

ECONOMICS*Sociology***Justyna Tanaś***Department of Investment and Real Estate**Poznań University of Economics**justyna.tanas@ue.poznan.pl**Received: February, 2010**1st Revision: March, 2010**Accepted: April, 2010*Justyna Tanaś, Purchasement of Real Estate by Foreigners in Poland in the Years 2000-2008, *Economics & Sociology*, Vol. 3, No 1, 2010, pp. 76-85.**PURCHASEMENT OF REAL ESTATE
BY FOREIGNERS IN POLAND IN
THE YEARS 2000-2008**

ABSTRACT. The main aim of the paper is to present chosen facts of purchasing of real estate in Poland by foreigners. Analysis of this field stems from large inflow of foreign investments to Poland. Poland became important country for investments, not only because of its location but also thanks to joining European Union. The paper is divided into two parts. First part includes short analysis of legal matters linked with acquiring real estate by foreigners, rules and procedures of issuing buying permits. In the second part scale of foreign investments in real estate was presented.

Analysis was conducted on the basis of Interior Ministry reports issued on the basis of bill from 1920 (ustawa z dnia 24 marca 1920 r. o nabywaniu nieruchomości przez cudzoziemców).

JEL Classification: L85, P2**Keywords:** foreign real estate purchase, foreign investment in real estate.**Introduction**

The first attempts to regulate acquiring real estate by foreigners in Poland took part in the beginning of the twenties of XX century. Lower Chamber of Polish Parliament issued on March 24, 1920 bill about purchasing real estate by foreigners. Its main aim was to assure Polish power on regained territories and strengthen economic position of independent Polish state. Regulation was so universal that is amended only twice over 70 years. As a result it has a new title which is: *Ustawa o nabywaniu nieruchomości przez cudzoziemców*¹.

Control and monitoring of real estate transactions conducted by foreigners is still conducted on the basis of above mentioned bill. However one has to notify that is was subject to major changes in 2004. Changes were caused by joining European Union. Poland's accession enforced liberalization regulations of real estate transactions involving non-Polish citizens. Amendments in the bill repeals limitations linked with purchasing real estate in case of citizens and enterprises from EU. The only exception is transitional periods in case of buying farmland and forests and so called "second houses".

¹ The bill about purchasing estate by foreigners. In the paper term Bill will refer to this act

Conditions of purchasing real estate by foreigners

According to article 1 of bill purchase of real estate by foreigner requires permit. It is issued in the form of administrative decision, so it is subject to all regulations mentioned in two bills which regulate legal procedures linked with such decision (ustawa 14 czerwca 1960 r. - Kodeks postępowania administracyjnego and ustawy z dnia 30 sierpnia 2002 r. - Prawo o postępowaniu przed sądami administracyjnymi).²

Permit issued by Interior Ministry after administrative procedure, creates right for foreigner to buy defined estate in Poland or to acquire shares of companies being owners or perpetual users of estate on Polish territory. Administrative procedure aimed at gaining buying permit for foreigner is opened on foreigner's request. Article 1a p. 3 defines which data should be included in such request (claimant's name and his legal status, definition of acquired estate, vendor's name, legal form of purchase, information about aim and possibility to buy estate). According to article 1a p. claimant is obliged to attach documents confirming circumstances listed in the request and his links with Poland. Other documents confirming that purchase is legally binding should be also attached.

Interior Ministry issues permit for purchase on condition that Defense Minister will not protest, and in case of farmland also Minister of Agriculture and rural development. Such claim can be issued with 14 days from delivery of Interior's Ministry statement. The bill do not set deadline for issuing such permit precisely. Only article 3 of Bill states that permit for purchase of estate located within special economic one is to be issued with one month from date of request. Fact of possession buying permit does not allow to purchase estate different from listed in the decision. Entitlement form permit is applied only to defined agent and estate (both listed in the decision). Foreigner is obliged to submit permit when notary act confirming acquisition is drafted. Form of notary act is required to confirm that transaction is legally binding. Interior minister can list certain conditions which have to be met if foreigner wants to buy estate. However Minister does not set conditions that may influence shape of the agreements between parties of transaction.

Foreigner being natural person applying for real estate buying permit has to prove his relationships with Republic of Poland.

