

Why Should You Invest in Turkey?

Turkey with its geopolitical position, natural and cultural richness, transportation facilities and newly constructed bridges, airports and developed tourism, retail, entertainment, event and congress tourism is quite an attractive country for the foreign investors and at the same time a powerful country with its stable economy. With its growing economy, mega projects in the real estate sector and sectoral dynamics, Turkey will continue to harbor new opportunities, provide its investor with added value and increase its value in the future.

The real estate sector has major contribution to economic growth together with construction and housing production including sub-sectors. Turkey's real estate sector creates impacts on both growth and employment, by stimulating 250 sub-sectors. According to the statistics of Turkey Statistical Institute (TÜİK), 1 million 375 thousand 398 housings were exchanged in overall Turkey in 2018. As of the end of April 2019, housing sales were 340 thousand 836. It is estimated that the yearend housing sales in 2019 will be similar to 2018.

Also granting citizenship to the foreign investors buying real estate in our country is a pleasing development in order to attract the foreign investors to our country. It became possible for a foreigner to acquire Turkish citizenship by purchasing a property worth at least USD 250.000. This regulation also for the investors investing minimum USD 500.000, for people depositing USD 500.000 or for investors providing employment to a minimum of 50 Turkish citizens as well. Moreover, with the new legal regulation of our government, VAT exemption granted to the foreign investors. According to the new VAT regulation, the foreign investors will have the right of buying real estate without VAT but will not be able to sell these estates for a year.

We as GYODER want to tell the world about Turkey's real estate sector and opportunities provided in the best and most correct way in the presence of institutional and individual investors to make a contribution to the publicity of the real estate sector abroad and to help our country find its deserved place in international arena. For this very reason, we noticed that especially individual investors need a guide who tells them which path they should follow and to what they should pay attention while making investments in Turkey.

In this context, 'How to Buy Property in Turkey?' booklet which drew great attention because of being used as a source and the first eight edition of which reached the number of more than 20000 was renewed in the light of up-to-date data. With this booklet, we created an important source answering all the questions that guide foreign individual investors and help while buying real estate. This book in which you can find all the procedures to own real estate in Turkey easily and in detail will be a reference guide covering all the main subjects worthy of notice about the processes like making the most correct real estate investment, evaluating this investment and selling it for the right price.

With varying demands, advancing technology and the integration of the information systems into the sector, Turkey's construction sector will continue to change and develop in the upcoming years. We as GYODER, Turkey's real estate platform playing a key role for the real estate sector, will maintain our works which will provide the sector with added value and continue to be the point of reference as in the past.

What are the facts and figures about Turkey?

Istanbul, where **18.4%** of Turkey population reside, is the largest city of the country in terms of population with **15 million 67 thousand 724 residents**.

In 2018, the annual **housing sales** figure was recorded as **1.375.398** in Turkey. As of the end of April 2019, housing sales reached **340.836**. It is estimated that 2019 year-end data will be similar to 2018 data.

There are **direct flights to 400 destinations** from İstanbul and **22 direct connections** to the capital cities within 2 hours.

In 2018, the net foreign direct investment inflow was over **USD 13 billion**. Compared to the same period of 2017, it grew by **12.5%**. In January-February 2019, net foreign direct investment inflow was **USD 1 billion 584 million**. **34.9% growth** was recorded compared to the same period of the previous year.

Turkey has a **population of 82.0 million**, **46.9%** of which are **under the age of 30**.

6.5 million residential units are expected to be renovated within the next 20 years, which means a sector of USD 400 billion.

In 2018, Turkey's **GDP grew by 2.6%** compared to the previous year.

Turkey is expected to be amongst the **world's top 15 economies** by 2050.

In 2018, the number of housing sold to foreigners **increased by 78.4%** compared to the previous year and reached **39.663**.

In 2018, Turkey became **the world's 20th largest economy**.

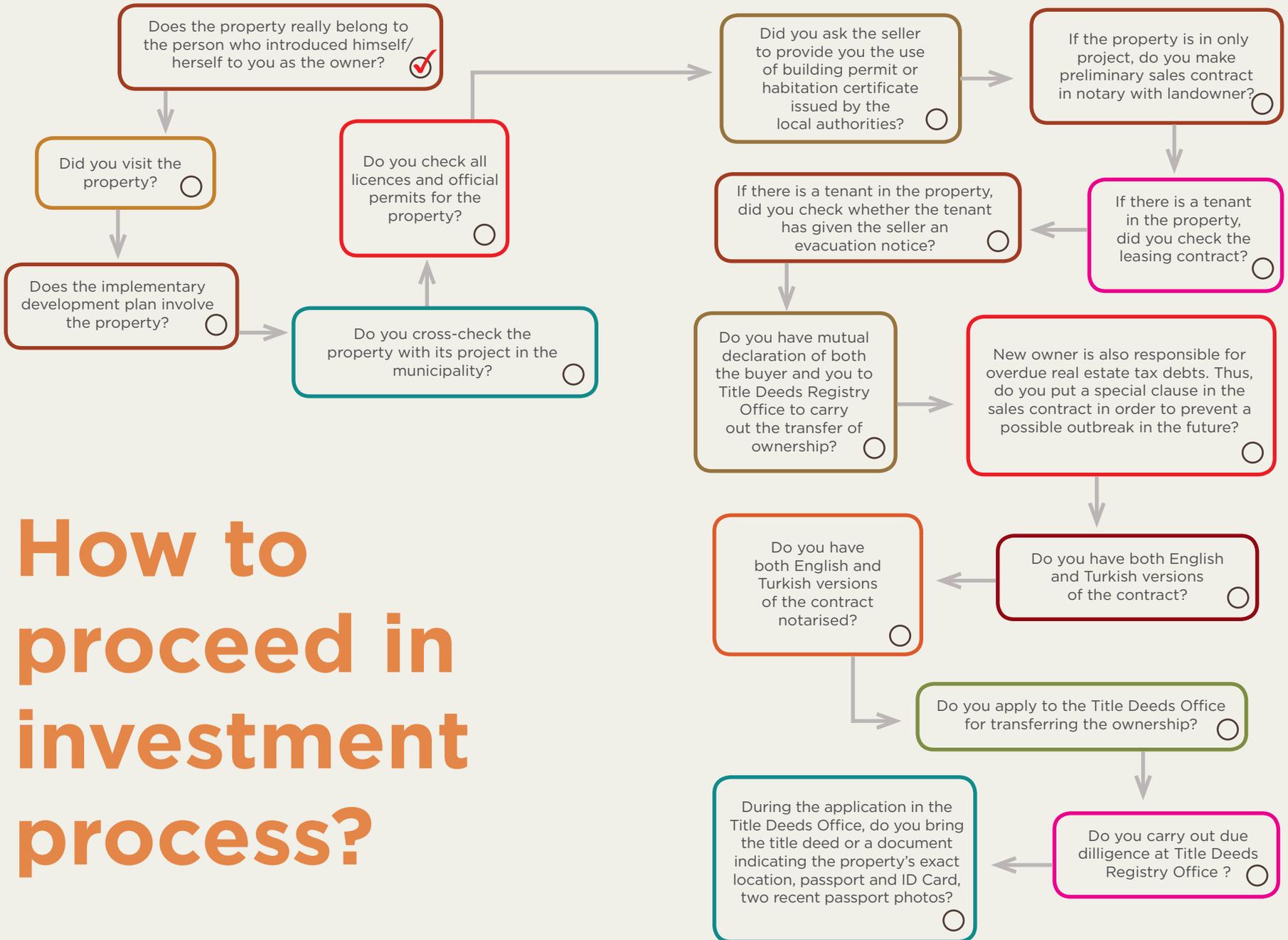
Secondary cities with investment potential: **Ankara, İzmir, Antalya, Bursa, Kocaeli and Mersin**.

