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DECISION

No 460, Dated 22.5.2013

ON DETERMINING THE CRITERIA, RULES AND PROCEDURES FOR GRANTING THE STATE-OWNED ARABLE LAND AT LEASEHOLD

(Amended by Decision no 525, dated 16/06/2015)

(Amended by Decision no 143, dated 24/02/2016)¹

Pursuant to Article 100 of the Constitution and Articles 9, 10 and 15 of Law no 8318, dated 1.4.1998 "On the lease of agricultural and forestry land, meadows and pastures that are state property", as amended, upon the proposal of the Minister of Agriculture, Food and Consumer Protection, the Council of Ministers

DECIDED:

I. DEFINITIONS

For the purposes of this decision, the following terms shall mean:

1. *(Amended by Decision no 143, dated 24/02/2016)* "Land" means, in the sense of this decision, the land that is a state property, classified in the agricultural land fund, surfaces that, in cadastral documentation, appear in the category of agricultural land resources.

"Ministry", Ministry of Agriculture, Food and Consumer Protection;

"Minister", Minister of Agriculture, Food and Consumer Protection;

¹ 2. Everywhere in the decision, the words "... state-owned agricultural land ..." are replaced by the word "... land ...", according to the definition given in point 1 of this decision.

Abbreviations in the denominations of some institutions are:

"DLAPR", Directorate of Land Administration and Protection in the Region;

"LIPRO", the Local Immovable Property Registration Office;

"RDA", Regional Directorate of Agriculture;

"OLMP", Office of Land Management and Protection in the commune or municipality;

"BALL", Board on Granting Agricultural Land at Leasehold.

II. LEASE SCOPE

1. *(Amended by Decision no 143, dated 24/02/2016)* The object of the leasehold, according to this decision, are all land surfaces owned by the state.

2. According to Article 14 of Law no 8318/1998 "On the leasehold of agricultural and forestry land, meadows and pastures that are state property" subject to this decision for being granted at leasehold shall also be the areas of agricultural land included within tourist areas, determined by decision no 88, dated 1.3.1993 of the Council of Ministers "On the approval of areas having priority tourism development", as amended, as well as agricultural lands within the limitations of national parks and strictly protected areas, but the final approval on being granted at leasehold is made by the Council of Territorial Regulation of the Republic of Albania.

3. *(Repealed by Decision no 143, dated 24/02/2016)*

III. ENTITIES IN THE PROCESS OF GRANTING STATE-OWNED ARABLE LAND AT LEASE HOLD

The authority granting at leasehold for state-owned agricultural land shall be the Ministry.

For the examination of applications, the organization of competitive procedures and the evaluation of bids for obtaining state-owned agricultural land at leasehold, the Minister orders the establishment of the BALL at the Ministry.

3. The BALL is composed of not less than 5 (five) members, comprising at least:

a representative of the directorate responsible for the administration of public property in the Ministry;

- an agronomist or livestock specialist, as appropriate, by the Ministry;

- an economist specialist or town-planning specialist, as appropriate, by the Ministry;

- a lawyer from the Ministry;

- the director of the regional agriculture directorate, in the district where the land subject to leasehold is located.

4. The BALL has the task of:

- a) reviewing the requests and projects submitted by the entities for leasing agricultural land and making decisions within the deadlines set out in this decision;
- b) the organization of competitive bidding procedure and the guarantee of equality between subjects when more than one request for leasehold has been filed for the same agricultural land area;
- c) announcing and notifying the decision taken by the board for lease.

In cases where the land area, being the subject matter of request for leasehold, is under 15 hectares, then the Minister may order the execution of the lease procedures provided for in this decision directly by the regional agricultural directorate of the district where the land is located, in the capacity of delegated authority granting at leasehold. In this case, the composition of the BALL to be established at the relevant

Directorate of Agriculture shall be determined in the order of the Minister.

The request for being granted agricultural land at leasehold, being the subject matter of this decision, may be made by any natural or legal person, national or foreign.

IV. PROCEDURES FOLLOWED BY BALL FOR GRANTING STATE-OWNED ARABLE LAND AT LEASEHOLD

1. The entities defined in point 6 of chapter III of this decision, who seek to be granted state-owned agricultural land at leasehold, shall submit the request to the Ministry in the capacity of the lessor authority.

