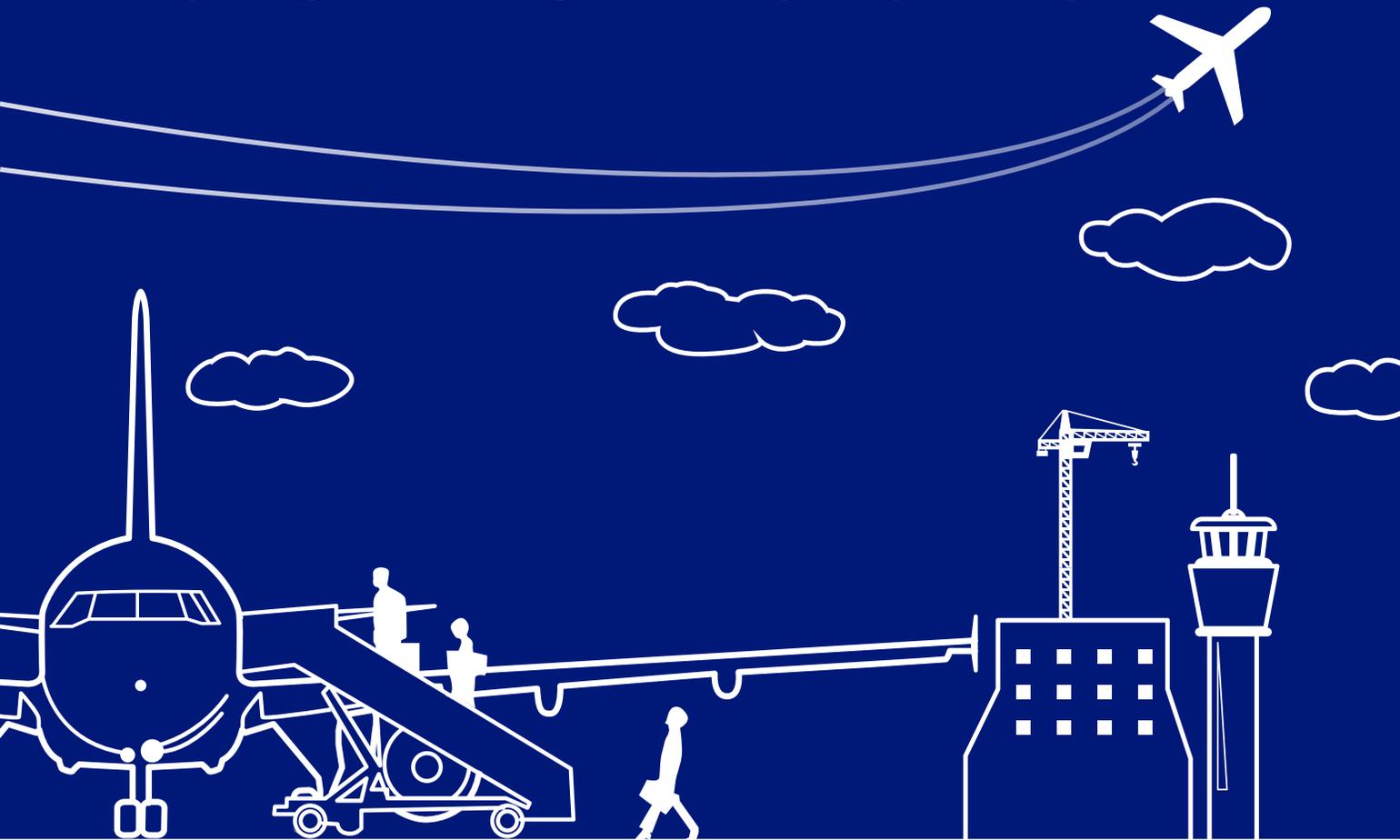
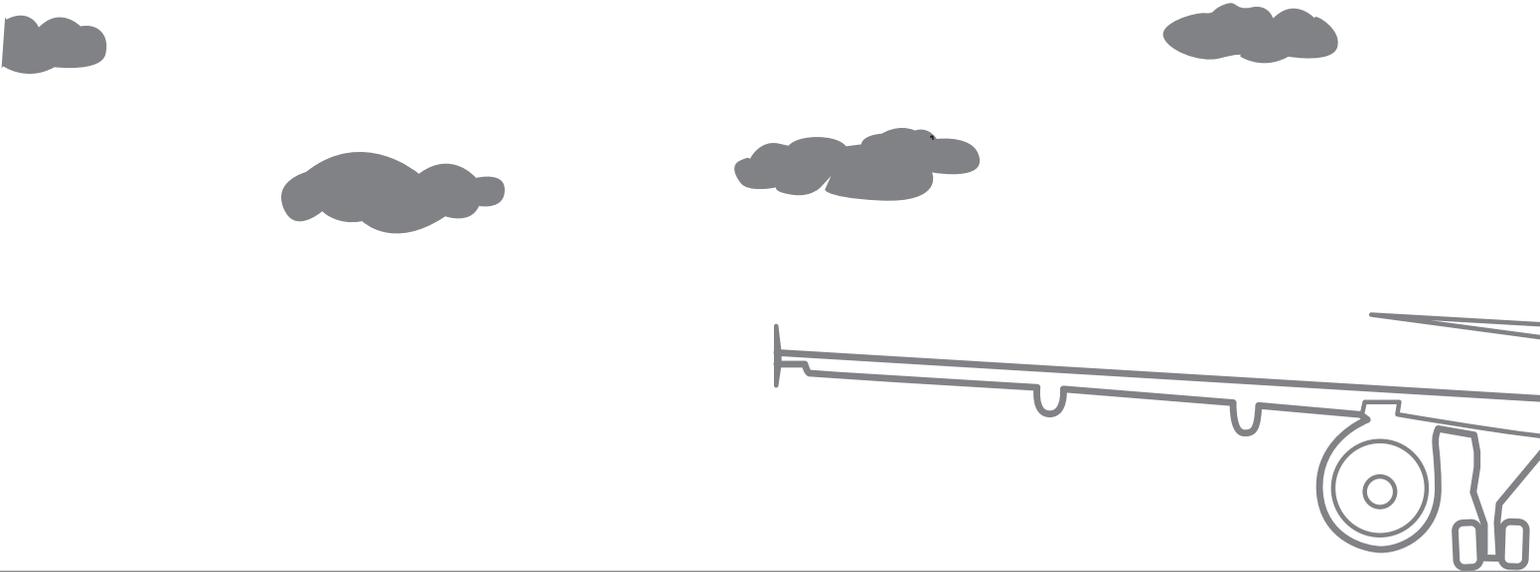
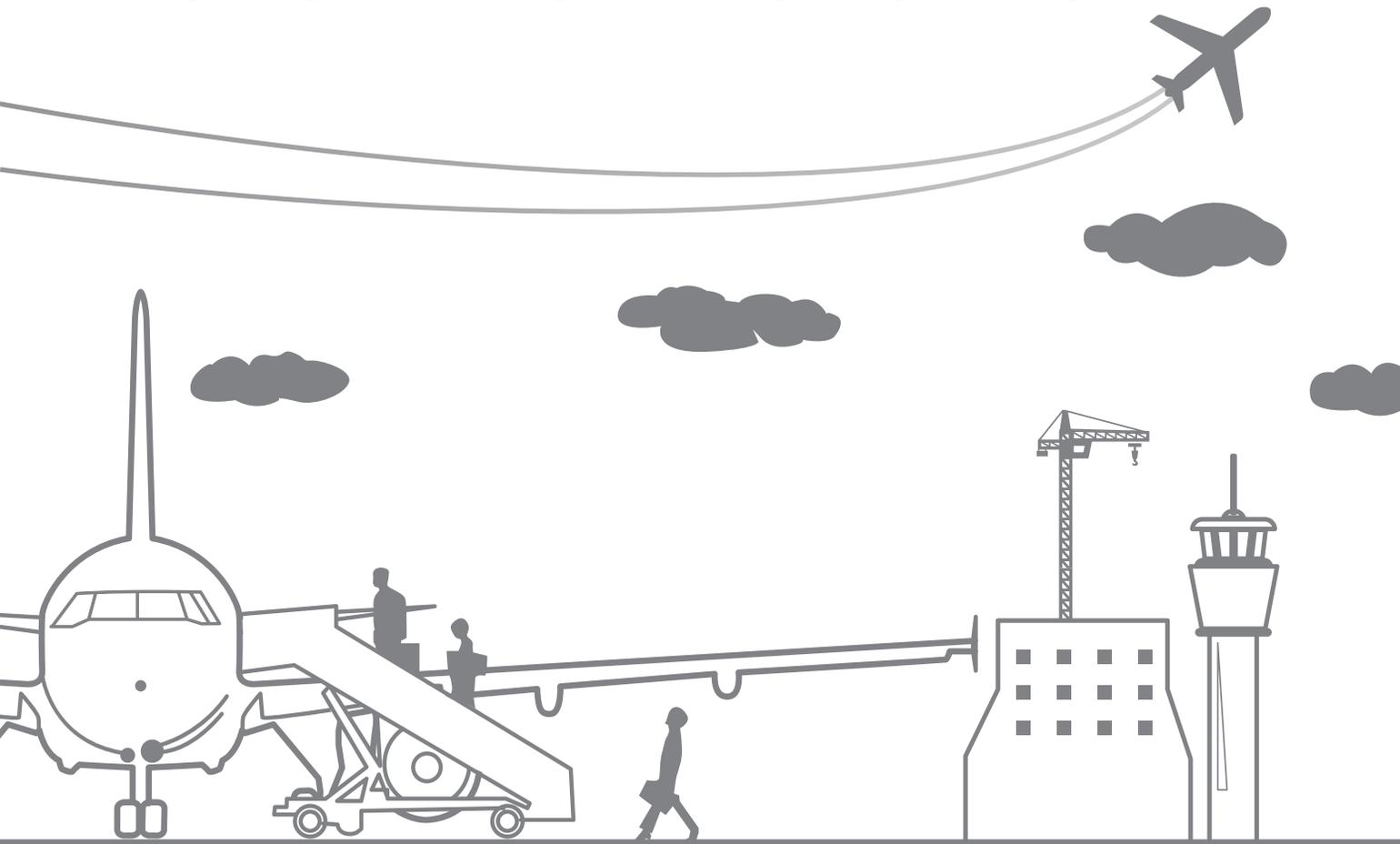


# AIRPORT CONCESSION





# AIRPORT CONCESSION



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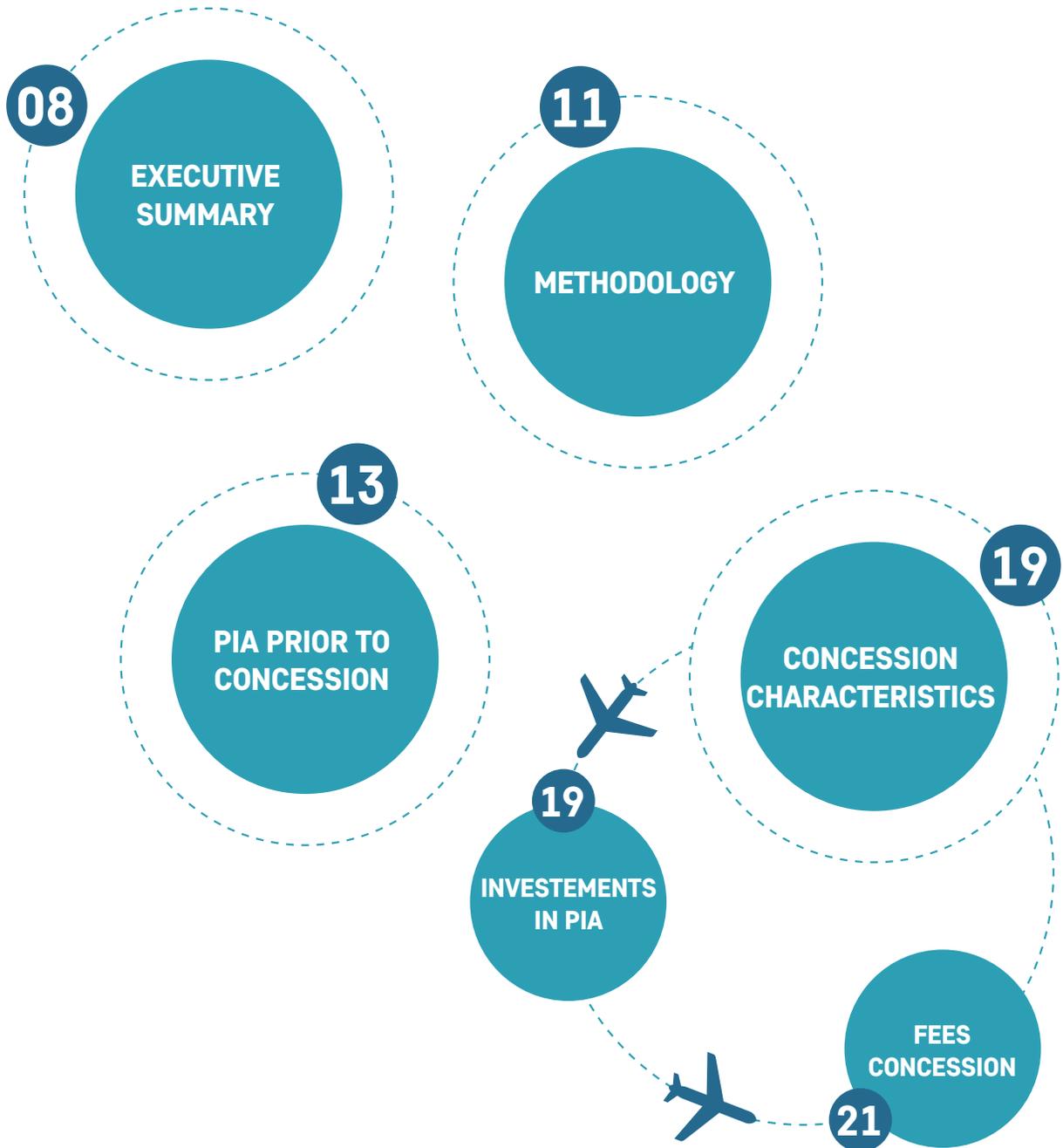


