

**WORK OF FOREIGNERS UNDER TEMPORARY
PROTECTION IN TURKEY AND MAIN PROBLEMS
REGARDING THE WORK OF SYRIANS UNDER
TEMPORARY PROTECTION**

(Research Article)

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Abstract

Since 2011, because of the events that took place in Syria, millions of Syrian citizens forced to leave their country and a significant portion of these people came Turkey as massive influx. Turkey accepted Syrians by applying open-door policy and gave them temporary protection status. One of the most important rights granted to temporary protection status holders is right to work and access to the labor market. Despite Turkey legislated the right to work in detail of those under temporary protection, serious problems are encountered in practice.

In this study, firstly, a brief information was given about the temporary protection, the rights of Syrian refugees under temporary protection and also their right to work. Then working requirements of temporary protection status holders were examined in detail and finally some common problems related to work in Turkey under temporary protection was given. In this context, in the last section, general problems related to work permit, unregistered work and child labor were discussed briefly.

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Keywords

Temporary Protection, Syrians, Labor, Right to Work, Work Permit

**GEÇİCİ KORUMA ALTINDAKİ YABANCILARIN
TÜRKİYE'DE ÇALIŞMASI VE GEÇİCİ KORUMA
KAPSAMINDAKİ SURİYELİLERİN
ÇALIŞMASINA İLİŞKİN TEMEL PROBLEMLER**

(Araştırma Makalesi)

Öz

2011 yılından itibaren Suriye'de ortaya çıkan olaylar neticesinde milyonlarca Suriye vatandaşı ülkesini terk etmek zorunda kalmış ve bu kişilerin önemli bir kısmı kitlesel olarak Türkiye'ye gelmiştir. Türkiye açık kapı politikası uygulayarak Suriyelileri ülkeye kabul etmiş ve bu kişilere geçici koruma statüsü vermiştir. Geçici koruma statüsü sahiplerine tanınan en önemli haklardan birisi çalışma ve iş piyasasına erişimdir. Türkiye, geçici koruma altındakilerin çalışmasını mevzuatta detaylı şekilde düzenlemiş olsa da uygulamada ciddi problemlerle karşılaşmaktadır.

Çalışmada, öncelikle kısaca geçici koruma statüsü ve sahip oldukları haklar ve çalışma hakkına ilişkin bilgi verilmiştir. Akabinde geçici koruma statüsü sahiplerinin çalışmasının şartları detaylı olarak incelenmiş ve nihayet geçici koruma altındakilerin Türkiye'de çalışmasına ilişkin sıklıkla karşılaşılan bazı problemlere değinilmiştir. Bu bağlamda son bölümde çalışma izni verilmesiyle ilgili genel problemler, kayıt dışı çalışma ve çocuk işçiliği konuları kısaca ele alınmıştır.

Anahtar Kelimeler

Geçici Koruma, Suriyeliler, Çalışma, Çalışma Hakkı, Çalışma İzni

INTRODUCTION

Since 2011, due to events in Syria, millions of Syrian citizens, who make up almost half the country's population, have been forced to leave Syria and seek refuge in other countries. Turkey was the country most affected by this situation in Syria. It has become the target country of the largest immigration in the world after World War II¹. Syrians have preferred to come to Turkey due to some reasons such as the fact that other countries do not accept them or they make acceptance conditions difficult,² historical and cultural ties, economic relations, a sense of belonging to the past, kinship relations, the majority of the population being Muslim, being neighbour and close to Syria, being safe, being at the crossing point for those who want to go to western countries, better living conditions and camps and Turkey's ease in terms of admission³. Turkey, on the other hand, has applied the open-door policy to those coming from Syria for a long time and accepted these people to Turkey. Currently, according to official figures, about 4 million Syrians are in Turkey⁴. According to The United Nations Refugee Agency (UNHCR)'s data, Turkey is the country with the highest number of Syrian refugees in the world⁵. In terms of employment, more than

¹ **Türk-İş** (Confederation of Turkish Trade Unions): Geçici Koruma Altındaki Suriyeliler ve Türkiye İşgücü Piyasasına Etkileri, 23. Ordinary General Assembly, 5-7 December 2019, <http://www.turkis.org.tr/dosya/roGZ2loYp23o.pdf>, p.7 (accessed: 25.3.2021). The Republic of Turkey has been the target of mass refuge from different regions at different times throughout its history. However, those from Syria are unlike any of the previous mass unfluxes. For more information, see. **Elçin**, Doğa: "Türkiye'de Bulunan Suriyelilere Uygulanan Geçici Koruma Statüsü 2001/55 Sayılı Avrupa Konseyi Yönergesi ile Geçici Koruma Yönetmeliği Arasındaki Benzerlik ve Farklılıklar", TBB Journal, Issue 124, 2016, No: 9-80, p.12-13.

² In case of mass influx, although it is generally accepted that the world states do not have obligations arising from international law at the point of accepting people who seek asylum, see whether the states have an obligation arising from international law in terms of sharing the burden borne by the state accepting the mass influx. **Greenop**, Michael A.: "Two Birds with One Stone: Legal Obligation to Compensate Host States for the Burden Associated with a Mass Influx of Refugees", Public Interest Law Journal of New Zealand, 4, 2017, PP: 58-77.

³ **Aslantürk**, Oğuzhan/**Tunç**, Yusuf Erdem: "Türkiye'de Yabancıların Çalışma İzinleri: Suriyeliler Örneği", Ombudsman Academic, Year 5, Issue 9, July-December 2018, PP: 141-180, p.148.

⁴ According to the data of the Directorate General of Migration Management, the number of Syrians under temporary protection in Turkey as of 17.3.2021 is 3.663.336. See <https://www.goc.gov.tr/gecici-koruma5638> (accessed 23.3.2021).

⁵ **UNHCR**: Turkey 2020 Operational Highlights, <http://data.unhcr.org/syrianrefugees/regional.php> (accessed 30.3.2021).

2 million Syrians in Turkey are between the ages of 15-64 who can legally work⁶. Those in this group need to work in order to survive, and generally work in labor-intensive and unskilled jobs in the agriculture, animal husbandry, construction, textile and service sectors⁷.

This study examined the work of Syrians under temporary protection in Turkey and the common problems associated with it. The rules regarding the employment of foreigners in Turkey may differ according to the legal status of the foreigners. Therefore, to determine the working regime that Syrians in Turkey are subject to, first of all, the legal status of these people should be defined. For this reason, in the study, first, brief information was given about the legal status of Syrians in Turkey and their rights (including the right to work), and then the conditions of Syrians under temporary protection to work in Turkey were examined and finally, the problems of Syrians in giving work permits related to their work, informal work and child labor are discussed in general terms.

I. LEGAL STATUS OF SYRIANS IN TURKEY

Millions of Syrians who arrived in Turkey have long experienced legal status uncertainty since the mass migration influx from Syria to Turkey began in 2011⁸. At that time, Turkey did not grant refugee status to these people and other types of international protection or temporary protection

⁶ **Directorate General of Migration Management:** Temporary Protection, <https://www.goc.gov.tr/gecici-koruma5638> (accessed 1.4.2021).

⁷ **Kaygısız, İrfan:** The Effects of Syrian Refugees on the Turkish Labor Market, August 2017, <http://www.fes-tuerkei.org/media/pdf/Dünyadan/2017/Du308nyadan%20-%20Suriyeli%20Mu308ltecilerin%20Tu308rkiye%20I307s327gu308cu308%20Piyasasına%20Etkileri%20.pdf>, pp.3, 9; **Korkmaz, Metin:** “Suriyeli Mültecilerin Türkiye İşgücü Piyasasına Etkileri”, Journal of Social Insurance, Year 7, Issue 13, PP: 57-83, p.64.

⁸ Before 2014, when the LFIP was not in force yet, there were only refugees within the scope of international protection and the expression “refugee” in Turkish law refers to people who seeks asylum, only because of the events that took place in Europe in accordance with the Geneva Convention; It was a status given to a foreigner who was outside the country of his/her country of citizenship because he was afraid that he would be persecuted due to his/her race, religion, nationality, membership of a certain social group or political opinions and who could not benefit from the protection of this country or who did not want to benefit from the protection of this country, or to a person who was outside his previous country of residence as a result of such events and could not return to this country or does not want to return to this country because of the fear in question. Because refugee status is only granted to those who come from Europe due to the geographical reservations Turkey has placed in the convention, those who come from Syria could not be granted refugee status or any other legal status until the LFIP came into force.

were not regulated in Turkish legislation . According to the 1951 Geneva Convention Relating to the Status of Refugees⁹, a refugee is a status given to those who come to take refuge because of some events that took place in Europe. For those coming from outside the Europe, a regulation at the level of law was not made until the Law on Foreigners and International Protection (LFIP)¹⁰ came into effect, however, it was evaluated within the framework of the “Regulation on Procedures and Principles Applicable to Individual Foreigners Who Have Asylum in Turkey or Requesting Residence Permit in Turkey to Seek Asylum in Another Country and Foreigners Coming to Our Border for Collective Asylum Purposes and Possible Population Movements”¹¹. However, this regulation did not contain sufficient solutions in the face of such a massive influx.

With the enactment of the LFIP in 2014, the problem of the status of Syrians was solved. Along with the LFIP, the international protection regime has been greatly changed, and in Turkish foreign law, different protection status such as conditional refugee, secondary protection, temporary protection has been established, in addition to refugee status¹². Currently in Turkey, the legal status of people who have come from Syria is temporary protection status. It is possible to say that the temporary protection status was presented as a solution to the problem of Syrians’ lack of status in the process that started with the arrival of Syrians in Turkey¹³.

⁹ Turkey became a party to the Convention in 1961. See O.G. of 5.9.1961 No. 10898.

¹⁰ O.G. of 11.4.2013 No. 28615.

¹¹ In addition, it has been implemented in administrative regulations. Due to the process that started with the arrival of Syrians to our borders collectively, the “Directive Concerning the Admission and Accommodation of the Nationals of the Syrian Arab Republic and Stateless People Residing in the Syrian Arab Republic who Collectively Seek Asylum in Turkey” was put into effect by the Ministry of Internal Affairs on 30.3.2012, and until the LFIP came into force, procedures were carried out within the framework of this directive.

¹² For information on the differences in international protection status, see. **Ayhan İzmirli**, Lale: “Türkiye’deki Suriyelilerin Hukuki Durumuna İlişkin Bir Değerlendirme”, Eurasian Researches in Social and Economics, Year 2017, Vol. 4, Issue 7, PP: 43-66.

¹³ Similarly, see. **Kaya**, Ceren: “Geçici Koruma Statüsü Sahibi Yabancıların Çalışma Hakları”, Middle East Journal of Refugee Studies, Summer 2019, 4 (2), PP: 33-55, p.34; **Aslantürk**, Oğuzhan/**Tunç**, Yusuf Erdem: “Yabancıların Türkiye’de Kayıtdışı İstihdamı”, The Journal Aksaray University Faculty of Economics and Administrative Sciences, Year 2018, Vol. 10, Issue 4, PP: 13-20, p.14; **Kavas**, Çağlar/**Develi**, Abdülkadir: “Türkiye’de Geçici Koruma Kapsamındaki Yabancıların Kayıtdışı İstihdam Üzerindeki Etkisi”, International Anatolian Social Sciences Journal, Vol. 4, Issue 1, 2020, PP: 4-23, p.5-6.

