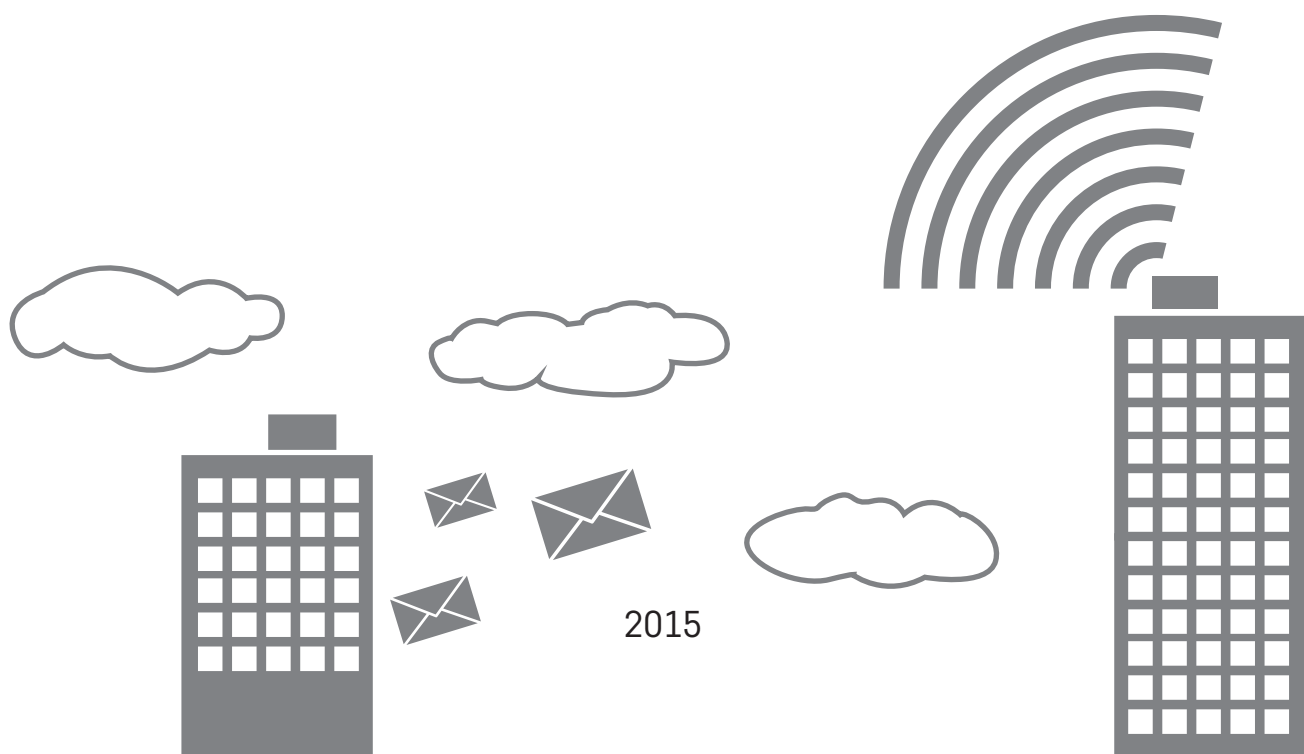


PTK: FROM DAWN TILL DUSK





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2015

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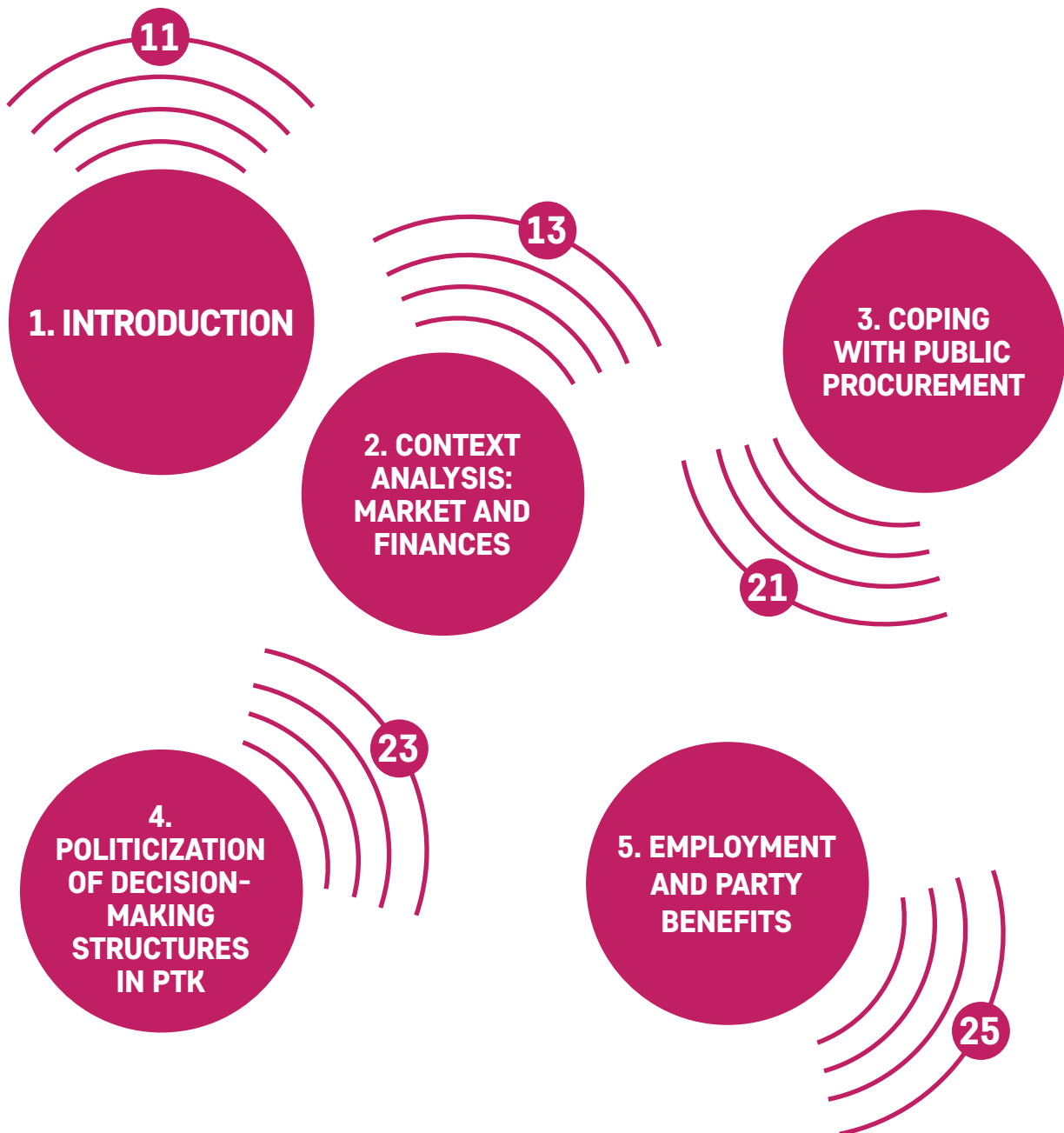
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ACRONYMS

AAK	→ Alliance for the Future of Kosova
AKR	→ New Kosova Alliance
ARKEP (RAEPC)	→ Regulatory Authority of Electronic and Postal Communications
ART	→ Telecommunications Regulatory Authority
BoD	→ Board of Directors
EULEX	→ European Union Rule of Law Mission
ICC	→ International Court of Arbitration
GoK	→ Government of Kosova
IPKO	→ Group Telekom Slovenije
CEC	→ Central Election Commission
GPC	→ Governmental Privatization Committee
LDK	→ Democratic League of Kosova
LPOE	→ Law on Publicly Owned Enterprises
MVNO	→ Mobile Virtual Network Operator
POE	→ Publicly Owned Enterprises
SOE	→ Socially Owned Enterprises
PMUPE	→ Policy and Monitoring Unit of Public Enterprises
OTT	→ Over the Top Services
PKD	→ Kosovo Democratic Party
PTK	→ Post and Telecommunication of Kosovo
SRSG	→ Special Representative of Secretary General
UNMIK	→ United Nation Mission in Kosovo
OAG	→ Office of Auditor General
KBRA	→ Kosovo Business Registration Agency

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Post and Telecommunication of Kosovo

2008

Following the declaration of independence, in 2008 and based on Article 65 (1) of the Constitution of the Republic of Kosovo, the Government of the Republic of Kosovo becomes the new shareholder with 100% of shares in Post and Telecommunications of Kosovo.

2005

In 2005, KTA took a decision to transform PTK enterprise into a Joint Stock Group, named Post and Telecommunications of Kosovo JSC.

2005

UNMIK regulation 2005/18 has given to the Kosovo Trust Agency (KTA) the authority to transform public enterprises into corporations.



2012

Since August 2012, Post of Kosova J.S.C. functions as a separate business entity.



Because of the failed attempts to privatize 75% of PTK's shares, GoK continues to hold 100% of its shares.

1999

Post and Telecommunications of Kosovo (PTK) was established in 1959.



PTK HAS TWO BUSINESS UNITS:

These units include: mobile and landline telephony; internet; television and managed services of information technology for business clients.

- Vala – the Mobile Operator
- Telecom of Kosovo



2011

Based on the Strategy of Privatization of PTK, at the end of 2011, Government of the Republic of Kosovo took a decision to separate the Post of Kosovo from the PTK.



2010



In 2010, Kosovo Government took a decision to halt all future investments in PTK, due to the privatization process, a move which substantially contributed in decreasing the overall revenues of PTK.

2013

Vala – PTK's Mobile Operator, is the biggest generator of company's income with 88% of income for 2013.

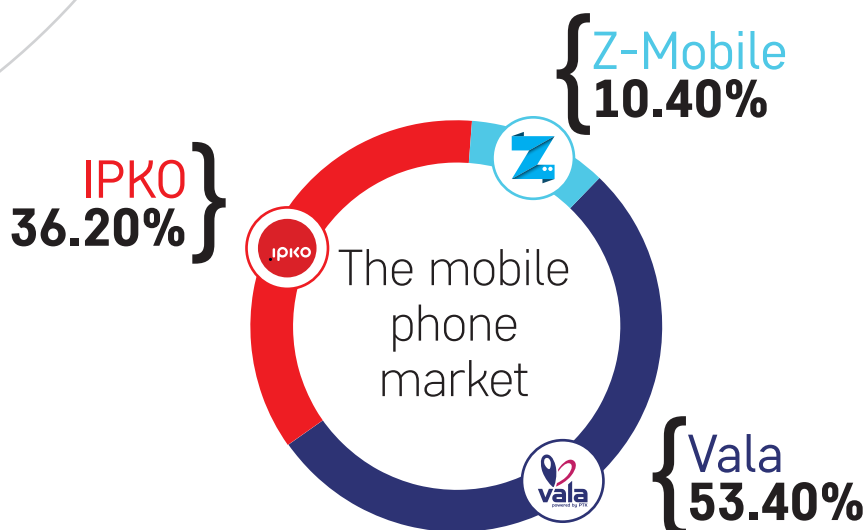
2014



By the end of 2014, PTK began offering broadband services also known as 3G technologies, whereas in April, 2015, it launched its 4G services as well.

2010-2013

During the years 2010-2013, there were two failed attempts to privatize 75% of PTK shares.



As of today, PTK holds up to 53.40% of mobile users market share and up to 58.62% of mobile revenues market shares. PTK's main competitor IPKO, holds up to 36.20% of mobile users market share and up to 34.84% of mobile revenues market shares. Other two Mobile Virtual Network Operators - MVNO, (Z-Mobile and D3) hold up to 10.40% in mobile revenues market shares and up to 6.5% in mobile revenues market shares.

METHODOLOGY

This research paper has been compiled based on primary and secondary sources, employing also quantitative and qualitative data analysis. As regards primary sources, core documents and laws that regulate the field of telecommunications, in particular those pertaining to PTK, have been analyzed. Moreover, the research team has utilized organization's vast internal archive of in-depth interviews with major stakeholders in the telecommunication sector, but it has also conducted several of them for the specific purpose of this paper.

Pertaining to secondary sources, this research is based on the vast amount of data obtained from reports of relevant institutions, the media and various organizations and has its starting point in 2007.

The paper takes into account developments in the telecommunication sector since the entrance in the market of the second mobile telephone company, "IPKO", in 2008. Its major focus is to evaluate to what extent have political and telecom industry intrusion, among other developments, contributed to the consecutive downfall of PTK's value.

Considering that the largest share of PTK's revenues is generated from the mobile telephony operator 'Vala', this research will focus and analyze mainly the trends and circumstances which have led to the fall of revenues and the value of this operator. Nevertheless, aspects of landline phone services have been included in this research, as well as challenges concerning the increase of internet penetration of PTK.

In general, the paper is separated into seven constituent parts. The first part analyses market and revenues of mobile telephony companies with a special focus on PTK. The data in this regard have a point of reference the year 2007, considering the fact that basic information of market and revenues regarding telecommunication sector is available only from that year. This part also contains an in-depth analysis and research on the major developments that have influenced the telecommunication sector in overall and the functioning of PTK in particular. The second and third part focus on political interferences and the consequences of partisan employments, the lack of accountability due to politicization of managing structures. The fourth part analyses the ravaging consequences of cessation of capital

investments in PTK for more than three years. The fifth part deals with PTK's contract with 'Z-Mobile' and its consequences. In the sixth part the two failed attempts at the privatization of PTK are looked at, a process that had started in 2009 and ended in 2013. The focus in this respect is to provide a comprehensive narrative regarding the decisions and circumstances that led to the failure to privatize PTK and the consequences that this process has had for PTK. The last part provides a short description of PTK's Business Plan 2015-2019, focusing in particular on the steps that the company intends to follow in order to stop the current linear trend of its downfall, but also stresses recent confrontations between the government and PTK's management.

1. INTRODUCTION

This research paper aims at providing a detailed examination on the main developments and causes behind the consecutive and seemingly inevitable downfall of once the most profitable public company – Post and Telecommunication of Kosovo – PTK. Indeed, the central feature of this paper is to evaluate the extent to which political and industrial interference, misuse and mismanagement have respectively contributed to dwindle the revenues and overall value of the enterprise. The paper constitutes a comprehensive analytical framework that contemplates upon the major decision-making processes that have affected the performance of the company, its integrity and profitability.

The paper seeks to examine the ability of the company and of actors that took decisions on its behalf, to cope with the competition in telecommunication market since 2007 when the second mobile operator, IPKO, started operating.

PTK has constantly registered decreases of revenues, including drastic fall of the overall value of the company right from the very commencement of the second mobile operator. PTK is a company whose main focus is on providing telephone voice services, from where it has generated its largest profits. In this regard, changes in the telecommunications sector such as the broadband technologies which offer free of charge applications for different services, has contributed to the fall of PTK revenues. However, as will be exposed in this research report, the government, as the main shareholder, but also political parties have demonstrated significant intrusion in the overall work of PTK which in most cases negatively affected the company.

The industrial influence also has played a major role on the sustainability of the company, which came mainly as result of poor governance of telecommunications market by the decision-making and regulatory bodies. Corruption, lack of professionalism, and disrespect for good practices of OECD corporate governance, were just few of many outcomes of the involvement of private interests of political and industrial actors in telecommunications sector.

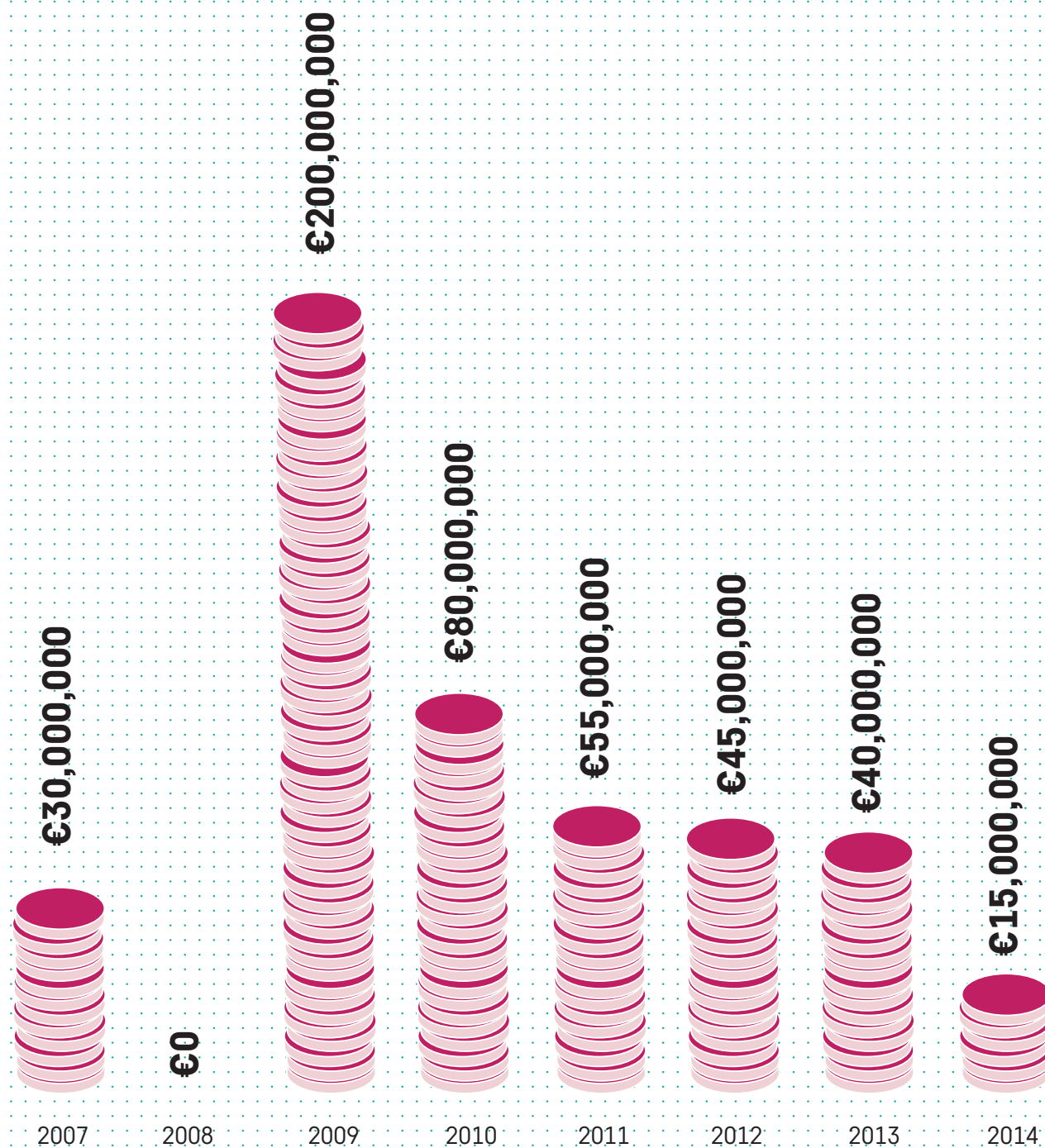
PTK was hit harshly by the government's decision to cease investments in key capital investments in the company, a decision which came as a result of a long, wearisome and, in the final instance, failed process of privatization. Since 2010, when this decision was taken, capital investments

in PTK have been next to zero, until they were resumed in the end of 2014.

Likewise, one of the prime examples of using PTK for party/ electoral purposes and of the huge damage done to the company is the employment of hundreds of individuals without criteria and beyond any strategic planning. In this regard, the collecting of PTK's dividend of €465 million by the government without any previous study or control with the sole purpose of filling in budgetary gaps, has contributed towards draining of company's revenues, has obstructed its development and has made PTK unable to cope with the harsh competition.

The findings of the research confirm that the government along with PTK's management, including the monitoring and regulatory bodies, have failed to provide a necessary level of transparency in many of the projects and decisions that have affected the company.

FIG. 01 THE AMOUNT OF DIVIDENDS PTK PROVIDED FOR THE STATE BUDGET (2007 - 2014)



2. CONTEXT ANALYSIS: MARKET AND FINANCES

It is now history when Kosovars used to brag over their most profitable public company, PTK. Once, PTK used to epitomize the achievements and the strive for progress of a nation that had been struggling to gain its statehood. Compared to other local public companies, PTK has been the most profitable one, mainly due to the lucrative nature of the telecommunication industry. As of today, PTK has remunerated approximately 460 million of EUR as dividends to the state budget since 2007.¹ While the company was performing well financially and provided large sums of cash to the state budget the control by overseeing institutional mechanisms and the public was lacking. This was due mainly because until 2007, PTK maintained a complete market monopoly on mobile and landline telephony. In this regard, lack of competition had created an transient comfort for the company.

PTK, just like other public institutions, has faced harsh and overall political intrusion starting from issues of strategic management down to its daily management. For more than three years, the company was challenged by a total lack of capital investments which has made it impossible for PTK to cope with the competition, it has gone through two very difficult and ultimately failed phases of privatization due to lack of planning and proper managing of the entire process. In a number of cases, PTK was subdued to the interests of private telecommunications businesses harming it in favor of the latter.

