



# LAWS AND REGULATIONS APPLICABLE TO FOREIGNERS IN TURKEY:

## A PRACTICAL OVERVIEW OF THE LEGAL REQUIREMENTS FOR VISA, RESIDENCE, AND WORK PERMIT\*

Şebnem Elif KOCAOĞLU\*\*

---

\* This is a peer reviewed and scientific law article which is indexed at the TUBITAK-ULAKBİM database / (Bu makale hakem incelemesinden geçmiştir ve TÜBİTAK-ULAKBİM Veri Tabanında indekslenmektedir).

\*\* Attorney at Law (LL.M. Cand.); Member of Istanbul Bar Association.



## ABSTRACT

*Following significant recent changes within the Turkish law, this contribution aims to set out an overview of the current legislative and administrative principles and requirements for obtaining a tourist visa, work permit and residence permit in Turkey. The Article will serve as a practical guide for foreigners considering to travel to-, work in- and/or reside in Turkey. The focus will be on the latest amendments and changes within the Turkish laws.*

**Keywords:** *Living in Turkey, Working in Turkey, Foreigners, Working Permit, Visa*

## INTRODUCTION

As per Article 10 of the Constitution of the Republic of Turkey<sup>[1]</sup> (“Constitution”); all individuals are equal without any discrimination before the law, irrespective of language, race, color, sex, political opinion, philosophical belief, religion and sect, or any such considerations. In the light of the foregoing Article 10, it could be argued that Turkish citizens and non-citizens should be regarded being equals, provided no limiting provision applies. As per Article 16 of the Constitution, fundamental rights and freedoms of foreigners may be restricted by law, which should be done in a manner consistent with international law. However, this provision should not be deemed being a wide discretion of the government. In practice, the most common restrictions often relate to the residence and work permissions.

Obtaining a residence and/or working permit from a country have always been a bureaucratic problem for non citizens since the process of obtaining such permissions often vary and a different application procedure is required for every country. Mostly, these restrictions are regulated under several different codes and regulations and thus it is usually hard for a non-citizen to cope with the process. Also, it is usually not possible to find a proper translated version of the legislation and regulations. Therefore, this Article aims to serve as a guide to the relevant provisions, whilst noting the latest legislation and pointing out the important facts.

---

### I. TRAVELING TO TURKEY

---

#### 1. Visa Obligations

A visa can be defined as travel permission, limited in time, which shall be obtained by the foreigner seeking to enter a foreign country. A visa can be obtained after making an application to the competent authority of the country that is sought to be entered. After obtaining, the visa is placed in the passport<sup>[2]</sup>

---

[1] Constitution of the Republic of Turkey is dated November 7, 1982.

[2] A passport is a travel document issued by the traveler's country on citizenship and may be used as identification document in both the country of citizenship and any foreign country. There is standardization for the issuance of passports throughout most countries and the passport types can vary according to the citizen's profession or relationship with public authorities. The types of passports can be listed as follows; Tourist Passport, Official Passport, Diplomatic Passport, Temporary Passport, Special Passport, Student/ Worker Passport etc. (It should be noted that a 'Special Passport' is a special implementation for

of the foreigner. In order for a foreigner to legally enter, to travel and even pass through a country of which he/she is not a citizen, he/she requires this document. Entering a country through legal ways is not always as easy as it seems and often requires long procedures, depending on the visa applicant and interrelations with the foreigner's country of citizenship.

A country should be entered and exited through the officially appointed port of entries and exits<sup>[3]</sup>. Unless the traveler holds a citizenship or is exempted from obtaining a visa for that specific country, a valid passport, including the required visa papers should be submitted at the exit. This principle is regulated under Article 1 of the Passport Law<sup>[4]</sup> No. 5682. A visa shall be obtained prior to the travel date and the travel reasons shall be declared to the authorities. The type and the duration of the visa acquired will depend on the given reasons.

## 2. Types of Visa

Foreigners can obtain either a visa for: Single Entry, Multiple Entry, Transit, Double Transit, Tourist, Business, Family or for Work and Education.

## 3. Making Visa Applications and Visa Requirements

The most important criterion for obtaining a visa is holding a valid and a duly passport, which shall be obtained from the country of citizenship by making a personal application to the competent authorities, as have been mentioned formerly. The passport of the applicant that is seeking to enter Turkey shall be valid for at least 90 days following the expiration date of the anticipated visa period.

If the duration of the visit is less than 90 days, the visa applications for Turkey shall be addressed to Turkish Embassies, Turkish Consulates or to Turkey's official port of entries. Before making such application to the competent Turkish authority, the applicant is required to make an online appointment through the Consulate's/Embassy's website by filling in an application form. The required documents vary depending on the applicant's country of citizenship.

Working, Education and Research Visas are only available through Turkish Embassies and Consulates outside of the Republic of Turkey and must be obtained before the arrival.

If the foreigner wishes to work in Turkey, a Working Visa should be obtained

---

Turkey). A passport does not by itself entitle the passport holder to entry into another country. Consequently, a visa of that country could be required for the travel. In Turkey, passports are issued in accordance with the Passport Law No.5682.

- [3] The entrance and exit ports of Turkey are determined by the Council of Ministers and can be regarded as the border gates of Turkey.
- [4] Article 1 of Passport Law No. 5682, published on the Official Gazette dated July 24, 1950 and numbered 7564; "Turkish citizens and foreigners may enter and leave Turkey from formerly determined entrances and exits only, which shall be determined by the Council of Ministers".

beforehand. Prospective Turkish employers may obtain application forms for Working Permits at Ministry of Labor and Social Security of Turkey.

Moreover, right after the arrival of the foreigner in Turkey (and before starting to work), the foreigner should register at the local police department within one month to obtain the necessary Residence Permit.

