



Home Office

ECAA Turkish employed applications

Version 12.0

This guidance is based on article 6(1) of decision 1/80 of the Association Council established by the ECAA with Turkey.

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About this guidance

This guidance tells caseworkers how to decide applications from Turkish national workers who wish to apply for an extension of stay in the UK as an employed person, after they complete one year's legal employment with the same employer in the UK.

Once already registered as belonging to the UK's labour force, the rights of Turkish workers are set out in [article 6\(1\) of decision 1/80 of the Association Council](#) established by the European Community Association Agreement (ECAA) with Turkey. These are as follows:

- under the first indent of article 6(1) of decision 1/80, a Turkish worker can be granted permission to work for the same employer after one year's legal employment, if a job is available
- under the second indent of article 6(1) of decision 1/80, a Turkish worker can be granted permission to work after 3 years of legal employment for an employer of their choice, in the same occupation
- under the third indent of article 6(1) of decision 1/80, a Turkish worker can have free access to any paid employment of their choice, after 4 years of legal employment

Contacts

If you have any questions about the guidance and your line manager or senior caseworker cannot help you or you think that the guidance has factual errors then email the Free Movement and Immigration Criminality Unit.

If you notice any formatting errors in this guidance (broken links, spelling mistakes and so on) or have any comments about the layout or navigability of the guidance then you can email the Guidance Rules and Forms team.

Publication

Below is information on when this version of the guidance was published:

- version **12.0**
- published for Home Office staff on **18 July 2018**

Changes from last version of this guidance

Clarification in key facts on settlement.

Related content

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Key facts

This page shows you the key facts for employed applications under the Turkish EC Association Agreement (ECAA).

Category: Employed applications under the Turkish EC Association Agreement	
Eligibility requirements	<p>The applicant must be a Turkish national who:</p> <ul style="list-style-type: none"> • is a worker • is duly registered as belonging to the UK's labour force • has been in legal employment with the same employer for at least one year
Application forms	Extension of stay - ECAA1 Turkish employed.
Cost of application:	No fee
Entry clearance mandatory?	No
Is biometric information required for applications made in the UK?	Biometric information is required for applications submitted on or after 29 February 2012. For more information see: Biometric information .
Code of leave to remain granted	<ul style="list-style-type: none"> • Code 4 (first indent of article 6(1) of decision 1/80) • Code 2 (second indent of article 6(1) of decision 1/80) • Code 1 (third indent of article 6(1) of decision 1/80) <p>For more information, see: Granting leave</p>
Entry clearance endorsements	Not applicable
Conditions of leave to remain	<p>Limited leave to remain in the UK No recourse to public funds. Emp'd by Changes must be auth'd by the SoS Register at once with the police</p>
How long is leave to remain normally granted for?	<ul style="list-style-type: none"> • after one year's legal employment for the same employer (when the applicant has met the requirements of the first indent of article 6(1) of decision 1/80) leave must be granted up to the date before the applicant will fall within the second indent of article 6(1) of decision 1/80 – this means you will be able to grant a maximum of 2 years. • on completing 3 years of legal employment for the same employer (when the applicant has met the requirements of the second indent of article 6(1) of decision 1/80), leave must be granted to the date before which the applicant will fall within the third indent Article 6(1) of decision 1/80 – this will be a

	<p>maximum grant of 12 months</p> <ul style="list-style-type: none"> on completing 4 years legal employment (when the applicant has met the third indent of article 6(1) of decision 1/80) leave should not be granted for more than 3 years – this is unless the circumstances of the employment are such that granting further short period of leave after 3 years would be unreasonable, for example the applicant is employed on a single contract basis
Are dependants allowed?	Yes – partner and/or children under 21 if they are applying as dependants. A partner means spouse, civil partner, unmarried or same-sex partner.
Work and study allowed?	Yes
Is switching into this category allowed?	Yes – typical applicants are those who were in legal employment by virtue of being on code 1 leave as a spouse and their marriage has broken down, or on code 4 as a work permit holder where the work permit is not to be renewed.
Does this category lead to settlement (indefinite leave to remain)?	Yes, if eligible via Appendix ECAA rules
Is knowledge of language and life required?	No
CID case type	Turkish Employed ECAA - LTR
Immigration Rules paragraphs	Not applicable

Related content

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Pre-decision casework

This section tells you the checks you must make before you decide an application for leave to remain as an employed worker under the Turkish European Community Association Agreement (ECAA).

Applicants must provide:

- their current signed passport
- the passport of each dependant included as part of the application
- 2 identical passport-size photographs of each applicant

Before you consider the application you must check the information below for the main applicant and each dependant in the application. The:

- following checks have been completed within the last 3 months:
 - security checks
 - systems checks
 - Police National Computer (PNC)
- 'person details' on CID match those in the passport
- applicant's immigration history on entry clearance records on CRS support the application
- 'key documents tracking' screen has been updated
- address details on CID are up to date
- representative's details have been entered
- date of postmark and date of expiry of last leave are correct

If any of the recorded details are incorrect, you must amend as necessary.

You must refer any suspected forged documents to the technical support team for advice.

You must also check all previous applications and decisions on CID to see if the information is relevant to the current case.

You must update the case notes on CID using the appropriate template before you decide whether further information is required, or whether a decision to grant or refuse the application can be made based on the evidence already provided.

If you require further information, the case can be placed in bring forward (B/F) for 14 days.

Biometrics results

You must check that the applicant's biometrics have been verified before you make a decision. You can find the results on the 'admin events' screen on CID and the identity card for foreign nationals (ICFN) database. If the applicant fails to provide this information, you must reject the case and return all documents to the applicant.

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Breaches of conditions, fraud and abuse

This page explains how to consider cases where the applicant has breached conditions of their leave or been party to fraud and/or abuse.

