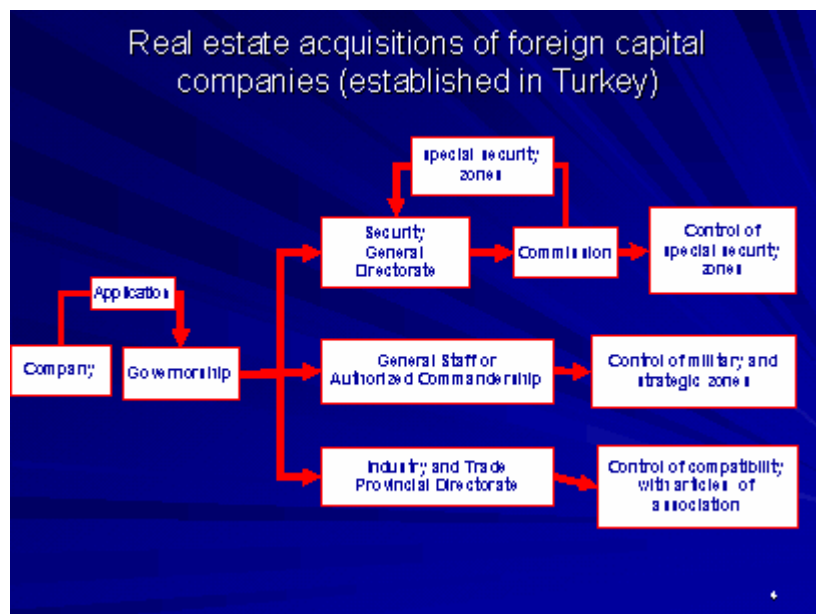


# Real estate acquisition of foreigners

Turkey's legislation in the field of real estate acquisition by foreigners is currently inconsistent with the article 56 of the Treaty establishing the European Community. Rules for the acquisition of real estate by foreigners are regulated by the Land Registry Law. Real estate acquisition by foreigners is one of a few critical issues to which Turkish public opinion are particularly sensitive. Hence it is essential to remind recent developments regarding legal framework of acquisition of real estate by foreigners in Turkey in order to have full understanding of Turkey's position on this issue.

In 2008, The Constitutional Court of Turkey has overruled some provisions of Article 35 of the Land Registry Law No.2644 on real estate acquisitions by foreign real and legal persons and Article 3/d of the Foreign Direct Investment Law No.4875 on real estate acquisitions by foreign capital companies. Taking into account the legal reasonings and standpoints of the Court decision the Government drafted new provisions in the Land Registry Law and they became effective after enacted by the Turkish Grand National Assembly very recently. With this final change, there are three different regimes in Turkey regarding the acquisition of real estate by foreigners depending on their statutes:

- 1- Real estate acquisition of foreign real persons
- 2- Real estate acquisition of foreign companies (established in other countries).
- 3- Real estate acquisitions of foreign capital companies (established in Turkey).



## 1- Real estate acquisition of foreign real persons

Foreign real persons can acquire real estates for the purposes of using as residence or business aims in Turkey that are separated and registered for these purposes in the implemented development plans or localized development plans with the reservation of reciprocity and compliance with legal restrictions. The total area of the real estates and limited real rights on real estates that a foreign real person can acquire shall not exceed the 10% of the areas within the borders of implemented development plans or localized development plans in the each cities of the province and 2.5 hectares for all over the country. The Council of Ministers is authorized to determine a different percentage

within this limit considering the importance of a city in terms of infrastructure, economy, energy, environment, culture, agriculture and security.

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## **2- Real estate acquisition of foreign companies**

Foreign companies (established in other countries) shall acquire real estate and limited real rights on real estates in Turkey according to the provisions of special laws. Relevant special laws are, Law for Encouragement of Tourism No: 2634 and Petroleum Law No: 6326. According to the Law for Encouragement of Tourism (Article No: 8) the real estate within tourism areas and tourism centres for which land use plans have been prepared can be allocated to the Ministry of Culture and Tourism by the public agency having ownership. The Ministry is authorized to allocate such real estates to real persons and legal entities of Turkish and foreign nationality. According to the Petroleum Law (Article No: 87), a holder of a petroleum right (either a Turkish or foreign company) is entitled to acquire a surface lease of such land in or in the vicinity of his license, lease or certificate area as required for his operation, by agreement or by expropriation if the land is privately owned or by recording it on his license, lease or certificate if the land is not owned by anybody.

The Council of Ministers is authorized to determine the places where foreign real persons and foreign companies shall not acquire real estates and limited real rights on real estates within the areas of irrigation, energy, agriculture, mine, and protected areas, and belief and cultural featured areas and special protection areas and sensitive areas due to flora and fauna features, strategic areas due to public interests and country security upon proposals with registry based coordinated maps and plans of relevant public institutions and organizations.

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## **3- Real estate acquisitions of foreign capital companies**

Article 36 of the Land Registry Law regulates the real estate acquisition of foreign capital companies (established in Turkey). Foreign capital companies which are established in Turkey and are registered in Turkish Commercial Registries are legally accepted as "Turkish companies" regardless of the citizenships of their shareholders. Accordingly foreign capital companies shall acquire real estate in Turkey to conduct business activities listed in the articles of association of their company. However acquisitions in military zones (military forbidden zones, military security zones and strategic zones) and special security zones require permissions from the Turkish military authorities and province governorship respectively.