

# LEASE OF AGRICULTURAL LAND IN STATE OWNERSHIP - POSSIBLE ECONOMIC EFFECTS<sup>1</sup>

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## Abstract

*Agriculture is a significant factor in the economy of the Republic of Serbia, first of all taking into account the size and quality of agricultural land, and considering the fact that investments by tenants in state-owned agricultural land are at a very low level. Therefore, there have been amendments to the law that regulate the matter of agricultural land, in order to create opportunities for improving agriculture, by increasing investments in agricultural land owned by the Republic of Serbia, introducing new technologies, increasing the income, increasing productivity and efficiency in agriculture, and recruit additional labor. In order for an investment to achieve the goal for investors and the state in a sociological sense, the law regulated long-term lease of land for thirty years, in a way that ensures the economic efficiency of tenants interested in land cultivation, prevailed the elimination of deficiencies and barriers that prevent the efficiency of agricultural land management, and more efficient use of land, prescribing sanctions for unfounded use of agricultural land, the possibility of using land free of charge when legal requirements arise. In order to further motivate the potential tenant, the Law regulated the active identity in the case of the right to lease the lease and the right of priority lease agricultural land, and in the process of transparency of the procedure, it was prescribed that the procedure for determining the right of priority lease is realized through a public call and procedure conducted by a local government unit in whose territory the land is located.*

**Keywords:** *land lease, good of general interest, investments in agriculture, lease right, lease agreement, long-term lease price.*

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## Introduction

Since agriculture undoubtedly is a very important activity in the Republic of Serbia, which as a branch of activity is given priority in the strategic development plans of the Republic of Serbia, the amendments to the Law on Agricultural Land define the concept of agricultural land as a natural resource and a good of general interest for the Republic of Serbia.

Agricultural land is used for agricultural production and can not be used for other purposes, except in cases and under the conditions specified by the law, which is a *lex specialis* for this matter, is otherwise regulated<sup>4</sup>. The aim of the law is to provide a more rational, more economical and efficient use of agricultural land in public ownership.

Throughout the world, for over a century, there is a permanent tendency to research and define the best solutions for regulating the management and use of agricultural land and adopting numerous rules on the best agro-economic practices and the principles on which the activity in this sector should be based. These regulations mostly focus on the role of policy makers in the country and the majority of existing rules have a national reach. Legal solutions should in fact encourage and encourage active cooperation between the state as owner of agricultural land and other persons interested in leasing agricultural land in creating wealth, employment and sustainability of financially healthy participants in agricultural production.

In 2004 and 2007, ten and two countries respectively acceded to the EU in its enlargement with countries in Eastern and Central Europe. Until 1989, the agricultural sector in these countries was regulated by the state and dominated by large-scale state farms that cultivated state-owned land or by collective farms that typically used land that was still in private ownership on paper but over which the landowners did not have any decision rights as to its use or allocation. There were only two exceptions, Poland and the former Yugoslavian countries, where collectivisation largely failed, such that a considerable share of agricultural land was already being used by individual farmers during the communist era. After 1989, land reforms were introduced and land was restituted to the former owners or distributed among the workers at the state farms. In addition, farm restructuring

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<sup>4</sup> Law on Agricultural Land ("Official Gazette of the Republic of Serbia" No. 62/2006, 65/2008 - other Law, 41/2009, 112/2015 and 80/2017)

resulted in the introduction of hard budget constraints. The implementation of farm restructuring and land reform processes was difficult, and in some countries land reforms are still not yet fully completed<sup>5</sup>.

In general, the sale of agricultural land is considered superior to land rental because 1) land sales transfer full ownership rights to the new users, 2) sales are more likely to increase access to credit, since owned land can be used as collateral, and 3) sales provide optimal incentives for investment by entailing the permanent security of rights. In most EU member states, however, the rental market seems to be more important than the sales market and a large share of the agricultural area is rented, although there are substantial variations in the shares of rented land<sup>6</sup>. In the old member of European Union, the share of rented land ranges between 18% in Ireland and 74% in France, while in the new member of European Union it ranges from 17% in Romania to 89% in Slovakia<sup>7</sup>.

