

# **LEGAL GUIDE TO LIFE IN TURKEY**

## **LAW TIPS**

**Dear Clients,**

**This page was prepared to give you an idea about law system of Turkey.**

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## LEGAL GUIDE TO LIFE IN TURKEY

Principles of ownership of immovable objects are in general identified in the Property Law section of the Civil Code. Property law includes not only ownership, but also acquiring and transfer of ownership, leasing the property and factors limiting property rights.

### Marriage & family law

Learn about the **Turkish engagement and marriage regimes**, the **rights** of relationships in Turkey, legal requirements to file for **divorce** under the Turkish law, requesting legal separation, **visiting rights** of children, how is **alimony** determined, etc.

### Inheritance law in Turkey

All about **estate partition**, why is it advisable to make a **country of origin**, the Turkish law of compulsory heirs, what is a **legacy**, the **reserved proportion**, etc.

### Real Estate law in Turkey

All about **purchasing**, **sale** and **rental** of a house in Turkey, be aware of your rights whether you are the owner or tenant, what is the **community of property owners**, share of the community expenses, etc.

### Property law in Turkey

Learn about **authority to use an item** in Turkey and who is considered be to the owner of **personal property and real estate** under the Turkish law, etc.

### Business law in Turkey

Hints to help you **set up a business** in Turkey. types of corporations. Know your rights on **commercial activities** in Turkey and areas of operation, etc.

### Working in Turkey

All about **working conditions** in Turkey, know **what you can legally do**, how to obtain **residence and work visas** in Turkey, etc.

### Tax law in Turkey

Learn all about the **main taxes** in Turkey, **deductible expenses**, legal **dispensations**, how to calculate the **taxable income**, etc.

### Criminal law in Turkey

Learn about types of **criminal penalties** in Turkey depending on the nature and degree of the offence/crime, etc.

### Power of Attorney in Turkey

## **CIVIL LAW**

### **Engagement law in Turkey**

### **Marriage law in Turkey**

### **Divorce law in Turkey**

### **Parental custody law in Turkey**

### **Legal gaurdian law in Turkey**

### **Alimony law in Turkey**

### **Adoption law in Turkey**

## **Marriage & family law in Turkey**

Learn about the Turkish matrimonial and family laws, legal requirements to file for a divorce, seeking compensation following broken engagements, filing petitions for adoption in Turkey, etc.

### **Engagement law in Turkey**

Engagement is governed by articles 81 - 87 of the Civil Code. If one of the engaged parties is a Turk and the other a foreigner, these provisions still apply. According to law, engagement is a promise of marriage. It does not constitute a family relationship and has no definite durations.

### **Marriage law in Turkey**

Marriage law in Turkey According to the Turkish Civil Code, males eighteen or older and females sixteen or older may marry. In order to complete the marriage formalities, the couple must apply to the town council where the male resides. Council officials have the authority to perform marriages.

### **Divorce law in Turkey**

According to Tukish Civil code, grounds for divorce are as follows: a) One of the partners has committed adultery; b) one of the prtners has made an attempt on the other's life or has subjected him or her to cruel traetment; c) one of the partners has committed a heavy crime or has led such a dishonorable life as to make their life together unbearable; d) one of the partners has deserted the other or failed to return home; e)one of the partners has been suffering three yeras or longer from a mental illness which has made their life together unbearablefor the other partner; and f) violent incompatibility between the partners has made their life together unbearable

### **Parental custody law in Turkey**

According to the provisions of the Civil Code, a child is under his/her parent's custody until the age of eighteen. Parents may not be deprived of custody of their children without a court decision. In marriage , both mother and father share custody of their children. If a dispute regarding custody arises between them, the father's preference is legally valid.

### **Legal gaurdian law in Turkey**

According to the provisions of the civil code, a court will appoint a legal guardian for any person under 18 who has no parents or any legally incompetnet person regardless of age. The guardian

will be required to obtain permission from the court for execution of certain legal matters.

