

2008 Project Fiche Kosovo
(IPA centralised programmes)

1. Basic information

1.1 CRIS Number:

1.2 Title: Further support to enhance the administrative and management capacity of the Kosovo Trust Agency and its successor organisation

1.3 ELARG Statistical code: 02.20

1.4 Location: Kosovo

Implementing arrangements:

1.5 Contracting Authority (EC): The European Commission Liaison Office in Pristina

1.6 Implementing Agency: The European Commission Liaison Office in Pristina

1.7 Beneficiary:

The Kosovo Trust Agency

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Financing:

1.8 Overall cost (VAT excluded)¹: 14 million euros

1.9 EU contribution: 6 million euros

1.10 Final date for contracting:

Three years after the signature of the financing agreement between the European Commission and the Kosovo authorities

1.11 Final date for execution of contracts:

Two years after the final date for contracting

1.12 Final date for disbursements:

One year after the final date for the execution of contracts

¹ The total cost of the project should be net of VAT and/or other taxes. Should this not be the case, the amount of VAT and the reasons why it should be considered eligible should be clearly indicated (see Section 7.6)

2. Overall Objective and Project Purpose

2.1 Overall Objective:

To develop and stimulate sustainable socio-economic development and investment climate in Kosovo

2.2 Project purpose:

To support the Kosovo Trust Agency and its successor organisation to finalise the privatisation and to complete the liquidation of the remaining socially owned enterprises in Kosovo.

2.3 Link with AP/NPAA / EP/ SAA:

The project makes a specific reference to the following priorities identified in the *European Partnership* including:

- Create the conditions for investment, trade, employment and economic growth for the benefit of all communities.
- Finalise the privatisation process in accordance with the Kosovo Trust Agency schedule.
- Complete the incorporation of publicly-owned enterprises, namely the electricity utility, railways, district heating and water and waste services. Implement further restructuring steps to improve their governance, efficiency and financial sustainability. Further strengthen the regulatory framework for public utilities and enhance the administrative capacity of the independent regulators.

Kosovo Progress Report 2007 states that: "Substantial progress was made with the privatisation of formerly socially owned enterprises (SOEs). However, some big SOEs, along with SOEs in Serbian enclaves, still remain to be privatised. In July 2007, the Kosovo Trust Agency (KTA) decided to launch the 28th wave of privatisation, comprising mainly shops and agricultural lands. As of 30 June 2007, €315 million from privatisation had been paid into escrow accounts, of which more than €60 million were scheduled for distribution to former SOE workers². A large proportion of these funds currently remain blocked, pending the adjudication of claims. The government started the incorporation of seven regional water companies in December 2006 and the incorporation of the irrigation and waste enterprises in March 2007. Serbia, however, continued to oppose the ongoing privatisation process led by UNMIK, arguing that it infringes property rights, and Serbian citizens filed numerous complaints on this issue. Overall, the ongoing expansion of the private sector reflected the acceleration of the privatisation process in 2006.

The KTA board has so far approved 84 liquidations of former SOEs. The Ministry of Finance and Economy sent a draft law on bankruptcy and liquidation to the government on 5 October 2006, since when it has been awaiting final approval and promulgation. Overall, limited access to finance, red tape and legal uncertainty (among others, about property ownership) continue to weigh negatively on market entry. Now that comprehensive surveys on the situation of small and medium-sized enterprises (SMEs) have become available, it turns out that the optimistic results of an earlier study on the business environment from the perspective of a large foreign investor do not carry over to the situation of SMEs doing business in Kosovo.

However, due to a lack of ambition in the area of privatisation, poor POE corporate governance and government interference with the regulation of public utilities, the government has not been able to fully implement its policies in order to reap potential competitiveness gains."

2.4 Link with MIPD:

The MIPD states that EC assistance will also be used in support of developing Kosovo's weak economy and enhancing the wider socio-economic environment for all communities. This will require grant funding for direct investment. At the same time, more efforts will be devoted to help the authorities in developing a reform agenda that promotes good governance of public expenditure and ensures fiscal sustainability. This project responds to the MIPD Socio-Economic priorities, namely to enhance Kosovo's investment climate and supporting small and medium enterprises through a favourable legislative framework, enhancing corporate governance and access to services, including investment and import/export promotion.

2.5 Link with National Development Plan (where applicable)

The project is in line with the priorities set in the Medium-Term Expenditure Framework (MTEF) 2007-2010.

