread Factory NewCo ^{g)}	Food	405,417	45 (140)	1,802	n/a	60%	281,133	n/a	28,571
20. IMB Flour Mill NewCo	Food	406,000	45 (49) ^{h)}	1,804	n/a	n/a	n/a	n/a	n/a
21. Trepça Confection	Textile	355,000	26 (35)	2,731	n/a	20%	32,799	n/a	n/a
22. Framakos NewCo	Pharmaceuticals	2,310,000							
22a. Austrian House NewCo ^{f)}	Period house and plant	310,000	156 (164)	5,026	n/a	20%	268,721	n/a	1,577
22b. Blue factory NewCo ^{g)}	Herbal remedies	1,300,000							
23. Trofta ^{f)}	Fish farm and motel	2,012,002	58 (55)	6,938	58%	60%	396,688	n/a	32,157
24. Hotel Metohija/Rugova ^{g)}	Hotel and restaurant	2,210,000	0 (85)	(5,200)	n/a	n/a	49,513	n/a	969
Average	-	1,375,399	123 (171)	3,217	55%	38%	471,902	895,454	-25,574

^{a)} Figures in parenthesis indicate the number of workers in 2001;

^{b)} Calculation: the 20% of total proceeds is divided by the number of workers, e.g. € 210,750x20%= € 42,150/163= € 259 per worker;

^{c)} Riinvest's survey data. The data for turnover and profit/loss account were in DM values and they are converted in Euros according to the exchange rate: DM 1 = € 0.51;

^{d)} KTA's data;

^{e)} Refers to 2001;

^{f)} Foreign buyers;

^{g)} Tender and bid winner abandoned. Companies will be re-tendered in future rounds. Not included in calculations.

^{h)} Figures for 2000.

Source: KTA fact sheets, 2003, available at www.kta-kosovo.org, Riinvest survey data 2000 and 2001, and author's own calculation.

