

ACT
of 24 March 1920
ON THE ACQUISITION OF IMMOVABLE
PROPERTIES BY FOREIGN PERSONS

(Consolidated text: Dziennik Ustaw 2004, No. 167, item 1758)

Article 1. 1. Acquisition of immovable properties by a foreign person shall require a permit. The permit shall be issued by the minister competent for internal affairs by an administrative decision unless the Minister of National Defence lodges an objection, and as regards the agricultural immovable properties – unless the minister competent for rural development lodges an objection.

1a. The objection referred to in paragraph 1 shall be expressed, by a ruling, within 14 days of serving the paper prepared by the minister competent for internal affairs. In particularly justified cases the minister competent for internal affairs shall, upon a request of an authority entitled to lodge an objection, extend the time limit for lodging thereof up to 2 months of the day of serving the paper prepared by said minister.

1b. A refusal to grant the permit referred to in paragraph 1 shall not require that either the Minister of National Defence or the minister competent for rural be addressed.

2. Under this Act, a foreign person shall mean:

- 1) a natural person not having the Polish citizenship;
- 2) a legal person having its seat abroad;
- 3) a partnership of the persons referred to in subparagraph 1 or 2 having no legal personality and with its seat abroad, created in compliance with statutory law of foreign states;
- 4) a legal person and a commercial partnership having no legal personality and with its seat in the territory of the Republic of Poland, which is directly or indirectly under the control of the persons or partnerships mentioned in subparagraphs 1 to 3;

3. In respect of a commercial company or partnership, a controlled company or partnership under the statutory law shall mean a company or partnership in which a foreign person or persons directly or indirectly have over 50 per cent of votes at a meeting of shareholders or at a general meeting, said persons holding the percentage also as pledgees, usufructuaries, or under arrangements with other persons, or have a dominant position under Article 4, paragraph 1, subparagraph 4, letters b or c or e of the Act of 15 September 2000 – the Code of commercial partnerships and companies (Dziennik Ustaw 2000, No. 94, item 1037; 2001, No. 102, item 1117; 2003, No. 49, item 408, No. 229, item 2276).

4. Hereunder acquisition of immovable property shall mean acquisition of a right of ownership of immovable property or a perpetual usufruct right, on the grounds of any legal event.

5. Hereunder the acquisition of a second house shall mean the acquisition by a foreign person referred to in Article 1, paragraph 2, subparagraph 1 of an immovable property designed for being build up by houses or for recreational and relaxation purposes, said property not being a permanent place of residence of the foreign person. This shall not apply to acquisition of an individual living accommodation under the Act of 24 June 1994

on the Ownership of Accommodations (consolidated text: Dziennik Ustaw 2000, No. 80, item 903).

Article 1a. 1. The permit referred to in Article 1, paragraph 1 shall be issued upon a foreign person's application provided that:

1) acquisition of immovable property by a foreign person does not pose a threat either to the defence and the security of the State or to the public order, likewise the social policy and health of society factors do not speak against that;

2) he/she proves that there are circumstances which confirm his/her ties with the Republic of Poland.

2. The circumstances which confirm a foreign person's links with the Republic of Poland may particularly include:

1) having Polish nationality or being of Polish origin;

2) a marriage entered into with a citizen of the Republic of Poland;

3) holding a permit to reside for a specified period of time or to settle;

4) membership of a managing body of the entrepreneurs referred to in Article 1, paragraph 2, subparagraph 4;

5) carrying on economic or agricultural activity in the territory of the Republic of Poland in accordance with the provisions of the Polish law.

3. The application for issuing a permit shall include:

1) designation of the applicant and his legal status;

2) designation of the immovable property being acquired;

3) designation of the transferor;

4) designation of the legal status of the acquisition of the immovable property;

5) information about the purpose and ability to acquire the immovable property;

4. The application referred to in paragraph 3 shall be enclosed by a foreign person with documents confirming the circumstances indicated in the application and the circumstances referred to in paragraph 2, as well as other documents which enable to establish whether the acquisition of immovable property was in conformity with the law.

