



# Foreigners' Right to Real Property Ownership

China • Iran • North Korea • Russian Federation

February 2023

LL File No. 2023-022085  
LRA-D-PUB-002600

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# Comparative Summary

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This report, prepared by staff of the Law Library's Global Legal Research Directorate, analyzes the laws of **China, Iran, North Korea, and Russia** regulating the right of foreign companies and individuals to acquire land and other real estate, with particular focus whether United States persons are specifically prohibited.

None of the four jurisdictions has laws specifically concerning US natural and legal persons, and restrictions related to foreign real estate ownership apply generally to all foreigners regardless of their citizenship. However, under **Iran's** laws, government authorization of foreigners' real estate transactions depends on political relations with the country of a foreigner's nationality and the existence of reciprocal provisions in the laws of that country. Also, in some circumstances, ownership is allowed only by foreigners who are Muslims. **Russia** has responded to the sanctions imposed in response to its aggression in Ukraine by imposing additional restrictions on real estate operations by foreigners from so-called "unfriendly nations," which includes the United States.

All four countries prohibit foreign ownership of agricultural land. Even if foreigners inherit agricultural land in **Iran**, they have to dispose of it at an auction. The land ownership ban in **Iran** extends to spring waters and irrigation canals. In **China**, farmland cannot be purchased or sold because it is owned by rural collective organizations working this land. At the same time, **China** allows land management rights to be transferred to enterprises that have foreign investment. While private land ownership is allowed in **Russia**, a foreign company or individual is limited to leasehold rights on farmland for a maximum period of 49 years. Although **Russia** does not allow the private possession of forests by anyone, foreigners are not listed as those who might be involved in legal relations regarding forests. Private property is outlawed in **North Korea**. Foreign individual and corporate investors can lease land for a period of up to 50 years and transfer their lease rights.

Ownership of other form of real estate is subject to varied restrictions in all the countries surveyed. **Iran** prohibits investment in real estate by nonresident companies and makes the right of foreigners to own real property dependent on residential and business needs. In **China**, urban state-owned land may be granted to foreigners for specific purposes and time periods. Security considerations are taken into account by the authorities in **Iran** and **Russia** when permitting real estate transactions to foreigners. Because real estate in **North Korea** belongs to the state, residential space cannot be traded or otherwise used to produce income by either national or foreign persons. Some use of private resources in residential building construction by **North Korea's** government has been reported, however.

General foreign investments in real estate are given domestic treatment in **China** and **Russia**, and it appears that all three jurisdictions allow foreigners to purchase residential real estate for personal and business purposes, although in **Russia**, since February 2022, the aforementioned

special conditions and requirements may be imposed on all real estate transactions conducted by foreigners from "unfriendly nations."

# China

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**SUMMARY** Individuals cannot privately own land in China, where land in urban areas is owned by the state and land in rural areas is owned by rural collectives or the state. In urban areas, the state grants land use rights to land users for a certain number of years for a fee. In rural areas, the contractual management right of agricultural land is in principle only granted to households of the collective, and therefore, no other individuals, domestic or foreign, can acquire the right. Holders of the contractual management right, while still retaining the right, may be able to transfer the land management right to others by means permitted by law.

Individuals can privately own real estate, such as residential houses and apartments, although not the land on which the buildings and structures are situated. Foreign individuals who work or study in China, and as well branches and representative offices established by foreign entities in China, may purchase residential houses or offices in China for their own use.

Foreign individuals may also incorporate foreign-invested enterprises in accordance with the Foreign Investment Law to invest in real estate in China. Anyone engaging in real estate development or other related activities in China, domestic or foreign, must obtain a qualification certification for real estate development enterprises from the government.

## I. Overview of Legislation

The People's Republic of China (PRC or China) enacted a comprehensive Property Rights Law in 2007, which governed rights to both movable and immovable properties.<sup>1</sup> That law was repealed on January 1, 2021, when the PRC's first Civil Code took effect. The Civil Code is a codification of the country's private laws that regulates personal relations and property relations between natural persons, legal persons, and unincorporated organizations that are civil subjects of equal status.<sup>2</sup> The provisions on property rights are now codified under Part II of the Civil Code.<sup>3</sup>

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\* Law Library of Congress foreign law intern Alan Wang contributed to this report.

<sup>1</sup> Property Rights Law (adopted by the National People's Congress (NPC), Mar. 16, 2007, effective Oct. 1, 2007), <https://perma.cc/69TU-4PLG> (in Chinese).

