



Ad-hoc query on limitations to acquiring real estate by third-country nationals

Requested by EE EMN NCP on 26th May 2011

Compilation produced on 27th June 2011

Responses from Austria, Estonia, Finland, Germany, Hungary, Latvia, Luxembourg, Portugal, Romania, Slovak Republic, Sweden, United Kingdom (12 in Total)

Disclaimer: The following responses have been provided primarily for the purpose of information exchange among EMN NCPs in the framework of the EMN. The contributing EMN NCPs have provided, to the best of their knowledge, information that is up-to-date, objective and reliable. Note, however, that the information provided does not necessarily represent the official policy of an EMN NCPs' Member State.

1. Background Information

Estonian authorities have noticed that a number of third-country nationals applying for a visa to come to Estonia, do so with the purpose of maintaining their property in Estonia. There have been cases where an apartment is co-owned by 5-6 third-country nationals who are all coming to Estonia to maintain the property. Due to this, Estonian authorities would like to know whether Member States have in place restrictions to acquisition of property in that Member State by third-country nationals.






There was a similar query in 2010 where the [Latvian NCP was inquiring about the issuance of residence permits in case of purchasing real estate in a MS](#), but it did not actually deal with possible restrictions to acquiring real estate.

2. Responses

		Wider	1) Are there any restrictions to a third-country national acquiring real estate in your Member State?
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		Dissemination? ¹	2) If yes, what are these restrictions?
	Austria	Yes	This EMN NCP has provided a response to the requesting EMN NCP. However, they have requested that it is not disseminated further.
	Estonia	Yes	<p>1) Yes, there are certain restrictions to acquisition of property.</p> <p>2) According to the Restricting the Acquisition of an Immovable Act there are restrictions to acquiring land with intended purpose of profit yielding, if the land also includes 10 ha or more of agricultural land or 10 ha or more of forest land, then the persons who may acquire such land are Estonian citizen and an EU citizen who has lived in Estonia permanently for at least 3 years and for at least 3 years has been a self-employed person dealing with the production of agricultural products. Other persons may acquire specified property only if they have been granted permission by the county governor.</p> <p>The abovementioned Act also foresees restrictions to persons who are not Estonian or EU citizens or a legal person established in Estonia or in a EU Member State to acquire real estate on some of the islands, in specific areas at the Eastern border.</p>
	Finland	Yes	No. Finland has given up restrictions regarding acquisition of property. The last restrictions were lifted 1.1.2000 when the Act on the surveillance of non-residents' and foreign organizations' acquisitions of real property in Finland (1613/1992) was repealed.
	Germany	Yes	<p>1) No.</p> <p>2) N/A</p>
	Hungary	Yes	<p>1) Yes, there are certain restrictions to acquisition of property.</p> <p>2) According to Hungarian law, a person who is not a Hungarian citizen may only purchase a flat if it is permitted by the competent administrative authority. The authority will examine whether the purchase of flat may be able to violate any interest of the municipality. Usually the procedure should be formal and should not take more than two months.</p> <p>The permit is only necessary for the acquisition of ownership, you may start making offers or negotiating with the sellers before obtaining the same. It is even possible to sign the sale and purchase agreement without acquiring the permit first and schedule the closing, i.e. payment of the purchase price and delivery of possession once the permit is issued, however the land registry will not be able to register your ownership in the lack of the permit.</p> <p>The sale and purchase agreement should contain a provision according to which the agreement terminates with retroactive effect if the administrative authority refuses to grant the permit; therefore, only forfeit money is usually paid up front to confirm the intension of the purchaser, which must be paid back twice, if the seller may be in default. Such forfeit may also be paid in escrow.</p> <p>It is hard to draw a general timeline for a purchase of a property, since the length of process may depend on a number of other circumstances (features of the real property, whether it is encumbered, pre-emption right of third persons, level of cooperation by the seller, etc.) as well.</p> <p>In any event the process should start with a basic due diligence to verify the status of the real property, therefore a title sheet of the real property from the Land Registry should be obtained and after having examined the details of the real property the process continues with the negotiation phase.</p>

¹ A default "Yes" is given for your response to be circulated further (e.g. to other EMN NCPs and their national network members). A "No" should be added here if you do not wish your response to be disseminated beyond other EMN NCPs. In case of "No" and wider dissemination beyond other EMN NCPs, then for the Compilation for Wider Dissemination the response should be removed and the following statement should be added in the relevant response box: "This EMN NCP has provided a response to the requesting EMN NCP. However, they have requested that it is not disseminated further."




