PRIVATISATION AND CORPORATE GOVERNANCE IN SERBIA (FR YUGOSLAVIA)

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1. Introduction

The Federal Republic (FR) of Yugoslavia is one of the countries from the former socialist world that has been lagging behind most in the implementation of fundamental economic reforms over the past decade. Delays in carrying forward the main objectives of the transition to a market economy have been caused by numerous factors, many of which are of a non-economic character – such as the main characteristics and ideology of the pre-October 2000 political regime, the political and legal consequences of the break-up of former Yugoslavia, the four military conflicts in which Serbia has been directly or indirectly involved, various types of international sanctions against FR Yugoslavia. These non-economic factors have all had direct and irreversible effects on the Yugoslav economy in the 1990s, negatively influencing economic performance and slowing down the transition. In addition, inconsistencies in economic policies, priority of political over economic objectives, frequent changes in the legislation, lack of willingness to implement radical reforms in certain important areas, poor and deteriorating public governance, absence of the rule of law, rising corruption and criminality, have also crucially influenced frequent reversals in initiated reforms and the slowing down of transition to a market economy.

One such field where limited progress has been achieved so far is privatisation. Despite various privatisation laws over the past decade, the overall results have been extremely poor. Privatisation has proceeded at a very slow pace, so that by mid-2001 less than 40% of Yugoslav Social Product was produced in the private sector. Due to slow privatisation and residuals of the old system of self-management, poor corporate governance mechanisms remain characteristic. The situation in Serbia is particularly unsatisfactory, since it is the only former Yugoslav republic that has retained 'social property' as one of the property forms; indeed, the Serbian Constitution guarantees the equal treatment of all four property forms – social, state, mixed and private.

The present paper examines the main results achieved with privatisation in Serbia, as by far the largest part of Yugoslavia, and related problems of corporate governance. In the next section 2, the most important legislation on privatisation is briefly presented. Section 3 gives an overview of the overall results achieved in the various phases of implementation of privatisation. Section 4 discusses problems of corporate governance most likely to prevail in the different property sectors of the economy (social, mixed, state, private). To illustrate existing problems of corporate governance, in section 5 a few case studies are presented. Some conclusions are drawn in the final section.

2. Privatisation legislation

In 1989, the initial conditions regarding the property regime were somewhat different in former Yugoslavia than elsewhere in central and eastern Europe, which crucially influenced the privatisation process throughout the 1990s. Under the system of 'social property', no one had property rights over enterprises assets, which officially belonged to society as a whole (see Uvalic, 1992). Enterprises had the right to use socially-owned assets and to appropriate their product, but

were never given full property rights since some important rights remained firmly in state hands. Nevertheless, because of the system of self-management and the ambiguity of the property regime, many workers felt they were the real owners of their enterprise, in line with the interpretation that with the passing of time, group property had unofficially replaced social property. These specific features of the Yugoslav economic system rendered privatisation in all successor states of former Yugoslavia more complicated than elsewhere. Since enterprises were owned ‘by everyone and no-one’, who was authorised to sell them and to whom would the proceeds go? These are questions which still today, after more than 10 years, risk to create difficulties in implementing privatisation in Serbia.

FR Yugoslavia has had various sets of privatisation legislation over the past decade, some adopted by the federal government, others by the authorities of its two republics Serbia and Montenegro. The laws have been numerous and frequently subject to change, which is probably one of the main reasons why so little progress has been achieved in this field. Six main pieces of legislation are directly relevant for the privatisation process in Serbia over the last twelve years, as presented below (see also Table 1, Appendix).

(1)***December 1989 Federal privatisation law*** (amended in August 1990) was the first law, adopted by the last government of the former Yugoslavia (also known as the ‘Markovic law’, by the name of the Prime Minister of former Yugoslavia; see Uvalic, 1997a). The main privatisation method was the sale of enterprise shares at a 30% discount to present and former employees, other citizens and pension funds, on the basis of the book value of assets, but employees (present and former) were given a further 1% discount for each year of employment, up to a maximum of 70% of the nominal value of the shares, to be paid within a period of 10 years. Though several limits on share issues at a discount had to be respected, the law in practice offered extremely favourable conditions primarily to insiders. The part of social capital not subscribed on preferential terms was to be offered at public auctions to domestic and foreign buyers. Since the destination of the remaining unsold social capital was not specified, the law implicitly envisaged its maintenance as a property form.

(2) ***August 1991 Serbian privatisation law*** was adopted at the time when disintegrating tendencies were gaining ground throughout the county. Following similar decisions in other republics, Serbia also decided to block the implementation of federal legislation and to adopt its own privatisation law. The 1991 Serbian law had many similarities with the previous 1990 Federal law, since the main method remained sales to insiders at privileged terms, but the conditions were more restrictive (basic discount of 20% and an additional 1% for each year of employment, up to a maximum of 60%; and a 5-year repayment period). Limits were also imposed on the amount insiders could subscribe (the dinar equivalent of DM 20,000 per worker and DM 30,000 per manager/director). Unlike all the other successor states of former Yugoslavia and the republic of Montenegro, in Serbia social property remains one of the possible property forms; this is also envisaged by the new Constitution, which guarantees the equal treatment of all property forms.

(3) ***August 1994 amendments*** to the 1991 privatisation law (revised in October and November 1994) introduced the obligatory revaluation of privatised property. Since the Serbian privatisation law envisaged the revaluation of the unpaid portion of shares only once a year, under hyper-inflationary conditions such as those in 1993, many individuals were able to pay their shares, even pay off the full value of subscribed shares, with extremely small amounts of money. These amendments to the privatisation law therefore introduced the obligatory *ex post* revaluation of capital in all enterprises already partially or fully privatised since 1990. After capital revaluation, many insiders had to renounce to subscribed shares since their new price became too high. The final result of these amendments was a substantial increase in the share of non-privatised capital of most enterprises that had started privatisation.

(4) ***1996 Federal privatisation law*** was necessary since the 1992 Yugoslav Constitution imposed the obligation to replace all federal legislation of former Yugoslavia by new federal laws within certain time limits. The new federal law was to serve as a framework law in both Serbia and

Montenegro, leaving the elaboration of detailed provisions on privatisation to the two republics. Since the new federal legislation had to be in conformity with the already implemented (and very different) privatisation laws of both republics, this new Federal privatisation law merely provided a confirmation of the *status quo:* namely, of the non-obligatory nature of privatisation and the equal treatment of all property forms (social, private, mixed, and co-operative).

More important than the actual contents of this new Federal law, however, was the intense debate that developed prior to its adoption, which also prepared the ground for the new Serbian law (to be adopted a year later). A number of privatisation proposals appeared in 1995-96, elaborated by the government, all political parties, major research institutes, various trade unions, employers' associations, individual experts (for an overview, see Sukovic and Vukotic, 1996). An attempt to find a compromise – also political - among these different proposals was undertaken in April-May 1996 by the Governor of the central bank Dragoslav Avramovic, whose Working Group prepared a privatisation programme based on common elements of the various proposals (see Avramovic and Uvalic, 1997). Although this privatisation programme was supposed to be discussed by the Yugoslav Parliament in mid-May, on that occasion Avramovic was not given the vote of confidence and his programme was not put on the agenda. Instead, the alternative federal privatisation law prepared by the Yugoslav government was adopted, which introduced no changes in the property regime whatsoever.

