

## PROPERTY MANAGEMENT ISSUES FACED BY THE RF TREASURY, AND IMPLEMENTATION OF THE GOVERNMENT PROGRAM 'FEDERAL PROPERTY MANAGEMENT'

G.Malginov, A.Radygin

*This paper deals with the issues of managing state property owned by the treasury, and analyzes the main trends in property acquisition by and withdrawal from the treasury, as well as some quantitative results achieved as a result of the government policy implemented in 2011–2014, its prospects and limitations.*

Part One of the RF Civil Code (Article 214) defines federal property as property owned by the right of ownership by the Russian Federation. Property owned by the State (including federal property) is consolidated, for the purpose of possession, use and disposal of in accordance with the RF Civil Code, to state-owned enterprises and institutions by right of economic jurisdiction (to federal state unitary enterprises (FSUEs)) or operative management (to treasury enterprises and institutions). The funds of a relevant budget and other state property that is not consolidated to state-owned enterprises and institutions shall constitute the state treasury of the Russian Federation or the treasury of a RF subject.

Thus, the following *three main components* can be distinguished within the structure of the RF treasury:

1. budget funds (for a reporting period or as of a given date);
2. stakes (shares or units) in economic societies (predominantly open-end joint-stock companies (OJSC)) in federal ownership;
3. all the other movable and immovable property, from which land plots are distinguished depending on the degree of inventory detailization.

The work of drawing up a state property register, started in the summer of 1998 and continued over more than a decade, yielded, among other things, the information on the distribution of property by right-holder categories. By early 2013, the treasury occupied a rather modest position on that list, its relative share being comparable with state enterprises while falling far behind state institutions. The share of the federal treasury amounted to only 16.6% of the total amount of property entered into the register, and the share of immovable property (less land plots) and movable property entities was less than 6%.

At the same time, due to the specificity of some of the property categories owned by the RF treasury, the relevant property entities are associated with the risk of manmade disaster, thus requiring additional budget expenditures earmarked to liquidation of the consequences of emergency situations. A more general prob-

lem that shapes the background for managing property owned by the treasury, as well as for managing all the other state-owned property entities, is the shortage of funding needed for their upkeep and maintenance.

The formation of treasury-owned property in a narrow sense (that is, less the budget, securities portfolio and land) is determined by the following factors.

*The grounds for assigning property to the RF treasury* can be divided into the following four groups:

- distribution of property in accordance with relevant legislation (Decree of the RF Supreme Court (RF SC) No 3020-1 (approved in 1991) and Federal Law No 122-FZ (approved in 2004), which regulate property redistribution issues that may arise in connection with the division of powers between different tiers of public authority, etc.);
- receipt of property that was not entered in the charter capital of newly created joint-stock companies during the corporatization of unitary enterprises (due in the main to the legal constraints on privatization);
- receipt of property by the State in the capacity of owner and investor (as a result of bankruptcy of federal state unitary enterprises (FSUEs); voluntary alienation by the holders of property of their the ownership right; confiscation of inefficiently used property from federal state institutions (FSIs); property received after the implementation of federal target programs (FTPs) and investment projects);
- receipt of property by the State for other reasons (on the basis of a court ruling, heirless property, and property received as a gift).
- *The grounds for alienating property from the RF treasury* can also be divided into four groups:
- consolidation of property to various right holders (federal bodies of authority, FSIs, FSUEs), while the property itself remains in federal ownership;
- privatization (entry in the charter capital of joint-stock companies and sale);

- other form of alienation from federal ownership (transfer of the ownership right to another tier of public authority and transfer into the ownership by religious organizations in accordance with Federal Law No 327-FZ (2010));
- ultimate disposal (by means of writing property off the State register).

It should be noted that, throughout the entire period of market reform, the treasury-owned property complex, being limited by the boundaries of the third component, was almost never treated as an independent entity in the framework of the state property management process, although beginning from the forecast privatization plan for 2007, property of the treasury RF has been regularly mentioned in annual privatization programs as a separate category that is not conducive to proper execution of government functions.

