

MOLDOVA

cooperative, private and other types of enterprises based on private ownership by citizens of the Republic of Moldova).

The property of public organizations of which the state has confirmed its right of ownership is subject to privatization.

Citizens of the Republic of Moldova take part in the process of privatization voluntarily.

2. As the result of the privatization of state property the state loses the right to manage it, use it and dispose of it, and those who acquire the property accept all obligations stemming from the transfer of the rights of ownership.

Article 2. The Principles of Privatization

The basic principles of privatization are:

- ensuring the social protection of the population;
- regard for the opinion of the labor collective of the facility being privatized;
- the equality of citizens' rights to acquire a share of ownership in state property subject to privatization;
- the alienation of state property on both a paid and an uncompensated basis;
- ensuring broad glasnost and the knowledgeability of the population about the privatization process.

Article 3. The Sphere and Objects of Privatization

1. Privatization is permitted in all branches of the republic's economy, culture and social sphere and is extended to items of state property and natural resources located within its territory.

2. The objects of privatization are:

- enterprises (associations), institutions, organizations, the structural units of associations, shops, and other subdivisions of enterprises and organizations that are regarded as unified property complexes;
- part of the property of enterprises under state ownership that is auctioned off and transferred to the control of citizens;
- housing;
- other physical items and equipment, except for the items indicated in point 3 of this article.

The procedures for the privatization of natural resources are defined by special legislation.

3. Items of state property are not subject to privatization if:

- they determine the defense capability and security of the state;
- they are national cultural property;

Text of Law on Privatization

91UN1622A Kishinev SOVETSKAYA MOLDOVA
in Russian 7 Aug 91 p 3

[Text of "Law of the Republic of Moldova 'On Privatization'"]

[Text] This law defines the basic concepts and content of and procedures for the transformation of state property into the private property of citizens. The purpose of the law to regulate the process of changing property relations, and to turn citizens into real owners of the means of production and products of their labor on the basis of equality among various forms of ownership.

Section I. General Provisions

Article 1. The Concept of Privatization

1. Privatization is the process, carried out by bodies of state authority, of alienating state property to the ownership of citizens and associations of them (joint-stock and economic-management companies, and collective,

—they provide part of state-guaranteed minimum free social services to the public;

—their activities are a monopoly of the state.

Plots of land included in the state land stock, as well as tracts of land transferred to monasteries according to procedures established by law, are not subject to privatization.

The list of facilities not subject to privatization is approved by the republic Parliament.

Article 4. Subjects Acquiring State Property

1. Subjects acquiring state property may be:

—citizens of the Republic of Moldova;

—juristic persons of the Republic of Moldova if their property is not state property;

—foreign juristic persons and citizens, which may acquire items of state property for convertible currency. The list of these items of approved by the Parliament of the Republic of Moldova.

2. Subjects acquiring state property may utilize the services of intermediaries in the form of state and nonstate organizations (consultant, brokerage and auditing firms, etc.).

Article 5. Funds for the Acquisition of Items of State Property

The following may serve as funds for the acquisition of state property:

—public property bonds [bony. narodnogo dostoyaniya] (PPBs) of the Republic of Moldova;

—citizens' personal savings;

—funds belonging to citizens' associations registered within the territory of the Republic of Moldova;

—bank credit;

—the funds of foreign investors and stateless persons.

Article 6. The Use of Money Obtained from Privatization

1. Funds obtained from the sale of objects of privatization goes into the republic privatization fund and is the state property of the Republic of Moldova. These funds may be used to provide credit to citizens for the purposes of their acquiring state property, for the support of small business, and for the retraining and job placement of employees released in the privatization process.

2. Guidelines for the use of funds obtained from privatization are established annually by the Parliament of the Republic of Moldova.

Section II. Organization of the Privatization Process

Article 7. The Republic of Moldova State Department for Privatization

1. The agency that implements a uniform privatization policy is the Republic of Moldova State Department for Privatization (henceforth referred to as the State Privatization Department).

