



**GENERAL DIRECTORATE OF LAND REGISTRY AND CADASTRE**  
Ankara - TURKIYE

# **LAND REGISTRY AND CADASTRE IN TURKEY**



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## **LAND REGISTRY AND CADASTRE IN TURKEY**

The organization of the General Directorate is arranged as central and provincial units. The Organization under administration of Director General with its central organization constituted by 13 departments forming main service, control, supporting and advisory units has provincial organization which is constituted by 22 Regional Directorates and 1003 District Land Registry Directorships and 324 Cadastral Directorships under the supervision of Regional Directorates.

The Directorate General of Land Registry and Cadastre is responsible;

- To make any type of contracts and registers related to real properties,
- To follow changing onto registries, to control, to protect and to maintain properly the land registries which are under the responsibility of the state,
- To indicate the real properties onto plans by establishing national cadastre.
- To determine and to follow applications of principles which are coordinating and developing land registry and cadastre and mapping services related with land registry and cadastre.

Owing to its importance in the state's structure, its duties and its functions the Directorate General of Land Registry and Cadastre is an organization under the supervision of the Ministry of Public Works. The Directorate General has also responsibility towards the Minister.

The authorities recognized and protected by law to persons are identified as right in Turkey. One of the main rights is also the ownership right. The property right covering person's properties and relating to goods is protected by the Turkish Constitution.

The article 35 of the constitution has ruled these;

"Every person has the rights of ownership and inheritance.

These rights may only be limited by law when public benefit has priority. Using of property right must not be against the public benefit."

According to this; ownership right is a kind of right in which the owner has the authority of using the subjected goods freely within the restrictions of law. Authority of using and getting benefits is only be restricted by public benefit. These restrictions are located in the public law when public benefit is essential and are located in the laws regulating these relations when private relations are subjected.

For example; limitations and provisions which considered by our Public Improvement Law, such as neighbour distance, road, parcel size and elevation are the restrictions which may be mentioned in terms of public benefit.

The restriction of avoiding of disturbing and damaging neighbours by any type of activities while any one is using his property is taken place in the laws regulating special law relations. The citizens of the Turkish Republic and non Turkish citizens if mutual relations established are defined as the real persons.

State, municipality, village, provincial administrations, public enterprises, commercial corporations, banks, associations, labour unions and foundations are defined as the legal entities.

Real property acquisition procedure by transferring is based on contracts aiming transfer of a real property from one person to another. Main type of transferring methods like selling, donation, exchange and inheritance are may be mentioned. Preparation of the Real Property Transferring Contracts in accordance with laws is given to District Land Registry Directorships by article 26 of our Land Registry Law.

Essential real property acquisition procedure is the method which is realized without touching original owner's real property right and not any type of contract. For example; If a person as the holder actually use a non-registered real property for 20 Years period without any disputes and with non-intervals, he may request to register this real property as his own property. This rule is written at article 639 of the Turkish Civil Law.

Real properties constituting the subject of this introduction are the goods which can not be transferred from one place to another and fixed on its own place. The Turkish Civil Law and the Flat Ownership Law have accepted things shown below as real property. Lands, separate and permanent rights and separate units such as minerals, flats, bureaus and stores have been stated as real property.

In Turkey, among a lot of goods which are subject to real property ownership only "minerals" are under the rule and possession of the state. Other real properties are subjected to private ownership.

Alive and natural real persons have all rights beyond real property acquisition and usage right. Non Turkish citizens have real property acquisition right if mutual relations are established. The means of mutuality is to recognize and to apply the same right mutually in its own country.

Public corporations in our country obtain their rights and powers from their constitutional law in accordance with the principles of Public Law. The state is the great and the most important public corporation.

The first group of the state's real properties is the places that are under the rule and possession of the state. Non-owned places and properties which are in use of public benefit are accepted under the rule and possession of the state by The Turkish Civil Law. According to this rule, real properties such as rocky areas, hills, mountains, coasts, forests, pastures, roads, open spaces, graveyards are belong to the state and these properties are not registered principally.

The second group of the state's real properties are the real properties which under special ownership of the state. These are the real properties allocated to public benefit like hospitals, schools, governmental office buildings, health units and the real properties allocated for non public benefit like agricultural lands, stores and business centres.

These real properties under state's special ownership are registered in the registry books. The real properties allocated for public benefit are not be subject to transfer to bodies unless their

original structure are not changed. But transfer of the real properties allocated for non use of public benefit is possible. So, the state can transfer its real properties to other bodies if considered these real properties to be transferred.

The state may have real property by paying its value by method of expropriation or donation from individuals or corporations. Also inheritance of a person who left no inheritors behind him automatically becomes state's property.

As explained previously the method of acquisition of the state by donation. great example for this is the donation of Atatürk, Great Leader, Founder of the Turkish Republic.

Public entities are municipalities,-villages, provincial administrations. Municipality is a public entity which has responsibility of supplying people's common demands locally in its authority area. Mayor and municipal assemble are elected by people of that area.

