

Some problems of the management of state and public sector land

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Abstract. The paper contains chosen problems of the management of state and public sector. The authors described the relationship between public and private sector in real estate management. There is an assumption that public lands are often badly managed. The authors tried to answer why it happens and what are the reasons of that. In the end of the paper some activities to improve public land management were indicated.

1 Introduction

Management of state and public sector land is still under consideration by researchers from all over the world. It results from the fact that everything what is public is under society's interest.

State and public sector land can be defined as public real estate, belonged to the State and local self-government units or used by them, for example a municipality can be a perpetual usufructuary of land, although it is not the owner of the land.

Public real estate management was a focus of interest of such organizations as Commission 7 of International Federation of Surveyors (FIG) and Food and Agriculture Organization of the United Nations (FAO). This topic was considered inter alia by: Janowski and Wiśniewski [1], Wiśniewski [2], Grover [3], Grover and Elia [4, 5], Struzik and Żróbek [6], Gross [7], Phelps [8], Gross and Żróbek [9, 10], Marona [11, 12], Grover et al. [13], Marona and van den Beemt-Tjeerdsma [14].

2 Relationship between the state and private owners

The first and the most important problem of state ownership is a definition of public real estate and the principles that should be followed. There are countries, where there is (are) separate legal act(s), which regulate(s) public real estate management. Some of the countries manage their public real estate on the same principles as private ones (Fig. 1).



Fig. 1. Countries with and without separate legal act(s) regarding public real estate management. Source: own study based on [15].

Moreover, public real estate is often regarded as public good – public which means in this regards nobody's property or common property. The management results have an influence only one the private owner of the property. The case of public real estate is different – it has an impact on the society as a whole.

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Although state and public real estate rules the same principles as private ones in some countries (the same legal acts), there are some situations, which enforce some special treatment (Fig. 2).

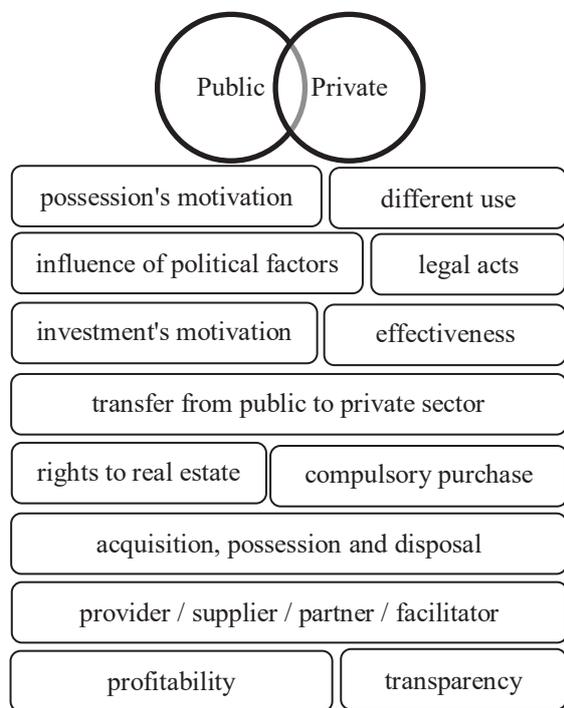


Fig. 2. Public versus private. Source: own study

Public real estate should be included in the state or public resource when there is a need to possess it. So there should be some motivation from the public point of view – so called social motivation. State and public real estate is use for public purposes, for example to build a public road, build and maintain public water supply facilities, protect the monuments etc. So the investment's motivation is different than in private cases.

Compulsory purchase is closely connected with the realization of public purposes. It is available for public entities and concerns private property.

There is also possible a divestment through restitution or privatisation. The public lands should be sold in a transparent way – public tenders or negotiations. The public management should be also led in efficient and profitable way. There are some cases when public body is entitled to pre-emptive purchase of private real estate.

There could be some cases when there exists a right to real estate belonged to the public entity. A great example of that situation is a perpetual usufruct, where a public body is entitled to be the owner of the land. The natural or legal person is the

owner of the buildings and other components of the land erected on it.

The state or public body is often regarded as provider, supplier of a real estate or just partner to the private partner, for example in the context of public private partnership agreements. It is used in such countries as Azerbaijan, Finland, Latvia, Nepal, Norway, Sweden, Switzerland, Turkey, United Kingdom [15].

Public entities can also fulfil a role of the facilitator for the private sector, e.g. land consolidation. It can be a custodian or freeholder of land too (in case of occupiers of the land). The public body should also protect the public land from encroachment and land grabbing.

There are also cases where private ownership is not possible, for example for defence purposes.

