TUNISIA

Tunisia and the 2030 Agenda

Tunisian Observatory of Economy

The implementation of the 2030 Agenda in Tunisia suffers from almost the same challenges encountered by the rest of the Arab economies. It is not legally binding and it provides the government only with guidelines. It also remains dependent on the good will of the government and its own priorities. It is subject to different threats such as instability, regional conflicts, immigration and displacements (mostly from Libya), demographic movements, social inequalities, economic crises and high public indebtedness.[1] The economic crisis and the lack of funding sources are often mentioned to justify the incapacity of the Tunisian government to invest in infrastructure and development projects.

The adoption of the 2030 Agenda by Tunisia has occurred in a particular political and economic context. The adoption of the new Constitution in 2014 was followed by legislative and presidential elections that closed the first phase of the country's political transition. Written in a consensual spirit, this new constitution lays the foundations of a democratic state. It guarantees the rights and freedoms of Tunisians, strengthens the separation of powers, institutes decentralization and the participatory democracy principles, and introduces institutional and citizenship mechanisms of control. Tunisia has thus passed from a phase of transition towards new institutions, new political bodies, and the implementation of new principles and rules. This was partly through the implementation of decentralization and municipal elections with a different distribution of power between the center and the peripheries.

Moreover, Tunisia is currently undertaking the implementation of new constitutional bodies created to deal with the main dysfunctions resulting from decades of dictatorship, such as the Independent High Authority for Elections (ISIE), the Human Rights Instance, the Instance for good governance and the fight against corruption, the Instance for sustainable development, and the protection of future generations. Tunisia has regained and is consolidating political stability to some extent through mediation and dialogue in which civil society has played a major role.

Regarding economic aspects, since the outbreak of the revolution, these last five years have been marked by the intervention of various International Financial Institutions, particularly within the framework of the Deauville Partnership with Arab Countries in Transition launched by the G-8 in 2011. A broad five year development plan has been put in place to support the Tunisian economy, with the IMF and the World Bank working alongside other actors (European Investment Bank, African Development Bank, International Development Bank, G-7, Gulf countries, etc.). Significant loans and grants have been granted to Tunisia in return for major neoliberal reforms. In the framework of the Deauville Partnership, after a Stand-By Agreement signed with the IMF in June 2013, Tunisia entered into a second agreement with the IMF in April 2016 (Extended Credit Facility, EFF) over four years (2016-2019). However, although several economic reforms have been launched, the socio-economic situation does not appear to be improving.

1 http://www.annd.org/data/file/files/outcome%20doc%20WEB.pdf

Protests and social movements have strongly marked the transitional period, expressing dissatisfaction among the population demanding employment, improved public services and infrastructure, and reduced inequalities and policies for marginalized regions. Some broader and more politicized mobilizations have targeted such issues as corruption, mismanagement of public funds or lack of transparency in the management of natural resources. In general, political stabilization has not been accompanied by social stabilization.

During this period, unemployment and poverty rates have risen sharply, corruption is also on the rise and the underground economy is in continuous expansion. In parallel, the main economic indicators show a worrying increase in the debt ratio (63% of national GDP), a sharp decline in growth, a growing budget deficit, an increased balance of trade deficit, as well as disturbing fiscal imbalances. Forecasts are not optimistic in the short term, as 2017 marks the end of the grace period for several credits, recruitment has been frozen in the public sector, several public banks and enterprises are approaching bankruptcy. The deteriorating economic situation is at risk of compromising the fragile political balance.

Tunisian civil society has enjoyed remarkable vitality over the last five years, crowned by the award of the Nobel Peace Prize to the quartet of UGTT, UTICA, the League of Human Rights and the Bar Association. CSOs operate under different banners and various formats: unions, associations, think tanks, social movements, and so on. They are now essential components of the political, social and economic scene. They now have diverse roles at different scales ranging from awareness raising, to control, through participation in development, and counter power. However, this growing power of civil society remains dependent on a fragile legislative and political framework in a region where temporarily won freedoms can at any moment be obliterated by the risk of an authoritarian return and harsh austerity policies.