References

- Anderson, T. L. and Huggins, L. E. (2003), *Property Rights: A practical Guide to Freedom and Prosperity*, Hoover Institution Press, No. 515, Leland Stanford Junior University.
- Association of Lawyers of Kosovo (2003), Aktet Diskriminuese në Kontekst të Transformimit dhe Privatizimit të Pronës Shoqërore (*Discriminatory Acts in the Context of Transformation and Privatisation of Social Ownership*), Proceedings from the Roundtable Discussions, 21 May, 2003, Prishtina, mimeo.
- Bajt, A. (1988), *Samoupravni Oblik Društvene Svojine* (Self-management Type of Social Ownership), Globus, Zagreb.
- Bartlett, W., Cable, J., Estrin, S., Jones, D. C. and Smith, S. C. (1992), 'Labor-managed Cooperatives and Private Firms in Northern Italy: An Empirical Comparison', *Industrial and Labor Relations Review*, Vol. 46, No. 1, pp. 103-118.
- Berg, A. and Berg, E. (1997), 'Methods of Privatization', *Journal of International Affairs*, Vol. 50, No. 2, pp. 357-390.
- Blair, M. M. (1995), *Ownership and Control: Rethinking Corporate for the Twenty-first Century*, The Brookings Institution, Washington, D.C.
- Blic, 14.04.2003, Beograd.
- Bogetić, Ž. (1993), 'The Role of Employee Ownership in Privatisation of State Enterprises in Eastern and Central Europe', *Europe-Asia Studies*, Vol. 45, No. 3, pp. 463-481.
- Borba, 27.01.1993, Beograd.
- _____, 11.10.1993, Beograd.
- Bota Sot, 29.11.2003, Prishtina.
- Buck, T., Filatotchev, I. and Wright, M. (1994), 'Employee Buyouts and the Transformation of Russian Industry', *Comparative Economic Studies*, Vol. 36, No. 2, pp. 1-15.
- Bujku, 19.03.1993, Prishtina.
- Commander, S., Coricelli, F. and Staehr, K. (1991), Wages and Employment in the Transition to a Market Economy, Working Paper No. 736, The World Bank, Washington, D.C.
- Department of Trade and Industry – DTI (2000), Converting Industrial and Commercial Socially-owned Enterprises into Joint Stock Companies, DTI (draft), Prishtina (December), mimeo.
- _____. (2001a), Proposed Privatization Workplan, DTI (draft), Prishtina (February), mimeo.
- _____. (2001b), Proposals for Privatization of Socially-owned Enterprises in Kosovo, DTI (draft), Prishtina (April), mimeo.
- Doucouliaigos, C. (1995), 'Worker Participation and Productivity in Labor-managed and Participatory Capitalist Firms: A Meta-analysis', *Industrial and Labor Relations Review*, Vol. 49, No. 1, pp. 58-77.
- Earle, J. S. (1998), 'Post-privatization Ownership Structure and Productivity in Russian Industrial Enterprises', Upjohn Institute for Employment Research, Central European University; Institute for the Study of Labor (IZA), Working Paper No. 127.
- EU Pillar IV of UNMIK (2000), The White Paper: Enterprise Development Strategy (draft), Prishtina, (August).
- European Stability Initiative – ESI (2002), The Ottoman Dilemma: Power and Property Relations Under the United Nations Mission in Kosovo, Lessons Learned and Analysis Unit of the EU Pillar of UNMIK in Kosovo, available at: www.esiweb.org/pdf/esi_document_id_35.pdf.
- Federation of Independent Trade Unions of Kosovo – BSPK (1993), *Plaçkitja e Kapitalit të Ndërmarrjeve të Kosovës (Plundering of the Capital of Kosovo's Enterprises)*, Proceedings from the Press Conference, 13 October, 1993, Prishtina.
- Fetahu, A. (1992), *Masat e Perkohshme: Akte te Shkatërrimit te Ndermarrjeve dhe Institucioneve te Kosoves* (Interim Measures: Destructive Actions Against Kosovo's Enterprises and Institutions), Bashkimi i Sindikatava te Pavarura te Kosovës, ed., Siprint, Prizren.
- _____. (1997), 'Transformimi, Integrimi i Dhunshëm dhe Privatizimi i Kapitalit Shoqëror' (*Transformation, Forceful Merge and Privatisation of Social Capital*) in *Proceset Integruese ne Botë dhe Tranzicioni në Vendet ish-Socialiste* (Integration Processes in the World and Transition in Former Socialist Countries), Lidhja e Ekonomistëve të Kosovës, ed., pp. 262-277, Prishtina.
- Furubotn, E. and Pejovich, S. (1970), 'Property Rights and the Behaviour of the Firm in a Socialist State: The Example of Yugoslavia', *Zeitschrift für Nationalökonomie*, Vol. 30, pp. 430-454.
- Glas Javnosti, 20.09.2002, Beograd.
- Grossman, S. J. and Hart, O. D. (1986), 'The Costs and Benefits of Ownership: A Theory of Lateral and Vertical Integration', *Journal of Political Economy*, Vol. 94, No. 4, pp. 691-719.
- Hart, O. (1995), *Firms, Contracts and Financial Structure*, Clarendon Press, Oxford.
- Hashi, I. (1998), 'Employee Ownership and Enterprise Behavior: Evidence from Poland's Privatization by Liquidation', *Russian and East European Finance and Trade*, Vol. 34, No. 2, pp. 58-84.

