

Introductory remarks

PRIVATISATION IS OF COURSE A CRUCIAL CONDITION AND FACTOR of the transformation in central and Eastern Europe. In the economy, privatisation lays the foundations of market economy, its allocative mechanisms and the resulting greater economic efficiency. In the social and political aspect, privatisation generates new social structures, recasts social patterns, roles and interests, and is justly recognised as a vital condition of civil liberties and political democracy.

Labour and its authentic representatives, especially trade unions, can and should be viewed as natural potential allies of reformist forces initiating and implementing privatisation undertakings. Yet that potential does not easily or automatically translate into reality. Privatisation gives employees a chance to improve their standard of living, but at the same time its radical adjustment measures are always difficult and usually painful to accept for employees, threatening jobs, exacting much greater effort, or breeding corruption. So, it is in the interest both of individual employees and society at large to identify and implement such forms and paths of privatisation that are efficient yet also have a "human face," that is, such that are open to needs and aspirations of society at large and employees.

Four main questions call for answers in the most important and most heatedly debated issue of privatisation of state enterprises.

First, what part, if any, should there be for employees and their organisations in privatisation policy? In post-Communist countries in Europe, but also in Western Europe, Latin America and elsewhere, a typical reaction has been to avoid decisions that would run against employee attitudes. That has different reasons. Work force autonomy is now widely believed to be an irreplaceable component of economic and social stability; the political climate strongly depends on the degree of social approval of privatisation decisions; employee commitment to the company's prosperity and harmonious industrial relations make a privatised enterprise much more attractive to would-be buyers; work force involvement in privatisation decisions checks the emergence of bloating red tape and excessive political partiality.

Closely linked to this is the next question, of employees' positive and active attitude towards ownership change and privatisation, especially when it is efficiency-oriented. In a commercialised public sector, privatisation with its potential to boost corporate efficiency should get support at least from some of the work force. Yet that apparently is not the case. What makes employees unenthusiastic, or even hostile, is a prospect of privatisation of their enterprise. Deterred by the unknown and feeling that requirements will

be greater and social security lesser after privatisation, employees have little hope for old-style state aid, and they fear (often unnecessarily) that mistakes can be made in the course of privatisation. The one practical way to overcome such fears is to win employees' over by direct material benefits usually in a form of free handouts of the privatised state property. A policy directive of so wide social repercussions calls for a quiet and balanced discussion today. Such a discussion should not ignore experiences of large-scale free distribution of privatised property among citizens which is being widely used in the Czech Republic, Slovakia or Russia.

Third, the choice of buyers of privatised property and concluding privatisation contracts should be guided by a capacity for development in each case. Would-be buyers must be urged to discuss future investment outlays, employment, and, in many cases too, the introduction of modern technology and environment-friendly without changing the enterprise's main line. Given the yet undefeated recession and the high unemployment, this particular privatisation route has truly of fundamental significance and should receive priority support from employees and trade unions.

The fourth question is whether or not privatisation should be linked with the development of private employee ownership. This idea, of course, has keen advocates as well as ardent enemies, and both sides have significant arguments in support of their views.

Outside privatisation proper yet within the broader issue of ownership transformation is the important and no less controversial question of attitudes towards the still large sector of public enterprises. Both the transformation of the system and its financial and technological transformation deserve to be studied closely.

Before I conclude these introductory remarks, let me make three points about the crucial question of autonomy of labour. I touched upon this matter when referring to the significance and forms of employee participation in privatisation decisions and development of employee ownership amidst the process. The first point is, will employees of privatised enterprises, and of larger private companies, be permitted and encouraged to set up participatory bodies in the style of works councils known from most Western European countries? The next point is essentially the same, but refers to the commercialised public sector. The third point concerns the absolutely pivotal question of participatory management at "grassroots" or shop floor level, such as small autonomous work groups, quality circles and other employment involvement-related forms. Together with coherent schemes and unconventional management philosophies, that concept is more and more often viewed as a valuable road of human capital development improving the quality of life. In Central and Eastern European countries, it has been known only from rare and modest experiments amidst recession and unemployment, which set a very unfavourable environment for it.

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Privatisation Routes, Methods, Goals

The term privatisation has different meanings to politicians and in economic literature. Western analysts, for example, sometimes use the term synonymously with deregulation, or with government agencies commissioning some of their functions by contract to private operators. In this report, let me define privatisation as a change of ownership structure in the national economy by increasing private sector's share in it.

Thus interpreted, privatisation may concern different areas of the economy, not necessarily business activity in the strict sense. Think of the privatisation of housing resources or land for housing construction or recreation facilities, a process that in some countries (as in Russia) can also become a political problem and even a constitutional one. In this report I am going to deal only with privatisation linked to economic activity.

As for the definition of privatisation, there are two main tracks to approximate it. One leads through the founding of new private enterprises. This particular route of enhancing private sector's role in the economy is quite important in some countries, notably Poland and Hungary, and recently also Russia. But Eastern and Central European countries differ significantly from one another in that respect, for two reasons. First, there is legislation which sets rules for founding new private firms. Poland, where you can start most kinds of business activities simply by registering the fact, is perhaps at the liberal end in this respect. Only specific lines of business are subject to licence or permission. Foreign trade is likewise unlicensed in Poland. Few countries in this part of the world match Poland in liberal business legislation, most of them preferring to keep to such or other formal or organisational restrictions.

Secondly, there is tradition, an important factor determining private sector development in these countries. Private firms tend to grow in greater numbers, and faster, in countries where they existed on relatively large scale before, in the socialist command economies. This holds for Poland and Hungary in the first place, but also to former Soviet republics which never allowed private enterprise to exist officially but tolerated it, especially in open air market places.

The other kind of privatisation amounts to a transfer of ownership titles from state to private hands. Generally, this can be done two ways, either through re-privatisation or through privatisation proper.

Reprivatisation has to do with historical and moral claims of former owners expropriated of their possessions in the Communist epoch. Reprivatisation can be effected basically in one of two ways. It can be, first, physical (natural) restitution of ownership titles to a firm, part of an estate, farm etc. to their former owners or their heirs. Germany tried to introduce that kind of privatisation, but after some time dropped it for economic reasons (it hampered privatisation in the strict sense). Such restitution is being practised in Czechoslovakia, to some extent. The Baltic republics are trying if it can work in agriculture.

The other kind of re-privatisation amounts essentially to compensating former owners either with money (rarely) with vouchers. Hungary has done that, and this possibility is also being discussed in Poland. The rationale behind this kind of privatisation is that the nationalisation that was put through in the Communist epoch is extremely difficult, if at all, to reverse, for economic as well as social reasons. Then there are the post-Soviet countries where reprivatisation is precluded for historical reasons (the Baltic republics are possible exceptions there).

Privatisation in the strict sense can be classified in different ways. A first yardstick I would like to propose is the place where privatisation initiatives are taken up. In this sense, privatisation may be done from the top to the bottom, or it may grow up from the grass roots.

Privatisation from the top down is privatisation ordered by the relevant state agency. In Poland, it is the Ministry for Ownership Changes, Privatisation Ministry for short, in Russia there is a State Committee for State Property Management, in the Czech Republic and Slovakia they have got the respective republican Privatisation Ministries, in Hungary there is a State Property Agency, in Germany the Treuhänd. Privatisation ordered by the top flight may of course require approval by the management, the work force, their representative bodies or trade unions, but ultimately it is still an initiative of a state agency. The grass roots kind of privatisation is one that is being undertaken at the initiative of enterprises and its organs including the manager, the workers' council, but it may also be spurred by a trade union or prospective buyers. This last-named procedure is used in Czechoslovakia, and Russia is likely to go that way in the future.

Top-down privatisation, made at the government's initiative, can again be distinguished as either

- 1—equivalent privatisation, or
- 2—nonequivalent (or mass) privatisation.

On equivalent privatisation, there are three methods to do it. You can sell the enterprise's property (all or partly) in the physical sense. I may be bought by a natural person, a managers group, an employee company, or a foreign partner. The second and third methods involve the enterprise's conversion to a stock company, that is, to a body corporate, as a first step towards its transformation and subsequent sale of shares.

Method two is to sell via a private offer to a picked strategic investor. Investors then are chosen mainly through comparing price bids, or via bids of tenders, as in Germany or Poland and as Russia would like to do that. Bids of tenders involve not just comparisons of prices alone but also the prospective owners' pledges concerning employment, investments, access to foreign markets, new technology, environmental protection etc.

A third method of equivalent privatisation is privatisation via a public offering of stock. Before the enterprise has to be converted to a stock company, whereupon the privatisation takes place either via the stock exchange or through a public offering of stock. This method has been used in Poland (16 enterprises had been privatised that way by December 1992) and to some extent also in Hungary. The other countries have not tried privatisation via public offerings.

Whether or not this kind of privatisations is useful is not clear. Several companies are doing well at the stock exchange, but the remaining ones do not impress. One reason for that may be the paucity of Poland's securities market, but perhaps that has to do with the overall economic situation involving the shrinking production and profitability rate of enterprises now in transformation. In a few cases, the relatively poor performance may be due to an unfortunate selection of enterprises for that particular privatisation track. In an early stage of transformation, when prices have yet to reach world prices, an enterprise's future profitability is extremely difficult to determine.

Another type of top-down privatisation, nonequivalent or partly nonequivalent privatisation (also referred to as mass privatisation), is based on the assumption that serious economic, social or political reasons speak for handing out state property to citizens or their groups. This kind of privatisation can be effected in three ways: handing out property titles to citizens, to employees, or to managers.

Privatisation benefitting citizens is basically the distribution of ownership titles among all adult citizens, as in Poland, or among all citizens regardless of age, as is the Russian case. Three main lines of "citizens' privatisation" has developed in practice up to now:

A first most liberal model, the Russian one, is that the state distributes privatisation vouchers of definite par value, in that case 10,000 roubles, to all citizens. The vouchers are something like privatisation notes to pay with for enterprises' stock as well as material parts of corporate property. In Russia, vouchers are also to be valid money in the future to pay for land or dwelling apartments or houses.

Another model, the Czechoslovak one, provides all citizens with "coupon books," which is investment money denominated in points. The coupons are used as legal tender in restricted auctions. Or they can be deposited in investment funds operating as go-betweens. The Czechoslovak model has bred a dense system of funds founded spontaneously as private initiatives.

A third model, which has been under discussion in Poland for two years and is now being considered by the Sejm, provides for the creation of several national investment funds (NFIs) which will take charge of stock of about 600 enterprises. The funds will be turned over under contracts to private management firms. Upon release of the first annual report of the NFIs each adult citizen will be given one share of each NFI. The Polish model, then, is apparently oriented towards the restructuring stage rather than the distribution stage as the Russian model. The Polish model begins with generating future privatisation demand followed by distribution. In Russia, privatisation follows the opposite order. Czechoslovakia has adopted an intermediate model.

Privatisation through handouts to employees is another kind of nonequivalent privatisation. This particular privatisation appears as practically the only way to privatise enterprises very quickly. Other mass privatisation methods ("citizens' privatisation") require a very long time to put into practice. Needless to say, the idea to hand out assets to employees is a controversial idea which breeds various doubts of social and economic nature I don't want to discuss at this place. The Russian privatisation programme includes the largest component of free handouts of all privatisation models in the other countries.

There is also a third category of nonequivalent privatisation, namely via free-of-charge handouts to managerial staff. This model seems to be emerging in Russia to some extent, say in the form of a mixed management and employee option (with powerful preferential terms for these two groups).

Let us now turn to what we called grassroots privatisation, which is done at enterprises' own initiative, even though in many cases the final decision pertains to stage agencies (as in Poland or Hungary).

One model of this kind of transformation, designed in Poland, is the very efficient kind of privatisation via liquidation. It involves the liquidation of a state enterprise, which is purely a technical measure in a case of an enterprise in good shape (in order to let it out under a lease contract or to sell the enterprise, mostly to an employee company or an employee-managerial partnership), or which actually winds up the enterprise if it is badly in trouble. In this last case, the usual procedure is to sell all or part of the assets remaining from the liquidated enterprise.

Another model of grassroots privatisation, one via joining up with a foreign company, is quite common in Poland and Hungary. The state enterprise then generates a derivative structure, namely a company with the foreign partner.

A third model of grassroots privatisation is for the state enterprise to convert to a stock company and to issue subsequently extra shares for private buyers. This model is practiced in Hungary, in former Yugoslavia and in Russia.

A fourth model of grassroots privatisation is basically the sale of excess assets, which has to do with what is called small privatisation, that is, the

privatisation of trade, services, transport, construction etc. consisting of acquisitions of assets of liquidated or existing state enterprises in order to found new private companies or supplement their plant.

A fifth model of grassroots privatisation is perhaps the spontaneous privatisation. This name alone shows that the process is going on entirely outside the state's control, often also beyond the commonly process of law or moral standards. It involves as a rule the illegal transfer of assets outside the enterprise to a private owner which often is owned by the management staff of the enterprise, party officials or civil servants (or their relatives). That was what happened in Poland in 1989 and which came to be called in Polish press "endowing the nomenklatura." Much the same process is under way in former Soviet republics now, probably at a large scale but one that is difficult to determine.

Before I conclude, let me say a few words about the purpose of privatisation. Arguments put forward in discussions of privatisation are roughly economic (at micro and macro scale), political and social in nature.

Microeconomic arguments point at privatisation as a way to improve long-term efficiency and change enterprises' behaviour.

Macroeconomic arguments present privatisation as a way towards increasing budget revenue and siphoning money from the consumer market. Those putting forward such arguments also expect that when a significant part of the economy has been privatised enterprises will ease their pressure on the government and the central bank to for a "soft" macroeconomic policy. What was called the 500 Days programme Shatalin and Yavlinski put forward still in the Soviet Union in 1990 is perhaps the best-known case of such an approach. Under that programme, mass privatisation against payment was a first step in the transformation process supposed to result in a strong absorption of the inflationary overhang, followed by a balancing of the budget, and finally by liberalising prices. Similar hopes, though at smaller scale, were voiced in the Polish privatisation debate at the turn of 1988 to 1989. They had to do with an approach viewing privatisation as a public or private offering against payment. Experience gained to date has furnished little evidence in support of this idea. In Poland or elsewhere, net benefits from privatisation to the central budget have been pretty limited.

As for political goals, there is great determination to set up a middle class by increasing the class of those who own property. That, the argument goes, will bolster the social base of democracy and market economy and secure Poland against a new edition of totalitarian or populist government.

Social arguments are seldom put forward, compared with economic or political ones. When they are, they amount to the proposition that privatisation, especially nonequivalent one, is a kind of symbolic compensation for wrongs inflicted by the previous regime, for hardships of the period of stabilisation and transformation. Privatisation from this point of view is also a way to giving citizens a chance to redesign their way of life in a market economy.

Privatisation Policy in Eastern Europe: A Union Perspective

1. Privatisation against the backdrop of systemic transformation

The term "privatisation" still is a jarring tone to many Eastern Europeans. For decades, it used to bring to mind negative ideological implications, associated as it was with "ugly" capitalism.

In the 1980s, in turn, as the command economies began to crumble one by one, "privatisation" was written in large print on banners waved by advocates of a new order, a kind of intellectual shorthand symbolising people's widespread expectations—prosperity, full shelves, no lines in front of shops, nicely furnished apartments, smart cars, etc.

Opinion surveys in 1987-88 showed a majority of Poles to favour privatisation. Now, after three years of practical experience, significant social groups' approach to the issue is marked by distance, anxiety and insecurity. At the same time, the pace of privatisation is slower than architects of the reform expected in 1989.

Let us point to these involved circumstances in this brief presentation.

1. Privatisation in Poland, as elsewhere in Eastern Europe, is closely linked to the rate and level of Western investments. So far inward investment in Poland has amounted to occasional actions in what is a preliminary drive to penetrate the Polish market and to establish footholds for possible broader actions in the future. Foreign investment in Poland and Eastern Europe at large has yet to reach a scale that would point to its strategic importance.
2. Everywhere in Eastern European countries, the political stage has yet to become fully formed. Political elites have few ties to the world of social macrostructures, wanting organisation, money and expert advice, and so necessarily improvising in carrying out their programmes. The lack of experienced politicians and democratic institutions' institutional weakness are in turn barring political elites from influencing economic and social developments, which shows in often erratic changes on the political stage. From the standpoint of ownership change, the fact that the state apparently has no clear long-term economic policy (the "political will of the Party" used to be that in the previous regime) discourages those social actors whose interests potentially are linked to privatisation (some enterprise managers, young bright engineering staff etc.).

3. Privatisation is seen as a threat by many government sector employees, above all of the working class in big industries. It continues to be a significant social group bringing its influence to bear on trade unions, which, for their part, are then a social partner of governments in the game for the economy's future shape.
4. Another major factor is the dynamics of the very process of systemic transformation. Hardly anyone will now yield to politicians' illusory promises that a few years of belt-tightening will be enough to catch up with Europe or at least to shorten the distance between Poland and Europe. It looks the process may take not just a couple of years but twenty or even thirty years to complete. Its eventual outcome is increasingly obscure. That this is the road to democracy and market economy for the system is certain. Yet beyond this, the multiplicity of possible systemic changes, ownership relations or combinations between democracy and market makes prediction and programming an extremely complex job. For one, even the last vestiges of the previous system have to disappear for good, both from organisational structures and people's minds. A stage of changes will follow in which elements of a new order will exist side by side with residual elements of the old epoch. Subsystems working by their own logic incompatible with other rules will develop. When one subsystem begins to dominate, a chance for a new identity will emerge. That will usher in new types of relations between people and organisations, new qualifications, procedures and targets. The problem with systemic transformation in the above sense is that it does not unfold linearly but looks rather like a spiralling motion. Elements of previous cycles tend to reproduce and stay on in each subsequent cycle.