According to art. 1a p 2p. of Bill such relationships are especially:

- Being of Polish nationality or polish origin,
- Marriage with RP citizen,
- Possession of fixed term residence permit except permit issued on the basis of art. 53a ust. 2 ustawy z dnia 13 czerwca 2003 r. o cudzoziemcach (Dz.U. z 2006 r. Nr 234, poz. 1694 z późn. zm.), living permit or long run residence for EU residents,
- Membership of managing board of enterprises mentioned in w article. 1 p. 2 p 4 of Bill,
- Being natural person enterprise or farmer according to polish law.

For the need of statutory activities permit can be also issued in case of:

- Legal persons with headquarters abroad,
- Partnerships of foreign natural persons or legal persons without legal personality, established on the basis of other countries' law,
- Legal persons and partnerships without legal personality, with headquarters in Poland, controlled directly or indirectly by foreign natural or legal persons.

Mentioned bill defines purchase as acquiring property right or perpetual use right on the basis of every legal action. Bill's regulations are not applied to limited security rights such as mortgage and lease.

² Administrative act.

According to bill foreigner can buy only limited size estate. According to art. 1a p 5 of Bill, area of estate purchased by foreigner in order to supply his living needs could not be higher than 0,5 hectare, while in case of acquiring estate for economic activity its area should not be bigger than that required by business character.

Bill in its actual meaning sets clear, precise and stable criteria for issuing permits. Legal status after amendment reduced possible administrative obstacles to issuing them (however there are still some possibilities to reject request). According to art. 1a p. 1 pp 1 us, of Bill permit is issued if the purchase of real estate by foreigner will not reduce defense capabilities or internal security, if there are no threats to social policy and health and foreigner will prove relationships with Republic of Poland.

Legislator listed in the article 8 p. 1 exclusions from permit duty, but they could not be applied if the purchased estate is located in the border zone or foreigner is to buy agricultural estate which area exceeds 1 hectare (art. 8 p. 3).

Permit is not required in case of:

- Buying dwelling which meet criteria listed in the Bill about premises property (ustawa z dnia 24 czerwca 1994 r. o własności lokali),
- Acquiring independent building designed for garage or buying shares in such building, if it is linked fulfilling dwell needs of buyer or owner of independent dwelling,
- Acquiring of real estate by foreigner which resides in the Republic of Poland for over 5 years from receiving residence permit or receiving EU residence permit,
- Acquiring of real estate by foreigner being married to Polish citizen which resides in Poland over two years from receiving residence permit or receiving EU residence permit which as a result of transaction will be pursuant to a statutory joint ownership,
- Acquiring of foreigner real estate if he is pursuant to statutory inheritance right after seller of estate and seller is owner or perpetual user for over 5 years ,
- Acquiring of not developed real estate by agent listed in the article. 1 p. 2 p 4 of Bill (legal person or partnership with headquarters in Poland being “foreigner”) for statutory purposes if their total area on the Polish territory do not exceed 0,4 hectares on urban areas,
- Purchasing of estate by foreigner being jointly Bank and mortgage creditor, in the seizing procedure if auction was unsuccessful,
- Purchasing or getting by bank being legal person mentioned in the article. 1 p. 2 pp. shares in partnership listed in the article 3e, which took place in the procedure of bank dues executions.

Due to statements of accession treaty and requirement of application of core EU regulations, amended bill about purchasing estate by foreigners repeals requirement of permit for citizens and enterprises from EU, except established transitional periods for chosen types of real estate. Moreover on the basis on agreement between European Union and its member states and Swiss Confederation from 5. September 2008 about free movement of persons regulations of Bill are also applied to Swiss citizens and enterprises.

Article 8 p. 2 states that permit is not required in case of foreigners being citizens of European Union and Swiss Confederation, enterprises from EU and Swiss Confederation. There are two exceptions which refer to:

- Agricultural and forest estates for 12 years from EU enlargement by Poland,
- Second house, for 5 years from EU enlargement by Poland.

Estate and shares registers in the period 2000 - 2008

On the basis art. 8 p. 4 of Bill Interior Minister keeps registry of estate and capital shares purchased or acquired by foreigners both without permit and on the basis of required

permits. Detailed way of organization of such registers are stated in Rozporządzenia Rady Ministrów z dnia 23 listopada 2004 r. w sprawie trybu postępowania i szczegółowych zasad prowadzenia rejestrów nieruchomości, udziałów i akcji nabytych lub objętych przez cudzoziemców (Dz.U. Nr 255, poz. 2556).

