

# A COMPARATIVE STUDY ON TRANSNATIONAL ACQUISITION OF AGRICULTURAL LANDS OF FOREIGN NATURAL PERSON CONSIDERING THE HUNGARIAN AND TURKISH PRACTICE

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## 1. Introduction

Transnational acquisition of agricultural lands is a topic in which vivid debates have taken place, including the Republican period and before, and it has been the subject of many changes in Turkish legislation and has been the agenda of the amendments.<sup>1</sup> For a long period, the acquisition of agricultural lands by foreigners was handled within the frame of the acquisition of real estate. Until the second half of the 19<sup>th</sup> century, foreigners were not vested with the right to acquire real estate.<sup>2</sup> Starting with the Reform Edict of 1858 and Safer Law adopted in 1868, Foreigners were allowed to acquire real estate within the frame of legal restrictions.<sup>3</sup> The Treaty of Lausanne brought a new perspective to the topic. While in the Ottoman Empire, the acquisition of real estate was regulated within the frame of equality of citizens and foreigners, within the frame of the Treaty of Lausanne, the topic began to be regulated considering the reciprocity condition.<sup>4</sup> Land Registry Law Nr. 2644 entered into force in 1934 where transnational acquisition of a real estate by foreign natural and legal persons

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<sup>1</sup> Begüm Sena Ekşi: *Türkiye’de Yabancıların Taşınmaz Edinimi ve Etkileri*. Master Thesis. Adana, Çukurova Üniversitesi, Sosyal Bilimler Enstitüsü, Özel Hukuk Ana Bilim Dalı, 2019.

<sup>2</sup> Ekşi op. cit. 18.; Erkan SOLMAZ: *Yabancılarla Taşınmaz Satışı*. Master Thesis. Trabzon, 2015. 60.

<sup>3</sup> Selim Özcan: *Yabancıların Taşınmaz Mal Mülkiyeti Edinimleri: Amasya Örneği*. *Journal of History Studies*, 2010. 79.; Ekşi op. cit. 19.

<sup>4</sup> Ekşi op. cit. 20.

have been regulated. The main elements for a foreigner to acquire real estate in Turkey were complying with reciprocity conditions and legal limitations.<sup>5</sup> Reciprocity condition was applied to the transnational acquisition of real estate for urban purchases up to 30 ha per person, however, until it was annulled by Law Nr. 4916 dated 03.07.2003, foreigners were not allowed to acquire any real estate including lands located in designated rural areas.<sup>6</sup> There were 3 amendments made to the Land Registry Law during the 1980s which was led by the changing economy and politics of the era. First, in 1984, the Council of Ministers was vested with the power to decide which country comply with the reciprocity condition considering the transnational acquisition of real estate which was annulled in the same year by the Constitutional Court.<sup>7</sup> In the second amendment, it was added to the Law that the Council of Ministers vested with the power to decide which country shall be exempt from the reciprocity condition when it comes to the acquisition of real estate considering in case it is beneficial for the national economy and national interests. However, this regulation is also annulled by the Constitutional Court within the frame of a similar argument concerning the annulment of 1984.

A major revision was made in the Land Registry Law in 2003 with Law Nr. 4916. It was stated that, within the frame of reciprocity conditions and legal restrictions, foreign natural persons and commercial companies with a legal personality that have been established according to the law of the country of origin may acquire real estate in Turkey. In the case of legal inheritance, the legislator omits the reciprocity condition<sup>8</sup> to acquire the ownership of the real estate. Within the frame of the revision of 2005 with Law Nr. 5444, reciprocity conditions and legal limitations on the transnational acquisition of real estate stayed in place only for the purchases made by the foreign natural person. Therefore, the commercial companies that are established in foreign countries

<sup>5</sup> Şakir GENÇ: Geçmişten Günümüze Türkiye’de Yabancı Gerçek Kişilerin Taşınmaz Edinimi. *Sayıştay Dergisi*, S. 95, Ekim-Aralık 2014. 80–81.

<sup>6</sup> EKŞİ op. cit. 21.; GENÇ op. cit. 60.

