

The 2002 strategy for privatisation in Serbia

Abstract

The aim of this article is to examine the 2002 strategy for privatisation in Serbia, based on a historical analysis of documents held by the Agency of Privatisation of the Republic of Serbia. In particular, it assesses the role of the domestic and foreign consultants contracted by the Serbian Agency of Privatisation to estimate the sale price of socially-owned capital. The engagement of those consultants was financed out of the donations of the international financial institutions and agencies of foreign governments. Their role was particularly significant in the sale of socially-owned capital by public tender, a method used in the privatisation of the most important socially-owned enterprises. The law did not prescribe the method for estimating the value of socially-owned capital subject to sale in this way, so the Serbian Privatisation Agency and tender commissions have, in practice, assessed tenders on the basis of the estimates of the privately-contracted consultants. In this way, they have become one of the major factors in the 2002 strategy for privatisation in Serbia.

Keywords: privatisation, Serbia, World Bank, donations, privatisation consultants

Introduction

An important characteristic, specificity and defining condition of privatisation in Serbia is that it is not only an act of the nation state, as was the case with the nationalisation of private capital that was carried out in this country in the years following World War II, when the communist party won power.

International financial organisations – the World Bank and the European Agency for Reconstruction (EAR) – and agencies of foreign governments, such as the UK government's Department for International Development (DFID) and the United States Agency for International Development (USAID), as well as the governments of the Netherlands, Sweden, Japan and Canada, have all played an important role in the privatisation of social ownership in Serbia. This has consisted of financial donations to the government of Serbia, administered by the Privatisation Agency of the Republic of Serbia, aimed at providing support for 'private sector development' programmes in accordance with liberal ideology and the interests of the financial centres of the world capitalist order.

Through analysis of the monthly reports of the Serbian Privatisation Agency, adopted by the Board of the Agency and reviewed by the government (more precisely, by the Ministry of Economy and Regional Development), as well as by the Privatisation Committee of the Serbian National Assembly,¹ this article attempts to reconstruct the

1 These reports are held within the archives of the Serbian National Assembly and the Agency of Privatisation of the Republic of Serbia.

forms, volume and significance of the donations from these organisations and agencies in the process of the privatisation of socially-owned capital in Serbia under the 2002 Strategy, via sales by the method of public tender and public auction, and in the preparation and implementation of the restructuring of social enterprises in the privatisation process.

The 2002 strategy for privatisation represents a turning point in the manner in which socially-owned capital was transformed into private property in Serbia. The strategy was formulated and adopted by parliament and the government of the Republic of Serbia, and was supported by the most representative trade unions in Serbia, i.e. the Confederation of Autonomous Trade Unions of Serbia and the United Branch Unions *Nezavisnost*. It was based exclusively on the sale of a majority stake in and the assets of socially-owned capital, unlike the previous modes of privatisation in Serbia which set out a change in the ownership structure of social enterprises through the distribution of free shares to employees.

The 2002 strategy permitted the sale of publicly-owned companies by public auction and tender, as well as the reconstruction of these. This resulted in the disintegration of holding companies and large corporations such as, for example, *Gosa* from Smederevo, *Zorka* from Sabac, *Masinska industrija Niš*, etc. Moreover, their means of production, equipment and machinery could also be sold at auction.

This strategy was, by its design, heavily reliant on the aforementioned foreign donations, which were used by the Agency of Privatisation of the Republic of Serbia to engage privately-contracted domestic and foreign experts charged with the task of establishing sale prices for socially-owned capital.

The role of the private consultants contracted by the Serbian Agency of Privatisation was very significant in the process of the sale of socially-owned capital by public tender, the method used for the sale of the most important socially-owned enterprises in Serbia. The law did not prescribe the method for the estimation of the value of the socially-owned capital subject to sale in this way, so the Serbian Agency of Privatisation and the tender commissions assessed the acceptability of tender offers in practice on the basis of the estimates of the privately-contracted consultants. In this way, they became one of the major factors in the 2002 strategy.

World Bank donations for technical assistance in the development of the private sector

The involvement of international financial organisations and the agencies of foreign governments in the process of privatisation in Serbia began in the autumn of 2001, following the adoption of the Privatisation Act.² According to this Act, which came into force on 7 July 2001 for implementation in 2002, the privatisation of social and state capital was based solely on the sale of a majority stake and of enterprise assets, in contrast, as mentioned above, to previous privatisations.

2 *Official Journal of the Republic of Serbia* (hereinafter: OJ RS) No. 38/2001.

The Act of 7 July 2001 invalidated the Ownership Transformation Act,³ which provided for the privatisation of social and state capital in two phases: in the first phase, up to 70 % of the assessed value of capital could be privatised; 10 % had to be transferred to the Republic Pensions and Disability Insurance Fund, while up to 60 % could be distributed free of charge to employees.

According to data from the Central Register of the Republic of Serbia, i.e. the Provisional Register of the Republic of Serbia,⁴ 778 enterprises embarked on privatisation according to this Act between 1998 and October 2001: 141 in 1998; 127 in 1999; as many as 312 in 2000 (the highest number of privatised social enterprises); and 148 in 2001. It is obvious that, in 2000, when the power of the Socialist Party of Serbia (SPS) was starting to crumble and when Democratic Opposition of Serbia (DOS) candidates won the presidential and local elections, the ruling nomenclature undertook 'accelerated privatisation' in an attempt to seize as much social capital as possible.

Article 2 of the Privatisation Act of 7 July 2001 recognises and guarantees to all legal entities and individuals the rights they had acquired in the process of privatisations conducted in accordance with the former regulations. The new government established on 25 January 2001, which superseded the old socialist government, continued to carry out the privatisation of public companies in accordance with the prevailing Ownership Transformation Act. On 31 January 2001, three contracts were signed under which 70 % of socially-owned capital was sold in the Beočin, Kosjerić and Novi Popovac cement plants.⁵

3 OJ RS No. 32/97.

4 Software for the input and processing of data in the system of the Provisional Register of Enterprises in the Republic of Serbia was designed and installed in co-operation with Bose Consulting Limited which, as a part of the British DFID, specialised in the implementation of central business registers, and had 'rich experience in the introduction of central registers in east European countries, in the aim of their full compliance with the standards prescribed in European Union countries'.

