

A NEW LOOK AT THE PROCESS OF PRIVATIZATION IN NEW UZBEKISTAN

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Abstract:

At the end of 2016 and the beginning of 2017, a period of new reforms began in Uzbekistan. Uzbekistan has set itself the goal of creating a state with a strong economy. In order to achieve this goal, he aimed to reduce the state property and its share in the economy and give a wide place to private ownership. For this purpose, on February 7, 2017, the presidential decree "On the "Strategy of actions" for the further development of the Republic of Uzbekistan" was adopted. In paragraph 3 of this decree entitled "Further development and liberalization of the economy" in Uzbekistan in 2017-2021, based on the principle "If the people are rich, the state will be rich and strong", reducing the state's participation in the economy, further expanding the privatization of state property and simplifying its procedures, economic the task of reducing state participation in the charter funds of operating entities, creating favorable conditions for the development of private entrepreneurship on the basis of state-owned privatized objects was determined.

Keywords: State-owned privatized objects, new reforms, economy, liberalization, reducing state participation, "Strategy of actions", the charter funds, further development.

Introduction

On April 18, 2017, the State Committee for Assistance to Privatized Enterprises and Development of Competition of the Republic of Uzbekistan was established in order to provide an alternative to the state policy in privatization¹. In accordance with the strategy of actions, in order to reduce the role of the state in the economy and create a competitive environment, which is the basis of the market economy, it was determined that not only state-owned enterprises and objects, properties, but also education, transport, civil aviation and other sectors can be privatized. This meant the beginning of radical changes in the field of privatization in Uzbekistan.

To the land relations of local state authorities (direct allocation of land plots, transfer to use, reserve for future allocation, annexation, transfer of land for improvement or disposal of land in a different way; determination of rights to land plots by district and city local state authorities, recognition change, cancellation; transfer of irrigated land to the category of non-irrigated land or to another category of land, non-irrigated agricultural land to another category of land; grant of land for community gardening, viticulture and policing and auxiliary agriculture; investment obligations or private property in relation to plots of land to be privatized determination of other obligations that limit free disposal), including the right to adopt a decision, order or other type of document regarding them, was canceled from August 1, 2021². These provisions, it can be said,

¹ People's word newspaper, April 19, 2017 (Xalq so`zi gazetasi 2017-yil 19-aprel).

² Боротов А. Хусусий мулкни ҳимоя қилиш соҳасида миллий қонунчилик иерархияси: маъмурий ҳужжатлардан – фуқаролик-ҳуқуқий тартибга солишга\ Муस्ताқил Ўзбекистон давлатчилиги ва ҳуқуқий тизими: назарий асослар



are fully compatible with the provisions of Article 17 of the Universal Declaration of Human Rights. That is, everyone has the right to own property individually as well as jointly with others, and no one can be forcibly deprived of his property.³

In developed countries, land is the best asset and business base. In recent years, as a result of transparency and competition in this field, land is becoming a market asset. For this purpose, on November 15, 2021, the law "On Privatization of Non-Agricultural Land Plots" was adopted. These requirements of the law were put in line with the decision of the Cabinet of Ministers on February 14 of this year. The Law of the Republic of Uzbekistan No. 728 (consisting of 44 articles) of November 15, 2021 "On Privatization of Non-Agricultural Land Plots" was adopted⁴. With this law, privatization of land (not intended for agriculture) began for the first time in the history of independent Uzbekistan. President of the Republic of Uzbekistan Sh. As Mirziyoyev rightly pointed out: "It is natural that many people have the opinion that `the land became private and what did not become private." Because we have had 3-4 generations since the abolition of private land ownership. It is necessary to know one thing clearly: with privatization, the land area does not decrease or increase, but its market value appears. A man who has a husband becomes a real owner, a capital owner."⁵ If we pay attention to the essence of this law, now it has made it possible to increase the class of owners, to prevent unjustified violations (snos), to get loans by pledging their property in the bank, and to do business. This law also defines what kind of land properties are to be privatized, and according to it: privatization of a land plot - it became possible to transfer a land plot not intended for agriculture that is owned by the state to the ownership of citizens of the Republic of Uzbekistan and (or) legal entities. According to the law, foreigners and non-residents cannot privatize land resources in the Republic of Uzbekistan. However, it can be said that the system still has some problems. For example, according to the "Rule of Law" international rating index, in the sub-indicator "The government does not confiscate property without a court order and without fair compensation" of the "Respect of Laws" indicator (in the 2021 report), Uzbekistan ranked 138th out of 139 countries with a maximum score of 0.25 out of 1⁶.

