



LAW and JUSTICE

Legal Order in Turkey

The Republic of Turkey is a constitutional state where the rule of law is respected. The laws apply equally to everyone regardless of their language, race, color, sex, political views, philosophical beliefs, religion, denomination, etc.

The provisions of law are in written form in Turkey. These provisions are made up of the Constitution, laws, statutory decrees, statutes, regulations, directives, communiques and other regulatory procedures. In addition, duly enforced international conventions have the effect of law.

The Constitution of 1982 is the most comprehensive law that regulates the state's form, structure, government, organs, their duties and relations with each other, and fundamental rights and liberties of individuals.

Foreigners under international protection in Turkey are subject to Turkish law and the courts of Turkey have jurisdiction in resolution of disputes.

The law applicable to foreigners who came to Turkey as a regular migrant and are still a citizen of their original country is defined in accordance with the provisions of International Law in the context of the nationality, and the laws of their home country.

The legal system in Turkey vests many rights to individuals. However, individuals are not granted an unrestricted freedom in exercising these rights. While they enjoy their vested rights, individuals must pay attention to the regulations that restrict such rights and act within the confines of such restrictions. For instance, a person is free to act however they want at their home but cannot make noise that may disturb their neighbors. A person may use their property, however they want but not against the rules of morality. A person must use their rights in a manner respectful to others and social life.

NOTARIAL PROCESSES

Notaries in Turkey are official bodies affiliated with the state, which make documents official and attest the validity of certain processes. You may have to apply to a notary public upon the request of an organization or for assurance of certain unofficial procedures while performing an official procedure in Turkey.

In addition, certain procedures may only be carried out before a notary public. The procedures to be carried out before a notary public are as follows;

- ▶ *Issuing a power of attorney (issuing an authority of representation)*
- ▶ *Sales of vehicles*
- ▶ *Attestation of translated documents*
- ▶ *Attestation of commercial and financial books*
- ▶ *Sales agreements*
- ▶ *Having a signatory circular issued*
- ▶ *Sending a warning or a notice*
- ▶ *Drafting an incident report*
- ▶ *Issuing a pledge*
- ▶ *Escrow acceptance and keeping procedures*
- ▶ *Attestation of dates, signs and seals on unofficial documents .*
- ▶ *Notarial procedures are charged.*



Fundamental Values of Turkish Legal Order

Turkey is one of the leading countries that have taken important steps for protection of fundamental rights and liberties. While integrating its domestic legal system in auditing mechanisms by international conventions for the purpose of improving fundamental rights and liberties, Turkey has also made reforms to provide its citizens with broad rights and liberties under the principle of “equal citizenship”. Democratization and reforms in fundamental rights and liberties and human rights have gained considerable momentum by 2000s. Fundamental rights and liberties apply to everyone and include the duties and responsibilities of individuals to the society, their family and other individuals.

- ▶ *Every person is equal before the law.*
- ▶ *Every person has the right to live, and preserve and develop their material and moral assets.*
- ▶ *No person can be forced to work.*
- ▶ *Every person is vested with personal freedom and security.*
- ▶ *Every person has the right to demand respect to their private life and family affairs. Right to privacy is guaranteed.*
- ▶ *Inviolability of the domicile is applicable.*
- ▶ *Every person has the freedom of communication.*



Reforms have been made to ensure that citizens have broad rights and freedoms in all areas with the principle of “equal citizenship”.

- ▶ *Every person has the freedom of settlement and travel.*
- ▶ *Every person has the freedom of faith and thought.*
- ▶ *For any reason, no person can be forced to express their ideas.*
- ▶ *Every person has the right to express their ideas individually or collectively by verbal, written, visual or other means.*
- ▶ *The press is free and shall not be censored.*
- ▶ *Every person has the freedom to establish, join or leave an association without prior permission.*
- ▶ *No person shall be deprived of the right of education.*
- ▶ *Every person has the right to work and contract in any field that they may wish.*
- ▶ *No person shall be employed in a job that does not fit their age, sex or strength.*

Basic Information about Criminal Law

Criminal law is the body of rules that defines criminal acts and the sanctions applicable to those who conduct such acts. You have to obey all rules of Turkish Criminal Law during your stay in Turkey.

