



Turkish Migration Studies Group at Oxford

**TurkMiS**

Centre on Migration, Policy and Society



## Briefing Paper 2

# ***Turkey's new law on foreigners and international protection: An introduction***

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January 2014

**Abstract:**

The Law on Foreigners and International Protection was ratified by the Turkish Parliament on 4 April 2013. It has been commended as a first step in drastically changing Turkey's stance on migration management by intergovernmental organizations, civil society organizations, and academicians, who have been heavily involved in its drafting process. The law promises to abandon the hitherto strictly securitized approach towards migration management, favoring instead a balanced emphasis on international human rights standards for all groups of migrants alongside national interests, generally framed as the curbing of irregular immigration and the attraction of highly skilled immigrants. This paper tries to elucidate the legal and institutional mechanisms that the Law provides Turkey in its efforts to reach this goal.

**Keywords:**

Turkey, migration management, migration law, Law on Foreigners and International Protection

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## Preparation of the Law on Foreigners and International Protection

The Law on Foreigners and International Protection (LFIP) numbered 6458 and adopted by the Turkish parliament on 4 April 2013 is the first of its kind in Turkey. It is remarkable not only in terms of the way in which it was prepared but also in terms of the provisions it entails for a whole range of categories of migrants and the institutional structure envisaged to implement the law. This paper looks into some of the most important changes inaugurated in the field of migration management by the LFIP and the reasons for these changes. It is based on the authors' first-hand experience from working with the institution responsible for drafting the new law, namely the Ministry of Interior's Asylum and Migration Bureau, throughout the drafting and ratification process.<sup>1</sup>

The overhaul of Turkey's migration management system, however, cannot be accounted for by a single process, decision or event; rather, the LFIP is the product of a unique combination of internal and external national, international and transnational factors. These include a growing recognition of Turkey's increasing economic power and the assumption that this is and will be the reason for a greater number of migrants, both regular and irregular, seeing Turkey as a target country rather than a mere transit route to the European Union. The LFIP is the result of the growing belief in the ability to control migration and the benefits such control can bring. It is also based on the lessons learned from the European Union's troubles with migration management. This includes a rise in the prominence of far-right movements throughout Europe but also, for example, the problems that arise from trends to shifting the burden from the EU to Turkey with regard to responsibility for irregular migrants and asylum seekers internally through the Dublin II convention and externally through readmission agreements. Other reasons for the drafting of the LFIP include the conditionalities linked to the EU accession process, an increasing awareness of international human rights standards brought to the fore by inter-governmental and non-governmental organizations' reports regarding the rights of refugees and asylum seekers, as well as European Court of Human Rights (ECHR) rulings that blamed and shamed Turkey for its lack of a legislative system to protect migrants' rights.

Most of these factors are discussed in the 'general justification' of the LFIP.<sup>2</sup> This begins with an explanation that as a result of its 'rising economic power', the 'continuing

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<sup>1</sup> The establishment of the Asylum and Migration Bureau under the Undersecretariat of the Ministry of Interior  
<sup>2</sup> Türkiye Büyük Millet Meclisi, 'Yabancılar ve Uluslararası Koruma Kanunu Tasarısı ile İnsan Haklarını İnceleme Komisyonu, Avrupa Birliği Uyum Komisyonu ve İçişleri Komisyonu Raporları' [Proposal on the Law for Foreigners and Internal Protection and the Reports of the Human Rights Review Commission, the European Union Harmonization Commission and the Interior Affairs Commission], Sıra Sayısı: 310, retrieved from:

instability in the region’, along with its often-cited unique geographical position Turkey is transforming from a transit country to a destination country for immigrants. This statement is substantiated with figures of regular migration to Turkey and the number of irregular migrants apprehended between the years 1995-2010, almost one million so far. The argument that Turkey is becoming a destination country cleanly sets up the corresponding argument for the necessity to manage this field effectively. It is then added that this endeavor is made more difficult within the limits of the existing legislation on entry, stay and deportation of foreigners, namely the Passport Law and the Law on the Residence and Travel of Foreigners in Turkey, both dating back to 1950. Such outdated legislations are found ‘inadequate in the face of current problems and developments’. We are also reminded that Turkey does not have a law on international protection and that implementation in this area have been regulated through secondary legislation and administrative regulations. The document then powerfully states the necessity for the creation of a specialized institution for migration management insisting that the importance of migration as an issue is ‘deeply related to public order and security as well as Turkey’s economic, socio-cultural and demographic structure’ as well as the ‘multi-faceted’ character of the field of migration ‘requiring cooperation and coordination at the national and international level’. This document then notes the importance of chapter 24 (justice, security and freedom) in the EU accession process, and mentions certain significant national documents (such as Turkey’s National Programme for the Adoption of the EU Acquis and the Ninth Development Plan) that serve as reference to how Turkey had already accepted the necessity for and committed to developing its migration management system.

The adoption of the LFIP is not only significant in legislative terms but also as a transformative and mentality changing process for all involved actors ranging from the bureaucratic elite to international organizations working in the field of migration management in Turkey. It is important to acknowledge that the new direction of migration

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<http://www.tbmm.gov.tr/sirasayi/donem24/yil01/ss310.pdf>. Article 10 of the Regulation on the Procedures and Principles of the Preparation of Legislation stipulates that such ‘general justifications’ are requirements for any draft piece of legislation, and should accompany the relevant Law following opinions received from state institutions and prior to being sent to the Prime Ministry for review. Article 21 of the same regulation demands that the ‘general justification’ clearly states the reasons that have necessitated the preparation of the draft legislation. If the said legislation is a primary law the institution drafting the law is also required to present justifications for each provision in the law. According to paragraph 2 of article 21 of the regulation these ‘article justifications’ should include, for each individual provision, reasons for drafting and amending the relevant article. Importantly, the regulation stipulates that ‘Article justifications cannot be drafted as repetitions of the article’. This points to an important problem in Turkey today, as article justifications are invariably word for word repetitions of the articles themselves, thus rendering them of little use in understanding the letter and spirit of laws. The Law on Foreigners and International Protection is no exception. Yet general justifications of laws remain succinct and often tidy documents that usually not only present the established reasons for the necessity of the law but also, in parallel, the expectations from the law.

policies in Turkey will only partially be determined by the new legislative and institutional framework set out by the LFIP. Perhaps a more important determinant will be the culmination of nearly five years of efforts of the Asylum and Migration Bureau and the shift in mentality this has generated in a core group of officials who have worked continuously not only on the LFIP's preparation, but also in negotiations with relevant state and non-state actors and consistent lobbying endeavors that have been necessitated to convince the greatest number of stakeholders concerned.<sup>3</sup>

