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The Role and Place of the Property of the Treasury of the Russian Federation and the State Treasury of the Subjects in the Management of the Public Sector of the Economy Both in the Regions and in the Country as a Whole

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ABSTRACT

The article is devoted to ways and means of solving the problem of organizing professional management of treasury facilities of the Russian Federation in the light of the goals and objectives defined by the State Program "Federal Property Management" approved by the Government of the Russian Federation, aimed at reducing treasury facilities not involved in economic turnover. The **purpose** of the work is to propose ways of organizing a management mechanism aimed at reducing the number of treasury facilities by involving these facilities in economic turnover, as well as assigning them to the profiles of enterprises and organizations of the core business. The ways and mechanisms of management presented by the authors include the methods permitting to reduce and prevent the further increase in the number of objects withdrawn from economic circulation or turnover and remaining outside the professional and specialized management within the existing regulatory and legislative rules and restrictions. The proposed ways and methods of management can allow the maximum number of treasury objects to be involved in economic turnover or assigned to specialized organizations in the shortest possible time. Federally owned objects that cannot be involved in economic turnover due to the loss of physical properties, have not aroused interest among the regions and for private investors, should be assigned to specialized organizations for write-off, disposal or professional conservation at the expense of federal budget funds completed. A number of the described methods are used in the implementation of the State Program "Federal Property Management".

Keywords: property of the state treasury of the Russian Federation; property of the state treasury of the subjects of the Russian Federation; management of the public sector of the economy; federal budget funds, transfer to another level of ownership; privatization; involvement in economic turnover

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INTRODUCTION

In accordance with Article 214 of the Civil Code of the Russian Federation, the treasury of the Russian Federation, the treasury of a republic within the Russian Federation, the treasury of a territory, region, city of federal significance, autonomous region, autonomous district represents the funds of the respective budgets and other state property not assigned to state enterprises and institutions.¹

Annex No. 1 to the Resolution No. 3020–1 of the Supreme Council of the Russian Federation of 27.12.1991 defines the property constituting the treasury of the Russian Federation: these are the funds of the federal budget, the Pension Fund of the Russian Federation, the Social Insurance Fund and other state extra-budgetary funds of the Russian Federation, the Central Bank of the Russian Federation, the gold reserve, diamond, and currency funds.² The Federal Treasury of the Russian Federation, in accordance with its Regulations, organises and conducts operations to account for the state treasury of the Russian Federation.³

At the same time, based on the definition of the treasury given in the Civil Code of the Russian Federation and the Budget Code of the Russian Federation, in addition to the above-mentioned funds, the treasury includes movable and immovable property not assigned under the right of operational management to federal executive authorities, subordinate institutions, state-owned enterprises, as well

as under the right of economic management to federal state unitary enterprises.⁴

This property is held in the treasury and is managed at the federal level by the Federal Agency for State Property Management,⁵ and at the level of constituent entities by the relevant state structures. At the same time, certain federal executive bodies, such as the Ministry of Defence of the Russian Federation, the Office of the President of the Russian Federation, the Federal Agency for River and Sea Transport, and Rosreserve, are entrusted with the functions of managing the property of the Treasury for their respective functional purpose. The relevant ministries and departments also manage property constituting state secrets.

It should be noted that the Russian Federation has not adopted unified legislative and regulatory legal acts defining the procedure for attributing its objects and subjects to the treasury, there is no procedure for: mandatory assignment of the property of the treasury to state executive authorities or to enterprises and institutions subordinate to them; mandatory transfer of the property to another regional level of executive authority; budget financing of maintenance and management of the property of the treasury, its retirement, write-off and disposal.

