

## FREQUENTLY ASKED QUESTIONS

### Liquidation Claims against an Enterprise under the administration of the KTA pursuant to UNMIK Regulation 2002/12 on the Establishment of the Kosovo Trust Agency, as amended by UNMIK Regulation 2005/18.

Potential creditor claimants should ensure they consider all relevant laws and regulations carefully and consider obtaining expert legal advice in relation to any claim(s) they may have against any Enterprise under liquidation.

This document does not have the force of law and is no more than a summary of certain of the matters that should be considered by any potential creditor claimant. This summary document, by definition, is not comprehensive and does not cover all areas of law and procedure. There is no substitute for reviewing the laws and regulations, in particular those referred to in paragraph 2 below. Potential claimants should note that this document is not legally binding and should not be considered as constituting legal advice.

#### **IMPORTANT NOTE:**

*This document only relates to the filing of liquidation claims by any person who believes they have a claim against an Enterprise that the Board of the Kosovo Trust Agency has given notice to liquidate pursuant to section 9.1 of UNMIK Regulation 2002/12 on the Establishment of the Kosovo Trust Agency, as amended by UNMIK Regulation 2005/18.*

#### **1. What is liquidation?**

Liquidation is the process whereby the KTA will “close down” an Enterprise. The assets of the Enterprise are sold for a reasonable price to pay the debts of the Enterprise. Liquidation is therefore another method of privatisation but less bureaucratic than privatisation as the KTA can sell assets such as small pieces of land, scrap metal, individual warehouses or shops or the miscellaneous stock of an Enterprise without having to establish a newco.

During the process of liquidation everyone who has a potential claim or is potentially owed money by the Enterprise will be notified and will have an opportunity to submit their claim. An independent Committee (known as the “Liquidation Committee”) will then assess all the claims and notify the individual creditor as to whether their claim has been accepted. If the creditor claim is accepted a payment maybe made to the creditor. The process of liquidation has two elements; (i) the sale of assets/real estate; and (ii) collection, assessment and payment of claims. ***This set of questions and answers deals only with the second element of liquidation or the claims side.***

#### **2. Where do I find the relevant legislation relating to the KTA’s rights and the liquidation procedure?**

The following key Regulations can be found on the UNMIK website at [www.unmikonline.org](http://www.unmikonline.org) under “Regulations”. This is not an exhaustive list of the applicable legislation as civil law such as the Law on Obligations and property laws may also apply. The applicable law will depend on the dates and nature of the item to which your claim relates. For example the new UNMIK Regulation on Pledges relates only to pledges made after the date the Regulation is promulgated.

- a) UNMIK Regulation 2002/12 on the Establishment of the Kosovo Trust Agency, as amended by UNMIK Regulation 2005/18 (the “**KTA Regulation**”).
- b) UNMIK Regulation 2003/13 on the Right to use Socially-owned Immovable Property, as amended by UNMIK Regulation 2004/45 (the “**Land Use Regulation**”).

- c) UNMIK Regulation 2001/6 on Business Organisations (as amended).
- d) UNMIK Regulation 2002/13 on the Establishment of a Special Chamber of the Supreme Court of Kosovo on Kosovo Trust Agency Related Matters (the “**Special Chamber Regulation**”).
- e) UNMIK Administrative Direction 2003/13 Implementing UNMIK Regulation 2002/13 on the Establishment of the Special Chamber of the Supreme Court of Kosovo on Kosovo Trust Related Agency Related Matters (the “**Special Chamber AD**”).

### **3. What is a Creditor Claim?**

A Creditor Claim is a claim by a person or entity owed money by an Enterprise.

### **4. How do I register a Creditor Claim against an Enterprise under Liquidation?**

If you have a claim related to an Enterprise for which a Notice of Liquidation has been published you should register your claim with the KTA by completing and filing with the KTA a **Liquidation Claim Form**.

### **5. Should the same form be filed for ownership?**

Yes the same form should be completed and filed for ownership of the Enterprise or of an asset of the Enterprise.

