Foreign Workers in Turkey, Their Rights and Obligations Regulated in Turkish Labour Law

Gaye Burcu Yildiz
Ankara University, Faculty of Political Sciences, Department of Labour Economics and Industrial Relations, Research Assistant of Labour Law and Social Security.

Abstract
In Turkish Law, working permits of foreigners has been regulated in the Law No. 4817 on the Work Permits of Aliens. Any foreigner, who completes the procedure and covers the requirements stated in the Law No. 4817, may work legally in Turkey. Depending on various reasons, some foreigners work illegally in Turkey and this situation poses the increasing problem of illegal foreign workers. Turkey has specified the Law No. 4817 of 27 February 2003 on Work Permits of Aliens, in the legislation which needs to be amended in order to achieve harmonization with the *acquis communautaire*. Although, illegal foreign worker phenomenon is a multidisciplinary issue and shall not be eradicated only by the amendments which will take place, but it is still important to highlight the current situation of the Law on Work Permits of Aliens.

Keywords
Turkish Labour Law; foreign workers; working permit; types of working permit; undocumented foreign workers; illegal foreign workforce; undeclared work; illegal immigrants; human trafficking.

1. Introduction
This study reflects an overview of the Turkish legislation related to the foreign workers considering the impact of these norms in undeclared work and human trafficking. In Turkey, the phenomena of undeclared work and economy have been rising for over two decades. According to the latest surveys, the 52% of the total employment is undeclared.¹ The relation between unregistered economy and the GNP (gross national product) in Turkey has been estimated between %1, 50 and %137.8 by several researchers. Generally accepted grounds broadening the unregistered economy are the existence of high and continuous inflation rate, speculative gains, unfair income distribution and the lack of inspection for the economic system. As is evident from statistical information, these grounds have contributed in the same way to the expansion realised in the size of unregistered economy in Turkey. Therefore, high level of the undeclared economy gives rise


© Koninklijke Brill NV, Leiden, 2007 DOI: 10.1163/188836407X190442
to concerns throughout the country. Main reasons brought up for consideration about reduction of undeclared economy are maintenance of sufficient income in order to cover the public expenditures and elimination of illegal economic activities.²

Illegal foreign workers constitute an important subcategory of illegal and unregistered economic activities mentioned above. The factors resulting in phenomenon of illegal foreign workforce shall be laid out as fast increase in population of earth, existence of unemployment as an ordinary fact in the third world countries, the demand of the employers for much cheaper manpower, the insufficiency of the immigration laws and ineffective implementations related with illegal immigrants. Despite the fact that undocumented foreign workers take part in the production, they stay invisible for the legal system. The presence of undocumented foreign workers provides the opportunity for domestic employers to take the advantage of keeping the wages of native unskilled workers at a lower level.

Besides the concerns over booming unemployment rates, Turkey has confronted with the problem of undocumented foreign workers in the early 1990s. The main reason for the flow of illegal foreign workers is the fundamental economic, political and social changes which took place in the neighbour countries of Turkey. From that period on, undocumented foreign workers steadily keep their importance as one of the key reasons related to the unemployment in Turkey.

Illegal foreign workers prefer Turkey rather than the other candidate countries and member states of the European Union since it is much easier to enter Turkey by using illegal means. In addition to that, Turkey is just like a bridge to Europe for the people who want to go there as a final destination.

In recent years, the flow of foreign workers has involved various nationalities. There are people who come from the Balkans, East Europe and Middle-East countries. Besides them there is an intense migration from Pakistan, Bangladesh, India, Algeria, Tunisia, Somalia and Nigeria to Turkey. According to the report of Ministry of Labour and Social Security, illegal foreign workers can be divided into two categories concerning their aims as it is shown hereunder.

First category consists of foreign workers who come to Turkey in order to pass Europe more easily. These people are trying to enter European Union by using Turkey as a bridge. They need to work in Turkey in order to provide the money which is necessary to get into Europe either by using legal or illegal methods. Whereas, the foreign workers in the second category intend to ensure savings by working in Turkey and afterwards they want to go back to their native country. Most of them plan to return their home as soon as they have saved enough money. The status of illegal working in Turkey occurs in both of these two categories.

In Turkey, foreign illegal workers are frequently working in small and middle-sized enterprises. They are mostly employed for the business sectors like construction,