2. The State Privatization Department operates in accordance with legislation of the Republic of Moldova, establishes local agencies for the privatization of state property, and is accountable to the Parliament of the Republic of Moldova.

3. The State Privatization Department and its agencies organize the privatization process in the Republic of Moldova, develop a State Privatization Program, and establish special commissions that draw up plans for the privatization of specific items of state property.

4. The jurisdiction of the State Privatization Department and its agencies is determined by a Statute on the Republic of Moldova State Department for Privatization approved by the Parliament of the Republic of Moldova.

Article 8. The Procedures for and Conditions of Privatization

1. All acts on the privatization of state property adopted prior to the entry of this law into effect must be brought into conformity with it, and those that are in conflict with it must be annulled.

2. A decision on the privatization of an item of state property within the territory of the Republic of Moldova is taken by the State Privatization Department or its local agencies with due regard for:

—proposals by bodies of local government;

—the opinion the labor collective of a privatized facility;

—proposals by purchasers and acquirers submitted to the State Privatization Department or its agencies;

—the specific regional and branch features of privatization, and the value of the privatized property;

—the socioeconomic and environmental significance of an enterprise for the territorial administrative unit.

3. The conditions of privatization are:

—the provision of complete information to the public concerning the objects of privatization;

—monitoring of the implementation of privatization by local government bodies and employee collectives of privatized enterprises;

—the right to dispute privatization decisions in the state arbitration service or a court in accordance with existing legislation.

With the consent of the State Privatization Department, local government bodies may establish additional conditions of privatization.

4. The privatization of municipal property is carried out by local government bodies in accordance with this law under the supervision of the State Privatization Department.

5. The privatization of property of the Republic of Moldova located outside the boundaries of its territory is carried out according to procedures defined by interstate agreements.

Article 9. The Initiators of Privatization and the Procedures for Considering Petitions

1. The initiators of the privatization of an item of state property may be the subjects that are acquiring that property, local government bodies, or the State Privatization Department and its agencies.

2. Petitions and proposals concerning the privatization of an item of state property are considered within one month from the time of their receipt. The decision of the State Privatization Department or its agencies is conveyed in written form to the interested persons within the same time period.

Article 10. The Preparation of an Item of State Property for Privatization

1. The preparation of an item of state property for privatization consists in inventorying its production and nonproduction assets and other types of property, determining the composition of the property complex or other property subject to privatization, and assessing its value.

2. Enterprises occupying a monopolistic position in the market for the production of goods and services are subject to demonopolization in the privatization process by being divided into separate facilities. When it is impossible to divide monopolistic enterprises because of the need to preserve a unified technological process, the procedures for their privatization are determined by the State Privatization Department.

3. In the privatization of enterprises or subdivisions of them that are regarded as unified property complexes, fixed production and nonproduction assets, financial assets, material circulating capital, and unfinished construction are included as part of the property being assessed.

4. The assessment of the value of privatized property is made on the basis of its actual condition as established as the result of inventory.

5. The methods for determining the price of privatized facilities are approved by the State Privatization Department. The initial price of privatized property is determined by the commission on the facility's privatization. Prices that are set are subject to expert review by

disinterested organizations and are published in the press. The final price is determined in a contract between the parties.

In the event of the acquisition of state property, including stocks, a private (privatnyy) tax is established.

6. Alienation is carried out no sooner than one month following the publication of prices and other terms for the sale of state property.

Article 11. The Methods of Privatization

1. The methods of privatization are:

—the alienation of privatized property in an auction and in competitive bidding;

—the sale of stocks in the privatized property in auctions.

2. The procedures for conducting auctions and competitive bidding for privatization, the terms for buyers' participation in them and the procedures for the settlement of accounts, as well as the procedures for formal documentation of the right of ownership, are determined by the Statute on the Conduct of Auctions and Competitive Bidding in the Republic of Moldova.

3. The collective of a privatized facility takes part in competitive bidding (or auction) for its acquisition on the same terms as other buyers, except for cases stipulated in point 4 of this article. In the event that a collective and other buyers propose equal competitive terms for privatization, priority is given to the collective.

