



AMENDMENTS AND
SUPPLEMENTS TO THE LAW
ON AGRICULTURAL LAND

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AMENDMENTS AND SUPPLEMENTS TO THE LAW ON AGRICULTURAL LAND

Foreigners acquiring ownership of agricultural land in the Republic of Serbia

The National Assembly of the Republic of Serbia has adopted amendments and supplements to the Law on Agricultural Land and prescribed the possibility and the requirements for foreign natural persons acquiring ownership rights over agricultural land. According to the recent press release, the Republic of Serbia has thereby fulfilled its obligation under the Stabilization and Association Agreement with the EU, which stipulates the obligation of the Republic of Serbia to permit citizens of the EU member states to acquire ownership rights over real estate in Serbia, and over a period of four years from the entering into the Agreement, that is the Law on Ratification of the Stabilization and Association Agreement entering into force, to gradually harmonize its legislation on acquiring real estate in Serbia.

The Law on Agricultural Land prohibited foreign natural persons and legal entities from becoming owners of agricultural land. This prohibition existed in other countries of the Balkans as well, and is a customary measure prescribed by countries in order to protect their agricultural land, as goods of general interest. Contrary to the provisions of the law, accession to the EU requires enabling equal treatment of citizens of EU member states and local citizens.

The Agreement also prescribes deadlines for harmonizing the legislation, making the amendments and supplements to the Law on Agricultural Land necessary in order to fulfill the obligations undertaken by the international agreement.

The amendments and supplements to the Law on Agricultural Land enable foreign natural persons to acquire agricultural land under certain conditions. The conditions specified by the Law are such that the possibility of foreigners acquiring ownership rights over agricultural land is suspended for at least ten years, the possibility of acquiring land is restricted to foreign natural persons only, and the area of land that foreigners can acquire ownership rights over is limited.

In order for a foreigner to acquire ownership rights over agricultural land, he/she must have had permanent residence in Serbia for at least ten years, must have cultivated the land he/she intends to buy for the past three years, must have been the owner of a family farm with active status continuously for ten years, and must own farm machinery and equipment. These periods of time are determined starting from the date when the amendments and supplements to the Law enter into force, meaning that the earliest year that a foreigner will be able to buy agricultural land is 2027.

It is clear that Serbia intends to protect its agricultural land as goods of general interest, so stipulating certain restrictions, such as preemption right in favor of the Republic of Serbia is both necessary and understandable. However, the requirements for acquiring land prescribed by the Law are such that it is safe to say that no foreign citizens meet the legal requirements, even if the periods of time were to be applied retroactively. This means that the amendments and supplements to the Law on Agricultural Land will have no effect, given that it would be hard to find individuals who meet the prescribed requirements even among Serbian citizens.

A dramatic landscape photograph featuring a dark, stormy sky with heavy, dark clouds. A bright, golden light source, likely the sun, is positioned just above the horizon, creating a strong lens flare and illuminating the scene. The foreground shows a field of tall grass, and a portion of a wooden structure, possibly a trailer, is visible on the left. The overall mood is one of tension and anticipation.

The future application of this Law and the reaction of other signatories to the Stabilization and Association Agreement are predictable. The amendments and supplements will, in any case, remain a dead letter, and will not be applied even after the ten-year period has expired.

The side effects will be much more significant – prescribing unequal treatment for foreign citizens will become the main topic of debate and discussion with the EU and the trump card for blocking negotiations for those EU members preferring not to include the Republic of Serbia in the European family.

The reasoning for the proposed amendments and supplements to the Law on Agricultural land specifies that the Law is being enacted in order to fulfill obligations under the Stabilization and Association Agreement. However, by adopting these amendments and supplements to the Law on Agricultural Land Serbia has not fulfilled its obligations undertaken by the Stabilization and Association Agreement for at least two reasons.

The first reason is that the right of foreign entities to acquire agricultural land is restricted to natural persons only, since only natural persons can meet some of the legal requirements for acquiring agricultural land. Namely, only a natural person can be the owner of a family farm, and also the concept of permanent residence can only be applied to natural persons. This does (partially) fulfill the obligation under Article 63 paragraph 2 of the Stabilization and Association Agreement, but fails to fulfill the obligation under Article 53 paragraph 5 point b of the Stabilization and Association Agreement and allow foreign legal entities to acquire real estate, including agricultural land.

The second reason is failure to fulfill the obligation of “equal treatment” of foreign and local citizens. Article 63 paragraph 2 of the Stabilization and Association Agreement clearly and unequivocally specifies that Serbia must enable the EU citizens to acquire real estate, and that within four years of the date of entry of the Agreement into force, the EU citizens have to be provided with the same treatment as local citizens with respect to acquiring real estate.

Considering that the Law demands fulfillment of strict requirements for foreigners to acquire ownership rights over agricultural land, which are not demanded of local citizens, it is clear that the amendments and supplements of the Law on Agricultural Land do not constitute fulfillment of obligations under the Stabilization and Association Agreement in the part relating to equal treatment. Amendments and supplements to the Law on Agricultural Land should have been such to equalize the position of the EU citizens and citizens of Serbia, yet they have achieved the opposite – the EU citizens have been placed in a less favorable position, with such requirements for acquiring agricultural land imposed on them, that they cannot be fulfilled even in ten years’ time.

The question remaining without a clear answer is why such amendments and supplements to the Law on Agricultural Land were adopted in the first place. There are two possible answers to this question. The first is that the Republic of Serbia has not properly taken into account the Stabilization and Association Agreement and that, through superficial interpretation of the Agreement provisions, the provision clearly specifying equal treatment was overlooked. The second possibility is that the Republic of Serbia is thereby trying to “buy time” because it is essentially still not prepared to permit foreign citizens to acquire agricultural land.

The fact that the amendments and supplements to the Law on Agricultural Land have failed to permit the possibility for foreign legal entities to also acquire ownership rights over agricultural land, even though this obligation was undertaken by Article 63 paragraph 5 point b of the Stabilization and Association Agreement, gives the impression that the competent authorities in the Republic of Serbia do not grasp the importance and weight of the Stabilization and Association Agreement. Without entering into the merits and need for a country to protect its agricultural land as goods of general interest, this indeed gives rise to the question of understanding the basic principles on which the European Union was founded, particularly the principle of equal treatment of EU citizens and citizens of member states.

The very fact that Serbia will one day be a member of the EU means that every citizen of the EU will be permitted to enjoy the same rights as Serbian citizens, including the right to own agricultural land. Prescribing special requirements for acquiring ownership rights to agricultural land which apply only to foreign citizens is, from the viewpoint of EU law, discrimination, and it is reasonable to expect a demand to cease such discrimination.

The future application of this Law and the reaction of other signatories to the Stabilization and Association Agreement are predictable. The amendments and supplements will, in any case, remain a dead letter, and will not be applied even after the ten-year period (the stipulated length of time a foreign citizen must reside in Serbia in order to buy agricultural land) has expired. The side effects will be much more significant - prescribing unequal treatment for foreign citizens will become the main topic of debate and discussion with the EU and the trump card for blocking negotiations for those EU members preferring not to include the Republic of Serbia in the European family.



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