

**REGULATIONS ON THE EMPLOYMENT OF PERSONNEL OF FOREIGN  
NATIONALITY  
IN DIRECT FOREIGN INVESTMENT**

**PART ONE**

**Objective, Scope, Basis and Definitions**

**Objective**

**Article 1-** The objective of the present regulations is to determine the procedures and principles related to the work permits of personnel of foreign nationality to be employed in the scope of companies, branches and liaison offices active in the framework of the Direct Foreign Investments Law number 4875, pursuant the Law on Foreigners' Work Permits no. 4817.

**Scope**

**Article 2-** The present regulations shall be applicable for key personnel of foreign nationality to be employed in special direct foreign investments and liaison offices.

However, for the work permits of

- a) personnel of foreign nationality apart from the key personnel to be employed with special direct foreign investments,
- b) all kind of personnel of foreign nationality to be employed in direct foreign investments apart from those special direct foreign investments,

the provisions of the Execution Regulations about the Law number 4817 and the Law on Foreigners' Work Permits shall be applicable.

**Basis**

**Article 3-** The present regulations has been prepared pursuant to article 23 of the Law on Foreigners's Work Permits number 4817 as well as article 3 of the Direct Foreign Investments Law number 4875.

**Definitions**

**Article 4-** As for the application of the present Regulations;

Ministry shall mean the Ministry of Labour and Social Security.

Special Direct Foreign Investments shall mean any company or branch, which is comprised by the Law number 4875 and which provides at least one of the following terms and conditions.

- a) the fact that the company's or branch's last annual turnover amounts to at least 30 trillion Turkish Lira, under the condition that the total capital share of the foreign shareholders amounts to at least 400 billion Turkish Lira,

- b) the fact that the company's or branch's last annual exports amount to at least 1 million US Dollars, under the condition that the total capital share of the foreign shareholders amounts to at least 400 billion Turkish Lira,
- c) the fact that at least 250 personnel are employed with the company or branch within the last year, which personnel is registered with the Social Securities Institution, under the condition that the total capital share of the foreign shareholders amounts to at least 400 billion Turkish Lira,
- d) that in case the company or branch shall realize an investment, the minimum fixed investment amount foreseen shall be at least 10 trillion Turkish Lira,
- e) the fact that the principal company features any direct foreign investment in at least one more country apart from the country where its head offices are situated.

**Key Personnel:** The personnel of any company being incorporated in Turkey and being a corporate body, featuring at least one of the following conditions shall be considered as "Key Personnel";

- a)1) Working in the company's senior management or executive position,
  - 2) Managing the entire or a part of the company,
  - 3) Supervising or checking the works of the company's auditors, administrative or technical personnel,
  - 4) Taking new personnel to the company or terminating the employment of those existing or making suggestions in this subjects;
- any person in charge of at least one of the above fields or authorized in these matters; acting in the position of the company's associate, chairman of the board of directors, member of the board of directors, general manager, general manager associate, company manager, company manager associate and similar positions.
- b) Any person featuring the knowledge considered essential for the company's services, research devices, technics or methods,
  - c) Maximum one person in the liaison offices, who has been issued a letter of authorization by the principal company abroad.

## **PART TWO**

Special Procedures and Principles in Granting the Work Permits

### **Employment of Key Personnel in Special Direct Foreign Investments**

**Article 5-** The Ministry shall issue the work permits for the key personnel to be employed with special direct foreign investments.

### **Employment in Liaison Offices**

**Article 6-** The Ministry shall issue the work permit for a maximum of one person holding a letter of authorization in liaison offices active in the scope of the Law number 4875; under the condition that the office has brought at least 200.000 US Dollars or its equivalent in foreign currency from abroad within the last year for its activities.

## **Application for Work Permit from Abroad**

**Article 7-** Foreigners holding the status of key personnel to be employed in special direct foreign investments, may apply abroad for their work permit at the representations of the Republic of Turkey in the country of their nationality or their permanent residence.

The representations shall send these applications directly to the Ministry along with their probable assessments related to the request for work permit.