2. The application is submitted in writing and contains:

- a) the identity of the applicant and, in the case of natural or legal persons, the registration document as a commercial subject;
- b) alignments of parcel surfaces (properties) required for leasehold at the scale of 1: 2500;
- c) the cadastral plot of parcels (property) with the size of the surface for each of them;
- ç) the certification provided by the LIPRO on the legal status of ownership for all land plots subject to a request for leasehold, when these areas are included within the cadastral zones where the initial immovable property registration or district DLAPR certification was conducted, when these areas are included in cadastral zones where the initial registration of immovable property was not carried out;
- d) certificate issued by the DLAPR of the region for the category of land according to the fertility for the parcels subject to the request for leasehold;
- f) a general description of the project for the agricultural activity to be carried out on the land subject to a request for leasehold, specifying the crops or plant species to be planted, the technologies to be applied in plant cultivation and processing of products , investment in infrastructure (drainage, irrigation, sorting, etc.), expressed in physical and monetary indicators,

sales market, sources of funding expressed in value, guaranteeing investments, impact of activity on increasing the number of employees;

- e) the time period of land use at leasehold, depending also on the agricultural crops or plant species to be planted.
- ë) proof that there are no outstanding financial or legal obligations to the state.

3. The Chairman of the BALL, when the application submitted is in accordance with the provisions of point 2 of this chapter, performs the following procedures:

3.1. Verifies, at LIPRO and DLAPR, the accuracy of the data and indicators specified in point 2 of this chapter within 15 (fifteen) days of the registration of the submitted application;

3.2. It organizes and undertakes the necessary measures for the development of the competition procedure for the lease of agricultural land subject to a registered application and performs a public announcement of the submission of bids for the land that is available for leasehold, subject to the first request, sent to the lessor authority.

4. The public announcement is made in a national circulation newspaper for three consecutive days, on the official website of the Ministry, at the commune or municipality where the required area is located, as well as at the premises of regional agricultural directorates in the districts.

5. The notice for the development of the competition procedure for granting at leasehold includes the purpose of leasing the land, the leased area, its location, the lowest (minimum) value according to point 1 of Chapter V, with which the competition procedure begins, as well as the place, date and time of the development of this procedure.

6. The deadline for submitting bids is 30 (thirty) days from the date of the first publication of the notice of competitive procedure.

7. Interested parties for obtaining agricultural land at leasehold, being subject to the announced procedure, including the entity who submitted the first application, shall submit leasehold offers to the lessor authority within the deadlines specified in the notice for the conduct of the competition procedure.

8. The bids, with a view to their qualification for assessment, must contain the following documentation:

- a) the identity of the person concerned and, in the case of natural or legal persons, the registration document as a commercial entity;
- b) a detailed technical description of the project on the agricultural activity to be developed, the determination of the crops or plant species to be planted, the technologies to be applied in plant cultivation and processing of products, infrastructure investments (drainage , irrigation,

sorting, etc.), expressed in physical and monetary indicators, sources of funding expressed in value that guarantee investments, the impact of activity on increasing the number of employees;

- c) a detailed business plan to be exercised;
- d) Study on the environmental impact of the project;
- d) the time period for the leasehold of the required surface, depending also on the crops or plant species to be planted;
- dh) the time of commencement and termination of planting of land with agricultural crops, in the event of leasehold for fruit trees, vineyards and olive groves;
- e) the price level (ALL / ha per year) that it offers for the leasehold of agricultural land;
- ë) providing the bid on the value of a month's leasehold, calculating it with the value announced in the notice of competition;
- f) proof that there are no outstanding financial or legal obligations to the state.

9. The bids shall be enclosed in a sealed envelope, which shall contain an original and a photocopy of the Bid Documentation, as well as clearly identifying the identity and address of the concerned natural or legal person.

10. All BALL members and interested entities for the leasehold or their representatives, provided with a proxy and identification document, participate in the bidding process.

11. When bids do not qualify, they are disqualified from the competition. Qualified offers as regular ones in terms of the content of the submitted documentation are evaluated subsequently in the absence of the participants, according to the evaluation criteria.

