

A Comparative Study of Civil Laws of Iran, Turkey, and Germany with Emphasis on the Rights of Foreign Nationals to Employment, Education, Access to Effective Remedy, and Fair Trial

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Abstract

The present study aims to compare the civil codes of Iran, Turkey, and Germany, with a focus on the rights of foreign nationals regarding employment, education, access to effective remedies, and a fair trial. This research is descriptive-analytical and is based on library studies. The results reveal significant differences in the policies and approaches of these countries regarding access to education for foreign nationals. In all three countries—Iran, Germany, and Turkey—foreign nationals need a work permit for employment; however, the processes and conditions for obtaining these permits differ. In Iran, the emphasis is on specialized occupations, while in Germany and Turkey, permits can be granted for various types of jobs based on labor market needs. An examination of the civil and judicial laws in Iran, Germany, and Turkey shows that the right to a fair trial for foreign nationals is legally guaranteed in all three countries. While foreign nationals have access to courts and the right to a defense, there are minor variations in the types of courts and specific conditions for certain cases, such as immigration and national security. The right to access an effective legal remedy is a fundamental principle of the rule of law. Although this right is constitutionally guaranteed in all three countries, its practical effectiveness varies significantly. Germany offers the strongest protection for the right to an effective remedy.

Key words: *rights of foreign nationals, right to employment, right to education, right to a fair trial*

Introduction

In Iran, nationality is understood as a mutual relationship between the individual and the state, founded on the principle of altruism and encompassing moral and religious obligations. The process of acquiring nationality in Iran is complex and entails specific conditions, such as being a Muslim, possessing knowledge of relevant issues,

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and demonstrating a commitment to the principles of the Islamic Revolution. In contrast, Germany operates under a modern state and social legal system. Nationality in Germany is obtained based on civil law, without race, religion, or cultural discrimination. The process of acquiring German nationality aligns with the laws of the European Union and is generally independent of an individual's cultural or religious characteristics. Individuals who have resided in Germany for a specific period and meet certain conditions can acquire German nationality. Turkey's approach to nationality is defined by the principles of hybridity and nationality. The conditions for acquiring nationality in Turkey are typically not based on religious factors and are governed by the laws of the Republic of Turkey. Individuals can apply for Turkish nationality by following established regulations and meeting specified conditions.

The differences in nationality laws among these countries are influenced by their unique cultural, historical, and legal contexts¹. In Iran, criteria for granting nationality include factors such as birth and marriage, and certain restrictions exist regarding the loss of nationality. In Turkey, nationality is awarded based on various criteria, including birth, marriage, and military service, and there is a pathway for immigrants to become citizens. Conversely, Germany emphasizes

nationality primarily through birth and the principle of nationality². These varying criteria and conditions for acquiring and losing nationality reflect the diverse challenges and differences in nationality laws among these nations. Despite their common history and geographic proximity, Iran, Turkey, and Germany exhibit significant differences in their civil codes, particularly concerning nationality and the rights of foreign nationals³. Such disparities can lead to confusion and misunderstanding, especially for individuals and institutions operating across these countries. Additionally, harmonizing the civil laws of different nations presents a multifaceted challenge.

The harmonization of civil laws regarding nationality and immigrant rights among Iran, Turkey, and Germany is very important and presents a significant socioeconomic challenge. This harmonization can lead to enhanced economic empowerment and growth in each country, as it allows them to fully utilize the laws and rights associated with nationality and immigration. In Iran, nationality and immigrant rights are generally defined within the country's legal framework. However, some Iranian laws face challenges, particularly in how they address the treatment of citizens and immigrants in certain situations. Therefore, aligning Iran's nationality and immigration laws with those of other countries can help resolve these issues and promote the full

¹ Sarvi Moghadam, M. (2004). A review of the differences between nationality, citizenship and other terms in Iranian, British and American law. *Humanities Lecturer*, 8- 3 1-15.