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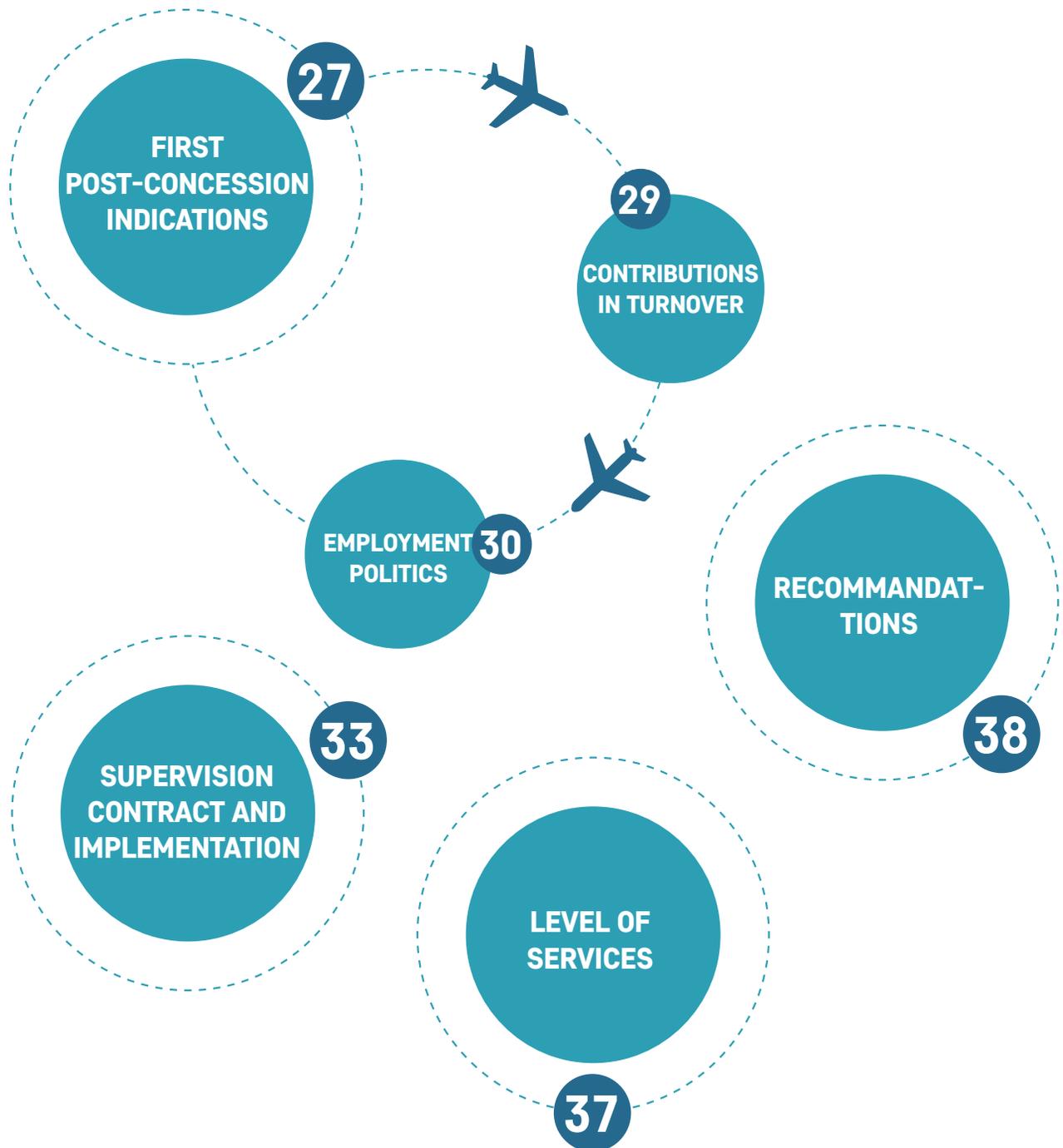
# ABBREVIATIONS

|                |   |   |
|----------------|---|---|
| <b>CAAK</b>    | → | Civil Aviation Authority of Kosovo                            |
| <b>EAIR BR</b> | → | Air British Petroleum   |
| <b>PIA</b>     | → | Prishtina International Airport “Adem Jashari”                |
| <b>ICAO</b>    | → | International Civil Aviation Organization                     |
| <b>IATA</b>    | → | International Aviation Transport Association                  |
| <b>DAN</b>     | → | Department of Air Navigation                                  |
| <b>FAA</b>     | → | Federal Aviation Authority                                    |
| <b>IMSC</b>    | → | Inter-Ministerial Steering Committee                          |
| <b>ATC</b>     | → | Air Traffic Control   |
| <b>LKIA</b>    | → | Limak Kosovo International Airport J.S.C.                     |
| <b>MTI</b>     | → | Ministry of Trade and Industry                                |
| <b>MOF</b>     | → | Ministry of Finance   |
| <b>PPPU</b>    | → | Public Private Partnership Unit                               |
| <b>PMU</b>     | → | Project Management Unit                                       |
| <b>PEIA</b>    | → | Public Enterprise International Airport “Adem jashari” J.S.C. |
| <b>PPP</b>     | → | Pu Government of Kosovo                                       |
| <b>GoK</b>     | → | Government of Kosovo  |
| <b>RBK</b>     | → | Raiffeisen Bank Kosovo  |
| <b>ANS</b>     | → | Air Navigation Service  |
| <b>UNMIK</b>   | → | United Nations Mission in Kosovo                              |

# TABLE OF C



# CONTENTS



# EXECUTIVE SUMMARY

Prishtina International Airport (PIA) which was founded in 1965, revitalized in 1995, and went through the concession agreement in 2010, is the single Kosovo's public asset ever given for concession from the Government of Kosovo (GoK). Due to its importance as a national asset and its distinctiveness as an economic model of proprietorship transformation, RIINVEST Institute supported by Kosovo Foundation for Open Society considered that it is necessary to address the concession process of PIA. This becomes crucial considering lack of study and analytic reports in this direction now that the concession agreement enters its fourth year of operation as well as public involvement obligation in transparency and accounting of Kosovo's public assets.

During the second half of 2014, researchers have summarized, analyzed and structured the secondary data already made public in Kosovo. Nevertheless, this data was constantly filled in with interviews from parties of interest, individuals and organizations that were willing and ready to share their thoughts about the process, and with information and facts relevant to this study. Unfortunately, researchers were not able to further enrich this report with supplemental materials mainly because they faced constant refusal to answer questions and present their standpoint regarding the process by the PIA concessionaire, "LIMAK Kosovo" company. Refusal to offer information relevant to the topics of this report despite the constant insisting in writing- besides desperation, it also does not provide space to confirm or deny other parties' claims against the concessionaire behavior that this reports attempts to summarize .

With the available information and tendency to offer a reporting analysis not a media investigation, our report treats the PIA condition into three relevant periods: The first is interconnected with asset performance prior to the concession, the second deals with unclear and non-transparent developments during the concession process, and the third, with the first indicators of past-concession period- as preliminary measures to a joint 20 year road that Kosovo will have with the concessionaire.

We started the PIA issue treatment through modification of PIA financial reports prior to the concession; when this asset had a healthy business performance. Despite all the defects and barriers of state-building that have most definitely also affected the performance of public corporates and assets in

country. In less than a decade, PIA has managed to invest 50 million euros. Additionally, during the three year period of 2008-2010, the average investment value –always based on the audited financial reports- was around 7 million euros, while the average dividend value distributed for the Kosovo Government was around 3 million euros; a total of 10 million euros. In a basic scenario without concession, an eventual extrapolation of this rhythm would mean that in the next 20 years of operation-excluding growth, the PIA would invest around 140 million from its own funds and would distribute another 60 million as dividends. A similar calculation in this report was done not to necessarily challenge the idea of the PIA concession but it is done to determine performance criteria that a new investor would need to reach supposedly in the same managing way with the prior-thus, public management. In an assumption situation and consequently a necessity for a more sustainable and more effective private management – subsequently the reason for concession-the threshold achievement would be even higher.

Despite its performance and in order to increase its efficiency and achieve a better positioning against regional markets, PIA is given for concession on June 01st of 2010. At that time, Kosovo government had declared as winners the Turkish company consortium "LIMAK" and the French company "Aéroport de Lyon". The Turkish conglomerate "LIMAK" that owned 90% of stocks of the winning consortium for PIA, was known for involvement in construction, energy and cement; thus the company experience in airport management was minimal at the time of concession. The rest 10% of these stocks was owned by the French company "Aéroport de Lyon" that carried the proportional experience with ownership in the field of airport management. Years later, more specifically in 2013, "LIMAK" was involved in another consortium with a Turkish company "ÇALIK" to privatize Kosovo's distribution grid-a process which has been followed by constant oppositions from the non-governmental spectrum.

The selection process itself when competing for Prishtina Airport lead to dissatisfaction for many participants in this process. One of the competing companies "Bouygues Batiment-Egis" has deemed this process as non-transparent and manipulated while the winner "LIMAK-Aéroport de Lyon" as unexperienced in the field in which they were bidding for concession.

During the offer presentation and later while signing the contract and agreement for Public Private Partnership (PPP) of PIA, Kosovo Government, more specifically the Public Private Partnership Unit (PPPU), which is a part of Ministry of Finance (MoF), presented its eventual profit estimations from PIA's concession. These estimations implied that besides an investment worth over 100 million euros for the next 20 years, because the concessionaire would share 39.42% of overall PIA turnover, the generated income would be 400 million euros.

The day of new terminal inauguration, on 23 October 2013, the concessionaire informed that full 130 million euros were invested in this terminal. Kosovo Government categorized this investment as an essential success of this concession. Field experts however, consider the declared investment from 130 million euros as overestimated and defective. To this day, there is no report or assessment that was made public to the general opinion about the exact value of investments in PIA.

Above all, failure to establish a Project Managing Unit (PMU) responsible for overseeing contract implementation remains a serious defect of the entire process. Unfortunately and surprisingly- PMU was not founded and it never functioned as anticipated by the contract. Instead, the overseeing of contract implementation was managed by existing officials from the PPP unit- a clear conflict of interest. Failure to found the PMU-whether intentionally or unintentionally, constitutes serious procedural violations- by also providing an opportunity for unrestrained and unverified behavior for the concessionaire.

Above all, some investment parts as predetermined by contract were never realized by the concessionaire. This report identifies a correlation of events that interrelates employment of 130 individuals during the period of signing the agreement-most of them politically connected-followed by a part of contract changes- to create the impression that a part of investment obligation was compensated by creating jobs for Kosovo decision makers. When speaking of employment, the first three years of PIA operation under concession were characterized with employee right violation, violation of labor law, with interdiction of employee syndicate organization and with political impact in employment. Moreover, a major part of investments and other activities

associated with PIA functionalization were linked directly and intentionally in the job market from Turkey; excluding this way the opportunity for local employment. This exclusion includes continuous deploying of Turkish citizens for job positions and activities that do not require any specific qualifications and for which it is easy to find local Kosovars with similar characteristics and skills.

An important field of interest is also Kosovo Government participation in the overall turnover-declared by the concessionaire itself; which turns out to be the source of turnover underperformance phenomena. Post-concession initial data show that the concessionaire intentionally and in full awareness attempts to reduce turnover through signing fictitious contracts with hardly justifiable prices with third parties. Some of the reported cases include contracts that concessionaire signed with third parties by subcontracting advertising spaces and PIA spaces for restaurant services for much lower prices.



## Bypassing of Kosovo Assembly During the Concession Process of International Airport of Prishtina

The legal framework which regulates the public-private partnership issue determines in a clear way that such a thing is realized under the Government authority. The role of assembly in this framework is small and limited to an indirect supervision that the Assembly exercises on Government during annual reporting of the concession progress. However, it results that the Kosovo Government represented by the Steering Inter-ministerial Committee for Public-Private Partnerships, in the signed agreement with Turkish company Limak Kosovo International Airport J.S.C. for the operation and expansion of Prishtina International Airport, has exceeded its authority by assuming obligations for which will have to be authorized by the qualified majority of the members of the Assembly of Kosovo. Meaning that Kosovo Government undertakes responsibilities in relation to the obligations of the private partner (Limak Kosovo International Airport J.S.C) against lenders in the event of contract termination by the Government of Kosovo represented through the Steering Inter-ministerial Committee for Public-Private Partnerships.

Under Article 17.4.2, item (b), the contract between the Kosovo Government and private partnership, which regulates the contract termination by the Kosovo Government, it is said that Government assumes or pays outstanding obligations of the private partner under the existing agreements that the private partner has with lenders or based on conditions agreed between the Kosovo Government and lenders.

Under the Law for Public-Private Partnership (no. 04/L-045), article 12, item 4, among others it is said that should Kosovo's Government be obliged to enter the debt or provide guarantees to finance any form of state aid for the needs of implementing a public-private partnership, then in debt entry, namely the granting of the guarantee is subject to the provisions of the law on public debt.

Under the Law for Public Debt (no. 03/L-175), guarantee is defined as an obligation to pay an eventual debt that initially emerges as an obligation of a third party and that depends on the failure of such third party to make payment in due time or to obey the terms of the instrument by which such debt is regulated. All guarantees that the state enters, should be stated explicitly in writing; so there can be no implied warranty under this law.

