

LAW ON FOREIGNERS AND INTERNATIONAL PROTECTION

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PART ONE

PURPOSE, SCOPE, DEFINITIONS AND NON-REFOULEMET

SECTION ONE

Purpose, Scope and Definitions

Purpose

ARTICLE 1 –

- (1) The purpose of this Law is to regulate the principles and procedures with regard to foreigners' entry into, stay in and exit from Turkey, and the scope and implementation of the protection to be provided for foreigners who seek protection from Turkey, and the establishment, duties, mandate and responsibilities of the Directorate General of Migration Management under the Ministry of Interior.

Scope

ARTICLE 2 –

- (1) The provisions of this Law apply to the activities and actions related to foreigners; the international protection to be extended in cases of individual protection claims of foreigners at borders, the border gates or within Turkey; the immediate temporary protection to be provided to foreigners in cases when there is a large influx into Turkey and where they cannot return back to the country they were forced to leave; and, the structure, duties, mandate and responsibilities of the Directorate General of Migration Management.
- (2) This Law shall be implemented without prejudice to provisions of international agreements to which Turkey is party to and specific laws.

Definitions

ARTICLE 3 –

- (1) In implementation of this Law, the following definitions shall apply:

- a) Family members: the spouse, the minor child and the dependent adult child of the applicant or the beneficiary of international protection;
- b) European Countries: Member States of the Council of Europe as well as other countries to be determined by the Council of Ministers;
- c) Minister: the Minister of Interior;
- ç) Ministry: the Ministry of Interior;
- d) Applicant: a person who made an international protection claim and a final decision regarding whose application is pending;
- e) Child: a person who is under the age of 18 and has not yet attained majority;
- f) Sponsor: a Turkish citizen or a foreigner legally staying in Turkey who undertakes the expenses of foreigners who would come to Turkey for the purpose of family reunification and who is referenced as the supporter in the application by the residence permit applicant;
- g) Director General: the Director General of Migration Management;
- ğ) Directorate General: the Directorate General of Migration Management;
- h) Entry and exit controls: the controls carried out at border gates;
- ı) Migration: regular migration whereby foreigners' legally enter into, stay in or exit from Turkey as well as irregular migration whereby foreigners enter into, stay in or exit from Turkey through illegal channels and work in Turkey without a permit; as well as international protection;
- i) Residential address: the domicile recorded in Turkey in the address based registration system;
- j) Residence permit: the permit issued for the purpose of staying in Turkey;
- k) Consulate: the consulate generals, consulates or the embassy consular offices of the Republic of Turkey;
- l) Person with special need: out of those applicants and international protection beneficiaries, an unaccompanied minor; a disabled person; an elderly person; a pregnant woman; a single mother or a single father with an accompanying child; or a person who has been subjected to torture, rape or other serious psychological, physical or sexual violence;¹
- m) Unaccompanied minor: a child who arrives at Turkey without the attendance of an adult who by law or custom is responsible for him/her or, is left unaccompanied after entry into Turkey, unless he/she is not taken under the active care of a person responsible for him/her;
- n) Travel document: a document substituting a passport;
- o) Border gates: the border crossing points designated by a Council of Ministers Decree for entry into and exit from Turkey;
- ö) Final decision: with regard to decisions concerning the claim of an applicant or the status of an international protection beneficiary; the decision of the Directorate General, where administrative review request or an appeal before the judiciary has not been made; or in case of an appeal, judicial decision which can no longer be appealed;
- p) Convention: the Convention Relating to the Status of Refugees of 28 July 1951, as amended by the 1967 Protocol Relating to the Status of Refugees;
- r) International protection: the status granted for refugee, conditional refugee, and subsidiary

¹ With the 1st Article of the Law No. 6462 dated 25/4/2013, the expression of "afflicted person" was changed to "disabled person" in this article.

- protection;
- s) Country of citizenship: the country of which the foreigner holds the citizenship or, in case of more than one citizenship, each of the countries of which the foreigner is a citizen;
 - ş) Stateless person: a person who does not hold the citizenship of any state and who is considered as foreigner;
 - t) Visa: a permission that entitles stay up to a maximum of ninety days in Turkey or to transit through Turkey;
 - u) Visa exemption: the regulation waiving the visa requirement;
 - ü) Foreigner: a person who does not have citizenship bond with the Republic of Turkey;
 - v) Foreigner identification number: the identification number issued to foreigners pursuant to Population Services Law № 5490 of 25/04/2006.
 - y) **(Annex: 28/7/2016-6735/27 article)** Authorized intermediary: An institution or organization, the qualifications and mission frame of which are determined by regulation and which is authorized by the Directorate General.

SECTION TWO

Non-refoulement

Non-refoulement

ARTICLE 4 –

- (1) No one within the scope of this of this Law shall be returned to a place where he or she may be subjected to torture, inhuman or degrading punishment or treatment or, where his/her life or freedom would be threatened on account of his/her race, religion, nationality, membership of a particular social group or political opinion.

PART TWO FOREIGNERS

SECTION ONE

Entry into Turkey and Visas

Entry into and exit from Turkey

ARTICLE 5 –

- (1) Entry into and exit from Turkey shall be through the border gates with a valid passport or travel document.

Document checks

ARTICLE 6 –

- (1) Foreigners should submit their passport or, travel document or documents to the officials at the

time of entry into and exit from Turkey.

- (2) Document checks regarding border crossings can also be carried out on vehicles while they are on route.
- (3) Foreigners using transit areas at airports may be subject to [document] checks by the competent authorities.
- (4) At the time of entry into Turkey, checks shall be carried out to determine whether or not the foreigner falls within the scope of Article 7.
- (5) In the implementation of this article, persons regarding whom a comprehensive check is required may only be held for a maximum of four hours. Within this period, the foreigner may either return to his country at any time or may wait for the completion of the actions for admission into the country, not limited with the four-hour period. The principles and procedures governing comprehensive control actions shall be stipulated in a Directive.

Foreigners who shall be refused to enter into Turkey

ARTICLE 7 –

- (1) Foreigners who shall be refused to enter into Turkey are those:
 - a) who do not hold a passport, a travel document, a visa or, a residence or a work permit or, such documents or permits has been obtained deceptively or, such documents or permits are false;
 - b) whose passport or travel document expires sixty days prior to the expiry date of the visa, visa exemption or the residence permit;
 - c) without prejudice to paragraph two of Article 15, foreigners listed in paragraph one of Article 15 even if they are exempted from a visa.
- (2) Actions in connection with this Article shall be notified to foreigners who are refused entry. This notification shall also include information on how foreigners would effectively exercise their right of appeal against the decision as well as other legal rights and obligations applicable in the process.

Implementation regarding international protection claims

ARTICLE 8 –

- (1) The conditions stipulated in Articles 5, 6 and 7 shall not be construed and implemented to prevent the international protection claim.

Entry ban to Turkey

ARTICLE 9 –

- (1) The Directorate General, when necessary and upon consultation with the relevant government departments and institutions, may impose an entry ban against foreigners whose entry into Turkey is objectionable for public order, public security or public health reasons.
- (2) The Directorate General or governorates shall impose an entry ban for foreigners who are deported from Turkey.
- (3) The entry ban to Turkey shall not exceed five years. However, in cases where there is a serious public order or public security threat, this period may be extended for a maximum of an additional ten years by the Directorate General.
- (4) The entry ban to Turkey for foreigners whose visa or residence permit has expired and who has

applied to the governorates to exit from Turkey before their situation is established by the competent authorities upon which a removal decision has been taken, shall not exceed one year.

- (5) Among those who have been invited to leave Turkey pursuant to Article 56, an entry ban might not be imposed for those who leave the country within the specified period of time.
- (6) The Directorate General may revoke an entry ban or, allow the foreigner to enter into Turkey for a given period of time, without prejudice to the entry ban.
- (7) For reasons of public order or public security, the Directorate General may introduce advance clearance conditions for the admission of certain foreigners' to Turkey.

Notification of the entry ban to Turkey

ARTICLE 10 –

- (1) The entry ban shall be notified to foreigners who are within the scope of paragraph one of Article 9 by the competent authority at the border gate when they arrive to enter into Turkey, whereas, foreigners who are within the scope of paragraph two of Article 9 shall be notified by the governorates. The notification shall also include information on how foreigners would effectively exercise their right of appeal against the decision as well as other legal rights and obligations applicable in the process.

Visa requirement, visa applications and competent authorities

ARTICLE 11 –

- (1) Foreigners wishing to stay in Turkey for up to ninety days shall obtain a visa that indicates the purpose of their visit from the consulates of the Republic of Turkey in their country of citizenship or legal stay. The period of stay in Turkey provided by the visa or visa exemption cannot exceed ninety days within a period of one hundred and eighty days.
- (2) In order for visa applications to be assessed, it is required to lodge the applications in compliance with the procedure.
- (3) Visas shall not confer an absolute right of entry.
- (4) Visas shall be issued by the consulates and, in exceptional cases by the governorates in charge of the respective border gates. [The assessment of] applications lodged with consulates shall be determined within ninety days.
- (5) Visas for diplomats of foreign countries may be issued ex officio to by the embassies of the Republic of Turkey. Such visas shall immediately be reported to the Ministry and the Foreign Ministry in accordance with the general visa procedures. These visas are not subject to fee.
- (6) When necessary in view of the national interests of Turkey, a visa may exceptionally be issued ex officio by the ambassadors' of the Republic of Turkey. Visas issued for such purposes shall immediately be reported to the Ministry and the Foreign Ministry in accordance with the general visa procedures. These visas are not subject to fee.
- (7) The principles and procedures governing visa types and processes shall be stipulated in a Directive.

Visa exemption

ARTICLE 12 –

- (1) Visa for entry into Turkey shall not be required from those foreigners who are:

- a) exempt from visa obligation pursuant to agreements to which the Republic of Turkey is party to or with a Council of Ministers' decree;
 - b) holders of a residence or a work permit valid on the date of entry into Turkey;
 - c) holders of a valid "reserved for foreigners" passport issued pursuant to Article 18 of the Passport Law № 5682 of 15/07/1950;
 - ç) within the scope of Article 28 of the Turkish Citizenship Law № 5901 of 29/05/2009.
- (2) Visa requirement for entry into Turkey may not be sought from those foreigners who:
- a) disembark at a port city from a carrier, which has been obliged to use Turkish air and sea ports due to force majeure;
 - b) arrive at seaports for the purpose of touristic visits to the port city or nearby cities, provided that their visit does not exceed seventy two hours.

Border visa [Visas issued at border gates]

ARTICLE 13 –

- (1) On exceptional cases, foreigners arriving at border gates without a visa, may be issued a visa provided that they document their [intended] departure from Turkey within due time.
- (2) Border visa shall be issued by the governorates in charge of the respective border gates. Governorates may delegate this authority to the law enforcement unit stationed at the border. Such visas shall authorise stay in Turkey for a maximum of fifteen days, unless a different duration is determined by the Council of Ministers.
- (3) The medical insurance requirement may be waived for humanitarian reasons for persons issued a visa at the border.

Airside transit visas

ARTICLE 14 –

- (1) Foreigners who shall be transiting through Turkey may be required to obtain an airside transit visa. Airside transit visas shall be issued by the consulates, to be used no later than six months.
- (2) Foreigners who would be required to obtain an airside transit a visa shall be jointly determined by the Ministry and Ministry of Foreign Affairs.

Foreigners who shall be refused to take visa

ARTICLE 15 –

- (1) Visa shall be refused for those foreigners whose/who:
 - a) passport or travel document is not valid at least sixty days beyond the expiry date of the visa requested;
 - b) are banned from entering Turkey;
 - c) are considered undesirable for reasons of public order or public security;
 - ç) are identified to have a disease posing public health threat;
 - d) are suspects of or, are convicted of, a crime(s) that are subject to extradition pursuant to agreements to which the Republic of Turkey is a party to;
 - e) are not covered with a valid medical insurance for the duration of their stay;
 - f) fail to supply proof of the reason for their purpose of entry into, transit from or stay in Turkey;

- g) do not possess sufficient and sustainable resources [for the duration of their stay]
 - ğ) would refuse to pay receivables, originating from overstaying the duration of visa or a previous residence permit duration or, that should be enforced and collected pursuant to the Law on the Procedure of Collection of Public Receivables № 6183 of 21/07/1953 or, debts and fines enforced pursuant to the Turkish Penal Code № 5237 of 26/09/2004.
- (2) Nevertheless if it is deemed to be of interest to issue a visa to such a foreigner who falls within the scope of this article, a visa may be granted subject to the Minister's approval.

Cancellation of visas

ARTICLE 16 –

- (1) Visa shall be cancelled by the issuing authorities or the governorates in cases when/where:
- a) it is determined that the visa is exploited for fraudulent purposes;
 - b) there is erasure, scraping or alteration detected [on the visa sticker];
 - c) the visa holder is banned to entry Turkey ;
 - ç) there is strong doubt as to the foreigner may commit a crime;
 - d) the passport or travel document is false or has expired;
 - e) the visa or the visa exemption is used outside its purpose;
 - f) the circumstances or documents on the grounds of which the visa was issued are determined to be not valid.
- (2) In case of a removal decision issued with regards to the foreigner within the duration of the visa, the visa shall be cancelled thereof.

Notification of visa processes

ARTICLE 17 –

- (1) The processes related to the refusal of a visa application or cancellation of the visa shall be notified to the visa applicant.

Authority of the Council of Ministers related to visa and passport procedures

ARTICLE 18 –

- (1) The Council of Ministers is authorised to;
- a) Enter into agreements determining the passport and visa procedures; and under circumstances when considered necessary, unilaterally waive the visa requirement for citizens of certain states; facilitate visa procedures, including exemption from visa fee; and, determine the duration of visas.
 - b) Introduce terms and conditions for [the using of] passports belonging to foreigners [with regard entry into or stay in or exit from Turkey], in case of war or other extraordinary circumstances to cover a region of or the entire country.
 - c) Take all measures setting specific conditions or restrictions regarding entry of foreigners into Turkey.