2. Polish experience in privatising industrial and agricultural enterprises

2.1. Industry

Ownership changes in Poland are to create foundations of market economy of a structure similar to most Western European countries. Economic programmes designed at the turn of 1989 to 1990 provided for a pace of privatisation that would have given the private sector more than a 50% share in GDP within three to four years. Ownership changes in the Polish economy are running along two lines.

First, the private sector is developing in what is sometimes called "founding privatisation." In mid-1992, Poland had 1,523,000 registered firms managed by natural persons and more than 64,000 stock companies.

Second, there are privatisations of state enterprises.

Privatisation is based on two legal acts:

1. the July 13, 1990 Privatisation Act, which applies to enterprises in good shape, and
2. the State Enterprises Act, which furnishes a legal basis for the liquidation of enterprises in a bad economic situation.

Apart from that, some state enterprises are submitted to bankruptcy proceedings, their estate being sold by liquidators also to the private sector.

By June 30, 1992, a total of 1,713 (22.1% of all) state enterprises had been put on privatisation programmes, 1,005 on the basis of the Privatisation Act and the remaining 708 were marked for liquidation for economic reasons.

Western-style privatisation, called in Poland "privatisation through capitalisation" meaning through sale of equity, involved their transformation into stock companies as a first step in the process, embraced 464 enterprises. Of those, 226 companies have been commercialised towards eventual sales of equity to individual buyers, while 178 have been put on the Government's Mass Privatisation Programme. As this programme has not yet been started, these enterprises are still state-owned. Privatisation through individual equity sales embraced only 36 companies, which shows that in practice privatisation through capitalisation, which embraced mainly big enterprises in relatively good shape has ended up in their "commercialisation," that is, in their conversion to single-shareholder Treasury-owned companies which operate on the basis of the Commercial Code. Unfortunately, The next step, or privatisation proper, is still a matter of the future.

Liquidation proceedings on the strength of article 37 of the Privatisation Act have been started in 542 enterprises. The entire transformation cycle, which can be effected via:

- the sale of enterprise as a whole or in self-contained parts,
- bringing the enterprise's assets or parts of it as contribution to the company, or
- putting out the enterprise to paid use (on a lease contract) by a company with the participation of employees of the liquidated enterprise,

lasts nine months on average. Altogether 271 enterprises have been transformed in this fashion to date.

For economic reasons (article 19 of the State Enterprises Act), liquidation proceedings have been started in 708 enterprises unlikely to be able to ever improve their situation. The enterprise's assets are sold, which usually brings production to a halt in the enterprise. In the few cases where that does not happen all or part of the assets can be transferred as a contribution to the company founded on the remnants of the old enterprise. Liquidation is usually a slow process, mainly because buyers are not easy to find. Things have reached a point at which there is talk of "property nobody wants," which explains why liquidation to date have been completed only in 78 companies.

Available figures indicate that privatisation through liquidation, which involves mainly small and medium enterprises with payrolls of up to 500 (employment was 343 on average), has proved the most efficient of all kinds of privatisation. Privatisation through liquidation embraced mainly trade and construction enterprises as well as manufacturing firms. It has not been applied in transport or communications.

In its macro-regional pattern, most privatised companies are seen to exist in west, north and central Poland. Privatisation is practically absent from the north-east and east.

The main privatisation technique has been to turn over assets for commercial use (on lease contracts) by companies with the participation of employees. 82% of all enterprises chose that privatisation track. Other techniques included selling equity (10%) or contributing it to the company (8%).

At the time it was designing its privatisation programme the government took it for granted that privatisations will necessarily involve cooperation of external investors, Polish or foreign. The government was sceptical about what is called employee ownership fearing that the work force will not do well as owners. In practice, however, 94% of shares or stock of privatised enterprises was taken over by employees who either founded separate companies or joint ventures with foreign partners.

Other investor groups were rarely involved. Foreign investors had a part in 3% of privatised enterprises buying 46 to 100% of stock of the new companies. Poles acquired stock of 33.9% of enterprises holding between 29 and 34% of companies' total equity stock. But employees are the dominant owner in companies founded pursuant to state enterprise liquidations.

Employee ownership structure in companies founded within the framework of privatisation through liquidation:

Proportion of equity held	Proportion of all enterprises
100	59
99-51	26
50-26	4
25-1	5
0	6
Total	100

Nearly 60% of all companies turn out to be 100% employee owned, while in a further 26% of all companies employees hold majority stakes (51% or more). Altogether, then, 85% of companies founded as a result of liquidation of state enterprises can be said to be employee-owned.

245 employees (69% on average) became co-owners of their companies.

Employee participation in privatisations:

Proportion of share-buying employees	Proportion of enterprises
under 50%	15%
50-70%	31%
70-90%	23%
90-100%	31%

This shows that employees hold majority stakes in 85% of all privatised enterprises.

Sources of financing employee ownership:

Origin of funds	Contribution per employee	Proportion of enterprises
Own savings	PZL 1,109,000	85
Bank loan	PZL 982,000	10
Corporate profit share	PZL 1,023,000	15
Loan from foundation etc.	PZL 1,720,000	29

Privatisation costs money, a lot of money. In most cases, employees tap their own savings up to one half of their monthly wages. In 30% of privatised enterprises, employee ownership has been supported with credit from the privatised enterprises' own funds. Corporate profit shares in 15% of enterprises were in the range of PZL 1 million, whereas expensive bank loans were used only rarely (in 10% of enterprises).

Privatisation, as already said, was effected mainly through lease contracts, so these funds sufficed to pay only for 20% of the enterprise's nominal value (the relevant legal requirements are for at least 20% of initial capital and enterprise fund). Right now these companies are tapping their operating funds to pay their principal instalment maturities and extra payments.

2.2. Attempts to privatise state farms

Transformation of the state sector in agriculture got its legislative basis in the State Land Property Management Act of October 19, 1991, which changed involved several important alterations to other acts at the same time. A State Landed Estate Agency (Agencja Własności Rolnej Skarbu Państwa) was founded, a body like Germany's *Treibhandanstalt*, which calls auctions to offer wound-up state farms to would-be buyers or lessees, or contributes assets of liquidated farms to companies.

The AWRSP's brief experience indicates that privatisation of state farms in Poland mostly amounts to lease of entire farms or self-contained parts thereof. Apart from that, plots situated far away from the farm nearly always are sold or let to private holders under lease contracts. The AWRSP has distributed land previously held by 50 state farms. One farm has been sold to a Polish buyer, the remaining ones have all been leased.

The following investor groups are potential target groups for privatisation projects:

1. Private farmers interested in the purchase or lease of land alone, for they intend to expand their farms. This group usually ask for land situated close to their farmsteads, and they want to buy at bargain prices. Many peasant parties are openly calling for splitting up state farms, which they think disappear from Polish agriculture as quickly as possible.
2. Private farmers running large prosperous holdings, who are interested in buying complete farms of 300-1,000 hectares including the land along with all buildings and ancillary services. Taking over entire farms they promise to keep all employees in their posts, but usually they intend to change work patterns and compensation rules, which provokes resistance among the work force.
3. Managers of enterprises, i.e. the ranking staff of plants, are interested in lease contracts only to take over their previous enterprises. They usually lack the required capital to pay for the lease, so they either buy the working assets at instalments or else they undertake to pay off the farm's debts. In their offers they as a rule propose employment cuts.
4. Employees of enterprises founding commercial companies to take over their enterprises on a basis of lease contracts. As in the case of managerial staff, this group of people suffer from a lack of assets, so they take over the assets in return for debts or they pay off the debts in instalments over periods of 5-8 years. Such companies usually promise to keep all employees in their posts. They also have interesting capital patterns. Almost all of them have one person or group holding a controlling stake in the enterprise. Active investors usually include managers. Executive staff as a rule buy 1-2 shares of PZL 0.5-1 million nominal value each.
5. Private commercial companies engaged in agricultural produce or food distribution and food producers who are interested in taking over enterprises through purchase or lease or in bringing them in as contributions to new companies in order to beff up their material base or easing their tax burdens. Such partnerships are often set up as companies with employee participation. They declare to preserve employment unchanged or only slightly reduced.
6. Foreign partners who are interested mainly in purchasing or founding companies together with Polish partners. Foreign partners are mainly interested in buying farmland or construction sites, because landed estates are 10-20 times cheaper than in Western or Northern Europe. As they take over the enterprises those partners as a rule cut employment dramatically.

Each of the above investor groups pursue different interests, so now and then they find themselves in conflict with each other even up to open strikes. Employees of state farms are particularly threatened. Farm employ-

ees often reject privatisation because it necessarily leads to employment cuts. But when they are convinced of its necessity, they accept privatisation if they can have a part in it themselves via shares or stock ownership.

State farm employees as a rule strongly resist sales of land to farmers, because that automatically deprives them of their jobs, which often are unavailable anywhere near where they live.

Employees are also generally wary of the idea of letting their enterprise to managers under lease contracts. Behind that is of course the usual fear of losing one's job, but prejudice against previously hired staff who are suddenly to become owners of a firm that used to be owned by all probably also plays a part. Maybe the protests also have to do with a belief that the new manager will be much more demanding as he is closely familiar with all weaknesses of the work force. The work force are as a rule opposed to candidates although offers to take over firms under lease contracts come only from managers of profitable enterprises.

External investors find it much easier to let the work force to accept their candidacies if they set up partnerships together with employees. Conflicts usually do not break out in such cases. However, external investors are as a rule have a far better position in such partnerships, if they hold up to 75-90% of stock in their own hands. Few employees realise that in such partnerships their interests will hardly be represented.

When a distribution or production company seeks to take over an enterprise independently, the work force is unhappy. When such companies meet as competitors at tender bids, employee companies usually do all they can to outbid the rivals' offers ignoring the actual value of the competitive offers and promising to pay unrealistic lease fees.

Smallholders fear foreign investors more perhaps than others, probably because they fear tough competition. Other groups are also opposed to the idea of selling land to foreigners, so such sales transactions are practically limited to building plots.

3. Trade unions vs. privatisation

The question of unions' attitude towards privatisation interpreted as a tool to change the system can be approached from the point of view a union confederation or that of a union on shop floor level. This is not just an academic problem, for different interests are involved depending on the perspective.

A union confederation's position will depend mainly on the extent to which it supports the works union. Yet it also depends on the leverage it potentially has on works unions. In relations with political bodies such as the Government or large parties, a union confederation will be viewed as less or more interesting a partner depending on its representativeness. A union con-

federation is seen as representative when works unions respect agreements the confederation had concluded with other partners.

A works union, for its part, is under constant pressure from shop stewards. The union's position in a works is therefore determined by the extent to which it lives up to employees' expectations. A union confederation will only be accepted when it can transmit shop floor interests to decision-making bodies. If it fails to do that, a union confederation is bound for losing credit with the work force, followed by shrinking influence and eventually a demise from the political stage.

In this situation, it is perfectly natural for union confederations to press Governments to accept union-oriented economic policies, while union organisations in factories will seek to have a say on their enterprises' future.

If you look at points of issue likely to cause differences in debates of privatisation, you can notice several interests that are common to all employees and which can be described as the union option.

- Privatisation is justly associated with a tendency to cut employment and so with (perhaps a temporary) growth of unemployment. Unions accordingly demand guarantees that employment reductions will be as small as possible in the course of privatising state enterprises. Too little attention is being paid to However, unions tend to underrate the significance of restructuring employment pattern in the enterprise, which should be done via regional programmes drawing on respective designated funds.
- Employee ownership is an important driving force of privatisation. Trade unions are pushing the idea of free-of-charge distribution of stock among employees of privatised enterprises. One open question is that of funding acquisition on credit of state enterprises by employee companies. Trade unions sometimes advertise employee ownership foundations supplied from the enterprise's net profit in this connection. Consulting and training services for operating employee partnerships can also be of importance there.
- Privatisation of state enterprises leads up to the disbandment of employee councils. That deprives the work force of any part in running the enterprise at all. Bad consequences that can have on industrial structures have been observed in several Western European countries. Employee participation seems to be of pivotal importance in Poland, among other cases, a country with a proud tradition of local government. Work force representative bodies are certain to address this issue sooner rather than later.

Trade unions have a first-rate opportunity now to launch a debate on the form and extent of employee participation and to spearhead legislative initiatives in that respect.

Privatisation of Agricultural Land in Albania

After nearly half a century of isolation from the world, Albania reentered the international community in 1991. Albania is now amidst political and economic transformation from the Communist dictatorship to democracy and from a centralised planned economy to market economy. In this context, privatization of agricultural land is a central factor of reform in the agricultural sector, perhaps even the most important problem of the economic reform in general. A solution of this problem, if any, appears to be complicated by its many political, judicial, economic, social and even ethnic implications.

Background

Before 1912, Albania was a province on the peripheries of the Ottoman Empire. Agriculture was dominated by animal husbandry rather than crop production. After it proclaimed independence from Turkey in 1912, the country went through a difficult period destabilized by internal conflicts and foreign interventions. The independent state was limited to an area of 28,750 km² with nearly half of its territory left outside its borders.

When Communists came to power in November 1944 agricultural land amounted to 393,355 ha (Table 1). The "Agrarian Land Reform" approved in 1945 aimed at giving land to families that did not own or owned small land, and simultaneously to expropriate big land owners, rich owners and the collaborators.

The law in general, although drafted by a Communist Government, was acceptable and democratic in character because it was prepared in reliance on European democratic experience. The law was never really implemented because soon a series of Communist decrees and administrative decisions led to expropriations of any rich or medium peasant family (Table 2).

A Soviet model collectivization began with the creation of Agricultural Cooperatives (AC) in the 1950s. On paper, the AC were "Group property," but in fact they were state-owned. The collectivization was completed in the 1970s and in the Constitution of 1976 agricultural land was legally declared to be State Property. Thus, Albania was the only European country where private ownership of land did not exist, the State became sole owner of 706,200 ha of land in 1989.

Table 1
Land Ownership in Albania in 1945

Owners	No. of families	%	Size of land owned	%
1. Big landowners	7	0.005	14,454	370
2. Rich owners	4,713	3036	91,133	
3. State	-	-	50	1271
4. Medium and small owners	128,961	83.080	237,668	60.43
5. Landless peasants	21,544	13.879	-	-
Total	155,245	100	393,355	100

Table 2
Land Ownership after the Agrarian Reform (1945-1947)

Owners	No. of families	%	Size of land owned (ha)	%
1. Big and medium owners expropriated totally or partly	11,121	7.414	50,028	12.280
2. State	-	-	50,000	12.273
3. Owners not expropriated but given no land	88,740	59.160	115,637	28.385
4. New owners given land for first time or more land than previously owned	50,139	33.426	191,720	47.061
Total	150,000	100	407,385	100

The situation now

By 1991, with the advent of political pluralism in Albania, nearly 74% of land (524,000 ha) belonged to the ACs, and another 23% (161,000 ha) to State Farms (SF).

In autumn 1989, being forced by the political situation and especially by the economic collapse, the Communist Government decreed that every peasant family of the AC was to be given 0.2 ha of land (in the plains) and 0.3 ha (in mountainous regions); later in 1991, this size was increased to 0.4 ha of land per every family. In January 1991, even SF workers were given 0.2 ha of land per family. After 45 years, private ownership of land was restored in Albania (Table 3).

Table 3
Agricultural land ownership
before and after the onset of democratisation in Albania

Owners	1989		1991 (April)	
	ha	%	ha	%
1. SF	161	23	148	21
2. AC	524,000	74	390,000	55
3. Private	19	3	166	24
Total	704,000	100	704	100

These imposed decisions were the starting-point of a destructive process regarding the former ACs, because land distribution to private ownership was done in complete chaos resulting consequently in total destruction of the cooperativist economy.

Only two parties made it to the pluralist Parliament after the March 31, 1991 elections: the ex-Labour Party (with nearly 70%) and the Democratic Party (30%) as a new party in opposition to the first. The Government that emerged from that Parliament was one-colour Communist. The political clash between that two parties resulted in a political crisis with the consequent downfall of the government. So, in June 1991, after a political agreement among the Albanian political parties a new 5-party coalition government came to power.

One of the first problems the new Government faced was land ownership. The "Land Law" drafted and approved in July 1991 was a compromise between the two major parties, the Party of Labour (now called Socialist Party) and the Democratic Party, each realising their own political programmes. The Socialist Party accepted privatization of agricultural land, and the Democratic Party, accepted land distribution depending on numbers of members of each family (Principle of equality). Under the Law, "Agricultural land is given for ownership or exploitation to juridical or natural persons without compensation" (Article 3), but this land "must not be sold or bought" (Article 2). Size and location of land will be determined by a Land Commission (Article 5). This Commission elaborated the criteria of land distribution and respective procedures embodied in a series of government decisions.

Agricultural land privatization process began in the Autumn of 1991 and is continuing. The Land Commission's October 1992 data show 87% of land was distributed while property licenses were given only to 37% of the new owners. The retardation after one year of land privatization was caused by numerous difficulties and reactions to the law. Many owners demanded back the land they owned before the Agrarian Reform, which was impossible to satisfy after 45 years of ownership changes and due to demographic changes. Other expropriated owners were not satisfied with the size of land they got and demanded back all their land. Moreover, the ex-owners now living in towns were not entitled to get land and claimed ownership over the land they once owned. All ex-owners are organised in an association which, supported by some of the political non-parliamentarian parties, conduct intensive propaganda work for the unconditional and unlimited restitution of all expropriated property to previous owners. All that strongly slows the privatization of agricultural land according to the new law.

