MUNICIPAL ASSET MANAGEMENT IN TRANSITION COUNTRIES: SELECTED CASE STUDIES

Edited by
Lucie Sedmihradská

NISPAcee
THE NETWORK OF INSTITUTES AND SCHOOLS OF PUBLIC ADMINISTRATION IN CENTRAL AND EASTERN EUROPE

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Preface

This publication is the outcome of the work of NISPAcee Working Group on Public Sector Finance and Accounting realised in 2008 and 2009. This Working Group was formally established at the 9th NISPAcee Annual Conference held in Riga, Latvia in May 2001 and focuses on quality comparative empirical research on financial and accounting practices in the public sector in central and eastern European Countries.

There are nine case studies from eight countries. We have used, as in previous years, the same well-tried method whereby the individual authors follow a detailed research protocol. However, this year we have included a new component: a case study of a selected municipality. We expect that it will bring a richer understanding of such a complex issue as municipal asset management and that the combination of various data collection techniques, including interviews, observation or documentary analysis, and subsequent triangulation of collected data would ensure sufficient rigour of the findings and conclusions. At the same time, elaboration of a case study is feasible, even with limited resources, and it is flexible and appropriate for scholars from different backgrounds. Simultaneously, this approach allowed the elaboration of more papers from the same country. Our expectations regarding the case studies were fully met and its benefits are clear from the presented papers.

Out of the nine cases studies, the research protocol is closely followed by five authors; the two Bulgarian chapters complement each other; the Belarusian chapter, instead of one municipal case study, offers a few mini-cases and the case of the Republic of Moldova deals, for instance, with more general aspects of municipal property management. The last chapter is dedicated to a special hot issue in Armenia, i.e. illegally used municipal land.

The completion of this book would not have been possible without the mutual collaboration of all the authors, who, at the same time, served as peer reviewers for the other papers and who responded to most of the comments and suggestions in a very limited time. The unrewarding and time-consuming technical editing was carried out very carefully by Zuzana Kučerová, a graduate student at the University of Economics in Prague. We appreciate the assistance of the NISPAcee Secretariat with regard to all the technical aspects of the preparation of the book and Jane Finlay for the language editing which is, for most of our papers, inevitable. We are grateful to the Local Government and Public Service Initiative at the Open Society Institute in Budapest for their generous financial support, without which, most of the working group members would not be have been able to attend the 17th NISPAcee Annual Conference in Budva, Montenegro in May 2009.

Municipal Asset Management in Central and Eastern Europe: What Can Be Learned from the Case Studies?

Lucie Sedmihradská

1. Introduction

Municipal property is an important economic category. It is a basic precondition for the existence and functioning of autonomous municipal governments. Municipalities own, control and manage substantial amounts of financial, physical and even intangible assets.

Property asset management is a process of decision-making and implementation relating to the acquisition, use and disposition of property (see Kaganova and McKellar 2006, 2) or a systematic process of maintaining, upgrading and operating assets, combining engineering principles with sound business practice and economic rationale and providing tools to facilitate a more organised and flexible approach to making the decisions necessary to achieve the public's operations (see OECD 2001, 13).

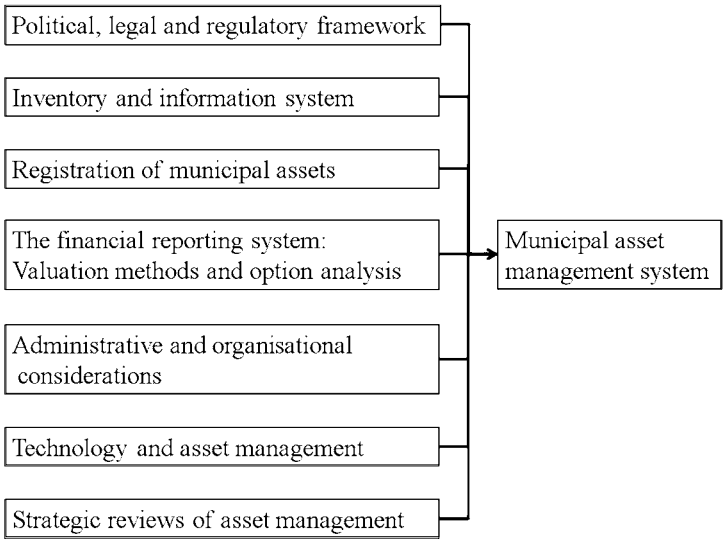
During the last two decades, various types of property were transferred from the former all-encompassing state property to the municipalities in the transition countries of Central and Eastern Europe (CEE countries) and, at the same time, municipalities acquired a substantial volume of property as a result of their activity. Its volume may be very large compared to the annual budget revenues and expenditures.

Despite the clear importance of municipal property, there has been very little research so far in the area of its management. The main objective of this chapter is to provide a more general framework for the individual country case studies which are presented in the later chapters and to link some of the presented findings to this general framework.

The main contribution of the presented country case studies is the inclusion of one municipal case study which focused on one or more aspects or areas of municipal asset management. This feature brings together a set of interesting cases which can serve either as a starting point for further research, or a basis for interesting comparison.

This chapter is structured according to the main components of the municipal asset management system as presented by Fernholz and Fernholz (2007). As the latter two areas in Figure 1 were not discussed in any of the case studies they are not covered in this chapter.

Figure 1
Municipal asset management system



Source: Fernholz and Fernholz (2007, 3)

2. Political, legal and regulatory framework

A common legal framework for both central and local governments is needed in order to establish clearly the authority of municipal governments over municipal assets. The right of ownership is given to municipalities by the Constitution (e.g., Czech Republic, Bulgaria, Ukraine and Moldova) or by a special law, such as the Property Act in Estonia or the Law on Local Self-government and Governance in Georgia. Quite a different situation exists in Belarus, where municipalities are subordinated to the central government. Municipalities do not have their own property; they only use and manage so-called communal property, which is part of the state's property.

In western countries, municipal assets are formed mostly through the budget process, i.e. by local investment. On the other hand, most of the assets that municipalities now have in CEE countries were transferred to them free of charge in the framework of the decentralisation process. The main reason for this was a general consensus that municipalities cannot exist without a sound economic basis. At the same time, property is a source of revenue, both one-time capital revenue and operating revenue such as fees, rents or dividends and property can be used as collateral. Some also believed that municipalities would be able to manage their property more effectively and efficiently than central government (see Péteri 2003).

In the presented country studies, we find three main approaches to delimitation of municipal property, i.e. a determination on which part of the state property should be transferred to municipalities. First, the property owned by municipalities before a given date, e.g. 16 June 1940, in the case of Estonia or 31 December 1949, in the case of the Czech Republic, was returned to the municipalities. Second, the property used by the executive or national committees, which were transformed to self-governing municipalities, was transferred to those municipalities. Third, the property was transferred, based on the functional principle, i.e. assets connected to functions assigned to local governments were transferred to local governments. While the former two approaches were used and completed in the early 1990s, the latter was used gradually, and completed either much later (e.g. 2001 in Estonia, or 2003 in the Czech Republic) or not yet (e.g. Ukraine or Georgia).

In many countries, it was automatically assumed that municipalities wished to have as much property transferred as possible without any foregoing cost benefit analysis. For example, in Ukraine, the delineation between state and local property was carried out quite formally and it created many tensions between the various levels of local governments, as the upper level governments tried to transfer to municipalities the less cost-effective enterprises. At the same time, the transfer of various social facilities was not accompanied by any additional resources so that municipal budgets encountered huge fiscal problems.

Management, use, acquisition and disposition of municipal property is, for instance, guided either by a special law on municipal property (e.g. in Bulgaria), law on property (e.g. Estonia) or by a law on municipalities or local governments (e.g. in the Czech Republic and Ukraine). In most countries, however, some aspects are regulated by special regulations, for example, valuation principles in the Czech Republic are regulated by the law on accounting, or ownership registration is regulated by several laws in Estonia, e.g. roads are registered in the National Register of Roads, based on the Roads act. Several country studies confirm the conclusion of Kaganova et al (1999, 4) that "municipalities usually have much more freedom of choice over their handling of municipal assets and liabilities than they do of municipal revenues."

Detailed descriptions of the legal environment in the studied cases clearly illustrate the problem when legal tools guide management (see Balducci 1999, 5). While the legal rules try to ensure legitimacy and accountability, they may hinder efficiency and effectiveness. Only the Czech case shows an attempt at incorporating some principles of good management into the law: to use the property efficiently and economically; to care for preservation and development of the property; to run an inventory of the property, and to protect the property against destruction, damage, theft and misuse and the right to dispose of redundant property. However, as described in the Czech paper, we can seriously doubt whether municipalities really

comply, especially with regard to the requirement to use the property efficiently and economically.

3. Inventory and financial reporting system

A well-functioning inventory system, which contains information about what the municipality owns, together with the updated value of the property, is a cornerstone of municipal asset management. Therefore, there are two main characteristics of the information system: complexity and accuracy.

Most of the authors do not deal with this topic at all or only conclude that the "data about characteristics and value of municipal assets are unreliable" (see Stoilova).

At the same time, none of the authors deal with the financial reporting system. The absence of discussion of such an important component of municipal asset management shows an important deficiency in this area in all of the countries in the region.

One of the main reasons for this state is, of course, the way in which municipalities acquired most of their properties, i.e. free transfer of the property to the ownership of a municipality. For example, in the Czech Republic the return of the original municipal property was carried out automatically and no approval, or act of a public authority, was needed. This led of course to various deficiencies in recording the property. The problems of valuation are even larger. There are a few standard valuation principles, such as historical book value, replacement value, in-use value and market value. However, their applicability in case of the transferred property is quite limited.

Unfortunately, we cannot even rely on the presented value of municipal property which was formed through the regular budget process, i.e. investment. First, in some countries, municipalities do not depreciate, thus the value of an asset remains the same over time, regardless of its real depreciation. Second, there may be significant differences between the book value and the market value, as for example, Czech municipalities often build a piece of technical infrastructure, such as gas pipelines, financed partly through special central government grants and then sell this infrastructure to a private operator for a price which is lower than the book value by the amount of the received grant. At the same time, municipalities are often able to sell, for example, land for a much higher price than the price given in the land price maps.

Kaganova et al (1999, 1–2) suggest examining municipal assets through the municipal balance sheet, which is very similar to the balance sheet of a private company. The principal accounting equation

$$\text{assets} = \text{liabilities} + \text{equity} \qquad (1)$$

can be rearranged to

citizens (tax payer) equity = assets – liabilities. (2)

Use of the balance sheet can improve the assessment of the financial situation of a municipality. Data presented in the Czech case study (Figure 2 and Figure 5) come from aggregate balance sheets and from the balance sheet of the case municipality, Sezimovo Ústí, and clearly illustrate the relationship between capital expenditures and long-term tangible assets. However, the balance sheet says very little about the accuracy of the initial valuation of the assets transferred to the municipalities and complexity of the included assets, e.g. how to asses the value of a medieval ruin, Kozí Hrádek, which is owned by Sezimovo Ústí.

Despite these deficiencies, the recently established system of debt monitoring in the Czech Republic combines budget data with data from the balance sheet, as one of the two key indicators monitored is borrowing/total assets. In case this indicator exceeds 1, some additional measures to prevent possible financial problems are undertaken.

4. Administrative and organisational considerations

Since asset management has both a financial management as well as an urban physical planning function, an asset management unit is required, integrating the contributions of different relevant departments in order to achieve the objectives of developing an improved and coordinated asset management system (see Fernholz and Fernholz 2007, 23). The praxis in the CEE countries shows that municipal asset management is highly fragmented, with each property category falling within a different bureaucracy or different policies and procedures within the same bureaucracy. The Czech case study clearly illustrates this problem. On the other hand, the presented municipal case studies show that municipalities in the region try new approaches to manage some of their assets, such as in the case of the Estonian rural municipality Saku, which founded a limited company, which manages municipal real property or the Czech municipality, Sezimovo Ústí, which founded a budget organisation with a similar purpose.

5. Municipal asset management as an important revenue resource

Effective use of assets may significantly contribute to an increase in municipal revenues. Fernholz and Fernholz (2007) estimate that rental incomes can amount (in the case of a balanced budget) to up to 10 per cent of revenues. Based on the data presented in the case studies, this estimate is quite overestimated: in the Czech Republic, Bulgaria and Estonia these revenues ranged between 3.5 and 4.5 per cent of total revenues in 2007. Comparable data from the other countries are, unfortunately, not available.

A more significant revenue source than rental and similar revenues are the one-time revenues coming from the sale of property. Their variability across the countries and during different years is, of course, quite high, starting from close to zero in Belarus to above 11 per cent in Bulgaria in 2007. This variability corresponds well with the stage of property transfer and generally with the decentralisation process.

Lack of complex and accurate information on municipal property, unclear responsibility assignment and underdeveloped real property (land) markets are the main reasons for the frequently reported lack of transparency, e.g. the experiences of two Ukrainian cities. The example of the Armenian capital Yerevan and extent of illegally used municipal land show an even more serious incapacity to manage municipal property.

The interdependence between some types of current revenues from property, related expenditures and capital revenues from the sale of property needs to be emphasised here. The second Bulgarian case on housing shows that municipalities have to decide whether to keep and maintain public houses or whether to sell them. This choice can be quite rational, based on the assessment of rental incomes, maintenance costs and the market price. However, due to a lack of exact information, the various market imperfections and strongly myopic behaviour of municipal officials, the option to sell is now prevailing in Bulgaria.

6. Conclusions

Municipal property and its management is an important part of municipal management. However, this is often overlooked in both the research and handbooks for practitioners. The major source of information for most of the country studies was either legislation or books describing the legislation. The authors could only very rarely draw on previous research in this field.

Despite the detailed research protocol used by the authors, the presented case studies differ greatly, exactly as the practices in the studied countries do. The evaluation of municipal asset management in the region can thus be carried out by analysing both what was written and what was not.

A detailed description of the property transfer, including the problems encountered, is present for all the countries. The same applies to the description of the legal framework with some differences in the level of detail. Evaluation of municipal asset management as a revenue source from the national perspective is present only in about one half of the cases. This shows some reporting problems. The major problems or absences are, however, in the area of inventory and financial reporting – a key element for informed decision-making.

At the same time, from the focus of the papers, it is quite obvious that municipal asset management is predominantly seen as a source of revenues or a tool for

increasing revenues and that its other roles such as improvement of public services provision, attraction of investors, improvement of land valuation or enhancement of the environment and improvement of the quality of life are often overlooked.

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Asset Management in Belarus Local Government

Yuri Krivorotko

1. Introduction

This paper is about the features of assets management in Belarus municipalities. An important underlying notion, which is basic in the process of assets management, is that communal ownership is fixed by Belarus legislation. However, it is only a type of state ownership. In Belarus, therefore, municipalities are functioning within the framework of state ownership. For local government this means that municipalities are subordinated to a so-called rigid "presidential" strategy and they function in a manner which is far removed from the framework of fiscal decentralisation. It is therefore worth imagining that municipalities have no own assets and that the state has transferred property to the municipalities through operative management and in an economic manner.

How do the municipalities, under conditions of the presence of their assets in so-called municipal property operate? In what aspects and direction is the independence of local authorities looking at and where are the borders of their independence? What should be done to improve assets management in municipalities? In this paper the given aspects will be considered.

In this paper, the emphasis will be placed on the independence of local authorities' activities in the sphere of assets management, without the intervention of the central authority.

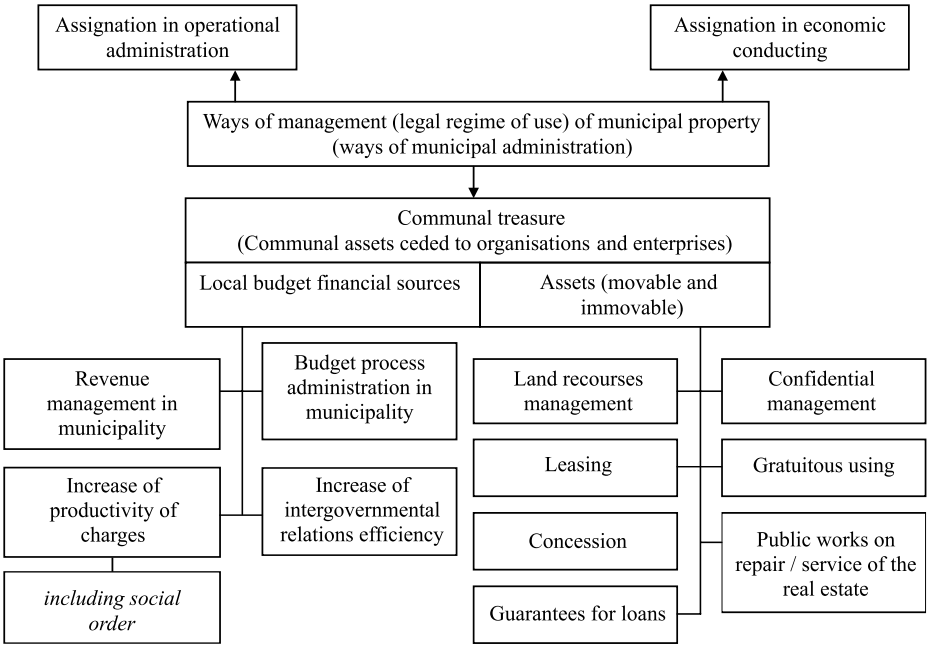
2. Content of communal ownership and total scheme of assets management in Belarus municipalities

The concept "communal ownership" as a substitute for the municipal ownership concept has been introduced by Belarus legislation with a limit of 80–90 years. This was a result of the development of the term "housing and communal services" in Belarus. The Belarus Constitution (article 13) determines that ownership can be both state and private (Konstitutsia Respubliki Belarus 2004). On the other hand, the Constitution (article 121) also determines that the competence of Local Council deputies is to manage and conduct communal ownership within the limits defined by the Law (Konstitutsia Respubliki Belarus 2004). Therefore, the concepts of state, private and communal ownership are contained within the Constitution. The Belarus Civil Code (article 215), however, classifies communal ownership as state ownership (Grazhdanski Kodeks Respubliki Belarus 1998). It seriously confuses the situation in the regulation of fundamental relations. However, the aspiration to reduce the number of independent patterns of ownership – both state and private – in the Belarus Civil Code can be recognised as a contradiction in terms.

In Belarus, so-called municipal ownership may include: state property structures of a corresponding administrative and territorial unit, local budget financial sources, available housing and communal services of subordinated territory, and also industrial, building, agricultural enterprises, trading enterprises, transport and public consumer services, other enterprises, organisations, public health service establishments, culture, physical training and sports, social protection and other property which are necessary for the functioning and development of the territory. Also, property transferred to municipal ownership gratuitously by the state, other proprietors, and also property created by Local Councils, other local governments, executive committees and local administrations can be attached to municipal ownership.

However, how are the municipal assets in terms of operative management and economic measures managing? The approximate scheme of assets management is illustrated below in Figure 1.

Figure 1
A typical scheme of assets management in Belarus municipalities' communal ownership management (economic approach)



Source: Own work by the author.

As Figure 1 shows, the assets transferred to municipalities by rights of operational administration and economic conducting are sub-divided into local budget financial sources, material and non-material assets. Management of local budgets' financial sources includes the ability of municipalities to generate taxes and non-tax revenues. Among all local budget financial sources, local authorities can collect local taxes and duties through the generation of taxes, by granting municipal orders, by influencing the local budgetary process and by the improvement of local budgeting.

In turn, management of material and non-material activities covers public utilities administration, granting of guarantees for public utilities, including loan guarantees, confidential management, gratuitous use of assets, public works, repairing works and services for movable assets and real estate.

Box 1
Example from the practices of Molodechno municipality

There are 44 organisations, of which 22 organisations function in an economic manner (self-supporting organisations) and 22 organisations function through operational administration (budgetary organisations). They are under the municipal ownership of Molodechno municipality.

Source: Author's own research.

3. New accents in land resources management

Since the beginning of 2007, the basic and primary bodies of local authorities (rayon, urban and rural local authorities) have land selling rights in cases of individual private ownership and selling of land renting rights for corporate organisations. These rights for local authorities were contained in Presidential Decrees № 21 of 3 January 2007 and № 667 of 27 December 2007. Thus, the proceeds from land operations of local governments come directly to those local budgets where the operations were carried out. In 2007, the proceeds from land selling and selling of land renting rights in the total budget revenues of sub-national governments made less than 1 per cent (Table 1). Our research on the revenue structure of the Minsk oblast local budgets have shown that in the budget tiers of Minsk oblast, the share of these revenues appeared to be more impressive and came to more than 5 per cent (Table 2). Among all the governmental tiers of the Minsk oblast's revenues from land operations, these were most actively generated in the rayons and rural settlements. Their shares of total land selling revenues were 98.24 per cent and in the sale of land renting rights, 92.13 per cent (Figure 2). Granting rights for selling land and for selling land renting rights should be considered as an important step for the liberalisation of land resources operations and for increasing local government independence in assets management on their territory.

Table 1
Revenues of Belarus sub-national budgets from the sale of land and the sale of land renting rights in 2007 and 2008
(in bn. BYR, equivalent in thousand EUR and in percentages)

Indicators	2007		2008 (preliminary results)		2009 (project)	
	in BYR	in EUR	in BYR	in EUR	in BYR	in EUR
Revenues from land sales	11,178.3	3.8	26,586.7	8.7	29,295.4	8.1
Revenues from the sale of land renting rights	76,188.5	25.7	122,048.6	40.1	111,153.4	30.9
Total revenues from land sales and land renting	87,366.8	29.5	148,635.3	48.8	140,448.8	39.0
The share of Belarus sub-national budgets from land sales and sale of land renting rights	0.49%		0.68%		0.57%	

Source: Author's own calculations based on the Ministry of Finance of the Republic of Belarus reports.

Note: Under the calculations of auction land prices, the weighted average exchange rate of the BYR against the EUR on the foreign exchange market of the Republic of Belarus for 2007 was 2,958.91 BYR, 2008, 3,045.88 BYR, 2009 (January and February), 3,597.95 BYR were used. (see. www.rnnb.by/eng/statistics/Rates)

The sale of land to private ownership is mainly carried out at auction. Individuals submit a statement on the acquisition of land and then the auction procedure is carried out. After the auction, the winner pays the local government budget for the land. The mechanism for the sale of land renting rights happens as follows: the investor (corporation) presents an application to the executive committee of the local government for the purchase of rights for land rental. The executive committee prepares the land site and provides it at the auction. After the auction, the winner pays the rights, compensates the expenditure for the land preparation and covers the auction expenses incurred by the executive committee.

Box 2

An example from the practice of rural settlements' local councils of the Molodechnoo rayon for land sale to private ownership.

According to Presidential Decree № 667 from 27 December 2007 "About withdrawal and granting of the land areas" rural and urban councils had an opportunity to sell lands to individuals and to sell the rights to rent the land to legal bodies. In 2008, the most active land resource operations were carried out by the rural settlement councils of the Molodechno rayon. In 2008, eleven sites or 2.2 hectares were sold to private ownership for the sum of 134 mil. BYR and 11 sites or 5 hectares rights to rent for the sum of 1,245 mil. BYR were also sold.

Table

Initial and sale prices at the auctions for land sales to private ownership in 2008

Rural settlement councils of Molodechno rayon	Size of site exposed on auction (hectares)	Initial (starting) price of land site exposed at the auction		Sale (end) price of land site at the auction	
		in mil. BYR	in EUR	in mil. BYR	in EUR
Gorodokski rural settlement	0.14	0.067	22	5	1,642
Krasnenski rural settlement	0.15	0.487	160	32	10,506
Myasotski rural settlement	0.17	0.458	150	17	5,581
Olehnovichiski rural settlement	0.15	0.822	270	1	328
Turlevski rural settlement	0.14	2.000	657	23	7,551
Chistinski rural settlement	0.17	0.035	11	14	4,596

In 2008, at the land sale auctions to individuals, transactions in the sum of 92,825.2 thousand BYR were recorded (taking into account the reimbursement of auction expenses) and were credited to the local budget accounts of the corresponding local rural and urban councils. The share of revenues from land sales to private ownership paid into the local budgets of the rural and urban councils of Molodechnoo accounted for 80 to 92 per cent of their local budgets.

Source: Author's own research.

Table 2
Brief characteristics of local taxes, duties and charges (in percentages)

Local budgets of Minskaya oblast	The share of revenues from land sales (%)
Local budgets of cities with oblast status	0.49 %
Local budgets of rayons	0.69 %
Local budgets of cities with rayon status	5.44 %
Local budgets of urban settlement	5.06 %
Local budgets of rural settlements	5.35 %
Total Sub-national budget of Minskaya oblast	0.87 %

Source: Data calculated by the author on the basis of financial reports of the Financial Department of Minsk Oblast

4. Local taxes, duties and charges administration

In Belarus the sub-national governments have the opportunity to levy local taxes, duties and charges on their territories. These local taxes, duties and charges were introduced by the annual Budget Law of 2009, adopted by the Belarus Parliament and confirmed by the President of the Republic of Belarus (Table 3). However, the list of local taxes, duties and charges which could be introduced by local authorities is annually determined by the Budget Law (*O Respublikanskom budzhete*, 2008*)* and controlled by central government.

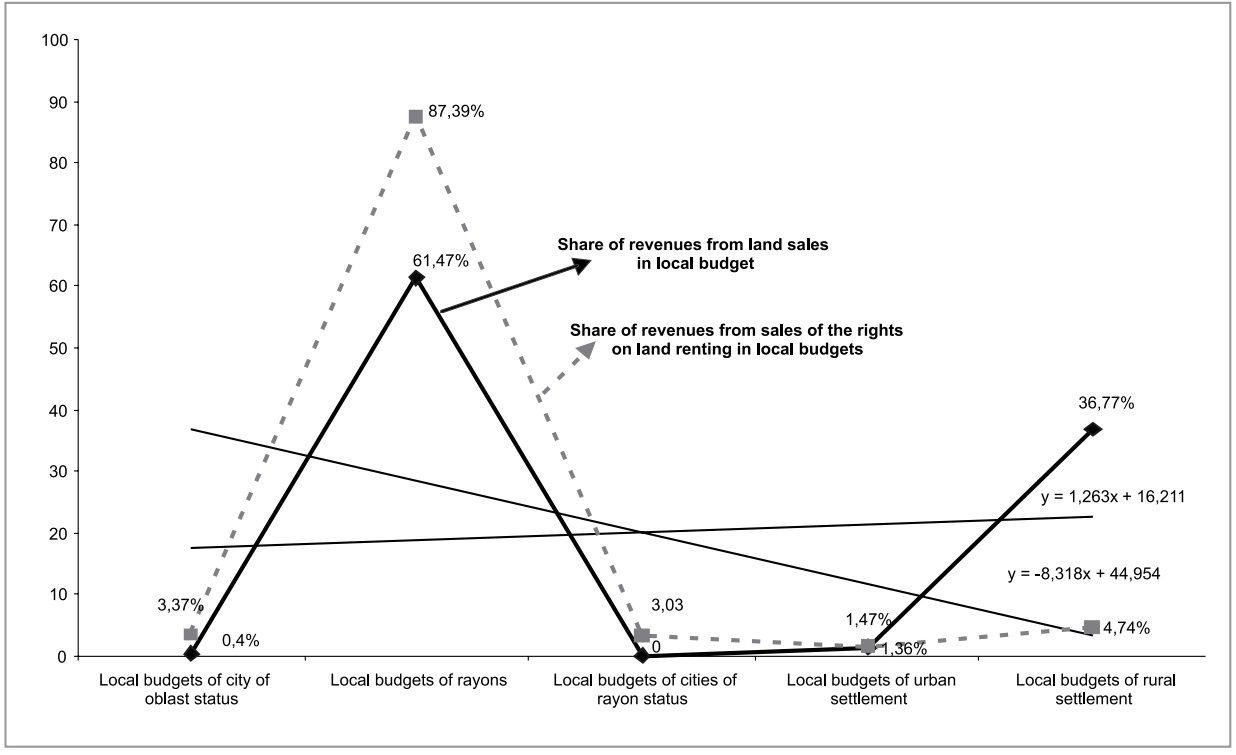
The rights to levy local taxes, duties and charges by the local authorities of sub-national governments are permitted, however, within the limits prescribed by the Budget Law. It characterises the minimal amount of local authorities' independence from central government in the assets management sphere. However, it does not show the local government's inability to manage the territory's financial sources. There have been some positive experiences of local tax administration in the municipalities of the Gomel region (Ševic 2008, 58).

Nevertheless, local taxes, duties and charges are an insignificant share of local budgets. This is illustrated by the following data in Figure 3: The share of these financial sources in local budgets during the last years steadily decreased. If, in 2000, the share of local taxes, duties and charges were 15.8 per cent, in 2007 this has decreased and attained a figure of 7.35 per cent (Figure 3). Such a tendency is due to several reasons:

1. Aspiration of the central government to centralise financial resources to keep under control all monetary flows.
2. Absence of stimulus of local authorities to collect these taxes. This reason, perhaps, is a consequence of the previous. As we see above, tax bases and tax rates of local taxes, duties and charges are defined by the annual Budget Law, instead of

Figure 2

Distribution of incomes from land sales and the rights on land renting between the sub-national budgets of the Minsk region (oblast) in 2007 (in percentages)



Source: The data was calculated by the author based on financial reports of the Financial Department of Minsk Oblast

Table 3
Content of local taxes and duties for sub-national governments permitted by the Budget Law on 2008

Types of local taxes and duties	Who levies taxes and duties	Who receives taxes and duties	Tax rate	Taxpayers
1. Sale tax (retail sales tax)	Oblast (Regional) Local council	Rayon local budgets	No more than 5% from sales including VAT. The rate depends on the local authority.	The taxpayers are retail trade business entities engaged in retail activity
2. Tax on services (tax from services)	Oblast (Regional) Local council	Rayon local budgets	No more than 5% from sales and depends on local authority.	The taxpayers are business entities engaged in delivering services (café, bar services, travel agency services, etc)
3. Targeted charges (transport charge + infrastructure charge)	Oblast (Regional) Local council	Rayon local budgets	No more than 3% from net profits, for example, 2.45%+0.55% or 2.0%+1.0%).	The taxpayers are the legal organisations and enterprises based on the territory
4. User charges	Oblast (Regional) Local council	Rayon local budgets	The rate depends on taxable objects (parking, dogs and cats, etc)	The taxpayers are the users of services (individuals, entrepreneurs)
5. Duties from suppliers	Oblast (Regional) Local council	Rayon local budgets	No more than 5% of yield. The rate depends on the local authority.	The taxpayers are the suppliers (individuals)
6. Resort duty	Rayon local budgets	Rayon local budgets	3.0% from the tourism services	The taxpayers are the individuals (tourists)

Source: Author's calculations.

Note: The local authority may introduce a tax rate lower than that prescribed by the Budget Law or the Oblast local Council.

the local governments. For example, tax rates from sales and services are defined by the Budget Law and local governments have the opportunity to levy a tax rate of no more than 5 per cent. It concerns other local duties and charges.

Thus, the local governments still have a very "narrow" corridor for independence in local taxes, duties and charges administration. In fact, it does not stimulate any increase of local tax collection. There is one more circumstance which is "holding back" the desire of local authorities to increase the share of local taxes, duties and charges in their budgets. This is the imperfect system of grant transfers whereby their allocation is not dependent on the local taxes, duties

and charges collected. In this connection the generation of local taxes, duties and charges is not favourable to local authorities, since in case of any shortages, all expenditures needed will be covered by grants and transfers from the higher budgets.

3. Measures of the central government to decrease the tax burden for corporate organisations. During the last two years, the radical measures for abolishing some taxes, reducing tax rates and unifying some taxes, duties and charges have been introduced by the Ministry of Finance and the Ministry on Taxes and Duties. It also concerns local taxes, duties and charges. For example, in the past, the regional (oblast) authorities could allow a differentiation in sales taxes (retail sales taxes) for different municipalities. For one municipality this could be 15 per cent, and for others, 5 per cent. Now, they are established equally for all. The rates of tax on services (taxes from services) were reduced from 10 per cent to 5 per cent in 2009. Moreover, many regional governments have taken advantage of their right not to levy some local taxes, duties and charges on their territory, which do not contradict the Budget Law. It is obvious that for the stimulation of local taxes, duties and charges collection, more freedom should be given to local authorities in the administration of these financial sources. Tax bases and tax rates, providing reasonable limits of taxation in local government jurisdictions, should be established, at least, either the right of the local governments to establish tax rates or the right to determine if tax bases should be presented to them by the central government.

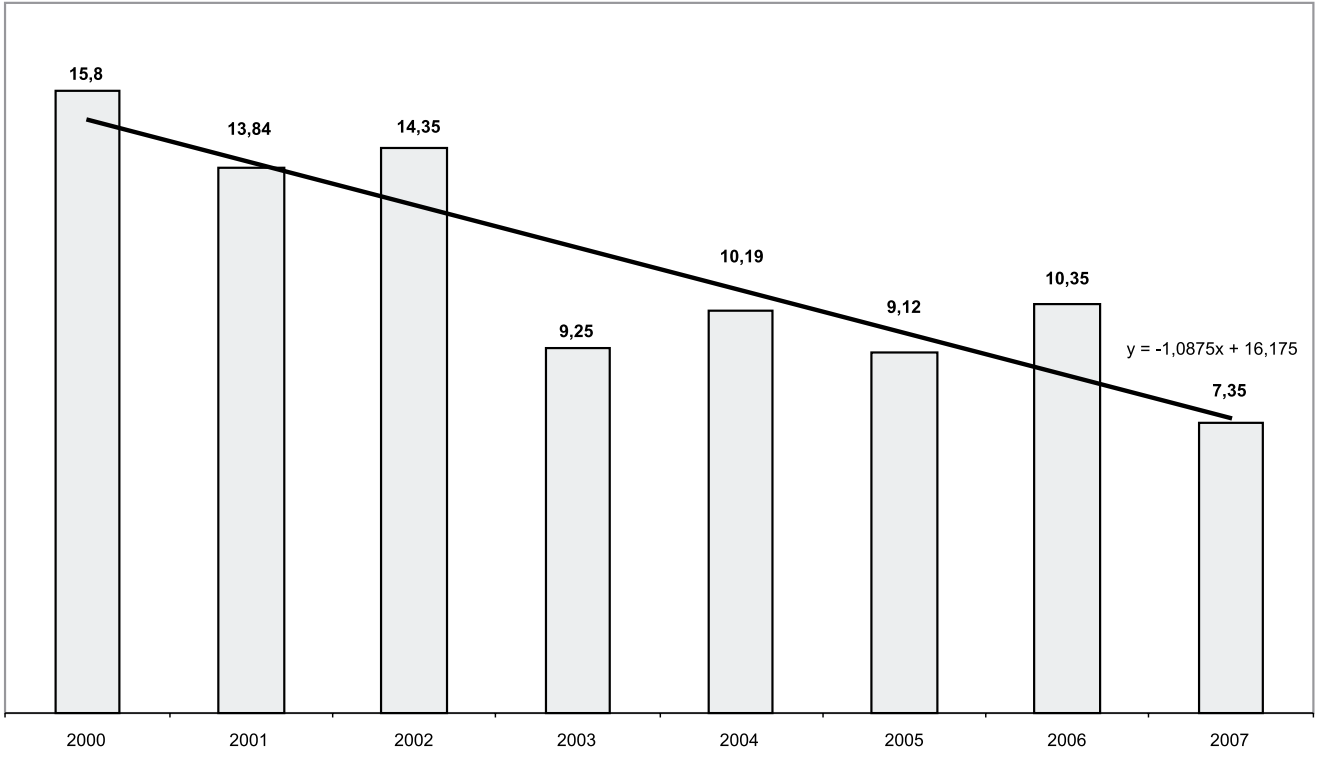
   Under the conditions of restriction of tax rates by the central government, a "flying the flag" decrease in the tax burden became the unique and correct way to increase local taxes, duties and charges, attract investments, develop small and medium business, and develop municipal-private partnership which can all considerably fill the local treasury. It is also necessary to create a stimulating system for increasing local taxes, duties and charges in local budgets through the mechanism of grant transfers.

5. Real estate administration in municipalities

In Belarus, the local authorities exercise administration of real estate by maintaining a property register. In this register can be found the names of organisations, their form of ownership, control authorities, data about the size of the property, data about the land areas attached to the organisation, data on founders, data on isolated structural divisions and where data on non-state legal bodies whose shares belong to the enterprises are reflected.

The preservation of fixed assets of public utilities belongs to municipal ownership, write-off of objects of fixed assets with unexpired terms of amortisation, revaluation of vehicles by an index method, sale of buildings at auctions or directly to a buyer, to leave a deposit, to transfer rental property for state and private enter-

Figure 3
Dynamics of local taxes, duties and charges in Belarus sub-national budgets
(in percentages)



Source: The data was calculated by the author based on financial reports of the Ministry of Finance of the Republic of Belarus.

prises, and also provide reception and assignation of assets into communal ownership, can all be carried out by the local authorities.

Box 3
Example of practices of the Molodechno municipality

In the municipality, real estate sales at carried out at auctions. Commissions on gratuitous assignation (within the limits of state ownership) are created. If gratuitous transfer takes place, the asset's estimation is carried out by the balance cost. If the assets are selling at auction, the index method is taken into account and estimated assets using the following formula are made: Estimated assets costs = (balance assets cost – depreciation of assets) * an estimated index (from 1 to 2).

Source: Author's own research.

In Belarus, unfortunately, new and widespread forms of functioning of public utilities, such as subcontracting, rentals, concession, and privatisation are not developed. There are lists of objects which cannot be privatised. Among the municipal objects these include public utilities providing services for the population: water supply companies and waste entities, garbage entities, housing and communal enterprises and educational establishments. These utilities cannot be privatised by law. Meanwhile, it is a serious obstacle to improve public services provision for citizens and improve their quality. The transformation process of the public entities into entities of a commercial type can occur only after a long process of transformation beginning with the classical socialist understanding of this process when the state (budgetary) enterprises were responsible for maintenance of public services only.

Development of market relations in Belarus objectively demands the expansion of the economic rights of local governments and their economic initiatives. Commercial activity needs to be engaged more actively in the capital and securities market. The commercialisation of the social sphere and public services should be extended. Therefore, obligatory and delegated functions of municipalities should be supplemented by voluntary functions. First of all, with the industrial and financial activities of the enterprises in the territory, irrespective of their ownership, they should be connected.

6. Management of social and economic development on the territory

Management of social and economic development in the municipalities of Belarus is performed according to the plan of socially-economic development for a 5-year period. Now, in the municipalities, their activity on the basis of developed plans for

2006–2010 is performed. The planning of municipal activity is directed by five lines: 1) branches of the industrial sphere (industry, transport, communication, consumer services); 2) building construction; 3) public utilities, housing and municipal services; 4) social-cultural *[neproizvodstvennye]* branches including education, public health, culture, social care; 5) agriculture and agricultural service.

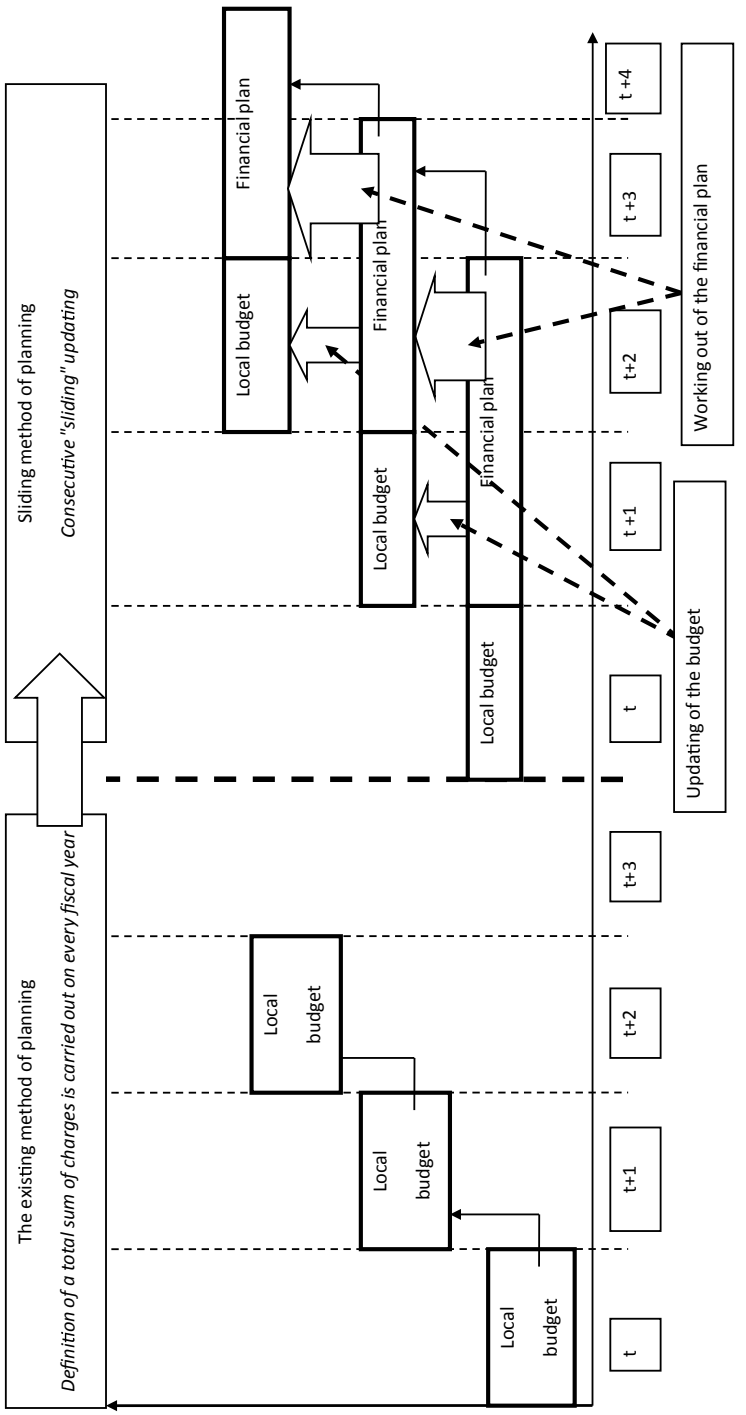
At the same time, municipality planning is performed on the basis of the old socialist methods, inherited from the soviet period. Sliding planning is not practically developed, plans on branches of the social-cultural sphere are not available and drawing up of municipality balances is not used in practice.