There are several reasons for the high degree of importance of the rental market and the differences among member states:

First, the differences in the importance of the rental market are based on historical grounds. For example, variations in inheritance laws (e.g. adoption of the Napoleonic Code with respect to inheritance in France and other Western European countries) have led to assorted farm structures (e.g. in France more fragmented ownership, because each child receives an equal amount of land, while in the UK for instance, the first son has traditionally inherited the farm estate). This has affected the farm structure and the share of rented land. In the new member of European of Union, the share of rented land is also based on historical factors.

Second, imperfections in input, product, credit and insurance markets affect the functioning of land markets. Credit and capital markets play a crucial role, especially for land sales in the new member of European of Union and Serbia.

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<sup>5</sup> Ciaian, P. and J.F.M. Swinnen (2006) „Land Market Imperfections and Agricultural Policy Impact in the New EU Member States: A Partial Equilibrium Analysis,, American Journal of Agricultural Economics, Vol.88, No 4, pp. 799-815.

<sup>6</sup> Ciaian, P. D. Kancs, J. Swinnen, K. Van Herck and I.Vranken (2012) „Key Issues and Developments of Farmland Rental Market,, Factor Markets Working PaperNo 14, CEPS, Brussels.

<sup>7</sup> <http://ec.europa.eu/eurostat>

Third, transaction costs can be high in the case of land sales. The transaction costs include the traditional costs, such as notary fees and registration costs. But in the new member of European of Union, individuals who want to sell their agricultural land are also confronted by additional transaction costs, such as high withdrawal costs, insecure property rights and imperfect competition on the land market.

In such an environment, land rental may have certain advantages over land sales transactions, since they allow more flexible adjustments in the land used with relatively low transaction costs; and have a limited cost, which allows the farmer to invest more in other productive assets.

Yet this does not mean that rental markets work perfectly in the EU. There are still problems with 1) a lack of investment incentives owing to a lack of long-term security (e.g. Romania, Bulgaria); 2) overregulation, such as the stipulation of minimum durations, which prevents flexibility (e.g. Belgium), and 3) access to credit, since rental contracts cannot be used as collateral.

### **The existing situation in the Republic of Serbia**

The legal framework of the Republic of Serbia regulating the matter of agricultural land provides the appropriate level of publicity to the management and disposal of state-owned agricultural land, and is in favor of fully truthful and timely disclosure of information on all essential issues concerning the disposal procedure, conditions of acquisition, effective control in the enforcement of rights and the obligation of the holder of the land and the responsibility of the participants in these jobs.

Lack of investments in agriculture, leads to a decline in agricultural production, which all reflects on the overall economic balance of business entities, including the Republic of Serbia. Due to the predominantly small agricultural holdings, the lack of necessary financial resources and the introduction of new technologies, the investments in agriculture in the Republic of Serbia are still very small compared with other developing countries, and too below the developed European countries.

Due to the aforementioned, as one of the possible segments of better management of agricultural land in public ownership, new laws were introduced by law through the normative regulation of relations that previously did not exist, which are related to securing the security of

investment in leasing agricultural land in public ownership, giving the possibility of long - term lease of agricultural land in a transparent manner under equal conditions for all participants, conditions that ensure safety of the investment invested in lease of agricultural land, the possibility of long-term lease, introduction of the book keeping obligation and establishment of the agricultural land, introduction of free use of agricultural land and sanctioning illegal use agricultural land.

### **Solving the barrier with more efficient use of agricultural land in state ownership**

Based on previous experiences in the development of agriculture in the Republic of Serbia, it was realized that the investments made by tenants of agricultural land in public property, legal and natural persons, were on a very low, almost negligible level. The lack of interest of tenants for investing in agricultural land was reflected in the fact that the earlier law did not give the possibility of long-term land lease, but in the same way treated leaseholders who only process the land and those who invest long-term "patient" capital in the development of infrastructure facilities , perennial seedlings, irrigation and drainage systems, agricultural facilities, etc.

For this reason, the law has regulated the matter of agricultural land in a fair manner regarding the long-term lease in a way that satisfies the interests of tenants interested in the cultivation of agricultural land, as well as those interested in investing in publicly owned land, primarily to realize their own ineters - the return of invested funds and earnings, and at the same time the achievement of the positive effect of the Republic of Serbia through higher employment of the population, the possibility of increasing public revenues, the prod productivity and efficiency in the field of agriculture.

