

Microeconomics

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**MASS PRIVATIZATION
AND RESTRUCTURING IN UKRAINE:
A FINITE PROCESS?**

Abstract

The article proves that private, as well as social, property can be effective only under conditions necessary for positive changes to appear. The author proposes to distinguish among three privatization periods: from 1993 to 1995; from 1996 to 2000; from 2003 to 2008 (forecast). The last program of privatization is analyzed, and the reduction in its realization time is suggested as the condition to its effectiveness and fairness. The notion of post-privatization restructuring as a complex transformation of the whole economy is formulated; the changes in the economy's branch structure and its consequent re-profiling, are shown. The author proves that the restructuring in Ukraine should be aimed at overcoming excessively deep specialization and universalization of production, which were inherited from the former Soviet Union. Obligatory restructuring, creation of independent bankruptcy institutions, development of financial readjustment, and debt elimination are offered. The principles of solving problems with personnel are defined.

Key words:

Bankruptcy, certificate, illegal owner, illegal ownership, loans, merger, new enterprise, personnel, privatization, property, restructuring, the State Property Fund of Ukraine.

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1. The Theory and History of Privatization in Ukraine

Theoretical postulates of privatization in Ukraine are founded on the rejection of the dogmatic concept implying that the most efficient is the system based on social property. Although the tendencies of «converse dogmatism» – the absolutization of private property in economic development – can be observed lately, the majority of economists are unanimous about the necessity to search for such a combination of proprietary forms, where negative aspects of one form would be offset by positive aspects of another. At that, the fact that many economies of the world were founded on private property didn't reach the adequate level of development is also taken into consideration. As a matter of fact, the social property practiced in the post-socialist countries throughout several decades did not succeed in demonstrating its advantages over the private property.

Actually, modern economic science found no criteria of selecting specific proprietary forms in specific situations. The adherents of neoclassical school of political economy, in which the problem of privatization is studied most comprehensively, believe that the mechanism of market regulation is the best way to maintain the economic equilibrium. The importance of the State in economic management is mitigated within the market environment and private property grows to be predominant. Its prevalence in the leading countries, where the goods and services of better quality and lower prices are available along with harmonized and coordinated allocation of resources, is rather a telling argument in support of private property. This substantiates the implementation of the privatization policy for gradual substitution of social property with the private one.

The approach that recognizes collective property along with private and social (common, state) property appears in economic literature very often. Two proprietary forms are the feature of preceding centuries, when the joint property did not exist at all. According to S. Mocherniy, the dual vision of property in our time is the evidence for anti-historic and metaphysic thinking. He considers that «it would be more rational if the collective labour property gained priority significance for ownership development in the process of privatization, since it dialectically combines the collective character of labour and the collective ownership evoking the collective economic interest, which organically corresponds to the individual interests of the employed» [7: 55]. Under certain circumstances such a standpoint may be of constructive character; though owing to purely theoretical reasons, everything that can be referred to collective property is nothing else but a form of a union of individual proprietors and, in some cases, the state.

Unfortunately, so far the scientists and politicians disregard the problems of creating the favourable environment for realization of the either property's potential. When examining the specific features of private property, it is customary to regard it as being capable of providing such economic advantages as creation

of effective stimuli for highly productive work; concentration and effective utilization of limited resources. The private property concurrently performs a number of social functions securing the individual freedom of the citizen and the democratization of the society. Apparently, along with that the favourable conditions for effective activity are to be created in the society since as soon as the crushing tax rates are set or much corruption is allowed, the potential effect will be noticeably reduced [1: 28].

The history of modern privatization in Ukraine covers several stages. The first stage (1993–1995) is characterized by dominance of a mixed form of owning the property by means of money and certificates. Ukrainian legislation allowed redemption of tenancy as a possible method of privatization. Later on this method became prevalent as the majority of citizens were lacking solvency to participate in privatization despite the fact that the state property was offered at minimal opening prices. Moreover, this approach violated the principle of free access of every citizen to the object of privatization.

The practice of certificates resulted in dispersion of the state property among small shareholders, which could not exercise influence over management of the enterprise. Furthermore, their rights were not legally regulated. In consequence, the privatized enterprises were virtually at full disposal of the company's management, which enjoyed the situation for personal enrichment. As a result, the certificates were sold by their holders (about 19 billion people) to intermediaries.

