

ISSUE BRIEF

The FLA is a multi-stakeholder organization combining the efforts of businesses, universities, and civil-society organizations to improve conditions for workers around the world. Occasionally, the FLA publishes briefs on current issues in the global supply chain. We intend for these briefs to provide an overview of the various perspectives on a given issue. At all times, the FLA expects its business affiliates to comply with all legal requirements, as well as the provisions of its Workplace Code of Conduct.

SYRIAN REFUGEES WORKING IN TURKEY

Sept. 2014

THE ISSUE:

How should FLA affiliates respond to Syrian refugees in the workforce in Turkey?

THE HUMANITARIAN CRISIS:

The civil war and humanitarian crisis in Syria has, since the middle of 2011, resulted in the mass relocation of refugees into neighboring countries like Lebanon, Jordan, Iraq, and Turkey.

While the precise number of Syrian refugees settled in Turkey remains unclear, the United Nations High Commissioner for Refugees (UNHCR) reports that as of September 29, 2014, it had registered more than 1,029,500 Syrian refugees in Turkey.¹ The Turkish Interior Ministry estimates that the number is probably closer to 1.35 million, with a minority remaining in the refugee camps near the border², though a massive late-September influx of refugees suddenly increased the population in the camps.

With very little to do and harsh conditions in the camps, the majority of refugees are moving to other parts of the country, including remote metropolitan areas such as Ankara and Istanbul, where they seek opportunities to work. The conditions of refugees outside of the camps are precarious, with families sharing crowded quarters, and children not attending school, turning to work themselves to help support their families. According to a recent UNICEF report, one in ten Syrian refugee children is working.³

HOW THE CRISIS AFFECTS THE WORKPLACE:

Most Syrian refugees in Turkey have no valid work permits, and yet many of them are finding work in agricultural, service, construction, and manufacturing occupations, where their status leaves them vulnerable to abuse and exploitation.⁴

For example, employers have been reported to take advantage of refugees by paying them below-minimum wages, forcing them to work very long hours often in unsafe settings, and subjecting them to unreasonable deductions from their pay. Irregular workers are often unable to provide age-verification documents, so child workers may be exploited. Arabic-speaking refugees may find themselves isolated in workplaces where they do not share a common language with other workers, and all irregular workers lack access to legal protections to guard against workplace abuses.

Even in workplaces where refugees earn the legal minimum wage, the overall cost of employing them is about 30 percent less than a legal resident of Turkey, for whom taxes and social security contributions must be paid. This disadvantages Turkish workers as the availability of cheap labor expands, and can increase tensions between Turkish and Syrian workers.

THE GOVERNING ELEMENT OF THE FLA CODE: NON-DISCRIMINATION

“No person shall be subject to any discrimination in employment, including hiring, compensation, advancement, discipline, termination or retirement, on the basis of gender, race, religion, age, disability, sexual orientation, nationality, political opinion, social group, or ethnic origin.”*

* <http://www.fairlabor.org/our-work/labor-standards>

1 <http://data.unhcr.org/syrianrefugees/regional.php>.

2 Jesper Akesson, “Turkey Needs Help to Manage the Syrian Refugee Crisis,” *The Turkey Analyst* (August 27, 2014), <http://www.turkeyanalyst.org/publications/turkey-analyst-articles/item/339-turkey-needs-help-to-manage-the-syrian-refugee-crisis.html>.

3 Constance Letsch, “Syrian refugees trigger child labour boom in Turkey,” *The Guardian* (September 1, 2014), <http://www.theguardian.com/law/2014/sep/02/syria-refugees-child-labour-turkey>.

4 Employment of a foreign worker without a valid work permit is illegal under Turkish labor law and subject to a fine of 7,612 TL (about \$3,700). At present, this provision of the law is not being strictly enforced due to the ambiguity surrounding the status of Syrian refugees.

