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**CONSEQUENCES AND RECOMMENDATIONS FOR THE PRIVATIZATION
PROCESS IN ALBANIA AND NORTH MACEDONIA**

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ABSTRACT

Although the new strategies in Albania (1998) and legislative changes in North Macedonia (1999-2000) provided an increased level of transparency, not only in the methodology and implementation of the process, but also in the restructuring plans, the choice of investors, the regulation of liabilities, especially for strategic companies with the introduction of the tender sales procedure and the privatization with special laws, this process was accompanied with many problems in the implementation of the tender sales procedure, purchase contract and investor rights. Unlike Albania, there was no strategy in North Macedonia to privatize strategic companies. The process began in 1999 with the direct sale of the North Macedonian oil company "OKTA". Tender procedure as a method of privatizing state-owned enterprises was executed one year later. The North Macedonian legislative authority did not provide for the implementation of the process by a central privatization agency, but by a commission of the Ministry of Economy. In addition, the tender sale procedure was carried out with the help of international consultants; and although both governments were more focused in completing privatization in accordance with the law and focusing more on capital acquisition, only marginal privatization proceeds

could be achieved. Main objective of this manuscript is the analysis of consequences and recommendations of the privatization process in Albania and North Macedonia.

Keywords: Albania, North Macedonia, privatization process, recommendations.

INTRODUCTION

The privatization of the “North Macedonian *OKTA*” can be qualified as a gift from the economic result and an example of how a strategic company should not be privatized! All possible rights were given to the investor to secure the monopoly position, the contract contained no social clauses in favor of the employees; even oil imports should be duty-free, and the investor also had the right to determine for himself whether or not to adequately cover North Macedonia's oil needs. In contrast, the privatization of the state oil company “Albpetrol” in Albania was more positive, but the consequences of privatization were equally negative (Papajorgji, 2013, 215).

In the telecommunications sector, North Macedonia opted for a previous restructuring, because “*Mak Tel*” was already separated from “*Mak Post*” during communism. In both cases, the acquisitions were granted a monopoly position; for “*Mak Tel*” for 18 and for “*Mak Post*” for 20 years (Shehaj, 2009, 50). However, the legal requirements for the privatization of “*Mak Tel*” were not taken into account because it was privatized without prior publication of the necessary information from potential bidders. In carrying out the tender procedure of “*Mak Tel*”, the process was carried out according to the law; however, the purchase contracts contained only insufficient safeguards for the benefit of the employees.

In the energy sector, both governments also opted for restructuring before privatization. The implementation of the privatization procedures was however different. In North Macedonia, there were many procedural errors. In Albania, the privatization process was better and more transparent because investors could attend supervisory board meetings and receive all the necessary information. The end result was the same in both countries. It came to arbitration, because of the bad implementation of the purchase contracts. The arbitration process of 2009 in North Macedonia was terminated in 2011 by agreement between “*EVN*

AG” and the “*ELEM*” - and in Albania the arbitration which was initiated between “*CEZ*” and “*KESH*”, ended with an agreement in May 2013 (Papajorgji, 2015, 67).

In the air traffic sector, both governments followed the same privatization strategy, namely concession. It has been possible to achieve better results than through privatization procedures.

The privatization of the strategic companies shows only one thing, namely that the problems with the privatization of non-strategic companies were not eliminated for strategic companies with the tender sale procedure. The deadlines for the privatization of these companies were ignored, the sales value of the shares was not adhered to, and the obligation to pay the annual salaries of unemployed workers as a result of the restructuring was disregarded. The purchase contracts did not include obligations to employ workers; some purchase contracts have commitments on investments, while some do not. And a usual question comes to mind: How is that possible?

Consequences of the privatization procedures

The reason for the divergent privatization procedures is the corruption and the direct interest of the government clientele. In addition, there were and are many concepts and ideas for the privatization of strategic companies in both countries. Another problem was the lack of disclosure of sales contracts in North Macedonia. However, this does not mean that corruption is lower in Albania than in North Macedonia. The reason for this, according to the author, is that the privatization process in North Macedonia is much more "closed" because of the nationalist question and the concern to maintain state unity.¹ A bigger problem is the monopoly of privatized companies. Finally, the restructuring of companies prior to privatization was unsuccessful.

In Albania and North Macedonia, various types of privatization procedures have been implemented since the political change, as a result of government's changes and, as a result of changes in the political and legal objectives. The process was dominated by political motives in both countries. The choice of privatization

¹ According to the author's personal experience, all population groups were not equally treated in Macedonia; citizens of Albanian origin living in Macedonia were particularly disadvantaged.

strategy depended on the interests of the current political decision-makers and as such was influenced by two levels of reality: on the one hand through legislative or regulatory authority and on the other hand through the implementation of process, which was often diametrically opposed (Miljovski, K. Markovska, V. Stojkov, J., 2005, 1)

At the beginning of the privatization process, the basic privatization process in both countries was the direct sale to insiders (workers and managers). While the advantage of this process was its rapid implementation, the disadvantages were that it lacked the financial capital needed for the economic recovery of companies, lacked investment, lacked know-how and had insufficient corporate governance structures. Although in Albania the privatization law of 1991 basically provided the auction as a privatization procedure, the companies were mainly sold by direct sale. In the privatization process there were too many bodies with the same, similar or overlapping competencies.

In North Macedonia, insider privatization with a price reduction for insiders was the basic procedure for privatizing company shares. This was exploited by workers and managers. The combination of privatization procedures with a worker discount coupled with out-of-cash commitment led to a reduction in privatization revenues and significant delays. In North Macedonia, a combination of a cash payment obligation and a free distribution of privatization vouchers, as in Slovenia, might have made more sense (Arsov, 2005, 184).