#### 4. Visa Exemptions

A foreigner can be exempted from the visa requirements and can be granted the right of entry without a limitation to the period of stay. The granting of the exemption can depend on the nationality of the foreigner, on mutual agreements between the countries and can sometimes depend on the type of the passport held by the foreigner. The most common example of a visa exemption agreement is the European Union.<sup>[5]</sup> (“EU”) This agreement grants to all its members state citizens a right to travel, work and settle in any of the countries, without applying for a visa. The mere showing of identification and (if required) submitting documents suffice. The Schengen Visa<sup>[6]</sup> implementation is another example of such exemptions.

Turkey is not a member of the EU and therefore Turkish citizens are not entitled to enter and travel through EU member countries without applying for a visa beforehand. Exceptions apply to some Turkish citizens that hold special types of passports.<sup>[7]</sup>

The visa exemptions are mostly grounded on the interrelations and mutual agreements<sup>[8]</sup> with other countries.

##### *a. Turkey’s Visa Exemptions*

---

[5] European Union is a unique economic and political partnership between 27 European countries and governed with a common legislation which is applicable and enforceable at all the member countries. The member states are as follows; Austria, Belgium, Bulgaria, Cyprus, Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Ireland, Italy, Latvia, Lithuania, Luxembourg, Malta, Netherlands, Poland, Portugal, Romania, Slovakia, Slovenia, Spain, Sweden and United Kingdom. Turkey is yet a candidate country. [http://europa.eu/index\\_en.htm](http://europa.eu/index_en.htm)

[6] Schengen Visa is a special type of visa, entitling the visa holder to travel to any or all member countries using one single visa. The Schengen Countries are; Austria, Belgium, Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Iceland, Italy, Latvia, Lithuania, Luxembourg, Malta, Netherlands, Norway, Poland, Portugal, Slovakia, Slovenia, Spain, Sweden, Switzerland. Although Turkey is not listed as a Schengen Country, Turkey Citizens are entitled to hold a Schengen Visa.

[7] Such as Special and Diplomatic Passport holders are exempted from visa requirements for EU member states.

[8] Mutual agreements are defined as “reciprocity principle” under Turkish legislation and can be explained as the mutual favors, grants, benefits, or penalties that are granted by one state to the citizens or legal entities of another. As per Turkish legislation, reciprocity principles can be mainly found under International Private and Procedural Law No. 5718 and other legislations regarding a specific subject such as Law Concerning Working Permits of Foreigners No. 4817.

The visa exemptions are granted in accordance with reciprocity principles and foreigners that are granted with a visa exemption are not sought to have a Turkish visa. It must be noted that the exemption may be granted to citizens of an entire country or only to some citizens of that country. An example is the exemption for only 'Official Passport holders'. In case a visa exemption applies to all the citizens of a country, then everyone will be exempted, regardless of the passport types they hold. However, most of the countries grant an extension only to Diplomatic Passport holder citizens of other countries.

Turkey currently has visa exemption agreements with 58 countries and special administrative regions. The countries with visa exemption agreements are; Albania, Antigua & Barbuda, Argentina, Bahamas, Barbados, Belize, Bolivia, Bosnia-Herzegovina, Brazil, Ecuador, El Salvador, Morocco, Fiji, Philippines, Guatemala, South Africa, Georgia, Haiti, Croatia, Honduras, Hong Kong, Iran, Jamaica, Japan, Jordan, Montenegro, Kazakhstan, Kyrgyzstan, Libya, Lebanon, Turkish Republic of Northern Cyprus, Colombia, South Korea, Kosovo, Costa Rica, Macau, Macedonia, Maldives, Malaysia, Mauritius, Nicaragua, Pakistan, Palau, Paraguay, St. Vincent-Grenadines, Russia, Singapore, Solomon Islands, Sri Lanka, Syria, Swaziland, Chile, Thailand, Trinidad-Tobago, Tunisia, Turkmenistan, Tuvalu, Uruguay and Venezuela.

## 5. Overstaying the Visa Period

### *a. Stays In Accordance With the Latest Amendments*

A Tourist Visa will grant the traveler a right to stay in Turkey for a maximum period of 90 days in a period of 180 days. The same period applies to the countries that are exempted from a visa requirement. Other types of visa such as Education Visa or Working Visa may be granted for a period longer than 90 days. In case the visa is obtained for a period less than 90 days, the traveler may request for an extension for up to 90 days, since 90 days is the maximum visa permit period for a Tourist Visa. To request this extension, the traveler shall submit his/her application in Turkey.

As per the amendment regarding Law Regarding Residence and Travel of Foreign Subjects in Turkey<sup>[9]</sup> ("Amendment"), the foreigner shall leave Turkey at the visa expiration date and shall enter the country for the following 90 days, unless the traveler does not wish to apply for a Residence Permit.

Following the Amendment, it is no longer possible to stay in Turkey with a Tourist Visa, for more than 90 days, unless the foreigner leaves Turkey at the expiration date and comes back after 90 days have passed. As a consequence of these recent amendments, a foreigner can only extend the period of 90 days

[9] This amendment was issued under Council of Ministers Decree No. 2011/2306 and published in the Official Gazette No. 28094, dated 24 October 2011 and has entered into force on February 01, 2012 and was applicable for the foreigners that have already entered into Turkey before the enforcement date.

by applying for a Residence Permit.

### ***b. Consequences of Overstaying the Visa***

As per the Amendment, the maximum duration for a foreigner to stay is 90 days. After the expiration; the foreigner shall leave the country or apply for a Residence Permit immediately. The foreigner shall be subjected to administrative monetary fines and/or banned from re-entering Turkey. The bans start from a minimum of 3 months to a maximum of 5 years and depends on the period of overstay. For instance, a foreigner overstaying a visa between 1-15 days will not be subjected to a ban but overstaying between 16 and 90 days may result a ban starting from 3 months up to 3 years.

---

## II. LIVING IN TURKEY: OBTAINING A RESIDENCE PERMIT

---

### **1. Residence Permit**

As has been mentioned above, the visa holder of a country is entitled to travel to and stay in that country for a limited period of time. To reside in Turkey, a Residence Permit shall be obtained by the competent authorities. Although the principles regarding residing in Turkey were regulated under the provisions of Law Regarding Residence and Travel of Foreign Subjects in Turkey No. 5683<sup>[10]</sup> (“Residence Law”), the Residence Permit was not clearly defined under the Residence Law. A Residence Permit can be defined as the permission that needs to be obtained from the relevant authorities to stay in a country for more than the visa expiration duration. The competent authority of this procedure in Turkey is the local police.

