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MECHANISMS FOR IMPROVING THE POLICY OF STATE ENTERPRISE MANAGEMENT ON THE EXAMPLE OF THE AUTONOMOUS REPUBLIC OF ADJARA AND MUNICIPALITIES

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Abstract. The world experience confirms that the state-supported / operating enterprises are often inefficiently managed, which is a precondition for statization and privatization of state-owned enterprises. The policy of the state towards insolvent enterprise implies to conduct bankruptcy-liquidation procedures, however, at the same time, the establishment of the state-supported entrepreneurial entities is underway.

The most state-owned enterprises are unprofitable enterprises, which are also characterized by a very low degree of accountability, which in turn prevents formation of an optimal business strategy.

The main purpose of this paper is to study the mechanisms for improving the management policy of the enterprises owned by the Autonomous Republic of Adjara and municipalities and to develop proposals for its further implementation in practice.

The theoretical significance of the paper lies in the fact that the results of its main research can be used to further improve the legislative and normative acts in the field of management policy of the existing, as well as state-supported enterprises and enterprises supported by the Autonomous Republic of Adjara and municipalities, and the practical significance is reflected in the fact that the results, conclusions and proposals obtained in the process of researching the paper can be used directly in the field of management of the existing, as well as state-supported enterprises and enterprises supported by the Autonomous Republic of Adjara and municipalities

KEYWORDS: AUTONOMOUS REPUBLIC OF ADJARA, MUNICIPALITY, STATE ENTERPRISE, LEGISLATIVE NORMATIVE ACT.

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INTRODUCTION

It's worth mentioning that many notable papers have been published on state property management issues, but very few papers have been submitted directly on the management of enterprises owned by the Autonomous Republic of Adjara and municipalities and on improvement of management policy.

Based on the analysis of the legislative and normative base in the field of enterprise management and the assessment of the factual situation, specific examples of deviation from the goals of entrepreneurial activity, the facts of avoidance of the registration of enterprise and non-fulfillment of partner authorities have been identified. The Ways to improve enterprise management policy are suggested.

The following scientific ways and methods were used in the process of creating the paper, in particular: scientific methods, qualitative and quantitative methods, as well as comparative analysis have been used, which allowed us to analyze in detail the information provided by the Ministry of

Finance and Economy of the Autonomous Republic of Adjara, Batumi, Kobuleti, Khelvachauri, Keda and Khulo municipalities, including about the financial standing of the enterprises owned by them.

1. Overview of foreign experience in managing state-owned enterprises

The government can develop a strategy or policy that will benefit the public through specific decisions. For example, it can promote policies such as: encourage some state-owned enterprises to participate in international tenders, to take appropriate measures to operate a state enterprise in a competitive environment and to attract private capital. These policies may to some extent replace direct state control and state support in state-owned enterprises (LIOUKAS, et al., 1993).

Some companies established by state have a role that falls within the competence of the Ministry of Finance or the Ministry of Transport, for example. Instead of paying the

profits received by the state-owned enterprise to the state budget, state-owned enterprises finance projects such as state debt service; creating infrastructure and running costs; funding of health and education programs; subsidizing consumer fuel and purchasing weapons. This practice is a concern because it interferes with the analysis of the state budget (revenue and expenditure section), however, the given practice can be detrimental to the commercial viability of the company (The Natural Resource Governance Institute, 2015).

The monitoring of the management of a state enterprise and the vision for strategic leadership in different countries are as follows:

Chile - The independence of directors is protected by law, although the State Enterprise Oversight Agency (SEP) may give recommendations to the State Enterprise Supervisory Board. The council can independently appoint or dismiss the executive management of a state-owned enterprise.

Estonia – The directors of state-owned enterprises face the same responsibilities as private-owned enterprises. The members of the Supervisory Board of a state-owned enterprise are independent in implementing changes in the management of the enterprise. In some cases, the decision is made by the members of the Supervisory Board after consultation with the relevant ministry.

Israel - The Supervisory Board of a state-owned enterprise has the right to appoint the General Director of the company with the consent (approval) of the Ministry, who can be dismissed at its own discretion. The responsibilities of the Supervisory Board for corporate governance are based on the Enterprise Management Law and the State Enterprise Law.