### **Alimony law in Turkey**

According to the provisions of the Civil Code, every person is obliged to help his/her children, brothers, sisters and all relatives who would fall into indigence without assistance. When a divorce becomes final, the party who has not been awarded custody of the children will pay alimony according to his/her financial ability in the form of participation in the expenses of child care and rearing.

### **Adoption law in Turkey**

Contingent upon a judge's permission a person may adopt a child who is not his own. The adopting person must be at least thirty-five years old, and should not have a legitimate child. If the person is married, the spouse must also agree to the adoption.

## **INHERITANCE LAW**

### **Inheritance law in Turkey**

#### **Will law in Turkey**

#### **Reserved portion law in Turkey**

### **Inheritance law in Turkey**

Property and money left by a deceased person are divided among close relatives as stated in the Civil Code. Persons with such rights of inheritance are called heirs in legal terminology. According to the provisions of the Civil Code, the first heirs of a deceased person are his children and his wife / her husband. If the deceased has no children, his parents are his heirs. If his parents are no longer alive, their children (deceased's brothers or sister's or if they are dead their children) become his heirs. The least of a deceased person's heirs among his close relatives are his grandparents and their offspring. If the wife or husband of the deceased is included with his children in the sharing of the inheritance, then he or she has the right of one-fourth. A spouse who is sharing the inheritance with the deceased's father, mother, and their offspring has a right to half of it. A spouse who is sharing the inheritance with the deceased's grandfather, grandmother, and their offspring has a right to three-fourths. If none of the deceased's next of kin survives, the entire estate goes to his surviving spouse. If the deceased leaves no surviving heirs, his estate becomes the property of the State. An heir is liable for all the debts and eligible for all the credits of the deceased person. In some cases, the wealth left as inheritance may not be sufficient to cover the debts of the deceased. An heir who wishes not to be liable for the debts may disclaim the inheritance by applying to a court within three months of the death.

### **Will law in Turkey**

A person who has completed fifteen years of age and having full mental capacity can make a will within the limits and the form which are specified by the Civil Code. In case of error, fraud or duress, the will is not valid. A will may be executed in official form, in handwriting, or orally. A will executed in official form will be made in the presence of a notary public or a justice of the peace in accordance with certain formal conditions, and the final text will be signed by two witnesses. A will executed in handwriting must include the place, day, month, and year in which it was made and must be written entirely in the testator's handwriting and include his signature. A will prepared in this way will be given to the court or to the notary public for safe keeping.

### **Reserved portion law in Turkey**

A person is free to make testamentary dispositions in preparation of a will within the limits set by the Civil Code. Articles 452-453 of the civil Code guarantee a portion of the will as the rights of offspring, father and mother, brother and sister and surviving spouse. According to this, A) the reserved portion and legal inheritance right of offspring is 75% of legal portion(three-fourths) B) the reserved portion of inheritance for father and mother is 50%. C) The legal inheritance right for every brother and sister is 25%. D) If the surviving spouse shares inheritance in other situations but no with children, the reserved portion is 50% of the legal inheritance right. E) If the deceased

person leaves some wealth to an association which is working for public benefit or to a foundation which has tax exemption, in those cases reserved portions are 2/3 of the amount mentioned above.

### **Ownership law in Turkey**

### **Purchase by foreigners law in Turkey**

### **Sales law in Turkey**

### **Sales by foreigners law in Turkey**

### **Rental agreement law in Turkey**

### **Building construction law in Turkey**

### **Real estate owners liability law in Turkey**

### **Building tax law in Turkey**

### **Title deed law in Turkey**

### **Real estate law in Turkey**

Principles of ownership of immovable objects are in general identified in the Property Law section of the Civil Code. Property law includes not only ownership, but also acquiring and transfer of ownership, leasing the property and factors limiting property rights.

### **Ownership law in Turkey**

According to the provisions of the Civil Code, every piece of real estate will be recorded in the title deed register of the place where it is located. The title deed is the official document which shows who has ownership rights over the real estate and upon which the owner's name and photograph appears. Any restrictions which were placed on the real estate while it belonged to previous owner may be applied to the new owner after the transfer.

