



Republika e Kosovës  
Republika Kosova  
Republic of Kosovo



Zyra Kombëtare e Auditimit  
Nacionalna Kancelarija Revizije  
National Audit Office

## Performance Audit Report

---

# ASSESSMENT OF DIRECT ASSET SALE PROCEDURES UNDER THE MANAGEMENT OF THE PRIVATIZATION AGENCY OF KOSOVO



Pristina, July 2024

The Auditor General of the Republic of Kosovo is the highest institution of economic and financial control, which by the Constitution and the Law<sup>1</sup> is provided with functional, financial and operational independence.

The National Audit Office is an independent institution, which assists the Auditor General in discharging his/her duties. Our mission is to enhance accountability in the public sector through quality audits, by promoting transparency and good governance as well as fostering the economy, effectiveness, and efficiency of government programs to the benefit of all. We are thus building confidence in the spending of public funds and play an active role in securing the taxpayers' and other stakeholders' interest in increasing public accountability. The Auditor General is accountable before the Assembly for the exercise of duties and powers set forth in the Constitution, the Law, by-laws and the international public sector audit standards.

This audit was carried out in accordance with the International Standards of Supreme Audit Institutions (ISSAI 3000<sup>2</sup>).

Performance audits undertaken by the National Audit Office are objective and reliable examinations that assess whether government actions, systems, operations, programs, activities or organisations operate in accordance with the principles of economy<sup>3</sup>, efficiency<sup>4</sup> and effectiveness<sup>5</sup> and whether there is room for improvement.

The Auditor General has decided regarding the content of this audit report "Assessment of Direct Asset Sale Procedures under the Management of the Privatization Agency of Kosovo", in consultation with Assistant Auditor General, Myrvete Gashi Morina, who supervised the audit.

The audit team consisted of:

Fatlinda Ramosaj, Director of Procurement Audit Department

Armin Bushati, Team Leader; and

Ernes Beka, Team member.

NATIONAL AUDIT OFFICE – Address: Str. Ahmet Krasniqi No. 210, Arbëria District, Prishtina 10000, Kosovo

Tel: +383(0) 38 60 60 04/1011

<http://zka-rks.org>

1 Law 05\_L\_055 on the Auditor General and the National Audit Office of the Republic of Kosovo

2 ISSAI 3000 – Standards and guidelines for performance auditing based on INTOSAI's Auditing Standards and practical experience

3 Economy - The principle of economy involves minimizing the cost of resources. The resources used should be available in a timely manner, in the right quantity and quality, and at the best price possible.

4 Efficiency – The principle of efficiency involves maximising the output from available resources. It is about the relationship between the resources employed and the results given in terms of quantity, quality and time.

5 Effectiveness – The principle of effectiveness involves meeting predetermined objectives and achieving expected results.

# Table of Content

<b>Executive Summary .....</b>	<b>1</b>
<b>1. Introduction.....</b>	<b>5</b>
<b>2. Audit Objective .....</b>	<b>9</b>
2.1.Audit Questions.....	9
<b>3. Audit Findings.....</b>	<b>11</b>
3.1.Construction without permission on socially owned property as a result of insufficient actions by the Socially Owned Enterprises or the Privatisation Agency of Kosovo .....	12
3.1.1.Lack of cost-benefit analysis before the decision for direct sale .....	16
3.2.Inefficiency in the handling of direct sales cases.....	17
3.2.1.Significant delays in the handling of direct sales cases.....	17
3.2.2.Low ratio between requests handled compared to those submitted.....	19
3.2.3.Failure to adhere to of the chronological order when handling requests.....	20
3.2.4.Failure to handle requests from legal entities .....	21
3.3.Lack of elements for classification as direct sale .....	22
3.3.1.SOE Agricultural Cooperative “Agrokultura” - Bajgore Cadastral Area .....	22
3.3.2.SOE KBI “Kosova Export” SOE “Ratar” - cadastral area of Çagllavica.....	23
3.3.3.SOE KB “Agriculture” - Cadastral Area Obiliq .....	26
3.3.4.SOE “NBI Rahovec” - Rahovec Cadastral Area .....	28
3.4.Not-parcelling properties of Social Owned Enterprises.....	29
3.5.Privatization Agency of Kosovo did not have a written procedure for the selection of property evaluators.....	31
3.6.Other shortcomings that accompanied direct sales process – Database .....	32
<b>4. Conclusions.....</b>	<b>35</b>
<b>5. Recommendations.....</b>	<b>39</b>
<b>Annex 1. Audit motive, criteria, questions, audit scope and methodology .....</b>	<b>41</b>
<b>Annex 2: Extract from PAK regulations on the assets’ categorisation.....</b>	<b>47</b>
<b>Annex 3 Identified cases for parcelling .....</b>	<b>49</b>
<b>Annex 4: Letter of Confirmation .....</b>	<b>50</b>

# List of Abbreviations

<b>PAK</b>	Privatization Agency of Kosovo (former Kosovo Trust Agency)
<b>DSD</b>	Direct Sales Division (former Direct Negotiation Unit)
<b>SOE</b>	Socially Owned Enterprises
<b>SAL</b>	Sales of Assets through Liquidation (public tender)
<b>NAO</b>	National Audit Office
<b>RO</b>	Regional Offices



# Executive Summary

Privatisation Agency of Kosovo is authorized for the administration of socially owned enterprises and their assets, including the authorization for their sale, transfer and/or liquidation. The economic development of Kosovo is of vital importance and one of the aspects of this development is the adequate and timely administration, privatization and liquidation of socially owned enterprises.

The National Audit Office has audited the procedures of Direct Sales of Assets under the management of the Kosovo Privatization Agency for the period 2019-2021, while for the purposes of assessing whether practices have changed or efficiency has increased, we have also audited sales completed during years 2022-2023. We have assessed whether the procedures of the direct sale of assets have been carried out in the right way. We also evaluated how the assets for direct sale were treated and classified and how the evaluators were selected for determining the value of the assets.

During the conclusion of the direct sales of assets, the Privatisation Agency of Kosovo was not efficient as the handling of the purchase requests was not done in an optimal time. The process of categorizing assets classified for direct sale was also weak, the parcelling of land for sale was not done properly, and in recent years the only category for which requests for purchase were reviewed were households (natural persons). While in the selection of evaluators, we have not noticed any weaknesses, except that there was no defined methodology for their selection, but that the practice implemented over the years was later incorporated into the regulations.

**Kosovo Privatization Agency had not been efficient in handling requests for direct sales.** The handling of requests for direct sales was made with considerable delays, which went up to 86 months for the period 2019-2021, while for the period 2022-2023 this time was reduced to 68 months. Inefficiency in the handling of requests has also resulted in an extremely large number of unreviewed requests, where 1,675 requests or 75% of the submitted requests are still waiting in the queue. With such a pace of treatment, the rest of them are not expected to be examined for a near period of time.

**The failure to prevent illegal constructions led to the sale of assets through direct sales, eliminating competition.** Failure to take appropriate actions to prevent constructions without permission either by the respective Social Enterprises or even by the Kosovo Privatization Agency, has influenced that these assets are sold by the direct method and without being subject to competition. Another reason why some assets have not been subject to free competition is related to not identifying cases where a financial analysis could be made to assess the costs and possible benefits if an asset were to be restored to its previous state, and consequently could be sold through public tendering, which would potentially be more profitable.

**The sale of assets in some cases was conducted in a non-transparent manner, eliminating potential competition.** The reference/recommendation reports were not in accordance with the actual situation

on the ground, which has influenced the assets to be wrongly categorized for sale by the direct method, losing opportunities for better prices. While the non-parcelling of properties in cases where the purchase requirements include large areas of assets (land without construction) has influenced the direct method of selling significant areas, eliminating competition and avoiding the potentially best offers that could be secured if the sale were to be done through public tendering. Likewise, the exclusion of the category of businesses (legal entities) from the consideration of requests is contrary to the regulation in force and represents discrimination against them as claimants for purchase.

**The platform (Excel) used** by the Kosovo Privatization Agency, where the information and reports related to direct sales are based, **does not provide data integrity and reliability**. This platform is used during the entire direct sales process, from the registration of submitted purchase requests to their final reporting.

In order to ensure that the direct sales undertaken by the Kosovo Privatization Agency are carried out in accordance with the regulatory requirements, within the optimal time to complete the liquidation process and with this method only the assets belonging to this categorization are sold, we have given seven recommendations. The full list of recommendations is presented in chapter five of this report.

### **The parties' response included in the audit**

The Privatisation Agency of Kosovo has agreed with the audit findings and recommendations. The Letter of Confirmation on agreeing with our findings and recommendations is presented in Appendix IV.

We encourage the auditee to make all the efforts for addressing the recommendations given.





INTRODUCTION

01

# 1. Introduction

Privatization of socially owned enterprises (hereinafter: SOEs) means the process of transformation of assets that are the property of the state or society into private ownership. The main goal of this process is to increase efficiency and competitiveness in the economy, creating more favourable conditions for economic development.

Privatization of SOEs is considered one of the most complicated processes of countries in transition. The process of privatization in Kosovo started in 2003, initially by the Kosovo Trust Agency (KTA), and from 2008 it was followed by the Kosovo Privatization Agency (hereinafter: PAK).

One of the goals of the PAK is to rapidly address the positive impacts on the economy as well as the promotion of investments in SOEs, through the broad public administrative powers it has over these enterprises and their assets, including but not limited to limited, the mandate and authority for the sale or transfer of these enterprises and/or assets to private investors, or their liquidation through an open, transparent, competitive and delay-free process.

Most of the SOEs sold in Kosovo were privatized by the method called "regular spin-off" (which allows the change of the company's destination), while the companies that were considered larger were privatized by the "special spin-off" method (which does not allow changing the purpose of the enterprise). During this process, enterprises, premises, agricultural, industrial and construction land were sold.

In addition to the privatization methods, the PAK applies the method known as direct sale of assets. The method of direct sales arose as a necessity, in

the absence of alternatives, - as the PAK faces a significant number of requests from natural and/or legal persons with certain property claims against SOEs. Their ownership transformation cannot be applied automatically according to the rules of public tendering, noting that the offer to third parties cannot be considered as the only absolute solution for the ownership transformation process.

For this matter, PAK has established the Direct Sales Division (former Direct Negotiation Unit) which is competent for handling these assets with claims. For this method, the legal basis has been defined, which foresees certain criteria based on which these assets are categorized as assets that cannot be subject to other rules (of public tendering).

Through this method, the PAK for the period 2006 - 2023 has sold 361 assets (land, buildings, factories) realizing revenues from sales in the amount of 41.48 million euros.