Certain key factors made this transformation possible. Firstly, it was advantageous that the process was managed by a core group from beginning to end, thereby ensuring a well-grounded ownership. This core group was given enough space to maneuver freely; this resulted from the mandate given to them by the upper administrative cadres of the Ministry of Interior and was further facilitated by the fact that the issue of migration has been and remains to be a field that is not yet politicized in Turkey and on which which political parties do not campaign on. The group could take advantage of this situation and was thus able to accurately identify the persistent challenges and gaps of the system without interference from emotional debates, as often the case in the EU and elsewhere. First of all, thorough field inspections were carried out by the two Ministry of Interior inspectors posted as managers to the Bureau. In addition, the relevant EU acquis, binding international standards and some practices of EU member countries as well as destination countries such as USA and Canada were carefully reviewed. The inspections established that Turkey required a more fundamental reform process than initially anticipated which

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<sup>3</sup> It is worth mentioning the drafting process of the law in terms of the approach pursued by the Ministry of Interior. At every stage of the drafting process of the law the drafts were posted on the website of the ministry. An active and sustainable participation of all relevant ministries, public institutions and organizations was provided. An 'Advisory Board' with the participation of academics working in the field of migration and asylum was established. The representatives from UNHCR and IOM Turkey offices provided technical assistance in the drafting of the law. Effective cooperation with academicians based in Turkey and abroad as well as with NGOs active in the areas of migration and asylum was also ensured. The opinions of the ECHR and other units of the Council of Europe (ECRI, CPT) as well as of the EU Commission were received and used to good effect. Thus, the drafting process was highly transparent, participatory and democratic which is one of the unique features of the law. The draft law was submitted to the Turkish Grand National Assembly (the Parliament) as a government proposal on 3 May 2012. In May and June 2012, meetings were held with several parliamentary commissions in which each provision of the law was extensively deliberated. During this process the Ministry of Interior incorporated the feedback into newer versions of two parliamentary commissions, namely the EU Harmonization Commission and the Human Rights Commission, were designated as secondary commissions for the draft law. The deliberations held among the MPs in these commissions were written up in a report to be considered by the primary commission, namely the Interior Affairs Commission. The work and efforts of the ministry was commended numerous times by the MPs throughout the commission meetings, and several times it was emphasized that the law was one of the most thorough and well-written laws which the MPs had encountered. The draft law was a resounding success, as the Commission of Internal Affairs, convening in the wake of the previous six sub-commissions, voted unanimously in favor of the draft law on 20 June 2012, and sent it to the parliament to be voted on. It was approved by parliament on 4 April 2013 and entered into force on 11 April 2013 upon its endorsement by the president and its publication in the official gazette.

would subsequently lead to the establishment of a completely new system of migration management. However, while the legal gaps along with inconsistent and/or arbitrary implementation of mostly secondary legislation were revealed in Turkey, the Bureau's core team also gained important insights that allowed them to assess the standards and practices of other countries in a critical light. This evolutionary process manifested itself in the spirit of the LFIP resulting in a legislation that is tailored-made for Turkey.

Previous efforts for migration management reform throughout the EU accession process attempted to answer criticisms regarding the failure to control transit migration, while Turkey found itself in the position of having to take some actions within the limits set by its capacity and legal/institutional framework. However, these actions, such as the issuance of circulars or implementation of twinning projects were largely reflexive, uncoordinated and partial and thus falling short of properly addressing the problems and creating sustainable and consistent solutions.

Turkey's long-lasting partial and reflexive approach to the issue cannot be explained solely by reference to the regional context or external pressures. In fact, Turkey lacked the institutional mechanisms for policy making in the field of migration and overlooked the relationship of the field of migration with other policy areas. Therefore, a single authority was needed to determine policies while ensuring inter-institutional coordination.

The reform process has led to a certain degree of acculturation with modern migration management discourses. The dynamic and ever-shifting nature of migration necessitated the need for proactive approaches and better analyses of trends, impacts and projections regarding economic, demographic and societal features of migration. Also the linkages of migration with other policy areas such as foreign policy, economy and development are commonly highlighted by the Bureau and its their successor. For example, the General Directorate for Migration Management (GDMM) has increasingly focused on the migration and development nexus through their participation in regional processes such as the Global Forum on Migration and Development (Turkey will chair the GFMD following Sweden in June 2014) in order to differentiate this newly established system from the EU's or other migration countries' systems at least on a discursive level. They have also recently established a research center under the GDMM to commission policy focused research.

It is now time for the GDMM to put this mental transformation into practice and to flesh out the operationalization of the new system. The GDMM is currently engaged with the completion of institutionalization through the recruitment of personnel, development of

training curricula, establishment of an IT system for a Foreigners Information System and drafting of secondary legislation. Specialization of newly recruited staff, establishment of well functioning technological infrastructure, inter-institutional cooperation, smooth hand-over process of duties from police to GDMM, establishment of provincial branches of GDMM and ensuring implementation uniformity at the provincial level appear to be the crucial steps for the successful realization of the shift in mentality mentioned above.

## Visa Policy

An integral part of migration management in terms of controlling and facilitating entry and admission of foreigners to the country is visa policy. This is determined by the legislative and institutional elements born out of the political, economic, cultural and social considerations of different actors within the Government and the state.

The LFIP approaches the visa policy within the broader migration management framework and thus includes provisions both on the operational aspects of the visa system as well as the broader visa policy. So far, Turkey's current visa policy<sup>4</sup> has been at the centre of criticisms mainly from the EU because of its impact on Turkey's EU accession process.<sup>5</sup> Historically, Turkey used to apply a liberal visa regime mainly through sticker visas<sup>6</sup> especially for Balkan and ex-Soviet Union countries due to either close cultural ties or its economic relations with many of these countries; this was further driven by the perception that citizens of these countries pose no security threat for Turkey.<sup>7</sup> In the 1990s, revenues generated from the 'suitcase-trade' and the increasing income from tourism have further inspired a more liberal visa policy, despite the fact that there have always been issues of overstaying and immigration law violations such as working without permission.

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<sup>4</sup> Based on Kirişçi's categorization, 'in the current visa regime, there are three categories of countries. The first category of countries is those whose nationals can enter and remain in the country for a pre-determined length of time, usually three months, without visas (*with the Council of Minister Decision dated 10/10/2011 numbered 2011/2306, the foreigners' stay in the country is regulated as 90 days within a six months period*). The second category are those countries whose nationals must obtain visas prior to arriving in Turkey. And the third category are countries whose citizens are issued visas at the border for a fee that varies from country to country (sticker visa).' Kirişçi K., *Informal Circular Migration into Turkey: The Bureaucratic and Political Context*, CARIM AS 2008/21, Robert Schuman Centre for Advanced Studies, San Domenico di Fiesole(FI): European University Institute, 2008, p.3.

