

STATE PROPERTY MANAGEMENT IN SUPPORT OF REGIONAL DEVELOPMENT

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Introduction

The right to property is always inextricably linked to the state. By its legal system, it regulates the property and creates the rules under which the various rights stemming from ownership are exercised – public and private. The right to property is the exclusive authority to determine how a resource will be used, whether the resource is owned by the government or an individual.

Establishing and protecting property rights is one of the most complex sets of issues that any society must resolve in any way. Property is a central concept in the social sphere at large and can be represented very widely – as a social and economic phenomenon, and as a faithful expression of a civilization development (Larroumet, 2006).

The current issue is determined by the fact that since 1989 the provisions related to the management and protection of the state property have changed. In the economic and legal literature, there are no comprehensive surveys on the state of state property. Its relationship and influence on regional development is still a scarcely studied scientific-applied issue.

Ownership is undoubtedly a wider concept than the right to property as an objective and subjective right that the law governs. The 1991 Constitution of the Republic of Bulgaria distinguishes the ownership of public and private and defines the sites which are state property. The State Property Act and the Municipal Property Act 1996 introduced a distinction between public and private state, respectively public and private municipal property.

The purpose of the survey is to analyze the characteristics of state property management, to make proposals for more efficient use and management of state-owned properties, to stimulate a higher level of regional development.

To accomplish the goal, the following tasks are set:

First, to systematize the essential characteristics of ownership as a basic economic category and to distinguish its typology and scope.

Second, to clarify the structural and substantive elements of public state property.

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Third, to conduct a research analysis of the state property management, using selected problem areas with an impact on regional development.

Fourth, to provide guidance and suggestions for improving the process of state property management.

Major research thesis is that available State property on the territory of the country can be managed more efficiently, with the added value achieved in this improved exploitation process contributing to the development of the regions in Bulgaria.

The methodological toolbox of the study involves the use of a systematic method, a formal-logical and deductive method. Their integrated use allows to deduce some essential characteristics of public and private state property, according to the general theoretical state of ownership. In addition, a non-representative documentary study of publicly available empirical information was published, published on the electronic pages of the institutions responsible for the management of state property at national and regional level.

The conceptual basis of property in the management of the economic system

In pursuit of classical theoretical research, an attempt to define property suggests that it is " an economic category that characterizes a protected (relative to other subjects of property) relation of a person (or group) to productive forces (land, means of production, labor, information, goods, services, etc.). The relationship of the subject of ownership to its object is that the object serves as a means of establishing the differentiated social position of the subject in accordance with his circle of interests "(Mateev, 2015, p.169). The above definition limits the subject matter of the property institution to the productive forces (including the product), and also limits the scope of the property category. This range corresponds to the main category of property that characterizes the public production process. But this basic category is growing in the course of its consolidation and development in a broader category: it adds to productive forces (including the product) as an object and extra elements of extra-productive character. For example – ownership of various rights related to some or other moral norms and interests.

To the general characteristic of ownership as a socio-economic category should be added the signs that make the ownership public (Mateev, 2015, p.301). The mechanism of management of the economic system based on public property implies the ownership of a community (by individuals) on the means of production of goods and services.

The property of a subject of public ownership defines it as a multiplicity of communities (individuals) that act on the same territory, there is a territorially defined community which, on a certain scale, is also national, not in an ethnic

but an economic sense. A criterion for optimizing the use of public property is public (group) interest in the production of a national (or territorial) final product, with full employment per unit of public working time. A sign that is inherent in public ownership is the so-called integrated type of management, for the benefit of society as a whole.

Historical review of the development of public property

Public property was already known in Roman law. With its perception of continental Europe, a number of Western European laws also govern the state property institute.

The Roman legal concept of the division of the right of property in public and private is preserved, as well as the distinction in the state and public property regime (Andreev, 1992; Venedikov, 1999).

Most European laws contain constitutional regulation of the types of property and objects of the various property regimes, but there are also states where the public property arrangement is a set of specific legislative decisions in the matter. For example, in Germany there is no explicit constitutional division of ownership of public and private ownership, but in the process of legislative regulation at the federal level there is an indication in individual cases of which items are public.

The definition of property in Bulgaria is governed by the constitutional regulation of public state property, which is consistently opened in the 1879 Constitution of Turnovo, the Constitution of 1947, the Constitution of 1971 and the Constitution of the Republic of Bulgaria since 1991.

