

PRIVATIZATION AND ITS EFFICIENCY
IN ALBANIA

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MACROECONOMIC ASPECTS AT EARLY '90S

The economic reform process started in June 1992, when the government program was supported by "Stand By" agreement with International Monetary Fond.

Major objectives were:

1. Macroeconomic stability, which intended the reduction of budget deficit, inflation controls and price liberalization.

2. The restructuring of public sector through the reduction of state subvention, the incentive and development of free competition and the reorganization public sector including banking system.
3. The economic privatisation, which was ideated as a transfer of rights from public to non-public sector, intending the increase of standard of living through the reduction of state inefficiency.

At early '90s economic units that acted in all economic sectors were at very difficult conditions:

- with backward technology and low technical state, due to the lack of new investment in these sectors for a very long period
- with abundance in working power
- blocked in market and with high debt situation
- with low management, inadequate current and perspective planning, the emphasized state intervention in daily actions, poor knowledge on laws and market regulations
- with lack in capacity to manage crises situation and unable to bankrupt
- with low financial discipline level, inadequate systems in control measurement,
- with ambiguous objectives, manifold and conflicting,
- under political patronage impeding an efficient activity of economy units

The grave situation in these sectors requires qualitative restructured, liberal, and deregulate intervene than accompanied with privatisation ones.

Recapitalisation intervention needed investment at irresistible huge values, which required the withdrawal of domestic and foreign private capitals in order to effectively reactivate and use natural and human resources of these sectors.

The industry had had a downfall due to big difficulties that factories were facing in competing with import goods as a result of old technology. Through other factors, high costs of imported raw materials, inefficiencies on state enterprise lead and the new market rules, made the domestic products more expensive than imported one. With all the low costs on working power compared to

other countries, most of state enterprises failed. But at the other side, during the privatisation, the decrease on industrial production decelerated and starting from 1993 this production has been almost constant though at very low levels (31 percent on 1997 compared with 1990's level).

THE PRIVATISATION PROCESS IN ALBANIA

In the economic transformation process that our country is having, the privatisation is ideated not just as change on ownership but as a new alternative that will provide effective functioning of "trade players" actions, private or public, and guaranteeing a fair competition among them. This process is associated with other complex problems, changes and interests, these politic, macro and microeconomic, and legal.

The final goal of Government, through privatisation process, is the realization of the transfer from public rights to private ones in all their forms, and through an ongoing and effective process. In this context the privatisation is defined as a transfer of three kinds of rights from state to public sector:

- Property rights
- The right of use
- The right of development

Through the transfer of property rights (selling), the state is relieved from all kinds of risks that are linked with enterprise or corporate administration, while through the transfer of the right of use (contracts of management, service etc.) the state is included in the monitoring of contract conditions and financial risks if the economic unit has performed bad.

Concession contracts, like BOT; BOOT; ROT scheme and renting or enfiteose are some of the ways used during privatisation for both transfer of the right of use and the right of development, which include or not the state in financial risks, depending on the specificity of the contracts.

In Albania, the transfer of property rights has been used broadly in the transition process during 1991-2000.

PRIVATISATION OBJECTIVES

The privatisation it's not an end in its self. It would be very superficial to consider the privatisation as a calming of many difficulties that public sector had faced in economy, or as a simple change of property, or the entering of private sector.

This platform wouldn't pave the road of financial and economic efficacy. Different nations have made big efforts for improving the way of organization and to increase the public economic units results, so the privatisation is just one of the elements of economic and social reforming process.

The privatisation strategy has aimed the following main objectives:

- A fast preparation of the process and for all sectors
- The revitalization of economy through the efficient use of human and natural resources
- The guarantee of sustainable rates on growth and economic development.
- The support and the strengthening of private sector on the activity of producing goods and services.
- The attraction of potential and strategic investors
- The establishment of conditions for capital markets

The process of privatisation in Albania is not designed and realized just as a standard transfer of ownership between two or more well defined economic agents but even the designing of new ownership structures that never existed before. While on west countries the privatisation is viewed as a transformation process, in the east countries, as well as in our county, the privatisation is a substantial process of a systematic transformation of society as a whole.

Considering the executing phase of the privatisation process as a absolute necessity on economic development, the program in the context of main objectives, has intended to be:

Extended in all sectors of economy

- Effectively quick, fair from social point of view and transparent
- Promoter of economic revitalization through increased economic efficiency and competitive ability of sectors, effective use of human and natural resources and geo-politic position
- Restructured and supportive after the privatisation process to guarantee sustainable rates of growth, development and the strengthening of the property, an indispensable basement for competitive development on all markets, balance growth on economy.

- Supportive and strengthened process of production activity, as well as to achieve the benefits and guarantee the following goals:
 - property democratization
 - social peace and growth in standard of living
 - reduction of budget deficit, and increase in direct and indirect budget revenue
 - promoting increase in economic efficiency, through private enterprise participation and so to satisfy the consumers need.
 - reduction on domestic and foreign deficit
 - development on national capital market
 - competitive strengthening and weakening of monopoly
 - reduction of state intervene in the market
 - confrontation of economy units with market rules and disciplines
 - increase the quality of goods and services
 - long term increase on labor demand and the increase of employment alternatives through the allocation of human resources in free market
 - creation and strengthening of manager class through technology and skill investment, which will be a high value basement for democracy and political stability.

The above-mentioned benefits mostly intend primarily economic vivification of sectors, but the creation of a competitive market in special importance sectors will give the effect of blooming in other sectors like service, small artisanship production and agro-industrial.

This effect will immediately decrease the market product's price, increase the private business efficiency, increase the quality and the speed of consumer's public service, the incentive of new initiatives and increase labor demand.

THE OBJECTS OF PRIVATISATION PROCESS

Albania has been one of the most centralized economy, where the private property was nonexistent. For this reason, the process of privatisation has not been considered as a simple right's transfer, but mostly as a mean of returning of denied rights for a half century.

This privatisation process has included everything the state considered as its property, that is to say, the land, the house, enterprises and companies.