If you do an act that is defined as a crime in Turkey, you will be put on trial in Turkey in accordance with the provisions of Turkish Criminal Law. Performance of an act partially or completely in Turkey or conclusion of an act in Turkey is sufficient for implementation of Turkish Laws.

Basic Principles of Criminal Law



- ▶ *Only an act that is clearly defined as a crime in the law is punishable. No one can be punished for an act that is not clearly defined as a crime in the law.*
- ▶ *Not knowing criminal laws is not considered an excuse.*
- ▶ *There is no perfect crime or penalty in Turkish Criminal Law.*
- ▶ *No person is held responsible and punished for another person's act.*
- ▶ *A person who committed a crime is imposed a fair penalty in compliance with human rights depending on the severity of the act or fault.*
- ▶ *Minors (children) are not punishable for crimes that they may commit until they reach the age of 12 but security measures may be imposed on them.*

Basic Information about Administrative Law

The Administration is obliged to do all of its acts and procedures by observing public good and rules of the law. If you think that the procedures conducted by the Administration fail to fulfill this obligation, you can appeal to the administrative justice to request cancellation of the relevant procedure and compensation of the damages incurred.

Administrative jurisdiction is composed of tax and administrative courts, district administrative courts and the Council of State. You can consult a legal advisor or a lawyer for detailed information about the procedures of the processes conducted by the Administration.

Civil Rights and Obligations

Family

Family is the basis of the Turkish society. Since the communication and manners of family members directly affect the social structure, protection of family is attached a great importance. Peace and integrity of the family is guaranteed by Constitution and regulations.

A family in Turkish society may be made up of man, wife and children or relatives who share the same house.

Birth

Turkey has a low rate of death during at birth. It is known that giving birth under healthy conditions and in a health facility (hospital, maternity ward, etc.) and going to regular checkups after birth decrease the rate of infant mortality.

If you are a female employee in Turkey, you are allowed a maternity leave of 8 weeks before and 8 weeks after childbirth. You will be under protection against the risk of redundancy and working conditions hazardous to the mother's and child's health. When the period of maternal leave is over, you can make a written request for unpaid leave for up to 6 months. In addition, you will be entitled to 1.5 hour of breastfeeding leave per day until your child turns 1 year of age.

You have to apply to a Directorate of Civil Registration within 30 days after childbirth to register your child, and notify the Provincial Directorate of Migration Management within 20 business days. For birth registration, you must submit personal documents of the mother and father and birth certificate. If you do not have a birth certificate, your statement may be taken as basis.

Failure to register your child's birth to the Directorate of Civil Registration Office and the Provincial Directorate of Migration Management will prevent your child from benefiting from the services provided

Engagement

Engagement that is considered the first step to marriage is a verbal act in Turkey. If you want to be engaged to a person, you do not have to obtain permission from any authority. You do not have to get married to the person to whom you are engaged. You do not need permission from any authority if you want to end your engagement.



Religious marriages are not accepted in Turkey and do not grant you legal rights.

Marriage

The minimum age of marriage in Turkey is 18.

A marriage is made by declaration of the decision of marriage before a marriage officer and at least two witnesses. Therefore, religious marriages are not accepted and will not grant you any legal rights. However, depending on your beliefs, you may have your marriage contracted by religious rules according to your beliefs.

Marriage in Turkey is based on the principle of monogamy. For this reason, you can only be married to a single person at a given time. Polygamy is prohibited by law. Same-sex marriage (male-male or female-female) is not legally possible in Turkey.

Spouses have equal rights in marriage. No gender has superiority or privileged rights above the other. Spouses are never allowed to use physical, sexual or psychological violence on each other.

You may get married to a Turkish citizen or a foreign national during your stay in Turkey. You are required to obtain necessary documents and apply to the municipality of your residence. You may consult your local municipality for further information on document requirements.