39.4 million tourists visited Turkey in 2018.

Urban transformation projects **being executed strengthened İstanbul's real estate market**.

Turkey has **22 cities with a population of over 1 million**.

Istanbul, Turkey's financial center, also has growth potential in the **development of additional office space**.



How to proceed in investment process?

Acquisition Phase

Can foreign real persons acquire real estate?

Foreign real persons, who are citizens of the countries that have been announced by the Council of Ministers (except for Syria, Armenia, Cuba, Israel and Cyprus) are entitled to acquire ownership rights in Turkey.

In any event, the total size of land cannot exceed 300,000 sqm for each person. In addition, foreign real persons are only entitled to acquire real estate up to 10% of the total surface area of the relevant district. The Council of Ministers holds the authority to increase such amount per person.

In order for a foreigner to officially understand whether or not she/he can acquire a specific real property, the prospective buyer must apply to the relevant land registry office for approval. The acquisition can be performed upon the issuance of the relevant land registry's approval.

Is there a different procedure applicable for property acquisitions performed by foreigners?

Aside from the procedure mentioned above, there are no difference between foreign real persons or Turkish citizens regarding an acquisition of property.

Is there a different tax treatment for property transactions in Turkey between Turkish taxpayers and foreigners?

In principle there is no difference between Turkish residents and non residents for property acquisitions for taxation purposes. Foreigners are subject to the same rules with the Turkish citizens/residents. But, in May 2017, law has passed from parliament regarding VAT free real estate acquisition for foreigners. (Please refer to VAT section for details) In that sense, being a foreigner would be much more advantageous for real estate acquisitions for the first sale of new buildings built as residences and workplaces.



The land registry system used in Turkey is a reliable and secure system, whereby every real estate transaction is officially registered.

Is there a difference between the procedures to be applied for office and villa or apartment/condo acquisition?

Transactions involving acquisition of office and villa or apartment/condo are subject to the same official procedures.

Can the foreign successors of the foreign property owner inherit the property?

The foreign successors can acquire real property by way of inheritance, subject to the following conditions; (i) the successor must be a citizen of the countries that have been announced by the Council of Ministers; (ii) the real property shall not be within the borders of restricted zones (such as military zones, security zones, etc.) (iii) the total size of real property that will be inherited by a single successor shall not exceed 300.000 sqm and 10 % of the total surface area of the relevant district. If the successor is not entitled to acquire property due to any of the above mentioned restrictions, the successor is obliged to sell the property to an eligible third party within a maximum period of one year. Otherwise, the property will be sold by the Ministry of Finance, and the sale price will be paid to the successor.

How to find a property: Is it necessary to use a real estate agent?

Property can be acquired through a direct transaction that is completed with the landowner or, alternatively, a real estate agent may be hired to find a suitable property satisfying the relevant requirements. Real estate agents are paid via commission if and when the transaction is completed. As per market practice, the real estate agents charge 3-4% (including VAT) of the purchase price. Such commission is usually borne equally between the buyer and the seller.

Am I paying the right price?

There are real estate appraisal companies which determine the current market value of properties. These companies can be used to understand the accuracy of the purchase price. Alternatively, real estate agents working in the neighbourhood can be visited to understand the market value of the properties within the relevant area.

How secure is the Turkish land registry system?

The land registry system used in Turkey was initially formed by the Ottoman Empire, and gradually developed into the existing system over the years. It is a reliable and secure system, whereby every piece of real estate transaction is officially registered. Land registry records are public; therefore, the rights of third parties, who acquire ownership or an interest in any form of real estate in land registry records, are respected. Beyond the official ledgers, information

regarding the legal status of real properties (ownership rights, rights registered in favour of third parties, encumbrances, etc.) is also maintained in a computer system called Takbis.

Is it necessary to conduct a site survey?

Before proceeding with any real estate transaction, it is advisable to conduct a site survey to provide information regarding the legal status of the target property, and to identify any foreseeable legal risks and their effect on the use of the subject properties for the intended purpose. The main information and documentation to be evaluated in carrying out such site survey are as follows:

- *Evaluation of current ownership*

Ownership details of the property should be examined prior to the transaction to ensure that the seller legally owns the property.

- *Encumbrances over the property*

Title deed records of the property should be examined to determine if there are any outstanding liens, mortgages, or any other encumbrances in favour of third parties attached to the property. It should be also examined if there are any other annotated rights, such as easements, promises to sell, etc. If there are no encumbrances or annotations, the ownership of the property may be transferred without any restriction or legal risk.