4. The employees of privatized enterprises and enterprises not subject to privatization are granted the right to acquire up to 20 percent of the enterprise's stock at a nominal value. Within the limits of an established quota, this right is also enjoyed by the former employees of an enterprise who worked at it at least 10 years.

Section III. Funds for the Acquisition of State Property and the Use of Them

Article 12. Public Property Bonds and Their Use for the Alienation of State Property

1. PPBs are special state securities that are issued to citizens of the Republic of Moldova for the acquisition of state property in the privatization process. PPBs are issued to specific persons and are not subject to alienation, except for cases of transfer to immediate relatives. After being exchanged for state property, they are subject to cancellation according to established procedures.

2. The total amount of money for which PPBs are issued is determined by the value of that part of state property that is subject to distribution at no charge. The portion of state property that is to be distributed through PPBs is approved by the Parliament of the Republic of Moldova (including separate approval for each of the parts indicated in point 3 of this article).

3. The total value of PPBs issued to each citizen of the Republic of Moldova consists of two parts:

—the value of PPBs issued to all citizens of the Republic of Moldova (including children born as of the time that PPBs are issued);

—the value of PPBs issued to citizens of the Republic of Moldova on the basis of length of employment at enterprises and in institutions and organizations of the Republic of Moldova.

4. The total length of employment is determined in accordance with the calculation of length of employment in the setting of an old-age pension for time worked in the Republic of Moldova. It also includes the time of mandatory military service in the ranks of the USSR Armed Forces and of study in graduate school and higher and secondary specialized educational institutions located outside the republic, and for persons who have suffered unwarranted repression, it also includes the time of punitive sentences served.

5. The procedures for issuing PPBs taking into account length of employment outside the republic are established by interstate agreements.

6. In calculating the value of PPBs provided to citizens in accordance with their labor contribution, certain benefits are enjoyed in the Republic of Moldova by disabled persons, persons who have suffered unwarranted repression, low-income families, and other categories of citizens, according to a list confirmed by the Parliament of the Republic of Moldova.

7. The length of time during which state property can be acquired with PPBs is limited to two years from the time they are issued. If valid reasons exist, the period of validity of PPBs is extended by the State Privatization Department.

8. State property, including stocks acquired with PPBs, is not subject to alienation for two years. If valid reasons exist, the State Privatization Department has the right to issue authorization for the alienation of such property prior to the end of the two-year period.

When acquiring PPBs, citizens pay a state duty.

Article 13. Other Funds Used in the Acquisition of State Property

1. Personal savings of the Republic of Moldova, funds belonging to associations of citizens of the Republic of Moldova to the extent that such associations are not state property, and bank credit may be used in various combinations and proportions in the acquisition of state property.

2. Funds of foreign investors and stateless persons may be used in the acquisition of state property, including its acquisition for the purposes of establishing within the republic foreign and joint ventures, in accordance with existing legislation of the Republic of Moldova.

3. Citizens' associations may use their own funds for the acquisition of state property by special authorization of the government of the Republic of Moldova.

Their participation in the acquisition of state property is permitted following the privatization of facilities through the use of PPBs.

4. The procedures for using monetary funds in the process of privatization are defined by the State Privatization Program.

5. For the purpose of preventing an excessive concentration of capital and the monopolization of production, the State Privatization Department establishes quotas on the acquisition of stock, shares and other property by juristic persons.

6. The list of facilities privatized for money and for PPBs is drawn up by the State Privatization Department and approved annually by the Parliament of the Republic of Moldova.

7. In order to exercise oversight over the movement of privatization funds, the State Privatization Department establishes procedures for accounting for them.

Section IV. The Specific Features of Privatization in Certain Branches of the National Economy

Article 14. Privatization in Agriculture

1. The allotment of land to citizens is carried out in accordance with the Republic of Moldova Land Code.

2. On kolkhozes and sovkhozes stock is issued for the value of the fixed production assets and circulating capital that is distributed among the employees and pensioners of those farms in accordance with each person's contribution to the creation of that property.