If you marry a Turkish citizen, you will be entitled to apply for Turkish citizenship after 3 years of marriage. In addition, your children will be Turkish citizens at birth.

Prohibition of Marriage

Marriage of certain persons is prohibited by law for medical and ethical reasons. Such prohibitions are given below:

- ▶ *Marriage is prohibited between a mother or father and a child, or between a grandfather or grandmother and grandchild.*
- ▶ *Marriage between siblings is prohibited. Marriage between siblings with a common parent is also prohibited.*
- ▶ *Marriage between an uncle/aunt and their nephews/nieces is prohibited. However, children of uncles or aunts (cousins) are allowed to marry.*
- ▶ *Marriage between a spouse and an ascendant or descendant of the other spouse is also prohibited even if the marriage between the spouses has terminated. For instance, it is prohibited to marry the father or children of ex-spouse after divorce.*
- ▶ *Marriage between an adopter and their adoptee, or their descendants or spouses is prohibited.*



Who will have the custody of the child after divorcement shall be determined by the court considering the criteria such as the financial and social situation of the parents.

- ▶ *A person may have only one spouse at a given time in Turkey. It is forbidden to get married for a second time while already married in Turkey or in any other country. A person who wants to get married to another person should first prove that their previous marriage was terminated.*
- ▶ *The mentally handicapped are not allowed to get married unless they prove that there is not any prejudice to their marriage by an official health report.*
- ▶ *A woman is not allowed to get married before 300 days from the end of her previous marriage. However, this is not applicable if it is proven by a medical report that the woman is not pregnant.*

Divorce

There is not any legal obstacle to divorce in Turkey. Divorce cases are heard in domestic relations courts. You may declare your intention to divorce by submitting a petition to the court.

You and your spouse must be present at the court for divorce order. Procedures of divorce are not executed in the absence of either of the spouses. You should report the change of your marital status to a Directorate of Civil Registration and Provincial Directorate of Migration Management within 20 business days following the divorce.



It is considered a valid ground for divorce when;

- ▶ *One of the spouses commits adultery,*
- ▶ *One of the spouses attempts to murder the other,*
- ▶ *One of the spouses mistreats or degrades the other,*
- ▶ *Marriage becomes unbearable due to one of the spouse's life which does not comply with dignity and honor,*
- ▶ *One of the spouses leaves the house permanently,*
- ▶ *There is severe conflict between spouses and the conjugal community is shaken off its foundation,*
- ▶ *One of the spouses suffers from an irrevocable mental disease.*
- ▶ *Spouses may also divorce by a court order under mutual agreement.*

The custody of children is entrusted to the mother or father by the court depending on their financial and social status. The best interest of the child is observed for the decision of custody.

Death

Deaths in Turkey must be registered to the Directorate of Civil Registration within 10 days by submission of the death certificate Directorate of Civil Registration by the relatives of the deceased. Death certificate is issued by the hospital where the person died. If a person dies at home, you can obtain a death certificate from the physician or physician-on-call of the Community Health Center in your district.

You should also report the death to Provincial Directorate of Migration Management within 20 business days.

See the “Funeral Services” part of this booklet for details of funeral procedures.

Inheritance

Inheritance is made up of a person’s earnings, property, rights and debts accumulated during his/her lifetime. Just like every person in Turkey, you have the right of inheritance. Men and women have equal rights of inheritance.

If you are in Turkey under an international protection application or status, or under temporary protection, inheritance cases are heard in Turkish Courts and Turkish laws are applicable. If you are in Turkey under other statuses, International Law will be considered on matters related to inheritance.

If you inherit a real property located in Turkey, the provisions regarding the acquisition of real estate by foreigners in Turkey shall be applicable.

You can consult a legal advisor or lawyer for further information on inheritance law.



If you are staying in our country as an international protection applicant and status holder or temporary protection status holder, lawsuits regarding the inheritance are resolved by the Turkish courts and Turkish laws are enforced.