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## DECISION No. 926, dated 29.12.2014

### ON THE EVALUATION CRITERIA OF STATE PROPERTY THAT IS PRIVATIZED OR TRANSFORMED, AND THE SALE PROCEDURE

*(Amended by Decision no. 298, dated 5.4.2017)<sup>1</sup>*

*(Amended by Decision no. 142, dated 13.3.2018)<sup>23</sup>*

Pursuant to Article 100 of the Constitution and Article 2, of normative act no. 4, dated 9.7.2008, “On privatization and giving for use to trade companies and public institutions of enterprises or special facilities, core means and turnover means of these enterprises”, approved by Law No. 9967, dated 24.7.2008, upon the proposal of the Minister of Economic Development, Trade and Entrepreneurship and Minister of Finance, the Council of Ministers

### DECIDED:

Approval of the state property that is privatized or transformed, and the sale procedure, as follows hereunder:

### I. PRIVATIZATION PROCEDURES OF STATE PROPERTY

<sup>1</sup> According to the amendments by Decision No. 298, dated 5.4.2017, throughout the decision, the denomination “Agency for the Property Restitution and Compensation” is substituted by the “Agency of Property Processing”.

<sup>2</sup> According to the amendments by Decision No. 142, dated 13.3.2018, throughout the decision, the words “... ministry responsible for economy ...” and “... Ministry of Finance...” are substituted by the denomination “Ministry of Finance and Economy”.

<sup>3</sup> According to the amendments by Decision no. 142, dated 13.3.2018, throughout the decision, the words “... Director of the Public Property Management Directorate ...” and “... Public Property Management Directorate, at the Ministry of Finance, ...”, are substituted by “... The structure responsible for the sale of public property ...”.



1. All separate enterprises or facilities, core means, turnover means under administration or in the custody of institutions, enterprises and trade companies with wholly state-owned capital, for which it was given the approval of the Minister responsible for economy for the commencement of the procedures of privatization or transformation into trade companies shall be subject to this Decision.

2. Central institutions and bodies of local self-government units submit their requests for the privatization of enterprises or institutions they have under administrative dependence or in ownership, in the ministry responsible for the economy. The Minister responsible for the economy issues the privatization approval order, according to the above mentioned requests. If the ministry responsible for the economy requires from the central institutions or bodies of the local self-government units the request for privatization statement for the properties of the enterprises or institutions they have under administrative dependence, these institutions are obliged that within 30 (thirty) days from the date of receiving the request, to send their opinion on the privatization of these properties.

If the central institutions and/or bodies of local government share their view on the non-privatization of the properties of enterprises or institutions they have under administrative dependence, then they should clearly argue this fact.

In cases when, for the facilities that are in ownership of the local power bodies, it was taken the decision of the council of local government units on their privatization/alienation and these facilities were approved in order to be included in a privatization procedure, but the the relevant local power body does not send its representative as a member of the evaluation committee, the institution responsible for the privatization of state property asks from the institution of the respective prefect to send the representative who will participate in the evaluation committee.

The representative of the prefecture shall carry out all the procedures for the privatization of the facility, including the land, according to this decision.

3. The evaluation committee of the state property, pursuant to this decision, is set up by the minister responsible for economy. This committee is composed of 3 (three) members: the chairperson of the branch of public companies, at the prefecture where the facility is located, one licensed evaluation expert and one representative of the enterprise or institution which administers the facility. The Committee is chaired by the chairperson of the branch of public companies.

According to the needs of the evaluation process of the facility, the minister responsible for economy orders that an accounting expert or other experts of the relevant field participate in the evaluation committee.

4. The evaluation experts, part of the state property evaluation committee, are selected by the minister responsible for the economy. Expenditures for the preparation of the evaluation documentation (expert fees etc.) are covered

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by the ministry responsible for the economy, except when the minister responsible for the economy orders the payment from institutions, enterprises and/or dependency companies. This payment will be 2 (two) percent of the value of the evaluated facility or group of facilities, but not less than 60 000 (sixty thousand) ALL and not more than 300 000 (three hundred thousand) ALL, with VAT .

5. Approval for inclusion in the privatization process of movable property, as a separate element, is made by the respective institution of administrative dependence. After issuing the approval for privatization, this institution sets up the property evaluation committee.

The committee is chaired by the respective representative of the administrative structure and consists of 3 (three) members, one of whom shall be an expert in the relevant field. Expenditures for the preparation of the evaluation documentation (expert fees etc.), in this case, are covered by the institution or enterprise in whose administration the property is found.

6. The set-up of an evaluation committee for construction facilities, which have been under the administration of an entity that does not further exist, is made upon the order of the minister responsible for economy. The evaluation committee in this case, is chaired by the chairperson of the branch of public companies where the facility is found and consists of licensed evaluation experts, according to the needs of the evaluation process.

## **II. EVALUATION OF STATE PROPERTY ELEMENTS**

1. The procedures for the evaluation of state property start upon the issuance of the order of the minister responsible for economy.

