

Buying Real Estate in Europe

A country by country summary



Commercial Law Group

Commercial Law Group

www.clglaw.eu

INDEX

Introduction

Austria

Belgium

England & Wales

France

Germany

Greece

Italy

Netherlands

Portugal

Republic of Ireland

Scotland

Spain

Switzerland

Introduction

This is a brief initial reference guide to buying real estate in various European countries. We have presented this in a question and answer format on a country by country basis. Matters such as the requirement for an initial contract for purchase, registration of title, tax, and costs are addressed in this guide. The law frequently changes in the various countries in respect of purchase and sale of real estate, and local legal advice should always be obtained before any action is taken. This document itself does not constitute legal advice and no member of CLG Commercial Law Group is liable for any loss arising from reliance on this document, as it is merely a short guide, and specific legal advice should always be obtained before proceeding to buy any real estate in Europe. Contact details for our CLG member firms are given on each country's page.

This guide states the law as at 28 March 2014.

AUSTRIA

LAW OFFICES OF JOHANN PICHLER, VIENNA

1. **Does the purchaser have to use a lawyer?** No; however, it is recommended and most people do use a lawyer
2. **Can EU citizens own property in Austria?** Yes
3. **Can non EU citizens own property in Austria?** Yes, however, in most cases this requires an approval pursuant to the land transfer law of the Austrian province in which the real estate is located.
4. **Can more than one person own a property?** Yes; however, for condominium ownership connected with apartments ("*Wohnungseigentum*") there is a limitation insofar as only either one person, or two persons with one half ownership each, are entitled to buy
5. **Can companies incorporated outside Austria own property in Austria?** Yes; however, in most cases this requires an approval pursuant to the land transfer law of the Austrian province in which the real estate is located.
6. **Is a contract necessary for purchase / sale of real estate?** There are no specific requirements for real estate purchase contracts. Therefore, such contracts can also be concluded orally. However, it is highly recommended that a written contract be entered into, in order to provide for good title to pass, and to deal with ancillary matters such as searches, statutory notices etc
7. **Is a deposit payable on signing the contract?** No, unless it is purchased at auction.
8. **How is ownership of real estate registered?** In order to get title to real estate it is necessary to have the purchase contract registered in the Land Register. The Land Register is administered by the District Court in the territory where the real estate is located.
9. **Does the purchaser have to pay an estate agent (property broker)?** Yes, if the purchaser uses a broker to get the property, and if there was a specific agreement with the broker.
10. **How is the purchase price paid (for example through the lawyers)?** Usually the purchase price is transferred to a trust account of the trustee ("*Treuhänder*") who is a lawyer or a notary public, who takes care for registration of the ownership for the purchaser on the one hand, for pays the purchase price to the seller, as soon as the agreed conditions are met (the most common scenarios are to pay out the purchase price either as soon as the trustee receives all documents necessary for registration of ownership, or upon registration of the ownership).
11. **Can the purchaser borrow money to pay for the property, and grant a mortgage?** Yes, and the mortgage is registered against the purchaser's ownership title.

12. What fees are payable on buying a property? The purchaser pays his lawyer's fee (this is negotiated at the start of the transaction) and usually the certification costs as well as the costs of the trustee (which usually is the lawyer/notary public of the purchaser), each plus VAT. The seller usually pays his own legal costs.

The purchaser also has to pay the land transfer tax (3.5 % of the purchase price) and the registration fee (1.1 % of the purchase price) for registering the title in the Land Register. If the purchaser needs to register a mortgage, 1.2 % of the registered mortgage amount is to be paid to the Land Register.

13. What tax is payable on buying a property? The seller has the choice to either charge VAT or not. Usually, VAT is only charged in the event of a commercial sale, and the purchaser can reclaim the VAT as input VAT ("*Vorsteuer*").

14. What tax is payable on selling a property? If the seller is a limited liability company or a stock cooperation, it has to pay normal corporate income tax on the profits from the sale (currently 25%). In almost all other cases the seller has to pay "*Immobilienvertragssteuer*" (profit tax on real estate), which in the usual case is 25% of the profits from the sale (i.e. the difference between the selling price and the purchase price). Further, there is a 3,5 % land transfer tax.

15. Does the purchaser become liable for existing debts in respect of the property? The purchaser becomes only liable for debts which are legally connected with the property (e.g. unpaid real estate charges; certain public orders e.g. environmental remediation). The creditor of a loan secured by a registered mortgage, which is not cancelled in the course of the sale, can sue the purchaser as new real estate owner for payment of the loan (upon maturity) and subsequently start compulsory enforcement proceedings against the real estate.

Member Details:-

Firm Name	Law Offices of Johann Pichler
Person to Contact	Johann Pichler
Email	lawoffice@ra-pichler.at
Phone Number	+43 1 587 84 86

