



newsletter

PRIVATIZATION & BUSINESS INSIGHT | SOUTH-EAST EUROPE

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**SOUTH-EAST EUROPE - LEGAL UPDATE
PRIVATIZATION AND BUSINESS INSIGHT**

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editorial

François d'Ornano
Partner

PRIVATIZATION IN COUNTRIES OF THE SEE REGION

While 2012 and 2013 were not especially good years for global investment banking or capital markets generally, they were excellent years for privatization. The total worldwide value of privatizations in 2012, \$189.37 billion (EUR145.66 billion)¹, was the third highest on record and the highest total outside of the immediate post-Crisis period of 2009-10, when banks repurchased shares governments had acquired through rescues. The SEE region has actively taken part in this dynamism and is characterized by a diversity of opportunities closely tied to its history.

The fall of communist regimes in Eastern Europe was the starting point for the transition to a market economy, whose transformation of ownership of companies is one of the fundamental elements of transition. Central planning and public ownership of the means of production meant that the production units were either state-owned or collective enterprises. Therefore, privatization went through the development of a new private sector and the sale of public enterprises.

The first step of integration in the EU was igniting the privatization process in all sectors of the economy, such as telecommunications infrastructure, large industrial companies, natural resources such as water and energy, banking institutions, the media and even public services.

This transformation has been implemented to varying degrees in the countries of the SEE region. The process and forms of privatization are largely dependent on social and political context. The lack of domestic savings has led either to giving a key role to foreign investment in the privatization of large State enterprises, or the implementation of programs of "mass privatization".

The international institutions decidedly supported privatization in EU and non-EU countries in the SEE region, as foreign investments have mainly been motivated by public aid. The recommendations accompanying the loans that the World Bank and the IMF granted for the SEE countries included suggestions for privatization. Furthermore, the European Commission has broadly left ample scope to States in the way to proceed: a Member State has the choice as to how it wants to privatize a state-owned company, provided that the chosen method does not entail State aid².

If EU support is needed, it is not sufficient. The analysis of the degree of privatization of each SEE country shows that a national political determination for implementation of the privatization is often more effective. For instance, mass privatization has been made possible thanks to the creation of national special funds including all the assets and companies open to privatization. That was the case in Greece, with the creation of Hellenic Republic Asset Development Fund, and Montenegro's Council for Privatization and Capital Projects. In Montenegro, Bosnia and Herzegovina, Macedonia, Croatia and Slovenia, privatization programs have established a clear short-term framework of privatization whereas in Romania and Serbia, the privatization process has been determined in specific laws. In Slovakia, successive political changeovers

¹ Sources: Privatization Barometer Report

² 23rd Competition Policy Report of 1993 of the European Commission

have prevented the establishment of specific plans or programs and national companies become private outside structured framework.

It is still necessary that privatization programs are implemented in a favorable climate. For instance, forced privatization of the water sector in Greece raises the issue of which context privatization should be implemented.

The status of the privatization process in the SEE countries differs across countries and sectors and the non-completion of the process, combined with still significant international aid agencies, is synonymous with opportunities for investors. As set out below, numerous important companies are being, or are expected to be, privatized:

Country	Company	Industry	Progress / Deadline
BOSNIA AND HERZEGOVINA	Hydrogradnja	Energy/Engineering	Upcoming in 2014
	Šipad export-import	Export/Import	Upcoming in 2014
	Fabrika duhana Mostar	Tobacco Factory	Upcoming in 2014
	Energopetrol	Oil/Energy	Upcoming in 2014
	Željezara Zenica	Production of iron and steel	Upcoming in 2014
	Krajinapetrol a.d. Banja Luka	Petrol	Upcoming in 2014
CROATIA	Croatia Airlines	Airline	Planned 2013 - 2014
	HP-Hrvatska pošta	Postal Service	Planned 2013 - 2014
	Croatia banka	Banking	Planned 2013 - 2014
	Končar elektroindustrija	Energy	Planned 2013 - 2014
	Podravka	Food Processing	Planned 2013 - 2014
	Croatia Osiguranje	Insurance	In progress since 2013
	Luka Ploče	Seaport	Planned 2013 - 2014
	Atlantska plovdba.	Shipping Company	Planned 2013 - 2014
GREECE	Parnetha casino	Casino	Prospective privatization in the near future
	Greek Post Offices (ELTA)	Postal Service	Prospective privatization in the near future
	Egnatia Highway	Toll Highway	Prospective privatization in the near future
	Ellinika Petrailea	Oil	Prospective privatization in the near future
MONTENEGRO	Novi duvanski kombinat	Tobacco	Upcoming in 2014
	Montecargo	Rail Transport	Upcoming in 2014
	Montenegro airlines	Airline	Upcoming in 2014
	HG Budvanska rivijera	Hotel	Upcoming in 2014
	Institut za crnu metalurgiju	Metallurgy	Upcoming in 2014
	Fabrika elektroda Piva Plužine	Electrodes Producer	Upcoming in 2014

