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MAIN STAGES OF PRIVATIZATION IN UKRAINE

Abstract. The paper analyzes the positive and negative elements of the privatization stages in Ukraine. The social, economic and political consequences of privatization are analyzed. The decision of the 26th sitting of the National Council on privatization reforms and new stories in the draft law “On privatization of state property” are shown.

Keywords: privatization, denationalization, socio-political peculiarities of the country, economy of Ukraine, state enterprises.

ОСНОВНІ ЕТАПИ ПРИВАТИЗАЦІЇ В УКРАЇНІ

Анотація. У статті проаналізовано позитивні та негативні елементи етапів приватизації в Україні, визначені її соціальні, економічні та політичні наслідки. Наведено рішення 26 засідання Національної Ради реформ з приватизації та нововведення у проекті закону “Про приватизацію державного майна”.

Ключові слова: приватизація, роздержавлення, соціально-політичні особливості країни, економіка України, державні підприємства.

ОСНОВНЫЕ ЭТАПЫ ПРИВАТИЗАЦИИ В УКРАИНЕ

Аннотация. В статье проанализированы положительные и отрицательные элементы этапов приватизации в Украине, определены социальные, экономические и политические ее последствия. Показаны решение 26 заседания Национального Совета реформ по приватизации и нововведения в проекте закона “О приватизации государственного имущества”.

Ключевые слова: приватизация, разгосударствление, социально-политические особенности страны, экономика Украины, государственные предприятия.

Target setting. Privatization of state property in Ukraine was carried out under the influence of, on the one hand, the gained international experi-

ence of privatization, and on the other hand – social and economic and political features of the country. Prior to the market transformation the economy of Ukraine was characterized by such features as total nationalization and total monopolization, absence of the spare capitals which could be used for privatization, underdevelopment of major infrastructure, and non-market structure. Contrary to the developed Western countries where the market relations were established almost for centuries, in Ukraine and other states of the former USSR, this very difficult process took place almost “instantaneous”. In 1–2 years on a Post-Soviet basis cardinally new principles of economic activity were accepted. Of course, this fast, inadequate and inharmonious process could not but cause collisions and errors in the course of construction and further functioning of new structures and principles of market economy [1].

Analysis of the last researches and publications. Within science of public administration, problems of privatization were reflected in works of such scientists as: Yu. Aldanova, D. Bogynya, D. Volynsky, V. Lartsev, S. Lyedomaska, V. Pavlov, L. Peshenkova, A. Rybchuk, etc. However, most of them analyze privatization process, in general, or focus attention on features of carrying out small privatization.

The purpose of the article is to analyse the privatization process in Ukraine, to clarify its positive and negative consequences for functioning of public administration system in general.

The statement of basic materials. The first stage of privatization began in Ukraine during the Soviet period, in

the second half of the 1980s during so-called reorganization and received the name of spontaneous or shadow privatization. Then several laws have been adopted which allowed private business. The administration of the state enterprises benefited from this for transfer of public finances to private. Also privatization of system banks took place by their converting to commercial [2].

Official privatization of property of the state enterprises in Ukraine began since 1992. Essential extension of privatization scales was promoted by the laws “About Property” and “About the Enterprises in Ukraine”. At this stage certificate model of privatization was accepted and the basic laws regulating privatization were developed – “About privatization of property of the state enterprises”, “About privatization of the small state enterprises (small privatization)”, “About privatization papers”, “About rent of property of the state organizations” and the State program of property privatization of the state enterprises for 1992, that led to the second stage of privatization – collective and rent.

For simplification of process of objects preparation for privatization and rational and effective application of privatization methods their classification was introduced. For the first time it was applied in the State program of privatization for 1992. The book value of fixed assets of the enterprises of privatization was classification criterion. In the modern conditions the following groups are identified:

A – objects, cost of fixed assets of which does not exceed 1 million UAH; objects which are created on the basis

of the state property as a result of implementation of the state enterprises restructuring;

B – objects, cost of fixed assets of which is from 1 million UAH to 170 million UAH (except objects of group “C”);

C – objects, cost of fixed assets of which exceeds 170 million UAH and also the enterprises which hold a monopoly position in the nation-wide market and recognized such in accordance with the established procedure;

D – objects of incompleting construction, including the preserved objects, property of the liquidated enterprises and bankrupts;

E – shares (units, interests.), belonging to the state in property of economic societies;

F – educational, health care, culture, art and sport, television and broadcasting, publishing, facilities, health resort institutions.