12. The BALL compiles the record of the conduct of the competitive procedure, describing the bidders, the documentation submitted by them, as well as the qualified and disqualified bidders.

13. Within 10 (ten) days from the date of the opening the competitive procedure, the BALL reviews the bids qualified as regular ones, evaluates the bid points according to the evaluation criteria and draws up the decision on the ranking of the bidders.

14. The winner of the competitive procedure is announced by the decision of the BALL, being the entity having collected more points.

15. The Bid Evaluation Criteria and the manner of their calculation are determined by instruction of the Minister of Agriculture, Food and Consumer Protection.

16. The entities participating in the competition have the right to appeal, in writing, to the Minister against the decision of the BALL, within 5 (five) days from the date of receipt of the notification of the decision.

17. Upon expiry of the time limits for the exercise of the right of appeal set out in point 16 of this chapter and in the absence of any deposited complaint, the chairman of the BALL submits to the Minister, within the deadline set out in point 13, a report summary and proposes to approve the winner of the competitive procedure for granting agricultural land at leasehold.

18. The Minister, in the case provided for in point 16 and in the case provided for in paragraph 17 of this chapter, shall review the complaint or the proposal of the BALL within 15 (fifteen) days of their receipt. When the Minister considers that the procedural criteria have been violated in the competitive procedure, then he / she will cancel the procedure. If the Minister considers that there were irregularities in the performance of the assessment, then he orders the re-evaluation of the submitted bids for the lease of the land.

19. In case of approval of the BALL proposal, the Minister orders the conclusion of the lease contract with the winning entity and signs the respective contract. The Minister may delegate the signing of the contract to the head of an internal structure of the Ministry or a subordinate institution.

20. The contract for granting state-owned agricultural land at leasehold according to paragraph 19 of this chapter shall contain the rights and obligations of the lessor, as well as the rights and obligations of the lessee defined in the provisions of law no. 8318 dated 1.4.1998 "On granting agricultural and forestry land, meadows and pastures that are state property at leasehold", as amended, in the provisions of this decision, as well as in the lessee's bid criteria on the basis of which he has acquired the right to obtain leasehold over agricultural land state property and is approved by order of the Minister. The contract termination model is approved by order of the Minister.

21. In the case referred to in point 5 of Chapter III, the submission of complaints, as well as the proposal of the BALL are carried out according to points 16, 17 and 18 of this chapter.

22. The Directorate responsible for public property management in the Ministry monitors the implementation of lease contracts by the lessees, as well as in the case referred to in point 5 of Chapter III, it receives periodic reports or controls the regional directorate of agriculture for the monitoring carried out by this Directorate for the implementation of the lease contract.

23. In the case when, after the announcement of the notice of competitive tender for granting at leasehold and expiry of the deadline specified in the notice, only one bid has been submitted, the ALLB examines the bid submitted on the notified date and assesses it with the criteria set out for granting at leasehold and takes the relevant decision, which it submits for approval to the Minister.

VI/1. (Added by Decision no 525, dated 16/06/2015) PROCEDURES FOLLOWED BY ALLB IN SPECIFIC CASES

1. Agricultural households or individuals who have benefited and possess ownership titles over agricultural land according to decision no 452, dated 17.10.1992, of the Council of Ministers, "On Restructuring of Agricultural Enterprises", as amended, and Law no 8053, dated 21.12.1995, "On the transfer of ownership over agricultural land without remuneration", as amended, but that, by the action of the natural forces of force majeure, the land owned by them has been irretrievably damaged, have the right to participate in the contest procedure, starting at the value of 1 Euro, for agricultural land being in state ownership, within the administrative unit where they have their place of residence and property.

2. The surface of agricultural land being leased may be up to the size of the damaged land surface of the agricultural family or the individual.

