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GUIDE OF ACQUISITION OF REAL ESTATE BY FOREIGNERS IN **TURKEY**



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In certain durations of history, while many states impose prohibitions on the acquisition of real estate in foreign countries, these obstacles are being minimized with the effect of globalization and the transition to a free market economy. The basic principles frequently used for the acquisition of real estate by foreigners stand out as “reciprocity” and compliance with legal limits. Article 35 of the Land Registry Law numbered 2644 has been amended by the Law No. 6302 (“LRL”) which entered into force on 18 May 2012. Accordingly, the condition of reciprocity with regard to acquire immovable property in Turkey by foreigners has been abolished. In this context, those countries whose citizens can acquire immovable property in Turkey in certain specified conditions, has been identified by President. In parallel to this, the number of real estate acquisition in Turkey has been increased due to the fact that abolishing reciprocity, incentives for foreign investors, relevant costs of the properties, advanced construction sector and acquisition of Turkish citizenship provided by the Government. In this context, this guide is intended to be useful to potential investors, who want to acquire immovable property in Turkey.

I. LEGAL BASIS

Acquisition of the property for foreigners in Turkey has been regulated under LRL. Within the scope of LRL, two options have been issued to acquire the property for foreigners. The first option is for natural persons; the second one is for legal entities.

A. Natural Persons

Real persons which is foreign nationality, may acquire any kind of immovable property (Residential Building, Workplace, Hotel, Land, Field) in Turkey, provided that the legal restrictions are complied with. The restrictions are as follow;

- i.** Persons with foreign nationality can purchase maximum 30 hectares of immovable property in Turkey in total and can acquire limited in rem right to the same extent.
- ii.** Natural persons with foreign nationality can acquire immovable property and limited in rem rights in a district up to 10 % of the total privately owned area of the district.
- iii.** It is forbidden for foreigners to acquire and rent immovable property within the limits of military forbidden zones and security zones.

B. Legal Entities

1. Regulations with respect to the commercial companies having legal entity and established in foreign countries in accordance with the laws of their countries;

Although companies whose all of capital and persons are foreign, the companies established in Turkey is considered as a Turkish company. A foreign company is defined as a legal entity established in foreign countries according to their own country.

In this context, with regards to Article 2/36 of LRL; foreign commercial companies having legal personality according to the laws of their own country are able to acquire the immovable property acquisition and limited in rem rights within the framework of special provisions of law in Turkey. Some of them are Tourism Encouragement Law No. 2634, Petroleum Market Law No. 6326 and Industrial Zone Law No. 4737.

2. Regulations with respect to commercial companies having legal personality that foreign investors have established or participated in Turkey;

Commercial companies having legal personality that foreign investors have established or shared in Turkey, are able to acquire immovable property or limited in rem rights to carry out the activities specified in their articles of association. Since these companies do business on behalf of the legal entity and is established in Turkey, nationality of partner or founder is not considered to be a person whether he/she is able to acquire immovable property. In other words, there is no restriction in the acquisition of these companies.

II. PROCEDURES AND PRINCIPLES FOR THE ACQUISITION OF IMMOVABLE PROPERTIES BY FOREIGNERS

In addition to those mentioned, it is important to point out that, the transfer of the immovable property is only possible and valid with the official deed and registration to be signed at the Land Registry Offices. In this context, the steps for acquisitions of the immovable property by foreigners from the initial to sign, are as follows;

A. NATURAL PERSONS

1. Preliminary Applications

The owner of the immovable property or his/her authorized representative have to make a preliminary application to the Land Registry Directorate.

