

Keep calm and hold the land reserve

On 30 April, marking the tenth anniversary of the entry into force of the restrictions on the trading of agricultural property as we know them today, an amendment to the Act of 14 April 2016 on the suspension of the sale of property in the State Treasury's Agricultural Property Stock and amending certain acts ("**the Act**") came into force. The amendment extended the period of suspension of the sale of properties, parts thereof and shares in the co-ownership of properties forming part of the State Treasury's Agricultural Property Reserve ("**Reserve**") to 20 years from the date of the Act's entry into force. This means that for the next 10 years, the National Centre for Agricultural Support ("**KOWR**") will not sell any real estate from the Reserve. Any sale made in breach of the statutory prohibition results in the absolute nullity of the contract.

It should be recalled that in 2016, a five-year prohibition was introduced on the sale of real estate or parts thereof forming part of the Reserve. Subsequently, by an amendment dated 17 March 2021, this period was extended to 30 April 2026. The current amendment extends the protection of state-owned agricultural land until 30 April 2036.

As stated in the justification to the amendment, the aim of the changes is to ensure the long-term protection of agricultural land in Poland against speculative buying up by domestic and foreign entities which do not guarantee that the acquired land will be used for agricultural purposes in a manner consistent with the public interest and the food security of citizens. From the perspective of the property market, this means a further restriction on the availability of agricultural land from the state reserve.

The prohibition of the sale of property applies to all properties forming part of the Reserve intended for sale, and not solely to agricultural properties. However, the suspension of the sale of properties covered by the regulation is not absolute – a sale may take place following the granting of individual consent by the minister responsible for rural development, issued at the request of the Director General of KOWR, if socio-economic considerations so warrant. Furthermore, the rules on the suspension of the sale of properties from the Reserve do not apply to properties designated in the local zoning plan or in final zoning permits or the municipality's general plan for purposes other than agricultural ones. The exemption also covers properties located within the boundaries of special economic zones. Until now, agricultural properties with an area of up to 2 hectares were also exempt from the prohibition.

The amendment has significantly expanded the scope of the exemption from the suspension of the sale of agricultural properties from the Reserve, raising the area limit from 2 ha to 5 ha. It is worth noting that the provisions of the Act on the Formation of the Agricultural System (“UKUR”) do not apply to the sale of agricultural properties held in the Reserve. The restrictions on trading arising from UKUR, such as the prohibition on selling to an entity other than an individual farmer without the consent of the KOWR or the KOWR’s right of first refusal, apply to the trading of agricultural properties on the “private” market. Consequently, the new 5-hectare limit, above which the prohibition on selling property from the Reserve applies, should not be confused with the area limit above which restrictions on the trading of ‘private’ agricultural property under the UKUR apply – these, as a rule, still apply to ‘private’ agricultural property with an area of 1 hectare or more.

The amendment should therefore be viewed primarily as a continuation of the existing regulatory policy, the fundamental aim of which remains to limit the risks associated with the acquisition of agricultural property for investment purposes. In the coming years, the extension of the prohibition of the sale of properties from the Reserve may affect not only the agricultural property market, but also the pace of development of certain investments requiring access to land from the Reserve, particularly in regions with limited availability of investment land.

Do you want to know more? Contact us!

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