

# LAW ON FOREIGNERS AND INTERNATIONAL PROTECTION

Law No. 6458

Date of Adoption: 04/04/2013

## CHAPTER ONE

### Purpose, Scope, Definitions and Non-refoulement

#### SECTION ONE

##### Purpose, Scope and Definitions

###### Purpose

**ARTICLE 1-** (1) The purpose of this Law is to determine the procedures and principles with regard to the foreigners' entry into, stay in and exit from Turkey and with regard to the scope and implementation of protection to be provided to persons who apply for protection in Turkey; and to determine the establishment, duty, authority and responsibilities of the Directorate General of Migration Management under the Ministry of Interior.

###### Scope

**ARTICLE 2-** (1) The provisions of this Law apply to operations and proceedings related to foreigners; international protection to be provided for individual protection applications lodged at borders, border gates or within Turkey; emergency and temporary protection to be provided to foreigners who cannot return to the country which they have been forced to leave and have come to Turkey in masses; and the establishment, duty, authority and responsibilities of the Directorate General of Migration Management.

(2) This Law shall be implemented without prejudice to provisions contained in international agreements to which Turkey is party and to provisions in other specific legislation.

###### Definitions

**ARTICLE 3-** (1) In the implementation of this Law, the following definitions shall apply:

- a) Family members: The spouse, minor child and dependent adult child of the applicant or the beneficiary of international protection,
- b) European countries: Member States of the Council of Europe and other countries to be determined by the Council of Ministers,
- c) Minister: The Minister of Interior,
- ç) Ministry: The Ministry of Interior,
- d) Applicant: A person who has lodged an international protection application and for whom a final decision has not yet been taken,
- e) Child: A person, who has not yet reached the age of eighteen and who has not yet attained majority,
- f) Sponsor: A Turkish citizen or a foreigner legally residing in Turkey, who bears the expenses of foreigners coming to Turkey for the purpose of family unity and who is shown as basis for application for residence permit by the applicant,
- g) General Director: General Director of Migration Management,
- ğ) Directorate General: The Directorate General of Migration Management,
- h) Controls on entry and exit: Control procedures at border gates,
- ı) Migration: Regular migration denoting foreigners' legal entry into, stay in and exit from Turkey as well as irregular migration denoting foreigners' illegal entry into, stay in, exit from and employment without permission in Turkey, and international protection,

- i) Residence address: The location in Turkey as recorded under the address registration system,
- j) Residence permit: The permit issued for the purpose of residing in Turkey,
- k) Consulate: Consulate Generals, Consulates or Consular Sections of Embassies of the Republic of Turkey,
- l) Person with special needs: Among the applicants and persons benefiting from international protection, persons who are; an unaccompanied child, disabled, elderly, pregnant, a single mother or father with a child, persons who have been subjected to torture, sexual assault or other serious psychological, physical or sexual violence,
- m) Unaccompanied child: As long as he or she is not taken under the effective care of a responsible person, a child who arrives on the territory of Turkey unaccompanied by an adult legally or customarily responsible for him or her, or is left unaccompanied after entering the territory of Turkey,
- n) Travel document: Document which substitutes for a passport,
- o) Border gate: Border crossing point identified through a Council of Ministers Decision for entry into and exit from Turkey,
- ö) Final decision: With regard to decisions taken concerning the application of the applicant or the status of the beneficiary of international protection; the decision taken by the Directorate General in case no administrative or judicial appeal has been lodged, or the decision which is no longer subject to a remedy after an appeal to judiciary has been lodged,
- p) Convention: The Convention Relating to the Status of Refugees of 28 July 1951, as amended by the 1967 Protocol Relating to the Status of Refugees,
- r) International protection: Refugee status, conditional refugee status or subsidiary protection status,
- s) Country of nationality: The country of nationality of the foreigner or in case the foreigner possesses more than one nationality, each country of nationality,
- ş) Stateless person: A person who has no citizenship bond with any state and who is considered a foreigner,
- t) Visa: The permission which authorizes stay in Turkey for up to ninety days, or transit through Turkey,
- u) Visa exemption: The regulation waiving the requirement for a visa,
- ü) Foreigner: A person who has no citizenship bond with the State of Republic of Turkey,
- v) Foreigner identification number: Identification number issued to foreigners pursuant to Population Registration Law No. 5490 of 25/4/2006.

## **SECTION TWO**

### **Non-refoulement**

### **Non-refoulement**

**ARTICLE 4 – (1)** No one who fall under the scope of this Law shall be returned to a place where he or she may be subject to torture, inhuman or degrading punishment or treatment, or where his or her life or freedom may be under threat on account of his or her race, religion, nationality, membership of a particular social group or political opinion.

## **CHAPTER TWO**

### **Foreigners**

### **SECTION ONE**

#### **Entry into Turkey and Visa**

#### **Entry into and Exit from Turkey**

**ARTICLE 5-** (1) Entry into and exit from Turkey shall be conducted through border gates with valid passports or passport substitute documents.

#### **Document checks**

**ARTICLE 6-** (1) A foreigner is obliged to present his or her passport or passport substituting documents to officials during entry into or exit from Turkey.

- (2) Document controls regarding border crossings may also be performed in carriers en route.
- (3) Foreigners using the transit areas of airports may be subject to control by competent authorities.
- (4) During entry into Turkey, controls shall be conducted as to whether or not a foreigner falls under Article 7 of this Law.
- (5) In the implementation of this Article, those who need to be subject to comprehensive controls may be held for a maximum of four hours. The foreigner can, at any time during this period, choose to return to his or her country or await the conclusion of procedures related to his or her acceptance into the country without being limited to the four hour time period. Procedures and principles related to comprehensive controls will be determined through a regulation.

#### **Foreigners who shall not be permitted entry into Turkey**

**ARTICLE 7-** (1) A foreigner shall not be permitted entry into Turkey and shall be turned away in case;

- a) it is determined that his or her passport, passport substituting document, visa or residence permit or work permit is absent or fraudulent; or that he or she has obtained these permits fraudulently,
- b) he or she does not hold a passport or a passport substitute document which is valid for at least sixty days as of the expiry of visa, visa exemption or residence permit,
- c) he or she falls under the scope of the foreigners listed under the first paragraph of Article 15, without prejudice to the second paragraph of Article 15 of this Law, and regardless of whether or not he or she is exempted from a visa.

(2) Procedures undertaken with regard to this Article shall be notified to foreigners who are turned away at the borders. The notification shall include the way in which foreigners can effectively use their right of appeal against the decision as well as information on their other rights and obligations in this process.

#### **Implementation for those who have applied for international protection**

**ARTICLE 8-** (1) Conditions stipulated in Articles 5, 6 and 7 of this Law shall not be construed or implemented in a way to prevent application for international protection.

#### **Ban on entry into Turkey**

**ARTICLE 9-** (1) Obtaining the views of related public institutions and organizations when necessary, the Directorate General shall issue a ban on entry against foreigners whose entry into Turkey is found objectionable on grounds of public order or security or public health.

- (2) Foreigners who are deported from Turkey shall be issued a ban on entry into Turkey by the Directorate General or governorates.
- (3) The ban on entry into Turkey shall not exceed five years. However, in case there exists a serious threat in terms of public order and security, this period may be increased for another ten years at most by the Directorate General.
- (4) The ban on entry issued against foreigners whose visa or residence permit validity has expired, but for whom a deportation decision is taken upon their application to the governorates in order to depart from Turkey prior to the determination of the condition by competent authorities, shall not exceed one year.
- (5) Among those who are issued an invitation to leave the country in accordance with Article 56 of this Law, a ban on entry may not be issued for those who leave the country in the specified time period.
- (6) The Directorate General may revoke the ban on entry or may temporarily allow the foreigner to enter Turkey without prejudice to the ban on entry.
- (7) The Directorate General may make the admission of certain foreigners into the country conditional on the attainment of a prior permission from the Directorate General, on grounds of public order or security.

#### **Notification regarding ban of entry in Turkey**

**ARTICLE 10-** (1) Notification regarding the ban on entry against foreigners who come under the scope of the first paragraph of Article 9 will be made by the competent authority at the border gates when they arrive to enter Turkey; and by governorates to foreigners who come under the second paragraph of Article 9. The notification shall include the way in which foreigners can effectively use their right of appeal against the decision as well as information on their other rights and obligations in this process.

#### **Obligation to obtain a visa, visa application and competent authorities**

**ARTICLE 11-** (1) Foreigners intending to stay in Turkey for a period of 90 days or less shall arrive in Turkey subsequent to obtaining a visa, also indicating the purpose of visit, issued by the consulates of the Republic of Turkey in their country of nationality or legal residence. The duration of stay as provided by the visa or visa exemption shall not exceed 90 days within 180 successive days.

(2) The assessment of visa applications is conditional on the filing of the application in accordance with procedural requirements.

(3) A visa shall not confer an absolute right to enter Turkey. (4) Visas shall be issued by consulates of the Republic of Turkey, or exceptionally by governorates that are responsible for the border gates. Applications lodged at consulates shall be finalized in no later than ninety days.

(5) Diplomats of foreign countries may be issued visas *ex officio* by Embassies of the Republic of Turkey. Visas issued for this purpose shall immediately be notified to the Ministry and Ministry of Foreign Affairs in accordance with general procedures of issuing visas. These visas shall be free of charge.

(6) Exceptionally, foreigners for whom a visa is deemed necessary in consideration of the national interest of Turkey may be issued visas *ex officio* by Embassies of the Republic of Turkey. Visas issued for this purpose shall be notified to the Ministry and Ministry of Foreign Affairs in accordance with general procedures of issuing visas. These visas shall be free of charge.

(7) Principles and procedures regarding visa types and proceedings shall be determined by a regulation.

### **Visa exemption**

**ARTICLE 12-** (1) Visa shall not be required for entry into Turkey from the foreigners enumerated below:

(a) Those who are exempt from the requirement of holding a visa pursuant to conventions to which the Republic of Turkey is a party, or pursuant to a decision of the Council of Ministers,

(b) Those who possess a residence or work permit valid as of the date of entry into Turkey,

(c) Those who hold a valid passport stamped with the phrase 'for foreign persons', issued pursuant to Article 18 of Passport Law No.5682 of 15/7/1950.

(ç) Those who are understood to fall under the scope of Article 28 of Turkish Citizenship Law No. 5901 of 29/5/2009.

(2) A visa may not be required for entry into Turkey from foreigners enumerated below:

(a) Among foreigners who are passengers on carriers that are obliged to use Turkish air and sea ports owing to force majeure, those intending to disembark at the port city,

(b) Those who arrive at sea ports and intend to visit the seaport city or nearby provinces for touristic purpose, provided that their stay will not exceed seventy two hours.

### **Visas issued at border gates**

**ARTICLE 13-** (1) Foreigners who arrive at border gates without having obtained a visa may be exceptionally issued a visa at the border gates provided that they guarantee their departure from Turkey in due time.

(2) Border visas shall be issued by governorates in charge of the border gates. The governorate may devolve this authority to the law-enforcement unit stationed at the border. The border visa shall entitle the holder to stay in Turkey for a maximum duration of 15 days, unless a different time period is designated by the Council of Ministers.

(3) Medical insurance may not be required for issuing visas at the border due to humanitarian reasons.

### **Airport transit visa**

**ARTICLE 14-** (1) Foreigners intending to transit through Turkey may be required to obtain an airport transit visa. Airport transit visas shall be issued by consulates to be used within a period of a maximum of six months.

(2) Foreigners who will be required to obtain an airport transit visa shall be determined jointly by the Ministry of Interior and Ministry of Foreign Affairs.

### **Refusal of a visa**

**ARTICLE 15-** (1) Visa shall be refused to foreigners who;

a) Do not possess a passport or a passport substitute document with a validity of at least sixty days longer than the requested visa period,

b) Are prohibited entry into Turkey,

- c) Are found unfavourable on grounds of public order or public security,
  - ç) Carry a disease that is identified as a threat to public health,
  - d) Are suspects or convicted of a crime or crimes that are subject to extradition under agreements or treaties to which the Republic of Turkey is party,
  - e) Are not covered by a valid medical insurance covering the intended duration of stay,
  - f) Cannot provide justification for the purpose of their intended entry into, transit through or stay in Turkey,
  - g) Do not possess sufficient and regular means of subsistence for the duration of the intended stay,
  - ğ) Refuse to pay fines deriving from a violation of a previous residence permit or visa, or those to be followed up and collected, as per the Law on the Procedure of Collection of Public Claims No.6183 of 21/7/1951 or debts or penalties to be followed as per the Turkish Penal Code No. 5237 of 26/9/2004.
- (2) Those who fall under the scope of this Article, but for whom issuing a visa is deemed necessary, may be issued a visa upon approval of the Minister.

### **Cancellation of a visa**

**ARTICLE 16-** (1) A visa may be cancelled by the authorities that have issued the visa or by governorates in case:

- a) It is identified as fraudulent,
  - b) An erasure, scraping or alteration is identified on it,
  - c) The foreigner is prohibited from entering Turkey,
  - ç) There is strong suspicion that the foreigner might commit a crime,
  - d) The passport or passport substitute document is fraudulent, or its validity expires,
  - e) The visa and visa exemption is used outside its purpose,
  - f) It becomes evident that the conditions and documents on which the decision to issue the visa is based are no longer valid.
- (2) In case a deportation decision is taken against the foreigner within the validity of the visa, the visa shall be cancelled.

### **Notification of visa proceedings**

**ARTICLE 17-** (1) A decision to refuse a visa request or a decision to cancel a visa shall be notified to the related person.

