

THE RIGHT TO WORK OF ALIENS UNDER INTERNATIONAL PROTECTION IN TURKEY

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Abstract

As one of the most important fundamental rights, the right to work is supposed to be provided to all people. However fundamental rights and freedoms can be restricted to foreigners in accordance with international law and by means of laws in Turkish law as well as world practice. In this respect, the right to work of forced migrants in Turkey has been restricted from various aspects, too. Taking the fact that the Turkish geography has faced too many forced migrants in several years into consideration, the importance of labor market regulation considering those aliens has increased. That's why there has emerged several new regulations including law and regarding by-laws. In this paper, the categorization of forced migrants in Turkey has been explained just after the legal basis for restrictions of the work of aliens in general set forth. Then the types of work permits for aliens in Turkey has been discoursed because aliens are supposed to have a work permit in general which in turn means they do not have a direct access to Turkish labor

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market. After that the paper focuses on the work of forced migrants for both international protection status holders including refugees, conditional refugees, secondary protection and temporary status protection holder. The paper has been concluded with the author's personal opinions.

Keywords: *the right to work, forced migrants, international protection, temporary protection, work permit*

I. Introduction

A. The Right to Work in General

The citizenship has mostly been defined as the legal and political connection between an individual and state². Because of the said connection, a relation regarding rights and obligations emerges between them. The concept of "alien" has been built on the notion of citizenship. Though several terms are used to identify those who are not a citizen,³ Turkish law identifies the aliens as

² GÜNGÖR, Gülin, **Tabiiyet Hukuku** (Law of Nationality), Ankara, 2016, p.1; NOMER, Ergin, **Türk Vatandaşlık Hukuku** (Turkish Citizenship Law), Ankara, 2017, p.3. About that citizenship states a belonging, please also see ERDEM, Bahadır, **Türk Vatandaşlığı Hukuku** (Turkish Citizenship Law), İstanbul, 2017, p.1. In order for the doctrinal ideas about the legal nature of citizenship within the historical process please see DOĞAN, Vahit, **Türk Vatandaşlık Hukuku** (Turkish Citizenship Law), Ankara, 2017, p.9-12.

³ The terms used sometimes contradict with each other, for some examples please see ÇİÇEKLİ, Bülent, **The Legal Position of Turkish Immigrants in the European Union**, Ankara, 1998, p.127 ff.

those who do not have a citizenship connection with Turkish State⁴. In this regard, refugees, stateless(heimatlos) and other migrants are legally aliens.

The right to work is one of the universal human rights⁵. In many international legal documents, that fundamental rights must be provided to all people and equally⁶. Similarly the right to work has been entitled to all people in Turkey according to Article 49 of the Turkish Constitution⁷. However as emphasized in Article 16 of the Constitution, fundamental rights and freedoms can be restricted to foreigners in accordance with international law and by means of

⁴ Law on Aliens and International Protection, OJ. 11/4/2013, I.28615.

⁵ DOĞAN, Vahit, **Türk Yabancılar Hukuku** (Turkish Law of Aliens), Ankara, 2017, s.195. Because of the said proposition, the right to work has been examined under public rights. However the right to work also generates reciprocal rights and obligations in private law. ÇELİKEL, Aysel / ÖZTEKİN GELGEL, Günseli, **Yabancılar Hukuku** (Law of Aliens), İstanbul, 2017, p.180-181. In order for the classification of the rights and freedoms of the aliens, also see BERKİ, Osman Fazıl, **Devletler Hususi Hukuku I - Tabiyet ve Yabancılar Hukuku** (Private International Law – Law of Nationality and Aliens), Ankara, 1966, p.155-203.

⁶ For instance; 1966 International Covenant on Economic, Social and Cultural Rights (Article 6 in particular), International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families (New York, 18 December 1990), the conventions of International Labor Organization. However, many of the international conventions include escape clauses that allow states to make different regulations for citizens and those who are not citizens. ÇİÇEKLİ, Bülent, **Yabancılar ve Mülteci Hukuku** (Law of Aliens and Refugees), Ankara, 2016, p.53.