Mechanism for the privatization included also assessment of the objects privatization. Determination of the initial price of an object privatization or the size of an authorized capital of the economic society created on the basis of the state enterprise is carried out through expert assessment which technique is defined by the resolution of the Cabinet of Ukraine as of January 18, 1995. On its basis the Provision on an order of peer reviews of the state property when privatizing approved by the order of State Property Fund of Ukraine as of February 2, 1995, is drafted.

During 1992–1994 9082 objects of small privatization, 2650 large and medium-sized enterprises and the 122 objects of incomplete construction changed the state form of ownership.

But for various reasons scheduled tasks in the sphere of privatization, first of all its mass character, were not achieved. Privatization was spontaneously carried out, by noncompetitive methods and also was restrained by organizational complexity of use of privatization property certificates. Therefore at the end of 1994 and at the beginning of 1995 a number of presidential Decrees have been adopted, which launched the third stage entitled a stage of the certificate privatization and lasted until 1999 [2].

The concept of privatization provided a part of the state property, subject to privatization, to transfer into ownership of citizens of Ukraine free of charge, in equal shares, and to privatize other part for money. For privatization support the legislation set specific means of payment – privatization papers. The law of Ukraine “About privatization papers” accepted in 1992 entered two types of such papers – privatization property certificates which were used in case of privatization of State-owned enterprises, housing checks by means of which gratuitous privatization of the public housing was carried out. The right to privatization papers was acquired by each citizen of Ukraine, their par value was identical to all citizens.

Privatization papers were specific means of payment which could be used only in the privatization process. The owner of such paper, participating in privatization of state property, had the right to pay the part of this property price by its privatization paper according to its nominal. As citizens of Ukraine received such papers free of charge, and paid the privatized property by them, thus they received a share of

the state property free of charge. People were allowed to privatize premises in which objects of small privatization are located, bureaucratic exclusive associations of small enterprises in the sphere of trade, public catering and consumer services are liquidated, the cash form of privatization property certificates was introduced. It accelerated the pace of small privatization. Number of ITS objects was nearly 45 thousand that promoted implementation of market mechanisms in the specified branches. Since 1995 privatization of large and medium-sized enterprises was accelerated. The cash form of privatization certificates, which at this stage were received by nearly 46 million citizens of Ukraine, was introduced into circulation. The network of certification auctions, at which about 38 million privatization certificates were used, was at the same time created.

Finding of irreversible character of privatization was the main total of its third stage. During 1992–1999 the state form of ownership was changed by nearly 21 thousand enterprises. As a result for the beginning of the 21st century the privatized enterprises were 2,7 times more, than state. Due to corporatisation the essential corporate sector of economy was created, and the number of shareholders amounted to 35 million. At the same time primary security market started to develop.

However as well as at the previous stages, certified privatization was carried out spontaneously, separately from other components of market reform of the economy, first of all, by structure of its reorganization. Also the expected activation of investment activities did not take place as it was supposed

when reasoned of it. The main goal of privatization — creation of conditions for increase in production efficiency, is not realized. The reason is that in the course of the certificate privatization the formal privatization took place. The overwhelming majority of new owners, who became them because of privatization certificates use, were formal, did not actively influence on control of the privatized objects which, as well as before, was exercised by the administration, formed in command system and was not able to provide effective management because had no skills of market control and the sufficient capitals. Also the layer of new owners, who used the acquired objects for resale for the purpose of receiving speculative income, was created.

However the certificate privatization in and of itself, and especially on methods of its implementation, became the next element in a circuit of gross violations of constitutional rights of the person. It is worth noting, above all, that hundreds of thousands of citizens of Ukraine haven't been able to exercise their right to privatization securities for objective reasons, and therefore could not transfer this right to their successors. Besides, about three million citizens who received privatization property certificates did not use them. Actually these citizens of Ukraine were restricted in time by their constitutional right on a share of the state property.

Transition of the state enterprises to non-state did not lead to improving of their economic status. Methods of privatization and its legislative regulatory base were not oriented on rise of a real sector of economy. The efficiency

of the privatized enterprises was low as they did not pass the appropriate preparatory period, there was only the formal change of the owner. The principle of social justice have not been able to exercise in the course of redistribution of state ownership. Real advantage from it was received by a small segments of society. It increased discontent with privatization of the main part of the population. It created favorable conditions for abuses in the privatization process, generated corruption of the officials involved in its making, did not provide effective protection of interests of most of the population of Ukraine.

The revealed contradictions and shortcomings caused transition to a new stage of privatization which began with acceptance of the State program of privatization for 2000–2002 and received the name of a monetary privatization stage. It was also caused by the fact that at the beginning of the 21st century in Ukraine the sufficient database of intellectual, organizational and legal fundamentals of market economy was created. Therefore privatization cannot already be considered only as the instrument of transformation of state ownership in non-state. It shall be the lever of the solution of such important problems of economic development as economy's growth rate, gain of a corporate sector of economy, the growing significance of financial mechanisms in economic performance [2].

