

REAL ESTATE GUIDE



SUMMARY ABOUT PURCHASE OF THE REAL ESTATE IN ESTONIA

Gencs Valters Law Firm

Riga office: Valdemara Center 3rd floor, Kr. Valdemara street 21, LV-1010, Riga, Latvia
T: +371 67 24 00 90 F: +371 67 24 00 91

Tallinn office: World Trade Center 6th floor, Ahtri street 12, 10151 Tallinn, Estonia
T: +372 61 91 000 F: +372 61 91 007

Vilnius office: Vilniaus vartai, 6th floor, A.Tumėno street 4, LT-01109, Vilnius, Lithuania
T: +370 52 61 10 00 F: +370 52 61 11 00

info@gencs.eu
www.gencs.eu
www.attorneys-at-law.eu

This guide gives you an overview about the key requirements for purchasing or selling real estate in Estonia. This summary is not complete or exhaustive, since each particular category of property has its own specific requirements in the legal regulation. Therefore, whenever you deal with the matter of purchasing real estate it is strongly recommended to consult a lawyer in order to avoid possible inconveniences arising from the matter.

GENCS VALTERS Law Firm offers clients a full range of legal services. Please refer to our contact information that you may find both at the beginning and at the end of this guide.

When it comes to the purchase of real estate and the associated costs in today's Estonia, foreign citizens and companies generally stand in an equal position with Estonian citizens and companies registered in Estonia.

However, in certain instances the acquisition of real estate by non-residents is restricted, inter alia:

- Purchasing real estate situated in the border regions of Estonia is available only for Estonian citizens and legal persons of the EU / EEA (excluding the four biggest Estonian islands, i.e. - Saaremaa, Hiiumaa, Vormsi, Muhu). Other persons may be granted the right to acquire the abovementioned real property only for reasons of national significance by the Estonian Government.
- Purchasing forest and agricultural land in Estonia is available generally only for Estonian citizens without specific restrictions. Legal persons established in the EU / EEA are subjected to a special regime of regulation only if the total area of the purchased land exceeds 10 hectares. Legal persons not established in the EU / EEA may be granted the right to purchase the abovementioned land areas only by the permission of the County Governor.

Purchasing or selling an apartment is the most common real estate transaction in Estonia. The settlement process in Estonia is relative straightforward and to a great extent dependant on the timeframe in which an appointment with a notary can be arranged. The process of purchasing an apartment in Estonia can be divided into following stages:

1) Examining the property and collecting data

- Once the desired apartment has been found, and the potential purchaser has become introduced its qualities and actual conditions, it is important that all the relevant information available concerning the property shall be checked. Here, consulting a relevant construction specialist is often strongly suggested.
- A confirmation is needed about the form of ownership and whether the seller is also the owner of the apartment. In cases of apartment ownership, the land is registered and the apartment forms a physical share of the residential building.
- In Estonia some apartments may be treated as 'movable' property, if they are not registered in the Land Register. Thus, the Land Register should be consulted.

- It should be verified also from the Land Register whether the apartment was for sale as whole or in part. In the latter case it may be possible to purchase a legal share as a co-owner having legal rights to and interest in the apartment. Moreover, clarifications should be made about marital regime possibly influencing the ownership of the asset, and the existence of mortgages and other real rights potentially encumbering the apartment.
- The seller should be checked for having any possible debts for apartment utilities, taxes and other services. This information is not expressed in the Land Register extract, and thus the relevant apartment association of the building should be consulted. The potential buyer should become hereby informed about the obligations and possible debts of the apartment association.
- A confirmation should be done concerning the monthly expenses related to the apartment, and the absence of any conflicting tenant contracts or interests in the asset.

