NATIONAL AUDIT OFFICE
OF THE REPUBLIC OF LITHUANIA

PUBLIC AUDIT REPORT

MANAGEMENT OF STATE ASSETS SUBJECT TO RENEWAL AND PRIVATISATION

16 January 2013, No. VA-P-60-1-1
Vilnius

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While implementing the state functions delegated thereto, the manager of state-owned real estate may transfer the property which is redundant or not fit (not possible) for use for privatisation or renewal. In case of both privatisation and renewal, the assets which are intended for the performance of the state functions and which are redundant or not fit for use are sold at auction.

For the purpose of privatisation of state and municipal assets and representation of the interests of the State in the management and use of state-owned property, a state enterprise State Property Fund[1] (hereinafter referred to as the Property Fund) was founded in 1998. Funds received from privatisation of property are accumulated in the Privatisation Fund. They are used to restore people's savings and to re-establish the Reserve (Stabilisation) Fund, to implement national

[1] Law of the Republic of Lithuania on the State Property Fund No. VIII-482 of 4 November 1997 (version of Law No. VIII of 7 July 1999, as amended), Art. 5(1), paragraphs 1-2..

programmes approved by the Government, and to cover privatisation expenses[2]. Assets which are redundant or not fit for use are included in the List of Privatisation Objects[3]. As on 30 June 2012, there were 956 state-owned objects on this List.

With a view to upgrading or renewing the assets managed thereby, from 1998 to the middle of 2006 managers of state assets could exchange real estate between themselves or with private sector entities under exchange agreements. When property exchange was repealed, as from 2007 managers of state assets have been given a possibility to renew real estate which fails to meet their needs in the performance of state functions. The functions of organisation and coordination of the renewal of state-owned real estate were delegated to the state enterprise Turto bankas[4] (Bank of Property) which used to be in charge of the management, use, disposal and sale of non-performing assets taken over from restructured banks[5]. The property failing to meet the needs of state institutions while performing state functions is entered on the List of Renewable State-Owned Real Estate. As on 30 June 2012, the List contained 289 real estate objects. Funds which will be received from the sale of these objects are planned to be used for the renewal of 30 objects. Funds received from the sale of redundant property, or of property no longer fit for use, are used only for the renewal of the property of the manager of state assets.

During the audit an analysis was carried out of the privatisation and renewal of the property which is not necessary for the State or not fit (not possible) for use.

The objective of the audit was to assess effectiveness of the management of state assets subject to renewal and privatisation and effectiveness of the management of state assets not subject to privatisation which has been transferred for management.

The scope and methods of the audit as well as the abbreviations used and definitions are provided in Annex 1 of the Report.

The audit was conducted on the assumption that all documents presented to the auditors were comprehensive and final and that copies of the documents corresponded to the originals.

The audit conclusions and recommendations provided below were drawn upon assessment of the audit findings.

Audit conclusions

[2] Resolution of the Government of the Republic of Lithuania No. 152 of 6 February 1998 on the approval of the Procedure of the use and accounting of funds of the Privatisation Fund (on the approval of the Rules of the use and accounting of funds of the Privatisation Fund), paragraphs 20–23.

[3] Resolution of the Government of the Republic of Lithuania No. 228 of 23 February 1998 on the approval of the List of Privatisation Objects (version of Resolution No. 497 of 9 May 2007, as amended).

[4] Law of the Republic of Lithuania on the Management, Use and Disposal of State and Municipal Assets, No. VIII-729 of 12 May 1998, No. VIII-729 of 12 May 1998 (version of Law No. IX-900 of 23 May 2002), Art. 16(4).

[5] Law of the Republic of Lithuania on the Approval of the Articles of Association of the Joint-Stock Company Turto bankas, No. I-1502 of 22 August 1996, Chapters II and III.

On the management of state assets subject to privatisation:

1. As on 30 June 2012, there were 956 state-owned objects on the List of Privatisation Objects. Privatisation procedures cannot be initiated in respect of more than half of them due to the following reasons:

1.1. The List of Privatisation Objects submitted to the Government for approval by the Property Fund contained 81 undeveloped privatisation objects (incomplete legal registration, absence of formed separate items of property), therefore the Fund did not take over these objects within the established time limit;

1.2. State land plots have not been formed for 367 objects from the List of Privatisation Objects. The List contains neglected buildings in poor condition, also included in the Register of Cultural Valuables (such as bastilles, dugouts, bunkers, etc.), which stand on land of different purpose. It is difficult to form state land plots for such objects, therefore the formation process has been lasting for more than five years.