For overcoming the backlogs in the development of tools and methods of territorial planning and forecasting it would be expedient to introduce sliding financial planning in municipalities. At the heart of sliding financial planning should be a three-year cycle to be provided for updating future municipal budgets. Being the basis for working out the prospects of financial planning and a basis for intermediate budgetary planning, financial planning should be based on three documents: programme of social and economic development on intermediate prospects; basic directions for the local authority's activities proceeding from a scenario of operating conditions for the economy for the intermediate period and a forecast of social and economic development for the next fiscal year and intermediate term prospects.

As to the prospects for financial planning, beginning with the need to create conditions for the maintenance of equality and stability of the budgetary system, subject to budgetary planning, macroeconomic stability, predictability and continuity of a budgetary policy, the execution of existing and accepted assignments should be developed. Scenario conditions for the financial plan, taking into account operating and accepted budgetary obligations, including the basic macroeconomic indicators, parameters and priorities of social and economic development on intermediate term prospects, as a rule, with two variants (base and expected) should also be used. The prospective financial plan needs to be developed for at least 3 years. Thus, the major factors promoting the efficiency of intermediate-term planning should become: predictability and sequence of a central government policy; b) interdepartmental interaction; c) coordination of actions in municipalities at different levels of administration; d) interaction of the executive and legislative powers and e) interaction with the public. The municipality financial planning model is illustrated by figure 4.

For the improvement of municipality assets management, business planning must be carried out. It should be performed not only in the housing and municipal services branches, but also in branches of the social-cultural sphere. It should be noted that business planning methods and procedures, allowing the improvement of detailed elaborated plans on the rendering of public services have already been developed and used by local authorities of developed countries. Similar plans for making not only public utilities, such as water supply, sewage, garbage collec-

Figure 4
Comparative characteristics of the existing method of planning and the "sliding" method



Source: Author's own calculation.

tion, public transport and central heating, but also for social and cultural spheres, for example, maintenance of schools, fire service and the improvement of welfare services are especially useful. A business plan of the existing services and the best ways of providing services in the future should be carefully made and analysed. For the scheduling of business plans, a group of experts on service for a wider range of disciplines should be created. These experts could provide an objective estimate of the current services and, if necessary, offer any innovations. A business plan, as a rule, should consist of 4 sections: introduction; review of the current state of affairs; strategic aspirations and purposes, and a plan of action.

Under the business planning it should be remembered that this process is not static. The business plan is an integral part. In order to concentrate on the purpose and activity priorities, on reporting perfections, on stimulation of activity on decision-making, on definitions of a joint understanding of the purpose, on the coordination of work of the personnel in the strategic aspect of an activity, on working out a practicable plan of actions, on expenses and the ways to undertake business planning, should be undertaken.

The combination of a local budget administration and balances of municipalities and regions allows us to define the credit status indicators, estimation of the credit status from positions of reliability, instability and unreliability of the potential borrower such as a separate municipality or region. Therefore, the municipality balance allows the definition of some important financial indicators such as, return of capital, current ratio, liquidity ratio etc. which are used for a credit status estimation.

Drawing up of municipality and regional balances also promotes the maintenance of their credit rating. Municipality listings with credit status, comprising both leaders and losers, can be compiled. Economic information about potential investors who wish to invest in municipality sectors will also be created.

7. Conclusion

The research conducted allows us to form the following conclusions:

Real assets management in Belarus municipalities is possible, after legally fixing independent municipal ownership which is not to be included in state ownership. Therefore, in the near future, by working out a new local government legislative base, it is necessary to transform municipal ownership from the state ownership structure and give it an independent character. For this reason it is necessary to make changes in the Belarus Constitution, Civil Code and other legislative documents which have emphasised municipal ownership as separate and independent from state ownership. It should be noted, however, there are "embryos" of municipal assets management in Belarus: land resources operations, local taxes, administra-

tion of duties and charges, real estate management and management of territorial development.

A serious innovation in the sphere of municipality assets management has become granting rights to urban and rural local authorities to sell land in private ownership which is to be habitable and to sell land renting rights for foreign investors and corporations. This measure has allowed an increase in the revenues of both rayon and rural local budgets. On the other hand, it should be considered as an important step towards the liberalisation of a land recourses operation for sub-national governments. At the same time, many municipalities, having received essential revenues from land operations, did not know how to use them due to the absence of sufficient expenditure assignments and functions. As a result, the revenues received by local authorities did not correspond to their expenditure assignments.

Municipalities experience some independence in local tax duties and charges administration. Municipalities have the rights to levy local taxes, to establish tax rates and to determine tax bases in limits prescribed by the annual Budget Law. However, if in the past, sub-national governments could differentiate tax rates, today they are equally established for all municipalities, within the limits established by the Budget Law. This measure acts as a restriction for local governments in the collection of local taxes, duties and charges and is the reason why these financial resources are constantly decreasing in sub-national local budgets.

Clearly, for the stimulation of local tax collection, more freedom of action for local authorities should be given. The rights to establish tax rates and tax bases within reasonable limits should be presented to them. It is also necessary to stimulate the allocation of grants from central government depending on the size of "extracted" local taxes, duties and charges by the municipalities. Under the conditions of the central government's radical measures, directed at decreasing the tax burden, obviously to achieve increased local tax collection, the development of municipal and private partnerships, the enlargement of small and medium business in municipalities and the attraction of foreign investments are needed.

For the evolution of social and economic development on the municipal territories it is necessary to introduce a procedure of "sliding" planning. At the heart of the sliding planning process should be a three-year cycle which would provide for updating future municipal budgets. There are problems in introducing business planning procedures into organisations in the welfare sphere (education, public health services, culture, and social security). It is also necessary to introduce a practice of drawing up municipality balances.

New approaches to the management of public utilities in municipalities are required. Unfortunately, in Belarus forms of public utility functioning such as subcontracting, renting, concessions, not to mention privatisation in private ownership, have not been developed. It is a serious obstacle for communal fees, reducing

and improving public services quality. Today, the state monopoly of public utilities is a fact and any competitiveness in the public services sphere is absent. Therefore, it would be expedient to have a participant's circle of public service providers which could expand by using commercialisation in the social sphere and public utilities.

The perfection of assets management in municipalities demands new forms of mutual relations between local authorities and business. Therefore, the development of municipal and private partnership in the small and medium business spheres is necessary. The basic directions, mutual relations of local authorities and business are complex territorial planning, placing of municipal orders, land and property operations, capital participation, budgetary guarantees, licensing and investment agreements. In the long term, the prospects for a model municipal and private partnership should include the construction of schools, hospitals, highways, and other municipal responsibilities.

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Municipal Asset Management in Bulgaria

Desislava Stoilova

1. Introduction

Municipal property is one of the basic preconditions for local governments' autonomy in Bulgaria. Although the Constitution granted ownership rights to municipalities in 1991, municipal property was fully regulated in 1996, when the Municipal Property Act and the State Property Act were adopted. This legal base accelerated the process of building municipal property portfolios. Over the last decade, substantial amounts of assets have been transferred from central government to local authorities. The process was accompanied by a series of corruption scandals, abuses of administrative authority, and financial mismanagement. This is the reason why most of the corresponding statistical and financial data are unavailable and unreliable. Now, 18 years after the beginning of the transition process, Bulgarian municipalities own various types of assets, but there are no significant improvements in the effectiveness of municipal asset management. At the same time, while governmental transfers tend to gradually decrease and raising local taxes and fees proves to be a politically unpopular decision, strategic municipal asset management seems to be an available and politically acceptable source of additional local revenues.

The study is structured into four sections. Section two presents the legal basis of local self-government in general and municipal property in particular, outlining the classification of municipal assets and analysing the role of municipal asset management as a local revenue source. Section three focuses on municipal asset management in the municipality of Blagoevgrad, a medium-large sized local government, situated in the southwest part of Bulgaria. Special emphasis is placed on the performance of municipal enterprises. Section four concludes.

2. Municipal property in Bulgaria

2.1 Legal basis of local self-government and municipal property

Bulgaria is a unitary state with a 7.9 million population[1] and territory of 111,000 km^2. The process of gradual political, administrative, and financial decentralisation in the country began in 1991, when the new Constitution of the Republic of Bulgaria was adopted. It legally grounds and protects local self-government principles. In addition, the Local Self-Government and Local Administration Act (1991) concretises the guidelines provided by the Constitution, regulates the administrative-territorial structure of our country and prescribes the organisation and functions of local self-government in conformity with the formulations of the European

1 Last census on 1 March 2001, source: National Statistical Institute, available at http://www.nsi.bg/Census/Census.htm.

Charter on Local Self-Government, ratified by the Republic of Bulgaria in 1995. An important component of the legal base of the local self-government is the Act on Administrative and Territorial Structure of the Republic of Bulgaria (1995), which determines the legal criteria and procedures for establishing, merging, splitting and liquidating administrative units. Now, classified according to European standards, the administrative-territorial structure of our country includes 6 planning regions, defined as level NUTS II, 28 administrative districts corresponding to level NUTS III, and 264 municipalities, which represent the level LAU 1.[2]

Created according to the Regional Development Act (2008) and in compliance with the requirements of the European Union for allocation of regional development funds, the planning regions in Bulgaria are merely statistical units and do not perform administrative, or financial functions.[3] The districts are deconcentrated administrative units of the central government, which coordinate national and local interests, but they do not enjoy financial autonomy, and do not provide public services to the population. Basically, districts are intended to manage the state property on its territory, to monitor the compliance of local decisions with the law, to implement the state policy at local level, to foster local development and unite municipalities to work together on large-scale projects.[4] According to the Constitution (§ 136), the municipality – a legal entity is the only one-tier of really autonomous sub-national government in the country. It has the right of ownership and adopts an independent municipal budget, which must be used in the interests of the local population.[5] The bodies of local government – Municipal Council and Mayor – are elected directly by the local population for a 4-year mandate with the purpose of making and performing governmental decisions.[6]

During the period 1991–2008, Bulgaria has made remarkable progress in reforming the system of intergovernmental fiscal relations. In addition to the new Constitution and the Local Self-Government and Local Administration Act, which provide the basic regulation of the local self-government, a package of laws has been adopted in order to regulate: election procedures at the local level, determined by the Local Elections Act (1995), organisation of the municipal budgeting process with the Municipal Budgets Act (1998), procedure of local taxes and fees levy in accordance with the Local Taxes and Fees Act (1997), conditions and limits of local debt service under the Municipal Debt Act (2005).

2 NUTS II and NUTS III are the abbreviations respectively of the level II and III of the Nomenclature of Territorial Statistical Units within the meaning of Regulation (EC) No 1059/2003 of the European Parliament and of the Council of 26 May 2003. LAU 1 is denotation for local administrative unit.

3 Regional Development Act, § 4.

4 Constitution of the Republic of Bulgaria, § 142 and § 143.

5 Constitution of the Republic of Bulgaria, § 140 and § 141. Local Self-Governance and Local Administration Act, § 14.

6 Constitution of the Republic of Bulgaria, § 138 and § 139.

The establishment of municipal property in contrast to state property is one of the fundamental pillars of local self-government in Bulgaria. It is a logical outcome of the emergence of the municipality as a new legal entity, since its existence is strongly related to the exercising of ownership as a basic right. The legislative basis of municipal property is the Local Self-Government and Local Administration Act, which for the first time, at least from a legal point of view, drew a dividing line between the notions of state property and municipal property in 1991. However, public relations in respect of ownership remained outside its scope. A clear mechanism for the establishment and protection of the municipal ownership right was put in place in 1996, with the adoption of the State Property Act and the Municipal Property Act. These laws provide a distinction between municipal and state property, indicating the ways in which the ownership can be proved in case of a dispute between state and municipality.

During the transition period, the process of state property transfer to municipalities has mostly been driven by legal and procedural disputes, assuming automatically, that municipalities wished to have as much property transferred as possible, without any cost-benefit analyses preceding the transfers. Neither the state nor the districts and municipalities possessed formally adopted and articulated asset management strategies, which would correspond to development strategies and implementation policies. Consequently, strategic decisions regarding municipal assets were either driven by privatisation procedures or by uninformed arguments usually based on the needs of generating cash flows for the operating budgets (see Brzeski and Kaczmarski 2002, 6)

2.2 Classification of municipal assets

Current legislation grants local governments the right to own property and exercise all ownership rights, such as the right to sell, purchase, exchange, mortgage, and reclassify property. In general, municipal property is related to the performance of the mandatory functions, assigned to local governments. At the same time, municipalities as legal entities, can possess any type of properties and use them to generate budget revenues. Because municipal property in Bulgaria is extremely heterogeneous it is legally divided into public and private municipal property.[7] Public municipal property comprises all properties that belong to the public domain. As a general rule, public properties are located under territorial jurisdiction of the local governments, occupied by local public institutions with the purpose of delivering public services and ensure material/logistic support to public service delivery. Because public property is basically intended to ensure the implementation of mandatory functions of local governments, it cannot be alienated (sold, mortgaged, exchanged or included as a part of the capital stock of municipal enterprises); moreover, there are strict limitations on its usage and management. Public property is defined as all

7 Municipal Property Act, § 3.

administrative buildings, urban infrastructure (streets, squares, parking lots, green areas, and city parks), infrastructure in the scope of education (schools and kindergartens), healthcare (municipal medical institutions), culture (libraries, cultural centres, theatres, operas, museums, and art galleries), sport and recreation facilities, public baths and laundries, memorial houses, etc. In a nutshell, public properties are all the assets which satisfy local public needs.

Private municipal property includes assets that belong to the private domain. According to the legislation, all the municipal properties, which are not explicitly determined as public properties, have to be considered and treated as private. Municipal assets such as industrial centres, commercial centres, business incubators, enterprises, land, shops, offices, workshops, dwellings, garages, and so on, involving municipalities in business activities, are private properties. Under the guidance of the principles of strategic asset management, private municipal property can become a vehicle of local economic development. Legislation allows local governments to change the property status – public municipal property can be converted into private and vice versa, as use of property changes.[8] It is interesting to note that this legal differentiation reflects the financial status of municipal assets, i.e. public properties are mostly revenue consuming, while private properties are revenue generating (see Bobcheva 2007, 19).

2.3 Municipal asset management as a revenue source

Sub-national government financing is a key issue in the design of intergovernmental fiscal relations. Because of the advantages of taxation at the central level and spending at the decentralised level during the transition period, Bulgaria has often ended up with a vertical and horizontal fiscal imbalance. The decentralisation of expenditure was not accompanied by the equivalent revenue-raising responsibilities and the taxable base was unevenly distributed within the country territory. Basically, municipal financial resources in our country are regulated by the Local Taxes and Fees Act and the annual State Budget Acts. They comprise own source revenues (namely local taxes, fees and revenues from municipal asset management) and governmental transfers. Before the Constitutional amendments in 2007, local taxes were entirely regulated by the central governmental level. It was not until the beginning of 2008 that municipalities were given the authority to set local tax rates within certain legal limits. Another positive legislative change concerning municipal revenues was the reassignment of the patent tax as an own revenue source in 2008. The patent tax is a net annual income tax, which is collected from the craftsmen and the owners of small enterprises in lieu of personal income tax or corporate income tax. Now municipalities are free to select the annual patent tax rates within the legally defined set of ranges. In addition, while the patent tax schedule contains the provision for applying rate differentials, not only in different municipalities, but

8 Municipal Property Act, § 6.

Table 1
Local governments revenue structure (%)

a) 1991–1999

	1991	1992	1993	1994	1995	1996	1997	1998	1999
1. Own revenues	**3.90**	**5.08**	**4.91**	**19.63**	**20.44**	**20.61**	**8.30**	**15.19**	**17.64**
1.1 Local taxes	0.87	0.93	1.16	2.25	2.48	2.85	0.45	5.00	4.79
1.2 Local fees	1.59	2.09	2.73	10.01	9.34	8.67	4.80	6.28	6.14
1.3 Municipal asset management	1.44	2.06	1.02	7.37	8.62	9.09	3.05	3.91	6.71
2. Total Transfers	**96.11**	**94.92**	**95.09**	**77.10**	**77.66**	**77.52**	**91.38**	**83.98**	**80.29**
2.1 Shared taxes	72.73	56.48	46.82	32.72	35.47	44.42	56.17	46.74	40.71
2.2 Net grants	23.38	38.44	48.27	44.38	42.19	33.10	35.21	37.24	39.58
3. Borrowing	**na**	**na**	**na**	**3.27**	**1.90**	**1.87**	**0.32**	**0.83**	**2.07**
Total (1+2+3)	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0
Total revenues (mio BGN)	**15.4**	**21.6**	**34.6**	**48.9**	**68.5**	**112.1**	**991.6**	**1,658.6**	**1,863.8**

b) 2000–2008

	2000	2001	2002	2003	2004	2005	2006	2007	2008
1. Own revenues	**18.03**	**22.03**	**23.88**	**31.69**	**33.80**	**35.58**	**35.67**	**43.54**	**38.73**
1.1 Local taxes	4.85	5.23	7.02	9.61	9.31	9.45	10.68	13.42	14.58
1.2 Local fees	6.92	8.27	9.11	12.44	13.27	13.26	12.40	14.62	14.72
1.3 Municipal asset management	6.26	8.53	7.75	9.64	11.22	12.87	12.59	15.50	9.11
2. Total Transfers	**81.96**	**77.59**	**75.67**	**67.95**	**65.88**	**64.02**	**64.02**	**55.10**	**59.60**
2.1 Shared taxes	39.37	45.64	38.78	33.25	33.15	30.03	24.67	20.62	n.a.
2.2 Net grants	42.59	31.95	36.89	34.70	32.73	33.99	39.35	34.48	59.60
3. Borrowing	**0.02**	**0.37**	**0.44**	**0.36**	**0.31**	**0.40**	**0.31**	**1.36**	**1.67**
Total (1+2+3)	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0
Total revenues (mio BGN)	**1,955.0**	**2,005.7**	**2,360.2**	**2,177.8**	**2,413.6**	**2,598.7**	**3,414.1**	**3,821.8**	**4,104.2**

Source: Calculations based on the Ministry of Finance of the Republic of Bulgaria Database

Notes: Calculations for 2008 are based on preliminary data. BGN is the abbreviation of Bulgarian currency. According to the currency board provisions (introduced in 1997) 1 EUR = 1.95583 BGN

in different zones within municipal jurisdiction, it can adjust to the different economic conditions found across the local governments. At the moment, patent tax revenues are rather insignificant in the frame of the consolidated tax system. However, the patent tax has the potential to become an important part of local revenues and a powerful instrument of the municipal tax policy.

In addition to the lack of real tax autonomy outlined above, several problems had a decisive influence over the own-source local revenues during the transition, causing a significant decline of their relative share. First of all, delayed collection and even waste of the local taxes and fees, due to the fact that centrally subordinated tax administration concentrated its efforts at collecting taxes from the larger taxpayers. In a dynamic inflationary environment, any postponement leads to additional losses for municipal budgets. Another serious problem was the outdated tax base for local taxes, which was beyond the municipal competence. These were the reasons why in the period 1991–1997 local taxes accounted for less than 3 per cent of the local revenues. Especially low was the local tax revenue share in 1997 (0.45 %), due to hyperinflation, which additionally devaluated the local tax base. In addition, the inability of local governments to impose local fees and to set their rates freely, particularly in the inflationary situation, resulted in a growing gap between their revenue potential and the actual costs in providing the respective services.

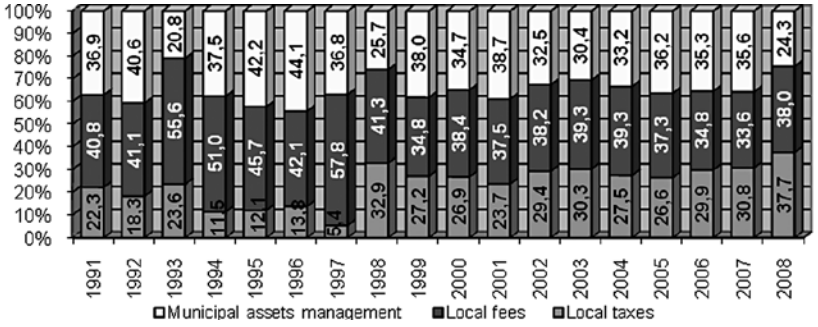
The Local Taxes and Fees Act, in force since the beginning of 1998, updated local tax bases and allowed local governments to set the rates of the local fees within certain legal limits. Consequently, in 1998, local taxes reached 5 per cent of the total revenues and retained and expanded this share in the following years. Especially high is the share of local taxes in 2006 (10.7 %), 2007 (13.4 %), and 2008 (14.6 %) due to the considerable revaluation of the local tax base on the one hand and the newly assigned tax competences on the other. Since 2006, municipalities collect local tax revenues. Generally speaking, during the period 1998–2008 local own-source revenues tend to increase gradually, from 15.2 per cent of total municipal revenues in 1998, towards 18.0 per cent in 2000, up to 43.5 per cent in 2007, and 38.7 per cent in 2008. Since 2003, local governments have been given full discretion over local fees and service prices, which have tripled their importance in real and relative terms.

Due to the gradual increase of the own-source revenues, the intergovernmental transfer system has lost its dominant role in financing local governments in Bulgaria. Governmental transfers formed the prevalent part of the municipal budget, accounting for 96.1 per cent, 91.4 per cent, and 81.9 per cent of the total local revenues, respectively in 1991, 1997 and 2000. Now, the Bulgarian intergovernmental transfer system is approaching European standards, as its relative share in the total local revenues decreased to 55.1 per cent in 2007 and 59.6 per cent in 2008. Although there is not an absolute rule, it is accepted that local fiscal autonomy is properly secured, when local own-source revenues are comparable to governmental

transfers. Bearing in mind the vast difference between fiscal capacity in several of the richest municipalities and the remainder of local governments in the country, for the moment, the strong intergovernmental transfer system has no effective alternative.

Under the conditions of financial instability and fiscal imbalance during the transition period, municipal property has been a significant own revenue source. The transformation of property, especially in the last decade, created a considerable amount of municipal property, mainly by separating it from state property. This newly acquired property became a major instrument for the municipalities to influence the local economic environment. The three major ways for using property to stimulate economic activity were privatisation, right of construction on municipal land, and municipal property management. Revenue from property management represented between 1.44 per cent (1991) and 6.7 per cent (1999) of the total local budget revenues. Since 2000, their share has significantly increased, reaching 15.5 per cent in 2007. Due to the highly restricted local tax authority during the analysed period, revenues from municipal asset management formed, on average, one-third of total own-source revenues.

Figure 1
Structure of LG's own-source revenues (%)



Source: Calculations based on the Ministry of Finance of the Republic of Bulgaria Database

Note: Calculations for 2008 are based on preliminary data

An important tendency is the continuous reduction of revenues from ownership, such as rents, dividends, interests, parallel to the increase of the revenues from sales of municipal assets. Because sales are a one-time, temporary source of revenues, while ownership rights can provide local budgets with sustainable revenue sources, this tendency is considered negative. Moreover, due to the lack of balance in the local budgets during the analysed period, almost all budgetary revenues were used for financing current expenditures, on the account of investments. These are

Table 2
Revenues from municipal asset management (%)

	1997	1998	1999	2000	2001	2002	2003	2004	2005	2006	2007
1. Revenues from ownership	60.58	66.17	73.90	72.26	63.07	61.50	43.45	41.19	31.50	28.59	23.00
1.1 Rents	48.54	59.96	52.82	53.96	47.72	44.20	30.65	27.46	19.79	16.92	12.19
1.2 Dividends	0.04	2.36	5.02	4.66	4.08	3.08	2.60	3.26	1.54	1.63	1.53
1.3 Interests	8.76	0.86	1.51	3.73	3.11	4.17	0.44	0.57	0.98	1.03	1.27
1.4 Net revenues from sale of production and services	2.55	2.78	13.55	8.28	6.61	9.15	9.12	9.38	8.84	8.78	7.86
2. Sales	39.27	33.19	25.09	26.69	35.86	36.78	54.97	57.56	67.34	70.53	76.14
2.1 Buildings	20.44	12.95	12.67	11.07	12.83	11.96	17.04	14.61	19.92	14.15	11.20
2.2 Land	18.61	19.91	12.05	15.27	22.64	24.28	34.83	37.98	43.93	49.93	59.05
2.3 Other durable assets	0.37	0.33	0.37	0.35	0.39	0.54	3.10	4.97	3.49	6.45	5.02
3. Concessions	0.15	0.64	1.00	1.05	1.07	1.72	1.58	1.24	1.16	0.88	0.86
Total (1+2+3)	100	100	100	100	100	100	100	100	100	100	100
Total revenues from municipal asset management (mill. BGN)	27.4	46.7	79.7	85.8	102.9	110.4	157.9	193.0	317.8	407.9	633.2

Source: Calculations based on the Ministry of Finance of the Republic of Bulgaria Database

the main reasons for the continuous de-capitalisation of municipal asset portfolios. The consequences are clearly visible. During the last ten years, the share of revenues from ownership has almost diminished three-fold, from 60.6 per cent of the total revenues from municipal asset management in 1997, to 23.0 per cent in 2007. At the same time, revenues from sales reached 76.1 per cent in 2007, compared with 39.3 per cent in 1997. The revenues from concessions are insignificant and hardly exceed 1 per cent of the total revenues from municipal assets. Only a few municipalities constitute a concession of activities such as solid waste disposal, water supply and sewage, municipal baths and beaches.

One of the main characteristics of municipal asset management in Bulgaria is the lack of transparency, accountability, and control. Most of the information, regarding municipal assets acquisition, usage, and sale is not available to the public. Privatisation procedures focus on outright sales rather than on maximising long-term, strategic benefits for municipal budgets. Consequently, the outcome of privatisation can better be framed as a process of assets liquidation rather than a result of optimal municipal asset management. Moreover, statistical and financial data about the physical characteristics and value of municipal assets are unreliable, mostly due to the arrangements intended to ensure opportunities of acquiring municipal assets at deeply reduced prices. This was the reason why the Municipal Property Act was amended in 2008 with the purpose of stimulating local governments to manage their assets instead of simply selling and exchanging municipal property under explicitly disadvantageous and unprofitable conditions. The legislative amendments are launched in several directions.

First of all, municipalities are obliged to develop a strategy for municipal property management, as well as annual programmes for its implementation. The content and structure of the strategy is legally determined, including the main purposes and priorities of municipal property management, the basic characteristics of municipal assets, the usage of existing properties, the needs for new properties, and means of their acquisition. The annual programme concretises properties, intended for sale, acquisition, and exchange, parallel to the prognosis of revenues and expenditures from municipal property management. Municipal strategies and programmes have to be publicly announced.[9]

Secondly, each municipality is required to develop and maintain an actual public register of municipal assets, which has to contain records of every deal concerning municipal property.[10] The aim is to enhance publicity and transparency in municipal asset management, by providing fast, complete and easily accessible information. It is proven that the transparency of local decisions prevents the misuse of public assets (Péteri 2003, 16). At the moment, citizens do not know which

9 Municipal Property Act, § 8 (8–10).

10 Municipal Property Act, § 41 (4).

properties are municipal, are they maintained or not, what is their current condition, who leases them and at what prices, so citizens' control over municipal asset management is highly restricted.

Thirdly, the transfer of public municipal property into a private one is more difficult now, as a qualified majority of 2/3rds of councillors must vote positively.[11] Moreover, in order to strengthen control on local governments' decisions, the legislative amendments allow the acts of the Municipal Council and Mayor for acquisition, management, exchange, and sale of municipal property to be appealed under the rules of the Local Self-Government and Local Administration Act.[12] So far, deals with municipal property have to be made on the basis of market prices, which cannot be lower than the tax value. The prices have to be approved by the Municipal Council, which can now itself assess the market price of the property.[13]

3. Case study: Municipal asset management in the municipality of Blagoevgrad

3.1 Characteristics of the Municipality of Blagoevgrad

Achievements and challenges of municipal asset management in Bulgaria can be illustrated by a short case study on asset management in a particular local government, namely the municipality of Blagoevgrad. Situated in the south-west of Bulgaria with an area of 621km^2, this municipality comprises the city of Blagoevgrad and the neighbouring 25 villages. The administrative centre of the municipality – the city of Blagoevgrad – is situated on the main route E-79, 100 km to the south of the capital city of Sofia, 20 km from the border with the Republic of Macedonia, and 100 km from the border with the Republic of Greece. With a total population of 102,000 the municipality of Blagoevgrad is a medium-large sized local government by Bulgarian standards. The size of the municipality is a precondition for the development of a complex system of local services, financial system, significant local administration capacity, and various types of municipal assets, including some municipal-owned enterprises.

The municipal economy is relatively varied and well-balanced without dominating industrial branches. The biggest contribution to the total volume of production is made by the industrial sector, followed by trade and transport. Despite the economic diversity, the following industrial sectors appear as leading ones: mechanical engineering and electronics, textile and confection, food, wine and tobacco industry, and construction. The motor and railway transport are well-developed within the municipal territory. The level of unemployment (4.6 %) is below the average national level. The concentration of anthropogenic and natural

11 Municipal Property Act, § 6 (3).

12 Municipal Property Act, § 8 (11).

13 Municipal Property Act, § 41 (2).

resources is a favourable precondition for tourism development. The most prospective tourist products are in the scope of cultural tourism, balneology, skiing and ecotourism. The demographic situation in the municipality is characterised by a favourable age structure. The city of Blagoevgrad has strong traditions in education. There are a total of 16 elementary, primary and secondary schools, besides the profiled secondary schools of mathematics and natural science, humanities and foreign languages, and vocational schools of construction, economy, mechanical engineering, electrical engineering, and textiles. In addition, the Medical College, the Southwest University and the American University in Bulgaria are situated in the city of Blagoevgrad. The availability of many cultural institutions, such as Drama Theatre, Puppet Theatre, Opera di Camera, Museum of History, Universal Scientific Library, Art Centre, and Ensemble for folk songs and dances "Pirin", provides the city with considerable advantages.

Table 3
Expenditure responsibilities of the municipality of Blagoevgrad (%)

Expenditures	1991	1994	1997	2000	2003	2006	2007	2008	LGs in Bulgaria 2008
1. Education	40.1	39.9	36.0	37.7	46.0	38.9	35.2	36.9	30.9
2. Healthcare	40.6	41.4	39.4	31.4	10.7	12.2	12.4	13.7	4.7
3. Social services	9.6	8.3	6.7	9.8	3.7	5.5	4.8	4.7	7.2
4. Housing and public utilities	–	–	7.6	7.8	15.9	13.7	22.6	18.2	24.7
5. Culture	7.4	8.1	5.0	5.9	9.8	10.3	9.7	11.0	5.5
6. Economic activities	–	–	1.7	2.5	6.0	7.1	6.7	7.5	14.2
7. Administration	2.3	2.3	3.4	4.4	6.9	8.4	7.5	7.2	10.7
8. Defence and security	–	–	0.2	0.5	1.0	2.9	1.1	0.8	2.1
9. Capital expenditures	–	–	–	2.0	9.8	10.0	14.5	17.8	27.1
Total (1–8)	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0
Total expenditures (mio BGN)	0.7	1.2	11.9	20.4	21.5	31.1	37.2	51.7	4,077.1

Source: Own calculations based on the municipality of Blagoevgrad database

The administration in the municipality of Blagoevgrad comprises 194 civil servants. The structure of the municipal administration includes a Mayor, three Vice-Mayors responsible respectively for construction, humanitarian activities, and economic activities, a secretary, and a chief architect. In principle, the responsibility

for assets management is delegated to a specialised department within the structure of municipal administration. Parallel to the Department "Municipal property", some of the differentiated departments are as follows: Department of "Internal audit", Department of "Information, press-centre and protocol", Department of "Administrative services", Department of "Economic policy and European integration", Department of "Security, protection and transport", Department of "Juridical services", Department of "Financial services", Department of "Local taxes and fees", Department of "Architecture and design", Department of "Investment activities", and Department of "Environmental protection".

Table 4
Revenue structure of the municipality of Blagoevgrad (%)

Revenues	1991	1994	1997	2000	2003	2006	2007	2008	LGs in Bulgaria 2008
1. Own revenues	3.9	10.1	10.4	24.0	37.0	25.9	47.1	41.6	38.73
1.1 Tax revenues	0.7	2.3	1.5	5.9	8.8	7.8	9.2	13.7	14.58
1.2 Local fees	3.2	7.8	5.4	6.9	11.1	9.3	11.1	14.4	14.72
1.3 Revenues from municipal asset management	n.a.	n.a.	3.5	11.2	6.0	7.8	7.5	13.5	9.11
• Revenues from ownership	n.a.	n.a.	2.4	6.9	4.6	4.5	3.5	3.5	3.81
• Sales	n.a.	n.a.	1.1	4.3	1.4	3.3	4.0	9.2	5.30
2. Total transfers	96.1	89.9	89.6	76.0	63.0	64.8	52.9	58.4	59.60
2.1 Shared taxes	72.7	63.2	71.4	71.1	49.5	48.8	39.4	n.a.	n.a.
2.2 Net grants	23.4	26.7	18.2	4.9	13.4	15.9	13.5	58.4	59.60
3. Borrowing	0.1	–	–	–	–	9.3	–	–	1.67
Total (1+2+3)	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0
Total revenues (mio BGN)	**0.7**	**1.3**	**12.3**	**20.6**	**21.6**	**33.2**	**39.3**	**45.9**	**4,104.2**

Source: Calculations based on the municipality of Blagoevgrad database

The expenditure responsibilities of the Municipality of Blagoevgrad reflect the national principles for distribution of the functions in the public sector. Local responsibilities prevail in the functions of housing and public utilities (87.1 %), education (54.4 %), and culture (36.8 %). The central authorities are responsible for the prevailing part of the expenditures in the sector's national defence and security (98.4 %), social care (96.6 %), healthcare (95.6 %), economic activities (87.6 %), and administration (74.1 %). Some of the most important expenditures,

financed through local budgets are in the scope of education, housing and public utilities, which also form the prevalent part of expenditures in the municipality of Blagoevgrad. The relatively higher share of expenditures in the scope of culture (11.0 %) is due to the availability of many cultural institutions in Blagoevgrad. The municipal administration is cost effective with a modest share (7.2 %) in total expenditures by comparison with the country's average. The municipality of Blagoevgrad is lagging behind the country's average regarding capital expenditures and economic activities.

The revenue distribution in the municipality of Blagoevgrad is similar to the national average by relative figures. The rate of fiscal autonomy of this particular local government is slightly above the national average, measured by the weight and composition of own revenue sources. However, significantly increasing own revenues share (47.1 % in 2007 and 41.6 % in 2008) still remains below half of the total municipal revenues. Regarding local taxes, the relative weight of these revenues is not very different from the national average figures mainly due to the restricted possibility for independent local tax policy. According to the last administrative report, local tax collection reached 140.3 per cent in 2008.

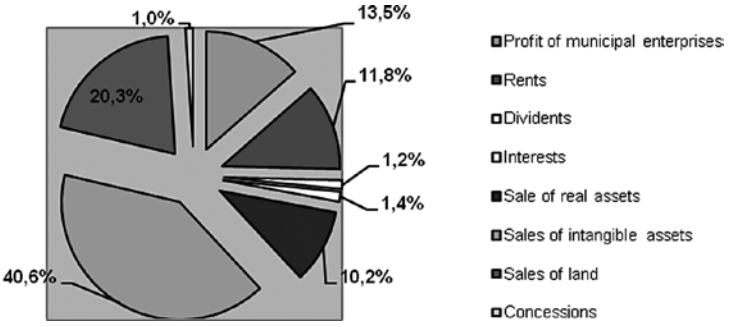
3.2 Municipal asset management

In theory, there are two general approaches to or goals of asset management: (1) provision of public goods and services and (2) support of local economic development and source of budget revenues (see Kaganova et al. 1999, 11–12). In practice, such a clear distinction is rather difficult. During the period analysed, the municipality of Blagoevgrad has applied a mixed approach, aimed at ensuring basic public services to the population, promoting local economic development, and increasing own source budget revenues. The municipality owns a variety of assets; some of which are, by nature, non-profit, while others are purely commercial. The public register of municipal assets is still under construction, so there is no accurate and reliable information regarding the physical characteristics and value of municipal property. However, the total amount of revenues from municipal asset management is presented in detail in the local budget.

Revenue structure dynamics for the period 1991–2008 indicates that Blagoevgrad municipality has managed municipal assets in a different manner to the average Bulgarian municipality. Revenues from sales of municipal property are comparable to the revenues from ownership and vary between 1.1 per cent and 4.3 per cent of the total local budget revenues. In 2008, revenues from sales are exceptionally high with a relative share 9.2 per cent of total revenues. It is interesting to note that this is mainly due to the high share of the sales of intangible assets (right of construction on municipal land), rather than to the sale of land and real assets. Sales of intangible assets form a prevalent part (40.6 %) of municipal asset management revenues, followed by the sales of land (20.3 %). Revenues from sales of real

assets have a comparatively modest share (10.2 %), thus revenues from sales reach 71.1 per cent of the total asset management revenues. Revenues from ownership represent 28.9 per cent of the total asset management revenues. The biggest share forms the profit of municipal enterprises (13.5 %), followed by the revenues from rents (11.8 %). As could be expected, the revenues from dividends (1.2 %), interests (1.45 %), and concessions (1.0 %) represent a relatively small share of the asset management revenues.

Figure 2
Revenues from municipal asset management
in Blagoevgrad municipality in 2008 (%)



Source: Calculations based on the municipality of Blagoevgrad database

Due to the limited property sales, the municipal asset portfolio of the Blagoevgrad municipality is not yet de-capitalised. The municipality owns various types of assets, which are a stable source of revenues for the local budget. This is the reason why the municipal administration has to make additional efforts to strengthen their revenue raising ability. In order to utilise this revenue source more effectively, the following basic recommendations can be summarised. Firstly, during the process of municipal property register development, local administration has to overcome the tendency to make an inventory of properties in a passive manner. For the purposes of effective asset management, municipal assets have to be classified based on new criteria, namely strategic importance and efficiency. Secondly, all the revenue generating assets, defined as private municipal property, have to be properly evaluated, considering the complexity of the real estate market. The assessment has to take into account the profit which is generated by each asset until now and, when possible, the opportunities for future profits by comparison with similar private properties. Thirdly, transparency and accountability have to be recognised as some of the basic preconditions for efficient municipal asset management. Fourth, local administration has to formulate a general policy on local economic development, using the

instruments of the strategic asset management. In this context, all the decisions for maintaining, increasing or reducing the assets portfolio, have to be sensitive to the basic macroeconomic and demographic variables. Moreover, efficient asset management has to keep a balance between the level of maintenance costs and revenues to protect the annual budgets. And finally, strategic asset management is a matter of new attitude, knowledge, experience, technical skills in project financing, "soft" skills such as negotiation and marketing skills, which are often in short supply among local administrations, partly because they command high salaries that local governments cannot afford. Permanent efforts to develop and improve such skills have to be a key imperative for all local governments, aimed at building strategic asset management at local level.

3.3 Performance of the municipal enterprises

In theory, municipal enterprises are directed towards economic activities, which are (a) socially profitable, but not privately remunerable, (b) privately remunerable, but not capable of private execution, and (c) natural monopolies. In practice, municipal enterprises can produce and provide goods and services on a remunerative basis, in competition with the private sector. In Bulgaria, local government enterprises provide a relatively broad range of services. Most of them work in an environment where there are generally no alternatives or no competitors. This is especially valid for utility services, with high infrastructure costs, such as water supply, sewage, heating and solid waste disposal, which have the characteristics of a natural monopoly. Due to decreasing per-unit costs over the entire range of outputs, natural monopolies benefit from the economies of scale.

