

(mis) /
/ *management*
of state
real estate



***nontransparency,
potential and
recommendations***

/ *impressum*

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1 / ^ *summary* /

The state owns various forms of property, from real estate, stocks and business shares, to special forms of property such as parks, cultural monuments or national heritage. The management of state assets is specific due to various forms of assets.

The most numerous and certainly the most valuable form of property is real estate, particularly real estate that is not in general or public use, but commercial real estate whose transparent, legal and smart management allows the state and all of its citizens to profit and prosper.

This analysis discusses this particular form of property.

Countries in transition carry out an inventory and assessment of real estate owned by the state and local self-government units. The recession and deepening crisis once again brings up the issue of management and privatization of state assets, especially real estate, in order to stimulate economic growth. State property should be at the service of economic growth and stability and ultimately contribute to a better quality of life for citizens. In order to achieve the goal of economic growth, it is necessary to list what assets the state has in order to use them as a competitive advantage.

In the mid-1990s, the Republic of Croatia passed laws that enabled the conversion of ownership from social to state and private and that enabled the return of nationalized property. However, the fact that these laws were not implemented consistently and uniformly, the fact that there were “loopholes” in the law and that there were no prescribed procedures, made the public image of the state as an incessantly bad, careless and irresponsible master. The disposal of state property with cases of favoritism to individuals close to the ruling party, cases of bribery, corruption and nepotism were “leaked” to the public through the media.

After joining the European Union, and during the accession negotiations, the Republic of Croatia had to implement the contractual obligations through regulations and pass a number of new laws. Some of the regulations also referred to the management of property, i.e. real estate. Primarily, the Law on the Management of State Property was passed in 2010, but in the years that followed, the same law was amended several times or a new one was passed. Finally, in 2018, the Law on the Management of State Property (“Official Gazette” No. 52/18) was adopted, which, despite its shortcomings, has not been supplemented or amended to date.

In 2018, the Law on the Central Register of State Property (“Official Gazette” No. 112/18) was passed, which was supposed to provide a list of all state property, property of local self-government units and legal entities owned by them. Unfortunately, the central register of state property has not been established to date, but remains only in the test phase; thus nor the state nor the local self-government units know what they need to manage or who uses their property. Although the obligation to establish a property register is also stipulated by other laws, and although the

obligation to submit data to the register is prescribed as a misdemeanor, to this day the law has remained just a dead letter.

While all the adopted legal regulations sound nice, unfortunately (mis)management of state property has remained the same as it was when the laws enabling the transformation of social property into private and state property were passed. This is supported by the fact that, almost 30 years later, procedures for the return of confiscated property are still being conducted. The above means that social ownership has not yet been deleted from the land registers in the Republic of Croatia, and that the title holder of many properties, of which a significant number are certainly owned by the Republic of Croatia, is still unknown. Furthermore, regardless of the legal obligation for building managers to do the same in accordance with the Law on Ownership and Other Real Rights (Official Gazette No. 143/12) until December 31, 2015, the condominium subdivision, i.e. connecting the land registry with the registry of submitted contracts was never established. Therefore, it is not known who owns a large number of business premises and apartments located in the buildings, of which a large number are owned by the Republic of Croatia.

Thus, in the mentioned period, the Republic of Croatia was asked for structural reforms that should lead to efficient public administration and management of state property through the term “new public management” which defines some reform processes such as repositioning and modification of the state that operates as a good manager*.

The management of state property is an important issue for every government that tried to solve it by establishing various funds, agencies, centers and central offices, changing their organizational structures and powers. Therefore, it can be concluded that there is no continuous, organized and rational property management because the state deals more with the establishment and organization of institutions that deal with the management of state property, than with the care of property itself. Furthermore, the manner in which the managers and directors of the above-mentioned institutions and the supervisory boards and the administrative council were appointed, whereby primarily referring to appointments without public tenders and often on the basis of party affiliation, frequently without any competences, cast doubt on the motives of those in power to manage assets in an efficient and transparent manner**.

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Fruk. Ž.: Specifičnosti upravljanja državnom imovinom u Republici Hrvatskoj uz posebna osvrt na međunarodna iskustva, *Praktični menadžment: stručni časopis za teoriju i praksu menadžmenta*, Vol. 6, No 1., 2015

**

Ibid

Regarding real estate, in previous periods, management was mainly limited to real estate donations to local self-government units and to a smaller number of public tenders for the sale or lease of real estate. Despite the fact that the Croatian Parliament, at the proposal of the Government of the Republic of Croatia, regularly adopted strategies for the management of state property, the same strategies were not consistently implemented in practice.

