

**Building a Greener Economic Environment**

**REPORT**

ON LEGISTLATION AND PROCEDURES FOR RENTING OF ABANDONED LAND FROM MUNICIPALITIES TO COMPANIES, FARMERS OR GROUP FARMERS

**EXECUTIVE SUMMARY**

Municipalities are a very important link in agricultural and rural development. One of the main mechanisms at their disposal to perform this role is the leasing of agricultural land that they own. This mechanism has taken on even greater importance, following the implementation of the administrative-territorial reform in 2014 where the land available to municipalities increased several times as a result of the change from municipalities to administrative units and the inheritance of the assets of these last. The legal framework regarding the lease of indivisible agricultural lands has its origins in 1998. The bylaws issued on the basis of and for its implementation have fully configured the procedures and deadlines and this aspect seems completed.

Despite the above, in practice there are difficulties in renting agricultural land by municipalities. These difficulties are related to a number of issues both at the national and local level. Although agriculture is considered a strategic sector with high potential, agricultural holdings are largely unregistered. The lack of a complete and consolidated register of real estate at the national level, especially with regard to agricultural land is the main problem today in relation to real estate in the country, which conditions their leasing process in accordance with the requirements of the Civil Code and special legal framework.

On the other hand, the municipalities do not have their assets, including indivisible agricultural lands, registered with the real estate registration offices, mainly due to the lack of complete technical-legal documentation and due to the limited budgets available to them to complete the application and payment of the relevant fees to the Cadastre Agency. It is also generally noted that municipalities do not provide electronic databases of these assets nor do they promote them. These shortcomings have prevented the conclusion of lease contracts in many cases with interested parties and consequently lack of income for the Municipalities. The number of contracts concluded in relation to the number of land available for rent is very small. On the other hand, in the compliance audit reports performed by the Supreme State Audit, a number of shortcomings have been identified regarding the manner of implementation of procedures and deadlines for concluding lease contracts.

These shortcomings as above can be addressed through a series of measures where the most important are: (a) preparation of detailed guidelines regarding the procedures to be followed by the relevant commissions for the lease of indivisible agricultural land; (b) their publication on the official websites of the municipalities in the framework of a dedicated section and in visible places in local institutions; (c) promoting Municipal-owned assets on the website and, where possible, making preliminary investments to increase the rental value of such properties; (d) entering into lease contracts only after their registration with the Cadastre Agency, using the TIP Contract and in notarial form; (d) the amounts of rents accumulated from the lease of indivisible agricultural land should be dedicated to the annual budget fund for the periodic registration of local assets by the municipalities and for the regeneration of indivisible agricultural land for their award at higher prices than the minimal.

**OBJECT AND METHODOLOGY**

The object of the evaluation report is the analysis of the situation on the current legislation in force (laws and bylaws) regarding the procedures for the lease of agricultural land undivided by the Municipalities. In accordance with the ToR (Terms of Reference) the analysis focused on the following elements:

1. Legal regime of agricultural land in general and overview of the legal regime on indivisible agricultural land owned / inventory of Municipalities.

2. Categories of agricultural land that can be rented by the Municipalities in the Republic of Albania.

3. The process of inventory of state properties that have been transferred to the Municipalities based on the administrative and territorial reform started in 2014.

4. Legal procedure for renting agricultural land (formalities, procedures, lease terms, application, restrictions, prices and contractual processes)

5. Status and process of registration of Municipal properties in the Cadastre Agency, obstacles and restrictions. Identifying challenges from the perspective of Municipalities.

The analysis also highlights a necessary Guide regarding the procedure of renting indivisible agricultural lands in terms of in particular the deadlines and steps to be followed by the Municipalities. This Guide is presented synthetically to serve CNVP and its partners (Municipalities) and in the future can be prepared in the form of a concise and exhaustive manual with wide possibilities for use by municipalities.

**The methodology followed in this analysis:**

1. Research of strategies, documents, laws and bylaws (instructions, orders, etc.) approved over the years regarding the lease of indivisible agricultural land, competencies of local self-government units (Municipalities), etc.

2. Research of international reports such as EU Progress Report 2018, related to issues in the field of agriculture, including but not limited to issues of ownership and rural development.

3. Analysis of national reports, such as: audit reports on the legality and compliance of the Supreme State Audit in relation to the administration of assets in general and the lease of agricultural land by municipalities.

