

Business applications under the Turkish EC Association Agreement

This guidance is based on the business provisions in force in 1973.

Business applications under the Turkish EC Association Agreement

About this guidance

Key facts Eligibility as a Turkish businessperson Pre-decision casework Breaches of immigration law Type of business structure Assessing the applicant meets the requirements Additional requirements if joining an existing business Requirements to continue operating their business Requirements to settle in the UK Dependent family members Refusal wording Examples of successful and unsuccessful applications Rights of appeal Administrative review Criminality Relevant Immigration Rules Background	<p>This guidance gives information on deciding applications from self-employed Turkish businesspersons who wish to apply for an extension of stay in the UK to self-establish in business or continue operating their business under the Turkish EC Association Agreement.</p> <p>Turkish nationals who have completed at least four years lawfully in the UK as a businessperson are entitled to apply for indefinite leave to remain to settle in the UK. If granted, there are no further time restrictions on their length of stay in the UK or restrictions on their employment.</p> <p>Changes to this guidance – This page tells you what has changed since the previous version of this guidance.</p> <p>Contact – This page tells you who to contact for help if your team leader can't answer your question.</p> <p>Information owner – This page tells you about this version of the guidance and who owns it.</p> <p>Safeguard and promote child welfare – This page explains your duty to safeguard and promote the welfare of children and tells you where to find more information.</p>	<p>In this section</p> <p>Changes to this guidance</p> <p>Contact</p> <p>Information owner</p> <p>Related Links</p> <p>Link to staff intranet removed</p>
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Key facts

This page shows you the key facts for business 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"> • has obtained entry clearance for the purpose of establishing themselves in business in the UK • has leave to remain in another category and wishes to switch into the ECAA category with the intention to self-establish in business • is already in this category and wishes to apply for an extension of stay to continue operating their business under the 1973 business provisions • has completed four years as a Turkish businessperson and wishes to apply for indefinite leave to remain in the category
Application forms	Extension of stay – ECAA2 Turkish Businessperson
Cost of application:	No fee
Entry clearance mandatory?	No
Is biometric information required for applications made in the UK?	Yes
Code of leave to remain granted	Code 2
Entry clearance endorsements	Not applicable
Conditions of leave to remain	<p>Limited leave to remain in the UK</p> <p>No recourse to public funds</p> <p>Able to work as authorised by the Secretary of State</p> <p>Register at once with the police or report extension to the police</p>
How long is leave to remain normally granted for?	<ul style="list-style-type: none"> • applicants who have already entered the UK lawfully in other categories with a genuine intention to self-establish in business must be granted 12 months leave to remain from the date of the decision • after completing one year of self-employment applicants must normally be granted 3 years further leave to remain if the provisions are met - where the ongoing success of the business is still to be proven a further 12 months leave may be granted rather than the full 3 years • applicants may be granted indefinite leave to remain on completion of 4 years in the category unless there are grounds for maintaining the time limit
Are dependants allowed?	Yes – partner and/or children under 18 if they are applying as dependants. A partner means spouse, civil partner, unmarried or same-sex partner.
Work and study allowed?	Paid employment is prohibited.
Is switching into this category allowed?	Yes. Turkish nationals who are in the UK lawfully under any other immigration category and can meet the 1973 business requirements are entitled to have leave granted under the Turkish ECAA.
Does this category lead to	Yes

settlement (indefinite leave to remain)?	
Is knowledge of language and life required?	No
CID case type	Business under EC Association Agreement – Switching, LTR and ILR
Immigration Rules paragraphs	Paragraphs 4, 21 and 28 of HC510, the business rules in force in 1973.

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Changes to this guidance

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This page lists changes to the 'Business applications under the Turkish EC Association Agreement' guidance, with the most recent at the top.