Farm land, territory, forests

Farmland, territory, and forests have been objects of distribution to farmers or return to ex- owners biased on People's Assembly and different resolutions by Council of Ministers. At the beginning, the sell of the farmland, ground, and forests was forbidden. This was made possible with some restrictions since June 1995.

Houses

All habitant state houses, flats were sold to people who lived in, according to the criteria determined by law.

Enterprises and companies of state

All state owned enterprises are objects of privatisation process. They are divided on enterprises of strategic (special economic importance) and non-strategic sectors, and the way of privatisation has been specific for all.

Financial sector

Financial sector comprises banking system, insurance institute and pension funds.

Until now steps are taken only on the privatisation of banking system, and this almost with full collaboration of World Bank and IMF and we have some results till now.

Ministry of Finance realizes the privatisation with special laws.

Social services

There are different types of social services that can be offered by private sector, starting from accumulation of garbage, cleaning of the road, fire protection, health service, teaching and qualification, treating of black waters, watering, controlling technique security and urban transportation. In Albania, talking about privatisation, all these services have been object of it.

Albanian legal framework of privatisation

Green light was open for the process of privatisation from People's Assembly in 1991 by Law no.1, date 10.08.1991 "On sanctioning and protecting private property, free initiative independent private activities and privatisation" and after that was enriched by Law no.8306, date 14.3.1998, "On privatisation of special economic important sectors"

Three has been the major principle of this legal framework:

- Private property
- Free initiative
- Privatisation process

At the beginning of this critical period of privatisation (1991), the process of privatisation was meant to be a way of liberation from state owing and from public enterprise administration as quickly and totally as possible. Mostly the enacted regulations for realizing the process of privatisation were in the level of Council of Ministers' resolutions, which were used during 1993-1996 for the privatisation of small and medium enterprises. The major strategic objective of privatisation was growth incentive, first on private property second on group property, emphasizing that in this process the state wants to transfer its rights. In this context every part of public property in Albania, will be subdued to privatisation.

Main characteristics of this process were decided to be:

The velocity

"The Velocity" has to be an essential characteristic in all privatisation process. Every state institution included in this process must reduce at possible minimum the time to fulfil its obligations.

Social justice

The state provides needed procedures in order to supervise social justice during privatisation process. From one side this imply support for ex-owners, ex-politic prosecuted, the workers of enterprises in privatisation, intellectual and famous leaders, and in the other side intend the prevention of state property to fall in hands of corrupt and privileged people, ex-communist's officials etc...

Transparency

After the documents for these institutions to privatize are prepared, state enterprises (SE) that will privatize or part of them are published in newspapers and media. Further procedures follow laws, decrees, regulations, and government instructions. The process, the procedures, and the results must be transparent for everyone in order to avoid corruption.

THE RETURN AND THE COMPENSATION

The return is the process of giving back of the properties to ex-owners that were confiscated by state, while the compensation is the giving back of the property's value that ex-owners possessed. This process is very important in privatisation process and to the extent in which they are used affects the velocity and the efficiency of privatisation process.

In Albania, for specific historical, social and political reasons the returning process was one of the most accepted ways of giving to the ex-owners the inherited property, apart from the difficulties and confusions that later accompanied this process.

The privatisation's methods

In deciding the privatisation method impact different factors, including the size of the enterprise that will privatize, as well as buyers' characteristics/possible investors.

In Albania, the law allows to use all methods of privatisation. All these methods biased on the objects that will privatize. The privatisation methods here in Albania can be separated in two ways:

"The divesting" from ownership's methods

Applying "The divesting" methods the state transfer the ownership to the new private owner without any financial risks. However, the unemployment generated from privatisation is a social risk that states need to take in consideration and to face it. Therefore, an indirect financial participation of state is inevitable.

The following methods are characterized by the way of ownership's transfer.

Direct selling

With this "divesting" method, the state sells directly an enterprise or a part of it to the private buyers. The direct selling has two ways:

- an auction direct selling
- the selling to a predetermined buyer

The second method is more used in Albania. Objects privatized according to this method were mostly houses, stores, restaurants, part of enterprises etc. (the so called low level of privatisation)

Selling at leaders and employees (MBO, EBO)

The same thing in these privatisation schemes is that ownership is transferred to a determined group, which may be ex- enterprise's leaders or employees.

In Albania, these schemes are mostly used to privatize parts of the enterprises.

Public auction

With this method that is used to privatize small and medium enterprises (or parts of them)

The ownership is transferred through an open competition. The reasons for using this method were:

- for more transparent privatisation's technique,
- politically, this is more accepted privatisation method than others, for example the direct selling,
- the maximal of privatisation's results

In fact, this method has not given the expected results.

The liquidation

The liquidation is the closing of a company and the selling of their assets, as long as it has interrupted its activity, mostly due to bankruptcy.

In privatisation “theory”, it is said that this method is used in special circumstances.

For different reasons, the government may prefer to liquidate an enterprise and to sell its assets, instead of selling it as an enterprise in functioning.

In Albania, after price liberalization on 1991, many SE bankrupted. The liquidation it would have been the better method for privatisation. Anyway, the term privatisation was more prefer than liquidation. The above-mentioned methods (direct selling, MBO, EBO, and public auction) often are preceded by this “undeclared” bankruptcy.

Mass privatisation

Mass privatisation method (MPM) is biased on the delivery of vouchers to people without paying for it. This method intends the fast privatisation of enterprises; these transformed before on trading companies, from many citizens, holders of vouchers.

The argument of MPM is the fact that the ownership on production equipment is considered to belong to all. This fact, supported even by the lack on financial assets on the hands of Albanian citizens in order to participate in the auctions of large and medium enterprise’s privatisation, made the mass privatisation, which in that times was encouraged by World Bank and was adopted from the Government, to be one of the most public accepted method. The MPM it was seen positively from the demand side (Vouchers for peoples), but not from the supply (enterprises that might be privatized by MPM).

The instrument used for the realization of this method was public auction.

Strategic investor

This method implicates direct negotiations between the state as an owner represented by respective authority and private investors that will take the majority of shares for guaranteeing the enterprise management. Strategic investors it is seemed as a precondition for providing technology and financial assets for privatized enterprise.

