

System of Contracts on Privatization of State Property and their Validity

Imomniyozov Doniyorbek

Tashkent State University of Law Lecturer of the Department of Civil Law

Annotation: Privatization of state property involves the transfer of assets to the private sector through a system of contracts. This article examines the validity of these agreements and their impact on society and the economy. It should be noted that legal validity ensures compliance with laws and regulations, transparency and fairness. Economic feasibility requires an assessment of the impact on productivity, investment and social equity. Ethical considerations emphasize transparency, inclusiveness and environmental sustainability. This article discusses the system of contracts in the process of privatization of state property, their legal and economic validity, and ethical criteria.

Keywords: privatization, state ownership, contract system, validity, legal framework, ethical standards, transparency, fairness, accountability, social guarantees, environmental sustainability, contract monitoring, performance-based contracts, dispute resolution.

Privatization of state property has been the cause of intense debate and discussion in many countries of the world. Governments often prefer to transfer public property partially or fully to the private sector through a system of contracts. However, questions regarding the validity of these agreements and their impact on society and the economy are still important concerns. In this article, we study the system of contracts related to the privatization of state property and evaluate their validity from the point of view of legal, economic and ethical aspects.

Results

The result of a well-designed system of contracts in the privatization of state property is a balance between the interests of the private sector and the welfare of the state. By supporting legal validity, economic efficiency and ethical standards, governments can ensure that privatization contracts are transparent, fair and accountable.

Legal validity ensures compliance of contracts with applicable laws and regulations, prevents corruption and conflict of interests. It also provides a framework for resolving disputes and protecting the rights and interests of all stakeholders. A strong legal system and an independent judiciary are essential to ensure the enforcement of privatization agreements.

Economic feasibility requires a careful assessment of the impact of privatization on the overall economy. While privatization can lead to increased efficiency and increased investment, it is important to guard against undercutting and monopolistic behavior. A risk-benefit assessment is necessary to ensure that privatization deals contribute to economic growth, job creation and social welfare.

Ethical standards play an important role in determining the validity of privatization contracts. Transparency, accountability and inclusiveness should guide the privatization process. Fair treatment of all stakeholders, social guarantees for affected employees and communities, and environmental sustainability are important ethical principles that should be included in privatization contracts.

The government can increase the validity of privatization contracts through measures such as open tender processes, regulatory oversight, social safeguards, environmental protection issues, public participation, contract monitoring and enforcement.

By implementing these measures and comprehensively assessing long-term impacts, governments can improve their privatization efforts and increase the validity and effectiveness of contracts. Ensuring a balance between the interests of the private sector and the welfare of the state is the ultimate goal of a carefully designed system of contracts in the privatization of state property.

Understanding the contract system

Privatization usually involves the transfer of public assets such as land, buildings, utilities, or companies to private individuals. This transfer takes place through various contracts, including sales contracts, leases, concessions, and public-private partnerships (PPPs). These agreements specify the conditions governing the transfer, the rights and obligations of the parties, the validity period and scope of the agreement.

Legal validity

The legal validity of contracts is of decisive importance in ensuring the stability and execution of privatization agreements. The government must ensure that the contracts comply with the applicable laws and regulations, and that the transfer of state property is carried out transparently and fairly. The legal framework should provide guarantees against corruption, favoritism and illegal influence, and ensure voluntary and non-coercive conclusion of contracts.

Courts and legal institutions play an important role in ensuring the validity of privatization contracts. They enable parties to take legal action in the event of breach of contract or dispute, thereby protecting the rights and interests of both the public and private sectors. A strong legal system and an independent judiciary are important for increasing accountability, preventing arbitrariness, and ensuring the rule of law.

Economic feasibility

The economic validity of contracts includes an assessment of their impact on the general economy. Some economists argue that privatization can lead to increased economic efficiency, increased investment, and improved service quality, as private enterprises are often more innovative and responsive to market demands. In addition, privatization can generate revenue for governments, which can be used to improve public services, infrastructure, or reduce public debt.