Albania's political situation further aggravated in November 1991. The political crisis brought about the resignation of the Stability Government. An interim Government was formed for the period until the new election to be held in March 1992.

The Parliament that emerged from the March 1992 elections was dominated by the new democratic parties, where the Democratic Party had 65.5% of the deputies, the Social-Democratic Party had 5% and the Party of Human Rights and the Republican Party had 2% each, while the Socialist Party with 27.5% remained in opposition. The new Government, a coalition of the Democratic, Social-Democratic and Republican Parties, presented a programme which respected "The Land Law" of 1991, but at the same time promised to amend that law avoiding some shortcomings especially those regarding the restitution of land ownership to former owners.

Prospects

The present Albanian Government and Parliament has to solve several problems related to agricultural land privatization. Four issues are the most urgent of all.

1. *Return of property to former owners.* Most of the political parties in and outside Parliament rule out restitution of property to big landowners and to those who collaborated with the occupation powers.

As for owners totally or partially expropriated by the Agrarian Reform of 1945-46, three options are available:

- complete and unconditional restitution of landed property,
- complete compensation in monetary value of the land property nationalised,
- partial compensation.

The Democratic Party and the Social-Democratic Party (as governing parties) support the third version, but they differ over the amount of compensation. The Government has prepared a Draft Law on "Compensation of former owners of Agricultural Land" which will soon be presented for discussion and approval to Parliament. The discussions are expected to be heated, also because of pressure from non-parliamentary groups, especially from an Association of Expropriated Owners which has recently intensified its activities.

The experience of other Eastern European countries in land privatization will be very valuable to our Government and Parliament in dealing successfully with this difficult problem.

2. *The future of state farms.* Presently SF possess 160,300 ha of land or nearly 24% of arable area. The population in the SFs is 305,000, of which 146,250 are directly employed in them. Since January 1991, when SF workers were given for use 0.2 ha of land per family, a chaotic process of systematic ill-use of SF wealth set in, a process the Government has yet been unable to control. All political forces agree it is indispensable to restructure the SF. Most people are in favour of their privatization, but others think that part of them be maintained as state property but always after restructuring them to function as efficient productive units (many prefer the creation of joint ventures).

In October 1992, the Government decreed a Decision for Privatization of Agricultural Land of those SF which had evolved from AC, in keeping with the "Land Law". The problem of privatization of other SF land is still open. For the moment, SF privatization is unclear and very difficult to be solved within a short time. Better alternatives need be forwarded and adequate laws be drafted. In the meantime their wealth is being continuously ill-used.

3. *Creation of Agricultural Land Market.* With the completion of privatization of the land according to the "Land Law", every peasant family is expected to own 2 ha of land. Such small farms are unsuitable for the introduction of

large-scale farm mechanization, they produce no incentives for production increase or for the introduction of modern technology. The increase of farm size to an optimum level can only be done by merging the present small farms, which means a gradual depopulation of the presently overpopulated (nearly 65% of the population) countryside. But this process is made possible only after the creation of the market for Agricultural Land, which means recognising the right to buy and sell land which is impossible prior to solving definitely the problem of property restitution to former owners. Apparently, this problem has also a juridical and political character, and its solution is not a short-term one.

4. *Establishing a legal framework.* The final solution of land privatization problems in Albania cannot be supported or relied only on the "Land Law" which is still being implemented. A series of other Laws need urgently to be prepared and approved, but this is not a simple task to be done in a short time. Apart from these, in Albania we lack the juridical competence and training. The experience of other Eastern European countries, and seminars like the one here, can be a precious contribution to our governmental structures and political parties.

Privatisation Policy in Albania

1. Macroeconomic environment

The democratic government which took office in March 1992, inherited an economy in profound crisis. Industrial production experienced a drastic decline since 1989 with most of its enterprises either closed or operating at a small fraction of their capacity. The Albanian agriculture was also in deep deficit. The country now relies on humanitarian aid to avert malnutrition. The state's fiscal position has virtually spun out of control. The overall budget deficit approached 50% of GDP in the first half of 1992, virtually all of it financed by the domestic banking system. This contributed to a dramatic increase in inflation which exceeded 200% per year during the early months of 1992. A hyperinflationary spiral was a clear risk, meanwhile despite several official devaluations of the Albanian lek and some early efforts at price reform, relative prices remained distorted and the balance of payments continued to deteriorate.

During the first eight months of 1992, the Albanian economy kept pace with the crisis that had started years ago and which deepened further on during 1991. GDP for the year 1991 was approximately 23.7 billion lek, the same as the level reached in the middle of the 1970s. This level of production was 22% lower than that of 1990. During 1991, industrial production drastically decreased by about 40% and agricultural production decreased by 15% against 1990. During the first half of the year 1992 GDP was less than 70% of that achieved in the same period of 1991. Again during the first half of 1992, foreign trade decreased in exports and imports by more than 30% and 40% respectively.

Unemployment during this period increased and by the end of June 1992 unemployment had grown to 91,600, with those people now looking for jobs. This number was 17% greater than that at the end of 1991, comprising 9% of total active population or 10% of the employed people.

During July and August it increased further because of the economic reform and how it is estimated to account approximately 25% of all employed people, while employment in the private sector remains limited (37,000). By August 1992 the consumer price index (CPI) had surged to

549.7% from December 1991. Among the factors impacting these increase are: taking out of some basket commodities as meat, butter, cheese, flour, pasta, coal and the increase of prices of other controlled commodities such as bread, oil, sugar, rice, water, salt, firewood, electricity, medicinal drugs, rent, school books, district heating, passenger tickets, postal charges, soap and other commodities.

The government saw little alternatives but to undertake radical and comprehensive programmes of the reform aiming at stabilising the situation and laying the foundations for medium-term growth. intensive discussions were initiated with the IMF, with a view toward developing a reform program that would be supported by a stand-by arrangement. The program which was adopted and is now being implemented involves the following steps:

1. A sharp decline in domestic bank financing of the budget deficit to be achieved through the mobilisation of domestic revenues and a decline in current expenditures by 40% of GDP.
2. Comprehensive price liberalization and major increase in those prices that remain under control due to monopolistic supply conditions with compensatory wage payments for the most vulnerable groups.
3. Increases in domestic deposits and lending rates to approximate real positive values by the end of the year.
4. Strict ceilings on the availability of domestic credits.
5. Limits on nominal wage awards to equate real wages with the decline in domestic output.
6. A comprehensive liberalization of external trade and currency exchange.
7. Commercialization of state enterprises and privatization as rapidly as possible.

This programme won the support of the IMF Executive Board, which approved a stand-by arrangement for Albania on August 26, 1992. Moreover, our economic reforms have earned the indorsement of G-24 countries, which convened in Tirana on July 24 to discuss our programme and our ongoing needs for external assistance.

2. State owned enterprise sector

Few positive things can be said about state enterprises in Albania. Obsolete technology, shortages of imported materials and spare parts are just two of a host of problems cropping up in their work. Foreign aid has been committed to help pay for imported inputs. But, for different reasons, the arrival of this aid has been much slower than expected, and it is unlikely to occur in substantial quantities until this winter or spring. This greatly concerns us because there is already a level of unemployment, great dissatisfaction among

workers still in jobs and insufficient resources within the budget of the banking system to finance these enterprises until the imported materials arrive.

Meanwhile, as they face the hard budget constraints for the first time our enterprises are facing a fast-growing problem of inter-enterprises debts. The arrears exploded to 6.8 billion lek at the end of August 1992 and are having a choking effect on the economy. They pose a great problem not only to minority control, inflation and the balance of payments, but also further complicate our efforts to unblock production.

We are now engaged in developing a strategy to address the problem. A new law on state enterprises has been approved by Parliament 1992 and is now implemented to restore the state's ownership rights over state enterprises. Governing councils and directors of enterprises have already been nominated by the relevant state authorities in order to regain control over enterprises. All enterprises are now taking advantage of their powers to set wages, deregulate prices, design their own export-import rules and operation on the customs and fiscal system.

Enterprises operating with domestic raw materials continue to produce. Also in cooperation with relevant ministries requirements for imported inputs have been defined and on the base of credit granted by the World Bank, EC and other international institutions or states it is expected that other state's enterprises will start operating.

Of more than 1,000 state owned enterprises now operating in Albania, 350 are supervised by the Ministry of Industry and Mineral Resources, 100 by the Ministry of Transport, more than 150 by the Ministry of Construction, more than 160 by the Ministry of Agriculture and Food, with the remaining enterprises being by departments such as Defence, Public Order, Home Trade, etc. The latest figures we have for these enterprises and their work force are of the former half of 1992. About 60 joint ventures have recently started to operate in all sectors of the Albanian economy.

3. The privatization programme

Albania intends to transform into market economy, and through this transformation to lay the basis for sustainable economic growth. Privatization is a necessary part of this transformation, in order to open for private initiative, strengthen the motivation and receptiveness to market signals of the decision makers at various levels, and in particular within the present SOE sector, help speed up the necessary restructuring of much of the present SOE sector, bring in more experienced management, technical and marketing skills, bring in new investment capital.

Albania has been carrying out privatization for about one year. So far has been good progress on the privatization of very small units in retail and services, but only a few medium scale enterprises have been privatized.

What Albania now needs is a coherent strategy for its privatization process. For this reason we have been working with specialists from the World Bank, the IMF, the EC (Coopers & Lybrand) and now we have the first draft of the Albanian privatization strategy. This strategy is based on clear priorities and decision criteria:

First, the rapid transfer of ownership of most of the current competitive COE to private owners that can reasonably be expected to operate their new business effectively.

Second, this transfer would take place in an orderly and transparent manner, and be viewed acceptable to the population at large.

Third, the government would be able to raise some revenues from the process. However, outside the major extractive industries, revenue is generally not expected to slow the privatization significantly.

Given the above principal objectives the government's strategy can be said to consist of the following key components:

a) *Small-scale units.*

(i) The completion during 1992 of the current privatization program for very small units in retail trade and services. The approach now in the case of small privatization in retail trade and services is for negotiated sales to current employees at a quickly assessed realistic value, and it has served well the objective of completing this programme in 1992, or at the beginning of 1993 at the latest. Small businesses that have not been sold to employees would be sold quickly through auctions, following announcements in the local press.

(ii) Expansion of this small-scale programme in size to embrace larger units than now, and in scope to cover also manufacturing units including those that are now parts of large enterprises. Maximum size of the units would be raised from the current 5-6 employees to 15-30 employees. The scope would be broadened from the present focus on retail and services to include also units in manufacturing. Within some medium and large SOEs there are independent smaller units that could be separated and privatized with a role for employees. The Government would require medium and large SOEs to identify and separate such activities in order to privatize them rapidly under the expanded small-scale privatization programme.

b) *Medium and large enterprises*

(i) Encouragement to all SOEs to take responsibility for preparing their own privatization programmes, with incentives for successful privatization, in particular reasonable privatization terms to groups of interested managers and employees. The Government would invite the management of every SOE (except major energy and mining corporations) to submit a proposal for their own privatization, a business plan, and a simplified valuation for approval by the government privatization agency. In this way the responsibility

for preparing the privatization would be delegated, thus reducing administrative burden of the central government privatization agency. As an incentive the government would put a deadline for this submission and make known its willingness in that case to consider favourably the privatization (fully or in part) through management or employee buy-outs on reasonable terms including payments on credit. A very rough estimate puts the proportion of the SOEs responding positively to such an invitation at 20%.

(ii) Along with these, initiating active efforts to privatize the remaining SOEs in the competitive sector over a certain period.

(iii) Utilisation of a variety of methods for this privatization including negotiated sales to qualified parties and auctions to the highest bidders. Foreign investors will be welcomed on par with Albanians in this process. The government would in principle be prepared to utilise virtually any privatization method including: direct sales to Albanians or foreigners, sales through auctions and the sale of assets belonging to them, sales on reasonable terms to managers and employees, and joint ventures with foreign parties.

(iv) A few sectors enterprises in Albania are of such a nature and importance that a special approach is required: upstream petroleum, mining, telecommunications and electric power. Within these sectors, there are good prospects for early foreign investment in oil and gas exploration and production, and in some mining operations (primarily chromium). In the longer run, there might also be foreign interest in telecommunications and electric power. These sectors all require a special financial, taxation and regulatory regime. This is in the short run in particular the case for mining and petroleum, which are production non-renewable resources. For these sectors, the Government should initiate the preparation of an appropriate legal and regulatory regime (including addressing issues such as the ownership of the natural assets and the taxation regime, and ensure that qualified international expertise is utilised in the negotiation with foreign investors).

(v) The major public services (railways, water supply, ports) would be excluded from privatization during the early stages of the Government's privatization programme, due to their often very poor economies combined with the difficulty of carrying out privatization programme in these sectors. Some local services, on the other hand, could be privatized, also through the entry of new small-scale entrepreneurs.

c) Restructuring

Although this report does not directly address the issue of restructuring, it is important that certain decisions and actions are taken under this heading in the short term if the privatization programme's success is not to be put at risk. It will be much more difficult to privatize enterprises which are not working or which are working much beneath capacity. For example, more than a quarter of the enterprises supervised by the Ministry of Industry are

completely idle now. A great many of the others are about to go through a screening procedure to determine if they are suitable for privatization. Undoubtedly a large proportion of them are going to turn out unsuitable for privatization at this stage before being restructured. These restructuring process will take some time and it is imperative that an appropriate institutional framework is put in place to control this process and to channel and direct the appropriate resources.

4. Obstacles to privatization

Privatization is now facing some legal, technical and social constraints.

First, the lack of the restitution or compensation law on buildings and construction grounds. The process of privatization has been stopped or slowed in such districts as Shkoder, Puke, Kruje, Tirana, Elbasan, Gjirokaster, just because of the pressure that the commissions of privatization and the privatization agencies are facing by former owners who would not allow the selling or auctioning of their former properties. This situation has led to only leasing those objects where an ownership claim appears. Leasing, of course, is not the best choice of privatizing and on the other hand it slows down the implementation of the economic reform. This constraint will be solved once Parliament has passed the restitution or compensation law.

Second, the lack of company law. Medium and large scale enterprises in Albania should nearly always take the form of joint ventures or limited liabilities companies. This would place state and private enterprises legally on the same basis and would also in many cases be a useful preparation for privatization, including a realistic valuation of the SOEs. Once SOEs are in company form, it would also be possible for the state to provide incentives to employees in the form of share ownership (minority), and shares, if desired, could also be provided, e.g. in return for compensation bonds and to local authorities or national schemes such as national mutual funds.

Third, improvement of privatization law. It is written in the current privatization law No. 7512 of Aug. 10, 1991, that privatization may be carried out through a variety of forms as auction, free selling of shares, direct selling of objects to the employees and managers, and any other appropriate form. The decision of the Council of Ministers No. 284, of Apr. 25, 1992, accepted auction as the only way of transforming the state property into private ownership. This narrowed considerably the space of action of the privatization law and inevitably bred tension in different groups of employees. Another decision, No. 347 of Aug. 10, 1992, alleviated that problem by allowing in some sectors such as retail trade, services, handicrafts, etc., the offer the purchase of those enterprises firstly to the employees who actually administer them, and in case they don't buy them these objects are auctioned. That

decision gave no access to privatization in other sectors. So either the current privatization law is improved or a new one is passed.

Fourth, rapid privatization presupposes further perfection of its institutional structures. The current privatization structure involves a lot of redundant work, long procedures, conflicting responsibilities, etc. In districts, for example, subcommissions of privatization and the privatization agencies perform parallel functions. At ministerial level, you will find privatization authorities under each parent ministry, the commission for Privatization under the Ministry of Finance and the Economy and the National Agency for Privatization under the Council of Ministers, all working at the same time. Quick and large scale privatization cannot be realised with such inefficient institutional structures. We therefore propose setting up a simple and efficient structure of privatization. At district level we think the two bodies should merge and create a single privatization body should be set up instead of them. Also, we believe one central institution should replace the National Agency for Privatization and the Commission for Privatization.

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Privatisation Policy in Bulgaria

Legal framework of privatization

Privatization, as a process of substituting private for state ownership, is established in a specific normative procedure of property transfer. Bulgaria's Law on Transformation and Privatization of State and Municipal Enterprises (LTPSME) does not cover all legal regulations of privatization. The Council of Ministers has had a part in the process through its own regulations, specifically those concerning Evaluation of Enterprises to Be Privatised, Auctions, Competition, or the Procedure of Acquisition of Stock and Shares of State or Municipal Enterprises on Preferential Conditions. Because of the extensive social implications, trade unions had to be consulted. Results of those discussions could be useful in changing those parts of the relevant law and regulations that turned out to have been incomplete as involving various gaps.

A special body was set up by the Council of Ministers, a Privatization Agency, to organize and control privatisation of state enterprises and to implement privatization procedures in cases envisaged by the LTPSME. A legal entity on its own, funded with budget appropriations, the Privatization Agency holds a number of powers. It draws up and offers annual privatization programmes setting forth current privatization activities. The National Assembly determines through a separate act which enterprises can be privatized under the annual programme, which is a provisional arrangement expiring by the end of the year.

The bodies and individuals authorized to put forward privatization proposals are named in Article 4 of the LTPSME. What is called proposal is not strictly a proposal to conclude any agreements, and its nonacceptance does not legally affect the relationship between the relevant body named in Article 3 and the proponent. The law provides no rights to the proposing party, and the proposal itself is merely an incentive encouraging the body to make a decision, which does not mean the decision must have favourable results for the proposing party. The law says nothing about who should come up with proposals. That particular arrangement therefore seems to be a source of potential conflict between an enterprise's general meeting of stockholders and its supervising board, if they happen to put forward different proposals.