Slovakia - In most state-owned enterprises, the Supervisory Board has the power to hire, control and change the management of a state-owned enterprise. The exception is public state-owned enterprises, the management of which can be changed only by the decision of the President of the Republic (Organisation For ..., 2011).

A number of countries have revised the law on state-owned enterprises, as well as adopted new laws and regulations to ensure the legitimacy of a shareholder of the state-owned enterprise.

Finland amended the Law enacted in 1991 in 2007 and adopted a new law on state capital management, which marked off the state regulatory function from the state property function, specified the decision-making powers and legal standards for corporate governance and state property management. In addition to the above, a state property policy document was issued in the same year, which is the most important document (rule) for the implementation of the activities of state-owned enterprises.

The Law on State Property, issued in Hungary in 2007, defines the rights of the state as the owner who can manage and dispose of (use) the property (The World Bank, 2014).

As for the privatization process in some countries, e.g. In Lithuania, a privatization commission is set up. The Privatization Commission is a state institution responsible for supervision on privatization in Lithuania. It consists of 7 members, 5 members of which (including the chairman) are appointed and dismissed by the government, and the other 2 members

are appointed and dismissed by the Lithuanian Parliament. The Privatization Commission is part of the Government of Lithuania, which has the following rights:

- Approve or reject the proposed privatization programs, agreements and list of strategic objects.
- Suspend privatization programs and / or declare them completed;
- Approve or deny the sale of state-owned or municipal-owned shares (OECD, 2015).

2. Retrospective analysis of the legislative framework on state property management

The public sector of the economy refers to the system of firms, institutions and organizations based on the state ownership base for the realization of economic, political, social or other functions by the state.

After the signing of the Act on Restoration of State Independence of Georgia (April 9, 1991), one of the first laws was the Law of the Republic of Georgia “On Fundamentals of Entrepreneurial Activity” of July 25, 1991 (Supreme Court Of Georgia, 2020), which is the predecessor of the Law of Georgia on Entrepreneurs of October 28, 1994.

According to the Law of the Republic of Georgia On Fundamentals of Entrepreneurial Activity, it was possible to establish 10 different types of entrepreneurial entities in Georgia, the volume of responsibilities of which was quite vague. According to the Law of Georgia on Entrepreneurs, the legal forms have been reduced to 6 entities and the definition of each legal entity and the rights and obligations of the partners have become clear (Parliament of the Republic of Georgia, 1994).

At present, the management and disposal of state property, including the state-supported enterprises, is carried out in accordance with the Law of Georgia on State Property adopted in 2010 (The parliament of Georgia, 2010).

From restoration of independence of Georgia until the adoption of this law (before 2010), 35 units of legislative-normative acts, regulating the management and disposal of state property, were repealed. As a rule, the requirements of the mentioned legislative acts were partially or not fulfilled at all.

The current Law of Georgia on State Property has been amended 44 times, which also indicates a non-homogenous approach towards this issue and the imperfection of the unified state policy. A retrospective analysis of the changes in the legislative framework showed that a large part was not focused on refining the state property management policy and the changes were mainly caused by the redistribution of powers between different government agencies at different periods.

3. Overview of the current state of management of the enterprises existing / operating (including transferred with right to manage) under the support of the municipalities of Autonomous Republic of Adjara

According to the data requested from state agencies, as of 01.01.2020, the Autonomous Republic of Adjara and its

municipalities own shares of 55 companies, of which only 27 entities (49%) are engaged in entrepreneurial activities provided by the charter. 2 entities out of the total number of enterprises are transferred to a third party with right of management; 10 entities are in liquidation / bankruptcy process and 16 entities are non-functional enterprises, which incur various expenses (including salaries) every year. (Ministry of Finance and Economy of the Autonomous Republic of Adjara, 2020); (Batumi Municipality City Hall Administration, 2020); (Keda Municipality City Hall, 2020); (Kobuleti Municipality City Hall, 2020); (Shuakhevi Municipality City Hall, 2020); (Khelvachauri Municipality City Hall, 2020); (Khulo Municipality City Hall, 2020).

