

# Investor's Handbook

A Legal Guide to Business in Georgia  
2013

## Part 6: Privatization



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# Introduction

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The availability of information on issues related to privatization is crucial for investors in Georgia, as investing in Georgia often involves the acquisition of State property.

This chapter addresses the legislative framework regulating the privatization process. The Law on State Property and the Law on Municipal Property are the basic acts that lay down the rules and procedures of privatization.

According to the Georgian legislation, privatization means the acquisition of State/Municipal property by individuals and legal entities (including foreign individuals and foreign companies) in accordance with the rules stipulated by the legislation.

## **Property which is subject to privatization**

Property in Georgia may be in **State, Municipal** or **Private** Ownership.

State property may include State-owned movable and immovable property, intangible property, stocks and shares.

Municipal property includes Municipality-owned movable and immovable property, intangible property, stocks and shares. Municipal property is divided into two categories – basic (unsalable property) and additional property.

Generally, Georgian legislation allows privatization of any State or Municipal property not subject to express restrictions and prohibitions under the law. Accordingly, Georgian legislation includes an exhaustive list of the property that may not be privatized due to its utmost State or economic importance.

Specifically, the following State property may not be subject to privatization:

- a) Minerals and subsoil;
- b) Water resources;
- c) Territorial waters;
- d) Continental shelf;
- e) State forest fund except the woods of former collective and Soviet farms situated within the borders of settlements;
- f) Air space;
- g) State reserved territory;
- h) National parks;
- i) Monuments of nature;
- j) Protected territory;
- j<sup>1</sup>) Recreational territories or/and special construction zones determined by the President of Georgia;
- k) Objects of historic, cultural and artistic value approved according to the established rule, buildings and facilities of cultural and artistic purpose, also plots of land where the above mentioned objects are located, without adequate conditions and agreement with the Georgian Ministry of Culture and Protection of Monuments;
- k<sup>1</sup>) Religious buildings (active and inactive), their remnants, also plots of land where they are situated;
- l) State archives of special historic and cultural importance;
- m) State fund of cinema, photo and audio documents of exceptional importance;

- n) Special archives and funds of the ministries (entities) and scientific and research institutions of Georgia;
- o) Museum collections and funds of special importance;
- p) House-museums of special importance;
- q) Property used for performing dispatching activity in the energy sector;
- r) Property utilized by legal entities of public law where public schools and high educational and scientific institutions are operating;
- s) Berths, hydro technical buildings, lighthouses, light signals and waters of seaports of special importance;
- t) Motorways (in case of absence of a road of alternative importance);
- u) Means of operation and control of air navigation;
- v) Runways of special importance;
- w) Frequency spectrum;
- x) Georgia's position in the geostational orbit;
- y) State pantheons;
- z) Property designated for deploying the Prosecutor's Office of Georgia, the Ministry of Defense and Ministry of Internal Affairs of Georgia and Special State Protection Service of Georgia in accordance with the rules provided by the Georgian legislation;
- z<sup>1</sup>) State owned agricultural land of the following type:
- z<sup>2</sup>) Pasture, except the pasture rented out before July 30, 2005 and pasture that is attached to the buildings owned by natural or/and legal persons or/and the State on basis of legal act adequately issued by the relevant administrative body;
- z<sup>3</sup>) Domestic animal routes;
- z<sup>4</sup>) first ring of the sanitary protection zone of water supply facilities (the zone of strict regulation);
- z<sup>5</sup>) Land designated for historic, cultural, nature and cultic and religious monuments;
- z<sup>6</sup>) Land of protected territories except protected landscape and the territory of multiple usage;
- z<sup>7</sup>) Agricultural land used by budgetary organizations and legal entities of public law in the form of usufruct;
- z<sup>8</sup>) Plots of land adjacent to Georgian rivers - Enguri, Rioni, Kvirila, Mtkvari, Khrami, Tergi, Ksani, Aragvi, Supsa, Bakhvistskali, Khobi (Khobistskali), Tekhura, Tskhenistskali, Dzirula, Nenskra, Kintrishi, Jejori, Khanistskali, Gubazeuli, Paravani, Stori, Nakra, Kheleduli, Jonouli, Sakauri, Chakvistskali, Tsablarastskali, Samkuristskali, Magani, Pirikita Alazani, Avaniskhevi, Dumali, Chelti, Chveshuri (Chashuri), Duruji, Chkhorotsku, Iori, Lebarde, Tsachkhuri, Bzholiskhevi, Chanistskali, Merisi (Akavreti), Shavi Tskali, Uraveli, Khumpreri, Kvirilistskali, Jutistskali (Juta), Snostskali, Khda (Khdistskali), Amala, Chkheri, Kesi, Mnaisistskali, Chorokhi and Ajaristskali – where the erection of new sources of renewable energy is anticipated, the X and Y coordinates are approved by decree of the Minister of Economy and Sustainable Development of Georgia.

*(Georgian Law on State Property Article 4, Paragraph 1)*

At the same time, there are exceptions applicable to land designated for domestic animal routes, the first ring of sanitary protection zone of water supply facilities (the zone of strict regulation) and historic, cultural, natural and religious monuments and lands adjacent to rivers. These objects can be subject to privatization in case of implementation of important projects by special decision of the Government of Georgia which is issued pursuant to the submission of the property manager. The privatization of agricultural land situated in the first ring of the sanitary protection of the water supply facilities (the zone of strict regulation) is allowed only if observance of the conditions of sanitary protection is guaranteed.

Georgian legislation imposes some restrictions on foreigners wishing to participate in the privatization of State owned agricultural land. In this case, only a Georgian citizen or company registered in Georgia are entitled to purchase such land. A branch of a foreign company is not considered a Georgian company.

Foreigners are also prevented from participating in the privatization of forests of former collective and Soviet farms situated within the borders of a settled territory (artificially planted specific forests that are located within the borders of settlements and which were originally planted in order to later be cut down). Furthermore, this type of forests may be acquired only by a Georgian citizen or a group of citizens residing (registered) in the respective settlement. This means that a company registered in Georgia may not acquire such property.

As mentioned above, the municipal property is divided into two categories. Georgian legislation forbids the privatization of basic (unsalable) municipal property. Basic property includes roads, bridges, tunnels, streets, subways, sidewalks, streetlights, outdoor lighting constructions, housing areas, squares, boulevards, fountains, parks, green plants and waterside protection facilities.

The sale of basic municipal property is allowed only if the functional purpose of the property has already been lost. In this case, the decision on privatization is made by the Municipal Council.

### **Where to find information about the objects of privatization**

As a rule, the State and Municipal Government publish information on the sale of a particular property in advance.

Please find below a list of official web pages where information on property subject to privatization can be obtained:

[www.eauction.ge](http://www.eauction.ge) – official webpage where the information about public auctions is posted. The information is available in Georgian and English.

<http://privatization.ge> - official webpage of the Ministry (National Agency for State Property Management). Information is available in English.

<http://auction.tbilisi.gov.ge> – official webpage of Tbilisi Municipality. Information is available in Georgian and English.

<http://24saati.ge/index.php/auction> – Newspaper “24 Saati” (according to the legislation it is mandatory to post the information on an auction in this paper). Information is available in Georgian.

This list is not exhaustive. Municipalities may post information on privatization on their own web pages.

# Forms of Privatization

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The privatization of State-owned property is carried out by the property manager. Privatization of Municipal property is carried out by the executive body of the respective municipality (municipal government).

The privatization of State/Municipality owned immovable property is carried out in several forms:

- a) Auction (public/electronic);
- b) Direct selling;
- c) Direct selling on the basis of competitive selection.