In addition to the “Sharrcem” factory, which was sold for 30.1 million euros (in 2010), during the years 2019-2021, the PAK had made the most sales, about 327 direct sales worth about 9.9 million euros until the period of 2022 -2023 sales value was worth 487,138 euros for 18 sold assets. For the sale of the “Sharrcem” factory, a sale which constitutes about 74% of the total value of the direct sales of the PAK, the National Audit Office has audited this sale in the audit of the Annual Financial Statements of the Privatization Fund for the year ended 31<sup>st</sup> of December 2010.

<i>year 2010</i>	<b>SHARRCEM</b> <small>TITAN CEMENT GROUP</small>		<b>30.1 million €</b>
<i>years 2019-2021</i>	<b>327 assets</b>		<b>9.9 million €</b>
<i>years 2022-2023</i>	<b>18 assets</b>		<b>487,138 €</b>



AUDIT  
EFFECTIVE

202

## 2. Audit Objective

The objective of this audit is to assess whether the procedures of the direct sale of assets under the management of the PAK during the years 2019-2021 were carried out in the right way. This means that it will be assessed how efficient the PAK was in handling requests for direct sales, how it handled and classified assets for direct sale and how the selection of evaluators was made to determine the value of assets.

Through this audit, we aim to provide relevant recommendations for the improvement of possible deficiencies in the process of direct sales of assets under PAK management.

### 2.1. Audit Questions

In order to answer the audit objective, we have formulated the following questions:

- I. To what extent has PAK been efficient in handling direct sales requests?
- II. Have the assets for direct sale been properly classified?
- III. Has the evaluators selection process been carried out in an orderly and proper manner?

In order to have a sample as representative as possible, we first selected 100 sales completed during the years 2019-2021 for testing. For comparison purposes, we have also analysed the sales of 2022 and 2023. In addition to the samples that have ended with sales, we have also analysed 10 samples from the requests addressed to the Sales Division, but which were rejected on the grounds that the relevant assets do not meet the criteria to be sold by the direct sales method. The

selected sample of 100 direct sales accounts for 31% of sales for the period 2019-2021 and 28% of direct sales in general.

The selection of samples was made including all the regions covered by the PAK, and the distribution of samples for the period 2019-2021 was made proportionally with sales for selected years. Sales in the period before 2019 were low in number and value, therefore they are not included in the scope. The sample includes individuals (households) and legal entities (businesses) that had purchased assets through the direct sales method.

The detailed methodology applied during this audit, the audit sub-questions, the audit criteria and the scope of the audit are presented in Appendix I.

AUDIT FINDINGS

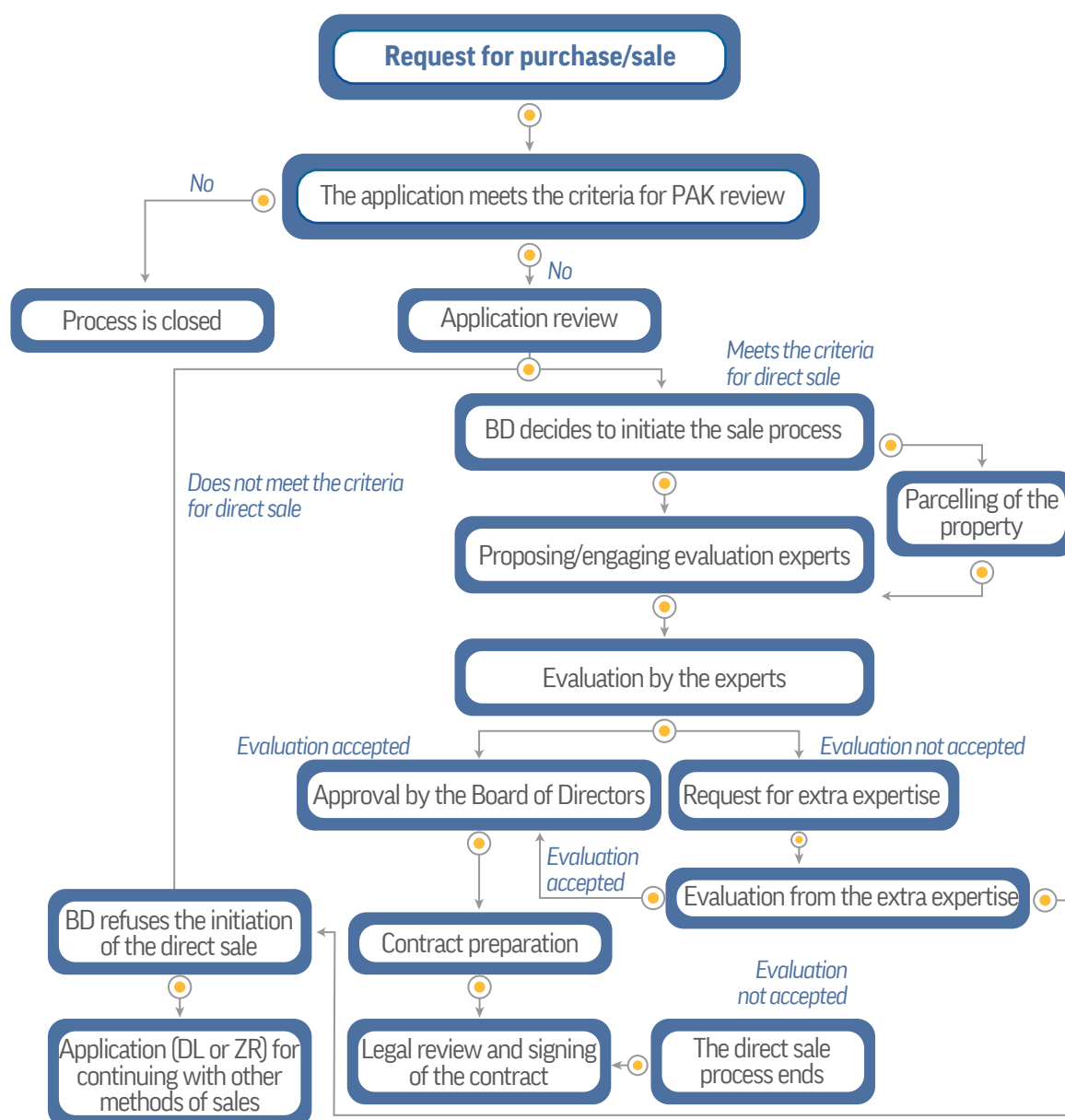
03

### 3. Audit Findings

The direct sales process aims to reach agreements for the sale and purchase of an asset. Completion of the cycle of sales and purchases with this method is also the completion of the cycle of liquidation of assets/final privatization of socially owned enterprises.

To achieve this result, PAK has internal laws and regulations as well as a certain structure with its responsibilities.

Diagram 1. The process of managing claims up to the direct sale of assets





Below we presented the deficiencies identified during the sales process for which the PAK had to take action to ensure the success of the direct sales process.

### 3.1. Construction without permission on socially owned property as a result of insufficient actions by the Socially Owned Enterprises or the Privatisation Agency of Kosovo

*Socially owned enterprises as well as PAK must monitor and take action to prevent constructions without their permission on properties with a social character.*

In order for the PAK to be able to sell an asset through the direct method, the asset must belong to at least one of the categories provided by the PAK regulation for the classification of assets for direct sale. The assets of the SOEs sold by the direct method by the PAK mainly met four of the seven<sup>6</sup> categories of assets provided by the regulation.

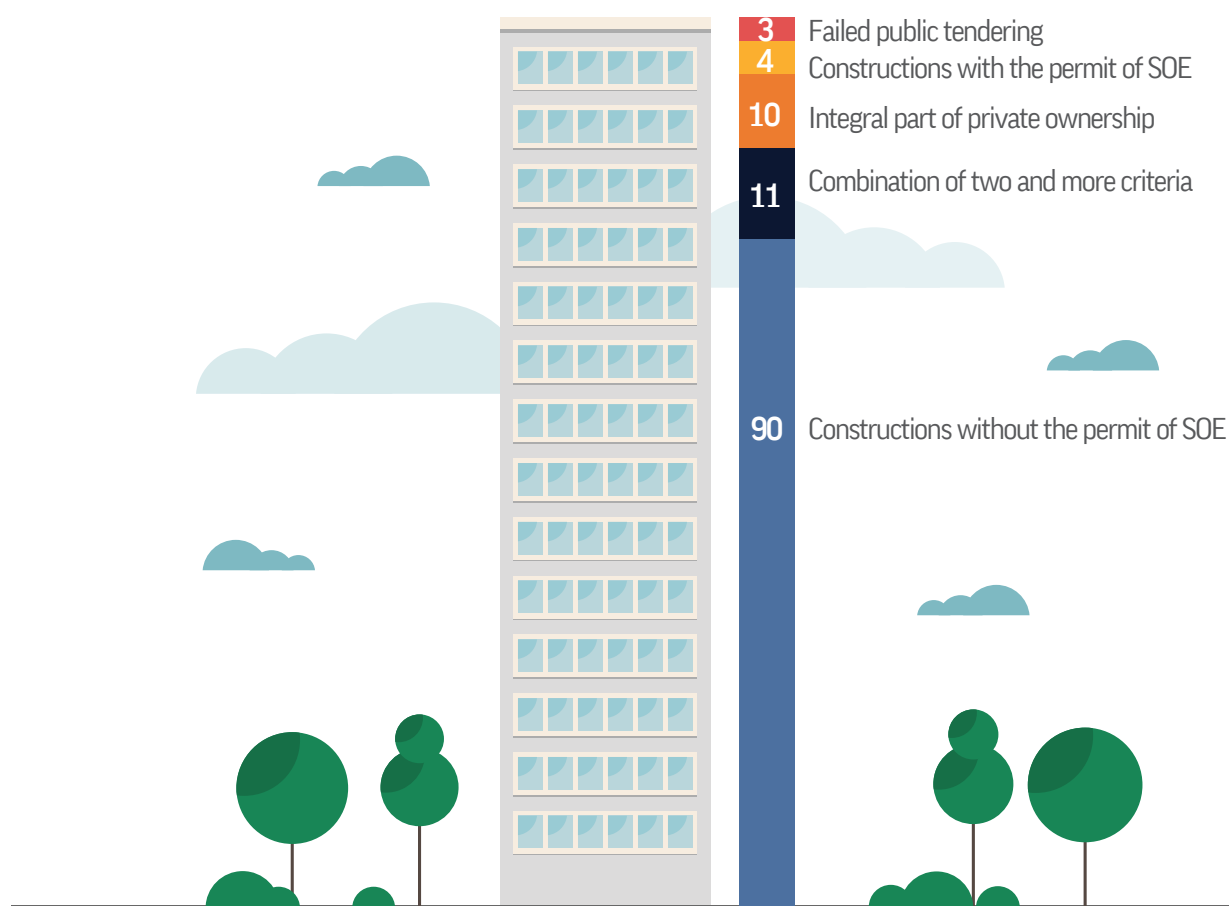
We have analysed the database of the Division for direct sales (hereinafter: the Division) and the recommendation reports for categorization of assets to see how they are classified for direct sales.