Case law for example *Oguz and KA (Turkey)* has established that applicants who have breached immigration law cannot be excluded from the provisions of the European Community Association Agreement (ECAA). In business cases this means consideration under the 1973 Immigration Rules.

Although this ruling relates to a business application, the principle that those who have undertaken fraud or abuse cannot be excluded from consideration under the ECAA provisions on that basis also applies to ECAA Turkish worker applications.

You must not automatically refuse an application because an applicant has worked in breach of their conditions. This is because a breach of conditions can vary in different ways and so have a different impact on a case.

You must consider all the relevant circumstances of an application, but applicants must not normally be allowed to benefit from breaches in immigration law. Caseworkers must assess if the breach of conditions is material or incidental. If it is incidental, for example an applicant has only overstayed by a few days, the caseworker may still grant the application.

Where there has been a breach of immigration law, the following factors will be relevant when you decide if the application should be refused. Where an applicant:

- has overstayed a previous period of leave beyond the 28 day grace period
- has entered or sought to enter the UK illegally
- has sought or obtained leave by deception, for example by making false representations or failing to disclose material facts in the application (fraudulent and abusive conduct)
- has breached their conditions of leave to enter or remain, for example where they have worked in an occupation not authorised by their leave
- has made an asylum claim that is discredited
- has previously used fraudulent or abusive conduct
- has unspent criminal convictions
- is liable to deportation

it is more likely the application will be refused.

Illegal entry

Applicants who have only been able to work because they entered or sought to enter the UK illegally must be considered for refusal.

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Leave sought or obtained by deception

This page tells you how to consider a case where the applicant has sought or obtained leave by deception.

You must not automatically exclude a Turkish worker who has obtained leave by deception from consideration under the European Community Association Agreement (ECAA) provisions on that basis alone.

An applicant obtains leave by deception if they:

- made false representations
- presented false documentation
- failed to disclose facts material to their application

You must normally consider such applicants for refusal under [article 6\(1\) of decision 1/80](#).

However, you must consider:

- all relevant circumstances
- the extent of the deception or abuse
- the culpability (accountability) of the applicant

Despite the deception, where the circumstances of the application merit a grant of leave under [article 6\(1\) of decision 1/80](#), you can use discretion to consider granting leave to enter into employment.

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Assessing cases where the applicant has worked in breach

This page tells you how to assess an application where an applicant has worked in breach.

First you need to assess whether the applicant's working in breach was incidental or material to their ability to meet the requirements of decision 1/80.

If you consider the breach incidental then it cannot be used as a basis of a refusal.

If the breach is deemed material, it can be used for the basis of a refusal.

Working in breach is considered incidental if:

- it does not materially affect the ability of the applicant to meet the requirements under decision 1/80 – such conduct should not on its own lead to an automatic refusal of the application unless there are other additional factors which may weigh against the applicant

Working in breach is considered material if:

- it affects the ability of the applicant to meet the requirements of decision 1/80 – for example, the breach allows the applicant to meet the requirements in circumstances where they would not be able to meet them otherwise

This does not automatically result in refusal but is likely to weigh more heavily against the applicant when you consider the application. For example, the applicant was only able to complete a year of work for an employer and so come within the ECAA, but their leave barred such employment.

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Discredited asylum or human rights claims

This page tells you how to deal with discredited asylum or human rights claims.

You must not automatically refuse an application where the applicant has been refused protection on asylum or human rights grounds, unless their asylum or human rights claim has been discredited on the basis of false representations.

You must consider:

- all relevant circumstances – for example:
 - when was the asylum claim made?
 - has the asylum claim been concluded or is it still outstanding?
- the seriousness of the discredited claim
- the culpability of the applicant

An initial decision by the Secretary of State for the Home Department (SSHD) to refuse an asylum claim cannot only be used to say that a claim has been discredited. This is only possible after the decision has been to appeal and the claim has been found to be untrue.

Only where claims have been materially or substantially discredited can you refuse leave to remain. You must not automatically refuse applications where a claim has been accepted, or partially accepted, but the claimant has failed to meet the criteria for refugee status.

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Cases where it is undesirable to grant leave

This page tells you about cases where it is undesirable to grant leave.

Circumstances where it would be undesirable to grant in light of their character, conduct or associations

You must consider a refusal where it would be undesirable to allow the applicant to remain in the UK:

- in light of their:
 - character
 - conduct
 - associations
- where they represent a danger to national security

Where an applicant declares a criminal conviction which would be deemed as spent, you must not take it into account when you decide the case. You must consider all relevant circumstances of the case. These include, but are not limited to the:

- type and severity of the crime committed
- sentencing court's view of the seriousness of the offence as reflected in the sentence imposed
- result of any appeal on that sentence
- length of time which has passed since evidence of criminality
- culpability of the offender
- tendency to re-offend
- harm to the victim and the effect of that type of crime on the wider community

You must weigh up these considerations up against the need to protect the public.

Circumstances where refusal may be justified on grounds of danger to national security

Where you have evidence which indicates the applicant poses a danger to national security, you must refer the application to your senior caseworker in the first instance. They will then liaise with the relevant departments or sections.

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Deportation

This page tells you about European Community Association Agreement (ECAA) Turkish employed applications where the applicant is subject to deportation action.

Liability to deportation

You must handle applicants who are liable, or become liable, to deportation in line with domestic legislation and guidance which governs deportation.

You must refer to criminal casework (CC) for further guidance see: Referring cases to criminal casework.

Current deportation orders

If there is a current deportation order against an applicant, you must refer the applicant to CC for further guidance.

For more information, see: Referring cases to criminal casework.

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Fraud and abuse

This page tells you how to deal with European Community Association Agreement (ECAA) Turkish employed applications which involve fraud and abuse.

Case law has established in European Community Association Agreement (ECAA) business cases, even where an applicant's behaviour could be deemed fraudulent and abusive, they should not be prevented from benefitting from consideration under the ECAA provisions. The same principle applies to Turkish ECAA worker cases.