- *Cadastral Records*

The cadastral records of the property must be in conformity with the relevant zoning plans, and must not contain any notable or unusual information. Also, the cadastral borders (ownership borders) of the property must match the borders of the property as indicated in the zoning plans.

- *Zoning Status of the Property*

The zoning plan and plan notes must be examined before the municipality in order to identify the types of activity (such as residential, office, hotel, etc.) building can be used for.

- *Construction License and Building Utilization Permit*

The construction license and building utilization permits are the main permits that must be obtained from the relevant municipalities in order to construct a new building or to carry out alterations to

an existing building. The property must hold a valid construction license and building utilization permit that confirming that the building is constructed in accordance with the construction license. If the reason for the lack of an occupancy permit is an inconsistency between the completed building and the construction license, the relevant municipality may demolish the building or require it to be modified so as to conform to the construction license, and the landowner may be subject to various fines, as well.

- *Current Physical Status of the Property*

The actual status of the property and its neighbourhood should be evaluated by visiting the property. Due diligence regarding the compliance of the current physical status of the property with its original as-built projects should be carried out before entering into any agreement.

What are the main types of purchase agreements?

- *Purchase/Sale Agreement (Direct Acquisition)*

According to Turkish law, the sale of a property can only be completed before the relevant land registry with the attendance of both the seller and purchaser. In order to transfer the ownership, the parties must execute a standard transfer deed prepared by the relevant land registry.

If you are to buy a building under construction, make sure that the contractor is financially reliable and legally authorised.



Acquisition of the property can be accomplished through purchase directly from the existing landlords. Real estate agents, if involved, charge a commission for their involvement in the purchase as mentioned under our response to previous question.

- *Promise to Sell Agreement*

Prior to the sale of property, the seller and purchaser may enter into a preliminary “Promise to Sell Agreement.” This is the only preliminary agreement that can be validly executed between the parties and, in order to be binding, it should be prepared by and signed before a notary public.

In order to qualify for protection against third party claims, the Promise to Sell Agreement should be registered with the land registry. In the event of non-registration of the Promise to Sell Agreement, any subsequent purchase of the property by a third party acting in good faith will be valid. The annotation will be valid for a period of five years.

What are the payment options available?

The purchase price of the property may be made cash, via wire transfer or blocked checked.

Should the acquisition of the property be done in person?

Either the purchasing party (i.e. foreign real person) or his/her legal representatives can conduct transactions regarding the acquisition of property. If acquisition transactions are carried out by way of a power of attorney, such power of attorney must be drafted and regulated by a notary public, and must also be signed before the notary public, who, under Turkish Law, has the power to control and certify that the authorization to act on behalf of such person is being duly granted. The power of attorney that is to be used for the acquisition of property must include the full name and address of the legal representative(s), as well as all of the authorities granted to the legal representatives for the acquisition of the property.

If the power of attorney is drafted and executed abroad, the following steps should be taken: (i) a photo of the signatory must be included, (ii) the photo must be signed, sealed or stamped by the relevant authority issuing such PoA, (iii) the power of attorney must be prepared in the offici language of the issuing country and (iv) the power of attorney should be notarized and apostilled. In order to be binding, the translation of such power of attorney must be notarized in Turkey.

Are there any rules regulating the right and obligations of the parties living in the same property? (Condominium Law-Management Plan)

A management plan is an agreement between condominium owners that regulates the management of the main structure and common areas. All condominium owners and their successors are bound by the provisions of the management plan.

The purpose of the management plan is to determine rights and obligations of the parties to each other, who live in the same property, and to provide rules on the management of the property concerning the purpose and method of use and the other issues related to management, such as operations, auditing, maintenance, and repair work, and to ensure the establishment and continuity of a peaceful, healthy, safe and proper working system of the property in accordance with the rules of Condominium Ownership Law.

The provisions of the management plan are valid to the extent they are in compliance with the provisions of the Condominium Ownership Law. Accordingly, condominium owners cannot add provisions into the management plan that alter or substitute the mandatory provisions of the Condominium Ownership Law. The board of condominium owners (the “Board”) is responsible for the management of the common areas. The condominium owners are the natural members of the Board, and are entitled to participate in the management of the entire building in accordance with the provisions of the Condominium Ownership Law. The Board may outsource management power to professional management companies. In addition, each person has also rights and obligations to the other persons living in the same property arising from Condominium Ownership Law and Civil Law.

Is it necessary to hold a tax number to acquire a property?

A tax number is requested from the buyer at the time of the property acquisition before the land registry. A foreign real person may obtain a tax number by applying to any tax office, together with a copy of his/her passport (translated and certified by a notary public).

What are the main taxes related to property transactions?

In principle every property acquisition for individuals are subject to some transaction taxes such as “Title Deed Fee”, “Value Added Tax”, “Stamp Duty,” and “Notary Taxes”. Additionally, holding a property

in Turkey triggers a wealth tax called “property tax.”

Income derived from property such as rental income or capital gain obtained at the time of disposal of property would also subject to “Income tax”.

Each tax mentioned above would subject to specific calculation, payment, declaration rules and of course have some exemptions.

What is “Title Deed Fee”? How it is calculated and paid?

“Title Deed Fee” is calculated according to the “Fee Law” for the transactions concluded at the title deed registry such as property buying/selling, registration of rental contract, annotations of any transaction made at registry etc. At the time of acquisition, title deed fee at the rate of 2% (Decreased to 1.5% until 31 December 2019) is applicable over the sales price for buyer and seller separately as from 1 January 2020 unless a new regulation is made for aftermath of 31 December 2019. Fee has to be paid to the tax office before the transaction made at the registrar.

Is VAT applicable for all property acquisitions in Turkey?

In principle every property sales transaction made in Turkey by traders is subject to VAT. So, in principle every house, land and office property sales also fall into the scope of VAT. On the other hand in the following cases there is no VAT applicable for property sales:

“Initial transfer of a residence or a workplace to a purchaser who is, (i) a Turkish citizen living abroad for more than 6 months with a work or residence permit, (ii) a foreign person, not residing in Turkey, or (iii) a legal entity which does not have its business center in Turkey and does not generate income via a workplace or a resident representative in Turkey is exempted from VAT.