<sup>7</sup> This regulation is annulled by the decision of the Constitutional Court on 1985. The reason of the Court that the power vested to the Council of Ministers to decide which country is contradicting with the core values of the Treaty of Lausanne. As it is highlighted in the decision, such a power for Council of Ministers does not comply with the separation of powers and in reality it works as delivering the legislation power to the execution power. Decision of the Constitutional Court, 1984/14 E. 1985/7 K. Dated 13.06.1985. Alper Çağrı YILMAZ: 6302 sayılı Kanun Hükümleri Uyarınca Yabancı Gerçek Kişilerin Türkiye’de Taşınmaz Edinimi. *Gazi Üniversitesi Hukuk Fakültesi Dergisi*, Cilt: 17, Sayı: 1–2, Ankara, 2013. 1101.

<sup>8</sup> Within the frame of this regulation, practice of the reciprocity condition builded up on the practice of other states to the Turkish citizens and commercial companies with legal personality that have been established in Turkey according to the Turkish law. EKŞİ op. cit. 24.

concerning the law of those countries shall be exempt from the reciprocity condition and legal limitations when it comes to the acquisition of real estate contrary to the previous versions of Article 35. On the other hand, it was stated that foreign natural and legal persons may acquire real estate to use it as a workplace or residence that shall be designated in the zoning plan which can not exceed the size of 2.5 ha.<sup>9</sup> After the annulment of Law Nr. 5444 of 2005, a revision was made to Law Nr. 5782 in 2008. In this version of Land Registry Law, Article 35 stated that foreign natural persons are granted the right to acquire real estate up to 10% of the in the center of the districts. However, the foreign natural person may acquire real estate up to 2.5 ha in the territory of the Republic of Turkey.<sup>10</sup> The latest amendments made in the Land Registry Law by Law Nr. 6302 in 2012 which is still valid today. Within the frame of article 35, foreign natural persons who are determined by the Council of Ministers may acquire real estate in Turkey taking into account the legal limitations. The power vested to the Council of Minister on the determination of the foreigners were transferred to the President after the amendment of 2018 of the Constitution.<sup>11</sup>

Research question “how do Hungary and Turkey compare in regulations considering the transnational acquisition of agricultural lands?” Therefore, this article aims to briefly compare the legal framework of the transnational acquisition of agricultural lands considering the regulations of two countries: Turkey and Hungary. In terms of comparing the legislations of two countries namely Turkey and Hungary, this paper does not aim to examine Hungarian legislation in a broad sense. Rather than that, this paper aims to introduce Turkish legislation concerning the transnational acquisition of agricultural lands in a connection with the development of the legislation over time. Therefore, the aim of this paper is mainly to unfold the topic of transnational acquisition of agricultural lands taking in a connection with the development of the legislation from the perspective of Turkish law while the current legislation of the two countries is compared. Moreover, due to the fact that this paper is dedicated to examining the acquisition of agricultural lands by foreign natural persons, it only includes an evaluation of the legislation concerning the general

<sup>9</sup> It was also stated that the Council of Ministers has the authority to increase the size up to 30 ha by a decision. In fact, this provision is carried out to the Constitutional Court in 2006 and the Court decided that providing the authority to increase the size of possible purchase up to 12 times is disproportional which is practically delivering the legislative power to the administrative power. Constitutional Court 2006/35 E. and 2007/48 K. dated 11.04.2007. GENÇ op. cit. 84.

<sup>10</sup> EKŞİ op. cit. 26.; GENÇ op. cit. 84.

<sup>11</sup> EKŞİ op. cit. 27.

regulations on under what circumstances a foreign natural person may or may not acquire an agricultural land through *inter vivos* transaction<sup>12</sup> in Turkey and Hungary. Therefore, it intentionally excluded acquisition within the frame of legal inheritance or acquisition of agricultural land by a foreign legal person. In the meantime, this article only refers to the regulations on the acquisition of the right of ownership, therefore, it also excludes the regulations concerning the acquisition of limited rights *in rem*.

For this article, the doctrinal legal research method was used to explore the subsurface of the Turkish and Hungarian regulations on the transnational acquisition of agricultural lands by using primary and secondary sources. This method is favored by taking into account the examination process of the evaluation of the regulations. In order to unfold the topic of transnational acquisition of agricultural lands the classification made concerning the legal framework.<sup>13</sup> Therefore the research is finalized in the evaluation section where similarities and differences between the Turkish and Hungarian regulations are highlighted.