5 The buyer of 70 % of the social capital of Beočinska fabrika cementa s.d. (a cement plant), or *Beočin*, which employed 2 040 workers, used an option in the sales contract and transferred the rights and obligations under this contract to its subsidiary *Lafarge Perlmooser Zement Holding GmbH*. The transfer contract was signed on 1 March 2002, with the shareholder meeting held on 29 March 2002. The Beočin cement plant was sold for \$50.89m while investments under the contract equalled \$32.3m. The social programme encompassing severance pay to redundant workers totalled \$5.8m.

The social enterprise constituting the cement factory Kosjerić sa p.o., or *Kosjerić*, with 649 employees, was sold to Tithus Limited and the Titan Cement Company. The shareholder meeting in this factory was held on 2 April 2002. The sales price for *Kosjerić* was \$35m while total investments amounting to \$29.7m were also agreed. The social programme for the payment of severance pay for redundant workers amounted to \$3.4m.

The privatisation of the *Novi Popovac* FC cement factory from Paraćin, which employed 2 474 workers, was accompanied by the introduction of interim measures by the government of the Republic of Serbia. The buyer of the cement plant was Breitenburger Auslandsbeteiligung GmbH and the shareholder meeting was held on 11 April 2002. The sales price for the *Novi Popovac* cement factory was \$52.5m and the total investments to be undertaken equalled \$85m. The social programme for severance pay for redundant workers totalled \$5.3m.

Thus, in the process of privatisation in Serbia, a new class of owners, the ‘lumpen bourgeoisie’, was established out of members of the ‘socialist’ and ‘democratic’ nomenclature, i.e. clientelist groups within the state-police-military apparatus and the so-called ‘socialist technocracy’ (made up of the directors and senior managers of socialist enterprises).

In October 2001, amendments to the Ownership Transformation Act saw its implementation suspended⁶ while the Republic of Serbia, via the Federal Republic of Yugoslavia, received from the World Bank a donation for technical assistance regarding the development of the private sector.⁷ This donation, equalling \$6m, was intended for the provision of ‘technical assistance’ in the privatisation of an initial 27 social enterprises, classified in six groups (so-called ‘pools’). The Privatisation Agency was the beneficiary of \$5.1m, while the other beneficiaries were the Agency for the Development of Small and Medium-Sized Enterprises and Entrepreneurship (\$460 000) and the Foreign Investment and Export Promotion Agency (\$380 000).

Within this donation, funds were provided for the engagement of financial advisors for the Agency in the privatisation of social enterprises in Serbia by tender or auction sale, or which were entering restructuring. The role of financial advisors in the privatisation process is particularly important and encompasses the following activities: drawing up of the draft concept, i.e. the strategy and programme of the privatisation or restructuring of social enterprises; the financial and legal diagnostic reports (due diligence); the assessment of the value of the capital and assets of the enterprise; and market evaluation. The Privatisation Agency accepted and approved the reports of the financial advisors.

Tender sale of socially-owned enterprises

The World Bank published information on the privatisation of social enterprises in Serbia in a special edition of *United Nations Development Business*.⁸ The Ministry of

6 *OJ RS* No. 10/2001. The purpose of this regulation was to prevent the employees of social enterprises from further exercising the right to the free subscription to shares granted them by the Act. When determining the capital structure of social enterprises in the process of preparing the sale documentation, the management and employees of the entity being privatised, on the one hand, and the privatisation advisor – usually a foreign company – on the other, often had conflicting opinions. When such conflicts arose, the final opinion about the structure of capital to be entered in the court register was provided by the Law Centre of the Privatisation Agency. In the case of *Beopetrol*, an enterprise trading in oil products, which had 1 597 employees, underlying the conflict in determining the capital structure of the enterprise which occurred between the legal advisor, Harrisons Solicitors from Northallerton, which had been engaged by the Privatisation Agency, and the company’s management and employees, was a conflict between the competing ‘socialist’ and ‘democratic’ nomenclatures regarding the establishment of control over the social property of this important enterprise, in which social capital accounted for 62 % of total capital. It is in this light that one can also consider the decision on the taxation of extra profit, amounting to DM 663 448, which *Beopetrol* received in the course of the determination of the capital structure and which it promptly paid.

7 Private Sector Development Technical Assistance Grant No. PO 74145.

8 <http://www.devbusiness.com>.

Economy and Privatisation published a similar announcement in the *Financial Times*, on 15 July 2001, inviting letters of interest from international investment bankers to offer consulting services in the privatisation of sixteen socially-owned enterprises classified, by type of activity, into four groups (so-called ‘pools’):

1. Pharmaceutical products and household chemicals (four enterprises)
 - *Zdravlje* a.d. Leskovac, pharmaceutical and chemical industry
 - *Zorka–Farma*, Šabac, joint stock company for the production of pharmaceuticals and fine chemicals
 - D.P. *Merima*, Kruševac, chemical industry
 - *Nevena* D.P., Leskovac, chemical industry.
2. Chemical industry (four enterprises)
 - *Duga*, Beograd (subsequently exempted for reasons relating to the capital ownership structure)
 - D.P. *Župa*, Kruševac, chemical industry
 - A.D. *Hipol*, Odžaci, chemical industry
 - D.P. *PKS Lateks*, Čačak, chemical industry.
3. Manufacturing of automobile parts and tyres (five enterprises)
 - D.P. *Gibnjari*, Kraljevo, springs factory
 - A.D. *Frad*, Aleksinac, filter production
 - D.P. *Mitrovačka industrija ventila*, Sremska Mitrovica, valve manufacture
 - *Ruma guma* a.d., Ruma, rubber products manufacture
 - A.D. *Vulkan*, Niš, rubber industry.
4. Metals processing industry (three enterprises)
 - *Seval*, Sevojno, aluminium rolling mill
 - D.P. *Nissal*, Niš, aluminium processing
 - A.D. *Istra*, Kula, fixtures factory.