In order to control investments by the state, the law states, on an imperative norm, that a tenant of publicly owned land, without the approval of the lessor, can carry out investment works that go beyond the reach of normal land use or may change the way of using state-owned agricultural land. It can also not perform jobs that are not in compliance with environmental protection regulations or actions that may have a negative impact on the natural wealth or state of the natural environment. The law stipulates that the tenant shall not be entitled to return the value of investment investments on state-owned agricultural land, but this

provision makes it possible to regulate this provision by lease agreement in a different way, in accordance with the interests of both parties.

Counting obviously, the supposed higher economic potential of a legal person as a tenant of state-owned agricultural land, the law prescribed his obligation to hire unemployed persons if he obtained land leased. It could be said that this provision puts a legal person in a more unfavorable position than a natural person as a tenant, especially when considering that a legal entity can be a small legal entity whose agriculture is the only activity.

As a guarantee of the duration of the contracted lease, the legislator prescribed that the change of owner of the leased land does not affect the duration of the lease. Changing the owner comes to a legal substitution, whereby the new owner of the land takes the place of the lessor and transfers the rights and obligations from the lease to him. The amendment of the lease agreement for agricultural land has only a declarative character.

Extension of the long-term lease period from twenty to thirtieth years, and for fish farm and vineyards up to forty years, is an economically justified solution that provides security, on the one hand, to the tenants in terms of the cost-effectiveness of the investment that would invest in infrastructure facilities over the long-term and multi-year planting, on the other hand to the state, as a civil person in terms of economic effects. Similar solutions are also envisaged in other countries in the environment, e.g. in the Republic of Croatia, farmland and fishponds owned by the state can be leased for a period of up to fifty years<sup>8</sup>.

Extension of the lease period affects the appearance of more than one persons interested in the long-term use of agricultural land in order to provide production programs with an adequate period of return of invested funds and earnings on the invested funds, which will also increase the lease income. At the same time, the long-term lease motivates tenants to maintain the optimal quality of the land they use, while at the same time guarantees the preservation of the quality of agricultural land in state ownership as a significant natural resource.

The law stipulates that agricultural land can be leased if the annual program of protection, improvement and use of agricultural land is envisaged for leasing. The state-owned agricultural land that has been

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<sup>8</sup> Law on Agricultural Land ("Official Gazette of the Republic of Croatia" No. 39/2013)

leased can't be placed in the sub-fund, thus eliminating uncontrolled disposal of land. The law also specifies the active legitimacy of the tenant of agricultural land in public ownership and states that these are legal and natural persons.

The law in a negative manner prescribes the conditions that the tenant must fulfill in order to acquire the right to lease agricultural land, stating that the right to lease does not have the following persons that are registered in the Register of Agricultural Holdings:

- persons who are in a passive state,
- that have not fulfilled all contractual and legally stipulated obligations from previous or current contracts for leasing agricultural land in state ownership,
- which, contrary to the law, have disturbed the possession of agricultural land in state ownership,
- bothered the implementation of the public tender procedure or part of the public bidding procedure when leasing agricultural land,
- which were without foundation used state-owned agricultural land,
- which were inconsistent and gave the agricultural land a sub-bucket<sup>9</sup>.

The obligation to keep books in the field with regulated control of crops by a graduated agricultural engineer who is a member of the commission formed in accordance with the provisions of the law is considered extremely important for the crop, vegetable and fruit production of all economic entities engaged in agricultural production. At the same time, it is considered very important for the proper use and restoration of agricultural land, as well as the preservation of this property from the general interest for the life and health of people and economic entities on the territory of the Republic of Serbia. It is considered that due to the provisions of the law relating to the obligation to keep books and fields, as well as to control and check the field books, the holders of agricultural land, that is, tenants of publicly owned agricultural land, will not have any additional obligations due to the implementation of the aforementioned obligations, because it's about institutes that are familiar with agricultural practice, but will have a duty regular and in accordance with the rules of good practice, cultivation of agricultural land.

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<sup>9</sup> Law on Agricultural Land ("Official Gazette of the Republic of Serbia" No. 62/2006, 65/2008 - other Law, 41/2009, 112/2015 and 80/2017)

The option of using agricultural land free of charge, which has not been leased for the last three or more years, is considered as another possibility for mutual economic interest, the land user, who has free use of motive for investing in production, but also as a landlord, which can have significant economic effects: the controlled establishment of agricultural production on that land, the exploitation of agricultural land, the increase in the area of arable land and the protection against possible usurpation of agriculture of land.