2. The evaluation of facilities is made by the evaluation committee, in conformity with the real market value, by using market evaluation methods, pursuant to the legislation in force. The evaluation committee keeps responsibility for the evaluation made and for the documents drafted and signed by it (genplans, invoices, acts of evaluation, etc.).

3. Upon issuance of the order of the minister responsible for economy on the establishment of the evaluation committee of the facility to be privatized or to be included in the compensation fund, the evaluation committee inspects and verifies the real situation of the facility and then the evaluation experts of this committee, within 15 (fifteen) days, prepare in 5 (five) original copies the genplan of the enterprise or of the facilities to be privatized, which clearly stipulate the surfaces under the facility and the functional land. The branch of the respective public companies shall make a notification in the premises and in the premises of the local government body in the territory of which the facility is located, for the effect of former landowners, if any.

4. The evaluation expert, within 15 (fifteen) days from the issuance of the order for the privatization of the facility, prepares in 5 original copies the relevant genplan, which clearly stipulates the surface under

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the facility, the functional area and the general area. The evaluation expert is responsible for the correct design of this plan.

If, following the design of the plan by the assessment expert, there is a free area of land (more than the surface under the facility and the functional one), the administering institution, in compliance with the relevant legal procedures, passes them to the Property Treatment Agency for use of the fund compensation for former owners or for physical restitution.

5. The evaluation committee, after receiving the genplan prepared by the experts, delivers to the institution of the prefect, in the territory where the facility is found, the request for the confirmation of this genplan.

The prefect authorizes a representative, who signs the genplans of the facilities required by the branch of public companies. The institution of the prefect confirms the genplan of the facility, by signing and sealing 5 (five) original copies, within 10 (ten) days from the date of receiving the request of the branch of the relevant public companies and forwards to this branch the documentation, duly signed and sealed. Excess of such term makes this institution responsible.

6. After receiving the genplan of the facility, as confirmed by the prefecture, the branch of public companies shall request from the local property registration office data on the ownership of the facility and the land to be privatized, the indicative map, mortgage certificate or ownership certificate, if applicable. The above request of the branch of public companies is accompanied by a copy of the genplan, confirmed by the prefecture of the respective district. The local immovable property registration office, within 10 (ten) days from the date of receipt of the request, sends to the branch of public companies the data it possesses for the property that is privatized, the indicative map, mortgage certificate or ownership certificate, if any. The local immovable property registration office is liable for the confirmed data and for the excess of the legal deadline set forth in this decision.

7. The branch of public companies, after receiving from the local immovable property registration office the indicative map, with the relevant data of the facility, asks from the Agency for Property Restitution and Compensation a confirmation whether the land where the facility is found, has owners, recognized by a decision of the Committee for Property Restitution and Compensation, and the relevant price of the land where the facility is found, based on the price determined in the map of prices by this agency, and approved by the decision of the Council of Ministers. In cases when this price does not exist in the map of prices, then the evaluation experts determine the sale price of the land of the facility to be privatized.

8. The Agency for Property Restitution and Compensation, within 10 (ten) days from the date of receiving the request, delivers to the branch of public companies the confirmation for the price of the facility land and the respective decisions on the property restitution and compensation, accompanied by the property

alignment plan, which shall clearly stipulate the border of the property and any additional information, if applicable, which is linked with the respective decision for property restitution and compensation.

9. The evaluation expert determines the price of the land where the respective facility is found, based on the price determined in the map of prices, drafted by the Agency for Property Restitution and Compensation and approved by the decision of the Council of Ministers. In cases when this price does not exist in the map of prices, then the evaluation experts determine the sale price of the land of the facility to be privatized according to the market price. The evaluation expert is responsible for the land evaluation made by him/her. The Agency for Property Restitution and Compensation is responsible for the land price, confirmed with the relevant letter and for exceeding the legal term, determined in this decision.

The chairperson of the evaluation committee submits to the evaluation expert all the above documentation and the evaluation expert drafts the evaluation report for the relevant facility. The evaluation expert chooses the relevant method for the evaluation of the facility and is responsible for the evaluation made and the value determined by him/her.

10. The term for the completion of the evaluation documentation for buildings, constructions, and production/service lines shall be no more than 50 (fifty) days, from the issue date of the order for the establishment of the evaluation committee by the executive. For transport machineries, equipment, etc. this term shall be not more than 20 (twenty) days, from the date of order issue. The evaluation committee is responsible for compliance with this term.