Applicants who have relied on previous fraudulent conduct to make an application must be considered for refusal under [article 6\(1\) of decision 1/80](#). For example, the applicant entered into employment whilst they were an illegal entrant to the UK.

When you decide a case you must consider:

- all relevant circumstances, for example:
 - when was the asylum claim made?
 - has the asylum claim been concluded or is it still outstanding?
- the seriousness of the fraud
- the culpability (responsibility) of the applicant

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Supporting documents required

This section explains what documents the applicant must submit to prove they meet the requirements of the Turkish employed category under the Turkish European Community Association Agreement (ECAA) and what to do if you suspect the documents submitted are not genuine.

The applicant must provide:

- a signed and dated current version of ECAA1 (if this is not provided the application must be rejected as invalid)
- two identical passport-sized photographs taken within the last 3 months for:
 - main applicant
 - any dependants
- current passport and previous passports to show entry clearance for:
 - main applicant
 - any dependants (when applying for an extension of stay)
- police registration certificate for:
 - main applicant
 - any dependants
- evidence of applicant's leave showing permission to work
- evidence of the applicant's previous employment – this can include:
 - original payslips
 - corresponding bank statements for the entire period of employment
 - corresponding P60 for each year worked
- au pairs – letter from host family if payslips and bank statements are not available:
 - for more information, see: [Supporting documents required from au pairs](#)
- a letter from the employer as evidence employment will continue in one of the following ways:
 - with the same employer if legally employed for between 1 and 3 years
 - in the same occupational area if legally employed for 3 years
 - with any employer if legally employed for 4 or more years

You must request any missing documents and bring forward (B/F) the case for 15 days for a response.

At the end of this period if you refuse the application you must explain to applicants why and how any missing documents lead to a refusal.

Suspected fraudulent documents

If you have reasonable doubts about whether supporting documents are genuine and accurately reflect the claims made in the application, you must verify them with the appropriate agency to decide if the documents are genuine or false.

You must refer the document to your team leader or line manager, in the first instance, who will forward them for verification.

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Supporting documents required from au pairs

This page tells you which original documents are needed from au pairs to support an application for leave to remain as a Turkish employed worker.

Under European Community (EC) law, au pairs are recognised as employed workers.

Applicants need to show they are working as au pairs under the direction of the host family in return for payment.

Applicant must show:	Example of evidence in support:
Host family can accommodate the au pair.	Legal documents which relate to the host family's home.
Au pair can be and is being paid.	Bank statements for the: <ul style="list-style-type: none">• family• au pair (if available)
Au pair is living with the host family.	<ul style="list-style-type: none">• correspondence addressed to the applicant at the host family's address• notification to the local council that the au pair is part of the household• any involvement of an au pair agency in securing the placement
Au pair duties have been and will continue to be undertaken.	A statement from the host family which details the au pair's working pattern, including when the au pair has been and will be working, and for how long they intend to retain the services of the au pair.

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Qualifying for leave to remain

This section tells you the initial requirements applicants must meet to be granted leave to remain as a Turkish employed worker.

An applicant must meet the requirements of [article 6\(1\) of decision 1/80](#) of the Association Council and must meet one of the categories below:

Be a worker

Perform services for and under the direction of another person, in return for payment in cash or kind. The activities must be real and genuine, excluding small scale marginal activities.

Under European Union (EU) law, neither the nature of the employment relationship, the origin of the funds, nor the level of remuneration, matters.

Be duly registered as belonging to the UK's labour force

Employed on the same conditions of work and pay as those claimed by other workers who pursue similar activities in compliance with the UK's rules and regulations.

For example, pay income tax and national insurance contributions.

Have been in legal employment with the same employer for at least one year

They must have a 'stable and secure position in the labour force' and an 'undisputed right of residence' on the basis of valid and lawfully obtained leave which permits employment.

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Examples of Turkish employed workers

This page gives some examples of Turkish employed workers who are duly registered as belonging to the UK's labour force under [article 6 \(1\) of decision 1/80](#) of the Association Council.

The concept of a Turkish worker has a Community law definition.

Typical applicants are those admitted for a purpose other than employment but with permission to work, and will build up rights under article 6(1) as a result of any employment they undertake.

The following people are considered to be workers:

- students working up to 10 hours a week in term time
- trainees
- apprentices
- part-time workers
- au pairs
- those engaged in employment schemes

You must exclude activities on such a small scale they are regarded as purely marginal and ancillary (extra).

People who were in legal employment, because they have code 1 leave as a spouse, whose marriage has broken down, or on code 4 as a work permit holder and the work permit is not being renewed are also eligible to apply.

Freedoms within the UK's labour force increase with time. After 3 years of legal employment a worker can take up employment with any employer within the same occupation and after 4 years of legal employment a worker can take up any offer of employment.

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Duly registered, legal employment and labour force

This page explains the meaning of 'duly registered', 'legal employment' and 'labour force' when used in the European Community Association Agreement (ECAA) Turkish employed category.

Duly registered

In Community law it implies the applicant is employed on the same conditions of work and pay as those claimed by other workers who pursue identical or similar activities in compliance with the UK's rules and regulations.

For example, the worker is paying income tax and national insurance contributions (NICs).

Legal employment

In community law it implies the worker has a stable and secure position in the labour force. The employment must be located in or closely linked with the UK.

Applicants resident on a temporary basis awaiting the outcome of an application or appeal do not build up article 6(1) rights. If a worker gained previous leave through proactive deception, they will not build up rights under article 6(1).

Periods without employment may or may not affect the applicant's accrued article 6(1) rights depending on the circumstances. For more information, see related link: ECAA Turkish employed: periods without employment.