This leads to the fact that, for example, the treasury of the Russian Federation holds property that, by its functional purpose, should be assigned to the relevant executive authorities and, accordingly, cannot be professionally managed. The property does not receive the necessary and sufficient budget financing, so the executive authorities

¹ Civil Code of the Russian Federation (CC RF) from 30.11.1994 No. 51-FL. Part 1, Chapter II, Section 13, Article 214. URL: https://www.consultant.ru/document/cons_doc_LAW_5142/c1923b21971e5b9356fe86b94d3beef0a1747f7c/?ysclid=lgurxjfbt2601786127

² Annex 1 to the Decree of the Supreme Council of the Russian Federation of 27.12.1991 No. 3020–1. URL: https://www.consultant.ru/document/cons_doc_LAW_208/5eba4eb5882a9057edfb1ccbda86eb416140fe87/

³ Provisions on the Federal Treasury. URL: <https://roskazna.gov.ru/o-kaznachejstve/polozhenie-o-federalnom-kaznachejstve/?ysclid=lgxtee9wsh349783412>

⁴ Budget Code of the Russian Federation (BC RF). URL: https://www.consultant.ru/document/cons_doc_LAW_19702/?ysclid=lgxu5s7mrn204974327

⁵ Federal Agency for State Property Management (Rosimushchestvo). URL: <https://rosim.gov.ru/?ysclid=lgusgsbdw1182158849>

try to avoid its assignment under all sorts of pretexts.

For a significant number of treasury objects, court decisions have been taken or orders of the prosecutor's office have been received regarding the restoration of their (for example, civil defence facilities) consumer properties, repair, preservation. An illustration may be the ruling of the Arbitration Court of St. Petersburg and the Leningrad Region dated 26.04.2018 in case No. A56 61688/2010, which satisfied the claims of the bankruptcy trustee (insolvency practitioner) of JSC "Leningradslanets" to oblige the interregional territorial department of the Federal Property Management Agency in St. Petersburg and the Leningrad Region to take into federal ownership from the bankruptcy trustee the objects of JSC "Leningradslanets", which are part of the mine "Leningradskaya" (40 items), which were previously held in private ownership.

Under such conditions, sufficient funding is not allocated, and the management of property management bodies face heavy fines or even criminal prosecution for failure to comply with court decisions and prosecutor's orders, although they are only hostages of the prevailing circumstances. The situation is aggravated by the fact that these properties often belong to different hazard classes and require professional management work to prevent environmental and man-made disasters.

The situation begins to change dramatically when the relevant instructions are issued and control is established by the President of the Russian Federation, as was the case in Usolye-Sibirskoye in the Irkutsk Region in 2020, when all regional and federal authorities, relevant enterprises and institutions were involved in preventing an environmental disaster.

It should be noted that a number of constituent entities: the Altay, Krasnodar,

Krasnoyarsk and Primorsky Territories, the Sverdlovsk and Chelyabinsk Regions and the city of Moscow have adopted regional laws on the treasury.⁶ Moreover, the list of property that belongs to the treasury of the constituent entity is contained in only five legislative acts. In the Orel Region there is a resolution of the Collegium of Administration of 17.03.2003 No. 43 "On Creation of the Treasury of the Orel Region"⁷ [1, 2].

O. I. Korotkova notes that "the treasury of the Orel region consists of regional budget funds, other movable and immovable property not assigned to regional enterprises and institutions on the right of economic management or operational management, land plots not assigned under the contract of lease, permanent perpetual use, which belong to the Orel region on the right of ownership" [2].

From our point of view, we cannot agree with such a definition with regard to land plots, because when they are leased or transferred for permanent perpetual use, they are not withdrawn from the treasury, as they are not assigned to the right of operational management or economic management, as required by Article 214 of the Civil Code of the Russian Federation. We believe that in this case it is appropriate to follow the examples when leased or donated

⁶ Law of 12.11.1997 No. 62-LS "On the Treasury of the Altai Region". Collection of Legislation of the Altai Region. 1997;19(39):94; Law of 11.10.2005 No. 930-KL "On the Treasury of Krasnodar Region". Informational bulletin of the Krasnodar Region Law Council. 2005;(35); Law of 10.10.1996 No. 11-341 "On the State Treasury of Krasnoyarsk Region". Krasnoyarsk Worker. 1996;(209-210); Law of 22.11.1999 No. 31-03 "On the state treasury of the Sverdlovsk region". Collection of Legislation of the Sverdlovsk Region. 1999;(11); Law of 07.05.2002 № 80-30 "On the property in the state treasury of the Chelyabinsk region". Bulletin of the Law Council of the Chelyabinsk region. 2002;(5).