The situation began to change only after the launch of the Government Program *Federal Property Management*, approved by regulation of the RF Government, of 16 February 2013, No 191-r.

That government document was aimed at determining and consolidating to each federal property entity its targeted function, which was also intended to be done (along with other types of assets) for treasury-owned property entities – in the amount of 30% in 2018.

This approach was supported by a quantitative plan for annual reduction of the number of ‘other’ treasury-owned property entities (less land plots, and less property entities received by the RF treasury as a result of privatization of FSUEs in the period 2013–2018). Thus, by 2018, the total number of treasury-owned property entities (less land plots) is expected to decline by 90% (on condition that additional funding is actually allocated).

One of the government program’s key components is the realization of the powers of an owner over property constituting the RF treasury. The targeted function of that component is to efficiently manage the relevant property entities during the period while they are being held by the treasury, with a view towards minimizing the number of property entities of that type, so that the treasury should, as a result, keep only the property specifically defined by normative acts issued by the RF Government as property needed by federal state bodies in order to properly execute their functions and for safeguarding the strategic interests of the Russian Federation.

The *main tasks* to be accomplished towards the achievement of that goal are as follows:

- distribution of treasury-owned property entities in accordance with their targeted function;
- disposal of redundant assets;

- introduction of efficient mechanisms for involving property entities in economic turnover;
- allocation of sufficient funding to the upkeep of property entities whilst they are being held by the treasury;
- increased openness and transparency of property management by the treasury.

In 2013, the reduction of the number of treasury-owned property entities proceeded in the following directions:

- privatization (including free-of-charge privatization of apartments by individuals);
- transfer of property to another tier of public ownership;
- consolidation of property to enterprises and institutions;
- ultimate disposal of treasury-owned property entities.

When speaking of the first of the aforesaid directions, it is necessary to take into consideration the fact that the first three-year privatization program for 2011–2013, approved by regulation of the RF Government of 27 November 2010, No 2102-r, was designed – with due regard for the subsequent amendments – to change the status, in addition to FSUEs and joint-stock companies, also of 734 property entities of other types, of which 462 property entities (or slightly less than 2/3) were to be entered as contributions into the charter capitals of integrated structures.

In fact, over the period 2011–2013, the regulations concerning privatization of 457 property entities of other types were issued (or 98.9% of the total number of property entities of other types listed in this section of the privatization program), which were to be entered as contributions into the charter capitals of joint-stock companies (*Rosspirtprom*, *Russian Hippodromes*, *Russian Railways*, the United Aircraft-building Corporation, and *Rusgidro*). At the same time, an attempt to launch mass-scale sales of property entities of other types held by the RF treasury was an evident failure. Out of a total of 272 property entities earmarked for sale, only 65 units were privatized (in 2011 – 3 units, in 2012 – 40 units, and in 2013 – 22 units), or less than ¼ of their total amount.

In the course of 2013, a total of 1,587 immovable property entities, formerly held by the RF treasury, were transferred to another tier of public ownership; most of these (1,137 units) were transferred into municipal ownership.

At the same time, the writing-off procedure as a method of reducing the size of property complex held by the treasury has almost never been applied. After the consideration, by the RF Federal Agency for State Property Management (*Rosimushchestvo*),

Table 1

## STRUCTURE OF RF TREASURY PROPERTY

Categories of treasury-owned property	Number of units, their share			
	By early 2013		By early 2014	
	units	%	units	%
Administrative buildings and structures	18,464	20.9	16,990	19.4
Civil defense and protection facilities	18,045	20.45	16,978	19.4
Housing fund	12,015	13.6	10,511	12.0
Housing and utilities	9,391	10.65	7,903	9.0
Mineral resources extraction facilities	6,962	7.9	6,993	8.0
Transport infrastructure and communications facilities	6,324	7.2	5,862	6.7
Cultural, ritual and religious facilities	6,130	6.95	7,030	8.0
Social sphere facilities	2,755	3.1	2,343	2.7
Production entities	1,758	2.0	4,598	5.25
Air and water transport facilities	1,102	1.25	1,122	1.3
Hydro-technical facilities	739	0.8	1,215	1.4
Unfinished construction entities	369	0.4	373	0.4
Movable property entities	4,196	4.8	5,624	6.45
Total	88,250	100.0	87,542	100.0