### **6. How will I know that a Notice of Liquidation has been published?**

The KTA will publish a Notice of Liquidation in once a week for 2 (two) consecutive weeks in major Albanian and Serbian newspapers in respect of each Enterprise the KTA Board of Directors resolves to liquidate. The Notice of Liquidation will also be placed on the KTA website.

### **7. Where can I obtain a Liquidation Claim Form?**

KTA Liquidation Claim Forms can be obtained from the KTA HQ (Pristina) reception or the KTA HQ (Pristina) Claims Unit - LD (Pristina); KTA Regional Offices in Pristina, Prizren, Mitrovica, Peja/Pec and Gjilan/Gnjilane; the EU Belgrade Office; and on the KTA web site: [www.kta-kosovo.org](http://www.kta-kosovo.org) under the section “Liquidation Claim Form”.

### **8. Why should I file a Liquidation Claim Form?**

You should use and file the Liquidation Claim Form if you have any claim related to the Enterprise, including any creditor claim (whether secured, unsecured, claim for damages, claim for unpaid salary etc), ownership claim against the Enterprise, including a land ownership claim, or a claim relating to an asset that you think is not an asset of the Enterprise and therefore should not be sold in liquidation.

Liquidation Claim Forms must only be filed in respect of those Enterprises for which a Notice of Liquidation has been published.

### **9. Is there a deadline for registering my Liquidation Claim Form?**

Yes. Your claim must be registered with the KTA within two months of the publication of the second of the two Notices of Liquidation in the newspapers. Failure to register your liquidation claim form within the two-months of the second Notice of Liquidation will exclude your claim from the distribution of proceeds of sale.

**10. Can I register a claim against several Enterprises by using one Liquidation Claim Form?**

If you wish to register claims against several different Enterprises, you should use a separate Liquidation Claim Form for each Enterprise.

**11. Where do I submit the completed Liquidation Claim Form?**

You should submit the completed Liquidation Claim Form with all relevant supporting documents to the KTA Regional office handling the liquidation. Details of the relevant KTA Regional Office will be on the Notice of Liquidation, the KTA web site and at the EU Belgrade Office.

**12. How should I submit the Liquidation Claim Form to the KTA?**

You can submit your completed Liquidation Claim Form to the KTA by mail, courier or in person. You are advised to obtain a confirmation of receipt. Forms may be faxed to the relevant Regional Office but the Liquidation Committee reserves the right to ask for an original of the Liquidation Claim Form at any stage. It is therefore advisable to submit an original of your Liquidation Claim Form.

Liquidation Claim Forms submitted by email will **not** be accepted.

**13. Do I have to pay any registration fee for submitting a Liquidation Claim Form?**

No registration fees are payable.

**14. What languages can the KTA Claim Form be in?**

English, Albanian or Serbian. You do not need to submit it in all three languages. Any supporting documentation should be submitted in the original language (which may be something other than English, Albanian or Serbian). If you have translations please add them indicating that they are translations.

**15. Do I have to use the Liquidation Claim Form?**

No the completion of the Liquidation Claim Form is not a legal requirement. However, it is strongly recommended that the Liquidation Claim Form be used as it ensures that the KTA is aware that you have a potential claim and it should ensure that you do not miss out any vital information in advising the KTA of your potential claim; it will also allow the KTA to process/record your claim more easily.

**16. What is the date that the Liquidation Claim Form is considered delivered to the KTA?**

A Liquidation Claim Form should be considered as registered/received by the KTA on the date when it was received at the Regional Office or EU Belgrade Office (if delivered in person or by courier) or the date of the stamped mail (if delivered by mail).

**17. How do I know whether my Liquidation Claim Form is registered with the KTA?**

Your claim will be registered at the Regional Office. They will contact you (this may not be until 3 months after the initial liquidation advertisement) to let you know whether your claim has been assessed as valid and if so how much it is valid by. If assessed as valid you will be asked to provide your bank details.

**18. Do I need to register my Creditor Claim again if I have already registered a claim against the Enterprise before the Notice of Liquidation?**

Yes, you do need to re-file your claim with up-to-date information.