(5) ***1997 Serbian privatisation law*** followed soon after. Three main channels were envisaged this time – autonomous privatisation, according to a special programme, and with approval of the founder. The majority of firms were to be privatised 'autonomously' using methods which again offered insiders the most favourable conditions. In the first round, after the initial transfer of 10% of shares to the Serbian Pension Fund, employed workers, pensioners and ensured farmers had the right to receive shares of their enterprise free of charge of a dinar equivalent nominal value of DM 400 for each year of employment, but the total amount distributed could not exceed 60% of enterprise capital. In the second round, these same categories had the right to purchase shares at a 20% discount (plus 1% for each year of employment but not exceeding 60%), the repayment period being up to 6 years, and within the limit of the dinar equivalent of DM 6,000 per worker-shareholder. Though these terms have been offered to all three categories, employed workers were given priority in bidding for shares sold at a discount. Proceeds from sales were distributed between the Development Fund (50%), Pensions Fund (25%) and Employment Fund (25%), while shares remaining without buyers were to be transferred to the Shareholding Fund which was to offer them on sale at the stock exchange. All firms planning to start privatisation were obliged to have their social capital valued by mid-1998 (a deadline which thereafter has been postponed to the end of 1999, since a very small percentage of firms had valued their capital during the initial period). As previous legislation, this law reaffirmed the principle of 'voluntary privatisation', leaving to the enterprise to decide whether, when and to what extent to enter privatisation, and by not envisaging the obligatory elimination of social property it again left the regime of social property intact. As to the other two channels of privatisation, some 75 state-owned enterprises had been identified as firms of 'strategic importance', planned to be privatised according to a special government programme. In addition, privatisation of some 514 enterprises with state-owned capital whose activities are of public interest, were to be carried out with the approval of the founder (either the Republic of Serbia or the Government).

(6) ***2001 Serbian privatisation law*** is the most recent legislation. It was prepared immediately after the nomination of the new Serbian government in late January 2001. The need was felt to adopt a new law which would radically change the core concept of privatisation, from the insiders model which prevailed throughout the 1990s, to commercial sales. The law was approved by the Serbian government in April and passed by the Parliament in mid-2001. The main privatisation method is cash-based sales, through public tenders and public auctions, supplemented by limited give-aways to workers and citizens. A distinction is made between privatisation of strategic enterprises to be managed directly by the Privatisation Agency, and autonomous

privatisation of all other companies which is to be undertaken by firms themselves. Most state-owned enterprises in public utilities will be privatised at a second stage after having been restructured. Since the intention is to attract strategic investors as majority owners, at least in the more viable enterprises, a firm is to offer 70% of its capital on sale (or less, if the buyer does not accept the offer). The free transfer of capital to workers can be undertaken, but only if at least 50% of social capital has been sold, which also applies to enterprises earmarked for restructuring. In case of public auctions, the amount that can be freely distributed to workers is inversely related to the time of implementation of privatisation. Workers receive more in case of early privatisation, namely 30% of the value of capital being privatised if privatisation is undertaken within 18 months, 20% if undertaken during the next 18-30 months, and only 10% if undertaken after 30 months; and each worker receives, respectively, the dinar equivalent of 400 DM, 300 DM, or 150 DM for each year of employment. In case of public tenders, only up to 15% of capital being privatised can be freely transferred, partly to workers (the dinar equivalent of 400 DM per worker for each year of employment) and partly to all 18-year old citizens. Proceeds from sales go to the Pensions Fund (10%), for compensation of nationalised property (5%), for stimulating development, debt repayment, covering costs of the privatisation process, and other (not specified). Free shares can only be given to those individuals that have not already been beneficiaries under the provisions of the 1997 law. All enterprises in the social sector must undertake privatisation within a period of four years, otherwise they will be privatised by the Privatisation Agency. Therefore, social property will actually disappear from Yugoslav enterprises only in 2005, which until that date could represent a serious impediment for more effective systems of corporate governance (Uvalic, 2001).

3. Privatisation results in Serbia twelve years after

Four parallel processes have contributed to changes in the property structure in Serbia over the past twelve years: 1) privatisation of enterprises in the social sector; 2) entry of new private firms; 3) creation of the state sector; 4) foreign direct investment.

3.1. Privatisation of the social sector

Serbia started privatisation according to the legislation of the federal government of former Yugoslavia. In only one year of application of the 1989-90 federal privatisation law, 1,220 social sector enterprises in Serbia (or 33% of the total) had entered the process of property transformation. After the new Serbian law had come into force in 1991, introducing more restrictive conditions for subscriptions by insiders, there was a general slowing down of privatisation. We observe that during the entire period of almost three years of application of the Serbian law (from August 1991 until April 1994), the privatisation process was commenced by some 684 enterprises – therefore by only around half of the number that had started privatisation before 1991. Altogether, by April 1994, around 70 per cent of all social sector enterprises in Serbia had started property transformation (Zec et al. 1994, p. 239; see Table 2, Appendix). Most of these firms were privatised through share issues to employees at privileged terms, transforming their status into shareholding or other types of companies typically in mixed ownership, though a few firms have also been completely privatised. The capital structure in these enterprises after transformation, on average, was 80% private and 20% social capital (Zec et al. 1994, p. 241).

The 1994 amendments on revaluation have resulted in an *ex post* re-socialisation of privatised capital. Capital revaluation led to a substantial decrease of the relative share of privatised capital, which after the process was terminated usually did not exceed 10% of total capital (see Uvalic, 1997a). These amendments have also effectively blocked the privatisation process in Serbia, by obliging all firms that had already started privatisation to enter the burdensome process of capital revaluation.Some of these cases have still not been resolved but have for years been in the court procedure (see Cerovic, 2000). Moreover, through the retroactive change of previous legislation,

these amendments demonstrated the non-respect of the rule of law, which has had a fundamental impact on the later lack of willingness of firms to enter the privatisation process.

During the more recent period, privatisation has proceeded at an even slower pace. The 1997 Serbian law has done very little to re-establish confidence of potential shareholders or to provide the incentives for enterprises to enter privatisation, despite the even more favourable conditions with respect to previous legislation. Since property transformation had remained 'voluntary', left to the discretion of the enterprise, a very small percentage of enterprises has actually decided to start privatisation. At the end of 1999, there were 8,750 non-private enterprises in Serbia, of which 5,278 were fully non-privatised enterprises in the social sector and another 3,472 were firms in the mixed property sector partially privatised in the past. Around 7,000 of these non-private enterprises were eligible for privatisation. By the time the deadline for capital valuation expired at the end of 1999, only 2,218 enterprises had started capital valuation (or less than 30% of the total eligible for privatisation). An even lower number of firms had actually implemented the first and second round of privatisation - the free distribution of shares to insiders and sales at a discount respectively. By the end of 1999, only 344 enterprises (less than 5% of firms eligible for privatisation) had begun the process by distributing free shares to workers, and only 202 (or less than 3%) had started the second round of share offers at a discount. Most of these enterprises were from Belgrade (110) and Vojvodina (160), while a minority were from central and south Serbia (68 from central Serbia and 6 from Kosovo and Metohija). The partially privatised enterprises are mainly small and medium sized firms, employing a total of 105,379 workers, while shares have been acquired by some 139,180 shareholders. The latest available data give the figure of 412 enterprises that had entered the privatisation process by 20 November 2000, when the 1997 Serbian privatisation law was suspended, which was still less than 6% of the total earmarked for privatisation. The very limited results of the 1997 privatisation law are presented in Table 3 (Appendix).