11. For the documentation prepared by the evaluation committee, it is conducted the following procedure:

- a) It is sent to the minister responsible for economy:
  - I. for construction facilities, production/service lines, determining the value of the facility, the general area, the area under the facility and the functional area;
  - II. for transport machineries, equipment, means, economic inventory, turnover means, etc., when assets shall be sold separately.
- b) The Ministry of Finance and Economy, after controlling whether this documentation has passed to the relevant structures, forwards it to the Committee of Review and Transparency, set up by the order of the minister responsible for economy, for the verification, confirmation and transparency of the privatization documentation procedure for the state property, delivered for sale;
- c) The Committee of Review and Transparency, set up by the minister responsible for economy, is composed of:
  - the deputy minister of Finance and Economy, chairperson;
  - one representative of the General Regulatory Directorate and Compliance, MFE, member;
  - two representatives of the General Directorate of Economy and Supporting Services, MFE, member;
  - one representative of the Auditing Directorate, MFE, member.

- ç) The Committee of Review and Transparency recommends the minister responsible for economy the follow-up of the privatization procedure by the structure responsible for the sale of public property, if the legal required documentation exists and has passed at all the structures provided in this decision. Otherwise, the Committee of Review and Transparency requires the completion of the documentation.
- d) The duties, evaluation methods and procedure on convening the Committee of Review and Transparency are determined in the instruction issued pursuant to decision no. 926, dated 29.12.2014, of the Council of Ministers, “On the evaluation criteria of the state property that is privatized or transformed, and the sale procedure”, as amended.

12. The evaluation of property of state enterprises that are transformed, pursuant to the order of the minister responsible for economy, is made in conformity with this decision.

13. The evaluation expert of immovable properties drafts the relevant genplan of joint-stock companies and companies with joint capital, which are under evaluation process for the privatization, when it appears necessary the drafting of a new genplan, different from the one prepared at the time of the company establishment.

14. The Company, delivers the request for the confirmation of the genplan, drafted by the relevant evaluation expert, to the institution of the prefect, where she has the location. The institution of the prefect, within 10 (ten) days from the date of request receipt, confirms the genplan of the company, by signing and sealing it in 5 (five) original copies, and then forwards it to the company.

Debt and crediting liabilities of public enterprises, that are privatized, are closed at the time of ownership change. The director of the state enterprise keeps responsibility for the increase of debit-credits, from the announcement date of changing the state property.

15. The following is conducted for debt and credit liabilities:

- a) When the privatization of the entire state enterprise is made, the debt and credit obligations are transferred to the state. The central institution or local government organs, subject to the administrative dependence of the enterprise, charge a financial system employee or a free professional with a special contract to track the collection up to 30 (thirty) days from the date of delivery of the facility. These employees are entitled to a remuneration of 5 (five) to 10 (ten) percent of the amounts received, but no more than 12 (twelve) basic salaries of the finance director at the district council or the municipal council. Such remuneration is reduced to zero if the contract is not implemented. This contract shall be valid for up to 3 (three) months and, after this time, the actions will be based on Law No. 8901, dated 23.5.2002, “On Bankruptcy”.
- b) When the partial privatization of the state enterprise is made, its debit and credit obligations pass, for follow-up, to the administration that remains for the state part.

16. In cases when in the composition of the property that is privatized there are no surface construction facilities, but only underground construction facilities (tunnels), then the evaluation, for effect of privatization, shall be made only for the facility (construction structure), without land, according to the relevant legal documentation (list of inventory, decision of the Council of Ministers, etc.) of the administration/owner institution. In cases when, for the land where the underground facility is located, there are land owners, recognized by the decision of the Committee for Property Restitution and Compensation, then they enjoy the right to pre-emption, according to the determinations of this decision.

### **III. PROCEDURE OF STATE PROPERTY SALE**

1. The Directorate of Public Property Management, at the Ministry of Finance, accepts the evaluation file for the facility to be privatized, if for this facility regular documentation exists for this facility, and such documentation has passed to the relevant structures, determined in this decision. On the contrary, the Directorate of Public Property Management, at the Ministry of Finance, asks for the completion of the documentation.

2. The sale of the facility is made as follows hereunder:

- a) For cases when it is confirmed that the facility is located in the land of expropriated subjects, the sale is made without auction and the expropriated subjects of the land, pursuant to Law No. 9235, dated 29.7.2004, "On property restitution and compensation", as amended, are entitled to pre-emption for the facility with the initial value.

In this case, the Directorate of Public Property Management, at the Ministry of Finance, displays an announcement in its premises, for a twenty-day term, only for the land owners, while the branch of public companies displays this announcement in its premises and at the facility.

The documentation for granting the right to pre-emption, for the facility to be privatized, in each case, is reviewed and confirmed by separate minutes and is approved by the committee set up by the Director of Public Property Management, at the Ministry of Finance.

