Use of the money given by the Estonian Privatisation Agency to Keila Commune in connection with the municipalisation of state assets

Audit report No. OSIV-2-6/05/9 of 22.02.2005

Executive summary

The State Audit Office (SAO), Ministry of Finance and Public Prosecutor's Office received a letter from five residents of Keila Commune, in which they stated that Keila Commune Government has used the money given to Keila Commune by Estonian Privatisation Agency in 2000 in connection with the municipalisation of state assets for a purpose other than that intended. Prosecutor's Office forwarded the residents' letter to the SAO. The Auditor General decided to initiate an audit to verify the facts presented in the residents' petition. The SAO informed the Ministry of Finance, who therefore did not carry out any verification activities in the Commune.

The purpose of the audit was to find out the purpose for which the Keila Commune used the state's money given to it by the Privatisation Agency in 2000, and, if it would be revealed that the money or part of it has been used for an unintended purpose, to decide whether it is reasonable to raise a question of recovering the non-purposefully used sum to state budget and of the liability of the then employees of the Commune.

The law does not entitle the SAO to assess the administration of local governments or transactions with their own property. This complicated the performance of the audit task, since on the same sites for which the Commune received money from the state, some works were carried out using the funds of the Commune. It is for the same reason that the SAO does not give its opinion on the work organisation of the Commune Council and the Commune Government.

Main observations and conclusions

- When asking the Privatisation Agency for money in 1999, the Keila Commune Government presented to the agency false information concerning its intentions of further use of the buildings in Laoküla in Keila Commune that were to be transferred to municipal ownership.
- Money given to the Commune by the Privatisation Agency to repair the buildings in Laoküla was used for a purpose other than that intended.
- Information presented to the Privatisation Agency by the Commune Government concerning the use of money given for the repair of the buildings in Laoküla was misleading.
- Out of three buildings given to Keila Commune by the Ministry of Defence in 2000, for the repair of which the Commune asked for money from the Privatisation Agency, the Commune transferred two without charge under the Council's decision. No decisions have been made by the Commune Council and the Commune Government concerning the further ownership of the third and most valuable building. The Commune officials have declared the Commune's consent to assign it for the benefit of the person whom the state transfers the land under the building. The Commune government has not tried to clarify whether the transfer of these buildings would mean direct financial income to the Commune.
- Money received from the state for the repair of the buildings in Laoküla was allegedly used to convert a former nursery school in Karjaküla in Keila Commune into the Commune's social centre. The auditors did not reveal any facts which would allow stating that the money was used for another purpose.
- The contracts, instruments of delivery and receipt and invoices (not all of them were presented to the SAO; most of the operations were financed from the Commune's funds) related to construction of the social centre in Karjaküla, have been prepared in a manner that does not allow determining afterwards whether the work which was paid for as work to renovate the social centre was actually carried on the site in question.
- Upon the dissolution of the Privatisation Agency, the records concerning the money given to the local governments in connection with the municipalisation of state assets were not archived as required – therefore it is now difficult to determine on which information the agency based its decisions and whether and to what extent it checked the information presented by the entities applying for funds.

- Keila Commune Government has not registered and stored all the relevant records – correspondence related to economic transactions, annexes to contracts, etc – as required.

Keila Commune Government did not agree with the SAO's opinion on the Commune's decisions and operations.

- The Commune Government regards as false and misleading the SAO's statement that the money given to the Commune was used for a purpose other than that intended. The Commune Mayor Tiit Mae is said to have repeatedly notified the Estonian Privatisation Agency orally that it would be wiser to use the money given to the Commune not in Laoküla, but in Karjaküla, since the buildings in Laoküla were supposedly extremely depreciated and in danger of collapse in 2000 and their restoration was not economically justified. The representatives of the state had tacitly consented.

Documents in the possession of the SAO do not confirm the Commune's statements regarding the danger of collapse of the mentioned buildings in 2000. Also, the SAO's viewpoint is that if Commune Mayor Tiit Mae had notified a government official about using the money given to the Commune for another facility, it does not undo the fact that the money was used for purposes different from what it was given for.

- The Commune Government claims that the Commune was given money to cover expenditure related to municipalisation of state assets in accordance with the contract with the Privatisation Agency, and as the contract did not explicitly lay down the Commune's obligation to use the said money for renovating the buildings in Laoküla, the SAO's statement that the Commune used the money for a purpose other than that intended is unjustified.

