

B A S I S



■ Broadening Access and Strengthening  
Input Market Systems

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**UN ECE MEETING OF WORKING PARTY ON LAND  
ADMINISTRATION**

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**Theme I**

**Land Privatisation in Lithuania**

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This paper describes the legal ways for privatising various types of land and real property.

## 1. SUMMARY

- 1) *The restoration of ownership rights to the existing real property as well as the acquisition of land, forest, building and flats is regulated by laws.*
- 2) *The institutions responsible for the restoration of ownership rights to the existing real property, land reform and for the registration of real property and rights to it are established.*
- 3) *The ownership rights are mostly restored to the agricultural land and households. The majority of land available for commercial and industrial use remains in the possession of the State. Land sales for Lithuanian and foreign companies are expected to increase significantly.*
- 4) *In fact all flats in Lithuania are privatised. The major part of buildings is also privatised. The privatisation speed of land occupied by buildings and engineering utilities is much slower.*
- 5) *Citizens of Lithuania, national and foreign subjects having the right to acquire land under the procedure and conditions established by Article 47 of the Constitution of Lithuania and Constitutional Law can acquire land into private ownership. The acquisition of agricultural land is still restricted for national and foreign subjects.*
- 6) *More complicated procedure is applied for the restoration of ownership right to the previously owned land or acquisition of state-owned land. Private land is transferred by concluding a contract in writing that is approved by a notary. Private land and real rights to it must be registered in the Real Property Register.*
- 7) *Private land, forest or buildings and flats can be inherited by will according to the procedure established by laws and the Civil Code.*
- 8) *Private land, forest, buildings or flats may be mortgaged according to the Law on Mortgage and the Civil Code.*
- 9) *Natural and legal persons of Lithuania and of foreign countries can lease land, buildings or flats. State land shall be leased by auction to the person, who bids the largest rent charge. The procedure for leasing state-owned land is much more complicated than leasing private land.*
- 10) *The restoration of ownership rights to land, forest as well as the acquisition of land gained higher speed during the recent years. Still the privatisation of urban and industrial land is too slow.*
- 11) *Ownership rights restored to land, forest, water bodies, buildings and flats as well as the transfer of land, forest, buildings, flats is registered in the real property register according to the Law on Real Property Register and by-laws.*

## **2. INTRODUCTION**

On 11 March 1990 after the restoration of independence of Lithuania the Basic Temporary Law of the Republic of Lithuania was adopted and stated that the ownership of the Republic of Lithuania is a basis of the Lithuanian economy system. Private ownership is one of other types of ownership.

*The Constitution of the Republic of Lithuania was adopted on 25 October 1992. The Constitution proclaims that land, internal water bodies, forests, parks may belong by the right of ownership only to the citizens of the Republic of Lithuania and the State. Municipalities and other national subjects, as well as those foreign states employed in economic activity in Lithuania, who shall be included into the Constitutional Law according to the criteria of the selected European and transatlantic integration, may be allowed to acquire for ownership non-agricultural land parcels, necessary for the construction and exploitation of the buildings and facilities for their immediate activity.*

As well as other countries in transition, Lithuania has been implementing economy and land reform programs.

The process of the land reform and restoration of ownership rights to land that started in 1991 in principle gained higher speed during the recent years when the Seimas and the Government of the Republic of Lithuania passed relevant legal acts necessary for the implementation of those tasks. The Law on Restoration of Citizens' Ownership Rights to the Existing Real Property realised the constitutional principles on protection of ownership and established certain guarantees for persons.

## **3. LEGAL ACTS REGULATING LAND AND REAL PROPERTY PRIVATISATION**

The Following basic laws set forth the procedure and conditions for restoration of ownership rights to land, forest, buildings and other premises, and regulate real property privatisation and market:

- a) *The Law on Restoration of Citizens' Ownership Rights to the Existing Real Property,*
- b) *The Law on Land Reform,*
- c) *The Law on Land Lease,*
- d) *The Constitutional Law on Entities, Procedure, Terms and Restrictions of Acquiring Land Parcels to the Ownership Provided for in the second part of Article 47 of the Constitution of the Republic of Lithuania,*
- e) *The Law on Land,*
- f) *The Law on Privatisation of the State and Municipal Assets,*
- g) *The Law on Real Property Register.*

## **4. INSTITUTIONS**

The following institutions participate in the process of land restitution, real property privatisation and registration:

- *Ministry of Agriculture, Land Management and Law Department,*
- *State Land Survey Institute,*
- *Land Management Departments of County Manager's Administration,*
- *Municipalities,*
- *State Land Cadastre and Register,*

- *Private companies.*

## **5. METHODS AND TYPES OF PRIVATISATION**

The Law on Restoration of Citizens' Ownership Rights to the Existing Real Property regulates the restoration of ownership rights to land, forests, water bodies, buildings for economic-commercial purpose and residential houses and their parts, apartments.