2. Preparing Required Documents

Afterwards scheduling appointment from the Land Registry Directorate, it is obligatory to be ready with the documents listed below on the date of appointment. They are as follows;

- Title Deed,
- Identity Certificate or Passport (together with notarized translation if necessary),
- "Current Value Statement of Property" (provided from the relevant municipality),
- Property Valuation Report (mandatory to be obtained from authorized institutions),
- Compulsory Earthquake Insurance Policy,
- 1 Photo of the Seller / 2 Photos of the Buyer (photos shall be taken within the last 6 months, in the size of 6x4),
- If there is a party who does not speak Turkish, certified translator is mandatory.
- If the transaction is carried out with a power of attorney which is issued abroad, the original or certified copy of the power of attorney together with its translation. (PoA can be notarized by Turkish Consulate directly; or authorized institution foreigners' own country together with apostille.)

3. Transfer of The Immovable Property

At the date and time of the appointment;

- The seller and the buyer or their authorized persons submit the documents,
- The sale contract is signed by both parties in the presence of deed officer,
- The property is registered on behalf of the buyer,
- The official title deed is delivered to the buyer.

B. LEGAL ENTITIES

Procedures and principles of acquisition of immovable properties by commercial companies having legal personality that foreign investors have established or participated in Turkey, are as follows:

1. Application

The commercial companies that meet the aforementioned requirements are able to apply for acquisition of the immovable property in Turkey. The application has to be made to Provincial Planning Directorate of Governorship. At the date of application, it is obligatory to submit the following required documents.

2. Required Documents

- Application Petition
- Title Deed information and the Coordinated Diameter Sample for the Real Estate.
- The recognizance relating to that the ownership of the immovable property is requested to carry out the activities stated in the articles of association of the company and that the immovable property will be used for this purpose.
- Signature Circular of the company official who signed the recognizance,
- Authorization Document (it has to prove that company is allowed to transfer the immovable property and its representative),
- Document showing the company's foreign partners and partnership rates (It has to be taken from the Trade Registry Directorate where the company headquarters is located.
- Article of Associations (in companies where foreign investors have the authority to appoint or remove the majority of managers, even if the shareholding rate is below %50.)

3. Determination if Possibility to Acquire the Immovable Property

Provincial Planning Directorate of Governorship send the title deed registration information and the coordinated diameter sample to the Turkish General Staff within three working days following the application for the acquisition of the immovable property and request notification within 15 days of whether the immovable property is located in the military forbidden zone or military security zone.

Moreover, Provincial Planning Directorate of Governorship request notification from the Provincial Gendarmerie Command within 15 days of whether the immovable property is located in the private security zone or not.

If no response is made within this period, the said property is deemed not to located within the stated zones above.

4. Result of Application and Registration of Title Deed

If the application result is positive or deemed to be positive, written information is given to the company and the Land Registry Directorate by the Governorate for the completion of registration process. Upon request, the relevant letter is delivered to the company official by hand.

III. CONCLUSION AND OUR SERVICES

Legislative changes carried out in accordance with Turkey's compliance process with the EU legislation; it has provided positive results regarding the acquisition of real estate by foreigners and it has been easier for foreigners. Especially, amendments on the basic principles of reciprocity and legal restrictions relating to acquisition of real estate, the convenience provided in the necessary documents and obtaining of Turkish citizenship by acquiring the immovable property have made our country an investment paradise.

Within the scope of all stated above, we as Kılınç Law & Consulting provide our clients consultancy services to acquire immovable properties in Turkey, consisting of three steps. The steps are;

i. Preparing Due Diligence Report: When any natural person/legal entities that meet the requirements stated above in detail, decides to acquire a immovable property in Turkey, we are drafting and due diligence report regarding the immovable property. It provides our clients whether the property is available or not to acquire, there is any restriction or not, zoning status reflect the reality or not and it has any liability in terms of property tax.

ii. Application Process: In the event that it is decided to acquire the immovable property following the legal due diligence report, the application procedures are carried out by us.

iii. Accompanying Our Clients in Land Registry Directorate: All the necessary documents are prepared by us and we accompany our clients in Land Registry Directorate on the date of appointment until the completion of transfer of the immovable property.

This guide gives basic information about real estate acquisition in Turkey and is intended to be useful to you. Should you need more information, please contact us through the contact information on the letter-head.

Sincerely,
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