

SOME ASPECTS OF CHANGING THE PURPOSE OF MUNICIPAL PASTURES IN THE REPUBLIC OF BULGARIA

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Abstract

According to the norm of Article 25, Paragraph 1 of the Law on the Ownership and Use of Agricultural Lands, agricultural land that does not belong to citizens, legal entities or the state is municipal property. Municipal ownership of municipal pastures is public and may be declared private municipal property when the purpose of municipal pastures is changed in accordance with the Law on Municipal Property.

Changing the purpose of municipal pastures for the needs of a legal entity and an individual is allowed, according to the regulation of Article 25, Paragraph 7 of the Law on the Ownership and Use of Agricultural Lands, after limited property rights have been established in favor of the person. The change in the purpose of the municipal pastures is carried out in compliance with the terms and conditions of the Law on the Protection of Agricultural Lands. According to the norm of Art. 25, Para. 3 of the Law on the Ownership and Use of Agricultural Lands, a change in the purpose of municipal pastures is permitted as an exception for: construction of technical infrastructure objects, creation of new ones or expansion of construction boundaries of urbanized territories and other cases defined by law.

According to the norm of Article 25, Paragraph 4 of the Law on the Ownership and Use of Agricultural Lands, limited property rights and servitudes may be established on municipal pastures, upon change of purpose.

The conditions and procedure for changing the way of permanent use of municipal pastures for other agricultural needs are defined as a legal technology in the Regulations for the Implementation of the Law on the Ownership and Use of Agricultural Lands and the Law on the Protection of Agricultural Lands.

The bodies that carry out the procedure for changing the purpose are: committees of the regional directorates “Agriculture” and the Commission for Agricultural Lands, according to the regulation of Article 17, Paragraph 1 of the Law on the Protection of Agricultural Lands.

The Minister of Agriculture and Food determines the nominal composition of the commissions to the “Agriculture” regional directorates. These commissions include representatives of the regional structures of the Ministry of Environment and Water, the Ministry of Health, the Directorate for National Construction Control under the Ministry of Regional Development and Public Works, regional administrations, interested agricultural and economic-industrial branch organizations.

The Commission for Agricultural Lands supervises the work of the commissions under the regional directorates “Agriculture”.

Keywords: municipal pastures, change of use, agricultural lands, easements, commissions, laws, real rights

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Introduction

According to the current Bulgarian legislation, municipal pastures, as a type of agricultural land, are public property that belongs to the state and the municipalities. Municipal pastures, in their capacity as a specific type of agricultural land, which is included in the State Land Fund or the Municipal Land Fund, are subject to lease and lease, but limited property rights can also be established on them.

The leasing and leasing of the municipal pastures has been terminated, they are leased to potential users for a certain period under a contract. In this respect, this act is tangential to another agricultural practice – temporary use of agricultural land, analyzed in detail by Velkovska, G. (Velkovska, G., 2019, pp. 210 – 214).

Both pastures from the State Land Fund and pastures from the Municipal Land Fund can be leased or leased without an auction (Article 24, paragraph 2, point 6 and Article 24, paragraph 6, point 4 of the Law on the Ownership and Use of Agricultural Lands – to owners or users of animal breeding sites with grazing farm animals, registered in the Integrated Information System of the Bulgarian Food Safety Agency (www.lex.bg).

According to the text of Art. 24, paragraph 1 of the Law on the Ownership and Use of Agricultural Lands, the ownership of municipalities on municipal pastures from public may be declared private municipal property when the purpose of municipal pastures is changed in accordance with the Law on Municipal Property.

The change of purpose of municipal pastures can therefore be qualified as a legal mechanism for the transformation of ownership of municipal pastures from public to private.

In addition, it should be noted that the change of purpose of municipal pastures is not a legal precedent – the agrarian legislation also regulates the change of purpose of agricultural lands for non-agricultural needs. This topic is analyzed in detail by Velkovska, G. (Velkovska, G. 2022, p. 1135).