² Badini, Hassan. (2012). Civil liability arising from the violation of moral rights related to personality and human rights. *Private Law Pegem Journal of Education and Instruction*, ISSN 2146-0655

Studies, 42(1), 89

³ Ghasemi, G., and Bafham, M. (2019). A review of developments in Iranian law regarding the citizenship of individuals born to Iranian mothers, *Private Law Studies (Law)*, 50(1), 133-151.

development of rights for both citizens and immigrants. Given this context, the present study aims to compare the civil laws of Iran, Turkey, and Germany, focusing specifically on the rights of foreign nationals concerning employment, education, access to healthcare, and the right to a fair trial.

Right to Education

In Iran, the right to education is guaranteed by Article 30 of the Constitution of the Islamic Republic of Iran, which mandates the state to provide free education at the primary and secondary levels. This provision primarily applies to Iranian citizens. However, other legal measures, including the 2015 Executive Directive issued by the Supreme Leader, have granted access to public schools for children of foreign nationals, particularly Afghan refugees⁴. This initiative was aimed at addressing the educational needs of undocumented children who had previously been excluded from the Iranian education system.

Despite these positive developments, significant challenges persist. Foreign nationals—especially those without formal refugee status—face various barriers, including financial constraints and overcrowded classrooms⁵. Additionally, although primary and secondary education is officially free, hidden costs such as books, clothing, and transportation impose an extra burden on foreign

families. The lack of support services, such as language courses for non-Persian speakers, also limits the ability of foreign students to succeed within the Iranian education system⁶.

In Germany, education is a fundamental right protected by Article 7 of its Constitution, which obliges the state to regulate and supervise educational systems. This article guarantees that all children, including foreign nationals, have access to education and makes it non-discriminatory. According to Section 54 of the Residence Act, foreign nationals are entitled to access public education regardless of their legal status⁷, including refugees, asylum seekers, and children of foreign nationals. Education at the primary and secondary levels is free and compulsory for all children up to the age of 18. Germany has implemented various integration programs to assist foreign nationals, particularly refugees and immigrants, in accessing education. These programs often include language courses, social activities, and psychological support services. As part of the education system, foreign students typically participate in preparatory courses designed to help them integrate into regular classes, aiming to bridge the gap between foreign students and their German peers to provide equal educational opportunities⁸.

In Turkey, higher education is governed by the Higher Education Law No. 2547, which stipulates

⁴ Shokri, K. (2018). Nationality in different legal systems and its challenges. *Comparative Law Journal*, 20(1), 78-95.

⁵ Fatemi, S. (2019). Nationality and its effects in private law. *Journal of Private Law*, 18(2), 99-115.

⁶ Ghaffari, M. (2017). Nationality and human rights in Iran and Islamic countries. *Journal of Human Rights Studies*, 9(3), 74-89.

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⁷ Bendel, P. (2014). Coordinating Immigrant Integration in Germany: Mainstreaming at the Federal and Local Levels. Migration Policy Institute

⁸ Bommes, M., & Geddes, A. (Eds.). (2012). *Immigration and Welfare: Challenging the Borders of the Welfare State*. Routledge

that foreign nationals are eligible to apply for admission to universities. Turkish public universities offer a wide array of programs, most of which are conducted in Turkish, which can pose challenges for non-Turkish speakers⁹. However, some universities also offer programs in English,

which facilitates access to higher education for international students. Additionally, Turkey provides scholarships that cover tuition fees, accommodation, and living expenses, assisting foreign nationals in pursuing their studies in the country¹⁰ (Table 1).

Table 1: Comparison of Iran, Turkey, and Germany regarding the rights of foreign nationals to education.