The first constitution of Bulgaria is the Constitution of the Bulgarian Principality, widely known as the Turnovo Constitution. It was adopted on 16 April 1879 by the Constituent National Assembly in Veliko Turnovo. According to this supreme law, Bulgaria's first law, "State property belongs to the Bulgarian Principality and cannot be enjoyed by either the Prince or his relatives. The manner in which the properties themselves will be surrendered and pledged, as well as the disposal of their proceeds, shall be determined by law. State property is managed by an appropriate Minister."

The Constitution of the People's Republic of Bulgaria dated 6 December 1947 stipulates that "the means of production in the People's Republic of Bulgaria belong to the state (general property), to the cooperatives or to the private individuals or legal entities. International ownership is the mainstay of the state in the development of the national economy and enjoys special protection. The state can manage alone or relinquish the management of the means of production in its hands. The state supports and encourages cooperative associations. The land belongs to those who process it. Private property and its inheritance, as well as private dwellings on the holding, are recognized and protected by law.

The private property acquired through labor and saving and its inheritance enjoy special protection. No one can exercise the right to property to the detriment of the public interest. Private monopoly agreements and associations, such as cartels, trusts and affiliates, are prohibited. Private property may be restricted or expropriated only for public or public benefit against fair compensation."

The Constitution of the Republic of Bulgaria of 18 May 1971 states that "Ownership in the Republic of Bulgaria is: state, municipal, cooperative, property of public organizations, other legal entities, private and personal property of citizens and mixed. The types of property enjoy the same legal protection and equal opportunities for development. State property constitutes a common fund. Underground wealth, natural sources of energy, nuclear energy, rail transport, post offices, telegraphs, telephones, radio, television, and forests, water and roads of national importance are state-owned only. Municipal property are the forests located on the territory of the municipality, natural pastures, quarry fields, water sources and roads, as well as other sites designated by law. Co-operative property belongs to working groups, united on a voluntary basis for cooperative activities, cooperative unions and inter-operative organizations. Ownership of public organizations serves to achieve their goals, including the realization of their activities by state bodies as well as the fulfillment of public interests. Citizens of the Republic of Bulgaria have the right to property in order to satisfy their needs and their families and to carry out economic activities. The right to property may be burdensome or restricted only by law or with the consent of the owner. Property and other property rights cannot be exercised to the detriment of the public interest."

The Constitution of the Republic of Bulgaria of 13 July 1991 (Article 17, par. 2-4) distinguishes the ownership of public and private and defines the objects which are exclusively state property. According to the current Supreme Law of our country, "The right to property and inheritance is guaranteed and protected by law. Ownership is private and public. Private property is inviolable. The regime of the objects of state and municipal property is determined by law. Forcible expropriation of property for state and municipal needs may be done only on the basis of a law provided that such needs cannot be satisfied in another way and after prior and equivalent compensation. State property is managed and managed in the interests of citizens and society." The Constitution explicitly defines objects that are exclusive state property, as well as those objects on which the state exercises sovereign rights.

The Property Act (art.6-7) qualifies the ownership of the state and the municipalities as public and private. The regime of the objects of state and municipal property is determined by separate laws. Ownership belongs to the state, municipalities, cooperatives and other legal entities and citizens. All types of property have the same opportunities for development and protection. The

State Property Act and the Municipal Property Act 1996 introduced a distinction between public and private state or municipal property respectively.

Typology of State Property

Different forms of property are differentiated according to the different subject of ownership. Common (freely available) property is observed when no economic agent has the right to possess a limited resource. Access to such property is free for everyone and no one can be excluded from using the resource. No economy would be viable if all its resources were publicly available.

Collective (municipal) property can be defined as being related to state property. It is observed when a society (territorially distinct) possesses a resource, does not allow external agents to it and controls its use by domestic members. For collective property, the coherence between benefit-sharing rules and cost allocation rules is very important.

State property, as a variety of publicly available property, is distinguished in most European countries as public state and private state property. Whatever type of state property, however, unlike collective property, its exploitation can not be regulated by informal norms and rules.

The term "public property" is generic and includes: state and municipal property. The differences between public and private property are manifested in a number of features related to their origin, limitation, exercise and protection. Differences between public and private ownership also exist in terms of the conditions under which their economic realization should take place.

The criteria for distinguishing ownership of public and private property relate to the nature of the entity, the owner of the property, the type of property – the object of ownership and, last but not least, the nature of the purpose of the property owned by the property.

An important distinction of state property is the division, according to Article 2, paragraph 1 of the State Property Act, according to which a provision state property is also classified in public and private, different types of state-owned objects may be in public or private ownership. It should be borne in mind that private state property is not a variant of private ownership in the commonly accepted sense. This is a terminological but not a meaningful similarity. Two main differences are addressed in this respect.