According to the information provided by the municipalities of the Autonomous Republic of Adjara (official correspondence), it turns out that Batumi, Kobuleti, Khelvachauri, Keda and Khulo Municipalities missed the fact that they own a share in the enterprise of strategic importance for the Autonomous Republic of Adjara (it means that they own a share in Joint Stock Company "Ajara Water Alliance"), which should carry out the construction and rehabilitation of water supply and sewerage system in the municipalities of the Autonomous Republic of Adjara (JSC "Ajara Water Alliance" (AWA), 2017).

In addition to the above, the Ministry of Finance and Economy of the Autonomous Republic of Adjara did not register its 80% share in MINERAL Ltd until 2020, which was transferred to its ownership in 2010. As of today, the 100% share in "Kobuleti Tourist Center" Ltd, established in 2003, is not yet registered (National Agency of Public Registry, 2021).

The analysis of the issue revealed that state agencies do not register and manage the property owned by them (in this case, the shares in the company), which poses a high risk of destruction of state property.

4. Analysis of the financial standing of the enterprises under support of the Autonomous Republic of Adjara

The studies revealed that 7 of the enterprises under support of the Autonomous Republic of Adjara, recognized as "passively operating" enterprises, have a large amount of authorized capital in the amount of 7 639 556 GEL (1 USD = 3, 32 GEL). Since the formation of the authorized capital of the companies is based on cash and / or property contributions, we can conclude that the Autonomous Republic of Adjara has a contribution of 7,639,556 GEL to the companies as for today, which covers the period from its establishment until 01.01.2019 and does not provide any benefits to the state (State Audit Office, 2020).

The activities of Adjara Asset Management Company Ltd should be mentioned separately, the authorized capital of which as of 01.01.2019 consisted of 3 495 906 GEL. According to the charter, the main function of the company was defined as "searching, inventarization and disposal of the receivable and creditor claims in accordance with the current legislation. Due to the appropriate expediency, to be appointed as a director and to exercise leadership powers in the existing

shareholding companies under the support of the Autonomous Republic of Adjara". As of today, Adjara Asset Management Company Ltd has been appointed as a director of 13 companies and spends the necessary financial resources to perform this function. The given need would not have arisen in the conditions when in the past years, instead of disposing of the assets (mainly real estate) necessary for the activities of the companies, the shares of these companies would have been disposed of (privatized).

The result of inconsistent policies towards enterprises is the ownership of shares in enterprises in which the state agency does not have a decisive vote, at the same time, over the years it has not yielded any results other than losses to the founding partner, for example: JSC "Batumi Bus Station" (the share of the Autonomous Republic of Adjara consists of 30.91%), finished 2016 with a loss of 31,714 GEL; 2017 with a profit of 1,618 GEL and the financial statements of 2018-2019 have not submitted to the founding partner at all. Moreover, the given company has not transferred any amount to the budget of the Autonomous Republic in the form of dividends for years.

No less worse financial situation is in JSC "Gomarduli" (the share of the Autonomous Republic of Adjara consists of 10%). The company finished 2016 with 229 179 GEL and 2017 with a loss of 311,305 GEL. Like JSC "Batumi Bus Station", the management of JSC "Gomarduli" has not submitted the financial statements for 2018-2019 to the Ministry of Finance and Economy. Although the company owns 120,000 sq. m. of non-agricultural land in Gomarduli resort (which was given to the company by the Autonomous Republic of Adjara in exchange for 10% of shares in JSC Gomarduli), which is not actually used for the purpose for which it was transferred to the company.

Due to the given circumstances, it becomes necessary to consider which profitable enterprises have transferred funds in the form of dividends to the republican budget of the Autonomous Republic of Adjara.

As of 01.01.2020, from 38 companies operating under the support of the Autonomous Republic of Adjara, the number of companies transferring dividends during 2019 is 3, which is only 7.9% of the total number.