⁷ An English version of Turkish Constitution is available at https://global.tbmm.gov.tr/docs/constitution_en.pdf.

laws. In respect to this, the aliens' right to work in Turkey has been restricted from various aspects⁸.

B. The Right to Work for Aliens

In order for aliens to be able to legally work in Turkey; they in principle 1) should have the entrance conditions to enter the state; 2) should take a work permit and 3) should work on occupations that are not forbidden to them⁹.

The principal law on aliens' right to work in Turkey is the Law on the International Labor Force-Law No.6735-¹⁰ which is fairly fresh. The said law was published in the Official Gazette on August 13, 2016. The latter law makes important changes to the work permit system in Turkey and according to Article 27/7, the former law, the Law on Work Permits of Foreigners-Law No.4857- has been abolished. The Law on the International Labor

⁸ No doubt the said restrictions have important justifications. The works of aliens may be restricted with the reasons such as public security, public interest, public health in accordance with the economic conditions of the state. Mostly Lausanne Agreement and the following bilateral agreements identified the legal scope of the works of aliens in Turkey. ÇELİKEL/ ÖZTEKİN-GELGEL, p.181-182.

⁹ ERKEN, Baki, "Uluslararası İşgücü Kanunu Çerçevesinde Türkiye'de Yabancıların Çalışması" (The Work of Aliens Under International Labor Force Law) **TİSK Akademi**, V.11, N.22, 2016, p.385; ÇİÇEKLİ, p.107-108.

¹⁰ OJ 13.08.2016, I.29800.

Force (hereinafter referred as ILF) has pieced together the regulations about aliens' work in Turkey¹¹. Moreover new arrangements were done and new organizations were founded with this law, which have been seen a necessity. On the other hand, there is still not any new by-law which enlighten in case there occurs an ambiguity in practice even though around half a year has passed.

C. The Importance of the Issue

As a result of conditions in the region and national policy, Turkey has been one of the top countries that have millions of people displaced from their countries. In particular the number of Syrians which are around 3 millions even in terms of the registered¹² shows the severity of the case and those statistics inevitably changes the demographical and social structure of the society as well as the attitudes of the Turkish residents to those people. The continuing civil war and regional disorder enforce the country to make new regulations for them. In this context, the right to work for aliens under international protection has been re-regulated for

¹¹ ERKEN, p.387. Before the said law, -International Labor Force Law- it had been criticized that the work permits given by various authorities was carrying several problems. For example, it was claimed that it prevented to form a healthy database, the unfair competition could not be prevented, it caused an unrecorded economy. ARSLAN, Hakan, "Türkiye'de Yabancıların Çalışma Rejimi"(The Working Regime of Aliens in Turkey) **Çimento İşveren**, V.22, N.5, 2008, p.5.

¹² The data has been taken from the UNCHR website. For the detailed information please visit <http://data.unhcr.org/syrianrefugees/country.php?id=224>

several times for 2 years. In August 2016, the new law on foreigners' right to work, which is fairly comprehensive, with the law number 6735 entered into force. In this paper, the right to work of aliens under international protection and temporary protection status according to Turkish International Labor Force Law and other related sub-regulations will be examined.

II. The Categorization of Aliens in terms of Forced Migration

A. The Concept

As was stated above, aliens are mostly defined those who does not have a citizenship connection with the state in which he/she is located. An alien can be either a real person or a legal person. In this respect, the scope of aliens is wide-ranging, which includes refugees, migrants and those who have lost the citizenship of that state. Some groups of aliens have special legal statuses which enable them to enjoy more privileged rights and sometimes to face extra restrictions. The people that benefit from international protection based on compulsory international migration are the example that comes to mind firstly. Regarding statuses have been regulated by the Law on Aliens and International Protection (hereinafter referred as AIP), Law No.6458, sub-regulations and some international conventions.

