The Acquisition of Agricultural Real Estate in Poland by Foreign Nationals – selected issues

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Abstract
This paper relates to the problems of acquisition of agricultural land in Poland by foreigners.
However, given the wide scope of the problem, this discussion will cover only selected issues:

- definition of a foreigner, agricultural real estate and the acquisition of real estate;
- personal and subject-matter restrictions on the acquisition of agricultural real estate; the acquisition of agricultural real estate with and without permit;
- the compliance of the amended Act on Developing the Agricultural System with the Constitution of the Republic of Poland;
- attempt to answer the question – Is there a possibility of introducing legal restrictions on the acquisition of agricultural real estate by foreigners?

Keywords: *foreigner, agricultural real estate, acquisition of real estate, permit, restrictions on the acquisition of agricultural real estate.*

Introduction

This paper relates to the problems of acquisition of agricultural land in Poland by foreigners. One of reasons behind the analysis of the subject in question was the fact that on 1 May 2016, the transition period negotiated by Poland with the European Union ended, during which period prospective buyers were required to obtain permit for the purchase of agricultural and forestry land by foreign nationals from the European Economic Area (EEA) and the Swiss Confederation. However, given the wide scope of the problem, this discussion will cover only selected issues. The basic legal act

regulating the issue of purchase of real estate in Poland by foreigners is the Act of 24 March 1920 on the Acquisition of Real Estate by Foreigners (Consolidated text: Dz.U. [Journal of Laws] 2014, item 1380, as amended, (hereinafter U.N.N.C.)). It should, however, be noted that the acquisition of agricultural properties by foreign nationals must also take into account the provisions of the Act of 11 April 2003 on Developing the Agricultural System (Consolidated text: Dz.U. [Journal of Laws] 2012, item 803, as amended, (hereinafter U.K.U.R.)), the provisions of which were amended by the Land Act of 14 April 2016 on the Suspension of the Sale of Real Estate Held in the Agricultural Property Stock of the State Treasury and the Amendment of Certain Acts (Dz. U. [Journal of Laws] 2016, item 585 (hereinafter U.W.S.N.)).

This Act has raised high expectations of preventing massive buyouts of agricultural land by foreigners, by introducing the possibility of controlling transactions regarding this land (Lichorowicz, Przegląd Legislacyjny 2009, No. 1/2, p. 16). But this raises the question about whether this effect has been achieved. Moreover, there are doubts whether or not the provisions of this Act violate both the Polish Constitution and provisions of the EU law. In view of the above, it should be considered to what extent it is possible, if at all, to establish restrictions on the acquisition of agricultural land by foreigners. Liberalism of the law in this matter carries the risk of massive buyout of Polish real estate by foreigners (Cf. Wielgo, Gazeta Wyborcza 2000, issue No. 63, p. 25; more Skoczylas, 2005, p. 237 ff). On the other hand, any rigorism may be contrary to the principle of free movement of capital we have been required to respect since 2004. One should also keep in mind that at the moment, the Polish legislature has suspended the sale of real properties held in the Agricultural Property Stock of the State Treasury, for a period of 5 years from the date the Act of 14 April 2016 became effective. Only the sale those agricultural properties the area of which does not exceed 2 hectares (Article 2 paragraph 1 clause 4 of U.W.S.N.) is allowed. In exceptional cases, justified by social and economic reasons, after obtaining the consent of the minister responsible for rural development, the possibility of acquisition of agricultural property with a larger surface area was implemented (Article 2, paragraph 2 of U.W.S.N.).

Definition of a foreigner, agricultural real estate and the acquisition of real estate

To begin with, we should pay some attention to explain the significance of the title issues. The definition of a foreign national was set out in the wording of Article 1 paragraph 2 of U.N.N.C., according to which "a foreigner (...) is:

1) a natural person without Polish citizenship;
2) a legal person established abroad;
3) an unincorporated partnership of the persons referred to in paragraphs 1 or 2, having its registered office abroad, established in accordance with the laws of foreign countries;
4) a legal person and a commercial company without legal personality with a registered office in the Republic of Poland, controlled directly or indirectly by persons or companies/partnerships referred to in paragraphs 1,2 and 3" (More Dalecka, Przewoźny–Paciorek, 2013, Nb. 1–9; Wereśniak-Masri, 2011, p. 17–25).