⁷ Resolution of the Board of Administration of the Oryol Region of 17.03.2003 No. 43 "On the Creation of the Treasury of the Oryol Region". URL: <https://docs.cntd.ru/document/974205296?ysclid=lguwg9b4k2433702309>

real estate objects are not withdrawn from the treasury.

According to the data of the open part of the Register of Federal Property, maintained in accordance with the Resolution of the Government of the Russian Federation of 16.07.2007 No. 447 “On Improvement of Federal Property Accounting”, there are about one hundred thousand objects in the treasury of the Russian Federation.⁸ As of the beginning of 2021, about 30% of them were the objects of civil defence protective structures, 11% — subsoil use, 7% — cultural heritage, including religious, 5% — housing stock, 1.3% — hydraulic structures, 0.3% — objects of unfinished construction, confiscated marine vessels, especially dangerous objects. More than 20 per cent are under lease, free-of-charge use or trust management.

Based on economic state interests, it is obvious that the number of treasury objects should be reduced by assigning property to the relevant federal executive authorities and their subordinate organisations; in case of the need of the constituent entities of the Russian Federation — through transfer to another level of ownership, sale of property for which there is no state demand, write-off and disposal of property that cannot be used due to complete moral and physical wear and tear, obsolescence, depreciation and so on.

The largest part of the treasury consists of civil defence facilities, both free-standing structures and basements of residential buildings. A significant number of them have long lost their consumer properties, many of them have orders from the prosecutor’s office and court decisions to bring them to a standard condition. Protection of the population in emergency situations is the most important state task, therefore the

existing system of management of this real estate needs to be revised.

First of all, the current legislation assigns the function of sheltering the population in emergency situations to territorial authorities; it also provides for the housing stock to be in regional ownership. Therefore, it is logical that all protective facilities located in residential buildings should be automatically transferred to the level of the entities.

For each region there are standards for providing the population with protective facilities, so the latter, which are in the treasury, should be transferred to another level of ownership in order to achieve the established standard. This does not happen because regional authorities are afraid of increasing the burden on their budgets by spending both on putting protective facilities on cadastral registration and on bringing them into a normative condition. At the same time, we should expect positive developments in this direction, as the President of the Russian Federation issued an instruction to ensure the transfer of protective facilities to the regional level of ownership in 2022.

It is not expedient to carry out cadastral works for them, since all the necessary information is contained in the relevant object passports and additional budget expenditures are unnecessary. In 2021, the current legislation was amended to enshrine this approach, which will save both federal and regional budget funds.

As for the restoration of consumer properties, since sheltering the population is the most important national task, these works should be carried out as soon as possible with the involvement of federal and regional budget funds, as well as extra-budgetary funds of organisations, including those operating protective structures for commercial needs.

A number of facilities should be assigned to federal executive authorities for the

⁸ URL: <https://base.garant.ru/12155220/?ysclid=lguwqhqi9kf779616020>

organisation and maintenance of emergency control points, and to federal institutions and enterprises — for the possibility of sheltering personnel in case of emergencies. Structures that have completely lost their consumer properties without the possibility of their restoration or in cases of inexpediency of the latter may be removed from the register by decision of the interdepartmental commission.

The remaining facilities should, of course, find a right holder in the person of the Ministry of Emergency Situations or subordinate organisations to carry out professional management and maintenance in a normative condition. This is the purpose of the relevant instruction of the President of the Russian Federation.

