

Attila DUDÁS*
The rules on foreigners' right to acquire ownership of agricultural land in
Slovenian, Croatian and Serbian law**

Abstract

*The paper gives an overview of the rules on the acquisition of ownership of agricultural land by foreigners in Slovenia, Croatia and Serbia. Slovenia and Croatia initiated their accession to the European Union at different times and under different conditions, while Serbia is not yet a member state of the Union, but has been a candidate country for several years, and the harmonization of its national law with the *acquis communautaire* has been under way for some time. These circumstances determine the right of foreigners, in particular natural persons and legal entities from the European Union, to acquire ownership of agricultural land in these countries.*

In Slovenia non-EU natural persons and legal entities cannot acquire ownership of agricultural land. In contrast, Slovenia opened its real estate market rather early to EU citizens and legal entities. Only the Association Agreement provided for a transitional period of four years during which they could not acquire ownership of agricultural land. From 2003 onwards, citizens and legal entities from the EU are entitled to acquire land ownership without restriction. The Accession Treaty prescribed no moratorium.

Similarly to Slovenia, non-EU natural persons and legal entities may not acquire ownership of agricultural land in Croatia either. The Accession Treaty provided for a seven-year moratorium on the acquisition of ownership of agricultural land by EU citizens and legal entities. The primary moratorium expired on 30 June 2020. However, the EU Commission approved an extension of the moratorium for another three years. Thus, EU citizens and legal entities are still unable to acquire ownership of agricultural land until 30 June 2023.

Foreigners' right to acquire ownership of agricultural land is in general excluded in Serbian law as well. The Stabilization and Association Agreement from 2008 provided for the liberalization of the real estate and land markets for EU citizens and legal entities. However, in 2017 the Serbian legislature amended the Act on Agricultural Land only few days before the expiry of the moratorium on ownership included in the Stabilization and Association Agreement. Nominally, the amendments were intended to introduce explicit regulation on the right of EU citizens and legal entities to acquire ownership of agricultural land, as required by the Stabilization and Association Agreement. However, instead of extending the same conditions applicable to the domestic natural persons and legal entities to those from the EU, the legislator specified additional set of conditions applicable only to the latter. It, in fact, excludes legal entities from the right to acquire property, as they cannot be registered family farmers, and makes the right of natural persons subject to conditions that effectively exclude their acquisition of ownership by 1 September 2027 due to the calculation of deadlines.

Keywords: acquisition of agricultural land, foreigner's right to acquire ownership of agricultural land, Serbia, Croatia, Slovenia.

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1. Introductory remarks

The acquisition of ownership of agricultural land has become an important issue in CEE countries after the change of regime from socialist to market economy.¹ This paper concentrates on the rules on acquisition of ownership of agricultural land in Slovenian, Croatian and Serbian law. The analysis is limited to the rules of acquisition by inter vivos transactions. Similar agricultural property, such as forest management areas, vineyards or fisheries are not the subject of the present study. The study focuses on the personal restrictions of the acquisition of agricultural land, specifically on the right of foreign natural persons and legal entities to acquire property. The study does not cover the right of foreign persons to use agricultural land on other legal bases (e.g. under a lease agreement).

2. Slovenia

In Slovenia, the general legal frame of the acquisition of property of agricultural land by inter vivos transactions or mortis causa consists of the 2002 Property Law Code [*Stvarnopravni zakonik*], the 2001 Code of Obligations [*Obligacijski zakonik*] and the 1976 Inheritance Act [*Zakon o dedovanju*].² In addition, there are special laws pertaining to arable land and forests relying on this general regulation. These are the 1996 Agricultural Land Act [*Zakon o kmetijskih zemljiščih*], the 1993 Forest Act [*Zakon o gozdovih*], the 1995 Act on the Inheritance of Agricultural Holdings [*Zakon o dedovanju kmetijskih gospodarstev*] and the 1993 Act on the Farmland and Forest Fund of the Republic of Slovenia [*Zakon o Skladu kmetijskih zemljišč in gozdov Republike Slovenije*].³