**19. What about supporting documents? Should I send originals or just copies of the supporting documents e.g. the cadastre documents, the contract etc? If I send originals will I get them back?**

You should submit all relevant documentation to assist the Liquidation Committee in assessing your creditor claim. Please provide as much detail as possible and if applicable provide copies of contracts, invoices, reminder letters, evidence of judgments, details of interest rates, cadastre records, building permits etc.

You should provide a list of all of the documents you are submitting and attach it with the documents to the Liquidation Claim Form. If you believe it will assist the Liquidation Committee in making an assessment of your creditor claim you should also attach a brief history explaining how your claim arose.

Please **do not** send the original documents at this stage. The KTA may however ask to see the original documents at a later stage.

**20. Do I have to re-file any supporting documentation submitted prior to the Notice of Liquidation when I re-file my creditor claim?**

If you are providing new information then file this new information with the Liquidation Claim Form. If however, you submitted supporting documentation with your claim prior to the Notice of Liquidation you do not need to re-submit this documentation. However, please ensure that you clearly make a note on the Liquidation Claim Form of the documents already submitted and the date they were submitted.

**21. Can interest be claimed?**

Yes interest can be claimed at the amount allowed by law.

**22. Who will evaluate my Creditor Claim?**

The Liquidation Committee will evaluate your Creditor Claim on the basis of the completed Liquidation Claim Form and supporting documentation. This will also apply to claims relating to ownership of individual assets.

**23. Who will evaluate my Ownership claim?**

The KTA Board will make decisions on claims relating to the ownership of an Enterprise.

**24. Who appoints the Liquidation Committee and who shall comprise the Liquidation Committee?**

The KTA Board appoints the Liquidation Committee, but it may delegate this power to the Managing Director. Each Liquidation Committee shall be comprised of a minimum of three staff members of the KTA and shall include both local and international staff.

**25. When can I expect a decision on my creditor claim from the Liquidation Committee?**

The Liquidation Committee will assess your claim within a reasonable time and will advise you of their decision within approximately 3 months of receipt of your Liquidation Claim Form.

This will only be a preliminary assessment as to validity of your claim. If the Liquidation Committee accepts your claim an assessment of the actual amount that you will be paid will only be possible after all creditor claims and liquidation expenses have been assessed.

**26. When can I expect a decision on my ownership claim?**

The decision on ownership of an Enterprise will be made by the KTA Board and will be communicated to you as soon as it is made.

Other decisions on ownership of assets will be made by the Liquidation Committee and will be communicated as per the creditor claim.

**27. Will I receive all the money I claim in my Liquidation Claim Form?**

How much money you may receive depends on several factors including examination of all the Enterprise's debts and the total number of creditors. It also depends what "priority" or ranking your claim has. Claims have different priorities or classes for example all secured claims must be paid in full before any unsecured claim is paid; the first 3 months of an employees wages must be paid before the tax authorities are paid. This may mean that even where the Liquidation Committee assess a claim as valid the creditor may not receive any money and in many instances an amount of money will have to be divided amongst creditors of the same priority or class.

**28. How will I receive my money if the Liquidation Committee accepts my claim?**

The Liquidation Committee will notify you in writing if they accept your claim. It will request that you provide them with your bank details into which any payment will be made following approval by the KTA Board to distribute the proceeds of liquidation. Any bank transfer fees will be deducted from the payment made to you.

**29. What can I do if the Liquidation Committee declines my Claim?**

You can appeal a decision of the Liquidation Committee by filing an appeal at the Special Chamber of the Supreme Court of Kosovo in accordance with the Special Chamber Regulation and the Special Chamber AD (as detailed in question 2 above). This appeal should be filed within 20 days of you receiving the decision from the Liquidation Committee. It is not legally necessary to give the KTA notice of such appeal prior to filing as required by Section 29.1 and 30.2 of the KTA Regulation.

**30. How can I find out more information about appealing to the Special Chamber?**

Information can be found at our website by clicking on "Other Claims" and following the link to "Frequently Asked Questions".