Management of privatisation of public land

Audit report no. 2-5/04/19 of April 22, 2004

Executive summary

The State Audit Office carried out an audit of the arrangement of land privatisation based on the example of the activities of the county governors of Valga, Pärnu and Eastern Viru counties and analysed the quality of the privatisation transactions with an inspection of their adherence to legislation. As the land privatisation is nearing its end, the audit sought to answer the question whether the purpose set for the privatisation of land – to privatise most of the land with the view of ensuring its effective use – was attained.

According to the Land Reform Act, the land that is not restituted to its owners, or left in public ownership, or given into the municipal ownership shall be privatised. Land can be privatised by exercising the right of pre-emption, by privatising the unclaimed agricultural or forest land or via closed or public auction. By the beginning of this year, 800,000 hectares of land had been privatised using all these methods. According to the assessment of the Land Board, the state has yet to find owners for approximately 200,000 hectares of land. The submission of land privatisation applications has mostly been completed but many applications are awaiting the resolution of land readjustment specialists.

In order to treat all the persons applying for privatisation equally and to protect the interests of the state, the various methods of land privatisation should be employed in a lawful manner. The SAO audit revealed omissions, which were caused both by the activities of the persons arranging the privatisation and loopholes in the legislation.

- In the case of unclaimed agricultural or forest land, the legislation did not require that the documents proving the applicants' agricultural activities or maintenance of the forest land, land ownership or right of land use be collected in the files. This is why the information found in the files was not sufficient to demonstrate that the decisions of privatisation were always lawful and that the periods of paying the instalments and interests were correctly determined.
- County governors announced some closed auctions after March 22, 1999, when land could no longer be privatised by closed auctions. This land should have been privatised as unclaimed agricultural or forest land or via public auctions.
- The government did not create the necessary conditions for the inflow of the appropriate amounts of money from the process of privatisation. The cost of the forest on privatised lands was determined according to the database, which was dated, sometimes by as many as twenty years. This was why the assessed cost of the forest was lower than its real value and the average price of privatised land was set lower than it could have been.
- The aim of land reform was certainly not to cause the land to fall into the hands of lumber and wood processing companies. In reality, it has been possible. During the privatisation period, a number of undercover agents were at work instead of the actual privatisers, i.e. the companies without the right of privatisation paid the sales price of land and the instalments for the entitled privatiser. What the companies did, was in fact taking advantage of the favourable conditions for the payment of the instalments.
- While in general the entitled subjects, who received compensation for their land, could privatise up to 15 hectares of land by closed auction, the entitled persons who received compensation for the land in the Eastern Petserimaa and across the Narva River could privatise up to 200 hectares of forest land. This offered good opportunities for profiteering from the forest land, and such opportunities were readily used.
- The supervision over the size of land owned by the persons participating in public auctions was not arranged. Without the national database the organisers of the privatisation were in great difficulties, because the applicants could easily exceed the limits set to the size of privatised land by taking part in several public auctions.
- The audit points to the lack of effective supervision. The land reform as a whole has never been a responsibility of any Minister.

Because the privatisation of land via all the methods has ended or is about to end, the taking of necessary remedy measures are no longer possible at the legislative stage. The county governors should now analyse the privatisation cases presented in the reports from the point of view of the sales prices and determination of the conditions for the payment of the instalments, and where legal requirements

are not fulfilled, initiate the procedure for changing the purchase agreements and collecting the monetary damages from the buyers.

In order to improve the supervision of land privatisation and to avoid the omissions and deliberate mistakes, the SAO recommended that the organisers of the privatisation should adopt provisions for the ex-ante verification and a posteriori supervision procedures, which would help to reveal and avoid errors and any nonconformity of information in the privatisation decisions and purchase agreements.

Response from the Minister of Environment

The Minister of Environment considered the proposal the use only the latest data as the basis for assessing the cost of land justified. He considered it extremely important that clarity with regard to the issues of instalments would be achieved.

The Minister of Environment noted that if the organisers of privatisation (county governors and local governments) had abided by the established rules and the spirit of legislation, there would be no reason to discuss the numerous abuses.

The Ministry intends to submit the draft of the Land Reform Act Amendment Act to the Parliament, the provisions of which would focus on the finishing of land reform. According to the Minister, more effective cooperation of all the relevant institutions, and, where necessary, the adjustment of legislation, can facilitate the final stage of land reform.

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