### **Purchase by foreigners law in Turkey**

Ownership of real estate by foreigners in Turkey is governed in general by the principles of political and de facto reciprocity. According to the provisions of Title Deed Law no.2664, enacted 22 December 1934, a foreigner may purchase real estate in Turkey in keeping with the restricting provisions of this law and on condition of reciprocity between Turkey and his country of origin. It is also necessary to obtain permission from the General Directorate of Title Deeds, Cadaster and Military.

### **Sales law in Turkey**

According to the provisions of the Civil Code, every piece of real estate will be recorded in the title deed register of the place where it is located and a real estate sale will be legalized only by being recorded in this register. The title deed, which is issued in the new owner's name, will show that the property has changed hands. Any restrictions which were placed on the real estate while it belonged to the previous owner may be applied to the new owner after the transfer.

### **Sales by foreigners law in Turkey**

In order for foreign nonresidents to sell real estate which they own in Turkey, the sale price of such real estate must first be calculated by the tax assessment commission. The actual sale price must not be lower than this value nor more than a predetermined per cent higher. Monies received as a result of a sale are subject to taxes and blocking. However, provisions, brought on by the Foreign Capital Promotion Law, are reserved.

### **Rental agreement law in Turkey**

Leases are governed in general by the Law of Obligations and in specific by Real Estate Rentals law no. 6579 of 18 May 1955. The following points must be clearly specified in a lease: The names and addresses of the lessor and lessee, the address and location of the rented property, the purpose for which it will be used, the amount of rent, the date the lease will become effective, and the period for which it is valid. In practice, printed lease forms are usually filled in by the parties. Attention must be paid that there are two copies of the lease, both signed, one copy to remain with each party. Leases may also be drawn up by a notary public, but this is not mandatory.

### **Building construction law in Turkey**

Under the provisions of the reconstruction law no. 3194 of 3 May 1985, a building construction license must be obtained for all buildings from either the Municipality, the Province, or an authorized private architecture or engineering bureau. In order to obtain the license, application will be made to the above-mentioned authorities by submitting the title deed, the architectural drawings, the structural drawings, and the electrical and mechanical installation drawings. If the application is complete, the authorities will grant the permit within at most thirty days. If the application is incomplete or irregular in any way, the permit will be issued only after the deficiencies or errors have been eliminated. A specific fee will be charged for the construction permit.

### **Owners liability law in Turkey**

A building owner is liable for any injury which results from poor construction, negligence, or misuse. If a building of faulty and unsound construction collapses, and if any injury or damage results, compensation will be sought from the owner. The period for a contractor's liability is five years.

### **Building tax law in Turkey**

Buildings within the borders of Turkey are subject to the building Tax. Building Tax is governed in detail by the Real Estate Tax Law no. 1319 of 29 July 1970. Tax declarations for buildings within the

boundaries are made to the municipality

### **Title deed law in Turkey**

The name title deed is given to the official document which shows who has ownership rights over a piece of real estate and upon which the owner's name appears. Rights over real estate are recorded on official registers kept by the Office of the Conservator of Title Deeds. Such Offices also issue title deeds.

Since article 928 of the Civil Code embodies the principle of public registration of title deeds, no one may claim ignorance of the privileges and restrictions recorded in the deed register. Mortgages and other restricted privileges will also be recorded in the

title deed register.

### **Property law in Turkey**

Principles of ownership of movable or immovable objects are in general identified in the Property Law section of the Civil Code. But property law includes not only ownership, but also acquiring and transfer of ownership, leasing the property and factors limiting property rights.

## **Possession law in Turkey**

## **Ownership law in Turkey**

## **Mortgage law in Turkey**

### **Possession law in Turkey**

A person who has authority to use an item actively or who has the item in his possession is considered to be the owner of that item, even though he may not own it as property. The question of possession arises in connection with personal property and real estate. Possession constitutes proof of ownership.