Municipal enterprises in Blagoevgrad are not natural monopolies and on the contrary, some of them provide goods and services in competition with the private sector, while others are established with the purpose of strengthening the efficiency of municipal asset management. Presently, there are four municipal enterprises in Blagoevgrad. They were established according to the regulations of the Commercial Law. Because municipalities in Bulgaria are legally prohibited to assume unlimited responsibility for economic activities, municipal enterprises can only be registered as limited liability companies. "Biobuild" LTD was established in 1992. It provides services in the scope of cleaning and maintenance of streets, squares, parks, gardens, correction of river beds, solid waste disposal, planting, grassing, and garden design, operation of municipal bath and cemetery, construction, and specialised transport. "Bread-making plant" LTD produces bread, cakes, biscuits, and sweets. "Markets" LTD was founded in 2000 with the purpose of managing and maintaining all the real assets, installations, and equipment located on the territory of municipal markets, which are private municipal property. It can build, purchase, lease, or sell municipal assets in accordance with the Municipal Council's decisions. Established in 2008, "Parking lots and garages" LTD is intended to build, manage, and maintain parking lots and garages, which are municipal property.¨

Table 5
Municipal enterprises in Blagoevgrad: Basic characteristics

Municipal enterprises	Year of establishment	Capital stock (thousands BGN)	Personnel	Net profit (thousands BGN)			Return on investment (%)			Return on equity (%)		
				2006	2007	2008	2006	2007	2008	2006	2007	2008
"Biobuild" LTD	1992	671	250	45	21	17	5.0	2.3	1.2	6.7	3.1	2.5
"Bread-making plant" LTD	1992	359	55	–40	41	83	–6.1	6.3	12.9	–11.1	11.4	23.1
"Markets" LTD	2000	1,153	11	127	123	149	8.5	7.9	11.1	11.0	10.7	12.9
"Parking lots and garages" LTD	2008	59	23	n.a.	n.a.	5	n.a.	n.a.	4.1	n.a.	n.a.	8.5

Source: Municipality of Blagoevgrad

According to data provided by the municipality of Blagoevgrad, municipal enterprises operate successfully in a highly competitive environment. During the last three years, all of the enterprises have generated a net profit, except the "Bread-making plant" LTD, which recorded a net loss in 2006. However, this enterprise significantly improved its performance in the following two years. Analysis of the basic profitability ratios, namely return on investment and return on equity, demonstrates positive dynamics, especially for "Bread-making plant" LTD. Return on investment has tripled from –6.1 per cent in 2006 to 12.9 per cent in 2008. For the same year, return on equity is 23.1 BGN per every 100 BGN capital stock involved in economic activity, which is above the average for the economic sector. "Markets" LTD maintains a traditionally high performance, with a return on investment variation between 8.5 per cent and 11.1 per cent, respectively at the beginning and end of the analysed period. Return on equity is comparatively high, reaching 12.9 per cent in 2008. "Parking lots and garages" LTD shows promising results in the first year of its activity, registering a 4.1 per cent return on investment and an 8.5 per cent return on equity. The only point of concern is "Biobuild" LTD, which has reported diminishing profitability ratios, due to the net profit decrease. Bearing in mind that this enterprise provides some of the public utility services, which are not profit-generating by nature, its performance is quite satisfactory. Moreover, the enterprise is still profitable and maintains positive net financial results.

Obviously, municipal enterprises in Blagoevgrad maintain an adequate performance, bearing in mind that they operate in a competitive market environment. In principle, municipal responsibilities regarding local economic development are not explicitly regulated by the legislation. Practice indicates that the municipality is a natural centre and an active participant in initiatives promoting economic development, particularly in the areas of local importance. Municipal enterprises in Blagoevgrad have the potential to become vehicles of local economic development.

4. Conclusion and recommendations

This study presents a complexity of aspects of municipal asset management, valid not only for the municipality of Blagoevgrad but also for the majority of Bulgarian municipalities. Municipal asset management is a new lesson for public administrations, both central and local, because for the first time in 50 years, local governments hold properties that can generate revenues to the local budget, but which also require operation and maintenance expenditures. The main conclusion is that during the period 1991–2008, Bulgarian municipalities have owned properties, both from the public and private domain, but they have not had strategies to manage and develop asset portfolios. Due to the role of the municipal property as an entirely local source of revenues, municipal asset management can evolve to become an important pillar within the framework of the fiscal decentralisation process in Bulgaria.

During the transition period, local governments have suffered more than central government from the decreased financial capacity of the public sector in the country. Since 1991, the legislation in the scope of local finance has been subject to continuous changes, but the real decentralisation of local revenues proves to be a very long and difficult process. Local governments have had limited possibilities to influence the size of local tax revenues. In this context, most local governments have utilised municipal property as a one-time source of revenues, which saved municipal operative budgets, but did not take into account long-term, strategic benefits for the municipal budgets. Typical of the period is a negative tendency to continuous de-capitalisation of municipal asset portfolios. The revenues from sales of municipal assets have gradually prevailed over the revenues from ownership, depriving local budgets of sustainable revenue sources.

The study emphasises the need for municipalities to build the management capacity of municipal assets, considering the following aspects. First, development of municipal property registers on the basis of new criteria, namely strategic importance and efficiency; second, proper evaluation of the revenue generating assets, considering the complexity of the real estate market and taking into account the current and future profit of each asset; third, recognition of transparency and accountability as some of the basic preconditions for efficient municipal asset management and finally, formulation of a general policy on local economic development, using the instruments of strategic asset management and making all the decisions for maintaining, increasing or reducing assets portfolio, sensitive to the basic macroeconomic and demographic variables. Moreover, efficient asset management has to keep the balance between the level of maintenance costs and revenues to protect the annual budgets. And finally, a permanent effort to develop and improve local administration's skills is a key imperative for all local governments, aimed at building strategic asset management at the local level.

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Management of Municipal Housing Stock in Bulgaria

Nadezhda Bobcheva

1. Introduction

Over the last 10 years, in Bulgaria, substantial amounts of real estate have been transferred from central government to local authorities. In 1996, the Municipal Property Act was enacted which separates municipal property from state property. The law on municipal property provided the legal framework for one of the major problems experienced by local governments, namely the framework of property devolution. Properties can be grouped as follows (Bobcheva 2007):

- *Land and forests* – municipalities became owners of numerous plots of urban and agricultural land.
- *Waters* – local authorities gained ownership rights of mineral waters, natural springs, lakes, dams and swamps of minor importance, including the adjacent beaches, located on municipal land.
- *Natural resources* – these are quarries of local significance, i.e. only used to gratify the inhabitants of a particular municipality and their extraction volume does not exceed 10,000 m^3 annually.
- *Urban infrastructure* – a vast majority of assets fall into this group – streets, squares, parking lots and green areas for public use, including city parks. Local governments also own the part of networks and equipment belonging to the technical infrastructure (transport, water supply, sewage, communication, energy, central heating and engineering systems for civil protection), located within the settlement boundaries. Also, water infrastructure objects such as the systems and equipment for river basin fortification and protection dikes within the settlement boundaries, water transportation and water distribution networks for mineral water, and potable water purification plants became municipal property.
- *Service properties* – this group is composed of the real estate needed to deliver the following services:
  i. administration – local government buildings;
  ii. education – municipal schools and kindergartens;
  iii. healthcare – municipal medical institutions;
  iv. culture – libraries, public houses *(chitalishta)*, cultural centres, theatres, opera houses, cinemas, museums, art galleries;
  v. sport – stadiums, sport halls, swimming pools;
  vi. sanitation – public baths and public laundries;
  vii. commerce – workshops, ateliers, shops, garages, etc.

- *Housing stock* – dwellings were the easiest transfer but the biggest concern for municipalities. Unlike other transition countries, Bulgaria began its democratic development with 91 per cent home ownership and the transfer did not affect the tenure structure. Housing stock was scattered over many locations both attractive and repellent. Some dwellings were quickly sold to sitting tenants; others were retained. Local governments remained responsible for housing socially-disadvantaged families.

Obviously, municipal property has various uses and it has ramifications in a great number of municipal activities. Certainly, it is used for:

- *Provision of public services* – the most important use, hence, provision of many services is mandatory. Variety of service properties and urban infrastructure such as schools, kindergartens, libraries and roads are used for this purpose.
- *Generating budget revenues* – due to the local autonomy in decision-making, municipalities can freely determine the amount of property-related revenues such as rents, dividends, sales, and other one-off revenues, trying to forecast and offset any budget shortages.
- *Bank collateral* – municipalities may use their property as collateral to borrow money from commercial banks. As a general rule, those are properties that can easily be sold such as shops, garages, workshops, etc.
- *General public use* – in the late 1990s many vacant municipal buildings have been converted into business centres to support small- and medium-sized enterprises. This municipal practice has been encouraged by various donor-driven projects within the framework of local economic development.
- *Public-private partnerships* – usually, Bulgarian municipalities enter public-private partnerships by providing properties rather than financial resources. It is easier to justify and less politically sensitive.

Apart from the first use, e.g. provision of public services, that is mandated to local governments, all of the remaining property uses are closely linked to municipal strategic goals. Some scholars argue that regardless of the ownership of a great number of properties, few local governments consider their holdings a "portfolio" to serve the public interest (Kaganova and Nayyar-Stone 2000). The contradictory nature of municipal real estate faces local governments with a number of challenges – how to maintain, how much to invest, and how to dispose of their properties; challenges that are closely intertwined.

2. Housing in Bulgaria

Unlike other transition countries in the CEE region, Bulgaria began its democratic development with a share of 91 per cent homeownership. Privatisation and restitution processes did not cause considerable changes in both housing ownership and

tenure structures. The only exception is the private rental sector, which developed with 0.4 per cent in the early 90s and with 1.6 per cent in 1998. The home ownership structure is now: 96.7 per cent private and 3.3 per cent public homes.

The public dwellings are located in buildings with mixed ownership. There is no good information about this issue as the census does not record it. Public housing is prevailing in the bigger cities with populations over 100,000 people.

Table 1
Municipal housing stock in the different types of buildings in Bulgaria

Categories	Single family houses	4 floors	Multi-storey buildings	Others
Big cities	1.0%	14.3%	83.6%	1.1%
Country average	1.3%	14.1%	83.0%	1.6%

Source: Yoveva and Dimitrov (2003)

Prevailing are the public dwellings in multi-storeyed houses. During socialism, the state made prefabricated buildings and used other industrial methods for construction in order to satisfy the housing needs (6–8 floors high and more).

Bulgarian municipalities execute their social housing policy using the publicly owned housing stock but the share of publicly owned is insignificant. However, housing stock continues to suffer from its "socialist disease" – inadequate maintenance and repair. In Bulgaria, most state-built dwellings during the communist era were created as private ownership tenure, being sold rather than rented. Only the shell of the dwelling was built, leaving the owners to complete them from their own resources, and maintenance was basically the individual's responsibility. Consequently, standards or repair and maintenance were very low (Lowe 2000).

Various problems have precluded and continue to preclude the possibility to maintain at proper level, properties owned by Bulgarian municipalities. The majority of them seem to have a weak financial base. The widespread municipal practice is to undertake capital repairs and maintenance on an ad hoc base when some funds have been pledged to such a task. Some local governments "solve" this problem by selling their real estate and shifting the maintenance responsibilities to the new owner.

Bobcheva (2007) reports that the share of proceeds from property and land sales in total revenues has grown dramatically from 1.11 per cent in 2000 to 7.53 per cent in 2005 – an almost 700 per cent increase in only 6 years. Schaeffer (2000) proposes a set of financial performance indicators that make it possible to compare municipal performance over time. One of his benchmarks is the ratio *proceeds from asset sales/total revenues*. A ratio below 2 per cent corresponds to strong financial performance; above 5 per cent indicates financial weakness of the municipality. So,

in such a short period, Bulgarian municipalities started performing badly in financial terms due to the significant increase of sales of municipal property. A similar trend has been observed in Hungary, documented by Kassó and Pergerné-Szabó (2004), who state "in order to avoid the burden of rent arrears, deferred maintenance, and refurbishment, many municipalities sold out all of their residential property and got out of the residential market by 2000".

There is no systematic data about operating and capital expense on municipal housing stock. As a rule, policy regarding investment in property maintenance and repair varies by city, even within the same country. However, there is a great deal of anecdotal and visual evidence that, with the exception of a few countries in Central and Eastern Europe, local governments have substantially under-invested in property maintenance (Kaganova and Nayyar-Stone 2000). Box 1 presents such a case in the municipality of Silistra (Bulgaria) regarding housing.

Box 1

The hypothetical gap between the necessary and potential investment required for maintenance

In 2000, the municipality of Silistra established a municipally-owned company, operating under the Commercial Code. The prime housing tasks vested to it are maintenance of the municipal housing stock and rent billing. Establishing a company was an attempt to address the maintenance issue.

There is very old legislation (Instruction No15 for Administration, Maintenance, and Repair of the Housing Stock) that stipulates the amount that should be allotted to routine repairs and maintenance of the housing estates. Article 26, paragraph 1, point A of the Instruction states that the amount cannot be less than 75 per cent of the restoration value of the buildings. In 2004, the municipal housing stock was valuated at 755,000 BGN. So, the amount to recurrent maintenance is estimated to be 566,250 BGN. Company's revenues in that year totalled 189,901. Data is presented in the following table:

Total value of the housing stock	Annual amount necessary for maintenance	Annual company revenues	Annual gap
755,000 BGN	566,250 BGN	189,901 BGN	376,349 BGN

The hypothetical gap between the necessary and potential investment in maintenance is approximately 376,349 BGN. Hence, there is no company, using all its revenues for investment only and the actual gap is much wider than is presented. Consequently, the company has significantly underinvested in municipal housing stock.

Source: Bobcheva (2004)

The housing example allows us to scratch only the surface of the management and maintenance problem. We can conclude that municipal housing stock in Bulgaria has experienced severe underinvestment. The underinvestment, coupled with property sales, poses serious risks to social housing accessibility.

3. Types of municipal housing maintenance arrangements

By definition, the delivery of services is a set of institutional arrangements adopted by the government to provide goods and services to its citizens. Therefore, it is the specific institutional arrangements that critically influence the performance of public service delivery. Different combinations of private and public involvement are appropriate to service provision. The underlying rationale is that the market provision can "fail" for different reasons, implying different motives for government intervention. But the private sector involvement includes not only formal private firms but also informal enterprises, community organisations and non-governmental organisations; equally, the public sector may include government departments, agencies at different levels of government and, perhaps also, more informal institutions of self-governance by communities and user-groups (Batley 1996).

By "institutional arrangement" we mean the way of organising the direct and indirect provider role in service provision. The World Bank (1994) describes four broad "institutional options" for allocating responsibilities of ownership, financing, and operational and maintenance responsibilities, and also of the risk between government and the private sector. These are as follows:

- Public ownership and public operation;
- Public ownership and private operation;
- Private ownership and private operation;
- Community and user provision.

These options are not exhaustive but are representative points on an underlying continuum of institutional alternatives.

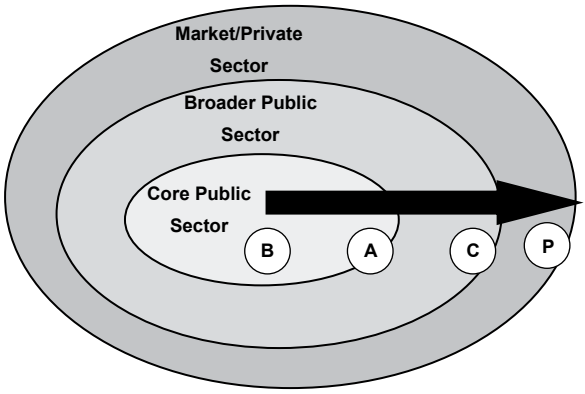
Regarding pure public provision arrangements, governments are responsible for almost everything – bringing out legislation, enforcing it, hiring staff, investing, producing and distributing services, either directly operating from the headquarters or through de-concentrated line agencies, assuming full responsibility, and are accountable not only for the provision of, but also for delivering services.

Retaining power within themselves, governments also adopt different sub-arrangements for the actual delivery. The most common arrangement is a public entity – a parastatal, public enterprise, public authority, or government department – owned and controlled by the central, regional, or local government.

However, there is a variety of arrangements by which governmental bodies retain indirect responsibility for the provision of a service, while contracting all or

some aspects of its production or delivery to private firms or other non-governmental organisations. Within the public service sector, the most important component of privatisation has been the contracting out (also termed outsourcing) of services (ILO 2001). Under such arrangements, the public authority bears the full financial risk, remains responsible for setting standards and retains full ownership of facilities. Private contractors usually receive payment according to contract and not to their own operational efficiency.

Figure 1
Incentive environments: from public to private



Adopted from: Manning 1998 in Harding and Preker, 2000

The broader public sector is distinguished by the relative flexibility of its financial management process and by the greater freedom allowed managers in recruitment and promotion. This may include special purpose agencies, autonomous agencies, and, on the outer limits, publicly-owned companies. Beyond the public sector lies the domain of the market and civil society. Harding and Preker (2000) argue that the incentives for efficient production are higher in moving outward, and service delivery is often better there.

We will examine briefly the above-depicted options, beginning with the case of a budgetary unit, i.e. housing services being provided by a government department. The manager of such a department is an administrator. The government's hierarchy of officials and rules controls all strategic issues and determines most day-to-day decisions related to production and delivery of services.

Autonomisation of such departments is a reform that focuses on "making managers manage" – by shifting much of the day-to-day decision-making control from the hierarchy to management. These changes are often accompanied by increasing the scope for generating revenue tied to service delivery. Accountability ar-

rangements still come from hierarchical supervision. However, objectives are now more clearly specified. Usually, the scope of the objectives is narrowed, and focus on economic and financial performance is increased.

Corporatisation is the next step. *It is an effort to combine effectiveness and efficiency of private corporations while assuring that social objectives are still publicly-set*. Under corporatisation, provisions for managerial autonomy are stronger than under autonomisation, giving managers complete control over all inputs and issues related to the production of services. The organisation is legally established as an independent entity. The independent status includes a financial "bottom-line", which makes the organisation fully accountable for its financial performance, with liquidation being the final solution in case of insolvency.

The most extreme form of "marketising" service delivery is privatisation. Privatisation naturally removes the organisation from all direct control of the hierarchy of government officials or public sector rules. All incentives come from opportunities to earn revenue, and the incentives are relatively strong.

In the following lines, we will briefly examine the 4 major types of municipal housing maintenance arrangements in Bulgaria. For more detailed information see Appendix.

A) Municipal administration is the most often met structure – in more than half of the Bulgarian municipalities. In general, these are small municipalities with populations below 100,000. In such smaller cities there is a small share of public housing stock. The municipal departments, dealing with municipal property, are managing and maintaining the municipal housing stock. They collect and distribute rent revenues. Urgent repairs and maintenance are either executed by the municipalities or subcontracted on an ad hoc basis to companies.

B) Budget enterprises are found in 12 per cent of the municipalities. They are separate organisations working within the framework of the municipalities. They have annually planned funding, allocated from the municipal budget.

C) In 29 per cent of the municipalities there are trading companies. These are organisations, operating under the commercial code as limited liability companies, wholly-owned by the local government. They are independent from the municipalities; they operate municipal housing stock and collect revenues from it. They have responsibilities to manage and maintain the municipal property.

   In some companies, the activities concerning maintenance of the municipal housing stock are separated in a special department. These are municipally-owned companies, dealing with public works, such as maintenance of green spaces and roads, construction work, etc.

D) There are no pilot municipalities in which the municipal housing stock is maintained or managed by a private company. Indeed, there are private companies in Bulgaria that act as subcontractors on public municipal objects – maintenance

of green spaces, construction of roads and any other maintenance and reconstruction work, but not on municipal housing stock. In Box 2 examples are presented from various Bulgarian municipalities.

Box 2
Examples of organisational forms in Bulgaria

In Plovdiv, the budget enterprise is staffed with 8 people. It has the same responsibilities – contracting those who receive municipal dwellings, making repairs of the common parts, and renovating empty dwellings, before renting them to new tenants. It takes care of 4,294 dwellings. In Dobrich, there is a municipally-owned company, managing the municipal housing stock. Apart from maintaining the stock, the company is also responsible for the rehabilitation of the buildings and for this reason, it also collects revenues from selling out dwellings. It also employs 8 people. A pilot project aimed at rehabilitating municipal housing stock will begin in the near future. The necessary funds are secured.

In the municipality of Ruse, housing activities are operated by a budget enterprise, which recently took over from a municipally-owned company. The personnel of the housing budget enterprise in Razgrad are "almost the same as in Silistra". However, its activities go beyond maintenance of the housing stock – it is also responsible for the traffic signalisation.

Source: Bobcheva (2004)

4. Management of the housing stock in the municipality of Silistra

Similar to many municipalities in Bulgaria, Silistra is not an exception to the prevailing practice of executing municipal housing tasks. The majority of them provide dwellings to socially-disadvantaged households. For this purpose, the municipally-owned housing stock is used. Since the inception of changes, some of the municipal housing tasks have been carried out by a special municipal unit, directly financed from the budget. It is named *Zhilfond* and handles all households, sitting in municipally-owned dwellings. Those households are prevailingly socially-disadvantaged, experiencing serious financial hardship. Their major obligation is to pay the rent and in turn, the unit provides certain repairs.

According to the contract between the municipality and the company, *the management* is seen as maintenance and repair. The unit's practice shows that it fulfils the contract only in the part concerning new tenancies because local government failed to set up a requirement for all repairs. The procedure is executed in the following manner – the officer in charge of repairs, accompanied by some of the workers, visits the dwelling. After a detailed inspection, they prepare a report in

which are described the necessary actions to be taken. In a short time the workers accomplish the prescribed repairs.

The unit does not plan repairs. Most of the repairs refer to emergencies or new tenancies. Very few are a result of tenants' requests. No planning of repairs is a bad practice but it is an intrinsic part of the Bulgarian municipal reality. Such examples are provided in Box 3.

Box 3

Examples of management of the housing stock

In line with Silistra are also the sub-municipality of Oborishte and sub-municipality of Triaditza, both part of the Greater Sofia municipality. They do not plan repairs. In the municipality of Razgrad, the local council annually allots an amount which is supposed to cover all repairs during the year. The municipality of Ruse does not follow the prevailing municipal pattern. Every year, in October, a municipal commission makes an inventory of the municipal stock and assesses the needs for repairs.

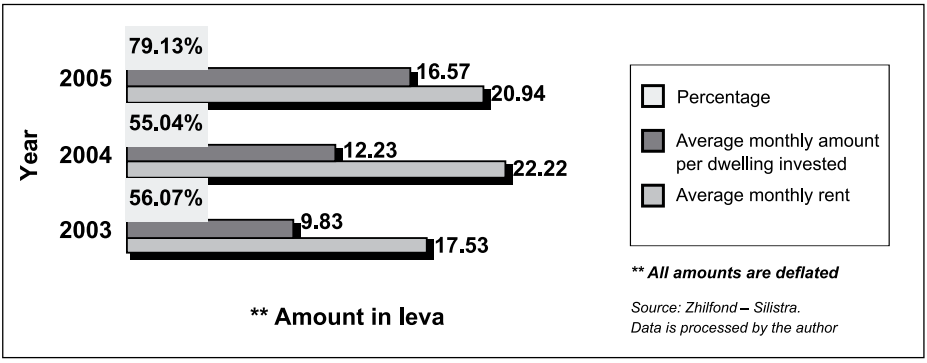
Source: Bobcheva (2004)

Management of the housing stock is another procedure, executed in a very dissatisfactory manner. Each inspection consumes time which could be devoted to real repairs. The workers' presence is justified by the fact that they know better how much time will be necessary to accomplish repairs, but the officer in charge of the repairs is supposed to possess a certain expertise. Corollary, the manner of executing inspections is time-wasting and, not surprisingly, that time is waged.

This outcome is also caused by the use of the municipal housing stock as shelter for the socially-disadvantaged. More than 90 per cent of the unit's revenues are social housing rents. However, those revenues are limited due to the fact that the local council sets up the rent tariff. In order for the maintenance to be carried out properly, local government has to contribute financially otherwise the stock will become residual very quickly. But, the local government has not provided any financial means to companies over the past years, strongly affecting the unit's behaviour. It has confined its investment to the amount of rent charged, hence using part of it to pay salaries. How this was done over the years is shown in Figure 2.

It can be easily seen that the rent and the monthly amount per dwelling invested steadily increased with almost the same annual figures, but overall, the company has slightly decreased the percentage invested in maintenance. The only exception is in 2003, but this is more a result of rent deductions than intensive repairs. Bulgarian municipal practice concerning repair percentage will be outlined in Box 4.

Figure 2
Investment in repairs as a percentage of the rent



Box 4
Examples of amounts spent on maintenance

In Plovdiv, the budget for repairs is extremely insufficient – it varies from 5 per cent to 10 per cent of rental revenues. For example, last year these revenues were approximately 1,000,000 BGN and the budget received for repairs was 4,000 BGN. In the sub-municipality of Oborishte (part of the Sofia Greater municipality), the means for repairs represent 10 per cent of total rent revenue. The exact percentage in Razgrad is not known but "rent revenues are not sufficient to cover the expenditures for repairs".

Source: Bobcheva (2004)

Order No.24 of the Bulgarian Council of Ministers from 1977 is the only existing legal document which stipulates the minimum amount that has to be budgeted for repairs. It has been amended but it could be used as a basis for comparison. According to Article 8 of this document, business establishments existing at that time should not budget less than 30 per cent of gross rent revenues for routine repairs. Taking into consideration all the above mentioned, we can state that "Zhilfond" – Silistra over-performs the municipal entities shown as examples above. In each year it allotted more than 30 per cent.

5. Conclusion

The trend observed all over Bulgaria is that municipalities sell off their assets, including municipal housing stock. Its share in total housing continues to be very low – about 3 per cent. It has decreased over the past years but the process is ongoing due to the scarce municipal budgets and lack of state subsidies for housing maintenance.

Bulgarian municipalities are responsible for financing the maintenance of public open spaces and the infrastructure in the residential neighbourhoods. Municipal budget funds are limited and insufficient for capital infrastructure works; local governments try to shift them to developers or to tenants. As a general rule, municipalities are passive and follow the inertia of the past. They are reluctant to undertake innovative steps and to look for new solutions. Those are the reasons why there are no efficient models for management of municipal housing stock in Bulgaria that can be shared.

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Appendix

Types of arrangements used by Bulgarian municipalities for public housing maintenance

Municipal Centre	Year of information	Municipal administration	Budget enterprise	Municipally owned company	Privately owned company
100,000 + inh.					
1. Sofia	2004			x	
2. Plovdiv	2003		x		
3. Varna	2004	x			
4. Burgas	2003		x		
5. Ruse	2004		x		
6. Veliko Tarnovo	2003			x	
7. Dobrich	2003			x	
8. Vratza	2003			x	
9. Pleven	2003			x	
10. Sliven	2003			x	
50,000–99,999 inh.					
11. Shoumen	2003			x	
12. Yambol	2001			x	
13. Pernik	2003			x	
14. Pazardzhik	2001		x		
15. Kazanlak	2001	x			
16. Asenovgrad	2001			x	
17. Kyustendil	2001	x			
20,000–49,999 inh.					
18. Montana	2001	x			
19. Silistra	2009		x		
20. Razgrad	2004		x		
21. Targovishte	2003			x	
22. Smolyan	2001	x			
23. Svishtov	2001			x	
24. Dupnitsa	2001	x			
25. Petrich	2001	x			

26. Gotse Delchev	2001	x			
27. Harmanli	2001	x			
10,000–19,999 inh.					
28. Tryavna	2001	x			
29. Berkovitsa	2001	x			
30. Panagyurishte	2001	x			
31. Cherven Bryag	2001	x			
32. Parvomay	2001	x			
33. Stamboliyski	2001	x			
34. Chirpan	2001			x	
5,000–9,999 inh.					
35. Belene	2008	x			
36. Nesebar	2001			x	
37. Belogradchk	2001	x			
38. Kubrat	2001	x			
39. Tervel	2001	x			
40. Galabovo	2001	x			
41. Kotel	2001	x			
42. Bansko	2001	x			
43. Devnya	2001	x			
44. Dulovo	2008	x			
45. Dryanovo	2001			x	
46. General Toshevo	2001	x			
47. Krumovgrad	2001	x			
48. Slivnitsa	2001	x			
49. Oriyahovo	2001	x			
50. Suvorovo	2004	x			
51. Tutrakan	2008	x			
Total		**30**	**6**	**15**	**0**
Total – %		**59%**	**12%**	**29%**	**0%**

Source: 2001 Survey conducted by the Sustainable World Foundation, Sofia, in 43 Bulgarian municipalities, National Association of the Public Works Companies (2003), and the author

Municipal Asset Management in the Czech Republic[1]

Lucie Sedmihradská

1. Introduction

Municipalities in the Czech Republic manage sizeable property which they acquired either based on laws on property transfer from the state to municipalities or as a result of their management. Based on the aggregated municipal balance sheet, municipalities possessed assets of a total book value of 1,475 billions CZK[2] at the end of 2008, of which the major part generated buildings and constructions (851 billions CZK) and other long-term tangible property (363 billions CZK). The assets owned by municipalities are very heterogeneous.

The objectives of the proposed paper are to characterise the current situation in the Czech Republic regarding municipal property and its management and to present a case study of a small town in Southern Bohemia – Sezimovo Ústí.

The analysis of the current situation comprises an analysis of the legal framework, available aggregate data and existing professional handbooks and manuals intended for municipal officials and staff. The case study follows the research protocol.

2. Local government in the CR

The Czech Republic is a unitary state. The Constitution from 1993 establishes two levels of local governments: regions and municipalities. The 14 regions were established in 1997; first, regional representatives were elected in November 2000, and the regional governments have been working since 1 January 2001. Regions care for the general development of their territory and needs of their citizens, especially in the field of social care, environmental protection, transportation, education, culture, and security.

Municipalities are basic territorial self-governing communities, i.e. public corporations with their own property. There are currently about 6,250 municipalities. Municipalities exercise simultaneously both own responsibility, which is exercised by the municipality and its bodies on its behalf, and delegated responsibility, which is performed on behalf of the state and the state is legally responsible for the performance of the delegated power.

The law on municipalities (128/2000 Coll.) recognises in regard to the scope of delegated power, three types of municipalities: municipalities with basic delegated powers (all the municipalities, about 6,250), municipalities with an authorised municipal office (second-type municipalities, 388) and municipalities of extended

1 This project was supported by the Czech Science Agency, No. č. 402/09/0283.

2 1 EUR = 25.7247 CZK (as of 8 November 2009).

scope (third-type municipalities, 205). Municipalities belonging to the latter two groups are listed exhaustively in a special law (314/2002 Coll.).

Municipalities in the area of own responsibility are responsible for the delivery and implementation of the responsibilities for civil registry and enforcement of national regulations, pre-primary and elementary 9-year schools, recreational activities, sport and park facilities, secondary hospitals and primary health, local library services, pensioner residential homes, orphanages, homes for the mentally handicapped, nursing homes for the elderly, local roads, local transport, local police, collection and treatment of solid waste, street cleaning, sewage treatment plants and operation, water treatment and supply, natural gas supply, heating, maintenance of public housing and building, city planning, local environmental issues and local tourism (see de Carmo Oliveira and Martinez-Vazquez 2001). Regarding own responsibility, all the municipalities are de jure equal, of course in reality the level of the provided services depends on the available financial resources, which differ among the different municipalities (see Vedral et al. 2008, 331).

Local government financial management is guided, for instance, by these laws: (1) the act on budgetary rules for local governments (250/2000 Coll.), which regulates the revenues, expenditures, budget, budgetary process and property management of local governments and the management of public organisations established by local governments, (2) the law on tax assignment (243/2000 Coll.), which specifies the tax sharing mechanism and (3) the law on municipalities (128/2000 Coll.), the law on regions (129/2000 Coll.) and the law on the capital of Prague (131/2000 Coll.) which specify the roles of the respective local government bodies regarding financial management.

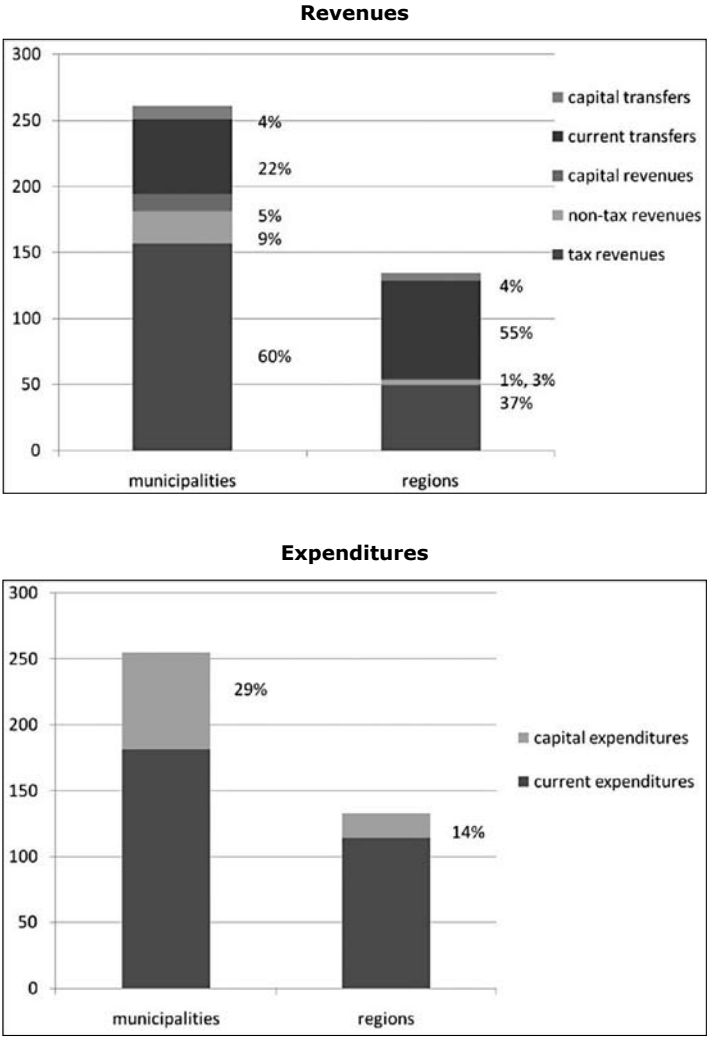
The share of local government expenditures in total public expenditures was about 25 per cent in 2008 and about 10 per cent of GDP. These shares are quite stable over time.

Fiscal autonomy of the municipalities is very low. However, it is still much higher than the fiscal autonomy of the regions. The majority (95%) of municipal tax revenues comes from shared taxes and the remaining tax revenues come from property tax and local fees. Municipalities have some autonomy regarding the rate and base of both the property tax and local fees. However, the autonomy is quite limited and together with the volume of revenues coming from these two sources, it becomes almost insignificant. The regions do not have any discretion regarding tax revenues.

Currently, the revenues coming from income taxes (both personal income tax and corporate income tax) and value added tax are shared among the three government levels. With some simplification, municipalities receive 21.4 per cent, regions 8.92 per cent and the state 69.68 per cent of the proceeds from these taxes. These revenues are distributed among the individual municipalities and regions based on

a formula. For municipalities, the formula includes these characteristics: number of inhabitants, size group coefficient and land area. For the regions, the shares are fixed by the above mentioned law. For more information on the tax sharing system and its evolution, see de Carmo Oliveira and Martinez-Vazquez (2001, 31–33), Hemmings (2006, 14–15) and Sedmihradská (2008).

Figure 1
Volume and structure of revenues and expenditures
(2008, billions CZK and percentage of total)



Source: State budget proposal for 2009, Part F, the data are estimates only

Figure 1 shows the volume and the structure of revenues and expenditures of municipalities and regions. The comparison of municipalities and regions shows clearly that the role of municipalities, as a local government, is much higher than that of the regions and that municipalities are more fiscally independent than the regions (a share of the grants received by the regions only pass through their budgets to the various public organisations, such as schools). The volume of capital expenditures of regions is significantly lower than that of municipalities.

Self-governing municipalities, which owned and managed their property, were abolished in 1948[3], when property was nationalised, i.e. became state property, and the self-governments were replaced by so-called national committees.

In early 1990, the self-governments were renewed and the new law on municipalities (367/1990 Coll.) declared that a municipality is a legal person with own property and financial resources and that it manages them independently. Municipalities can also engage in entrepreneur activities either alone or with other subjects.

3. Municipal property

3.1 Evolution and current state

Most of the property, which municipalities lost after 1948 (so-called historical property), was returned to them based on the law on transfer of some goods from state property to municipality ownership (172/1991 Coll.) (See Kišš 2005). Municipalities received all the historical property which was, by 24 May 1991, owned by the state; thus the property owned by other subjects was not transferred. All this property was transferred automatically – no approval or act of a public authority was required. Two amendments to the mentioned law (114/2000 Coll. and 277/2002 Coll.) enabled the transfer of some additional property by 1 July 2000 and 28 July 2002. Additional property was transferred to municipalities in the framework of the public administration reform since 1 January 2003, based on a specific law (290/2002 Coll.). Next to the historical property, municipalities also received property which was managed by the national committees and municipal housing, even unfinished and constructed after 1949. Based on the approval of a municipal request, municipalities could receive property managed by budget organisations founded by the municipality and active in the area of education, healthcare or communal services. Finally, municipalities received securities, mostly shares of utility companies. Municipalities received 34 per cent of gas and energy companies' shares, 80–90 per cent of water management companies' shares and some others. The purpose of this transfer was to involve municipalities in the decision-making and control of these companies; however, most of the municipalities have already sold their shares (see Provazníková 2007).

3 de jure in 1950 (see Havlan 2008, 14).

Municipal property in general is a very dynamic category and is still being formed (see Havlan 2008, 57). There is no enumeration of municipal property therefore municipalities can own practically anything. On the other hand, municipalities use their property mostly for the fulfilment of their responsibilities, i.e. overall development of their territory, needs of their citizens and public interest. Therefore, a municipality must own at least such a property, which enables the fulfilment of these responsibilities in a proper and efficient manner and to supply the required public services. Again, there is no enumeration of the concerned areas. Havlan (2008, 58) lists these areas: housing, health, environment, transport and communication, information, education, culture and public safety.

Municipal accounting is guided by the law on accounting (563/1991 Coll.), an accompanying decree (505/2002 Coll.) and Czech accounting standards (see Jihomoravský kraj 2008). Information on municipal assets provides a standard balance sheet. Assets are classified first according to their lifetime: fixed (long-term) assets and short-term assets. Fixed assets are further classified as tangible, intangible and financial. Among the short-term assets are inventory, claims, financial property, means of budgetary management and temporary accounts.

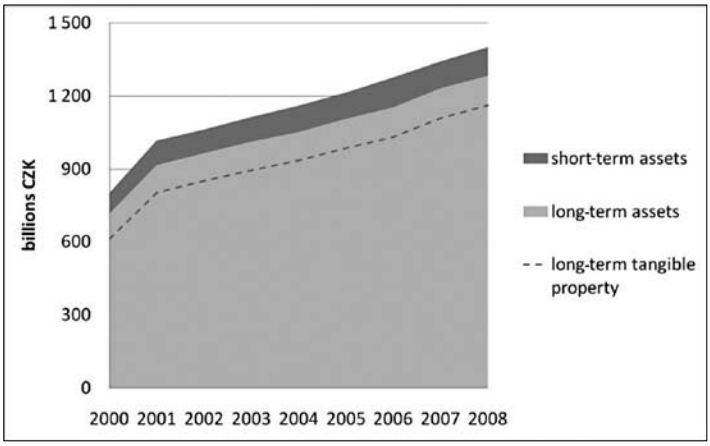
Fixed assets are valued either by purchase price (historical cost) which includes all expenditures related to the purchase of the property or own costs in case the property is a result of own activity. In case the own costs are higher than the reproduction purchase price, the latter value is used. Municipalities in the area of their regular responsibilities, with the exception of so-called economic or entrepreneur activity, do not depreciate assets! Despite this regulation, the value of municipal property is not expressed objectively due mainly to these factors: missing uniformity when valuating historical property, various annex buildings and technical infrastructure. At the same time, the inventory (stocktaking) of plots under roads or technical infrastructure is often not yet completed (see Vodička 2003)

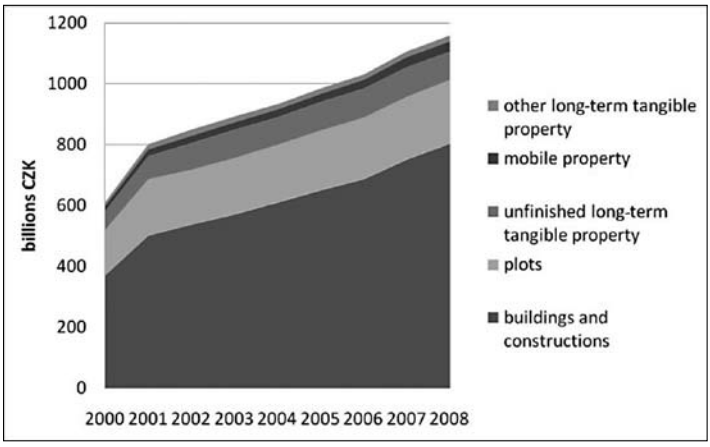
Figure 2 shows the total volume of municipal assets and its development between 2000 and 2008. Fast growth in 2001 was caused mainly by additional transfer of property to municipalities as mentioned earlier. The dominant asset category, 70 per cent in 2008, represents buildings and constructions which also contributed most significantly to the general growth of the total asset value. Most of the buildings and constructions were built (based on the data of expenditures) in the area of water and sewer and communal services and urban development.

