GOVERNMENT AND PUBLIC ENTERPRISE DEBT, PARTICULARISED ON THE PRIVATIZATIONS MADE IN ROMANIA

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Abstract:
The problem of public and enterprise debt is closely correlated with the financial health of a state. The current economic crisis was heralded by the fall of the communism in 1989, when the people who possessed important functions in the leadership of the state, began to make fraudulent privatizations in their personal interest, conducting to serious prejudice to the state budget.
Such damage is reflected on the deepening of the public debt and budgetary deficit, but also among the individual that are supporting the anti-crisis measures that were taken.

Key words: *public debt, enterprise debt, privatization.*

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1. THEORETHICAL APROACHES OF THE GOVERNMENT AND PUBLIC ENTERPRISE DEBT

The Government Finance Statistics is similar to that of business accounting where the profit, the loss accounts and the balance sheet are presented together; this statistics show the economic activities of government, in a linked manner, including the government revenue, expenditure, deficit, transactions in assets and in liabilities, balance sheets and other economic flows.

According to ESA 95, they are defining four important terms[1]:

,,*Debt assumption* is a trilateral agreement between a creditor, a former debtor and a new debtor, under which the new debtor assumes the former debtor's outstanding liability to the creditor. The new debtor takes the place of the former one vis-à-vis the creditor, and is liable for repayment of the debt. After it has been assumed, the debt, which was originally a liability of the former debtor, becomes a liability of the new one."

In this case the debt of the former debtor is guaranteed by the new debtor, only if there is a substitution of debtor, whatever the recordings of the bookkeeping transactions, or a substitution of one kind of liability for another, of the same amount.

,,*Debt cancellation* is a bilateral agreement between a creditor and a debtor to cancel or to forgive part or all of a liability outstanding, the debt, incurred by the debtor to the creditor."

,,*Write-off* there is write-off when a creditor recognizes that a claim can no longer be collected, mainly because of bankruptcy of the debtor. The creditor removes the claim from the asset side of his balance sheet."

,,*Debt repudiation*: this is a unilateral cancellation of a liability by a debtor."

[1] ESA 95, "Manual of government deficit and debt", Part II.4: Relations between the government and public enterprises, page 74-95.

The counterpart transaction of debt assumption/cancellation agreement is a capital transfer. When the government assumes a debt of a public enterprise or cancels a debt of a public enterprise this will have an impact on net lending/borrowing of general government. If the public enterprise still exists after the debt assumption or debt cancellation, can be interpreted as a mutual agreement.

Thus, this rule had three exceptions.

The first one is the public enterprise as a quasi-corporation. In this case the general government does not rise the problem of recording a capital transfer. The counterpart transaction has to be recorded as a financial transaction, meaning a transaction in shares and other equity.

Secondly, the assumption or cancellation of debt is preceding the privatization of a public enterprise, to be achieved in a short-term perspective the counterpart transaction is not a capital transfer, but a transaction in shares and other equity.

The process of privatization means giving up control over that public enterprise by the disposal of shares and other equity to private enterprises or to the population.

If the privatization plan will not occur in the short-term, in this case, the simple existence of a privatization plan is not sufficient for considering the debt assumption/cancellation “as part of an ongoing process of privatization to be achieved in a short-term perspective”.

Thirdly, the only case liable to give rise to a write-off by general government of claims against a public enterprise is when the debt cancellation is preceded by the liquidation of the enterprise, from an economic point of view, and if the enterprise continues formally to exist, it should be considered as liquidated if it has lost its financial substance and its main economic function. The write-off of bad debt is recorded as any other change in volume of assets. If the public enterprise disappears after the write-off, this can not be considered as a transaction.

The rationale of treatment

When the government is assuming or canceling a debt of a public enterprise, the government is transferring to the enterprise, not income, but a part of its own wealth and the capital transfer or any other change in the volume of assets has to be recorded. This rule consists in the existence of mutual agreement between parties.

The exception made for quasi-corporations is based on the fact that a quasi-corporation is an accounting device: it is not a full institutional unit, especially from the point of view of assets and liabilities, even if it is considered as such in the system of accounts. There is unity of wealth between a quasi-corporation and its owner. So, there cannot be a transfer of wealth between a quasi-corporation and its owner. This results in the convention that the net worth of a quasi-corporation is always equal to zero. As a consequence, every transfer of assets between a quasi-corporation and its owner is reflected in the value of its equity.

This perspective is of a conventional nature, in the case of privatization of a public enterprise, the rationale is quite the same as in the case of quasi-corporations. The impact on the government’s net worth of the assumption/cancellation of a public enterprise debt it considerate to be a negative impact assumed to be balanced, in the short term, by the positive impact on the value of the enterprise's equity.