A major omission in the (mis)management of state real estate is the fact that the legal regulations do not prescribe clear criteria for various forms of disposal of state property. For example, there are no clear criteria or classifications when a certain real estate is considered a real estate of commercial value, nor are there criteria when a real estate is disposed of by leasing, renting or sale.

Furthermore, by-laws were not adopted that would regulate certain areas of state real estate management in detail, and if they were adopted, they did not regulate the matter in detail. The aforementioned made it possible to treat potential users of state property unequally and often to avoid public tenders for the disposal of real estate.

All of the above caused, first of all, the unequal availability of state property to citizens, which ultimately reflected on the entire private sector. This is especially so because in Croatia there is a common opinion that everything can be done “through a connection”, which is repeatedly being confirmed in practice.

The goals to be achieved by the quality management role of the state are to increase income, encourage greater economic efficiency and force state enterprises to have responsible and transparent management. It is necessary that the management of state property, above all the management of state real estate, begins to have a greater financial impact on the state budget.

If the management of state property started to bring a greater financial impact on the state budget than before, the aforementioned funds could be redirected to social programs, building social housing, encouraging entrepreneurship and the private sector, maintaining hospitals and social welfare facilities, encouraging employment, which would ultimately lead to economic growth.

However, the behavior of those in power shows that we will not see changes in the management of state property so soon, which is best demonstrated by the attitude of the state towards whistleblowers precisely in the segment of state property management.

2 /
^ *state property
register as a
prerequisite
for transparent
property
management /*

A prerequisite for any management of state real estate is a list of state-owned real estate. **How will the state manage anything if it does not know what it is managing?**

In order for the state to be able to transparently and efficiently manage state property, it is necessary to create an information system that includes all forms of property, especially real estate. Such a system will enable timely, high-quality records, data analysis and, ultimately, transparent real estate management.

The Act on the Central Register of State Property (“Official Gazette” No. 112/18) was supposed to provide a list of all state property, property of local self-government units and legal entities owned by them. Unfortunately, the central register of state property has not been established to date, but remains only in the test phase, so the state, as well as local self-government units, do not know what they are managing or who is using their property. Although the obligation to establish a property register is also prescribed by other laws, and although the obligation to submit data to the register is prescribed as a misdemeanor, to this day the law has remained just a dead letter.

Considering the law-prescribed method of forming the central register of state property and considering the data that should be entered regarding state property, it is completely understandable that there was a mess in the test central register of state property and that the data published so far are not operationally usable. So far, about 330,000 positions have been published in the test register, without any useful data.

More specifically, the Act on the Central Register of State Property stipulates that the term state property means all non-financial and financial state property, namely: property owned by the Republic of Croatia, property of local or regional self-government units, property of commercial companies, institutes and other legal entities whose founder is the Republic of Croatia and/or a unit of local or regional self-government, assets of institutions of which the Republic of Croatia and/or units of local or regional self-government is one of the founders, assets of institutions whose founders are institutions founded by the Republic of Croatia and/or a unit of local or regional self-government and property of legal entities with public powers, as well as the forms of state property that are given to these legal entities for management or use on the basis of a special regulation or legal assignment (hereinafter: state property), regardless of the amount of ownership shares.

The above would **lead to congestion in the list of state property if the register was truly functioning**, because the register would not only contain state property, but also the property of a large number of local and regional self-government units and all legal entities.

It is also problematic that all financial and non-financial assets should be kept in the register, i.e. many forms of assets, of which not all forms are equally important or have the same value (for example, movable property, of which there are a large number).

Therefore, the register of real estate, being the register of the most important and valuable state property, should be a separate register, so that the real estate is not lost in the mass of other state property and so that one can avoid “seeing the forest for the trees.”

Furthermore, the Act on the Central Register of State Property stipulates that data on property is submitted, entered and maintained in accordance with the classification of the forms of property according to the schedule of accounts in the chart of accounts for budget accounting, the chart of accounts for non-profit organizations and the chart of accounts of entrepreneurs. This is yet another mistake in passing the Law on the Central Register of State Property because the accounting plan contains a lot of data, but not the data that will ensure transparency, equal availability of state property to everyone under the same conditions, and control over the disposal of state real estate.

First of all, the real estate register must contain, in addition to the description of the real estate itself (land registry plot and cadastral municipality, area, location and address, ownership information) and the user of state real estate, **the rent fee for using the real estate, the act on the basis of which the fee was determined, the user information and possible debt for use.** In case it refers to the sale of state real estate, it should be publicly announced how the purchase price was determined, and in case it refers to a lease, rent or compensation for illegal use, it should be publicly announced on the basis of which act the exact amount was determined.