Detailed information about each of these forms is provided below.

## **Public Auction**

The public auction is one of the most widespread forms of privatization. It aims to sell a property at the highest price, and consequently, the participant who offers the highest bid wins the auction. The auction may also be announced under certain conditions. In this case, along with the price, the compliance with these conditions is also assessed.

### Electronic auction

Privatization can be carried out by electronic auction. The electronic auction is announced and conducted on a web page designed especially for electronic auctions ([www.eauction.ge](http://www.eauction.ge)) or/and on a web-page of the body conducting the privatization, transfer to use or manage the State property. Such an announcement of information about the auction amounts to the official announcement.

### Decision maker and organizer of auction

The decision to privatize State owned property via auction is made by a Legal Entity of Public Law - National Agency for State Property Management (hereinafter – Property Agency) which is the part of the system of the Ministry of Economy and Sustainable Development of Georgia and acting within the authorization delegated by the Property Agency respective governmental bodies of the autonomous republics of Adjara and Abkhazia. A decision on disposal of State owned movable property is taken by the State body or legal entity of public law to which the property was recorded in the balance or has been transferred to the use. When the state owned immovable property is transferred to the use, the decision is made by the governmental body or legal entity of public law, to which the property was recorded in the balance or has been transferred to the use.

Decision on the privatization of Municipal property via auction is made and the auction is organized by the executive body of municipality (in case of Tbilisi, by the Government of Tbilisi).

## **Announcement of auction**

After making the decision to conduct an auction, the organizer (Seller) is required to publish all relevant information in advance. Deadlines for publishing information are determined by the body conducting privatization.

Information about the auction has to be posted on a relevant webpage and published in the newspaper “24 Saati”.

The information about the auction should include the following information:

- a) Name of body conducting privatization;
  - b) Conditions and criteria for the identification of the winner;
  - c) Name of State property being privatized;
  - d) Deadlines for bids and date of public auction;
  - e) Amount requested by the body conducting privatization for unconditional and irrevocable bank guarantee/down payment, which shall consist of not less than 10% and not more than 80% of initial privatization price and the term of validity of the bank guarantee/down payment shall be at least 30 days longer than the term of fulfillment of the payment obligation.
  - f) Bid size;
  - g) The place (address) for receipt of applications and contact telephone number;
  - h) Any other information which the body conducting privatization considers appropriate.
- (Provisions on Disposal of State Property by means of Public Auction approved by the Order (#1–1/1487; 07.09.2010) of the Minister of Economy and Sustainable Development, Article 2, Paragraph 11)

If the property subject to auction consists of State-owned shares or stocks, the information should include the following additional data:

- a) Legal address of legal entity and identification code;
  - b) Total number of issued shares;
  - c) Nominal price of one share;
  - d) Starting privatization price of stocks or package of stocks (shares) and the shares in the capital of company;
- (Provisions on Disposal of the State Property by means of Public Auction approved by the Order (#1–1/1487; 07.09.2010) of Minister of Economy and Sustainable Development, Article 2, Paragraph 12)

After the publication of information, any interested person is entitled to visually inspect and/or get familiar with the property.

### **Right and conditions of participation in the auction**

Any person, including foreign citizens and foreign companies, is entitled to participate in the auction and purchase property, wherein the share of the State or municipality is less than 25%. In order to participate in the auction, the interested person must submit an application to the organizer of the auction.

If the auction includes certain conditions, the application shall indicate that the participant assumes obligation to meet these conditions.

In order to participate in the auction, it is mandatory to submit an unconditional and irrevocable bank guarantee/down payment to the organizer of auction. The amount of guarantee/down payment varies for each case and is determined by the body conducting privatization/conducting transfer into the management/conducting transfer to the use.

**Note:** If the auction offers several lots, and a person wishes to buy two or more lots, the bank guarantee/down payment has to be submitted separately for each lot.

A copy of a personal identification card of a participating person should be attached to the application. If the participant is a legal entity, the extract from the Public Registry should be enclosed with the application. The organizer of an auction may require filing of additional documents.

The application for participation in an auction, together with the relevant documents, must be submitted before the deadline. An application is disqualified if not filed in due time. Likewise, the application is also disqualified if a participant submits incomplete documents or if the law prevents him from purchasing the property.

The down payment/bank guarantee is returned to the participant if the auction is postponed or cancelled by the organizer of auction, or if the person refuses to participate in the auction prior to the deadline for receiving applications.

Information about the persons participating in the auction is confidential until the auction is over.

### **Starting price of auctioned property**

The price of auctioned property is determined by the body that decides to conduct the auction. The price of property is determined according to decree of the President of Georgia.

The following circumstances are taken into account while determining the price of property: residual value of property and/or the opinion of independent auditor (expert) on the price of property.

The price of land is determined in a different way, and it may vary in individual cases. The price depends on the status of the land (agricultural or non-agricultural) and its location.

The initial price of property is indicated in an auction announcement.

### **Repeated auction**

If the property is not disposed at the first auction the same property can be offered again at an auction. In this case, the initial price of the property may be reduced by a maximum of 50%.

If the property is not purchased in a second round of auctioning, the price can be reduced further and a new auction can be announced.

### **Signing agreement with the winner of auction**

After the auction is completed and the winner is identified, an agreement is signed between the seller and the buyer of the property. Pursuant to this agreement, the buyer is entitled to register the property and his ownership of it in the Public Registry (according to the Georgian legislation the ownership title on immovable property is effectively transferred only upon the adequate registration of property in the Public Registry). The standard form of the agreement is elaborated by the Ministry.

The buyer is obliged to pay the full purchase price during the term specified by the agreement. The term of payment may not be less than 7 calendar days after conducting the auction and more than 2 calendar years.

If the acquisition of property is contingent on meeting certain conditions or the full payment of auction price, a record of this obligation is made upon registration of property in the Public Registry.



In this case, the buyer of the property is not entitled to lease, mortgage or alienate the property in any form without the seller's consent. Upon privatization of State owned shares and stocks the ownership right shall be transferred to the buyer after registration in the relevant registrar. The liability for payment of privatization fee shall be registered simultaneously.

### **Purchase of property at auction with conditions**

Upon privatizing the State owned immovable property via auction with conditions, an agreement is signed between the seller and the buyer, which is the basis for creating relevant rights and obligations of the parties.

The winner acquires the ownership title for the purchased property, provided that the condition of auction is fulfilled. On the other hand, non-compliance with the auction conditions and non-fulfillment of the obligations assumed under the agreement by the buyer will result in sanctions enumerated in the legislation. Specifically, if the purchaser breaches an agreement repeatedly, or fails to pay the penalty in due time, the agreement must be terminated and purchased property will be returned to the State/Municipality; or if the purchaser does not pay the purchase price in full, he/she loses the ownership rights on the property and the property will be returned to the state.

The conditional auction entails further responsibility for the buyer. If the terms of auction require the winner to make a certain amount of investment, the buyer is obliged to present an unconditional and irrevocable bank guarantee within one month after the auction is conducted. The guarantee may not be less than 10% of investment liability. The term of validity of the guarantee shall expire at least in two months after the final date specified for fulfillment of the investment liability.

**Note:** The bank guarantee for the fulfillment of investment liabilities and the bank guarantee submitted previously for participation in the auction are not same.