BELGIUM

CGK ADVOCATEN, ANTWERP

1. **Does the purchaser have to use a lawyer?** No, but a notary public (*notaris* (Dutch), *notaire* (French)) must be used.
2. **Can EU citizens own property in Belgium?** Yes
3. **Can non EU citizens own property in Belgium?** Yes
4. **Can more than one person own a property?** Yes
5. **Can companies incorporated outside Belgium own property in Belgium?** Yes
6. **Is a contract necessary for purchase / sale of real estate?** No, but it is highly recommended that a contract be entered into, in order to provide for good title to pass, and to deal with ancillary matters such as searches, statutory notices, required documents (i.e. soil pollution, electrical installations, energy performance certificate, land use planning, ...) etc.
7. **Is a deposit payable on signing the contract?** No, but a deposit is usually paid.
8. **How is ownership of real estate registered?** There are two registers – the Cadastral Department, which is map/location based. The other register is the Register of the Mortgage Offices.
9. **Does the purchaser have to pay an estate agent (property broker)?** Not for residential property, even if he goes to an estate agent to buy the property, as the seller will normally pay the estate agent a commission. If the purchaser is buying commercial property for occupancy or as an investment, he will usually pay a “finder’s fee” to a real estate agent.
10. **How is the purchase price paid (for example through the lawyers)?** Through the notary public.
11. **Can the purchaser borrow money to pay for the property, and grant a mortgage?** Yes, and the mortgage is registered against the purchaser’s ownership title.
12. **What fees are payable on buying a property?** The purchaser pays his notary’s fee plus Value Added Tax (presently 21%). The purchaser also pays land registration dues for the conveyance (sliding scale depending on price and region; in Flanders 5% or 10%) and mortgage document.
13. **What tax is payable on buying a property?** There is only Value Added Tax on newly built property (building), never on purchase of land. There are registration taxes on land and existing property
14. **What tax is payable on selling a property?** The seller may have to charge and account for value added tax and/or pay income tax, corporation tax and /or capital gains tax on the disposal of the property.

15. Does the purchaser become liable for existing debts in respect of the property?
Not usually, as all debts have to be settled by the seller before signing the agreement.

Member Details:-

Firm Name	CGK Advocaten
Person to Contact	Philip LEPERE
Email	<u>philip.lepere@cgkadvocaten.be</u>
Phone Number	+32 (0)3 286 76 60

ENGLAND & WALES

KIDD RAPINET, LONDON

1. **Does the purchaser have to use a lawyer?**
No, although this is highly advisable in view of the complexities of buying real estate.
2. **Can EU citizens own property in England & Wales?** Yes
3. **Can non EU citizens own property in England & Wales?** Yes
4. **Can more than one person own a property?** Yes, although it is important to set out in what capacity they hold the property, on behalf of whom and in what shares.
5. **Can companies incorporated outside England & Wales own property in England & Wales?** Yes, although a very punitive rate of stamp duty of 15% is payable by companies and partnerships (with certain exemptions) on the purchase of residential property.
6. **Is a contract necessary for purchase / sale of real estate?** No, although it is advisable in order to ensure certainty.
7. **Is a deposit payable on signing the contract?** Yes – this is usually between 5% and 10% of the purchase price.
8. **How is ownership of real estate registered?** The vast majority of land in England & Wales is now registered electronically at the Land Registry. With the exception of short leases, all property transactions must be registered at the Land Registry in order to protect the buyer's interest in the land.
9. **Does the purchaser have to pay an estate agent (property broker)?** No, unless he or she agrees to pay a "finder's fee". This is more common in commercial property transactions. Generally, it is the seller who has to pay the estate agent and these fees range from 1 to 3% of the sale price.
10. **How is the purchase price paid?** Usually this is paid through the lawyers by electronic payment. Cash will not be accepted under any circumstances.
11. **Can the purchaser borrow money to pay for the property, and grant a mortgage?** Yes – in most cases, the mortgage will be registered against the title.
12. **What fees are payable on buying a property?** These include legal fees: survey or valuation fees; Land Registry fees (on a sliding scale depending on the price paid); search fees and (if a lender instructs a separate legal firm) the lender's legal fees. If an overseas corporation is buying the property and securing a mortgage on it, fees will also be payable to a lawyer in the corporation's home jurisdiction for providing a Certificate of Good Standing and Opinion letter.
13. **What tax is payable on buying a property?** VAT is payable on the purchase of some commercial properties, depending on whether or not it is a "VAT building". This is a

complex area and requires specialist advice. VAT is never payable on residential property. Stamp duty will be payable by the buyer within 30 days of completion of the purchase, on a sliding scale depending on the price paid, with the rate ranging, in the case of commercial property, from zero (below £150,000) to 4% (over £500,000) & in the case of residential property, from zero (below £125,000) to 7% (over £2m), but it should be carefully noted that certain companies and other non-natural entities will have to pay 15% stamp duty on residential property purchased for more than £500,000. Residential properties owned wholly or partly by a company or other non-natural body (whether offshore or onshore) may also be subject to Annual Tax on Enveloped Dwellings (ATED). At present this applies to properties valued at £2 million on 1 April 2012 or at acquisition if later. From 1 April 2015 it will apply to properties of £1 million or over and from 1 April 2016 to properties of £500,000 or over. The tax is a fixed amount starting at £15,400 for a £1m property to a maximum of £143,750 for a property worth more than £20m for the 2014/15 tax year. There are some exemptions and reliefs e.g. for investment properties let to unconnected persons. It is the responsibility of the taxpayer to carry out regular revaluations and to advise HMRC if a property falls into ATED. Properties subject to ATED are also potentially subject to Capital Gains Tax even for a non-resident owner.

14. **What tax is payable on selling a property?** No stamp duty is payable by the seller, but he or she may have to pay corporation or income tax and possibly capital gains tax. Advice in this area is crucial.

15. **Does the purchaser become liable for existing debts in respect of the property?** The purchaser can become liable for arrears of rent and service charges, the cost of outstanding repair obligations and even some statutory charges. Great care must be taken to ensure that the purchaser obtains an indemnity from the seller or retains sufficient monies on completion to pay such sums.