Date of the change	Details of the change
15 October 2015	Change request: <ul style="list-style-type: none">page 74 – clarification that the age of a dependent child must be under the age of 21
21 May 2015	The third paragraph on page 99 has been amended to correct a CID letter reference.
22 April 2015	The third bullet point under the indefinite leave to remain sub-heading on the Dependant partner page has been amended.
8 April 2015	Rights of appeal page amended and new Administrative review page added, following administrative reviews being introduced for this route.
04 March 2014	Modernised by European operational policy team and the guidance, rules and forms team.

See also

[Contact](#)

[Information owner](#)

Business applications under the Turkish EC Association Agreement

Eligibility as a Turkish businessperson

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Business applications under the Turkish EC Association Agreement

Eligibility for entry clearance

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	<p>granted entry clearance for no more than 12 months and receive the endorsement: CAT D ECAA Business Code 2 restricting employment.</p> <p>Refusals must clearly set out which of the requirements of the on entry 1973 business rules (HC509) have not been met and why.</p> <p>For more information, see related link: Refusal wording – entry clearance and leave to enter.</p> <p>Extant deportation orders If the applicant is applying overseas and you are aware of an extant deportation order you must tell them to apply for the deportation order to be revoked before making any further applications.</p> <p>Offences committed overseas punishable by imprisonment for 12 or more months if committed in the UK If an applicant applying for entry clearance has been convicted abroad of an offence which would attract at least a 12 month sentence if convicted in the UK, they must be considered under the relevant general ground for refusal under the current rules (320 (18) of HC395).</p>	
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Eligibility for leave to enter

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- because exclusion would be conducive to the public good

For more information, see related link: Relevant Immigration Rules – on entry requirements.

Passengers without ECAA businessperson entry clearance

There may be circumstances where a passenger arrives at port without valid entry clearance under the on entry 1973 business rules. For example a Turkish national with entry clearance in another category or one who has arrived at port without a visa.

If an applicant is likely to meet the 1973 business requirements, it may be appropriate to grant leave to enter for no more than two months.

However, this only applies if it would not be possible for the applicant to start running the business immediately on entry but it is likely the applicant can satisfy the entry clearance requirements.

You must not grant two months leave to enter if more time is needed to gather the evidence to support their intention to self-establish. These cases must be referred to an entry clearance manager (ECM).

For example, it may be appropriate to exercise discretion if a person would otherwise meet the entry clearance requirements for the purpose of establishing themselves in business save for the fact that:

- equipment required for the operation of the business has still to be purchased
- public liability assurance has not yet been approved
- the business has to be advertised locally
- business accounts are still being prepared if joining an established business

These cases must be referred to a chief immigration officer (CIO).

The onus is on the applicant to show they meet the requirements of HC509. Applicants who cannot show this must be refused leave to enter.

For more information, see related link: Relevant Immigration Rules – on entry requirements.

Business applications under the Turkish EC Association Agreement

Eligibility for leave to remain

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	<p>When considering an application you must apply paragraph 4 of the HC510 and take account of breach of conditions, character and conduct, national security and returnability.</p> <p>For more information see related link: Relevant Immigration Rules – after entry requirements.</p>	
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Business applications under the Turkish EC Association Agreement

Eligibility for indefinite leave to remain

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	<p>circumstances where it would be undesirable to permit them to remain in the UK because:</p> <ul style="list-style-type: none"> • of either their character, conduct or associations • they represent a danger to national security • if allowed to remain for the period they wish to stay they might not be returnable to another country <p>For more information see related link: Relevant Immigration Rules – after entry requirements.</p>	
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Business applications under the Turkish EC Association Agreement

Pre-decision casework

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	<p>You must update the case notes on CID before deciding whether further information is required or whether a decision to grant or refuse the application can be made, based on the evidence already provided.</p> <p>Biometric results</p> <p>You must check that biometrics have been verified before you make a decision. The results can be located on the 'admin events' screen on CID and the ICFN database. If the applicant fails to provide this information, you must reject the case and return all documents to the applicant. For more information on checking Biometrics see related link: Process overview</p>	
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Business applications under the Turkish EC Association Agreement