Labour force

The meaning of 'labour force' is broadly interpreted in community law. There is no distinction between being a member of the general labour force and being part of a specific sector labour force having specific objectives.

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Out of time applications

This page explains how to consider an application for leave to remain as a Turkish employed worker after they have submitted an out of time application.

You must not refuse applications because they were submitted out of time.

However, it is consistent with community case law any employment undertaken more than 28 days after previous leave (with a right to take up employment) has expired is not legal employment, as the Turkish employed worker will be residing illegally in the UK.

You must refuse any application which relies in part or in full on employment undertaken whilst in the UK more than 28 days after previous leave has expired.

If an applicant can show they have undertaken the appropriate period of legal employment before their last period of leave elapsed (including the 28 day grace period) and they will continue to work in line with article 6(1) rights, then you must grant leave.

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Multiple employers and agency employment

This page tells you the effect of having more than one employer at the same time or obtaining work through an employment agency on an application for leave as an employed person under the Turkish European Community Association Agreement (ECAA).

Article 6(1) requires one year or more of continuous legal employment. If employment is not continuous then the application must be refused. However, this requirement does not stop workers from having more than one employer at the same time.

Workers who have more than one employer but who can show they have been in continuous legal employment for the appropriate period with one of these employers will meet the requirement.

Registration with an employment agency does not in itself constitute being duly registered in the labour force.

Applicants whose employment is secured through an employment agency still need to show they have been in continuous employment with the same employer or within the same occupation, through the agency, for the appropriate period.

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Loss of rights as a Turkish employed worker

This section tells you the circumstances when a Turkish employed worker can lose their article 6(1) rights.

A Turkish employed worker loses any rights built up under article 6(1) if they leave the labour force and either:

- objectively no longer has any chance of rejoining it
- exceeds a reasonable time limit for finding new employment

Official – sensitive: start of section

The information on this page has been removed as it is restricted for internal Home Office use.

Official – sensitive: end of section

For more information, see: [Periods without employment](#).

If a Turkish employed worker obtained previous leave with an entitlement to work by proactive deception, they will not build up rights under article 6(1).

Loss of rights because of public policy, public security and public health

Rights can also be limited on grounds of public policy, public health and public security in accordance with [article 14\(1\) of decision 1/80](#).

Text of article 14(1)

‘The provisions of this section shall be applied subject to limitations justified on the grounds of public policy, public security or public health.’

Public policy and public security

The personal conduct of the applicant must represent a genuine, present and sufficiently serious threat affecting one of the fundamental interests of society.

Decisions taken on grounds of public policy or public security must be proportionate and must only refer to the conduct of the applicant.

Previous criminal convictions shall not in themselves constitute grounds for refusal. Criminal convictions can be considered as one relevant factor in the fuller assessment of conduct.

You must get authorisation from a senior caseworker before refusing a Turkish employed application under [article 14 of decision No 1/80](#).

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Periods without employment

This page tells you how periods without employment affect a Turkish employed worker's rights under [article 6\(1\) of decision 1/80 of the Association Council](#).

You must determine whether any periods of unemployment affect the applicant's article 6(1) rights as follows:

Short term absences

These do not affect article 6(1) rights. Article 6(2) states the following absences still count towards legal employment:

- annual leave
- maternity and paternity leave
- absences for reason of an accident at work
- short periods of sickness absence

Involuntary unemployment

These periods duly certified by the relevant authorities.

For example, where the applicant has registered with Jobcentre Plus and is actively seeking employment, and long absences on account of sickness do not count as legal employment but do not affect article 6(1) rights built up as the result of a preceding period of employment.

Other periods without employment

In circumstances where a Turkish employed worker leaves the labour force and objectively no longer has any chance of rejoining it, or exceeds a reasonable time limit for finding new employment, they lose any rights built up under article 6(1).

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Indefinite leave to remain (ILR)

This page tells you how to treat any applications for indefinite leave to remain (ILR) from Turkish employed workers who have completed 4 or more years in the category.

Under article 6(1) of decision 1/80 of the Association Council there is no provision for a Turkish employed worker to be granted settlement in the UK after completing 4 years' legal employment in the category, only the freedom to take up employment with any employer.

Granting leave where the applicant has completed 4 years' employment

A worker who has completed 4 years' employment is not entitled to settlement. However, you may still grant further leave of up to a maximum of 3 years if you are satisfied they continue to meet the provisions of the European Community Association Agreement (ECAA).

For more information, see: [Granting leave after 4 years' employment](#).

You must refer any applications for ILR from Turkish employed workers to the higher executive officer (HEO) senior caseworker, who will consider the application with reference to the policy of discretionary leave and leave outside the rules.

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Family members

This section tells you how to consider applications for entry clearance or leave to remain from family members of Turkish employed workers.

You must consider these applications under article 7 of decision 1/80 when you decide if it is appropriate to grant or refuse applications.

Article 7 states:

The members of the family of a Turkish worker duly registered as belonging to the labour force of a Member State, who have been authorised to join them shall:

- be entitled, subject to the priority to be given to workers of Member States of the Community, to respond to any offer of employment after they have been legally resident for at least 3 years in that Member State
- enjoy free access to any paid employment of their choice provided they have been legally resident there for at least 5 years

Children of Turkish workers who have completed a course of vocational training in the host country may respond to any offer of employment there, irrespective of the length of time they have been resident in that Member State.

This is provided one of their parents has been legally employed in the Member State concerned for at least 3 years.

Applicants must show they are genuine family members before getting authorisation to join, or remain with, the main applicant.

Family members are:

- spouses
- civil partners
- unmarried and same-sex partners
- children under the age of 21 (paragraph 41 of HC510 defines a dependent child as being under the age of 21)

The criteria are based on those used for family members of points-based system (PBS) migrants. To build up rights under article 7, a family member must cohabit with the main applicant for 3 years, during which time they must continue to meet the criteria for family members of PBS migrants.

