Executive summary of the public audit report

FUND AND ASSET MANAGEMENT AT THE KAUNAS REMAND PRISON

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DEFINITIONS AND ABBREVIATIONS

Disposal of assets – the right to sell, transfer, rent out or pledge assets, or change their legal status otherwise[1].

Financial control – part of the internal control system of a public legal person, designed to ensure the legality of the economic activities of said public legal person, as well as compliance with reliable financial management principles, namely – cost-effectiveness, efficiency, and transparency[2].

Stock-taking – an assessment of assets and commitments, and comparison of their identified residuals with accounting data[3].

Prison Department – the Prison Department under the Ministry of Justice of the Republic of Lithuania.

Assets – material, intangible, and financial values, which are managed, used and (or) disposed of by an economic entity in order to gain economic benefits[4].

Liquidation of assets – the destruction of assets written off in accordance with the procedure specified by the Government, or their transportation to the landfill[5].

Use of assets – the application of the beneficial features of assets in order to meet the needs of the user[6].

Asset write-off – withdrawal of assets from circulation or places of storage, in cases where such assets are transferred or liquidated, in accordance with the procedure specified by the Government[7].

Asset management – the right to effect physical and economic impact on assets in accordance with the procedure specified in legislation[8].

Internal control – a system develop by the head of a public legal person which encompasses all forms of control and is intended to ensure the legality, cost-effectiveness, efficiency, and transparency of the activities of said public legal person, as well as the implementation of strategic and other plans, the protection of assets, the reliability of information and reports, the compliance with contractual and other commitments to third persons, and the management of any related risks[9].

[1] Law on the Management, Use and Disposal of State and Municipal Assets of the Republic of Lithuania No. VIII-729 of 12 May 1998 (as amended by the Law No. XII-802 of 25 March 2014), Article 2, Paragraph 1.

[2] Law on Internal Control and Internal Audit of the Republic of Lithuania No. IX-1253 of 10 December 2002, Article 2, Paragraph 2.

[3] Subparagraph 5.2 of the Stock-Taking Rules approved by Order No. 719 of 03 June 1999 of the Republic of Lithuania (as amended by Order No. 1070 of 03 October 2014).

[4] Law on Accounting of the Republic of Lithuania No. IX-574 of 06 November 2001, Article 2, Paragraph 17.

[5] Law on the Management, Use and Disposal of State and Municipal Assets of the Republic of Lithuania No. VIII-729 of 12 May 1998 (as amended by the Law No. XII-802 of 25 March 2014), Article 2, Paragraph 7.

[6] Ibid., Article 2, Paragraph 8.

[7] Ibid., Article 2, Paragraph 9.

[8] Ibid., Article 2, Paragraph 11.

[9] Law on Internal Control and Internal Audit of the Republic of Lithuania No. IX-1253 of 10 December 2002, Article 2, Paragraph 7.

Financial statements of a public sector entity – a periodically prepared, legally defined statement which contains financial data on the financial condition, results, and cash flow of a public sector entity, in accordance with the form specified by the standards of accounting and financial accountability of the public sector[10].

[10] Law on the Accountability of the Public Sector of the Republic of Lithuania No. X-1212 of 26 June 2007, Article 2, Paragraph 26.

SUMMARY

The Prison Department and 17 of its subordinate institutions are implementing national penal and probation policy intended to make the execution of sentences a means of reforming individuals who had committed a crimes; to help ex-prisoners better integrate back into society; and to modernise the functioning of places of incarceration, and change the attitudes towards convicts.

The Prison Department under the Ministry of Justice of the Republic of Lithuania methodically leads and controls the functioning of probation services and places of incarceration[11].

During the implementation of the State Consolidated Financial and Budgetary Execution Statement Audit in 2016, as well as the State Budget Implementation Assessment Audit implemented during the same year[12], we have determined a number of significant risks related to the legality of fund and asset management, use, disposal, and record-keeping at the Kaunas Remand Prison.

Having assessed the risk factors that affect certain areas of audit, we have implemented an audit at the Kaunas Remand Prison. The aim of the audit was to assets the use of funds of the state budget of 2016, the management, use, and disposal of state assets, contracts with third persons, and the implementation of commitments at the Kaunas Remand Prison. The Prison implements state policy in executing a measure of supervision – arrest – and performs functions relate to the electronic monitoring of convicted individuals.[13].

Outcomes of the present audit have shown that both financial and other information fails to provide the basis for making sound decisions regarding the management of funds and assets – budget funds and state assets are being used irresponsibly. Internal control, including financial control, fails to ensure that the Prison would function in accordance with the procedure specified by the law and other legal acts; that budget funds, state assets and commitments to third persons would be protected against fraud, embezzlement, appropriation, illegal management or other unlawful activities; and that principles of reliable financial management would be complied with.

The Ministry of Justice is developing penal and probation policy which is implemented by its subordinate Prison Department. For this reason, we have informed the Ministry of Justice of our findings. The actions of the Ministry in addressing the current situation will also be subject to assessment.

Having assessed the evidence collected during the audit, we present the following audit findings and recommendations.

CONCLUSIONS

[11] Paragraph 1 of the Provisions of the Prison Department under the Ministry of Justice of the Republic of Lithuania, approved by Order No. 1R-58 of 28 February 2012 of the Minister of Justice of the Republic of Lithuania.

[12] The audit will be completed in the 3rd quarter of 2017.

[13] Paragraph 1 of the Provisions of the Kaunas Remand Prison, approved by Order No. 1R-65 of 06 March 2014 of the Minister of Justice of the Republic of Lithuania.