Although the Law for Public Debt under article 19, item 1, authorizes the Minister to sign binding agreement about state guarantees and item 2 of the same law allows the right to private entities that are financing public infrastructure projects, under the same article, this law requires that authorization of government guarantees should be subject to approval by two-thirds (2/3) of the votes of all Kosovo Assembly Members. Such a vote has not transpired in this case which is a serious violation of the legal framework during this process.

# 1. METHODOLOGY

This report presents a qualitative study about the progress and results of the concession of Prishtina International Airport “Adem Jashari” (PIA). To have an overview of the process from progress in question, the study lies in the three periods: a) before the concession period; b) period from the decision of Government of Kosovo for analyzing and implementing public-private partnership for the (PIA) and to the signing of the contract between the government and concessionaires; and c) the concession period from the date until today (3 years).

Research methodology of this report has included secondary research - through summary and analysis of current data; collected and published throughout Kosovo- and primary research, i.e. interviews with the parties concerned, which have been included in one of the analyzing periods of this report. Secondary research was prepared by analyzing documents linked with the performance of the airport before the concession, government documents and decisions of the concession process, as well as national and international laws and regulations that regulate the field of aviation in Kosovo.

Primary research was conducted through in-depth interviews with the parties concerned. The basis of the interview and the interview structure were secondary preliminary findings of the study, which helped significantly in the design of open questionnaires and formulated separately for each party of interest. The face-to-face interviews have been developed by researches of the project. The following parties were interviewed during research: Prishtina International Airport “Adem Jashari” J.S.C. (remaining part as a public company), Civil Aviation Authority of Kosovo (CAAK), former director of the Airport, former commercial director of Prishtina International Airport, President of the Union of PIA employees, representatives of airlines, laid-off employees, and journalists who reported for airport. But despite constant requests by the research team directed to public partner “LIMAK” and Public-Private Partnership Unit, these two institutions have refused to be interviewed and to give their responses to survey.

Collected data were processed and included in the general structure of the report. In cases where additional information is produced for the purpose of research, the research team has redeveloped additional interviews with the parties concerned to get a clear picture on the entire process so far.



## 2. PIA BEFORE CONCESSION

Prishtina International Airport (PIA) before concession of 2011- Despite the difficulties and reported mismanagement- had a stable financial condition. This stable state has not only provided PIA with efficient operation, but also provided the opportunity for capital investment.

After the war in Kosovo in 1999, PIA has managed to create basic infrastructure operations. High value capital investments realized at that time are mainly associated with the construction, modification and the functioning of the terminal for passengers; with resurfacing the airport runway, construction of the lighting system, construction of cargo terminal; parking for vehicles ; purchase of the equipment for air navigation ; radar installation in PIA and Golesh ; purchase of machinery for the maintenance of the runway ; purchase of the equipment for firefighters ; and building construction for the firefighters.

The total value of the aforementioned investment has been around 50 million euros. Two previous investments, respectively resurfacing of the runway and the lighting installation, have reached the cost of 20 million euros; investment which was made in the period of 2007-2009. The full value of the investment in question was financed from PIA owned resources; to mark financial stability and the possibility of capital investment before the concession.<sup>1</sup>

Analysis of capital investments for 2008, 2009 and 2010 shows a sufficient financial strength for PIA; a total sum of 18,161,000 euros. According to financial statements issued by the independent auditor's report for 2009 and 2010, PIA value of investments during 2008 was 6,953,000 euros; meanwhile it reached at 7.8 million euro in 2009. Investment value in 2010 decreases for more than a half (about 3,357,000 euros) always due to start of PIA concession process.

Beyond capital investments, PIA had also distributed dividends. On May 31st, 2010, the PIA board of directors had declared a dividend in the amount of 10 million euros to pay to shareholders of the company- Government of Kosovo

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<sup>1</sup> In 2007, PIA was granted a loan in the amount of 13.5 million euros by Raiffeisen Bank (RFB) with a maturity of up to 2012, but PIA used only half of them, while the remaining portion of the loan of 5.4 million euros was returned back to the bank before its maturity , in 2009 .

(GK). According to the decision, the payment of dividend for the shareholder is made in two installments as follows: 5 million euros on 10 August 2010 and 5 million euros on 31 December 2010.

So in a three year period of 2008-2010 , the average value of investments - always according to audited financial reports -has been about 7 million euros , while the average value of the dividends distributed for the Kosovo government has been about 3 million euros ; a total of 10 million euros . A possible extrapolation of such a rate would mean that the ANP for the next following 20 years of operation, excluding growth - would invest from its own funds about 140 million euros and approximately an additional 60 million would be distributed as dividends. At a minimum optimistic scenario of increased performance ( for 10-20 % ) due to better management and because of the investment growth, PIA will be able to invest with its own means about 180 million euros , and an additional 80 million euros would be distributed as dividends.

PIA concession is made by dividing the enterprise in two parts; in part of passenger service which is given to the concessionaire; and part of Air Navigation Services (ANS) which continues to be directed by the Public Enterprise PIA "Adem Jashari" (PEPIA). For the consortium, such partition has always been favorable, considering the financial losses that part of the ANS continuously recorded. In fact, according to PEPIA "Adem Jashari" financial statements, financial losses have continued even after the concession, as it was expected. In 2013, PEPIA experienced a loss of 1.9 million euros; while in 2012 they were rounded at 1.8 million euros.

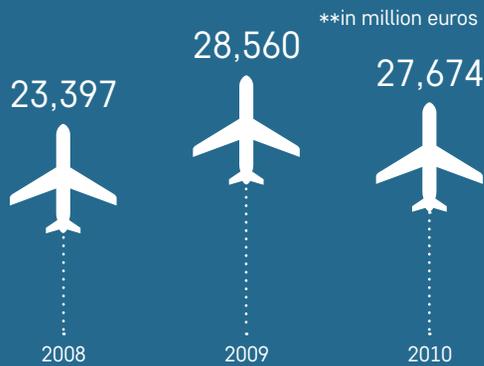
In other words, the separation of PIA in two parts and concession of the single profitable part - in real terms - has increased the expected profitability for the following years. In retrospect, going back to the PIA investment scenarios, if the concession would have not happened, leads to believe that the next 20 years, PIA (without PEPIA) would have been able to invest and share as dividends around 250 million euros; with a natural and not very impressive increasing trend (by 10-20 %) and investment value of dividends (together) could easily reach in 300 million euros.

A similar calculation in this report was done not to necessarily oppose the idea of PIAs concession but it is done to

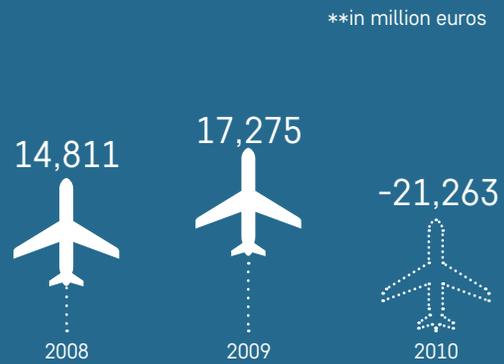
# FIG. 01 FINANCIAL SUCCESS CAN ALSO BE SEEN IN THE FINANCIAL STATEMENTS WHERE FOR THREE YEARS PIA HAS REPORTED THESE RESULTS:

\*\*in million euros

## Revenues from operations



## Overall Costs



## Annual Profit



## Net Profit



Source: PIA financial statements of 2008-2010. \*\* in million euros.

determine performance criteria that a new investor would need to reach under the assumption of management equivalent to the prior - public management. In terms of assumption and consequently a necessity for a more sustainable and more effective private management – subsequently the reason for concession-the threshold achievement would be even higher.

According to Mr. Agron Mustafa (the former director of the PIA)<sup>2</sup>, before the concession PIA has demonstrated investment opportunities by increasing the volume of investments for each year gradually and by consistently improving company's financial performance. According to Mr. Mustafa, PIA had been in a state in which there had been numerous needs for investment which was impossible to accomplish within a short time; however, PIA was on the right track to idealization and financing of needed investments.

Beyond the gradual increase of capital investments, as evidence that PIA was in a stable financial condition, Mr. Mustafa also mentions the premature return of a commercial

loan, and net profit growth during the last couple of years of PIAs operation. Nevertheless, according to Mr. Mustafa, the justification for the PIA's concession should not be requested at the financial aspect, but at the competitiveness increase of post concession PIA in relation to the region: "*... all airports in the region are governed by concession and private companies that have greater commercial flexibility than public companies*".

To define the position of the report, the research authors reiterate once again that attention to the PIA's own sustainability - confirmed by its former managements at the time of public ownership - is not done to exclude the possibility or idea of the concession, but to evaluate criteria and objectives inherent to the private consortium would have to reach in a normal case. These objectives, as well as will be seen along the report, carry a special significance. The authors also argue that self-profit distributed as dividends, along with investments made in the period of public ownership - that amount a total of 10 million euros per year (including the part with loss profit operation of the air navigation) - offer sufficient indications that PIA always had alternatives that would finance investments directly (for a long-term investment period) or to finance eventual loans (for an immediate investment period).

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<sup>2</sup> Interview with former director (2008-2011) of PEIA, Mr. Agron Mustafa : June 10 2014

# HISTORY OF PRISHTINA I



Prishtina International Airport "Adem Jashari" was certified by the Icelandic Civil Aviation Authority after completion of safety and security standards as a result of investments in various projects such as: Resurfacing the runway, runway lighting, street and perimeter fences and some other investments.

A decision was taken by Government of Kosovo No. 14 / 24 on the establishment of inter-ministerial steering committee for the analysis and implementation of a public-private partnership for the operation and expansion of PIA- Adem Jashari.

**(12 November) 2008**

Was founded unit PIA PPP project implementation.

2002

2005

2006

2008

1965

Pristina Airport is officially open only to domestic flights.



Airport was transferred to an international airport with reactivation and advancing of post-war on October 15, 1999, by offering of air transport in few European cities.

The Airport considered that they had around

**800.000** to **1.000.000**

commercial and military passengers that flew in and out within a year. The airport has rebuilt facilities and installed new techniques in order to assist in providing a wide range of quality services to passengers and its visitors.



Prishtina International Airport won the best airport award in the category of under

**1.000.000** travelers



# INTERNATIONAL AIRPORT

**(1 February 2009)**

As a transaction advisor, company Naco Inova and White Case were contracted to conduct the feasibility study for a possible PPP of PIA.

**(12 June) 2009**

The Government of Kosovo decision no. 05/68 on the structure of DNFOB PPP.

**(10 August) 2009**

It was published KpK for PPP PIA, with two-stage tendering procedure.



The airport started operating 24 hours.



**(1 June) 2010**

Airport is given for concession. Consortium Limak-Aeroport de Lyone is declared a winner.



**(4 April) 2011**

Prishtina International Airport is transferred to Limak Kosovo International Airport J.S.C.

**(2 April) 2011**

A contract is signed with independent engineering, the Spanish company "INECO" for supervision of construction works.



**(23 October) 2013**

The inauguration ceremony of the terminal building for passengers.

2009

2010

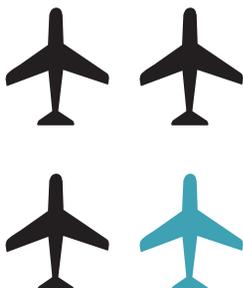
2011

2013

**(16 October) 2009**

The closing of KpK period, 4 presented bids, in order for to be valid:

- 1 Fraport IC ICTAS Havalimani Isletme AS.
- 2 Bouyges Batiment International, Egis Project, Segap, Eurokoha
- 3 Limak-Aeroport de Lyon



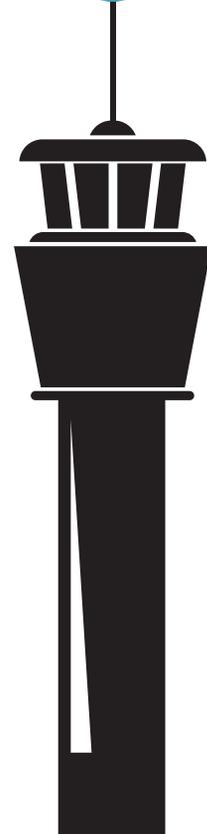
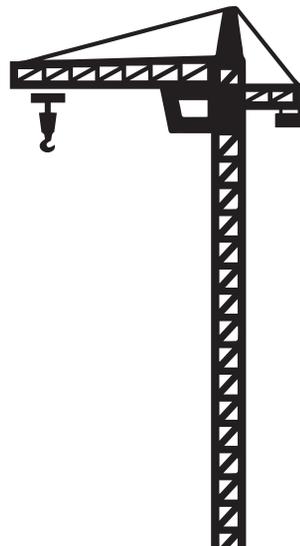
**(12 August) 2010**