A significant share of the treasury consists of subsoil use objects: water, gas and oil wells that were cycled out, mines, which, from our point of view, cannot be in the treasury. Their condition is subject to constant professional monitoring, and many of them must be properly mothballed. Water wells require constant operation and water intake [21–25].

According to clause 8.1. of Article 22 of the Federal Law No. 2395–1 dated 21.02.1992 “On Subsoil”, subsoil users ensure the safety of all production facilities in the licence area, therefore all wells and mines should be assigned to those of them who hold licences to develop the respective areas regardless of the fact that many facilities may have been decommissioned prior to the entry into force of the said Law.⁹ Water wells are required to have an operator, and the rest should be assigned to organisations under the jurisdiction of the Ministry of Natural Resources, “Rosnedra”, or transferred to PJSC “Rosgeologiya” to organise professional

management of the said facilities and to carry out continuous monitoring.

Coal mines in the treasury should be assigned to the enterprises of the Ministry of Energy or transferred to another level of ownership for conservation and monitoring of their condition, even if they have ended up in the treasury on the basis of court decisions after exploitation by private organisations that, due to predatory and unprofessional exploitation, have brought the adjacent territories to the brink of ecological disaster.

For example, the previously mentioned ruling of the Arbitration Court of St. Petersburg and the Leningrad Region of 26.04.2018 satisfied the claims of the bankruptcy trustee of JSC “Leningradslanets” on the obligation to accept into federal ownership from the bankruptcy trustee the facilities of JSC “Leningradslanets”, which are part of the mine “Leningradskaya”, decommissioned by the private owner by flooding with water, which threatens nearby areas.

The problem can be solved in two ways. The first way is to assign the property to a federal budgetary institution of the Ministry of Energy specialising in reclamation of mine territories. But this raises the issue of budget financing of this work, which is quite problematic. The second way is to transfer the facilities to another level of ownership and assign them to a regional organisation in order to reclaim them within the framework of the federal project “Clean Country” implemented through the mechanism of granting subsidies for co-financing of relevant environmental protection measures to the constituent entities of the Russian Federation.

A significant place in the treasury is occupied by objects of the housing fund: flats, residential buildings and premises, hostels, which (except for service housing) in accordance with Russian legislation should be

⁹ Federal Law of 21.02. 1992 No. 2395–1 “On Subsoil”. Paragraph 8.1., Article 22. URL: <https://www.zakonrf.info/zakon-o-nedrah/?ysclid=lguy1i0xa987417191>

in regional ownership. However, their transfer does not take place automatically, as there are clarifications of the Supreme Court that it is carried out taking into account the opinion of regional authorities. Since the maintenance of the housing stock is a burden on local budgets, opinions from the local authorities are usually negative. In addition, many residential premises are occupied without legal grounds, and appropriate work is required to vacate them. Nevertheless, the process of transfer to the regional level has been successful, including in court, as both positive and negative opinions of local authorities can be taken into account.

According to the Register of Federal Property, in 2021 the treasury of the Russian Federation held more than 7.5 thousand objects of cultural heritage; more than 3 thousand of them were of religious purpose. More than 2.5 thousand were transferred for free use to religious organisations of various Confessions in order to transfer these objects into ownership at the next stage in accordance with the legislation. Unfortunately, religious organisations are reluctant to accept buildings that require restoration and repair costs. Preference is given to those that are in satisfactory condition, even though they house various state organisations and the transfer is based on court decisions. At the same time, if the funds from charitable foundations currently being channelled into the construction of new buildings are used for restoration, a large number of historical monuments could be reacquired.

The remaining cultural heritage objects should be unconditionally transferred to the regional level if the territories are ready to accept them (for example, in 2020, 906 federally owned cultural heritage objects in the territory of the Republic of Ingushetia were transferred to the Jeyrakh-Assin

Museum-Reserve for free use) or assigned to organisations of the Ministry of Culture, which has both thematic institutions and those that lease cultural heritage objects and have extra-budgetary funds.