Similarly, in state enterprises that have yet to be transformed the management board and the manager are likely to find themselves in conflict if their respective views on the company's privatization differ.

The other major party authorized by law to propose privatizations are employees of trading societies and enterprises. Their proposals should map out possible decisions to the body named in Article 3 of the relevant law. In this context, trade unions as representatives of the work force can enlist the help of experts in drawing up their proposals. The law says nothing about the contents of proposals or about consequences of their acceptance or rejection. Nor does it provide possibilities to appeal refusals.

Evaluation of the enterprise's value is a very important stage in the privatization process. The relevant Council of Ministers regulation stipulates that evaluation shall be done at least by two methods. It is unclear why that should render the evaluation more accurate or better in any plausible way, especially as in the sequel the regulation provides for exemptions from that requirement. That means evaluation of an enterprise's value can be done using just one method. Under Article 16 Para. 6 of the law obligates the Council of Ministers to determine not only the evaluation procedure itself but also its criteria. Yet the Council of Ministers regulation sets forth no such criteria.

Another regulation determining procedures for the sale of stocks and shares is the Auctions Regulation. The conduct of auctions is entrusted to a committee of three to five members all appointed by the seller under Article 3 Para. 1 of the LTPSME. As the execution of the auction may forestall tension in the enterprise, workers' and union representatives' participation in such a committee is mandatory. The idea behind that requirement is to ensure that conditions are set for dispelling possible doubts or discontent and for voicing different opinions at an early enough stage, which sets the stage for the principle of social partnership at enterprise level. That kind of participation sets no precedent, for union representatives had sat on committees supervising procedures on managers contracts. The wording of Article 17 Para. 2 is in contravention of the principle of directness and competition in sales through auctions. The contract goes automatically to the second-best offer wins automatically if the winner of the auction does not pay the price.

Under the Competition regulations, state or municipal owned shares of enterprises transformed into commercial companies shall be sold through public competitive bids. That particular procedure creates a good chance for the participant offering the best investment, jobs preservation and creation and environmental programme to emerge as winner from the bid. Tenders submitted by participants are to be studied by a body described under Article 3 Para 3 of the LTPSME. The problem is the body combines different functions, which is intolerable, because while it is composed of experts it does have a part in determining conditions (documents) for the contest, in evaluating the offers,

and in preparing future contracts. An expert on the body, accordingly, can act both as compiler and evaluator of the project (offer). So it is by all means possible for the expert to act as a guarantor to a particular candidate of his offer eventually being chosen. Public competitive bids are something like auctions of promises. Auctions are won by those that propose the best prices, while competitive bids are won by those who make the best promises.

All legal and technical preparations for the implementation of privatization will be to nothing if the human factor is ignored. Privatization cannot go ahead, succeed, or produce results if enterprising people willing to join but lacking the financial means to do so are given no favourable credit terms or no incentive in the form of preferential participation in the primary stage of privatization. The Privatization Act has provided such possibilities though. A Regulation on Preferences is a normative act with a pronounced social effect providing a chance of participating in the reform either personally or through representatives. Article 31 furnishes one more possibility for employees of privatized enterprises to take part in auctions or competitive bids, namely when more than 30% of the work force expresses its desire to do. In such cases, employees choose and appoint an individual to represent them. Trade unions can act as guarantors of workers' rights provided for in the relevant regulations. Rights of workers as shareholders can be defended via management of the shares by the recently appointed Insurance Trade Union Fund Podkrepa.

Neither the LTPSME nor the Council of Ministers regulations make it desirable or mandatory for unions to participate in ownership substitution where interests of sole owners are certain to clash with those of a majority of the enterprise's work force. Unions certainly will be expected to provide that kind of protection. Privatization in any country or at any time depends on particular historical, economic and political conditions, and is unlikely to succeed unless the relevant legislation reflects them adequately, correctly and objectively.

Privatization techniques

As one of the main factors of transition from totalitarian society to market economy, privatization begins to hold a prominent part in the Bulgarian economy. Political forces found it very difficult to work a compromise on starting privatization. Eventually, it was the April 1992 Transformation and Privatization of State & Municipal Enterprises Act that ushered in privatization in Bulgaria.

Four main privatization techniques were provided for:

- open sale,
- public auction of stock packages,
- publicly announced competition bids, and
- sale following negotiations with potential buyers.

Other techniques can be applied at the same time with these, e.g.,

- lease contracts for 25 years with buy-up clause,
- turning over for management with a buy-up or sale to third persons clause,
- sale by instalments with preservation of ownership, and
- sale under conditions for postponement of cessation.

Sale through auctions possibilities are set forth in the Auctions Regulation, which describes a very typical auction model including all requisites in two versions, for open and closed auction, respectively. The bidding must not be less than 1% or more than 10% of initial price. Bid bonds required from participants to be admitted to auction shall be paid in cash, certified cheque or bank guarantee to indicated bank accounts.

Privatization via competitive bid can involve sales of the following objects:

- state or municipal enterprises that are legal entities and have not yet been transformed into trading companies,
- self-contained parts of enterprises or unfinished capital construction sites, or
- property of enterprises under liquidation or property left over after liquidation.

The relevant regulations provide the following conditions: the enterprise to be privatized shall preserve its functions; new jobs shall be created, old ones preserved; investment for modernization and increasing production; naming environmental protection and restoration measures; and setting a deadline before which the new owner must not resell the object of the bid. of particular importance there is the requirement that participants in the competitive bid must prepare and submit a complete master plan for the enterprise's economic development including market, technological, organizational, social and environmental policies, along with proof of its feasibility. Trade unions have a moral right to take part in the evaluation of such projects and to question certain points, especially those that directly concern employees.

Debt-for-equity swaps are another privatization technique available in Bulgaria. Creditors can lawfully acquire shares or stock in privatized enterprises against the amounts due.

In Bulgaria, the market principle of privatization has priority before the social aspect. Union members, accordingly, are not placed on equal footing compared with their colleagues elsewhere. What Bulgarian law does warrant, however, is a right of preferential participation in ownership. Such a right pertains to workers and employees as well as to pensioners who meet certain conditions, namely length of service with the enterprise, date of leaving or retirement etc. Such preferences can only be take advantage of once.

Anyone who has preferential rights is allowed to buy, on preferential terms, up to 20% of shares owned by the state or the relevant municipality. The sale is effected at a price of 50% of shares cost as determined by the

Council of Ministers. The total discount one individual can obtain is limited depending on length of service with the enterprise and on the amount of total compensation.

Would-be buyers of shares may take advantage of their preferential rights three months from the beginning of the sale. Shares sold in that procedure are nominal shares and carry no voting rights with them. Voting rights arise on such shares only three years upon acquisition.

Employees have another possibility to take advantage of preferential terms in sales of enterprises or self-contained parts of them, namely when more than 30% of the work force have declared themselves willing to participate in the auction or competitive bid, they can authorize a person to represent them. If that group of buyers emerges as winner, the final price shall be cut by 30%. Another possible kind of preference is to effect the purchase on an instalment plan where the value of the unpaid part is being adjusted to the changing basic interest rate.

Privatization vs. social funds

A very interesting point in privatization viewed from a social angle is, how is income from the sale of state property reallocated? It should be very clear, first, that privatization earnings in a social plan are derived to a much greater extent from tax paid by efficient and growing private companies than from proceeds from the sale of enterprises. The Bulgarian privatization legislation is based on a different philosophy than the approach usually taken in what is called voucher privatization. Bulgaria adopted a market privatization approach. Sale of shares and stock or of entire enterprises or their self-contained parts is being organized through sale-and-purchase without launching coupons or other elements of "free" participation in privatization by large population groups. So, there is a problem of awareness in many Bulgarians, who see their habit of viewing the economy as "common" property now pitted against a perception of everybody sharing in property now managed by the state on the basis of workers' participation in production, and that split has yet to be overcome in Bulgaria. If we accept that employees used to get paid a fair compensation for their work, then staff should have no legitimate claim to receive parts of the enterprise property for love, "by their right." However, the Privatization Act does include socially oriented provisions. Privatization is thus bound to take account of workers interests eventually. The Act provides another kind of preference in addition to direct concessions. It has to do with the reallocation of privatisation revenues. Twenty percent of stocks and shares in privatised enterprises or their pecuniary equivalent shall be consigned free of charge to a special designated social insurance fund and to providing credits to individuals who are just unable to collect the funds that would buy them a right to participate in privatisation.

Two approaches to the allocation of privatization revenues were discussed in Bulgaria. In one, privatization proceeds had to be surrendered as income to the Treasury and allocated on an annual basis with its adoption by Parliament. That would mean assimilation of revenues in the total amount of budget earnings and only the deputies alone could determine the spending items to which the meanwhile depersonalized privatization revenues should be directed. In the other approach, state (or municipal) investment fund was defined as a place where privatisation revenues were accumulated and its management had to be regulated by a separate normative act. From our point of view, the latter of the two approaches is more important and has definitely a social orientation. Indeed, that was why it was included in the Privatization Act. What were the arguments in favour of that? If we accept that when it dominated state ownership had the opportunity of proving its effectiveness, so revenue centralization means the capital created in that period finds its price in privatization. From the standpoint of the state, or the national budget, that price "buys out" the cost of its creation. Logically, then, the state could arguably be relieved of its responsibility for its attempt to manage property that was at its disposal in accordance with socialist principles. Moreover, Government officials are suggesting in their statements that a large portion of privatization revenues could be tapped to pay off state debts. So, the income part of the budget would be used to make good disequilibriums that were sustained through those years, especially the huge share of expenditure on capital formation and subsidies in the general structure of budget spending.

There is another good reason why privatization revenues should not be centralized. That is hardly a way to patch up budget "holes." The state represented through the budget as an economic subject has a possibility of acquiring revenues from privatization by taxing privatized companies provided they develop normally. In short term situations that calls for some kind of Government "guarantees" in order to create adequate legal and economic conditions for private ownership to function at all. That presupposes tax concessions for the new-born private sector, at least in its initial stage. On the other hand, if you look at the state budget expenditure you will find the outlook for the state to spend large funds on investments is poor. In this sense, two pivotal state responsibilities, namely investment and commitment to social welfare services, will no doubt be limited or frozen entirely. One way of easing this inadequacy is to give priority status to privatization revenue allocation to retirement funds and to the retraining of the unemployed. That could function as something like a "social investment" on the part of the state. There is no plausible justification for spending the better part of privatization revenues on social assistance or benefits without implementing an active employment and retraining policy. Putting the proceeds into a mutual fund as provided for in the Privatization Act would play another important

function. Allocating 20% of stocks and shares in privatized enterprises in a special fund creates an opportunity for it to become independent of budget expenditure items governed by political forces represented in Parliament. On the other hand, actual ownership of stocks and shares - if this possibility is given preference to money equivalents in privatization - imparts an investment and management orientation to the Mutual Fund. Despite the requirements of the law, however, the Government has not yet specifically regulated how this fund, where trade unions should take up their capacity as workers' representatives, will be structured or managed.

Employees' participation in privatization

Apart from typical general features, privatization looks slightly different in each country. Peculiar features are determined basically by the privatization agency's approach, adopted privatization techniques, and sources of capital for privatization programmes. Although practically no privatization has lawfully been put through in Bulgaria, certain features can already be pointed out as determining employees' participation chances.

First, sale is as major privatization method under the binding law. Voucher privatization, essentially a non-market give-away kind of distribution, will be applied in a very limited number of state-owned assets only, but as there is no clear mechanism for using it this particular approach is practically useless in the short and medium term. Given the relative scarcity of domestic and external capital to be employed, privatization is almost certain to be a long drawn-out process. Forecasts based on factorial analysis indicate that ownership patterns are unlikely to change significantly over the next five years, with state ownership shrinking just 14%.

Secondly, Bulgaria is launching its privatization programme after the longest absolute and relative delay (compared with the moment of starting its stabilization programme) of all Eastern European countries. In the years lost for privatization Bulgaria's macroeconomic stage has undergone substantial changes. The orthodox stabilization with its typical wild price leaps undercut personal savings drastically, which of course restricted opportunities for participation in privatization. Official records showed unemployment to have grown tenfold over the previous two years, to over 15% of the work force. Add to this the dark figure on hidden unemployment and you will find actual unemployment to have been even higher. Even worse, that staggering figure was reached even prior to any structural reform or privatization. Unemployment, then, is probably going to determine the pace of the nascent privatization to a large extent. Moreover, the continuing stabilization measures and a drastic shrinkage of external demand have hurt hard state enterprises' financial condition making them even less attractive in the eyes of would-be buyers. Huge extra funding will be needed to prepare those enter-

prises for privatization. However, the main source of funds for that purpose is in the national budget, which is the other "anchor" in the dynamic pattern of the privatization. Sociological surveys seem to indicate that popular support for reform is falling while discontent is on the rise. But alongside with these adverse elements of the setting for privatization, a few conditions have been created that may speed the process. They stem from the growth of the private sector and the establishment of market economic legislation, the influx of foreign investment in particular. Other factors likely to speed the intended privatization include the particular shape of lease contracts that have led to a more optimal employment patterns and more dynamic economic activity in leased projects.

Thirdly, restitution of real estate and small urban property (stores, offices, service shops) amidst still largely unclarified property rights is put off to a distant and unforeseeable future. New owners were often quick to rent out their property which has driven up rent dramatically. That has affected interests both of newly developing private businesses and of the state budget, which, docked of revenues from reprivatized estates had to compensate former owners and, on the other hand, ease burdens of restitution-affected government agencies. Restitution of municipal property has in no way pushed up employment to date, for it had a limited scope compared with the economy as a whole. Moreover, restitution has been postponed in most enterprises with optimum employment patterns. Restitution caused serious problems in agriculture. Cooperative structures were dismantled before conditions were created for the emergence of new farms. Land and farm stock are being turned over to townspeople, as only 30% of rural inhabitants are owners or heirs to land ownership. No mechanism is at work that would provide land to landless farmers, which not only undercuts their motivation but has also caused substantial decline in agricultural production.

Fourth, small and large scale privatization should be launched at the same time in Bulgaria. Unlike other countries, which separated these two processes in legislative and temporal terms, Bulgaria hesitated to introduce the relevant measures in time, so the two privatization tracks have developed side by side with each other. So it is imperative for the authorities to draw clearly a distinction between the Privatization Agency and the numerous other government bodies that will be involved in the process. Also, the government has to ensure coordination between all those bodies. Too much interventionism or incompetence on the part of state agencies will be no less destructive than enterprises' lack of proper preparation, and so may hold back the process and easily discredit it. On the other hand, it will be more difficult to ensure interaction between employees and the administration, or to have enterprise to come forward with privatization initiatives first, or to ensure supervision on the part of the work force or its representatives to government bodies entitled to take care of privatizations.

Fifth, privatization ran aground even before it really took off in Bulgaria. No groups seem to be around that have a vested interest in giving it initial impetus. The Privatization Agency cannot yet operate and is very timid indeed trying to find would-be buyers of big enterprises. The relevant departments of government ministries charged with privatizations of assets worth up to 10 billion leva have only been set up and they lack strategy or are apparently unsure of what to do first. Foreign parties' interest has been lukewarm so far. If they do anything at all, then probably build new enterprises rather than buy old ones. Nor do municipal authorities view privatizations as promising opportunities, for town councils will be permitted to keep only one half of proceeds from sales and so they prefer to lease out the property instead. Managers would perhaps venture into buy-out schemes prefer to keep quiet about it for fear of provoking protests from the largely egalitarian-minded work force. Workers fear privatization may cancel their chances to get control of and influence over their enterprises, to say nothing of other consequences. So, as no driving force of privatization is in sight, the only thing that can be relied upon is the enterprise's own initiative, when it can look for potential buyers among foreign investors or among its own staff for whom it sees no chance outside.

Opportunities for employee participation in privatization

The relative advantages or disadvantages of employee participation have to do, in theory, with the enterprise's current and prospective performance, the establishment or not of trust and confidence between the work force and the management, with cost reduction of industrial action and social welfare benefits, a fair redistribution of income among the work force, administrative staff reduction especially of supervising staff, and stronger motivation for creative work. This, in a nutshell, is the result of different surveys of industrial democracy in developed market economies. No such surveys have been conducted to date in Eastern European countries, but such or other positive effects are very likely to result from employee participation there too.

First, preferences offered to the work force may weaken resistance to privatization and motivate employees to take the initiative in their own hands, in profitable and loss-making enterprises alike, for that may their last opportunity to preserve jobs.

Secondly, buy-out by employees is probably much more widely accepted than any other conceivable privatisation method in Bulgaria. A first ever national opinion survey on a representative sample showed in March 1992 that most Bulgarian adults (one in every five respondents) preferred employee buy-out to any other possible privatisation technique in general, and even one in three picked it as the most preferable method for privatizing their own enterprises.

Thirdly, even though savings deposits are relatively small, employees' personal resources should not be discarded as a possible factor speeding up privatization in Bulgaria. The same survey March 1992 showed that those favouring employee buy-outs of enterprises provided moral rather than material support for that. Gauged against the extent of participation with personal resources, 40% of those who wouldn't participate financially in buy-outs backed the idea of buy-outs of enterprises by the work force. The buy-out idea was also supported by 32% of those willing to participate by committing their own funds, 5-10,000 leva (US\$ 200-400).

There are also certain reasons, however, for employee participation in ownership of enterprises often failing. Way back at the beginning of this century, Sidney and Beatrice Webb identified a few essential dilemmas of self-managed business organizations which can perhaps explain the limitations of such organizations in modern economies despite all the changes since then.