2. THE PRIVATIZATION FINANCIAL HEALTH IN THE CASE OF ROMANIA

Therefore, we put the problem of the financial health of the privatization in Romania, presenting some cases.

2.1. THE PRIVATIZATION OF PETROM

Among Romania's natural riches include deposits of oil and natural gas, that for the first time in the world have been exploited in Romania. During the World War II Romania was providing by 96% the fuel for Hitler's army. At that time, the president of Romania, Marshal Ion Antonescu, ordered Germany to pay in gold bullion the negotiated imported oil from Romania. Between 1945-1989 the oil drilling industry has developed and invested heavily in petrochemistry. Romania has reached the top five countries in the world producing oil equipment, refineries and offshore platforms.

Autonomous Petrom Oil PETROM, was transformed by the Government Emergency Ordinance No. 49 of 15 September 1997, into the National Oil Company Petrom S.A. which was the object of the exploration and exploitation of oil and gas on land and in the Black Sea continental shelf, petroleum refining and processing, transportation and marketing of petroleum products, gas marketing, import and export of crude oil, petroleum products, machinery, equipment and specific technologies. Prior to privatization, S.N.P. Petrom S.A. was the only oil producer in Romania and the second natural gas producer. In 2003, oil production was 5.65 million tons and natural gas production was 6.129 billion cubic meters, meaning 1/3 of Romania's consumption.

In 2002, net assets accounting was 62.373.020.622 thousand lei and earned a net profit of 2.282.082.505 thousand lei.

So, the new owners received almost freely the oil and natural gas deposits of the Romanian people and the huge wealth of Petrom at a price of only 669 million euros a year's company profits, from Iliescu-Nastase regime. Thus, the new owners were not happy with there obtained win, and increased fuel prices, robbing the buyers. In 2010 the pump price increase was over 20%.

Practically, Petrom was sold for less than 1% of market value of our society.

2.2. THE PRIVATIZATION OF ROMCIM S.A.

The transfer of the cement production sector has brought and continues to bring serious damage to the Romanian state, because cement is a strategic product of any national economy, and with electricity and metallurgy, the production and cement consumption per capita leads to the development of a country. With an installed capacity before 1989 of 20 million tons/year, the nine mills were making a cement production of 14-15 million tones/year, of which 4.3 million tons were exported to Egypt, Spain, Greece, Turkey, Nigeria, and on the Danube in Austria and Germany.

Foreign exchange earnings stood at a negligible level, 54 million dollars a year. In such conditions, the action of privatization would have to ensure control of the Romanian capital of all companies producing cement. But the change of power in 1996 has contributed decisively to Romanian companies producing cement, crossing in the hands of foreigners. Thus was born the contract of sale and purchase of shares no. 1310 of 24.09.1997, when the French company Lafarge bought a total of 7.947.380 shares with a nominal value of 25.000 old lei, totaling 198.684.500.000 old lei, representing 50.9986% of the share capital of SC Romcim SA. The price agreed between the parties was $ 25.3 per share, a total of $ 201.068.714. Finally, due to dubious contractual clauses, the French side paid only 80 million dollars for the assets, valued by experts in the field to the amount of 1.2 to 1.3 billion dollars[2].

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[2] Tricolorul online paper, no. 2080/02.03.2011, web-site: http://www.ziarultricolorul.ro/?cmd=displaystory&story_id=1796&format=html

This privatization from 1997, as well as most of the privatization until now, it shows that, while reducing the production of cement, the former Romcim SA, now re-branded Lafarge Cement Romania, had in 2006 a turnover of 246 million euros, rated almost one third of the cement market in our country, and in 2008 made a profit of over 80 million euros.

Other fraudulent privatizations such as: the mill of SIDEX S.A. Galaţi, the aluminum mill ALRO Slatina, Midia-Năvodari Petrochemical Complex, and in 2005 the privatization of B.C.R. – the Romanian Commercial Bank; and others, had damaged the budget of Romania with billions of euros, in present conducing to lack of concrete solutions to get out of the crisis.

3. CONCLUSIONS

In all developed countries in Western Europe were created by law, strategic economic sectors, which includes companies or major concerns for the economy of the State and that is a main source of income in the state budget. Financial resources released from the State ensures the development of strategic sectors by supporting non-productive areas, such as the education, health or agriculture by providing subsidies needed to carry out in good conditions of production, but also the private sector, when there are problems arising from economic crisis, as is the present.

Only in the case when people who are in power will no longer use their positions held for their own interest, when all efforts to overcome the crisis will corroborate with the solutions adopted by Member States of the European Union for the crisis, just when the common interest will deprive the personal interest, we can then say, we can take real measures to end the crisis.

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