	Marina Bar	Marina/Yachting Services	Upcoming in 2014
	Montenegro Defence Industry	Military	Upcoming in 2014
ROMANIA	Tarom	Airline	Privatization Planned in Near Future
	Casa de Economii si Consemnatiuni	Banking	Privatization Planned in Near Future
	Romgaz	Energy	Government sold minority stake 2013
	Electrica	Energy	Government restructuring. Privatization planned
SLOVAKIA	ZSSK Cargo	Rail/Freight Operator	Currently ongoing
	Slovak Telekom	Communications	Privatization to be completed by end of 2014
SLOVENIA	Telekom Slovenije	Telecommunication	Privatization to be completed by end of 2014
	Helios	Chemicals	In progress
	Adria Airways	National Carrier	Planned 2013 - 2014
	Cinkama Celje	Zinc producer	Planned 2013 - 2014
	Zito	Food maker	Planned 2013 - 2014
	Nova KBM	Financial	Planned 2013 - 2014

The purpose of this newsletter is to focus on the state of the privatization framework and to highlight investment opportunities. In addition, the newsletter will also present relevant recent modifications impacting the business environment in the Czech Republic and Romania.

BOSNIA AND HERZEGOVINA

Contributed by: **Maric Malisic Dostanic** | Gide exclusive correspondent firm
Resavska 32, 4th floor - 11000 Belgrade - Serbia

Complex multitier privatization

The process of privatization in BiH was accompanied by more controversy than in any other country of the former Yugoslavia. In 2006, BBC defined privatization in BiH as *"sales of State companies and banks at the price of 1 EUR without prior analysis or assessment and in violation of Court verdicts, with death threats addressed to senior political officials, racketeering and extortion"*.

Postponing privatization of the so-called strategic companies (which suffer important financial losses despite their monopolistic position) is considered to have severe negative consequences for the economy. Labour Law and laws governing pension remain a barrier to foreign investment, specifically in the area of privatization. Some formerly successful state-owned companies have now accumulated significant debts from unpaid health and pension contributions, and potential buyers are required to settle these debts and maintain the existing workforce.

The process of privatization, implemented under 13 different legislation models and carried out by 13 different institutions (2 entities, 10 cantons and the District Brčko), produced a rapid sell-out of state property to a small group of tycoons close to the political elite. Apart from a slim common framework provided by the General Law on Privatization of Companies and Banks in BiH, the process of privatization is differently regulated in the Federation of BiH and the Republic of Srpska.

- The Federation of BiH

Under the Law on Privatization of Companies in the Federation of BiH, the sale of state ownership could be realized through tender, direct bargain, stock exchange sale or under the terms of so-called “small privatization” meaning that companies are privatized by the local authorities.

The Privatization Agency of the Federation of BiH provides advisory assistance to 10 cantonal privatization agencies and coordinates their activities.

Privatization of the following formerly successful state-owned companies is planned in 2014: Hidrogradnja d.d. (construction industry), Šipad export-import d.d. (wood imports and exports), Fabrika duhana Mostar d.d. (tobacco), Energopetrol d.d. (energy) and Željezara Zenica d.o.o. (iron and steel production).

- The Republic of Srpska

In 2007, Privatization Directorate was replaced by the Republic of Srpska Investment-Development Bank (the “**IRBRS**”) and since 2008, the Government of the Republic of Srpska has the power to directly choose the buyer for all strategic companies.

In the year 2014 alone, IRBRS plans the privatization of the following strategic companies: Fabrika motora za specijalne namjene a.d. I. Sarajevo, FAMOS – Fabrika motora a.d. I. Sarajevo, Kosmos a.d. Banja Luka, Krajinapetrol a.d. Banja Luka.

Challenges of the privatization process

Huge public discontent has made the political elite embrace a revision of privatization in both BiH and Republic of Srpska, whose outcomes are yet to be known.

So far potential investors have been frustrated by the lack of attractive privatization opportunities and non-transparent government tender procedures. Although the country provides foreign investors with the same rights as domestic investors, including bidding on privatization tenders, a comprehensive legal and institutional reform needs to be done in order to successfully complete the economic transition.

Being a country richly endowed with natural resources, BiH should be able to offer remarkable opportunities to investors. Still-to-come privatization of large government-owned companies could offer significant opportunities if accompanied with adequate legal reform.

CROATIA

Contributed by: **Iveković Law Offices**
Strossmayerov trg 8 - HR-10000 Zagreb, Croatia

New privatization program: strategy, success and opportunities

After the initial privatization wave in the 1990s, the Croatian Government started a fourth round of privatisation in 2013. This fourth round of privatization is planned to be very swift because the Croatian Government is in need of substantial funds for public financing.

The on-going privatisation of the Croatian economy represents a great opportunity for potential investors. It is expected that a vast number of economic sectors will be included in the privatisation process, such as the banking sector, tourism, insurance, transportation (sea and river ports, airport), medicine, research and development, power generation and various other sectors. Overall, it appears to be a good time for investment in the Croatian economy.

The Strategy

The institutional and legislative framework for privatization has progressed through the different stages of privatization. The current government passed the Strategy of Management and disposal of property of the Republic of Croatia for the Period of 2013-2017 ("**Strategy**"), which specifies guidelines regarding the privatization of state-owned companies. Completion of the privatization of non-privatized companies has been determined to be a key priority for the Croatian government.