<sup>2</sup> Civil Code (adopted by the NPC on May 28, 2020, effective Jan. 1, 2021) art. 2, <https://perma.cc/5XQ3-NVWF> (in Chinese), <https://perma.cc/JC6H-NZUW> (English translation).

<sup>3</sup> Id. Part II, "Real Rights."

In addition to the Civil Code, the right to land ownership and land use rights are governed by the Land Management Law, which was first enacted in 1986 and most recently amended in 2019.<sup>4</sup> Assignments and transfers of land use rights in urban areas are regulated by the Interim Regulations on the Assignment and Transfer of the Rights to the Use of State-Owned Urban Land, which was promulgated by the State Council in 1990 and most recently revised in 2020 (Urban Land Assignment Regulations).<sup>5</sup>

Real estate in urban areas is governed by the Urban Real Estate Law, which was first enacted in 1994 and most recently amended in 2019. The law addresses the transfer of land use rights, real estate development, the sale of real estate, and real estate registration, among other things, in urban areas.<sup>6</sup> The right to use rural land is governed by the Law on Land Contracting in Rural Areas, which was enacted in 2002 and most recently amended in 2018.<sup>7</sup>

Foreign investment in China's real estate market is subject to foreign investment laws and regulations. Currently, the Foreign Investment Law, which entered into effect in 2020, governs the investment activities conducted, directly or indirectly, by foreign natural persons, enterprises, or other organizations.<sup>8</sup>

## II. Right to Land Ownership

Individuals cannot privately own land in the PRC. According to the PRC Constitution, land in urban areas is owned by the state, whereas land in rural and suburban areas is owned by rural collectives, except where ownership belongs to the state according to law.<sup>9</sup> The Land Management Law states that the land of the PRC is subject to the socialist public ownership, "namely, ownership by the whole people or collective ownership of the working masses."<sup>10</sup>

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<sup>4</sup> Land Management Law (adopted by the NPC Standing Committee (NPCSC) on June 25, 1986, as amended Aug. 26, 2019), <https://perma.cc/CDC5-HNPF> (in Chinese).

<sup>5</sup> Urban Land Assignment Regulations (promulgated by the State Council on May 19, 1990, as revised Nov. 29, 2020), <https://perma.cc/7MGZ-B64H> (in Chinese).

<sup>6</sup> Law on the Administration of Urban Real Estate (adopted by the NPCSC on July 5, 1994, as amended Aug. 26, 2019) (Urban Real Estate Law) <https://perma.cc/W47T-LMWY> (in Chinese).

<sup>7</sup> Law on Land Contracting in Rural Areas (adopted by the NPCSC on Aug. 29, 2002, as amended Dec. 29, 2018), <https://perma.cc/4CVN-MP8R> (in Chinese).

<sup>8</sup> Foreign Investment Law (adopted by the NPC on Mar. 15, 2019, effective Jan. 1, 2020) art. 2, <https://perma.cc/9KQH-JVH4> (in Chinese), <https://perma.cc/E6JM-W2K9> (English translation).

<sup>9</sup> PRC Constitution (adopted by the NPC on Dec. 4, 1982, as amended Mar. 11, 2018) art. 10, <https://perma.cc/QF3J-FVU8> (in Chinese), <https://perma.cc/VEW7-PMVK> (English translation).

<sup>10</sup> Land Management Law art. 2.

## A. Land Use Right

In urban areas, the state may grant (*churang* in Chinese, also translated as “assign”) land use rights to land users for a certain number of years, where land users pay the state granting fees.<sup>11</sup> Land use rights may also be allocated (*huabo* in Chinese), which is limited to such purposes as government or military use, urban infrastructure, or public utilities. For allocated land-use rights, land users pay no fee or only compensation or resettlement expenses.<sup>12</sup> Urban state-owned land may be granted for the following purposes and maximum periods:

- residential purposes, 70 years,
- industrial purposes, 50 years,
- education, science, culture, public health, and physical education purposes, 50 years, and
- commercial, tourist, and recreational purposes, 40 years.<sup>13</sup>

Foreign individuals and enterprises may obtain urban land use rights and engage in land development, unless otherwise provided by law, according to the Urban Land Assignment Regulations.<sup>14</sup> We were unable to locate any law that prohibits citizens of a specific foreign country from obtaining land use rights in China.

