

საქართველოს ახალგაზრდა იურისტთა ასოციაცია GEORGIAN YOUNG LAWYERS' ASSOCIATION



GYLA will submit the Parliament of Georgia comments on Agricultural Land Ownership

The Committee on Agrarian Issues of the Parliament of Georgia has elaborated and registered for consideration the draft organic law on Agricultural Land Ownership and the amendments to be made to legislative acts related to it, the obligation of adoption of which is envisaged by the new edition of the Constitution of Georgia. According to paragraph 4 of the Article 19 of the Constitution of Georgia, **“ a resource of special importance, agricultural land may be owned only by the State, a self-governing unit, a citizen of Georgia or an association of citizens of Georgia. Exceptional cases may be determined by the organic law, which shall be adopted by a majority of at least two thirds of the total number of the Members of Parliament”**.

GYLA considers it important to emphasize the following issues stated within the draft organic law on Agricultural Land Ownership and draft law on Sustainable management of Agricultural Land and Land with Designated Purpose: **a) title to inherited land by alien and established restrictions; b) prohibition of use of agricultural land as security for a claim; c) change of partner of legal entity of private law registered in Georgia; d) priority purchase right of the State; e) investment plan**

1. Title to inherited land by alien and established restrictions

Paragraph 1 A of the Article 2 of the draft law of Georgia on Agricultural Land Ownership envisages that aliens shall have title to inherited land, however the paragraph 2 of the Article 5 of the same draft law envisages the obligation of cultivation of the land and in case of non-fulfillment of the obligation, establishes the rule for alienation. We consider that for the proper realization of right to property and right to inheritance, the aforementioned restrictions shall not be used against aliens, as in similar cases the citizens of Georgia do not have the obligation to cultivate the land and therefore the norm is of discriminative character. In given case we consider that the alien that inherited the agricultural land shall have equal rights as the citizen of Georgia and have the equal opportunity of realization of inherited right to property.

2. Prohibition of use of agricultural land as security for a claim

We consider the prohibition of use of agricultural land as security for a claim, as well as prohibition of assignment of claims or rights in favor of subjects provided for by the law goes beyond the scopes Constitution of Georgia and puts restrictions on civil-legal relations that have different purpose and do not cause a priori origination of ownership to property. It is significant for the draft law to distinguish between regulation of the right to property and regulation of other type of civil-legal relations such as usage as security for a claim and set restrictions only after origination of ownership. We consider that the mentioned restriction must be abolished, and the owner of the agricultural land shall have the right to use agricultural land as security for claim without limitations.

3. Change of partner of legal entity of private law registered in Georgia

In accordance with the Article 7 of the law of Georgia on Agricultural Land Ownership [] shall not be allowed to change the partner of legal entity provided in paragraph []A of the Article 4 of this Law, that owns agricultural land, as a result of which an alien, legal person registered abroad and/or legal person registered in Georgia whose dominant partner is alien/legal person registered abroad will become dominant partner.“

We consider that the restriction provided for by this Article goes beyond the scopes of regulation of the Constitution of Georgia and significantly restricts entrepreneurial activities and decision-making process of a legal entity of private law. We think that only because the certain legal entity owns agricultural land, it shall not be restricted to receive significant investments from the foreign partners. We consider that the restriction provided for by the Article is not relevant for the purposes of the law and represents the disproportionate interference in entrepreneurial activities of the legal entity of private law.

4. Priority purchase right of the State;

We consider that the law shall define in detail the specific grounds and legitimate purposes of priority purchase right of the State. It is inadmissible for the State to have priority purchase right in any case that will cause disproportionate interference of the State in civil circulation and will significantly increase bureaucratic barriers in the process of alienation of agricultural land by Georgian citizens.

5. Investment plan

We consider that legislation of Georgia must define the main framework and principles of submission of investment plan and decision-making, and the mentioned power shall not be fully transferred to the Government, as the Government of Georgia is the decision-making authority in the process of approving the specific investment plan. It is significant that the law defines in detail what criteria shall the investment plan meet and required quorum for the Government of Georgia to make the decision on adoption of investment plan, in order to prevent the Government of Georgia change the aforementioned rule in every particular case.

We do hope that the presented comments will be taken into account during the draft

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law consideration process.

Sector Economy and Economic Policy Committee started consideration of the presented legislation package today.