### **5.1. Ownership rights can be restored to the following property:**

- *Land,*
- *Forests,*
- *Water bodies,*
- *Buildings for economic-commercial purpose and their fixtures,*
- *Residential houses and their fixtures.*

### **5.2. Restoration of ownership rights to the land in rural areas:**

- *The ownership rights are restored to the owner's previously owned land, the area of which does not exceed 150 ha including forest and water bodies.*
- *Land is restituted in kind.*
- *The granted land parcel is of equal value to the previously owned one.*
- *Under the request it is possible to get compensation in cash or securities for the previously owned land.*

### **5.3. Restoration of ownership rights to the land in urban areas:**

- *Ownership rights to land are restored to persons having houses and other buildings by granting a land parcel gratis they are using;*
- *The new land parcel in a city is transferred into ownership in the location of the previously owned land parcel.*

### **5.4. Restoration of ownership rights to forest and water bodies:**

- *Forest or water body is restituted in kind in the previously owned place by the right of ownership;*
- *Citizens' ownership rights to forest and water bodies are restored following the procedure established by the Government according to the land management projects.*

### **5.5. Restoration of ownership rights to the buildings for economic-commercial purpose, residential houses and their fixtures:**

- *Ownership rights to buildings for economic-commercial purpose and their fixtures are restored by restituting them in kind;*
- *Ownership rights to residential houses, their parts and apartments are restored by restituting them in kind.*

### **5.6. Types of Land Ownership and Ways for Acquisition of Land**

The Land Code, the Law on Land and Land Reform and by-laws provide for the types of land ownership and regulate the ways of its acquisition.

#### **Types of land ownership are:**

- *private land;*
- *state-owned land*

**The right to private land ownership can be acquired by:**

- *Citizens of the Republic of Lithuania,*
- *National and foreign subjects having the right to acquire land under the procedure and conditions established by Article 47 of the Constitution of the Republic of Lithuania and Constitutional Law.*

**Ways for acquiring land:**

- *Restoration of ownership rights to land by restituting in kind or transferring or granting the land parcel into ownership gratis;*
- *Granting the state-owned land into ownership gratis;*
- *Sale of state-owned land;*
- *Land transactions concluded by citizens.*

**5.7. Sale of State-owned Land to Citizens**

Agricultural land, forest and water bodies in rural areas are transferred to former owners or their inheritors according to the land (forest, water bodies) management projects.

**Size of state-owned land parcels to be sold:**

- *Persons wishing to acquire land (including forest and water bodies) for agricultural purpose can buy state-owned land during the land reform. The total area for one family can not exceed 150 ha including restituted in kind, transferred, granted into ownership gratis and bought from the state.*
- *Persons that have buildings and constructions by the right of ownership can buy land parcels under them with the area and boundaries fixed in the documents on territory planning.*
  - *A land parcel in rural areas and in the areas that after 1 June 1995 attached to the city can not be bigger than 2 ha (households);*
  - *In cities, except the city of Neringa, land parcels can not be bigger than 0,2 ha in Vilnius, Kaunas, Siauliai, Klaipeda, Panevezys, Alytus, Marijampole. Druskininkai, Palanga and Birstonas.*
- *Not bigger 0,3 ha in other cities.*

**5.8. Privatisation of constructions and flats:**

- *Citizens (natural persons) have the right to acquire constructions and premises for commercial-economic activities, also residential houses and flats;*
- *Subjects of the Republic of Lithuania and of foreign countries have the right to acquire constructions and premises necessary for economic-commercial activity and the enterprise for different purposes;*

The legal activities of foreign investors in Lithuania are regulated by Law on Foreign Capital Investment in the Republic of Lithuania and by other laws and by-laws, i.e. the laws on taxes and their administration, the laws on enterprises, commercial banks, competition and bankruptcy, the laws on free economic zones and concession.

**5.9. The Right and Restrictions to Acquire Land for National and Foreign Subjects**

- *National and foreign subjects may be allowed to acquire for ownership non-agricultural land parcels, necessary for the construction and exploitation of the buildings and facilities for their immediate activity.*

Subjects of foreign states employed in the economic activity in Lithuania shall be included into the Constitutional Law according to the selected European and transatlantic integration criteria.

- *According to the procedure and under the conditions established by laws, foreign entities may possess land parcels by the right of ownership for the purpose of establishing their respective diplomatic and consular institutions.*

During the restitution process, the national and foreign entities shall not have the right to acquire agricultural land in private ownership.