The analysis of U.N.N.C. leads to the conclusion that the provisions contained therein in fact relate at the moment to foreigners coming from outside the EEA and Swiss Confederation. This is so because they primarily cover the issues relating to the granting of a permit. From 1 May 2016 onwards, the acquisition of any real property by foreign nationals coming from the EEA and the Swiss Confederation does not require a permit (Article 8, paragraph 2, item 1 U.N.N.C.). Under the Accession Treaty, (Accession Treaty signed by Poland on 16 April 2003 in Athens (Dz.U. [Journal of Laws] No. 90, item 864, as amended)) it was assumed that after the negotiated transition period, which lasted 12 years from the accession of the Republic of Poland to the EU, citizens and businesses from the EEA and the Swiss Confederation should be treated equally with Polish citizens, as regards the acquisition of real estate. Thus, it seems reasonable to propose making the definition of foreigner in U.N.N.C. more precise, and to specify that a foreigner is an entity coming from outside the two above–mentioned areas. It seems that owing to this, the Act would be more legible and far shorter.

Turning to the definition of agricultural property (More Borkowski, Rejent 2007, No. 7–8, p. 35–58) we should mention Article 2.1 of U.K.U.R., which

in conjunction with Article 46[1] of the Civil Code (Act of 23 April 1964 – Civil Code (consolidated text: Dz.U. [Journal of Laws] of 2016, item 380, as amended)) states that agricultural real estate are properties that are or may be used to conduct plant and animal production, including horticulture, orcharding and fishery, with the exception of real estate located in areas reserved in land development plans for purposes other than agricultural. However, difficulties can occur, and as practice shows, quite often do occur, when there is no local development plan. Then, agricultural use of land is determined based on the following types of documents:

- zoning approval,
- decision establishing the location of a public purpose project,
- decision to exclude the land from agricultural production,
- excerpt from the land register (Kasperek, Zasacki, 2013, section 4).

However, as has rightly been pointed out by some scholars of law, there are doubts whether the intended purpose of a property, other than agricultural purpose, in the zoning approval and in the decision on the location of a public purpose project, should be treated on a par with the purpose specified in the local development plan (Ibid. section 5). In my opinion it should, but to prevent any doubts in this respect, this matter should be made more specific in the Act itself. The identification of the status of a property was of a priority significance, especially for citizens and businesses from the EEA and the Swiss Confederation until 1 May 2016, before which date it was required, when acquiring agricultural land, to obtain permit from the competent minister.

The last term to explain is acquisition of real estate. According to Article 1.4 of U.N.N.C., we are dealing with the acquisition of real estate, as defined in the Act, in the event of acquisition of property ownership or the right of perpetual usufruct (long–term leasehold of land owned by public law entities), on the basis of any legal event. The literature of reference emphasizes the inaccuracy of the expression "on the basis of any legal event" used in this provision. It has been signalled that such a vague phrase may raise doubts and abuses in interpretation. An example of this may be the acquisition of ownership as a result of a tort, which also qualifies as a legal event, and which entails the obligation to remedy the damage/

loss (Skoczylas, Szlęzak, 2010, section 9). It has been suggested that a provision be introduced in the wording of Article 1.4 of U.N.N.C., which would indicate that the acquisition of real estate shall be related to the legal basis for the acquisition, and not to a legal event (Ibid.). This proposal met with a negative reaction. It seems to be rightly rejected, for example due the fact that real estate transactions are always controlled by a professional entity. A similar provision can be found in U.K.U.R., where in paragraph 7 of Article 2, the legislature stipulates that the acquisition of agricultural real estate should be understood as the transfer of ownership of an agricultural property or acquisition of ownership of an agricultural property as a result of a legal action or judicial or administrative decision, as well as another legal event. Comparing the definitions of real estate acquisition in the two Acts being referred to herein, it can be seen that in U.K.U.R., in the fragment where agricultural property is mentioned, the legislature narrows the concept of acquisition of a real property only to acquisition of the right of ownership, ignoring the right of perpetual usufruct. This does not mean, however, that the provisions of U.K.U.R. shall not apply to the acquisition of perpetual usufruct of an agricultural property, which is governed by Article 2c of U.K.U.R. It seems, however, that a more correct approach is the definition proposed by the legislature in the other above-mentioned Act.