Figure 3 shows revenues and expenditures related to municipal property. The volume of revenues coming from rents and interests is quite stable over time and due to the quick growth of other revenue sources, their share on total revenues fell from 6.9 per cent to 4.5 per cent. The volume of revenues coming from the sale of property is very similar with only one exception, i.e. the year 2006 – the year of the municipal council's elections! Contrary to the stability at the revenue side, at the

expenditure side we can observe a steady growth, both in capital expenditures and in expenditures on repairs and maintenance.

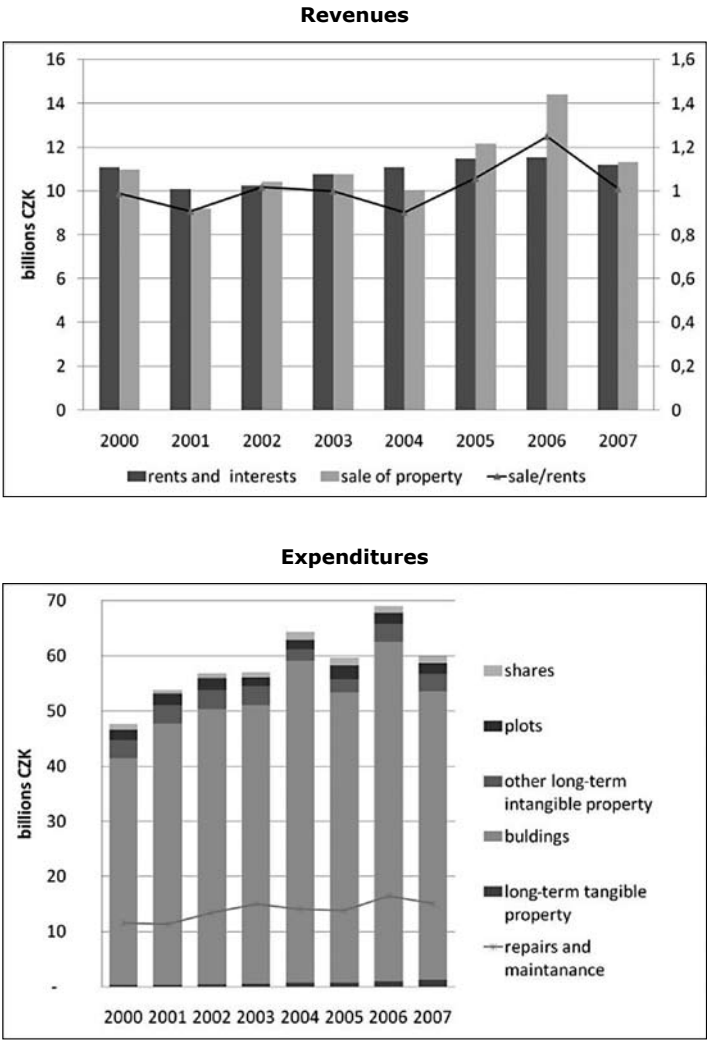
Figure 2
Municipal assets and long-term tangible property
(2000–2008, state by 1 January of the particular year, billions CZK)





Source: ARIS, own calculations and elaboration

Figure 3
Revenues and expenditures related to property (2000–2007, billions CZK)



Source: ARIS, own calculations and presentation

3.2 Legal regulation

There is no single law which regulates municipal property, in contrast to the state property which is regulated by a special law (law on the property of the Czech Republic and its presence in legal relations, 219/2000 Coll.). Municipal property is therefore mainly regulated by two laws: law on municipalities (128/2000 Coll.) and

law on budgetary rules of local governments (250/2000 Coll.). Particular areas are regulated by other special laws, such as the law on accounting (563/1990 Coll.) or the law on procurement (137/2006 Coll.). This situation creates some vagueness and inconsistency (see Havlan 2008, 8).

The regulation provided by the law on municipalities is quite brief and general. The law on municipalities (§ 38, articles 1 and 2) presents the main rules or duties regarding municipal property management:

1) To use the property efficiently and economically

   Unfortunately, the law on municipalities does not define the terms "efficiently" and "economically", so it depends on the municipal officials as to what they consider to be efficient and economic (see Vedral 2008, 220). Janeček (2007) suggests that municipalities specify these terms in internal regulations. Some help can be found in the law on financial control in public administration (230/2001 Coll.), which defines both economy (minimal expenditures for the fulfilment of a particular task when the standard quality is ensured) and efficiency (use of public means which lead to the fulfilment of the stated objectives). At the same time, the municipality should act in compliance with the interests of the municipality and its legal duties. Unfortunately both of these tasks are not specified.

2) To care for the preservation and development of the property

   As in the former case, the concepts introduced are not better defined in the law. Vedral et al (2008, 222) refers to the general understanding when property preservation means assurance that the value of the property does not fall and development means further appreciation or at least everyday maintenance of the property.

3) To run an inventory of the property

   Municipalities are required, based on the law on accounting, to keep accounts and prepare financial statements, which should bring a true and straightforward picture of the management and which need to be conclusive. Therefore they have to run an inventory, which must include all property and liabilities for a period of 5 years.

4) To protect the property against destruction, damage, theft and misuse

   Protection of property contents, both physical and legal protection, also relates to intangible property, such as various databases or valuable information. This includes the protection of property contents and prevention of damage. The costs of the protection of property should be related to the value of the property (see Vedral 2008, 223). Fulfilment of this duty also includes the insurance of the property in case of damage through unexpected events (see Janeček 2007). At the same

time, a municipality must enforce the right to compensation for damage. A basic prerequisite for this is a proper inventory including related legal relationships.

5) The right to dispose of redundant property

This means that a municipality can sell, rent, exchange or destruct redundant property. Unfortunately, there is no specific definition of redundant property and therefore it depends on the decision of a municipal body. Janeček (2007) suggests the municipal council, but the law does not specify which municipal body should decide which property is redundant.

At the same time, the law prohibits the issuing of guarantees for other subjects with a few, clearly specified, exceptions, such as loans used for co-financing of investment grants or for subjects owned by the municipality. In contrast to this arrangement, there is no special limitation of municipal usage of various securities, which can be risky and lead to unexpected losses (see Pšenička and Priknerová 2009).

The presented overview of the main duties prescribed by the law for municipal property shows clearly, that on the one hand there are clear rules for good management; however, there is substantial space left for the individual municipalities on how exactly they will carry out these duties. Janeček (2007) does not see this as a problem. On the other hand, recent research (see Ochrana and Nemec 2009) found that the application of the principles of efficiency and economy among Czech municipalities is far from optimum. At the same time, research results of municipal property management in U.S. municipalities proved that only in 15 per cent of municipalities were there formal decision rules for capital budgeting, acquisition or disposition of property (see Simons 1992, 646).

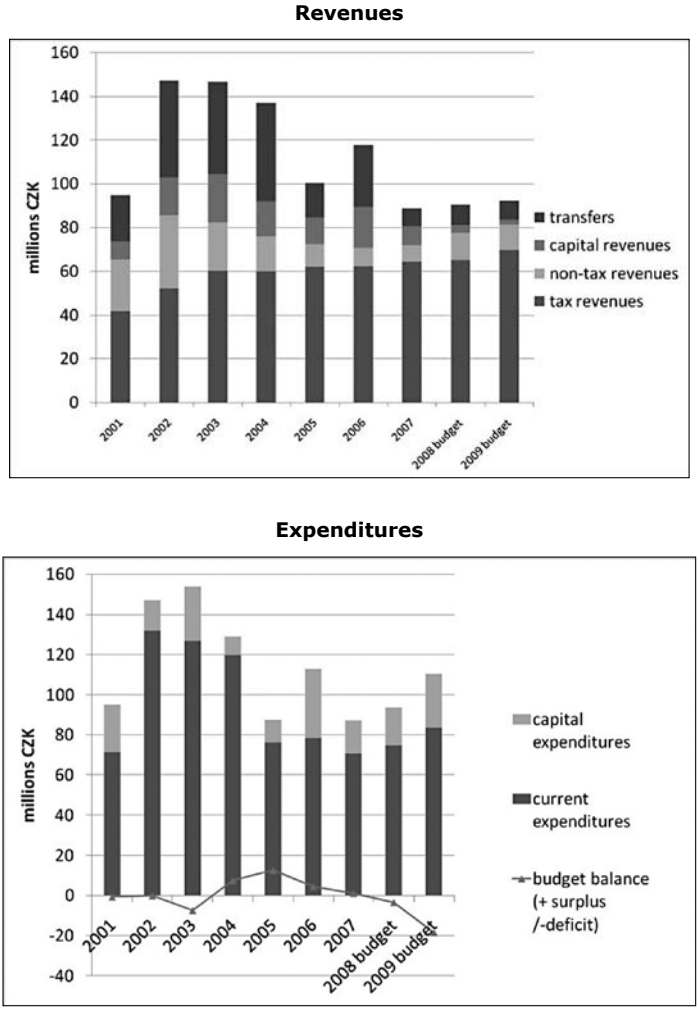
Most of the decisions related to municipal property are taken by the municipal council; the law on municipalities, especially, requires that the municipal council takes decisions related to tangible property. The financial committee of the municipal council is responsible for the control of property management. The transparency of municipal property management is increased by the requirement to publish a notice (intent) in the case of selling, exchanging, donating, renting or borrowing of the municipal property. This notice has to be published at least 15 days before the decision is to be taken.

One of the most commonly used property management tools in the Czech municipalities is the so-called "passportisation", i.e. compilation of a complex register or inventory, which contains various information (such as property specification, property relationships, available project documentation, existing facilities, photo-documentation, description of technical conditions and appreciation) about the technical condition of every piece of municipal property which enables the monitoring of the need for maintenance or appreciation. This information can be vast in the decision-making regarding the sale, modernisation or demolition of the property.

4. Case study: Sezimovo Ústí

Sezimovo Ústí is a small town in Southern Bohemia with 7,302 inhabitants and an area 844 ha, i.e. the density of population is much higher compared with other Czech towns with a similar population. The relatively small area is a result of historical development; however, it bore a strong influence on the total amount of municipal property as the average value of municipal property per inhabitant in the CR is 135 thousand CZK and in Sezimovo Ústí only 76 thousand CZK.

Figure 4
Revenues and expenditures of Sezimovo Ústí (2001–2009, millions CZK)

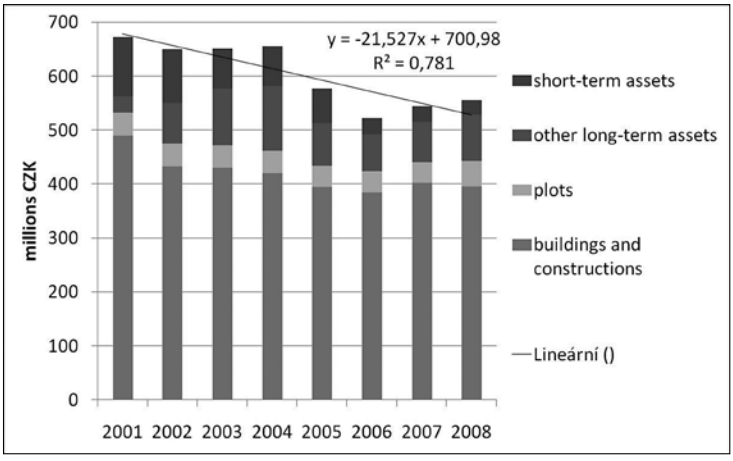


Source: ARIS and municipal budgets, own calculations and elaboration

Figure 4 shows the budget development since 2001. The comparability of the data until 2007 and since 2008 can be influenced by the fact that the figures for the later period are budgeted values instead of the real volume. Despite this, we can clearly observe a steady growth in tax revenues and a decline of both non-tax and capital revenues. The volume of received transfers was mostly influenced by the public administration reform which was introduced in 2002 and a change in the method of financing elementary education since 2005. The increase in transfers in 2006 was caused by extraordinary capital transfers – in the years 2005 and 2006 the town received capital grants of a total volume of 5 and 15 million CZK from the state budget, mostly thanks to the activity of a member of parliament Jan Mládek, who enforced his proposal during the debate of the state budget in parliament (see Novinky ze Sezimova Ústí 2006, 13). At the same time, in 2005, the sale of a recreation hut in the mountains in Šumava was realised and in 2006 it was sold as an industrial zone. During the entire period, municipal housing was continuously privatised. The development of expenditures duplicates the revenues. The realised budget was, for the main, close to balance.

Figure 5 shows the development of the volume and structure of the municipal property. In comparison to the state wide data, we can observe a significant decline. The decrease in the short-term assets in 2005 was caused by a decline in claims and the growth of other long-term assets, in 2003, was caused by the creation of a joint inter-municipal enterprise Vodárenská společnost Táborsko, s.r.o., where Sezimovo Ústí has a share of 30 million CZK. Sezimovo Ústí began with the privatisation of municipal housing in 1997 and now it only owns about 450 flats. However, privatisation continues at a modest rate.

Figure 5
Property of Sezimovo Ústí (2001–2008, state at 1 January, millions CZK)

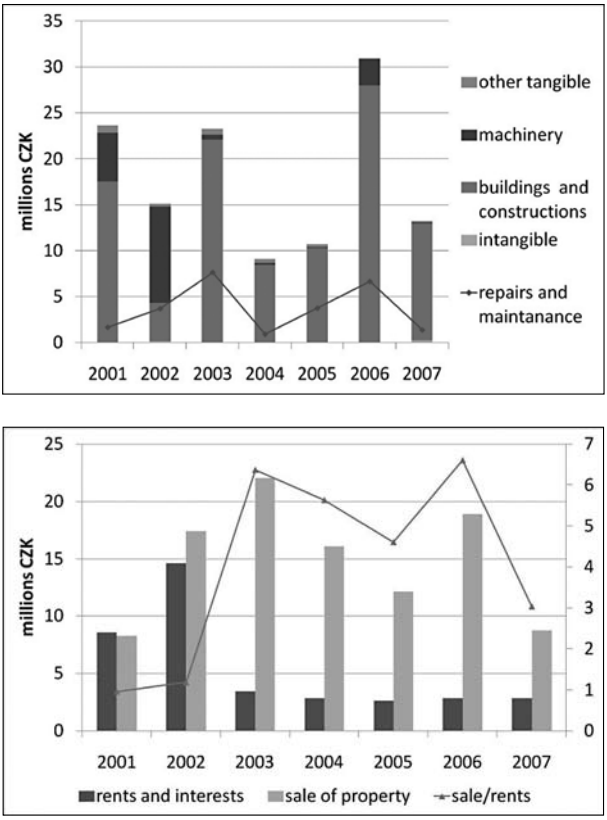


Source: ARIS, own calculations and elaborations

Figure 6 shows revenues and expenditures related to municipal property. In contrast to the nationwide data, the development is, first of all, not so smooth and second, the reliance on capital revenues was much higher in Sezimovo Ústí than the average.

Figure 6

Revenues and expenditures related to property (2001–2007, millions CZK)



Source: ARIS, own calculations and elaborations

Property management, i.e. the systematic process of maintaining, upgrading and operating municipal property, in Sezimovo Ústí is not concentrated in the hands of one person or one organisational unit. It can even be said that on the contrary, almost all organisational units deal with some type of property or some activity related to property (see Table 1). The town established a specialised budget organisation called Town maintenance. It has been operating since 1 January 2005, and it is responsible for the complex management and maintenance of municipal

housing and of streets and public spaces. However, the strategic decisions related to this organisation are taken by the elected officials. Surprisingly, this organisation, which employs a handful of craftsmen, is not responsible for the maintenance of other municipal buildings, such as the municipal office or scout's camp. At the same time, due to various regulations, several property registers are run by several departments; the economic department runs the register for accounting reasons; the legal department runs a register of claims which are being enforced and the building department runs a register of wells.

Table 1
Responsibility assignment regarding municipal property in Sezimovo Ústí

<table>
<tr><th colspan="4">Mayor</th></tr>
<tr><th>1st vice mayor</th><th colspan="2">2nd vice mayor</th><th>Manager</th></tr>
<tr><td>• Prepares strategy regarding immobile property
• Methodically manages Town maintenance</td><td colspan="2">• manages the municipal office and all organisations
• represents the town in housing co-operatives</td><td>• is responsible for the equipment of the municipal office, including IT</td></tr>
<tr><th colspan="2">Legal department (directed by the manager)</th><th colspan="2">Building, urban planning, environment and transportation department</th></tr>
<tr><td colspan="2">• is responsible for insurance of the property
• represents the town as the property owner
• realises all transactions to do with property and publishes the intents of the town to deal with the property</td><td colspan="2">• participates and coordinates investment projects in the territory of the town
• prepares selection procedures
• maintains the buildings of the municipal office</td></tr>
<tr><th colspan="2">Economic and planning department</th><th colspan="2">Budget organisation Town maintenance</th></tr>
<tr><td colspan="2">• compiles accounting
• runs property register</td><td colspan="2">• runs register of municipal housing and maintains it
• maintains streets and public space</td></tr>
</table>

Source: Organizační řád městského úřadu Sezimovo Ústí (Organisational order of the municipal office) of 28 January 2008.

Generally, municipal officials are very cautious regarding the sale of property since the last elections in 2006. They now only work on the process of housing privatisation, which is reasonable due to the fact that with the persisting rent regulations, housing management generates a loss. At the same time, the separation of housing maintenance from the general budget and start-up of a budget organisation increased both the efficiency and transparency. Currently, transformation of the budget organisation into a limited company is being discussed, which can bring about a further increase in efficiency, however, possibly on the account of transparency (see Pavel 2008).

The example of Sezimovo Ústí is interesting because its property management passed from the stage of property sale to the stage of usage of property as a tool for the fulfilment of municipal functions and further development.

5. Conclusion

Municipalities in the Czech Republic received, during the 1990s, sizeable property from the state, which either belonged to the self-governing municipalities prior to 1948 or which was transferred for other reasons. Due to the high diversity of Czech municipalities, the volume and structure of the received property differed greatly among the individual municipalities.

During the last two decades, municipalities managed to generate further property; however this property is much closer to the functions municipalities have to fulfil and therefore the potential of this property to generate revenues is much lower than that of the received property, which was, in many cases, possible either to sell (e.g. buildings, flats, land, shares, etc.) or to rent or to operate (e.g. forests).

The case of Sezimovo Ústí showed, that property is only a temporary source of capital revenues and that rental incomes often do not exceed expenditures related to the operation, including maintenance and renewal, of the immobile property (mainly public housing and related buildings, such as garages or small shops) and that after this stage of property management, another approach must appear, i.e. real management of municipal property, including a strategic component.

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Municipal Asset Management in Estonia

Sander Põllumäe

1. Introduction

The Republic of Estonia regained its independence on 20 August 1991. The area of the republic is 45,227 sq/km, has a population of 1,347,000 and a population density of 31.2 people per sq/km. Estonia is a parliamentary democracy based on the principles of a unitary, legal, and social state. The territory of Estonia is divided into 15 state administration units (county) and local government units. There is a one-tier local government system that embraces 227 local government units (33 towns and 194 rural municipalities) in Estonia. The average population of a local government unit is about 6,000 inhabitants. The largest is the capital, Tallinn, with 401,380 inhabitants and the smallest is the rural municipality of Piirisaare, with 96 inhabitants.[1] The percentage of local government budgets compared to the state budget was 30.4 per cent in 2003 and has declined to 23.6 per cent in 2008. Local government budgets were 8.4–9.2 per cent of GDP during the period 2003–2008 and this has remained relatively stable.

There is a great diversity in revenues among local government units. In 2007, the average total revenue was 88.8 million EEK[2] (5.7 millions EUR). The largest revenues were reported by the capital, Tallinn, namely 6,063.8 million EEK (387.7 millions EUR) and the smallest revenues were collected by the rural municipality Ruhnu 4.4 million EEK (0.3 millions EUR). The average revenue from the sale of assets in 2007 was 2.5 million EEK (0.2 millions EUR), but here the biggest revenues have been collected by the small rural municipality, Rae, near the capital (205.4 million EEK, 13.1 million EUR) and the next is Tallinn (170.0 million EEK, 10.9 million EUR). At the same time, 62 municipalities (27.3 %) had no revenues from sale of assets. The relative importance of assets sales in 2007 was 2.86 per cent; however, it is highly irregularly divided between the different size and type of local government units.

In 2007, local expenditures on maintenance and purchase of assets were on average 17.9 million EEK (1.1 million EUR). The highest expenditures were reported in Tallinn, namely 1,136.5 million EEK (72.7 million EUR), whereas the rural municipality, Alajõe, had no budgetary expenditures of maintenance or purchase of assets. The comparison of revenues and expenditures on assets shows that assets are a small source of income for local government units. However, these budgetary figures do not show the expenditures hidden in the operational costs and rentals in

1 Data 1 February 2008; source http://www.siseministeerium.ee/5945.

2 1 EUR = 15.6466 EEK (fixed rate).

the situation where local government units have outsourced or contracted-out their services and transferred assets to private legal bodies.

The aim of this paper is to provide a better understanding of management and maintenance of local government assets in Estonia since the beginning of the 1990s. The analysis focuses on the legal and administrative aspects of assets management and has a closer look at assets as a source of revenue for local government. For this purpose, a theory of local government autonomy and theory of constitutional guarantees of local self-government is used. The paper provides an overview on the constitutional framework and constraints of municipal assets management from the perspective of a constitutional guarantee of organisation of local self-government. It is aimed at answering the following question: are municipal assets only a technical means for fulfilling local government tasks, or do they have a broader social, political, and economical influence on local government autonomy?

In order to provide a better understanding of the importance of local government assets, a case study was carried out in a small rural municipality, Saku. This municipality is situated about 20 km from Tallinn in the so-called "golden circle" of the capital. The paper mostly draws on the analysis of the legal acts, administrative records and financial records. Interviews with administrative and political leaders were also conducted. According to § 37 of the Constitution of the Republic of Estonia, local government units have to maintain educational facilities. Therefore schools, kindergartens and facilities for after-school activities, sports and youth centres are taken under closer investigation. Analysis is also focused on the revenues collected as rentals, user charges and fees for participating in training, clubs etc.

The paper is structured into four sections. The first section contains the introduction. The second section provides an overview of the municipal property in Estonia. It focuses primarily on the overall legal framework, namely public and civil law regulation, accompanied by the detailed Supreme Court of Estonia customary law on municipal property disposal. This section is divided into four parts, providing an overview of the property transfer, legal framework, asset classification and nationwide time series data. In the third section of this paper, the case study of the rural municipality of Saku is provided. Section four concludes.

2. Municipal property

According to § 154 (1) of the Constitution of the Republic of Estonia "*all local issues shall be resolved and managed by local governments, which shall operate independently pursuant to law*". Local government units are based on principles of autonomy and self-management. They are separate from the central government, both politically by the election of the council and legally, as a separate constitutional and legal institution. As a legal body under public law, local government units do not bear

constitutional rights (including the right to the protection of property)[3]; at the same time, the local government is the owner of property under parliamentary statutes (*id est* Law of the Property Act). According to § 10 (1) of the Local Government Organisation Act (LGOA) it states that "*rural municipalities and cities are legal persons in public law*". In addition, the General Principles of the Civil Code Act (§ 25 (2)) stipulate that *"local governments are legal persons that have been created in the public interest"*. The provisions concerning legal persons apply to the state and the local governments in so far as they are not otherwise provided by law. A legal person under public law shall have no civil rights or obligations which are contrary to its objective.[4]

According to § 5 (2) of the Law of the Property Act, local government units have equal real rights unless otherwise stated by law. Real rights include ownership and restricted real rights (servitudes, real encumbrances, right of superficies, right of pre-emption and right of security). A local government unit, as an owner, has the right to possess, use and dispose of an object and to demand the prevention of the violation of these rights and elimination of the consequences of such violation from all other persons[5].

The Constitution also grants local government and state budgetary separation. According to § 157 (1) of the Constitution of the Republic of Estonia "*a local government shall have an independent budget for which the bases and procedure for drafting shall be provided by law*". Independent budget means, in the context of the constitution, that local governments own their property and municipal property is not the state's property. This is specified by § 34 (1) of the LGOA as follows: "*Municipal property is property in the ownership of a rural municipality or city.*" The local government's legal position as an owner is not only a matter of private law, but has aspects in public law as well. On 28 September 1994, the Parliament of Estonia ratified the European Charter of Local Self-Government. Article 9, paragraph 2, of the Charter declares: "Local authorities' financial resources shall be commensurate with the responsibilities provided for by the constitution and the law." It is the state's obligation to provide such property and revenues that match with the local governments' responsibilities.

From the perspective of local government autonomy, the Constitution divides public issues into local and state issues (state duties). This requires the legislator (i.e. Parliament) to determine which issues are local and which are national, by nature. Constitutional enactment also relates financing of the public issue to this division of tasks. The Constitution prescribes that *"Expenditure related to duties of the state imposed by law on a local government shall be funded from the state budget."*[6] The con-

3 Constitution of the Republic of Estonia, § 32.

4 The General Principles of the Civil Code Act, § 25 (4) and (5).

5 The Law of Property Act, § 68 (1).

6 The Constitution of the Republic of Estonia, § 154 (2).

cept "expenditure" in the Constitution is broader than just finance and also covers handing state assets over to local government units, which are entitled to assist in fulfilling state duties imposed on local governments. Statutory provisions for these actions are laid down in the State Assets Act.

2.1 Property transfer

Pursuant to a statutory order of the USSR, land was not considered to be an object of the law of property. Only houses and facilities were considered property in civil turnover. Land belonged to the state and was administered by executive committees. Transfer of property began with the creation of an independent local self-government institution in 1989, when the Supreme Council passed a Local Self-Government Foundations Act of SSR of Estonia. According to this Act, local government units were founded on the grounds of former executive committees and all assets were transferred to the newly founded local self-government units. In order to receive the status of a local government, they had to present their plans for socio-economic development and their statutes to the central government (see Kungla 1999, 3). These documents were to be reviewed by an expert commission on administrative reform (see Reimets 1998, 19 and Mäeltsemees 1995, 129). Thus, receiving the status of a local government depended largely on how well one could justify oneself as being eligible (see Almann 1995, 448–449). If a local government unit was founded, all budgetary assets of the executive committees were automatically considered to be municipal property (also included natural resources on the territory of a municipal unit).[7] Still, most of the assets and land remained in state ownership and were subject to ownership reform and land reform.

The purpose of ownership reform was to restructure ownership relations in order to ensure the inviolability of property and free enterprise, to undo the injustices caused by the violation of the right of ownership and to create the preconditions for the transfer to a market economy.[8] Among other subjects, local government units were entitled subjects of ownership reform with regard to unlawfully expropriated municipal property, which was under local government ownership on 16 June 1940 and was located within the current administrative territory of the local government applying for its return.[9] Local government authorities could also determine which object of ownership reform was not subject to return if it was a cultural object, social asset or administrative building in the possession of local government.[10]

7 Regulation No 12 of the Government of the Republic 17 January 1991 "Temporary Order of Administration and Use of Natural Environment and Resources Transferred to Authority of Primary Level Administrative Units and Municipal Agencies".

8 Principles of Ownership Reform Act, § 2 (1).

9 Principles of Ownership Reform Act, § 7 (1) 5.

10 Principles of Ownership Reform Act, § 12 (3) 5.

Land reform was a part of ownership reform. Under the land reform, unlawfully expropriated land was returned to its former owners or their legal successors, or they were, accordingly, compensated. In addition, land was transferred with (or without) charge into the ownership of persons in private law, legal persons in public law, or local governments, and land to be retained in state ownership was determined.[11] As a rule, all unlawfully expropriated land was returned to its former owner or their legal successors, but there were some exemptions in favour of local governments. For example, the land situated beyond city boundaries under buildings and constructions belonging to a local government, as well as the land necessary for servicing these buildings and constructions, was not returned unless the entitled subject and the local government agreed on the constitution of a right of superficies for the local government unit or on the transfer of the structure to the entitled subject.[12] Still, the main feature for property transfer in property and land reform was municipalisation.

- **Municipalisation of property**. Until 1 November 2001, local governments had the right to claim transfer into municipal ownership of property located in their administrative territory or property in their possession subject to municipalisation. Municipalisation means transfer of property into the ownership of a rural municipality or a city or into the joint ownership of such local governments in the course of ownership reform with or without a privatisation obligation.[13] An object of municipalisation was any property owned by the state, the transfer of which to a local government was necessary for the performance of its functions, and the retention of which in state ownership was not in the public interest or the privatisation of which through a local government was justified.[14] Property which was an object of municipalisation was transferred without charge into municipal ownership at the request of a rural municipality council, or city council, or on the proposal of a government agency in agreement with the rural municipality council, or city council pursuant to a decision of the Ministry of Economic Affairs and Communications.[15] In a decision on the transfer of property subject to municipalisation, a government agency organising municipalisation could prescribe an obligation of the corresponding local government to privatise the property to be transferred into municipal ownership by a specified date. The property could not be encumbered or transferred outside of the privatisation obligation. The government agency organising municipalisation had the right to claim compensation for damage caused by violation of such obligations.[16] In

11 Land Reform Act, § 1 (1).

12 Land Reform Act, § 10 (1).

13 Principles of Ownership Reform Act, § 20.

14 Principles of Ownership Reform Act, § 21 (1).

15 Principles of Ownership Reform Act, § 23 (1).

16 Principles of Ownership Reform Act, § 28 (1).

more detail, the obligation of privatisation was regulated in § 32–41 of the Principles of Ownership Reform Act.

- **Municipalisation of land**. Municipalisation of land means the transferring of land into municipal ownership without charge. Municipalisation of land was regulated by § 25–28 of the Land Reform Act and regulation No 133 of the Government of the Republic 2 June 2006 "Procedure for transfer of land into municipal ownership". According to § 28 (1) of the Land Reform Act, the following land was to be transferred into municipal ownership: 1) land under buildings and constructions retained in municipal ownership and the land for servicing them; 2) land under bodies of water retained in municipal ownership; 3) public land; 4) agricultural land of a private limited company where the only share belongs to a local government or of a public limited company where all the shares belong to a local government, and agricultural land necessary for the performance of the duties of an agency administered by a local government; 5) land which had been in the ownership of a local government on 16 June 1940, and was situated in the administrative territory of the local government currently applying for municipalisation; 6) common land which was in the ownership of a village community on 16 June 1940. As municipalisation of land was related to quite a number of cases of corruption and misuse (often a municipality sold municipalised land to physical or legal persons in private law for a diminutive price)[17] the Land Reform Act was amended on 27 November 2005 by serious restrictions on the use and disposition of land. Now, municipalities are allowed to use municipalised land only for the purposes specified in the decision of municipalisation.[18] Local government can change the intended use of public land, dispose or constitute a right of usufruct or superficies of public land only with the permission of the Minister of the Environment, which is granted on grounds of motivated application of local government.[19] Local government units, which have disposed or constituted a right of superficies or usufruct on municipalised land, have to transfer 63.5 per cent of the sale price, from which valid expenses are deducted, to the state budget.[20] Although this has reduced local government incentives for the dispossession of municipalised land, municipalities have found a new loophole – they constitute a right of superficies on non-public land and dispose of the right of superficies (or usufruct) separate from selling the land and transfer only 63.5 per cent of the price of the land to the state. The dispute on the lawfulness of this practice is not yet settled, but it is clearly against the reasons of the legislator.

According to public data of the Estonian Land Board (http://www.maaamet.ee), during the period 1993–2007 only 0.49 per cent of land was municipalised; in

17 Auditing report No 2-5/04/100 24 August 2004 of the National Audit Office.

18 Land Reform Act, § 25 (2).

19 Land Reform Act, § 25 (3).

20 Land Reform Act, § 25 (4).

2008 an additional 0.06 per cent of land was municipalised and a total 0.55 per cent of land in Estonia is municipalised.

3. Legal framework

3.1 Acquisition of property

According to the State Assets Act, a local government that needs state assets for executing local tasks can either use them without charge or acquire them without charge or below the usual value. The Government of the Republic may grant the use of state assets without charge to a local government, if it needs state assets for the performance of its functions[21]. The Government of the Republic may transfer state assets without charge or below the usual price to local government if these assets are needed for health care, educational or social welfare institutions of a local government or for the performance of other local government functions[22]. According to § 34 (3) of the Local Government Organisation Act "*a local government may transfer an immovable which has been transferred into its ownership without charge by the state if such immovable ceases to be necessary or has become unsuitable for the performance of the functions of the local government. An immovable transferred by the state without charge may be transferred only pursuant to the procedure established by the local government council.*"

Local government units are titled for right of pre-emption, right of succession and occupation of derelict plots. According to § 34 (4) of the Local Government Organisation Act "*a local government has the right of pre-emption upon the transfer of structures located within its administrative territory by persons in private law if such structures were, in whole or in part, used by an educational, health care, cultural or child care institution for not less than one year prior to the transfer.*" The aim of this right of pre-emption is to grant local government access to property that it needs for the provision of services and arranging of local issues. In addition to the right of pre-emption[23], local government had, until 1 January 2002, an actual right of pre-emption in its territory of administration with respect to any immovable in the case of their transfer in any manner. If an immovable is situated in the territory of several local governments, the local governments had a common right of pre-emption. The right of pre-emption was not valid upon transfer of an immovable or a legal share by the state or a local government, or upon transfer to a spouse, descendants, parents, sisters and brothers and their descendants, or upon sale by auction, transfer to the state or a local government, exercise of a right of pre-emption by another person

21 State Assets Act, § 18 (1) 2.

22 State Assets Act, § 24 (1) 3.

23 Local Government Organisation Act, § 34(4).

entitled by law, or upon succession[24]. The aim of this specific regulation was to correct possible misuse of the right of restitution of privatisation.

A local government unit can be either an interstate successor under the law or testamentary **successor**. According to § 18 (1) of the Law of Succession Act, the local government of the place of opening of a succession is the intestate successor if there are no bequeather's spouse or relatives (interstate successors). In the case of intestate succession, a local government cannot renounce the succession. In the case of intestate succession, a local government shall be deemed to accept the succession regardless of whether the requirements for acceptance of the succession are met.[25] If the successor is not known and does not present him or herself within one month from the publication of the call in the calling proceedings for determining the successor, or if a person who has presented him or herself fails to certify his or her right of succession within one month after the due date of the calling proceedings, it is presumed that the intestate successor is the local government of the place of the opening of a succession. In this case, the successor may reclaim the estate from the local government.[26] The local government unit is obliged to make an inventory of the estate.[27] A claim for inventory may be submitted to a notary, together with an application for the commencement of succession proceedings or an application for acceptance of the succession.[28] A notary shall appoint a bailiff in whose territorial jurisdiction the succession opens to make an inventory.[29] In order to determine the obligations of the bequeather, calling proceedings shall be carried out in the course of making an inventory.[30] After making an inventory, the liability of a successor for any obligations related to the estate is restricted to the value of the estate.[31]

Normally, the acquisition of a structure as a movable is not affected by finding or **occupation**. An exemption has been made for state and local government, to prevent problems related to ownerless structures. According to § 13 (2) of the Law of Property Act Implementation Act, a local government and the state have the right and obligation of occupation of an ownerless structure pursuant to the procedure established by the Government of the Republic. The procedure is established by regulation No 211 of the Government of the Republic 8 August 1996 "Determination of Procedure of Occupation of Ownerless Structures" (hereafter: Procedure of Occupation). On the grounds of Procedure of Occupation, both ownerless buildings and constructions, which have not been registered as immovable in the register of

24 Law of Property Act Implementation Act, § 20.

25 Law of Succession Act, § 125 (1) and (2).

26 Law of Succession Act, § 125 (3) and (4).

27 Law of Succession Act, § 136 (1).

28 Law of Succession Act, § 137 (1).

29 Law of Succession Act, § 138 (1).

30 Law of Succession Act, § 140 (1).

31 Law of Succession Act, § 143 (1).

real estate, can be occupied. The structure is ownerless, if the owner of the structure has abandoned the structure with a will to give up ownership. The will to give up ownership is presumed, if the owner of the structure has expressed the will to give up ownership, or the owner of the structure is not known (clause 4 of Procedure of Occupation). If the dwelling of a known owner of structure is not known, the person will be declared missing and tender of the structure will be appointed. Local government must register ownerless structures and publish an announcement in the Official Journal and newspaper about occupation of the ownerless structure, the last known owner of the structure and a deadline to present any objections (clause 9 of Procedure of Occupation). The Council of local government shall decide, on the basis of evidence and objections, if the structure is ownerless. After a decision of occupation of an ownerless structure comes into effect, the Government of the Republic will decide if the structure is needed for the execution of state duties and if the state occupies the ownerless structure. If the state does not wish to occupy the ownerless structure, the local government becomes the owner of the structure (clause 14 of Procedure of Occupation).

3.2 Registration of assets

As a rule, all immovable assets have to be registered in the register of real estate. The registration of ownership in the register of real estate constitutes ownership of immovable assets. However, there are some exemptions to this rule for local government. According to § 11^2(1) of the Law of Property Act Implementation Act, land transferred into municipal ownership shall be entered in the land register on the basis of a written registration application of a person authorised by the local government, a document certifying the right of ownership of the land of the local government, and the cadastre information. An extract from the Official Journal (Riigi Teataja) in which the resolution concerning the transfer of land into municipal ownership is published, is also a document certifying the right of municipal ownership of the land. Before municipalisation, the requirement specified in § 51 (2) of the Law of Property Act concerning an entry in the land register of an immovable belonging to a person in public law, before transfer of the immovable into the possession of another person, does not apply to land being transferred into municipal ownership. On the one hand, this reduces costs of municipalisation, but also causes contradiction between the different registers of assets (register of real estate, cadastre, bookkeeping registers, building register and other registers). In 2003, the National Audit Office found that it was not known which assets local governments own and what their real value was.[32]

The other exemption is related to local roads. A local road is a local highway, street, footpath and cycle track which is constructed for the organisation of local traffic on the basis of a resolution of a rural municipality or city council and a

32 Auditing report No 2-5/04/100 24 August 2004 of National Audit Office.

winter road prescribed for local traffic. The list of local roads is determined with a decision by the rural municipality or city council (§ 5[1] of Roads Act). Rural municipalities and city governments shall organise the management of local roads and are required to create conditions for safe traffic on such roads.[33] According to § 11 (1) 3 of the Roads Act, all local roads have to be registered in the National Register of Roads. Moreover, the Roads Act presumes that the owner of local roads is the local government, although there is no precise regulation. Formal ownership of a road is specified by the rural municipalities with a city council decision and registration into the National Register of Roads and cadastre. According to § 25 (5) of the Land Reform Act, border protocols are not drawn up on the registration of public land, land under municipal ponds, streets and local roads in cadastre. In practice, there are streets and roads that are neither registered in the National Register of Roads nor the cadastre, nor can the owner of the roads be determined through the register of real estate. Local governments have also used this loophole to avoid responsibilities related to road management and safety.

3.3 Administration of assets

There are no statutory regulations on the administration of local government assets. According to § 22 (1) 6 and 34 (2) of LGOA, the establishment of the procedure for the administration of the rural municipality or city assets is within the exclusive competence of a municipality or city council. This is done by issuing a regulation on the administration of municipal assets. Each rural municipality or city has its own rules on the administration of municipal property.

It is common for rural municipalities and city councils to set down the rules of administration of municipal assets, similar to the regulation in the State Assets Act. Rights and obligations of the administration of municipal assets are usually divided between the administrator of municipal assets or an authorised agency. Administrators of municipal assets are council and government or its board (agency with authority of executive power). An authorised agency is a municipal agency into whose possession an administrator of municipal assets has transferred assets under its administration (schools, kindergartens, hobby schools, nursing homes *et al*). The procedures and authority of acquisition or dispossession of assets is commonly related to the accounting value or acquisition costs of assets. This sometimes leads to the situation where authorised agencies are competent to make decisions about real estate and other important assets because of the incorrect accounting value of assets. According to § 13 (1) of the State Assets Act, state assets are used: 1) for public purposes; 2) to exercise the powers of state and 3) to generate income. This division of purposes of use of assets is also copied to the regulation of most of the local regulations of the administration of assets.