A. Temporary Protection Status and Its Elements

Temporary protection is protection provided for humanitarian purposes for a certain period in cases of urgency¹⁴. It was implemented by some of the European countries to protect people fleeing conflicts in the former Yugoslavia in the early 1990s¹⁵. It is a tool developed to provide protection to people who have fled en masse as a result of violent or conflict, without determining their individual protection status¹⁶. Temporary protection has not a definition accepted in international law but can have different meanings depending on the context and country in which it is used¹⁷. This concept was developed for the urgent need for protection in mass influxes¹⁸. “*Temporary protection*”,¹⁹ a relatively new concept in immigration law, is used to refer to a status developed to ensure the protection of people forced to migrate as a result of mass influx caused by an unforeseen and urgent situation²⁰. According to the definition made by the UNHCR, temporary protection is the provisional protection provided in Europe and other regions in cases of large-scale displacement that includes elements of the refugee

¹⁴ **Töre**, Nazlı: Uluslararası Göç Hukuku, Turhan, Ankara, 2016, p.105.

¹⁵ **Safi**, Sibel: Mülteci Hukuku, Legal, İstanbul, 2017, p.80, 477.

¹⁶ **Safi**, p.80.

¹⁷ **Edwards**, Alice: “Temporary Protection, Derogation and the 1951 Refugee Convention”, Melbourne Journal of International Law, 13 (2), 2012, PP: 595-635, p.599.

¹⁸ **Pirjola**, Jari: “Temporary Protection as a Future Model”, Nordic Journal of International Law, 64(3), 1995, PP: 423-428, p.425.

¹⁹ *Edwards* notes that temporary protection has a relatively long history, but its legal foundations and definition have not yet been made. See **Edwards**, p.595.

²⁰ **Kaya**, İbrahim/**Yılmaz Eren**, Esra: Türkiye’deki Suriyelilerin Hukuki Durumu, Arada Kalanların Hakları ve Yükümlülükleri, Seta Publications No: 55, İstanbul, 2015, http://file.setav.org/Files/Pdf/20151017001210_turkiyedeki-suriyelilerin-hukuki-durumu.pdf, p.33. Similarly, see. **Kerber**, Karoline: “The Temporary Protection Directive”, European Journal of Migration and Law 4, No: 2 (2002), S: 193-214, p.195 et al.; **Ekşi**, Nuray: “Geçici Koruma Yönetmeliği Uyarınca Geçici Korumanın Şartları, Geçici Koruma Usulü, Sağlanan Haklar ve Geçici Korumanın Sona Ermesi”, İstanbul Bar Journal, Vol. 88, Issue 6, Year 2014, PP: 65-89, p.67. It is also stated in the literature that the first purpose of the temporary protection status is to prevent the settlement and integration of those under temporary protection in the host country. See also **Gibney**, Matthew J.: “Between Control and Humanitarianism: Temporary Protection in Contemporary Europe”, Georgetown Immigration Law Journal, 14(2) 2000, PP: 689-708, p.690. Ekşi also supported this view, stressing that temporary protection status is not a type of integration-oriented protection, noting that it is essential that temporary protected individuals return to their country when the need for protection ends. See also **Ekşi**, p.84.

definition or similar reason²¹. Although there is a clear need for protection, it is an exceptional method used in cases of urgency where there is no or very little possibility to individually identify this need for protection in the short term²². In this respect, temporary protection is separated from complementary protection, which represents a legal situation provided after the determination and acceptance of individual protection needs, and the protection provided to a group is in question²³. As can be seen, temporary protection, as its name suggests, guarantees short-term minimum standards for a mass group due to its temporary nature²⁴. In other words, it is an emergency policy implemented in sudden mass influxes head towards the borders, and it is an interim solution applied until a more permanent solution is found²⁵. The element that distinguishes temporary protection from other types of protection is mass influx²⁶. The temporary protection provided to those who cannot be provided international protection due to the lack of resources that the country of asylum may experience or their integration into the country is not politically appropriate, continues until the situation in their country returns to normal, and necessary measures are taken for their resettlement in their countries when conditions allow²⁷. Indeed, states tend to provide temporary protection in order to protect their own interests²⁸.

The first international regulation regarding the complementary protection in the European Union (EU) is the 2004 Qualification Directive²⁹.

²¹ UNHCR, p.5, para. 26.

²² Fitzpatrick, Joan: "Temporary Protection of Refugees: Elements of a Formalized Regime", *American Journal of International Law*, 94(2), 2000, PP: 279-306, pp.280, 305; UNHCR, p.6, para. 27. For similar see Safi, p.478.

²³ UNHCR, p.6, para. 27-28; Edwards, p.604; Eksi, p.67; Özkan, Işıl: *İltica ve Sığınma Hukuku*, 2. Edition, Seçkin Publishing House, Ankara, 2017, p.367. Although it is not technically considered complementary protection, it is also recognized in EU law that it is complementary to asylum regulations. See also Arenas, Nuria: "The Concept of Mass Influx of Displaced Persons in the European Directive Establishing the Temporary", *European Journal of Migration Law*, 7(4), 2005, PP: 435-450, pp.437-438.

²⁴ UNHCR, p.6, para. 27; Özkan, p.367.

²⁵ Fitzpatrick, pp.280, 287; Pirjola, p.425. Similarly, see. Edwards, p.596.

²⁶ Arenas, p.438. Similarly, see. Edwards, p.604.

²⁷ Töre, pp.104-105.

²⁸ Safi, p.476.

²⁹ Özkan, p.237. See. Directive 2004/83/EC on minimum standards for the qualification ad status of third country nationals or stateless persons as refugees or as persons who otherwise need international protection and the content of the protection granted, <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex%3A32004L0083> (accessed: 12.3.2022).

The directive sets minimum standards for the recognition of refugee status for third-country nationals or stateless persons, as well as sets out the complementary protection provided to persons who are not granted refugee status but are in similar situation. The Directive introduces a mechanism that is not found in the Geneva Convention and sets a precedent in this respect³⁰. This Directive was updated in 2011³¹. In addition to this, EU regulated Temporary Protection Directive which determines the issues related to temporary protection³². An exceptional mechanism has been introduced with this Directive³³. Directive defines temporary protection as; “a procedure of exceptional character to provide, in the event of a mass influx or imminent mass influx of displaced persons from third countries who are unable to return to their country of origin, immediate and temporary protection to such persons, in particular if there is also a risk that the asylum system will be unable to process this influx without adverse effects for its efficient operations, in the interests of the persons concerned and other persons requesting protection”.

In Turkish law, temporary protection is a type of protection provided to foreigners who are forced to leave their country, who cannot return to their country of departure, who come to our borders or cross our borders massively in order to find emergency and temporary protection (LFIP art.91). No geographical limitation has been imposed on the application of

³⁰ Directive 2011/95/EU defines persons who are eligible for subsidiary protection. According to this article, person eligible for subsidiary protection means a third-country national or a stateless person who does not qualify as a refugee but in respect of whom substantial grounds have been shown for believing that the person concerned, if returned to his or her country of origin, or in the case of a stateless person, to his or her country of former habitual residence, would face a real risk of suffering serious harm as defined in article 15, and to whom article 17(1) and (2) does not apply, and is unable, or, owing to such risk, unwilling to avail himself or herself of the protection of that country.

³¹ See. Directive 2011/95/EU on standards for qualification of third country nationals or stateless persons as beneficiaries of international protection, for a uniform status for refugees or persons eligible for subsidiary protection, and for the content of the protection, <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex%3A32011L0095> (accessed: 13.3.2022).

³² See. Directive 2001/55/EC on minimum standards for giving temporary protection in the event of a mass influx of displaced persons and on measures promoting a balance of efforts between Member States in receiving such persons and bearing the consequences thereof, <https://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2001:212:0012:0023:EN:PDF> (accessed: 14.4.2022).

³³ **Safi**, p.477.

temporary protection, and it is stipulated that temporary protection can be provided to people who come to both the land borders and territorial waters of the country to find urgent and temporary protection³⁴. Accordingly, for temporary protection to be in question, there must be a mass influx. Mass influx refers to “situations in which a sudden and unpredictable number of people seek refuge from one country or geographic region to another due to war, armed conflict or widespread human rights violations”³⁵. Although the key point of temporary protection is the presence of mass influx, the expression “large numbers of displaced persons” also carries ambiguity³⁶. The slow, gradual increase in the number of asylum seekers is not of a “mass influx” nature³⁷. The most important element of the mass influx is “the arrival of a number of foreigners duly obstructing individual protection status procedures”³⁸.

According to Turkish law, to be granted temporary protection status, the mass influx of people must have been forced to leave their country, not be able to return to the country they left, have come to our borders to find emergency and temporary protection, there should be no obstacle to benefit from temporary protection individually³⁹ and a temporary protection

³⁴ **Ekşi**, p.71.

³⁵ **Elçin**, p.10.

³⁶ Similarly, see: **Arenas**, p.439; **Edwards**, p.603-604; **Türküzü**, Dilek: “Two Sides of the Same Coin: Temporary Protection as a Practical but Unsettled Concept”, *Die Friedend Warte*, 2017-2019, Vol. 92, No. ¾, PP: 215-237, p.232.

³⁷ **Kerber**, p.196.

³⁸ **Ekşi**, p.73.

³⁹ Foreigners who will not be included in the scope of temporary protection are specified in article 8 of the Temporary Protection Regulation. According to this;

- a) Those with respect to whom there are serious reasons to consider that they are guilty of actions defined in Article 1 (F) of the Convention Relating to the Status of Refugees dated 28/7/1951 amended by the 1967 Protocol Relating to the Status of Refugees;
- b) Those regarding whom there are reasons indicating that he or she has committed cruel acts outside of Turkey for any reason whatsoever;
- c) He or she has taken part in the commission of crimes or acts as specified in subparagraphs (a) and (b) of this paragraph or incited others to commit such crimes or acts;
- ç) Those who took part in armed conflicts in his or her country and did not permanently ceased such activities;
- d) Those who are identified as having committed, planned to commit, or participated in acts of terrorism;
- e) Those who are a threat to public due to being convicted of a serious crime and those who are considered to pose danger to national security, public order, or public security;

decision must be taken by the President⁴⁰. As a matter of fact, the Temporary Protection Regulation (TPR)⁴¹, was applied for the first time for Syrians after it came into force and it stated that Syrian citizens, stateless persons, and refugees who come to our borders or cross our borders for temporary protection due to the events taking place in Syria as of 28.4.2011 will be taken under temporary protection (Temporary article 1).