The largest number of sold assets belongs to the category “Existing buildings erected on any cadastral plot of the SOE or its part, without the prior permission or approval of the SOE or the Agency (AKP), in which case the restoration of the previous state is considered impossible or brings potential economic damage to the real value of the asset or its depreciation”.

---

<sup>6</sup> Appendix 2 – Extract from the Regulations regarding the categorization of assets. The criteria for categorizing assets for direct sales in the three PAK regulations (2017, 2019 and 2022) covering direct sales are the same.

Chart 1. Direct sale of assets according to categories foreseen under Regulation



As can be seen in the graph above, 90 out of 118 audited direct sales belong to constructions that were made without obtaining the permission of the respective SOEs or the PAK. In only four cases, the SOE had allowed constructions in the respective social properties, while 11 sold assets had a combination of categories<sup>7</sup>.

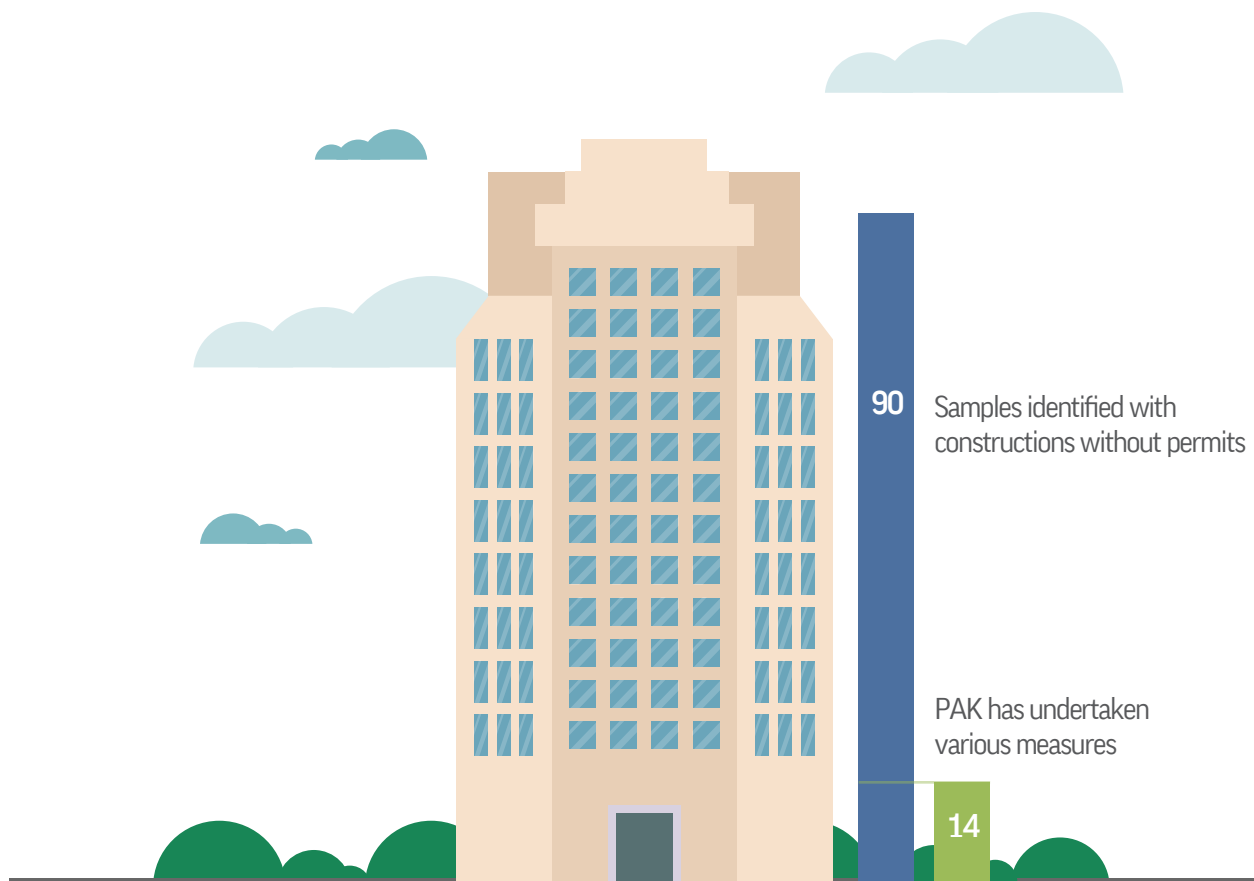
The unauthorized constructions of SOEs that we have identified belong to three different time periods (the time period before 1999, the “re-construction” period - between 1999 - 2005, and the period after 2005). Following the audit execution, we have received additional documents<sup>8</sup> related to the audited samples for the period to which the unauthorized constructions belong. After analysing the documents, we found that they do not provide sufficient assurance that the data presented for the construction period correspond exactly to the time when they were built. According to the data provided in Excel format (for 81 out of 90 samples, while for nine samples no clarifications were provided), these constructions are divided into the following periods:

<sup>7</sup> Combination of some of the criteria (e.g. unauthorised construction, with integral part of private properties)

<sup>8</sup> (Document in Excel and orthophoto)

- In the period before 1999, there were 7 cases of constructions without permission;
- In the period 1999 - 2008 (UNMIK - AKTA) there are a total of 32 cases; AND
- The rest belong to the PAK period (mainly until 2014) and there are a total of 42 cases.

*Chart 2 measures taken against constructions without SOEs permission*



As can be seen in the graph, out of the 90 samples identified with constructions without permission, in 76 cases the State Administration/KAP did not take measures, while in 14 cases the PAK took various measures, such as: court action, request to the inspectorate, report criminal, temporary measure, etc.

To illustrate the issue of continuous constructions without permission by SOEs<sup>9</sup> in social properties which were then sold through the direct sale method, and the non-action of SOEs to prevent them, as an example we took the master<sup>10</sup> plot which was property of SOE- "Ratar".

<sup>9</sup> As soon as the socially owned properties enter the liquidation process, the responsibility for managing those properties lies with the Liquidation Authority within PAK.

<sup>10</sup> The mother plot means the plot which was initially unique, but later, for various reasons (e.g. expropriation for public interest, sale by the owner or other legal forms have influenced the creation of other plots.

Photo 1. Changes in the cadastral plot for the period 2004-2018



Source: State geoportal

In the photos above, you can see how the constructions on this plot have started gradually without the permission of the respective SOE. So, as seen from 2004-2009 (photos 1 and 2) there were almost no constructions at all, while during the period 2012-2019 (photos 3 and 4) there is a noticeable increase in constructions categorized without permission (according to the PAK Regulation) in the properties of JSC "Ratar".

This happened because the management of the SOE (for the time before the liquidation of the enterprise) and then the liquidation authority within the PAK (after the liquidation of these enterprises) have not taken any action to prevent unauthorized constructions on this social property. According to PAK officials, one of the reasons that influenced this situation is related to the fact that the cadastral system was in the process of consolidation for a long period of time. Another reason for not acting is related to the lack of capacities of the SOEs or the PAK to respond to the trend of constructions since the war.

Failure of the Management of SOEs or the PAK to act in time to prevent unauthorized constructions in social properties has resulted in the onsite situation to deteriorate and be as such. The undertaking of limited actions has resulted in the PAK drafting the Regulation which enables the direct sale of these assets.

Therefore, the PAK from 2017 to 2023 had changed the legal basis which has been changed three times to adapt to the circumstances which it could have prevented if it had acted in time and as a result has significantly prolonged the closing process of privatization, i.e. the liquidation of SOEs as the last step in this process.

### 3.1.1. Lack of cost-benefit analysis before the decision for direct sale

*PAK before the decision for direct sale must ascertain whether the previous state of an asset of the SOE can be restored or not. Restoring the previous state in cases where it is determined by analysis can increase the value of the asset.*

The PAK had not done any cost-benefit analysis to assess whether restoring the assets in which there were illegal constructions to their previous state would be worthwhile or not.

In the reference and recommendation reports of the division for each asset (in the 90 sold assets of SOEs were categorized for direct sale due to unauthorized constructions on social properties) it was concluded that the return of the asset to its previous state is impossible without supporting this finding with any financial analysis. Furthermore, the PAK had not taken any action to even identify potential<sup>11</sup> cases where such an analysis could be undertaken.

The PAK did not see fit to undertake such a financial analysis regarding the cost/benefits and whether the asset can be restored to its previous state as according to them the restoration cannot happen without a court decision.

The lack of such a financial analysis has affected that the PAK does not have the necessary information to ascertain whether the return of the assets to their previous state is profitable. If the results of the analysis establish that returning the asset to its previous state would have greater benefits than costs, this would add value to the asset as well.

---

<sup>11</sup> Potential cases are related to non-residential objects/buildings (according to the classification of building types/Eurostat

## 3.2. Inefficiency in the handling of direct sales cases

We have analysed the requests for direct sales from the time of submission, handling until the signing of the contract/realization of the sale (some requests date back to 2015) as long as their sale was carried out during the years 2019-2023. In addition, we have also analysed requests that did not result in sales because they did not meet the criteria to be categorized for direct sales.

For 100 samples which we audited for the period 2019-2021 as well as 18 for the period 2022-2023, the PAK has needed in two cases over 100 months or about nine years to complete the sales process (from the initiation of the request from the until the signing of the contract). This shows a lack of efficiency in the finalization of the procedure for the direct sale of assets, thus the prolongation of the completion of the privatization process itself.

### 3.2.1. Significant delays in the handling of direct sales cases

*Requests must be handled in optimal time and according to the criteria predetermined by regulation. From the day of registration of the request, the PAK must start the examination procedure in the most optimal time (within one month) which, depending on the actions, the number of parties and other aspects, can last up to 3 (three) months for determined whether or not the asset can be classified for direct sale*

Out of the sales completed in the period 2019-2021, only in 14 out of 100 cases did the Division manage to handle the requests<sup>12</sup> within the time limit of three months, while for the period 2022-2023 this happened only in one out of 18 cases.