<sup>5</sup> The visa issue and particularly the adoption of the EU's negative visa list and alignment with the EU's positive list has been reflected in the EU's Progress Reports on Turkey since 2005. The visa issue was also included in the 2005 National Action Plan of Turkey on Migration and Asylum. The main requirements focused on tightening Turkey's liberal visa policy practices as these contradicted the EU's visa regime, such as the practice of issuing visas at the borders or the security features of visa stickers.

<sup>6</sup> Nationals of certain countries can be issued visas at the border (called 'sticker visas') without any detailed processing of applications, with the only requirements being the payment of visa fees and the enforcement of rules on entry-bans.

<sup>7</sup> Kirişçi K., *Informal Circular Migration into Turkey: The Bureaucratic and Political Context*, CARIM AS 2008/21, Robert Schuman Centre for Advanced Studies, San Domenico di Fiesole(FI): European University Institute, 2008, pp.3-4



During the last ten years, Turkey has reformed its visa regime radically and independently from EU visa policy; this was mostly done, first, with the view to intensify trade and tourism opportunities and second, as to improve neighbourhood relations. To this end, Turkey has signed bilateral visa facilitation or visa liberalization agreements with some countries based on economic, social and cultural relations.<sup>8</sup> The EU heavily criticized this new policy due to its diversion from the required alignment points of applying the negative list of the EU along with the increased potential for transit migration that it purportedly created.<sup>9</sup> The law does, however, inaugurate certain provisions that make it seem as if Turkey is abandoning this liberal visa policy. These include the airport transit visa (art. 14) as well as making the visa at the borders an exceptional practice (art 13) that gives leave to stay for only 15 days.

Nonetheless, under Article 18 of the LFIP, the Council of Ministers (art. 18) is given massive power over the visa, including the lifting of visas (determining which nationalities require a visa and which are exempted) and the determination of the time limits of visas for specific countries. This article was actually introduced as to give the government the power to have a range of options at its hand.

With regard to the visa system, the LFIP brings legislative and institutional novelties in order to address persistent gaps and incoherent practices. First of all, the previous Turkish legislation<sup>10</sup> concerning visas was inadequate and outdated. The circulars of the Ministry of Interior (MoI) piled up during the years to fill the gaps in the implementation that had resulted in incoherence, lack of clarity and transparency of the Turkish legislation. This had undermined the principle of legal certainty and also considerably obstructed foreigners' access to information. Secondly, the function of the visa needed to be clearly set out (art.11). With the new law the visa became an instrument for primarily regulating entry and subsequent stays of not more than three months within a six month period; in contrast, in the previous system visas were also a pre-requisite for obtaining a residence

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<sup>8</sup> From January 2003 to November 2012, Turkey has concluded 55 'visa exemption/liberalization agreements'. However, it should be noted that all visa exemption/liberalization agreements differ in scope, especially in relation to different passport types. While some agreements bring visa exemptions for all passport types, some may limit the scope to diplomatic/official passports.

<sup>9</sup> Based on MFA's information, since 2010, Turkey makes a point of presenting visa exemption agreements together with readmission agreements, utilizing a package approach as a measure to prevent irregular migration. For example, the bilateral agreement signed on 28/11/2012 between Turkey and Senegal on the abolition of visas excluded normal passport holders as Senegal did not accept to sign a readmission agreement. This could be interpreted either as the Europeanization of migration policies of Turkey or increasing awareness of the side-effects of a liberal visa regime in terms of increasing irregular migration within the country.

<sup>10</sup> Visa issues were regulated in the Passport Law (law No. 5682)

permit upon arrival in Turkey.<sup>11</sup> In short, long-term visas or national type 'D' visas applied in some member countries of EU will not be used in Turkey. Thirdly, types of visa are determined (art. 11, art. 14) and there will be only two types of visas, visa permitting stay up to three months within a six month period (similar to the Schengen visa) and airport transit visas. Furthermore, the secondary legislation of the LFIP will also specify the range of purposes such as family, business visit, tourism for which visas are issued as well as the required documentation for each purpose during the application. This will provide applicants' access to unified and coherent information. As another novelty, due to the fact that Turkey would like to continue to be an attractive destination for tourism, cultural and economic exchanges, and that it does not want to pursue a restrictive visa regime that may in any way inhibit this objective, the aim was to make procedures for visa application simple and fast. To this end, issues regarding the application procedure including places for lodging applications, appointments, payment types, facilitative technology (e-applications), and the validity of visas are being detailed in the secondary legislation.

Before the adoption of the LFIP, the MFA initiated a project called 'e-visa' without abolishing the practice of issuing visas at the border.<sup>12</sup> It entered into force in April 2013 and by the time of writing both system (obtaining visas at the border and on-line visa application) have been in place. Since the LFIP makes the issuance of the visa at the border an exception and limits its duration to 15 days (art.13), the e-visa system will have to completely replace the practice of issuing visas at the border (most probably in April 2014 and before the GDMM becomes fully operational).<sup>13</sup> The GDMM and the Ministry of Foreign Affairs (MFA) are currently working to further develop the 'e-visa' to make it

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<sup>11</sup> In the previous system there were no airport-transit visas at all. The visa types were not categorized as short-term/long-term etc. There were three main categories. These are entry visa (single, multiple and exit visa), transit visa (single, return) based on Passport Law and annotated (meşruhatlı) visa (e.g work, education and medical treatment) dispersed around different acts according to the subject (for example, for work it refers to Law No 4817, Law on Work Permit of Foreigners). There are also visas issued at the borders (regulated through circulars). All annotated visas are subject to approval of centres lodged by the consular missions (istizan) which creates additional workload for these. There is also a duplication of procedures for annotated visas and residence permits. For instance, foreigners who apply for and who are granted annotated from abroad is 'istizan' also need to apply again for residence/work/education permits once they enter the country.

<sup>12</sup> E-visa only allows people to lodge their visa application online before they arrive to Turkey. They enter requested information which is not detailed and make the payment on-line. According to MFA official, this new system will save personnel and reduce queues at airport, also a database with all visa applications will be constituted, finally the system will be aligned with the EU acquis in that eligibility of entry will already be established prior departure from the country of origin, for example, so as not to allow foreigners having an entry ban to come to the borders. This will also eliminate the burden of then removing these foreigners.