SECTION TWO

Residence

Residence permit

ARTICLE 19 –

- (1) Foreigners who would stay in Turkey beyond the duration of a visa or a visa exemption or, [in any case] longer than ninety days should obtain a residence permit. The residence permit shall become invalid if not used within six months.

Exemption from residence permit

ARTICLE 20 –

- (1) A residence permit shall not be required from those foreigners listed below:
 - a) who have arrived with a valid visa or by virtue of visa exemption for a stay up to ninety days, within the period of the visa or the visa exemption;
 - b) holders of Stateless Person Identity Card;
 - c) members of the diplomatic and consular missions in Turkey;
 - ç) family members of diplomatic and consular officers, provided they are notified to the Ministry of Foreign Affairs;
 - d) members of the representations of international organisations in Turkey whose status has been determined by virtue of agreements;
 - e) who are exempt from a residence permit by virtue of international agreements which Turkey is a party to;
 - f) who fall within the scope of Article 28 of Law № 5901;
 - g) holders of the documents listed in paragraph seven of article 69 as well as the first paragraphs of Articles 76 and 83.
- (2) Foreigners listed in subparagraphs (c), (ç), (d) and (e) of the first paragraph shall be issued a document of which the format and content shall be jointly determined by the Ministry and the Ministry of Foreign Affairs. In cases where these foreigners wish to stay in Turkey, after the end of their status that entitled them to exemption from a residence permit, shall apply with the governorates within ten days to obtain a residence permit.

Application for residence permit

ARTICLE 21 –

- (1) Applications for residence permits shall be lodged with the consulates in the foreigner's country of citizenship or legal stay.
- (2) Foreigners applying for a residence permit shall be required to hold a passport or a travel document valid at least sixty days beyond the duration of the requested residence permit.
- (3) Where the information and documents required for the application is incomplete, the assessment of the application may be postponed until such information and documents are submitted. The applicant shall be informed of the missing information and documents.
- (4) The consulates shall convey the residence permit applications, together with their remarks, to the Directorate General. The Directorate General shall, after finalising [the assessment of] the applications, inform the consulate to issue a residence permit or refuse the application, seeking the opinion of the relevant institutions when it deems it necessary.
- (5) [The assessment of] the applications shall be finalised no later than ninety days.

(6) The actions related to the refusal of a residence permit application shall be notified to the applicant.

(7) (**Annex: 28/7/2016-6735/27 article**) Residence permit applications could also be made by the authorized intermediary.

Applications for residence permits to be lodged in Turkey

ARTICLE 22 –

(1) Applications for residence permits may exceptionally be lodged with the governorates in following cases:

- a) pursuant to decisions of or requests from judicial or administrative authorities;
- b) when it is not reasonable or possible for the foreigner to leave Turkey;
- c) for long-term residence permits;
- ç) for student residence permits;
- d) for residence permits on humanitarian grounds;
- e) for residence permits for victims of human trafficking;
- f) while changing from a family residence permit to a short-term residence permit;
- g) by either parent, holding a residence permit in Turkey, for their children born in Turkey;
- ğ) for a residence permit which conforms to the new reason of stay, in cases where the reason for which the valid residence permit was issued no longer apply or has changed;
- h) for residence permit applications lodged within the scope of paragraph two of Article 20;
- ı) when foreign students who have completed higher education in Turkey transfer to a short-term residence permit.

Issuance and format of residence permits

ARTICLE 23 –

- (1) Residence permits shall be issued separately for every foreigner depending on the purpose of stay, [in any case] for a period sixty days shorter than the validity period of the passport or travel document.
- (2) The Ministry shall determine the format and content of the residence permit whereas the format and content of the work permit that would substitute as a residence permit shall be jointly determined by the Ministry and relevant institutions.

Renewal of residence permits

ARTICLE 24 –

- (1) The duration of residence permits may be extended by the governorates.
- (2) Applications for renewal shall be made to the governorates within sixty days prior to the expiration of the residence permit and, in any case, before the expiration of the residence permit. Those who apply for the extension of the duration of the residence permit shall be issued a document not subject to fee. Such foreigners may reside in Turkey by virtue of this document pending a decision regarding their application, even if their residence permits have expired.
- (3) The renewed residence permits shall take effect as from the expiry date of [applying] legal permits.

- (4) [Assessment of] applications for renewal shall be finalised by the governorates.

Refusal, cancelation or non-renewal of residence permit applications lodged in Turkey

ARTICLE 25 –

- (1) The refusal of an application lodged in Turkey, non-renewal or cancelation of a residence permit and notification of such actions shall be done by the governorates. The decision on the residence permit may be postponed in consideration of elements such as the foreigner's family ties in Turkey, the duration of residence, situation in the country of origin and the best interest of the child during these actions.
- (2) Refusal, non-renewal or cancelation of the application shall be notified to the foreigner or, to his/her legal representative or lawyer. This notification shall also include information on how foreigners would effectively exercise their right of appeal against the decision as well as other legal rights and obligations applicable in the process.

Other provisions concerning residence permits

ARTICLE 26 –

- (1) Time spent as a prisoner or detainee in prison or under administrative detention in removal centres [beyond the expiry date of the residence permit] shall not be considered as a breach of the time limit of the residence permit. Residence permits, if any, held by such persons may be cancelled. Any such person, who does not have one, may be issued a foreigner identity number without the requirement of holding a residence permit.
- (2) Foreigners arriving Turkey with a residence [or] a work permit issued by the consulates should register with the address based registration system no later than twenty working days as of the date of arrival.

Work permit as residence permit

ARTICLE 27 –

- (1) A valid work permit as well as Work Permit Exemption Confirmation Document issued pursuant to Article 10 of the Law on Work Permits of Foreigners, № 4817 of 27/02/2003, shall be considered as a residence permit. (Abrogated second sentence: 28/7/2016-6735/27 art.)
- (2) The foreigner should not fall within the scope of Article 7 in order for a work permit to be issued or renewed.

Interruption of residence

ARTICLE 28 –

- (1) For the purposes of this Law, any stay outside of Turkey exceeding a total of six months within one year or a total of one year within the last five years for reasons other than compulsory public service, education or health shall be considered interruption of residence. In cases where there is an interruption of residence, the previous residence durations shall not count towards a residence permit application or changing to another residence permit.
- (2) In the computation of continues residence permits, half the duration of student resident permits while the full duration of all other types of residence permits shall be calculated.

Transfer between residence permits

ARTICLE 29 –

- (1) In cases where the reason, on the grounds which the residence permit is issued, no longer apply or a different reason appears foreigners may lodge an application for a residence permit which conforms to the new reason for their stay.
- (2) The principles and procedures governing transfers between residence permits shall be stipulated in the Directive.

Residence permit types

ARTICLE 30 –

- (1) Types of residence permits are the listed below:
 - a) short-term residence permit;
 - b) family residence permit;
 - c) student residence permit;
 - ç) long-term residence permit;
 - d) humanitarian residence permit;
 - e) victim of human trafficking residence permit.

Short-term residence permit

ARTICLE 31 –

- (1) A short-term residence permit may be granted to those foreigners listed below who:
 - a) arrives to conduct scientific research;
 - b) owns immovable property in Turkey;
 - c) establishes business or commercial connections;
 - ç) participates in on-the-job training programmes;
 - d) arrives to attend educational or similar programmes as part of student exchange programmes or agreements to which the Republic of Turkey is a party to;
 - e) wishes to stay for tourism purposes;
 - f) intends to receive medical treatment, provided that they do not have a disease posing a public health threat;
 - g) is required to stay in Turkey pursuant to a request or a decision of judicial or administrative authorities;
 - ğ) transfers from a family residence permit;
 - h) attends a Turkish language course;
 - ı) attends an education programme, research, internship or, a course by way of a public agency;
 - i) applies within six months upon graduation from a higher education programme in Turkey.
 - j) **(Annex: 28/7/2016-6735/27 article)** does not work in Turkey but will make an investment within the scope and amount that shall be determined by the Council of Ministers, and their foreign spouses, his and her minor children or foreign dependent children.
 - k) **(Annex: 28/7/2016-6735/27 article)** is citizen of Turkish Republic of Northern Cyprus.
- (2) **(Amendment: 28/7/2016-6735/27 article)** Short-term residence permits shall be issued with

maximum two year duration at a time with the exception of (j) and (k) subparagraphs of the first paragraph.

- (3) Residence permits within the scope of subparagraph (h) of the first paragraph shall only be issued twice.
- (4) Residence permits within the scope of subparagraph (i) of the first paragraph shall only be issued once with maximum one year duration.
- (5) **(Annex: 28/7/2016-6735/27 article)** The residence permits granted within the scope of (j) and (k) subparagraphs of the first paragraph shall only be issued with maximum 5 year duration.

Conditions for short-term residence permit

ARTICLE 32 –

- (1) The following conditions shall apply when issuing short-term residence permits:
 - a) to apply, claiming one or more of the reasons stipulated in paragraph one of Article 31 and submit supporting information and documents regarding the application;
 - b) not to fall within the scope of Article 7;
 - c) to live in accommodation conditions that conform to general health and safety standards;
 - ç) upon request, to present criminal record certificate issued by the competent authorities in their country of citizenship or legal residence;
 - d) submit information on their address of stay in Turkey.

Refusal, non-renewal or cancelation of short-term residence permits

ARTICLE 33 –

- (1) Under the following cases a short-term residence permit shall not be granted, shall be cancelled if has been issued, and shall not be renewed when:
 - a) one or more of the conditions provided for in Article 32 are not met or no longer apply;
 - b) it is established that the residence permit is used outside the purposes of those it is issued for;
 - c) (Abrogated: 28/7/2016-6735/27 art.)
 - ç) there is a current removal decision or an entry ban to Turkey in respect to the foreigner.
- (2) **(Annex: 28/7/2016-6735/27 article)** Procedures and principles regarding the cancellation of residence permit in terms of duration of stay abroad are regulated by Regulation.

Family residence permit

ARTICLE 34 –

- (1) A family residence permit for a maximum duration of three years at a time may be granted to the:²
 - a) foreign spouse;
 - b) foreign children or foreign minor children of their spouse;
 - c) dependent foreign children or dependent foreign children of their spouse;of Turkish citizens, persons within the scope of Article 28 of Law № 5901 or, foreigners holding one of the residence permits as well as refugees and subsidiary protection beneficiaries. However, the duration of the family residence permit cannot exceed the duration of the sponsor's residence

² With the 27th Article of the Law No. 6735 dated 28/7/2016, the expression of “two years” was changed to “three years” in this article.

permit under any circumstances whatsoever.

- (2) In cases of a polygamous marriage pursuant to the regulation in the [foreigner's] country of citizenship, only one of the spouses shall be issued a family residence permit. However, a family residence permit may be granted to the foreigner's children from other spouses.
- (3) For family residence permits issued to children, if any, the consent of the mother or the father who lives abroad and who shares custody shall be sought.
- (4) Family residence permits shall entitle the holder right of education in primary and secondary educational institutions until the age of 18 the without obtaining a student residence permit.
- (5) Any person reaching the age of 18 who has immediately before resided in Turkey for a minimum of three years on a family residence permit may, upon application transfer to a short-term residence permit.
- (6) In the event of divorce, a short-term residence permit may be issued to a foreign spouse of a Turkish citizen, provided that [he or she] resided on a family residence permit for at least three years. However, in cases where it is established by the relevant court that the foreign spouse has been a victim for reasons of domestic violence, the condition for three years residence shall not be sought.
- (7) In the event of the death of the sponsor, a short-term residence permit may be issued without any [minimum residing] time condition attached to those who have resided on a family residence permit in connection with the sponsor.

Conditions for family residence permits

ARTICLE 35 –

- (1) With regard to family residence permit applications, the following conditions shall apply to the sponsor to:
 - a) have a monthly income in any case not less than the minimum wage in total corresponding not less than one third of the minimum wage per each family member;
 - b) live in accommodation conditions appropriate to general health and safety standards corresponding to the number of family members and to have medical insurance covering all family members;
 - c) submit proof of not having been convicted of any crime against family during the five years preceding the application with a criminal record certificate;
 - ç) have been residing in Turkey for at least one year on a residence permit;
 - d) have been registered with the address based registration system.
- (2) Subparagraph (ç) of the first paragraph shall not apply to holders of residence permit or work permit for the purposes of scientific research; who are within the scope of Article 28 of Law № 5901; or foreigners who are married to Turkish citizens.
- (3) The following conditions shall apply to foreigners applying for a family residence permit to stay with a sponsor in Turkey:
 - a) to submit information and documents that they are within the scope of paragraph one of Article 34;
 - b) to assert that they live or intend to live together with those persons listed in paragraph one of Article 34;

- c) not to have entered into the marriage for the purpose of obtaining a family residence permit;
 - ç) to be over 18 years of age for each spouse;
 - d) not to fall within the scope of Article 7.
- (4) The conditions set forth in first paragraph of this Article may not be sought for refugees and subsidiary protection beneficiaries who are in Turkey.

Refusal, cancelation or non-renewal of family residence permits

ARTICLE 36 –

- (1) Under the following cases a family residence permit shall not be granted, shall be cancelled if has been issued, and shall not be renewed when:
- a) conditions set out in paragraphs one and three of Article 35 are not met or no longer apply;
 - b) short-term residence permit [application] is refused when the conditions for obtaining a family residence permit no longer apply;
 - c) there is a valid removal decision or an entry ban to Turkey in respect to the foreigner;
 - ç) it is determined that the family residence permit is used for purposes other than of those it is issued for;
 - d) (Abrogated: 28/7/2016-6735/27 art.)
- (2) (**Annex: 28/7/2016-6735/27 article**) Procedures and principles regarding the cancellation of residence permit in terms of duration of stay abroad are regulated by Regulation.

Applications for family residence permit through marriage of convenience

ARTICLE 37 –

- (1) Where there is reasonable doubt prior to granting or renewing a family residence permit the governorates shall investigate whether the marriage have been entered into solely for the purpose of obtaining a family residence permit.
- When it is so determined upon investigation family residence permit shall not be granted or, cancelled if has been issued.
- (2) Following the issuance of a family residence permit the governorates may carry out inspections in order to establish whether the marriage is of convenience.
- (3) Residence permits obtained through a fraudulent marriage and cancelled later, shall not count towards the summing of residence durations stipulated in this Law.