The purchaser of the state property is not entitled to transfer to the use or otherwise encumber the property, unless such encumbrance is aimed at fulfillment of privatization conditions. If the property is sold or transferred prior to the expiration of the agreement, the obligations assumed by the original purchaser are passed to the future buyer (For example, if land was bought under the condition that the buyer creates a parking lot on it, the purpose of the land may not be modified after it is sold.). The person is required to notify, in writing, the body that sold the property.

### **Features of acquisition of municipal property via auction**

The rule of privatization of municipal property via auction is stipulated in a legal act adopted by the council of the corresponding municipality. This act may not be in conflict with the Law on State Property and Provisions on Privatization of Municipal Property approved by decree of the Minister of Economy and Sustainable Development of Georgia. Consequently, the same auction rules are basically applied in all municipalities throughout Georgia, including the city of Tbilisi.

It should be taken in account that the decision to sell municipal property via auction is made, and the auction is conducted by the Municipal Government (or the Tbilisi Government in the case of city of Tbilisi).

Therefore, the Municipal Government manages municipal property, and it has the same function as the Ministry when privatizing the State property in the process of privatizing municipal property via auction.

## **Direct selling and direct selling based on competitive selection**

Direct selling and direct selling on the basis of competitive selection are separate forms of privatization. In case of direct selling, the criterion for selection is the complete fulfillment of the conditions specified for the purchase of the property. Thus, the buyer is always required to undertake a commitment to fulfill predetermined conditions (the responsibility may include use of acquired property for an agreed purpose, making a certain amount of investments, etc.).

The decision on direct selling and direct selling on the basis of competitive selection is made by the President of Georgia.

Direct selling can be conducted on the basis of competitive selection. This form is used when there exist several investment related preconditions or alternative proposals by the interested parties.

Any individual and legal entity may buy property via direct selling, except companies in which the State or the Municipality owns more than 25% of shares.

Entities interested in the purchase of State property via direct selling (including direct selling on the basis of competitive selection) should submit the application to the Property Agency and attach the extract from the Public Registry (in case of legal entity) or copy of personal identification document (in case of individuals). Additional documents may be required by the Property Agency (including the documents of financial guarantees in individual cases), which have to be submitted during the period specified by the Agency.

The Ministry reviews the application and prepares the issue. In special cases, the issue is prepared by the Government of Georgia (when the issue refers to the sale of the property of special importance). The final decision on direct selling is made by the President of Georgia.

If privatization is carried out via direct selling on the basis of competitive selection, the decision on privatization is published in advance in central media or sometimes in international media.

Interested persons are entitled to express their interest in the property and file their proposals to the Property Agency or, in special cases, to the Government of Georgia before the prescribed time for submission of proposals expires. The Property Agency (or the Georgian Government) reviews submitted proposals and submits the substantiated proposals to the President of Georgia for the final decision.

A person who participates in direct selling on the basis of competitive selection is required to submit an unconditional and irrevocable guarantee. In case of winning the competition, the guarantee amount will be deducted from the purchase price. The guarantee will be returned to those persons not qualifying in the selection process.

The buyer of property via direct selling with the condition of investment liability is required to submit an unconditional and irrevocable bank guarantee in the amount of 10% of the assumed investment liability. Exemption from this obligation is allowed only by decision of the Government of Georgia.

The term for paying the purchase price is determined by the President of Georgia.

## **Privatization of municipal property via direct selling (including direct selling based on competitive selection)**

The decision to privatize municipal property via direct selling (including direct selling based on competitive selection) and the relevant rules are made by the President of Georgia. Propositions for privatization of municipal property via direct selling are presented to the President of Georgia by the Property Agency or, in special cases, by the Government of Georgia.

Privatization of property of Tbilisi Municipality via direct selling (including direct selling based on competitive selection) is regulated differently. Specifically, after receiving proposals by interested parties, the Government of Tbilisi determines the winner, sets forth the conditions of an agreement and enters into contract with the buyer. The agreement is submitted to the President of Georgia for approval and enters into force with his consent.

In case of privatization in the form of direct selling of the property which is in the ownership of Tbilisi Municipality instead of payment of the privatization fee it is allowed to transfer the property in the ownership of Tbilisi Municipality (exchange).

## **Privatization of agricultural land**

For the purposes of the privatization of State owned agricultural land two cases are identified:

- a) Privatization of rented agricultural land and
- b) Privatization of non-rented agricultural land.

The privatization of rented agricultural land is carried out via direct selling and the buyer may only be the tenant of the land.

The Law on State Property mentioned the timeframe (the period before 1<sup>st</sup> May 2011) during which the tenant was entitled to require privatization of rented agricultural land. If the tenant would not request privatization of the land before the expiration of this period, privatization would take place in accordance with the rules applicable to un-rented land.

Privatization of agricultural land which is not rented may be accomplished in the following forms:

- a) Auction;
- b) Direct Selling;
  - b.a) Direct selling on the basis of a decision of the President of Georgia;
  - b.b) Direct selling on the basis of competitive selection by decision of the President of Georgia;

Privatization of land via auction is carried out by the property manager.

The proposal of privatization via direct selling (including direct selling on the basis of competitive selection) is considered and prepared by the property manager or, in special cases, by the Georgian Government and the final decision is made by the President of Georgia.

Land situated on territory within a 500 meter border line adjacent to the State border is an exception to this rule. In this case, the decision to privatize the land is made by the Government of Georgia in agreement with the Ministry of Internal Affairs of Georgia.

A person interested in buying State-owned land via auction may take part in the auction announced by the property manager or request the property manager to initiate the privatization procedures. The surveyor's drawing of the land should be attached to the application.

A purchase agreement for the land is signed with the winner of auction. The buyer is obliged to pay the full purchase price within 30 calendar days and to submit a document verifying the payment of the purchase price to the property manager, who, in return, will issue the document confirming the fulfillment of liabilities. This document is the basis for annulment or amendment of the obligation in the Public Registry.

When land is sold at auctions the starting price is determined by the Government of Georgia. However, if privatization is held via direct selling, the price is determined by the President of Georgia.

### **Privatization of stocks and shares**

Apart from tangible property, Georgian legislation provides for the privatization of State or Municipality owned intangible property (stocks and shares). The State/Municipality may be the founder of a Joint Stock Company or Limited Liability Company and/or non-entrepreneurial (non-commercial) legal entities and/or the owner of the shares.

The privatization of shares and stocks can be conducted via auction or direct selling (including direct selling on the basis of competitive selection), as well as privatization of shares or stocks or certified stocks directly or by the agent, in forms of public or private offer, also in the forms in accordance with the established practice at the recognized foreign stock markets or at international capital markets for that time.

The privatization of stocks and shares is carried out based on the decision of the President of Georgia with the initiative of the property manager or, in special cases, of the Government of Georgia. The rules for privatization and transfer to the use of the State property are defined by the Minister of Economy and Sustainable Development of Georgia.

The rule for determination of the privatization price of the stocks and shares is approved by the President of Georgia.

The buyer of stocks/shares must pay for the acquired property within 30 days. If the stocks/shares are sold or otherwise transferred to another party under particular conditions, the term of payment may be maximum 2 years.

### **Use of State property**

Apart from acquisition, Georgian legislation allows for the possibility that the State/Municipal property may be used by interested parties.

The forms of use of the property are different. The most widespread forms are leasing, renting, right to build and usufruct.

Any State/Municipal property, except the State owned housing fund, Municipality owned basic (unsalable) property, and agricultural land, may be transferred to be used.

**Note:** Agricultural land, not subject to privatization by the law, can be transferred for use.

The transfer of State/Municipal property with the right of usage can be made by auction or without (by means of direct disposal).

