



Kolegji AAB

FACULTY OF LAW

DEPARTEMENT: CIVIL LAW

MASTER STUDIES

PRIVATISATION PROCESS OF SOCIAL PROPERTY IN KOSOVO

Mentor:

Prof. Dr. Mehdi HETEMI

Candidate:

GëzimGJOSHI

Pristine, 2013

Content.....	.....
1.1 History description of economic developments in Kosovo .....	.....
1.2 The beginning of the privatization process in Kosovo .....	.....
1.3 Data from the social sector .....	.....
1.4 Transformation of SOEs into joint stock companies (JSC) in Gjakova's economy .....	.....
1.5 Methodology .....	.....
1.5.1 Scientific methods .....	.....
1.5.2 Used methodology for the paper .....	.....
Chapter 2 - Theoretical aspects.....	.....
2.1 Legal Basis for Privatization.....	.....
2.1.1 Regulation 2002/12 amended by Regulation 2005/18 on the establishment of the Kosovo trust agency.....	.....
2.1.2. Law no. 03-L / 067 amended by Law no. 04-L / 034 on the establishment of the Kosovo Privatization Agency .....	.....
With the establishment of the Republic of Kosovo Assembly of Kosovo with the approval of the Kosovo Constitution in article 65 provides the establishment of the Kosovo Privatization Agency .....	.....
2.1.3 Regulation 2002/13 on the establishment of the Special Chamber of the Supreme Court.....	.....
2.1.4 The Law on the establishment of the Special Chamber of the Supreme Court on issues related to KPA no. 04/L-033.....	.....
2.1.5 Regulation on the Right Transformation for the Use of Society's Immovable Property .....	.....
2.1.6 Operational Policies .....	.....
2.1.7 Bidding Rules.....	.....
2.2 Methods of Privatization.....	.....
2.2.1 Spin-off .....	.....
2.2.2 Special Spin-off .....	.....
2.2.3 Spin-off with conditions .....	.....
2.2.4 Voluntary liquidation .....	.....
2.3 Organizational Structure of KPA.....	.....

2.4 Privatization stages of SOE's	
2.4.1 The status of the enterprise	
2.4.2 Approval for privatization.....	
2.4.3 Privatization method of enterprise	
2.4.4 Preparation of the data site	
2.4.5 Preparation of Memorandum Information	
2.4.6 Approval by the Board's new round of bidding of SOEs	
2.4.7 Announcement of tender	
2.4.8 Agreements for confidentiality	
2.4.9 Closing of the tender	
2.4.10 Selection of the successful tenderer (or cancellation of the tender without a winner)	
2.4.11 Agreement signing on the sale of common shares.....	
Chapter 3 – Privatization	
3. Privatization in the Peja region	
3.1 Privatization in Kosovo’s level.....	
3.2 The financial situation of SOE's in the region of Peja.....	
3.3 Candidates for Spin-off, Special Spin-off and liquidation in the region of Peja.....	
3.4 The challenges and problems that affect the privatization process in Kosovo and in the privatized enterprises	
3.5 Some cases of successful privatization	
4. Conclusions.....	
Bibliography	

CHAPTER I

INTRODUCTION

Political and economic stability are the main factors that determine the position, future and welfare of the society of a country. The correlation of these factors is very strong, thus destabilizing the political situation of a country almost automatically brings worsening in the economic parameters and vice versa difficult economic situation results in raising political tensions.

Depending on the disputed limit and the level of political / social development of certain states effects and destabilizing consequences of the factors result in shape, intensity and different final solution.

Postwar Kosovo (1999) under the administration of the United Nations, with the help of the international community and mass mobilization of the local population, compared to other parts of the former Yugoslavia, we can say that for a short time (less than three years) has reached the stage of passing the emergency.

Currently, life in Kosovo is almost institutionalized on models of socio-political systems of western democracies, always under the monitoring and control closely to the international community including the transfer of reserved powers which have been transferred to the institutions of Kosovo, according to the Ahtisaari plan and the laws deriving from that plan which have been approved by the Assembly of Kosovo and incorporated in the constitution of the Republic of Kosovo, which entered into force on June 15, 2008.

Public enterprises after the establishment of the Kosovo Privatization Agency have been under the administration of the Government of Kosovo, which has made the incorporation of these enterprises into joint stock companies, shareholder is the Republic of Kosovo.

This includes enterprises such as KEK (Electro Energy Corporation of Kosovo), PTK (Post / Telephony of Kosovo), civil international airport, Kosovo's Railways, etc., that can be classified as natural monopolies and certainly that they are strategically important to the Kosovo's economy. Enterprises of such importance are the International Airport, KEK and recently PTK has been privatized by the Government of Kosovo.