In the MTEF there a number of key priorities identified as regard the private sector development strategic pillar, where one priority is specifically targeted by the present project namely completing privatisation and quick recovery in telecom, mining, energy, agriculture. The whole reform in the private sector and enhancing economic development and growth, as well as attracting foreign investments as outlined by the Kosovo authorities is based on the successful completion of the privatisation, restructuring and liquidation process, as well as on the capacity of KTA to effectively administer POEs and SOEs.

2.6 Link with national/ sectoral investment plans (where applicable)

It is also outlined in the MTEF that the Government's role will focus on completing the privatization process and the liquidation of SOEs. The plan of the government is to continue preserving the trust fund for privatization proceeds by placing these funds only in investment-grade instruments. This will guarantee that these funds can compensate the legally determined owners, thus eliminating the risk of contingent claims on the Government that would result if these funds were lost.

3. Description of project

3.1 Background and justification:

Socially owned enterprises (SOEs) were established in Yugoslavia during its communist era. The post-conflict privatisation of SOEs is considered a vital part of building up the Kosovo economy. For this end, the Kosovo Trust Agency (KTA) was established as independent body responsible, in cooperation with the Provisional Institutions of Self-Government, for the administration of public and socially-owned enterprises following UNMIK Regulation 2002/12 on 13 June 2002 (commonly known as the KTA Regulation). This Regulation was amended on 22 April 2005 by the promulgation of UNMIK Regulation 2005/18. The mandate of the KTA is to preserve and enhance the value, viability and corporate governance of both Publicly Owned Enterprises (POEs) and Socially Owned Enterprises (SOEs). In relation to the

activities undertaken with respect to SOE the amended KTA Regulation expanded the scope of the original Regulation to bring under the administrative authority of the KTA the following:

- a) *Any asset located in the territory of Kosovo which comprised socially owned property (whether organised into an enterprise or not) as at 22 March 1989, whether subject to a later transformation or not, and*
- b) *Minority Stakes in SOEs that were registered in Kosovo as at 31 December 1988 or any subsequent date (whether or not such enterprise was subject to a Transformation).*

These changes to the administrative authority of the Agency were implemented through a revision of the methodology that the Agency utilized in order to establish that an enterprise comes under its mandate; this is known as the *Status Determination*. It was previously found that many of the enterprises thought to be SOEs were in fact the precursors of SOEs of which there are many different forms, for example Basic Organisations of Associated Labour (BOALs), Complex Organisations of Associated Labour (COALs), Working Organisations (WO) to name but a few.

Further to this in November 2005, UNMIK promulgated Regulation 2005/48 on the reorganisation and liquidation of enterprises and their assets under the administrative authority of the Kosovo Trust Agency. This clarified the methodology that the KTA should utilise for the liquidation of enterprises and in cases where it was deemed appropriate for their reorganisation.

At the moment, the privatisation process is well advanced through the list of SOEs which range from mining facilities to glass production factories, warehouses to wineries and hotels to construction companies. The mandate of KTA is to privatise all SOEs no matter what sector they are in.

As of 31 December 2007, some 312 out of over 500 SOEs assets have been privatised. These include what the KTA considers to be the most commercially viable SOEs. Some €62 million from privatisation have been paid into escrow accounts. Of this €72m is scheduled for distribution to SOE workers with a total of €15 million having been already paid. The value of the liquidation sales to date including those with contracts pending conclusion amount to approximately 8 million euros. The proceeds from privatisation are now starting to decelerate due to the changing nature of those enterprises offered for sale. 80% of the sale proceeds from the privatisation transaction are controlled by the liquidation process (i.e. reserved to pay eligible claimants), while the remaining 20% is paid to eligible workers. Because of pending claims and other unresolved issues related to refining the liquidation process, no payments have yet been made to any class of creditors from the 80% held in trust and in a similar vein only 58 cases of distribution from the 20% held for the former workers have been made.

A substantial amount of work must still be done to privatise and/or liquidate the remaining SOEs (including the residual assets of privatised SOEs). To date the KTA Board approved for liquidation 113 SOEs. The liquidation of 108 SOEs have commenced with the appointment of liquidation committees in the case of 107 enterprises.

