

**AN ANALYSIS OF THE POSITION OF WOMEN IN THE
PRIVATIZATION PROCESS OF SOCIALLY OWNED
ENTERPRISES IN KOSOVO**

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ABBREVIATIONS

SHE-ERA	Women's Business Organization
UNIFEM	United Nations Development Fund for Women
KTA	Kosovo Trust Agency
KPA	Privatization Agency of Kosovo
GDP	Gross Domestic Product
SOE	Socially Owned Enterprises
BSPK	Kosovo Union of Independent Syndicates
KSWN	Kosovo Syndicate Women's Network
FDI	Foreign Direct Investment
UNMIK	United Nations Mission in Kosovo
LGE	Law on Gender Equality
LAD	Law against Discrimination
KPS	Kosovo Police Service
KPC	Kosovo Protection Corpse
KEK	Kosovo Energy Corporation
MTI	Ministry of Trade and Industry
CEDAW	Convention on the Elimination of All Forms of Discrimination Against Women
JSC	Joint Stock Company
POE	Publicly Owned Enterprises

CONTENTS

1. Introduction	5
2. Method of Research.....	6
3. Socially Owned Enterprises (SOEs) – Background Information	6
3.1 Transformation of SOE’s	
3.2 Temporary Measures during the ‘90s	
3.3 Registration of the SOEs at the Ministry of Trade and Industry (MTI)	
4. Privatization Process in Kosovo	8
4.2 Privatization Methods in Kosovo	
4.2 Legislation Related to Privatization - KTA Regulation	
4.3 Role of BSPK During Privatization Process	
4.4 Division of SOEs Value: What are the 20 and the 80 percent?	
4.5 Effects of Privatization in the Enterprise	
4.6 Employment Policies Applied at the Privatized Enterprises	
5. Present Situation of Women Workers, Their Needs, Concerns and Main Problems in the Enterprises.....	14
6. Existing Legislation – Mechanism to Achieve Gender Equality	15
7. Gender Equality in Decision-making Process within SOEs.....	16
8. Strategic Policies of KTA, Government – Discrimination of Women in Decision-making Process During Privatization.....	17
9. Rights of Women Workers During Privatization Process– Kosovo Women Trade Union Network.....	18
10. Functioning of the Textile Industry in Kosovo.....	18
10.1 Privatization Process of SOE “JATEX” and “KOSOVATEX” from Gender Perspective - Analysis.....	20
11. Recommendations.....	30
12. Bibliography.....	31
ANNEX 1 KTA Regulation – analysis	32

1. Introduction

In the past years, many observers have emphasized the ironic contrast between the strong achievements of economic reforms in Kosovo and the faint activities in the private sector of Kosovo. Although UNMIK and the local institutions, assisted by bilateral and multilateral donors, managed to create the foundations of a modern economic system, the economic activity in Kosovo has remained relatively weak. However, many assessments on the Kosovo economy have demonstrated the nature of deeply rooted economic problems. It was clear that even the greatest reforms, which in fact were undertaken, would not lead to immediate results. The enduring social and political instability in Kosovo has led to an inheritance of inadequate educational and institutional capacities and skills (which otherwise, under normal circumstances, would require years to develop), insufficient capital investment and devastated socially owned enterprises.

Kosovo has shown positive economic activity in the last years. Regardless of the substantial decrease on foreign assistance and increase on public expenditures, the GDP is estimated to have increased by 3%. Clearly, this time the increase did not occur as a result of greater public expenditures or of donor financing, but of better activities in the private sector. Some economic indicators have given signs of improved economic activity. After a recession in year 2005, the Kosovo export has increased to a staggering 54%, with a modest increase of percentage on imports. Furthermore, the level of private investments, not including the housing sector, has increased by 61%. The amount of bank loans issued to the private sector has also gone up. If we continue at this rate of economic reform, the GDP will certainly continue to grow at a greater pace.

Now that the Kosovo political status has been made clear, the economic development conditions will improve in different ways, especially in attracting foreign investments in forms of FDI (Foreign Direct Investment) and through the admission of the Republic of Kosovo into international financial and lending institutions.

The position of women employed in the SOEs is continuously being neglected by the Management of such Enterprises, by the Kosovo Trust Agency (KTA, now succeeded by the Privatization Agency of Kosovo - KPA), and by the BSPK, with their “old mentality” of treating women as second class employees, without offering them the decision-making positions within SOEs. **That is, therefore, the main focus of our analysis which is presented below.**

The Privatization Process in Kosovo began at a very slow and bureaucratic pace. In year 2002, UNMIK Regulation No. 2002/12 On Establishing the Kosovo Trust Agency¹ was promulgated, nevertheless the privatization process was still dragging. Between 2003 and 2005 there were many waves (or so-called rounds) of privatizations, but there was a stalling period of the process for about 8 months, when practically no SOE was being privatized. During this time, the privatization process in Kosovo was “blocked”

¹ UNMIK Regulation No.2002/12, *Operational Policies for the Establishment of the KTA. Date 13 June 2002 as amended by UNMIK Regulation No.2005/18.*

and considerable damage was caused to the image of Kosovo in the minds of potential foreign investors. At the beginning of 2005, with the changes made to the KTA Board and with the adoption of the new UNMIK Regulation No. 2005/18 on Amending UNMIK Regulation No. 2002/12 on Establishing the KTA (also known as “Eminent Domain”) the privatization process continued at a much faster rate. The privatization of Kosovo SOEs has brought in considerable amounts of funds, which are being kept abroad and commitments for investments (for special spin-offs) have been made. The liquidation of bankrupt enterprises has been initiated, but there are delays on reviewing and analyzing all claims of potential creditors.

At the same time, KTA has done a lot on corporizing Publicly Owned Enterprises (POE) who mainly focused on improving their corporal governing structures.

2. Method of Research

SHE-ERA has undertaken research and analysis of information gathered during the Project and based on the prepared Work Plan.

Research methodology included the following elements:

- Legal analysis of KTA (now KPA) Regulation on its Operational Policies ;
- A questionnaire was prepared and a survey conducted by interviewing in person 50 women employees of “KosovaTex” and “Emin Duraku” - SOEs, which constituted the objects of our study and research;
- Data gathered from the surveys conducted with the women employees of targeted SOEs were processed;
- The impact/effect of privatization process in Kosovo has been identified, with a special focus on the NewCo with special spin-off method of privatization;
- The results of privatization have also been identified, specifically focusing on the rights of women employees within Socially Owned Enterprises (SOEs);
- Direct meetings and round tables with the employees were organized;
- An evaluation was conducted of women employees participation in SOE decision-making bodies on identifying and prioritizing their needs;
- A research was considered necessary for presenting a clear overview of what the 20% and the 80% of the privatization funds mean;
- Direct meetings with KTA, BSPK, and UNMIK officials and the management of the above-mentioned enterprises were held.

3. Socially Owned Enterprises (SOEs) – Background Information

The Socially Owned Enterprises were established based on the Socialist System of Planned Economy by joining funds and capital and with absolute ownership imposed by the society or state. These enterprises, as such, were established during a time of rapid development of the socialist economy, where all property was declared as socially owned and was created by joining the funds of the socialist state of Yugoslavia with the contribution of the SOE workers. Naturally, such SOEs were established and became functional also thanks to assistance and loans received by Yugoslavia during the time of

Tito regime from world financial institutions as well as from states that supported the Yugoslav policies and that time. **There have been over 500 enterprises in Kosovo that have been identified as SOEs.** These enterprises were active in all sectors of economy, including commercial real estate, hotels, mining sector and processing of minerals, construction and construction materials, metal processing, textile, winery, vineyards, service sector, and retail and wholesale trade.

3.1 Transformation of SOEs

Around 70 percent of SOEs in Kosovo changed their status without consent of their workers. That was a result of the new measures imposed on Kosovo by the Assembly of Serbia, which violently replaced the Kosovo Albanian management and workers with Serbs and Montenegrins.

While imposing such measures in many SOEs, the so-called “provisional managing body” managed to transform the Socially Owned Enterprises into Shareholding Companies, where 51 percent of the “shares” were allocated to the “Fund for the Development of Serbia (Fond za Razvoj Srbije)” and the remaining 49 percent were fictitiously owned by legal and natural persons of Serb nationality. However, KTA found ample evidence that such transformations were performed in a discriminatory manner by a management imposed on the SOE, and did not recognize such transformations as legal.

The second type of SOE status transformation was more specific. It mainly occurred in the Municipality of Gjakova, which used the applicable law of Yugoslavia during 1991-1993, namely the law of the Yugoslav Prime Minister Mr. Ante Markovich, to transform the SOEs into Joint Stock Companies with the consent and will of all their workers. In these cases, the workers declared in referendums that they were in favor of such SOE transformation by deciding to contribute a portion of their own salary to purchase the company shares.

3.2 “Temporary Measures” during the ’90s

In the years 1990-1997 in many SOEs in Kosovo, so called “Temporary Administrative Measures” were undertaken pursuant to orders issued by the Assembly of Serbia. Such measures, although meant to be temporary, they continued to be in effect until the end of the war. Since such measures were not accepted by any of the bodies governing socially owned enterprises in Kosovo, those measures were imposed and were discriminatory based on nationality and resulted in removal of the Kosovo Albanian managers, which were replaced by Serb ones. As a result, many Kosovo Albanian workers were discriminated against by being denied the right to work because of their nationality, by being laid off and replaced by workers of Serb and Montenegrin origin, which often did not come from Kosovo and did not possess adequate professional qualifications. This included many women workers as well. In rare instances, some SOEs in Kosovo were not affected by such measures that caused segregation, discrimination and bad working relations between the Kosovo Albanians and other nationalities in Kosovo. It just proves that that these temporary measures were politically motivated, with the aim to ruin the relationship between different nationalities in Kosovo and to destroy the Kosovo economy.

