CARIM

In November 1995, the European and Mediterranean Ministries of Foreign Affairs met in Barcelona in order to establish the basis of a new partnership, which is described in the Barcelona Declaration. The main goal is to transform the Mediterranean region in a peaceful and prosperous area, and to progressively establish a Euro-Mediterranean free-market zone. The Barcelona process includes three main sub-processes: a dialogue on political and security issues aiming to create stability and to promote democracy and human rights in the region; a dialogue on financial and economic cooperation intended to increase partners' welfare and to create a free-market zone; dialogue on social, cultural and human issues improving mutual understanding and strengthening civil society links.

The Valencia Ministerial Meeting in April 2002, went a step further by outlining a ‘Regional cooperation programme in the field of justice, in combating drugs, organised crime and terrorism as well as cooperation in the treatment of issues relating to social integration of migrants, migration and movement of people’ (referred to in the document as the JHA-Regional MEDA programme). This programme has been adopted by the European Commission on the 16/12/2002 (PE/2002/2521).

The ‘Cooperation project on the social integration of immigrants, migration and the movement of persons’ (EuroMed Migration) is a MEDA regional initiative launched by the European Commission (EuropeAid Cooperation Office) in February 2004 as part of the above programme. It aims at creating an instrument for observing, analysing and forecasting the migratory movements, their causes and their impact, in Europe and in the Mediterranean partners.

The Euro-Mediterranean Consortium for Applied Research on International Migration (CARIM) has been set up in order to implement the EuroMed Migration project. The Consortium is composed of a coordinating unit established at the Robert Schuman Centre for Advanced Studies of the European University Institute (Florence), and a network of thirty scientific correspondents based in Mediterranean partner countries. External experts from the north and the south also contribute to its activities.

The CARIM carries out the following activities:
- Mediterranean migration database
- Studies and research
- Training

Results of the above activities are made available for public consultation through the website of the project: www.carim.org

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Robert Schuman Centre for Advanced Studies

The Robert Schuman Centre for Advanced Studies (RSCAS) was founded at the European University Institute to develop inter-disciplinary and comparative research and to promote work on the major issues facing the process of integration and European society. Research at the Centre is organised around a set of core themes, each of which is home to a number of research programmes and projects.

The results of the Centre's research are disseminated in the form of academic publications, working and policy papers, and research reports.

Details of this and other research can be found at: http://www.eui.eu/RSCAS/Research/

The EUI and the RSCAS are not responsible for the opinion expressed by the author(s).
Migration Law in Turkey
Introduction

Turkey has always been a transit and target country as well as a source country for migrants. The legal provisions regulating migration developed over time and have been shaped by three major developments following the creation of the Republic of Turkey in 1923.

The first development facing the new Turkish state was how to deal with the influx of Turkish migrants from the former Ottoman Empire wishing to return to their homeland to avoid the rising wave of nationalism in former Ottoman territories. In 1923 the Peace Treaty of Lausanne marked the end of the Greco–Turkish War and a Protocol dealt with the exchange of populations between the two countries.1 This was followed by the 1934 Law on Settlement which was designed to encourage the return of people of Turkish descent or Turkish culture to Asia Minor.2 Both instruments remain in force today.

The second major factor to impact on Turkish migration law was the outward migration of Turkish workers to European countries starting in the early 1960s. The Republic of Turkey concluded several bilateral treaties on the status of emigrants such as social security treaties, followed by a number of arrangements in Turkish domestic law to coordinate and facilitate the maintenance of the cultural, economic and legal ties of Turkish migrants with their homeland. The issue became more complicated when destination countries rejected dual citizenship and forced migrants to resume their Turkish citizenship.3 Turkish legislators were obliged to establish a new status giving former Turkish nationals and their children rights almost equivalent to those of Turkish citizens. These legal arrangements have become more comprehensive over time as the number of target countries increased parallel to Turkey’s integration with foreign markets after the 1980s. This area has become so tightly regulated that the Turkish government even passed decrees to compensate Turkish workers abroad whose salaries were left unpaid by foreign employers.4

The third and most recent development to have an impact on Turkish migration law has been the process of accession to the European Union (EU). The intensive legislative process which took place within the EU after the signing of the Treaty of Amsterdam introduced a new dimension to the responsibilities of the Republic of Turkey as a candidate state.

The Accession Partnership for Turkey was prepared by the European Commission, adopted on 8 March 2001,5 and subsequently revised on 26 March 2003.6 It sets out objectives for migration and asylum policy concerning Turkey’s accession to the European Union:

- to pursue alignment of visa legislation and practice with the acquis
- to adopt and implement the acquis and best practices on migration (admission, readmission, expulsion) with a view to preventing illegal immigration
- to continue alignment with the acquis and best practices for border management in preparation of full implementation of the Schengen acquis

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1 League of Nations Treaty Series (LNTS), vol.28, 1924, p. 53
3 See for instance, The Convention on the Reduction of Cases of Multiple Nationality and on Military Obligations in Cases of Multiple Nationality, CETS No.: 043, entry into force 28 March 1968 http://conventions.coe.int
4 See Council of Ministers Decree No. 85/10210 of 20 December 1985 Concerning Institutions Commissioned for Transferring the Allowances That are Allocated to Service Providing Enterprises Abroad and the Fund for Assistance to Workers Who Encounter Financial Difficulties While Working in Such Enterprises.
• to start alignment of the *acquis* in the field of asylum including lifting the geographical limitation to the 1951 Geneva Convention, strengthen the system for hearing and determining applications for asylum, and developing accommodation facilities and social support for asylum-seekers and refugees.

Following the adoption of the revised Accession Partnership, Turkey published its National Programme for the Adoption of the Acquis, providing a detailed list of undertakings on asylum and migration issues including a comprehensive legislative reform. For instance, the adoption of the Law on Aliens by 1 January 2005 and the Law on Asylum by the end of 2005 was planned within this framework. Some of the ambitious plans in the National Programme had to be revised later in a more detailed document called the Action Plan for Asylum and Migration, which came into force in March 2005. The Plan is still an ambitious document for Turkey and contains a description of existing legal practice and mid-term and long-term goals including the comprehensive codification through the Law on Asylum and the Law on Aliens to be achieved by 2012. Adoption of these two laws will bring Turkish legislation into line with the European *acquis*, and establish a more effective legislative framework for asylum and migration issues which are currently regulated by different pieces of legislation. While efforts to introduce legislation are pending, the Turkish government has made visible progress in implementing the existing legal structures including the European Convention on Human Rights by adopting directives.

**The status of migrants under Turkish law**

Article 16 of the Constitution distinguishes between aliens and Turkish citizens with regard to the restriction of fundamental rights as an exception to the general rule of non-discrimination. The reference to obligations under international law in Article 16 is positive since it implies that restrictions of the fundamental rights of aliens shall be limited. In this regard, it is important to note the amendment to Article 90 of the Constitution which provides that: ‘International agreements duly put into effect bear the force of law […]’. In case of contradiction between international agreements on fundamental rights and freedoms approved through proper procedure and domestic laws, due to different provisions on the same issue, the provisions of international agreements shall be considered.’ Thus, treaties regulating basic rights and freedoms take precedence over domestic legislation in the event of a conflict between them. Migrants are among the beneficiaries of this radical amendment to the system of fundamental rights in Turkey. The new Article 90 contains a message to Turkish legislators and the judiciary as both will have to be more conscious of international law treaties related to human rights matters.

An example of this is the amendment of the new Turkish Penal Code, that prevented Turkey from introducing an article conflicting with the European Court of Human Rights’ (ECHR) jurisprudence. Article 59 of the Penal Code stipulated that: ‘The judge shall decide to immediately deport any foreigner who is sentenced to imprisonment for a term of two years or more as a result of an offence committed, following the execution of their punishment.’ This article was criticized for conflicting with the jurisprudence of the ECHR since it did not consider the likelihood of persecution in the receiving country or the question of family unity. The Turkish Grand National Assembly (hereafter, National Assembly) reacted by amending Article 59, which allowed the automatic deportation of foreign nationals, one day before it came into force on 1 April 2005.

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Article come into force without being amended, it would not have much effect against the provisions of the European Convention on Human Rights in the light of the new Article 90 of the Constitution.

Entry, residence and removal

The regime governing entry and residence in Turkey is much more liberal and flexible than the EU acquis as it currently stands and Turkey faces a problem of balancing its interests for accession to the European Union and EU calls for it to tighten its entry regime, with the demands of its growing tourist industry for a liberal visa policy.

By the year 2002, there were a discrepancy of 21 countries between the EU negative visa list and the countries whose citizens Turkey required a visa. Turkey had introduced visa requirements in 2002 for six Gulf countries (Bahrain, Qatar, Kuwait, Oman, Saudi Arabia and United Arab Emirates) which the EU subjects to visa requirements. As a second step, thirteen countries (Indonesia, Republic of South Africa, Kenya, Bahamas, Maldives, Barbados, Seychelles, Jamaica, Belize, Fiji, Mauritius, Grenada and Santa Lucia) had been listed for visa requirements in 2003. In Turkey’s 2004 Progress Report the European Commission indicated that Turkey had continued alignment with the EU negative visa list and introduced a visa requirement for citizens of Azerbaijan in November 2003. In 2005 Turkey introduced visa requirement for Marshall Islands and Micronesia. Accordingly, by the end of 2005, the discrepancy between EU visa obligations list and that of Turkey was six countries. Therefore, it is possible to conclude that the EU has managed to get Turkey impose visa requirements for more than twenty countries in its black list. However, the Turkish visa regime still remained liberal due to the possibility to obtain sticker visa at the borders.