The right to elect managers is the first such problem of labour-managed, or self-managed organisations. When elected by employees, managers tend to make decisions that will please the majority rather than conform to economic efficiency standards. Managers dependent on a majority in an enterprise often have little elbowroom because strategic decisions have to be made collectively in such firms. The languid collective vote largely kills flexibility and makes quick response to changing market conditions practically impossible, to say nothing of diluting responsibility for whatever decisions are made.

Investment policy is another big problem self-managed organizations face. Investment may be slow in coming to the enterprise, for two reasons. First, unlike stock companies, self-managed organizations as a rule do not put out shares for stock exchange trading and so have no access to that particular channel to raise liquidity. On the other hand, self-managed entities usually give consumption priority to long-term investment in their policies. This is closely linked to collective decision-making. Even if employees can bring up sufficient investment resources, however, there is the spectre of innovation in a saturated market leading up to employment cuts, which instantly breeds a clash between innovation and interests of those who make decisions concerning innovation.¹

Experience and research findings can be used to overcome these typical weaknesses which were observed as far back as at the turn of the 20th century. They can also help us adapt principles of economic democracy to the modern environment that promotes efficiency in self-managed organizations. Several empirical studies have described a number of cases of such

¹ Of many authors subscribing to this philosophy let us mention for example M.Hinds, "Issues in the introduction of market forces in Eastern European socialist economies," *EMTTF*, 1990, p. 63.

organizations defeating problems often bred by democratic management and performing better as business organizations than traditional capitalist firms.¹

On top of these perennial theoretical problems, employee participation in Bulgaria is likely to bump against a barrier of entrenched mistrust. In the 1980s the authorities launched an attempt to introduce self-management principles in industry as part of a campaign to give property eventually to the work force. In fact, that was a ploy designed to keep the administrative system in place after it had become discredited in the eyes of many workers. The bogus self-management campaign was quietly dropped at the beginning of 1989, but many Bulgarians have a lingering bitter after-taste of it.

Prospects for employee participation in privatization

Employee participation in privatization has many facets and can take different forms. It may be individual or collective. It may cover the whole enterprise or parts of it. It may be a leveraged management buy-out or exclude the management from the deal. Depending on the type of buy-out it may be a tender bid, direct sale etc. In terms of payment, it may be paid for in a lump sum or in instalments, with or without credit facilities. Choices of the appropriate combination from a chart of possible choices will be made on a case-by-case basis.

Like any statutory regulation, the current Bulgarian privatization laws pose certain restrictions on freedom of negotiations involving different agents in privatization. Employees' rights are protected to the extent of granting them right to acquire up to 20% of their enterprise's estimated stock at half price. Individual concessions per employee when buying shares extend to up to twelve monthly wages. Preferential stock holders, however, are restricted by law for they have no voting right for three years upon acquisition of stock.

The current preferential system together with specific features of privatization in Bulgaria give grounds for the following assumptions to be made on employee participation. Individual participation is unlikely to become a widespread privatization form in well-doing enterprises, one of the motives being to preserve one's job.

¹ See, e.g., studies by D.Jones, S.Estrin or R.Oakshott: D.Jones, W.Bartlett, J.Cable, S.Estrin, St.Smith, *Labour managed vs. private firms: An empirical comparison of cooperative and private firms in Central Italy*, Dept. of Economics, Hamilton College, Working Paper 90/2; S.Estrin, D.Jones, *Survivability and degeneration in employee-owned firms: Evidence from France*, Dept. of Economics, Hamilton College, Working Paper 88/5; S.Estrin, D.Jones, *Can employee-owned firms survive?* Dept. of Economics, Hamilton College, Working Paper 88/12; S.Estrin, D.Jones, *Do employee-owned firms invest less?* Dept. of Economics, Hamilton College, Working Paper 88/10; R.Oakshott, *The case for workers' coops*, Macmillan, 1990, p. 272.

A Look at Privatisation in Bulgaria

Privatization is one of the few things all social and political forces in Bulgaria agree on in principle. That is only natural as nearly three years after the reforms began the state still owns more than 90 per cent of all property. Land restitution has been going on for more than three years now, and there are still no real landowners. Distribution and services are the only sectors in which the state can be said to be losing ground.

Privatization in Bulgaria is being carried out in two main ways, restitution and privatization proper. Restitution, which preceded privatization, has greatly narrowed down the range of state ownership in distribution and services. In agriculture, privatization amounts to returning the land. Now it is taking off at last also in other economic sectors, even though the Transformation and Privatization of State and Municipal Enterprises Act came into force already on 23 April, 1992. The main reason for the delay is probably the numerous additional legal regulations prescribed under this Act. Now, at the end of 1992, almost all prerequisites for the real start of privatization are already at hand. The implementing regulations required under the Act have been adopted, and a special body, the Privatization Agency, has been set up and is beginning to function. A plan to privatize more than 90 enterprises by the year's end has been announced officially.

Clearly, then, there is no real privatization in Bulgaria yet. Even so, a few characteristics have taken shape in connection with the restitution-privatization relationship, the trade unions' attitude to privatization, its expected impact on labour relations and the legal framework.

The most important issue in Bulgaria was the dilemma between reprivatization, or restitution, and privatization. The sharp conflicts that arose in this area account for the delay of structural reform, especially where that involved changes in property rights.

The legal foundation was laid with the 36th National Assembly approval (on Dec. 11, 1991) of the main reprivatization acts: the Property Restitution Act, which concerned shops, workshops, warehouses, etc. and the Property Restitution Act concerning nationalized immovable property (Feb. 5, 1992).

The most important act in this connection is the latter of these acts, which abolished the legislation of 1947-1952 (including the Nationalization Act on Private Industrial and Mining Enterprises which nationalized more

Collective employee participation can be expected in non-transformed enterprises. The law, as we see it, is too restrictive on freedom of negotiation there, and that can be overcome only by calling competitive bids in which the margin of preferences can be widened at the expense of lower selling prices. That is the right way for employees to assume greater responsibility for investments, employment etc. To imagine that collective participation of employees can function without involving managers in the process is a utopian idea. Workers and their leaders lack managerial skills and administrative experience, and moreover workers and managers are in the same position with respect to job preservation prospects after privatization. Such unexpected coalitions of workers with managers could be seen to appear in cases of quiet and illegal privatizations when both parties acted together to make sure they got hold of state property. The first partnership of employees with managers intending to participate in privatization has just been set up.

As for financing, individual employee participation as a single act can rely on savings much more than on earnings, while loans will be a first-rate necessity in cases of collective participation. A lack of real financial brokers who are really interested in the participation and who can make money by financing and taking part in privatizations. Opportunities for establishing an indirect preferential regime through a lending system have yet to be tapped. But taking advantage of all possible and socially acceptable kinds of preferential sales is one way to speed privatization in its classic buy-out form.

The above predictions of prospects employee participation has are not meant to be accurate forecasts. They are merely projections of how the envisaged privatization patterns may unfold in the future. When the contents of employee participation has changed (which is inevitable, in my opinion), opportunities for employee participation will have changed too. While it may never grow into the main theme of privatization in Bulgaria, employee participation is certainly going to hold its place and importance there.

TABLE
Property Restituted and Subject to Restitution under Restitution Laws
Figures for Bulgaria except Sofia city-region (as on June 10, 1992)

Kind of property restituted	Applications for restitution, area and market value			Restituted sites for which the relevant commission has a decision			Average values per site			Share of restituted sites in sites claimed (%)			
	No.	floor area, m ²	value, ,000 Leva	No.	floor area, m ²	value, ,000 Leva	for restitution floor area, m ²	value, ,000 Leva	restituted floor area, m ²	value, ,000 Leva	site	floor area	value
A	1	2	3	4	5	6	7	8	9	10	11	12	13
Shops	5,392	292,180	724,377	3,564	190,862	512,379	54	134	54	144	66.1	65.3	70.7
Restaurants	149	23,086	60,801	95	15,086	32,025	155	408	159	337	63.8	65.3	52.7
Workshops	313	15,027	67,547	296	13,236	64,693	48	216	45	219	94.6	88.1	95.8
Houses	6,612	762,520	5,940,502	1,713	285,572	375,134	115	898	105	138	41.2	37.5	6.3
Cultural services	216	35,291	61,327	67	12,348	28,284	163	284	184	422	31.0	35.0	46.1
Adm. buildings	493	130,388	260,860	238	57,312	120,013	264	529	241	504	48.3	44.0	46.0
Childcare est.	124	39,417	38,695	59	18,144	18,300	318	312	308	310	47.6	46.0	47.3
Industrial enterprises	1,669	1,136,394	1,548,361	500	338,036	380,220	681	928	676	760	30.0	29.7	24.6
Warehouses	734	140,196	151,731	312	70,184	57,283	191	179	225	184	42.5	50.1	43.5
Other	8,569	5,601,322	1,457,001	2,466	1,658,379	432,971	654	170	672	176	28.8	29.6	29.7
Total	24,271	8,175,821	10,291,202	10,320	2,659,159	2,021,302	337	424	258	196	42.5	32.5	19.6

Cols 1, 4: absolute figures; cols 2, 5, 7, 9: surface area, m²; cols 3, 6, 8, 10, 13: estimated value, thousand Leva; cols 11-13: sites, area, value terms, respectively.
Source: National Statistical Institute.

than 4,000 firms. The underlying principle is to restore all property wherever possible. Compensation has been provided for. No inheritance tax has to be paid.

National Statistical Institute records show (Table) that property rights to 42.5 per cent of all claimed enterprises subject to restitution (except in and around Sofia) had been restored by the beginning of June, 1992. That involved property worth more than 2 billion Leva, with an average value per enterprise at 196,000 Leva. The value of property restituted in Sofia is probably as much and even more. Property rights to workshops, shops and houses were the first to go, while restitution of industrial property is obviously taking time.

Restitution is a qualitatively new aspect in the Bulgarian reform. The property which has been restituted is comparable in value with the capital of joint-stock companies, not even counting the property in and around Sofia. Such a comparison is realistic only considering the delays and problems in the evaluation of the transformed corporate property.

The fact that restitution preceded privatization was the most essential element in this connection, for that move completely shook up ownership rights to present industrial capabilities. Economic efficiency thus had to give way to historical justice. The criterion of justice was not applied so consistently to the issue of participation of employees in privatization though. As will be seen later on, preferences to employees are not a leading criterion in privatization.

Observations of other countries show that trade unions usually oppose, or at least do not support, privatization. The unique transition from a centrally planned economy to new market relations accounts for the Bulgarian trade unions' unconventional behaviour. The unions were among the first bodies to pronounce clearly their position on privatization and the related implementing legislation. They submitted their own Privatization Bill parallel with the Podkrepa Union to the National Assembly. Apart from a striving towards reform in the economy, this behaviour is spurred by two more reasons. First, the Bulgarian legislation lagged far behind other Eastern European countries in that process. The lack of regulations was no obstacle to attempted all-out plunder. The other reason is belief that success can ultimately be achieved only through consensus on the issue of privatization. For such a consensus it was necessary for all interested social forces to state and defend their positions firmly.

Bulgaria was the last Eastern European country to pass a privatization law: the Act on Transformation and Privatization of State and Municipal Enterprises passed on April 23, 1992, was published in the official gazette on May 8, 1992. The promulgation of that Act did not mean, of course, that privatization itself started right away, especially as under that Act the Privatization Agency set up last year was to be closed to be replaced by a new

one. Moreover, at least eight implementing acts are expected to be adopted (three concerning auctions, property evaluation and competition have already been adopted). Only then can the first yearly privatization programme be drawn up and implemented. In the best case privatization is likely to start not earlier than by mid-1993. Some property may be privatized even before that. The Government intends to start with BCA Balkan and Balkancar.

There is no Bulgarian privatization model yet to compare it with programmes in other Central European countries (see S. Estrin, Privatization in Central and Eastern Europe: What Lessons Can Be Learnt from Western Experience? Centre for Economic Performance London School of Economics, Working Paper, 1991, p. 28). But a study of this and other legal acts can help us envisage a hypothetical picture of privatization in Bulgaria.

Duration

The new founded Privatization Agency stated in its Declaration of Intent that it will aim to get 25% of enterprises with assets over 10 million Leva privatized by the end of 1992 (see the daily *Democratsia* of Aug. 20, 1992, and the daily *Duma* of Aug. 21, 1992).

Privatization methods

The following privatization methods are envisaged for enterprises transformed in distribution companies:

- open sale,
- public auction of share packages,
- public competitive bids,
- negotiations with potential buyers.

Public auction and competitive bids (Art. 30, Para 1) or different forms of leasing with buy-out provisions (Art. 34, Para 1) are the only methods to enterprises subject to privatization that have not yet been transformed.

To whom?

- 20% of the stocks or shares of privatized state and municipal enterprises or their money equivalent and 20% of proceeds from privatization of untransformed enterprises to a Mutual Fund (Art 8, Para 1 and Para 2);
- 20% to the staff.

Preferences for employees

In transformed enterprises: 50% of the price of the stocks and shares purchased by the staff in the range of 8 to 12 monthly wages or salaries (Art. 23, Para 3 and Para 4).

In untransformed enterprises, if a representative of the staff wins the auction or competitive bid, the final price is reduced by 30% (Art. 31, Para 2).

Decision powers

- For state enterprises with balance-sheet value up to 10 million Leva, privatization can be decided by the ministers of industry, trade, transport, territorial development, housing policy and construction, as well as the minister of agriculture, land utilization and restoration of land property;
- for state enterprises with balance-sheet value above 10 million Leva: the Privatization Agency;
- for state enterprises with balance-sheet value above 200 million Leva: the Privatization Agency subject to Council of Ministers approval;
- for enterprises owned by municipalities: the councils. (Art.3, Para 1).

Capital evaluation

Regulations for Evaluation of Enterprises Subject to Privatization provide for the following criteria for evaluation methods:

- net value of assets
- liquidation costs
- income capitalization method through updating (discounting) expected cash earnings
- using market multipliers or evaluation by analogy. (Art. 5 of the Evaluation regulations)

Privatization Agency

The Privatization Agency which operated for more than one year was closed on Aug. 15, 1992. The successor has a Supervisory Board of 11 members and an Executive Director, and a staff of 253. Regional boards are to be founded too.

The Agency will have two major divisions:

I. Privatization programmes and methods with departments for licences, privatization methods, privatization programme, analyses and prognoses, information service.

II. Operative organization of privatization with financial department, public relations department etc.

Stock Exchange

No national Stock Exchange has yet been set up. The executive authorities have launched no initiatives in that area. Bulgaria has no law on stock exchanges or securities trading. The previous Stock Exchanges Act was in force in different versions from 1907 to 1947.

Two exchanges, the first Balkan Stock Exchange Co. (FBSEC) and the Sofia Stock Exchange Co. (SSEC) founded under the Commercial Law hold weekly sessions on Tuesdays and Wednesdays, respectively.

By the end of July 1992, the FBSEC had held 11 sessions and traded 1,572 shares of total value of 1,569,689 Leva and state securities to the value of 2 million Leva. The average sale per session was 142 shares of total value of 142,699 Leva. The situation with the SSEC is much the same. It had held 14 sessions by the end of July, trading 1,177 shares of total value of 928,230 Leva. On average, 84 shares of 66,302 Leva par value were sold per session.

The unions' favourable view of privatization does not mean that they are unaware of its adverse effects, especially on labour relations. In the short-term perspective, these bad effects will be added to the general economic hardships. The biggest danger, in our view, is the rising unemployment due to rationalizations and the difficult adjustment to the new labour motivation and behaviour. This was shown convincingly by a survey conducted in one of Bulgaria's big industrial regions conducted by the Trade Union and Social Research Institute. Only 15 per cent of all respondents were certain they would keep their jobs. The experience gained in enterprise leasing confirms that apprehension. To some extent, that danger will be reduced by a recent Labour Code Amendment which states expressly that a change of ownership by itself does not lead to termination of employment relations.

What can the unions do in the process of privatization beginning now? The law provides for no right to employee participation or direct trade union commitments. But of course the trade unions are not and cannot be a passive observer. Protecting their members' rights and interests will decide their survival in the privatized enterprises.

In the unions' view, labour rights are best protected through the protection of employment relations and the socially just and fair settlement of that problem. However, measures for the rationalization of employment in privatized enterprises are inevitable. That will lead to organizational and structural reforms and redundancies of workers, labour readjustment, retraining, etc. The trade unions have the means to tackle these problems, i.e. collective bargaining and agreements, and are using them in practice. The future of binding collective agreements, the protection of approved and readjusted workers, etc. are in another range of problems which arise in the course of privatization.

Protection of worker interests in broader terms involves worker participation in privatizations.

The current Privatization Act cannot seriously be described as socially targeted or providing for any preferences. But in two areas interests of workers and their collectives can be protected. The first area is that of publicity and transparency of privatizations, the workers' right to be kept informed of

everything that is being prepared and done for the purposes of privatization. That means workers should be told when an enterprise is being prepared for privatization, informed about the privatization programme, the estimated value of the enterprise, and the forms of privatization to apply. The second area is linked with the specific forms of participation in ownership of workers and worker groups. Preferences and the groups' right category to initiate privatization processes fall into this category.

Preferences depend decisively on restrictions. Preferential participation right is granted to employees whose length of service is over two years, to individuals laid off in the past year and to pensioners with more than three years' length of service. In buying stock and shares the discount is 50%, and in buying enterprises or their parts it is 30%. In buying preferential stocks the limit is at 20% of the stock or shares value. Size of the stock set aside for participation is one more constraint. This amount is limited to between eight and twelve gross wages depending on the employee's length of service. Bulgarian union leaders think this constraint is decisive in view of the low average wages.