## B. Farmland

As mentioned above, land in rural and suburban areas is in principle owned by rural collectives. The Civil Code states that the land owned by rural collectives is communally owned by the members of the collective.<sup>15</sup>

China has implemented a “contractual management system” regarding agricultural land in rural areas.<sup>16</sup> Under the system, the members of a rural collective have the right to use agricultural land by entering into a contract with the rural collective economic organization or village committee.<sup>17</sup> After the land is contracted, ownership of the land remains unchanged, and the contracted land may not be purchased or sold.<sup>18</sup> Agricultural land includes cultivated land, forestland, grassland, and other land in rural areas that is used for agricultural production according to law.<sup>19</sup>

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<sup>11</sup> Urban Real Estate Law art. 8.

<sup>12</sup> Id. art. 23.

<sup>13</sup> Urban Land Assignment Regulations art. 12.

<sup>14</sup> Id. art. 3.

<sup>15</sup> Civil Code arts. 260, 261.

<sup>16</sup> Id. art. 330.

<sup>17</sup> Law on Land Contracting in Rural Areas arts. 3, 13.

<sup>18</sup> Id. art. 4.

<sup>19</sup> Id. art. 2.



Because the “contractual management right” over agricultural land is, in principle, only granted to households of the collective,<sup>20</sup> no other individuals, domestic or foreign, can acquire the contractual management right. China is building a system of “circulating land management right” regarding agricultural land. The system would allow the holder of the contractual management right, while still retaining the right, to transfer (“circulate”) the “land management right” to others by means permitted by law, such as a lease (subcontract).<sup>21</sup>

In January 2021, the Ministry of Agriculture and Rural Affairs (MARA) issued the Administrative Measures for the Circulation of Rural Land Management Right. The measures require the transferees of land management rights to be “organizations and individuals with agricultural management capabilities or qualifications,” and “under the same conditions, members of the collective economic organization enjoy priority.”<sup>22</sup> MARA’s measures do not specifically exclude foreign-invested enterprises or overseas investors as transferees, who would be subject to conditions provided by other laws and regulations.<sup>23</sup>

### III. Right to Own Real Estate

#### A. Self-Use Real Estate

Individuals can privately own real estate, such as residential houses and apartments, although not the land on which the buildings and structures are situated. The Civil Code states that individuals are entitled to enjoy ownership of immovable and movable properties such as their lawful incomes, houses, articles for daily use, tools of production, and raw materials.<sup>24</sup>

Foreign individuals who work or study in China, and as well the branches and representative offices established by foreign entities in China, may purchase residential houses or offices in China for their own use, according to a circular jointly issued by several central government authorities in 2015.<sup>25</sup> In those cities that implement policies restricting house purchases, such policies also apply to foreign individuals.<sup>26</sup> We did not find any local policies that would prohibit citizens of a specific foreign country from purchasing self-use real estate in China.

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<sup>20</sup> Id. art. 16.

<sup>21</sup> Id. art. 36.

<sup>22</sup> MARA, Administrative Measures for the Circulation of Rural Land Management Right (Jan. 26, 2021) art. 9, <https://perma.cc/U22G-U3LS> (in Chinese).

<sup>23</sup> Gen. Off. of the State Council, Opinions on Guiding the Healthy Development of the Rural Property Transfer Trading Market (Dec. 30, 2014), <https://perma.cc/B6S6-Z32T> (in Chinese).

<sup>24</sup> Civil Code art. 266.

<sup>25</sup> Ministry of Hous. & Urban-Rural Dev., Ministry of Com. (MOFCOM), Nat’l Dev. & Reform Comm. (NDRC), People’s Bank of China, State Admin. for Indus. & Com., State Admin. of Foreign Exch., Circular on Adjusting Policies on the Market Access and Administration of Foreign Investment in the Real Estate Market (Aug. 19, 2015), <https://perma.cc/C26Y-ARPL> (in Chinese).

<sup>26</sup> Id.

## B. Foreign Investment in Real Estate

To obtain real estate in China other than for personal use, foreign individuals may need to incorporate foreign-invested (foreign-funded) enterprises engaging in real estate businesses in accordance with the Foreign Investment Law. Foreign investment refers to the investment activity directly or indirectly conducted by a foreign natural person, enterprise, or other organization, including the following circumstances:

1. A foreign investor establishes a foreign-funded enterprise within the territory of China, independently or jointly with any other investor,
2. A foreign investor acquires shares, equities, property shares or any other similar rights and interests of an enterprise within the territory of China,
3. A foreign investor makes investment to initiate a new project within the territory of China, independently or jointly with any other investor, and
4. A foreign investor makes investment in any other way stipulated by laws, administrative regulations or provisions of the State Council.<sup>27</sup>