Personal and subject–matter restrictions on the acquisition of agricultural real estate

The Act on the Agricultural System Development does not make the acquisition of an agricultural property conditional on nationality. But we must remember that under U.N.N.C., foreigners coming from outside the EEA and Swiss Confederation may become owners of any real property located in Poland, including agricultural, after obtaining prior permit from the Minister of Internal Affairs – this will be discussed later in this paper. According to Article 2a.1 of U.K.U.R., an agricultural property may only be acquired by a sole-trading farmer, unless the law provides for otherwise. A sole--trading farmer is a natural person who is the owner, perpetual usufructuary, independent possessor or leaseholder of agricultural estate, of which the total area of arable land does not exceed 300 hectares, educated in farming and

who has lived for at least 5 years in the municipality (gmina) where one of the agricultural properties forming part of the farm is located, and who has personally operated this farm within this period (Article 6.1 of U.K.U.R.).

In paragraph 3 of Article 2a of U.K.U.R., the legislature indicates that the property may also be acquired by a close friend or relative of the alienor, a local government unit, the State Treasury or an Agency acting on its behalf, legal persons acting under the legal provisions on the relations between the State and the Catholic Church in the Republic of Poland, on relations between the State and other churches and religious associations and the guarantees for the freedom of conscience and religion. An agricultural property may also be acquired by those who are granted an agricultural property as a result of inheritance and specific bequest, pursuant to Article 151 or Article 231 of the Civil Code, as well as during reconstruction proceedings as part of rehabilitation proceedings. The above-mentioned entities are not required to obtain permit of the President of the Agricultural Property Agency to carry out this type of transaction. In respect of other entities, the acquisition is permissible only after prior approval of the President given by an administrative decision. The decision is issued on the request of:

"1) the alienor, provided that the alienor proves that:
   a) it was not possible to acquire the agricultural property by the entities referred to in paragraphs 1 and 3,
   b) the alienee guarantees that the alienee will duly perform the agricultural activity,
   c) the acquisition will not result in excessive concentration of agricultural land;
2) a natural person wishing to establish a family farm who:
   a) is a qualified farmer, or who, with a condition of improving his/her education, has been granted the aid referred to in Article 5.1 clause 2 of the Act dated 7 March 2007 on supporting rural development with the participation of the European Agricultural Fund for Rural Development within the framework of the Rural Development Programme for 2007–2013 (Dz. U. of 2013, item 173, of 2015 item 349, and of 2016, item 337) or in Article 3.1, clause 6.a of the Act of 20 February 2015 on supporting rural development with the participation of the European Agricultural Fund Rural Development

for 2014–2020 (Dz. U., item 349 and 1888, and of 2016, item 337), and the deadline to complete the skills has not yet expired,

b) guarantees that he/she will duly perform the agricultural activity,

c) agrees to live for at least 5 years from the date of acquisition of the property in the municipality (gmina) where one of the agricultural properties to form part of the family farm being established is located" (Article 2a.4 of U.K.U.R.).

Such limitations as mentioned above, restricting some people in the possibility of acquisition of agricultural land seemingly appear to be consistent with the Community law. The strict rules relating to the acquisition of this type of real estate hinder their availability both for the majority of Polish citizens (generally favouring only sole–trading farmers) and foreign nationals. However, it may be assumed that in practice, Polish citizens will be treated more liberally than foreigners (Cf. Jeżyńska, R. Pastuszko, OE – 197, Biuro Analiz i Dokumentacji, 2012, p. 30), because of the requirement to apply, in most cases, for permit of the President of the Polish Agricultural Property Agency.

It is also worth mentioning that the Agricultural Property Agency has the power to carry out audits (More on the issue of agricultural land transactions – Lichorowicz, Studia Prawnicze PAN, 1991, vol. 3, p. 87–112). It should supervise whether the alienee of an agricultural property complies with the obligation to live for a period of 5 years from the date of acquisition of the property in the municipality (gmina), where one of the agricultural properties to form part of the farm being established is located (Article 8a.1 of U.K.U.R.). When conducting an audit, the Agency has the right to enter the area of the estate being audited and has the right to request relevant information, as well as to be provided with the documentation (Article 8a.5 of U.K.U.R.).