The government’s Residence Permit policies depend for the greater part on the country’s affairs with the foreigner’s country of citizenship and the country’s migration policies. The most commonly used criteria for obtaining a Residence Permit is by entering the country in legal ways and not overstaying the visa.

In accordance with Article 3 of the Residence Law, the foreigners who arrive in Turkey for cultural activities such as conferences, concerts etc. are excluded from fulfilling the Residence Permit conditions, provided that the period of stay does not exceed one month. However, we believe this provision shall be amended in accordance with the above mentioned Amendments because the time limit for applying a Residence Permit has increased from one month to 90 days.

---

[10] Residence Law No. 5683 was published on the Official Gazette dated July 24, 1950 and numbered 7564.

## 2. Requirements for Obtaining a Residence Permit

There are several types of Residence Permits, depending on the purpose of the residence decision of the foreigner. These types include; a Long- Term, Tourist, Education, Work, Internship and Companionship permit.

The required documents that shall be submitted to obtain a Residence Permit are often the same, namely photos, a valid passport (both the original and a photocopy) and banking account statements showing the required amount.<sup>[11]</sup> Additional documents such as the permission obtained from Ministry of Labour and Social Security (for dependent workers, teachers and home services sector), employer's ID Card (also for home service sector), Labour Contracts (for teachers) are required for Residence Permits for Work, depending on the sector in which the foreigner is employed.

The foreigner applicants shall provide the formerly determined expenses beforehand. But it must be noted that these expenses may vary and change per annum in accordance with the Council of Ministers' decision.

The Residence Law has specified several situations of which the Residence Permit application shall be rejected. For example, the permit shall not be submitted to; the foreigners that can not accommodated due to Turkish laws or usage and customs or political requirements; foreigners that only came to Turkey to work and this profession has been consecrated to Turkish citizens in conformity with the laws; foreigners that will not be able to provide his/her legal expenses in the period of requested residence, foreigners that are prohibited to enter Turkey but have entered somehow and to foreigners that have violated peace and order during the period they stay in Turkey. The Residence Permit application rejection grounds were regulated under Article 7 of Residence Law but the competent authorities were not granted with discretion for the determination of these criteria.

## 3. Duration and Extensions

The Residence Permit durations shall be determined in accordance with the interrelations and reciprocity principles of the foreigner's country and citizenship. Also, the Residence Permit type shall be effective on this decision on the duration. Nevertheless, as per Article 9 of the Residence Law, it can be submitted for a maximum duration of 5 years.

As per Residence Law Article 10, foreigners wishing to extend the residence period in Turkey shall apply and renew the Residence Permit directly or indirectly from the offices and agencies indicated to be competent in the Article 3 of the Residence Law, within fifteen days after the expiring date noted in the Residence Permit. Applications before the expiring date are also accepted. It will not be possible to extend an expired Residence Permit for more than four times.

---

[11] The required amount is \$ 300 per month.

The foreigners that are granted a Residence Permit shall not be required to obtain an additional Turkish visa for their entering and leave during the Residence Permit duration.

Foreigners holding a Residence Permit are bound to inform on changes of domicile to the pertinent police or gendarmerie office. The information regarding both the former and future residence should be given and this should be done both at the left and arrived location in person or by registered mail or any other indirect way, within 48 hours. These obligations shall be fulfilled by the owner, manager or tenant of hotels, pensions or other similar places of the residence the foreigner lives in.

#### **4. Residence Restrictions**

As per Article 2 of the Residence Law, the Council of Ministers may jointly or separately prohibit specific district travels or residence, in addition to the restrictions for the foreigners that have been foreseen by other legislations. Also, the Council of Ministers has the power to award for application of such measurements to the specific subjects of the state as reprisal. The Council of Ministers may take measures against the prohibitions for Turkish citizens, regulated by other countries.

As per Article 88 of the Village Law<sup>[12]</sup> No. 422, a foreigner is not allowed to reside in Turkish villages<sup>[13]</sup>, unless an official certificate from Ministry of Internal Affairs has been obtained. The Ministry of Internal Affairs has the discretion in this decision and for determining the time period.

Another noteworthy restriction to the Residence Permit is regulated under the Prohibited Military Zones and Security Zones Act<sup>[14]</sup> (“Military Zone Act”) No. 2565. Some areas and zones defined under this Military Zone Act are prohibited to the domicile and travels of foreigners. Also, approval of the Turkish Armed Forces General Staff shall be obtained to domicile and travel in several other zones, noted in this Act.

---

### III. WORKING IN TURKEY: OBTAINING A WORKING PERMIT

---

#### **1. Working Permit**

As per Article 23 of the Universal Declaration of Human Rights, everyone has the right to work, to a free choice of employment, to just and favorable

---

[12] Village Law No. 422, published in the Official Gazette numbered 68 on April 7, 1924.

[13] In accordance with 1st Article of Village Law No. 422, a village can be defined as the domicile with a population of less than 2.000 individuals.

[14] Prohibited Military Zones and Security Zones Act No. 2565, issued in the Official Gazette on December 22, 2981 numbered 17552, replacing Prohibited Military Terrains Act.

conditions of work and to be protected against unemployment. Therefore, the working right is considered an international fundamental right.<sup>[15]</sup> Even though the right to work is a fundamental Human Right, a non-citizen shall obtain a working permit in order to work in a foreign country. The process for obtaining a working permit depends on the country's foreign affairs with the foreigner's country of citizenship, together with the country's policies. A working Permit is a right, granted to an individual to work either independently or for an employee/institution.

It can be observed that there is a rather significant increase in the number of foreigner workers in Turkey, over the past few years, regardless of the rate of unemployment, which can be considered ironical<sup>[16]</sup>. This may also be indicated for other developing countries<sup>[17]</sup>, and the increase can be explained with the improved working and living standards provided for both the citizens and the foreigners.