<sup>13</sup> In a recent statement by the Minister of Tourism and Culture Ömer Çelik, it is noted that the current visa policies of Turkey have positively impacted tourism revenues (there has been an increase in tourism revenues by 20 percent in comparison to the previous year). Yet he also states that obtaining visas at the border will be abolished and replaced by the e-visa in April 2014:

Retrieved from: [http://www.radikal.com.tr/ekonomi/vize\\_muafiyeti\\_turizmin\\_ve\\_ticaretin\\_onunu\\_acti-1159193](http://www.radikal.com.tr/ekonomi/vize_muafiyeti_turizmin_ve_ticaretin_onunu_acti-1159193) accessed on 07.11.2013

consistent with the requirements of the LFIP as well as Turkey's political, economic and social considerations. The e-visa will facilitate application procedures for all but will also have to include control measures introduced by the LFIP (e.g. conditions for issuing a visa, art. 15).

Furthermore, the previous legislation does not define at all the grounds and the procedure for the refusal or annulment of a visa and does not contain any provisions regarding the notification of the foreigner about the reasons of annulment or refusal of a visa. The LFIP and its secondary legislation that is currently being prepared stipulate conditions for refusal and annulment and the notifications of these decisions (art. 16-17).

Moreover, with the adoption of the LFIP the mandate of national authorities for issuing the visa is clarified. A single competent authority and better inter-institutional coordination<sup>14</sup> for procedures for issuance and approval of visas will be ensured. The new General Directorate of Migration Management will be a single authority in coordination with other relevant institutions, particularly the MFA and the Ministry of Labor and Social Security. It will also have hundred staff working in the diplomatic missions of Turkey and 85 migration attaches will be based in consular missions who will be responsible for issuing visas and residence permits.

In short, the LFIP will provide the legislative, institutional and technological basis<sup>15</sup> of a well-grounded visa policy. In addition, the LFIP will contribute to the EU accession process by addressing some of the issues referred to in the EU-Turkey accession progress reports or in the visa liberalization roadmap annexed to the readmission agreement currently under

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<sup>14</sup> The competent authorities for the determination and implementation of the visa policy are established in line with the Passport Law. For diplomatic passport holders, MoFA and governorates in the case of urgency, Turkish embassies or consular missions if there is not any embassy, for ordinary passport holders, governorates or General Directorate of Security directorates upon the permission of governorates and consular representatives in abroad are the competent authorities. (regulated with Passport Law, Article 24) However, this article does not clearly stipulates the roles in the practical implementation. However, with time, especially for the annotated visas and visas for special categories of foreigners (such as Afghan nationals) requiring the approval of relevant central authorities, the coordination between consular missions and relevant authorities in the country could not be provided effectively, the 'konsolosluk.net' established in 2005 program ensure the necessary coordination among the authorities to lessen bureaucratic burdensome, however there are still offline missions not linked up with the system and it requires improvement with adding up new components. Moreover, the practical details of how an application can be presented to the Consular Directory within the MoFA are not laid down either in the Passport Law or in the secondary legislation identified.

<sup>15</sup> The new Directorate is currently working on to develop a 'Foreigners Information System' with a new IT infrastructure. It will create a central database which can provide exchange of data between the centre, provincial offices and all consular missions abroad to ensure smooth communication, proper data collection and sharing. Cooperation and coordination among relevant public institutions will be also ensured more easily, mechanisms to foster this cooperation/coordination will be developed through better technical infrastructure, and binding by-laws. Furthermore, the new Directorate with its own separate budget and its service units such as Training department will be able to provide instruments for personnel such as handbooks, SOPs, trainings to facilitate a uniform and coherent visa processing practices.

negotiation. However, changing Turkey's liberal visa regime through adopting the negative list of the EU has political significance nature. Turkey needs to assess thoroughly the impacts of its current visa regime to determine to what extent it actually does trigger irregular migration (in terms of transit migration, irregular residence and irregular employment) and to what extent economic, social and cultural considerations could be balanced vis-a-vis its negative impacts. As a first step, Turkey may conduct such assessments and risk assessments.

## **Residence Permits**

Provisions regarding residence permits make up the backbone of the LFIP's reform of regular migration. The LFIP uses residence permits to create incentives for different types of regular immigration in the hope of curbing irregular immigration, as a vehicle to legally encompass those migrants who would otherwise be left in a state of legal limbo such as those whose applications for international protection is rejected or whose legal stay in the country is annulled, and to protect vulnerable groups such as human trafficking victims. The LFIP also introduces the legal basis for Turkey's bid to become a destination country for highly skilled labour, facilitate capital investments into Turkey by reducing bureaucratic hurdles. Notably, it presents a template of rules and regulations for each specific residence permit type.

The law first, sets out to draw a clear line between visas and residence permits. Any period of stay in Turkey exceeding 90 days requires a residence permit (art. 19) and thus requiring foreigners to choose a specific reason of stay and the obligations that go with it among a category of specific residence permit types. It is hoped that by introducing residence permits this will prevent touristic visas being abused for immigration purposes, notably by repeatedly using tourist visa for staying longer than the anticipated 90 days. Another important novelty of the law is that the first application for residence permits will have to be made from abroad (art. 21/1). This was introduced as an important tool to prevent irregular immigration, as foreigners' reasons for stay in Turkey will need to be determined before entry to Turkey, ensuring that the necessary documents and safeguards are in order prior to entry. In the present system, applications for residence permits are made in a two-stage process: applicants need to first obtain a special visa to enter the country and are required to then apply within the country for a residence permit. This process is replaced by a single application requirement, which would reduce bureaucracy and facilitate the process for foreigners. Nevertheless, the law waives the requirement to apply from abroad in cases where the presence of the foreigner is necessitated due to

investigations or prosecutions related to criminal and administrative cases, along with cases in which it is deemed difficult for the foreigner to leave the country in order to make the application, as well as for humanitarian residence permits or residence permits issued to victims of human trafficking (art. 22).

The LFIP divides residence permits into six categories of which four are issued upon application. These are the short term residence permit, the residence permit for family reunification, the student residence permit, and the long-term residence permit. The other two categories, namely the humanitarian residence permit and the residence permit for victims of human trafficking, are issued *ex officio*.