The following are a few of many problems that are probably going to hamper large-scale privatization in Bulgaria:

- the closure of the present Privatization Agency and setting up a new one will complicate the process at the very start;
- the differentiation between transformed and untransformed enterprises will needlessly complicate procedures;
- the fact that different bodies are to order privatization of enterprises of different size will have a similar effect;
- the underdeveloped capital market is another grave obstacle to plans for large-scale privatization in Bulgaria.

The privatization itself is to be carried out through the sale of stocks and shares, whole enterprises or self-contained parts of them. Sales of enterprises, their parts or long-term assets are also to be effected through auctions.

Privatization is thus obviously going to be a slow process in Bulgaria, despite plans for tiny large-scale privatizations. The lack of a stock market, the stock exchanges and the relatively decreased money supply are further complications that cannot be ignored.

Privatisation in Czechoslovakia: Objectives and Experiences¹⁾

Introduction

The fundamental political changes in Czechoslovakia since November 1989 changed the country's economic orientation. A major objective now is to reach a state of economic structure equivalent to the standard of developed countries. For Czechoslovakia with its long-standing industrial traditions this means reconstruction of the market (after 50 years), reconstruction of the ownership system and participation in the world's economic specialization.

The protagonists of the country's new system are aware of the fact that such changes cannot be accomplished without a strong economic sector based on private ownership. If the time horizon for Czechoslovakia's membership in the European Communities is approximately the year 2000, EC entry is unthinkable without a compatible economic system and legal regulations and with a state sector and interventionism not exceeding the European standards. In economic policy terms, that means deregulation of prices and foreign trade, full convertibility of the Czechoslovak crown and creation of space and conditions for private business. Curtailing state ownership is a most important issue.

In the past the state sector and its appendage - the cooperative sector - completely dominated economic activity in Czechoslovakia. Even in the first half of 1991 the private sector in the Czech Republic represented 0.1% of industrial output, mainly in ready-made clothing (0.5%) and printing (1.1%). Its share in construction was close to 5%. In retail, sales outside the state and cooperative sector were at an estimated 10% of total retail value (figures of the Czech Bureau for Statistics). In Slovakia the situation was even worse. However, at the end of 1991 the private sector claimed 8.4% of GNP and 10% of employment. But the situation is now changing dramatically. In the first half of 1992, for instance, the private sector's share in retail sales was 45%, that in construction 50%.

¹⁾ This contribution, of September 1992, is based on results of an individual research grant from the Central European University, Prague.

Privatization in Czechoslovakia is compounded not only by a lack of "market culture" but especially by a bad shortage of domestic and foreign capital that could toss the economy on a growth trajectory.

Privatization on such a large scale represents also a serious technical problem. In the U.K., the process of selling just several enterprises a year was considered a complicated one - in Czechoslovakia thousands of enterprises should be privatized in just three years. To make things worse, the market and the legislation are only being created. On the other hand, there is a danger of spontaneous (illegal) privatization, and of money laundering at national and even international scale.

At the time the crucial steps of economic reform were being implemented, the poor competitiveness of Czechoslovak products became self-evident. The present situation is compounded by the fall of output which in 1991 represented almost one-sixth of the 1990 GNP and by a consequent fall in the standard of living.

1. Aims of the Privatization Programs

Privatization programs in Czechoslovakia set forth a very rapid privatization of most enterprises virtually in all industries. The national ministries did not mark for privatization and national property management in the next five years only such bodies as universities, major theaters, several important cultural institutions, large hospitals, etc.

Four methods of privatization are envisaged:

- 1) small privatization of state property
- 2) large privatization of state property
- 3) transformation of cooperatives
- 4) reprivatization

The first two methods will be discussed in the next chapter. As for the timing, small privatization was started in January 1991 enabling new private owners to acquire thousands of businesses, especially small ones, during that year. ²⁾ Until now (June 30, 1992) the revenue from small privatization in the Czech Republic had been 26 bn CSK (US\$ 1 bn), for over 20,000 businesses sold. Within the large privatization programme several enterprises have been sold. By June 30, 1992, the revenue from large privatization had been 10 bn CSK (US\$ 0.36 bn).

A first round of voucher privatization began on May 18. The voucher privatization became a part of the election campaign of Mr. Klaus' party ODS in the run-up to the general election of June 5-6. In three rounds of voucher privatization more than 60% of shares found new owners. A fourth round is being organized now.

The first stage of large privatization should be finished by the end of 1992. Preparations for the second one will be going on. The second stage is

likely to come in 1993. But it will be organized separately in the Czech and Slovak republics. The second stage is expected to be almost done (in the Czech Republic) by the end of 1993.

Strictly in legal terms, cooperative property is not owned by the state. Yet despite this, demands for substantial changes in this area have been growing. That came as a reaction to the violent collectivization process in the fifties involving large scale expropriation. That is why transformation of cooperatives into communities of real owners (not bogus as until now) is under way now. Cooperatives in Czechoslovakia do not operate in agriculture only, for they carry over some other production activities, too. They play an important role in housing as well.

The transformation of cooperatives was and is a controversial issue. The specific situation of agriculture calls for non-standard treatment. The transformation of cooperatives should be finished a year from now according to the authors of the transformation act.

Czechoslovakia has also embarked on a relatively large reprivatization programme. A detailed description of reprivatization activities would go beyond the scope of this study, so I can give here the basic information only. Only natural persons expropriated after February 25, 1948, can apply for restitution of property. Legal entities except churches are not entitled to property restitution. Property is given back only to physical entities permanently domiciled in Czechoslovak territory. Emigrants who decided to stay permanently abroad cannot claim their property back. The volume of restitutions, especially of financial ones, is limited by the state's available resources. Well over 50,000 cases of reprivatization have been opened. Physical retrieval of property is preferred, but when that is not possible financial compensation is offered mainly in the form of bonds with relatively low interest rates.

Restitutions are causing problems in the process of other privatization processes, especially where claims are not perfectly clear. The total value of restitutions by now cannot be made out accurately. The deadline for restitution claims was Oct. 30, 1991, but courts are still coping with many of controversial restitution claims.

Czechoslovak privatization programs spell out no concrete restructuring aims. But that is not to say there is nothing to change in the structure of industry. The Czechoslovak industrial structure, established in the fifties and based on the Eastern Block's idea of economic autarchy, has not changed much since. This state of things fails to meet demands of modern business management. Although the official scenario of economic reform anticipated the formulation of positive structural economic policy, no document of this kind has ever been prepared. The idea of positive structural policy mentioned in the scenario was actually a result of the former political situation. The architects of the reform believe restructuring should result from free

decision of new owners emerging in the privatization process. On the other hand, restructuring as it is being done today can delay the whole process. As restructuring is a long-term program that could mean a delay of ten to fifteen years. These are debatable arguments, for critics say that without structural changes it is not possible to expect properly oriented development of small and medium enterprises or to solve ecological problems and attract foreign investment.

Some politicians have of late indicated a somewhat greater willingness to deal with structural issues, especially to help create a new infrastructure network. The financial means to promote this aim are very limited. Some commentators point out that government officials' interest in structural issues tends to grow at the beginning of election campaigns. Persistent problems of economic structure were among the most effective arguments in the opposition's election campaign.

The Ministry for Economic Policy and Development of the Czech Republic (under Karel Dyba), for instance, considers structural policy especially in support of small and medium businesses. This year the Ministry has been promoting projects increasing the efficiency, quality and development of weak industries. Programs for the development of poor regions are being looked for and a system of regional consulting centers is to be established. Evaluation of projects and attitude to regional policy are based on European Community guidelines. Financial means are important to many projects, but their importance for the economy as a whole is only symbolic. By the end of October 1991 the above-mentioned Ministry had approved financial support for similar projects in more than 150 cases (in reply to 730 requests). The total support offered amounted to 492 mn CSK (US\$ 17 mn), which will permit the accomplishment of projects of 2,5 bn CSK total value (US\$ 87mn). 70% of applicants satisfied are private firms obtaining 50% of the distributed funds. This financial support is expected to reach 1 bn CSK (US\$ 34 mn) in 1992. A newly established Czech and Moravian Guarantee and Development Bank is soon to go into operation.

The turning down of state control over the business sector has been under way since the first social changes in Czechoslovakia. The central planning system was completely abolished in 1991. Price control in the form of direct control concerns only very few products at present. Only 10% of prices are still controlled, compared with 90% two years ago, and this is going down. Price control is still important in energy and raw materials (the state sets prices of gas, electricity, coal and natural gas).

Enterprises are allowed to export and import goods. State intervention in the form of export or import licenses or contingents is very low. On the other hand, contingents introduced by other developed countries considerably limit Czechoslovak export possibilities (mostly for coke, steel and textiles). The possibility of payment for foreign goods and services is solved by

means of internal convertibility of the national currency, and terms of payments (an obligatory periods of commercial credit in larger payments) were eased in the course of 1991.

The state now has no interest in interfering in state enterprises' internal activities. State institutions (the relevant Ministry) appoints a general manager only, and in special cases makes decisions about the creation of new enterprises, mainly by splitting up present ones. On the other hand, state enterprises have no right to do business beyond the framework of usual economic activities. They are not allowed to sell property, with the exception of their production, or to invest in new enterprises. Exceptions to this rule must be approved by the relevant government agencies.

So enterprises can be said to be "frozen" as concerns many of their activities. This is aimed at preventing spontaneous (uncontrolled) privatizations. The situation calls for a fast privatization of those enterprises. Prolongation of this state would have a bad effect on production.

In practice, the state's role in the economy was drastically limited. In most cases the state has practically stopped exercising its property rights, which is also sometimes sharply criticized: enterprises are in a transition till the end of privatization process, with the exception of the above-mentioned limitations, practically in the hands of managements, which makes the state an even worse owner than before. The most critical commentators accuse the government of indirectly backing spontaneous privatizations. One result was the drop of investment by state enterprises (by about 30% compared with 1989).

Practically all political orientations in Czechoslovakia now, from the right to the Communists, agree it is necessary to privatize the major part of the state property. This is clearly one result of the 1989 Velvet Revolution. The form, size and timing of privatization cause differences between parties. There is no doubt about the unfeasibility of reforms of "market socialism" in the CSFR and that it is necessary to base the reform on a Western type market economy.

Many experts had doubts about reprivatization and the voucher privatization method. Especially the voucher privatization is often criticized, that enterprises will found the formal owners only. But the IMF has taken a positive approach to voucher privatization.

Economic aid to Czechoslovakia and foreign credit depend on the approval of foreign experts from different institutions. Considering the value of the drawn sources and their relatively easy acquisition the general perception of Czechoslovak reform can be evaluated as relatively positive. But this fact should not lead to excessive optimism: foreign experts assess the country in their own way affected by the world in which they have lived. They often do not know centrally planned economies. Real economic development is probably worse than official estimates of government agencies or most foreign experts would have us believe.

Since the reform began, a lot of attention has been paid to creating conditions for massive participation of foreign capital in Czechoslovak economy. Under the current law on foreign investment enterprises can be 100% percent foreign owned. Czechoslovakia has dual taxation agreements with most developed countries, and is preparing further such agreements.

The creation of foreign property participation was the only exception of restrictions imposed on state enterprises' business activities (now such enterprises can be established within the framework of privatization projects). Thousands of enterprises with foreign participation came into existence. If the foreign participation exceeds 30% of the firm's capital, advantages in profit taxation (40% instead of the usual 55%) can be granted. Advantageous taxation of joint ventures will be impossible in the future (under the new tax system, in 1993). As the constitutional law guarantees equality of all subjects, it will be hard to justify preferential tax treatment of foreign subjects.

This usually concerns relatively small enterprises. Large firms, partially or fully owned by foreign subjects like Skoda-Volkswagen, Tesla-Siemens or Procter & Gamble (Rakona) are few. It is connected with foreign capital's concern of political and economic instability and with expectations that after the end of economic recession conditions for foreign investments will be even more favorable than now.

The left-leaning press often warns against selling national property to foreign subjects cheaply. It says foreign capital interests cannot tally with the country's interests. The intention to buy an enterprise for a ridiculous price often hides the idea of eliminating an uncomfortable price competitor. The largest joint-venture, Skoda-Volkswagen, has made no technical changes in their automobiles or modernised their plant.

On the other hand, though, foreign subjects are partly being discriminated against in the first round of privatization. In the small privatization scheme, they cannot enter the first round of auctions. In large-scale privatization they can buy the enterprises only on the basis of an assessment of market value, whereas for domestic buyers the book value suffices. But actual assessment of market value is many times under the book value (that means this disadvantage is very relative).

This leads to formal privatizations on behalf of Czechoslovak citizens who immediately sell the privatized property to the actual interested party. Czechoslovak lawmakers including the right parliamentary majority never dreamt of the concept of option. This situation discourages serious investors and, on the other hand, offers vast opportunities for money laundering (nobody asks where the money or credits come from).

Foreign capital often makes very heavy demands on conditions of its performance in Czechoslovakia. These demands can be said to be practically unacceptable. For instance, Mercedes Benz has asked full tax exemption for ten years on their trucks, imposition of taxes and contingents on truck im-

ports, state financial contribution to company's exports and investment help (*Hospodarske Noviny*, January 1992). This is at odds with the present anti-monopoly law, GATT regulations, and also with the newly implemented Czechoslovak association agreement with the European Communities (series of articles in *Hospodarske Noviny*, January 1992).

Federal Minister for Economic Policy Vladimir Dlouhy has disclosed 70% of foreign capital is coming in from Germany. Investment from other countries is slow in coming. Maybe that has to do not just with Czechoslovakia's geographic situation but also with the activity of the German Embassy's economic section, which is apparently outdoing other diplomatic missions.

Actual foreign investment in the CSFR amounted to CSK 17.9 bn (US\$ 607 mn) in 1991. The biggest joint ventures (paid-in capital participation as of Dec. 31, 1991):

<i>In the manufacturing area:</i>	CSK mn	US\$ mn
Skoda-Volkswagen (Germany)	11,496.0	383.2
BAZ-Volkswagen (Germany)	881.3	29.4
Sklounion-Glaverbel (Belgium)	875.4	29.2
Technoplyn-Linde (Germany)	519.6	17.3
<i>In the area of services</i>		
Eurochim Bratislava	221.5	7.4
Hotel Invest Praha	128.0	4.3
Tourinvest Praha CBC	41.0	1.4

Source: SBCS (Czechoslovak Central State Bank).

Foreign capital inflow into the CSFR so far can be evaluated as a very poor (lower than in Hungary or Poland). It is a result of political instability (mainly connected with Czech-Slovak relations) and nontransparent legal conditions. Maybe it is also a result of the concrete shape of Czechoslovak privatization process, especially of the voucher experiment (foreign investors are in many cases crowded out by vouchers).

Foreign investors' interests differ sharply in concrete industries. The greatest interest (measured by capital inflow) was in the industry sector (including car production). Construction and building materials was the second one, electronics was the third.

A lot of attention in the country is being given to creation of a business class. Problems in this field derive from a lack of national capital and from a complicated access to credit. Another problem is a lack of experience in management, marketing etc. on the part of Czechoslovakia's business people. Lack of national capital results in preferences to short term business projects at the expense of long term ones. Most businesses are now interested in trade or other services. Their aim is to accumulate funds for larger future business activities.

In the small business sector, more than one million people have licenses at present. This is a very optimistic number: as the total work force is 8 million, one in eight people is engaged in private business.

But these figures call for comments. More than 80% of those people carry out their activities in addition to their main jobs. One in two of them failed to hand in their income tax statements, probably they make practically no use of their licenses.

Czechoslovak security and tax practice is largely tolerant of underground business activities. It is caused by the fact that within the framework of the former central planning system unregistered underground economy was often the only possibility of satisfying a lot of standard needs. On the other hand, economic and tax controls are only being established and their efficiency is certain to increase gradually. Foreigners are much better off than nationals starting their own business enterprises.

Even very small foreign organization benefits from such advantages as the market exchange rate of CSK against Western currencies. Even people who accumulated property immorally or illegally under the former regime or even in the first months after November 1989 are in a favorable position. This is a common subject of general political criticism which usually leads to nowhere. Only one person was detained (and soon released on bail) for such practices. But some people associate this case with the election campaign, as the man was Zdenek Porybny, chief editor of the largest opposition (formerly Communist) newspaper *Rude Pravo*.

Czechoslovak state enterprises inherited large debts burden from the past. This cannot be viewed as a general indicator of market success or failure. Indebtedness is very often a result of paradoxical features of central planning.

Considering the value of debts many organizations and the sweeping economic recession banks often refuse further credit. Enterprises then are unable to repay their debts. That causes a "chain" of secondary payment inabilities of their partners.

This situation has bred demands to erase debts of enterprises or to enable further access to credits. But the government is aware of the fact that an overall cancelling of debts would not lead to positive results and would only send the inflation spiral soaring.

In no case will state enterprises' debt burden be cut at the expense of the state budget. National Property Funds (organizations in charge of privatized property) try to do this. The Funds have two goals: to reduce enterprises' debts, and to strengthen the capital power of banks most of which are state owned.

Practical implementation is based on the selection of prospective businesses and reduction of their debts. The debts are changed into National Property Fund bonds. Instead of repaid debts, banks receive bonds exchangeable in future for shares of privatized companies. The National Property

Fund which issued them (Federal, Czech or Slovak) will pay them back (in case they are not exchanged for the shares) from the proceeds of small and large privatization. That is why shares of some enterprises must be sold particularly to foreign partners.