### **Authority of the Council of Ministers in procedures related to visas and passports**

**MADDE 18-** (1) The Council of Ministers possesses the authority to;

- a) Enter into agreements to determine passport and visa procedures, to unilaterally waive the requirement for a visa for citizens of certain states when it deems necessary, to facilitate visa acquirement, including exemption from fees, and to determine and determine the duration of visas,
- b) In cases of war or other extraordinary circumstances, to set certain conditions or take any restrictive measures with regard to the passports of foreigners, covering a region or whole territory of a country.
- (c) to set certain conditions or take any restrictive measures with regard to the entry of foreigners into Turkey.

## **SECTION TWO**

### **Residence**

#### **Residence permit**

**ARTICLE 19-** (1) Foreigners who intend to stay in Turkey longer than the visa or visa exemption period or in excess of ninety days are obliged to obtain a residence permit. A residence permit ceases to be valid if not used within six months.

### **Exemption from the requirement to hold a residence permit**

**ARTICLE 20-** (1) Foreigners listed below shall be exempt from the requirement to hold a residence permit:

- a) Those who arrive holding a visa with a validity of up to ninety days or with visa exemption, for the period of validity of the visa or visa exemption,
  - b) Those who possess a Stateless Person Identification Document,
  - c) Personnel of diplomatic missions and consular offices in Turkey,
  - ç) Families of personnel of diplomatic missions and consular offices, whose names are conveyed by the Ministry of Foreign Affairs,
  - d) Those who work in the representations of the international organizations in Turkey and whose statuses are determined pursuant to agreements,
  - e) Those who are exempt from requirements to hold residence permits as a result of agreements to which the Republic of Turkey is party,
  - f) Those who fall under the scope of Article 28 of the Law numbered 5901.
  - g) Those who hold documents issued in compliance with Article 69(7), 76(1) and 83(1) of this Law.
- (2) Foreigners who fall under the scope of paragraph (1) (c), (ç), (d) and (e) are issued a document, the format and content of which shall be determined jointly by the Ministry and the Ministry of Foreign Affairs. In case those foreigners intend to continue to stay in Turkey following the expiry of their status which grants them exemption from the residence permit requirement; they shall apply, within ten days at the latest, to the governorates in order to obtain the residence permit.

### **Application for a residence permit**

**ARTICLE 21-** (1) A residence permit application shall be made to the consulates of the Republic of Turkey in the foreigner's country of nationality or legal residence.

- (2) Foreigners who apply for a residence permit shall be required to hold a passport or a passport substitute document which is valid at least sixty days beyond the duration of the requested residence permit.
- (3) In case the information and documents necessary for the application are incomplete, the evaluation of the application may be postponed until the missing items are presented. The missing information and documents shall be notified to concerned person.
- (4) Consulates shall forward the residence permit applications to the Directorate General along with their opinions. Taking into consideration the opinions of the relevant institutions when necessary, the Directorate General shall decide on the applications, and then proceed to notify the consulate on the issuing or rejection of the residence permit.
- (5) Applications will be finalized at the latest within 90 days.
- (6) Notification related to procedures concerning the rejection of the application shall be made to concerned person.

### **Cases in which an application for a residence permit could be filed in Turkey**

**ARTICLE 22-** (1) In the following cases, the applications could exceptionally be made to the governorates:

- a) Upon demand or requests from administrative or judicial authorities,
- b) Where the departure of the foreigner from Turkey is unreasonable or unfeasible,
- c) For long-term residence permits,
- ç) For student resident permits,
- d) For humanitarian residence permits,
- e) Residence permits to be issued for victims of human trafficking,
- f) Transition from family residence permit to a short-term residence permit,
- g) Requests made by a mother and father possessing residence permit in Turkey for their children who are born in Turkey,
- ğ) Requests filed to obtain residence permit which conforms with the new reason of stay when the grounds for issuing the valid residence permit cease to exist or change,

- h) For residence permits to be filed within the scope of Article 20 paragraph two this Law,
- i) For transition to short term residence permit, of foreigners who have completed their higher education in Turkey.

### **Issuing and types of residence permits**

**ARTICLE 23-** (1) Residence permits, the validity of which shall be sixty days shorter than the validity of a passport or passport substitute documents, shall be issued separately for each foreigner depending on the purpose of stay.

(2) The form and content of the residence permit shall be determined by the Ministry while the type and content of the work permit which substitutes for a residence permit shall be determined jointly by the Ministry and the relevant institutions.

### **Extension of residence permits**

**ARTICLE 24-** (1) Residence permits shall be extended by the governorates.

(2) Applications for the extension of residence permits shall be made to governorates within 60 days prior to the expiration of the duration of the residence permit and in any case before the expiration of the duration of the residence permit. Those who apply for extension of a residence permit will be issued a document that is free of charge.

Such foreigners shall be able to reside in the country until a decision is made with regard to the extension of their residence permits even if their residence permits have expired.

(3) The extended residence permits shall commence following the date on which their legal residence ends.

(4) Applications for extension of residence permits shall be concluded by governorates.

### **Rejection of residence permits applications filed within Turkey, cancellation or non-extension of residence permits**

**ARTICLE 25-** (1) Rejection of a residence permit application, non-extension or cancellation of the residence permit and notification of these procedures shall be made by the governorates. During these proceedings, factors such as the foreigner's family links in Turkey, the duration of residence, the foreigner's situation in the country of origin and the best interests of the child shall be taken into consideration; accordingly, the decision concerning the residence permit may be postponed.

(2) The decision on the rejection of the residence permit extension, as well as decisions regarding the non-extension or cancellation of a residence permit, shall be notified to the foreigner or his or her legal representative or lawyer. This notification shall also describe how the foreigner can effectively use his or her right to appeal against the decision, as well as his or her other legal rights and obligations in this process.

### **Other provisions on residence permits**

**ARTICLE 26-** (1) The time spent by foreigners who are held as prisoners or detainees in prisons or in removal centers under administrative detention shall not be considered as constituting a violation of the period of validity of the residence permit.

Residence permits held by these persons may be annulled. Those who do not have a foreigner identity number may be issued one without the precondition of holding a residence permit.

(2) Foreigners who arrive in Turkey with residence and work permits obtained from consulates shall register in the address registration system within twenty work days as of the date of entry.

### **Work permit as a substitute for a residence permit**

**ARTICLE 27-** (1) A valid work permit or a Letter of Confirmation for Exemption from Work Permit issued pursuant to Article 10 of Law 4817 on Work Permits of Foreigners of 27/2/2003 shall also substitute for a residence permit in Turkey.

Among the foreigners issued a work permit or a Letter of Confirmation for Exemption from Work Permit, a residence fee according to the length of the work permit shall be collected in line with the Law on Fees No. 492 of 2/7/1964.

(2) For issuing or extending a work permit, the foreigner shall be required not to fall under Article 7 of this Law.

### **Interruption to residence**

**ARTICLE 28-** (1) Aside from reasons of compulsory public service, education and health, in the implementation of the provisions of this Law, a period in excess of a total of six months in a year and a total of twelve months in the last five years outside the territory of Turkey shall be counted as an interruption to residence. In applications for a residence permit or transition to another residence permit of those who have had interruption to their residence, the previous residence permit periods shall not be calculated.

(2) Half the periods of residence for study purposes, while the full period of residence for stay with other types of residence permits shall be taken into account in calculating the total period of uninterrupted stay with residence permits.

### **Change of residence permit**

**ARTICLE 29-** (1) In the event of termination of or change in the reason for which a residence permit was issued, foreigners may request a residence permit suitable to the new reason for residence.

(2) Procedures and principles relating to change of residence permit type shall be determined by a regulation.

### **Types of residence permits**

**ARTICLE 30-** (1) Types of residence permits shall be as follows:

- a) Short-term residence permit,
- b) Family residence permit,
- c) Residence permit for students,
- ç) Long-term residence permit,
- d) Humanitarian residence permit,
- e) Residence permit issued to victims of human trafficking

### **Short-term residence permit**

**ARTICLE 31-** (1) A short-term residence permit shall be granted to foreigners who:

- a) Intend to conduct scientific research,
- b) Possess immovable property in Turkey,
- c) Intend to set up commercial connections or establish a business,
- ç) Intend to participate in in-service training programs,
- d) Intend to come to Turkey for education or similar purposes under the scope of agreements that the Republic of Turkey is a party to or in the framework of student exchange programs,
- e) Intend to stay for touristic reasons,
- f) Will receive medical treatment on condition that they do not carry an illness considered to be a risk to public health,
- g) Are required to stay in Turkey at the request or decision of judicial or administrative authorities,
- ğ) Are changing their residence permit from a family residence permit to a shortterm residence permit,
- h) Intend to participate in Turkish language courses,
- ı) Who intend to participate in study, research, internship or courses in Turkey through the mediation of public institutions,
- i) Who apply within six months as of graduation date, among foreigners who have completed their higher education in Turkey.

(2) Short-term residence permits shall be issued for a period of a maximum of one year at a time.

(3) Residence permits issued according to paragraph 1(h) shall be given twice at most.

(4) Residence permits issued according to paragraph 1(i) shall be given once only, for a period of one year at most.

### **Conditions for a short-term residence permit**

**ARTICLE 32-** (1) The following requirements shall be met in the issuing of short-term residence permits:

- a) To submit a request based on one or more grounds listed in Article 31 paragraph 1 of this Law and to submit information and documents regarding that request,
- b) Not to fall under the scope of Article 7 of this Law,



- c) To have accommodation conditions conforming to general health and safety standards,
- ç) Upon request, to submit a certificate of criminal record issued by the competent authorities of the foreigner's country of nationality or the country of legal residence,
- d) To verify information on address in Turkey.

### **Rejection, cancellation or non-extension of short-term residence permit**

**ARTICLE 33-** (1) A short-term residence permit may be rejected, cancelled or not be extended in case:

- a) One or more conditions provided for under Article 32 of this law are not met or no longer exist,
- b) It is determined that the residence permit is used for purposes other than the original purpose,
- c) The person stays abroad for more than 120 days in total in the past year,
- ç) Of existence of a valid deportation or a decision on ban on entry into Turkey against the foreigner.

### **Family Residence Permit**

**ARTICLE 34-** (1) The below enumerated family members of Turkish citizens, those who fall under the scope of Article 28 of the Law numbered 5901, or foreigners holding one of the residence permits, and refugees and subsidiary protection status holders shall be issued a family residence permit with a period of validity of maximum 2 years at each turn. Duration of family residence permit shall not, in any case, exceed the period of the residence permit of the sponsor:

- a) His or her foreign national spouse,
  - b) His or her or his or her spouse's minor child of foreign nationality,
  - c) His or her or his or her spouse's dependent children of foreign nationality.
- (2) In case of a polygamous marriage under the laws of the country of citizenship, only one of the spouses shall be issued a family residence permit. However, a family residence permit may be granted to children from other spouses.
- (3) For the family residence permit issued to children, the consent of the mother or father of the child who lives abroad and who shares custody of the child shall be sought.
- (4) Family residence permits shall grant the right to children under the age of 18 to education in primary and secondary education institutions without the obligation to obtain student residence permit.
- (5) Upon request, family members over the age of 18 may replace their family residence permits with short-term residence permits provided that such foreigners stay in Turkey for at least three years holding a family residence permit.
- (6) In the event of a divorce, foreigners married to Turkish citizens may be granted a short-term residence permit provided that he or she has held a family residence permit for at least three years. However, in the event that the foreign spouse has been a victim of domestic violence, as proved by the relevant court judgment, the condition for holding a family residence permit for 3 years may not be sought.
- (7) In the event of the death of the sponsor, the persons who stay in Turkey on a family residence permit as a dependent to the deceased may be granted short-term residence permit without any time requirement.

### **Conditions for granting a family residence permit**

**ARTICLE 35-** (1) A family residence permit may be granted to foreigners in case the sponsor:

- a) Possesses, a monthly income not less than the minimum wage and corresponding to not less than one third of minimum wage per each family member,
- b) Has accommodation conditions appropriate to general health and safety standards in line with the number of family members and has medical insurance covering all family members,
- c) Proves by submitting his or her criminal record that he or she has not been found guilty of any crimes against family order in the 5 years prior to his or her application,
- ç) Has stayed in the country for at least one year with a residence permit,
- d) Is registered under the address-based registration system.

(2) Paragraph 1(ç) of this Article shall not be applicable to foreigners who hold a residence permit for purposes of scientific research or a work permit, who fall under the scope of Article 28 of the Law numbered 5901, or who are married to a Turkish citizen.

(3) Foreigners who will apply for family a residence permit to stay with their sponsor in Turkey shall be required;

a) To lodge an application on grounds listed in Article 34 paragraph 1 of this Law and submit information and documents relevant to that claim,

b) To live or intend to live together with persons who are stated in Article 34 paragraph 1,

c) That the marriage was not contracted for the sole purpose of acquiring the family residence permit,

ç) That neither of the spouses is under the age of 18,

d) Not to fall under the scope of Article 7 of this Law.

(4) The conditions listed under paragraph 1 of this Article may not be sought for those granted refugee or subsidiary protection status.

#### **Rejection, non-extension and cancellation of family residence permits**

**ARTICLE 36-** (1) A family residence permit may be rejected, cancelled or not extended in case:

a) Conditions provided for under Article 35 paragraphs 1 and 3 of this Law are not met or are no longer exist,

b) The foreigner is not issued a short-term residence permit after the conditions for having a family residence permit cease to exist,

ç) There is a valid deportation or ban on entry order concerning the foreigner,

d) It is determined that the family residence permit is used for a purpose other than that for which it was granted,

e) The foreigner stays outside the country for a period exceeding 180 days in total in the past year.

#### **Residence permits requested through fictitious marriages**

**ARTICLE 37 -** (1) If there is reasonable doubt, an investigation shall be launched by governorates to determine whether or not the marriage is fictitious prior to issuing or extending a family residence permit. If it is determined that the parties performed a fictitious marriage, a family residence permit shall not be granted and those granted shall be cancelled.