Student residence permit

ARTICLE 38 –

- (1) A student residence permit shall be granted to foreigners who shall attend an associate, undergraduate, graduate or postgraduate programme in a higher education institution in Turkey.
- (2) To foreigners who shall receive primary and secondary education and whose care and expenses shall be covered by a natural or legal person, subject to the consent of their parents or legal guardian a one year student residence permit shall be granted and renewed throughout the course of their study.
- (3) The student residence permit shall not entitle the parents as well as more distant family members of the foreigner the right of obtaining residence permit.

(4) In cases where the period of study is less than one year, the duration of the residence permit shall not exceed the period of study.

(5) (**Annex: 28/7/2016-6735/27 article**) To foreigners who shall receive an education in Turkey by coming via state institutions and organizations, a residence permit may be granted during their study period.

Conditions for student residence permit

ARTICLE 39 –

(1) The following conditions shall apply to student residence permit:

- a) submitting the information and documents within the scope of Article 38;
- b) not to fall within the scope of Article 7;
- c) providing an address in Turkey.

Refusal, cancelation or non-renewal of student residence permits

ARTICLE 40 –

(1) Under the following cases a student residence permit shall not be issued, cancelled if has been issued, refused renewal when:

- a) the requirements of Article 39 are not met or no longer apply;
- b) evidence exists that the studies are possibly not to be continued;
- c) it is determined that the student residence permit has been used for a purpose other than that it is issued for;
- c) there is a current removal decision or an entry ban to Turkey with respect to the foreigner.

Right of work for [foreign] students³

ARTICLE 41 –

- (1) [Foreign] students attending a **formal** associate, undergraduate, graduate or postgraduate programme in Turkey may work provided that they obtain a work permit. However the right of work for associate or undergraduate students starts after the first year [of their study] and is regulated by related law.
- (2) The principles and procedures governing the right of work for associate or undergraduate students shall be jointly regulated by the Ministry and the Ministry of Labour and Social Security within the framework of the principles to be determined by the Migration Policies Board.

Long-term residence permit

ARTICLE 42 –

- (1) A long-term residence permit shall be issued by the governorates, upon approval of the Ministry, to foreigners that have continuously resided in Turkey for at least eight years on a permit or, foreigners that meet the conditions set out by the Migration Policies Board.
- (2) Refugees, conditional refugees and subsidiary protection beneficiaries as well as persons under temporary protection or humanitarian residence permit holders are not entitled to the right of

³ With the 27th Article of the Law No. 6735 dated 28/7/2016, expression of “formal” was added before the expression of “in Turkey” in the first item of this article and the expression of “cannot be more than twenty four hours a week” was changed as “regulated by related law”.

transfer to a long-term residence permit.

Conditions for long-term residence permit

ARTICLE 43 –

- (1) With regard to the issuing long-term residence permit the following conditions shall apply:
 - a) having continues residence in Turkey for at least eight years;
 - b) not having received social assistance in the past three years;
 - c) having sufficient and stable income to maintain themselves or, if any, support their family;
 - ç) to be covered with a valid medical insurance;
 - d) not to be posing a public order or public security threat.
- (2) Subject to subparagraph (d), the conditions stipulated in the first paragraph shall not apply to foreigners who are considered appropriate for a long-term residence permit due to meeting the conditions determined by the Migration Policies Board.

Rights conferred by a long-term residence permit

ARTICLE 44 –

- (1) Without prejudice to acquired rights with respect to social security, and subject to conditions stipulated in applicable legislation governing the enjoyment of rights, foreigners holding a long-term residence permit shall benefit from the same rights as accorded to Turkish citizens with the exception of the provisions in laws regulating specific areas, and of:
 - a) compulsory military service;
 - b) the right of vote and be elected;
 - c) entering public service;
 - ç) exemption from customs duties when importing vehicles.
- (2) The Council of Ministers is authorised to partially or completely restrict the rights listed in the first paragraph.

Cancellation of long-term residence permits

ARTICLE 45 –

- (1) Under the following cases a long-term residence permit shall be cancelled when the foreigner:
 - a) poses a serious public security or public order threat;
 - b) stays out of Turkey continuously for more than one year for reasons other than health, education and compulsory public service in his/her country.
- (2) The principles and procedures governing the re-application for a long-term residence permit and assessment of the applications of foreigners whose long-term residence permit has been cancelled pursuant to subparagraph (b) of the first paragraph shall be stipulated in a Directive.

Humanitarian residence permit

ARTICLE 46 –

- (1) Under the following cases, upon approval of the Ministry, a humanitarian residence permit with a maximum duration of one year at a time may be granted and renewed by the governorates without seeking the conditions for other types of residence permits:

- a) where the best interest of the child is of concern;
 - b) where, notwithstanding a removal decision or ban on entering Turkey, foreigners cannot be removed from Turkey or their departure from Turkey is not reasonable or possible;
 - c) in the absence of a removal decision in respect of the foreigner pursuant to Article 55;
 - ç) where there is a judicial appeal against the actions carried out pursuant to Articles 53, 72 and 77;
 - d) throughout the removal actions of the applicant to the first country of asylum or a safe third country;
 - e) in cases when foreigners should be allowed to enter into and stay in Turkey, due to emergency or in view of the protection of the national interests as well as reasons of public order and security, in the absence of the possibility to obtain one of the other types of residence permits due to their situation that precludes granting a residence permit;
 - f) in extraordinary circumstances.
- (2) Foreigners that are granted humanitarian residence permit should get registered with the address based registration system no later than twenty working days as of the issuance date.

Cancellation or non-renewal of humanitarian residence permits

ARTICLE 47 –

- (1) The humanitarian residence permit shall be cancelled and shall not be renewed by the governorates in cases where the compelling conditions no longer apply, subject to the approval of the Ministry.

Residence permits for victims of human trafficking

ARTICLE 48 –

- (1) A residence permit valid for thirty days shall be granted, by the governorates, to foreigners who are victims of human trafficking or where there is strong circumstantial evidence that they might be victims with a view to allow them to break from the impact of their [negative] experience and reflect on whether to cooperate with the competent authorities.
- (2) Conditions attached to other types of residence permits shall not be sought while issuing these residence permits.

Renewal and cancellation of residence permits for victims of human trafficking

ARTICLE 49 –

- (1) The residence permit granted to allow for recovery and reflection may be renewed for six months periods for reasons of safety, health or special circumstances of the victim. However, the total duration shall not exceed three years under any circumstances whatsoever.
- (2) The residence permit shall be cancelled in cases where it is determined that foreigners who are victims of trafficking or might be victims of human trafficking have re-connected with the perpetrators of the crime through their own volition.

SECTION THREE

Stateless Persons

Determination of statelessness

ARTICLE 50 –

- (1) The statelessness status shall be determined by the Directorate General. Stateless persons shall be issued a Stateless Person Identification Document, which entitles such persons the right to legally reside in Turkey. Persons, who are in the process of being considered as stateless in another country shall not benefit from this right.
- (2) Stateless persons shall obtain a Stateless Person Identification Document. The governorates shall issue this document, upon approval of the Directorate General. This document shall substitute a residence permit and shall be renewed by the governorates every two years without subject to any fee. The Stateless Person Identification Document shall bear the foreigner identification number.
- (3) The duration of stay in Turkey with a Stateless Person Identification Document shall count towards the total duration of residence.
- (4) The Stateless Person Identification Document shall no more be valid upon acquisition of the nationality of another country.
- (5) The principles and procedures concerning the determination of statelessness and the issuance of the Stateless Person Identification Document shall be stipulated in a Directive.

Rights and guarantees granted to stateless persons

ARTICLE 51 –

- (1) Persons holding a Stateless Person Identification Document:
 - a) may apply to obtain any of the residence permits set out in this Law;
 - b) shall not be deported unless they pose a serious public order or public security threat;
 - c) are not be subject to the reciprocity requirement sought in procedures concerning foreigners;
 - ç) are subject to the provisions of the Law № 4817 in activities and actions regarding work permit;
 - d) are entitled to the provisions of Article 18 of the Law № 5682.

SECTION FOUR

Removal

Removal

ARTICLE 52 –

- (1) Foreigners may be removed to their country of origin or a transit country or a third country by virtue of a removal decision.

Removal decision

ARTICLE 53 –

- (1) A removal decision shall be issued either upon instructions of the Directorate General or ex officio by the governorates.
- (2) The [removal] decision together with its reasons shall be notified to the foreigner, in respect of whom a removal decision has been issued or, to his/her legal representative or lawyer. If the foreigner, in respect of whom the removal decision has been issued, is not represented by a lawyer, the foreigner or his/her legal representative shall be informed about the consequence of the decision, procedures and time limits for appeal.

- (3) Foreigner, legal representative or lawyer may appeal against the removal decision to the administrative court within fifteen days as of the date of notification. The person who has appealed against the decision to the court shall also inform the authority that has ordered the removal regarding the appeal. Such appeals shall be decided upon within fifteen days. The decision of the court on the appeal shall be final. Without prejudice to the foreigner's consent, the foreigner shall not be removed during the judicial appeal period or in case of resort to the judgement with the exception of ones within the scope of (b), (d) and (k) subparagraphs of the first paragraph and second paragraph of Article 54.⁴

Persons subject to a removal decision

ARTICLE 54 –

- (1) A removal decision shall be issued in respect of those foreigners listed below who/whose:
- a) are deemed to be removed pursuant to Article 5⁵9 of the Turkish Penal Code № 5237;
 - b) are leaders, members or supporters of a terrorist organisation or a benefit oriented criminal organisation;
 - c) submit untrue information and false documents during the entry, visa and residence permit actions;
 - ç) made their living from illegitimate means during their stay in Turkey;
 - d) pose a public order or public security or public health threat;
 - e) has overstayed their visa or the visa exemption period for more than ten days or, whose visas are cancelled;
 - f) residence permits are cancelled;
 - g) overstayed the expiry date of the duration of their residence permit for more ten days without an acceptable reason;
 - ğ) are determined to be working without a work permit;
 - h) breach the terms and conditions for legal entry into or exit from Turkey;
 - ı) are determined to have entered into Turkey despite an entry ban to Turkey;
 - i) international protection claim has been refused; are excluded from international protection; application is considered inadmissible; has withdrawn the application or the application is considered withdrawn; international protection status has ended or has been cancelled, provided that pursuant to the other provisions set out in this Law they no longer have the right of stay in Turkey after the final decision.
 - j) fail to leave Turkey within ten days in cases where their residence permit renewal application has been refused.
 - k) **(Annex: 3/10/2016-KHK-676/36 article)** are evaluated as being associated with terrorist organizations which have been defined by international institutions and organizations.
- (2) **(Amendment: 3/10/2016-KHK-676/36 article)** A removal decision may be issued at every stage of international protection proceedings in respect of international protection

⁴ With the Article 35 of Delegated Legislation dated 3/10/2016 and numbered 676, statement of “excluding the ones within the scope of (b), (d) and (k) subparagraphs of the first paragraph and second paragraph of Article 54” has been added to come after the statement of “in case of” taking place in this paragraph.

applicants or international protection beneficiaries who are evaluated as being within the scope of (b), (d) and (k) subparagraphs of the first paragraph of this Article.

Exemption from removal decision

ARTICLE 55 –

- (1) Removal decision shall not be issued in respect of those foreigners listed below regardless of whether they are within the scope of Article 54:
 - a) when there are serious indications to believe that they shall be subjected to the death penalty, torture, inhuman or degrading treatment or punishment in the country to which they shall be returned to;
 - b) who would face risk due to serious health condition, age or, pregnancy in case of travel;
 - c) who would not be able to receive treatment in the country to which they shall be returned while undergoing treatment for a life threatening health condition;
 - ç) victims of human trafficking, supported by the victim's assistance programme;
 - d) victims of serious psychological, physical or sexual violence, until their treatment is completed.
- (2) Assessment within the scope of the first paragraph shall be made on case by case basis. These persons may be asked to reside at a given address and report to authorities in form and periods as requested.

Summons to leave Turkey

ARTICLE 56 –

- (1) Where a removal decision has been issued, foreigners shall be granted a period no less than fifteen days and up to thirty days to leave Turkey, provided that this period is stated in the removal decision. However, this period shall not be granted to foreigners who: bear the risk of absconding or disappearing; have breached the terms and conditions of legal entry and exit; used false documents; attempted to obtain or are determined to have obtained a residence permit with false documents; pose a public order, public security, public health threat.
- (2) A Leave Permit shall be issued to persons for whom a period to leave Turkey is granted. This document shall not be subject to any fees, without prejudice to the visa and residence permit fees as well as obligations related to penalties thereof.

Administrative detention and duration of detention for removal purposes

ARTICLE 57 –

- (1) Where foreigners within the scope of Article 54 are apprehended by law enforcement units, they shall immediately be reported to the governorate for a decision to be made concerning their status. With respect to those where a removal decision is considered necessary it shall be issued by the governorate. The duration of assessment and decision-making shall not exceed forty-eight hours.
- (2) Those for whom a removal decision have been issued, the governorate shall issue an administrative detention decision for those who; bear the risk of absconding or disappearing; breached the rules of entry into and exit from to Turkey; have used false or fabricated documents; have not left Turkey after the expiry of the period granted to them to leave, without an acceptable excuse; or, pose a threat to public order, public security or public health. Foreigners subject to

administrative detention shall be taken to removal centres within forty-eight hours of the decision by the [same] law enforcement unit that apprehended them.

