

Introduction of agricultural lands market

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On 31 March 2020, the Parliament of Ukraine adopted the draft law on amendments to certain regulations regarding functioning of agricultural lands market (the "Law").

The Law has not been signed by the President, and its final version has not been published yet. Thus, the information below may be subject to change.

The Law comes into force on 1 July 2021, except for provisions regarding obligations of the Cabinet of Ministers of Ukraine coming into force upon publication of the Law.

The Law partially cancels a moratorium on acquisition of (disposal of) agricultural land, in particular, land for agricultural commodity production and also land allotted to land allotment owners in kind for individual farming.

The Law in any case prohibits alienation of municipal and state owned agricultural land plots.

Acquisition of agricultural land plots by Ukrainian companies and individuals

The Law sets out that starting 1 July 2021 to 1 January 2024 only citizens of Ukraine may acquire agricultural land plots.

Also, the following limitations were established on the total area of lands that can be acquired by one Ukrainian citizen:

- ▶ Until 1 January 2024 - 100 hectares
- ▶ After 1 January 2024 - 10,000 hectares.

Starting 1 January 2024, legal entities incorporated under Ukrainian law exclusively by citizens of Ukraine and/or the state, and/or local communities may acquire agricultural land plots.

Before 1 January 2024, it is prohibited to sell or alienate otherwise in favor of legal entities privately owned agricultural commodity production land plots, land allotted to land allotment owners in kind for individual farming and land allotments, except for inheritance, exchange or alienation for public needs.

This prohibition does not apply to banks if they acquire ownership of agricultural land through enforcement of mortgage.

However, so acquired land plots should be sold through a land auction within two years after obtaining title to them.

The Law also sets out the total area of agricultural land plots that can be owned by legal entities (except for banks):

- ▶ No more than the area allowed to be owned by all shareholders/participants of the legal entity in total
- ▶ No more than 10,000 hectares.

Acquisition of agricultural land plots by foreign entities

Legal entities incorporated under Ukrainian law by foreign founders or with foreign shareholders / participants, or with foreign beneficial owners, may acquire agricultural land plots subject to adoption of the relevant decision in a referendum.

Also, the Law envisages that:

- ▶ Legal entities
- ▶ Foreign citizens
- ▶ Individuals without citizenship

are prohibited from acquiring shares / participatory interest in legal entities owning agricultural land plots (except for banks).

Such prohibition will be lifted subject to adoption a decision permitting the acquisition of agricultural land plots by legal entities with foreign shareholders / participants or beneficial owners in a referendum.

Regardless of the referendum results, the Law prohibits obtaining ownership of agricultural land plots by:

- ▶ Legal entities whose shareholders / participants or beneficial owners are not citizens of Ukraine – municipal or state owned agricultural land plots, agricultural land plots allotted in kind to land allotment owners and those located less than 50 km from the state border of Ukraine (except for the sea state border)
- ▶ Legal entities whose shareholders / participants or beneficial owners are citizens of the state recognized by Ukraine as an aggressor state or invading state
- ▶ Current or former participants of terroristic organizations
- ▶ Legal entities whose shareholders / participants or beneficial owners are foreign states
- ▶ Legal entities whose beneficial owners cannot be identified
- ▶ Legal entities whose beneficial owners are registered in offshore territories according to the list set out by the Cabinet of Ministers of Ukraine

- ▶ Individuals and legal entities subject to special economic and other restrictive measures (sanctions) according to the Law of Ukraine "On Sanctions" in a form of prohibition to acquire land plots, and their related parties
- ▶ Ukrainian legal entities controlled by individuals and legal entities incorporated in the states listed by the Financial Action Task Force (FATF) as non-cooperative states in the sphere of anti-money laundering.

Additional requirements regarding acquisition of agricultural land plots

The Law establishes that before 1 January 2030, price for agricultural land plots allotted in kind to owners of land allotments cannot be less than their normative monetary value.

Also, agricultural land plots cannot be sold to the persons that cannot substantiate the origin of money or assets to be used for settlements by respective documents.

The order of such verification will separately be established by the Cabinet of Ministers of Ukraine.

Transfer of preemptive right of lessees to acquire agricultural land plots

The Law amends Article 131 of the Land Code of Ukraine and envisages that lessees are entitled to transfer their preemptive rights to acquire agricultural land plots to other persons if the lessees notify the owners in writing.

Liability

The Law sets out that violation of requirements regarding:

- ▶ Total area of agricultural land plots in ownership
- ▶ Obtaining title to agricultural land plots by persons restricted from this

form grounds for invalidation of the relevant deals and confiscation of land plots based on court decisions.

If a land plot's owner must alienate it within a certain period and fails to do so, this land plot is subject to confiscation based on a court decision.

The state authority exercising control over land use and protection will file these lawsuits.

A confiscated land plot must be sold through a land auction. The former owner receives a sale price reduced by sale expenses.

We would be glad to address any questions you may have with regard to the above.

We will continue monitoring the developments and will inform you of further important changes

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