

WOMEN'S CITIZENSHIP IN TURKEY

And

WOMEN'S RIGHTS TO ELECT AND BE ELECTED IN TURKEY

TURKISH WOMEN'S LEGAL ASSOCIATION REPORT
12th November 2014

Women are independent in Turkey in terms of citizenship

'Citizenship and women' is a vast topic that has many aspects. In this presentation, we will talk about women's acquisition and loss of Turkish citizenship, "women's independence in terms of citizenship" and women's rights to elect and be elected in Turkey among the other subjects that fall under the topic of citizenship and women.

1- Acquisition and Loss of Turkish Citizenship

First of all, it should be specified that there is no arrangement regarding sexual discrimination in terms of acquisition and loss of Turkish citizenship according to the regulations that are in force under the Turkish Law. Without discriminating between men and women, everyone is required to fulfil the same conditions.

The provision regarding citizenship is stipulated under Article 66 of the Constitution dated 1982. According to such clause;

"Everyone who is attached to the Turkish State with a bond of citizenship is Turkish.

The child of a Turkish father or a Turkish mother is Turkish,

Citizenship is acquired according to the conditions stipulated under the law, and will only be lost in case of situations mentioned under the law.

No Turkish person can be denationalized unless such person acts in a way that does not relate to attachment to his/her own home country.

Judicial remedy against the decision and transactions regarding denationalization cannot be hindered."

The Citizenship Law was adopted based on the provision under Article 66 of our Constitution which stipulates that the matters regarding the acquisition and loss of citizenship will be arranged by means of law. The law number 5901 on Turkish Citizenship is currently in effect. There is also a regulation which has been adopted for the purpose of implementation of this Law. The Law number 5901 on Turkish Citizenship was adopted in 2009 and was then carried

into effect.

Under the Law number 403 on Turkish Citizenship which was in effect prior to the current Law, in the first form of acquisition of Turkish citizenship by marriage, there existed a provision in favour of foreign national women which included positive discrimination. According to such provision, a foreign national woman married to a Turk could acquire Turkish Citizenship if she declared that she wished to acquire Turkish Citizenship or if she was stateless or lost her nationality upon marriage.

However, such provision was then deemed in breach of the principle of equality and the said article was amended by virtue of Law number 4866.

Therefore, such right was given to anyone who married to a Turkish national without discriminating between woman and man, and the term “woman” was removed and the term “married foreign national” was used under that Article only.

Due to abuse of acquisition of Turkish citizenship with an application by means of marriage and occurrence of many fraudulent marriages; material changes were made in this matter in the Turkish Citizenship Law which was adopted in 2009. Now, according to the new arrangement, marrying a Turkish national does not give direct entitlement to Turkish citizenship.

Being married to a Turkish citizen for at least three years, continuance of marriage, living in a marriage union, non-existence of any act conflicting with the marriage union and non-existence of a circumstance which is deemed an impediment in terms of national security and public order.

Apart from that, requirements of acquisition of Turkish Citizenship by birth or later on are applied the same to everyone without discriminating between foreign man and woman.

Citizenship that is acquired by birth according to the Law can be practised according to the principle of paternity as well as place of birth though exceptionally. Paternity is the core principle. Principle of birth place is only applicable to children who are born in Turkey and cannot acquire the citizenship of any country due to birth from a foreign mother and father.

Children who are found in Turkey are deemed to have been born in Turkey unless otherwise proven. This is a status of citizenship that applies to children in order to avoid statelessness. For instance, the children of the Syrians in Turkey who are born in Turkey will not acquire Turkish citizenship automatically. They can only acquire Turkish citizenship based on the principle of birth place in the event that they cannot acquire citizenship due to their mothers or fathers and remain stateless.

There is, again, no gender discrimination in the event of acquisition of Turkish citizenship later on.

Acquisition of Turkish Citizenship can be in question by means of being adopted or practise of right of choice or the decision of the competent authority.

Acquisition of Turkish Citizenship by means of competent authority's decision can be applied as a general acquisition of Turkish Citizenship, exceptional acquisition of Turkish citizenship, acquisition of Turkish citizenship with or without requirement of residence, and acquisition of citizenship by means of marriage. All requirements apply to all foreigners equally.

In the acquisition of Turkish Citizenship, it is also possible for the state to give Turkish citizenship to some countries' citizens within the scope of easier provisions due to various reasons such as political and social reasons. This can sometimes be arranged under a separate article or sometimes by means of an international convention .