Aspect	Germany	Turkey	Iran
Primary and Secondary Education	There is free access for everyone, with integration classes to learn German.	Foreign citizens and refugees have free access, with efforts to integrate them. Language barriers and economic challenges contribute to lower enrollment rates among refugees.	Foreign citizens, including refugees, have free access but face obstacles such as limited capacity and discrimination.
Higher education	Low tuition fees, scholarships, and various programs in German or English are provided to refugees.	There is access to education and scholarships, but applicants must be fluent in Turkish or participate in English programs.	There is a possibility of higher education, with a requirement of being fluent in Persian.
Challenges	The refugees need to learn German; there are challenges to cultural and social integration.	There are language barriers and economic challenges; there are lower enrollment rates among refugees.	Refugees experience language barriers, discrimination, and financial constraints.

Right to freedom to choose an occupation

In the civil laws of Iran, specifically the Labor Law and certain regulations that pertain to foreign nationals, the employment of foreigners is regulated. Generally, foreign nationals can only work in Iran if they have obtained a work permit from the Ministry of Cooperatives, Labor, and Social Welfare¹¹. Article 104 of the Labor Law of the Islamic Republic of Iran explicitly states that

foreign nationals may work in various occupations only if such employment serves the country's interests and if the corresponding permit is issued legally. This permit is typically granted in specific circumstances, such as when there is a need for foreign specialists in particular industries or when there is a lack of available Iranian labor in that field. Regarding work permits for foreign nationals, Article 114 of the Labor Law states that to receive

⁹ Ayhan, M. (2022). Legal Perspectives on Residency Rights for Foreigners in Turkey. *International Migration Studies*, 14(3), 202-225
¹⁰ Erbay, F. (2023). Integration of Foreign Nationals into Turkish Employment System. *Global Law Journal*, 4(1), 78-95.
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¹¹ Memarzadeh, A. (2018) *Analysis of Citizenship and Its Effects on International Law*. Shiraz University Press.

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this permit, a foreigner must submit the necessary documents to the Ministry of Cooperatives, Labor, and Social Welfare. After a thorough examination, they may be allowed to work. Additionally, the Foreign Employment Law imposes certain restrictions on the employment of foreigners, primarily in specialized occupations¹².

In Germany, foreigners are also required to obtain a work permit to work. However, the legal landscape is more complex than in Iran and Turkey, due to EU regulations and Germany's specific immigration policies. According to the German Residence Law, non-EU citizens can only work in Germany if they have secured the appropriate visa or work permit. These work permits are divided into two categories¹³.

In Turkey, the rights of foreigners regarding employment are governed by the Turkish Labor

Law and the Foreigners' Residence and Work Law. According to Article 6 of the Foreigners' Residence and Work Law, foreigners must obtain a work permit to work in Turkey. Article 11 of this law clearly states that foreigners are not permitted to work without a valid work permit. These permits can be issued temporarily or permanently. However, EU nationals are exempt from certain restrictions and can work in various occupations without needing a work permit. Unlike Germany, which emphasizes the need for skilled workers, Turkey allows foreigners to work in unskilled jobs in specific areas, although employment in some industries is still limited. Furthermore, the approval of a work permit application for foreigners depends on various factors, such as the demand for foreign labor in certain sectors, the applicant's level of education, and their expertise¹⁴ (Table 2).

Table 2: Comparison of Iran, Turkey, and Germany regarding the rights of foreign nationals to employment

Subject	Turkey	Germany	Iran
Legal Guarantee	There is a legal right to choose a job, with legal supervision and regulation.	There is a fundamental right to freedom of occupation with provisions for the public interest.	There is a right to choose a job, unless it conflicts with Islamic principles or public interest.
Restrictions	Foreigners require work permits; some jobs are reserved for Turkish citizens.	There are provisions for public safety; There is a requirement for professional qualifications; There are restrictions for non-EU citizens.	The right to employment is based on Islamic principles, public interest, and morality; foreign citizens face gender discrimination and restrictions.
Foreign nationals	Foreigners require work permits; some sectors are	Access to employment depends on EU/non-EU status and work permit.	There are significant barriers to employment; many jobs are only for Iranian nationals.

¹² Fathollahi, R. (2016). Challenges of nationality and legal dualities in Iran. *Quarterly Journal of Legal Studies*, 11(3), 50-68.