33 Roads Act, § 25 (3).

According to general belief, the administration and supervision of local government assets is a matter for the organisational authority of a local government, granted as a constituent of autonomy by § 154 (1) of the Constitution. Parliament has not intervened in local government autonomy in matters of administration of municipal property, but the Supreme Court has set down, in its practices, some general principles and requirements that have to be met in rural municipalities and city council regulations on the administration of assets. The National Court has found that management of municipal assets is a matter of public law and is bound by the restrictions and principles of the rule of law and good administration:

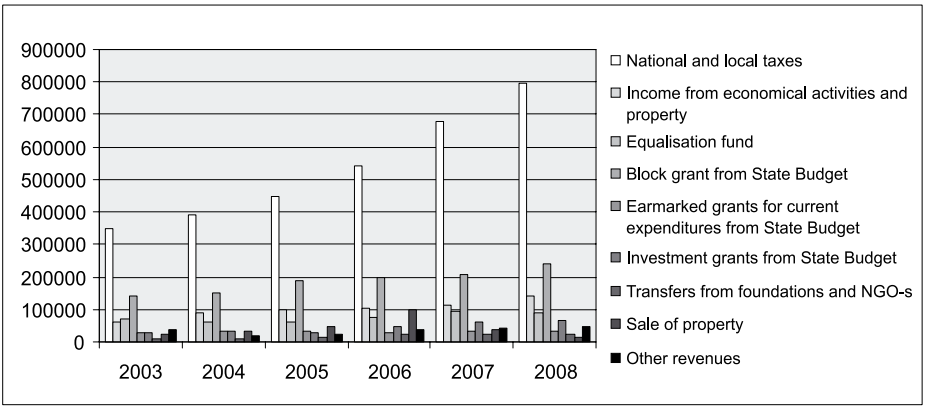
- In case No 3-3-1-15-01 the Administrative Chamber of the Supreme Court found, that the disposition of property of a person in public law is regulated by special statutory acts and regulations in public law. Even if land owned by a city can be dispossessed by a contract in civil law, regulation No 10 of the Tallinn City Council 20 April 1997 "Rules of encumber and giving in rent of city land" is a regulation in public law. State and municipal property is mainly constituted for property for the implementation of public tasks. If a city chooses between several persons who want to rent city land, it is executing its public authority. The city has to consider the public interests, which do not always consist of gaining profit. The city has to avoid unequal treatment and follow motivated considerations and rules of discretions.
- In case No 3-4-1-4-02, the Constitutional Supervision Chamber of the Supreme Court found that local government can constitute charges for permit of sale on public land only if there is statutory provision delegating authority for such regulation. Creating local charges is not a local issue which can be decided autonomously. The Court rejected the arguments of Tallinn City Government that by economic merit, the charges for the permit of sale on public land were rent for the use of city land. The Court found that such charges were monetary obligations in public law, which according to § 113 and § 114 of the Constitution can be issued only by statutory provisions adopted by Parliament.
- In case No 3-3-1-35-05 the Administrative Chamber of Supreme Court found that while conducting, transforming or terminating contracts with municipal property, the rural municipality and city must take into account public interest, the goal of transaction and the legitimate interests of people. If concluding a contract required by law, following public procedure, a similar procedure has to be followed when changing a contract or transferring contractual obligations to another person. The contractual behaviour of a rural municipality or city must be in compliance with the principle of good administration.

3.4 Assets-related revenues

Municipal assets are also a source of revenues for local government units. The two most general revenues are income from sale of assets and rent of tenements or lease.

Estonian local governments are rather small. The average revenues amount has increased from 749.7 million EUR in 2003 to 1,458.5 million EUR in 2008. Local government revenues were constantly approximately 8.6 per cent of GDP in 2003 to 8.7 per cent of GDP in 2008. As can be seen from the following chart (Figure 1), the major part of local government revenues comes from local government's share of national taxes (personal income tax 56 % and land tax 100 %) and local taxes. Tax revenues increased from 46 per cent of total revenues in 2003 to 58 per cent in 2007 and decreased to 54 per cent of total revenues in 2008.

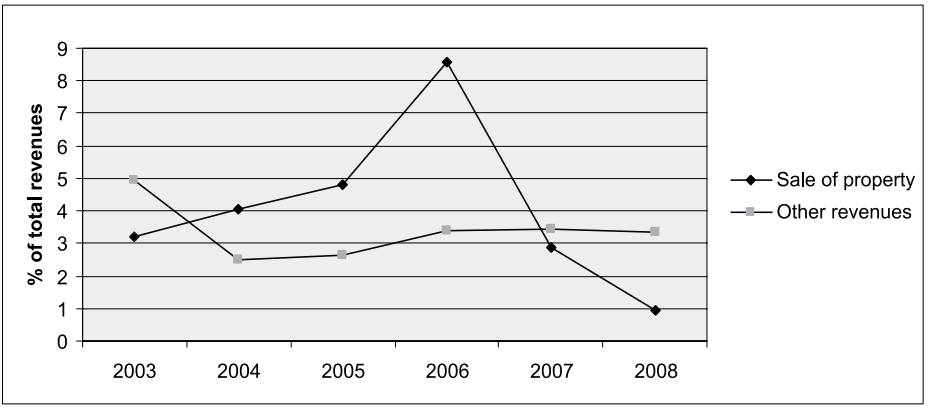
Figure 1
Local government revenues 2003–2008
(thousand EUR)



Source: Ministry of Finance, own presentation

Revenues from municipal assets derive from the sale of assets and other revenues from assets. Other revenues from assets are interests, fines in case of delay, rent, lease, owner revenues and revenues from logging and use of mineral resources. As Figure 2 demonstrates, during the period 2003–2008, the sale of property constitutes 4.07 per cent of the total revenues on average, while other revenues represent 3.37 per cent. It is also interesting to note that while the proportion of sales of property differs from 8.57 per cent of total revenues in 2006 to 0.94 per cent of total revenues in 2008, then other revenues have been more or less stable around 4.95 per cent in 2003 and 2.50 per cent in 2004 or slightly declining. It should be taken into account that the peaking of the sale of property in 2006 might be related to rural municipality and city council elections at the end of October 2005 and the consequential need to acquire additional funds for the fulfilment of election promises (council elections were followed by Parliamentary elections in March 2007).

Figure 2
Sale of property and other revenues (2003–2008)



Source: Ministry of Finance, own presentation

Other asset-related revenues are fees for the use of municipal facilities and redemption of school and childcare institution places for pupils and children who have their dwelling place in the territory of another municipality. According to § 30 (3) of LGOA, a rural municipality or city government shall establish the prices of services provided by the rural municipality or city agencies. These prices include fees and charges for the use of sports halls or gyms, school rooms, kindergartens or other buildings, either for private or public events, using space in nursing homes or day care centres *et al*. Usually all such fees and charges related to the use of rooms and buildings are couched in the revenues of services in budget and accounting. The expenses of these revenues are shown as investments or assets management expenses. By economic merit, these revenues should be considered revenues from assets.

According to § 27 of the Pre-school Child Care Institutions Act, a child care institution shall be financed from the state budget and rural municipality or city budget funds, out of amounts covered by parents and donations. The cost of catering for children at a child care institution and part of the management, remuneration and teaching aids costs shall be covered by the parents. An important enactment is § 27 (6) of the Pre-school Child Care Institutions Act, which regulates the obligation of other municipal units to cover the cost of a child, whose dwelling place is within its territory. According to this regulation, other rural municipalities or cities shall fully participate in covering the management costs, remuneration of staff, social tax and costs of teaching aids at a child care institution, which are to be covered from the rural municipality or city budget, in proportion to the number of children who permanently reside in their administrative territory and attend the child care institution.

A similar regulation of other municipal units' obligations to compensate expenses for students, whose dwelling place is in another municipality, applies to municipal schools. According to § 44^1 of the Basic Schools and Upper Secondary Schools Act, other rural municipalities or cities shall fully participate in covering the operating expenses of a municipal school in proportion to the number of students attending the school, who permanently reside in their administrative territories. Operating expenses consist of: 1) staff expenditure; 2) management expenses; 3) the acquisition costs of teaching aids. A rural municipality or city government shall approve the calculated cost of the operating expenses of a student place per student for each budgetary year. Other rural municipalities and cities shall cover the operating expenses of municipal schools on the basis of invoices submitted by the corresponding rural municipality or city government. Corresponding rural municipalities and cities shall agree on the procedure for their participation in covering the operating costs of municipal schools. If no agreement is reached, other rural municipalities and cities shall submit a claim to the administration court. The precise rules are set by regulation No 330 of the Government of the Republic 20 October 2001 "Rules of Participation in Covering of Expenses of Municipal Schools". If other rural municipalities and cities do not participate in covering the operating costs of a municipal school, the county governor has the right to propose to the Government of the Republic that the transfers made from the state budget to such a rural municipality or city budgets, be reduced by an amount equal to the operating costs which have not been covered, in order to compensate, out of such funds, for that part of the operating costs of the municipal school which has not been covered.

Local governments in Estonia, in general, do not provide housing services. Most of the dwellings were returned or privatised during the property reform in the 1990s and at the beginning of the 21st century. According to the Dwelling Act and Social Welfare Act, local governments should own two kinds of dwellings. Municipal apartments should be used for the housing of people and earn reasonable revenues for the local government. Social apartments should be leased for social housing. For example, according to § 14 (1) of the Social Welfare Act, local government authorities are required to provide dwelling for persons or families who are unable or incapable of securing housing for themselves or their families and to create, if necessary, the opportunity to lease social housing. In practice, most of the apartments were privatised and most of the municipalities have a shortfall for providing dwellings, even for people who are incapable of securing housing for themselves or their family. As a whole, housing is not a significant source of revenues for local governments.

3.5 Control and supervision

The controls and supervision over municipal assets are carried out by the local government themselves, by the county governors and the National Audit Office. The Audit committee of the council and supervisory control of the government are

obligatory internal control methods. The National Audit Office's and county governor's supervision is an obligatory external control method. In addition to these four methods, local governments can establish an internal control and audit system.

- **Audit committee of the council of the municipality**. Pursuant to § 48 (1) of the Local Government Organisation Act, a council shall form an audit committee[34] of not less than three members for the duration of its term of office. The audit committee is formed mainly of politicians and conducts principally political control over the government of the municipality. The audit committee shall monitor: 1) the conformity of the activities of the rural municipality or city government with the regulations and resolutions of the council; 2) the accuracy of accounting of a rural municipality or city administrative agencies, and agencies under the administration of a rural municipality or city administrative agencies, and the purposeful use of rural municipality or city funds; 3) the timely collection and registration of revenues and the conformity of expenditures with the rural municipality or city budget; 4) the performance of contracts entered into by the rural municipality or city; 5) the lawfulness and purposefulness of the activities of the rural municipality or city government and the administrative agencies[35]. The audit committee does not have the authority to make binding decisions. The decision of the audit committee and audit report shall be sent to the rural municipality or city government, which shall take a position concerning the audit report and present it to the audit committee within ten days. To enable the passing of a resolution concerning the application of the results of the audit, the audit committee shall submit the documents specified above to the council, and annex the draft legislation necessary to make a decision on the documents of the council.[36] The audit committee shall present a report concerning its activities at least once a year at a council session.[37]
- **Supervisory control of the government of the municipality**. Supervisory control is the control exercised by the government over the legality and purposefulness of the activities of a rural municipality, city administrative agencies, and their officials, as well as agencies under the administration of a rural municipality and city administrative agencies, and their managers (§ 66^1 (1) of the Local Government Organisation Act). In exercising supervisory control, the government has the right to: 1) issue a precept for the elimination of deficiencies in a legal instrument or act; 2) suspend the performance of an act or the validity of a

34 Audit committee is the official translation for the Estonian concept "revisjonikomisjon". The concept refers to the board of commissioners of revision – it has overall control of all activities of the organisation. Therefore the term "audit committee" might be, to some extent, somewhat misleading.

35 Local Government Organisation Act, § 48 (3).

36 Local Government Organisation Act, § 48 (5).

37 Local Government Organisation Act, § 48 (7).

legal instrument; and 3) invalidate a legal instrument.[38] The government shall invalidate a legal instrument or an act of the rural municipality or city government administrative agency and of their officials, and of the manager of an agency under the administration of a rural municipality or city administrative agency on the grounds of illegality or lack of purposefulness if the legal instrument or act is in conflict with the law or is clearly not in conformity with the principles of the local government, or if it causes an unreasonable use of the assets or budget funds of the rural municipality or city.[39] The decisions of the supervisory control of the government of a municipality are legally binding and have a direct legal effect.

- **Supervision of the county governor**. According to § 85 (1) of the Government of the Republic Act, a county governor has the right to exercise supervision over the legality of legislation of specific applications of local governments and local government councils of the given county and, in the cases and to the extent provided by law, also over the legality and purposefulness of the use of state assets in the use or control of local governments. This means that the county governor has the authority to a) exercise supervision of the legality of decisions and other specific applications of municipal organs considering possession, use and disposal of municipal assets and use of state assets given into the possession of a local government unit; and b) control the legality and purposefulness of actual use of state assets in the use of controls of local governments. The scope of authority of a county governor depends on the object of supervision. If a county governor finds that the legislation of a specific application of a local government council or government is, in full or in part, in conflict with the Constitution, a law or other legislation issued pursuant to law, he or she may submit a proposal in writing to bring the legislation of a specific application, or a provision thereof, into conformity with the Constitution, the law or other legislation within fifteen days. If the council or government does not or refuses to bring the legislation of a specific application or a provision thereof into conformity with the Constitution, a law or other legislation within fifteen days after receipt of the written proposal of the county governor, the county governor shall file a protest with an administrative court.[40] If the county governor discovers that the local government has possessed, used or disposed of state assets unlawfully or non-purposefully, he or she shall file a report with the National Audit Office.[41] In neither case is the county governor entitled to make a binding decision on either the nullification of legislation of a specific application on municipal or state assets, or make a prescription to cancel or change illegal actions with state assets.

38 Local Government Organisation Act, § 66^1 (3).

39 Local Government Organisation Act, § 66^1 (6) and (7).

40 The Government of the Republic Act, § 85 (4).

41 The Government of the Republic Act, § 28 (6).

- **Supervision of the National Audit Office**. The main function of the National Audit Office is to exercise economic control (audit). Pursuant to § 6 (2) of the State Audit Office Act, in the course of an audit the National Audit Office may assess internal controls, financial management, financial accounting and financial statements of the audited entity; the legality of the economic activities, including economic transactions of the audited entity; the performance of the audited entity with regard to its management, organisation and activities; and the reliability of the information technology systems of the audited entity. The scope of economic control depends on the subject and object of the control. As local governments are autonomous organisations, the control over local governments' assets management is limited to the supervision of the legality of administrative decisions and actions.[42] This restriction does not apply to state assets that are given into the possession and use of local governments. Pursuant to § 7 (2) 2 of the State Audit Office Act, the National Audit Office may assess internal controls, financial management, financial accounting and financial statements of the audited entity; the legality of the economic activities, including economic transactions of the audited entity; and the reliability of the information technology systems of the audited entity on possession, use and disposal of municipal assets. The same applies to non-profit organisations and foundations whose members or founder local government unit it is. In the case of state assets possessed or used by local government, pursuant to § 7 (2^1) of the State Audit Office Act, the office can, in addition to the aforementioned, control the performance of the audited entity with regard to its management, organisation and activities and assess the economy, efficiency and effectiveness of use of immovable and movable property of the state transferred into local government's possession, allocations for specific purposes and subsidies granted from the state budget, and funds allocated for the performance of state functions.

3.6 Asset classification

There is no specific public assets classification. In the 1990s, the Law of Property Act divided items into three categories – private, public and general. Private items were those that could be included in a commercial turnover. Public items were territorial and inland waters, ponds, roads, streets, parks, bridges and other such constructions that were in public use and ownership by the state or a legal person in public law. General items were air, ground water etc. that, by merit, could not be included in commercial turnover. In 2002, this division was rejected and the content of the "object" was defined as any object that could technically be an object of civil (or commercial) turnover.

Estonian private law discriminates between objects and items. Objects are items, rights, and other benefits which can be the object of a right (§ 48 of the General Part of

42 See also Art 8.2 of the European Charter of Local Self-Government.

the Civil Code Act (GPCCA). An item is a corporal object. (§ 49 (1) of the GPCCA) In the cases provided by law, provisions concerning items apply to rights (§ 49 (2) of the GPCCA). These cases are real rights (ownership and restricted real rights: servitudes, real encumbrances, right of superficies, right of pre-emption and right of security), but special statutory acts can give the status 'item' to other rights (for example rent, lease). Items are divided into movables and immovable. An immovable item is a delimited parcel of land (plot of land).[43] Things which are not immovable are movables (§ 50 (2) of the GPCCA). For the purpose of civil law, movables are divided into fungibles and non-fungibles and consumable and non-consumable.

In Estonia there is only one term for both "assets" and "property" and this has caused some confusion when Estonian legal acts are translated into English. As a legal term, "property" means a set of monetarily appraisable rights and obligations belonging to a person unless otherwise provided by law (§ 66 of the GPCCA). According to § 5 (1) of the Commercial Code all items, rights and obligations which are or should, by their nature, be designated for the activities of a company are included in a special form of property called an "enterprise". The term "assets" is defined in § 3 (cause 1) of the Accounting Act as "a monetarily measurable object or right belonging to an accounting entity". Until 2002, state and local government agencies were considered to be separate accounting entities and the term "assets" was therefore defined as "resources controlled by an accounting entity". There is no difference in content and scope of the terms "property" and "assets" from the perspective of local government.

4. Case study of the municipality of Saku

4.1 Overview of the municipality

The rural municipality of Saku was founded in 1866, and re-established on 16 January 1992. The community is situated in Harju County, bordered to the north by Tallinn, to the south by Rapla county and Kohila rural municipality, to the east by the municipalities of Kiili and Kose, and to the west by Saue rural municipality. The territory of the municipality covers 171 km^2. The population of the municipality is 8,423 (1 January 2008) and the density is 49 people per km^2. The centre of the community is the town of Saku (4,712 inhabitants). Three-quarters of the population inhabit the three towns of the community Saku, Kiisa, and Kurtna. The remaining inhabitants live in the smaller villages. There are 35.48 km of streets and 107.61 km of roads in the rural municipality (in addition there are about 280 km of private and state roads). All public transportation is based on private capital assets and is licensed by the municipality.

The primary educational facility in the rural municipality of Saku is the Secondary School of Saku which had 913 pupils in 2008. There is also a joint facility of pre-school education and elementary school in Kurna with 150 children and a sepa-

43 General Part of the Civil Code Act, § 50 (1).

rate schoolhouse in Kajamaa with 30 pupils (including 12 pupils on an individual study programme). There are also two pre-school child care institutions in Saku – kindergarten "Päikesekild" with 249 children and "Terake" with 124 children. For extra curricular education there is a music school in Saku with 149 pupils. School transportation is organised and financed by the rural municipality.

In addition to the educational institutions there are also the following agencies administrated by the Government of the rural municipality of Saku: a hobbies centre in Saku, a civic centre in Kiisa, a library in Saku, a library in Kiisa and a sports centre in Saku which provide the possibility to spend free time, and a daily care centre in Saku which provides daily social care services for elderly people. The rural municipality supports tourism and was named the most tourism-friendly municipality in Northern Estonia in 2007 (mainly for their project of a children's park "Vebu-Tembu maa", annual festival and annual cycling competition).

4.2 Transfer and acquisition of property

The rural municipality of Saku has acquired most of its property via transfer from the former executive committee upon which territory the municipal unit was founded, privatised and purchased. At the beginning of the 1990s, in total 347 apartments were transferred to the rural municipality of Saku with the obligation to privatise by the Brewery of Saku (then a state agency), Institute of Agriculture and Amelioration of Estonia, Government of Construction and Montage, Experimental State Farm of Saku, Experimental Poultry Farm of Kurtna, Agency of Privatisation of Estonia, Estonian Railways and the Ministry of Defence (barracks of the former soviet military base). In addition, squares, industrial constructions and other assets were also transferred to the municipality with the obligation to privatise these and other state agencies, which were about to be terminated or reorganised. At the same time, 21 apartments for teachers of elementary and secondary schools were built by the county government and transferred to the rural municipality of Saku.

The rural municipality of Saku has requested the municipalisation of land during 2003–2009, 44 times (earlier practice has not been sufficiently recorded and was not available). 43 of the requests were approved and one is still in process. The object of municipalisation has been, for the most part, the interests of entire and integral spatial planning for a certain area. The municipality has applied eight times for the acquisition of state assets and all these applications have been successful. The council of the municipality has expropriated on 2 occasions municipal assets free of charge.

Assets management is arranged in the municipality of Saku in two ways. Most of the erections, plots and movables are "in the balance sheets" of municipal agencies (so-called "in-house assets management" of assets), but part of the assets are transferred to a limited liability company under private law and used on the basis of long-term rental agreements (outsourcing of Assets Management).

Table 1
Assets of the rural municipality of Saku 2004–2008
(acquisition costs in thousand EUR)

	2004	2005	2006	2007	2008
Buildings to be Sold	0.0	0.0	64.7	0.2	57.7
Land to be Sold	0.0	3.1	63.4	59.4	0.0
Shares of Affiliated Companies	416.7	416.7	416.7	416.7	416.7
Land	71.7	139.8	131.4	328.4	353.8
Buildings (excl. dwellings)	7,056.5	7,369.5	7,301.1	7,886.6	13,792.6
Dwellings	74.4	826.6	772.6	779.5	779.5
Roads and Streets	107.0	459.5	483.7	1,656.5	1,972.2
Other Constructions	172.5	335.5	359.1	462.7	1,090.7
Machines and Appliances	88.9	87.0	92.1	104.2	101.7
Vehicles	32.3	47.5	47.5	83.1	83.1
Info-technology and Communication	130.6	113.0	90.3	53.4	58.7
Other Amortisable Assets	233.2	233.1	256.4	272.4	493.6
Unfinished Buildings and Constructions	18.9	149.6	845.7	502.0	356.3
Advance Payments	0.0	0.0	0.0	179.3	0.0
Software	23.2	21.1	19.8	19.8	19.8
TOTAL	**8,425.9**	**10,202.0**	**10,944.4**	**12,804.4**	**19,576.5**

Source: Accounting Records of the Rural Municipality of Saku

4.3 In-house assets management

- There are no statutory provisions on municipal assets management. According to § 22 (1) 6 and 34 (2) of LGOA, the establishment of a procedure for the administration of the rural municipality or city assets is within the exclusive competence of a municipality or city council.[44] Rules of possession, use and disposal of assets of the rural municipality of Saku are laid down by regulation No 24 adopted by the Council of rural municipality of Saku on 11 December 2003.

44 According to Kaganova et al. (1999, 4): "*municipalities usually have much more freedom of choice over their handling of municipal assets and liabilities than they do of municipal revenues. One of the ironies of municipal finance in developing countries is that while central governments often impose rigorous limitations on the right of local governments to establish their own taxes, set their own tax rates, or borrow from the credit market, they rarely place any limitations on the rights of local governments to own, operate, acquire, or dispose of discretionary assets not critical to public service delivery. In a number of countries, municipal governments have no choice about the taxes they can levy, and almost no choice about the tax rates they can establish. If these municipalities want to generate discretionary income, they have little choice but to try to do so through asset management*." This is also true in Estonia, where local governments are autonomous in matters of assets management.

Management of municipal assets is the execution of the right of ownership of property of the rural municipality of Saku.[45] Administrators of municipal assets are the Council of rural municipality of Saku and the Government of rural municipality of Saku and agencies administered by the government[46]. Most of the assets of the rural municipality are buildings (dwellings and other buildings).

Table 2
Expenditures of the management of municipal assets (thousand EUR)

	2004	2005	2006	2007	2008
Construction of Roads	194.3	299.1	624.5	898.0	643.9
Maintenance of Roads	62.5	68.3	79.8	96.2	141.0
Expenditures of Dwellings	8.5	6.0	29.4	26.9	17.8
Expenditures of Other Buildings	4.5	2.4	5.8	172.2	10.6

Table 3
Expenditures of management of municipal buildings (thousand EUR)

	Heating	Electricity	Water and Sewage	Upkeep of Materials	Upkeep of Services	Watch	Repair	Total
2004	81.4	47.8	22.0	22.7	20.3	4.8	34.3	233.4
2005	98.4	77.1	29.8	30.4	81.1	5.5	37.1	359.5
2006	117.6	74.2	28.5	31.3	105.6	5.2	32.2	394.5
2007	146.1	74.2	31.0	38.2	128.1	5.7	125.4	548.6
2008	191.6	83.3	34.5	43.2	161.3	6.3	58.8	578.9
Average expenditure	127.0	71.3	29.2	33.1	99.3	5.5	57.5	423.0
Average percentage	30.0	16.9	6.9	7.8	23.5	1.3	13.6	100.0

Source: Accounting Records of the Rural Municipality of Saku

Agencies administrated by the municipal government are schools, kindergartens, day care centres, nursing houses, libraries and other such agencies without the authority to implement executive power. Users of municipal assets can be a third person.[47] Municipal assets can be transferred from one administrator of municipal assets to another on the grounds of a decision of the government.[48] Assets with the usual monetary value of less than 320 EUR can be transferred, based on the admin-

45 Rules of possession, use and disposal of assets of rural municipality of Saku, § 4 (1).

46 Rules of possession, use and disposal of assets of rural municipality of Saku, § 4 (2).

47 Rules of possession, use and disposal of assets of rural municipality of Saku, § 4 (3).

48 Rules of possession, use and disposal of assets of rural municipality of Saku, § 5 (1).

istrative contract of administrators of municipal assets (§ 5 (2) of the Rules). Transfer of immovables of a municipality from one administrator of municipal assets to another is decided by the council (§ 5 (3) of the Rules). The allotment of municipal assets is decided on the grounds of the need for fulfilling the public tasks of the agency by 1) the municipal council, if the usual market value exceeds 100,000 EEK (6,410 EUR); 2) the municipal government, if the usual market value is between 10,000–100,000 EEK (641–6,410 EUR); or 3) the head of the municipal government, if the usual market value is less than 10,000 EEK (641 EUR).[49]

Table 4
Revenues on management of municipal buildings (thousand EUR)

	Apartments and Dwellings	Other Buildings	Investments of Real Estate	Rooms of Schools and Kindergartens	Total
2004	1.21	8.90	0.00	0.00	10.11
2005	3.46	7.90	0.00	0.00	11.36
2006	5.22	4.62	2.94	0.43	13.22
2007	5.73	2.19	3.24	1.00	12.16
2008	5.88	1.99	3.32	0.71	11.90
	21.50	25.61	9.50	2.14	58.75

Source: Accounting Records of the Rural Municipality of Saku

Municipal assets can be acquired by 1) purchase; 2) transferred by state without charge; 3) accepting a succession; 4) accepting a gift; 5) occupation of an ownerless building; 6) other ways enacted by law (§ 7 (1) of the Rules). Acquisition of municipal assets is decided by 1) the municipal council, if assets are immovable or are movable, whose usual market value exceeds 6,410 EUR and purchase has not been prescribed in the annual budget; 2) the municipal government, if the usual market value is between 641–6,410 EUR and purchase has not been prescribed in the annual budget; 3) the head of the municipal government, if the usual market value is less than 641 EUR and purchase has not been prescribed in the annual budget; 4) agency administrated by the municipal government, if municipal assets have been purchased (§ 7 (3) of the Rules). Execution of pre-emption and acceptance of succession is decided by the municipal council.[50] Purchased assets are taken in an inventory of acquisition costs, but only if assets are transferred to local government without charge. Assets which are transferred to local government without charge are inventoried at the usual market costs (§ 7 (11) of the Rules).

49 Rules of possession, use and disposal of assets of rural municipality of Saku, § 5 (7).

50 Rules of possession, use and disposal of assets of rural municipality of Saku, § 7 (5) and (7).

The use of municipal assets is the consumption of beneficial properties of assets and execution of servitude or encumbrance, which are set in the benefits of local government (§ 8 (1) of the Rules). Municipal assets are used for public purposes, the government of municipality, and for earning a profit[51]. (§ 8 (2) of the Rules)

1) **Public purpose**. Public items in municipal ownership are items, which by merit, are used for public purposes and accessible to everyone (local roads, streets, squares, parks, bathing sites and others) and where the use is not restricted to private use by legislation of the state or municipality (§ 9 (1) of the Rules). The council is entitled to lay down conditions for the use of public items (§ 9 (2) of the Rules). If different orders or restrictions are laid down about the use of public items, clear notice has to be given (§ 9 (3) of the Rules).

2) **Government of a municipality**. Assets used for the government of a municipality are assets which are needed for the council, the government or agencies administered by the government for the implementation of statutory obligations and duties (§ 10 (1) of the Rules). If assets are no longer needed or are temporally not in use, for implementation of the statutory obligations and duties, the administrator of municipal assets is obliged to the write to the government within 1 month from when the decision on assets is made. Further use of municipal assets is decided by the government. (§ 10 (2) of the Rules)

3) **Earning of profit**. Assets, which are not used for a public purpose or the government of a municipality and which are not yet for sale, are used for profit earning (§ 11 (1) of the Rules). For earning profit, assets can be given to usufruct, rented out or leased or allocated to an enterprise (§ 11 (2) of the Rules).

4.4 Outsourcing of asset management

Based on decision No 45 adopted by the Council of the rural municipality of Saku on 8 August 1996 a limited liability company AS Saku Maja (in English LTD House of Saku) was founded. All the stock of AS Saku Maja belongs to the rural municipality of Saku. The main activities of the company are providing public heating, public water supply, and public sewage, administration of municipal dwellings and the management of private apartment buildings, and management of municipal real estate property. AS Saku Maja also takes part in the resale of electric energy (electric energy is produced by AS Eesti Energia, whose 100 per cent of stock belongs to the state) and network operations service of electric energy. AS Saku Maja provides services to the municipality, its agencies and inhabitants. The turnover of sale of

51 Kaganova et al. (1999, 45–48) explain the Denver Portfolio Classification Model as follows: "*In case of governmental use assets financial goals should be achieved by increasing the efficient use of facilities, minimising operating costs and locating government offices in functional areas. The asset management goals for social use assets can be achieved by presenting true expenses and generating program alternatives to reduce the subsidy. For surplus property goals can be achieved by leasing or privatizing surplus property and reducing maintenance costs.*" This is also applicable in the case of Estonia and in the rural municipality of Saku.

services was 2,775,359 EUR (i.e. 710.1 per cent of revenues of the sale of goods and services by the remainder of municipal agencies). Average staff of AS Saku was 65 and staff costs were 621,098 EUR (i.e. 20 per cent of staff costs of all the municipal agencies).

There are 299 people working in municipal agencies. 35 of them are officials of the bureau of the government of the municipality, 26 employees of the bureau of the government of the municipality, 136 of them are teachers, and the others are employees of other municipal agencies. Staff cost (taxes included) was 3,061,183 EUR.

Table 5
Income and expenditures by sphere of activity (thousand EUR)

	2004	2005	2006	2007	2008
Income of Rent	89.9	87.8	88.6	101.7	127.4
Expenditures of Assets Management	45.2	59.4	68.1	89.1	122.0
…incl. expenditures on labour	29.7	38.8	39.6	55.6	77.6
…incl expenditures of administration	3.6	0.8	4.7	23.4	18.7
…incl. amortisation	4.8	4.8	5.5	9.2	25.0
Net Revenue of Rent	44.0	28.5	20.5	5.4	12.6

Source: Annual Accounting Reports of AS Saku Maja available in the database of the Business Register of Estonia

5. Conclusion

The aim of this paper was to provide an overview of assets management in local government. In this analysis, the author focused on the legal aspects of asset management and revenues collected from assets. An Estonian constitutional order divided public tasks into local issues and national duties. The Constitution also provides a different financing scheme for those tasks. Local government enjoyed autonomous status under the Constitution. Assets management was considered a matter of local government organisational autonomy and therefore was left for local governments themselves to regulate. As also pointed out by O. Kaganova et al. (1999), local governments in Estonia have much discretion in deciding the revenues collected from assets, while at the same time, issuing taxes and charges in public law is limited to the rule of law and statutory regulation. Only a minor portion of local government revenues is derived from sales and other revenues from assets. Most of the local government assets are used either for the public's use or government of the municipality.

Table 6
Revenues of sale of services by sphere of activity (thousand EUR)

	2000	2001	2002	2003	2004	2005	2006	2007	2008
General Heating	394.5	438.0	431.4	472.1	489.4	521.9	588.5	780.0	912.1
Water and Sewerage	606.5	575.0	524.8	531.6	511.1	549.5	609.4	671.2	633.4
Distribution of Electricity	29.5	333.4	352.3	399.3	401.8	418.7	428.0	449.3	487.3
Catering	0.0	0.0	0.0	0.0	126.1	178.2	186.1	228.7	205.3
Administration of Assets	0.0	72.4	226.1	282.9	159.2	167.6	230.4	144.0	162.4
Retail Sale in Shops	109.8	104.8	105.5	118.0	104.0	108.6	124.6	132.4	122.1
Hotels and Accommodation	0.0	0.0	44.7	167.8	96.3	99.9	102.6	115.4	93.0
Rent of Real Estate	56.2	55.7	56.3	73.3	105.8	102.1	97.8	104.9	130.6
Collection of Garbage	0.0	0.0	0.0	0.0	54.4	53.7	57.3	64.3	73.0
Sauna Services	0.0	0.0	0.0	0.0	8.0	8.9	3.2	3.7	4.3
Repair and Transportation	141.1	130.6	105.0	91.0	45.7	47.3	54.9	81.4	60.1
TOTAL	**1,382.4**	**1,756.3**	**1,846.1**	**2,136.2**	**2,101.9**	**2,256.5**	**2,482.7**	**2,775.4**	**2,883.6**

Source: Annual Accounting Reports of AS Saku Maja available in the database of the Business Register of Estonia

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Municipal Asset Management in Georgia

Nino Gerkeuli, Paata Mirziashvili

1. Introduction

Georgia belongs to those countries where the principles of decentralisation and democratisation are publicly declared but legal, economic and political mechanisms are unable to ensure development in this direction. The present study aims to highlight existing problems in local governance focusing on the sphere of municipal assets management through the scrutiny of the ongoing property devolution process. The case of Mtskheta municipality, in which one of the authors has been working for years, is presented. Research is based on analysis of legislation, interviews and data from the Ministry of Economic Development of Georgia, Mtskheta-Mtianeti Regional Administration, Gamgeoba (executive body) of Mtskheta municipality, Departments of Finance and Budgeting, Economic Development, Bureau of Preschool Service at Mtskheta municipality.

2. Municipal property

2.1 The process of decentralisation

The elections in 1991 were the first attempt to launch the process of decentralisation and establish self-governance in Georgia. However, the social and political situation in the country did not allow elected local self-government units to operate successfully. In fact, the process of decentralisation and creation of local self-governments began in 1997 with the adoption of the Law on Local Self-Government and Governance that defined the basic principles for the creation of local self-government assets. According to this law, a Self-Governing Unit is a settlement (self-governing city) or the agglomeration of settlements (municipality) having representative and executive bodies of the self-government, own property, revenues, budget and the administrative centre and is an independent legal entity (see Bolashvili 2002).

Later, in May 1999, the President of Georgia issued an Order concerning the Regulation of Devolution of the State-owned Property to Local Self-governing units which defined a list of property subject to privatisation. In the same year, the Law concerning Economic Activity of Local Bodies of Self-Government and Government was adopted, which in essence, repeated the statute and mentioned regulation. Particularly, clauses concerning the creation of self-government, unit property and property rights of local self-governments were identical. This law was abolished in 2006.

Despite the adoption of the above mentioned legal acts, no property has been transferred into the ownership of local self-governments and these legal acts had

only a formal character. There was no political will to establish a constant property basis for local self-governments and consequently, no property of local self-government existed in the country.

After the Rose revolution in 2003, reasoning from the necessity of decentralising governance and with the purpose of ensuring more effective functioning of the Self-governing units, the issue of improving their property basis as a significant prerequisite for exercising exclusive authorities of Self-Governments assigned by the law, was placed on the agenda.

In 2005, the Law concerning Self-Government Unit Property and Organic Law on Local Self-Governments were adopted which defined the categories of the property of the Self-Government units, providing guidelines for their creation and property rights. It should be mentioned that issues related to the management and administration of land and natural resources were regulated by a separate law. Presidential decree # 678, which identified the list of state-owned property to be transferred to local self-governments as a basic property necessary for the fulfilment of exclusive authorities of local self-governments, entered into force on 8 August 2005 (see Boex, Martinez-Vazquez and Schaeffer 2006 and Open society Georgia foundation 2007).

2.2 Asset classification

According to the legislation of Georgia, a property of the Self-government unit can be a property that the state transfers to the Self-government unit in ownership, or which the Self-government unit creates or purchases, according to the guidelines set forth by the legislation of Georgia.

There are two categories of transferable property to a Self-Government unit: basic (inalienable) and additional property. Basic (inalienable) property is a property necessary for the execution of the exclusive functions of Local Self-government, while additional property is all other property that can be alienated by a local self-government unit at any time, according to the guidelines set forth by the legislation.

According to the Order #687, issued by the President of Georgia on 8 August 2005, categories of basic (inalienable) property are:

- Administrative buildings-constructions or some of their parts with a piece of land attached to them, where the buildings-constructions represent their substantial part and also the relevant property which is necessary for implementing administrative activities of the local Self-Government bodies.
- State-owned gardens, squares, boulevards, fountains, parks, green areas and riverbank enforcement constructions of local importance, that are located on the subordinated territory.

- Internal roads, bridges, tunnels, streets, underground crossings, subways, sidewalks, traffic lights, street lighting and other elements of transport infrastructure and also necessary fire-fighting facilities of local importance.
- State-owned archives, museums, libraries, theatres, culture houses and other cultural facilities of local importance.
- Graveyards, pantheons, crematoria and facilities of ritual services.

Paragraphs removed from the Order #687 later, on 17 July 2006 are:

- Sewage, rain-stream canals and melioration systems and facilities with the relevant infrastructure of local importance.
- State-owned urbanisation, design and construction facilities and also the facilities for rehabilitating internal roads of the town which are of local importance.
- State-owned facilities of local importance for sanitary purification, disinfection and also recycling facilities, landfills and the infrastructure for depositing solid waste.
- State owned information facilities of local importance, local information centres and buildings and constructions necessary for their functioning.

The State transfers property into the ownership of local self-governments free of charge. Transferable property can be not only a movable or immovable property, but also enterprises in the indicated spheres in which the State owns some shares. Transfer of the latter to the Self-Government is less problematic, whereas there are some difficulties related to the transfer of movable and immovable property.

2.3 The process and mechanisms for property devolution

There are particular procedures and mechanisms set forth by the Law concerning Local Self-governing Unit Property for property devolution. In order to request and receive basic and additional property from the State Government, Local Self-Government Units should follow the process presented below:

1. The local self-governing unit should identify transferable state-owned property on its territory, check this information with the data of the Ministry of Economic Development (the Ministry has a database on most of the property existing within the entire territory of Georgia) and finally identify the list of needed basic and additional property.
2. In order to apply to the Ministry of Economic Development with the list of property, the self-governing unit should fill in the property request forms;
3. The self-governing unit should apply to the Ministry of Economic Development with a property request letter with completed and attached property request forms. The letter and attached documents should be submitted to the chancellery of the Ministry. Self-governing units require a registration number and date from the chancellery in order to simplify the process of receiving information;

4. The self-governing unit should follow up the process. According to the Law concerning Local Self-Government Unit Property, the Ministry of Economic Development should make a well-justified, positive or negative, decision, and inform the requester in writing on the submitted requests within 3 months from their submission. The decision should be submitted to the Georgian Government for approval within 10 days. If the Government makes no decision within 6 months, the property specified in the request will be considered as being transferred into the ownership of the local self-government units. Consequently, the self-government unit should scrutinise the fulfilment of the above mentioned regulation.
5. The Ministry of Economic Development and Self-Government Unit sign a contract on property transfer.
6. Within 60 days from signing the contract, the Self-Government Unit must register the received property.

Concerning roads, bridges, tunnels, streets, underground crossings, sidewalks, traffic lights, street lighting, gardens, squares, boulevards, fountains, parks, green areas and riverbank enforcement constructions of local importance, according to the Amendments to the Law On Property of Self-Government Units introduced on 23 June 2006 by the Parliament of Georgia, the Law declared this type of property to be the property of a Self-Government unit, and, if necessary, the local Self-Government unit can address the Public Registry without the permission of the Ministry of Economy, register it as its property and dispose of it according to its views.

The Ministry of Economic Development is responsible for the inventory and registration at the Public Register Office the transferable basic (inalienable) property listed in Presidential Order #687.

The process of devolution of state-owned property to local self-governments was long, contradictory and it is still to date – 2009. According to EU recommendations, this process in Georgia had to be completed by the end of 2005, but there are some reasons that have caused a delay:

1. The Ministry of Economic Development and Local Self-governments factually up until present have no comprehensive data on property under State ownership;
2. The process of devolution was not planned properly and law-makers were not aware of the possible difficulties. According to the procedures envisaged by law, the process of inventory of the property was too expensive and Local self-governments were unable to fulfil this task.
3. Central government was going to rearrange the existing system of local governance designed and elected in pre-revolution years and transfer property to newly created Self-government Units.

