

# AUDIT REPORT

Riga

09.10.2007

5.1-2-10/2007

## **On Compliance of „Natura 2000” Programme Implementation with the Requirements of the Regulatory Enactments of the Republic of Latvia and the European Union**

### **Legal Justification of the Audit**

1. The legality audit „On Compliance of “Natura 2000” Programme<sup>1</sup> (hereinafter – „Natura 2000”) Implementation with the Requirements of the Regulatory Enactments of the Republic of Latvia (hereinafter – LR) and the European Union (hereinafter – EU)” was conducted according to the Section 2 of the Law on the State Audit Office, audit assignment of the State Audit Office 4<sup>th</sup> Audit Department No.5.1-2-10/2007 of April 16, 2007.
2. The audit was conducted within the framework of EUROSAI WGEA (The European Organization of Supreme Audit Institutions Working Group on Environmental Auditing) parallel audit (hereinafter – parallel audit) on „Natura 2000” management and maintenance efficiency and economy<sup>2</sup>, and compliance with the regulatory enactments of EU. Scope of the audit and topics that shall be examined, are established in the methodology of the parallel audit.
3. The audit was conducted by Senior State Auditor Agnis Jakovļevs, State Auditor Evija Mūrniece and State Auditor Jānis Salenieks.

### **Audit Objective**

4. The objective of the audit is to gain assurance on compliance of „Natura 2000” management and utilization of resources allocated within the framework of „Natura 2000” to the requirements of regulatory enactments of LR and EU.

### **Accountability of the State Audit Office Auditors**

5. Auditors of the State Audit Office are responsible for the audit report, which is based on the audit evidence obtained in the audit.

### **Accountability of the Ministry of the Environment**

6. The Ministry of the Environment is responsible for compliance with the regulatory enactments and truthfulness of the information provided to the auditors.

### **Scope of the Audit**

7. The audit is conducted in accordance with international auditing standards recognized in the Republic of Latvia. The audit was planned and performed to obtain reasonable

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<sup>1</sup> Term „Natura 2000” Programme” in the context of this audit implies network of protected areas under the title of „Natura 2000” established by European Union Member States.

<sup>2</sup> In the framework of this audit the term „efficiency” should be referred to as rational utilization of resources for institution performance provision, obtaining optimum return. In the framework of this audit the term „project costs economy” should be referred to as project implementation at lowest costs, preserving high quality.

assurance on compliance of „Natura 2000” management and utilization of resources allocated within the framework of „Natura 2000” to the requirements of regulatory enactments of LR and EU.

8. The audit included the following:
  - 8.1. Assessment of compliance of incorporation of requirements established by EU regulatory enactments<sup>3</sup> into the regulatory enactments of LR,
  - 8.2. Assessment of „Natura 2000” management, and
  - 8.3. Assessment of legality and cost efficiency of resource utilization allocated to the Ministry of the Environment and institutions subordinated to the Ministry for maintenance of „Natura 2000”.
9. In the scope of the audit 16 projects implemented in „Natura 2000” territories and financed by the Administration of Latvian Environmental Protection Fund were inspected at random. All seven projects co-financed by the European Regional Development Fund under Measure 1.1. Improvement of Environmental Infrastructure and Tourism, Activity 1.1.6. Development of Eco-tourism Facilities in the „Natura 2000” territories. All compensations paid to the forest land owners by the Nature Protection Board were included in the scope of the audit.
10. The audit was conducted at the Ministry of the Environment and the following institutions subordinated to the Ministry:
  - 10.1. Nature Protection Board;
  - 10.2. State Environmental Service;
  - 10.3. Administration of Latvian Environmental Protection Fund;
  - 10.4. Latvian Environment, Geology, and Meteorology Agency;
  - 10.5. Environmental Impact Assessment State Bureau.

Additional information was received from the Ministry of Agriculture, Rural Support Service and Central Finance and Contracting Agency.
11. Assessment and analysis of the submitted documents was performed for obtaining the audit evidence. The responsible officials of the Ministry of the Environment and institutions subordinated to the Ministry were interviewed as well.
12. The audit was conducted on the period from January 1, 2004 to December 31, 2006, and amendments to regulatory enactments regarding payment of compensations to forest land<sup>4</sup> owners, done in 2007, were also taken into account.
13. The scope of the audit did not include compliance assessment of resource utilization allocated to the Ministry of the Environment from the European Agricultural Fund for maintenance of „Natura 2000”, compliance assessment of real estate tax rebate granted by local governments, and other possibly existing and planned preferences for „Natura 2000” land owners.
14. Sufficient and appropriate audit evidence was obtained in the audit, on the basis of which the audit report was prepared.

