Amendments to Legislative Acts of Ukraine on the Circulation of Agricultural Land

Please be informed, that on 28 April 2020, the President of Ukraine signed the Law of Ukraine "On Amendments to Some Legislative Acts of Ukraine Concerning the Conditions of Circulation of Agricultural Land", which enters into force 1 July 2021.

The main legislative changes are as follows:

1) The following legal persons can acquire ownership of agricultural land:

- citizens of Ukraine;
- legal entities of Ukraine*, created and registered under the legislation of Ukraine, the participants (shareholders, members) of which are only citizens of Ukraine and/or the state, and/or territorial communities;
- territorial communities;
- the State of Ukraine;
- banks (only in cases of foreclosure of the land plot as collateral).

Foreigners, stateless persons and legal entities are prohibited from acquiring shares in the authorized capital, stocks, participatory interest, and membership in legal entities (except for the authorized capital of banks) which own agricultural land.

Legal entities of Ukraine, the participants (shareholders, members) or UBOs of which are not citizens of Ukraine, will be able to acquire ownership of agricultural land only after a relevant decision is taken through a national referendum allowing such legal entities to purchase land on the territory of Ukraine.

*** Until 1 January 2024, it is prohibited to sell or otherwise dispose in favour of legal entities**:

- private land plots assigned to land for agricultural commodity production;
- agricultural land allocated in kind (on the ground) to owners of land shares (units) for the conduct of personal peasant (small farmer) farming;
- land shares (units);

except for the transfer to the banks of ownership of land plots as collateral, the transfer of land plots as inheritance, the exchange of a land plot to another land plot with the same normative monetary valuation (the difference between the normative monetary valuations shall not be more than 10%).

2) Under any conditions, the acquisition of ownership of agricultural land shall be prohibited for:

- legal entities, the participants (shareholders, members) or UBOs of which are persons who are not citizens of Ukraine – for agricultural land of state and communal ownership, agricultural land allocated in kind (on the ground) to owners of land shares (units), and

which are located closer than 50 kilometres from the state border of Ukraine (except for the state sea border);
- legal entities, the participants (shareholders, members) or UBOs of which are nationals of a state recognized by Ukraine as an aggressor state or occupying state;
- persons belonging to or who belonged to terrorist organizations;
- legal entities, the participants (shareholders, members) or UBOs of which are foreign states;
- legal entities in which it is impossible to establish a UBO (controller);
- legal entities, the UBOs (controllers) of which are registered in offshore zones which are included in the list of offshore zones by the Cabinet of Ministers of Ukraine;
- natural and legal persons to whom special economic and other restrictive measures (sanctions) have been applied in accordance with the Law of Ukraine "On Sanctions" in the form of a prohibition on concluding transactions for the acquisition of land ownership, as well as for related persons;
- legal entities established under the laws of Ukraine, which are under the control of natural and legal persons registered in the countries included in the International Anti-Money Laundering Group (FATF) on the list of countries that do not cooperate in the field of combating money laundering.

The sale of agricultural land of state and communal ownership is prohibited.

If a person acquires ownership over a land plot which cannot be acquired by such person, this land plot shall be alienated by its owner within one year from the moment of obtaining ownership. If such person does not alienate the land plot within the defined period, such land shall be subject to confiscation by court decision.

3) Limitation of the area of agricultural land that can be owned:

- the total area of agricultural land owned by citizens of Ukraine may not exceed 10,000 hectares. However, till 1 January 2024 the total area of agricultural land owned by citizens of Ukraine may not exceed 100 hectares (this restriction shall not apply to land acquired by a citizen before 1 July 2021);
- the total area of agricultural land owned by a legal entity (other than banks) may not exceed the total area of agricultural land that may be owned by all its participants (members, shareholders), but not more than 10,000 hectares.

If a citizen owns the right of ownership of a share in the authorized capital of a legal entity, then it is considered that such citizen, in addition to the land plots belonging to him/her directly, also has ownership of agricultural land with a total area equal to the area of agricultural land owned by the legal entity of which he/she is a participant, multiplied by the share of such citizen, expressed as a percentage in the authorized capital of that legal entity.

If the total area of agricultural land owned by a person or a legal entity exceeds the abovementioned size limits, land plots exceeding such size limits shall be subject to confiscation

by court decision, and sale at a land auction. The price of the land sold at the land auction, less the costs associated with its sale, is paid to its former owner.

4) Prohibition of alienation of land plots on occupied or annexed territories.
It is prohibited to alienate land shares, land plots for agricultural purpose of state and communal property, alienate and change the purpose of land plots for agricultural purpose of private property, allocated in kind (on the ground) to owners of land shares, located on the temporarily occupied territories of the Donetsk and Lugansk regions, the Autonomous Republic of Crimea and the City of Sevastopol, except for their inheritance.

For further information and assistance with respect to the above or any other related legal matters, please do not hesitate to contact us.

Best regards,

The Kyiv PETERKA & PARTNERS Team