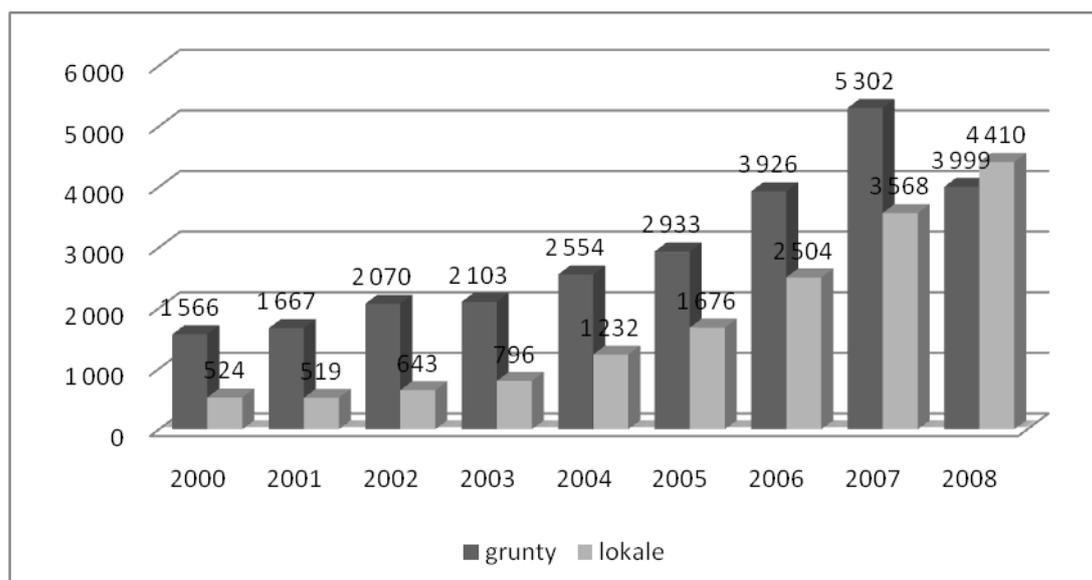
The main aim of keeping such registry is to control of estate turnover conducted by foreigners.

Data from registers allows to estimate number of estate purchased by foreigners in Poland (both in case if permit was required and not required). Detailed number of estate acquired by foreigners is presented in the table 1.

Table 1. Number and area of estate acquired by foreigners in the period 2001 - 2008

	Number of estate		Estates' area	
	parcels	premises	parcels (in hectares)	premises (in m ²)
2000	1 566	524	2 257,32	47 488,80
2001	1 667	519	2 050,82	142 553,32
2002	2 070	643	2 554,06	119 032,99
2003	2 103	796	3 176,31	97 897,82
2004	2 554	1 232	2 683,25	235 474,83
2005	2 933	1 676	3 458,91	172 118,80
2006	3 926	2 504	5 071,46	663 594,80
2007	5 302	3 568	6 954,43	533 548,07
2008	3 999	4 410	3 511,27	381 297,70

Source: Own research on the basis of Interior Ministry reports about purchasing estate by foreigners, www.mswia.gov.pl



Graph 1. Number of estate acquired by foreigners in the period 2001 - 2008

Source: Own research on the basis of Interior Ministry reports about purchasing estate by foreigners, www.mswia.gov.pl

The presented data shows that in the analyzed period number of estate being subject to registration was steadily growing (1556 in 2000 in comparison with 3999 as of 2008). The interests of foreigners in Polish estate are described by the number of transactions. Area of acquired estate was growing with some fluctuations. On the basis of analyzed period foreigners acquired total 2050,82 hectares of estate, this number tripled over three years in 2003. equaled to 6954,43 hectares.

Another observed phenomenon was steady growth of acquired premises, especially in the last years (524 entries into registry in 2000 in comparison to 4410 transactions in 2008). Considering Joining EU they should be treated as natural phenomenon, but also in this case some fluctuations can be observed. Area of dwelling per one transaction is presented below:

- 90,62 m² (2000),
- 274,7 m² (2001),
- 185 m² (2002),
- 123 m² (2003),
- 191 m² (2004),
- 102,7 m² (2005),
- 265 m² (2006),
- 149,5 m² (2007),
- 86,46 m² (2008).