- b) For the cases when the committee set up by the director of the Directorate of Public Property Management, at the Ministry of Finance, there are difficulties in updating the cartographic documentation (alignment plan of the property of former owners, the genplan of the facility under privatization process and the indicative map issued by the relevant local office of immovable property registration) for the land, the area under the facility and the functional area of the facility, or enterprise under privatization process, according to point 12, of this Chapter, then the Directorate of Public Property Management, at the Ministry of Finance, shall engage licensed experts of the cartography field. At the end of the verification, the licensed expert shall submit the cartographic documentation, with the relevant notes, for the result of the verification. The expert keeps legal responsibility for the conclusions that he will submit at the Directorate of Public Property Management, at the Ministry of Finance. The expenses for making these verifications shall be covered by the interested party for the purchase of the facility or enterprise.

c) In cases when the former owners of the land, after the display of announcement, according to letter “a”, of this point, by the Directorate of Public Property Management, at the Ministry of Finance, and the branches of public companies at the relevant prefecture, have not submitted the documentation, according to point 11, of this chapter, an announcement is made, from once to twice in the Bulletin of Official Notifications, by determining for the former owner of the land a new thirty-day term for the submission of the legal documentation. If, even in the second term, the former owner does not appear, then the facility passes for publication for sale by auction, according to the procedures determined in this decision. In case of realization of the facility sale, together with the land, by auction, the land value, determined according to the value map, goes directly to the former owner of the land.

ç) In cases when it is confirmed that the facility that is privatized is not located in the land of expropriated subjects, and for the cases when the Agency for Property Restitution and Compensation is not able to confirm the ownership of the land, for the facility that is privatized, it is subject to an auction, according to the procedures of this decision. When, on the date of the auction, the former owner of the land appears, with documentation according to point 11, of chapter III, of this decision, then he/she enjoys the right to pre-emption with the initial value of the facility. Even in this case, actions will be conducted according to letter “a”, of point 2, chapter III, of this decision, but only after the confirmation of the ownership documentation, filed by the former owner of the land at the Agency for Property Restitution and Compensation, local power bodies, local immovable property registration office or any other public institution.

In cases when, during the period of facility publication, before the date of the auction, it is filed at the Directorate of Public Property Management, the request of the former land owner, accompanied by the respective documentation of land ownership, then actions will be conducted according to letter “a”, point 2, chapter III, of this decision, but only after the confirmation of the ownership documentation, filed by the former owner of the land, at the Agency for Property Restitution and Compensation, local power bodies, local immovable property registration office or any other public institution.

3. In the auctions for the sale of properties of companies under liquidation, which are involved in their capital, it is not applied the right to pre-emption for the former land owners. They take part in the auction like all the others. In cases of being announced winners, the land value is deducted for the former owners, recognized by a decision of the Committee for Property Restitution and Compensation, evaluated with the prices of the land value map, approved by the Council of Ministers.

4. The procedures of publication start after the documents for facility evaluation have been submitted at the Directorate of Public Property Management, at the Ministry of Finance.

5. The auction initial value is VAM (remaining amortization value), determined according to chapter II, of this decision, (core means + turnover means + land value). The auction takes place only for the value of the core



means + land value, while the value of turnover means is added to the value reached at the auction. The sale of the movable property is made only by auction, according to the procedures of this decision.

6. The Directorate of Public Property Management, at the Ministry of Finance, after accepting the documentation for the facility sale, undertakes the relevant steps for its publication and privatization, as follows hereunder:

- a) The publication period lasts 21 (twenty-one) days, from the date of the first publication and it is made in each edition of the Bulletin of Public Notices, within this term. The first publication day is the date determined in the notice that the Directorate of Public Property Management, at the Ministry of Finance, delivers for publication. Within this term, this notice is published once in the Bulletin of Official Notices.
- b) It publishes the list of facilities to be privatized and announces it on the webpage of the Ministry of Finance, with the data for each facility.
- c) It displays, initially, the announcement for the auction in its premises, while the branch of public companies, at the prefecture, display the announcement in its premises, in whose administration the facility is, at the facility and in the premises of the local government body, in whose territory it is the facility to be privatized, according to the data delivered by the Directorate of Public Property Directorate. The branch of public companies, at the prefecture, officially sends, the minutes for the placement of announcements, within the publication term, at the Directorate of Public Property, at the Ministry of Finance.

7. The announcement for publication contains the data, as follows hereunder:

- a) Place, date and time of the auction;
- b) Denomination and location of the facility that is privatized;
- c) Initial auction value;
- ç) General area and area under the facility;
- d) Name and surname of the land owner, if applicable, etc.

8. The participants in the auction, after the registration of the request at the Ministry of Finance, for the Directorate of the Public Property Management, are entitled to review the evaluation documentation, which is filed at this directorate, and to be introduced with the physical condition of the facility.

9. The Directorate of Public Property Management, at the Ministry of Finance, drafts and archives a minutes, which consists of:

- a) A copy of the bulletin;
- b) A copy of the newspaper announcement;
- c) dates of announcement publications; ç) a copy of the notification on the signboard.

10. The participants in the auction shall submit to the auction commission, at the place, date and time announced, the following documents:

- a) a written request for the purchase of the facility recorded in the protocol of the Ministry of Finance;
- b) the payment receipt or the bank guarantee, certifying the settlement or freezing of 20 (twenty) percent of the initial auction value, in ALL, to the account of the Ministry of Finance.