The National Programme also indicates that the Turkish government planned to make amendments to Passport Law No. 5682 and to parts of the Law on Residence and Travel for Aliens (hereafter Residence and Travel Law) No. 5683 by the end of 2005 in order to bring Turkish law into line with Council Regulation (EC) No. 1683 of 29 May 1995 on a uniform format for visas. Although there is no reference to uniform visa format in the Action Plan, Turkey submitted a draft law to the National Assembly in January 2004 to amend the Passport Law, abolishing common passports in favour of a uniform visa format (Art. 2).

Another undertaking dealt with amendments to the Passport Law and the Aliens Act in order to introduce airport transit visas by the end of 2005. Article 1 of the proposed amended Passport Code deals with this and will enable foreigners to obtain airport transit visas.

Finally, the practice of issuing visas at border crossings should have been abolished by the end of 2005 but to date the law has not been amended. The current legal framework of entry, residence and removal is as described below.

Passport Law No. 5682/1950

Turkish citizens and aliens may only enter and leave Turkey through places determined by the Board of Ministers upon a proposal of the Ministry of the Interior (Art. 1). Aliens may enter Turkish territory according to the procedures and principles set out in the Passport Law and the Residence and Travel Law using the border gates set aside for passenger entry and exit procedures.

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16 Turkey’s 2003 Progress Report, p. 139.
17 Turkey’s 2005 Progress Report, p. 111.
18 Ibid.
Documents required for entry

Turkish citizens and aliens must present a valid passport or passport substitute document on entry to and departure from Turkey (Art. 2) and a visa. The Ministries of the Interior and the Foreign Ministry have the power to decide what documents can be accepted as a substitute for a passport for aliens and Turkish citizens, other than those determined by law and international treaties. Turkey is party to the European Agreement on Regulations Governing the Movement of Persons Between Member States of the Council of Europe, which provides that ‘Nationals of the Contracting Parties, whatever their country of residence, may enter or leave the territory of another party by all frontiers on presentation of one of the documents listed in the appendix to this Agreement, which is an integral part thereof.’ (Art. 1). Accordingly, citizens from Council of Europe member States that are party to this Agreement are allowed entry to Turkish territory using their identity cards. However, as indicated in the following paragraph of the Agreement this is only for visits of not more than three months and valid passports are required for all visits of over three months.

Any alien attempting to enter Turkish territory without a valid passport or document will be refused entry. However, aliens claiming to have lost their passports or documents while travelling may be allowed entry, provided that they go to the nearest government office if required and reside at a place indicated by the local government director until the end of the investigation made by the Ministry of the Interior.

Migrants who come to Turkey by a permission of the government are admitted even without a passport, provided that they bear a document issued by a Turkish consulate or by officials or delegations sent by the government to the foreign countries to dispatch migrants. The admission of refugees and aliens, other than those subject to the settlement regulations, who come to Turkey in order to settle, with or without passports, is generally subject to the permission of the Ministry of the Interior.

Visa requirements

Unless otherwise specified in law, aliens must have an entry visa affixed to their mandatory passports or substituting documents in order to enter Turkish territory. As a general rule, a visa is issued by the Turkish consulates and embassies in the country of origin or permanent residence and citizens of countries subject to visa requirements must apply to Turkish missions abroad. Citizens of some countries may have their visas ‘sealed’ at the border on entry. Citizens of specified countries may enter Turkish territory without a visa for a specified period of time on the basis of visa exemption agreements (see infra).

The visa is issued for entry to Turkish territory and, if it does not specify the duration of stay, the holder may reside in Turkey according to the provisions of the legislation on residence and travel of aliens. Entry must take place within one year of the visa being issued, otherwise it becomes invalid (Art. 28(A)). Those attempting to enter Turkey without a visa beforehand must apply to the security authorities (Art. 15).

Passports that are ‘sealed for aliens’ and granted to stateless persons by a decision of the Ministry of the Interior and valid for single entry to or departure from Turkey do not require a visa.

The Foreign Ministry and the Ministry of the Interior share responsibility for controlling entry to Turkish territory. The Foreign Ministry is responsible for issuing visas abroad through the consulates. Granting or rejecting a visa application is, in principle, at the discretion of the relevant consulate, but there are cases where the consular authorities are required to obtain Foreign Ministry approval. The Ministry of the Interior is responsible for controlling the validity of travel documents and visas at the borders.

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20 The Ministries of the Interior and the Foreign Ministry are authorized to jointly decide on documents as an alternative to passports, other than those specified in laws and international agreements. These can be travel documents, laissez-passer, administrative letters, seaman’s identity cards, migration documents, border documents, flight crew licenses, railway staff identity cards, and identity cards and documents used as an alternative to a passport for entering the territory.


The Passport Law regulates visas for single entry, multiple entry, transit, and return.\(^ {23}\) A transit visa can be issued either as a single entry visa or a double entry visa. The law also authorizes the government to make visa exemptions through international treaties or unilaterally and Turkey has signed many bilateral and multilateral treaties and adopted decrees to this end (Art. 10). Accordingly, a complex and flexible visa system has been established with four categories of exemptions to aliens for 30, 60, and 90 days and permanent exemptions for citizens of specified countries (see infra).

Citizens of countries exempted from visa requirements on the basis of bilateral or multilateral agreements may enter Turkish territory without a visa. Article 6 of the Passport Law provides for conditions where no visa shall be asked at the time of entry. Accordingly; ‘Aliens travelling with individual or joint passports for proceeding to other countries or for tourism or touring purposes only may tour and spend the night in cities where respective Turkish ports or airports are located subject to the permission of local security bodies.’ Transit air passengers do not require a visa provided that they remain within Turkish airports. Passengers connecting to other flights may be allowed to tour the city where the airport is located, without a visa, between the time of their arrival and the first outgoing flight to their destination.

**Countries whose citizens are exempt from visa requirements\(^ {24}\)**

**Ordinary passports**

*For up to 90 days:* Germany, Argentina, Bolivia, Bulgaria, Denmark, Ecuador, El Salvador, Morocco, Finland, France, South Korea, Hong Kong (only for Hong Kong Special Administrative Zone passports), Honduras, Iran, Israel, Sweden, Switzerland, Iceland, Japan, Liechtenstein, Luxemburg, Malaysia, Monaco, Nicaragua, San Marino, Singapore, Chile, Trinidad-Tobago, Tunisia, Uruguay, The Holy See, New Zealand, and Greece.

*For up to 60 days:* Bosnia-Herzegovina, Croatia, and Macedonia.

*For up to 30 days:* Kazakhstan, Costa Rica, Kyrgyzstan, and Macao (only Macao Special Administrative Zone passports).

**Permanent:** Citizens of the Turkish Republic of Northern Cyprus are permanently exempt from visa requirements and, with the exception of Bulgarian citizens, citizens of the states mentioned above are permanently exempt from transit visa.

**Official passports**

*For up to 90 days:* Germany, Argentina, Albania, Austria, Azerbaijan, Bahamas, Bangladesh, Barbados, Belgium, Belize, Belarus, Bolivia, Brazil, Bulgaria, Algeria, the Czech Republic, Denmark, Ecuador, El Salvador, Morocco, Fiji, Finland, Palestine (only diplomatic passports), France, Gambia, Grenada, South Korea, Georgia, the Netherlands, Honduras, Hong Kong (only for Hong Kong Special Administrative Zone passports), Iran, Spain, Israel, Sweden, Switzerland, Italy, Iceland, Jamaica, Japan, Kenya, Cuba, Liechtenstein, Lithuania, Luxemburg, Malaysia, Malta, Mauritius, Mexico (only diplomatic passports), Egypt, Monaco, Nicaragua, Norway, Oman, Uzbekistan (only diplomatic passports) Pakistan, Peru, Poland, Portugal (only diplomatic passports), Romania, the Russian Federation (only diplomatic passports), Santa Lucia, San Marino, Seychelles, Serbia and Montenegro, Singapore, Slovakia, Slovenia, Chile, Thailand, Trinidad-Tobago, Tunisia, Ukraine, Uruguay, The Holy See, New Zealand, and Greece.

*For up to 60 days:* Bosnia-Herzegovina, Indonesia, Croatia and Macedonia.

*For up to 30 days:* the People’s Republic of China, Estonia (only diplomatic passports) Philippines, Republic of South Africa, Kazakhstan, Kyrgyzstan, Costa Rica, Latvia (only diplomatic passports), Macao (only Macao Special Administrative Zone passports), Maldives, Hungary, Mongolia, Moldova, Turkmenistan, Venezuela, Vietnam (only diplomatic passports) and Yemen.

**Permanent:** Citizens of the Turkish Republic of Northern Cyprus are permanently exempt from visa requirements.

\(^{23}\) Respectively, Art. 28(A), Art. 28 (C), Art. 29 and Art. 28 (B).

\(^{24}\) See http://www.egm.gov.tr/hizmet.yabancilar.vize.asp.
Countries whose citizens may be issued with sticker visas at the Turkish border

The Turkish visa system has an element of flexibility with the sticker visa practice which enables the citizens of specified countries to obtain a visa at Turkish borders.

Countries whose citizens may be issued a visa at the Turkish border (ordinary passport holders): these citizens may be granted a 90-day multiple visa at Turkish borders: U.S.A (diplomatic passports holders may also be issued with a sticker visa); Austria; Australia; Belgium, Brazil, the Netherlands, Hong Kong (British passports), the United Kingdom, Ireland, Spain, Italy, Canada and Portugal.

Countries whose citizens may be issued a 60-day multiple visa at Turkish borders: Albania, Belarus, the Russian Federation, and Ukraine.

Countries whose citizens may be issued a 30-day multiple visa at the Turkish border: Azerbaijan, Armenia, Estonia, Latvia, Lithuania, Hungary, Moldova, Norway, Poland, Serbia and Montenegro, Slovakia, Tajikistan, Turkmenistan, and Jordan.

Countries whose citizens may be issued a 30-day single entry visa at the Turkish border: Southern Greek Cypriot Administration.