After 3 years' lawful residence, a family member will get their own right of access to the labour force, set out in the first indent of article 7 and with it a right of residence protected by European Union (EU) law.

In addition, a qualifying family member will be granted code 1 leave with permission to work and if they choose to work will also build up rights under article 6(1) after one year of legal employment.

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Loss of rights as a family member

This page tells you the circumstances in which rights gained by family members of a Turkish worker under [article 7 of decision 1/80 of the Association Council](#) can be lost.

Rights gained by family members under article 7 can only be lost on the following grounds:

- public policy
- public health
- public security (as defined in European Union (EU) law)
- if the family member leaves the UK for a significant length of time (2 years or more) without legitimate reason

European Community (EC) law has found that rights accrued under article 7 are kept in the following circumstances. The:

- principal worker leaves the UK or stops working in the UK but retains an entitlement to work
- principal worker is shown to have fraudulently obtained the right to work
- family member chooses not to seek and take employment pursuant to rights under the first and second indents of article 7
- family member was a child at the time of being authorised to join the principal worker and, having cohabited with the worker for 3 or more years whilst the worker has been legally resident and duly registered as belonging to the labour force, reaches the age of 21 and/or ceases to be dependent on the principal applicant and/or starts to live independently from the principal applicant
- family member is unable to work for a period of time because they are serving a prison sentence (despite public policy or public security considerations that arise from the crime committed)

For example, the child of an employed person who arrives in the UK as a 15 year old and remains as a family member for 3 years will then have a right to reside in their own right even if the principal worker leaves the UK or ceases working.

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Partners of Turkish employed workers

This page explains the requirements for spouses, civil partners, unmarried and same-sex partners of a Turkish employed worker to qualify for entry clearance or leave to remain as the partner of a Turkish employed worker.

The applicant must be either the:

- spouse
- civil partner
- unmarried or same-sex partner

of a person who either:

- has valid leave to remain as a Turkish employed worker
- is at the same time being granted leave to remain as a Turkish employed worker

The applicant and the Turkish employed worker must be over the age of 18 on the date the application is made.

The applicant must not fall for refusal under the general grounds:

- in the light of their character or conduct
- their associations must not represent a danger to national security
- they must not be an illegal entrant

An unmarried or same-sex partner of a Turkish employed worker must meet the following requirements:

- any previous marriage, civil partnership or similar partnership of either the applicant or the Turkish employed worker with another person must have permanently broken down
- the applicant and the Turkish employed worker must not be so closely related that they would be prohibited from marrying each other in the UK
- the applicant and the Turkish employed worker must have been living with each other in a relationship similar to marriage or civil partnership for at least 2 years before the application being made

You must be satisfied the:

- partnership is subsisting at the time the application is made
- applicant and the Turkish employed worker intend to live together throughout their stay in the UK
- applicant does not intend to stay beyond any period of leave granted to the Turkish employed worker

The applicant who is applying for leave to remain must have, or have last been granted leave as either the:

- partner of a Turkish employed worker
- spouse, civil partner, unmarried or same-sex partner of a person with leave under another category of these rules who has since been granted, or at the same time is being granted leave to remain as a Turkish employed worker

If the applicant meets these requirements you must grant entry clearance or leave to remain.

If they do not meet these requirements you must refuse the application.

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Children of Turkish employed workers

This page explains the requirements for children of a Turkish employed worker to qualify for entry clearance or leave to remain.

The applicant (child) must be the child of a parent who either:

- has leave to remain as a Turkish employed worker
- is at the same time being granted leave to remain as a Turkish employed worker

The child must be:

- under the age of 21 on the date the application is made
- if over 21 and applying for leave to remain, must have, or have last been granted:
 - leave as the child of a Turkish employed worker
 - as the child of a parent with leave under another category of these rules who has since been granted
- at the same time is being granted leave to remain as a Turkish employed worker

The child must not fall for refusal under general grounds:

- in the light of their character or conduct
- their associations must not represent a danger to national security
- they must not be an illegal entrant

The child must not:

- be married or in a civil partnership
- have formed an independent family unit
- be leading an independent life

You must be satisfied the applicant does not intend to stay beyond any period of leave granted to the Turkish employed worker.

Both of the applicant's parents must either be lawfully present in the UK, or being granted entry clearance or leave to remain at the same time as the applicant, unless:

- the Turkish worker is the applicant's only surviving parent
- the Turkish worker parent has and has had sole responsibility for the applicant's upbringing
- there are most exceptional serious or compelling family or other considerations which would make it desirable not to refuse the application and suitable arrangements have been made in the UK for the applicant's care

Unless the child was born in the UK, the child who is applying for leave to remain must have, or have last been granted leave as the child of a:

- Turkish employed worker
- parent with leave under another category of these rules who has since been granted, or at the same time is being granted leave to remain as a Turkish employed worker

If the child meets these requirements you must grant entry clearance or leave to remain. If the child does not meet these requirements, you must refuse the application.

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Granting leave

This section tells you how to grant leave to employed applications under the Turkish European Community Association Agreement (ECAA) that meet all the requirements.

For more information, see:

- [Granting leave after one year's employment](#)
- [Granting leave after 3 years' employment](#)
- [Granting leave after 4 years' employment](#)

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Granting leave after one year's employment

This page tells you how to consider initial applications for leave as a Turkish employed worker under the first indent of article 6(1), when the applicant has been employed with the same employer for one year.

The purpose is to allow the Turkish worker, after one year's legal employment with the same employer, to continue working for the same employer after the initial year. The aim is to make sure there is continuity of employment.

Continuity of employment

If a Turkish worker has completed one year's legal employment for the same employer under the first indent of article 6(1), you must grant leave to the date before which the applicant will be within the second indent. This means applicants can be granted a maximum of 2 years' leave.