The Strategy provides the privatization of an assets portfolio that can be divided as following:

- Companies in need of restructuring, recapitalization or privatization in whole or in part, with expectations of investment, research and development

This includes 27 significant companies in which the Croatian State holds the majority of shares, such as the marina and yachting company ACI d.d.; Croatia Airlines d.d.; Jadrolinija Rijeka d.d.; the manufacturer of immunobiological medicines Imunološki zavod d.d.; Narodne novine d.d.; the research and development institute in the field of applied technical sciences and technology Brodarski institut d.o.o.; HP-Hrvatska pošta d.d. ; Croatia banka d.d.
- Companies in need of reaching the primary economic goals

This includes 7 companies in which the Croatian State has less than 50% of Shares, in particular the energy provider Končar elektroindustrija d.d. ; the food processor Podravka d.d., the seaport Luka Ploče d.d. and the shipping company Atlantska plovdba d.d..
- Companies for which restructuring and selling are planned within two or three years:

This includes 507 companies in which the State holds less than 25% of Shares and 86 companies in which the State holds more than 25% of Shares.

The success

At the beginning of 2013, in the framework of the Strategy, the Croatian Office for State Property Management announced the privatization of Hrvatska poštanska banka d.d. (Croatian Post Bank) and Croatia osiguranje d.d., *i.e.* one of Croatia's largest insurance companies.

The Strategy determined that privatization was to be carried out in a process comprised of two privatization cycles. In October 2013, the first cycle of privatization of Hrvatska poštanska banka d.d. was finalized, with Austrian Erste & Steiermärkische bank and Hungarian OTP Bank as tenderers. The second cycle has not been concluded to date due to the absence of agreement on the deal conditions.

Concerning the privatization of Croatia Osiguranje d.d., it resulted in Adris Group acquiring 39.5% of shares of Croatia Osiguranje d.d., and has committed EUR 110 million to recapitalization. Adris Group now holds 60%, while the State holds 28% of Croatia Osiguranje d.d. shares, as reported by the Croatian Government.

Other opportunities

The Croatian State also implemented other measures to allow private investors to operate in the scope of national activities. For instance, besides the Strategy, the Croatian Concession Act provides for the right to exploit a common good for economic activities under certain conditions.

In the near future, it is expected that Croatian Government will initiate public procurement procedures regarding the concessions which are related to various activities in the seaports, river ports and airports. For now, the Croatian Government has issued a press release stating that the concessions will be applied to the airport in Osijek, Seaport of Rijeka, Rijeka airport, Seaport of Gaženica, Seaport of Dubrovnik, but it is expected that more concessions will be initiated soon.

GREECE

Contributed by: **Zepos & Yannopoulos**
75, Katehaki & Kifissias Ave. - 115 25, Athens - Greece

Golden Privatization Portfolio

As of 2011, the Greek government has introduced a gigantic privatization project that includes a wide array of real estate assets, state owned companies, and infrastructure.

This golden privatization portfolio is materialized through a newly established SPV, the Hellenic Republic Asset Development Fund (the "**Fund**"), to which the Greek government has transferred the assets that are subject to privatization.

The Fund has adopted a "tailored made" approach to each privatization scheme, thus rendering the overall bidding process more interactive, business friendly and somewhat more flexible than the standardized rigid public procurement model. In any case, the basic EU and Greek framework on public tenders applies (e.g. procedural transparency, independent valuation of offers, submission of supporting documentation, etc.).

The standard privatization outline is divided into an Expression of Interest ("**EoI**") phase and a Request for Proposal ("**RfP**") phase. In the EoI phase, prospective investors get up to speed with the project and its various specificities, and in turn they provide to the Fund their eligibility documentation. Further to the Fund's evaluation, eligible investors move on to the RfP phase where they submit their offers after a due diligence exercise. Usually, an auction bidding process is provided for after the submission of the initial offers.

The Fund's record thus far includes milestone projects such as the successful privatization of OPAP, which is the Greek gaming monopoly with a market capitalization of approx. 4bn, the sale of the Astir Hotels, probably the most valuable hotel resorts in Athens, as well as the Hellinikon site investment, i.e. the sale of the old Athens airport plot comprising almost 6million square meters of sea-front land, which will be developed both as a residential and a touristic area.

Various other projects are on the go, to name a few, the railroad rolling stock maintenance company, certain real estate property in tourist areas, as well as small ports and marinas.

Prospective landmark privatizations include the horse racing agency, the Parnetha casino, the Greek Post Offices (ELTA), the Egnatia Highway (a toll-highway connecting northern Greece, Italy and Turkey), and the Greek Oil Company (Ellinika Petrailea), most of which are in one way or another virtual monopolies.

In a glance, the Greek privatization landscape includes multiple industries and various "crown-jewels" assets, which are gradually expected to lead to a "big bang" for the Greek economy.

