

ITP Research Form

ITP: **Russia 2010**

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Paper Title: A Generation of Russian Privatization: 1991-2010

Abstract:

The Soviet Union dissolved in 1991. This unprecedented event precipitated a sizeable transition to a market economy, and prerequisite efforts to privatize governmental enterprises. This research paper studies the first twenty years of Russian privatization, from the fall of the Soviet Union on Christmas Day, December 25, 1991, through the present day.

After a brief Introduction in Part I, Part II of this paper begins with an examination of the history of, and initial context for, privatization. It specifically focuses on (1) *perestroika* (immediately preceding the outset of the privatization process); (2) the “voucher privatization” approach; and (3) the loans-for-shares program. Thereafter, Part II addresses various competing economic and social policies, which influenced privatization in its early days.

Part III looks at the various corporate laws developed to support the privatization efforts. It discusses three topics in depth: (1) the development of property rights; (2) the evolution of contracts; and (3) the emergence of Russian corporate governance. Privatization could not have occurred in a vacuum; almost immediately following the fall of Soviet Union, the Russian Duma passed various noteworthy enactments to complement the transition to a modern market economy. However, the immediate realities of enforcement did not match the comprehensive aspirations of that reformist legislation. Part III chronicles how Russia spent much of the past two decades refining its enforcement process.

Part IV explores the emerging phenomenon of public-private partnerships, which primarily serve to rectify deficiencies in purely private infrastructural investment. It presents (1) the legal frameworks for these types of partnerships, at both the (a) federal and (b) regional levels; (2) jurisdictional issues pertaining to public-private partnership activities; and (3) national security limitations. Part IV also offers a comparative evaluation of public-private partnerships with state actors in Russia to partnerships with state actors in the United States. Finally, it acknowledges shortcomings to current public-private partnership legal frameworks in Russia, and proposes potential solutions.

Part V reviews the evolution of the *arbitrazh* court system – the Russian commercial courts. The rule of law is essential to ongoing privatization efforts and to a well-functioning economy; and, *arbitrazh* courts are at the heart of the corporate legal system. Russia has undertaken significant steps to modernize its court system, specifically in (1) formalizing its court procedures; and (2) organizing its courts by specialization. Part V then considers the future outlook for Russian *arbitrazh* courts.

Part VI examines Russia’s burgeoning commercial arbitration culture. In Russia, there are several commonly used alternative dispute resolution fora: (1) the ICC; (2) the LCIA; (3) the International Commercial Arbitration Court of the Russian Federation; and (4) the Arbitration

Court at the Moscow Chamber of Commerce and Industry. Part VI further analyzes the legal bases for arbitral awards in Russia, and spotlights their inconsistent, albeit improving, enforcement.