3.3 Registration of the SOEs at the Ministry of Trade and Industry (MTI)

After the Kosovo conflict, all SOEs were registered at the business registration office within MTI in 2000 where they were issued a provisional business registration certificate containing the registration number, the name of business, and whether they were SOEs or JSCs. Later on, a few problems with re-registration became evident as some SOEs were not allowed to re-register because they were not entitled to have such a title unless approved by KTA. SOEs suffered considerably because of that as they were not able to apply for bids in order to gain work. This affected especially the textile and food industry, where many women were employed. Finally, with an administrative instruction issued by the Minister of MTI the SOEs were allowed to register as SOEs, surprisingly without a written approval given by the KTA.

4. Privatization Process in Kosovo

One of the main economic activities in Kosovo has been and continues to be the privatization of SOEs. As mentioned above, over 500 business enterprises in Kosovo have been identified as SOEs. These enterprises have been operating in all sectors of economy, including commercial real estate, hotels, mining sector and processing of minerals, construction and construction materials, metal processing, textile, winery, vineyards, service sector, retail and wholesale trade.

The privatization process moved faster in year 2006 and early 2007. Until June 2008, KTA declared and organized **30 (thirty) rounds of privatization. 312 SOEs were divided into 549 NewCo and were placed for bidding. 345 contracts of sale were signed/approved**, out of which **22 through the special spin-off method where capital investments of up to € 191,342,564 were committed**, and **323 underwent normal spin-off**, all amounting to a total of **€362, 624, 123** from the privatization process. The 20% amount of the privatization fund has been valued at €70,723,886, out of which only €15,138,902 have been delivered to BSPK, to be distributed among workers. The Board of Directors of KTA, as the highest decision-making body of this institution, approved 136 liquidation procedures, with income in possession (remaining 80% after the distribution of the 20%) amounting to **€8,320,138**.

The 20% of the privatization fund has been dedicated to SOE workers that fulfill certain requirements to receive part of that amount. The decision on whether the workers are eligible to receive the money is made jointly by SOE, KTA (now KPA) and the BSPK. Those workers, who feel they have been unjustly excluded from their right to the 20% amount, will be able to file a complaint to the KPA as the first instance, or to the Special Chamber of the Supreme Court deciding on KPA related matters as the second instance.

According to the special spin-off privatization method, as a precondition for sale, contractual arrangements are made to guarantee investment and employment. The commitments made amount to more than 124 Million Euros in investment and over 6,500 employment positions. However, as of June 2007, the real amount of investment is around 46 million Euros and the number of employed persons is around 3,500.

Until June 2008, KTA has approved the liquidation of 134 SOEs, but until now no creditor claims have been distributed, because of a large number of complicated claims which have been filed. Altogether, there are around 600 enterprises to be liquidated, with over 150,000 claims waiting to be resolved. These claims have been categorized into the following groups:

- Kosovo Albanian workers expelled from work during the years 1990 - 1999 who demand their lost wages for that period until they finally returned to their work places;
- Serbs and other minorities who were not able, or had no desire, to return to their jobs after the conflict, and who demand their salaries for that period;
- Workers who claim they are owners of the SOEs;
- Claims arising from different complex commercial exchanges and transactions carried out before and after the conflict; and
- Claims for loans issued to SOEs before the conflict.

In January 2007, the new legislation on liquidation was adopted and was to expedite the liquidation process. However, this did not occur because the KTA international staff did not want and were not interested to take concrete decisions regarding that process. They only wanted to prolong it by repeatedly requesting additional evidence.

In accordance with the instructions issued by the KTA Managing Director, the Steering Committee on Liquidation was formed. Another Sub-committee of Experts on Liquidation was established to coordinate the work of the regional committees. These committees have been developing best practices related to liquidation together with legal and political analysis in order to facilitate the complaint process and to offer expert instructions on the liquidation procedures. Currently, they are working quite effectively and are making excellent progress on developing systems and reports to ensure that the liquidation program is adequately adopted and monitored. Nevertheless, there have been no concrete results until now, and in discussions with KPA officials they have pledged to pay special attention to the Liquidation process.

4.1 Privatization Methods in Kosovo

- The Regular Spin-Off
 - (a) is the preferred method of the Agency to privatize Socially Owned Enterprises (hereafter SOEs) that have a sustainable business, through which, assets and limited liabilities of an SOE are transferred to the newly established enterprise “NewCo”. The NewCo is then sold to an investor and the income generated from sale will be deposited in a trust fund and used for paying off the remaining SOE liabilities, as well as other claims, including ownership claims. The SOE would then be liquidated or declared bankrupt.
 - (b) the Agency would assess whether the SOE to be privatized has a sustainable business.

- (c) under normal circumstances, the SOE would be declared “an SOE with a sustainable business” and as such becomes a candidate for the spin-off process, if it can regularly pay off its debts and have sufficient remaining capital to continue to successfully develop its business activity.

The main tendering criterion according to this method is the highest offer/price.

- The Special Spin-Off

- (a) is similar to the regular spin-off, which, other than the highest price, must also contain additional specifications that may be prescribed as obligations and commitments to be made by the bidder, which are:
- The amount of investments that the bidder offers to invest in the NewCo within a certain amount of time, which is usually two years.
 - The number of workers that would be employed in the NewCo during a certain period of time.

- Liquidation

The Agency, after receiving approval from the Board, may liquidate the SOEs that will not be subject to the spin-off process, in accordance with Section 9 of the KTA Regulation.

The Liquidation is especially useful if an SOE has ceased its business activities for a long time already and its debts have exceeded the value of its assets.

4.2 Legislation Related to Privatization – KTA Regulation

The Kosovo Trust Agency (KTA) was established pursuant to UNMIK Regulation No. 2002/12, of 13 June 2002, on Establishing the Kosovo Trust Agency, amended by UNMIK Regulation No. 2005/18, of 22 April 2005 (“the Regulation”).

The Agency exercises its powers in accordance with United Nations Security Council Resolution 1244 (1999), its Regulation and other applicable laws.

The Agency privatizes Socially Owned Enterprises whenever necessary and in accordance with the principles determined in the Regulation and based on the Operational Policies. The Agency has the power to administer every enterprise in accordance with Section 5.1 and 5.2 of the Regulation.

In June 2008, the Assembly of the Republic of Kosovo, through its Law No. 03/L-067, established the KPA as the legal successor of KTA, an independent public body with full legal responsibilities, acting as the successor of all SOEs.²

² For the description and analysis of the KTA scope of competencies – see Annex 1 to the report. We have presented a few Sections in original form, which constituted a focus of our legal analysis, namely Sections

4.3 Role of BSPK during Privatization Process

BSPK (Union of Independent Syndicates of Kosovo) is an institution established by the initiative of the SOE workers. Its mission/objective is to protect the rights of employees and to lobby at various institutions for the rights and interests of SOE employees. When the SOEs were rapidly developing, the worker's Syndicate played a very important role and had a constructive and effective influence on the Worker's Council, which was an important decision-making body considering the issues related to employees, as well as on the other managing bodies of the enterprise. Therefore, based on our analysis we have concluded that the worker's Syndicate was well organized at earlier times in every enterprise, perhaps not so at the central level compared to the level of the enterprise. Furthermore, the authority and influence the Syndicates had back then were much greater compared to the current situation.

Today, BSPK is divided into two fractions and is not very effective in protecting the worker's rights. It further lacks the support of the Kosovo government. Therefore, SHE-ERA's conclusion is that this institution must undertake reforms and allow for new apolitical forces to represent the interests of employees, not only of the social sector, but the private sector as well. In western societies, the worker's syndicates play a crucial and active role in addressing the worker's rights and interests to their government, or other competent bodies as necessary. Their position, their rights, changes, and whatever threatens the interest of the workers is protected and respected by law, and they are also considered in every project-proposal for any potential changes. Therefore, SHE-ERA has also concluded that BSPK must be more active and take concrete actions with all the main decision-making players, to create a comprehensive and stable mechanism that truly protects and lobbies for the rights of workers in Kosovo.

In the privatization process, the BSPK has been very passive and has dealt with issues of a second-hand nature, although its president is a regular member of the KTA Board, as the highest decision-making body. The BSPK became a little more active after many enterprises had already been privatized and the 20% payment from that process, which is to be divided amongst the workers, was stalled (and still is). According to the procedures agreed upon by the KTA and the BSPK, 20% of the payment belonging to the workers is to be transferred to the BSPK bank account, and the BSPK then is obliged to distribute the 20% to the workers that fulfill the necessary criteria.

4.4 Division of SOEs value: What are the 20 and the 80 percent?

While conducting the research, we found out that many workers were confused about the division scheme between the 20% and 80%. The media were also not very helpful, as they would mention the figures, but never give an explanation of what they entailed. Hence, we thought it would be reasonable to give a concrete explanation of that mechanism.

1, 2, 5, 6, and 10, from the above-mentioned Regulation, but without trying to undermine other sections that are very important as well.

According to the KTA Regulation, after an SOE is privatized, the date of privatization is the date when the sale contract is signed and not the date of the bidding. The Chairman of the Board, also former head of UNMIK Pillar IV, used to sign the contracts on behalf of the SOE, whereas now, as of September 2008, the President of the Board of Directors is authorized to sign such sale contracts between KPA, acting on behalf of the SOE, and the temporary winner who must pay the offered amount to the KPA account.