Village is a kind of community which has about 2000 population or less, or a settlement which has no municipal organization yet. Headmen of a village (mukhtar) are selected by villagers.

Provincial administration is a public entity which has duties in the field of common needs of province like improvements health, social aids, environmental protection, sports, training, education, agriculture, nursery, forestry works, economy, trade, culture and tourism. Head of provincial administration is the governor.

The % 51 state owned organizations called public enterprises are established to act in commercial and industrial areas. These public entities which explained briefly above may have real property acquisition by methods of buying, donation and expropriation when necessary. Also. some special laws give real property transferring right to public entities in some fields in Turkey.

As known. Unplanned housing problem is also big problem to be solved in Turkey as every country in the world has same problem. These unplanned housing is usually built on other person's land without his permission. These shanties are called in Turkey as the house built in one night. The Law of Preventing Shanties has been legislated. According to this law, lands which are belonging to the state may be transferred without price to the municipalities if they are in the municipal area.

Again, the Land Registration Act concludes that the roads cancelled in accordance with applied Public Improvement Law and spare of the roads are registered in the name of municipality if they are in the municipal area. Otherwise, they are registered in the name of corporate body of the village. So, these public corporations acquire real properties by means of this law, too.

According to the our Internal Law, any person may request for registration of a real property as his own property in the name of his own through exceptional (extraordinary) prescription identified in Turkish Civil Code, if this person has made use of that real property unregistered in the Land Registry without dispute and without interruption and throughout 20 Years as the

nominee of owner. So, it has been accepted that the corporate body of the village might also acquire real property by means of this method.

In our country, legal entities established by special law carry out their duties in accordance with special law provisions not using public power, namely, they carry out their missions in parallel with the provisions of the Turkish Civil Code, Turkish Commercial Law, Banks' Law, Cooperatives' Law and Associations' Law. These legal entities are Commercial Corporations, Banks, Associations, Labour Unions and Foundations.

Commercial corporations may acquire real properties according to the restrictions pointed out their goals and activities defined in their regulations (Main Contract). Banks may acquire real properties needed for banking activities.

Associations accepted as a Non-Governmental Organizations and established for realization of a certain and common goals which are not forbidden by law, excepting share a profit and associations established by goals for improving social position of working persons may acquire real properties bounded with their objectives and activities.

Again, foundations formed by allocation of a property towards a certain goal and being an organized form of helping one to another and social solidarity acquire real property restricted by their goals and activities.

The real properties owned by both real persons and legal entities and legal entities established by special law are registered in land registry.

The Turkish Civil Law defined the land registry as a register that showing position of real property and related rights and carried out in accordance with the openness and registration principles under the responsibility of the state.

The dominating principles on land registry in Turkey are the necessity principle of registry, openness principle and state's responsibility principle.

It is necessary to register in land registry to acquire real property separate right of real property. Again, it is necessary to register in land registry, to transfer the ownership right to another person or establishing a real property related right. The obligation of The Civil Code is called necessity principle of registration.

Also, the openness principle of land registry means that any person proving his relation with real property may request to see or to get copy of important pages of registry book with complementary documents. So, it is not possible to claim that the owner has not known related registry data with his real property correctly.

One of the dominating principles on land registry is also State's Responsibility Principle. This principle ruled that the state is responsible for loss occurred during the registry process. We should determine immediately that the responsibility of the state here is a responsibility with no excuse. So, the state has to compensate this loss. The state may request to pay this loss from related officer if the error originated from his fault.

Administrative boundary of every county has been accepted as a land registry region in Turkey. Objective of this definition is to establish a district Land Registry Directorship in that area.

The District Land Registry Director has only been authorized to make all kind of contracts concerning real properties within his own region. Real property ownership and separated ownership rights on real property are also registered on land registry books arranged separately for every zone and village.

On this, not only real property owner but also separated ownership rights on real property is registered on the registry book. Registered separate rights on land registry book are mortgage and easement rights and real property obligations. These rights are the kind of rights that they have been given to third person against its owners and they may be used freely or to be transferred to another person by selling. These rights are also maintained to everybody.

## **CADASTRAL SYSTEM IN TURKEY**

### **THE AIM**

The aim of maintained cadastral works in Turkey is to determine both the legal and geometric position of all the real properties. In this way, the modern land registration which is anticipated in Turkish Civil Code will be founded .

All cadastral works which is being maintained in order to establish modern Land registration system is done according to development plan and under responsibility of the state.

### **PROCEDURES OF CADASTRAL WORK**

#### **Indication of Cadastral Regions and Announcement**

The cadastral region is an area with in administrative border of central district of each province and, of other districts. Cadastral region is declared by an announcement before the start of cadastral work.

#### **Establishment of Field Crews**

A field crew consists of two technicians at least and the headman of village (muhktar) or quarter and three expert witnesses from the village.

#### **Determination of Working Area**

Each village within cadastral region and each quarter within municipality border is cadastral working area. Each village or quarter is declared by an announcement before the cadastral work start. Then, during cadastral working area is being determined bordering sketch of the area is done.