It shall be also noted that a VAT exemption of a foreign person/entity for the aforesaid transactions is only applicable, if the transfer fee of the real estate in such transactions are brought to Turkey and paid to the seller in foreign currency. In addition to that, the said property must be held for at least one year after the acquisition. In case that the property is sold within a year after the acquisition date, the VAT will become payable together with late payment interest.” Except for the exemption to apply to the above mentioned foreigners (those not residing in Turkey) for sales, the VAT exemption will also apply to sales to be made by the below (regardless of those to whom the sales is made):

- If the seller/owner of the real estate is a real person who does not engage in commercial activity (i.e. who does not regularly buy or sell real estate),

Or

- If the seller of the property is a company that does not engage in regular real estate trade and holds the property for more than two years.

What are the VAT rates to be applied for property acquisitions?

General VAT rate in Turkey is 18% and this rate is also applicable for the property sales. In principle property sales including office, residential properties, land acquisitions etc. are all in principle subject to 18% VAT which is calculated over the sales price in principle.

What are the VAT rates specific to residential property sales?

As a rule, housing sales are subject to 18% VAT (except for those specified under the topic of “Is VAT applicable for all property acquisitions in Turkey?”).

“In addition to the normal VAT rate of 18%, rates of 1% and 8% are also applicable to residential units having a net area of less than 150 sqm, according to certain conditions. We recommend you to consult your tax advisor for such very complicated VAT rates.

All residential units having a net area of more than 150 sqm and all other real estates including offices are subject to 18% VAT.

However, thanks to the current regulation, it should be kept in mind that the VAT will apply at the rate of 8% in all kinds of residential units and offices which are subject to 18% VAT until 31.12.2019.

For more information on acquisitions without VAT, please examine the topic of “Is VAT applicable for all property acquisitions in Turkey?”

What is “Stamp Tax” and how is applied to the property buying and selling transactions?

In principle agreements signed in Turkey are subject to stamp tax

over the highest monetary value stated or referred in the agreement at 0.948%

On the other hand, please note that preliminary sales contract are exempt from stamp tax and Prepaid Home Sales Agreements are subject to 0% stamp tax. Rental contracts are subject to stamp tax at the rate of 0,189% on the total rent amount to be calculated over the total rental period specified in the contract, not the general Stamp Tax rate.

On the other hand, agreements signed between individuals who are not dealing with any commercial activity do not subject to stamp tax. Signatory parties are mutually liable for the payment of the stamp tax. The “formal deed” signed in front of the land registry officer for the purchase and sale transaction is exempt from the stamp tax.

What are the financing models for a property acquisition?

The most common financing for property acquisitions is mortgage financing, under which the financing institution establishes a mortgage over the target property in consideration for a loan of up to approximately 80% of the market value of the target property. Foreign real persons are also entitled to benefit from this mortgage financing model offered by Turkish financial institutions.

What kind of loans am I offered?

There are fixed rate and floating rate loans both on the shelf. But fixed rate loan is common in Turkey. So, by choosing the first one, you can pay your loan with equal monthly instalments and a fixed interest rate through the life of your loan. By doing so, a fixed interest rate enables you to learn the exact amount of your monthly instalments in advance and your loan will not be affected by volatile market conditions.

How establishment of a Mortgage is done?

A mortgage can only be established through an agreement in compliance with a certain official form. The official mortgage deed must be executed and registered by the parties before the relevant the land registry Office.

The legal scheme concerning the establishment of liens on immovable properties, i.e. mortgages, is mainly regulated under the Turkish Civil Code numbered 4721 (the “TCC”). Pursuant to the

local regulations, a mortgage can be established on an immovable property in order to secure current or future credits. A mortgage can only be established on real estate that is registered in the title deed registry.

Foreign real persons can become the mortgagor without being subject to any approval.

As a foreigner which requirements should I meet for the mortgage? What are the application conditions?

To get any kind of loan, including mortgage, it is legally compulsory to be 18 years or older. Even though incomplete houses are also subject of mortgage in some certain conditions, common practice requires that the property to be purchased must be ready to be occupied and have minimum right of easement.

Maximum LTV is up to 80% of the value of the property that you are going to buy. Even though 120 months is most preferred one, loan maturity for mortgages goes up to 180+ months. As loan currency, you can prefer TRY, USD, EURO or some other convertible currencies if available. However, there are certain restrictions for foreign currency loans.

Is there a compulsory property insurance requirement?

According to the Law on Natural Disaster Insurance, “compulsory earthquake insurance” (DASK) must be held for the property. The title deed registries and the institutions providing utility services will not perform any transactions regarding the property if this compulsory insurance is not held. Apart from such mandatory insurance, the owner of the property may, at his/her own discretion, insure the property against risks, including, but not limited to, theft, fire, flood, storm, etc.

What are the other conditions to be remarked for financing?

In order to protect your property, mandatory earthquake insurance is required. For other possible risks; life insurance and home owners insurance are recommended.

A guarantor is not necessary at the time of application. However, a guarantor or co-borrower may be required as additional collateral. For fixed rate mortgages, a certain percentage of the pre-paid amount may be charged as a pre-payment penalty.

Following the approval, what are the phases to finalize the process?

There are three quick phases to finalize the process before title deed transfer.

- *Appraisal*

If your loan application is approved by a financial institution (FI), there will be an appraisal process to determine value and confirm legal conformity of the property you are going to buy. The appraisal process is committed through the FI and finalized in a few days.

- *Pre-contractual Information Sheet*

After the appraisal process is completed, you have to sign the pre contractual information sheet. According to the Turkish Mortgage Law, the loan contract must be signed reasonable time after the pre-contractual information sheet has been signed. The pre-contractual information sheet contains all the important details of your loan, payment schedule, interest rate, principal amount, monthly instalments and all the fees.

- *Signing Loan Contract*

Once the pre-contractual information sheet has been signed, a reasonable time later (one business day in practice) you can sign the loan contract, payment schedule and other credit documents. After you sign these documents, the pledge documents are prepared by the FI.

If all required documents are complete and accurate and submitted in a timely manner, it takes on average a week from the application date to disbursement day.

