

THE CONCEPT OF THE NEW LAW ON AGRICULTURAL LAND

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Introduction

The aims of agricultural policy, as defined by the 2001 Law on Agriculture are promoting the efficiency of production in agriculture in order to strengthen the competitiveness in the local and global markets; preserving the natural resources through the promotion of sustainable agriculture; and the preservation and development of rural areas and rural values. The goals are obtained through the implementation of trade and price policy, measures of structural policy, and measures of land policy. The intention of agricultural policy is, among other things, to consolidate the natural resources for agricultural production, and especially agricultural land, and prepare it for agricultural production.

Land structure improvement is a result of the efficient agricultural land market, i.e. a consequence of purchase, trade or lease of agricultural land with the aim of increasing the total area of agricultural land plot used by one farm, and with the aim of clustering cadastral plots of agricultural land in bigger and more manageable production blocks, which should lead to a more efficient land use and the creation of more favourable farming conditions. Moreover, agricultural land consolidation, in addition to the construction of the road and canal network, is a result of the implementation of agrarian land consolidation (komasacija).

This document presents the agricultural land market in Croatia, obstacles that impede the development of the efficient land market, and the concept of the new draft Agricultural Land Law, which aims to remove the identified obstacles to the development of the efficient agricultural land market. It should be stressed that the new draft Agricultural Land Law is subject to change, as it has recently been sent for the adoption procedure.

1. Agricultural land market in the Republic of Croatia

In line with the 2005 Statistical Yearbook of the Republic of Croatia, the total agricultural land is 2,695,000 ha, of which 890,000 ha is state-owned, and 1,805,000 ha is privately owned. As a result of

historical circumstances, the agricultural land market is divided into the land market for privately owned land, and the management of the state-owned agricultural land.

1.1. Disposal of the state-owned agricultural land

When the 1991 Law on Agricultural Land came into force, the 'society-owned' agricultural land became the state-owned agricultural land. The disposal of the state-owned agricultural land (further in the text: management) from 1991 to 2008 can be divided into two periods: from 1994 to 2001, and from 2001 to 2008.

1.1.1. Disposal from 1994 to 2001

The disposal of the state-owned agricultural land by 2001 had been conducted in line with the 1991 Agricultural Land Law. The disposal forms were lease, sale, concession, easement, usufruct, and deeds of donation of the state-owned land. The disposal was done mostly by units of regional self-administration. By 2001, about 123,903 ha of state-owned agricultural land had been disposed in the following way: 8,403 ha (7%) was sold, 5,738 ha (5%) was granted for concession 102,682 ha (82%) was leased, further 2,728 ha (2%) was donated and 4,339 ha (4%) was given for easement or usufruct.

1.1.2. Disposal from 2001 to 2008

The disposal of the state-owned agricultural land is done in line with the 2001 Agricultural Land Law, with the subsidiary implementation of the general real-estate regulations. The aim of the management of the state-owned agricultural land as a measure of land policy is improvement of the agricultural land structure. Accordingly, the 2001 Agricultural Land Law limits the freedom of state-owned agricultural land management by defining the management models, and giving measures and criteria for sale, lease, and concession of state-owned agricultural land. In other words, the state-owned agricultural land can be sold, leased or given for concession only to farmers and with the aim of agricultural land structure improvement.

The disposal forms are lease, sale, and concession of the state-owned agricultural land. The units of local self-administration are mostly in charge of disposal, which is conducted in two phases:

- a) The units local-self administration with the agreement of the Ministry develop state-owned agricultural land management programmes (further in the text: programmes) based on cadastral data, which contain information on the state-owned agricultural land designated for return, lease, sale, concession, and other purposes. The state-owned agricultural land cannot be disposed if the units of local self-administration have not developed the programmes. From 2001 to 2008 the total of 342 units of local self-administration have adopted their programmes with the agreement of the Ministry, which cover the total of 530,863 ha or 60% of the state-owned agricultural land, whereas 73 units of local self-administration do not have any agricultural land in their area.

The units of local self-administration with the agreement of the Ministry invite public tenders for lease and sale of the state-owned agricultural land in line with the programmes, and the procedures of granting concessions are conducted by the Committee for Concessions in line with the

programmes and based on the decisions by the Government of the Republic of Croatia. From 2001 to 2008 the total of 148,606 ha of state-owned agricultural land has been disposed, of which 52,723 ha was sold, 44,934 ha was granted for concession, and 50,949 ha was leased.

The disposal is characterized by long-term and complicated procedures which are followed by legal insecurity. It is evident that there is a set of obstacles preventing a swift and more efficient management, such as:

- Inaccurate land and cadastral situation for state-owned agricultural land;
- Lack of professionals in charge of land management in units of local self-administration;
- Complicated management methods described in the Agricultural Land Law;
- Absence of a single database on state-owned land management;
- Absence of a professional institution that would systematically deal with state-owned and privately-owned agricultural land management.

1.2. Privately owned agricultural land market

The privately owned agricultural land transactions are conducted in agreement with general regulations on real-estate. As opposed to the management of the state-owned land, the aim of the privately owned agricultural land market is not determined in the sense of agricultural policy, as the privately owned agricultural land market is completely free and unlimited, and as such is not aimed exclusively at agricultural land structure improvement. This means that the owners are not obliged to sell their privately owned agricultural land exclusively to farmers, but they may sell it to any legal or natural person interested in making a purchase. It should be stressed that the privately owned agricultural land transactions are often done with the aim of reassigning the agricultural land as construction land, and not for the purpose of improving farm structure.

