

Procedure of Real Estate Acquisition by Foreigners in Turkey

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SUMMARY

Since 2002, there has been renewed concern in Turkey about purchases of properties by foreign citizens, reflected in numerous amendments and cancellation decisions about such purchases by the Supreme Court and a number of state agencies. The frequent changes have created uncertainty and insecurity for purchasers, especially real estate investors. Despite the instability, foreign investment in single-family homes, residences, development parcels, and multifamily apartments has propped up the real estate market in Turkey for the past 12 years. Foreigners have presented demand for real estate, especially along the southern and western coasts of Turkey, and almost 60% of foreign sales countrywide have been in the Aegean and Mediterranean regions. In addition, home sales in the Black Sea region have increased recently. The largest increase in home sales, 424%, occurred in Trabzon. As well, the diversity of foreign nationals acquiring immovable property in Turkey has grown. Despite the confusion created by changes made almost every two years to Regulation no. 2644 in section 35 of the Land Registry Law, foreign demand in the Turkish real estate market continues to grow. The current law concerning real estate acquisitions by foreigners shows that Turkey, in the process of harmonization with the European Union, does not have an overly restrictive policy on this issue. The aims of this paper are to examine trends in the foreign real estate market; to analyze the type, quantity, and quality of property acquisitions; and, finally, to investigate the current situation of residential property investment by foreigners in Turkey. To achieve these aims, legal changes have been examined, existing procedures detailed, statistics about real estate purchases and sales collected and analyzed, and basic procedures regarding with foreign property acquisitions compiled. This research has demonstrated that recent legal changes have increased demand in the Turkish foreign real-estate sector and return expectation in the real estate and public corporation sectors.

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1. INTRODUCTION

Whether public, private, or something in between, property rights are a social, cultural, and economic base laying crucial groundwork for market economies. Within newly minted market economies, it becomes possible—even necessary—to recalibrate intuition toward land and other forms of property as commodities to be bought and sold in an international market (Tesser, 2004). Also, arising out of technological advances, coupled with the liberalization of capital markets worldwide that allow for efficient movement of capital between countries. Besides every nation, from past to present, has certain restrictions concerning the acquisition of land in the sense of absolute ownership by foreigners.

(Uzun and Yomralioglu, 2007). However the removal of foreign ownership restrictions in many countries, a policy encouraged both by the Organization for Economic Cooperation and Development (OECD) and the European Union, made it easier for people to invest in foreign real estate markets (HPI, 2009). Turkey as a developing country, a member of OECD and candidate of EU, has made a series arrangement in terms of foreign investment on residential property. Turkey is an attractive country in the international land market because of both its geography (with large coastal area and the Mediterranean climate) and its rapidly developing economy. Particularly in recent years, individuals and companies have started to be interested in purchasing real estate in Turkey and this combined with Turkey being accepted as an EU candidate country attention is being paid to the process of real estate purchase by non Turkish nationals and companies (Uzun and Yavuz, 2013). Since 2002, there has been renewed concern in Turkey about purchases of properties by foreign citizens, reflected in numerous amendments and cancellation decisions about such purchases by the Supreme Court and a number of state agencies. Despite the frequent changes, foreign direct investment (FDI) rose from just over US\$1 billion in the early 2000s to an average of US\$13 billion in the 2008–13 period in Turkey. Foreign investors have started to play a role in the residential market and Turkey's foreign property market has been growing from strength to strength (WB, 2014).

Foreign investment in single-family homes, condos, and multifamily apartments, holiday homes, investment and retirement properties have been propping up the real estate market in Turkey. Foreigners have presented demand for real estate, especially along the southern and western coasts of Turkey, and almost 60% of foreign sales countrywide have been in the Aegean and Mediterranean regions. Especially coastal regions have been increasingly popular with British and German buyers over the past ten years. However Turkish properties have been attracted by various nationals and the distribution of the regions or cities where foreigners deal with, have been dispersed as heterogeneous. Despite the confusion created by changes made almost every two years to Regulation no. 2644 in section 35 of the Land Registry Law, foreign demand in the Turkish real estate market continues to grow. The

current law concerning real estate acquisitions by foreigners shows that Turkey, in the process of harmonization with the European Union, does not have an overly restrictive policy on this issue. The aims of this paper are to examine trends in the foreign real estate market; to analyze the type, quantity, and quality of property acquisitions; and, finally, to investigate the current situation of residential property investment by foreigners in Turkey. To achieve these aims, legal changes have been examined, existing procedures detailed, statistics about real estate purchases and sales collected and analyzed, and basic procedures regarding with foreign property acquisitions compiled. This research has demonstrated that recent legal changes have increased demand in the Turkish foreign real-estate sector and return expectation in the real estate and public corporation sectors.