The Privatisation Agency set up a committee composed of V. Čupić, S. Mali, A. Popov, D. Nikezić and J. Volicki, which compiled a shortlist of the investment banks that had offered their consulting services.

Evaluation of the technical bids of the interested investment banks was carried out by a committee composed of: V. Čupić, Chair; S. Mali; A. Popov; D. Nikezić; and A. Čelić; on the basis of criteria that included ‘Experience in privatisation, the industry concerned and experience in the region’. The following investment banks, within the relevant pools of enterprises, met the necessary minimum of eighty points required by the invitation for bids:

- Pool 1: Commerzbank AG, Prague; Nomura International, London; Raiffeisen Investment AG, Vienna
- Pool 2: CA IB Corporate Finance Beratungs GmbH, Belgrade; Fieldstone Private Capital Group, London
- Pool 3: CET (Central Europe Trust Company Ltd.), Phoenix; Meisl Capital Advisors AG, Vienna
- Pool 4: Fieldstone Private Capital Group, London.

Public opening of financial bids was carried out on the premises of the Privatisation Agency – for pools 2 and 4 on 22 November 2001, and for pools 1 and 3 on 23 November

2001. Besides the mentioned commission and representatives of investment banks, opening of financial bids was also attended by James R. Dick Welch as the World Bank observer, Ona Juknevičienė as the advisor of the Privatisation Agency of the Republic of Serbia, and Wolfgang Rigler, advisor for tender privatisation.

Nomura International, London, was selected as financial advisor for the first group of enterprises listed in pools 5 and 6; CA IB Corporate Finance Beratungs GmbH, Belgrade, for the second; CET (Central Europe Trust Company Ltd.) for the third; and Fieldstone Private Capital Group, London, for the fourth.

The World Bank published information about privatisation of the next 12 social enterprises (from the initial group of 27) in the above mentioned special edition, and the Ministry of Economy and Privatisation in *Financial Times*, on 8 October 2001, inviting international investment banks to submit their letters of interest and offer their consulting services for the following group of enterprises:

5. Food industry pool (six enterprises)

- *Hisar* a.d., Prokuplje
- *Vršачki vinogradi* a.d., Vršac
- *D.P. Južni Banat*, Bela Crkva
- *Mitros*, Sremska Mitrovica, industrial abattoir and canning factory
- *A.D. Veterinarski zavod*, Zemun, veterinary institute
- *D.P. Ravanica*, Čuprija, confectionery factory.

6. Pool of enterprises in the building materials industry (six enterprises)

- *Polet*, Novi Bečej
- *Ravnaja*, Mali Zvornik
- *Jelen Do*, Jelen Do
- *Kolubara gasbeton*, Vreoci
- *GIK 1. maj*, Lapovo
- *Partizanski put*, Beograd.

Raiffeisen Investment AG was selected by the Agency for Privatisation to be the financial advisor for these two pools of social enterprises.

The proceeds of the donation were also to be used for the financing of privatisation communications. Therefore, in April 2002, according to the procedure of the World Bank, Jacques Communication was selected as the public relations advisor of the Privatisation Agency.

The total budget for consultancy fees was \$60 000.

On 18 October 2001, the Republic of Serbia received a donation from the Japanese government,⁹ the aim of which was preparation for a loan by the Japanese government amounting to \$80m.¹⁰ This donation was administered by the World Bank. Out of the total amount of the donation (\$814 000), the Privatisation Agency took \$580 000 and the Agency for Deposit Insurance, Rehabilitation, Bankruptcy and the Liquidation of Banks assumed \$234 000.

9 Japanese grant for the Preparation of Private and Financial Sector Structural Adjustment Credit No. TF 026817.

10 Private and Financial Structural Adjustment Credit – PF SAC I.

A part of the proceeds of this donation, the beneficiary of which was the Privatisation Agency, was used for the financing of consulting services in the restructuring process, which will be discussed in more detail below.

An amount of \$195 000, of which \$143 000 was actually spent, was retained for engaging the foreign consulting company Cadogan Financial Credentials, concerning the requirements of the capital market; the engagement of a foreign individual consultant, Wolfgang Rigler, concerning the requirements of tender privatisation; a foreign individual consultant, Roy Crum; the domestic consulting company, CES Mecon, concerning the carrying out of a seminar on the restructuring process; and the domestic law office Prica and Spasic.

The beneficiaries of \$155 000 envisioned within this donation, of which \$128 000 was actually spent, were the Agency for the Development of Small and Medium-Sized Enterprises, of the Ministry of Economy and Privatisation; the Ministry for Foreign Economic Relations; and the Privatisation Agency. These funds were mainly used for the engagement of domestic consultants, as well as a domestic law office, Clyde d.o.o, regarding the needs of the Privatisation Agency.

This preparatory donation of the Japanese government expired on 21 May 2002, by which date the loan from the same government had not become effective, so the World Bank granted the Republic of Serbia an extension of the donation until 30 June 2002.

In June 2002, the Republic of Serbia received a second donation from the Government of Japan¹¹ for the preparation of a credit from the Government of Japan¹² administered by the World Bank. The proceeds of this donation, amounting to \$1.531m, were mainly used in the area of 'technical assistance for the restructuring of the banking system'. More specifically, this donation was defined as for the following purposes:

- technical assistance regarding the strengthening of the regulatory framework of the financial sector (beneficiary: National Bank of Yugoslavia, amount: \$250 000)
- technical assistance in the reconstruction of the banking system (beneficiary: Agency for Deposit Insurance, Rehabilitation, Bankruptcy and the Liquidation of Banks, amount: \$249 000)
- technical assistance in the reform of enterprises in social ownership (beneficiaries: the Privatisation Agency and the Ministry of Economy and Privatisation, amount: \$364 000)
- technical assistance in the reform of the business environment (beneficiary: the Ministry of Economy and Privatisation, amount: \$404 500)
- capacity building within the Project Management Unit (beneficiary: Agency for Deposit Insurance, Rehabilitation, Bankruptcy and the Liquidation of Banks, amount: \$30 000).