In the Czech Republic 344 state enterprises of various scale and specialty were partly cleared of their debts. The condition for clearing the debts by the relevant Federal Finance Council was that the credits had been given by the end of 1989 - i.e. in the centrally planned economy. The information on clearing the debts of Slovak enterprises was published late in January 1992 (*Hospodarske Noviny* Jan. 31, 1992), involving 292 enterprises. The total sum of cleared debts in Czechoslovakia is 33.38 bn CSK (US\$ 1.15 bn), the share of the Czech Republic is 22.2 bn CSK (US\$ 0.77 bn) and Slovakia cleared debts equalling 11.18 bn CSK (US\$ 0.41 bn).

Finance Minister Mr. Klaus told federal TV (in May 1992) that no other debt reduction was being prepared. But there too the situation has changed. The Government is trying to suspend the bankruptcy act for a period of six months. The indebtedness of enterprises is thus one of the unsolved problems in the Czechoslovak reform. Overall insolvency is estimated to be 250 bn CSK (US\$ 7.1 bn) (*Hospodarske Noviny*, September 1992).

2. Legal framework of privatization

To accomplish the mentioned objectives, it is necessary to pass laws enabling free market economy to work indeed to change the whole body of laws in an extremely short time. The pressure of time affects the quality of passed laws, which will require a number of partial changes soon.

One of the first steps accomplished was to abolish the discrimination of private ownership in the Czechoslovak Constitution. Before, most forms of private enterprise in the country were illegal. The Constitution proclaims the equality of all forms of ownership. But in other laws state and cooperative ownership is discriminated against by limiting the space for doing business (by blocking property). The opposition says this is unconstitutional but a majority in Parliament considers these measures necessary as resulting from the very nature of economic transformation: It is not possible to privatize and at the same time to support enterprise in the area of state ownership.

The "large privatization" legislation as well as "small" privatization and restitution laws had been passed by the end of 1991. Their wording was prepared by the respective governments and adjusted subsequently by law-making bodies. Among the laws there were the commercial code, the civil code, amendments to the penal code, bank laws, accounting law, small business code etc. Towards the end of 1991 a controversial law on the transformation of cooperatives was passed. Legal adjustment of the new tax system was accepted in March, 1992, which should start working in 1993. The ac-

cepted legal adjustments also concern the stock exchange, securities and investment funds (intermediaries).

The decisions were taken to adjust the legal system to that of the world of developed market, especially with the European Communities. Models of legal standards for this country are to be found in traditional continental law, particularly in Germany and partly in Austria, not least because of the geographic location of Czechoslovakia.

Let me just briefly mention the basic differences between the small and large privatization: Under the small privatization law (Federal Parliament law No. 427/1990 of 25 Oct. 1990) on the "transfer of state property to other legal or natural persons" to be found in changes and supplements, these kinds of property are objects of above-mentioned transfers: movable and immovable assets which are part of the premises in service, trade and other business not specialized in agricultural production, which are or can be understood as an integrated economic unit."

The privatization law theoretically provides for sales of smaller units, but there is no limit on the size of individually privatized property.

The bidding price of the largest units was even above US\$ 5 mn, a relatively good price in this country. Units used by persons residing abroad are exempt from the small privatization. So are units potentially subject to their former owners' claims.

The units are selected by the respective republican bodies (like the district privatization boards) and approved by the Ministry for Privatization and Administration of National Property. Small privatization sales are performed exclusively at auctions. The bidding price consists of the prices of land, buildings, machinery and technological equipment which are set by the Ministries of Finance of the Czech or Slovak Republics.

Apart from the price of the unit itself, the buyer has to cover expenses for possible contents of stores. If a unit is not sold for its first bidding price, a so-called Dutch auction follows, where the price is gradually decreased, but not more than by 50% of the bidding price. It is a "clean" purchase basically with no subsequent commitments for the buyer.

The Large Privatization Act (Federal Parliament Act No. 92/1991 of 26 Feb. 1992) on "the conditions of state property transfer to other persons" deals with the property to which state enterprises, state-financed institutions, insurance companies and other government institutions including their property participation in other legal entities (such as joint ventures) have the right to perform business activities. The law also holds for the property of foreign trade companies.

The law does not refer to property which under the Constitution or other laws can only be owned by the state (for example raw materials). Nor does it refer to property to which restitution claims can be raised.

Under this law the property of enterprise means a set of things and

financial sources which the state company has got the right to use in business or which are in its ownership including the set of rights, other property values and commitments of the enterprises.

Privatization in each case is based on a privatization project approved by the respective body (the Federal Ministry of Finance in the case of Federal property and the republican ministries in the case of republican property).

Before the actual privatization occurs, the property is transferred to a respective National Property Fund (federal or republican). Those funds are not parts of state budgets and can be used only for purposes stated by the law. These funds can also be tapped to satisfy restitution claims on a particular property or obligations of the enterprise designated for privatization.

Privatization of enterprises is performed in the following ways of their combinations:

- 1) direct sale of an enterprise to an owner designated in advance
- 2) the sale of the company based on competitive bides (public competition)
- 3) auction sale of the enterprise under the same conditions as in small privatization
- 4) the transfer of property to municipalities or to pension and health care organizations
- 5) the creation of a joint stock company (or another business company) by means of
 - sale of their shares
 - sale for vouchers (voucher privatization)
 - transfer to municipalities
 - transfer to pension and health care institutions.

3. Mode of distribution of company shares

Distribution of company shares is basically similar in case of natural entities, legal entities and intermediaries.

Distribution of shares is based on the approved privatization project. The following methods can be indicated: 1) the sale for cash to a selected or anonymous (auction, tender) subject, 2) free transfer to a selected subject (for example municipality), 3) basically free distribution of shares to population in terms of voucher method.

A chosen subject buys shares from a given National Property Fund. Possible free sales of shares which can also be proposed in privatization project are organized by selected banks. The reason is that there is no stock exchange yet. Privatization projects should also solve the question of free sale of shares including the price setting mechanism. Free sale of shares is a rare privatization form.

The proceeds flow to the respective National Property Fund. If the shares are distributed free of charge (for instance in voucher privatization) no one compensates for the loss of property to the National Property Fund.

Besides sale and free transfer to selected organizations lots of shares were privatized by means of vouchers. In voucher privatization (in its first and second waves - that means twice) every Czechoslovak citizen older than 18 years of age is entitled to 1,000 investment points. If the citizen is interested in voucher privatization they must register themselves and pay a registration fee (voucher stamp). The price of the voucher stamp is 1,000 CSK and the book of vouchers (a document) costs 35 CSK, so the registration cost totals 1,035 CSK (35 US\$) per person.

The registration fee is intended to cover expenses connected with the voucher privatization method. The total nominal value of the acquired shares is between 50,000 and 100,000 CSK (1,700-3,400 US\$). But the current estimates are much lower.

Some people did not trust the voucher privatization as enterprises with best prospects would be usually privatized in a different way. The political opposition claimed that citizens did not have enough information on enterprises and they could not possibly figure out their share prices: they had no guarantee that enterprises selected for voucher privatization would be empty egg shells with no financial resources nor, on the contrary, with lots of debts, with no production program, business orders or competent staff.

With the registration done, investment voucher holders may freely entrust their investment points to intermediaries. This concerns the preliminary (zero) round of privatization (the voucher privatization round is not the same as the privatization wave). In the current first round of privatization, registered citizens (or intermediaries) order by mail shares of publicly listed enterprises. This process will be over by a definite deadline.

Then supply for individual shares is compared with demand. If demand is lower than or equal to supply, all demanding parties are satisfied. Every participant will be informed by mail about their results in each of the privatization rounds. The remaining investment points can be used in next round.

In that round, share prices as expressed in investment points will change. Prices of strongly demanded shares will go up, those not in demand will go down. Voucher holders use updated lists of enterprises (prices and number of their shares) to make further orders. After processing demand and supply another group of demanding persons is satisfied, so prices change again. This procedure will be repeated until most shares have been distributed among holders. Investment points not used before the end of the respective wave of voucher privatization lose their value. They cannot be used in the subsequent wave of voucher privatization. For that wave people will have to purchase and register new voucher booklets.

Federal Ministry of Finance representatives (Dr Dusan Triska) said from

three (optimistic scenario) to seven rounds of privatization were expected to take place in the first wave. Voucher privatization is based on the presumption of certain price elasticity of demand and its estimate. Problems could arise if price elasticity of demand was considerably low (inelastic) and or in a hypothetical case of experts failing to estimate it. However, powerful and competent subjects like intermediaries should facilitate the things. As things look now (October 1992), voucher privatization will have to run at least through five rounds.

Shares designed for voucher privatization are usually issued in the form of bearer shares, as a large number of registered shares could cause many problems. Their nominal value was recommended to be 1,000 CSK (34 US\$), representing the minimal nominal value by Czechoslovak law valid till the end of 1991. In order to facilitate the process of voucher privatization, a proposal to reduce the obligatory minimum value of one share was discussed. Had it been possible (in particular cases) to use shares with book value amounting to less than CSK 1,000, voucher privatization would have distributed all shares set aside for this way of privatization. This idea was rejected: if there is a higher demand for the shares than their supply, the "price" will exceed 1,000 investment points, and such shares will be privatized through sale for cash (for more on that see Michal Mejstrik, *Ekonom* 10/1992).

The voucher method applied in Czechoslovakia presupposes that holders of investment points should behave actively in the privatization process. It is not only important for the privatization itself but also for people's education: thousands of citizens will make their debuts on the capital market.

Shares of a privatized company (unless it is limited by the company's regulations) are further marketable on the secondary market. But representatives of the Center for Voucher Privatization repeatedly promised that tradeability of shares would be for the transition period limited. This is their answer to objections that after a massive influx on the secondary market, shares would be traded for very low prices and bought out by undesirable investors (the problem of money laundering, sales abroad for low prices, etc.).

However, the Center for Voucher Privatization has never indicated which method should be used to restrict shares trading. Such restriction would probably require a special law. Under the current law, bearer shares can be traded freely and indeed trading such shares is subject to no controls whatever.

The only possibility is to delay issuing shares from voucher privatization, say in such a way that shares will remain for a certain time in the hands of the respective national property fund, with the provision that the former voucher owners shall exercise all their other rights. But even in this case sales of futures and options cannot be prevented. Indeed, intermediaries

who may have to change their portfolios after the privatization is over, would find themselves in trouble.

All that indicates that limiting the marketability of shares does not seem feasible. It seems to be an empty political promise designed to silence objectors of this method rather than a serious intention. On the other hand, we cannot rule out certain restrictions on trading shares in the future. Restrictions can temporarily result from technical difficulties caused by handing over shares to new owners. Such problems can delay the transfer by several months (6 months is expected).

Shares allocation is thus no automatic process, and it depends on the will of the subjects. If an investor aims to acquire a large block of shares and become dominant, then this procedure has to be approved in the privatization project by means of the above-mentioned mechanism. In such a case, this is usually a matter of simple purchase. Clearly the state did not look for dominant investors, nor did it make finding a dominant investor a condition of large enterprises' privatization. Some economic experts consider this a shortcoming. Others say dominant owners will soon be created spontaneously. Quite simply, problems will be solved by the market rather than by the government. Management of privatized companies is often happy about this situation, as no dominant owner exists and management members are, as a matter of fact, relatively free to do anything they want...

After this, dominant investors can go on in their activities in accordance with their agreement with intermediaries. These intermediaries can, on the basis of options, gather certain shares. This is because the intermediaries will need to change a certain part of their shares into cash or securities with better liquidity (see point 5).

4. Organizational aspects

Once the privatization laws have been submitted, responsibility for their implementation varies depending on the type of privatization. In case of restitutions the situation is less complicated. Claims of restitution rights must be in due term met by the present holder. Courts will decide controversial cases. Problems may arise if restitution claims are compensated with shares of the privatized enterprise.

Basically any person can propose the respective object for small privatization. The holder of the property (e.g., a state or municipal company) is obliged to submit a so-called "operation card" to the interested subject. However, the holder can raise a claim against small privatization if sale of the unit could threaten his enterprise activities.

This of course breeds conflicts of interests. Enterprises often want to keep their property (e.g., buildings in city centers,) because they expect good profits out of future sales, renting or other economic use. But if the

property is sold at an auction, within the framework of small privatization, the outcome from the sale flows to the republican National Property Fund or to its successor rather than the state enterprise. (Small privatization has priority over the large one in terms of current regulations. But to avoid the possibility of clash between the two privatization forms, a practical compromise is made: since July 1991 property designed for the first wave of large privatization can no longer be proposed for small privatization).

Regional privatization boards evaluate small privatization proposals. The National Ministry for Privatization and Administration of National Property confirms the enlisting of the property on the list of privatized objects, whereupon the actual auction takes place.

Current holders of property (actually administrators), despite above-mentioned delays and more or less serious objections, have few other chances of affecting the privatization. But storing of unsaleable stocks in privatized business is very frequent. By means of this the former state enterprises get rid of their unsaleable goods and so burden the new buyer.

On the other hand, participants sometimes try to minimize auction prices. Sometimes a gentlemen's agreement is enough, but cases of interrogation of competitors and blackmailing have occurred. Manipulations such as "Dutch" auctions are most debated issues. A condition of this type of auction is at least five participants. The prospective buyer can sidestep this by involving four other formal competitors in the auction for whom he or she covers all costs and provides them with a risk bonus.

No legal provision against such manipulations existed before the end of 1991. Such a norm appeared only in the amended penal code which became effective in 1992. But even in this case it will not be easy to prove the manipulation as the underequipped police do not handle every crime. Prosecution of economic crime is so far a very backward area.

Present employees of companies privatized in small privatization have no financial or other advantages over other interested parties. This is in contradiction with the Scenario of Economic Reform, of course. Their personal advantage is a good knowledge of the privatized property and its possible profits only. Many voices were claiming right of priority in discussions on legal adjustment of small privatization and even the state credited sale to present employees. The right wing majority in Parliament rejected these demands saying that employees would be provided with unauthorized advantage over other potential buyers.

Which enterprises are picked for successive privatization waves is decided, within the framework of current laws, by national ministries for privatization and administration of national property, or, in case of federal property, by the Federal Ministry of Finance. However, the interested subjects may speed up the process by submitting privatization projects before the deadline.

A privatization project can be submitted by any subject. But only the enterprise's management is obliged by law to submit such a project. Its wording must be consulted with the enterprise's parent body (usually the relevant ministry). The final version is decided by the Ministry for Privatization and Administration of National Property. In case the enterprise is in federal ownership, the Ministry of Finance makes the final decision.

So, managements of present state enterprises are in the best position. They alone have a complete set of information at their disposal. Enterprise managements are of course under pressure of the public and its employees and are aware of their moral and professional responsibility in this difficult time. The management therefore has to choose programs ensuring development of the enterprise and its work force in the future too.

But if the management follows its own interests, which is understandable, then its orientation is clear: it wants to be able to hold its economic position, at least temporarily. So, the management either wants to buy the enterprise itself or to mediate its purchase to a selected foreign buyer. If neither is possible, then the management often chooses a form of presentation which splits the ownership structure to the extent that the management will continue to hold its key role. That is why company managements often tend to promote voucher privatization.

Press comments indicate that in this transition period, which is characteristic of lack of property control, some managers abuse their rights in favor of their own immediate profit (secret commissions). This way they accumulate the property for privatization or for further business activities. These speculations can be neither confirmed (there are only a few cases dealt with at the court) nor reliably denied, because the control means are inefficient.

Those setting up competitive privatization projects (especially outsiders) are undoubtedly in a worse position. The management of a state enterprise is obliged to provide them with necessary information for their project but often it does not provide them with consistent data or chooses a delaying tactic. Working out a competitive project in the country's conditions entails relatively high, and in cases of failure irrevocable, costs. The press is speculating that Czechoslovak subjects involved in direct purchases are often only a tool of foreign capital, as Czechoslovak subjects can buy property only for its book value. Foreign buyers usually have to pay much more for the property's market value.

My personal experience is that competitive projects are in most cases submitted by different interest and management groups. The competitive projects provide for various ways of privatization as well as for the splitting

of enterprises in the process. Sometimes they are confined to ideas about personal representation of executive bodies of newly established joint stock or business companies. Some enterprises are envisaged in more than ten privatization projects. But for most enterprises just one privatization project will be submitted.

The evaluators of projects are facing a lack of information and moreover very little time. If no competitive privatization project is submitted, the evaluation is likely to be limited to feasibility and formal correctness of the project. Professional quality will be poor and time to access reliability will in most cases be insufficient.

If a competitive privatization project is submitted, the easiest decision is between direct sale, public competition or auction. Generally, auction is preferred to public competition, while public competition is preferred to public sale. But this hierarchy is not given once and for all.

The choice between various forms of sale and voucher method is more complicated. On the one hand, the National Property Fund's income from the sale would favor the direct method of sale. Vouchers are not connected with such financial income. On the other hand, if voucher method is to be successful a satisfactory number of enterprises has to be offered in terms of quality as well as quantity. There is no single criterion to meet. Large numbers and quality of projects should be decisive factors. The law considers all privatization methods equal and so provides no single rule for project evaluation.

Property in the first wave of Voucher Privatization Program

Planned Situation - 1991:

Book value of property assigned for voucher privatization	
Czech Republic	140 bn CSK (4.8 bn US\$)
Slovak Republic	70 bn CSK (2.4 bn US\$)
the Federation	50 bn CSK (1.7 bn US\$)
Total	260 bn CSK (8.9 bn US\$)

Source: Federal Ministry of Finance

Final Situation - May 1992:

Book value of property assigned for voucher privatization	
Czech Republic	206 bn CSK (6.9 bn US\$)
Slovak Republic	90 bn CSK (3.0 bn US\$)
the Federation	3 bn CSK (0.1 bn US\$)
Total	299 bn CSK (10.0 bn US\$)

Source: Federal Ministry of Finance

Assessment

Results of the privatization process in Czechoslovakia can be evaluated from different points of view. If we accept a high speed of privatization as the Czechoslovak economic reform's only goal, the reform process in Czechoslovakia can be said to be successful. It is the most successful centrally planned process in Central and Eastern Europe, of course.