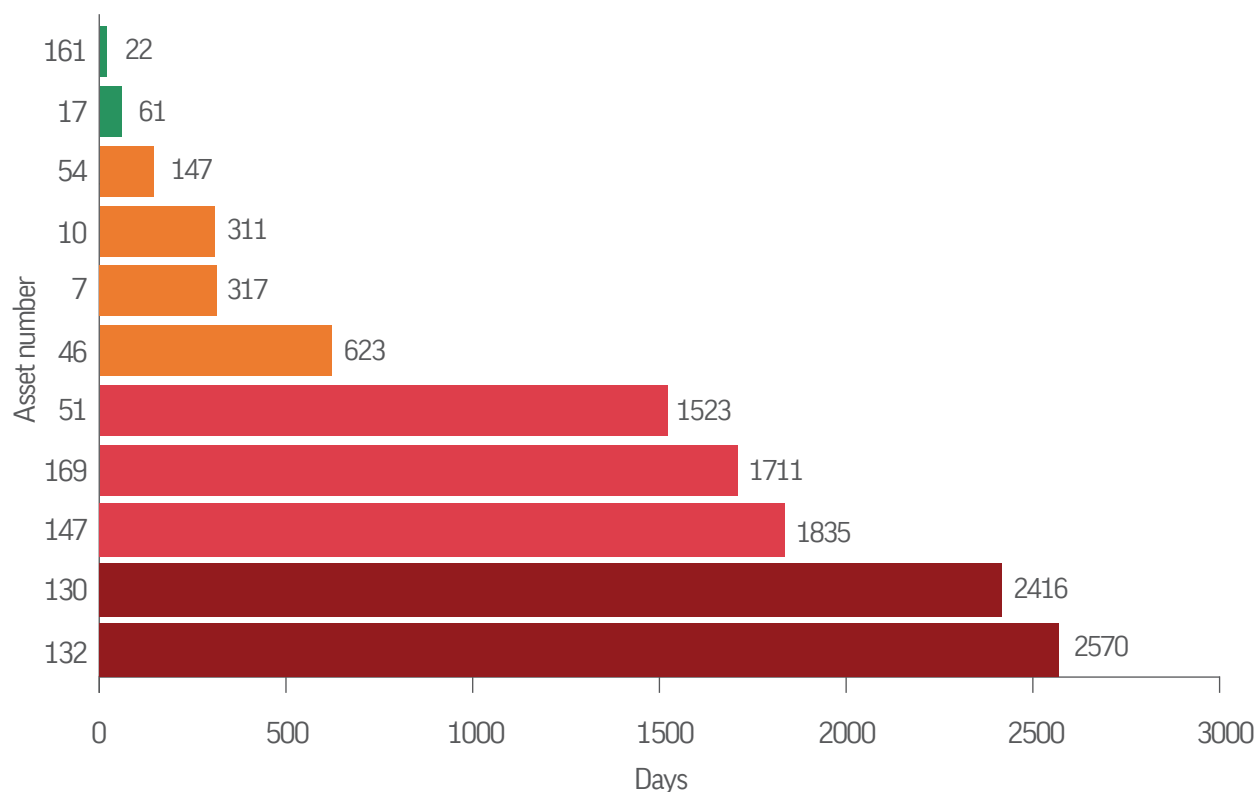
The division had been handling direct sales requests for various periods of time. There were assets (asset no. 161) that had been treated fairly quickly within a month (22 days) while there were also assets whose treatment was done for 86 months (2,570 days of asset no. 132). From the graph it is clear that only two out of 11 cases were treated within the optimal time. These 11 cases were decided only to illustrate the delays, because 103 of the 118 audited cases had delays.

---

<sup>12</sup> from the registration date of the request up to the initiation of the procedure for examining the request



Chart 3 Number of days for consideration of a request for direct sales



This analysis shows that the PAK had significant delays in handling requests. Delays go up to 86 months for direct sales carried out in the period 2019-2021, while for the period 2022-2023 the delays go up to 68 months only for handling claims, not including the subsequent procedures until the sale is closed. The average processing time of a request by the Division is about 24 months or two years.

After the completion of the audit, we have received the information that the PAK had drawn up a strategy which envisages that the number of requests handled by the Division should be 30 to 40 cases within a month. In addition, we analysed the time frame for the completion of a sale (from the date of its submission by the applicant to the conclusion of the contract). We observed that the time frame to complete a direct sale procedure was from six months at best to 103 months or about nine years for the period 2019-2021. While for the period 2022-2023, the time limit for the conclusion of a direct sale procedure was from 53 months to 105 months or about 9 years.

On average, the PAK completed the sales procedure until the signing of the contract for a period of about 43 months or about four years. Delays in the handling of cases are related to a number of factors, starting from the approval of the regulation on the examination of the assets of SOEs and their sale in April 2017 (until that time there was no regulation on direct sales), capacities limited human resources in the Division, incomplete files of applicants, limited capacities in the parcelling process as well as the lack of cadastral records. Another element for delays in handling requests is the numerous administrative requirements of the regulation from the preparation of the recommendation report by the division to its presentation to the Board, which must be reviewed and signed by a large number of officials and

management positions. However, taking into account that some of the requests were handled in optimal terms, it turns out that if they were handled chronologically, the delays would be smaller.

During the term of the PAK, there were periods when the composition of the Board was not complete, which was one of the other reasons for the delays in handling cases, since the approval of sales is the exclusive competence of the Board. Also, for a period of about two years, the work of the division was suspended at the request<sup>13</sup> of the Government of Kosovo.

The slow pace for concluding a procedure for the sale of an asset, where on average it took the PAK about four years, in addition to resulting in significant delays and waiting of the parties in the procedure, also causes waiting and delays in handling requests submitted and not yet examined, which at the time of execution of this audit<sup>14</sup> was 1,675 cases.

### 3.2.2. Low ratio between requests handled compared to those submitted

*The ratio between submitted and handled requests should be as low as possible. Processing of direct sales requests should be based on chronological order by the date the request was submitted.*

PAK had not managed to keep the ratio between submitted and handled direct sales requests at the lowest possible level. At the regional level, as seen in the table below, the Prizren region has the largest number of unexamined requests (614 requests). Also, Mitrovica region has only five reviewed/approved requests out of 134 that were submitted for treatment (129 of them were not treated).

*Table 1 Status of direct sales requests*

Region	No. Requests	Approved	Rejected	Unreviewed	% of unreviewed requests
Prishtina	692	191	142	359	52
Peja	433	75	44	314	73
Prizreni	691	76	1	614	89
Gjilani	283	24	0	259	92
Mitrovica	134	5	0	129	96
Gjithsej	2,233	371	187	1,675	75

<sup>13</sup> The request made by the Government, March 2021, the Division had started functioning in January 2023

<sup>14</sup> April 2024



According to the PAK database for the Direct Sales Module, it appears that 2,233 claims have been submitted by claimants. From this number, the PAK managed to handle 558 or 25% of the requests, of which 371 were approved by the Division while 187 were rejected. 1,675 or 75% of the submitted requests remained unreviewed. This had happened due to the delay in the consolidation of the regulations and the Division.

If the PAK took about 43 months or four years to complete a request, then the completion of such a large number of 1,675 unreviewed requests is not expected to be completed in an optimal period of time. Likewise, the parties that have submitted requests will remain hostage to the examination even for a not-close period of time.

### 3.2.3. Failure to adhere to of the chronological order when handling requests

*Processing of direct sales requests should be based on chronological order by the date the request was submitted.*

The PAK had not respected the chronological order according to the date when the request for direct sales was submitted. Our analysis shows that the treatment of claims was not based on chronological order and differences exist some large per day for processing requests. In the following table, for illustrative purposes, 11 cases are presented where the dates of submission of the request and their handling are seen, while from all the requests, x cases of non-compliance with the chronological order were recorded.

*Table 2 Direct sales requests and handling dates*

No. of the asset as per the Regional Office	Date of request	Processing date	Number of days
130	17-08-2011	29-03-2018	2,416
132	31-10-2011	13-11-2018	2,570
7	30-12-2014	12-11-2015	317
10	05-01-2015	12-11-2015	311
147	05-01-2015	14-01-2020	1,835
161	01-04-2015	23-04-2015	22
169	03-04-2015	09-12-2019	1,711
54	09-07-2015	03-12-2015	147
51	09-08-2015	10-10-2019	1,523
46	03-02-2016	18-10-2017	623
17	18-08-2017	18-10-2017	61

As can be seen in the table, the requests submitted for review with later dates were processed before the requests submitted with earlier dates. For illustration, we can take the request with asset number 161 which was processed within 22 days, while the request with asset number 132 was processed for

2,570 days or about 86 months, so even though the latter was submitted in 2011, the processing of it was made at the end of 2018, while other requests were considered between this time.

According to the officials, going beyond the chronological order is allowed by the internal regulation of the PAK for direct sales to select the cases that were complete with case files to report them to the Board. However, we have not noticed in any reasoning why one or the other has been prioritized.

Failure to adhere to the chronological order has resulted in some requests not being handled within the optimal time, leaving the parties who submitted the requests “hostage” to administrative procedures for years.

### 3.2.4. Failure to handle requests from legal entities

*The initiation of the procedure for examining a request has the right to propose any physical and legal entity that has an interest in the purchase of a certain asset. The PAK must handle requests/cases without any distinction, whether they are requests from physical entities (households) or legal entities (businesses).*

From the samples tested for the period 2022-2023, we found that the Board had only dealt with one category of requests and that of households, leaving aside the requests of legal entities - businesses.

We have not come across any act (be it administrative decision/written instruction or even an article in the regulation) that allows the bypassing of requests coming from legal entities - businesses.

The data show that the number of legal entities that have submitted a request for direct sales is 87. Until 2023, only 30 cases were handled, while 57 remained unhandled even in 2024.

We have identified 24 cases which have been completed by the division and are ready for review by the Board, but this category of requests was not considered. We have not been able to get an answer as to why no request from this category has been processed.

Failure to address a certain category of requests, in addition to representing discrimination against the parties who have submitted a request, not resolving these cases may also present obstacles in the development and expansion of the activity until the request is handled and a decision is made as to whether it has a basis or not. not for direct sale. Even not handling requests for this category, prolongs the conclusion of direct sales and the end of the liquidation process itself.

### 3.3. Lack of elements for classification as direct sale

*The PAK should have a standard and documented procedure for classifying assets for direct sale. Referral/recommendation reports for direct sale must clearly describe the rationale why an asset should be subject to direct sale including precise reference to which specific asset category it belongs.*

We have observed that in four cases the elements for the classification of assets for direct sale were not taken into account by the PAK. The cases are presented separately as follows:

#### 3.3.1. SOE Agricultural Cooperative “Agrokultura” - Bajgore Cadastral Area

The asset for which the party had submitted a request in August 2019 for purchase through the direct method was the property of the Agricultural Cooperative “Agrokultura” located in the village of Bajgore-Mitrovica. The plot in the present case was leased to the applicant in June 2019. Based on this contract, the applicant was allowed to use the land for commercial purposes, more precisely for the realization of projects to generate electricity from renewable sources .