Materials and methods

For the purposes of the study, the following were used:

- Literary sources of Bulgarian authors;
- Normative sources (accents from the current legislation);
- Analytical toolkit (normative and analytical methodological apparatus) and survey;
- In this regard and for the purposes of the research, a normative analysis was applied, combined with an analysis of the summarized results of the author's survey.

Results and discussion

Changing the purpose of municipal pastures is related to legal technology, which allows this act only exceptionally.

According to the norm of Article 25, Paragraph 3 of the Law on the Ownership and Use of Agricultural Lands, an exception is allowed for:

- a) construction of technical infrastructure sites in the sense of the Territorial Planning Act (www.lex.bg);
- b) investment projects that received a certificate for class A or class B investments or for a priority investment project under the Law on the Promotion of Investments, when this was stated during the certification of the project (www.lex.bg);
- c) creation of new or expansion of the construction boundaries of the existing urbanized territories (populated places and settlements), as well as creation or expansion of the boundaries of separate regulated land properties outside them;
- d) implementation of activities under granted concessions under the Law on Underground Resources and for investment projects related to the socio-economic development of the municipality (www.lex.bg);
- e) other cases defined by law.

According to the norm of Article 25, Paragraph 4 of the Law on the Ownership and Use of Agricultural Lands, limited property rights and servitudes may be established on municipal pastures. The text of paragraph 5 of Article 25 of the Law on the Ownership and Use of Agricultural Lands regulates the leading role of the Municipal Council, which adopts a decision to express preliminary consent to change the purpose of municipal pastures from the Municipal Land Fund and to establish limited property rights and easements, with a majority of the total number of municipal councilors in compliance with the special laws and regulations for grassed areas, as well as on the condition that there is no shortage of land for the needs of animal husbandry.

With decisions, the Municipal Council determines the period of validity of the preliminary consent.

The procedure itself in a technological and legal aspect is carried out in accordance with the Law on the Protection of Agricultural Lands.

If a legal entity or individual needs to change the purpose of municipal pastures, the procedure is preceded by the establishment of property rights and servitudes.

The subject of the report is, from the point of view of the regulated practice, the implementation of the act of changing the purpose of the municipal pastures.

The object of research are the effects and problems that arise during this process for natural persons – agricultural producers, users of the municipal pastures.

For the purposes of the study, summarized results of an empirical study on the topic “Change of purpose of municipal pastures” among 87 people – agricultural producers from the South-West planning region are presented.

The summary results of the survey are presented below in the presentation.

The survey covers two sections, namely:

Section I: Profile of the respondent

1. Surveyed farmers from the South-West planning region – 87 people – 100%

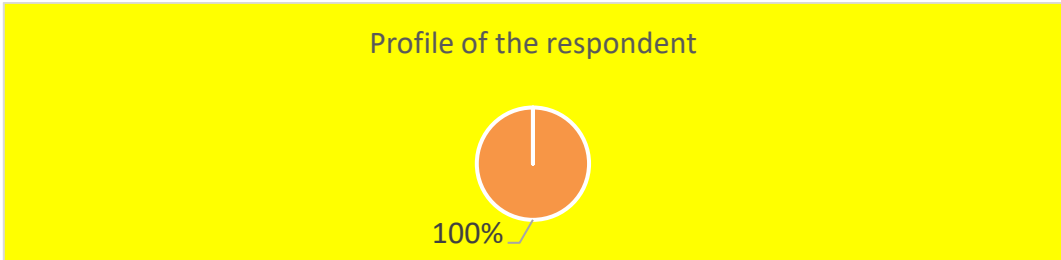


Figure 1. Surveyed farmers from the South-West region for planning

2. Gender structure:

a) men – 51 people or 58.62%

b) women – 36 people or 41.38%

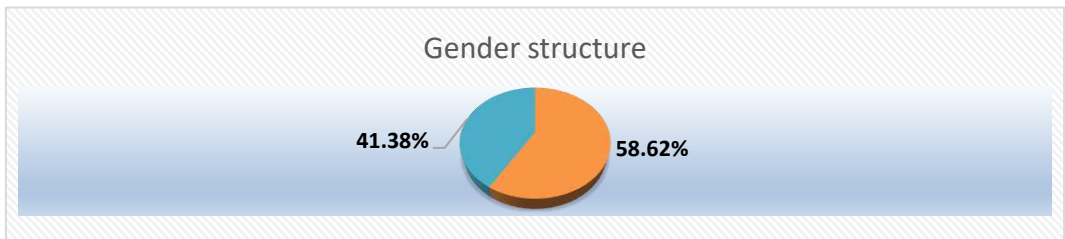


Figure 2. Gender structure

3. Age structure:

a) up to 25 years old – 18 people or 20.69%;