11. The former owner of the plot of land, regarding the purchase of the enterprise or of the object which lies on it, shall submit at the Directorate of the Public Property Management, in the Ministry of Finance, the following documentation:

- a) the request in writing for the purchase of the object, registered in the protocol of the Ministry of Finance;
- b) the payment statement or the bank guarantee, which verifies the payment, or the freezing of 20 (twenty) per cent of the initial value of the auction, in Albanian Lek, only for the object, in the interest of the Ministry of Finance, at the Directorate of Public Property Management, necessarily, within the time limit of the acceptance of the requests;
- c) the respective decision of the Commission for Property Restitution and Compensation, accompanied with the alignment plan of the property, which stipulates that he is the subject, who is the owner of the land;
- d) the certification of the inheritance, the representation power of attorney, etc. if there is any;
- e) the notary statement, where the heirs of the expropriated subject, who require to exercise the preemption right for the object in the privatization process, shall declare that from the moment when they were provided with the decision of the Commission of Property Restitution and Compensation, they have not benefited compensation in any of the forms provided for in the law. Also, they shall declare that the decision of the former Commission of Property Restitution and Compensation or of the Agency of Property Restitution and Compensation has not changed or has been repealed with an administrative act or final court decision.

12. Providing that the surface of the plot of land recognized or restituted to the former owner of the construction plot of land, lies on over 70 (seventy) per cent, of the surface of the construction plot of land under the object that is privatized, the preemption right lies on all the object, if the other part does not have owners. Otherwise, even though one of the former owners or the co-owners meet the condition stipulated in the first paragraph of this paragraph, and the other part has identified owners of the plot of land, the object is privatized in co-ownership with documented agreement.

Unless a documented agreement is reached between the co-owners, the object shall be subject to the procedures of the auction and the former owners are compensated financially according to the value of the plot of land, evaluated according to the value map.

In case there are one or several co-owners, for the object that is privatized, who have a documented agreement and who enjoy the preemption right, but a part of the plot of land, according to the privatization general plan, is not in the property of the confirmed state co-owners, it is acted as follows:

- The Directorate of Public Property Management in the Ministry of Finance offers it to be purchased by the co-owners who enjoy the right of object preemption. In case the former owners state in writing that they do not agree to buy this plot of land, the Directorate of Public Property Management in the Ministry of Finance sends a letter, accompanied with a copy of the general plan, to the Agency of Property Restitution and Compensation for the use of this surface as a compensation fund for the former owners, informing even the ministry responsible for the economy.

13. In the cases when the initial value of the auction of the object decreases, the former owner of the plot of land, to exercise the preemption right, shall make the full payment, according to the initial value and not according to the decreased value.

14. When no request for purchase is submitted for the objects announced for sale with the initial CMV, according to the procedures of this decision, the Directorate of Public Property Management, at the Ministry of Finance, determines another CMV, which is lower than the initial CMV, for the privatization of the object, starting the publication procedures, according to paragraph 6 of this chapter.

15. The decrease of the CMV of the objects shall be done according to this categorization:

- a) for the enterprises and the objects, up to 30 (thirty) per cent;
- b) for the machineries, equipment, economic inventory, the transport vehicles, the turnover means up to 50 (fifty) per cent. In these cases, the object shall be subject, once again, to all the sale procedures, provided for in this decision.

16. In the cases when there is only one buyer, both in the publication with an initial value as well as in the case when the object is published with a decreased CMV, an announcement with a poster is displayed at the premises where the auction organization procedures shall be carried out, for a ten-day period and within this period of time, a notification is made only once at the Official Notification Bulletin and on the webpage of the Ministry of Finance. After this publication, the Directorate of Public Property Management in the Ministry of Finance, sells the object to the sole buyer, unless there are any other requests for purchase after this publication.

17. The procedures, for the cases provided for in paragraphs 2, 6, 12 and 16 of this decision, start with the approval of the director of the Directorate of Public Property Management, in the Ministry of Finance. Any additional element is a part of the publication.

18. In the cases when the sale is not carried out, the following steps are applied:

- a) For the construction objects, which have gone through all the phases of sale and have not been sold, the documentation of the object evaluation shall be turned back from the Ministry of Finance, the

Directorate of Public Property Management, to the ministry responsible for the economy, after 8 (eight) months from the organization of the final phase of the sale. Providing that during this period there are requests in writing for purchasing the object, then the procedure of the final phase of sale is repeated. The ministry responsible for the economy sends the returned documentation to the Agency of Property Restitution and Compensation to be used as the physical compensation fund.

Providing that there are requests in writing by the former owners of the plot of land regarding the object, whose documentation is returned to be used as a physical compensation fund, the ministry responsible for the economy requires to the Agency of Property Restitution and Compensation the return of the evaluation documentation, after the latter makes the verification of the validity of the decision which recognizes the ownership.