20% of the total sale value of an SOE, is dedicated to the workers who meet the necessary criteria and are eligible to receive it. These criteria include:

- At least 3 (three) years of work in the SOE after 1999;
- Be present on the salary list of the SOE for at least three years after the war;
- To be listed in the SOE registry, also after the war.

Remark:

During our research undertaken at the KosovaTex SOE, while visiting many of its former women employees, we found out that the majority of them had NO knowledge of whether they are included in the list as recipients of the 20%. They had not been well informed by their management or syndicate, who had the obligation (from KTA) to prepare the list, have it signed by the management and the representative of the syndicate, and finally to submit it back to KTA. As a result, many former women employees were obliged to go to the KTA offices in order to receive information whether they were included in the list or not.

Therefore, we recommend to the management of SOEs, the KPA, and to BSPK, involved in the process, to be TRANSPARENT from the very moment when such a list is drafted. The first draft of the list distributing the 20% must be made public in the SOE and BSPK offices, in order to allow the workers to see if their names are included and if not, to submit a relevant complaint. The current practice raises a question of why such a list was not requested from KTA by the BSPK or the SOE Management in order to make it public and announce to the workers.

The 80% value is the remaining amount from the privatization fund after the 20% is subtracted for the employees. This remaining fund is maintained by the KPA (formerly by KTA) and is preserved for the purpose of paying off legitimate claims after the liquidation procedure is declared. However, until now, KTA has not accomplished any liquidation of SOEs, although it has initiated many such procedures. The greatest weakness of this process is the LACK OF COMPENSATION in case of valid claims, for which the SOEs were indebted to while conducting their business transactions. Another part of creditor claims comes from the employees themselves who had worked for months without any form of compensation. According to the Regulation and the operational policies, KTA and the Liquidation Committee respectively, must approve the employee claims presented in the liquidation process, in the amount equal to three average monthly salaries. However, our research has shown that KTA breached its own rules and, until now, has NOT paid any creditor, including the workers who claim the sum equal to three average monthly salaries. The KPA (former KTA) keeps all the funds collected from the privatization process LOCKED away. Furthermore, such funds are all kept abroad and are not circulated into the Kosovo economy.

Overall our conclusion:

KPA as a legal successor of KTA must learn from the failures of KTA and must NOT repeat the mistakes of its predecessor.

4.5 Effects of Privatization in the Enterprise

As already mentioned above, the privatization process in Kosovo had some positive effects but it also had many negative ones, and as such, we can divide the privatized enterprises into two groups:

- Enterprises with positive effects from privatization and
- Enterprises with negative effects from privatization

With regard to the first group, we have noticed positive effects in some enterprises, which were privatized but that previously were inactive, had no market and had major problems with their businesses activities after year 1999. This group involves mainly SOEs operating as service providers or vendors. For example, we had a case where a parlor or business space was in an obsolete or dysfunctional situation, but which was given for rent to a third party. However, after privatization we have noticed in most cases that these parlors or spaces were transformed into entirely different premises thanks to investments made by new owners. This has certainly had positive effects on the privatization process.

In the second group, we have noticed negative effects in many large and medium sized enterprises – specifically in the industrial sector, and mainly production sector. The negative effects resulted from the negligence in investment, due to obvious reasons: they have very old production potential and very old technological processes. As a consequence, the privatization of the second group of SOEs did not show any positive effects, such as the increase in production capacities, replacement of the old technology with the modern one, the creation of new employment opportunities, and finding stable markets to sell their products. The privatization process has failed in this regard, because many enterprises with solid industrial potential were privatized for the sake of completing the formal mandate given to KTA to privatize all socially owned enterprises.

4.6 Employment Policies Applied at the Privatized Enterprises

With regard to the employment policies, our analysis revealed that only the enterprises with special Spin-Off had an employment policy in place. But such a policy concerned only the number of employees and not a specific regulation to give priority to former workers of the SOE who, from the date of the privatization and after ratification of the transaction contract, received the decision by the KTA/KPA on termination of their employment. In the end, the decision on who will be employed again in the new enterprise is left with the owner. According to the special Spin-Off method, the new owner is obliged to keep his promise related to the number of workers to be employed in

the new enterprise within a given period of time. Therefore, despite the persistence of some employees we interviewed, the new owner who invested a certain amount of money cannot be expected to employ everyone in the new enterprise. It is therefore quite understandable that the new owner makes his own independent decision on which employees to hire to work in his new enterprise.

Based on our research we can state that KTA now KPA cannot impose on the new owners (in cases of the new enterprises privatized using the special Spin-Off method) which workers they have to employ. However, very often ex-workers of SOEs have difficulties understanding the above, usually claiming to have priority to be employed by new owners.

5. Present Situation of Women Workers, Their Needs, Concerns and Main Problems in the Enterprises

When we had started this research, our team was enthusiastic about the fact that the position of women in the social enterprises had changed and the ‘classic’ concept of treatment of women at SOE-s had been forgotten. However, we concluded that inside the SOEs in Kosovo, women are still considered and treated as second class workers, and for most of the time they have no access to the decision-making positions.³

When discussing the needs of women in the enterprises, we decided that the main one is that they are actively involved in the decision-making process and to strongly lobby for their working rights and not to allow men to decide when it comes to matters related especially to women.

It needs to be highlighted here that many Kosovo women were denied adequate and higher education in many cases for objective and subjective reasons and that has significantly influenced their representation in the institutions and decision-making processes within enterprises. They have also faced various barriers created by men while trying to achieve the above. However, the fact that this mentality in Kosovo has not yet changed shows how much work and devotion as well as institutional support is required, so all the women who have the will and desire to engage actively in the decision making process at SOEs may do so.

Hence, we recommend that KTA, management of the SOEs, BSPK and relevant institutions assist and support women workers at the SOEs who deserve and can take decision making positions in every institution and not only at SOEs.

6. Existing Legislation – Mechanism to Achieve Gender Equality

³ For example, only in Prishtina region from approximately 150 SOEs operating or registered, (most of which are now privatized) only two women were found to hold a position of the managing director of SOE. This is a clear indicator that the present situation of women in the enterprises is just a bit different from the one in the past “golden” times of the socialist economic development in Kosovo, in the times of the establishment and development of SOEs in Kosovo.

Kosovo has established institutional mechanisms aimed at integrating a gender perspective and the protection of human rights into the development policies of its institutions. The institution of Ombudsperson was established on 30 June 2000 pursuant to UNMIK Regulation 2000/38.⁴ It supports and protects the rights and freedoms of all individuals and persons, and ensures that all people of Kosovo enjoy fundamental rights and freedoms.

Currently, there are many mechanisms for gender equality in Kosovo. One of them is the Law on Gender Equality which entered into force on 7 June 2004. Its purpose (according to Article 1.1) is to: preserve, treat and establish gender equality as fundamental value for democratic development of Kosovo society, providing equal opportunities for both women and men participation in the development of political, economic, social, and cultural and all other social fields of life⁵. Article 6.6 talks about the Attorney on gender equality, stating that the gender equality attorney shall review all cases of gender rules violations, cases of gender violations against individuals or groups of individuals committed by the governmental bodies, other bodies of public authority, employees of such bodies, employers of other legal or physical persons. Article 12.1 on economy and gender equality states that economic, financial employment and social welfare legislation and the macroeconomic and microeconomic financial and privatization programs including the right to heritage and property, loans and natural recourses shall enable equal and full participation of both women and men. Article 13.14 states that in cases of job cuts or job closing, discrimination on gender basis is prohibited.

There is also the Anti- Discrimination law which entered into force in September 2004. The purpose of this law is to prevent and combat discrimination, promote effective equality and put into effect the principle of equal treatment of the citizens of Kosovo under the rule of law.

However, regardless of the existing institutional mechanisms aimed at integration of gender perspective into developing policies of institutions, protection of human rights, the government of Kosovo must introduce institutional mechanisms to implement law on gender equality and anti-discrimination law, as well as to draft all the relevant legal acts which would assist their effective implementation.

The Constitution of the Republic of Kosovo states, among other things, the following:

...The people of Kosovo is committed to the creation of a state of free citizens that will guarantee the rights of every citizen, civil freedoms and equality of all citizens before the law...

⁴ UNMIK regulation No..2000/38 on the Establishment of the Ombudsperson institution in Kosovo.

⁵ UNMIK- regulation No. 2004/18 –the proclamation of the Law on Gender Equality in Kosovo approved by the Kosovo assembly. Law No. 2004/2 on Gender Equality, article 1.1.

7. Gender Equality in Decision-making Processes within SOEs.

The lack of gender balance during the privatization period at SOEs and unequal access of women to the decision-making processes have considerably delayed economic development, even after the privatization of the enterprises. Even though the governmental institutions introduced some improvements regarding gender issues mainly through adopting new legislation, no visible progress has been made in practice. It has been particularly obvious during and after privatization of SOEs where women working in the enterprises were ignored, because they had not been represented in the decision-making processes.

Evidence shows that women workers did not benefit from the privatization process. They did think they would benefit, hoping that there would be investment made and they would return to their workplaces. But, it turns out to be the opposite, rights of women workers were violated during and after the whole privatization process.

As already mentioned, gender equality in the decision-making process within the SOEs hardly exists, as confirmed in our research and analyses made. The old mentality has not changed and women workers are still considered as workers that should not take part in the decision-making processes. Moreover, there are opinions that women cannot be successful in the management of SOE due to lack of authority among workers of the other gender. Hence, we have concluded that stereotyped thinking is still present and remains one of the main barriers in changing the labor market.

It needs to be mentioned that during our meetings with women workers we noticed that women to the same extent as men have been influencing the development and have constituted a significant part of the overall contribution of SOE during the period of great industrial and economic development in Kosovo.

