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ACQUIRING TURKISH CITIZENSHIP THROUGH REAL ESTATE INVESTMENT

First paragraph of Article 66 of Turkish Constitution reads as; “Everyone bound to the Turkish State through the bond of citizenship is a Turk” and Article 3 of Turkish Citizenship Law No.5901 (“**Law**”) defines Turkish Citizen as “anyone who has citizenship bonds with the Republic of Turkey”. Article 12 of the Law regulates the exceptional acquisition of Turkish citizenship. The type and the amount of the investment to be made within the scope of the cited article has been determined by the additions to Article 20 of the Regulation on the Implementation of the Turkish Citizenship Law (“**Regulation**”) with the Decision of the Council of Ministers No. 2016/9601 dated 12.12.2016. Accordingly, foreigners who make investment in certain types and amounts are given the right to acquire Turkish citizenship.

Presidential Decree No. 106, published in the Official Gazette dated 19.09.2018 has aimed to increase the amount of applications via decreasing the monetary values of the investments. In this context, foreigners are required to purchase an immovable property worth at least USD 250.000 or the amount equal to it in another currency, or they are required to make an investment by other means worth USD 500.000 or the amount equal to it in another currency.

The acquisition of Turkish citizenship through investment consists of three stages:

1. Fulfilling one of the investment conditions specified in Article 20 of the Regulation and obtaining the Conformity Certificate (“**Certificate**”) from the relevant institution.
2. Obtaining a short-term residence permit in accordance with the subparagraph (j) of the first paragraph of Article 31 of the Law on Foreigners and International Protection No. 6458.
3. Applying for Turkish citizenship through investment.

I. INVESTMENT TYPES AND CITIZENSHIP APPLICATION PROCESS

The Certificate and the competent authority, as well as the Procedures and Principles vary along with the type of investment to be made for the citizenship application. In this context, according to the second paragraph of Article 20 of the Regulation, foreigners who have made one of the following investments can apply for Turkish citizenship;

- a. Foreigners who make a fixed capital investment amounting to a minimum \$500.000 or equivalent foreign currency or equivalent amount of Turkish Lira in a Turkish corporate entity and whose such investment is confirmed by the Ministry of Industry and Technology,
- b. Foreigners who purchase a real estate property with a minimum value of \$250.000 or equivalent foreign currency or equivalent amount of Turkish Lira and to which they attach an annotation of no-sale for at least three years at the relevant title registry; or foreigners who promises to purchase a real estate property which is a condominium or on which exists a construction servitude, and for which at least \$250,000 or the amount equal to it in Turkish

Lira or another currency is paid in advance in scope of a preliminary sale contract executed before a notary public and that is recorded at the relevant title registry with the undertaking of not to transfer or erase the contract for a period of three years and whose such investment is confirmed by the Ministry of Environment and Urbanization,

- c. Foreigners who generate employment for at least 50 people and whose such investment is confirmed by the Ministry of Family, Labor and Urbanization,
- d. Foreigners who deposit a minimum of \$500.000 or equivalent foreign currency or equivalent amount of Turkish Lira to banks that operate in Turkey with the condition to keep such deposit in the relevant bank for at least three years and whose such investment is confirmed by the Banking Regulation and Supervision Agency,
- e. Foreigners who purchase state debt instruments worth of at least \$500.000 or the amount equal to it in Turkish Lira or another currency on condition to keep these instruments in reserve for at least three years and whose such investment is confirmed by the Ministry of Treasury and Finance,
- f. Foreigners who purchase real estate participation fund share and capital investment trusts fund share worth of at least \$500.000 or the amount equal to it in Turkish Lira or another currency on condition to keep these shares in reserve for at least three years and whose such investment is confirmed by the Capital Market Board.

In this article, acquiring Turkish citizenship by way of purchasing an immovable property in accordance with the subparagraph (b) of the second paragraph of Article 20 of the Regulation will be examined.

II. ACQUIRING TURKISH CITIZENSHIP BY WAY OF PURCHASING AN IMMOVABLE PROPERTY

Foreigners can purchase immovable within Turkey up to 30 hectares as long as they are not from the countries that are banned or they are restricted to do so due to their nationality. After purchasing the immovable, a foreigner can apply to acquire Turkish citizenship regardless of what type of immovable he purchased (e.g. building, farm, land)¹ as long as he fulfills the other criteria. However, in case of purchasing a land without any structure on it, a plan must be presented to the authorities within two years after purchase.