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			<p>If the relevant questions are discussed, the agreement shall be prepared. If there are no encumbrances on the real property and there are no open issues, the purchase price may be effectuated in one sum, following which the documents may be submitted to the Land Registry, which will register the ownership.</p> <p>If the real property is encumbered the process is more complex, and escrow payment may be necessary to free the real property from the encumbrances.</p> <p>If the purchase price is effectuated in several separate instalments, it is customary that together with the payment of the first instalment the fact of sale and purchase with retention of the ownership title of the seller is registered in the land registry as well as a marginal note.</p> <p>Procedure of acquiring a permit for the purchase of a real property by a foreign citizen</p> <p>The annexes which are to be attached to the request are the following:</p> <ul style="list-style-type: none"> • A power of attorney if the request will be submitted by lawyer; • The copy of your passport prepared by a notary and equipped with an Apostille or a copy prepared by the Hungarian Consulate; and • One original copy of the sale and purchase agreement. <p>Please note that the procedure of acquiring a permit may only be commenced following the execution of the sale and purchase agreement, since the authority requires the agreement to be attached to the request.</p> <p>The request itself shall contain the following:</p> <ul style="list-style-type: none"> • The purpose of the acquisition of the ownership of the real property (e.g. investment, residence, etc.); and • If the foreigner wish to acquire the real property for using it as an apartment, how much time does he/she wish to spend in the apartment per year; • If the foreigner has any real properties in Hungary (address, topographical lot no.), please advise on the purpose of the real properties; and • The foreign citizen approves that the authority verifies his/her identity in the immigration registry whether he/she is banned from Hungary or under a prohibition of entering or residing in Hungary (this should not be necessary if the foreigner hold a valid permit of residence, visa or diplomat ID). <p>The following official certificates must be purchased by foreigner to prove his/her ownership ability:</p> <ul style="list-style-type: none"> • The official certificate issued by the Immigration office about that the foreigner has lived in Hungary permanently and continuously for at least 3 years. • If the foreigner has not got permanent residence permit she/he has to show the residence permit, or the certificate about submission of application. <p>There is no specific form which shall be used when submitting the request; it only has to contain the above elements. A foreign individual or legal person cannot acquire the ownership of land.</p> <p>The authority shall make its decision within 30 days, which may be extended with another 30 days period. The decision of the authority may not be appealed; however a judicial review may be requested in case of violation of law.</p>
	<p>Latvia</p>	<p align="center">Yes</p>	<p>1) Yes, there are certain restrictions regarding the acquisition of land.</p> <p>2) Land may be acquired in ownership in accordance with the Civil Law and other laws by:</p> <ol style="list-style-type: none"> i) persons who are citizens of the Republic of Latvia;




