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DECISION

No. 994, dated 9.12.2015

ON THE PROCEDURE OF THE REGISTRATION OF THE ACTS OF ACQUIRING THE LAND UNDER OWNERSHIP

(Amended with Decision No. 320, dated 27.4.2016)

Pursuant to article 100 of the Constitution, article 9 of law no. 9948, dated 7.7.2008, "On reviewing the legal validity of the creation of the ownership titles over the agricultural land", as amended, and articles 25 and 45 of law no. 33/2012, "On the registration of immovable properties", upon the proposal of the Minister of Justice and of the Minister of Agriculture, Rural Development and Water Administration, the Council of Ministers

DECIDED:

1. The registration of the acquisition of the ownership right for the immovable property, with the act of acquiring the land in ownership, in continuation to the ATLO, issued in compliance with laws no. 7501, dated 19.7.1991, "On the land", as amended, no. 8053, dated 21.12.1995, "On the transfer in ownership without a compensation of the agricultural land", as amended, no. 9948, dated 7.7.2008 "On reviewing the legal validity of the creation of the ownership titles over the agricultural land", as amended, no. 57/2012 "On the completion of the process of the transfer of the agricultural land of the former agricultural enterprises in the ownership to the beneficiaries" and decision no. 171/2014 "On the completion of the legal procedures of the transfer of the agricultural land of the former agricultural enterprises in the ownership to the beneficiaries" and decision no. 452, dated 17.10.1992 of the Council of Ministers, "On the reconstruction of the state enterprises", as amended, is carried out by the offices of the immovable properties (IPRO), in compliance with articles 25 and 45 of law no. 33/2012, "On the registration of the immovable

Ministry of Justice,
Boulevard "Zogu I"
Tirana, Albania
Tel: +355 4 22 40 333
E-mail: info@euralius.eu
Web: www.euralius.eu



properties”, after the verification if the ATLO contains the elements of the form and content, as follows:

- a) The name and the last name of the beneficiary or of the representative of the agricultural family that benefits the agricultural land;
 - b) The identification of the body that has issued the ATLO which is represented by the chairman of the land allocation commission, regarding the acts issued up to 15.8.2008, or by the chairman of the local governance for the ATLO issued in compliance with the laws no. 9948, dated 7.7.2008, as amended, no. 57/2012 and no. 171/2014;
 - c) The identifying data of the assets allocated in ownership: where the cadastral number or the toponym of the plot/s of land, the surface and the type of the agricultural land are mandatory;
 - d) Any of the following seals:
 - i) of the executive committee of the joint village;
 - ii) of the headman;
 - iii) of the local governance unit;
 - iv) of the agricultural enterprise;
 - v) of the district council/region council.
 - e) The compliance of the type of the property possessed with an ATLO with any of the types of the properties registered in the cadastre under the index “Agricultural land”, dated 1.8.1991, stipulated in letter “a” of article 1 of law no. 7501, dated 19.7.1991, “On the land”, as amended.
 - f) The original ATLO or the one duly authenticated with the original, or a duplicate issued by the local governance unit or the council of the region.
2. When the property acquired with an ATLO results to be registered in the local immovable property registration offices at the moment when this decision enters into force, the following steps are followed:
- 2.1. When the property does not result to be in the ownership of the first holder of the ownership title over the agricultural land, as a consequence of the transaction carried out with the third parties, or as a consequence of the expropriation carried out for public interest, with the exception of the property transfer through the inheritance acts, reflected in the immovable property registration offices, the third parties are not prohibited to carry out actions, with the exception of the case when this property creates overlapping with another immovable property, which does not originate from the same origin;
 - 2.2. When the ownership acquired through the ATLO results to be still under the ownership of the first holder of the ownership title over the agricultural land or its heirs, the immovable property registration offices, in the cases of the treatment of the requests for service of different subjects, shall verify the legality of the registration that has been carried out and act as follows:
 - a) If it results that the registration has been carried out in compliance with the law, then the applied service is conducted;

- b) When, during the verification, it results that the registration has flaws or has been carried out in contradiction to the law, the findings identified by the employees who process the practices, shall be referred to the registrar in writing, indicating comprehensively the flaws that have been identified.