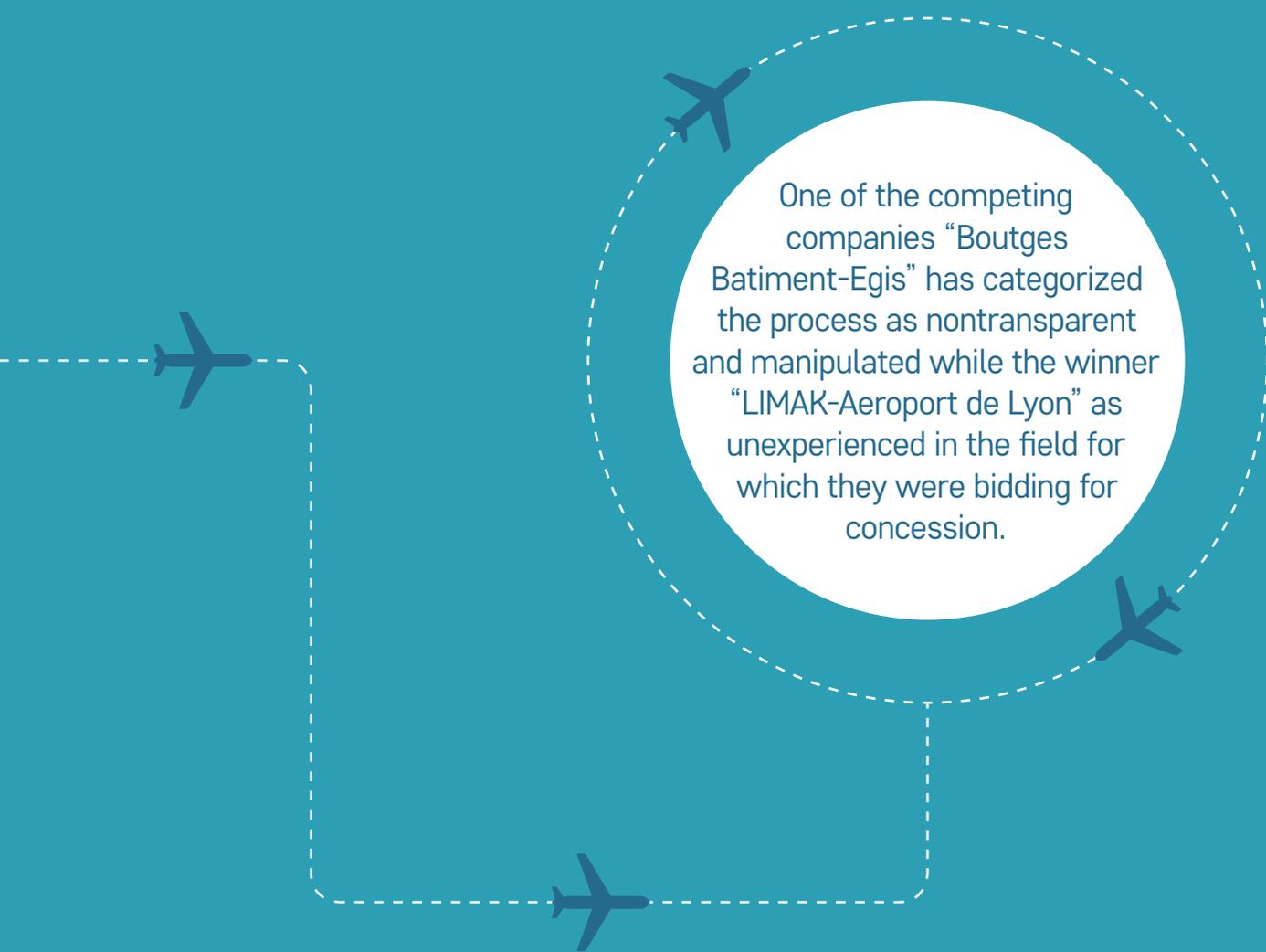
The PPP agreement on the operation and expansion of PIA between the Republic of Kosovo and Limak Kosovo International Airport was signed.



**(11 July) 2011**

Starts expansion work at the Prishtina International Airport "Adem Jashari".





One of the competing companies “Boutges Batiment-Egis” has categorized the process as nontransparent and manipulated while the winner “LIMAK-Aeroport de Lyon” as unexperienced in the field for which they were bidding for concession.

# 3. CHARACTERISTICS OF CONCESSION

On June 1, 2010, the Government of Kosovo announces the winning consortium of Turkish company "LIMAK" and the French company "Aéroport de Lyon". Turkish conglomerate "LIMAK" owner of the 90 % stake in the consortium winning PIA was known for involvement in construction, energy and cement. The remaining 10 % meanwhile, was in control of the French company "Aéroport de Lyon" which brings with them the experience in the field of airports-proportional to the ownership. It is worth mentioning that the experience of the Turkish company "LIMAK" in the field of airport management was minimal at the time of the concession." LIMAK" at that time operated only with the airport "Sabina Gökçen International" in Turkey; PIA was the second and the last concession for "LIMAK".

Years later, more exactly in 2013, "LIMAK" will be involved into a consortium with another Turkish company "ÇALIK" for privatization of the distribution network in Kosovo; a process which has been accompanied by constant objections from non - governmental spectrum.

The selection process itself in the race for the Prishtina airport has been associated with dissatisfaction of the participants in the process. One of the bidding companies "*Batiment Bouyges -Egis*" categorized the process as non-transparent and manipulated and the winner "LIMAK - Aéroport de Lyon" as inexperienced in the field for which they were bidding for concession. The company "*Bouyges Batiment -Egis*" was therefore withdrawn from the race for the concession. Eventual withdrawal had left Kosovo's government in the process of decision making and selection between the two remaining companies, namely "*Fraport IC ICTAS Havalimani Isletme AS*" and "*LIMAK- Aéroport de Lyon*".

Selecting the winner from only two responsible companies was contrary to the Law on Public Procurement ; which under article 30 , item 3 , specifies that the contracting authority should have in front of them at least three responsible bids ; alternatively , in given cases, they should request clarification from the Public Procurement Agency (PPA).

Besides the eventual investment ( which will be elaborated in *section 3.1* of this analysis ) main criteria for selecting the most favorable bid for the concession , the Kosovo

government had calculated the percentage of the gross turnover that the private partner will provide during 20 years of concession as a contribution. In this line, consortium "LIMAK" and "Aéroport de Lyon", winning consortium had offered to share full 39.42 % of income along the next 20 years to (i.e. the overall gross revenues) as form of contribution to the Kosovo government.

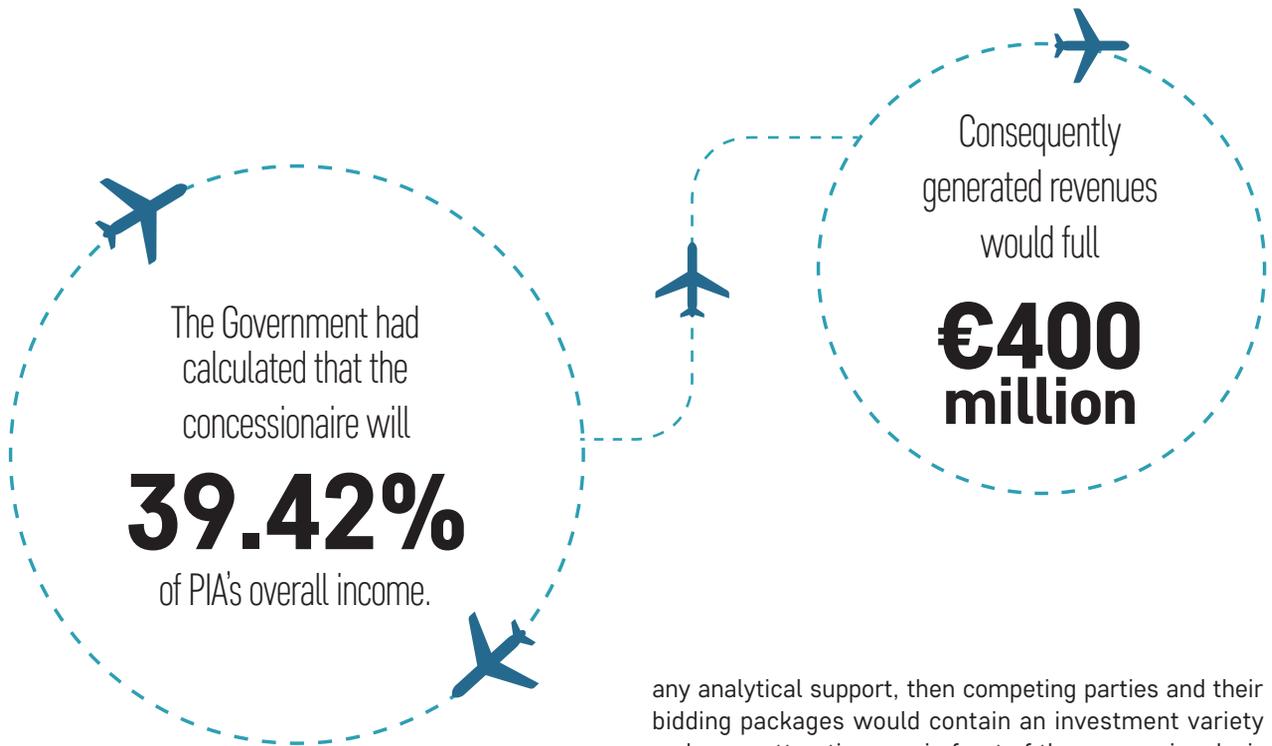
During the presentation of the offer and after the signing of the contract of agreement for PIA's public-private partnership ( PPP ), the Government of Kosovo , respectively Public Private Partnership Unit ( PPPU ) , part of the Ministry of Finance (MoF) , had presented its estimates of eventual benefits from PIA's concession . These estimations imply that for the next 20 years, because the concessionaire will share 39.42% of the overall turnover of the PIA, the generated revenue will reach the full 400 million euros<sup>3</sup>. In average, dividing it up for 19 years (excluding the first year that provided a fixed fee of 4 million euros), the Kosovo government would collect 20 million euros a year during 20 years of the concession. Calculations as these denote that in addition to capital investment, concessionaire would have to multiply the Kosovo Government benefit received as dividends prior to the concession: from 3 into an average of 20 million per year during the next 20 years . To achieve this benefit which is associated with the PIAs revenue itself, the concessionaire will have to double- in average- even the performance of the airport along the 20 future 20 years.

## 3.1 Investments in PIA

Winning concessionaire, through PPP agreement has committed to build a new terminal space of 26,000 m<sup>2</sup>, a new air traffic tower, investments on the runway to accommodate larger aircraft and new parking places for 1,750 vehicles.

An essential part of the process has been the assessment of the necessary investments which have alluded to fulfill

<sup>3</sup> [http://pppkosova.org/repository/docs/PSH\\_%20PPP\\_ANP.pdf](http://pppkosova.org/repository/docs/PSH_%20PPP_ANP.pdf)



the needs for 4.5 million passengers per year, thus making the investments in the amount of 100-130 million euros. In this calculation, it is worth mentioning that there was no justification on the target number of passengers per year. During pre-concession period, PIA had no more than 1.3 million passengers per year. According to a study by Ejupi (2010), trends and potential developments could justify doubling of passengers for next 20 years to end up with 3 million passengers per year. Forecast of 3 million passengers per year -after twenty years -correlates with performance indicators presented by the participants of the concession, who uniquely demanded doubling of PIA's key activities -spread along the concession period to include doubling the number of passengers. Forecast for the tripling of passenger number was not without implications that in given cases could be appear as restrictive for the development of PIA.

First, reducing passenger calculations would reflect accordingly in reducing the necessary investments in the new terminal. The overall cost of new investment if reduced- it would open new prospects for addressing other investment needs; which as it comes out are numerous in PIA and which are not limited only to the concessionaire's investment offer. In other words, if the initial estimates were made in realistic not made-up numbers without

any analytical support, then competing parties and their bidding packages would contain an investment variety and more attractiveness in front of the concession decision-makers.

Secondly, there is a side effect, however important arising from the construction of large terminals but unexploited in full efficiency taking into account the number of insufficient passengers. This effect is linked with the financial cost of the PIA operations which, faced with major construction and working under full efficiency are forced to increase operating costs , mainly due to fixed costs and ultimately to also increase aeronautical fees and taxes set for airlines and potential passengers; always with the aim of covering the operating costs .

Immediate construction of large terminals has not been practiced by the regional countries either. In Albania, among others, the terminal is built in the form of annexes -conform increasing the number of passengers throughout time. This way, added terminals have operated at full efficiency conditions- meanwhile tools provided for investments are allocated for other purposes not necessarily related only with terminals.

The day of the inauguration of the new terminal, on 23 October 2013, the Government of the Republic of Kosovo categorized the investment as substantial success concession; besides change of the original planning from 26,000 m<sup>2</sup> to 42,000 m<sup>2</sup>, the government named it as additional value added from concession and the concessionaire. Such contract change without accountability on possible cuts

leaves enough room for discussing concessionaire's planning capacity, as well government's willingness to respect the contract.

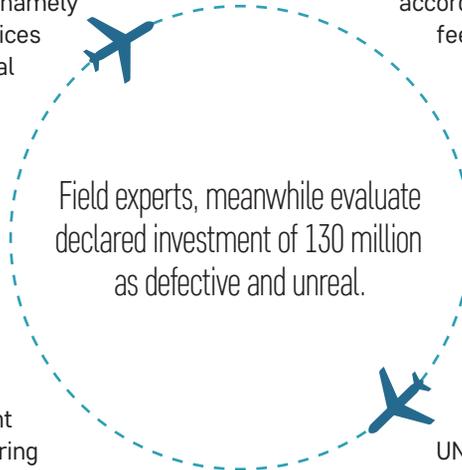
Field experts, meanwhile evaluate declared investment of 130 million as defective and unreal. According to Mr. Ilir Rama, former commercial director of PIA in the period of 2006-2011, investments from 130 million euros in the terminal have not only been inflated and unreasonable, but rounding the success of concession only with the opening of the new terminal is the fault coverage of concession<sup>4</sup>. Moreover, Mr. Rama explains that airport terminals often operate in two separate parts; namely a) as objects for the provision of services for passengers, and b) as commercial spaces that appear like shopping centers. Thus, mentioning of the terminal space would have to be go together with accompanying explanations that define how much space of this part of the terminal is for airport services and how much for commercial ones - is not mentioned in the PIA case. According to Mr. Remzi Ejupi, owner of the company "EuroKoha" agreement and the concession product do not bring any innovation evident for the part related to non-commercial services for travelers. Before the concession, the total number of "registration counters" known as "check-in" has been a total of 20; 16 of which economic and 4 other counters for business class. After concession and investments by the concessionaire, space counters remained exactly the same: a total of 20. Such a condition before and after concession, leads to believe that space expansion from the new terminal - built by the concessionaire - has not affected the passenger services, retaining the public space in exactly the same size as before the concession; but it mainly affected the commercial part of PIA by increasing it considerably.