The very slow pace of privatisation in Serbia is confirmed by other indicators. At the end of 1998, the social sector consisting of a relatively small number of firms (11.6% of the total), still employed 48% of the total number of workers, engaged 55% of fixed assets, and contributed 34% of revenue of the Yugoslav economy (see Table 4, Appendix). If we consider similar indicators for the mixed property sector, represented by firms that have been privatised only partially, these percentages become much higher: the social and mixed sector in 1998, representing some 20% of the total number of firms, jointly contributed more than 82% of employment and over 80% of fixed assets, though much less – 62,2% - of revenue of the Yugoslav economy (see Table 4, Appendix). Similarly, the non-private sectors clearly remain dominant in terms of their contribution to Social Product. At the end of 1998, the non-privatised sectors of the economy (social, mixed, cooperative and state) still contributed as much as 63% of Social Product of Serbia (see Table 5, Appendix). The social sector contributed some 31.4% of Yugoslav Social Product, while an additional 28.2% was produced in the mixed sector (see Table 6, Appendix). If we look at the capital structure of Yugoslav firms at the end of 1997, we find that only some 6% was private capital and another 9% privatised capital; as much as 47% was still social capital and another 38% state capital, which clearly contrasts with the much lower (33%) contribution of both of these sectors to overall production, suggesting very low productivity of non-privatised firms (see Table 7, Appendix).

Large enterprises in particular have not been stimulated to enter the process of property transformation. Although a few large firms have already been privatised in the early 1990s (e.g. the brewery Apatin, or Sintelon), these are exceptional cases. Some 600 large and another 1,500 medium sized social sector firms, which are also responsible for the largest part of overall losses of the Serbian economy, have not yet been restructured nor privatised. Given the limits on the amount that could be distributed and subscribed by insiders, the incentives were simply not there for big enterprises to start privatisation, as the larger part of capital would in this case be transferred to funds and insiders would automatically lose control and decision-making power.

Therefore, until late 2000, enterprise shares in Serbia have most frequently been subscribed at preferential terms, or distributed free of charge, to insiders – employed workers and managers.

Insiders' enthusiasm to buy shares of their enterprise was greatest in the early 1990s, during the period of implementation of the Yugoslav Federal law, it diminished after the adoption of the 1992 Serbian law, and practically disappeared after the adoption of the 1994 amendments. The very generous provisions of the 1997 law, envisaging the free distribution of shares to insiders, did induce a selected group of enterprises to start privatisation, but the large majority of firms has not been involved. Whereas during the initial period, until 1994, 80% of workers employed in firms being privatised had decided to subscribe shares of their enterprise, after 1997 these proportions have been reversed: in fact, 70% of enterprises eligible for privatisation had no intentions to start the process. Overall, privatisation has mainly resulted in widespread ownership by insiders who today, given enormous losses of a large part of the economy, most frequently own worthless shares in highly undercapitalised enterprises. In general, the standard of living has declined to such an extent, especially in the aftermath of the Kosovo conflict, that owning enterprise shares is the last priority of the average worker/citizen – even if they are given for free. This confirms the strong preference of the majority for maintaining the *status quo*.

3.2. New firm entry

Parallel with the described very slow privatisation of social sector firms in Serbia, a much more dynamic process of entry of new private enterprises has also been in course. There was a huge increase in the number of small private firms particularly during the 1990-92 period, when the legislation of former Yugoslavia greatly stimulated private sector development. After disintegration of former Yugoslavia, with the worsening of the overall political and economic situation, the boom in firm creation was accompanied by an increasing number of bankruptcies. Consequently, after 1993, the process of net firm creation practically stagnated (see Minic, 1999).

It is reasonable to assume that most new firms set up over the last 10 years are firms in the private sector, since very few social sector enterprises have actually been entirely privatised so far (and thus continue to be classified as social or mixed property firms). Data on the private sector can therefore serve as a rough indicator on new firm entry. In March 2001, in Serbia there were almost 190,000 different organisational units – enterprises, organisations, institutions, associations – of which more than 152,000 (over 80%) were private (see Table 8, Appendix). If we restrict the analysis to only productive enterprises, at the end of 1998 there were 62,219 enterprises in the private sector in Yugoslavia, therefore representing the majority of firms - 76% of the total. These enterprises contributed 35% of total revenue, but represented only 14.6% of employment and 6.1% of fixed assets of the Yugoslav economy (see Table 4, Appendix), suggesting they are all very small firms, though having a relatively large share in total revenue. During the 1996-98 period, the number of proprietors in the Serbian private sector has been stagnating (around 150,000), but remains twice as high as the number of workers (which has slightly increased from 60,000 in 1996 to over 71,000 in 1998), suggesting that the majority of these firms are single-proprietor firms (see Table 9, Appendix).

3.3. State sector

Another process that has contributed to changes in the ownership structure of the Serbian economy is the creation of the state sector. The process of creation/expansion of the state sector has taken place through the exclusion of certain enterprises from privatisation and their transformation from socially-owned into state-owned or public firms, therefore by their re-nationalisation. Although estimates vary, around 40% (or a bit less) of social capital in FR Yugoslavia has been transformed into state capital in the early 1990s and by the end of 1994, there were 604 public enterprises in FR Yugoslavia (530 in Serbia). The public sector includes a number of very large enterprises, most frequently natural monopolies, in sectors such as transport (railways, roads, highways, air transport), water supply, post and telegraph (partly privatised in 1997, see below),

radio and television, forestry, energy. Among them are the most important infrastructure enterprises such as Serbian Telecom, NIS (Serbian Oil Industry), the ZTP Beograd (Belgrade Railways Transport Company), JAT (Yugoslav airlines), and EPS (Serbian Electricity Company). The only enterprise in this group partially privatised to date is Serbian Telecom (see section 4.4. below). The intention of the new Serbian government is to first restructure these firms and then privatise them, as most of these enterprises are today facing serious problems.

There are also a few large enterprises which are partly privatised firms in mixed ownership, but with substantial capital stakes held by the state. The main justification for such transformations given by the government has been that it was necessary to create a public sector, although this has been critically evaluated as effectively 'a move towards traditional, centralised state companies, subject to a permanent 'care' of the corresponding ministries' (Cerovic, 2000, p. 3).

There have also been a number of cases of privatised enterprises being taken over by the government, without apparently any reasonable or acceptable justification. One of the best known examples is 'Ekonomska politika', a Belgrade weekly which had been privatised in the early 1990s through sales to employed journalists. In 1999, 'Ekonomska politika' was nationalised and integrated into the public enterprise 'Borba', so both firms are now officially under the Yugoslav Federal government as their founder. Another well-known case is the privately owned pharmaceutics firm 'ICN Galenika' set up by an American businessman of Yugoslav origin (Milan Panic, who in 1992 was also Yugoslav Prime Minister), which was also taken over by the authorities, but the effective reasons behind the nationalisation of 'ICN Galenika' still remain unclear. By contrast, a clear political motive lay behind the May 2000 taking over of the Yugoslav opposition media - the main private TV (Studio B) and radio station (B92), as well as one of the most popular daily newspapers (Blic).

As to the provisions of the Serbian 1997 privatisation law, some 75 large enterprises in the state sector were to be privatised according to a special government programme but no such programme has actually been prepared. Preparations have been undertaken for the ownership transformation of other state-owned enterprises, which according to the 1997 Serbian privatisation law were to be privatised 'with the approval of the founder'. There are 514 such enterprises founded by local governments, but by the end of 1999, only 36 of these enterprises have had their capital valued and only one firm had actually started privatisation (see Federal Ministry, 2000, p. 51).