Breaches of immigration law and general discretion to refuse LTR

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Business applications under the Turkish EC Association Agreement

Breach of conditions

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	<ul style="list-style-type: none">• has previously used fraudulent or abusive conduct• has demonstrated there is a material link between the current business proposal and previous fraudulent and/or abusive conduct• has unspent criminal convictions• is liable to deportation	
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Business applications under the Turkish EC Association Agreement

Entered or sought to enter illegally or by deception

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Business applications under the Turkish EC Association Agreement

Breach of the conditions of leave to enter or remain

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Business applications under the Turkish EC Association Agreement

Working in breach

Key facts Eligibility as a Turkish businessperson Pre-decision casework Breaches of immigration law Type of business structure Assessing the applicant meets the requirements Additional requirements if joining an existing business Requirements to continue operating their business Requirements to settle in the UK Dependent family members Refusal wording Examples of successful and unsuccessful applications Rights of appeal Administrative review Criminality Relevant Immigration Rules Background	<p>This page tells you how to consider an application as a self-employed Turkish businessperson under the Turkish EC Association Agreement (ECAA) if the applicant is working in breach of conditions.</p> <p>The judgement in <i>Ascioglu v SSHD</i> [2012] EWCA Civ 1183 (formerly known as <i>KA(Turkey)</i>) stated that the phrase ‘fraudulent and abusive conduct’ was not appropriate when referring to instances where the applicant has started trading before getting approval from the Home Office. Therefore, this is referred to as ‘working in breach’.</p> <p>Assessing cases where the applicant has worked in breach</p> <p>You must first assess if the applicant’s working in breach was incidental or material to their ability to meet the requirements of paragraph 21 of HC510.</p> <p>If you consider the breach incidental then it cannot be used as a basis of a refusal. If the breach is considered to be material, then it can be used as a basis for refusal. Working in breach would be considered incidental if:</p> <ul style="list-style-type: none">• it does not materially affect the ability of the applicant to meet the requirements under paragraph 21 - 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 under paragraph 4, an example of an incidental breach might be where the business met all the requirements of paragraph 21 before the breach and the working in breach was for a short period only• the working in breach took place during the time when the Home Office was enforcing its ‘pragmatic approach’ to ECAA cases before July 2008 - this was a period where those who had set up their business and then worked in breach while their application was being processed were not refused only on the basis that they had worked despite their leave <p>Working in breach would be considered material (and so more likely to lead to a refusal under paragraph 4) if:</p>	<p>In this section</p> <p>Breach of conditions Entered or sought to enter illegally or by deception Breach of the conditions of leave to enter or remain Discredited asylum or human rights claims Undesirable to grant leave Deportation Fraud and abuse</p>
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	<ul style="list-style-type: none"> • It affects the ability of the applicant to meet the requirements under paragraph 21, for example, the breach enabled the applicant to meet the requirements of paragraph 21 in circumstances where they would not be able to meet them otherwise and this may amount to an abuse of rights - again this should not automatically result in refusal but is likely to weigh more heavily against the applicant when considering paragraph 4, an example might be where the money gained from working in breach allowed the applicant to buy a share of an existing business that formed the basis of the ECAA application <p>Where the working in breach occurred after July 2008, (after the end of the 'pragmatic approach' taken by the Home Office to these types of cases) this will count more heavily against the applicant and so make a refusal under paragraph 4 more likely.</p> <p>Breaches of conditions where no trading has taken place An applicant who has undertaken some research or other preparatory work without actually trading may have breached conditions of leave, but will normally be allowed to meet the requirements of paragraph 4 of HC510.</p> <p>You can use discretion to consider the case on its merits to establish in business under paragraph 21 of HC510 as this type of breach is not sufficiently serious to argue that the applicant was only able to make their business application as a result of the breach of conditions.</p> <p>Establishing in business whilst on temporary admission Applicants who establish in business whilst on temporary admission will normally be considered for refusal under paragraph 4 of HC 510.</p>	
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Business applications under the Turkish EC Association Agreement