The application area of the regulation is not limited to Syrians and can be applied to people who come from other places collectively when the same conditions occur in the future. The temporary protection decision given by the President included the scope of protection along with issues such as the duration of the protection, the conditions for its extension or termination, whether it will be applied throughout the country or in a certain region (TPR art. 10/1). Essentially, temporary protection should be limited to a certain period due to its nature⁴². However, a certain period has not been stipulated for Syrians currently under temporary protection status⁴³.

f) Those who have previously committed a crime or crimes for which imprisonment sentence would have been given if committed in Turkey and have left their country of origin or country of residence to avoid punishment for that crime;

g) Those who are convicted of crimes against humanity by international courts;

ğ) Those who have committed one of the crimes laid down in Chapter Seven of Section Four of the Turkish Penal Code No. 5237 of 26/9/2004.

shall not be granted temporary protection and, temporary protection status shall be canceled if benefited (TPR art.8/1).

⁴⁰ For detailed information about the conditions, procedure, and termination of the temporary protection status, see. **Elçin**, p.33 et al.; **Eksi**, p.72 et al.; **Çörtoğlu Koca**, Sema/**Kavşat**, F. Candan: “Geçici Koruma Yönetmeliği Uyarınca Geçici Koruma Kararının Kapsamı, Alınması ve Sona Ermesi”, Başkent Üniversitesi Hukuk Fakültesi Dergisi, Issue 1, January 2015, PP: 329-366, p.344 et al.

⁴¹ O.G. of 22.10.2014 No: 29153.

⁴² **Pirjola**, p.426.

⁴³ Since Syrians under temporary protection have been in Turkey for more than 10 years, the lack of a time limit is criticized, stating that such a long period is incompatible with the “temporary” nature of the protection. See **Kaya**, p.54; **Kaya/Yılmaz Eren**, p.69. Because temporary protection status should be applied for a certain period as it is foreseen as a flexible solution in cases where the individual international protection procedure is difficult or impossible to function. See also **Fitzpatrick**, p.289; **Elçin**, pp.34-36. Indeed, when we look at the international protection law, it is seen that the mechanisms regulated under the name of temporary protection are limited to a suitable period, considering that this status is “temporary”. For example, in the EU Temporary Protection Directive, it regulates the temporary protection period as 1 year and it is stipulated that this period can be extended for 1 more year. If the conditions stipulated in the Directive are fulfilled, it may be extended for 1 more year, and it will not exceed 3 years in total. See also Council Directive on 2001/55/EC of 20 July 2001 on minimum

The purpose of temporary protection is to provide immediate access to the protection of fundamental human rights, including security and protection against refoulement, in countries directly affected by mass migration⁴⁴. Until the temporary protection ends by the President's decision or for individual reasons⁴⁵, the persons under temporary protection will benefit from the granted rights.

B. Rights Granted to the Persons Under Temporary Protection Status and the Right to Work

The purpose of temporary protection is to ensure that foreigners in this scope are placed in a safe environment immediately and to guarantee their basic human rights, especially the principle of non-refoulement⁴⁶. However, compared to other asylum seekers, the rights of people under the temporary protection are considered in a different framework,⁴⁷ and not all the rights granted by international conventions to other types of international protection, including refugees, are granted to those under temporary protection⁴⁸. The fundamental international obligation of Turkey towards

standards for giving temporary protection in the event of a mass influx of displaced persons and on measures promoting a balance of efforts between member states in receiving such persons and bearing the consequences thereof, <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A32001L0055> (accessed 6.4.2021). For EU Temporary Protection Directive see. **Kerber**, p.193 et al. Also, about the applicability of the EU Temporary Protection Directive to those who travel from Syria to EU countries, see. **İneli-Ciğer**, Meltem: "Time to Active the Temporary Protection Directive", *European Journal of Migration Law*, 18(1), 2016, PP: 1-33, p.2 et al.

⁴⁴ **UNHCR**, p.5, para. 26.

⁴⁵ Temporary protection status may be terminated collectively by the President's decision (TPR Art. 11), as well as individually due to the reasons listed in Article 12 of the TPR, such as leaving Turkey voluntarily or benefiting from the protection of a third country. For termination of temporary protection, see. **Eksi**, pp.78-81.

⁴⁶ **Kaya/Yılmaz Eren**, p.33; **Türközü**, p.225. The principle of non-refoulement expresses the obligation of a country not to send a foreigner to a country where his/her life or freedom will be endangered because of his race, religion, citizenship, membership of a certain group or political opinions. In article 6/1 of the TPR, it is stated that within the scope of the regulation, no one will be sent to the country where he or she shall be subjected to torture, inhuman or degrading punishment or treatment or to a place where his life or freedom will be threatened because of his race, religion, nationality, membership of a certain social group or political ideas.

⁴⁷ **Gibney**, p.697.

⁴⁸ **Aydoğmuş**, Yasemin: "Türk Hukukunda Geçici Korumadan Yararlananların Sınır Dışı Edilmesi", *Public and Private International Law Bulletin*, Vol. 37, Issue 2, PP: 141-169, p.164.

those under temporary protection is not to send these people back to a place where their life and freedoms will be endangered, and Turkey generally fulfills this obligation⁴⁹. However, from a humanitarian point of view, it is stated that the rights granted to refugees by the Geneva Convention on the Legal Status of Refugees, such as the right to benefit from health services, the right to family reunification, the right to education and the right to work, should be granted to those who are temporarily protected⁵⁰. Similarly, in the EU Temporary Protection Directive (EU TPR), it is stated that services such as health, education and accommodation will be provided to those under temporary protection, and the right to work specified in article 12 of the Directive has been counted among the services to be provided to these people in order to minimize the group receiving social assistance⁵¹. It is emphasized that those who are provided with temporary protection should be given the right to work, especially in cases where temporary protection continues for a long time⁵².

Granting the right to work for people who are temporarily protected in a country will establish positive results such as preventing social exclusion and ensuring their integration into society, preventing unregistered work and ensuring self-sufficiency⁵³. Work does not only serve to earn a livelihood, but also provides integration to the host country and a sense of self-knowledge, worth, self-reliance and dignity⁵⁴. However, the recognition of the right to work can also have negative consequences, such as making it attractive for people who do not need real protection to come with the

⁴⁹ **Bidinger**, Sarah: “Syrian Refugees and Right to Work: Developing Temporary Protection in Turkey”, *Boston University International Law Journal*, 33(1), 2015, PP: 223-250, p.236. As the principle of non-refoulement is accepted as an international custom, Turkey has ratified many international agreements in which the principle of non-refoulement is accepted. See also **Ekşi**, p.82.

⁵⁰ **Kaya/Yılmaz Eren**, p.53. Similarly, see. **Pirjola**, p.426.

⁵¹ **Kerber**, p.203.

⁵² **Pirjola**, p.426.

⁵³ **Valenta**, Marko/**Thorshaug**, Kristin: “Restrictions on Right to Work for Asylum Seekers: The Case of the Scadinavian Countries, Great Britain and Netherlands”, *International Journal on Minority and Group Rights*, 2013, Vol. 20, No. 3, PP: 459-482, p.462.

⁵⁴ **Nessel**, Lori A.: “Deliberate Destitution as Deterrent: Withholding the Right to Work and Undermining Asylum Protection”, *San Diego Law Review*, 52(2), 2015, PP: 313-356, p.314; **Sahin Mencuttek**, Zeynep/**Nashwan**, Ayat J.: “Perceptions About the Labor Market Integration of Refugees: Evidences from Syrian Refugees in Jordan”, *Journal of International Migration and Integration*, March 2020, <https://link.springer.com/content/pdf/10.1007/s12134-020-00756-3.pdf> (accessed: 19.5.2021), p.2.

intention of working, creating a potential threat to the welfare of the country, creating worse conditions, and increasing competition for the local workforce, strengthening ties with the host country and reducing voluntary and compulsory repatriation⁵⁵. In addition to such results, reasons such as limited capacity to absorb foreign workforce, crowding of some sectors, limited employment opportunities for citizens and decrease in wages may cause concern and countries may be reluctant to give foreigners right to work based on these reasons⁵⁶.

The right to work is recognized as a fundamental right for foreigners with temporary protection status as well as for citizens⁵⁷. Indeed, in some international instruments, such as International Covenant on Civil and Political Rights,⁵⁸ International Covenant on Economic, Social and Cultural Rights⁵⁹, ‘working freely’ is considered to be human rights⁶⁰. This acceptance means that no one can be forced to work, no one is subjected to the risk of economic deprivation, or no one is deprived of this right systematically, intentionally and discriminately⁶¹. Otherwise, it may be seen as a ‘persecution’ in the sense of human rights law. States are obliged to ensure the implementation of such rights without any discrimination⁶². As a matter of fact, the right to work is recognized in Turkish Constitution, regardless of citizen-foreigner distinction (Const. art. 48). However, it can be argued whether this right should be recognized due to the peculiar situation of the temporary protection status holders. Because Turkey’s obligations arising from international law or agreements to which it is a party do not impose an obligation to provide the right to work for those under temporary protection⁶³. However, the work of those under temporary protection is regulated in the legislation. In other words, in Turkish law, those under

⁵⁵ **Valenta/Thorshaug**, p.462. For similar see. **Sahin Mencuttek/Nashwan**, p.1.

⁵⁶ **Zetter**, Roger/**Ruauadel**, Héloïse, “ ‘Refugees’ Right to Work and Access to Labour Markets: Constraints, Challenges and Ways Forward”, *Forced Migration Review*, 58, June, 2018, PP: 4-8, p.4.

⁵⁷ **Bidinger**, p.239-240; **Kaya**, p.54.

⁵⁸ See. International Covenant on Civil and Political Rights, <https://www.ohchr.org/en/professionalinterest/pages/ccpr.aspx> (accessed: 15.3.2022).

⁵⁹ See. International Covenant on Economic, Social and Cultural Rights, <https://www.ohchr.org/en/professionalinterest/pages/cescr.aspx> (accessed: 15.3.2022).

⁶⁰ **Safi**, p.363.

⁶¹ **Safi**, pp.363-368.

⁶² **Safi**, p.363.

⁶³ **Bidinger**, p.240-242.

temporary protection were given the opportunity to work with certain restrictions. Turkish Constitution includes the provision that “Fundamental rights and freedoms of foreigners may be restricted by law in accordance with international law.” (Art. 16)⁶⁴. Therefore, those under temporary protection can work in Turkey, if they comply with the restrictions stipulated in the legislation⁶⁵.