After status settlement, the administration of publicly owned enterprises (POEs), currently administered by the Kosovo Trust Agency (KTA), will be transferred to the Kosovo institutions. Trusteeship over Socially Owned Enterprises (SOEs) will continue to be exercised by the KTA with international involvement. The planning assumptions being

utilised to define the KTA post status are those outlined in the Ahtisari plan. A draft regulation on the establishment of KTA successor organisation prepared by UNMIK is currently under discussion with different stakeholders. As outlined in the draft regulation, the principles of the current legal framework for liquidation/privatisation are envisaged to continue after the status settlement. Thereafter a locally managed KTA will continue the mandate until its conclusion. A TAIEX expert will review the regulation before its adoption by the SRSG. The role of the Special Chamber after the status settlement is expected to be expanded to encompass additional chambers dealing with specific areas with a final appeal to a Chamber similarly structured as the current Special Chamber.

The International Civilian Office (ICO) will also provide for international staff which is proposed to sit in the Board of Directors and the Liquidation and Review Committees. The role outlined for these experts includes monitoring in particular, compliance with the principles of the European Convention for the Protection of Human Rights and Fundamental Freedoms (ECHR) and with applicable legislation related to the privatisation and liquidation of SOEs

The European Commission has been financing the operations of the UNMIK Pillar IV since its creation in 1999. Since the KTA establishment in 2002, international and local staff salary costs and a certain amount of the KTA's operating costs have been covered by the UNMIK Pillar IV Budget, implying an "indirect" funding of the KTA operating costs by the EC through its contribution to UNMIK Pillar IV. The Pillar IV as a part of UNMIK will be discontinued as of June 2008. In order to support the successful continuation of the privatisation and liquidation of SOEs, a Technical Assistance project and an operating grant to the KTA are programmed under IPA 2007. The current project is the second phase of providing operating grant to KTA and its successor organisation.

Currently the KTA is at a very critical stage under its mandate, in particular as regards the process of liquidation of the SOEs with a view of distributing funds into the economy. The need to maintain the local staff in the KTA and its successor organization is of utmost importance in order to secure sustainable socio-economic development and continuous inflow of private investments in Kosovo. The project will aim at keeping the local staff currently employed in the KTA working on SOEs matters as they are the best trained and most qualified people to continue the process of privatisation and liquidation of SOEs. In this way any risk of high staff turnover will be brought down to minimum and thus the process of liquidation will continue uninterrupted.

In order to secure transparent, open and rapid continuation and completion of the liquidation process of SOEs (as privatisation is winding down) and boost staff performance, a performance related bonus scheme will be introduced. The future basic salary will be 50% of the currently paid one under Pillar IV and the remaining 50% will be performance related and paid in two instalments throughout the year. Therefore the total gross salary is expected to remain the same as the current basic salary, but a percentage of it will be performance related.

The performance will be evaluated based on the progress of achievement of operational goals and indicators defined first for the KTA and its successor organisation as a whole and second based on fulfilment of indicators and goals broken down to individual departments/division/regional office. The rating/appraisal of the staff will be carried out twice a year.

Currently the KCB Budget allocation² to cover the activities of the KTA is as follows: KTA SOE Division - Privatisation Department 1,490,000 €, Liquidation Unit 550,000 €, Control and Supervisory Department 780,000 €, Central Administration 212,804 €, Legal Department 205,000 €, Audit Unit 355,200 €

Post status, the Kosovo Consolidate Budget will cover all remaining administrative and operational costs related to the activities of the KTA and its successor organisation.

3.2 Assessment of project impact, catalytic effect, sustainability and cross border impact (where applicable)

The project is expected to deliver a positive economic impact, particularly in the form of foreign direct investments and job creation. Viable privatised socially owned enterprises are expected to obtain fresh investments and hire staff as a result of the privatisation process and the implementation of the liquidation programme realised successfully namely because of the smooth operation of the KTA (its successor).

3.3 Results and measurable indicators:

Expected results:

- a) The overall privatisation and liquidation process is substantially completed.
- b) The annual privatisation and liquidation programme of the KTA and its successor organisation is timely realised.