The decision to transfer property for use with the consent of property manager is made by the State body, the bodies of autonomous republic of Adjara or Abkhazia, municipal body or legal person of public law supposing that the property is transferred to them to the use or is recorded on their balance. In other cases the property is transferred to the use by property manager.

Transfer of the forest fund with the right of usage is carried out by the Forestry Agency, the legal person of public law, in agreement with the property manager.

The right of use is registered in the Public Registry. At the same time, the person who receives the property is not authorized to alienate or dispose of property unless otherwise provided by the Georgian legislation.

State/Municipality owned intangible property (shares and stocks) can also be transferred to another party for management via auction or direct transfer by the decision of the President of Georgia.

### **Restrictions related to ownership on agricultural land**

Particular restrictions in terms of privatization are applicable with respect to agricultural land, which are enumerated under the Law on Ownership of Agricultural Land.

The owner of agricultural land in Georgia may be a citizen of Georgia (individual) or foreign citizen, the Georgian state, a legal entity registered in Georgia by a Georgian or foreign citizen, as well as legal entity registered abroad by a foreign citizen.

The Georgian legislation creates one more restriction in respect to agricultural land. Specifically, it is prohibited to use agricultural land for non-agricultural purposes. (For example, it is prohibited to build a parking lot on agricultural land).

### **The rule of registration of property**

According to the Georgian legislation, it is mandatory to register the ownership and other rights (such as mortgage, lease, usufruct) on immovable property with the Public Registry. The rules, conditions and the costs of registration are disclosed in the Law on Public Registry. According to the law, the following rights related to immovable property have to be registered:

- a) Ownership;
- b) Right to build;
- c) Usufruct;
- d) Servitude;
- e) Mortgage;
- f) Renting, sub-renting;
- g) Letting, sub-letting;
- h) Lending;
- i) Leasing;
- j) Liabilities connected to ownership on immovable object.

(Law on Public Registry, Article 11, Paragraph 1)

For registration, the interested person must apply to territorial body of Public Registry according to the location of the immovable property. Specifically, the buyer must submit an adequate application, technical papers related to the immovable property and the purchase agreement on the basis of which the property was acquired. If the property is obtained via auction with preconditions or in the form

of direct selling under the condition of fulfillment of particular obligations, these obligations will be also registered in the Public Registry along with the ownership right. The document verifying the payment of the registration fee has to be attached to the application.

The fee for registration of ownership and other rights on immovable property is 50 GEL (registration is accomplished in 4 working days). However, registration during one working day costs 150 GEL, while 200 GEL on same date of application

## **Legislative Framework**

### **Law on State property**

12. 07. 2010.

Article 2. Definition of terms used in this law

- a) The State property – movable and immovable property, intangible property being in the ownership of State;
- c) Privatization – purchase of ownership right on the State property by individuals or legal entities or their associations in accordance with the rules set forth in this law via electronic or/and public auction or in the form of direct selling, direct selling on the basis of competitive selection and free of charge transfer, trading office, by the third party, as well as privatization of shares or stocks or certified stocks directly or by the agent, in forms of public or private offer, also in the forms in accordance with the established practice at the recognized foreign stock markets or at international capital markets for that time.
- d) Transfer of State property to use – transfer of State property with the right on use in accordance with Georgian legislation;
- f) Transfer in management – transfer of State owned shares and stocks (hereinafter – shares and stocks) to the management of individuals or legal entities or other entities.
- J) The third person (trustee, agent) – a individual or legal entity or union of persons ensuring search of persons interested in privatization of State owned property and promoting privatization of State owned property through initiating privatization. The third person performs assignment on the basis of agreement signed with property manager;
- z<sup>1</sup>) Property manager – Ministry, Agency for State Property Management or other entity acting on behalf of by the Ministry or Agency delegated authority, person using the State property (except the private persons and judicial persons of private law, as well as agency performing its functions regarding the property turned into State ownership and immovable property transferred for disposition), which exercises his/her authority according to the rules set forth by the legal act of the Georgian Government.

Article 3. Buyer of State owned property

1. Buyer of State owned property (except the cases of privatization/sale of State owned agricultural land) may be a Georgian or foreign citizen or legal entity of private law or an association of persons in which the share of State or the local self-government body is less than 25%, as well as non-entrepreneurial (non-commercial) legal person established by the state or by other person/entity and jointly established by the state and other person/entity, national bank of Georgia, or Georgian Apostolic Autocephalous Orthodox Church by means of direct selling by the decision of the president of Georgia.

- 1<sup>1</sup>. Buyer of the property transferred to the disposition to the agency and the movable property turned into State ownership may be a Georgian or foreign citizen or legal entity of private law or an association of persons, State body, municipal body, legal entity of public law.
2. A Georgian citizen or legal person of private law registered in Georgia is allowed to privatize the State owned agricultural land against the payment, while the Georgian Apostolic Autocephalous Orthodox Church and homeless Georgian citizens who lived or are living on the occupied territories may privatize agricultural land free of charge.

#### Article 3<sup>1</sup>. Rule of conclusion of transaction for privatization of State owned immovables

1. When privatizing a State owned immovable thing, a purchase agreement is signed between the entity conducting privatization and the buyer. The agreement is the basis for registration of ownership right in the Public Registry and creation of relevant obligations (including the liability of payment of privatization fee).
2. In case of privatization of a State owned immovable thing via unconditional auction the samples of purchase agreement are adopted by the Ministry. The entity conducting privatization is entitled to issue confirmation on winning the auction in writing or in electronic form.
3. In case of privatization via auction a purchase agreement is signed within 45 calendar days after conducting the auction, in case of direct selling privatization by the President of Georgia – within the 3 months after issuance of respective act, while the purchase agreement is signed within 45 calendar days after issuance of respective act in case of privatization in the form of direct selling by the respective body acting within the authorization delegated by the property manager.
4. The buyer is required to pay the privatization fee in due time which shall not be less than 7 calendar days after conducting the auction and shall not exceed 2 calendar years and in the same period shall submit the document verifying the payment of fee to the entity conducting privatization. The obligation of submission of the document verifying the payment is not required in case when an electronic auction for transferring the State property to dispose/use has been conducted.
5. In presence of obligations after submission of document verifying fulfillment of obligation, or in case of disposal of the state property by means of electronic auction, after payment of privatization fee - within 5 working days, the entity disposing state property shall issue written confirmation on full or partial fulfillment of obligations which is the ground for deletion or modification of obligations registered in the Public Registry.
6. In presence of investment preconditions, the buyer is entitled to mortgage the purchased property for the purpose of fulfillment of privatization liability with the consent of the property manager.
7. In case of absence of investment preconditions the buyer is entitled to mortgage the acquired property for the purpose of fulfillment of privatization liability.

#### Article 5. Information about privatization and sale of State owned property via auction

1. Information about privatization of State owned property via auction shall be posted at the webpage [www.eauction.ge](http://www.eauction.ge) by which it is considered as an official announcement. For the purpose of publicity and availability of information, information about privatization of State owned property via public auction shall also be published in the newspaper “24 Saati”.

1<sup>1</sup>The rule of posting of the information prescribed by the part 1 of this article does not apply to the Georgian diplomatic representatives and consulates abroad, which post the information according to the regulation adopted by the Ministry of Economic and Sustainable Development of Georgia about the privatization by means of auction of the movable property transferred to the use of them or recorded in their balance.



3. The terms of publication of information about privatization of State owned property via public auction are determined by the body conducting privatization.