According to the 2019 Decision<sup>15</sup> of the Government of the Republic of Kosovo, the applicant was granted the status of a strategic investor, where on this basis the same had applied for the initiation of the procedure for the direct sale/compensation of the plot with an area of 12,879 m<sup>2</sup> /1.3 hectares. According to the request of the applicant, the plot is located in the location which is necessary for the installation of the investment project, the value of which investment reaches about 200 million Euros within the five-year period, and for which preliminary tests/experiments have been carried out.

According to the reference report, the officials from the PAK regional office in Mitrovica had not sufficiently argued why this asset cannot be submitted to public tendering (auction). Subsequently the Division for direct sales in the recommending report to the Board, emphasized that this plot did not meet any of the criteria related to the categorization of assets for direct sale provided by the Regulation and consequently did not recommend to the Board to include this plot in the direct sale, but may be subject to public tendering.

---

<sup>15</sup> Decision of the Government of the Republic of Kosovo no. 03/88, dated 05.02.2019,

Photo 2 Plot of Agricultural Cooperative “Agrokultura” - Bajgorë



Despite the negative recommendation from the Division, the Board at the end of January 2020 had approved the applicant's request by qualifying this sale according to the <sup>16</sup>general criteria of the PAK Regulation and after the evaluation report had initiated the sale with the requesting party. This plot with an area of about 1.3 hectares was evaluated by a licensed and independent appraiser and was then sold at a value of 7,084 Euros or 50 Euros/ares.

The board had justified their decision to sell, where according to them the applicant is a strategic investor and an international company registered in Kosovo, which develops and implements projects in the field of renewable energy. This plot was related to the preparation of the road infrastructure, to enable the transportation of wind farm equipment and turbines.

The board, evaluating the potential economic contribution that this investment can bring to the energy field in Kosovo, has decided not to consider alternative sales opportunities.

### 3.3.2. SOE KBI “Kosova Export” SOE “Ratar” - cadastral area of Çagllavica

In February 2020, the board decided that the plot with a total area of 5,636 m<sup>2</sup>/56.36 ares, which is located in the cadastral area of Çagllavica-Pristina and belongs to SOE “Ratar”, will be sold through a tender (public auction) in the wave 56 of Assets Sale with liquidation (SHAL 56), foreseen to be organized at the end of April 2020. In the information memorandum to the Board, it was noted that the property offered for sale was not for rent and no activity was carried out on that property.

<sup>16</sup> Cases, demands or other eventual assets, which are not specified or included in any of the aforementioned categories as in the previous paragraphs of this article, while in terms of their characteristics and properties, according to the reasoned proposal of the Direct Negotiation Unit, through Managing Director or the proposal of the Managing Director and the approval of the Board of Directors of the Agency are considered assets or cases of a specific character and require a solution through the negotiation procedure

Due to the pandemic circumstances, this tender was not executed. The same sale wave – SHAL 56 was arranged and carried out for later<sup>17</sup>, but this asset was not included in the list of assets for sale.

In the meantime, the applicant (five months later) made a request for the purchase of this cadastral plot by the direct sale method. The request was supported on the grounds that the plot in question is bordered by cadastral plots that are privately owned (by the applicant) and that this plot has been used by the applicant for years.

The Division, has based the request on the criterion: “*The cadastral plot or the certain part of the cadastral plot owned by a social enterprise which, according to the actual situation on the ground, is presented as an integral part of the private property complex **or has no access to the road**, in which case public tendering is considered impossible or brings potential economic damage to the real value of the asset and its depreciation*” and had recommended the Board to approve the request for direct sale.

*Photo 3 Cadastral plot of KBI “Kosova Export” - SOE “Ratar” subject to direct sale*



The photo above shows the plot in question which borders private plots/property. However, in the thematic map<sup>18</sup> prepared by the licensed surveyor, it is clearly seen that plot 1399-1 PSH Rugë is classified as a road. After the site visit, the commission from the Division found that there were no constructions or any investments in this plot. In the recommendation report for the Board, it was emphasized that this plot is bordered by private property and the fact that the plot has access to the road is not mentioned at all.

<sup>17</sup> Announcement dated 06/24/2022 and tender or bidding day dated 07/13/2022

<sup>18</sup> Thematic map means the map where elements of one or several natural, socio-economic phenomena and its corresponding characteristics are presented, including the thematic elements used to show the geographical location, the qualification spatial and general content, the main traffic network, the river, residential land as well as other accompanying elements



The Board had decided in favour of initiating the direct sale in this case, based on the recommendation of the Division, which report does not mention that the plot has road access, but that the thematic map shows this. Based on the independent appraiser, the value of this parcel is estimated at 88,000 Euros or 1,561 Euros/ares.

As for the issue that this asset was previously included in the list of assets for sale by public tender, it was withdrawn due to the request for treatment in the direct sale procedure <sup>19</sup>.

As a matter of comparison, we have also analysed a request of a similar nature and we have observed that the Division after handling the request, in this case, unlike in the past, had recommended the Board to reject it.

*Photo 4 Cadastral plot of SOE “Pasuria Bujqësore” Ferizaj” - for comparison purposes*



As can be seen in the thematic map above, the plot (in yellow) which was the subject of the request was surrounded by private plots, but had access to the road (similar to the case discussed above) and taking into account this the Board based of the recommendation of the Division had refused the initiation of the direct sale for this plot.

<sup>19</sup> The issue of termination of the public tendering procedure after the request for direct sale is regulated by Article 12.4 of the Regulation.

Despite the fact that these two cases were similar in nature they were handled differently by both the Division and the Board. In the first case, the criterion for categorizing the asset for direct sale was partially taken into account, therefore it was decided in favour, while in the second case, that criterion was taken into account in its full form, therefore the direct sale was rejected.

According to the responsible officials, the cadastral plot of KBI "Kosova Export"-SOE "Ratar" was categorized for direct sale since the plot was an integral part of what was private property. In order to strengthen the classification, the officials also relied on the general criterion <sup>20</sup>. In addition, according to officials, plot 1399-1, according to the textual condition, is recorded "as an uncategorized road". Therefore, it is not taken as a basis that the plot has access to the road.

Failure to comply with the criteria for categorization has caused the sale of the asset to be done through the direct method and not through public tendering, which has resulted in the elimination of competition and the avoidance of the best possible offers that would be offered by the demand and supply ratio .

### 3.3.3. SOE KB "Agriculture" - Cadastral Area Obiliq

In June 2020, the applicant made a request for the purchase of four plots belonging to SOE "KB Agriculture" in the cadastral area in Obiliq.

The applicant had based his request for purchase through the direct method on the argument that he was the owner of a parcel <sup>21</sup>which borders the parcels that were the subject of the request <sup>22</sup>, and in the case of the purchase of the said parcels he would be given full physical access to road infrastructure and facilitating the use of his property. The Division had recommended sale through the direct method of all these plots as requested by the applicant. The board took into account the recommendation and decided to sell these three properties with a total area of 9,496m<sup>2</sup>/94.9 ares. These parcels were valued by the independent appraiser at a value of 101,130 Euros or 1,066 Euros/ares.

<sup>20</sup> Cases, demands or other eventual assets, which are not specified or included in any of the aforementioned categories as in the previous paragraphs of this article, while in terms of their characteristics and properties, according to the reasoned proposal of the Direct Negotiation Unit, through the Director Management or the proposal of the Managing Director and the approval of the Board of Directors of the Agency are considered assets or cases of a specific character and require a solution through the negotiation procedure

<sup>21</sup> The company's factory and logistics are built on this plot

<sup>22</sup> Cadastral plots no. 1774/3, with a total area of 217 m<sup>2</sup>, cadastral plot no. 1772/1, with an area of 3441 m<sup>2</sup>, cadastral plot no. 1773/1, with an area of 2016 m<sup>2</sup> and cadastral plot no. 1767/9 with an area of 3822 m<sup>2</sup>.

Photo 5 Four cadastral parcels of SOE KB “Bujqësia” - Obiliq



The thematic map prepared by the licensed surveyor (photo above) shows that two of the parcels<sup>23</sup> are bordered by the claimant's private parcel, while other<sup>24</sup> two parcels are not bordered at all. In the thematic map it is clearly seen that plot 1768-3 private property of the applicant has access to the road, moreover at the time of submission of the request there was no construction on these plots.

The criteria<sup>25</sup> for the categorization of the two plots for direct sale were only partially taken into account by the PAK, more precisely only the part of the criterion which deals with the limitation of the properties, while the facts that the property has access to the road and there is no construction. Furthermore, for the two parcels which did not border on private property at all based on the criteria, there was no basis for direct sale.

According to the Division, two properties are bordered by a private plot owned by the applicant and two other properties are defined as assets or cases of a specific character.

Failure to comply with the criteria for categorization and the sale of assets through the direct method and not through public tendering has resulted in the elimination of competition and the avoidance of the best offers that could be offered by the ratio of demand and supply.