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			<ul style="list-style-type: none"> ii) State and local governments, State and local government undertakings (incorporated companies); iii) an incorporated company registered in the Register of Enterprises in the Republic of Latvia: <ul style="list-style-type: none"> a) more than a half of the fixed capital of which belongs to the citizens of the Republic of Latvia, the State or local government, to each individually or to several such subjects jointly, b) more than a half of the fixed capital of which belongs to natural or legal persons from states, with which the Republic of Latvia has entered into international contracts regarding the promotion and protection of investments, which the <i>Saeima</i> had approved until 31 December 1996. The referred to shall also be applicable to natural or legal persons from states, with which international contracts have been entered into after 31 December 1996, if such agreements provide for the rights of natural and legal persons registered in the Republic of Latvia to purchase land in the relevant state, c) more than a half of the fixed capital of which belongs to several subjects referred to in Sub-clauses “a” and “b” jointly; or d) which is a public stock company if the shares thereof are quoted in the stock exchange; iv) religious organisations registered in Latvia, the term of activity of which, counting from the moment of registration in the Republic of Latvia, is at least three years; v) farms and individual undertakings registered in the Register of Enterprises of the Republic of Latvia if they belong to the citizens of the Republic of Latvia; and vi) State and local government institutions of higher education, the constitutions of which have been approved according to the procedures specified by the Law. <p>The citizens of the European Union Member States and legal persons registered in the European Union Member States starting with 1 May 2011 may acquire land in ownership under the same provisions as the subjects referred to in Paragraph one of this Section. If there is sufficient evidence that after the end of the transition period (seven years after joining the European Union) there shall be serious difficulties or there is a possibility of occurrence of such difficulties in the market of the agricultural land of Latvia, such term may be postponed for a period of time not longer than three years in accordance with the procedures that have been specified in the Treaty of Accession to the European Union.</p> <p>During the transition period from 1 May 2004 until 1 May 2011, land may be acquired in ownership in accordance with the Civil Law and other laws by:</p> <ul style="list-style-type: none"> i) the citizens of other European Union Member States if they want to engage in entrepreneurship in Latvia as self-employed farmers and reside in Latvia for at least three consecutive years, as well as have been engaged in agriculture in Latvia for at least three consecutive years; and ii) other citizens of the European Union Member States and legal persons registered in the European Union Member States, except for agricultural and forest land.
	Luxembourg	Yes	No. In Luxembourg, third country nationals do not have any restrictions to buy real estate. It does not matter if it is a primary or a secondary residence.
	Portugal	Yes	In Portugal there are no restrictions on the purchase of properties or property depending on the nationality of the third-country nationals.
	Romania	Yes	1) According to art. 44 of the Constitution of Romania (31 st October 2003) the right of property, as well as the debts incurring on the State are guaranteed. Private property shall be equally guaranteed and protected by the law, irrespective of its owner. Foreign citizens

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			<p>and stateless persons shall only acquire the right to private property of land under the terms resulting from Romania's accession to the European Union and other international treaties Romania is a party to, on a mutual basis, under the terms stipulated by an organic law, as well as a result of lawful inheritance. According to art. 6 of the Law 312/2005 on the acquisition of private land ownership by foreign citizens and stateless persons as well as by foreign legal entities, foreign citizens, stateless persons and legal entities belonging to third countries may acquire ownership of land under the conditions regulated by international treaties on the basis of reciprocity. Foreign citizens, stateless persons and legal entities belonging to third countries cannot acquire ownership of land in conditions more favourable than those applicable to the citizens of the EU Member States and legal entities constituted under the laws of the member States.</p> <p>2) See above.</p>
	Slovak Republic	Yes	<p>1. Yes, there are certain restrictions on acquisition of property.</p> <p>2. Pursuant to the Foreign Exchange Act No. 202/1995 Coll. as amended non-residents (all individuals who do not have permanent residence in the territory of Slovakia, including the citizens of both EU and non-EU member countries, and those citizens of the Slovak Republic who do not have permanent residence in Slovakia and who live abroad) may acquire ownership rights to real estate located in the Slovak Republic with the following exceptions:</p> <p>a) to land which forms part of the agricultural land fund located outside the border of the built-up area of a municipality nor to land which forms part of the forest land fund located outside the border of a built-up area of a municipality; this limitation is not applicable to a non-resident who inherits the property and to a non-resident who is</p> <ul style="list-style-type: none"> ▪ a citizen of the Slovak Republic; ▪ a citizen of a member state of the European Union and has the right to temporary residence on the basis of registration, in the case of the acquisition of ownership rights to land which forms part of the agricultural land fund and which he has been managing for at least three years following the date of the validity of the treaty on the accession of the Slovak Republic to the European Union; <p>b) to real estate whose acquisition is restricted by separate regulations (e.g. the Water Act, the Mining Act, the Act on the Protection of Monument Fund).</p> <p>It is important to stress that the Slovak Republic still maintains in force seven-year transitional period from the date of accession to the EU ending at the end of May 2011 (Treaty on European Union – Free movement of capital). However, this relates only to the EU/EEA citizens.</p> <p>For more information see: http://mic.iom.sk/en/social-issues/accomodation/65-cudzinec-ako-vlastnik-nehnutelnosti-na-slovensku.html.</p>
	Sweden	Yes	<p>1. No. Foreign citizens can buy any type of real estate in Sweden. Certain acquisitions of farms in rural areas must for reasons of regional policy be approved by Swedish authorities, this applies regardless if the buyer is Swedish or foreign citizen.</p> <p>2. --</p>
	United Kingdom	Yes	<p>There is no restriction on foreign nationals acquiring real estate as long as the application is correctly presented and the chain of title (the record of successive owners) is in order.</p>

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