The Slovenian regulation of agricultural land, regarding the right of foreign persons to acquire property, has undergone a long development. Slovenia's first constitution in 1991, enacted shortly after it gained independence, excluded foreigners from the acquisition of land. It expressly stated that foreigners could acquire real estate under the special conditions specified by law.⁴

However, the Constitution provided for an exception to this rule, according to which foreigners may not acquire ownership of agricultural land, except on the basis of inheritance, but even in this case under the requirement of reciprocity.⁵ This clearly restrictive rule, i.e. the inclusion of a ban on the acquisition of property by foreigners in the text of the Constitution, was considered in the literature as a rather rare normative solution in comparative constitutional law, which was adopted in fear that the Slovenian farmland would be otherwise rapidly sold out to foreigners.⁶ The further development of

¹ For Poland see Zombory 2021, 174–190.; Kubaj 2020, 118–132. For Bulgaria see Georgiev & Grozdanova 2020, 66–84. For Ukraine see Buletsa 2020, 23–50. For Romania see: Veress 2021, 155–173. For Hungary see. Csák & Szilágyi, 2013, 215–233; Hornyák 2021, 86–99; Hornyák 2018, 107–131; Jakab & Szilágyi 2013, 39–57; Szilágyi et al. 2019, 40–50.

² Avsec, 2021, 24.

³ Avsec 2021, 26. old.

⁴ Slovenian Constitution, Art. 68. Sec 1. (in the wording from 1991).

⁵ Slovenian Constitution, Art. 68. Sec 2. (in the wording from 1991).

⁶ Grad et al. 2002, 264. Source: Avsec 2015, 176.

the rules on the right of foreign persons to acquire ownership of agricultural land in Slovenia was determined by the process of accession to the European Union.

In 1993 Slovenia, shortly after it gained independence, began its process of accession to the European Union, then the European Community, by the conclusion of the Cooperation Agreement. However, the Cooperation Agreement did not contain rules on the acquisition of real estate by EU citizens.

In 1996, Slovenia concluded an Association Agreement with the European Community and its Member States. The chapter on the free movement of capital in the Association Agreement contained provisions of a rather general nature. It provided that, during four years following its entry into force, the Parties would take measures to create the conditions necessary for the progressive implementation of EU rules on the free movement of capital.⁷ The Agreement further envisaged that, by the end of the fourth year following its entry into force, the Association Council examines how the full application of the Community rules on the free movement of capital can be achieved.⁸

To this end, in a letter representing Annex XIII to the Association Agreement, the Slovenian Government reaffirmed its commitment to take measures to enforce the provisions of the Agreement on the free movement of capital by the end of the fourth year after its entry into force. In addition, the Slovenian Government undertook to allow nationals of EU Member States who have lived in the territory of the Republic of Slovenia for at least three years to acquire real estate, on the condition of reciprocity, from the date of entry into force of the Association Agreement.

However, prior to the ratification of the Association Agreement, the Slovenian Government initiated a constitutional review of the provisions of the Agreement on the acquisition of real estate by persons who are citizens or nationals of EU Member States. The Constitutional Court delivered its decision in 1998, by which it terminated the proceedings because it had become devoid of purpose.⁹ In the meantime, namely, the Slovenian Parliament amended the provision of the Constitution concerning the right of foreigners to acquire real estate.¹⁰ According to the rule amended in 1997, foreigners may, subject to reciprocity, acquire ownership of real estate if specified by a statute or an international treaty ratified by the National Assembly.

The enactment of such statute or the ratification of such international treaty required a qualified majority of at least two-thirds of the votes of all members of the National Assembly.¹¹ The 1997 constitutional amendment abolished the distinction between arable land and other real estate. Following the amendment of the Constitution, the Association Agreement was enacted, and in 1999 the Parliament passed the Reciprocity Act [*Zakon o ugotavljanju vzajemnosti*]. The Association Agreement finally entered into force on 1 February 1999, so that the acquisition of the right of ownership by persons who are nationals of a Member State of the European Union is to take effect from that date.

⁷ Association Agreement, Art. 64. Sec. 1.

