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### DECISION

No. 410, dated 27.6.2012

#### **On the determination of the rules and procedures for the change of the categories of land resources**

Pursuant to article 100 of the Constitution and article 11/1 of law no. 8752, dated 26.3.2001 "On the establishment and the functioning of the structures for land administration and protection", amended, with the proposal of the Ministry of Agriculture, Food and Protection of Consumer, the Council of Ministers

### DECIDED:

#### **I. DEFINITIONS**

According to the meaning of this decision, the following terms have these meanings:

1. "The change of agricultural lands in categories of other resources and vice versa", the procedural and documentary actions as well as the approvals that are made by the state structures, stipulated in this decision, which cause the change of agricultural land in categories of other resources or the change of the other resources into agricultural land. This change is reflected in the state cadastral documentation.
2. "The subjects interested in the change of the resource categories":
  - a) natural or legal persons, who possess in private ownership the agricultural land, the land with forest vegetation, the forest, the pasture, the meadow, the infertile land. These natural or legal persons also express the interest in or require the change from one resource category to another category;
  - b) the local governance bodies or the other state institutions, which based on the legal or sublegal acts have in their administration/use or ownership the agricultural land, the land with forest vegetation, the pasture, the meadow, the infertile land, which are surfaces in state (pubic)

- ownership and which express their interest in or require the change of a resource category into another category.
3. "The subjects interested in the change of the agricultural land in the urban land into land for mine and geological activities, for quarries and borrow pits":
    - a) the natural or legal persons, who submit the request at the respective ministries which cover these activities;
    - b) the respective ministry and the planning authorities, who have under their competence and responsibility the territory planning, according to the legislation into force.
  4. "The subjects interested in the transfer of the agricultural lands of the categories from I up to IV of the land fertility for exercising the necessary activities":
    - a) the natural or legal persons, who require the development of the activity in these lands;
    - b) the respective ministries which cover the activity for which the change is requested.

## **II. THE CHANGE OF THE LANDS FROM THE RESOURCE CATEGORIES OF FORESTS, LAND WITH FOREST VEGETATION AND PASTURE INTO THE RESOURCE CATEGORY OF AGRICULTURAL LAND**

1. The subject interested in the change of the resource categories of forests, land with forest vegetation, pasture and meadow and their change into agricultural land may submit a request in the local governance unit, where these surfaces are located, including:
    - the applicant's identity;
    - the notarized document for having these resources under the ownership, according to the law;
    - the layout of the surface for which the change is required, with the boundaries clearly specified in the scale 1: 2500;
    - the certification on the condition of the resource category, with which this surface is reflected in the cadastral documentation, issued by the Forest Service Directorate (FSD) or the Land Administration and Protection Directorate (LAPD) of the district, respectively;
    - the comprehensive project with arguments on the activity that will be exercised in the surface required for the change of the resource category.
  2. The commission of the change of the resource category, of the commune or of the municipality, with the participation of all its members, reviews the request within the time limits stipulated in letter "c" of paragraph 4 article 11/1 of law no. 8752, dated 26.3.2001, amended, and takes the respective decision.
  3. In the case of the adoption of the change of the resource categories, being the object or the request, and their transfer to the resource category of agricultural land, the decision shall be prepared in 4 (four) copies, one of which shall be given to the applying subject, a copy shall be kept in the TMPO of the commune or municipality, a copy shall be sent to the LAPD of the district and the forth copy shall be sent to the Forest Service Directorate, based on which the actions stipulated in chapter VIII of this decision shall be carried out.
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4. In case the request for the change of the resource categories of forests, land with forest vegetation, pasture and meadow is not approved for their transfer to the category of the agricultural land resource, for the full surface or for the partial surface, which is the object of the request, the written decision is communicated to the applying subject, within 5 (five) days from the day when it is received. The reasons for the inadmissibility of the request shall be reflected in the decision.
5. The subject which submits a request for the change of the resource categories, both in the case when the commission of the commune or of the municipality, objects the request, pursuant to paragraph 4 of this chapter, or in the case when the commune or the municipality has not reviewed it within the time limit of 30 (thirty) days from its registration, the subject is entitled to lodge this request for decision-making with the Ministry of Agriculture, Food and Consumer's Protection (MAFPC).
6. The respective structure for land administration at the MAFPC reviews the request within 15 (fifteen) days and when it complies with the criteria stipulated in the law and with the procedures provided for in paragraphs 1 and 5 of this chapter, it evaluates it for adoption and sends it for an opinion to the Ministry of Environment, Forests and Water Administration (MEFWA), which replies in writing within 15 (fifteen) days. When the opinions of both ministries result of the same evaluation regarding the adoption of the change of the resource category, the responsible structure for land administration at the MAFPC prepares the minister's order for adoption within 15 (fifteen) days from the day when the opinion of the MEFWA is taken.