### 3.2 Fees Concession

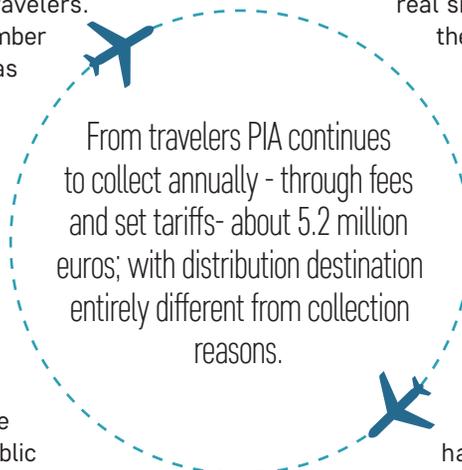
Airport holds a monopolistic position and monopoly must be regulated by state authorities regarding fee placement to user of related services. In the case of Kosovo these tariffs are regulated by the Civil Aviation Authority of Kosovo (CAAK) and according to the recommendations of the International Civil Aviation Organization (ICAO), respectively document numbered 9082/7. According to this document PIA has two kinds of incomes: 1) aeronautical revenues that are regulated and supervised by the CAAK; and 2) commercial revenues that are determined according to market conditions. Aeronautical fees represent the main income in PIA; to the extent of 90%. To more developed airports meanwhile, this type of revenue comprises only 50-60% of overall revenues.

According to standards established by ICAO, aeronautical fees should represent only the actual cost of service delivery and a modest return on investment. In Kosovo, in the PIA case, aeronautical charges date back to the time of UNMIK international administration. They have never been revised nor adapted to the real situation in PIA to reflect this way - as they are naturally defined - real cost of operations. Aeronautical fees are already re-approved by the CAAK in a generalized form without analytical support nor reflecting request on 26 December 2008 through the regulation number 03/2008.

Under the regulation in question, the service fee for each passenger flying through PIA is 18.53 euros. In current conditions with 1.6 million passengers per year in total, half of them in outward - thus about 800.00 - annual revenues from this fee are about 14 million euros per year. A portion of this fee, respectively 6 euro from the overall amount of 18.53 euros - is dedicated to security related issues; meanwhile the remaining of 12.53 euros is dedicated to passenger terminal services. Insurance fee of 6 euros (4.5 million per year) for the last time was modified after the terrorist attack of September 11 in the US; as a reflection to the need



Field experts, meanwhile evaluate declared investment of 130 million as defective and unreal.



From travelers PIA continues to collect annually - through fees and set tariffs- about 5.2 million euros; with distribution destination entirely different from collection reasons.

<sup>4</sup> Interview with Mr. Ilir Rama former commercial director of PIA from 2006 until 2011.

for increased investments to enhance security. Since then, despite the completion of the necessary investments, the rate of 6 euros has remained in force. According to international rules defined within the ICAO, document 9082, paragraph 37.3: *"Security taxes must be linked directly and only at the expense of safety and in no way should be used to cover other operating expenses"*.

Except passenger service tariff, for the operation needs of CAAK, PIA collects an additional 2 euros per passenger, respectively, from about 800,000 passengers in departure collects about 1.6 million euros per year. Although CAAK overall costs do not exceed 800 thousand euros annually – more specifically in the last year they were 729.460€<sup>5</sup> – PIA continues to collect double of the necessary tax. Naturally, a tariff over collection should be reflected in the following year. According to the director of CAAK Mr. Driton Gjonbalaj<sup>6</sup>, the rate of 2 euros per passenger is determined by the Government of Kosovo; the same will eventually have to be harmonized with the budget and the actual needs of CAAK, which is two times less than the amount collected from the possible passengers<sup>7</sup>.

In other words, the PIA continues to collect annually from passengers – through fees and set tariffs for it – around 5.2 million euros; with distribution destination entirely different from collection reasons. PIA continues to collect another 9 million euros under set fees at the time of administration of UNMIK and re-approved in its entirety and without cost reflection in 2008 by the institutions of the Republic of Kosovo.

Tariff overloads incurring across all times when ANP was under the public ownership – defined and argued overload that does not reflect the operational cost but in presumptive ratings – has also been transferred as the collection right to the PIA concessionaire. Under the agreement for the PPP, the concessionaire is not only given the right to operate the ANP, but also the tariffs inherit right for next 20 years – as long as the concession lasts. Moreover, according to the agreement for the PPP, the concessionaire is not treated as subject to economic regulation conforming to

ICAO regulations for Civil Aviation Law no. 03 / L - 051; but it is excluded from such an arrangement and is guaranteed an unrealistic tariff with operating costs.

According to Mr. Driton Gjonbalaj, during the process of drafting the terms of the contract, the transaction advisor has had on the team experts in the field of aviation, who have made the respective analysis for the treatment of tariffs in agreement with the PPP. Consequently, according to their recommendation it was decided to keep the current fees for the period of 20 years; with the right to change only in inflation/deflation rates<sup>8</sup>. According to Mr. Gjonbalaj, the practice of tariff freezing is intended to preserve the public interest, from any eventual tariff increments in the future, and after the actual fees is estimated as not high and competitive with regional airports fees.

The report authors want to emphasize that the Kosovo Government should more carefully consider the possible concessionaire request for tariff increment in the future; request that might emerge in the event of under performance by the concessionaire. Concessionaire may also require introduction of new fees related to new services in PIA. Nonetheless, the Kosovo Government – in case of such a scenario, must refer to the PPP agreement that stabilizes (even though with inflated fees) tariff rates for ANP for the next 20 years. Possible justification for increased investment, declining passengers and decreases in the number of flights, and consequently request for tariff increase should be refused by the Government of Kosovo; especially since the investment, number of passengers and increased performance with new flights and new services has been part of the package with this concessionaire. As a reminder, the concessionaire during the offer submission has accepted the terms of the contract based on a fixed fee for 20 years of the PPP agreement, and based on this fact has offered and promised predetermined investments. Selection of the winner of the tender for public-private partnership was based on projected financial bids under presented tariffs. Tariff changes after the contract would harm the bidding competition – in retrospect. In terms of tariff changes, Kosovo could have taken a better offer. In addition, fee freezing should have served as a motive for the concessionaire to improve the services in order to increase the general performance

<sup>5</sup> Annual report in 2013, the Civil Aviation Authority in Kosovo (CAAK)

<sup>6</sup> Interview with Dritan Gjonbalaj, director of CAAK

<sup>7</sup> Another fee determined and regulated by the CAAK is the landing tariff which also should have been arranged on the principle of cost. According to the approved CAAK tariff this fee is 10.74 euros / tonne, applied for landing planes at Pristina airport

and calculated based on the weight of the aircraft.

<sup>8</sup> PPP agreements regulates that partner may propose tariff increase only for inflation / deflation and for any proposed tariff changes must be sought approval by the contracting authority respectively ( item 6.7 of the extraordinary growth of payments and fees ). A fee change proposal can be justified only in extraordinary and specific circumstances and specific which are beyond the control of the private partner, and these are all set out in Articles 76, 9.2.11 (b), 9.5.3, 10.3.2(b) and 16.2 of PPP agreement.

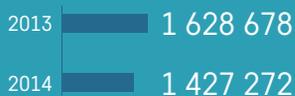
improvement, from which the Kosovo Government should also benefit. The concession concept itself differs from other working contracts for the fact that the contracting authority does not provide revenues for private company but only entitles the operation and revenue generation as consideration for the realization of investments required. The concessionaire must accept risk in the successful operation of PIA to generate necessary and sufficient revenues to return the investment. Kosovo government through PPP agreement does not take an obligation to ensure sufficient

revenues to the concessionaire in case of failure to generate necessary income. Decision to apply increased tariffs and upon concessionaire request represents direct removal of the risks from the private partner and the transfer of the same risk to the public. This would be contrary to an agreement but also its aims and the concept of public-private partnership.

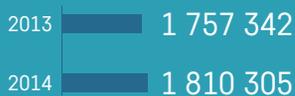
**FIG. 04**  
**THE NUMBER OF**  
**PASSENGERS IN**  
**THE REGION**



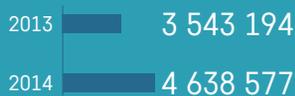
**Prishtina**  **-12%**



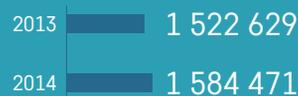
**Tirana**  **3%**



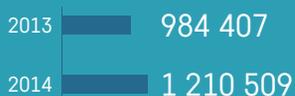
**Belgrade**  **31%**



**Dubrovnik**  **4%**



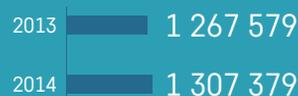
**Skopje**  **23%**



**Zagreb**  **7%**



**Ljubljana**  **3%**



**FIG. 03 PIA NUMBER OF THE PASSENGERS OVER THE YEARS**

**1,191,978**



**1,305,532**



**1,422,302**



**1,527,134**



**1,628,678**



**1 427 272**



**Sarajevo ↑ 7%**

2013 665 638

2014 709 901

**Tivat ↑ 1%**

2013 898 250

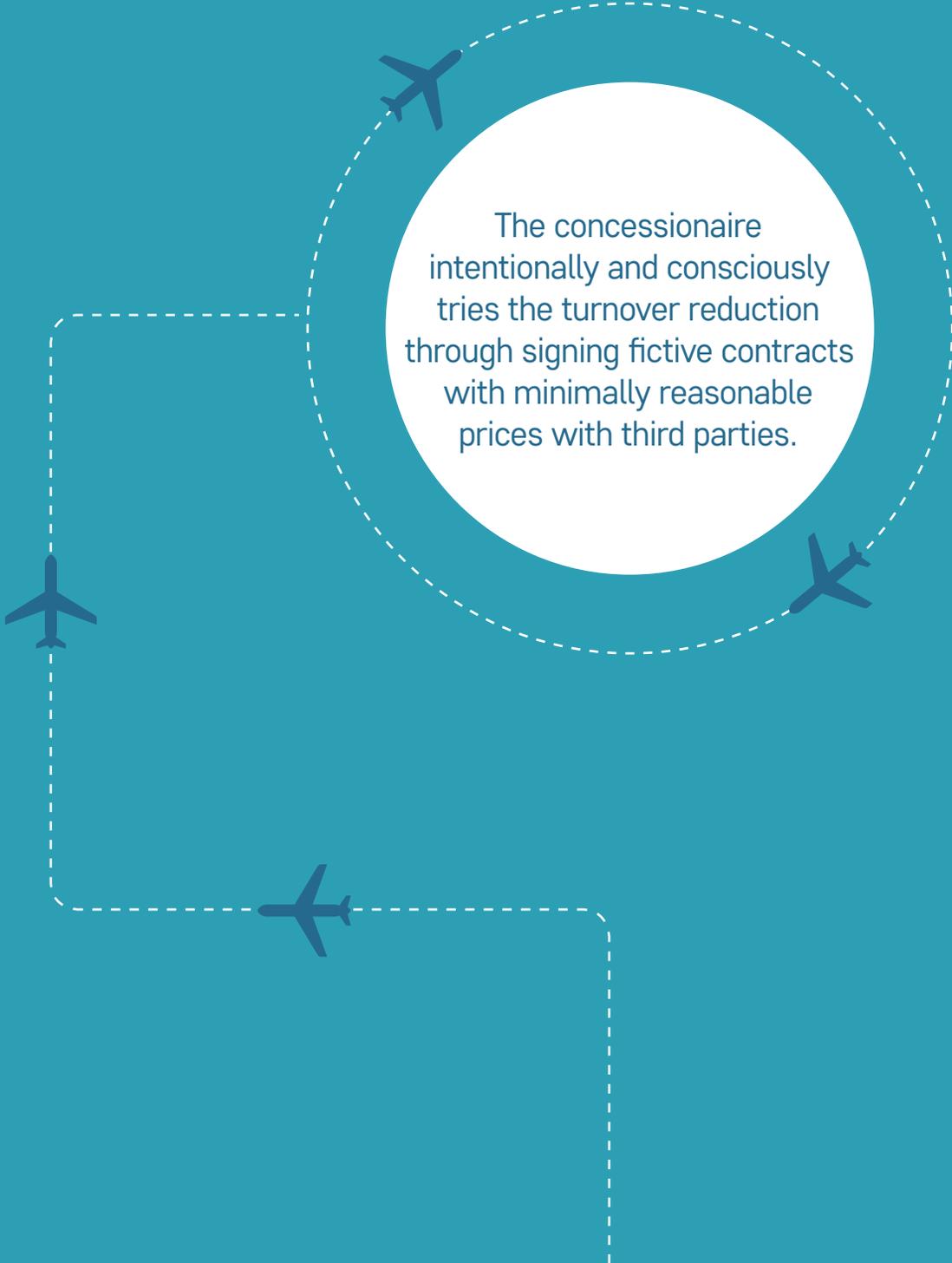
2014 910 534

**Podgorica ↑ 2%**

2013 690 690

2014 701 596

Source: <http://www.anna.aero>



The concessionaire intentionally and consciously tries the turnover reduction through signing fictive contracts with minimally reasonable prices with third parties.

# 4. FIRST INDICATIONS OF POST-CONCESSION

The first data of post-concession performance which by all means should be considered only as indications of a trend not as a determinative value of a foreseen average- show that there does not exist a positive major change in turnover; even less: respectively the data support a negative trend in the overall number of passengers that frequent PIA within a year. Meanwhile the growth rate after concession was lower during the concession years; the same was foreseen to decrease in 2014 by 12% full.

