

ers of macroeconomic power. The mentioned goals can be solved through improvement of corresponding industrial legislation, which, in turn, forms preconditions for effective collaboration of the government with powerful potential of the large business through formation of a program of common activity. Primarily, these programs will protect public interests of the country.

UDC 346.7:656.2

*I. M. Rudiaha, PhD. Student of the Economic Law Department,
Yaroslav Mudryi National Law University, Kharkiv*

CORPORATIZATION AND PRIVATIZATION OF ASSETS OF JSC «UKRZALIZNYTSIA»: A POSSIBLE MODEL OF HOLDING RELATIONS

Ukraine belongs to that category of countries, which possess a wide range of objects of movable property and real estate. Using a large amount of assets in spheres of transport, communication, heavy industry, mining, and chemical industry, public authorities can significantly influence a process of functioning of the entire economic system.

Therefore, processes of corporatization and privatization in Ukraine assume considerable importance at the modern stage of development of productive forces and relations of production. Providing effective usage of the state property and the increase of revenues of the state budget from state-owned companies are strategic goals for the leadership of the country. Moreover, relations of state ownership are intersectoral and encompass many spheres to be regulated.

Many countries have gone through processes of corporatization and privatization. Corporatization and privatization of state property is one of ways of achieving these goals. The Laws of Ukraine, the Decrees of the President of Ukraine, the State Program of Privatization, the Orders of the Cabinet of Ministers of Ukraine, and other normative and legal acts regulate legal, economic, and organizational basics of denationalization and privatization of property belonged to state-owned companies.

It is worth mentioning that privatization of property of state-owned companies is a very complicated social and economic process. It is concerned with vital interests of employers of all the spheres of economic activity.

For example, according to the Statute of the joint-stock company «Ukrainska Zaliznytsia» adopted by the Order of the Cabinet of Ministers of Ukraine «Matters of the Joint-stock Company «Ukrainska Zaliznytsia» of 02.09.2015 No.735, the joint-stock company «Ukrainska Zaliznytsia» is a legal entity founded as a joint-stock company formed through merger of Ukrzaliznytsia, other enterprises, establishments, and organizations of the railway transport, in which the government possesses 100 presents of equity.

This raises the question of what norms should be applied in determination of a form of ownership over property transferred to a statutory fund of a created joint-stock company, i.e. general norms, which are concerned with property of partnerships, or special norms of the legislation on privatization.

Problematic matters arise in a case where the government is a founder of a joint-stock company and a statutory fund of the company comprises government property. It is not clear, how the joint-stock company becomes a subject of collective ownership over property transferred to the statutory fund if its founder is only the government, which possesses 100% of statutory fund shares at the time of foundation rather than a group of citizens and legal entities.

The answer is partly to be found in special norms of the Civil Code of Ukraine, which is concerned with changes of a state form of ownership. Therefore, they must be applied in such case. Particularly, Article 345 of the Civil Code of Ukraine contemplates that natural and legal persons can obtain an ownership right to state property only in a case of privatization. Simultaneously, Part 3 of Article 145 of the Civil Code of Ukraine states that a legal regime of property of a business entity being at the state disposal may be changes only through privatization of state-owned company property.

Therefore, the joint-stock company founded on the basis of property of a state-owned company through corporatization can be eligible for property transferred by the government to the statutory fund if it will be furtherly privatized.

Thus, the author considered a possible variant of privatization of JSC «Ukrzaliznytsia» assets transferred by the government to the statutory fund. Nevertheless, it is worth mentioning that there is a prohibition on implementation of such process according to the Law of Ukraine «On Amendments to the Law of Ukraine «On a List of Objects of Intellectual Property Rights, which are not Subjects to Privatization» of 02.06.2016 №1409-VIII.

As regards corporatization, it is one of types of denationalization of state property and a preparatory stage for further privatization. In other words, it is corporatization of state-owned companies and preparation for selling a particular portion of shares.

In previous articles, the author paid attention to an organizational and legal form for railway transport enterprises such as a state-owned holding company that exercises a single economic policy, which is provided by a single control center. Thus, there is a purpose, which joins members of such organizational and legal form, namely meeting needs of the government, legal and natural persons for railway transportation, which is carried out by public railway transport.

Activity of each member of the holding, which performs functions determined by a holding company, results in achievement of those goals and a purpose of activity, which are determined by a parent company. Moreover, a holding may include legal persons, which directly participate in production activity and are indirectly related to providing achievement of positive results by other participants (for instance, medical establishment, educational centers).

In a case of corporatization of the rail industry assets in the form, which is aimed at formation of a state-owned holding company, one part of assets of rail industry enterprises, which stipulates its monopoly position, would be owned by the government and other part of assets and production capacities would be privatized. This would help to involve private investments and to organize activity in a competitive manner without abusing activity of corporate enterprises.

Carrying out corporatization of assets would be the most effective under the following conditions:

- taking into account the scale of railway infrastructure (providing unified management of the sector on the part of the state-owned holding company; sub-holdings and subsidiaries continue to locally implement a direction of economic and managerial policies determined by the main company as a single, complicated, and multi-functional complex);

- taking into account specificity of a functional purpose of railways and rail transport enterprises;

- existence of a complex of public interests (providing traffic safety, quality passenger transportations, preservation of cargoes, etc.).

Moreover, foundation of a holding model of managing assets of rail transport enterprises as one of effective models of management enables to protect integrity of an asset complex of a company, a single system of management, and, in turn, to separate a part of assets, which can be used to form a competitive environment through privatization (corporatization) of a part of shares. Such action will be one of ways of providing an appropriate level of maintenance and development of railway infrastructure for performing activity in the transportation sphere.