At the beginning this method was considered to be used only for the so-called strategic sector. But after the privatisation by MPM of

first trading companies many problems came out, so it was judged to solve these problems by strategic investor's method for majority of shares.

This method is used combined with MPM by this formula: majority of shares for strategic investor the other part of shares for public by MPM.

The instrument used for the realization of this method was open auction or tender.

“Non-divesting” from property methods

“Non-divesting” methods could be an intermediate step toward privatisation (the sell), showing the abilities of the enterprise that will be sold in order to survive in the market. The state remains the owner and transfers to the private sector only the right of using and/or the right of development, maybe with both a certain risk

Transformation

It includes State owned enterprise (SOE) transformation into a private trade company in a legal way, pursuing the proper law. The transformation reason is that acting under equal legal and economical conditions as private company SOE will become able to survive in order to be privatised at a certain time. The state itself is the shareholder and this is the only difference between them. In Albania, transformation is considered as the first step toward privatisation especially with MPM, by the method of strategic investor, or by public shares offer.

At the beginning it was thought that the term period between transformation and privatisation to be very short, so that management was not emphasised. Very soon it was made clear that almost in all cases, the transformation did not improve the performance of state trade companies, independently that the period to privatisation (principally with MPM) has been in most cases, relatively a short one.

Restructuring

Restructuring target is the increase of SOE value in order to become as much as possible attractive during the privatisation. In Albania re-structure is considered under the organisative, financial and technical aspects. There was made an effort toward

this direction through the establishment of Enterprises Re-structure Agency (ARN _ ERA), being proposed, established and financed by the World Bank. ERA portfolio consisted in 32 enterprises, because of the way of conceiving that in an appropriate base, ERA did not succeed and became fused in 1996.

Leasing or enfiteosis

Leasing or enfiteoza is a contractual agreement by which the owner state of an asset (that has lost the market object) gives to an other subject the right of use and development of activity and of profiting from it, for a certain period of time, in exchanging a tariff payment.

Joint venture companies

Joint ventures companies are defined as a counter partner between the state and legal private subjects, which owe together the company and shares the risks and profits of this collaboration. They are divided into two categories

- Contract agreement
- Capital agreement

It was thought at the beginning to be used broadly, because of financial assets and SOE market lack, but it resulted with a total in many cases.

Service contract

Under the contract method a public authority under-contract a private company to perform some specific services in the name of a public agency.

This method was lately implemented in Albania and only for some social services as the collection of public, repairing, garbage or of street cleaning one.

Concessionaire Contract

By giving a concession, the State transfers the rights of use and/or those of development to the private sector.

This method was forecasted to be used in developing the natural resources, utilities for both the mine, watery infrastructure and transport sector and for that of electricity production sector.

ENTERPRISES PRIVATISATION

Brief review and definitions

The privatisation of centralised economy was considered by the Government as a critical point and at the same time as the axe of economical reform since its beginning in 1991. The privatisation of centralised economy from the government was considered as a critical point and at the same time as a ... of economic reform since on its beginning in 1991. Looking at regulations by law and included institutions, assets amount, duration, social impact, problem complexity etc., we can say that the privatisation of SOE has always at the centre of attention. This is not that the land and houses privatisation is less important, but explains why in Albania the word privatisation always means the privatisation of SOE.

Looking back in times, the process of the privatisation of SOE has had many ups and downs, success and failures, which naturally has been accompanied with many debates for the chosen alternatives. In the privatisation of SOE in Albania, all privatisation methods are almost used. This has happen even inside a single enterprise. The methods used have been closely linked with the size of enterprises and those are:

1. direct selling or with reserve for small enterprises and objects (small privatisation)
2. public auction for SME
3. mass privatisation and strategic investor for medium and large enterprises

According to the data collected by GTZ German project in Albania - "Economic Legislation, Privatisation and Restructuring", at the beginning of privatisation process on 1991, in Albania were the minimum 2434 SOE in different economic sectors. More than half (1280), as it is showed in the table, are in the sectors of service, trade, agriculture, and food processing.

No. Economic sector	No.	%	cummulative
1. Service and Trade	623	25.6	25.6
2. Agriculture	365	15	40.6
3. Food Processing	292	12	52.6

4. Building and Raw Materials	247	10.1	62.7
5. Transportation	142	5.8	68.6
6. Other (Education, Drugs store)	107	4,4	73
7. Wood and Paper	98	4	77
8. Craftsmanship production	89	3.7	80.6
9. Mechanical	85	3.5	84.1
10. Oil and gas	69	2.8	87
11. Mining	66	2.7	89.7
12. Energy	64	2.6	92.3
13. Clothes and textiles	60	2.5	94.8
14. Tourism	44	1.8	96.6
15. Typography	29	1.2	97.8
16. Chemical industry	98.9	28	1.2
17. Metallurgy	14	0.6	99.5
18. Leather	12	0.5	100
Total	2434		100

*) SOE of the Ministry of Defence are not included in this number.

The direct selling and the method of selling at leaders and employees.

According to this method of “divesting” from the ownership the enterprise (or parts of it/ has been sold directly to the private buyers. Financial risks both with ownership are transferred to the buyer.

The Direct Reserve Selling and the Selling to the leaders/workers (M/EBO) were the main methods used in the beginning of the privatisation process.

In the years 1980-1981 the public enterprises of the service sector were almost bankrupted. SE was not able to provide the quality and the quantity of the service demanded by the population. The fast privatisation of the services was the only way to overpass these difficulties. The government tried to find out which was the best way of privatisation with the intention to reactivate the trade services. The professional knowledge's (Know-how) have been considered as the main criterion for finding new owners more professional in business and trade services. The logic was simple “who-knows it better is able to improve the quality and the quantity of the services faster than anyone else”. So the leaders and the employees of SE were considered as the best buyers .The

privatisation methods M/EBO were considered the most effective and fastest ones but neither MBO nor EBO methods were not applied in all their sense. The enterprises were sold to the employees but only in parts.