The Republic of Serbia, through the Federal Republic of Yugoslavia, also received a sub-grant from the government of the Netherlands,¹³ administered by the World Bank. The total amount of this donation was \$2m, and it lasted until 31 August 2003.

- 11 Japanese grant II for the Preparation of Private and Financial Sector Structural Adjustment Credit.
- 12 Private and Financial Sector Structural Adjustment Credit – PF SAC II.
- 13 Private Sector Development Technical Assistance Grant Agreement TF No. 50259.

The proceeds of this donation were used to finance the engagement of financial advisors to the Privatisation Agency regarding another three groups within a total of seventeen socially-owned enterprises listed in pools 7, 8 and 9. The World Bank published information on the privatisation of these enterprises in an online edition of *United Nations Development Business*,¹⁴ on the website of the Multilateral Investment Guarantee Agency (MIGA) and on the website of the Investment Promotion Agency Network (IPA net), inviting international investment banks to send letters of interest offering their consulting services for the privatisation of the following three groups of enterprises:

7. Agricultural enterprises pool (seven enterprises)
 - *PIK*, Kikinda
 - *Agrounija*, Indija
 - *Napredak*, Stara Pazova
 - *Sava Kovačević*, Vrbas
 - *Dragan Marković*, Obrenovac
 - *Jedinstvo*, Apatin
 - *Fabrika ulja*, Kruševac, oil factory.
8. Textile enterprises pool (six enterprises)
 - *Novitet*, Novi Sad
 - *Niteks*, Niš
 - *Ljubiša Miodragović*, Prijepolje
 - *Industrija tepiha*, Ivanjica, carpet manufacturing
 - *Slavija*, Bač
 - *Javor*, Ivanjica.
9. Pool of enterprises in the production of juices and alcoholic beverages (four enterprises)
 - *Žitopek*, Niš
 - *Džervin*, Knjaževac
 - *Delišes*, Vladičin Han
 - *PIK Takovo*, Gornji Milanovac.

For pool 7, the Privatisation Agency concluded a contract with financial advisor Raiffeisen Investment AG for an amount of \$269 000; while for pools 8 and 9, contracts for the provision of consultancy services were extended to investment bank Meinl Capital Advisors AG from Vienna for amounts of \$250 000 and \$240 000 respectively.

The Republic of Serbia, via the Federal Republic of Yugoslavia, received a subgrant from the government of Sweden for technical assistance in the development of the private sector¹⁵ for an amount totalling \$1.5m. Federal Minister Miroljub Labus Ph.D. signed this agreement. The donation lasted until 31 December 2003.

The proceeds of this donation were used to finance the services of foreign investment banks regarding the privatisation of another batch of thirteen socially-owned enterprises classified into pools 10, 11 and 12 as follows:

14 <http://www.devbusiness.com>.

15 Private Sector Development Technical Assistance Grant Agreement TF No. 050259.

10. Glass manufacturing (four enterprises)

- *Industrija stakla*, Pančevo
- *Srpska fabrika stakla*, Paraćin
- *Porcelan*, Zaječar
- *Keramika*, Mladenovac.

The Spanish consulting house Nmás1 (N Más Uno Proyectos Internacionales SA) from Madrid was chosen as the privatisation advisor to this group of enterprises.

11. Wood industry (five enterprises)

- *Kopaonik*, Kuršumlija
- *Sloga*, Vladičin Han
- *Dušan Petronijević*, Kruševac
- *ŠIK*, Kučevo
- *Ukras*, Bela Palanka.

The English investment bank Res & Co. was chosen as the financial advisor in the privatisation of this group of enterprises.

12. Beverages industry (three enterprises)

- *Godomin*, Smederevo
- *Rubin*, Kruševac
- *Heba*, Bujanovac.

European Privatisation & Investment Corporation (EPIC) Financial Consulting, from Vienna, was chosen as the privatisation advisor to this group of enterprises.

A total of 247 enterprises were privatised in the course of 2002, 42 % of which took place in December. The number of employees in these companies totalled 42 719. Proceeds from the privatisations equalled 22 billion dinars while agreed guaranteed investments totalled 18.4 billion dinars and the resources allocated for the implementation of social programmes reached 5 billion dinars.

Twelve social enterprises were privatised by public tender and 48 by the sale of blocks of shares on the capital market. Seventy one social enterprises were involved in the preparation of tender documents or the organisation of sale by tender. In 56 social enterprises, classified into 12 ‘pools’, the engagement of privatisation advisors was financed by proceeds from foreign donations.

Foreign and domestic profit-seeking consultancies were also engaged by the Agency for Privatisation in the process of privatisations financed from the budget of the Republic of Serbia.

The resources of the budget of the Republic of Serbia have been used to finance the privatisations of fifteen socially-owned enterprises listed in eight pools by public tender as follows:

1. Sugar factories (five enterprises)

- *Jedinstvo*, Kovačica
- *Šajkaška*, Žabalj
- *Jugozapadna Bačka*, Bač
- *Donji Srem*, Pećinci
- *Crvenka* a.d., Crvenka.

The consultancy company Pricewaterhousecooper from Belgrade was engaged as financial consultant to this group of enterprises.

2. Food industry (two enterprises)

- *PKB Frikom*, Beograd
- *Srbijanka*, Valjevo.

The consultancy company Raiffeisen Investment AG from Vienna was chosen as privatisation advisor to these enterprises.

3. Company for trade in oil products

- *Beopetrol* a.d., Beograd.

For this enterprise, where social capital accounted for 62 % of total capital, the consultancy company BNP Paribas Corporate Finance, from Paris, was engaged as the financial advisor; and Harrison's Solicitors, from Northallerton, as legal advisors.

4. D.P. Boža Tomić, Čačak, paper mill.

European Privatisation & Investment Corporation (EPIC) Financial Consulting, from Vienna, was selected as the privatisation advisor to this social enterprise.