As a consequence of how PTK has been treated in general by the government, the company finds itself today in a dire situation as regards its sustainability as well as financially. According to the data provided by the Regulatory Authority of Electronic and Postal Communication - RAEPK, one can clearly distinguish a linear decrease of both, users of PTK's mobile operator as well as of revenues generated by this most profitable unit of the company.

Back in 2007, a time when IPKO had just entered in Kosovo market, PTK held 89.10% of users market share, while IPKO had only 10.90%. The RAEPK data on the last quarter for 2014 show that the situation has changed deeply where PTK holds only 53.40%, and IPKO has reached its users market share up to 36.20%. The virtual mobile operator, 'Z-mobile', that uses PTK's infrastructure and its GSM frequencies, has managed to get hold of 10.40% mobile users market.²

Regarding revenues, the situation is comparatively the same. While PTK back in 2007 would generate revenues up to 97.69% of the overall mobile market share, something to be expected in conditions of monopoly, today it generates only 58.62%. PTK's two main rivals have witnessed constant increase in revenues as per percentages of market shares. Today, IPKO has managed to seize up to 34.84% of the revenues in the market shares, whereas Z-Mobile, holds more than 6 %.

For as long as until 2007 PTK maintained a full monopoly on the market, its revenues marked a constant increase including the operational profit which had reached as far as 148%.³ In 2008 PTK's revenues shrunk by 21 million EUR, or 11.49%. This shrinkage of revenues within a year was unavoidable considering the fact that this was the first year that the second mobile operator, IPKO, had entered the market. However, this decline is due also to RAEPK's decision on preferential call tariffs which favoured the second mobile operator.⁴ RAEPK's decision provided for far cheaper calls from 'IPKO' to 'Vala', thus creating very favourable conditions for the new operator to run and expand its market share. This decision, which was part of governing policies to liberalize the mobile telephony market where PTK held a full monopoly, caused a drastic decrease in prices of mobile call tariffs while also modernizing services in this sector in overall.

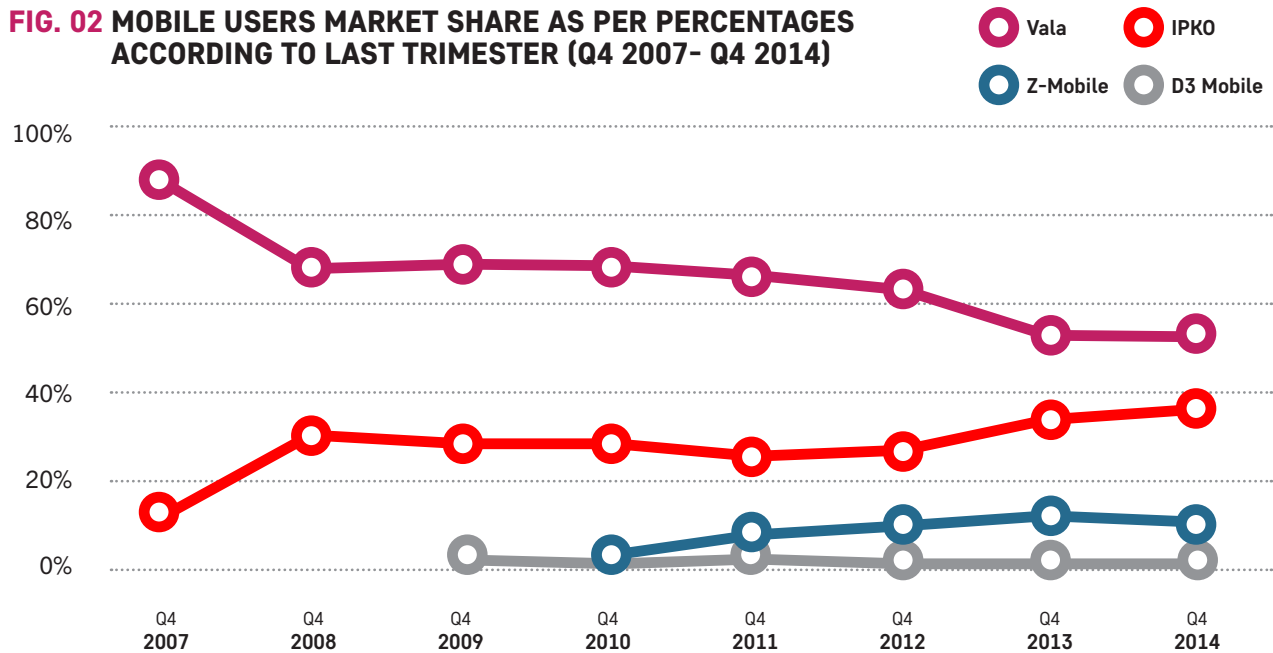
² See quarterly reports of Regulatory Authority of Electronic and Postal Communication - RAEPK <http://www.arkep-rks.org/?cid=1,162>

³ Riinvest Institute: "Dilemmas and Backwards in a Fast Track Privatization of POEs in Kosovo", October 2009; page29.

⁴ In 2007, RAEPK took a decision to offer preferential tariffs with regard to call terminations between the two mobile operators (IPKO and PTK) justifying this decision as necessary to support the development and liberalization of mobile telephony market. See RAEPK's decision: <http://www.arkep-rks.org/repository/docs/vendim-ipko-ptk.pdf>

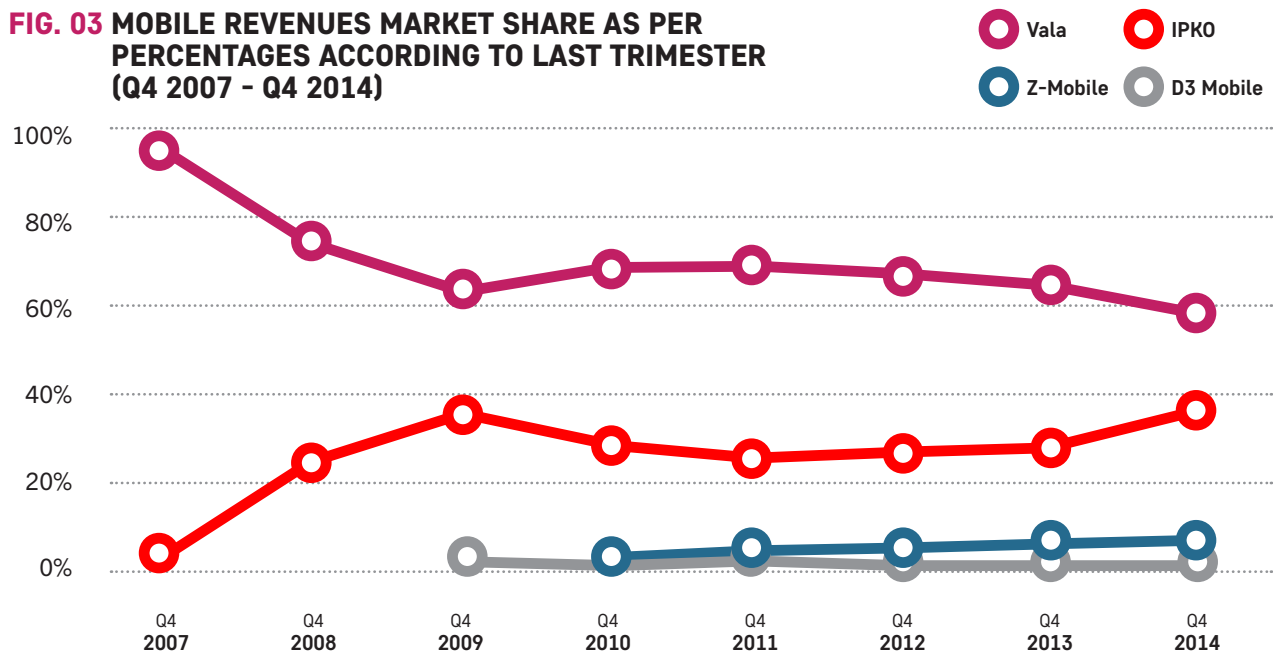
¹ The overall amount of the dividend paid to Kosovo budget has been obtained and calculated from PTK's audit reports which cover the period 2007 -2013. For a more detailed information, see here: <http://www.ptkonline.com/ptk/raport/> Additionally, in the total amount, the latest decision of the Kosovo Government is included, which ordered PTK to provide an additional 10 million of EUR for 2014, plus an extra 5 million EUR paid in the end of 2014. [http://www.kryeministri-ks.net/repository/docs/Vendimiet_e_Mbledhjes_se_196-te_te_Qeverise_se_Republikes_se_Kosoves_2014\(1\).pdf](http://www.kryeministri-ks.net/repository/docs/Vendimiet_e_Mbledhjes_se_196-te_te_Qeverise_se_Republikes_se_Kosoves_2014(1).pdf)

FIG. 02 MOBILE USERS MARKET SHARE AS PER PERCENTAGES ACCORDING TO LAST TRIMESTER (Q4 2007- Q4 2014)



Source: Regulatory Authority of Electronic and Postal Communication - RAEPC

FIG. 03 MOBILE REVENUES MARKET SHARE AS PER PERCENTAGES ACCORDING TO LAST TRIMESTER (Q4 2007 - Q4 2014)



Source: Regulatory Authority of Electronic and Postal Communication-RAEPC

Ever since 2007, when PTK's revenues reached a peak of approximately 183 million of EUR, its annual gross income would linearly plunge so that in 2014 it would amount only up to 99.5 million of EUR in revenues.

PTK's fall in revenues and in mobile and landline telephony users, is partly due to significant technological developments and advancement and an increase in use of modern devices and smart phones. Concretely, this decrease is a consequence of applications offered by 'content' providers and of so-called 'Over the Top Services' (OTT), which enable mobile users the use of internet-based applications for purposes of communication.

As can be seen in Table 1, the trend of revenue fall in PTK's mobile and landline telephony, can also be seen in the majority of EU and regional countries, according to DG Connect official data. In the EU countries the rates of revenue fall are up to - 7.2% regarding landline services and up to - 2.7% in mobile services, whereas in the countries of the region these rates are even higher. The following table represents the revenues from electronic communications services in the countries of EU published in the latest European Commission report '*Digital Agenda Scoreboard 2013*'.⁵ The same trend of revenue fall from mobile telephony can be observed in other local mobile telephony operators too and is comparable with PTK's trend.

In the figures below are represented total revenues of telecom sector in the years 2007-2014, where, as it can be seen, since 2008 total revenues from this sector in Europe are down by 13% in nominal terms.

The latest data from PTK's Business Plan shows that the base of fixed internet users has grown by 1% in Q1 2014, compared to Q4 2013, whereas in Q2 2014 this number has grown by 7%. On the other hand, the number of mobile internet users in Q1 2014 has grown by 41%, as compared to Q4 2013; and in Q2 this growth is by 18% compared to Q1 2014.⁶

This increasing trend of internet users proves that, as can be evidenced by global trends, that it is inevitable for PTK to transform structurally. This means that it has to transform from a company focused exclusively in providing voice

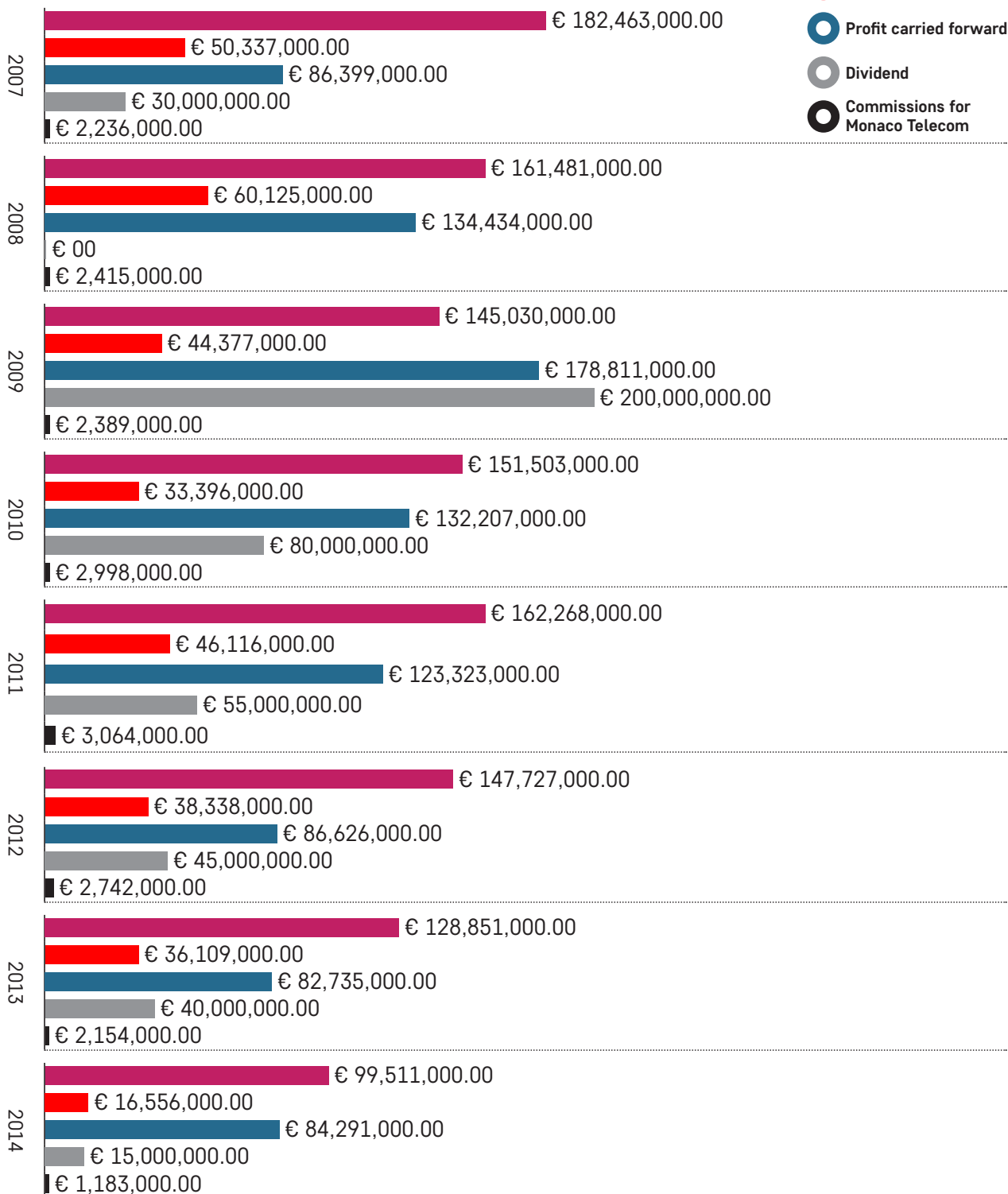
telephony services to one that provides services of super fast exchange of data.

⁵ European Commission; "Digital Agenda Scoreboard 2013"; June 2013. <https://ec.europa.eu/digital-agenda/sites/digital-agenda/files/DAE%20SCOREBOARD%202013%20-%20SWD%202013%20217%20FINAL.pdf>

⁶ Plan i biznesit i PTK-së, (2015-2019). http://mzhe.rks-gov.net/npmnp/repository/docs/Plani_i_Biznesit_2015__PTK_sha.pdf

**FIG. 04 COMPARATIVE DATA FROM PTK'S FINANCIAL STATEMENTS
(2007-2014)**

- Income
- Net Profit for the Year
- Profit carried forward
- Dividend
- Commissions for Monaco Telecom



Source: PTK's annual financial reports (2007-2014)

TABLE 1 MAIN INDICATORS OF ELECTRONIC COMMUNICATIONS MARKET 2011-2014

No.	Description	2014	2013	2012	2011	Difference compared to year 2013 (%)	Difference compared to year 2012 (%)	Difference compared to year 2011 (%)
1	Number of the fixed telephony lines in year-ends.	315,145	315,952	315,952	315,952	▲ 5.53	▲ 5.53	▲ 5.53
1.1.	<i>Number of fixed telephony users</i>	64,297	78,639	81,603	86,014	▼ -22.3	▼ -26.21	▼ -33.77
1.2	<i>Permeation of fixed telephony (%)</i>	3.54%	4.33%	4.69%	4.96%	▼ -22.31	▼ -32.48	▼ -40.11
2	Number of mobile telephony users	1,731,291	1,643,429	1,663,844	1,478,944	▲ 5.07	▲ 3.89	▲ 14.57
2.1	<i>Permeation of mobile telephony (%)</i>	95.36%	90.52%	95.63%	85.30%	▲ 5.07	▼ -0.28	▲ 10.54
3	Number of internet user in year-end	190,802	166,400	151,694	143,243	▲ 12.78	▲ 20.49	▲ 24.92
3.1	<i>Permeation of internet services (%)</i>	10.97%	9.18%	8.70%	7.92%	▲ 16.31	▲ 20.69	▲ 24.92
4	Revenues (€)	182,106,730	206,919,730	226,477,813	239,518,037	▼ -13.62	▼ -24.36	▼ -31.52
4.1	<i>Fixed Telephony</i>	16,283,180	15,777,288	17,377,000	20,039,454	▲ 3.1	▼ -6.71	▼ -23.06
4.2	<i>Mobile Telephony</i>	141,515,795	169,488,400	188,206,585	199,243,326	▼ -19.76	▼ -32.99	▼ -40.79
4.3	<i>Leased lines</i>	728,382	403,712	1,138,573	1,628,849	▲ 44.57	▼ -56.31	▼ -123.6
4.4	<i>Internet Access</i>	23,579,370	21,250,329	19,755,654	18,606,407	▲ 9.87	▲ 16.21	▲ 21.09
5	Investments (€)	53,267,460	35,378,366	35,935,977	38,240,000	▲ 33.58	▲ 32.53	▲ 28.11

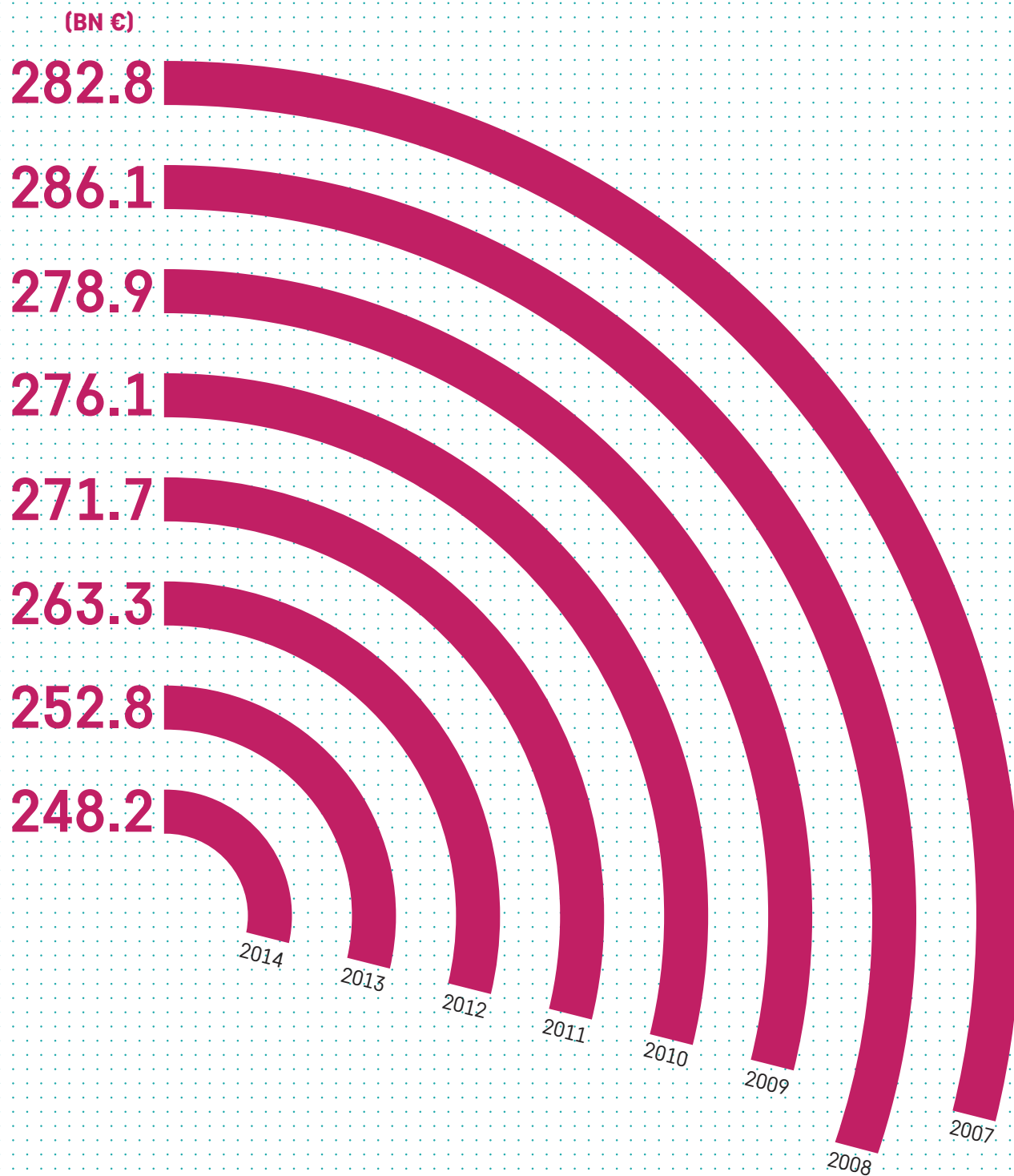
Source: Regulatory Authority of Electronic and Postal Communications - RAEPC