The Polish legislature has also introduced restrictions in terms of the subject, stating that the area of the agricultural property being acquired, plus the area of agricultural properties constituting the family farm of the alienee, shall not exceed 300 hectares of arable land. The aim of such a provision was to prevent excessive concentration of agricultural land in the hands of one owner. When determining the area of the arable land being the subject of

joint ownership, the area of agricultural property corresponding to its share in the joint ownership of such property must be taken into account and, in the case of co-ownership (of a tenancy-by-the-entirety type) – the total area of agricultural properties that are the subject of co-ownership (Article 5.2 of U.K.U.R.) must be taken into account. Similar rules shall apply when determining the area of arable land which is subject to joint independent possession and joint possession on the basis of perpetual usufruct or under a lease contract (Article 5.3 of U.K.U.R.).

Also, note the provision of Article 1a of U.K.U.R., according to which the Act does not apply to agricultural land held in the Agricultural Property Stock of the State Treasury, referred to in the Act of 19 October 1991 on Managing Agricultural Property of the State Treasury (Dz. U. of 2015, items 1014, 1433 and 1830, and Dz. U. of 2016, item 50 and 585) and to agricultural real estate with an area less than 0.3 hectares.

The acquisition of agricultural real estate with and without permit

The need to obtain permit to acquire an agricultural property located in Poland by foreigners depends on their national origin. For foreign nationals from the EEA and the Swiss Confederation, since 1 May 2016, such acquisition has not been subject to permit by the competent body. For other foreigners, obtaining permit is a necessary requirement for the granting of ownership rights. It is issued by the minister responsible for internal affairs, unless the minister responsible for rural development raises an objection (Article 1.1 of U.N.N.C.). The possibility of raising an objection is restricted by a period of 14 days counting from the date of delivery of the decision of the minister responsible for internal affairs. Where it is particularly reasonable, this period may be extended up to two months (Article 1.1a of U.N.N.C.). The permit shall be issued on the request of the foreigner, if the following conditions are met:

- the acquisition of the property by the foreigner does not pose a risk to national defence, security or public order, and will not come in conflict with the social policy and public health,
- they prove the ties linking them with the Republic of Poland, such as e.g. Polish ethnic background or Polish origin, or marriage to a citizen of the Republic of Poland (Article 1a.1 and 1a.2 of U.N.N.C.).

Before issuing the permit, the Minister of Internal Affairs may require that evidence and information necessary to decide the case be submitted, and may also demand that competent government authorities verify whether the acquisition of real estate by the foreigner will not pose a threat to national security (Article 2.1 of U.N.N.C.). In addition, the Minister is entitled to define additional conditions, the fulfilment of which will be a prerequisite for the acquisition of real estate (Article 2.2 of U.N.N.C.). It should be noted that the permit is valid for 2 years from the moment of its issue (Article 3.2 of U.N.N.C.).

The legislature also authorizes the foreign national to apply for an administrative promise to issue a permit (More on this topic Szafrański, Kwartalnik Prawa Publicznego 2001, No. 1, p. 153 ff.). The validity of the promise is one year from the date of issue. It is essential that during this period of validity of the promise, in principle it cannot be refused to issue the permit unless the facts that are essential to decide the case change (Article 3d of U.N.N.C.).

It should also be noted also that the acquisition of real estate by a foreigner contrary to the provisions of law is null and void (Article 6.1 of U.N.N.C.).

The legislature has allowed the acquisition of real estate by a foreigner without prior procurement of a permit, in the following cases, among other things:

- where the property is to be acquired by a foreign national living in the Republic of Poland for at least 5 years from being granted permanent residence or long-term EU residence permit,
- where the property is to be acquired by a foreign national who is the spouse of a Polish citizen and has resided in Poland for at least 2 years from being granted permanent residence or long-term EU residence permit, and as a result of the acquisition the real property will be part of the joint property of spouses,
- where the property is to be acquired by a foreign national who, as of the acquisition date, is entitled to statutory inheritance after the alienor of the property, and the alienor has been the owner or perpetual usufructuary for at least 5 years (Article 8.1 of U.N.N.C.).

It is important that, as previously mentioned, from 1 May 2016 onwards, a permit is not required for the acquisition of any property by foreign nationals who are citizens or businesses from the Contracting Parties to the EEA Agreement or the Swiss Confederation (Article 8.2 of U.N.N.C.).