of 38 applications submitted by its Territorial Administrations (TA) concerning the writing-off of treasury property entities, the disposal orders were issued only for 3 of these entities, while all the other applications were denied. These denials mostly occurred due to the applicants' failure to submit all the necessary documents, including absence of documents in confirmation of properly formalized rights to the land plots occupied by buildings, which could result in the loss, by the State, of the ownership right to the relevant land plots.

The government program involved the distribution of treasury-owned property entities into 13 categories, where each entity was to be assigned to the appropriate category in accordance with its targeted use. As seen from *Rosimushchestvo's* report on its activity in 2013, the structure of RF treasury-owned property appeared to be as follows (*Table 1*).

As of 1 February 2013, out of the total amount of property entities belonging to the RF treasury (88,250 units) and grouped into 13 categories, nearly 2/3 was taken up by the following 4 categories: administrative buildings and structures (20.9%), civil defense and protection facilities (approximately 20.5%), housing fund entities (13.6%), and housing and utilities entities (approximately 10.7%). The relative shares of mineral resources extraction facilities, transport infrastructure and communications facilities, and cultural facilities amounted to approximately 7–8% each.

These were followed by movable property entities (4.8%), social sphere facilities (3.1%), production entities (2%), and air and water transport facilities (approximately 1.3%). The smallest shares (less than 1% in each category) in the structure of treasury property

belonged to hydro-technical facilities and unfinished construction entities.

A year later, in early 2014, there were the same top 4 categories, but their aggregate share had shrunk to approximately 60% due to shrinkage of the shares of each of these groups: administrative buildings and structures – from 20.9% to 19.4%, civil defense and protection facilities – approximately from 20.5% to 19.4%, housing fund entities – from 13.6% to 12%, housing and utilities entities – approximately from 10.7% to 9%. A similar trend could be observed in regard of transport infrastructure and communications facilities (decline from 7.2% to 6.7%), and social sphere facilities (decline from 3.1% to 2.7%).

Meanwhile, the relative share of production entities more than doubled (increasing from 2% to approximately 5.3%); the relative share of movable property entities increased by more than 1 percent point (from 4.8% to approximately 6.5%), the same was of true of cultural, ritual and religious facilities (which increased approximately from 7% to 8%); the growth of the share of hydro-technical facilities was slightly less (from 0.8% to 1.4%). At the same time, the shares of mineral resources extraction facilities, air and water transport facilities, and unfinished construction entities remained approximately at the same level.

The leaders in the downward trend group were housing and utilities entities (shrinkage by almost 16%), housing fund entities (by 12.5%), administrative buildings and structures (by 8%), and civil defense and protection facilities (by nearly 6%) (*Table 2*).

In absolute terms, the most impressive decline was demonstrated by housing fund entities, whose number was reduced by more than 1.5 thousand units. Slightly

Table 2

## CATEGORIES OF PROPERTY OWNED BY THE RF TREASURY, WITH MAJOR CHANGES OCCURRING IN 2013

Downward trend			Upward trend		
Property category	units	%	Property category	units	%
Housing fund	1,504	12.5	Production entities	2,840	2.6 times
Housing and utilities	1,488	15.8	Movable property	1,428	34.0
Administrative building and structures	1,474	8.0	Cultural, ritual and religious facilities	900	14.7
Civil defense and protection facilities	1,067	5.9	Hydro-technical facilities	476	64.4

less was the decline in the number of housing and utilities entities, and that of administrative buildings and structures. The number of civil defense and protection facilities shrank by more than 1 thousand units.