Granting the right to work for Syrians under temporary protection does not mean that these people are provided with jobs or force the employers to hire them, but only to allow them to participate legally in the labor market in Turkey⁶⁶. In our legislation, it is stated that foreigners under temporary protection may be provided with health, education, access to the labor market, social services, and benefits, as well as translation and similar services (TPR art. 26). In addition to these titles counted in the regulation, they will be able to use the services of public institutions and organizations to the best of their ability. It is noteworthy that the phrase “service” is used here instead of “right”. In the EU Temporary Protection Directive, the responsibilities of member states to those under temporary protection are regulated as “services”, not “rights”. The use of the concept of “service” related to the work to be provided to those who are temporarily protected in both the EU TPR and the TPR is interpreted as the requirements specified in the relevant articles are not mandatory⁶⁷. This confirms the view that the

⁶⁴ In the doctrine, the limitations on the fundamental rights and freedoms of foreigners, referred to as the principle of legalism, are evaluated in different ways due to the need to be made “by law”. Based on this provision, some authors state that the restrictions to be made can only be made technically by regulations called “law” (narrow sense of law), whereas restrictions cannot be imposed by legal arrangements prepared under regulations, directives, circulars, and similar names. See also **Kükrer Mutlu**, Ceyda/**Eğmir**, Rabia Tuğba: “Türkiye’de Bulunan Suriyeli Mültecilerin Çalışma Hakları ve Ekonomik Faaliyetlerde Vergi Karşısındaki Durumu”, Pesa International Journal of Social Studies, November 2020, Vol. 6, Issue 3, PP: 26-276, p.267. Those in this opinion interpret the term “law” in the Constitution in a narrow and technical sense. On the other hand, some authors in the opinion that we agree with state that the expression “law” indicates the principle of legality, and that the phrase “law” will be considered within this scope, as well as the regulatory actions to be made by other bodies based on the authority given by the law in a narrow and technical sense. See also **Doğan**, Vahit: *Türk Yabancılar Hukuku*, 5. Edition, Savaş, Ankara, 2020, p.28; **Çelikel**, Aysel/**Öztekin Gelgel**: *Günseli, Yabancılar Hukuku*, 25. Edition, Beta, İstanbul, 2020, p.63.

⁶⁵ In many countries, it is accepted that the right to work granted to asylum seekers may be limited. For the regulations in some countries regarding the restriction of the right to work of asylum seekers, see. **Valenta/Thorshaug**, p.465 et al.

⁶⁶ **Bidinger**, p.237.

⁶⁷ **Aslantürk/Tunç** (*Syrians*), p.161.

temporary protection mechanism provides weaker protection compared to other types of international protection⁶⁸.

According to article 29 of the TPR, holders of temporary protection identity cards can work by obtaining a work permit until their temporary protection status expires in the sectors, business lines and geographical areas to be determined by the President and complying with the regulations in the legislation. In other words, people under temporary protection, like any foreigner, will be able to exercise this right in accordance with the rules and restrictions in the legislation and by fulfilling the prescribed procedure. Appropriate exercise of the right of these people under temporary protection provides benefits such as their integration into society, avoiding crimes and behavior that disrupt the peace of society, closing the labor deficit, contributing to the economy, as they will earn their living through legal means⁶⁹. However, considering that the number of unemployed population in Turkey is high, working of those under temporary protection can be a hindering factor in the fight against unemployment, the preference of Syrians instead of Turkish workers because they are seen as cheap labor force may cause unfair competition between Turks and Syrians, causing unrest in the society, and it is predicted that the positive impact on Turkey's social recovery and economic contribution will be limited in the long run due to the low level of education⁷⁰.

II. LEGISLATION REGARDING THE WORK OF FOREIGNERS WITH TEMPORARY PROTECTION STATUS IN TURKEY

In Turkish law, the rights that foreigners will have in Turkey are basically regulated by the Law on Foreigners and International Protection 5458, but the Temporary Protection Regulation, which contains detailed provisions on the status of these people, has been adopted, as the number of Syrians under temporary protection reaches millions. In addition to these, the general principles regarding the employment of foreigners in Turkey are regulated by the International Workforce Law (IWL)⁷¹ numbered 6735.

⁶⁸ **Pirjola**, p.425; **Edwards**, p.595. Similarly, see. **Töre**, p.105.

⁶⁹ For more information, see. **Başbuğ**, Şeyma: "Geçici Koruma Kapsamındaki Yabancıların Karşılaştıkları Çalışma Sorununa İlişkin Bir İnceleme", *İş ve Hayat*, Year 2017, Vol. 3, Issue 6, PP: 137-154, 143-145.

⁷⁰ For more information, see. **Başbuğ**, pp.145-146.

⁷¹ O.G. of 13.8.2016 No. 29800.

Regardless of the type, nature and field of study, all foreigners who will work in Turkey are within the scope of IWL. However, as stated repeatedly, due to the high number of people coming from Syria and being included in the scope of temporary protection, and the emergence of some problems in the labor market and working life, it was necessary to specially regulate the work of those who were provided with temporary protection and the rules regarding the employment of these people were arranged in detail in the Regulation on Work Permits of Foreigners under Temporary Protection (RWPFTP)⁷². In addition to these, the Regulation on the Implementation of the Law on Foreigners and International Protection (LFIP) and other secondary legislation can also be implemented.

In addition to this basic legislation, there are also special regulations regarding the work and profession of foreigners. However, since the special regulations for foreigners in the work and profession are not directly related to our subject and will greatly expand the scope of this study, it is not possible to mention them all here.

III. CONDITIONS OF WORKING FOR FOREIGNERS WITH TEMPORARY PROTECTION STATUS

As a rule, a foreign person must obtain a work permit to be able to work in Turkey. Among the conditions to be considered when granting a work permit, there is no preventive rule in the legislation related to the work or profession that the foreigner will do, and in some jobs and professions, preliminary permission must be obtained from the relevant institutions. Although these conditions are among the conditions for granting a work permit, they have been examined under separate titles due to their importance. Apart from the general conditions regarding foreigners working in Turkey, foreigners with temporary protection status must have at least 6 months of temporary protection status and must comply with the provincial or quota restrictions.

A. Getting a Work Permit or Work Permit Exemption Certificate

1. General Explanations

Temporary protection status holders must obtain a work permit to work in Turkey. Work permit applications are made via E-Government Gateway by the employer who will employ foreigners under temporary protection

⁷² O.G. of 15.1.2016 No: 29594.

(RWPFUTP art. 5/2). Those who can obtain an independent work permit apply on their behalf (RWPFUTP art. 5/3). In case of working without a work permit, sanctions stipulated in the law are applied to both the employer and the employee.

Although the rule is subject to permission for those under temporary protection to work in Turkey, an exception has been made for those who will work in seasonal agriculture and animal husbandry. Accordingly, foreigners who are provided with temporary protection who will work in seasonal agriculture and animal husbandry jobs are within the scope of work permit exemption, and they can work by obtaining a work permit exemption certificate by applying to the provincial governorship where temporary protection is provided. The Governorship notifies these applications to the Ministry of Family, Labor and Social Services (MFLSS) (RWPFUTP art. 5/4). MFLSS may impose provincial and quota restrictions for foreigners under temporary protection to be given work permit exemption certificate (RWPFUTP art. 5/5).

As of 2019, the number of Syrian citizens receiving work permits is 63,789⁷³. Considering that the official number of Syrians in our country is close to 4 million and since they work in order to survive, it is possible to say that most of them work informally.

2. Types of Work Permits Applicable to Temporary Protection Beneficiaries

Foreigners who want to work in Turkey can obtain one type of the work permits; work permit of a definite period of time, independent work permit and exceptional work permit if they meet the necessary conditions. Foreigners with temporary protection status can also apply for different types of work permits in accordance with IWL art.17/4. However, it is not possible for them to obtain a Turquoise Card⁷⁴ that allows them to benefit

⁷³ MFLSS, Work Permits of Foreigners, <https://www.ailevecalisma.gov.tr/media/63117/yabanciizin2019.pdf> (6.4.2021).

⁷⁴ Turquoise card is a document that grants a foreigner the right to live and work in Turkey for an indefinite period, and the right to reside for her relatives (The Regulation on Turquoise Card (TCR) art. 4/1-e). The first three years of the turquoise card are given as a transition period and gives the card holder the opportunity to benefit from the rights provided by the indefinite work permit (IWL Art. 11). Turquoise card is given to foreigners whose application is deemed appropriate in accordance with the international labor policy, education level, professional experience, contribution to science and technology, the impact of their activity or investment in Turkey on the country's

from the rights provided by the work permit for an indefinite period of time (IWL art. 11/6).

Considering the practice, it is striking that according to the data in 2019, Syrians under temporary protection were given a temporary work permit, but they were not given an independent and indefinite work permit, and they were rarely given an independent work permit in previous years⁷⁵.

a. Work permit for a definite period of time

In this case, foreigners under temporary protection may first apply for a work permit for a definite period of time (definite work permit). This type of work permit is granted to the foreigner on the condition of working in a specific workplace belonging to a natural or legal person or public institution or organization or in their workplaces within the same line of business if it does not exceed the term of the work or service contract (IWL art.10/1). The definite work permit is given for a maximum of 1 year in the first application, for a maximum of 2 years in the first extension and for a maximum of 3 years in the following extensions. However, extension applications to be made to work with a different employer are considered as the first application (IWL art. 10/2).

b. Independent work permit

Secondly, according to the RWPFUTP art. 5/3, the holder of temporary protection status will be able to apply for an independent work permit. An independent work permit is a type of work permit that gives foreigners the right to work in Turkey under their own name and account (IWL art. 3/1-a). Individuals who can be granted an independent work permit are the company's shareholder director of limited companies established in accordance with the Turkish Commercial Code (TCC), the board member of joint stock companies, the active partner of limited partnership companies whose capital is divided into shares, and foreigners who are professionals if they meet the conditions specified in special laws (IWL art. 10/5). While evaluating the independent work permit applications, the education level of

economy and employment, and the recommendations of the International Labor Policy Advisory Board and the procedures and principles determined by the Ministry (IWL art. 11/1). Foreigners who may be granted Turquoise Card are listed in art. 5 of TCR. The provisions regarding the Turquoise card are not applied to foreigners under temporary protection.

⁷⁵ See also MFLSS, Work Permits of Foreigners, <https://www.ailevecalisma.gov.tr/media/63117/yabanciizin2019.pdf> (6.4.2021).

the foreigner, his/her professional experience, his/her contribution to science and technology, the effect of his/her activity or investment in Turkey on the country's economy and employment, if he/she is a foreign company partner his/her capital share, and other matters to be determined by the Ministry in line with the recommendations of the International Labor Policy Advisory Board. The application will be evaluated considering the specified criteria and an independent work permit for an appropriate duration will be issued accordingly⁷⁶. However, there is no provision regarding which foreigners under temporary protection can apply for an independent work permit⁷⁷. In this case, the general rules in the LFIP regarding independent work permit will be applied.

c. Exceptional work permit

Thirdly, according to IWL art. 16/1-f, those under temporary protection will be able to apply for an exceptional work permit. The law states that foreigners who are within the scope of IWL art.16 may be granted an exception regarding the application of the work permits mentioned above⁷⁸.

⁷⁶ Doğan, p.210.

⁷⁷ Doğan, p.169; Çelikel/Gelgel, p.202.