2. LEGAL ASPECTS OF PROPERTY ACQUISITION BY FOREIGNERS IN TURKEY

With reference to the history of foreign investments in Turkey's property sector, it is observed that land legislation and foreign ownerships rules have been amended several times in the last three decades. In other words, the development of policy on foreign acquisition of Turkish properties has been inconsistent.

2.1 Juridical Amendments on Title Deed Law (No:2644)

In our country, the fundamental regulation concerning the real estate acquisition by foreign real persons was made with Land Registry Act numbered 2644, dated December 22nd, 1934. 35th and 36th articles of this act regulates the real estate acquisition by foreigners in our country. But today, these articles have been revoked by the Constitutional Court for different reasons and they have constantly been amended by the legislator.

*The first amendment was made with the Act numbered 3029 and dated June 21st, 1984, but these new items were cancelled with the decision of Constitutional Court dated June 13th, 1985.

* The second amendment was made with the Act numbered 3278 and dated April 22nd, 1986 and two articles were added. However, these new items were cancelled with the decision of Constitutional Court dated October 9th, 1986.

*The third amendment was made with the act numbered 4.4916 which entered into force after being published in Official Gazette dated June 3rd, 2003 and 87th article and 36th article of the village law numbered 442 were repealed. However, this amendment was revoked with the the decision of Constitutional Court dated March 14th, 2005.

*The fourth amendment was made with the Act numbered 5444 and dated December 29th, 2005 and a temporary article was added to the 35th article. The new modification was partially cancelled with the decision of Constitutional Court dated April 11th, 2007.

* The fifth amendment was made with the Act numbered 5782 and dated July 3rd, 2008. This initiative which created uncertainty in terms of quantity and area of the acquired property was cancelled with the decision of Constitutional Court dated May 12th, 2011.

*The sixth amendment was made with the Act numbered 6302 and dated May 3rd, 2012. 35th article of Land Registry Act (no. 2644) has been rearranged.

Cancellation decisions given almost every two years and amendments made in spite of these decisions indicate that the situation is not legally stable. Nevertheless, the amendment made on 2012 allowed foreign natural or legal persons to acquire immovables in Turkey more easily.

2.2 The Title Deed Law in Force (Law No:2644, Sections: 35 &36)

In accordance with the Article 35 of the Land Registry Law No. 2644, amended by Law No. 6302, which entered into force on 18 May 2012. According to the law;

- The condition of reciprocity for foreigners who wish to buy property in Turkey is abolished, restrictions for foreigners acquiring property in Turkey have been eased with the enactment of the “Reciprocity Law” in 2012.

- The citizens of 183 nations can own property in Turkey. With the new regulation, citizens of neighbouring countries, such as the United Arab Emirates, Middle Eastern countries such as Iraq, Azerbaijan, who were not allowed to acquire real estate in Turkey are now able to do so. However, even though they are on the list, citizens of countries who share a border with Turkey cannot acquire property in border provinces (GYODER, 2014).

- The limit on the size of land able to be bought by foreigners increased to 30 hectares. The law also increases the limit on the size of land foreign buyers can purchase from two-and-a-half hectares of vacant land to 30 hectares, and buyers will have to comply with a condition to provide plans for the construction of a house on the land before they make the purchase.

- Foreign individuals and businesses are required to submit their project proposals for vacant plots of land to The Ministry of Environment and Urbanization within two years of purchasing the land. If the ministry approves the project, it will be forwarded to the local land registry office for monitoring.

- The Cabinet will also be able to increase the 30-hectare limit on property purchase to 60 hectares as it deems acceptable.

- The law allows for the purchase of up to 10 percent of the total area of towns densely populated by foreigners.

The law in force since 2012, has led to a real estate boom. Such that, according to the Real Estate Investing Partners Association (GYODER) said that ‘96,000 housing units were sold in the first quarter of 2012, 5.5 percent more than a year ago’. Following the enactment of the reciprocity law, sales of real estate to foreigners marked an increase in the last two quarters of 2012, and reached USD 2.64 billion (GYODER, 2014).

The Ministry of Environment and Urbanization announced that real estate sales to foreigners increased from 2% to 5-6% in the last ten months of 2013.

In terms of the real estate prices; while the prices in prime coastal areas typically range from €1,200-€2,600 per sq metre in 2008, the price has risen up to range from \$6000-\$7000 per sq metre in 2015 .