⁸ Association Agreement, Art. 64. Sec. 2.

⁹ The Decision of the Constitutional Court No. U-I-197/97.

¹⁰ 1997 Act of Constitutional Force Amending Art. 68 of the Constitution.

¹¹ Slovenian Constitution, Art. 68, after the 1997 amendments.

The Association Agreement was followed in 2003 by the Accession Treaty. However, the Accession Treaty also required a constitutional amendment. On the one hand, the constitutional frame had to be created for the delegation of certain competencies constituting state sovereignty in the competence of the EU legislator. To this end, the 2003 constitutional amendment¹² stipulated that Slovenia may decide, by a two-thirds majority of all members of the National Assembly, to transfer the exercise of its sovereign rights to an international organization based on respect for human and fundamental rights, democracy and the rule of law, or enter into a defence alliance with states promoting such values.

The amendment to the Constitution also affected the acquisition of property by foreigners, so Section 68 of the Constitution was amended for the second time. Pursuant to the 2003 amendment, which is still in force, foreigners may acquire real estate on the basis of a statute or an international treaty enacted by the National Assembly. Thus, a provision has been removed from the article of the Constitution on the acquisition of real estate by foreigners, which stipulated that the indicated law and the international treaty must be adopted or enacted by a two-thirds majority of all members of the Parliament.

Slovenia did not prescribe a transitional period in the Accession Treaty during which the right of EU citizens to acquire real estate would be excluded or restricted. This means that from the entry into force of the Accession Treaty, individuals and legal entities from other EU Member States may acquire real estate under the same conditions as domestic citizens. From 1 January 2007, Romanian and Bulgarian citizens and legal entities became entitled to acquire ownership of real estate under the same conditions as domestic natural and legal persons, while Croatian citizens and legal entities from 1 July 2013.

Foreign individuals and legal persons not having the nationality of any member state of the EU may acquire real estate in Slovenia in accordance with the Reciprocity Act, unless a multilateral or bilateral international treaty envisages less stringent conditions. Under a special law¹³, individuals and legal entities from EU candidate countries receive more favourable treatment. In their case, the precondition for the acquisition of real estate is that the reciprocity with their country is established by a decision of the competent authority, in accordance with the Reciprocity Act.¹⁴ Citizens of other countries may not acquire real estate on the basis of inter vivos transactions at all, while on the basis of inheritance only if reciprocity exists.

3. Croatia

In Croatian law, the general legal frame of acquisition of real estate by inter vivos transactions or mortis causa comprises the 1996 Property Law Act [*Zakon o vlasništvu i drugim stvarnim pravima*], the 2005 Act on Obligations [*Zakon o obveznim odnosima*] and the 2003 Inheritance Act [*Zakon o nasljeđivanju*]. A special law, the 2018 Act on Agricultural

¹² 2003 Act of Constitutional Force.

¹³ 2006 Act on the Conditions of the Right of Individuals and Legal Entities from EU Candidate Countries to Acquire Ownership of Real Estate.

¹⁴ Art. 4.

Land [*Zakon o poljoprivrednom zemljištu*] contains specific rules on transactions concerning agricultural land.

The Croatian Constitution [*Ustav Republike Hrvatske*] expressly states that arable land is of fundamental importance and therefore enjoys special protection of the Republic of Croatia.¹⁵ It also specifies that the manner and conditions of the use and utilisation of goods of fundamental importance to the Republic of Croatia will be determined by law.¹⁶ These provisions form the constitutional legal basis for the special rules contained in the Act on Agricultural Land. This means, among others, that special rules on the acquisition of property of real estate, deviating from the general rules, can be established only by statute.¹⁷