Table 2. Number and area of estate acquired by foreigners on the basis of permits in the period 2001 - 2008

	Number of estate		Estate area	
	Parcels	Premises	Parcels(in hectares)	Premises (in m ²)
2000	1 252	90	2 163,11	17 137,28
2001	1 272	103	1 932,40	116 085,50
2002	1 701	149	2 455,78	76 784,13
2003	1 709	181	3 081,62	62 883,48
2004	1 117	157	1 271,55	133 812,76
2005	476	36	667,79	5 324,94
2006	545	42	526,99	2 709,19
2007	565	35	208,96	66,23
2008	479	39	282,22	43,61

Source: Own research on the basis of Interior Ministry reports about purchasing estate by foreigners, www.mswia.gov.pl

In the period 2000-2003 75 % of parcels were purchased on the basis of required permits. Joining the EU in 2004 significantly changed this situation in the first year after tailoring the Bill to EU regulations; over 50% of transactions involving foreigners did not

required permit. By 2004 parcels can become property of foreigner only in case of circumstances listed in the Bill (i.e.: if at the day of acquiring foreigner was pursuant to statutory inheritance right after seller of estate and seller was owner or perpetual user for over 5 years, or if he was acquiring such estate for statutory purposes if its total area on the Polish territory did not exceed 0,4 hectares in the urban areas and 1 hectare in the rural area). Due to this regulation only 5 % of parcels' area was acquired by foreigners in the period 2000-2003 without permits. Practically unlimited possibility of acquiring parcels (except agricultural land and so called "second houses") resulted in rapid number of parcels acquired without permit, in the year 2004 area such estate equaled to 50% of total area purchased by foreigners while in 2005 it accounted for 85%.

Permit duty was applied to commercial premises in general and premises located in the border zone. Contrary to parcels which were, prior to joining EU, acquired by foreigners mostly on the basis of required permits, percentage of premises acquired on the basis of permits accounted for around 20% of all transactions (2000- 2003). In 2004 it was only 13%, while in 2005 - 2% (36 of 1676 premises). Transactions on premises market (only for Agents outside EU) which require permits are: acquiring commercial premises on the whole Polish Territory and dwellings located in border zone (especially in the places which are attractive for tourists).

Table 3. Area of acquired parcels in 2000 - 2008 According to citizenship (natural persons) /in hectares/

	2000	2001	2002	2003	2004
1	Germany - 100,1	Germany - 83,88	Germany - 63,25	Germany - 71,13	Germany - 87,46
2	United Kingdom - 81,00	Ukraine - 14,67	Russia - 13,07	Switzerland - 32,99	Austria - 29,80
3	Armenia - 9,77	Netherlands - 13,15	Austria - 11,63	Sweden - 31,00	Netherlands - 23,20
4	Czechy - 8,29	Sweden - 12,54	USA - 10,08	USA - 23,64	Italy - 19,57
5	Ukraine - 7,01	Russia - 12,53	Vietnam - 9,87	Russia - 8,21	Wielka Brytania - 13,98
	2005	2006	2007	2008	2009
1	Germany - 268,37	Germany - 169,77	Germany - 120,95	Germany - 94,41	-
2	Italy - 56,29	Ireland - 75,26	Netherlands - 34,80	Austria - 20,65	-
3	Netherlands - 35,07	Sweden - 66,17	Sweden - 29,13	Netherlands - 19,25	-
4	Sweden - 21,30	Netherlands - 48,56	Austria - 20,69	Ukraine - 16,89	-
5	United Kingdom - 19,19	Austria - 30,54	United Kingdom - 20,13	Russia - 10,23	

Source: Own research on the basis of Interior Ministry reports about purchasing estate by foreigners, www.mswia.gov.pl

Table 4. 2000 – 2008 Area of acquired parcels in 2000 - 2008 according to capital nationality (legal persons) /in hectares /

	2000	2001	2002	2003	2004
1	Germany - 494,31	Germany - 495,74	Netherlands - 802,65	Germany - 760,13	Netherlands - 720,89
2	Netherlands - 457,23	Netherlands - 452,71	Germany - 506,87	Netherlands - 732,44	Germany - 530,33
3	Italy - 319,22	Finland - 161,01	Finland - 252,13	Spain - 244,35	Italy - 153,20
4	Finland - 161,88	France - 141,89	France - 166,54	Denmark - 188,43	Luksem- burg - 139,66
5	USA - 100,47	Denmark - 114,77	Luxembourg - 108,07	Luxembourg - 148,42	Sweden - 106,74
	2005	2006	2007	2008	2009
1	Germany - 758,49	Netherlands - 1002,36	Ireland - 1 627,33	Netherlands - 863,09	-
2	Netherlands - 477,69	Germany - 712,92	Netherlands - 1138,21	Germany - 482,62	-
3	France - 325,88	Austria - 290,21	Germany - 921,17	Luxembourg - 388,33	-
4	Austria - 265,65	United Kingdom - 266,59	Luxembourg - 489,47	Cyprus - 187,68	-
5	Luxembourg - 192,72	Belgium - 259,03	France - 320,45	Greek - 162,39	-