The direct selling to the employees or leaders (the latter in very few cases) didn't include the selling of a whole enterprise. From this point of view it is logic to consider M/EBO as a direct selling.

Also the ex-owners as a group had the right to participate to the direct selling of the units of the trade service units. The abetting of the employees and the ex-owner was according to the criteria of the "Social equity" of the privatisation process.

By the end of 1991, the privatisation through the direct selling was used all over the country and in all trade services, like selling and repair shops, taxies, interurban system, small cars, car- repair shop, barber, tailor, shoemaker, restaurants, agricultural machinery etc.

In the beginning of privatisation process the state didn't pay attention to the revenues from privatisation. The employees bought the objects with low prices, because of lack of money in their hands.

In the beginning of 1993 three things became cleared:

1. The state couldn't privatize its properties very cheaply for a long period of time, when it was possible to have better selling prices.
2. The "know-how" of the buyers wasn't enough for the business. Immediately after the buying they needed considerable liquidity.
3. The ex-owners of the lands and buildings were not satisfied from the process. They required the return of their properties.

That's why starting from the midst of 1993 it was considered necessary to use other methods of privatisation.

In Albania, the direct selling was more or less privatisation on low scale. That's why the process which involve this method can be called "The process of the small privatisation (PSP)"

The PPV process and it's results

The Process of Small Privatisation began on April 1991 but the long strikes and the politic situation in that time blocked all the Albanian economy and the process of privatisation. Only the line ministries privatized a few objects on April - June 1991.

With CMD (Minister Council Decree) no. 307, date 29.08.1991 there were create NAP (National Agency of Privatisation) and PCPP (Preparative Comity of Privatisation Preparation) like the responsible institutions for the **restructuring and** the privatisation of SE (state enterprises).

From the beginning NAP and PCPP decided to do a high speed privatisation, especially after MCD no. 347 date 10.08.1992 "For a change in MCD 284 date 25.06.1992 " On the restarting of privatisation process ". This decision made the direct selling method to the employees like the basic method of privatisation of the retail trading units, handicraft and public services, vehicle beside the urban transport. Only in cases that employees didn't want to buy the objects, they were sold in auction.

During the years 1991 - 1992 there were privatized 12000 shops, 5000 small units of trade service and 2000 vehicles, fishing ships, agricultural machines, etc. This privatisation was done by selling the shops to the people who worked there, with a price calculated in base of remained accounting value, construction value and \ or equipment instalment value. During this period were also were privatized a big number of dental clinics and drug stores. The payment should have been done only in cash.

On 1991 - 1992 the average value of the transactions was 300\$. This small value of transactions was not always one indicator of the weakness of assets. In reality, the biggest part of the trading units was sold very cheap by the state to the people, which use to have small amount of money cash at that time.

After a long break, the selling to the employees restarted after MCD no.203, date 03.05.1995 "About the privatisation of SME ", until the beginning of 1997 (period in which the direct selling was interrupted). In this time the employees have the right to buy only vehicles, machines and some equipment to privatize apart.

The payment in this stage of PSP is done:

- in cash
- in privatisation vouchers
- in privatisation bills after June 1995

In the beginning of 1998, based on the new package of legal acts March - April 1998 about the privatisation of enterprises and non-strategic detached units, the selling is done only in lek and through the auction, besides the selling in privatisation vouchers of the objects, the privatisation of which was started during the 1997.

THE AUCTION AND THE PUBLIC BID

GENERAL ASPECTS

The Public Bid is the privatisation for the transfer of the rights of the ownership to the private owner through open competitive offers. Transferring the rights of ownership, the state get free from the economic and financial risk and if the enterprise generates loses, this is a problem of the new private owner.

The public bid may be consider as the chief privatisation method used in Albania. That is the most important method used in terms of the privatized units, the totals of incomes from privatisation, geographical allocation and the economic sectors included.

The legal **framework** in which the public auction was based has allowed a lot of exception cases from the real auction that makes this method seem more like a process that an instrument for the ownership rights transfer. Legally the particular condition has consisted in excluding from the auctions of some favorite groups or individual, like ex owner, workers, or other peoples with "special merits ". According to the theoretic definitions, these exclusions must be considered as direct selling.

Auctions was used as an instrument to transfer ownership rights through Public Auction method, Mass Privatisation method and Strategic Investor method.

Public Offering was initially used to privatize the SME (and was often referred to as SME's privatisation), but later it was used to privatize relatively large enterprises as well. The following procedures and rules applied in Public Offering are approved by respective laws.

1. Previous owners of the land had the right to purchase the enterprise or its parts if more than 80% of the enterprise or object was build on their land.
2. Private owners should honor the contractual agreements of the enterprise with third parties.
3. The newly privatized enterprises could not change the scope of their business within a period of two years without the permission of NPA. This rule was often not followed.
4. During the privatisation process, large enterprises could be broken up into smaller parts to increase the possibilities for their survival and privatisation.
5. Local authorities, public institutions, state agencies or state enterprises were not allowed to purchase enterprises or objects through the privatisation process.
6. Publication of objects and entities to be privatized was very important. The law specified very clear procedures about publication of information on the objects subject to privatisation in order to provide transparency for everyone interested in purchasing these objects. Only in very special cases, an object that was marked for privatisation could be excluded from the process with the approval of NPA or Council of Ministers.

Cases of direct sale involved only landowners and employees. The latter had the right to buy machinery, vehicles or other objects at a low price. During the second half of 1995 the method of Mass Privatisation was applied. It blurred a bit the importance of Public Offering but in no way, PO became a second-choice method. Statistics show that revenues collected from privatisation during 1995-1996 (in total 98 enterprises initially transformed into trade companies) are higher than the value of enterprises privatized with Mass Privatisation.

Distribution of vouchers as part of MP started during summer 1995. These vouchers could be used in public auctions same as privatisation money of the politically persecuted persons.