How is the disbursement and title deed process?

On date of appointment, the FI contiguously establishes the first degree lien on the property after registration of sale of the property in title deed office. Then the FI transfers the loan amount to the seller's bank account or delivers a guaranteed check for the loan amount to the seller.

Title deed fee is 2% in the sale of immovable property (1.5% in the purchase of residential units and offices until 31 December 2019). This amount is paid separately by both the buyer and the seller.

Holding Phase

Is it possible to obtain a residency permit after acquiring a property?

According to the “Law on Foreigners” and “International Protection”, foreigners who have acquired property in Turkey are entitled to apply for a short-term residency permit. Short-term residency permits are granted for a period of up to two years for each application. The applicant is required to declare a residence address when filling out the forms.

The General Directorate of Land Registry and Cadastre issued a Circular No. 2019/1 on 15 February 2019 regarding the valuation in the acquisition of immovable property by foreigners. Accordingly, as of 4 March 2019, foreign real persons are obligatory to obtain valuation reports not only for the real estates purchased for the purpose of acquiring Turkish citizenship, but also for all real estate sales whose buyer or seller is foreign real persons. The said report shall be valid for three months from the date of issue.

Is it possible to obtain citizenship, after acquiring a property?

As explained above, the foreigners who have acquired property in Turkey are entitled to apply for a short-term residency permit up to two years. As per the Turkish Citizenship Law and the Regulation on the Application of the Turkish Citizenship Law, a foreigner may acquire Turkish citizenship by residing in Turkey for continuously five years before the date of application.

However, there has been a recent amendment in the Regulation on the Application of the Turkish Citizenship Law and with this recent amendment; it became possible for a foreigner to acquire Turkish citizenship by purchasing a property worth at least USD 250,000.

Additionally, it is also possible to acquire Turkish citizenship by entering into promise to sell agreement via notary public for an

immovable, provided that the the condominium ownership or condominium servitude is established for the said immovable, (ii) the applicant paid in advance at least USD 250,000 or equivalent Turkish Lira or foreign currency amount and, (iii) the agreement is annotated to the land registry with the undertaking not to assign or de-register the agreement for three years.

So, if the value of the property is equivalent ot more than USD 250,000, the foreign owner of such immovable will not have to wait for 5 yearsto acquire Turkish citizenship after having the short-term residency permit. Ownership of such property should be kept for a period of 3 years minimum.

As per the Regulation, an annotation must be registered in the land registry records of such property stating that the property would not be subject to sale for 3 years. Thus, it will not be possible to sell the property within 3 years if the foreign owner of the property has acquired citizenship after purchasing the property.

How to start using the utility services?

The owner of a property may only apply for subscription of the utility services (such as electricity, water and sewage system connection) following the issuance of the building utilization permit. Accordingly, if the building utilization permit is in place, following the acquisition or leasing of the property, the new owner or tenant must apply to the relevant institution, and should execute an agreement regarding usage of the relevant utility service. The new owner or tenant can use the utility services following the execution of the utility service agreement, and after making payment of the subscription or deposit fee.

What are my tax liabilities if I hold the property only for my own use?

Income tax is applicable only if you rent your property and earn “rental income” or sell your property and derive “capital gains”. So, if you hold your property in Turkey only for your own use and not rent it to any other parties, you will not be subject to any income tax in Turkey.

You can use the utility services following the execution of the utility service aggrement, and afte making payment of the subscription or deposit fee.

Can I lease my property to third parties?

Turkish citizens as well as foreign real persons are free to dispose of their property. They may sell, lease or pledge their property to third parties.

Can the parties freely determine rental amounts?

The freedom of contract is one of the main principles of the Turkish Lease Law. Therefore, except for the mandatory provisions and foreign Exchange Legislations of the Turkish Code of Obligations (TCO), the parties can freely determine contract terms, including rental amounts over Turkish Liras.

However, since 13 September 2018, the value and any other payment liabilities arising from the real estate lease contracts executed amongst Turkish residents (including those at free zones) are not allowed to be denominated in a foreign currency or foreign currency indexed value. While this is so, according to the Communiqué (No. 2018-32/52) for the Amendment on the Communiqué (No. 2018-32/34) for the Decree No. 32 regarding the Protection of the Value of Turkish Currency, the rental contract values can be determined in or indexed to foreign currency for the non-Turkish residents' or companies' branches, representatives, offices, liaison offices located in Turkey, the Turkish companies in which such non-residents and companies directly or indirectly hold fifty percent or more of the shares or which are under the control or joint control of non-residents and companies, free zone companies only for their activities in the free zone.

Is rental adjustment possible?

Parties to a lease agreement can regulate a rental adjustment rate. According to the TCO, adjustment rates for rents paid in Turkish Lira cannot exceed the Consumer Price Index (CPI). In the event that the rental is determined as a foreign currency, no adjustments can be made to the rental for the first 5 years. However, such restriction shall not apply until 1 July 2020 for lease of workplaces if the lessee is a merchant as specified under the TCC or a private/public legal person.

Is foreign currency rental possible?

As noted above, pursuant to the Presidential Decree No. 85 entered into force on 13 September 2018, it was mentioned that the values and any other payment liabilities arising from the rental contracts amongst the Turkish residents are not allowed to be denominated

in a foreign currency or foreign currency indexed value, except for cases determined by the Ministry.

The secondary legislation, the Communiqué (No. 2018-32/52) Amending the Communiqué (No. 2008-32/34) Regarding Decree No. 32 On the Protection of the Value of Turkish Currency ("Communiqué") was published to introduce the exceptions and details on the Decree. The Communiqué repeats the restriction to denominate the agreement price and any other payment obligation arising from lease agreements for real estate in foreign currency or indexed to foreign currency. However, the Communiqué introduced an exception to this restriction.

Accordingly, agreements for the lease of real estate are no longer subject to foreign currency restrictions if executed as tenant by non-citizens residing in Turkey; Turkish branches, representation Office offices or liaison offices of persons residing outside of Turkey, or Turkish subsidiaries in which such persons directly or indirectly hold a 50% or greater interest and/or hold under joint control and/or control; or companies located in free zones, so long as the agreement is in relation to their activities in free zones.