However, contrary to the above opinions, some argue that privatization can have negative consequences. For example, in some cases public assets may be sold at undervalued prices, leading to the concentration of wealth and potential monopolistic behavior by private individuals. In addition, privatization can lead to job losses, reduced access to essential services for marginalized communities, and increased social inequality. Therefore, evaluating the economic viability of privatization contracts requires careful consideration of these potential risks and benefits.

Ethical considerations

Privatization contracts also raise ethical issues. The state is obliged to act in the interests of its citizens and ensure the priority of state welfare in privatization processes. Transparency, accountability and inclusiveness are important ethical principles guiding privatization initiatives. Contracts should be negotiated in an open and competitive manner, ensuring fair treatment of all interested parties. Guarantees should be established to protect the rights and interests of employees affected by the privatization process, as well as vulnerable sections of the population who may rely on essential services provided by state-owned entities.

In addition, the social and environmental impact of privatization contracts should be considered. Assessing the potential impacts on local communities, natural resources and the environment is essential to ensure sustainable and responsible privatization practices.

In order to increase the validity of privatization contracts, the state should implement the following measures:

1. Transparent and competitive bidding processes: Contracts should be awarded through open and competitive bidding processes, ensuring equal opportunities for all interested parties. Transparency of the selection criteria and evaluation process will help reduce the risk of favoritism and corruption.
2. Regulatory control: create or strengthen existing regulatory bodies to control the privatization process. These entities must monitor the fulfillment of contractual obligations, promote fair competition and protect consumer rights.
3. Social Safeguards: Consideration of the social impact of privatisation, including measures to protect workers and marginalized communities. Adequate compensation, retraining programs, and employment assistance should be provided to affected employees. Also, ensure that essential services are accessible and affordable to vulnerable populations.
4. Environmental issues: environmental impact assessment and inclusion of sustainable practices in privatization contracts. Encouraging private entities to use environmentally friendly technologies and practices to minimize negative environmental impacts.
5. Public participation and consultation: involving citizens, civil society organizations and relevant stakeholders in the decision-making process. Conduct consultations to gather feedback, resolve issues, and incorporate public input into privatization agreements.
6. Monitoring and control of the execution of contracts: creation of mechanisms to control the execution of contracts and ensure their compliance. Regular inspections, performance evaluations, and penalties for breach of contract help maintain the integrity and validity of privatization agreements.

Here are a few additional points to explore the topic further:

- Lessons from past experiences: Governments can learn from previous privatization initiatives to inform their current contracts. Evaluating past privatization results helps identify best practices, challenges, and areas for improvement. This learning process can lead to more effective and realistic privatization contracts in the future.
- Flexibility and adaptability of the contract: Privatization contracts should include provisions that allow for adjustments and adaptations over time. Economic conditions, market dynamics and technological progress may require changes to the initial terms of the contract. Flexibility allows the contracting parties to respond to changing conditions while ensuring the long-term validity and effectiveness of the contract.
- Performance-based contracts: Consider including performance-based elements in privatization contracts. This approach links contractual payments or incentives to specific indicators such as service quality, investment commitments or environmental targets. Performance-based contracts incentivize private actors to meet their obligations and provide value to society and the economy.
- Dispute resolution mechanisms: creation of effective mechanisms for resolving disputes that may arise during the implementation of privatization contracts. This may include arbitration, mediation or specialized dispute resolution bodies. Convenient and effective dispute resolution processes promote the validity and enforceability of contracts by offering a fair and impartial resolution for all parties involved.
- Public awareness and communication: Governments should actively communicate to increase public awareness and understanding of privatization initiatives and related contracts. Clear and

understandable information about the process, the rationale for privatization, and the expected benefits will help build trust and support among the public. Regular updates on the progress and results of the implementation of privatization contracts will also ensure transparency and accountability.