The minister's order shall be notified to the applying subject and shall be sent for enforcement to the commune or to the municipality and to the TAPD of the district.

### **III. THE CHANGE OF THE AGRICULTURAL LAND INTO THE RESOURCE CATEGORIES OF FOREST, PASTURE AND MEADOW**

1. The agricultural lands of the categories from I to IV of land fertility are not permitted to be changed into the categories of the resources of forest, pasture and meadow.
2. When the subject interested in the change of the resource category of agricultural land into the resource category of forest, pasture and meadow is the private owner, the subject lodges the request with the MAFPC, which includes:
  - the applicant's identity;
  - the description of the activity that the applicant will exercise in the surface which is requested to be changed;
  - the notarized photocopy of the document of the ownership on the land;
  - the layout of the surface which is required to be changed, with clearly distinguishable borders;
  - the original certification, issued by the Land Administration and Protection Directorate (LAPD) of the district, for the category of the resource this surface has in the cadastral documentation and for the land category according to land fertility.

3. When the applying subject, which requires the change of the category of the agricultural land resource, in the ownership of the state, is the local governance body which possesses these surfaces for administration/use through legal or sublegal acts, the subject lodges the request for the change of their category into the resource category of forest, pasture and meadow with the MAFPC. The request contains:
  - the identity of the subject interested in the change of the agricultural land into the categories of other resources;
  - the description of the activity that shall be exercised in the surface requested to be changed;
  - the photocopy of the legal or sublegal act, which certifies that the land surface for which the change is requested under administration or use;
  - the layout of the surface, which is the object of the proposal, with the clearly specified borders;
  - the certification of the TAPD for the resource category, this surface has in the cadastral documentation as well as for the land category according to land fertility.
4. The structure which covers the land administration at the MAFPC reviews the submitted request within 30 (thirty) days from its registration in relation to the lawfulness, the composing documentation and the economic effectiveness which is the result of the change of the resource category, in compliance with the supporting programs of the government for agriculture. In case of a positive evaluation of the request, this structure prepares:
  - a) the order of the minister for the approval of the change of the agricultural land resource category and its transfer into the resource category of forest, pasture or meadow, respectively, when the surfaced proposed to be changed is up to 5 (five) ha;
  - b) the draft-decision of the Council of Ministers, when the surface of the land proposed to be changed into the resource category of forest, pasture or meadow is more than 5.1 ha.
5. When the minister judges that the request does not meet the stipulated criteria which consequently causes its inadmissibility within 15 (fifteen) days, the subject that has submitted the request shall be notified.

#### **IV. THE CHANGE OF THE INFERTILE LAND IN THE RESOURCE CATEGORY OF AGRICULTURAL LAND**

1. The subject interested in the change of the infertile land category and in its transfer into the resource category of agricultural land, lodges the request with the Agricultural Technology Transfer Centre (ATTC), in Fushe-Kruja, as the unique and specialized institution in this field for the conduction of land analysis. The request contains:
    - the applicant's identity;
    - the notarized document on the availability of these resources under ownership, according to the law;
    - the layout of the surface for which the change is required, with the clearly specified borders;
    - the certification on the condition of the resource category with which this surface results to be in the cadastral documentation issued by the Forest Service directorate (FSD) or the Land Administration and Protection Directorate (LAPD) of the district, respectively.
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2. The request for the realization of the land analysis is registered at the ATTC. This request is accompanied with the mandate of the payment, made by the interested subject, including the value of the analysis, according to the tariffs approved for the ATTC and the costs for the work of the group of experts.  
The costs of the working group of the experts include the travel per diem according to the provisions into force and the expenses for the opening of profiles and sample collection.  
The number of the profiles and samples, which are collected on the surface that is analysed and the respective values are stipulated according to the instruction of the Ministry of Agriculture, Food and Consumer's Protection.
3. After the applying subject receives the results of the analysis and the technical report from the ATTC, with the recommendation and the evaluation on the possibility for the transfer of the infertile land surface into agricultural land, the subject shall address with a request to the MAFPC.  
The request shall be accompanied with the documents stipulated in paragraph 1 of this chapter and with information on the activity that will be exercised on the surface, which is the object of the request.
4. The structure which covers the land administration at the MAFPC reviews the request submitted regarding the lawfulness, the constituent documentation, the economic effectiveness which originates from the change of the resource category, in compliance with the supporting programs of the government on agriculture.
5. In the case of a positive evaluation of the request, the MAFPC prepares the minister's order for the approval of the requested change. When the minister deems that the request does not meet the specified criteria, which therefore causes its inadmissibility, the subject that has submitted the request shall be notified within 15 (fifteen) days.