(2) Following the granting of a residence permit, controls may be conducted by governorates in order to determine the existence of a fictitious marriage.

(3) Residence permits obtained through fictitious marriages and cancelled thereof, shall not be taken into account in the calculation of the duration of residence with residence permits stipulated in this Law.

#### **Student residence permit**

**ARTICLE 38-** (1) Foreigners who intend to pursue foundation, undergraduate, graduate or postgraduate studies in an establishment of higher education in Turkey shall be granted a student residence permit.

(2) Foreigners who will receive education in primary or secondary institutions may be issued a student residence permit with a one year validity and this permit may be extended throughout the course of study, provided that the consent of his or her parent or legal guardian is obtained and that his or her expenses are met by natural or legal persons.

(3) The student residence permit shall not grant any right for the mother and father or other relatives of the student to obtain a residence permit.

(4) The validity of student residence permit shall not exceed the duration of education period, in the event that the education period is less than a year.

#### **Conditions for granting a student residence permit**

**ARTICLE 39-** (1) To obtain a student residence permit, the foreigner is required:

a) To submit relevant information and documents within the scope of Article 38,

b) Not to fall under the scope of Article 7 of this Law,

c) To verify information on address in Turkey.

**Rejection of application for a student residence permit, non-extension and cancellation of a student residence permit**

**ARTICLE 40-** (1) A student residence permit may not be issued, extended or may be cancelled in case:

- a) One or more conditions provided for under Article 39 of this Law are not met or are no longer met,
- b) There is evidence appears that the education will not be completed,
- c) It is determined that the student residence permit is used for a purpose other than that for which it was granted,
- d) There is a valid deportation decision or ban on entry in Turkey against the student.

**Student's right to work**

**ARTICLE 41-** (1) Students pursuing foundation, undergraduate, graduate or postgraduate degrees in Turkey may work provided that they obtain a work permit.

However, foundation and undergraduate students shall only be given the right to work no more than 24 hours a week following the first year of studies.

(2) Principles and procedures regarding the foundation and undergraduate students' right to work shall be jointly regulated by the Ministry and Labor and Social Security Ministry within the framework of principles to be determined by the Migration Policies Board.

**Long term residence permit**

**ARTICLE 42-** (1) Foreigners who reside in Turkey with a residence permit uninterruptedly for at least eight years, or foreigners who meet the criteria to be determined by the Migration Policies Board, shall be granted a permanent residence permit by governorates upon approval of the Ministry.

(2) Those who are granted refugee status, conditional refugee status, those benefiting from subsidiary protection, holders of humanitarian residence permits and those who are granted temporary protection shall not be entitled to transit to a long term residence permit.

**Conditions for granting a long term residence permit**

**ARTICLE 43-** (1) In order to transit to a long term residence permit, the foreigner is required;

- a) To reside in Turkey with a residence permit uninterruptedly for at least eight years,
- b) Not to have benefited from any kind of social assistance from the State for the past three years,
- c) To possess sufficient and regular resources to maintain himself/herself and, if any, the members of his or her family,
- ç) To have valid medical insurance,
- d) Not to constitute a threat to public order or security.

(2) Foreigners, for whom granting of a long term residence permit is considered appropriate due to fulfilment of criteria determined by the Migration Policies Board, shall solely be subject to subparagraph (d) of paragraph 1.

**Rights conferred by a long term residence permit**

**ARTICLE 44-** (1) Save for acquired rights with regard to social security and subject to provisions in related law as regards the use of these rights, foreigners who have been granted a long term residence permit shall benefit from the same rights as accorded to Turkish citizens with the exception of provisions in special legislation as well as the rights regarding:

- a) Compulsory military service,
- b) The right to elect and be elected,
- c) Employment in public institutions,
- ç) Exemption from taxes in importing vehicles.

(2) The Council of Ministers shall be authorized to place restrictions on the rights set forth in paragraph 1, partially or in its entirety.

### **Cancellation of a long term residence permit**

**ARTICLE 45-** (1) A long term residence permit may be cancelled in case the foreigner:

- a) Constitutes a serious threat to public order or public security,
  - b) Stays outside Turkey uninterruptedly for more than 12 months with the exception of health, study and compulsory military service purposes.
- (2) Principles and procedures regarding applications rendered by foreigners whose long-term permits have been cancelled according to paragraph 1(b), to obtain this permit again; as well as finalization of such applications shall be determined by a regulation.

### **Humanitarian residence permits**

**ARTICLE 46-** (1) Upon approval of the Ministry and with a maximum validity of one year, without seeking the fulfilment of conditions for granting residence permits, humanitarian residence permits may be issued and extended by governorates in case;

- a) The best interest of the child is involved,
  - b) The foreigner, for whom a decision to deport or ban on entry to Turkey has been taken, cannot be deported from Turkey or when the departure is deemed unreasonable or unfeasible,
  - c) A deportation decision is not taken concerning the foreigner, pursuant to Article 55 of this Law,
  - ç) The foreigner resorts to legal remedy against a proceeding carried out as per Article 53, 72 and 77 of this Law,
  - d) The proceedings concerning the return of the foreigner to the first country of asylum or safe third country are not finalized,
  - e) The foreigner is required to be allowed to enter into or stay in Turkey due to emergency reasons or for the protection of national interests, as well as in terms of public order and public security but who does not have the possibility of acquiring other types of residence permits due to the existence of circumstances that obstruct the issuing of a residence permit.
  - f) There are extraordinary circumstances.
- (2) Foreigners who are granted a humanitarian residence permit shall be required to register under the address-based registration system within twenty work days at the latest.

### **Cancellation or non-extension of humanitarian residence permit**

**ARTICLE 47-** (1) Upon approval of the Ministry, a humanitarian residence permit may be cancelled or may not be extended by governorates when conditions which required the granting of the permit cease to exist.

### **Residence permit for victims of human trafficking**

**ARTICLE 48-** (1) A residence permit valid for thirty days may be granted by governorates to foreigners, where there is strong suspicion that the foreigner is, or in the future will be, a victim of human trafficking, so that they can recover from the effects of their experiences and decide whether or not to cooperate with the competent authorities.

- (2) Conditions attached to the issuing of residence permits shall not apply to residence permits for victims of human trafficking.

### **Extension and cancellation of residence permits granted to victims of human trafficking**

**ARTICLE 49-** (1) The residence permit granted to allow for a period of recovery and reflection may be extended for six-month periods at most for the safety, health or special circumstance of the victim. However these periods shall not, in any case, be in excess of three years in total.

- (2) The residence permit may be cancelled in cases when it is determined that the victim or the foreigner, strongly suspected of being a victim, has on his or her own initiative re-established relations with the perpetrators of the crime.

## **CHAPTER TWO**

### **Foreigners**

### **SECTION THREE**

## Stateless Persons

### Determination of statelessness

**ARTICLE 50-** (1) Determination of statelessness shall be made by the Directorate General. Stateless persons shall be issued a Stateless Person Identification Document, which grants the right of legal residence in Turkey. Those who have undergone statelessness procedures in other countries shall not be able to make use of this right.

(2) Stateless persons shall be obliged to obtain a Stateless Person Identification Document; this document shall be issued by governorates upon approval of the Directorate General. This document shall be free of charge, shall be used in place of residence permit and shall be renewed every two years by governorates. The foreigner identification number shall be indicated on the Stateless Person Identification Document.

(3) The period spent in Turkey with the Stateless Person Residence Permit shall be taken into account in calculating the duration of residence.

(4) The Stateless Person Identification Document shall cease to be valid upon acquisition of the nationality of another country.

(5) Procedures and principles relating to determination of statelessness and to the Stateless Person Identification Document shall be designated by a regulation.

### Rights and guarantees granted to stateless persons

**ARTICLE 51-** (1) Holders of a Stateless Person Identification Document; a) can lodge an application to obtain one of the residence permits set out in this Law.

b) shall not be deported unless they constitute a serious threat to public order or public security.

c) shall not be subject to the condition of reciprocity applied to foreigners.

ç) shall be subject to provisions of the Law on Work Permits of Foreigners No.4817 for operations and proceedings related to their work permits.

d) shall enjoy the provisions of Article 18 of the Law No. 5682.

## SECTION FOUR

### Deportation

#### Deportation

**ARTICLE 52-** (1) Foreigners may be deported to their country of origin or a transit country or a third country by a deportation decision.

#### Deportation decision

**ARTICLE 53-** (1) Deportation decision shall be issued upon instruction of the Directorate General or *ex officio* by governorates.

(2) The decision and the reasons on which it is based shall be notified to the foreigner, his or her legal representative or his or her lawyer. In case the person against whom a deportation order is issued is not represented by a lawyer, he or she or his or her legal representative shall be notified of the result of the decision as well as the procedures and time limits for appeal.

(3) The foreigner, his or her legal representative or his or her lawyer may appeal to the administrative court against the deportation decision within fifteen days as of the date of notification. The person who has appealed the decision shall also inform the authority that has issued the deportation decision about the appeal lodged to the court.

Applications to the court shall be concluded in fifteen days. The decision of the court on the issue shall be final. In case of an appeal or in the term of litigation, the foreigner shall not be deported until the finalization of the judgment, without prejudice to the consent of the foreigner.

#### Those against whom a deportation decision shall be issued

**ARTICLE 54-** (1) A deportation decision may be issued against foreigners:

a) For whom a deportation decision is deemed necessary pursuant to Article 59 of the Law No. 5237,

b) Who are a leader, member, supporter or of a terrorist or a benefit-oriented criminal organization,

c) Who use false information and fraudulent documents in procedures concerning entry into Turkey, visa and residence permits,

ç) Who make a living through illegitimate means during their stay in Turkey,

- d) Who constitute a threat to public order and security or public health,
  - e) Who exceed the duration of visa or visa exemption more than 10 days, or those whose visa has been cancelled,
  - f) Whose residence permits are cancelled,
  - g) Who hold residence permits but exceed the duration of the residence permit for more than 10 days without an acceptable excuse,
  - ğ) Who are identified as having been working without a work permit,
  - h) Who violate the provisions on legal entry into or legal exit from Turkey,
  - ı) Who are identified as having arrived in Turkey despite a valid ban on entry,
  - i) From among persons whose applications for international protection are rejected, who are excluded from international protection, whose applications are considered as inadmissible, who withdraw their application, whose applications are deemed to be withdrawn, whose international protection statuses have ceased or have been cancelled, those who are not entitled to stay in Turkey pursuant to any other provision of this Law following a final decision,
  - j) From among persons whose applications for the extension of residence permits have been rejected, those who do not leave Turkey within 10 days.
- (2) Among applicants or beneficiaries of international protection, a deportation decision may be issued only when there are serious indications to believe that such persons constitute a threat to the security of the State, or when such persons are convicted of a crime which constitutes a threat to public order.

#### **Those against whom a deportation decision shall not be issued**

**ARTICLE 55-** (1) Regardless of whether they fall under the scope of Article 54 of this Law, a deportation decision shall not be issued against those:

- a) for whom there are serious indications that he or she will be subjected to the death penalty, torture, cruel or degrading treatment or punishment in the country to which they will be deported,
- b) who face risks in case of travel due to reasons of serious health problems, age and pregnancy,
- c) who cannot receive treatment in the country to which he or she will be expelled while treatment for the life-threatening health problem is continuing,
- ç) who are victims of human trafficking benefitting from victim support processes,
- d) who are victims of psychological, physical or sexual violence until their treatment is completed.

(2) Evaluations concerning foreigners who fall under the first paragraph shall be made on an individual basis. These persons may be subject to administrative obligations such as residence in a designated address and reporting to authorities in the form and intervals requested.

#### **Summons to leave Turkey**

**ARTICLE 56-** (1) Provided that it is stated in the deportation decision, a period no less than fifteen days and no longer than thirty days shall be granted for foreigners to leave Turkey. However, this period shall not be granted to foreigners who may abscond or disappear, who violate rules for lawful entry and exit, who use fraudulent documents, who attempt to obtain or who have been identified as having obtained a residence permit with fraudulent documents, and who constitute a threat to public order and public security or public health.

(2) A "Departure Permission Document" shall be issued to persons who have been granted a period to leave Turkey. This document shall be issued free of charge. Visa and residence fees and obligations arising from penalties of such fees shall be reserved.

#### **Administrative detention for deportation and its period**

**ARTICLE 57-** (1) In the event that foreigners who fall under Article 54 of this Law are apprehended by law-enforcement units, the governorate shall be informed immediately to take a decision for such persons. Among the mentioned persons, a deportation decision against those for whom a deportation decision is deemed necessary shall be taken by the governorate. The period of evaluation and decision shall not exceed 48 hours.

(2) Among the foreigners for whom a deportation decision is issued, those who may abscond or disappear, who violate rules for entry into and exit from Turkey, who use fraudulent or unfounded documents, who do not leave Turkey in the granted period without an acceptable excuse, who constitute a threat to public order and security or public health shall be placed under administrative detention by decision of the governorate. Those against whom an administrative detention decision is issued shall be transferred by the law-enforcement unit which has apprehended the foreigner to a

removal center within 48 hours.

(3) The period of administrative detention in removal centers shall not exceed six months. However, in case the deportation procedures cannot be completed due to noncooperation of the foreigner or misinformation or false documents provided by the foreigner regarding his or her country, this period may be extended for a maximum of six additional months.

(4) The necessity to continue the administrative detention shall be re-evaluated regularly every month by the governorate. When necessary, re-evaluation can be conducted at an earlier period. In case administrative detention is no longer deemed to be necessary for the foreigner, administrative detention shall immediately be ended.

Foreigners whose administrative detention is ended may be subject to obligations such as residence in a designated address and reporting to authorities in the form and periods requested.