Only by public announcement of the above-mentioned data, can legality, transparency and equal treatment of all be ensured, as well as equal availability of state property to all. In the case of unequal treatment of users of state property, due to publicly available data, conditions are created for stronger supervision by the public.

Furthermore, it is necessary to apply the concept of functional classification of real estate, i.e. to define groups for which the same management principles will apply, depending on the location and condition of the individual real estate. Namely, the real estate register should encourage an increase in financial effects in the direction of the desired achievement of better financial results in the state budget. This can be achieved either by reducing the expenditure or increasing the income or, in the best case scenario, by doing both.

The basic classification of real estate forms (portfolio) according to this concept of functional real estate classification could be divided into:

A - COMPULSORY real estate that the state must have for the fulfillment of tasks within its scope (e.g. commercial properties for the work of state administration bodies)

B – DISCRETIONARY real estate with which the state provides support outside its binding scope (e.g. real estate for NGOs, social housing, properties for deficit activities needed for local community etc.) and

C – INCOME real estate for the realization of profits from real estate owned by the state.

Compulsory and discretionary properties are generally used at a preferential price or with a minimal fee. In the case of compulsory real estate, which would be used for the work of state administration bodies, it should be borne in mind that the use of state real estate reduces the expenses that the state would incur due to the payment of leases, at the market price, to private owners of real estate that would be used by state administration bodies.

According to the classification, discretionary real estate means that the government, that is, the person who manages the real estate has the discretion to decide for which public or social purpose to use it, but this does not mean that the same real estate can be allocated without any criteria, irrationally and without a public tender. Moreover, there should not be a large number of discretionary properties and clear and unambiguous criteria must be prescribed for their allocation for use. It is also possible to rationalize the use of such real estate in such a way that several users use one real estate (for example, several different associations, which do not need to work all day, use one office space in a certain weekly period).

The importance of classification is reflected in the fact that for each classification group there are specifically defined principles and clearly defined disposal criteria, which will be transparent and publicly available. As Guszak states in his work: “The acceptance of certain principles for certain groups of real estate and their consistent application make it difficult for political and other non-professional interests to influence the management and disposition of real estate”^{***}. At the same time, it is naturally logical that a democratically elected policy strategically determines the direction of state real estate management, but not that it distributes them according to completely free discretion and without any criteria.

The need for this approach is linked, on the one hand, to the trend of harmonization with global trends - instead of directly providing real estate for all services to enable the private sector to provide the necessary real estate (or part of it through the

Guszak. I.: Model logističke podrške upravljanju nekretninama u vlasništvu jedinica lokalne samouprave, magistarski rad, 2007. Ekonomski fakultet Sveučilišta u Zagrebu, str. 70.

market). At the same time, the state must also take into account the strengthening of the role of the business community in the social development process.

Furthermore, the state should primarily view its real estate as productive resources, which means that they should be classified to the greatest extent in group C and managed according to market principles. It should be noted that the classification for an individual property can be changed by decision of the competent authority, but mostly in favor of group C and with the determination and weighing of expenses and possible income on the property in question.

The above-mentioned classification, which must be publicly announced, will enable the achievement of positive financial effects on the state budget and the availability of state property to everyone, especially the private sector.

OBJECTIVES OF ESTABLISHING THE PROPERTY REGISTER:

- The main prerequisite for transparent, efficient and responsible management of state property
- Preventing unequal treatment of individual users of state property, and in case it still persists, sanctioning by the public
- Compliance with legal regulations and recommendations of competent authorities
- All assets are kept in a single register according to the same rules, while still respecting the particularities of individual forms of assets
- Keeping a diary of all events on the property (protocol of changes), property register as a living body
- Better support for economic development (very important in the long term)
- Increase in budget revenues (measurable and perhaps the most important in the short term)
- Planning and increasing the property value because the state knows what it manages, putting non-operating property into operation, reducing management costs
- Greater satisfaction of citizens, because the data is publicly available
- Change in the way of thinking (of employees in the state administration and the public) about state property

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The management of state property is an important issue for every government that tried to solve it by establishing various funds, agencies, centers and central offices, changing their organizational structures and powers. Therefore, it can be concluded that there is no continuous, organized and rational property management because it deals more with the establishment and organization of institutions than the actual management of state property. Furthermore, the manner in which directors and managers of the above-mentioned institutions, as well as supervisory boards and administrative councils were appointed, primarily referring to appointments without public tenders and often on the basis of party affiliation, usually without any competences, casts doubt on the motives of those in power to manage assets in an efficient and transparent manner.