A special place in the treasury is occupied by confiscated and repossessed vessels – both sea-going and inland vessels arrested for illegal fishing in the economic zone of the Russian Federation. As a rule, they were moored to mooring walls leased from private entrepreneurs. The latter received more than 200 million roubles annually from the budget through a judicial procedure for the protection of the vessels, the level of which can be judged by non-unique facts of theft of both property and the vessels themselves. By the Resolution of the Government of the Russian Federation No. 1486 of 18.09.2020 “On disposal of sea-going vessels and inland waterway vessels repossessed by the Russian Federation”, as real estate objects, they were subject to the realisation procedure provided for movable property objects.¹⁰ This makes it possible to hold an auction for the sale of the vessel after a surveyor’s inspection, the procedure for removing the foreign flag, and an independent assessment of the vessel’s value. Even the first months of application of the procedure stipulated by the above mentioned decree made it possible to involve into economic turnover objects burdensome for the budget and thereby significantly reduce the number of such objects.

As of 2020, the open part of the Register contained data on 550 construction in progress (CIP) objects in the state treasury of the Russian Federation (193 of them had ceased construction before 2000), 518 objects

¹⁰ Resolution of the Government of the Russian Federation No. 1486 of 18.09.2020 “On disposal of sea vessels and inland waterway vessels repossessed by the Russian Federation”. URL: <https://base.garant.ru/74662052/?ysclid=lgw7gwne6j674944853>

are of non-residential type, 32 of them are of residential type.

In the current environment, the priority task is to reduce the number of CIPs the construction of which is financed from the federal budget. It can be solved by completing construction financed both from the budget and internal sources of federal state unitary enterprises, state-owned enterprises, and federal state institutions, or as a result of transferring the facilities to another level of ownership (if the entities are interested in CIPs), writing them off, disposing of them and further using the vacated site. Another possible option is the privatisation of CIPs through their inclusion in the Forecast Plan (Programme) or privatisation lists of the Ministry of Finance of the Russian Federation with their subsequent sale at an auction, as well as at auctions by public offer or without announcing the price; in this case, the burden of construction completion is placed on private owners. However, there are still concerns that, having been acquired by private investors for relatively insignificant funds, the objects will remain as they are, i.e., will not be completed or utilised.

Separately, there are a number of CIPs that are completely illiquid and will still require significant budgetary resources for their decommissioning and utilisation, such as those built on border areas and therefore their further use is strictly limited, or industrial facilities that are in a high state of readiness but built on sites remote from urban and rural infrastructure. It is unprofitable for private investors to operate them. Finally, almost completed infrastructure facilities, some of which, if completed, can only be owned by the federal government and their disposal is costly, so their commercial use is ruled out [3].

About one per cent of the treasury consists of hydraulic structures (HS): quay walls, dams, barrages, reservoirs, etc. Objects that are in

an emergency condition pose a danger due to possible man-made disasters, so all of them should be assigned to the right holders by the relevant federal or territorial executive authorities for appropriate operation. A number of HS are used as structural elements of roads and railways and, accordingly, should be assigned to organisations ensuring safe operation of road infrastructure.

Finally, HS used for regional needs or those, the absence of the right holder of which may cause harm to the population of the region as a result of a possible technogenic accident or catastrophe, should be assigned to the relevant territorial organisations with mandatory financing of their maintenance and bringing them to a normative condition at the expense of regional and federal budgets.

Examples include the Sorochevskoye (Kronshtadskoye) and Perevalnenskoye reservoirs in Primorsky Region. Previously they were used for land reclamation purposes, but over time they have lost their functional purpose. In case of a breach due to the lack of a proper operator, flooding of neighbouring territories is possible. The way out of this situation could be controlled drainage of the HS, but this would require clearing of the old riverbeds downstream, on which all kinds of facilities have already been built. This work can be done by the constituent entity, but with appropriate funding. Further freezing of the problem may lead to a man-made disaster and significantly higher financial costs, not to mention possible casualties.

