



November 14, 2014

To: Republic of Turkey
Ministry of Labor and Social Security
Directorate General of Labor
Ankara, Turkey

Subject: Temporary Protection Regulation

The Fair Labor Association (FLA) is a not-for-profit organization that combines the efforts of business, civil society organizations, and colleges and universities to promote and protect workers' rights and to improve working conditions globally through adherence to international standards. Companies affiliated with the FLA implement the FLA Workplace Code of Conduct, which is based on international conventions of the International Labor Organization (ILO), throughout their supply chain. The FLA Workplace Code of Conduct and Compliance Benchmarks are available at <http://www.fairlabor.org/our-work/labor-standards>.

At present, approximately 50 large and medium multinational companies in the apparel, textile, footwear, electronics, and agriculture industries are affiliated with the FLA, as are also more than 2,000 companies that source products that carry the logos of U.S. colleges and universities. FLA-affiliated companies source from over 50 countries, including Turkey.

We understand that the Ministry of Labor is playing a very active role in the efforts of the Government of Turkey to develop a legal framework to regularize the presence of Syrian refugees in the Turkish labor market, a policy initiative that our organization strongly supports. (See our issue brief statement at <http://www.fairlabor.org/report/syrian-refugees-working-turkey>.)

Based on our experience in monitoring and remediating labor standards issues at factories and farms in many different national settings, the FLA respectfully offers to the Ministry of Labor, for your consideration, our views on selected issues bearing on the Temporary Protection Regulation under development. Our comments are not intended to be exhaustive. We believe that our comments, drawn from our experience relating to compliance with national and international labor standards in a global setting, would be relevant for Ministry of Labor officials working on the regulation. We also respectfully suggest that you consult with the International Labor Organization and with representatives of Turkish civil society organizations as you finalize this very important Regulation.

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We would be pleased to further support the Ministry of Labor in this effort if you believe our input can play a positive role. We intend to have a member of our Washington staff visit Turkey in December, and we would be pleased to have a follow up meeting with you at that time if it is convenient.

Sincerely yours,

A handwritten signature in black ink, appearing to read 'Claudia Coenjaerts', with a long, sweeping horizontal stroke extending to the right.

Claudia Coenjaerts

President & CEO

Attachment

**Comments from the Fair Labor Association on
Draft Temporary Protection Regulation**

Documentation/Age Verification

1. Article 21/c of the Temporary Protection Regulation reads: “The statement of the foreigners, who cannot submit documents on their identity, shall be based on testimony until otherwise proven.” This reliance on testimony by the individuals seeking the protection could be problematic, for example, with respect to age verification particularly in view of the Ministry of Labor’s emphasis on the elimination of child labor. As the Ministry of Interior will be in charge of registration, the FLA recommends that the Ministry of Labor work closely with the Ministry of Interior to sensitize the latter with respect to detection and remediation of potential child labor issues.

Job Application Process

2. Although the new regulation refers to applications from individuals, there is a role for employers in the process, as they need to login to the system and fill application documentation. In practice, this could create some confusion between workers and employers. Also it is not clear if refugees staying at temporary accommodation centres will be allowed to apply for work permits. The FLA recommends that the Ministry of Labor clarify the mechanics of the job application process for workers and employers, including the issuance of temporary protection IDs, role of employers in applying for work permits online, and whether the regulation applies to workers staying in temporary protection centers.

3. The regulation states that work permits will be issued on an industry/region specific basis. This could be problematic as Syrian workers who are already working at different industries and cities where they will not be allowed to work (e.g., textile industries in western cities) may be incentivized to commit fraud and hide their activities in order not to lose their employment. Even if the element of industry specificity were eliminated from the criteria and permits were issued on the basis of a set number of permits in a geographic location, this system could raise implementation problems, for example, if there are already more persons working than would be slated to receive permits, raising the possibility of fraudulent activities and potential illegal influencing of officials.

