

Privatization. Attraction of foreign investors

The long announced plans of Ukraine in relation to massive privatization are being gradually implemented. The importance of privatization is backed by the need, on the one hand, to fulfill the state budget, and, on the other hand, to increase the effectiveness of state enterprises' management. All matters in relation to privatization in Ukraine are implemented under the close control of the European institutions, whose task lies in prevention of corruption and ensuring transparency of the privatization process.

Following transfer of state owned companies to private investors their effectiveness should significantly increase because, as known, the state is not a good manager at the entities with complex internal structure. Therefore, the state may receive substantial benefits, such as getting rid of badly managed companies and ensuring receipt of regular payments to the state budget in future subject to preservation of some shareholding in the privatized entities.

The State Property Fund is responsible for privatization in Ukraine. It is planned that at least 450 entities will be privatized in the next few years. However, the responsible persons stated earlier that this could even be performed already in 2016. Among 450 entities there are 70 enterprises which are classified as big and middle sized companies and will be the primary aim for foreign investors.

For the purposes of improving the privatization process, the Parliament of Ukraine introduced a number of amendments to the law on privatization of state property.

The most important novelties for participants of privatization process are provisions on methods of privatization. State owned entities could be sold at the auction, on a competitive basis or at a stock exchange. At the same time, the provision on mandatory sale of share package of 5-10% was cancelled.

In addition, privatization is conducted with the assistance from advisors. Pursuant to the procedure approved by the Cabinet of Ministers of Ukraine, advisors are engaged on the basis of the principles of competitiveness, equality, accessibility, transparency and independence of the members of tender commission. The Law also established certain requirements for the advisors, who participate in privatization process, with competence and experience of the advisor to be the key factors.

The Government decides on attraction of the advisor to the privatization process, whose main responsibilities are collection and analysis of economic, technical and financial indicators of the entity's activity, conduct of due diligence, restructuring of indebtedness, preparation of documentation on the entity in accordance with the antimonopoly laws, search for possible investors, etc.

In the new restatement of the law on privatization, there is also specification of persons, who can take part in privatization of state property. It is worth mentioning that not all foreign investors are welcome in the privatization. Legal persons and their affiliates from countries, which are regarded as the aggressor states by Ukraine, are not able to participate in privatization. This mainly applies to

Russian companies. In addition, participation of companies from countries under Ukrainian sanctions is also limited.

The additional requirement to the potential purchasers is to disclose their ultimate beneficiaries. This is due to ensuring transparency of the process and avoidance of further re-sale of the privatization objects to the affiliated persons at the discounted price.

Among the most interesting privatization objects for investors are fertilizer producer plant "Odessa Port Plant", State Enterprise of Alcohol and Liquor Industry "Ukrspirt" and regional electricity suppliers. These are such entities, privatization of which will give the highest proceeds to the budget.

The privatization auction for "Odessa Port Plant" started on 26 June 2016 with the sale of 99.567% state owned shares. The start bidding price is around USD 500,000. In accordance with the privatization auction rules, at least two bidders should be non-residents.

The privatization procedure and timeframe for its implementation are widely debated. Many experts state that at the moment there is no reason to conduct privatization of large companies because due to the economic situation in Ukraine the bidding price would be low. However, some mention that launching an open and transparent privatization process with attraction of foreign investors would be not only a source of additional funds in the state budget, but also would increase the attractiveness of Ukraine with the foreign partners and investors and be regarded as a substantial step forward towards elimination of corruption and introduction of effective administrative measures.

Based on the announced terms, difficulties in sale of large state companies and a number of privatization objects, it is clear that the sale of state entities may take many years. The initial bidding price at the privatization auction is determined within three years following the Government's decision on privatization.

As a conclusion, it is worth mentioning that the privatization measures taken by the Ukrainian Government deserve appreciation. Legal and organizational base prepared gives grounds for optimistic future. Many European institutions also point out the progress made in this matter. Therefore, there are hopes that the planned massive privatization of state entities will become a symbol of transparency and transformation of the state apparatus and not another example of corruption.