Currently, state property in the Republic of Croatia is managed by the Ministry of Physical Planning, Construction and State Assets, the Center for Restructuring and Sales, and the trading company State Property Ltd., owned by the Republic of Croatia.

From the end of 2016 until July 2020, there was a Ministry of State Assets that joined the Ministry of Physical Planning, Construction and State Assets, and within it only one administration has jurisdiction over state property, which certainly delayed the management of state property and did not highlight the importance of managing this important state resource.

The Center for Restructuring and Sales manages stocks and shares, i.e. founding rights, whose owner or authorized representative is the Republic of Croatia, and in case these assets relate to legal entities that are not of special interest to the Republic of Croatia, it acts in the capacity of legal representative of stocks and shares in companies whose owners are the Croatian Pension Insurance Institute and the State Agency for Insurance of Savings Deposits and Rehabilitation of Banks (hereinafter: DAB) if it acquired them in the process of rehabilitation and privatization of banks. Legal entities of special interest are managed by the Ministry of Physical Planning, Construction and State Assets. It should be noted here that in 2018, a decision was made to shut down the Center for Restructuring and Sale, which was supposed to be implemented through legal amendments to the Law on the Management of State Assets, but just a few days before the vote, the Government of the Republic of Croatia suddenly abandoned the said decision. The remaining operations of the Center for Restructuring and Sales, which are very few considering that almost everything was privatized in terms of shares and business interests, were to become the responsibility of the then Ministry of State Assets. At the time, the public and the media speculated about the connection between the director of the Center for Restructuring and Sales and the Prime Minister.

Državne nekretnine d.o.o. (hereinafter: State Property Ltd.) manage real estate (apartments and business premises of commercial value and residential real estate and diplomatic consular offices) by leasing or renting, while disposal through the

sale of state real estate is still under the competence of the Ministry of Spatial Planning, Construction and State Property. **However, to date, the criteria by which certain properties are considered to be of commercial value have not been clearly defined, which makes real estate management difficult and slow.**

Also, there are no clearly defined criteria when real estate is disposed of through leasing, and when a certain real estate is up for sale. The absence of a comprehensive register of state property and the absence of criteria by which certain real estate is considered to be of commercial value (the so-called classification of real estate forms) enables the status quo in real estate management.

It should be emphasized that for the state and the effects that are to be achieved through the efficient management of state real estate, the worst thing is for the real estate to be empty and unused. In this case, the state bears the costs of the cold operation (utilities, mandatory maintenance fees etc.), as well as regular and investment maintenance of real estate. Failure to maintain real estate over time reduces its income potential. By disposing of real estate through leasing, renting or selling, utility and some other costs of the real estate are transferred to the lessee, tenant or new owner, as well as regular and investment maintenance, which must be determined in the disposal contract.

When, for example, one looks at the efficiency of the State Property Ltd. regarding the disposal of apartments for rent, it is noted that State Property Ltd., according to data from the official website, has 550 empty apartments at their disposal throughout Croatia, but the tender for renting apartments has not been announced for more than 6 years. Therefore, State Property Ltd. do not perform the activity for which they were founded, which is the leasing of commercial real estate, in this case apartments.

Frequent changes in the aforementioned organizational forms and confusing powers in the management of state property, frequent changes in legal regulations and the absence of clear criteria for the management of state property cast doubt on the motives of those in power to manage state assets in an efficient and transparent manner.

In addition, the manner in which the managers and directors of the aforementioned institutions, as well as supervisory boards and administrative councils were appointed raises even greater doubts about the desire to transparently manage state property.

Namely, the author of this text as a former employee of State Property Ltd. on the position of the director of the Business Premises Sector, filed a criminal complaint against the now former director of State Property Ltd., for abuse of position and authority due to numerous illegalities regarding the management of business premises. Furthermore, a criminal complaint was filed due to the illegal appointment of the said person as the director of the company. From the documentation

of the public tender, it is evident that the appointed person did not meet the prescribed conditions of work experience in managerial positions of at least 5 years, and that the committee for the implementation of the public tender for appointment included persons from the Supervisory Board of State Property Ltd., who were later to supervise the director in operations.

Members of the supervisory boards of companies owned or partially owned by the Republic of Croatia are elected without public tenders, non-transparently and often without the right competencies to supervise the work of the administration and the company. Since the appointment of supervisory board members is proposed by the owner, that is, the ruling party, it often happens that supervisory board members are members of the ruling party or coalition. Fees for work in supervisory boards often serve as rewards for obedient members, which also calls into question their impartiality and objectivity when making decisions.