The compliance of the amended Act on Developing the Agricultural System with the Constitution of the Republic of Poland

After reading the amended U.K.U.R., some doubts are raised as to the compliance of some of its provisions with the Polish Constitution. It is worth paying attention here to paragraph 1 of Article 2b of this Act, where the legislature imposes on the alienee of an agricultural property an obligation to run the farm containing the acquired property, for a period of at least 10 years from the acquisition of the property, and where the alienee is a natural person, the alienee shall be required to run the farm in person. An additional limitation of the ownership rights is enacted in paragraph 2 of Article 2b of U.K.U.R., preventing the alienee, in the aforementioned period, from transferring or delivering the acquired property to third parties. Only in exceptional cases resulting from force majeure reasons beyond the control of the alienee, the court, on the request of the alienee, may agree to carry out the above mentioned activities (Article 2b.3 of U.K.U.R.) Such type of regulation can be criticised as arbitrary, while Article 32 of the Constitution stipulates that everyone is equal before the law. Furthermore, it seems that forbidding the sale of agricultural property for a period of l0 years violates Article 64 of the Constitution, which provides that "the right of ownership may only be limited by means of a statute and only to the extent that it does not violate the substance of such right" and is contrary to the very idea of ownership.

In addition, it is worth noting paragraph 4 of Article 2b of U.K.U.R., wherein the legislature releases the following entities from the aforementioned restrictions laid down in its paragraphs 1 and 2:

- a close friend or relative of the alienor,
- a local government unit,
- the State Treasury or an Agency acting on its behalf,
- legal persons acting under the legal provisions on the relations between the State and the Catholic Church in the Republic of Poland, on relations

between the State and other churches and religious associations and the guarantees for the freedom of conscience and religion,

- persons who acquired agricultural property as a result of inheritance or specific bequest,
- persons who acquired agricultural property under Article 151 or Article 231 of the Civil Code.

Each ownership should be treated the same way, as it is subject to an equal legal protection (Article 64 of the Constitution) and, therefore, different treatment of different alienees seems to be inconsistent with the Constitution.

In my opinion, the requirement that the owner agree to live for a period of 5 years from the date of property acquisition in the municipality (gmina) where the agricultural property is located is also in contradiction with Article 52 of the Constitution, which guarantees everyone the freedom to choose their place of residence.

It is true, however, that the right of ownership, despite the fact that it is an *erga omnes* property right with the widest scope, it is not an absolute right, and that in certain cases, it may be subject to statutory restrictions in terms of its content and use (Decision of the Supreme Court of 21 January 2015, IV CSK 203/14, LEX No. 1656510). It seems, however, that the above--described limitations introduced by the legislature in U.K.U.R. violate the provisions of the Polish Constitution.

Is there a possibility of introducing legal restrictions on the acquisition of agricultural real estate by foreigners?

The question of the admissibility of the introduction of legal restrictions on the acquisition of agricultural real estate by foreigners should be considered in a twofold manner (Likewise Jeżyńska, R. Pastuszko, 2012, p. 28). It seems that in the case of foreigners from outside the EU, it is acceptable to establish the restrictions to prevent excessive buyout of Polish land, especially farmland. On the other hand, for foreigners from the EEA or Swiss Confederation, it appears that overly rigorous regulations may undermine the principles of the Community law, in particular the free movement of capital and freedom of establishment. Thus, it cannot be overlooked that it was assumed during the accession negotiations that citizens of the Member States may not be treated worse than on the date of

signature of the Accession Treaty in the issues of acquisition of agricultural land and forests (Jeżyńska, Pastuszko, 2012, p. 29; Mataczyński, Rejent 2004, No. 5, p. 76).

According to Article 345 of the Treaty on the Functioning of the EU (The Treaty on the Functioning of the European Union of 30 April 2004, Dz.U. [Journal of Laws] 2004.90.864/2 as amended, hereinafter: TFEU), the Treaty shall in no way prejudice the rules governing the system of property ownership in Member States. However, these rules cannot be formed absolutely freely, which is stipulated for example in Article 18 of TFEU, whereby any discrimination on grounds of nationality shall be prohibited. It is also worth quoting here the thesis of the ruling issued by the Court of Justice of 8 November 2012 (CASE C-244/11, European Commission v. Greek Republic, text available on the website: www.eur-lex.europa .eu; see also judgment of the Court of Justice of 23September 2003, in the case C-452/01 Ospelt i Schlössle Weissenberg, Rec, text available on the website: www.eur-lex.europa.eu) where the Court held that: "although Article 295 EC does not call into question the Member States' right to establish a system for the acquisition of immovable property, such a system remains subject to the fundamental rules of EU law, including those of non-discrimination, freedom of establishment and free movement of capital".