TABLE 02 TELECOM SERVICES REVENUES IN EU COUNTRIES

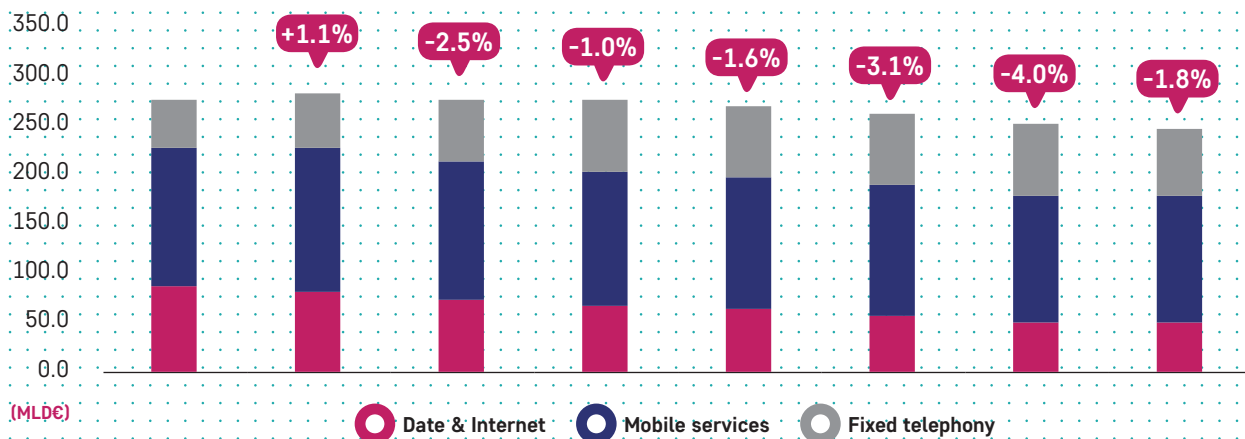
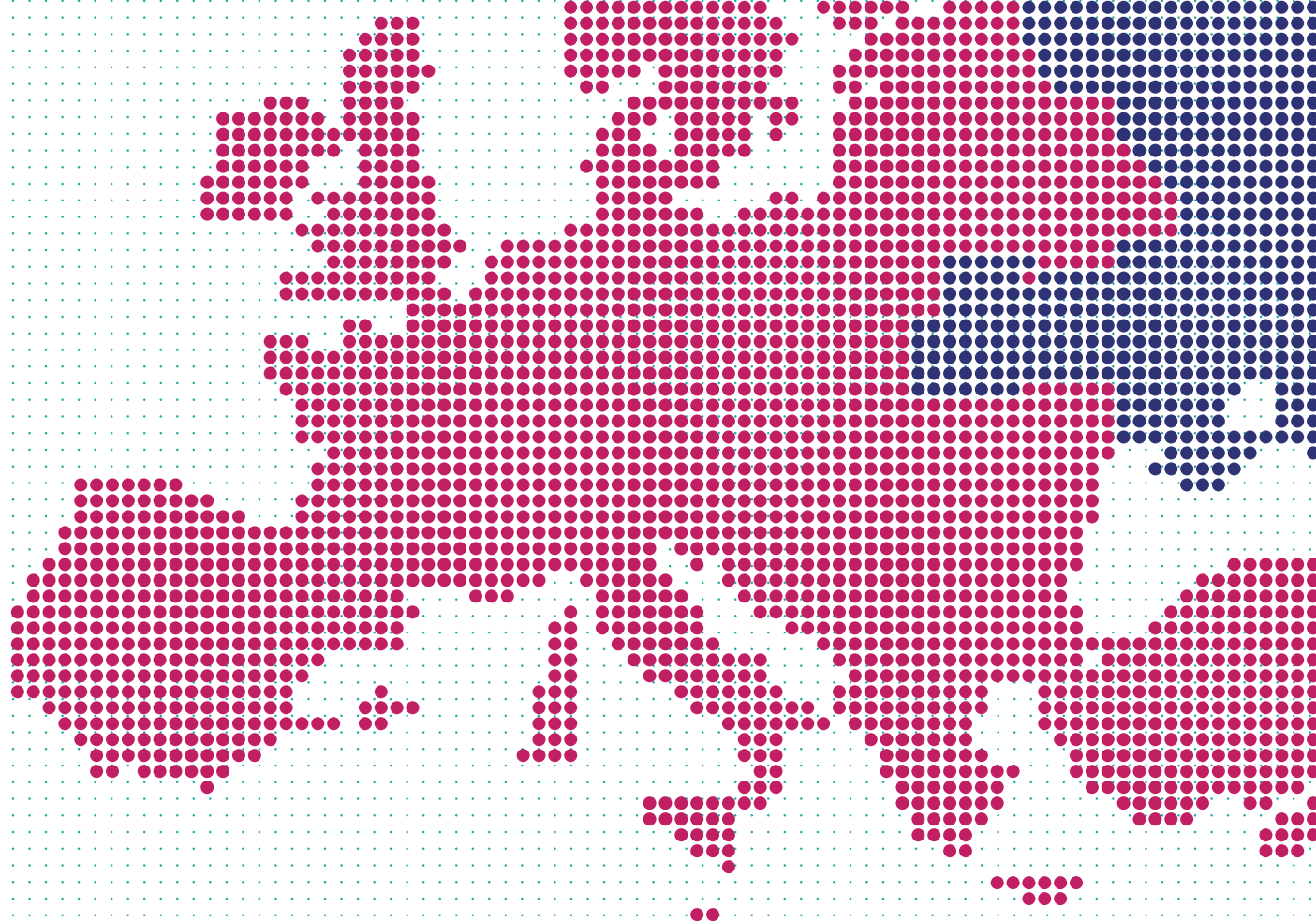
	Growth rate 2010/2011	Growth rate 2011/2012	Revenue share in e-comm services
Fixed voice and internet access services	-2.2%	- 1.1%	39%
▶ Fixed voice	-7.2%	-7%	24%
▶ Internet access services	2%	2.4%	15%
Mobile voice telephony and mobile data services	-1%	0.4%	54%
▶ Mobile voice telephony	-4.4%	-2.7%	34%
▶ Mobile data services	6.3%	6.3%	19%
Business data services			
Total telecom services (carrier services)			

Source: EC services based on European Information Technology Observatory - EITO (2012)

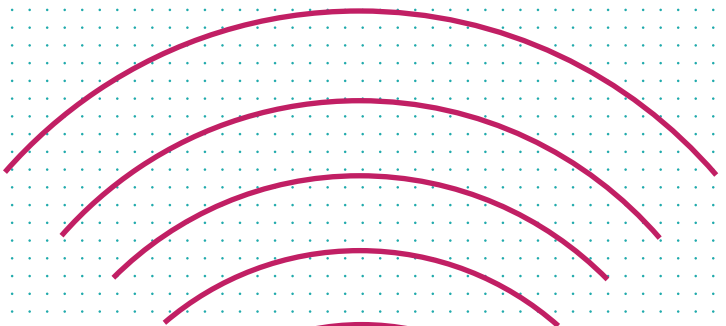
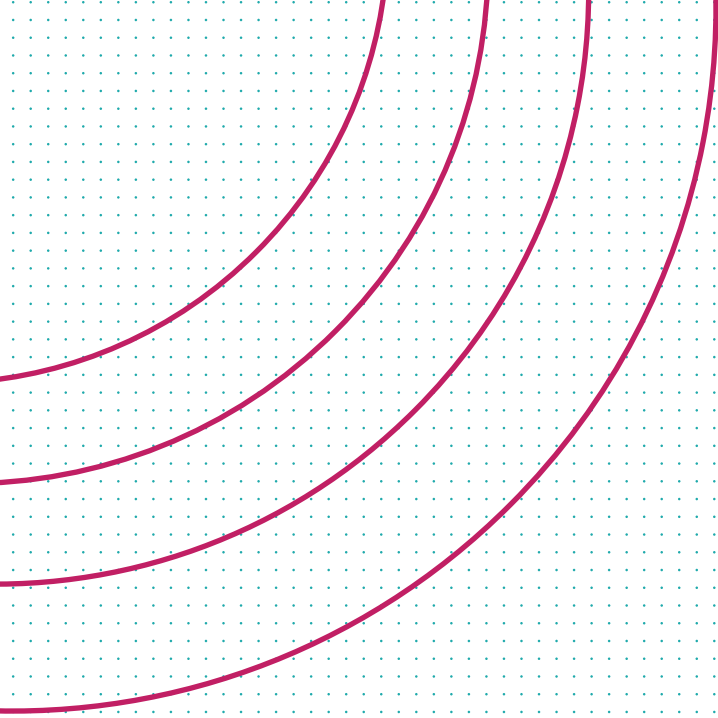
FIG. 05 TOTAL REVENUES OF TELECOM SERVICES IN EUROPE
(INCLUDING TURKEY, AND EXCLUDING RUSSIA AND UKRAINE) (BN €)



**FIG. 06 REVENUE PERFORMANCE OF
TELECOM SERVICES IN EUROPE**
(INCLUDING TURKEY, AND
EXCLUDING RUSSIA AND UKRAINE)
(BN€)



Source: European Telecommunication Network Operators - ETNO, Annual Report 2014



In October 2013 RAEPC
decides to liberalize the
services further thus allowing
the provision of advanced
broadband mobile services, 3G
and 4G.

3. PUBLIC PROCUREMENT: DRAWN-OUT AND ADVERSARIAL PROCEDURES

A significant challenge for public companies, in this case for PTK, along with coping with dynamic changes in technology, is coping with drawn-out and often difficult public procurement procedures. Public procurement procedures, are not only time consuming, but they also prolong investment plans. Thus a company is unable to react fast in a competitive market and keep pace with dynamic technological changes.⁷ This fact can be best illustrated by PTK's latest attempt to introduce the most recent generation of broadband mobile technologies known as 3G and 4G/LTE services.

In October 2013 RAEPC decides to liberalize the services further thus allowing the provision of advanced broadband mobile services, 3G and 4G.⁸ According to RAEPC this decision would enter into force effectively for commercial use as of December 1, 2013.

In this regard, for more than one year PTK was unable to introduce the 3G technology as a consequence of, on one hand, cessation of investments because it was close to being privatized and, on the other hand, because of a complaint made by a company regarding public procurement procedures.⁹ PTK was allowed to continue with procurement procedures only in the end of 2014 after Procurement Review Body could not decide on the complaint due to a lack of its Board members.¹⁰ Also, this took place after the Ministry of Economic Development had approved resuming

of investments plan in PTK.¹¹ On the other side, it had been a year since PTK's main rival in mobile telephony services, IPKO, had introduced in the market the 3G mobile services.¹²

Nevertheless, technological developments in the field of telecommunications have shown that private operators have competitive advantage since they are able to adapt more quickly to developments and dynamics affected by new technological transformations thereby absorbing them in a quicker and easier manner.

Still, the obstacles elaborated above on developing communications technology (OTT), as well as public procurement procedures, have had and will continue to have an impact on PTK's work, especially in coping with the harsh competition coming from the two private operators which are making it harder for the public company to retain and grow the number new consumers. However, severe political interferences, interferences coming from the telecommunications industry as well as widespread nepotistic practices, have all had a strong impact on the overall devaluation of PTK.

Across a time span of six years (2008-2013) a number of controversial developments have followed PTK's work. These include: **a)** politicization of management and decision-making bodies; **b)** hundreds of employments without a business plan; **c)** raising the overall level of salaries in 2010, a national elections year; **d)** government's decision to cease capital investments in PTK, and **e)** the drawn-out and, ultimately, failed attempt at transforming PTK's property (privatization).

7 See Ministry of Economic Development – Policy and Monitoring Unit of Public Enterprises: "Annual Performance Report of Public Enterprises"; page 34; 2012. http://mzhe.rks-gov.net/npmnp/repository/docs/Raporti_Vjetor_i_Performances_se_Ndermarrjeve_Publike_2012.pdf

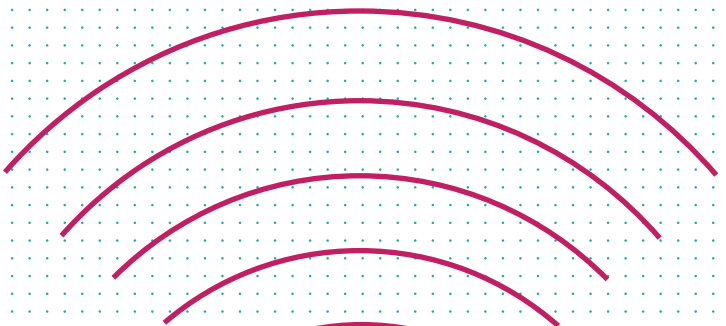
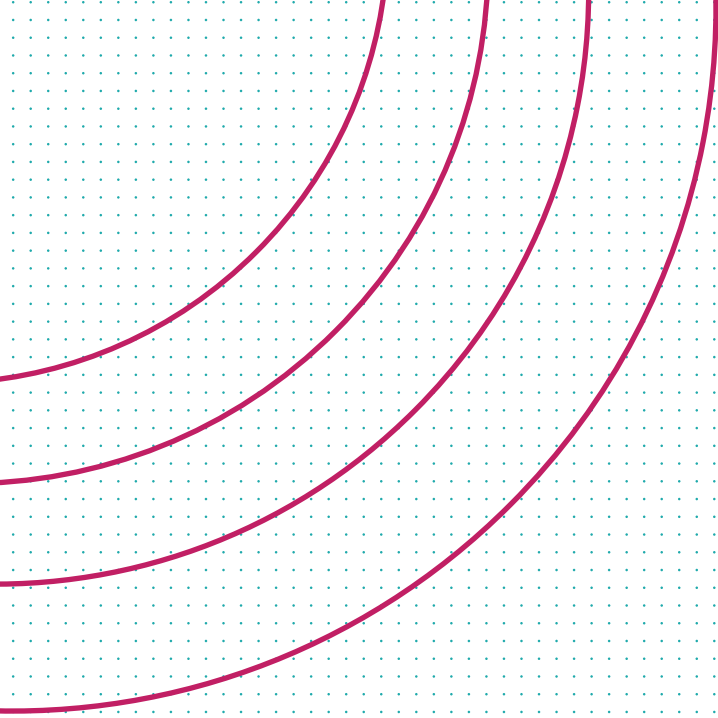
8 RAEPC; Decision no.400 on Further liberalization of mobile broadband services through allowing the use new mobile broadband services which enable advanced mobile services. October 2013. <http://arkep-rks.org/?cid=1,26,673>

9 Gazeta JnK; Petrir Çollaku; "Ankesa Misterioze dhe mungesa e 3G-së së VALA-s" (The Mysterious Complaint and the lack of VALA's 3G); 31.03.2014. <http://gazetajnk.com/?cid=1,987,7926>

10 Public Procurement Review Body, decision 174/14; <http://oshp.rks-gov.net/repository/docs/vendimet/2014/konk-i-pergjithshem.pdf>

11 Kosovo Post and Telecommunications; "Vala fillon me 3G/4G" (Vala begins with 3G/4G); November 2014. <http://www.ptkonline.com/ptk/vala-3g-4g/61/>

12 See when IPKO initiated the 3G network <http://www.ipko.com/rreth-ipko/marredhenie-me-publikun/historiku-i-ipko-se> <http://www.ipko.com/rreth-ipko/mbulueshmeria-me-3g>



Until the declaration of independence in 2008, PTK was under the management of Kosovo Trust Agency (KTA), only afterwards to move under public ownership with the Government of Kosovo the sole shareholder.

4. POLITICIZATION OF DECISION-MAKING STRUCTURES IN PTK

The analysis of PTK's trend of revenue and mobile users fall, must be followed by a thorough examination of the context within which the company has functioned, including the decisions taken that have affected its work.

Being the most profitable company in the country, PTK was a good resource for spreading and consolidating political party influence – political patronage – as well as for cultivating and conserving a culture of nepotism. In this regard it is clear that the company has been exploited by political parties in three aspects, especially by Democratic Party of Kosovo (PDK). First, research proves that PTK has served as an employment center of hundreds of individuals helping thereby to consolidate and strengthen the electoral bases of political parties. Second, PTK appears to be among the most politicized public companies. In its decision-making and managing structures there have been and still are appointed members of PDK mainly, but also of other parties.¹³ Third, it is clear from the research that PTK has served as a revenue source for donors of various political parties thereby strengthening a political clientelist relationship.

Until the declaration of independence in 2008, PTK was under the management of Kosovo Trust Agency (KTA), only afterwards to move under public ownership with the Government of Kosovo the sole shareholder. Since that time, the managing structures, members of the Board of Directors (BD), other high PTK officials, have been at the same time active members of political parties.

The Law on Publicly Owned Enterprises (POE),¹⁴ which among other things regulates also the selection of members of BD of a POE, does not specify clearly the issue of independence of these Boards and this has been considered among

its main flaws.¹⁵ The law establishes that persons that have been elected for a public office in the last three years, have been appointed politically or hold a decision-making position in a political party,¹⁶ cannot be elected/appointed as Board members. However, the law does not foresee what happens with candidates who have run for a public post but were unsuccessful. In such cases, although the candidates were not elected their independence remains questionable.

The research team of this report has found that high decision-making and managing positions in PTK have been and are occupied by members of political parties. Since its transformation into a Publicly Owned Enterprise in 2008, PTK's BD has been led by an ex-municipal assembly member of PDK in Peja Municipality.¹⁷ Four out of a total six current Board members are PDK members, one is a member of Alliance for New Kosovo (AKR), and one appears to be from the Independent Liberal Party (SLS).¹⁸ Çohu research found out that in sixteen (16) high managing positions, such as: department directors, internal auditors and up to decision-making positions of deputy director and executive director of mobile operator 'Vala', and postal unit 'Posta e Kosovës', all are occupied by active members of political

¹³ Kosovo Center for Investigative Journalism – Preportr; Besa Kalaja and Besnik Boletini; "Partia e Punës" (The labor Party); nr 10; December 2014. <http://www.preportr.com/sq/Re-publika/Partia-e-puns-389>

¹⁴ See the Law on Publicly Owned Enterprises 03/L-087, amended by the Law 04/L-111. <https://gzk.rks-gov.net/ActDocumentDetail.aspx?ActID=2547>

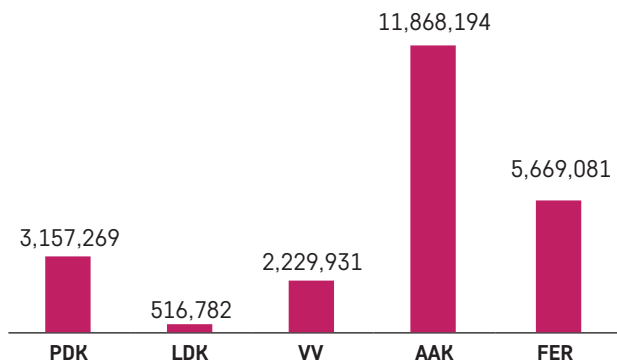
¹⁵ Riinvest Institute, "Corporate Governance of Public Companies in Kosovo"; 2012. <http://www.riinvestinstitute.org/publikimet/pdf/alb-u.pdf>

¹⁶ See the Law on Publicly Owned Enterprises 03/L-087; Article 17; Director Eligibility, Independence and Professional Suitability Requirements; k) is, or at any time during the 36-month period immediately preceding the date of his application, has been (i) an elected public official, (ii) a political appointee or (ii) the holder of a leading or decision-making position in a political party;. <https://gzk.rks-gov.net/ActDocumentDetail.aspx?ActID=2547>

¹⁷ Gazeta JnK; "PDK Ruan Kontrollin në PTK" (PDK Maintains Control in PTK); Parim Olluri and Mimoza Kqiku; February, 2015. <http://www.gazetajnk.com/?cid=1,2,9647>

¹⁸ Regjë Gjonbalaj, Board Chair, ex-municipal assembly member of PDK in Municipality of Peja. Member of PDK branch in Peja. Electoral Candidate for PDK, 2007. Gani Sylaj, Board member, ex-Mayor of Drenas Municipality (2002-2005). Head of PDK branch in Drenas and member of PDK Governing Council. Afrim Loku, Board member, AKR electoral candidate in 2007, and candidate for mayor of Kaçanik municipality 2009. Bislim Zogaj, Board member, PDK candidate for Municipal Assembly of Drenas in 2013. Electoral candidate in 2014. PDK Presidency member in Drenas. Naim Hyseni, Board member, Municipal Assembly member in Vushtrri in 2007 and 2009. PDK electoral candidate in 2010.