Given that most state-owned firms in Serbia are highly capital intensive enterprises, as much as 38% of total capital of the Yugoslav economy is concentrated within the state sector (see Table 8, Appendix). Nevertheless, the state sector remains marginal in terms of most other indicators: at the end of 1998, it represented only 0.4% of firms, 1.4% of total employment, 2.8% of fixed assets, 0.9% of revenue of the Yugoslav economy, and contributed less than 2% of Yugoslav Social Product (see Tables 4 and 6).

4.4. Foreign direct investment

Over the 1990-1998 period, net capital inflows into the Yugoslav economy have amounted to around US$ 1.1 billion, almost entirely due to the 1997 privatisation of Serbian Telecom, when 49% of ownership was sold through a direct deal with Italian and Greek partners - 29% to STET and 20% to OTE – for DM 1,8 billion (see EIU 2000; *Economic Survey*, Jan. 2000, p. 38). Though partially privatised, Serbian Telecom has not been restructured nor have its services improved; on the contrary, paradoxically, the development of this sector used to be much more dynamic in the pre-privatisation period than today (Begovic, 2000). It is reported that the main reason for lack of increase in efficiency is that the seller was not interested in progress of this sector, but only in the quick inflow of foreign resources into the state budget in order to decrease the budget deficit; this money has also enabled the payment of long due wages and pensions, thus increasing the short-term political popularity of the government (see Begovic, 2000).

The pre-October 2000 government has put the main blame for such limited inflow of foreign direct investment on the investment ban imposed by the international community in various periods. After the introduction of sanctions of the international community in 1991, European firms were allowed to invest in FR Yugoslavia only in the period from 1996 to mid-1998, while American firms had to respect the investment ban throughout the 1990s. These provisions are also seen by some Yugoslav economists as a major obstacle for fresh capital coming from abroad. However, if we consider that after sanctions were lifted in 1996, only one major foreign investment (in the Serbian telecom company) was made, clearly more than the lifting of sanctions is needed to attract foreign capital into the country. The very high political risk due to continuous military conflicts in the region and the poor state of the economy, characterised by macroeconomic instability, reversals in policies and delayed transition, have undoubtedly played an important role in discouraging foreign investors throughout the decade, at least as much as international sanctions. It is to be hoped that some of these obstacles have now finally been removed, following radical political changes in October 2000 and the more recent adoption of new laws, aimed at stimulating foreign investment in the Serbian economy.

According to most recent estimates of the Economist Intelligence Unit, by the year 2000, the stock of inward FDI in FR Yugoslavia was US$ 1,438 million, which is only around 0.97% of the total amount invested in all transition economies (see Table 10, Appendix). This corresponds to US$ 135 per inhabitant, which is slightly more than one third of the average for all transition economies of US$ 358. In terms of national income, the amount represents almost 17% of Yugoslav GDP, as compared with the average for other transition countries of 19.8% (Kekic, 2001).

4.5. Summary of privatisation results twelve years after

Considering the four processes which have contributed to changes in the property structure of the Serbian economy from the beginning of the 1990s – privatisation of the social sector, entry of new private firms, creation of the state sector, and foreign direct investment - the overall outcome is that the Serbian/Yugoslav economy has been privatised to a very limited extent. The privatisation process has proceeded at a fastest pace during the initial period, while the privatisation law of the former Yugoslav government was still in force. Already by mid-1994, 70% of Serbian enterprises in the social sector had started property transformation and with the parallel dynamic process of entry of new private firms, by the end of 1994, the private sector increased its share in Yugoslav Social Product to 32% (though it contributed less than 12% of non-agricultural employment). In the second half of the 1990s, privatisation in Serbia has been practically blocked, initially because of the 1994 amendments, and later because of the lack of interest of firms to start privatisation.. Thus in terms of contribution to Yugoslav Social Product, in 1998 the private sector had increased its share to only 37%, while as much as 31% was still produced by the social sector, another 28% by the mixed sector, and around 2% by the state sector. The non-privatised sectors also remain dominant in terms of other most important indicators, contributing more than 80% of total employment in 1998.

Privatisation in Serbia has not only not fulfilled its main objectives, but has had a number of very negative social and political consequences. Privatisation has further contributed to the concentration of power in a handful of state-protected firms, for which soft budget constraints have been maintained through a number of direct and indirect privileges – selective bank credits, subsidised interest rates, exclusivity in getting import permits or access to foreign currency at the official exchange rate, relaxation or cancelling of tax obligations. Until political changes took place in October 2000, the directors of the 30 most important enterprises were at the same time key politicians, members of the Parliament, ministers in the Yugoslav government, and closest political collaborators of President Milosevic Sanctions of the international community had provided authorities with an alibi for the miserable situation in the society, and have also offered strong incentives for the appearance of organised crime and war profiteers (see Babic, 1999).

4. Problems of corporate governance

In a normal market economy, corporate governance functions through mechanisms assuring shareholders' control over managerial discretion, either through direct monitoring and control exercised by one or several large shareholders (the German-Japanese model); or, in countries with developed financial markets and institutions, through the threat posed to managers by the potential taking over of a controlling interest (the Anglo-Saxon model; see Uvalic, 1997c). Since FR Yugoslavia is not yet a normal market economy, it is not surprising that the situation regarding corporate governance is highly unsatisfactory. The obstacles for activating effective systems of corporate governance are of a different nature in the three non-privatised or semi-privatised sectors of the economy – social, mixed, and state - and can be traced to three main groups of problems, deriving from social property, insider ownership, and re-nationalisation. Problems of corporate governance are least present, if at all, in the private sector, since most enterprises are newly set-up very small firms, in the large majority of cases owned and managed by a single proprietor.

4.1. Social sector: inherited social property

The major problems of corporate governance in the majority of Serbian enterprises today derive from the institutional features inherited from the previous system of self-management. Because of the ambiguous system of property rights in former Yugoslavia, all its successor states, including the republic of Montenegro within FR Yugoslavia, have decided to first eliminate social property completely through various methods of 're-nationalisation', and proceed with privatisation later. The only exception was Serbia, where the prevailing position of the government until 2001 was that social property should remain one of the main property forms. The maintenance of social property implies that some form of self-management has also survived, especially in those enterprises in which social property is still today the only, or the dominant, property form. In fact, according to the provisions of the 1994 Company Law, a socially-owned enterprise is managed by its workers, while a mixed-ownership enterprise is managed by both its shareholders (proportional to the share of invested capital) and employed workers (proportional to the share of social property). Although a new Company Law was adopted in 1996 which has reduced substantially some of these rights, this law still envisages the existence of a socially-owned enterprise assuring workers concrete rights: Moreover, it seems that in practice many enterprises have actually not implemented these new regulations, but in mid-2001 still operated according to the provisions of the 1994 company law.

Restricting the analysis for now to the socially-owned enterprise (problems of the mixed-ownership enterprise will be dealt with under section 4.2), employee participation in decision-making should not in itself represent a problem, considering that some form of decisional participation is today practised in many countries throughout the world, whether through co-determination providing for employee representatives on company boards or other forms of employee involvement. The root of the problem in this sector still today – as during four decades of self-management - is the ambiguous definition of social property, the 'awkward system' in which 'socially-owned capital does not belong to anyone' (Madzar, 1999). Property rights of an enterprise in social property are still not well defined, it remains unclear who is the residual owner of the firm, and therefore, not surprisingly, there are at least three possible interpretations (see Uvalic 1997b, pp. 56-58).