## **V. THE CHANGE OF THE AGRICULTURAL LAND IN THE RESOURCE CATEGORY OF INFERTILE LAND**

1. The subject interested in the change of the resource category of agricultural land and its transfer into the resource category of infertile land, is entitled to make a request for a change only when factors of force majeure have acted on this surface of agricultural land, such as: earthquakes, massive landslides of the land surface, floods, volcanos, massive fires, sinking of land layers and other factors of this nature.  
The activity of the natural factors of force majeure is requested to be documented with the minutes of the damage time, confirmed (signed) by the specialist of the DRB, the Inspector of the Land Protection Inspectorate (LPI) of the district and the chief of the ZMMT in the commune or municipality or it should be documented by the LPI according to the procedures stipulated in paragraphs 5 up to 8 of chapter IV of the decision no. 80, dated 28.1.2005 of the Council of Ministers "On the composition, the functioning approaches, the tasks and the responsibilities of the state structures for the protection of agricultural land".
  2. The damage caused to the agricultural land by force majeure factors, identified according to paragraph 1 of this chapter, shall be verified through the analysis of the values of the agricultural land indicators,
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which are carried out by the ATTC, according to the stipulations in paragraphs 1 and 2 of chapter IV of this chapter.

3. The subject interested in the change of the agricultural land and its transfer to the resource category of infertile land, based on the results of the analysis, the technical report and the recommendations of the ATTC, may lodge a request with the MAFPC.
4. The structure that covers the administration of the land in the MAFPC reviews the legal support of the request and its constituent documentation.

In case of a positive evaluation of the request, the MAFPC prepares:

- a) the minister's order on the change approval, when the surface, being the object of the request, is up to 5 (five) ha;
- b) the decision of the Council of Ministers, when the surface, being the object of the request, is over 5.1 (five point one) ha.

When the minister deems that the request does not meet the criteria, which consequently causes its inadmissibility, the subject who has submitted the request shall be notified.

#### **VI. THE CHANGE OF THE AGRICULTURAL LANDS OF THE CATEGORIES FROM V TO X OF LAND FERTILITY AND THEIR CHANGE INTO URBAN LAND, INTO LAND FOR MINE AND GEOLOGICAL ACTIVITIES AS WELL AS FOR QUARRIES AND BORROW PITS**

1. The subjects interested in the change of the resource category of the agricultural land, from V to X of land fertility, interested in their change into urban land, into land for mine and geological activities, for quarries and borrow pits, lodge a request with the respective ministry which covers this activity. The request shall be presented according to the provisions of the legislation on the territory planning. The request shall contain even the certification for the land category according to land fertility for the surface, being the object of the request, issued by the LAMD in the district council.
2. The ministry which covers the respective activity shall get preliminarily the opinion of the MAFPC and prepares the decision of the Council of Ministers, when the object of the request is a land surface of up to 30 (thirty) ha, or the law when the object of the request is a land surface over 30 (thirty) ha.

#### **VII. THE TRANSFER OF THE AGRICULTURAL LANDS OF THE CATEGORIES FROM I UP TO IV FOR CONSTRUCTIONS, WHEN IT IS NECESSARY**

1. The subjects interested in exercising activities in the agricultural lands of the categories from I up to IV of land fertility, only when it is necessary, according to the stipulations in paragraph 1 of article 11/1 of law no. 8752, dated 26.3.2011 "On the establishment and the functioning of the structures for the administration and protection of land", amended, lodge a request with the ministry which covers the respective activity on the territory planning. The request shall contain even the certification on the land category according to land fertility, issued by the LAMD of the district council.

2. The respective ministries, which cover the activities for which the change of the land category is requested, shall take preliminarily the opinion of the MAFPC and shall prepare the decision of the Council of Ministers.

#### **VIII. UPDATING OF THE CADASTRAL DOCUMENTATION OF THE TRANSFERS AND CHANGES OF THE RESOURCE CATEGORIES**

1. The LAMD in the district council, the LMPO in the commune and/or municipality, the PSD of the district on the transfers and the changes of the resource categories, approved accordingly with the legal or sublegal acts and based on them update the respective cadastral documentation.
2. The LAMD in the district council and the PSD in the district notify the local immovable property registration office of the district about the transfers and changes. The local immovable property registration office reflects these changes in the types of the properties, according to the owners and their legal proprietors.

#### **IX. LAST PROVISIONS**

1. Decision no. 655, dated 28.7.2010 of the Council of Ministers “On the rules and procedures of the land resource categories”, amended, shall be repealed.
2. The Ministry of Agriculture, Food and Protection of Consumer, the state structures of land administration in the other state institutions of land administration in the districts and other state institutions responsible by law, shall be in charge of territory planning for the implementation of this decision.

This decision shall enter into force after its publication in the Official Journal.

**PRIME MINISTER**

**Sali Berisha**