The role of the private sector in Tunisia

As in any country, the government in Tunisia is responsible for establishing partnerships with the private sector in a way that adds efficiency and transparency to public policies, programs and projects. However, although the role of the state could and should be more important, the limitation of its policy space due to increased indebtedness and budget deficit notably reduces its actions regarding the five year development plan. Therefore, the government is progressively disengaging, allowing a more important role in development to the private sector. The second partner in the implementation of the plan is then the private sector.

In the five year development plan, the private sector's role is basically to invest and create jobs and wealth as well as to find a good positioning on national and international markets in order to enhance its participation in high value added activities and sectors. It is also stated that to contribute to the private sector's success in accomplishing its role, the state should provide the necessary incentives by reforming the administration. The plan stipulates that the private sector is also responsible for developing dialogue and partnerships so as to improve professional relationships within the private institutions, and thus, to contribute to social peace.

Accordingly, most of the reforms adopted in the country are conditionalities of international financial institutions loans, and especially IMF loans since 2011, some of which had already been adopted in the form of the investment code, public private partnership law and the law for the independence of Central Bank and others. In its letter of intent, the government also detailed priority legislative actions by December 2016, including banking law, reform of public enterprises, tax reforms and, in particular, a focus on private sector reforms such as the investment code and the Law on Public-Private Partnerships which are part of the promotion of this new legal framework of investment through the conference on investment.

Far from the communication and media propaganda that accompanied the conference "Tunisia 2020", the main part of funds pledged during the conference benefits the public sector (46.2%, against 30.34% for the private sector and 23.44% for PPPs). Fully 93.85% of the amount intended for public services is financed by loans from international donors with the conditionality to follow the IMF's adjustment plan. These promises are in turn conditioned by the reforms mandated by the IMF's Extended Fund Facility. International aid is one of the factors that led to the implementation of neoliberal reforms that advocate development through the private sector and state disengagement, thereby increasing inequality and poverty.

SDG implementation and the private sector[2]

A major issue for SDG implementation through boosting the private sector's role in providing developmental and public services is that the 'partnerships' are usually not clearly defined in terms of roles, responsibilities and mechanisms, which this could lead to "undermined responsibilities and weakened possibilities of accountability". In general, several flaws could be noted: the biggest challenge remains the unchanged development model which is "based on economic growth and foreign investment regardless of its sources and objectives and away from the foundations of a fair and comprehensive development."[3] For example, the 2030 Agenda recommends public-private partnerships as a tool to provide funds for investments in infrastructure. This formula is still controversial,[4] as it has had very bad consequences in some countries and many think they simply "do not work."[5]

2 This section includes an adaptation from the Tunisian Economic Observatory's policy paper on PPPs in Tunisia

3 http://www.annd.org/data/file/files/outcome%20doc%20WEB.pdf

4 http://economie-tunisie.org/fr/observatoire/analysiseconomics/projet-loi-ppp-tunisie

5 https://sustainabledevelopment.un.org/content/documents/2288desaworkingpaper148.pdf

The principle that the state seek to exploit natural resources in the most efficient way is not well reflected in a development policy based on the disengagement of the state to invest in infrastructure in favor of the private investor. Thus, foreign direct investment (FDI) creates more jobs in less prioritized regions where unemployment is lower. On the contrary, in North-West and South regions where unemployment is the highest, FDI job creation is derisory. Also, PPP investments are essentially concentrated in coastal regions. Moreover, Tunisia's job market is characterized by gender inequality and this is further fostered by the average monthly wage gaps between men and women in the large, uncontrolled informal sector. Actually, these same discriminatory trends could also be found in the private and organized sectors.

The cost of a PPP is almost always higher than that of a classic public market scheme, for three main reasons: First, the private sector borrows at higher interest rates than the public sector. In addition, the contracts mention that the public sector is responsible for borrowing for the private sector to operate and that is through an intermediary while assuming the risk of default and the additional costs associated with the termination. Second, the public sector lends long-term dividends to private shareholders when they do not exist in a public procurement scheme. Third, the transaction costs related to the complexity of the period (more than 10-15 years) are higher in the framework of PPPs (legal, financial and technical advice is missing though) while the notion of risk sharing is very important in PPPs.

In theory, one of the strengths of PPPs is that the private sector takes some of the risks which, in traditional formulas, are assumed by the public. This risk is estimated/ encrypted/ calculated and integrated into the rent through a "transfer referred to in the contract". Since this is confidential, the calculation of this premium remains obscure and cannot be verified by the public.