The registration, in the origin, of the agricultural land has flaws when:

- i) it is carried out in the absence of one or more elements of the acquisition acts of the land under ownership, stipulated in paragraph 1 of this decision;
 - ii) the acts of taking the land in ownership are not administered in the immovable property registration office or are administered as photocopies;
 - iii) the surface of all the properties, provided with an ATLO, results to be different from the initial registration surface of these properties, reflected in their respective files.
- c) When one or more of the flaws mentioned in the subdivisions “i” of letter “b” of this paragraph are found, the case is sent to the municipality, which has under its jurisdiction the agricultural land reflected in the ATLO, within 2 working days from the date of the identification, through an explanatory report. The explanatory report shall contain the descriptive part of the fact as well as the argumentation of the identified flaws. Even a copy of the ATLO and of the acts/documents which identify these flaws, as well as a copy of the property file of the last holder of the ownership title, along with his generalities and address, in case these data are administered in the registration office, shall necessarily be attached to the explanatory report.

After the verification of the flaws, the municipality shall, officially, reply to the LIPRO, by completing the identified flaws. The completion of the flaws is not done in the concrete ATLO but they are described through letters.

- d) When in the immovable property registration office, the ATLO is administered in photocopies or it misses, the LIPRO, within two business days from the date of the finding, shall be addressed to the first holder of the ownership title, to the municipality and DLAM, attached to the council of the region, with the request to submit the original copy of the ATLO to the LIPRO, if they possess it. The first holder of the ownership, the municipality and DLAM, attached to the council of the region, shall reply within 30 (thirty) calendar days.

If the holder of the first ownership title, the municipality or DLAM does not have the original copy of the ATLO, the respective municipality, based on the documentation sent by the LIPRO, which includes even the copy of the ATLO, makes the factual verification of the agricultural land which is possessed by the agricultural family and completes the ATLO with the duplicate note, which is sent, officially, to the registration office.

In the case when the first holder of the ownership title, the municipality or the DLAM do not possess a copy of the ATLO, the first holder of the ownership title shall address, with a request, to the municipality for the completion of the ATLO, pursuant to law no. 9948, dated 7.7.2008, as amended or with laws no. 57/2012 and no. 171/2014.

- e) When the surface of all the properties, allocated with the ATLO, results to be different from the initial registration surface of these properties, reflected in their files, the LIPRO, within 2 (two) business days, from the date of the finding, informs the holder of the ownership title and the municipality to specify the location, according to the surface of any property allocated with the ATLO.

In this case the municipality confirms the location and transmits it within 15 (fifteen) days at the LIPRO, along with the explanatory report and the notary statement of the first holder of the title of the ownership, expressing that they agree with the specification.

If the surface of all the properties, allocated with the ATLO, results to be smaller than their initial registration surface, reflected in the respective files, the local registration office continues with the realization of the applied service, but the excess surface shall be subtracted only to one of the properties, according to the statement of the beneficiary of the ATLO.

If the first holder of the ownership title does not submit the notary statement, agreeing with the specification that was made, and if the LIPRO has issued the ownership certificate on this immovable property earlier, the registrar makes the note in the property file for the incompatibility between the surface determined in the ATLO and the surface according to the cadastral map.

If the first holder of the ownership title does not submit the notary statement, agreeing with the specification made, and if the LIPRO has not issued the ownership certificate on this immovable property earlier, the registrar makes the note in the property file for incompatibility between the surface determined in the ATLO and the surface according to the cadastral map and does not issue the ownership certificate, reasoning in writing the incompatibility that is found.

3. When the property, at the moment of the entry into force of this decision, does not result to be registered under the ownership of the beneficiaries, with the ATLO, its registration shall be made:
- a) During the initial, systematic registration process of the cadastral zone where it is located geographically.
 - b) Upon the “request for registration in special cases, when the property is located in cadastral zones where the systematic registration of properties has finished”;
 - c) Upon “the request for registration in special cases”, when the property is located in cadastral properties where the systematic registration of properties has not commenced”.

