

## PROCEDURE OF REAL ESTATE ACQUISITION BY FOREIGNERS IN POLAND

### SUMMARY

1. Poland basic facts and types of real estate in Poland
2. Restrictions applied to the right of ownership of real estate and the right of perpetual usufruct (long term lease of public land): citizens of UE and others
3. Current procedure of real estate acquisition by foreigners in Poland (after 2004)
4. Analyse the permits for foreigners to acquire real estate, Issued from 1990 to 2005 (2006)
5. Acquisition of agricultural real estates owned by the State Treasure – 2005

### PROBLEM:

Period:	1990 – 2006
Permits:	21 971
Area (in ha):	43 935

## Poland - Basic facts

- Largest Economy in Central Europe - 242 bin USD GDP in 2004
- OECD membership since November 1996
- NATO membership since March 1999
- EU Member since May 2004
- 22nd Economy in the World Bank rank of countries (measured i GDP P PP - 500 bin USD)
- 16,8 mln economically active (44% of total population 26,5% in age of 25-34)
- High availability of young, well - educated, mobile labour force
- With the area of 312 685 sq. km is the ninth largest country in Europe
- Localisation in the centre of Europe, proximity to both western and eastern markets
- Border with 7 countries: Russia, Lithuania, Belarus, Ukraine, Czech Republic, Slovakia, Germany
- Seventh largest in Europe by size of population with approximately 38,2 mln

## LAW of REAL ESTATE ACQUISITION by FOREIGNES

- Permit is required for a foreigner to purchase real estate
- Permit is issued in the form of an *administrative decision* by the Ministry of Internal Affairs, unless *an objection* is raised by the Ministry of Defence or the Ministry of Agriculture and Rural Development (in the case of agricultural real estate)
- Restrictions are applied to:
  - a) land real estate (with or without buildings)
  - b) building real estate – associated with the right of perpetual usufruct of land (long term lease)
  - c) apartment real estate (together with a share in the building and in the land it is on)

## Real estate

An immovable property shall be part of the earth's surface which constitute a separate object of ownership (land) as well as buildings permanently attached to the land, or parts there of, if by separate provisions they are an object of ownership separate from the land

## Agricultural real estate

Agricultural immovable properties (agricultural lands) are immovable properties which are or can be used for agricultural production, both plant and animal production, not excluding gardening, horticulture and fisheries

Source: Civil Code from 1964

## PROCEDURE OF REAL ESTATE ACQUISITION:

- filing an application by the foreigner
- issuance (or a refusal to issue) a permit by the Ministry of Internal Affairs and Administration (MIAaA)
- objection (if any), in the form of a decision, to the permit issued by the Ministry of Internal Affairs and Administration raised by the ministers of: defence and /or agriculture
- decision of the MIAaA, based on the code of administrative procedures
- possible appeal to the Supreme Administrative Court (SAC)
- the final decision by the SAC

## PROCEDURE OF REAL ESTATE ACQUISITION BY FOREIGNERS – from 2004

- A real estate can be acquired after obtaining a permit
- The permit is issued as an administrative decision
- The permit is issued by the Ministry of Internal Affairs, unless an objection is raised by:
  - The Ministry of Defence
  - The Ministry of Agricultural and Rural Development

**The following acts do not require a permit: scheme no 1**

- ♦ acquisition of an independent residential apartment or garage – If it is to satisfy the foreigner's own needs,
- ♦ real estate acquisition by a foreigner, who has been residing in Poland for more than 5 years,
- ♦ for spouses of Polish citizens who have been residing in Poland for more than 2 years,
- ♦ In the case of statutory succession,
- ♦ acquisition of a real estate with building, in the total area of 0,4 ha a town, for statutory purposes,
- ♦ acquisition of an agricultural or forest real estate, if such a real estate is acquired by a EU citizen more than 12 years after Poland's accession to the EU,
- ♦ purchase of a second home – 5 years after Poland's accession to the EU,
- ♦ acquisition of agricultural and forest real estates after 7 years from signing a lease agreement with the certified date (for the following provinces: dolnoslaskie, kujawsko-pomorskie, lubuskie, opolskie, pomorskie, warmiasko-mazurskie, wielkopolskie and zachodniopomorskie ),
- ♦ acquisition of agricultural and forest real estates after 3 years from signing a lease agreement with the certified date, if a foreigner has personally conducted agricultural activities on the land or legally resided in Poland,
- ♦ the purchase of a second home – the purchaser with a legal and uninterrupted residence in Poland for at least 4 years.

**The following acts don't require a permit:**

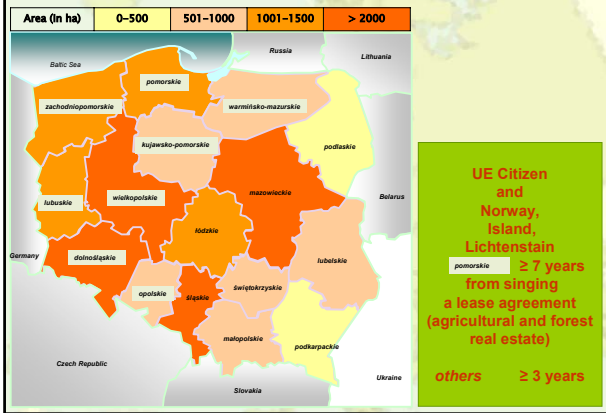
- an independent residential apartment or garage
- foreigners who has been residing in Poland > 5 years
- real estate with building (area ≤ 0,4 ha in town)
- agricultural or forest real estate – acquired by a EU citizen > 12 years after Poland's accession to the UE
- second home > 5 years after accession
- agricultural and forest real estate > 7 years from signing a lease agreement (some provinces)
- agricultural and forest real estate > 3 years from signing a lease agreement (foreigner has personally conducted agricultural activities on the land or legally resided in Poland)
- second home – legal and uninterrupted residence in Poland > 4 years