B. Refugees

The term refugee has been used to identify all people that displaced from their country by force in everyday language. However, the legal meaning of the term is far narrower than the used. In terms of law of refugee, the main legal source is the Convention Relating to the Status of Refugees, also known as the 1951 Geneva Convention.¹³ Article 1 of the latter has defined the term in a detailed way. Apart from this, 1967 Protocol Relating to the Status of Refugees, also known as the 1967 New York Protocol has changed the definition slightly. According to the Convention with the change by the Protocol, the term “refugee” shall apply to any person who is outside the country of his nationality owing to well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion and is unable or, owing to such fear, is unwilling to avail himself of the protection of that country; or who, not having a nationality and being outside the country of his former habitual residence as a result of such events, is unable or, owing to such fear, is unwilling to return to it. Furthermore because of the reservation Turkey made, only the people coming from Europe and having the

¹³ In order for a detailed and official information please visit <http://www.unhcr.org/1951-refugee-convention.html>

above-mentioned conditions can be given the status of refugee. The same approach has been accepted by the internal law, AIP.

C. Conditional Refugees

The status of conditional refugee has been regulated by Article 62 of AIP. According to this, *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.* The actual difference between refugees and conditional refugees is their geographic roots of persons who apply to international protection.

D. Secondary Protection

Another international protection type that is regulated under AIP is ‘secondary protection’. According to the Article 63 of the law, the first issue to be able to have the latter status is to be neither qualified as a refugee nor as a conditional refugee. In addition secondary protection can be provided to those who 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; if they returned to the country of origin or country of former habitual residence.

E. Temporary Protection

Temporary protection has initially been regulated by Article 91 of AIP. In addition, upon the serious number of the forced migrants, a specific regulation – The Temporary Protection Bylaw – has been issued in October 2014.¹⁴ This status is in principle has established for foreigners who have been forced to leave and cannot return to their country they left, and have arrived at or crossed the borders of Turkey in a mass influx situation seeking immediate and temporary protection, in practice mostly for Syrians.¹⁵ In fact this status is not a part of international protection because it has

¹⁴ OJ, 22.10.2014, I.29153.

¹⁵ Some studies about the legal positions of Syrians in Turkey are; EKŞİ, Nuray, “Türkiye’de Bulunan Suriyelilerin Hukuki Statüsü”(Legal Status of Syrians Placed in Turkey) **Legal Hukuk Dergisi**, N.119, 2012. TOPAL, Ahmet Hamdi, “Geçici Koruma Yönetmeliği ve Türkiye’deki Suriyelilerin Hukuki Statüsü” (By law on Temporary Protection and Legal Status of Syrains in Turkey) **İstanbul Medipol Üniversitesi Hukuk Fakültesi Dergisi**, V.2, N.1, 2015; KAYA, İbrahim / YILMAZ EREN, Esra, Türkiye’deki Suriyelilerin Hukuki Durumu, Arada Kalanların Hakları ve Yükümlülükleri (Legal Status of Syrians in Turkey- The Rights and Obligations of Those Who Stay in the Middle), **SETA Reports**, 2015.

been regulated separately from international protection in both AIP and the regarding by-law. The distinguishing points for the said status are ‘a mass influx’ and ‘immediate protection’. For instance secondary protection is not an immediate and temporary tool. Temporary protection identification document to those whose registration proceedings are completed will be issued by Governorates. This document grants to them the right to stay in Turkey. However, it will not be deemed to be equivalent to a residence permit or documents which substitute residence permits. Similarly it shall not grant the right for transition to long term residence permit or its duration shall not be taken into consideration when calculating the total term of residence permit durations and shall not entitle its holder to apply for Turkish citizenship. (Art. 25 of the By-law)

III. The Work Permits in Turkey

A. Periodical Work Permit

Periodical work permit is the basic work permit and the most-given one.¹⁶ In principle, initially a work permit for maximum one year shall be granted to the foreigner at the first application. If the duration of the job or service contract is less than