3.1 Regarding the cases stipulated in letter “a” paragraph 3 of this decision, the LIPRO proceeds with their registration in the interest of the beneficiary with the ATLO, on the condition that:

- a) The ATLOs issued by the property allocation commissions, before 15.8.2008, shall contain all the elements of the form and content, stipulated in paragraph 1 of this decision. If the condition

stipulated in this paragraph is not fulfilled, the LIPRO shall not proceed with the registration and within 2 (two) working days, through an explanatory report, the case shall be sent to the municipality, which has under its jurisdiction the agricultural land, for the cases provided for by the legislation into force. The explanatory report shall contain the descriptive part of the fact, the argumentation of the flaws that have been found, and even a copy of the ATLO and of the acts/documents, which contain the following flaws, attached to it:

- b) The ATLOs issued by the land allocation commissions before 15.8.2008 shall be accompanied with the surveying/location plan of the plots of land included in it and the certificate of the family composition, on 1.8.1991, for the former agricultural cooperatives and on 1.8.1991, calculating the changes in the number of its members up to 1.10.1992, for the former agricultural enterprises. Unless the condition stipulated in this paragraph is met, the LIPRO does not proceed with the registration and within 2 (two) working days, through an explanatory report, the case is sent to the local commission of the ownership title verification (LC) for the cases provided for by the legislation into force.

The explanatory report shall contain the descriptive part of the fact, the argumentation of the flaws/illegalities and the proposal for the verification of the legality of the ownership title creation over the agricultural land for the decision-making, according to article 9 of law no. 9948, dated 7.7.2008 “On the review of the legal validity of the ownership title creation over the agricultural land”, as amended. A copy of the ATLO and of the acts/documents that contain these flaws shall necessarily, be attached to the explanatory report.

- c) the ATLO shall be transmitted officially for registration by the local governance unit;
- ç) the subjects, who have the ATLO issued in their favour, shall have applied for property registration at the LIPRO.

- 3.2 Regarding the ATLOs issued by the local commissions of the ownership evaluation titles over the agricultural land, pursuant to law no. 9948, dated 7.7.2008 “On the review of the legal validity of the ownership title creation”, the LIPRO proceeds with its registration in favour of the beneficiary of the ATLO, upon the completion of the condition that:

- a) the ATLO shall contain the accompanying elements and documentation stipulated with decision no. 224, dated 19.2.2009 of the Council of Ministers, “On the procedures for the creation of the acts on taking the agricultural land under ownership as a consequence of the corrections carried out by the local commission of the ownership title evaluation (LC)”. Unless the condition stipulated in this paragraph is met, the LIPRO shall not proceed with the registration and within 2 (two) working days, through an explanatory report, the case is sent to the local commission of the ownership title verification (LC), for the completion of the flaws. The explanatory report shall contain the descriptive part of the fact and the argumentation of the flaws/illegalities that have been found. A copy of the ATLO and of the acts/documents which contain these flaws shall,

necessarily, be attached to the explanatory report. This notification shall be sent even to the beneficiary subject:

- b) the ATLO and the documentation which accompanies it shall be transmitted officially, for registration, by the local commission of ownership title verification (LC);
- c) the subject, who has the ATLO issued in its favour, shall have applied for property registration at the LIPRO.