In addition, the owner can sell or not sell his land to the state. He can even set the price as he wants. This leads to the growth of the class of owners and the provision of legal protection of the rights of owners. However, not all non-agricultural lands can be privatized.

According to this law:

1. Plots of land allocated to legal entities for the purpose of entrepreneurship and urban planning;
2. Land plots allocated for individual housing construction and improvement for citizens of the Republic of Uzbekistan;
3. Land plots with state-owned real estate objects that can be privatized;
4. Unused land plots may be privatized according to the law.

At present, several innovations regarding land privatization are being introduced. In February-October 2022, 48,000 plots of land were put up for auction through the "Er Elektron" information

ва ривожланиш жараёнлари: Республика илмий-амалий конференция материаллари. – Тошкент: Юристар малакасини ошириш маркази, 2021. Б 273.

³ <https://www.un.org/ru/about-us/universal-declaration-of-human-rights>

⁴ Қишлоқ хўжалигига мўлжалланмаган ер участкаларини хусусийлаштириш тўғрисидаги Ўзбекистон Республикасининг қонуни// <https://lex.uz/docs/5729966>

⁵ <https://kun.uz/81258372>

⁶ Оқюлов О. "Снослар" жараёнида ҳар бир мулкдор ҳуқуқлари ва қонуний манфаатлари таъминланиши шарт // Юрист ахборотномаси - Вестник юриста - Lawyer herald. № 2 (2022) Б. 30-35.



system for entrepreneurship and urban planning. A positive conclusion was given on the privatization of about 5,000 plots of land used by legal entities and individuals. At the same time, the analysis of current affairs showed that this system has some shortcomings. For example, more than 12,000 plots proposed for auction were found to be located in agricultural lands or protected areas. Another problem that causes difficulties in practice is the many stages of auctioning land. Currently, it consists of 13 stages, and it takes 48 working days to acquire land with leasehold rights and 74 working days with freehold rights. Therefore, a system is being created that will reduce the stages of auctioning the land to 8, and shorten the terms to 16 and 22 working days, respectively⁷.

Such positive changes certainly serve to increase the number of entrepreneurs and businessmen and strengthen the protection of their rights and interests. For example, the President of the Republic of Uzbekistan Sh. Mirziyoyev, at a meeting with entrepreneurs on August 20, 2022, called the changes in land legislation "one of the biggest reforms in the recent history of our country"⁸. In addition, it was said that the one-time payment of 20 times the land tax required for land privatization will be reduced by 10 times in Tashkent city and regional centers, and by 5 times in other regions⁹.

In order to bring the privatization work to a new stage, a number of things were done in order to reduce the state participation in the economy and further improve the competitive environment. After all, as the President of our Republic Sh.M. Mirziyoyev stated: "...in the implementation of structural changes in the economy, it is necessary to accelerate the transformation of state companies." At present, most of the state-owned enterprises remain a heavy burden on the state because they are not financially stable. Therefore, the program of reforming all state-owned enterprises is being implemented this year. For example, in the coming year Navoi Mining and Metallurgical Combine, Uzbekneftgaz, Uzbekgidroenergo, Uzavtosanoat joint-stock companies will be able to enter the international financial market and attract funds without state guarantees... Another direction of structural reforms is to reduce the state's participation in the economy"¹⁰. For this purpose, on October 27, 2020, Decree No. PF-6096 "On measures to accelerate the reform of state-owned enterprises and privatization of state assets" was announced. According to him:

- Change of the legal form of 32 large state enterprises and economic societies;
- Corporate management and financial audit will be introduced in 39 enterprises and the efficiency of activity will be increased
- The list of 62 state assets has been approved, according to which these enterprises will be prepared for privatization and will be put up for public auction under targeted programs to increase the volume of investments¹¹.