⁷⁸ According to article 16/1-f of IWL, persons who can be granted an exceptional work permit are as follows;

“In line with the international workforce policy determined by Ministry, the foreigners that may be exempted from the implementation of Article 7, 9 and 10 are those;

- a) assessed as qualified workforce due to their educational level, wage, professional experience, contribution to science and technology and such like qualifications,
- b) assessed as qualified investor due to their contribution to science and technology, their level of investment or export value, volume of employment they provide and such like qualifications,
- c) employed by his/her employer for a certain period in a project which is being realized in Turkey,
- ç) declared by Ministry of Interior or Ministry of Foreigner Affairs as of Turkish origin,
- d) citizens of Turkish Republic of Northern Cyprus,
- e) citizens of the countries that are member of the European Union,
- f) in scope of Law No. 6458; applicants of international protection claim, conditional refugees, persons under temporary protection and stateless persons, victims of human trafficking supported by the victim's assistance process,
- g) married with a Turkish citizen and live in Turkey with their spouse with marriage bond,
- ğ) employed in foreign missions without diplomatic inviolability,
- h) internationally reputed for their success in their field and come to Turkey for scientific, cultural and sportive purposes,
- ı) cross-border service providers.”

According to the article 16/1-f, Syrians who are under temporary protection are among those who can obtain work permit exceptionally.

d. Work permit for an indefinite period of time

Other types of work permits issued in IWL are Turquoise Card holders' work and work permits for an Indefinite Period of Time (Indefinite Work Permit). It has been clearly regulated that those under temporary protection cannot apply for the Turquoise card (IWL art. 11/6). On the other hand, there is no clarity on whether an indefinite work permit will be granted or not⁷⁹. Indefinite work permit is the permit that gives the foreigner the right to work in Turkey without time restriction (IWL art.3 / 1-g). Foreigners who have an indefinite work permit benefit from all the rights provided by a long-term residence permit. Foreigners with this work permit are considered as foreigners with special status⁸⁰. Because long indefinite work permit holders can benefit from the rights that Turkish citizens enjoy, except for the exceptions listed in the law⁸¹. According to IWL10/3, indefinite work permit can only be granted to foreigners who have a long-term residence permit or at least 8 years of legal work permit in Turkey (IWL art. 10/3). Therefore, these two issues should be evaluated regarding whether foreigners under temporary protection will obtain an indefinite work permit or not;

First, it is not possible for foreigners under temporary protection to have a long-term residence permit according to LFIP 42/2. In our opinion, this regulation is quite appropriate. Because the long-term residence permit is arranged by taking into consideration the foreigners who intend to settle in the country and who are integrated with the country to a certain extent. However, as we mentioned at the beginning of the study, the temporary protection status is not given to the protected persons to live permanently in the country, it refers to the provision of collective protection only due to a temporary situation. Therefore, the main purpose is to send these people to their country or to another country safely, and it is thought that their stay in the country will not be continuous. As a matter of fact, the provisions in the ninth section of the Temporary Protection Regulation titled "Voluntary

⁷⁹ Similarly, see. **Kaya**, p.42.

⁸⁰ **Doğan**, p.16.

⁸¹ Except for the regulations in special laws, permanent work permit holders benefit from the rights granted to Turkish citizens, provided that their acquired rights regarding social security are reserved and they are subject to the relevant legislation in the exercise of these rights. However, there is no right to elect, be elected, enter civil service and military service obligation (IWL art. 10/4).

Return and Departure to the Third Country” confirms this approach. Similarly, in art. 17/3 of IWL, it is stated that these permits or exemptions granted to the foreigner who has a valid work permit or work permit exemption certificate with temporary protection status do not provide an absolute right to stay in the country. In this context, granting long-term residence permits to those under temporary protection would not be compatible with the purpose of temporary protection.

Secondly, long-term residence permit can be given to those who have legally worked for at least 8 years in Turkey. Considering that once the indefinite work permit is granted, the foreigner with this permit can work without the need to obtain permission again and without any time limitation, granting this permit means that the adaptation of the foreigner is implicitly accepted by the Ministry and it is aimed to expand the rights of those who provide this adaptation⁸². On the other hand, considering the characteristics of the temporary protection status as a temporary regime, not being able to make individual assessment, and being subject to many restrictions, granting an indefinite work permit would not be compatible with the legal nature of the temporary protection status.

B. Being in The Temporary Protection Status for at Least 6 Months

Foreigners under temporary protection must be under temporary protection in Turkey for at least 6 months to apply for a work permit. Foreigners granted temporary protection according to article 17/1 of IWL can apply for a work permit or work permit exemption 6 months after the date of issuance of the temporary protection identity document. In article 5/1 of RWPFUTP, it is stated that foreigners with temporary protection status can apply to the Ministry to obtain a work permit six months after the date of temporary protection registration. It is not appropriate that these two provisions do not regulate the beginning of the 6 months in the same manner. It would be more suitable for the beginning of the application period to be arranged in parallel with each other in both regulations. Because according to article 22 of TPR, those who have completed the registration process will be issued a temporary protection identity card by the governorships. In this case, while completing the registration process by applying for temporary protection will occur earlier, the temporary protection identity card may be issued after the registration date. Despite this, even if there is a temporal difference between these two processes, it is

⁸² Kaya, p.43.

necessary to accept that temporary protection will begin from the date of registration. Because the relevant foreigner will now be taken under temporary protection as of the date of registration, the 6-month period will start to process from this date.

C. Compliance with Provincial and Quota Restrictions

The legislator has stipulated that a provincial-based restriction on the work of foreigners under temporary protection or a quota restriction based on a workplace may be applied.

According to the regulation regarding provincial limitation, those in temporary protection status can work in provinces where they can reside by the Directorate General of Migration Management within the temporary protection (article 7/1 of RWPFUTP). In other words, as a rule, they can only work in the province indicated as the province of residence in the temporary protection identification card issued by the Ministry of Interior. In this case, for a foreigner under temporary protection to work in another province, he or she must first change the province of residence. If the Ministry of Interior reports that it is inconvenient to issue a work permit for public order, public safety or public health, the issuance of a work permit in these provinces is stopped, and the issued work permits are not extended. However, if the foreigner's right to stay in that province continues, the previously issued and valid work permit can be used until the expiration date of the work permit (article 7/2 of RWPFUTP).

The most important of the regulations regarding the work of foreigners provided with temporary protection is applying sectoral, regional, and workplace-based employment quotas.⁸³ The quota of foreign employment for those provided with temporary protection by the Ministry can be implemented at varying rates according to the sector and province based on the number of Turkish citizens (article 8/1 of RWPFUTP). The regulation determines the workplace-based employment quota. Accordingly, as a rule, the number of people working in a workplace who benefit from temporary protection cannot exceed 10% of the total number of employees in that workplace. In calculating this number, all Turkish citizens working in the relevant workplace registered with the Social Security Institution (SSI) will

⁸³ **Esen**, Bünyamin: "Son Değişiklikler Işığında Geçici Koruma Statüsündeki Yabancıların Ülkemizde Çalışması", İSMMM Mali Çözüm, January-February 2016, PP: 215-223, p.220.

be included⁸⁴. If the number of people working in the workplace is less than 10, then 1 person under temporary protection can be employed (article 8/2 of RWPFUTP). However, quota restrictions do not apply to seasonal works. But the legislator introduced an exception to the workplace quota limitation. The employment quota may not be applied if the employer certifies that there are no Turkish citizens with the same qualifications who can do the work that the foreigner will do in the four weeks before applying for a work permit (article 8/3 of RWPFUTP)⁸⁵. It can be said that this provision is in accordance with the EU Temporary Protection Directive. In article 12 of the Directive, the right to work of those under temporary protection is required. Still, it is stated that EU citizens can be given priority due to labor markets. It is, of course, very natural and understandable for the state to give priority to its own citizens. Articles 8/2 and 8/3 of RWPFUTP aim to give priority to Turkish citizens in employment.

D. Getting Preliminary Permit from the Relevant Institution in Some Jobs and Professions

One of the critical innovations introduced with the IWL is the requirement to obtain a preliminary permit for some jobs and professions. According to article 8 of IWL, it is obligatory to obtain a preliminary permit to evaluate the work permit applications of foreigners who will work in health and education services that require professional competence or as faculty members and R&D personnel. The authorities that will grant preliminary permits are the Ministry of Health for health services, the Ministry of National Education for educational services, and the Council of Higher Education for faculty members (articles 8/2 and 4 of IWL). For

⁸⁴ **Esen**, p.220.

⁸⁵ Although it is stated in the doctrine that the 10% rate of employment quota should be reassessed and stretched from the point of view of Syrians, considering the density of the number of Syrians, it should be noted that we disagree with this view. For this view, see **Kaya**, p.53. Because if the quota limit is not applied for seasonal jobs and it is documented that there are no Turkish citizens of the exact nature who will do the same position in the four weeks before the application for a work permit, the employment quota may not be applied, there may be no quota in jobs and workplaces in this situation. In practice, Syrians can be employed far above the quota limit based on these exceptions, especially in areas where Syrians live densely, and even there are workplaces where almost all employees are Syrian. We believe that the quota limitation and related exceptions are an efficient and appropriate regulation, both in terms of the state prioritizing the employment of its own citizen and its stretchability under certain conditions for those under temporary protection.

foreigners who will work as R&D personnel in companies with R&D Center Certificates, a positive opinion of the Ministry of Science, Industry and Technology is required (article 8/6 of IWL). If the preliminary permit is obtained, the MFLSS will not examine whether the person has the necessary qualifications and expertise (article 8/3 of IWL). In this case, it can be said that the examination of whether a foreigner who will work in a job or profession requiring a preliminary permit procedure has the necessary qualifications will be carried out by the Ministry, which will issue the preliminary permit. Applications of people who apply in an area where a preliminary permit is required, but do not have a preliminary permit certificate, will not be evaluated (article 6/3 of RWPFUTP).

E. Absence of Preventive Rules Related to Work or Profession and Compliance with Restrictions

The condition for the absence of a preventive rule in the legislation related to the work, workplace, or place in which the foreigner wants to work can be examined under two main headings. These are the restrictions applied explicitly by the Ministry for those under temporary protection and the professions in which the requirement to be a Turkish citizen is sought. In addition, limitations in other legislation must also be observed.

First, it is worth noting that in granting a work permit or work permit exemption to foreigners under temporary protection, the MLSS may impose restrictions on some issues. According to 17/6 of IWL, the MLSS will determine the procedures and principles for the implementation or limitation of the right of foreigners with temporary protection status to apply for a work permit or work permit exemption in terms of the province, period, sector, line of work, business, and profession, taking into account the decisions of the Migration Policy Board and international workforce policy. This provision is appropriate for ensuring freedom of determining the limitations to be applied to the working of those under temporary protection according to the current state, sector conditions, and economic health of specific areas. These limitations involve directing the Syrians to the region, profession, or sector that needs a workforce, preventing those under temporary protection from clustering to one region or spreading to the whole country, restricting the potential competition against the citizens⁸⁶.