Member Details:-

Firm Name	Kidd Rapinet LLP
Person to Contact	Paul Taylor
Email	ptaylor@kidrapinet.co.uk
Phone Number	+ 44 207 925 0303

FRANCE

HUBERT MAZINGUE & ASSOCIÉS, PARIS

1. **Does the purchaser have to use a lawyer?** Not necessarily, although it is highly advisable in view of the complexities of buying real estate in France; when appointed, lawyers quite often take care of the preliminary sale contract ("*compromis de vente*") that parties can also sign without a lawyer's or notary's assistance; you may also need the assistance of a chartered building surveyor or of an "*expert immobilier*"; in any case the sale can only proceed through a notary ("*notaire*"), who is a mandatory part of the purchase process. You can choose your own *notaire* or use the same *notaire* as the seller; whichever you choose the cost will be the same.
2. **Can EU citizens own property in France ?** Yes
3. **Can non EU citizens own property in France ?** Yes
4. **Can more than one person own a property in France?** Yes
5. **Can companies incorporated outside France own property in France?** Yes
6. **Is a contract necessary for purchase / sale of real estate?** Yes, since the purchase or the sale will have to be recorded at the land registry ("*Conservation des hypothèques*"). The signed documents will remain in the notary's archives; once published with the Land Registry, a copy is subsequently available to the purchaser.
7. **Is a deposit payable on signing the contract?** When you buy a property in France you are required to pay a deposit, usually 10 % of the purchase price, with the balance being due on completion. The deposit is held by the *notaire* (or real estate agent) who is representing you. By law, there is a seven-day cooling-off period, during which the buyer may withdraw from the purchase if he wishes. If you change your mind within these seven days, you will get your deposit back.
8. **How is ownership of real estate registered?** The deed of sale ("*l'acte de vente*") will be recorded at the Land Registry (the "*Conservation des hypothèques*") which depends on the place where the real estate is located.
9. **Does the purchaser have to pay an estate agent (property broker)?** There is no obligation whatsoever.
10. **How is the purchase price paid (for example through the lawyers)?** The purchase price is paid to the notary, who will take care of the registration of the ownership for the purchaser; the notary will then pay the purchase price to the seller.
11. **Can the purchaser borrow money to pay for the property, and grant a mortgage?** Yes, and the mortgage is registered against the purchaser's ownership title.
12. **What fees are payable on buying a property?** When the final contract ("*l'acte de vente*") is signed, the fees are paid to the notary; these vary, depending on the purchase price (plus mortgage fees if applicable, Surveyor's fee (optional), estate agent's fees up to 10% due if completion; lawyers normally charge by the hour at rates ranging (depending

on their location, Paris/Province) from 200 € to 350 €; lawyers may also charge flat fees for specific services.

Notary's fees are regulated by the government, and vary according to the sale price of the property. If you ask for the assistance of a real estate agent their fees are generally in the region of 5% - 10%; they may have been included in the price of the house; remember that VAT (20%) is applicable to those fees.

13. What tax is payable on buying a property? The total fees and taxes vary as follows: for older property, the total fees and taxes payable for the purchase of an existing property amount between 7% and 10% of the purchase price, excluding (if any) estate agency fees. For new property, the total fees and taxes amount 2% to 4% in fees and registration taxes (plus VAT) at the rate of 20% on the purchase price (although it does not apply for sales between private individuals).

Those fees include French property tax split between the "*commune*", the "*département*" and the State. Land property registration fee varies from region to region.

14. What tax is payable on selling a property? The seller pays a tax based on the difference depending on the gain in value of the property achieved from purchase date to sale date. Capital gains derived from the disposal of shares and real property are subject to tax.

15. Does the purchaser become liable for existing debts in respect of the property? Before paying the purchase price to the seller, the notary pays the debts connected with the property. The creditor of a loan secured by a registered mortgage should be paid through the notary as long as his title is valid

Member Details:

Firm Name	Law Offices of HUBERT MAZINGUE & ASSOCIÉS
Person to Contact	Hubert MAZINGUE, Avocat au Barreau et à la Cour de Paris
Email	hmazingue@cabinetmazingue.fr
Phone number :	33.1.45.74.70.00

GERMANY

SCHMID, VON BUTTLAR & PARTNER, MUNICH

and

KANZLEI DR. REUTER, DUISBURG

1. **Does the purchaser have to use a lawyer?** No
2. **Can EU citizens own property in Germany?** Yes
3. **Can non EU citizens own property in Germany?** Yes
4. **Can more than one person own a property?** Yes
5. **Can companies incorporated outside Germany own property in Germany?** Yes
6. **Is a contract necessary for purchase / sale of real estate?**

Yes, it has to be certified by a notary.

7. **Is a deposit payable on signing the contract?** No.
8. **How is ownership of real estate registered?**

Ownership as well as charges are registered in the land register.

9. **Does the purchaser have to pay an estate agent (property broker)?**

In case real estate is sold involving an estate agent usually purchaser bears occurring costs, especially metropolitan areas.

10. **How is the purchase price paid (for example through the lawyers)?**

Basically every way is possible. Usually price is paid to bank transfer.

11. **Can the purchaser borrow money to pay for the property, and grant a mortgage?**

Yes, and the mortgage is registered against the purchaser's ownership title.

12. **What fees are payable on buying a property?**

Fees occur for notary and land register.

13. **What tax is payable on buying a property?**

First, there is real estate transfer tax payable by the purchaser (with sellers liability). Real estate transfer tax is 3,5 % of the purchase price. Value Added Tax basically is not due. If real estate is sold on a commercial basis to another entrepreneur seller is granted an option by law to pay VAT or not.

14. What tax is payable on selling a property?

See above.

15. Does the purchaser become liable for existing debts in respect of the property?

The purchaser is only liable in regard of the real estate for registered land charges, and he becomes liable for contamination existing in the property.