- b) The machineries, the equipment, the turnover means, the economic inventory, etc., which have not been sold, after the implementation of the sale phases have been applied, according to the initial CMV and according to the decreased CMV, shall be turned back by the Directorate of Public Property Management in the Ministry of Finance, to the branch of the respective public companies, in compliance with law no. 10296, dated 8.7.2010 "On financial management and control" and instruction no. 30, dated 27.12.2011 of the Council of Ministers, "On the management of the assets of the public sector enterprises".

19. The auction commission is chaired by the representative of the structure, which is responsible for the sale of the public property, and is composed of the following members:

- The representative of the body which owns, maintains or has this object under its administrative subordination;
- The representative of the Ministry of Finance and Economy.

The members of the auction commission shall be equipped with the respective authorization and their participation, on the scheduled date and time, is mandatory.

In case, one of the members of the commission fails to appear on the day notified for the organization of the auction, the other member of the commission, who is present, administers the requests submitted for purchases and the commission notifies another day for the organization of the auction, but not later than 10 (ten) days from the first date notified for the auction. In case, one of the members of the auction commission does not appear even after the second notification, then the Directorate of the Public Property Management in the Ministry of Finance completes the auction commission with one member within the structure of the directorate and orders the organization of the auction.

20. The auction commission has the following duties:

- a) registers, verifies and legitimates the participants in the auction, based on the documentation required (published) preliminarily;
- b) presents the members of the auction commission;
- c) declares the initial value of the auction;

- d) declares the step of the provision of the bids for the initial value, for the participants in the auction;
- e) manages the receipt of the bids;
- f) makes sure that the provision of the bids continue until there are other bids, before the announcement of the winner;
- g) announces that the last person, who declares the highest price, is the winner of the auction.

21. The auction commission drafts the minutes, which shall contain:

- a) the registration of the identity of the participants in the auction according to the identity card, the certificate of civil registration or the representation power of attorney;
- b) the names of the member of the auction commission;
- c) the declaration of the auction in initial value;
- d) the declaration of the step of bid provision for the initial value, for the participants in the bid;
- e) the announcement that the last person, who declares the highest price, is the winner of the auction.

The auction commission shall make sure that the provision of the bids continue until there are other bids, before the announcement of the winner.

The minutes of the auction shall be signed by the members of the commission and the participants in the auction.

22. 20 (twenty) per cent of the initial value, frozen preliminarily, shall be returned to the other participants in the auction, apart from the winner. 20 (twenty) per cent of the initial value, frozen for the participation in the auction shall not be returned to the participant in the auction, who withdraws from the auction without providing any bid for the value of the object announced for sale.

23. The person who has won the right to buy the object, through the auction, or the preemption right, is provided with the authorization for the ownership transfer by the Directorate of Public Property Management in the Ministry of Finance, which stipulates clearly the obligation of the buyer.

24. The buyer, within 30 (thirty) days from the date of the organization of the auction, is compelled to make the payment only in Albanian Lek, or the remaining part, according to the price reached in the auction for the object and the plot of land.

The former owners of the plot of land, who have been announced as the winners with the preemption right for the object or the enterprise that is privatized, within 30 (thirty) days from the date of the issuance of the authorization for ownership transfer, by the Directorate of Public Property Management in the Ministry of Finance, are compelled to make the payment of the remaining value of the main objects and means, with securities and privatization bono.

In the cases when the 30 (thirty)-day time limit of the full value of the object along with the plot of land is not respected for justified objective reasons, upon the authorization of the Director of the Public Property Management, the time limit shall be extended, but not longer than 15 (fifteen) days from the expiration of the 30-day time limit.

25. The incomes realized through the sale shall be separated as follows:

- a) For the sale of the object (main equipment, turnover means, etc.):
  - I. 5 (five) per cent of the sale value shall be transferred to the Ministry of Finance;
  - II. 30 (thirty) per cent of the sale value shall be transferred to the ministry responsible for the economy;
  - III. 65 (sixty-five) per cent of the sale value shall be transferred to the state budget.
- b) For the sale of the plot of land, 100 (a hundred) per cent of the sale value shall be transferred to the state budget, apart from the cases when the former owner of the plot of land has been identified. In these cases, letter “c”, paragraph 2 chapter III of this decision shall be applied.

26. If the person who has won the right to buy the object does not pay with 30 (thirty) days, the remaining part of the price reached in the auction (unless otherwise provided for in this decision), as the winner of the auction, he loses the right of buying and participating on the auction that will be held for the resale of this object. The frozen payment of 20 (twenty) per cent for the participation in the fair, shall not be returned. The object shall be re-announced for sale, applying the publication procedures from the beginning, according to this decision.

If the former owner of the plot of land who has gained the right to buy the object does not pay the remaining part of the price within 30 (thirty) days from the date of the issuance of the authorization, then the frozen payment of 20 (twenty) per cent for the participation in the purchase, shall not be returned to him. The object shall be re-announced for sale, applying the publication procedures from the beginning, according to paragraph 2 Chapter III of this decision.