1. The financial and other information of the Kaunas Remand Prison fails to provide the basis for sound decisions regarding the management of funds and assets, because the system of accounting fails to ensure the reliability of data on assets and commitments – a significant part of the accounting data on long-term material assets, reserves and commitments is unreliable and not based on stock-taking data; financial reports fail to provide a real and accurate representation of the situation, because the accounting information provided in said reports is untraceable, inappropriate, incomparable, incomprehensive, and not useful to internal and external information users; unused assets are not written off, liquidated or realised otherwise. Such an asset and fund accounting system fails to contribute to the appropriate protection of assets and funds from potential embezzlement, appropriation and other unlawful acts (Chapter 1).
2. The Kaunas Remand Prison disposed of its assets irresponsibly by renting it out and transferring it for use in ways and cases not specified in legislation. For this reason, it had failed to receive any income from the use of its assets; paid the expenses related to the use of rented out assets; and provided a private legal person with the conditions necessary for obtaining benefit under non-competitive conditions by (Chapter 2):
    2.1. allowing a private legal person who provides catering services to use premises and assets owned by the Prison free of charge, which resulted in the failure to receive 1,500 Eur of income. Furthermore, it had paid 1,500 Eur in utility bills incurred by said private legal person;
    2.2. allowing the lessee to use a new piece of equipment (11,700 Eur) without providing a rent agreement and without recalculating the price of rent, which resulted in the failure to receive 2,000 Eur of income; in extending an asset rent agreement in 2016 and 2017, the Prison had failed to recalculate the rent rate for the following year;
    2.3. entering into an additional agreement to the rent contract with a private legal person engaged in the provision of catering services, providing it with the right to use rented state assets in order to provide a service which is not related to the main one, thereby providing said private legal person with the opportunity to receive benefit under non-competitive conditions;
    2.4. failing to extend the rent agreement which had concluded in 2016 and allowing a private legal person to keep renting premises, even though all amendments to the contract should have been signed by both parties;
    2.5. providing another institution subordinate to the Prison Department, namely the Kaunas Probation Service, to use its premises without any legal basis for such.
3. The system for the planning and implementation of repairs in the Kaunas Remand Prison is defective. Repairs are planned inappropriately, are not based on any real need, estimates are not provided, and construction materials necessary for carrying out individual tasks are not specified. During repairs, the quantities of procured and implemented construction materials are not controlled, their use is not documented, construction materials are written off without reference to any norms regarding their use, and no information is provided regarding what specific tasks the construction materials were used for. Warehouse documents fail to represent the factual quantity of assets, because most of the goods and construction materials are written off not after the conclusion of specific tasks, but only before the annual stock-taking. The control of asset quantity, quality and contract conditions is implemented inappropriately, because assets that have not been received do not figure in the accounting. This creates the conditions for inefficient and irrational use of funds and assets (Chapter 3).

4. Decisions regarding the use of funds and commitments to third persons at the Kanas Remand Prison violate the principles of legality and reliable management of finances; budget funds are use irresponsibly (Chapter 4):
    4.1. in 2016, having a large amount of residual assets, the Prison had bought assets of the same type, even though said assets were either used minimally or not at all, which had led to an almost three-fold increase in residual assets at the end of the year;
    4.2. at the end of the budgetary year, having no contractual obligation and without assessing the risk of loss of assets, the Prison had paid the entire sum (57,000 Eur) specified in its contracts to suppliers in advance, even though the latter did not provide appropriate assurance of the implementation of commitments;
    4.3. in order to obtain funding for the modernisation of its buildings, the Prison had bought energy audit and investment project preparation services (11,900 Eur) from a private legal person, who had no right to implement energy audits. The Prison had entered into a defective agreement, which had allowed a private legal person to employ third persons for the implementation of an energy audit without prior consent on the part of the Prison;
    4.4. the Prison had paid 2,100 Eur for a service which was not actually provided (the investment project for the building at Kęstučio Str. 37, Kaunas, was not prepared), had failed to calculate and request the payment of a 1,400 Eur fine. Without being in possession of all necessary documents, the Prison will not be able to submit a financing request for the modernisation of the aforementioned building, which makes it likely that the 3,700 Eur paid from the state budget will be used irrationally;
    4.5. the Prison had provided an opportunity to pay premiums to its employees for additional work done during the entire year, because it did not eliminate positions that had not been occupied for longer than a year, and did not assign the function to an employee responsible for its implementation. Furthermore, the Prison had paid its employees premiums they were not eligible for (7,400 Eur) and for work that was not actually performed (1,900 Eur).

RECOMMENDATIONS

In order to ensure legal and appropriate management, use and disposal of the funds and assets of the Kaunas Remand Prison, as well as to have the correct accounting data, and to ascertain the validity of assets and assumed commitments, we recommend the following:

To the Prison Department

1. Ensure the implementation of a stock-taking of all the assets, reserves and commitments of the Kaunas Remand Prison, and the determination of correct accounting data with regards to the outcomes of the stock-taking (Conclusions 1 and 3).

2. Take action regarding the determination of the responsibility of guilty individuals, and seek redress for any damage incurred to the Prison (Conclusions 2 and 4).

To the Kaunas Remand Prison

3. In order to reduce the expense related to the management of the institution, reorganise the personnel structure of the Kaunas Remand Prison; eliminate positions that are not

necessary for the implementation of the functions assigned to the Prison, and supplement the descriptions of the duties of employees with the functions they are assigned to implement (Conclusion 4).

The measures for and terms of the implementation of recommendations are supplied in the recommendation implementation plan.