Therefore, decision-making institutions must work harder in order to create institutional mechanism to implement existing legislation, on the basis of which women will be given more space in decision-making processes.

8. Operational Policies of the KTA, Government - Discrimination of Women in Decision-making During Privatization

Strategic policies of KTA/KPA are in principle very realistic and reasonable. But, our analyses revealed that these policies are not being implemented in practice.

Our project team has identified cases where the KTA/KPA has failed to properly administer certain SOEs, leading to various misuse and corruption practices of the SOE management for material gains. KTA/KPA manages the enterprises, which means that on a daily basis the management of SOEs is in charge of making various decisions and

applies its own policies at the SOE, but requests certain approvals from KTA. There are many cases where the management intentionally blames KTA/KPA in order to justify its own administration in front of the workers the SOEs and vice versa where KTA blames the management and pretends it has not been informed about all the issues and the progress made at the enterprises.

With regard to the government of Kosovo, it did not have competences in that area since the establishment of former KTA; therefore we cannot discuss the operational policies of the government here. In the past, the government has rightfully criticized the public enterprises administrated by the KTA/KPA but nothing changed.

Now, after declaring the independence of Kosovo we are experiencing entirely new situation and the competences were transferred from the KTA to the government of the Republic of Kosovo, which established KPA pursuant to the decision of the Assembly of Republic of Kosovo.

We strongly recommend the government and all the respective institutions to seriously deal with the issue of position of women workers not only in the SOEs but also in all working places, by creating mechanisms to implement the Law on Gender Equality, Labor Law and the Anti-Discrimination Law, and to respect CEDAW convention and, UN Millennium objectives.

Our analyses have shown and confirmed once more that woman, precisely women workers at the SOEs are still being discriminated against as they used to be in the former socialist system. They are being discriminated against not only by the former KTA or KPA but also by the management system. They also suffer from the lack of a certain paragraph or article on gender equality clearly stating their rights.

9. Rights of Women Workers During Privatization Process – Kosovo Women Trade Union Network

Since the beginning of the privatization process until now, the rights of women workers have been evidently violated. It has been certified by many women themselves and the Kosovo Women Trade Union Network (KWTUN). Women have not been involved in any of the decision making position within the management board, the commission of KTA/KPA nor the management of former socially owned enterprises privatized up till now.

Therefore, according to KWTUN, the process of privatization in Kosovo showed no results, and could be described as a failure. The Network claims that the process of privatization started without a clear social plan. The age of women affected by privatization oscillated between 31 years of age (not enough to start its own career) and over 61 year of age (to enable them to get the pension - social assistance, given to them not on the basis of their contribution). According to KWTUN, the rights of women were also violated by not realizing the 20% of the value of the sold SOE. The 20% belongs to the workers but it is still not being distributed to them. KWTUN is receiving many complaints from women workers, who worked before year 2000 and 1999 regarding

bureaucracy of KTA. KWTUN continues to react in order to have the rights of women workers respected, and reacts mostly in cases of payment of the 20% SOE value. The 20% is a very small amount that does not even cover the monthly expenses. KWTUN also demands for women's involvement in the privatization commission.

10. Functioning of the Textile Industry in Kosovo

The subject of the textile industry in Kosovo raises a question of whether there is a future for the textile industry in Kosovo. And in order to give an answer to that question, we have undertaken an analysis, of which the results are presented below:

Overview of the Industry

After the revocation of the Kosovo autonomy in 1989, the GDP in the next five years fell by 50% down to US\$400 per capita. This was mainly caused by the dramatic fall of the industrial sector, which was then dominated by the SOEs. The textile industry suffered even more as the production of cotton fell from 13,361 tons per year in 1988 down to 2000 tons in 1995⁶. This staggering decrease of production was the result of the so-called decade of silent destruction, when the Serb management was imposed on the SOEs, whereas the Kosovo Albanian management and workers were laid off. Very little or no investment was made in the production lines during that time.

Textile Enterprises

The textile industry was one of the main industries in Kosovo comprising of 16 strong SOEs. The current production capacity is around 5 to 15%. These SOEs employed up to 15,000 persons before 1990. Now, the workforce in these enterprises is less than 1,000 workers.

The SOEs KosovaTeks, Emin Duraku/Jatex, Printeks, Progress and Integj have all played an important socio-economic role in Kosovo. These enterprises employed between 1,600 up to 3,500 workers each.

Currently, there are not many private companies in this sector. The privatization of the SOEs KosovaTex, Progress, Printeks and Integj, which have all been privatized under the special spin-off method, HAVE NOT BROUGHT the desired results, neither in relation to investments, nor to employment. The main reasons included:

- Lack of a suitable market to sell textile products;
- Fierce competition in this sector coming from Asian countries;
- Old and technically outdated machinery;
- High production costs, where low-cost final products circulate the market;
- Fiscal barriers, lack of normal energy supply, etc.

⁶ Source: "Euralex – European Research in the Textiles and Clothing Sector" 03/2002

Analysis of the KosovaTex SOE

KosovaTex SOE was producing mainly casual clothes and textiles for the industrial products. Thirty (30) percent of its production supplied the Balkan Factory in Suhareka with rubber and caoutchouc belts.

The first question that many posed was: “Would there be any interested buyers to purchase such an enterprise?”

The best solution would have been to sell the machinery and to transform the space gained into a business park. The textile industry offered great employment opportunities in former Yugoslavia and there is still lots of expertise that can be utilized.

The NewCo KosovaTex LLC was placed for bidding during the ninth round of privatization through the special spin-off method. At that time the winning bidder offered to commit €4, 000,000 in investments and to employ 200 persons. The sale contract of this enterprise (which represents the formal privatization date) was signed/ratified by the Board of KTA on 4 September 2006. The new owner has since tried to start up the production, mainly by spinning cotton and preparing fabric, but due to the reasons mentioned in our analysis above, the owner has failed to continue production and suffered serious problems connected with investments and employment.

Analysis of the Emin Duraku/Jatex SOE

The enterprise was founded in 1967 and was initially called “Napredak”. It was mainly a production and service providing enterprise for products, such as clothes and underwear, and included a sector of retail and wholesale of these products. In 1981 this corporation changed its name to “Emin Duraku” and kept it until 1991 when it was changed again to “Jatex” as an abbreviation of Gjakova Textile. In 1991 this enterprise registered itself as a Joint Stock Company, when the transfer of property was allowed by law, and continued to operate under this new status up to 1999, until the beginning of the conflict. Up to this time there were 1730 shareholders of this company.

After the war Jatex continued to exist as a JSC until 2003, at which time they were required to register within the Ministry of Trade and Industry, which contested their JSC status and kept it undefined until 2006. Despite the difficulties and unclear status resulting from a dispute with KTA and MTI, Jatex continued to persist on having their status of 1991 recognized. Notwithstanding the difficulties after the war, this corporation has been well preserved by the same shareholders, and continued to be financially sustainable as they have been producing clothes for institutions such as the KPC, KPS, KEK, etc. None of its employees have been laid off, and the salary list currently consists of 90 persons who are being paid on a regular basis. The capacity of this corporation allows for 500 persons to be employed. There are also Jatex shops, some of which have been rented out. The market abroad is very interested to cooperate and Jatex has various contacts with potential buyers, but its management claims that their undefined status is the main problem for potential investors and donors, since now their company is considered to exist unlawfully.

11. Privatization Process of SOE “JATEX” and “KOSOVATEX” from Gender Perspective - Analysis

Main information gathered from women employees

As part of its research, SHE-ERA carried out the study and analysis of the position of women during and after the privatization process of SOEs in Kosovo. We specifically looked at “JATEX” which, according to its management, is transformed into a JSC under the law applicable in former Yugoslavia, the so-called “Ante Markovich Law”, during the period between 1991 – 1993. Another one we chose was “KOSOVATEX”, which was privatized under the special spin-off process in 2006. The purpose of interviews with women employees of these two former SOEs was to collect information directly from women regarding their involvement in the privatization process of the enterprise and their gains after privatization, as well as their current position on the market.

Therefore, SHE-ERA conducted 50 interviews in each of the former socially-owned enterprises (Gjakova and Pristine Municipalities). Women for the interviews were selected on a random basis, as we found out that many of them had immigrated abroad and it was difficult to reach them.

Women from these two former SOEs were in majority around 35 years old when they were working, but now they are in their fifties. However, despite their age, they consider themselves able to work, because they claim that after privatization process, and the dim chances to be employed elsewhere, most of them see a perspective of employment at their former jobs. Even though for many years they have contributed to the SOEs development, they still do not enjoy the right to be employed there or even receive a pension.

During our interviews with the respondents of the two former SOEs, we found out that women who had worked and those who are still working for “JATEX” belong to the following age groups: 20 percent - between 30 to 40 years of age; 20 percent - between 40 to 50 years of age and 60 percent - between 50 to 60 years of age. The same age groups refer to the “KosovaTex” SOE. Furthermore, over 80 percent of the respondents in “JATEX” have more than 20 years of experience working for that enterprise, and over 85 percent of women employees at “KosovaTex”.

Below we have presented a summary of questions and answers provided during our survey.

How well are you informed about privatization process in Kosovo and the rights of employees during that process?

During the meetings with employees of two former Socially Owned Enterprises (SOEs) and interviews made with women, they declared to have been aware regarding the privatization of SOEs and the admission of the JSC in Kosovo. Women employees thought that with the privatization and the recognition of the JSC, (in this case “JATEX”) they would continue to perform their work, which was interrupted by the backlash (repressive measures) of Milosevic regime starting in 1991.