#### Article 6. Condition for participation in the auction

1. Disposition/transferring to the use of State owned property via auction aims at transferring the right of ownership/usage/management to the person participating in the auction which, in the course of trade, offers the State body disposing of the property; the highest privatization price or price for transferring the property to the use if auction is announced with preconditions, ownership/usage/management rights shall be granted to the participant which undertakes obligation to meet the announced preconditions and offers the State body disposing of the property the highest privatization price or price for transferring the property to the use..

2. Disposition of State owned property may be carried out via electronic auction. If the State owned property is not sold or transferred to the use, it is allowed to dispose of it by means of public auction. The terms and conditions of the recording, storage (conservation), assessment and disposition of the property transferred to the agency for disposition are adopted by the Minister of Finance. The regulation on disposition of other State owned property via public auction is adopted by the Minister of Economy and Sustainable Development.

3. In order to participate in auction the interested person is required to submit an unconditional and irrevocable bank guarantee/down payment. The size of a bank guarantee/down payment is determined for each individual case by the body conducting privatization/ conducting transfer into the management/ conducting transfer to the use.

3<sup>1</sup> In case of disposition/ transferring to the use of State owned property via electronic auction, person interested in the participating in the auction shall submit an unconditional and irrevocable bank guarantee/down payment prescribed by the Paragraph 3 of this Article, as well as winner of auction shall provide privatization price or price for transferring to the use of State owned property by means of unified settlement system of webpage [www.eauction.ge](http://www.eauction.ge)

4. Auction results are annulled if:

- a) The winner of the auction fails to pay in full a fee within the period specified by the body conducting privatization on the ground of present law;
- b) The winner of the auction refuses to sign the purchase/transfer to the management right agreement.

5. In cases foreseen in Paragraph 4 of this Article, the amount of unconditional and irrevocable bank guarantee/down payment (excluding the amount determined by the Government of Georgian to be paid to the property agency) deposited by the winner shall be fully transferred to the relevant budget.

6. Besides the case mentioned in Paragraph 5 of this Article, auction results are annulled and the amount of unconditional and irrevocable bank guarantee/prepayment (excluding the amount determined by the Government of Georgian to be paid to the property agency) shall also be transferred to the relevant budget if the participant of auction violates the auction participation rules or/and conditions stipulated by the legal act.

6<sup>1</sup> In case of violation of terms and conditions while disposing of State owned property via auction the amount of penalty, fixing of additional period and annulment of the results of the auction are defined by the order of the Minister of Economy and Sustainable Development, in case of the State owned property transferred to the use of the agency as well as the property turned into the State ownership – by the order of the Minister of Finance of Georgia.

7. If property manager postpones the auction or annuls the decision on sale of the State property or on transferring in use the State property via auction before the auction is conducted, the down payment/ unconditional and irrevocable bank guarantee/ shall be returned to participant.

8. If State property is not disposed at the auction, the decision on realization (sale) of this State owned property with modified starting privatization price or/and with the conditions shall be considered as a



repeated auction. At repeated auction the starting privatization price of the State property may decrease by 50% and if the property is not sold even after such reduction, the initial price may be further reduced.

#### Article 6<sup>1</sup>. Remuneration of the Third Person

1. Remuneration of services provided by the third person is made from the privatization price on the basis of agreement signed between the property manager and the third person.
2. Remuneration shall be made no later than 30 calendar days from completion of auction. In case of direct selling term of remuneration shall be determined by the contract prescribed by the paragraph 1 of this Article.

#### Article 7. Forms of privatization of State owned agricultural land and the bodies conducting privatization

1. The forms of privatization of the State owned agricultural land are as follows:

- a) Auction;

- b) Direct Selling:

- b.a) Direct selling on the basis of decision of the President of Georgia;

- b.b) Direct selling on the basis of competitive selection by the decision of the President of Georgia;

- b.c) Direct selling of leased land.

2. Privatization of the unleased State owned agricultural land via auction is carried out by the property manager.

3. Privatization of unleased State owned agricultural land via direct selling and direct selling based on competitive selection is carried out pursuant to the decision of the President of Georgia.

4. Special decision on privatization of individual plots of State owned agricultural land situated within the territory of 500 meters border line as specified by the Law on the Georgia State Border is made by the Government of Georgia with consideration of State and public interests and with a preliminary consent of the Ministry of Internal Affairs.

5. Privatization of leased plot of State owned agricultural land via direct selling is conducted by the property manager.

6. The property manager is entitled to sign an agreement with third persons who initiated privatization of State owned agricultural land and, if required, prepare cadastral drawings.

7. Third persons performing the measures indicated in the Paragraph 6 of this Article shall be compensated from the privatization price received as a result of privatization of unleased plot of State owned agricultural land in the amount anticipated by relevant agreement.

8. The rules and conditions of initiation of privatization of State owned agricultural land by third persons are specified by the Order of the Minister of Economy and Sustainable Development.

#### Article 8. Initiation, planning and naturalization of privatization of unleased plots of State owned agricultural land via auction

1. Citizen of Georgia, a legal entity of private law registered in Georgia, the property manager and the third person are entitled to initiate privatization of unleased plots of State owned agricultural land via auction.

2. In case of initiation of privatization of unleased plots of State owned agricultural land via auction by a citizen of Georgia, legal entity of private law registered in Georgia, as well as the third person, they shall address the property manager.

3. Planning and drawing of an unleased plot of State owned agricultural land is accomplished by the property manager or the initiator of the issue.

4. When a citizen of Georgia, legal entity of private law registered in Georgia, as well as the third person intends to privatize via auction an unleased plot of State owned agricultural land, for the purpose of initiation of privatization, they shall:

- a) Identify an unleased plot (plots) of State owned agricultural land and, if needed, divide them into the plots of optimal size (not less than 3 hectares). This specific restriction is not applicable if the size of plot is less than 3 hectares.;
- b) Draft a detailed cadastral measurement drawing of unleased plot (plots) of State owned agricultural land and also inquire information about the category and quality of the plot (plots);
- c) Submit an application to the body conducting privatization confirming the interest to privatize an unleased plot (plots) of State owned agricultural land via auction.

Article 15. Privatization of land plot in forest via public auction situated in the territorial borders of settlement

1. Privatization of land plot in the forest situated in territorial borders of settlement is carried out by means of public auction. In case no winner is determined at the public auction, the auction shall be held again. A purchase agreement is signed between the body conducting privatization and the winner.

2. A Georgian citizen or group of Georgian citizens (individuals) registered in the Household Register of a particular administrative unit – a settlement (village, rural community, town), the union of settlements (community) is entitled to participate in the public auction.

Article 18. Forms of privatization of State owned immovable property and the bodies conducting privatization

1. The forms of privatization of State owned immovable property are as follows:

- a) Auction;
  - b) Direct Selling;
  - c) Direct selling on the basis of competitive selection.
2. The property manager carries out privatization of State owned immovable property via auction.
3. Privatization of State owned immovable property via direct selling and the direct selling on the basis of competitive selection is carried out pursuant to the decision of the President of Georgia.

Article 20. Special conditions of privatization of State owned immovable property

1. When privatizing State owned immovable property via direct selling with condition of investment liability, the buyer is required to submit an unconditional and irrevocable bank guarantee/down payment in the amount of 10% of investment liability from the issuance of the respective Decree of the President of Georgia before the signing relevant purchase agreement, and in case of privatization via auction, within one month after conducting the auction. The term of validity of the bank guarantee/down payment shall be at least 2 months longer than the term of fulfillment of investment liability. A reduction of the amount of unconditional and irrevocable bank guarantee/down payment indicated in this paragraph is admitted only by the decision of the Government of Georgia.