Measurable indicators:

1. Funds are distributed into the economy
2. At least 200 SOEs are placed for liquidation following decision of the Board of Director
3. For at least 25% of the launched liquidations of the SOEs, final distribution is completed following notification from the Special Chamber on the last appeal case
4. Number of New Companies created.
5. Best liquidation practices are established and adopted by the liquidation committees.
6. The local staff is retained in their positions within KTA and its successor organisation

3.4 Activities:

Activity 1:

Depending on legal and financial state of a SOE, selected by KTA for privatisation/liquidation, the following specific activities will be carried out:

- Preparation of 'Status Determination Request' (SDRs) and updates (SDUs)
- Preparation of 'Assessment for Privatisation Forms' (APs)
- Preparation of Information Memoranda, Fact Sheets, Marketing Plans, Data Room contents, and 'Certain Legal and Other Risk' documents (CLOR).
- Investor search, investor relations and communications.
- Preparation of liquidation 'Initiation Reports' including schedules (Scoping memoranda)
- Resolution of governance issues
- Carrying out of enterprise site visits

² (it should be noted that the functions of Central Administration, KTA Legal and Internal Audit undertake both POE and SOE work have not been split and as such the amounts quoted are current maximum (2007))

- Analysis and recommendations of SOEs for 'Special' Spin -Off privatisation.
- Preparation of data files
- Undertaking of due diligence
- Recovery of assets
- Support and development for enterprise management.
- Preparation of background checks on potential investors
- Preparation of Sale Contracts
- Transfer of New Companies and preparation of post-sale agreements
- Preparation of a SOE to be put in liquidation
- Sitting in liquidations committees
- Adjudicate on creditor and ownership claims
- Carrying out a review process on the work executed by the liquidation committees
- Realisation of SOE assets in the liquidation programme
- Dealings with the Special Chamber

Contracting arrangements:

Activity 1: An Operating Grant is envisaged for this project.

The legal basis and interpretation that a direct grant agreement can be concluded, under duly justified circumstances, with a national independent legal body (in the case the Kosovo Trust Agency and its successor organization) are based on article 15 (1) of IPA Council Regulation, article 66 (3) of the IPA Implementing Regulation, article 166 (1) of the FR and article 168 (1) of the Implementing Rules. The provisions of PRAG (Chapter 6.3.2, Direct Award) are also followed.

A joint co-financing is envisaged for this project.

3.5 Conditionality and sequencing:

The project includes and is not limited to the following conditionality:

- The functioning of the KTA and its successor organisation is in line with the relevant provisions for the status settlement and the revised KTA Regulation
- Business Plan of the KTA and its successor organisation 2009 – 2010 is available
- Plans for staff developments of the KTA and its successor organisation for 2008-2010 are available.
- The Regulation of the KTA successor organisation is adopted by SRSG
- The Board of Directors of the KTA successor organisation is nominated.
- An information HR campaign on the new salary structure within the staff of KTA and its successor organisation is carried out.

In the event that conditionalities are not met, the EC Liaison Office reserves the right to suspend or cancel the project.

3.6 Linked activities

Since 1999, around € 8 million in EC assistance has been provided for privatisation and liquidation process in Kosovo. The table below summarises the past EC assistance relevant to this project:

Name of project (Amount €million)	Start End	Activities/Results
Support to Incorporation of POEs (Waste and Irrigation)	March 2007 – March 2008	The overall objective of this project is to assist the Kosovo Trust Agency to undertake corporate restructuring of Water and Irrigation Publicly Owned Enterprises in preparation for the economic market deregulation and to prepare for outside financing. The aim is to incorporate and re-organise the 10 Publicly-owned Enterprises, namely the seven regional waste companies.
Further Support to KTA in Privatisation and Liquidation of SOEs	November 2005 – April 2008	Support the revitalisation of the economy of Kosovo by providing technical assistance with the privatisation and liquidation of Socially Owned Enterprises and by supporting the Economic Development of Kosovo through this privatisation, enabling increased investment in the productive manufacturing and service sector in Kosovo.
Post-privatisation Survey	July 2007 – September 2007	Survey of more than 50 post-privatised NewCos, gathering information about their development after the privatisation process, investments, environmental impact and employment.
Privatisation and liquidation	July 2008- July 2010	Support the revitalisation of the economy of Kosovo by providing technical assistance with the privatisation and liquidation of Socially Owned Enterprises
Insolvency capacity building in Kosovo	July 2008-	Support the Ministry of Finance and other related institutions in development of the financial legal framework in Kosovo to provide an Insolvency regime, including voluntary and involuntary arrangements, that reflects international best practices and is compatible with the relevant principles and requirements of the EU <i>acquis communautaire</i> . Provision of technical support to the Society of Accountants and Auditors of Kosovo (SCAAK) to enable the development of the Insolvency Practitioners qualification, and regulation of professionals engaged in this sector. Provision of support to development of skills of legal and accounting professionals to facilitate the rescue and rehabilitation of companies and businesses in financial difficulty
Operating Grant to the KTA	(June 2008- June 2009)	Further support to the KTA to complete the privatisation process and to continue with the liquidation process of the remaining SOEs.

