

GUIDANCE DOCUMENT



Updated February, 2017

Syrian Nationals Working in Turkish Supply Chains

OBJECTIVE

This document provides guidance for BSCI participants **to better understand and prevent abuses and exploitation of Syrian workers within their supply chains in Turkey. It will also provide guidance on how best to identify and mitigate such abuses should they occur.** While this document is relevant to other refugees and migrants in Turkey, it highlights the particular circumstances and risks related to this vulnerable group.

Key areas addressed:

- The current working conditions of Syrian nationals, including contractual arrangements, working hours, remuneration in cash and kind, access to social protection and occupational health and safety;
- Access to the labour market, including legal constraints and barriers that prevent individual workers under temporary protection from accessing the formal labour market (e.g. ease of obtaining work permits), and share of Syrian nationals working in the informal economy.

Although this guidance focuses on Syrian nationals in Turkey, it is vital to keep in mind that there continues to be an influx of migrants and refugees from other countries who have also fled to Turkey and need assistance. Furthermore, Syrians also continue to migrate to Lebanon and Jordan to seek a better life as well as to other 'safe havens' that include some European countries. It is important for BSCI participants who source from Turkey and other countries to take this into consideration when conducting their own due diligence and to work closely with their producers with the help of this guidance.

BSCI participants should be aware that **individuals under the "temporary protection" classification in Turkey are highly vulnerable to exploitation**, particularly in complex and challenging business environments. Responsible companies acknowledge problems, identify where issues are in their supply chains and take remedial action. Actions to be taken can include:

- Develop internal policies;
- Enhance audit procedures in the first and second tiers of supply chains to detect the presence of Syrian workers;
- Put in place effective remediation measures where unregistered Syrian nationals were found to be employed.

This Guidance Document is supplemented by three annexes:

Annex 1: Pre-Audit Evaluation (Pertinent to cases of persons under temporary protection involved in production)

Annex 2: Suggested Policy for persons under temporary protection in Turkey (For BSCI participants and producers)

Annex 3: NGOs and Support Service Organisations for Migrants and refugees and persons under temporary protection in Turkey

BACKGROUND

Turkey is on the front line of a humanitarian crisis as the civil war in Syria enters its sixth year. Neighbouring countries are hosting close to five million refugees, and Turkey, which has taken in 2.8 million Syrians, is by far the largest recipient. About 90% of Syrians in Turkey reside outside of refugee camp settings with limited access to basic services.

After China and Bangladesh, Turkey is the third largest sourcing country for BSCI participants. As such, BSCI participants continue to express deep concerns about reported issues arising from the illegal employment of Syrian nationals and remain firmly committed to taking the necessary action to mitigate rights abuses and all forms of exploitation within their supply chains.

Many participating companies have also expressed that employing persons under temporary protection in any factory or farm is not an inherent risk that should be avoided. It is a good practice and an opportunity to provide sustainable livelihoods for vulnerable communities.

Under the UN Guiding Principles (embedded in the [BSCI Code of Conduct](#)), companies have a responsibility to respect human rights throughout their supply chain. According to these internationally accepted principles, companies should act with due diligence to avoid infringing the rights of others – even if they have not contributed directly to the violation of these rights – and to address any adverse impacts.

Another important source for companies is the [OECD Guidelines for Multinational Enterprises](#). The OECD Guidelines, updated in 2011, incorporate the concept of due diligence, stipulating that it should be undertaken for all matters covered in the guidelines and should cover all business operations, including supply chains and other business relationships. Outsourcing production through subcontracting does not exonerate a multinational enterprise of its responsibility.

CURRENT STATUS

Turkey is currently the largest host of refugees in the world with 3 million registered refugees – 2.8 million of those are Syrian nationals.

Turkey has made a geographical distinction by only accepting people coming from Europe as ‘refugees’ and classifying those from outside it ‘conditional’ refugees. Those arriving from the East are supposed to be treated equally in accordance with the 1951 and 1967 United Nations Refugee Conventions, to which Turkey is a signatory.