(5) The administrative detention decision, the extension of the period of administrative detention and the results of the monthly assessments, along with the reasons on which it is based, shall be notified to the foreigner, his or her legal representative or his or her lawyer. In case the person against whom a deportation order is issued is not represented by a lawyer, he or she or his or her legal representative shall be notified of the result of the decision as well as the procedures and time limits for appeal.

(6) The person who has been placed under administrative detention, his or her legal representative or his or her lawyer may appeal against the administrative detention decision to the Magistrates' Court judge. The appeal shall not stay the execution of the administrative detention. In case the petition is submitted to the administration, it shall be conveyed to the authorized Magistrates' Court judge without delay. The Magistrates' Court judge shall conclude the review within five days. The decision of the Magistrates' Court judge shall be final. The person who has been taken under administrative detention or his or her legal representative or his or her lawyer may lodge a further appeal to the Magistrates' Court judge, claiming that the conditions for administrative detention have ceased to exist or have changed.

(7) Among those who appeal against the deportation decision, those who do not possess the ability to afford a lawyer, shall be provided legal service upon demand, according to the provisions on legal aid stipulated in the Attorneyship Law No. 1136 dated 19/3/1969.

## **Removal centers**

**ARTICLE 58-** (1) Foreigners who are placed under administrative detention shall be accommodated in removal centers.

(2) Removal centers shall be operated by the Ministry. The Ministry may sign protocols to delegate operation of the centers to public institutions and organizations, Turkish Red Crescent Society, or associations working for public interest with expertise in the area of migration.

(3) Procedures and principles related to the establishment, management, operation, transfer and supervision of removal centers, and proceedings related to the transfer of foreigners for deportation to removal centers shall be determined by a regulation.

## **Services to be provided in removal centers**

**ARTICLE 59-** (1) In removal centers;

a) Urgent and fundamental health care shall be provided free of charge in case the foreigner cannot cover the costs.

b) Foreigner shall be allowed to have access to and receive visits from his or her relatives, notary, legal representative and lawyer and to have access to telephone services.

c) Foreigners in removal centers shall be allowed to meet with his or her visitors, a consulate official from his or her country of citizenship, a representative of the United Nations High Commissioner for Refugees.

ç) The best interest of children shall be respected; families and unaccompanied children shall be given separate accommodation.

d) Regarding access of children to education; necessary measures shall be taken by the Ministry of Education.

(2) Representatives of relevant non-governmental organizations with expertise in the area of migration shall be able to visit removal centers upon permission of the Directorate General.

## **Execution of the deportation decision**

**ARTICLE 60-** (1) Foreigners in removal centers shall be transferred to the border gates by the law-enforcement units.

(2) Foreigners who shall be deported without the need for a transfer to removal centers shall be transferred to border gates by law-enforcement units via coordination of the provincial units of Directorate General.

(3) Foreigners who are deported shall cover their own travel costs. In case it is not feasible, the remaining or the full amount of the costs shall be covered by the Directorate General. The entry of foreigners to Turkey may not be permitted as long as the costs are not reimbursed.

(4) The Directorate General may cooperate with international organizations, institutions of related countries and non-governmental organizations with regard to deportation procedures.

(5) Passports or other documents of foreigners may be retained by law enforcement authorities until the deportation and their tickets may be turned into cash to be used in deportation procedures.

(6) Real or legal persons are responsible for the costs related to expulsion of foreigners whose stay in Turkey or return to the country of origin they guarantee. The third paragraph of Article 21 of the Law No. 4817 shall apply to employers or agents of employers who employ foreigners without work permits as regards their responsibility for deportation procedures.

## **CHAPTER THREE**

### **INTERNATIONAL PROTECTION**

#### **SECTION ONE**

##### **Types of International Protection, Exclusion from International Protection**

###### **Refugee**

**ARTICLE 61-** (1) A person who as a result of events occurring in European countries and owing to well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion, is outside the country of his or her nationality and is unable or, owing to such fear, is unwilling to avail himself or herself of the protection of that country; or who, not having a nationality and being outside the country of his or her former habitual residence as a result of such events, is unable or, owing to such fear, is unwilling to return to it shall be recognized as a refugee following the refugee status determination procedures.

###### **Conditional Refugee**

**ARTICLE 62-** (1) A person who as a result of events occurring outside European countries and owing to well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion, is outside the country of his or her nationality and is unable or, owing to such fear, is unwilling to avail himself or herself of the protection of that country; or who, not having a nationality and being outside the country of his or her former habitual residence as a result of such events, is unable or, owing to such fear, is unwilling to return to it shall be recognized as a conditional refugee following the status determination procedures. A conditional refugee shall be allowed to reside in Turkey until he or she is resettled to a third country.

###### **Subsidiary Protection**

**ARTICLE 63-** (1) A foreigner or a stateless person who could neither be qualified as a refugee nor a conditional refugee, yet who is unable or, due to the threat concerned, is unwilling to avail himself or herself of the protection of his or her country of origin or the country of habitual residence, shall be granted subsidiary protection status following the status determination procedures if he or she will face;

- a) the death penalty or execution,
- b) torture or inhuman or degrading treatment or punishment,
- c) serious threat to his or her person by reason of indiscriminate violence in situations of international or internal armed conflict, upon return to his or her country of origin or country of habitual residence.

###### **Exclusion from international protection**

**ARTICLE 64-** (1) The applicant shall be excluded from international protection in case;

- (a) he or she is at present receiving protection or assistance from organs or agencies of the United Nations other than the United Nations High Commissioner for Refugees,
- (b) he or she is recognized by competent authorities of the country in which he or she has taken residence, as having the rights and obligations which are attached to the nationals of that country,
- (c) there are serious reasons for considering that she or he has committed the crimes set forth in Article 1(F) of the Convention.

(2) When the protection or assistance provided to a person within the scope of subparagraph (a) has ceased for any reason, without the position of such persons being definitively settled in accordance with the relevant resolutions adopted by the General Assembly of the United Nations, these persons may benefit from the protection offered by this Law.



(3) In case there are reasons to consider that, regardless of its motive, the applicant has committed cruel acts outside Turkey prior to lodging an international protection application, he or she shall fall under the scope of subparagraph (c) of paragraph 1.

(4) Persons who instigate or otherwise participate in the commission of the crimes or acts mentioned in subparagraph (c) of paragraph 1, and paragraph 3 shall be excluded from international protection.

(5) In addition to the circumstances mentioned in subparagraph (c) of paragraph 1, and paragraph 3 and 4 of this article, a foreigner or a stateless person in respect of whom there are serious indications that he or she poses a danger to public order or public security, and a foreigner or a stateless person who is outside the scope of subparagraph (c) of paragraph 1, but has previously committed a crime or crimes for which he or she would have been subject to imprisonment in Turkey if it or they had been committed within the country, and he or she left his or her country of origin or country of residence solely in order to avoid sanctions resulting from this crime, shall be excluded from subsidiary protection.

(6) Exclusion of an applicant from international protection shall not require the exclusion of his or her family members provided that none of the grounds for exclusion apply to the other family members.

## **SECTION TWO**

### **General Procedures**

#### **Application**

**ARTICLE 65-** (1) International protection applications shall be personally lodged to Governorates.

(2) In case the application is made to law enforcement units in the country or at the border gates, the application shall be forwarded to Governorate immediately. Proceedings for the application shall be executed by the Governorate.

(3) Every foreigner or stateless person is entitled to apply on his or her own behalf. The applicant can lodge an application on behalf of the accompanying family members whose applications are based on the same ground. In such cases, the consent of adult family members concerning applications on their behalf shall be required.

(4) Those who lodge their application for international protection in a reasonable period of time to governorates on their own accord shall not be subject to a criminal proceeding merely for violating the rules of legal entry to or presence in the country provided that they explain their valid reasons for such illegal entry or presence.

(5) Applications for international protection lodged by persons whose freedom has been restricted shall be forwarded to Governorate immediately. The receipt and assessment of applications shall not disrupt enforcement of other judicial and administrative actions or measures and sanctions.

#### **Unaccompanied minors**

**ARTICLE 66-** (1) The following provisions shall be applied for unaccompanied minors who lodge an international protection application:

a) Observing the best interest of the child is fundamental in all procedures related to unaccompanied children. Provisions of the Child Protection Law No. 5395 of 3/7/2005 shall apply as from the receipt of the application.

b) Unaccompanied minors shall be placed by the Ministry of Family and Social Policies in suitable accommodation facilities, in the care of their adult relatives, or in the care of a foster family, upon taking into account the opinion of the unaccompanied minor.

c) An unaccompanied minor who is 16 years of age or older may be placed in reception and accommodation centers provided that favourable conditions are ensured.

ç) Siblings shall be kept together as much as possible in the light of best interests of the children, taking into account their ages and maturity levels. The place of accommodation of unaccompanied minors shall not be changed unless it is compulsory.

#### **Persons with special needs**

**ARTICLE 67-** (1) Persons with special needs shall be given priority in rights and procedures stated in this Chapter.

(2) Sufficient medical treatment shall be provided to victims of torture, sexual assault and other serious psychological, physical, or sexual violence, for recovery from the damage caused by such actions.

#### **Administrative detention of applicants**

**ARTICLE 68 -** (1) The applicants shall not be subject to administrative detention for the sole reason that he or she has applied for international protection.

(2) Administrative detention of applicants is an exceptional measure. The applicant may only be placed under administrative detention;

- a) for the purpose of verification of identity documents and nationality in case there are serious doubts as to the accuracy of identity documents and nationality;
- b) for the purpose of being withheld from irregular entry into the country at the border gates;
- c) when it would not be possible to identify the main elements of the asylum application unless administrative detention is applied;
- ç) when the person poses a serious danger to public order and security.

(3) The need for administrative detention is evaluated on an individual basis. For circumstances mentioned in the second paragraph and prior to a decision on administrative detention, an assessment shall be made primarily as to whether or not the residence and notification obligation set forth in Article 71 of this law will suffice.

Governorate may decide on other procedures instead of administrative detention. When such measures are not sufficient, administrative detention shall be executed.

(4) The decision for administrative detention, including the reasons on which the decision is based and duration of detention shall be notified to the person who has been placed under administrative detention, or to his or her legal representative or lawyer. In case the person who has been placed under administrative detention is not represented by a lawyer, the effect of the decision and the procedures for appeal against the decision shall be notified to him or her, or his or her legal representative.

(5) The period of administrative detention shall not exceed 30 days. Proceedings of those who are placed under administrative detention shall be completed in the soonest possible time. The administrative detention shall be ended once the conditions for administrative detention cease to exist.

(6) The administrative detention may be lifted and fulfilment of obligations defined in Article 71 or other measures may be instructed by the decision making authority at any stage of administrative detention.

(7) Either the person subjected to administrative detention, or his or her legal representative or his or her lawyer may apply to the Magistrates' Court judge for immediate release. The application shall not stay the execution of administrative detention. In case the petition is submitted to the administrative authorities, the petition shall be forwarded to the competent Magistrates' Court judge without delay. The judge shall finalize the review within five days. The decision of the Magistrates' Court judge shall be final. The person who has been taken under administrative detention or his or her legal representative or his or her lawyer may lodge a further appeal to the Magistrates' Court judge by claiming that the conditions for administrative detention have ceased to exist or changed.

(8) An applicant who is placed under administrative detention pursuant to provisions of second paragraph shall be allowed to receive visitors, in accordance with the principles and procedures to be determined by a regulation. Access shall be provided to his or her legal representative, lawyer, a notary as well as representatives of United Nations High Commissioner for Refugees.

## **Registration and control**

**ARTICLE 69-** (1) International protection applications shall be registered by Governorates.

(2) At the time of registration, the applicant shall be obliged to reveal information concerning his or her identity truthfully, and if available, to hand over his or her identification and travel documents to prove his or her identity to the competent authorities. For fulfilment of the said obligation, a search may be conducted on the person and property of the applicant.

(3) In case the applicant is not able to submit any documents regarding his or her identity during registration, information obtained from the comparison of personal data and from investigations shall be used for the determination of identity. The statements of the applicant shall be referred to in case no information could be obtained as a result of the said investigations.

(4) In the course of registration, information with regard to the grounds for the applicant's departure from his or her country of origin or the country of residence; the incidents he or she faced after departing from the country; the incidents which led him or her to lodge the application; his or her method of entry into Turkey, the routes and means of transportation; and, in case the applicant had previously applied for or benefited from international protection in another country, information and documents regarding this application and protection shall be collected.

(5) The applicant shall be informed during registration about the time and place of the interview.

(6) An applicant who is considered to pose a potential danger to public health shall be subjected to medical screening.

(7) At the time of registration, the applicant shall be issued a registration document valid for 30 days, indicating information concerning the applicant's identity and that he or she has applied for international protection. When deemed necessary, the registration document may be extended for 30-day periods. The registration document shall be free of charge and shall enable an applicant to stay in Turkey.

## **Informing the applicant and interpretation services to be provided**

**ARTICLE 70-** (1) The applicant shall be informed during registration on the procedures which are to be followed throughout the processing of his or her application, his or her rights and obligations during this process, how he or she could fulfil his or her obligations, as well as the consequences that might arise when he or she does not fulfil these obligations or refuses to cooperate with the authorities, and procedures and time limits for appeal.

(2) Upon request of the applicant, interpretation services shall be provided during personal communication at application, registration and interview stages.

### **Obligation of residence and obligation of notification**

**ARTICLE 71-**(1) Administrative obligations such as residence in a designated reception and accommodation center, location or province as well as reporting in the requested form and intervals may be imposed on the applicant.

(2) The applicant shall be obliged to register in the address registration system and notify his or her residence address to the Governorate.