Until 2003, no legislation existed regarding foreigner workers in Turkey.<sup>[18]</sup> As per Article 3 of the current Residence Law, the foreigners who arrive in Turkey for the purpose of working should first obtain a Residence Permit within a month as from the date of arrival or before starting working. The foreigners who have obtained a Working Visa before arriving in Turkey are also subject to this obligation.

As per Article 15 of the Law Concerning Working Permits of Foreigners No. 4817 ("Law no. 4817"), foreigners may only work in those fields that are not prohibited for foreigners in Turkey. Therefore, before applying for a specific field of work, one should check whether the profession is prohibited for foreigners or not.<sup>[19]</sup> Some professions can only practiced by Turkish citizens, which are graduated from Turkish universities or from foreign universities that are deemed as equivalent, due to relevant legislation. The foreigners are prohibited from

[15] Aybay Rona, *Yabancılar Hukuku*, İstanbul, 2005, page 148.

[16] Aybay Rona, *Yabancılar Hukuku*, İstanbul, 2005, page 152.

[17] Being a developed or a developing country is not a subjective fact and is determined by the criteria set out by International Monetary Fund ("IMF") and United Nations Development Programme ("UNDP"). A developed country may be defined as "a country that allows all its citizens to enjoy a free and healthy life in a safe environment." (This definition was made by Kofi Annan, former Secretary General of the United Nations), while a developing country can be explained through that country's continuous growth. The keyword criteria of qualifying as a developed country may be Growth Domestic Product ("GDP"), economic growth and living standards for the country. The IMF countries has determined Millennium Development Goals ("MDGs") for the world countries, to be achieved by the year 2015. UNDP is also working with the developing countries on their own solutions to global and national development challenges, whilst pledging on achieving the MDGs.

[18] Koksal Mehmet, *Dogrudan Yabancı Yatırımlar ve Yabancıların Çalışma Hakları*, İstanbul, 2004, page 41.

[19] Aybay Rona, *Yabancılar Hukuku*, İstanbul, 2005, page 152.

occupying as; (i) dentist, midwife, nurse, pharmacist, (ii) veterinary, (iii) director of a private hospital, (iv) lawyer, (v) public notary, (vi) security at a private or public institution, (vii) sea captain, merman, fisherman, diver and so on (viii) custom consultant. Practicing medicine was also prohibited for non-Turkish citizens too, until recently the Regulation Regarding the Working Methods and Principles in Private Healthcare Facilities of Turkey for the Foreigner Health Professionals<sup>[20]</sup> has entered into force. It must be noted that there are other prohibitions that are specified in different Laws.

Working Permits are given for the specific profession and a working place applied for, only by the Ministry of Labour and Social Security's ("Ministry") and valid only working thereby. Therefore, a foreigner with a working permit may not change his/her workplace during the permit duration.

## **2. Types of Working Permit**

Working Permit types vary depending on two factors; whether the employee is independent or not and whether the permit duration is indefinite or not. In the following part, these differences will be addressed.

### ***a. Duration Criteria***

#### ***aa. Working Permits for a Definite Period of Time***

A Working Permit granted for a definite period of time is valid for at most one year. For consideration of the granting, the following criteria shall be taken into consideration by the authorities: the situation in the business market, developments in the labor life, sectorial and economic conjuncture changes regarding employment, the duration of Residence Permit of the foreigner, the duration of the service contract or the work and criteria regarding the workplace, enterprise and job. After the foreigner has worked for one year, the duration of the working permit may be extended up to three years, on the condition of working in the same workplace or enterprise and in the same function.

At the end of the three years of legal working period, the term may be extended for a maximum of three years to work in the same profession and with any employer of his/her discretion.

As per Article 8 of the Application Regulations for the Law on Working

---

[20] The Regulation Regarding the Working Methods and Principles in Private Healthcare Facilities of Turkey for the Foreigner Health Professionals is published in the Official Gazette dated 28212, on February 22, 2012 and entered into on the same day. As per Article 2 of this Law, all foreigner health care personnel excluding the dentists, pharmacists, midwives, nurses and also the foreigner dentists, pharmacists, midwives, nurses with a Turkish originate are subject to this Law. Foreigner dentists, pharmacists, midwives, nurses with a Turkish originate shall be subjected to Turkish Originated Foreigners in Public or Private Sector and Regarding Practicing Their Crafts and Professions without Constraint No. 2527.

Permits of Foreigners<sup>[21]</sup> (“Application Regulations for the Law No. 4817”); the request for extension of the Working Permit shall be made by the foreigner or his/her employer, directly to the Ministry. An application form must be submitted, together the original of the former Working Permit and the documents mentioned in the attachment to the Regulations. An application for extension of the Working Permit needs to be filed within fifteen days following the end of the period, at the latest. Applications for extension filed after this period are subject to the same principles applied to foreigners realizing their initial application.

Foreigners applying for the extension of their Working Permit may carry on their activities at the same worksite and profession during the time passing until the conclusion of the application for. If not applied for an extension, the foreigner may carry on working at the same job for a maximum of 45 days.

In accordance with Article 13 of the Application Regulations for the Law No. 4817, unless otherwise foreseen by bilateral or multilateral contracts to which Turkey is a party, while issuing an extension for a working permit, Ministry shall evaluate and take into consideration the following factors such as; the status of the commercial market, developments in business life, sectorial, geographical and economical conjectural changes related to employment, under the condition of remaining exclusive for this job, at a certain worksite or operation and certain profession according to the term of the employment contract and the period of employment as well as the foreigner’s residence and Working Permit term. But as per the amendment<sup>[22]</sup> entered into on February 14, 2012; the following individuals shall not be evaluated by these criteria whilst applying for an extension; (i) citizens of Turkish Republic of Northern Cyprus, (ii) foreigners that have obtained a Residence Permit with regards to the implementations regarding Turkish and related communities, (iii) foreigners that have obtained Residence Permit with regards to humanitarian consideration, (iv) foreigners aggrieved due to human trafficking and have obtained a Residence Permit therefore, (v) foreigners with Turkish citizen parents or Turkish citizen children, (vi) foreigners that have obtained Residence Permit while they are stateless.