3. The lease term is up to 30 years.

4. The request for taking over the use over the land from the agricultural family or a group of individuals is submitted in writing to the ministry and is accompanied by:

- a) Data on the identity of the applicant / applicants;
- b) the act of acquiring ownership over the land and / or the certificate of ownership for the damaged area;
- c) a technical report on the damage to the damaged agricultural land surface, as confirmed by the municipality, the Directorate of Agriculture and the Directorate of Land Administration and Protection of the respective region;
- ç) alignment of plots of land (properties) required for leasehold, at the scale 1: 2500;
- d) the cadastral index of the parcel / plot (ownership) with the size of the surface for each of them;
- dh) the certification provided by the LIPRO for the legal status of ownership for all plots of land, being the subject matter of leasehold request, when these areas are included within the cadastral zones where the initial registration of immovable property was done or the certificate by DLAPR- the district, in case these areas are included in cadastral zones where the initial registration of immovable property was not carried out.

5. The request is reviewed by the BALL, who submits the proposal to the Minister for its approval within 3 days.

6. The Head of the BALL shall take the measures for the organization of the procedure, as follows:

- a) Submit the announcement of the competition procedure to the Center for Official Publications, within the day of approval by the Minister;

- b) The purpose of the leasehold over the land, the surface, being the subject matter of the leasehold, its location, as well as the date and time for conducting such procedure are determined in the notice for the conduct of the procedure of competition for granting leasehold over the land;
- c) The deadline for submitting bids is 5 (five) days from the date of publication of the notice of competitive procedure.
- c) The interested parties for the leasehold of agricultural land, subject matter of the announced procedure, submit leasehold offers to the lessor authority within the deadlines specified in the notice for the conduct of the competition procedure.

7. The bids, with a view to their qualification for assessment, must contain the following documentation:

- a) Data on the identity of the person concerned;
- b) A detailed technical description of the project for the agricultural activity to be developed, coupled with the determination of crops or plant species to be planted, technologies to be applied in plant cultivation and processing of products, investments in infrastructure (drainage, irrigation, sorting, etc.), expressed in physical and monetary indicators, data on the sources of funding expressed in the value that guarantee the investments, the impact of the activity on the increase of the number of employees;
- c) Detailed business plan to be carried out;
- d) Study on environmental impact of the project;
- d) The deadline for the lease of the required area, depending on the crops or plant species to be planted, but no more than 30 years;
- dh) Time of start and end of planting of land with agricultural crops, in the case of its rent for fruit trees, vineyards and olive groves;
- e) Price level (ALL / ha per year) offered for renting agricultural land;
- è) Certification that there are no outstanding financial or legal obligations to the state.

Bids shall be enclosed in a sealed envelope, which shall contain an original copy and a photocopy of the bid documentation, as well as clearly identifying the identity and address of the concerned natural or legal person. If a group of individuals is presented, the request may be submitted by a proxy representative.

9. All BALL members and interested entities for the leasehold or their representatives, provided with a proxy and identification document, participate in the bidding process.

10. When bids do not qualify, they are disqualified from the competition. Qualified offers as regular ones in terms of the content of the submitted documentation are evaluated subsequently in the absence of the participants, according to the evaluation criteria.

11. The BALL compiles the record of the conduct of the competitive procedure, describing the bidders, the documentation submitted by them, as well as the qualified and disqualified bidders.

12. Within two days of the date of the opening of the competitive procedure, the BALL reviews the qualified bids as regular, evaluates the bid point according to the evaluation criteria and draws up the decision on the ranking of the bidders.

13. The winner of the competitive procedure is announced with the decision of the BALL, such being the entity having collected most of the points.

An appeal may be filed according to the procedures set out in Chapter IV of this Decision. "

V. DETERMINING THE ANNUAL LEASE VALUE OF THE STATE-OWNED ARABLE LAND

1. The annual value of the leasehold of agricultural land owned by the state, such as when there is more than one bid for the same area, and when a single offer is made, is determined on the basis of the bonuses category, within the levels which follow:

| Category of land according to fertility productivity | I. | II | III | IV | V | VI | VII | VIII-X |
|---|---------------|--------------|--------------|--------------|-------------|-------------|-------------|--------|
| Minimum value ALL/ha per year | 17000 - 27000 | 15000- 22000 | 12000- 20000 | 10000- 15000 | 7000- 12000 | 5000- 10000 | 5000- 10000 | 6000 |

2. The determination of the leasehold value for each state-owned agricultural land, subject matter of the request for leasehold, for which a competitive procedure will be announced, is determined by the evaluation commission, set up immediately upon receipt of the request, upon the order of the Minister.