The two German member firms details:-

Firm Name:	<u>Schmid, von Buttlar & Partner</u>	Firm Name:	<u>Kanzei Dr Reuter</u>
Contact	Florian Behensky	Contact:	Michael Reuter
Email	<u>f.behensky@colaw.de</u>	Email	info@reuter-law.com
Phone	0049 89 55 222 0	Phone	0049 203 370063

GREECE

FOUTSIS AND PARTNERS, ATHENS

1. **Does the purchaser have to use a lawyer?** Yes
2. **Can EU citizens own property in Greece?** Yes
3. **Can non EU citizens own property in Greece?** Yes
4. **Can more than one person own a property?** Yes
5. **Can companies incorporated outside Greece own property in Greece?** Yes
6. **Is a contract necessary for purchase / sale of real estate?** Yes, it constitutes an integral part of the purchase deed, which is drafted and executed by, and in the presence of a notary public and the parties, or by the parties and their lawyers (since an attorney's participation to the conclusion of the sale contract is not compulsory).
7. **Is a deposit payable on signing the contract?** The total amount of the purchase price is usually paid at the signing of the contract and the execution of the purchase deed, because signing and completion occur simultaneously. However, the parties may expressly agree that the purchase price shall be payable in a number of instalments. In that case, the amount of deposit and the number of instalments will be agreed by the parties.
8. **How is ownership of real estate registered?** After signature of the purchase deed by the notary, the deed must be delivered to the Land Registry, where it will be recorded in the buyer's name.
9. **Does the purchaser have to pay an estate agent (property broker)?** No – unless the purchaser buys a property directly from a real estate agent, in which case he will have to pay a corresponding commission of up to 2%.
10. **How is the purchase price paid (for example through the lawyers)?** At the notary's office, the purchase price of either residential or commercial property is paid by a bank's cheque (payable to the seller). This occurs during the execution of the purchase deed.
11. **Can the purchaser borrow money to pay for the property, and grant a mortgage?** Yes, and the mortgage is registered against the purchaser's ownership title.
12. **What fees are payable on buying a property?** The purchaser has to pay notary public fees (1%-2%), legal fees (1.5%) and the Land Registry Fee (4.75‰) on the assessed tax value of the property (i.e. the monetary value of the property according to the Greek Minister of Economics).
13. **What tax is payable on buying a property?** The law exempts buyers intending to buy a residential property (up to 90.000€ for unmarried people and up to 150.000€ for

married couples) from the obligation of paying any purchase or transfer taxes (first residence tax exemption). Buyers who do not fall within that category will have to pay purchase or transfer tax (at a rate of 3% on the assessed tax value).

14. What tax is payable on selling a property? The seller will have to pay capital gains tax (at a rate of 15%), which is the tax imposed on the difference between the acquisition price (it is written on the purchase deed) and the assessed tax value of the property.

15. Does the purchaser become liable for existing debts in respect of the property? In many cases the buyer can become liable for any outstanding or unpaid costs of repair, utility bills etc of the property. Moreover, he will become liable for any matters burdening the property, such as mortgages. Hence it is imperative that the buyer demands that the seller provide him/her a title without any incumbrances.

Member Details:-

Firm Name	FOUTSIS AND PARTNERS LAW FIRM
Person to Contact	Dimitris Foutsis
Email	d.foutsis@foutsislaw.gr
Phone Number	+30 210 38 37 459

ITALY

CLG ITALIA MILAN

1. **Does the purchaser have to use a lawyer?** No
2. **Can EU citizens own property in Italy?** Yes
3. **Can non EU citizens own property in Italy?** Yes
4. **Can more than one person own a property?** Yes
5. **Can companies incorporated outside Italy own property in Italy?** Yes
6. **Is a contract necessary for purchase / sale of real estate?** Yes, a written contract is required for all contracts of sale/purchase of real estate and related rights. Moreover, signatures of such contracts must be certified by a notary public in order to register the contract in the Real Estate Registers (see item 8).
7. **Is a deposit payable on signing the contract?** It depends on the agreement between the parties. Usually a preliminary contract is signed once the agreement is reached and a deposit is paid at that time; the balance of the price is usually paid when the final contract is signed before a notary public.
8. **How is ownership of real estate registered?** Real Estate Registers (*Registri Immobiliari*) are kept throughout Italy, and are now electronically accessible. Registration has the value of publicity, i.e. earlier registrations prevails on later registrations and this applies to transfers, mortgages, seizure and any other charges. Registration is usually made by the notary public immediately after the signature of the final contract. It is also possible (and sometimes highly advisable) to register the preliminary contract.
9. **Does the purchaser have to pay an estate agent (property broker)?** It depends on the agreements; usually brokers are paid a percentage (2% to 3%) of the price; normally fees are charged to the seller only, sometimes to both the seller and the purchaser.
10. **How is the purchase price paid?** Directly from the purchaser to the seller, either by cashier's cheque or bank transfer. The means of payment must be indicated in detail in the contract, and cash is not allowed for more than 999,99 Euros (anti-money laundering measures).
11. **Can the purchaser borrow money to pay for the property, and grant a mortgage?** Yes. The purchaser signs the mortgage contract with the bank immediately after the final sale and purchase contract is signed and the mortgage is registered against the title by the notary who registers the purchase.
12. **What fees are payable on buying a property?** Notary fees (for search, certification, registration) plus VAT are usually paid by the purchaser; lawyer's fees by any party instructing a lawyer.

13. **What tax is payable on buying a property?** Taxes are payable on the purchase of both residential and commercial properties with different rates or as a fixed amount, although from 1/1/2014 taxes on residential properties were reduced. VAT is due in principle on the price paid, but some kind of purchases are VAT-exempt or subject to a reduced rate of 4% or 10%. In each case, taxes should be calculated by a specialist.
14. **What tax is payable on selling a property?** The seller will have to pay income tax (except in some cases) or corporation tax and /or capital gains tax.
15. **Does the purchaser become liable for existing debts in respect of the property?** Where the property is part of a larger building or if there is common ownership with other properties, the purchaser can become liable for arrears of expenses jointly for common parts; the purchaser can also become liable for repair obligations or other statutory charges.