5. Tourist enterprises (two enterprises)

- *Putnik*, Beograd
- *Srbijaturis*, Niš.

The Balkan Advisory Company, from Bulgaria, was engaged as the financial advisor in the preparation of the sale by tender of these two enterprises.

6. Tobacco industry (two enterprises)

- *Duvanska industrija Niš* (DIN), Niš
- *Duvanska industrija Vranje* (DIV), Vranje.

The investment bank Morgan Stanley & Co Ltd, from London, was chosen as the financial advisor in the privatisation of these two enterprises.

7. Fabrika kablova Zaječar, Zaječar, cable manufacturing.

The consultancy company Deloitte & Touche from Belgrade was engaged as privatisation advisor.

8. Beogradska pekarska industrija Beograd, Beograd, industrial bakery

Raiffeisen Investment AG from Vienna was chosen as a consultant for the privatisation of this social enterprise.

Restructuring of socially-owned enterprises in the privatisation process

The restructuring (financial and organisational) of social enterprises in basic industries, as a part of the privatisation process in east European countries, is considered by the international financial institutions to be a necessary prerequisite for the transition of these economies toward the market (capitalist) economy and also for joining the European Union (EU).¹⁶

16 See: Dr Ljubinka Kontić (2007) *Restruktuiranje i privatizacija velikih društvenih preduzeća u Srbiji* [Restructuring and Privatisation of Large Social Enterprises in Serbia] IES, Institut za evropske studije [Institute for European Studies]: Beograd.

In the Republic of Serbia, the restructuring of social enterprises in the process of privatisation is regulated by the 2001 Privatisation Act and amendments thereto,¹⁷ which came into force on 3 January 2008 – more precisely, by Articles 19, 19a, 20, 20a, 20b, 20v, 20g, 20d and 20ž; as well as by the Regulation on the Procedure and the Manner of Restructuring of Enterprises and Other Legal Entities,¹⁸ which came into force on 22 January 2002; and by the Regulation on the Procedure and Manner of the Restructuring of Entities Undergoing Privatisation from 2005.¹⁹

These regulations set forth restructuring as specific preparation for the privatisation of social enterprises which have negative business results, have been found unable to service their obligations over a longer period or ‘have an unfavourable organisational structure or status structure for the implementation of privatisation’. Decision on the restructuring of entities undergoing privatisation is made by the Privatisation Agency. This decision is binding on the social enterprise and cannot be contested or made subject to other conditions.

The financial restructuring of an enterprise encompasses negotiations with creditors over the writing-off or rescheduling of debts, but also the conversion of the financial claims of creditors which have state capital in the majority of their enterprise capital; the settlement of claims out of the proceeds of the sale of enterprise assets, since Article 3 of the Privatisation Act sets down that, in the process of privatisation, a part of the assets and/or parts of the enterprise undergoing privatisation can be sold; the offsetting of debts, interest and claims; the partial or complete writing-off of claims; the conversion of budgetary liabilities into state capital in the enterprise; as well as the transfer of liabilities from one subsidiary within a holding company to another with the intention of ‘encouraging potential buyers’.

Organisational restructuring refers to the ‘decomposition’ of an enterprise into business units while, according to the Privatisation Act, its aim is to separate the ‘healthy’ parts of enterprises from the unsuccessful ones and to offer them for sale separately. It encompasses changes to internal organisation through the closure of unprofitable business units; the cessation of unprofitable business activities; the sale of parts of enterprises; the partition of an enterprise into several legal entities; the merger of subsidiaries through takeover or the founding of new ones; the transfer of assets wholly or in part to another legal entity; the consolidation of production units; the sale of the assets of business units by public auction or public tender.

At the beginning of 2002, the Privatisation Agency started negotiations with the European Agency for Reconstruction, over the financing of consultants for programmes which restructured social enterprises, and with the World Bank over the organisation of a Centre for Restructuring within the Privatisation Agency.

A donation from the Japanese government to the Republic of Serbia in October 2001 provided that one part of the proceeds, amounting to \$230 000, should be used for the financing of consultancy services within the restructuring process; more specif-

17 Published in *OJ RS* No. 123/2007.

18 *OJ RS* No. 1 of 14 January 2002.

19 *OJ RS* No. 52 of 21 June 2005.

ically, to finance the activities of domestic consultancy firm Factis d.o.o; the individual consultant, Andrew Ewing; and the foreign consulting firm, Konsultantu Forumas.

According to the document 'Restructuring Strategy in the Privatisation Process',²⁰ prepared by Factis and financed out of the abovementioned donation, the Privatisation Agency engaged in intense negotiations during April and May 2002 with the World Bank, the European Agency for Reconstruction, the American government organisation USAID and the British DFID concerning the provision of funding for the restructuring programme. During these negotiations, it was agreed that the World Bank would finance the activities of financial and legal advisors in the restructuring of ten socially-owned enterprises in the privatisation process.

The first group of enterprises in this process included: *Corporation Fabrika automobila Priboj* (FAP) a.d, Priboj; *Industrija mašina i traktora* (IMT) a.d, Beograd; and *Industrija poljoprivrednih mašina 'Zmaj'* a.d, Zemun-Beograd. The consultancy company CAST from Italy was selected for the restructuring of these enterprises.

Arising from the World Bank donation for the provision of technical assistance in the development of the private sector,²¹ the financing of a part of the restructuring programme – in *Livnica* a.d, Kikinda; *Holding Industrija kablova* a.d, Jagodina; and *Sever-Holding Internacional* a.d, Subotica – started at the beginning of 2002 via the engagement of the financial advisor Société Générale SA, from France.

Part of the donation from the Dutch government, intended for technical assistance for the development of the private sector²² administered by the World Bank, was also used for the financing of consulting services in Kablovi, Jagodina.

At the end of 2002, a World Bank loan facilitated the financing of the restructuring projects at the *Filip Kljajić*, Kragujevac, factory; *Novokabel*, Novi Sad; and *Magnohrom*, Kraljevo.