#### ***ab. Working Permit for an Indefinite Period of Time***

Foreigners residing legally and uninterruptedly in Turkey for at least eight years or having undergone a total working period of six years in Turkey, may be granted a Working Permit without taking into consideration the status of the industrial market and the developments in business life. Also, in case of

[21] Application Regulations for the Law on Working Permits of Foreigners has been published on the Official Gazette dated August 29, 2003 numbered 25214.

[22] “The Regulation Regarding the Amendment of the Application Regulations for the Law No. 4817” is published in the Official Gazette dated February 14, 2012 numbered 28204 and entered into on the same day.

approval by the relevant authorities, they will not be restricted by any certain operation, profession, and civil or geographical area. While evaluating whether this time condition has been fulfilled, periods passed during education are not taken into consideration. However, the educational periods of the foreigner's spouse and children, who came to Turkey and lived together with the foreigner, are considered residence periods.

The fact that the foreigner has worked for a total of six years, shall be evidenced by a certificate to be obtained from the relevant authorities and this certificate shall be presented to the Ministry of Labour and Social Security along with the other documents during the application for Working Permit without terms.

### ***ac. Duration Extensions***

As per Article 8 of the Law No. 4817, the working permit may be granted to the following foreigners, notwithstanding the duration limits that are provided in the Law No. 4817 ; (i) to foreigners, who are married with a Turkish citizen and live in Turkey with their spouses under a marriage bond, or to foreigners, who have settled in Turkey after their marriage bond has finished after at least three years, and to the children thereof from a Turkish citizen spouse, (ii) to those who have lost their Turkish Citizenship within the framework of the 19th, 27th and 28th Articles of the Turkish Citizenship Law No. 403 and their subordinates, (iii) to foreigners that were born in Turkey or came to Turkey before reaching their maturity according to their national laws and if they don't have a nation, according to the Turkish legislation and that have graduated from vocational school, high school or university in Turkey, (iv) to foreigners that are accepted as emigrants, refugees or nomads, (v) to citizens of the countries that are a member of the European Union and to the spouses and children thereof who are not citizens of the countries that are a member of the European Union, (vi) to those who are working at the service of the diplomats, administrative and technical personnel that are commissioned in the foreign governments' embassies and consulates in Turkey and in the representations of the international establishments; to the spouses and children of the diplomats and administrative and technical personnel commissioned in the embassies, consulates and representations of the international establishments in Turkey, provided that they are within the framework of the principle of reciprocity and they are restricted with the duration of the commission, (vii) to foreigners who will temporarily come to Turkey for a period of over one month with the aim of scientific and cultural activities, and for a period of over four months with the aim of sports activities, and (viii) to foreigners at the position of key personnel to be employed in the works of goods and services purchase, having a work made or operating a facility, with contract or tendering procedures by the Ministries and public institutions and establishments authorized by law.

***ad. The Grace Period***

Grace period can be defined as the extra time allowed for meeting a requirement or for satisfaction of an obligation. As for the working permit; it is the duration after the Working Permit expiration but before the extension application is resulted. A foreigner may stay in the country for 15 days following the expiration of the Working Permit without being subjected to a fine and this is considered as the grace period. In this period the foreigner may reapply for a work permit but the application may not always result in this time being. If this is the case; the foreigner shall not leave the country before the application results or otherwise he/she may be subjected to a fine. At the end of the grace period, if there is not any ongoing application, the foreigner will be required to leave the country unless he/she has secured a work permit in the meantime or has secured permission to remain on another basis.

**b. The Independent and Dependent Working Permit**

An ‘Independent Working Permit’ may be given by the Ministry to foreigners who will work independently, on conditions that they have resided in Turkey legally and uninterruptedly for at least five years and their working will have a positive effect on employment and economic development.<sup>[23]</sup> A ‘Dependent Working Permit’ is suitable for foreigners that will be working for an employer or institution<sup>[24]</sup>.

---

### 3. REQUIREMENTS FOR OBTAINING THE WORKING PERMIT

---

**a. Requirements for the Foreigner**

The foreigner who wishes to work in Turkey shall obtain permission from competent authorities before arriving in Turkey and the violators of this provision shall be subjected to administrative monetary fines. But the Working Permit may be given after starting to work in cases where the country’s benefits require or due to a ‘force majeure’<sup>[25]</sup>, provided that information is given to the relevant authority<sup>[26]</sup> before starting to work.<sup>[27]</sup> This exception is bound to the condition that the working period will not exceed one month and the Ministerial

---

[23] As per Article 7 of the Law No 4817 and Article 36/1 of the Application Regulations for the Law No. 4817.

[24] An institution that the foreigner will be working for can be a legal entity engaged in private sector or a public institution, if possible in accordance with the relevant legislation.

[25] A ‘force majeure’ can be defined as an unexpected and disruptive event that may operate to excuse a party from a contract. (such as; fire, earthquake, hurricane, volcanic eruption etc.) [www.dictionary.com](http://www.dictionary.com)

[26] The relevant authority mentioned hereunder is the Ministry of Labour and Social Security.

[27] As per Article 4 of Law No. 4817.

approval has been obtained.

Foreigners residing outside of Turkey make their Working Permit applications to the Republic of Turkey representations in the country of residence. The representations will forward these applications directly to the Ministry, after which the Ministry will assess the applications in accordance with the 5th Article of Law No. 4817. Opinions of the relevant authorities will need to be heard on the issuance of Working Permit to the foreigners in order to grant permission only to foreigners whose situation is deemed appropriate. This permission is valid only when the required working visa and residence permission have been obtained. The foreigners, who have been issued a Working Permit certificate, are obliged to request; (i) a visa to enter the country within the latest ninety days from the date of taking this certificate, (ii) to apply to the Ministry of Interior Affairs to take residence permission within the latest 30 days from the date they have entered the country.