### ***Short-term residence permits***

Short-term residence permits (art. 31) are introduced by the law as the category encompassing all reasons of stay except for the purposes of study and family reunification, and stand out as the primary instruments by which Turkey hopes to attract foreign capital, investments, as well as to become an attractive destination for scientific research and for highly skilled labor. Short-term residence permits are also made available for those seeking to stay in Turkey for touristic reasons longer than the 90 days allowed by a touristic visa, thereby increasing foreigners' right to stay for a year. Those seeking to come to Turkey for scientific research are also eligible to apply, along with those coming to Turkey to form commercial ties or to set up businesses. Those who own immovable property in Turkey are also granted residence permits, providing they meet the generic requirements that apply to short-term residence permits on the whole, including the relevant documentation to prove eligibility, accommodation that is up to general health and safety standards, a criminal record if requested, as well as the requirement not to fall under the category of foreigners' who are to be denied entry according to article 7.<sup>16</sup> Furthermore, those who have completed a higher education program in Turkey will be issued a short-term residence permit for a maximum of one year given they apply within

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<sup>16</sup> Article 7 of the LFIP regulates the instances when foreigners shall be refused entry into Turkey and turned back. The provisions in this article cover all foreigners, and are not specific to visa or residence permit holders. The foreigners who shall be refused entry include those who do not hold valid travel documents or who have obtained such documents deceptively or who hold false documents, whose travel documents are not valid for an extra 60 days following the duration of the visa, residence permit or duration given for stays with visa exemption, and very importantly, those who fall under article 15 of the law. This latter paragraph in article 7 making a reference to article 15 is quite crucial, albeit a little confusing. Article 15 regulates instances in which foreigners will not be issued a visa. Therefore, while it is *per se* not related to holders of residence permits, due to the fact that article 7 makes specific reference to it, article 15 must be read as applying to this group, as well as those exempt from the requirement to hold residence permits. Through the reference made to article 15 in article 7, therefore, residence permit holders may be refused entry into Turkey if for instance, they are 'considered undesirable for reasons of public order or public security' (art. 15/1/c) or 'are unable to provide proof of the reason for their purpose of entry into, transit from or stay in Turkey' (art. 15/1/f).

six months after their graduation (art. 31/1/I). This latter provision was placed in the LFIP in order to give foreigners educated in Turkey the opportunity to seek employment; the assumption is that their integration into society would not pose any problems due to their stay in the country throughout their studies.

It is important to note that the LFIP fills an important gap in Turkey's domestic legislation regarding residence permits for foreign students and their right to work in Turkey.<sup>17</sup> In view of the increase in the numbers of foreigners coming to Turkey for higher education the law introduces residence permits for students who have been accepted to a higher education institution (defined as institutions which issue foundation, undergraduate, graduate and doctoral degrees), or primary and secondary school students provided their funds are secured by natural or legal persons, and on condition that they are given leave by their parents or legal guardians (art. 38). The LFIP also gives students the right to work for a maximum of 24 hours per week (art. 41) which is more than in many European Union countries.

### ***Long-term residence permits***

One of the most important provisions in the LFIP regarding the management of regular migration is the provision regarding the long-term residence permit (art. 42). Following eight years of uninterrupted stay in Turkey a foreigner is given the right to gain a long-term residence permit, which is in effect a permanent residence permit as there is no time limit specified in the law as to its duration. The system before the LFIP required the extension of long-term residence permits in five year periods for up to four times, following which the foreigner was required to reapply for a permit. A 'permanent residence permit', as in many European Union countries, did not exist in Turkey. The long-term residence permit introduced by the LFIP is important in several respects. First of all, it may act as a reward for those willing to stay in Turkey for the stated eight years in an uninterrupted fashion based on the condition that they have not received social benefits for the last three years of that period. Those in possession of a long-term residence permit will be able to enjoy all the rights of a Turkish citizen except the right to vote or being

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<sup>17</sup> The gap in the legislation regarding the issue was caused by the annulment of the 'Law on Students of Foreign Nationality Studying in Turkey' numbered 2922 and dated 14/10/1983 by the 'Law on the Institution and Duties of the Presidency of Turks and Related Communities Abroad' dated 24/10/2010 and numbered 5978. The secondary legislation of law 2922 only gave the right to work for students in graduate degrees or higher and only then within the premises of the institution itself. The annulment of the said regulation by a Council of Minister Decree from 27/08/2011 and numbered 2011/2162 had made any type of employment of foreign students illegal although its legality could in any case be questioned due to the previous annulment of the primary law which it had pertained to.

elected, to enter into public service, and to import vehicles with tax exemption (art. 44). Secondly, foreigners who stay in Turkey for an extended period of time, but whose countries of origin do not permit the acquisition of double citizenship (such as German citizens), will be able to stay in Turkey without having to continuously renew their residence permits. In addition, the annulment of long-term residence permits is made more difficult compared to other categories, requiring a 'serious threat' to public order and security (art. 45). The long term-residence permit has also made the provision regarding interruptions in residence in Turkey meaningful, as prior to the Law interruptions in stays did not have adequate consequences for it to have a deterrent effect. Foregoing the possibility of acquiring a long-term residence permit, it is believed, will reduce such interruptions, which is defined as an absence of over six months in a year or a total of one year in a period of five years.

The new law also introduces a 'family residence permit', a permit issued to foreigners desiring to stay in Turkey with their closest kin. This has become a requirement in international human rights law, especially due to the case-law that has been build-up due to the rulings of the European Court of Human Rights around article 8 'right to respect for private and family life' of the Convention for the Protection of Human Rights and Fundamental Freedoms.<sup>18</sup> However, the legislation prior to the law did not state which family members could make use of this right, nor did it detail the conditions attached to the acquisition of such a permit. Yet the drafters of the LFIP also needed to take into consideration the diverse set of laws and customs in the region that contradicted Turkish civil law - notably polygamy - and the way in which these differences in laws and 'customs' could be exploited or abused in practice. Therefore, the law limits the issuing of a family residence permits to only one spouse of the 'sponsor' or the person who is the original applicant for a residence permit in Turkey (art. 34).<sup>19</sup>

A family residence permit is given to the foreign spouse and children of the foreigner who has already acquired a residence permit in Turkey or a Turkish citizen, called a 'sponsor' (*destekleyici*, a more direct translation would be 'supporter'). The family residence permit

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<sup>18</sup> See for example Amrollahi vs. Denmark, application no. 56811/00 dated 11/10/2002.

<sup>19</sup> Such a limitation is actually in accordance with the Council Directive 2003/86/EC of 22 September 2003 on the right to family reunification, article 4 paragraph 4 of which states 'in the event of a polygamous marriage, where the sponsor already has a spouse living with him in the territory of a member state, the member state concerned shall not authorize the family reunification of a further spouse.