4. Questionnaires completed by the relevant structures of asset management / leasing of agricultural lands in the Municipality of Gramsh and the Municipality of Tirana in order to: a) collect their views on the implementation of the procedure of leasing agricultural land; b) to identify concrete problems encountered in connection with this procedure; c) to conclude on the most appropriate recommendations which may address these issues. Their comments are structured in a separate section in this Assessment.

**RECOMMENDATIONS**

**Recommendations for legal improvements:**

1. Since the determination of the deadlines for the lease of indivisible agricultural lands is not provided in law no. 8312, dated 26.02.1998 "On indivisible agricultural lands", but they are defined only in UKM no. 1, dated 18.07.2012 "On the procedures for leasing agricultural land, indivisible", is required in law no. 8312, dated 26.02.1998 to set the deadlines for the lease of indivisible agricultural lands and to take into account Article 803 of the Civil Code, which has determined that these contracts are valid only for a period of 30 years.

2. In law no. 8312, dated 26.02.1998 "On indivisible agricultural lands" and UKM no. 1, dated 18.07.2012 "On the procedures for leasing agricultural land, indivisible" to establish a definition, that agricultural land, indivisible can be leased, only if there are no claimants from the expropriated entities (former owners).

**Recommendations regarding the administration of agricultural lands:**

**Creating asset inventory**

3. Municipalities should complete the procedures of inventory of assets under administration, including indivisible agricultural lands for all administrative units under their jurisdiction. Indivisible agricultural lands must be inventoried with all the necessary geographical information (maps, topographic survey plans), legal (relevant cadastral area, exact area, and legal and factual status of the property) and factual (photographs and description of land) in relation to them. This process paves the way for the registration of these properties in the name of the respective Municipality at the Cadastre Agency. To achieve this objective, Municipalities must implement the legal obligations arising from law 20/2020 "On the Completion of Transitional Property Processes".

4. Preparation of an electronic inventory of indivisible agricultural lands of municipalities as a list of assets available to potential investors. The creation of electronic inventory will enable the evaluation of these agricultural lands based on their serviceability, usefulness and criticality as an asset available to the Municipalities for rural economic development. The preparation of the inventory will put positive pressure on the Municipalities to start thinking about justifying and prioritizing the proposed capital expenditures, for the registration of assets, their improvement / development and their provision for leasing procedures.

**Registration of assets in the cadastre**

5. Registration of assets administered by the Cadastre Agency in accordance with the provisions of law no. Law no. 111/2017 “On the Cadastre”, as a basic and preliminary condition for concluding lease contracts with renting entities, in accordance with the provisions of the Civil Code.

6. The registration of real estate should be preceded by the approval of a dedicated annual fund in the local budgets, in relation to the preparation of technical documentation, legal (measurements and survey plans) and subsequent registration of properties with the Cadastre Agency. In conditions when local budgets are limited, Municipalities should seek the cooperation of donors and other development partners.

**Recommendations regarding rental procedures:**

7. Preparation of detailed Guidelines regarding the procedures to be followed by the relevant commissions for the lease of indivisible agricultural lands. It is recommended to approve the guidelines in the framework of simple operational manuals which must be approved by order of the Mayor where the following elements are detailed:

- Applicable legal and sub-legal framework

- Clear role, duties and responsibilities with job descriptions for members of KQTBP;

- Deadlines and procedures to be followed and respected by each member of KQTBP.

8. Prepare a Request-TIP Form to be submitted by applicants instead of a written letter. Request-Form TIP to contain all the elements required in section II of the Instruction of the Council of Ministers no. recommendation 6 above.

9. Publication of Guidelines on the official websites of the Municipalities in the framework of a dedicated section and in visible places in local institutions.

10. Promoting the assets owned by the Municipalities on the website and where possible make preliminary investments to increase the rental value of these properties. Asset promotion should be carried out in cooperation with local chambers and business associations, to increase business and community interest in rural development and attract new investment.

11. Concluding lease contracts only after their registration in the Cadastre Agency, using the TIP Contract and in notarial form.

12. The amounts of rents accumulated from the lease of indivisible agricultural lands should be dedicated to the annual budget fund for: a) periodic registration of local assets by the Municipalities; b) for the regeneration of indivisible agricultural lands for their provision at prices higher than the minimum ones.