

Government activities relating to unreformed land

Is the end of the land reform near?

NAO report to the Parliament, Tallinn, 12 June 2008

The land reform began in 1991 with the aim of transforming the legal relationship based on state ownership of land into those based on private ownership of land. The reform has lasted for 17 years and by the beginning of 2008, still 17 % of the area of Estonia was unreformed. As to the completion of the land reform, relevant transactions concern 7 % or 300,000-370,000 hectares of land.

In its action plan for 2007-2011, the Government of the Republic has set the goal to dispose of unreformed lands which are not necessary for the state under uniform and transparent criteria not later than by 2011, planning to spend EEK 682 million to this end.

This report analyses how the objectives set by the government have been complied with. Furthermore, it addresses the set of problems relating to the municipalisation of land and assesses the government's capacity to manage the real rights established with regard to state land.

However, the report does not look into government activities on unreformed land for which third parties have lodged privatization and restitution applications.

Effective land use is a precondition for the development of a country's economy. Since unreformed land is out of commerce, its economic potential remains unused and the state's possibilities of increasing its gross national product are diminished.

Every year, the central and local governments spend tens of millions of kroons on managing the land reform. Expediting the process would allow the public sector to save a considerable amount in expenses.

The goals of the land reform as regards the restitution and privatization of land have been largely accomplished. The NAO believes that the key to completing the land reform lies in forming a state land reserve, determining the land needs of local governments and putting in commerce the unreformed land not necessary for the state. The land reserve includes extensive areas, but it is not known which lands the government needs in the future and which lands will be subject to municipalisation. The NAO lacks the assurance that the unreformed land can be entered in the land cadastre and that the land not necessary for the state can be disposed of by the time limit set by the Government of the Republic – i.e. 2011. Given the current practice of completing the formalities relating to land, the process of entering vacant lands in the land cadastre and putting into commerce is likely to be much longer and more expensive.

As the legislation does not provide for uniform principles for managing unreformed lands and forming the state land reserve, a broad discussion on the completion of the land reform should be initiated in the Parliament to determine the future direction of the national land policy. To conduct further operations with unreformed land it is essential to:

- introduce uniform principles setting out whether, in which time and how the unreformed land not necessary for the state will be disposed of;
- appoint a specific authority for disposing of the land not necessary for the state;
- lay down by law the objectives of forming the state land reserve and the arrangements for managing that reserve;
- establish uniform principles for disposing of production, commercial and residential land not necessary for the state which would take into account the balanced spatial development needs of local governments and promote the land use envisaged in general plans;
- establish a single information system in order to get an overview of the real rights imposed on state land and the financial claims relating to the disposal of state land.

The conclusions of the NAO are supported by the following material observations:

The government's further operations with unreformed land need an in-depth analysis. According to the principles approved by the government, unreformed lands are registered as state-owned and included in the state land reserve – later, unnecessary land in that reserve will be disposed of under the Government Property Act. The principles were adopted without analysing the expenditure on the acquisition of land or the less time- and cost-intensive alternatives.

The need for state land reserve and the principles of its formation need to be reviewed. The land reserve has been formed without due regard to the state's future land needs, and the land reserve includes a lot of land not necessary for the state. Since the character of the land reserve and the principles of its maintenance are not laid down by law, it is not clear as to which lands will be subject to disposal and which will remain in the land reserve.

Many local governments lack the detailed plans and development strategies for determining the land necessary for local development. The local governments would like to have more than three times as much commercial, production and residential land as they have today, but the lack of their development strategies and general plans limits the central government's possibilities of estimating the effective land needs of local governments.

The local governments lack motivation to municipalise the land necessary for the performance of their tasks. In a number of cases, the local governments have not applied for the municipalisation of the land under the buildings and roads they own or the green areas located in densely populated areas. According to local governments, the applications have not been lodged because the preparations for applying for municipalisation are expensive.

Unreformed lands are not maintained and the corresponding forest lands are not subjected to the necessary forestry work. Since the legislation puts the responsibility for managing unreformed lands on the central government and the performance of these tasks is usually the duty of County Governors, funds for maintenance have not been allocated over the years. Therefore, unreformed lands and the forests thereon have been neglected and thus become the favourite targets of those disposing of garbage illegally.

The monitoring of rights and obligations imposed on state land is inadequate. There is still no functioning and comprehensive system for managing the contracts and financial claims related to the establishment of building rights, usufruct and mortgages. The government authorities have disagreed as regards the establishment of a single database as well as regards the authority responsible for its management.

Replies from the Minister of the Environment, the Director General of the Land Board and the Minister of Finance:

The **Minister of the Environment** agreed to two of the five NAO recommendations; he considered it impossible to implement one recommendation and expressed doubt as regards two recommendations.

The Minister found that having an overview of the funds and time resources necessary for retaining the land in state ownership is essential and that this recommendation will be taken into account in preparing the development plans of the Ministry and the Land Board. The Minister also agreed to the recommendation to provide for the possibility for persons to acquire land encumbered with building rights.

The Minister argued that there would be more problems with implementing the recommendation to supplement the legislation governing the retaining of land in state ownership with provisions on the formation and use of the land reserve, stating that the legal distinction of the concepts "land reserve" and "putting into commerce" as the bases of retaining land in state ownership could give rise to further uncertainty as to whether the land entered in the land register may be disposed of and whether the land retained in state ownership for the purpose of putting into commerce could be used by the state in public interests, should such need arise. The Minister also doubted the recommendation to provide in the Land Reform Act for a time limit for local governments to apply for land, since the relevant time limit has already been set out in the Principles of Ownership Reform Act. The Minister did not agree to the recommendation to require the Land Board to maintain unreformed lands. Since unreformed land encompasses land subject to restitution, privatisation and municipalisation, the provision of continuous maintenance would, in the Minister's opinion, inhibit the motivation to complete the land reform.

The **Director General of the Land Board** had the same ideas about the NAO's recommendations as the Minister of the Environment. He did not find it reasonable to lay down the provisions on forming and using the land reserve on the legislative level, arguing that the legislator's idea has been that land not subject to applications from any third parties can be reformed only by way of retaining the land in state ownership within the state land reserve. Furthermore, the legal bases of governing and using the land reserve retained in state ownership are planned to be included in the new Government Property Act which is being drafted.

The **Minister of Finance** agreed to the recommendation addressed to him that a single information system be established in order to get an overview of the real rights imposed on state land and the financial claims relating to the disposal of state land, and explained how this is planned to be done. The goal is to create the necessary reporting system at the Ministry of the Interior and associate it with the government real estate register to be set up at the Ministry of Finance.

The **NAO** notes that replies from the Minister of the Environment and the Director General of the Land Board did not touch upon the issue of whether the objective to dispose of vacant lands by 2011 as set by the government will be met. In the light of the fact that the NAO finds the said time limit to be unrealistic, the NAO suggested alternatives for expediting the completion of the land reform which stem from the earlier views of the Ministry of the Environment, and the opinions of the County Governments, local governments and others. In its reply to this report, the Ministry of Finance points out that it is not reasonable to retain small, dispersed parcels, including forest lands, in state ownership and that these should be privatised by way of public or closed auction. To get an overview of the situation, the unreformed land should be properly mapped.

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