III. NATIONS BANNED FROM PURCHASING AN IMMOVABLE PROPERTY WITHIN TURKEY

The condition of reciprocity on purchasing immovable has been abolished by the change of law made on Article 35 of the Land Code No. 2644 via Law No. 6302, dated 18/05/2012. In this respect, citizens of the countries that are determined by the President may obtain immovable within Turkey under certain conditions. But still some nationalities cannot purchase immovable within Turkey due to other legislation. Therefore, those foreigners cannot acquire Turkish citizenship in the way of purchasing immovable property. Armenian, Syrian, North Korean, Nigerian, Cuban and Yemeni nationals cannot purchase immovable property within Turkey. Russian and Ukrainian nationals cannot buy immovable property in the Black Sea District and Greek nationals cannot buy immovable property in the Black Sea

¹ In case of preliminary sale contract, construction servitude or condominium ownership is a must.

and Aegean Districts of Turkey. Moreover; Chinese, Iranian, Palestinian, Iraqi and Indian nationals can purchase immovable property upon acquiring permission to do so by the Ministry of Interior ².

IV. THE PROCESS OF ACQUIRING TURKISH CITIZENSHIP EXCEPTIONALLY BY WAY OF PURCHASING AN IMMOVABLE PROPERTY

The process of acquiring Turkish citizenship by way of purchasing an immovable consists of three main steps. First an immovable need to be bought or a preliminary sale contract must be executed before notary public. Following this, the land registry sends the documents required for obtaining the Certificate to the competent authority. Then, an application is made to the Directorate General of Migration Management to obtain a short-term residence permit covering the period of citizenship application process. Lastly, the application is made to the General Directorate of Civil Registration and Citizenship for acquiring Turkish citizenship.

1. Purchasing the Immovable

According to the legislation in force, transfer of ownership of the immovable property is only valid when an official deed is signed before the land registry directorate followed by registration to the land registry. For this proceeding both the buyer and seller or their legal representatives must first make a pre-application to the relevant land registry directorate. For the pre-application the parties must submit their ID's and passports. During the pre-application the parties must inform the land registry directorate that the sale is being done for the exceptional acquisition of Turkish citizenship. This is important since for the citizenship application the title registry regarding the immovable in question must include an annotation banning the sale of the immovable for at least three (3) years, and if the officials at the directorate of land registry are not informed of the reason of the sale, they may be hesitant towards attaching the necessary annotation above and the parties might need to make another application to the land registry directorate for the annotation. The necessary documents for the application are;

- a.** Title deed of the immovable or title deed information of the immovable,
- b.** Identity certificate or passport (Together with translation if necessary),
- c.** "Property Value Statement Document" of the immovable property to be provided from the relevant municipality,
- d.** Real estate appraisal report,
- e.** Compulsory earthquake insurance policy for the buildings,
- f.** 1 photo of the seller, 2 photos of the buyer (photos must be taken within the last 6 months, in the size of 6x4),
- g.** If there is a party who does not speak Turkish, certified translator,
- h.** If the transaction is carried out with a power of attorney issued abroad, the original or certified copy of the power of attorney together with its translation,

² <https://www.projekspert.com/who-can-buy-property-in-turkey/>

- i. Bank approved receipt.

There exist 3 types of power of attorneys issued abroad:

- a. Letters of Attorney drawn up by Turkish Diplomatic and Consular Missions.
- b. On condition that the powers of attorney issued by foreign notaries in the language of the country, which also include the approved photograph of the person concerned, is approved in accordance with the Hague Convention dated 5 October 1961; and in addition to the certificate of approval issued in the language of the country, the certificate of approval includes the French inscription "Apostille (Convention de La Haye du Octobre 1961)", for such powers of attorney the approval of Turkish Consulate in the country concerned is not required.
- c. In foreign countries that are not party to the Hague Convention of 5 October 1961, the signature and seal of the public notaries included in the powers of attorney issued in the language of the country, which also include the approved photograph of the person concerned, are approved by the competent authority under whose supervision the public notary is found while the signature and seal of this competent authority is approved by the Turkish Consulate in the country concerned.