¹⁶ Detailed statistics are available in The Official Report on Work Permits of Foreigners, 2015 Report, at <https://www.csgb.gov.tr/media/3209/yabanciizin2015.pdf>

one year, work permit will be given for the time determined in the contract. The applicable time-extensions for periodical work permit are as follows: At the first extension application, a work permit for maximum two years and maximum three years in the following applications can be granted for the same employer. However, applications to be employed by a different employer shall be evaluated as it is the first application, which in turn means maximum one-year work permit will be given. The regulation regarding times for work permits is almost the same with the former law, however the condition of “being dependant to the same employer” is new.

B. Indefinite Work Permit

Indefinite work permit allows foreigners to work in Turkey without any time restriction. The groups that can apply to indefinite work permit in Turkey are 1)those who have long-term residence permit¹⁷ and 2) those who had legal work permit for at least 8 years uninterruptedly. However, being in the stated groups does

¹⁷ In order to have long-term residence permit in Turkey one a) has to stay in the state at least 8 years uninterruptedly b) must not have received social assistance in the past three years; c) has to sufficient and stable income to maintain themselves or, if any, support their family; d) has to be covered with a valid medical insurance; e) must not to be posing a threat to public order or public security. However, for foreigners who are considered appropriate for a long-term residence permit due to meeting the conditions determined by the Migration Policies Board, the conditions stated above may not applied, except not posing a threat to public order or public security. AIP Art..42-43; Governing Regulation of AIP, Art. 40.

not automatically extinguish the discretion of the national authorities, in other words, that does not entitle an absolute right to aliens.

In order for one to have 8-year-legal work permit, he or she has to apply for extension at least three times because a person can apply to indefinite work permit after the time of 1+2+3+(at least) 2 years. ‘Uninterruptedly’ means that the foreigner does not spend more than six months outside of Turkey. Spending less than six months do not interrupt the legal employment period of the foreigner but that period which the foreigner is outside of Turkey are not considered in context of legal employment period.¹⁸

C. Independent Work Permit

Independent work permit enables aliens to work in Turkey without being dependant to an employer. In the ILF, it has been defined as *the work permit which allows foreigners to work in their name and account in Turkey*. In fact the work permits stated above are dependant work permits because they are given based on an employer. In the former law, Law No.4817, the condition of ‘having resided five years legally and uninterruptedly’ were required in order to be able to apply for independent work permit. However the said condition has been abolished by ILF, instead the qualification of the foreigner and the contribution to national economy

¹⁸ ARSLAN, p.12.

has been featured.¹⁹ In this context, it has regulated that *foreigners who are members of a profession can be granted independent work permit provided that they meet the special conditions specified in other laws*. Besides it is worth underlining that independent work permits are granted for a definite period of time without time limitation specified in Article 10 of ILF.

D. Exceptional Work Permit

A number of groups that are stated by laws for several reasons can be granted work permit *exceptionally* regardless of limitations about application, time, the evaluation and rejection of application. The doctrine calls this the exceptional work permit.²⁰ According to the Preamble of ILF, the stated privileges have been granted to those foreigners for their importance or statuses or by virtue of specific provisions of their work and stay in accordance with regarding laws. The foreigners who can be granted work permit exceptionally are as follows:

a) Those who are evaluated as qualified labour according to their education, wage, professional experience, contribution in science and technology and similar traits,

¹⁹ ERKEN, p.388.