MACEDONIA

Contributed by: **Dameski & Kelesoska Attorneys at law**
Resavska Albert Ajnstajn 4/1, Skopje - Macedonia

Privatisation of construction land in state ownership and a brief summary of the privatization process of companies with social capital in Macedonia

In Macedonia, private ownership over construction land formerly owned by the State is allowed since the adoption of the Law on Privatization and Lease of Construction Land on State Property (the "**Law**") in 2005. Under the Law, private entities benefiting from a right of usage on land could submit a request for privatization of this land until December 31st, 2013.

Prolongation of the deadline

As many citizens failed to submit their requests before the deadline, in February 2014, the National Assembly of Republic of Macedonia prolonged the deadline for privatization of construction land for an additional nine months. Following this period, if the land is not privatized, the right to usage by the beneficiaries of the construction land will be transformed into a lease of construction land.

Effective framework incentives and conditions

Since the adoption of the Law in 2005, approximately 230,000 requests were submitted by the beneficiaries of construction land. Over two thirds of these requests were submitted in the last two years, when the Government allowed for the privatization of construction land for a price of one Euro per square meter. This option enabled citizens to purchase their yards and the land below buildings at an affordable price.

The evolution of privatization of construction land, while not finished, leaves a much better impression than the privatization of companies with social capital. In 1989, legal grounds for ownership transformation were given while Macedonia was still part of Yugoslavia, and continued following the independence of the Republic of Macedonia. The concept of

privatization included both creation of new private companies and privatization of the existing social enterprises.

In the process of privatization of companies, initially, internal shares were issued and these could be purchased by all employees of the companies in social ownership. Following some legislative changes, several methods of privatization were made available to the companies, one of which was the management buy-out intended for large and medium sized companies.

Following some changes to the privatization laws in 1999, the method of privatization through direct sale was offered, although this method was severely criticized because it allowed for significant abuse and corruption. For this reason, it was suspended.

Until 2003, the larger and more attractive companies were sold to foreign investors. The privatization model chosen did not bring good results. There were serious distortions in the process, and the prevailing view is that the privatization was a “corrupt” process which significantly hindered the Macedonian economy and negatively affected the citizens of the Republic of Macedonia.

Potential for further progress

Presently, there are still companies with a majority ownership by the State. Usually these are large companies in the chemistry and metal industries, or production of goods and semi-goods meant to cover the needs of the ex-Yugoslavian market. The process of their privatization is currently through public tendering, where the State is selling its majority stake in these companies to interested domestic and foreign parties. Through an announced open procedure, every interested party may complete a due diligence inspection of the status of a company and give their bid for acquiring that company. Unfortunately, this process, although transparent, has proven unsuccessful due to the un-attractiveness of the offered companies (low value of the existing capacities, old technologies and processes of production, aging workforce).

In 2013, the Macedonian government initiated a program labeled “Brownfield Investments” in their determination to find a suitable model for the privatization of these companies. As described by the government, “*Brownfield Investments are former industrial lands or facilities that are now vacant or underused, but have the potential to be redeveloped for new uses*”. Brownfield’s renewal could mean novel business opportunities, impending profit on vacant or under-utilized properties, community and environmental benefits and access to unexploited markets for investors.

Time will show if this proactive and innovative way of privatization and attracting investors will be successful or not.

MONTENEGRO

Contributed by: **Maric Malisic Dostanic** | Gide exclusive correspondent firm
Resavska 32, 4th floor - 11000 Belgrade - Serbia

Final phase of privatization

Privatization framework in Montenegro adopted in 1998/1999 has provided a variety of methods, including mass voucher privatization, through which the sale of about 200 medium-

sized companies was completed by the end of 2001. However, the current privatization process is accompanied by concerns about irregularities and the absence of transparency.

The Privatization and Capital Projects Council (the “**Council**”) was created in order to manage, control and supply the implementation of privatization, as well as to propose and coordinate all activities necessary for the capital projects application in Montenegro.

Based on suggestions from relevant departments and the Council’s tender committee, the 2014 Privatization Plan sets out aims and methods of privatization, with a list of companies and capital scheduled for privatization. The economy of Montenegro being mostly a service based economy traditionally relying on tourism, privatization of remaining state-owned companies and valorisation of tourist localities are perceived as forms of investment incentives. The Privatisation Plan will be implemented on the basis of the tender sale of the capital, and the application of the model of public-private partnership in a number of companies.

The companies to be privatised on the basis of the tender sale method in 2014 are the following:

- **Novi duvanski kombinat a.d. Podgorica**, nationwide tobacco producer;
- **Montecargo a.d. Podgorica**, first Montenegrin operator for rail transport of goods;
- **Montenegro airlines a.d. Podgorica** (please see below);
- **HG Budvanska rivijera a.d. Budva** (please see below);
- **HTP Ulcinjska rivijera a.d. Ulcinj**, hotel company managing the hotels “Olympic” and “Bellevue” on the Long Beach in Ulcinj and the river island “Ada Bojana”;
- **Institut za crnu metalurgiju a.d. Nikšić**, institute of ferrous metallurgy, owns a great deal of high-value property (real estate and capital facilities);
- **Fabrika elektroda Piva Plužine**, electrodes producer;
- **Poliex a.d. Berane**, explosives producer;
- **Institut dr Simo Milošević a.d. Igalo**, institute for physical medicine, rehabilitation and rheumatology;
- **Marina Bar a.d.**, marina for boats and yachts also providing yacht service, water, power and fuel supply;
- **Montenegro Defence Industry d.o.o. Podgorica**, military industry;
- **Hotel Park Bijela, Herceg Novi**, hotel on the outskirts of Herceg Novi;
- **Jadransko brodogradilište a.d. Bijela**, the biggest ship repairing yard in the Southern Adriatic.