Documents in the possession of the SAO show that the Commune applied for money namely for the renovation of the facilities in Laoküla, and the Board of the Privatisation Agency decided to give the money to the Commune explicitly for the renovation of the mentioned buildings. The board of the Agency decided to allocate the money after the Agency had received the documents from the Commune Government, which show that the Commune had made decisions regarding persons who were supposed to convert the two houses into a shelter and social house.

- The Commune Government claims that reference made by the SAO to the Use of Privatisation Proceeds Act is not appropriate and the Commune's rights and obligations should be established only on the basis of the contract signed with the Privatisation Agency.

The SAO notes that the contract signed between the Commune and the Privatisation Agency refers to order No. 859-k of 03.09.1998 of the Government of the Republic, which was issued under the Use of Privatisation Proceeds Act.

- The Commune Government claims that it sold the electronics warehouse in Laoküla received from the Ministry of Defence on 10.01.2000 with the permission of the Commune Council already in 2000 by way of a tendering procedure with preliminary negotiations for EEK 400,000.

Documents in the possession of the SAO show that the building sold by the Commune Government in 2000 as a warehouse is situated several kilometres from the former electronics warehouse. Thus, the Commune Government claims that the former military electronics warehouse (the residential buildings were constructed to accommodate the military personnel tending the warehouse) situated next to the buildings that were given to the Commune by the Ministry of Defence, has not been given to the Commune. A different explanation was given to the SAO during the audit. The documents in the Ministry of Defence show that the Ministry had only one warehouse in Laoküla that had belonged to the armed forces of the Russian Federation.

Proposals by the SAO

To Keila Commune Council

- Require the Commune Government to prepare the documents related to the construction work ordered by the Commune in a manner allowing the Council (its audit committee) to assess the purposefulness and reasonability of the use of the Commune's money, and archive the documents correctly.
- Form an opinion on the transfer of the electronics warehouse in Laoküla, which was received from the state in 2000.

- Form an opinion on the liability of the Commune officials who knowingly presented misinformation to the state (Privatisation Agency) to receive money for establishing a social centre for the Commune.
- Form an opinion on the liability of the Commune Government (Commune Mayor Lea Papp) regarding the misinformation knowingly presented to the SAO in connection with the sale of the former electronics warehouse in Laoküla given to Keila Commune by the Ministry of Defence in 10.01.2000.

To the Minister of Finance

- As Keila Commune did not use the funds given to it to repair the facilities situated in Laoküla expediently, and presented misleading data to the Privatisation Agency concerning the use of these funds, require of the Commune Government the refunding of EEK 910,000 to the state (requirement which is based on the contract signed between the Commune Government and the Privatisation Agency during the delivery of the money).

The Minister of Finance stated that the Ministry will analyse the documents and information related to the use of the mentioned funds after receiving the final audit report from the SAO, and depending on its results, considers the possibility of issuing a precept to Keila Commune Government regarding the refunding of the mentioned sum to the reserve capital of the ownership reform of the Government of the Republic.

To the Minister of Economic Affairs and Communications

- Form an opinion on the need to initiate an audit of the use of the money given to the local governments by the state in connection with the municipalisation of state assets, and if it is regarded necessary, on the time and methods of audit and the auditing entity. The Minister of Economic Affairs and Communications stated that the Ministry will determine, in co-operation with the Ministry of Finance, the need and possibility to audit the purposefulness of the use of the funds given to the local governments by the state during the period from 1993 to 2000 in connection with the municipalisation of state assets.

The full text of the responses from the Commune Government and the Ministers has been appended to the audit report.

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The SAO sent the audit report to the Central Criminal Police, requesting to determine whether the sale of the building situated on the cadastral unit "Puhkerand"(which was established in Laoküla in Keila Commune in 2000 by Keila Commune) to the private limited company "Caparison" had sufficient legal basis (decision of the Commune Government), and if not, form an opinion on the liability of the Commune officials who effected the transaction (which lead to the creation of the right of pre-emption of the land surrounding the building in favour of the person owning the building – the state sold him 23,4 ha of seaside land).

The SAO sent the audit report to the Public Prosecutor's Office for information.

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