Source: Own research on the basis of Interior Ministry reports about purchasing estate by foreigners, www.mswia.gov.pl

Agents which bought parcels were most commonly foreign legal persons - w 2000 53 out of 100 entries into registry was from them, while 2002 67%. Legal persons due to their bigger financial capabilities usually bought higher areas: every 76 of 100 hectares become property of foreign legal persons in 2000, while in the latter period around 90% of total area. Majority of Foreigners acquiring estate in Poland came from Western Europe and Scandinavia – in the years 2000-2008 leaders were companies from Germany and Netherlands while the rest were agents from France, Finland, Sweden and Denmark. Large area came also under American property (United States). Among natural persons most common were citizen from neighboring countries: Germans, Ukrainians and Russians, but also citizens of USA, Sweden and UK.

The direction of foreign capital inflow has been unchanged for many years. It was flowing into regions: Mazovia, Silesia, Lower Silesia, Łódzkie and Wielkopolska. East and south-east was subject to much lower interest from foreign capital.

Table 5. Area of acquired parcels in 2000 - 2008 according to voivodships /in hectares/

	2000	2001	2002	2003	2004
1	Mazowieckie - 828,98	Śląskie -277,54	Mazowieckie - 548,24	Mazowieckie - 634,08	Dolnośląskie - 389,20
2	Śląskie - 214,11	Mazowieckie - 257,67	Łódzkie - 439,88	Zachodnio-pomorskie - 333,84	Mazowieckie - 353,42
3	Opolskie - 145,49	Lubuskie -240,69	Śląskie - 243,17	Wielkopolskie - 287,73	Wielkopolskie - 343,10
4	Łódzkie - 127,58	Wielkopolskie - 215,62	Dolnośląskie - 235,18	Świętokrzyskie - 277,90	Śląskie -297,88
5	Dolnośląskie - 118,36	Warmińsko-Mazurskie - 169,78	Warmińsko-Mazurskie - 187,86	Dolnośląskie - 272,27	Łódzkie -273,63
	2005	2006	2007	2008	2009
1	Dolnośląskie - 686,93	Mazowieckie - 920,98	Śląskie - 1929	Mazowieckie - 691,95	-
2	Mazowieckie - 441,55	Łódzkie - 590,67	Mazowieckie - 1006,68	Śląskie -389,08	-
3	Wielkopolskie - 333,67	Dolnośląskie - 577,49	Dolnośląskie - 757,50	Dolnośląskie - 381,12	-
4	Śląskie - 304,19	Śląskie - 530,27	Wielkopolskie - 538,70	Wielkopolskie - 314,23	-
5	Warmińsko-Mazurskie - 236,53	Wielkopolskie - 469,29	Łódzkie - 533,39	Łódzkie - 245,80	-

Source: Own research on the basis of Interior Ministry reports about purchasing estate by foreigners, www.mswia.gov.pl

Companies with foreign capital in the process of purchasing parcels for investment used to choose reliable locations, very often in the special economic zones. Most attractive for foreigners regions and area of acquired premises are presented in Table 6.

Foreigner most commonly bought premises located in Mazowieckie and Pomorskie regions, but also in a Łódź region and Silesia. Much lower number of transactions refers to estate located in the eastern Poland. Dwellings and commercial premises most commonly acquired were located in regions, capitals: Warszawa, Gdańsk, Szczecin, Kraków, Poznań, Wrocław, Katowice, Łódź.