¹³ Castles, S., de Haas, H., & Miller, M. J. (2013). *The Age of Migration: International Population Movements in the Modern World*. Palgrave Macmillan.

¹⁴ Çakır, H. (2021). The Role of Work Permits in Protecting Foreign Workers in Turkey. *Journal of Labor Law and Migration*, 6(2), 112-130.

Subject	Turkey	Germany	Iran
Gender equality	restricted to them.	Anti-discrimination laws guarantee gender equality.	
	Some progress has been made, but challenges remain for women and minorities.	Anti-discrimination laws ensure gender equality.	There are legal and social restrictions on women in some areas.

Right to a Fair Trial

The Constitution of the Islamic Republic of Iran guarantees principles of human rights and the right to a fair trial. Article 34 states that "everyone has the right to appeal to a competent court," a right that applies to all individuals, whether Iranian or foreign. Thus, foreign nationals have the right to access the courts and receive a fair trial if they enter or reside in Iran¹⁵. Moreover, Article 35 of the Iranian Constitution emphasizes defense rights, ensuring individuals can utilize legal representation. This provision applies equally to foreign nationals, who can choose a lawyer and enjoy all their rights in legal defense just like Iranian citizens. Neither the Iranian Civil Code nor the Code of Civil Procedure discriminates against foreign nationals regarding the right to a fair trial¹⁶.

In Germany, like Iran, the principles of a fair trial and the right to defense are fully guaranteed for all individuals, regardless of nationality. Article 10 of the German Basic Law asserts that everyone has the right to access and pursue legal proceedings in

German courts. Germany boasts an independent and well-established judicial system where foreign nationals are afforded the same rights as German citizens¹⁷. In the context of Civil Procedure Code, there is no distinction between nationals and foreigners in terms of access to courts and the conduct of legal proceedings. Nonetheless, in specific situations, such as disputes pertaining to residency or immigration status, foreign nationals may encounter particular conditions. For example, certain legal matters regarding immigration and asylum must be addressed in German administrative courts, which specifically handle these issues. In terms of defense, foreign nationals, like German citizens, have the right to legal counsel. If an individual cannot afford a private lawyer, a public one will be appointed¹⁸.

In Turkey, the right to a fair trial is guaranteed to everyone, whether Iranian, German, or from other countries, as outlined in the Constitution of the Republic of Turkey and its civil laws. Article 36 affirms that "everyone has the right to access the

¹⁵ Eftekhari, S. Z. (2024). A study of the rights of citizens in times of war with emphasis on international documents and human rights. *Law Studies*, 38, 397-416.
¹⁶ Piran, A. K. J., Atashneh, M. (2022). The position of foreigners and migrants in the law of international and regional documents with emphasis on the 1951 Refugee Convention. *Political and International Pegem Journal of Education and Instruction*, ISSN 2146-0655

Studies, 51, 221-241.
¹⁷ Cyrus, N., & Vogel, D. (2015). Demand for Illegal Migration?: Labour Market-related Migration and its Legal Regulation in Germany. *International Migration Review*, 39(1), 33-57.
¹⁸ D'Amato, G. (2010). Germany: A Country of Immigration at Last. Migration Policy Institute.

courts and to be tried in a fair and free manner.¹⁹" This right extends to foreign nationals, placing them on an equal footing with Turkish citizens regarding free trial rights. Like Iran and Germany, the Turkish Civil Procedure Code treats foreign nationals without discrimination, granting them the same rights as domestic citizens to hear cases in both public and private courts. A notable aspect of Turkey's legal system is that foreign nationals residing in the country can have legal representation and enjoy their right of defense, similar to Turkish citizens. Additionally, Turkey offers free legal representation for some foreign nationals who are unable to afford legal fees²⁰.