Other objective reasons existed as well for the prolongation of this process and the incompetence of Local Self-government officials formed part of these reasons. Some municipalities claimed property which was not liable for devolution. For example, Borjomi municipality made a claim for the Museum of Local Lore, but failed to prove the necessity of its ownership. Adigeni municipality made a claim for elementary (primary) schools, trying to qualify them as a main property, therefore it is not included in the list of basic property approved by the President. Aspindza municipality in the same way claimed stadiums. Akhaltsikhe municipality claimed the local branches of Tbilisi State and Technical Universities as well as the Lyceum and College of Agriculture, buildings of Gubernia, Meskhety State Theatre and Patriarchy. Besides the fact that local self-governments can repeatedly claim property, all of the above mentioned municipalities lack adjusted argumentation and consequently they will not receive this property from the State.

One more obstacle in the process of property devolution is that property transfer is accompanied by a transfer of liabilities. Most of the objects existing on the territories of municipalities have significant tax debts and local self-governments lack sufficient funds to deal with this. Therefore, they are unwilling to take responsibility for such property. In this situation, the best solution might be cutting off the liabilities of such property by the State before devolution. After that, Local Self-governments could decide whether they will administer or privatise this property.

3. Changes in legislation 2007

The frequent change in legislation is seen as an important impediment factor in the process of development of Local Self-governance in Georgia. As a consequence, changes in laws, statutes and regulations frequently contradict one another and also the main principles of the European Charter on Local Self-Government.

In particular, a number of Amendments to the Organic Law on Local Self-Government and the Georgian Law Concerning Local Self-governing Unit Property was introduced in 2007. From the Law on Local Self-governing Unit Property, Articles concerning property management have been removed and now this sphere is regulated by the Organic Law.

The goal of the above mentioned changes was to create a unified regulation for the management and administration of State-owned, municipal and privatised property.

As a result of Amendments introduced on 11 July 2007, to the Organic Law on Local Self-Government authorities of the representative body – Council of Local Self-government (Sakrebulo) in the sphere of property management involve only:

- Authorisation of the list of Self-government Unit property subject to privatisation;

- Determination of the initial price considering the market price of the property based on the Presidential regulation on the determination of the land normative price;
- Approval of the typical forms for a Self-government Unit property report, protocol of auction.

The role and functions of Sakrebulo in the sphere of privatisation were decreased. That limited Sakrebulo in the sphere of the fulfilment of its exclusive authorities prescribed by the same law. In addition, the obligations and accountability of the executive body (Gamgeoba/City Hall) towards the representative body (Sakrebulo) in the field of control and monitoring the privatisation process were not determined.

Authorities of the executive body of Self-governing unit (Gamgeoba) in the sphere of property management are:

- Making decisions on placing enterprises under their management into Capital Asset funds.
- Privatisation of Self-governing unit property or administer in another manner.
- Making decisions on privatisation through auction.
- In accordance with the legislation of Georgia, ensure the transparency of information on Self-governing Unit properties which are subject to privatisation.
- Making decisions on the transfer of property through direct administration.
- Fulfilment of other tasks defined by the legislation of Georgia.

Sakrebulo is losing authorities that it needs for the execution of its exclusive functions prescribed by law. It would be better if the executive body acted as a mediator and provided technical support in the privatisation process. If not, it will hamper the process of development of independent and economically strong local Self-governments in the country.

In the rule and forms of the alienation of Self-governing unit additional property has been also changed. If previously, property was alienated through competitive bidding, auction, lease-redemption or purchase of property through direct sales methods, today privatisation of self-governing unit property is possible only by forms of auction and direct sale. In addition to executive, legislative, judicial bodies, prosecutor, as well as legal entities of public law, the executive body of Local Self-government is transferring property free of charge, in the form of usufruct or loan without auction.

Criticism can also be directed towards the form of direct selling of a self-governing unit's property by the President, which contradicts the European Charter on Local Self-government and Organic Law of Georgia on Local Self-Governments. On the basis of competitive bidding, interested parties, before the expiration of the

period determined for expressing interest, should present a bank guarantee or allocate the relevant deposit of 5 per cent of the cost of property subject to privatisation. The President has the right to neglect and ignore imperative norms and make a final decision without the above mentioned rule.

According to the Article #47 of Organic Law, the Self-governing Units own:

a) Non-agricultural land (roads, streets, squares, etc of local importance) on the territory of the self-governing unit, with the exception of land plots under private ownership and attached to state property and to property existing through the state's stake participation; also land plots under the indicated category of property (state land or public property with State's share in it), subject to attachment, according to the rules set out under Georgian legislation;
b) The land attached to the objects owned by the self-governing unit;
c) The agricultural land on the territory of a self-governing unit, except for forests and water resources on the territory of the self-governing unit which have local importance.

Despite the fact that agricultural, as well as non-agricultural land, was transferred to local self-governments, according to the law the land shall be executed by the Ministry of Economic Development.

Local Self-governments were empowered with temporary rights in the sphere of immovable property management. Particularly, executive bodies of Local Self-governments are responsible for the transfer of non-privatised dwellings and non-residential (isolated or not) areas to factual, illegitimate owners free of charge together with the recognition of their rights of ownership of legally as well as illegally owned land.

Clarity in the separation of functions of central and local governments in the field of management and administration of local self-government property is crucial. It is necessary to empower local governments with more independence in the sphere of property management. This will positively influence the investment climate and economic development of municipalities.

4. Country data

Since the spring of 2007, municipalities made an inventory of property on their territories and sent it to the Ministry of Economic Development of Georgia with the completed relevant forms of request. Municipalities mainly requested basic property necessary for the execution of exclusive authorities, such as administrative buildings, cinemas, clubs, libraries, specialised schools (arts, etc), cemeteries, objects of water supply and the sewage system. As for additional property, self-governing units mainly focus on kindergartens, sports facilities and stadiums. In

2007, requests from 50 out of 69 municipalities were fully satisfied. The process of devolution is still ongoing.

Based on data from the Ministry of Economic Development, the total value of property transferred to Local Self-governments is 68 million 853 thousand GEL[1]. It should be mentioned that this estimation is based on so-called Expert evaluations as real estimations/evaluations have never been conducted. It is important to bear in mind that the vast majority of transferred property is amortised and requires capital repair.

One important factor that has been revealed is that some municipalities own such property as cinemas, clubs, libraries, museums and music schools as additional property, whilst others – as basic. For example, Tsalendgikha municipality owns a music school as additional property, whilst in the municipality of Qeda it is basic. Local Self-governments are restricted to alienate basic property by law. Alienation of such property based on a decision of the Council (Sakrebulo) is possible only in the case where the creation or purchase of new property causes a loss of meaning and value of the existent property. Consequently, Tsalengikha municipality will be able to receive revenues after privatisation of property received as additional, whilst the municipality of Qeda with property in the same category, will not.

Many municipalities are not active in claiming devolution of property for several reasons:

1) A lack of financial resources in the municipalities that would allow them to maintain property.
2) Vagueness in the sphere of immovable property as a result of the fact that the vast majority of this property is not registered in the Public Registrars office as State property, as it should be (state transfers property only after it is registered). Namely, immovable property cannot be transferred without registering it as state property in the Public Registry. The state is not authorised to dispose of the property, if it does not have a certificate confirming relevant ownership, issued by the authorised body, in this case the Public Registry. Registration of the property in the Public Registry is related to the creation of identification documents (cadastral mapping, etc.), which requires significant funding from Local self-governments.
3) Based on the vagueness of the legislation, the Ministry of Economic Development refused to transfer non-residential areas to some municipalities.
4) Ambiguity exists regarding forestry and water. According to the Law Concerning Local Self-governing Unit Property, forests and water of local importance should be managed by the local Self-government, but in reality there is no definition of local forests and water resources.

1 1 EUR = 2.4983 GEL (as of 8 November 2009).

5. Current problems

Today, when local self-governments own property, it is important to identify and avoid threats in management and administration of this property. Some of these threats are presented below.

There is no tradition and Local Self-governments have no experience in the sphere of property management. The serious problem is a lack of the necessary knowledge and skills of management among the personnel of the Self-government Units, which may cause ineffective management and administration of transferred property.

A Self-governing Unit by law is restricted to selling basic property, but it can totally sell transferred additional property aimed at the accumulation of significant funds (one extreme), or lend or otherwise give it temporarily to other parties aiming to secure revenues in the long-term (other extreme). From an economic point of view, none of the above mentioned extremes is justified. A Self-governing Unit can secure revenues and manage property effectively if it sells property that requires significant funding and maintains property that will bring about benefits with a relatively small investment.

Local self-governments should execute their property rights in accordance with public interest. Public control of this process is important. Citizens living or registered on the territory of a municipality have a right to request and receive information and an explanation on the different issues related to property administration. They have a right to request from Local Self-governing bodies and authorities the defence of a Self-governing Unit's interest as the owner. Disputed cases go to court.

6. Case study

Mtskheta municipality is located in the eastern part of Georgia and by historical and geographical division belongs to the Mtskheta-Mtianeti Region. Its administrative territory is around 650 sq km. The terrain includes mainly hilly plain, partially low and medium height mountains. The climate is moderately damp. The average temperature is 10–12 C and 53 per cent of the municipality's total territory is woods and forest. As there is no forest economy on the territory of the municipality, this forest is divided between other forest economies of neighbouring municipalities. Despite the fact that the vast majority of the land fund is still under State ownership (81.9%), it should be mentioned that within 52.7 per cent of the privatised farm land, the arable area is 63.9 per cent, multi-year plants 93.8 per cent, fruit gardens 98.3 per cent, vinery 89.1 per cent, cropping area 19.4 per cent and pasture 15.3 per cent. Seven rivers (total length 114 km) flow through the territory of the municipality. There are roads (420 km), railroad (35 km) and a small airport.

The municipality includes the sanitary zone of the Tbilisi water-supply system (Aragvi gorge) and Mukhrani Valley – the main supplier of Tbilisi markets with agricultural products. The 24 administrative-territorial units of the municipality comprise 1 city and 34 villages. The city Mtskheta, where around 15 per cent of the local population resides, is located 10 km from the Capital – Tbilisi.

According to the last 2002 census the population of the municipality is 46,000 and 90.7 per cent of them are Georgian, 3.4 per cent Azeri, 2.2 per cent Ossetian, the remainder are citizens of other nationalities. 36.2 per cent of the municipality population is economically active, 30 per cent of whom are employed. According to statistical data 2008, 250 enterprises are registered in the municipality.

Mtskheta is an old capital and a Cultural Heritage site. The city Mtskheta is a City-museum because of its historic-architectural value. The City and temple Jvari are included in the UNESCO world cultural heritage list. There are many historic monuments and places attractive to local, as well as, foreign tourists. Its location, close to the Capital, favours the development of tourism.

Within two months after the local Self-Government elections in 2006, the administrative borders of Mtskheta municipality were changed. A significant portion of the municipal territory was shifted to the Capital – Tbilisi. This resulted in a drastic decrease in the municipality's revenue base and population. Despite the fact that the Organic Law on Local Self-Government strictly requires, from the respective State bodies, the provision of a newly created self-governing unit and municipality with changed borders, within a clearly defined period of time (prior to 31 December 2007) the demarcation of exact borders, this process, to date, is not complete (March 2009). Accordingly, extraction of updated data is unavailable from either the municipality or the State's relevant organisations. In addition, obtaining the number of so-called Internally Displaced Persons (IDP) from the conflict area, who are settling down in the 2,700 houses built for them within the territory of Mtskheta municipality, is unknown as the process is in progress.

Proceeding from the above mentioned information, the statistical data provided above is not exact, but to some extent gives a fair picture of the municipality.

According to Order #1-1/1576 of the Ministry of Economic Development of Georgia, the vast majority of assets transferred from State-ownership to Mtskheta municipality belong in the category of basic (inalienable) property that is intended for the fulfilment of exclusive authorities of Local Self-government and consequently, its role in the promotion of economic development is less effective.

Service delivery in the municipality is performed in two ways:

1. State procurement of services, the procedure for which is defined by the law on State Procurement, involves services such as: repairs of internal roads, maintenance of greenery, organisation of public amenities, construction and exploi-

Table 1
Mtskheta municipality budgets

2007		2008	
Revenues	**13,552.3**	***Revenues***	**114,458.4**
I. Tax Yield	8,635.1	**I. Tax Yield**	2,256.0
		Property tax	2,234.7
II. Non-taxable revenues	1,480.6	**II. Non-taxable revenues**	783.5
Fees	419.5	Fees	278.5
Revenues from State-owned Land lease	168.5	Revenues from State-owned Land lease	51.1
Revenues from Fines and Penalties	328.9	Revenues from Fines and Penalties	395.0
Other	215.6	Other	28.4
III. Special transfers from central budget	346.4	**III. Special transfers from central budget**	346.4
IV. Capital revenues	3,436.4	**IV. Capital revenues**	4,792.5
		V. Grants	106,626.4
Expenditure	**13,964.4**	***Expenditure***	**113,332.5**
Rehabilitation-Reconstruction of roads	3,383.7	Rehabilitation-Reconstruction of roads	1,946.8
Planting of trees and shrubs	129.0	Transport	7.8
Reconstruction of roofs of multi-storey residential buildings in the City	390.0	Reconstruction of roofs of multi-storey residential buildings in the City	680.4
Public lighting works	106.0	Public lighting	183.8.
Organisation of public services and amenities	787.7	Organisation of public services and amenities	258.5
Rehabilitation of sewerage systems	465.0	Melioration	119.3
Communal Service of the City Mtskheta (street cleansing, maintenance of greenery, public lighting technical service).	277.5	Communal Service of the City Mtskheta	465.0

Creation of Youth and Sports centre in Dzegvi	165.0	Construction housing for IDP's (spets transfer)	99,307.3
Capital and ordinary repairs of Kindergartens	347.0	Capital and ordinary repairs of Kindergartens	618.0
Capital repair and purchase of equipment for sport centres in villages Dzegvi and Tsilkani	66.0		
Asphalting of the road to I'Chavchavadze Museum for jubilee 170	80.3		
For Social programmes financed from local budget in total	201.2	For Social programmes financed from local budget in total	705.6
Subsidies		**Subsidies**	
Subsidy for the Union of Mtskheta Municipality Preschool (non-commercial) Organisations	631.8	Subsidy for Union of Mtskheta Municipality Preschool (non-commercial) Organisations	605.9
Subsidy for the Union of Mtskheta Municipality Organisations (not commercial) for Culture	420.1	Subsidy for Union of Mtskheta Municipality Culture and Sports Organisations	483.6
		ltd Mtskheta Twelve Apostles Orthodox School	23.4
		Public school	5.2
		I. Chavchavadze Museum	19.3
		Reserve fund	175.8

Note: Based on the Mtskheta Sakrebulo Resolution #28, 14 December 2006, on "fulfilment of liabilities assigned for Dusheti (neighbouring the Mtskheta municipality) Rayon by a Loan Agreement between Dusheti Rayon Gamgeoba and the Ministry of Finance of Georgia on 12 September 2006", from the budget of the Mtskheta municipality 2007 was designed and factually covered, the Dusheti Rayon debt for the water supply system rehabilitation – 1,318.0 thou. GEL!

tation of street lighting, etc. and is conducted by the Municipal Procurement Department.

2. Non-commercial, NGO-type local service delivery such as: management of kindergartens, local libraries, museums of local importance, specialised (music, arts, sports) schools. Their administration is provided through municipal funds.

Spheres of service delivery such as street cleaning, waste disposal and utilisation, up until 2009, were fulfilled by the State Procurement. Because of the non-competitive environment, the winner was always Mtskheta Communal Service Department, 100 per cent of shares of which belong to the Department of Property Management of the Ministry of Economic Development of Georgia. In January 2009, this was transferred to Mtskheta municipality as additional property.

The following tables provide a view of the Mtskheta municipality budgets for two years (2007, 2008). Table 1 presents information on revenues and expenditures. Factual revenues in 2007, including transfers from the central budget, totalled 13,552.3 thou. GEL. The decrease in total revenues by 7.2 per cent, in comparison with the previous year, related to reduction of revenue basis – shift of the part of Mtskheta municipality territory (Zagesi, Digomi, Gldani, and partially Lisi) to Tbilisi based on the Mtskheta municipality Sakrebulo Decree #42, 19 December 2006. Factual revenues in 2008 including transfers from the central budget were 114,458.4 thou. GEL, i.e. 99.6 per cent of projected revenues. Total revenues increased by 844.6 per cent and are related to financial assistance from the central budget as a reduction due to the consequences of the August 2008 war (building dwellings, kindergarten and Administration building for IDP's in the villages Tserovani, Tsilkani, Prezeti).

Distribution of special transfers from the central budget in both years: 1. For activities against Montgomery disease 9.7 thou. GEL (7.2 thou. GEL has been returned); 2. For asphalting of the road to I. Chavchavadze museum 300.0 thou. GEL (0.6 thou. GEL has been returned); 3. Activities related to New Year celebrations 43.5 thou. GEL. Distribution of Grants in 2008: Targeted transfer 300.0 thou. GEL; Spetstransfer 103,326.4 thou. GEL; Finansial aid 2,700.0 thou. GEL; other grants 300.0 thou. GEL.

Expenditures: Below is an abstract from part of the Expenditures in order to illustrate the spending priorities of the municipality:

Subsidies: In 2007, the representative body of the municipality of Mtsketa Sakrebulo registered as non-commercial legal entities, preschool, cultural and sports organisations that were in local subordination (libraries, clubs, arts and music schools, sports schools, etc.) Their financing is based on subsidies. Subsidies cover salaries and current costs in order to fulfil the main functions of these unions, while capital costs are covered by the Gamgeoba-executive body of the local government.

Reserve fund 2008 90.0 thou. GEL. Cash 85.8 thou. GEL. These funds were spent on the provision of IDP's with products, medicine, inventory, fuel.

The following two tables give additional information on the structure of expenditures using economic and functional classifications.

Table 2

The structure of budgetary costs/expenses according to economic classification

Classification	2007			2008		
	thou. GEL	% of planned	% of Total	thou. GEL	% of planned	% of Total
Salaries (including social)	733.4	98.7	4.4	1,026.7	99.8	0.91
Capital expenditure	8,991.0	99.7	64.6	108,735.0	99.9	0.25
Paying Debt	136.4	100.0	1.0	284.6	99.9	0.25
Charges from employers	121.7	98.2	0.9	27.8	94.1	0.02
Other goods and services	882.9	98.9	6.4	960.2	98.5	0.85
Subsidies, subventions and current transfers	3,152.2	99.7	22.7	2,298.2	93.3	2.03

Table 3

Expenditures by functional profile

Classification	2007		2008	
	thou. GEL	%	thou. GEL	%
General state services	2,343.25	16.8	1,503.0	1.3
Defence	45.6	0.3	78.6	0.1
Public security	334.3	2.4	454.8	0.4
Economic Activities (energy supply, transportation)	4,386.1	31.5	4,053.3	3.6
Environmental protection	464.9	3.0	389.1	0.3
Housing-communal services	3,172.3	22.8	104,112.7	90.5
Healthcare	107.6	0.8	178.7	0.2
Recreation, culture, religion	1,113.6	8.1	861.2	0.8
Education	1,387.6	10.0	2,505.9	2.2
Social protection	555.7	4.0	895.1	0.7

According to the above mentioned information, it may be concluded that Municipal assets management in Georgia is oriented primarily towards service delivery and not for the stimulation of economic activities within local self-governing units.

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Municipal Asset Management in Ukraine

Sergii Slukhai, Iryna Bovsunivska, Natalka Sokrovolska

1. Introduction

Efficiency of asset management is one of the key issues in local government functioning. In order to perform the functions prescribed by legislation, municipalities are endowed with some public assets. Being endowed with these assets, they are supposed to efficiently provide the local populace with public services. A common shortage of budgetary revenues makes the issue of sound management of municipal assets very important. Of course, to run them efficiently, the property rights for specific assets must be clearly defined; this in turn requires a strict delineation of public assets between the levels of government. As presented in some studies (e.g. Peteri 2003), the process of property delineation is very complex and difficult, which results in much tension between the involved governmental units.

While dealing with municipal asset management, it would be important to find an answer to the question which is commonly topical for many countries: how to use it. There are two options for local governments concerning assets: (i) to make the assets create a permanent cash flow, or (ii) to sell them in order to fill the current budgetary deficits. As country studies show, in some transition countries, the local governments favour the second option; at least this could be considered as a trend fixed for some period of time (see Bobcheva 2007).

The paper below gives a brief outline of municipal property formation in Ukraine, its legal regulations and actual state (composition, management etc). It uses statistical data provided by the Association of Ukrainian Cities, the Ukrainian State Department of Statistics, and the Ukrainian Ministry of Finance. Special attention is given to certain kinds of assets such as urban land. This issue has a very fragmented coverage in Ukrainian literature. It is difficult to find a solid publication in this field, except for Fedorchenko and Yanov (2005). The case study deals with data on municipal land management in big cities of national and regional significance: Kyiv City, the national capital, and Ivano-Frankivsk, one of the biggest cities in the western part of Ukraine.

2. Issues in municipal property formation

2.1 Property transfer

Before independence, the municipal assets in Ukraine were very small in volume and did not play any significant role in economic and social development. Only after 1991 did municipal property formation begin.

Formation of municipal property in Ukraine involved three main processes: de-state-isation, privatisation, and communalisation.

In the course of the first process, which was the first to evolve, public property in its state form was transferred to the regional and communal units. This process began in 1991 within the delineation between state and communal property. The respective governmental regulation specified a list of objects which were transferred to the local authorities with the exact procedure of such an action. The delineation of property between levels of local authority was granted to the executive bodies at regional and district level. As a result, by the end of 1992, the property transferred from the state had been assigned to different governmental levels. The municipal sector took over a large amount of small-scale enterprises in the different branches of manufacturing, agriculture, communications, construction, utilities and transportation, public food chains and household services. The vast majority of housing objects was also transferred to communal property, as well as social infrastructure assets such as education, healthcare, sporting, and social care facilities.

By 1992, about 60 thousand enterprises (31 per cent of the national total) had been transferred from the state to the local communities. It is worth mentioning that the delineation between state and municipal property was carried out quite formally, without any strict criteria for the assignment of specific assets to different levels of local government and as concerns land, this is not yet finished.

Such a quick and formal approach, of course, created many conflicts between local governments at regional, district and municipal levels. The upper level local governments tried to transfer to the municipal level mainly the less cost-effective enterprises which, as a result, put a heavy burden of maintenance costs on the latter (see Шинкаренко 1993, 232–234).

In line with the property transfer from the state, there also evolved a process of communal property privatisation. The dominating mode of privatisation at the communal level was buy-in (80 per cent of cases) and the role of open and closed tenders was very modest.

During the course of this privatisation process the most profit-bringing assets were transferred from communal ownership to private, mostly to the managers and employees of the respective enterprises in retail trading, household services and public food chains, for symbolic prices, because due to privatisation legislation, employees had a priority right to buy out assets, not only for real money, but also with privatisation vouchers. That is why privatisation of municipal property previously transferred from the state has not brought any significant proceeds for the municipal budgets.

Up until now, only a few enterprises remain in communal ownership, so since 2000, the numbers of privatised objects has decreased many times. For example, in

2006, only 5,000 units were privatised by municipalities, 98 per cent of which belonged to small-scale businesses (see Держкомстат України 2007).

During the course of the second process, part of the assets owned by state-owned enterprises, which was considered by them to be out-of-profile with regard to main type of activity, was transferred to municipalities. These assets comprised different types of facilities such as housing facilities (residential houses, boiler houses, maintenance units), social and cultural facilities such as therapeutic units (health-care facilities, health resorts, preventive clinics, holiday homes), educational establishments (kindergartens, schools), cultural facilities (cultural centres, libraries, cinemas etc), and sporting facilities (arenas, pools etc). The extent and importance of such an infrastructure was immense: by the end of the 1980s, the services of such an industry-sponsored infrastructure was extended to housing and utilities for 32 million people, in pre-school education for 5 million people, children's vocation homes 1.5 million people, and in health care, 30 million people. The total capacity of housing facilities owned by enterprises exceeded 400 million sq. m, which comprised 80 per cent to state-owned housing facility size and 65 per cent to the municipal one (see Чечетов 2004, 12–13.).

This "communalisation" of assets could be considered as the biggest institutional turnover in the nation's social sphere. This assets transfer was aimed at switching the activity of business units mainly to production, leaving the out-of-profile activities which produced no profit for the public sector. It was intended that local authorities would better run these facilities with the compensation of additional outlays granted by the state.

Up until the end of 1997, the majority of enterprise-owned social facilities were transferred to communal property: 80 per cent of housing, 76 per cent of pre-school facilities, 82 per cent of health care establishments, 84 per cent of sporting facilities, 75 per cent children's vocation homes and 70 per cent health resorts and 60 per cent preventive clinics (see Чечетов 2004).

Despite the impressive quantitative results of this property transfer, it also created huge fiscal problems for the local budgets. The former industry-sponsored facilities were fiscally burdensome (they created no positive cash flows) and imparted significant expenditures on the local governments, which resulted in an increase in their share as concerns total expenditures of Ukrainian consolidated general government budget: from 30.4 per cent in 1994 up to 48.1 per cent in 1998; as a result, the local government dependency on state transfers measured as state transfer share in total local government revenues more than doubled: it rose from 10.3 per cent in 1993 up to 23.7 per cent in 2000 (Міністерство фінансів України 2001).

It should be mentioned that some important issues related to property right definition in the public sector remain unsolved. This especially relates to land because the legal grounds for delineation of this asset among levels of local govern-

ment were introduced only recently, in 2004. The Law on Delineation of Land Belonging to the State and Communal Property as of 5 February 2004, required that delineation of land within a settlement border be initiated by the respective council in concordance with local state executive bodies (i.e. local state administrations) and could be fulfilled according to projects developed by land management bodies due to the council's mandate. But, this land property delineation has still not been completed because of a lack of funding in local budgets for respective projects, which, of course, creates much confusion. Since the Law does not stipulate any deadline for the process mentioned above, we could assume that it will last for quite a long time.

2.2 Legal regulations

The Ukrainian Constitution provides that local territorial communities should execute their property rights directly or via self-government bodies and units of different property types authorised by them. In the latter case, the disposition right must be granted through tenders and contracts.

The Law on Local Self-Government (1997) vests a broad range of rights to execute power concerning communal property. In article 29, it stipulates that local governments could use their property for economic activity and have the right to transfer communal assets to natural and legal persons on a temporary or permanent basis, rent it out, buy or sell, use as security, privatise or alienate and define its usage and mode of funding in contracts.

The Land Code as of 2001 defined the composition of communal lands, order of right acquisition, limitations concerning land transfer from the state to communities and the basic principles of land delineation between state and local governments. In article 83, there is a provision that land belonging to territorial communities is a communal asset. To this category belong all the lands within a settlement's border except for lands belonging to private units and the state, as well as land plots beyond the territorial borders on which the municipal facilities are located.

The municipalities' property right for land will be justified in cases of (a) transfer from the state, (b) coercive alienation from owners because of public need, (c) inheritance, (d) acquisition, gift, exchange etc.

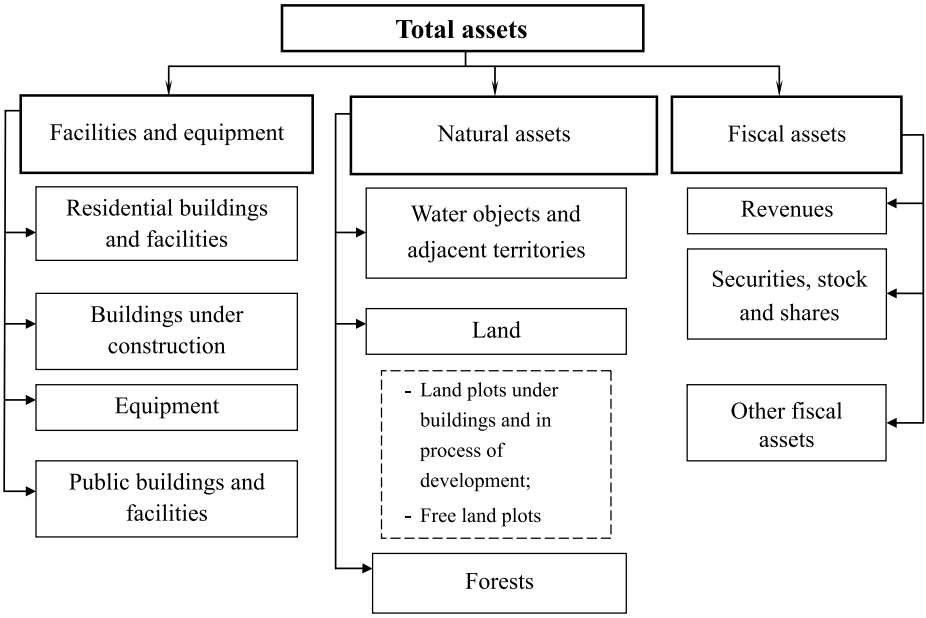
Nowadays, communal assets do not have any normative classification except for that given in a balance sheet due to current accounting rules.

So, article 142 of the Constitution defines the elements of the material and financial base of local self-government as follows: movable and immovable assets, budgetary revenues, land and natural resources belonging to territorial communities of different settlement types, as well as assets in their common possession which are under the administration of district and regional councils.

The Constitution and the Law on Local Self-Government stipulate that local self-government units have the right to use their assets to settle the important issues of local life, such as securing a balanced economic and social development of the territory; delivering a range of services to the population in the fields of housing and utilities, trading activities, public food chains, transportation and communication; supporting social infrastructure by all means; providing material and fiscal assistance to socially vulnerable groups of population.

According to the current legislation, municipal assets could be presented as follows:

Figure 1
Typology of municipal assets



2.3 Municipal property: scale and composition

There is no comprehensive data on total local government assets in Ukraine. The data available with respect to ownership type could represent only two main components of local municipal assets: facilities and fiscal assets. As concerns natural assets, their amount in municipal possession could not be precisely evaluated for several reasons. First, as noted above, the land delineation process is still in progress; second, there is no available information on ownership type related proportions concerning land and other natural resources; third, information on natural resource value assessment is very unreliable because this assessment was done on the basis of the so-called "normative land value assessment", the mone-

tary value of which could be very far from the real market valuation. For example, on the official site of the Ukrainian Land Management Committee one finds no data on land belonging to urban communities and its valuation, only data on land use (agricultural, industrial etc).

For this reason, we can discuss here the municipal sector assets concerning facilities and equipment.

Table 1 gives us some data representing the relative role of the municipal sector concerning fixed asset formation.

Table 1
Division of fixed capital value among enterprises of different ownership types, as of 1 January 2006

Ownership	Share in total fixed capital, per cent	Value, UAH[1] billion, current prices
State	31.5	359
Municipal	23.3	266
Private	45.2	516

Source: Держкомстат України 2007. Статистичний щорічник України за 2006 рік, Київ: Консультант

According to this data, the municipal role in national fixed capital is comparable to that of the state, comprising about one-fifth of this asset.

Only 3 per cent of about 860 thousand enterprises operating in Ukraine represent public ownership (both state and municipal). According to data of the Ukrainian Statistical Committee, in 2006 the municipal sector with 16.7 thousand enterprises employed about 562 thousand people (6.3 per cent to total for Ukraine). Running about 25 per cent of the national fixed capital, the municipal sector displays quite a low aggregate profitability, demonstrating a total loss of UAH 455 million. Data in Table 2 below shows that municipal assets are used least efficiently (in terms of profitability) in comparison to other sectors of the national economy. This result could be attributed mainly to the composition of municipal assets (with prevailing social infrastructure facilities), but also to the low quality of local asset management.

As concerns asset composition, it must be said that the preponderant portion of municipal assets (about 85 per cent) belongs to low-return and loss-making activities.

1 1 EUR = 12.0668 UAH (as of 8 November 2009).

Table 2
Total net return to enterprises' costs due to ownership types in 2006, UAH million

Ownership	Net profit (loss)	Costs (expenditures)	Return to costs, per cent
Private	40,833.9	1,180,725.3	3.5
State	6,042.5	209,758.5	2.9
Municipal	–455.1	32,318.2	–1.4
Total	46,421.3	1,422,802.0	3.3

Source: Ibid.

Table 3 demonstrates the specific composition of municipal enterprising: only one per cent of the total number of municipal enterprises undertakes activities which could bring about profits on a permanent basis; others are mostly funded from the local budget in full (education and healthcare) or partly (housing and utilities, culture and sports).

Table 3
Composition of municipal assets by type of economic activity (percentage to total number of enterprises)

Activity	1993	2000	2003	2005
Total	100	100	100	100
Housing and utilities	28	46	44.8	52.8
Trade and public food chains	30	3	3.1	1.0
Household services	10	0	0	0.0
Education	10	15	15.2	10.0
Healthcare	8	14	13.9	15.0
Culture	7	10	9.6	9.6
Sports	5	8	8.2	9.5
Other	2	4	5.2	2.1

Source: Держкомстат України 2006. Статистичний щорічник України за 2005 рік, Київ: Консультант.

Concerning the low quality of management, we should also refer to the managerial slack because collection of payments for municipal services extends only to 50–60 per cent of the payments due because of corruption, low qualifications, and the low discipline of managers.

Table 4 below gives some grounds for an understanding of why municipal assets bring lower profits in comparison to assets belonging to other owners. Having about 25 per cent of the fixed capital value, local governments control less than six per cent of the total national investment fund; this kind of underinvestment causes diminishing quality and applicability of municipal assets and, as a result – a sagging quality of municipal services. The question "why" could be omitted: it is obvious that under the current inter-governmental fiscal system, local governments do not have sufficient funds to maintain or expand available assets (see Slukhai 2008).

Table 4
Division of investments in fixed capital, by ownership types, per cent, 2000–2005

Ownership	2000	2001	2002	2003	2004	2005
Private	54.1	56.7	63.9	62.7	64.8	74.8
State	39.4	36.4	29.3	30.2	28.4	18.5
Municipal	6.5	6.9	6.8	7.1	6.8	6.5
Total amount of investments, UAH billion	23.6	32.6	37.2	51.0	75.7	93.1

Source: Держкомстат України 2006. Статистичний щорічник України за 2005 рік, Київ: Консультант.

There is also another explanation that could refer to an inconsistency in property right assignment. The fact is that the functions delivered by these facilities belong to the domain of the central government, which, according to the Constitution, is to provide the population with such public goods as secondary education, healthcare etc. To do so, the central government runs field departments responsible for education, health care, social care, and culture, combined under the umbrella of the local state administration office which uses municipal property without being formally accountable to the respective local community. Such a situation gives rise to the question: who is the actual owner of the communal property, the state or the local community? Formally, Ukrainian local governments are empowered to use their assets according to their needs, but in real life their rights are significantly limited. First, they are limited in the sense that local governments are not allowed to alienate some social assets such as schools, even if it is desirable from a cost-efficiency point of view. Second, control over most assets is performed by the state (not communal) administrators. That is why we have a situation of split responsibility for the majority of communal assets and, therefore, problems with their usage.

2.4 Land as a municipal asset

Land is one of the most important municipal assets in Ukraine. Despite the problems with the property right clarification described above, its importance for the local fiscus cannot be overstated. According to Ukrainian legislation, there are several possibilities for local governments to make land bring about revenues.

The total land endowment of urban municipalities nowadays comprises about 7.2 million ha (circa 12 per cent of national land resources), of which 22 per cent is under buildings. About half of urban lands are used for various types of economic activity, but its composition looks very inefficient. Ukrainian standards for allocation of land plots for the needs of industry, transport and energy are 2.5–2.7 times higher than those in Western Europe. That is why many enterprises have excessive amounts of land and constitute quite attractive objects of takeovers, especially when they are located in the downtown area.

A municipality has a right to alienate its lands through (a) selling for money, (b) transferring into private ownership for free (according to norms set down by legislation; after 15 years of private usage a natural person can claim a plot to be his private property) and (c) privatising plots which were subject to previous endowment. It can also endow for free state and communal enterprises, as well as enterprises founded by associations of disabled persons. In all these cases, legal and natural persons bear the obligation to pay land tax. In case of land lease, lessees pay the rent due to the lease contract and the rent rates are capped at triple the land tax of the respective land plot.

As Table 5 below demonstrates, land is one of the important revenue sources for local governments. Its revenue share in Ukrainian local budgets has remained quite stable for the past few years, ranging from 10 to 13 per cent to total revenues for different years. The revenues stemming from land ownership consist of three main components: land rental payments, land tax (paid by those who acquired land plots) and land sale proceeds. In Ukraine, the former two revenues are merged into one category, the so-called "land payments".

According to legislation, the land tax rate is fixed at the level of one per cent of the plot's normative monetary valuation; at the opposite spectrum, the land rent could be defined on a case-by-case basis and could vary significantly depending on plot type and location, especially in the case where the right to rent is allocated through public auction procedure.

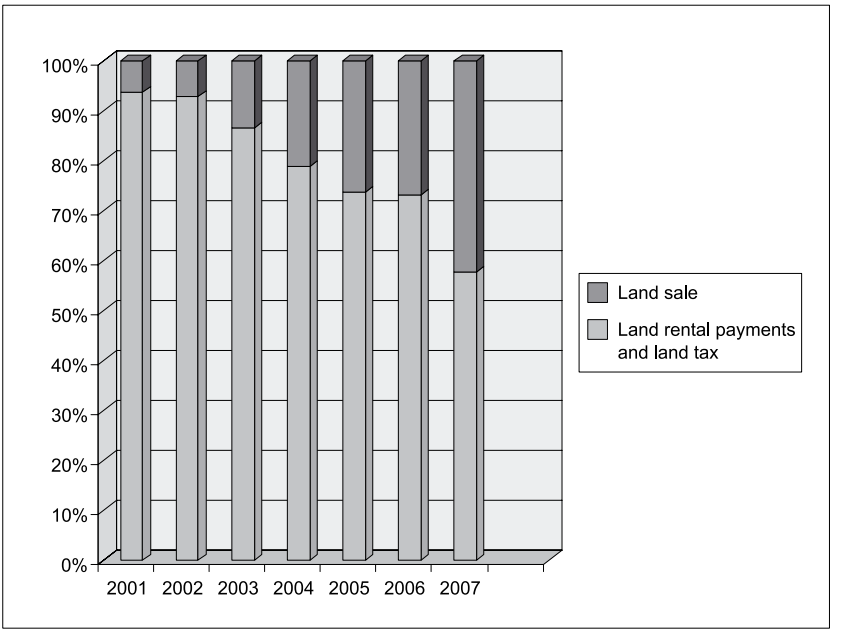
It should be mentioned that only lands for non-agricultural use are admitted for sale in Ukraine; lands for agricultural use could be only rented out. This fact means that it is mainly cities that could benefit from the slowly evolving land market.

Table 5
Revenues stemming from land possession of combined Ukrainian local governments
(UAH million)

	2001	2002	2003	2004	2005	2006	2007
Total revenues (transfers excluded)	17,735.6	19,429.3	22,577.4	22,784.9	30,316.2	39,865.5	58,349.0
Land rental payments and land tax	1,618.6	1,806.3	2,032.3	2,293.2	2,718.2	3,122.3	3,889.3
Land sell	108.9	137.1	313.4	615.9	968.5	1,150.4	2,854.1
Land asset revenue share, per cent	9.7	10.0	10.4	12.8	12.2	10.7	11.6

Source: Міністерство фінансів України 2003. Бюджет України 2002, Київ: Мінфін; Міністерство фінансів України 2005. Бюджет України 2004, Київ: Мінфін; Міністерство фінансів України 2008. Бюджет України 2007, Київ: Мінфін.

Figure 2
Composition of land asset revenue in Ukraine



Using this data we can find a prevailing current trend in land management pursued by local governments. As Figure 2 depicts, an obvious trend is in favouring land sale. In 2001, the revenues from land sale comprised less than 10 per cent of total asset revenues, but in 2007 they exceeded 40 per cent. What lies behind this trend? It is obvious that this current trend contradicts this one throughout the world, where land rent generates a significant portion of local revenues: up to 50 per cent in cities of continental Europe and 70 per cent in Japanese cities (see Fedorchenko and Yanov 2005). The answer can be found in the course of analysing the two case studies presented below in Chapter 3.

The modest development of land sale in 1994–2002 could be explained by the slow development of respective legislation, delays with delineation of state and municipal lands, as well as the compiling of land cadastres, registration of land users and performing monetary evaluation; all these processes have not yet been finalised in many regions. The Land Code of Ukraine allows the sale of land plots in state and municipal ownership to natural and legal persons through competition mechanisms (which include public auctions and competitive tenders) as well as through bailouts for the owners (which have no state or municipal shares) of facilities located on respective land plots. The first land auction began in 1994. From then until 2007, 33,093 land plots with a total area of 17.5 thousand ha were sold. The state and municipalities received more than UAH 3 billion for land sales (Legal Weekly, 22 May 2007, №21, 42). As a matter of fact, in the course of most of the public auctions the price at least tripled. Nevertheless, in some regions, the land auctions have never been organised (including the Kirovohrad region, the Kharkiv region and Sevastopol City); the land plots here are being sold through the procedure of so-called "competitive tenders" where the proposal must be in line with some requirements set by the local governments.

