



SPOTLIGHT

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Chernozem for Sale —The Opening of the Land Market in Ukraine

Maciej Zaniewicz

On 31 March, Ukraine's Verkhovna Rada adopted a law establishing a land market. The lifting of the almost 20-year ban on the trade in agricultural land may accelerate Ukraine's economic growth, but access to the market for foreign investors is blocked for now.

What does the law stipulate?

According to the law, the current ban on trade in agricultural land will be lifted as of 1 July 2021, with a few exceptions. For the first two years, only individuals with Ukrainian citizenship will be allowed to purchase agricultural land, but no more than 100 ha and excluding state-owned land. From January 2024, the right to purchase land will also be granted to municipalities, the state, and legal persons, except for banks and foreign entities, with the limit increased to 10,000 ha. The purchase of state land will also be allowed. To make the land market function, parliament should still adopt laws on free access to cadastral data, electronic auctions, and the creation of a Credit Guarantee Fund.

How has agricultural land trade in Ukraine looked so far?

Since 1 January 2002, Ukraine has had a moratorium on the sale of agricultural land (about 70% of the area of the country) and regularly extended it until now. In 2018, the European Court of Human Rights declared this practice a violation of individual property rights. Domestic and foreign agricultural holdings had circumvented the ban on the trade in land by leasing it, often for several hundred years, at undervalued prices resulting from the lack of a free market. Other methods of ownership transfer were also used, such as de-agriculturalisation for a bribe only to purchase it and re-convert it to agricultural land, or taking over a parcel of land based on a court decision over fictitious debts between the landowner and the new acquirer. This allowed the largest holding companies, despite the formal prohibition, to manage vast swathes of agricultural land with an area sometimes exceeding 500,000 ha.

When will foreign investors be able to purchase agricultural land in Ukraine?

The law does not allow foreign entities to purchase agricultural land. This would have to be approved through a referendum, which the Ukrainian authorities want to hold at the end of this year. Surveys

indicate that the public probably will vote against lifting the ban—last autumn, 41% of respondents expressed concerns about a potential buyout of agricultural land by foreigners. An absolute ban on the purchase of land will apply to entities whose shareholders are persons or companies registered in Russia or tax havens. Land situated in a 50 km-wide border strip will also be excluded from sale to foreign entities. Currently, foreign investors (e.g., Trigon Agri from Denmark, AgriGeneration from France, and UFHC from Saudi Arabia) have access to Ukrainian land through local holdings.

How could the opening of the land market affect Ukraine economically?

The change may significantly contribute to the acceleration of economic growth in Ukraine (3.2% in 2019, but a recession is expected in 2020 due to the coronavirus pandemic). According to World Bank estimates, the lifting of the moratorium may add between 0.5 and 1.5 percentage points of GDP growth per year during the first five years after the bill comes into force. However, the increase in the number of transactions on the land market is likely to take place only in 2024, when legal persons gain the right to purchase land. The possible entry of foreign investors with access to the newest technologies on the market should contribute to an increase in the efficiency of Ukrainian agriculture (60% of the country is covered by fertile black soil) and as a result, an increase in profits from agricultural exports, which currently account for about 40% of Ukrainian exports. This will also mean a strengthening of competition with Polish agriculture.