## 2. Legal Framework

In Hungarian regulations, the legal framework has been drawn in the Fundamental Law of Hungary (in Hungarian: *Magyarország Alaptörvénye*).<sup>14</sup> The Fundamental Law of Hungary contains 3 important points when it comes to the regulation of the acquisition of agricultural lands, which are: (a) Article XIII – right to property, (b) Article P) – special protection of natural resources, and (c) Article 38 – the protected status of national assets. In Article XIII, it is stated that “*everyone shall have the right to property and inheritance*”.<sup>15</sup> In order to understand the *verba legis* to a clear extent, the interpretation of the European Court of Human Rights (ECHR) and the Fundamental Law is crucial.

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<sup>12</sup> It refers to legal acts or transaction made between two natural person while both of them are alive.

<sup>13</sup> A similar classification is made by Prof. Szilagyi in which he included organizational and conceptual foundations as well on Janos Ede SZILAGYI: Hungary: Strict Agricultural Land and Holding Regulations for Sustainable and Traditional Rural Communities. In: Janos Ede SZILAGYI (ed.): *Acquisition of Agricultural Lands Cross-border Issues from a Central European Perspective*. Miskolc–Budapest, CEA Publishing, 2022. 145–199.

<sup>14</sup> SZILAGYI (2022) op. cit. 146.

<sup>15</sup> The Fundamental Law of Hungary, translated by the Ministry of Justice, 2021. <https://tinyurl.com/mr7prstu> (Date of Accession: 26/01/2023)

Taking into consideration the concept of the right to property, Article XIII should be interpreted as it is referring to the already existing property rights but not to the future acquisition of the ownership of the property.<sup>16</sup> In terms of Article P), the protection of agricultural lands as a part of national resources is highlighted.<sup>17</sup> What is worth noticing here is that Fundamental Law indicates that limits and conditions for the acquisition of ownership of arable lands are necessary and the necessary regulations are going to be introduced within the frame of a cardinal act.<sup>18</sup>

At this point, it is important to explain the concept of the cardinal act. Cardinal act is a type of legislation that can be passed with the affirmative vote of at least 2/3 of the members of the Hungarian parliament.<sup>19</sup> One of the cardinal acts adopted taking into consideration Article P) of the Fundamental Law is Act No. CXXII of 2013 (Land Transfer Act) concerning agricultural and forestry land trade. This act addresses mainly the acquisition of property rights and restrictions of agricultural lands but is not limited to it.<sup>20</sup> Another – partially – cardinal act adopted concerning article P) of the Fundamental Law is Act No. CCXII of 2013 (Implementation Land Act) lays down certain provisions and transition rules in connection with Act No. CXXII of 2013 concerning agricultural and forestry land trade which includes the most significant regulations concerning the acquisition of agricultural lands.<sup>21</sup> As it is indicated by Prof. Szilagyi<sup>22</sup> the Land Transfer Act and Implementation Land Act indicated a significant part of Hungarian land law.<sup>23</sup> Next to the cardinal acts, ordinary acts also have significant importance when it comes to Hungarian land law. In terms of ordinary acts, it is necessary to be affirmatively voted by

<sup>16</sup> SZILAGYI (2022) op. cit. 147.

<sup>17</sup> The Fundamental Law of Hungary, translated by the Ministry of Justice, 2021. <https://tinyurl.com/mr7prstu> (Date of Accession: 26/01/2023)

<sup>18</sup> Aniko RAISZ: Topical issues of the Hungarian land-transfer law. *CEDR Journal of Rural Law*, Vol. 3, Iss. 1, 2017. 70.; SZILAGYI (2022) op. cit. 148.

<sup>19</sup> SZILAGYI (2022) op. cit. 146.

<sup>20</sup> Act No. CXXII of 2013 on Agricultural and Forestry Land Trade. <https://tinyurl.com/258r276j> (Date of Accession: 26/01/2023)

<sup>21</sup> Act No. CCXII of 2013 laying down certain provisions and transition rules in connection with Act No CXXII of 2013 concerning agricultural and forestry land trade. <https://tinyurl.com/bdevxcs> (Date of Accession: 26/01/2023)

<sup>22</sup> SZILAGYI (2022) op. cit. 148–149.