Multiple entry visa issued for up to 15 days: Georgia.

Visas issued in return of a receipt for up to 15 days: Guatemala.

Multiple entry visas granted free of charge for up to 90 days: Malta.

Visas granted by Turkish representations abroad: All other citizens of countries are required to obtain a visa through Turkish embassies or consulates abroad before their arrival at the Turkish border.

Persons forbidden entry to Turkey

Article 8 of the Passport Law lists the persons forbidden entry to Turkey. Tramps and beggars, the insane and those suffering from contagious diseases; persons accused or sentenced for a crime that would lead to extradition proceedings; persons previously deported from Turkey; persons suspected of planning to undermine security and public order in the Republic of Turkey or helping or participating with persons wishing to do so; prostitutes and persons inciting women to prostitution and persons involved in trafficking women for prostitution and all other types of traffickers and smugglers; persons unable to demonstrate that they have sufficient funding to support themselves during their stay in Turkey or to leave the country, or that they have someone to support them or a guarantor attesting that they will not engage in jobs reserved for Turks.

Residence


This law regulates the system for granting residence permits to aliens. Aliens who are allowed by law to enter Turkey and who arrive in accordance with the Passport Law have the right to reside and travel in Turkey under the terms and conditions determined by law (Art. 1). The right to take up residence is covered in international conventions and national legal texts so that aliens entering Turkey, irrespective of their country of origin, may reside in the country without a residence permit for up to 90 days provided that the duration of visa exemption or period of residence specified in their visas is at least 90 days. On the other hand, the Residence and Travel Law is full of vague provisions giving the authorities extensive discretion on restricting the residence and movement of aliens. Most of the standards in practice are set by internal directives of the Ministry of the Interior which are not directly accessible although the Ministry and many provincial security departments provide extensive information on their web sites. Article 2 of the law stipulates that the movement or residence of aliens may be prohibited by the Council of Ministers.

26 Exceptions may be applied to those who come to Turkey for treatment using their own means of transport or under the financial protection of a legal guardian and whose health is not a risk for public health and peace.
27 Law No. 50/5683 of 15 July 1950 on Residence and Travel of Aliens in Turkey amended by Law No. 4360.
in specific districts other than those where aliens are already prohibited by law to enter or reside.\textsuperscript{28} Article 3 goes on to state that aliens who intend to remain in Turkey for more than one month must apply to an authorized security office in order to obtain a residence permit. However, in 2003 this period was extended by decree to 90 days in the event that the period of residence indicated on the visa sticker is sufficient.\textsuperscript{29} This policy was further detailed in a Ministry of the Interior Directive in 2004.\textsuperscript{30}

Accordingly, aliens not requiring a visa may reside in Turkey until the end of the visa exemption period (30, 60 or 90 days) without applying for a residence permit. Aliens issued with a sticker visa may reside in Turkey without applying for a residence permit for up to 15, 30, 60 or 90 days as indicated on the visa.

Another group of aliens not covered by the general rule under Article 3 but who receive preferential treatment are people who visit Turkey for national or international historical-cultural, artistic, festivals, sports events or health treatment with a visa sealed as a ‘tourist’ and who may remain in Turkey for 120 days without having to obtain a residence permit if no other restriction to residence is indicated on the visa (Law on Residence and Travel for Aliens, Art. 5).

Foreign nationals visiting Turkey to tour the country or for the reasons indicated above with collective passports do not have to apply for a residence permit up to 90 days if the visa exemption period or the period indicated on the visa is sufficient (Art. 4).

Foreign nationals visiting Turkey and in possession of triptych documents (the equivalent of a passport for motor vehicles) and entry cards issued by the International Automobile Association are exempt from the obligation to apply for a residence permit for up to 120 days (Art. 6).

Finally, members of NATO forces, foreign diplomatic missions and international organizations (such as the UN) are exempt from the obligation to apply for a residence permit until the end of their assignment.

\textbf{Duration of residence permits}

The duration of the residence permit varies according to the purpose of the visit, the applicant’s country of origin, and particular characteristics or affiliations of the applicant. It is generally not longer than five years, but can be extended or shortened by the Ministry of the Interior in accordance with the principle of reciprocity and in consultation with the Foreign Ministry.\textsuperscript{31} Countries are grouped into two categories for determining the duration of the residence permit: Group A countries which are OECD member states,\textsuperscript{32} and Group B countries (all other countries).

\textbf{Long-term residence permits}

Nationals of EU and OECD member states in Group A countries are initially granted a permit for three years and subsequently five years. However, those who acquire property and who plan to settle in Turkey and consider it the centre of their social and family life are granted a five-year residence permit in both the initial and subsequent applications. Nationals of Group B countries, that is citizens of countries other than the EU and OECD member states, who obtain a visa from Turkish representations abroad and come to Turkey are initially granted a residence permit for one year and two years in subsequent applications if no further limitations are indicated on the visa.


\textsuperscript{31} Here and below http://www.konya.pol.tr/yabancilar.htm

\textsuperscript{32} The USA, Germany, Austria, Australia, Belgium, Denmark, Finland, France, the Netherlands, the UK, Spain, Sweden, Switzerland, Italy, Japan, Canada, Luxemburg, Norway, Portugal, New Zealand, Ireland, the Czech Republic, Hungary, Iceland, South Korea, Mexico, Poland, Slovakia, Slovenia, Lithuania, Latvia, Estonia, Malta, and the Southern Greek Cypriot Administration.
Short-term residence permits

Nationals of Group B countries who visit Turkey after obtaining a visa from a Turkish representation abroad or a sticker visa or who benefit from a visa exemption are granted a residence permit for three months if they apply for a residence permit when their visa expires.

Aliens married to Turkish citizens

Aliens from Group A countries married to Turkish citizens are granted a five-year residence permit. Group B country citizens married to Turkish citizens are initially granted a one-year and subsequently two-year residence permit. If the marriage is proved to be false, the residence permit shall be revoked.

Aliens married to an alien who has a residence permit in Turkey

The husband or wife of a person who has a residence permit in Turkey is granted a residence permit for a duration equal to that issued to their spouse.

Aliens wishing to reside with a Turkish citizen or an alien who has a residence permit in Turkey

A Group A country citizen applying for a residence permit in order to reside with a son or daughter who is a Turkish citizen, is granted a five-year residence permit. Similarly, an A country national who applies for a residence permit in order to reside with a son or daughter who has a residence permit in Turkey, is granted a five-year residence permit.

A Group B country citizen applying for a residence permit in order to reside with a son or daughter who is a Turkish citizen, is initially granted a two-year residence permit. A B country national who applies for a residence permit in order to reside with a son or daughter who has a residence permit in Turkey, is granted a permit equal to the duration of the residence permit of the son or daughter. An alien applying to join a brother or sister who is a Turkish citizen is granted a three-month residence permit.

Residence permits for alien minors

An alien minor whose mother or father is a Turkish citizen or has a residence permit in Turkey is each time granted a residence permit up to five years. The Residence and Travel Law contains provisions on the status of aliens wishing to stay in Turkey longer than the period indicated on the visa, but does not contain any specific provision for aliens born in Turkey. In practice, the legal guardian of an alien child born in Turkey must to apply for a residence permit within a month of the child’s birth (Art. 3).

Residence permits granted for health care

Aliens visiting Turkey for healthcare by obtaining a short-term or sticker visa or benefiting from visa exemption are granted a residence permit valid covering the period of treatment once the need is verified by a report provided by a private or public healthcare institution. In order to prevent the abuse of this mechanism a report may be requested from the Security Department’s medical unit or further information may be required from the institution providing the report, in order to verify that the institution has the necessary equipment needed for the treatment in question. If there is any question as to the validity of reports by private institutions, further approval of the Provincial Health Directorate or Health Group Directorate may be required.

Residence permits for foreign students

The Law on Foreign Students Studying in Turkey and Regulation on Foreign Students Studying in Turkey regulates principles applicable for entry of foreign students to Turkey, their admission into academic institutions, roles of relevant institutions and agencies and the obligations of foreign students.

33 http://www.kirklareli.pol.tr/yabanci/yabanciislemleri.asp#statugrubu
34 Here and below, see http://www.konya.pol.tr/yabancilar.htm
35 Law No. 2922 of 14 October 1983 on Foreign Students Studying in Turkey Official Journal No. 18196, 19 October 1983 and By-law [By-Law is a different source of law than regulation under the Turkish Constitution] on Foreign Students Studying in Turkey Official Journal No. 187401, 30 April 1985.
The submission of examination results together with other required documents while lodging their visa applications to Turkish missions abroad, speeds up the process of granting an education visa. Having been placed in a higher education institution, aliens staying in Turkey may receive residence permit upon submitting relevant documents to the security departments. The residence permits of those not enrolling to a school upon issue shall be immediately revoked.

Foreign students are requested to submit documentary evidence of renewed enrolment, in particular for extension of their residence permits and residence permits cannot be extended in the absence of documentary evidence proving their student status.

Where aliens are enrolled in schools other than those providing higher education within the framework of applicable legislation, a residence permit for educational purposes is issued regardless of the requirement to obtain an education visa. This is also valid for aliens ‘pending for an asylum decision’, ‘recognized as asylum-seekers’, ‘pending an asylum decision’ or ‘recognized as a refugee’ in Turkey.

Residence permits issued for business networking and market research

Aliens visiting Turkey for business and commercial reasons by obtaining visas or benefiting from visa exemptions are granted a residence permit for three months on the date of expiry of the visa period, after the truth of their declarations has been verified and the approval of the provincial directorate has been obtained.

Residence permits issued to stateless persons

Foreign nationals who visit Turkey and loose their nationality and are deemed stateless after investigation by the Ministry of the Interior are each time granted a two-year residence permit. Aliens who do not have a citizenship bond with a third country and allowed to remain in Turkey by the Ministry of the Interior as a person with an irregular citizenship status are each time granted a two-year residence permit.