According to the general rules of the Property Law Act, real estate can be acquired on the basis of a legal transaction, inheritance, court decision, decision of another competent body or statutory rule.¹⁸ Foreign natural and legal persons may, under the condition of reciprocity, acquire ownership of real estate by inheritance.¹⁹ On the basis of a legal transaction, a foreign natural person or legal entity may acquire ownership of real estate with the approval of the Minister of Justice.²⁰ These restrictions imposed by the Property Law Act relating to foreigners do not, in principle, apply to nationals of other Member States of the European Union.²¹ However, the equal standing of EU citizens and legal entities in terms of acquisition of real estate with domestic natural and legal persons does not apply to agricultural land and protected natural areas specified in a special statutes.²² The provisions of the Act on Agricultural Land is therefore applicable to the right of foreigners to acquire ownership of agricultural land. The effective Act on Agricultural Land, in accordance with the relevant provisions of the Constitution, expressly declares that the Republic of Croatia has a special interest in agricultural land and therefore enjoys a higher level of legal protection.²³ Consequently, the Act excludes the right of foreign natural and legal persons to acquire property of agricultural Land.²⁴ Such general prohibition exists in Croatian regulation since 1993.²⁵ According to the effective Law, however, foreigners may exceptionally acquire ownership of agricultural land if provided by international treaty or special statute.²⁶ The mentioned restriction does not apply to the acquisition of property by inheritance, the only condition for which is reciprocity.²⁷

¹⁵ Constitution, Art. 52. Sec. 1.

¹⁶ Constitution, Art. 52. Sec. 2.

¹⁷ Josipović 2021, 105.

¹⁸ Property Law Act, Art. 114. Sec. 1.

¹⁹ Property Law Act, Art. 356. Sec. 1.

²⁰ Property Law Act, Art. 356. Sec. 2.

²¹ Property Law Act, Art. 358. Sec. 1.

²² Property Law Act, Art. 358. Sec. 2.

²³ Act on Agricultural Land, Art. 2. Sec. 1.

²⁴ Act on Agricultural Land, Art. 2. Sec. 2.

²⁵ Kontrec 2014, 75.

²⁶ Act on Agricultural Land, Art. 2. Sec. 2.

²⁷ Act on Agricultural Land, Art. 2. Sec. 3.

The general exclusion of foreigners from acquiring land ownership has significantly lost its edge in Croatia in 2001 by the conclusion of the Stabilization and Association Agreement with the European Communities, ratified by the Croatian Parliament in 2001²⁸ and entered into force on 1 February 2005.²⁹ The provisions of the Agreement on the freedom of establishment, freedom of financial transactions and free movement of capital mandated the duty of Croatia to make the legal standing of EU citizens and legal entities in relation to acquisition of real estate equal to the right of domestic natural and legal persons.³⁰ In the Agreement, Croatia undertook to enable legal entities from the EUR to acquire ownership on equal footing with domestic legal entities, but only in relation to real estate required to perform their economic activities, except for natural resources, arable land, forests and forest land.³¹ It also undertook to phase out the moratorium on acquisitions within four years from the entry into force of the Agreement.³²

In the context of the free movement of capital, the Agreement envisaged for a similar four-year moratorium on the acquisition of land: Croatia undertook to gradually align the right to acquire property of EU citizens and legal entities with that of domestic citizens and legal entities during this four-year period.³³ Firstly, the ministerial approval procedure for the acquisition of real estate by foreigners was somewhat simplified in 2006. Afterwards in 2008, following the amendments to the Property Law Act, individuals and legal entities from the EU became entitled to acquire ownership of real estate under the same conditions as domestic ones.³⁴ However, this relaxation of the conditions did not apply to the acquisition of agricultural land. The Act on Agricultural Land in force at the time excluded all foreign natural persons and legal entities from acquiring ownership of agricultural land, regardless of whether they had the nationality of any member state of the EU.³⁵ Consequently, the issue of land acquisition continued to play a central role in the accession negotiations with the Union.

The 2012 Accession Treaty, thus, envisaged that Croatia may maintain a moratorium on the acquisition of land by EU citizens and legal entities for a period of seven years from the date of the accession (1 July 2013).³⁶ The moratorium on the acquisition of property meant that Croatia was entitled to maintain for seven years its national legislation restricting the acquisition of land by EU nationals being in force at the time of signing the Accession Treaty, but it was not allowed to adopt any new discriminatory rules.³⁷ Furthermore, it is important to keep in mind that the seven-year moratorium applies to the acquisition of land, in the context of the free movement of capital, within the meaning of Article 63 of the Treaty on the Functioning of the European Union. It does not affect the free movement of persons or their freedom of

²⁸ Official Gazette - International, No. 14/2001.

