

August 2017

In focus: Law on Amendment and Supplements to the Law on Agricultural Land

On August 28th 2017, the National Assembly of the Republic of Serbia adopted the Law on Amendment and Supplements to the Law on Agricultural Land which began to apply on September 1st, 2017 (hereinafter: **“Amendments to the Law”**).

In the explanation of the proposition of Amendments to the Law it is stated that their adoption represents the Republic of Serbia’s fulfilment of international obligations from the Stabilization and Association Agreement between the European Communities and their Member States on the one hand, and the Republic of Serbia on the other hand (SAA), which entered into force on September 1st 2013, and which stipulates, inter alia, that within four years from entry into force of the SAA, the Republic of Serbia shall gradually harmonize its legislation relating to the acquisition of ownership right over real estate in the Republic of Serbia in order to provide the citizens of the European Union treatment equal to its own citizens.

Novelties brought by the Amendments to the Law refer to the conditions for EU citizens to acquire ownership rights on agricultural land.

Namely, a citizen of a EU member state may acquire agricultural land in private property through a legal transaction, with or without compensation, under the following conditions:

- that he/she permanently resides in a unit of local government in which the purchase of agricultural land shall be carried out, at least ten years starting from the date of application of the Amendments to the Law;
- that he/she cultivates the agricultural land that is the subject of the legal transaction for at least three years starting from the date of application of the Amendments to the Law;
- that he/she has a registered agricultural estate in an active status as holder of said family estate, without interruption, for at least ten years starting from the date of application of the Amendments to the Law;
- that he/she owns machinery and equipment for performing agricultural production.

Agricultural land located at a distance of 10 km from the border of the Republic of Serbia cannot be the subject of a legal transaction, but the Amendments to the Law stipulate additional exhaustive conditions relating to the eligibility of agricultural land to be the subject of a legal transaction, i.e.:

- that it is not agricultural land designated as construction land in accordance with a special law;

- that it is not designated as a protected natural resource;
- that it does not belong to nor borders military facilities and military complex, that it is not located in security zones surrounding military facilities/complexes/structures and facilities of military infrastructure, nor belong to or border the territory of the Land Security Zone.

Amendments to the Law do not apply in the case of restitution of confiscated property to former owners on the basis of the Law on Restitution of Confiscated Property and Compensation ("Official Gazette of RS", No. 72/2011, 108/2013, 142/2014 and 88/2015 - CC decision).

If the above conditions are fulfilled, a citizen of an EU member state may acquire ownership rights on agricultural land up to 2 hectares, but the Republic of Serbia has a statutory pre-emption right on the agricultural land.

Ultimately, Amendments to the Law prescribe that if the legal transaction is concluded contrary to the above conditions, it shall be void.

Having in mind the above stated, i.e. the fact that the Amendments to the Law foresee special conditions which EU citizens must fulfill in order to acquire ownership rights on agricultural land, it can be concluded that the Amendments to the Law do not provide for the equalization of EU citizens with domestic ones, and thus do not represent the complete fulfillment of the obligations of the Republic of Serbia from the SAA.

Besides, the Amendments to the Law do not contain provisions concerning conditions for acquiring ownership rights on agricultural land by legal entities from the territory of the European Union.

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