This implies the existence and full security in the practice of legal mechanisms (institutional) through which the state can intervene in such privatized enterprises and protect the public and states interests through direct or indirect subsidies of such enterprises, fiscal policies etc.

With state's intervention by means interventions such as determining the price for specific products or services that are classified as basic needs of wide consumption, reduction or exemption from customs duties of various imports.

This definition clearly shows the importance of the privatization process in Kosovo, based on the fact that the main industrial, commercial, agricultural potential, thanks to the socio-political system in Kosovo in the past, are concentrated in the social, public and state sector.

CONCLUSIONS

The common conclusion of all stakeholders in the privatization procession, relevant institutions, the Kosovo's Government, international community etc is that privatization is necessary for Kosovo and enjoys full support from everyone.

The model of privatization in Kosovo during the administration of KTA was not satisfactory. Its 2002/12 regulation amended by the 2005/18 regulation on the establishment of the KTA and the 2002/13 regulation on the establishment of the Special Chamber of the Supreme Court and the undefined status of Kosovo has been an obstacle for speeding up the process of privatization and completion of SOEs.

After the entry into force of the Kosovo Constitution, the Law on the Establishment of the Kosovo Privatization Agency and the Law on the Establishment of the Special Chamber on issues dealing with the Privatization Agency shows a positive trend, especially in the privatization process which provides negotiating process for social properties that are in the process of liquidation, the establishment of liquidation authority to review the requirements in the process of liquidation, as well as shortening the procedures for appeal in the process of liquidation where after the decision related in the process of liquidation, the party has the right to appeal to the Special Chamber of the Supreme Court which is the simplified procedure where previously was led by the second-instance Body on KPA. Whereas the establishment of the Law on Special Chamber of the Supreme Court has increased the number of judges of the Special Chamber of the Supreme Court.

Until now the privatization process in Kosovo is accompanied by a range of criticism, mainly about the implications of the political actors in the privatization process, in weak criteria and not motivating privatization. Most of the privatized enterprises are not yet operational and did not respect the agreements on a certain number of employees and hiring new labor stakeholders.

Among them are their physical assets that were privatized with extremely low prices and that are used to purchase or rent real estate, as many of them before the war have been very profitable for the economy.

A major disadvantage of socially enterprises in Kosovo is that social enterprises are inherited by extreme physical and moral depreciation as a result of the war and serious damage caused by the war, as a difficult economic situation in Kosovo after the war. In conditions of globalization, the use of advanced technology, these enterprises have never managed to become competitive in the domestic and external market.

The process of privatization of public important enterprises in several European countries has not a genuine reputation of achieving success. Usually countries like Greece, Spain and Slovenia have felt the need for privatization of public assets only when they are in the edge of bankruptcy as the case of Greece, Spain by the inability to manage problems regarding the energy and telecoms, as well as Slovenia with global crisis which has significantly affected

its economy. This means that these countries have not had the need to be "developed" due to privatization of public assets before the destabilization of their economic situation.

A critical point of privatization in Kosovo would be the lack of strong rule of law, namely the rule of law. This is best illustrated in "fear" of foreign investors to come to Kosovo, because very easily they have researched on the situation of the Judiciary in Kosovo for the poor efficiency of the courts in Kosovo, delays in eventual disputes, and lack of security to protect them from various crimes by various criminal groups.

I hope in the future that the Special Chamber of the Supreme Court will soon decide on matters which are pending, such as the issue of SH.A in Gjakova, the issue of 20% and indictments issue.

The benefits of privatization

In today's world of modern economy, the private sector of the economy mainly liberal democracy in developed countries has been very positive and significant differences in relation to the public sector. Strengths of privatization are thought to be;

- Systems to stimulate enterprises in the economic efficiency in achieving their profit goals
- Provide better quality of services or products to customers by economic enterprises
- Privatization helps in the development of competition in liberal economy, in the free market economy
- Increases the interest of foreign and local investors to deal with different businesses
- Enables massive use of different state assets and their functioning
- The sale of state assets or their privatizing enriches the state budget
- It helps in reducing unemployment and increasing employment of citizens
- It helps to increase annual GDP per capita
- It assists in the overall economic development of the country, etc.

Meanwhile privatization's negative sides are considered;

- Reduce the impact of state in strong and major economic enterprises
- State does not take great profit of big enterprises
- Punitive environment for workers
- Tendency to avoid or reduce workers' rights