

Legal Issues of Transformation of State Enterprises

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Abstract: In this article, an attempt was made to clarify the concept, importance and prospects of privatization of state enterprises and their transformation on the economy of Uzbekistan. The work carried out in the Republic of Uzbekistan on the transformation of state-owned enterprises was analyzed. In the article, a number of proposals were put forward regarding the transformation of state enterprises in Uzbekistan and the introduction of principles of corporate governance to them.

Keywords: State enterprise, transformation, corporate governance, state share, privatization, social responsibility, professional manager, unitary enterprise.

Today, many regulatory documents contain provisions on the transformation of state enterprises, banks and economic societies. From the correct economic point of view, theoretical tariffs have been given to this concept, but in the legal field, both theoretical and practical concepts related to this term have not found their expression in national literature and legislation.

The normative concept of a state enterprise is approved by the Decree of the Cabinet of Ministers of the Republic of Uzbekistan dated 10.16.2006 No. 215 called "On measures to ensure the effective management of enterprises with a state share in the charter fund and accounting of state property to the necessary extent" that is a commercial organization in the form of a state unitary enterprise established on the basis of the property given to it for rapid management, it uses the property attached to it within the scope established by law, the goals of its activity, the assignments of the owner (or the state body authorized by him - the founder) and the right of ownership uses the property and disposes of it in accordance with the purpose of the property¹.

Pursuant to Article 3 of the Law of the Republic of Uzbekistan "On State Property Management", an enterprise with state participation is an economic company with a state share in the charter fund (authorized capital) of more than fifty percent, or every other shareholder of the economic company whose state share in the charter fund (authorized capital) is more than fifty percent (participant) is considered to be an economic society with a large share, as well as a state unitary enterprise².

Even in these laws defining the legal status of state enterprises, the issue of transformation of state enterprises was not raised.

The question arises, what is the transformation of state enterprises?

The preservation of the state's share in some sectors of the economy and large enterprises is to a certain extent related to the state's participation in economic relations. This is unlikely to always

¹ <https://lex.uz/docs/1072916?ONDATE=05.04.2022%2000>

² <https://lex.uz/docs/6401697>

work. A high share of the state in the economy can have a negative effect on the introduction of market economy mechanisms. The monopolistic position of large state-owned enterprises can naturally cause caution in introducing new mechanisms in production and corporate governance.

It is for this reason that issues of privatization, expropriation and transformation of state-owned enterprises are necessary. Measures to transform state enterprises introduced by the country will lead to positive changes in their activities, ensuring investment attractiveness. This creates a basis for state enterprises to be competitive in the domestic and foreign affairs of the country, to introduce new modern principles of corporate management, and to introduce openness and transparency in their activities.

The meaning of transformation of the economy is to change the system of socio-economic relations. Almost all components of the economy are changing. In this regard, many foreign and domestic researchers study the characteristic transformational processes - liberalization, privatization and stabilization³.

Transformation is a change in the structure, form, methods and direction of economic activity⁴.

Some authors, reflecting on the process of transformation, emphasize that the economic system should be considered not as a process of forming a competitive market, but as a process of forming a market economy based on the movement of national capital. Ignoring the role of capital in the formation of the market means reducing the relationship between economic entities⁵.

Transformation of a state-owned enterprise is a set of measures to transfer it to operate on the basis of market principles and mechanisms, to create an effective organizational structure and management system, to ensure the enterprise's competitiveness in domestic and foreign markets, and to prepare for privatization⁶.

High state participation in the economy prevents the development of a healthy competitive environment. If we do not carry out the privatization process openly, we will not be able to win the trust of local and foreign investors. If measures to transform state enterprises are not implemented, their attractiveness cannot be increased. Today, the number of enterprises with state participation is more than two and a half thousand (2,541), half of them (1,210) are formed as unitary enterprises. Most state-owned enterprises are not operating efficiently, which is another proof that the state cannot be a good manager.

Transformation implies fundamental changes in the form of "political regime, forms of ownership, coordination mechanisms"⁷.

The issue of transformation of large state-owned enterprises was defined in the Decree of the President of the Republic of Uzbekistan dated 10.27.2020 No. PF-6096 'On measures to accelerate the reform of state-owned enterprises and privatization of state assets'. This decree was adopted in order to rapidly introduce consumer-oriented modern management methods, openness, transparency and market principles in state-owned enterprises, increase revenues by reducing costs, create wider opportunities for private capital participation in the process of reforms, reduce state participation in the economy and further improve the competitive environment. , until then, the activities of about 3 thousand state-owned enterprises were fully

³ Сакс Дж. Рыночная экономика и Россия. -М.: 1994; Гайдар Е.Т. Экономика переходного периода. — М., 1998

⁴ Райзберг Б.А., Лозовский Л.Ш., Стародубцева Е.Б. Современный экономический словарь. —М.: «ИНФРА-М», 1997. —496 с.

⁵ Булганина, С.Н. Природа и структура экономических субъектов : монография. / С.Н. Булганина. — Оренбург: ОГУ, 2003. — 171 с.

⁶ Валижонов А.Р. Давлат иштирикидаги корхоналарни трансформация килиштушунчаси ва моҳияти// <https://conference.tsue.uz/index.php/article/article/view/336/43>

⁷ Мокичев С.В. Трансформационная экономика России — М, 2006. — 327 с.

studied and a number of proposals were developed to drastically reduce the share of state-owned enterprises in the economy and increase their efficiency.

According to this legislation, the issue of transformation is mainly focused on state enterprises. Therefore, the Department of Transformation of Large Enterprises with State Participation, which is responsible for the transformation of state-owned enterprises, is operating.

In our opinion, it is appropriate to organize the following activities regarding the transformation of state enterprises:

- engaging local and foreign experts and consultants with a purposeful approach to the transformation of each state enterprise;
- taking into account the social responsibility of the enterprise (the impact on the workers of the enterprise, the ecology and the environment, the impact on the activities of the population in the area where it is located, its place in the country's economy) during the negotiations with international financial institutions and potential foreign investors during the transformation of the state enterprise, and inclusion of conditions in separate contract conditions;
- introduction of modern corporate management principles, effective use of professional management and extensive use of modern information technologies in the transformation of the state enterprise.

These above factors lead to the introduction of international standards in these large enterprises, the provision of modern corporate management that ensures the common interests of all parties, the increase of investment attractiveness by attracting effective owners, and most importantly, the reduction of state participation and intervention in the economy.