**Procedure of real estate acquisition:**

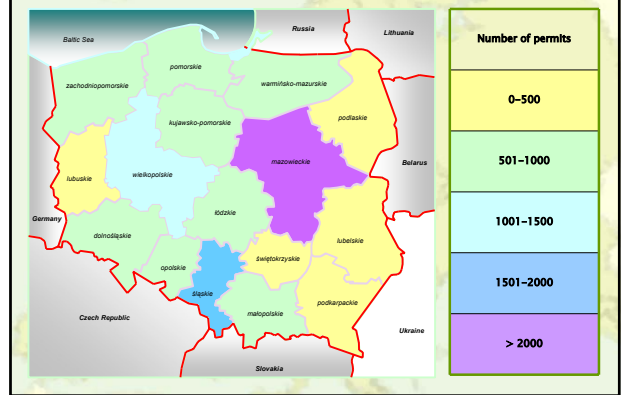
- > Filling an application
- > Issuance (of refusal to issue) a permit by MSWIA
- > Objection (if any) | MON | MRIRW

**PROCEDURE OF REAL ESTETE ACQUISITION BY FOREIGNERS**

**Fig. 1 Real estate acquisition by foreigners (1990-2006)**



**Fig. 2 Spatial distribution of number of permits (1990-2006)**



**Some data concerning real estate acquisition by foreigners in Poland 1990-2005 (2006)**

Table 2 Permits to acquire real estates issued in 1990 – 2005 (this specification does not include the permits to acquire shares in companies which hold the right of ownership or right of perpetual usufruct of a real estate)

Year	Number of permits	Area of real estates covered by the permits (ha)
2005	592	1786
2004	1065	2691
2003	1580	4718
2002	1595	4884
2001	1536	3629
2000	1478	3659
1999	2304	5142
1998	2189	4355
1997	2001	2942
1996	1454	2439
1995	1342	1952
1994	1291	1518
1993	967	2008
1992	876	705
1991	604	534
1990	565	398
TOTAL	21439	43360

**Fig. 3 The number of permits vs. the area of real estates covered by the permits in the years 1990-2005**

Source: Report of the Ministry of Internal Affairs and Administration, 2005

**Fig. 4 Number of permits: 1992 - 2004 (Austria, Germany, The Netherlands)**

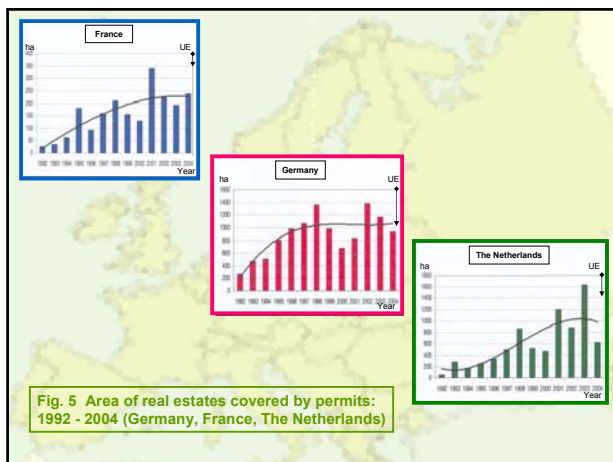


Fig. 5 Area of real estates covered by permits: 1992 - 2004 (Germany, France, The Netherlands)

Table 3  
Acquisition of agricultural real estates owned by State Treasure by foreigners according to origin of capital – 2005

Country	Number agree	Area In (ha)
Austria	4	10
Belarus	1	0
Belgium	2	8
Czech Republic	1	3
Denmark	10	60
Finland	10	159
France	7	16
Germany	35	369
Great Britain	4	15
Ireland	2	56
Italy	4	12
Japan	3	47
The Netherlands	20	127
Portugal	1	7
Spain	2	19
Sweden	7	55
Switzerland	2	5
USA	8	33
<b>TOTAL</b>	<b>123</b>	<b>1001</b>

Source: Agency of Agricultural Real Estates, 2005

CONCLUSION	Purchase of real estate by foreigners	Type of real estate	Entrepreneurs from European Economic Area	Entrepreneurs from outside of EEA
		up to 0,4 ha in urban areas	no permit required	no permit required
		over 0,4 ha in urban areas	no permit required	permit of the Ministry of Interior and Administration required
		farmland and forests	permit required until 2016 (unless the person is a leaseholder for 3-7 years and personally conducts agricultural activities)	permit of the Ministry of Interior and Administration required
		second house	permit required until 2009 (unless living in Poland for 4 years or owing "second house" for business activities in tourism)	permit of the Ministry of Interior and Administration required
		self-contained apartment	no permit required	no permit required
		taking over a company owning or leasing a real estate	no permit required	permit of the Ministry of Interior and Administration required

- In 2005 the ministry issued 663 permits to acquire real estates, shares and other securities by foreigners (592 – real estates = 1,786.19 ha); in 2006 – 532 permits = 575,15 ha
- In 2005 were 168 refusals but in 2006 -160 (in the years 1990 – 2005 ministry issued 2770 refusals, about 10% of the total number of permits)
- In the years 1990 – 2005, foreigners obtained 21,439 permits for real estate acquisition (43,360 ha – 0.14% of the area of the Republic of Poland)
- The number of permits and the area of real estate sold to foreigners grew steadily in the years 1990 – 1999
- Upon Poland's accession to the EU (2004), the number of permits issued was similar to that from 1991
- There are no formal restriction in the sale of real estate by foreigners to Polish citizen
- Real estate acquisition by foreigners in Poland is effectively controlled in terms of its legal and administrative aspects