3. THE MAIN PROCESS OF FOREIGN-PROPERTY ACQUISITION IN TURKEY

The responsibility of all types of land registry and cadastre processes concerning the acquisition by foreigners of real estates in Turkey belongs to the Directorship of Foreign Affairs Office of the General Directorate of Land Registry and Cadastre (GDLRC). Foreign individuals and legal entities who want to acquire real estate in Turkey must apply to the Directorship of Land Registry in the location of the mentioned real estate.

Figure 1 shows the process of real estate acquisition by a foreigner. The process has been starting with the application phase.

The Council of Ministers may, if the interests of the country requires so, determine or limit the acquisition of real estate and limited real rights by foreign natural persons in terms of country, person, geographic area, time, number, percentage, type, quality, surface area; or stop in whole or in part; or prohibit all together.

The decision on the citizens of what countries can acquire what kind of property is left to the Council of Ministers. The Council of Ministers allow citizens of almost all the United Nations Member States to acquire immovables in Turkey. With the new regulation, citizens of countries, such as the United Arab Emirates, Middle Eastern countries such as Iraq, Azerbaijan are now able to do acquire immovables (GYODER, 2014).

The quantity, ratio and floor area of the property: There is no limitation in the quantity for the foreign people. But persons with foreign nationality can buy maximum 30 hectares of property in Turkey and The Cabinet will also be able to increase the 30-hectare limit on property purchase to 60 hectares as it deems acceptable. Persons with foreign nationality can acquire property in a district/town up to 10 % of the total area of the said district/town.

Type and quality: Foreign natural persons can acquire plot/land (empty), plot/land (building, dwelling), tourist facilities, workplaces and independent units (housing) through sales, inheritance, court decision and cadastre. These real estates can be used for dwelling, business/trade, entertainment/meeting, school/education, hospital/treatment, warehouse/bonded warehouse/storage, embassies, military, factory, religious, hotel and agricultural purposes.

Restricted areas for sales: It is prohibited for foreign natural persons to acquire property in military prohibition and security zones and special security zones, independent sections militarily restricted for foreign acquisition and strategic areas (water protection basins, protected areas, flora-fauna areas etc.).

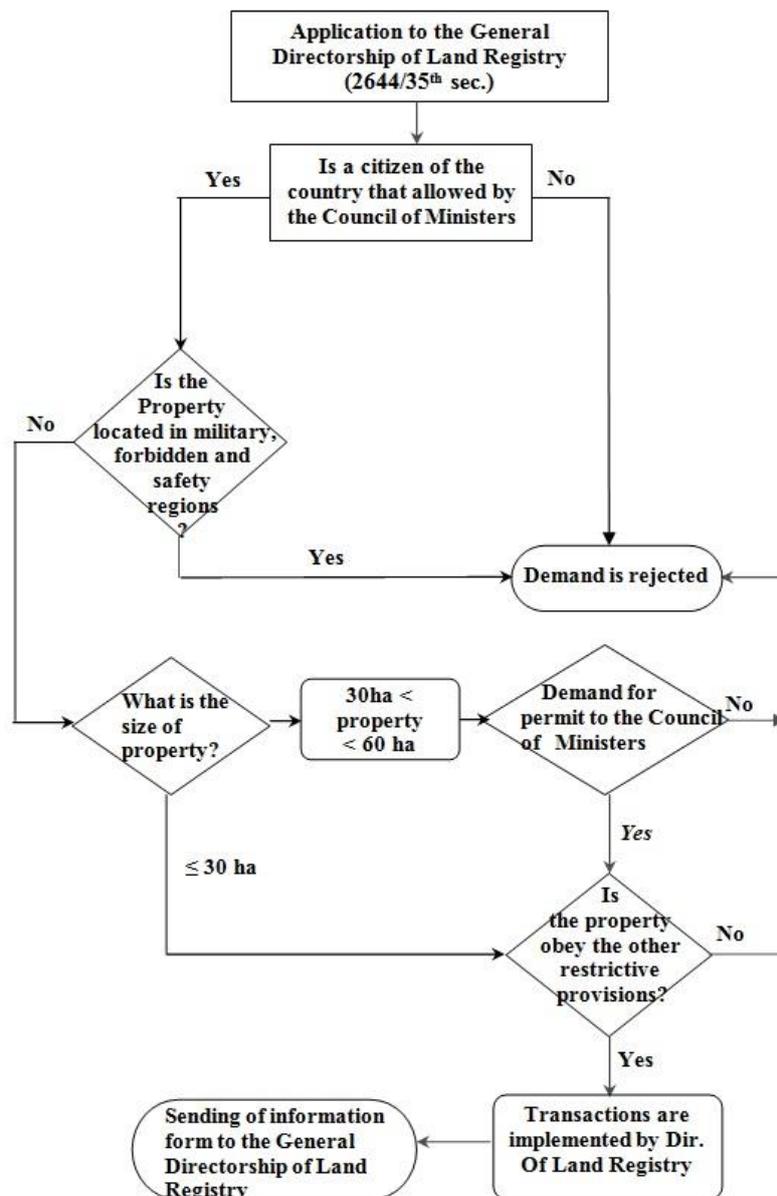


Fig. 1. The process of real estate acquisition by a foreigner in Turkey (adapted from Uzun and Yomralioglu, 2007)