The second stage of privatization (1996–1999) entailed changes in some approaches, which were expected to correct mistakes of the first stage, chiefly those related to the unsuccessful plans of mass privatization. Thus, in 1993 no less than 10% of the auction objects were intended to be sold exceptionally in exchange for privatization certificates. However, due to the fact that they were not made of paper, they were replaced with deposit accounts, which consequently hindered the development of the securities market, since such accounts were opened only by 17% of citizens. According to the Presidential decree effective November 26, 1994, the certificates were declared securities. Moreover, the establishment of the certificate auctions which were supposed to allow each citizen to participate in privatization in person or through intermediaries was declared.

Unfortunately, this concept was predestined to fail as well. Even though many enterprises released themselves from state control, there appeared to be no proprietor to manage them efficiently. At the parliamentary hearings on February 26, 2003, it was plausibly concluded that privatization in Ukraine was not the result of economic restructuring, but rather its unique propulsive force (admittedly, with little capacity), which developed faster than the reforms in other fields. On the whole, the privatization lacked an effective strategy of the country's development, a program of structural reformation of the national economic complex, a concept of economic security, an adequate infrastructure (developed securities market, independent legislative base of consumer protection, mecha-

nisms of transparent and efficient redistribution of property), as well as a sufficient legal basis for implementation of the reforms.

The unique nature of the Ukraine-like privatization resides in the fact that in most cases the above-mentioned methods made the property available only to the privileged citizens that had direct access to property sales channels and propensity to business such as communists, komsomol members, trade union nomenclature, and managerial personnel. This «business elite» demanded only one thing – the legality of appropriation of the state assets. As a result, several dozens of «families» in Ukraine control over 80% of the state property. Not one civilized country in the world has such a polarized distribution, where much wealth is concentrated on the one pole and much beggary – on the other.

Another feature of the Ukraine-like privatization is the emergence of illegal property and illegal proprietor as a typical phenomenon. In the last several years of certificate privatization the control over the state property passed over to labour collectives represented by the administration of factories and plants, in fact, to their managers. They were the ones to become the illegal proprietors of these enterprises, which enabled them to enrich rapidly, in most cases, for the lack of adequate responsibility for efficient use of the property. The experts view the property in possession of the irresponsible owner as a brand new and insufficiently explored in the world practice system of economic relations. At the same time, this is the earlier unobserved mentality, the new economic outlook, and the new mode of life of certain economic agents [2; 3].

The privatization statistics shows that during the years of privatization the processes of restructuring concerned 83 thousand objects. More than 60 thousand objects passed into collective property while over 23 thousand enterprises became partly collective property. This is still not much in view of the fact that only 34% of major productive assets are owned by the private sector. In the early 2003 the overall revenues from privatization constituted 6.5 bln., 6 bln. of which were transferred to the state budget. As a matter of fact, the State was left with nothing.

The third stage of privatization commenced in 2003 on the basis of the 2003–2008 state privatization program. This program, as stated by the representatives of the State Property Fund of Ukraine, determines «new approaches and directions of further improvement of the privatization process accounted for the current strategy and ideology of property reformation within the objectives delineated by the President of Ukraine in his «European Choice» Appeal to Verkhovna Rada (regarding the decrease in the state sector ratio to optimal 8–10% in the next decade); and the accumulated experience of privatization, in particular of the monopolistic enterprises or enterprises of strategic importance to national economy and security» [9].

The State Property Fund of Ukraine consider the current program to ensure the implementation of the new political goal: «the accomplishment of privatization as a system of reformatory measures within the transition period; the creation of fundamental principles of effective state property management in the

process of state property privatization and sale; and the transformation of privatization authorities after the Program is fulfilled» [9]. In other words, the privatization is still in the process to be accomplished in five years, though it is uncertain whether the new time limits are real. The new program seems more likely to force privatization of the objects of interest to certain political entities because of their fear of losing positions after the 2004 Presidential elections.

Generally speaking, the fact that the realization and planning of privatization in Ukraine still lags behind compared to other post-totalitarian countries casts doubt on the ruling circles' incentive to accomplish true and efficient privatization. The factor of time, in terms of privatization lags in the past, was needed for providing corrupted clans with favourable conditions for redemption of the privatization objects. Haste and rush became the essence of this factor today, which is necessary for benefiting from the proximity to governmental officials before the beginning or (at the extreme) by the end of the forthcoming Presidential elections.