If we would like to see among the reform's goals efficiency, social justice or moral criteria, we could maybe receive a slightly different evaluation of the Czechoslovak reform.

"But who would like to speak about moral?" said Al Capone...

"I know nothing about dirty money!" said Vaclav Klaus, a chief architect of the Czechoslovak reform.

"Non olet," said Emperor Vespasianus briefly.

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Privatisation as a Way for Slovenia to Join in European Development Processes

1. Pluralism of ownership forms as a framework for a democratic balanced development

By the mid-1970s or at the end of that decade at the latest, it had become clear to anyone knowing anything about development policy that the time of really existing socialism was almost over, as socialist countries were becoming increasingly indebted and uncompetitive in international markets. The ruling parties, for their part, were facing worsening problems in their countries. After long playing down the significance of the development crisis, suddenly they found themselves at a point from which there was no easy backing out by simply changing their development strategies. Only a few tried to shake off their Bolshevik dogmas. Most of them reacted by trying to bolster their shattered positions with a number of reforms inside the same mistaken basic concept, mindlessly repeating that the theory was supposedly all right and the only that had gone wrong was its implementation. But the logic of development mercilessly held through to the bitter end: what was called really existing socialism broke down by its own weakness in all countries, with no push from outside.

The fall of the socialist regimes brought to the fore the question about which property management system should be adopted to substitute the socialist economy. The movement towards market economy presupposes reprivatization of previously nationalised capital or property. Is there a way to put through the reprivatization without destroying the delicate fabric of economic links in the process? Could the processes still be held in grip, if at the same time it would be necessary to lift the lid to let out the spirit of entrepreneurship up to then so safely kept inside what is truly a Pandora box? Wasn't that spirit going to spurt on a frenzy of property appropriation that could shatter to pieces not only the public property but also the enterprises, the management system, and finally even political leaders themselves?

In its passage from a "coordinated" economy to market economy, Slovenia is in a better position than other post-socialist countries but in some respects it is also at a disadvantage. Its advantages include the fact that its

population is relatively well informed and aware of the situation, managerial staff are well-trained and corporate management is generally quite efficient. Disadvantages include the Slovene economy's long-standing strong integration with the Yugoslav economy (even though it managed to free itself gradually from the "brotherly embrace" in the past several years), so the loss of those markets has hit Slovenia rather hard, and, on the other hand, the fact that Slovenia is a small economy. As a result of Slovenia's divorce from Yugoslavia several Slovene manufacturers, notably tobacco, white kitchen goods or rubber, saw themselves turned into monopolies in one night.

All these facts had to be borne in mind as Slovenia began to prepare legislation to reprivatise public property. "Privatisation" is in fact too narrow a term. The proposed legislation actually abolishes the dominant position of public ownership of capital and property to substitute instead all forms of ownership (private, state, public, corporate, municipal etc.) on equal standing, opening all links between them as a way of looking for a dynamic balance.

2. Rosy theory, dull practice

That did not look as a particularly difficult job at first.. The stock capital of Slovenia's public industry amounted officially to a mere 18 billion Deutsche Mark, so the first idea was to simply sell it off at any interested party from Slovenia or elsewhere. But Slovenes' aggregate buying power was an estimated 1.5 billion Deutsche Mark, their actual interest in buying stock even below that figure. The sale of Slovene industries would then amount largely to a hand-out, primarily to foreigners.

A working team under Dr. Mencigner, appointed to find a way out of the problem, then proposed dramatic price cuts. But that put them right away before a new problem, namely a wide discrepancy between the price of stock and scope of management rights. If someone offers shares of a company at a 60 or 70% price cut, that means simply that the buyer acquires at least one half of the management rights in the offered company by paying 20 or 15% of the company's actual value. But since a company's stock capital is as a rule worth more than that (up to 40-60%) in the company's balance sheet, such a "buyer" could find it made sense to close down the enterprise and to sell the stock capital, an operation enabling him to multiply his wealth many times over in a matter of months. That was not just a theoretical possibility, as could be seen in the former DDR where West German companies joined in similar privatisation schemes leading to a loss of nearly one million jobs within six months.

The idea, then, turned out a flop in practice, but that did not deter some theorists in Slovenia from developing it further, to a point at which buyers or partner would have acquired even 51% of management rights of fresh capital

stock for a tiny 10% of the price. Parliament, needless to say, could not possibly approve such an adventurous privatisation model, even though it represented the theory in an "unadulterated fashion" and got the support of some respected experts.

But Parliament also did not want to approve a model proposing a fresh nationalisation of public capital and setting up the state as something like super-administrator (through institutions such as specialised Agencies and Funds). Parliament's adamant rejection of that proposed model practically stalled the legislative procedure of privatisation legislation while at the same time attempts were being made to design a new more balanced model.

What eventually prevailed was the idea, which we shared, that the proper place to begin with in starting privatisation undertakings was the work force: nobody have a stronger interest in keeping jobs than employees themselves, and employees should be partners to whoever would be taking over the privatised companies.

When we say "starting" we don't mean "stopping." Some people's idea that the entire public capital should simply be turned over to employees is futile from the standpoint of development policy. It's not that such an idea has an overly socialistic or proletarian ring to it, but because that particular kind of distribution would turn the enterprises into exclusive insider partnerships. But outside investors are usually reluctant to put their money into such partnerships because their capital remains a marginal factor until they have bought shares in excess of 50% or beefed up the capital to 100%. The distribution of capital or the better part of it among employees turns, however well-intentioned it may be, into its opposite: bad enterprises tend to close themselves in and start to wither, while efficient ones are bought entirely by outsiders.

With these truths in mind, a new privatisation model began to develop based on three fundamental principles:

- balanced distribution
- openness
- equitability
- workability.

2.1. The balanced distribution principle shows in two aspects: first, there is a balance between the number of shares distributed free and shares set aside for sale (40% each) (the remaining part is to go into paying old-standing debts or to bolster indemnity or pension funds. In the business aspect, balance is observed in the rule that none of those entitled to ownership can get hold of a controlling, let alone a majority, stake in the company.

2.2. Openness shows in that each of those eligible for ownership titles - employees, the funds, outside and foreign capital - can acquire a majority stake or even the whole company when they are willing to buy the stocks and if the owners of the stock approve that.

2.3. Equitability is an idea that used to provoke heated debates among architects of the draft legislation and commentators. The authors had known all along that no legal act can really assure (absolute) equitability in the sense of justice, one of the reasons being that such an act would be too complex and unfeasible. The question was, where to draw a line at which it would be possible to ensure consensus of a majority of parties involved if not nationally. Just how much capital should be distributed among employees? Should all of them be given the same amounts, or should they be differentiated depending on age or length of service? Should ownership rights be granted to citizens of other countries? Or to employees who are not Slovene citizens? Or to Slovene citizens who were not born in Slovenia or haven't lived there? Should young people be granted bigger slices than others because they are likely to be paying for many years to come the debts of the revolutionary epoch and the revolutionary generations who used to waste more than they earned? Or, conversely, should the older and oldest generations be granted more on account of their having contributed more to we all own now?

Such and similar questions provoke as many answers as there are people posing such questions. So it had been clear all along that equitability is a twin sister of feasibility, and that to ensure feasibility it is sometimes useful to hold somewhat one's horses on which one was galloping towards equitability.

The legislation that was finally approved was to put an end to public ownership of capital and to the previous command economy. There were those, however, who were unable to withstand the temptation of power that came from the conviction that they could determine the value of the stock by making decisions on paper and padding reports. The perversity of that idea, which found expression in an attempt to determine the market value (of assets, shares, interest etc.) via legislation, lies in an attempt to smuggle the essential features of the command economy from the current situation in the new market economy. Various bookkeeping tricks to "create" wealth by filling receipts, debentures and other certificates on assets that do not yet exist are not merely a kind of anticipatory consumption, and so a pacemaker for the inflationary pulse, but also an attempt by a dying system to take revenge on the emerging future system.

As architects of the draft legislation we did understand why some union leaders were unable or unwilling to see this truth, for they were certain the proposed legislation should be a piece of "workers' legislation." But when they insisted on writing out debt certificates, despite our reminders that in some enterprises most debt certificates had already been written out by individuals at discount prices, we realised that in the future too it will be very difficult to keep social justice and demagogy apart from each other. No privatisation law is, or can really be, a "workers' legal act" as long as it is designed to ensure a balance between capital and labour or to bring about "reconciliation" between employers and employees. Indeed, it was those

illusions about workers' legislation that had led up to a dictatorship of labour and ultimately to its exhaustion and degradation. So, it is futile and ridiculous to charge, as some did, that the proposed legislation was "against workers." If we are to find any meaning in this charge at all, then perhaps we could say that certain people have evidently come to realise that the privatisation legislation put an end to the "dictatorship of the proletariat," or, more precisely perhaps, to dictatorship in the name of the proletariat.

On the other hand, the new legislation has posed a new dilemma: how can arising social differences be kept under control so they do not degenerate into socially disruptive forces? To believe that this is primarily a responsibility of the state and its institutions is probably dangerous. Civil institutions, which the Republic of Slovenia must take care to develop with more resolve in the future, have an equally important part to play there.

Some people had expected the privatisation law to order the distribution of public capital among individuals, in the sense that everybody would be getting paid definite amounts of money. Those (unfounded) expectations were not met in the enacted legislation, of course. The shares we have received do not have big enough value to enable us to live off dividends. In the future, too, we shall have to depend on jobs, certainly not on whatever dividends our assets may yield, to make a living. However, the restoration of private ownership boosts the importance of the usefulness, efficiency and market value of our work at the expense of our social demands or egalitarian tendencies. The system the new legislation has enacted provides stronger motivation for efficient work and above all for investment in one's own knowledge and innovation. This is the only thing that gives us a real chance to keep afloat in the world today and that imparts dignity to the nation and to individual citizens alike, while at the same time opening new possibilities for development.

3. A brief presentation of the Slovene model

Before we outline the model behind the Slovene privatisation law let me point to the underlying idea. It was a firm belief of the architects of the new law that employees must be granted authentic ownership and co-determination rights in the projected law but only to the extent that was not going to affect the balance with other co-owners.

The first thing the enterprise concerned must do is to determine the scope of corporate capital. This is to be done by appraising the total value of the enterprise and/or drawing up an opening balance sheet. At that point, too, the enterprise will have cleared up in talks with creditors whether or not they are going to become co-owners in the future, and in talks with previous owners what claims they may have on the property. In that way, the enterprise arrives at two estimated figures: the value or scope of corporate capital that is submitted to new owners under the privatisation law, and the total value of property

set aside for previously identified owners: former owners, former creditors, partners with fixed shares of stock etc. The enterprise issues in the course of its restructuring process ordinary shares in an amount equal to the latter of the two estimated figures. One part of the shares are distributed promptly among identified owners (former owners, former creditors, co-investors etc.), but the enterprise still holds the estimated corporate capital as a basis for distributing it as shown in the included diagram.

3.1. 20% of the stock are then swapped for certificates employees and former employees contribute. If the total sum exceeds this 20%, more shares can be handed out to employees at the expense of the last formal category ("state shares") or else they can be turned over to investment companies. If the sum of shares is under 20%, the remaining shares can be swapped through an internal issue for certificates held by employees' family members.

3.2. 20% of the shares are turned over to investment companies, where they become shareholders' portfolios, on the basis of which those companies issue their own shares to sell them to (other) citizens for their certificates.

3.3. 10% of the shares are set aside for a pension fund.

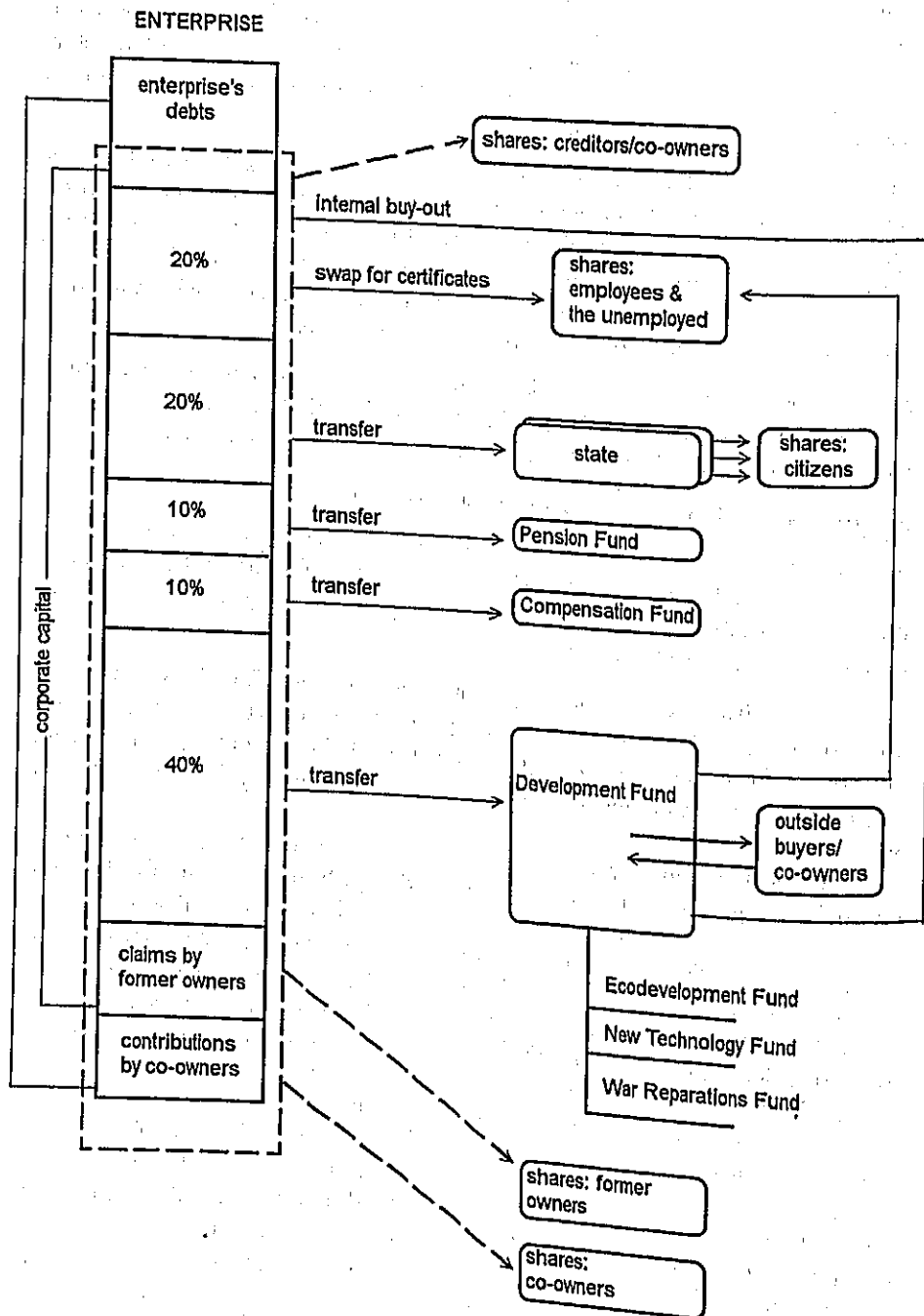
3.4. 10% of the shares are set aside for a compensation fund. If the company has big enough purchasing power, or if employees come forward with a contribution in the form of their own money, the company can buy shares from these two funds at their selling price.

3.5. 40% of shares, under the law, shall go to the state. But the company is entitled to buy back the shares under a 5-year scheme to distribute them among employees at a "discount price" (25% reduction). The company's profit and wages or other funds of the work force can be tapped to pay for the purchased shares.

Should the company express its intention to buy these shares through its internal buying scheme, the shares are tagged priority shares in the funds (with 2% dividend) and so cannot be sold from the funds to third parties. But if the company does not implement its internal buying scheme, the priority shares are turned into ordinary shares. Under this system, employees of efficient companies are able to acquire a larger number of shares or a majority stake, whereas in companies with smaller profit the state can have a stronger presence as stockholder, or else shares can be sold to other interested parties.

It should be pointed out here that the privatisation law grants ownership certificates to all citizens of Slovenia born before midnight of Dec. 25, 1992. The certificates have different nominal values though. Certificates of DEM 3,000 are granted to citizens with no record of service at all; DEM 4,000 to those with up to 10 years service; DEM 5,000 to those with up to 20 years service; DEM 6,000 to those with up to 30 years service; and a little under DEM 7,000 is given to citizens with over 30 years in employment.

THE SLOVENE PRIVATISATION MODEL



Conclusion

Under Slovene law, basic property and ownership titles of companies are distributed among Slovene citizens without barring concentration of property or management rights in the hands of more efficient employees. Indeed, the law can make it even easier for efficient employees to increase their respective shares, for they can buy from the funds all favourably priced state-owned shares using different resources for that purpose, including willing employees' private funds. That ensures at least to some extent a balance between the principle of granting all citizens equal rights and the development policy injunction to give the more efficiently working employees a chance to manage bigger slices of property.

The privatisation act by itself is no cure against Slovenia's enduring crisis, nor is it a cure against any crisis as such. Unemployment is almost certain to continue to grow, albeit not as fast as it probably would have had the enterprises simply been sold to their current managers or to new owners. So, as authors of the privatisation legislation we view the new law as a way to ensure a balance between labour and capital, a soft switch from a command economy to a modern capitalist economy that observes social democratic principles in practice.