Albania is not a good example of the privatization process with privatization vouchers. There was a lack of social justice because direct sales to insiders continued, albeit now with privatization vouchers. The goal of integrating the privatization vouchers was completely missed. This form of privatization only benefited the concerned workers of the companies and those who had good relations with the government. In addition, Albania lacked an investment fund for the administration and restructuring of companies, especially since the experiences of other transition countries showed that the establishment of financial intermediaries (eg in the Czech Republic or Poland) was essential for corporate governance and the involvement of outsiders.

However, another form of privatization procedure, which was implemented in a small extent in Albania, was since 2007 the concession, particularly in the energy sector and hydroelectric power plant construction.² The granting of the concession enabled investors to generate the capital needed to acquire the company over a longer period of time (Immenga, 1995, 54).

The privatization agencies of both countries were unable to ensure proper procedures due to political interference. As explained above, the implementation of privatization measures in both countries did not comply with the legal requirements.

In Albania, the issuance of privatization vouchers was a major contributor for the failure of privatization objectives, because the buyers acquired the companies without cash, and the government did not earn any income. In addition, acquirers were unable to invest in improving technology and often lacked the necessary know-how. For North Macedonia there is an IMF study based on the annual accounts of the concerned.³ It turns out that the privatization procedures adopted by the companies in no way led to the desired increase in efficiency in the respective companies.

The privatization process did not help with the development and promotion of the capital market. For Albania, however, there was initially no change. Since 1997, the foundation of the Tirana Stock Exchange has been discussed. It was established on 1.7.2002. In the period of mass privatization between 1995 and 1997, their existence would have been beneficial because the resale of the company's shares would have created a new group of owners and a group of strategic investors. These could have provided for the inflow of the necessary capital and know-how.

In contrast, the privatization process in North Macedonia was positively influenced by the establishing of the stock market in 1996 and the creation of an organized capital market. But the efficiency was extremely low. The number of listed companies

² The new Law No. 9663 on the concession dated February 18, 2006 simplified the concession procedure.

³ *Cebotari/Drummond/Glennester/Marciniak//Sekine/Young*, Former Yugoslav Republic of North Macedonia - Recent Economic Developments, *IMF Staff Country Report* 00/72 (2000), <http://www.imf.org/external/pubs/ft/scr/2000/cr0072.pdf> (Accessed 20.1.2020).

remained completely insignificant until the adoption of the new North Macedonian Securities Law on 7.11.2005, which required the compulsory listing on the stock exchange for all suitable companies. The amendments to the Companies law of 24.12.2012 and the planned regulations in the Securities Law concern precisely this phenomenon, namely the increase of competition and transparency in the capital market by deleting those companies in the National Center of Registration which have not carried on business in the last three years: in addition comes the compulsory listing of market-listed companies.

New privatization procedures led to an increase in the number of foreign investors in Albania in 1998 and in North Macedonia in 1999. This was a direct consequence of the optimization of privatization procedures, legislation and the privatization of strategic companies; however, the "price" for attracting foreign investors seems to be high, because they ensured monopoly positions in the strategic sectors of both countries, without any obligation, price restrictions or other conditions. The problems identified in terms of deadlines, the sales value of the shares, the inconsistency of procedures and the obligations to pay workers who lost their job as a result of restructuring were a firm part of the privatization of strategic companies in both countries and these major risks remain in the privatization of strategic companies.

Summarizing, it can be stated:

The newly created layer of the wealthy as a result of privatization consists primarily of workers and managers. However, they lack the necessary intellectual skills and the management knowledge required for successful corporate governance. The process was driven almost exclusively by the objective of making quick profit. This had an overall negative impact on the economy, politics, education, health care and even on the social system of both countries.

The privatization process in Albania and North Macedonia is a prime example of the inevitability of corruption, the privilege of government clients, of workers and managers, and the almost total exclusion of foreign investors. This study is an evidence that the privatization objectives and the way in which privatization was

implemented were significantly influenced by the previously existing economic systems, the traditional forms of ownership and previous corporate structures.

CONCLUSIONS

While top-down privatization in Albania was a consequence of the system of planned economy and limited autonomy of enterprises, bottom-up privatization in North Macedonia demonstrated the (consequential) influence of workers' self-government and social property. In North Macedonia, the workers' council chose the privatization procedure for its company. Insider privatization with direct sales to managers and workers was decided by the workers' council and proved its influence. In Albania, top-down mass privatization with the help of privatization vouchers was the result of socialist ownership: the people should thus acquire "their property" through vouchers. However, this was only a theoretical construct, as in fact direct sales to insiders was the normality, who were the actual beneficiaries of the privatization.

Another aim of the study was to show the advantages and disadvantages of the privatization process. The insider privatization through direct sales was expected to generate large-scale inflows, but in fact the inflow was minimal. Another advantage of this method is the rapid implementation, but the procedure was politically not accepted. It did not provide both countries with know-how, capital and investment, nor did it improve corporate governance. In Albania, the failure to implement the privatization procedures was due to a lack of competence, lack of experience and corruption of the privatization boards and other relevant privatization bodies, which should lead to a flood of legal proceedings. In North Macedonia, the model of privatization with cash, due to pressure from the IMF and WB in 1995, developed into mass privatization without privatization vouchers; and the model of outsider privatization for midsize companies transformed in insider privatization, ie privatization for the benefit of proprietary managers and employees.

In contrast to insider privatization, the mass privatization process with the help of privatization vouchers had high political acceptance. It was also quick to implement, but its drawbacks were

the broad ownership structure and inadequate impact on corporate governance, although shares could be resold on a stock exchange. However this did not happen in Albania, because the company shares were sold at a price twice to four times as high - with the familiar consequences of the establishment of the pyramid investment funds.

The privatization of the strategic companies was also accompanied by many problems in the implementation of the procedure.

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