

Transactions involving agricultural land in Romania – often problematic

by Oana Somesan

Romania comprises 14.7 million hectares of agricultural area, of which 10 million hectares are farmland¹. According to an estimate in 2008², there were then approximately 6.8 million hectares of land left unplanted/unfarmed. Today, the amount of uncultivated agricultural land in Romania has been reduced, but is still too large.

Romania is of considerable interest to foreign investors wanting to acquire farmland. This is mostly for the purpose of cultivation; however, especially since the purchase price of agricultural land has risen by a consistent 10-15% in recent years, and this trend seems to continue, an acquisition is also of interest as investment. Current prices of agricultural land in Romania are still more advantageous than in most EU member states.

When purchasing land, due diligence is required from a legal perspective. Investors encounter the following problems on a regular basis:

Missing field sector plans

An important negative aspect is the lack of field sector plans and tables for available plots. This is unfortunately quite frequent in the case of those plots for which property titles were issued according to Romanian restitution laws before 2013.

A field sector plan (ro. *plan parcelar*) is prepared by surveyors, verified and stamped by the competent city hall – the local council for land related issues (ro. *Comisia locala de fond funciar*), as well as by the cadaster office (ro. *Oficiul de Cadastru si Publicitate Imobiliara*), to identify the exact location of each parcel in the relevant field sector (ro. *tarla*).

Regarding the preparation of the field sector plan, the surveyor measures the whole field sector and establishes the location, the dimensions and the technical details of each and every parcel of land in that field sector. In the field sector table all parcels are listed with their data (parcel number, surface area, cadastral number, property title issued for every parcel).

If a field sector plan that is verified and stamped by the cadaster office is missing, the location of the parcel in this field sector cannot be certain and there is the risk of plots of land overlapping. In exceptional cases, when preparing the field sector plan, even more serious legal problems regarding certain plots (such as a double selling before entry in the land register³) can be discovered.

So the purchase of agricultural land before the approval of the field sector plans is not recommended at all.

¹ Source: Wikipedia

² https://ro.wikipedia.org/wiki/Agricultura_României

³ The legal appearance that one and the same plot of land has several owners can represent, in practice, by nature, a 'deal- breaker', and the settlement of these situations can be extremely complicated.

Other possible problems regarding agricultural land in Romania

Other problems over which investors may stumble when purchasing agricultural land include the following:

- Several plots of agricultural land in Romania are still not registered in the land register (ro. *cartea funciara*) because the owners have not carried out the necessary formalities. Such plots of land cannot be sold without a preliminary entry in the land register (that must often be initiated and paid for by the purchaser);
- In the case of certain plots of land there are still restitution requests from third parties left unsettled;
- The history of some land shows different legal problems (for example the non-fulfillment of the requirements imposed when making a purchase agreement, selling plots of land in spite of existing prohibition of ownership transfer, etc).

Due Diligence

To identify possible legal problems over agricultural land in Romania and to make transactions as safely as possible from a legal point of view, it is of utmost importance to verify the legal status of the land by a due diligence procedure before the actual purchase.

Due diligence is done to identify serious risks regarding the verified agricultural land.

Conclusion

Although the interest in farmland in Romania is significant and the prices are mostly seen as attractive, the technical and legal problems potential buyers and users may encounter should not be underestimated.

In certain cases there are even more serious legal problems which can result in property loss or impossibility to use the purchased farmland. Carrying out a due diligence procedure before the acquisition of agricultural land is strongly advised.

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