### **Ownership law in Turkey**

If a person possessing something has obtained that possession legally, then he is the owner of that possession. As a general rule movable objects are not registered in official records, with the exception of certain specific things. For example, a car is a movable object and must officially be registered in the traffic records. Real estates are recorded in title-deed registers.

### **Mortgage law in Turkey**

A person may guarantee his own or another person's loan with a piece of real estate. Just as a mortgage may be taken out to guarantee repayment of an existing loan, it may also be taken out to guarantee a possible future one.

The terms of a mortgage are entered on the title deed and represent a limited right over that piece of property. Mortgaged real estate may be sold, but the buyer must accept the terms of the mortgage. A piece of real estate may also be mortgaged more than once. In any case, the order of the mortgage must be registered on the title deed. The subject of mortgaging is governed in general by the Civil Code. The term "mortgage" as used here may not be adequate for explaining to foreigners the concept intended in Turkish law. The concept in Turkish law differs, particularly from that in American law. An exact equivalent would be closer to the term "hypothec" in English or "hypothèque" in French.

## **BUSINESS LAW**

### **Types of corporation in Turkey Company formation law in Turkey**

#### **Business law in Turkey**

A business association is formed when two or more persons pool their efforts, funds or property in definite proportions for the purpose of making an economic profit. In the Turkish legal system, business associations are governed by the Obligations Law and mainly the Commercial Code.

#### **Types of corporation in Turkey**

The five classes of business associations are described in the Commercial Code:

**General Partnership:** this is an association which has been established with the purpose of engaging in commercial activities under a common trade name. Its most important characteristic is the unlimited liability of the partners for the debt of the association. (Kollektif sirket).

**Limited Partnership:** In this kind of association, some of the partners are liable for the association's debts in the amount of capital which they contributed, while the other partners have unlimited liability. Those partners with unlimited liability are called active partners and those with limited liability silent partners. (Komandit Sirket).

**Cooperative Association:** This is a business association established by persons who want jointly to supply various needs connected with their professions, crafts, and livelihoods. Such an association is based on the principle of mutual help and surety ship. Although the Commercial Code mentions cooperatives, details of cooperative associations are governed by the Cooperatives Law. (Kooperatif Sirket).

**Limited Liability Company (or Partnership with Limited Liability):** This is an association established by a minimum of two or a maximum of fifty partners. According to a change in the Commercial Code in 1995, the association must have a minimum capital of five hundred million Turkish liras. The Council of Ministers is authorized to increase this amount up to ten times. (Limited Sirket).

**Corporation (or Stock Company):** This is a business association with at least five incorporators and a capital of five billion Turkish liras. The Council of Ministers was authorized in 1995 to increase this amount up to ten times. The incorporators may be either persons or legal entities (Anonim Sirket).

Shares of stock will be issued to represent the share of capital of the partners in a corporation (or stock company). Those possessing such shares will be considered the partners of the corporation.

The statutes of a business association will be prepared by a notary, and all business associations will be entered in the Trade Register. In order to set up cooperative associations or companies (Limited Liability or Stock), a permit must be obtained from the Ministry of Industry and Commerce.

For each kind of business association, the following points are explained in detail in the

Commercial Code: Names of business associations, bodies and persons with administrative authority, rights and liabilities, representational authority, central and branch offices, distribution of profits and losses, and inspection.

### **Company formation Turkey**

In order to commence commercial activities in Turkey whether by establishing a branch or company or setting up a liaison office in Turkey a foreign investor must obtain an investment permit from the Foreign Investment Directorate (FID), the government entity charged with regulating foreign investment in Turkey. The authorization process is quite straightforward and should take no more than 2 to 3 weeks. The minimum capital required to be brought into Turkey by the foreign investor is US\$ 50,000 and the FID is able to authorize investments up to US\$50 million.