Residence permits issued for deportation

An alien who visits Turkey but who fails to leave by their visa expiry date may be granted a residence permit for up to fifteen days and once a year if they apply to the security authorities. This does not apply to aliens who are apprehended by, or reported to, the police. Article 23 of the Residence and Travel Law stipulates that aliens subject to a deportation order but who cannot be deported to a third country because they do not have a passport or for other reasons, shall reside in the place indicated by the Ministry of the Interior, holding what is known as a ‘23 document’ until such time as deportation is finalised. In practice, this article is often invoked for illegal migrants who enter Turkey from abroad, particularly from Africa. Deportees are liable for their own expenses, but those failing to do so are financed by the government which allocates a limited amount of funding for deportation purposes.36

Article 19 of the Residence and Travel Act provides that: ‘Aliens whose stay in the territory is deemed to be in violation of public order or political or administrative requirements by the Ministry of the Interior are invited to leave Turkish territory within a fixed period of time. Those remaining in Turkey after the expiry of such period may be deported’. The concepts of ‘public security’ and ‘public order’ constitute the general conditions and elements of preventive police authority. The term ‘political and administrative requirements’ is not a legal concept with a known scope and limit. The authority of the administration to exercise judicial discretion is considerably wide in applying it as a reason for deportation. The ‘fixed period of time’ specified in the law is decided by the administration with due consideration of issues such as the location, health conditions and the available transportation means of the alien in question.

The Ministry of the Interior is authorised to issue deportation orders. A person subject to a deportation order is initially invited to leave Turkish territory voluntarily. If failing to do so within the period specified, the deportation order is carried out. The Ministry may delegate authority to the governorships in border and coastal provinces to deport those requiring an immediate deportation action on the grounds of their posing a threat to public security and order without consulting the Ministry. Article 59 of the Turkish

36 Aliens may appeal against a deportation order since this is subject to constitutional provision 125/1 as ‘All actions and measures taken by the administration can be appealed before justice’.
Penal Code and Article 18 of the Law on Execution of Sentences stipulate the conditions under which the courts may issue a deportation order.

**Preferential residence treatment for citizens of the Turkish Republic of Northern Cyprus**

Citizens of the Turkish Republic of Northern Cyprus are no longer subject to the provisions of Law No. 2527 Allowing Aliens of Turkish Descent to Practice Their Professions in Public and Private Institutions or Enterprises in Turkey (hereafter Turkish Descent Professions Law) as a result of the Treaty between the Republic of Turkey and the Turkish Republic of Northern Cyprus on the Provision of Additional Allowances to the Citizens of the Two Countries. A new status has been established for aliens in question under Article 2 of the Treaty. Accordingly, citizens of the Turkish Republic of Northern Cyprus do not need to obtain a residence permit in order to reside in Turkey.

**Preferential residence treatment of former Turkish nationals**

The Turkish Citizenship Law was amended in 1995 when Turkish migrants abroad were forced to resume Turkish citizenship by the receiving countries. Accordingly a new status was created allowing former Turkish nationals to maintain their ties with their homeland so that aliens who acquired Turkish citizenship by birth and later resumed it by a permission of the Ministry of the Interior and their legal successors are treated in the same way as Turkish citizens on residence issues subject to the requirements of national security and public order (Art. 42). These aliens are granted a personal status document, the ‘Pink Card’, on application to Turkish missions abroad or the General Directorate of Population and Citizenship Affairs and Provincial Directorates of Population and Citizenship. This document is only used to prove entitlement to certain rights and not as an identity document.

**Preferential residence treatment for aliens of Turkish descent**

The Turkish Descent Professions Law (see supra) contains another preferential status for aliens in residence matters. The law does not specify how ‘of Turkish descent’ should be defined but merely stipulates that the principles and operation and working conditions should be determined by a by-law to be adopted by the Council of Ministers through the coordination of the Ministry of the Interior and consulting the relevant ministries (Art. 8). The by-law in question was adopted fifteen months after the publication of the Law. It does not define the term ‘aliens of Turkish descent’, but provides a procedure for determining an ‘alien of Turkish origin’. According to Article 6 of the by-law an application for a work permit shall initially be considered by the Ministry of the Interior Directorate of Security. At this stage any missing information or documents may be requested from the applicant. The Ministry shall then consult the Foreign Ministry and the relevant ministries. In practice, there have been instances where applicants presented documents from the representations of their country of origin testifying to their Turkish descent and thereby obtained a residence permit in order to be considered exempt from the charge for residence permits under the Charges Act. However, the Ministry of the Interior clarified that documents of this sort provided by foreign governments are not considered valid for determining ‘Turkish descent’ under Turkish law and that the considerations of
the relevant representation of the Turkish Ministry of Foreign Affairs, the Ministry of the Interior and the National Intelligence Institution shall be taken into account.  

The other point to be clarified is whether aliens of Turkish descent need a separate application to obtain a residence permit. Article 1 of the Turkish Descent Professions Law refers to ‘aliens of Turkish descent residing in Turkey’. One can argue that the application for work permit according to the Law should also cover residence permit since aliens are obliged to have obtained a residence permit before they start working in Turkey according to Article 3 of the Residence and Travel Law.  

On the other hand, Article 3(1) of the by-law stipulates that the applicant should have obtained a residence permit prior to obtaining a work permit. Therefore, it can be concluded that aliens of Turkish descent do need to obtain a residence permit before they apply for a work permit. The residence permit however will be issued free of charge.

**Law on Settlement**

The Law on Settlement was the first comprehensive codification of the Republic regulating the admission and settlement of migrants their protection and exemptions. This Law was however, criticised particularly for the list persons in its Article 4 indicating whom should not be accepted as migrants to Turkey. Accordingly, those who were not attached to Turkish culture, anarchists, spies, itinerant gypsies and deported persons should not be accepted as migrants in Turkey. Furthermore, it was also a matter of debate how the concept of ‘refugee’ in the text of this law could be compromised with the definition of ‘refugee’ in the 1951 Geneva Convention Relating to the Status of Refugees to which Turkey is a party. The Law defined refugees as ‘persons who take shelter in Turkey in order to reside temporarily on account of compelling reasons without the intention to settle permanently’ (Art. 3). The jurisprudence of the Turkish courts on the terms of ‘migrant’ and ‘refugee’ under the Law on Settlement had been criticized because the terms were used interchangeably and in some instances, for the same person, in a judgement.

As a result, the Settlement Law has been amended in September 2006 in order to be adapted to the current needs of the Country. The new law made radical revisions in the statuses and procedures contained in the previous version. Accordingly, the new Article 4 does not contain any reference to gypsies as a group whose settlement request to be rejected. The new version however, provides even broader margin of discretion to the authorities for admitting or rejecting migration applications. It stipulates that those aliens who are not of Turkish descent or belong to the Turkish culture and even so being, having been deported from Turkey previously and those whose settlement is regarded as inappropriate on security grounds shall not be admitted as migrants in Turkey.

The new Law has also reformed the statuses relating to both internal and external migration. The first visible change in the text is that the reference to the concept of “refugees” has been dropped off. Thereby, the compatibility issue with the Geneva Convention is solved. Furthermore, the Law provides special rules for each of the following statuses: “agricultural settlement”, “non-agricultural settlement”, “physical settlement”, “nomads”, “unengaged immigrants”, “settled immigrants”, “individual immigrants”, “group immigrants”.

“Agricultural settlement” refers to the allocation of one or more of the benefits listed as agricultural land, facility, animals, vehicle, machinery, tools and worktable and granting loans to a family as requested in their project.

“Non-agricultural settlement” refers to the allocation of land, residence, vehicle, tools, machinery, worktable and loans.

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44  http://www.kirkclareli.pol.tr/yabanci/yabanciislemleri.asp#statugrubu
“Physical settlement” refers to the granting of loans for the purposes of transferring a village from its existing inconvenient location to another or for unification of scattered settlement areas or houses dispersed after a natural disaster or persons in need of financial assistance after having acquired land in a village development zone.

The term “nomads” refers to the Turkish citizens who are left outside agricultural activities and having no fixed and permanent residence, make their living on cattle breeding in groups and move through plateaus according to weather conditions and having adopted this way of life since remote ages.

The term “immigrants” refers to those persons who are of Turkish descent and who belong to Turkish culture, and admitted to Turkey in order to take up residence individually or collectively in accordance with the Settlement Law.

The term “unengaged immigrants” refers to those persons who are of Turkish descent and who belong to Turkish culture, and admitted to Turkey in order to take up residence individually or collectively without requesting settlement by State assistance.

The term “settled immigrants” refers to those persons who are of Turkish descent and who belong to Turkish culture, and admitted to Turkey in order to take up residence individually or collectively by virtue of specific laws and who are allocated a real estate by the State according to the Settlement Law.

The term “individual immigrants” refers to those persons who are of Turkish descent and who belong to Turkish culture and come to Turkey in order to reside as a family.

The term “group immigrants” refers to those families who are of Turkish descent and who belong to Turkish culture and come to Turkey in groups by virtue of an international law treaty concluded between two States.

The amended version of the Settlement Law sets as a condition that a person to be either of Turkish descent or belong to Turkish culture in order to be admitted as an immigrant in Turkey. It does not provide the definitions of neither of these concepts, but it establishes a procedure for determining them. Accordingly, determination of Turkish descent or attachment to Turkish culture shall be made by the Council of Ministers upon a proposal by the Ministry of Foreign Affairs by consulting the relevant Ministries.49

Article 5 of the Law sets the procedure to be followed for individual unengaged immigrants. Accordingly, aliens of Turkish descent or who belong to the Turkish culture wishing to come to Turkey in order to settle permanently, on condition that they do not request settlement assistance from the State, may be admitted as unengaged immigrants by the Ministry of Interior by applying to the Turkish consulates in the country where they reside and obtain an unengaged immigrant visa provided that they provide a reference letter from a first or second degree relative who is a Turkish national and resides in Turkey or upon investigations to be conducted by the Ministries of Foreign Affairs and Interior. A note shall be put in the passports of the persons in question wish to come as described and they shall be treated according to the Article 8 of the Law.