- (3) The duration of administrative detention in removal centres shall not exceed six months. However, in cases where the removal cannot be completed due to the foreigner's failure of cooperation or providing correct information or documents about their country [of origin], this period may be extended for a maximum of six additional months.
- (4) The need to continue the administrative detention shall be regularly reviewed monthly by the governorates, and when consider it necessary. For those foreigners where administrative detention is no longer considered necessary, the administrative detention shall immediately be ended. These foreigners may be required to comply with administrative obligations such as to reside at a given address and report to the authorities in form and periods to be determined.
- (5) The administrative detention decision, the extension of the administrative detention period and the results of the monthly regular reviews together with its reasons shall be notified to the foreigner or, to his/her legal representative or lawyer. If the person subject to administrative detention is not represented by a lawyer, the person or his/her legal representative shall be informed about the consequence of the decision, procedure and time limits for appeal.
- (6) The person placed under administrative detention or his/her legal representative or lawyer may appeal against the detention decision to the Judge of the Criminal Court of Peace. Such an appeal shall not suspend the administrative detention. In cases where the petition is handed to the administration, it shall immediately be conveyed to the competent Judge of the Criminal Court of Peace. The Judge of the Criminal Court of Peace shall finalise the assessment within five days. The decision of the Judge of the Criminal Court of Peace shall be final. The person placed under administrative detention or his/her legal representative or lawyer may further appeal to the Judge of the Criminal Court of Peace for a review should that the administrative detention conditions no longer apply or have changed.
- (7) Those who appeal against an administrative detention action but do not have the means to pay the attorney's fee shall be provided legal counsel upon demand, pursuant to the Legal Practitioner's Law № 1136 of 19/03/1969.

Removal centres

ARTICLE 58 –

- (1) Foreigners subject to administrative detention shall be held in removal centres.
- (2) The removal centres shall be operated by the Ministry. The Ministry may have these centres operated by public institutions and agencies, the Turkish Red Crescent Association or non-profit associations with expertise in the field of migration by means of a protocol.
- (3) The principles and procedures related to the establishment, management, outsourcing, inspection of removal centres and the transfer of foreigners subject to administrative detention to removal centres for removal purposes shall be regulated with a Directive.

Services provided in removal centres

ARTICLE 59 –

- (1) In the removal centres:
 - a) emergency and primary healthcare services of which the foreigner is unable to cover the cost shall

- be provided free of charge;
- b) the foreigner shall be allowed access to and given the opportunity to meet with their relatives, the notary public, his/her legal representative and the lawyer, as well as access to telephone services;
 - c) the foreigner shall be given the opportunity to meet with the visitors, consular official of their country of citizenship, and officials of the United Nations High Commissioner for Refugees;
 - ç) the best interest of the child shall be considered, and families and unaccompanied minors shall be accommodated in separate areas;
 - d) the Ministry of National Education shall take the necessary measures to ensure that children have access to education.
- (2) Representatives of the relevant non-governmental organisations with expertise in the field of migration may visit the removal centres upon permission of the Directorate General.

Implementation of the removal decision

ARTICLE 60 –

- (1) The foreigners at removal centres shall be taken to border gates by law enforcement unit.
- (2) Foreigners to be removed without being required to transfer to removal centres shall be taken to the border gates by law enforcement units through coordination of the provincial units of Directorate General.
- (3) Foreigners to be removed shall cover their own travel costs. In cases where foreigners are unable to cover such costs, the full or remaining cost of travel shall be met from the budget of the Directorate General. A ban on entering Turkey may be imposed on such foreigners as long as the costs are not reimbursed.
- (4) The Directorate General may cooperate with international organisations, the authorities in the relevant country, and non-governmental organisations to carry out the removal.
- (5) Passports or other documents belonging to foreigners may be retained until the foreigners are removed and their tickets may be cashed for use in the removal.
- (6) Natural or legal persons are responsible for covering the costs related to the removal of foreigners whose stay and return they have guaranteed. Subparagraph three of Article 21 of Law № 4817 shall apply to employers or agents of employers that employ the foreigner without a work permit with respect to their obligations in the removal of such foreigners.

PART THREE INTERNATIONAL PROTECTION

SECTION ONE Types of International Protection, Exclusion from International Protection

Refugees

ARTICLE 61 –

- (1) A person who as a result of events occurring in European countries and owing to well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion, is outside the country of his citizenship and is unable or, owing to such fear, is unwilling to avail himself or herself of the protection of that country; or who, not having a nationality and being outside the country of his former residence as a result of such events, is unable or, owing to such fear, is unwilling to return to it, shall be granted refugee status upon completion of the refugee status determination process.

Conditional refugees

ARTICLE 62 –

- (1) A person who as a result of events occurring outside European countries and owing to well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion, is outside the country of his nationality and is unable or, owing to such fear, is unwilling to avail himself or herself of the protection of that country; or who, not having a nationality and being outside the country of former habitual residence as a result of such events, is unable or, owing to such fear, is unwilling to return to it, shall be granted conditional refugee status upon completion of the refugee status determination process. Conditional refugees shall be allowed to reside in Turkey temporarily until they are resettled to a third country.

Subsidiary Protection

ARTICLE 63 –

- (1) A foreigner or a stateless person, who neither could be qualified as a refugee nor as a conditional refugee, shall nevertheless be granted subsidiary protection upon the status determination because if returned to the country of origin or country of [former] habitual residence would:
 - a) be sentenced to death or face the execution of the death penalty;
 - b) face torture or inhuman or degrading treatment or punishment;
 - c) face serious threat to himself or herself by reason of indiscriminate violence in situations of international or nationwide armed conflict;and therefore is unable or for the reason of such threat is unwilling, to avail himself or herself of the protection of his country of origin or country of [former] habitual residence.

Exclusion from international protection

ARTICLE 64 –

- (1) The applicant shall be excluded from international protection if:
 - (a) receiving protection or assistance from organs or agencies of the United Nations other than the United Nations High Commissioner for Refugees;
 - (b) recognised by the authorities of the country of [former] residence as having the rights and obligations which are attached to the nationals of that country;
 - (c) there is strong evidence to believe that they are guilty of offences specified in paragraph one of

Article 1 of the Convention.

- (2) When protection or assistance for a person who falls within the scope of sub-paragraph (a) of the first paragraph is no longer available for any reason whatsoever, such person may benefit from protection provided for by this Law, unless a final solution to is reached on their status on the basis of UN General Assembly resolutions.
- (3) In cases where there is evidence to believe that the applicant, prior to international protection claim, have committed inhuman acts for any reason whatsoever outside of Turkey, the assessment shall be done pursuant to subparagraph (c) of the first paragraph.
- (4) Applicants that instigate or otherwise participate in committing the crimes or acts mentioned in subparagraph (c) of the first paragraph or third paragraph shall be excluded from international protection.
- (5) In addition to circumstances mentioned in subparagraph (c) of the first paragraph and in third and fourth paragraphs, a foreigner or a stateless persons in respect of whom there are serious indications of posing a public order or public security threat, as well as a foreigner or a stateless person outside the scope of subparagraph (c) of the first paragraph who has previously committed a serious crime for which imprisonment would have been ordered if committed in Turkey, and have left his/her country of origin solely to avoid punishment for that crime, shall be excluded from subsidiary protection.
- (6) Exclusion of the applicant from international protection shall not require the exclusion of their family members provided that none of the reasons for exclusion applies to other family members.

SECTION TWO

General Procedures

Application

ARTICLE 65 –

- (1) International protection applications shall be lodged with the governorates in person.
- (2) In cases where an application is lodged with law enforcement units within the country or at the border gates, the application shall immediately be reported to the governorates. The governorates shall carry-out the actions related to the application.
- (3) Every foreigner or stateless person is entitled to apply on their own behalf. Applicant may apply on behalf of accompanying family members whose applications are on the same grounds. In such cases, consent of the adult family members shall be required for applications made on their behalf.
- (4) Persons who apply to the governorates for international protection within a reasonable period of time on their own accord shall not be subjected to criminal action for breaching the terms and conditions of legal entry into Turkey or illegally staying in Turkey, provided that they shall provide acceptable reasons for such illegal entry or presence.
- (5) International protection application lodged by persons whose freedom has been restricted shall immediately be reported to the governorates. The receipt and assessment of applications shall not prevent the enforcement of other judicial or administrative actions, measures, and sanctions.

Unaccompanied children

ARTICLE 66 –

- (1) The following provisions shall apply to international protection claims lodged by unaccompanied children:
 - a) The best interest of the child shall be the primary consideration in all actions related to unaccompanied children. The provisions of the Child Protection Law № 5395 of 03/07/2005 shall apply as of the date the application is received.
 - b) The Ministry for Family and Social Policies shall place unaccompanied children in suitable accommodation facilities, in the care of their adult relatives or, a foster family, taking the opinion of the unaccompanied child into account.
 - c) Children over 16 years of age may be placed in reception and accommodation centres, provided that suitable conditions are available.
 - ç) Siblings shall be accommodated together to the extent possible, taking into account the interest of the children, their age and level of maturity. They shall not be transferred to a different accommodation facility unless compelling [reasons exist].

Persons with special needs

ARTICLE 67 –

- (1) Persons with special needs shall be given priority with respect to the rights and actions referred to in this Part.
- (2) Adequate treatment shall be provided to victims of torture, sexual assault or, other serious psychological, physical or sexual violence, in order to eliminate the damage caused by such actions.

Administrative detention of applicants

ARTICLE 68 –

- (1) Applicants shall not be subject to administrative detention solely for lodging an international protection claim.
- (2) Subjecting applicants to administrative detention is an exceptional action. Applicants only be subject to administrative detention only under the following cases:
 - a) for the purpose of determination of the identity or nationality in case there is serious doubt as to the accuracy of the information provided;
 - b) for the purpose of being withheld from entering into the Turkey in breach of terms [and conditions] of entry at the border gates;
 - c) when it would not be possible to identify the elements of the grounds for their application unless subjected to administrative detention;
 - ç) when [the person] poses a serious public order or public security threat.
- (3) The requirement for administrative detention shall be assessed on case by case basis. With respect to cases mentioned in the second paragraph, prior to an administrative detention, priority shall be given during the assessment to whether the residence and notification obligation stipulated in Article 71 shall be sufficient. The governorates may determine alternatives for administrative detention. Where such measures are not sufficient, administrative detention shall be applied.

- (4) The administrative detention decision, including its reasons and duration shall be notified to the person subject to administrative detention or, to his/her legal representative or lawyer in writing. If the person subject to administrative detention is not represented by a lawyer, the person or to his/her legal representative shall be informed of the consequences of the decision and the appeal procedures.
- (5) The period of administrative detention for applicants shall not exceed thirty days. The actions related to applicants subject to administrative detention shall be finalised as soon as possible. Administrative detention shall immediately be ended when its conditions no longer apply.
- (6) At every stage of the administrative detention, it may be lifted by the authority that has issued the decision and [the person] may be asked to fulfil the obligations stipulated in Article 71 or other measures.
- (7) The person placed under administrative detention or his/her legal representative or lawyer may appeal against the detention decision to the Judge of the Criminal Court of Peace. Such an application shall not suspend the administrative detention. In cases where the petition is handed to the administration, it shall immediately be conveyed to the competent Judge of the Criminal Court of Peace. The Judge of the Criminal Court of Peace shall finalise the assessment within five days. The decision of the Judge of the Criminal Court of Peace shall be final. The person placed under administrative detention or, his/her legal representative or lawyer may further appeal before the Judge of the Criminal Court of Peace should the administrative detention conditions no longer apply or have changed.
- (8) The person subject to administrative detention pursuant to second paragraph may receive visitors, where the relevant principles and procedures shall be stipulated in a Directive. The person subject to administrative detention shall be granted access to legal representative, lawyer, notary public and United Nations High Commissioner for Refugees officials.

Registration and control

ARTICLE 69 –

- (1) International protection applications shall be registered by the governorates.
- (2) The applicant shall report identity information truly and, if available, submit identification and travel documents to the competent authorities at the time of the registration. The applicant and his/her belongings may be searched to this end.
- (3) Where there is no documentation regarding the identity of the applicant at the time of registration, information obtained from the comparison of personal data and from investigation shall be used for the identity determination. In case no information is obtained as a result of the identity determination investigation as well, the statement of the applicant shall be referred to.
- (4) At the time of registration, information pertaining to the applicants' reasons for leaving their country of origin or [former] habitual residence; their experience following departure, and events that led to the application; their way, means of transportation and routes of entering Turkey and, in cases where applicants have previously applied for or are a beneficiary of international protection in another country, information and documentation regarding this application or protection shall be taken.
- (5) At the time of registration the applicant shall be informed of the time and place of the interview.
- (6) An applicant who is assessed to be posing a public health threat shall undergo medical screening.

- (7) At the time of registration, the applicant shall be issued a registration document valid for thirty days indicating the international protection application and containing identity information. The registration document would be extended with thirty days validity periods when necessary. The registration document shall enable applicant to stay in Turkey and shall be issued without being subject to any fee.

Information and translation services provided to applicants

ARTICLE 70 –

- (1) At the time of the registration, applicant shall be informed about the procedures to be followed regarding the application, his/her rights and obligations, how to comply with these obligations and the possible consequences of failing to comply with these obligations or cooperate with the authorities, and about the procedures and time limits for appeal.
- (2) Upon request of the applicant, translation [and/or interpretation] service shall be provided during personal conversations at stages of application, registration, and interview.

Residence and reporting obligations

ARTICLE 71 –

- (1) Administrative obligations may be imposed upon the applicants such as to reside in the designated reception and accommodation centres, a specific location or a province as well as to report to authorities in the form and intervals as requested.
- (2) The applicant shall register with the address based registration system and report domicile address to the governorate.

Inadmissible applications

ARTICLE 72 –

- (1) Applications shall be considered inadmissible if the applicant:
- a) repeats the same application without providing a different reason;
 - b) following a consent for an application to be lodged on his/her behalf, has separately applied at any stage of the [previous] application without presenting a well-founded reason or, after the refusal of the application without presenting any different reason;
 - c) has arrived from a country within the scope of Article 73;
 - ç) has arrived from a country within the scope of Article 74;
- (2) When the circumstances provided for in the first paragraph become known during any stage of the assessment of the application, the assessment shall be terminated.
- (3) The decision on the inadmissibility of the application shall be notified to the concerned or to his/her legal representative or lawyer. If the concerned person is not represented by a lawyer, the person or his/her legal representative shall be informed of the consequences of the decision as well as the procedures and time limits for appeal.