What is the maximum lease duration?

There are no restrictions regarding the term of a lease agreement. Parties are free to determine the term of the lease agreement by mutual agreement. The TCO also regulates extensions of term of lease agreement in case there is no mutual agreement between the parties and it also determines conditions to terminate.

Do lease agreements bind third parties?

Lease contracts can be annotated before the relevant title deed registry. In such a case, the tenants are entitled to claim their rights against third parties, such as a new owner of the property. The annotation of a lease agreement prevents eviction of the tenant (during the lease term) from the premises, if and when the property is transferred to a third party.

An independent lawyer will negotiate on your behalf and advise you on any penalties you might incur for late payment or other delays.

How is my rental income taxed in Turkey?

Rental income obtained by real persons is subject to “Income Tax”. Income Tax is calculated on a yearly basis by taking into consideration for all rental income collected during the calendar year. Rental collections relating to the previous years and current year are subject to tax as the income of the year in which collection is made, whereas collections made for future years in advance are taxed as income of the year to which they relate. In permissible cases, the income obtained at the time of a lease transaction made on the basis of a foreign currency is converted to Turkish Lira using the exchange buying rate of the Turkish Central Bank effective on the date collection is made and the tax is levied accordingly.

A certain portion of the rental income is exempt from Income Tax. This exemption amount is TL 5.400 for the year 2019. For taxpayers who obtain rental income (working place rental income) subject to withholding (for details, please refer to the other question), the declaration is mandatory if the gross amount of such rental income exceeds TL 40.000 for 2019. After this declaration, the amount deducted from the income tax amount to be calculated from the rental income declared by the lessor and deducted from the source by the lessee by withholding will be paid to the tax office.

Within the scope of the declaration of rental income obtained during the calendar year, the parties are able to deduct some of their expenses from tax.

There are two methods that taxpayers can use in terms of tax deductible expenses when determining the rental income base to be taxed. These are “real” and “lump sum” expense methods.

These are:

• *Real Expense Method*

In case of selection of the real expense method, following expenses that are incurred in relation to the leased properties can be deducted from the gross rent amount:

- Lighting, heating, water and lift expenses
- Administrative expenses,
- Insurance expenses for the properties and rights leased out,
- Interest expense of the borrowing made and spent for the properties and rights leased out,
- 5% of the acquisition amount of the property rented out for

residential purposes for a period of five years (this deduction equaling the 5% of the acquisition amount will only be applied to the income derived from the relevant property, the portion not deducted will not be treated as excess expense),

- Taxes and fees related to real estate such as real estate tax, title deed fee, and taxes, fees and participation shares related to real estate paid to municipalities,
- Amortizations,
- Repair expenses,
- Rents and other real expenses paid by those who have leased out properties and rights which they have rented.
- Rent amounts of residential or accommodation units occupied by those persons who lease out their residential units (excluding rent amounts paid by non-resident taxpayers in a foreign country), and
- Damages, losses and indemnities.

The portion of such expenses corresponding to the tax exempt income amount (TL 5.400 for 2019) cannot be deducted.

• *Lump Sum Expense Method*

The taxpayers preferring lump sum expense method deduct the amount corresponding to 15% of the remaining amount after deducting the exemption amount from rental income as a lump sum expense without any document requirement. Taxpayers that prefer this method cannot use the real expense method for the next three years.

What happens if my lessee is a company?

The legal entity lessees and traders shall be liable to make a 20% deduction (withholding) from the rental payments to be made to real persons and deposit it to the tax office on behalf of the lessor. As mentioned above, the real estate owner who leases his real estate to a real person or company that has commercial income, shall be liable to declare it with annual income tax return if the gross (pre-deduction) rental income obtained from the leased real estate exceeds the annual declaration limit, and when making the declaration, the above mentioned expenses shall be deducted, and after deducting the amounts deducted by the lessee from the tax amount to be calculated over the remaining amount after the deductions, the remaining amount shall be declared and paid in two installments to the related tax office.

Should I charge VAT to my rental income?

No. Rental income obtained by individuals who are not dealing with any commercial activity or from the properties that are not part of the enterprise are not subject to VAT. So, as an individual lessor you will not charge any VAT.

Does stamp tax applicable if I sign a rental agreement?

As mentioned above, in principle agreements having a monetary value signed in Turkey are subject to “Stamp Tax” including leasing agreements over the total leasing amount stated in the agreement at 0.189%. On the other hand, since leasing agreements between two individuals are exempt from stamp tax no tax is calculated.

Is it obligatory to register rental agreement to the title deed registry? What are the fiscal liabilities if we register?

No. The registration of the rental contract to the title deed is not obligatory. However, if it is requested to be registered, the Title Deed Fee must be paid at the rate of 0.683% over the total rental amount during the registration process.

Should I pay property tax for all my properties in Turkey? How and when?

Yes. Land and buildings in Turkey are subject to property tax and the taxpayer is the owner of the building. Property tax rates vary depending on property type and its location (whether the property is located within the boundaries of a metropolitan municipality). Tax rates that are currently effective according to these criteria are as follows:

	Residential unit	Workplace	Arable land	Other land
Ordinary regions	%1	%2	%3	%1
Metropolitan municipality boundaries and surrounding areas	%2	%4	%6	%2

Property tax is calculated over values determined by municipalities for the streets and avenues. So, you should check your property’s tax value by the related municipality. Property tax liability for persons who purchase property starts as of the beginning of the year following the year in which the sale is made. Property tax is paid in two equal instalments, the first one due for payment in March, April and May and the second one due for payment in November.

Also, as an additional liability called “the surcharge for the protection of immovable cultural assets” is collected together with the property tax at 10% of the annually collected property tax.

Disposal Phase

Are there any different principles applicable while selling a property owned by a foreign real person?

There is no difference regarding the principles of a property sale by a foreign real person and a Turkish citizen. However, if the purchaser is a foreign real person, the procedure as set forth under “acquisition” above, will apply.

Should I pay income tax if I decide to sell my property?

Yes. Capital gains derived from the disposal of properties, which have been acquired by individuals in return for an acquisition amount and which are held for less than five years, are subject to income tax.