2. In the course of validity, the unconditional and irrevocable bank guarantee/down payment ensures satisfaction of claim for penalty payment in case of breach of the obligations by the buyer.

3. In case of reducing the amount of unconditional and irrevocable bank guarantee/ down payment the buyer is obliged to fill it up to the full amount within one month.

4. In case of termination of the act/agreement by the body disposing of State property due to buyer's failure to fulfill its obligations the amount of the unconditional and irrevocable bank guarantee/down payment shall be fully transferred to the relevant budget.

### Article 33. Forms and conditions of transfer of State property in the use

1. State property may be transferred to the use for definite or indefinite period, against the payment or free of charge, via or without auction.
2. State property may be transferred to the use to the legal entities of State of Georgia, the autonomous republics of Abkhazia and Adjara, local self-government bodies and legal entities of public law, as well as individuals and legal entities of private law.
3. Transfer of State owned property to the use shall be registered in the Public Registry by the entity of the State of Georgia, autonomous republics of Abkhazia and Adjara or local self-government bodies, the individual, the legal entity of public or private law to whom the property was transferred to the use.
4. Unless otherwise provided by this law, it is not allowed to mortgage, rent, servitude, encumber, conclude any transaction disposing of the property or issue an individual administrative act by the receiver of State owned property which results in change of owner of the property.

### Article 36. Rule of transfer of State owned property in the use of an individual and legal entity of private law

1. The State owned property is transferred to the use of an individual or legal entity of private law against payment in the forms foreseen by the Civil Code of Georgia, via auction and with the consent of the property manager, by the State entity, body of autonomous republics of Abkhazia and Adjara, local self-government bodies or legal entity of public law which has received the property in usage or is recorded on its balance. If property is not transferred in usage it shall be transferred to the individual or legal entity of private law in usage by the property manager in due course.

1<sup>1</sup>. The legal entity of public law National Forestry Agency (in case of autonomous republic of Adjara – Forestry Agency of Adjara) may transfer the land of the forest fund with the right to use for no longer than 10 years if used for agricultural purposes and for no longer than 49 years if used for non-agricultural purposes from the Forestry Agency at the consent of the property manager.

### Article 37. Application of the property returned to the State ownership and usage of the State owned agricultural land

2. Agricultural land not subject to privatization may be transferred to the use.

### Article 39. State owned intangible property

1. State owned intangible property includes shares and stocks, as well as all those claims and rights that can be transferred to other persons or that are designated for earning the material benefit to their holder or/and grant the holder the right to have a claim against other persons.
2. The property manager establishes joint stock companies and limited liability companies or/and non-entrepreneurial (non-commercial) legal entities based on the State owned property in accordance with the Law of Georgia on Entrepreneurs.

### Article 42. Privatization of shares and stocks via auction and direct selling, as well as privatization of shares or stocks or certified stocks directly or by the agent, in the forms of public or private offer, also in the forms of appropriate offering in accordance with the established practice at the recognized foreign stock markets or at international capital markets for that time.

1. The auction of shares and stocks divides into two types: auction with conditions and auction without conditions.
2. Privatization of shares and stocks in the form of direct selling can be accomplished by means of direct selling or direct selling based on competitive selection by decision of the President of Georgia.

3. The privatization of stocks or shares or certified stocks directly or by an agent, in the forms of public or private offer, also in the forms of appropriate offering in accordance with the established practice at the recognized foreign stock markets or at international capital markets for that time is carried out by the decision of the Georgian Government based on the initiative and substantiated proposal of the property manager in accordance with the rule defined in the article 45<sup>1</sup> of this law..

#### Article 43. Transfer of shares and stocks to the management

1. Transfer of shares and stocks to the management is carried out in the form of auction or direct transfer by decision of the President of Georgia.

2. The rights of partners (shareholders) of an enterprise in which the State owns the shares, are exercised by the property manager, which decides to make contributions to the capital of an enterprise in which the State owns the shares (stocks) in form of State owned property, as well as shares and stocks and monetary contribution.

#### Article 45. Definition of privatization price of shares and stocks, settlement and signing privatization agreement

3. Upon privatization of shares and stocks, a purchase agreement is signed between the body undertaking the privatization and the buyer. The property manager or in cases stipulated by this law another body undertaking the privatization is authorized to issue confirmation on winning in the auction in written or in electronic form . The purchase agreement of privatization via auction is signed within 45 calendar days after the auction and within 3 months after issuance of the act in case of privatization in the form of direct selling by the decision of the President of Georgia. Upon privatization of State owned shares and stocks, the ownership title shall be transferred to the buyer after registration in the relevant registrar. The liability for payment of privatization fee shall be registered simultaneously.

### **Law on Municipal Property**

25.03.2005

#### Article 2. Municipal Property

1. Municipal Property – any object and intangible property which, according to the Georgian legislation, are included in the ownership of municipality, including the property which is transferred to the municipality in the ownership by the State or which is created or obtained by the municipality in accordance with the rule provided by the Georgian legislation.

2. Municipal property is divided into two categories – the basic (unsalable) and added property:

a) Basic (unsalable) property – municipal property which is the basis of implementation of self-governance and which may be used by municipality only for the purpose of sale of its public functions and rights;

b) Added property – municipal property which is not a part of basic (unsalable) property and which may be utilized by municipality in accordance with the rule provided by the Georgian Legislation.

3. Alienation of basic municipal property is not allowed except the cases provided by the Organic Law of Georgia on Municipalities and this law.

5. Pursuant to this law the following type of basic property may be transferred to the ownership of a municipality: roads, bridges, tunnels, streets, sub-ways, sidewalks, street lights, constructions of outdoor lighting, open area, squares, boulevards, fountains, parks, green plants and waterside facilities.

#### Article 13. The rule of alienation of basic municipal property

1. Alienation of basic property is possible with the consent of representative body of municipality – the Council, only in case when the property has lost its functional purpose.
2. The chairman of the municipality (a self-governing town) submits a substantiated proposal on alienation of basic municipal property prepared by the governor (the Mayor) along with all the necessary documentation to the corresponding Council.

Article 191. Body conducting privatization of municipal property, buyer of property, forms and rule of privatization

1. Management, administration, including privatization and transfer with the right to use of municipal property is carried out by the executive body of corresponding municipality.
3. In the process of privatization of municipal property the executive body of municipality follows this law, the provisions of the Law on the State Property, that are not in conflict with this law, and other normative acts.
4. A Georgian or foreign individual or legal entity of private law or an association of individuals where the share of Georgian State or municipality is less than 25% may be the buyer of municipal property.
8. In the course of management, privatization, transfer to use or management in any possible way the municipality is entitled to act through its representatives (trustees) or agents. The executive body of municipality is authorized to specify the action instruction to the representatives (trustees) in advance.
9. Privatization of municipal property is accomplished in the form of public or electronic auction, direct selling and direct selling based on competitive selection.
10. Decision on privatization of municipal property via auction is made by the executive body of municipality.
11. Decision on privatization of municipal property via direct selling and direct selling based on competitive selection is made and relevant preconditions are determined by the President of Georgia.
12. Agreement on direct selling and direct selling based on competitive selection of property which is in the ownership of Tbilisi Municipality is signed and the terms of the agreement are specified by the executive body of Tbilisi Municipality – the Government of the city of Tbilisi. The agreement takes effect based on consent of the President of Georgia.
13. The agreement signed between Tbilisi Municipality and the interested person is sent to the Government of Georgia for review and which, in case of positive resolution, forwards the agreement to the President of Georgia.
- 13.<sup>1</sup> In case of privatization in the form of direct selling of the property which is in the ownership of Tbilisi Municipality instead of payment of the privatization fee it is allowed to transfer the property in the ownership of Tbilisi Municipality (exchange). The price shall be determined on the basis of the conclusion of the Legal Entity of Public Law – Levan Samkharauli National Forensics Bureau.
14. The issue of privatization of municipal property in the form of direct selling, as a rule is resolved by the President of Georgia via nomination by the property manager - in special cases via nomination by the Government of Georgia. The issue is prepared by the relevant authorized body.
15. The issue of privatization of immovable municipal property in the form of direct selling (including the privatization fee and conditions) is decided by the executive body of Tbilisi Municipality – the Government of the city of Tbilisi.
16. Direct selling, based on competitive selection, of municipal property or/and stocks and shares is carried out on the basis of decision of the President of Georgia via nomination by the property manager - in special cases via nomination by the Government of Georgia. The issue is prepared by the executive body of corresponding municipality.
18. The executive body of municipality is authorized to consider the question of exemption of the liability of the receiver of privatized property or the property transferred with the right to use to