### **Occupations prohibited to foreigners in Turkey**

#### **Residence permit law in Turkey**

#### **Work permit law in Turkey**

#### **Working and living in Turkey**

Foreigners in Turkey may work only at those jobs which are not prohibited to foreigners. Persons who intend to work in Turkey are required to obtain permission from the security authorities and to have this status registered in their residence permits.

#### **Work permits law in Turkey**

Foreigners in Turkey may work only at those jobs which are not prohibited to foreigners. Persons who intend to work in Turkey are required to obtain permission from the security authorities and to have this status registered in their residence permits. In some cases a separate work permit may also be issued. Turkish organizations or private individuals employing foreigners are required to submit a written report concerning the foreign employee and his work to the nearest police or gendarme station.

#### **Residence permits law in Turkey**

According to the provisions of Law no.5683 of 15 July 1950, persons who come to Turkey for congresses, conferences, national or international meetings; history, culture, or fine arts festivals; sports competitions; or exhibitions; as well as persons who come as tourists or as owners of vehicles may stay Four months without a residence permit, unless there is a restriction in their visa or a separate provision in the visa agreement between Turkey and their country of origin. Generally, the period stipulated in visa agreements is three months.

Persons who wish to stay longer in Turkey are required to apply to the security authorities for a residence permit. The maximum duration of a residence permit is five years. Persons who wish to extend this period must apply again to the security authorities within fifteen days of the expiration of their residence permits. They may also apply before their residence permits expire. If a foreigner with a residence permit has children under eighteen years of age they may either be issued separate residence permits or be listed as accompanying minors in their mother's or father's residence permit. If a foreigner who has a residence permit changes his residence he must report

this fact within forty-eight hours to the police or gendarme stations nearest both his old and his new residences either in person or by registered letter. Foreigners who have residence permits must report any changes in their marital status by a signed statement to the security authorities in their district within fifteen days of the change. They must also have their new status registered in their residence permits. Applications for residence permits by the following persons will be refused without consideration: a) persons coming to practice a profession prohibited to foreigners; b) persons not in a position to conform to Turkish law, customs, or political conditions, or persons engaging in activities not in conformity with these; c) persons clearly unable to secure legally the material support necessary for the duration of their desired stay in Turkey; d) persons who have entered Turkey illegally and. e) persons whose presence in Turkey is disruptive of the general peace and tranquility. Residence permits may be revoked by the Ministry of the Interior, and the Council of Ministers may make changes in the conditions and duration of residence permits both in general and in particular cases for the purpose of reciprocity with or reprisals against a certain country.

### **Occupations prohibited to foreigners in Turkey**

Only Turkish citizens may work as State employees in Turkey. For the sake of the general welfare, the practice of certain other professions is also prohibited to foreigners. These include law, medicine, dentistry, nursing, pharmacy, and working as a notary public. However, according to Law no.3359 of 7 May 1987, permission may be granted to foreign expert doctors to work in Turkey.

Apart from the professions listed above, some other occupations have been prohibited to foreigners according to the provisions of the "Law Regarding Trades and Services Reserved to Turkish Citizens in Turkey" no.2007 of 11 June 1932. Foreigners for example, may not work as itinerant salesmen, musicians, photographers, barbers, typesetters, middlemen, clothing and shoe manufacturers, stock brokers, sellers of State monopoly products, interpreters and tourist guides, transport workers, or construction, iron, and wood workers.

Foreigners are also prohibited from working at water, lighting and heating installations, either temporarily or permanently, and at loading and unloading sites. They may not work as drivers, day laborers, watchmen, janitors, waiters, or household help or as singers or entertainers in bars, nor as veterinarians or pharmacists.

## **TAX LAW**

### **Income tax law in Turkey**

### **Inheritance law in Turkey**

### **Gift tax law in Turkey**

### **Property transfer tax law in Turkey**

### **Land tax law in Turkey**

### **Value added tax law in Turkey**

### **Corporation tax law in Turkey**

### **Taxation law in Turkey**

Everyone according to his or her financial capacity is required to pay taxes to meet public expenditures. Taxes and other financial obligations are regulated by law (art 73) of the constitution.