Right to access to effective legal remedies

In Iran, the right to access effective legal remedies is enshrined in the Constitution of the Islamic Republic of Iran and other national legal frameworks. Article 34 of the Iranian Constitution guarantees access to justice: "The right to access justice is reserved for all individuals, and no one shall be deprived of this right." However, despite this legal guarantee, the practical implementation of access to effective legal remedies in Iran faces many challenges. While Iran's Code of Civil Procedure and its judicial procedures provide a pathway to the courts, this access is often obstructed. The judiciary in Iran is highly centralized and operates under the supervision of

the Guardian Jurist, which can lead to interference in legal proceedings. As a result, individuals may encounter difficulties in obtaining a fair trial, particularly in cases involving political or sensitive issues²¹. Factors such as a lack of judicial independence, limited access to legal representation, and restrictions on certain types of litigation- especially against state institutions, further diminish access to effective remedies. Although the constitution guarantees the right to a fair trial, this right is often undermined by restrictions on freedom of expression and the press, limiting individuals' ability to challenge government decisions. In some instances, courts may dismiss cases that are politically sensitive or contrary to Islamic principles²².

Germany has a well-established legal system that guarantees the right to effective legal remedies through its constitution and civil law. The German legal system is built on principles of fairness, judicial independence, and access to justice. Article 19 of the German Basic Law explicitly guarantees the right to effective legal remedies: "Everyone has the right to a court if his or her rights are violated by a public authority." This article ensures that individuals can seek redress through the courts if their rights are infringed by public authorities²³. Civil courts in Germany are independent and impartial, and the judicial process is transparent.

¹⁹ Tekin, A. (2020). Regulations Affecting Foreign Investors in Turkey. *Economic and Legal Perspectives Journal*, 8(1), 35-57.

²⁰ Polat, Z. (2019). Challenges in Obtaining Turkish Citizenship for Foreign Workers. *Ankara University Legal Review*, 10(2), 185-210.

²¹ Rahimi, M. J. (2023). I was not better than you: a page from the life of Afghan migrants. Tehran: Rah Yar Publications.

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²² Heydari, M. (2020). A study of the effects of the presence of foreigners on the security of the country with emphasis on border provinces. *Security Studies Quarterly*, No. 45, 87

²³ Dustmann, C., & Frattini, T. (2014). The Fiscal Effects of Immigration to Germany. *Economic Journal*, 124(580), 593-643.

When an individual's rights are violated, they have access to judicial review through administrative, civil, and specialized courts, which involve relevant judges depending on the issue at hand²⁴.

In Turkey, the right to an effective legal remedy is similarly guaranteed by the Constitution of the Republic of Turkey and other laws. Article 36 of the Turkish Constitution states: "Everyone has the right to a fair trial and to obtain redress through the courts for violations of their rights." This provision ensures that individuals can receive effective legal remedies if their rights are violated, reflecting Turkey's commitment to the rule of law and access to justice²⁵.

Conclusion

The present study aims to compare the civil laws of Iran, Turkey, and Germany, focusing on the rights of foreigners regarding employment, education, access to effective remedies, and fair trials. In examining the right to education for foreigners, the comparison of civil laws in these three countries reveals significant differences in their policies and approaches. In Iran, Article 30 of the Constitution and the Law on Foreigners stipulate that primary education is free for all children, both Iranian and non-Iranian. However, access to higher education is more complex for foreigners, often influenced by political, social, and security issues. The university admission process for these groups is particularly challenging

due to specific regulations. Turkey has more open and comprehensive education policies. Article 42 of the Turkish Constitution mandates that primary and secondary education is free and compulsory for all children, including foreigners. Turkey offers various programs, such as scholarships and entrance exams in different languages, which ease access for foreign students, especially in higher education. Additionally, as a country with a large number of immigrants and refugees, Turkey has implemented supportive measures to facilitate education for vulnerable groups, including refugee children. Germany has even more advanced educational policies and support for foreigners. According to Article 7 of the German Basic Law, primary education is free for all children, regardless of their immigration status. Germany also provides various facilities for foreign students in higher education, including scholarships, language courses, and social integration programs. This makes Germany a sought-after destination for foreign students, offering more options for studying at different levels compared to Iran and Turkey.