1.1. Real Estate Appraisal Report

It is the report showing the market value of the real estate and which is to be used for determining the value sought at the acquisition date in accordance with the Regulation. The Real Estate Valuation Report ("**Report**") must be prepared by one of the real estate appraisal companies published on the websites of Capital Markets Board of Turkey or the Turkish Associations of Appraisers. The Report is valid for three months starting from its date of issuance.

For buildings the construction of which is actually finished on the ground, the value of the real estate on the date of the valuation report should be taken as basis when calculating the value of the real estate; while for the buildings that are not yet finished or that are under construction with construction servitude, the value which the property would have at the end of construction should be taken as basis when calculating the value of the real estate.

Under Circular no. 2019/1, it is possible to determine the value of sales contract or the preliminary sales contract lower than the valuation report value. In this context, within the scope of the current legislation, the valuation report is not binding when determining the sales price and the amount upon which the title deed fees would be based. However, in any case, the sales price cannot be below the value determined by the Regulation.

For the immovables which have been acquired prior to the start of the citizenship application process but upon which the citizenship application would like to be based, a report that is prepared based on the date of acquisition will be used.

While converting the Turkish Lira value into USD, the calculations in the Report must be based on the effective selling rate of the Central Bank of Turkish Republic ("**CBRT**") on the last business day before the Report date.

1.2. Sales Price

It is possible to transfer the sales price from foreign countries or banks in our country in foreign currency or its equivalent amount in Turkish Lira. The sales price must be proved with a receipt approved by the banks to which the immovable purchaser has transferred the sales price. At this point, for payments made through a bank, a note such as “This transfer/EFT is made for the purpose of acquiring the ownership of the immovable located at.....in order for thecitizen.....to exceptionally acquire Turkish citizenship” would make the proof of such payments easier. In this regard, payments made in person are not valid. In addition to the above documents, for transfers made from foreign countries, the bank receipt of the account from which the transfer originates must also be submitted.

In sales transactions the receipt date may be different from the date of the sales transaction. However, in preliminary sales transactions the date on the receipt must be before or at latest the date of issuance of the preliminary sales contract at the public notary. Payments whose bank receipt bear the date of a later date than the date of issuance of the preliminary sales contract at the public notary will not be taken into account as they will not be considered payments made “in advance”. The receipt must be submitted with the transaction of promise and at the latest before a certificate of conformity is issued.

2. Obtaining a Short-Term Residence Permit

After completing the process of purchasing the immovable, foreigners must obtain a short time residence permit covering the period of citizenship application process. In order to obtain the residence permit, foreigners must apply to one of the Provincial Directorates of Migration Management with the following documents;

- a. Residence permit application form,
- b. The original version and a copy of the passport -or equivalent document- (pages including the foreigner’s identity information and photograph) valid at least sixty days longer than the duration of the permit,
- c. 4 biometric photographs taken at most six months ago,
- d. Documents proving the applicant has stable and adequate finances to reside in Turkey for the duration of his stay (Finances are submitted in the application form. However, the Provincial Directorate of Migration Management may ask for additional documents proving these finances.),
- e. Valid health insurance covering the period of the foreigner’s stay in Turkey,
- f. Official receipt proving the payment of administrative fees and residence ID fees,
- g. Title deed of the immovable property,

3. Application for Turkish Citizenship

Upon completing the previous steps, the foreigner must apply to the General Directorate of Civil Registration and Citizenship in order to conclude his citizenship application. Foreigners can also apply to Turkish citizenship for their spouses and their minor children who are dependent on them. The necessary documents for application are as follows;

- a. Application form (VAT-4),
- b. Two passport type photographs in color,
- c. Passport or another similar document belonging to the foreigner that shows the country of which the foreigner is the citizen. If the foreigner is a stateless person, then-if possible- a document proving the foreigner's status as a stateless person,
- d. The marital status certificate of the foreigner. If the foreigner is married, then the certificate of marriage of the foreigner. If the foreigner is a widow/widower, the death certificate of the dead spouse,
- e. A document including the foreigner's identity information such as a birth certificate of the foreigner or an identity register copy. If the foreigner is married, then an identity register copy or a similar kind of document proving the family ties between the foreigner and the foreigner's spouse and children,
- f. In case the foreigner's birth date does not state in which month and on which day the foreigner was born, then a document obtained from the relevant authority in the foreigner's country in order to complete the birth date. If obtaining such document is not possible, then a signed statement of the foreigner on accepting to be treated in accordance with Article 39 of the Law No. 5490 on Civil Registration Services,
- g. A receipt showing that the service fee has been deposited to the pay-office of Ministry of Treasury and Finance.