3 Why is public land often badly managed?

State and private sector lands are difficult to assess their management because of their specificity. There is a general belief of lower efficiency of public lands in accordance to private ones. It results from an influence of political issues on decision-making processes. There are a lot of different types of public rights. There are situations where the managers are not well qualified, but influenced by politicians. They often focus on maintaining the property in the same state as when they started to manage it (maintenance the property at undisturbed conditions to fulfil its functions). Moreover in case of some public real estates there is no competitions or management is done under limited competition's conditions.

The other problem is lack of tendency to take a risk and concerning with that financial limitations, which public bodies should meet. The state and public sector lands often are transferred into private hands because of lack of money for their maintenance. That is why the resource is decreasing not because of public purposes realizations, but because of financial problems.

There are also many different functions of public lands. The purposes of their management are not determined in a transparent way.

The relationships between public and private sector are weak. There are, in many countries, private partnership projects, but even though the cooperation is limited to the legal acts and requires a lot of involvement by the private entities.

According to Zimmermann [16] bad governance of public real estates influences on all the other sectors.

4 How can the management of public lands be improved?

The purpose of this paper is to answer the question how the management of state and public sector lands can be improved.

At first there is a need to improve the competence and capacity of the managers and people responsible for public real estate management (training courses, studies and postgraduate studies, hiring an experienced people).

The public real estate management is a system of relationships and procedures between the entity who is entitled to real estate (owners, holder, user) and the real estate as the management object. This system should be transparent and clear. The objectives of the management should be clear defined and understandable for everybody.

The decision-making processes and management procedures should use good techniques. That is why they should follow good governance principles (GG principles): openness, participation, accountability, effectiveness and coherence (Fig. 3). The principles permeate each other. It means that they should “be treated as a whole” [10]. They are equally important in order to make public real estate management more effective.

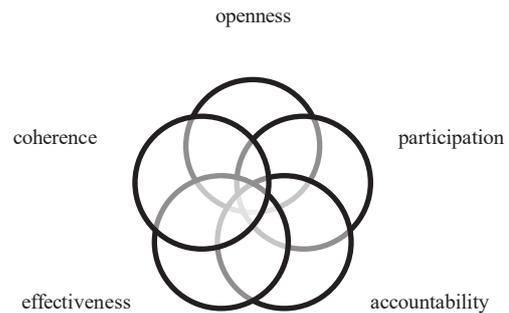


Fig. 3. Good governance principles. Source: own study.

The description of good governance principles is as follows:

- openness – real estate service should be led in simple way in order to be understood by everybody;
- participation – society’s contribution in public real estate management processes;
- accountability – responsibility of the public authorities at the different administrative management levels;
- effectiveness – public land policy should be focused on clear defined objectives; it should be effective; resources should be managed avoiding waste
- coherence – all the procedures should be transparent; all the management activities should be understandable.

Good governance reduces corruption activities and causes that more and more real estate transactions are done formally. “This will allow the state to benefit from land taxation and to better prepare and enforce land-use plans. Good governance also protects state assets from illegal exploitation and sale” [16].

Public land management is “a critical factor for ensuring good governance in the land administration of a country” [17].

There are a lot of studies concerning good governance concept. Grover et al. [13] and Zimmermann [17,18] proposed the following improvements in public real estate management:

- decentralization;
- cost reductions;
- generating revenues from public real estates;
- tools for evaluating the efficiency of public sector;
- good real estate information system;
- efficient use of real estate by the users;
- need to continue of using a real estate;
- checking if the real estate is used according to the purpose it was allocated for;
- clear legislation concerning public real estate management;
- improving responsibility and transparency;
- land policy should include Sustainable Development Goals (SDGs);
- transparent financial management - creating benchmarks, control accounting system, reducing corruption activities;
- good governance principles;
- creating a guidebook with management strategies;
- creating global network for exchanging information concerning effective real estate management – developing standards for registration of public properties;
- transparent valuation methods for public real estates;
- creating different scenarios for selling and disposal of public real estates.

Moreover, the authors of the paper propose the following to improve the public real estate management system:

- developing resource use plans;
- assessment of the actual state of public real estate management and the amount of the resource;
- greater transparency, openness, participation, accountability, effectiveness and coherence;
- better qualifications of managers;
- better decisions;
- proper defined management purposes;
- uniform definitions in different legal regulations;
- developing public private partnership;
- creating global indicators which help to compare public real estate management systems in different countries, which can provide good practices (they could be used to provide sustainable management).

5 Summary – some changes in public real estate management

The paper presents proposed improvements in the scope of public real estate management system with the use of good governance concept.

There is a need to support decision-making processes with the use of better information about the public resources and their real estates (up to date and precise). There should be created detailed analyses and reports on the bases of good information.

Changes in the public real estate management system can cause a risk that some proposals cannot be done. That is why there is a need to increase the role of the property managers in decision-making processes (manager also as an adviser). Moreover, there is a need to select public property resources and delegate management power to certain public bodies.

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