5. The area of immovable properties acquired by a foreign person to satisfy his living needs may not exceed 0.5 ha, and in the case specified in paragraph 2, subparagraph 5 the area shall be substantiated by the actual needs resulting from the nature of economic activity carried on.

6. Acquisition of agricultural immovable properties by foreign persons shall take place in addition in accordance with the provisions of the Act of 11 April 2003 on Shaping the agricultural system (Dziennik Ustaw 2003, No. 64, item 592).

Article 2. 1. Before issuing a decision on the permit, the Minister of Internal Affairs may:

1) demand that evidence and information indispensable for considering an application and carrying out the verification referred to in subparagraph 2 be presented;

2) verify, also with the help of competent government administration authorities, whether the acquisition of immovable property by a foreign person will not pose a threat either to the defence and the security of the State or to the public order, likewise whether this will be compliant with the interest of the State;

2. The Minister of Internal Affairs may define in a permit special conditions for a foreign person intending to acquire immovable property the satisfaction of which will determine the possibility to acquire the same.

Article 2a. The minister competent for internal affairs may address other government administration authorities, professional organizations and State institutions than the ones referred to in Article 2, paragraph 1, subparagraph 2, so that they express their opinions and transfer documents and information, particularly the documents and information contained in the records of land and buildings and indispensable for the implementation of the tasks referred to in Article 1, paragraph 1, Article 3e and Article 8, paragraph 4.

Article 3. 1. A permit shall particularly specify:

- 1) the persons who are the acquirer and the transferor;
- 2) the object of acquisition;
- 3) special conditions, in the situation referred to in Article 2, paragraph 2.

2. A permit shall be valid two years since the day of issuance.

Article 3a. A decision on a permit to acquire immovable property located in the territory of a special economic zone established pursuant to separate provisions shall be issued within one month of submitting an application by a party.

Article 3b. Proceedings for issuing a permit shall be discontinued where a foreign person on whose (which) application they were instituted requests so, as well as where an owner or a perpetual usufructuary of immovable property declares that he/she does not intend to transfer it for the benefit of a foreign person applying for a permit.

Article 3c. The authority which issues a decision or ruling in proceedings pending under the provisions of this Act may refrain from factual substantiation if the defence or the security of the State requires so.

Article 3d. A foreign person intending to acquire immovable property may apply for obtaining a promise of issuance of a permit, hereinafter referred to as "the promise". The promise shall be respectively governed by the provisions of Articles 1 to 3c.

2. The promise shall be valid one year since the day of issuance.

3. The promise may also be issued upon application of founders of the subject referred to in Article 1, paragraph 2, subparagraph 4.

4. In the period of the promise's validity a permit may not be refused, unless the state of fact relevant to the settlement of the matter is altered.

Article 3e. 1. Acquisition or take-up of shares by a foreign person in a commercial company or partnership with its seat in the territory of the Republic of Poland and any other act in law concerning shares shall require a permit of the minister competent for internal affairs, if as a result of such acts a company or a partnership which is an owner or a perpetual usufructuary of immovable property in the territory of the Republic of Poland becomes a controlled company (partnership).

2. Acquisition or take-up of shares by a foreign person in a commercial company or partnership with its seat in the territory of the Republic of Poland, such company or partnership being an owner or a perpetual usufructuary of immovable properties in the territory of the Republic of Poland, shall require a permit of the minister competent for internal affairs if the company or partnership is a controlled one and the shares are to be acquired by a foreign person who is not a shareholder of the company or partnership.

3. The provisions of paragraphs 1 and 2 shall be applied neither to cases where a company's or partnership's shares have been admitted to public trading nor to the ones where the company or partnership is an owner or a perpetual usufructuary of the immovable

property specified in Article 8, paragraph 1, subparagraphs 1, 1a and 5, subject to Article 8, paragraph 3.