According to one interpretation, today it is still the employed workers collectively who own their enterprise, since they participate in management, have the right to use enterprise assets, and to appropriate their product. Workers rights remain limited for two main reasons, however: first, because they do not have the right to appropriate the proceeds from sales of social capital (which go to government funds), nor can they decide to transfer all property free of charge to a new owner; and second, because workers' rights are collective and non-transferable, therefore limited to the

period of employment in the firm. The second interpretation holds that it is the enterprise as a legal entity that has all property rights (see Kovac, 1996). However, although the new Serbian Constitution and the 1994 revisions of the Company Law have re-enforced property rights of the enterprise, an enterprise is not, and cannot be, its own owner. The enterprise holds certain property rights while it is operational, but in case of bankruptcy or liquidation, what remains of its property goes to creditors and to the state; or in case of sale of some of its assets the proceeds from such sales again go to the state (government funds). This brings us to the third interpretation, which suggests that the real owner of the social sector firm in Serbia still today is the state, since all proceeds from sales of social capital go to government institutions, while by definition proceeds from sales of any good go to its owner. The problem here is that not even the state has all property rights over a socially-owned enterprise, since it cannot decide to privatise it partially or fully; indeed, also according to the 1997 law, the decision on ownership transformation has to be taken by the General Assembly of the enterprise, or by a majority vote of the employees.

Therefore, property rights in a socially-owned enterprise in Serbia remain ambiguous, non-individual, divided among three collective agents – employed workers, the enterprise, and the state – where neither of them have full control over the whole bundle. Until social capital is assigned concrete owners, no efficient mechanism of corporate governance can start functioning in these enterprises in Serbia. Therefore the abolishment of social property should be one of the most urgent priorities.

4.2. Mixed sector: dominant insider ownership

The large majority of enterprises privatised so far in Serbia have used the method of sales or give-aways to employed workers and managers. Today, most of these firms are in the mixed property sector since very few firms have been completely privatised. In Serbia, in most of these semi-privatised enterprises, insiders are likely to be the dominant shareholders, since this option was directly encouraged by privatisation legislation. There have been cases of Yugoslav enterprises privatised through employee ownership which have performed rather well in the post-privatisation period (e.g. Galenika, Hemofarma, Metalac; see Uvalic, 1997a). Nevertheless, two groups of problems ought to be mentioned related to such an outcome of privatisation. First, dominant insider ownership may pose specific problems because of the potential conflict of interests arising from the double role of insiders - as wage-earners and as shareholders (see below). Second, the situation in Serbia is complicated further by the fact that in most enterprises in mixed property, some capital still today is social property. This automatically raises all the problems of ambiguous property rights previously stressed for the social sector (see 4.1 above.), and renders corporate governance in such firms much more complex - given that a mixed-ownership enterprise, as already mentioned, is managed by both its shareholders (proportional to invested capital) and employed workers (proportional to social capital).

The theoretical literature at the beginning of the transition suggested that ownership by insiders of newly privatised enterprises in central and eastern Europe will create a number of specific problems, since workers will tend to pay out excessive wages at the expense of investment, maintain above-optimal employment levels, and not undertake the necessary restructuring (see Frydman, Gray, and Rapaczynski, 1996; World Bank, 1996). In line with such views, it was argued that efficient mechanisms of corporate governance would be easier to introduce in case of outside owners – e.g. foreign or domestic investors, or investment funds – than of insiders. These problems were later reformulated by taking into account a number of additional factors (including the distinction between minority and majority insider ownership, between workers and managers, between ownership and control), thus permitting a further specification of conditions under which adverse effects may or may not prevail (see Nuti, 1995; Uvalic, 1995).

An intense theoretical debate has also been in course among Yugoslav economists about the model of insider ownership, recently inspired by Nuti's (1995) hypothesis on employeeism. One

group of economists has been very critical of employee ownership throughout the 1990s, arguing that employee ownership is not compatible with rational economic behaviour, because workers will tend to eat up social capital by distributing excessive wages (see e.g. Madzar 1995, 1996, 1999). Another group has argued, along the lines of the hypotheses proposed by Nuti (1995), that this form of privatisation will result in inefficiency only under certain conditions (Cerovic, 1997), and that insider privatisation can effectively be a desirable policy if it will speed up the entire process of transition (Cerovic, 1999b).

While the theoretical debate in Serbia remains inconclusive, empirical evidence to date from transition economies in many cases has not supported the more pessimistic predictions about employee ownership. The experience from a number of central and east European countries, in which privatisation has indeed led to substantial insider ownership, suggests that firms owned and controlled by employed workers and managers could be, and very often have been, quite efficient (see Uvalic and Vaughan-Whitehead, 1997). Some of the most recent survey evidence even from countries of the former Soviet Union (Belarus, Russia and Ukraine) indicates that whereas outside ownership never leads to greater restructuring, dominant insider ownership sometimes does (Estrin and Wright, 1999). There is therefore evidence from a number of transition economies that managerial and employee ownership will not necessarily have significant adverse effects.

Returning to Serbia, data on profits and losses of the four property sectors for 1998 suggest best performance of fully private enterprises, somewhat worse results of the mixed sector, and worst indicators of the state and social sector (Kovacevic, 2000). This is in line with the findings of some earlier studies from the mid-1990s which have also found that the privatised sector performs better than the socially owned one, but worse than the new private sector (see Cerovic, 1999b). Nevertheless, there are several problems with interpreting such findings. As elsewhere in transition countries, very frequently it was the most profitable enterprises that were among the first to start privatisation, so if these firms today are more profitable, it may simply be because they were also the best firms in the pre-privatisation period. Moreover, many of the 'purely' private firms, also in FR Yugoslavia, have been created using assets and managerial skills of previous social sector firms, so if today they have better performance indicators than the non-private or partially privatised firms, it may again be because they have absorbed the best resources at the very beginning of the transition. For these reasons, in Serbia as in other transition countries, it is impossible to draw any definite conclusions. Only more empirical evidence will be able to give further answers to certain key questions regarding the impact of employee ownership on corporate governance and efficiency.

4.3. State sector: re-nationalisation

Regarding problems of the state sector, many influential economists in Serbia have sustained that corporate governance has deteriorated in those firms that have been 're-nationalised', namely where all or parts of capital has been transformed from social into state property (e.g. see Kovac, 1996). These firms were once run relatively independently by workers and managers, as envisaged by the system of self-management, while today they are supervised and controlled directly by the government and its ministries. Despite all the negative features of the system of self-management, these changes towards the creation of a state sector have been evaluated as a step backwards, towards governance mechanisms which had been abandoned more than half a century ago (Cerovic, 2000). Serbia has deliberately postponed privatisation of the largest part of the state sector, and is addressing the problem only today (in 2001).

5. Corporate governance in Serbia: some empirical evidence

As suggested in the previous section, the situation regarding corporate governance in the larger part of the Serbian economy is likely to be even more complex than in other transition countries, due to both the slowness of the privatisation process and features inherited from the self-

management system. In order to get a better insight into the type of corporate governance problems prevailing in Serbia firms, a few case studies have been undertaken in the autumn of 2001. Four enterprises have been visited, all located in Belgrade. Three enterprises have been privatised in various phases of the privatisation process, while the fourth firm is a big state-owned enterprise. Interviews were conducted with the director, the manager, or other senior official. For privacy reasons, we will refer to these enterprises as firm A, B, C and D.

