

Purchasing Property in Turkey

Real estate acquisition by foreign real persons in Turkey

Real estate law has been regulated within the Civil Code according to the Turkish regulations. It is intended to provide a wide understanding on property purchasing and selling procedures in Turkey, either for real and legal persons within this article.

Real estate acquisition by foreign real and legal persons has been regulated in the article 35 of the Land Registry Law numbered 2644. In the year of 2012, new fundamental principles have been regulated with this new law for acquisition of real estate by foreign real persons and trade companies having a legal personality and established in foreign countries according to the laws of these countries in Turkey.

Real estate acquisition by foreigners before the

amendments

Prior form of the article 35 of the Land Registry Law was as follows:

"With the reservation of reciprocity and compliance with legal restrictions, a foreign real person can acquire real estate for the purposes of using as residence or business aims in Turkey that are separated and registered for these purposes in the implemented development plans or localized development plans. The same condition shall be stipulated in the establishment of limited real rights on real estate. The total area of the real estate and limited real rights on real estate that a real person of foreign nationality can acquire all over the country cannot exceed 25,000 m². Within the same conditions set out in this paragraph Council of Ministers is authorized to increase the area up to 30 hectares.

Companies having a legal personality established in foreign countries according to the laws of those countries can acquire real estate and possess limited real rights on real estate in Turkey according to the provisions of special laws.

In case of establishing a mortgage in Turkey in favor of foreign real persons and trading companies having legal personality established in foreign countries; which were laid down accordingly to the laws of those countries the conditions and restrictions set out in first and second paragraphs shall not be applied.

With the exception of foreign real persons and trading companies having a legal personality established in foreign countries, no one can acquire real estate and limited real rights on real estate in Turkey.

As for the real estate acquired through legal inheritance by citizens of a country that have reciprocity with the Republic of Turkey, the conditions and restrictions set out in the first paragraph shall not be applied. As to the real estate acquisition by means of transactions depending on death apart from legal inheritance, the conditions and restrictions set

out in the above paragraphs shall be applied. Real estate and limited real rights on real estate acquired through legal inheritance by citizens of countries that do not have reciprocity with the Republic of Turkey shall be liquidated after their transfer transactions are performed.

De jure and de facto circumstances shall be taken as the basis in determination of reciprocity. In implementation of this principle for the citizens of countries that have not granted land ownership rights, it's stipulated that the rights granted by a foreign country for real estate acquisition to its own citizens should also be granted to citizens of the Republic of Turkey.

The Council of Ministers is authorized to determine the places where foreign real persons and trading companies having a legal personality established in foreign countries according to the laws of those countries cannot acquire real estate and limited real rights on real estate within the areas in terms of irrigation, energy, agriculture, mining, and protected areas, and cultural featured areas and special protection areas and untouched areas due to flora and fauna features, strategic areas due to public interests and country security by means of the proposals of relevant public institutions and organizations with registry based coordinated maps and plans, and the rate of the areas where foreign real persons can acquire real estate of not more than 5 per cent according to the provinces and provinces' areas. Proposals of the public institutions and organizations within these scope shall be examined, appreciated and submitted to the Council of Ministers by means of a commission that carries out studies within the authority set out in this paragraph and constituted of relevant representatives of administration in the structure of the Ministry that the General Directorate of Land Registry and Cadastre is related to.

Map and coordinate values concerning the military forbidden zones, military and private security zones and strategic zones that are determined after the enforcement of this law and their alterations shall be given without any delay by the Ministry of National Defense to the Ministry that the General Directorate of Land Registry and Cadastre is

related to.

The parcels needed to be expropriated or to be annotated on the land register due to be in the areas determined in the above paragraphs shall be notified by relevant institutions to relevant Land Registry Offices.

The real estate and limited real rights on real estate acquired contrary to the provisions of this article or determination of misuse according to the purpose of acquisition without legal necessity shall be converted to value and paid to the owner of of said real estate unless the real estate is liquidated by the owner within the period given by Ministry of Finance."

Reciprocity principle has been removed from the conditions of real estate acquisition

Within the new regulation, the reciprocity principle has been removed in order to facilitate the real estate acquisition for foreigners. Before this amendment in 2012, it was stipulated that the rights granted by a foreign country to its own citizens or trade companies having a legal personality, and established according to its own laws should also be granted to the citizens and trade companies of the Republic of Turkey.

The Council of Ministers expressed what should be understood from the reciprocity principle in its decision dated May 29, 1940 and numbered 2/13394. According to this decision, in addition to legislative regulation of the reciprocity principle, practical applicability of it was also required for its existence. By this decision, in which it was taken into consideration that reciprocity in law has not indicated an actual

situation, restrictions encountered in a foreign country by the citizens of the Republic of Turkey, in case of their application, were wanted to be taken as a basis in implementation of reciprocity. Therefore, for the existence of reciprocity between our country and a foreign country about real estate acquisition, reciprocity had be both in law and in practice. According to this principle, for real estate acquisition of a foreign country's citizen or trade company in our country, the citizens and trade companies of the Republic of Turkey should also have the right to acquire real estate in this foreign country and this right should be accepted by laws and should be practically applicable.

Since these rules are no more applicable, the existence of the right to acquire real estate in the relevant foreign country for Turkish citizens will not be stipulated.

Legal restrictive provisions

A condition for real estate acquisition of foreign real persons in Turkey is to comply with restrictive provisions involved in law. Some restrictions are involved in our laws concerning real estate acquisition by foreigners. These restrictive provisions are as follows:

1. According to regulations involved in the Military Forbidden Zones and Security Zones Law numbered 2565 which restricts geographically real estate acquisition by foreigners in our country, it is not possible to sell, transfer and rent real estate located within military forbidden zones and security zones, to foreign real and legal persons.
2. According to article 35 of the Land Registry Law numbered 2644, foreign real persons can not acquire real estate measuring more than 30 hectares in our country, however for acquisition of more than thirty hectares, a decision of the Council of Ministers is required.

Real estate acquisition by foreigners in Turkey after the amendments in 2012

As mentioned above, real estate acquisition is no more subject to the reciprocity principle. Accordingly, real persons are entitled to acquire real estate in Turkey under the conditions of Art. 35 of the Land Registry Law. Companies having a legal personality established in foreign countries according to the laws of those countries can acquire real estate and possess limited real rights on the real estates in Turkey according to the provisions of some particular laws. Foreign-capital companies, in other words companies incorporated or partly owned by foreign investors in Turkey are also entitled to acquire real estate in Turkey under the conditions of the Land Registry Law.

Transfer of revenue from sale of real estates

It is free to transfer through banks and private financial institutions, revenue and value of sale earned from real estate and real rights acquired by foreigners with or without exchange of foreign currency.

Application procedures and taxes

Foreigners who want to acquire real estate or benefit from real rights apart from property will make their applications to the Land Registry

Office where the real estate is located. Foreign-capital companies are obligated to apply to the governorship.

Detailed information about the subject can be provided from the General Directorate of Land Registry and Cadastre.

With regard to charges and taxes required to be paid in the course of transactions, there is no difference between persons of foreign nationality and citizens of the Republic of Turkey. However, when asking the competent military post to determine whether the real estate demanded by a real or legal person of foreign nationality is located outside Military Forbidden Zones and Security Zones or not, if any check in the field is needed to mark on map of 1/25000 scale where the real estate is, a kind of service value will be paid according to the transaction named "showing the parcel in its place."

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