observe particular condition (conditions), except the conditions related to fulfillment of financial and investment liabilities.

#### Article 193. Announcement and organization of auction

1. Information on privatization of property in the form of public auction is published on relevant webpage, local or/and other printed media in accordance with the rule stipulated in Article 5 of the Law on State Property.
2. In case of privatization of property via electronic auction the information is posted on the auctioneer's webpage.

#### Article 195. Forms and rule of transfer of municipal property with the right to use, determination of the size of rental for utilization of the property

1. Transfer of municipal property with the right to use can be accomplished in the following forms anticipated by the Civil Code of Georgia:
  - a) Right to build;
  - b) Usufruct;
  - c) Rental;
  - d) Leasing;
  - e) Lending;
  - f) Other forms of use foreseen in the Civil Code of Georgia.
2. Issues related to the transfer of municipal property with the right to use are regulated by this law, the Law of Georgia on State Property and the Civil Code of Georgia.

#### **Rules on disposing of State owned property in the form of public auction**

Approved by decree #1-1/1487 of the Minister of Economy and Sustainable Development  
September 7, 2010.

#### Article 1. General Provisions

2. According to the Law of Georgia on State Property, a decision on disposal of State property via public auction is taken by the Legal Entity of Public Law - National Agency for State Property Management (hereinafter – Property Agency) which is part of the system of the Ministry of Economy and Sustainable Development of Georgia and acting within the authorization delegated by the Property Agency respective governmental bodies of the autonomous republics of Adjara and Abkhazia. A decision on disposal of State owned movable property (hereinafter – movable property) via public auction is taken by the State body or legal entity of public law to whom the property was recorded in the balance or has been transferred to the use.
6. Buyer of State owned property in the form of public auction may be a Georgian or foreign citizen or legal entity of private law or association of individuals wherein the share of the State or the local council is less than 25%, as well as non-entrepreneurial (non-commercial) legal person established by the state or other person/entity or jointly established by the state and other person/entity.
8. Until accomplishment of public auction, information about participants of public auction (including the number of participants) is confidential.

#### Article 4. Prerequisites of participation in public auction

1. Acceptance of application on participation in public auction ends on specified day and time. Applications submitted after the deadline shall be rejected.
4. A person wishing to participate in the public auction shall submit the following documentation to the registrar of the auction:



a) Application containing information about the participating person, the reference to the State property, the number of the lot, the starting privatization price of State property which the person desires to acquire. In case of public auction announced with conditions the application has to reflect consent of the person wishing to participate on fulfillment of the conditions;

b) The document evidencing a payment of down payment (deposited amount on the bank account of participant equals to down payment. The deposited amount shall be transferred to the body conducting the public auction as soon as the participant wins the auction or if the participant violates the rule and the terms provided by the Law of Georgia on the State Property), or the document verifying existence of unconditional and irrevocable bank guarantee;

c) The copy of personal identification document (in case of individual);

d) Notarized or verified by the entity power of attorney, if the participant acts on behalf of another person;

e) The copies of founding documents (if required by the body conducting the disposal of State owned property) and the record from the Register of entrepreneurs and non-entrepreneur (non-commercial) legal entities (in case of legal entities) valid by the moment of submission of application.

g) Other additional documents if required by the body conducting the disposal of State owned property.

5. A person intending to participate in public auction which offers privatization of the State property divided into different lots shall submit unconditional and irrevocable bank guarantee/down payment for each lot separately.

7. If all submitted documents meet the requirements the registrar makes a note about the person in the Registry of Participants of Public Auction, keeps submitted documents with him and hands the participant's ticket to the person. The participant's ticket gives the person the status of participant of public auction.

8. The person is entitled to refuse participation in the public auction without withholding the down payment/the bank guarantee only during the bidding period.

9. The applicant can be refused to participate in a public auction, if:

a) Pursuant to the applicable legislation the applicant may not be recognized as buyer of the State property designated for privatization;

b) The requirements of Paragraphs 1, 2, 4 and 5 of this Article have been violated;

#### Article 5. Rule for conducting the public auction

4. Upon commencement of trade with each lot the auctioneer announces the title of State property, the starting price, auction step (the size of step for each specific State property is determined by the body conducting the disposal of State owned property).

5. Trade at public auction begins with announcement of starting price. The participants are not allowed to move around the hall during the process of trading.

6. The public auction participant who wishes to begin trade from the starting price raises his board (which means an addition to the starting price). The auctioneer points that and asks the public auction participants to continue trade until any of the participants call the highest price. After announcement of price three times and striking the hammer the latest participant who offered the highest price to the auctioneer is considered to be the winner.

#### Article 8. Responsibility of the buyer of State property in case of public auction announced with conditions

1. The buyer of property at the auction with condition is obliged to observe the obligations assumed under the agreement (the conditions of the public auction), meet the requirements envisaged by the applicable legislation while using acquired property and, upon request, provide relevant information to the body conducting the disposal of State owned property.

5. If the buyer of State property decides to alienate the privatized property during the period of effectiveness of the agreement after payment of the privatization fee, the buyer of the State property is obliged to alienate to a new owner under the same conditions as provided by the sale agreement concluded between him and the property Agency . The body disposing of the State property shall be notified in writing on alienation of property.

5<sup>1</sup> If the buyer of State property decides to alienate partially the privatized property during the period of effectiveness of the agreement after payment of the privatization fee, the new buyer along with the buyer of the State property is jointly responsible to fulfill the obligations arising out of the contract. The body conducting the privatization of the State property shall be in writing notified on partially alienation of property.

### **Rules on privatization of municipal property via auction**

Approved by the decree #1-1/1417 of the Minister of Economy and Sustainable Development  
September 20,2010.

#### Article 1. General Provisions

2. Decision on privatization of municipal property via auction is taken by the executive body of the respective municipality.

4. Privatization of municipal property via auction is carried out by the executive body of the respective municipality. The executive body can fulfill the functions of the seller directly or act through its representative (trustee) who is empowered with adequate authority by the seller.

7. Auction (auction with conditions) is announced at the initiative of executive body of the respective municipality.

### **Rules on privatization of State property in the form of direct selling**

Approved by the decree #1-1/1537 of the Minister of Economy and Sustainable Development  
September 16, 2010.

#### Article 1. General Provisions

2. Pursuant to the Law of Georgia on State Property, a decision on direct selling and direct selling based on competitive selection is made and relevant conditions are set forth by the President of Georgia.