A WORK-PERMIT SOLUTION:

So far, Turkey's government has been recognized as very responsive to the needs of refugees. The 2013 U.S. Department of State Human Rights Report reports that "the government responded robustly to the humanitarian needs of displaced Syrians, spending more than an estimated \$2 billion on aid and assistance, primarily for the construction and administration of 21 camps in southeastern Turkey."⁵ However, the process of issuing work permits (and their current prerequisite, residence permits) has been slow, with only 800 refugees having obtained a work permit by the end of 2013⁶, more than two years into the crisis.

Two government ministries – the Labor Ministry and Interior Ministry – have begun developing legislation intended to speed the work-permit process, suspend the residence permit requirement, and permit legal access to the labor market for Syrian refugees to reduce the risk of exploitation.

FAIR TREATMENT FOR ALL WORKERS:

Employment of unauthorized workers remains illegal in Turkey, and therefore out of strict compliance with the FLA Workplace Code of Conduct. At the same time, while the government works toward a work-permit solution, the FLA recognizes that refugees working in Turkey are responding to an extraordinary, traumatic, war-time situation that has compelled their involuntary migration. The FLA agrees with international human rights standards that call for equal treatment and fair employment conditions for both nationals and non-nationals, regardless of legal status.

International Labour Organization (ILO) standards generally do not distinguish between workers based on their nationality or residence status. The UN Convention on Migrant Workers' Rights provides for equal treatment of irregular migrant workers, and an important advisory opinion of the Inter-American Court of Human Rights has held that "the migratory status of persons can never constitute a justification in depriving them of the enjoyment and exercise of their human rights, including those related to work."⁷

This same advisory opinion drew on core principles from the UN's Universal Declaration of Human Rights, declaring that protecting employment rights related to freedom of association, fair wages, reasonable hours of work, and

⁵ <http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm#wrapper>.

⁶ Ayla Albayrak and Joe Parkinson, "Syrian Refugees Give Up Hope of Returning Home," (March 26, 2014) <http://online.wsj.com/news/articles/SB10001424052702304418404579463310602552356>.

⁷ Inter-American Court of Human Rights, Advisory Opinion OC-18/03, September 17, 2003

protection from forced labor "has great importance based on the principle of the inalienable nature of such rights, which all workers possess, irrespective of their migratory status."

FLA RECOMMENDATIONS:

It is the responsibility of affiliated companies sourcing from or producing in Turkey to understand the evolving circumstances there, react to the changing reality of the Turkish labor market, and find out from suppliers whether irregular Syrian workers exist in their supply chains. To protect the human rights of refugees and worker rights for all, the FLA recommends:

1) No tolerance for discrimination: Migrant workers who are working in Turkey, regardless of whether they have valid work permits, have the same worker rights as Turkish nationals, and the protections of the FLA Workplace Code of Conduct apply to them equally. Given the exceptional circumstances of these refugees, FLA-affiliated brands operating in Turkey should communicate to their suppliers that Syrian refugees' working conditions must not differ from domestic workers, and facilities must remain free from child labor.

2) Avoid migrant labor cost-savings: Without social security and tax-related payments, migrant workers remain cheaper to employ than the domestic workforce. Saving costs by hiring migrant workers is unfair to both local and migrant workers, and neither suppliers nor brands should profit from civil war refugees' desperate situations. Companies should not explicitly seek out refugees to hire; if suppliers find refugees in their supply chains, brands and suppliers must cooperate to develop innovative solutions to ensure that their labor rights are protected. Examples could include setting aside a fund to provide benefits for migrant workers, investing in workplace improvements for all workers, and providing legal assistance for workers who ask for help obtaining work permits.

3) Support efforts to improve refugees' workplace status: The FLA supports the government of Turkey in its efforts to improve the workplace status of Syrian refugees. Providing work permits for Syrian refugees will extend to them worker protections under Turkish law and reduce the potential for their exploitation. Supporting work permits will help bring companies employing refugees into fuller compliance the FLA Workplace Code of Conduct, while also improving conditions for some of the most vulnerable workers in Turkey.

The civil war in Syria presents exceptional circumstances for brands sourcing from Turkey. As long as the humanitarian crisis there continues, all stakeholders must be vigilant in ensuring that workers in supply chains in Turkey are not subjected to exploitation and abuse.