4. THE PROFILE OF REAL ESTATE ACQUISITION BY FOREIGNERS IN TURKEY

The country is growing in popularity as a retirement destination, with many being lured by the warmer climate, lower costs of living, excellent property value, the natural beauty, the low-cost airlines, its young population, the opening to the East, and offerings of coastal vacation properties. So, the country has been attracted by various foreign citizens.

According to data from the first 8 months of 2014, nations who acquired the most real estate were the German and the English. They mostly prefer Aegean and Mediterranean Regions.

(as seen from Table 1 and Table 2).

Considering the provinces in which foreigners acquired land, these are usually coastal areas that with natural, cultural and historical characteristics and advanced socio-economically and in terms of tourism.

Considering the nationalities of foreigner who acquire property, they are usually citizens of EU Member States with high national income per capita. However, as an exception in recent years, the Gulf countries as well show an interest in immovables in our country. Such that, according to the latest data, the amount of real estate acquired by the Gulf countries showed an increase of 167 percent per square meter compared to 2013. Investors from the Gulf countries acquired 735 thousand square meters of real estate in 2013, while this number was close to 2 million square meters in 2014. Istanbul, Yalova, Sakarya, Bursa, Kocaeli and Trabzon stand out as the provinces preferred by Arabs. Especially in Trabzon, real estate sales to foreigners showed an increase of 424 percent compared to the previous year. In this region where mostly Kuwaitis purchase fields, hazelnut groves and housing, house prices significantly increased.

Table 1. Acquisition of foreign property according to the cities in Turkey

City Name	Not subjected to condominium		Subjected to condominium			Total		
	Master property parcel number	Floor space of the main property (m ²)	Condominium ownership parcel number	Condominium ownership number	Floor space of condominium ownership (m ²)	Total parcel number	Floor space of total share (m ²)	Total person number
Muğla	2.672	3.306.801	3.551	14.572	3.376.262	6.223	6.683.063	22.924
Antalya	2.139	1.803.539	6.400	39.088	4.087.224	8.539	5.890.762	52.212
Hatay	341	1.769.869	7	13	194	348	1.770.063	220
İzmir	1.316	1.264.042	1.497	2.167	279.157	2.813	1.543.199	3.528
İstanbul	2.237	1.249.054	5.821	11.981	828.421	8.058	2.077.475	14.004
Aydin	1.245	1.156.231	2.741	13.016	1.736.984	3.986	2.893.215	19.857
Yalova	545	736.675	499	1.076	89.413	1.044	826.089	1.245
Konya	66	673.220	57	70	8.959	123	682.179	89
Adana	140	590.151	82	116	10.386	222	600.537	167
Amasya	79	509.519	4	4	146	83	509.665	16

Table 2. Acquisition of foreign property according to the countries in Turkey

Country Name	Not subjected to condominium		Subjected to condominium			Total		
	Master property parcel number	Floor space of the main property (m ²)	Condominium ownership parcel number	Condominium ownership number	Floor space of condominium ownership (m ²)	Total parcel number	Floor space of total share (m ²)	Total person number
Germany	3.523	4.565.431	4.946	8.841	1.091.930	8.469	5.657.361	12.638
England	3.315	2.699.102	6.675	23.322	3.935.932	9.990	6.635.034	36.984
Greece	1.040	305.154	639	1.077	36.211	1.679	341.365	2.277
Holland	770	1.186.053	1.627	3.867	619.276	2.397	1.805.329	5.551
Saudi Arabia	456	1.417.361	589	1.715	202.773	1.045	1.620.134	1.601
France	452	687.827	704	846	103.993	1.156	791.821	1.397
Austria	428	653.084	465	543	55.532	893	708.616	848
Turkish Republic of Northern Cyprus	425	777.033	1.035	1.249	114.198	1.460	891.231	1.513
USA	401	397.412	809	1.000	122.027	1.210	519.439	1249
Italy	292	150.856	492	647	63.282	784	214.138	960

5. CONCLUSION

From the period before the republic up to today, the acquisition of immovable property by foreigners in our country has been allowed with various agreements and laws. Sometimes the rights granted were withdrawn and gaps formed about permissions. That said, in our country, the fundamental regulation concerning the real estate acquisition by foreign real persons was made with Land Registry Act numbered 2644, dated December 22nd, 1934. Over the years, 35th and 36th articles were amended according to needs and sometimes the said articles were revoked by the Constitutional Court. Since 1984, there have been five cancellation decision have been given in total. In spite of this, 35th and 36th articles were amended each and every time.