FIG. 07 TOTAL VALUE OF TENDERS (IN MILLIONS) AWARDED TO DONORS OF POLITICAL PARTIES.



Source Çohu: Analyses of data extracted from: 1) PPRC tenders, 2) CEC Reports, and 3) KBRA Business Registry.

parties, with PDK leading with twelve (12) positions.¹⁹ As a matter of fact, after its transformation into a publicly owned enterprise, all PTK executive directors – four in total – have been or are active members of PDK, or are very close with this party, including here the recently appointed executive director.²⁰ The previous executive director, Ejup Qerimi, ran for a seat in Kosovo Assembly in general elections of 2014 while he was still the director of PTK. While the elections were undergoing, he had stated that: “it depends on the party whether I will quit my position as executive director of PTK, if I get elected”, exposing thus the evident and direct influence of the party on the daily management of the company.²¹

As part of this research and with the aim to discover the distribution of high value public tenders by PTK, the research team has managed to prove that large sums of money have gone to different companies who, according to Financial Audit Reports of Central Election Commission, are donors of different political parties.²² From the data presented in

the reports, we were able to prove that more than 23 million EUR²³ of high value public tenders were distributed to companies that have financed five political parties.

Moreover, during this research we identified other contracts, rent payment contracts in value of up to 1,000 EUR a month given also to donors of political parties. These contracts refer to Base Transceiver Station, whereby individuals give their property on lease for installing transmission antennae.

Other media have report regarding a 1.8 million EUR contract awarded to a company which had obvious links with the Chair of the Board, the executive director and the director of public procurement unit of PTK.²⁴

19 Kosovo Center for Investigative Journalism – Preportr; Besa Kalaja and Besnik Boletini; “Partia e Punës” (The labor Party); nr 10; December 2014. <http://www.preportr.com/sq/Re-publika/Partia-e-puns-389>

20 The recently appointed PTK director, Agron Mustafa, is member of PDK, Prishtina branch. The previous executive director, Ejup Qerimi, dismissed by a Board decision, who ran the company for two years, is a member of PDK, as is the current Chair of the Board. One of the two previous PTK directors was close to PDK, and the other even an electoral candidate of PDK in general elections of 2007. See: Gazeta “Jeta në Kosovë”, “Kryeshefi i PTK-së, kuadër i PDK-së” (PTK Chief Executive, a PDK Cadre); Parim Olluri; February, 2012. <http://gazetajnk.com/?cid=1,3,1458>

21 See “Jeta në Kosovë”, minute 1:00:35. <https://www.youtube.com/watch?v=g-9mTjFDBTq4&list=UURat2HLLgb78NvskMILQMw>

22 Central Elections Commission – Financial Audit Reports <http://www.kqz-ks.org/en/financial-reports-and-audit>

23 The research team has analyzed more than 180 high value contracts signed by PTK, and out of these it has created a database with data on companies that have benefitted from these tenders. These data were then compared with Financial Audit Reports of CEC whereby we identified an amount of 23,441,257 million EUR that was distributed to companies, donors of five political parties.

24 Gazeta JnK; Parim Olluri and Petrit Qollaku; “Milionshi i negociuar” (The Negotiated Million); 07.07.2014. <http://www.gazetajnk.com/?cid=1,987,8622>

5. EMPLOYMENT AND PARTY BENEFITS

In 2008, at a time when there was a change of government in the country and the coalition PDK-LDK²⁵ was running it, and for the next two following years, PTK employed 820 people²⁶ without being based in any business plan or strategic document.

Various media reports had demonstrated that political officials, such as the former president of the country, former prime minister, ministers and MPs of the governing coalition at that time, as well as other high public officials had employed members of their families in PTK, thus extending and cementing a culture of nepotism in the public company.²⁷ When criminal investigations had begun against former executive director of PTK, Shyqyri Haxha, regarding accusations that he had signed harmful contracts on behalf of the company, Haxha declared before the court, for the first time that he had been under political pressure to employ people in PTK.²⁸

Alongside this decision, which overstaffed the company with unnecessary staff, in 2010 – year of national elec-

tions – PTK raised the scale of salaries for the leading staff of the enterprise.²⁹

The decision to increase the salary of PTK's leading staff, not only that it was taken at a time when the company was experiencing a fall in its revenues, and as such was not foreseen by business plans of company, but was also in complete contradiction with the decision of the Government of Kosovo for an overall freeze of salary increases in PTK, a ban on further employments, as well as a cessation of capital investments and future expenditures.³⁰ Except the uncontrollable increase of the employee numbers and the inability of the company to compete with its two main rivals, IPKO and Z-Mobile, this decision of PTK unavoidably created additional costs and it drained even more so the revenues of the company.

Within this cycle then, of providing unplanned for and uncontrollable rewards which in some cases had a clear partisan background, PTK managers during the years 2009-2012 had provided various benefits for the Board of Directors (BD) as well in the form of bonuses and honoraria in the amount of more than 600 thousand EUR.³¹

According to the 2014 audit report of the Office of Auditor General (OAG), there were also bonus overpayments in excess of **59,129 EUR in 2010 and 60,249 EUR in 2011.**

25 In 2007 general elections, Democratic Party of Kosovo came out the largest party in the country for the first time, and together with Democratic League of Kosovo, second largest party, formed the governing coalition.

26 See PTK's Financial Annual Reports: <http://www.ptkonline.com/ptk/publications/>

27 Koha.net; "Familjarët e politikanëve të punësuar në PTK" (Family members of politicians employed in PTK); 14.09.2011. <http://koha.net/arkiva/?page=1,3,69279> Koha.net; "Gratë e PDK-së në Gjilan i dalin në krah gruas së Mustafës, e punësuar në PTK" (PDK Women in Gjilan support Mustafa's wife, an employee in PTK); 12.06.2014. <http://koha.net/?id=27&l=13933> Reporteri.net; "Ja ku i punësojnë familjarët njerëzit e PDK-së dhe LDK-së" (This is where PDK and LDK employ their family members); 27.05.2014. <http://reporteri.net/?page=1,2,18979> Gazeta Zëri; Lavdim Hamidi; "Shala punëson 'kushat' në PTK" (Shala employs his cousins in PTK); 01-09-2010.

28 See Gazeta Zëri; Arsim Rashiti; "Haxha: Kam presion politik" (Haxha: I'm under political pressure); 15.07.2010.

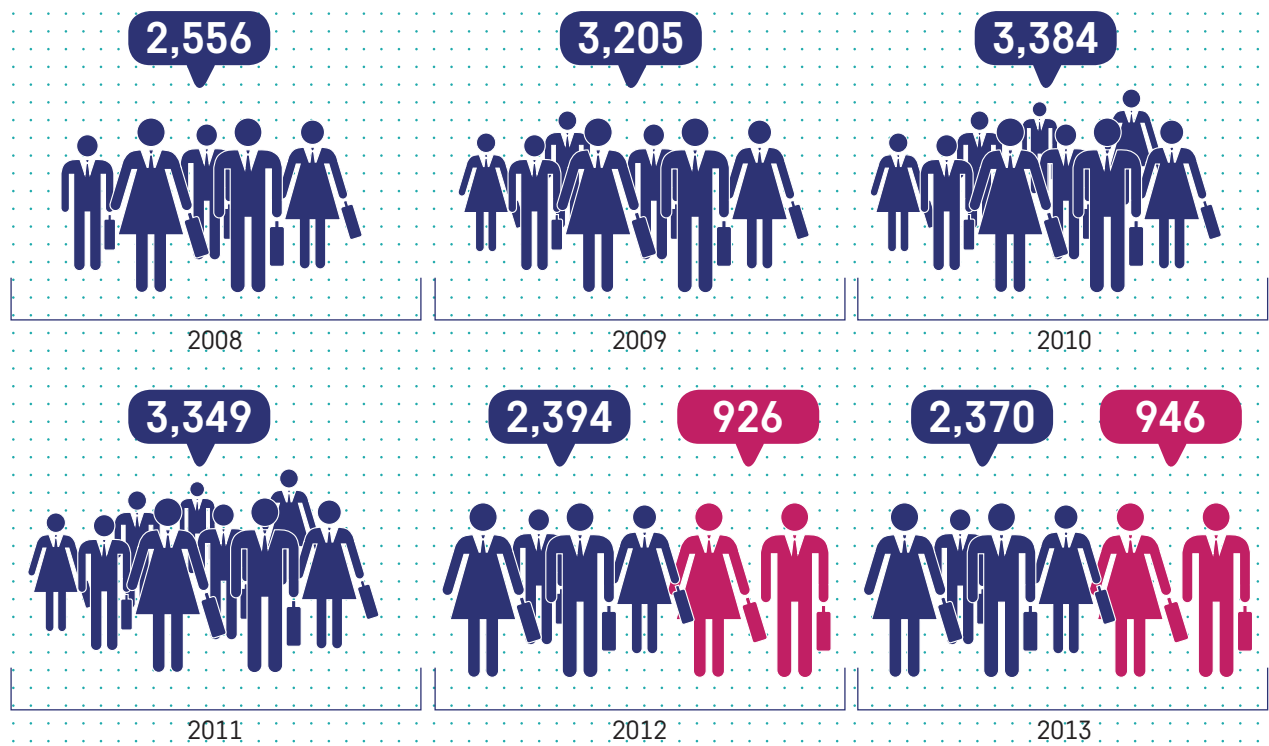
29 According to the PTK's executive director, Agron Mustafa, the decision to increase expenditures in salaries was of a tactical nature and not of political. In 2010, Kosovo Government had taken a decision to initiate the process of privatization of PTK, and in this regard, the increase in the overall salary scale was a preventive decision aiming at setting the future investor before an accomplished act, in case of privatization of the company. Other people inside PTK have confirmed that in 2010, there were no increases in the overall salary scale, but PTK increased the salary base of the governing structures only and partly this increase reflects also the employments of 179 people in 2010.

30 Decision of Government of Kosovo, 5/124, foreseeing cessation of future investments, of employments and of salary increases in PTK. http://www.kryeministri-ks.net/repository/docs/Vendimet_e_Mbledhjes_se_124-te_te_Qeverise_2010.pdf

31 Office of Auditor General: "Audit Report on compensations for Boards of Directors of Publicly Owned Central Enterprises for the period 2009-2012" August 2014. http://www.oag-rks.org/repository/docs/KompensimetBordetDrejtoreve_2013-Shqip_813917.pdf

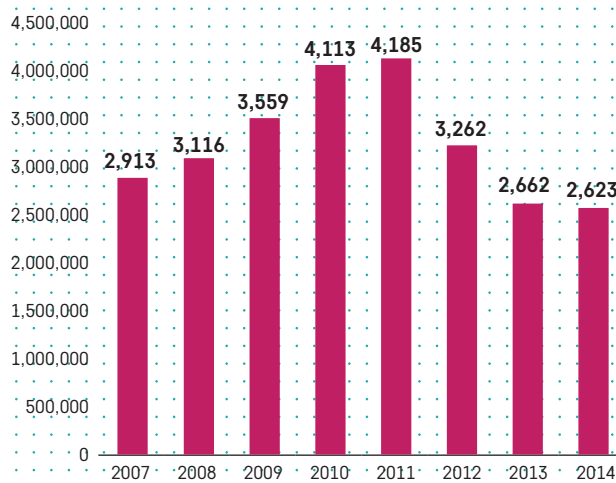
FIG. 08 TREND OF EMPLOYMENT IN PTK (2008-2013)

Vala  PTK sh.a 



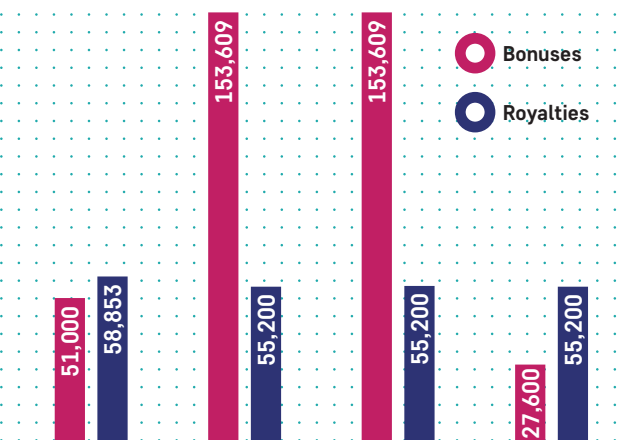
Source: Data derived from PTK's annual financial reports (2008 - 2013)

FIG. 09 TREND OF INCREASES IN SALARY EXPENDITURES IN PTK



Source: Data derived from PTK's annual financial reports (2008 - 2014)

FIG. 10 BONUSES AND ROYALTIES FOR THE BOARD OF DIRECTORS AND OTHER COMMITTEES OF PTK (2009-2012)



Source: Office of Auditor General: "Audit Report on compensations for Boards of Directors of Publicly Owned-Central Enterprises for the period 2009-2012"

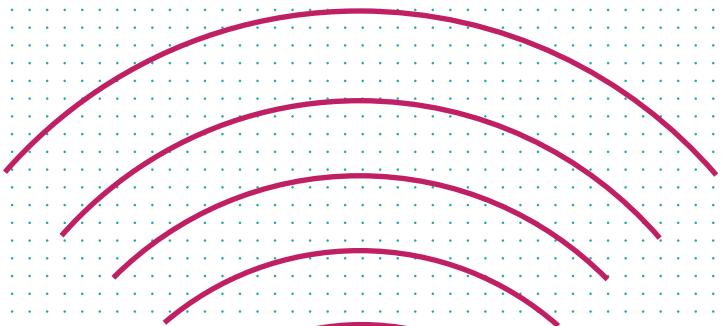
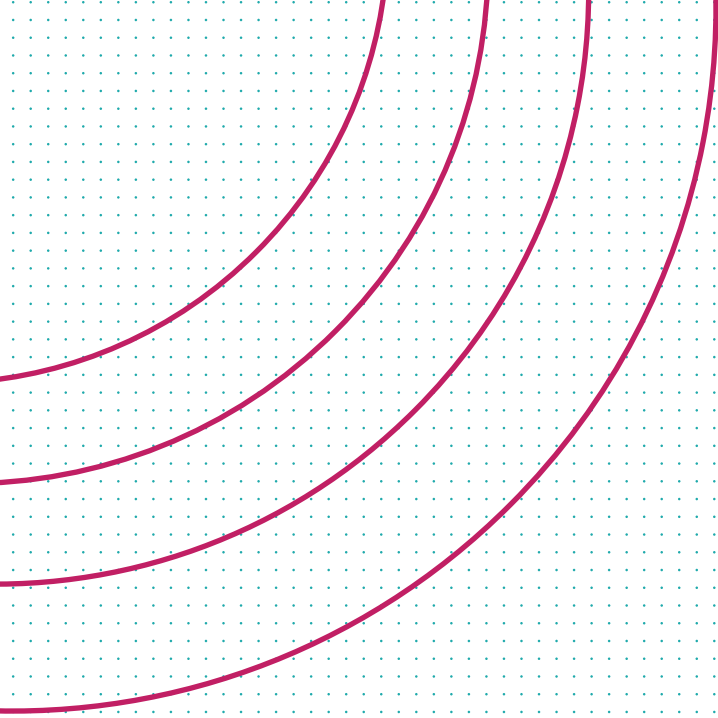
According to the 2014 audit report of the Office of Auditor General (OAG), there were also bonus overpayments in excess of 59,129 EUR in 2010 and 60,249 EUR in 2011.³² The OAG report draws attention to the fact that most of the Publicly Owned Enterprises, including PTK, have failed to establish measurable criteria for declarations of compensation according to which it would be possible to evaluate the performance and thus establish the right to bonuses for BD. The same OAG report states that the criteria established in the majority of declarations for stimulating payments deal with regular duties of BD and they should be paid as such and not be rewarded with bonuses.³³

PTK managers did not enable access to business plans or company projections for years 2009 and 2010 which would allow for a more precise analysis of the decision to increase the level of salaries and to distribute bonuses and remunerations for members of BD and other committees of PTK. Neither the business plans, nor the PTK annual reports for the years above-mentioned are published on the webpage of Policy and Monitoring Unit of Public Enterprises (PMU-PE).³⁴

³² Ibid, page 11.

³³ Ibid, page 9.

³⁴ See the full documentation published by Policy and Monitoring Unit of Public Enterprises. <http://mzhe.rks-gov.net/npmnp/?page=1,265>



RAECP data on the last
trimester for 2014, show that
the decline in revenues that PTK
will register will be the highest
compared with all the
previous years.

6. ADVERSARIAL EFFECTS OF TERMINATION OF INVESTMENTS IN PTK

In 2011, it seemed like PTK was regaining itself after a continuous decline in the three preceding years thus generating more than 162 million EUR, reaching the highest revenue peak since 2007. In that year PTK generated 11 million EUR more than in 2010, and 17 million EUR more than in 2009.³⁵ It thus appeared that this was a trend that would end the cycle of continuous decline and that PTK would make a comeback to its finest since the second mobile operator entered the market. Nevertheless, it should be noted that this recovery was not a result of improved managerial policies of the company or of a qualitative change in its strategic orientation. This increase in PTK revenues was

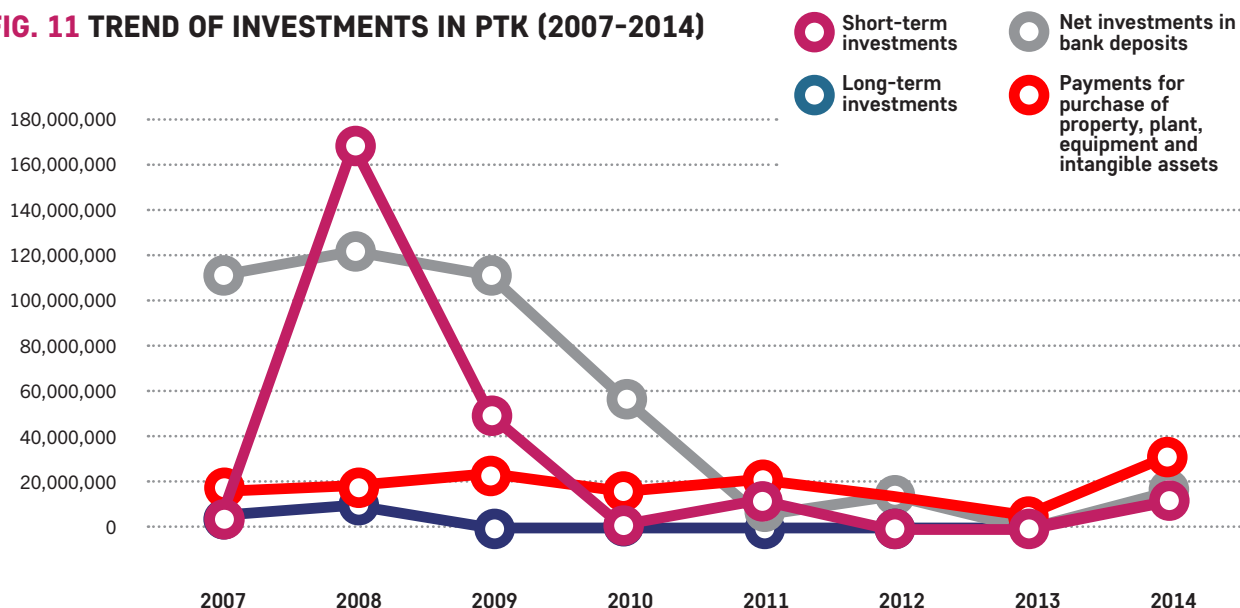
in fact a direct result of a verdict of Kosovo Government which in 2010 decided to begin the transformation of PTK's ownership (privatization).³⁶ As a consequence of this, the government had decided also to freeze all investments and future expenditures in PTK, had put a ban on further employments and on increasing the levels of salaries.³⁷ In this light then, we should view PTK's "success" in increasing its revenues in 2011.