Process of privatization in Ukraine within the last ten years in consciousness of the vast majority of citizens of Ukraine is fairly associated, first of all, as the antisocial, anti-Ukrainian and criminal phenomenon which is characterized by big injustice, opacity, cor-

ruption, a directivity only for benefit of the criminal and clan structures and individuals associated with government [3]. Such relation of citizens of Ukraine to process of “small and big privatization” was created by such real reasons and undeniable facts:

- unwarranted proportions and scales of polarization of society on the level of the material prosperity;
- mass and systematic violations of the relevant laws and Constitutions of Ukraine by the high ranking officials of Ukraine in the privatization process;
- disastrous falling of the trust level of citizens of Ukraine to identified managers – the high ranking officials of institutions of state power involved in total violations of laws in the privatization process;
- impunity of identified managers – the high ranking officials of the public authorities involved in total violations of laws in the privatization process;
- improbable decline, first of all, hi-tech production sphere of economy of Ukraine and depreciation of its highly intellectual resource component;
- conscious operating a policy by executive power and State Property Fund of Ukraine which resulted: blocking of inflow of anti-establishment candidates to privatization authorities; blocking of competitive methods of privatization at all stages (an auction, a commercial competition); monopolization of the Ukrainian economy by foreign capital; blocking in Ukraine of organization of high-tech and knowledge-intensive production of necessary competitive Ukrainian goods; blocking of motivational mechanisms for real carrying out an innovative policy and implementation of important and spe-

cific innovative programs; blocking of creation and development processes of the stock market in Ukraine; blocking of formation and development of local government to ensure the uncontrolled process of appropriation of property by the structures and natural persons associated with government.

Thus, the principal reasons of such consequences of privatization in Ukraine must include :

- unresolved problems of nationwide level;
- errors concerning structure and personnel organizational support of privatization process;
- shortcomings of certificate privatization;
- absence of the effective antimonopoly policy.

At the legislative level and at the level of executive power the following paragraphs were not systemically defined, in particular:

- effective mechanisms of transparency of privatization process and access to it for each citizen of Ukraine;
- legal and economic criteria of demarcation of state ownership on state and municipal;
- legal mechanics of demarcation of state ownership on state and municipal;
- legal mechanics of interaction of appropriate authorities of the government and local government at all stages of privatization process relatively to the specific diagrams of standard objects privatization;
- legal mechanics of privatization process monitoring from the organizations of the third sector;
- legal and economic criteria of effective management of objects of the

state and municipal property in to the privatization period;

- legal and economic criteria of determination of privatization stages;
- priorities and mechanisms of determination of the sequence of objects privatization at each stage;
- mechanisms and structures of constant control behind dynamics of economic indices of objects's functioning which were subject to privatization and the privatized objects;
- legal mechanisms of dynamic response of appropriate public authorities and local government on the facts of ineffective property use;
- legal and economic criteria of formation for privatization of specific lists of the land plots on which there were objects of the state and municipal ownership, subject to privatization;
- stages and the sequence of the land plots privatization at which there were objects of the state and municipal ownership, subject to privatization;
- effective mechanisms of carrying out the antimonopoly policy in the privatization process;
- legal frameworks and mechanism to ensure timely arrival of funds from privatization in full and their effective use.

Since 2015 48 enterprises for the total amount of 3,6 billion UAH were privatized, with the assumption that the plan of cash inflow from privatization for a year – 17 billion UAH, and the Draft State Budget for 2018 assumes cash inflow in the amount of 22 billion UAH. One of the reasons that 1231 enterprises are forbidden now to privatization whereas, according to the Government and the Ministry of Economic Development, only 378 state enterprises and

objects, which perform functions of the state, shall be in state ownership.

On September 12, 2017 at the 26th meeting of the National Reforms Council, devoted to progress of Ukraine in the course of privatization, new approaches to sale of assets were considered and approved, reflected in the bill “About Privatization of the State Property” [4].