Although a part of this recession could be attributed to the bankruptcy of the airline "Belle Air Europe"<sup>9</sup>, by all means an essential role in the recession of the passengers' number has also had the inability of the concessioner to open new lines; especially those of companies with lower fees<sup>10</sup>.

One of the proofs given by the providers of the concession process in support of the agreement on concession is also the general expectation for a higher performance of the private company in the aviation market and consequently competitiveness in the regional market. The argumentative frame meant that the private partner would have to be more flexible in the business environment and have a commercial orientation- in comparison to the leadership of PIA during the time of public ownership. Meanwhile, the first year of concession favors a less flexible situation of PIA; a situation caused by the monopolistic power that the asset holds.

The recession by 12% of the number of passengers during 2014 puts the performance of the private partner in serious doubt as well as the achievement of the PPP agreement objectives itself.

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9 On November 26th 2013, the company "Belle Air Europe" after the bankruptcy in Albania announces its bankruptcy also in Kosovo. The overall debt of "Belle Air Europe" towards IAP was approximately 3 million Euros. According to media reports at that time, during the bankruptcy night of the company, "Belle Air Europe" had removed all of their aircrafts from IAP fearing of confiscation due to the debt

10 Until right before concession the public management of IAP had continuously created packages of stimulatory programs with the aim of creating new partnerships. Such packages had been inexistent under the management of the concessionaire until 2014. The authors evaluate that the package presented in 2014 by the IAP concessionaire is similar in evident dimensions with the previous packages drafted in 2009 by the previous management. An identical transfer of the previous plans probably reveals a lack of a proper operating strategy of IAP.

The negotiating and decision-making power of PIA –derived by its operation as a monopole, although within the legal framework, often has produced new results which essentially have transformed the "Kosovar consumer surplus into profit" for the concessionaire and "net loss" for the society as habitually explained with the economic theory on monopoly. In this frame falls one of the most controversial cases of new management; the end of flights of one of the most important and prestigious world companies "British Airways"<sup>11</sup>.

In 2011, one year after the beginning of concession PIA had unilaterally terminated the contract on kerosene and supply services with airplane fuels with the "Air British Petroleum" (ABP) company. ABP operated in PIA since 2001. Continuously, PIA had published a bid, at the end of which the new bid winner was "Exfis"- a company operating in Albania, Kosovo and Macedonia. The termination of the contract for supply with kerosene and fuels<sup>12</sup> was considered at that time by the representatives of ABP unfounded and commercially unfair. Moreover, they have considered the new tendering process as a failure to have "the minimal transparency and the assurance standards that ABP would have expected in a European airport". The executive director of ABP, Fabio Amatucci, explains that ABP has reported the activities of PIA at competent officials of Government of Kosovo. Although ABP was assured by the competent officials of Government of Kosovo that the PIA bid on the supply services for airplane fuels will be announced as invalid, such a thing has never happened.

As an answer to the new selection, "British Airways" because of the commercial relations that had with ABP, was obliged that for every flight to Prishtina, to make a stop at one of the airports which offer the ABP services as suppliers of kerosene and fuels. Often, the in-between airport was

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11 The British flight company "British Airways" until the time of concession was known as one of the most serious and stable companies in the Kosovar market-referred by the previous management of IAP as an example of success. In the first year of concession IAP and British Airways end the cooperation and the flights with "British Airways" company ended too.

12

selected the airport of Dubrovnik. Because of the complications and new travel costs.

Caused by the new demand for stopping- British Airways after seven years of operation in Kosovo had stopped all flights to Prishtina.

According to the concession agreement, the concessionaire from the contract on fuel cannot earn more than the fixed amount of 0.02 € for each invoiced liter. Such a fact proves that the agreements for supply with kerosene and fuels have limited commercial profits; consequently the eventual selections would have been carried out not based in profiting motives (which are regulated) but because of strategic orientations of PIA in concession. In given conditions, the concessionaire – through a process which is potentially lawfully fair- has monopolized a given service which has exceptional effects for flying companies in PIA and consequently –implications for Kosovar passengers and their choices. In normal circumstances, the liberalization of service suppliers would enable – in conditions of licensing and commodity with the regulation in power- the operation of more companies, consequently the competition growth in flights. Almost all regional airports have a liberalized market of supply with kerosene and fuel services. The benefits of competition for eventual consumers are easily known.

Therefore, such a commercial relation, legally fair and commercially regulated, after all reveals an essential weakness that PIA under the management of private concessionaire may create; the reduction of flight alternatives for Kosovars and converting the PIA into a subsidiary airport for a greater destination- as could the Istanbul airport be. In a such situation, 20 years later when also the concession period ends, Kosovars may remain with an airport with serious lack of long-term and healthy partnerships.

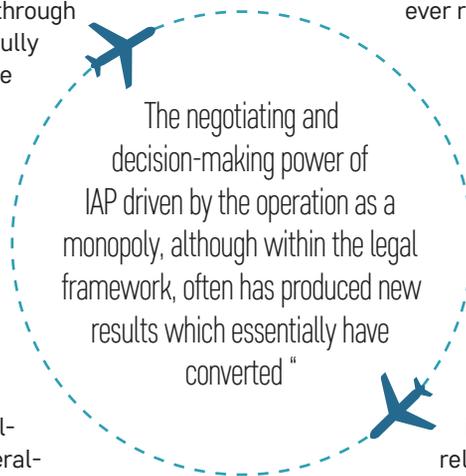
According to Mr. Remzi Ejupi from EuroKoha, favoring some of the flight companies and airlines towards Turkish airports and lately towards “Sabiha Gokcen International Airport” in the ownership of “LIMAK” is evident that from the concession of PIA; even flights to Turkey have been with a deliberated orientation with the aim of converting the PIA into a distributional line for Turkish airports. Meanwhile, such

an orientation pushes Kosovars for most of the European destinations, paradoxically to fly through Istanbul.

Mr. Agron Mustafa, former director of PIA, believes that the commercial inefficiency in keeping the European companies in the market that could indirectly affect the Turkish companies to have increased presence in Prishtina Airport ; but not that these connections could be with a given deliberation.

According to Mr. Driton Gjonbalaj, the economic arrangement of CAAK assures that the fees set by PIA are transparent and applied equally to all without discrimination; consequently at least according to the tariff organization there can be no individual favoritisms for flight companies.

Moreover, the objection for favoritism has not been ever raised within CAAK.



Another controversial field revealed after concession also includes the procurement process practices. Though private companies are not obliged to subject the laws of public procurement in Kosovo, based on the agreement of PPP, the concessionaire is obliged to apply criteria and processes which stimulate competition. The tendering process in PIA after concession has incurred considerable changes mainly relying in individual negotiations- not in opened transparent processes. Such a fact is confirmed also by the former procurement manager of PIA before concession and two years after concession Mr. Ali Godeni<sup>13</sup>.

According to Mr. Ali Godeni, purchases have never been carried out through a transparent procurement process. For the time while he held the position of procurement manager of PIA, he had asked the new management to respect the procurement procedures in such way that a competition would be assured in giving the contracts, by asking that at least the announcement for offers would have been public by publishing them in the official page of airport; but this has never happened. According to him, the selection of the contracting companies was done without assuring completion and minimal transparency.

<sup>13</sup> Interview with Mr. Ali Godeni, former Procurement Manager in Public Enterprise IAP “Adem Jashari” and afterwards for two years manager of procurement in PIA “Adem Jashari” LKIA.

Moreover, many of purchase requests have been proceeded only formally into the procurement department while the selection of companies and contract conditions has been done directly by the new management.

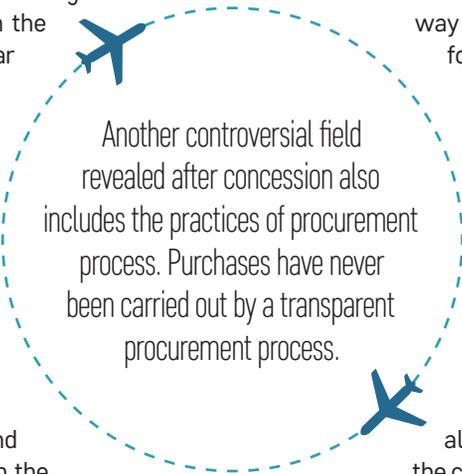
Today it is evident that the concessionaire has never published an announcement for requesting services. The lack of the announcements and consequently following the best practices and procurement standards, within the principles for good corporative governing, leaves space for the opportunity of favorable and non-competitive treatments. The agreement of PPP on the other side has not treated this aspect sufficiently.

## 4.1 Contribution in turnover

In the third session of this paper, when we discussed about the winning offer of the concessionaire, we said that the Kosovo Government- as a result of the winning package- would collect on average for the next twenty years about 39.42% of the overall turnover value of PIA; initially a very impressive value. Respectively, this percentage begins with a participation of 18% in the second year and it grows for each year by achieving 55% for the 20th year of the contract. At the same session we also presented the expectations of Kosovo Government for the collection of 400 million for the next twenty years from such a package.

Since the PPP agreement is based in percentage from the gross turnover- not as it usually happens with shareholders by profit- therefore in order to retain the public interest and the profit of Kosovo Government from the concession payments, it is important to have the mechanisms which provide that the calculation of gross turnover is carried out without any deliberate avoidance from the concessionaire by decreasing the gross turnover of PIA. Thus, it is essential that the PIA turnover remains in growing trends so that Kosovo's part marks growth. Meanwhile the turnover is on the increase and from the turnover Kosovo gets its part of the share therefore the profitability level of PIA could be even secondary concerning the financial interest of Kosovo Government. At least, it is the turnover and not the profit of PIA that produces financial dividends for the Kosovo federal reserves).

After the concession, a new phenomenon of contracts within the PIA started to reveal; implications of which necessarily are reflected in the turnover level. According to Besiana Xharra, investigating journalist of daily newspaper "Zëri" the concessionaire intentionally and consciously tries the turnover reduction through signing fictive contracts with minimally reasonable prices with third parties. As reported cases were the contracts which the concessionaire had made with third parties by sub-contracting the advertising spaces and spaces for restaurant services of PIA for multiple lower prices. Meanwhile before the concession these spaces were given for rent for an amount of half a million euros and today they are given for rent for an amount of no more than 150.000 euros. In an overall calculation for illustrative purposes, benefits for Kosovo Government from such a relation are considerably reduced. Meanwhile for an average profit rate of 39.42% of turnover, Kosovo Government would collect 200.000 euros dividend from half of a million euros rent, from a minimized value of 150.000 euro earns only 60.000 euros. The same practice has been repeated for the restaurant spaces and some other food services too. According to Besiana Xharra's investigation, the concessionaire had reduced the concerning contract from 1.1 million euros into 40.000 euros; this way by dividing in half the eventual profits for Kosovo Government too.



Another controversial field revealed after concession also includes the practices of procurement process. Purchases have never been carried out by a transparent procurement process.

According to Ilir Rama<sup>14</sup>, the payment method as a percentage of gross turnovers should have been conditional in order to oblige the concessionaire for a performance in increasing the gross turnover. As a basis for the calculation of the commercial performance of PIA before the concession. According to Ilir Rama such a practice would also disallow the possible abuses which the concessionaire can do in purpose by reducing the commercial incomes purposefully.

Despite the fact that the concessionaire is not obliged in the increment of the gross turnover, the existing contract however provides the supervision mechanism of the PPP

Agreement for contracts that the concessionaire gives to the third parties. PMU which was supposed to serve as the supervisor of the agreement should have not approved

14 Interview with Mr. Ilir Rama, former commercial director of IAP "Adem Jashari"

these contracts to be signed with lower values than the incomes before the concession of. PIA PMU which was foreseen to be founded right after the concession was never established.

## 4.2 Employment policies

After concession, Kosovo Government has transferred to the concessionaire a list of 544 employees which should have been transferred to the concessionaire. The transfer of the employees was foreseen with the PPP agreement too, respectively annex 17. The transfer list was prepared for the Kosovo Government from the transaction adviser. The employees of the Air Navigation (DAN) were not included in this list; after concession one part of the employees, although in the transfer list weren't transferred to the private partner but they remained part of the PIA "Adem Jashari" administration.

According to Mrs. Haxhere Jashari<sup>15</sup>, the separation and transfer process of the PIA administration to the concessionaire, to PIA "Adem Jashari" as a bidder of air navigation services, was developed without any regular transparent process; the decision-taking for the most part of the transfers were ad-hock and often with political impacts. Respectively, the employees with political support continued the engagement in DAN and PIA "Adem Jashari" services, while the others were transferred under the management of the concessionaire. In given cases, employees of the same department were transferred into two separate organizations; in some other cases, employees with political support changed the job positions by becoming a part of the administration only to remain with the un-concessioned part.

An interesting fact of the employment and concession process is related to the addition of the employees of PIA during the time of the transfer. Respectively, from the time

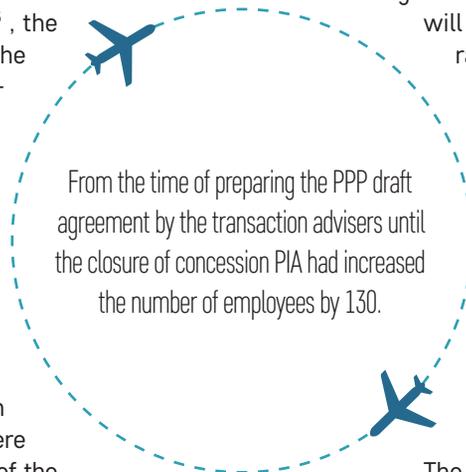
of preparing the PPP draft agreement of from the transaction advisers until the closure of concession. PIA had increased the number of the employees by 130. Firstly, the concessionaire had shown denial for their acceptance, in order to employ afterwards, without any additional public explanation – all of them with an initial two-year contract. The admission conditions of these employees were never made public, while the concessionaire in public statements said that he had accepted the admission of these employees as an additional obligation<sup>16</sup>.