## **6. STATE LAND, FOREST AND WATER BODIES THAT CAN NOT BE PRIVATISED:**

*1) Land is not privatised if it occupied by state or municipal roads, airports, military units and dedicated for defence of state border, or where natural resources are exploited.*

*2) Occupied by areas used for public needs (streets, squares, graveyards, watering-places and etc.);*

*3) Granted for educational and science institutions, state social care and guardianship institutions, state institutions and organisations, or granted for specialised farms;*

*4) National reserves, national and regional parks, area of Kuršiu Nerija national parks.*

*5) Attached to the seaside zone of the Republic of Lithuania;*

*6) Land possessed by the right of ownership by churches;*

## **7. TRANSFERRING AND SUBDIVIDING PRIVATE REAL PROPERTY**

- *A parcel of private land (forest), private buildings or flat may be transferred to other citizens. The contracts for the transference of private land (forest) parcel, private houses or flat shall be certified by a notary and following the established procedure, registered within the State Land Cadastre and Register.*

To pursue economic-commercial activities, land may be acquired by those citizens who have a registered permission to engage in this activity.

- *Private parcels of agricultural land and forest may be divided or portions thereof may be separated for the purpose of transferring or leasing the land only upon co-ordination thereof with the land-use plan or territory planning document.*
- *Private land parcel may be divided into two and more plots, intended for the residential, public and economic-commercial construction, provided this construction has been included into the territorial planning documents and the prescribed size of parcel and the density of buildings are adhered to.*

## **8. INHERITANCE OF THE PRIVATE REAL PROPERTY**

*Private land, private forest or buildings and flat shall be inherited by the will according to the procedure established by laws and the Civil Code.*

Provided one parcel of land (forest), a building or a flat has been inherited by several persons, this parcel of land (forest), a house or a flat shall be registered in the name of all inheritors, specifying their shares in the common property.

## **9. MORTGAGE OF PRIVATE REAL PROPERTY**

- *Private land, private forest, building or flat may be mortgaged according to the procedure established by laws.*
- *Contracts for mortgaging real property shall be concluded in writing, certified by a notary and registered within the Mortgage Institution according to the established procedure.*

When a portion of land is being mortgaged, it must be registered as a separate land parcel within the State Land Cadastre and Register.

## **10. LAND LEASE**

- *The lessor of the private land shall be the owner of the private land.*
- *The lessor of the public land shall be the county manager, local municipal institution.*
- *Lessees of land may be natural and legal persons of the Republic of Lithuania and foreign states.*

The lease term for the private land shall be established by mutual agreement between the lessor and the lessee.

The lease term for public land shall be established by mutual agreement between the lessor and the lessee, but not exceeding 99 years.

According to the established procedure state land shall be leased by an auction to the person, who bids the largest rent-charge. The right to take part at the auction shall not be restricted.

If the state land is occupied by buildings owned by natural or legal persons by the right of ownership or lease such land shall be leased without an auction.

## **11. REGISTRATION OF REAL PROPERTY AND RIGHTS TO IT**

- *Registration of real property and rights to it shall be made observing the Law on the Real Property Register, and other by-laws adopted by the Government.*
- *Registration of real property and rights to it shall be carried out by the State Land Cadastre and Register.*

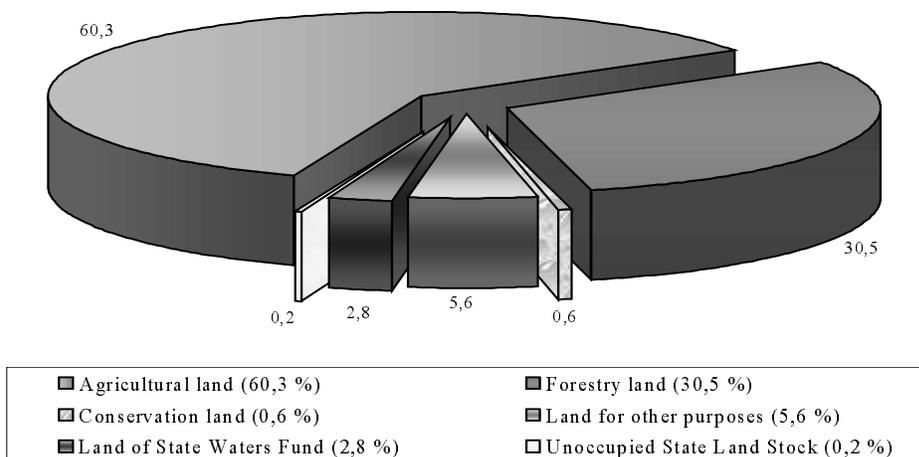
## **12. LAND STOCK**

The main part of the land stock in Lithuania is agricultural land (more than 60 per cent), forests cover 31 per cent and other land and households – 9 %.