The Foreign Investment Law establishes a “pre-establishment national treatment” plus “negative list management” system for foreign investment in China. “Pre-establishment national treatment” refers to the treatment given to foreign investors and their investments in respect of market access, which cannot be less favorable than that given to their domestic investors and their investments. The “negative list” refers to the special administrative measures for the access of foreign investment in specific fields, which will be issued or approved for issue by the State Council. The law provides that the state will give national treatment to foreign investment that falls out of the negative list.<sup>28</sup> The Foreign Investment Law also proclaims that all state policies supporting the enterprises would apply equally to foreign-invested enterprises in China.<sup>29</sup> Specifically, the implementing rules of the law require the government to treat foreign-funded and domestic-funded enterprises equally in terms of supporting policies, including the land supply policy.<sup>30</sup>

Real estate is not listed on the current negative list for foreign investment,<sup>31</sup> and therefore, foreign investment in real estate should be given national treatment according to the Foreign Investment Law. In practice, there may still be some limitations on foreign investment in real estate, for

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<sup>27</sup> Foreign Investment Law art. 2.

<sup>28</sup> Id. art. 4.

<sup>29</sup> Id. art. 9.

<sup>30</sup> Implementing Regulations of the Foreign Investment Law (promulgated by the State Council on Dec. 26, 2019, effective Jan. 1, 2020) art. 6, <https://perma.cc/XW7Q-FHWB> (in Chinese).

<sup>31</sup> NDRC, MOFCOM, Special Administrative Measures (Negative List) for Access of Foreign Investments (2021 Edition) (effective Jan. 1, 2022), <https://perma.cc/F5Q2-4V3R> (in Chinese).

example in terms of foreign currency settlement.<sup>32</sup> No laws or regulations have been located that specifically prohibit citizens of a specific foreign country from investing in real estate in China.

It is worth noting that real estate development is listed on another negative list for market access, which applies to both domestic and foreign investment. According to that list, anyone engaging in real estate development, pre-sale, or other related activities in China must obtain a qualification certification for real estate development enterprises from the government and a license for the pre-sale of commercial housing.<sup>33</sup>

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<sup>32</sup> *Foreign-Funded Entities Start Bargain Hunting Domestic Real Estate?*, Xi Zheng Zi Ben (Mar. 21, 2022), <https://perma.cc/QQ2S-ZBSG> (in Chinese).

<sup>33</sup> NDRC, MOFCOM, *Negative List for Market Access (2022 Edition)* (Mar. 12, 2022), <https://perma.cc/FB9U-G9B7> (in Chinese).

# Iran

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**SUMMARY** Iranian law does not differentiate the property rights of foreign nationals from different countries, although bilateral agreements with foreign countries and reciprocity can affect such rights. Foreign natural and legal persons can obtain ownership of real estate with certain limitations, which include a special application process and restrictions on the type and use of property. Ownership of agricultural lands, investment properties, and ownership in sensitive areas is prohibited. However, foreign-owned companies registered in Iran as resident legal entities are exempt from most of the restrictions. All real estate sales to foreign nationals are conditional, with an option for the government to auction the property and reimburse the owner with remittances, if the circumstances that led to the authorization of the transaction change. While no special restrictions against US citizens have been identified, the involvement of the Ministries of Foreign Affairs, Interior, and Intelligence and the Council of Ministers in ownership-related decision making makes the exercise of property rights by foreigners dependent on bilateral political relations.

## **I. Legal Framework Under Iranian Constitution and Civil Legislation**

Written laws of Iran do not differentiate between the ownership rights of foreign nationals generally and those of citizens of particular countries such as the United States.

As a general principle, the Iranian Constitution prohibits any agreements that could result in domination and control of economic, cultural, natural, military, and other resources of the country by foreign nationals or governments.<sup>1</sup>

The Civil Code does not directly establish the foreign nationals' ownership rights pertaining to immovable properties; however, it implies that such rights are possible with some limitations, which should be explicitly provided by national laws. The Civil Code states that immovable assets owned by non-Iranians as a result of international agreements are fully governed by Iranian law. Ownership and other rights exercised over the immovable property of deceased foreign nationals in Iran are dealt with under Iranian laws also. Some exceptions can be made if substantive laws, such as nomination of the heirs or the extent of their respective shares in the property, would be determined by the laws of the deceased person's country. In some cases, a special legal status can be established for foreign citizens depending on the particular needs of the Iranian society.<sup>2</sup>

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<sup>1</sup> Constitution of the Islamic Republic of Iran 1979, as amended, arts. 43 (pt. 8), 153, <https://perma.cc/WMB8-B542> (unofficial English translation).