Discredited asylum or human rights claims

<p>Key facts Eligibility as a Turkish businessperson Pre-decision casework Breaches of immigration law Type of business structure Assessing the applicant meets the requirements Additional requirements if joining an existing business Requirements to continue operating their business Requirements to settle in the UK Dependent family members Refusal wording Examples of successful and unsuccessful applications Rights of appeal Administrative review Criminality Relevant Immigration Rules Background</p>	<p>This page tells you how to consider an application as a self-employed Turkish businessperson under the Turkish EC Association Agreement (ECAA) when the applicant has been refused protection on asylum or human rights grounds.</p> <p>You must not automatically refuse an application under paragraph 4 of HC510 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.</p> <p>You must consider all the relevant circumstances, the seriousness of the discredited claim and the culpability of the applicant.</p> <p>An initial decision by the Secretary of State for the Home Department (Home Secretary) to refuse an asylum claim cannot be used as the only reason 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.</p> <p>Only where claims have been materially or substantially discredited is it possible to 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.</p>	<p>In this section Breach of conditions Entered or sought to enter illegally or by deception Breach of the conditions of leave to enter or remain Working in breach Undesirable to grant leave Deportation Fraud and abuse</p>
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Business applications under the Turkish EC Association Agreement

Undesirable to grant leave

Key facts Eligibility as a Turkish businessperson Pre-decision casework Breaches of immigration law Type of business structure Assessing the applicant meets the requirements Additional requirements if joining an existing business Requirements to continue operating their business Requirements to settle in the UK Dependent family members Refusal wording Examples of successful and unsuccessful applications Rights of appeal Administrative review Criminality Relevant Immigration Rules Background	<p>This page tells you the circumstances when it would be undesirable to grant leave to someone applying as a self-employed Turkish businessperson under the Turkish EC Association Agreement (ECAA).</p> <p>You must consider refusing applications where it would be undesirable to allow the applicant to remain in the UK in light of their character, conduct or associations, or where they represent a danger to national security under paragraph 4 of HC 510.</p> <p>Character, conduct or associations</p> <p>Where an applicant declares a criminal conviction which would be deemed as spent, you must not take it into account when deciding the case.</p> <p>You must consider all the relevant circumstances of the case. For example, the:</p> <ul style="list-style-type: none">• 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 upon 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 <p>Only in exceptional circumstances should a spent conviction be held against an applicant. You must weigh up these considerations against the need to protect the public.</p> <p>Circumstances where refusal may be justified on grounds of danger to national security</p> <p>If you have information that suggests the applicant poses a danger to national security, you must refer the case to your senior caseworker in the first instance. They will then work with the relevant departments or sections.</p>	<p>In this section</p> <p>Breach of conditions Entered or sought to enter illegally or by deception Breach of the conditions of leave to enter or remain Working in breach Discredited asylum or human rights claims Deportation Fraud and abuse</p>
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Business applications under the Turkish EC Association Agreement

Deportation

<p>Key facts Eligibility as a Turkish businessperson Pre-decision casework Breaches of immigration law Type of business structure Assessing the applicant meets the requirements Additional requirements if joining an existing business Requirements to continue operating their business Requirements to settle in the UK Dependent family members Refusal wording Examples of successful and unsuccessful applications Rights of appeal Administrative review Criminality Relevant Immigration Rules Background</p>	<p>This page tells you what action to take if a person applying as a self-employed Turkish businessperson under the Turkish EC Association Agreement (ECAA) is liable to deportation.</p> <p>Liability to deportation Applicants who are liable, or become liable to deportation must be handled in line with domestic legislation and guidance governing deportation. You must refer to criminal casework (CC).</p> <p>Current deportation orders If a current deportation order against an applicant comes to light, the applicant must be referred to CC for further guidance.</p> <p>For more information, see related link: Referring cases to criminal casework.</p>	<p>In this section Breach of conditions Entered or sought to enter illegally or by deception Breach of the conditions of leave to enter or remain Working in breach Discredited asylum or human rights claims Undesirable to grant leave Fraud and abuse</p> <p>Related links Link to staff intranet removed</p>
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Business applications under the Turkish EC Association Agreement