35 PTK's Business Plan (2015-2019), also stresses the adversarial effects of investments cessation in the company highlighting that this cessation has been exploited effectively by the two rival competitors.
PTK's Business Plan (2015-2019). http://mzhe.rks-gov.net/npmnp/repository/docs/Plani_i_Biznesit_2015__PTK_sha.pdf

36 Decision of Government of Kosovo 01/130 on privatizing 75% of PTK shares.
http://www.kryeministri-ks.net/repository/docs/Vendimet_e_Mbledhjes_se_130-te_te_Qeverise_2010.pdf

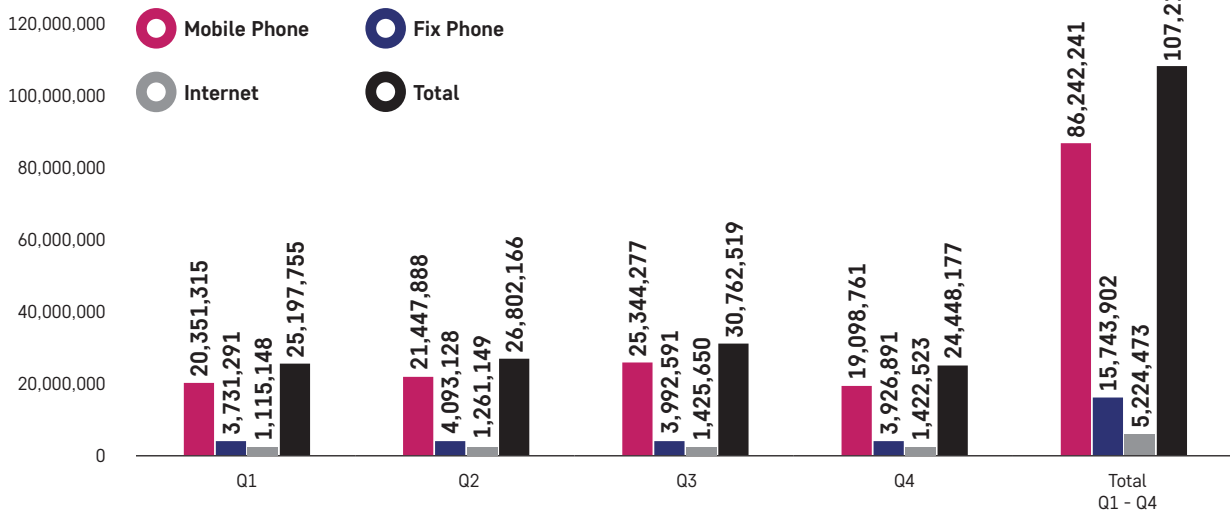
37 Decision of Government of Kosovo 5/124, ceasing all investments and future expenditures, putting a ban on further employments and freezing salary increases in PTK.
http://www.kryeministri-ks.net/repository/docs/Vendimet_e_Mbledhjes_se_124-te_te_Qeverise_2010.pdf

FIG. 11 TREND OF INVESTMENTS IN PTK (2007-2014)



Source: Data extracted from annual financial reports of PTK (2008 - 2014)

FIG. 12 PTK'S REVENUES IN 2014 (Q1-Q4)



Source: Regulatory Authority of Electronic and Postal Communications - RAEPC

Despite the record increase in revenues in 2011 compared to two previous years, the cycle of overall revenue decline that had begun in 2008 would continue in the following years. Since the government tried twice to privatize PTK³⁸ from 2010 till the end of 2013, the decision to freeze all investment remained in force during these years thus affecting negatively company revenues for the following years. In 2012, PTK revenues shrunk for more than 14.5 million EUR, in 2013 they shrunk for 33 million EUR whereas in 2014, overall revenues decreased for 62.8 million EUR compared to 2011.

Strong governmental interference in the daily business of the company through employing party militants and family members of politicians without any criteria, together with the extreme politicization of managing structures, but especially full termination of capital investments for more than three years, are among the main reasons why PTK in 2014 marked its largest decline in revenues throughout its history.

RAECP data on the last trimester for 2014, show that the decline in revenues that PTK will register will be the highest compared with all the previous years.

The decision to cease investments in PTK, besides direct negative effects, it has had side effects also. Just days before GoK decided to cease investments, PTK signed a contract with

“AMDOCS Development Limited” to develop a billing platform in the value 19 million EUR.

As a consequence of government's decision, the contract with AMDOCS was cancelled and PTK was ordered to pay 10 million EUR compensation for terminating the contract.³⁹

The negative effects of lack of capital investments had a direct impact also upon the decline of PTK's internet services penetration. While PTK was gaining internet users market going from 9.80% in 2007 to 31.63% in 2010, after the termination of capital investments the percentage of market share fell below 19% in 2014. The PTK's Business Plan 2015 – 2019 also highlights this decline of internet market as worrisome.⁴⁰

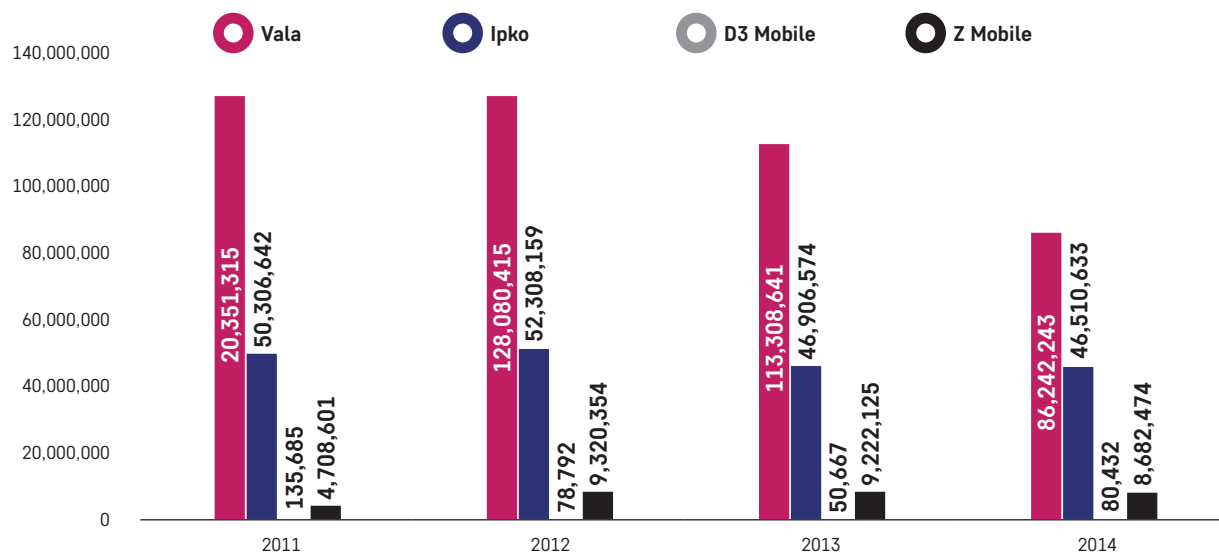
For a number of years IPKO had used PTK's network of optic fibers to consolidate the expansion of its internet and cable TV services. In 2011, PTK had attempted to unilaterally terminate this contract with IPKO, a decision which was

³⁸ See the decision of Governmental Privatization Committee on (GPC) for concluding the privatization process of 75% of PTK shares. <http://mzhe.rks-gov.net/?page=2,42,775>

³⁹ The case with AMDOCS is still in the appeal procedure. The amount that PTK was ordered to pay as compensation for cancelling the contract was taken from PTK's financial annual reports 2012-13. <http://www.ptkonline.com/ptk/raport/> According to the former executive director, Shyqyri Haxha, the termination of contract for developing a billing platform would bring additional losses for PTK as it would make it impossible for the company to compete with its rivals. See: Kosovo Center for Investigative Journalism – Preport: “Tenderi që ekspozoi kapjen e qeverisë” (The tender that exposed government's capture); 23.11.2011. <http://www.preportr.com/sq/Asetet-publike-dhe-privatizimi/Tenderi-q-ekspozoi-kapjen-e-qeveris-52>

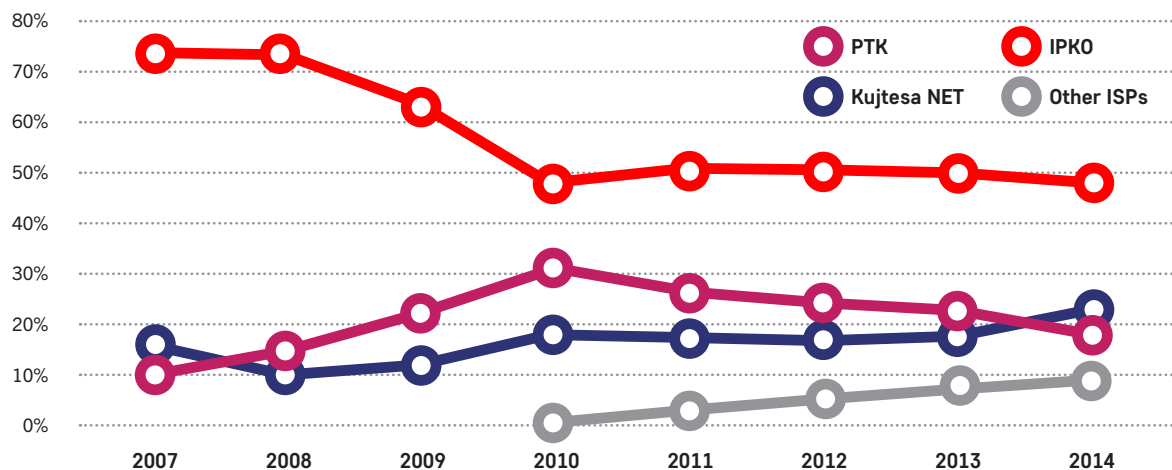
⁴⁰ PTK Business Plan (2015-2019). http://mzhe.rks-gov.net/npmnp/repository/docs/Plani_i_Biznesit_2015__PTK_sha.pdf

FIG. 13 REVENUES OF MOBILE OPERATORS IN THE PERIOD (2011- 2014)



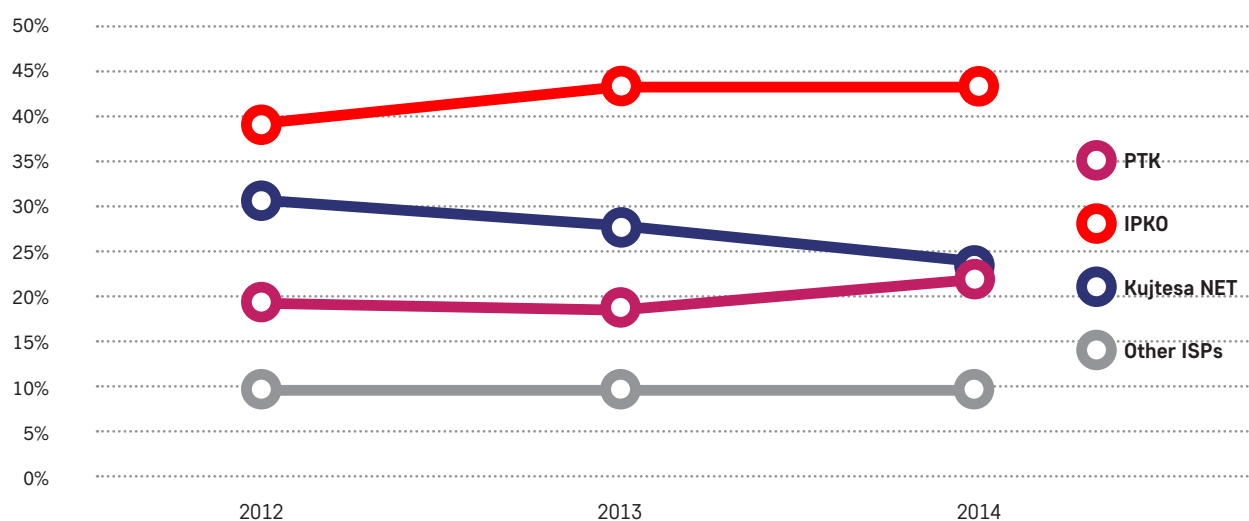
Source: Regulatory Authority of Electronic and Postal Communications - RAEPC

FIG. 14 SHARE OF INTERNET MARKET (%) ACCORDING TO USERS – AVERAGE ANNUAL PERCENTAGE (2007-2014)



Source: Regulatory Authority of Electronic and Postal Communications - RAEPC

FIG. 15 SHARE OF INTERNET MARKET (%) ACCORDING TO INCOME – AVERAGE ANNUAL PERCENTAGE (2012-2014)



Source: Regulatory Authority of Electronic and Postal Communications - RAEPK

considered that it endangers IPKO's services.⁴¹ RAEPK cancelled PTK's initiative arguing that PTK had failed to justify its decision and to: "document the range of services that wishes to use and it has not proven the necessary capacities to provide these services."⁴² PTK, however, has never provided information on what business plan or strategic orientation was the decision to invest millions of EUR in extending optic fibers foreseen and not use them for the further development of the company, but to, nevertheless, give this infrastructure on lease to the rival operator, IPKO, which managed to use them for its own development and growth of its internet and cable TV market.

Since 2012 IPKO does not use PTK's infrastructure of optic fibers, though PTK, according to RAEPK, has more than enough unused optic fibers. According to RAEPK there are four national fixed optic fibers infrastructures, but there is symbolic joint use of them. In this regard, World Bank (WB) approved a project in the end of 2014 whose purpose is to

facilitate joint use of infrastructure in Kosovo and which is expected to be implemented in 2015.⁴³

From all the services that PTK offers, it continues to have a monopoly in fixed telephony. But revenues from this service are disproportionately lower than the revenues of mobile telephony.

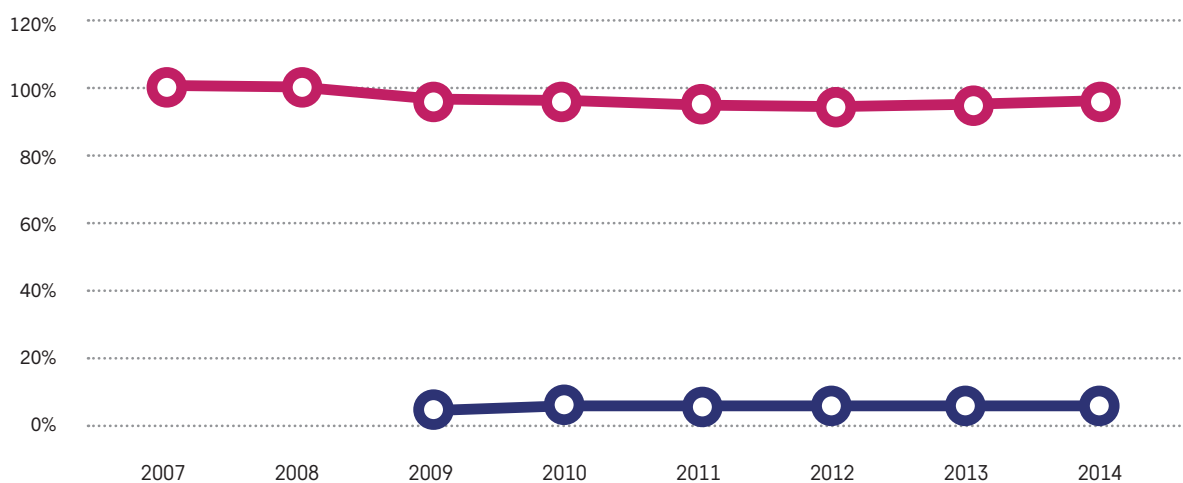
⁴¹ The research team of this report has managed to have access to PTK's decision to terminate the contract with IPKO on the use of optic fibers. See also: Koha.net, "PTK s'u "shkurorëzua" nga IPKO-ja" (PTK did not get "divorced" from IPKO); 21.07.2011. <http://koha.net/arkiva/?page=1,3,63368> Kosova Press; "Rrezikohen shërbimet e IPKO-s , PTK i ndërprente kontratën"; 26.05.2011. (e qasur më Dhjetor 2014) <http://www.kosovapress.com/archive/?cid=1,26,128527>

⁴² Shih vendimin e ARKEP për anulimin e iniciativës të njëanshme të PTK-së rreth ndërprerjes së kontratës me IPKO, mbi shfrytëzimin e fijeve optike. <http://www.arkep-rks.org/repository/docs/Vendimi%20i%20Komisionit%20-%20Ceshtja%20e%20Nderprerjes%20se%20Kontrates%20per%20Fijet%20Optike%20-%20IPKO%20vs%20PTK.pdf>

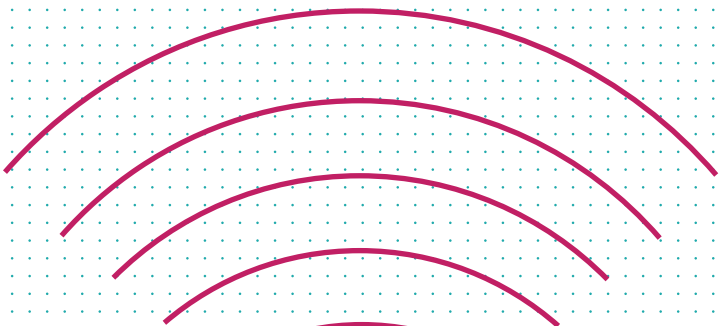
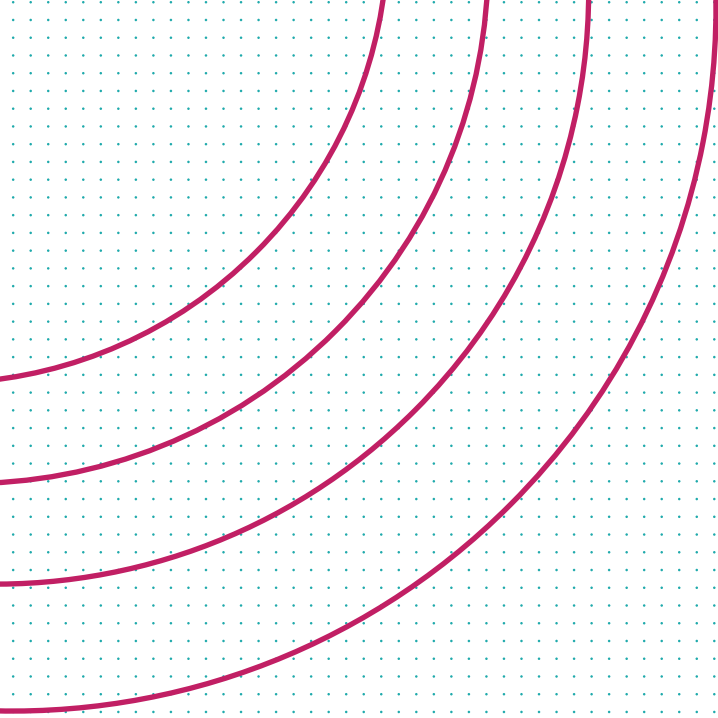
⁴³ Komunikim përmes postës elektronike me kryetarin e Bordit të ARKEP, z. Ekrem Hoxha.

**FIG. 16 SHARE OF LANDLINE TELEPHONY MARKET –
AVERAGE ANNUAL PERCENTAGE (2007-2014)**

PTK IPKO



Source: Regulatory Authority of Electronic and Postal Communications - RAEPC



In 2008, PTK reached an initial agreement with the MVNO operator 'Dardafone LLC' on the use of infrastructure and GSM frequencies of the public company.

7. INDUSTRIAL INFLUENCE IN THE TELEPHONY MARKET: Z-MOBILE CONTRACT

One of the main developments in the mobile telephony sector which in the public discourse has been considered as a case of industrial and political influence, is the agreement of PTK with a Mobile Virtual Network Operator (MVNO), which operates in the market under the commercial name of 'Z-Mobile'.

Bearing in mind that after 2007 PTK began for the first time to face tough competition in the market of mobile telephony, one of the ways to cope with it was to offer MVNO services. In 2008, PTK reached an initial agreement with the MVNO operator 'Dardafone LLC'⁴⁴ on the use of infrastructure and GSM frequencies of the public company.

Two Task Forces were formed by PTK to analyze the agreement with 'Dardafone LLC'. Task Force 1 had proposed that 22% of profit go to PTK, and 78% to 'Dardafone LLC'. Since there were disagreements in PTK's BD on the terms of the agreement proposed by Task Force 1, a reevaluation was requested. Task Force 2 proposed a share of profit which was the opposite of the first proposal where now 73% of it would go to PTK, whereas 'Dardafone LLC' would receive 27% of profit. This evaluation of Task Force 2 was refused by PTK's BD, but they decided to accept the agreement according to the terms proposed by the Task Force 1, without any based arguments or factual evidences.⁴⁵

The finale agreement foresaw an unfavourable share of profits for PTK, where 75% of it would go to 'Dardafone LLC', and 25% to PTK. However, after harsh criticism because of unfavourable contract conditions for PTK, only a superficial change was made in the percentage of profit share where

now PTK would receive 27%, and 'Z-Mobile' 73%.⁴⁶ Thus an increase of profit share of only 2%.

Though there already was an agreement between PTK and 'Dardafone LLC', the latter applied for and was licensed by RAEPC as an MVNO just shortly before a formal contract was signed between the two companies. This license was later on and that by a decision of RAEPC, transferred to a new operator called 'Dardafone.net LLC',⁴⁷ with a new owner, in a step which was considered utterly controversial for the Regulatory Authority. The new company 'Dardafone.net LLC', which in the market operates by the name of 'Z-Mobile', pretended that it had bought all 'Dardafone LLC' shares and by that it had become the new owner of the MVNO license issued by RAEPC. 'Dardafone.net LLC' was established only four days before applying in RAEPC to transfer the license from 'Dardafone LLC'.⁴⁸

The criticism regarding this contract was focused on the very low level of profit percentage allotted to PTK. Such a contract would be reasonable if PTK would keep the largest part of shares, considering the fact that shareholders in a joint initiative allocate the percentage of profit in proportion with the capital invested. In this case, PTK possessed the two pillars of the agreement, the GSM frequencies and the necessary infrastructure to enable the operation of MVNO. Therefore it was odd how PTK did not attempt to find new

44 Dardafone LLC was established by three companies on January 9, 2007, respectively by its shareholders Unitel World with 48% of shares, Via One 10% and Devolli Group Company 42% of shares.