<sup>2</sup> Civil Code of the Islamic Republic of Iran 1928 (Civil Code) arts. 8, 961, 966, & 967, as amended, <https://perma.cc/AK99-CE4N> (in English).

A special set of restrictions applies to women of non-Iranian origin who had previously acquired Iranian nationality through marriage and later chose to renounce it after the death of or divorce from their husband, or Iranian women who take their non-Iranian husband's nationality, by choice or as imposed by the law of the nationality of the husband. Such women would lose ownership of any real estate assets beyond what is legally allowed for foreign nationals. The law requires a woman to transfer the surplus amount of her real estate to other Iranian nationals within one year from the date of her renunciation of Iranian nationality. Failing this, the properties in question will be sold under the supervision of the local public prosecutor, and the proceeds will be paid to her after deduction of the expenses of sale. A surplus amount of real estate must be transferred if it would lead to foreign domination. The transfer decision will be made by a commission consisting of representatives of the Ministries of Foreign Affairs, Interior, and Intelligence.<sup>3</sup>

Stricter measures are imposed against Iranian nationals who obtain dual citizenship without the Iranian government's permission. They lose all their rights to real estate properties in Iran. These properties will be sold under the supervision of the local public prosecutor, and the proceeds will be paid to the dual citizens after deduction of the expenses of the sale.<sup>4</sup>

## II. Specific Legislation Pertaining to Foreign Nationals' Scope of Ownership

### A. Ownership by Resident Foreign Nationals

According to the Foreign Nationals Ownership Regulations of 1949, foreign nationals legally resident in Iran can petition the General Bureau for Registration of Deeds and Landed Properties for permission to purchase real estate for residential or business purposes. The acquisition of investment properties by foreign nationals is not allowed.<sup>5</sup> Foreign legal persons that are registered in Iran can submit similar applications for purchasing real estate.<sup>6</sup>

Foreign citizens who change their resident status in Iran and move out of the country should transfer their real estate rights to an Iranian citizen within six months of moving. Otherwise, the government will hold a real estate auction and provide the remittances to the foreign national owners or their heirs. The sale option is not required if the foreign national is from a country that liberally allows property ownership rights to Iranian nationals.<sup>7</sup>

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<sup>3</sup> Id. arts. 986, 987.

<sup>4</sup> Id. art 989.

<sup>5</sup> Foreign Nationals Ownership Regulations 1949 (1328 Solar Year) art. 1, <https://perma.cc/8AVE-TSYU> (in Farsi).

<sup>6</sup> Id. art. 2.

<sup>7</sup> Id. art. 1 (§ H, amend. 2).

To gain government approval, a foreigner's request for ownership of real estate must meet the following requirements:

- the request is not in contradiction of Iran's international agreements and treaties,
- the request would not cause disruption of national security and order,
- the country of the applicant's nationality would reciprocate in similar cases,
- the size and location of the property are within the scope of the occupational or residential needs of the legal person, and
- the legal person will transfer the real estate to Iranian nationals or other authorized foreign nationals within six months of terminating the residence or business.<sup>8</sup>

In addition, the requested property and other properties owned in Iran must not be investment properties,<sup>9</sup> and the requested property must not be located in a Free Trade-Industrial Zone.<sup>10</sup>

Inherited property can be transferred to non-Iranian heirs of foreign nationals, if the application is filed within two years of the passing of the original foreign national owner. Otherwise, the property will be auctioned, and the remittances after deduction of the costs will be given to the heirs.<sup>11</sup>

## **B. Ownership by Nonresident Foreign Nationals**

Nonresident foreigners (visitors) who have regularly and continually traveled to Iran for recreational purposes throughout the years can apply for permission to purchase real estate suitable for their living needs in Iran without obtaining a resident permit. The property cannot be an investment property, and its purchase is subject to approval from the Ministries of Foreign Affairs, Interior, and Intelligence and the Council of Ministers.<sup>12</sup>

## **III. Other Relevant Considerations**

### **A. Prohibited Real Estate**

The Law on Foreign Nationals Immovable Properties of 1931 (1310 Solar Year) forbade ownership of any agricultural immovable properties by foreign nationals, which include agricultural

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<sup>8</sup> Id. art 3.

<sup>9</sup> Id.; Foreign Promotion and Protection Act (FIPPA) 2001 (1380 Solar Year), <https://perma.cc/F7NF-UJ5V> (in Farsi); Pooya Yaghoobirad, *Buy Property by Foreigners in Iran*, Iran Best Lawyer (Sept. 22, 2021), <https://www.iranbestlawyer.com/buy-property-by-foreigners-in-iran/> (in English).