- Long-term impact assessment: A comprehensive assessment of the long-term impact of privatization contracts on society, the economy and the environment. Factors such as job creation, investment flows, service quality, affordability, social equity and environmental sustainability should be considered in this assessment. The evaluation provides valuable insights for policymakers, allowing them to fine-tune future privatization efforts and ensure the validity and effectiveness of contracts.

By implementing these additional measures, governments can strengthen the validity of privatization contracts, eliminate potential problems, and maximize the benefits of the transfer of public assets to the private sector. The aim should be to strike a balance between the interests of the private individuals involved and the wider public good.

Conclusion

In short, the system of contracts regulating the privatization of state property can have a significant impact on society and the economy. The validity of these contracts depends on their compliance with legal requirements, their economic impact and compliance with ethical principles. Governments should prioritize transparency, fairness and accountability in the privatization process, while also considering social and environmental consequences. Through this, they can achieve a balance between the benefits of privatization and the protection of state interests, ensuring the validity and integrity of privatization contracts.

REFERENCES

1. Parker, D. Privatization of State-Owned Enterprises. Oxford Research Encyclopedia of Business and Management. Retrieved 27 Dec. 2022, from <https://oxfordre.com/business/view/10.1093/acrefore/9780190224851.001.0001/acrefore-9780190224851-e-93>.
2. <https://davaktiv.uz/oz>
3. Bel, G. (2006), The Coining of “Privatization” and Germany’s National Socialist Party, Journal of Economic Perspectives, 20, 3, 187–194.
4. Bel, G. (2006), The Coining of “Privatization” and Germany’s National Socialist Party, Journal of Economic Perspectives, 20, 3, 187–194.
5. Шерли М., Ниллис Дж. Реформа и приватизация государственных предприятий: обобщение опыта / Мэри Шерли, Джон Ниллис. – Мировой банк. Институт экономического развития. – Тбилиси: Издво «КОКА», 1992. – с 129.
6. Kikeri, S. and A. Kolo. 2005. Privatization Trends and Recent Developments. World Bank Policy Research Working Paper. 3765. Washington, DC: World Bank.
7. Диденко А. А. К вопросу о развитии отечественной концепции источников гражданского права // Власть закона. – 2012. – № 3. – С. 124-131.
8. Камышанский В.П. Приватизация предприятий. Право собственности/В.П. Камышанский. – М., 2009. – С - 192.
9. Игнатов В.М. Приватизация государственной собственности в РФ: проблемы правового регулирования: Автореф. дис. канд. юрид. наук / В.М.Игнатов. – М., 2002. – с 19.

10. OECD. 2018. Privatisation and the Broadening of State-Owned Enterprises: Stocktaking of National Practices. Paris.
11. Герцев Д.А. Гражданско-правовое регулирование отношений по приватизации предприятий, находящихся в государственной собственности: Дис. канд. юрид. наук. / Д.А.Герцев. – М., 2008. – С - 200.
12. Комарицкий С.И. Приватизация: правовые проблемы: Курс лекций / С.И.Комарицкий // Исследовательский центр частного права; Российская школа частного права. – М.: Статут, 2000. – С - 94.
13. Black, Bernard & Kraakman, Reinier & Tarassova, Anna. 2000. "Russian Privatization and Corporate Governance: What Went Wrong?" Stanford Law Review, Vol. 52, pp. 1731-1808.
14. Black, Bernard & Tarassova, Anna. 2003. "Beyond Privatization: Institutional Prerequisites for Transition: A Case Study of Russia". In Thomas Heller & Lawrence Liu, eds., The Ecology of Corporate Governance (forthcoming 2003)
15. Ўзбекистон Республикасининг хусусийлаштириш тўғрисида қонуни ID-53179 <https://regulation.gov.uz/oz/d/53179>
16. Savas, E.S. "Privatization and the New Public Management." Fordham Urban Law Journal 28 (2000): 1731.
17. Baltowski, Maciej & Mickiewicz, Tomasz. 2000. "Privatisation in Poland: Ten Years After". Post-Communist Economies, Vol. 12, No. 4.