Iran provides formal access to education for foreign nationals; however, significant challenges remain, such as language barriers and discrimination against refugees. Turkey has made notable efforts to integrate refugee children into its education system and offers scholarships for higher education, yet language still poses a hurdle.

²⁴ Esser, H. (2010). Assimilation, Ethnic Stratification, or Selective Acculturation? A Theoretical Framework for Understanding Migrant Integration. *Journal of Ethnic and Migration Studies*, 36(7), 1105-1126.

²⁵ Demir, S. (2022). *Labor Market Challenges for Foreign Nationals in Turkey*. Ankara: Adalet Press.

Germany has established a highly inclusive and structured education system for foreign nationals, featuring strong support programs for language learning and social integration, making it one of the most accessible education systems available. Consequently, Germany boasts the most advanced and comprehensive educational framework for foreign nationals, complete with legal protections and extensive integration initiatives. While Turkey has made progress, especially regarding refugee integration, it continues to face challenges relating to language and resources. Although Iran has taken steps to include foreign nationals in its education system, it struggles more than Germany and Turkey in implementing these rights effectively.

The legal frameworks and support institutions in these three countries significantly impact foreign nationals' access to education. In all these nations, foreign nationals require a work permit to be employed; however, the processes and conditions for issuing these permits differ. In Iran, the focus is primarily on specialized occupations, while in Germany and Turkey, permits can be issued for various occupations based on labor market needs. Iran has strict restrictions on the employment of foreign nationals, granting permits only when there is a necessity due to a lack of local Iranian labor. Conversely, Germany has different conditions for skilled and unskilled workers and actively welcomes foreign labor in specific sectors. Turkey's conditions for foreign nationals are relatively more flexible, although some

restrictions still apply.

In Germany and Turkey, foreign nationals enjoy the same rights and benefits as local citizens regarding employment, whereas in Iran, the rights of foreign nationals may vary depending on specific conditions and the type of permit held. Iran guarantees the right to freedom of employment; however, this right is constrained by Islamic principles, public interest, and particular laws. Foreign citizens and women face serious restrictions in several areas. Germany provides robust protections for the freedom of employment with minimal restrictions, aside from specific professions and for non-EU citizens who require work permits. Anti-discrimination laws promote inclusion. Turkey legally guarantees the right to freedom of employment, yet there are restrictions for foreign citizens and refugees. Additionally, state supervision of the labor market may limit this right under certain circumstances.

When examining the civil and judicial laws in Iran, Germany, and Turkey, it is evident that the right to a fair trial for foreign nationals is guaranteed in principle and by law across all three countries. Foreign nationals have access to courts and the right to a defense in each of these nations; however, there are minor differences regarding the types of courts and specific conditions that may apply to certain cases, particularly those involving immigration and national security. Overall, the legal frameworks in each country aim to ensure that the rights of foreign nationals are upheld in the judicial system, with a commitment to non-discrimination.

The right to effective legal remedies is a fundamental principle of the rule of law. While this right is enshrined in the constitutions of Iran, Germany, and Turkey, the practical effectiveness of this right varies among the three countries. Germany offers the strongest protection for the right to effective remedies, supported by an independent judiciary and transparent processes that facilitate individuals' ability to defend their rights. Turkey legally guarantees this right; however, political pressures can limit the effectiveness of remedies in sensitive cases. In Iran, although the legal system also guarantees access to effective remedies, the lack of judicial independence and political interference significantly hampers the effectiveness of this right. Each country's approach to this right reflects its legal culture, political system, and commitment to judicial independence and human rights.

Regarding the establishment of fair labor laws for foreign nationals, including fair wages, insurance, and the right to report exploitation, the following recommendations are proposed: the government should be required to provide basic and emergency remedy services to foreign nationals without discrimination; legal and social education should be offered to foreign nationals in Iran to help them understand their rights and responsibilities; and there should be a reevaluation of the traditional concept of national sovereignty.