### **Income tax law in Turkey**

Incomes of persons are subject to income tax. Foreigners whose residence is in Turkey or who live in Turkey for more than six consecutive months of the calendar year are also subject to income tax. However, businessmen, scholars, scientists, experts, officials, journalists, and other such persons who come to Turkey for a specific and temporary job are not considered to have settled in Turkey even if they stay longer than six months. Incomes which are subject to income tax are as follows; commercial incomes, agricultural incomes, incomes earned from self-employment, wages, incomes earned from real estate, and incomes derived from bank interest or bonds. Income earned from interest on bank deposits by persons who are not regarded as having settled in Turkey, however, is not subject to tax. The following point should be noted with regard to income tax: The Ministry of Finance annually sets a limit known as the minimum standard of living, and taxpayers may not declare an income that is below this limit. In other words, every taxpayer is assumed to have earned at least this minimum. An employer is responsible for preparing tax declarations concerning personnel who work on a monthly salary and for making tax deduction each month. Diplomatic missions, however, are not required to do this. Instead, Turkish employees of diplomatic missions who receive their salaries directly from their employers are required, according to article 95 of the Income Tax Law no. 193 of 31 December 1960, to make a declaration of income to the tax office and to pay their taxes themselves.

### **Inheritance law in Turkey**

Goods and valuables which are transferred to Turkish citizens as gifts (donations) or inheritance either in Turkey or abroad are subject to the inheritance and Property Transfer Tax. According to Law no. 7338 of 8 June 1959, nonresident aliens who acquire as inheritance or gifts property owned abroad by a Turkish citizen are not subject to this law. A resident foreigner, however, is subject to the law if he inherits property in Turkey.

### **Gift tax law in Turkey**

A gift is money, goods, real estate, or a privilege, or any combination of these which a person or

legal entity presents to another person or legal entity without any payment in return. Realization of a gift is contingent upon the receiver's accepting it. Legal competence to make a gift depends upon the donor's possessing the power of discernment. A gift may also be contingent upon the donor's death. A gift of movable property is realized by means of delivery in person of the object to be given. The gift of a piece of real estate or of a privilege connected with an immovable property is made only by being recorded in the title deed register. Promise of a gift must be made in writing. If the promise concerns a piece of real estate or rights over an immovable property, it must be executed according to official form. Persons residing abroad may make gifts of the real estate they own in Turkey only to their next of kin who are residents of Turkey. Charitable donations to nonprofit organizations fall outside these provisions. Gifts made to charitable foundations, associations and similar non-profit organizations must be accepted by the authorized bodies of these organizations. Gifts made to such organizations may be either conditional or unconditional. If a gift of movable property is made to such an organization from abroad, exemption of the goods from Turkish customs is contingent on permission of the Ministry of Finance. Gifts presented to organizations and individuals other than non-profit organizations are subject to tax under the provisions of the Inheritance and Property Transfer Tax.

### **Property transfer tax law in Turkey**

Goods and valuables which are transferred to Turkish citizens as gifts (donations) or inheritance either in Turkey or abroad are subject to the inheritance and Property Transfer Tax. According to Law no. 7338 of 8 June 1959, nonresident aliens who acquire as inheritance or gifts property owned abroad by a Turkish citizen are not subject to this law. A resident foreigner, however, is subject to the law if he inherits property in Turkey.

### **Land tax law in Turkey**

Owners of land and lots within the borders of Turkey will pay an annual tax on the value of such property. Land outside the limits of municipalities is called arazi and lots inside municipal limits are called arsa. Owners of either land or lots will be required to make a declaration to the tax office generally every five years. Tax declarations for land within municipal boundaries are made to the municipality and those for land outside such boundaries to the appropriate village headman. Lots owned by foreign states for the purpose of construction of consulates, embassies, or ambassadors' residences, and lots owned by international organizations are exempt from this tax. Exemption is contingent upon the existence of a reciprocal agreement between Turkey and the foreign country in question. Even under such circumstances, diplomatic missions are required to make a tax declaration to the tax department in the related agency. This issue is governed by Law no.1319 of 29 July 1970.