By way of derogation from paragraph 1(c), member states may limit the family reunification of minor children of a further spouse and the sponsor.' Article 34 paragraph 4 of the LFIP, however, merely states that in cases where a person is married to more than one spouse according to the law of the country the person is from, only one of the spouses will have the right to acquire a family residence permit, while all of the children in the family regardless of which spouse they are from will be entitled to the same.

is issued for a maximum of two years after which it needs to be renewed and cannot exceed the duration of the residence permit of the sponsor. In fact, the stay of the foreigner in Turkey is dependent on the legal status of his/her 'sponsor'; this means that in case the sponsor's residence permit is annulled the family residence permits of his/her family will likewise be annulled.

This is known to have created certain grievances in the past when the spouses of sponsors after having lived in Turkey for a number of years were required to leave the country following the death of the sponsors. In line with international law, the LFIP also had to make sure that spouses could not be threatened with deportation by their abusive sponsors.<sup>20</sup> The LFIP does this by granting the right of an autonomous residence permit to family members following three years of stay in Turkey. Foreign spouses can also apply for an autonomous residence permit in case of divorce, provided that they can show that they have resided in the country for three years with a family residence permit. However, in cases where the spouse is a victim of domestic violence and in cases of the death of the spouse the three year condition is waived (art. 34/6 and 34/7).

Another protective measure brought by the LFIP against domestic violence is the requirement that the sponsor must submit his/her criminal record for the five years period prior to the date of application. This shall demonstrate that the sponsor is not convicted for violation of what is termed in the penal code as 'crimes against family order' (art. 35/1/c) which include polygamy and arranged marriage, ill-treatment, abduction of children, etc. The LFIP also prohibits the issuing of family residence permits to those under the age of 18, hoping to discourage certain so-called 'traditions' prevalent in the region such as forced marriages of children.

### ***Ex officio permits***

The two types of residence permits which are issued *ex officio* are the humanitarian residence permit (art. 46) and the residence permit for victims of human trafficking (art.

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<sup>20</sup> In fact, article 59 of the Council of Europe Convention on Preventing and Combating Violence Against Women and Domestic Violence states:

'Parties shall take the necessary legislative or other measures to ensure that victims whose residence status depends on that of the spouse or partner as recognized by internal law, in the event of the dissolution of the marriage or the relationship, are granted in the event of particularly difficult circumstances, upon application, an autonomous residence permit irrespective of the duration of the marriage or the relationship. The conditions relating to the granting and duration of the autonomous residence permit are established by internal law'. Turkey is one of the first signatories of the convention and the Turkish parliament ratified the convention on 14/03/2012. Although the convention will enter into force following ten ratifications (during the writing of this brief only five countries had ratified the convention), the LFIP already fulfills the requirements brought on by the convention.



48). The present situation - that is the situation prior to the coming into force of the relevant sections of the law in April 2014 - is to issue humanitarian residence permits for those who risk persecution in their countries of origin but whose applications for asylum have been rejected. Taking into consideration that many foreigners cannot be send back to their countries of origin for various reasons, however, it had become necessary to legally secure the rights of foreigners who were in this situation. This is why the primary role of the humanitarian residence permit is to prevent situations in which the foreigner may be left in legal limbo. For instance, foreigners for whom a decision of deportation is issued but who cannot be deported for one reason or another, or those for whom leaving the country is deemed unreasonable or impossible, will be granted a humanitarian residence permit, without the accompanying requirements tied to the issuance of other types of residence permits. This is a critical provision, as it is meant to cover foreigners whose countries of origin refuse to accept them back, as well as those who have destroyed or lost their documents and cannot be identified legally. The humanitarian residence permit, similar to all other residence permits, includes a foreigner identification number with which foreigners can make use of health care, education and legal services. The provision also has a catch-all clause which states 'extraordinary situations' as a condition for granting humanitarian residence permits, as well as another clause within the same article which enables the state to grant the same residence permits on the grounds of public order and security, even if these foreigners cannot qualify for other resident permit types. Nevertheless, humanitarian residence permits are annulled once the conditions which necessitate the foreigner to stay in Turkey are ended.

The second category of 'automatic' residence permits is that of the residence permit granted to victims of human trafficking. This is a special type of residence permit that is granted to victims of human trafficking or foreigners who are strongly suspected of being victims of human trafficking. The purpose of the residence permit is uncharacteristically (in terms of legal writing) identified in the law as being to enable the foreigner to overcome the trauma suffered and decide whether or not to cooperate with the authorities with regard to finding the perpetrators. Prior to the LFIP, no such provisions existed in domestic legislation. Rather, the issue has been dealt with by various circulars since 2003, and these only gave certain rights to already identified victims of human trafficking, and did not encompass those that were not designated as such by the prosecutor concerned. These types of residence permits are initially granted for a period

of 30 days, which in the EU acquis is termed a ‘reflection period’.<sup>21</sup> This is an exception to the rule set out by the LFIP that residence permits are documents enabling stay for periods exceeding 90 days. However, in line with requirement set out in international law,<sup>22</sup> the LFIP states that the residence permit may be extended three times for a period up to six months each, to accommodate the safety, health and special circumstances of the victim. The total accumulated duration of the residence permit for victims of human trafficking, however, cannot exceed a total of three years.

## **Statelessness**

A section of the law is dedicated to the issue of statelessness; this issue too has been addressed by Turkey’s domestic legislation for the first time. Turkey is not party to the two major conventions on stateless persons, namely the 1954 Convention relating to the Status of Stateless Persons and the 1961 Convention on the Reduction of Statelessness. While some of the provisions of the 1961 Convention is covered by the Law on Citizenship dated 25/0/2009 and numbered 5901, the most significant provisions of the 1954 Convention is covered by the LFIP. These include the provisions therein regarding exemption from reciprocity, social and economic rights, and safeguards against easy expulsion. The LFIP, first and foremost, decrees that stateless persons shall be issued a Stateless Person Identification Document which is given free of charge and which grants the right of legal residence. Furthermore, the document shall contain a foreigners identification number, which as stated above grants access to the health, education and legal services in the country. Stateless persons are exempted from the condition of reciprocity thereby guaranteeing the same treatment as is accorded to foreigners in Turkish territory. In addition, stateless persons shall not be deported except in cases where the person is deemed a ‘serious threat’ to the public order or security of the country.

## **Asylum**

Perhaps the greatest contribution of the LFIP to the Turkish legal corpus is the section on international protection. It is important to underline, once again, that previously Turkey

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<sup>21</sup> Article 6 of Council Directive 2004/81/EC of 20 April 2004 on the residence permit issued to third-country national who are victims of trafficking in human beings or who have been the subject of an action to facilitate illegal immigration who cooperate with the competent authorities.