Article 6 sets a procedure for group immigrants according to which the Council of Ministers shall decide upon a proposal by the Ministry of Foreign Affairs for the admission of the persons in question who would like to settle in Turkey by virtue of international law treaties concluded with foreign countries. The persons in question must finally be recognized by the Ministry of Interior as unengaged immigrants.

Article 8 indicates how immigrants shall be treated after entering the Turkish territory. Accordingly, immigrants shall stay in the immigrant reception centres at the points of entry until their health, customs, administrative and transportation procedures are completed. Those immigrants who are brought to Turkey by virtue of specific laws must apply for themselves and their family members to the civil governor of the place determined as their temporary or permanent settlement area by the State, in order to be granted Turkish citizenship. The unengaged immigrants, on the other hand, must apply for themselves and their family members to the civil governor of the place where they are settled. Both are granted an “Immigrant

49 See Article 7.
certificate” that is valid as a temporary identity card for two years. These immigrants are granted Turkish citizenship by the Council of Ministers after the completion of the procedures.

Measures for removal from Turkish territory

Turkish law on deportation, expulsion and extradition is complicated and contains a profusion of legal texts. These include the European Convention on Human and its Protocols, the UN Covenant on Civil and Political Rights, the Protocol to Prevent, Suppress and Punish Trafficking in Persons Especially Women and Children, supplementing the UN Convention against Trans-national Organized Crime, the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, the Convention Relating to the Status of Refugees (Arts. 32–33), the International Convention on the Protection of the Rights of all Migrant Workers and Members of Their Families, the Geneva Convention Relative to the Treatment of Prisoners of War, the Geneva Convention Relative to the Protection of Civilian Persons in Time of War, the European Convention on Establishment, the European Social Charter, the European Convention on Social and Medical Assistance, the European Convention on Extradition, the Second Additional Protocol to the European Convention on Extradition, the Constitution of the Republic of Turkey, Law on Residence and Travel of Aliens, the Turkish Criminal Law, the Turkish Passport Law, Turkish Citizenship Law and By-law No. 94/6169 of 30 November 1994 on the procedures and principles related to population movements and aliens entering Turkey individually or in groups seeking asylum in Turkey or requesting residence permits in order to seek asylum elsewhere.

The Constitution of the Republic of Turkey

Article 23 of the Constitution provides that ‘Everyone has the right to freedom of residence and movement. Freedom of residence may be restricted by law in order to prevent offences, to promote social and economic development, to ensure sound and orderly urban growth, and to protect public property; freedom of movement may be restricted by law to investigate and prosecute an offence, and prevention of offences. A citizen’s freedom to leave the country may be restricted on account of civic obligations, criminal investigation or prosecution. Citizens may not be deported, or deprived of their right of entry to their homeland.’ The provision provides the freedom of residence and movement to everyone, including aliens. Article 16 also comes into play when the freedoms concerned are restricted for aliens so that the freedom of residence and movement of aliens may only be restricted by law and

50 Although the Covenant does not contain explicit provisions on deportation, the Communications of the Human Rights Committee now covers these issues, particularly for cases of torture. Council of Ministers Decree No. 2003/5851 of 7 July 2003, Official Journal No. 25175 of 21 July 2003.


58 Council of Ministers Decree No. 7/11753 of 19 April 1976, Art. 6, Official Journal No. 15664 of 1 August 1976.

such restrictions shall not conflict with Turkey’s obligations under international law. Finally, the rule indicating that citizens shall not be deprived of the right of entry to their homeland, has been protected in the form of a constitutional rule.

**European Convention of Human Rights and the Protocols**

A state’s right to control entry, residence and expulsion is a key element of its territorial sovereignty. This right may be restricted however, by international law treaties or national law. International practice reveals that states generally retain the right to deport, expel or extradite those aliens whom they perceive as a threat to national security and public order. On the other hand, the jurisprudence of the European Court of Human Rights (ECHR) is a safety net for aliens faced with measures forcing them to leave the country and which may raise issues under Articles 2, 3, 5, 8, and 13 of the Convention, Article 3 of Protocol No. 4 and Article 1 of Protocol No. 7.

The Court initially developed this jurisprudence under Article 3 of the Convention which prohibits torture, and inhuman or degrading treatment or punishment. Article 3 is striking for the absolute character of the right, which was repeatedly stressed by the Court. Accordingly, the state cannot deport, expel or extradite a person who faces a real risk of violation of the right in Article 3 even if they pose a threat to the public security or public order of the country concerned. This feature of protection under the European Convention on Human Rights distinguishes it from other instruments of international law such as the 1951 Geneva Convention on the Status of Refugees. Turkey had to reform its deportation/expulsion system after the Court found it in violation in the case of an Iranian woman who would have faced inhuman punishment by stoning, whipping or flogging if deported. In this case, the European Court had attributed great weight to the fact that the applicant had been recognized as a refugee by United Nations High Commissioner For Refugees, Branch Office Ankara, as an expert agency in assessing the risk to be faced in the country of origin. Thereafter, the Turkish Government followed the policy of not deporting those asylum seekers who are recognized as refugees by UNHCR or whose cases are pending before this agency. This policy however, proved to be unsatisfactory as the European Court has recently found a violation against Turkey in the case of D. and Others v. Turkey where the Turkish Government had decided to deport the applicants upon rejection of their asylum claims by the UNHCR. After this ruling, it became apparent that the standards applied by the UNHCR based on the 1951 Geneva Convention on the Status of Refugees did not necessarily comply with the European Convention on Human Rights. As a result, the Turkish authorities responded to this development by introducing a new Directive containing a subsidiary protection status which did not exactly correspond to the status under the EU Acquis. According to this Directive, the Ministry of Interior shall make a further assessment on the case of any asylum seeker who is rejected in the asylum procedure, in order to establish whether or not deportation of the individual in question would violate the European Convention on Human Rights.

Article 5 of the Convention has been invoked in several cases where the Court underlined the procedural guarantees while limiting the right to liberty and security of a person. This may be among the problematic provisions in the Convention for Turkey since lawyers and representatives of NGOs are not

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65 D. and Others v. Turkey, ECHR, Judgement of 22 June 2006, Application No. 24245/03.
66 General Directorate of Security of the Ministry of Interior of Turkey, Directive No. 57 of 22 June 2006, Document No. B.05.1.EMG.0.13.03.02./16147.
allowed into the transit zone of airports in order provide legal assistance to those seeking protection under international law. Turkey is also currently making attempts to improve the detention conditions for persons facing deportation/expulsion.

The Court has delivered a number of judgements on the right to private and family life under Article 8 of the Convention68 where it reviewed the validity of deportation orders that would inevitably lead to the separation of family members. Unlike the right regulated under Article 3 of the Convention, Article 8 does not contain an absolute right. Therefore, the Court applies a necessity test in these rulings where it often has to strike a sensitive balance between public order or national security and the individual’s rights.

Article 13 of the Convention also proved a useful tool for aliens who could not have an effective remedy before a national authority against an order for deportation, expulsion or extradition. The European Court of Human Rights perceives this Article as setting a rule guaranteeing the availability of a remedy at national level to enforce the substance of the Convention rights and freedoms in whatever form they may happen to be secured in the domestic legal order. Article 13 requires them to provide a domestic remedy allowing the competent national authority to deal with the substance of the relevant Convention complaint.69 In this respect, an alien must be able to challenge the legality of his/her deportation in judicial review proceedings. In Jabari v. Turkey, for instance, the Court found a violation of Article 13 on the ground that no assessment was made by the domestic authorities of the applicant’s claim to be at risk if removed to Iran, due to the fact that she had not filed her asylum application within the 5 days time-limit set by the law. The Court indicated that although the States are afforded some discretion as to the form in which they comply with their obligations, Article 13 required them to provide a domestic remedy allowing the competent national authority to deal with the substance of the relevant Convention complaint.70

UN Covenant on Civil and Political Rights

The UN Covenant on Civil and Political Rights provides a similar safety net against deportation orders since Turkey has recently ratified the Covenant and the Optional Protocol.71

Geneva Convention Relating to the Status of Refugees

Turkey is a party to the Convention Relating to the Status of Refugees. Although, Turkey applies a geographical limitation to the Convention the guarantees concerning expulsion and prohibition of expulsion or return (‘refoulement’, Arts. 32–33) are not subject to this limitation according to the practice. In other words, those rights are even applicable for asylum-seekers from non-European countries.

‘By-law No. 94/6169 on the procedures and principles related to population movements and aliens entering Turkey individually or in groups to seek asylum either from Turkey or requesting residence permits in order to seek asylum from another country’ was adopted on 30 November 1994 in implementation of the Geneva Convention. It was recently amended 1994 by the Council of Ministers Decree in January 2006.72 The General Directorate of Security of the Ministry of Interior of Turkey further issued a Directive No. 57 on 22 June 2006 indicating the implementation of the Bylaw in the new legal setting.73The By-law also contains provisions that do not necessarily correspond to Turkey’s obligations under the Convention. For instance, although Turkey has a geographical limitation under

70 Ibid.
71 On the Human Rights Committee’s position on aliens under the Covenant, see Human Rights Committee, General Comment No. 15: The Position of Aliens under the Covenant. 1986, UN. Doc. HRI/GEN/1/Rev/5.
73 General Directorate of Security of the Ministry of Interior of Turkey, Directive No. 57 of 22 June 2006, Document No. B.05.1.EGM.0.13.03.02./16147.
the Convention, the by-law contains an ‘asylum-seeker’ status, i.e. refugees, although Turkey does not have the obligation to grant them refugee status since they are non-Europeans. The ‘asylum-seeker’ status allows them to remain in Turkey temporarily until their status is determined by the UNHCR and they are resettled to other countries.