It was decided:

- to recommend to the Verkhovna Rada of Ukraine to consider and approve the bill of Ukraine “About privatization of the state property” № 7066 as of 04.09.2017 in edition offered by the Cabinet of Ministers of Ukraine;

- to recommend to the Cabinet of Ministers of Ukraine to prepare amendments to the legislative instruments, in particular the Law of Ukraine “On the List of Objects of the Right of State Owned Property not Subject to Privatization” concerning lifting of restrictions on privatization of objects of State property;

- to recommend to the the Cabinet of Ministers of Ukraine to approve clear criteria of formation of the list of objects of big privatization and directly the list of objects of big privatization;

- to recommend to the State Property Fund of Ukraine and to authorized bodies of control to take measures for an acceleration of preparation and privatization: 1) Turboatom PJSC; 2) SE Plant “Elektrovazhmash”; 3) SE “Dniprovsky Electroconstruction Plant”; 4) JSC United Mining and Chemical Company PJSC; 5) Sumykhimprom PJSC; 6) President-Hotel PrJSC; 7) State Food and Grain Corporation of Ukraine PJSC; 8) Agrarian Fund PJSC.

The new law “About Privatization of the State Property” was drafted by the Ministry of Economic Development together with State Property Fund of Ukraine and already submitted to the Verkhovna Rada of Ukraine [5]. The bill “About Privatization of the State Property” provides that the 893 state enterprises will be privatized. Thus, only 15 especially important enterprises, in particular Naftogaz, “Ukrzaliznytsya” and other state monopolies, will be in state ownership. In addition, the state will still have 363 important object of state ownership – these are medical, social, metrological and other socially important institutions.

About 1255 enterprises of state ownership will be liquidated, through their complete economic inefficiency. Also 359 objects, namely: roads, forestry, the airports will be transferred to concession (for rent to the private sector). Such reduction of number of the state enterprises will allow the state to cut down the budgetary expenses on support of a considerable number of the ineffective enterprises.

The new bill on privatization is more complete and complex, in comparison with current law. The bill changes approaches to classification of the privatization objects. If now they differ on groups (*A, B, C, D, E, F*), then the bill divides all objects into two type – big and small. The system of an electronic auction is introduced. Taking into account a computerization of the majority of spheres of public life, it will give the chance to lower a bureaucratic element of interaction with state agencies.

The limit size of a fractional share of the buying company owned by the

resident of the aggressor country or the aggressor country is set in the project. This part makes 10 % and more. It does not grant the right to participate in an auction. The current law does not allow to participate in privatization to the companies even with the minimum share controlled by the resident of the aggressor country or the aggressor country.

Similar situation with the companies registered in the offshore zones and the countries classified in the FATF list (the countries which refused to promote fight against laundering of income gained in the criminal way). By new rules, the company which 50 % of authorized capital are controlled by residents from such countries, will not be able to buy the Ukrainian state property. In the current law — such share is not defined, that is the total prohibition is in operation.

According to the bill an object can be included in the list on privatization at the initiative of the potential buyer. Thus, the businessman who had a business idea concerning any state property will have an opportunity to show an initiative and to try to buy it.

The bill provides penalties for untimely or incomplete information representation about objects of privatization by officials, forces public institutions to sell non-core assets. It will allow to get rid of the closed departmental sanatoria and recreation facilities.

It will be more difficult to slow down transfer of assets for sale. If the ministry owner delays transmission of an object to privatization at the scheduled time, then the decision on its transmission will be made by the Cabinet of Ministers.

Advisers, with the appropriate experience and competence which can not be enough for officials of the state property fund and the ministries, engaged in privatization process, will be involved in privatization of large enterprises. Advisers will not be able to participate in privatization of an object which was prepared for sale.

In case of small privatization the procedure of determination of the starting price is most simplified. The starting price is a book value (as a rule below than the market price) with the deduction of obligations. The bill will regulate privatization including municipal property. Objects of small privatization will be sold through the system of ProZorro public procurement in online mode. It is supposed that such step will allow to expand a circle of potential buyers.

Under the new rules, the new owner will receive immunity for some time from attempts of debtors to receive assets of the enterprise through initialization of the bankruptcy process.

Conclusions. In sum, it should be noted that, along with macroeconomic stabilizing and liberalization in Ukraine, privatization is one of the main stages of transition from post-socialism to market economy. Privatization promotes transmission of the ineffective state enterprises to private owners and is a peculiar economic incentive for development of the state. However, for today, privatization shall be not a source of the budgetary arrivals, as much as a method of market restructuring and capitalization of our economy.

Thus the new bill of privatization provides the considerable simplification of the sale procedure of the state assets. The bill provides regulation

of privatization by one law (now – 7 laws) according to which there will be only two types of privatization objects (instead of five) – big and small. Instead of five procedures of privatization it is offered to leave two – an auction and repayment. Large objects of privatization will be sold only with an involvement of authoritative advisers, and small – through Prozorro electronic platform. While judicial reform will be taking place, norms of the English right will extend to all privatization process.

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