You must refuse leave if the employment is not continuous, even if the applicant has completed a full year's employment without interruption but for 2 different employers. The applicant will only qualify after completing one full year's employment with the same employer.

Type of leave granted

Applicants who are within the first indent of article 6(1) must be granted code 4 leave. The endorsement will specify which employer they can work for.

Where a worker has obtained previous leave through proactive deception, they will not build up rights under article 6(1).

Examples

Worker continuously in legal employment for:	Duration of grant of leave
12 months	Two years
18 months	Further 18 months

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Granting leave after 3 years' employment

This page tells you how to consider applications for leave as a Turkish employed worker under the second indent of article 6(1), when the applicant has been employed with the same employer for 3 years.

This allows the Turkish worker, after 3 years of legal employment with the same employer to change employers and respond to any offers of employment for the same occupation.

If a Turkish worker has completed 3 years of legal employment for the same employer under the second indent of article 6(1), you must grant leave to the date before which the applicant will be within the third indent. This means applicants can be granted a maximum of 12 months' leave.

Absences and continuity

You must count any short absences such as annual leave, maternity or paternity leave, absences resulting from accidents at work and short periods of sickness leave as legal employment.

Long absences, such as involuntary unemployment, do not count as legal employment but do not affect article 6(1) accrued rights before the absence.

Type of leave granted

Applicants who fall within the second indent of article 6(1) must be granted code 2 leave. The endorsement will specify which occupation field they are entitled to work in.

Where a worker has obtained previous leave through proactive deception, they will not accrue rights under article 6(1).

Examples

Worker continuously in legal employment for:	Duration of grant of leave:
Three years	Further 12 months
Three years and 4 months	Further 8 months

Cases where the applicant has worked legally for 3 years but is applying under the European Community Association Agreement (ECAA) for the first time

It is possible on the first application for leave pursuant to article 6(1), that the applicant has already undertaken 3 years legal employment. If so, the applicant is immediately entitled to be granted leave to work for any employer within the same occupation.

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Granting leave after 4 years' employment

This page tells you how to consider applications for leave as a Turkish employed worker under the third indent of [article 6\(1\) of decision 1/80 of the Association Council](#), when the applicant has been employed in the same occupation for 4 years.

This allows a Turkish worker with 4 years of legal employment in the same occupation to enjoy free access to any paid employment. This includes the right to seek employment for a 'reasonable period'.

If a Turkish worker has completed 4 years of legal employment for the same occupation under the third indent of article 6(1), you must grant leave up to a maximum of 3 years.

Type of leave granted

Applicants who are within the third indent are granted code 1 leave. There is no specified employer or occupation on the endorsement.

Applicants must be granted leave for a duration which takes account of the length and stability of the applicant's employment, and the evidence they can produce in support of their ongoing employment.

Grants under the third indent should not exceed 3 years. This is unless the circumstances of the employment are such that granting a further short period of leave after 3 years would be unreasonable.

For example if the applicant is employed on a single contract basis.

Examples

Worker continuously in legal employment for:	Duration of grant of leave
Four years and working with the same employer continuously for 2 years or more	Up to 3 years
Four years and has periods of involuntary unemployment and can only produce evidence of short term future employment	Between 1 and 2 years

Cases where the applicant has already worked for 4 years but applies under the European Community Association Agreement (ECAA) for the first time

It is possible on the first application for leave pursuant to article 6(1) that the applicant has already completed over 4 years legal employment and is immediately entitled to be granted leave to work for any employer in any occupation.

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Rights of appeal

This page tells you if an applicant has a right of appeal if their employed application under the Turkish European Community Association Agreement (ECAAA) is refused.

This section only applies where the decision to refuse was made before 6 April 2015. If the refusal was made on or after 6 April 2015 then the administrative review process will apply. For more information on administrative review see related links.

Applicants who have been refused before 6 April 2015 can appeal under section 82 and 92(2) of the Nationality, Immigration and Asylum (NIA) Act 2002, if the 'immigration decision' attracts a right of appeal on one or more of the grounds listed in section 84 of the act.

Appeals will be made to the Immigration and Asylum Chamber (IAC) of either the First-tier Tribunal or the Upper Tribunal, which is independent of the Home Office.

The appellant may decide to provide new evidence which was not available at the time the original decision was made.

Part 5 of the act introduced the principle of a 'one-stop' system which was designed to prevent applicants from extending their stay by mounting multiple appeals. This means applicants can only have one application running at any one time.

Information on any appeals lodged with IAC can be found on the appeals maintenance screen on CID.

Leave, and any conditions attached to it, is extended to the time when an appeal could be brought, or while an appeal hearing is pending.

The time limit for appealing against a decision is 10 working days after the receipt of the notice of decision. Receipt is assumed to be 2 days after the decision was despatched unless there is any evidence to the contrary.

Leave to remain refusals

You will need to consider whether the application was raised in time, out of time or whether the applicant has existing leave as follows:

Applications made:	Decision:	Right of appeal:
in time, under the provisions of decision 1/80	refused, with no leave left as a result	Yes, under both: <ul style="list-style-type: none">• Section 82• Section 92(2) of the NIA Act 2002
out of time, under the provisions of decision	refused, with no leave left as a result	No, under section 82(2) of the NIA Act 2002, unless the

Applications made:	Decision:	Right of appeal:
1/80		appeal is accepted by IAC.
with existing leave	refused, with existing leave which is not curtailed	No

Notice of decision with a right of appeal

Where the decision attracts a right of appeal you must issue both a:

- notice of decision using ICD.4547
- reasons for refusal letter (RFRL) using ICD.3050 setting out the detailed circumstances why the application falls for refusal against the requirements of article 6(1)

Notice of decision without a right of appeal

Where the decision does not attract a right of appeal you must issue a notice of decision using ICD.2242.