Becoming Management Representatives

4. It would be important to clarify if temporary workers could become management representatives or not. Some employers could appoint them as management representatives in order to transfer some of their liabilities on financial or health and safety issues. The FLA recommends that the regulation be clear on whether temporary workers can be management representatives and limitations on their liabilities on these aspects.

Coverage by other Legislation

5. The Regulation should clarify the status of Syrian refugees who received work permits under previous regulations. The intention of the current Regulation seems to be to bring all Syrian refugees under a single system. This should be clarified, particularly with respect to renewal upon expiration of work permits of Syrian refugees authorized to work under other regulations.

Termination of Protection Status

6. The Regulation suggests that lifting protection status on refugees would mean an immediate termination of work permits and expectation that the refugees would return to their country in a very short time frame. It would be more realistic and reasonable to provide a transition period – for example 3 to 6 months -- for this to occur, as in the best of circumstances it will take some time for these workers to organize their return trip and end their social attachment (employment, school, etc.) in Turkey.

Social Security Insurance and Minimum Living Allowance

7. Social security insurance coverage and employee/employer contribution rates under the Regulation are uncertain. Since the refugees are under temporary protection status and will be returning to their home country when the conflict ends, it is unlikely that they will be able to take advantage of long-term benefits, such as pensions, irrespective of whether employees/employers make contributions for insurance premiums. Nevertheless it is important not to exclude these workers and their employers from contributing to social security to avoid creating a cost gap between local workers and workers subject to temporary protection status. The eligibility of the refugees for short-term benefits, like unemployment benefits (including unemployment salary in case of loss of employment), also should be clarified.

8. It is not clear if workers subject to temporary protection status will receive minimum living allowance (AGI). As we understand it, the refugees will be registered to the tax administration system and will pay taxes. The Minister of Finance should clarify the applicability of the AGI to these workers.

Issues Related to Language/Translation

9. Language barriers could be significant problems for Syrian workers within the Turkish working environment. Arabic-speaking staff would be needed at enterprises to train/communicate with Syrian workers. For example, unless a mechanism to communicate with workers in Arabic is created, legally-required orientation and health and safety trainings of these workers would be problematic.

10. Arabic-speaking personnel will also be needed at the Ministry of Labor to deal with issues affecting Syrian workers. For example, the Ministry of Labor operates a worker hotline (ALO 170) for worker complaints but this service is not available in Arabic at this time.

11. It would be very useful if the Ministry of Labor could prepare a poster or leaflet in Arabic that presents the basics of Turkish labor law – working hours/annual leave/overtime rates/non-discrimination/special precautions for pregnant/lactating/young workers -- and distribute them to the workplaces that employ Syrian workers.

12. Although Turkey's official language is Turkish, a good practice would be to ask employers to provide one copy of the employment contract in Arabic to the relevant workers.

13. Should some of the Syrian workers be employed in hazardous and extremely hazardous occupations – such as construction, metal industry, mining, and so on – they would need specialized training on how to work safely in such environments. Training delivered in language accessible to the workers is essential to achieve the objective of alerting workers about health and safety hazards.

Agricultural Workers

14. Employment of temporary workers in the agricultural industry would be problematic because permits will be issued in urban areas, while the work takes place in rural areas, where there are no registered employers to complete the work permit process. Moreover, the work permits issued by the Ministry of Labor will be specific to an area, while agricultural workers are expected to move around to harvest different agricultural commodities in different areas/cities. This issue should be examined by the Ministry of Labor and other relevant government entities.

Non-Discrimination

15. It is not entirely clear whether job security provisions of Turkish labor law will protect workers covered by the Regulation. Also it should be clarified whether these workers will be entitled to receive notification and severance payments in case of employment termination. The same is the case with respect to freedom of association and collective bargaining. The FLA recommends that the regulation clearly state that Turkish labor law applies in a non-discriminatory manner to relations between employers and workers throughout the country, irrespective of whether they are local workers or Syrian workers subject to the Regulation.