

Acquisition of real estate in the Czech Republic by foreigners

Do you intend to start business in the Czech Republic but lack the necessary premises? Would you like to move here and buy your own house or flat, or do you need land for your real estate development plans? We will help you find a solution to any problems you have. Moreover, since May 1, 2009 foreigners can acquire real estate in the Czech Republic without the limitation.

Article 17 paragraph 2 of Act No. 219/1995 Coll., The Foreign Exchange Act, as amended, restricted to acquire of real estate to some categories of people. Until May 1, 2009 according to this provision of the Foreign Exchange Act, non-residents, who were not the Czech nationals and who did not have a business in the Czech Republic, could acquire domestic real estate except the agricultural land and forest only in the following cases:

- by inheritance,
- for diplomatic representation of a foreign country under terms of reciprocity,
- if the real estate is to be acquired into unapportioned co-ownership of a married couple of which only one is a non-resident or where a non-resident acquires property from husband, wife, parents or grandparents,
- through exchange of domestic real estate, which he or she owns, for other domestic real estate the usual price of which does not exceed the usual price of the former real estate (according to Acts on property appraisal No. 151/1997 Coll. and No. 121/2000 Coll., a normal price is understood as a price which has been paid in the sale of equivalent or similar property or in the provision of identical or similar services in regular commercial transactions, as of the day of appraisal),
- if he or she has a pre-emption by reason of a proportioned co-ownership of real estate,
- if it is a construction built by non-resident on his own land,
- provided it is explicitly stipulated by a separate act (legislation on privatisation and restitution).

Non-resident legal entities which had a business, or an organizational unit thereof, in the Czech Republic and which were authorized to do business in the Czech Republic, i.e. which were registered in the Commercial Register of the Czech Republic, could acquire real estate, except the agricultural land and forest. In other cases, the acquisition of real estate by non-residents was prohibited. This prohibition did not apply to a Czech legal person, which was owned partly or fully by non-residents. In particular, there was no limitation on the purchase of real estate by subsidiaries established by non-residents as subsidiaries are considered to be residents. Non-residents who are Czech nationals have the same rights as residents.

Acquisition of real estate from March 1, 2009

Despite the fact that the amendatory act to the Foreign Exchange Act which should repeal the article 17 paragraph 2 has not been adopted yet, the article 17 paragraph 2 of Act No. 219/1995 Coll., The Foreign Exchange Act, which has restrained foreigners from acquiring real estates in the Czech Republic has become ineffective.

The inefficiency of this provision has a significant impact on real estate market, because since May 1, 2009 there are no restrictions and limitations for foreigners who want to acquire the real estate in the Czech Republic.

On May 1, 2004 The Czech Republic acceded to the European Union and since that moment the Czech Republic has been bound by the European Union law. Appendix V. of the Act on Accession granted the Czech Republic an exception, which states that for a certain period after the accession of the Czech Republic to the EU, i.e. from 1 May 2004, the Czech Republic could keep in place legal limitations regarding the acquisition of secondary residences and the acquisition of agricultural land and forests.

On 1 May 2009, the five years transitional period expired set in the Act on Accession concerning the conditions of accession of the Czech Republic to the EU, which constitutes an enclosure to the Treaty of Accession signed on 16 April 2003 and the largest obstacle to foreigners purchasing real estate in the Czech Republic fell.

With the passing of the transitional period, the Czech Republic should have adopted by 1 May 2009 another amendatory act to The Foreign Exchange Act, which should have repealed the Novation 2004 so that foreigners could acquire real estate in the Czech Republic without the limitation stated in the Act on Accession. As we have already mentioned, such amendatory act have not been passed yet. Nevertheless, under article 10 of the Czech Constitution, international treaties take the application precedence. Therefore, article 56 of the Treaty establishing the European Community applies, which states that any limitations on the movement of capital between member states, and between member states and third countries, are prohibited.

For this reason article 17 paragraph 2 of Act No. 219/1995 Coll., The Foreign Exchange Act has become ineffective in fact on 1 May 2009. The instruction that the Land Register Office shall also register the property rights of foreigners was issued. Czech Land Register Office shall not apply the above mentioned provision of the article 17 paragraph 2 of the Foreign Exchange Act and in practice they are not entitled to dismiss the petition for registration of the property rights into the Land Registry filed since the On 1 May 2009.

At present, with passing of the above mentioned five years transitional period there are no more limits on foreigners who want to acquire real estate in the Czech Republic, except the agricultural land and forests according to the article 17 paragraph 1 of The Foreign Exchange Act. The agricultural land and forests remain regulated till May 1, 2011.