

Purchasing real estate in Croatia

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BMWC in cooperation with Skerlev
ZAGREB, CROATIA

What rights can be acquired on the Real Estate in Croatia?

Croatian Ownership and Other Proprietary Rights Act provides for several different proprietary rights. The main one, and whose owner may create limited property rights is the so called "full property rights". Owner of the "full property rights" can use the property in every possible manner (Latin *uti, frui, abuti*).

Such right is not limited by time and can be inherited by successor. Owner also may independently, without consent or approval of any third party, use, lease, mortgage, sell or dispose in any possible way with Real Estate.

Other limited property rights consist of (i) right to build and (ii) various rights of servitudes. Owner of limited property rights cannot independently conduct legal acts with respect to Real Estate without the approval of the holder of "full property rights".

In this review we shall cover only the option to acquire so called "full property rights".

Who can buy a Real Estate in Croatia?

If you are a foreigner who wants to buy a Real Estate in Croatia the process itself slightly differs if you are an EU citizen or the citizen of country outside of the EU.

- EU citizens can acquire real estates in a same manner as a Croatian citizen.
- Non-EU citizens, under the Principle of Reciprocity, may acquire Real Estate only after the Ministry of Justice of the Republic of Croatia grants its approval. The Republic of Croatia has the Reciprocity Agreement with other countries that regulate property purchase for its citizens.

Please note, that foreigners (EU and other countries) until June 2020 cannot acquire agricultural and forest land. Properties considered protected cultural monuments can be acquired only if the local authorities waive their pre-emptive rights to acquire such property. Such pre-emptive rights granted to the local authorities are applicable for every real estate sale agreement no matter who is the buyer.

You can also buy a Real Estate using SPV established for such purpose. The company in Croatia can be founded by citizens from all around the world.

Real Estate Purchase Process – step by step

1. Identifying the Real Estate

Once you identify the Real Estate you want to acquire, you should conduct a legal due diligence in order to find out the real owner of the Real Estate and other important issues with respect to the Real Estate (such as: status of dispute(s) concerning Real Estate, mortgage and other encumbrances status, does the Real Estate has co-owners, does any other third party lays rights on the Real Estate, etc).

2. Conducting a technical due diligence

If you want to buy an old dwelling, condo or house, it is advisable to conduct a technical due diligence in order to check the physical condition of the Real Estate, which could be important during the negotiation phase and which could determine the value of the Real Estate.

Also, physical condition of the Real Estate should be taken into consideration while drafting the sale agreement, in particular with respect to detailed determination of the seller's warranty.

3. Obtaining a Personal Identification Number (PIN) in Croatia

Croatian citizens and foreigners who have any financial dealings in Croatia must have a PIN. PIN is also used for opening a bank account, registry of the ownership in the Land Register and to pay taxes with respect to acquisition of a Real Estate. PIN is usually acquired within a few day from the date of submission of the PIN application.

4. Opening a bank account

You will need a bank account since Croatian Anti Money Laundering and Terrorist Financing Act does not allow paying in cash amount that exceeds 10.000 EUR. Also, since Croatia is not part of the European monetary union, only payments made in national value (Croatian kuna, abb. HRK) shall be deemed valid.

For opening a bank account in Croatia, you have to show up in person and you will need your passport or ID card and your PIN number. While opening a bank account you will probably have to sign AML documents, GDPR consent and other documents relating to bank business.

5. Signing of the pre-agreement on the sale of the Real Estate

You should sign the pre-agreement on the sale of the Real Estate before the Notary Public so you can make a Conditional Registration with Land Register. Such entry in the Land Register shall have the public function, and everyone should know that pre-agreement is concluded. Also, when conditions are fulfilled (e.g. paying the full price), your right of full ownership shall be calculated from the date of Conditional Registration.

Signing of the pre-agreement on the sale of the Real Estate can be made by you in person or by a proxy. Usually buyer should have to pay a down payment on the same day or immediately after the conclusion of the pre-agreement, which is usually set out at 10% of the Real Estate value, however the buyer and the seller may agree differently.

6. Obtaining an approval from Ministry of Justice*

This step only applies if you are a non-EU foreigner. Approval of Ministry of Justice of the Republic of Croatia is a mandatory step and no sale can be finalized without this approval. Since Ministry of Justice needs to check the foreign laws to ensure that the reciprocity agreement exists, such process usually takes a few months.

The application should have attached the following: (i) legal basis for acquisition of ownership (sales/purchase pre-contract) original or certified copy; (ii) proof of ownership of the seller/estate agent of the Real Estate concerned, (land register extract, an original or a certified copy, not older than six months); (iii) the statement of the administrative body responsible for urban planning and spatial planning of the community in which the Real Estate is located regarding the legal status of the Real Estate (whether the real estate is within the boundaries of the construction area as envisaged in the urban plan); (iv) proof of citizenship of the acquirer (certified copy of the passport and the like) and optional (v) in cases when the applicant is represented by a legal representative, it is necessary to submit a power of attorney in the original or a certified copy.

Please note that, if the applicant did not designate a representative who will represent it and is abroad, it is obliged to designate an individual with residence in Croatia who will be authorized to receive mail on its behalf.

7. Signing of the agreement on the sale of the Real Estate

You can sign it in person or by a proxy. It is signed before the Notary Public who then certifies such agreement. Public Notary is obliged to send one copy of the agreement to Tax authorities who shall determine the tax amount which buyer shall pay.

Please note, that only agreement on the sale which is certified by Notary Public shall be deemed and valid with respect to change of ownership with Land Register. Also, a statement from the seller (owner) of the Real Estate explicitly granting the rights to the buyer that it can be registered as the new owner shall be submitted (so called tabular statement). Such statement can be part of the agreement and can be made separately, but if it is made separately it should be certified by Notary Public.

The seller usually grants a tabular statement when it receives a full payment, but the parties can agree that third party (such as Notary Public, Attorney at Law, etc.) holds the valid tabular statement and that it physically gives it to the buyer once it submit proof that it has made a full payment.

8. Submitting of the agreement and tabular statement to the Land Register

The last step in acquiring the Real Estate. Once you submit valid agreement on the sale and tabular statement, it usually takes a few working days to receive Land Register decision and excerpt which prove your ownership of the Real Estate.

When you get the Land Register decision you can contact the supply services (such as electricity and water) and transfer it to your own name.

Applying for a mortgage

If you need to establish a mortgage on the Real Estate in order to provide funding for the transaction, the steps mentioned above are applicable.

Usually, the mortgage agreement or the prevailing part of it is conducted after the signing the pre-agreement on the sale of the Real Estate (step 5 above).

Please note that bank in Croatia will not transfer funds to the seller until their mortgage is entered into Land Register. Only when the mortgage is registered, the bank shall transfer the funds to the seller. Therefore, the mortgage agreement shall be concluded between the bank and the seller (owner) of the Real Estate.

The process and duration of mortgage agreement differs from case by case and depends on the value of the mortgage, value of the Real Estate, client's repayment capacity, etc.

Tax

Tax authorities shall determine the tax amount which represents the 3% of the value of the Real Estate. Please note, that said 3% is calculated from predictable value (not paid) of the Real Estate, and which value is determined by Tax authorities.

In addition, if you are buying a new built dwelling directly from the investor and it is the first time that such Real Estate is object of the transaction, tax payment of said 3% is not required. In that case 25% VAT is levied and it is usually calculated in purchase price.

If you have any additional questions with respect to process of buying a Real Estate in Croatia, please feel free to contact us:

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