## **Obtaining of the Documentation Concerning Real Property**

Some documentation such as maps and others which are useful to indicate real rights relating real property in the bordering of cadastral working area. are obtained from related organization and office.

## **Circumscription**

Cadastral working area divided by blocks surrounded by natural or artificial borders such as road, way; highway. Railway, arc, crack. lake, sea. Blocks consist of parcel heaps.

Circumscription of parcel (real property) Is done by using documentation related with title deed and tax and information of Village headman and expert witnesses while owners are ready on the field.

Position of a parcel is examined with its documentation. Real rights indicating ownership is drawn on a property sketch.

## **Measurement**

All vertex points showed on property sketch are measured by using triangulation and polygon system. Terrestrial and photogrammetric methods are used to produce maps of real properties.

## **Determination of Ownership**

After completion of the measurements and the circumscription of a parcel, property ownership is determined. Documentations such as tax and title deed information are useful to indicate and to determine ownership. Also cadastre directorship considers explanation of headman of village or quarter, and expert witnesses under the rules of the Cadastral Law. During determination of ownership, minute of real property is prepared. A minute contains Information concerning examinations o. real property and the decisions.

## **Examination of Exceptions**

Anyone may object to the results o` the cadastral determination on legal or geometric position o. real property if he/she has got some documentation during the cadastral works. This objection is evaluated and concluded by the Cadastral Commission. Holder of the riche may object to the decision of the Cadastral Commission. But this time, he has a right to go to the Cadastral Court it order to sue.

## **Announcement of Cadastral Results**

Cadastral results are declared by an announcement of one mount duration. Holder of right may go to the Cadastral Court to sue duration of one mount announcement if he/she objects to the final result of the cadastre.

## **The Final and the Registration**

Cadastre directorship makes final judgment for cadastral determination on legal and geometric position of the real property if there is no objection during one month announcement. The cadastral minute and maps are approved. Then land registry system is made up by approved minutes and registry books. Approved cadastral maps are to be the base on application of border of real properties.

## **THE SERVICES UPON REQUEST**

Owners concerning registered real property may request some services such as plan copy and application according to cost in price list. Moreover, some maps which will be property map are controlled by cadastre directorship according to cost in price list too.

## **EXCHANGE TRANSACTION AFTER ESTABLISHMENT OF THE CADASTRAL SYSTEM.**

Foundation of the cadastral system is infrastructure for engineering services and all kinds of planning affairs on the land. With the aim of indicating social and economic development, regional plans are made by State Planning Organization in Turkey. Environmental arrangement plans are being made depending on regional plans. Environmental arrangement plans determine land use rules and settlements such as tourism, transportation, agriculture, industry and housing. Public improvement plans are made by municipalities and governorship. Public plans should fit to regional and environmental arrangement plans. Public plan shows population density of a region in the future development of the main region. Upgrading urban direction and dimension of some settlement areas. Plans are declared by an announcement during one month period. Plan becomes decisive at the end of the announcement.

The Rules of National Environment Protection: such as Coastal Law, Forestry Law. Protection Law of Natural and Cultural Existences are taken consideration during preparation of plans. The governorship and the municipality can change land use position and property distribution by using Public Plan Rules and their authorities. The municipality has authority on the land within the city area. The governorship has authority on the land outside of the city. They are not in need of getting permission of property owners while plan arrangement.

Land use according to the plans is inspected by governorship and municipality. Planning of agricultural land is also possible such as land consolidation work. Mentioned works are to be based on large-scale maps. These maps are controlled by Cadastre Directorate and become cadastral map after registration process.

## **HISTORY OF THE MODERN CADASTRAL WORKS**

After founding the Republic of Turkey, the Directorate General of Land Registry was established in 1924. Then the Cadastral Unit was extended by a law; dated 1925.



Modern Cadastral works are started by applying Land Registry and Cadastre Law numbered 2613 in 1934. This Code was generally applied to determination and registration of real properties in city areas. On the other hand, another Cadastre Law was come into force to complete cadastral work in agricultural areas in 1950. Then this law is updated and applied to real properties in villages in order to fulfil their cadastral maps and land registration.

In 1987, these laws are combined and only one cadastral law (Numbered 3402) was come into force for the both area of city and village. Now Cadastral works are being executed by using this law.

### **RENOVATION OF THE CADASTRAL MAPS**

Some old cadastral maps are inefficient technically. These maps are renewed by Renovation Law. Renewing works include only technical works. Real rights can not be changed.

## **RESULTS OF TURKISH CADASTRAL AFFAIRS**

### **Village / Quarter cadastre (unit)**

Total Village/quarter numbers	:47.854	
Total completed village/quarter number	:36.760	% 76.82
Continued village quarter number	: 4.032	% 8.42
Remaining village quarter number	: 7.062	% 14.76

### **Village / Quarter cadastre (area)**

Total Area	: 417 000km <sup>2</sup>	
Completed Area	: 305.409km <sup>2</sup>	% 73.24
Remaining Area	: 111.591 km <sup>2</sup>	% 26.76