3.7 Lessons learned

Although impact realised through the previous assistance overall is satisfactory, a number of challenges remain:

- *Enforcement*: There has been large focus on establishing the legal frameworks in Kosovo. The capacity to enforce the law, however, has received insufficient attention. While legal reform has been advanced, law enforcement and implementation has not followed. This creates a widening gap between the formal legal situation and ‘on-the-ground’ practice.
- *Conditionalities*: Often project implementation is hampered by either insufficient staff and resources allocated to (newly established) institutions or insufficient operational funds available in the government budget to allow for appropriate implementation of the mandate of the concerned department.
- *Coordination within the government*: Further improvements – in line with the spirit of EU accession– could be realised with a stronger government leadership in the

coordination efforts among the ministries and departments and a stronger focus on operational coordination and harmonisation of policies.

4. Indicative Budget (amounts in €million)

			SOURCES OF FUNDING									
			TOTAL EXP.RE	IPA COMMUNITY CONTRIBUTION		NATIONAL CONTRIBUTION					PRIVATE CONTRIBUTION	
ACTIVITIES	IB (1)	INV (1)	EUR (a)=(b)+(c)+(d)	EUR (b)	% (2)	Total EUR (c)=(x)+(y)+(z)	% (2)	Central EUR (x)	Regional/Local EUR (y)	IFIs EUR (z)	EUR (d)	% (2)
Activity 1	X		14.0	6.0	43	8.0	57	8.0				
contract 1	-	-	14.0	6.0	43	8.0**	57	8.0				-
TOTAL IB			14.0	6.0	43	8.0	57	8.0				
TOTAL INV												
TOTAL PROJECT			14.0	6.0	43	8.0	57	8.0				

Note:

- (1) In the Activity row "X" is used to identify whether IB or INV
- (2) Expressed in % of the **Total** Expenditure (column (a))

*** based on current contributions from Kosovo Budget for the running costs of KTA*

5. Indicative Implementation Schedule (periods broken down per quarter)

Contracts	Signature of contract	Project Completion
Operational Grant	Q3 2009	Q3 2011

6. Cross cutting issues (where applicable)

6.1 Equal Opportunity

Promoting a more diverse (gender- and ethnic-wise) workplace will be a strong element in strengthening the institutional capacity of the target institution. The project will ensure mainstreaming of gender and minority issues both (i) within the target institutions and (ii) the outputs (services provided by these institutions):

- address the barriers in the workplace that prevent the achievement of gender equality and ethnic diversity; create a workplace culture supportive of gender equality and ethnic diversity to improve gender/ethnic balance within the organisation. Opening up new possibilities for minorities as well as opportunities for women to work in non-traditional areas will, in turn, contribute to change the policy, business and customer focus of these institutions.
- introduce concepts of equality and diversity in strategic planning and management, including the business case for equality and diversity so as to make the workforce more representative of/responsive to Kosovo customer base. Data systematically disaggregated by

sex and ethnicity shall be produced to establish baseline and measure progress. The project will promote the participation of women in all activities.

6.2 Environment

All support provided will be subject, when necessary, as required by the legislation in force in Kosovo and by EU Directives and standards, to include measures on controlling pollution, enhancing environmental protection. Environmental Impact Assessment of the proposed activity and investment, along with scrutiny of issues related to health and safety at work will also be taken into consideration.

6.3 Minorities

The activities in the project will ensure the participation of minorities and ensure that such issues are considered during the establishment of liquidation committees and staff hiring. It should be noted that the Ahtisaari proposal had identified that minority participation on each liquidation committee as well as both the Liquidation Review Committee and the Workers List Review committees was a requirement.