Risks, such as cost overruns, delays, or even poor workmanship, are difficult to assess and it is also very difficult to ensure their transfer. It often happens that the public pays a transfer fee for dozens of years for a risk that is not actually transferred. Even in the United Kingdom, which has the largest and most numerous PPP programs, the government has not conducted an evaluation in this regard.

Above all, there is no systematic evaluation of the profitability of operational projects that were carried out by the state departments. As a result, we do not have sufficient data to demonstrate that the use of PPPs has improved or decreased profitability compared to other procedures designed for the award of the contracts. When the transfer of risk is weak or non-existent (in the case of some poorly conducted negotiations) the public partially, or even entirely, bears the consequences. This comes at a very high cost over long periods (which could be more than 20 to 99 years). Moreover, in the event that the operator goes bankrupt or evades its responsibilities because the profits are not enough, the risks veil the often amplified returns to the public sector.

Brief assessment: The role of the private sector in infrastructure (the transportation sector)[6]

The case of Enfidha International Airport (NBE), in Tunisia which was regarded as a national priority in the Tunisian infrastructure investment plan, is a very interesting example. Together with Monastir Airport (MIR), the projects aimed to anticipate the huge growth of tourism and industrial development that were expected to happen in the region, according to the African Development Bank.[7] In both cases, NBE and MIR, the Tunisian government decided to launch so-called Build-Operate-Transfer (BOT) contracts; however, in NBE's case, due to financial issues, the lenders' commitment was reduced significantly, leaving the venture's capital structure with severe financial gaps.

According to a study by the Tunisian Economic Observatory, the announced objective of the project was to achieve an initial flow of 7 million passengers for the Enfidha airport with the prospect of reaching 22 million passengers following four stages of construction. The project was planned to create 2,200 direct jobs during the airport construction phase and 1,200 direct jobs during the operating phase. The project is operated under a concession regime and the operator chosen in 2007 is the Turkish company TAV Tunisie. The Enfidha project was promoted and supported by the leading international financial arm of the World Bank Group, the IFC. In the context of these concessions, TAV Tunisie must pay a fee to the Tunisian government, which varies depending on the company's turnover with a minimum threshold set by the concession contract. For 2008 and 2009, this threshold was set at 14.8 million euros. In addition, TAV Tunisie is exempt from corporate taxes for five years. It benefits from the suspension of the custom duties, VAT and the right to use imported equipment which has not been manufactured locally, under the incentivizing Code of Investment.

The study argues that the project is economically unsustainable, that it does not keep its promises and that it provokes strong suspicions about corruption.

By contrast, the airport in Monastir welcomed 4.2 million passengers in 2008 while its maximum capacity is only 3.5 million passengers. It was on this basis that the promoters of the Enfidha project rejected the option of extending the airport of Monastir and opted for the construction of a new airport. The same year, in 2008, 7 million tourists had visited Tunisia, which is equivalent to the initially set objective of 7 million passengers announced by TAV Tunisie. While the Monastir airport alone received 4.2 million passengers in 2008, the expected results in terms of passenger flows will soon evaporate.

---

6 http://www.economie-tunisie.org/fr/observatoire/infoeconomics/aeroport-enfidha-ppp

7 https://www.afdb.org/fileadmin/uploads/afdb/Documents/Environmental-and-Social-Assessments/30749417-EN-TUNISIA-ENFHIDA-EIA-EXECUTIVESUMMARY-AUGUST22-2008.PDF

The inauguration of the Enfidha airport took place in April 2010 with the official name: Zine El Abidine Ben Ali International Airport. However, the cumulative passenger flow of Enfidha and Monastir from 2010 does not exceed the flow of the airport of Monastir alone in 2008. This means two airports have the flow of one! In 2014, when the Turkish company TAV first published the profits of its subsidiaries, TAV Tunisia posted a loss of 32.9 million euros for a turnover of 51.9 million euros. Financial problems had been brewing for years. Negotiations began in 2011 with the Civil Aviation and Airports Authority (OACA) and the fees for the years 2010 to 2013 have all been drastically reduced due to TAV Tunisia's financial difficulties.