<sup>23</sup> Plots 1767-9 and 1773-1

<sup>24</sup> Plots 1772-1 and 1774-3

<sup>25</sup> For criteria, refer to appendix 3 points c) and d)



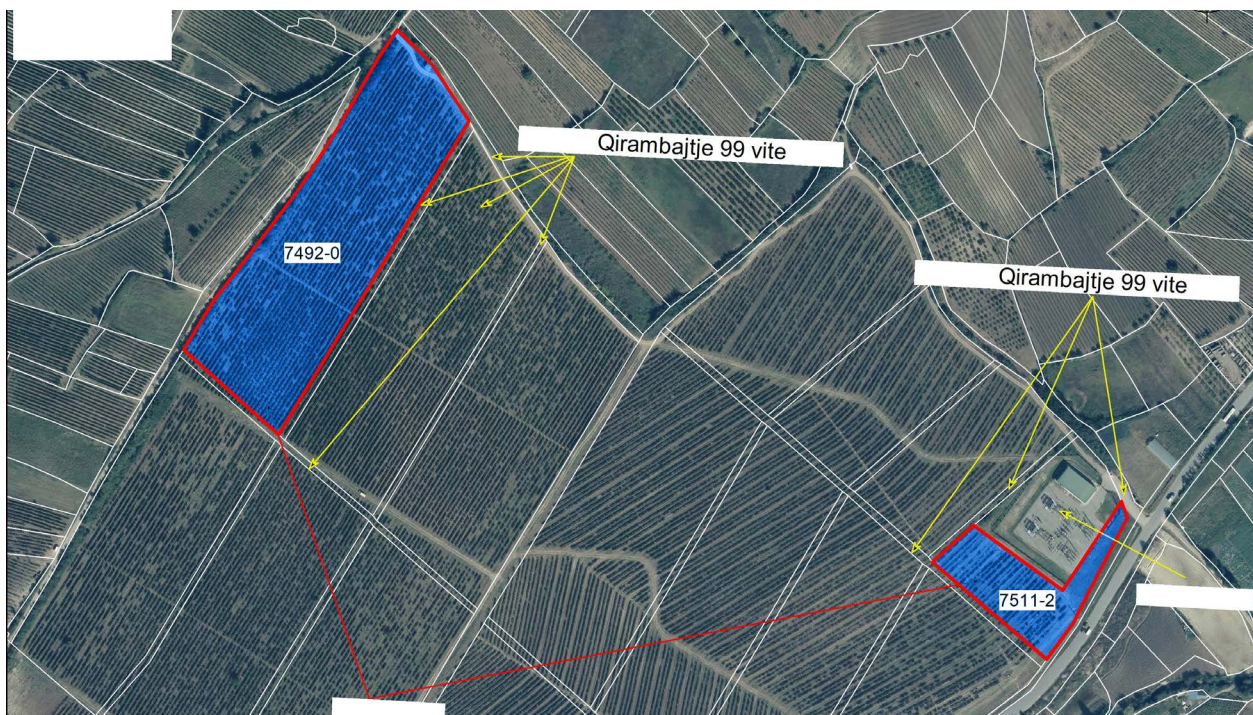
### 3.3.4. SOE “NBI Rahovec” - Rahovec Cadastral Area

In February 2020, the party submitted a request for the purchase of two plots (one of 22,039 m<sup>2</sup> /22 ares and the other of 4,046 m<sup>2</sup> /40 ares). The request was based on the argument that in 2006, through public tendering <sup>26</sup>, the applicant had privatized “SOE NBI Rahoveci” and its assets, but these two parcels bordering on private property were not included in the privatization <sup>27</sup>.

The Regional Office of the PAK in Prizren in the reference report for the Division after the assessment and field visits had concluded that the plots in question could be sold by open tender, but that their sale through direct sale with the party represents the most useful solution.

Subsequently, the Division in the recommendation report had reflected the situation quite differently from the situation described in the reference report. According to this report, “the two plots are located exactly in the middle of the applicant’s industrial complex and have no exit/access to the road from either side.

*Photo 6 Cadastral plot 7492-0 with 22 ares and cadastral plot 7511-2 with 40 ares*



The thematic map prepared by the licensed geodetic (photo above) shows that both plots have access to the road and despite being limited to the applicant’s private property, they do not meet the classification

<sup>26</sup> Privatization of NBI Rahoveci has been privatized with the “special spin off” method in the 12th wave of sales

<sup>27</sup> Plot 7511/2, with an area of 4046 m<sup>2</sup>/40 gold, was not included in the public tender because at the time of the privatization of the SOE, in part of this plot, the electric current conductors were under construction and it was not known how much area would be expropriated. While plot no. 7492/0 was not included in the privatization as a result of a technical error.

criteria for direct sale. Also, based on the actual situation on the ground, they were no longer an integral part of the vineyard complex. These two properties with a total area of 26,085 m<sup>2</sup> /26 ares were evaluated by the independent appraiser and then sold for 59,300 Euros or 2,280 Euros/ares.

According to PAK, the sale through public tendering of these plots could create problems with the applicant regarding the transfer of ownership to third parties since these plots are presented as an integral part of the vineyard complex, which were privatized by the claimant through public tender.

Failure to comply with the criteria for categorization and the sale of assets through the direct method and not through public tendering has resulted in the elimination of competition and the avoidance of the best offers that could be offered by the demand and supply ratio .

### 3.4. Not-parcelling properties of Social Owned Enterprises

*In cases where requests for direct sales include large areas of property, the PAK must do parcelling, by limiting (as far as possible) to the existing constructions erected on the properties of the SOEs according to the criteria defined by the regulations of interior.*

The PAK had not done the parcelling of properties for direct sale in cases where the requests included larger areas than the existing constructions erected on the properties of the SOEs. From the samples tested, in 14 cases we observed that the PAK did not take such a thing into account. In addition, the PAK does not have a procedure regulated by any internal act for the subdivision of properties.

For the purpose of illustration, we have selected two cases which are shown in the picture below.

*Photo 7 Properties that have not been subjected to parcelling*



As can be seen in the photo, the request for purchase by direct method was made for an area more than double compared to the part where there were existing constructions. There was construction only on the plots of 1,275 m<sup>2</sup>/12 ares and 1,444 m<sup>2</sup>/14 ares respectively, while the part of 2,803 m<sup>2</sup>/28 ares and 3,247 m<sup>2</sup>/32.4 ares has no construction.

Initially, the Division and then the Board did not analyse the possibility of parcelling for these cases and the parcels were sold as much as requested by the applicants <sup>28</sup>.

This had happened in the absence of the internal act which would regulate the parcelling, but also because the PAK had not sufficiently analysed the possibility of parcelling (dividing the property) of the purchase requests. According to PAK officials, during the sale of these properties, the local context (village) where these properties are located was taken into account and that dividing these properties would make these properties less attractive. It is worth noting that for the cases that have started to be handled by the Board since 2023, the Division uses the practice of parcelling large areas (where possible) and proposes for sale only the area sufficiently enough for one household. Failure to parcel properties had resulted in the sale of large areas of social properties through the direct method, eliminating competition which could have provided better offers if the sale was made through public tendering.

<sup>28</sup> Other similar cases are presented in Appendix 4 of this report.



### 3.5. Privatization Agency of Kosovo did not have a written procedure for the selection of property evaluators

*The engagement of property evaluators should be based on standard practice and documented through an objective, transparent and meritorious process. This process should be comprehensive and not limited to a certain number of evaluators.*

For the period 2019-2021, the direct sales regulation only provided for the engagement of evaluators by the PAK, but not the way of their selection. The PAK had followed a practice which was considered the only and most suitable practice during that period. With the change in the regulation for direct sales in October 2022, the procedure practically followed by the Division has been integrated into the regulation with some changes, where it has been requested that the engagement be done in alphabetical order. This is done with a letter of commitment in which some criteria are specified which must be adhered to by the evaluator.

Based on the list provided by the Secretariat of the Supervisory Board in the Ministry of Finance, Labour and Transfers for the certification of real estate evaluators, the Division has sent an e-mail to all evaluators of the first category A. The Division has compiled a list of interior where the evaluators are lined up chronologically from the moment of presentation for engagement and continued in order. The Division shall select the evaluators in this order.

There were cases when an appraiser who was engaged in a case and in the meantime the need to appraise an asset near the previous asset was presented, then the same appraiser was appointed (at the request of the Board).

In cases where the evaluators were not available at the time of the invitation to engage in the appraisal of the asset, then the turn has passed.

The criterion that the PAK took into account during the selection of evaluators was the first category A. About 70 evaluators appeared in this list. According to our analysis, for 118 cases the PAK engaged 53 different evaluators.

The reason why PAK had focused on this category was because the evaluators of this category are considered more experienced (two years of experience and at least 10 completed evaluations are required).

In 2022, the PAK had changed the regulation for direct sales and, among other things, had integrated this procedure as the procedure for the selection of evaluators.

### 3.6. Other shortcomings that accompanied direct sales process – Database

*Data maintained by the Direct Sale Division must have integrity and be reliable. The data/information must comply with the established criteria related to data integrity (related to their accuracy and completeness) and data reliability related to the provision of appropriate information upon request.*

The division has prepared all information related to direct sales over the years in Excel format. The database had significant errors, among others: names and surnames of applicants were incorrect, there were missing dates of applications submitted, dates of review by the division, dates of approval by the Board, errors in parcel numbers, errors in categorization of assets for direct sale, etc. The data prepared in this form lacks integrity and reliability, moreover, the security of the information is vulnerable. Based on this fact, we had to check and confirm any information provided by this base with a second source of information.

The division had raised the issue of the database several times, informing the Management that this database (in Excel) has deficiencies and that it should be replaced with a more sophisticated software to create security in the storage of data also in the economization of the process.

A database that does not provide sufficient data security, integrity and reliability can result in data inaccuracy, reporting errors and data loss. It can also result in Management decisions for direct sales based on incorrect information.

After completing the audit, we have received the information that the PAK has taken actions to address this issue. The Board of Directors of PAK has instructed the Management to include the creation of the database in the procurement plan of PAK for 2024 and to initiate the procurement procedure for the digitization and creation of the database software for the PAK processes, where the part of the Direct Sales database will also be included/framed. This activity is ongoing.



CONCLUSIONS

04

## 4. Conclusions

Direct sales in the Privatization Agency of Kosovo were accompanied by weaknesses, either in the categorization of assets for direct sale, not parcelling the lands and not analysing the cost of possible benefits if the assets were returned to their previous state. The aforementioned weaknesses are indicators that the procedures of direct sales of assets under the management of the Privatization Agency of Kosovo were not carried out properly. The largest number of assets sold by the direct method belong to the category of existing constructions built without the permission of the SOE or PAK. All this could have been prevented if the respective Social Enterprises or the Privatization Agency of Kosovo had taken preventive actions in the process. With emphasis on the constructions carried out in the last 15 years, when these institutions were consolidated, this could be easily prevented. As for the selection of evaluators, even though there was no drawn-up procedure, the practice was the same for all cases, where this practice was later integrated into the regulations.

Not identifying potential cases for restoring the assets to their previous state or even not performing any analysis to assess the costs and benefits if the assets were returned to their previous state, has resulted in the Privatization Agency of Kosovo making all these sales with the direct method and consequently eliminate potential competition or even the possibility that the sale price will be higher.

The Privatization Agency of Kosovo was not efficient in handling requests for direct sales. The average length of time to process a sale request was 24 months (two years), while the longest delays were for 86 months in the period 2019-2021 and 68 months for the period 2022-2023. This inefficiency has influenced that 1,675 requests or 75% of those received so far remain unreviewed. At such a rate, where only 25% of the requests have been examined for five years, the Privatization Agency of Kosovo risks that it will not be able to handle the remaining requests for another 15 years.

Failure to properly classify assets for direct sale (four identified cases) has influenced the Privatization Agency of Kosovo to completely eliminate competition and not to go out with public tenders, where it could potentially get a better value for the assets sold. . This may also have happened due to the fact that the reference/recommendation reports for direct sales did not match the actual situation on the ground (described in thematic maps).