Firstly, while the holder of private ownership may be a natural or legal person, the holder of the right to public or private state property may be the State only as a system of state bodies. Only through its organs can the state be subject to the right of public or private state property.

Secondly, the legal regime of private property is governed by the general civil law of the Republic of Bulgaria – the Property Act; The Law on Obligations and

Contracts, etc., and the legal regime of state property is subject to regulation by special laws and by-laws: The State Property Act, the Rules for its Implementation and others. General civil law applies to privately owned state only when those specific regulations refer to it or where there are gaps and the application of the general regime is not expressly forbidden.

The norm of Art. 17, par. 2 of the Constitution, which states that the property is private and public, does not specify the criterion of differentiation. In order to define public ownership, three basic questions should be answered – who is the subject of this property; what are the objects that are subject to this property right, and what their purpose is (Atanasova, 2011).

The specificity of Public State Property

The peculiarities of public state property imply a consistent examination of the specifics of the state as a subject of public state property, the characteristics of the objects of this law and their purpose. Every subjective right belongs to a specific subject of civil law. The problem of state property is who is the legal bearer of this right, since the state is a comprehensive compilation of society, a political organization of the people. Who is the holder of the state property right – the state as a civilian entity or the people as the social content of the state. Ownership powers stemming from the state property right actually acquire their objective exercise in the hands of certain state bodies. The state power is exercised by the people through the bodies provided by the Constitution of the Republic of Bulgaria (Article 1, paragraph 2 of the Constitution).

The state is a multi-branch legal entity, so when deciding on its quality, participating in different legal relationships, the approach should always be individual. The state, as a civil rights holder, participates as an equal partner in civil and property relations respectively (Atanasova, 2011). Legislatively, there is a level playing field between the State and private law entities in relation to the acquisition, protection and disposal of real estate property.

However, the state can influence its ownership and non-civil law assets. This impact could find its forms of manifestation in various aspects such as:

- the emergence of state property – this can be done not only through the classic means of civil law but also by the actions of the state, which are the expression of the authority of authority, such as actions for the compulsory expropriation of private property on the basis of a detailed structural a plan by virtue of which private ownership is intended to meet state needs and property acquires the status of public state property;
- the exercise of ownership by the state could also take place through legal means outside the scope of civil law, such as its powers to establish a regime and organization in respect of the management of state property;

- the protection of state property can also be achieved through administrative means.

This specificity of state property is most clearly demonstrated by the fixed privileged regime established with a view to protecting the public interest with regard to exhaustively listed objects of public state property. Pursuant to Art. 7, par. 1 of the State Property Act, the property and the property, public state property, are excluded from the civil turnover "they cannot be subject to disposition and become acquitted".

Apart from the specific means of influencing the state in terms of its ownership, however, it remains an equal subject in the ownership relations. In exercising the principle of equality, it is wrong to consider that the State as a subject of property rights, by exercising management and disposing of its rights, acts in the position of a person with authority. In its relations with the other subjects in this case, the State is subject to the same principles as other civil law entities. By entering into a civil relationship with other natural or legal persons, acting through its representative bodies, the State acts as a civil law entity. The rules for the management and disposal of state property refer only to the way in which the state wishes to form and express a declaration of interest in the performance of civil law transactions. With respect to the other subjects of law, dispensing with their property, the state is an equal civil entity.

Along with the authority of its media, public ownership differs from the private one for its purpose. In Art. 18, par. 6 of the Constitution provides that state property is managed and managed in the interests of citizens and society, and according to Art. 140 the municipality has the right to own property which it uses in the interest of the territorial community.

When comparing the two norms, the difference between "property" and "ownership" is irrelevant. The essence of both texts is that the ownership of the state and the municipalities serves public interests that are not satisfied with the ownership of citizens and legal entities. The difference between a state and a municipality predetermined the editorial difference in determining the interest of using both types of property. But this interest, according to both norms, is a public interest.

Apart from the subject and legally liable persons, public state property is also characterized by its objects. In order for public property to exist, it is not enough for the entity to be the holder of government powers. Public is ownership of the state serving public interests that cannot be satisfied by the ownership of other legal entities.

However, only part of the property owned by the state and the municipalities is their public property. What matters is the type of property and its purpose. Exclusive state property whose sites are listed in Article 18, par. 1 of the Constitution is public property of the State [1]. Because of the importance they have, the assets

under Article 18 (1) may belong to the State only, the constitutional obligation to not alienate them shall be encumbered. The universal benefit of these sites is so obvious that the constitutional legislator considered it necessary to provide it to everyone.

