

Privatisation in Lithuania

Minsk

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Primary Privatization of State own Property (1991-1995)

- Stage One.

In Lithuania privatization process legally was regulated by several laws and big number of the Government resolution and other legal documents. It was:

- Law on Primary Privatization of State Property;
- Law on Privatization of Property of Agricultural Enterprises;
- Law on privatization of apartments;
- Law on restitution of property, which by ownership rights before II World War belonged to former owners.

The main ideas of authors of the first law were based on following:

- to privatize up to 30 per cent of state capital by vouchers using in any single case at least 5 per cent of money;
- by vouchers privatize only small and medium size companies, which were not needed big investments and restructuring;
- Simultaneously privatize big companies (which needed investments and restructuring) to strategic investors for money;

Main results of initial privatisation

During the period from 1991 to 1995:

- 1) 5714 objects or 86% of all objects designated for privatization were privatized; 2928 medium and some large enterprises were privatized by the method of public subscription for shares, 2726 minor objects were sold by auction, 12 enterprises were sold by tender (on best business plan basis), and 48 objects were sold for freely convertible currency;
- 2) The citizens of Lithuania purchased 93.5% of all housing stock (houses and apartments) in accordance with the Law on Privatization of Apartments;
- 3) 99.7% of property of agricultural enterprises (by book value) was privatized in accordance with the Law on Privatization of Property of Agricultural Enterprises.

Mistakes done deliberately or without experience:

- When left side party came to the power after Parliament election at the end of 1992, first of all they have excluded the biggest companies from the list of object designated to privatize for currency the and they gave big priorities to employees, - really to managers;
- holding companies - investment funds were left without supervision and real estate value during hyperinflation period were left without indexation;
- was not enough control of using banks money for restructuring companies – money has gone to management, – they were watched through these companies;

Comercial Privatisation (II phase)

- Law on Privatization on 1995
- Privatization methods:
 - direct negotiations
 - lease with the right to purchase
 - public auction
 - public subscription of shares
 - public tender and public auction

Laws and other documents in 1997

- Law on Privatisation, Law on State property Fund, amendments and supplements in the Companies laws as well in the Civil code and Taxation laws, Administrative punishment and Civil liability laws.
- In the year 1998 SPF has taken more than 2000 companies shares and 2500 real estate objects.

The SPF in privatization area shall:

- The Property Fund in privatization area shall:
 - 1) draft the list of privatisation objects and submit it to the Government for approval;
 - 2) establish the method of privatisation and terms and conditions of privatisation of a specific object (group of objects);
 - 3) hold tenders in order to choose experts for the performance of privatisation tasks (including valuation of privatisation objects) and contract them for the fulfilment of the tasks;
 - 4) form a commission for assessing the value of the privatisation object (shareholding in a company) and for fixing the initial selling price, which shall value the privatisation object;
 - 5) restructure the enterprise controlled by the state, where such restructuring will increase its privatisation possibility or increase the selling price of the privatisation object (shares in the enterprise);
 - 6) seek investors for the privatisation objects (also publish the Information Bulletin of Privatisation where information on the privatisation object, as well as arranging the advertising of the privatisation object);
 - 7) sign privatisation transactions on behalf of the state;
 - 8) supervise the progress of privatisation transactions until the fulfilment of all terms and conditions of the transaction;
 - 9) transfer to the persons who acquire privatisation objects documents confirming ownership of the property (share certificates or other documents confirming ownership as prescribed under the Company Law and under the Law on Public Trading in Securities);
 - 10) sign agreements with municipalities for the privatisation of shares and other property owned by them;
 - 11) compile data relating to privatisation works;
 - 12) represent the Government in courts proceedings relating to privatisation agreements signed by the Fund.

Privatisation Commission –supervision body of the Privatization process

accountable to the Parliament and includes experts from opposition

- *The Privatisation Commission has the right to:*
- *1) approve or disapprove draft programmes of object privatisation;*
- *2) approve or disapprove projects of object privatisation transactions, except for the National Stock Exchange transactions;*
- *3) approve or disapprove the draft list of strategic investors;*
- *4) suspend the implementation of privatisation programme in the cases provided by this Law and/or consider the programme completed.*
- *5) to obligate the Property Fund to perform an additional examination of the documents submitted for its consideration*
- *6) to delegate its representative or representatives to perform the examination of the documents*
- ***The decisions of the Privatisation Commission are published officially.***

Privatisation funds are consisting of

- 1) revenues from privatisation transactions;
- 2) interest and default interest on payments deferred under privatisation transactions;
- 3) other income (aid from international organisations, income from additionally provided services, use of data base, other receipts).

If the privatisation object is owned by the state, the privatisation funds go to the Ministry of Finance special account and if the object is owned by the municipality - into a special account of the municipality

Restrictions on the Activities of the Enterprise Controlled by the State (Municipality)

without the written consent of the SPF:

- *1) loan agreements, contracts of pledge, warranty, guarantee, lease, contracts of purchase, sale and any transfer of long-term tangible property, also to purchase securities of any other enterprise, issue debentures, increase or reduce the enterprise's authorised capital, where the value of the contract or several contracts (the total value per calendar year of the property which is the object of the contract) exceeds 5 per cent of the enterprise's authorised capital;*
- *2) contracts for the purchase and sale or any transfer of materials and raw materials where the value of the contract or several contracts (the total value per calendar year of the property which is the object of the contract) exceeds 10 per cent of the enterprise's authorised capital;*
- *3) no right to break down into separate units or merge*