b) up to 35 years old – 27 people or 31.03%;

c) up to 45 years old – 22 people or 25.29%;

d) over 45 years old – 20 people or 22.99%

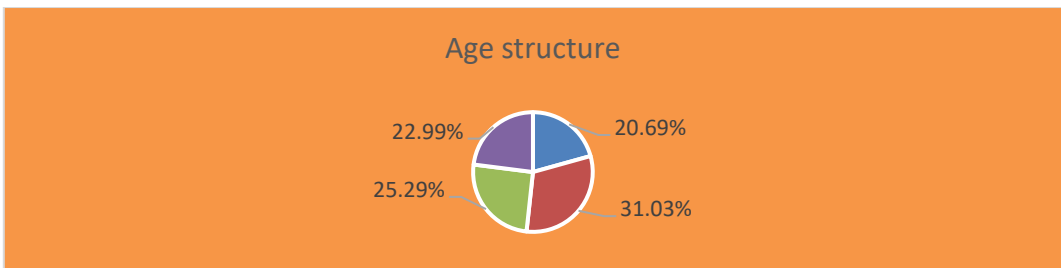


Figure 3. Age structure

4. Internship as agricultural producers:

- a) up to 10 years – 15 people or 17.24%;
- b) up to 15 years – 27 people or 31.03%;
- c) up to 20 years – 20 people or 22.99%;
- d) over 20 years old – 25 people or 28.74%.

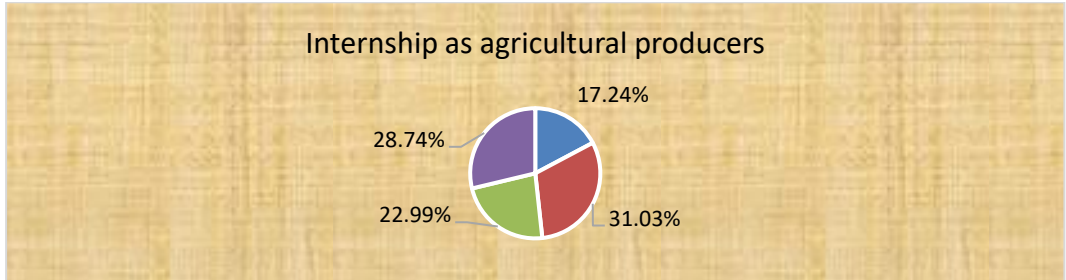


Figure 4. Internship as agricultural producers

Section II: Specialized questions

1. Question: Are you a user of municipal pastures:

- a) yes – 87 people or 100%;
- b) no – 0 people or 0%.

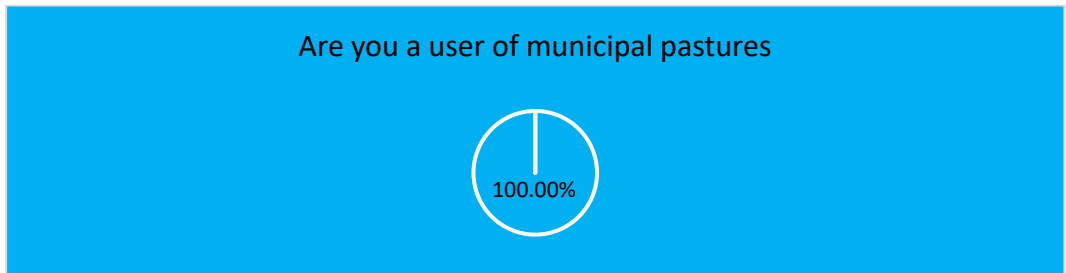


Figure 5. Are you a user of municipal pastures?