2. The New Governmental Concept of Privatization and Possible Ways of Its Correction by the Participants in the Presidential Elections Campaign

The new stage of privatization allows selling the enterprises of strategic importance; large economic complexes; natural monopolies; vertically integrated structures and holding companies in the military, aircraft, shipbuilding, railway, electric-power, oil, gas, and other complexes. Nonetheless, the planned privatization mechanism causes doubt as to whether the authors of the concept frankly wish to «bring up» an effective proprietor in Ukraine and develop market competition. The procedures within this concept are built up so that only those business entities approved by bureaucratic nomenclature will be eligible to bid on highly profitable objects. The concept of the State Property Fund stipulates the following: «The Program will improve the methods and procedures of sales by implementing individual approach to privatization of the enterprises of national importance. The program presumes such methods of selling as limited auctions, public offerings, «Dutch» auctions, and sealed biddings; extending possibilities for re-profiling; and liquidating the unsold objects of no investment or economic significance to the country» [9].

What could the notions of «negotiated bidding», «sealed biddings» or «liquidation of the unsold objects» mean? Including them into the program does not change anything in the de-facto privatization system, yet brings it into the agreement among the ruling clans on gradual pilfering of the state property. In fact, the new stage of privatization is the step taken by the same players toward

capturing larger objects. They have enough grounds to expect and be prepared to a possible discussion, which may emerge during the 2004 Presidential election campaign, of the ways to stop the nomenclature's privatization and conduct the people's privatization.

Another problem with privatization is its scheduling. In Ukraine, the traditional approach supports slow and gradual privatization as a way to make fewer mistakes. However, experience shows that when privatization slows down, the time-lag occurs, which is used by the corrupted groupings for creating favourable privatization conditions for themselves and fighting off the competitors. For the economy in general such small steps pass unnoticed, and it keeps on functioning as before, the reformation incentives not reaching it.

Politicians of different standpoints focus on the problems of privatization's essential drawbacks and protraction. Thus, the program of the Yednist¹ coalition suggests withdrawing the enterprises of strategic importance to national economic security from being privatized. The coalition of the Ukrainian Party and the Ukrainian Party for International Accord requests «revision of the privatization results, primarily with regard to those enterprises where labour collectives were excluded from participation in it». Yuliya Tymoshenko coalition demands to «check the legality of privatization and inventory the state property». The program of the Communist Party of Ukraine promotes «elimination of criminal 'grabbing' and revision of the legality of possessing fixed production assets» [12].

At present, striving for backdate justice a-la Communist manifest is not reasonable. That is why the standpoint of V. Yuschenko – the leader of the «Nasha Ukrayina»², which is the largest oppositional coalition – is worth consideration. He expressed his viewpoint in the Ukrainian journal *The Economist*: «The 'witch-hunt' and outburst of revanchism are the scary-tales of the ruling power intending to persuade a part of political elite that the current – though tiresome, but customary – regime is much better than the new rules of the game», says V. Yushchenko, «I strongly believe that breaking off with the period of primitive capital accumulation – a traditionally depressing era in the history of any country – is vital for the Ukraine's future. It is worth not only calming the wish of revenge, but also muffling the desire for immediate correction of injustice. Today's ruling power is only an episode in the history of Ukraine, which is about to end. For the Ukraine's sake we must leaf over this page, learn our lesson, and prevent our past from pre-ordaining our future and bothering us» [17].

Beyond doubt, various political parties will continue to mess with the issue of determining whether the principles of justice have been maintained during earlier privatization. However, as soon as the extensive economic reforms are launched, its significance will be lost, and justice will renew the market, only the effective proprietors remaining.

¹ «Yednist» translates as «Unity» (ed.)

² «Nasha Ukraina» translates as «Our Ukraine» (ed.)

3. Restructuring as the Form of Implementing Private Property Advantages

The beginning of privatization of large enterprises resulted in increased priority of the problem of restructuring. The issue under consideration is the post-privatization processes that, according to the theory of privatization, are the most significant and complicated. They should be scientifically forecast and planned while the drawbacks and miscalculations of the previous years eliminated and conditions for effective corporate management within the competitive environment created. As noted on February 26, 2003, at the parliamentary hearings concerning the outcomes and perspectives of privatization in Ukraine, «the regulation of proprietary relations, as well as formation of corporate management and transparent financing, which are typical results of the civilized privatization, are yet to be conducted» [11].

The notion of «restructuring» has various senses in economics: restructuring of external and internal debts; restructuring of an economy; and restructuring of enterprises. Restructuring of an economy is the most comprehensive in terms of scale, meaning «deep qualitative and essential structural changes at different levels and in all enterprises so that to increase the effectiveness of its functioning» [8: 200]. Thus, in the mining industry, in particular, only 26 enterprises produced 44.8 mln. tons of coal that constituted 55% of the national output (81.8 mln. tons). Therefore, the restructuring of the mining industry will allow «to pull up» the lagging coal-mines by successful management or by shutting some of them down. According to certain evaluations, by 2006 no more than 70 coal-mines will remain operational; however, they will ensure the required coal produce [14].