### **Inadmissible application**

**ARTICLE 72-** (1) If the applicant;

a) has re-lodged the same application without presenting any new elements to the case,

b) following giving consent for an application to be submitted on his or her behalf, has re-applied separately at any stage of the previous application without presenting a well-founded reason, or has re-applied separately after the rejection of the said application, without presenting any new elements to the case,

c) has arrived from a country which fall under the scope of Article 73,

ç) has arrived from a country which fall under the scope of Article 74, his or her application shall be considered inadmissible.

(2) In the event that the situations mentioned in the first paragraph arise at any stage of the evaluation, the examination of the application shall be discontinued.

(3) The decision regarding the inadmissibility of the application shall be notified to the applicant, to his or her legal representative or to his or her lawyer. In the event that the person is not represented by a lawyer, the effect of the decision, procedures and time limits for appeal shall be notified to the person, or to his or her legal representative.

### **Applicants arriving from the first country of asylum**

**ARTICLE 73-** (1) In case it is discovered that the applicant has arrived from a country in which he or she has previously been recognized as a refugee and that he or she can still avail himself or herself of that protection, or has arrived from a country where he or she can still enjoy sufficient and efficient protection including the protection against refoulement, the application shall be deemed inadmissible and the procedure for the applicant's return to his or her first country of asylum shall be initiated. However, the applicant shall be allowed to stay in the country until the time the return takes place. The applicant shall be notified about this situation. In case the applicant is not accepted by the country which is determined as being the first country of asylum, the application procedure shall recommence.

### **Applicants arriving from a safe third country**

**ARTICLE 74-** (1) In case it is discovered that the applicant has arrived from a safe third country in which he or she had made an application or in which it would have been possible for him or her to lodge an application for international protection that may result in the granting of an appropriate protection in compliance with the Convention, the application shall be deemed inadmissible and the procedure for his or her return to the safe third country shall be initiated. However, the applicant shall be allowed to stay in the country until the time the return takes place. The applicant shall be notified about this situation. In case the applicant is not admitted by the country considered as a safe third country, the application procedure shall recommence.

(2) In order to be considered as a safe third country, a country is required to;

a) ensure that the lives and freedoms of persons are not in danger on the basis of race, religion, nationality, membership to a particular social group or political opinion,

b) implement the principle of non-refoulement of persons to countries, in which they will be subject to torture, inhuman or degrading treatment or punishment,

c) provide the opportunity to apply for refugee status, and in case the person is granted with refugee status, the possibility to receive appropriate protection in compliance with the Convention, and

ç) ensure that there is no risk of being subject to serious harm.

(3) The assessment of whether a country is a safe third country for the applicant shall be made on an individual basis for each applicant, including the evaluation of a connection between the person and the country based on which it would be reasonable to return the applicant to the third country concerned.

## **Interview**

**ARTICLE 75** (1) An interview shall be conducted with the applicant on an individual basis within thirty days from the date of registration in order to render an efficient and fair decision. The privacy of the interview shall be taken into consideration and the person shall be given the opportunity to express himself/herself in the best possible manner. However, in the event that the presence of family members during the interview is deemed necessary, the interview may be conducted with the participation of family members upon the concerned person's consent. Upon the request of the applicant, his or her lawyer may attend the interview as an observer.

(2) The applicant shall be obliged to cooperate with the officials, and to submit all information and documents in support of his or her application for international protection.

(3) In interviews conducted with applicants with special needs, the special circumstances of these persons shall be taken into consideration. An interview with a minor may be conducted in the presence of a psychologist, a pedagogue or a social worker or the parent or legal representative of the child.

(4) In case the interview cannot be conducted, a new interview date shall be scheduled and notified to the concerned person. The interval between these interviews shall not be less than 10 days.

(5) Additional interviews may be conducted with the Applicant, when deemed necessary.

(6) Interviews may be recorded by video or audio. In such cases the interviewed persons shall be informed. At the end of each interview, an interview report shall be drafted and a copy shall be submitted to the person interviewed.

## **International protection applicant identification document**

**ARTICLE 76-** (1) Upon completion of the interview, the applicants and if any, their accompanying family members shall be issued the International Protection Applicant Identification Document valid for six months, including the foreigner's identification number and indicating that the person has applied for international protection. Identification documents of those whose applications could not be finalized shall be extended for six-month periods.

(2) Identification document shall not be issued to those whose applications are subject to the provisions of Articles 72 and 79 of this Law, or to their family members.

(3) The form and content of the identification document shall be determined by the Directorate General.

(4) The Identification Document shall be issued free of charge and shall substitute for a residence permit.

## **Withdrawal of the application and considering an application as withdrawn**

**ARTICLE 77** (1) The application shall be considered withdrawn and the examination shall be discontinued in case the applicant:

a) declares in writing that he or she withdraws his application,

b) does not appear at the interview three times successively without an excuse,

c) absconds from the place where he or she is under administrative detention.

ç) does not abide by the obligation of notification three times successively without an excuse, or does not approach the determined place of residence, leaves his or her place of residence without authorization,

d) objects to fulfil the obligation to submit personal data,

e) does not comply with his or her obligations at registration and interview.

## **Decision**

**ARTICLE 78-** (1) The decision on the application shall be finalized by the Directorate General within a period not exceeding 6 months as of the date of registration.

In case the decision cannot be made within the specified period, the applicant shall be informed.

(2) The decisions shall be taken on an individual basis. Without prejudice to paragraph 6 of Article 64 of this Law, an application lodged on behalf of a family shall be examined as one application and the decision shall apply to the whole family.

(3) The decision shall be taken in consideration of the present general circumstances in the country of origin or in the country of previous residence, and the personal circumstances of the applicant.

(4) It may be decided on that the applicant is not in need of international protection in case protection against the risk of persecution or serious harm can be provided in a certain region of the country of citizenship or previous country of residence, and the applicant can safely travel to and settle in that region.

(5) Presence of the situation defined in paragraph 4 does not hinder full assessment of the application.

(6) The decision shall be notified to the concerned person, or to his or her legal representative, or to his or her lawyer. In the notification of the rejection decision, material facts and legal grounds on which the rejection is based shall be indicated. In the event that the person is not represented by a lawyer, the effect of the decision, procedures and time limits for appeal shall be notified to the person, or to his or her legal representative.

### **Accelerated assessment**

**ARTICLE 79-** (1) The application shall be assessed in accelerated procedure in case the applicant;

- a) has never raised issues that will necessitate international protection, while submitting his or her personal grounds during lodging his or her application,
- b) has misled the authorities by presenting false information or documents, or by withholding information or documents that could have had a negative impact on the decision,
- c) destroyed or disposed of an identity or travel document in bad faith in an attempt to prevent determination of his or her identity or nationality,
- ç) has been placed under administrative detention pending deportation,
- d) has applied solely to suspend or prevent execution of a decision which will lead to his or her deportation from Turkey,
- e) poses a danger to the public order or security, or has previously been deported from Turkey on the same grounds.
- f) re-applies after his or her application is considered to have been withdrawn.

(2) An interview shall be conducted with the applicant whose application is assessed under the accelerated procedure within three days as of the date of application.

The decision on the application shall be taken in no later than 5 days following the interview.

(3) Among applications assessed under this article, those which are discovered to require a longer period for assessment may be removed from the accelerated procedure.

(4) Applications of unaccompanied children shall not be assessed under accelerated procedures.

### **Administrative appeal and legal remedy**

**ARTICLE 80-** (1) The following provisions shall be applied in case administrative appeal and legal remedies are sought against decisions which are rendered pursuant to provisions set forth in this Chapter:

- a) The concerned person, or his or her legal representative or his or her lawyer may appeal to the International Protection Evaluation Board within 10 days of notification of the decision. However, the concerned person may only resort to legal remedies against decision taken pursuant to provisions of Article 68, 72 and 79.
- b) The decision on the administrative appeal shall be notified to the concerned person, his or her legal representative or his or her lawyer. In the event that the decision is negative, if the person is not represented by a lawyer, the effect of the decision, procedures and time limits for appeal shall be notified to the person, or to his or her legal representative.
- c) The Ministry may regulate procedures of administrative appeal to be lodged against decisions.
- ç) Save for the legal remedy set out in Article 68, the concerned person or his or her legal representative or his or her lawyer may resort to the competent administrative court against a decision taken under Articles 72 and 79 within fifteen days as of the notification of the decision, or against other administrative decisions and proceedings within thirty days as of the notification of the decision.
- d) Appeals to the courts within the scope of Article 72 and 79 of this Law shall be decided on within fifteen days. The decision of the court in this regard shall be final.
- e) The concerned person shall be allowed to stay in the country until finalization of the appeal or judicial process.

### **Legal services and counselling**

**ARTICLE 81-**(1) Applicant and beneficiaries of international protection may be represented by a lawyer in proceedings stated in Chapter Three of this Law, provided that they cover the costs.

(2) Legal service shall be provided in accordance with the provisions of the Law No.1136 related to legal aid, to an applicant or a beneficiary of international protection who is unable to afford a lawyer with regard to proceedings stated in this Chapter.

(3) An applicant or a beneficiary of international protection is entitled to benefit from legal counselling provided by non-governmental organizations.

### **Residence of conditional refugees and beneficiaries of subsidiary protection**

#### **status**

**ARTICLE 82-** (1) For reasons of public security or public order, the Directorate General may oblige the beneficiary of subsidiary protection and conditional refugee to reside in a designated province, and to report in determined procedures and intervals.

(2) Such persons shall be obliged to register in the address registration system and inform the Governorate of their residence address.

### **Beneficiary of international protection identification document**

**ARTICLE 83-** (1) Persons granted refugee status shall be issued an identification document containing foreigner identification number and with a validity period of three years.

(2) Persons granted subsidiary protection or conditional refugee status shall be issued an identification document containing foreigner identification number with a validity period of one year.

(3) Identification documents specified in paragraphs one and two shall substitute for a residence permit and shall be issued free of charge. The form and content of the documents shall be determined by the Directorate General.

### **Travel document**

**ARTICLE 84-** (1) The travel document specified in the Convention shall be issued by governorates to refugees.

(2) Travel document requests of conditional refugees and beneficiaries of subsidiary protection status shall be assessed pursuant to Article 18 of the Law No. 5682.

### **Cessation of international protection status**

**ARTICLE 85-** (1) The international protection status shall cease to exist in case the beneficiary of international protection;

a) has voluntarily re-availed himself or herself of the protection of the country of his nationality,

b) having lost his or her nationality, has voluntarily re-acquired it,

c) has acquired a new nationality and enjoys the protection of the country of his or her new nationality,

ç) has voluntarily re-established himself or herself in the country which he left or outside of which he remained owing to fear of persecution,

d) can avail himself or herself of the protection of the country of his or her nationality, because the circumstances in connection with which he or she has been granted a status have ceased to exist,

e) being a stateless person, is able to return to the country of his former residence because the circumstances in connection with which he or she has been granted a status have ceased to exist.

(2) In the assessment of subparagraphs (d) and (e) of paragraph one, whether the circumstances in connection with which the status has been granted have ceased to exist or have changed fundamentally and permanently shall be taken into consideration.

(3) The status shall also cease when the circumstances in connection with which the subsidiary protection status has been granted have ceased to exist or changed to an extent that the concerned persons are no longer in need of protection. It shall be taken into consideration whether the changes in circumstances in connection with which subsidiary protection was granted are of a fundamental and permanent nature.

(4) In case conditions set in paragraph one and three of this article arise, the status may be re-evaluated. The concerned person shall be notified in writing regarding the re-evaluation of his or her status and reasons thereby and the person shall be given an opportunity to present the grounds related to the necessity of continuation of his or her status through an oral or a written statement.

(5) The decision on cessation, including the material facts and legal grounds on which it is based, shall be notified to the person concerned, to his or her legal representative or to his or her lawyer. In the event that the person is not represented by a lawyer, the effect of the decision, procedures and time limits for appeal shall be notified to the person, or to his or her legal representative.

### **Cancellation of international protection status**

**ARTICLE 86-** (1) The status of the beneficiaries of international protection;

- a) who have obtained the status through use of fraudulent documents, circumvention, deceit, or through withholding information,
- b) who, after being granted the status, are understood to be subject to exclusion pursuant to Article 64 of this Law, shall be cancelled.

(2) The decision to cancel, including the material facts and legal grounds on which the decision is based, shall be notified to the person concerned, to his or her representative or to his or her lawyer. In the event that the person is not represented by a lawyer, the effect of the decision, procedures and time limits for appeal shall be notified to the person, or to his or her legal representative.

### **Assistance for voluntary repatriation**

**ARTICLE 87-** (1) Material and financial assistance may be provided to applicants and beneficiaries of international protection who intend to voluntarily repatriate.

(2) The Directorate General may carry out voluntary repatriation activities in cooperation with international organizations, public institutions and organizations as well as non-governmental organizations.

## **SECTION THREE**

### **Rights and Obligations**

#### **General Principles on Rights and Obligations**

**ARTICLE 88-** (1) The beneficiary of international protection shall be exempted from the reciprocity principle.

(2) Rights and benefits provided to an applicant, to a person whose application has been rejected or to a beneficiary of international protection shall not be construed as more than those accorded to Turkish citizens.

#### **Access to assistance and services**

**ARTICLE 89-**(1) An applicant or a beneficiary of international protection and his or her family members shall have access to primary and secondary education services.

(2) Among applicants or beneficiaries of international protection, those who are in need may be granted access to social assistance and services.

(3) Among applicants or beneficiaries of international protection;

a) for those who are not covered under any health insurance and those who do not have financial means to afford medical services the provisions of the Law on Social Security and General Health Insurance No.5510 of 31/5/2006 shall apply. A fund shall be allocated to the budget of the Directorate General for the payment of premiums of persons who will benefit from general health insurance. Persons whose premiums are paid by the Directorate General shall be asked to contribute to the premium fully or partially depending on his or her ability to pay.

b) those who are understood at a later date, to already have had health insurance, or the financial means to cover the associated costs, or to have applied solely to benefit from medical treatment, shall be notified within 10 days to the Social Security Institution for termination of their general health insurance and expenditures regarding their treatment and medication shall be reimbursed from them.

