

litigation and arbitration - legal changes published in August 2018

Law no. 231/2018 for amending and supplementing the Land Fund Law no. 18/1991 was published in the Official Gazette of Romania, Part I, no. 679 of August 6, 2018 and is applicable as of August 9, 2018. The act amends and supplements the Land Fund Law no. 18/1991, republished in the Official Gazette of Romania, Part I, no. 1 of 5 January 1998, as amended and supplemented, as follows:

- (i) It is established that if the areas of land belonging to the home and the household annexes, as well as the courtyard and garden around them, are not evidenced as such in the ownership documents, in the land book, in the agricultural register or in other documents at the time of entry into the agricultural cooperative production, they can be proven by any evidence, including authentic witness statements. Paragraph (2¹) to art. 23 is added, which stipulates that in the case of the alienation of the constructions, the adjoining land areas referred to in paragraph (2) of art. 23 are those agreed by the parties at the time of the alienation, proven by any means of evidence, including authentic witness statements;
- (ii) Paragraph (3) to art. 24 is added, showing the conditions to be cumulatively fulfilled in order for the current owners to register their land within the built up areas, related to the constructions built by the former cooperatives of production, the former inter-cooperative economic associations and the former consumer cooperatives: a) they are the holders of construction from the date of acquisition and until the date of requesting the registration of the ownership right; b) they prove that the property is registered in the agricultural register and that taxes and duties are paid in accordance with the legal provisions; c) for the plot of land corresponding to the construction the ownership right has not been established or restored; and d) the plots of land are not in public or private ownership of the administrative-territorial units.
- (iii) By inserting paragraph (1¹) to art. 27 it is stated that if, upon drafting the protocols of handing over to the persons who are entitled, it is found that the names, surnames or initials of these persons were wrongly listed in the annexes validated by the decision of the commission, in relation to the name and surname of the identity documents presented, the annexes previously validated by the commission shall not be amended. The hand-over protocols for the release of the ownership titles shall be filled in with the name and surname of the persons according to the identity documents and shall be accompanied for the issuance of the ownership titles signed by the chairman of the local commission and the secretary of the administrative-territorial unit through which it is certified that the persons entered in the hand-over protocols are the same as the persons registered in the annexes previously validated by decisions of the commission;
- (iv) It highlights the conditions under which the holders or their heirs may request the county commission to issue the ownership title for the land afferent to the home which had not been included in the cooperative: a) if the applicants are included in agricultural registers or cadastral registers and in the fiscal records; b) if the plot of land is owned by the Romanian state and the requesting persons are the owners of the constructions on the lands subject to the present law; c) they are not subject to applications for the establishment or the re-establishment of the ownership rights filed by other persons.

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Natural persons and legal entities fulfilling the conditions provided by the law may file applications for the establishment and / or reestablishment of the ownership right within 120 days from its entry into force. Requests for the reestablishment of the ownership right filed under art. 23, 24 and 27 of the Land Fund Law no. 18/1991, republished, with the subsequent amendments and supplements, which are being settled by administrative or judicial procedures, are not subject to the provisions of Law no. 231/2018.