

Amendment to Agricultural System Act Makes Its Way Through Sejm

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On 14 March 2019, the government submitted to the Sejm an amendment to the Agricultural System Act (UKUR) and some other laws[1]. Judging by how fast it has been working its way through the chamber, the legislation could be enacted shortly. The amendment would make it easier to buy and sell agricultural land, chiefly by making it possible for more entities to buy such land. It would represent a relaxation of the highly restrictive regulatory regime that has been in place for the last three years, since the passage of a law called Act on Stopping the Sale of Land from the State Treasury's Agricultural Property Stock and Amending Some Other Laws of 14 April 2016 (Journal of Laws of 2016, item 585).

Only individual farmers can buy agricultural land now

Under existing law, in principle, only individual farmers are allowed to buy agricultural land plots bigger than 0.3 hectares. (This does not apply to areas designated for non-agricultural purposes in local zoning plans.) The few exceptions to this rule are laid down in the Agricultural System Act (UKUR). UKUR enumerates strictly what other categories of entities can buy agricultural land plots bigger than 0.3 hectares, and under what conditions[2]. The list includes the seller's relatives, the State Treasury, or local government authorities, among others. The purchase of agricultural land by an entity other than an individual farmer requires prior consent from the Director General of the National Support Centre for Agriculture (KOWR). Such a consent, in principle, can only be issued if the buyer undertakes and guarantees to maintain agricultural production on the acquired land. At the same time, any buyer of agricultural land has to use it for agricultural production for a mandatory period of at least 10 years before being able to sell it on. To sell earlier, a court decision is needed. Another provision – one that has been the subject of much criticism – gives KOWR a pre-emptive right to buy shares in any commercial law company that owns agricultural land.

It will be easier to buy farmland

Reacting to criticisms of the law's overly restrictive nature, the government has now proposed some significant changes aimed at making it easier to buy agricultural land. Thus, under the amendment, entities other than farmers will be free to buy agricultural land plots of less than 1 hectare. Such entities will also be entitled to acquire agricultural land in the course of enforcement proceedings or bankruptcy proceedings, as a result of the abolition of joint ownership or division of joint ownership after divorce, through inheritance, or as a result of the break-up, transformation, or merger of commercial law companies. The original text of the amendment had gone even further, removing agricultural land located within the administrative limits of cities from UKUR's remit altogether. But the Sejm Agriculture and Rural Development Committee has taken this change out[3]. In another significant change, the amendment reduces by half, from 10 years to five years, the mandatory period that a buyer of agricultural land has to use it for agricultural production before being able to sell it on. And it transfers the power to approve an early sale from the courts to KOWR's General Director. Furthermore, KOWR's pre-emptive right to buy shares would be confined to commercial law firms that own (or have perpetual usufruct of) agricultural land plots at least five hectares big, or multiple plots whose combined area is at least five hectares.

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[1] The text of the amendment is available here: <http://www.sejm.gov.pl/sejm8.nsf/PrzebiegProc.xsp?nr=3298>.

[2] UKUR uses the Civil Code definition of agricultural land. Laid out in Article 461, this defines agricultural land as land that is used or could be used for agricultural production, i.e. plant and animal production, not excluding gardening, fruit-growing, and fish production.

[3] The committee's report is available here: <http://www.sejm.gov.pl/sejm8.nsf/druk.xsp?nr=3384>.