During 2000 apart from the application of PO, also the privatisation through open tenders was used. The method implies the sale of state shares to a strategic investor, apart from the shares transferred to previous owners and employees without an auction. Privatisation process through public offering or open tenders took place as following:

Year	No of Objects	Lek	Privatisation (Lek)	Vouchers	Total Value
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1991-1992		537.9			357.9
1993	3,268	4,477.0			4,477.0
1994	2,775	1,838.0	344.1		2,182.1
1995	2,924	597.2	2,704.3		4,129.5
1996	2,248	314.5	784.1	2,407.3	3,505.9
1997	717	185.1	69.6	747.8	1,002.5
1998*		258.8	13.2	358.8	630.8
1999		1,027.4			1,027.4
2000		2,168.4			2,168.4
2001(till Sep)		844.4			844.4

* during 1998-2001 privatisation through auctions was performed only in Lek and it involved objects, machinery, quotas and state packages. During 1998-2001 there were 179 objects sold completely and 183 objects sold partly. Privatisation through open tender was carried out for 3 trade companies and one state enterprise.

Unlike other types of privatisation, direct sales is based on payments in cash, which accounts for the largest percentage of revenues (83%). The reason for this is that after the privatisation shares (Lek) and vouchers were introduced, Direct Sale was replaced by Public Offerings.

Mass Privatisation

Overview

Mass Privatisation (MP) means that people buy shares of state enterprises in exchange of privatisation vouchers provided to them.

Thus MP follows the principle:

'Disributing property to those who contributed in building it'

The expected results from implementation of MP are:

1. Building a large class of new owners to encourage "massive capitalism" through a wide spread distribution of property. This way MP aimed at boosting the mass support for privatisation process.
2. Quick transfer of ownership from state to new shareholders.
3. MP enables the privatisation of large enterprises without having to split them on smaller parts.
4. Indirectly, it should foster the development of capital markets; new culture and mentality on shareholding.

Under the framework of Mass Privatisation Program, all the enterprises are subject to transformation to trade companies of the type of State Shareholding Companies. MP is applied in privatizing 98 enterprises so far. The process displays the following characteristics:

- Those in possession of vouchers can use them to purchase shares without the need of any other financial intermediary.
- Vouchers were tradable in the open market. Till November 1996, foreign investors were prohibited by law to participate in the privatisation of enterprises through vouchers.
- The auction procedures were not based on a fixed price per share calculated beforehand, i.e. everybody could buy all shares.
- The activity of vouchers market practically excluded the use of cash to purchase enterprises. Anybody could buy vouchers in the market at a discount and then could use the vouchers to purchase shares of enterprises that could be privatized through MP and whose value would be calculated on the nominal value of vouchers.

Transfer of shares through public offerings is the only method applied in Albania so far.

Legal Basis

Implementation of MP was based on specific legal basis.

Law no. 1030, dated 23.02.1995 "On the issuance and distribution of vouchers (privatisation Lek)".

Before mass privatisation took place, enterprises were registered as trade companies in accordance with the respective laws.

The decree of Council of Ministers no 438 dated 14.08.1995 "On the privatisation of state enterprises transformed in trade companies" specified all the procedures for share transferring of trade companies during the implementation of Mass Privatisation Program.

The decree of Council of Ministers No. 608 dated 30.10.1995 "On the transfer of state shares to the persons participating in the auctions of state trade companies" determined the procedures for the transfer of shares of trade companies to the participants in the auctions according to the results at the end of each auctions as reported by National Agency of Privatisation.

Investment funds in Albania

According to the definition in the Albanian legislation "Investment Fund" might be each juridical private person, which by accumulating financial resources of other persons (privatisation vouchers, privatisation securities and cash in hand):

- Only its shares in exchange
- invests, reinvests, owns or trades in securities

An investment fund is created and organized as a corporation, in accordance with the Albanian legislation. The fund is an organization with many owners, which only at the beginning is engaged in collecting privatisation vouchers and using them to buy shares in firms that are being privatized. In Albania the owners of the privatisations vouchers were offered the possibility to invest in Investment Funds, only such vouchers. Instead, cash could be invested in such funds only in special occasions, regulated by law.

Investment Funds of bonds play the role of financial intermediates by trading in privatisation vouchers collected from the population with shares of companies which are being privatized with MPM. So, theoretically their position is clearly defined in accumulating and intermediating in privatisation vouchers. As such, they could have developed in an integral part of the Mass Privatisation Program.

Investment Funds offer to their investors the possibility to take part in the stock exchange, without the need of special knowledge of them. In this way Investment Funds diversify the risk of owning shares, thus acting as common funds.

The establishment of Investment Funds in Albania, is based on Law No. 7979, on 07/26/1995 "On Investment Funds".

The statute of Investments Funds is required to comply with the Pilot Statute of Investment Funds, approved by the Council of Ministers. The Finance Minister was designed to be the Regulating Authority of Investment Funds.

Three Investment Funds were registered in the Trading Register of Albania:

“Anglo-Adriatica” Investment Fund, in Tirana,

“Shqipëria e re” Investment Fund, in Tirana,

“Nobel” Investment Fund, in Tirana.

The “Nobel” investment funds had only a temporary license. This fund did not continue its activity any longer, and thus it was considered closed according to the acting legislation. The other two funds did receive a definitive license.

“Shqipëria e re” did receive this license in December 1996, but its activity was interrupted due to the crisis in Albania, and later its activity was closed.

The “Anglo-Adriatica” fund was licensed in May 1996. Till the temporary suspension of its activity (February-March 1997) due to the crisis situation in Albania this fund had 41182 investors. “Anglo-Adriatica” had plans to invest in ‘strategic sectors’ such as telecommunications, hydro energetic, mining, tourism, building materials, etc.

The strategy of investing in strategic sectors of the economy undertaken by the funds caused a long delay in order to include properly them in the privatisation process.

At the same time, the existence of a free voucher market created a parallelism between the investment funds as subjects to many limitations imposed by the law on one side and other institutions and persons which were not subject of such limitations and could freely collect and invest them.

Furthermore, the auction procedure on shares movement without a pre-calculated price for these shares hampered the investment fund ability to be involved in them, because they could not calculate the number of shares they were allowed to invest (according to the law they could not surpass 40 per cent of the shares of a company).