27. After the full value of the object is paid (the object along with the plot of land for the sales via the auction), the Directorate of Public Property Management in the Ministry of Finance and the director of the enterprise (or their authorized representatives and the representatives of the body own, maintains or has the object under the administrative subordination) are compelled to sign the sale contract with the private buyers. The submission of the object is done in a compulsory way by the director of the enterprise, his representative or the representative of the body which owns, preserves and has the object under the administrative subordination as well as by the representative of the Directorate of Public Property Management in the Ministry of Finance in the presence of the buyer. The submission minutes shall be a component of the sale contract.

28. The contracts signed by the representative of the former National Privatization Agency and its branches in the districts, for the objects or the enterprises privatized over the years, with the representative of the enterprise and the first buyers of the object or of the enterprise, but not pursuant to the way provided for by the laws (before the notary), for the cases when the enterprise does not exist, shall be carried out by the Directorate of Public Property Management in the Ministry of Finance and the buyers, upon the condition that no transcriptions are made for these objects or enterprises with third parties at the local offices of the immovable property registration, confirmed by the latter and when the documentation, which is found in the archives of this directorate, is accurate.

When the enterprise exists, the contract shall be done by the director of the enterprise and the buyer, before the notary.

Also, the Directorate of Public Property Management in the Ministry of Finance carries out the same procedure even for the sale contracts of the plots of lands privatized by the former National Privatization Agency and its branches in the districts.

29. In the cases when the former National Privatization Agency and its branches in the districts have carried out all the legal procedures for the privatization of the state objects or enterprises, according to the full documentation that is found in the archive of the Directorate of Public Property Treatment (the evaluation file, the auction, or the preemption right, the authorization for ownership transfer, the full payment, etc.) but due to different reasons, the sale contract could not be finalized, and when the enterprise which used to administer the object does not exist, the Directorate of Public Property Management in the Ministry of Finance, the chairman of the public company branch in the respective prefecture and the buyer sign the sale contract, according to the legislation into force.

30. Renting and capital transferring of the objects, published to be for sale, are not permitted.

31. The ministry responsible for the economy shall be notified, through a statistical report, regarding the sales made by the Directorate of Public Property Management in the Ministry of Finance, on the 20<sup>th</sup> of every month.

32. The state properties, provided through a rent or emphytousee contract, with a surface over 500 (five hundred) square metre, given directly by the Directorate of Public Property Management in the Ministry of Finance to the contractor, in case the value of the investment made by him is over 150 (a hundred and fifty) per cent of the value of the plot of land, and when the subject does not have obligations towards the state, according to the rent contract. Upon the completion of this condition, the minister responsible for the economy orders the continuation of the procedures for the privatization of the object, according to the stipulations of this decision.

In the cases when the object that has been rented or taken with emphytousee, has been demolished completely and a completely new object has been constructed on its plot of land, or in the cases when the changes, extensions or several destructions (approved with the respective legal acts) have been made in the rented object or in the object taken with emphytousee, which cause difficulties for the real evaluation of the object, as the later has been altered, the evaluation of the rented object or of the one taken with emphytousee as well as the general plan shall be made based on the economic-technical documentation possessed by the state institution which administers the object, based on any other potential documentation which may serve to this evaluation and based on the contract of the rent/emphytousee and the respective documentation attached to it (general plan, the submission minutes, the photos of the object at the moment it is rented, etc.).

For the tenants who buy from the Directorate of Public Property Management, in the Ministry of Finance, the state object (building + the technological line, machineries and equipment), which used to be rented, in the cases when the investment value is over 150 (a hundred and fifty) per cent of the plot of land value, the liquidation of the value

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of the object (building + the technological line, machineries and equipment) shall be made up to 80 (eighty) per cent of its value with privatization bono or with privatization Albanian Lek, according to the request in writing filed at the Ministry of Finance (Directorate of Public Property Treatment) by the buyer of the object. The payment of the plot of land value on the rented state assets or given with emphytousee shall be made only in Albanian Lek.

In the cases when the object has a former plot of land owner, the value of the plot of land according to the stipulations made in the privatization file shall be transferred to the owner for compensation.

33. When the minister responsible for the economy orders the inclusion in the privatization procedure of the enterprise, company and institution which has provided premises to be rented or to be given with emphytousee, in a surface of over 500 (five hundred) square metres, or orders the inclusion in the privatization procedure of the rented object, over 500 (five hundred) square metres, before the termination of the rent contract, in the publication for its sale, the existence of the rent/emphytousee contracts signed with this object shall be notified.

The buyer shall be compelled to respect the contract conditions up to the termination of its time limit.

#### **IV. DUTIES AND RIGHTS FOR THE ENFORCEMENT OF THIS DECISION**

1. The representative of the Directorate of Public Property Management in the Ministry of finance, the director of the enterprise or its representative, and the representative of the body which owns, maintains or has the object under administrative subordination are compelled to finalize the submission with the minutes, of the object that is privatized, within 45 (forty-five) days from the date of the issuance of the authorization by the Directorate of Public Property Management in the Ministry of Finance.