<sup>22</sup> Turkey is party to the ‘Palermo Protocol’ of 2000, or rather the ‘Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, Supplementing the United Nations Convention Against Transnational Organized Crime’. The provisions on residence permits for victims of human trafficking are also in line with the 2005 Council of Europe Convention Against Trafficking in Human Beings, which Turkey signed on 19/3/2009, but has yet not ratified.

did not have a national law regulating international protection.<sup>23</sup> The provisions in this section were drafted in line with Turkey's obligations under the 1951 Geneva Convention Relating to the Status of Refugees and its 1967 protocol. While Turkey is party to the convention it keeps the right of geographical limitation afforded to it by the text of the convention. This essentially means that Turkey is under no obligation to grant the status of 'refugee' to anyone that flees from persecution related to events occurring outside of Europe. To accommodate this limitation, the LFIP has created an alternative category of refugees which it terms 'conditional refugees'. While the term 'Europe' is not defined in any international law text the LFIP has clarified the matter by limiting this to Council of Europe countries. In effect, however, there is little difference between the social and economic rights granted to refugees and conditional refugees. The only significant difference remains that conditional refugees are expected to be resettled by the United Nations High Commissioner for Refugees (UNHCR) to a third country.

Furthermore, while the obligations stated in the 1951 Convention is respected, the LFIP also makes use of the EU acquis to introduce certain new concepts that would essentially make it easier to return asylum seekers to third countries deemed 'safe'. These include the concepts of the 'first country of asylum' (art. 73) and the 'safe third country' (art. 74), defined in articles 26 respectively 27 of the Council Directive 2005/85/EC of 1 December 2005 on minimum standards on procedures in members states for granting and withdrawing refugee status, and more recently in article 35 and 38 of Directive 2013/32/EU of the European Parliament and of the Council of 26 June 2013 on common procedures for granting and withdrawing international protection, recasting the former directive. The corresponding provision in the LFIP stipulates that if an applicant has arrived in Turkey by departing from a country that could have accorded international protection in the standards of the convention, he/she shall be send back to the said country. The LFIP also takes on board, however, the concept of subsidiary protection from the EU acquis which basically extends international protection to those that do not fulfill the conditions required to be identified as refugees or conditional refugees according to the provisions of the law but who nevertheless risk being subjected to the death penalty, torture, ill-treatment and personal harm from indiscriminate violence in the country concerned (art. 63).

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<sup>23</sup> Secondary legislation did exist to regulate this policy field, notably the 1994 'Asylum Regulation' which first distinguished between a 'refugee' and an 'asylum seeker' according to the geographical limitation, and the 2006 circular of the Foreigners Department of the Turkish National Police which aimed to align practice with the EU acquis.

Important rights granted to applicants for and beneficiaries of international protection include free health services for those who cannot afford paying the social security premiums in which case it is covered by the General Directorate for Migration Management (GDMM), access to employment, and fees for subsistence if required (art. 89). Significant improvement is also foreseen in the reception center conditions, along with provisions of positive discrimination for vulnerable groups and unaccompanied minors (art. 95).

## **Deportation and Administrative Detention**

The issues of expulsion, detention and return have been on the forefront because of human rights violations that have been identified in Turkey's practices to this date, especially by the European Court of Human Rights. The Bureau undertook its first activities around these issues to identify legislative, institutional and administrative gaps in the Turkish system. As this was due in part to the desire to meet the requirements under chapter 24 of the EU accession process and in large part to avoid further humiliating verdicts from the European Court of Human Rights<sup>24</sup> regarding lack of safeguards to protect migrants against arbitrary deprivation of liberty, the duration and conditions of 'administrative detention' of migrants, and the lack of an effective remedy following appeals against deportation.

The landmark decision of *Abdolkhani and Karimnia v. Turkey* (Application no: 30471/08 from 22/09/2009) was, for instance, of utmost significance for the Bureau as it stated that the Turkish legal system did not provide an 'effective remedy' for deportation decisions as an application for the annulment of a deportation order did not have an 'automatic suspensive effect', which paved the way for applications to the court being exempt from having to exhaust domestic remedies. Thus, it is envisaged that the LFIP will ensure a harmonization with the provisions of the European Convention on Human Rights in this field and decisions against Turkey taken by the European Court of Human Rights will be prevented.

The provisions of the section on deportation of the LFIP were drafted mainly in line with the standards, procedures and guidelines on detention conditions, including specific provisions for children and families, length of detention, as well as on the conditions under

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<sup>24</sup> For example, regarding the decision of *Tehrani ve others v. Turkey* (application no: 32940/08 dated 13.04.2010) ECHR stated that there has been a violation of article 3 of the convention on account of physical conditions at the Tunca accommodation centre. In the decision of *Charahili* (application no: 46605/07 and dated 13.10.2010) there has been a violation of article 3 of the convention on account of the detention of the applicant in poor conditions and for a prolonged period of time in the basement of a police station.

which the detention and set out by the European Convention on Human Rights (articles 3, 5 and 13 are particularly relevant), EC Return Directive (2008/115/EC), the Committee of Ministers' 'Twenty Guidelines on Forced Return' adopted by Council of Europe.

The LFIP, first of all, includes provisions on legal grounds for issuance of deportation orders and the procedure to be pursued by the authorities having considered all relevant information readily available to them in particular, proportionate and in pursuance of a legitimate aim. To this end, the LFIP explicitly lists the foreigners against whom deportation decision are taken or not taken (art. 54, 55). The article on foreigners against whom deportation order are not taken, constitutes the safeguards against the removal as the state to which the person is returned will not expel him or her to a third state where he or she would be exposed to a real risk mentioned. Secondly, the LFIP ensures that the foreigner will be notified of the deportation decision (art. 53). The notification will indicate the legal and factual grounds on which the decision is based and the remedies available and deadlines within which such remedies can be exercised. Furthermore, in the deportation order, an effective remedy before a competent authority is ensured via appeal mechanism to the administrative court, and review of the deportation order will lead to the suspension of its execution. The time limit for the judicial review is set as 15 days (art. 53).