Also, a similar situation occurred in the Center for Restructuring and Sales, where the author of the text, in front of the Transparency Development and Whistleblowers Protection Association „Development“, filed a criminal complaint against the present director, due to failures in the management of the shares of the trading company Petrokemija JSC., for which the state lost a an assured income of over HRK 333 million (cca EUR 44 million) and due to the failure to sign other privatization contracts. Also, a criminal complaint was filed due to the lack of conditions for the appointment of the director because the said person was in a conflict of interest at the time of the appointment (one of the prescribed conditions is the non-existence of the conflict of interest). The same was corroborated by the competent Commission for deciding on the conflict of interest.

As a result of all the above, the author of the text believes that **the jurisdiction for managing state property, especially real estate, should be concentrated in one body, whether it is an agency or a trading company.** However, it must be ensured that directors or managers of that body are selected through a public tender as recognized experts in the field of state property management. The same should apply to members of supervisory boards or administrative councils. Therefore, it is necessary to depoliticize supervisory boards and administrative councils in such a way that they are elected on the basis of a public tender and that the condition of their election is experience in managing state or other assets.

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A major omission in the (mis)management of state real estate is the fact that the legal regulations do not determine clear criteria for various forms of disposal of state property. For example, there are no clear criteria or classifications when a certain real estate is considered a real estate of commercial value, nor are there criteria when a real estate is disposed of by leasing, renting or sale.

Furthermore, no regulations were passed that would regulate in detail certain areas of state real estate management, and if they were passed, they did not regulate the matter in a detailed and clear manner. The aforementioned made it possible to treat potential users of state property unequally and often to avoid public tenders for the disposal of real estate.

Thus, Art. 41 of the Law on State Property Management stipulates that state-owned real estate can be disposed of by direct contract, i.e. without a public tender, if it is a unit of local and regional self-government, a legal entity whose owner or founder is a unit of local and regional self-government and legal entity whose owner or founder is the Republic of Croatia for the implementation of commercial projects or for the implementation of projects that are not of public interest. Such a widely prescribed norm, without criteria for which real estate can be disposed of in this way, leaves a wide possibility of discretionary assessment by those who apply this norm, which means that any real estate can be disposed of in this way. This reduces the income potential of the real estate, because through a public tender the state could achieve a much higher purchase price or rent fee, and thus a greater benefit for the state budget. The decision on such a disposition, without criteria, is left to the minister responsible for state assets affairs or to the Government of the Republic of Croatia, depending on the value of the real estate.

Furthermore, Art. 45 of the Law on the Management of State Property stipulates that, when it is justified and supported by the reasons of encouraging economic progress, social welfare of citizens and equalizing the economic and demographic development of all regions of the Republic of Croatia, real estate can be disposed of for the benefit of local and regional self-government units without any charge. The criteria for disposal are so widely regulated that almost any real estate can be donated by the state to local and regional self-government units, and the decision is again left to the minister responsible for state assets affairs or to the Government of the Republic of Croatia, depending on the value of the real estate.

In practice, what happens is that the ruling party donates most of the real estate to the units of local and regional self-government in which they or their coalition partners are in power, in order to leave the impression of concern for local and regional self-government or in election campaigns to try to influence support of citizens.

Furthermore, Article 6, Paragraph 2 of the Law on Lease and Purchase of Business Premises ("Official Gazette" No. 125/11, 64/15, 112/18) prescribes that the contract for the lease of business premises is concluded without a public tender when it is

concluded between the Republic of Croatia and local and regional self-government units and legal entities owned or predominantly owned by the Republic of Croatia, i.e. legal entities owned or predominantly owned by local and regional self-government units, if this is in the interest and goal of the general, economic and social progress of its citizens, and the rent is determined in accordance with the criteria for determining the rent of the local self-government unit where the property is located.

In practice, it has happened several times that tenders were announced for the lease of business premises owned by the state, but at the last minute the tender was canceled for certain business premises and they were given without a tender to a legal entity owned by the Republic of Croatia, more precisely HP – Hrvatska pošta (Croatian Post) JSC.

Namely, in June 2020, State Property Ltd. announced a tender for the lease of office space in Zagreb, at the address 5, Jurišićeva Street. By the verbal order of the then Minister of State Assets, the tender for the lease of the mentioned space at 5, Jurišićeva Street was cancelled, although the bids for that space were supposed to be opened on the next working day and although several offers had already been received for the business premises in question. Minister formalized his decision in writing, i.e. the instruction to State Property Ltd., only afterwards and ordered a few days later that the state space at 5, Jurišićeva Street be assigned to HP-Hrvatska pošta (Croatian post) JSC. for a period of ten years at a price of HRK 8,037.38 per month (cca EUR 1,070.00), that is, the initial price at the public tender, although nearby spaces regularly fetch at least three times the price at tenders

At that time, among others, **the commercial company Agram Selekcija j. Ltd.** appealed to State Property Ltd., **and the owner of the said company, Vladimir Krtalić**, confirmed to the author once again in the interview that, despite the fact that they had paid a bond for the public tender and despite the fact that they had the intention to start the business in that space, he was left without the possibility to compete for office space at all, although he confirmed that the offer was for an amount much higher than HRK 8,037.38 (cca EUR 1,070.00). He also confirmed that he is disappointed with the state's approach to the private sector, and that he considers this approach to favor state-owned companies.

