

A NOTE ON THE RIGHT TO WORK OF FOREIGNERS IN TURKEY WITH A TOURIST VISA OR RESIDENCE PERMIT



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OBJECTIVE

This note provides information on the right to work of foreigners in Turkey with a tourist visa or residence permit.

BENEFICIARY

The beneficiaries of this note are foreigners, primarily LGBTI+ people who are not Turkish citizens but who have a Turkish tourist visa or residence permit.



WHAT IS THE RIGHT TO WORK?



The right to work, which is a basic human right, can be defined as the right to engage in any activity based on providing an income worthy of human dignity, which is optionally recognized by the state with minimum conditions. Article 48 of the Turkish Constitution states that everyone has the freedom to work and contract in any field they wish. The establishment of private enterprises is free and everyone has the right and duty to work according to Article 49. However, Article 16 of the Turkish Constitution stipulates that fundamental rights and freedoms may be limited by law in accordance with international law for foreigners.

As a rule, it is possible for foreigners to work in Turkey. However, it is not

possible for foreigners to work in some professions and duties such as lawyers, notary publics and private security guards, which are only recognized for Turkish citizens in the relevant legislation. Foreigners must obtain a work permit (or work permit exemption) before starting dependent or independent work in Turkey. A work permit is a permit issued by the Ministry of Labor and Social Security as an official document, and it gives the right to work and reside in Turkey within the validity period.

The Ministry of Labor and Social Security considers a number of criteria including the developments related to employment and business life, periodic sectoral and economic changes, and bilateral economic, social

WHAT IS THE RIGHT TO WORK?

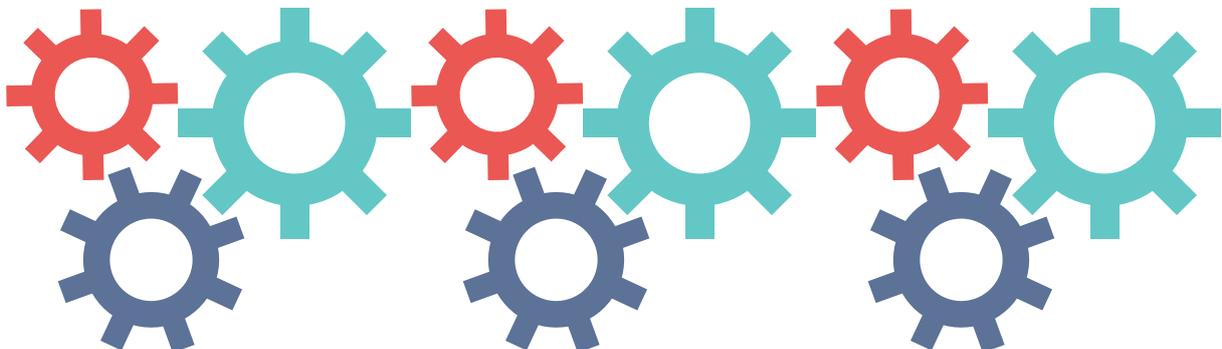
and cultural relations regarding a foreigner's country of citizenship for the assessment of work permit applications.

In principle, workplaces and foreigners must meet a number of requirements in foreigners' work permit applications. The first requirement is that at least five persons who are citizens of Turkey must be employed at the workplace for which a work permit is requested. The other requirements are related to the monetary limit on the paid-in capital of the workplace and the monetary limits on the salary that will be paid to the foreigner.

In principle, foreigners are forbidden from working or being employed in Turkey without obtaining a work permit. Foreigners working without a work permit will be notified to the Ministry of the Interior and will be

deported. However, it is possible for foreigners who are specified to be able to work without a work permit in Turkish regulations or in international bilateral or multilateral agreements and conventions to which Turkey is a party to work or be employed without a work permit.

Work permit applications in Turkey should be made directly to the Ministry of Labor and Social Security. Applications abroad should be made to the embassies or consulate generals of Turkey in the foreigner's country of citizenship or legal stay. Applications to extend a work permit should be made within 60 days prior to the expiration of the work permit and, in any case, before the expiration of the work permit. A foreigner who is granted a work permit upon their application abroad must come to Turkey within six months after the date the work permit's validity starts.



WHAT ARE THE RIGHTS PROVIDED BY A TOURIST VISA OR RESIDENCE PERMIT WITH RESPECT TO THE RIGHT TO WORK?