4. The permits referred to in paragraphs 1 and 2 shall accordingly be governed by the provisions of Articles 1 to 3d.

5. The application for issuing a permit referred to in paragraphs 1 and 2 shall, apart from information specified in Article 1a, paragraph 3, subparagraphs 1 and 3, additionally include:

1) designation of the company or partnership whose shares are being acquired, taken up, or are an object of another act in law;

2) designation of the company or partnership which, as a result of acquisition and take-up of shares or another act in law concerning shares of another commercial company or partnership becomes a controlled company or partnership;

3) designation of the immovable properties constituting the ownership or being under perpetual usufruct of the company or partnership which will become the controlled one, or whose shares are being acquired or taken up by foreign persons;

4) designation of the manner of acquisition or take-up of shares or another act in law concerning shares in a company or partnership, where as a result of such acts the company or partnership which is an owner or a perpetual usufructuary of immovable property in the territory of the Republic of Poland will become a controlled company or partnership.

Article 3f. The minister competent for internal affairs shall, by regulation, specify:

1) the types of documents referred to in Article 1a, paragraph 4;

2) detailed information on the circumstances indicated in the application;

3) standard forms of declarations filed by foreign persons in connection with the proceedings conducted by the minister competent for internal affairs and concerning the issuance of a permit and lists enclosed to the declarations

- taking into account varied scope of information and documents filed by foreign persons referred to in Article 1, paragraph 2.

Article 4. The minister competent for internal affairs shall each year by 31 March present to the Sejm a detailed report on the implementation of the Act, especially on the number of the permits granted, the type and area, likewise the territorial dispersion of immovable properties to which the permits pertain, as well as of the number of decisions on refusal to grant a permit.

Article 5. Without presenting a permit of the Minister of Internal Affairs and, in the case of stipulating special conditions in a permit, also the official documentary evidence of their satisfaction, acts in law shall not be performed, neither shall entries of the ownership right and the perpetual usufruct right be made.

Article 5a. Repealed.

Article 6. 1. Acquisition of immovable property by a foreign person in breach of the provisions of the Act shall be invalid.

2. Where immovable property is acquired in breach of this Act, the invalidity of the acquisition shall be adjudicated by a court, also upon a demand of the *voit* (the mayor, the president of the city), the *staroste*, the Marshal of the voivodeship or the *voivode* competent for the place of location of the immovable property, or upon a demand of the minister competent for internal affairs.

3. The provisions of paragraphs 1 and 2 shall respectively apply to acquisition or take-up of shares in a commercial company or partnership in breach of the provisions of Article 3e, with the proviso that the demand referred to in paragraph 2 may also be filed by any shareholder of the company or partnership.

Article 7. 1. The provisions hereunder shall not apply to transformations of commercial companies or partnerships under the provisions of Title IV, Section III of the Act of 15 September 2000 – the Code of commercial partnerships and companies.

2. The provisions hereunder shall not apply to acquisition of immovable property by way of succession by persons entitled to statutory succession. If the national law of the intestate deceased does not provide for statutory succession, the Polish law shall apply in this respect.

3. Where a foreign person who (which) acquired immovable property included in inheritance under a testament does not obtain a permit of the minister competent for internal affairs on the basis of an application filed within two years since the day of opening of inheritance, the right of ownership of such immovable property or the perpetual usufruct right shall be acquired by the persons who would be appointed to inherit by virtue of statutory law.

4. Provisions of paragraphs 2 and 3 shall accordingly apply to shares of a commercial company or partnership which is an owner or a perpetual usufructuary of immovable property in the territory of the Republic of Poland.

5. Provisions of this Act shall apply neither to closed-end investment funds or specialized open-end investment funds adopting investment principles and restrictions specified for closed-end investment funds within the meaning of provisions of the Act of 27 May 2004 on investment funds (Dziennik Ustaw 2004, No. 146, item 1546).

Article 7a. Repealed.

Article 8. 1. Subject to paragraph 3, a permit shall not be required for:

1) acquisition of an individual living accommodation as defined in the Act of 24 June 1994 on ownership of accommodations (Dziennik Ustaw 1994, No. 85, item 388);

1a) acquisition of individual business premises with a garage designation or a share in such premises if this is connected with satisfying the housing needs of the acquirer or the owner of immovable property or an individual living accommodation.