Public property is also the objects on which the state exercises sovereign rights and those on which a state monopoly is established [2]. In addition to the provisions of Article 18 of the Constitution, the state property is also the property designated by law or an act of the Council of Ministers for public state property; movables determined by law or an act of the Council of Ministers for public state property; the properties provided to the departments for the performance of their functions; properties of national importance, designed for the permanent satisfaction of public needs of national importance through common use, determined by the Council of Ministers; the regulated landed properties assigned to the border checkpoints and the buildings built on them (Article 2 of the State Property Act).

Exploratory Analysis of State Property Management

The analysis is based on the publicly available information, published on the websites of the Ministry of Regional Development and Public Works, the Ministry of Finance and electronic resources of the regional administrations, through the registers of the State-owned state property managed by the regional governors. Without claiming completeness, some key problem areas are being addressed, which interact to the greatest extent and influence the effectiveness of regional policy and regional development.

Drawing of state property acts and their writing off from state property registers

District administrations do not have accurate, complete and comprehensive information on state-owned properties. This is an obstacle to analyzing their status on the territory of each area.

According to the available information, the process of separating the state from the municipal property continues. The derecognized acts of state ownership by the regional governors for the location of the properties in favor of the municipalities at their requested request are insignificant in number, which leads to the conclusion that there is a practice in the municipalities to draw up municipal property acts for properties which have already drawn up acts for state property without requiring them to be written off.

The activity of updating all properties – public and private state property – is not completed. This is a result of non-compliance with the statutory requirements

of municipalities for handing over the state property documentation to the district administrations according to their location.

The state property acts made by the regional administrations do not always contain the information related to the registration of the orders issued by the regional governors or the Minister of Regional Development and Public Works which orders the derecognition of properties or parts of properties owned by state property from the state property books, property has been restored under restitution laws or otherwise.

In the acts drawn up for the state-owned property, the actions for the granting of the property or parts thereof to concession, as well as the changes related to their management, are not reflected. Also, the actions related to the disposal of state-owned estates, with which dispositions have been carried out – liquidation of joint ownership, exchanges, divisions, sales, as well as the establishment of limited real rights between the regional governors and natural or legal persons, municipalities and others.

Providing Property Management for State Property

It is difficult to draw a conclusion about the status of state property at a certain point due to the large volume and the diversity of the purpose of the properties. There is no systematic information about the functional status of properties, as well as statutory criteria for assessing this condition.

The state property of state-owned state property, bestowed to agencies for the fulfillment of their functions, is the best, due to the relatively frequent maintenance and maintenance activities and the annual pledging of funds in their budgets. It is difficult to make unmistakable conclusions for built-up properties, private state property, which requires action by the authorities having the authority to implement the state policy for management and supervision of the state property to check and summarize the data with a view to taking measures to optimize their status.

There is no systematic information on the status of properties with specific features or features representing cultural monuments, museums, public buildings, housing, studios, garages and farm buildings. Regarding non-built-up properties in urban territories, structured information on their state and prospects for future development as well as a vision for their effective management is not available.

State-funded institutions and legal entities should manage their property in accordance with its purpose for the needs for which it is provided with the care of a good owner, to provide funds on their budgets and to take all necessary measures for the maintenance and repair of the property, make improvements, and carry out energy efficiency improvement activities. The law, however, obliges them to insure only built-up properties possessing the status of public state property, but

in respect of property – private state property, the legislator has not provided such obligations.

As an instrument for effective management, institutions can rent properties or parts of them under the State Property Act and its Implementation Rules, and that is entirely sufficient in terms of public state property provided for the performance of the functions of the agencies. However, in the case of privately-owned properties, as well as public property owned by the state, apart from the above, more flexible management approaches could be taken to cope with the dynamics of modern economic realities and to support the processes of Regional Development.

Rental of state-owned properties

There is no systematized information available on contracts with which properties or parts of properties are leased to individual departments and district administrations. There is no evidence of systematic control of compliance with contract clauses, as well as the way tenants maintain their properties and the extent to which they do not lease them.

The rental price that the political parties owe for their properties is the amount of the depreciation allowances and the operational costs are added to it. The rental price and the operating costs in all cases are liabilities on separate grounds and result from legal relationships and should be legally differentiated because the rental price created under this line is extremely low. Nonetheless, there is often a failure to observe the obligations of political parties over a long period of time and a lack of sanctions on the part of public authorities having the power to terminate the legal relationship.