A tourist visa is given to foreigners who want to come to Turkey for purposes such as touristic or official visits, business meetings, conferences, seminars, meetings, festivals, fairs, exhibitions, sports events, and cultural and artistic events. A tourist visa allows the foreigner to enter Turkey for touristic purposes only. Therefore, foreigners who are in Turkey with a tourist visa need to obtain a work permit (or work permit exemption) before being able to work in Turkey independently or in a workplace owned by a real person or legal entity, or a public institution and public enterprise.

However, it is not possible for foreigners who are in Turkey with tourist visas to apply for a work permit domestically. Foreigners who hold valid residence permits with a remaining term of at least six months can apply for a work permit directly with the Ministry of Labor and Social Security within Turkey. Foreigners who do not have a valid residence permit are required to apply for a work permit at a consulate of Turkey in the country of which they are a citizen or a permanent resident. A work permit or work permit exemption granted by the Ministry of Labor and Social Security is deemed a residence permit.

In principle, foreigners in Turkey with a residence permit are required to obtain a work permit (or work permit exemption) before being able to work in Turkey independently or in a workplace owned by a real person or legal entity, or a public institution and public enterprise.

WHAT ARE THE TYPES OF WORK PERMITS AND THE RIGHTS PROVIDED THEREOF?

Preliminary permission

Obtaining preliminary permission is compulsory on the assessment of work permit applications of foreigners seeking to work in healthcare and educational services that require professional competence. The Ministry of Health for healthcare services and the Ministry of National Education for educational services are authorized to grant preliminary permission.

Temporary work permit

In case of a favorable assessment of an application, foreigners will be granted a one-year work permit on their first application, provided that the permit's duration does not exceed their employment or service contract periods and that they are employed for a certain job in a certain workplace owned by a real person or legal entity, or a public institution and public enterprise. Foreigners will be granted a two-year extension on the first application and a maximum of three years for the ensuing applications. However, an application for an extension of the temporary work permit is subject to the condition of working with the same employer. Applications lodged for employment under different employers will be assessed as a new work permit application.

Permanent work permit

Foreigners holding long-term residence permits or a minimum of eight years of the legal work permit may apply for a permanent work permit. However, having the requirements for an application will not confer an absolute right for foreigners and the Ministry of Labor and Social Security has the discretion in assessing a work permit application. Foreigners holding permanent work permits benefit from the same rights that long-term residence permits provide and, in principle, they benefit from the same rights as those accorded to Turkish citizens. Foreigners holding permanent work permits have no right to elect, be elected or to enter into public service. They also have no obligation of compulsory military service.

WHAT ARE THE TYPES OF WORK PERMITS AND THE RIGHTS PROVIDED THEREOF?

Independent work permit

Although it is stipulated in Turkish regulations that foreign members of a profession might be granted independent work permits provided that they satisfy the special terms set forth in other laws, the phrase "foreign members of a profession" is not defined. When assessing an independent work permit application, factors such as a foreigner's educational level, professional experience, contribution to science and technology, the effect of their in-country activities or investments on Turkey's economy and employment are considered.

Exceptional work permit

Foreigners who are entitled to apply for an exceptional work permit, among others, are: **(a)** assessed as a qualified workforce; **(b)** assessed as a qualified investor; **(c)** employed by their employer for a certain period in a project that is being realized in Turkey; **(d)** of Turkish origin; **(e)** citizens of the Turkish Republic of Northern Cyprus; **(f)** citizens of European Union member states; **(g)** applicants of international protection claims, conditional refugees, persons under temporary protection and stateless persons, and victims of human trafficking; and **(h)** married to a Turkish citizen and live in Turkey with their spouse with a marriage bond. Foreigners who have the right to apply for an exceptional work permit may be granted an exception in the application of the provisions of the International Workforce Law No. 6735 on the application of a work permit, the assessment of the application, the rejection of the application and types of work permits.

Turquoise card

This card is granted by the Ministry of Labor and Social Security to foreigners whose application was accepted as appropriate with regard to their educational level, professional experience, contribution to science and technology, the effect of their in-country activities or investments on Turkey's economy and employment. Turquoise card owners benefit from the same rights provided by the permanent work permit.

WHAT IS THE SCOPE OF THE RIGHT TO WORK OF FOREIGN STUDENTS?



Foreign students enrolled in formal education programs at universities or higher education in Turkey may work provided that they obtain a work permit. Foreign students receiving education at the level of a two-year degree or undergraduate study may apply for a work permit after completing their first year and they can only work part-time. This restriction is not applicable to postgraduate students

REFERENCES

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