Applicants arriving from the first country of asylum

ARTICLE 73 –

- (1) In cases where it is established that applicant has arrived from a country in which he or she has previously been recognised as a refugee and can still avail himself or herself of that protection or,

has arrived from a country where the possibility to enjoy sufficient and effective protection including protection against refoulement, their applications shall be considered inadmissible and the actions for the applicant's removal to the first country of asylum shall be initiated. However, the applicant shall be allowed to stay in Turkey until the date when the removal takes place. This situation shall be notified to the applicant. In case the applicant is not admitted by the first country of asylum, the actions regarding the application shall be resumed.

Applicants arriving from a safe third country

ARTICLE 74 –

- (1) In cases where it is established that applicant has arrived from a safe third country in which he/she has lodged an [international protection] application or in which it would have been possible to lodge an international protection claim that could have resulted in the granting of appropriate protection in compliance with the Convention, the application shall be considered inadmissible and the actions for their removal to the safe third country shall be initiated. However, the applicant shall be allowed to stay in Turkey until the date when the removal takes place. This situation shall be notified to the applicant. In case the applicant is not admitted by the safe third country, the actions regarding the application shall be resumed.
- (2) Countries meeting the below stated criteria shall be considered as a safe third country:
 - a) the lives or freedoms of persons are not under threat on account of their race, religion, nationality, membership of a particular social group or, political opinion;
 - b) implement the principle of non-refoulement with regard to countries where persons may be subjected to torture, inhuman or degrading punishment or treatment;
 - c) provide the opportunity to apply for refugee status, and when the person is granted refugee status, the possibility to provide appropriate protection in compliance with the Convention;
 - ç) ensure that there is no risk of being subject to serious harm
- (3) The assessment of whether or not a country is a safe third country for the applicant shall be made on case by case basis for each applicant, including the assessment of connections between the person and the country according to which it would be reasonable to return the applicant to the third country concerned.

Interview

ARTICLE 75 –

- (1) An in person interview shall be conducted with the applicant within thirty days from the date of registration, with a view to reach an effective and fair decision. The applicant shall be given the opportunity to express him or herself in the best possible manner while confidentiality shall be respected. However, where the presence of family members is required, the interview may be conducted with the participation of family members, upon consent of the applicant. Upon request of the applicant, his/her lawyer may attend the interview as an observer.
- (2) The applicant shall cooperate with the officials, and submit all information and documents in support of the application to receive international protection.
- (3) Special circumstances of applicants with special needs shall be taken into consideration during interviews with them. Interviews with minors may be conducted in the presence of a psychologist, child development specialist, social worker or, their parent or legal representative.

- (4) In case the interview cannot be conducted, a new interview date shall be scheduled and notified to the applicant. The interval between interviews shall be at least ten days.
- (5) Additional interviews may be conducted with applicants when considered necessary.
- (6) Interviews may be recorded visually or audibly. In such cases the interviewed persons shall be informed. At the end of each interview, an interview report shall be drafted and a copy shall be handed to the person interviewed.

Identity document for international protection applicant

ARTICLE 76 –

- (1) Upon completion of the interview, the applicant and, if any, accompanying members of his family, shall be issued an International Protection Applicant Identity Document valid for six months indicating the international protection application and bearing foreigner identification number. For those when the [assessment of the] application could not be finalised, the identity document shall be extended for a validity period of six months.
- (2) Identity document shall not be issued to those whose applications are subject to the provisions of Articles 72 and 79 and to their family members.
- (3) The form and content of the identity document shall be determined by the Directorate General.
- (4) The identity document shall substitute a residence permit and shall not be subject to any fee.

Withdrawal of the application or considered withdrawn

ARTICLE 77 –

- (1) The application shall be considered withdrawn and the assessment shall be terminated in following cases where the applicant:
 - a) declares the application withdrawn in writing;
 - b) does not appear at the interview three consecutive times without excuse;
 - c) absconds from the place where held under administrative detention;
 - c) fail to comply with the reporting obligation three consecutive times without excuse, do not show up in the designated place of residence or, leave the place of residence without permission;
 - d) objects to the collection of personal data;
 - e) does not comply with his/her obligations at registration and interview.

Decision

ARTICLE 78 –

- (1) The [assessment of the] application shall be finalised no later than six months as of the date of its registration by the Directorate General. Where a decision cannot be reached within this period the applicant shall be informed.
- (2) Decisions shall be made on individual consideration. Without prejudice to paragraph six of Article 64, an application lodged on behalf of a family shall be evaluated as a single application and the decision shall apply to the whole family.
- (3) The personal circumstances of the applicant and current general conditions in the country of origin [nationality] or former [habitual] residence shall be taken into consideration in making the decision;

- (4) When the applicant can be provided with protection against the threat of persecution or serious harm in a certain region of the country of citizenship or former residence, and if the applicant is in a condition to safely travel to and settle in that region of the country, it may be decided that the applicant does not need international protection.
- (5) Emergence of the circumstances defined in paragraph four does not prevent the application from undergoing a full assessment.
- (6) The decision shall be notified to the concerned or, to his/her legal representative or lawyer. The notification of refusal shall include the material reasons and legal grounds for such decision. If the concerned person is not represented by a lawyer, the person or his/her legal representative shall be informed of the consequence of the decision, procedures and time limits for appeal.

Accelerated procedure

ARTICLE 79 –

- (1) Applications shall be evaluated under accelerated procedure in cases where the applicant:
 - a) has never mentioned elements that would require international protection when presenting reasons while lodging the application;
 - b) misled the authorities by presenting untrue or misleading information or documents or, by withholding information or documents that might negatively impact the decision;
 - c) has destroyed or disposed of identity or travel documents in bad faith in order to make determination of identity or citizenship difficult;
 - ç) has been placed under administrative detention pending removal;
 - d) has applied solely to postpone or prevent the implementation of a decision that would lead to his/her removal from Turkey;
 - e) pose a public order or public security threat or, has previously been removed from Turkey on such grounds;
 - f) repeats the application after the [initial] application is considered to have been withdrawn.
- (2) Applicant whose application is evaluated under accelerated procedure shall be interviewed no later than three days as of the date of application. The [assessment of the] application shall be finalised no later than five days after the interview.
- (3) Of those applications evaluated pursuant to this article the ones that would need a longer assessment, might be removed from the accelerated procedure.
- (4) Applications by unaccompanied children shall not be evaluated under accelerated procedure.

Administrative review and judicial appeal

ARTICLE 80 –

- (1) The following provisions shall apply in cases where an administrative review or judicial appeal is sought against the decisions made pursuant to the provisions stipulated in this Part:
 - a) The concerned person, his/her legal representative or lawyer may appeal to the International Protection Assessment Commission within ten days as of the notifications. However, decisions pursuant to articles 68, 72 and 79 can only be subject to judicial appeal.
 - b) The decision on the administrative review shall be notified to the concerned, to his/her legal representative or lawyer. In case of a negative decision, and if the concerned person is not

represented by a lawyer, the person or his/her legal representative shall be informed about the outcome of the decision, procedures and time limits for appeal.

- c) The Ministry may regulate the administrative review procedures against the decisions.
- ç) Save for the judicial appeal mechanism provided for in Article 68, the concerned person, his/her legal representative or lawyer may appeal against the decisions made pursuant to Articles 72 and 79 within fifteen days following the notification of the decision, and within thirty days following the notification of other administrative decisions and actions before the competent administrative court.
- d) Applications before the court under Articles 72 and 79 shall be decided within fifteen days. The decision of the court shall be final.
- e) The person shall be allowed to stay in the Turkey until the completion of the review process or judicial proceedings.

Legal services and counselling

ARTICLE 81 –

- (1) Applicants and international protection beneficiaries may be represented by a lawyer regarding activities and actions stipulated in this Part, provided that the [attorney's] fee is covered by them.
- (2) In cases where the applicant and international protection beneficiary is unable to afford the attorney's fee for their judicial appeals regarding actions and activities stipulated in this Part, legal assistance shall be provided pursuant to the provisions on legal assistance stipulated in the Attorneyship Law № 1136.
- (3) Applicant and international protection beneficiary may make use of counselling services provided by non-governmental organisations.

Residence of conditional refugees and subsidiary protection beneficiaries

ARTICLE 82 –

- (1) For reasons of public security and public order, the Directorate General may require conditional refugees and subsidiary protection beneficiaries to reside at a given province and report to authorities in accordance with determined procedures and periods.
- (2) Such persons shall register with the address based registration system and report their residence address to the governorate.

Identity document for international protection beneficiaries

ARTICLE 83 –

- (1) An identity document bearing the foreigner identification number shall be issued to persons granted refugee status, with three years validity period at a time.
- (2) Persons granted conditional refugee or subsidiary protection status shall be given an identity document bearing the foreigner identification number issued with one year validity period at a time.
- (3) The identity documents set out in first and second paragraphs shall substitute a residence permit and shall not be subject to any fee. The Directorate General shall determine the format and content of the identity documents.

Travel documents

ARTICLE 84 –

- (1) Refugees shall be issued the travel document stipulated in the Convention by the governorates.
- (2) Travel document requests by conditional refugees and subsidiary protection beneficiaries shall be evaluated within the scope of Article 18 of Law № 5682.

Termination of the international protection status

ARTICLE 85 –

- (1) The international protection status shall terminate in cases where the beneficiary if/when:
 - a) voluntarily re-avail themselves of the protection in their country of citizenship;
 - b) voluntarily regain the citizenship that they have been deprived of;
 - c) acquired a new nationality, and enjoy the protection of the country of their new nationality;
 - ç) voluntarily returned to the country from which they have fled or stayed outside of due to fear of persecution;
 - d) would avail himself or herself of the protection of the country of citizenship as the circumstances on which the status had been granted no longer apply;
 - e) having been a stateless person would be able to return to the country of former habitual residence as the circumstances on which the status had been granted no longer apply.
- (2) In the assessment under subparagraphs (d) and (e) of the first paragraph, it shall be taken into account whether the circumstances upon which the status was granted no longer apply or have changed significantly and permanently.
- (3) The subsidiary protection status shall also be terminated when the circumstances upon which the status has been granted no longer apply or have changed to an extent that the protection is no longer needed. [Nevertheless] whether the changes in the circumstances that led to the granting of subsidiary protection are of a significant and permanent nature shall be taken into account.
- (4) Where the circumstances stipulated in first and third paragraphs arise, the status may be re-assessed. The re-assessment of the status shall be notified to the person together with its reasons in writing, following which the person shall be given the opportunity to present the reasons for the need of continuation of the status, verbally or in writing
- (5) The decision to terminate the international protection status, together with the material reasons and legal grounds, shall be notified to the concerned, to his/her legal representative or lawyer. If the concerned person is not represented by a lawyer, the persons or his/her legal representative shall be informed of the consequence of the decision, procedures and time limits for appeal.

Cancellation of the international protection status

ARTICLE 86 –

- (1) The international protection status shall be cancelled in cases where beneficiaries:
 - a) by way of presenting false documents, fraud, deceit or, withholding facts that led to the granting of the status;
 - b) following the granting of the status, are found to be among those who should have been excluded under Article 64.
- (2) The decision to cancel the international protection status, together with the material reasons and

legal grounds, shall be notified to the concerned, to his/her legal representative or lawyer. If the concerned person is not represented by a lawyer, the person or his/her legal representative shall be informed of the consequence of the decision, procedures and time limits for appeal.

Support for voluntary return

ARTICLE 87 –

- (1) Material and financial support may be provided to those applicants and international protection beneficiaries who would wish to voluntarily return,
- (2) The Directorate General may carry out the voluntary repatriation activities in cooperation with international organisations, public institutions and agencies, and civil society organisations.

SECTION THREE

Rights and Obligations

General principles concerning rights and obligations

ARTICLE 88 –

- (1) International protection beneficiaries shall not be subject to the reciprocity principle.
- (2) The rights and benefits granted to applicants, persons whose application has been refused or international protection beneficiaries shall not be construed to provide more rights and benefits than those accorded to Turkish Citizens.

Access to assistance and services

ARTICLE 89 –

- (1) Applicant or international protection beneficiary and family members shall have access to primary and secondary education.
- (2) Access to social assistance and services may be renewed to applicants or international protection beneficiaries who are in need.
- (3) For those applicants or international protection beneficiaries who:
 - a) are not covered with any medical insurance and do not have financial means [to afford medical services] provisions of the Social Security and Universal Medical Insurance Law № 5510 of 31/05/2006 shall apply. For the payment of the premiums on behalf of persons to benefit from the universal medical insurance, funds shall be allocated to the budget of the Directorate General. Persons, whose premiums are paid by the Directorate General, shall be asked to contribute fully or partially in proportion to their financial means.
 - b) those who at a later date would be found to already have had medical insurance coverage or the financial means or, to have applied [for asylum] for the sole purpose of receiving medical treatment shall be reported to the Social Security Authority within ten days at the latest for termination of their universal health insurance and the expenditures related to the treatment and medication shall be reimbursed from them.
- (4) With respect to access to the labour market:
 - a) an applicant or a conditional refugee may apply for a work permit after six months following the lodging date of an international protection claim.

- b) the refugee or the subsidiary protection beneficiary, upon being granted the status, may work independently or be employed, without prejudice to the provisions stipulated in other legislation restricting foreigners to engage in certain jobs and professions. The identity document to be issued to a refugee or a subsidiary protection beneficiary shall also substitute for a work permit and this information shall be written on the document.
 - c) access of the refugee and the subsidiary protection beneficiary to the labour market may be restricted for a given period, where the situation of the labour market and developments in the working life as well as sectoral and economic conditions regarding employment necessitate, in agriculture, industry or, service sectors or a certain profession, line of business or, administrative and geographical areas. However, such restrictions shall not apply to refugees and subsidiary protection beneficiaries who have been residing in Turkey for three years; are married to Turkish citizens; or, have children with Turkish citizenship.
 - ç) the principles and procedures governing the employment of applicants or international protection beneficiaries shall be determined by the Ministry of Labour and Social Security in consultation with the Ministry.
- (5) Other than those falling under Articles 72 and 79, an applicant that would be determined to be in need may be provided with an allowance with the assent of the Ministry of Finance, in accordance with the principles and procedures to be determined by the Ministry.

