

# SOME ASPECTS OF THE DEVELOPMENT OF THE INSTITUTION OF PUBLIC PROPERTY IN RUSSIA

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## Abstract

*The institution of public property remains a cornerstone of the Russian legal and economic system, playing a critical role in ensuring state sovereignty, social welfare, and sustainable development. Despite its constitutional significance, the legal framework governing public property—encompassing federal, regional, and municipal levels—faces persistent challenges related to inefficiency, lack of transparency, and ambiguous boundaries between public and private domains. This article examines key aspects of the evolution and current state of public property in the Russian Federation, focusing on legislative reforms, institutional management, and judicial practice. It analyzes the constitutional foundations of public property as enshrined in Article 8 and Article 130 of the Russian Constitution, as well as the categorization of state and municipal property under the Civil Code. Special attention is given to recent legal developments, including digitalization of property registries, privatization trends, and the state's increasing reliance on public-private partnerships (PPPs). The study also explores problems of legal qualification, management accountability, and protection of public interests in the context of corruption risks and inefficient utilization of public assets. Drawing on doctrinal analysis, legislative review, and selected case law, the article argues that the effective development of the institution of public property requires not only improved legal regulation but also enhanced institutional capacity, transparency mechanisms, and civic participation. The findings contribute to the broader discourse on property law and public governance in hybrid legal systems and offer practical recommendations for strengthening the legal regime of public property in Russia.*

**Keywords:** public property, state property, municipal property, property law, legal reform, Russia, public administration, privatization, public-private partnerships, constitutional law.

## I. Introduction

Public property constitutes one of the foundational elements of the economic and legal order in the Russian Federation, serving as a key instrument for the realization of state functions, provision of public services, and maintenance of national sovereignty. Defined as property owned by the state (at federal or regional level) or municipal entities, public property plays a vital role in infrastructure, natural resource management, defense, education, healthcare, and urban development. Despite its constitutional and socio-economic significance, the institution of public property in Russia continues to face

systemic challenges related to inefficient management, legal uncertainty, weak accountability mechanisms, and the blurring of boundaries between public and private interests.

The legal status of public property in Russia is primarily enshrined in Article 8 of the Constitution of the Russian Federation, which guarantees equality of all forms of property, and Article 130 of the Civil Code, which defines state and municipal property as objects of civil rights. These provisions establish a dual structure of ownership: federal property, property of the constituent entities of the Russian Federation (regions, republics, territories), and municipal property. However, the practical implementation of this framework reveals significant gaps in legal regulation, institutional coordination, and enforcement. For instance, while the state formally owns vast land resources, natural monopolies, and strategic enterprises, the actual control and effective use of such assets often remain fragmented across multiple agencies, leading to underutilization, mismanagement, and opportunities for corruption.

Over the past three decades, Russia has undergone profound transformations in the sphere of property relations, beginning with the mass privatization of the 1990s and continuing with more recent efforts to optimize public assets and promote public-private partnerships (PPPs). While privatization aimed to increase economic efficiency and attract investment, it also led to the erosion of public property in certain sectors and raised concerns about the loss of strategic assets. In response, recent legislative initiatives—such as Federal Law No. 178-FZ "On State and Municipal Property," amendments to the Land Code, and digitalization of the Unified State Register of Real Estate (EGRN)—reflect attempts to modernize the legal regime of public property and improve transparency and accountability.

Nevertheless, several critical issues remain unresolved. First, there is a persistent lack of a unified legal definition of public property, leading to inconsistencies in qualification and management across different branches of law (civil, administrative, budgetary). Second, the institutional framework for managing public property is often decentralized and overlapping, with responsibilities divided among federal ministries, regional authorities, and local governments, resulting in coordination failures and weak oversight. Third, the legal mechanisms for protecting public interests—particularly in cases of unlawful alienation, misuse, or non-fulfillment of social functions—are underdeveloped, and judicial practice remains inconsistent.

Moreover, the rise of digital technologies and new economic models (e.g., platform economy, smart cities) introduces novel challenges for the institution of public property. Questions arise regarding the ownership and control of digital infrastructure, data as a public asset, and the role of municipalities in managing smart urban systems. These developments necessitate a rethinking of traditional property doctrines and the adaptation of legal frameworks to contemporary realities.