So, despite the growing fiscal role of land sale, there is a lack of competition and transparency. This means that assuming this source of revenue could be much larger, the local governments in some cases, deliberately decrease their revenues. A plausible explanation for such behaviour is the politicians' inclination to use public assets in own interests, especially in a very common case for Ukraine, where they have specific business interests, despite being elected to further public interests.

3. Asset management: case study of Kyiv City and Ivano-Frankivsk City

3.1 Municipalities overview

Kyiv City is the national capital and the biggest city of Ukraine. It has a 2.6 million population (5.2 per cent of Ukraine's population); population density is 3,283 people per sq. km. Due to the concentration of manufacturing and services, Kyiv City is the most important economic centre of Ukraine. Its GDP share extends to about

20 per cent; wages are higher than the national average values by 60 per cent, and it has the lowest level of registered unemployment – 0.3 per cent in comparison to the national average 2.3 per cent for 2008. Kyiv's share in total public revenues exceeds 6 per cent and this city is the biggest donor of the national fiscal equalisation system.

The land stock of Kyiv City is estimated at about ha 83 thousand; the real numbers are not known due to several reasons: (a) the city's territory was legally fixed for the last time in 1936, so its territorial expansion since that time is not legally approved; this fact creates permanent territorial conflicts between Kyiv City and Kyiv Region; (b) the land inventory is still unfinished (by 2005 only 43 per cent of the territory had been inventoried).

Out of ha 83 thousand, upon completion of land demarcation, ha 20 thousand will belong to the state, 59 – to the territorial community, and the remainder to private persons.

Ivano-Frankivsk is a regional capital and is located 500 km to the south-west of Kyiv City. It is an important industrial, tourist and cultural area of Western Ukraine. The city has railway, bus and air connections to the national capital and other Ukrainian cities. The population comprises about 258 thousand people. The current unemployment rate is about 2 per cent, average monthly labour pay is UAH 1,240. The total amount of foreign direct investments by the end of 2007 was about USD 77 million. The city belongs to the top ten Ukrainian cities as far as comfort in living standards is concerned. The city has one of the highest housing construction rates in Ukraine.

3.2 Land management

Current composition of private land ownership in Kyiv City is presented in Table 6.

Table 6

Composition of land use in Kyiv City by types of users in 2004, per cent

Type of property/user	Share of total private holding	Share of city's territory
Natural persons' property	3.58	2.83
Legal persons' property	0.05	0.04
Natural persons' usage	3.33	2.64
Legal persons' usage	94.04	73.65
• Permanent use	90.17	71.38
• Lease	2.87	2.28
Total	100.00	79.16

Source: Fedorchenko and Yanov (2005)

It is obvious from the data above that private ownership of urban lands in Kyiv City is very low; within the last several years the situation has not changed significantly. Most land parcels are given away on a permanent use base. Such composition of land use makes local revenues from land quite modest in comparison to their potential value.

Table 7 presents current trends regarding revenues from land assets of the city. According to the data below, the composition of land revenue changed significantly in 2007 when land sale proceeds exceeded land payments more than twofold; but this result must be attributed to only one parcel which brought several hundred million USD to the city budget. This means that, generally speaking, nothing special has happened in the city's policy concerning land alienation – in 2008 and 2009 we can observe a significant drop in land sale proceeds.

Table 7
Revenues from land assets of Kyiv City, UAH million

	2001	2002	2003	2004	2005	2006	2007
Total revenues (transfers excluded)	4,625.2	4,248.6	4,246.7	4,284.4	5,799.6	8,409.7	13,200.1
Land rental payments and land tax	259.0	275.8	323.8	380.9	426.9	491.0	740.6
Land sale	21.7	50.8	149.7	223.6	318.1	348.4	1,492.1
Land asset revenue share, per cent	6.1	7.7	11.1	14.1	12.8	10.0	16.9

Source: Міністерство фінансів України 2003. Бюджет України 2002, Київ: Мінфін; Міністерство фінансів України 2005. Бюджет України 2004, Київ: Мінфін; Міністерство фінансів України 2008. Бюджет України 2007, Київ: Мінфін

From the information above, one could state that urban land management in the city is performed rather badly. Very valuable land (in Kyiv City centre they could have a market value of USD 9,000 per sq. m) is mainly endowed and there are almost no tenders.

Great revenue potential of land sale could be described by the following data: only 4 per cent of land plots have been sold though auction and they provided a dominating share of land sale proceeds. The first land auction in Kyiv took place on 15 July 2003, when 10 land plots with a total starting price of UAH 20.8 million were bid. During 2003–2004, 10 land auctions took place and six plots were sold in total. Since that time, auctions have become very rare.

As our research has shown, publicly available information on land auctions looks very incomplete. For example, currently the webpage of the Department of Land Management of Kyiv City announced the land sale of different plots within

the city boundaries. But, what is interesting is that the announcement has no date of issue; the date of auction is also not fixed; it is the location that is known, along with the specification and starting price for the plots, ranging from UAH one thousand to three thousand per sq. m. The last update of information posted by the Department is dated 4 January 2007.

The current approach to land sale creates much tension in the community, resulting in street meetings and other forms of public protest. One must admit that under conditions of feverish urban planning and construction activity, it is hard to take into account public opinion and balance the interests of citizens and investors. In many cases, there are grounds to suspect collusion between investors and city administrators, especially when the plots are given away for free on a permanent use basis.

For example, in 2008, about 100 students received plots for permanent use with the further intention to transfer them to real investors. Such kinds of transaction could not been carried out without the permission of the top administrators. Even council members have no access to information related to land alienation. All the issues related to land sales are highly concentrated at the city level; very suspicious actions concerning land alienation could be observed and sometimes they become known to the public.

From this situation, we can assume that the critical issue lies not in prioritising certain interests; the problem is to balance the stakeholders' basic interests and to secure decision-making transparency. From this perspective, it is essential to create equal opportunities for unobstructed public expression of all parties involved; the debates should take the form of a public dialogue, not of silent collusion. Nowadays, investors have considerable advantages in lobbying their interests, but the community itself is still badly organised and has no effective instruments for influencing the City Council and city administrators responsible for land issues.

The sale of rights of lease is also taking place in Kyiv, but not very actively. Within 10 years of the existence of this form of land resources management, the city raised only UAH 1.45 million from this source. In September 2004, in order to stimulate the sale of lease rights, the City Council approved a "Concept for acquisition of rights for land on a competitive basis". The Concept provided that rights over non-developed parcels shall be acquired for construction purposes through the competitive procedure by way of selling ownership and tenure rights via auctions. In 2005, the city budget planned the revenues from the sale of lease rights at UAH 10 million. The Concept also sets the starting price of the right of use of a parcel at the level of 30 per cent of its monetary valuation; then a ground rent is to be paid annually (see Fedorchenko and Yanov 2005).

The right of use of developed land parcels is to be sold, but according to the buy-out procedure, it means without contest. The price of the lease right depends

on the term of the lease: if it is for less than 5 years it is 15 per cent, for 5–9 years 20 per cent, for 10–24 years 30 per cent, and for 25–50 years 50 per cent of the expert monetary valuation of the land.

Another specific feature of the land resource management in Kyiv is the active sale of municipal lands through non-competitive procedures. This priority is quite strong, and some investors spent years negotiating a lease and then had to agree to buy land parcels. Among the reasons for such an approach to land sale are: (a) high attractiveness of Kyiv for investors, (b) shortage of land resources, and (c) low rates of land rent.

Some investors are trying to lease land in order to save money on buying the parcel; if the city cannot convince an investor to buy the parcel, it applies a very short-term lease (one or two years instead of 25 or 50). Those investors who can borrow the money prefer to buy land; the land proprietorship was considered to be good collateral for loans – much better then lease contracts. Besides the clear fiscal reasons for the suspicious attitude of the city towards a long-term lease, there are also other considerations. There are lessees who concluded lease contracts for 25 and 49 years, but they are not yet developing their parcels. Kyiv City tried to cancel those contracts, but even court proceedings did not help. Therefore, the sale of land is considered to be a way of making investors more responsible in land use.

By the year 2005, Kyiv City administration had signed land lease contracts for ha 1.9 thousand, including long-term leases. Therefore, one of the options for compensating for loss of land tax proceeds could be the active sale of municipal lands.

Table 8

Land payments composition in Ivano-Frankivsk 2008, in UAH 1000s.

Component	Amount, UAH 1000s	Per cent to total
Land tax of legal persons	9,399.7	38.2
Land tax of natural persons	387.4	1.6
Rental payments of legal persons	12,709.0	51.6
Rental payments of natural persons	2,140.9	8.7
Total land payments	24,637.3	100.0
Loss of land payments due to simplified taxation	437.5	1.8
Loss of land payments due to allowances	11,616.0	47.1

Source: Data provided by Ivano-Frankivsk City fiscal office.

In Ivano-Frankivsk, there are about 600 ha of land that could be alienated. In the course of the year 2008, 5 ha of it could be sold, which brought about UAH 5 thousand for the city budget. It is worth mentioning that the normative monetary

valuation of city land is UAH 683 per ha, which sounds quite funny when we compare it with actual average rent rates – UAH 2.78 per sq. m, or UAH 27,800 per ha, which could make at least UAH 16,680 thousand of proceeds in 2008. This fact shows us that city authorities do not want to use any kind of competitive procedures to obtain more money for the city.

One of the problematic issues in land management in Ivano-Frankivsk is incomplete information on the land plots which are subject to taxation and rental payments. According to article 27 of the Law on Land Payment, control over rental and tax payments is vested not on the local governments, but on the local state tax administration offices. But in fact, these state authorities do not really have real information, because actual rental payments usually exceed those due to contracts, quite significantly (in some cases by 40 per cent). This is obvious from Table 9 below.

Table 9
Comparison of data on land rental payments
obtained from different sources, 2007

Measure	City fiscal department	Local state tax administration	Difference
Area of municipal land rented out, sq. m	3,704,155		
Number of lease contracts	763	1,978	–1,215
Rental payments, UAH 1000s	10,285.2	10,897.1	–615.9

Source: Ibid.

Data in Table 9 demonstrates a vast difference in the number of lease contracts and amounts paid to the city budget. The reason for this is bad information and managerial slack on behalf of the city administration, which has no sufficient stimuli towards quickly processing ongoing changes in lease contracts.

3.3 Possible measures for improving urban land management

There are some obvious steps that could make the land management in Ukrainian cities much more effective. Those at the national level could be:

- Finalisation of the land demarcation procedure;
- On the legislative level, simplification of the mechanisms of contract conclusion for lease of land in urban settlements in order to precisely define and shorten the terms for conclusion;
- Thorough assessment of project requirements for municipal land allocation from the point of view of building-up rules and norms, which will prevent excessive

amounts of land from being given away. Of course, the most effective way here could be a change in construction norms, as the commercial use land parcels in Europe are much more intensively used in comparison to Ukraine.

- Minimisation of strategic land buying through the introduction of a tax on undeveloped land. At least, some amendment to the Law on land payment must be adopted, allowing for penalisation of speculating land traders.

Those at the municipal level could be:

- Compression of land parcels – this will make it possible to have more land plots for sale or lease.
- Selling parcels with the requirement of construction of private houses with increased number of levels. This measure will make the shortage of urban land less acute (of course, reviewing current norms of housing construction will also be required. These norms provide that the last floor shall not be higher than 67.5 m above the land surface).
- Cities, especially Kyiv, have almost exhausted their non-developed land stock to allocate new construction. The alternative is to perform reconstruction or renovation of obsolete housing stock located downtown (there are 1,530 five-storey brick houses in Kyiv which could be demolished because their useable lifetime is over).
- City development plans must be reviewed. City planners must be more independent in giving permission for land use.
- Land sales should only be carried out through public auctions.
- Land plots under building must be bought out on a mandatory basis.

4. Conclusion

The process of municipal asset management in Ukraine is encumbered by many factors which explain its low economic results. Among them are legislative inconsistencies, slow demarcation of land, institutional failures of local governments all of which create broad possibilities for bribery resulting from the low accountability of local administrators.

Under conditions of low development of civil society institutions, which is characteristic of many transition countries including Ukraine, at the municipal level, the situation of the so-called "state capture" is often the case and assets are taken away from the community to go to private owners in a non-transparent way, creating very scarce fiscal input and serious obstacles for future development.

All these problems affect urban land management in big cities. As the case studies of Kyiv City and Ivano-Frankivsk City showed, the cities tend to sell land instead of letting it. But, despite the growing total revenues from land sales, their potential is not fully realised because of the inefficient mode of land alienation.

The choice of methods of urban land management should be based on the consideration of such economic factors as plot location and land use. From this perspective, for local governments it is worth refraining from the conclusion of short-term land lease contracts for construction of objects with a long-term use, as well as from the sale of land parcels having high investment attractiveness, without competition. It is also necessary to preserve the most attractive urban land within the municipal property in order to use it in the future.

The growing scale of urban land sales may lead to undesirable future outcomes for the local economy: cities will lose the land as a resource for the replenishment of budgets; institutional investors will deal with private landowners who bought attractive land plots in advance, in order to find a good buyer, but not with the local city council, which will lose huge revenues.

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Municipal Asset Management in the Republic of Moldova

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1. Introduction

Sub-national governments have been operating under a constantly changing fiscal, economic, and political environment. In this continuously modifying environment, shaped by "several external and internal conditions and pressures" (Shuford and Young 2000), one of the stable elements is the ownership of significant assets by various governmental units. In nearly all countries, governments own various objects of public interest and importance. The property owned by governments varies from country to country as a function of that country's level of economic and political development. One of the unique features of the ex-USSR countries is the fact that sub-national governments in these countries own or control significant shares of the property. While different levels of government manage different types of property, it is important to note that the mundane assets are managed primarily by municipalities. Sewer systems, roads, schools, and other similar types of assets are owned or controlled by municipal governments (Kaganova and Nayyar-Stone 2004). Some municipalities even own land within the municipal borders.

At the same time, multiple researchers (e.g. Gauthier 1997; Kaganova, Nayyar-Stone, Merrill and Peterson 1999) point out that municipal governments generally tend to the day-to-day operational needs of their real estate holdings. Still, many municipalities fail to properly account for the importance of the necessary legal, economic, and administrative arrangements in their management practices. For example, Kaganova and Nayyar-Stone (2004, 307) report that a typical municipality does not routinely review "if the current use of individual properties is appropriate from the perspective of opportunity cost, mode of management and finance, or match its long-term needs for property for its own use and as investment." This is an important shortcoming if a municipality attempts to manage its assets effectively and efficiently.

Asset management is inherently financial and political by nature. Its financial aspect is reflected in the fact that governments use techniques and tools from the private sector such as financial reports and various financial statements. The political aspect is expressed through the fact that municipalities have to use their financial resources to provide services to their constituents in an effective and efficient manner. A typical municipality has at least several financial reports. One of these financial reports is the balance sheet, which is based on the fundamental accounting equation:

$$\text{Assets} = \text{Liabilities} + \text{Equity} \qquad (1)$$

The equation can then be adjusted to the public sector specifics to emphasise the idea that shareholder (citizen-taxpayer) equity is equal to the excess of assets over liabilities (Gauthier 1997; Kaganova 2004):

$$\text{Citizen/Taxpayer Equity} = \text{Assets} - \text{Liabilities} \qquad (2)$$

Thus, it is obvious that municipalities should (at least conceptually) develop their asset management mechanisms beginning with equation 2. While the situation may be somewhat different in developed countries (which already have the necessary asset management mechanisms in place), the developing countries face a different reality. The reality faced by transition countries is that these countries had to develop, test, and implement the proper asset management mechanisms. The case of the Republic of Moldova is extremely interesting when it comes to the transition from a command economy to a free market. The uniqueness of the Moldovan state is illustrated through the fact that it is the first and the only ex-USSR country which democratically elected its communist party back in the leading positions of its government.

Thus, the primary purpose of this article is to examine the existing practices in the asset management area in the Republic of Moldova. The article is organised in three logical parts. The first part of the article is concerned with the placement and general description of the country. It provides the basic description of the country's factors that define its asset management mechanisms and practices. The second part of the article initially establishes the system of asset management mechanisms' analysis, which is followed by the description of the current situation in Moldovan municipalities. The article concludes with some practical summaries and policy recommendations.

2. Republic of Moldova: Background and general information[1]

The Republic of Moldova (RM), located off the North-West coast of the Black Sea between Romania and Ukraine, is one of the smallest countries in Europe and Former Soviet Union (FSU) countries. With a population of about 4 million, RM is also one of these countries that can be described as poly-national. The RM population in 1991 consisted of about 65 per cent of ethnic Romanians and 25 per cent of ethnic Russians and Ukrainians[2]. One of the defining events of the modern Moldovan State is the Civil War of 1992. As a consequence of this episode, the territory east of the Nistru River (also known as *Transnistria*) declared its independence from the Republic of Moldova. In fact, Transnistria's segregation from the rest of the country had a negative impact on the country's economy. Transnistria was the region where

1 This section is based on the authors' previous published work (i.e. Morozov 2009) and presents a basic description of legal, economic, and political arrangements relevant to the topic under discussion.

2 Other 10 per cent of Moldovan populations are ethnic Bulgarians, Turks, Belarusians, etc, with percentage shares too small, thus summarised in a group of "other ethnicities." (Morozov 2009).

the country's major industrial capacities were concentrated as well as the territory through which major transportation routes navigated. Specifically, roughly 80 per cent of the nation's electricity is generated by a plant in Transnistria. Also, the major road and railway to Odessa, Ukraine, (which is the nearest Black Sea port) go through Transnistria.

Economically, RM's history is characterised through a lack of substantive diversification of its industries. As the World Bank report (Country Assistance Evaluation 1993) indicated, RM would be the FSU republic most affected by the move to world prices. The same report indicated that the real GDP in 2000 was only 41 per cent of its 1991 level. The 2000 GDP per capita in Moldova amounted to USD $354, or less than USD $1 per day. The average monthly wage in 2000 was approximately US $32, which amounted to only 43 per cent of the official poverty income. The GDP per capita in Moldova is lower than both the FSU average and the GDP for the Central European countries of the former Warsaw 1964 Pact Block. General Macroeconomic indices and sources of data on RM's performance between 2000 and 2006 are summarised in appendix 2.

RM is a representative democracy that is based on universally accepted principles of a truly democratic society. The primary documents that provide and regulate citizens' rights and privileges are its Constitution and a series of legislative acts (referred to as "laws" hereinafter) that address various aspects of a modern democratic state. These laws and regulations are reported in Morozov (2009), and thus, just briefly mentioned in this article: Election Code (most recently amended in 2003), Law on Parties and Socio-Political Associations (most recently amended in 2003), Law on Administrative Procedures (2000), and the Code on Administrative Offences (most recently amended in 2002). Several other laws were recently adopted, redrafted or significantly modified, such as the Law on Administrative-Territorial Organisation (1998, amended 2003), the Law on Local Public Administration (2003), and the Law on Judicial Organisation (1995, amended 1997, 1999, 2001, 2002, and 2003).

Modern RM's history politics and social processes can be described as volatile at best. As a consequence of such turbulent developments, modern Moldova emerged as a unitary state with three levels of government. Currently, RM's political-administrative structure consists of Central Government, and two Sub-national Governments (the first level being local governments of villages, towns, etc; the second level of sub-national governments being these of *Raions*, which is comparable to governments of countries and parishes in other countries). Additionally, local governments of the biggest municipalities (Chisinau and Balti), as well as the government of Autonomous Territorial Unit Gagauzia[3], are treated separately from

3 ATU Gagauzia is a small, autonomous region located in the Southern part of Moldova. The 1994 Gagauz Autonomy Act gave the regional government in Comrat (the main urban establishment of Gagauzia) sovereignty over such issues as education, culture and the local budget.

the above mentioned taxonomy of governments in RM. The rationale behind such separate treatment is that all of these governmental units are disproportionately larger (both economically and politically) compared to the other sub-national governments and, therefore, must be treated differently. As such, the structure of RM's government is straightforward. However, the government structure itself is just one necessary element of a comprehensive and efficient governance system that would allow analysis of sub-national asset management practices in RM. The next necessary elements are the regulations and legal acts that define the status of public property ownership rights, as well as the relationship between different levels of government. These aspects will be discussed next.

The cornerstone law in RM that establishes various rights is the Constitution. Thus, the Constitution sets up the framework for analysis of various types of property. The constitution is later aided by several laws that provide specificity and directions. Specifically, the Civil Code defines rights on land ownership; the Law on Real Estate Cadastre (1998) stipulates mandatory registration of all real estate property and establishes a comprehensive information system combining technical, legal and ownership characteristics together (including mortgage and lien). The National Agency for Geodesy and Cadastre maintains the system of all real estate on the territory of Moldova. The catalogue of fixed and intangible assets' classification (2003) stipulates the taxonomy criteria of fixed assets as well as the methodology for the calculation of fixed assets depreciation. This information is briefly summarised in Table 1:

Table 1
The property system of the Republic of Moldova

	Public property		**Private property**	
Unit of Analysis	Various levels of Government		Various levels of Government as well as citizens and legal entities.	
Property Object	All assets owned by various levels of governments and that are of a national or local public interest.		All assets that were not expressly covered by law as public domain.	
Domain	State public domain	Public domain of territorial administrative units	Privately owned assets by private individuals and legal entities	Private domain public property
Legal Regime	Public law regime.		Private law regime.	

Source: Adopted from Furdui (2007)

The above mentioned table defines the property relations among the various parties involved in the process. The discussion of property rights and relations in the private sector is beyond the purposes of this article. Thus, we will concentrate

on property rights and asset management techniques in the public Moldovan sector. Furdui (2007) presents the essence of the property rights relations in the public sector. Specifically, Furdui summarises types of public properties by level of government. The Furdui taxonomy is organised along the list of responsibilities of various levels of government. Given that the primary purpose of this article is the asset management practices of sub-national governments in Moldova, the rest of the discussion will present the sub-national governments' environment in Moldova. This part will discuss a framework of analysis of asset management. This part will contain a discussion of benchmarks for effective and efficient asset management practices. Next, the article will place sub-national governments in Moldova in a context. This description will then be followed by conclusions and some practice-oriented recommendations.

3. Asset management practices: Definition, essence, and importance

One of the striking observations in the current literature on municipal asset management is the fact that even the definition of "asset management" varies substantially (Kaganova 2004). The multitude of meanings arises from each author's background, institutional affiliations, and even language differences (Schneider 2003). Thus, it is warranted to begin the discussion with a formal definition of the terms and concepts involved in this article.

The concept of asset management stems from extensive literature on management in private and non-private sectors. The conceptual origin of public asset management practices formally developed in early 1980 as a part of the "New Public Management" paradigm, according to which public institutions must strive for efficiency and effectiveness in their operations. Not surprisingly, the concepts of effectiveness and efficiency have been adopted from the private sector. As Kaganova (2004) reports, "Using the private sector experience as a source of ideas and techniques for public property asset management has been a core of best practices since the early 1980s" (311). The ultimate goal of a private-sector entity is to maximise the value for its stakeholders (at least theoretically). Thus, the goals of asset management in the private sector are quite well-defined and articulated. That goal may be summarised as follows: the efficient and effective use of an organisation's properties and assets for purposes of profit maximisation. The profit maximisation goal is achieved by balancing the risk and return of each investment opportunity. The previously stated goal of profit maximisation is based on two implicit assumptions. The first assumption of profit maximisation is that an organisation has proper mechanisms to control its inventory of assets. Different assets have different characteristics in terms of risk and return. Thus, such knowledge of an organisation's inventory is important as it allows a manager to make well-informed decisions in his/her line of work. The second assumption behind an effective and efficient asset

management framework stems from the first one, but goes into much more detail regarding financial and accounting decisions. The assumption may be formalised as a comprehensive system of financial and accounting information for each property object identified in the "inventory control" part of the asset management process. The second assumption is equally important because it unifies assets and liabilities associated with each object of inventory. Thus, we have identified that a proper asset management is based on (1) accurate information about the quantity and types of assets (inventory part) and (2) accurate information on the quality of that inventory. The combination of the previous two assumptions leads us to the formal definition of asset management. Asset management can be defined as a strategy regarding an entity's various holdings oriented at that entity's overall profit maximisation.

The situation becomes more complicated when such a simple structure is applied to the public sector. There are several reasons for such increased complexity. One of these reasons is the inherent differences between administration of a for-profit entity and a public entity. Simply put, citizens are much more than stakeholders in government. Citizens are also "customers" of public administration. The discussion of the relationship between constituents and public administration mechanisms is far beyond the scope of this article. The only reason that this relationship is mentioned in this article is that this relationship adds additional burdens on asset management practices in the public sector. Most often, that additional burden is referred to in literature as (1) public participation in asset development and (2) allocation of public resources for development. The first implication results in the fact that the public is involved in the decision-making process regarding specific assets' development that would increase the overall benefit received by the citizenry. The second reference (allocation of public resource) has an implicit meaning that it is the government that will get involved directly in development of a specific programme/facility.

Another characteristic feature of the literature on public asset management is its lack of discussion of specific goals for a public asset management system. It is simply based on an implicit assumption that the citizenry benefit should be increased. Generally, these goals can be classified as traditional and non-traditional. The traditional goal for a public asset management system is supplying the appropriate amount of specific assets for public goods and services at the least cost, compared with all the feasible alternative arrangements including private sector provision (Wheeler 1993). The most often mentioned non-traditional goal of public asset management is local economic development. The quest for local economic development is an attractive alternative for local politicians and public administrators because it partially contributes to the diversification of local revenues.

The next step in an adequate asset management system would be the development of a strategy for sub-national asset management that would maximise citizens' benefit. This is the stage of the process in which public policies are connected with

specific actions. The cycle of an asset management practice would be complete with the evaluation of the existing situation in terms of (1) financial viability and (2) re-adjustment of the public asset inventory according local needs in terms of infrastructure and other assets. Thus, the general scheme of an adequate asset management system in a public sector could be presented as in the following Figure 2:

Figure 1
Asset management process: Logic and essence

Source: Developed by the authors based on existing literature in public asset management.

While the above-mentioned scheme is relatively straightforward, there are several issues that might be a concern. The first issue stems from the inventory stage. The foremost concern is the cost of inventory, which becomes an additional burden on taxpayers. However, the additional costs bring additional benefits to the citizens. Specifically, Kaganova (2004) asserts that inventory should be performed because:

1. Inventorying of public assets helps to make local government accountable.
2. Properties should be classified, with priority given to those where a cost efficiency or revenue potential can be realised. From this point of view, inventorying streets may be left for a later stage.
3. The costs of inventorying are offset, to some degree, as efficient asset management improves the patterns of property-related spending and revenues. Standardisation of inventory formats may help to reduce inventorying costs.

Additionally, the inventory process of sub-national property should be carried out along the lines of the model proposed by Utter (1989). This model is also known as "The Modified Denver Model" and it organises sub-national property

according to the use of the property. The model organises the existing property into three major categories: (1) Governmental Mandatory Use, (2) Social Use (Discretionary), and (3) Surplus Inventory. The main point of this model is to align citizenry expectations of government services with the type of property so that excesses of one type of property can be disposed of or exchanged for assets that address local public needs.

Having identified major elements of an adequate asset management system, we now proceed with the analysis of the situation in the Republic of Moldova. The following section begins with the general placement of Moldovan sub-national governments in context. Such a context is then used for the description of the asset management practices in the biggest municipality of RM – Chisinau.

4. Local governments in the Republic of Moldova

As previously described, RM is a unitary state that has 3 levels of government. Since the declaration of its independence in 1991, RM undertook a series of reforms aimed at establishing a modern and autonomous local administration system. The major purpose of these reforms was the implementation of the European practices of public administration, based on principles of decentralisation and local autonomy. Specifically, the reform aimed at bringing governmental institutions closer to their constituents, and, thus, improving the quality of governance through increased effectiveness and efficiency of sub-national government. Various actions aimed at bringing government closer to the people are based on implicit assumptions that (1) local government's responsibilities are clearly defined and (2) sufficient public funds are made available to local governments to deliver on people's expectations (Sevic 2007, 12). As previously described, the current structure of the Moldovan state is straightforward and consists of:

1. Central government – also referred to as "State" government
2. First level governments – governing bodies of villages, towns, cities.
3. Second level governments – governing bodies of Raions, and
4. Governments of (a) ATU Gagauzia, (b) municipality of Chisinau, and (c) municipality of Balti.

The major implication of such a structure is that sub-national governments' responsibilities need to be clearly defined. These responsibilities of sub-national governments are defined in the law on Public Finances and the law on Local Public Administration. Additionally, the law on Public Finances clarifies the types of public services to be provided by each level of sub-national government. These responsibilities are presented in the following table 2:

Table 2
Responsibilities of sub-national public authorities in the Republic of Moldova

Service Responsibilities of 1st Level of Government (Communes, Towns, and Municipalities)	**Service Responsibilities of 2nd Level of Government** (Rayons, Gagauzia, and 2 Municipalities)
• Social security and unemployment benefits management. • Public Parks • Environment Protection • Public Safety • Social Services. • Public Health protection.	• Social security and unemployment benefits management. • Public Healthcare. • Environment Protection • Public Education • Public Safety • Social Services. • Public Health protection.

Source: Developed based on current legal framework

The competencies for funding public expenditures are shared between budgets of administrative-territorial units based on the Law on local public administration. It is obvious that several responsibilities have overlapping incidence. As such, confusion regarding sub-national governments' obligations for service provision occurs because the responsibilities for public service provision are shared by different levels of government. Specifically, responsibilities for social security and unemployment benefits management, public parks, environment protection, public safety, social services, and public health protection are shared by both first and second levels of government. The aggregate structure of local governments' expenditures for both first and second levels of governments is summarised in Appendix 1 of this article.

Such a lack of clarity has an adverse influence on asset management practices in Moldova because an inventory of assets assumes a clear and unambiguous identification of the ownership rights holder. Lack of such clarity directly jeopardises the possibility of the disposal of an asset with less than optimal financial and accounting quality.

Another hot issue in Moldova is property valuation for tax properties. It is hard to over-emphasise the importance of adequate property valuation for an accountable structure of local governments. Yet, only recently, RM embarked on some sort of property valuation activity. Property taxation is regulated by chapter VI of the fiscal code. Throughout its short history, chapter VI of the fiscal code went through several revisions and updates. Initially published as the Law of the Republic of Moldova Nr. 1056-XIV on 16 June 2000, it was revisited in 2005 and 2007. The latest modification of the regulations on property tax administration took place on 1 January 2007. The major change enacted was the re-calculation of property values for tax purposes. According to this modification, the property tax would be calculated, based not on book values/historical records, but on current market valuations. This stipulation applied to urban residential properties. Rural residencies and commercial real estate would not be subject to that legislation until 2009 (preliminary data).

For purposes of property assessment, the Agency of land relations and cadastre developed a model that considered the different factors influencing property prices. The municipality of Chisinau was divided into 33 zones with specific valuation coefficients per square metre. As suspected, the major problem areas were valuations of single family residential buildings. If, in the case of an apartment valuation, property owners did not express major dissatisfaction with their property valuations, the owners of the individual houses contested the assessed values of their properties. As a result of this, the agency had to extend the deadline for property assessment until the end of the FY 2006. Soon after, additional problems followed. While apartment valuations were somewhat accurate at the time of assessment in 2005–2006, market trends pushed these values up. Thus, it is important to note that a real estate valuation for tax purposes was conducted in the private sector. In other words, public property has yet to be assessed.

Another feature characteristic for FSU countries is the fact that there were tremendous amounts of public property. Moldova was no exception. Thus, a massive transfer of assets from public ownership into the private sector took place. This transfer is also known as the privatisation process. Together with privatisation, RM has recently experienced a large-scale transfer of property into municipal ownership. The list of companies that were intended to be privatised were attached and classified as: fully privatised enterprises on economic bills, businesses privatised on cash, enterprises privatised on economic bills and cash vouchers or privatisation on individual projects.

The history of privatisation in RM is somewhat hectic. Until 1996, privatisation occurred primarily in the agricultural sector of the economy. The essence of agricultural privatisation in Moldova was that collective farms and state farms (so called kolkhoz, from "collective entity") were transformed into joint stock companies by the issue of wealth and land certificates to peasants. Such tremendous changes resulted in debt, which by 1998 was almost 3 billion MDL, exceeding the value of the assets of enterprises in the agricultural sector. The period between 2001 and 2006 was characterised by a renewed interest of public officials in privatisation. The new objects of privatisation would be state stakes in non-strategic businesses or enterprises with minor state participation. It was also expected to move towards other methods of reduction of the state's power over public assets – concession, lease or fiduciary management by the private investor.

The main traits of Moldovan municipal property are the issues that municipal property is of a very low technological level and is nearly fully depreciated. Municipal service production is inefficient due to very high costs. The basic requirement for municipal property management is that municipal property should be treated as a capital asset with the potential of generating revenue. Some of the services provided by local governments could be commercialised.

Within the municipal government structure, the management of assets related to infrastructure and services provision is usually under the control of agencies such as municipal water utilities and authorities (for example *Apele Moldovei*[4]), school boards or health management units. In some cases, the rhetoric of decentralisation of authority does not match the reality. In other cases, the land ownership is locked into a bigger struggle over property rights.

The municipal asset base may be built up through processes of decentralisation and devolution, nationalisation, donation, purchase, transfers or reversion of properties to the local government as part of the legal processes and settlement of land disputes, and revenue generating activities such as tax collection and special projects. Assets can also be transformed in value and use, as a result of sales, leases, rentals, investment in improvements, or processes of eminent domain or foreclosure. Municipal property management may be inspired by various aims: the aim of maintaining the status quo, economic aims: this is the case when the municipality runs businesses for the revenue which they provide, social cultural and general public interest aims: in this case property does not automatically have to provide revenue or even be able to cover the costs it generates. Here, it is a matter of being able to asses the added value provided by the property in question and comparing it with the social costs that it is helping to reduce.

5. Conclusion and recommendation

This is the concluding section of this article. It briefly summarises the existing situation in the area of municipal asset management in the Republic of Moldova. This section completes the article with several observations and practical recommendations regarding asset management practices.

The article provided an overview of a properly developed system of municipal management. The first element of any sound asset management system is the factual knowledge about type and quantity of assets. The municipality of Chisinau is one of the leaders in this field. However, even Chisinau has potential for improvement of its asset management. Thus, one of the first practice-oriented recommendations stemming from this article would be the development of the municipal assets inventory along the "Modified Denver Model." Costs of developing and maintaining a property management and accounting system on a property-by-property basis will be offset through more efficient property use and strategic holding/disposition decisions. Classification of public property, based primarily on financial goals, is key to efficient asset management. If needed, the classification may also take into consideration legal limitations on some types of property.

Another area for improvement is the area of responsibilities among different levels of government. As illustrated in this article, the sub-national governments'

4 State enterprise titled "Waters of Moldova".

responsibilities are often ambiguous. Such ambiguity prevents sub-national governments from exercising their otherwise solid advantages (e.g. professional personnel) for delivery of public services and goods.

Another area for potential improvement is asset valuation. Valuation of public assets has always been theoretically and methodologically challenging. This topic is also the most-often debated topic associated with public asset management. Most of the challenging aspects of public property valuation system are well documented throughout literature. These problems are (1) lack of trade potential or private sector comparables; (2) difficult cost estimation of public assets (many assets have a social worth that is difficult to quantify); (3) value of public property depends on classification and restrictions that may be imposed by public agencies, and are not always known; (4) standards for valuing public property are difficult to introduce and support. Finally, valuation is an expensive proposition and therefore the cost to taxpayers can also be an issue. However, having a solid understanding of a municipality's assets may also help an adequate valuation system.

Such complexity of the existing situation illustrates that asset management should be viewed as a system of political, legal, and economic aspects. An efficient asset management system requires a clear understanding of sub-national governments' responsibilities (legal aspect of the system). These responsibilities should be carried out by locally-elected officials (political aspect). Finally, these responsibilities should be addressed in an economically sound way.

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Appendix 1

Structure of local government expenses 2001–2005
(MDL Million unless noted otherwise)

	2002	2003	2004	2005
Total Expenditure	1,780.80	1,974.10	5,437.50	7,954.20
General Public Services	118.39	139.53	429.84	543.61
Public Safety	51.18	63.57	180.87	221.06
Education	616.73	809.05	2,613.09	3,651.91
Healthcare	319.27	441.09	100.65	84.94
Social Security	26.22	41.06	136.41	210.03
Social Programmes	45.06	63.00	241.97	362.04
Environment Protection	19.18	19.75	84.95	317.69
Transportation and Communications	16.55	19.04	94.22	103.25
Housing	209.62	224.69	968.27	1,429.83
Other Expenditures	77.99	153.33	587.24	1,029.85

Source: Ministry of Finance of the Republic of Moldova 2006.

Appendix 2

Select macroeconomic indicators of Moldovan economic development 2000–2006
(MLD Million, unless noted otherwise)

	2000 *	2001	2002	2003	2004	2005	2006
General Indicators							
Population	3,638,613	3,630,876	3,622,894	3,612,145	3,603,153	3,594,581	3,585,292
Gross Domestic Product	16,019.6	19,051.5	22,555.9	27,618.9	32,031.8	37,651.9	44,068.8
GDP per capita (USD)	$354.1	$407.8	$458.7	$548.4	$721.1	$831.3	$936
GDP per Capita	4,402.67	5,247.08	6,225.94	7,646.12	8,889.94	10,474.63	12,291.55
Industrial output	8,167.7	10,427.6	12,624.1	15,963.1	17,591.1	20,770.2	22,243
Agricultural output	8,268	8,646	9,474.2	10,354	11,819	12,688	13,695
Capital investments	1,759.3	2,315.1	2,804.2	3,621.7	5,140	7,189.1	9,580.4
Unemployment rate**	8.50%	7.30%	6.80%	7.90%	8.10%	7.30%	NA
Inflation***	18.5%	6.4%	4.4%	15.7%	12.50%	10.0%	NA
External and Internal Debt (USD Million)							
Loans and Bonds	1,262.6	1,261.6	1,369.2	1,449.9	1,369.9	1,399.3	1,702.6
Loans and Bonds % of GDP	98.00%	85.20%	82.39%	73.19%	52.72%	46.83%	50.74%
Direct Public Guaranteed External (DPGE) Debt	868.6	810.4	836.3	867.2	754.3	678.7	735.7
DPGE Debt % of GDP	67.42%	54.73%	50.32%	43.78%	29.03%	22.71%	21.92%
Debt on imported energy resources	316.4	287.2	301.4	300	287.1	288.6	319.7
Energy Debt as % of GDP	24.56%	19.40%	18.14%	15.14%	11.05%	9.66%	9.53%
Public Internal Debt (MDL million)	2,022.2	2,400.5	2,821.4	2,920.4	3,714.1	3,787.1	3,790.2
Public Internal Debt (USD million)	162.64	186.57	207.87	209.46	301.27	300.56	288.62
Public Internal Debt % of GDP	12.62%	12.60%	12.51%	10.57%	11.60%	10.06%	8.60%

Foreign Trade Indicators							
Export (USD million)	641.4	735.5	876.4	1,058.7	1,348.6	1,528.3	1,568
Import (USD million)	971.9	1,088.5	1,294.5	1,728.6	2,124.7	2,743.1	3,167.5
Deficit: (USD million)	(330.50)	(353.00)	(418.10)	(669.90)	(776.10)	(1,214.80)	(1,599.50)
Deficit % of GDP	25.7%	23.8%	25.2%	33.8%	29.9%	40.7%	47.7%
Exchange rate Lei USD	12.4334	12.8668	13.573	13.9426	12.3283	12.6003	13.132

Source: Adopted from "*BNM: Macroeconomic Indicators.*" http://www.bnm.org/en/docs/macroi/34_5898.pdf URL accessed 27 August 2008

Notes:
* – FY 2000 – Base year
** – International Bureau of Labour Data
*** – IMF Country Report No. 06/187 "Republic of Moldova: Statistical Appendix", May 2006

Appendix 3
Moldovan public revenues and expenditures
(MDL Million unless noted otherwise)

	2002	2003	2004	2005	2006
Central Government Revenues *	3,503.9	4,700.8	5,477.0	8,738.2	9,690.2
Local Revenues	1,580.5	1,919.7	2,044.5	5,789.5	8,159.8
Consolidated Revenues **	5,084.4	6,620.5	7,521.5	14,527.7	17,850.0
Central Government Expenses *	3,693.9	4,402.6	5,416.0	8,511.8	10,024.8
Local Expenses	1,500.2	1,780.8	1,974.1	5,437.5	7,954.2
Consolidated Expenses **	5,194.1	6,183.4	7,390.1	13,949.3	17,979
Central Government Deficit/Excess	(190.00)	298.20	61.00	226.40	(334.60)
Local Deficit/Excess	80.30	138.90	70.40	352.00	205.60
Consolidated Deficit/Excess	(109.70)	437.10	131.40	578.40	(129.00)
Gross Domestic Product	22,555.9	27,618.9	32,031.8	37,651.9	44,068.8
Inflation ***	4.40%	15.70%	12.50%	10.00%	NA

Sources:
* – Based on Central Government Budget laws 2002–2006
** – Central Bank Data http://www.bnm.org/en/docs/macroi/34_5898.pdf URL accessed 27 February 2009
*** – Republic of Moldova: Statistical Appendix. IMF country report. May 2006.