The decline in the number of housing fund entities occurred due to the ongoing privatization process (according to data released by *Rosimushchestvo's* territorial agencies, in 2013 a total of 187 apartments were privatized) and to the transfer of these property entities from federal ownership to another public ownership tier (ownership by RF subjects and municipal formations). The last factor was in the main responsible also for the shrinkage of housing and utilities entities and social sphere facilities held by the treasury.

The number of administrative buildings and structures declined as a result of privatization (transfer into the ownership by third parties), and consolidation of buildings to institutions and enterprises; while that of civil defense and protection facilities declined as a result of inventory revision, which involved altering the status of some of the relevant facilities. The shrinkage of the number of transport infrastructure and communications facilities was achieved as a result of their sale, consolidation to other organizations, or transfer to another public ownership tier.

The other pole was represented by production entities, whose number increased by 2,840 units (or more than 2.6 times), and movable property entities (increased by nearly 1,430 units, or more than by 1/3). The same trend was displayed by cultural, ritual and religious facilities (growth by 900 units, or by nearly 15%) and hydro-technical facilities (growth by nearly 480 units, or by slightly less than 2/3).

The increase in the number of property entities in these categories occurred as a result of privatization (mainly in the form of corporatization of FSUEs) and bankruptcy of federal organizations, because the outcome of such procedures – due to their targeted use and the constraints imposed on their turnover – is their transfer to the RF treasury. First of all, this is true of those property entities that cannot be privatized. Besides, cultural, ritual and religious facilities can be transferred to the treasury in the framework of judicial division of property rights.

Thus, as a result of all these developments, the total number of immovable property entities held by the treasury (less movable property) declined for the first time. It became less by a total of 2,136 units (or by 2.54%). The index of movable property entities is prone to considerable fluctuations, so it inevitably has a strong influence on the general picture emerging as a result of efforts aimed at minimizing the property complex belonging to the treasury. With due regard for changes in this category, the total number of treasury-owned property entities in the RF over the course of 2013 declined by 0.8% (or by more than 700 units).

By way of assessing the progress achieved in the implementation of the Government Program *Federal Property Management*, it can be noted that the actually reported resulting figure of 0.8%, when set against the planned target of 1%, reveals a slight deviation by 0.2 pp.<sup>1</sup> However, this value is far less than the deviation displayed by the downward movement of the indexes describing the number of FSUEs and the total area of land plots held by the treasury and not involved in economic turnover.

Among the efforts undertaken in order to achieve an optimization structure of property held by the treasury, we can also mention the attempt to draw up an individual technical passport for each federal property entity (in 2013, a total of 1,503 technical passports were issued); the improvement of normative-legal regulation (the delegation, to *Rosimushchestvo's* territorial agencies, of the powers to privatize housing entities and to transfer them to another public ownership tier; approval of alterations to the Federal Law 'On Mineral Resources'; the development of a number of drafts of normative-legal acts to be adopted in the future); and the provision of access to an information resource (the development and launch of the *Treasury* information system based on an interdepartmental portal, where all the changes in the treasury-owned property structure can be traced).

1 As the methodology for determining the targeted function of federal property entities belonging to this category is still being developed, the only real indexes for 2013 are those describing the reduction in the number of treasury property entities.



Further prospects with regard to the issue of treasury-owned property management must be viewed through the prism of the new Government Program *Federal Property Management*, approved by Decree of the RF Government of 15 April 2014, No 327 and designed to replace the previously launched government program with the same title, which had been in action for a period of only about 14 months.

In this newly adopted document, one of the key goals (set in the context of management improvement and federal property development) is to minimize the number of property entities constituting the RF treasury, and it can be achieved in the following ways:

- to provide sufficient funding for the upkeep of federal property constituting the RF treasury, as well as to implement the principle whereby allocated funding should follow the property entity it has been allocated to, in the event of its transfer to a federal organization or its alienation on favor of another public legal entity, including for the purpose of ensuring its targeted use;

- to provide the involvement of property held by the treasury, including unfinished construction entities, in economic turnover by means of its transfer into state ownership by RF subjects or into municipal ownership, in order to ensure the economic foundation for their operation, or sale of the relevant property in the procedure of a tender.