²⁹ Official Gazette - International, No. 1/2005.

³⁰ Josipović 2021, 109.

³¹ Stabilisation and Association Agreement, Art. 49. Sec 5. p. b).

³² Ibid.

³³ Stabilisation and Association Agreement, Art. 60. Sec. 2.

³⁴ Josipović 2021, 110.

³⁵ Josipović 2021, 111.

³⁶ Accession Treaty, Annex V., point 3., The free movement of capital.

³⁷ Josipović 2021, 112.

establishment. Thus, if a natural person who is not a citizen of Croatia, but a citizen of another EU Member State, wishes to establish him/herself in Croatia and engage in agricultural activity there, (s)he is not subject to any restrictions on the acquisition of land.³⁸ The Accession Treaty entitles the Commission of the European Union to extend the moratorium for a further three years if it considers that the lifting of restrictions would cause serious disturbances on the land market.³⁹ At the request of Croatia, on 20 June 2020 the Commission extended the transitional period for a further period of three years, i.e. until 30 June 2023, during which restrictions on the acquisition of land by individuals and legal entities from the EU may remain in force.⁴⁰ In the decision, the Commission pointed out that an average producer in Croatia conducts agricultural activities on 30% smaller land, has a livestock of half as much, has a 56% lower production output than an average producer in the other Member States of the European Union, and the general productivity rate of the agricultural sector in Croatia is 70.2% lower than the EU average.⁴¹

4. Serbia

The general rules of acquiring ownership of real estate based on *inter vivos* transactions and *mortis causa* are contained in the Act on the Fundamentals of Property Law Relations [*Zakon o osnovama stvarnopravnih odnosa*], Act on Obligations [*Zakon o obligacionim odnosima*] and the Act on Inheritance [*Zakon o nasleđivanju*]. The special regulatory frame for the acquisition and use of agricultural land can be found in the Act on Agricultural Land [*Zakon o poljoprivrednom zemljištu*] and the Act on Agriculture and Rural Development [*Zakon o poljoprivredi i ruralnom razvoju*].

The main rules on the acquisition of property by foreigners are contained in the Act on the Fundamentals of Proprietary Legal Relations. Pursuant to this Act, foreign natural persons or legal entities may, on the condition of reciprocity, acquire ownership of real estate necessary for the performance of their activities in Serbia.⁴² A foreign natural person who does not carry out activities in the territory of Serbia may, under the condition of reciprocity, acquire ownership only of a flat or residential building.⁴³ In contrast to this general regulation, special rules apply to the acquisition of ownership of agricultural land. The Serbian Constitution does not qualify explicitly agricultural land as an asset of national importance and does not provide for special restrictions on the circulation and use of privately owned agricultural land.⁴⁴ Restrictions relating to the acquisition of ownership of arable land should therefore be sought at the legislative level. The Act on Agricultural Land prescribes explicitly that a foreign natural person or legal entity may not own land unless entitled by the same Act or by the Stabilization and

³⁸ Ibid.

³⁹ Accession Treaty, Annex V, point 3, The free movement of capital.

⁴⁰ The Decision of the Commission of the European Union No. (EU) 2020/787.

⁴¹ Points 6. and 7. of the Decision.

⁴² Act on the Fundamentals of Proprietary Legal Relations, Art. 82a Sec. 1.

⁴³ Act on the Fundamentals of Proprietary Legal Relations, Art. 82a Sec. 2.

⁴⁴ Constitution, Art. 88. Sec. 1.

Association Agreement.⁴⁵ Negotiations relating to the Stabilization and Association Agreement with the Union started already in 2005. The Agreement was signed in 2008 and entered into force on 1 September 2013. Article 63 (2) obliges Serbia to allow, upon the entry into force of the Agreement, nationals of the Member States of the European Union to acquire ownership of real estate in Serbia, subject to the relevant procedures. The Agreement obliges Serbia to amend progressively its existing legislation within four years of the entry into force of the Agreement in order to provide EU citizens the same position as domestic nationals with regard to the acquisition of property of real estate.