In another of its rulings, the CJ pointed out that the national legal solutions regarding the acquisition of property must comply with the rules on free movement of capital and freedom of establishment (Judgment of 1 June 1999 in the case C-302/97, Klaus Konle v. Austrian Republic, ECR 1999/6/I-03099). According to Article 63 of TFEU, all restrictions on the movement of capital between Member States and between Member States and third countries shall be prohibited. The semantic scope of the notion of movement of capital includes, inter alia, direct investment in real estate, activities relating to securities and other instruments to be traded on the money market, and loans (Glossary contained in Annex I to Council Directive 88/361 EC of 24 June 1988 for the implementation of Article 67 of the Treaty, OJ EC, 1988 L 178, p. 5). It should be then assumed that the acquisition or disposal of immovable property in the territory of another Member State is undoubtedly free movement of capital (The same

view expressed in: Jeżyńska, Pastuszko, 2012, p. 28). The Court held that the measures restricting the free movement of capital may include those which are likely to discourage non-residents from making investments in another Member State (Judgment of the Court of Justice of 23 February 2006 in the case C-513/03, heirs M.E.A. van Hilten-van der Heijden v. Inspecteur van de Belastingdienst/Particulieren/Ondernemingen bu itenland te Heerlen, (text available on the website: www.eur-lex.europa.eu).

According to the Court of Justice, the exercise of the right to acquire, use and dispose of immovable property on the territory of another Member State is also one of the essential elements of the freedom of establishment (Judgment of 1 June 1999 in the case C-302/97, Klaus Konle v. Austrian Republic, ECR 1999/6/I-03099).

Both in case law and among scholars of law it has been pointed out that a violation of a Treaty-enshrined freedom may, in some cases, be justified. But to do so, the freedom-restricting measures adopted by the Member State must jointly meet the following conditions:

- the use of the measure in question is justified by the circumstances set out in Article 65 paragraphs 1–3 of the Treaty or overriding requirements of public interest (ibid.),
- the measures do not infringe on the principle of non-discrimination,
- the measures correspond to the objective to be achieved and do not go beyond what is necessary to achieve the same (Jeżyńska, Pastuszko, 2012, p. 28; Frąckowiak-Adamska, 2009, p. 126 ff.).

In my opinion, the judgement of the Court in the Festersen case is of the utmost importance for the assessment of the Polish regulations in the context of their compliance with the Community law. The Court found that the solution which makes the right to acquire an agricultural property conditional on the obligation to live on that property restricts not only the free movement of capital but also the right of the alienee to choose his place of residence freely, guaranteed by Article 2(1) of Protocol No. 4 to the Convention for the Protection of Human Rights and Fundamental Freedoms of 4 November 1950 (Judgement of the Court of Justice of 25 January 2007 in the case C-370/05, criminal proceedings against Uwe Kay Festerse n, (text available on the website: www.eur-lex.europa.eu).

Therefore, we should suppose, that the Polish legal solutions in this regard may be challenged in the near future on the grounds of being in violation of EU law.

In view of the above, it must be undoubtedly held that the provisions on freedom of establishment and free movement of capital require the enabling of acquisition of immovable–estate by foreigners (This view is shared by Pawłowski, Zeszyty Prawnicze BAS 2014, No. 2, p. 135).

Summary

As a result of the analysis of the subject in question, it can be noted that the Polish legislature treats EEA/Swiss Confederation nationals and other foreign nationals differently. The lapse of the transitional period negotiated by Poland with the EU requires the Polish legislature to treat foreigners from the above-mentioned areas, who are interested in acquiring real property located in Poland, equally as Polish citizens. This is justified by the accepted principles of the Treaty of Accession – the freedom of establishment and freedom of movement of capital to be respected by Poland since our accession.

It seems that there are legitimate concerns about the fact that the solutions adopted by the Polish legislature may meet with the disapproval of the European Commission, which can challenge them as contrary to the basic principles of Community law.

In my opinion, certain provisions concerning the acquisition of real estate included in U.K.U.R. may also be declared unconstitutional. Undoubtedly, the new regulations discussed herein will make life more difficult, especially for Polish farmers, although this was not the intention of the legislature. It should also be assumed that the regulation discussed will contribute to inhibiting economic transactions, which is certainly not a desirable outcome.

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