Methods of Privatisation

- *public subscription for shares (small packages of shares sold at Stock Exchanges)*
 - *public auction (small packages of shares, real estate, small companies)*
 - *public tender (controlling packages of shares)*
 - *direct negotiations (controlling packages of shares with special requirements for buyers)*
 - *lease with the option to purchase (real estate)*
- also a combination of methods may be used.*

Payment for the Privatisation Object

- currency stipulated in the privatisation transaction
- The privatisation object may be bought by instalments, but the final purchase may not be postponed for more than 5 years

Obligations of the Buyer in the Privatisation Transaction

- SPF may request (public tender or direct negotiations) to include in the privatisation transaction:
 - 1) a clause restricting the rights of the buyer to dispose of the acquired shares in the enterprise controlled by the state (municipality) before the buyer meets the terms stipulated in the privatisation transaction;
 - 2) a clause prohibiting the suspension or termination of the activities of the enterprise controlled by the state (municipality). The privatisation transaction may stipulate the buyer's obligation to lease or buy out a plot of non-agricultural land, also his other obligations.

Additional rights and duties of SPF

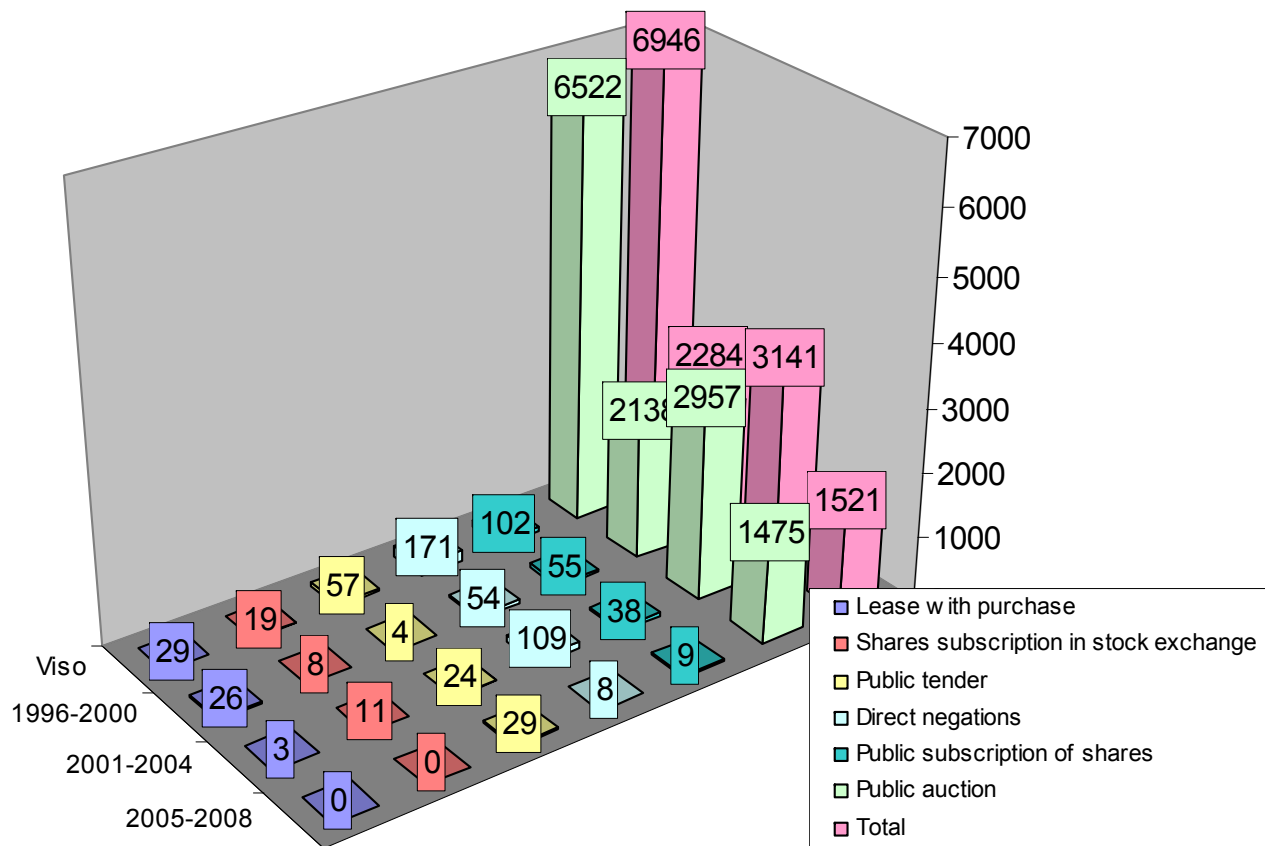
Seeking to attract potential buyers and provide them with an opportunity to acquire a controlling stake in the companies, in which the state holds less than $\frac{1}{2}$ of the shares, the State Property Fund promotes the signing of agreements with other shareholder of the Company to sell the state-owned shares in the Company together with the shares held by other shareholders. The acquisition of the controlling stake allows the potential buyer to implement his policy and investments, to improve the activities of the Company.

Privatisation results (II phase)

- The main achievement of SPF is in the year 2000 in the privatisation area Lithuania was in 4th place per revenues and in 6th place per investments in Europe per one habitant;
- Incomes from privatization till today -more than 1000 Euros per habitant;

Results (summary)

Summary of privatized objects by different privatisation methods (units.)
1996-2008 m.



Most unsuccessful transactions

- 1)Lithuanian gas:
- Main reasons:
 - a) cash flows from licensed customers wrongly accounted;
 - b) bad privatization strategy;
 - c) basic transition pipelines were not excluded from Lithuanian gas company's balance sheets

Thanks for attention