Gazeta JnK; "Rasti Dardafon, Konfirmohet Pjesërisht Akuza" (Dardafone Case, Indictment Confirmed Partially); 01.02.2012. <http://gazetajnk.com/?cid=1,1018,1256>
Gazeta JnK; Florent Spahija; "Rasti që Përfshinte Biznesin e Shtetit Nuk Pati Prova" (The Case that Implicated the Business and the State Lacked Evidence); 02.07.2013. <http://gazetajnk.com/?cid=1,979,5935>

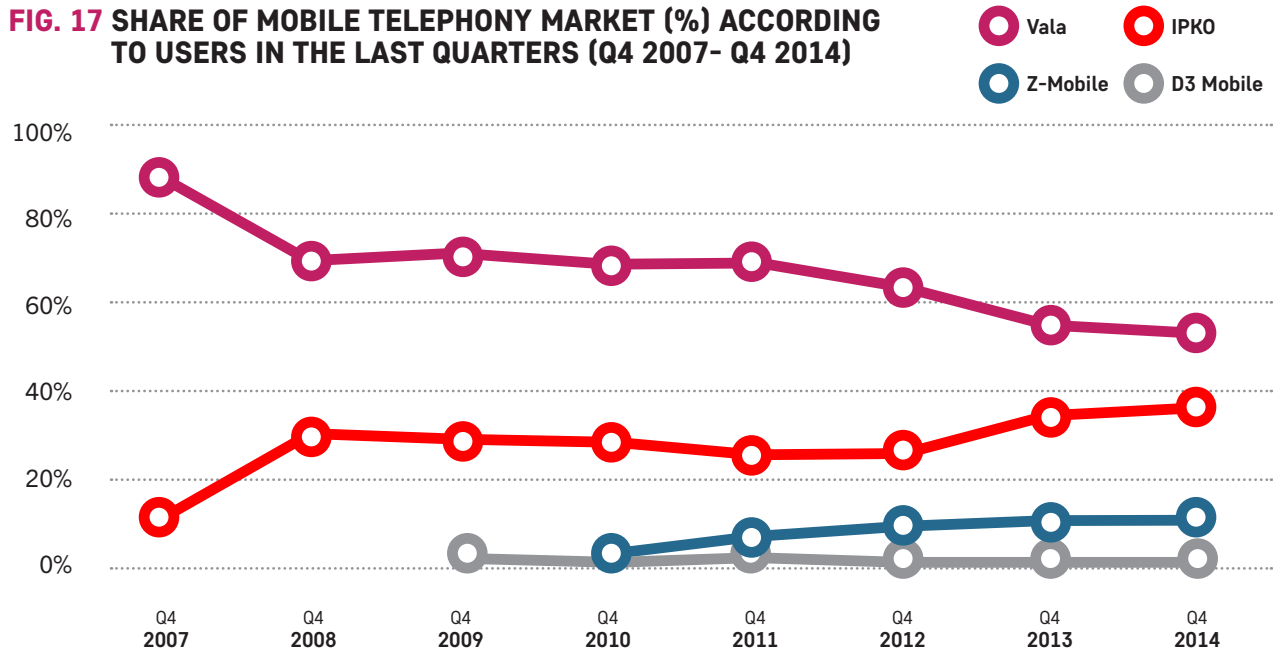
45 Ibid.

46 After EULEX prosecutors had initiated investigations regarding this contract, the former director of PTK, against whom investigations were being carried out, had stated for the local media that he had managed to increase PTK's profit by 2% as opposed to the previous contract which foresaw only 25% profit for the company. See also: Gazeta JnK; "Haxha u Lutej Devollëve që ta Rrisnin Përqindjen" (Haxha begged Devolli to Increase the Percentage; Florent Spahija; June, 2013. <http://gazetajnk.com/?cid=1,1018,5902>

47 Dardafon.net was created on 21 November 2008 or four days before applying in RAEPC and it was in the ownership of Shkëlqim Devolli with 90% of shares and of the American company K-Com with 10%.

48 Gazeta JnK; "Rasti Dardafon, Konfirmohet Pjesërisht Akuza" (Dardafone Case, Indictment Confirmed Partially); 01.02.2012. <http://gazetajnk.com/?cid=1,1018,1256>
Gazeta JnK; Florent Spahija; "Rasti që Përfshinte Biznesin e Shtetit Nuk Pati Prova" (The Case that Implicated the Business and the State Lacked Evidence); 02.07.2013. <http://gazetajnk.com/?cid=1,979,5935>

FIG. 17 SHARE OF MOBILE TELEPHONY MARKET (%) ACCORDING TO USERS IN THE LAST QUARTERS (Q4 2007- Q4 2014)



Source: Regulatory Authority of Electronic and Postal Communications - RAEPK

partners and to enter into contract with conditions much favorable to it.

Based on the documents that the research team has analyzed, it can be seen clearly that the main drive behind PTK's push for a virtual operator was to prevent the process of 'self-cannibalization'. This, first of all, meant preventing a cycle of continual price reduction of PTK's mobile operator, through perennial decrease in call tariffs which could ultimately damage the company irreparably.

As can be seen from the documents, the primary goal of PTK was to prevent first of all, through the virtual operator, that 'Vala's consumers to pass to the private operator IPKO, as well as to arrive easier at new consumers since, it was supposed that MVNOs have much lower operative costs and more effective marketing possibilities. Bearing in mind that PTK proved itself incapable of coping with IPKO's competition, this move could have been considered indispensable especially if the objectives set by PTK would have been achieved.⁴⁹

⁴⁹ Shyqyri Haxha, the former director of PTK who had signed the contract, as well as the BD Chair of PTK, Rexhe Gjonbalaj, had offered the same excuse for signing the contract with 'Z-Mobile'. In the trial against them, both had declared that this agreement not only would prevent the losses, but that it would also increase the number of consumers. See more at: Gazeta JnK; Florent Spahija; "Rasti që Përfshinte Biznesin e Shtetin Nuk Pati Prova" (The Case that Implicated the Business and the State Lacked Evidence); 02.07.2013. <http://gazetajnk.com/?cid=1,979,5935>

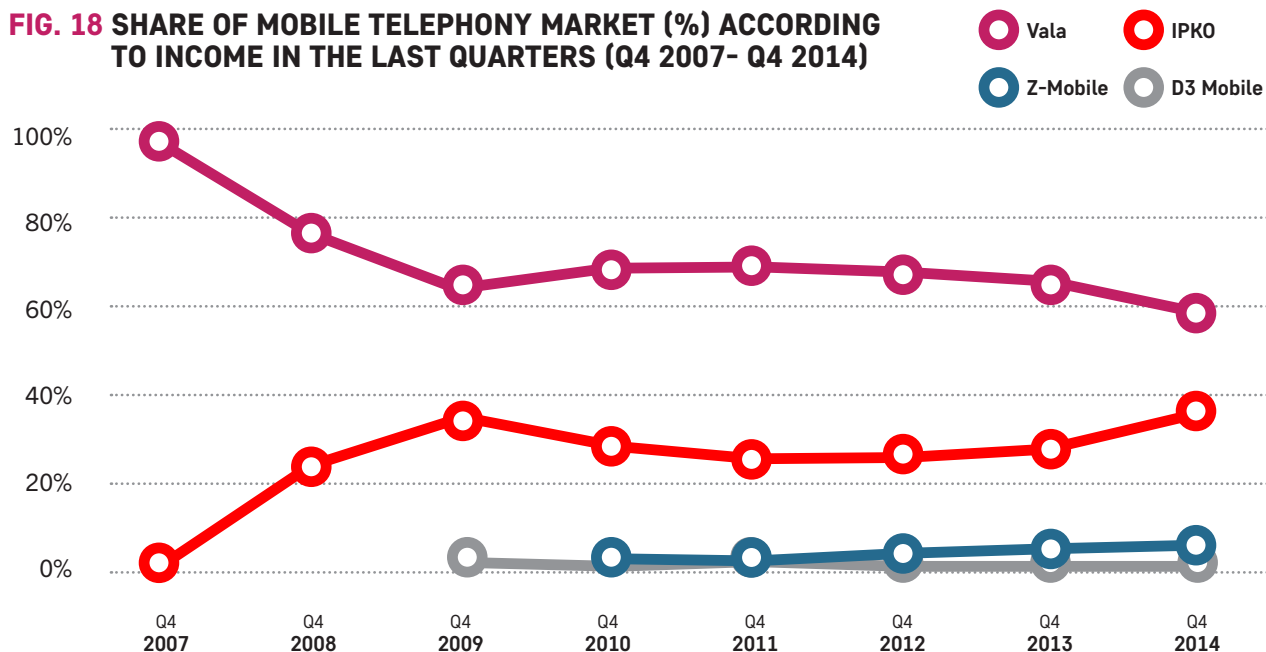
RAEPK data show that the growth of 'Z-Mobile' as regards users of mobile telephony and also of revenues, was carried on the back of 'Vala' consumers, a development contrary to what was initially expected. Within four years of its existence, 'Z-Mobile' possesses around 11% of the market of mobile telephony users and around 6% of revenues of this market. As can be seen from RAEPK data also, IPKO has managed not only to keep its market share but it has grown linearly in the mobile telephony market.

The fact that 'Z-mobile' grew based exclusively on PTK's market, and not on IPKO's, is also stressed in the PTK's Business Plan (2015-2019), where it is stated that: "In 4 years, the operator 'Z-Mobile', acquired 11% of the market, just as much as operator 'Vala' has lost in the same period".⁵⁰ Thus these data show an entirely opposite trend from what was expected with the 'Dardafone.net LLC' contract, whereby PTK had aimed not only to keep its actual consumers but also to gain new ones.

It can be argued, in fact, that the agreement between PTK and 'Dardafone.net LLC' has at least achieved one aimed goal: to prevent 'Vala' consumers to pass to IPKO. Potentially, one might say, that in case of lack of agreement with 'Dardafone.net LLC', IPKO could have acquired the 11% share of the mobile telephony market, which is what 'Z-Mobile' possesses.

⁵⁰ PTK's Business Plan (2015-2019). http://mzhe.rks-gov.net/npmnp/repository/docs/Plani_i_Biznesit_2015__PTK_sha.pdf

FIG. 18 SHARE OF MOBILE TELEPHONY MARKET (%) ACCORDING TO INCOME IN THE LAST QUARTERS (Q4 2007- Q4 2014)



Source: Regulatory Authority of Electronic and Postal Communications - RAEPC

In such a scenario, PTK would lose also that 27% of revenues that it generates as part of the agreement with 'Dardafone.net LLC'.

Among other things, the contract foresees that PTK realize profit percentage only from the calls made between 'Vala' and other mobile phone operators to 'Z-Mobile' and vice-versa, but it would not realize any profit from the calls made within the 'Z-Mobile' network. Thus, it seems that the contract was a way to transfer permanently a profit by PTK to 'Z-Mobile'.

The history of the relationship with the 'Z-Mobile' contract shows that PTK was damaged in other cases too. While PTK was preparing to invest in broadband services technology known as 3G and 4G, a company (Infinite Solutions – KAD) which had indirect connections with 'Devolli Company', owner of 'Z-Mobile', had complained to the Procurement Review Body (PRB) regarding procurement procedures.⁵¹ This complaint, alongside government's decision to cease investments,

made it impossible for almost a year for PTK to begin investing in broadband technologies, whereas more than a year had passed since IPKO had launched its 3G technology. The reason for company's complaint could have been the fact that to use the 3/4G frequency bands, 'Z-Mobile' had to reach a new agreement with PTK, since the current contract foresees only the use of GSM frequencies by the former. In this respect, the complain made by 'Infinite Solutions – KAD', may be seen as a way of obstruction to PTK in order for 'Z-Mobile' to reach a new contract that includes its right to utilize new bands of frequencies that include services of 3/4G.

Also, 'Z-Mobile' numbers were used for a while to avoid terminating international calls, known as 'sim-to-sim' phenomenon. In numerous cases, PTK as well as IPKO managers accused 'Z-Mobile' whose numbers were used for these terminations.⁵²

Ultimately, PTK offices were raided by EULEX police and the case with 'Z-Mobile', went on trial, but due to lack of evidence both cases, the contract between PTK and 'Dardafone.net LLC' and the license transfer were closed down by

51 Gazeta JnK; Petrir Çollaku; "Ankesa Misterioze dhe mungesa e 3G-së së VALA-s" (The Mysterious Complaint and VALA's lack of 3G); 31.03.2014. <http://gazetajnk.com/?cid=1,987,7926>. The current acting executive director had stated that competition had prevented them from launching the 3G technology. For more, see: Koha Ditore; Visar Preberza; "Zyrtarë të 'Valës' thonë se konkurrenca i ka penguar në projektin 3G" ("Vala" officials claim that competition has hindered their 3G project); 26.11.2014. See also: Koha.net; "Gjykata e Tenderëve e hedh poshtë edhe ankesën e tretë për 3G të PTK-së" (The Tender Court turns down also the third complaint on PTK's 3G); June, 2014. <http://koha.net/?id=27&l=14307>

52 Gazeta Express; 'Zona e Piratëve' (The Pirate Zone); Arben Hyseni; February, 2010.

Gazeta JnK; "Haxha u Lutej Devollëve që ta Rrisnin Përqindjen" (Haxha begged Devolli to increase the percentage); Florent Spahija; June, 2013. <http://gazetajnk.com/?cid=1,1018,5902>

justice institutions.⁵³ It is worth stressing that chief owners of 'Dardafone.net LLC' had engaged an American firm to defend them, which is considered to have strong influence on country's political elite.⁵⁴

Recently RAEPC decided⁵⁵ to award the numerical reserve⁵⁶ of 100 thousand extra numbers to the virtual operator 'Z-Mobile'. This decision has not yet been approved by RAEPC's Board, but according to media reports the prosecution has begun investigations on this case.⁵⁷ According to the terms of contract between PTK and 'Dardafone.net LLC' it is foreseen that the latter is awarded only 200 thousand numbers. Judging from RAEPC data it is clear that 'Z-Mobile' has reached its maximum of 200 thousand numbers back in 2012 and the extra 100 thousand numbers are indispensable for further growth of company.

Adding considerably to the contradiction around this contract is the fact 'Devolli Corporation', owner of 'Z-Mobile', is a donor of Democratic Party of Kosovo (PDK),⁵⁸ under whose

mandate the contract was signed. Moreover, at a time when negotiations between PTK and "Dardafone LLC" had begun, the public company was being headed by an executive director who had run in national election as part of PDK.⁵⁹ Whereas when the final contract with 'Dardafone.net LLC' was approved and signed, the company's Board was headed by a PDK member⁶⁰, while the executive director was considered to be very close with this political party.⁶¹ Furthermore, throughout the process of contract agreement between PTK and 'Dardafone.net LLC', RAEPC, the institution which had allowed and approved MVNO license transfer from 'Dardafone. LLC', to 'Dardafone.net LLC' and which recently has decided to reserve 100 thousand extra numbers for 'Z-Mobile', was and still is headed by a former employee of 'Devolli Corporation', what has also been considered as a direct influence of Devolli company on the Regulatory Authority.⁶²

In overall, the 'Z-Mobile' contract was considered not only to have had an impact upon reduction of PTK's value, but has also been one of the most contradictory issues in privatization process.

53 Prishtina Basic Court Decision; nr. 279/2012. http://www.eulex-kosovo.eu/docs/justice/judgments/criminal-proceedings/BasiCourtPrishtina/279-2012/%282013.06.28%29%20JUD%20-%20%20B.D.%20et%20alia%20%28BC%20PR%29_%20ALB.pdf

See also: Gazeta Jeta në Kosovë; "Devollët dhe Drejtuesit e PTK-së Shpallen të Pafajshëm" (The Devollis and PTK managers are declared innocent); Florent Spahija; June, 2013. <http://gazetajnk.com/?cid=1,1018,5912>

54 Squire Patton Boggs; "Patton Boggs Secures Acquittal in Rare White Collar Prosecution in Kosovo; July 2013.

<http://www.pattonboggs.com/news/patton-boggs-secures-acquittal-in-rare-white-collar-prosecution-in-kosovo>

Regarding the influence of Patton Boggs on local politics see:

Gazeta JnK; "Lobuesi Sekret" i Kosovës" ('Kosovo's Secret' Lobbyist); Petrit Çollaku; November, 2011. <http://gazetajnk.com/?cid=1%2C3%2C565>

Gazeta JnK; "Pagesa të Parregullta për Lobuesin Amerikan" (Irregular Payments for the American Lobbyist); Parim Olluri and Petrit Çollaku; June, 2013. <http://gazetajnk.com/?cid=1,3,5759>

Gazeta JnK; "Njohjet Që Shtyreshin Nga Lobistët e Qeverisë Nuk u Realizuan" (The recognitions pushed forward by government lobbyists did not materialize); Parim Olluri, march 2013. <http://gazetajnk.com/?cid=1,3,4864>

Gazeta JnK; "Qeveria Pagoi për Takimet e Presidentes" (The Government paid for President's meetings); Parim Olluri; november, 2012. <http://gazetajnk.com/?cid=1,3,3685>

Gazeta JnK; "Lobistët e Thaçiç Sjellin McDonaldsin në Kosovë" (Thaçi's Lobbyists bring McDonalds to Kosovo); Lawrence Marzouk; July, 2012. <http://gazetajnk.com/?cid=1,987,2783>

55 RAEPD Decision Nr. 381 on 'Reserving Non-geographical Numeration Series - mobile (0)45 7xx xxx for further use by the Virtual Operator - Dardafon.Net LLC'. <http://www.arkep-rks.org/repository/docs/Vendim%20Nr%20381.pdf>

56 According to legislation in power, reservation means allowing the applicant to use the resources later on after the allocation/awarding decision

57 Gazeta Express; "Prokuroria Speciale nis hetimet për 100 mijë numrat e "Z Mobile" (Special Prosecution initiates investigations for the 100 thousand numbers for 'Z-Mobile'; January, 2015. <http://www.gazetaexpress.com/lajme/prokuroria-speciale-nis-hetimet-per-100-mije-numrat-e-z-mobile-dokument-71418/>

58 "Devolli", according to the Audit reports of Central Elections Commission is listed as a PDK donor. http://www.kqz-ks.org/Uploads/Documents/Raporti_i_Auditimit_te_Fushates_2009_tngdhdfues.pdf

See also: Kosovo Center for Investigative Journalism - Preport; "100 million"; Visar Duriqi and Qendrim Bunjaku; April, 2012. <http://www.preportr.com/sq/Parate-dhe-politika/100-Milion-92>

59 Negotiations on MVNO had started when Adnan Merovci was heading PTK. Merovci had run for a seat in parliament in national elections of 2007 as part of PDK list.

60 Rexhë Gjonbalaj, PTK's Board Chair is still member of PDK, Peja branch, whence come owners of 'Devolli' company also.

Gazeta JnK; 'Kryeshefi i PTK-së, kuadër i PDK-së' (PTK Chief Executive, a PDK cadre), Parim Olluri, February, 2012. <http://gazetajnk.com/?cid=1,3,1458>

61 Former PTK executive director, Shygyri Haxha, was considered to be very close with PDK, and especially with the then Prime Minister of Kosovo, Hashim Thaçi.

See: Andrea Lorenzo Capussela; 'Eulex's Performance of its Executive Judicial Functions'; 9 February 2015.

http://media.wix.com/ugd/f81979_453475b7795a48f4a25d27b4e51d5942.pdf

Moreover, the current Chair of RAEPD Board was an employee of 'Devolli Company', owner of 'Z-Mobile', while his wife works for a company owned by 'Devolli Company'. See: Gazeta Zëri; 'Devolli' ia punësoi gruan Ekrem Hoxhës (Devolli employs Ekrem Hoxha's wife); Besiana Xharra; July, 2013.

62 See the transcript of plenary session of Kosovo Assembly, September 2009. http://www.kuvendikosoves.org/common/docs/proc/trans_s_2009_09_17_10_al.pdf

8. TWO FAILED ATTEMPTS TO PRIVATIZE PTK

Kosovo is undergoing a rapid structural yet unstoppable transformation of its economy sector. While the cycle of privatizing Socially Owned Enterprises (SOE) is drawing to its end, the privatization of Publicly Owned Enterprises (POE) has just begun. Although the SOEs and POEs were privatized under stringent measures due to obligations that derive from the process of structural transformation of economy, in the case of PTK privatization it appears that the only goal of GoK was to generate a one-off income from its sale. Thus, GoK has failed to accompany this process with necessary policies that would stimulate sustainable economic growth and that would push forward the development and modernization of telecommunications sector.

As a country in transition and with by no means developed democratic institutions, Kosovo is a country which is in great danger from political corruption. In this way, privatizing POEs was seen as a way to end the direct involvement of politics in economy,⁶³ and to thus stop political corruption.

The Government of Kosovo in continuity has maintained that the main reasons for privatizing PTK were company's poor performance, boosting technological innovation and improving the quality of services. Nevertheless, and judging from how GoK has managed the two already failed attempts at privatization of PTK, the above-mentioned goals not only have not been achieved but it seems that they were never part of practical policies of privatization.