It can be argued that by canceling the tender, the income of the state, in the period of 10 years of the contracted lease, was reduced by over two million HRK, because Hrvatska Pošta (Croatian Post) JSC. received it at the initial price, i.e. by HRK 8,037.38 (cca EUR 1,070.00) per month.

The above happened because the minister had the discretionary decision-making power under the law to allocate the space to a state-owned commercial company without any criteria, thus confirming the unequal treatment of the private sector and the unequal availability of state-owned real estate to all, especially considering

the fact that this real estate is at an exclusive location. In principle, it is not disputable that the state disposes of the space at a lower price than the market price to a state-owned enterprise such as HP- Hrvatska pošta (Croatian Post) JSC., if this action is justified by the public interest. However, this issue must be clearly regulated, and not left to the discretionary decision of the minister at the stage when the tender for the lease of business premises has been announced and when private entrepreneurs have already sent their offers.

Furthermore, the regulations do not take into account the interests of the local community and the business community for the need for certain activities in a certain area, because in accordance with the decisions of the competent authority, all activities permitted by law are equalized in terms of the amount of rent, so in practice it so happens that certain craftsmen, traditional or deficit activities are simply pushed out in the market struggle, because the owners of companies engaged in commercial or hospitality activities can offer higher rents at public tenders. The competent authority or the proposer of the law should certainly consult and establish communication with the local and business community before adopting or amending regulations in order to gain insight and obtain information about their interests and the possibilities of protecting certain activities, while also being guided by the public interest.

There is also the question of what to do with tenants or lessees whose long-term contracts are expiring, and who have invested in real estate and thus increased the value of state property. We believe that such tenants or lessees, unless they have the right to purchase the property, must have the priority in re-tendering for lease or rent, so that they can continue carrying out their activities or living in the same space without hindrance, provided that they regularly pay all their dues. According to the current regulations, there is no such possibility for all tenants.

Furthermore, as the possibility of appealing the decisions of the competent authority on the disposal of state real estate is not prescribed, persons with a legal interest can only submit a petition, complaint or objection, and the competent authority is not obliged to carry out the procedure for determining the factual situation or the procedure for determining a possible violation of the regulations on the disposal of state real estate and therefore the competent authority is not obliged to change the disposal decision, even though it may be illegal or irregular. As a result of the above, it is suggested that private entrepreneurs in particular insist on the amendment of legal acts that will enable persons with a legal interest to have an effective legal remedy against the decisions of the competent authorities on the disposal of state real estate, which will contribute to compliance with the prescribed criteria and legal provisions by the body that disposes of state real estate and give the possibility to change the decision on disposal, if it is not legal and correct.

Also, Article 46 of the Constitution of the Republic of Croatia stipulates that everyone has the right to send petitions and complaints, make proposals to state and other public bodies and receive a response to them. Until the legal regulations are changed, all persons interested in the process of state property management, and above all the private sector and private entrepreneurs, should, through the aforementioned guaranteed constitutional right, insist on the standards and explanations of decisions on the management of state property, in order to exercise control over them and create public pressure about the necessity of transparent management of state assets.

The author of this text encountered numerous irregularities and illegalities during her work at State Property Ltd., as the director of the Business Premises Sector.

THE IRREGULARITIES INCLUDED:

- failure to issue invoices for rent under lease agreements, although it was agreed that invoices would be issued from the day the lease agreement was solemnized, for a total of 24 such lease agreements, the damage to the state was around HRK 400,000.00 (cca EUR 53,000.00) per month;
- failure to cancel lease agreements where there were more than 3 months of unpaid rent, even though it was agreed to do so; due to the insolvency of the debtor (causing bankruptcy or liquidation of the company), the amounts were never collected, and we are talking about multi-million amounts;
- failure to determine the users of business premises who illegally use state business premises, because the state did not know which business premises were owned by it and therefore did not charge for the use of its premises, the premises were not marked as property of the Republic of Croatia and therefore unauthorized users kept changing, without anyone controlling them.