Second, it is not possible for foreigners to do jobs and occupations that can be done only by Turkish citizens. This general rule applied to the work

⁸⁶ Bidinger, pp.234-235.

of foreigners in Turkey, of course, also applies to holders of temporary protection status. For instance, foreigners cannot do these jobs in Turkey,: Dentistry, nursing (article 30 of the Law on The Mode of Execution of Medicine and Medical Sciences⁸⁷), pharmacy (article 2 of Law on Pharmacist and Pharmacies⁸⁸), veterinary (article 2 of the Law on Practicing the Profession of Veterinary Medicine, Organization of Turkish Veterinary Association and Chamber and Their Activities⁸⁹), attorneyship (article 3 of the Attorneyship Law⁹⁰), notary (article 7 of the Notary Law⁹¹), customs brokerage (article 227 of Customs Law⁹²), private security guard (article 10 of the Law on Private Security Services⁹³), tourist guiding (article 3 of the Tourist Guiding Professional Law⁹⁴), transportation, fishery, diving, pilotage, captancy, clerk, crew membership in Turkish territorial waters (articles 2 and 3 of the Law Concerning Coastal Shipping Along Turkish Shores and Performance of Trade and Business in Turkish Ports and Territorial Waters (Cabotage)⁹⁵)⁹⁶. These jobs are dedicated to Turkish citizens. If an application for a work permit has been made by the foreigners in a field dedicated to Turkish citizens, this application will be rejected. Article 6/2 of the RWPFUTP states that applications for jobs and professions allowed to be performed only by Turkish citizens by law will be removed from the process without evaluation.

Finally, it should be noted that the limitations found in other legislation must also be observed. Since the limitations and restrictions in the relevant legislation for a particular job in geographical, sectoral, professional, humane, or other aspects apply to all citizens or foreigners who will do that job, the work of foreigners must also comply with such limitations and restrictions. Because regulations on foreigners are scattered in the legislation, it is impossible to examine all of them in this study.

⁸⁷ O.G. of 14.4.1928 No. 863.

⁸⁸ O.G. of 24.12.1953 No. 8591.

⁸⁹ O.G. of 18.3.1954 No. 8661.

⁹⁰ O.G. of 7.4.1969 No. 13168.

⁹¹ O.G. of 5.2.1972 No. 14090.

⁹² O.G. of 4.11.1999 No. 23886.

⁹³ O.G. of 26.6.2004 No. 25504.

⁹⁴ O.G. of 22.6.2012 No. 28331.

⁹⁵ O.G. of 29.4.1926 No. 359.

⁹⁶ For detailed information about jobs and occupations that foreigners cannot do, see **Doğan**, p.230 et al.; **Çelikel/Öztekin Gelgel**, p.209 et al.

IV. PROCEDURES FOR OBTAINING A WORK PERMIT AND EVALUATION OF WORK PERMIT APPLICATIONS

In Turkey, work permit applications are made to the MFLSS, and abroad, to the Turkish embassy or the consulate general in the country where the foreigner is a citizen or legally resides. Applications made from abroad are forwarded to MFLSS (article 7/1 of IWL). Holders of temporary protection status can apply for a work permit or work permit exemption after the six months by the date of issuance of a temporary protection identity card (article 17/1 of IWL). As a rule, work permit applications should be made by the employer. Also applications for work permit made through e-Government portal of Turkey (www.turkiye.gov.tr). The online work permit application system allows the users to fill the application form and upload the required documents.

In the evaluation of work permit applications, international workforce policies, and if deemed necessary by the Ministry, opinions of relevant public institutions and organizations and professional associations qualified as public institutes, and scoring system created according to determined criteria will be considered (articles 7/4, 5, 6 of IWL). If there are deficiencies in the application, the application will not be evaluated until the deficiencies are completed; however, completing the shortcomings may not exceed 30 days as a rule (article 7/7 of IWL). Duly submitted applications are completed within 30 days, provided that the information and documents are complete (article 7/8 of IWL). Foreigners whose application is positively evaluated are granted a work permit, and this situation is notified to the Ministry of Interior and the employer (article 9/1 of RWPFUTP). If it is deemed appropriate to work in seasonal agriculture and animal husbandry, the exemption from a work permit is notified to the relevant governorship (article 9/2 of RWPFUTP).

Article 9 of the IWL specifies whose application will be rejected. According to this article applications, that are not in accordance with the international workforce policies; made with false and misleading information and documents; the justification of employment found inadequate; made for the business and the professions which are dedicated to Turkish citizens; did not have the necessary qualifications and expertise; do not meet the criteria established by the Ministry; the applicant is one of those foreigners whose entrance into Turkey cannot be allowed for and related to the foreigners whose deportation is notified by the Ministry of the Interior; related to foreigners who is found inconvenient to work in Turkey in terms

of public order, public security or public health; made by the citizens of countries who Turkey does not recognize or have not diplomatic relations with, except for the cases in which Ministry of Foreign Affairs found it appropriate; not made within the legal period or applications with incomplete deficiencies will be rejected (article 9 of IWL).

In addition, the positive opinion of the Ministry of Interior is sought when granting work permits or work permit exemptions to foreigners who have been granted temporary protection (article 17/2 of IWL).

The period of work permit to be granted to persons under temporary protection cannot exceed the period of temporary protection, since when the temporary protection expires, the work permit issued in this context also expires⁹⁷. As a rule, a work permit issued to foreigners also counted for a residence permit. However, an exception is made to this general rule for those under temporary protection, and it has been accepted that the work permit granted to those under temporary protection will not replace the residence permits issued in the LFIP (article 29/5 of TPR).

V. TERMINATION AND CANCELLATION OF WORK PERMIT

According to art. 15/1 of IWL, the work permit or work permit exemption expires when period expires or is cancelled. Cases that lead to the termination and cancellation of a work permit or work permit exemption are also listed in the article. Accordingly, work permits or work permit exemptions are cancelled in the following cases: the employee or the employee request so; foreigner does not come to Turkey within 6 months from the date of validity of the permit; the validity period of the passport or the certificate counted as passport substitute is not extended, except for the cases in which the Ministry of Interior and the Ministry of Foreign Affairs give approval; working in violation of legal regulations is determined; the work is terminated for any reason; work permit application that has been made with or misleading information and documents is determined; the Ministry of Interior notifies that the applicant is a foreigner who cannot be allowed to enter Turkey, cannot be given visa or will be decided to be deported within the scope of LFIP; the relevant public institutions and organizations report that the applicant is inconvenient to work in Turkey in terms of public order, public safety and public health; the applicant remains abroad more than six months ceaselessly during the validity period of

⁹⁷ Kaya, p.42.

definite work permits or more than a year ceaselessly during the validity period of independent and indefinite work permit except for force majeure such as health reasons and obligatory community service.

Other than the above reasons, in case of termination by the decision of the President of the Republic, or individual termination or cancellation, the work permit or work permit exemption is cancelled upon the decision of the President of the Republic or the notification of the Ministry of Interior (article 17/5-b of the IWL, article 13/3 of the RWPFUTP).

VI. FUNDAMENTAL PROBLEMS REGARDING THE WORK OF SYRIANS UNDER TEMPORARY PROTECTION

The leading problems related to the work of Syrians under temporary protection in Turkey are obtaining a work permit, unregistered/illegal work and child labor. Apart from these, the problems caused by not knowing the Turkish language, discrimination, low wages, long working hours⁹⁸ and overtime works that are not compensated in any way, unpaid wages, working without occupational health and safety, working of qualified employees in jobs that do not need a qualification for meagre wages⁹⁹ and negative reflecting of all these adversities, directly or indirectly, on Turkish employees create serious problems. Since a significant part of Syrians is uneducated and unqualified, their participation in the labor market also negatively influences the culture of occupational health and safety, which is still developing in Turkey¹⁰⁰. Since the investigation of all these problems would exceed the limits of this study, below, information will be given only on the issues of obtaining a work permit, illegal work and child labor in general, all of which are determined to be most occurring issues that those under temporary protection face in work life in Turkey.

A. General Problems of Obtaining a Work Permit

Typically, for foreigners to enter Turkey, they must present a passport or document accepted as a passport. However, foreigners who arrive at borders for temporary protection without a document or with invalid documents can enter the country with the permission of the governorships

⁹⁸ **Pelek**, Deniz: “Syrian Refugees as Seasonal Migrant Workers: Re-Construction of Unequal Power Relations in Turkish Agriculture”, *Journal of Refugee Studies*, Vol. 32, No. 4, 2018, PP: 605-630, p.605.

⁹⁹ For more information, see **Kaygısız**, pp.16-19.

¹⁰⁰ **Türk-İş**, p.5.

(article 17/2 of TPR). As a matter of fact, Turkey has implemented an open-door policy for years in accepting people from Syria, and some of those who come from Syria for temporary protection entered the country without a passport or a document accepted as a passport. Given the current conditions of asylum seekers, it is common for them to enter the country they seek illegally¹⁰¹. However, in the first years, a difference in working rights was created between those who entered by official means with a passport and those who entered undocumented or unregistered. Those who entered Turkey with a passport were granted a work permit, while those who entered Turkey without a passport or irregular means were not granted a work permit¹⁰².

As Syrians began arriving in Turkey, there was no central planning for their living outside the camps. When they started living in areas outside the camps, their participation in economic activities was a process that developed spontaneously, without any planning¹⁰³. As a natural result of this, problems arose in almost every issue related to work. One of the most critical obstacles to Syrians' participation in the labor market is bureaucratic barriers to opening a workplace or obtaining a work permit¹⁰⁴. Especially the papers, information and documents requested for a work permit create severe problems for Syrians who do not know the legal regulations in Turkey. In addition, the obligation that employers who employ foreigners must apply on behalf of the foreigner they will employ, and they must pay a specific fee for each foreigner they employ, is also one of the biggest problems in obtaining a work permit. The fact that workers do not know the legal regulations and work permit procedure, and employers do not want to pay fees and deal with such paperwork leads both workers and employers to informal employment, which will be examined under the following heading¹⁰⁵. Informal work/employment, on the other hand, creates more significant problems individually and collectively.

¹⁰¹ **Kaya/Yılmaz Eren**, p.23.

¹⁰² **Erdoğan, Murat/Ünver, Can**: Türk İş Dünyasının Türkiye'deki Suriyeliler Konusundaki Görüş, Beklenti ve Önerileri, TİSK, Ankara, 2015, 20, as quoted in **Kaya**, p.51. For similar, see **Aslantürk/Tunç (Suriyeliler)**, p.143.

¹⁰³ **Erdoğan, Murat**: Suriyeliler Barometresi 2019; Suriyelilerle Uyum İçinde Yaşamın Çerçevesi, Orion, Ankara, 2020, p.40.

¹⁰⁴ **Korkmaz**, p.67.

¹⁰⁵ Similarly, Korkmaz notes that Syrians have started working informally for reasons such as the inability to obtain a work permit for a long time, being uneducated. See. **Korkmaz**, pp.67-68.

Another issue related to work permits is that the diploma equivalencies of Syrians under temporary protection. However, one of the vital issues for the integration of foreigners to the labor market is the recognition of academic or professional competences/qualifications¹⁰⁶. Although the educational levels of Syrians under temporary protection are generally low, some of them, considered skilled labor, also work in unskilled jobs that do not require qualifications¹⁰⁷. An important reason for this situation is that the failure to accept diploma equivalences prevents qualified labor from finding suitable work for their profession¹⁰⁸. To recognize the diploma equivalence, the university's approval they graduated in Syria is required. Still, the process cannot be completed because of the lack of communication with Syrian universities¹⁰⁹. For this reason, Turkey cannot benefit from the qualified workforce that it can actually do. As a result, educated and qualified Syrians lose their professional skills because they are not employed in jobs suitable for their profession and migrate to third countries if they find the opportunity¹¹⁰.