Member Details:-

Firm Name	CLG Italia	
Person to Contact	Patrizio Tumietto	Irene Grassi
Email	patrizio.tumietto@clgitalia.it	irene.grassi@clgitalia.it
Phone Number	0039 02 6202201	0039 051 6449752

THE NETHERLANDS

VINK & PARTNERS, AMSTERDAM

1. Does the purchaser have to use a lawyer?

No, however, in view of the complexities of buying real estate, it is highly advisable to use a lawyer.

2. Can EU citizens own property in The Netherlands?

Yes.

3. Can non EU citizens own property in The Netherlands?

Yes.

4. Can more than one person own a property?

Yes, e.g. if more than one person or body corporate together acquire a property, or if heirs acquire property through succession following the death of the registered owner.

5. Can companies incorporated outside The Netherlands own property in The Netherlands?

Yes.

6. Is a contract necessary for purchase/sale of real estate?

Yes. The purchase and sale contract represents the obligatory agreement (concluded in writing or orally) between the parties. Based on the obligatory agreement, the transfer of title (transfer of "ownership" of the property) has to be effected through a notarial deed, issued by a Dutch civil law notary ("*notaris*").

7. Is a deposit payable on signing the contract?

Only if that has been agreed between the parties. And if that has been agreed, the payment is usually made into the escrow account of the civil law notary.

8. How is ownership of real estate registered?

Ownership is registered in a public register, the Land Registry ("*Kadaster*"). However, if the transfer of title/ownership is effected by an instrument of law, e.g. by succession, the Register is not updated, and there is no obligation to update it. A similar situation may develop following a merger. Thus the Land Register may not always correctly reflect the present owner(s).

9. Does the purchaser have to pay an estate agent (property broker)?

Only if the purchaser has entered into an agreement with a real estate agent that provides for services to be rendered to the purchaser or the purchaser has for other reasons voluntarily assumed an obligation to do so.

10. How is the purchase price paid?

Basically payment is made in money (the currency may be agreed between the parties). Payment is usually effected by money transfer. The funds are transferred to the civil law notary who keeps these in escrow, until the transfer of title/ownership has been confirmed by the Land Register. Upon receipt of that confirmation, the purchase price is released to the seller. However, this is not an obligatory procedure. Parties may agree otherwise the means or procedure of payment. Even barter and balancing may be agreed.

11.Can the purchaser borrow money to pay for the property, and grant a mortgage?

Yes, as long as the prospective purchaser is also the new owner of the property or if the (new) owner agrees, because the mortgage has to be registered against the registered ownership title of the property in the public registers.

12.What fees are payable on buying a property?

The fees of the civil law notary are due (because of his (obligatory) involvement in transferring the title/ownership and/or vesting and registering the mortgage). Fees and costs in connection with the acquisition of a loan.

13.What tax is payable on buying a property?

VAT ("BTW") or Transfer Tax ("Ovb").

Generally spoken newly built property or if professional parties have opted for transfer under the regime of the VAT, triggers VAT (at present 21%).

Generally, all transactions that are not taxed with VAT, will be subject to Transfer Tax (at present 2% for private houses, and 6% for commercial property).

14.What tax is payable on selling a property?

If applicable, the VAT the seller has received from the purchaser.

(Note: Transfer Tax is collected by the civil law notary. He transfers the tax collected to the IRS.)

If the sale leads to a profit and if that is acquired as a consequence of commercial activities, Company Tax ("Vpb") or Income Tax ("IB") may be due.

(However, a sale may also trigger fiscally favorable exemptions, e.g. if certain new investments are made ("Herinvesteringsreseeve").

15.Does the purchaser become liable for existing debts in respect of the property?

Although usually cleared prior to transfer, that might be the case in respect of certain debts which stem from a mortgage registered against the property, or certain debts specifically attached to the property itself, and not related to the ownership of the property.

Member details:

Firm Name	Vink & Partners
Person to contact	Peter J. Fresacher
Email	pfresacher@vinkenpartners.nl
Phone number	+31-(0)20-573.21.21

PORTUGAL

RPM ADVOGADOS, LISBON

1. **Does the purchaser have to use a lawyer?** No
2. **Can EU citizens own property in Portugal?** Yes.
3. **Can non EU citizens own property in Portugal?** Yes.
4. **Can more than one person own a property?** Yes.
5. **Can companies incorporated outside Portugal own property in Portugal?** Yes.
6. **Is a contract necessary for purchase / sale of real estate?** Yes, either by public deed or certified private document, using a Public Notary.
7. **Is a deposit payable on signing the contract?** By the time the public deed or certified private document containing the purchase agreement is granted, the full payment should already be made, or should happen at the same time. If a promissory agreement is signed, a deposit is usually paid.
8. **How is ownership of real estate registered?** Ownership of real estate is registered in the National Land Register. The deed (see item 6 above) must be delivered as proof of the acquisition.
9. **Does the purchaser have to pay an estate agent (property broker)?** Only if a property broker was used to make the deal happen (i.e., if the buyer came to know of the property through a property broker).
10. **How is the purchase price paid (for example through the lawyers)?** There is no rule regarding this matter, payment may be made in whichever form the parties agree. If the payment is not fully made by the time the public deed or certified private document containing the contract is signed, there should be special mention of that fact.
11. **Can the purchaser borrow money to pay for the property, and grant a mortgage?** Yes
12. **What fees are payable on buying a property?** The fee for registering at the Land Register, fee for the public deed or the certification of the private document regarding the Public Notary, lawyer and/or property broker, if applicable.
13. **What tax is payable on buying a property?**
The purchaser pays the Property Transfer Tax – “IMT” (varying according to the kind of real estate, its price, and the purpose of the acquisition), Stamp Duty tax.
14. **What tax is payable on selling a property?**
28% on Capital gains

15. Does the purchaser become liable for existing debts in respect of the property?
Only mortgages, Property tax (IMI) and condominium.

