

LEGAL INSIGHTS: THE SALE OF AGRICULTURAL LAND LOCATED IN THE EXTRA MUROS AREA

On 3rd May 2024 Law No. 116/2024 approving Government Emergency Ordinance No. 104/2022 amending and supplementing Law No 17/2014 on some measures regulating the sale of agricultural land located in the extra muros area and amending Law No. 268/2001 on the privatization of companies that manage public and private state-owned land for agricultural use and the establishment of the State Property Agency and supplementing Law No. 287/2009 on the Civil Code (“**Law No. 116/2024**”) has entered into force.

The Law No. 116/2024 amends the following enactments:

- a) Law No. 17/2014 on some measures regulating the sale of agricultural land located in the *extra muros* area and amending Law No. 268/2001 on the privatization of companies that manage public and private state-owned land for agricultural use and the establishment of the State Property Agency (“**Law No. 17/2014**”), and
- b) Law No. 287/2009 on the Civil Code (the „**Civil Code**”).

A. AMENDMENTS PROVIDED TO THE LAW NO. 17/2014

A.1. Excluding land predominantly situated within the intra muros area

Prior to the amendments of the Law No. 17/2014 by means of Law No. 116/2024, the provisions of Article 2 (1) of Law No. 17/2014 provided that only agricultural land located in the *intra muros* area was excluded from the scope of Law No. 17/2014.

As of 3rd May 2024, Law No. 116/2024 expressly provides in Article 2 (1), that agricultural land located partially in the extra muros area, forming a single property, identified by a single cadastral number, consisting partly of a majority area located in the *intra muros* area, with the use category courtyard-constructions, and partly in the *extra muros* area, with agricultural use, is excluded from the scope of Law No. 17/2014.

A.2. New sanction for breaching the obligation to pay the tax of 80%

Regarding penalties for breaching the rules on the alienation of agricultural land located in the *extra muros* area in what concerns the non-compliance of the obligation to pay the tax according to Article 4² of Law No. 17/2014¹, a new provision was added to Article 16 of Law No. 17/2014, sanctioning such breach with relative nullity.

B. LAW NO. 116/2024 AMENDS THE PROVISIONS OF ARTICLE 1.952 OF THE CIVIL CODE WITH REGARD TO JOINT VENTURE AGREEMENTS

Prior to the amendments by Law No. 116/2024, the general legal framework provided by the Civil Code provisions with regard to the contributions within joint ventures stipulated that the partners thereon may agree that the assets subscribed to the joint venture agreement and those obtained as a result of their use shall be under the co-ownership of the partners, respectively the fact that the assets made available to the joint ventures may pass, in whole or in part, into the ownership of one of the partners for the purpose of carrying out the object of the association.

The Law No. 116/2024 now expressly provides that, by way of exception from the above-mentioned rules, in the specific case of joint venture agreements concluded by and between a public institution and a private economic operator, where the contribution of the public institution is the land in the public domain of the State, the above-mentioned rules shall not apply. Thus, in the case of public-private joint venture agreements where the public authority has subscribed a publicly owned land, such cannot be transferred into the ownership or co-ownership of the private partner of the respective joint venture agreement, despite the general rule provided by the provisions of Article 1.952 (2)-(3) of the Civil Code.

Further assistance at Fiodorov & Partners:



Tatiana Fiodorov, tatiana.fiodorov@afpartners.ro

¹ According to Law No. 17/2014, the alienation by sale of an *extra muros* agricultural land before the 8th anniversary of its purchase by the seller is conditioned by the payment by the seller of a tax of 80% of the amount representing the difference between the sale price and the purchase price, calculated based on the grid of notaries in that period.