(4) Regarding access to the labour market;

a) An applicant or a conditional refugee may apply for the work permit six months after his or her application for international protection.

b) A refugee or beneficiary of subsidiary protection, upon being granted the status, may work independently or under an employer. The provisions of other legislation regarding jobs and professions prohibited to foreigners shall be reserved. Identification documents to be issued to refugees or beneficiaries of subsidiary protection shall also substitute for a work permit and this information shall be indicated on the identification document.

c) Access of refugees and beneficiaries of subsidiary protection to labour market may be temporarily restricted for agriculture, industry or service sectors, a certain job, profession, or administrative and geographical area, when it is required by the conditions of the labour market, developments in the labour life, and sector and economic conditions regarding employment. However, such restrictions shall not be implemented for refugees and beneficiaries of subsidiary protection who have been residing in Turkey for 3 years, or who are married to Turkish citizens, or who have children with Turkish citizenship.

ç) Procedures and principles regulating the employment of applicants or beneficiaries of international protection shall be governed by the Ministry of Labour and Social Security in consultation with the Ministry.

(5) Save for those who fall under the scope of Articles 72 and 79 of this Law, an applicant who is identified as being in need, may be provided with a pocket money in accordance with procedures and principles to be determined by the Ministry upon approval of the Ministry of Finance.

### **Obligations**

**ARTICLE 90-** (1) In addition to obligations stated in this Chapter, an applicant or beneficiary of international protection shall be obligated to:

- a) Notify his or her current employment situation within 30 days,
- b) Notify his or her movable and immovable properties within 30 days,
- c) Notify the changes in his or her address, identification and civil status within 20 working days,
- ç) Reimburse totally or partially the costs of services, assistance and other benefits that are identified to have been unjustly received,
- d) Fulfil requests by the Directorate General in accordance with the provisions of this Chapter.

(2) Save for rights of access to education and primary health services; the rights of those who do not abide by the obligations enumerated in this Chapter and of those, against whom negative decisions are given with regard to their applications and international protection statuses, may be restricted. Restrictions shall be evaluated on an individual basis. The decision shall be notified in writing to the concerned person or to his or her legal representative or to his or her lawyer. In the event that the person is not represented by a lawyer, the effect of the decision, procedures and time limits for appeal shall be notified to the person, or to his or her legal representative.

## **SECTION FOUR**

### **Temporary Protection and Other Provisions related to International Protection**

#### **Temporary protection**

**ARTICLE 91 -** (1) Temporary protection may be provided to foreigners who, having been forced to leave their country and cannot return to the country they left, have arrived at or crossed the borders of Turkey in masses seeking emergency and temporary protection.

(2) Proceedings to be followed on reception into, stay in, rights and obligations in, exit from Turkey of such persons, along with measures to be taken against mass movements as well as cooperation and coordination among national and international institutions and organizations, designation of powers and duties of institutions and organizations that will function at the central or provincial level, shall be governed by a regulation to be issued by the Council of Ministers.

#### **Co-operation in international protection processes**

**ARTICLE 92-** (1) The Ministry may co-operate with the United Nations High Commissioner for Refugees, International Organization for Migration and other international and non-governmental organizations, with regard to issues concerning international protection processes stated in this Chapter within the framework of Law on Execution and Coordination of International Relations No. 1173 of 5/5/1969.

(2) Necessary cooperation with the United Nations High Commissioner for Refugees shall be undertaken to facilitate its duty of supervising the execution of the provisions of the Convention. The Ministry shall be authorized to designate the processes related to international protection, application, assessment and decision, and to that effect to sign protocols -without the force of international agreements- with the United Nations High Commissioner for Refugees upon favourable opinion of the Ministry of Foreign Affairs.

(3) The United Nations High Commissioner for Refugees shall have access to applicants of international protection, including those at the border gates, and shall have access to information concerning asylum applications upon consent of the applicant. UNHCR may present its opinions to the authorities at every stage of the application.

#### **Country of origin information**

**ARTICLE 93-**(1) In the course of assessment of international protection applications, updated information concerning the countries of origin, residence and transit shall be collected from resources of the United Nations High Commissioner for Refugees and other sources, in order to verify alleged elements of the claims by applicants and to ensure an effective and just decision.

(2) The establishment of a country of origin information system, the gathering, and storing of information; the operation of the system and putting the system into service for concerned public institutions and organizations shall be carried out within the scope of the procedures and principles to be designated by the Directorate General.

#### **Principle of confidentiality and access to personal files**

**ARTICLE 94-** (1) Confidentiality is fundamental for all information and documents of an applicant and beneficiary of international protection.



(2) However, the applicant, the beneficiary of international protection, his or her legal representative or his or her lawyer may examine or obtain a copy of documents included in his or her personal file. However, documents relating to national security and protection of public order as well as prevention of criminal activity shall not be examined and submitted.

### **Reception and accommodation centers**

**ARTICLE 95-** (1) It is essential that the applicant or beneficiary of international protection meets his or her own accommodation needs.

(2) The Directorate General may establish reception and accommodation centers to provide accommodation, food, health, social and other needs of the applicant and beneficiary of international protection.

(3) In the centers, accommodation of persons with special needs shall be prioritized.

(4) Reception and accommodation centers shall be operated by the Governorates.

The Directorate General may sign protocols to delegate operation of the centers to public institutions and organizations, Turkish Red Crescent Society, or associations working for public interest with expertise in the area of migration.

(5) Applicants or beneficiaries of international protection and their family members who are not accommodated in reception or accommodation centers, may be provided with the services available in these centers.

(6) In reception and accommodation centers, services may be carried out through acquisition by purchase.

(7) The integrity of families who are accommodated in the centers shall be preserved as far as available resources permit.

(8) Representatives of the relevant non-governmental organizations with expertise in the area of migration may visit reception and accommodation centers upon permission of the Directorate General.

(9) Procedures and principles concerning the establishment, administration and operation of reception and accommodation centers shall be designated by a regulation.

## **SECTION FOUR**

### **Common Provisions on Foreigners and International Protection**

#### **Harmonization**

**ARTICLE 96 –** (1) In order to facilitate the mutual harmonization of the society and of foreigner, applicant or beneficiary of international protection and to equip them with knowledge and skills that will facilitate their self-reliance in all spheres of their social lives without any dependency to third persons in our country, in the resettlement countries or in their home countries when they return, the Directorate General may plan harmonization activities within the bounds of economic and financial possibilities of our country, also taking advantage of the recommendations and contributions of public institutions and organizations, local administrations, non-governmental organizations, universities and international organizations.

(2) Foreigners may attend introductory courses in which the political structure, language, legal system, culture and history of the country as well as their rights and obligations are explained.

(3) The Directorate General shall, in cooperation with public institutions and organizations as well as non-governmental organizations, increase courses, distant education and similar systems to implement awareness and information campaigns on areas such as benefiting from public and private goods and services, access to education and economic activities, social and cultural interaction, and receiving primary healthcare services.

#### **Obligation to comply with an invitation**

**ARTICLE 97-** (1) Foreigners, applicants and beneficiaries of international protection may be invited to the governorate or Directorate General for the following reasons:

a) If the need arises to conduct an investigation into the person's entry into or stay in Turkey;

b) If there is a possibility of issuing a deportation warrant; or,

c) To notify the procedures related to the implementation of this Law.

In the event that the invitation is not complied with or there is serious doubt that it will not be complied with, foreigners may be brought in by law enforcement authorities without an invitation. This procedure shall not be carried out in the form of administrative detention and the period for collecting information shall not exceed four hours.

## **Obligation of Carriers**

**ARTICLE 98** – (1) The carriers shall be obliged;

- a) To return the foreigners they brought to border gates for the purpose of entry in or transit through the country whose entry into or transit through Turkey is rejected for any reason, to the country where they came from or to a country which will certainly accept admission of the said persons.
- b) To ensure the roundtrip for accompanying persons, if accompany is deemed necessary for the foreigner.
- c) To control documents and permits of their passengers.

(2) The Directorate General may ask carriers who will transport passengers to the border gates, to submit information belonging to passengers prior to setting off for Turkey.

(3) Principles and procedures to be implemented for the obligations set forth in paragraph 1 and 2 shall be determined by a regulation to be issued jointly by the Ministry and the Ministry of Transportation, Maritime Affairs and Communication.

## **Personal Data**

**ARTICLE 99** – (1) Personal data belonging to foreigners, applicants and holders of international protection status shall be collected, protected, stored and used by the Directorate General or governorates in accordance with the relevant legislation and international agreements to which Turkey is a party.

## **Notification**

**ARTICLE 100** – (1) Notification procedures related to this Law shall be carried pursuant to provisions of Law on Notifications No. 7201 of 11/2/1959.

(2) Principles and procedures regarding implementation of this article shall be determined by a regulation, taking into account that the concerned person is a foreigner, and, if any, his or her special circumstances.

## **Authorized administrative courts**

**ARTICLE 101-** (1) In the event that a case is brought to the administrative courts regarding the implementation of this Law, if there are more than one administrative court in one location these cases will be held in administrative court to be determined by the Supreme Board of Judges and Prosecutors.

## **Administrative Fines**

**ARTICLE 102-** (1) Unless a heavier penalty is stipulated under another law, the following fines shall be administered;

- a) 2000 TL to foreigners who, in violation of Article 5, illegally enter into or exit from Turkey, or attempt such actions,
- b) 1000 TL to those who managed to enter Turkey despite the prohibition of entry as provided for under Article 9, paragraph 1 and 2,
- c) 1000 TL to those who do not depart from Turkey within the granted period as per Article 56, paragraph 1,
- ç) 1000 TL to those who abscond during proceedings under Article 57, 58, 60 or 68.

(2) In case the misdemeanours requiring an administrative fine by the Law are repeated within one calendar year, the fines shall be administered as increased at the half ratio.

(3) Imposition of the administrative fines in this article shall not hinder implementation of other administrative measures stipulated in the Law.

(4) Administrative fines set forth in this article shall be administered by governorates or law enforcement authorities. Payment shall be rendered for the given administrative fines within thirty days as of the date of notification.

## **CHAPTER FIVE**

### **Directorate General for Migration Administration**

#### **SECTION ONE**

##### **Establishment, Duties and Powers**

## **Establishment**

**ARTICLE 103-** (1) The Directorate General for Migration Management has been established under the Ministry of Interior with a view to implement policies and strategies related to migration; ensure coordination between the related agencies and organizations in these matters; carry out the tasks and procedures related to foreigners' entry into, stay in, exit and deportation from Turkey, international protection, temporary protection and protection of victims of human trafficking.

## **Duties and Powers**

**ARTICLE 104-** (1) The duties and powers of the Directorate General shall be as follows:

- a) In the area of migration, to work on developing legislation and administrative capacity; to work on identifying policies and strategies; to monitor and coordinate the implementation of the policies and strategies identified by the Council of Ministers;
  - b) To act as secretariat of the Migration Policies Board; to monitor implementation of the Board's decisions.
  - c) To carry out works related to migration.
  - ç) To carry out the tasks accorded to the Ministry under Settlement Law No. 5543 of 19/9/2006.
  - d) To carry out tasks and procedures regarding protection of victims of human trafficking.
  - e) To carry out the tasks and procedures related to stateless persons and identification of stateless persons.
  - f) To carry out the tasks and procedures regarding harmonization process.
  - g) To carry out the tasks and procedures related to temporary protection.
  - ğ) To establish coordination between law enforcement units and relevant public institutions and organizations to combat irregular migration and to develop measures, to monitor implementation of measures taken to that effect.
  - h) To assist in programming and project design phases of public institutions and organizations, undertaken for migration-related activities; to evaluate and approve project proposals; to monitor ongoing works and projects, to support implementation of such works and projects in compliance with international standards.
  - ı) To carry out other duties assigned by law.
- (2) The Directorate General shall be authorized to establish cooperation and ensure coordination with public institutions and agencies, universities, local administrations, non-governmental organizations, private sector and international organizations.
- (3) Any request for information or documents by the Directorate General within the scope of this Law shall be fulfilled by the concerned institution or agencies without delay.

## **SECTION TWO**

### **Migration Policies Board**

#### **The Migration Policies Board and its Duties**

**ARTICLE 105-** (1) The Migration Policies Board shall operate under the Minister of Interior and shall be comprised of Undersecretaries of the Ministries of Family and Social Policies, European Union Affairs, Labour and Social Security, Foreign Affairs, Interior, Culture and Tourism, Finance, National Education, Health, Transportation, Maritime Affairs and Communication; as well as the President of the Presidency of Turks Abroad and Relative Societies and the General Director for Migration Management. Related Ministries, representatives of other national and international agencies and NGOs may be invited to the meeting according to the agenda of the meeting.

- (2) The Board shall convene at least once each year upon the Chairman's call. The Board may also convene extraordinarily upon the Chairman's call when deemed necessary. The Chairman shall determine the agenda of the meeting upon taking the opinion of the members. The Directorate General shall act as the secretariat of the Board.
- (3) The Committee's duties shall be as follows:
- a) To determine and monitor the implementation of Turkey's migration policies and strategies;
  - b) To draft strategy documents on migration, as well as programs and documents for implementation;
  - c) To identify the methods and measures to be applied in the event of mass influx;

- ç) To determine procedures and principles related to foreigners that will be accepted collectively into Turkey due to humanitarian considerations, as well as their entry and stay in Turkey;
- d) In line with the recommendations of the Ministry of Labour and Social Security to identify the amount of foreign labour needed and in line with the opinions of the Ministry of Food, Agriculture and Livestock, to identify the principles for foreigners who will come for seasonal work in the agricultural sector;
- e) To identify the terms and conditions applicable to long-term residence permits for foreigners;
- f) To encourage efficient cooperation in the area of migration between foreign countries, international organizations and to determine the framework of the work undertaken in this field,
- g) To take decisions to ensure coordination between public agencies and organizations that work in the field of migration.