Obligations

ARTICLE 90 –

- (1) In addition to the obligations stipulated in this Part, applicant and international protection beneficiary shall:
- a) report their most current employment status within thirty days;
 - b) report their income as well as [possession of] any movable and immovable property within thirty days;
 - c) report any changes in their address, identity, and civil status within twenty days;
 - ç) fully or partially reimburse the costs of any services, assistance and other benefits provided, where it is determined to have been unjustly received;
 - d) comply with the requirements of the Directorate General pursuant to the provisions of this Part.
- (2) Save for the right of access education and right of primary health care, restriction to enjoy other rights may be imposed on those who do not abide by the obligations set out in this Part and on those whose international protection claim has been refused. Such restrictions shall be evaluated on a case by case basis. The decision shall be notified to the concerned or to his/her legal representative or lawyer in writing. If the concerned person is not represented by a lawyer, the concerned person or his/her legal representative shall be informed of the consequence of the decision, procedures and time limits for appeal.

SECTION FOUR

Other Provisions on Temporary Protection and International Protection

Temporary protection

ARTICLE 91 –

- (1) Temporary protection may be provided for foreigners who have been forced to leave their country, cannot return to the country that they have left, and have arrived at or crossed the borders of Turkey in a mass influx situation seeking immediate and temporary protection.
- (2) The actions to be carried out for the reception of such foreigners into Turkey; their stay in Turkey and rights and obligations; their exit from Turkey; measures to be taken to prevent mass influxes; cooperation and coordination among national and international institutions and organisations; determination of the duties and mandate of the central and provincial institutions and organisations shall be stipulated in a Directive to be issued by the Council of Ministers.

Cooperation in international protection procedures

ARTICLE 92 –

- (1) The Ministry may cooperate with the United Nations High Commissioner for Refugees, International Organisation for Migration, and other international organisations and non-governmental organisations for issues related to the international protection procedures set out in this Part, within the framework of the Law on the Implementation and Coordination of International Relations № 1173 of 05/05/1969.
- (2) The necessary cooperation shall be undertaken with United Nations High Commissioner for Refugees with regard its duty to supervise the implementation of the provisions of the Convention. The Ministry is authorised to determine actions regarding international protection, application, assessment, and decision-making within the scope of this Law and, to this end, to conclude protocols with the United Nations High Commissioner for Refugees that are not of an international agreement nature, in consultation with the Ministry of Foreign Affairs.
- (3) The United Nations High Commissioner for Refugees access to international protection applicants, including at border gates shall be facilitated and, subject to the consent of the applicant, to the information concerning the concerned application shall also be facilitated. The United Nations High Commissioner for Refugees may submit its views to the authorities at every stage of the application.

Country of origin information

ARTICLE 93 –

- (1) In assessing international protection claims, up-to-date information shall be compiled from United Nations High Commissioner for Refugees and other sources with respect to the countries of origin, residence and transit in order to determine the accuracy of the claims put forward by applicants to ensure an effective and fair decision.
- (2) The establishment of the country of origin information system; collection and storage of information; operation of the system; and access permissions of the relevant public institutions and agencies shall be carried out in line with the principles and procedures to be determined by the Directorate General.

Confidentiality and access to personal files

ARTICLE 94 –

- (1) All information and documents pertaining to applicants and international protection beneficiaries shall be confidential.

- (2) However, applicants and international protection beneficiaries as well as their legal representative or lawyer may examine or obtain a copy of the documents in the personal file pertaining to the applicant or international protection beneficiary. Documents relating to the protection of national security and public order and prevention of crime cannot be examined and handed over.

Reception and accommodation centres

ARTICLE 95 –

- (1) Applicants and international protection beneficiaries shall provide their own accommodation.
- (2) The Directorate General may establish reception and accommodation centres to meet the accommodation, food, healthcare, social and other needs of applicants and international protection beneficiaries.
- (3) Priority shall be given to the accommodation of persons with special needs.
- (4) The governorates shall operate the reception and accommodation centres. The Directorate General may outsource the operation of these centres to public institutions and agencies, the Turkish Red Crescent Association or, non-profit associations that have expertise in the field of migration through a protocol.
- (5) Applicants or international protection beneficiaries and their family members residing outside of the reception and accommodation centres may be availed of the services provided at such centres.
- (6) Services provided at reception and accommodation centres may also be outsourced.
- (7) The unity of families staying at the centres shall be preserved to the extent possible.
- (8) Representatives of non-governmental organisations that have expertise in the field of migration may visit the reception and accommodation centres upon permission of the Directorate General.
- (9) The principles and procedures related to the establishment, management and operation of reception and accommodation centres shall be stipulated in a Directive.

PART FOUR COMMON PROVISION REGARDING FOREIGNERS AND INTERNATIONAL PROTECTION

Harmonization

ARTICLE 96 –

- (1) The Directorate General may, to the extent that Turkey's economic and financial capacity deems possible, plan for harmonization activities in order to facilitate mutual harmonization between foreigners, applicants and international protection beneficiaries and the society as well as to equip them with the knowledge and skills to be independently active in all areas of social life without the assistance of third persons in Turkey or in the country to which they are resettled or in their own country. For these purposes, the Directorate General may seek the suggestions and contributions of public institutions and agencies, local governments, non-governmental organisations, universities and international organisations.
- (2) Foreigners may attend courses where the basics of political structure, language, legal system,

culture and history of Turkey as well as their rights and obligations are explained.

- (3) The Directorate General shall promote the courses related to access to public and private goods and services, access to education and economic activities, social and cultural communications, and access to primary healthcare services and, awareness and information activities through distant learning and similar means in cooperation with public institutions and agencies and non-governmental organisations,.

Obligation to respond to a summons

ARTICLE 97 –

- (1) Foreigners, applicants and international protection beneficiaries may be summoned to the relevant governorate or Directorate General for reasons of:
 - a) examining their entry into or stay in Turkey;
 - b) possible removal decision to be issued;
 - c) notification of actions concerning the implementation of this Law.

In cases where foreigners do not respond to summons or, where there are strong reasons to believe that they will not respond, law enforcers may hold such foreigners without a prior summons. This action shall not be considered as administrative detention and the period for information gathering shall not exceed four hours.

Responsibility of carriers

ARTICLE 98 –

- (1) Carriers shall be responsible with:
 - a) returning the foreigners that they have transported to the border gates for entry into or transit from Turkey, in cases where foreigners are refused entry into or transit to Turkey for any reason whatsoever, to the country they came from or to a country where they shall definitely be admitted;
 - b) ensuring the travel to and from of escorts in cases where escorting the foreigner is considered necessary;
 - c) checking the documents and permissions of the persons they carry.
- (2) **(Annex: 3/10/2016-KHK-676/37 article)** The Directorate General may request all information of passengers and crew members from the carriers that bring passengers to the border gates, take passengers from the border gates and transport passengers within Turkey prior to their departure, during departure time and after their departure.
- (3) The principles and procedures concerning the responsibilities listed in the first and the second paragraphs shall be stipulated in a Directive to be jointly determined by the Ministry and the Ministry of Transport, Maritime and Communications.

Personal data

ARTICLE 99 –

- (1) The Directorate General or governorates shall collect, protect, store and use personal data pertaining to foreigners, applicants and international protection beneficiaries pursuant to the relevant legislation and international agreements to which Turkey is a party to.

Notification

ARTICLE 100 –

- (1) The notification actions formalities related to this Law shall be carried out pursuant to the provisions of the Notifications Law № 7201 of 11/02/1959.
- (2) The principles and procedures concerning the implementation of this Article shall be stipulated in a Directive, taking into consideration that the concerned persons are foreigners and, if any, their special circumstances.

Authorized administrative courts

ARTICLE 101 –

- (1) In cases where the implementation of this Law is appealed to an administrative court and if there is more than one administrative court in a given location, the Supreme Council of Judges and Prosecutors shall determine the competent administrative court for such appeals.

Administrative fines

ARTICLE 102 –

- (1) Where other applicable laws do not provide for a higher penalty, the following administrative fines shall be imposed:
 - a) Two thousand Turkish Liras to foreigners that, in violation of Article 5, illegally enter into or exit from Turkey or, attempt to do so;
 - b) One thousand Turkish Liras to those who have entered into Turkey despite an entry ban to Turkey issued according to the first and second paragraphs of Article 9;
 - c) One thousand Turkish Liras to those that do not leave Turkey within the period stipulated in the first paragraph of Article 56;
 - ç) One thousand Turkish Liras to those who have escaped during the actions set out in Articles 57, 58, 60 and 68.
- (2) Where a misdemeanour punishable by an administrative fine is committed again within one calendar year the fine shall increase by one half.
- (3) The enforcement of the administrative fines set out in this Article shall not prevent the enforcement of other administrative measures stipulated in this Law.
- (4) The governorates or law enforcement units shall enforce the administrative fines in this article. Administrative fines shall be paid within thirty days of the date of notification.

PART FIVE

DIRECTORATE GENERAL OF MIGRATION MANAGEMENT

SECTION ONE

Establishment, Duties and Mandate

Establishment

ARTICLE 103 –

- (1) The Directorate General of Migration Management has been established under the Ministry of Interior in order to implement migration policies and strategies, ensure coordination among relevant agencies and organisations, and carry-out functions and actions related to the entry into, stay in and exit from of foreigners in Turkey as well as their removal, international protection, temporary protection and the protection of victims of human trafficking.

Duties and Mandate

ARTICLE 104 –

- (1) The duties and mandate of the Directorate General of Migration Management are to:
 - a) develop legislation and administrative capacity and carry-out work on developing policies and strategies in the field of migration as well as monitor and coordinate the implementation of policies and strategies determined by the Council of Ministers;
 - b) provide secretariat services for the Migration Policies Board and follow up on the implementation of the decisions of the Board;
 - c) carry-out activities and actions related to migration;
 - ç) carry-out duties assigned to the Ministry pursuant to the Settlement Law № 5543 of 19/09/2006;
 - d) carry-out activities and actions for the protection of victims of human trafficking;
 - e) determine stateless persons in Turkey and carry-out activities and actions related to such persons;
 - f) carry-out activities and actions related to harmonization;
 - g) carry-out activities and actions related to temporary protection;
 - ğ) ensure coordination among law enforcement units and relevant public institutions and agencies, develop measures, and follow up on the implementation of such measures to combat irregular migration;
 - h) assist public institutions and agencies in scheduling and developing projects related to migration, evaluate and approve project proposals, monitor the work and on-going projects, support the implementation of such work and projects to ensure their compliance with international standards; and,
 - ı) carry-out other duties assigned through legislation.
- (2) The Directorate General is authorised to ensure cooperation and coordination with public institutions and agencies, universities, local governments, non-governmental organisations, and private and international organisations in relation to its duties.
- (3) The relevant agencies and organisations shall, without delay, respond to the requests to provide any information and documents by the Directorate General pursuant to this Law.

SECTION TWO

Migration Policies Board

Migration Policies Board and its duties

ARTICLE 105 –

- (1) The Migration Policies Board operates under the chairmanship of the Minister and is comprised of the undersecretaries of the Ministry of Family and Social Policies, Ministry for European Union, Ministry of Labour and Social Security, Ministry of Foreign Affairs, Ministry of Interior, Ministry of Culture and Tourism, Ministry of Finance, Ministry of National Education, Ministry of Health, and Ministry of Transport, Maritime and Communications as well as the President of the Presidency of the Turks Abroad and Related Communities and the Director General for Migration Management. Depending on the agenda of the meeting, representatives from the relevant ministries, other national or international agencies and organisations, and non-governmental organisations may be invited to the meetings.
- (2) The Board shall convene at least once a year upon the call of the Chairman. In cases when considered necessary, the Board may convene extraordinarily upon the call of the Chairman. The Chairman shall determine the agenda of the meeting in consultation with the members. The Directorate General shall serve as the secretariat of the Board.
- (3) The Board shall:
 - a) determine Turkey's migration policies and strategies and follow up on their implementation;
 - b) develop strategy documents as well as programme and implementation documents on migration;
 - c) identify methods and measures to be employed in case of a mass influx;
 - ç) determine principles and procedures concerning foreigners to be admitted en mass to Turkey on humanitarian grounds, as well as the entry into and stay of such foreigners in Turkey;
 - d) determine principles concerning the foreign labour force needed in Turkey, in line with the suggestions of the Ministry of Labour and Social Security.⁶
 - e) determine conditions of the long-term residence permits to be issued to foreigners;
 - f) determine framework for effective cooperation in the field of migration with foreign countries and international organisations and the relevant studies in this field;
 - g) make decisions to ensure coordination among public institutions and agencies working in the field of migration.

SECTION THREE

Central, Provincial and Overseas Organisations, Service Units

⁶ Statement of "shall determine principles concerning the foreign labour force needed in Turkey, in line with the suggestions of the Ministry of Labour and Social Security, as well as the foreign seasonal workers to be employed in agriculture, pursuant to views of the Ministry of Food, Agriculture and Livestock" taking place in this subparagraph of Article 27 of the Law dated 28/7/2016 No. 6735 has been changed as "concerning the foreign labour force needed in Turkey, in line with the suggestions of the Ministry of Labour and Social Security."

Organisation

ARTICLE 106 –

- (1) The Directorate General is comprised of the central, provincial and overseas organisations.
- (2) The central organisation of the Directorate General is provided in annex Table (I).

Director General

ARTICLE 107 –

- (1) The Director General is the most senior official at the Directorate Generals and reports directly to the Minister.
- (2) The Director General shall:
 - a) manage the Directorate General pursuant to the legislation, and in accordance with Government programme and policies;
 - b) carry-out necessary legislative work within mandate of the Directorate General, and to manage the Directorate General in accordance with the defined strategies, objectives and performance criteria;
 - c) inspect the activities and actions carried out by the Directorate General, review the management systems, supervise the effectiveness of the organisational structure and management procedures, and ensure the improvement of the management;
 - ç) determine medium and long term strategies and policies of the Directorate General, and, to this end, ensure cooperation with international organisations, universities and non-governmental organisations;
 - d) ensure cooperation and coordination with public institutions and agencies for areas within its mandate.
- (3) Two Deputy Director Generals may be appointed to assist the Director General in the management and coordination of the Directorate General. The Deputy Director Generals shall undertake the duties assigned by the Director General and shall report to the Director General.