2. Question: If your answer to the 1st question is “yes”, have you applied for changing its purpose:

- a) yes – 51 people or 58.62%;
- b) no – 36 people or 41.38%.

If your answer to the 1st question is „yes”, have you applied to change its purpose

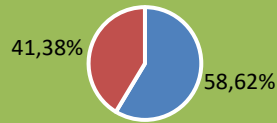


Figure 6. If your answer to the 1st question is “yes”, have you applied to change its purpose?

3. Question: Did the municipal agricultural office check what the permanent use of the land is:

- a) yes 51 people or 58.62%;
- b) not the person or 00.00%

Did the municipal agricultural office check what the permanent use of the land is

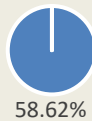


Figure 7. Did the municipal agricultural office check what the permanent use of the land is?

4. Question: If your answer to the previous question is “yes”, how did this check go (more than one answer is possible):

- a) problem-free – 36 people or 70.58%;
- b) fast – 28 people or 54.90%;
- c) competently – 26 people or 50.98%

If your answer to the previous question is „yes”, how did this check go

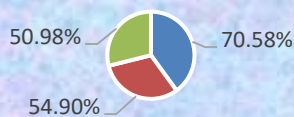


Figure 8. If your answer to the previous question is “yes”, how did this check go?

5. Question: If your property is part of permanently grassed areas, have you had a delay in the necessary order for their exclusion from the Minister of Agriculture and Food:

- a) yes – 30 people or 58.82%;
- b) no – 21 people or 41.18%.

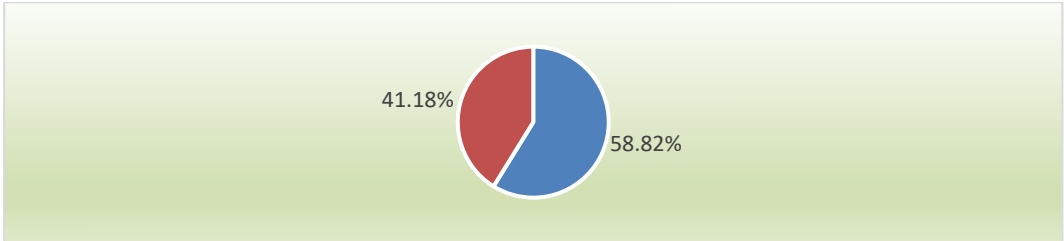


Figure 9. If your property is part of permanently grassed areas, have you had a delay in the necessary order for their exclusion from the Minister of Agriculture and Food?

6. Question: Did you have problems in obtaining a document from the Regional Inspectorate for Environment and Water Protection regarding the absence of prohibitions and restrictions related to the Law on Biological Diversity and the Law on Protected Areas:

- a) yes – 32 people or 62.75%;
- b) no – 19 people or 37.25%.

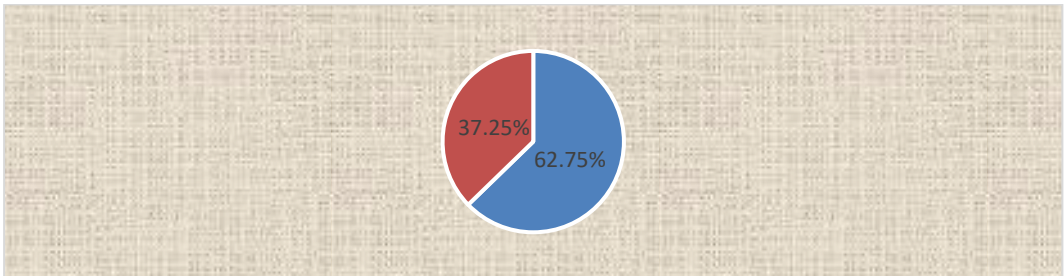


Figure 10. Did you have problems in obtaining a document from the Regional Inspectorate for Environment and Water Protection regarding the absence of prohibitions and restrictions related to the Law on Biological Diversity and the Law on Protected Areas?