ANNEXES

- 1- Log frame in Standard Format
- 2- Amounts contracted and Disbursed per Quarter over the full duration of Programme
- 3- Description of Institutional Framework
- 4 - Reference to laws, regulations and strategic documents
- 5- Details per EU funded contract

ANNEX 1: Logical framework matrix in standard format

LOGFRAME PLANNING MATRIX FOR Project Fiche	Programme name and number	
Project Title: Further support and enhancing the administrative and management capacity of the Kosovo Trust Agency and its successor organisation	Contracting period) expires Three years after the signature of the financing agreement between the European Commission and the Kosovo authorities	Disbursement period expires One year after the final date for the execution of contract
Sector: Economic Development	Total budget : €14 million	IPA budget: €6 million

Overall objective	Objectively verifiable indicators	Sources of Verification	
To develop and stimulate sustainable socio-economic development and investment climate in Kosovo	Level of Direct Investment increase in the private sector in Kosovo	Reports from the Statistics office of Kosovo IMF reports World Bank reports KTA and its successor organisation data	
Project purpose	Objectively verifiable indicators	Sources of Verification	Assumptions
To support the Kosovo Trust Agency and its successor organisation to finalise the privatisation and to complete the liquidation of the remaining socially owned enterprises in Kosovo.	Regular update on the staff turnover Progress reports on the liquidation programme and evaluation of the fulfilment of the performance indicators and goals	Statistics Office of Kosovo Investment promotion Agency statistics Chamber of Commerce statistics KTA and its successor statistics Reports Business register records	Status settlement Key legislation adopted Operating policies implemented Best practices established.
Results	Objectively verifiable indicators	Sources of Verification	Assumptions
a) The overall privatisation and liquidation process of SOEs is substantially completed. b)The annual privatisation and liquidation programme of the KTA and its successor organisation is timely realised	Liquidation Committees and Review committees decisions. Board of Directors' decision The validity of claims is reviewed. Balance in the escrow accounts	Kosovo company register KTA and its successor organisation annual report Statistics from KTA and its successor organisation Progress Reports Minutes of meetings	The liquidation and privatisation programmes are running in a timely fashion. Liquidation committees are continuing to oversee the sale of any residual SOE assets, and the processing, adjudication and settling/payment of creditor claims against the SOEs is carried out. Internal review committees are established and are operational. Operating policies and administrative directions as regard liquidation and privatisation process are issued and are implemented.

Activities	Means	Costs	Assumptions
1) Assessment and preparation of SOEs for privatisation and/or liquidation 2) Selling of SOE at open bidding; unbundling of SOE and liquidating of an SOE 3) Resolution of corporate governance issues 4) Adjudication on creditor and ownership claims 5) Realization of SOE assets 6) Distribution of realization to creditors and owners. 7) Dealings with the Special Chamber	Operational Grant	€6 million – EU contribution €8 million – National co-financing	KTA successor organisation successfully established and adequately staffed to continue with the privatisation and liquidation process The revised KTA Regulation is adopted ICO international staff is appointed and is operational

Pre-conditions

- The establishment of the KTA successor organisation to take over responsibilities are in line with the relevant provisions for the status settlement.
- Business Plan of the KTA and its successor organisation 2008 – 2010 is available
- Plans for staff developments of the KTA and its successor organisation for 2008-2010 are available.
- The Regulation of the KTA successor organisation is adopted by SRSG
- The Board of Directors of the KTA successor organisation is nominated
- An information HR campaign on the new salary structure within the staff of KTA and its successor organisation is carried out

ANNEX II: amounts (in €million) Contracted and disbursed by quarter for the project

Contracted	2009 Q1	2009 Q2	2009 Q3	2009 Q4	2010 Q1	2010 Q2	2010 Q3	2010 Q4	2011 Q1	2011 Q2	2011 Q3
Contract 1			6								
Cumulated			6								
Disbursed											
Contract 1			2.4			2.4				1.2	
Cumulated			2.4			4.8				6.0	

2. Organisational Structure

The KTA is governed by a Board of Directors – 4 International Directors (the Deputy SRSG for Economic Reconstruction, the deputy of the Deputy SRSG, the deputy SRSG for civil administration and the KTA Managing Director) and 4 Kosovar Directors appointed by the SRSG (3 Government ministers, including a Serb minister and 4th one being the president of the Federation of Independent Trade Union of Kosovo).