As to the amount of information they were receiving from former officials of KTA or the managing staff of the former SOE on the issues of privatization process, methods, regulation or the employee rights, the survey showed that 26% of the employees of “JATEX” were informed whilst 46% were less informed and have been mainly informed by the electronic and printed media and 28% had no information at all and did not know what was going to happen to them.

The data outcome of SOE’s “JATEX”	Percentage
Were informed	26%
Less informed	46%
Had no information	28%
Total	100%

At “KosovaTex”, more than 70% of the questioned women had very little information of the privatization process and of their rights, and stated to have been informed via media regarding the privatization of their enterprise.

The data outcome of SOE’s “KosovaTex”	Percentage
Less informed	70%
Had no information	30%
Total	100%

Conclusion: during privatization process women were and still are left behind or, one may even say, discriminated since they were not invited or asked for anything.

What is your opinion as to privatization methods applied by former KTA now KPA?

The majority of women interviewed declared that they did not agree with the privatization methods applied by former KTA due to the unfair politics used and a large number of the employees remaining unemployed, which means that most of them also remained without pension.

Even though not pleased with the privatization methods applied in Kosovo and since this model of privatization in Kosovo is designed by the internationals (UNMIK IV Pillar) the women employees think that former KTA now KPA is obliged to fulfill their obligations based on the regulation issued by them and approved to be applied. Some of them were not informed about privatization methods applied by former KTA and now expected to be continued by KPA as a legal successor of KTA.

What is your opinion as to the management and their approach towards employees of SOE?

Women workers of both SOEs think that the management and their approach towards workers, was unfair especially towards women employees.

A considerable number of women workers considered their managers as very professional, just and constructive, these were mainly women workers that were still working and being paid by “JATEX” although it is not producing a lot of products (small orders). A majority of them is not involved even now after many years of assistance since their violent eviction from former SOE and now JSC “JATEX”. They think that the management must be more engaged in solving the situation because they feel ignored

especially in the decision making process of the enterprise, despite the fact that there are workers still employed and paid.

At “KosovaTex”, the workers, which according to the privatization methods with special Spin-off are considered to be still working, do not know their new owner who has privatized the former SOE “KosovaTex”, an owner who has declared to fulfill the obligation and promises in accordance with the former KTA/KPA regulation.

This has still not occurred because the women workers of “KosovaTex” who have been allowed to continue working have not met the management staff and are still not sure if they will continue working there or not. This continues to be the case because the new owner who privatized the enterprise has failed to invest within the envisaged period in the enterprise and to hire a certain number of workers as he was obligated and had committed according to the regulation and the spin off methods. Even now, two years after the privatization of this factory also known as the one of former giants of textile industry in Kosovo, the production process has not begun as supposed.

Are you satisfied with the treatment of employees during the privatization process?

Regarding their treatment during the privatization process, 99% of the interviewed women workers at the SOE “KosovaTex” have stated that they are unsatisfied for many objective reasons. One of those reasons was that women have neither been asked nor informed that SOE “KosovaTex” will be privatized, despite all their work and contribution for more than 20 years at the SOE. Instead, the women received information from the daily news on television, radio, and the press. They also heard of the part that belongs to them due to their contribution for many years of work, which was the 20% of the sold value, that they must receive, but until today, they have not been paid anything. According to former KTA Regulation now KPA Regulation (with minor changes) upon the privatization of a former SOE, each worker is entitled to 20% of the value, which will be given 3 months after the privatization of their enterprise. However, since 2006 until now KTA (KPA) and the union of independent trade unions of Kosovo (BSPK) have not yet transferred it to the workers.

Have you participated in the decision-making process at the enterprise, e.g. the workers council, steering board or any other decision-making body at the former SOE?

The majority of the interviewed women (around 90%) have not been involved in the syndicate, steering board or other structures. Only 10% of them were involved in the syndicate.

This shows that even though the majority of the working force is made up of women, they were not placed in an equal position with men, except in the case of JATEX SOE where one woman was a syndicate President and another was a unit leader, as mentioned above.

How satisfied are you with the role of the Union of Independent Syndicates of Kosovo (BSPK) during this process?

From the meetings with the women workers of both SOEs “JATEX” and “KosovaTex” the women emphasized the important role of the syndicate and its influence in the workers’ council as an important decision-making body on issues regarding workers and other managing bodies of the enterprise. However, according to them, the syndicate was

not and is still not effective in its role and duties. Around 80% of the women workers at former SOEs JATEX” and “KosovaTex” declared that they are very unsatisfied with the syndicate’s work, because BSPK in Kosovo, other than its formal appearance at different meetings, has not shown any actual results regarding the rights of employees during the privatization process. They further mentioned that the syndicate was not able to influence the KTA (KPA) on the protection of employee rights and on the distribution of the 20% for which the employees are entitled to in accordance with KPA Regulation. The employees request not only BSPK but also other relevant institutions involved in this matter to further accelerate the compensation process.

Do you think gender discrimination occurred in the decision-making process in your SOE/JSC?

The answers of the women of both SOEs “JATEX” and “KosovaTex” show that during the time they had worked there, gender discrimination in the decision-making process was never an issue, since the majority of the employees were women. However, starting with the post war period until today they feel they have been quite discriminated because they have not been asked or notified regarding the privatization of their enterprise (this relates to SOE KosovaTex). On the other hand, at former SOE “JATEX”, the majority of women are not invited to report at work as other women colleagues (the ones who continue to be employed there). These women are not informed regarding the workflow of the enterprise or whether the enterprise is going to be accepted as a JSC or placed in the privatization process. They simply do not know what is going to happen to them after 20 years of work.

What is your opinion regarding the delay in distribution of the 20% and the stagnancy of the liquidation process?

With regard to the distribution of the 20% amount from the privatization of the enterprise, the women workers interviewed by SHE-ERA of former SOE “KosovaTex”, which was privatized under the special Spin-Off method, declared that they have not yet received this 20% amount from former KTA now KPA, even though they knew that their names were existed in the list of paid workers. These interviewed women were at risk of losing the job that was promised to them by the new owner (which they have not yet met) and the job that has not started even two years after the privatization of their enterprise. According to the regulation of former KTA now KPA, the new owner of the privatized SOE with special Spin-Off has a contractual obligation to invest a certain amount of money and to keep a certain number of former employees in the NewCo, in order to restart the production process.

During our analyses at the “KosovaTex” SOE and our visits with many former women workers of this SOE, we concluded that the majority of them had no knowledge whether they are listed as beneficiaries of the 20% or not. This is because they had not been duly informed by the management or the workers syndicate, who were authorized by the former KTA now KPA to draft the list, to have it signed by both the management and the syndicate representatives, and then to return it to KPA. Therefore, many former employees had to go to former KTA offices in order to see if they are on the list or not. This demonstrates the extent the workers were ignored by the SOE management and the syndicate in this particular matter.

How well are you informed of UNMIK Regulation No. 2002/18, and its amendment through UNMIK Regulation No. 2005/13?

Only a minority (around 5%) of interviewed women is informed and has read this UNMIK Regulation, whilst the rest have no information at all about it. Therefore, we have concluded that the workers must be informed of the Regulation concerning their enterprises and KTA now KPA must have a different approach with regard to the legal aspect of the workers' benefits.

What would you recommend to KTA/KPA in general and specifically with regard to employee rights and obligations?

The majority of the interviewed women have declared that the process of the privatization of JSC "JATEX" is being delayed by KTA/KPA. They used this opportunity to make an appeal to KTA/KPA to recognize the status of "JATEX" as a Joint Stock Company as soon as possible, as this would allow for the production process to start sooner. It would also enable the workers who are fit to work to be engaged in production, which in turn would compensate those who are not able to work, either financially or in other forms of compensation decided by "JATEX" management. All its employees, including the women workers, insist that the JATEX status as a JSC be recognized, and not to have it privatized. This is because the workers are shareholders of company and would receive dividends from the shares, even if they are not re-hired at the company. For the women workers, the privatization of JATEX and the acceptance of the 20% would mean loss of their shares.

What is your opinion regarding the undefined status of "JATEX"?

According to the opinion of the interviewed women, the undefined status of JATEX is left pending due to UNMIK, the KTA/KPA board, the Kosovo Government and the municipal government, where despite the many "efforts" of the latter, it has done nothing until now. The results of the economical situation are evident not only in our municipality but in the whole of Kosovo. Women workers of "JATEX" think that it is also the fault of the management of JSC "JATEX", which, according to them, made efforts but not as much as the former SEO "Elektromotori", which has managed to gain the JSC status with the help of its perseverant director.

Women also appeal to the local government and JATEX management to work harder on this issue and to start the reactivation of the production and the return of the workers who are able to work on their previous working places. The women hope that after the transfer of competencies from KTA to KPA, the status of the "JATEX" enterprise will be reconsidered and admitted as JSC, since its transformation was made in the former Yugoslavian system according to the law of Ante Markovich, which must be respected.

How should KTA now KPA, approach the JSCs of Gjakova, which were transformed, based on the law of Ante Markovic in year 1991?

Most of the interviewed workers, have declared that KTA/KPA must recognize the JSCs of Gjakova, which have legally transformed their status in accordance with the so-called law of "Ante Markovic" between 1990-1991, in order to protect their enterprises from the violent transformation or repressive measures undertaken by the Serbian government at that time. Some of the ex-workers of JSC "JATEX" have declared that they have been

witnesses of such transformations since they contributed a part of their monthly gross salary for the purchase of shares in the gradually transforming enterprise.

Therefore we have concluded that former KTA now KPA must analyze the status of these enterprises as soon as possible and admit their JSC (Joint Stock Company) status as was the case with JSC “Elektromotori” and JSC “Dukagjini” construction.