Projects for the restructuring of social enterprises in the privatisation process in Serbia, for which financial and legal advisors were financed by the European Agency for Reconstruction, encompassed ten enterprises classified into two separate pools. The first group included the chemical industry enterprises: *Azotara*, a nitrogen plant in Subotica; *Azotara*, Pančevo; *Milan Blagojević-Hemija*; Lučani; *Prva iskra*, Barič; *Viskoza*, Loznica; and *Industrija hemijskih proizvoda*, a chemical industry products industry in Prahovo.

Rothschild Conseil International from France was selected as the financial and legal advisor in the privatisation-oriented restructuring of this group of enterprises.

The second group encompassed enterprises in the metals processing industry: the holding company *Šamot*, from Arandelovac, which was included in this group instead of the originally-planned *AD Mašinska industrija Niš* (the machine manufacturing holding company based in Niš; *Fabrika vagona Kraljevo* (railway wagons), Kraljevo; *Goša Holding Corporation* a.d, Smedervska Palanka, with its seven subsidiary companies; and *Valjaonica bakra*, a copper rolling mill based in Sevojno. A consortium

20 Referred to in the *Activities Report* of the Agency of Privatisation, April/May 2002.

21 No. PO 74145.

22 Private Sector Development Technical Assistance Grant Agreement TF No. 50259.

led by the Austrian investment bank Meinl Capital Advisor AG was selected as financial and legal advisor.

The British DFID provided the funding for the engagement of the financial consultancy consortium, led by Deloitte Emerging Markets and Emerging Market Economics Limited from London, in the privatisation-oriented restructuring of social enterprises *DMB 21. maj*, Rakovica-Beograd; *Industrija motora Rakovica*, an engine manufacturer based in Beograd; holding company *Rekord* a.d, Rakovica-Beograd; *Trajal* a.d, Kruševac; *21. oktobar*, Kragujevac; and the sugar plant *Prva srpska fabrika šećera 'Dimitrije Tucović' 1898*, Beograd; and *Šelk 911*, Čuprija.

The outcome of negotiations with the Privatisation Agency of the Republic of Serbia, was that USAID agreed to provide the resources for the engagement of advisors for the restructuring of holding company *Zorka* a.d. from Šabac and its subsidiary companies: *Zorka-Zaštita bilja* a.d, Šabac; *Zorka-Duvanska ambalaža* a.d, Šabac; *Zorka-Ekstrudirana ambalaža* a.d, Šabac; *Zorka-Plastika* a.d, Šabac; and *Zorka-Termoplast*, Šabac. Bearing Point was hired as consultant in the restructuring of this holding company.

Zorka Holdings was the first project for which the Ministry of Economy and Privatisation launched an initiative in privatisation-oriented restructuring, on 4 May 2002. By October 2002, a total of 49 enterprises were involved in restructuring; in 35 cases, restructuring consultants were engaged with financing from foreign grants. The Republic of Serbia financed from its budget the restructuring project of the automobile industry *Grupa Zastava vozila* a.d, Kragujevac, through the engagement of Citadel Financial Advisory, Odien Restructuring Services and Ernst & Young. The restructuring project for the holding company *Prva Petoljetka* in Trstenik has been financed by the company itself, pursuant to the 'Summary of Reorganisation and Consolidation Project for IHP *Prva Petoljetka*, Trstenik', prepared by the consulting firm Factis d.o.o. as part of the preparation of this social enterprise for privatisation, and adopted by the government of the Republic of Serbia in its conclusion of 21 June 2002.

In addition to *Zorka Holdings*, a USAID donation has facilitated the engagement of the previously-mentioned consulting house Bearing Point to prepare a restructuring programme and a platform for negotiations with creditors, as well as the assessment of the value of the capital of the following leather and textile industry companies: *Industrija obuće Beograd* a.d, Beograd; *Koštana*, Vranje; *Kluz*, Beograd; *Beogradski vunarski kombinat*, Beograd; *Leteks*, Leskovac; *Prvi maj*, Piroć; and *Rudnik*, Gornji Milanovac.

Auction sale of socially-owned enterprises

A part of the World Bank grant for assistance with private sector development²³ was put to the engagement of a financial advisor for the process of the accelerated auction privatisation of 1 000 social enterprises by the end of 2002, according to a simplified and abbreviated procedure for document preparation.

The Centre for Economic Studies *CES Mecon* d.o.o. from Belgrade was selected on 10 September 2002 as financial advisor on the basis of a fixed budget of \$462 000, although its bid, which amounted to \$460 990, was higher than that of the Economics Institute from Belgrade, which equalled \$430 000. The selected consultant started with the preparation of documentation in October, accompanied by the Agency's communications campaign under the slogan 'One thousand enterprises – one thousand opportunities'.

In the course of the privatisation of social enterprises by the public auction method, individuals usually bought enterprises in instalments, with a few of them using unmeasured old savings deposits bonds.

According to the Privatisation Act and the Regulation on the Manner of Settling Public Revenues for Entities being Privatised by Public Auction,²⁴ the Privatisation Agency is required, after the expiry of the term set by law (the transfer of title and property to the possession of the buyer), to transfer the proceeds from the auction sale to the Republic Public Revenue Administration (in respect of outstanding taxes and contributions) and to the Pensions and Disability Insurance Fund, the remainder, after the settlement of outstanding obligations, to the budget of the Republic of Serbia.

However, it often happened that liabilities to the Public Revenue Administration and to the Pensions Fund exceeded the sales price of the enterprise. With the sales price often being insufficient to cover the outstanding liabilities, most buyers being individuals who had opted to pay the sales price in instalments led to the first instalment usually being insufficient to pay such liabilities. The situation was even more unfavourable for the settlement of tax and pensions liabilities when ordinary individuals as buyers at auctions paid with unmatured old savings bonds with nominal value and in instalments.