3. The Commission in determining the initial value of the leasehold for the opening the competitive tender takes into account the characteristics relating to the land productivity, the condition of its irrigation and drainage infrastructure, the distance from the markets, the level of the agro-processing industry and the degree of development of road infrastructure area.

4. In state-owned agricultural land, when the land surfaces being granted at leasehold do not have data in the register of the productivity of the category of land, the commission established under point 2 of this chapter determines the productivity of the land before the announcement of the competitive procedure.

5. Where the subject matter of the leasehold are agricultural land surfaces that include more than one parcel with different categories of land referring to productivity, the estimate of the value is made separately for each parcel, the grant total of which is also the total value of the surfaces granted at leasehold.
6. In the case of the leasehold of the areas over 15 ha, where the lessee has made at least one third of the investment value at least within the first three years after the completion of the initial investment execution deadline, according to the submitted bid, then the lessee may request a reduction in the value of the leasehold of agricultural land up to 20%.
7. The lessee has the right to benefit the reduction in the value of the leasehold if the additional investment carried out under the provisions of point 6 of this chapter relates, inter alia, to the infrastructure of the leased land infrastructure, the new technology used or the capacity development of agro-processing of products obtained from the realization of the initial investment.
8. The reduction of the leasehold value according to the criteria of point 6 of this chapter is made at the request of the lessee at the lessor authority, by presenting to them the documentation and the certified financial accounts, which certify the performance of the investments.
9. Upon the receipt of the request at the lessor authority, the Minister orders the establishment of the commission for verification of the realization of the investments according to point 6 of this chapter. The manner of verification of the criteria according to point 6 of this chapter, as well as of the relevant documentation is defined in the order of the Minister.
10. The financial income, generated out of leasing of agricultural land, owned by the state, is collected to the account of the State Budget. The lessee shall pay the annual leasehold value within the first quarter of the following year.
11. The reduction of the value of the leasehold according to the definitions under point 6 of this chapter shall be considered in the context of the implementation of the last paragraph of Article 6 of Law no 8318, dated 1.4.1998 "On granting state-owned agricultural and forest land, meadows and pastures on leasehold", as amended.

VI. TIMING FOR GRANTING STATE-OWNED ARABLE LAND AT LEASEHOLD

1. The agricultural land, owned by the state, is leased for the following timeframe:
 - a) up to 10 years, when designated for the cultivation of crops, herbs and decorative plants. In this case, the size of the agricultural land that is leased can not be smaller than the size of the parcel

area according to which it results recorded in the DLAPR cadastral documentation or the size of the parcel area according to which is reflected in the indicative land map "HTR", near the SPRP.

b) up to 30 years, when designated:

- i) for the creation and cultivation of vineyards;
- ii) for the production of fruit trees with biological species, the biological age of which coincides with the duration of cultivation and economic viability;
- iii) for the construction of greenhouses and plant cultivation in them; iv) nursery.

c) up to 99 years, when designated:

- i) for the creation of olive groves;
- ii) fruit tree production with crops and other species, the biological age of which coincides with this duration;
- iii) where the activity under letters "a" and "b" of this point is accompanied by investments for the complete processing of the products obtained from the leased land.

VII. LAST PROVISIONS

1. Points 1, 2 and 3 of Decision no 830, dated 28.12.1998 of the Council of Ministers "On the criteria for calculating the annual value of leasehold of agricultural land, forestry, forests, meadows and pastures, state property", decision no 831, dated 28.12.1998 of the Council of Ministers "On the manner of leasing out state-owned agricultural land", as amended, and instruction no 3, dated 28.12.1998 of the Council of Ministers "On the procedure for the development of the auction for leasing out state-owned agricultural land", shall be abrogated.

2. The Ministry of Agriculture, Food and Consumer Protection is tasked with the implementation of this decision.

3. *(Added by Decision no 525, dated 16/06/2015)* The Ministry of Agriculture, Rural Development and Water Administration is tasked with the implementation of this decision.

This Decisions shall enter into effect following its publication in the Official Journal.

PREMIER

Sali Berisha