According to the Law on Land the land stock consists of the following types of land:

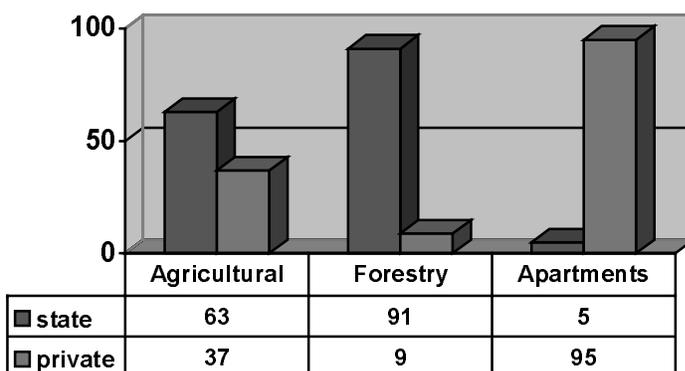
- *agricultural land;*
- *forestry land;*
- *conservation land;*
- *other purpose;*
- *unoccupied state land stock;*
- *land of state waters fund.*

***Distribution of the Land Stock according to the Main Purpose of Land Use (per cent)  
1999 01 01***



According to ownership only more than 25 % of all land stock is privatised. The rest of the land belongs to the state and municipalities.

***Distribution of the Land, Forest and Apartments According to Types Ownership  
(per cent) 1999 01 01***



**13. RESTORATION OF OWNERSHIP RIGHTS TO LAND**

The land reform and the restoration of ownership rights is a sustainable process and the basis of it is the land stock of Republic of Lithuania.

County managers following the functions delegated by laws implement the land reform, make decisions regarding the restoration of ownership rights to land or the selling of land, investigate the complaints concerning the suitability of farming land formed during the land reform.

There are 1286 agricultural cadastral areas and more than 1000 surveyors prepare land management projects.

The restoration of ownership rights and land reform gained higher speed especially during the recent year.

By 1 November 1999 the land management projects for the land reform are already prepared and approved for 245 cadastral areas and 385 projects are prepared for a part of cadastral area.

The speed of the land restitution is the highest in those counties and districts where the land productivity is the best one. Ownership rights in those counties are restored more than 2/3 of the land area indicated in the applications.

***Restoration of Ownership and Privatisation of Different Types of Land in Per Cent  
1999 01 01***

Type of Right	Agricultural land	Agricultural buildings	Pastures	Forest	Flats	Urban land	Industrial land
Ownership	<b>37</b>	<b>21</b>	*	<b>9</b>	<b>95</b>	<b>13</b>	<b>2</b>
Lease/use	<b>63</b>	<b>79</b>	*	<b>91</b>	<b>5</b>	<b>87</b>	<b>98</b>

\* pastures included in agricultural land.

The restoration of ownership to land and the land reform is the most complicated in eastern Lithuania especially in Vilnius region. At present 35 per cent of citizens in Vilnius county have not yet submitted the documents proving the ownership right or kinship with a previous land owner. Many of important archive documents have not survived , therefore the citizens are forced to address the court regarding the establishment of a legal fact proving the existed ownership right.

The other problem typical to the whole area of south-east Lithuania is strip villages. In 1918-1940 the land reform was started but not completed. During that reform the farming lands in strips was changed into individual farms but still there are 1554 strip kind villages remained and 928 out of them in the county of Vilnius. Even 36 per cent of village land of this county was stripped.

**References**

- 1) The Constitution of the Republic of Lithuania, adopted by a referendum on October 25, 1992.
- 2) The Civil Code of the Republic of Lithuania, official text, together with amendments till September 10, 1998, Vilnius.

- 3) The Law on Restoration of Citizens' Ownership Rights to the Existing Real property of the Republic of Lithuania with amendments, No. VIII-359, July 1, 1997.
- 4) The Law on Land Reform of the Republic of Lithuania with amendments, No. VIII-370, July 2, 1997, Vilnius.
- 5) Law on amendment of the Law on Land Lease, No. VIII-679, March 24, 1998.
- 6) The Constitutional Law on Entities, Procedure, Terms and Restrictions of Acquiring Land Parcels to the Ownership provided in the Article 47 of the Constitution of the Republic of Lithuania.
- 7) The law on Land of the Republic of Lithuania, April 26, 1994, No. I-446, together with further amendments, Vilnius.
- 8) The Law on Real Property Register of the Republic of Lithuania, September 24, 1996, No. I-1539, together with further amendments, Vilnius.
- 9) Publication "Land Reform in Lithuania 1997-1999".
- 10) Statistics of Lithuania, Stock of dwellings, 1998.
- 11) Information provided by the State Property Fund on real property privatisation.
- 12) Publication "Land Stock of the Republic of Lithuania by 1 January 1999".