²⁰ ÇİÇEKLİ, p.117-119; ÇELİKEL/ÖZTEKİN-GELGEL, p.198-199, DOĞAN, p.212.

b) Those who are evaluated as qualified investor according to their contribution in science and technology, investment or export level, size of the employment they will provide and similar traits,

c) Those who are employed in a project carried out in Turkey for a temporary period,

d) Those who are reported to be of Turkish origin by the Ministry of Internal Affairs or Ministry of Foreign Affairs,

e) Citizens of the Turkish Republic of Northern Cyprus,

f) Citizens of an EU member states,

g) Holders of international protection status, conditional refugee status, temporary protection or stateless or human trafficking victim who are benefiting from victim support process in accordance with the Law no 6458,

h) Those who are married with a Turkish citizen and living with his/her spouse in Turkey within marriage union,

i) Those who are working in the representations of foreign states and international organizations in Turkey without diplomatic immunity,

j) Those who are coming to Turkey for scientific, cultural, artistic or sportive purposes with international success in his/her field,

k) Cross-border service providers.

IV. The Right to Work of Aliens That are Forced Migrants

As can be seen in the list of groups that can be granted exceptional work permit; holders of international protection status, conditional refugee status, temporary protection or stateless or human trafficking victim who are benefiting from victim support process in accordance with the Law no 6458, can be granted work permit exceptionally regardless of limitations about application, time, the evaluation and rejection of application, according to Article 16/1-f of ILF. Besides this law, in order for forced migrants' right to work in Turkey, the governing regulation of former (annulled) the law no.4817, above-mentioned Temporary Protection By-law, the By-law on The Work of Persons Provided Temporary Protection and the By-law on the Work of Persons Having International Protection Application and International Protection Status need to be taken into consideration.

A. International Protection

As was mentioned above, international protection refers to the statuses of refugee, conditional refugee and secondary protection. On the other hand, in terms of the work conditions in Turkey, it is feasible to make categorization of international protection sta-

tus as a) those who have applied to one of the international protection status but not finally decided by competent authorities; b) refugees; c) conditional refugees and d) secondary protection holders. The basic legal documents for international protection status holders' work in Turkey are AIP (Art. 89) and the By-law on the Work of Persons Having International Protection Application and International Protection Status. The latter is published in the OJ and entered into force in April 2016. However especially for refugees, several international conventions need to be taken into consideration.

1. Applicants

Those who have applied to one of the international protection status but not finally decided to be given one of them are hereinafter referred as applicant in short in accordance with the legal definition stated in AIP and concerning By-law. Initially it should be noted that the applicants are expected to have a work permit which in turn means they do not have a direct access to Turkish labor market. Second important point is that the applicants cannot apply for work permit directly; instead they may apply after six months following the application date of an international protection status.(Art.6/3 the By-law) If the competent authority determines that there has not been six months after the international pro-

tection application, the work permit recourse will be denied. Moreover, applicants should apply to work permit with their identity card granted by competent authorities. If the validity period of the mentioned identity cards expired or there are less than 30 days for expiration, the application is expected to be denied.(Art.11/b the By-law) Although an applicant has a work permit, this situation do not enable him/her to apply to work for another employer or work independently unless otherwise he/she has the said identity card.(Art.6/2 the By-law)

Applicants might be imposed an obligation to settle in a certain city. If such a person applies for work permit outside of the certain city, the Ministry of Labor and Social Security, as the competent authority to give work permit, the opinion of Ministry of Internal Affairs is taken. In case the Ministry of Internal Affairs presents a negative opinion about the applicant in terms of above-mentioned context, the application for work permit and time extension are supposed to be denied.(Art.11/ç the By-law).

2. Refugees

For refugees' working, there have been several international documents that include the right to work. One of them, which are significant, is Article 17 of 1951 Geneva Convention, which states that *the Contracting State shall accord to refugees lawfully staying in their territory the most favourable treatment*

accorded to nationals of a foreign country in the same circumstances, as regards the right to engage in wage-earning employment. The similar regulations can be found in Article 18 which is about independent working and 19 of the Geneva Convention. In Turkey, especially the groups of people that are related with Turkish roots and qualified aliens have special opportunities about work and stay. Concordantly refugees have been given the right to direct entrance to internal labor system in national law.