1.3. 23 objects on the List of Privatisation Objects have been made available for use pursuant to Government resolutions, so they cannot be privatised until the expiry of the Loan for Use Agreements;

1.4. Legal disputes have been going on in respect of 10 objects contained the List of Privatisation Objects; no real estate improvement costs have been set;

2. The Property Fund has not taken all possible steps to establish easements providing access to 28 state-owned privatisation objects managed by the right of trust which are situated on privately-owned land. As a result, the Fund could not manage these objects in a proper manner and could not provide for possibilities for their privatisation.

3. Until 2002, the Property Fund took over the management of state-owned holdings of shares in 68 non-operating companies. These companies no longer engage in any activities, they do not provide financial statements and other information, other shareholders and administration have not been found. As on 30 June 2012, these companies were not liquidated by the Property Fund.

On the management of renewable state-owned real estate:

4. The renewal of state-owned real estate has not been efficient because only two (out of 30) real estate objects have been renewed since the start of the renewal, i.e. since 2007. Renewal deadlines for 18 objects have been extended from one year to six years due to the following reasons:

4.1. Harmonisation of the terms of the Agreement on the Renewal of State-Owned Real Estate takes more than one year, although the key provisions of the renewal of state-owned real estate are agreed on prior to the inclusion of the property in the List of Renewable State-Owned Real Estate.

4.2. Revenues planned to be received from the sale of state-owned real estate provided in a relevant Government resolution[6] were too optimistic; as a result, in most cases less money is received from the sale of the property, which is not sufficient to renew assets. The difference between the planned revenues and the amount actually received may have to be covered from the State budget.

4.3. Auctions may be organised only for unoccupied real estate; if such property is occupied by the asset manager, it may not be sold. Since the managers of state assets were engaged in activities in 20 objects offered for sale, the selling process has become very lengthy.

5. The assets offered for sale have been managed insufficiently rationally because of the lengthy sale of the objects, which, in its turn, is due to the real estate market stagnation. Consequently, the care and maintenance costs of the objects are going up but the property cannot be leased until its sale.

Audit recommendations

To the Government of the Republic of Lithuania:

Taking into account that the draft Law on the Manager of Centrally Managed State Assets[7] submitted to the Seimas of the Republic of Lithuania provides for transferring the management, use and disposal of state-owned real estate to one entity which will be founded after reorganisation, by way of merger, of the bank Turto bankas and the Property Fund and which will have to ensure continuity of the performance of the functions delegated to the companies, the following recommendations are provided:

On the management of state assets subject to privatisation:

1. With a view to ensuring accuracy of the List of Privatisation Objects, to review and evaluate expedience and feasibility of privatising the objects contained on the List.

On the management of renewable state-owned real estate:

2. To introduce measures to ensure that the revenues planned to be received from the sale of assets when planning renewal of state-owned real estate for which funds will have to be borrowed are assessed with caution, taking into account potential risks.

3. Aiming at more rational renewal of state-owned real estate, to provide for the following in relevant legislation:

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[6] In the List of Renewable State-Owned Real Estate approved by Resolution No. 1082 of the Government of the Republic of Lithuania of 10 October 2007 (version of Resolution No. 194 of 15 February 2012).

[7] Draft Law of the Republic of Lithuania on the Manager of Centrally Managed State Assets No. XIP-3944 of 8 December 2011.

3.1. a deadline by which the asset manager and the bank Turto bankas shall sign an agreement on the renewal of state-owned real estate;

3.2. a possibility to sell real estate occupied by the asset manager in cases when clear deadlines of vacating the occupied premises have been set and when costs of lease of this property from the auction winner have been estimated;

3.3. a possibility for the bank Turto bankas to lease state-owned real estate transferred thereto until its sale, observing the procedure established by the Government.

To the state enterprise State Property Fund:

4. To take all appropriate legal measures to properly prepare objects subject to privatisation which are situated on privately-owned land for privatisation.

5. To take measures to liquidate non-operating companies.

It should be noted that in 2011 the Ministry of Justice of the Republic of Lithuania drafted the Law on the Amendment and Supplement of Articles 2.46, 2.70, 2.106, 2.108 of the Civil Code of the Republic of Lithuania[8] *the adoption of which would simplify liquidation of legal entities.*

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[8] Draft Law No. 11-2690-02 of 10 October 2011 [accessed on 20 September 2012: http://www.lrs.lt/pls/proj/dokpaieska.showdoc_l?p_id=108195]