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Administrative review

This page tells you whether a person applying for leave as a worker under the Turkish EC Association Agreement (ECAA) is entitled to an administrative review or whether they have a right of appeal where their application is refused.

Applications made on or before 5 April 2015

Where an application for leave to remain under the Turkish ECAA has been made on or before **5 April 2015**, applicants are entitled to appeal under section 82(1) of the Nationality, Immigration and Asylum Act 2002 if the 'immigration decision' attracts a right of appeal on one or more of the grounds listed in section 84 of the act. Whether an applicant has a right of appeal will depend on whether their application was submitted 'in' or 'out' of time. For further information on these kinds of appeal see related links.

Applications made on or after 6 April 2015

From **6 April 2015** amendments to the Immigration Act 2014 mean that rather than a right of appeal to a tribunal, applicants can challenge a decision under the Turkish ECAA through an administrative review. Unlike the previous system, applicants will have a right to an administrative review irrespective of whether their application was 'in' or 'out' of time. Further guidance on the administrative review process can be found via the links on the right hand side.

Decision letters

If you are making a Turkish ECAA decision on an ECAA application made on or after **6 April 2015**, you must use notice **0007**. This notice contains important information for applicants regarding the administrative review process.

Administrative reviews

Administrative review will consider whether an 'eligible decision' is wrong because of a case working error and, if it is, correct that error. Administrative review is available for in-country applications for leave to remain or indefinite leave to remain under the Turkish ECAA category made on or after 6 April 2015.

The applicant's status while an administrative review is being undertaken

If the applicant has immigration leave and makes an application for administrative review within the time limit, they will continue to have immigration leave until the administrative review is concluded, or they withdraw their application. Paragraph AR2.9 of appendix AR of the Immigration Rules states that the Home Office will not seek to remove an applicant from the UK while a valid application for administrative

review is pending. This is to provide the applicant with the same protection from removal as if they had appealed the decision.

Once the administrative review process is concluded, you must restart removal action unless leave has been granted.

Who should consider the request for administrative review

Where a request for an administrative review is made on an ECAA case, it will be carried out by the Administrative Review team. This is a separate team that is independent from the team who made the original decision. This is because a review must be considered by a different person to the one who made the original decision. This will make sure there is independence and transparency in the review process.

For more information on how administrative reviews are considered, see:

- [Administrative review guidance on GOV.UK](#)
- [Apply for an administrative review](#)
- [Immigration Rules: Appendix AR](#)

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Rights of appeal

Refusal wordings

This section contains suggested refusal wording for refusal notices when you refuse a person who has applied for further leave to remain in the UK as a Turkish employed worker.

The refusal wordings set out the:

- specific reasons for refusal based on the requirements of article 6(1) followed by
- suggested wording for refusal notices describing why the requirements have not been met

Where the decision attracts a right of appeal you must issue a:

- notice of decision using ICD.4547 – this summarises the main reasons for refusal
- reasons for refusal letter (RFRL) using ICD.3050 – this sets out the detailed circumstances why the application falls for refusal against the requirements of article 6(1)

The reasons for refusal must always be expanded to accurately reflect the detailed circumstances why the application falls for refusal against the requirements of article 6(1).

You must make sure the wordings are relevant and specific to the case in question. The wording must explain exactly which requirements have not been met and why they have not been met in the light of the evidence provided.

In cases where none of the examples are relevant, you can draft alternative wordings, explaining which requirements have not been met and why they have not been met.

For more information, see:

- [ECAA Turkish employed refusal wording: main requirements](#)
- [ECAA Turkish employed refusal wording: grounds of public policy, security or health](#)

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ECAA Turkish employed refusal wording: main requirements

This page provides suggested refusal wordings for ICD.2240 refusal notices when you refuse a person who has applied for leave to remain as a Turkish employed worker under [article 6\(1\) of decision 1/80](#).

You must use the following introductory paragraph in all formal notices to applicants or their representatives:

‘You applied for/Name of representative applied on your behalf for further leave to remain in the United Kingdom as a worker under Article 6(1) of decision 1/80 of the Association Council established by the European Community Association Agreement (ECAA) with Turkey, but your application has been refused because I am not satisfied that:’

Reason	Suggested wordings
You have not provided sufficient evidence to show that your period of employment matches the period required	You have only provided evidence to show that you have been employed by [employer’s name] for a period of [length of employment]. You do not therefore qualify for leave to remain to continue working for [employer]/to pursue employment within the same occupation/to pursue any offer of employment in the United Kingdom.
You have not provided sufficient evidence to show that your period of employment has been continuous	You have provided evidence to show that you have been in employment with [employer’s name] for [period of time] but you have not provided sufficient evidence to show that this period of employment has been on a continuous basis.
You have not provided sufficient evidence to show that your employment is continuing	You have provided evidence to show that you have been in employment with [employer’s name] for [period of time] but you have not provided evidence to show that you will continue to work for [employer’s name].
Your period of employment was not entirely undertaken within 28 days since the expiry of your last leave	Your last period of leave to remain in the United Kingdom [extended by virtue of section 3C of the Immigration Act 1971] expired on [date]. However, the period of employment upon which you are basing this application did not begin until [date, must be more than 28 days after expiry of last period of leave]. Since that date you are not considered to have been legally employed in the UK as you have had no lawful basis for remaining in the UK.
Your period of employment was not in part undertaken within 28 days since the	Your last period of leave to remain in the United Kingdom [extended by virtue of section 3C of the Immigration Act 1971] expired on [date]. However, the