Member Details:-

Firm Name -	RPM - Advogados
Person to Contact	Rui Pereira de Melo
Email	rpm@rpm-advogados.pt
Phone Number	00351 916 894 020

REPUBLIC OF IRELAND

O'GRADYS, DUBLIN

1. **Does the Purchaser have to use a lawyer?** Yes – a solicitor is engaged for such a transaction.
2. **Can EU citizens own property in Ireland?** Yes
3. **Can non EU citizens own property in Ireland?** Yes
4. **Can more than one person own a property?** Yes – There are two types of ownership in Ireland – Joint Tenancy – whereby in case of death the survivor inherits the deceased partner's interest; and Tenancy In Common – by which either party can dispose of his /her undivided share in the property to whom they wish.
5. **Can companies incorporated outside Ireland own property in Ireland?** Yes
6. **Is a contract necessary for purchase / sale of property?** No, but it is highly recommended that a Contract be entered into, in order to provide for good title to pass. In addition the Purchaser is afforded the protection of Warranties which are contained in the General Conditions of Sale so as to provide an avenue of recourse should any issue arise on the sale which may need to be addressed by the Purchaser against the Vendor.
7. **Is a deposit payable on signing the contract?** Yes, generally a non refundable deposit of 10% of the purchase price is payable on signing of the Contract for Sale. A booking deposit is payable if an Auctioneer is involved once the property is "Sale Agreed". The booking deposit is refundable up to signing of Contract for Sale if it is held by the Auctioneer as stakeholder. The deposit payable with the Contract will then be the 10% minus the booking deposit paid to the Auctioneer. A binding Contract is only in place once Contracts have been signed by both parties, the deposit is paid in full and Contracts exchanged.
8. **How is ownership of property registered?** Under the umbrella of the Property Registration Authority Ireland, there are currently two systems of registration in Ireland. The Land Registry is digital Folio based and includes an Irish Government Guarantee of good title. This register is conclusive evidence of title to the property and any right, privilege, appurtenances or burden appearing thereon. On the other hand, the Registry of Deeds provides a system of voluntary registration for deeds (not title) on the register and enables priority to registered deeds over unregistrable deeds. Since June 2010 all of Ireland is compulsorily registerable even if prior to this date the title was registered in the Registry of Deeds.

By International comparison Ireland has a very extensive and well developed system of Land Registration. Since the foundation of the Land Registry in 1892 there has been a gradual ongoing and continuous programme of movement away from the old system of recording deeds in the Registry of Deeds, to move to the more modern, flexible and comprehensive system provided by the Property Registration Authority. 95% of the total landmass of estate and almost 88 of legal titles in Ireland are now registered with the

Property Registration Authority, (91% of registered titles are freehold, and 9% are leasehold).

9. Does the Purchaser have to pay an estate agent (property broker)? No.

Where an estate agent is involved in the sale of property, the Vendor will engage the estate agent and will be responsible for his fee. However, the Purchaser may engage an estate agent to act for him in locating a suitable property and in that case he would be liable to pay a "finder's fee".

10. How is the purchase price paid (for example through the lawyers)? Yes payment is made through the solicitors for both parties; the purchase price historically has been paid by loan cheque and /or bank draft. However current trends are for same to be paid by same day electronic transfer of funds to the Vendor's Solicitor for the protection of the Vendor.

11. Can the Purchaser borrow money to pay for the property, and grant a mortgage? Yes and the mortgage/charge will be registered against the Purchaser's title.

12. What fees are payable on buying a property? The Purchaser pays his solicitor's fee (this is negotiated at the start of the transaction) plus Value Added Tax (currently 23%) together with any outlays incurred by the solicitor on behalf of the Purchaser. Such outlays include, but are not limited to, stamp duty and registration fees.

In the case of residential properties stamp duty is payable on the first €1 million at a rate of 1% and at a rate of 2% for any excess over €1 million On non residential properties the Stamp Duty payable is 2% on the full purchase price. This is payable within 28 days through the Revenue Online System. In practice, however, penalties are not charged if the instrument is stamped within 44 days of execution.

The Purchaser will also be liable for Land Registry fees due for the conveyance/transfer on a sliding scale depending on the purchase price, and Mortgage document, if applicable.

13. What tax is payable on buying a property? Value Added Tax is payable except on the purchase of second hand residential property where the Vendor is an 'end user' for VAT purposes. In certain circumstances, this tax is payable on the purchase of non residential property depending on the Vendor and of the Purchaser and whether or not the building is being used for taxable activities. Stamp Duty on a sliding scale as outlined above, is payable by the Purchaser on the purchase of property.

14. What tax is payable on selling a property? The Vendor may have to charge Value Added tax and account for this to the Revenue depending on the VAT status of the property as referred to above. The Vendor may also be liable to Capital Gains Tax on the disposal of the property, depending on the gain in value of the property achieved from purchase date to sale date. The Vendor of residential property will also be obliged to discharge all Household Charges , NPPR (Non Principal Private Residence Tax) and LPT (Local Property Tax) if not already discharged, and any interest and penalties due for late payments.