The fact that they do not or cannot obtain work permits because of these problems leads Syrians to informality, which will be examined in the next heading. According to MFLSS' 2019 data, 63,789 Syrian citizens were granted permanent work permits in 2019, while no indefinite and independent work permits were granted¹¹¹. Although it is known that the number of Syrians opening their own businesses in areas where they are crowded is quite large, a significant number of them do not follow the necessary procedure to open or work in a workplace, and the official authorities are tolerant of this situation, no action is taken on interested persons, in other words, this illegality is tolerated¹¹².

¹⁰⁶ **Sahin Mencutek/Nashwan**, p.3.

¹⁰⁷ For similar, see **Lordođlu**, Kuvvet: "İşgücü Piyasalarında En Altta Olanlar: Suriyeli İşçiler", Türkiye'de Çocuk İşçiliği Sorunu, "Suriye'den Gelen Mülteciler Sonrası Mevcut Durum ve Çözüm Önerileri" Conference Report, 11 March 2016, Hayata Destek, İstanbul, 2016, PP: 21-25, p.24.

¹⁰⁸ **Kaygısız**, p.7. For similar, see **Aslantürk/Tunç (Suriyeliler)**, p.143.

¹⁰⁹ **Kaygısız**, p.15.

¹¹⁰ **Korkmaz**, p.78. For similar, see **Koca**, Şeyda Nur: "Suriyeli Sığınmacıların Türk Emek Piyasasına Katılım Süreçlerinin Toplumsal Boyutları", The Journal of Migration Studies, Vol. 5, Issue 2, December 2019, PP: 314-357, p.329.

¹¹¹ **MFLSS**, Work Permits of Foreigners, <https://www.ailevecalisma.gov.tr/media/63117/yabanciizin2019.pdf> (accessed: 30.3.2021).

¹¹² **Kaygısız**, p.13.

B. Informal Work

Informal employment is “not reflecting in official documents of employment activity or incomplete notification of the duration of employment and of wages received to official authorities”¹¹³. In Turkish law on foreigners, labor law and social security law, works that go beyond the legal forms of work whose boundaries are determined are called “unauthorized work, illegal work or informal work”. When it is called “informal work of foreigners”, it is understood that the foreigner works or is employed without obtaining a work permit. The concept of “foreign illegal worker”, which is usually used to express this situation, is one of the types of informal employment and refers to a person who is not connected to the country of which he or she is not a citizen and works without obtaining a work permit¹¹⁴.

While informal working of asylum seekers who did not or could not obtain a work permit was seen as a manageable situation until a mass of Syrians came to Turkey, with the entrance of Syrians into the labor market, this situation exceeded the limit of manageability, and relevant regulations had to be made¹¹⁵. Because foreigners, who are seen as cheaper labor than citizens, are among the most important informal employment actors¹¹⁶.

Unfortunately, it is not possible to reach accurate statistics on foreign informal labor¹¹⁷. Despite this, it is known that a high number of Syrians work informally in Turkey¹¹⁸. Syrians in Turkey often work informally in domestic work, construction, and agricultural work¹¹⁹. Many employers employ foreigners with temporary protection status at a wage below the

¹¹³ **Mahiroğulları**, Adnan: “Türkiye’de Kayıtdışı İstihdam ve Önlemeye Yönelik Stratejiler”, Suleyman Demirel University the Journal of Faculty of Economics and Administrative Sciences, Year 2017, Vol. 22, Issue. 2, PP: 547-565, p.547.

¹¹⁴ **Aslantürk/Tunç** (*Informal Employment*), p.15.

¹¹⁵ **Üstün**, Nazlı: Suriyelilerin Türk İşgücü Piyasasına Entegrasyonu: Sorunlar-Öneriler, Konya Chamber of Commerce, Konya, February 2016, p.5.

¹¹⁶ **Aslantürk/Tunç** (*Informal Employment*), p.14.

¹¹⁷ **Aslantürk/Tunç** (*Informal Employment*), p.15.

¹¹⁸ **Kaya/Yılmaz Eren**, p.60; **Esen**, 215; **Başbuğ**, p.151; **Kavas/Develi**, p.13; **Aslantürk/Tunç** (*Syrians*), p.170; **Koca**, p.335; **Lordoğlu**, p.24; **Yıldız**, Tuğba/**Yıldız**, İbrahim: “Suriyelilerin Türkiye Ekonomisinde Kayıt Dışı İstihdama Etkileri ve Bunun Yansıması Olarak Türkiye’ye Maliyetleri Üzerine Bir İnceleme”, Journal of Economics Business and Political Researches, Year 2017, 2(3), PP: 30-46, p.33.

¹¹⁹ **Bidinger**, p.235.

minimum wage without a work permit to gain a financial advantage¹²⁰. Employers seem to ignore fines linked to informal work¹²¹. Illegal workers are seen as cheap workforce due to working informally, their wages are lower than registered workers who do the same job, they work insecurely, and without protection, they cannot get the proper wage of their work,¹²² their labor is exploited,¹²³ they are seen as the leading cause of unemployment in the society in which they live, especially in areas and periods where unemployment is high since they are seen as cheap workforce¹²⁴. Accordingly, there is a backlash against Syrians¹²⁵. Given that foreigners who work illegally often face difficult working conditions and work for lower wages in jobs that registered workers do not want to do, it

¹²⁰ **Başbuğ**, p.146; **Kavas/Develi**, pp.12-13; **Aslantürk/Tunç** (*Syrians*), p.170.

¹²¹ **Bidinger**, p.235. According to article 23/5 of the IWL, fines in the law will be applied to the foreigner working with an independent or indefinite work permit without fulfilling the notification obligation and to the employer, as well as to a foreigner and the employer working without a work permit. The following paragraph of the article states that the fine will be applied by doubling it if the action is repeated. For the year 2021, employers who hire foreigners without work permits will be fined 11.796 TL for each foreigner, foreigners who work dependently without a work permit will be fined 4.716 TL, foreigners who work independently without a permit will be fined 9.438 TL, foreigners who work with an independent and indefinite permit and do not fulfill the notification obligation within the legal period will be fined 784 TL, and their employer will be fined the same amount for each foreign worker.

¹²² **Koç**, Muzaffer/**Görücü**, İbrahim/**Akbıyık**, Nihat: “Suriyeli Sığınmacılar ve İstihdam Problemleri”, Individual and Society Journal of Social Sciences, Spring 2015, Vol. 5, Issue 9, PP: 63-93, pp.88-89; **Kavas/Develi**, 4; **Korkmaz**, 64,69, pp.77-78. For similar, see **Erdoğan**, p.40; **Başbuğ**, pp.146, 151-152; **Kaygısız**, pp.8, 16; **Aslantürk/Tunç** (*Syrians*), p.170; **Koca**, pp.336-339; **Bidinger**, pp.235-236; **Kocadaş**, Bekir: “Suriyeli Sığınmacılar ve Çalışma Hayatı: Sorunlar, Tespitler ve Öneriler”, Sociological Thought, Vol. 3, Issue 1-2 June-December 2018, PP: 1-13, p.6; **İçduygu**, Ahmet/**Diker**, Eleni: “Labor Market Intergration of Syrian Refugees in Turkey: From Refugees to Settlers”, The Journal of Migration Studies, Vol. 3, Issue 1, January-June 2017, PP: 12-35, pp.23-24.

¹²³ **Pelek**, p.611.

¹²⁴ **Kaya/Yılmaz Eren**, p.60. For similar, see **Zetter/Ruauadel**, p.5; **Pelek**, p.621. Similarly, Aslantürk and Tunç note that the vast majority of citizens believe that Syrians should not be given a work permit or given only temporarily/limitedly, fearing that they have taken away or will take away their jobs. See. **Aslantürk/Tunç** (*Syrians*), p.170. In contrast, corporate companies that are forced to compete with informal labor have said that Syrians should be given the right to work. See. **Erdoğan**, p.40.

¹²⁵ **Koç/Görücü/Akbıyık**, pp.80, pp.87-88; **Dönmez Kara**, Canan Öykü: “Türkiye’de Yabancıların Çalışma Hakkı: Suriyelilerin İşgücü Piyasasındaki Durumu”, Üsküdar University Journal of Social Sciences, Year 2016, Issue 2, PP: 151-174, pp.164, 168. For similar, see **Üstün**, p.7; **Kaygısız**, p.9.

can be said that these people do not actually want to remain illegal but continue to work informally because of the obligation to maintain their lives¹²⁶.

Informal work causes various problems not only from the point of view of employees but also from the point of view of employers. Corporate companies, especially those that do not employ informal foreigners, have difficulties with cheap labor and competing with illegality¹²⁷. For the state, informal employment has consequences such as tax revenues, and thus a decline in the public treasury, harming the justice of taxation,¹²⁸ causing unfair competition, reducing productivity, damaging the social security system, and preventing social movements, impairing citizens' confidence in the government, injuring the social morality, rising unemployment rates, the expanding poverty¹²⁹.

As mentioned above, foreigners are prohibited from working or being employed without a work permit (article 6/2 of the IWL). Administrative fines specified in the law are applied to foreigners working without a work permit and their employers (article 23/5-b of the IWL). In addition, the foreigner is notified to the Ministry of Interior to be deported (article 23/8 of the IWL), and a deportation decision is made for the foreigner who is detected to be working without a work permit (article 54/1-ğ of the LFIP)¹³⁰.

Despite the inspection mechanisms and sanctions stipulated in the legislation, it is seen that the informal work of those under temporary protection cannot be prevented. Several measures can be suggested to avoid informal working, such as, the state should develop effective policies to reduce unemployment and fight against poverty; the awareness of employers and workers about informal employment should be raised, and the legislation should be compiled in a simple and understandable language for the society;

¹²⁶ **Aslantürk/Tunç** (*Informal Employment*), 19. For similar, see **Başbuğ**, p.149; **Dönmez Kara**, p.164.

¹²⁷ **Erdoğan**, 40. For similar, see **Başbuğ**, p.146; **Kaygısız**, p.16.

¹²⁸ For detailed information on the work of Syrians and their tax situation, see **Kükrer Mutlu/Eğmir**, p.270 et al.

¹²⁹ **Aslantürk/Tunç** (*Informal Employment*), p.19; **Kavas/Develi**, p.4. For similar, see **Yıldız/Yıldız**, pp.31, 36-38; **Kavas/Develi**, pp.10-14, **Korkmaz**, pp.78-79.