<sup>23</sup> There are also other legislations which are important concerning the regulations on acquisition of agricultural lands such as Act No. LXXI of 2020, however taking into account the space provided for this paper, it is not possible to examine it in details.

at least half of the members of the Hungarian parliament.<sup>24</sup> Moreover, it was also taken into account by Dr. Raisz that next to the cardinal acts, acts, and governmental decrees financial law has a significant role in the regulation of tax issues concerning the acquisition of agricultural lands.<sup>25</sup>

As to the agricultural producers what is highlighted is that the acquirer should be a natural person who holds a degree or demonstrate a strong interest in agricultural activities at the same time who is a national of an EU member state or has the citizenship of EEA country.<sup>26</sup> This reflects two fundamental features of the Hungarian land law: (a) the subject of the Land Transfer Act and Implementation Land Act and (b) the characteristic of that subject. As it is mentioned above, for an acquisition of agricultural land to be considered within the frame of the Land Transfer Act and Implementation Land Act, the acquirer can be both a Hungarian citizen and a foreigner. Which refers to a natural person who does not bound to the State of Hungary with citizenship. However, not all non-domestic natural persons are considered the subject of the acquisition in terms of Hungarian land law. As it is referred to above, the subject of the acquisition can be only a natural person who has citizenship of the EU Member States and European Economic Area, as much as citizens of other states that have been granted similar rights within the frame of the international agreements are eligible to acquire agricultural land.<sup>27</sup> Therefore, there is a distinction between foreigners. When it comes to the characteristics of the acquirer, it is highlighted that the natural person who is willing to acquire agricultural land in Hungary is obliged to demonstrate his capability on the agricultural activities that are going to be carried out on the agricultural land. Moreover, it is emphasized that the acquirer must farm the agricultural land himself and shall have the proper degree such as agricultural and or forestry vocational training or a qualification in order to carry out an agricultural activity or at least has proper experience in specific agricultural or forestry activity when it comes to the carry out an agricultural activity in Hungary. It is worth noticing that a larger amount of agricultural land can only be acquired by agricultural producers within the frame of certain exceptions.<sup>28</sup>

<sup>24</sup> SZILAGYI (2022) op. cit. 146., 153.

<sup>25</sup> RAISZ op. cit. 71.

<sup>26</sup> RAISZ op. cit. 72.; SZILAGYI (2022) op. cit. 157.

<sup>27</sup> Janos Ede SZILAGYI: Acquisition of the Ownership of Agricultural Lands in Hungary, taking the EU's and Other Countries' Law into consideration. *Zbornik Radova: Pravni Fakultet u Novom Sadu*, Volume 50, Number 4, 2016. 1447.; RAISZ (2017) op. cit. 72.

<sup>28</sup> SZILAGYI (2016) op. cit. 1447.; RAISZ (2017) op. cit. 72.; SZILAGYI (2022) op. cit. 157., 176.

Hungarian land law is intended to limit the size of agricultural land that can be acquired by a natural person. In terms of definition, land acquisition limit is the primary concern of this paper which refers to the restrictions on property rights and limited rights *in rem*. Within the frame of the land acquisition limit, an agricultural producer, a natural person, or a close family on the other side of the legal transaction who is a member of a member state but not an agricultural producer and in case of land acquisition for recreational purposes, the acquirer may acquire the ownership of the land up to 300 ha.<sup>29</sup> In the case of Hungarian citizens and members of the member state who are not agricultural producers may acquire land if only the land they possess which includes the area of land they are willing to acquire can not be more than 1 ha together.<sup>30</sup> Moreover, there are different limits regulated in Hungarian land law concerning acquirement of the agricultural land.<sup>31</sup> However, limits in terms of agricultural land use so-called land possession limit are not subject to this article.<sup>32</sup>

The right to ownership has been regulated in the Turkish Constitution. The Constitution of 1921 does not contain any regulations concerning the transnational acquisition of real estate which is concluded under the Independence War circumstances. Therefore, it has prioritized more fundamental topics rather than the foreign acquisition of real estate. In literature,<sup>33</sup> it is accepted that the Ottoman Basic Law (Kanun-i Esasi) which entered into force in 1876 stayed still in force considering the lack of legislation in the Constitution of 1921. Soon in 1924, the second constitution of the Republic of Turkey entered into force. Despite the fact that the right to property has been recognized via the Constitution of 1924, there was no significant regulation concerning the transnational acquisition of real estate.<sup>34</sup>

<sup>29</sup> RAISZ (2017) op. cit. 72.; SZILAGYI (2022) op. cit. 176.