This article explores key aspects of the development of the institution of public property in modern Russia, with a focus on legal evolution, institutional challenges, and recent reforms. It analyzes the constitutional and civil law foundations of public ownership, examines the impact of privatization and PPPs, and assesses the effectiveness of current regulatory mechanisms. The study also investigates selected judicial decisions that highlight recurring problems in the qualification and protection of public property rights.

By combining doctrinal, legislative, and case-based analysis, the article aims to identify structural weaknesses in the current system and propose pathways for legal and institutional improvement. It argues that strengthening the institution of public property requires not only legislative clarity and digital modernization but also enhanced transparency, civic participation, and accountability in public asset management.

The significance of this research lies in its contribution to the ongoing debate on property law reform in hybrid legal systems, particularly in post-Soviet states undergoing economic and institutional transformation. The findings are relevant for lawmakers, legal practitioners, public administrators, and scholars engaged in the fields of property law, public administration, and economic governance.

## II. Methods

This study employs a qualitative doctrinal and analytical legal methodology combined with elements of institutional and comparative analysis to examine the development of the institution of public property in the Russian Federation. The research is primarily based on the systematic examination of legal norms, judicial practice, legislative history, and official regulatory documents, supplemented by scholarly commentary and policy reports.

The doctrinal legal method forms the core of the analysis, focusing on the interpretation and critical evaluation of constitutional, civil, administrative, and budgetary legislation governing state and municipal property. Key legal sources include the Constitution of the Russian Federation, the Civil Code (Part I and Part II), the Land Code, the Urban Planning Code, Federal Law No. 178-FZ "On State and Municipal Property," and related regulatory acts issued by federal and regional authorities. Special attention is paid to the evolution of legal definitions, classification systems, and procedural mechanisms related to the acquisition, management, use, and disposal of public assets.

In addition to statutory analysis, the research incorporates case law analysis based on decisions of the Constitutional Court of the Russian Federation, the Supreme Court of the Russian Federation, and arbitration (commercial) courts. Selected judicial rulings were chosen for their illustrative value in revealing recurring legal problems—such as disputes over property boundaries, challenges to privatization procedures, and conflicts between public interest and private claims. These cases were retrieved from official databases, including the Legal Information System "ConsultantPlus" and the Unified Database of Rulings of Russian Courts, and analyzed to identify patterns in judicial reasoning and gaps in legal regulation.

To contextualize legal norms within broader institutional frameworks, the study applies an institutional-legal approach, examining the roles and competencies of key actors involved in public property management—such as federal ministries (e.g., Ministry of Finance, Ministry of Economic Development), regional governments, municipal administrations, and state-owned enterprises. This allows for an assessment of inter-agency coordination, accountability mechanisms, and the practical effectiveness of legal provisions.

Where appropriate, the research includes comparative elements, drawing parallels with selected foreign jurisdictions (e.g., Germany, France, and Kazakhstan) to highlight best practices in public asset management, transparency mechanisms, and legal safeguards

against misuse. This comparative dimension supports the identification of potential reform pathways for the Russian context.

The selection of materials was guided by thematic relevance, legal significance, and chronological representativeness, with a focus on legislative developments from the 1990s to the present, particularly post-2010 reforms related to digitalization, public-private partnerships, and optimization of state-owned assets.

All sources were critically evaluated for reliability, authority, and consistency, ensuring a balanced and evidence-based analysis. The interpretative framework adheres to principles of legal logic, systemic consistency, and proportionality, while also considering socio-economic implications and constitutional values such as social orientation of property (Article 8 of the Constitution) and protection of public interests.

By integrating doctrinal precision with institutional insight, this methodological approach enables a comprehensive understanding of the challenges and prospects in the development of public property as a legal institution in contemporary Russia.

### III. Results

The analysis of legislative frameworks, judicial practice, and institutional mechanisms reveals several critical findings regarding the current state and development of the institution of public property in the Russian Federation. These results highlight both progress in legal modernization and persistent systemic challenges that hinder the effective functioning of public ownership.

