Executive summary of the audit report

THE MANAGEMENT OF STATE REAL ESTATE

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Full audit report in Lithuanian available on the website of the National Audit Office at: www.vkontrole.lt

SUMMARY

Relevance of the Audit

State-owned real estate is one of the means necessary to implement state and municipal functions. Towards the end of 2016, there were[1] 28 100 objects of state-owned real estate managed by 726 assets managers. The total area of these objects is 10.4 million square metres, with a residual value of 3 billion Eur. Almost a half of the aforementioned objects are intended for engineering and auxiliary facilities purposes, although their residual value is relatively low. The most valuable objects are those intended for administrative, educational and special purposes. In 2016, the maintenance of the state-owned real estate amounted to almost 180 million Eur.

These assets are not ends in themselves – they must provide value to society, and need to be managed in a rational manner[2]. Case-law has emphasised that state- and municipal-owned assets should be used only for the purposes of serving public interest. Public interest is generally considered to be that which is objectively meaningful, necessary, and valuable to the entire society or a part of it[3]. Therefore, such assets should be managed, used, and disposed of in accordance with the principles of public benefit, efficiency, rationality, and public law[4].

Managers of state assets are not always interested in managing the state-owned real estate in an efficient manner[5]: they often fail to assess how much of it is necessary for the implementation of functions, how much of it is used for unrelated purposes, etc. Furthermore, some of the related maintenance costs are frequently left unconsidered. It should be noted that some of the issues regarding the state-owned real estate, e.g., those related to the management of assets owned by universities and medical establishments, have already been identified in previous audit reports by the National Audit Office[6].

The Objective and Scope of the Audit

The objective of the audit was to assess whether the directions of the management of state-owned real estate in place provide the opportunity to address the management issues of such assets, and whether the said assets are being used to serve the public interest.

The audit was carried out in 14 ministries, the National Land Service under the Ministry of Agriculture, and the SE "Turto Bankas". Data was also collected from another 114 establishments responsible for the management of the state-owned real estate or those which have transferred the state-owned real estate intended for administrative purposes to the SE "Turto Bankas" for centralised management.

[1] In accordance with the data for the end of 2016 submitted by the State Enterprise "Turto Bankas" to the ISSSA (*Information Search System of State Assets*).
[2] Ruling of the Constitutional Court of 30 September 2003, 08 July 2005, and 05 July 2007.
[3] Court of Appeal of Lithuania, case No. 2A-316-302/2016 of 05 May 2016.
[4] Article 9 of the Law on the Management, Use and Disposal of State and Municipal Assets of the Republic of Lithuania of 12 May 1998, No. VIII-729 (amended version of the law No. XII-802 of 25 March 2014, including later amendments).
[5] Paragraph 10.4 of the 2009-2016 Strategy for the Management of Centralised State Assets, approved by Order No. 1597 of the Government of the Republic of Lithuania, issued on 25 November 2009.
[6] "Are the assets of state universities managed and used consistently: for the scientific activities and studies" on 30 June 2017 and "The management of state assets transferred to public health care institutions" of 20 April 2017.

Audited period – the year 2016. When analysing certain changes we also used data from other time periods. Assessment of real estate transferred to municipalities was conducted on the basis of data from 2012-2016.

The audit was carried out in accordance with the Public Audit Requirements and the international standards of supreme audit institutions. A more detailed description of audit scope and methodology is provided in Annex 2, "Audit Scope and Methodology ". The audit was carried out on the assumption that all documents submitted to the auditors were correct, complete, and final, and their copies match the originals.

Conclusions

1. Decisions made by the Seimas and the Government responsible for the implementation of the functions assigned to the owners of state-owned real estate regarding the management of these assets are not always oriented towards the assurance of maximum public benefit. Long-term guidelines regarding the management of all the state-owned real estate are lacking both in the institutions responsible for implementing the ownership functions and in the Ministry of Finance responsible for developing the relevant policies. Discussions on the potential ways of making use of such property in order to obtain maximum benefit have only just begun (Chapters 1 and 2).
2. There are no long-term guidelines available, i.e., no assessment has been made of the amount of real estate necessary for the implementation of state functions; how much of it can be leased; and how much can be developed or sold in the future. Given that no systemic decisions have yet been made regarding the future management of assets intended for educational, medical, residential, cultural, and sports purposes (Chapters 1 and 2):
    - 2.1. almost half of the assets are comprised of engineering structures (9 200 units) and low-value buildings (4 500 units): woodsheds, stables, outside cellars, etc. In 2016, the maintenance of the said assets cost almost 4 million Eur. Some of these assets are not necessary for the implementation of functions and are therefore not in use (Sub-chapter 2.1);
    - 2.2. there are currently 2 300 flats and other residential properties, the maintenance of which cost 14 million Eur in 2016. Not all of the above assets are being used or are necessary for the implementation of functions (Sub-chapter 2.2);
    - 2.3. there are currently 296 recreational houses and villas, and 157 bathhouses, which cost 0.8 million Eur to maintain in 2016. Only a small part of those (around 10 percent) is necessary for the implementation of functions (Sub-chapter 2.3);
    - 2.4. more than 670 objects, over half of which are intended for scientific, manufacturing, storage and administrative purposes, are currently not in use. The maintenance costs of the aforementioned property have not been entered into the VTIPS (Sub-chapter 2.3).
3. In 2016, the maintenance cost of state-owned real estate – municipal taxes, repairs, cleaning, security, etc. was 179.8 million Eur. However, costs incurred by assets managers during annual inventory of these assets, while drawing up contracts for the use of assets , controlling the payment of taxes, etc., are not calculated. This also increases the administrative burned for the public sector (Chapters 1 and 2).