While there has not been any changes concerning the military security zones and strategic areas that cannot be acquired by foreigners, the maximum surface area that can be acquired by a foreign real person has been reduced to 2.5 hectares from 30 hectares and then again increased to 30 hectares. In addition, while it was not allowed that the total surface area of property acquired by foreigners exceeded 10 percent of the total planned area in a province and district, the recent regulation does not allow it to exceed 10 percent of the total surface area of a province or district. Also, the most important change is the removal of the principle of reciprocity. In this way, citizens of the countries that do not conform to this principle were not able to acquire property in our country, after 2012, citizens of approximately 183

countries were granted real estate acquisition right.

As a result;

It is observed that different applications were preferred in different periods in Turkey concerning the type, surface area and location of property acquirable by foreigners, the determined acquisition quantity did not have a rational ground, and opinions concerning acquisition restrictions were not created based on impact assessment efforts in our country.

*Legislation and applications concerning real estate acquisition by foreigners is a very dynamic area and changes in this area take place very often.

*It was preferred to facilitate property acquisition for citizens of several countries.

*While there used to be a high demand for the Mediterranean and Aegean coasts by the European Union countries, the Black Sea coasts begun to be favored by the Gulf countries.

*In addition to goals set in development programmes; the removal of restrictions on property acquisition by foreigners and facilities provided to foreigners in in real estate market by OECD and EU member states may be shown among the reasons for constant changes and expansion of acquisition boundaries. As a EU candidate, Turkey has also been affected by these expansions within certain rules.

*Legal regulations made so far show that, as is the case in all the countries in the international unions of which Turkey is a member, foreigners are granted more rights concerning property acquisition and as a result of this, foreign direct real estate investment's contribution to the economy increased to approximately 13.3 billion dollars according to the data from the Central Bank between 2000 and 2013.

*Although these legal regulations have a positive return in terms of economy, international relations and international real estate trade, it is evident that measures related to social, cultural and economical changes caused by foreigners who purchase these properties are not taken. Such that, the increase in the price of a commodity results in a decrease in the demand for it according to the law of demand. However, in cases where the average income is high, for example, for citizens of foreign countries with an annual income of \$37.849, this model becomes different. It seems unlikely that Turkish citizens with an average annual income of \$13.464 can adopt to these market conditions.

Some suggestions could be made for the solution of above mentioned problems;

*In order to prevent cancellations of the Constitutional Court, the quantity, surface area and location restrictions concerning the real estate acquirable by foreigners must be rationally determined.

*In provinces where the residential area is scarce, such as provinces in the Eastern Black Sea Region, the proportion of real estate to be sold must be as low as possible. In other words, a certain sales limit must be set for each province.

*Due to the absence of a population limit, there is a danger of resident population to become the minority, especially in the touristic settlements. Regional population assessments must be made to prevent this.

*As in other developed countries, in order to prevent the commercial use of real estate sold to foreigners as hotels, hostels and timeshare, it must be compulsory for dwellers to provide identity statement to the local law enforcement. The use of immovable property as off-record commercial property must be thus prevented.

*The ratio of ten percent will cause majority of the residential/livable areas to be owned by foreigners, particularly in provinces where they are limited. For example; it has been

identified that this was the case for provinces such as Trabzon, Rize, Ordu, Gumushane. Essentially, before including this provision in the law, a technical study must be conducted regarding the relationship between provincial area and residential area. In this case, the ratio in question should be residential area rather than the surface area of the province.

*Formation of a department consisting of experts that will directly examine and follow this issue must be considered on a provincial basis within governorships.

* In the context of land management, an information system integrated with land registry that involves all the national resources related to land, types of land use based on the development plan, military forbidden zones, military security zones, special security zones that limit the land acquisition and conversion, areas required to be protected due to reasons related to irrigation, energy, agriculture, mining, sit, faith or cultural properties, special conservation areas with flora-fauna characteristics, public real estate presence and real estate owned by foreign natural or legal persons is inevitably needed.

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BIOGRAPHICAL NOTES

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