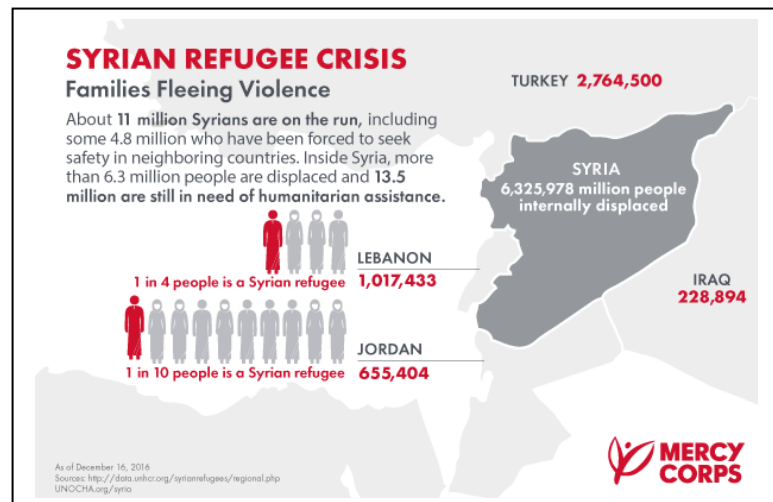
According to the Turkish **Law on Foreigners and International Protection (LFIP)**, which came into

force in April 2013, asylum seekers coming from outside of Europe are accepted as ‘conditional’ refugees and are given temporary protection until they can find a new and safe third country of residence. Therefore, Syrians remain barred from gaining regular refugee status and are instead classified as beneficiaries of temporary protection.

Asylum seekers are granted temporary protection from the Directorate General of Migration Management (DGMM) under the Ministry of Interior, and are eligible to apply for a work permit after the temporary protection status have been valid for 6 months. Only the employer can lodge an application for a work permit with the Ministry of Labour and Social Security.

There are several limitations to the LFIP, which has heavily restricted the amount of work permits issued for persons under temporary protection to-date, such as:

- The number of persons employed who are under temporary protection cannot exceed 10% of the Turkish national employees in a single workplace;
- To be granted a work permit, the employer must provide a “fixed-term contract” that outlines the functions of the job and provides the employee with minimum wage (1,300.99 TL);
- A person under temporary protection can only work in the province that is indicated as their province of residence on their temporary protection document. To work in a different location, the person must apply to change their province of residence;
- Although there is no clear regulation stating who pays for the application fee, there is a general assumption that it falls on the employer (537,50 TL for the application fee + 63 TL for the official documentation fee);
- A work permit is initially issued for the duration of one year. To extend the work permit a new application must be lodged. The renewed work permit is valid for a period of three years for the same occupation by any employer, which can be further extended to six years under equal conditions;
- The total 2017 work permit application fees amount to 600,50 TL and must be paid per year of employment, regardless of the length of the work permit;
- The employer is responsible for depositing insurance premiums for workers.



To date, only around 14,000 work permits have been issued to Syrians across all sectors. This figure includes both Syrians who are under temporary protection and those who applied for residency permits.

An estimated **400,000** are working informally.

This includes:

- Without work permits;
- Being subjected to discriminatory treatment;
- Paid under legal minimum wage;
- Working excessive hours;
- No access to social security and legally-mandated benefits as afforded to Turkish workers.

DEVELOPMENTS TO DATE

The Ministry of Labour and Social Security (MOL) has published:

- **Regulation on Work Permits for Foreigners under Temporary Protection** (January 2016) - **CSGB Guide Regarding Work Permits of Foreigners Provided with Temporary Protection**: This document defines the procedures and principles regarding work permits that are issued for foreigners under temporary protection status.
- **Guidance Document on Web Based Application System**: A document written in Turkish guiding employers on how to register the workers online and get work permits from the government.
- **Reference Information Regarding Work Life**: This is a simplified and compact version of the Regulation on Work Permits for Foreigners under Temporary Protection and the related labour law (4857). The document is in **Turkish, Arabic** and **English**.
- **Information Brochure on Work Permits for Foreigners**: This document provides information for both employers and employees on legal employment procedures. The document is in Turkish.