The protection procedure under the By-Law starts with an application of the alien without delay, after arrival to the Turkish territory, to the Governorship in the province they reside if they have arrived through legal means or to the Governorship in the province they enter the Turkish territory if they have arrived through illegal means. The By-Law does not clarify whether there is a possibility to apply at the border or not. This lacuna has been filled by the Directive No. 57 of 22 June 2006 from the General Directorate of Security of the Ministry of Interior which provides that in the event of an application for refugee or asylum seeker status is received at the borders or the border gates or within the territory of the State by any security unit, such unit shall ensure that the alien concerned applies personally to the relevant governorship or the Aliens/Passport Department of the Directorate of Security without delay. This is a major improvement considering the complaints in the European Commission’s 2005 Turkey Progress Report for adopting the EU Acquis on this matter. The Report referred to some incidents that asylum seekers at the border were prosecuted for illegal entry and deported. Moreover, some aliens were apprehended away from the border were not always permitted to submit an application for asylum. After release of the Directive in question such acts should engage the responsibility of the officer who does not comply with the orders enshrined therein.

The Directive further stipulates that the officer in charge shall not reject receiving or processing an asylum application on the ground that the it has not been made without delay, even though no reasonable excuse has been provided.

Upon the establishment of his/her identity, the applicant will be interviewed individually after which an interview report shall be prepared and sent to the Ministry of Interior together with the view of the Governorship. Asylum seekers coming from non-European countries shall be informed about the requirement to register at the UNHCR in order to commence the parallel procedure under the UNHCR framework.

Aliens who apply for refugee or asylum seeker status shall be granted ex officio six months residence permit which is automatically renewable for another six months. At the end of this second period, the Ministry of Interior may decide for the extension of the residence permit. It is important to note that applicants are required to reside in specified satellite cities during the course of the procedure. The applicant will be accommodated in this specified address until a response from the Ministry of Interior is received.

The first decision that is received from the Ministry shall be notified to the applicant. If it is positive he/she will be allowed to continue to reside in Turkey. If the first decision is negative however, then the notification will involve an indication informing the applicant of his/her right to appeal to the relevant Governorship within 15 days according to Article 6 of the 1994 By-Law. In case that the

74 See 1994 By-Law, Article 4.
75 Turkey 2005 Progress Report, p. 112.
77 The applicant will initially be subject to pre-screening where he/she will be informed about her rights and responsibilities and the course of the procedure to be followed and general information will be asked to him/her about the motives and means of refuge. Moreover, an appointment will be given for the main interview.( Directive No. 57 of 22 June 2006 from the General Directorate of Security of the Ministry of Interior, para. 5.)
78 Ibid., para. 2.
79 Ibid., para. 11.
80 Ibid., para. 5.
applicant appeals within the specified time, he/she will be allowed to reside in Turkey, the Governorship shall act as ordered by the Ministry of Interior.\textsuperscript{81}

In case that the applicant does not appeal within 15 days, he/she will be notified to leave Turkey within 15 days unless otherwise ordered by the Ministry. If the applicant does not comply with the order he/she will be deported by force.\textsuperscript{82}

The applicant who has appealed to the first negative decision, will be allowed to continue to reside in Turkey if the second decision of the Ministry is positive. If the second decision is also negative, the applicant will be notified about the outcome of his/her application, but will not be required to leave the country as the Ministry shall further examine the claim under the subsidiary protection and residence permit on humanitarian grounds. Finally, if the outcome of this examination under subsidiary protection and residence permit on humanitarian grounds is also negative, than the applicant will be notified to leave the country within 15 days unless the Ministry decides on some other deadline.\textsuperscript{83}

The above mentioned is the ordinary procedure which is applied for standard applications. The Directive contains a special procedure for unaccompanied minors in its 6th paragraph which more or less summarises an already existing procedure that was developed by practice. Formulation of these rules in the form of a Directive a positive development in order to reaffirm the duties of the relevant institutions particularly the Social Services and Child Care Institution.\textsuperscript{84} Furthermore, the Directive introduced an accelerated procedure that became possible after the amendment to the Article 6 of the 1994 By-Law in January 2006. The amended Article 6 provides that in the event that an asylum applicant receives a negative decision, the Ministry of Interior may determine shorter time limits than 15 days for appeal, when it is considered necessary. The Turkey Branch of Amnesty International had expressed concerns about the intention of the Ministry of Interior to introduce accelerated procedures applied in the EU Member States. The NGO was concerned about the potential problems that such procedure might cause in Turkey as it was not defined under Turkish law.\textsuperscript{85} The Directive specified the circumstances which may result in an applicant’s case be subject to the accelerated procedure in its paragraph 13. Accordingly, an alien who applies for asylum in the following circumstances will be subject to the accelerated procedure:

- After being required to leave Turkish territory due to the loss of conditions for legal residence such as the expiration of work permit, completion of education, expiration of residence permit, expiration of the visa immunity period,
- After a deportation order has been issued due to his/her conviction of a crime,
- After being apprehended due to his/her illegal residence in Turkey,
- Who had previously been deported due to his/her involvement in illegal migration or other crime or prohibited from entry,
- Who was apprehended in the course of his/her illegal departure from Turkey,
- While serving a sentence due to his/her conviction of a crime committed in Turkey or having been released thereafter,
- Who had previously applied for asylum,
- For whom the Governorship considers not to grant residence permit upon the pre-screening interview.

\textsuperscript{81} Ibid., para. 12.
\textsuperscript{82} Ibid.
\textsuperscript{83} Ibid.
\textsuperscript{84} See Law No. 2828 on Social Services and Child Care Institution of 24 May 1983, R.G. No. 18059, 27.06.1983.
\textsuperscript{85} See Amnesty International Turkey Branch.
Particularly the last item appears to be a provision in the line of Amnesty International’s concerns as it provides an open ended ground for subjecting asylum seekers to this dramatically disadvantaged status. The pre-screening, interview and all other relevant documentation shall be completed within 5 days and sent to the Ministry of Interior in the accelerated procedure. The alien will not be granted a residence permit *ex officio*. Instead he/she will be granted an identity card which shall be renewed in the satellite city where the he/she will be transferred. The Ministry may however, order the applicant to be granted a residence permit.

Under the accelerated procedure, in case that the Ministry renders a negative decision, the applicant will be given only two days time in order to appeal against the decision.

Article 29 of the by-law contains a special deportation procedure for asylum-seekers and refugees. Accordingly, a refugee or asylum-seeker legally residing in Turkey can only be deported by the Ministry of the Interior under the 1951 Geneva Convention on the Status of Refugees or for reasons of national security and public order.

The provisions on mass influx in the by-law reflect a reaction to the events following the mass influx of refugees from Iraq in 1988 and 1992. Turkey was left alone after the mass influx of Kurdish refugees in 1998, where its call for burden-sharing went unheeded by the international community. As a reaction to this experience, Turkey closed its borders to the subsequent mass influx of refugees from the same area in 1992 after which it was heavily criticized for violating the principle of non-refoulement and partly before the War in Iraq in November, 2002. The By-law was prepared immediately after the events in 1992 therefore, have the same restrictive approach towards mass influx of refugees. Article 8 regulates the precautions to be taken in the event of a population movement and arrival of aliens at the Turkish borders. Accordingly, it provides ‘as long as there are no political decisions taken to the contrary, and provided that Turkey’s obligations under international law are maintained, and taking into account its territorial interests, population movements must be stopped at the border, and that asylum-seekers must be prevented from crossing over into Turkey. Necessary and effective measures shall be taken by the relevant bodies on this matter.’

**Law No. 5683 on the Residence and Travel of Aliens**

This law provides the core provisions on the removal of aliens from Turkey. An alien whose presence in Turkey is deemed a risk for public security, political or administrative requirements shall be invited to leave the country by a specific date after which time they may be removed by force (Art. 19).

This provision also applies if an alien commits a crime in Turkey. Article 59 of the Turkish Criminal Code provides that the file of an alien, who is sentenced to imprisonment and served their sentence or released on condition, shall be sent to the Ministry of the Interior in order to be considered for expulsion. In this case, the Ministry of the Interior will consider removal as per the standards under Article 19. This provision affords broad discretion to the authorities and must be interpreted in the light of Turkey’s obligations under international law (see supra).

**Turkish citizenship**

Turkish citizenship is regulated by the Turkish Citizenship Law and may be obtained by parentage, place of birth, marriage or naturalization.\(^{86}\) The By-law on the Acquisition of Turkish Citizenship Through Marriage with a Turkish Citizen and Acquisition of Turkish Citizenship by the Citizens of the Turkish Republic of Northern Cyprus has been adopted in implementation of the Turkish Citizenship Law.\(^{87}\)

**Parentage and Turkish descent:** children who are born of a Turkish father or mother, within or outside Turkey, are deemed Turkish citizens by birth.

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\(^{86}\) Turkish Citizenship Law No. 403 of 11 Feb. 1964 as amended by Law No. 2383 of 12 Feb. 1981 and Law No. 4866 of 4 June 2003, respectively Arts. 1, 2 and 3; Art. 4; and Art. 5.

\(^{87}\) By-law on the Acquisition of Turkish Citizenship Through Marriage with a Turkish Citizen and Acquisition of Turkish Citizenship by the Citizens of the Turkish Republic of Northern Cyprus, Council of Ministers Decree No. 8/5488 of 25 Oct. 1982, based on Law No. 2527, Official Journal No. 17928 of 14 Jan. 1983.
Change in civil status: children born of alien mothers outside marriage shall be deemed Turkish citizens by birth, if, through parentage, they become related to a man of Turkish citizenship by legitimization, affiliation proceedings or legal recognition by the father.