According to Art. 89 of AIP, the refugee 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 same provision has placed in Art.4/1 of the By-Law. The identity document of refugees also substitutes for a work permit, which will be written on the document. On the other hand access of the refugee to the labor market may be restricted for a given period, where the situation of the labor market and developments in the working life as well as industry-specific and economic conditions regarding employment necessities, in agriculture, industry or, service sectors or a certain profession, line of business or, administrative and geographical areas. This provision aims to enable the government to control international labor in the country. That's why the Ministry of Internal Affairs are informed about the current situation includ-

ing the city in which refugees work, the jobs refugees do, the sectors refugees work, whether they work dependent or independent.(Art.4/4 the By-law) However, such restrictions shall not apply to those who have been residing in Turkey for three years; are married to Turkish citizens; or, have children with Turkish citizenship. The latter is fully in conformity with Art. 17/2 of the Geneva Convention.²¹

3. Conditional Refugees

Conditional refugees can also be granted exceptional work permit. However upon being granted the status, they directly do not have a right to have work permit. In fact mostly conditional refugees and applicants are considered in a similar way. That's why there might be found similar restriction including a time limitation to apply. The said restriction is that a conditional refugee may apply for a work permit after six months following the application date of an international protection claim. It should be added that having a valid work permit do not enable an absolute right to

²¹ Second paragraph of Article 17 states that in any case, restrictive measures imposed on aliens or the employment of aliens for the protection of the national labor market shall not be applied to a refugee who was already exempt from them at the date of entry into force of this Convention for the Contracting State concerned, or who fulfils one of the following conditions: (a) He has completed three years' residence in the country; (b) He has a spouse possessing the nationality of the country of residence. A refugee may not invoke the benefits of this provision if he has abandoned his spouse; (c) He has one or more children possessing the nationality of the country of residence.

stay in Turkey for those aliens.(Art.5/2 the By-law) As an exception applicants and conditional refugees working in the seasonal agriculture and animal husbandry sectors are exempted from work permit.(Art.9/1 the By-law)

Taking some humanitarian concerns into consideration about a minimum wage limit has been determined. According to Art. 17 of the By-Law, applicants and conditional refugees cannot be paid a salary under the legal minimum wage. The said wage was 1404.06 TL in 2017.²²

4. Secondary Protection Holders

Holders of secondary protection status are mostly evaluated with the status of refugees. Just like refugees, the holders of secondary protection may work independently or dependently to an employer after being granted the status. The identity document shall also substitute for a work permit. It is worth underlying that the mentioned opportunity does not prejudice to the provisions stipulated in other legislation restricting foreigners to engage in certain jobs and professions.

²² Ministry of Labor and Social Security, Minimum Wage, see at <https://www.csgb.gov.tr/home/Contents/Istaitistikler/AsgariUcret>

5. The Procedure

The applications for work permit for applicants and international protection status holders are done by means of *e-devlet* (e-government) portal which is an electronic portal that may be used for many legal actions regarding the government. The related documents about the foreigner and the employer are supposed to be uploaded and then sent to the Ministry of Labor and Social Security. Any demand for time extension is also done via e-devlet portal but the request should be done before the end of former work permit's time limit. However one may continue to work under the same employer from the date of time extension application till the result of application provided that the application is documented.(Art.8/4 the By-law) That there has been a deportation decision which is final in conformity with AIP is a reason for an application to be denied.²³

Having missing documents is not a direct cause of rejection. In case there are some missing documents in the application, the applicant is informed about it and requested to complete the necessary documents. The legal time for completion is 15 days. If

²³ For detailed information about deportation in Turkish law please see KUŞCU, Döndü, **Yabancılar ve Uluslararası Koruma Kanunu Hükümleri Uyarınca Yabancıların Sınır Dışı Edilmeleri** (*Deportation of Foreigners According to Provisions of Law on Aliens and International Protection*), İstanbul, 2017.

the latter not completed within the time limit stated by the Ministry, the application would be denied. (Art.12 the By-law)

Public benefit associations in accordance with Law of Associations²⁴ and tax-exempt endowments in accordance with Law on Recognition of Tax Exemption to Endowments²⁵ may employ international protection status holder provided that they work on humanitarian aid organizations.