Other supporting documents include:

- **Frequently Asked Questions (FAQ) on Work Permits for Beneficiaries of Temporary Protection, United Nations High Commission for Refugees Turkey**: This document provides a simplified overview with key facts on the laws in Turkey regarding work permits for Syrian nationals under temporary protection. This document is available in **English** and **Turkish**.

RECOMMENDATIONS FOR BSCI PARTICIPANTS AND PRODUCERS

Given the information listed above BSCI recommends the following for participants and producers:

I. BSCI PARTICIPANTS

1. Policy

BSCI participants should ensure that they have a policy regarding the recruitment of refugees and migrants in sourcing countries (or Turkey alone if taking a country-specific approach regarding persons under temporary protection). Policy should reflect the sensitivity surrounding the need to ensure equal employment rights for refugees and migrants as exists for nationals (covering minimum wage, equal working hours, and non-discriminative behaviour by employers).

[See annex 2: Suggested Policy for Persons under Temporary Protection Working in Turkey.](#)

2. Communication

All BSCI participants should ensure that their respective policies are communicated to significant business partners, stating the importance of the issue, as a means to ensure that the rights of Syrian workers are protected and as an imperative to comply with fundamental human rights.

3. Call for Producer Action

All BSCI participants should call for their producers to establish a regularly updated management system based on the sensitivity of the issue, including policies, procedures, internal monitoring, risk assessment and remediation.

4. Increased Due Diligence – Including Audits

All BSCI participants should ensure they conduct their due diligence, which may represent an increase in audits. They should also ensure that auditors have a working knowledge of the Arabic language.

5. Pre-Audit Evaluation

All BSCI participants should use the pre-audit evaluation ([annex 1](#)) to evaluate the risk level of cases in which undocumented workers are identified. As well as further providing structure, direction and focus areas for audits, the document provides guidance on how to respond effectively to this particular situation – with a view to mitigating any supply chain risk and ensuring the protection of the rights of the individual.

6. Remediation

All BSCI participants should ensure that undocumented Syrians are not treated in a discriminatory manner, and that their being found in a place of work does not result in dismissal. Participants should also ensure that their producers provide information to any undocumented Syrian workers on how to apply for work permits or other forms of protection and benefits – as well as urging them to access public education centres and municipalities that provide free Turkish language classes and vocational training. This information is readily

available on the government website. Speaking the local language will empower workers to safeguard their interests and better understand their rights.

Participants should encourage producers to take responsibility and remediate all issues in a timely manner by registering workers online and facilitating the required legal process.

7. Syrian Workers Without Passports or Legal Identification

All BSCI participants should advise their producers not to employ Syrian nationals that do not hold legal identification, as it would be contravening Turkish law. If such cases are identified, it is imperative that the producer inform the individual of the NGOs and support service organisations available to them ([annex 3](#)).

8. Labour brokers

All forms of labour brokering are deemed illegal under Turkish law. All BSCI participants should urge their producers to avoid illegal recruitment practices.

9. Regular Updates

All BSCI participants should inform their producers to regularly provide updates regarding Syrian nationals and regular feedback about their internal management systems in place to protect individuals under temporary protection status. If the producer is included in the BSCI system, participants are encouraged to closely monitor the working conditions through auditing. In the event that issues are uncovered during audits, participants should track the progress of producers via remediation plans – uploaded to the BSCI Platform – and follow-up audits. The remediation plan, if used efficiently, may serve as the key communication channel between producer and participant, increasing transparency on the part of the producer.

10. Child Labour and Child Exploitation

All BSCI participants should emphasise to their producers the responsibility of ensuring that they are not complicit, directly or indirectly, in the exploitation or abuse of children in or around their factories. Extra attention should be given to the protection of children's rights.