In 2002, the Privatisation Agency made the following transfers:

Republic Public Revenue Administration	20,701,921.76 dinar
Pension and Disability Insurance Fund	4,736,466.89 dinar
Health Insurance Fund	5,953,152.44 dinar
Budget of the Republic of Serbia	527,474,578.60 dinar

The implementation of the programme of privatisation of small enterprises by accelerated auction resulted in almost one-half of the 214 social enterprises sold by public auction in 2002 being sold in the December. For most enterprises, the initial price was set very low: in December 2002, the aggregated sales price of all the enterprises privatised by the public auction method was 4.3 times the initial price. Thus, for example, for *Ukras* from Pančevo, bought by *Živko Uzelac*, the final sales price (11.6m dinars) was 126 times higher than the initial price (just 92 000 dinars). Furthermore, the current income, i.e. the amount that the buyer had to pay immediately following the signing of the contract, was only 1.933m dinars, while the remainder of the sales price (9.667 dinars) was due to be paid over the next six years. Agreed investments were negligible – only 144 000 dinars.

It is worth pointing out that *Ukras* is by no means unusual, but it does illustrate the pattern for the accelerated privatisation of enterprises by public auction in late 2002.

24 OJRS No. 29/2002.

The total sales price for all social enterprises privatised by public auction in December 2002 was 2.2bn dinars, while the current income was barely one-quarter of that amount; more precisely, 677.6m dinars. Combined with the information that, out of the 121 enterprises privatised by public auction in December 2002, in 50 cases there was only one participant involved, it is obvious that the reason for the accelerated auction privatisation campaign was by no means economic or developmental, but it did enable the members of the 'transitional nomenclature' to seize control of a substantial part of social property.

Strategy for the privatisation of socially-owned capital

Comprehensive privatisation of the entire national economy, according to the principle of mandatoriness and the sale of majority capital and assets, started in Serbia at the beginning of 2002. It exhibited not only all the organisational and technical difficulties inherent in such a wide social transformation, taking place without an adequate scientific foundation and background, but it also led to devastating social consequences. De-industrialisation was among the most major of these. The privatisation of socially-owned capital was not preceded by a study into the restructuring of the industrial sector of the national economy in the conditions of rapid changes in the business climate, which would serve as the professional foundation for the more detailed elaboration of a programme of the appropriateness of the privatisation and restructuring of socially-owned enterprises.

The strategy for privatisation in Serbia was based neither on an objective expert assessment of the results in the enterprise sector, nor on an analysis of key factors affecting the results of industrial enterprises. Likewise, neither have the limitations on the development of sectors and the profitable operation of enterprises been identified. Its basis was extreme arbitrariness and the group interest of the 'mixed transitional nomenclature' in appropriating as much socially-owned capital as possible. The slogan 'the empire of privatisation' illustrates this aspect quite vividly.

During the sale by tender of the *Crvenka* sugar plant on 18 November 2002, the financial advisor for the privatisation of this enterprise, Pricewaterhousecooper, from Belgrade, sent a letter to Prime Minister Zoran Đinđić; Minister of Economy and Privatisation, A. Vlahović; Minister of Agriculture, D. Veselinov; the Board of Directors of *Crvenka*; and to the Agency of Privatisation. This letter stressed that the privatisation of this enterprise was 'contrary to the national interests' and that, accordingly, the tender should be annulled.

This financial advisor, who sent these letters without the knowledge or approval of the Agency, carried out an additional analysis of the operation of the enterprise in 2002 on the proposal of the Ministry of Economy and Privatisation.

At the meeting of the negotiating committee, held on 25 November 2002, the financial advisor briefed the members of the committee on new financial data of the operation of *Crvenka*, which indicated that the results achieved by 30 September 2002 far exceeded the results achieved in the previous year. In 2002, output rose by 67 % and sales by 75 %, with after tax profit expected to be €6.8m, in comparison to 2001 profits of only €430 000. The data presented were based on the claims of the company's

management. The only bidder in the tender, Hellenic Sugar Industry from Greece, offered €2m for the firm's capital – less than one-third of the expected annual profit.

Out of four sugar plants sold by tender in 2002, *Šajkaška*, in Žabalj (with 345 employees) was sold to Hellenic Sugar Industry of Greece, for €1.1m; while *Donji Srem*, in Pećinci (425 employees); *Jedinstvo*, Kovačica (353 employees) and *Jugoza-padna Bačka*, Bač (369 employees) were all sold to *MK Komerc*, a company based in Novi Sad, for €3 each.

The practice of comprehensive privatisation has shown that the valuation of socially-owned capital, as the key issue in determining the price of socially-owned capital, is very difficult in conditions of an undeveloped capital market, such as is found in the markets of peripheral economies, including Serbia. The definition of a company's financial position was based mainly on the evaluation of certain asset items on the balance sheet, without the use of prospective methods under which the future profits that a company may earn may be discounted and taken into consideration when determining its value.

The Privatisation Act of 2001 sets out in Article 24 that a valuation of capital or assets is mandatory only for entities undergoing privatisation by public auction, not for those privatised by public tender. By the Regulation of the Government of Serbia Concerning the Methodology for the Valuation of Capital and Assets,²⁵ the adjusted value method was defined as the main method of valuation.

This extremely arbitrary approach to the valuation of socially-owned capital was particularly obvious in the sale by tender of socially-owned enterprises in labour-intensive industries such as sugar plants, cement plants and also the pharmaceuticals, chemicals and metals processing industries. Privatisation in Serbia in 2002 actually started with the sale by tender of enterprises in these industries.

From the group of four pharmaceutical enterprises and manufacturers of household products whose privatisation advisors were financed from foreign grants, *Merima* from Kruševac and *Zorka–Farma* from Šabac were privatised by the method of public tender. *Merima* which, at the time of the sale, had 1 179 workers, was sold to Henkel for €14.4m, with an agreed investment programme amounting to €43.3m and a social programme amounting to €12.1m. *Zorka–Farma* which, at the time of sale had 577 workers, was sold to *Hemofarm* from Vršac for €14.67m, with an agreed investment programme also totalling €43.3m and a social programme of €16.1m.