The possible real value of the sale by public tendering has also been made impossible by the 14 cases identified where the Privatization Agency of Kosovo had not parcelled out the land without construction. The cases when these assets (land) could be sold by the direct method are when the Agency had ensured that limited parcelling had been done (to the extent possible) to the existing constructions erected on the properties of Socially Owned Enterprises.

Failure to handle the requests for the sale of assets with the direct method for the category of businesses, apart from being contrary to the Regulation at the same time represents discrimination against the claimant and also prolongs the sale of these assets as well as the process of liquidation and completion of privatization.



Supporting the necessary actions (such as prioritization of requests and reporting) related to the sale of assets in a database that does not provide integrity and reliability (such as Excel format), where anyone who has access to it can also make unauthorized changes, risks that the Privatization Agency of Kosovo makes decisions based on incorrect information.



05

## 5. Recommendations

In order to ensure that the direct sales undertaken by the Privatization Agency of Kosovo are carried out in accordance with the regulatory requirements, within the optimal time and their categorization is correct, we recommend:

- To take continuous and preventive actions to ensure that no constructions are made without permission on the lands of Social Enterprises, thus preventing the categorization of assets for direct sale, in those cases that can be prevented;
- To identify cases where I can perform financial analysis to assess the cost and benefits of restoring assets to their prior state, which would assist in making informed decisions about whether the identified asset may be subject to direct sale or more profitable it would be public tendering;
- To Ensure that, as far as possible, completed requests are processed on a timely basis and expedite the review process as much as possible;
- To avoid discrimination of interested parties for the purchase of assets, that is, it handles all requests/cases without any distinction, whether they are requests from physical entities (households) or legal entities (businesses) in accordance with the requirements of the regulation;
- To strengthen internal controls, which ensure that only assets that meet all the criteria for direct sales are sold with this method, and that the reference/recommendation reports match the actual situation described in the thematic maps, as well as elaborate more clearly the reasoning why the asset must be subject to direct sale;
- To create a methodology for the parcelling of properties in cases where the purchase requests include larger areas of properties (land without construction); AND
- To use platforms that provide greater assurance (at no additional cost) about the integrity and reliability of data to ensure that information about direct sales is accurate and complete.



# Annex 1. Audit motive, criteria, questions, audit scope and methodology

## Audit motive

The handling of this audit topic is important, since the direct sales realized since 2006 (and are ongoing) belong to different natures (objects, land and movable assets) which are located in different locations and with different values, but have high public interest and have an impact on the social and economic environment.

Given the sensitivity of the assets of social enterprises, the importance of this process for the conclusion of the liquidation of enterprises as well as the environment in general, it is of interest to the public to make an assessment if the procedures related to direct sales have been carried out properly. The PAK continues to face requests for the purchase of assets that are or may be in use by third parties, and in this case their sale through the public tendering procedure is impossible. The lack of proper prioritization in the handling of requests and the marked difference between the requests handled compared to those accepted means that the closing of these sales is not done in an optimal time. Carrying out the process of the direct sale of assets (closing them in the optimal time) is closely related to the closing of the liquidation of SOEs, as the primary objectives of the PAK. So, any delay in the sale of assets results in a prolongation of the completion of the liquidation, and on top of that, additional costs for the operation of this process. In addition, not properly classifying assets for direct sale may cause these assets not to be submitted to public tendering and therefore not to the competition process.

In addition to the facts mentioned above, the requests for treatment of this topic were from the Assembly of Kosovo and despite the fact that NAO audits the annual financial statements of PAK every year, no special audit of direct sales was done.

## Audit questions

To answer the audit objective, we have posed the following audit questions and sub-questions:

1. To what extent has PAK been efficient in handling direct sales requests?
  - 1.1. What is the ratio of inquiries processed to those submitted for direct sales?
  - 1.2. Is there proper prioritization in handling direct sales requests?

2. Have the assets for direct sale been properly classified?
  - 2.1. Is there a clear procedure for classifying assets for direct sale?
  - 2.2. Is the classification of assets for direct sale properly documented?
3. Has the evaluators selection process been carried out in an orderly and proper manner?
  - 3.1. Are clear and measurable criteria used for the selection of evaluators?
  - 3.2. Is there a documented and transparent standard procedure for the selection of evaluators ?

### Audit criteria

The audit criteria with which we have been used to evaluate the objective defined for this audit are based on the Law on PAK, the Internal Regulations of PAK that determine the time limits for handling a request for direct sales, the criteria for categorization of assets for direct sale but also determining the selection of independent evaluators who determine the value of the asset. In addition to these, we have also relied on criteria from the field of data information security to address data maintenance.

To verify this, we put the summarized criteria:

- Social enterprises as well as the PAK must monitor and take actions to prevent constructions without their permission in properties with a social character <sup>29</sup>;
- PAK before the decision on direct sale must ascertain whether the previous state of an asset of the SOE can be restored or not. <sup>30</sup>.
- Requests must be handled in optimal time and according to the criteria predetermined by regulation. From the day of registration of the request, the PAK must start the examination procedure in the most optimal time (within one month) which, depending on the actions, the number of parties and other aspects, can last up to 3 (three) months <sup>31</sup>;
- Ratio between submitted and processed requests should be as low as possible. The handling of requests for direct sales must be based on the chronological order according to the date when the request was submitted <sup>32</sup>;
- Initiation of the procedure for the examination of a request has the right to propose any physical and legal entity that has an interest in the purchase of a certain asset. The PAK must handle requests/cases without any distinction, whether they are requests from physical entities (households) or legal entities (businesses). <sup>33</sup>

29 Reformulated by the Auditor (based on professional judgment referring to the PAK Law and Internal Regulations)

30 Reformulated by the Auditor (based on professional judgment referring to the reference/recommendation reports of the PAK)

31 Regulation for the sale of assets of social enterprises by direct negotiation, Article 29.1

32 Regulation for the sale of assets of social enterprises by direct negotiation, Article 28.1

33 Regulation for the sale of assets of social enterprises by direct negotiation, Article 1.2



- Procedures (criteria) defined for the classification of assets for sale must be clear, objective, and used correctly to distinguish between assets that should be classified for direct sale and those that should not be classified according to the regulation <sup>34</sup>;
- In cases where requests for direct sales include large areas of property, the PAK must do the parcelling, limiting (as far as possible) to the existing constructions erected on the properties of SOEs according to the criteria defined by the regulations of interior <sup>35</sup>;
- The PAK should have a standard and documented procedure for classifying assets for direct sale. Reference/recommendation reports for direct sale must clearly describe the rationale why an asset should be subject to direct sale including the exact reference to which specific asset category it belongs <sup>36</sup>;
- The internal regulations of the PAK for direct sales (the part that deals with the treatment of illegal constructions) provide that in the reference or recommending report for direct sales, it must be ascertained whether the previous state of an asset can or has difficulties to be restored<sup>37</sup>;
- The PAK must have expertise for real estate valuation from a licensed expert, in order to fairly evaluate the case. The engagement of property evaluators should be based on standard practice and documented through an objective, transparent and meritorious process. This process should be inclusive and not limited to a particular category of evaluators; <sup>38</sup>. The terms of engagement (statement of possible conflict of interest) and the basis on which the evaluation will be performed must be precisely defined in writing before the evaluation is reported <sup>39</sup>; and
- Data maintained by the Direct Sale Division must have integrity and be reliable. Data/information must comply with the criteria defined by COBIT for data integrity (accuracy and completeness) and reliability (providing the right information upon request)<sup>40</sup>.

## Audit scope

The value of assets sold for the period 2006-2023 is over 41 million Euros, with a total of 361 different assets sold through direct sales.

This method is featured by the sale of the “Sharrcem” factory in 2010, which constitutes about 74% of the total value of the direct sales of the PAK. A separate audit was carried out for this sale <sup>41</sup>and therefore this sale was not included in the sample.

34 Reformulated by the Auditor (based on professional judgment referring to the internal regulations of the PAK)

35 Reformulated by the Auditor (based on professional judgment)

36 Reformulated by the Auditor (based on professional judgment referring to the internal regulations of the PAK)

37 Referring to the internal regulations of the PAK for direct sales

38 Reformulated by the Auditor (based on professional judgment, also referring to the regulation for the sale of assets of social enterprises by direct negotiation, article 19.2)

39 European Assessment Standards (2020, EVS 3, EVS 4)

40 <https://www.isaca.org/resources/isaca-journal/past-issues/2011/data-integrity-information-security-s-poor-relation>

41 Audit on the Annual Financial Statements of the Privatization Fund for the year ended December 31, 2010

In order to have a more representative sample, we have selected 100 sales. For comparison purposes, we also received 10 samples from the requests addressed to the Sales Division, which were rejected on the grounds that the relevant assets do not meet the criteria to be sold by the direct sales method. The selected sample of 100 direct sales accounts for 31% of sales for the period 2019-2021 and 28% of direct sales in general (for the period 2006-2023). In addition to these, in order to see if in recent years there were new developments or improvements in the processes of direct sales in PAK, we also received 18 samples of sales completed in the period 2022-2023.

The selection of the samples was made including all the regions covered by the PAK, and the distribution of the samples was made proportionally for the selected years <sup>42</sup>. Sales in the years before 2019 were low in number and value, and therefore not included in the sample. The sample includes individuals (households) and legal entities (businesses) that had purchased assets through the direct sales method.

*Table 3 . Type of assets sold through direct sales*

Asset type	Sale value	No. of assets
Factory	30,100,000	1
Agricultural land	6,039,468	272
Construction land	4,566,477	65
Commercial land	341,500	2
Premises	176,814	5
Land	105,154	1
Premises and land	66,000	2
Building	51,000	1
Administrative building	21,190	2
Industrial land	7,000	1
Movable assets	6,347	7
house	2,182	1
Kiosks	600	1
Total	41,483,732	361

<sup>42</sup> The ratio/percentage of the number of sales for the year with the total number of sales for the period 2019-2023

## Audit Methodology

The audit methodology includes the examination of documentation as part of the file for direct sales of assets with a focus on evaluating the number of requests submitted versus those processed, the criteria for classification as specific assets and the method of selection of evaluators for the assessment of assets that go through direct sales.

- Interviewing the officials responsible for the direct sales of assets within the PAK regarding the prioritization and treatment of requests, the criteria used for the classification of assets as well as the method of selecting evaluators for asset evaluation;
- Analysing various reports, including those of the internal audit related to the process of direct sales of assets;
- Analysis and comparison of the databases for submitted and processed requests;
- Analysing of processed requests if they were processed in chronological order and in optimal time;
- Analysing the reference/recommendation reports of assets for direct sale, are they in accordance with the criteria defined in the regulations for direct sale;
- Analysing the PAK regulations to ascertain whether there are clear and standard procedures for the classification of assets for direct sale;
- Analysing and comparing the list of evaluators licensed by the Ministry of Finance with the list of evaluators selected by PAK;
- Analysing the basis of the criteria according to which the selection of licensed asset evaluators is made; and
- Analysing the practices used for selecting evaluators and comparing whether the same practices were used for all selection of evaluators.