Nevertheless, it is a fact that Investment Funds did not play an important role in the privatisation process in Albania.

The MPM process

From March 1995 till the beginning of 1997, 97 enterprises were privatized with the MPM procedure, being firstly transformed in state owned companies. They belonged to different sectors of the economy as the mechanic industry, the chemical industry, textiles, etc.

It is acknowledged that the state owned companies that were privatized under the MPM process did not meet all the criteria to be called enterprises. Choosing the specific was the weakest link of the privatisation with MPM in Albania, furthermore in this process were included even companies with negative assets values.

The auction procedure was not based on a pre-calculated price, according to which the demand and supply go together, which is to say that all the vouchers buy all the shares. Also, there was a lack of information regarding the performance of various companies, their economic and financial situation and their prospective development plans. So the prospective buyers of shares did not have any idea regarding the companies they were required to invest their bonds.

The privatisation of companies with MPM created companies with a large number of shareholders. This situation created many problems for the majority of the companies because the shareholders had limited knowledge on their rights and obligations.

Results

97 companies belonging to different sectors of the economy were included in the MPM privatisation process, as shown in the following table:

The distribution in sectors of the economy of the companies privatized with MPM.

No.	Sector of the economy	No. of companies
1.	Food processing	13
2.	Construction & construction materials	12

3.	Mechanical	12
4.	Trades and services	9
5.	Mixed	7
6.	Transport	6
7.	Typography	6
8.	Wood and paper	6
9.	Chemical & plastic	5
10.	Clothes and textiles	5
11.	Energy	4
12.	Agriculture	3
13.	Tourism	3
14.	Manufacturing	2
15.	Oil & gas	2
16.	Leather	1
17.	Mining	1
	Total	97

Privatisation under Mass Privatisation Program.

Year	No. of objects	Leks	Privatisation leks	Privatisation vouchers	Total value in mio. leks
1991-1992	-	-	-	-	-
1993	-	-	-	-	-
1994	-	-	-	-	-
1995	50	-	450.0	1703	2153.0
1996	47	-	311.7	2873.2	3184.9

As a conclusion, it can be stated that MPM in Albania was implemented based on a political decision, without taking into consideration the necessary preconditions for a successful outcome, because, in fact, there was a lack both of supply (companies that could be privatized with MPM), as well as of the mentality of people in order to become shareholders. MPM was implemented according to strong recommendations of international institutions, without properly taking into account the specific socio-economical situation in which Albania was and continues to be.

THE PRIVATISATION OF SPECIAL IMPORTANCE (STRATEGIC) SECTORS OF THE ECONOMY

Background

1999 may be considered as the year that marked the end of the privatisation process of small and medium enterprises and the beginning of the privatisation process of strategic sectors of the economy.

The privatisation process in the strategic sectors is carried out in accordance with the privatisation strategy, approved in the law No. 8306, on 14.03.1998 "On the privatisation strategy of the special importance sectors". This law states that the privatisation of the strategic sectors of the economy should be based on specific laws, foreign assistance and should be headed by a Transparency and Consultancy Committee. This committee directs all the privatisation process, is headed by the Ministry of Public Affairs and Privatisation and includes the Ministry of Finance, the Justice Ministry and representatives of line ministries (based on the nature of the enterprises that are being privatized), representatives of foreign consultants and donors (in this case the World Bank). A special regulatory and procedural framework that should include the form, the normative acts and the privatisation formula, is compiled for each specific enterprise.

The privatisation process of the strategic sectors of the economy constitutes the most important moment of economic reform due to the fact that it has very big politic, economic and social dimensions, and on which are expected essential positive effects on capital, goods, financial and labor markets.

The privatisation program of the strategic sectors includes around 75 per cent of the total assets of the economy, in the oil and gas sectors, electro energetic system, telecommunications sectors, transport infrastructure, mining and water resources, etc.

Actually, economic units which act in some of these sectors are in a very difficult situation:

- with outdated technology as a result of the lack of investments in these sectors for relatively high periods of time,
- with an excessive number of employees,
- without access in the markets and heavily indebted,

- with poor managerial skills, inadequate actual and future planning, with a marked state intervention in every day operations, poor knowledge of laws and market rules,
- with a lack of crises management capacity and impossibility of bankruptcy,
- with low levels of financial discipline, inadequate measuring and control systems,
- with unclear objectives, in many cases multiple and conflicting objectives,
- under political “supervision” that do not allow a efficient functioning of these companies.

Generally, these sectors are natural and unique monopolies in the economic background of our country, in their respective fields.

The difficult state of these sectors needs qualified intervention in restructuring, deregulating from the regulatory units and privatizing and recapitalisation through large investments, which require attracting foreign private capitals in order to reactivate and use effectively the natural and human resources of these sectors.

THE PRIVATISATION PROCESS

The restructuring and privatisation process of enterprises in the strategic sectors for the Albanian economy and society is a very complex process, taking into account the reasons mentioned above of their economic ineffectiveness and will be undoubtedly accompanied with social and economic problems.

The process of privatisation of the strategic sectors of the economy, as a rule, should involve a strategic investor, which will be transferred the state propriety rights, in whole or a controlling stake.

There are two main reasons behind this provision:

1. State owned enterprises need modern technology and know-how, new financing and an able management.

2. State owned enterprises in deep financial trouble and an inadequate management do stand a chance to solve their problems only if a private investor with proper knowledge or expertise and financial resources is involved in their privatisation process.

In order to realize the goals and objectives defined in the Government program for the privatisation of the strategic sectors, in accordance with the IMF, World Bank and other international institutions, the job is being organized in cooperation with the line ministries and departments and with the technical assistance of a group Italian companies, in the legislative, technological and financial directions. This includes the "Five Star" project, which includes five companies in strategic sectors: AMC, Albtelekom, Albkrom, Albbaker and Albpetrol. There are a lot of detailed programs for their privatisation process, compiled with the assistance of international consulting companies.

1. THE TELECOMMUNICATION'S SECTOR

Actually, the telecommunication's sector includes activities of state owned enterprises of "Albtelecom" Inc. and AMC Ltd.