Any value increases obtained from the sale of real estate that is not acquired against any value (i.e. acquired through donation or inheritance) or acquired from sale after a 5-year holding period are not taxed.

How is capital gain taxed in Turkey?

Individuals deriving capital gain from the property sales have to declare their income on a yearly basis with Income Tax declaration. The tax base is the positive difference between the sales price and the acquisition value. (If this difference is negative, it does not need to be declared.)

While determining the earnings to be taxed, “expenses incurred due to disposal and remained under the responsibility of the seller”, and “Taxes and charges paid” are separately deducted in addition to the cost amount of the property.

The acquisition value is increased by the said increase rate if the increase in the Producer Price Index for the period between purchase and sale is 10% or more. (This is called cost indexation.)

In addition, TL 14.800 of capital gains obtained during the calendar year is exempt from income tax for 2019. This means there is no need to declare if the difference between the purchase and sale is below this amount.

How is title deed charge calculated at the time of disposal?

Similar to the fee calculated and paid at the time of acquisition, title deed fee at the rate of 2% (Decreased to 1.5% until 31 December 2019) is also applicable over the sales price for buyer and seller separately. Fee has to be paid to the tax office before the transaction made at the registrar.

Should I add VAT to my selling price?

VAT is not applicable if the seller /owner of the property is a real person who does not engage in any commercial activity (i.e. does not engage in continuous purchase or sale of real estate). Please note that the Ministry of Treasury and Finance classifies real persons who make more than one sale in a calendar year or make one sale in successive years and the sales to be made by traders are subject to VAT as described above.

Does my tax liability change if I am the shareholder of a company holding a property in Turkey?

Yes. If you are an individual shareholder of a Turkish company who are not resident in Turkey, you can have “profit share (dividend)” over your investment in Turkey, or, at the time of selling out of your shares, you can have “gains from appreciation” from the sale of your Turkish company shares.

Your property in Turkey with Turkish companies, annual earnings on Corporate Tax (22% for 2019 and 2020; 20% for the following year) shall be subject. Following the separation of first and second degree legal reserves, the profit after tax may be distributed to the shareholders.

During the profit distribution, the Turkish companies are liable to withhold income tax of 15% for their shareholders not residing in Turkey. If Turkey and shareholder’s residence country have Double Taxation Agreement, this rate can be reduced to 10% and even to 5%. The withholding income tax calculated by the Turkish company making in the distribution shall be a final tax burden in Turkey for shareholders who do not reside in Turkey.

If the shareholder not residing in Turkey decides to sell out his shares

in the Turkish company, the appreciation incurred becomes taxable. Withholding tax for publicly traded companies is 0%. Therefore, no capital gains tax shall be calculated over the sale of shares belonging to the Turkish companies by the shareholders not residing in Turkey. If the shares are sold out in other forms, Income Tax may apply up to 35%. However, if there is any “Double Taxation Agreement” between Turkey and shareholder’s residence country, it is possible to avoid taxation. In most of the agreements, the sale of shares of Turkish companies after holding after at least 1 year limits the taxation rights of Turkey. However, before taking any action, please consult your advisor on the provisions of the avoidance of double taxation agreement.

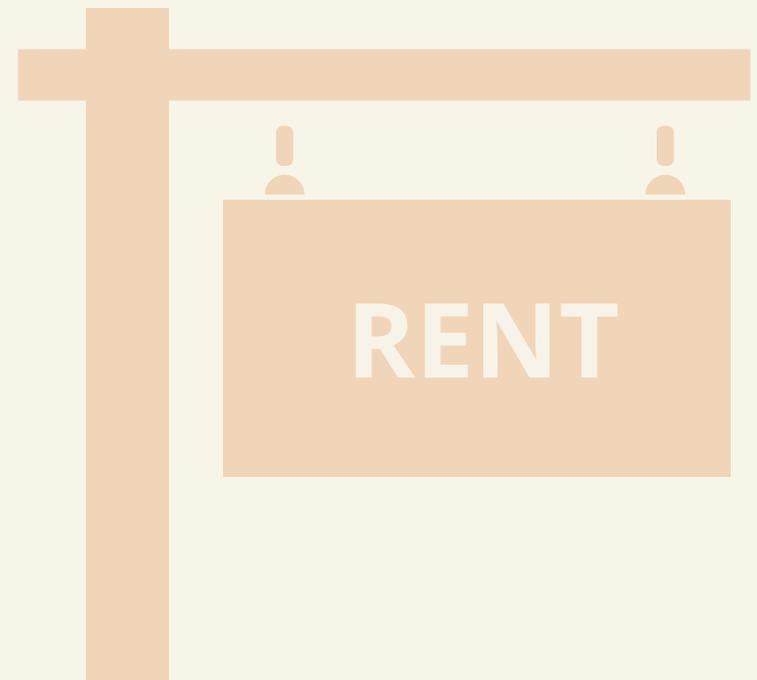
Real Estate Investment Funds established in Turkey or Real Estate Investment Trusts publicly-traded in İstanbul Stock Exchange have different taxation regime than a normal company and this provides tax advantages to those having such shares or partner interests.

Since both REITs and Real Estate Investment Funds are exempt from corporate tax, they are not subject to 22% corporate tax burden like normal companies. After legal reserves, they are able distribute all earnings to their partners / shareholders.

Dividend withholding rates are also advantageous in distribution of profit. Withholding rate to be applied to real and legal persons who receive dividends from REITs and are not resident in Turkey is 0%. Such rate in dividends to be distributed from the Real Estate Investment Funds to the shareholders is 10%. These are final rates and such dividends do not need to be declared in Turkey.

Both instruments are also advantageous in terms of appreciation gains. Since REITs are publicly traded companies, the taxation is made through withholding in REIT share trading and the withholding rate is 0%. In other words, any shareholder holding a REIT share shall not pay any tax when he sells it, no matter how much he earns. In terms of Real Estate Investment Funds, the earnings to be acquired from the transfer of shares are subject to taxation by 10% through withholding and no declaration is required in Turkey for such earnings after taxes.

Your tax liability changes if you are the shareholder of a company holding a property in Turkey.