V. GENERAL REMARKS ON PURCHASING AN IMMOVABLE

1. Application to Citizenship via More Than One Immovable

If the immovable purchased by a foreigner who wishes to acquire Turkish citizenship is not worth USD 250.000 or the amount equal to it in Turkish Lira or another currency, he can still apply for citizenship provided that the total value of all the immovable properties purchased by him after 19.09.2018 equals to the above mentioned amount. However, the date of purchase is essential in determining whether these purchases meet the amount required by law. Namely; the total value of the immovables purchased between 12.01.2017 - 18.09.2018 must be at least USD 1.000.000, while the total value of the immovables purchased after 19.09.2018 must be at least USD 250.000. Moreover, the total value of the immovables regarding which preliminary sale contracts have been drawn up or will be drawn up after 07.12.2018 must be at least USD 250.000. There are no limits on the number immovable properties purchased to apply to citizenship nor are there any restrictions as to the places in which the immovable properties must be located. The only requirement regarding the immovable property is set as to its value. Thus, the important point with regards to the immovable property is to be able to meet the monetary requirements determined by law.

2. Application to Citizenship via Joint Ownership of the Immovable

If a foreigner has shares in an immovable property purchased between the dates 12.01.2017 - 18.09.2018 and these shares are worth at least USD 1.000.000 or he has shares in an immovable

property purchased after 19.09.2018 and these shares are worth USD 250.000, then such foreigner can also apply to Turkish citizenship using these shares.

3. The Case of Buying or Selling the Immovable on Behalf of a Legal Person

Only natural persons can apply to Turkish citizenship by way of acquiring an immovable. The seller however, can be a legal person as long as the buyer is not one of its' shareholders or managers.

4. The Case of Selling the Immovable by a Foreign Natural Person

The immovable which is subject to purchase must neither be registered in the name of the applicant's spouse or children nor must it be an immovable sold by them or the applicant himself after 12.01.2017 in order to be eligible to be subject to citizenship application.

5. The Case of Real Estate Being Subject to a Lien

It is possible to apply for Turkish citizenship with immovable properties that were purchased with a lien already imposed on them before the purchase date or upon which a lien was imposed at the time of the purchase due to the purchase of the immovable using a mortgage. However, in cases where the immovable is purchased using a mortgage, the amount acquired after deducting the loan amount from the sales price must meet the necessary investment value determined by law. Moreover, for immovable properties upon which there exist a lien whose existence is required by law, in addition to the value of the lien, the advance paid portion of the sale value must also meet the necessary investment value determined by law.

6. Determination of the Minimum Value of the Immovable

The total sale values stated in the official deeds and/or the values on the preliminary sale contracts, the total value determined in the appraisal report and the sum of total payments made with regards to the sale value and which are proved with bank receipts must meet the monetary requirements. To calculate the values, the effective selling rate of the CBRT on the last business day before each transaction must be used.

7. Conformity Certificate

According to the decision of the General Directorate of Land Registry and Cadastre Foreign Affairs Department dated 31.05.2019, the General Directorate of Land Registry and Cadastre Foreign Affairs Department will continue to be responsible of issuing Conformity Certificates for transactions included within the jurisdiction of Land Registry and Cadastre Regional Directorates of Ankara, İzmir, Bursa, Antalya, Denizli, Hatay, Trabzon and Samsun until 24.06.2019. However, after this date, the Conformity Certificates will be issued by these Land Registry and Cadastre Regional Directorates. For transactions falling within the jurisdiction of other regional directorates, the General Directorate of Land Registry and Cadastre Foreign Affairs Department will continue to be responsible of issuing the Conformity

Certificates. In this context, there do not exist any further steps to be completed for foreigners to acquire a Conformity Certificate as the remaining procedure is carried out by land registry directorates.

VI. CONCLUSION

The demand on exceptional acquisition of Turkish citizenship rose highly after the monetary limits have been reduced. In cases where the type of investment is an immovable, there are many important points such as the rights of third parties, purchase type, payment, valuation report on the immovable. Following the purchase of the immovable, there are important processes such as residence permit and citizenship application. For this reason, it is essential to get professional support for acquiring citizenship through investment.

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