### **Value added tax law in Turkey**

All deliveries of goods and services carried out within the framework of commercial industrial and agricultural activities or self-employment in Turkey are subject to value added tax. Under article 15 of Law no. 3065 of 25 October 1984, deliveries of goods and services to diplomatic missions and their members in Turkey are exempt from this tax according to the principles of reciprocity. In actual practice, however, the principles governing such exemptions are determined by the Ministry of Finance.

## **Corporation tax law in Turkey**

Financial activities of capital corporations, associations and charitable foundations are subject to Corporation Tax Law No. 5422 of 3 June 1949. Fiscal activities of foreign states and foreign public agencies or operations connected them are also subject to Corporation Tax. From the legal standpoint, whether these organizations are non-profit or not is irrelevant. Furthermore, if the central office of a foreign commercial enterprise is not located in Turkey, then only that income which the enterprise earns in Turkey is subject to the tax.

## **Arrest law in Turkey**

### **Self - defense law in Turkey**

### **Pardon law in Turkey**

### **Provocation law in Turkey**

### **Suspended sentence law in Turkey**

### **Commutation sentence law in Turkey**

### **Bail law in Turkey**

## **Criminal law in Turkey**

The procedures followed by the courts in criminal cases are like civil law procedures. But there are some important differences due to the special characteristics of criminal cases. Outside of the trial, topics such as interrogation, authority of the public prosecutor, and autopsy are arranged by Criminal Procedural Law. Also different from civil trials, in criminal trials the public prosecutor is present and takes his place at the right side of the judge.

### **Arrest law in Turkey**

Arrest is a precaution applied in cases indicated by a law and based on decisions of judges in the form of restrictions on the freedom of persons suspected of having committed crimes. Arrest is not imprisonment and therefore does not have the same implications as a prison sentence. According to article 19 of the Constitution, persons regarding whom a strong suspicion of guilt exists may be arrested on the basis of a judge's decision for the purpose of preventing escape or destruction or alteration of evidence. The public prosecutor has no authority to make arrests. According to the provisions of the Constitution, persons seized or held by law enforcement authorities must be brought before the judge within forty-eight hours (or a maximum of fifteen days in the case of crimes committed collectively by a group) and may not be deprived of their freedom for longer than this period without a judge's decision. Again based on the provisions of the Constitution, these periods may be extended in cases of emergency, martial law or war. The accused person who is to be arrested may request the court for a lawyer to help him. The judge makes a decision after listening to the public prosecutor, the accused person, and the attorney. The judge may decide not to arrest an accused person who can post bail. Criminal Procedural Law provides an accused person with help of an attorney at law during interrogation at the police station if requested. In case of crimes within the jurisdiction of the State Security Courts, the apprehended person is brought before the judge and interrogated within forty-eight hours, at the latest. If three or more persons commit the same crime, the Public Prosecutor can extend this period up to four days. If the interrogation is not completed even within this period, the judge can extend the period still further,

up to seven days. When a detained person is brought before the judge, his next of kin will be notified immediately. All losses incurred by persons arrested in contradiction with these principles must be compensated by the State. According to the provisions of Law no. 466 of 7 May 1964 (Law Concerning Payment of Compensation of Persons Unlawfully Seized or Held), a person may apply to high criminal court in order to ensure implementation of these principles.