2) Concluding a reservation agreement

After successfully examining through the relevant information and documents, the next step is to conclude a reservation agreement, which shall reserve the potential buyer's right to purchase the apartment e.g. when the buyer is unable to be physically present in Estonia. A reservation agreement itself does not oblige the buyer to purchase or seller to sell the apartment, but the seller becomes prevented from selling the apartment to a third party during the agreement's period of validity. Upon the exhaustion of a reservation agreement, may the seller choose freely again to whom sell the apartment.

To secure the property by a way of a reservation agreement, a reservation fee must be paid, and such an agreement should be concluded when the buyer is not absolutely sure about the purchase and wishes to preserve the freedom to look for other options available. Making a reservation agreement may be skipped altogether and replaced by a pre-purchase agreement instead, if the buyer is fully certain about purchasing the given asset.

3) Concluding a pre-purchase agreement

A pre-purchase agreement is usually concluded when a reason restricting the immediate conclusion of the purchase agreement exists. It is contracted between the seller and the buyer in the presence of a notary, and it must be notarized in order to become a legally binding document.

A pre-purchase agreement shall set out all the terms and conditions of sale, including the amount of deposit and the price due upon the completion. A deposit of around 10-20% of the purchase price (less than the Reservation Fee) is payable upon concluding a pre-purchase agreement. In the case where the buyer or seller withdraws from the sale and a pre-purchase agreement has duly been concluded, financial compensation shall be mandatory.

4) Concluding a purchase agreement

A purchase agreement as the main contract for the purchase of an apartment is concluded between the seller and the buyer in the presence of a notary, and it must thereby be notarized to become effective. This contract contains all the relevant terms and conditions, and the rights and obligations of the contracting parties as agreed. Furthermore, the notary shall ensure that the transfer of ownership occurs duly and fully in accordance with the Estonian law.

Once approved by the notary, the documents are signed in the notary's office. As notary's role is merely neutral, the parties at this point shall be provided with advises in relation to the title, searches or burdens that their property may incur. The conclusion of the contract does not, however, equal to the transfer of the ownership over the apartment, which is effected through a respective entry in the Land Register.

5) Paying the state fee for an application in the Land Register

After the conclusion of a purchase agreement, the state fee must be paid at a commercial bank prior applying for further registration. After paying the state fee a notarized application is made to the Land Register to transfer the ownership of the property to the buyer in the Land Register Book. After ownership registration on Estonian Land Register Book the title of ownership is legally effective.

In Estonia, property deeds are not required and not in use in common practice.

State and the notary fees

The notary fee is paid to a public notary in connection to the necessary legal and technical services, and its size depends entirely on the value of the transaction in question, which is determined by the price of the property or the rights as declared by the parties. The fee is based on a table of fixed fees and it must be paid upon signing the deed. Below are some samples:

Transaction value	Notary fee
EUR 30 678	EUR 53
EUR 102 260	EUR 160,40

As with the notary's fee, the state fee for submitting an entry in the Land Register is also based on a table of fixed fees, and the fee is usually paid by the buyer. Below are some samples:

Transaction value	Notary fee
EUR 30 677,59	EUR 35,27
EUR 102 258,63	EUR 109,92

Taxes in Estonia

The land tax is the only category of real property tax, since buildings and forests are not separately taxed. The land tax is calculated on the basis of the market value of land and it varies normally around 0.1-2.5% of the market value annually. Factors affecting the market value are the location, the use and the environmental characteristics of the land. The land owners and in some cases the land users as well (i.e. local governments or state property) are subjected to pay the land tax.

Commissions charged by different real estate firms vary according to the object in question (e.g. flats and apartments about have the commission rate of 6-8%, and in the case of transfers, the commission is usually 2-4%). The commission fee usually is already included in the final sale price and consequently born by the buyer.

Firms selling improved property are liable to pay additionally the value added tax (VAT). Private persons are not subjected to VAT payments when selling improved property, but the income tax may be born instead in certain cases. The general VAT rate in Estonia is 20% of the taxable value of the real estate in question. Income tax (21%) needs to be paid from the amount of net-profit from the sale of improved property, unless it is the registered address of the owner.

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