The four-year period expired on 1 September 2017. However, on 28 August, that is only few days before the expiry of the deadline, the General Assembly adopted in emergency procedure an amendment to the Act on Agricultural Land, which entered into force on 31 August (the regular *vacatio legis* is 8 days) and its application started⁴⁶ as of 1 September 2017.⁴⁷ The amendment introduced a new section 72đ into the text of the Act. It stipulates explicitly the conditions under which an individual or legal entity from the EU may acquire ownership of agricultural land. The rules only apply to the acquisition of property on the basis of legal transaction, both onerous and gratuitous.⁴⁸

The conditions of acquiring ownership are as follows:⁴⁹ (1) the EU citizen has resided for at least 10 years in the territory of the municipality where the agricultural land to be acquired is located; (2) has been cultivated the agricultural land which is the subject of the acquisition for at least three years on the basis of onerous or gratuitous legal transaction; (3) has a registered family farm in Serbia for at least 10 years without interruption, in which (s)he qualifies as a family farmer in accordance with the Law on Agriculture and Rural Development; (4) possesses machinery and equipment necessary for the performance of agricultural activity.

Privately owned agricultural land may be acquired under the mentioned conditions indicated if it: (1) is not classified as a building plot by a special statute; (2) is not considered a protected natural resource; or (3) does not qualify as a military facility or as a buffer zone around a military facility.⁵⁰

In addition, the law stipulates that the subject of the acquisition of property may not be agricultural land located within a 10 km zone from the borders of the Republic of Serbia.⁵¹ However, this restriction does not apply to arable land on which private ownership has been restored by the application of statutes pertaining to restitution and became object of legal transactions afterwards.⁵²

⁴⁵ Act on Agricultural Land, Art. 1. Sec. 4.

⁴⁶ In Serbian law the date of entry into force and the date of the commencement of the application of a regulation quite often diverge.

⁴⁷ On the 2017 amendments of the Act on Agricultural Land see in more detail Baturan & Dudás 2019, 63–71.; Dudás 2021, 59–73.

⁴⁸ Act on Agricultural Land, Art. 72đ Sec. 1.

⁴⁹ Act on Agricultural Land, Art. 72đ Sec. 2.

⁵⁰ Act on Agricultural Land, Art. 72đ Sec. 3.

⁵¹ Act on Agricultural Land, Art. 72đ Sec. 4.

⁵² Act on Agricultural Land, Art. 72đ Sec. 7.

Even under these conditions, a citizen of a Member State of the European Union may acquire ownership of agricultural land only up to 2 hectares.⁵³ Compliance with the indicated conditions is determined by the Ministry of Agriculture.⁵⁴

The Act stipulates that all three deadlines shall be calculated from the entry into force of the law.⁵⁵ This means that an EU citizen can, theoretically, acquire ownership of agricultural land in Serbia in 2027 at the earliest. In addition, the Republic of Serbia has a pre-emptive right. The right of pre-emption is exercised by the Government on the proposal of a committee the members of which are the minister of agriculture and the minister of finance. The minister of agriculture and the minister of finance determine jointly the conditions, time limit, manner and procedure of the exercise of the pre-emption right.⁵⁶ Finally, the Act prescribes expressly that the transaction shall be considered null if the parties have not complied with the conditions for the acquisition of ownership of privately owned land.⁵⁷

5. Concluding remarks

Of the three countries that have been compared in this paper, Slovenia and Croatia initiated their accession to the European Union at different times and under different conditions. Serbia is not yet a member state of the Union, but has been a candidate country for several years, and the harmonization of its national law with the *acquis communautaire* has been under way for some time. These circumstances determine the right of foreigners, in particular natural persons and legal entities from the European Union, to acquire ownership of agricultural land in these countries. Within the frame of the regulation on foreigners to acquire real estate in general, the study specifically examined the rules for the acquisition of ownership of agricultural land.