11. Stakeholder Engagement

All BSCI participants need to make a concerted effort to engage with national, regional and international stakeholders (Non-Governmental Organisations – NGOs/International Non-Governmental Organisations – INGOs/trade unions/government/civil society/community representatives) that can affect or are affected by the actions or inaction of participating companies operating in sourcing countries with a high incidence of refugee and migrant labour/forced labour issues. Where needed, participants can also call on the FTA Country Representative for assistance. As opposed to crisis management or a defensive approach that may lead to significant and long-lasting loss of reputation, participants should work towards demonstrating that they are on top of issues by conveying responsible business practices and reassuring stakeholders of their willingness to demonstrate transparency and effect meaningful change.

II. PRODUCERS OF BSCI PARTICIPANTS

1. Develop Updated Policies/Procedures Based on Current Regulations of the Ministry of Labour (MOL)

- All producers of BSCI participants should develop policy and procedures or revise their current system in accordance with new regulations published by the MOL, ensuring that the employment decisions include foreign/migrant labourers under temporary protection.
- Producers should familiarise themselves thoroughly with new regulations and implementations and understand them clearly before creating their policy/procedures or revising their current system.
The new/revised policies should articulate the need for non-discrimination and non-exploitative practices for migrant workers

[See annex 2: Suggested Policy for Persons Under Temporary Protection Working in Turkey](#)

2. Internal Communication

All producers of BSCI participants should ensure that policy and procedures are communicated internally and to tier 1 and 2 suppliers.

3. Risk Assessment

All producers of BSCI participants should conduct a risk assessment to identify risks involving refugees, migrants and persons under temporary protection status throughout their supply chain, and take the necessary steps to mitigate them.

4. Incidents of Child Labour and Child Exploitation

All BSCI producers need to remain vigilant and take precautionary measures to ensure that underage refugee and migrant children are not employed under any circumstances. Many Syrian children under temporary protection are often displaced or unaccompanied in Turkey and thus require protection.

5. Internal Monitoring

All producers of BSCI participants should increase the scale of internal monitoring to include their whole supply chain and ensure the rights of any working Syrian under temporary protection.

6. Remediation

All producers of BSCI participants should ensure the remediation of issues in a timely manner and take precautionary steps to avoid the dismissal of Syrian workers. Emphasis should instead be placed on facilitating their work permit applications. However, this is applicable only to those refugees, migrants and persons under temporary protection with a legal form of identification.

8. Syrian Nationals without Passports or Legal Identification

Hiring persons without a legally issued work permit is a violation of the Turkish Law on Work Permits for Foreigners. Producers who employ foreigners without a work permit are subject to the penal provisions in accordance with Article 21 of this law. Infringement could result in the

employee being fined 8,848TL per individual without a work permit. It could also result in the worker themselves being fined 881TL, a heavy price to pay for a Syrian under temporary protection status.

In cases where persons hold legal documentation but lack the formal registration documents, all producers are advised to:

- Refer the individual to the Directorate General of Migration Management (DGMM) under the Ministry of Interior, the official institution that receives and processes applications for temporary protection status;
- If the person already has temporary protection status but lacks a valid work permit, the producer should refer to the Ministry of Labour and Social Security to jointly file with the worker the necessary documents for a work permit;
- Refer the person to the NGOs and support service organisations available to them ([annex 3](#)).

9. Supporting the Integration of Syrians Under Temporary Protection into Turkish Communities

Producers of BSCI participants are advised to make all possible efforts to assist and encourage Syrian workers to engage with Turkish nationals and communities by directing them to places that teach the Turkish language and offer vocational training opportunities. Speaking the local language will empower workers to safeguard their interests and have better knowledge of their rights – and give them the opportunity to seek assistance if needed. Public education centres and municipalities in Turkey currently provide these classes free of charge for refugees, migrants and persons under temporary protection.

10. Stakeholder /Community Engagement

All BSCI producers should aim to foster good relations with national organisations and develop local government contacts with persons working on the issue of people under temporary protection in Turkey. This will not only enable producers to remain abreast of changes to legislation, it will also allow them to identify opportunities for conveying a critical view or opinion via a collective voice. Engaging will allow producers to highlight the 'rights-based' approaches being implemented in a socially responsible manner.