After the observed irregularities, the author of the text gave an order to issue invoices for the use of business premises, after which she experienced a series of pressures to favor certain tenants, i.e. not to issue lease invoices to them.

Furthermore, many manipulations were found in public tenders for the lease of business premises. Namely, it was established that the brother of the former vice-president of the Parliament founded over 40 companies through which he competed for the lease of state premises, and over time he did not pay the lease bills, so the debt in the name of all 28 business premises reached the amount of HRK 650,000.00 (cca EUR 86,000.00). Lease contracts were not cancelled, and no lease invoices were issued for some of the business premises.

Unequal treatment and the absence of criteria also exist in the allocation of apartments for official purposes. Although the Law on the Management of State Property stipulates that the Government of the Republic of Croatia will pass a decree regulating which state officials have the right to use an apartment and the manner in which apartments are given to state officials for use, the Government has not passed a decree to date, so the criteria still do not exist.

Due to the lack of criteria for the allocation of apartments for official purposes, in 2019 the Minister of State Assets, allocated himself an apartment of over 90 m² in the center of Zagreb, in which over HRK 360,000.00 (cca EUR 48,000.00) was invested for decoration and renovation, despite the fact that there were already furnished apartments for official needs, but apparently too small and poorly arranged for the minister. The commission for deciding on the conflict of interest decided that the minister is responsible for the conflict of interest because he allocated an apartment to himself and was fined HRK 7,000.00 (cca EUR 900).

Also, the unequal treatment of the private sector and business community became visible during the reconstruction of Zagreb after the earthquake that occurred in March 2020. The author of this text filed a criminal complaint because from the documentation on the public procurement of State Property Ltd. it was established that the apartment for official needs at 8, Jurišićeva Street in Zagreb, which is used by the Head of the Office of the Prime Minister of the Republic of Croatia, was renovated on a priority basis and in a record time of less than 2 months. Although the state owns three business premises in the same building, these business premises, as well as the common areas of the building co-owned by the state, were not renovated with state funds.

The author of this text talked about the above with **Viktorija Ćurić**, one of the co-owners of the building at 8, Jurišićeva Street in Zagreb. Viktorija Ćurić confirmed that the other co-owners started the renovation of the building themselves and that the trading company State Property Ltd. was not involved in the aforementioned three state business premises. “When Head of the Prime Minister’s Office’s apartment had to be renovated, two ladies appeared within 24 hours to carry out an inspection and immediately cashed out the renovation of his apartment. Now that they have to pay their part to complete the renovation of the building, they are not responding,” said Viktorija Ćurić.

The next case, which the author of this article filed in the criminal report, is the cases of illegal use of companies owned by members of a well-known Zagreb family, who illegally use four state-owned properties in the very center of Zagreb. The area in question is 524 square meters, consisting of three business premises and one apartment. They owe the state about HRK 5.8 million (cca EUR 773,000,000.00). They shut down the companies and the state will not collect a single kuna.

Two years ago, the author of the text, as the director of the Business Premises Sector, sealed the business premises used by the aforementioned companies at 2, Dežmanova Street and 1, Petrićeva Street in the very center of Zagreb. The Minister of State Assets called an emergency meeting, and from the minutes of the meeting it can be seen that he was dissatisfied and asked where the author got the right to seal the premises and said that they should do a favour for the users and let them pay off the debt in installments and continue with their work. The minister mentioned the parliamentary elections and asked the author of the article why she sealed the business premises only two weeks before the parliamentary elections.

By the way, at that time, the said companies owned by the well-known Zagreb family lost all conditions for doing business in the area and did not perform any activity in the said business premises. Members of this well-known family, who have turned this kind of behavior into a well-known family business that has been operating in this way for years, were evicted from state real estate only a few days ago, even though they did not pay anything, they shut down the companies, and they are avoiding foreclosures.

Completely different criteria applied to other entrepreneurs whose business was affected by the lockdown and devastating earthquake two years ago. This is evidenced by **Saša Cvetojević and his business partner Josip Martić**, who were supposed to open a branch office of their company **MailBoxes** for the delivery of packages in the state space they won in a tender in Draškovićeve Street in Zagreb.

At the beginning of 2020, they were selected in a bid for office space at the corner of Vlaška and Draškovićeve, with an area of about 23 m². They paid HRK 4,400.00 per month for it. Martić says that they had renovated the abandoned space with their own money, hired two employees, and installed all the connections. And then the already old building was destroyed in the earthquake. The gable wall of the neighboring building fell through the roof, the walls cracked and the building was justifiably labeled “unusable” and for a short time they were exempt from paying rent in accordance with the law.

