

**Privatization and industrial restructuring in Algeria: an unachieved process.**

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**ملخص**

إن عملية الانتقال إلى اقتصاد السوق تركز على برنامج تحول اقتصادي يشكل فيه الطابع الهيكلي مكانة أساسية على اعتبار أنه المؤشر الأساسي لتكوين اقتصاد تنافسي وأين تتطلب ميكانيزمات السوق عامل الفعالية. وعملية الانتقال إلى اقتصاد السوق في الجزائر بالرغم من أنها من الناحية التاريخية انطلقت مع تطبيق قانون استقلالية المؤسسات إلا أنه من الناحية العملية تجسد فعليا من خلال برنامج التعديل الهيكلي لسنة 1994 والذي شكل فيم بعد النواة الأساسية لمختلف السياسات الاقتصادية التي طبقت سواء على مستوى الاقتصاد الكلي أو على مستوى الاقتصاد الجزئي (المؤسسة).

**Introduction.**

The transition process towards market economy rests on an economic transformation program in which structural reforms aim at laying the basis of a truly competitive economy whereby market mechanisms can ensure the workability of the constraints of efficiency.

The initiation of the Algerian process towards market economy that started in 1988 with the Law on the autonomy of enterprises, became effective only in 1994 with the implementation of the PAS (the structural adjustment program).

The year 1998 marked the end of the PAS. Such a program represented the matrix from which originated the policies of stabilization and the restructuring policies both of which focussed on the objective of the return of growth.

At the macro economic level the assessment of the results remains mitigated. The incidence of the deepening of external shocks on internal equilibrium conveys the risk of further increasing a vulnerability that the domestic economy has already displayed after 3 years of a brutal adjustment process implementation. The weakness of the national economy with a too great a dependence vis-à-vis oil exports (a key adjustment variable), increases the legitimate fear of the worsening of the overall economic situation if the extreme constraints are to prevail any further.

So far the stabilization policy allowed a somehow precarious re establishment of the global financial equilibrium (reduction of the deficits of the balance of payments and of the inflation budget). Such results were achieved mainly through a drastic reduction of the domestic demand and the increase in the rate of unemployment.

So far the process of firms restructuring revolved mainly around the mere dissolution of enterprises and firm "subsidiarisation" ("filiarisation"). Privatization, which is still at its starting intention, has been mainly equated with the dismantling of the national productive system.

At the economic policy level, the concern is about the management of a transition from a macro economic level to a micro economic level in order to break the duality that still characterizes the real and monetary spheres so as to introduce the coherence between the two levels of regulation.

The restructuring of the public economic sector in Algeria is based on 2 main objectives:

To transform the public enterprise into a "firm": i.e. an economic structure subject to the sole challenge of efficiency and profitability.

To increase the share of the private sector into the formation of national product.



Our methodology is focussed on 2 issues:

An assessment of the first results of the policy of Public Holdings.

An assessment of the legal and institutional framework that has been devised to conduct the process of privatization.

As far as the legal aspect of privatization is concerned our attention will be focussed on 2 main texts:

The Ordinance N° 95.25 of 25th February 1995 related to the management of State merchant capitals.

The complementary ordinances concerning the privatization of public enterprises: that of 26th August 1995 (N° 95.22) and of 19th March 1997 (N°97.12).

It is worth noticing that the process of privatization has been progressively put into place since 1994.

### **I. Assessment of the first results of Public Holdings.**

Let us first assess the genesis, the form and the objectives of Holdings in comparison to the previous prevailing form of organization that was that of Participation Funds.

#### **1.1. Genesis of Public Holdings.**

The Ordinances N°95.25 of 25th February and September 19th related to the management of state merchant capitals defined the concept of Public Holdings as well as their mission. Their status is basically that of modern firms.

The implementation of such Holdings became effective in mid 1996.

As stated before, such a new mode of organization of the public sector succeeded to that prevailing with the Participation Funds which were dissolved in December 1996.

The main reasons attached to such an organizational change away from the Participation Fund policy are to do with a

reassessment of the status of the public sector in general and the role of enterprise in particular.

The change of policy away from Participation Funds was mainly due to the fact that the latter appeared mainly as mere state fiduciary agents and not as owners endowed with effective decisional powers.

### **1.2 The new configuration.**

The state National Council Participation Fund (CNPE), as defined by the Decree N° 95.404, led to the regrouping of the public economic enterprises into 11 national Public Holdings. The constitution of many Holdings were conducted according to the branch logic. This was particularly the case of “mechanics”, “steel industry”, “mining”, or “electronics – electrical – computer industry”.

Such a form of organization was not definitive. Thus, and on the basis of article N° 12 of Law 95.25, the CNPE decided to go further into the process of enterprise aggregation. During June 2000 it decided the fusion of 5 larger holdings headed by a unique head manager (DGU).

Other holdings were on the contrary devised on a different logic altogether. This was particularly the case of the regrouping of previously scattered enterprises such as Transportation, Distribution, Editing, Tourism, etc. into a new Public Holding called “Services”.

Specific was also the case of the creation of the “Agro basic food” Holding set in accordance with the preservation of the nutritional diet of the population.

The ongoing strategy led also to the creation of 5 regional public holdings to tackle the specific problems attached to the management of the local public enterprises into new firms owned and managed by their own wage earners.



Up to day about 1,800 groupings of wage earners organized under the form of limited companies or stock companies have been formed. After an experience that lasted over 2 years none of them have so far been operational. Motives of pure speculation and the refusal to maintain the same economic activity of the reformed enterprises account for the overall result.