Departments

ARTICLE 108 –

- (1) The departments of the Directorate General and their duties are as follows:
 - a) Foreigners Department shall:
 - 1) carry-out activities and actions related to regular migration;
 - 2) carry-out activities and actions related to irregular migration;
 - 3) carry-out duties assigned to the Ministry pursuant to Law № 5543;
 - 4) carry-out activities and actions related to stateless persons in Turkey;
 - 5) ensure combating irregular migration through coordination among law enforcement and relevant public institutions and agencies, develop measures and follow up on the implementation of these measures;
 - 6) implement the provisions related to third country nationals and stateless persons set out in readmission agreements to which Turkey is a signatory;

- 7) carry-out other tasks assigned by the Director General.
- b) International Protection Department shall:
 - 1) carry-out activities and actions related to international protection;
 - 2) carry-out activities and actions related to temporary protection;
 - 3) collect and update information on countries of origin;
 - 4) carry-out other tasks assigned by the Director General.
- c) Department of Protection of Victims of Human Trafficking shall:
 - 1) carry-out activities and actions related to combating human trafficking and protecting victims of trafficking;
 - 2) implement projects related to combating human trafficking and protecting victims of trafficking;
 - 3) establish, operate or outsource the operation of hotlines for victims of human trafficking;
 - 4) carry-out other tasks assigned by the Director General.
- ç) Migration Policy and Projects Department shall:
 - 1) carry-out studies to determine policies and strategies in the field of migration, and monitor and coordinate the implementation of the policies and strategies;
 - 2) serve as the secretariat of the Migration Policies Board, and follow up on the implementation of the decisions of the Board;
 - 3) carry-out projects related to migration;
 - 4) assist public institutions and agencies in scheduling and developing projects related to migration, evaluate and approve project proposals, monitor the work and projects being implemented, and support the implementation of such work and projects to ensure their compliance with international standards;
 - 5) carry-out or contract migration reviews, studies and impact analyses;
 - 6) publish statistics on migration, anti-trafficking and the protection of victims, in cooperation with the Turkish Institute of Statistics;
 - 7) prepare and publish an annual migration report;
 - 8) carry-out other tasks assigned by the Director General.
- d) Harmonization and Communications Department shall:
 - 1) carry-out activities and actions related to the social harmonization of foreigners;
 - 2) inform the public on matters related to the mandate of the Directorate General and raise social awareness;
 - 3) plan and carry-out media and public relations activities;
 - 4) carry-out other tasks assigned by the Director General.
- e) Information Technologies Department shall:
 - 1) establish, operate and ensure the operation of information systems within the mandate of the Directorate General;
 - 2) carry-out the infrastructural activities and actions related to the collection, protection, storage and use of personal data covered in this Law;
 - 3) ensure communication between departments of the Directorate General, register, classify and distribute electronic documents, procure, create and develop software to meet IT and communication needs;

- 4) carry-out other tasks assigned by the Director General.
- f) International Affairs Department shall:
 - 1) ensure communication and cooperation; develop necessary connection and coordination, carry-out studies to create new areas of cooperation with other countries and international organisations on matters within the mandate of the Directorate General;
 - 2) ensure continued relations with the European Union on matters within the mandate of the Directorate General;
 - 3) carry-out the actions related to the temporary overseas assignment of Directorate General personnel;
 - 4) schedule visits of foreign delegations and officials, organise and coordinate international meetings, conferences, seminars and similar events with respect to the mandate of the Directorate General;
 - 5) monitor the activities and developments taking place abroad on matters within the mandate of the Directorate General;
 - 6) liaise with diplomatic mission officials dealing with migration matters;
 - 7) carry-out other tasks assigned by the Director General.
- g) Strategy Development Department shall:
 - 1) carry-out tasks assigned to the strategy development and financial services units pursuant to the Public Financial Management and Control Law № 5018 of 10/12/2003 and Article 15 of the Law Concerning Amendments to the Public Financial Management and Control Law, Other Laws and Decree Laws № 5436 of 22/12/2005;
 - 2) carry-out other tasks assigned by the Director General.
- ğ) Legal Counsellor shall:
 - 1) carry-out tasks assigned to the legal units pursuant to the provisions of the Decree Law Concerning the Provision of Legal services in General Budgeted Public Administrations and Special Budgeted Administrations № 659 of 26/09/2011;
 - 2) carry-out other tasks assigned by the Director General.
- h) Human Resources Department shall:
 - 1) develop human resources policy, plans, and human resources system of the Directorate General as well as establish performance criteria and make suggestions in this respect;
 - 2) carry-out assignment, transfer, promotion, retirement and similar actions for the Directorate General personnel;
 - 3) carry-out other tasks assigned by the Director General.
- ı) Support Services Department shall:
 - 1) lease and procure as well as deliver or outsource services such as cleaning, security, lighting, heating, maintenance, and transport pursuant to the provisions of Law № 5018;
 - 2) manage the moveable and immovable properties that belong to the Directorate General;
 - 3) organise and carry-out general documentation and archiving work;
 - 4) plan and carry-out civil defence, mobilisation, natural disaster and emergency services of the Directorate General;
 - 5) take necessary measures to respond to information requests made pursuant to the Law on the

Right of Information № 4982 of 09/10/2003 in an effective, swift and accurate manner;

- 6) establish, operate or ensure the operation of centres as well as shelters for victims of human rights trafficking;
- 7) carry-out other tasks assigned by the Director General.
- i) Training Department shall:
 - 1) plan and implement training activities within to the mandate of the Directorate General;
 - 2) issue academic publications;
 - 3) organise workshops, symposia, conferences and similar activities;
 - 4) keep track of and compile national and international publications, legislation, court rulings and other information and documentation, and disseminate these to the relevant departments;
 - 5) carry-out other tasks assigned by the Director General.

Provincial organisation

ARTICLE 109 –

- (1) The Directorate General is authorised to establish provincial organisations pursuant to the provisions of the applicable legislation.

Overseas organisation

ARTICLE 110 –

- (1) The Directorate General is authorised to establish overseas organisations pursuant to the Decree Law on the Overseas Organisations of Public Institutions and Agencies № 189 of 13/12/1983.
- (2) The migration counsellors appointed to the embassies shall:
 - a) ensure cooperation and coordination between the Directorate General and the agencies and institutions in the country of posting;
 - b) keep track of the developments related to matters within the mandate of the Directorate General and inform the Directorate General accordingly;
 - c) monitor the implementation of the migration legislation both in the country where they are posted and in Turkey;
 - c) establish necessary contacts and connections in the countries to which irregular migrants shall be removed or voluntarily returned in order to facilitate such procedures;
 - d) carry-out actions related to complying countries of origin information;
 - e) carry-out tasks assigned by the Directorate General to combat human trafficking and protect victims;
 - f) suggest and prepare joint project proposals on migration, counter trafficking and the protection of victims of trafficking, and follow up on the projects being implemented;
 - g) carry-out other tasks assigned by the Directorate General.
- (3) The migration attachés appointed to the consulates shall:
 - a) receive and finalise visa and residence permit applications lodged to the consulates;
 - b) collect information and documents related to the applications; request missing information and documents from the applicants; assess the applicants when necessary by conducting an interview and record such interviews;

- c) report visa applications that can be finalised by the consulate directly to the Consul for approval; report residence permit and visa applications that require the prior decision of the Directorate General, to the Consul for approval following the decision of the Directorate General;
- ç) provide assistance for the activities and actions related to foreigners to be removed from Turkey or voluntarily returned, in the countries of destination;
- d) monitor developments on migration in the country of posting and prepare annual reports;
- e) carry-out other tasks related to migration to be assigned by the consuls;
- f) carry-out other tasks assigned by the Directorate General.

Working groups and regulatory authority

ARTICLE 111 –

- (1) The Directorate General may establish working groups, for the implementation of services, at the central organisation upon proposal of its department heads and the approval of the Director General. The groups shall operate under the coordination of an expert to be appointed by the Director General.
- 2) The Directorate General is authorised to issue administrative regulations on matters within its duties, mandate and responsibilities.

Responsibilities of managers and transfer of authority

ARTICLE 112 –

- (1) Managers at different levels of the Directorate General shall report to senior levels in performing their tasks pursuant to the legislation, strategic plans and programmes, performance criteria and service quality standards.
- (2) The Director General and managers of all levels at the Directorate General may transfer some of their powers to subordinate levels, provided that the limits are clearly defined in writing. The transfer of powers shall be communicated to the relevant parties using appropriate means.

SECTION FOUR

Permanent Boards and Committees and Temporary Committees

Permanent boards and committees

ARTICLE 113 –

- (1) The permanent boards and committees of the Directorate General include:
 - a) Migration Advisory Board;
 - b) International Protection Assessment Committee;
 - c) Coordination Board on Combating Irregular Migration.
- (2) The eligibility criteria for permanent board and committee members, the dates and venues of their ordinary and extraordinary meetings, their working and decision-making principles and procedures as well as other matters relating to the boards and committees shall be stipulated in a Directive.
- (3) The Directorate General shall provide the secretariat and support services for the permanent boards and committees.

Migration Advisory Board

ARTICLE 114 –

- (1) The Migration Advisory Board, chaired by the Ministry's Undersecretary or a deputy undersecretary to be assigned by the Undersecretary, shall consist of the representatives of the Turkish Human Rights Institution, Ministry for European Union, Ministry of Labour and Social Security, Ministry of Foreign Affairs, that are at least at the level of head of department, the Director General, Deputy Director Generals, the heads of the Foreigners, International Protection, Protection of Victims of Human Trafficking, Harmonization and Communications, Migration Policies and Projects Departments, the representative of United Nations High Commissioner for Refugees in Turkey, the representative of International Organisation for Migration in Turkey, five scholars specialised on migration matters, and the representatives of five non-governmental organisations operating in the field of migration. The Chairman of the board may invite migration experts from Turkey or abroad to their meetings to consult their opinion. The Board shall hold ordinary meetings twice a year. The Board may hold extraordinary meetings upon the call of the Chairman. The Chairman shall determine the agenda of the meeting.
- (2) The scholars and representatives of non-governmental organisations shall be selected pursuant to the principles and procedures to be determined by the Ministry.
- (3) The Board shall:
 - a) monitor the migration practices and make recommendations;
 - b) consider new regulation in planning in the field of migration;
 - c) study regional and international developments in the field of migration policies and law and assess their implications for Turkey;
 - ç) consider legislation and implementation related to migration;
 - d) establish sub-committees in the field of migration, and assess reports resulting from their deliberations.
- (4) The recommendations of the Board shall be taken into consideration by the Directorate General and public institutions and agencies.

International Protection Assessment Committee

ARTICLE 115 –

- (1) The International Protection Assessment Committee, chaired by a representative of the Directorate General, shall consist of representatives designated by the Ministry of Justice and Ministry of Foreign Affairs, and a migration expert. United Nations High Commissioner for Refugees representative in Turkey may be invited to the committee as an observer. One or more committees may be established at the central or provincial organisation of the Directorate General. The representative of the Directorate General and migration expert shall be assigned for a period of two years whereas other members shall be assigned for a minimum of one year as permanent and substitute members. No additional task shall be assigned to the Chairman and members of the Committee during their tenure.
- (2) The Committee shall:
 - a) assess and decide on appeals against decisions on international protection claims as well as other decisions concerning applicants and international protection beneficiaries, with the exception of administrative detention decision, decisions related to inadmissible applications, and decisions

- made as a result of accelerated procedure;
- b) assess and decide on appeals against decisions concerning the cancellation of international protection.
 - (3) The Committees shall work directly under the coordination of the Directorate General.

Coordination Board on Combating Irregular Migration

ARTICLE 116 –

- (1) The Coordination Board on Combating Irregular Migration, chaired by the Undersecretary of the Ministry or a deputy undersecretary to be assigned by the Undersecretary, shall consist of representatives from the General of Staff, Ministry of Labour and Social Security, Ministry of Foreign Affairs, Undersecretariat of the National Intelligence Undersecretariat, and the relevant law enforcement units that are at least at the level of head of department, and the Directorate General.
- (2) Representatives of the central and provincial units of relevant public institutions and agencies, non-governmental organisations and international organisations as well as relevant experts may be invited to the Board meetings. The Board shall convene every six months with an agenda. The Board may also convene ad hoc upon the call of the Chairman. The Chairman shall determine the agenda of the meeting by consulting its members.
- (3) The Board shall:
 - a) ensure coordination among law enforcement units and relevant public institutions and agencies to effectively combat irregular migration;
 - b) determine the routes for illegal entry into and exit from Turkey and develop counter measures;
 - c) improve the measures against irregular migration;
 - ç) plan the development of legislation related to combating irregular migration and monitor its implementation.
- (4) Public institutions and agencies shall primarily take the decisions of the Board in consideration.

Temporary committees

ARTICLE 117 –

- (1) The Directorate General may establish temporary committees upon approval of the Minister and with the participation of public institutions and agencies, non-governmental organisations, international organisations and relevant experts to carry-out work within its mandate.
- (2) The composition of the temporary committees, the number of members, their appointment and eligibility criteria, the date and venue of its ordinary and extraordinary meetings, working and decision-making principles and procedures as well as other matters concerning the boards shall be stipulated in a Directive.

SECTION FIVE

Provisions on Appointment and Personnel

Appointments and assignments

ARTICLE 118 –

- (1) Appointment of the Director General and Deputy Director Generals shall be through a joint decision, and appointments to other positions shall be made upon proposal of the Director General. All appointments shall be subject to the Minister's approval.
- (2) Personnel working at public institutions and agencies may be temporarily assigned to the Directorate General, with their consent of and that of their institutions, in order to work in areas within the mandate of the Directorate General. Assignments shall be made provided that the relevant personnel's institution covers the salary, allowance, salary increases and compensation as well as other remuneration and social benefits. Personnel assigned as such shall be considered to be on paid leave from their own institutions. Their service at the Directorate General shall count towards their seniority. Such personnel shall continue to work under their actual position. Such personnel shall be promoted in due time without further formalities. The number of personnel assigned as such cannot exceed thirty per cent of the current number of personnel.

