

New regulations on the sale of agricultural land outside buildable areas

14 March 2014

In brief

The Law ¹ on the regulations regarding the sale-purchase of agricultural land outside buildable areas has been published in The Official Journal of Romania. The new legal provisions mainly regulate the preliminary procedure for the sale of agricultural land located outside buildable areas and the pre-emption right applicable for such purchases.

In detail

The sale of agricultural land located outside buildable areas is allowed only with the observance of a pre-emption right.

The Law regulates a pre-emption right for equal price and conditions, applicable in the case of the sale of agricultural land located outside the buildable area.

The beneficiaries of the pre-emption right for land purchases are, in order of their priority, the following:

- co-owners;
- agricultural lessees;
- neighbouring owners;
- the Romanian Agency for the State's Domains.

Procedural aspects

In order to sell, the owners of agricultural land located outside buildable areas are obliged to file a request with the city hall for the administrative-territorial area where the land is located, requesting the publishing of the offer to sell the land.

The documents attached to the request will be determined by the law's implementing regulations.

The city hall then has to display the offer to sell at its premises or on its official website for 30 days and communicate it to the central or regional structures of the Ministry of Agriculture and Rural Development

(depending on the land's surface area) for display on their website for 15 days.

Pre-emptive right holders have 30 days from the date of the offer's display to express, in writing, their intention to purchase.

If pre-emptive right holders express their intentions to purchase, the sellers sell to whichever has the highest priority.

If there is no interest from pre-emptive right holders, the sale can proceed with another buyer under the conditions provided by the previous sale offer, with the sellers having to notify city hall in this respect.

¹Official Journal no. 178/ 12 March 2014, Law nr. 17/2014 on the regulations regarding the sale-purchase of agricultural land situated outside buildable areas and for the amendment of Law no. 268/2001 on the privatisation of companies administrating the State's publicly- and privately-owned land with agricultural destination and for the creation of the Agency for the State's Domain.

Specific permits

The sellers have to obtain the Ministry of National Defence's permit for the transfer of ownership regarding agricultural land outside buildable areas:

- to a distance of 30 km inside the state border and the Black Sea shore;
- to a distance of 2,400 km from the special units.

The permit of the Ministry of Culture is also required in order to transfer the ownership over agricultural land outside buildable areas:

- where archaeological sites are located;
- where archaeological heritage areas are located;

- where areas with archaeological potential found by chance are located.

Sanctions

Violations of the pre-emption right or of the preliminary procedure and requirements entail the absolute nullity of the transfer of ownership deeds for agricultural land outside buildable areas.

Failure to observe the new legal procedures may also trigger fines of up to RON 100,000.

Applicability and entry into force

The law applies once it and the implementing regulations have been published in The Official Journal of Romania.

The law does not apply to the sale of land located inside buildable areas nor to a transfer of

ownership performed between relatives of up to the third degree, inclusively.

Sales made on the basis of pre-agreements or option agreements authenticated prior to the law entering into force are to be finalised in the initially agreed conditions.

The takeaway

We expect for the application of this law to make the acquisition of agricultural land located outside buildable areas a more complex process and it will probably extend transaction schedules.

Let's talk

For a deeper discussion of how this issue might affect your business, please contact:



Sorin David, *Partner*
sorin.david@david-baias.ro



Dan Dascălu, *Partner*
dan.dascalu@david-baias.ro



Anda Rojanschi, *Partner*
anda.rojanschi@david-baias.ro



Manuela Guia, *Partner*
manuela.guia@david-baias.ro

PwC România

Lakeview Building
Str. Barbu Văcărescu 301-311
Sector 2, București
Tel.: + 40 21 225 3000
Fax: + 40 21 225 3600

D&B David și Baias SCA

Lakeview Building
Str. Barbu Văcărescu 301-311
Sector 2, București
Tel.: + 40 21 225 3770
Fax: + 40 21 225 3771

This legal and tax bulletin was drafted by the tax department of PwC Romania in cooperation with D&B David și Baias, the correspondent law firm of PwC in Romania.

Disclaimer: The information above represent a brief of the recently published information and shall not have the purpose of offering advice on a certain matter. PwC declines any liability towards any party regarding any fact resulting from the use of the information herein contained.

© 2014 PwC. All right reserved. PwC means the network of PwC International Limited (PwCIL) member companies. Each of these companies is an independent legal entity and does not act as an agent of PwCIL or of any other member company. PwCIL does not supply any services to clients. PwCIL shall not be liable for the acts or omissions of any of the member companies, nor shall exercise its control or professional judgement in order to bound the companies in any way. None of the member companies shall be liable for the acts or omissions of any of the member companies nor shall exercise its control to other member company or bound any other company of PwCIL in any other way.