Focus on three recent privatization cases

- Montenegro airlines a.d. Podgorica

Previous attempts to sell the loss-making airline have failed. In 2009 El Al Israel Airlines and European Bank for Reconstruction and Development jointly bid for the control over the airline, provided it would provide them control over Podgorica and Tivat airports as well, which the Government considered unacceptable at the time. In 2011, the tender was met with no

responses despite Arkia Israeli Airlines and Etihad Airways purchasing tender forms, while Turkish Airlines has also been linked with a takeover.

- HG Budvanska rivijera a.d. Budva

The sale of 58,73% of shares of the largest and most attractive hotel complex in Budva, the busiest Montenegrin tourist destination, is planned for this year. Global hotel group "Intercontinental" is believed to be interested in buying the complex located near the largest beach in Budva.

- Pošta Crne Gore a.d. Podgorica

Post office of Montenegro was transformed from a limited liability company into a stock company. The tender for the privatization of Montenegrin Post has not been announced yet, but the 2014 Privatization Plan announced it should be carried out as a tender sale based on the private-public partnership in the fourth quarter of this year.

Conclusion

Montenegrin transition from a state-owned to a capitalist oriented economy through privatization of companies is in its final phase. The majority of the companies left to be privatized are mostly engaged in fields of energy, transport, and tourism. Completing privatization shall result in improvement of economic parameters, increase of the competitiveness within the economy, and finally enable the Government to generate higher incomes to be invested in infrastructure.

ROMANIA

Contributed by: **Gide Loyrette Nouel - D'Ornano Iroda**
Széchenyi István tér 7-8. "C" Mag, 4th floor - 1051 Budapest - Hungary

An advanced privatization process

Romania is in the final stage of a long process of privatization, with the takeover of a vast majority of State-owned companies by private investors. The privatization of public enterprises has been a major issue of market reform in Romania since 1992, when the Parliament passed the first privatization law (Law 58/1991). Since then, the legislative process has been divided into several stages, accompanied by the entire privatization cycle of public companies. The aim of the process is a more comprehensive set of legal means and market driven instruments, specifically meant to adapt, improve and develop the initial legislation.

In recent years, the process of privatization in Romania was shaped by two major issues: the aimed completion of the privatization process of companies still owned by the State, and the direction of the post-privatization process for companies already taken over by private particulars by supervising how investors respect their contractual obligations. Several main regulations, such as the Government Emergency Ordinance no 88/1997 on the privatization of the commercial companies ("**GEO No. 88/1997**"), and law No. 137/2002 regarding certain measures for privatization acceleration, conveyed a desire from the Romanian State to implement efficient rules concerning privatization.

Nevertheless, recent examples show that the process of privatization has not been entirely smooth in Romania and has provided mixed results so far. This was recently illustrated by the difficulties of the Romanian postal service (Poșta Română SA) to attract bidders in its process of privatization and by the different bid failures to sell Oltchim S.A.'s stakes, the largest Romanian chemical producer.

On-going privatization transactions

Despite these difficulties, privatization of different sectors is currently ongoing.

In the area of public services, a series of former State monopolies such as electricity, gas distribution, water supply and fixed telephones were restructured or are soon to be privatized through the implusion of the International Monetary Fund.

Candidates for privatization in the near future are the national airline Tarom and the Romanian Savings Bank – Casa de Economii si Consemnatiuni (CEC Bank). The public health care system is also in the process of being restructured, and on 26th of March 2012, the Health minister of Romania announced that a project of privatization has been proposed.

The energy sector restructuring and privatization has been well underway since 2004, when Petrom was successfully privatized by the Grup Servicii Petoliere (GSP Offshore). Electric distribution is soon to be fully privatized. Notably, Electrica Oltenia was taken over by CEZ in September 2005. Electrica Moldova, acquired by E.ON in September, paid over Euro 100 million for 51% of the company by acquiring shares and through capital increases. Enel acquired both Electrica Dobrogea and Electrica Banat for only Euro 112 million in April and July 2005.

In the last quarter of 2013, the Romanian State also decided to sell a minority stake in state-owned gas producer Romgaz in an initial public offering, and have plans to restructure the energy distribution company Electrica prior to privatizing it.

Lastly, after a first failed privatization attempt last year, the selling process of CFR Marfa, the Romanian state-owned railway freight company will be completed in the first half of 2015, after the company completes a restructuring program. This privatization will be conducted through the new Privatization Department which will operate under the Ministry of Economy.

In these circumstances, there is every reason to believe that, even though the process of privatization in Romania has achieved mixed results so far, strong opportunities do exist and can be explored in many economic sectors.