ANNEX 1: PRE-AUDIT EVALUATION

For cases with refugees, migrants and individuals under temporary protection involved in production

Purpose: This document is to provide guidance for the user to evaluate the risk level of a particular case, and further structure the direction and focus areas for a BSCI audit, if it is to be conducted. This approach can be applied in Turkey and other sourcing countries where BSCI participants may be confronted with a similar scenario.

User: BSCI participants

When to use:

Whenever further instructions are needed in regards to refugees, migrants and/or persons under temporary protection.

Implementation:

Below are two areas that users should pay special attention to when responding to stakeholder queries:

- **Compliance with the BSCI Code of Conduct** - whether the workers have a valid working permit in place to protect their rights under the law of the land. With no possession of a valid working permit, it is necessary that users pay extra attention to verify the policy and precautionary actions in order to protect the rights of refugees/ migrant workers according to all principles detailed in the BSCI Code of Conduct.
- **Agency/contracted company** – except in the instance of Turkey where recruitment brokers/companies are operating outside of the law, it is important to assess whether there is an agency/contracting company involved in the recruitment, hiring and daily management process of refugees. It is also important to ascertain whether the factory evaluates and monitors the recruitment processes prior to contracting them.

Below are four additional areas that require special scrutiny:

1. Dormitories

- Verify if refugee/migrant workers are provided with housing (directly or indirectly);
- Whether the total payment of housing (rent + electricity + water + etc.) is within the market costs; and
- Whether the auditee or recruitment agency is involved in exploiting refugee/migrant workers by wrongful/excessive charging of fees for housing.

2. Deductions

- Verify that if refugee/migrant workers receive compensation in accordance with the minimum wage requirement;
- Verify if refugee/migrant workers are getting compensated for overtime work in compliance with overtime payment per local law; and
- Verify if illegal deductions (directly or indirectly) would occur to refugees.

3. Documents

- Verify if the documents of refugees/ migrants (and their families) are being held by any other parties (directly or indirectly);
- Review existing Human Resources procedures, particularly regarding recruitment processes, job advertisements, application forms and internal communication processes;
- Verify the presence of a minority worker representative and/or an effective grievance mechanism.

4. Debts

Seek transparency over whether refugee/migrant workers (and/or their family members) are victims of debt bondage, from the country of origin, the host country or both, either directly or indirectly (via recruitment agencies).

ANNEX 2: SUGGESTED POLICY FOR MIGRANTS, REFUGEES AND PERSONS UNDER TEMPORARY PROTECTION WORKING IN TURKEY

– FOR BSCI PARTICIPANTS AND PRODUCERS

I. FOR BSCI PARTICIPANTS

POLICY FOR REFUGEES WORKING UNDER TEMPORARY PROTECTION

With this policy, BSCI participant [insert participant name] commits to ensure that all displaced refugees in their supply chain in the countries from which [insert participant name] sources will be employed in a way that guarantees their legal rights, worker rights, and human rights.

Within this scope, [insert participant name] commits to monitor, as endorsed in the BSCI Code of Conduct, that the activities of all producers and their supply chains are carried out in a manner that is observant of the BSCI Code of Conduct, local laws, regulations, and the published guidance documents.

The implementation of this policy is supported by relevant procedure and reference documents, where the process is explained step by step.

The procedure document includes the steps below:

- As per the defined policy, identify the organisational team that will work on this issue and their designated tasks;
- A list of training courses the organisational team needs to take. Training must include the below as a minimum:
 - BSCI Code of Conduct, particularly “Introduction to Social Management Systems” and “Fair Remuneration and Decent Working Hours”;
 - Relevant local laws;
 - Guidance documents published by the ministry;
 - BSCI Guidance Documents, such as the Responsible Recruitment Guidelines;
- Communication of the policy and procedures to relevant parties (e.g. producers, other departments);
- Step-by-step implementation of the policy and procedures, as per the training received;
- Ensure continuous dialogue and consultation with workers, community organisations, and other stakeholders to receive feedback to evaluate the effectiveness of the process;
- Conduct regular reviews in order to keep the process current and relevant.