Fraud and abuse

Key facts Eligibility as a Turkish businessperson Pre-decision casework Breaches of immigration law Type of business structure Assessing the applicant meets the requirements Additional requirements if joining an existing business Requirements to continue operating their business Requirements to settle in the UK Dependent family members Refusal wording Examples of successful and unsuccessful applications Rights of appeal Administrative review Criminality Relevant Immigration Rules Background	<p>This page tells you what action to take if a person applying as a self-employed Turkish businessperson under the Turkish EC Association Agreement (ECAA) has committed fraud or abuse.</p> <p>Fraud and abuse</p> <p>Case law has established that even where an applicant's behaviour could be deemed fraudulent and abusive, they should not be prevented from benefiting from the 'standstill' clause. As such their applications must still be considered under the 1973 rules.</p> <p>Previous fraudulent conduct</p> <p>Applicants who have relied on previous fraudulent conduct in making an application must normally be considered for refusal under paragraph 4 of HC510. For example, the applicant entered into employment while an illegal entrant to the UK. You must consider all the relevant circumstances, the seriousness of the fraud and the culpability of the applicant.</p>	<p>In this section</p> <p>Breach of conditions Entered or sought to enter illegally or by deception Breach of the conditions of leave to enter or remain Working in breach Discredited asylum or human rights claims Undesirable to grant leave Deportation</p>
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Business applications under the Turkish EC Association Agreement

Types of business structure

Key facts Eligibility as a Turkish businessperson Pre-decision casework Breaches of immigration law Type of business structure Assessing the applicant meets the requirements Additional requirements if joining an existing business Requirements to continue operating their business Requirements to settle in the UK Dependent family members Refusal wording Examples of successful and unsuccessful applications Rights of appeal Administrative review Criminality Relevant Immigration Rules Background	<p>This page explains the different types of business structures you may come across.</p> <p>The applicant may wish to start up in business as either:</p> <ul style="list-style-type: none">• a sole trader• the director of a limited company• legal partnership <p>Sole trader</p> <p>This is the simplest way to run a business. A sole trader owns the assets of the business, is responsible for all debts and liabilities and is not required to file annual returns with Companies House. The business accounts will be made up to the end of the financial year.</p> <p>Director of a limited company</p> <p>A director is an employee of the company and all debts and liabilities are the responsibility of the company. The director's level of financial investment must be proportional to their role in the business.</p> <p>Annual returns, often abbreviated so as not to alert competitors, must be filed with Companies House within 10 months of the year end after incorporation. Directors may take a dividend each quarter.</p> <p>Partnership</p> <p>This is a legal entity with shared decision making. The profits are shared according to an agreed split between the partners. The applicant must have an equal or controlling interest in the company with a share of responsibility. A partnership agreement is a key document to cover all the 'what ifs'.</p> <p>For further information regarding what constitutes a successful or unsuccessful business application, see related links.</p>	<p>Related links</p> <p>See also</p> <p>Relevant Immigration Rules</p> <p>Examples of successful and unsuccessful applications</p>
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Business applications under the Turkish EC Association Agreement