One other drawback concerns jobs. Indeed, multiple strikes have tainted the functioning of the two airports. The strikers accused TAV Tunisia of not respecting its contract and diverting the flow from Monastir airport to Enfidha airport, putting in danger thousands of indirect jobs that rely on tourism in the region of Monastir. This stimulated the need to negotiate an agreement on the fair share of passenger flows between the two airports in 2012. The objective of creating 1,200 new jobs has not been achieved and only 101 jobs were created between 2010 and 2014.

Since the beginning, there was suspicions about the concessions of Enfidha and Monastir, as per the European NGO's survey Counter-Balance. According to this NGO and its sources, it could be that Nabil Chettaoui, former officer of Tunis Air, negotiated these contracts on behalf of Belhassen Trabelsi, one of the richest and most powerful members of the previous regime in Tunisia, with a 5 percent commission in play, thereby allowing Chettaoui to become CEO. These suspicions have been confirmed by the Ministry of Transport since, in 2014, the Ministry launched an audit of the concession award process of Enfidha and Monastir on the "background of suspicion of corruption".

Conclusion and recommendations[8]

PPPs are thus a contract by which the private sector is called upon to perform tasks that are traditionally regarded as part of the role of the state. On the one hand, comparative studies and experiences from other countries make it clear that PPPs: 1) do not generate savings for the state, public authorities or public service users; 2) mean lower control on performance of the contract and no guarantees for a better public service; and 3) undermine democracy and fuel corruption. Furthermore, even if the legal framework for PPPs is adopted, it will not guarantee further development.

PPPs are premature projects that must not be seen as an alternative to compensate for the lack of infrastructure and public services for developing countries as previous experiences (especially in Europe) proved that PPPs are a failure. They carry more risks and disadvantages than advantages. Furthermore, our governments and local authorities are not ready to negotiate such contracts and to monitor/ control this type of projects. Finally, in the event that this bill is passed, it is imperative that it includes safeguards to avoid a maximum risk to the country.

In order to limit the risks and costs overruns in the PPP bill, the Tunisian Economic Observatory and the Arab NGO Network for Development recommend the following provisions:

1. Submit public-private partnerships to the same principles as the Public Procurement Code: transparency, competition, equal treatment. If there is only one tender for the project, the procedure should be stopped.
2. Delete local authorities as public bodies able to sign PPPs as they lack the required skills to carry out a standard tender.

---

8 Information retrieved from the Tunisian Economic Observatory's policy paper on PPPs in Tunisia.

3. Reduce the duration of contracts (limit 20 years) and split the lots which are being tendered to make these markets accessible to small entrepreneurs, thereby stimulating competition.
4. Ensure that public-private partnerships respond only to the needs of the public and the national development strategy and are not subject to a private initiative.
5. Formally exclude the sectors of national defense, security, energy, telecommunications, the distribution of water and electricity, health and education from the PPP plans and projects.
6. Oblige the public partner to conduct at least two evaluations for all PPP projects: one at the completion of the initial investment once the service is in operation and a second after five years, to ensure that all risks can be minimized.
7. Specify in the PPP framework legislation the modalities, methodology and criteria for the comparative evaluation and the cost-benefit analysis to determine whether it is more economically and socially beneficial to use a PPP rather than a public procurement.
8. Ensure that the legal arrangement of the PPP does not contain a legal structure domiciled in a tax haven. The main legal structure and the trust must be domiciled in Tunisia.
9. Make public the evaluation report and the evaluation methodology in accordance with articles 15 and 10 of the Constitution on Transparency and Good Governance of Public Money. All tender documents, tenders and PPP contracts, including financial details must be published in order to limit the risk of corruption, in accordance with Article 10 of the Constitution on the "proper management of public funds".
10. Prohibit the use of international arbitration in the terms of PPP contracts. In case of dispute between the private and public partner, the parties will be able to appeal to the national courts.
11. Ensure that the public entity is able to terminate the PPP contract when the public interest requires that. The transitional provision: A pilot project phase should be set up and followed by an impact assessment of the socio-economic aspects of the project. This assessment should then be presented to the Assembly of People's Representatives that will then vote on the generalization of PPPs according to the results.

In general, it is important to rehabilitate the economic and development role of the state in regions and sectors where private initiative is deficient and to invest in public works and infrastructure in these regions.

This report is adapted from the Agenda 2030 Review-Tunisia Country Report by the Tunisian Observatory of Economy, 15/12/2016.