

Ukraine: use of agricultural land during martial law

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The lease of agricultural lands has been simplified and streamlined by adopting the new law No. 2145-IX "On Amendments to Certain Legislative Acts of Ukraine Regarding Creation of Conditions to Ensure Food Security Under Martial Law" (the "Law").

The following are the improvements in this area:

1) The Law provides for the automatic extension (for a one-year period) of the agreements on lease / other use of agricultural land plots, the term of which expires during the martial law period. The Law does not require the parties of such agreements to express their willingness to agree to the extension and/or to register the information about such extension in the relevant state register.

2) The Law simplifies the lease procedure of (i) state and communally-owned land; (ii) lands staying in the ownership of the collective agricultural enterprises and (iii) unclaimed or unallocated land plots or land shares ("пай") for the commercial farming purposes for a period of up to one year as well as provides for the specific lease terms of such temporary lease. For example, transfer of the above land plots into lease are conducted without a land auction.

3) Landowners and users do not bear any liability for actual non-use (i.e. no active farming) of the agricultural land plot;

4) The agricultural land plots of state or communal ownership can be provided into lease only for commercial farming purposes;

5) It is prohibited by Law to transfer state and communally owned land plots into private ownership free of charge and to grant any permissions in this respect;

6) The Law allows lessees and sublessees of agricultural land plots (irrespective of ownership form) to transfer their lease rights to other persons for agricultural use without the consent of the lessor for a period of up to one year;

7) The land auctions regarding the lease rights to the state or communally-owned agricultural land plots cannot be conducted during martial law;

8) The procedure of the formation of agricultural land plots for the purpose of further lease during the martial law period is simplified, e.g. the information on such land plots should not be included in the State Land Cadaster, and there is no need for such land plot to have a particular cadastral number;

9) Military administrations were temporarily granted powers to register some types of agreements regarding the use of agricultural land (including amendments to them) in the Book of Land Use Agreements Registration; the applications for registration may be submitted electronically.

The lease of agricultural lands in Ukraine has been simplified and streamlined by adopting the new law.

Cancellation of martial law in Ukraine shall not cause automatic cancellation of all of the above developments. In particular, cancellation of martial law shall not cause the termination or change of lease agreements concluded in accordance with such temporary regulations, although such lease agreements cannot be renewed or concluded for a new term and will remain in force until the expiration of the term for which they have been executed. At the same time, after the cancellation of martial law, the land plots formed according to the simplified procedure provided by Law cease to exist as objects of civil rights.

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