2. Regarding the physical differences encountered between the evaluation period and the one of the submission of the object or enterprise, the minutes is kept in the presence of the director of the enterprise or his representative and the representative of the body which owns, maintains or has under its administrative subordination the object, highlighting the physical differences and the reasons of the establishment. The submission minutes is signed by the representative of the Ministry of Finance, the Directorate of the Public Property Management, the representative of the institution which administers the object and the winner of the right for buying it. This minutes serves as the submission act of the property.

3. The Directorate of Public Property Management in the Ministry of Finance notifies the respective administrative institution for the differences that have resulted according to the submission minutes requesting the identification of the responsibility, their compensation and when necessary, their criminal prosecution.

4. The sale of the plot of land is a part of the sale contract of the enterprise or of the object and the payment of the plot of land price shall be made only in Albania Lek.



5. In the cases when there are difficulties in the submission of the object, upon the authorization of the director of the Directorate of Public Property Management in the Ministry of Finance, the 45-day time limit is extended. In the cases when for the purchase of the object, the winners are the co-owners with the preemption or auction right and in the case when the contract is signed, one of the co-owners refuses to sign the sale contract, then the provisions stipulated in the Civil Code of the Republic of Albania are enforced.

6. The signed minutes shall be submitted to the Directorate of Public Property Management in the Ministry of Finance. The Ministry of Finance returns the missing amount to the buyer based on the justified differenced noticed in the respective minutes. The representative of the Directorate of Public Property Management in the Ministry of Finance, the director of the enterprise or his representative, the representative of the body which owns, maintains and has the object, which is privatized, under its administration are entitled to get experts for the submission of the state property when the enterprise has continued the activity and when physical absences are noticed in the inventory unit. During the submission process, any buyer is entitled to participate or to authorize his representative.

7. When the buyer has won the right to buy the state property through the auction and when there are differences in the submission of the object, the return value of the differences is the value of the physical absences, which result according to the CMV multiplied with the measure of the increase of the auction value compared with the initial value of the auction for the sold object. This amount is returned to the buyer upon the order of the minister of Finance.

8. The Directorate of Public Property Management in the Ministry of Finance shall realize even the privatization (sale) of the non-financial, financial assets of the borrowing companies according to Chapter III, of this decision.

The borrowing companies send the documentation on the evaluation of the assets to the Directorate of Public Property Management of the Ministry of Finance.

9. Regarding the sale contracts, declared as invalid upon the final court decision, which turn the parties to the previous condition, the re-evaluation procedures for the object along with the plot of land shall be made according to chapter II of this decision and the legislation into force for privatization.

10. The privatization procedures of the objects or enterprises, started by the former Directorate of Public Property Administration and Sale in the Ministry of Finance, which are in the phase of the payment of the value of 20 (twenty) per cent, for the participation in the purchase as well as of the payment of 80 (eighty) per cent of the rest of the object price or of the auction price as well as of the objects for which the full payment of the object price or of the auction price has finished, shall be completed according to this decision.

11. Pursuant to this decision, the procedures for the evaluation of the documentation of the objects which are found in the ministry responsible for the economy and in the Directorate of Public Property Management shall be included,

up to the date when this decision enters into force, meanwhile with regard to the sale procedures, this decision shall be applied.

12. This decision shall not be applied for the evaluation procedures for the documentation of the objects for which the evaluation commissions have requested the respective confirmations at the Agency of Property Restitution and Compensation, at the local office of immovable property registration or at the prefecture of the district, before this decision enters into force.

13. This decision shall be applied regarding the practices which are found at the Directorate of Public Property Management in the Ministry of Finance, pursuant to the previous decisions which are under the process and which are at the phase when the publication procedure has finished before this decision enters into force, as well as regarding the practices for which the payment for the full value for their sale has finished, regarding the sale procedures.

14. The Ministry of Economy, Trade and Entrepreneurship, the Ministry of Finance shall be responsible for drafting the respective instructions pursuant to paragraphs 1 and 2 of Chapter I, paragraphs 3, 4, 5, 8 and 12 of Chapter II and paragraphs 2, 4, 6, 10, 20, 24, 32 and 33 of Chapter III of this decision.

15. The decisions of the Council of Ministers no. 428, dated 9.6.2010 “On the criteria of evaluation of the state property that is privatized or transformed and for the sale procedure”, as amended, no. 804 dated 22.7.12009 “On the stipulation of the price of the plots of land in the industrial zones, where economic-industrial activities are exercised in the objects constructed on these lots of land”, as well as the instructions issued pursuant to them shall be repealed.

16. The Ministry of Economy, Trade and Entrepreneurship, the Ministry of Finance, the Agency of Property Restitution and Compensation, the prefect of the district, the local governance bodies and the immovable property registration offices shall be responsible for the enforcement of this decision.

This decision enters into force after the publication in the Official Journal.

PRIME MINISTER  
**Edi Rama**