Regularity of transactions carried out with study information system in Tallinn English College

Was the waiver of the rights tied to the technical solution of the study information system created in the college to a private company regular?

Summary of audit results

What did we audit?

The National Audit Office audited the transactions associated with the study information system (which has also been known as Stuudium) created in the Tallinn English College. The National Audit Office assessed whether the transactions concerning the economic rights to the system were in compliance with the procedure for the management of municipal assets. The activities carried out for the development of the information system were also analysed to assess whether or not the school's statutes, the Public Procurement Act, the Accounting Act and the city's accounting policies and procedures were adhered to in the case of these activities.

Why is this important to taxpayers?

A municipal school as an institution of the local government is established to act in public interests. The money received from the local authority's budget for maintaining the school and the assets acquired for this money are public assets that must only be used in public interest. The municipal asset management principles of Tallinn also state that the assets must be used purposefully, practically, economically and prudently. For example, if municipal assets are used in private interests, it is a waste of public money, which causes damage to the taxpayers. It may also lead to unjustified inequality for those who cannot partake in it. Any intentional use of public funds in private interests, however, constitutes abuse of power.

The issue here is actually bigger than the problems in a specific school of a local government. The entire public sector in Estonia is increasingly more reliant on various information systems, which means that they have to keep spending taxpayers' money on their development. This creates the need to acknowledge the meaning and ownership of copyrights as assets generated in the course of development, so that the public sector would not suffer damages or a private company would not gain an unfair advantage on the market for taxpayers' money.

What did we find and conclude on the basis of the audit?

The National Audit Office is of the opinion that private and public interests have become mixed up in the development of the study information system of Tallinn English College and in deciding on the use of the benefits received from its outcomes. The business of a private company associated with the school's employees has been promoted on the account of public funds. The school has violated several legal acts and erred against the principles of accounting. It has concluded transactions that have probably caused damage to the City of Tallinn.

Key observations:

- **Tallinn English College (TEC) developed its own study information system, spend money from the school's budget on it, but gave the technical solution of the system free of charge to a private company related to the school's employee. This is in contravention of the municipal asset management principles.** The technical solution of the information system (incl. the software) constitutes works for the purposes of copyright. It was developed on the order and

according to the instructions of the college, which is why the exclusive licence for exercising the economic rights to the solution (hereinafter also simply ‘exclusive licence’) automatically went to the college, legally the City of Tallinn. In other words, only Tallinn had the right to use it. In 2011 the college entered into an agreement where it basically waived its exclusive licence free of charge in favour of the company related to the college’s own employees. It is the company that offers the study information system called Stuudium for a fee to other Estonian schools, earning tens of thousands of euros per year.

The company developed the solution further, but based it on the software created in the college. Waiving the exclusive licence was not in compliance with the principle arising from the municipal asset management principles of Tallinn, which is to increase the benefits received from the management of the city’s assets. The solution created in the college could have been implemented in other Tallinn schools, which also need a study information system, but they’ve had to buy the service.

The National Audit Office did not find that the confusion surrounding the copyright and the related potential damage were the result of intentional activities.

- **The college’s resources are still used in the interests of the company related to the school’s employees.** Two employees of the college are the shareholders and management board members of the company that provides the Stuudium service. One of them has dealt and is still dealing with the programming of Stuudium, which also partly takes up his working time in the college. The need for works allegedly depends on the college’s requests, but the company also offers the perfected solutions to other schools for a fee. This means that the company can earn economic benefits on the account of the college’s resources. Spending money from the school’s budget on such activities is in contravention of the school’s statutes.

- **The exclusive licence for exercising economic rights to the technical solution of the study information system was not recognised in accounting as an asset.** The exclusive licence should have been recognised in accounting, but this was not done. It is in contravention of the general accounting policies and procedures, which arise from the Accounting Act and the accounting policies and procedures of the City of Tallinn.

- **The college received thousands of euros in project money from the Tiger’s Leap Foundation. There is reason to believe that this money was not purposefully used. There were also breaches of the Public Procurement Act.** The plan was to use the money from Tiger’s Leap for the development of a solution called TEC Task in 2010, but it never really took off. The project report submitted to the Foundation contained contradicting data about the contracts on the basis of which the works were allegedly completed. The person who completed the works said that TEC Task was not developed within the scope of these contracts, but they did cover some of the works related to the development of the TEC’s information system. In the course of the project, works were also ordered from the company that provides the Stuudium service at present. This was done without requesting price quotes for comparison, which is a breach of the Public Procurement Act.

- **The problems identified in the college’s activities point at issues in the city’s internal control system.** The Tallinn City Education Department must have known that the TEC is developing its own information system on the basis of the college’s development plan. The officials should have thought of the legal consequences this will create in relation to the management of the city’s assets. As a higher authority in the city’s management structure, the Education Department could have taken measures to demand bigger rights for the city in this legal relationship or prevent the waiver of the exclusive licence. However, this was not done.

What did we recommend as a result of the audit?

The National Audit Office advised the Tallinn City Education Department to form an opinion of whether and to what extent waiving the exclusive license to the study information system caused damage to the city. As the city has no overview of the information systems created in the college, it is necessary to carry out a thorough stock-take of information systems, ascertain the economic rights to systems and the owner of the rights, and recognise the rights belonging to the city as assets. The National Audit Office advised the Information Technology Foundation for Education (the legal successor of Tiger's Leap Foundation) to consider asking the college to return the support money it received.

Responses of auditees: In its response to the draft audit of the National Audit Office, the Information Technology Foundation for education stated that there was no sufficient legal basis for asking the college to return the support. The position of the Tallinn City Education Department in the issue of ascertaining potential damage was basically the same.