Firm A

Background: Firm A is a well-going enterprise active in both trade and production. For many years before the break-up of former Yugoslavia, it was the Yugoslav representative of the major European pharmaceutical companies and had its affiliations all over the country. Today it operates in both trading (imports and distribution of chemical and pharmaceutical products) and in production (of flexible wrapping material for the food, chemical and pharmaceutical industry). It is a shareholding company with a capital worth almost DM 13 million (at the end of 2000), and its shares are traded on the Belgrade stock exchange. It has offices in Budapest and Banja Luka. From 600 employees in 1992, it had to reduce its labour force to the present 240 employees, who are equally distributed between the trade and production section.

Privatisation: The enterprise was privatised in the early 1990s, according to the provisions of the 1989-90 Markovic privatisation law. Most shares were bought by insiders, workers and managers, who are still today the dominant group controlling the firm (though with a minority package). On that occasion, more than 50% of its capital was privatised, but the 1994 revaluation procedure decreased the amount to only 0,9%. The workers-shareholders complained to the court and a revision of the revaluation procedure was undertaken, resulting in a tenfold increase of private capital - to 9,7% - which, however, was still much less than the originally obtained 50%. General disappointment on the part of employees therefore prevailed and not surprisingly, when the 1997 Serbian law was out, no worker initially wanted enterprise shares but had to be persuaded by the firm’s management. Because of limited interest for buying shares on the part of insiders, the management persuaded daughter companies to buy shares in the name of workers (offering also a special bonus of DM 100 per head). In the first round, around 60% of capital was distributed free, but there were also a number of outsiders who became shareholders (e.g. former army officials). In the second round, less than 20% of the remaining capital was sold, of which only a small percentage was paid for entirely. The due instalments are not being paid regularly, revalorization procedures are being implemented and share value is increasing, and shareholders do not seem motivated to continue repaying subscribed shares. Since then, another 2% of shares have been sold, of which 1,6% was bought by the management of the company. Today there are 2,500 shareholders, including the present 240 employees. The overall results of the 1997 law was that 9,7% was inherited from the 1990 round of privatisation, 54% of shares were distributed free of charge, 1,1% of shares was subscribed and fully paid for while another 18,1% subscribed but not yet paid, 9,3% has been transferred to the Pensions Fund and 8,7% is soon to be transferred to the Shareholding Fund. Insiders, including former employees, own around 20% of the shares, but this minority package seems to be sufficient to control the firm since the remaining shares are dispersed mainly among individual outside shareholders. Dividends are paid once a year and have been around 3% of the value of shares. A major problem still not resolved is the question of restitution of property by ex-affiliations located in other Yugoslav republics.

Corporate governance: The management board of the firm has 9 members, of which 4 are outsiders, 3 are from the top management and 2 are workers’ representatives. The general assembly is convened once a year, the remaining social capital continues to represent workers’ interests, but a worker can transfer his voting rights to someone else (which seems a frequent practice). Most

decisions, however, are taken by the general director. According to the statement of the assistant general director, the firm still today does not have clear owners, the remaining social capital continues to be an obstacle to establishing transparent property relations, and these problems are a strong impediment for introducing more efficient governance of the firm.

Firm B

Background: Firm B is a successful engineering firm, working on both hardware and software. At the beginning of 2001, it was registered as a shareholding company. It is considered a rather large company according to realised profits. The general director had worked in the company for over 25 years, in the function of its director during the last10 years.

Privatisation: Privatisation of the firm was first undertaken according to the provisions of the Markovic law in 1990, when 73% of capital was privatised, mainly to insiders. The 1994 revaluation procedure, as elsewhere, decreased the value of private capital to a minimum, after which the most highly qualified employees, primarily engineers, left the company to go abroad (mainly to Canada). Thereafter, a renewal of the workforce took place, so today most of the employed workers are very young (all under thirty). Among the hundred workers presently employed, 90 are shareholders of their firm and only ten are not (but only because they have joined the firm less than a year ago). However, there are another 370 external shareholders, among which the most numerous category are retired former army officials followed by farmers (who also had the right to receive shares worth DM 400 for each year of employment). Of the total value of capital, 28% is owned by the Privatisation Agency, 10% by the Pensions Fund, while the remaining 62% is in the hands of the firm’s 460 shareholders (370 outsiders and 90 insiders).

Corporate governance: It is the general director who manages the firm and takes the most important decisions, including the nomination of members of the management board, which according to the director “must” represent the interests of all employees. The general assembly ought to meet once a year, though this has not been the actual practice and the last time it was convened was more than two years ago. Although the general assembly does have all the voting rights, it has no access to information, which the director seems to be taking advantage of through highly non-transparent policies. Because of the large number of external shareholders, the director has found a number of ways to retain as much money as possible within the firm – through investment in new equipment or in training of personnel. Instead of declaring profits in the balance sheets, the director prefers to give his employees bonuses or to postpone cashing in payments due from regular customers. There is a clear preference to award employees through all sorts of fringe benefits, including specialisation courses in the US, than to pay out dividends to external shareholders. So although insiders are the minority owners, together with their director they definitely do seem to control the firm’s policies. Dividends have been paid only every third year (which seems to be the legal minimum in case of declared profits), in order to prevent money going outside to individuals who, according to the director, “have not contributed in any way whatsoever to the success of the firm”. Since the director is strongly determined to keep control over the firm, towards which he has a rather paternalistic attitude, he will try to bargain with the external shareholders to sell some shares they possess.

Firm C

Background: Firm C is one of the major producers of buses and trucks in Serbia. Its main customer in the past was the army, for which it used to produce buses, trucks and military vehicles, while today it is the municipality of Belgrade for which it mainly produces buses. The firm’s potential

production is around 1,000 buses, but presently it only produces around 200-300, due to lack of demand. It is a highly indebted firm, with creditors from various countries (including Cuba).

Privatisation: The firm first started privatisation according to the 1990 Federal privatisation law, but in 1994 had to implement the revaluation of assets as envisaged by the revaluation law, which reduced the portion of private capital to only 1,5%. Although the 1997 privatisation law did not offer major incentives, the management nevertheless decided to again enter privatisation according to the new provisions. In 1997, 60% of its capital was distributed freely or subscribed by some 2,604 shareholders, of which 1,050 were employed workers, while the rest was split between pensioners (former workers of the firm) and other individuals with no links with the firm. In the second round of share offers, very little capital was subscribed. The final outcome was that 65% of capital is owned by its shareholders, 10% has been transferred to the Pensions Fund and the remaining 25% has been transferred to the Shareholding Fund.

Corporate governance: There are some 40 members of the shareholders assembly, who are authorised to represent all 2,604 shareholders. In October 2000, following the elections in Yugoslavia which brought an end to the Milosevic regime, there was a major crisis in the firm. The Belgrade city authorities broke the contract that had previously been concluded with the firm, and its renewal was conditional on change in the management board. The director immediately called a general meeting and got full support by the entire workforce. The president of the management board had to resign, but the other members were again re-elected. There are 11 members of the management board, of which 6 are both the firm's employees and shareholders. At the general assembly, shareholders have voting rights proportional to the part of fully paid shares (though it is not clear how this is actually calculated and implemented in practice).

Firm D

Background: Firm D is one of the largest state-owned companies in Serbia, with around 5,000 employees, covering various activities in the energy sector. It has its affiliations in several Serbian cities. Being of strategic importance for the Yugoslav economy, it has always been under the direct control of political authorities. It is a highly indebted firm (having important creditors also in Russia and China). Unsatisfactory economic performance in terms of main economic indicators is mainly due to the official policy of the government of imposing price controls, namely low prices on energy and energy products, in this way subsidising both the population and the economy at the expense of the firm.