What are the effects of privatization?

For most of the correspondents, the privatization process had and continues to have negative impacts because the majority of workers are at an age that does not match the labor market requests. Almost every employer has the primary requirement of considering young employees, thus neglecting workers that have a long working experience and that are qualified. This was the answer from women workers from both former enterprises “KosovaTex” and “JATEX”. The interviewed women workers of “KosovaTex” are very unsatisfied, although in accordance with KTA/KPA regulation and the Spin-Off special privatization, they appear as employed on paper, but in reality they are not invited to work and are not being paid. They also feel threatened from being unemployed without any support from the decision-making bodies, despite their requests and appeals at the BSPK. A large number of “JATEX” women workers (elder women who know they cannot return to work) think that if the status of their enterprise cannot be solved, it would be better to privatize the enterprise since they can be compensated by KPA from the 20% fund. However, after it was explained to them that they have the right to dividends of company’s shares, they admitted that it would be best to have the status of JATEX as a JSC recognized. The same opinion is shared by the women of other SOEs in the municipality of Gjakova as well.

What is your opinion regarding the employment policies carried out in the privatized enterprises?

According to the statement of the workers, the employment policies of the privatized enterprises in this case “KosovaTex” privatized under the special Spin –Off method are not being executed as envisaged under the KTA now KPA regulation. These policies seem to exist only on paper, as is the case with almost every other policy in Kosovo.

A small number of women workers of JATEX declare that they are not informed at all regarding the policies carried out by KTA/KPA. They are aware, however, that the privatization carried out under the special spin-off method of other SOEs was not favorable with respect to its former employees.

Do you think senior workers should be given priority in employment?

The majority, 99%, of the interviewed declared that priority should be given to senior workers, limited to those who are physically fit for the job. However, they were quite concerned with their present passive state and the modern technology for which they have to be retrained if they are re-hired.

What is the present economic perspective of the textile industry in Kosovo?

The interviewed women from both former SOEs “KosovaTex” and “JATEX” did not see any great outlook for the textile industry comparing to what it was when they worked in those enterprises until the entry of the repressive measures of 1991 in Kosovo. Their

answer was based also in the real economical situation of Kosovo after privatization of some textile enterprises and their noticeable passivity, the actual situation of their enterprise, the destruction of the buildings since 1991 from the Serbian regime and after the war from the lack of investment. Women think that only with the involvement of foreign investors can there be a promising future for the textile industry, but only if we follow the pattern of great industries of developed countries. Now that Kosovo has gained independence and has been recognized by the most developed countries in the world, the women strongly believe that in the future, with the interest of the foreign investors, the economy as a whole and the textile industry specifically can develop and win over the black market in Kosovo. JSC JATEX, according to its management, has real opportunities and concrete offers from foreign partners to receive investments, and this would be beneficial mostly to the women, as they comprise the largest number of workers in the company.

Do you think women were and continue to be continuously discriminated in the decision making process?

Women have always been and continue to be discriminated in the decision making process. They were discriminated then in the socialist system and such discrimination continues even now when we are thinking of building a democratic state. This is evident in all fields of life, be it economical, social, political etc. Despite this fact, there are women who managed to get into leading positions; however, the majority still feels discriminated because only a small percentage of women made it in the decision-making bodies, which is not enough considering the overall number of women in the society.

With regard to the privatization process, they all replied that they are largely discriminated since they are not informed nor asked about anything with respect to privatization of their enterprise, therefore they are not able to express their opinion.

Do you have any knowledge of the number of women formerly employed in your enterprise?

From the meetings and the interviews made with women of both SOE-s “JATEX” and “KosovaTex” we gathered that more than 80% of the workers were women.

Do you have information regarding the privatization methods carried out by KTA?

The data outcome	Percentage
Had no information	60%
Have knowledge	30%
Informed through media	10%
Total	100%

60% of the interviewed women had no information regarding the privatization methods applied by KTA, 30% declared to have knowledge of these methods and 10% have been informed through the media with respect the methods used. While conducting the interviews, SHE-ERA, had to inform the women regarding the methods applied by the KTA/KPA. Furthermore, SHE-ERA constantly informed the workers on many issues they had no knowledge of e.g. the KTA/KPA regulation, operational policies, privatization methods, the 20%, etc.

What is the main difference between the privatization method with regular Spin-Off and the one with special Spin-Off?

The data outcome	Percentage
Not able to distinguish the two methods of privatization	75%
Able to show the difference	25%
Total	100%

The results showed that 75% of the interviewed women workers of former SOE “JATEX” were not able to distinguish between the two methods of privatization, whereas 25% of them were able to show the difference between the regular Spin-Off and the special Spin-off. We found out that the women workers at “KosovaTex” were notified regarding the criteria of the regular and special Spin-off only after the privatization of their enterprise had been completed.

How active and involved have you been in the workers syndicate within your enterprise?

The data outcome	Percentage
Not been active in the workers syndicate	79%
Have been active in the syndicates	21%
Total	100%

The results showed that 79% of them have not been active in the workers syndicate within the enterprise, although they were aware of their rights, whilst only 21% have been active in the syndicates of their former social enterprises. This may be the main reason why they have not been informed regarding the privatization and what will happen to them in the future with respect to the 20% of financial compensation from the total amount after the enterprise is sold.

What methods did you use to express your dissatisfaction towards KTA, government, the management of the former enterprise and the syndicate?

The interviewed women have expressed their dissatisfaction in different ways, such as by having frequent meetings with the management staff of the enterprise, by requesting answers about the situation of the enterprise, about when the work will start, about the 20% of the value belonging to them, about the lack of information and them not being invited to the meetings which were being held by the certain management group of former SOE etc.

Expressed their dissatisfaction...	Percentage
Through organized protests, memorandums, etc.	45%
Through a letter of appeal forwarded to the KTA/KPA	55%
Total	100%

45% of them have displayed their dissatisfaction through organized protests, memorandums and various interviews given to local mediums. 55% of them have displayed their dissatisfaction through a letter of appeal representing the interests of all employees directed to the management, which forwarded the claim to the KTA/KPA, BSPK and the Government. However, so far there has been no result, which would

encourage the government and the syndicate to influence the policies of KTA/KPA to bring about a solution to this chaos that is deterring the Kosovo economic development.

What are the needs, concerns and main problems of the women at “JATEX” or the new enterprise KosovaTex (New Co)?

The key problems that concern the women workers of the socially owned enterprises, in particular those of former SOE “KosovaTex”, are and continue to be, the activation of their enterprise, the beginning of the production process, and the distribution of payment in accordance with the criteria of KTA/KPA since it has been privatized under the special Spin-Off method and the new owner should fulfill his/her contractual obligations. The authorized institutions, such as KTA now KPA, must monitor if the new owner is fulfilling his obligation and not to leave it behind for a period of two years after which the owner is not obligated to give any report. Another concern was the protection of their interests through BSPK, and their persistence to receive the 20% of the compensation.

The main concern of the SOE “JATEX” workers was the recognition of “JATEX” status as a Joint Stock Company by KPA, the recognition of the work experience and the compensation of the women workers that were not paid during the repressive measures, recognition of the work experience of the elder women (not able to work anymore) in order to have the right to a pension, fair evaluation of the SOE during the bidding process, recognition and protection of women’s rights, prohibition of the gender discrimination etc. In general, the main concern was the unemployment and the poor economic and social economic situation for which the local and international institutions must do more in order to bring to life the things they have put only on paper.

What is the reason for the unequal treatment between men and women within the SOEs?

According to the statements of the women workers of both SOEs the reasons for the unequal treatment between men and women is a result of the old mentality and tradition that our women always had to deal with starting from their birth, their treatment in the family, work and society. In the family, the men were always right and they were the only ones to be heard. This comes as a consequence by giving priority to men in respect to education, by prejudicing women of having the role of good wives and mothers which have to take care of the house, raise the children, and have limited access to professional development.

Regarding the rights of women workers, men would always win an advanced position at the former SOE despite the professional background and qualification of the women. There would always be a reason why a woman could not reach a higher position. One of the main reasons was that she would become pregnant, give birth and have long maternity leaves (one year). These things occurred despite the fact that women have shown to be very professional, responsible and more capable to complete a job/obligation with great results, something which many men lacked.

In rare occasions, where a woman was the brigadier (unit leader), she would always fight for the rights of her subordinates; she was protecting the worker’s rights and was striving to change the policies of the enterprise favoring her unit.

Today, the circumstances have changed distinctly and more opportunities are given to women on education, work and society in general. Women in Kosovo, much like in other democratic states, share the belief that women must be treated equal to men. They emphasize that even if women today are more powerful than in the past, there is still much to do in order to overcome all barriers and face new challenges so that new generations will act and think differently.

What kind of professional activity do you have today, if you are not employed in Jatex or in the New-Co?

The data outcome	
Unemployed	75%
Employed in private businesses	12%
Continue to work on a part-time basis	10%
Continue to work in the administration	3%
Total	100%

The data gathered from the respondents of former SOE Jatex show that 75% of the women workers are unemployed and are hoping to be hired again once the JSC status is recognized by PAK; 12% of them are employed in private businesses; 10% continued to work at former SOE Jatex on a part-time basis, whenever the enterprise receives product orders; and 3% who work full-time in the administration.

With regard to former SOE KosovaTex, even though it was privatized under the special spin-off process, which means that a certain number of former workers will be hired by the new owner and that a certain amount of money must be invested into the enterprise, this unfortunately did not happen, because the new owner failed to start producing textile due to the lack of a market. As a consequence, 80% of the former employees, 90% of which are women, remained unemployed and out of the production process, which was promised to them by the new owner and the KTA/PAK. The remaining 20% of the workers have been hired by the new owner, mainly in the administration, management, and security of the factory.