The analysis of the financial standing of the companies existing / operating the support of the the Autonomous Republic of Adjara shows that as of 01.01.2019, the volume of authorized capital of significant enterprises consisted of 178,998,732 GEL, and during 2018, the profit received from enterprises amounted to - 2,849,442 GEL, which is a meager 1.6% in relation to the volume of authorized capital. In Georgian legislation, the term "authorized capital" may be used with following meanings: the total amount of capital (total amount of contributions) while establishment of the company, the own capital of the company, the amount obtained by multiplication of the nominal value of shares on the number of shares and the total number of votes of the enterprise partners.

To demonstrate this, let us consider the ratio of the authorized capital of significant (incomplete) enterprises operating under the support of the Autonomous Republic of

Adjara in relation to the amounts credited to the budget as dividends over the years (see Table 1):

The ratio of the amount of authorized capital to the dividend paid to the budget of the Autonomous Republic and comparison with the refinancing rate of the National Bank.

From the above data, it is clear that the government of the Autonomous Republic, if it had invested the funds invested in the authorized capital of enterprises in commercial banks, would have received much more benefits than it has received in the form of dividends. As we know, the refinancing rate set by the National Bank is a benchmark for commercial banks in determining the interest rate on banking products.

5. Analysis of the financial standing of the enterprises under support of the municipalities of the Autonomous Republic of Adjara

From the presented information it is clear that the self-governing city of Batumi Municipality, Khelvachauri Municipality, as well as Kobuleti Municipality partially (in 2 cases out of 5 legal entities) do not have information on the financial ratio (profit / loss) of the enterprises operating under their support at the end of the financial year.

In the case of Batumi Municipality, none of the 11 enterprises in 2017 have transferred dividends to the municipal budget, while in 2017, 24 869 461 GEL was transferred from the municipal budget to increase the subsidy and authorized capital. In 2018-2019, only 2 enterprises (“Sandasuptaveba” Ltd and “Black Sea Flora and Fauna Research Center” Ltd) transferred dividends in the amount of 900,000 GEL and 838,000 GEL, respectively, in the conditions when 30 864 645 GEL and 27 191 659 GEL were transferred from the municipal budget for the management of enterprises in the same years. The profitability of 2 enterprises is also conditional, due to the fact that 500 000 GEL was transferred to the budget in the form of a dividend in 2018 by the company “Sandasuptaveba” Ltd, although in the same year, funding in amount of 8 041 603 GEL was received from the municipal budget. The given situation has not changed positively in 2019 either, in particular, the amount paid in the form of dividends amount-

ed to - 408 893 GEL, and the funding received - 9 502 302 GEL. Based on the data obtained, we can conclude that the Municipality of Batumi actually owns only one entrepreneurial entity - “Black Sea Flora and Fauna Research Center” Ltd, which operates in full compliance with the Law of Georgia on Entrepreneurs; as a profitable enterprise, it pays dividends to the founder / partner and does not receive any financial funds from him (400 000 and 429 107 GEL were paid to the budget as dividends in 2018-2019 respectively) (Batumi Municipality City Hall Administration, 2020).

The situation is similar in Khelvachauri municipality, namely: no information is available on the financial standing of 2017, 2018, 2019 of the enterprise “Khelvachauri Ts-kalkanali” Ltd, 100% of shares of which is supported by the municipality, the amount transferred to the municipal budget in the form of dividends in the given years amounted to 0 GEL, while the amounts received from the budget in the same years amounted to 1 682 997 GEL.

In case of Kobuleti Municipality, only one company (“Kobuleti Tskali” LLC) out of five entrepreneurial entities has paid a dividend to the municipal budget in amount of 1 612 923 GEL in 2017, 2018, 2019, which was again returned from the municipal budget in the same amount to the enterprise. In addition to the above, Kobuleti Municipality owns 100% of the share of “Football Club - Shukura” Ltd., which in 2018-2019 ended the financial years with quite solid profits - 3 282 143 GEL and 3 101 228 GEL. During the same periods, no funds in the form of dividends were transferred to the municipal budget by the given community, which indicates improper management by the municipality. However, Kobuleti Municipality, like other named municipalities, does not have information on the financial performance (profit / loss) of two out of five enterprises (Kobuleti Municipality City Hall, 2020).