More specifically, the list of large state-owned enterprises and economic associations that are currently being transformed into state-owned enterprises (in particular, JSC "Navoi Kon-Metallurgiya Kombinati", JSC "Uzbekneftgaz", JSC "Uzkimyosanoat", JSC "Uzavtosanoat"); the

⁷ Davlat aktivlarini boshqarish agentligi ma`lumotlari asosida

⁸ <https://kun.uz/81258372>

⁹ <https://president.uz/uz/lists/view/5449>

¹⁰ O'zbekiston Respublikasi Prezidenti Shavkat Mirziyoyevning Oliy Majlisga Murojaatnomasi (29.12.2020) // <https://president.uz/uz/lists/view/4057>

¹¹ Valijonov A. Characteristics of the current stage of privatization in Uzbekistan. *Economy and Business: Theory and Practice*, vol. 10-1 (92), 2022 p.54



list of state-owned enterprises where corporate management and financial audit will be introduced and operational efficiency will be increased (in particular, "Almalik Mining and Metallurgical Combine" JSC, "Uzbekistan Metallurgical Combine" JSC, "Fergana Oil Refinery" LLC); the list of enterprises in which state-owned stock packages (shares) are sold in full at public auctions (in particular, "Kvarts" JSC, "Kyzilkumtsement" JSC, "Ferganazot" JSC) by preparing before privatization and increasing their investment attractiveness; the list of enterprises whose state stock packages (shares) are sold in full to the private sector through public auctions (in particular, "Ustyurt Exploration and Drilling Department" LLC, "Moynoq Aqua Industry" DUK, "Tsementchi Futbol Club" LLC); The list of state real estate objects to be sold to the private sector ("Afrosiyob Palas" DUK hotel property complex, "Sijjak" recreation center, "Beldirsoy Oromgohi" recreation center, "Ichan Qala" hotel complex) was determined¹². In contrast to the implemented systematic work, today the share of small business and private entrepreneurship in the gross domestic product is 53.9%, which is one and a half times more than in 2000¹³. The share of this sector of the economy in providing employment in our country is 73.8 percent, and in 2000 it was 49.7 percent¹⁴.

The Second Economic Forum of Uzbekistan was held in the city of Samarkand on November 3-4, 2022 in order to carry out the privatization policy in a wider scope and attract foreign investment to the sector. It was noted at this event that in 2022, the privatization of "FergonAzot" JSC with the support of Deloitte will be completed, and the sale of "Dehqonabad Potash Plant" JSC and "Navoiy Azot" JSC is planned for next year¹⁵. The Deputy Prime Minister said that previously agreed investors are considering their proposals for the purchase of "Ipotekabank" ATIB, "Uzagroexportbank" JSC and "Poytaxtbank" JSC in the context of regional and global problems. Also, Dentons and White Case law firms were involved in order to reach a compromise between the State Asset Management Agency and JSC "Uzbekneftgaz" in order to eliminate difficulties in organizing the privatization of the sale of non-core assets of the joint-stock company "Uzbekneftgaz"¹⁶. In addition, it was noted that the IPO of the shares of "Uzavtomotors" JSC and "Almalik Kon-Metallurgiya Kombinati" JSC may be held¹⁷.

The Seventh Stage, which is a turning point in the privatization policy and the period of "big privatization", began in 2021. This stage is distinguished from the previous stages by the management and reform strategy of state-owned enterprises. During this period, the number of enterprises with state participation is more than two and a half thousand (2,541), half of which were created in the form of unitary enterprises (1,210). Most of the state-owned enterprises are inefficient, which once again confirms that the state is not a good manager. The participation of

¹² "Давлат иштирокидаги корхоналарни ислоҳ қилишни жадаллаштириш ҳамда давлат активларини хусусийлаштиришга оид чора-тадбирлар тўғрисида"ги Ўзбекистон Республикаси Президентининг Фармони, 27.10.2020 йилдаги ПФ-6096-сон <https://lex.uz/uz/docs/5068824>

¹³ <https://stat.uz/uz/rasmiy-statistika/small-business-and-entrepreneurship-2>

¹⁴ Боротов А. Хусусий мулкни ҳимоя қилиш соҳасида миллий қонунчилик иерархияси: маъмурий ҳужжатлардан – фуқаролик-ҳуқуқий тартибга солишга // Мустақил Ўзбекистон давлатчилиги ва ҳуқуқий тизими: назарий асослар ва ривожланиш жараёнлари: Республика илмий-амалий конференция материаллари. – Тошкент: Юристар малакасини ошириш маркази, 2021. Б 273