"Albtelecom" Inc. acts as a public fixed-line communications company, covering local, urban, and international calls, national and international data communications fax services, pay phones as well as naval radio communication.

AMC Ltd. Acts in the mobile communication in a range actually covering 25 per cent of the territory, where 50 per cent of the Albanian population is included.

1. In the telecommunication's sector

AMC Ltd. is the first company of a strategic sector that has gone through privatisation. The privatisation of this company was completed in July 2000, through selling of a majority stake of 85 per cent of its shares. In the mobile communications business, where AMC operates, a second operator is licensed.

"Albtelecom" Inc. The beginning of tender procedures is scheduled to begin during 2001 and the contract is expected to be signed during the first half of 2002, in cooperation with the international consultant.

2. THE ELECTRO-ENERGETIC SECTOR

The Albanian electro-energetic sector is a unique system, which is divided into three separate stages (production, transmission, distribution), all of which are undertaken by the Albanian Energy Company, KESH Inc. and three other pilot companies involved in the distribution process in Vlore, Shkoder and Elbasan. The energetic sector has a built-in capacity of 1656 MW, of which 1460 MW are based on HEC-s and the other 196 MW are based on TEC-s. These plants are capable of an annual production of 3.6 billion kWh, with a 90 per cent confidence. Up to now, KESH has completed its transformation into a publicly traded company.

The KESH privatisation process will pass through these stages:

The reference terms for "Managerial assistance in KESH" by a foreign company are completed, according to a proposal of the World Bank and EBRD.

For the continuation of the restructuring process, a study to divide KESH into two companies is being made:

- The first one: KESH – Production and Transmission
- The second one: will cover the distribution process under a new name.

At the same time, the restructuring of KESH for the break up of small HEC plants under two MW end their privatisation based in Law No. 8257, 23.09.1999 "On the privatisation of local HEC-s". This privatisation process is being carried out independently from the privatisation of the Electro-energetic Sector, while doing the proper legislative amendments and using concessionaire contracts or their sell through auction.

Regarding the pilot companies, the state share (which amounts to 70 per cent of each of them) is transferred to KESH, which is entitled for their administration.

3. THE OIL AND GAS SECTOR

Albpetrol Inc has undertaken the activity in the oil and gas sector, including the search and extraction, refining and marketing, and some other branches involved in special services. The troubled financial situation, the old technology, the environment of unfair and illegal competition in marketing and the inability to trade stock in the financial markets, had put Albpetrol in an ever worsening situation, hampering its chances of a successful privatisation.

In this situation, the privatisation process made headway for an organizational and operational restructuring process, by breaking the company into 4 new ones:

- APC (Albanian petroleum Corporation) Inc. as a holding company
- SERVCOM Inc, for special services
- ARMO Inc. for processing and marketing
- ALBPETROL Inc. for search and extraction.

The organizational restructuring is accompanied by human resources restructuring.

During the implementation of the privatisation process, legislative acts for speeding up the process and giving further support to the restructuring process were approved.

"Servcom" Inc Fier

With a the Council of Ministers Decree (CMD), No. 348, 07.07.2000, "On the 'Servcom' Inc, branches that will not be considered of a strategic importance", the restructuring has begun on the "Servcom" Inc Fier. The privatisation procedure is carried out in accordance with the legislative acts on the sectors of the economy that are not considered of strategic importance (small and medium enterprises).

In compliance with the Law No. 8707, 24.01.2001, "On the privatisation of "Servcom" Inc., the Council of Ministers decree "On the beginning of the privatisation process of the 'Servcom' Inc. and the defining of the form and formula of the privatisation process". This decision has marked the beginning of the organizational, operational and human resources restructuring of the company. The privatisation process is expected to end in the first half of 2002.

"Armo" Inc Fier

The decree of the Council of Ministers, No. 500, dated 21.09.2000 "On the Armo Inc branches that are not valued as part of special importance sectors" has set the basis for the organizational and operational restructuring, spinning out of the strategic sector 28 units of this company during this process. Another Council of Ministers decree, No. 489, dated 14.08.2001 "Some adjustments in

the Council of Ministers decree No. 500, dated 21.09.2000 "On the units of Armo Inc. company, which will not be considered part of the special importance sectors of the economy". Actually, Armo Inc is completing the preparatory work for the documents of the units that are being prepared for privatisation.

The privatisation in the Armo Inc. has begun with the service stations, which are being transferred mainly to their workers.

"Albpetrol" Inc. Fier

The preparatory work on deciding the list of units that will then be proposed to the government to be excluded from the list of strategic sectors.

4. MINING SECTOR

This sector includes companies such as Albkrom Inc, Albbaker Inc. and other mines such as coal mines, ferronickel mines, etc.

The development of this important sector should be based on the transfer forms of ownership, utilization and development rights, by using all the appropriate means of attracting foreign capital, such as self-financing projects and concessionaire forms. The privatisation in the mining sector would aim for the reactivation of the mining industry and the increase of its effectiveness, in order to make possible a more intensive use of our mineral resources.

Chromium industry

Chromium industry includes production, refining, molding and marketing. This industry is represented by Albkrom Inc. After 1990, chromium production has decreased considerably, from 1 million to 0.24 million tons. This has caused deterioration in its economic, financial and technical situation.

Albkrom Inc.

The privatisation of Albkrom Inc. is realized based on a detailed plan which envisions firstly the restructuring process and then the privatisation of those units that, by a Council of Ministers decree, are excluded from the strategic sectors of the economy. Work is being done on accelerating this process.

The other units of the company, the strategic ones, is privatized during 2000-2001 period with concessionaire contracts, between

the Public Economy and Privatisation Ministry (PEPM) and the Italian company "Darfo" Inc.

Copper Industry

Copper industry includes production, refining, molding and marketing and is represented by Albbaker Inc. that faced deep financial, technical and technological problems.

Albbaker Inc.

Ministerial Orders for privatisation approval are drawn for all those sectors of Albbaker Inc. that by a CMD are excluded from the strategic sectors. Work is being done on preparing the privatisation documents.