According to the audit report made in August 2014, from the general auditor's office it turns out that the admission of 130 additional employees was made in conformity with a new agreement between the concessionaire and the Government of Kosovo, represented by Inter-ministerial Steering Committee (ISC) for PPP. In this agreement, as a compensation for 130 additional employees- potentially accepted with political preferences- the concessionaire would not be asked to make one of the required investments according to the PPP agreement, respectively radar reallocation. According to the PPP agreement the concessionaire will be obliged to reallocate the existing radar. Radar reallocation was done afterwards by the public enterprise PIA "Adem Jashari" with a general cost of 1,050,000 €.

In this spirit, exchanging the political favors for investment reduction- that occurred exactly during the transfer phase of concession closure- reveals a serious defect of similar economic processes in Kosovo; respectively

The depreciation of social benefits due to the attempts for individual benefits, such as job positions.

Although during the process of concession the parties involved in concession pledged that the ownership changes would not produce damaging effects for the employees and that; moreover, the concession will create a new environment that opens new job positions, the initial effects of ownership transfer give indications that are below the submitted expectations.



15 Interview with Mrs. Haxhere Jashari, former deputy manager of maintenance at IAP "Adem Jashari"

16 The interview in KTV television with the General Director of LKIA, March 9th, 2013

According to the chairman of employee union of PIA, Mr. Sylejman Zeneli<sup>17</sup>, the three first years of PIA operation under concession have been characterized with violation of employee's rights, violation of the labor law, interdiction of labor union and with politics influencing the employment. Moreover, the employment was characterized by continuously bringing Turkish citizens into certain job positions or other activities that do not require certain qualifications and for local Kosovars with similar skills may be easily found. According to Mr. Sylejman Zeneli, most of these employees have never been registered at the relevant authorities of Kosovo Republic, as provided by the law no. 03/L-136: "For the allocation of work permits and the employment of foreign citizens". Another unveiling problem in relation to employment is also the dismissal of employees during and after the completion of three year period<sup>18</sup>. According to Mrs. Ibadete Asllani<sup>19</sup>, former employee in PIA, the employees which by the concession contract were assured to remain employed with the same conditions for at least three years from the concession date, have encountered many problems and a considerable part of them have reported that they've been treated outside employment regulations and standards; to habitually end in dismissal. A large part of them, after dismissal – by invo king their contractual rights, have addressed the cases at the relevant court.

However, such an attitude and such a fact proves the finding that the assurance of the three-year contracts didn't have any preferential effect for the transferred employees and that the defense of the employees by the supervisory authority of the contract within the PPP unit and PMU was in-existent. The protection of the employees should have included much more than signing the contract; and also should have assured protecting mechanisms without having to address the case at the court.

17 The chairman of the employee union was fired in 25.05.2012 that according to Mr. Zeneli this was done unfairly and with the purpose of stopping the syndical organization and fearing the employees when asking for their rights.

18 The practices of regional airports support a longer period of contractual obligations of concessionaire for assuring the employee contracts. The Government of Skopje, among others, had obliged the concessionaire of the International Airport of Skopje "Alexander the Great" to retain the employees for 7 full years. After the eventual dismissal of employees with underperformance, the concessionaire had compensated conform the laws in power – financially with an average of 20.000 euros for each of the dismissals.

19 Interview with Ibadete Asllani, former employee of IAP

In the meantime, right after ending the 3 year period for which the concessionaire was obliged to keep the transferred employees, approximately 70 Kosovars have been fired, under low performance pretext by the concessionaire.

The dismissal then induced demonstrations and reactions of the dismissals that considered their dismissal as unfounded. The Government of Kosovo through the PPP unit had declared that the concessionaire had met the foreseen condition for keeping the employees for the three year period and that no other mechanism prevents such an action by the concessionaire. Nonetheless, despite the expiration of the three-year obligation, every other further detachment of work relationship should have been done in conformity to the legal regulation arising from the Labor Law. Among others, the law in question foresees that each assigned contract that passes a 10 year period is considered an indefinite term contract; consequently the premises and the rights that regulate the indefinite term contracts, should have been also applicable for the cases in question. The violation of the labor law in the case of the dismissal of 18 employees (with over 10 years of work experience) was also confirmed by the Labor Inspectorate (LI). At the time of writing this report, in Kosovo there are more than 40 charges made by the PIA employees, which are waiting the judicial treatment process.

The political parties in Kosovo, the opposite ones, continuously have objected the behavior of the concessionaire in relation to the employees.

According to "Vetëvendosje Movement" the concessionaire continuously has applied policies in objection to the agreement on PPP; by firing employees without any specific reason. According to them the concessionaire "Limak" is bringing in their positions- employees from Turkey and is employing relatives of government officials as well as relatives of institution's leaders which supervise the implementation for public and private partnership". According to "Vetëvendosje" this practice is in opposition to the promise made for increasing employee numbers.

The dismissal of 70 employees was also considered as contradiction to the concession contract by the former Minister of Transport and telecommunication (at the time of concession) Mr. Fatmir Limaj; currently leader of the other parlia-



mentary party "Nisma". According to him, the action of "Limak" company to fire the airport employees is in objection to the concession contract of Prishtina Airport. Therefore, the state institutions that are obliged to supervise the contract implementation, must urgently ask from the company the immediate return of the employees to work and to strictly respect the conditions of the signed contract, in order to prevent the repetition of such situations in the future".

Firing 80 employees had become a topic of politic interest for the Prime Minister of Kosovo Republic, Hashim Thaçi. The media reports, respectively of "Zëri Newspaper" and "Blic Newspaper", alluded in preferential agreement- politically motivated- for returning to work about 10 employees from, the overall number of the dismissals; all of them closely related to the Democratic party of Kosovo (PDK). According to "Blic Newspaper", of the March 4th 2014 edition, relatives to the party and family relatives to the prime minister of republic of Kosovo in Kosovo have been returned into their job positions after the meeting held between Prime Minister Thaçi and the director of PIA, Haldun Firat Kokturk.

The political employment was the main concern during the time when PIA was in public ownership. The nepotism phenomenon and political employment in public enterprises has served for several times as an argument that PIA has to be given to concession and to be leaded by a private company by hoping in employment de-politicization and employment based in abilities and skills as well as free labor market. However, despite the expectations for a more non-political corporation culture, the first steps of private management of PIA do not give sufficient indications for such a progress. On the contrary, the concessionaire kept employed all of the political employees – and was forced to return them in case of dismissal- and has increased the number of new politically employed people, as was the case with 130 additional employees during the ownership transfer process. According to media reports in Kosovo, only during three years of concessioning the PIA there have been employed family relatives of politicians of the central and municipality level, relatives of government MPs from the majority and the opposition parties; all of them hired without minimally legal and correct procedures according to standards of good corporative behavior.

# 5. CONTRACT SUPERVISION AND IMPLEMENTATION

A contract is minimally satisfactory only when it's completely and successfully realized; consequently, the concession is a process that doesn't end by signing the contract but continues until its completion. Creating the institutional mechanisms which provide the implementation of the signed contract is the key for the entire process while respecting the contracts itself is an obligatory bilateral liability. The creation of the mechanism which identify, address and argument the implementation of the contract conditions it is of a major importance in order to avoid the space for contract accusation and mutual disagreement between parties in the future.

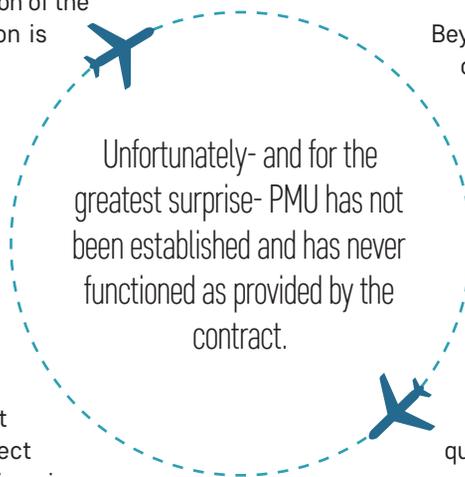
In the PPP agreement, implementation of the contract and investment supervision is foreseen by two mechanisms:

- ➔ Article 10.13 of the contract provides the establishment of the Project Management Unit (PMU) as an established unit by the provider; through which the recruitment of the professional staff that will supervise the implementation of the contract and will continuously inspect the concessionaire's operations is foreseen.
- ➔ The "independent engineer" will be responsible for inspecting, monitoring and evaluating the investment costs in the investments undertaken by the private partner.

Both mechanisms are important especially because of the investment levels which are foreseen to be done during the 20 years of concession- with particular emphasis in the first years of functioning, the concessionaire- as well as to supervise the eventual operations which affect the strategic interests and orientations of Kosovo. The concession contract – in content- addresses very well the establishment of the supervision mechanisms, the establishment

and functioning of (PMU) and the independent engineer; also technically describes the obligations of the parties in the phase of project implementation. According to the PPP agreement, the contracting authority should have established the PMU, in order to at least once a month to inspect the books, plans, financial records and other documents with the purpose of project implementation.

Unfortunately- and for the greatest surprise- PMU has not been established and has never functioned as provided by the contract. Instead of PMU, the supervision and implementation of the contract was done by the existing officials themselves of the PP unit- a pure conflict of interest.



Beyond the conflict of interest, where the contract provider supervises the contract recipient and moreover also the process initiated itself, the PPP unit has taken the supervision duties without having the necessary capacity for supervising the contract with non-professionally dedicated staff. The current staff that does the supervision of the contract implementation- within the PPP unit, does not consider this as a priority nor they do have the professional qualification the supervision of the PPP agreement, they're not recruited as provided by article 10.4 of the contract and they haven't

been selected as a professional staff. The non-functioning properly of the PMU presents an enormous failure of the contracting authority, respectively the PPP unit and Kosovo Government to establish a project implementing mechanism and to assure the realization of the PPP agreement as provided and specified by the contract. The lack of this mechanism offers room for misuse from the concessionaire and damage to the public interest.

More or less, the second supervising mechanism "the independent engineer" has been treated in the same line, which according to the signed contract should have done the inspecting of the c PIA onstructions. Respectively, according to the contract, the independent engineer should have car-

ried out the inspecting and monitoring of constructions – to assure that the constructions are in compliance with the conditions of the contract. The engineer should inspect, control, investigate or alternatively test every aspect of construction works as well as their progress.

In the contest for the “independent engineer” for the period April 2011-January 2014, four international companies competed, among which “Scot Willson”, “Ae-Com”, “Hill International” and “Ine-co”. The winner of the contract in a value of 1.5 million Euros was selected the Spanish company “Ineco”. The contract time definition of the independent engineer until January 2014 firstly implied that every investing activity in PIA done after this date could not be a part of the monitoring observation of the independent engineer.

The authors of this paper want to emphasize that during the work of “independent engineer” as a supervisor of the construction works, no reports have been published that shows and evaluates the state of the constructions works made by the concessionaire of PIA.

Despite the evaluation and investing volume, non-publication of the evaluation reports- for many years now- gives a bad taste of transparency and investments of PIA.

Beyond the lack of adequate supervision, the concessionaire hasn't achieved to complete all of the constructions in the expected term. According to the contract, the concessionaire should complete all construction works within 900 days from the beginning of the contract. Respectively the deadline for completion of the constructions was September 2013. Annex 13 of the contract, point no.2, describes the constructions that should have been done; among which these constructions included: a new stack for air traffic control (ATC); reallocation of the radar, enlargement of the taxiway, improvement of the de-icing apron; building rescue and fire-fighting services (firefighting mock-up area); improvement of the perimeter fence; construction of the farms for fuel; establishing the plant for waste water treatment; construction of the terminal for transportation of cargo; and the general improvement of aviation premises.

The inauguration of the new terminal of PIA was done in October 23rd 2013. In a solemn ceremony- right before the election campaign for local elections in Kosovo, the inau-

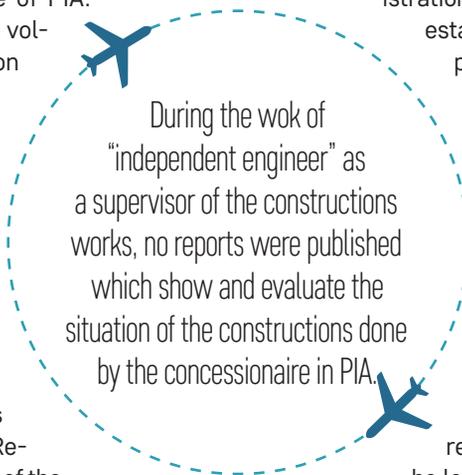
guration was followed with the participation of three prime ministers, the Prime Minister of the Republic of Kosovo, Hashim Thaçi, and the Prime Minister of Albania, Edi Rama and the Prime Minister of Turkey, Recep Tayyip Erdogan. In this day the only inaugurated object was the building of the passengers' terminal while the other construction works weren't part of the inaugurations. The agreement for PPP doesn't provide different deadlines for the completion of the constructions works of the terminal and other investments provided in annex 13; in other words all of the investing obligations were foreseen to be completed within the 900 days term. Today, after more than one year, some of the investments foreseen by the contract still remain uncompleted.