The contract for sale of 70 % of the socially-owned capital of the copper rolling mill *Seval*, Sevojno, which had 1 127 workers, was signed on 1 October 2002 between the Privatisation Agency and *Impol*, a Slovenia-based company. The sales price was €6.5m and the investment programme €14.63m. The strategic partner took on all the liabilities of the enterprises. The value of the social programme was €6.2m. *Impol* undertook to increase wages initially by 5 %, to provide bonuses where production plans were surpassed and to finance the training of workers and the construction of housing for workers, as well as to engage in sponsorship important for local self-government to an amount of €150 000 per year over the five following years.

25 OJ RS No. 45/2001; and 42/2002.

For the other two metals processing companies whose privatisation advisors were financed by foreign donors, the tenders were declared unsuccessful. The tender commission which monitored the sale of *Iskra*, based in Kula, declared the tender unsuccessful at its session of 8 November 2002.

According to the analysis of the Agency of Privatisation, the reason for the unsuccessful tender for the sale of *Nissal*, from Niš, lay in the enterprise having too many redundant workers and in an 'unrealistic social programme insisted on by the representative trade unions', in the factory's outdated equipment and in 'problems with environmental protection'. It was stressed that *Nissal* was unable to withstand the competition of low-priced aluminium sections 'coming from Greece'.

The contract for the sale of 70 % of the socially-owned capital of the chemical products enterprise *PKS Lateks* from Čačak was signed on 20 December 2002 between the Agency for Privatisation and the buyer, HLC Chemic Trade GmbH from Germany. During direct negotiations, the sales price was increased from €1 to €80 000. An investment programme of €1.925m and a social programme of €1.283m were also part of the deal.

A review of the sales prices of those social enterprises which were privatised by public tender in 2002 clearly shows that an arbitrary valuation of social capital resulted in its bargain sell-off in the conditions of the undeveloped capital market in Serbia.

Socially-owned capital did not have its 'protector': a 'decomposed' working class, disoriented for many years owing to aggressive nationalist propaganda, pauperised, with very low trade union density and hence with an undeveloped class and social awareness, could not play that role.

The 'transitional nomenclature' did not want to play such a role. Using the institutional and personal mechanisms of social power, which gained their full expression in the composition of tender commissions and of commissions for direct negotiations on the sale by tender of social enterprises, it attempted to win for itself the best possible position in the new ownership structure in society that was developing as the result of the privatisation of social capital.

These commissions were composed of representatives of the government, the ministries or the Agency for Privatisation, representatives of the municipal administration in the location where 'the entity undergoing privatisation' was based, and representatives of the management of the social enterprise undergoing privatisation. The representative trade unions did not have members in these commissions.

The social mechanisms of power expressed in the institutional and personal chain of relations between the state (republican) authorities, the local (municipal) authorities and the management of social enterprises, caused by the atomisation of the working class have, due to the very nature of the structure of this chain, prevented privatisation from being an instrument for increasing the efficiency of social capital and for improving the performance of the national economy on the international market. These 'dangerous liaisons', on the other hand, have created a situation where privatisation can be an end in itself.

The costs of the privatisation of socially-owned capital in Serbia are enormous. They are financed from the budget of the Republic of Serbia, the independent resources

of the entities undergoing privatisation and from the donations of the international financial organisations or foreign governments.

Thus, in 2002, the costs of the engagement of financial and legal advisors for the restructuring and privatisation of socially-owned enterprises financed by USAID amounted to \$2m, as permanent support for the Centre for Restructuring within the Privatisation Agency of the Republic of Serbia. The services of privatisation advisors just for *Zorka Holdings AD*, of Šabac, were \$600 000, while 220 million dinars were allocated from the budget of the Republic of Serbia for social programmes for redundant workers. The British DFID allocated \$1.5m, while the European Agency for Reconstruction provided €2m per 'pool' and €1m for the group of enterprises encompassing *FAP*, *IMT* and *Zmaj*.

Conclusion

In the Republic of Serbia, the comprehensive privatisation of the socially-owned capital of the national economy, based on the principles of mandatoriness and the majority sale of capital and assets, started at the beginning of 2002. The method of privatisation for each social enterprise was determined by the Agency for Privatisation of the Republic of Serbia. According to the suggestions of the World Bank, it grouped enterprises by activity and having regard to their economic significance, in the process of implementing one of the three privatisation methods provided by the law – tender, auction and restructuring.

The international financial organisations and the agencies of foreign governments of countries representing the core of international capitalism have financially, by their donations, helped and encouraged the process of the privatisation of socially-owned capital in Serbia, termed as 'private sector development'. We have shown in this article that this assistance has taken a variety of forms, the most significant of which has been the financing of the engagement of financial and legal privatisation advisors in the preparation of sale by tender programmes or the restructuring of socially-owned enterprises. These were mainly foreign investment banks and consultancy companies.

The law in Serbia does not define the method for determining the value (or price) of the socially-owned capital of entities undergoing privatisation in cases of sale by tender, which the Agency for Privatisation had determined as the method for the privatisation of all larger and significant enterprises. The role of the privatisation advisor was to prepare reports on the structure and the valuation of the socially-owned capital which were then adopted by the Agency for Privatisation. We have seen in this analysis that relations between entities undergoing privatisation, Agency and consultant were often conflicting. In many cases, the management of enterprises refused to co-operate with the advisor appointed by the Agency, by not allowing access to documentation. Conflicts frequently broke out over the determination of the capital structure; more precisely, about the share of employees' ownership of the total capital of the enterprise. However, there were instances when the consultants were in conflict with the Agency, despite them being employed by it.

There is no doubt that the role of consultants is very important in determining the price of socially-owned capital, as well as in the evaluation of submitted bids regarding tenders for the sale of socially-owned enterprises. This is so despite their reports not

being mandatory but open to endorsement or rejection by the Agency for Privatisation. In most cases, however, the Agency accepts the evaluations of the consultants both with respect to the structure and the value of the capital of the entity undergoing privatisation and with respect to the characteristics or the ranking of bids in sale tenders.

In Serbia, the engagement of consultants for tender privatisation or the restructuring of the economically most important socially-owned enterprises (the so-called 'key capital construction facilities' from the communist period of development) has, in many cases, been financed by the international institutions of the world capitalist system.