<sup>10</sup> Law on the Administration of Free Trade-Industrial Zones of the Islamic Republic of Iran 1993 (1372 Solar Year) art. 24, amend. 1, <https://perma.cc/9BFL-J6PH> (in Farsi); Foreign Nationals Ownership Regulations 1949 arts. 2, 3.

<sup>11</sup> Regulations for Ownership of Immovable Properties by Nonresident Foreign Nationals in the Islamic Republic of Iran 1995 (1374 Solar Year), arts. 5, 6, <https://perma.cc/357N-DEAV> (in Farsi).

<sup>12</sup> Foreign Nationals Ownership Act 1963 (1342 Solar Year) art. 1, <https://perma.cc/4N83-CHEM> (in Farsi).

irrigation canals and spring waters. Foreign nationals who inherit agricultural land must put it up for auction according to the law. Another real estate ownership ban extends to real estate in Iranian Muslim holy sites. According to the Law on Protection of Schemes for Improvement/Renovation of the Muslim Holy Sites of 2006, the government can approve the sale of up to 4% of real estate properties in these areas, and only to Muslim foreign nationals for residential developmental projects.<sup>13</sup>

## **B. Real Estate Rights by Virtue of Registering an Iranian Corporation**

Sales and transfers of deeds to foreign nationals in the Free Trade-Industrial Zones are entirely prohibited; however, foreign national investors who register an Iranian corporation headquartered in Iran can legally purchase real estate properties in the prohibited areas, within the scope of the Iranian legal person's authorized activities.<sup>14</sup> Foreign nationals are legally allowed to purchase all of the stock of an Iranian corporation in Iran, or to establish an Iranian corporation according to Iran's laws.<sup>15</sup>

## **C. Investment Visa**

Currently, with a minimum of \$250,000 of qualified investment under Iranian law, foreign nationals can apply for investment visas, which will provide them with renewable residence permits in Iran and the ownership rights granted to Iranian residents.<sup>16</sup>

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<sup>13</sup> Foreign Nationals Immovable Properties Law 1931 (1310 Solar Year), <https://perma.cc/QY8J-94S5> (in Farsi); Law on Protection of Schemes for Improvement/Renovation of the [Named] Muslim Holy Sites 2006 (1384 Solar Year) single art., art. 1, <https://perma.cc/G6SH-24PX> (in Farsi).

<sup>14</sup> Regulations on Law of Administration of Free Trade-Industrial Zones in Iran 1994 (1372 Solar Year) art. 9, as amended in 2014, <https://perma.cc/QUN9-UMND> (in Farsi).

<sup>15</sup> Regulations on Foreign Investment Promotion and Protection Act (Regulations on FIPPA) 2002 (1381 Solar Year) arts. 34, 35, <https://perma.cc/H7MZ-6K8Z> (in Farsi).

<sup>16</sup> Id.; *5 Ways to Get a Residence Permit in Iran by Investment*, Immigrant Invest (May 05, 2021), <https://perma.cc/WKG6-VKP5> (in English).

# North Korea

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The Democratic People's Republic of Korea (North Korea) is a socialist state.<sup>1</sup> In North Korea, land is owned by the state and cooperative organizations. "All land in the country is jointly owned by the people and no one may sell, buy, or make it private."<sup>2</sup>

For foreign investors and foreign corporations, the Land Lease Law regulates land lease.<sup>3</sup> A lease period may be up to 50 years.<sup>4</sup> The right to use the leased land becomes the property of the lessee.<sup>5</sup> The land lessee may transfer (by sale, tenure, gift, or inheritance) or mortgage the right to use all or part of the acquired land to a third party with the approval of the institution that leased the land.<sup>6</sup> Our research did not indicate the existence of a special legal regime for investors depending on their country of citizenship or bilateral treaties that regulate foreign investments and leasehold rights.

The Civil Act states that citizens may own private houses.<sup>7</sup> These are limited to old houses that were built before the socialist regime was established, however. Most houses are owned by the state and cooperative organizations.<sup>8</sup> It is prohibited to sell, buy or rent state-owned residences.<sup>9</sup>

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\* At present, there are no Law Library of Congress research staff members versed in Korean. This report has been prepared by the author's reliance on practiced legal research methods and on the basis of relevant resources currently available in the Law Library and online.

<sup>1</sup> Socialist Constitution of the Democratic People's Republic of Korea, 1972, last amended in 2019, art. 1, <https://perma.cc/359F-QKPF> (English translation).