### **SECTION THREE**

#### **Central, Provincial Organization and Overseas organization, Service Units**

##### **Organization**

**ARTICLE 106-** (1) The Directorate General shall be comprised of a central and provincial organization and overseas organization.

(2) Organization of the Directorate General is provided in the attached Table (1).

##### **General Director**

**ARTICLE 107-** (1) The General Director is the highest managerial role in the

Directorate General and reports directly to the Minister.

(2) The duties of the General Director shall be:

- a) To manage the Directorate General according to the provisions of the legislation and the programs and policies of the Government,
- b) To carry out necessary legislative works on issues within the scope of the area of responsibility; and manage the Directorate General according to the identified strategies, objectives and performance criteria,
- c) To supervise the activities and operations of the Directorate General; review the management systems; oversee the effectiveness of the organizational structure and the management processes; and ensure the improvement of management,
- ç) To determine the medium and long term strategy and policies of the Directorate General and to ensure cooperation with international organizations, universities as well as non-governmental organizations towards this end,
- d) To ensure cooperation and coordination with other public institution and organizations in areas that fall under the field of activity.

(3) A total of two Deputy General Directors may be appointed in order to assist the General Director in the management and coordination of the Directorate General. The Deputy General Directors shall report to the General Director and perform the duties assigned by the General Director.

##### **Service Units**

**ARTICLE 108-** (1) The service units of the Directorate General and their duties are:

###### **a) Foreigners Department:**

- 1) To carry out the tasks and procedures related to regular migration,
- 2) To carry out the tasks and procedures related to irregular migration,
- 3) To carry out duties assigned to the Ministry pursuant to Law numbered 5543,
- 4) To carry out works and proceedings related to stateless persons in Turkey,
- 5) With a view to combating irregular migration, to ensure coordination between law enforcement units and other related public institutions and organizations; to develop measures; and to monitor the implementation of the measures taken to that effect,
- 6) To enforce the provisions related to third country nationals and stateless persons of readmission agreements to which Turkey is a party to.
- 7) To perform the other duties assigned by the General Director.

**b) International Protection Department:**

- 1) To carry out tasks and procedures related to international protection,
- 2) To carry out the tasks and procedures related to the temporary protection,
- 3) To collect and update country of origin information,
- 4) To perform the other duties assigned by the General Director.

**c) Department of the Protection of Victims of Human Trafficking:**

- 1) To carry out works and proceedings related to combating human trafficking and protection of victims.
- 2) To implement projects related to combating human trafficking and protection of victims.
- 3) To set up, operate or outsource the operation of help lines for victims of human trafficking.
- 4) To perform the other duties assigned by the General Director.

**ç) Migration Policies and Projects Department**

- 1) To work on identifying policies and strategies in the area of migration; and to monitor and coordinate the implementation of the policies and strategies identified.
- 2) To act as the secretariat of the Migration Policies Board; and to monitor the implementation of the Board decisions.
- 3) To implement projects in the area of migration.
- 4) To provide assistance to the scheduling and project design of activities related to migration by public institutions and organizations; to evaluate and approve project proposals; to monitor works and projects; to provide support to ensure that these efforts are carried out according to international standards.
- 5) To carry out or outsource surveys, researches and impact analyses in the area of migration.
- 6) In collaboration with Turkish Statistical Institution, to publish statistics on migration, combating human trafficking and protection of victims.
- 7) To draft and publish annual migration reports.
- 8) To perform the other duties assigned by the General Director.

**d) Adaptation and Communication Department:**

- 1) To carry out works and proceedings related to mutual adaptation between foreigners and society.
- 2) To inform the public about the issues under the area of responsibility of the Directorate General; and to work on increasing public awareness on such issues.
- 3) To plan and implement press and public relations activities.
- 4) To perform the other duties assigned by the General Director.

**e) Information Technologies Department:**

- 1) To set up and operate and outsource operation of information technologies (IT) system related to area of responsibility of Directorate General.
- 2) To carry out infrastructure works and proceedings related to receipt, protection, storage and usage of personal data within the scope of this Law.
- 3) To carry out the communication between the units of Directorate General; to ensure the registration, classification and distribution of electronic documents; to procure, create and develop the software to meet IT and communication needs;
- 4) To perform the other duties assigned by the General Director.

**f) Foreign Affairs Department:**

- 1) To carry out the communication and cooperation between other countries and organizations that operate internationally in areas related to the duties of the Directorate General; to ensure the necessary contact and coordination; and to work on developing new areas of cooperation.
- 2) To ensure relations with the European Union on issues which fall under the area of responsibility and activity of the Directorate General.
- 3) To carry out the procedures related to overseas secondments of the personnel of the Directorate General.

- 4) To schedule the visits of foreign delegations and officials to Turkey in relation with the duties of the Directorate General; to carry out preparatory work on organizing international meetings, conferences, seminars and similar events in Turkey; and, to ensure coordination.
- 5) To monitor the activities and developments taking place in foreign countries in areas that are related to the duties of the Directorate General.
- 6) To maintain contacts with immigration officers in diplomatic missions in Turkey.
- 7) To perform the other duties assigned by the General Director.

**g) Strategy Development Department:**

- 1) To carry out the duties assigned to strategy development and financial services units as per Law 5018 of 10/12/2003 on Public Finance Management and Control, and Article 15 of the Law numbered 5436 of 22/12/2005 Amending the Public Financial Management and Control Law and Certain Laws and Decree Laws, as well as other legislation. 2) To perform the other duties assigned by the General Director.

**ğ) Legal Department:**

- 1) To carry out duties assigned to legal units as per Decree Law 659 dated 26/9/2011 on Provision of Legal Services in General Budget Public Administrations and Special Budget Administrations.
- 2) To perform the other duties assigned by the General Director.

**h) Human Resources Department:**

- 1) To carry out the work related to the human resources policy and planning of the Directorate General; to carry out the work and make recommendations to develop human resources system and to set performance criteria.
- 2) To plan and execute the procedures related to personal procedures such as the appointment, transfer, records, promotion, wages and retirement of the personnel of Directorate General.
- 3) To perform the other duties assigned by the General Director.

**ı) Support Services Department:**

- 1) To carry out the services related to the leasing and purchase; to carry out or outsource all types of services such as cleaning, security, lighting heating, maintenance and transportation as per Law 5018.
- 2) To carry out the proceedings related to movable and immovable property of the Directorate General in compliance with the legislation.
- 3) To carry out the work related to documentation records and archiving of the Directorate General.
- 4) To plan and execute civil defence and mobilization services, as well as disaster and emergency services of the Directorate General.
- 5) To take necessary measures to efficiently, swiftly and accurately respond to inquiry applications filed pursuant to Law 4982 on Right to Information dated 9/10/2003.
- 6) To establish, operate or outsource operation of centers and shelters for victims of human trafficking.
- 7) To perform the other duties assigned by the Directorate General.

**ı) Training Department:**

- 1) To plan and implement training programs related to the area of responsibility of Directorate General.
- 2) To publish scientific publications.
- 3) To organize seminars, symposia, conferences and similar events.
- 4) To follow, compile and convey to relevant departments, national and international publications, legislation, judgments and other information and documents.
- 5) To perform the other duties assigned by the Directorate General.

**Provincial Organization**

**ARTICLE 109-** (1) The Directorate General shall be authorized to establish a provincial organization as per relevant legislation.

**Overseas organizations**

**ARTICLE 110–** (1) Pursuant to the provisions of the Decree Law 189 of 13/12/1983 on the Overseas Organization of Public Agencies and Organizations, the Directorate General is authorized to establish an overseas organization.

(2) The duties of migration experts assigned in consulates are:

- a) To ensure cooperation and coordination between the Directorate General and public organizations and agencies of the country of assignment, in the area of migration.
- b) To follow developments regarding issues under area of responsibility of the Directorate General, and to convey these issues to the Directorate General.
- c) To monitor implementation of legislation on migration signed between the country of assignment and Turkey.
- ç) To establish necessary contact and relations in the country where they are assigned to carry out the tasks and procedures of irregular migrants to be deported from Turkey or who will voluntarily return to such country.
- d) To carry out works related to country of origin information.
- e) To fulfil duties assigned by the Directorate General on combating human trafficking and protection of victims.
- f) In the country of assignment, to propose and design projects to be implemented jointly on migration, combating human trafficking and protection of victims, as well as to prepare and submit project proposals and to monitor projects being implemented.
- g) To perform the other duties assigned by the General Director.

3) Duties of migration attachés assigned in consulates shall be as follows:

- a) To receive and finalize applications for visa and residence permits made at consulates,
- b) To collect information and documents on the applications, to request missing documents and information from the foreigner, to evaluate by conducting interviews when necessary and to record these interviews,
- c) To present to the consul's approval, directly those visa applications which may be decided on by the consulates; while the residence permits and visa applications where the decision of the Directorate General is necessary, following the decision of the Directorate General.
- ç) To provide assistance, in the country of return, in the works and proceedings for foreigners who will be deported from Turkey or voluntarily return to that country.
- d) To follow developments regarding migration issues in the country of assignment and to prepare annual reports,
- e) To carry out other tasks assigned by consuls in the area of migration,
- f) To perform the other duties assigned by the Director General.

#### **Working Groups and the authority to regulate**

**ARTICLE 111–** (1) Working groups may be established in central organization of the Directorate General to carry out works, upon the proposal of the unit managers and the approval of the General Director. The working groups shall function under the coordination of an expert to be assigned by the General Director.

(2) The Directorate General shall be authorized to carry out administrative arrangements in its area of duty, authority and responsibility.

#### **Responsibilities of Directors and Delegation of Authority**

**ARTICLE 112–** (1) Managers at all levels of the Directorate General are responsible to senior levels for performing their duties in accordance with the legislation, strategic plans and programs, performance criteria and service quality standards.

(2) The General Director and Directorate General managers at all levels may delegate some of their authority to subordinate levels, provided that the limits of the delegation are explicitly indicated in writing. Delegation of authority shall be conveyed to concerned persons by an appropriate medium.

### **SECTION FOUR**

#### **Permanent Boards and Commissions and Temporary Commissions**

##### **Permanent Boards and Commissions**

**ARTICLE 113–** (1) The permanent boards and commissions of the Directorate General are:

- a) Migration Advisory Board
- b) International Protection Evaluation Commission
- c) Coordination Board for Combatting Irregular Migration

(2) The qualifications of the members to be elected to permanent boards and commissions, the time and place of the ordinary and extraordinary meetings, the working and decision-making principles and procedures and other issues related to the boards and commissions shall be determined by a regulation.

(3) The Directorate General shall act as the secretariat of the permanent boards and commissions and shall provide support services.

### **Migration Advisory Board**

**ARTICLE 114-** (1) Under the chairmanship of the Undersecretary of the Ministry or Deputy Undersecretary to be delegated by the Undersecretary of the Ministry, the Migration Advisory Board shall be comprised of the representatives of the Turkish Human Rights Institution; representatives of the Ministry of Foreign Affairs, European Union Affairs, Labour and Social Security who are at least at the level of Head of Department; General Director and Deputy General Directors, Heads of Foreigners Department, International Protection Department, Protection of Victims of Human Trafficking, Adaptation and Communication and Migration Policy and Projects Department; Representative of UNHCR Turkey; Representative of the International Organization for Migration; five faculty members of universities who are specialized in migration; and five representatives of NGOs working in the area of migration. The chairman may invite experts in the area of migration in Turkey and from abroad to the board meeting to take their opinion. The Board shall have ordinary meetings twice a year. The Board may also convene extraordinarily upon the chairman's call. The chairman shall determine the agenda of the meeting.

(2) Faculty members and representatives of NGOs shall be selected in accordance with the procedures and principles to be determined by the Ministry.

(3) The duties of the Board are:

- a) To monitor the migration practices and to make recommendation;
  - b) To evaluate the new arrangements planned in the area of migration;
  - c) To evaluate the regional and international developments in migration policies and migration law; and to monitor the implications of these developments on Turkey;
  - ç) To evaluate the legislative work and practices related to migration; and
  - d) To establish sub-commissions to work on migration issues; and evaluate the reports issued following the work carried out by the commission.
- (4) The decisions of the board shall be construed as recommendations and evaluated by the Directorate General and public agencies and organizations.

### **International Protection Evaluation Commission**

**ARTICLE 115-** (1) Under the chairmanship of the Directorate General representative, the International Protection Evaluation Commission shall be comprised of one representative each from the Ministries of Justice and Foreign Affairs and a migration expert. A representative of UNHCR Turkey may be invited to attend the Commission as an observer. One or more commissions may be established in the central or provincial organizations by the Directorate General. The Directorate General representative and the migration expert shall be elected for a tenure of two years and the other members shall be elected for at least one year as full members and associate members. Chair and members of the Commission shall not be delegated additional duties within the period of tenure.

(2) The duties of the Commission are:

- a) With the exception of administrative detention decisions and decisions related to inadmissible applications as well as decisions made through an accelerated procedure, to evaluate and conclude the appeals made to decisions concerning applications for international protection and other decisions concerning the applicants or persons granted international protection status; and,
  - b) To evaluate and conclude appeals made against the cessation or cancellation of international protection.
- (3) The Commission shall work under the direct coordination of the General Director.

### **Coordination Board for Combatting Irregular Migration**

**ARTICLE 116-** (1) Under the chairmanship of the Ministry Undersecretary or the Deputy Undersecretary to be assigned by the Undersecretary, the Coordination Board for Combatting Irregular Migration shall be comprised of representatives of the General Staff, Ministry of Foreign Affairs, Ministry of Labour and Social Security, Secretariat of National Intelligence Organization, relevant law enforcement as well as the representatives of Directorate General, at least at the Head of Department level.