Illegally Used Municipal Land Management in Armenia

Lianna Mkhitaryan, Artashes Arakelyan

1. Introduction

Development of land market increases local budget revenues, greatly contributing to the effective use of resources and to the development of the economy. The process of land market development, bringing land relations in compliance with European standards, is inseparable from legislating private land ownership and ensuring landowners' rights to use land as an asset and make it a subject of commercial relations. On the other side, development of the land market is a long process requiring an adequate legal framework and institutional capacity. The existence of a tremendous amount of illegally used land presents a serious obstacle for the development of land and real property market, as well as for effective land management, since thousands of property units are being excluded from the real property turnover.

The problem of illegally used state and municipal land has increased dramatically in Armenia during the first years after gaining independence. Illegal land use has been accompanied by a large number of unauthorised constructions. The process of registration of the various assets constructed on state or community owned land has become of primary concern for authorities since, in the great majority of cases, the land is used but assets constructed on the land parcels are not registered. This process has been taking place mostly in urban localities where the high demand for commercial and housing land frequently led to land capture and destruction of green areas. The challenges faced by the country in the early transition period, burdened with post-earthquake rehabilitation in some regions (marzes), the operation of life support systems in wartime under conditions of a blockade of the country, have all aggravated the situation. Thus, new approaches have emerged towards economic entities running business activities and, therefore, land plots set aside for the construction of commercial, service providing facilities and urban development infrastructure have been provided through simplified procedures. With few exceptions, urban development has been conducted with a flagrant violation of the existing construction norms and without any holistic approach towards complex development of the territories. Consequently, trespass and irregular land occupation and disposal have aggravated the process of social and spatial segregation in society. Henceforth, the need to elaborate and implement well-defined policies in the illegally used municipal land management in Armenia has become an issue of primary importance. The objectives of the authorities in the resolution of illegal land use issues has been twofold: on the one hand to legalise and register property rights towards existing illegally occupied land plots and accompanied unauthorised

constructions and, on the other hand, to prevent the appearance of new unauthorised constructions and illegal land occupation practices.

The goal of the research is to review the management practice of illegally used municipal land in Armenia. The research overviews the current situation in the country, analyses the legislation regulating this area and identifies the responsibilities of the municipalities and the freedom they have in the resolution of the issues concerned. The research describes the classification of illegally used land and studies the issues regulated at central level and at the level of municipalities. Availability of an aggregate nationwide data series on illegally used land is examined. Possible methodological problems connected to the available data, such as problems with the volume and changes in the legislation, are identified.

Another goal of the project is to prepare a case study on illegally used municipal land management in the municipality of Yerevan. The case study includes a description of the structure of the municipal office related to the management of illegally used land and accompanied unauthorised constructions in Yerevan. The current approach used by the authorities for the management of illegally used land and implemented unauthorised constructions is studied. Some good and bad practices with local and/or national policy concerns are examined.

The research is based on the proposed research protocol and uses the following methods of research: documentary analysis, interviews, and observations. The documentary analysis is used to review secondary sources of information, including official publications, legislation documents, and media information. Interviews with relevant stakeholders and the personal observations of the co-authors were conducted to collect primary data.

The main target groups of the project are central and local governments, territorial administrations and NGOs involved in public administration issues.

The paper consists of an introduction and three chapters. The introduction outlines the context of the problem and presents methodology. Chapter 2 describes the current situation with illegally used municipal land in Armenia. Chapter 3 presents a case study on the Yerevan municipality. Chapter 4 concludes and contains recommendations.

2. Current situation with illegally used municipal land management in Armenia

2.1 Transfer of the state owned land to municipalities

During the Soviet time, land was state property and, therefore, was not subject to any kind of commercial relations. The legal basis for the property devolution was grounded in the Constitution of 1995. However, land reform began in Armenia soon after the Declaration of Independence in 1991. The significance of the food

security for Armenia, under blockade conditions, initiated the implementation of economic reforms in the agrarian sector. During the first phase of land reform the state monopoly of land ownership was abolished. By late 1993, nearly 90 per cent of land was transferred to private ownership. All inhabitants of the rural areas, as well as some former farmers living in the urban areas, became landowners. Thus, privatisation of agricultural land had brought about a change in the system of land property and the formation of a new structure of land ownership. The state ownership of land, the use of which had a nationwide special purpose, was retained (see Grigoryan 2003). The transfer of state land to the municipalities happened later, after the adoption of the corresponding legislation.

Privatisation of non-agricultural land in Armenia was enabled due to alterations in the 1991 "Land Code" and the new "Land Code" adopted in 2001. The new Land Code recognised ownership and other property rights to land for citizens, legal persons, urban and rural communities and the state; defined lands in state and municipal ownership, order of placing the land at physical persons' and legal entities' disposal, as well as lands not subject to ownership by physical persons and legal entities.

The land market in urban areas was developing more actively due to the high demand for land used for commercial purposes. In 1993, the transfer of ownership of housing facilities to citizens began. In 1995–1996, privatisation of industrial enterprises and commercial objects was implemented. The enactment of the "Civil Code" in 1998 was an important step towards the creation of a basic rule of law regulating and protecting individual ownership rights on land and other real estate, as well as establishing the terms and conditions for their rental, transfer and disposal.

The second phase of the land reform began in 1997 with the establishment of the State Committee of Real Property Cadastre (hereinafter, SCRPC) developing and exercising land and other real estate market policies (see Vardanyan and Grigoryan 2003). The adoption of the law "On the Registration of Property Rights" (1999) helped to create a unified cadastral registration system of land relations, based on private ownership and secure rights to land. Cadastre information about the legal status of land plots, their location and qualitative and quantitative characteristics empowered the implementation of management of land resources and land use control. The state, municipalities, citizens, legal entities, foreign countries, international organisations, etc. were recognised as parties to state registration by Article 12 of the law "On the Registration of Property Rights". It is worth mentioning that the SCRPC and its local subdivisions implemented the first title registration and distribution of ownership certificates without charge.

The necessity to improve land administration and further develop the legislation enabling the development and growth of the land and other real estate market brought about a revision in the existing legislation and drafting of the new laws to support and effectively implement provisions of the "Land Code". The functioning

of the SCRPC greatly contributed to the transfer of land to the municipalities in concordance with the new "Law on Local Self-government" (2002). Articles 47 and 48 of the law stipulated that the transfer of land and property (assets), considered as state property, and situated within the administrative boundaries of the municipalities to the corresponding municipalities, should occur without any compensation (unless such assets were necessary for the state to exercise its authority). Thus, in 2003–2006 the state-owned land and the land under immovable assets located in the administrative boundaries of the communities was transferred to the communities. The Government Decree N439-N, 17 March 2005, had stipulated that the state registration of the land plots transferred to the communities be free of charge. Henceforth, local self-governments became responsible for land management and land policies in their jurisdictions.

2.2 Legal framework

With the transfer of state-owned land and the land under immovable assets, located within the administrative boundaries of communities to the jurisdiction of the respective communities, the communities acquired the right to dispose, manage and use lands in their ownership in accordance with the order defined by the legislation. The transfer of responsibilities for land management and land policies which had taken place during the course of privatisation, led to the emergence of new rights and responsibilities for citizens and legal entities and caused a need for new legislation and normative acts or regulations complementing the existing ones. At the same time, private land ownership and the opportunity to use it for the construction of housing, production and commercial facilities, attracted various actors and required regulations on the relationships between landowners, developers, consumers of housing and other facilities, etc.

However, the existence of a tremendous amount of illegally used land and accompanying unauthorised constructions, hindered the implementation of effective land management policies by local governments, since thousands of property units were excluded from the real property turnover. Consequently, the process of registration of the various assets constructed on state or community owned land has become a primary concern for the authorities. Thus, in 2002–2003 the adoption of the corresponding laws regulating the illegally occupied state and community owned land and unauthorised constructions, initiated the process of integrating these types of property "into the formal real estate market" (see Country Profiles on the Housing Sector – Armenia. 2004, 35), through officially recognising ownership rights, and including them in the cadastre and property registration system. The main difficulty faced during the course of the registration process was connected to the compliance with the financial requirements of the law. The law "On the Legalisation of Unauthorised Buildings and Land Occupation" had established certain fees, based on the size of the illegally occupied land area and/or the area of the construction built on the surface of the illegally occupied land. However, making

the necessary payments had turned out to be too burdensome for a large segment of the population.

Since the beginning of the reform implementation process, the Government of RA had adopted a number of important laws and decisions directly affecting the land use sector. Some of them had expired or had been amended; others had come into force. The legal framework presently affecting and/or regulating illegally used state and municipal land is shown in Table 1.

Armenia has a two-tier governance system – central government and local self-government. Central governance in Armenia is executed by the Government of RA. Regional policy of the Government is carried out by 10 de-concentrated regional branches, representing the central government in the marzes (regions) and called territorial administration authorities (marzpetarans).

The regulation of municipal land is exercised at municipal level. Land that is not privately owned and is situated outside the administrative boundaries of a municipality belongs to the state and is managed by *marz* authorities. Article 40 of the "Land Code of RA" stipulates the implementation of control functions over the application of land use legislation, land use and conservation to be exercised directly by a corresponding state authorised body, territorial administration authorities and local governments. State authorised bodies in the sphere of land use and conservation, exercising control over the activities of territorial administrations in the sphere of land relations, are defined by resolution of the RA Government #24 adopted on 14 January 2002 (Table 3).

Table 2 presents issues that are regulated at national and municipal levels.

In the cases of implementation of land privatisation by judicial persons, the alienation of state and municipal land is exercised by the state authorised body. However, the alienation of the state and municipal land are only permitted if there is no other use provided by the legislation of RA, for example, ecological, or public use, or special purpose etc.

Article 57 of the "Land Code of RA" establishes the order of alienation and transfer for use of the land in state and municipal ownership. The land in state and municipal ownership is alienated:

1. by means of transfer of ownership rights free of charge;
2. by means of direct sale;
3. by means of auction sale.

Articles 75 and 76 of the "Land Code of RA" define the order of giving the state and municipal owned land for use (permanent) free of charge and by means of leasing.

Table 1

Legal framework regulating illegally used state and municipal land and unauthorised constructions

Titles of main legislative and normative acts and date of adoption	**Principles and provisions affecting/regulating the management of illegally used municipal land and unauthorised constructions in Armenia**
Civil Code of RA – 5 May 1998	
	Article188 defined an **unauthorised construction** as a dwelling house, other structure, construction, or other immovable property built on a land parcel not allocated for those purposes by the procedure established by a statute and other legal acts or made without receipt of the necessary permission thereto or with substantial violation of urban development and construction norms and rules. Stipulated that the developer of an unauthorised construction does not acquire the right of ownership to it and does not have the right to dispose of the construction **except in cases stipulated by the law**. Defined that the ownership rights to unauthorised constructions can be attributed to the persons owning the land on which the construction is implemented. Property rights cannot be recognised to the implementer of an unauthorised construction if its retention violates the rights and interests of other persons.
Land Code of RA – 2 May 2001	
	Specified lands in state and municipal ownership. Article 29 stipulated the implementation of compulsive zoning and land use plans. Article 60 specified that it is forbidden to transfer to citizens and legal entities the land in state or municipal ownership.
Laws of RA	
On the Registration of Property Rights – 14 April 1999	
	Defined real property as a unity of land and/or property affixed to land (buildings, constructions, forests, etc) and of rights to the latter. Defined the implementation of a state registration of property rights through the system of a unified state cadastre of real estate from the state authorised body and its territorial subdivisions. The state, municipalities, citizens, legal entities were recognised as parties to a state registration.
On Local Self-government – 7 May 2002	
	Article 47 stipulated a free-of-charge transfer of the lands located within administrative boundaries of communities under the jurisdiction of the respective communities. Article 51 stipulated the alienation of the lands considered as municipal property in accordance with the objectives of the zoning plans and with the objective of promoting economic activities on the territory of the municipalities. Article 57 stipulated that local self-government bodies could alienate the land plots in ownership of physical and legal persons for municipal needs in the order defined by the "Civil Code" and with compensation at their market price.

On Legal Status of Unauthorised Constructions, Buildings and Illegally Occupied Land Parcels – 26 December 2002	
	Defined an **illegally occupied land** parcel as land of the state or community property illegally (without appropriate legal registration) occupied or used by citizens or juridical persons. Defined the basis and procedure for accepting rights towards illegally occupied buildings, constructions and land parcels of state or community property, occupied illegally and alienated (allocated) without relevant legal requirements.
On the Legalisation of Unauthorised Buildings and Land Occupation – 2003	
	Established certain fees, based on the size of an illegally occupied land area and/or the area of the construction built on the surface of the illegally occupied land.
Decrees of the RA Government:	
On State Registration of the Land Transferred to the Communities,#439-N – 17 March 2005	
	Stipulated state registration of the land plots transferred to the communities free of charge.
Resolutions of the RA Government:	
On Unauthorised Constructions Legalisation and Management Order, #912-N – 18 May 2006	
	Defined the list of constructions not subject to legalisation. Defined legalisation and a management order of the unauthorised constructions wholly or partly built on state or community owned land.
On the Order of the State Registration of State or Community Ownership of Unauthorised Constructions Implemented on the State or Community Owned Land Plots, #731-N – 18 May 2006	
	Defined the order of state registration of the state or community ownership of the unauthorised constructions recognised as state or community property to be implemented in accordance with Article 188 of the Civil Code of RA.

Source: Respective legislation

Table 2
Land regulation at national and municipal levels

National or marz level	Municipal level
According to Article 42 of the "Land Code of RA" the Marzpet (governor) exercises control over: the community heads land use related activities, implementation of zoning schemes, municipal land use, conservation and master plans of settlements; allotment, withdrawal of land plots in state or municipal ownership, levying lease payments and land taxes; implementation of republican and territorial projects on marz territory; designated land use on territories that are outside the administrative boundaries of municipalities, observance over the compliance with land legislation requirements; safety of the border markers of the marz. The Marzpet prevents, suspends, and eliminates **illegal land use** on territories located outside the administrative boundaries of municipalities, as well as assigns disciplinary actions in the statutory order. According to Article 61 of the "Land Code of RA" the marzpet realises the alienation of state and municipal land outside the administrative boundaries of a community.	According to Article 43 of the "Land Code of RA" the Head of community exercises control over: the **fulfilment of the land legislation requirements by the land users**, use of land plots in accordance with their designated and functional purpose; borders' adherence and landmarks' safety of land use, land conservation measures. The Head of community suspends, and eliminates **illegal land use** on territories located within the administrative boundaries of municipalities in statutory order; applies disciplinary actions towards violators of the requirements of land legislation, and also presents information to the competent authorities to make persons answerable to the infringement of the law. According to Article 61 of the "Land Code of RA" the head of community realises the alienation of state and municipal land within the administrative boundaries of a community.

Source: Respective legislation

To formalise their property rights, physical and legal persons are obliged to apply to the local sub-division of the SCRPC in accordance with Article 25 of the law "On the Registration of Property Rights". The ownership rights are recognised when illegally occupied land or/and construction built on the surface of the illegally occupied land do not conflict with urban development norms and plans, do not limit ownership rights of other people as well as if the keeping of the building does not violate the rights and interests of other persons protected by a statute or does not create a threat to the life and health of citizens. The ownership right is recognised if the land is acquired at its cadastral value. After the state registration of property rights at the local sub-division of the SCRPC, physical or legal persons are given property (or use) certificates to real property. Article 31 of the same law stipulates the leasing of the land/property. The leasing order and fees are also specified by the law. After the registration of the leasing rights, applicants are given certificates of registration of the leasing rights.

2.3 Classification of state and municipal land

After the transfer of the land to municipalities has begun, cadastral mapping of the whole territory of the country, state registration of land rights of municipalities for

the mapped units, and demarcation of municipal land are carried out. First title registration has enabled the implementation of zoning and land use schemes. However, rapid implementation of land privatisation resulted in a high fragmentation of land and division of the land into small parcels, hindering efficient land use and the development of the agricultural market. Additional transfers of state owned land out of the administrative boundaries of communities to municipalities enabled the enlargement of land parcels and the implementation of land management through land consolidation schemes and alienation of community owned land.

Land plots, subjected to alienation, are defined on the basis of zoning and land use schemes and master plans of inhabited areas (settlements), according to which the land fund of RA is classified into the categories shown in Table 3. All zoning, land use schemes and master plans conform to the state authorised bodies and adopted by the Government of RA. Zoning and land use schemes include classification of the land fund according to ***the form of ownership*** (state, municipal and private)*,* and ***designated purpose*** or ***land category*** and land ***holding*** or ***functional purpose type***.

The "Land Code" has provided limitations concerning land plots that are included in the conditions of land placing at the disposal of citizens and legal entities. While demarcating and adopting limiting dimensions and the quantity of land parcels under the ownership of citizens and legal entities, public authorities and local self-governments are obliged to take into consideration recommendations concerning natural, economic, nature conservation and social conditions, laws and normative acts on natural agricultural land distribution[1] and rate setting[2]. The government adopts natural agricultural land distribution in districts for land usable for agricultural purposes.

The law "On the Legal Status of Unauthorised Constructions, Buildings and Illegally Occupied Land Parcels" has classified unauthorised constructions (buildings) and defined the basis and procedure for accepting the rights towards unauthorised buildings, constructions and land parcels of state or municipal property, occupied illegally and alienated (allocated) without the relevant legal requirements, depending on the status of the land ownership and location and placement of unauthorised constructions. The classification is as follows:

1. Unauthorised constructions built on citizens' or legal entities' owned land;
2. Unauthorised constructions built on state or community owned lands;
3. Unauthorised modifications or reconstructions of apartments in apartment buildings or non-residential territories;

1 Natural agricultural land distribution into districts is its division in accordance with climatic conditions, qualitative characteristics and with due account taken to biological requirements to agricultural cultures.

2 Land rate setting is a unity of land parcels usage rules irrespective of land ownership and other property rights.

4. Land parcels occupied illegally, as well as alienated, allocated (acquired) through legislative contempt.

Table 3
Land classification in Armenia

Land Category	Land Holding or Functional Purpose Type	State Authorized Body
1. Agricultural land	arable land	Ministry of Agriculture
	perennial planting	
	meadows	
	pastures	
2. Land of Settlements	residential buildings	Ministry of Urban Development
	public buildings	
	mixed use buildings	
	general use buildings	
3. Land for industrial, mineral and other production purposes	land for industrial objects	Ministry of Industry
	land for storage	
	land for agricultural production objects	Ministry of Agriculture
	land for sub-surface use	Ministry of Nature Protection
4. Lands for special purposes	land for energy objects	Ministry of Energy and Natural Resources
	land for transport objects	Ministry of Transport and Communication
	communications	
	communal infrastructure	Ministry of Urban Development
5. Specially preserved lands	environmental purposes	Ministry of Nature Protection
	health purposes	Ministry of Healthcare
	recreation purposes	Ministry of Culture
	historical and cultural	Agency of Monument Protection
6. Special designated purpose lands	defence	Ministry of Defence
	boundary	
	protected by law	
7. Forest lands	forests, bushes, meadows, pastures, arable lands etc	Ministry of Nature Protection
8. Water lands	rivers	State Committee of Water Resources
	natural and artificial dams	
	hydro engineering objects	
9. Reserve lands	land not in use	

Source: S. Tovmasyan (2003), Institutional Framework of Land Management and Use.

Thus, the mentioned law regulates unauthorised constructions built on state or municipal land and land parcels occupied illegally, alienated or allocated through legislative contempt. In addition, the Resolution of the RA Government "On Unauthorised Construction Legalisation and Management Order" #912-N regulates those unauthorised constructions that are built on land, part of which is situated on the land recognised as citizens' or legal entities' property and the other part – on the adjacent territory recognised as state or municipal property. The mentioned law defines certain terms needed for authorities to make decisions on the issues. A summary of the basis, order and procedures for accepting the rights towards unauthorised constructions built on state or community owned land and land parcels occupied illegally, alienated or allocated through legislative contempt is presented in Table 1 of the Appendix.

2.4 Nationwide time series data

Registration of the various assets constructed on state or municipal lands, as well as of the illegally occupied land parcels, contributes to local budgets through the income from state duties, such as collection of local taxes, lease payments and other fees. However, at present, the volume of illegal land use and authorised constructions is difficult to estimate since complete statistical information is not available. Data that can be obtained from municipalities is only on the number of registered residential, commercial or other types of unauthorised constructions, as well as on number, area and types of land parcels (agricultural, horticultural, homestead, and provided for personal residential buildings). It is obvious that municipal revenues have increased due to the recognition of property rights towards illegally used municipal land and accompanied unauthorised constructions, corresponding increase in the number of direct sales, subsequent increase in property taxes, lease payments and other fees. However, data on these types of assets is not included in the municipal balance sheet since the current format submitted to the state agencies does not contain separate lines on these data. In order to obtain data, calculations in each municipality need to be made.

The study conducted by UNECE indicates that the number of unauthorised constructions in Armenia was approximately 320 thousand in 2002 (see Country Profiles on the Housing Sector – Armenia 2004, 35). It is worth mentioning that although the government has initiated the process of integration of illegally occupied state or community owned land into the land and other real estate market through recognising ownership rights and including such types of property in the cadastre and property registration system, the illegal land use practice and accompanied unauthorised constructions is "blossoming" all over the country. The example of Lake Sevan National Park zone, situated in Gegharkunik marz, is given in Box 1.

Box 1

Illegal land capture and unauthorised capital constructions on the territory of Lake Sevan National Park

According to media information[3], out of more than 200 capital constructions implemented on the territory of Lake Sevan National Park as of 6 October 2006 only 10 constructions had legal permission given by the marzpet of Gegharkunic marz. Earlier, the Government had adopted a resolution, which considered as illegal, capital constructions implemented at more than 1,908 m above sea level. However, the private sector implementing the constructions ignored the decision. The SCRPC had given permission for temporal constructions, but private developers continued the construction of capital buildings without any hindrance and the SCRPC had not overseen the course of the construction. Inhabitants of the settlements included in the territory of the National Park were also engaged in broad construction activities. The Government considered that the problem was not the unauthorised constructions, but the road that might go under water due to the increase in the lake's water level. Therefore, the Government will have to direct financial resources for new road laying.

Source: Informational Agency "Arminfo".

The basic cause of the increases in these negative phenomena is seen in the interpenetration of the administrative and business structures that have become a steady order, matching the interests of all the interested parties. Moreover, high fees and a long delay were established for the granting of the permission needed for ground area development. On the other hand, the land plots subject to alienation are defined on the basis of zoning and land use schemes and master plans of settlements. However, scarce financial resources of local governments hinder the complex resolution of prospective measures needed for efficient land use and planning. Furthermore, insufficient human resources and technical capacity deprives the local government bodies of the ability to implement land management measures. The development of the temporal land use schemes of the communities has been undertaken to partly resolve the issue of alienation of the homestead land-parcels and land of agricultural significance. Another effective instrument contributing to land use management and urban development is the development and growth of Inter-Community Unions.

Article 35 of the "Land Code" stipulates the monetary valuation of the land parcels as defined by its cadastral value in accordance with their fertility, physical and other qualitative characteristics, natural and economic conditions, natural agricultural land distribution into districts, zoning and land use schemes and designated purpose. Land valuation depends on the purpose and procedure of valuation and

3 Available online: http://www.arminfo.info/news_ru-issue1486.shtml.

is implemented in accordance with the cadastre and/or market prices. Normative cadastre valuation of land parcels is used for determining the amount of land tax and defining the amount of lease payments and other transactions (for example, in determining auction prices and mortgages). Expert land valuation is implemented in accordance with market prices for the purpose of conducting transactions (sale, grant, exchange, and inheritance).

At present, the SCRPC is responsible for land and other real property valuation, which is conducted by licensed valuers. The SCRPC and its local sub-divisions have implemented mass cadastral valuations and record keeping of all real property units. Land and other real estate, as income generating assets, are revaluated once every 4–5 years. As a whole, the Armenian experience of land use management has been highly appreciated by international experts.

3. Case study on Yerevan municipality

Yerevan is the capital city of the Republic of Armenia and the largest city of the country, with an overall population of 1,102.8 thousand, constituting almost one-third of the total population. Yerevan is the administrative, financial, industrial, commercial, educational, cultural, and tourism centre of the country. Furthermore, the city is the master plan centre of the Yerevan metropolitan agglomeration.

The development of the metropolitan agglomeration must be carried out by means of projects, mutually concerted by the administrative-territorial units included in the agglomeration. However, due to serious political and economic changes which took place in the country in the early transition period, with few exceptions, urban development was conducted with a flagrant violation of the existing construction norms and without any holistic approach towards the complex development of the territories. The majority of the basic indicators acting in accordance with the projects of the Yerevan master plan of 1971–2000 exhausted themselves until the mid-80s. For example, the population urbanisation indicator comprised 1.35 times more figures than the indicator stipulated in the master plan; the annual average rate of the living space in operation constituted 87 per cent of the assigned rate; in the sphere of communal services, indicators comprised 50 per cent of the assigned figure. The new master plan of Yerevan, adopted in 2005, was developed and approved taking into consideration urban development requirements and will be in force until 2020.

The widespread practice of illegal land occupation, accompanied by unauthorised constructions in the city, was caused not only by the absence of a legal, institutional and regulatory environment addressing the significant changes taking place in the land and other real estate sectors, but also in the urban planning and development sphere. Appropriate orders and procedures for receiving the necessary permission for ground area development, as well as legislation and other normative acts preventing administrative abuse, had not existed. Moreover, the challenges

faced by the country in the early transition period, burdened with post-earthquake rehabilitation in some marzes, operations of life support systems in wartime with blockade conditions in the country have aggravated the situation. In these conditions, new approaches have emerged towards economic entities running business activities and, therefore, land plots set aside for the construction of service providing facilities and urban development infrastructure have been provided through simplified procedures.

In 1995–1996, the Armenian Government launched a campaign to regulate illegal constructions. However, it turned out to be impossible to complete the definition of the legal status of unauthorised constructions within the established time. The vast majority of residents simply did not apply to the city authorities to define the status of the unauthorised construction at their disposal. Thereafter, the consideration of the submitted applications ceased due to radical changes taking place in the Yerevan governance system. The institute of executive communities was replaced by the system of district communities, and the previous acting status of Yerevan was changed into the status of a marz. In Yerevan, 12 district communities (taghapeterans) were established, self-governed by mayors and councils elected via direct elections. However, the latest amendments to the Constitution (November 2005) changed this arrangement and gave Yerevan the status of a community. It is planned that beginning in June 2009, a single-tier local self-government will be implemented in Yerevan with an elected Mayor and community council.

The law "On Local Self-government" stipulates the responsibilities (powers) of the heads of communities in the area of urban development and land use. In the case of Yerevan, the Mayor of the city executes those responsibilities. The law stipulates that the Mayor prevents **illegal land occupation and construction** by means of taking the corresponding measures and abolishing the consequences within a month.

Table 4 shows the distribution of responsibilities in urban development and land use at national and local level.

In the structure of the Yerevan municipality there exists the following subdivisions exercising responsibilities in the resolution of issues on illegally used municipal land and accompanied unauthorised constructions: Legal (exercises control over the execution of legislation requirements in the mentioned area), Architecture and Urban Development (in case of legalisation of incomplete constructions, the sub-division provides architectural planning tasks for finishing incomplete constructions), Urban Development and Land Use (provides technical conclusions regarding urban planning issues).

Table 4

Distribution of powers in the urban development and land use sphere

The Government of RA
• Ensures the execution of state policy. • Defines the procedures for developing and approving normative-technical documents on urban development proceeding from RA laws and controls their implementation. • Defines the procedure of developing and approving urban development documents; monitors the execution of those documents. • Approves an urban development master plan of projects of settlements and municipalities (except for taghapetarans). • Develops and executes a policy of economic incentives for urban development within its powers. • Issues a state monitoring procedure. • Defines state authority powers and execution procedures. • Executes other powers stipulated by legislation.
Yerevan Mayor
• Designs the project of an urban development master plan, land use and zoning schemes; submits projects to the Government of RA for approval. • Carries out a detailed design of district community master plans and those of urban development complex zones, ground area construction and development projects according to the master plan, land use and zoning schemes; submits those documents to the community council for approval. • Develops and defines the urban development regulations of the community; submits regulations to the community council for approval. • Informs citizens about upcoming urban development changes; assigns ground area developers the elaboration of an architectural master plan; concerts architectural-constructing projects. • Grants permission for construction (demolition); draws up construction final acts. • According to the urban development master plan and zoning and land use schemes and in accordance with the order defined by the community council, makes decisions to lease out or take back municipal property; decisions are made in accordance with lease payments established by the community council. • Grants lands for state and community budget institutions' use without indemnity. • Monitors maintenance and target use of lands, buildings and constructions, architectural planning tasks for ground area developers and requirements towards urban development regulations of the community. • **Prevents illegal land occupation and construction** by means of taking the corresponding measures and abolishing consequences within a month. • According to urban development regulations, grants permission for outdoor advertisements.

Source: Respective legislation

The decisions about legalisation or demolition of unauthorised constructions are made after the recognition by the state or community ownership towards unauthorised constructions built on the state or community owned land (if they are not land plots mentioned in Article 60 of the "Land Code of RA"). The decisions are made by the Head of Community (in case of Yerevan – the Mayor) or correspond-

ing marzpet. The decisions on the legalisation of unauthorised constructions contain information on the land plot location and area, compliance to clause 3 of Article 188 of the "Civil Code" and to state or community town planning programmes. In the case of a change in the designated purpose of the land plot, information providing explanations for the change is also included in the decision. The decision is fastened to the designed land plot plan. The State authorised body which adopted the decision, presents it to the territorial sub-division of the SCRPC of the located property – to implement state registration.

After state registration of the ownership rights towards the constructions built on the state or community owned land plot, the state authorised body makes (within 15 days) a written offer for a preferential purchase (or direct sale) of the land plot at its cadastral value to the implementer of the construction. In the written offer are also included: address of the unit, land plot area, deadline for the acceptance of the offer, cadastral value of the land plot, cadastral price of the construction and the direct sale price established by the "Legalisation and Management Order". The implementer of the construction pays the cadastral value of the land plot and makes payments for the construction. The direct sale price is defined in accordance with the base amount established for each square metre of the construction. If the offer is not accepted within 15 days, the state authorised body makes a written offer to lease the construction (within 5 days). If the implementer of the construction rejects the lease offer, the construction is sold or given for use by means of auction or competition. The auction starting price is defined as equal to the market price.

Legalisation of the unauthorised construction is rejected, if:

a) the construction does not comply with the requirements of Article 188 of the Civil Code of RA and of the "Legalisation and Management Order";
b) the payments anticipated in the "Legalisation and Management Order" are not made in a 30-day period;
c) the cadastral value of the part of the land plot recognised as being under state or community ownership is not paid;
d) the written agreement of the parties involved in joint common or partial property of the land plots is not presented.

Available data about applications submitted to Yerevan municipality regarding recognition of ownership rights to unauthorised constructions implemented on municipal land parcels and land parcels occupied illegally for the period from 2003 to 2005 are presented in Table 5. During 2006, 500 unauthorised constructions were demolished. In March 2007, there were "more than 100 thousand identified unauthorised constructions in Yerevan"[4].

4 Armenian News – Municipality Fight Illegal Constructions. Available online: http://www.armtown.com/news/en/prm/20070305/14780/.

Table 5
Applications submitted to Yerevan municipality to formalise property rights to unauthorised constructions and/or illegally occupied land

Year	Total Number of Applications	Residential Buildings		Public and Industrial Constructions		Other Constructions (garages, storerooms, sheds)		Land Parcels not Occupied by Buildings (hectare)	
			% of total		% of total		% of total		% of total
2003	5,279	956	18.1	605	11.5	3,548	67.2	170	3.2
2004	11,449	1,194	10.4	1,612	14.1	8,537	74.5	106	0.9
2005	26,832	1,794	6.7	2,408	9.0	22,577	84.1	53	0.2
Total	43,560	3,944	9.1	4,625	10.6	34,662	79.6	329	0.75

Source: Yerevan Municipality, own presentation

Order #42-A of the Yerevan Mayor, adopted on 2 March 2009, anticipates speeding up the state registration of property rights of physical persons with 12 thousand unauthorised constructions implemented before 15 May 2001 and who have no documents confirming their property rights and implementation of control over developer companies engaged in construction programmes on land alienated for public and state needs which were recognised as being a public and state necessity.

The decision-making process on the legalisation of illegally occupied or alienated/allocated land parcels or legalisation or demolition of unauthorised constructions implemented on state or municipal land is centralised. Financial management i.e. levying lease payments, land taxes on the land plots and/or property taxes on legalised constructions is currently implemented and decentralised to district communities. However, recent changes in the status of Yerevan and the planned transfer of assets of district communities to Yerevan municipality will enable decentralised implementation of decision-making and financial management of the assets concerned. Order #42-A contains a clause anticipating the specification of the list of municipal property alienated or given for use by Yerevan district communities and the specification of information on the directory of taxes on land and other property to be transferred to Yerevan municipality, as well as the implementation of the registration of financial liabilities, outstanding debts, property disputes and the entire record-keeping of organisations subordinate to Yerevan district communities and Yerevan municipality.

Different cases have arisen in the course of urban development in Yerevan during the past years. Details of such cases are presented in Box 2.

Box 2

Need to develop legislation defining the notion of "state or municipal needs"

A great number of private houses were constructed in the central residential areas of Yerevan at the beginning of the last century. Later, those residential areas were surrounded by newly-erected buildings constructed on the main streets of the city. Therefore, the old private houses found themselves in the yards of erected city blocks. A large number of those private houses had no state registration, were recognised as unauthorised constructions and, according to the master plan of the city, were subject to demolition. However, because of scarce financing, the project of demolition was not carried out. After the collapse of the Soviet Union, the number of unauthorised constructions increased dramatically. Numerous residents of central residential areas began setting up dwellings and auxiliary constructions, commercial and other service-providing facilities in the neighbourhood of their houses. Construction of a new "Northern Avenue" was launched in the central part of Yerevan several years ago. Therefore, the development of ground areas necessitated the demolition of a large number of private houses. The ground areas were given to real estate developer companies through direct negotiations or tenders, with the proviso, that they pay financial compensation to the residents of the area. The rate of financial compensation depended on several criteria and on whether the houses subject to demolition were legalised or not. Criteria defining the rate of financial compensation included: living space, total area of occupied land, number of registered tenants and legal status of the occupied land. On the other side, a large number of people were registered in the residential units, meaning that quite a lot of people had the right to compensation and this appeared to be too burdensome for developer companies.

Source: Authors

Corresponding legislation regarding the alienation of land plots for state or municipal needs arising during the course of the recent urban development process had not been adopted. The practice applied by authorities revealed that land alienation had been implemented on the basis of the resolutions of the RA Government, and in accordance with the order defined by corresponding resolutions made by the Yerevan Mayor. As a rule, implemented alienations did not serve the interests of the state/municipalities but rather the interests of private investors (interested parties, construction or/and commercial organisations) and were implemented in the majority of cases by means of direct sale. Expenses on land withdrawal (from the population) were not anticipated in the budget, and the determination of a repurchase price and other compensation conditions for land owners/users was implemented in a compulsory order. The amount of monetary compensation and/or repurchase price proposed by the authorities was from between 40 and 80 per cent lower than the real market price of the alienated land plots. Judicial procedures were under-

taken due to the above mentioned activities of the authorities which were resolved unequivocally in favour of the authorities. There was not a single case of a change or disaffirmation of the unlawful decisions the court took during the course of the judicial judgments given on this subject, although numerous appeals were taken to the higher courts. Assessments made by independent experts (valuers) had been submitted in all the judicial hearings; however, the courts made decisions based on the assessments of experts, to say nothing of the numerous procedural violations, which the court of appeal "had let pass". Thus, during the course of these lawsuits which took place from 2002 to 2007, direct pressure of executive authorities over judicial authority had taken place. As a result, the majority of the former users of land plots and attached immovable property had to acquire non-equivalent immovable property in the outskirts of the capital city, though their land plots were situated in the most expensive sector of the real estate. The recommendations made by the European Court on Human Rights on the basis of complaints made by the citizens of RA were ignored.

4. Conclusion

Despite the adopted legislation and campaign launched on the legalisation of ownership rights towards illegally used state or municipal lands and unauthorised constructions, this practice continues due to high fees and the timeframe established for obtaining the permission needed for ground area development. In concordance with the law, local self-government bodies can alienate land plots under the ownership of physical and legal persons for municipal needs due to the order defined by the "Civil Code" and with compensation at their market price. However, legislation serving as a basis for the alienation of land plots for state or municipal needs has not yet been adopted. All land alienations have been implemented on the basis of the resolutions of the RA government, and in accordance with the order defined by corresponding resolutions made by regional authorities, as can be seen in the case of the capital city, Yerevan. Therefore, the basic recommendation concerns the improvement of the land management legislative basis and, specifically, the legislative basis of illegally used state or municipal land.

The provisions of the law to be elaborated must properly define the notion of the "state or municipal needs", define the whole spectrum of activities on land alienation, taking into account all drawbacks and infringements committed by authorities in the course of land withdrawal from the population in the capital city Yerevan, and ensure the elimination of any negative political, social or economic consequences of the decisions made. The legislation must ensure unambiguous interpretation of the rights and duties of tenants – implementers of the unauthorised constructions and accompanying illegal use of state or municipal land. The compensation rate must be well-defined and must take into consideration all possible scenarios and contribute to a decrease in corruption risks. The law must define the

rights and responsibilities of real estate developer companies, as well as ensuring their transparency and accountability to the public.

To ensure better control over land use practices, organisational land use management should be improved, both at the municipal and marz levels and municipal and territorial administration staff must develop a greater professional capacity.

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Appendix

Legislation regulating unauthorised constructions built on state or municipal land and land parcels occupied illegally, alienated or allocated through legislative contempt.

Status of Land Ownership and Location of Unauthorised Construction	Basis and Order for Recognition of Property Rights and/or Legalisation of Use
1. Unauthorized constructions built on state or community owned land	Property rights are accepted towards **illegally occupied land accompanied by unauthorised constructions** if: **a)** Constructions are not built on lands established by Article 60 of the "Land Code of RA"; **b)** constructions are not built in alienation and safety zones of engineering and transport units; **c)** other persons' rights are not circumscribed; **d)** servitude is not caused; **e)** urban development norms are not contravened. Property rights are accepted towards: 1. **Illegally occupied land** accompanied by the unauthorized **public and industrial constructions** in case of acquiring lands necessary for construction maintenance through payment of the cadastral value of the occupied land parcel or is leased for maximum 10 years with the payment equal to annual land tax. Land size cannot be 5 times more than the overall space of all the buildings. 2. **Private buildings of everyday use** (garages, stables, etc.). In urban communities lands occupied with buildings are only leased for maximum 10 years with payment equal to annual land tax. In rural communities those lands can be alienated through direct sale at cadastral value or leased with the payment equal to annual land tax. In case of rejecting to buy or lease the lands occupied with illegal constructions, ownership rights towards those constructions are not accepted and further status of the buildings are defined by the procedure established by the "Civil Code of RA".

Appendix
(Continuation from previous page)

2. Land parcels occupied illegally, as well as alienated, allocated (acquired) through legislative contempt.	Property rights are accepted towards the following **illegally occupied lands**: 1. Agricultural and horticultural lands privatized through legislative contempt and as a result of drawing cadastral map during the first state registration provided that the lands are considered agricultural lands or lands of state reserve fund. 2. Homestead lands and the ones provided for personal residential buildings privatized through legislative contempt and as a result of drawing cadastral map during the first state registration, unless a) the lands are located in alienation and safety zones of engineering and transport units; b) other persons' rights are circumscribed; c) servitude is caused; d) urban development norms are contravened. De facto used size of lands must not be twice more than the size laid down in documents, the extra part of the land is considered as state property. If the size of illegally used land constitutes up to 20 per cent of the documented land area, lands are allocated by ownership rights without indemnity. The cost of acquisition of extra land constitutes 30 per cent of its cadastral value. 3. Homestead lands or lands for residential building maintenance and agricultural lands in state property acquired through auction until adoption of the "Land Code" or through contempt of RA legislation.
3. Unauthorized constructions built on land, part of which is situated on the land recognized as citizens' or legal entities' property and the other part – on the adjacent territory recognized as state or municipal property.	The land recognized as state or municipal property is legalized and managed in accordance with the size of the land parcel occupied by the unauthorized construction or the land parcel necessary for its maintenance and preservation. Property right towards construction is registered in case of payment of the cadastral value of the occupied land parcel or the land parcel necessary for its maintenance and preservation.

Source: Respective legislation

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