4.The relevance of some decisions made by the Government regarding the transfer of the state-owned real estate under loan for use for temporary gratuitous management and use is questionable since these assets have been transferred to entities that earn of receive income necessary for the implementation of their activities (Sub-chapter 2.4):

4.1. the assets were transferred to 5 parties, which have been allocated 3.9 million Eur for financing of their activities from the state budget in 2016;

4.2. 30 (out of the 63 assessed) public establishments and associations, which received the state-owned real estate for gratuitous use earn income from their activities of those of their members.

5. Managers of the state-owned real estate make use of the flawed procedure, in accordance to which these assets may be transferred to public institutions under loan for use in cases where at least one of their shareholders is the state or municipality, to become the shareholders of the public establishment for a symbolic payment of 1 Eur, and then transfer the state real estate for gratuitous management (Sub-chapter 2.4).

According to the calculations of the Ministry of Finance, if all state-owned real estate which has been currently transferred under loan for use to non-public sector establishments had been leased, the state would receive 7.5 million Eur in annual revenue.

6. When requesting the ownership of assets, some municipalities have failed to conduct appropriate assessments of their necessity for their activities. Before transferring these assets to the ownership of municipalities, the Government and the managers of the state-owned real estate had, in some cases, failed to ascertain their necessity for the implementation of independent municipal functions. As a result, 25 percent of the state-owned real estate transferred to the ownership of 32 municipalities between 2012 and 2016 by the Government decrees are not in use. One-two years after the take-over, a third of these assets have been sold or included in lists of assets being sold by municipalities (Chapter 3).

7. Not all of the ISSSA data is correct, because (Sub-chapter 2.9):

7.1. the ISSSA data provision rules approved by the order of the Minister of Finance, are lacking in detail, because not all costs related to the maintenance of the state-owned real estate are being calculated;

7.2. some property users and managershave failed to enter the required data into the ISSSA, and the SE “Turto Bankas” is lacking in measures to ensure that the data is correct, complete and regularly updated.

For this reason, the data contained in the Report on the management, use and disposal of the state-owned real estate for the year 2016 developed on the basis of ISSSA is not entirely correct.

8. The Government has provided the SE “Turto Bankas” with preferential conditions for taking part in the market, because the company faces no competition in providing the public sector with services designed for the management of the state-owned real estate intended for administrative purposes. The revenue received by the SE “Turto Bankas” for these services (including depreciation costs and VAT) is large and varies between 0.90 to 1.52 Eur/sq. m. per month (Sub-chapters 2.6-2.8).

9. 56 of the state-owned real estate managers fail to comply with legislation requirements regarding the development of plots. They have also failed to contact the trustees of the relevant state land in order for the plots, intended for the 129 buildings they manage, to be

formed. In cases where plots have not been formed, the special land use terms may not be applied to the use of utilities networks, and the limitations regarding natural and cultural heritage – this creates the conditions for conducting ineligible activities (Sub-chapter 2.5).

Recommendations

To the Government of the Republic of Lithuania, responsible for performing thefunctions of the owner of state assets:

In order to optimise the scope of the state-owned real estate, to address issues related to the management of the state-owned real estate and reduce the maintenance costs of such assets:

1. Develop a set of guidelines for the management of the state-owned real estate: to specify how many and what types of assets will be necessary for the long-term implementation of functions, and how many of them may be leased, developed or sold in the future in accordance with set criteria to receive maximum benefit. In order to ensure the continuity of activities, this document should be made obligatory to all assets managers (Conclusions 1 and 2).
2. Having assessed the basis for the transfer of the state-owned real estate under loan for use established in the legislation as well as international experience (Conclusions 4 and 5):
   2.1. put a maximum limit on receiving the state-owned real estate under loan for use during the transitional period;
   2.2. specify that once the transitional period is over, the transfer of the state-owned real estate for temporary gratuitous management and use should be prohibited.
3. In the legislation, to put a maximum limit on transferring the state-owned buildings to the ownership of municipalities for the implementation of their independent functions (Conclusion 6).

To the Ministry of Finance of the Republic of Lithuania responsible for developing the state assets management policyas well as organising and coordinating its implementation:

4. Initiate amendments to the legal regulation of calculating the remuneration of SE “Turto Bankas” for its services regarding the management and maintenance of the state-owned real estate intended for administrative purposes, which would encourage SE “Turto Bankas” to strive for more effective operation (Conclusion 8).
5. In order to ensure the completeness of the ISSSA data, supplement the data submission, use and decision coordination rules for the Information Search System of State Assets approved by order of the Minister of Finance, by specifying the requirement to and responsibility for including all costs incurred in relation to the state-owned real estate into the ISSSA (Conclusions 3 and 7).
6. Specify control measures ensuring the quality of the services provided by SE “Turto Bankas” regarding the management of the state-owned real estate intended for administrative purposes (Conclusion 8).

To the National Land Service under the Ministry of Agriculture, acting as trustee of state land:

7. Carry out controls for transferring state-owned land plots necessary for operation of buildings to the state real estate managers for gratuitous use in accordance with the data provided in Annex No. 5 (Conclusion 9).

To SE "Turto Bankas", as the centralised state assets manager:

8. In order to ensure that data submitted to the ISSSA is correct, to specify additional controls necessary to ensure the completeness and the regular updating of the ISSSA data (Conclusion 7).