3.3 Regarding the ATLOs issued by the local governance units, pursuant to law no. 9948, dated 7.7.2008, "On the review of the legal validity of ownership title creation", as amended, the LIPRO proceeds with its registration in favour of the beneficiary through the ATLO, upon the completion of the condition that:

- a) the ATLO shall contain the accompanying elements and documentation, stipulated with decision no. 253, dated 6.3.2013 of the council of Ministers, "On the stipulation of the procedures for the completion of the acts of taking the agricultural land under ownership, for the agricultural families in the villages of the former agricultural cooperatives", as amended. Unless the condition stipulated in this paragraph is met, the LIPRO does not proceed with the registration and within 2 (two) working days, through an explanatory report, the case shall be sent to the local governance unit for the completion of the flaws or to the local commission of the ownership title verification (LC), for the cases provided for by the legislation into force. The explanatory report shall contain the descriptive part of the fact, the argumentation of the flaws/illegalities that have been found and the proposal on the verification of the legality of the ownership title creation over the agricultural land for the decision making, pursuant to article 9 of law no. 9948, dated 7.7.2008 "On the review of the legal validity of the ownership title creation over the agricultural land", as amended. A copy of the ATLO and of the acts/documents which contain these flaws shall, necessarily, be attached to the explanatory report. This notification shall be sent even to the beneficiary subject to complete the flaws;
- b) the ATLO shall be transmitted officially for registration by the local governance unit;
- c) the subject, who has the ATLO issued in its favour, shall have applied for property registration at the LIPRO.

3.4 Regarding the ATLOs issued by the local governance units, pursuant to law no. 57/2012, "On the completion of the process of transfer in ownership to the beneficiaries of the agricultural land of the former agricultural enterprises" and law no. 171/2014 "On the completion of the legal procedures for the transfer of the agricultural land of the former agricultural enterprises under the ownership of the beneficiaries".

Unless the condition stipulated in this paragraph is met, the LIPRO does not proceed with the registration and within 2 (two) working days, through an explanatory report, the case shall be sent

to the local governance unit for the completion of the flaws or to the local commission of the ownership title verification (LC) for the cases provided for by the legislation into force. The explanatory report shall contain the descriptive part of the fact, the argumentation of the flaws/illegalities that have been found and the proposal for the verification of the legality for the ownership title creation over the agricultural land for a decision-making, according to article 9 of law no. 9948, dated 7.7.2008 “On the review of the legal validity of the ownership title creation over the agricultural land”, as amended. A copy of the ATLO and of the acts/documents which contain these flaws shall, necessarily, be attached to the explanatory report. This notification shall be sent even to the beneficiary subject to complete the flaws;

- b) the ATLO shall be transmitted officially for registration by the local governance unit;
 - c) the subject, who has the ATLO issued in its favour, shall have applied for property registration at the LIPRO.
4. In the cases when at the LIPRO, the property results registered as a state property and the ATLO is found at the IPRO, the following procedure is followed:
- a) the LIPRO sends to the respective municipality a copy duly authenticated with the original of the ATLO;
 - b) the municipality carries out, according to paragraph 3, of this decision.
5. In any case, providing that the LIPRO finds that the type of the “agricultural land” property (arable land, vineyard, olive groves, orchard), issued with the ATLO, does not comply with the type of the property which results to be registered in the immovable property file, upon its own initiative or with the request of the ownership title holder, requires information from the DLAM, attached to the region council, for the cadastral index of the plot of land, according to the cadastral registers, dated 1.8.1991. In case the following is found:
- a) irregularities in the registration system, the cadastral index in the respective file shall be corrected;
 - b) a violation of article 2 of law no. 9948/2008, the LIPRO shall address top the respective local commission with a reasoned explanatory report, for the full or partial exploitation of the concrete ATLO.
6. In any case, when the drafting of the alignment plan of the plots of land for registration or their correction and specification is necessary, they are carried out with the expenses of the municipalities through their own surveyors.

7. Instruction no. 2, dated 13.6.2013 of the Council of Ministers “On the way of the procedure of the public administration bodies for the immovable property, gained with the act of taking the land in ownership (ATLO)” shall be repealed.

8. The Minister of Justice, the Minister of Agriculture, Rural Development and Water Administration, the Governmental Land Commission. The directorates of land administration and maintenance, attached to the councils of regions, the immovable property registration offices, the local commissions of ownership title verification and the municipalities shall be responsible for the implementation of this decision.

This decision enters into force after the publication in the Official Journal.

PRIME MINISTER
Edi Rama