



Notification of revised guidance

European Community Association Agreement (ECAA) with Turkey

The UK Border Agency would like to notify a number of revisions to our published guidance for consideration of applications made under the ECAA with Turkey. The revised guidance will come into force on **1 June 2009** and will be available on the UK Border Agency website at:

<http://www.bia.homeoffice.gov.uk/policyandlaw/guidance/IDIs/> .

The revisions are summarised below. ECAA application forms have been updated accordingly.

1. Turkish Worker guidance (IDIs Chapter 5 Section 10)

- *Payir & Ozturk – section 4*

The guidance has now been updated to reflect the ECJ judgement in *Payir & Ozturk* (C-294/06)

- *Family members – section 12 and annex A*

The guidance has now been updated to reflect recent EC case law dealing with family members claiming rights under Article 7 of Decision 1/80.

The qualifying criteria for family members have also been brought in line with the requirements for family members of points-based system migrants in the current Immigration Rules, being partners and children.

- *Besseroglu – section 14*

In response to the recent High Court judgment in the case of *Besseroglu* (CO/3783/2008), the SSHD will also now consider granting periods of leave for up to 3 years to applicants who have accrued a right of free access to the labour market.



2. Turkish businessperson guidance (IDIs Chapter 6 Section 6)

- ***Applicants establishing in breach of conditions – section 2.1.2***

Applications by those seeking leave to remain who have already established in business in breach of the conditions of any previous leave to enter or remain will normally be treated as abusive and be excluded from applying under the ECAA.

- ***Overstayers – section 4.3.1.1***

Applicants will not normally be excluded from applying under the ECAA where they have been able to make their application by virtue of a period of overstaying. However, periods of overstaying of more than 28 days will be taken into account as part of assessment under the terms of the 1973 business provisions.

- ***Applicants on temporary admission (TA) – section 2.1.3***

Applicants who establish in business whilst on TA will be excluded from applying under the terms of the ECAA. Permission to undertake economic activity i.e. employment, whilst on TA has never extended as far as permission to engage in business and to do so constitutes abusive activity by breaching conditions.

- ***Dependants – section 3.4 and annex C***

The categories of businessperson dependants permitted in 1973 were more restrictive than under the current Immigration Rules, being only wives and children. The qualifying criteria for dependants have been brought in line with the requirements for family members of points-based system migrants in the current Immigration Rules, being partners and children. This allows a wider group of dependants than in the 1973 dependant provisions.