“When I got a call from State Property Ltd. saying that the building became usable, we were overjoyed because we thought we were about to start work again and we were confident that they had repaired the space. However, they did nothing. We had to pay rent for a space where I was afraid to send my employees,” says Martić. Even two years after the earthquake, the tarpaulin is still standing on the building. The roof has not been repaired, even with an ATM in the premises.

“They literally kicked us out of the lease with racketeering, because overnight they declared the building usable, without doing any work - if we don’t consider the tarpaulin pulled over the collapsed roof as work. They started charging rent without prior notice and we found it out days after they have already decided. They didn’t have an ounce of understanding, even though we paid everything on time, hired

people, invested in renovating. We decided that it is better not to do long-term business with such a lesser, so we canceled the contract and left. But, well, some were favored”, pointed out the well-known businessman Saša Cvetojević as a comment on favoring the well-known Zagreb family mentioned in this text.

Unfortunately, Saša Cvetojević and Josip Martić are not the only ones. After the earthquake and the lockdown, the then Minister of State Assets decided that the state should collect rent from private individuals damaged by the earthquake and lockdown. After that, under public pressure, he made a decision that those with a large drop in sales and those who did not lay off workers could be released from the lease.

The conditions were strict, especially since the City of Zagreb exempted all tenants from payment.

It is evident that the state should not have charged for the service when private individuals could not work because the state itself forbade them to do so, and long-term damage was done to the state. Honest tenants paid and canceled their lease contracts. As a result, the state lost between 50 and 100 tenants in Zagreb, mostly regular payers.

Despite the fact that the author of this text reported all the mentioned irregularities to the Ministers of State Assets and the Supervisory Board of the trading company State Property Ltd., they did not react, and the author of the text was terminated from her employment contract at the end of September 2020 with the explanation that she had behaved inappropriately towards clients and colleagues.

The court cases she initiated due to the inadmissibility of the decision on dismissal are still ongoing, and she recently received a non-binding court decision declaring the dismissal inadmissible and ordering her reinstatement. However, she will have to wait for the county court’s decision on the appeal. Despite this, she has still not received any feedback on the criminal charges filed for abuse of position and authority, nor have those responsible for such behavior been identified and punished.

The government tried to discredit the author of this text in various ways and cover up state property management affairs.

Discovered irregularities and illegalities in the area of state property management resulted in huge losses for the state budget.

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^ *recommen-
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The previously presented analysis clearly indicates that the current model of state property management discourages fair market competition and development investments, and encourages corruption.

In order for the state to be able to transparently and effectively manage state property, to enable equal treatment of potential users of state property and equal availability of state property to citizens, which would then ultimately be reflected on the entire private sector, and so that the management of state property would begin to bring greater financial effect on the budget than so far and redirecting funds to social programs, building social housing, encouraging entrepreneurship and the private sector, encouraging employment and the like, and all of which would ultimately lead to economic growth, the following recommendations are given:

- by amending legal acts, the publication of a complete and comprehensive register of state property should be enabled, with all relevant data specified in this text, and especially the publication of users of state property, amounts they pay and debts; the state property register should be separated from the property register of local and regional self-government units and legal entities; the classification of real estate forms should be determined;
- by amending the Law on the Management of State Property and by adopting or amending by-laws, clear criteria for the disposal of state property should be ensured, considering above all the income potential of a certain property and the effect of its disposal on state revenues, as well as the interests of local and business community, with the assurance of fair procedures.
- by amending legal acts, the competence for managing state property should be concentrated in one body, whether it is an agency or a trading company
- depoliticization of company boards, directors, supervisory boards and administrative councils should be enabled in such a way that they are chosen on the basis of public tenders and for their expertise, competences and knowledge in the field of state property management.
- by amending legal acts, persons with a legal interest should be enabled to have an effective legal remedy against the decisions of competent authorities on the disposal of state real estate, which will contribute to compliance with the prescribed criteria and legal provisions by the authority that disposes of state real estate, and give the possibility of changing the decision on disposal, if it is not legal and correct.

- until the change in the legislation, all interested persons in the process of state property management, and above all the business community, should, through the guaranteed constitutional right to send petitions and complaints, insist on the criteria and explanations of decisions on the management of state property, in order to exercise control over them and create pressure in the public about the necessity of transparent management of state assets.
- the business community should also speak publicly about the problems of state property management faced by its members, especially through intermediary organizations and associations that exist for that reason. It is also an opportunity for them to publicly support all state property management reforms proposed in this paper.



(MIS)MANAGEMENT OF STATE REAL ESTATE

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Maja Đerek
Zagreb, 2022.