

Reprivatization. The source of the problem

Summary

This book discusses the problem of reprivatization in Poland, which includes, very generally speaking, the entire catalogue of events associated with compensation for losses incurred by former owners in connection with the nationalization carried out during the period of communist rule in the country.

The original source of the problem of reprivatization is a clash of political doctrines, i.e., between the capitalist state and the communist state. Reprivatization is the result of the counter-revolution, the restoration of the capitalist system, which launched a process of “de-communization” and reconstruction of an economic and social order which recognizes private property as the most effective concept on which to base a functioning state. In addition to rebuilding a democratic system and introducing free-market principles, one of the pillars of this process was to restore the importance of property rights, transferring them from the state to private entities. This was achieved through privatization and its special case, reprivatization, which returned property rights enjoyed by certain entities prior to nationalization as part of the establishment of the communist system.

This book is primarily a kind of “introduction to reprivatization”, seeking to address the source of the problem. The analysis is focused on the beginning of the process, seeking to understand the roots of the transformation of property rights and the resulting ownership structure. It highlights political factors, including political doctrines that underlie the processes of nationalization – the direct cause of the problem of reprivatisation.

The collected research material is presented in such a way as to meet two main objectives: one cognitive, and the other practical. The cognitive objective is to examine the causes of the problem against the background of the evolution of ownership relations in different political and economic formations which occurred in Central and Eastern Europe over the last century, and to show the role of reprivatization in rebuilding a democratic capitalist state of law and the impact of political, economic, cultural and historical factors on this process. The practical objective is to analyse the problem of reprivatization, understand its essence and outline the basic assumptions of its solution. In particular, attention is drawn to the way that the value of restitution claims is determined. Today's work on the restitution regulations is based on a number of previous solutions, and duplicates fundamental issues around determining the value of assets. The current regulations take as their starting point today's value of properties, rather than that at the time of nationalization. This is a fundamental error, which causes a repeated increase in the value of claims. This book presents other ways of determining these values, and shows how the different socio-economic formations which existed in the previous political system affected the value of different goods.

Today, a property restitution law is needed not only for the Polish state and society to show at least a minimum of respect to values traditionally protected within Western civilization, including property rights, but also to protect the Polish Treasury against the financial consequences of defective legal solutions, seeking to effectively control the resources that will have to be set aside in the coming years to cover the claims made on the basis of court decisions regarding property restitution. The amount of money that is paid by the Treasury and local governments for this purpose grows each year, and is now counted in the billions of dollars. The scale of the phenomenon will presumably force the government to regulate these issues in statutory terms. Let us hope that they will adopt compromise solutions, taking into account the interests of former owners as well as the irreversible political, social and economic events that took place in the recent past, while remaining in line with the Polish *raison d'état*.