Adoption: adoption normally does not affect the adopted child’s citizenship but where a minor is stateless or has been deserted, they are granted Turkish citizenship on their adoption by a Turkish citizen.

Place of birth: children born in Turkey, but who are unable to acquire Turkish citizenship through their mother and father are Turkish citizens. Children who were found in Turkish territory are considered to have been born in Turkey, unless the contrary is proved.

Marriage: marriage to a Turkish citizen does not automatically confer Turkish citizenship. Aliens wishing to obtain Turkish citizenship may apply to a senior civil governor in Turkey or to a Turkish consulate abroad, provided they have been married for at least three years, that the marriage still exists and that husband and wife live together. Standards applied for the acquisition of Turkish citizenship by women are now the same for men and women after the amendment of the Law. Prior to the amendment, women could immediately acquire citizenship by a simple declaration during the wedding ceremony. The new amendment to the Citizenship Law is designed to avoid marriages of convenience to obtain citizenship in Turkey and its use in the trafficking of women. Where a marriage ends due to divorce or death the residence permit shall remain valid upon request.

Naturalization: Aliens who meet the following conditions may be considered for Turkish citizenship upon the decision of the Council of Ministers (Art. 6). The applicant shall: be a legal adult according to their national law of their country of origin if they are an alien, and Turkish law if stateless; have resided in Turkey for at least five years immediately preceding any application for naturalization; have displayed characteristics which support their decision to settle in Turkey; have led a decent life; not suffer from any dangerous illness; have an adequate knowledge of the Turkish language; and have an income or profession enabling them to support themselves and any dependents.

Article 7 of the Law regulates naturalization in exceptional cases where the applicant may be naturalized even if they have not resided in Turkey for at least five years preceding their application for naturalization and displayed characteristics which support their decision to settle in Turkey. These are adult children born after their parents lost their Turkish citizenship, those married to Turkish citizens and their adult children, those of Turkish descent, their spouses and children, those who have settled in Turkey with the intention of marrying a Turkish citizen, those who have set up industrial plant in Turkey and have performed, or are likely to perform, services of an exceptional value in the arts and social, economic, disciplinary or technical fields, and those for whom naturalization is deemed necessary by the Council of Ministers.

An important feature of the law is that it facilitates the maintenance of relationship between former Turkish nationals, particularly those who had to resume their Turkish citizenship due to the restrictive laws of the receiving country on dual citizenship. Article 8 of the law stipulates that the Council of Ministers may decide to re-naturalize those who have lost Turkish citizenship regardless of requiring the fulfillment of the residence provision.

Another cornerstone provision is Article 29 which states that persons who lose Turkish citizenship shall be treated as an alien as of the date of loss. However, those who acquired Turkish citizenship by birth, but lost it by receiving a permission and any children who are minors shall be accorded the same treatment as Turkish nationals with the exception of the obligation to carry out military service, the right to vote or stand as a candidate, the right to work as a public servant and exemptions for exporting and importing vehicles and house equipment and without prejudice to the regulations on national security and public order. This category was first created by an amendment in the Turkish Citizenship Law in 1995 and developed subsequently.

Article 6 of the by-law refers to another category of preferential treatment, that is, the citizens of the Turkish Republic of Northern Cyprus, who automatically acquire citizenship upon application to a Turkish representation abroad or a provincial directorate in Turkey.

The right to work

Article 15 of the Law No. 5683 on the Residence and Travel of Aliens stipulates that ‘aliens may only be employed for jobs that are not prohibited by law for aliens’.

This field has recently been codified by the Law on Work Permits for Aliens that is designed to provide effective monitoring of the labour market, with a single authorized body and preventing illegal employment through effective controls.

This Law was supplemented by the By-law Concerning the Implementation of the Law on Work Permits for Aliens. Article 35 of the Law repealed Law No. 2007 on the Arts and Services Exclusive to Turkish Citizens of 11 June 1932 which prohibited provision of a long list of services by aliens in Turkey. Another important step in allowing aliens better access to the Turkish labour market was Turkey’s ratification of the International Convention on the Protection of the Rights of all Migrant Workers and Members of their Families on 27 September 2004.

There are, however, still a number laws restricting access of aliens to the Turkish labour market. The Law on Work Permits for Aliens maintained the restrictions for the employment of aliens that existed in a number of laws. Therefore, determining the jobs that aliens may not be employed for requires a detailed and careful examination. For instance, Law No. 1219 prohibits the provision of medical services by a doctor in Turkey. Similarly, Law No. 815 prohibits fishing in Turkish waters, the Civil Aviation Law No. 2920 prohibits carrying air passengers or goods within Turkish airspace, Mining Law No. 3213 prohibits mining, the Press Code No. 5680 prohibits being employed as an executive director of a periodical, the Trade Unions Code No. 2821 prohibits acting as a founder member, Law No. 1618 Travel Agencies and Union of Travel Agencies prohibits being employed as an executive director, the Customs Code No. 4458 prohibits being employed as a customs consultant, the Judges and Prosecutors Code prohibits being employed as a judge or prosecutor, the Lawyers Code No. 1136 prohibits being employed as a lawyer, and the Public Notary Code No. 1512 prohibits working as a public notary for aliens.

The list provided above suggests that the Turkish job market is still quite difficult to access for aliens generally even after the recent amendment.

On the other hand, the Turkish Descent Professions Law provides preferential status for aliens of Turkish descent in the right to work and accords them the same treatment as Turkish citizens provided that they have the qualifications required by law and obtain a work permit from the Ministry of Labour and Social Security upon consultation with the Ministry of the Interior and Ministry of Foreign Affairs and other relevant ministries and institutions as per to Law No. 2527 and the Law on Work Permits for Aliens (Art. 3). Finally, employment in the public sector is reserved for Turkish citizens (Art. 70, Turkish Constitution).

Political rights

The right to take part in the government of one’s country, directly or through freely chosen representatives (Universal Declaration of Human Rights Art. 21(1)) has been widened under the current European legal systems to allow limited participation of aliens in municipal elections and elections to the European Parliament. Turkish law still maintains the classical approach that excludes aliens from the political life of the country. This also applies to groups with preferential status under Turkish law such as aliens of Turkish descent, aliens who have renounced their Turkish citizenship by permission (former nationals), and citizens of the Turkish Republic of Northern Cyprus.

92 Action Plan for Asylum and Migration, par. 3.2.6.1.
94 Law No. 2007 Regarding the Arts and Services Exclusive to Turkish Citizens of 11 June 1932.
The Constitution extends the right to vote, to be elected and to engage in political activity at the national and municipal level exclusively to Turkish citizens (Art. 67). However, the Constitution favours the political participation of Turkish citizens living abroad stating that ‘the conditions under which the Turkish citizens who are abroad shall be able to exercise their right to vote, are regulated by law.’ (Art. 67). The amendment was made in Article 94 of Law No. 298 on the Basic Terms of Elections 28 March 1986 upon which, Turkish citizens living abroad was granted the right to vote at border voting stations.

**Readmission Agreements**

In the medium-term, Turkey shall put into force arrangements aligned with the EU *acquis* in connection with practices such as readmission, deportation, etc. within the framework of illegal migration. Turkey follows a policy of signing readmission agreements with primarily the source countries and progressively transit countries and countries of destination and is expecting a response to proposals made in 2001 and 2002 to conclude readmission agreements with various countries. In this context, the neighbouring countries in the west and east and then other source countries are targeted in concluding readmission agreements.

As regards the readmission of Turkish citizens, pursuant to the International Civil Aviation Organisation (ICAO) Convention, illegal migrants departing from Turkey are readmitted if they are returned by the same flight of departure or the next flight to Turkey.

**Agreements and protocols on the readmission of illegal migrants to which Turkey is a signatory**

Turkey and Greece signed the ‘Cooperation Agreement Against Crimes Particularly Terrorism, Organized Crimes, Drug Trafficking, and Illegal Migration’ on 20 January 2000 and it became effective on 17 August 2001 in Turkey. Subsequently, for the purposes of implementing Article 8 thereof on the readmission of illegal migrants ‘Protocol on Readmission of Illegal Migrants’ was concluded on 8 November 2001 and the implementation stage commenced in 2002. Following its approval on the basis of the Council of Ministers Decree 3914 of 12 March 2002, the Protocol was published in the Official Journal 24735 of 24 April 2002 and approved by the Greek Parliament in August 2002.

In addition to the one with Greece, Turkey has signed readmission agreements with Ukraine, Syria, Kirghizistan and Romania until so far. Council of Ministers Decrees ratifying the readmission agreements with Syria, Kirghizistan and Romania however, have not been published in the Official Journal until so far.

Negotiations with the Russian Federation, Uzbekistan, Belarus, Hungary, Macedonia, Ukraine, Lebanon, Egypt, Libya and Iran are underway. Readmission agreements were proposed with Pakistan, Bangladesh, India, the People’s Republic of China, Tunisia, Mongolia, Israel, Georgia, Ethiopia, Sudan, Algeria, Morocco, Nigeria and Kazakhstan.

**Combating human/migrant trafficking and Smuggling**

In December 2000 Turkey signed the Convention against Trans-national Organized Crime and its two Protocols regulating trafficking and smuggling in migrants and other human beings in Palermo. Both Protocols became effective as of 18 March 2003 after the publication of the relevant Council of Ministers Decree in the Official Journal.100

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99 See Turkey’s Action Plan on Asylum and Migration, para. 3.2.7.

