

## **PURCHASE OF REAL ESTATE BY FOREIGNERS**

### **Legal basis**

A foreigner who applies for the right to acquire ownership or usufruct of real estate located in Poland, must apply for a residence permit of the Minister of Internal Affairs. The acquisition of real estate by the Act of 24 March 1920 on the Acquisition of Real Estate by Foreigners (consolidated text: Journal of Laws from 2014 item 1380) is any acquisition of ownership of immovable property or rights of usufruct, on the basis of any legal event. A foreign person within the meaning of the Act is:

- natural person not having Polish citizenship,
- legal person with its registered office/headquarters established abroad,
- company of persons mentioned in points 1 and 2 of the aforementioned Act, not having legal personality and having a registered office abroad, established in accordance with the legislation of foreign countries,
- legal person and commercial company, not having legal personality, and having a registered office established in the territory of the Republic of Poland, controlled directly or indirectly by the persons or companies mentioned in points 1, 2 and 3 of the aforementioned Act.

### **Application for licence to purchase real estate**

A permit to purchase real estate is issued at the request of a foreigner in situation where the acquisition is not a threat to defense, national security or public order, and does not preclude considerations of social policy and public health. In addition, it is necessary to demonstrate that there are circumstances confirming the foreigner's ties with the Republic of Poland.

Among the circumstances to support these ties are:

1. possession of Polish nationality or Polish origin;
2. marriage to a citizen of the Polish Republic;
3. possession of a temporary residence permit (with some restrictions), permanent or long-term resident of the European Union;
4. membership in the governing body of a business who is legal person or commercial company having legal status established in Poland controlled by foreigners
5. performing on the Polish territory business or agricultural activity, in accordance with Polish law.

There are no ready - made formulas for the proposal. Applications shall be made in accordance with the information contained in:

- the Act of 24 March 1920 on the Acquisition of Real Estate by Foreigners (consolidated text: Journal of Laws from 2014 item 1380)
- the Ordinance of the Minister of Internal Affairs of 20 June 2012 on the detailed information and the types of documents that are required to produce a foreigner applying for authorization to acquire real estate (Journal of Law from 2012 item 729).

The application shall be accompanied by documents confirming the information contained in the application and documents supporting the foreigner's ties to Poland.

The area of property acquired by a foreigner in order to meet the necessities of life can't exceed 0.5 ha, while in the case of carrying out within the territory of the Republic of Poland economic or agricultural activity, in accordance with Polish law, the area should be justified by the actual needs arising from the nature of the business.

The permit is valid for a period of two years from the date of issue.

### **Exemptions from the obligation to obtain a permit for all foreigners, regardless of the nationality or their registered office of business operations**

The provisions of the Act do not apply to the acquisition of property through inheritance or debt collection.

Regulations concerning exemptions from the obligation to obtain authorization of the Minister of Internal Affairs for the acquisition of real estate are specified in the Art. 65 para. 1 of the Act on the Acquisition of Real Estate by Foreigners (Journal of Laws No 31 item 178). In accordance with the above provisions, the following acquisitions do not require authorization:

- acquisition of an independent dwelling within the meaning of the Act of 24 June 1994 on the Ownership of Premises (consolidated text: Journal of Laws from 2014 item 1380) and the acquisition of independent commercial garage premises or share in such a place, if it is related to satisfying the needs of the residential customer or the owner of the property or self-contained dwelling,
- acquisition of real estate by a foreigner residing in the Republic of Poland for at least five years from the grant enabling him or her to settle in the country or from the grant for a long-term residency in the European Union communities,
- acquisition by a foreigner, who is married to a Polish citizen and residing in the Republic of Poland for at least 2 years from issuing him or her a permit to settle in the country or a permit for long-term residency in the European Union, a real-estate property, which, as a result of the acquisition will be legal commonality of the spouses,
- acquisition of real-estate property by foreigner through an agreement with the seller, if on the date of acquisition, the foreigner is entitled to statutory inheritance of the real estate of the vender, and the vendor of the property is the owner or user of the perpetuity for at least 5 years,
- acquisition by a legal person or commercial company without legal personality established in Poland and controlled by foreigners, for statutory goals, undeveloped real-estate property, of which the total area in the whole country does not exceed 0.4 ha of the city area
- acquisition of real estate property by a foreigner, being a bank institution and at the same time, mortgagee, in the mode of acquisition of the property to possess the ownership rights as a result of futile bidding in enforcement proceedings,
- purchase or acquisition by the bank with its registered office based on the Polish territory and

controlled by foreigners, in connection with the investigation by the bank's claims arising out of banking activities or shares in the company, which becomes as a result of the acquisition of its stakes or shares, a foreign entity and at the same time is the owner or user of the property in perpetual usufruct in Poland.

Exemptions from the obligation to obtain a permit to acquire real estate property do not apply when the object of the acquisition of real estate is located in the border zone or it is located on agricultural land with an area exceeding 1 ha.

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