The Application Process of Turkish Citizenship through Investment

The Application Process of Turkish Citizenship through Investment

With the decision published in the Official Gazette dated 19.09.2018, the financial and investment costs in the process of transition to the Turkish citizenship were reduced. Accordingly, the foreigners who have purchased real estates at least USD 250.000 worth in Turkey will be able to directly become Turkish citizens.

How the application process to Turkish citizenship works?

If you purchase real estate at least USD 250.000 worth, your application for Turkish citizenship will be processed with your application to be made during the title deed transfer process to the General Directorate of Land Registry and Cadaster. The General Directorate of Land Registry and Cadaster checks whether the properties sold are worth at least USD 250.000. (You have to prove that you have purchased a property at an amount of USD 250.000 from a real estate appraisal company licensed by CMB (Capital Market Board). The report you receive from any real estate agency or consultancy company shall not be valid.) The Directorate of Land Registry gives approval for citizenship between 3 and 7 days. Once your application is approved, you must apply to the Immigration Office for a residence permit without an appointment. After the approval of the Immigration Office, you must apply to the General Directorate of Population and Citizenship Affairs in the same day with the approval document and residence permit. You can follow all the procedures after the title deed application at one point at the Citizenship Offices in Istanbul and Ankara. Your application shall be completed between 45 and 60 days.

Is it also possible for my family to become Turkish citizens?

Yes. You, your spouse and all your children under the age of 18 can become Turkish citizens.

Can I purchase more than one real estate to reach the limit of US\$ 250.000?

You can purchase more than one real estate with a total value of at least USD 250.000. But you should apply for all at the same time. Your application for citizenship is accepted only if the values declared to the General Directorate of Land Registry and Cadaster are above USD 250.000.

What is the responsibility of the Ministry of Environment and Urbanization?

The real estate appraisers confirm whether the worth of the real estate is more than USD 250.000. The Ministry requests the “entailed estate annotation” from the General Directorate of Land Registry and Cadaster. The payment of the real estate that you purchased must be made by bank transfer to the property owner.

How should I calculate the USD and TL exchange rates?

The value of the immovable on USD basis shall be calculated by the Land Registry and Cadaster General Directorate over effective selling price of the CBRT on the date of sale.

How long does it take to conclude the citizenship process?

If the documents required for citizenship applications are complete, your application shall be concluded within 45 to 60 days. The government has opened private offices to reduce this time.

Shall I acquire citizenship when I meet all the requirements?

The process of citizenship approval depends on the fact that you do not pose a threat to national security and this is verified and finalized through national security archives.

Can I acquire Turkish citizenship by purchasing a rent-guaranteed commercial property?

You can purchase any real estate with a total value of USD 250.000 or above.

I do not have time to come to Turkey. How can I get Turkish citizenship?

You can have this process made without coming to Turkey by giving power of attorney to a trusted consulting company.

How many people can apply for a title deed?

Only one person and first degree relatives (spouse and children under 18) can acquire citizenship.

I have purchased real estate in Turkey before. Now can I apply for citizenship?

The application can be made with real estate purchases and investments realized after 18.09.2018.

Do I have to waive my existing citizenship when I become a Turkish citizen?

No. Depending on your own state regulation, Turkish laws permit dual or multiple citizenship.

Do I have to do compulsory military service if I get Turkish citizenship?

When your child under the age of 18 comes to the military age, he is obliged to do military service. Persons entitled to dual citizenship are able to do military service in one of the two countries of which they are citizens. If you have completed your military service, you may need to prove it by a document. Persons older than 22 years of age are required to apply to the General Directorate of Population and Citizenship Affairs whether they hold special conditions or not.

Which nationalities are accepted for Turkish passports?

All citizens who purchase property in Turkey can make application.

Can my child above the age of 18 also benefit from the citizenship right?

No.

Can I obtain citizenship for my disabled child over 18?

You can obtain citizenship by documenting that your child is in need of care.

Are the real estates that I purchased under construction or in installments valid for citizenship application?

Yes. If you made a Notary-approved Preliminary Sales Contract and your payments were over USD 250.000 (your payment amount after 19.09.2018 will be counted), you can apply for citizenship with a real estate under construction or purchased in installments.

The process of citizenship can last for 2 months. Can I obtain a residence permit during this process?

Once your application is approved, you and your 1st degree family members will be granted a residence permit on the same day without any waiting period. (No. 6458/31-J)

Is it possible to have dual citizenship in Turkey?

Yes, Turkey allows dual citizenship, but you should consult with your consulate of your own nationality. Some countries, such as India, China and Saudi Arabia may impose restriction on dual citizenship.

How can I become a Turkish citizen if I am not a citizen of any country (stateless, heimatlos)?

You can apply for Turkish citizenship when you purchase a property with a value of at least USD 250.000 together with a proof of your heimatlos (travel document issued by the United Nations).

Is there any critical point to know?

The ministry wants to ensure that the minimum value is USD 250.000. Certified real estate appraisers value real estate to prevent price fraud. There may be deviations of up to 20% between the sales price and the valuation. Therefore, we recommend that you make calculations by taking this fact into account and purchase the real estate accordingly.

The process of being a Turkish citizen by making investment

1: Opening bank account: The account should be opened in the name of the investor.

2: Making investment: Necessary investment transactions such as deed transfer, cash deposit, government bond / share purchase should be realized.

3: Residence permit application: Applicants are required to obtain a residence permit during the application for citizenship. Holders of residence permits are able to continue living abroad as long as they wish.

4: Turkish citizenship application: You can apply for Turkish citizenship immediately after obtaining a residence permit. You are not required to come to Turkey during the application process.

Documents necessary to apply for the Turkish Citizenship through Investment

- Application form
- ID card of the country of citizenship (passport, ID card, birth certificate, identity register copy and etc.)
- 4 passport photos per each family member
- Birth certificate
- Valid residence permit or a valid tourist visa on your passport
- If married, the identity cards of the spouse and children under 18, if any, and the original official documents proving family ties (marriage certificate, birth certificates of children).
- If the spouse or relatives are Turkish citizens, photocopy of ID cards and residence addresses in Turkey
- Payment receipt for application
- Valuation report
- Receipt illustrating the payment of USD 250.000
- Title deed or the notarized commitment to purchase property

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