During the interview with Mr. Bahri Nuredini , Director of PIA “Adem Jashari”<sup>20</sup>- the public company that now leads with the Air Navigation Services (ANS)- the non-utilization of Air Traffic Control tower (ATC) and the administration building dedicated for ANS. According to Mr. Bahri Nuredini, they were asked to accept the tower and the administration building, but PIA “Adem Jashari” has

established an intern commission from the professional employees of the aviation field which found that the concerning buildings do not meet the conditions provided by the concession contract. Inter alia, building the tower for Air Traffic Control (ATC) according to the contract should be in conformity to the standards foreseen by the Federation Aviation Authority (FAA). According to Mr. Bahri Nuredini-although the implementation of the contract is not a responsibility of the organization which he leads- the current buildings do not fulfill

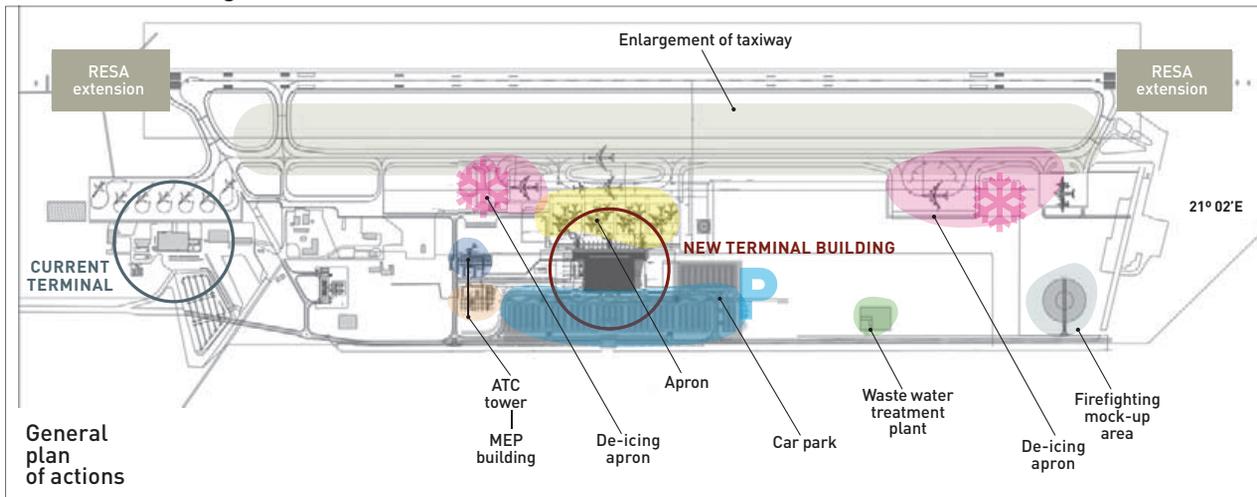
these conditions- foreseen by the contract-consequently IAP “Adem Jashari” asked from the Unit of PPP that the acceptance of the objects in conformity with the contract conditions – should be carried out by them- if they evaluate that such thing is in line with the contractual conditions and afterwards to be delivered at PIA “Adem Jashari”.

Except the Air Traffic Control (ATC) tower and the administrative building, in the field there are a few construction works which according to the report- haven't been completed yet; among which; the construction of two platforms for aircraft fusion; as well as the construction of the building



20 Interview with Mr. Bahri Nuredini, Director of IAP “Adem Jashari” on 07.07.2014

**Fig 1. CONSTRUCTIONS WORKS FORESEEN BY THE PPP AGREEMENT**



\*Source: [www.ineco.es](http://www.ineco.es)

for training the firefighters which includes an aircraft as the training object.

According to the PPP agreement if the private partner delays in completing the construction works from the foreseen day (provided by the contract), and if this delay

is based on the contracts provisions, then the concessionaire has to pay the grantor ten thousand (10,000) Euros for each day until the maximal deadline of 180 days. From the foreseen day for completing the constructions (respectively September 20th 2013) until now, have passed more than 300 days. The construction works haven't been completed in the entirety of investments provided by annex 13, and moreover these delays have exceeded the tolerance period (under penalization) of 180 days. In normal circumstances, the concessionaire should compensate (in case of negligence) the Kosovo Government for 1.8 million Euros for the delay.

The responsibility for delays in the implementation of the contract should be required not only from the concessionaire but from the contracting authority too, if verified that the delays have been caused as a consequence of their inefficiency. Finally, the delays are evident and with the purpose of protecting the public interest one should require that all construction works must be completed as soon as possible and for the damage caused by these delays the responsibility is required from the responsible parties.

According to the PPP agreement, in case if in any period during twelve (12) consecutive months after the completion of constructions, the survey review on the passengers' satisfaction ends in an average of less than 80% (eighty percent), then the contracting authority can choose by itself to impose tax or to collect from the concessionaire the payment of the calculated penalty in ten thousand (€ 10,000) Euros for each point of percentage under the unspecified threshold.



Our report and the research made in this report, has come to realize that a research on measuring the passengers satisfaction was made in 2011 by a Turkish company, "Turke Yonke Research Consultancy Ltd". According to the survey results the average rate of passengers' satisfaction ranges around

**56.17%**

According to the PPP agreement, in case if in any period during twelve (12) consecutive months after the completion of contractions, the survey review on the passengers' satisfaction ends in an average of less than 80% (eighty percent), then the contracting authority can choose by itself to impose tax or to collect from the concessionaire the payment of the calculated penalty **in ten thousand (€ 10,000) Euros** for each point of percentage under the unspecified threshold.

# 6. THE LEVEL OF SERVICES

An essential part of the PPP agreement was the level of the services that the concessionaire would offer after the closure of concession process- by all means expected for a better performance of services as a result of private management against the public one. According to the agreement, the concessionaire should operate and perform services in accordance to the Manual of Operations and Maintenance (MOM) and the modern practices of industry; for this in the agreement the performance indicators were specified too.

In normal circumstances, the continuous monitoring of applying these standards requires a specific expertise- and in the absence of establishing the Project Management Unit (PMU), this aspect was covered by the PPP staff unit.

Moreover, the agreement for PPP foresees that the concessionaire does the engagement of independent experts to develop at least the annual measures of satisfaction and as such to report on the fulfillment of these standards. Based on the agreement of PPP, to assure that the concessionaire is performing according to the contract these professional researches should be done in annual basis:

- ➔ Measurement of the service level according to “Annex 4” of the agreement;
- ➔ Measurement of the performance indicators for the services according to the IATA standards and “annex 23” of the agreement and
- ➔ Measurement of passengers’ satisfaction, through the survey

For measuring the service level according to “Annex 4” of the agreement and measuring the performance indicators for the services according to IATA standards, respectively “Annex 23”, until today , there wasn’t any public report which shows that these measurements are made by the experts engaged by the concessionaire and the performance parameters have been fulfilled conform expectations.

Meanwhile, the research on passengers’ satisfaction foreseen to be done right after 90 days of PPP agreement en-

tering into force and it was also required for this research to cover two of the traffic peak months. Even in this case- neither the Unit for PPP nor the concessionaire- hasn’t made public the results of none of these researches. Our report and the research made in this report, has come to realize that the research on measuring the passengers’ satisfaction was made in 2011 by a Turkish company “Turke Yontem Research Consultancy Ltd”. According to the survey results the average rate of passengers’ satisfaction ranged about 56.17%. According to the PPP agreement, in case if in any period during twelve (12) consecutive months after the completion of contractions, the survey review on the passengers’ satisfaction ends in an average of less than 80% (eighty percent), then the contracting authority can choose by itself to impose tax or to collect from the concessionaire the payment of the calculated penalty in ten thousand (€ 10,000) Euros for each point of percentage under the unspecified threshold.

Findings as these indirectly prove for two phenomenons that happen in relation to the concessionaire and PIA. First, the concessionaire- against the expectations and the agreement on performance- did not manage to offer sufficient conditions that would increase the satisfactory level of passengers. Secondly, meanwhile that Kosovo Government, as with many other parameters of the agreement, has shown an incomprehensible tolerance towards the concessionaire even when the latter has underperformed. In normal circumstances, the Government of Kosovo- as inherited owners of PIA; should assure independent researches to measure the service satisfaction level in PIA; consequently in case of failing to fulfill the standards- to apply the penalties as foreseen by the PPP agreement.

# RECOMMENDATIONS

This report summarizes the concession process of Prishtina Interational Airport (PIA) and the first post-concession performance from the “Limak-Aeroport de Lyon” consortium. The report – organized into six sessions, after the diffraction of research methodology (first session), begins with the financial analysis of pre-concession as a second session; not with the idea of objecting the concession idea, but with the purpose of creating the evaluating objectives towards which the engagement and performance of the concessionaire would be weighted. In this part the report elaborates a light financial sustainability of PIA as well as a well-known investing potential during the years together with a dividend share for the respective owner, thus the Government of Kosovo (GK).

In the third session, the report elaborates the characteristics of concession package, with a special emphasis in the participation relations of Kosovo’s share in turnover- and not profit-to build a foundation for future contributing implications. Furthermore, in this part, also does an elaboration of tariff fixation, including the tariffs located for short-term purposes, which all together constitute a healthy financial basis for the concessionaire. The discussion on the fees is made to present the thesis that every eventual growth of the fees would be unreasonable.

In the fourth session, the report summarizes the first indicators of post concession, to reveal this way a solidification trend of the PIA performance even despite concession. Moreover in this session, the perspectives of the post-concession practices that weren’t good are built here and that are related to the non-transparent public procurement, nepotism, exchanging political favors up to the focusing on bringing the work force from outside Kosovo, by aggravating the severe labor market of the country.

All of these actions are explained in the fifth session of the report, in which the absence of monitoring throughout the entire process is elaborated; a usual characteristic in almost every relation of Kosovar authorities with similar processes. In this case, non-establishment of the Project Management Unit (PMU) constitutes the most serious violation and by all means the most unexplained of the entire concession process. In absence of PMU, the monitoring is done by the contracting authority itself; by revealing this way the brittleness and lack of seriousness in treating such an important business and economic case for the country.

In the last session, the report establishes on a measurement of passengers’ satisfaction level after concession, ordered by

the concessionaire itself. The measurements in question show levels away from the expected and designed in the concession contract.

All above-mentioned elaborations bring the conclusions of the reports to some recommendations, the implementation of which requires a fast response. The recommendations of the report, listed according to the importance require with a special emphasis:

**1** *The immediate establishment of the Project Management Unit (PMU) and thus passing all of the monitoring competencies from the PPP unit that today doesn’t have the experience or the capacity to make the relevant evaluations of PIA; in conformity to the signed contract between parties. The establishment of PMU is foreseen by the agreement for PPP itself and any negligence shown in this direction, not only has endangered the proper implementation of the agreement, but it has left space for political and individual treatment of issues with national interest. The non-establishment of the monitoring units has become a usual practice in Kosovo, thus leaving each contracting party -full discretion in contract implementation. As a part of the governing style or not, such practices must be immediately stopped.*

**2** *The retro-active evaluation of every activity implemented by PIA. The establishment-although late-of PMU and the retroactive review of the implemented activities wouldn’t only present a pre-condition for a good governance of the national interests and assets, but also a verification measure of the contracting steps. In the first place, this evaluation should be focused in a) the evaluation of capital investments made in PIA after concession and the verification of the claims for 130 million. And b) the quality of all constructions made in PIA; especially after the parties’ claims for the quantity, quality and the investment benefits. In both cases, the evaluation and the findings must be in line with the requests of the PPP agreement – from where the evaluation implications for the concessionaire arise.*

3

*Review of all employments* started right after the announcement of the winner finalized by signing the contract. There are 130 job positions created during the brief period of ownership transition. Moreover, one has to evaluate the interrelation – and above all- the reasonability of reducing the investment burden for the concessionaire by the time these employments happen; in order to eventually see coherence between these two activities.

4

*Focusing in local workforce*, to prevent thus the exchange of workforce from Kosovo with workforce from Turkey; notably in activities which easily find completion within. The national assets, such as the PIA, should distinctly focus on local capacities of the country, with the purpose of creating new job positions and thus interrelation of the business interest with economic prosperity.

5

*Prevention of all monopolistic actions that damage competition*; despite their legality. The actions and behaviors of the concessionaire that favor certain airlines, with or without a given purpose, are directly related to the stimulation of non-competitiveness, which finally disfavors the Kosovar consumer and the national interests of Kosovo. Every such monopolistic action, made in the past and pretended to be repeated in the future should be revised, respectively prevented.

6

*The evaluation of claims for intentional reduction of turnover*; through contracting spaces of IAP for third parties with multiple lower prices than the market ones. Such claims, continuously made, must be verified to see the eventual relation of the concessionaire with third parties itself and thus passing the profits into a turnover cashbox (in which Kosovo Government has its share) into an individual cashbox in order to exclude other participants.

7

*The creation of a corporative culture* that entirely respects the good frame of corporative governance. In the first place, transparency and the contracting method of third parties, through public procurement, must be revised. PIA - concession must not produce non-logical situations where the procurement procedures become more unclear and more non-transparent than at the time of public procurement. The framework of good corporative behavior must be regulated in relation to the employment, with union organization and with the eventual cessation of the work relationships which all of them and without exception – must be made in conformity to the regulations of Labor Law- applicable in Kosovo.

8

*Every promise for increasing the fees/tariffs should be neglected*; especially when these fees are fixed for the next 20 years; and more over this fixation foresees exchanges for activities that won't happen. The eventual underperformance of the concessionaire as a result of bad policies should not serve as a motive for new demands for new growth. The commercial performance is fair and an exclusive responsibility of the concessionaire and in any circumstance it shouldn't be compensated with tariff increment.

9

In case that the concessionaire, exceeds the investment value foreseen with the PPP agreement, then this exceed in no way should reflect in the obligations that the private partner has towards the government of Kosovo. The excess of investments by the private partner can be made for commercial purposes of the private company itself, but not to serve as an argument for re-negotiation of the PPP agreement.