Slovenia does not envisage different regulations for real estate and agricultural land. Uniform rules for the acquisition of real estate are quite strict for non-EU natural persons and legal entities. In fact, they cannot acquire ownership of agricultural land, except for natural persons and legal entities from EU candidate countries. However, Slovenia opened its real estate market rather early to EU citizens and legal entities with EU citizenship. Only the Association Agreement envisaged a transitional period of four years during which they could not acquire ownership of agricultural land. From 2003 onwards, citizens and legal entities from the EU are entitled to acquire land ownership without restriction. The Accession Treaty prescribed no moratorium.

Unlike Slovenia, there are different rules in Croatia regarding the right of foreigners to acquire real estate and agricultural land. The Croatian Constitution qualifies arable land as an object of major national importance. Non-EU natural persons and legal entities may not acquire ownership of agricultural land. The Accession Treaty specified a seven-year moratorium on the acquisition of ownership of agricultural land by EU citizens and legal entities. The moratorium was also a key issue in the negotiations for the

⁵³ Act on Agricultural Land, Art. 72d Sec. 5.

⁵⁴ Act on Agricultural Land, Art. 72d Sec. 6.

⁵⁵ Act on Agricultural Land, Art. 72d Sec. 8.

⁵⁶ Act on Agricultural Land, Art. 72d Sec. 9-12.

⁵⁷ Act on Agricultural Land, Art. 72d Sec. 13.

new Member States that joined the EU in 2004. Of the six new Member States that joined the EU at the time, the accession treaty prescribed a seven-year moratorium for six Member States (Czech Republic, Estonia, Lithuania, Latvia, Hungary and Slovakia) and a 12-year moratorium for Poland.⁵⁸ The moratorium was also seven years for Romania and Bulgaria, which joined the EU only few years later.⁵⁹ In the case of Croatia, the primary moratorium expired on 30 June 2020. However, according to the Accession Treaty, at the reasoned request of the Croatian government, the EU Commission may approve the maintenance of the moratorium for another three years. This has been requested by the Croatian Government and approved by the Commission. Thus, EU citizens and legal entities are still unable to acquire ownership of agricultural land until 30 June 2023.

The Serbian regulation is similar to Croatian, but differs from Slovenian, since foreigners can acquire ownership of agricultural land and other real estate under different conditions. The provision of Serbian law excluding foreigners' right to acquire ownership of agricultural land, unless envisaged in the Act on Agricultural Land or in the Stabilization and Association Agreement, can also be paralleled with Croatian legislation. Serbia is in a rather special position in terms of the regulation of EU citizens' and legal entities' right to acquire ownership of agricultural land. Although the Stabilization and Association Agreement with the European Union was concluded in 2008, which provided for the liberalization of the real estate and land markets for EU citizens and legal entities, the fact that Serbia is not yet a member of the Union provides a certain degree of regulatory freedom. Using it, the Serbian legislature amended the Act on Agricultural Land only a few days before the expiry of the moratorium on ownership included in the Stabilization and Association Agreement. Nominally, the amendments were intended to introduce an explicit regulation on the right of EU citizens and legal entities to acquire ownership of agricultural land, as required by the Stabilization and Association Agreement. However, instead of extending the same conditions applicable to the domestic natural persons and legal entities to those from the EU, the legislator specified additional set of conditions applicable only to the latter. It, in fact, excludes legal entities from the right to acquire property, as they cannot be registered family farmers, and makes the right of natural persons subject to conditions that effectively exclude their acquisition of ownership by 1 September 2027 due to application of the statutory deadlines. Serbia is not yet a member of the European Union, but the compliance of these rules with the Stabilization and Association Agreement can be scrutinised. The 2017 amendments to the Law on Agricultural Land are not in line with the Stabilization and Association Agreement. The current regulation should, however, be considered rather as a necessary transitional legal frame in which the acceding state can make preparations for the opening of its land market the citizens and legal entities from the EU.⁶⁰

⁵⁸ Nikolić Popadić 2020, 217.

⁵⁹ Nikolić Popadić 2020, 219.

⁶⁰ Nikolić Popadić 2020, 228.

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