The representations of the Republic of Turkey as well as the Ministry conduct the transactions related to the work permit applications to be filed from abroad by means of electronic mails. Whereas the documents requested during the application shall be submitted to the Ministry by the employer of the foreigner within three working days the latest from the date of the foreigner's application to the Representation.

## **Domestic Application for Work Permit**

**Article 8-** Foreigners holding the status of key personnel to be employed in special direct foreign investments, or their employers, may file their applications for work permit directly with the Ministry in case the foreigner is legally staying in Turkey.

## **Obtaining the Work Permit**

**Article 9-** The key personnel having obtained the work permit to work in special direct foreign investments has to apply for working visa with the foreign representations of Turkey within ninety days the latest from the date they have obtained this document, and has to apply to the Ministry of Internal Affairs for a residence permit within thirty days the latest from the date they have entered the country.

Except for the residence permits given in Turkey for academical purposes, for any key personnel having obtained a residence permit for at least six months based on any reason and having been given the work permit within the period of this permission, the condition of obtaining a working visa from the foreign representations of Turkey is not required.

## **Documents Required for Application**

**Article 10-** For the work permits of foreigners holding the status of key personnel to be employed with special direct foreign investments, application shall be realized with the following documents:

a) Information and document showing that the company or branch is a "special direct foreign investment":

1) Documents showing that the total capital share of the foreign associates is at least 400 billion Turkish Lira (documents such as the company approved copy of the Book record, company approved balance-sheet, Turkish Trade Register Gazette),

2) Documents showing that the company's or branch's last year's exports amount is at least 1 million US Dollars (documents such as the bank receipt related to the exports amount, bank

letter, photocopy of foreign currency purchase document, company approved income statement),

- 3) Documents showing that the last year's turnover of the company or branch is at least 30 trillion Turkish Lira (documents such as the company approved income statement),
- 4) In case at least 250 personnel, registered with the Social Securities Institution, have been employed in the company or branch within the last year, documents such as the Social Securities Institution's detailed account evidencing this incident,
- 5) In case the company or branch shall realize any investment, documents such as the Investment Stimulation Certificate, Tourism Stimulation Certificate evidencing that the minimum fixed investment amount foreseen is at least 10 trillion Turkish Lira,
- 6) Certificate of Activity or Activity Report or a letter to be obtained from the official authorities of the relevant country evidencing that the principal company has a direct foreign investment in at least one further country apart from the country where its head offices are situated, as well as a letter of commissioning evidencing that the key personnel to be employed has been commissioned by the principal company abroad.

b) Information and documents evidencing that the foreign personnel is key personnel:

- 1) Documents such as the copy of the circular of authorized signatures, copy of the Turkish Trade Register Gazette, copy of the decision of the Board of Directors or the Board of Associates, for those included in article 4, subparagraph (a) where the definition of key personnel appears,
- 2) For those included in article 4, subparagraph (b) where the definition of key personnel appears, testimonial and its translation, copy of diploma and its translation, as well as other documents and information for the field where the personnel in this scope shall be employed and their translation (e.g. for exports personnel, a bank receipt approved by the relevant bank evidencing the exports as per the countries, bank letter, copy of the foreign currency purchase document, company approved income statement, etc.)

c) For liaison office activities, documents evidencing that at least 200.000 US Dollars or its equivalent in foreign currency have been brought from abroad within the last year (letter of authorization for the office chief and bank receipt related to the foreign currency transfer, bank letter, copy of the foreign currency purchase document, etc.),

d) Foreign Personnel Advice Form (4 forms) attached to the Application Regulations for the Foreigners' Work Permit Law, each having been filled in completely and legible, bearing the employer's stamp and the foreign personnel's original signature and the foreign personnel's photograph,

e) In case the Foreign Personnel Advice Form fails to bear the original signature of both the employer and the foreign signature, the individual contract executed by and between the parties, or certificate of acceptance to employment or its approved copy evidencing that the job offer made by the employer has been accepted by the employee,

f) Copy and translation of the foreign personnel's passport, approved by the relevant Turkish Consulate or notary public, the validity term not having been expired,

g) The foreign personnel's Curriculum Vitae form to be filled in according to the "C.V. format" as attached to the Application Regulations for the Foreigners' Work Permit Law,

h) Written request for work permit to be prepared by the employer.