- Horvat, B. (1982), *The Political Economy of Socialism: A Marxist Social Theory*, Martin Robertson, Oxford.
- _____. (1986), 'The Theory of the Worker-Managed Firm Revisited', *Journal of Comparative Economics*, Vol. 10, No. 1, pp. 9-25.
- _____. (2001), 'Social Ownership', Proceedings of the Fourth International Conference on 'Enterprise in Transition', Faculty of Economics, Split, Split-Hvar, May 24-26, 2001, pp. 1571-1596.
- Ireland, N. J. and Law, P. J. (1982), *The Economics of Labour-managed Enterprises*, Croom Helm Ltd., London.
- Jedinstvo, various issues, Prishtina.
- Jones, D. C. (1998), 'The Economic Effects of Privatization: Evidence from a Russian Panel', *Comparative Economic Studies*, Vol. 40, No. 2, pp. 75-102.
- Jones, D.C. and Mygind (2000), 'The Effects of Privatization on Productive Efficiency: Evidence from the Baltic Republics', *Annals of Public & Cooperative Economics*, Vol. 71, No. 3, pp. 415-439.
- Jugoslovenski Pregled, (1989), *The Constitution of the Socialist Federal Republic of Yugoslavia (1974)*, Jugoslovenska Stvarnost, Beograd.
- Jugoslovenski Program Mjera i Aktivnosti za Zaustavljanje Iseļjavanje Srba i Crnogoraca sa SAP Kosovo, Brži Povratak Onih Koji su ga Napustili i Dolazak Svih koji Źele Źivjeti i Raditi na Kosovu (*The Yugoslav Programme of Measures and Activities for Stopping the Emigration of Serbs and Montenegrins from SAP Kosovo, Quick Return of those that Emigrated and Immigration of all those who Want to Live and Work in Kosovo*), SluŹbeni List SFRJ (*Official Journal of SFRY*) No. 8, 1990, Beograd.
- Kalmi, O. (2002), *On the (In)stability of Employees Ownership: Evidence From Estonia and Lessons for Transition Economies*, PhD dissertation (manuscript), Center for East European Studies, Copenhagen Business School.
- Kaufmann, D. and Siegelbaum, P. (1996), 'Privatization and Corruption in Transition Economies', *Journal of International Affairs*, Vol. 50, No. 2, pp. 420-458.
- Koha Ditore, various issues, Prishtina.
- Kosova Sot, 08.10.2003, Prishtina.
- Ligji mbi Masat e Përkohshme për Mbrojtjen e të Drejtave Vetqeverisëse dhe të Pronës Shoqërore (*The Law on Interim Measures for Protecting the Self-management Rights and Social Ownership*); Gazeta Zyrtare e KSAK, (*Official Gazette of SAPK*), No. 46/1997, 52/1986 and 21/1988, Prishtina.
- Official Gazette of Socialist Republic of Serbia, various issues, Beograd.
- Official Gazette of UNMIK, available at: <http://www.unmikonline.org/regulations/index.htm>
- Palairt, M. (2001), 'The Economic Consequences of Slobodan Milošević', *Europe-Asia Studies*, Vol. 53, No. 6, pp. 903-919.
- Riinvest (2001), *Socially Owned Enterprises and their Privatization*, Research Report, Riinvest, Prishtina.
- _____. (2002a), *Privatization of SOEs and the Reform of Utilities in Kosova*, Proceedings from the International Conference, 27 – 29 June, 2002, Riinvest, Prishtina.
- _____. (2002b), *SME Development in Kosova*, Survey Report, Riinvest, Prishtina.
- Rilindja (1974), *Kushtetuta e Krahinës Socialiste Autonome të Kosovës* (The Constitution of the Socialist Autonomous Province of Kosovo), Rilindja, Prishtina, 1974.
- Savezni Zavod za Statistiku (1990), *Statistički Godišnjak Jugoslavije* (Statistical Yearbook of Yugoslavia), Savremena Administracija, Beograd.
- Shachmurove, Y. and Spiegel, U. (1995), 'Labor-managed Firms in Transition Economies', *Comparative Economic Studies*, Vol. 37, No. 1, pp. 39-53.
- Smith, S. C. (1994), 'On the Law and Economics of Employee Ownership in Privatization in Developing and transition Countries', *Annals of Public & Cooperative Economics*, Vol. 65, No. 3, pp. 437-468.
- Tijanić, A. and Čuruvija, S. (1999), What's Next Mr. Milosevic?, Institute of War and Peace Reporting, London (April).
- Uvalić, M. (1997), 'Privatization in the Yugoslav Successor States: Converting Self-management into Property Rights', in Uvalić, M. and Vaughan-Whitehead, D. eds., *Privatisation Surprises in Central and Eastern Europe*, Aldershot, Edwar Elgar, pp. 267-302.
- Zakon o Prometu i Raspolaganju Društvenim Kapitalom, (*The Law on Circulation and Disposal of Social Capital*), SluŹbeni list SFRJ, (*Official Gazette of SFRJ*), No. 84/89, 46/90 and 61/90, Beograd.