It is therefore possible for the other state's citizens to acquire citizenship in an easier and different way. An example to an agreement would be the Law on Acceptance and Dwelling of Meskhetian Turks in Turkey.

When viewed in terms of loss of Turkish citizenship, there is again no discrimination between man and woman.

Loss of citizenship can be practised with one's own free will or as a sanction against free will.

With respect to the matter of loss of citizenship in general, a distinction has been made in the loss of citizenship, such either being practised upon the decision of the competent authority or with the use of right of choice. The loss of citizenship can be practised with the decision of a competent authority as renunciation of nationality, one's being divested of his/her nationality or cancellation of nationality.

While it takes one's will to renounce his/her Turkish Citizenship, the State's practise of sanction is applied in case of being divested of one's nationality.

2- The rights to elect, be elected and participate in political activities

One of the rights arising from the possession of citizenship is the right to elect, be elected and participate in political activities.

According to Article 67 of our Constitution, Turkish citizens have the right to elect, be elected and participate in political activities either independently or within a political party, and participate referendums.

Every Turkish citizen who has turned eighteen has the right to elect and vote in referendum. The use of such rights is regulated under the law. Citizens also have the right to form political parties and register with and leave the parties according to the procedure. In order to become a member of a party, one has to have turned eighteen (Constitution, article 68).

Here, there is again no gender discrimination.

Yet, there also is no gender discrimination in various related laws such as the Law on Basic Provisions on Election and Register of Elector, Law on Parliamentary Election, Law on Political Parties.

It is noted that the rate of women's participation is low in practice. For example, among the 550 parliaments in the Turkish Grand National Assembly, only 79 of them are women.

It is noted that in order to increase the participation of women in the political life, some of the political parties have made arrangements in their guidelines encouraging women, targeting the increase of number of women and envisaging positive discrimination, such as practice of gender quotas by way of having to have a certain rate of members from both genders.

However, achieving the participation of women in the political life is not very easy in spite of such implementations, and when compared to the European countries, the rate of their participation is limited.

Some of the parties in Turkey discriminated in favour of the women by putting a 33% quota (in the election of city council members and parliaments) apart from the law.

Furthermore, since the violence against women constitutes an impediment for the women's getting stronger in spite of the arrangements in the international and domestic laws of the countries, the "Convention on Preventing and Combating Violence Against Women and Domestic Violence" which was drawn up by the European Council and opened for signature in Istanbul on 11 May 2011, means a lot to us while discussing the Women Fact in Turkey.

In the signature ceremony of the "Istanbul Convention" which has the feature of being the first convention that has power of sanction in terms of combatting violence against women in the international law, 13 countries have put their signatures. Turkey was the first country to sign the said Convention.

Topics such as prevention, protection, prosecution and formation of policies for the victim assistance mechanisms have been included in the Convention in order to establish a comprehensive legal framework in combatting violence against women.

The Convention which is the first legal document that has internationally binding effect in this matter, has been opened for signature and approval of the countries other than the members of the European Council.

The "Gender Mainstreaming" in the Convention has been identified as roles, behaviours and acts that are socially built and imposed by the society on woman and man, and "gender based violence against woman" has been identified as violence against women due to their being women or violence that non-proportionally affects women.

While making definitions, the term "woman" is declared to have also included girls aged under 18, and therefore it was adopted that there should be no differentiation between "woman" and girl".

Conclusion: we, once again, wish to make it clear that there is no arrangement making any discrimination based on gender according to the regulations in effect under the Turkish Law in terms of woman's citizenship and rights in Turkey.

Yet, those who do not have information due to lack of education are being contacted by means of any communication channel, and the NGO which is working actively in this matter is providing them information.

We, as the “ Turkish Women’s Legal Association ” are cooperating with the Municipalities and Universities, and visit those people together with our lawyers, psychologist and sociologist lecturers.

In that way, we feed them with knowledge to develop solutions to achieve compromise without conflicts.

We like to emphasize that being informed about the valuable statements of different countries’ lawyers/legists who are within the communication network of our Federation (FIFCJ) and understanding their practises provide us a great professional contribution.

We wish to extend our deepest regards to FIFCJ members who came here from all around the world to achieve the same goal.

This year is the 85th anniversary of the Organization and it is the 25th Enhanced Counsel Meeting of the Federation, therefore we would like to commemorate our members who passed away with their efforts and struggle for the legal rights.