¹³⁰ However, it is unclear whether those under temporary protection will be deported according to the first paragraph of article 54 of the LFIP or second paragraph, which quite narrows the reasons for deportation, and the fact that this issue is not clarified in the Temporary Protection Regulation is criticized in the doctrine. See. **Ekşi**, p.83. Also, about the deportation of those who benefit from temporary protection, see **Aydoğmuş**, p.152 et al.

the bureaucratic procedures regarding employment should be reduced, particularly those on the employer; the state should overlook illegal working and follow a policy towards preventing it; tax system, which is one of the essential stages in the fight against illegal working, should be taken into account and introduced a simple and transparent system to ensure tax equity; the bureaucratic procedures should be reduced as much as possible to encourage getting a work permit and inspections regarding work permit should be intensified; the supervisory agencies should be strengthened, and the number of checks should be increased¹³¹.

C. Child Labor

Child labor is a form of work defined as ‘forbidden work’ due to harmful conditions that may arise by the nature of children in a certain age group¹³² and the term “child” refers to individuals under the age of 18¹³³. “Child worker” refers to employees under the age of 15¹³⁴, and children under the age of 15 are prohibited from working in many international regulations, with exceptions¹³⁵. A significant proportion of those who come from Syria is child workers¹³⁶. According to current data, 1.5 million of the Syrians under temporary protection are children under the age of 15, and more than 250 thousand are children between the ages of 15 and 18¹³⁷. Syrian children under temporary protection face problems such as malnourishment, increasing exposure to psychological disorders of parents, not receiving appropriate treatment when ill, suffering from sexual abuse, not being able to benefit from the right to be educated, and informal working/employment¹³⁸.

¹³¹ **Aslantürk/Tunç** (*Informal Employment*); **Kavas/Develi**, pp.20-22.19.

¹³² **Kaygısız**, p.11.

¹³³ As in Turkish law, article 1 of the UN Convention on the Rights of the Child, to which Turkey is a party, as in Turkish law, and article 2 of The Convention Concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour defines “child” as individuals under the age of 18.

¹³⁴ For the term “child worker”, see **ILO**, <https://www.ilo.org/ankara/areas-of-work/child-labour/lang--en/index.htm> (accessed: 9.4.2021).

¹³⁵ For example, in agreements such as the European Social Charter (article 7) and ILO Minimum Age Convention (article 2), children under the age of 15 are prohibited from working.

¹³⁶ **Başbuğ**, p.150.

¹³⁷ **Directorate General of Migration Management**, Temporary Protection, <https://en.goc.gov.tr/temporary-protection27> (accessed: 1.4.2021).

¹³⁸ **Kaygısız**, p.12.

The issue of child labor, which Turkey has eliminated to a large extent with long-continued efforts, has been raised again with Syrians¹³⁹. According to the Labor Law, children under the age of 15 are prohibited from working (article 71/1 of the LL)¹⁴⁰. Jobs that the child and young workers are prohibited from working in are regulated in the Regulation on the Principles and Procedures for the Employment of Children and Young Persons. Looking at the list of jobs in which child workers can be employed in the annex to the regulation, it seems that jobs that are considered heavy and dangerous are not open to the work of child and young workers. Despite the relevant regulations, many children under temporary protection work in hard duties and informally in violation of the legislation¹⁴¹. Most Syrian children in Turkey work in fields and gardens in the countryside. In cities, they work in workshops and streets in the cities, usually in textiles, services, construction, seasonal agricultural works, and shepherding¹⁴². Often, they are employed in the worst conditions, in small, damp, and gloomy workshops for long hours, and they are subjected to insults while working and paid less than adults, even if they do the same job¹⁴³.

¹³⁹ **Yıldız/Yıldız**, p.44; **Türk-İş**, p.5. For similar, see **Bahadır**, Hande/**Uçku**, Reyhan: “İzmir’de Bir Mahallesiinde Yaşayan 6-17 Yaş Arasındaki Suriyeli Çocukların Çalışma Durumları ve Çalışma Durumlarını Etkileyen Etmenler”, Journal of Dokuz Eylül University Medical Faculty, Vol. 30, Issue 3, December 2016, PP: 117-124, p.119.

¹⁴⁰ According to article 71 of the Labor Law Issue 4857, “children under fifteen are prohibited from working. But children who have reached the age of fourteen and have completed the compulsory elementary education can be employed in light duties that will not interfere with their physical, mental, social, and moral development and the attendance of those who continue their education to their schools. Children under the age of fourteen can be employed in activities of Arts, Culture and advertising activities that will not interfere with their physical, mental, social, and moral development and the attendance of those who continue their education to their school on the condition that a written contract is made, and separate permits are received for each activity”. Although prohibited by law, it is accepted that in detecting child workers under temporary protection working in violation of article 71 of LL, they should benefit from their labor rights in the period until the nullity of the contract. See: **İzmirluoğlu**, Ayça: “Türk Çalışma Mevzuatı Bakımından Uluslararası Koruma ve Geçici Koruma Statüsü Sahibi Yabancı Çocuk İşçilerin Durumuna Genel Bakış”, Journal of İzmir Bar Association, September 2018, PP: 15-58, p.34.

¹⁴¹ **Başbuğ**, p.150.

¹⁴² **Kaygısız**, p.11.

¹⁴³ **Kaygısız**, p.12. For similar, see **Özer**, Mustafa: “Türkiye’de Yaşayan Suriyeli Sığınmacı Çocukların Çalışma Hayatına Katılmaları ve Çocuk İşçiliği Sorunu”, ISPEC Journal of Social Sciences & Humanities, Year 4/2020, Vol. 4, Issue 4, PP: 309-327, p.317; **Bahadır**, Hande/**Demiral**, Yücel: “Suriye’den Türkiye’ye Zorunlu Göç Hareketi ve

In addition to being against the legislation, this situation causes them to interrupt their education, negatively affects their physical and mental health, and also negatively affects their later life in the long term¹⁴⁴. According to the art. 42 of the Constitution of the Republic of Turkey, “no one shall be deprived of the learning and education”. In the continuation of the same article, it is stated that primary education is mandatory. However, some of the child workers can not attend compulsory education regularly, and some of them may be completely deprived of their right to education. As a matter of fact, the legislator considering this situation has decreed that the working time during the education term of those who continue their education for children who can work following the requirements provided for in the legislation may be no more than two hours a day and 10 hours a week outside of the education hours (article 71/2 of the LL). Child workers who leave the education become easier to push into crime due to social adaptation problems¹⁴⁵. In addition, the inability to receive education means that they lack the equipment necessary for their future¹⁴⁶. In other words, since they lack vocational training and skills due to their inability to receive an education, they also have no choice but to work in unsecured and risky jobs in their adulthood¹⁴⁷. Also, those children are exposed to the negative effects that we have mentioned concerning informal work under the previous heading since they work informally¹⁴⁸.

It is possible to say that legal regulations aimed at preventing child labor in the legislation are theoretically sufficient¹⁴⁹. However, in practice, due to difficulties in determining the work of these children, the absence of complaints from those concerned, the lack of adequate supervision, sanctions can be barely applied to those concerned, such as parents or employers. Although legal regulations tried to prevent child labor, the increase in the number of Syrian child workers attracted the attention of the relevant institutions, and in 2016, the National Anti-Child Labor program was initiated. Despite this, it can be concluded that such work is currently not

Çocuk İşçiliği”, ESTUDAM Journal of Public Health, 2019, 4(3), PP: 389-397, p.393 et al.; İzmirlioğlu, pp.44-45.

¹⁴⁴ Başbuğ, p.150.

¹⁴⁵ Yıldız/Yıldız, p.38.

¹⁴⁶ Özer, p.312.

¹⁴⁷ Kaygısız, p.12.

¹⁴⁸ Başbuğ, p.150. For similar, see Yıldız/Yıldız, p.38.

¹⁴⁹ For detailed information about legal regulations related to the problems faced by child workers under temporary protection in their working life, see İzmirlioğlu, p.47 et al.

enough, given that Syrian child workers are still employed. Research shows that child workers under temporary protection work at the request of their families, and a significant part of these children are the only employees in the family¹⁵⁰. Considering this situation, we can say that it is not enough to include only child protection considerations to prevent child labor; it is necessary to provide employment opportunities to adults in the family, and inspections on this issue should be intensified.

CONCLUSION

Syrians who have taken refuge in Turkey because of the events in Syria since 2011 are under temporary protection. These persons with temporary protection status have the right to work in addition to many rights, and the work of those under temporary protection is regulated in detail in Turkish legislation. To work in Turkey, those under temporary protection must have been under temporary protection for at least 6 months before starting work, obtain a work permit or a work permit exemption, obtain a preliminary permit from the relevant authorities for certain professions, comply with the provincial and quota restrictions, and there should be no preventive rule in legislation concerning the job to be done, and compliance with the restrictive rules is required.

The stay and work of the persons with this status in Turkey are arranged considering that their stay and work will not be permanent due to their status; in other words, it will be short-term. As the name suggests, temporary protection has a “temporary” quality. However, many Syrians under temporary protection in our country have been living in our country for almost more than a decade. It is evident that this situation is incompatible with the “temporary” nature of the protection provided and the status they have. Regulations should be made by since at least a significant proportion of these people who have been granted temporary protection by thinking they would return to their country, is unlikely to return to their country. The regulations should ensure that these people participate actively and in accordance with the law in working life, and some of the existing regulations should be updated. Participation of the foreigners under temporary protection in the labor market and production life must be ensured to benefit them economically¹⁵¹. For these people to exercise their right to work and to

¹⁵⁰ For more information, see **Bahadır/Demiral**, p.393.

¹⁵¹ **Başbuğ**, p.153.

save them from being a burden to the state and society,¹⁵² appropriate legal and political infrastructure must be established. Although adopting the regulation on the work of those under temporary protection in 2016 has made a positive contribution to reducing problems, we cannot say that it has solved all the issues.

Both the Syrians under our temporary protection and Turkey face many problems in working. Among these problems, the most noticeable are problems related to obtaining a work permit, informal work, and child labor. In general, Syrians work in jobs and difficult conditions, where citizens do not want to work, to have an income so that they can afford their basic needs.¹⁵³ Also, the low educational level of these people and the lack of an income-generating profession are the biggest obstacles to achieving decent jobs¹⁵⁴. Therefore, they can be subjected to general and vocational education or at least general and vocational education plans for children should be made long-term. Additionally, they should be directed to the sectors and regions that need employees, and informal work should be controlled according to the recommendations under the relevant heading. Because Syrians are seen as a repository of cheap labor, wages in the domestic labor force are being reduced¹⁵⁵, and reactions to Syrians are growing. Although many Syrians live in Turkey, the number of those who received work permits is relatively low. Considering this situation, it will be appropriate to make regulations that facilitate the procedure for obtaining a work permit. Also, it is necessary to establish a system in which they can know their rights and seek their rights and to increase inspections to prevent informal work, especially to prevent labor exploitation.

¹⁵² Aslantürk/Tunç (*Syrians*), p.161. For similar, see **Bidinger**, p.244.

¹⁵³ Aslantürk/Tunç (*Syrians*), p.175.

¹⁵⁴ **Kaygısız**, p.15.

¹⁵⁵ Aslantürk/Tunç (*Syrians*), p.176; **Kocadaş**, p.6.

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