A right to part of the stock is held by former members of those farms, teachers, medical personnel, and the employees of institutions in the cultural and social sphere who have lived on the territory of those farms. The portion of such stock is determined by a decision of the collective.

3. Plots of land may not be the object of buying and selling before 1 January 2001.

Article 15. The Privatization of Housing Stock

1. State housing that is in use is alienated to the renters residing in it both for PPBs and for other funds of citizens according to the following procedures: within limits of the normative provision of living space—at state prices; above the norm—at commercial prices.

2. The normative provision of living space in the privatization process is taken as 18 square meters of total space per person and an additional nine square meters per family.

3. State and commercial prices for privatized housing are determined by commissions for the privatization of housing stock according to the methods of the State Privatization Department, taking into account the region of location, number of stories, and quality of the housing.

4. Cooperative apartments of housing-construction cooperatives that have been fully paid for are deemed to be the private property of their owners, and they are to be issued state certificates of the right of ownership.

5. Within the limits of the normative provision of living space, residents of apartments of housing-construction cooperatives may use PPBs in the settlement of accounts.

6. New apartments built by the state are sold according to the existing waiting lists for them and in accordance with existing legislation.

7. The procedures for the privatization of state housing are defined by the Law of the Republic of Moldova on the Privatization of Housing Stock.

Article 16. The Privatization of Facilities in the Cultural and Social Sphere

1. The facilities in the cultural and social sphere that are subject to privatization are determined with due regard for the need to preserve physical facilities and equipment for the provision of guaranteed free services to the public in amounts determined by appropriate legislative and normative acts of the Republic of Moldova.

2. The procedures for and specific features of the privatization of facilities in the cultural and social sphere are determined by appropriate legislation.

Section V. Concluding Provisions

Article 17. Guarantees for the Employees of Privatized Facilities

1. Within six months from the time that the right of ownership is transferred to a new owner, a new collective contract is to be concluded between him and an enterprise's trade-union organization. Prior to its being concluded, all provisions of the previous collective contract are observed.

2. No lowering of the attained level of provision of social services to the employees of a given enterprises is allowed in collective contracts.

3. Job placement of released employees and the provision of social guarantees to them are carried out in accordance with legislation of the Republic of Moldova.

Article 18. The Formal Documentation and Defense of the Right of Ownership

1. Between the owner of a privatized facility and the State Privatization Department or its agencies, a contract is concluded defining the rights of the parties, as

well as their obligations, with regard to the facility's further use. The contract also specifies the composition and price of the property acquired, the source of funds, and the procedures and time period for payment for the acquired facility. The owner of a privatized facility becomes the legal successor to the property rights and obligations and the financial and other obligations of a state enterprise from the moment of receipt of the certificate of acquisition of an object of privatization.

2. In the event of incomplete payment or the failure to fulfill other terms of the contract by the owner of an acquired object of privatization within the established time period, he, with the consent of the parties or by decision of the state arbitration service or a court, may be deprived of the right of ownership of that facility. In that case the owner is returned the money he has contributed and reimbursed for expenses he has incurred, net the value of the damage caused to the privatized facility.

3. In the event that it is impossible to use an object of privatization in connection with the unreliability of information provided by the State Privatization Department, its agencies or the commission for the privatization of the given facility, the owner has the right, with the consent of the parties or by decision of the state arbitration service or a court, to dissolve the contract and be compensated for losses he has incurred. In the event that discrepancies between the condition of an object of privatization and information provided by the State Privatization Department, its agencies, or the privatization commission are discovered, the owner has the right to be compensated for losses connected with the elimination of the identified discrepancies.

4. Persons guilty of violating the provisions of this law bear criminal, administrative, property and other liability in accordance with legislation of the Republic of Moldova.

5. Ownership relations not covered by this law are regulated by the Law of the Republic of Moldova on Property and civil legislation of the Republic of Moldova.

Mircea Snegur, president.
Republic of Moldova.
Kishinev, 4 July 1991.