Not only are the privately owned agricultural land transactions not aimed at agricultural land consolidation, they are also insufficiently dynamic, opaque, and coupled with many obstacles that impede the development of the efficient privately owned agricultural land market. The obstacles to the development of an efficient privately owned agricultural land market are the following:

- Excessive fragmentation of privately-owned land (the plots that belong to the same farm are small and far apart);
- Inaccurate land and cadastral situation for privately-owned land;
- Absence of organized and systematic data on the supply and demand of the privately-owned land;
- Unlimited freedom of selling privately-owned agricultural land (the owner is not obliged to sell its agricultural land to a farmer; agricultural land is inherited equally by all successors);
- Lack of interest in buying agricultural land in certain parts of Croatia, which means that there is no market, i.e. supply and demand.

- Absence of taxation policy that would systematically deal with the problem of abandoned agricultural land and motivate owners to use their agricultural land;
- Inadequate protection of valuable agricultural land, and the possibility of reassigning agricultural land as construction land;
- Absence of favourable loans for buying privately owned agricultural land;
- Absence of an institution that would systematically manage state-owned and privately owned land.

2. The purpose of the new Agricultural Land Law

The purpose of the new draft Agricultural Land Law is to remove obstacles to the development of the efficient agricultural land market and to promote the farm property structure improvement in Croatia by:

- Limiting the freedom of the privately owned agricultural land market by giving the priority to buy and lease privately owned agricultural land to farmers;
- Preventing speculations with agricultural land and uncontrolled reassignment of valuable agricultural land as construction land by introducing preemptory rights for the state to buy privately-owned land;
- Removing obstacles to agricultural land structure improvement, such as real-estate tax for land transactions with the purpose of land consolidation;
- Speeding up and promoting the disposal of the state-owned land by simplifying the procedures and implementing efficient measures and criteria for land management;
- Set up an information system on agricultural land that will contain all data on agricultural land, which should be used to promote farm property structure improvement;
- Establish the Agricultural Land Agency as an institution that will take part in privately-owned land transactions, and disposal of the state-owned land, as well as develop and implement different measures and programmes aimed at agricultural land consolidation and agricultural land structure improvement.

3. Privately-owned agricultural land market and Agricultural Land Agency according to the draft of the new Agricultural Land Law

3.1. Agricultural Land Agency

To deal with agricultural land consolidation and improve agricultural land management, the Government of the Republic of Croatia will establish the Agricultural Land Agency as a specialized public institution. The activities of the Agency will include:

- Purchasing and exchanging privately owned agricultural land,
- Agricultural land structure improvement,
- Managing the land fund,
- Mediating in transactions with privately owned agricultural land,
- Providing assistance to owners of agricultural land in settling the legal issues concerning their title to agricultural land,
- Monitoring and evaluating the effects of various measures of agricultural policy and measures of other policies on the agricultural land market,
- Collecting and analyzing information about the agricultural land market and preparing documents and reports,
- Interlinking and coordinating the activities of the authorities, institutions, NGOs, and units of local and regional self-government in matters of land policy and other policies with an impact on the agricultural land market,
- Participating in the procedures for agricultural land planning in accordance with special regulations,
- Carrying out other activities in accordance with this Act, the founding document, the Articles of Association and other regulations.

The organization, powers and decision making methods as well as other issues of relevance to the activities and operation of the Agency will be regulated by the new Agricultural Land Law and Agency's regulations.

The Agency will purchase agricultural land owned by a legal or a natural person in the name and for the account of the Agency. Agricultural land purchased by the Agency and the funds for purchasing agricultural land, as well as the funds earned from agricultural land management, will constitute a land fund. The Agency shall manage the land fund with a view to consolidating agricultural land.

The Agency will be composed of central office and 20+1 branch offices (one branch office in each county).

3.2. Private agricultural land market

The owner who intends to sell his agricultural land would forward an offer to the unit of local self-government on the territory of which the land is located. In addition to the information about the owner, the offer would also include the following: information about the cadastral lot to be sold, proposed price; conditions of sale.

The unit of local self-government would publish the offer for the sale of agricultural land within 15 days from receiving the offer, and it would forward the offer to the Agency. Interested legal and natural persons would, within 30 days, submit a declaration in writing to the unit of local self-government stating that they accept the offer. The unit of local self-government would forward the

best buyer's offer to the Agency observing the pre-emptory rights defined by the new Agricultural Land Law. The Agency would, within 15 days from the submission of the declaration, confirm to the unit of local self-government whether the sales process has been carried out in accordance with the provisions of new Agricultural Land Law. The unit of local self-government would forward the best bidder's declaration to the seller. The seller would make a sales agreement with the best bidder. The buyer would send the sales agreement to the Agency. The Agency would have the right of first refusal for all the agricultural land at the highest offered price within 15 days from the expiry of the time limit for submitting a declaration accepting the offer to the unit of local self-government. The Agency will be under no obligation to purchase all the agricultural land offered.