### **Self - defense law in Turkey**

If a person defending himself from assault injures the assaulter or damages his property, he is not required to pay compensation for such injury or damage. A person who resorts to force in order to defend himself is not required to pay compensation for any damage he causes if it was impossible for him at that moment to secure assistance from official authorities or find any other recourse. If compensation is demanded from a person who caused damage to another's property while defending himself or another person from injury or danger, the judge will take these circumstances into account in deciding the amount of compensation to be paid. The principles stated above are embodied in article 52 of the Law of Obligation. Self-defence is also defined in article 49 of the Turkish Penal Code, as follows:

**a)** No punishment will be given to a person who commits a crime in the course of enforcing a provision of the law or executing the order of an authorized person; **b)** No punishment will be given to a person who commits a crime while defending himself or another person from assault or rape; **c)** No punishment will be given to a person who commits a crime while action to protect himself or another person from a danger which he has not caused and for which there is no other possible recourse. In these three cases, any person who exceeds the limits set by law will be penalized. However, the penalty will again be reduced by the proportions specified in the Turkish Penal code. In order for self-defence not to be a crime, it must be of a nature sufficient only to render the attacker ineffective.

### **Provocation law in Turkey**

If a person, at the time he committed a crime, was provoked by the injured party or was under severe psychological pressure or emotional strain, his punishment will be reduced by the proportions specified in the Turkish Penal Code.

### **Pardon law in Turkey**

Pardon is politically or legally motivated measure whereby the criminal charges against an accused person are dropped or the punishment of a convicted person is waived for the sake of the general welfare. When pardon includes all crimes of a certain kind, it is called amnesty and may be granted only by law. For this reason, power to grant amnesties is reserved to Parliament. An amnesty annuls all criminal charges and penalties. Individual pardon is the partial or complete cancellation of a criminal sentence or its commutation to a less severe penalty. The President has authority to grant individual pardon in the case of illness or advanced age of a criminal.

### **Suspended sentence law in Turkey**

According to the Penal Code, under certain circumstance, the penalty of a person who has been convicted of a crime may be suspended. The conditions for a suspended sentence are as follows:

**1)** The person must not have been sentenced previously in a court to any penalty more severe than a fine; **2)** The court must have a guarantee, based on the convicted person's past conduct

and moral character, that he will not commit the same crime again if his penalty is suspended; **3)** His penalty must not exceed either a fine or a maximum prison sentence of six months. A court which has passed a sentence in the nature of those described may suspend the sentence. If the person commits another crime later, his penalty will include both the earlier sentence and the new one. The maximum prison sentence that may be suspended is six months. However, if a crime of negligence without malice carries a sentence greater than one year, the penalty may be suspended.

### **Commutation of sentence law in Turkey**

A court has passed a prison sentence of up to six months may commute the penalty to a fine on the basis of good conduct or character of the convicted person or of other factors related to the crime. When prison sentences are converted into fines, or when imprisonment is imposed for unpaid fines, certain figures introduced by the law and obtained according to various formulas are taken into account. In order for a convicted person to take advantage of this opportunity, he must make an appropriate appeal to the court.

### **Bail law in Turkey**

According to the principles of the Penal Code, a court may decide to release a suspect on bond under certain circumstances and in the case of certain persons if the purpose of custody can be accomplished by means of a financial guarantee. Authority to release a suspect on bond belongs to the court. Bail may be in the form of money, government bonds or the financial surety ship of any recognized person in society. At the time of trial the court may decide to detain a person previously released on bail. A suspect who has been convicted previously or in whose case removal of proof of guilt is impossible may not be released on bail. When the sentence becomes final at the end of trial, the guarantee will be given back.

### **Power of Attorney in Turkey**

A Power of Attorney is a document whereby one person confers on another the right to act on his or her behalf and in that respect the attorney can act just as though he or she were the donor of the power. Such a power can be used, for instance, to operate bank accounts or to sign documents or deeds.

#### **What is a Power of Attorney?**

A Power of Attorney is a legal instrument that is used to delegate legal authority to another. The person who signs (executes) a Power of Attorney is called the Principal. The power of Attorney gives legal authority to another person (called an Agent or Attorney-in-Fact) to make property, financial and other legal decisions for the Principal.

A Principal can give an Agent broad legal authority, or very limited authority. The Power of Attorney is frequently used to help in the event of a Principal's illness or disability or in legal transactions where the principal cannot be present to sign necessary legal documents.