Overview of the land of municipalities, towns and cities

How has the land ownership of local authorities formed and developed?

Report of the National Audit Office to the Riigikogu
Tallinn, 16 December 2010

The National Audit Office analysed the land ownership of municipalities, towns and cities; the formation of the ownership and the use of land.

Municipalities, towns and cities have received most of their land from the state free of charge in the course of the land reform as unreformed land. Local authorities have also obtained land by purchasing, inheriting or receiving land as a gift and from the state when the latter has transferred its land to them.

The National Audit Office used the Land Register to create an overview of transactions concluded with municipal land, and the quantity and purpose of the land given in municipal ownership on the basis of the Land Reform Act as indicated by the data collected by the Land Board. As the data in the Land Register cannot always be associated with the data of the Land Board, these databases do not give comprehensive information about all municipal land.

We selected 16 local authorities on the basis of the Land Register and investigated the bases and motives of how they received and transferred municipal land.

The goal of the National Audit Office when analysing the data was not to assess the resolutions that created the basis for the emergence of municipal land. The overview focuses on the description of observations about how almost twenty years of development have influenced the land of local authorities and what results this process has had.

As taxpayers have to obtain the majority of services from local authorities, it means that local authorities need land for the provision of such services (e.g. the land of schools and nursery schools, parks and green areas, land under sporting facilities, land under streets, roads and other types of infrastructure). The land that remains in public use must be determined with plans and local people also play an important role in their preparation. Efficient use of land located in the territory of local governments is a premise to overall economic development.

The overview once again highlights the problem that rapid completion of the land reform is looking unlikely. There have been many discussions of how to start the completion, whether to create a land reserve of the state from the land not yet reformed so the land can be sold or given in the use of local authorities, or whether unreformed land should be given to local authorities first of all. As the overview focuses on the issues of municipal land more broadly than just the land reform, the National Audit Office has not considered the possible options for completion of the reform. Neither does the overview answer the question of how much land local authorities should own and whether there is enough land. Local government leaders find that there is not enough land, but this cannot be confirmed as the need of local authorities for land has not been identified. National databases do give a complete overview of the land ownership of private persons, but it is impossible to obtain a complete overview of the land owned by municipalities, towns and cities. Local authorities do not have to enter their land in the Land Register, as they get the title to the land after it's entered in the Land Cadastre. Only the Land Board keeps unofficial records of the municipal land entered in the Land Cadastre and the bases of its ownership by collecting the data it may need in its activities.

However, there is a lot of room for distrust between the state and local authorities for as long as there are different options for local authorities to get land, i.e. either free of charge or for a charge and on the basis of justifications that contain a certain degree of subjectivity and may therefore not be transparent.

Main observations and conclusions of the National Audit Office:

- the quantity of land given in municipal ownership on the basis of the Land Reform Act totals approx. 29,100 hectares according to the Land Board, which is less than 1% of reformed land. Less than 50 hectares of land has been given to 40% of all local authorities;

- entering land in the Land Register must be made mandatory for local authorities so that an objective overview can be obtained of the land owned by municipalities, towns and cities, and state fees should be taken to a level that makes it possible to streamline keeping account of municipal land at reasonable cost, i.e. the state fee charged for first registration should be calculated solely on the basis of the taxation price of the land rather than its market value;

- the position of local authorities was the same when land was given in municipal use free of charge. Some municipalities, towns and cities received hundreds of hectares in manor land that belonged to local authorities before 1940 or former Soviet military land, and they have used this land for development and earning income, whilst other local authorities have had to find other ways for acquiring land;

- the state and local authorities have not conducted themselves as partners when ascertaining the need for land. The Land Board has not performed the duty assigned by the Government of the Republic to ascertain the local authorities' need for land. Local authorities have often been dissatisfied with the fact that the state has used the information about land units obtained from municipalities, towns and cities for the purpose of increasing its revenue base. The National Audit Office believes that the main reasons behind the conflict between the state and local authorities are shortage of information and lack of cooperation. Involving local authorities in sales of state land and making the currently inaccessible principles of formation of the state's land reserve accessible to the public would help to ensure that such land is used according to plans and in a sustainable manner;

- if giving land to local authorities is decided by the Government of the Republic, the Minister of Environment has assessed whether or not the area the land is applied for is within the competence of local authorities. As the definition of the duties of local authorities is pending and it is overseen by the Ministry of the Interior (Minister of Regional Affairs), then it should be the Minister of Regional Affairs who prepares the land municipalisation applications so that the Government of the Republic can make its decisions. This is supported by the fact that the area of planning is in the area of administration of the Minister of Regional Affairs – compliance of the intended use of the plot of land applied for with various plans must often be evaluated when applications are reviewed. County governments, which review the land municipal applications not resolved by the Government of the Republic, are also in the area of administration of the Minister of Regional Affairs;

- when the Land Reform Act was amended, the Riigikogu stated that local authorities should use the land given in their ownership free of charge for the intended purpose of the land, which is why restrictions were established on disposal of municipal land. However, these restrictions are often not implemented, because most of the land sold by local authorities at some point was given to them not in consideration of its intended use, but as large areas of land, as they also belonged to the local authorities before 1940;

- the National Audit Office did not ascertain any non-transparent transactions with land in municipal ownership in the local authorities whose transactions it scrutinised. Strange schemes were mainly used in selling municipal land in the past and in only a few local authorities, such as Viimsi Municipality, which received hundreds of hectares of social land and dozens of hectares of residential land, most of which has been sold by now, from the Government of the Republic earlier than any other local authority. Representatives of the municipality says this is why the municipality no longer has land for social facilities (e.g. nursery schools), because everything was sold;

- if a municipality, town or city sells undeveloped land it received from the state free of charge, it must transfer 65% of the sales proceeds to the state. Unfortunately, nobody in the state is keeping account of how many such land units local authorities have sold and whether they have actually transferred any of the proceeds to the state. Nobody has been assigned the duty to keep account of such transactions.

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