The imposition of monetary sanctions on the unfounded use of agricultural land could significantly reduce the illegal use of state-owned land and the ungrounded enrichment of the usurper. If any economic entity uses state-owned agricultural land without a legal basis or contrary to the provisions of the law, it is obliged to pay to the lessor a triple amount of the highest average rent per hectare for the use of land occupied in the district of which the agricultural land that is unfounded is used. The law prescribes the obligation of a local self-government unit to take out crops from usurped land on the basis of an appropriate act of its competent authority, if the usurper voluntarily does not pay the aforementioned amount of the lease<sup>10</sup>.

If the agricultural inspector determines in the control procedure, that the agricultural land is in state ownership usurped by an unknown person, the competent body of the local self-government unit shall decide on the removal of land from the land. The funds generated from the sale of the crops removed, after deduction of the costs of the removal, are transferred for purposes determined by the Law on Agricultural Land, ie the budgets of the Republic of Serbia, the local government unit and the Autonomous Province of Vojvodina if the usurped land is located on the territory of the autonomous province.

For the purpose of efficient management of state-owned agricultural land, the elimination of problems that arose as a result of non-compliance and non-compliance with the deadlines for the adoption of the annual program of protection, arrangement and use of agricultural land, advertisement, public invitation and other actions necessary for the adoption and realization of this very of the important act, the law introduced the mandatory payment of fines for responsible persons in this proceeding

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<sup>10</sup> Law on Agricultural Land ("Official Gazette of the Republic of Serbia" No. 62/2006, 65/2008 - other Law, 41/2009, 112/2015 and 80/2017)



and the suspension of the transfer of funds to local self-government units in case of failure to submit an annual program with arranging, arranging and using agricultural land.

### **Objectives that can be achieved by efficient use of lease of agricultural land**

The solutions that the Law on Agricultural Land prescribes, if they are respected in practice, can lead to numerous positive effects on the development of agriculture and all other economic entities, including the state, as follows:

- a more regulated policy in the field of agriculture, and thus the preservation of agricultural land as a good of general interest, through a system of checks provided for by law,
- increasing productivity and efficiency in agriculture and improving competitiveness on the market,
- higher employment of the population, increase in the income of employees in the agricultural sector,
- increase of public revenues of the state, increase of income of other economic entities. The funds generated from renting agricultural land or a state-owned agricultural plant in the amount of 60% represent the income of the budget of the Republic of Serbia, and in the amount of 40%, the revenue of the budget of the local self-government unit on whose territory the state-owned agricultural land is used and used for realization of the annual program of protection, arrangement and use of agricultural land, which is adopted by the competent body of the local self-government unit.
- In the autonomous province of Vojvodina, funds generated from renting agricultural land or a state-owned agricultural plant in the amount of 30% represent the income of the budget of the Republic of Serbia, in the amount of 30% of the budget revenues of the autonomous province, and 40% of the budget revenues of the local self-government unit whose territory is state-owned agricultural land,
- improvement of agricultural production, small and medium-sized agricultural holdings, that is, natural persons engaged in agricultural production as a basic occupation, efficient monitoring of the use of agricultural land by IT support
- when it comes to leasing agricultural land, it is possible to achieve the improvement of the procedure of issuing or giving for the use

of agricultural land, providing long-term lease with all positive consequences, increasing safety and stability of investments, attracting permanent capital, safety of leasing investments, new technologies, different types of agricultural production,

- enabling equitable representation of users of agricultural land under the right of cross-lease, attracting investments in agricultural production, creating significant export potential, income growth, etc.
- the possibility of acquiring the right to pre-empt the lease and to allow the right to cross-lease state-owned agricultural land under the conditions laid down by the law will enable not only an increase in the number of employees but also, in particular, livestock development in Serbia, since, according to official data, livestock production has a significant decline in production in the last few years,
- it can be expected that there will be an increase in the number of legal and natural persons interested in leasing agricultural land, increasing the property that will be used by economic entities through the lease or purchase of state-owned agricultural land, the possibility of association and joint appearance on the market, and as a reaction of this higher market power current and future agricultural producers.

It is considered that the solutions envisaged by the law will have an effective impact on the development of agriculture in the territory of local self-government units and a significant impact on the increase in the budget of the Republic of Serbia. According to the research, the right to lease agricultural land in state ownership will be able to achieve more than 150,000 registered farms in the first round, and in the second round more than 450,000 agricultural farms. With the leasing of the leased land, in addition to the revenues that the state will acquire from the renting of state-owned agricultural land, more land is expected to be used as a good of general interest, an increase in agricultural production due to higher investments by tenants, a higher export potential and the possibility of opening new jobs.

