

Decision Number: 2016/8375

Enforcement of the annexed “Regulation on Work Permits of Foreigners under Temporary Protection” has been decided by the Council of Ministers on 11/1/2016, upon letter no. 31, dated 4/1/2016 of the Ministry of Labor and Social Security and pursuant to Article 91 of the Law No. 6458 on Foreigners and International Protection and Article 29 of Temporary Protection Regulation.

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REGULATION ON WORK PERMITS OF FOREIGNERS UNDER TEMPORARY PROTECTION

Objective and scope

ARTICLE 1- (1) The objective of this Regulation is to determine the procedures and principles related to employment of foreigners under temporary protection pursuant to Article 91 of the Law No. 6458 on Foreigners and International Protection dated 4/4/2013.

Basis

ARTICLE 2- (1) This Regulation is prepared on the basis of Article 29 of Temporary Protection Regulation, which entered into force with the Article 91 of the Law No. 6458 and Council of Ministers Decision No. 2014/6883.

Definitions

ARTICLE 3- (1) For the purposes of this Regulation, the following terms shall be construed as follows;

- a) Ministry: Ministry of Labor and Social Security,
- b) Member of the education profession: Teachers, expert and master educators described in the Law No. 1739 on National Education Fundamental Law dated 14/6/1973 and instructors described in the Law No. 2547 on Higher Education dated 4/11/1981,
- c) Member of the health profession: Specialists, nurses, midwives and opticians pursuant to legislation on physicians and specialty in medicine and other members of profession described in Additional Article 13 of the Law No. 1219 on Mode of Execution for Medicine and Medical Sciences,
- ç) Foreigner identity number: The number, which is the basis for all kinds of proceedings and records of institutions and other real and legal entities, within the scope of Article 5 of the Regulation on Holding Civil Registries of Foreigners Residing in Turkey, which entered into force with the Council of Ministers Decision No. 2006/11057 dated 27/9/2006.

Obligation to obtain work permit

ARTICLE 4- (1) Foreigners under temporary protection, cannot work or be employed in Turkey without work permit.

(2) Foreigners under temporary protection, who work without work permit, and persons, who employ them, shall be subject to the related provisions of Law No. 4817 on Work Permits of Foreigners dated 27/2/2003.

Application for work permit and work permit exemption

ARTICLE 5- (1) Foreigners under temporary protection may lodge an application to the Ministry to obtain work permits six months after the date of their temporary protection registration.

(2) Work permit applications shall be lodged by the employer, who will employ foreigners under temporary protection, through the e-Government Gateway.

(3) Foreigners under temporary protection, who are entitled to lodge an application for independent work permit, shall lodge their application on behalf of themselves.

(4) Foreigners under temporary protection, who will work in seasonal agriculture or livestock works, shall be under exemption from work permit. Work permit exemption applications shall be lodged at the provincial governorate where the foreigners are registered under temporary protection. These applications shall be notified to the Ministry by the respective governorate.

(5) Ministry may introduce province and quota restrictions regarding foreigners under temporary protection, who will work in seasonal agriculture or livestock jobs.

Evaluation

ARTICLE 6- (1) Evaluation criteria for evaluation of work permit applications shall be determined by the Ministry pursuant to Article 13 of the Implementing Regulation of the Law on Work Permits of Foreigners, which was published in Official Journal No. 25214 dated 29/8/2003.

(2) Applications lodged for jobs and professions, execution of which is only permitted for Turkish citizens, shall be removed from the process without evaluation.

(3) For work permit applications to the Ministry: Members of health profession shall require to obtain initial permit from the Ministry of Health and members of education profession shall need to obtain initial permit from the Ministry of National Education or the Council of Higher Education Presidency. Applications without initial permits shall be removed from the process without evaluation.

Provinces where work permit can be granted

ARTICLE 7- (1) Provinces, where foreigners are permitted to reside pursuant to Article 24 of Temporary Protection Regulation, shall be the basis for granting the right to apply for work permit for foreigners under temporary protection.

(2) The Ministry shall cease to issue work permits for provinces, which are notified by the Ministry of Interior to be risky in terms of public order, public security or public health. Work permits issued in these provinces shall not be extended. However, if a foreigner's right to stay in that province continues, work permit, which was already issued and is still valid, shall be permitted to be used until its date of expiration.

Employment quota

ARTICLE 8- (1) In evaluation of work permit applications, employment quota for foreigners under temporary protection may be implemented at different rates considering the placements to open jobs and jobs based on sectors and provinces depending on the number of Turkish citizens employed at the workplace. Number of foreigners under temporary protection, who work at the work place, where work permit application is lodged, cannot be more than ten percent of the number of Turkish citizens working at the work place without prejudice to the third paragraph.

(2) Maximum one foreigner under temporary protection may be permitted to work at a work place, employee number of which is less than ten.

(3) In cases of applications where the employers are able to document for the Provincial Directorate of Labor Agency to where his/her workplace is registered; within the last four weeks prior to the work permit application date, that there would be no Turkish citizens to undertake the same work to be done by the applying foreigner, the employment quota may not be implemented.

Granting of work permit and notification

ARTICLE 9- (1) Work permit shall be granted by the Ministry to foreigners, whose applications are evaluated positively, and this situation shall be notified to the Ministry of Interior and employer.

(2) Work permit exemptions granted to foreigners under temporary protection, whose employment in seasonal agriculture and livestock jobs is deemed appropriate, shall be notified to the respective governorate.

Wage

ARTICLE 10- (1) Foreigners under temporary protection cannot be paid less than the minimum wage rate.

Working for associations, foundations and non-profit organizations

ARTICLE 11- (1) Associations holding the status of associations functioning for the public benefit, pursuant to Law No. 5253 on Associations dated 4/11/2004, and foundations, which are granted tax exemption pursuant to Law No. 4962 on Amendment of Certain Laws and Granting Tax Exemption to Foundations dated 30/7/2003, may lodge an application to the Ministry for employment of foreigners under temporary protection in humanitarian assistance activities.

(2) Associations not included in the first paragraph; branches or representative offices of associations; federations; confederations and foreign associations as well as Turkey branches or representative offices of non-profit organizations other than associations and foundations based abroad may apply to the Ministry to employ foreigners under temporary protection. However, the consent of the Ministry of Interior shall be sought regarding the applicant organization. Applications from organizations that failed to receive the consent in question shall be cancelled without evaluation.

Vocational training

ARTICLE 12- (1) Applications to the Ministry may be lodged for persons, who will receive vocational training and on-the-job training at a work place within the scope of courses and programs organized under active work force services by Turkish Labor Agency, and employment of these persons at the same work place at end of training period.

(2) Work place employment quota may be implemented differently in applications to be lodged within the scope of this article.

Miscellaneous provisions

ARTICLE 13- (1) Rights and obligations of foreigners under temporary protection and employers derived from social security legislation shall be reserved.

(2) Provisions of Law No. 4817 and Implementing Regulation of the Law on Work Permits of Foreigners shall be implemented for the matters not regulated under this Regulation regarding the employment of foreigners under temporary protection.

(3) Work permits of foreigners, whose temporary protection is ceased or canceled within the scope of Temporary Protection Regulation, shall be canceled.

Enforcement

Article 14- (1) This Regulation shall enter into force on the date of its publication.

Execution

Article 15 – (1) Provisions of this Regulation shall be executed by the Council of Ministers.