## **Applications for Extension of Work Permit**

**Article 11-** Applications for period extensions of work permits of foreigners holding the status of

key personnel to be employed in special direct foreign investments shall be made by the foreigner and its employer directly to the Ministry by adding the original of the former work permit to the documents mentioned in the Regulations article 10, subparagraphs (c), (d), (e), (f) and (h).

For the extension of a work permit the validity term of which has terminated, application for extension has to be realized within fifteen days the latest from the end of the term. Applications for extension made after this term shall be considered as the initial application made with the Ministry.

Application for extension of the permit term may also be realized prior to the end of the period, under the condition that it remains within two months the latest backwards from the date of the work permit's termination.

In case of extension of the work permit, the starting date of the work permit extended shall be the date of which the terminated work permit ends.

### **Evaluation Term of Work Permits**

**Article 12-** The Ministry shall conclude the applications for work permit or period extension realized for key personnel to be employed in special direct foreign investments as well as in liaison offices in the scope mentioned in article 6 of the present Regulations, within fifteen days the latest from the day of application to the Ministry, under the condition that the documents are complete and without any insufficiency.

In case it is determined that the application has been made with lacking documents, the Ministry shall advise the applicant with the request to complete the lacking documents. In this case, the evaluation term of fifteen days starts with the date of the lacking documents' incoming with the Ministry.

As for applications made from abroad, the period of fifteen days starts with the receipt of all documents by the Ministry.

As for work permit applications made for key personnel of foreign nationality to be employed in any job in the field of professional training in special direct foreign investments, the provision related to the evaluation term of fifteen days as indicated in the first paragraph is not applicable.

### **Non-application of Postponement Period**

**Article 13-** For foreigners holding the key personnel status to be employed in special direct foreign investments, the provision of article 14, subparagraph (b) of the Law number 4817 is not applicable.

### **Employment in any Position Outside the Field of Professional Training**

**Article 14-** For the key personnel of foreign nationality to be employed in any position outside the field of professional training in special direct foreign investments, comments on professional efficiency shall not be obtained from the relevant authorities.

These persons are not subject to the request and efficiency procedures of professional efficiency as well as the Bachelor's degree request and procedures foreseen in the Application Regulations for the Law on Foreigners's Work Permits.

## **PART THREE**

### **Miscellaneous Provisions**

#### **Rejection of Requests for Work Permit**

**Article 15-** The Ministry, while evaluating the requests for work permit or validity period extension of the personnel of foreign nationality in the scope mentioned in article 2, second subparagraph item (a) and (b) of the present Regulations, shall take into consideration the restricting provisions stated in the Law number 4817.

The realization of investment in the scope of the Law number 4875 does not make it compulsory for personnel of foreign nationality to be certainly given a work permit.

#### **Communicating Statistical Information**

**Article 16-** For the purpose of establishing and developing the information system related to the direct foreign capital investments, the Ministry shall communicate to the Treasury Undersecretary's Office, Foreign Capital General Directorate the statistical information about the foreign personnel employed in direct foreign investments as per quarterly periods.

#### **Updating the Values**

**Article 17-** In the present Regulations, the values applied for determining the characteristic of the special direct foreign investments and indicated in Turkish Lira, are increased every year pro rata the revaluation rate determined by the Ministry of Finance.

#### **Incidents not Provided for**

**Article 18-** In cases not provided for in the present Regulations, the Foreigners' Work Permits Law and the provisions of the Application Regulations of the Law on Foreigners' Work Permits are applicable.

#### **Validity**

**Article 19-** The present Regulations shall be put into force on Sept.6, 2003.

#### **Enforcement**

**Article 20-** The provisions of the present Regulations shall be enforced by the Minister of Labour and Social Security.