¹⁵ Davlat aktivlarini boshqarish agentligi ma'lumotlari asosida

¹⁶ Davlat aktivlarini boshqarish agentligi ma'lumotlari asosida

¹⁷ Davlat aktivlarini boshqarish agentligi ma'lumotlari asosida



the state in the economy of the republic was still high and was about 55%. For example, in South Korea, this indicator is 22%, in Germany -18%. A high share of the state in the country's economy, in turn, a high level of state participation in the economy hinders the development of a healthy competitive environment. Without a transparent privatization process, we will not be able to gain the trust of local and foreign investors, and without taking steps to transform state-owned enterprises, we will not be able to increase their attractiveness. In this regard, the "2021-2025 strategy for management and reform of state-owned enterprises" was developed and approved by the government on March 29, 2021¹⁸.

Currently, these projects are developed with the support of international financial institutions (International Financial Institutions, World Bank, ADB) and foreign experts. By the end of this year, the State Assets Agency will take measures to present them to the Legislative Chamber of the Oliy Majlis. According to the strategy, the following changes will be introduced to the principles of corporate governance. Starting from 2022, the practice of electing candidates to Supervisory Boards on the basis of competition will be introduced. In addition, until 2025, the share of independent members of Supervisory Boards will be increased to 30 percent. The executive body is also formed on the basis of an election with a term of office of up to three years. At the same time, the evaluation of the performance of members of the Supervisory Board and the executive body is linked to corporate governance indicators and key performance indicators (KPIs).¹⁹ What results are expected from the implementation of the strategy? Until 2025, the number of state-owned enterprises will be gradually reduced by 75 percent²⁰. Together with the Ministry of Finance, public placement of shares of 20 state-owned enterprises is carried out through initial (IPO) and secondary (SPO) ("Uzmetkombinat" AK, "AGMK" AK, "Uznatsbank" AK, "Uzbekneftgaz" AK, "Narodnyy Bank" AK, "Uzagrosugurta" JSC, "NKMK" JSC, "Uzavtosanoat" JSC and others). In addition, 100 foreign managers will be involved in the management bodies of state-owned enterprises. The transformation should take place for the first time with the presidential decree "On measures to accelerate the reform of state-owned enterprises and the privatization of state assets" adopted in October 2020. the list of state enterprises was determined. Also, the practice of selling state objects at "zero" purchase price was canceled, the lists of privatized state enterprises and real estate objects were approved.

With the decree of the President of February 11, 2021, the practice of introducing modern methods of privatization began. In particular, professional organizations began to be involved in this process, the requirement to determine the estimated value of the state asset as the starting price was canceled. In this case, estimated costs are a guideline for implementation. By the end of the first half of 2021, more than 550 state assets are expected to be sold, including large property complexes such as "Poytakht" business center, "Malika" shopping center, "Ichan Qala" hotel and an administrative building in the center of Tashkent. "Coca-Cola Beverage", we are approaching the final stage of the realization of the state share, until the end of 2021 "Uzagroexportbank" and "Capital Bank", "Fergana Oil Refinery", "Quartz", "Trest-12", "Guarantee" insurance company , plans to sell the state stake in wine-vodka and oil production enterprises. Internationally

¹⁸ Райханов У. Приватизация государственных активов и развитие класса собственников в Узбекистане // Journal of Economy and entrepreneurship, Vol. 15, Nom. 4 с.431

¹⁹ Davlat aktivlarini boshqarish agentligi ma'lumotlari asosida

²⁰ Валижонов А.Р. Хусусийлаштиришнинг бугунги босқичи хусусиятлари. // "Халқаро молия ва ҳисоб" илмий электрон журнали. – Тошкент, 2021. - №6, декабрь.



recognized valuation companies (KPMG, Deloitte, Price Water house Coopers, Grant Thornton) were involved to determine the market value of state assets. Pre-privatization preparation is also carried out by internationally recognized consulting companies²¹.

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²¹ Xusainov R.R. Xususiylashtirish, milliyashtirish va davlat-xususiylashtirish. Darslik. Xusainov R.R. «Fan Ziyosi» nashriyoti, 2022.- 28 b