The law gives the possibility of leasing priority to legal entities, due to the need for more complex investment investments, which can relate to significant investments in production capacities, job creation, research funding, the application of new technologies, experiments, due to the assumption of the market power of legal entities and at the same time

believing that the physical person can not carry on the venture independently. In addition, the law allows for the possibility that all persons, legal and physical, who lease agricultural land, have the possibility of investing in land with the approval of the competent ministry.

In some new members of EU, corporate farms use the large majority of all agricultural land, almost all of which is rented. In the Czech Republic and Slovakia, more than 70% of the total agricultural land area is used by corporate farms. Also in Hungary, Estonia and Bulgaria, corporate farms still use around half of all agricultural land. A large share of agricultural land is continues to be rented to the large-scale successor organizations of the former cooperatives and state farms<sup>11</sup>. Indeed, there is a striking correlation between the prevalence of land rental at the country level and the proportion of corporate farms in total land use. This can be attributed to the land reform process that was implemented at the start of transition. Land was restituted to former owners, among whom the majority are not (or are no longer) active in agriculture. They may be retired or living in urban areas and are more likely to rent it out, particularly to large-scale corporate farms, for several reasons. First, because of limited information about the sales price and the expected increase in land prices upon accession to the EU, most of these new landowners have been unwilling to sell their newly acquired assets and have preferred to rent out the land instead. Second, since identifying potential tenants involves search and negotiation costs, it has been easier for the new landowners to rent out their land to corporate farms, which were the historical users of the land. Third, the corporate management has been closely involved in the land reform process, and their search and negotiating costs in identifying and contracting with these new landowners have been significantly lower than the costs faced by newly emerging structures (particularly family farms and de novo companies<sup>12</sup>). In combination, these factors have resulted in a higher demand for rented land by corporate farms than by family farms and an increased supply of rented land to corporate farms than to family farms. Consequently, restitution has contributed to a consolidation of the large-scale farming structures (collective and state farms in the past, now corporate farms) through the land rental market.

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<sup>11</sup> Swinnen, J.F.M, I, Vranken and V.Stanley (2006), „Emerging Challenges of Land Rental Markets: A Rewiew of Available Evidence for Europe and Central AsiaRegion,, World Bank, Washington D.C.

<sup>12</sup> Ciaian, P. and J.F.M. Swinnen (2010), EU Land Marketsand the Common Agricultural Economics, Vol.91, No 4. Pp. 1124-1139.

## **Agreement on leasing agricultural land in state ownership - security of investment**

The general rules of the world's courts in the field of contract law are reduced to the principle of consensus and, above all, allowing the parties to regulate their relations in the most appropriate way.

Therefore, over a century and more, a permanent tendency of research and definition of the best solutions for contractual relations in all spheres of contracting and in the situation when the subject of the contract is a genuine resource, the adoption of numerous rules on best agro-economic practices and principles of land management which would replace hard legal rules. The largest number of these regulations focus on the role of state relations as a civil legal entity and tenant of agricultural land. The largest number of existing rules has a national scope<sup>13</sup>.

Regulations relating to agricultural land vary in countries depending on the circumstances, history, culture, tradition, degree of development of a country, etc. Given that in each country the circumstances are the subject of constant changes, the rules related to the management and disposal of agricultural land are adapted to the changes. The legal and practical framework of land management and disposal contains elements regulated by law, regulation, regulation and the most widely accepted principles and guidelines, depending on the circumstances of the country in which they are introduced, including the obligatory treatments of the treaties that the law prescribes as essential.

When considering the regulatory framework, the question arises as to how to regulate the substance of these, above all commercial relations, which includes the leasing of agricultural land. On the one hand, the greatest number of relationships is of such nature, that the two sides with their autonomy of will, can completely regulate, establish, abolish or change them. On the other hand, laws are by their very nature, such that they are characterized by imperative, binding norms that create the basis for unfavorable business relations.

