



Executive summary of the public audit report

STATE CONTROL OF LAND USE

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DEFINITIONS

Provisions refer to the provisions of the state control of land use¹.

Point of the provisions refers to the points 4.1-4.12 of the provisions of the state control and land use (see appendix No. 2).

Territorial divisions or divisions refer to the territorial divisions of the National Land Service.

The major purposes of the land use refer to the major direction of the use of land, caused by the natural characteristics, traditional human activity, as well as the need for social and economic development, defined in territorial planning documents or land holding project, which determines the conditions of the planning of a particular territory and land use conditions³.

Surface water body refers to an identified significant part of the aquatic environment on the surface of land, which may be: a river or its part, a channel, a lake, a pond or a quarry turned into a water body. The term of a surface water body also includes transitional or coastal waters⁴.

Landmark refers to a mark establishing the boundaries of a land parcel in a certain area and complying with a standard set by an institution authorised by the Government and legally protected by the law⁵.

Special land use conditions refer to the restrictions on economic and/or any other activities established by laws or resolutions of the Government that depend on geographical position, adjacencies, the principal specific purpose of land use, the method and nature of the use of a land parcel and the needs of the structures located on the land parcel as well as the environmental needs⁶.

Land user refers to the owner of the land or any other natural or legal person, a foreign organisation or a subsidiary of a legal person or a foreign organisation, using the land on the basis stipulated by the law, administrative acts, court decisions, contracts or on other legislative basis⁷.

Land parcel refers to a part of a territory having fixed boundaries, cadastral data and registered with the Real Property Register.⁸

Method of a land parcel use refers to activity stipulated in the territorial planning documents or land holding projects and permitted on the land of principal specific purpose of land use⁹.

Boundary of a land parcel refers to a boundary between adjacent land parcels marked by landmarks or coinciding with stable landscape elements and graphically marked on the plan of a land parcel¹⁰.

1 Approved by the Resolution of the Government of the Republic of Lithuania No. 1244 of 12-12-1994, *Regarding the Approval of the Regulations for State Control of Land Use* (amendment No. 1303 of 20-10-2004 with all further amendments).

2 Ibid.

3 The Law on Land of the Republic of Lithuania No. I-446 of 26-04-1994 (amendment No. IX-1983 of 27-01-2004 with all further amendments), art. 2, pt. 1.

4 The Law on Water of the Republic of Lithuania No. VIII-474 of 21-10-1997 (amendment No. IX-1388 of 25-03-2003 with all further amendments), art. 3, pt. 18.

5 The Law on Land of the Republic of Lithuania No. I-446 of 26-04-1994 (amendment No. IX-1983 of 27-01-2004 with all further amendments), art. 2, pt. 3.

6 Ibid. Art 2, pt. 4.

7 Ibid. Art 2, pt. 11.

8 Ibid. Art 2, pt. 14.

9 Ibid. Art 2, pt. 16.

10 Ibid. Art 2, pt. 19.

EXECUTIVE SUMMARY

Appropriate use of land as a limited resource is a condition of the survival and development of humanity and the society, as well as the basis of the nation's well-being. The duty of the state is to ensure the land's protection and rational use¹¹. One of the methods of protection is the state control of land use, the purpose of which is to ensure the implementation of the legal acts defining the use of land¹². The state policy in the field of state control of land use is formulated by the Ministry of Agriculture, while the control is organised and implemented by the National Land Service under the Ministry of Agriculture¹³.

The public space is full of reports about land plots overgrown with grass and bushes, which not only ruin the landscape view, but also raise the concert of the owners of the neighbouring land parcel owners, as well as arbitrarily occupied private or state land. There are a lot of disputes regarding the holiday cottages standing on the state-owned land in Šventoji, as well as other land use-related issues. The state control of land use helps to solve problems or disputes between land owners and users. Without the state control the only way to solve disputes regarding inappropriate land use, arbitrary occupation or other issues would be taking them to court.

The purpose of this audit is to assess, whether the state control of the land use is organised and implemented appropriately, which includes:

- checking, whether inspections are carried out according to all the provisions of the state control and land use ;
- determining if the application of the provisions of the state control and land use is clear;
- inspecting, whether the violations of the land use, identified by the territorial divisions of the National Land Service, are eliminated;
- checking the efficiency of the state control of land use in the territory of the Baltic seaside, which is valuable for its landscape complexes, recreational, economical and scientific significance.

The audit was performed at the Ministry of Agriculture and the National Land Service under the Ministry of Agriculture by auditing nine (out of fifty) territorial divisions: Vilnius city, Vilnius district, Švenčionys, Utena, Varėna, Panevėžys, Palanga, Klaipėda district and Trakai. During the period of 2011-2013 these divisions performed 3 501 inspections (23% of the inspections carried out by all 50 territorial divisions during that period). We gathered information from the following institutions: The Environmental Protection Agency, National Environmental Protection Agency, State Plant Service, Lithuanian Geological Survey, State Territorial Planning and Construction Inspectorate, Department of Cultural Heritage, National Paying Agency, Klaipėda Regional Environmental Protection Department, Palanga City Municipality Administration, Vilnius Gediminas Technical University and the PI Centre of Registers.

The audit included the period of 2011-2013. The evaluation of changes included some data from the later period.

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

¹¹The Resolution of the Constitutional Court of the Republic of Lithuania (<http://www.lrkt.lt/Dokumentai2006.html>).

¹²The Provisions of the State Control of Land Use approved by the Resolution of the Government of the Republic of Lithuania No. 44 of 12-12-1994, *Regarding the Approval of the Regulations for State Control of Land Use* (amendment No. 1303 of 20-10-2004 with all further amendments), pt. 1.