The approval in parliament of the law "On the approval of extending concessionaire rights on some objects of the chromium and copper industry" with the Turkish company "BEN-ONER", paved the way to the procedural aspects of handing the rights.

5. THE TRANSPORT SECTOR

In this sector, the air, railway and sea transport are considered to be strategic sectors.

The Altransport Company and the National Agency of Air Traffic (NAAT), operate in the air transport industry. The privatisation process is expected to be realized by transferring the utilization and development right is thought to go through these stages:

- The transformation in a stock company, which was completed during 1998-1999,
- The completion of the legislative codes and the estimation of its value
- Choosing the strategic investor according to current legislation

The Altransport Inc. privatisation process will be coordinated through the completion of a concessionaire contract (BOOT), that will be used for the development of a new passenger terminal in Rinas Airport and other airport facilities. Deloitte&Touche will assist the process.

The seaport sector includes Durres, Vlora, Shengjin and Saranda ports. Up to now, the privatisation process is extended in the services and accessory activities.

The privatisation process of the port of Durres will pass through these stages:

- The transformation in stock company, which was completed during 1999,
- The privatisation of related infrastructure
- The implementation of the restructuring project of the port according to the approved Masterplan. The restructuring will include the transformation of the port in an environment where all the services will be carried out by private companies and the Port Authority will play the part of a Supervisory Institution.

The privatisation method will be the transfer of the utilization and development right. The privatisation process of Port Authority Inc. Durres, designed in cooperation with World Bank, will be assisted by HPC Hamburg, will begin with concessionaire contracts of ferryboat terminal, containers, etc.

The same procedure is being implemented in other ports.

The privatisation in the railway sector will pass through these stages:

- The transformation in a stock company, which was completed in December 2000,
- The privatisation of related secondary infrastructure will be carried out in 2001-2002,
- The restructuring of D.P.M. and the completion of railway privatisation study, during 2001-2002.

6. WATER-SUPPLY SECTOR

This sector has close to 52 water-supply companies, which are in a difficult situation and accomplish the population necessities to a minimum. Currently, over 90 per cent of them are being subsidized by the state.

The privatisation will be an alternative in reversing this situation by targeting the decrease of utilization costs, the increase in labor effectiveness, capital investments.

The privatisation of these enterprises will include these measures:

- A masterplan is designed for the supply of fresh water and the collection, treatment of dirty waters,
- The legislative code will be completed,
- The water supply and communal services companies will be restructured, making possible their transformation in economic enterprises during the first half of 2001.

The privatisation of water supply enterprises, which will be a selective process for individual or groups of enterprises, will be based on these methods:

- The transfer of utilization rights through contracts for services, fees, and management
- The transfer of development rights through concessionaire contracts

Currently, in the water supply sector

The privatisation of joint-venture companies

The joint venture companies, generally organized under 'Limited' form, are defined as a partnership between state and private or juridical persons, which act together in an enterprise and share the risks and benefits of the company.

The creation of these companies was firstly motivated by the need of a foreign investor because:

- State enterprises could enter new export markets,
- The foreign partner would bring foreign capital, management style and know-how.

At the beginning of the reforms in Albania, the economic situation was bad, so that all the hopes laid on foreign investments and aid. In this context, the approval of the legislative acts on the cooperation of state enterprises and private companies, either domestic or foreign ones, opened the green light. This meant that enterprises started looking for foreign partners that would bring capital, expertise, and new markets. According to this legislative

framework, for the creation of a joint venture company (JVC), an agreement and a statute between partners was sufficient. Up to 1993, 99 JVC-s were created (or 71 per cent of the total) (Table).

Table. The number JVC-s created, divided in years:

Year	No.	In percentage
1991-1992	28	20.0
1993	71	51.0
1994	30	21.6
1995	8	6.0
N/A	2	1.4
Total	134	100

At that time, the necessary experience for this type of cooperation was lacking, the legislative framework was incomplete, so that many contracts were signed without paying the due respect to the respective rights and obligations or the state interests.

State enterprises put in the JVC their assets, either completely or in part, while the foreign partners should bring new capital, their technology and expertise. The result was dated and overvalued technology and expertise, harming the state interests. The evolution of this companies was (and still remains) bad, in most of the cases (that is common also for other East European countries). Actually, more than half of the JVC created, either do not work or are terminated.

Table. State involvement in JVC.

Share of capital	No.	In percentage
<10	6	4.5
10-20	10	7.5
20-30	16	11.9
30-40	27	20.1
45-50	23	17.2
50-80	3	2.2
80-100	2	1.5
Unclassified	47	35.1
Total	134	100.0

Table. JVC-s by sectors.

Sector	No.	In percentage
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Construction and building materials	28	20.8
Agriculture	18	13.4
Food processing	13	9.7
Other	11	8.2
Clothes and textiles	9	6.7
Wood and paper	8	6.0
Leather	6	4.5
Mechanical	6	4.5
Mining	6	4.5
Trade and services	5	3.7
Transport	5	3.7
Craftsmanship production	3	2.2
Chemical industry	2	1.5
Oil and gas	2	1.5
Energy	1	0.7
Metallurgy	1	0.7
Tourism	1	0.7
Typography	1	0.7
Unclassified	8	6.0
Total	126	100.0

The privatisation of the remaining state quotas for the surviving companies is an ongoing process.

Privatisation through fee and enphyteosis contracts

Based on the respective legislative acts, Public Economy and Privatisation Ministry, as the state representative has employed also the "not-undressing" method to transfer the utilization right of enterprise assets that had lost their object of activity and the contact with the market by employing fee and enphyteosis contracts. These methods were also used for the units that had lost contacts with their enterprises. During 1998-2001, 99 fee and enphyteosis contracts are executed, for state enterprises and special units of the companies, holdings or state institutions. This method has increased the business interest to perform activities other than the original ones, in very diversified sectors of the economy. Applying this method the total investments of the private subjects, are estimated to amount to 84 million USD and 7200 new labor posts will be created, while generating over 2.2 million USD in direct annual revenues from fees.

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