Table 6. Area of acquired premises in 2000 - 2008 according to region /m²/

	2000	2001	2002	2003	2004
1	Mazowieckie – 15 733,80	Pomorskie – 42 731,38	Łódzkie - 31 641,82	Mazowieckie – 37 965,76	Mazowieckie – 68 834,06
2	Pomorskie – 9 040,86	Śląskie – 34 947,02	Pomorskie - 31 313,19	Pomorskie – 17 078,01	Dolnośląskie – 46 148,89
3	Małopolskie – 4 215,15	Kujawsko- Pomorskie – 34 677,56	Mazowieckie- 27 327,37	Małopolskie – 9 219,15	Zachodnio pomorskie – 39 241,31
4	Zachodnio- pomorskie – 3 923,46	Mazowieckie – 11 056,74	Małopolskie – 7 876,20	Śląskie – 8 053,39	Kujawsko- Pomorskie – 27 083,04
5	Dolnośląskie – 2 415,35	Małopolskie – 6 890,33	Śląskie – 4 999,17	Zachodnio- pomorskie – 5 301,19	Małopolskie – 14 713,67
	2005	2006	2007	2008	2009
1	Mazowieckie – 48 349,49	Mazowieckie - 332 280,21	Mazowieckie - 161 032,01	Mazowieckie - 192 454,76	-
2	Małopolskie – 46 564,54	Łódzkie – 48 632,14	Pomorskie – 106 708,20	Śląskie – 45 278,70	-
3	Pomorskie - 26054,41	Śląskie – 46 007,62	Śląskie – 54 262,24	Małopolskie – 30 464,00	-
4	Łódzkie – 12 783,49	Zachodnio- pomorskie – 44 048,18	Małopolskie – 51 401,51	Wielkopolskie - 28 950,13	-
5	Śląskie – 10 369,28	Małopolskie – 42 628,40	Łódzkie – 45 058,41	Dolnośląskie - 19080,20	-

Source: Own research on the basis of Interior Ministry reports about purchasing estate by foreigners, www.mswia.gov.pl

Date about so called “second houses” is registered in the Interior Ministry register from 2005 r. Number of such estates was slightly growing over analyzed period (2005 – 129, 2006 – 224, 2007 – 267), only in the last year decrease can be observed.

Table 7. Number of estates being second houses acquired by foreigners in the period 2000 – 2008 according to nationality of capital /in ha/

	2005	2006	2007	2008
1	Germany 9,429	Germany 11,30	Netherlands 17,40	Germany 7,88
2	Austria 1,827	Belgium 6,59	Germany 10,81	Netherlands 3,96
3	Netherlands 1,126	Italy 6,28	United Kingdom 5,99	United Kingdom 2,63

Source: Own research on the basis of Interior Ministry reports about purchasing estate by foreigners, www.mswia.gov.pl

In 2008 foreigners acquired 196 estates with total area 23,96 ha, including 82 second houses without permit (because buyer was permanent resident of Poland for at least 4 years or purchase was conducted in order to run tourist business), another 114 second houses were acquired on the basis of permit issued by Interior Ministry.

“Second houses” were most often bought by citizens of Germany, Netherlands and United Kingdom. The most desirable locations were regions: (mazowieckie, śląskie, dolnośląskie, wielkopolskie i zachodniopomorskie).

One has to notify that in the half of 2009 5 year transitional period for buying so called second houses by EU citizens. Due to this fact permits for buying such estate are not required. This should result in increase of estates bought for recreation and living purposes but not intended for permanent residence (currently area of so called “second houses” accounts for only 0,5 % of purchased premises).

Summary

Analyzing data presented in the paper one can state that over last years biggest number of agents interested in acquiring estate in Poland refers to members of EU. Area of estate purchased by EU agents accounts for about 90 % of total area purchased by foreigners in Poland. Most popular are premises for commercial purposes and for permanent residence of EU citizens working and living in Poland. Moreover EU citizens and entrepreneurs (similarly to earlier periods) received biggest number of permits (around 72 %) stemming from transitory periods. On their basis they bought estate. Above presented data explains why foreigners are interested in requesting for permits for acquiring agricultural and forest estate (over half of issued permits refer to this type of land). One has to notify that apart “second houses” such estate are subject to permits applied also to EU Citizens and Entrepreneurs.

In the last year of analysis 2008 – there were no significant changes in interest about real estate purchases in Poland. After sharp growth observed in 2006 in which strong demand for estate was observed also in case of Polish citizens in 2008 trends in foreign purchases of estate remain stable. Poland becomes more reliable member of EU and more attractive and stable place for investment. Many Polish immigrants with double citizenship and their families are interested in purchasing estate in Poland for recreation purposes or as a place for living after retirement. They meet legal requirements for issuing permit, being of Polish Origin.

References

1. Ustawa o nabywaniu nieruchomości przez cudzoziemców z 24 marca 1920 r.
2. Sprawozdanie MSWiA z realizacji ustawy z dnia 24 marca 1920r. o nabywaniu nieruchomości przez cudzoziemców.