Since the beginning of the process of transforming PTK's ownership, GoK has failed to provide necessary explanations regarding its decision to privatize 75% of company's shares. The main explanation and argument offered by the government for selling 75% of shares, was that this decision would attract the big operators of mobile telephony thus in the process offering them exclusive decision-making rights.

⁶³ In fact, the argument that by excluding the government from involving in economy we could prevent corruption, was the main argument of the former American ambassador, Christopher Dell. For more, see: the Communique of US Embassy in Prishtina; October, 2010. http://pristina.usembassy.gov/press_releases/2010-press-releases/privatisation_question.html

GoK has paid in total 4.2 million EUR⁶⁴ for the transaction and strategic advisers, whose role was to compile the tendering package for PTK's privatization. Their work was never made accessible to the public and as such it is worthless ultimately due to the failure of privatization processes. These advisers exerted considerable influence throughout the process, in particular during the first phase of privatization. As will be shown in this research report, they influenced and determined the process in a biased manner what then led to the failure to privatize the company in the first round.

In overall, and taking into consideration the entire process of privatization of PTK, one can arrive at a number of conclusions: **a)** a broad consensus of Kosovo politics was lacking regarding the privatization of PTK, what has created contradictions and big clashes and has exceedingly polarized the public opinion; **b)** there was a flagrant and an unfair interference of international factor in the process of privatization; **c)** the entire process has revealed a biased approach thus favoring certain companies and violating the law and tender criteria; and **d)** GoK has managed to keep under control the dissatisfaction of PTK's trade union, despite many contradictions, therefore including in the tendering package arrangements guaranteeing the jobs of company's employees for a period of three years in case of privatization.

⁶⁴ The Government of Kosovo has tendered two contracts for the two processes of PTK's privatization. 1) In 2009, "Telco AG & Wolf Theiss", won a contract as transaction advisers in value of: 1.150.000,00 €; <http://krpp.rks-gov.net/Default.aspx?PID=Notices&LID=1&PCID=-1&CtlID=ViewNotices&ID=24185>; while "Hunton & Williams LLP", as strategic adviser was awarded a contract of 549,233.00 €; <http://krpp.rks-gov.net/Default.aspx?PID=Notices&LID=1&PCID=-1&CtlID=ViewNotices&ID=24185>;

3) In 2012, during the second process of PTK's privatization, the government had engaged the French-Austrian consortium "Lazard Freres S.S.S and Raiffeisen Investment AG" awarding it a contract in the value of: 2.495.000.00 €; https://www.google.com/url?sa=t&rct=j&q=&esrc=s&source=web&cd=11&ved=0CB4QFjAAQAA&url=http%3A%2F%2Fkrpp.rks-gov.net%2FDownloadNotice.aspx%3FID%3D54402%26LID%3D1&ei=6GWQU4bNdf-P34QSkIEY&usg=AFQjCNH4CLUamfRdeokadaxg8bQuUOlgIw&sig2=B4JcDgJEvG-Zz_OQsmWuhmA&bvm=bv.68445247,d.bGE&cad=rja

8.1. The First Attempt: The Tender that Exposed the Conflict of Interest

Due to the failure to get the approval of the Assembly of Republic of Kosovo to sell 75% of PTK shares,⁶⁵ the PDK-LDK governing coalition would end its mandate before it was due in 2010. The government found it impossible to convince and get the approval of Assembly on PTK's privatization, although it used threatening arguments such as loss of potential investors and annulment of the International Monetary Fund (IMF) program.⁶⁶

The circumstances which led to the failure to privatize PTK, show first of all a lack of an adequate privatization policy and a biased approach of various stakeholders involved in the process.

There were three major developments during the first phase of PTK's privatization that deserve attention and deeper analysis considering the fact that they led to the failure to privatize the company. The first development has to do with the case of conflict of interest that has accompanied the process of PTK's privatization and which involves the transaction adviser. The second development has to do with real reasons that led "Hrvatski Telekom d.d" to withdraw from the competition, what then led to failure of privatization process. The third development deals with the unusual and truly problematic involvement of the former American Ambassador, Christopher Dell, throughout the first phase of PTK's privatization.

In 2010, GoK authorized the Governmental Privatization Committee of Post and Telecomm (GPCPT) to continue with the process of PTK privatization. In June 2011, GPCPT prequalified five bidders⁶⁷ out of which only two (Hrvatski Telekom d.d and Telekom Austria AG) qualified as competitors to buy 75% of PTK shares.⁶⁸

In May 2010, GoK took another decision whereby it recommended RAEPK not to issue another license for a mobile

operator for a period of five years saying that such a "decision would decrease significantly the value of PTK and it would influence considerably the participation of private sector in PTK".⁶⁹

To advise it on the process of PTK privatization, GPCPT had engaged "Telco AG & Wolf Theiss".⁷⁰ It must be stressed that "Wolf Theiss" was a representative of "Telekom Austria AG", while the company was in competition for the second mobile operator license in 2007. At that time, "Wolf Theiss" had submitted a number of accusations and complaints in Kosovo courts and institutions in relation to suspicions of irregularities and procedural violations during the tender for the second mobile operator license.⁷¹ This case has not been tried in Kosovo courts till now. However, the involvement of "Wolf Theiss" as a transaction adviser in the process of privatizing 75% of PTK shares represents a pure conflict of interest since the company was an adviser to the government and was responsible for compiling the documentation and the selection process of the winner where "Telekom Austria AG" was one of two main pretenders together with "Hrvatski Telekom d.d" to buy PTK.

While in August 2011, GPCPT had qualified two bidders out of five prequalified ones to continue the bidding process for privatizing 75% of PTK shares, some days later it issued a press release assuring that the "process was developing in accordance with the strategy and the plan, in line with legal requirements and full transparency". The next step in the process, according to GPCPT, was the call for proposals of technical offers whereby the qualified investors are allowed access to the entire relevant documentation and are presented with the draft agreement of shares transaction with potential restrictions, after which companies are invited to submit their financial offers which is also the last criterion for selecting the winning bidder.⁷²

65 The Decision of the Government of Kosovo to privatize 75% PTK shares. http://www.kryeministri-ks.net/repository/docs/Vendimet_e_Mbledhjes_se_130-te_te_Qeverise_2010.pdf

66 Organization for Democracy, Anti-corruption and Dignity - Çohu, « Krimi dhe Korrupsioni në Kosovë: 10 Vite Bashkëjetesë me Politikën» (Crime and Corruption in Kosovo: 10 years of coexistence with politics); minutes 23-24; June 2011. http://www.preportr.com/sq/Dokumentar/Korrupsioni-dhe-krimi-i-organizuar-n-Kosov-10-vjet-bashkjetes-me-politkn-55&video_id=26

67 Albtelekom Sh.A. Albania; Hrvatski Telekom d.d. Croatia-Mother Company Deutsche Telekom; Orascom Telecom Holding S.A.E., Egypt; SabaFon Yemen; Telekom Austria AG, Austria.

68 See the decision of Governmental Privatization Committee (GPC). <http://mzhe.rks-gov.net/?page=2,42,334>

69 See the Decision of Government of Kosovo not to issue a license in the mobile telephony sector for five years. http://www.kryeministri-ks.net/repository/docs/Vendimet_e_Mbledhjes_se_124-te_te_Qeverise_2010.pdf

70 According to a research by "Pristina Insight", "Telco AG", in some cases had used international premium rate numbers not in accordance with legal requirements. Moreover, "Pristina Insight" sources had admitted that the selection of "Telco AG & Wolf Theiss", had surprised some of the most serious bidders. While GoK had now already chosen its transaction adviser, it also chose its "strategic adviser", a move which according to "Pristina Insight" sources was motivated by worries amongst international diplomats with the relatively unknown status of Telco.

71 Wolf Theiss; Company's profile; Reference Kosovo; December, 2010. http://www.wolftheiss.com/tl_files/wolftheiss/RegionalDesks/Kosovo/WT_Kosovo%20Brochure%202011.pdf

72 Governmental Privatization Committee, Press release. 20.05.2011. <http://mzhe.rks-gov.net/?page=2,42,353>

A couple of months later, in September, GPCPT issued yet another press release through which it informed that the deadline for submitting offers was extended for another two weeks based on the request of the two participating companies, while at the same time inviting “all interested companies to privatize PTK, to participate again in the bidding”.⁷³ Despite the fact that GPCPT extended the deadline for submitting the offers and it invited the already disqualified companies to participate again in the process, in October it made it known that “not a single new company has been prequalified during the extended deadline and formally only two companies remain prequalified for privatizing PTK”.⁷⁴

But what was behind this unusual act of GPCPT where within two months it issued two contradictory press releases on PTK’s privatization? After the process of privatizing PTK shares failed, due to the withdrawal of “Hrvatski Telekom d.d” from bidding, the company issued a statement saying that it was withdrawing because of the investigations on corruption charges that were underway against the former director of PTK and the Board Chair.⁷⁵ However, the European Union Rule of Law Mission (EULEX) had raided PTK offices on allegations of financial abuse and corruption in relation to ‘Z-Mobile’ contract in July 2010,⁷⁶ a little more than a month since GoK decided to privatize PTK and when it had been almost a year since GPCPT had decided to prequalify two bidders (*Hrvatski Telekom d.d.*, and *Telekom Austria AG*). In this regard and from this perspective it seems pretty odd why “Hrvatski Telekom d.d” would complain against corruption allegations and would decide to withdraw from bidding just in the verge of the final decision on PTK’s privatization, when it had already passed more than a year since criminal investigations had begun against the former director and BD Chair of PTK.

In fact, the process of PTK’s privatization entered turbulent waters at the moment when the transaction adviser

(Telko AG & Wolf Theiss), published the evaluating report on PTK. According to a research by Kosovo Center for Investigative Journalism (KCIJ), “Hrvatski Telekom d.d” withdrew from the bidding to privatize 75% of PTK shares because it had considered the entire process to be biased and oriented towards favoring “Telekom Austria AG”, a move which led to a complete failure of privatization process.⁷⁷

From this perspective, it can be said that GPCPT’s decision to extend the deadline inviting companies which had not passed the prequalification phase to submit again their financial offers, might have been based on the information that “Hrvatski Telekom d.d” would withdraw from the bidding and the only way to prevent the failure was to take this step. GPCPT took this course of action because going forward with only one bidder (Telekom Austria AG) would constitute a flagrant violation of legal procedures of public procurement and of tender criteria.

Regardless of the true motives behind the withdrawal of “Hrvatski Telekom d.d” from the bidding process, its move caused the entire process to fail. Meanwhile PTK remained blocked for more than two years regarding capital investments and further development of broadband technologies and thus incapable to cope with competition.

However, the general narrative of the first phase of attempted privatization of PTK would not be complete without including in it the involvement of the former American Ambassador, Christopher Dell. The former ambassador had come out publicly in support of quick privatization of public resources justifying it with preventing the involvement of politics in economic affairs. According to him, this was the most effective way to prevent political corruption because in this way it would be impossible for politics to have access to economic resources.⁷⁸ However, his interference was even more direct. In September 2010, while the Assembly of the Republic of Kosovo was trying to approve the Strategy on the Inclusion of Private Sector in PTK, the head of the Assembly put the Strategy to vote only after the interference of the former ambas-

73 Governmental Privatization Committee, Press release. 02.09.2011. <http://mzhe.rks-gov.net/?page=2,42,370>

74 Governmental Privatization Committee, Press release. 10.10.2011. <http://mzhe.rks-gov.net/?page=2,42,388>

75 Radio Free Europe; Nadie Ahmeti; “Telekomi kroat tërhiqet nga privatizimi i PTK-së?” (Croatian Telekom withdraws from PTK’s privatization?); 11.10.2011. <http://www.evropaelire.org/content/article/24356041.html>
Gazeta JnK; “Kroatët Tërhiqen nga PTK-ja?” (Croats withdraw from PTK?); 11.10.2011. <http://gazetajnk.com/index.php?cid=1,1018,278>
Kosova Press; “Haxha: Po luhet lojë me PTK-në” (Haxha: Someone is playing games with PTK); 11.10.2011. <http://www.kosovapress.com/archive/?cid=1,3,136750>

76 European Union Rule of Law Mission - EULEX Press release; 15.07.2010. <http://www.eulex-kosovo.eu/en/pressreleases/0078.php>

77 Kosovo Center for Investigative Journalism - Preportr; “Tenderi që ekspozoi kapjen e qeverisë” (The tender that exposed government capture); 23.11.2011. <http://www.preportr.com/en-us/Public-assets-and-privatization/The-tender-which-exposed-the-capture-of-the-government-52>

78 In fact, the argument that corruption can be prevented through excluding the government (politics) from getting involved in economy was the main argument of former American Ambassador, Christopher Dell. To see more: Press Release of US Embassy in Prishtina; October, 2010. http://pristina.usembassy.gov/press_releases/2010-press-releases/privatisation_question.html

sador despite the clear lack of quorum.⁷⁹ Nevertheless, the former head of Assembly did not sign the Strategy and the process failed in entirety, what led to the fall of governing coalition PDK-LDK.⁸⁰

8.2. The Second Attempt:

With the dissolution of government, by the end of 2010, as a consequence of lack of consensus between governing parties (PDK-LDK) on privatization of PTK, the country was entering a very difficult phase, that of approving as soon as possible the budget for the year 2011. Although PDK had won the majority of votes in the 2010 elections, it was all too aware that it was almost impossible to get the approval of the Assembly to sell PTK. Bearing this fact in mind, the new governing coalition PDK-AKR (New Kosova Alliance), took an unprecedented step by including the right to privatize PTK in the Law on the Budget of Republic of Kosovo for the year 2011.⁸¹ By employing this approach, the governing coalition gained the approval of the Assembly to tender 75% of PTK's shares.

This step of governing coalition was seen as threatening because by including the privatization of PTK within the Law on the Budget for 2011, GoK presented the deputies with a fait accompli deal. By not approving the Law on the Budget 2011, the deputies were risking to leave the country without a budget and thus making it impossible for the government to provide services; therefore the Law that foresaw PTK's privatization was approved. The government saw this step as a way out because on the one hand, according to the law on Public Enterprises, the shares of a POE cannot be sold without the approval of

Assembly,⁸² and on the other hand, it was aware that proceeding a separate law on the privatization of PTK would meet with opposition and many possible obstructions even from deputies of governing coalition. Immediately after the Law on the Budget for 2011 was passed, the government took the second decision to privatize 75% of PTK shares.⁸³

Although the Assembly of the Republic of Kosovo had not approved the sale of PTK in September 2010, this fact had not prevented the government to include in the budget of the following year (2011) an amount of 300 million EUR which it considered would come from PTK's privatization.⁸⁴ The government would use this strategy – inclusion of 300 million EUR in the state budget for three years in a row (2011-2013) – until the second attempt to privatize PTK failed too. This decision of government was criticized for setting a threshold price which it expected from the future buyer, despite the fact that the government has in continuity maintained that it is the market which will determine the value of PTK. The criticism turned out to be true because the winning consortium "ACP Axos Capital Partners and Najafi Companies", offered 277 million EUR on PTK.

The second attempt to privatize 75% of PTK shares has been followed with greater irregularities compared with the first attempt, including here violations of law and pre-qualification criteria. In overall, there are three violations that have followed it and which merit our attention.

First, GoK, but also GPCPT, have failed to provide convincing arguments against claims that the second privatization attempt has gone ahead without a clear decision of Assembly and as such has been considered illegal. As was mentioned above, according to the law on POE, the government cannot proceed with sale of shares of a company without an approval by the majority of Assembly mem-

79 In September 2010, when the Assembly was discussing PTK's privatization, namely approving the Strategy on the Inclusion of Private Sector in PTK, there were only 50 deputies in the session, while according to the Assembly Regulation there should be at least 51 to fulfil the necessary quorum for decisions to have effective power.

80 Organization for Democracy, Anti-corruption and Dignity - Çohu, « Krimi dhe Korrupsioni në Kosovë: 10 Vite Bashkëjetesë me Politikën» (Crime and Corruption in Kosovo: 10 years of coexistence with politics); minutes 23-24; June 2011. http://www.preportr.com/sq/Dokumentar/Korrupsioni-dhe-krimi-i-organizuar-n-Kosov-10-vjet-bashkjetes-me-politiken-55&video_id=26

81 Ministry of Finance; Law on the Budget of Republic of Kosovo for 2011; Article 4 The Decision to Privatize with Fiscal Impact The Decision of Government nr.02/03 of 9 march 2011, for the Privatization of Post and Telecom of Kosovo J.S.C., attached to this Law as an Annex, is considered approved by the Assembly on the date this law enters into force. This approval fulfills the requirement for Assembly approval as foreseen by article 9.1 of the Law on Public Enterprises. <https://mf.rks-gov.net/en-us/Budget/Budget-of-Republic-of-Kosovo/Central-Budget>

82 Law on Public Enterprises - 03/L-087; Sale of Shares 9.1 Shares in a Central POE may be freely sold if the Government adopts a written decision authorizing a Government Privatization Committee to proceed with the tendering and selling of such shares and such decision is approved by a simple majority vote of the Assembly of Kosovo. After such a decision has been adopted by the Government and approved by the Assembly, the Government Privatization Committee shall then have the authority to conduct a tender for and to sell the concerned shares. <http://gzk.rks-gov.net/ActDetail.aspx?ActID=2547>

83 Decision of Government of Kosovo on PTK' privatization. http://kryeministri-ks.net/repository/docs/Vendimet_e_mbledhjes_se_trete_te_Qeverise_2011.pdf

84 See Budget for 2011. <https://mf.rks-gov.net/en-us/Budget/Budget-of-Republic-of-Kosovo/Central-Budget>

bers.⁸⁵ While GoK would refer to the Assembly decision when it included PTK privatization within article 4 of the Law on Budget of 2011,⁸⁶ it failed to provide convincing arguments that the same legal basis could be used also in the following years 2012-2013. The lack of legal basis to proceed with PTK's privatization in 2012-2013 was evident considering that the Law on Budget is limited to a fiscal year and its effects are invalid for following years. In this context, while GoK had not incorporated PTK's privatization in the Laws on Budget for 2012⁸⁷ and for 2013,⁸⁸ and considering also the fact that there was no any other specific decision by Assembly, it was all too clear that the legal basis for privatizing PTK was lacking.

Second, GPCPT violated the prequalification criteria when it selected "ACP Axos Capital Gmbh and Najafi Companies" as a winning company for privatizing PTK. According to the business registry and the financial data of "ACP Axos Capital Gmbh", it is clear that the company has not fulfilled almost none of the prequalification requirements.⁸⁹ One of the most evident violations was that of article 4.1.2 which required that "Bidder (or in the case of a consortium, its major partner) must demonstrate that: (a) has under management assets in the value of at least 750 million dollars for 2012, or (b) has raised funds in total of at least 200 million dollars during the last seven years. According to the financial reports of "ACP Axos Capital Gmbh" it can be seen that the company was registered with an initial capital of 25 thousand EUR and that in 2011 has registered a net profit of only 2500 EUR.⁹⁰ Moreover,

GPCPT has not provided the necessary information with regard to other requirements of the prequalification phase which fall under the article 4.1.2 (c).⁹¹

The third aspect concerns the legality of GPCPT's decision. In august 2012, GPCPT approved the list of final five companies and consortiums,⁹² that had passed the prequalification phase and which were invited to participate in the tender to buy 75% PTK shares.⁹³ However, seven months later and after the deadline to submit offers was extended, GPCPT approved changes in the consortium "Columbia Capital and ACP Axos Capital Gmbh", allowing the latter the right to be the leader of consortium, now with the investment fund "Najafi Companies".⁹⁴ "Axos" had participated in the first attempt to privatize PTK, but it had not passed the prequalification phase.

Despite the above-mentioned irregularities, three embassies released a communiqué supporting the privatization of

85 Law on Public Enterprises - 03/L-087; Sale of Shares 9.1 Shares in a Central POE may be freely sold if the Government adopts a written decision authorizing a Government Privatization Committee to proceed with the tendering and selling of such shares and such decision is approved by a simple majority vote of the Assembly of Kosovo. After such a decision has been adopted by the Government and approved by the Assembly, the Government Privatization Committee shall then have the authority to conduct a tender for and to sell the concerned shares. <http://gzk.rks-gov.net/ActDetail.aspx?ActID=2547>

86 Ministry of Finance; Law on the Budget of Republic of Kosovo for 2011; Article 4 The Decision to Privatize with Fiscal Impact The Decision of Government nr.02/03 of 9 march 2011, for the Privatization of Post and Telecom of Kosovo Sh.A., attached to this Law as an Annex, is considered approved by the Assembly on the date this law enters into force. This approval fulfills the requirement for Assembly approval as foreseen by article 9.1 of the Law on Public Enterprises. <https://mf.rks-gov.net/en-us/Budget/Budget-of-Republic-of-Kosovo/Central-Budget>

87 Ministry of Finance; Law on the Budget of Republic of Kosovo for 2012. <http://mf.rks-gov.net/en-us/Budget/Budget-of-Republic-of-Kosovo/Central-Budget>

88 Law on the Budget of Republic of Kosovo for 2013. <http://mf.rks-gov.net/en-us/Budget/Budget-of-Republic-of-Kosovo/Central-Budget>

89 Ministry of Economic Development; prequalification criteria on PTK privatization. http://mzhe.rks-gov.net/repository/docs/IPQ_22-06-12_technical_and_financial_criteria_Eng.pdf

90 Organization Çohu has had access to business registers including financial reports of "ACP Axos Capital Gmbh", for 2011.