2.2 Management and Staff of the Agency

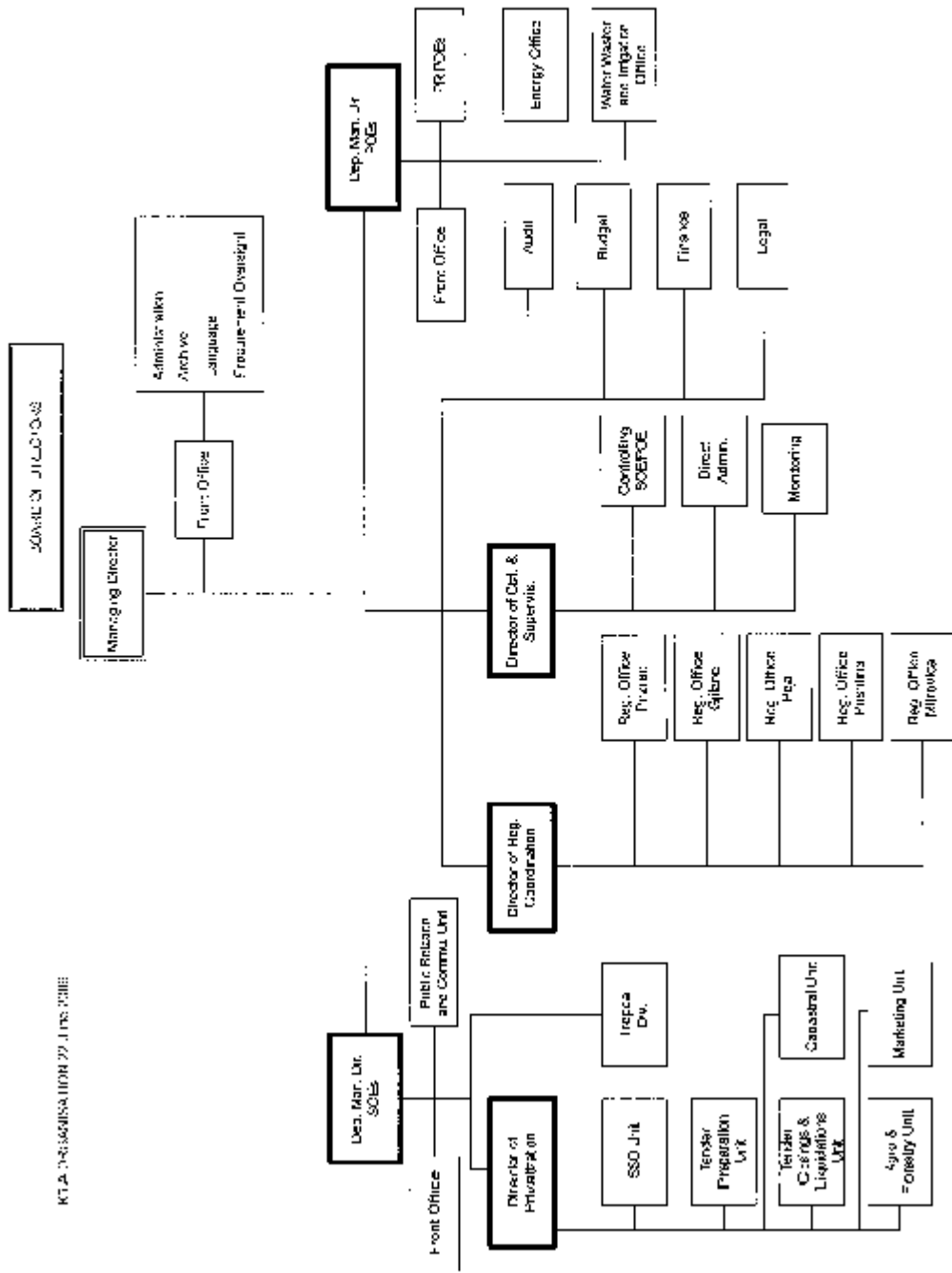
The organisational structure of the KTA can be separated into three functional areas: the Socially Owned Enterprise (SOE) Division under the management of the Deputy Managing Director, SOEs; the Publicly Owned Enterprise Division under the management of the Deputy Managing Director, POEs; and the Executive Branch under the direct management of the Managing Director.

The SOE Division consists of the Privatisation Department and Trepca.

Up to the end of June 2006 the POE Division consists of the Airport Division; Water Waste and Irrigation Division; Energy Division, including KEK and District Heating; Railways Division; and the Post and Telecommunications Division. Following the successes of the incorporation process the POE Division was restructured into two main units namely the Energy Office and the Water Irrigation and Waste Office. Those enterprises not falling into these two offices were placed under the control of the Front Office of the DMD POE.