Regarding the detention pending deportation, legitimate grounds for administrative detention are also defined and exhaustively enumerated in the LFIP (art. 57). It further stipulates that the foreigner shall be notified of the decision to detain and the judiciary remedy procedures (e.g. time limit for judiciary review of detention decisions as 30 days), and those who have appealed and who lack the means to cover legal fees are provided with legal services upon demand. The LFIP also states that detention shall be limited to a maximum of six months which, however, may be extended for a maximum of another six months (art. 57/3). Judicial review of detention decisions as safeguards for the detained migrants; also every month an evaluation of the necessity of detention by administration is provided to prevent prolonged periods of detention (art. 57/4). The time limit for the judicial review of deportation orders is 15 days, the stipulation that the deadline within which the effective remedy for deportation order is exercised will also be 15 days. Non-custodial measures and voluntary return programs are among the options considered in the secondary legislation for those whose detention are not feasible or is ceased in accordance with international standards. In the same vein, the LFIP also includes the provisions around 'summons to leave' for the ones who will be invited to leave the country between 15 to 30 days without recourse to administrative detention (art. 56). Regarding the conditions of

detention, the LFIP states that the minimum standards for conditions in removal centers as well as the establishment, management and inspection of removal centers will be determined by a separate regulation that is under preparation (art. 58). The LFIP also lines out that for the operational management of removal centers' cooperation with the Turkish Red Crescent is possible (art. 58/2).

The LFIP permits detention of families and children. But the law further provides that the best interests of the child will be respected, and that separate accommodation will be provided to families and unaccompanied children (art. 59) the possible detention of unaccompanied minors and the restriction of appeal to higher courts have been issues that have been raised the main criticisms during the enactment process of the LFIP. These issues may cause contradictions against the spirit of the legislation and may act as obstacles to ensure safeguards for adequate international protection.

## **Integration**

The adoption of the LFIP by itself should be seen as a landmark not at least because Turkey has in effect declared itself a country of migration. For the first time in Turkish legal history the LFIP introduces provisions related to migrant integration; thus, after many decades of turning a blind eye to the issue the law is now facilitating discussions on integration. Whether with the intervention of the state apparatus or not, from now on this would lead Turkey to recognize the reality of the need to incorporate foreigners into society in Turkey.

The discussions on integration provisions during the drafting process of the LFIP can shed light into Turkey's approach to the issue. It was well known by the drafters of the LFIP that integration is an essential element of modern migration systems and should thus be part of this law. However, whilst it was acknowledged that on the one hand internationally integration policies suffered significant setbacks and have proven difficult to realize on the other hand different integration activities of individual states were approximated and an outline for the model of integration in Europe was drawn. Yet, it was acknowledged that Integration denotes a politically oriented social project that derives its meaning from the specific historical, political, social and legal context in which it is used.<sup>25</sup> Therefore, Turkey believes that it is important to avoid the negative connotations of the concept of 'integration', which generally revolved around the concept being interpreted as a unilateral and compulsory process. To this end, firstly, Turkey refrained from using the

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<sup>25</sup> Unutulmaz, O. (2012) Gündemdeki Kavram: "Göçmen Entegrasyonu"- Avrupa'daki Gelişimi ve Birtanya Örneği, In Öner, S. G. , Öner, A. Ş. (Eds.) *Küreselleşme Çağında Göç* (p. 144) İstanbul: İletişim Yayınları

concept of 'integration' and refers instead to the concept of 'harmonization'<sup>26</sup>. This is felt to have a more innocuous meaning in Turkish and therefore better reflects the aim of the Turkish approach which is to understand the indigenous-migrant interaction as a dynamic two-way relationship in which migrants are not confined to a passive role regarding issues which relate to them. Therefore, the drafters removed the compulsory integration or language courses which were included in the first drafts of the law. These deliberate choices are based on two considerations: first and foremost Turkey's emigration past and Turkish migrants' often mixed experiences with the integration policies of, for the most part, European countries and second, the current discourse among the pioneers of this migratory reform which acknowledges the need for a new path in migration management that is reflecting Turkey's specific needs and conditions. This new discourse could be seen as ambitious and that the usage of the concept of harmonization instead of integration may not make a substantial difference in a field overburdened with terminological complexities. Nevertheless, the pioneers of the migration reform claim that they do not want to replicate policies that have proved to have generated important setbacks and disadvantages for migrant populations in Europe; they rather aim to pursue a more liberal policy as opposed to what are widely perceived as restrictive policies of European countries. Because the issue of immigration is not high in the political agenda and because migrants are not yet an active part of society Turkey may require time and resources to test its new policies.

Harmonization is regulated in the LFIP as a common provision (art. 96) to be applied for both foreigners and beneficiaries of international protection regardless their different statuses as determined by the geographical limitation and the different rights and responsibilities this implies. The article explains the aim of harmonization activities and it gives a non-exhaustive list of such activities. It also explains that the harmonization activities could be organized by the GDMM with the recommendations and contributions of public institutions, local governments, civil society, universities and international organizations. The LFIP also establishes a separate responsible body for this policy field, the Harmonization and Communication Department. Further to this, the roles given to other actors such as local authorities, civil society and universities opens channels for cooperation with the government in line with the normative framework established by the LFIP, yet it is not clear to what extent the local actors would be involved in the process as genuine players given the background of firm centralized state approach

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<sup>26</sup> 'Uyum' in Turkish, the GDMM uses 'harmonization' in its English translation.

In any case, article 96 does not introduce or invent new mechanisms; the ones listed in the LFIP are more or less tested tools of integration. However, the LFIP would for the first time be the basis for developing integration policies in Turkey and once the provisions under the article 96 are detailed by by-laws, the integration modality will be better determined. Yet, the integration policy making process needs to be undertaken in close collaboration with other policy fields such as labour migration, internal migration, urban development, intercultural policies, diversity management and social welfare policies.

## **Conclusion**

This brief account of the LFIP attempts to shed light on what can be called the ‘spirit’ of the law, by focusing on the thinking behind the provisions regulating certain issues central to migration management. The law is the first step in the desire to ‘manage’ migration more consistently, thoroughly, and in a manner that would allow Turkey to make use of the benefits of migration while preventing or at least reducing the violations of the human rights of migrants as much as possible. Notably, a balance has been sought in the wording of the law between security and human rights. The actual implementation of the law, however, depends on the extent to which the core group can influence the new institution’s mentality and approach to the issue of migration, as well as the obvious external factors that can create countless and largely unforeseeable contingencies. Nevertheless, one can be hopeful in light of a new beginning inaugurated in the form of the creation of a nation-wide institution with over 3,000 personnel, marking Turkey’s desire to be an example for migration management in the region and in the world.



**List of Abbreviations:**

ECHR -	European Court of Human Rights
GDMM -	General Directorate for Migration Management
GFMD -	Global Forum on Migration and Development
LFIP -	Law on Foreigners and International Protection
MFA -	Ministry of Foreign Affairs
MLSS -	Ministry of Labor and Social Security