We can ask a logical question, why are entrepreneurial entities created (founded) by the state (including the Autonomous Republic and municipalities) to perform the social function of the state, when it is logical to establish a legal entity of public law to perform this function?

To answer this question, let’s consider the current legislation. Pursuant to Article 12 of the Law of Georgia on Legal Entities of Public Law, a Legal Entity of Public Law established on the basis of state (autonomous republic) property may, with the consent of the state control body, perform the following actions:

Table 1

Volume of authorized capital of important (incomplete) enterprises (GEL)		Dividend paid to the budget of the Autonomous Republic (GEL)		Amount of dividend paid in respect of authorized capital -%	Monetary policy rate set by the National Bank of Georgia (refinancing rate) -%	
01.01.2017	75958902	2017	3222970	4,24 %	25.01.2017	6,75 %
01.01.2018	111312785	2018	2473157	2,22 %	31.01.2018	7,25 %
01.01.2019	178998732	2019	2547415	1,42 %	30.01.2019	6,75 %

Source: Table is compiled by the author.

- Determination of the budget (except for educational institutions), staff list and state fund (except for higher education institutions);
- Determination of the funds to be allocated for material incentives for employees, as well as the limits of fuel and communication expenses to be purchased by a Legal Entity of Public Law (except for educational and scientific research institutions) (The parliament of Georgia, 1999).

As for the Law of Georgia on Entrepreneurs, a person (director) authorized to manage / represent the company has the right to approve the staff schedule and incur any expenses (no limit set) related to entrepreneurial activities without the agreement of the founder-partner. However, the law does not set a maximum limit on the remuneration of a person authorized to represent the company, which is appointed by the directors by the individual decision of the founding partner (Parliament of the Republic of Georgia, 1994).

The decision on the appointment / dismissal of a person authorized to manage / represent a legal entity of private law of a municipality / municipalities in accordance with the charter (statute) of the relevant legal entity as a founder / partner / shareholder / member of a legal entity of private law is made by the executive body.

CONCLUSIONS, PROPOSALS, RECOMMENDATIONS

Within the conditions, when the main condition for the establishment of an entrepreneurial entity is to make a profit, which is ultimately a precondition for the transfer of funds in the form of dividends to the budget, the financial indicators of municipal enterprises look deplorable. Based on the given indicators, we can conclude that entrepreneurial entities are established by municipalities in order to fulfil their social function and do not serve to get profit at all.

2) The analysis of the data shows that instead of establishing legal entities of public law, the entrepreneurial entities are established, in which the amounts of staff and salary

rates are opaque to a scale that is severely distant from the socio-economic situation of Georgia. The reason for this may be the legal minimization of control over spending of public funds.

3) Prior to the establishment of an enterprise owned by the state, the Autonomous Republic of Adjara and the municipality, the potential founding partner must carry out the following steps in the field and meet the criteria order to establish an entrepreneurial entity in accordance with the objectives of the current legislation.

These stages and criteria include:

- Identification of the problem in the field;
- Identification of the goals to be achieved in the case of establishing an entrepreneurial entity, indicating the resources (including: human, material and financial) and deadlines needed to achieve the goals;
- Market research and analysis of a given segment;
- Study the probability of attracting private investment in a given field;
- Selection-substantiation of the legal form (Ltd., JSC, LEPL), taking into account the profitability parameter;
- Registration of an entrepreneurial entity, as well as regulation of registration of shares of state-owned, autonomous and municipal-owned enterprises on a single electronic platform (which will be connected to the electronic database of the "Entrepreneurial Registry") to exclude cases of non-registration of shares of enterprises;
- Approval and monitoring of short-term and medium-term business plans.

Prior to the implementation of the necessary measures for the registration of an entrepreneurial entity by the state agency, the compliance of the planned project with the criteria defined by the Law of Georgia on Public-Private Partnership shall be determined; if the criteria are met, an appropriate competition must be announced at least once. In the absence of a competitor, it is possible to start the registration procedures of an entrepreneurial entity for the implementation of a given project.

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