At the enterprise level restructuring encompasses «changes in economic property relations, forms of management, and production structure so that to ensure the enterprise's economic and financial remedy, enlarge production volumes, increase efficiency and competitive capacity, as well as rationally allocate labour and material resources» [8: 200].

The theory of restructuring states that owing to strong interdependence of the external business environment, the corporate behavior, and the company's internal environment, the company needs to adjust its objectives, strategy, organizational characteristics, structure, and functions to new market conditions in time. That is why «the process of complex change in the methods of functioning is called restructuring» [6: 17]. In addition, widely spread is still another definition: «Restructuring ensures the effective use of production resources, which generates growth of the company's value» [10: 285]. The recommendations of the Ministry of Economy of Ukraine interpret corporate restructuring as the complex of organizational, economic, legal, production, and technical measures aimed at changing the structure and management of an enterprise, as well as its proprietary, organizational, and legal forms, in order to ensure the financial rem-

edy of the enterprise, raise its output of competitive products, and increase its productive efficiency. [15: 217; 16: 326].

The above-mentioned definitions of restructuring, in general, reflect its content. But all of them are oriented toward the level of an individual enterprise while the scale of the restructuring processes within an overall economic system is not considered. Peculiar of corporate restructuring in Ukraine, as well as in other post-socialist countries, is that it is conducted on the basis of the mass privatization results rather than incidentally and at individual enterprises. It differs from traditional restructuring in scale and methods. Post-privatization restructuring permits comprehensive transformation of the entire economy, the change in its branch structure and, correspondingly, production profiles. S. Mocherniy and I. Topishko seem to have formulated the current processes most systematically: «during the period of transition from command and administrative economic system to social and market economy, the essential concern of corporate restructuring is to provide preconditions for companies' adaptation to principally different external environment and to create potential capacity and actual ability to respond adequately to continuous, unpredicted structural changes on the world and domestic markets» [8: 200]. The restructuring of large Ukrainian enterprises should be primarily directed at overcoming excessively deep production specialization, which was inherited from the former Soviet Union. It is well known that the majority of the «veteran» enterprises are still having their own, strictly limited assortment. Due to low demand for such products, production capacities are vacant and personnel reduced. The solution to this situation can be found in the alternative restructuring aimed at expanding the production profile. In this way, the companies similar to Boeing – which manufactures pursuit airplanes, passenger airplanes, TV sets, helicopters, strategic rockets, and many other products – could be formed. Ukraine had similar multi-nomenclature enterprises in the Soviet period as well. The ones that survived successfully operate under the market conditions. As an example, the following enterprises can be mentioned: Novokramatorsk Machinery Construction Plant, Khartsyzk Pipe Plant, Ukrpidshyynyk Corporation, industrial complex Stirol (the latter produces thousands of chemical products, the quality of which meets the highest requirements of the world market).

Another rudiment of the past, which must be eliminated during privatization, is the profound universalization of the large-scale productions with completed production cycles. For example, in large industrial centers (Donetsk, Kharkiv, Dnipropetrovsk, Mariupol, Makiyivka, and others) the neighboring enterprises have their own foundries, forge and other similar shops. Under the modern conditions, it should be enough to have one common specialized facility that would provide services to all of them. In other words, overcoming the inefficient (especially under modern conditions) universalization presumes merging the various structures of homogeneous character, technological cycle, territory, etc.

Restructuring under the conditions of mass privatization presumes creating brand-new enterprises by splitting or merging the existing ones. In Ukraine,

these processes develop spontaneously, with no future perspective, when the new owners hurry to enjoy almost immediate profits, to recover the capital spent in the course of privatization, and after that – «come what may». In the restructuring strategy worth is to prioritize the development of high-technology and science-intensive production capable of competing successfully in the international markets. In this respect, the state's regulative and stimulating function will be critical. Already at the stage of privatizing the enterprise, it should be stipulated that the new owner should organize the production which would correspond to the latest achievements in the research and technology. Together with the rights to the privatized enterprise, the proprietor could receive guaranteed privileges in financing the restructuring measures (including taxation, right to land, gains from selling or leasing spare facilities, etc.)

The vicious practice of allocating cash inflows from privatization to «gap patching» is being developed in Ukraine. Hence, enterprises received 131.8 mln. грн. from the organizational and technical restructuring measures, such as the lease of spare facilities, areas, and offices, as well as conservation of equipment [5]; but this money was used for liquidating the debts to the budget, the pay-roll, extra-budgetary, and social security funds. Of course, debts should be liquidated. However, privatization will hardly succeed if the financial mechanism is directed at extracting funds from the companies.