<sup>2</sup> Land Law, Law No. 9 of the People's Assembly, Apr. 29, 1977, amended by Ordinance No. 803-1 of the Standing Committee of the Supreme People's Assembly, June 16, 1999, <https://perma.cc/SN9H-ZSTD> (in Korean).

<sup>3</sup> Land Lease Law, Decision No. 40 of the Standing Meeting of the Supreme People's Assembly, Oct. 27, 1993, last amended by Ordinance No. 1995 of the Standing Committee of the Supreme People's Assembly, Nov. 29, 2011, arts. 1, 2, <https://perma.cc/5HPW-4YBE> (in Korean).

<sup>4</sup> Id. art. 6.

<sup>5</sup> Id. art. 7.

<sup>6</sup> Id. art. 15.

<sup>7</sup> Civil Law, Decision No. 4 of the Standing Committee of the Supreme People's Assembly, Sept. 5, 1990, last amended by Ordinance No. 216 of the Supreme People's Assembly, Mar. 20, 2007, <https://perma.cc/M5MD-PM2C>; Housing Law, Ordinance No. 3051 of the Standing Committee of the Supreme People's Assembly, Jan. 21, 2009, last amended by Ordinance No. 93 of the Presidium of the Supreme People's Assembly, July 23, 2014, art. 2, <https://perma.cc/H6PF-XYN2>.

<sup>8</sup> Jiro Ishimaru, *Expansion of Market Economy in North Korea and Social Change*, in 162 *Economic & Political Studies Series* 32, Kansai U. Inst. Econ. & Pol. Stud. (Mar. 31, 2016), <https://perma.cc/9XNN-PPUA> (in Japanese).

<sup>9</sup> Housing Law art. 43, sub-para. 5.



However, according to a published study, private investors construct residential buildings, and the residency rights to houses are traded.<sup>10</sup>

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<sup>10</sup> Cheong-Hoon Baek et al., *Mechanisms of Housing Marketisation in North Korea*, 113(5) *Habitat Int'l* 102,377 (2021), <https://perma.cc/8H8Q-RVGD>.

# Russian Federation

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**SUMMARY** While major legislative acts declare equal ownership rights for Russian and foreign citizens, individual regulations prohibit foreign ownership of agricultural land and land located in areas not accessible by foreigners due to national security reasons or designated as of national security significance. Until February 2022, these restrictions applied to all foreign individuals and legal entities regardless of their citizenship, but that month, in response to sanctions imposed following Russia’s invasion of Ukraine, Russia introduced more restrictive procedures for real estate transactions conducted by nationals of the so-called “unfriendly nations,” including the United States. Private possession of forests is not allowed in Russia; however, non-Russian individuals and companies are not included in the list of those who might be involved in legal relations regarding forests. Formal restrictions on other real estate transactions were not identified.

## I. Basic Principles of Ownership by Foreigners

The Constitution of the Russian Federation declares that foreign nationals and stateless persons have the same rights and obligations as Russian citizens. Exceptions from this rule can be made in cases specifically determined by federal legislation or international agreements of the Russian Federation.<sup>1</sup> The Constitution protects all forms of property and allows for private ownership of land and natural resources.<sup>1</sup> The Constitution obligates the state to protect private property and provides for the right of everyone to be a property owner.<sup>2</sup>

Major legal acts regulating property rights in Russia are the Civil Code,<sup>3</sup> Land Code,<sup>4</sup> and laws regulating the registration of land and real estate ownership.<sup>5</sup> While confirming the constitutional

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\* This report was written with the assistance of Legal Research Analyst Iana Fremer.

<sup>1</sup> Constitution of the Russian Federation with Amendments of 2020 art. 62(3), <https://perma.cc/2SNJ-RNM6> (in Russian).

<sup>1</sup> Id. arts. 8, 9.

<sup>2</sup> Id. art. 35.

<sup>3</sup> Civil Code of the Russian Federation, adopted on Oct. 21, 1994, <https://perma.cc/S2U2-AL6R> (in Russian).

<sup>4</sup> Land Code of the Russian Federation, Federal Law No. 136-FZ, adopted on Oct. 25, 2001, <https://perma.cc/NZ7L-LR8X> (in Russian).

<sup>5</sup> Federal Law No. 218-FZ on State Registration of Real Estate, adopted on July 13, 2015, <https://perma.cc/E9AH-LHJU> (in Russian).

principle of property rights equality, these acts provide for the possibility of having special rules for foreigners exercising their property rights in Russia.<sup>6</sup>

Current legislation stipulates some restrictions to foreigners' ownership rights, mainly based on the type of property, its use, and location. These restrictions are general and do not single out individuals from a particular country.