Privatisation: The firm also decided to start privatisation according to the Markovic law in 1990, but the decision was immediately cancelled by a government decree. Although the management had also prepared a detailed plan of restructuring, both processes were immediately stopped by the then prime minister, when it was decided that certain strategic companies would not be privatised. From a social property enterprise, it was thus transformed for a very short period into a privatising firm, and then, in June 1991, into a state-owned company. Having worked in an enterprise that has been excluded from privatisation, the company's employees have so far not received any shares and thus have in no way benefited from privatisation, which one of the firm's top managers considered highly unfair. For the moment, there are no plans to privatise the firm, also because it first has to resolve the problem of huge debt, where debt-for-equity swaps will probably be offered to the main creditors.

Governance: Since the opposition won the elections in October 2000, the firm has been facing particular problems of governance. As in most other firms of strategic importance, the management board was immediately dismissed but new permanent members have not yet been appointed.

Officially, it is the Serbian Ministry for Energy that is responsible for nominating the new management board, but this has not yet been done – almost a year later – due to disagreements and quarrels within the ruling coalition DOS (Democratic Opposition of Serbia) regarding who should be appointed. In the management board, employed workers have always been represented: in recent years, out of 12 members, usually 4 were from the workers' collective, while 8 were nominated by the political authorities.

These four case studies of Serbian enterprises supplement our earlier analysis, allowing some tentative conclusions regarding corporate governance in Serbia.

- First, because of path-dependency and only very gradual changes in the property structure of Serbian firms, many characteristics of the previous system are not only still clearly visible, but in certain cases even dominant. Not having abolished social property and not having radically revised company law, labour law and other important legislation, the fifty years of self-management and socialism have left such deep traces that decision-making practices and working habits seem to have changed little.

- Second, there is no clear link between ownership form and mechanisms of corporate governance, probably due to the fact that the privatisation process is only in its initial phase. If we exclude the fully private sector, privatisation so far has not had any fundamental impact on corporate governance. Good social sector enterprises have become good shareholding companies, while bad social sector enterprises have continued to have problems also after privatisation.

- Third, unsatisfactory systems of corporate governance seem very frequently to be a reflection of the arbitrary way in which laws are being implemented, or are not even being respected. This suggests there is an urgent need to adopt laws which would impose much stricter rules of business conduct in practically all fields, including harsh penalties for their non-respect. Absence of any control over policies of the enterprise other than the financial aspects, undertaken by the financial police, may prove to be a serious problem for corporate governance in the medium term, with much wider negative implications.

- Fourth, no clear patterns are yet emerging regarding prevailing systems of corporate governance. On the one hand, there is obviously no trace of the anglo-saxon model of corporate governance, since capital markets are highly underdeveloped and the stock exchange is one of the smallest among all transition economies. On the other hand, banks are in many cases the major institutional owners of firms, but do not exercise any influence over firm policies as they are themselves undercapitalised and need to be restructured and privatised. Small external shareholders have even less influence over the firm, as they are usually not organised, are not protected by existing laws, and frequently are also unaware of their rights. Foreign owners have for the moment played a marginal role, as little has been invested so far in the Serbian economy. Finally, in most cases insiders, with their double role of employees and shareholders, seem to be the main group controlling the firm, even with a minority share (e.g. of 20-30%).

- Finally, there are also more general problems of corporate governance in Serbia which derive from the slowness of the process of transition. Due to the incompleteness of the reform process, a cluster of institutions typical of a market economy are still not in place, thus impeding the activation of effective mechanisms of corporate governance. These include well functioning stock exchanges and developed capital markets, a competitive market for managers, laws protecting small shareholders or assuring transparency in share dealings. Financial markets remain very weak, banking reforms are only starting, while the virtual non-existence of a stock

exchange impedes the valuation of enterprises. The only important institutional owners are the over-indebted banks and state-owned undercapitalised government funds. All these problems are very much present in Serbia, since the transition (and privatisation) have, until recently, been delayed.

6. Concluding remarks

Privatisation has been proceeding at an extremely slow pace in Serbia throughout the 1990s. The low share of the private sector in output today – less than 40% - clearly confirms that the process is at the very beginning. Among the factors that have directly contributed to such an outcome is the non-obligatory nature of privatisation; very low purchasing power of the population and limited number of potential domestic investors, both due to the severe economic crisis which has progressively worsened throughout the 1990s; extremely limited inflow of FDI due to the overall unfavourable political and economic conditions; frequent changes in the legislation which instead of the intended speeding up of privatisation have accomplished just the contrary. Moreover, until recently, other accompanying reforms which are also important for corporate governance have been postponed (banking and financial reforms, legal and fiscal reforms, etc.). Consequently, efficient corporate governance mechanisms are yet to be activated in the large majority of enterprises throughout the country.

Privatisation has finally become a top priority of the new Serbian government, following the radical political changes in October 2000, though the main method chosen – commercial sales to strategic partners - may not actually facilitate quick privatisation (Uvalic, 2001). Given the extremely poor state of the Yugoslav economy today, there are a number of other crucial areas which must not be neglected. These include labour redeployment - finding ways to create jobs for at least part of the large portion of the labour force which today is effectively unemployed, restructuring the major loss-making enterprises, reforms and re-capitalisation of the banking sector, substantial downsizing of the state sector (public administration, police, army) in order to render public governance more efficient, radical legal and fiscal reforms, anti-corruption measures, strict implementation of the rule of law – all of which are just as important as privatisation.[1] Some of these reforms are already well on their way after the new course taken by the Serbian government in early 2001. With further progress of reforms in course, more efficient systems of corporate governance are bound to gradually develop, as part of the general benefits to be expected from the transition to a market economy and from the return to normality of a country that has remained isolated from the rest of the world for a whole decade.

[1]Many transition economies which have implemented privatisation fairly quickly are still today burdened by some of the mentioned problems precisely because they were totally neglected, or their importance underestimated, in the early years of transition.

APPENDIX

Table 1. Privatisation legislation in Serbia/FR Yugoslavia

Law & Year of Adoption	*Main methods*	*Main beneficiaries & specific conditions*
FEDERAL	**LEGISLATION**	
Federal Law on Social Capital (SFR Yugoslavia) – Dec. 1989, amended in Aug. 1990	Sales to insiders (citizens and pension funds) at highly privileged terms	Enterprise workers (present and former) Discounts: 30-70% Repayment period: 10 years
Federal Law on Property Transformation of Social Capital (FR Yugoslavia) – May 1996	General framework law confirming the non-obligatory nature of privatisation	No specific provisions
SERBIAN	**LEGISLATION**	
Law on Transforming Social into other Forms of Property – August 1991	Sales to insiders at privileged terms	Enterprise workers (present and former) Discounts: 20-60% Repayment period: 5 years
Capital Revaluation Law – August 1994, amended twice	*Ex post* revaluation of already privatised capital	Obligatory for all previously partially or fully privatised enterprises
Law on Ownership Transformation – 1997	-Autonomous (free distribution & sales) -According to a special programme -With approval of founder	Workers (present & former) and farmers Free distribution of an equivalent to DM 400 for each year of employment per person, up to 60% of capital; Sales at a 20-60% discount & repayment period of 6 years, up to the equivalent of DM 6,000 per person
Privatisation law – March 2001	Sales to strategic investors and autonomous privatisation, through tenders & auctions and some (limited) give-aways to insiders (maximum 30%)	Strategic investors. Equivalent of DM 400 for each year of employment per person freely distributed to workers and citizens, but only up to 15% of capital in case of public tenders and up to 30% of capital in case of public auctions.