The Executive Branch consists of the Regional Offices led by the Director of the Regional Coordination Department; the Controlling, Monitoring and Direct Administration Units led by the Director of the Control and Supervisory Department; the Internal Audit Department led by the Head of Internal Audit; the Budget and Finance Department led respectively by Head of Budget and Head of Finance and the Legal Department led by the Head of Legal.

The tertiary departments of Administration and Procurement Oversight Units fall under the remit of the Director of the Control and Supervisory Department whilst Archive and Language Services are managed through the KTA Front Office.



ANNEX 4 - Reference to laws, regulations and strategic documents:

Reference list of relevant laws and regulations

UNMIK Regulation 2001/6 on business organizations

UNMIK Regulation 2002/12 on 13 June 2002 on the establishment of Kosovo Trust Agency

UNMIK Regulation 2002/13 on 13 June 2002 on the establishment of a Special Chamber of the Supreme Court of Kosovo on Kosovo Trust Agency related matters

UNMIK Regulation 2003/13 on the transformation of the right of use to socially owned immovable property

UNMIK Regulation 2004/45 amending UNMIK Regulation No. 2003/13 on the Transformation of the Right of Use to Socially-owned Immovable Property

UNMIK Regulation 2005/3 on mines and minerals in Kosovo

UNMIK Regulation 2005/18 amending UNMIK Regulation 2002/12

UNMIK Regulation 2005/48 on the Reorganization and Liquidation of Enterprises and their Assets under the Administrative Authority of the Kosovo Trust Agency.

Charter of the Kosovo Trust Agency

By-laws of the Board of Directors of the Kosovo Trust Agency

Administrative Directions, Operation Policies and procedures

Reference to AP /NPAA / EP / SAA

The project makes a specific reference to the following priorities identified in the *European Partnership* including:

- Create the conditions for investment, trade, employment and economic growth for the benefit of all communities.
- Finalise the privatisation process in accordance with the Kosovo Trust Agency schedule.
- Complete the incorporation of publicly-owned enterprises, namely the electricity utility, railways, district heating and water and waste services. Implement further restructuring steps to improve their governance, efficiency and financial sustainability. Further strengthen the regulatory framework for public utilities and enhance the administrative capacity of the independent regulators.

Reference to MIPD

The MIPD states that EC assistance will also be used in support of developing Kosovo's weak economy and enhancing the wider socio-economic environment for all communities. This will require grant funding for direct investment. At the same time, more efforts will be devoted to help the authorities in developing a reform agenda that promotes good governance of public expenditure and ensures fiscal sustainability. This project responds to the MIPD Socio-Economic priorities, namely to enhance Kosovo's investment climate and supporting small and medium enterprises through a favourable legislative framework, enhancing corporate governance and access to services, including investment and import/export promotion.

Reference to National Development Plan

The project is in line with the priorities set in the Medium-Term Expenditure Framework 2007-2010.

There a number of key priorities identified as regard the private sector development strategic pillar, where one priority is specifically targeted by the present project namely completing privatisation and quick recovery in telecom, mining, energy, agriculture. The whole reform in the private sector and enhancing economic development and growth, as well as attracting foreign investments as outlined by the Kosovo authorities is based on the successful completion of the privatisation, restructuring and liquidation process, as well as on the capacity of KTA to effectively administer POEs and SOEs.

ANNEX 5- Details per EU funded contract

For *grants schemes*: Tasks to be performed by the grant beneficiary is related to the implementation of its Business Plan 2009-2010. More specifically it relates to the execution of privatisation and liquidation of SOEs as follows:

- Assessment and preparation of SOEs for privatisation and/or liquidation
- Selling of SOE to open bidding
- Unbundling of SOE
- Liquidating a SOE
- Resolution of corporate governance issues
- Adjudication on creditor and ownership claims
- Realisation of SOE assets
- Distribution of realization to creditors and owners
- Dealings with the Special Chamber

- Non standard aspects

The legal basis and interpretation that a direct grant agreement can be concluded, under duly justified circumstances, with a national independent legal body (in the case the Kosovo Trust Agency and its successor organization) by way of derogation from art. 34 (3) of IPA Implementing Regulation, are found in the provisions of art. 15 (1) of IPA Council Regulation, and art 66 (3) of IPA Implementing Regulation, the provisions of Title IV (External Actions) of the FR, art. 166 (1), *and* art. 168 (1) of the Implementing Rules

The provisions of ph. 6.3.2. of PRAG (Direct Award) are also followed.