SERBIA

Contributed by: **Maric Malisic Dostanic** | Gide exclusive correspondent firm
Resavska 32, 4th floor - 11000 Belgrade - Serbia

Anticipating a new wave of privatization

Although often accompanied by various controversies, the process of Serbian privatization between 2001 and 2009 in general presented positive results providing a total of 2251

privatised companies. During that period, GDP growth ranged about 5% per year, while public debt dropped from 169.9% of GDP in 2001 to 25.3% of GDP in 2008.

Since the beginning of the global economic crisis, foreign buyers' attention rapidly diminished, and was shown only if accompanied by generous financial incentives of the State. Meanwhile, domestic buyers were focused on purchasing companies' assets, rather than entire State and socially-owned companies. The process of privatization reached rock bottom from 2011 to 2013, where under the existing legal framework, privatization proved to be inapplicable in current economic circumstances.

A 5-year growing public debt (61% of GDP at the end of 2013) and unemployment rate of 21% indicate that the Serbian economy is facing serious issues. In 2012 the European Commission labelled State and socially-owned companies as the biggest losers of Serbian economy.

Investments encouraged by recent legal reforms

In an effort to promote reform and dealing in a structural manner with failed privatizations and a large number of still unprivatized companies, a legal reform framework was presented by the Ministry of Economy in the last quarter of 2013. The package included amendments of the Labour Law, the Law on Bankruptcy and the Privatization Law – which should offer full coverage of the pertinent issues.

The proposed amendments to the Labour Law were intended to provide flexibility in terms of hiring and discharging employees in a way more suitable to the economic environment. On the other side, amendments to the Law on Bankruptcy envisaged a more efficient procedure, with more powers granted to the state bodies carrying it out.

Besides, the wording of the new Privatization Law proposed that the sale of the capital could include some new methods of privatization such as Mutual Investing (a form of Public-Private Partnership), Capital Increase, Optional Capital Purchasing and Entrusting the Management with the Division of Profit, or a combination of several methods. For instance, a privatization could be proposed in the form of a capital increase agreement (or a contractual joint venture) in the amount of 30% of company's shares with an option to buy the remaining shares within the period of 5 years, while having the elements of a contract on entrusting the management of the company (management buyout), instead of the entire capital being sold immediately. It was also envisaged, that except for those cases in which the privatization is completed before 31 December 2014, the Privatization Agency would be obliged to file a motion for bankruptcy or liquidation.

Although the Serbian Government adopted the proposals/amendments of the new set of laws and directed them to the Parliament for adoption, the proposed legal reform is yet to be completed due to the early parliamentary elections recently held in March 2014.

Given the fact that political parties which shaped the former Government represent the majority in the new Serbian Parliament after the elections, most experts agree this legal reform will be implemented upon the forming of the new Government in the weeks to come, and is expected to solve the issue of state owned companies for good, unburdening the budget and leading to much anticipated overall economic reform.

SLOVAKIA

Contributed by: **B / S Legal s.r.o.**
Grosslingova 5 - 811 09 Bratislava - Slovak Republic

Investment opportunities in new privates companies

The transformation of State property to private ownership was among the most important changes triggered by the fall of the communist regime. In Slovakia, the majority of this change occurred under highly dubious circumstances in the mid '90s, and the process is now often described as "wild privatization" in reference to many State owned enterprises being sold to persons close to the government members at knock-down prices. From 1998 to 2006, right wing governments led by Prime Minister Mikuláš Dzurinda sanctioned further sales of State property in more transparent conditions. Notably, companies such as SPP and Slovenské elektrárne, the national gas and electricity distributors respectively, went under control of western European investors.

Recent development and ongoing privatizations

As the development of privatization strongly depends of the political context, Slovakia has faced to a succession of opposite direction strategies and reforms. Supportive attitudes to privatization changed in 2006, when the left wing party won the parliamentary election. The already arranged sale of the Bratislava airport was cancelled as well as the planned sale of railway freight traffic operator cargo. Nevertheless, the government has never gone so far as to initiate revision of already closed transactions.

The same "come and go" situation happened during the period 2010-2012. The 2010 election win of right wing parties brought back plans for the further privatization of State property. The 2010 government plans to sell its stakes in several State owned or co-owned companies - including, heat-producing and heat-distributing companies in the biggest Slovak cities, regional bus transport companies, spas in the towns of Sliač and Bardejov and some of the State owned health care facilities - were cancelled in 2012 due to the change of majority in the Parliament.

Nevertheless, the Slovakian government agreed to sell the State owned minority stake in Slovak Telekom to Germany's Deutsche Telekom. The sale is expected to be closed at the end of 2014. Further, the government initiated in July 2013 the sale of key assets of ZSSK Cargo, dividing indebted state-run railway freight operator ZSSK Cargo into several companies and enabling private investors to acquire stakes in them.