Therefore, modern business regulation, in line with the principles of autonomy of will in contractual law, changes its nature to a great extent,

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<sup>13</sup> Code de commerce, Dalloz 2007, art. 225-17225-56; Loi federale completant le Code civil suisse - Codedes obligations, 2008, art. 707-726.

and from the imperative it increasingly moves into an arbitrary, which leaves the contracting parties to settle their contractual relations as they please, certainly with the general restrictions that apply to them to protect the general interest of the country in which they are applied.

Research has shown that the intentions of economic entities for regulating their own relations on an autonomous basis (through usurs, customs, business customs, business morality, commonly known and by self-regulation of committed business conditions) resulted in regulation of the lease of agricultural land, thus containing the elements of legislation and First of all, it is formulated in an arbitrary manner, regulation, self-regulation, voluntarily accepted obligations and business practice that is the result of the circumstances, history and traditions of each specific country. It is therefore logical to conclude that a desirable combination of legislation, regulation, self-regulation, voluntary standards, etc. in this area vary from country to country. Since continually accumulating new experiences and changing business circumstances, it is necessary to adjust the content and structure of this framework to new circumstances.

It is necessary that science and companies regularly monitor such adaptations carefully and update their agricultural land management systems accordingly, and when fluctuates between the legislation regulating relations between contracting parties or regulations that instead of uniformed, attempts to provide instructions, recommendations, instructions for frameworks behaviors (model laws, codes, guides to apply rules) - "soft law" - the determination of each country should be - soft law.

The amended regulation in terms of the application of soft law, in the manner described, is put into the service of the logic of economic life, which stimulates the effects of creativity, initiative, specialty, so that the entire commercial right is the support of the possibility of affirming the interests of each economic entity giving him the opportunity to do his business edit offices in the way that suits to the economic entities the most.

In several EU member states, governments impose price restrictions on the rental markets for agricultural land. These price restrictions may take the form of a maximum or a minimum rental price. For example in Belgium and the Netherlands, there is a maximum rent. In France, there is a combination of a minimum and a maximum rent. In the other old members of EU, Finland, Germany, Greece, Ireland, Italy, Spain, Sweden and the UK, there are no rental price restrictions. Likewise in the new members of

EU, there are no price restrictions on agricultural land, but in some countries the transaction costs for land rental strongly affect rental prices<sup>14</sup>.

In addition to legal price regulations, there are social norms for rental payments in all countries, for example, with respect to the type of payment (in cash or in kind) or the timing of the payment (at the end or the beginning of the season). While in most old members of EU rental payments are made in cash, rental payments in kind are more common in the new members of EU. For example, in Poland, more than 20% of the contracts involving private rentals in 2005 were paid in kind (goods and services) rather than in cash. This was notably the case in regions with a high degree of land fragmentation and where agriculture is only an additional source of income. In Slovakia, only half of the farms reported paying rent exclusively in cash, while the other half of the farmers reported paying part of the rent in cash and part in kind<sup>15</sup>.

In the new members of EU, it is mainly corporate farms that pay in kind. Furthermore, there is some evidence that corporate farms reduce payments by paying in kind instead of in cash and that these in-kind payments by corporate farms are less transparent. The in-kind payments often depend on yields, which are difficult for land owners to control and may result in lower effective rent payments, with a negative impact on the welfare of the landowners. In several countries, experts indicate that less productive corporate farms often do not pay rents as contractually agreed. For instance, in Bulgaria, only a small share of the payments (33%) made by the cooperatives are in cash. For the remaining transactions, rental payments are in kind or as a combination of an in-kind and cash payment.

The timing of the payment differs among countries and even within countries there are substantial variations depending on what is agreed in the contract. Traditionally, payments take place at the end of the season in Belgium (December), France (September), Finland and Sweden (December). In other countries, such as Greece and Italy, the tenant pays the rent in advance at the beginning of the season, which is not affected by the economic outcome of the year.

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<sup>14</sup> <http://ec.europa.eu/eurostat>

<sup>15</sup> Ciaian, P. D. Kancs, J. Swinnen, K. Van Herck and I. Vranken (2012) „Key Issues and Developments of Farmland Rental Market,, Factor Markets Working Paper No 14, CEPS, Brussels.