Administrative control by district governors

Due to the lack of financial resources, the execution of the orders of the regional governor under Art. 80 of the State Ownership Act is very often fictitious. The seizure of the property should end with the property of the district governor, respectively the head of the department, on whose initiative the administrative proceedings started. In practice, enforcement is limited to restricting access to state property and a subsequent release procedure. In this way, the state is limited in terms of the use of the property.

Another problem that is observed is that if the property is released, it remains free over a long period of time. In this period unscrupulous persons enter the property, which leads to the necessity of intervention of the prosecutor's office and a subsequent long period of release of the property, including re-launch of the mentioned procedure under Art. 80 of the State Property Act.

Results of the research analysis and guidelines for improving the management of state property

On the basis of the analysis carried out, it can be summarized that there are problems in the management and disposal of state-owned properties with regard to:

- Lack of sufficient financial resources for conducting an active policy for state property management;
- Deficit of transparency and public awareness of the disposal and management of state-owned properties;
- Existence of multiple normative acts regulating the matter and adopting different approaches in properties with different purposes;
- Inadequate staff resources in the administrations with functions of management, updating, supervision and disposal of properties-state property.

The state property management in Bulgaria is attended by bodies at national, regional and local level, in the person of the Minister of Regional Development and Public Works, the regional governors, the municipal councils and the mayors of the municipalities. It is necessary to achieve greater transparency in the actions of the authorities and the administrative units that assist them in the rental of real estates or parts of state-owned properties and when conducting procedures for disposal of such properties. Public confidence in institutions would be enhanced by creating guarantees for transparency and accountability in government decision-making on state property.

The implementation of higher efficiency in the use of state-owned properties could be achieved if in the process of management of state property, the collective bodies for regional development management are also involved: *regional development councils* and/or *district development councils*. The members of these public-consultative bodies are set on a quota basis by the existing administrative and constitutional bodies (Law on Regional Development, Art. 18, Art. 22).

In a specific aspect, it is proposed to assign regional and/or district councils functions related to monitoring and control over the state and management of available state property on the territory of the respective regions and/or districts. In this way, it is possible to systematize information on available real estate at a regional level, to monitor their management or dedication to meet regional needs.

Through regional and/or district development councils, district governors (who are members of both collective bodies) may be able to summarize and present on a regular basis at regional and/or district development councils an analysis of the status of state property and the rights granted to them.

As a final result of the existing situation, there is also the objective need to develop a National Property Management Strategy, state property. The main objective to be achieved is to protect and protect state property by improving

the actions of the competent authorities with powers related to the management, supervision, updating and disposal of state-owned properties.

The adoption of a common strategic framework for actions will help improve procedures and administer state ownership management, improve coordination between the responsible institutions, mobilize and strengthen administrative and expertise capacities and, last but not least, raise citizens' awareness and confidence.

Conclusion

The management of state property presupposes a complex of measures aimed on the one hand to permanently satisfy public needs of national and regional importance for realization of projects of public significance and on the other hand to satisfy the administrative needs of different public institutions and organizations. Improvement of the management and disposal of state-owned properties should be done in accordance with constitutional and statutory principles.

As a result of the analysis, deficits and weaknesses are identified in the drafting of state property acts and their writing away from the state property records; providing for the management and letting of state property; in the exercise of administrative control by the district governors.

Improved state property management can provide added value to support a higher level of regional development if action is taken to reform the system. These actions should aim to unite efforts to create a common strategy for the management of state property and to directly involve the collective bodies in the management of regional development by monitoring and controlling the state and management of available state property on the territory of regions concerned.

Such measures would contribute to ensuring greater publicity and awareness of citizens, providing support for increased investment activity, opportunities for public-private partnerships, and involving citizens in the development of the area in which they live.

Notes:

[1] Constitution, Art. 18. (1) The underground natural resources, the coastal beach, the republic roads, as well as the waters, forests and parks of national significance, the natural and archeological reserves, determined by law, are exclusive state property.

[2] Constitution, Art. (4) A state monopoly on the railway transport, the national postal and telecommunications networks, the use of nuclear energy, the production of radioactive products, weapons, explosive and biologically active substances may be established by law.

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Abstract

State Property Management is a comprehensive and structured approach to long-term property management as a tool for efficient and effective delivery of public services and goods in support of a higher quality of life and the well-being of citizens. The publication explores the theoretical and practical-applied issues related to the management of state property by clarifying its theoretical-methodological basis and evolutionary development, focusing on the specificity of public state property. An attempt is made for problem-oriented analysis of the existing deficits in selected key problem areas of activity, which interact to the greatest extent and influence the effectiveness of the implemented regional policy and the development of the regions. Suggested guidelines for improving State Property Management for more effective regional development.

Key words: State property, regional development, management, regional policy

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