Another example: according to the court decision on the results of the bankruptcy case of CJSC "Nadeyevo", the dam in the Vologda Region was recognised as the property of the Russian Federation. The lack of its constant maintenance threatens several settlements with flooding. The reservoir is used both for their water supply and as a structural element of the motorway. However, neither the local

self-government authorities nor the road-transport institution — the immediate road operator are in a hurry to accept the facility into either regional ownership or operational management, respectively. Such an approach is fraught with serious consequences, and it cannot be called governmental in any way.

Another example: erosion control structures on the Lyuga River with a storage pond (Udmurt Republic). The facility was built under the federal target programme with the condition of transferring it to regional ownership, but it was built in violation of construction norms, so the constituent entity refuses to accept it until it is repaired, which no one is in a hurry to do.

More than 20% of the treasury of the Russian Federation consists of objects: leased from commercial and state structures, including small and medium-sized businesses, which bring annual income to the federal budget; transferred for free use, as a rule, to religious and public organisations, as well as in trust management.

About 1% of the treasury of the Russian Federation consists of shares and stocks in business entities formed in the process of privatisation of former state-owned enterprises. The problems of management of shares and stocks in business entities are described by the author in [4–9, 10–20].

A significant part of the treasury of the Russian Federation consists of real estate objects that have not been involved in economic turnover by being assigned under the right of economic management or operational management to state enterprises and institutions, contributed to the charter capitals of established business entities, leased out or transferred to free-of-charge use or trust management, as well as not transferred to another level of ownership and, finally, not privatised as treasury objects.

Their number is growing due to the refusal of federal government bodies and subordinate organisations to give up buildings and premises that are not in use but require ever-increasing expenditures of the federal budget for their maintenance. Therefore, their reduction is an important state task.

The State Programme of the Russian Federation “Management of Federal Property”¹¹ envisages as a target indicator — an annual increase in the ratio of treasury assets involved in economic turnover to the total number of such assets. This indicator can be achieved both by increasing the number of the former by leasing them out, transferring them to free-of-charge use and trust management, and by reducing their total number by assigning them to federal authorities and their organisations under the rights of operational management and economic management.

For this purpose, it is necessary to promptly inform federal structures about vacant properties that can be transferred to them. If regional institutions need federal real estate, the latter can be transferred to them on a free-of-charge basis (with the possibility of transferring it to another level of ownership in the future).

It is necessary to continuously work on leasing facilities and premises (including preferential leasing to small businesses, public organisations, and movements), free-of-charge use and trust management.

The treasury objects that have not interested the right holders must be privatised, which is currently done by including them in the Forecast Plan (programme) of privatisation approved by

¹¹ Resolution of the Government of the Russian Federation of 15.04.2014 No. 327 “On Approval of the State Programme of the Russian Federation ‘Management of Federal Property’” URL: <https://www.garant.ru/products/ipo/prime/doc/70544258/?ysclid=lgxrht8sje389134508>

the Government of the Russian Federation or on lists approved by the Ministry of Finance of Russia by such methods as auction (including on electronic platforms) or public offer, which provides for a gradual reduction of the price in the bidding process to half of its initial value in case of lack of demand and impossibility to sell the object at auction. Also, by the decision of the Government Commission, objects are sold by the joint-stock company “DOM.RF”.

The legislation provides for realisation without announcing the initial price, and the object is considered to be sold to the person who has named the highest price among those offered by other participants. Unfortunately, the latter method is not widely used due to the fear of being accused of selling state property at “throwaway” prices. It seems expedient to use this method of sale more widely in order to involve the treasury objects in the economic turnover as soon as possible.

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