Foreigners with a valid Residence Permission in Turkey and their employers are entitled to make an application directly to the Ministry. The applications shall be answered within at most ninety days by the Ministry.

The process for obtaining a Working Permit can be summarized as follows; (i) the application shall be addressed to the representatives in the foreign country in case the foreigner will submit his/her application there, or (ii) the application shall be addressed to the Turkish Ministry in case the foreigner is entitled to submit his/her application from Turkey. In the light of foregoing it can be concluded that the foreigner will not be able to submit a Working Permit application from Turkey in case he/she is not entitled to, regardless of the way he/she entered Turkey or the duration of his/her stay. As per Article 6 and 8 of the Application Regulations for the Law No. 4817, only the foreigners having Residence Permits with duration of at least 6 months are entitled to submit an application within Turkey. Others may submit their applications from the official Turkey representatives at their country of citizenship or permanent residence.

A foreigner that has obtained a Residence Permit and wishing to obtain a Working Permit shall make an application on the Ministry's website<sup>[28]</sup> and send the required documents in hard copy via mail or in person within 6 days. The required documents can be generalized as follows; (i) a petition signed by the applicant, (ii) a petition signed by the authorized signatory(ies) of the employer, (iii) a passport (apostilled and notarized translation of the photo identification page, if submitted within Turkey) (iv) a letter from the employer as duly signed by its representatives, or a board resolution of the main company to confirm the appointment of the applicant. The foreigner not bearing a Residence Permit shall submit the following documents in addition; (i) a labor contract, and (ii) an invitation letter by his/her employer.

[28] <http://www.csgb.gov.tr/csgbPortal/yabancilar/eng/index.html>

The numbers and the copies of the requested documents may vary depending on the employment sector and the foreigner may be asked for more documents.

The competent application authorities are the Ministry in Turkey and Turkish Consulates and Embassies in foreign countries.

The employer shall make an online application<sup>[29]</sup> within 10 days, following the date that the relevant documents are submitted. The online application printout shall be signed by the employer or employer's authorized signatory and the foreigner employee. In case it is not possible to submit the printed documents, it will be sufficient to submit the labor contract bearing both parties signatures instead. This printout shall be submitted to the Ministry within 10 days, along with the other documents.

The foreigners who have been issued a Working Permit Certificate are obliged to apply for a visa to enter the country within the latest ninety days from the date of taking this certificate. Herewith the foreigner can apply to the Ministry of Interior Affairs to take residence permission within the latest thirty days from the date they have entered the country. The Working Permit will not be deemed valid if these requirements are not met.

The application procedure shall be repeated in case the requirements are not fulfilled within the foreseen durations. The applications shall be answered within thirty days by the Ministry at the most.

Some ministries are entitled to employ foreigners under their roofs, by notifying the Ministry within the duration set forth under Article 19 of the Law No. 4817<sup>[30]</sup>

The foreigner applicants shall provide the formerly determined expenses beforehand. But it must be noted that these expenses may vary and change per annum in accordance with the Council of Ministers' decision.

In accordance with Article 13 of the Application Regulations for the Law No. 4817, unless otherwise foreseen by bilateral or multilateral contracts to which Turkey is a party of, while issuing a working permit, Ministry shall evaluate and take into consideration the following factors such as; the status of the commercial market, developments in business life, sectorial, geographical and economical conjectural changes related to employment, under the condition of remaining exclusive for this job, at a certain worksite or operation and certain profession according to the term of the employment contract and the period of employment as well as the foreigner's residence and Working Permit term. But as per the amendment<sup>[31]</sup> entered into on February 14, 2012; the following

[29] The online application shall be made on; [www.turkiye.gov.tr](http://www.turkiye.gov.tr) .

[30] Kucuk, Nerime Senay, "Obtaining Working Permits and Real Property Acquires for the Foreigners Pursuant to Turkish Legislation", [http://www.turkhukuksitesi.com/makale\\_1268.htm](http://www.turkhukuksitesi.com/makale_1268.htm)

[31] "The Regulation Regarding the Amendment of the Application Regulations for the Law No. 4817" is published in the Official Gazette dated February 14, 2012 numbered 28204

individuals shall not be evaluated by these criteria whilst applying for a Working Permit; (i) citizens of Turkish Republic of Northern Cyprus, (ii) foreigners that have obtained a Residence Permit with regards to the implementations regarding Turkish and related communities, (iii) foreigners that have obtained Residence Permit with regards to humanitarian consideration, (iv) foreigners aggrieved due to human trafficking and have obtained a Residence Permit therefore, (v) foreigners with Turkish citizen parents or Turkish citizen children, (vi) foreigners that have obtained Residence Permit while they are stateless.

## **b. Requirements for the Employer**

### ***ba. Conditions Required for Foreigner Personnel Employment***

Apart from the documents that shall be provided by the employer, such as invitation letter and as such, there are some requirements that shall be fulfilled by natural person employer and/or by the legal entity. These evaluation requirements which are requested by the Ministry can be listed as follows; (i) First of all at least five Turkish citizens must be employed at the workplace for which work permit is requested. In case the foreigner requesting work permit is a co-partner of the company, the aforementioned condition will be required for the last six months of one-year work permit to be granted by the Ministry. In case of requesting work permit for more than one foreigner at the same workplace is subject, the condition regarding the employment of five persons who are Turkish citizens will be required individually for each foreigner following the first foreigner who is granted a work permit, (ii) paid-in capital of the workplace must be at least TRY 100,000 or the lowest figure for its gross sales amount must be equal to TRY 800,000 or its export amount in the last year must be at least USD 250,000, (iii) Foreigner requesting work permit who is a co-partner of the company must own at least 20% shares in the company, and this percentage shall correspond to at least TRY 40,000, as an obligation, (iv) Requests for persons to be employed as masseurs, masseuses and SPA therapists, occupations requiring expertise and proficiency, by tourism establishments with at least four stars licensed by the Ministry of Culture and Tourism proving that there is a licensed massage parlor within their facilities, as well as licensed holiday resorts will be evaluated, while requests by establishments and workplaces which are not meeting these criteria will not be considered appropriate, (v) For foreigners to be employed by firms operating in the entertainment sector as well as tourism-animation organization firms for occupations requiring expertise and proficiency there will not be a separate quota application provided that at least 10 persons who are citizens of the Republic of Turkey are employed in these firms.