91 Privatization of Post and Telecommunications of Kosovo J.S.C. (PTK) – Instructions for Pre-Qualification; 4.1.2. (c) it meets one or more of the criteria mentioned in i. – iv. i. it did invest in the last 10 years or it is currently an investor via a minimum equity shareholding of 20% in at least one telecom operator with annual revenues related to telecom services exceeding EUR 300,000,000 (three hundred million) in at least one given year of the investment period, or ii. it has received a letter of intent to enter into a consortium agreement in relation to an equity participation (with at least 10% equity holding) with a telecom operator with 2011 revenues related to telecom services exceeding EUR 300,000,000 (three hundred million), or iii. it has received a letter of intent to enter into a cooperation agreement with a telecom operator with 2011 revenues related to telecom services exceeding EUR 500,000,000 (five hundred million), or iv. either (i) it has a shareholder that has managed an investment (with more than 20% ownership) in the last 10 years in at least one telecom operator with revenues related to telecom services exceeding EUR 500,000,000 (five hundred million) during at least 1 year or (ii) it currently employs senior professionals that invested (with more than 20% ownership) in the last 10 years in at least one telecom operator with revenues related to telecom services exceeding EUR 500,000,000 (five hundred million) during at least 1 year Privatization of Post and Telecommunications of Kosovo J.S.C. (PTK) – Instructions for Pre-Qualification With regard to iii. above, when submitting the binding bid in the second stage of this tender, the Applicant will be required to highlight the key services provided by the telecom operator as part of the cooperation agreement, including one or more of the following items (a) to (d) below: (a) the telecom operator provides his brand to PTK for a period not less than 5 years; (b) the telecom operator has the right and will exercise the right to nominate one management board member from his own company to the board of PTK for a period not less than 5 years; (c) the telecom operator will sign a 5 years operation, maintenance, and management agreement with PTK; and/or (d) the telecom operator will establish an advisory committee at PTK comprising of at least 3 employees from the telecom operator for a period not less than 5 years http://mzhe.rks-gov.net/repository/docs/IPQ_22-06-12_technical_and_financial_criteria_Eng.pdf

92 1) Albright Capital Management LLC, in cooperation with Portugal Telecom; 2) Columbia Capital, in consortium with ACP Axos Capital Gmbh, and in cooperation with British Telecom - Poland (owned by British Telecom); 3) M1 International Limited; 4) Turkcell; 5) Twelve HORNBEAMS, in consortium with Avicenna Capital LLC, and in cooperation with Sofrecom (part of French Telecom)

93 Governmental Privatization Committee, Press release. 17.08.2012. <http://mzhe.rks-gov.net/?page=2,42,531>

94 Governmental Privatization Committee, Press release. 05.03.2013. <http://mzhe.rks-gov.net/?page=2,42,625>

75% of PTK shares.⁹⁵ The whole international factor insisted in closing the PTK transaction as soon as possible and it never doubted the issues that were raised in the public opinion regarding the legality of the process.

Throughout the second phase of tendering process the local media have reported on powerful lobbying activities of various actors involved in the privatization of PTK. One of the bidders in the process was also "Albright Capital Management LLC", a company which is run by the former Secretary of State, Madeleine Albright. The involvement of the former secretary of state in the bidding to privatize PTK shares was seen not only as a possibility for a potentially biased decision by the local institutions, but was also a clear case of conflict of interest since Madeleine Albright is a shareholder in IPKO,⁹⁶ the main mobile operator rival of PTK. Later on, during the process "Albright Capital Management LLC", withdrew from the bidding.⁹⁷ The media had also reported, moreover, that James Pardew, the former US Secretary of State for Democracy in the Balkans from the Clinton Administration, had lobbied in the government on the part of one of the bidding companies "Avicenna Capital LLC".⁹⁸

In the end, consortium "ACP Axos Capital Gmbh and Najafi Companies" and "M1 International Limited" remained as the two final companies in competition to privatize PTK.⁹⁹ After the bids were submitted, the "ACP Axos Capital Gmbh and Najafi Companies" had bid with 277 million EUR, while "M1 International Limited", bid with 155 million EUR to privatize 75% PTK shares.¹⁰⁰ Considering the offers, GoK decided to approve the report which sold PTK shares to "ACP Axos Capital Gmbh and Najafi Companies".¹⁰¹

It must be noted that, despite that "M1 International Limited" was selected to continue with the process of buying PTK shares, the company was already stigmatized in the local media as having ties with the terrorist organization "Hezbollah".¹⁰² In this context, it was almost impossible for "M1 International Limited", to privatize PTK.

Since the moment when GoK decided to approve the GPCPT report on closing the transaction deal with "ACP Axos Capital Gmbh and Najafi Companies", it seemed as if everything was in place concerning the privatization of PTK. However, the process entered into unknown paths as soon as GPCPT made public the winning bidder. While some documents were leaked in the media exposing the low profile of "Axos" in the telecommunications sector and as regards the finances of the fund,¹⁰³ the origin of the capital for buying PTK was one of the most controversial issues. Concerns regarding the origins of the capital grew even more controversial after a research report showed that the capital of "Axos" comes from a fund which is registered in Cayman Islands,¹⁰⁴ one of the many fiscal safe havens in the world. Moreover, the media reported that "Axos" was finding it very difficult to secure funds from international financial institutions to buy the PTK shares.¹⁰⁵

Nevertheless, on 31 December 2013, almost eight months after GoK had approved the report to sell 75% of PTK shares to the consortium "ACP Axos Capital Gmbh and Najafi Companies", and to continue with the payment, GPCPT decided to cancel the transaction.¹⁰⁶ The official justification was lack of quorum in the plenary session of Assembly to decide on the privatization of PTK. Regardless of the real motives, the official statement of the ministry was a clear signal that the decision of Assembly to privatize PTK was missing since the second process to privatize PTK had begun.

95 See the joint press release of Embassies on PTK's privatization. 16.04.2013. http://pristina.usembassy.gov/2013_press_release12.html

96 See "IPKO Telecommunications" LLC shareholders, in the business registry of KBRA. http://www.arbk.org/sq/Rezultatet-e-Bizneseve/70064420?nb=0&eb=IP-KO&la=0&lp=0&main_acitivity=0&other_acitivity=0&page_b=0

97 Gazeta JnK; Parim Olluri; "Firma "Albright..." Konfirmon Tërheqjen" ('Albright'... Firm Confirms Withdrawal); 27.12.2012. <http://gazetajnk.com/?cid=1,1018,4238>

98 Gazeta JnK; "Secili konkurrent për PTK-në me probleme" (Each PTK bidder with problems); Parim Olluri; October, 2012. <http://gazetajnk.com/index.php?cid=1,987,3560>

99 Governmental Privatization Committee, Press release. 03.04.2013. <http://mzhe.rks-gov.net/?page=2,42,651>

100 Governmental Privatization Committee, Press release. 12.04.2013. <http://mzhe.rks-gov.net/?page=2,42,657>

101 Decision of Government of Kosovo to approve the GPCPT report on privatizing 75% of PTK shares http://www.kryeministri-ks.net/repository/docs/Vendimi_i_mbledhjes_se_125-te_te_Qeverise_2013.pdf

102 While the process of tendering was under way, the daily "Zëri" reported that "M1 International Limited" is part of "M1 Group", a corporation under the ownership of ex-prime minister of Lebanon, Najib Mikati, and his brother, Taha Mikati. Ex-prime minister Najib Mikati, was supported by the terrorist organization Hezbollah. <http://www.bbc.com/news/world-middle-east-12273178>
See also: Gazeta JnK; Parim Olluri; "Secili Konkurrent për PTK-në me Probleme" (Each PTK bidder with problems); 22.10.2012. <http://gazetajnk.com/?cid=1,987,3560>

103 These documents were published by Lëvizja Vetëvendosje!

104 Gazeta JnK; Parim Olluri and Nate Tabak; "Paratë e Blerjes Vijnë nga Ishujt Cayman" (The money comes from Cayman Islands); 29.04.2013. <http://gazetajnk.com/?cid=1,987,5454>

105 Gazeta JnK; Petrit Çollaku; "Bankat e Fuqishme Nuk Tregojnë a Mbështesin Axos-in" (The Powerful Banks do not tell whether they support Axos or not); 24.06.2013. <http://gazetajnk.com/?cid=1,987,5865>

106 Governmental Privatization Committee, Press release. 31.12.2013. <http://mzhe.rks-gov.net/?page=2,42,775>

9. Latest developments in PTK

The recent RAEPC data show that mobile telephony penetration has almost reached its limits and this fact makes unavoidable the transformation of PTK from an operator focused exclusively on offering voice telephony services to a modern operator providing high speed data exchange. This is especially important in a context of a young population, where the age group from 15 to 65 comprises 65.3% of the country's population.¹⁰⁷

Taking into consideration the continuous shrinkage, PTK has already begun a phase of internal restructuring. In the October of last year, the PTK Board decided to dismiss the executive director. According to the press release, the BD's decision was based on the recommendations of Audit Committee and on the article 18.3 of the Law on Public Enterprises, which specifies that: "if a POE fails to achieve its targets of financial performance for two consecutive years, the Board of Directors is forced to take into consideration the dismissal and replacement of CEO."¹⁰⁸ In fact, this was

the first such decision in the overall history of company, a culture of impunity which resulted mainly due to the lack of functioning of accountability mechanisms because of the high and ubiquitous practices of political appointments.

In this context then, of structural reforms in PTK must be seen also the latest decision of the company to level the salaries – according to the new CEO this process will not begin implementation now¹⁰⁹ – which is based on a recommendation of the Ministry of Economic Development from 2012. According to this recommendation, PTK should not exceed operational costs by more than 20% in relation to the overall income. However, in 2012, and based on this recommendation, PTK decreased the salaries of its employees. Nevertheless, after around 900 of its employees filed complaints while the courts in all levels decided in favor of employees and the company was forced to reimburse them.

Resuming the investments plan and launching the broadband services 3G, as well as launching 4G services in late April, 2015, mark the beginning of capital investments proj-

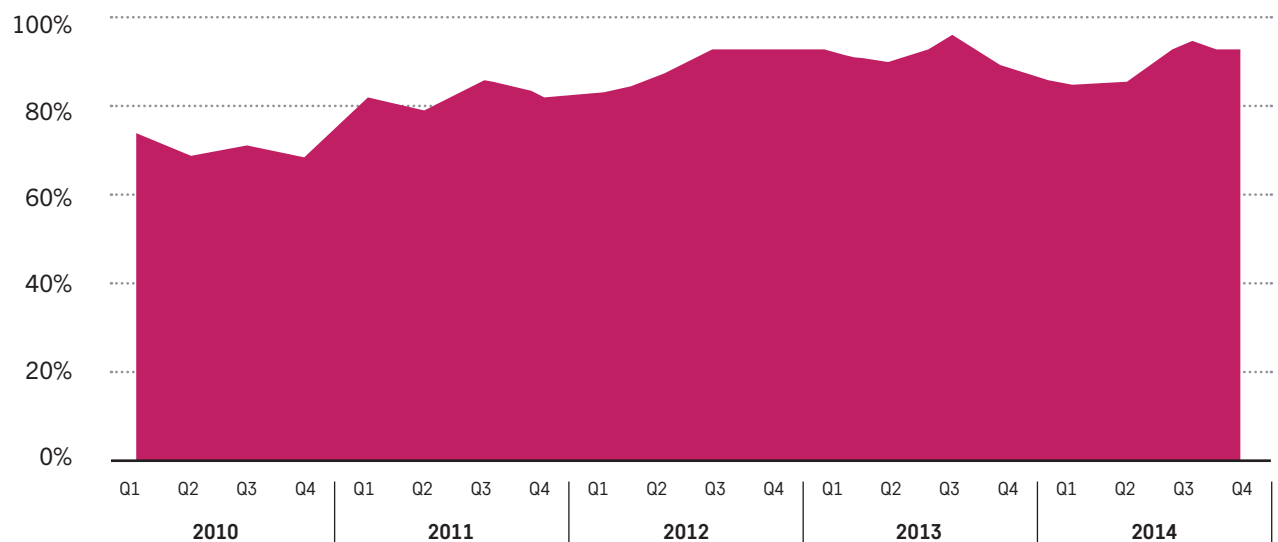
107 Kosovo Agency of Statistics; Kosovo Census Atlas; 2011. <https://ask.rks-gov.net/ser/images/files/Atlas%20popisa%20stanovnistva%20Kosovo.pdf>

108 See article 18.3 of the Law on Puublic Enterprises. <http://gzk.rks-gov.net/ActDocumentDetail.aspx?ActID=2547>

109 Interview with PTK Executive Director, Agron Mustafa, on 07.04.2015.

FIG. 19 PENETRATION OF MOBILE TELEPHONY (Q1 2010 - Q4 2014)

 Penetration



Source: Regulatory Authority of Electronic and Postal Communications – RAEPC

ects which aim not only to prevent the further decrease of the revenues and loses in the market shares but also to assist the structural transformation of PTK and to get it back on tracks of sustainable development.

Based on the revised Business Plan for the period 2015-2019,¹¹⁰ the main pillar of PTK's sustainability is considered its transformation from an operator focused on offering services of voice telephony to a provider of high speed data exchange. According to this plan, moreover, the aim is to stabilize the trend of decreasing revenues during 2015 and to begin a gradual increase of 3-5% during the 2016/7 period as far as Vala mobile operator is concerned, and up to 9-10% as regards the PTK in general. Also, the plan foresees to begin offering convergence products as a whole during the 2015-2019 period, thus combining mobile telephony services, internet, IPTV and landline telephony.

It must be noted that this forecast is very ambitious and as such must be taken reservedly for two particular reasons. First of all, the Government of Kosovo has foreseen to take a dividend of 30 million EUR from PTK each year for the period 2015-2017.¹¹¹ This decision of GoK is in complete contradiction with PTK's Business Plan (2015-2019), thus seriously putting at risk the foreseen capital projects and is incongruous with projections of cash flow.¹¹² The decision testifies to complete lack of cooperation between the shareholder (the government) and the Board and the management of PTK on long-term sustainable development and structuring processes of the company. Second, according to the latest assessments by PTK management, the 2015-2019 Business Plan must be revised in order to decrease the forecasts for the following years of revenue percentage increase considering that further decrease of company revenues is expected in 2015,¹¹³ which tells that essentially, the Business Plan was not compiled based on achievable targets.

Despite of what was said above, the recent selection of executive director, a member of PDK and a person consid-

ered to be close to the Chair of Kosovo Assembly, a head of Kosovo Secret Service (SHIK),¹¹⁴ offers proof to the contrary and shows that direct interference of politics in daily management of the company will not stop and the current practice of extreme politicization of company will continue. The prime minister's reaction regarding the selection of new PTK director considering it a "recycling of same people" and concluding that this decision raises doubts as to the trust of the Board and its goals,¹¹⁵ shows that the relationship between the shareholder and the management could be marred with persistent skirmishes. This situation could make it very difficult, if not impossible to revitalize the company and to get it back on tracks of transformation and modern sustainable development.

110 PTK Business Plan, (2015-2019).
http://mzhe.rks-gov.net/npmnp/repository/docs/Plani_i_Biznesit_2015__PTK_sha.pdf

111 The Budget of Republic of Kosovo for 2015.
<https://mf.rks-gov.net/sq-al/Buxheti/Buxheti-i-Republikes-se-Kosoves/Buxheti-qendrore>

112 Kosova Press; "PTK-ja siguron vetëm 10 milionë, Qeveria-kështu shkelet ligji" (PTK provides only 10 million, Government – this is a violation of law); 13, April 2015.
<http://www.kosovapress.com/sq/ekonomi/ptk-ja-siguron-vetem-10-milione-qeveria-keshtu-shkelet-ligji-39988/>

113 Interview with PTK Executive Director, Agron Mustafa, on 07.04.2015.

114 Gazeta JnK; "PDK ruan kontrollin në PTK" (PDK maintains control in PTK); Parim Olluri dhe Mimoza Kqiku; February, 2015. <http://gazetajnke.com/?cid=1,2,9647>

115 See the reaction of Prime Minister Isa Mustafa; <http://kohane.net/?id=27&l=45464>
One of the candidates for the position of chief executive officer of PTK was also Xhelil Bekteshi, former director of the Department of Finance in the Municipality of Prishtina while Prime Minister Isa Mustafa was Mayor.

10. CONCLUSION

The vitality and sustainable development of PTK would have been ensured if a framework of rules and in particular of OECD practices of good corporate governance would have been implemented. In a number of cases the integrity of the overall framework of telecommunications sector governance was put at risk precisely because of the grave violations of OECD principles.

Some of the most notable violations of OECD principles include: 1) violation of integrity and independence of RAEPK in several cases; 2) grave interference of politics, the telecommunications industry and also of international actors in telecommunications sector; 3) lack of effective supervisory mechanisms; 4) large presence of cases of conflict of interest; 5) high level of politicization and nepotism; and 6) lack of transparency and accountability on the part of the shareholder – the government, and of BD and PTK management.

Since the second mobile operator entered the market in 2007, PTK has suffered linear decrease of percentage of users of mobile telephony and of revenue percentage. This negative trend was not only a consequence of competition, but above all, as a consequence of interference of politics, of telecommunications industry and of international actors. Within this framework, it was almost impossible for PTK to cope with the tough competition coming from the two mobile operators.

An all too negative effect on the overall sustainability of the company has also had the decision of government to end capital investments as a consequence of the process of ownership transformation of PTK (privatization process). The termination of capital investments has lasted for more than three years and the devastating consequences for the company are apparent. RAEPK data show that since the moment this decision was taken, PTK has marked revenue decrease in mobile telephony as well as in landline internet, including loss of market of users of these two services.

It can be seen clearly that what has saved PTK from complete diminution of its revenues and its value, was more the conservative nature and obvious lack of flexibility of its consumers to pass on to other mobile operators than its strategic management either by the shareholder (the government) or the Board and the management. Nevertheless, fast technological changes, coupled with the high percentage of young population in the country, will make

it impossible for PTK to preserve its current consumers if the company will not continue with its structural transformation.

In this regard, it must be stressed that PTK today finds itself before a crucial challenge whereby the continuous and unavoidable decrease of its value will not be stopped if the company will continue focusing on providing voice telephony services. PTK, as is foreseen also by the Business Plan (2015-2019), must be transformed into a company which focuses on providing high speed data exchange services, what will enable PTK to integrate the multimedia services (voice, internet, video). PTK must continue investing in extending the network of optic fibers and in providing modern equipment, especially as regards end users, in modernizing and digitalizing the billing system and in changing qualitatively the relations with its customers.

11. RECOMMENDATIONS

TO SHAREHOLDER – GOVERNMENT OF KOSOVO:

- Stop the recurring practices of political interference through appointing party members rather than professionals in decision-making and managerial positions in PTK.
- In case it is considered inevitable, revise the Law on Public Enterprises with regard to selection criteria of Board members of POE guaranteeing their professionalism and party independence.
- Support plans for capital investment(s) in PTK by not taking decisions which endanger the strategy for capital investments.
- Cooperate closely with the Board and management of PTK in eventual revision of Business Plan 2015-2019, and support the transformation of company from an operator focused on voice telephony services to a company that provides high speed services.
- Do not begin the process of PTK ownership transformation (privatization) before the company stabilizes the trend of falling concerning mobile users and revenues, especially as regards mobile telephony.
- Revise, study, and publish eventual plans for putting PTK under international management.
- Ensure access to basic documents, do not exclude Kosovo Assembly from the decision-making process and guarantee public's participation in the eventual process of PTK privatization.
- Ensure the independence and professionalism of RAEPC.

TO THE PTK BOARD AND MANAGEMENT:

- Supervise in a much more rigorous manner the work of PTK management and demand periodical accountability.
- Revise as soon as possible the Business Plan 2015-2019, especially as regards forecasts about of company's revenue growth.
- Revise as soon as possible the Business Plan 2015-2019, and ensure that structuring plans are in harmony with technological changes and developments and that they respond to real possibilities and the needs of company for structural transformation.
- The Board of Directors must ensure access to periodical reports regarding the work of PTK's management.
- Totally review the relationship with customers.

TO RAEPC:

- Refrain from political and mobile industry interference by implementing legal norms that guarantee the independence of the institution and secure open, fair and competitive market.

TO PMUPE:

- Ensure regular annual monitoring and evaluation reports on POEs, and especially improve the quality of their content.

TO INTERNATIONAL COMMUNITY:

- Stop current practices of interfering in the process(es) of transformation of public property ownership (privatization), and support a true process structuring and development of PTK.