How can gender equality be achieved in the decision-making process within an enterprise?

According to the opinion of the interviewed women and based on today's aims in building a democratic society, women think that gender equality within an enterprise can be achieved by respecting the law and the rights of each worker, by respecting the Labor law and the law on Gender Equality. The gender equality can be achieved by giving women the possibility to education, her professional empowerment and prohibition of treating the women as second class employees, as well as to allow her to have access in the decision-making process within the enterprise. Furthermore, women should be allowed to participate in economic transactions, involved in professional training for women in business, promoted at work, supported in a suitable environment for practicing her business activity, give her access to loans with suitable rates, and finally offer them

trainings that would help the SOE women workers to comfortably continue working with the new techniques and technologies at the NewCo enterprises.

11. Recommendations

- Recommendations regarding to KPA – Kosovo Privatization Agency

- KPA must not repeat, but rather learn from, the mistakes and weaknesses of KTA, in order to have a more positive effect than its predecessor. KPA must continue with the privatization process in Kosovo in a TRANSPARENT manner and not to discriminate women workers from the decision-making process.

- KPA and the management of former SOEs must create mechanism/policies that would ensure the participation of women in all phases of the privatization process and in all structures of KPA.

- KPA and the management of former SOEs must implement the Law on Gender Equality by ensuring that: at least 30% of the Management of a former SOE must be made up of women, and that women must make up (at least 30%) of KPA itself, and not only in low levels of the hierarchy, but in the decision-making structures such as the managements, boards, and commissions.

- KPA must enforce the implementation of CEDAW – Convention on the Elimination of All Forms of Discrimination Against Women, which is now part of the Kosovo Constitution, and to work towards the achievement of the United Nations Millennium Objectives, signed by the Kosovo Government.

- KPA and the management of former SOEs must provide information to all workers, especially to women, from the initiation of the privatization process. The information must be simple and coherent for everyone to understand and must be readily available to all, especially to women workers who are illiterate.

- KPA must adhere to its obligations and fulfill them pursuant to the applicable regulations, by expediting the distribution of the 20% to eligible workers who fulfill the requirements for receiving such money, and by publishing the lists with the names provided by the management and the Workers Union of the SOEs, in order to avoid possible violations of worker's rights, particularly of women's rights, which was the case with the women workers of the SOE KosovaTex.

- KPA and other decision-making institutions are required to release the funds gathered from the privatization process and to cease keeping them abroad, but rather return them back to the Republic of Kosovo, so that they are circulated in the domestic economy for the purpose of economic development, creation of new job opportunities, and reduction of poverty.

- KPA must expedite and improve the functionality of the KPA Legal Office, which has been identified during our research as the most bureaucratic and inefficient offices within KPA.
- The liquidation process must continue and produce concrete and effective results;
- KPA and the Government must functionalize the Joint Stock Companies by solving and acknowledging their legal status in accordance with the regulations in effect.
- KPA must undertake more rigorous measures, pursuant to the regulation on privatization, towards newly privatized enterprises under the special Spin-Off process, to monitor the situation in such New Co, whether the new owner has fulfilled its obligations and if the worker's rights have been violated (as was the case with SOE KosovaTex).

Recommendations regarding to BSPK:

- BSPK must be TRANSPARENTE in its involvement in the privatization process, from the moment it drafts the list. The first draft list of the 20% must be published at the offices of both the SOE and BSPK. This must be accomplished in order to provide timely and correct information to all workers. The women workers who do not find their names on the list of the 20% must be given explanation why they were not included in such a list.
- BSPK must request for an acceleration of the procedures and new ways of distribution for the 20%.
- BSPK must not withhold 10% from the workers who are eligible to receive amounts from the 20%.
- BSPK must make a priority in its mission the advancement of women in decision-making positions within SOEs and other governmental and public institutions and private businesses.
- BSPK must protect the rights of workers by achieving the provision of employment contracts and social and health protection from their employers.
- BSPK must be reformed and must receive new apolitical forces within its structures, which would protect the rights of workers not only within SOEs, but also the rights of workers in the private sector.
- BSPK must be more active and undertake concrete actions for the protection of women workers who are still capable of working, but who as a result of the privatization process of any form, have been left unemployed.
- BSPK must be more active and must undertake concrete steps together with all main decision-making players in order to create a compact and stabile mechanism of an institution that protects and lobbies for the rights of women workers in Kosovo.

- BSPK must include women in decision-making positions, in the management of former SOEs, in boards and in KPA commissions.

12. Bibliography

-REGULATION NO.2005/18 – AMENDING UMIK REGULATION NO.2002/12 ON THE ESTABLISHMENT OF THE KOSOVO TRUST AGENCY:

- Chapter 1: Legal Status, Purposes and Definitions,
- Chapter 2: Tasks and Powers of the Agency,
- Chapter 3: Organization and Management,
- Chapter 4: Financial Provisions,
- Chapter 5: Supervision and Accountability,
- Chapter 6: Enforcement and Dispute Resolution,
- Chapter 7: Final Provisions.

- OPERATIONAL POLICIES OF THE KOSOVO TRUST AGENCY:

- Chapter 1: Objective of the Agency,
- Chapter 2: Identification of Enterprises under the Administrative of the Agency,
- Chapter 3: Administering SOEs,
- Chapter 4: Administering Publicly Owned Enterprises (POEs),
- Chapter 5: Preparation for Privatization,
- Chapter 6: Implementing Spin-Off,
- Chapter 7: Implementing Voluntary Liquidation,
- Chapter 8: Determination of Owners.

- ADDENDUM I, II TO THE KTA OPERATIONAL POLICIES.

- ADMINISTRATIVE DIRECTION NO. 2006/17 – Amending and Replacing UNMIK Administrative Direction 3003/13, Implementing UNMIK Regulation No. 2002/13 on the Establishment of a Special Chamber of the Supreme Court of KTA Related Matters.

- Pres Conference on Changes in KTA Regulation “Eminent Domain” – 22 April 2005
 - Source: “Euratex – European Research in the Textiles and Clothing Sector” 03/2002
- UMIK regulation no.2000/38 on the establishment of the Ombudsperson Institution in Kosovo.
- UMIK regulation no.2004/18 –on the proclamation of the Law on Gender Equality approved by the Kosovo assembly, Law 2004/2 on Gender Equality, Article 1.1.
- LGE, Article 6.6.; Gender Equality Attorney
- Law of Gender Equality, Article 12- Economy
- Law of Gender Equality, Article 13- Labor
- UMIK regulation no 2004/32 on the proclamation of the Anti-Discrimination Law approved by the Kosovo assembly, Anti-Discrimination Law no 2004/3
- Anti-Discrimination Law, Article 1

ANNEX 1 KTA Regulation - analysis

Section 1: Legal Status of KTA

The Kosovo Trust Agency (hereafter the “Agency”) is established as an independent body pursuant to section 11.2 of the Constitutional Framework. The Agency shall possess full juridical personality and in particular the capacity to enter into contracts, acquire, hold and dispose property and have all implied powers to discharge fully the tasks and powers conferred upon it by the present Regulation; and to sue and be sued in its own name.

Conclusion:

Under the current circumstances, the Constitutional Framework has no legal validity and Section 11.2 has no valid jurisdiction since the Constitution of the Republic of Kosovo has been adopted.

Recommendation: There must be a clear definition made with regard to the transfer of powers to administer the Socially and Publicly owned Enterprises, currently administered by KTA.

Section 2: Objective and Purposes

2.1 The Agency, in accordance with the terms of the present Regulation, shall administer Enterprises within the context of section 8.1 (q) of the Constitutional Framework. With respect to the Enterprises (other than Publicly-owned Enterprises or their assets), the Agency shall have the additional powers mentioned in section 6.2 of the present Regulation.

2.2 To serve this objective, the Agency shall:

(a) administer Enterprises as trustee for their Owners in accordance with the present Regulation and other regulations, as well as administrative directions and determinations as the Special Representative of the Secretary-General may issue there under;

(b) carry out ancillary activities to preserve or enhance the value, viability and governance of Enterprises;

(c) carry out other activities to preserve or enhance the value or viability of the activities concerned and take such other steps or measures as it in its discretion deems appropriate (taking into account any guidance from the SRSG) which encourage the economic reconstruction and development of Kosovo and the welfare of its inhabitants or those of any specific region; and

(d) Perform such other tasks as may be assigned to it by regulation.

Conclusion:

The biggest weakness of this Section, and in fact the biggest weakness of KTA is that in most cases it FAILS to preserve or raise the value of social assets (although it claimed this to be its primary mission). One may ask why? The main reason is because KTA only administers the SOEs, leaving the daily business of the enterprises on the hands of their respective managements, thus allowing them plenty of room and opportunity to badly manage, govern, misuse and destroy the social property for their personal benefit, who, in many instances, have ignored the KTA on important matters pertaining to the workers and the enterprise itself.

Section 5: Enterprises under the Administration of the Agency

5.1 (a) The Agency shall have the authority to administer

- (i) Publicly-owned Enterprises and Socially-owned Enterprises that were registered in Kosovo as at 31 December 1988 or any subsequent date (whether or not such Enterprise was the subject of a Transformation);
- (ii) any assets located in the territory of Kosovo (whether organized into an entity or not), which comprised socially-owned property as at 22 March 1989 or any subsequent date (whether or not the subject of a Transformation), subject to Section 5.1(b) below; and
- (iii) Minority Stakes in Socially-owned Enterprises that were registered in Kosovo as at 31 December 1988 or any subsequent date (whether or not such Enterprise was the subject of a Transformation).