15. Does the Purchaser become liable for existing debts in respect of the property? The Purchaser can be held liable for any outstanding property taxes such as Household Charge/NPPR/LPT which are in arrears over the property and which were not discharged by the Vendor on closing. Certificates of exemption/receipts of payment should be obtained from the Vendor's Solicitors in advance of completion to make sure no

outstanding taxes are payable in respect of the property. The Purchaser's Solicitor should also make enquiries if any previous bank debt is registered or held against the property and obtain a Release/Discharge of the Mortgage from the Vendors lending institution before completion of the purchase of the property.

Member Details:-

Firm Name	O'Gradys Solicitors
Persons to Contact	Kirby Tarrant: Janet Tarrant: Ronan O'Grady:
Email	ktarrant@ogradysolicitors.ie jtarrant@ogradysolicitors.ie; rogrady@ogradysolicitors.ie;
Phone Number	+353 1 661 3960

SCOTLAND

ANDERSON STRATHERN, EDINBURGH & GLASGOW

1. **Does the purchaser have to use a lawyer?** Yes
2. **Can EU citizens own property in Scotland?** Yes
3. **Can non EU citizens own property in Scotland?** Yes
4. **Can more than one person own a property?** Yes, although it is important to set out the proportion in which they own it and/or the capacity in which they hold it, on behalf of whom and in what shares.
5. **Can companies incorporated outside Scotland own property in Scotland?** Yes, although a very punitive rate of stamp duty of 15% is payable by companies and partnerships (with certain exemptions) on the purchase of residential property.
6. **Is a contract necessary for purchase / sale of real estate?** No, but it is highly recommended that a contract be entered into, in order to provide for good title to pass, and to deal with ancillary matters such as searches, statutory notices etc.
7. **Is a deposit payable on signing the contract?** No, unless it is purchased at auction.
8. **How is ownership of real estate registered?** There are two registers – the Land Register of Scotland, which is map based, and includes a UK Government guarantee of good title (unless qualified in the Land Certificate). The Land Register was introduced in 1979, and all purchases will now be of registered land or will cause a first registration to take place. The other register is the Register of Sasines, which is a register of deeds, and there is no government guarantee of good title.
9. **Does the purchaser have to pay an estate agent (property broker)?** Not for residential property, even if he goes to an estate agent to buy the property, as the seller will always pay the estate agent a fee. If the purchaser is buying commercial property for occupancy or as an investment, he will usually pay a “finder’s fee” to a property agent.
10. **How is the purchase price paid (for example through the lawyers)?** Through the lawyers; residential property is usually paid by the law firm’s cheque, and commercial property is usually paid by same day electronic transfer of funds. Cash is not acceptable.
11. **Can the purchaser borrow money to pay for the property, and grant a mortgage?** Yes, and the mortgage is registered against the purchaser’s ownership title.
12. **What fees are payable on buying a property?** The purchaser pays his lawyer’s fee (this is negotiated at the start of the transaction) plus Value Added Tax (presently 20%). The purchaser also pays the lender’s legal fees if the lender is represented by a different law firm (unusual for residential property, but usually the case for commercial property). The purchaser also pays land registration dues for the conveyance (sliding scale depending on price) and mortgage document (fixed at £60 GBP). The purchaser will also pay his surveyor a fee to inspect and value the property. If the purchaser is borrowing in

order to buy the property, he has to pay the lender's solicitor's fees, if the lender is separately represented.

13. What tax is payable on buying a property? There is no Value Added Tax on residential property, but in certain circumstances, this tax is payable on the purchase of commercial property. Stamp Duty Land Tax on a sliding scale is payable by the purchaser on the purchase of property. Land & Buildings Transaction Tax will replace Stamp Duty Land Tax from April 2015.

Stamp duty will be payable by the buyer within 30 days of completion of the purchase, on a sliding scale depending on the price paid, with the rate ranging, in the case of commercial property, from zero (below £150,000) to 4% (over £500,000) & in the case of residential property, from zero (below £125,000) to 7% (over £2m), but it should be carefully noted that certain companies and other non-natural entities will have to pay 15% stamp duty on residential property purchased for more than £500,000. Residential properties owned wholly or partly by a company or other non-natural body (whether offshore or onshore) may also be subject to Annual Tax on Enveloped Dwellings (ATED). At present this applies to properties valued at £2 million on 1 April 2012 or at acquisition if later. From 1 April 2015 it will apply to properties of £1 million or over and from 1 April 2016 to properties of £500,000 or over. The tax is a fixed amount starting at £15,400 for a £1m property to a maximum of £143,750 for a property worth more than £20m for the 2014/15 tax year. There are some exemptions and reliefs e.g. for investment properties let to unconnected persons. It is the responsibility of the taxpayer to carry out regular revaluations and to advise HMRC if a property falls into ATED. Properties subject to ATED are also potentially subject to Capital Gains Tax even for a non-resident owner.

14. What tax is payable on selling a property? The seller does not pay stamp duty land tax. He may have to charge value Added tax and account for this to the UK tax authority. He may have to pay income tax, corporation tax and /or capital gains tax on the disposal of the property.

15. Does the purchaser become liable for existing debts in respect of the property? In many cases the purchaser will become liable for outstanding and unpaid costs of repair etc of the property, estate, or building of which it forms part, and for works to the larger entity that have not yet been paid for. He will become liable to pay for complying with any works required in any statutory notice that has been issued.