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<sup>3</sup> Council Directive 92/43/EEC of May 21, 1992 on the conservation of natural habitats and of wild fauna and flora and Council Directive 79/409/EEC of April 2, 1979 on conservation of wild birds.

<sup>4</sup> Section 3, Paragraph one, Clause 2 of Law „On Forests” establishes, that forest land is land covered by forest, land under forest infrastructure facilities, as well as adjacent overflowing clearings, marshes and glades.

## Summary

15. The Ministry of the Environment has duly established „Natura 2000” protected nature territories of European significance in LR, as well as developed and amended the regulatory enactments of LR, observing requirements of Council Directive on the conservation of natural habitats and of wild fauna and flora and Council Directive on conservation of wild birds<sup>5</sup>.
16. The Nature Protection Board has not provided recommendations on establishing new protected territories, modifications to category of protected territory or protection regulation modifications, as well as inclusion of protected territory into international protected territories network until September 1, 2007, as stipulated in by the Nature Protection Board Regulation. Hence there is a risk that territories established initially, in the medium and long term may not comply with the requirements of EU regulatory enactments.
17. The assignments of the Ministry of the Environment on the coordination and supervision of activities of the subordinated institutions involved in „Natura 2000” territory network management are not performed systematically and in a planned manner. Therefore there is a risk that particular subordinated institutions do not receive the information necessary for work.
18. Projects financed by the European Regional Development Fund and State budget with similar goals and similar beneficiaries are administrated by several institutions, which apply different project financing and supervision mechanisms. Such project management system is not the most efficient management solution, and risk of approving the same projects or their components significantly increases.
19. State budget funds for implementation of environment protection projects are available for forest land and land owners, whose property is located in the „Natura 2000” protected nature territory. These resources are administrated by the Administration of Latvian Environmental Protection Fund. It was disclosed in the audit that activities of projects financed by the Administration of Latvian Environmental Protection Fund are similar to activities of the projects financed by the European Regional Development Fund, project goals are defined too briefly and are not measurable, hence creating the risk of attracting double financing for implementation of the same project goals and risk of uneconomical project selection. It was also disclosed that project financing is used for basic activity provision of the State administration institutions, thus creating a risk of inefficient utilization of the State budget funds.
20. Financial resources allocated by the European Regional Development Fund for the period of 2004-2006 for development of specially protected nature territories were utilized for implementation of seven projects within the framework of National Programme “Development of Eco-tourism Facilities in the „Natura 2000” territories”. The actual project evaluation was performed after the projects were included in the National Programme and the National Programme was approved, project costs economy was not evaluated, number of project specific selection criteria was decreased in the process of project selection, thus project selection was done formally, not providing selection of the most cost effective project.
21. Only one expert was involved in the process of determining the compensation amount, therefore there is a risk of unfair evaluation and corruption risk. The compensation payments do not comply with the requirement of the Cabinet Regulations No. 219 of March 21, 2006 „Procedures on Estimation of the Reimbursement Amount for

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<sup>5</sup> Council Directive 92/43/EEC of May 21, 1992 on the conservation of natural habitats and of wild fauna and flora and Council Directive 79/409/EEC of April 2, 1979 on conservation of wild birds.

Restrictions on Economic Activities”<sup>6</sup>, which prohibits disbursement of compensation in one payment if the compensation exceeds 10 000 lats.

22. Starting with 2008 „Natura 2000” payments to forest land owners will be made from the European Agricultural Fund<sup>7</sup>, administered by the Rural Support Service. Alike single occasion compensations administered by the Nature Protection Board, these payments are also provided for private forest owners or their associations to compensate for costs incurred and income foregone resulting from restrictions on use of forest and forest lands. In the course of the audit the evidence on cooperation and information exchange between the Nature Protection Board and the Rural Support Service was not obtained, therefore forest land owners may have opportunity to receive both single occasion compensations and payments from the European Agricultural Fund, thus violating the requirements of the law „On the Rights of Landowners to Compensation for Restrictions on Economic Activities in Specially Protected Nature Territories and Microreserves”.
23. Institutions subordinated to the Ministry of the Environment have acted in compliance with the requirements of the law „On Specially Protected Nature Territories” and have informed land owners and local governments on establishing the protected territories, alteration of the protected territories’ borders and other changes regarding the specially protected territories. Comprehensive information is available to the public on „Natura 2000” territories.

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<sup>6</sup> Paragraph 23 of the Cabinet Regulations (hereinafter - CR) No. 219 of March 21, 2006 „Procedures on Estimation of the Reimbursement Amount for Restrictions on Economic Activities in Specially Protected Nature Territories and Microreserves, and on Payment and Registration of Reimbursement”.

<sup>7</sup> Article 46 of the Council Regulation (EC) No. 1698/2005 of September 20, 2005 on support for rural development by the European Agricultural Fund for Rural Development (EAFRD).