(b) If an UNMIK Regulation is promulgated which, in the opinion of the Agency, assigns responsibility for administering Enterprises to another public body other than the Agency, then the Agency shall not have jurisdiction for such Enterprises with effect from the date such UNMIK Regulation comes into force.

5.2 Notwithstanding the Agency's obligations set out in section 2.1, the Agency may, but shall have no obligation, to take such actions (including exercising such rights held by any persons under Applicable Law in relation to social capital) as it deems reasonably appropriate in relation to (i) minority Stakes referred to in section 5.1(a)(iii) above, and (ii) assets located outside of the territory of Kosovo of the Enterprises where such assets, in the opinion of the Agency, are readily accessible, in either such case (i) or (ii) taking into account the limits of the Agency's administrative resources, as referred to in section 7.1.

5.3 Following the completion of an action by the Agency as referred to in section 6.2(b), (c) and (d) resulting in the disposition of asset(s) under the Agency's authority:

- (a) subject to Section 5.4 below, any Owner(s) of such asset(s) shall have the rights of owners (without prejudice to the rights of creditors and other interested third parties) to the proceeds of such disposition (net of any payments required to be made under Section 10 of UNMIK Regulation 2003/13 on the Transformation of the Right to Use Socially-Owned Immovable Property) (“Proceeds”); and
- (b) the Agency shall determine the identity of the Owner(s) to whom the Proceeds shall be paid.

5.4 (a) If an Enterprise was the subject of a Transformation, such Transformation shall not affect the rights and powers of the Agency under sections 6, 8 or 9.

- (b) As part of determination of the identity of the Owners and the distribution of the Proceeds, if the Agency finds that:
 - (i) the Transformation was based on and carried out in full compliance with Applicable Law, including but not limited to the payment of full consideration for any shares upon Transformation, to the extent required by Applicable Law or any applicable contract; and
 - (ii) the Transformation was neither discriminatory, nor in breach of the principles of the European Convention of Human Rights,

Then the Transformation shall be taken into account for the sole purpose of identification of the Owners and distribution of the Proceeds. If the Agency finds that the Transformation does not meet the requirements of either (i) or (ii) above, then in relation to the determination of the identification of the Owner(s) and distribution of the Proceeds to them, the Agency shall disregard the Transformation.

In relation to sections 5.3 and 5.4, the principles of Section 1, Protocol 1, and European Convention of Human Rights shall be followed.

Conclusion:

KTA, in many cases, has been successful in determining/defining the identity and status of SOEs, but in certain cases it failed to do so, either as a result of negligence coming from its officials, or because of technical problems, such as the lack of documentation.

This negligence of KTA officials, especially of their Legal Office, has had an impact on certain enterprises in the Municipality of Gjakova, which had already transformed their SOE status, pursuant to the applicable law at the time, particularly the so-called “Law of Ante Markovich”, which allowed them to transform SOEs into Joint Stock Companies.⁷ Until now, the KTA/PAK Board has recognized only two former SOEs as legally transformed into JSCs, which are: Elektromotori JSC and Dukagjini Construction JSC, out of forty-eight SOEs which were transformed into JSCs between 1988 – 1991.

⁷ Until now, the KTA Board has acknowledged only two enterprises that have legally transformed their status, namely: JSC Elektromotori and JSC Dukagjini Construction Company.

Section 6 : Administrative Powers of the Agency over Enterprises

6.1 The Agency shall have administrative authority with respect to all Enterprises. Such authority shall include any action, other than those set out in section 6.2, that the Agency considers appropriate to preserve or enhance the value, viability, or governance of the Enterprise concerned, including:

(a) appointing and replacing the chairman, directors and managers of an Enterprise;

(b) creating, confirming or recomposing the supervisory board, managing board, workers' council or other managing or supervisory body of an Enterprise;

(c) modifying the authority of any of the aforementioned bodies;

(d) issuing instructions regarding an Enterprise's operations, in particular policies for sound financial management;

(e) assuming direct control over an Enterprise, including its accounts and assets, and administering such accounts and assets, separately from the Agency's accounts;

(f) carrying out external audits of an Enterprise either directly or through designated agents;

(g) requiring any employee or contractor or other business contact of an Enterprise to provide information in his possession regarding such Enterprise;

(h) requiring any person with control over documents regarding an Enterprise to provide access to such documents for their review, reproduction and safekeeping;

(i) entering and inspecting the premises of Enterprises;

(j) approving business plans and investment plans of Enterprises;

(k) issuing or modifying charters, by-laws and other relevant documents of Enterprises;

(l) effecting the registration in Kosovo of Enterprises not properly registered;

(m) entering into arrangements for the management, reconstruction or reorganization of Enterprises;

(n) granting concessions or leases with respect to Enterprises;

(o) establishing in accordance with the Regulation on Business Organizations one or more corporate subsidiaries of Enterprises, owned by those Enterprises but administered by the Agency, and transferring part or all of the assets of such Enterprises to such subsidiaries;

(p) transforming Enterprises into Corporations;

(q) restructuring an Enterprise into several Enterprises and/or Corporations and transferring part or all of the assets of such Enterprise to such subsidiary Corporations in accordance with Sections 8.1 to 8.3;

(r) contracting out part of the activities of Enterprises; and

(s) initiating bankruptcy proceedings with respect to Enterprises and/or representing such Enterprises in bankruptcy proceedings.

6.2 Pursuant to the provisions of section 2.2(c) of the present Regulation, with respect to Enterprises (other than Publicly-owned Enterprises and their assets) under the administrative authority of the Agency pursuant to section 5.1, the Agency shall, in addition to the authority set out in section 6.1, have authority to take the following actions that the Agency considers appropriate.

Conclusion:

We have concluded that the greatest weakness of this Section in being implemented in real life is that it is not observed in many ways, such as when firing an SOE Director. Although there are many cases of bad management and misuse from the SOE managements, KTA in many instances fails to implement its own regulations, by failing to enforce the provisions of the Section above.

Section 10: Operational Policies

10.1 The Board shall issue operational policies guiding the Agency in the exercise of its powers under this chapter with a view to:

- (a) ensuring compliance with section 24.2;
 - (b) preserving and enhancing the value, viability, and governance of Enterprises;
- and
- (c) allocating the limited administrative resources of the Agency into activities generating the most added value.

10.2 With respect to the exercise of the Agency's powers under section 6.2, the operational policies:

- (a) shall set out transparent and uniformly applied procedures for purposes of ensuring fair competition of bidders and obtaining a fair market value for shares in Corporations and the payment of transaction costs;
- (b) shall, with respect to the authority of the Agency referred to in paragraphs (b), (c) and (d) of section 6.2, set out procedures for the purposes of ensuring compliance by the Agency with the principles of Section 1, Protocol 1 of the European Convention on Human Rights, as required by section 6.3, including processes with respect to matters of prompt due process, giving of notices and adequate compensation; and
- (c) shall establish the circumstances under which the Agency may require parties bidding for shares in Corporations to present a viable business plan for that Corporation, including proposed activities, investments and employment levels, and evidence of the financial means to make the investments anticipated in the business plan and specify how these criteria shall be taken into account by the Agency in evaluating a bid.

10.3 The operational policies shall include procedures for public notification of actions of the Agency. In the case of transactions under -

- (a) sections 6.1 (p), (q), (s) and 6.2 (a) to (c),
- (b) section 6.1 (n) where such concessions or leases relate to a substantial portion of the most significant operations of the Enterprise, as defined in the operational policies, and
- (c) section 6.2 (d) where such disposal involves a substantial portion of the total assets of the Enterprise, as defined in the operational policies - such procedures shall provide that the Agency, in a major Albanian language publication of general circulation in Kosovo and a major Serbian language publication, give notice of the transaction at least two weeks before such transaction is finalized and given legal effect.

10.4 The operational policies shall establish standards of good corporate governance to be imposed by the Agency on Enterprises to the extent practicable. The standards shall in particular:

(a) promote compliance with the financial reporting requirements under Applicable Law;

(b) ensure annual external audits of Enterprises in accordance with Applicable Law; and

(c) establish safeguards against misuse of managerial powers, including, but not limited to, insider dealing, asset stripping, and profit skimming.

10.5 The operational policies shall set forth a procedure for the registration of shares under the administration of the Agency at a share registry under the authority of the Agency, pending the disposal of such shares pursuant to section 8.4. This responsibility shall be transferred to a general share registry once established.

Conclusion:

As observed above, this Section of the KTA Regulation is of great importance as it sets the KTA policies and operational mission, as well as the implementation of such policies toward SOEs.

The way these policies have been prescribed seem very ideal and reasonable, but their implementation in practice and by the SOEs is very difficult, especially when it comes to transparency, highlighted by KTA in many instances!!! As a concrete example we have Section 10.4 – which, according to our analysis, is not observed by many SOEs because they have not been submitting regular financial reports to the Regional KTA Office for years, or they submitted such reports only for a certain period and then discontinued to do so. External audits – as was discovered after the research – are not conducted in the manner prescribed in this Section, and KTA (now KPA) has failed to protect the assets and immovable property of SOEs from misuses caused by their management. Furthermore, we have analyzed the financial reports submitted by SOE to KTA and we concluded that its reporting was chaotic, inaccurate and presumptive as it did not correspond with the real circumstances. Therefore, the question may be asked, how can there be a transparency, if the financial reports are prepared only to “tick the box” or, as in many cases, there is no reporting at all undertaken by SOE to KTA, as provided for in the operational policies.