Member Details:-

Firm Name	Anderson Strathern LLP
Person to Contact	Ken Gerber
Email	ken.gerber@andersonstrathern.co.uk
Phone Number	+44-141-242-6068

SPAIN

MONEREO MEYER MARINEL-LO, BARCELONA

1. **Does the purchaser have to use a lawyer?** No
2. **Can EU citizens own property in Spain?** Yes
3. **Can non EU citizens own property in Spain?** Yes, and if the property is worth more than 500.000€ a residency visa can be granted since the 2013 “Law of Entrepreneurship Support and its Internationalisation”.
4. **Can more than one person own a property?** Yes
5. **Can companies incorporated outside Spain own property in Spain ?** Yes
6. **Is a contract necessary for purchase / sale of real estate?** Yes.
7. **Is a deposit payable on signing the contract?** No.
8. **How is ownership of real estate registered?**

The ownership and encumbrances of real estate in Spain are registered in the Property Registry (*Registro de la Propiedad*).

In case of buying real estate in Spain, it is advisable to grant a Public Deed (*Escritura Pública*) before a Public Notary, so it can be registered in the abovementioned Property Registry, to give good title. The Notary Public is obliged to ask for registration information just before the signature of the Deed.

After notarisation, the Notary sends an electronic copy of the Deed to the Register (*Registro de la Propiedad*), and a priority notice is issued.

In order to fulfill the registration, the taxes arising from the sell and purchase agreement must be paid. To do this, a foreign party needs a taxpayer identification number (NIE) and the corresponding tax labels.

9. **Does the purchaser have to pay an estate agent (property broker)?** Not usually. If an estate agent is used in order to purchase or sell real estate, the estate agent is paid by his client who can be either buyer or seller.
10. **How is the purchase price paid (for example through the lawyers)?** Through a cheque, transfer of money by bank,... There are restrictions on paying the price in cash, according to Money Laundering Prevention Laws.
11. **Can the purchaser borrow money to pay for the property, and grant a mortgage?** Yes, and the mortgage is registered against the purchaser’s ownership title.

12. What fees are payable on buying a property? Although it is not compulsory, it is highly advisable to grant a public deed before a Notary Public and to register the property in the Property Registry, so the corresponding fees will need to be paid.

13. What tax is payable on buying a property?

- If it is a purchase of a new building, you will need to pay the VAT (*Iva*) to the seller, which amounts a 10% of the acquisition price.
- If it is a purchase of a used property, you need to pay the Property Transfer Tax, (*Impuesto sobre Transmisiones Patrimoniales Onerosas*), which amounts, depending on the region in Spain, between 6-10% of the acquisition price.

In both cases you need to pay the Certified Legal Documents Tax (*Actos Jurídicos Documentados*) (which in general is 1% of the price).

14. What tax is payable on selling a property? You need to pay a local tax called Municipal Capital Gains (*Impuesto Municipal sobre el Incremento de Valor de los Terrenos de Naturaleza Urbana*, commonly known as *Plusvalía Municipal*), which depends on the value of the property, the town where is it located, and the time you have owned it.

15. Does the purchaser become liable for existing debts in respect of the property?

Yes, that is why it is recommended to obtain updated information by the Property Registry. You will also need to pay the amount owed to the Resident's Association for the year of the purchase and the 3 years before, if there are still amounts due.

Member Details:-

Firm Name: MONEREO MEYER MARINEL-LO
Person to Contact: David Grasa
Email: dgrasa@mmmm.es
Phone Number: + 34 934 875 894

SWITZERLAND

ADVOKATUR KRÄHENMANN, BERN

1. **Does the purchaser have to use a lawyer?** No, but a notary in the same Canton as the property must be used.
2. **Can EU citizens own property in Switzerland?** Yes, but there are certain regulations ("Federal Law on the acquisition of land by persons abroad" and "agreement on the free movement between the Swiss Confederation on the one hand, and the European Community and its Member States, on the other hand").
3. **Can non EU citizens own property in Switzerland?** Yes, but there are certain regulations ("Federal Law on the acquisition of land by persons abroad").
4. **Can more than one person own a property?** Yes.
5. **Can companies incorporated outside Switzerland own property in Switzerland?** Yes (with the same restrictions as points 2 and 3)
6. **Is a contract necessary for purchase / sale of real estate?** Yes (Art. 657 ZGB)
7. **Is a deposit payable on signing the contract?** No, but it is usual for payment of the whole price at the same time as the agreement is signed.
8. **How is ownership of real estate registered?** There is the Land Charge Register for every Canton and District.
9. **Does the purchaser have to pay an estate agent (property broker)?** No.
10. **How is the purchase price paid (for example through the lawyers)?** Mostly through the bank. The Swiss government will probably ban cash payments over CHF 100,000 in the future.
11. **Can the purchaser borrow money to pay for the property, and grant a mortgage?** Yes, it is usual to finance a part of the price by a mortgage from a bank. The bank gives a mortgage of 60-70% of the value for houses and apartments, 50-60% for industrial real estate.
12. **What fees are payable on buying a property?** The purchaser has to pay the notary's fee.
13. **What tax is payable on buying a property? / What tax is payable on selling a property?** There is a purchase tax between 1-3% (varies from canton to canton). Cantonal law regulates whether the tax has to be paid by the buyer (alone) or by both parties (seller and buyer). VAT (8%) is payable in certain cases.
14. **Does the purchaser become liable for existing debts in respect of the property?** The purchaser is liable for a wealth tax for the profit gained from selling the property and also, for the insurance policy if he does not cancel it.

15. Since March 2013, the Swiss Constitution regulates the selling of houses and apartments that are meant to be secondary homes. There is an absolute limit of 20% secondary residences for each community.

Member Details:-

Firm Name	Advokatur Krähenmann
Person to Contact	Walter Krähenmann
Email	<u>wk@advokatur-kraehenmann.ch</u>
Phone Number	+41 31 351 17 33



Commercial Law Group

Commercial Law Group

www.clglaw.eu