There is still another opinion that restructuring is something the enterprise can manage without bringing in external financial resources [13: 94]. This concept is true when applied under traditional restructuring conditions related to changes in the market environment. But when applied under mass privatization, it results in a very specific situation: the new owner might not have enough spare funds to cover all the restructuring costs in addition to paying for the object of privatization, leading to a failure. That is why the financial and credit mechanism should be adjusted so that to promote restructuring processes. The involvement of the State Export-Import Bank, which is the governmental structure, in the restructuring process can be suggested as one of the models for its reorientation. This bank should issue loans to the restructuring enterprises by cash emissions with minimal bank margins.

At the initial stage of privatization the bankruptcy mechanism was, practically, not used to activate the restructuring measures. At the second stage of privatization the named instrument should be widely employed to force restructuring. To achieve this goal, the experts of the branch Ministries and Departments should be attracted, the independent bankruptcy institutions established, and the readjustment and indebted enterprise liquidation system developed.

Current legislation is an essential obstacle to efficient application of bankruptcy procedures to restructuring. The Ukrainian Bankruptcy Law is, in fact, limited to only the last stage of the process – the indebted enterprise liquidation. Therefore, the aspects of readjustment, financial remedy, and relevant procedures are omitted in the mechanism [4]. The problems of determining the specific powers of the participants to the process – creditor meetings, property

managers, liquidation commissions, indebted (bankrupt) enterprises, as well as the authorities in charge of property, stock, and shares that belong to the state – become the most urgent.

The development of restructuring intensifies problems with personnel. Presently, higher educational institutions, business-schools, and institutes of advanced professional preparation do not train specialists in bankruptcy procedures. Moreover, the national economy is lacking skilled employees: property managers, readjustment specialists, financial analytics, evaluators, anti-crisis managers, and liquidators. In its turn, the system of higher education has practically no faculty specialists with theoretical and practical basis sufficient for preparation of the required personnel. The programs of special professional preparation in restructuring and bankruptcy should be urgently organized both abroad and in the Ukrainian educational establishments with the help of foreign visiting lecturers and practitioners.

The shortage of specialists in the sphere of restructuring could be liquidated also by providing young people with an opportunity to prepare diploma and Master's theses or Candidate and Doctoral dissertations while undergoing traineeships at the national pilot enterprises and abroad. At that, the priority should be assigned to the preparation of the restructuring consultants and teaching staff in fundamental restructuring program. At the same time, resources should be concentrated at the development and implementation of teaching present methods of restructuring, development of organizational and structural managerial forms, marketing, financial management, financial engineering, personnel management, innovations management, strategic planning, project management, and information provisioning of corporate restructuring to corporate employees.

4. Finiteness or Infinity of Privatization and Restructuring

A well-known aphorism is often quoted in Ukraine: «may the Heaven protect you from living in the times of changes». The reality is that since the Ukraine's sovereignty declaration, all the reforms that had been undertaken «have not been working». The «reformative» governments are changed almost every year, and after they leave, no one can explain clearly the essence of their reformative ambitions. The Ukraine's latest achievement is the 77th position with respect to growth perspectives among 80 countries rated by the International Economic Forum.

The current economic situation could be explained by indecisiveness in conducting the reforms. It is high time to exclude such unrealizable steps as «shock therapy», «cautious privatization», and the policy of taking no risks, from the portfolio of achievements. It is necessary to form the government that would

come to power with a program of brave, large-scale reforms and fast achievements.

Coalition governments, which meet the ambitions of the individuals represented in the parliamentary «majority», will never make the reforms succeed leading to positive outcomes.

In view of the above, the privatization and restructuring are the phenomena which can not stand infinity. Infinity is the method that favours only the corrupted part of the society by giving it the opportunity to re-dislocate its forces for gradual conquest of even more enterprises. These proprietors are not interested in real reforms. They get the «titbits» of the state property too easily and, thus, are completely satisfied with the reforms virtual in nature. The main objective of the first wave's proprietors was to «skim the cream» off «the captured» capacities; in other words, to take what the latter yet can give. Investing into the future is an overly distant and risky perspective. Only one-time, simultaneous privatization conducted during a short period of time will create equal conditions for everyone, provide an opportunity to form market prices for the state owned enterprises, and obtain the effective proprietor. This is the only way with «the light at the end of the tunnel». If chosen, only on this path can lead to the «Ukrainian miracle», which the Ukrainian people have been hoping for and expecting from their leaders ever since the state had been declared independent.

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