B. Temporary Protection

The status of temporary protection, which has been explained above, is different than international protection statuses. By-law on Temporary Protection²⁶ and By-law on Work Permits of Those Who Provided Temporary Protection²⁷ issued by Council of Ministers are other legal instruments about their labor in Turkey. There can be seen major similarities between the work of conditional refugees and applicants in international protection statuses and the work of holders of temporary protection status.

Holders of temporary protection status cannot work in Turkey without a work permit. According to Art. 16 of ILF, they are amongst those who are able to take exceptional work permit. However, aliens under temporary protection can apply to Ministry of

²⁴ OJ 23.11.2004, I.25649

²⁵ OJ 07.08.2003, I.25192

²⁶ OJ 22.10.2014, I.29153

²⁷ OJ 15.1.2016, I.29594

Labor and Social Security for work permit after six month from the date they registered as ‘under temporary protection status’(Art.5/1 and By-law on Work Permits of Those Who Provided Temporary Protection). The applications should be done by themselves if they apply for independent work permit, in other cases the employer should do. *E-devlet* portal should be used in applications as is the case in the work of international protection status. As a specific situation, those who will be employed in the agriculture seasonally and stockbreeding sector are exempted from work permit and their applications will be made through the governorship offices.

The holders of temporary protection status are not exempt from the jobs that only Turkish citizens can perform, so if an employer or temporary protected one applies for that kind of jobs, the said application will be dismissed.

There is an important labor quota regulated in Article 8 of the By-law. As a general rule, the total of temporary protected employed workers cannot exceed the 10% of the employed that is Turkish national in an organization. If an employer employs less than ten workers in a workplace, then one temporary protected alien can be employed. An exception to this rule is that if it can be certified by the approval of Provincial Directorates of Labor and Employment Agency that no Turkish national employee of the

same quality can be found in the domestic labor market within four weeks, the above-mentioned quota may not be executed.(Art.8/3)

As is the case in international protection, public benefit associations in accordance with Law of Associations²⁸ and tax-exempt endowments in accordance with Law on Recognition of Tax Exemption to Endowments²⁹ may employ international protection status holder provided that they work on humanitarian aid organizations.(Art.11 of the By-law) Finally it should be underlined that monthly salaries of temporary protected cannot be less than the Turkish minimum wage.

V. Conclusion

The right to work is one of the fundamental rights of people however it can be restricted by laws for aliens in conformity with international law. The term alien has mostly been used to identify people who are not a citizen in legal literature. In order for an alien to work in Turkey, he or she in principle must have taken a work permit from the competent authority. There are four types of work permits for aliens, which are periodical, indefinite, independent and exceptional work permits. In the new law regulating the work permits and other issues on the works of aliens, it is stated that all

²⁸ OJ 23.11.2004, I.25649

²⁹ OJ 07.08.2003, I.25192

holders of international protection and temporary protection statuses may be granted a work permit exceptionally. In spite of that, there are some other restrictions about their applications for work permit. Maybe the sharpest one is the time limitation for conditional refugees and holders of temporary protection status. A conditional refugee may apply after six months following the application date of an international protection claim; where as temporary protected one may apply after six months following their official registration.

No doubt the regulations about the working of the above-mentioned alien categorizes are crucial mostly because of the high number of them. In national public opinion, some criticize the legal instruments that give those aliens an opportunity to work in Turkey claiming that Turkey already has a high rate of unemployment and this makes it worse. However, it is now a reality that those people cannot return their country in this situation and it is more possible that those people may undermine the social order without a job to be able to live by them. The concerned negative effects are inevitable to a certain extend but the better solutions on the concerns lays on political moves to carry those people secure lands, or burden sharing. It is a strictly hard puzzle, but the above-mentioned facilitated procedure for the work permits of the aliens under international protection and temporary protection seems to be a good alternative in the current cycle.

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