## II. Restrictions on Land and Real Estate Ownership

Foreign states, foreign legal entities, international organizations, and foreign individuals can own real estate in the Russian Federation and have the same rights to purchase real property as Russian citizens or stateless individuals if they are registered as Russian temporary or permanent residents.<sup>7</sup> No provisions creating special rules or restrictions for foreign citizens have been located in Russian laws regulating the purchase of real estate, real estate transactions, and registration of property rights, except for select types of land and real estate depending on their location and usage purpose.

Foreigners are prohibited from purchasing land and residential and industrial real estate in the following categories:

- agricultural land,<sup>8</sup>
- land plots located near the state border of the Russian Federation,<sup>9</sup>
- land plots located in areas of military purpose or defense significance,<sup>10</sup> and
- real estate located on the territory of administrative urban areas closed to foreigners.<sup>11</sup>

The government regulates the mechanism for establishing the price of land in state or municipal possession that is sold to foreigners. In such cases, the price can be established by government authorities without considering the market value of the property in question.<sup>12</sup>

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<sup>6</sup> Land Code art. 5.

<sup>7</sup> Civil Code art. 1196; Federal Law on State Registration of Real Estate art. 4.

<sup>8</sup> Federal Law No. 101 of July 24, 2002, on Circulation of Lands of Agricultural Designation arts. 2, 3, <https://perma.cc/N83C-3MHT> (in Russian).

<sup>9</sup> Land Code art. 15.

<sup>10</sup> Id.

<sup>11</sup> Government Regulation No. 508 of July 5, 2001, on Approval of the List of Closed Administrative Territorial Units, Garant.ru, <https://perma.cc/DT4A-ZH4T> (in Russian).

<sup>12</sup> Land Code art. 39\_4(4).

Concerning agricultural land, foreign nationals, foreign companies, and Russian companies with foreign capital exceeding 50% of charter capital can possess agricultural land plots under leasehold conditions only. The length of the lease cannot be longer than 49 years.<sup>13</sup> However, the prohibition on possession of agricultural land does not apply to garden plots and other small land areas used for personal needs.<sup>14</sup>

### III. Restrictions Aimed at Citizens of “Unfriendly Nations”

In February 2022, restrictive measures against citizens and companies from so-called “unfriendly nations” were introduced by the Russian Government as an attempt to counter sanctions imposed on Russia after it attacked Ukraine.<sup>15</sup> The list of unfriendly states includes Australia, Canada, Japan, the United Kingdom, the United States, the states of the European Union, and a number of other countries.<sup>16</sup> A decree by Russia’s president established a new procedure for real estate transactions with participation of individuals and companies from these countries. Under the new rules, all operations related to land and immovable property, including purchase, gifting, exchange, testing, etc., as well as purchase of any type of securities in Russia, require approval from the Government Commission for Foreign Investments Supervision upon submission of a special application. The decree grants the commission the authority to impose special conditions and requirements for such transactions.<sup>17</sup> The Ministry of Finance has since allowed some transactions, e.g., participation in shared construction projects and sale of residential real estate by individuals, and it has clarified the registration requirements for such transactions.<sup>18</sup>

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<sup>13</sup> Federal Law on Circulation of Lands of Agricultural Designation art. 9.

<sup>14</sup> Stanislav Lipsky, *Agricultural Land Owned by Foreign Citizens*, in *2 Legal Issues of Real Estate: Trends in Changing Legislative Approaches to Land Regulations* (2019), ConsultantPlus.ru, <https://perma.cc/R4PT-6L3U> (in Russian).

<sup>15</sup> Decree of the President of the Russian Federation No. 79 of Feb. 28, 2022, on Special Economic Measures in Relation to Unfriendly Actions of the United States of America and Allied Foreign States and International Organizations, <https://perma.cc/E4T5-HQDR> (in Russian).

<sup>16</sup> Government of the Russian Federation, Regulation No. 430 of Mar. 5, 2022, on the List of Foreign States and Territories Committing Unfriendly Actions Against the Russian Federation, Russian Legal Entities and Individuals, <https://perma.cc/8YMA-V53X> (in Russian).

<sup>17</sup> Decree of the Russian Federation President No. 81 of Mar. 1, 2022, on Additional Temporary Economic Measures to Ensure the Financial Stability of the Russian Federation, ConsultantPlus.ru, <https://perma.cc/FD7G-26FB> (in Russian).

<sup>18</sup> Ministry of Finance of the Russian Federation, Resolutions No. 79, 81 on the Permit Issuance Subcommittee, <https://perma.cc/FVZ6-5K5E> (in Russian).