It also raises the question, in this sphere, of how much the regulation of agricultural land management should be harmonized at the level of the entire European Union, and how much should it remain at the national level<sup>16</sup>. Based on the research it turned out that it is necessary to harmonize the regulations in this area, which has its advantages and disadvantages. However, once a harmonized company regulation, especially in the field of agricultural land management as good of general interest, remains difficult to change, and it is undeniable that there is a need for continuous changes in this field. Research in this matter has given effects, which has led to the development and application of alternative regulations that are most widely used in developed European countries, while in our country it is still largely based on imperative legal norms in the field of agricultural land management and leasing, while deregulation in the law on obligatory relations is represented much more. In this connection, beside the basic elements stipulated by the system law regulating the matter of contract law, the Law on Agricultural Land introduces the established procedure and prerequisites for concluding the contract and additional elements of the contract.

In order to conclude a contract for the lease of state-owned agricultural land between the competent ministry and the tenant, the fulfillment of the previous conditions is necessary:

- the decision of the competent authority to lease agricultural land in state ownership, the previous payment of the rent that was achieved on the public auction, ie per the right to lease priority and the right to lease rent,
- delivery of adequate security means for multi-year contracts.

In addition to the general elements envisaged by the law that regulates the substance of the contract systematically, the Law on Agricultural Land stipulates that the contract for leasing state-owned agricultural land, in particular, includes:

- information on the subject of the contract, the name of the cadastral municipality, the number and sub-category of the cadastral plot, the name of the pot, the cadastral map number, the existing mode of use and the land cadastre class,
- lease duration, the amount and the deadline for paying the rent, the depreciation time of perennial plantations,

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<sup>16</sup> Marie – Christine Monsallier, *Lamenagement contractuel du fonctionnement de la societe anonyme*, Paris, 1998

- rights and obligations of the tenant from the contract,
- reasons for the cancellation of the contract,
- type and duration of the means of securing the obligation to pay the tenant under a multi-annual lease contract,
- reasons for termination of the contract<sup>17</sup>.

The Law on Agricultural Land regulates the termination of the contract for lease of state-owned land, and states as reasons:

- the expiration of time to which it is completed or
- by agreement of the Contracting Parties.

The termination of the contract for the lease of state-owned agricultural land is under to the regulations governing the contractual relations governing the contractual matter.

In the case of a lease agreement or the use of state-owned agricultural land that has been completed for a period longer than ten years, the rent may be increased if the average rental price is increased in the territory of the local self-government unit in which the land is located.

The tasks of introducing the ownership of agricultural land in state ownership that are leased or used for use by the municipal or city administration in cooperation with the competent agricultural inspection and the authority competent for the affairs of keeping the public records of the real estate or the geodetic organization, on which a record is drawn up<sup>18</sup>.

## **Conclusion**

Bearing in mind the importance of agricultural activity for the Republic of Serbia, the importance of good management and use of agricultural land as a good of general interest and one of the most important resources of the Republic of Serbia, the obvious lack of investments in agricultural land, the effects that can bring long-term land lease to all economic entities, and the state in a sociological sense, we consider that the provisions of the Law on Agricultural Land that relate to the lease of agricultural land are justified and in accordance with good agricultural

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<sup>17</sup> Law on Agricultural Land ("Official Gazette of the Republic of Serbia" No. 62/2006, 65/2008 - other Law, 41/2009, 112/2015 and 80/2017)

<sup>18</sup> Law on Agricultural Land ("Official Gazette of the Republic of Serbia" No. 62/2006, 65/2008 - other Law, 41/2009, 112/2015 and 80/2017)



and agricultural rights by the countries of the region as well as by other countries of the wider region.

It can be expected that the envisaged law enforcement mechanisms will enable efficient management of state-owned agricultural land. Further action in this area will be conditioned by socio-economic trends, that is, it will interact with general economic development, relying on the clear determination of the state to support and through the appropriate legislative framework, enable the development of agriculture as one of the strategic industries.

The law clearly regulated the system of controlling the management and use of state-owned agricultural land, prescribed the obligation to keep books and regulated control of the crop from a professional person, a graduated engineer of agriculture who is a member of the commission formed in accordance with the law, which is considered very significant for plantation, vegetable and fruit production, prescribed the procedure for renting land, exercising the right to cross-lease agricultural land, securing the traceability of the most important procedures and solutions related to the long-term lease there is a possibility of significant development of agricultural production, creation of conditions for the creation of new jobs, increase income of the Republic of Serbia and other convenience above mentioned.

If the legal solutions related to the lease of agricultural land are applied in practice, a favorable economic environment will be created for the improvement of agricultural production and rural development, the development of rural areas, the increase of the land used by business entities and the development of whole agriculture.

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