7. Question: Do you think that the procedure for changing the purpose of municipal pastures are complicated by (more than one answer is possible):

- a) application documents – 43 people or 84.31%;
- b) the complexity of the procedures for preparing documents – 51 people or 100.00%;

c) delayed inspections by the municipal office under agriculture – 18 people or 35.29%.

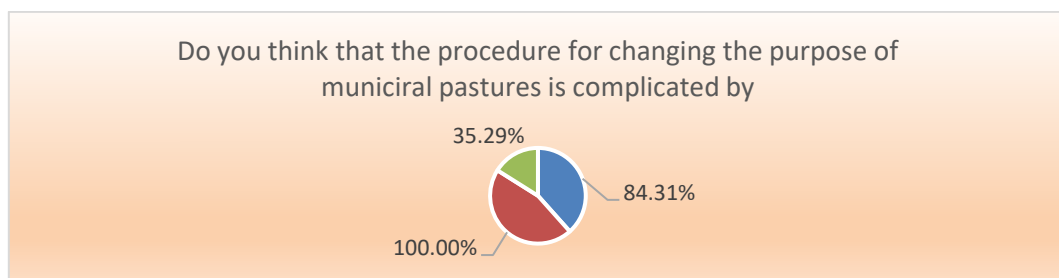


Figure 11. Do you think that the procedure for changing the purpose of municipal pastures is complicated by?

Conclusions

The summary results from the second section of the survey, shown in the presentation, give grounds for forming the following conclusions:

1. The use of municipal pastures is established, given its possibilities and legal regulation, agricultural practice of the users and owners of agricultural lands. All surveyed agricultural producers – 87 people or 100.00% answered that they are users of the municipal pastures;
2. A larger part of the respondents – 51 people or 58.62% applied for a change of purpose of the municipal pastures, probably with already established real rights on these lands as a condition for the change of purpose;
3. All respondents who applied for a change of purpose were checked by the municipal agricultural office regarding the permanent use of municipal pastures – 51 people or 58.62%;
4. A greater part of the inspected respondents – 36 people or 70.58% evaluate the inspection of the municipal agricultural office to establish the permanent use of the municipal pastures as problem-free. The inspection of the municipal service for agriculture was qualified as a quick production – 28 people or 54.90%, which answer is obviously related to the efficiency shown by the inspecting body. 26 people or 50.98% rated the inspection by the municipal agricultural office as competent;
5. On the occasion of the exclusion of permanently grassed areas, as part of the municipal pastures, if such areas exist, and in this connection the issuance of an order by the Minister of Agriculture and Food, it is clear from the answers of the respondents that the majority – 30 people or 58.82% experienced a delay in receiving such an order, which apparently adversely affected the rezoning procedure by delaying that procedure. For 21 people from the respondents or 41.18%, no such delay was found;

6. A serious problem reported by the respondents is the provision of a document from the Regional Inspectorate for Environmental Protection, which certifies the absence of prohibitions and restrictions related to the Law on Biological Diversity and the Law on Protected Territories. 62.85% or 32 people of the respondents had problems in this regard, and the percentage of respondents who answered that they had no problems with the Regional Inspectorate for Environmental Protection was significantly lower – 19 people or 37.25%;
7. Regarding the evaluation of the procedure itself for changing the purpose of the municipal pastures from the point of view of its complexity, 100% or 51 people of the respondents who applied for the change of purpose accept that the complexity of the procedures for preparing documents leads to the complication of the procedure. The application documents were indicated as a complicating factor and circumstance – 43 people or 84.31% of the respondents. Delayed inspections by the Regional Environmental Protection Inspectorate of the Municipal Office of Agriculture were also assessed as a complicating factor, but with the smallest share – 18 people or 35.29%.

In conclusion, it can be noted that still, due to some imperfections of the regulatory framework and to some extent administrative factors, the capacity of this mechanism is not sufficiently effectively used. As some authors point out, changing the purpose of agricultural land as a legal technology and from the point of view of options, can and is applied to the change of purpose of municipal pastures (Velkovska, G., 2022, p. 325). A careful and analytical approach is needed both to the needs of legal entities and individuals to change the purpose of municipal pastures, as well as to preserve and maintain this agricultural resource in the appropriate proportions.

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