Future opportunities

Independent of the outcome of the parliamentary election and far from the spotlights, privatization of regional health care facilities belonging to the regional governments continues. Regional governments seem ready to listen to offers for facilities in several district capital cities, especially in the northern and western part of Slovakia, which are in severe financial difficulties. Meanwhile, many of the hospitals in the eastern part of the country are reported to already be under the control of the financial group Penta. Unless another unexpected change in the national government's opinion occurs, these facilities appear to be the only State property that may be privatized before the 2016 parliamentary election.

SLOVENIA

Contributed by: **Kirm Perpar law firm, Ltd.**
Poljanski nasip 6 - 1000 Ljubljana - Slovenia

The privatization gets off to a good start but should go further

If Slovenia has dragged its feet before launched effectively its privatization process, the country seems to catch up in recent years.

Privatization as lifesaver for State companies

Slovenian State-owned and State-controlled companies (SOEs) account for a sixth of the economy and employ one out of eight people. Financial data available for all companies as of 2011 showed that some of these SOEs are posting increasing losses and high levels of debt, in part due to inefficient capital structures. In fact, SOEs are the primary beneficiaries of state guarantees worth 25% of the annual GDP. All of the above contributes to the increasing need for recapitalization and the very real concern over solvency of the companies.

Consequently, Slovenia was pushed by the European Union to sell assets that it once revered as national jewels. In June 2013, Slovenia's parliament approved a government privatization plan that the country sees as integral to avoid seeking an international bailout for its troubled state-owned banks. It provided the disposal of assets in five companies where the procedure had already begun, such as Adria Airway or Helios (chemicals), as well as ten companies where the procedure was not yet commenced (notably the financial group Nova KBM and Telekom Slovenije).

The privatization of Telekom Slovenije: a good example of effective privatization process.

Perhaps the biggest asset on the block for privatization is Telekom Slovenije d.d.. Telekom Slovenije d.d. represents one of the last de-facto monopolistic companies in Slovenia which generates a good cash flow on the domestic market. Telekom Slovenije has a market capitalization of 860 million euros. The State is currently seeking prospective buyers to conclude the privatisation by the end of 2014. It is believed that there should be strong interest in the company due to its market value and its status as a very important local player in the field of telecommunication services and as such, it constitutes an attractive purchase opportunity for investors.

On 21 June 2013, the National Assembly of the Republic of Slovenia adopted a resolution approving, among other things, the disposal of 72.38% of the shares of Telekom Slovenije d.d.. These shares were held by the Republic of Slovenia (directly or indirectly).

At this stage of the process, interested parties are invited to express their interest for participating in the multi-stage process of selecting the preferred counterparty to the Transaction by submitting a letter of Expression of Interest. After receipt of all Expressions of Interest and after qualification into the next phase, the parties will receive further detailed information about the company.

It is to be noted that Telekom Slovenije d.d is Slovenia's leading provider of telecommunications services in fixed and mobile systems, VoIP, IPTV and broadband internet services. The Group also offers telecommunication network construction and maintenance

services through its subsidiary GVO, and furthermore offers IT and TV services through Avtenta and TSmedia subsidiaries. It also operates in Kosovo through Ipko, in Macedonia through One, and in Bosnia and Herzegovina through Annex.

The process of privatization in this case is required in order to provide a sustainable business model for the company. An additional reason is the current economic crisis and the need to consolidate public finances with the inflow of fresh foreign capital.

Further expansion of the Privatization List

The government already sold a 73.1% stake in Helios and is currently in the process of selling 13 other companies. There are positive developments but IMF Mission Chief for Slovenia Daria Zakharova considers that Slovenia should maintain the reform momentum, intensify work on privatisation especially including of state-owned banks. But it takes time to identify qualify owners and the danger for the companies is that there are few bidders and the process fails. The asset quality review (a comprehensive and independent evaluation of the value of the banks' assets) and stress tests (an evaluation of the banks' ability to withstand losses in an adverse scenario) were completed in 2013 in order to determine the health of Slovenian banks. Now that the results are public, indicating that banks are adequately capitalized

On 15 April 2014, the Government of the Republic of Slovenia approved the National Reform Programme 2014-2015, which provides that privatization will be coupled with corporate deleveraging and measures to attract foreign investors, including by shortening court proceedings involving commercial disputes.

CZECH REPUBLIC

Contributed by: **Dvorak Hager & Spol.**
Oasis Florenc, Pobrezni 394/12 - 186 00 Praha 8 - Czech Republic

Recodification of Czech Civil and Corporate Laws: What has to be done before 1 July 2014

From 1 January 2014, the recodification of Czech civil and corporate laws entered into effect. This revolution in Czech law has affected all areas of business life in the Czech Republic. Below we summarise the most important actions which need to be taken by Czech corporations as soon as possible to address the challenges of the new regulation.

- All provisions of founder's deed, memorandum of association, or articles of association of existing Czech corporations which are contrary to mandatory provisions of the Corporations Act were cancelled by the operation of law as of 1 January 2014. Each corporation has to review these documents and prepare an updated version. We recommend our clients use this opportunity to opt for the new regulation and change their founding documents to implement all relevant changes as well as taking advantage of the more flexible legal regulation.
- The requirements for contracts of members of bodies of corporations (such as members of board of directors or executives) have tightened up. As a result, all existing contracts have to be reviewed and aligned with the new legislation by 1 July 2014; otherwise, the performance of the member of the relevant body may be for free. In our experience, the majority of existing contracts do not meet these new requirements. In addition, the situations where the member of

the statutory body is at the same time employed by the same company should be carefully analysed because it seems that this option will not be available anymore, should there be an overlap in job description.