(2) The Board may invite representatives of the related central and provincial units of public institutions and organizations, NGOs, international organizations and experts on the field to the Board meetings. The Board shall convene every six months with a set agenda. Furthermore, the Board may convene extraordinarily at any time upon the Chairman's call. The Chairman shall determine the meeting agenda, taking the opinion of the members.

(3) The duties of the Board are:

- a) To ensure coordination between law enforcers and public institutions and organizations in order to efficiently combat irregular migration;
- b) To identify the routes of illegal entry into and exit Turkey and to develop measures;
- c) To develop measures against irregular migration;
- ç) To plan and monitor implementation of legislative efforts and practices related to combat irregular migration.

(4) Public institutions and organizations shall give preferential consideration to the Board decisions.

### **Temporary Commissions**

**ARTICLE 117** – (1) To carry out work on the areas related to its duties, the Directorate General may establish temporary commissions, upon the approval of the Minister, with the participation of public institutions and organizations, NGOs, international organizations and relevant experts.

(2) The formation of temporary commissions, the number of members, the qualifications for selection and assignment, the time and place of the ordinary and extraordinary meetings, the working and decision-making principles and procedures, and other issues related to the boards shall be determined by a regulation.

## **SECTION FIVE**

### **Provisions Related to Appointments and Personnel**

#### **Appointments and Assignments**

**ARTICLE 118**– (1) The General Director and Deputy Directors-General of the Directorate General shall be appointed by joint resolution and other positions upon proposal of the General Director and approval of the Minister.

(2) The personnel in any of the public institutions and organizations may be assigned temporarily to the Directorate General, upon their consent and the consent of their institution, to work in areas related to the duties of the Directorate General. The assignment shall be done provided that the personnel's salary, appropriation, salary raises, compensation and all other financial and social benefits shall be paid by their respective institution. Personnel assigned in this manner shall be considered to be on monthly leave. The period of service at the Directorate General of personnel assigned in this manner shall count towards their seniority and the connection with their actual

position shall continue. Such personnel shall be promoted in due time, without the need for any further procedure. The number of personnel to be assigned shall not exceed thirty percent of the total headcount.

#### **Provisions related to Personnel**

**ARTICLE 119**– (1) Migration experts and junior migration experts shall be employed in the central organization of the Directorate General, while provincial migration experts and junior provincial migration experts shall be employed in provincial organization of the Directorate General.

(2) In order to be able to be appointed as a Junior Migration Expert and Provincial Junior Migration Expert at the Directorate General, in addition to the general conditions enumerated in Article 48 of Law 657 on Civil Servants of 14/7/1965, the following conditions must be met: graduation from a four-year faculty of law, political science, economics, administrative sciences and international relations or other faculties to be determined by a regulation, or equivalent higher education institutions in Turkey or abroad, as approved by the Council of Higher Education; a passing grade in the competitive examination to be offered. The competitive examination for appointment as a

Junior Migration Expert and Provincial Junior Migration Expert shall be composed of written and spoken stages.

(3) Provisions of Amended Article 41 of the Law 657 shall be applied in employment as Junior Migration Expert, competitive examination, drafting the thesis and proficiency examination, as well as assignment as expert.

(4) Persons who are assigned to Provincial Junior Migration Expert position shall be entitled to enter the proficiency examination, provided that they complete three full years of service. Those who fail in the examination, or does not take this examination without a reasonable excuse shall be given a second opportunity to take the examination within the same year. Those who fail in the examination second time, or does not take this examination shall lose the title of Provincial Junior Migration Expert, and shall be appointed to appropriate civil servant positions. Procedures and principles related to employment of Provincial Migration Experts and Provincial Junior Migration Experts, competitive examination, establishment of boards, training, proficiency examinations, assignments, working and commission and other issues shall be determined by a regulation.

(5) Foreigner personnel may be employed in the Directorate General for works that require specific knowledge and expertise as contracted personnel. The net amount of salary to be paid to such personnel shall be determined by the General Director and shall not exceed the net amount paid to a Migration Expert of the first degree according to financial rights; such personnel shall be deemed as covered under insurance pursuant to Article 4(1)(a) of Law No. 5510 on Social Insurance and General Health Insurance. The number of personnel to be employed as such shall not exceed one percent of the de facto headcount at the Directorate General, and procedures and principles related to such employment shall be determined by a regulation.

(6) Appointments or assignments to the positions of General Director, Deputy General Directors, Heads of Migration Policies and Projects Department, Department of Adaptation and Communication, Department of Foreign Affairs, Strategy Development Department, and Support Services Department as well as migration experts shall be made from among those with category of provincial administrative authorities.

## Positions

**ARTICLE 120** (1) All other provisions related to identifying, creating, using and cancelling a position, and other elements related to positions shall be regulated according to the provisions of the Decree Law No. 190 of 13/12/1983 on General Staffing and Relevant Procedures.

## CHAPTER SIX

### Miscellaneous Provisions

#### Regulation

**ARTICLE 121-** (1) Principles and procedures regarding implementation of this Law shall be determined by regulations.

#### Referenced Provisions

**ARTICLE 122-** (1) References made in other legislation to Law No. 5683 of 24/7/1950 on the Residence and Travel of Foreigners in Turkey shall be construed as referenced to this Law. The phrase "residence license" provided for in other legislation shall be construed to mean "residence permit" as set forth in this Law.

#### Provisions Amended

**ARTICLE 123-** (1) The phrase "citizens and foreigners" in Article 34 of Passport Law No. 5682 of 15/7/1950 have been replaced with "citizens".

(2) The following paragraphs have been added after Article 88(1)(e) of Law No. 492 of 2/7/1964 on Fees:

"(f) who hold a long-term residence permit;

(g) who are victims of trafficking in persons."

(3) In the Civil Servants Law No. 657 of 14/7/1965:

a) "Junior Migration Expert and Provincial Junior Migration Expert" has been added after "Energy and Natural Resources Junior Expert" and "as a Migration Expert, Provincial Migration Expert" after "as an Energy and Natural Resources Expert" under the section titled "Common Provisions" in Article 36(A)(11);

b) "Migration Expert" has been added after "Higher Education Board Expert" in sub-clause (ğ), and "Provincial Migration Expert" after "Provincial Planning Experts of Ministry of Interior" in sub-clause (h) of subparagraph "(A) Special Service Compensation" under paragraph "II-Compensations", as amended, of Article 152 titled "Raises and Compensations";

c) "Migration Experts" has been added after "EU Affairs Experts" in subparagraph (g) and "Provincial Migration Experts" after "Provincial Planning Experts of Ministry of Interior" in sub-clause (h) under the section titled "I-Service Classes for General Administration" in Table (I) related to additional indicators;

(4) The following subparagraph has been added to paragraph one (d) of Article 29 of Law No. 3152 on the Organization and Duties of the Ministry of Interior of 14/2/1985: "e) Directorate General for Migration Management."

(5) a) The phrase "and the duration of his or her residence permit" in Article 5(1) of the Law on the Work Permits of Foreigners No. 4817 of 27/2/2003 has been omitted.

b) The following paragraph has been added to the first paragraph of Article 8 of the Law No. 4817:

"i) Foreigners and stateless persons who have applied for international protection and who have been granted conditional refugee status by the Ministry of Interior".

c) First paragraph of Article 12(1) of Law No. 4817 has been amended as follows:

“Foreigners shall file an application for their first work permit at the Consulate of the Republic of Turkey in their country. The Consulate shall directly submit these applications to the Ministry. The Ministry shall take the opinion of the relevant authorities and evaluate the applications in accordance with Article 5 and a work permit shall be granted to foreigners whose status is deemed appropriate. Foreigners may stay and work for the duration on the work permit obtained from the consular office.”

ç) Article 14-1(c) of Law No. 4817 has been amended as follows:

“(c) A negative opinion presented by the Ministry of Interior,”

d) Article 16-1(a) of Law No. 4817 has been amended as follows:

“(a) a decision for the deportation of the foreigner or entry ban into Turkey,”

(6) “55) Directorate General of Migration Management” has been added after line 54 to Table (I) attached to Public Financial Management and Control Law No. 5018 of 10/12/2003.

(7) In the Population Registry Service Law No. 5490 of 25/4/2006:

a) Article 3(1) (bb) is amended as follows:

“(çç) Foreigners Log: is the log containing the records of persons granted a Stateless Person Identity Card in Turkey or foreigners who are granted a residence permit for any reason for the duration of minimum ninety days and foreigners legally staying in Turkey who apply for a foreigner’s identity number,”

b) Article 8(1) is amended as follows:

“Foreigners who are granted a residence permit for any reason for the duration of minimum ninety days in Turkey shall be entered into the foreigners log by the Directorate General. However, foreigners legally staying in Turkey shall also be recorded in the foreigners log upon their demand. Foreigners entered into this log are liable for reporting all registry related incidents to registry offices. This provision shall not apply to members of diplomatic missions.”

(8) The provisions of the Social Insurances and General Health Insurance Law No. 5510 of 31/5/2006 has been amended as follows;

a) Article 3(1)27:

“27) Holder of International Protection Application or Status and Stateless Person: Persons who are identified by the Ministry of Interior as applicants, refugees, beneficiaries of secondary protection or conditional refugees or those identified as stateless persons,”

b) Article 60(1)c(2):

“2) Persons who are identified as holders of international protection application or Status or as Stateless Person”

c) Article 61(1)b:

The phrase “identified as a stateless person and asylum seeker” has been amended as “identified as having applied for or have been granted international protection status or identified as a stateless person”.

(9) Positions demonstrated in Tables (1), (2) and (3) in the Annex have been created and included in Table (I) of Decree Law 190 as “Directorate General for Migration Management”.

(10) “Migration Management” has been added after “Press and Information” in 9<sup>th</sup> sequence of Table (II) annexed to Decree Law 375 of 27/6/1989.

### **Legislation Repealed**

**ARTICLE 124-** (1) Law No. 5683 of 15/7/1950 on the Residence and Travel of Foreigners in Turkey and Articles 4, 6, 7, 8, 9, 10, 11, 24, 25, 26, 28, 29, 32, 33 and 35, 36, 38, Additional Article 5(1) and (2), and second clause in Article 34(1) of the Passport Law No. 5682 of 15/7/1950 have been repealed

### **Provisions related to Transition**

**PROVISIONAL ARTICLE 1-** (1) All forms of files, written and electronic records and other documents, as well as information technologies, electronic projects and databases that are related with the scope of the duties of the Directorate General and are maintained by the General Directorate of Security shall be gradually transferred to the Directorate General and related provincial directorates for migration management. The protocol between the General Directorate of Security and the Directorate General for the referred transfer shall be made within 6 months from the publication of this Article and take effect upon the approval of the Minister.

(2) One year after the publication of this Law, the movable and immovable belonging to reception and accommodation centers and removal centers shall be deemed transferred and allocated to the Directorate General without any further procedure. The transfer proceedings shall be exempt from fees and issued documents shall be exempt from stamp duties. The Minister is authorized to resolve any problems that may occur during the transfer of movable and allocation of immovable and similar problems when implementing this Law.

(3) The appropriations required for the expenses of the Directorate General in the fiscal year of 2013 shall be covered according to Article 6(1) (ç) of Law No. 6363 of 21/12/2011 on the Central Management Budget for 2013. The appointments for the positions created for Directorate General for Migration Management may be made until 31/12/2014 without being subject to the limitations prescribed in Law numbered 6363, provided that such appointments do not exceed fifty percent of all positions.

(4) Until the date that the provincial organization of the Directorate General is completed according to principles set forth in this Law, the duties and services in the mentioned locations shall continue to be executed by units or personnel previously executing these duties and services. When the organization is completed in concerned locations, the Directorate General may employ the personnel, who operate in the referred units, without being subject to number limitation set forth in Article 118(2) for a period less than three years as from the date of transfer as per the referred article.

(5) The Directorate General may employ the personnel who have worked for at least two years in General Directorate of Security, Department of Foreigners, Border and Asylum as well as relevant branches of Provincial Directorates of Security, to work in the central organization of the Directorate General, without being subject to number limitation set forth in the second paragraph of Article 118 for a period of less than three years as from the publication of this Article.

(6) Foreigners that lodge a written application with the Governorships within one year after the Second Chapter of this Law enters into force, shall enjoy the rights that they are entitled with respect to residence permits pursuant to this Law.

(7) Prior to the effective date of the Third Chapter of this Law, persons who, pursuant to Regulation 94/6169 of 30/11/1994 Concerning the Procedures and Principles Applicable to Foreigners Seeking Asylum in Turkey, Individual Foreigners Applying for a Residence Permit to Seek Asylum in Another Country, Foreigners that Arrive at Turkish Borders for Mass Asylum and Potential Population Movements which entered into force with a Council of Ministers Decision, have been granted a status shall be treated in accordance with the status set forth in this Law and the applications of those who have applied for a status shall be concluded according to this Law. As from the publication of this Law up to the effective date of the Third Chapter of this Law, persons

who, pursuant to the referred Regulation, have been granted a status and those who have applied for a status shall be exempted from residence fee.

(8) Until regulations related to implementation of this Law enter into effect, provisions in current legislation, which are not in contravention of this Law, shall continue to be executed.

#### **Enforcement**

**ARTICLE 125**– (1) a) Section Five of this Law, excluding Article 122, paragraphs one, two, five and seven of Article 123 and Article 124, shall come into force on the date of publication of the Law;

b) Other articles of the Law shall come into force one year after the date of publication of the Law.

#### **Execution**

**ARTICLE 126** – (1) The provisions of this Law shall be executed by the Council of Ministers.