<sup>30</sup> SZILAGYI (2022) op. cit. 176.

<sup>31</sup> Couple of examples concerning the different types of limitations such as the exceptional land acquisition limit where the 300 ha and 1 ha agricultural land acquisition limits may be exceeded which only applies to the agricultural land already exist when the Land Transfer Act entered into force. Another exceptional land acquisition limit regulated for the Exchange of land which is acquired by interstate succession. In terms of interstate succession, legislator did not limit it with the time and according to the regulation, it can exceed the 300 ha and 1 ha acquisition limit. For more detailed explanation: SZILAGYI (2022) op. cit. 177.

<sup>32</sup> For more information, SZILAGYI (2016) op. cit.; RAISZ (2017) op. cit.; SZILAGYI (2022) op. cit.

<sup>33</sup> For example, Selim LEVI: *Yabancıların Taşınmaz Mal Edinmeleri*. Master Thesis. İstanbul, 2006. 51.

<sup>34</sup> Constitution of 1924, Teşkilatı Esasiye Kanunu, Law Nr. 491, Date: 20/4/1340 (1924) <https://www.anayasa.gov.tr/tr/mevzuat/oncelki-anayasalar/1924-anayasasi/> (Date of Accession: 26/01/2023).



In the 1961 Constitution<sup>35</sup>, Article 36 of the section titled Social and Economic Rights stipulated that *everyone* has the right to property and inheritance and that these rights can only be restricted by law considering the public interest. From this point of view, it can be concluded that the rights related to the acquisition of real estate by foreigners are recognized. However, there was no obstacle to the limitation of the property right as a foreigner. However, it is mentioned in the Constitution that fundamental rights and freedoms related to foreigners can only be restricted by law within the frame of international law. Pursuant to this article of the Constitution, it is possible to limit the right to property, which is a fundamental right, within the framework of the law and in accordance with the standards of international law.<sup>36</sup>

The Constitution of 1982 used the terms *every Turk*, *everyone*, and *foreigners* when it comes to the promotion of fundamental rights and freedoms. Article 35 states that “*Everyone has the right to property and inheritance. These rights can only be limited by law for the public interest. The use of the right to property can not be contrary to the public interest.*” It has been regulated that everyone has the right to property without making any distinction between foreign and Turkish citizens. Therefore, it is stated in the Constitution that the right to property may only be restricted via law in case of a conflict with the public interest. Despite the fact that it has been stated that limitations and restrictions may only be put in place within the frame of law, in literature, it is agreed that if only it is not against the law and serve the purpose of the execution of the law, right to property may be limited with regulatory proceedings such as regulations, communiques, and circulars issued by the authority.<sup>37</sup> In 2017, Presidential Decrees are adopted with the revision of the Constitution. It is worth emphasizing that the topics that may be the subject of a Presidential Decree are determined by the Constitution which regulates the right to property is not one of them. However, in the same Constitution it is stated that in case of a state of emergency, President may regulate the topic of transnational acquisition of real estate by Presidential Decrees.<sup>38</sup> Within the frame of the latest amendments,

<sup>35</sup> Constitution of 1961, Constitution of the Republic of Turkey, Law Nr. 334, Date: 9/7/1961 <https://www.anayasa.gov.tr/tr/mevzuat/oncelki-anayasalar/1961-anayasasi/> (Date of Accession: 26/01/2023).

<sup>36</sup> Fügen SARGIN: *Yabancı Gerçek Kişilerin Türkiye’de Taşınmaz Mal Edinmeleri ve Sınırlı Aynı Haklardan*. Ankara, Yararlanmaları, 1997. 53.; Ekşi op. cit. 29.

<sup>37</sup> Ekşi op. cit. 30.; LEVİ op. cit. 67.