For work permit requests concerning foreigners to be employed by associations

---

and entered into on the same day.

and foundations, Paid-in capital criteria, and for evaluations regarding work permit applications related to foreigners to be employed in representative agencies of foreign countries' airlines in Turkey as well as those to work in education sector and home services sector both Turkish citizen employment criteria and Paid-in capital criteria will not be applied.

In accordance with the the formerly mentioned amendment entered into on February 14, 2012; the following individuals shall not be requested to fulfill these above mentioned criteria whilst applying; (i) citizens of Turkish Republic of Northern Cyprus, (ii) foreigners that have obtained a Residence Permit with regards to the implementations regarding Turkish and related communities, (iii) foreigners that have obtained Residence Permit with regards to humanitarian consideration, (iv) foreigners aggrieved due to human trafficking and have obtained a Residence Permit therefore, (v) foreigners with Turkish citizen parents or Turkish citizen children, (vi) foreigners that have obtained Residence Permit while they are stateless.

### ***bb. Insurance and Payments***

With regard to Turkey's social security legislation, the employer is obliged to insure the foreigner employees within the context of the provisions of the legislation. But the social security and the health insurance applications differ if the foreigner is a citizen of a country that has a signed a social security agreement and/or unemployment coverage agreement with Turkey.

As for the salary amount; which is declared by the employer to be paid to the foreigner, must be at a level which complies with the position and competence of the foreigner. Accordingly, considering the minimum wage amount effective as of the application date, wage to be paid to a foreigner must be equal at least to; (i) 6.5 times the minimum wage amount, for senior executives and pilots as well as engineers and architects requesting preliminary permit, (ii) 4 times the minimum wage amount, for unit or branch manager as well as engineers and architects, (iii) 3 times the minimum wage amount, for persons to be employed for jobs requiring expertise and proficiency as well as teachers, (iv) 1,5<sup>[32]</sup> times the minimum wage amount, for persons to be employed for home services and other occupations.

Following the change of implementation which has been made and announced to public on the website on the Ministry, the minimum salary amount to be paid to the foreigners employed in the house services<sup>[33]</sup> that were determined to receive a minimum payment of 50% of the subsistence wage<sup>[34]</sup>, have been

[32] This number does not reflect the change of implementation which has been made and communicated to the public on the website on the Ministry, which is mentioned in the paragraph below.

[33] Such as; housemaids, nursery maids, nannies, care takers etc.

[34] The subsistence wage amount for 2012 is gross TRL 886.50 and net TRL 701.14. The

changed to the exact amount of the subsistence wage. It is obligatory to make the payments by bank transfers. Although this change seems to in conflict with the foreign employee's right, it actually works in their advantage, considered the uncovered employee percentage in Turkey. In the near future, this change aims to lower the uncovered employee amount by subjecting the employers acting against this rule to a fine. As can be concluded, the employer is obliged to insure his/her employee and should not avoid the insurance due to the high wage amounts.

#### 4. Exemptions

In accordance with Article 55 of the Application Regulations for the Law No. 4817, the following foreigners are exempted from applying for and holding a Working Permit during their working period: (i) foreigners whose residence address is outside of Turkey and who will come to Turkey for less than one month for the purpose of scientific, cultural and artistic activities, or for less than four months for the purpose of sporting activities, (ii) foreigners who will come to Turkey to give training regarding the usage, maintenance and repairs of imported machines and equipments, or to receive the equipments, or to repair the cars which are malfunctioned in Turkey, provided that they will not stay in Turkey for more than three months commencing on the entrance date and provided they submit the relevant documents, (iii) foreigners who will come to Turkey for giving training regarding the usage of imported or exported goods provided that they will not stay in Turkey for more than three months commencing from the entrance date, and provided they will submit the relevant documents in that regard, (iv) foreigners who will work at the circus or at expositions, which are operating outside the scope of licensed tourism enterprises, provided that they will not stay in Turkey for more than six months commencing on the entrance date and provided they will submit the relevant documents in that regard, (v) foreigners who will come to Turkey to give training at universities and public institutions, provided that term of their stay shall be limited to the term of the training and in any case they will not stay in Turkey for more than two years, and provided they will submit the relevant documents in that regard, (vi) foreigners who notify to the relevant authorities that they will provide services in the field of socio-cultural, technological and education, provided that they will not stay in Turkey for more than six months, (vii) foreigners who will come to Turkey within the scope of programs conducted by the European Union Education and Youth Programs Central Presidency, (viii) foreigners who will be trainees within the scope of the

---

substance wage amounts shall be as follow as of July 01, 2012; gross TRL 940.50 and net TRL 739.80. The insurance fees which shall be paid to Social Security Institution on behalf of the employee shall be calculated over the paid gross payment amount and in case paid over the subsistence wage amount shall be approximately between TRL 150-200.

international trainee programs provided that the Ministry, Ministry of Internal Affairs, Ministry of Foreign Affairs and Higher Education Council have agreed on term and scope of this program, (ix) foreigners who are representatives of tour operators, provided that their term of duty shall not be longer than eight months, (x) Foreign football players whose applications are accepted by the Turkish Football Federation and General Directorate of Youth and Sports, other athletes and trainers who will stay in Turkey during the term of their agreement, (xi) foreign seamen who work at ships that are sailing outside the cabotage line and registered to Turkish International Ship Registry, or (xiii) foreign experts who work at projects conducted within the scope of the Turkey European Union Monetary Cooperation Program.

It must be noted that there are other working permit exemptions that are granted to the foreigners which are specified in different Laws.