In 2002 Article 201/a of the Turkish Penal Code\textsuperscript{101} made migrant smuggling liable to prison sentences of 2–5 years imprisonment (4-10 years in aggravated circumstances) and a fine of minimum TL 1 billion, the confiscation of material and vehicles used, and the closing down of the economic activities of front organizations. Article 201/b of the same Code stipulated the crime of human trafficking in which case the prison sentences are raised to 5-10 years imprisonment.

The new Turkish Penal Code contains two separate provisions on migrant smuggling (Article 79) and human trafficking (Article 80), with slightly different sentencing, which have become effective as of 1 June 2005.\textsuperscript{102} It is notable that Article 13 of the new Code considers such crimes within the universal jurisdiction of the Republic. Therefore, the Turkish law will be applicable regardless of the nationalities of the perpetrator and the victim and the fact that the crime has been committed abroad. In this case, the provides that the crimes in question shall be prosecuted upon the request of the Ministry of Justice.

The declaration signed at the Third Ministerial Meeting of the Stability Pact Task Force on 11 December 2002 in Tirana with the participation of Turkey includes a commitment regarding the countries of South Eastern Europe and the Balkans to legalize the status of victims of human trafficking, to provide help to victims of human trafficking willing to stand witness, and to grant temporary residence permits to them until proceedings have been completed.

The amendment to Turkish Citizenship Law\textsuperscript{103} is designed to avoid marriages of convenience so that aliens marrying Turkish citizens may only start naturalization proceedings three years after the marriage contract has been concluded, provided the investigations prove that ‘the alien in question does not have a profession inconvenient for marriage, the spouses do not live with other partners but together, and have no connection with human trafficking’.

In 2003 the Law on Work Permits for Aliens was enacted in order to prevent illegal employment.\textsuperscript{104} This was followed by a bylaw drafted by the Ministry of Labour and Social Security in August 2003 indicating the implementation of the law\textsuperscript{105} and complementary Ministerial directives\textsuperscript{106} released for the purpose of preventing illegal and low-paid employment of aliens and facilitating employment-oriented migration.

Towards international cooperation in combating human/migrant trafficking

Turkey has signed 67 Security Cooperation Agreements with 43 countries in order to combat organized crime and terrorism, including illegal migration and human trafficking. Cooperation protocols have been proposed with Ukraine, Georgia, Bulgaria, Romania, Moldova, the Russian Federation, Azerbaijan, Belarus and Uzbekistan to activate the relevant clauses of the agreements.\textsuperscript{107}

Combating illegal migration

Turkey is taking measures to combat illegal migration at the national level and actively participating in international processes of identifying problems, exchange of information, joint struggle and

\begin{thebibliography}{9}
\bibitem{101} R.G. No. 4771 of 9 August 2002.
\bibitem{103} Amendment to the Turkish Citizenship Law No. 403, Official Journal No. 25127 of 3 June 2003.
\bibitem{104} Law No. 4817 of 27. February 2003 on Work Permits for Aliens, Official Journal No. 25040 of 6 March 2003.
\bibitem{107} To date a Memorandum of Cooperation for Combating Human Trafficking and Illegal Migration has been signed with Belarus on 28 July 2004 and came into practice ( Turkish General Staff Partnership for Peace Training Center, Combating Trafficking and Smuggling in Human Beings, 2005, The Turkish General Staff Printing House, Ankara, p. 14
http://www.bioem.tsk.mil.tr/shared/Combating_Smuggling_And_Trafficking_in_Human_Beings.pdf
\end{thebibliography}
cooperation and effectively struggles to prevent illegal migration over Turkish territory and deport illegal migrants staying in Turkey.

Thanks to the ambitious stance of security forces, Turkey shifted migrant traffickers to southern (Iraq, Syria, Lebanon) and northern (Iran, Caucasus, Ukraine) routes particularly in 2000 and 2001. Moreover, vessels carrying illegal migrants changed their routes and recently vessels departing primarily from African countries are destined to Italy and France and those from Sri Lanka and India follow the Suez Canal to reach the coasts of Southern Greek Cyprus, Greece and Italy.\(^{108}\)

As a result of activities in this field, more concentrated operations were carried out against migrant trafficker and smuggler organizations. In 1998, 98 traffickers and smugglers were captured with an increase to 187 in 1,999 and 850 in 2000, 1,155 in 2001 and 1,157 in 2002 (totalling for 1998–2003).\(^{109}\) The year 2003 witnessed the capture of 937 illegal migrant traffickers and smugglers and until now in 2004, 520 have been apprehended and tried.

Aliens wishing to enter Turkey but who are suspected of being involved in illegal migration or attempting to use false documents are refused admittance.\(^{110}\) Preventive activities against illegal migrant trafficking via maritime transportation have been stepped up within this framework, and the number of vessels allegedly departing from Turkey for Europe fell from 19 in 2000 to 17, 2 and 1 in 2001, 2002 and 2003, respectively. In 2003 twenty vessels about to leave Turkey were seized and a total of 1,529 illegal migrants and twenty traffickers were captured both on-board and ashore.

Transit migration from Turkey to Europe takes place primarily by vessels and boats illegally leaving territorial waters via the Aegean and the Mediterranean. Illegal migration via maritime transportation has been avoided to a considerable extent thanks to the coastal controls and air-borne preventive operations carried also using helicopters of coastal security units and police helicopters deployed in İzmir, Antalya and Muğla.

The Turkish laws on combating illegal migration are gradually becoming closer to the standards adopted by the EU \textit{acquis}. On the other hand, considering the death toll at the borders, particularly the border between Turkey and Greece, there seems to be a long way to go in establishing a border management system which is both effective and humane. According to a fact sheet published by UNESCO in 2005, 463 migrants were reported dead en route Turkey and Greece between 1 January 1993 and 10 April 2005. These figures show that the route between Turkey and Greece is among the most dangerous ones for illegal crossings. Whereas, the figures for crossings from Asia to Turkey demonstrate the lowest figure in the chart with 43 deaths during the period concerned.\(^{111}\) These figures inevitably bring the debate to two major causes of such fatalities. The first such cause has been the landmine fields both on the Turkish and Greek sides of the land border.\(^{112}\) In order to prevent such human suffering, both Turkey\(^{113}\) and Greece\(^{114}\) ratified the Ottawa Convention on the Prohibition of

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109 Ibid. p. 7.

110 As a result of training seminars on counterfeiting, in 1999 6,069 aliens, 24,504 in 2000, 15,208 in 2001 and 11,084 in 2002 were rejected at the borders. In 2003 9,362 aliens and 7,888 in 2004 (1999–2004: 74,700) (Ibid. p. 5).


the Use, Stockpiling, Production and Transfer of Anti-Personnel Mines and on Their Destruction in 2003.

The second cause of such fatalities is, as in the case of many other Southern European countries, the fact that asylum seekers travel to the Western shores of Turkey by unseaworthy vessels and the lack of sufficient search and rescue mechanisms. The reluctance of the authorities and passing vessels to assist those persons in distress also contributes to the problem. A recent good example in this regard, has been the Noordam incidence\(^{115}\) at the Agean Sea when a passenger ship, the Noordam, rescued 22 persons of various nationalities including Somalia and Iraq after their boat sunk in the Aegean Sea between the Greek Island of Samos and the coast of Turkey. The rescued people were allowed to disembark in Kuşadası, Turkey which was the ships’ next port of call several hours after the rescue. The incident caused reaction internationally; the United Nations High Commissioner for Refugees António Guteres thanked the Turkish Government for receiving the people in need.\(^{116}\) Such cooperation from the coastal authorities for admitting rescued migrants would be important step for avoiding further casualties.

Another requirement of establishing a humane system is that the deterrent arrangements to combat illegal migration in line with EU standards should be complemented by moves to meet the humanitarian needs of illegal migrants until they are deported. To this end, the return centres should be established in order to meet the humanitarian needs of illegal migrants and to enable their safe return.

**The protection of victims**

The adoption of the crimes of human trafficking and smuggling in Article 201/a and b of the Turkish Penal Code and subsequently by the Articles 79 and 80 of the new Turkish Penal Code marked a new era in combating human trafficking and smuggling through Turkey. The protection, rehabilitation, treatment, psychological support and accommodation of victims are dealt with in Cooperation protocols signed in line with the international model and practices between the General Directorate of Security under the Ministry of Interior, the Gendarmerie General Command and the Human Resource Development Foundation (HRDF), an NGO working to protect the victims in Turkey within the context of combating human trafficking.

A ‘Guide to Combat Human Trafficking’ has been published and includes guidelines on the treatment of women victims. Measures have been taken to ensure female personnel in civilian clothing are in charge of all procedures which require direct contact with the victims, and to avoid contact between victims, traffickers or those affiliated if confrontation or identification is required during the investigation. Special measures should be applied to ensure that the best interests of children are taken into account in all procedures which apply to juvenile victims.

Temporary residence permits are issued within the framework of international practices and recommendations on the treatment and rehabilitation of victims, the trial procedures for the accused, and the issuing of residence permits to victims. These are issued for an initial period of six months at the request of the victims, and bearing in mind the period required for the treatment and rehabilitation of victims and the trial procedures for the accused, can be extended for additional periods of up to six months if deemed necessary after following the trial procedures of the suspects and the period of treatment if victims require medical treatment which is provided free of charge.\(^{117}\)


Transfer of victims of human trafficking to a shelter in Istanbul providing accommodation within the framework of the protocol signed by the Human Resource Development Foundation (HRDF) and the Turkish General Directorate of Security under the Ministry of Interior and built with the cooperation of the Istanbul Metropolitan Municipality.

Finally, the exit procedures for victims of human trafficking in Turkey should not incur fees or fines, and there should be no decision to impose a temporary ban on entry to Turkey. Measures shall be taken to prevent the unnecessary exposure of victims making a voluntary return to their countries in cooperation with the HRDF and representatives of the IOM or being transferred to another province during the course of the investigation.