Source: Compiled by the author on the basis of various sources.

Table 2.Privatisation results in Serbia in the first half of the 1990s

SERBIA	*Federal Law*		*Serbian Law*				*TOTAL*
	Aug.-Dec. 1990	**Jan.-Aug. 1991**	**Aug.-Dec. 1991**	**Jan. - Dec. 1992**	**Jan. – Dec. 1993**	**Jan.-April 1994**	**Aug. 1990-April 1994**
1.Transformed enterprises – Total	169	1051	34	139	469	46	1904
- Central Serbia	63	617	19	76	255	21	1051
- Voivodina	106	431	15	59	200	23	834
- Kosovo	0	3	0	4	10	2	19
As % of all firms *		33.17				27.8	***60.97***
2.Repeated transformations**							253
3.Transformations still in progress							921
TOTAL (1+2+3)							2572
As % of all firms*							***69.93***

*Enterprises in the social sector.
**Enterprises transformed according to the federal law, which because of irregularities had to repeat transformation according to the Serbian law. These repeated transformations must be deducted from the total as they appear twice.
Source: Uvalic (1997), p. 285, 288, 289, based on Zec et al. (1994).

Table 3. Implementation of the 1997 Serbian Privatisation Law, Dec. 1999 and Nov. 2000

	Number	**In % of total eligible for privatisation**
Total number of non-private firms	8,750	-
Firms eligible for privatisation	7,000	100
Firms which have completed capital valuation	2,218	31.7
Firms which have started the first privatisation round	344 (412)*	4.9 (5.9)*
Firms which have started the second privatisation round	202	2.9
Total number of enterprise employees	105,379	-
Total number of shareholders	139,180	-

*The second figure refers to the situation on November 20, 2000 when the law was suspended.
Source: Ministry of Economy and Ownership Transformation - Capital Assessment Office, as reported in Federal Ministry of Development, Science and Environment (2000), p. 48, and Ministry of Economy and Privatisation, Capital Assessment Office.

Table 4. Some indicators on different property sectors (firms, employees, fixed assets, revenue) in FR Yugoslavia, end 1998

Indicator & Property Type	**Number of firms**	**In % of total**	**Number of employees**	**In % of total**	**Fixed assets (mln of dinars)**	**In % of total**	**Revenue (mln of dinars)**	**In % of total**
Total	81,821	100	1,625,939	100	279,627	100	326,737	100
Social	9,515	11.6	783,580	48.2	153,667	55.0	110,728	33.9
Private	62,219	76.0	238,136	14.6	17,313	6.1	114,977	35.2
Coop	2,530	3.1	26,235	1.6	2,727	0.9	5,457	1.7
Mixed	7,215	8.8	554,910	34.1	98,023	35.1	92,603	28.3
State	342	0.4	23,078	1.4	7,898	2.8	2,973	0.9

Source: Data of the Federal Statistical Office and own calculations, Savezni zavod za statistiku, “Drustveni proizvod i narodni dohodak 1998.”, ***Statisticki Bilten*** no. 2259, Belgrade, p. 28.

Table 5. Contribution of various property sectors to Social Product in FR Yugoslavia, Serbia and Montenegro, 1988-98

		FR Yugoslavia		Serbia		Montenegro	
		SP (in million of 1994 dinars)	In % of total	SP (in million of 1994 dinars)	In % of total	SP (in million of 1994 dinars)	In % of total
Total SP	**1988**	49,189	100	46,583	100	2,607	100
Social sector		43,838	89.1	41,477	89.0	2,362	90.6
Private sector		5,351	**10.9**	5,106	**11.0**	245	**9.4**
Total SP	**1992**	29,226	100	27,641	100	1,585	100
Social sector		22,804	78.0	21,574	78.1	1,230	77.6
Private sector		6,422	**22.0**	6,067	**21.9**	355	**22.4**
Total SP	**1998**	25,652	100	23,993	100	1,660	100
Social sector		16,201	63.2	15,096	62.9	1,106	66.6
Private sector		9,451	**36.8**	8,897	**37.1**	554	**33.4**

Note: Social sector includes all non-privatised sectors (social, mixed, state and co-operative).
Source: Data of the Federal Statistical Office and own calculations, Savezni zavod za statistiku, "Drustveni proizvod i narodni dohodak 1998.", ***Statisticki Bilten*** no. 2259, Belgrade, p. 11.

Table 6. Contribution of various property sectors to Social Product in Yugoslavia, end 1998

	Social Product (in millions of current dinars)	In % of total
FR Yugoslavia	127,188.7	100.0
Private sector	47,957.1	37.70
Social sector	39,934.5	31.40
Mixed sector	35,860.4	28.20
State sector	2,226.4	1.75
Co-operative sector	1,210.0	0.95

Source: Data of the Federal Statistical Office and own calculations, Savezni zavod za statistiku, "Drustveni proizvod i narodni dohodak 1998.", ***Statisticki Bilten*** no. 2259, Belgrade.

Table 7. Distribution of capital among the different property sectors in FR Yugoslavia, end 1997 (in %)

Sector	**Capital**
Social sector	47
Private sector	6
Privatised sector	9
State sector	38
Total	100

Source: Cerovic (2000) p. 4, based on official statistics (Federal Office of Statistics).

Table 8. Enterprises, organisations, institutions and associations in FR Yugoslavia, Serbia and Montenegro, by sector of ownership, as of 31 March 2001

	FR Yugoslavia		Serbia		Montenegro	
	Number	**In %**	**Number**	**In %**	**Number**	**In %**
Total	208,776	100	189,962	100	18,814	100
Private	165,894	79.5	152,096	80.1	13,798	73.3
Social	5,870	2.8	5,236	2.7	634	3.4
Mixed	3,076	1.5	2,597	1.4	479	2.6
Cooperative	4,028	1.9	3,746	2.0	282	1.5
Not stated	29,908	14.3	26,287	13.8	3,621	19.2

Note: The figures include enterprises in all four sectors (state, social, private and mixed), enterprises for employing handicapped persons, shareholding companies and limited liability companies, farmers registered as legal entities, cooperatives, government organisations, business associations, judiciary institutions, social and political organisations, citizens associations and other organisations.
Source: Data of the Federal Statistical Office and own calculations, Savezni zavod za statistiku, "Saopstenja", no. 062, 4 March 2001, pp. 2-4.

Table 9. Private sector: number of proprietors and workers, 1996-98

	1996		1997		1998	
	Proprietors	**Workers**	**Proprietors**	**Workers**	**Proprietors**	**Workers**
FRY (total)	157,625	62,393	155,778	67,979	156,636	73,612
Serbia	151,752	59,871	149,686	65,646	150,541	71,577
Montenegro	5,873	2,522	6,092	2,333	6,095	2,035

Source: Savezni Zavod za Statistiku, "Drustveni proizvod i narodni dohodak 1998", Statisticki Bilten no. 2259, Beograd, 2000, p. 24.

Table 10. Inward Foreign Direct Investment in FR Yugoslavia (mln US$)

	Stock (mln US$)	**Per head (US$)**	**In % of GDP**
FR Yugoslavia	1,438	135	16.7
Eastern Europe total	148,697	358	19.8
Share of FRY in total	0.97	-	-

Source: Kekic (2001), based on estimates of the Economist Intelligence Unit.

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