

The Purchase of Real Estate: Turkey

Real Estate in Turkey

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The main legal act concerning the real estate is the Land Registry Law No. 2644, as amended by Law No. 6302 (which came into force on 18May 2012).

According to Turkish real estate law, there is a limitation on countries, whose citizens may purchase real estate in Turkey. Therefore, a buyer has to be a national of the country, whose citizens are entitled to acquire property or limited in rem rights in Turkey.

Following the reform in 2012, Turkey simplified the rules and considerably extended a list of countries whose nationals may acquire property in Turkey - from 53 to 129. In addition, the law lists 52 countries, whose citizens may acquire ownership over the property with certain restrictions/limitations. For instance, citizens of China, Denmark, or Israel are allowed to buy one residence in Turkey; citizens of Jordan, are allowed to purchase two residences and one place of business; whereas citizens of Armenia, Cuba, Nigeria, North Korea, Syria, and Yemen are not allowed to buy real estate in Turkey. In addition to restriction based on nationality, there are also restrictions as to the size and type of the property to be acquired (see below in 'Limitations').

Foreign nationals acquiring property in Turkey do not need to have a residence permit, as it is not a pre-condition for the purchase. Likewise, however, purchasing a property does not grant a residence permit to a buyer either.

Limitations

- a) Persons with foreign nationality may purchase maximum of 30 hectares of property in Turkey in total and may acquire limited in rem right;
- b) Persons with foreign nationality may not acquire or rent property within military forbidden zones and security zones;
- c) Persons with foreign nationality may acquire property or limited in rem right in a district/town up to ten per cent of the total area of the respective district/town;
- d) Legal restrictions do not apply for setting mortgage for natural or legal persons established in foreign countries;
- e) Real estate is subject to winding up provisions in cases where:

- i. Real estate is acquired in violation of law;
- ii. The relevant Ministries and administrators identify that the properties are used in violation of purpose of purchase;
- iii. The foreigner does not apply to the relevant Ministry within time in case the property is acquired within a project commitment; and/or
- iv. Projects are not materialized in time.

Acquisition by foreign legal entities

The Land Registry Law No 2644 governs acquisition of property by foreign legal entities registered in Turkey (i.e. Article 35):

- a) Foreign commercial corporations may acquire real estate and limited in rem property rights in accordance with special laws: Petroleum Law No. 6326, Law No. 2634 on Encouragement of Tourism, and Law No. 4737 on Industrial Zones;
- b) There are no mortgage restrictions with regard to these companies; and
- c) Other foreign corporations, such as foundations or associations, cannot buy property and acquire limited in rem right.

Acquisition of property by companies with foreign capital

The companies with foreign capital,

- a. If foreign investors hold, individually or collectively, 50 % or more shares of the said company,
- b. If foreign investors do not hold any share of the said company, but have a right to assign or remove managers of the said company on condition that the said company has a legal personality in Turkey,

may purchase property in Turkey in accordance with Article 36 of the Land Registry Law No. 2644 and the “Decree on acquisition of property and limited in rem rights by companies and corporations within the context of Article 36 of Land Registry Law No. 2644” dated 16.08.2012.

Issues to be considered before purchase

Prospective buyer and non-national of Turkey should inquire whether the real estate he is planning to acquire is not subject to certain restrictions, which prevent it from being sold (e.g. mortgage, arrest or any other obstacle).

In case of rejection of application by the Land Registry Directorate, the matter can be appealed to the relevant Regional Office of the Land Registry Directorate.

In case of a dispute, a case should be brought before the Turkish courts.

Procedure

Transfer of ownership over real estate in Turkey is possible only with an official deed and registration at the Land Registry Directorate. The owner (or his/her authorized representative) of the property at stake should make a preliminary application to the Land Registry Directorate with submission of the mandatory documents.

It is necessary to sign a ‘Sales commitment agreement’ at a notary; however, the ownership over the property will not be transferred based on the agreement only, i.e. without a specific procedure at the Land Registry.

The Turkish military authorities must authorize all purchases of real estate in Turkey by foreign nationals, in order to ensure that the property is not in a restricted area.

Expenses

Both seller and buyer have to pay the title deed fee of 2 per cent, calculated according to the selling price; however it cannot be less than the ‘Property Statement Value’ issued by relevant municipality. Furthermore, circulating capital fee, which is determined locally has to be paid. Also, at the stage when the Land Registry Directorate inquires whether the property is located in the military or special zone, a capital fee is required to be paid.