<sup>38</sup> Republic of Turkey Presidency, Duties and Authorities. [https://www.tccb.gov.tr/cumhurbaskanligi/gorev\\_yetki/](https://www.tccb.gov.tr/cumhurbaskanligi/gorev_yetki/) (Date of Accession: 26/01/2023)



transnational acquisition of real estate is regulated in Land Registry Law of 2012. Only a technical revision was made after this date in which the term “Council of Ministers” changed to “President” considering the fact of abolishing the council of ministers and delivering the authority to the president with Statutory Decree Nr. 698 dated 02.07.2018.<sup>39</sup>

At this point, it is important to explain the concept of foreigner as the Land Registry Law. In Turkish law, there are several approaches when it comes to explaining the term foreigner. However, what is worth noticing is that at this point it is crucial to determine the concept of a foreigner in the virtue of Land Registry Law. Land Registry Law does not provide a clear answer for who is the subject of this law, however, indirectly the subject of the law is pointed out in Article 35 of the Law. The article refers that foreign national natural persons who are citizens of the countries that are determined by the President can acquire real estate and limited real rights in rem as long as it complies with the legal limitations when required for the bilateral international relations and benefit of the state. Therefore, it indirectly states that not all non-domestic natural persons are eligible to acquire agricultural land in Turkey. It refers to foreign natural persons who are bound to the countries with citizenship which are listed among the ones who may acquire agricultural land in the Presidential Decree(s). Therefore, when the Land Registry Law refers to the foreign natural person, it means not all foreigners but the ones who are able to acquire agricultural land in Turkey.

The legal framework of the transnational acquisition of agricultural lands is introduced in Land Registry Law Nr. 2644<sup>40</sup> within the frame of the acquisition of real estate by foreigners as well as special regulations. When it comes to the acquisition of real estate by foreign natural persons, the main legislation is framed in article 35 of the Land Registry Law. In article 35, it is stated that, within the frame of legal limitations, in case it is valuable considering the international bilateral relations and national interests, citizens of the states which are determined by the President may acquire real estate throughout the Republic of Turkey. In the meantime, it is worth noticing that the size of the real estate that foreigners may acquire is limited to 10% of the district size that is subject

<sup>39</sup> 477 Sayılı Kanun Ile Bazı Kanunlarda Değişiklik Yapılması Hakkında Kanun Hükmünde Kararname Date: 4.07.2018, Issue: 30468  
<https://www.resmigazete.gov.tr/eskiler/2018/07/20180704-1.htm> (Date of Accession: 26/01/2023)

<sup>40</sup> Tapu Kanunu (Land Registry Law) Nr. 2644, Date: 22/12/1934 Issue: 2892  
<https://www.mevzuat.gov.tr/mevzuatmetin/1.3.2644.pdf> (Date of Accession: 26/01/2023)

to private ownership and 30 ha throughout the country. Moreover, limitations concerning the size of the real estate may be doubled by the President. Increasing the allowed size of the real estate is not the only authority that is given to the President. Another one is to be able to determine, limit, partially or completely suspend or prohibit the acquisition of a real estate by natural persons of foreign nationality; country, person, geographical region, duration, number, rate, type, quality, area, and size taking into account the benefit of the state. Decisions of the President may be appealed to the Council of State as a first-instance court.<sup>41</sup> Next to the limitations described above, it is stated that the Ministry of National Security shall inform the General Directorate of Land Registry and Cadastre of the fact of prohibited military zones and strategic military zones. Therefore, the General Directorate of Land Registry and Cadastre is obligated to do the necessary procedures. It is worth noticing that at this point, as it is seen in the practice, considering this regulation, the General Directorate of Land Registry and Cadastre shall refuse the application of acquisition of real estate in case it is located in the designated military zones.

Next to the general legislation mentioned above considering the transnational acquisition of real estate, there are special regulations on the acquisition of agricultural lands. In article 35 of the Land Registry Law, the legislator regulated the specific procedure for the acquisition of “*unstructured real estate*”. However, the term did not explain in the Law but is defined in the Circular Letter Nr. 1752 2013/15 dated 27/11/2013 issued by the Ministry of Agriculture and Forestry. As it is mentioned in the Circular Letter, unstructured real estate is real estate that has no construction or structure existing on the land. To clarify, “*land, field, vineyard, garden*” is given as an example of unstructured real estate. Therefore, as it is often referred to in the literature, the term acquisition of unstructured real estate in article 35 refers to the acquisition of agricultural lands but is not limited to it. Moreover, in case of transnational acquisition of agricultural land, foreigners are obliged to apply to the Ministry of Agriculture and Forestry and submit the project that is planned to be carried out on the land which is subject to purchase. The details of the project, such as possible project subjects, implementation of the project, finalization of the project, and liquidation of the agricultural land if it is necessary are regulated by the executive power, the