Provisions pertaining to personnel

ARTICLE 119 –

- (1) Migration Experts and Assistant Migration Experts may be employed in the central organisation of the Directorate General, and Provincial Migration Experts and Provincial Assistant Migration Experts may be employed for the provincial units.
- (2) In order to be appointed as an Assistant Migration Expert and Provincial Assistant Migration Expert, in addition to satisfying the conditions set out in Article 48 of the Civil Servants Law № 657 of 14/07/1965, persons shall have graduated from a faculty providing at least four years of education in the fields of law, political science, economics, business administration and international relations or from a faculty stipulated in the Directive or, from a higher education institution in Turkey or abroad, the equivalence of which has been recognised by the Higher Education Board, and shall have passed the relevant competitive test. The competitive test to become an Assistant Migration Expert and Provincial Assistant Migration Expert shall be comprised of written tests and interviews.
- (3) The provisions stipulated in Article 41 of Law № 657 shall apply to the recruitment of Assistant Migration Experts, the relevant competitive tests, dissertations, proficiency exams as well as their appointment as experts.
- (4) Those appointed as Provincial Assistant Migration Expert shall be entitled to take the proficiency test provided that they have worked de facto for at least three years. Those who fail the test or do not take the test without a valid excuse shall be given a second right to retake the test within one year. Those who fail or do not take the second test shall be stripped of their title as a Provincial Assistant Migration Expert and shall be appointed to an appropriate clerical position. The principles and procedures governing the recruitment of Provincial Migration Experts and Provincial Assistant Migration Experts, the relevant competitive test, the establishment and composition of the committees, the proficiency tests, the appointment and assignment of personnel as well as other matters shall be stipulated in a Directive.
- (5) Foreign experts may be employed at the Directorate General on a contractual basis for positions that require special knowledge and expertise. The Director General shall determine the net monthly wage of such personnel, provided that the amount does not exceed the net monthly wage

paid to a Grade I Migration Expert in accordance with their remuneration rights. Such personnel shall be considered to be social insurance holders pursuant to the subparagraph (a) of the first paragraph of Article 4 of Law № 5510. The number of personnel to be employed as such cannot exceed one per cent of the total number of personnel at the Directorate General. The principles and procedures regarding their recruitment shall be stipulated in a Directive.

- (6) The Director General and Deputy Directors General, the heads of the Migration Policies and Projects, Harmonization and Communications, External Affairs, Strategy Development, and Support Services Departments, and migration advisors at the Directorate General shall be appointed or assigned from among the civil administration services class personnel.

Positions

ARTICLE 120 –

- (1) The determination, formation, use and cancellation of positions at the Directorate General as well as other matters related to the positions shall be regulated pursuant to the provisions of the Decree Law on General Positions and Related Procedures № 190 of 13/12/1983.

SECTION SIX

Miscellaneous Provisions

Directive

ARTICLE 121 –

- (1) The principles and procedures related to the implementation of this Law shall be stipulated in a Directive.

Provisions referenced

ARTICLE 122 –

- (1) References made to the Law on the Residence and Travel of Foreigners in Turkey № 5683 of 15/07/1950 in other legislation shall be considered as made to this Law. The term “residence missive” used in the context of foreigners in other legislation shall be construed to mean “residence permit” as laid down in this Law.

Provisions amended

ARTICLE 123 –

- (1) The phrase “to citizens and foreigners” in Article 34 of the Passport Law No 5682 has been amended as “to citizens”.
- (2) The following subparagraphs have been added to the first paragraph of Article 88 of the Law on Legal Fees № 492 of 02/07/1964:
 - “f) long-term residence permit holders;
 - g) victims of the crime of human trafficking.”
- (3) In the Civil Servants Law № 657 of 14/07/1965:
 - a) In the eleventh subparagraph of paragraph (A) of the section titled “Common Provisions” of Article 36, “Assistant Migration Experts, Provincial Assistant Migration Experts” has been added

- to follow “Energy and Natural Resources Assistant Experts”, and “Migration Expert, Provincial Migration Expert” has been added to follow “Energy and Natural Resources Expert”;
- b) In sub section titled “II– Indemnities” of section titled “A– Special Service Indemnity” of subparagraph (ğ) of Article 152: “Migration Experts” has been added to follow “Higher Education Council Experts”; in subparagraph (h): “Provincial Migration Experts” has been added to follow “Ministry of Interior Provincial Planning Experts”.
 - c) In Annex I, in subparagraph (g) of the Additional Indicator Table “I– General Administrative Services Grades”: the expression “Migration Experts” has been added to follow “EU Affairs Experts”; in subparagraph (h): the expression “Provincial Migration Experts” has been added to follow “Ministry of Interior Planning Experts”.
- (4) The following subparagraph has been added to follow the subparagraph (d) of the first paragraph of Article 29 in Law on the Organisation and Duties of the Ministry of Interior № 3152 on 14/02/1985:
- “e) Directorate General for Migration Management.”
- (5) In the Law on Work Permits for Foreigners № 4817 of 27/02/2003:
- a) in the first paragraph of Article 5 “the duration of the residence permit” has been removed from the text.
 - b) the following subparagraph has been added to follow the first paragraph of Article 8:
 - “1) To foreigners and stateless persons that have claimed international protection and have been granted a conditional refugee status by the Ministry of Interior,”
 - c) The first paragraph of Article 12 has been amended to read as follows:

“Foreigners shall make the first application for a work permit to the consulates of the Republic of Turkey in their country of residence. The consulate shall assess the applications, in consultation with the relevant authorities, and forward these applications directly to the Ministry. The Ministry shall assess the applications according to Article 5, and issue work permits to eligible foreigners. Foreigners may stay and work in Turkey for the duration specified in the work permits issued by the consulates.”
 - ç) Subparagraph (c) of Article 14 (1) is amended to read as follows:

“c) In case the Ministry of Interior expresses a negative opinion,”
 - d) Subparagraph (a) of Article 16 (1) is amended to read as follows:

“a) In case a removal decision or entry ban to Turkey has been issued in respect of the foreigner,”
- (6) The line “55) Directorate General for Migration Management” has been added to follow line 54 in Table (I) annexed to the Law on Public Financial Management and Control № 5018 of 10/12/2003.
- (7) In the Demographic Services Law № 5490 of 25/04/2006:
- a) subparagraph (çç) of the first Paragraph of Article 3 is amended to read as follows:

“çç) Foreigners registry: is the registry where the records of persons in Turkey that have been issued a Stateless Person Identity Document or granted a residence permit valid for a minimum of ninety days for whatever reason as well as foreigners who are legally staying in Turkey and have made a request to get foreigners identification number.”
 - b) first Paragraph of Article 8 has been amended to read as follows:

“(1) The Directorate General shall register foreigners in Turkey that have been issued a residence

permit valid for a minimum of ninety days for whatever reason in the foreigners' registry. Foreigners who are legally staying in Turkey shall also be registered in the foreigners' registry upon their request. Foreigners registered in the registry shall declare all changes in their civil status to the population registry offices. This provision shall not apply to members of diplomatic missions."

(8) In the Social Security and Universal Medical Insurance Law № 5510 of 31/05/2006:

a) subparagraph (27) of the first paragraph of Article 3 has been amended as follows:

"27) International protection applicant or beneficiary of such status and stateless person: persons who are recognised as an applicant, refugee, subsidiary protection or conditional refugee status beneficiary or stateless by the Ministry of Interior,"

b) subparagraph (2) of subparagraph (c) of the first paragraph of Article 60 has been amended as follows:

"2) Persons recognised as applicants or international protection beneficiaries and stateless persons,"

c) The phrase "regarded as stateless persons and asylum seekers" in subparagraph (b) of the first paragraph of Article 61 has been amended as "regarded as having applied for or acquired the status of an international protection beneficiary or a stateless person".

(9) The positions listed in the annexed Tables (1), (2) and (3) have been created and added to Table (I) annexed to the Decree Law № 190 under the section titled "Directorate General for Migration Management".⁷

(10) "Migration Management" has been added to follow "Media and Information" in line 9 in Table (II) annexed to the Decree Law № 375 of 27/06/1989.

Legislation repealed

ARTICLE 124 –

(1) The Law on the Residence and Travel of Foreigners in Turkey № 5683 of 15/07/1950 and Articles 4, 6, 7, 8, 9, 10, 11, 24, 25, 26, 28, 29, 32, 33, 35, 36, 38, additional Article 5, first and second paragraphs of Article 5, and the second sentence of the first paragraph of Article 34 of the Passport Law № 5682 of 15/07/1950 have been repealed.

Seizure of Vehicles Used in the Offense of Smuggling of Migrants"

ANNEX ARTICLE 1 –

(1) According to the fourth paragraph of the 128th article of the Criminal Procedure Code no. 5271 dated 4/12/2004 any vehicles used in the offense of smuggling of migrants are seized.

(2) In case the presence of one of the following cases such as;

- a) Re-use of the same vehicle in the same offense during the investigation and prosecution,
 - b) Absence of the registry of the vehicle in Turkey,
 - c) Seizure of the vehicle when a significant number of migrants is transported,
 - ç) The presence of special equipment that will facilitate the commission of offense
- the seized vehicle is not returned to the owner.

In this case, if the owner of the vehicle pay the security deposit up to the value of the vehicle to the Ministry of Finance within thirty days from the date of the seizure, the vehicle is returned to the owner. Otherwise, the Ministry of Finance will immediately liquidate without waiting for the end of the investigation and prosecution. If liquidation takes place through sale, the remaining amount

⁷ Please see the Official Journal No. 28615 dated 11/4/2013 regarding the positions in this item.

after deduction of all expenses necessary for the maintenance and sale of the vehicle from the sale is deposited to the escrow account in order to proceed according to the outcome of the prosecution.

- (3) From the value of the application of the provision of the second paragraph, insurance value for land vehicles; insurance value for boat and machine insurance (sea vehicles) and market value for uninsured vehicles and air and rail vehicles will be taken into account.

Interim provisions

PROVISIONAL ARTICLE 1 –

- (1) The dossiers, hard or soft records and other documents as well as information systems, electronic projects and databases related to the mandate of the Directorate General that are kept by the Turkish National Police shall gradually be transferred to the Directorate General and the relevant provincial units. A protocol shall be concluded between the Turkish National Police and the Directorate General for such transfer within six months of the publication of this Article which shall become effective upon approval of the Minister.
- (2) One year following the publication of this Law, the movable property belonging to the reception and accommodation centres as well as the removal centres shall be considered transferred to the Directorate General and the immovable property shall be considered allocated to the Directorate General without further formalities. The actions carried out for transfer purposes shall be exempt from fees, and the documents issued shall be exempt from stamp duty. For the purposes of this Law, the Minister shall be authorised to remedy any problem that may arise in connection with the transfer of movable property, the allocation of immovable and the like.
- (3) The allocation needs to cover the Directorate General's expenses in 2013 fiscal year shall be met in accordance with subparagraph (ç) of the first paragraph of Article 6 of the Law on the Central Administration Budget for 2013, № 6363 of 20/12/2013. Personnel appointments may be made without the restrictions applicable in Law № 6363, provided that such appointments do not exceed fifty per cent of the positions created for the Directorate General of Migration Management until 31/12/2014.
- (4) The units and personnel currently carrying-out the relevant duties and services shall continue to do so until the provincial organisation of the Directorate General is completed pursuant to the principles stipulated in this Law. Pursuant to Article 118, the Directorate General may employ personnel that are in office at the time that provincial organisation is completed for a term no longer than three years as of the date of transfer, without limitation to the number of personnel set out in second paragraph of the said Article.
- (5) Pursuant to Article 118, the Directorate General may employ the personnel that have worked for at least two years at the Department of Foreigners, Borders and Asylum under the Turkish National Police and at the relevant branches of the provincial directorates for security for its central organisation for a term of three years as of the publication date of this article, without limitation to the number of personnel set out in second paragraph of the said Article.
- (6) Foreigners who lodge written application with a governorate within one year of the effective date of Part Two of this Law shall be availed of the rights granted in this Law with regard to residence permits.
- (7) Prior to the effective date of Part Three of this Law, the action regarding persons that have been granted status pursuant to the Directive on the Principles and Procedures related to Possible

Population Movements and Foreigners Arriving in Turkey either as Individuals or in Groups Wishing to Seek Asylum either from Turkey or Requesting Residence Permission in order to Seek Asylum from Another Country, effective upon Council of Ministers decision № 94/6169 of 14/09/1994, shall be carried out according to their [equivalent] status indicated in this Law, as for the actions regarding persons that have lodged an application shall be carried out pursuant to this Law. From the publication date of this Law to the effective date of Part Three, a residence permit fee shall not be charged from persons that have lodged an application and have been granted a status pursuant to the said Directive.

- (8) Until the Directives pertaining to the implementation of this Law become effective, the provisions of the current legislation that are not in conflict with this Law shall continue to apply.

Entry into force

ARTICLE 125 –

- (1) This Law shall enter into force as follows:
- a) Part Five of this Law, with the exception of Article 122, paragraphs one, two, five, and seven of Article 123, and Article 124, shall become effective upon the date of publication.
 - b) The remaining provisions shall become effective one year following the publication date.

Execution

ARTICLE 126 –

- (1) The Council of Ministers shall execute the provisions of this Law.

10/04/2013

TABLE (I)
ORGANISATION OF THE
DIRECTORATE GENERAL OF MIGRATION MANAGEMENT

Director General	Deputy Director General	Main Departments
Director General	Deputy Director General Deputy Director General	<ol style="list-style-type: none"> 1. Foreigners Department 2. International Protection Department 3. Protecting Victims of Human Trafficking Department 4. Migration Policies and Projects Department 5. Harmonization and Communications Department 6. Information Technologies Department 7. External Affairs Department 8. Strategy Development Department 9. Legal Department 10. Human Resources Department 11. Support Services Department 12. Training Department

**LIST SHOWING THE ENACTMENT DATES OF THE LEGISLATION MAKING
ADDITION AND AMENDMENT ON THE LAW NO. 6458**

Number of the law amended	Amended articles of the Law No. 6458	Date Enacted
6462	3	3/5/2013
6735	3, 21, 27, 31, 33, 34, 36, 38, 41, 105	13/8/2016
D. Legislation/676	53, 54, 98	29/10/2016