Reason	Suggested wordings
expiry of your last leave	period of employment upon which you are basing this application includes [X months/ years] of employment undertaken 28 days after your last period of leave expired on [date that last leave expired]. Since that date you are not considered to have been legally employed in the UK as you have had no lawful basis for remaining in the UK. You have not therefore undertaken legal employment for a period of [one/three/four or more years].
Your period of employment was not undertaken entirely whilst on section 3C leave	Your last period of leave to remain in the United Kingdom expired on [date] and was extended by virtue of section 3C of the Immigration Act 1971 until [date]. However, the period of employment upon which you are basing this application did not begin until [date, that must be after the start of 3C leave], once you were on 3C leave. European Community (EC) law defines 'legal employment' as having a stable and secure position in the labour force and an undisputed right of residence' and states explicitly that this does not include those 'resident on a provisional basis awaiting the grant of [leave] or someone who is authorised to work whilst he or she appeals against a decision refusing [leave]'. Your employment with [employer's name] does not therefore meet the EC threshold for legal employment.
Your period of employment was not undertaken in part whilst on section 3C leave	Your last period of leave to remain in the United Kingdom expired on [date] and was extended by virtue of section 3C of the Immigration Act 1971 until [date]. The period of employment upon which you are basing this application began on [date] and includes [X months/ years] on 3C leave. European Community (EC) law defines 'legal employment' as having a stable and secure position in the labour force and an undisputed right of residence" and states explicitly that this does not include those 'resident on a provisional basis awaiting the grant of [leave] or someone who is authorised to work whilst he or she appeals against a decision refusing [leave]'. You have not therefore undertaken employment that meets the EC threshold for legal employment for a period of [one/three/four or more years].

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ECAA Turkish employed refusal wording: grounds of public policy, security or health

This page provides suggested refusal wordings for ICD.2240 refusal notices when you refuse a person who has applied for leave to remain as a Turkish employed worker under article 14 of decision 1/80.

You must use the following introductory paragraph in all formal notices to applicants or their representatives:

'You applied for/Name of representative applied on your behalf for further leave to remain in the United Kingdom under the provisions of [Article 6 or Article 7] of decision 1/80 of the Association Council established by the ECAA with Turkey, but your application has been refused on grounds of [public policy, public health or public security].

You are referred to Article 14(1) of decision No 180 which states:

'The provisions of this section shall be applied subject to limitations justified on the grounds of public policy, public security or public health.'

Further to the highlighted section of Article 14(1) your application is refused because:

Your personal conduct represents a genuine, present and sufficient serious threat affecting one of the fundamental interests of society:

- The Home Office has reviewed your application as a whole, taking into account all the relevant circumstances, which includes your record of past criminality. You were convicted for [type of offence and date convicted].
- In reviewing previous criminal convictions, the Home Office considers a variety of factors, these may include for example, the type and severity of the crime committed, the sentencing court's view of the seriousness of the offence as reflected in the sentence imposed, the result of any appeal upon that sentence, the length of time which has passed since evidence of criminality, the culpability of the offender, the propensity to re-offend, the harm to the victim and the effect of that type of crime on the wider community. These considerations have been weighed up against the need to protect the public.
- All the facts known about your past conviction(s) have been reviewed and in your case, [provide detail quoting from the sentencing judge's judgment]
- The Secretary of State, having taken into account all the circumstances of your case, has therefore deemed that refusal is appropriate on the basis that article 14(1) permits limitation of rights on the ground of [public policy, public security or public health]. Furthermore, in line with article 14 of decision 1/80, your accrued employment rights have been lost.'

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The text of article 6(1)

This page shows you the text of article 6(1) of decision 1/80 of the Association Council that sets out the entitlements of Turkish employed workers once admitted to the UK's labour force.

It also explains how their freedoms within the labour force increase after 1, 3 and 4 years of legal employment.

You must consider applications for an extension of stay in the UK as a Turkish worker under article 6(1) when you decide whether to grant or refuse leave to remain.

Article 6(1) states:

- 'Subject to Article 7 on free access to employment for members of his family, a Turkish worker duly registered as belonging to the labour force of a Member State shall:
 - be entitled in that Member State, after one year's legal employment, to the renewal of his permit to work for the same employer, if a job is available
 - be entitled in that Member State, after three years of legal employment and subject to the priority to be given to workers of Member States of the Community, to respond to another offer of employment, with an employer of his choice, made under normal conditions and registered with the employment services of that State, for the same occupation
 - enjoy free access in that Member State to any paid employment of his choice, after four years of legal employment.'
- 'Annual holidays and absences for reasons of maternity or an accident at work or short periods of sickness shall be treated as periods of legal employment. Periods of involuntary unemployment duly certified by the relevant authorities and long absences on account of sickness shall not be treated as periods of legal employment, but shall not affect rights acquired as the result of the preceding period of employment.'
- 'The procedures for applying paragraphs 1 and 2 shall be those established under national rules.'

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Background

This page explains the background to the rights given by the Ankara Agreement to legally employed Turkish workers in the UK.

The Turkish European Community Association Agreement (ECAA) was set up under the Ankara Agreement in 1963 to promote economic and social links between the European Economic Community (EEC) and Turkey, and the eventual accession of Turkey to the European Union (EU).

Article 6(1) of decision 1/80 of the Association Council refers to the progressive rights of Turkish workers over time who are in legal employment and duly registered as belonging to the labour force of the UK.

Turkish employed applicants must satisfy the following 3 requirements. They must:

- be a worker
- be duly registered as belonging to the UK's labour force
- have been in legal employment with the same employer for a least one year

The term 'worker' follows the EU definition and includes:

- trainees
- apprentices
- part-time workers
- au pairs
- those engaged in employment schemes

Any person who pursues a genuine and effective economic activity under the direction of an employer and who receives remuneration in cash or kind meets this definition.

Small scale activities regarded as marginal or ancillary (extra) are excluded.

Once admitted to the UK's labour force, the worker's freedoms within the labour force increase after one year's legal employment, 3 years of legal employment and 4 years of legal employment.

This guidance only applies to applications made under the worker provisions of the Turkish ECAA. Turkish nationals who wish to set up in business in the UK are considered separately in line with different requirements.

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