2) acquisition of immovable property by a foreign person who has resided in the Republic of Poland for at least 5 years since obtaining a permit to settle;

3) acquisition of immovable property by a foreign person who is a spouse of a Polish citizen and who has resided in the Republic of Poland for at least 2 years since obtaining a permit to settle, the immovable property constituting statutory marital property co-ownership as a result of such acquisition;

4) acquisition of immovable property by a foreign person, if on the day of acquisition he/she is entitled to statutory succession from the transferor of the immovable property and said transferor has been the owner or the perpetual usufructuary of the immovable property for at least 5 years;

5) acquisition of immovable property not built over by the subject referred to in Article 1, paragraph 2, subparagraph 4 for the pursuit of its objects stated under articles or statute, the total area of the immovable property not exceeding 0.4 ha within territories of cities;

6) acquisition of immovable property by a foreign person being a bank and a mortgagee at the same time, under the procedure of taking over the ownership of the immovable property as a result of ineffective auction in execution proceedings;

7) acquisition of shares in the company or partnership referred to in Article 3e by a bank being the legal person defined in Article 1, paragraph 2, subparagraph 4, in connection with claims vindicated by said bank and ensuing from the banking operations conducted.

2. Foreign persons who are citizens or entrepreneurs of the Member States of the European Economic Area shall not be required to obtain a permit, excluding the acquisition of:

1) agricultural and forest immovable properties, within 12 years since the day of accession of the Republic of Poland to the European Union;

2) a second house, within 5 years since the day of accession of the Republic of Poland to the European Union;

2a. Foreign persons who are citizens of the Member States of the European Economic Area shall not be required to obtain a permit within the time limits specified in paragraph 2 in the case of:

1) acquisition of agricultural immovable properties located in:

a) Dolnośląskie, Kujawsko-Pomorskie, Lubuskie, Opolskie, Pomorskie, Warmińsko-Mazurskie, Wielkopolskie and Zachodniopomorskie Voivodeships – upon lapse of 7 years since the day of concluding a tenancy contract with an authenticated date, if for that period they personally carried on agricultural activity within the immovable property and resided in the territory of the Republic of Poland lawfully;

b) Lubelskie, Łódzkie, Małopolskie, Mazowieckie, Podkarpackie, Podlaskie, Śląskie, Świętokrzyskie Voivodeships – upon lapse of 3 years since the day of concluding a tenancy contract with an authenticated date, if for that period they personally carried on agricultural activity within the immovable property and resided in the territory of the Republic of Poland lawfully;

2) acquisition of a second house:

a) if the acquirer has lawfully and continuously resided for at least 4 years in the territory of the Republic of Poland or

b) in order to pursue economic activity consisting in rendering tourist services.

2b. Citizens of the Member States of the European Economic Area who, on the day of obtaining by the Republic of Poland of the European Union membership, are shareholders of commercial companies or partnerships with the seat in the territory of the Republic of Poland, may count towards the tenancy periods referred to in paragraph 2a, subparagraph 1 the period of tenancy of agricultural immovable property if throughout this period they personally carried on agricultural activity within the immovable property provided that they are shareholders of a company or partnership, and lawfully resided in the territory of the Republic of Poland.

3. The exemptions referred to in paragraph 1 shall apply neither to immovable properties located in the frontier zone nor to agricultural land exceeding 1-ha area.

4. The minister competent for internal affairs shall keep a register of immovable properties and shares, acquired or taken up by foreign persons without a permit in the cases referred to in paragraphs 1, 2 and 2a, likewise a register of immovable properties and shares acquired or taken up by foreign persons pursuant to required permits referred to in Article 1, paragraph 1 and Article 3e, paragraphs 1 and 2.

5. The Council of Ministers shall, by a regulation, specify the procedure and detailed rules for keeping the registers referred to in paragraph 4.

Article 8a. 1. A notary shall send to the minister competent for internal affairs an excerpt copy of a notarial deed by virtue of which a foreign person acquired or took over immovable property or shares in a company or partnership which is the owner or the perpetual usufructuary of the immovable property within 7 days of drawing up said deed.

2. The provision of paragraph 1 shall accordingly apply to a court if the acquisition of immovable property took place by virtue of a valid pronouncement, likewise if the acquisition or take-up of shares is subject to entry into a register of entrepreneurs.

Article 9. Repealed.

Article 10. The Act shall enter into force 8 days after its promulgation.

Translated by *Tomasz Borkowski*