## Description of the system and relevant actors

The direct sale process aims to undertake certain actions, according to the internal regulations for the sale of certain assets of social enterprises with the aim of reaching an eventual agreement for the sale and purchase of an asset. For this purpose, the PAK has established the Direct Sales Division, which is responsible for preliminarily ascertaining whether the request or asset is classified as an asset with a specific character and there is a basis for the initiation and implementation of the direct sales procedure. The duties and responsibilities of this Division are set out in the Regulation for the internal reorganization of the PAK, as long as the organizational structure is as follows:

- Coordinator of the Division;
- Senior official for reviewing requests;
- Senior official for cadastral matters;
- Senior official for concluding contracts;
- Administrative officer; and
- Head of the unit (who reports to the Managing Director of the PAK).

Sales procedures start when a physical/legal entity submits a request for purchase, however, regardless of the request, the right to implement this procedure is also held by the PAK itself. Purchase requests are submitted to the Regional Offices (RO) and the Central Office (HQ) of the PAK. The initiated request is delegated to a request review officer who prepares the reference report. This report is evaluated by the Direct Sales Division, which concludes whether the asset requested for direct purchase meets the requirements of the regulation. If so, then through the Managing Director it is presented to the Board in the form of a comprehensive report, which also contains specific recommendations for each specific case. After the approval of the reference/recommendation report, namely the issuance of the decision by the Board to start the direct sale process, the complete documents of the case are then examined by the Sales Division, which ensures the correct implementation of the asset sale procedure.

After reviewing the documentation, the Sales Division first proposes to the Managing Director the engagement of experts (certified property evaluators) to determine the value of the asset. After the engagement of the experts, the Division takes the next step and communicates with the party regarding the assessment of the asset and the request for confirmation as to whether or not it accepts the assessment of the initial expertise. In cases where the parties accept the assessment, then the final report is processed for approval by the Board. Whereas, in the event that the PAK or the applicant disagrees with the assessment of the initial expertise, each of the parties has the right to request the completion of the initial expertise through super-expertise.

Expenditures for the engagement of first-rate experts, are borne by the applicant. Meanwhile, the expenses in case of engagement of super expertise are borne by its proposer. The engagement of experts (evaluators) in both cases is done from the list of experts licensed by the relevant ministry.

At the end of this process, the officials of the Direct Sale Division compile the final report for the approval of the sale of the asset, which is sent through the Managing Director to the Board, for final decision. The Direct Sale Division implements the procedures for concluding contracts, including drafting, legal review and signature procedures. The final version of the contract is sent to the Managing Director for signature by means of a follow-up act (internal memorandum), which is signed by the Head of the Sales Division and the Senior Contract Closing Officer.

Under the circumstances when the PAK Board rejects the initiation of the direct sale, or when such a decision is taken according to the proposal of the Management, the subject and the documents of the subject (in the electronic and physical version), by means of the follow-up act, are sent to the competence of the Department Legal or Regional Offices (so if it does not meet the condition of direct sale and if there are no legal disputes, the asset is sold through other alternative forms - public tender).

## Annex 2: Extract from PAK regulations on the assets' categorisation

### Potential categories of assets for direct sales

- a. Constructions permitted on the property of the SOE by the management bodies of the SOE or of the state bodies at the central and local level, such as objects dedicated to family residence or business, the relocation of which is considered impossible or carries potential economic damages for the real value of the asset or its depreciation;
- b. Existing buildings built on any of the SOE's cadastral plot or part of it, without prior permission or approval by the SOE or the Agency, the restoring to the previous state of which is considered impossible or carries potential economic damage to the real value of the asset or its depreciation;
- c. The cadastral plot of the SOE or the defined part of the parent cadastral plot owned by a SOE which appears - on site - as an integral part of private property, the separation of which is considered impossible or carries potential economic damages for the real value of the asset or its depreciation;
- d. When the cadastral plot is located within a privately owned complex with no exit to the road, the transfer of which to the third party through public tendering is deemed impossible or carries potential economic damages for the real value of the asset or its depreciation;
- e. Public tendering, namely the offer addressed to third parties has failed three times because of no bidder, whilst the purpose of property transformation constitutes a potential cause for the degradation of the tendering institute, for asset devaluation, unnecessary delays in the property transformation process which are considered as obstacles in the creation of liquid funds for meeting the employees' demands and other credit demands. In such cases, the Agency shall select as a party eventually interested in the negotiation process, the natural or legal person who first - by timing - appears as a potential buyer. If the eventual negotiation fails with the first applicant, the offer to negotiate is made to any applicant who submits a request;
- f. When the claims or the negotiation procedure has been initiated by any entity [natural or legal] related to any SOE, asset or part of it, located outside the territory of the Republic of Kosovo, whilst the enterprise, its assets or units: i) cannot undergo the property transformation process; ii) the transformation procedure [privatization and/or liquidation] faces objective or unavoidable setbacks or; iii) does not yield incomes to create liquid funds of the enterprise.
- g. Cases of co-ownership between the SOE and the parties that are subject to the Regulations on direct sales;

h. Cases, applications or other eventual assets that are not specified or included in any of the categories mentioned in the previous paragraphs of this article, whilst in terms of their characteristics and properties, according to the reasoned proposal of the Direct Negotiation Unit through the Managing Director or the proposal of the Managing Director and the approval of the Board of Directors of the Agency, are considered assets or cases of a specific character and require a solution through the negotiation procedure.

## Annex 3 Identified cases for parcelling

The following table shows the cases that we have found during the audit which could have been subject to parcelling

*Table 4. Lands of SOEs where parcelling was not applied*

Region	Socially Owned Enterprise	Asset name	Surface	Cadastral Zone
Gjilan	NSH JO-METALET "Kaolin"	Parcel 1615-1	1,658	Kamenicë
Peja	KB Gurrakoci, Istog	Parcel 314-4	3,244	GJURAKOC
Mitrovica	NSH "Produkti" Skenderaj	Parcel 892-1	6,315	Klinë e Epërme
Prishtina	NSH KB Flora	Parcel 222-2; 218-5; 217-1; 212-1	2,820	PAKASHTICË E EPËRME
Mitrovica	NSH Produkti	Parcel 613-4	4,078	POLAC I RI
Peja	NSH " Bec" Gjakovë	Parcel 775/12	1,998	Bec
Mitrovica	NSH Produkti	Parcel 613-5	4,691	POLAC I RI
Mitrovica	NSH "Produkti" Skenderaj	Parcel 892-2	3,434	Klinë e Epërme
Peja	KB Malishgani Klinë	Parcel: 769/5; 748/11 and 309/6	3,765	Klinafc
Prizren	NSH PROGRES EKSPORT "Lavertaria"	Parcel 064/5	7,174	Dushanovë
Prishtina	NSH KB Flora	Parcel 221-1; 222-3; 220-1; 218-6; 217-2; 212-2	2,958	PAKASHTICË E EPËRME
Mitrovica	NSH "Produkti" Skenderaj	Parcel 892-3	1,626	Klinë e Epërme
Peja	KB Gurrakoci, Istog	Parcel 314-3 and 314-6	4,214	GJURAKOC
Peja	KB Gurrakoci, Istog	Parcel 314-5	2,995	Zallq



## Annex 4: Letter of Confirmation

REPUBLIKA E KOSOVËS - REPUBLIKA KOSOVA - REPUBLIC OF KOSOVO  
AGJENCIA KOSOVARE E PRIVATIZIMIT - KOSOVSKA AGENCIJA ZA PRIVATIZACIJU  
PRIVATISATION AGENCY OF KOSOVO

Nr. 11  
Br. 2936  
No. 1  
Nr. i Fq. 1  
Br. Str. 1  
No. Pg. 1

Data : 24. 07. 2024  
Datum :  
Date :  
Prishtinë / Pristina

AGJENCIA KOSOVARE E PRIVATIZIMIT  
KOSOVSKA AGENCIJA ZA PRIVATIZACIJU  
PRIVATISATION AGENCY OF KOSOVO

LETËR E KONFIRMIMIT

REPUBLIKA E KOSOVËS - REPUBLIKA KOSOVA - REPUBLIC OF KOSOVO  
ZYRA KOMBËTARE E AUDITIMIT  
NACIONALNA KANCELARIJA REVIZIJE / NATIONAL AUDIT OFFICE

DATA PREREDHEM / SUBMITTED: 24-07-2024

Njësia Org. Org. Jedin. Org. Unit	Shif. Klasif. Klasif. Kod Class. Code	Nr. Prot. Br. Prot. Prot. No.	Nr. i faqeve Br. Stranica No. Pages
06	47	1225	1

Për pajtueshmërinë me të gjeturat e Auditorit të Përgjithshëm për raportin e auditimit të teknologjisë së informacionit “Vlerësimi i Procedurave të Shitjes Direkte të Aseteve nën menaxhimin e Agjencisë Kosovare të Privatizimit”, dhe për zbatimin e rekomandimeve.

Për: Zyrën Kombëtare të Auditimit

Vendi dhe data: Prishtinë, 24 korrik 2024

I nderuar,


Përmes kësaj shkrese, konfirmoj se:

- kam pranuar draft raportin e Zyrës Kombëtare të Auditimit “Vlerësimi i Procedurave të Shitjes Direkte të Aseteve nën menaxhimin e Agjencisë Kosovare të Privatizimit” (në tekstin e mëtejshëm “Raporti”);
- pajtohem me të gjeturat dhe rekomandimet dhe nuk kam ndonjë koment për përmbajtjen e Raportit; si dhe
- brenda 30 ditëve nga pranimi i Raportit final, do t’ju dorëzoj një plan të veprimit për implementimin e rekomandimeve, i cili do të përfshijë afatet kohore dhe stafin përgjegjës për implementimin e tyre.

Me respekt,

Mentor Hyseni

Kryesues i Bordit të Drejtorëve  
Agjencia Kosovare e Privatizimit

A landscape photograph showing a vast field of green corn plants in the foreground, transitioning into a golden-yellow field in the middle ground. The horizon is flat, with a few distant buildings and utility poles visible under a clear, bright blue sky.

National Audit Office of Kosovo  
Arbëria District,  
St. Ahmet Krasniqi, 210  
10000 Pristina  
Republic of Kosovo