### **1.3 Specificity of Public Holdings**

#### **1.3.1. The legal standpoint.**

Compared to the ex Participation Funds, Public Holdings:

- . Hold 100% of the social capital of public enterprises.
- . Are endowed with the full powers which are those of a standard firm owner, i.e. powers that enable them to proceed to whatever necessary industrial restructuring.

#### **1.3.2. The practical standpoint.**

As far as their program of action is concerned, these Holdings are accountable before the CNPE. The validation of their policy is thus required. On average the CNPE holds meetings every fortnight (during the time of Participation Funds such meetings were held only once a year).

### **1.4. The objectives of Public Holdings.**

Generally speaking such objectives are the pursuit of the economic development of enterprises and industrial restructuring.

Given the constraints experienced by the Participation Funds on the one hand, and the persistence of economic recession on the other, the first objective assigned to Public Holdings was mainly focussed on the re starting of economic growth and a better use of existing industrial capacity.

The exploitation of comparative and competitive advantages on external markets remains also a permanent concern attached to the mission of such Holdings.

The immediate objective of Public Holdings remains of course bound with the level of profitability necessary to sustain the development of existing enterprises.

### **1.5. Assessment of the first experience of Public Holdings.**

Beyond the progress made at the legal framework level (consecration of the merchant aspect of state capitals and the full use of the status of private property), as well as at the economic aspect (their configuration along more economic rather than purely financial criteria, their submission to the necessity to enhancing the industrial promotion of "subsidiarisation"), the real outcome of the experience remains rather mitigated.

The sole progress made by the policy of PH seems more with the initiation of the restructuring process and the sole partial privatization achieved.

Though obviously unpopular amongst workers (the loss of jobs is evaluated at about 150,000) industrial restructuring can be said to have saved thousands of jobs. Partial privatization can also be said to have kept afloat many enterprises which otherwise would have been sacrificed thanks to the policy of PH. The economic achievements remain however insufficient because of a lack of sufficient accompanying measures at the macro level as well as because of the mode of organization of PH themselves.

At the macro economic level lack of a clear cut overall industrial policy has left PH in the incapacity to promote the appropriate policy of subsidiarisation susceptible to help transform comparative advantages into effective competitive ones. This particular point raises the proper question of the privatization of public enterprises.



## II. Assessment of the legal and institutional framework underlying the policy of privatization.

Privatization program tries to achieve simultaneous objectives:

To increase the size of the private sector in the economy.

To use it as a privileged tool in the process of industrial restructuring and as means of improvement of local economic enterprises through partnership so as to alleviate the technological, financial and market constraints.

To mobilize supplementary resources through attractive measures in the reduction of foreign capital so as to alleviate the burden of foreign debt (swap debt equity).

To privilege it as a mean of preservation of employment via workers concessions contracts.

From a strictly legal standpoint privatization concerns the transfer of state enterprises into physical and moral entities governed by private law.

Ordinance 95.25 determines the sectors concerned by privatization without however naming any particular or specific enterprise.

To a great extent the type of selection of buyers determines the type of privatization to be followed.

Traditionally speaking, we differentiate the methods of privatization depending on whether a transfer of property is involved or not. Algerian policy makers have opted for four types of privatization.

The first mode of privatization is that defined by Law N° 95-25 and which gives the prerogatives of the decision to the Council of Privatization.

The second form of privatization is that defined by Law N° 95-25 and which gives the prerogatives of the decision to PH according to the rules of current commercial rules.

The third channel of privatization is that defined by Instructions N° 2 dated September 1987 and that of May 1998 issued by the government and which set the conditions of sale of public enterprises assets to the workers. Such a procedure is managed by PH.

The fourth channel of privatization is that of 1995 November Instruction of the Ministry of Interior which gives the prerogatives of the decision to the supervision of the Local Council of Privatization. The scope of the instruction concerns mainly the assets of local collectivities.

The over abundance of texts without clarification as to their scope of intervention has led to the problem of multiplication of intervening parties in the definition and the setting up of privatization programs. The insufficient delimitation of the commission of control prerogatives remains also another serious drawback of these reforms.

The entanglement of texts has led to an overlapping of prerogatives between the PC and PH:

- . Heaviness in the evaluation procedures and lack of experience.
- . Absence of a clear-cut delimitation of the activities to be privatized (confusion of the texts).

. A resolution has been adopted by the CNPE in December 1997 fixing the conditions of total privatization accruing to the Council of Privatization, and only partial privatization accruing to PH.

Two examples illustrate the abundance of texts dealing with privatization.

**Example 1.** The 20% capital increase of Setif ERIAD enterprise through the procedure of a public stock emission has not been foreseen by Law N° 95-22 as a mode of privatization through financial capital.



**Example 2.** The opening up of SAIDAL enterprise capital and AURASSI Hotel capital was a decision taken by the PC while in actual fact it should have been a prerogative of the sole CNPE initiative.

As far as law is concerned there is indeed a lot of confusion prevailing in the conception and management of the policy of privatization. The exclusion of so called "strategic" sectors from the scope of privatization is by far an indication of a serious default in the conception of Algeria's policy of liberalization.

### **Conclusion.**

The confusing prevailing at the legal level and the imprecision of the legal dispositions are transforming privatization into an opaque operation, which seems bound to fail.

The constitution of Holdings as a mean of achieving privatization suffers from a major drawback: a serious lack of conception in the elaboration of both an economic strategy in general and an industrial policy in particular.

The present phase shows mitigated signs of progress and delays. The need for a more appropriate legislation to give more autonomy to the EPE/SPA in relation to Public Holdings, appears more and more as the necessity of today.

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Tableau n° 01, Dispositif juridico – institutionnel actuel du processus de privatisation.