- From 1 January 2014, all Czech joint stock companies must have a web site, which must be easily accessible without any fee. This web site must contain the same information as business documentation of a company, as well as other information stipulated by law. For example, each invitation for a general meeting has to be published. If a limited liability company has a web site (this is necessary, for example, to publish membership to a group of companies and enjoy the corresponding benefits), the same information must be contained.
- Lease agreements and bank account agreements (unlike the rest of contracts) are governed by the new regulation from 1 January 2014, even if they have been entered into in the past. As a result, an analysis of these agreements to identify the benefits, as well as the risks of, the new regulation is recommended.
- Naturally, all new contracts and actions taken after 1 January 2014 are governed by the new regulation, which may significantly differ from the previous legal regime. For example, there is a complete revolution in the area of real estate, pledges, heritage or trusts. In all these areas, contracts and contract forms, including general terms and conditions, should be reviewed and adjusted to comply with the new legislation to avoid legal uncertainty and risks in future.

ROMANIA

Contributed by: **Gide Loyrette Nouel - D'Ornano Iroda**
Széchenyi István tér 7-8. "C" Mag, 4th floor - 1051 Budapest - Hungary

Sale of Agricultural Land in Romania

On January 1st, 2014, Romanian agricultural land became available for purchase by EU citizens. Conditions on the purchase of agricultural lands located extramuros (outside of city limits) have recently been brought by the Law no. 17/2014 dated March 7th, 2014 (the "**Law**"). The purpose of the Law is threefold: (i) merging agricultural lands to increase the size of farms and their economic viability; (ii) protection of national interest; and (iii) regulation of extramuros (outside of city limits) land in sale-purchase of agricultural land. The restrictions do not apply to land located intramuros (within city limits) nor to pre-agreements and option agreements authenticated by public notaries prior to entry into force of the Law.

Pre-emption Rights

A main component of the Law is to provide a right of pre-emption to benefit certain categories of people. The law grants a pre-emption right (at equal price and equal conditions) to categories of persons in the following prescribed order: (i) joint owners, (ii) lessees, (iii) neighbouring owners; and (iv) the Romanian state through the State Domain Agency.

Steps of Sale Procedure

Few steps need to be taken in order to obtain the execution of a sale agreement or rendering of a court decision with respect to Lands which will be subject to the issuance of an endorsement by the Ministry of Agriculture and Rural Development.

The main steps to be performed are:

1. Seller submission of an application with the municipality where the Lands are located requesting a display of the sale offer in order to allow the pre-emptors to exercise pre-emption right;
2. Display of the sale offer at city hall and on municipality web-site for 30 days, and municipality submission of the file regarding the sale to relevant department within Ministry of Agriculture and Rural Development (which is mandated to post the sale offer on its own web-site for 15 days);
3. Acceptance by pre-emptors of sale offer and registration of acceptance with appropriate municipality within 30 day term addressed above. However, note that if more than one pre-emptor with equal rank expresses the intention to exercise right of pre-emption (i.e. purchase at same price and conditions), the seller may choose from among them and notify the municipality. Furthermore, if no pre-emptor exercises rights within the 30-day limit, sale of the Lands is free (subject to conditions and price in sale offer);
4. Display of the acceptance and sale offer by appropriate municipality;
5. Verification by Ministry of Agriculture and Rural Development that right of pre-emptor was observed (if applicable).

Special Endorsements Requirement

The new law further necessitates that the seller obtain a special endorsement from the National Defence Ministry in the case of sale of lands located: i) within 30 kilometres from state frontier or from the Black Sea shore towards the interior; and ii) at less than 2400 metres from special objectives. However, the special endorsement is not necessary if selling to a pre-emptor.

Other Provisions

When a party to a pre-sale agreement refuses to execute the final agreement, the other party can obtain a court decision determining the execution of the sale agreement if two conditions are met: (i) the pre-sale agreement has been authenticated by a public notary; and (ii) there must be compliance with pre-emption rights and above mentioned endorsements. It is imperative to meet these conditions in order to avoid undesired ramifications that could lead to sanctions.

Sanctions

In the sale of Lands, certain conditions such as i) not observing the pre-emption right; ii) selling at a lower price than mentioned in the sale offer or at more advantageous conditions than those mentioned in the sale offer; or iii) not obtaining the requisite special endorsements, will trigger the nullity of the transfer or sale. Moreover, the failure to observe the above legal provisions is an offence and may result in a fine ranging from Ron 50,000 (approximately EUR 11,100) to Ron 100,000 (approximately EUR 22,000).

CONTACTS

FRANCOIS D'ORNANO
ornano@gide.com

IOANA KNOLL-TUDOR
ioana.knoll-tudor@gide.com

You can also find this legal update on our website in the News & Insights section: gide.com

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