Similarly to its predecessor, the new government program sets the task of determining for each federal property entity its targeted function; these property entities also include (alongside other types of assets) those held by the treasury – the goal is to get 30% of them in 2018.<sup>1</sup> At the same time, the new document differs from the 2013 program in that it lacks quantitative targets that can become achievable if additional funding is allocated; this can be also said of the task of diminishing the number of treasury-owned property entities (less land plots) by comparison with their number in 2012. The intermediate targets for the government program's implementation until 2018 are the same as those set in the 2013 program.

The conditions for implementing the new government program are by no means easy due to the existence of budget constraints. The amount of annual funding to be allocated in the new federal budget to the Government Program *Federal Property Management* (in the part relating to the sub-program *Improving the Efficiency of State Property Management and Privatization*) in 2014–2016 turned out to be lower than the figure envisaged in the draft budget at the time when it had been submitted to the State Duma by

the RF Government (and on which *Rosimushchestvo* had initially relied), although it was somewhat higher than the figure entered into the technical passport of the 2013 government program – with the exception of the year 2016, when the amount of allocated funding, in absolute terms, turned out to be by approximately 6% less even than the amount envisaged in the government program's technical passport. The new (2014) government program envisages budget allocations in the same amounts as stated in the federal budget for 2014–2016.

In this connection it must be added that, when the method of planning budget expenditures predominantly on the basis of the needs of target programs was applied to state property, this paradoxically resulted in an evident loss of transparency in the procedure of distribution of budget allocations.

The expenditure figures stated in Annexes 16 and 18 to the law on the federal budget for 2014–2016 (of 2 December 2013, No 349-FZ) with regard to the Government Program *Federal Property Management* (sub-program *Improving the Efficiency of State Property Management and Privatization*, in particular the general expenditure targets set there for each direction of activity (staff remuneration, purchases of goods, work and services for government needs, other budget allocations) make it impossible to adequately estimate the actual amount of budget expenditures necessary for funding each specific direction of government policy in the field of state property management, including the cost of the upkeep and management of property held by the RF treasury<sup>2</sup>.

Meanwhile, in the previous three-year federal budget it was envisaged that special budget funding should be allocated to *Rosimushchestvo* in order to enable it to implement this item (alongside the items 'Provision and preparation of federal property for sale, and sale of federal property, as well as transformation of FSUEs', 'Management of shares (or stakes) in economic societies in federal ownership', 'Assessment of immovables, recognition of rights and regulation of relations regarding state ownership').

Privatization policy is a significant factor influencing the way that the new government program is going to be implemented. In the second section of the *Forecast Plan (Program) of Federal Property Privatization and the Main Directions of Federal Property Privatization for 2014–2016*, approved by the RF Government's regulation No 1111-r of 1 July 2013, there is the list of assets earmarked for privatization in an ordinary procedure which contains, beside state unitary enter-

<sup>1</sup> In this connection, in the textual part of the government program it is declared that, by 2018, the management goals must be determined for each property entity held by the RF treasury.

<sup>2</sup> No estimation of the amount of budget expenditures can be made on the basis of other criteria, either (for example, departmental structure, etc.).

prises and joint-stock companies, also 94 properties of other types held by the RF treasury. On the one hand, this figure appears to be negligible when compared to the results achieved in the course of implementing the previous privatization program. On the other hand, that previous program has set an example of how the overall number of assets earmarked for

privatization may increase manifold, as it sometimes happened in the past. Thus, while the initial variant of the privatization program for 2011–2013 contains only 73 ‘other’ properties held by the RF treasury, this figure has inflated by one order after the introduction of the numerous amendments to the program – to 734 units. ●