3. Privatization of State owned property via direct selling aims to transfer the ownership right to the buyer who fully and honestly fulfills the condition (conditions) specified for privatization of State property via direct selling and in case the privatization is conducted via direct selling based on competitive selection the privatization shall aim at transferring the ownership right to the interested person (a potential investor) who fully and honestly fulfills the condition (conditions) specified for privatization of State property via direct selling based on competitive selection.

3<sup>1</sup>. By privatization of State owned property via direct selling and via direct selling based on competitive selection, the buyer is entitled to perform his/her obligations personally or with consent of the State entity carrying out the privatization - by the third person.

5. Direct selling of State property based on competitive selection is carried out on the basis of decision of the President of Georgia and the issue is prepared by the Ministry of Economy and Sustainable Development of Georgia, in special cases - by the Government of Georgia.

6. Direct selling of the State property based on competitive selection is carried out if:

a) Multiple prerequisites of making investments exist;

b) The conditions proposed by the interested persons are alternative.

10. After expiry of the period determined for summation of interests, the Ministry (or the Government of Georgia in special cases) reviews the received applications and submits substantiated



proposals on selling of State property via direct selling based on competitive selection to the President of Georgia. Decision on direct selling of State property is made by the President of Georgia.

#### Article 2. Organization of privatization via direct selling

Interested persons wishing to acquire State property via direct selling including direct selling based on competitive selection address the Ministry with an application and submit:

- a) An application;
- b) Copy of personal identification document or the copies of founding documentation (in case of legal person);
- c) Other documents that may be required by the Property Agency (including the documents of financial guarantees in individual cases). Additionally requested documents have to be submitted during the period specified by the Ministry.

#### **Rules of privatization of Tbilisi municipal property via direct selling**

Approved by decree # 9–62 of the Council of the City of Tbilisi  
August 27, 2010

#### Article 1. General Provisions

3. An agreement is signed between the Tbilisi Government and the interested party on direct selling of Tbilisi municipal property and direct selling of Tbilisi municipal property based on competitive selection. The agreement becomes effective by the consent of the President of Georgia.

4. Privatization of Tbilisi municipal property via direct selling aims at transfer of the ownership right to the buyer who fully and honestly fulfills the condition (conditions) specified for privatization of Tbilisi municipal property via direct selling and in case the privatization is conducted via direct selling based on competitive selection the privatization shall aim at transferring the ownership right to the interested person (a potential investor) who fully and honestly fulfills the condition (conditions) specified for privatization of Tbilisi municipal property via direct selling based on competitive selection.

5. By means of direct selling, Tbilisi municipal property may be acquired by Georgian or foreign individual or legal entity or an association of these persons wherein the share of Georgian State or Georgian Local Council is less than 25%.

#### Article 2. Privatization via direct selling based on competitive selection

1. Decision of privatization of Tbilisi municipal property via direct selling based on competitive selection is made by Tbilisi Government in agreement with the Government of Georgia.

2. Tbilisi Government forwards the proposals of interested persons to the Government of Georgia for consideration and the Government of Georgia shall decide on qualified candidate in view of interests of the city of Tbilisi and the presented proposals.

3. Tbilisi Government signs an agreement with the selected candidate for the municipal property, which is ascertained on the basis of competitive selection and submits it to the President of Georgia.

4. Decision on privatization of property via direct selling based on competitive selection and information about relevant preconditions are published in mass-media of national or/and international importance by Tbilisi Government and the deadline for submission of interests which, as a rule, may not be less than 1 month .

#### **Rules of determination of individual forms of privatization of State owned stocks and shares and their transfer from the Enterprise Management Agency to the management of other entities**

Approved by the decree #1–1/1596 of the Minister of Economy and Sustainable Development

October 01, 2010.

#### Article 1. General Provisions

2. The authority of partner (shareholder) of enterprise wherein the State owns shares is carried out by the National Agency for State Property Management.
3. Privatization of stocks and shares is accomplished in accordance with the Law of Georgia on State Property in the form of auction, direct selling, in accordance with the rules set forth in this law, via electronic or/and public auction or in the form of direct selling, shares or stocks or certified stocks directly or by the agent, in forms of public or private offer, also in the forms of appropriate offering in accordance with the established practice at the recognized foreign stock markets or at international capital markets for that time.

### **Law on Ownership of Agricultural Land**

March 22, 1996.

#### Article 1. Goal of the law

1. The law aims at:

- a) Legally ensure organization of farming industry and promotion of the agricultural structure based on rational use of land;
- b) Prevention of depletion of plots of land into small pieces and their inefficient use.

#### Article 3. The concept of agricultural plots of land

1. The land which in the Public Registry is registered as agricultural one and is used for producing plant and animal products – with or without auxiliary buildings on it - is considered to be an agricultural land.

#### Article 4. Ownership of agricultural land

1. The ownership right (including received in heritage) on agricultural land may be assigned to

- a) a Georgian citizen, household, a legal entity registered in Georgia by a Georgian citizen in accordance with Georgian legislation;
- b) a foreign citizen, a legal entity registered abroad, a legal entity registered in Georgia by a foreign citizen in accordance with Georgian legislation.

#### Article 6. The right to alienate agricultural land

1. Alienation of agricultural land in Georgia is allowed according to the regular rule as well as with application of general restrictions.

#### Article 19. Restrictions in the process of use and alienation of agricultural land

1. It is not allowed to use a plot of agricultural land for non-agricultural purpose except in cases provided by the law.

### **The rules of determination of the amount of service fee, payment terms and the period of providing a service by the Legal Entity of Public Law - Public Registry.**

Adopted by the decree # 509 of the Government of Georgia

December 29, 2011

#### Article 2. Period and the fees for the services provided by the Agency

1. Following period and following fees are determined for the services provided by the Agency:

- a) Registration of ownership right on immovable property, registration of obligations related to the ownership right on immovable property, registration of amendments to the obligations and registration of cancelation of obligations, changes of the border of State forest fund, as well as registration of the changes in the category of agricultural land and aimed purposes are carried out within 4 working days for 50 GEL, except the cases stipulated by these rules.

## Article 32. Accelerated Service

1. The Agency offers accelerated service during following period and for the following fees:

a) Registration of ownership right on an immovable property, registration of obligations related to the ownership right on immovable property, registration of amendments to the obligations and registration of cancelation of obligations, changes of the border of State forest fund, as well as registration of the changes of aimed purpose of the land and the category of agricultural land are carried out on the day of submission of application for 200 GEL; within one business day – for 150 GEL;

## Rules of conducting electronic auction on disposition and transfer to the use of State owned property

Approved by the decree #1–1/172 of the Minister of Economy and Sustainable Development of Georgia

February 10, 2011.

### Article 1. General Provisions

2. According to the Law of Georgia on the State Property, a decision on disposal/transfer to the use of State property via electronic auction is taken by the Legal Entity of Public Law - National Agency for State Property Management which is the part of the system of the Ministry of Economy and Sustainable Development of Georgia or acting within the authorization delegated by the Property Agency respective governmental bodies of the autonomous republics of Adjara and Abkhazia, except in the cases provided by the parts 3 and 4 of this article.

3. A decision on disposal of State owned movable property (hereinafter – movable property) via electronic auction is taken by the State body or legal entity of public law to whom the property was recorded in the balance or/and has been transferred to the use.

4. A decision on transfer to the use of State owned immovable property is taken by the State body or legal entity of public law to which the immovable property has been transferred to the use.

4<sup>1</sup>. A decision on transfer of State owned stocks and shares is taken by the Property Agency.



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