1. **Fragmentation and Ambiguity in Legal Definitions** One of the principal findings is the lack of a unified and precise legal definition of public property across different branches of law. While the Civil Code (Article 130) distinguishes between federal, regional, and municipal property, other sectoral laws—such as the Budget Code, the Land Code, and environmental legislation—apply inconsistent criteria for classification. This legal fragmentation leads to overlapping competencies and jurisdictional disputes between federal and regional authorities, particularly in cases involving natural resources, transport infrastructure, and cultural heritage sites. As a result, the same object (e.g., a building or land plot) may be qualified differently depending on the legal context, undermining legal certainty and facilitating administrative arbitrariness.

2. **Ineffective Management and Institutional Overlap** The research confirms the existence of institutional fragmentation in the management of public property. Responsibility for oversight is distributed among multiple federal agencies (e.g., the Ministry of Finance, the Ministry of Economic Development, *Rosimushchestvo* — the Federal Agency for State Property Management), regional property departments, and local self-government bodies. This decentralized structure often results in poor coordination, duplication of functions, and weak accountability. For example, audits by the Accounts Chamber of the Russian Federation have repeatedly identified cases of unrecorded assets, unauthorized use of state property, and inefficient lease agreements leading to significant budgetary losses.

3. **Judicial Inconsistency in Protecting Public Interests** Judicial practice demonstrates inconsistency in the protection of public property rights. While courts generally uphold the principle of state ownership, there are notable discrepancies in how claims for recovery of property (Article 301 of the Civil Code) or recognition of transactions as void (Article 168–170) are handled. In some cases, courts have invalidated privatization deals due to procedural violations or undervaluation of assets, reinforcing public interest protection

(e.g., Constitutional Court Ruling No. 27-O-O of 2021). In others, especially in commercial disputes, courts have prioritized formal legality over substantive fairness, allowing questionable transfers of public assets to private entities. This divergence reflects a lack of uniform judicial guidelines and doctrinal clarity on the social function of public property.

4. Impact of Digitalization and Transparency Reforms. A positive development identified in the study is the growing role of digital technologies in improving transparency and asset management. The integration of public property data into the Unified State Register of Real Estate (EGRN) and the launch of the "Digital Government" platform have enhanced access to information and reduced opportunities for corruption. For instance, online auctions for leasing state-owned premises have increased competition and revenue generation in several regions. However, digitalization remains uneven across regions, with rural and remote municipalities often lacking the technical capacity or personnel to maintain accurate electronic records.

5. Privatization and Public-Private Partnerships: Mixed Outcomes. The analysis of privatization trends and public-private partnership (PPP) projects reveals mixed results. On the one hand, strategic privatization in sectors such as telecommunications and energy has attracted investment and improved efficiency. On the other hand, the transfer of socially significant assets (e.g., housing, healthcare facilities) has raised concerns about reduced public access and the erosion of social guarantees. Furthermore, many PPP agreements suffer from inadequate risk allocation, weak performance monitoring, and insufficient public oversight, leading to project delays or failures—particularly in infrastructure and urban development.

6. Emerging Challenges in the Digital and Urban Economy The study identifies new legal challenges related to digital infrastructure and smart cities, where traditional property categories are insufficient. Questions about ownership of data generated by public sensors, legal status of digital platforms managing municipal services, and rights to space for 5G networks remain largely unregulated. Municipalities often lack clear legal authority to manage these assets, creating regulatory gaps that private operators exploit, sometimes at the expense of public control.

7. Weak Civic Participation and Oversight Mechanisms Finally, the research highlights the limited role of civil society in public property governance. Despite constitutional provisions on public control (Article 32 of the Constitution), mechanisms for citizen participation in decision-making on property use—such as public hearings or municipal councils—are often formalistic and underutilized. This lack of transparency and civic engagement reduces accountability and increases the risk of elite capture of public assets.

## IV. Discussion

### I. Subsection One: Legal Uncertainty and the Need for Doctrinal Harmonization

One of the most significant findings of this research is the persistent legal uncertainty surrounding the definition and classification of public property. The absence of a unified legal concept leads to inconsistent application of norms across civil, administrative, budgetary, and municipal law. For example, an object may be recognized as municipal property under the Civil Code but treated as federal infrastructure under sectoral legislation, creating jurisdictional conflicts and complicating enforcement.

This fragmentation reflects a broader deficiency in doctrinal coherence within Russian property law. Unlike in some continental European systems—such as Germany’s *öffentliche Sachen* (public things) or France’s *domaine public*—where public property is clearly distinguished from private state assets and governed by a specialized legal regime, Russian law lacks such a doctrinal distinction. As a result, public property is often treated as merely another category of civil-law ownership, neglecting its public-law dimension and socio-functional role in ensuring access to essential services and infrastructure.