¹³Territorial divisions can report violations to other institutions implementing state control of territorial planning and construction, natural resources and protected territories, water bodies and other types of control.

CONCLUSIONS

The state policy in the field of state control of land use is formulated by the Ministry of Agriculture. The employees of territorial divisions appointed by the head of the National Land Service must monitor, whether land owners and other land users carry out the obligatory land use duties. However, the auditors found out that the development, organisation and implementation of the policy of the state control of land use does not receive sufficient attention:

1. The provisions of the state control of land use are ambiguous, while the National Land Service, being responsible for the implementation of this control for already the fifth year, has not yet introduced methodological recommendations or their more detailed explanation. The employees of the territorial divisions audited encounter a problem of being unsure how to carry out certain actions related to the state control of land use and thus 81% of the employees surveyed confirmed the need for more detailed explanations (chapter 3).
2. Territorial divisions are not appointed to carry out repeated inspections to check, whether the violations of land use were eliminated and they fail to take all possible steps to ensure that. Thus the nine territorial divisions audited do not have any data about the status of 46% cases of violations. The public auditors have determined that 51 out of 76 repeatedly inspected land parcels did not rectify the violations identified by the audited territorial divisions (chapter 2).
3. The inspections of 2011-2013 were not carried out according to all the Provisions of the State Control and Land Use:
 - 3.1. None of the 50 territorial divisions inspected if the land owners and users do not destroy or damage scientific equipment and if they allow and protect the construction of geodetic markings in their buildings and land. The Ministries of Environment and Agriculture, as well as the National Land Service, Environmental Protection Agency, Lithuanian Geological Survey and Gediminas Technical University knew nothing about that equipment and markings (subchapter 1.3).
 - 3.2. 49 (out of 50) territorial divisions did not check if the land owners and users prevent other persons from visiting territorial complexes and objects of natural and cultural heritage. This function was appointed to the officers of the territorial and municipality environmental protection divisions under the Department of Cultural Heritage (subdivision 1.1).
4. Although the Ministry of Agriculture defines the priorities of the state control of land use every year, the priority to inspect the public access to surface water bodies has not been mentioned for already five years in a row. Therefore, such inspections during the period of 2011-2013 were scarce, performed only by four (out of 50) territorial divisions. And thus, the long-term issue of enclosed water bodies has not been tackled (subchapter 1.2).
5. The auditors inspected 15 (out of 26) land parcels, the owners of which received administrative fines for neglected and abandoned land and the violations were not eliminated. This is because the current size of a fine, which is too small and does not depend on the area of the neglected land, does not have a disciplining effect. Neglected land parcels not only ruin the landscape view, but bring losses to the neighbouring farmers (chapter 4).
6. Insufficient state control of land use in Šventoji settlement of the Baltic coastal area (chapter 5):

- 6.1. The 170 land parcels for holiday cottages cannot be formed before the cottages are registered with the Real Property Register. The National Land Service does not use all available sources of information to identify the owners of the holiday cottages and thus does not have sufficient information about all the owners and the exact number of the cottages to this day.
- 6.2. 215 cottages are included in the Real Property Register, but the land parcels they stand on have not been properly created, and land lease agreements have not been made with the parcel owners. Therefore, there is no information on allowed economic activities or restrictions applicable to these parcels. This leads to deterioration of recreational areas and non-compliance to environmental protection requirements.
- 6.3. During the audit six of the holiday cottages standing in the coastal area, where construction works are forbidden, were under reconstruction, in violation of the Law on Construction art. 12, pt. 1, p. 4 and the art. 23, pt. 1, p.5, since the reconstruction works were carried out arbitrarily, without the written consent of the land owner (the National Land Service). However, the National Land Service did not report the arbitrary reconstruction works to the State Territorial Planning and Construction Inspectorate, which began the investigation only after receiving this information from the auditors.
7. 193 holiday cottages stand on 40 ha of forest land of national importance, which belongs to the Republic of Lithuania and where land parcels have not been formed. Until there are no indications of allowed economic activity or restrictions regarding this land, road building, communication and construction works may damage the forest (chapter 5).

RECOMMENDATIONS

For the Ministry of Agriculture of the Republic of Lithuania:

1. In order to achieve more efficient implementation of state control of land use and more rational use of the human resources it is necessary (conclusions 1 and 3):
 - 1.1. to assess, whether it is rational for the employees of territorial divisions to continue inspections according to all twelve points of the Provisions of the State Control of Land Use (from 4.1 to 4.12);
 - 1.2. to prepare a project for the Provisions of the State Control of Land Use, defining what should be inspected during the implementation of the state control of land use.
2. Considering the public interest to access water bodies, defended by the law, and seeking to solve the long-term problem regarding enclosed water bodies, the inspections of access to surface water bodies should be regarded as one of the priorities (conclusion 4).
3. In order to preserve the valuable landscape complexes and the territories of recreational and scientific value in the Baltic coastal area, the inspections at Šventoji settlement should be regarded as one of the priorities (conclusions 6 and 7).
4. Seeking to discipline land parcel owners and users, making them take care of their land, it is necessary to initiate amendments to the art. 100 of the Code of Administrative Offences and define larger and differentiated administrative fines, the size of which depend on the area of the neglected land (conclusion 5).

For the National Land Service under the Ministry of Agriculture:

1. Seeking to ensure the elimination of land use violations, it is necessary to confirm a description of the procedure of the state control of land use (conclusion 2).
2. In order to clarify the procedure of the state control of land use to the employees of territorial divisions, it is necessary to define inspection procedures according to each point of the Provisions of the State Control of Land Use (conclusions 1 and 3).

The measures and terms of the implementation of recommendations are provided in the Appendix 4 of this report "The plan of implementation of recommendations".