### **5. Revocation of the Working Permit**

The Ministry is entitled to revoke a Working Permit it had given and will inform the related Ministry about the situation in case the working foreigner breaches the restrictions stated in Law No. 4817, in case it is determined afterwards that one of the conditions stipulated under the Law No. 4817 for obtaining a Working Permit does not exist or in case the foreigner or his/her employers have given deficient or wrong information in the Working Permit request petition,.

Also, the Working Permit becomes invalid if any of the following situations occur: (i) where the foreigner's residence certificate becomes invalid or its validity term cannot be extended for any reason, (ii) where the validity term of the foreigner's passport or of the certificate that substitutes a passport cannot be extended, (iii) where the foreigner stays abroad for more than six months uninterruptedly, with the exception of 'force majeure' reasons.

The Working Permit shall expire on the expiration date without formerly informing the foreigner, in case the duration is not extended.

### **6. Working in Turkey without a Working Permit**

In accordance with Article 21 of the Law No. 4817 the foreign employee and his/her employer will be subjected to administrative monetary fines in case the foreigner starts to work in Turkey, without having obtained a Working Permit beforehand. The applicable administrative fine amount as of 2012 was announced at the Ministry's website<sup>[35]</sup>. As per Law no 4817, the employer or employer's representative who the foreigner employee works for without the Working Permit will be subjected to a fine of TRL 6,795 for each foreigner that works for him/her. The foreigner who works without the permit will be subjected to a fine of TRL 679. Independent foreigner workers that work

[35] <http://www.csgeb.gov.tr/csgebPortal/yabancilar/eng/index.html>

without Working Permit will be subjected to a fine of TRL 2,718. In case of repetition, administrative fines shall be doubled.

## 7. Other Relevant Legislation

It must be noted that, although the Working Permits shall be obtained in accordance with the above mentioned legislation, there could be more legislation applicable. For instance, the recruiting of the foreigner workers made in the scope of Foreign Direct Investment Law No. 4875<sup>[36]</sup> shall be made in accordance with the Regulation Regarding Employing Foreigner Workers to Foreign Direct Investments<sup>[37]</sup>.

Following the definitions in Article 2 of the Foreign Direct Investment Law, the following persons are regarded as 'foreign investor'; (i) a real person residing abroad that possesses a foreign nationality and Turkish citizens residing abroad, and (ii) foreign legal entities established under the laws of foreign countries and international institutions, which effect foreign direct investments in Turkey.

Foreign direct investment can be defined as follows; (i) capital in cash in the form of convertible currency purchased and sold by the Central Bank of Turkey, (ii) stocks and bonds (other than Treasury bonds) and other forms of capital in kind participation in the companies, (iii) machinery and equipment, (iv) industrial and intellectual property, acquired abroad, or; (i) establishment of a new company or a branch office, (ii) participation in an already existing company, either by acquisition of shares (except through stock exchange) or by acquisitions of a minimum of 10% of shares or an equal proportion of voting rights through stock exchange, by means of; reinvested earnings, financial claims, or any other investment related rights of financial value and commercial rights for to the exploration and extraction of natural resources, that are acquired in Turkey by foreign investors.

Therefore; the recruiting by the companies or institutions which are subject to Foreign Direct Investment Law in accordance with the above mentioned definition shall be subjected to Regulation Regarding Employing Foreigner Workers to Foreign Direct Investments.

Also, it should be noted that the employment of the foreigners with Turkish origin are subjected to the Law Regarding the Employments of the Turkish Originated Foreigners in Public or Private Sector and Regarding Practicing Their Crafts and Professions without Constraint No. 2527<sup>[38]</sup>.

[36] Foreign Direct Investment Law No. 4875 was published in the Official Gazette in June 13, 2003 numbered

[37] Published in the Official Gazette dated August 29, 2003, numbered 25214.

[38] Published in the Official Gazette dated September 29, 1981, numbered 17473.

---

#### IV. CONCLUSION

---

This contribution is aimed to set out and explain the legal requirements for foreigners living and working in Turkey, while mainly focusing on the Working Permit requirements. Recent legislation amendments have been addressed which could be of significant value, considered that working in Turkey is attracting more interest by foreigners every day. This is mainly due to the industrial and commercial growth and improving living standards that continue taking place. For the purposes of traveling to, living in- and working in Turkey, this contribution is aimed to provide practical guidance in the legal requirements and consequences that follow the visa, residence and working permit applications.

Following the recent changes within the Turkish law, staying in Turkey as a tourist is limited to 90 days. For an extended stay, one shall obtain a Residence Permit. If the foreigner also wishes to work in Turkey, the foreigner may; (a) first obtain a Residence Permit by making application at the country of residence and then apply for a Working Permit in Turkey, or (b) obtain a Working Visa by making application at the country of residence and apply for a Working Permit during the stay, (c) obtain a working permit beforehand by making application in the country of residence and then apply for a Residence Permit in Turkey.

Although the new legislation may seem restrictive over living and working requirements in Turkey, it will probably not be hard to obtain the required papers. The legislation aims at preventing illicit employment that has been growing in recent years. When examined more closely, it can be argued that the new rules only fill the legal loopholes that enabled illegal residing and illicit employment in Turkey. Considering the regulation enabling foreign doctors to work in Turkey the draft law that aims at enabling foreign lawyers to work in Turkey, the obstacles for foreign professionals seem to be removed one by one, notwithstanding the objections of the local professionals and the unemployment rate of that profession. We believe that these amendments will actually prevent illicit employment since the authorities are firmly controlling the adaptations to the new rules and they have already started subjecting the illicit employees and their employers to the above mentioned monetary fines.

## BIBLIOGRAPHY

Aybay, Rona; “Yabancılar Hukuku”, İstanbul Bilgi Üniversitesi Yayınları, İstanbul, 2005.

Koksal, Mehmet; “Doğrudan Yabancı Yatırımlar ve Yabancıların Çalışma Hakları”, İstanbul, 2004.

Kucuk, Nerime Senay; “ Obtaining Working Permits and Real Property Acquires for the Foreigners Pursuant to Turkish Legislation”, [http://www.turkhukusitesi.com/makale\\_1268.htm](http://www.turkhukusitesi.com/makale_1268.htm)