The realisation of this commitment is undertaken by the personnel or team designated for Corporate Social Responsibility within [insert participant name].

II. FOR PRODUCERS

POLICY FOR REFUGEES UNDER TEMPORARY PROTECTION

With this policy, we, as [insert producer name], commit to ensure that all displaced refugees in our supply chain are employed in a way that guarantees their legal, worker, and human rights; and that, resulting from a humanitarian need, this implementation is carried out in the direction required both by local laws and our customers.

Within this scope, we, as [insert producer name], commit to carry out all activities in our supply chain in a manner that is observant of the BSCI Code of Conduct, customer expectations, local laws, regulations, and the published guidance documents, and to have it monitored as endorsed in the BSCI Code of Conduct.

The implementation of this policy is supported by relevant procedure and reference documents, where the process is explained step by step.

The procedure document includes the steps below:

- As per the defined policy, identify the organisational team that will work on this aspect, and their tasks;
- A list of training courses the organisational team needs to take. Training must include the below as a minimum:
 - BSCI Code of Conduct, particularly “Introduction to Social Management Systems” and “Fair Remuneration and Decent Working Hours”;
 - Customer requirements (if applicable);
 - Relevant local laws;
 - Guidance documents published by the ministry;
 - BSCI Guidance Documents, such as the Responsible Recruitment Guidelines;
- Communication of the policy and procedures to relevant parties (e.g. workers, lower tiers, other departments);
- Step-by-step implementation of the policy and procedures, as per the training received;
- Ensure continual dialogue and consultation with workers, community organisations, and other stakeholders to receive feedback to evaluate the effectiveness of the process;
- Conduct regular reviews in order to keep the process current and relevant.

The realisation of this commitment is undertaken by the personnel or team designated for Corporate Social Responsibility within [insert producer name].

ANNEX 3: NGOS AND SUPPORT SERVICE ORGANISATIONS FOR MIGRANTS, REFUGEES AND PERSONS UNDER TEMPORARY PROTECTION IN TURKEY

MÜLTECİ DESTEK DERNEĞİ – REFUGEE SUPPORT CENTRE (MUDEM)

Üsküp Cad. Çevre Sok. 6A/6
Çankaya Ankara
Telephone: +90 312 427 2 02
Email: destek@mudem.org

HUMAN RESOURCES DEVELOPMENT FOUNDATION (IKGV- HRDF)

Insan Kaynagini Gelistirme Vakfi
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Yeni Çarşı Cd. No:34
34433 Beyoğlu/İstanbul
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HAYATA DESTEK – SUPPORT TO LIFE

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UNHCR

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Urfa Community Center

Yusufopaşa Mah. Sarayönü Cad. 926. Sok. 13/A Eyyübiye/Şanlıurfa

Protection and Work Permit (Start-up Business) Offices

Ankara

Doğantepe Mah. Şehit Hacı Osman Doğan Cad. No:1/16 – Ankara/Altındağ

Adana

Meydan Mah. Bakımyurdu Cad. No:155/1 Seyhan-Adana

Batman

Akyürek Mah. Petrol İş Cad. Geçit İşhanı No:4/3 – Batman/Merkez

Bursa

Ortabağlar Mah. Ankara Yolu Cad. No:310/2 – Bursa/Yıldırım

Gaziantep

Alleben Mahallesi Atatürk Bulvarı Ebru Apartmanı No:76/8 Şahinbey/Gaziantep

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Hatay

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İstanbul

Osmangazi Cad. No:179/B-1 – İstanbul/Bağcılar

Mersin

Turgut Reis Mah. İstiklal Cad. 4112 Sokak Armoni İş Merkezi No:7/E – Mersin/Akdeniz

Şanlıurfa

Ulubatlı Mah. Yunus Emre Cad. No: 113 Daire: 3 Şanlıurfa