<sup>41</sup> Danıştay Kanunu (Law of Council of State) Nr. 2575, Date: 6/1/1982, Issue: 17580 <https://www.mevzuat.gov.tr/MevzuatMetin/1.5.2575.pdf> (Date of Accession: 26/01/2023)

Ministry of Agriculture and Forestry in Ministerial Guidance, Circular Letters, Directives, or by-laws.<sup>42</sup>

### 3. Evaluation

It is worth noticing that while a significant part of the legal framework of the acquisition of agricultural lands is regulated within the frame of cardinal acts in Hungarian land law, the topic is genuinely regulated within the frame of the by-laws, ministerial acts, guidances, and circular letters in the Turkish law. What is another significant difference is that the Hungarian land law (Act No. CXXII of 2013) includes both agricultural lands and forests. In terms of Turkish law, agricultural lands, and forests have separate and different regulations when it comes to acquisition. It is worth noticing that Hungary has a unique status in the Central European region taking into account that this is the only state that regulates the acquirement of “agricultural and forest land” when it comes to the legal concept of agricultural and forest lands.<sup>43</sup>

In this paper, laws in force that are subject to comparison were the Land Transfer Act and Implementation Land Act which regulates the acquisition of agricultural lands in Hungarian law, and Land Registry Law which regulates the transnational acquisition of agricultural lands in Turkish law. When transnational acquisition refers to an acquisition in that its acquirer is a foreigner who is not bound to the Republic of Turkey with citizenship; in the acquisition of agricultural land, the acquirer refers to a natural person who is a citizen of the Member State of the EU. Therefore, what is considered a non-transnational acquisition for Hungarian regulations is considered a transnational acquisition of agricultural lands. Therefore, as is highlighted above, in both Turkish and Hungarian legal systems, there are distinctions between foreigners: while in Turkish regulations, the subject of the non-domestic acquisition of agricultural

<sup>42</sup> Instructions Regarding the Permission for the Acquisition of Agricultural Land and Approval of Developed Agricultural Projects, Nr: B.12.0.TRG.0.09.230.04-08/4084 Dated: 02.11.2012; Instruction No. 68656427.04.02/4359-13579 of the Ministry of Food, Agriculture and Animal (Now the Ministry of Agriculture and Forestry) General Directorate of Agricultural Reform on the Implementation of Law No. 5403; Ministry of Environment and Urbanization, General Directorate of Land Registry and Cadastre, Department of Foreign Affairs, Circular No. 1734, 2012/12 on Acquisition of Immovable and Limited Real Rights by Foreign Nationals.

<sup>43</sup> Janos Ede SZILAGYI–Hajnalka SZINEK CSÜTÖRTÖKI: Conclusions on Cross-border Acquisition of Agricultural Lands in Certain Central European Countries. In: Janos Ede SZILAGYI (ed.): *Acquisition of Agricultural Lands Cross-border Issues from a Central European Perspective*. Miskolc–Budapest, CEA Publishing, 2022.

lands is foreigners who have the nationality of the country which have been listed in the Presidential Decrees among the ones whom may acquire an agricultural land in Turkey; in Hungarian regulations, the subject of the non-domestic acquisition is described as citizens of EU Member States and EEA, and citizens of other states that have been granted with the similar rights within the frame of the international agreements.

In terms of similarities between Hungarian and Turkish land law, in both of them, legislators are intended to limit the size of the agricultural land which might be subject to the acquisition. When it comes to the Hungarian land regulations, the acquisition of agricultural land by an agricultural producer, a natural person, or a close family of the other side of the legal transaction who is a member of a member state but not an agricultural producer and in case of land acquisition for recreational purposes, an acquirer may acquire the ownership of the land up to 300 ha. In the case of Hungarian citizens and members of the member state who are not agricultural producers may acquire land if only the land they possess which includes the area of land they are willing to acquire can not be more than 1 ha together. In terms of Turkish land regulations, the size of the real estate that foreign natural persons may acquire is limited to 10% of the district size that is subject to private ownership and 30 ha throughout the country. However, it is worth noticing that the allowed size of the real estate may be doubled by the President.