The lack of a clear legal status also undermines the protection of public interest. When public assets are managed under general civil rules, courts and agencies tend to prioritize formal ownership and contractual freedom over substantive public goals—such as affordability, accessibility, and sustainability. This is particularly evident in cases where privatization or lease agreements have led to the exclusion of vulnerable groups from housing, healthcare, or recreational facilities.

To address this issue, the study suggests the need for doctrinal harmonization through the development of a special legal regime for public property. Such a regime could be codified in a dedicated federal law or a new chapter of the Civil Code, establishing clear criteria for inclusion in the public domain, defining inalienability and imprescriptibility for certain categories of assets, and introducing enhanced procedural safeguards for any transfer or encumbrance. Drawing on comparative models, this regime could incorporate the principle of functional public ownership, where property is classified not only by its owner (state or municipality) but by its purpose—e.g., social, infrastructural, or environmental.

Moreover, the Constitutional Court of the Russian Federation has increasingly emphasized the social function of property (Article 8 of the Constitution), particularly in rulings that limit the privatization of socially significant assets. These judicial interpretations provide a constitutional foundation for strengthening the legal protection of public property and could serve as a basis for legislative reform.

## II. Subsection Two: Institutional Fragmentation and the Challenge of Integrated Governance

The research findings highlight a critical structural flaw in the current system of public property management: institutional fragmentation and the absence of a unified governance framework. Responsibility for state and municipal property is dispersed across multiple levels of government and numerous agencies—federal (e.g., Ministry of Finance, *Rosimущество*), regional property departments, and local self-government bodies—without clear coordination mechanisms or centralized oversight. This multiplicity of actors leads to inefficiencies, duplication of functions, and accountability gaps, ultimately undermining the effective stewardship of public assets.

For example, while *Rosimущество* is formally tasked with managing federal property, its authority is often limited to strategic enterprises and does not extend to infrastructure managed by sectoral ministries (e.g., transport, healthcare, education). At the same time, regional and municipal authorities frequently lack the technical expertise, financial resources, or digital infrastructure to maintain accurate property registers or conduct

competitive leasing procedures. This decentralized and siloed governance model results in underutilized assets, unauthorized occupancy, and losses to the public budget—issues repeatedly flagged in reports by the Accounts Chamber of the Russian Federation.

Moreover, the lack of a strategic asset management policy at both federal and municipal levels exacerbates the problem. Unlike in countries such as the United Kingdom or Canada, where public asset registers are linked to long-term fiscal planning and performance evaluation, Russian institutions often treat property management as an administrative routine rather than a strategic function. There is no mandatory requirement for regular audits, lifecycle assessments, or cost-benefit analyses of public property use, which weakens incentives for optimization and innovation.

This institutional disarray also affects intergovernmental relations. Disputes over jurisdiction—such as whether a school building belongs to the municipality or the region—are common and often end up in arbitration courts, consuming time and resources. The absence of a clear delimitation of powers in property management legislation (e.g., Federal Law No. 131-FZ “On Local Self-Government” and No. 178-FZ “On State and Municipal Property”) further complicates coordination and enables regulatory arbitrage.

To address these challenges, the study suggests the need for institutional consolidation and functional integration. One viable option is the creation of a centralized public property agency with extended authority over federal, regional, and municipally significant assets, operating under uniform standards and reporting requirements. Alternatively, a coordinating interagency council under the Government of the Russian Federation could be established to harmonize policies, eliminate overlaps, and oversee cross-sectoral initiatives such as urban redevelopment or digital infrastructure deployment.

Additionally, the introduction of performance-based management indicators—such as asset utilization rates, revenue generation from leases, and public accessibility scores—could enhance accountability and support evidence-based decision-making. International experience shows that linking property management to broader public financial management reforms significantly improves transparency and efficiency.

Ultimately, overcoming institutional fragmentation requires not only structural reforms but also a cultural shift—from viewing public property as a static balance-sheet item to recognizing it as a dynamic resource for public value creation. Strengthening governance capacity at the local level, investing in training for municipal staff, and promoting inter-municipal cooperation are essential steps toward building a more coherent and resilient system of public asset management.

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