Assessing the applicant meets the requirements

Key facts Eligibility as a Turkish businessperson Pre-decision casework Breaches of immigration law Type of business structure Assessing the applicant meets the requirements Additional requirements if joining an existing business Requirements to continue operating their business Requirements to settle in the UK Dependent family members Refusal wording Examples of successful and unsuccessful applications Rights of appeal Administrative review Criminality Relevant Immigration Rules Background	<p>This section explains how to assess whether a leave to remain application from a person applying as a businessperson under the Turkish EC Association Agreement (ECAA) meets the minimum requirements of paragraph 21 of the 1973 business rules.</p> <p>The requirements of the 1973 business rules are that the applicant:</p> <ul style="list-style-type: none">• will be devoting sufficient funds or assets to invest in the business in proportion to their interest in the business• can show the funds or assets are their own• can bear their share of the liabilities which the business may incur• can show their part in the business does not amount to disguised employment• can show their share of the profits of the business is enough to support themselves and any dependants, without recourse to employment or public funds <p>Some types of business represent greater financial investment and risk than others, but each application must be considered on its merits.</p> <p>Although there is no formal requirement in the 1973 business rules for applicants to provide a business plan, not including this document may undermine the credibility of the business proposed.</p> <p>A business plan should set out:</p> <ul style="list-style-type: none">• a summary of the business proposal• an outline of the marketing and sales strategy• a timetable for establishment• the financial forecasts for the business over the first 12 months of trading <p>If the applicant is joining an existing business they must provide:</p> <ul style="list-style-type: none">• audited business accounts for previous years	<p>In this section</p> <p>Evidence applicant is devoting sufficient funds or assets to the business Evidence the funds or assets are the applicant's Evidence of business accounts for previous years Evidence the applicant can bear their share of debts and liabilities Proposed business is disguised employment Evidence of sufficient profits to support applicant and any dependants Applicant receiving public funds</p> <p>External links</p> <p>Business Link Starting up in business Companies House Direct</p>
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- a statement of the terms on which they are joining the business
- evidence they will be actively concerned with the running of the business
- evidence that there is a genuine need for their services and investment

You must also be satisfied with the credibility of the evidence provided.

There may be cases where the business proposal on paper meets the minimum requirements of the 1973 business rules but the applicant has not demonstrated a genuine intention to set the business up or is incapable of running the business, as proposed.

The applicant's conduct may suggest the application is an attempt to secure leave rather than a genuine intention to self-establish in business.

The following examples may indicate such a situation, although the list is not exhaustive:

- the applicant has been in the UK for years with no sign that they had any interest in setting up a business, but when facing enforcement action submits a poor business plan in order to frustrate removal
- the applicant has already been refused leave under the ECAA, but when faced with enforcement action submits exactly the same business plan without any new evidence, making it likely the intention is again to frustrate removal

It may well be that in having no intention to set up a genuine business, the application will fall for refusal in any case (for example, they cannot demonstrate they can devote the required funds to the business). However, if the requirements are met on paper, but you are satisfied the applicant will not be setting up a real business and has only made the application to secure leave, such abusive conduct may warrant refusal under paragraph 4 of HC 510.

Where an applicant is already lawfully in the UK and meets the requirements for setting up one of the business types in this section they may be granted a 12 month 'switching' leave period on code 2 conditions. You must be satisfied that the business is real and that the application hasn't been made just to secure leave.

You must refuse applications that fail to meet the requirements of the 1973 business

	provisions under paragraph 21 of the 1973 rules (HC510).	
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Business applications under the Turkish EC Association Agreement

Evidence the applicant is devoting sufficient funds or assets to the business

Key facts Eligibility as a Turkish businessperson Pre-decision casework Breaches of immigration law Type of business structure Assessing the applicant meets the requirements Additional requirements if joining an existing business Requirements to continue operating their business Requirements to settle in the UK Dependent family members Refusal wording Examples of successful and unsuccessful applications Rights of appeal Administrative review Criminality Relevant Immigration Rules Background	<p>This page explains what type of documents should be submitted to show that a person applying as a businessperson under the Turkish EC Association Agreement is devoting assets of their own to the business proportional to their interest in the business.</p> <p>While the 1973 rules do not specify the types of documents to be submitted in support of a business application, you must assess if not providing relevant and/or requested documents undermines the credibility of the applicant's business proposal.</p> <p>You must decide if the applicant is devoting funds or assets to the business. If the applicant is not devoting any funds or assets it means the business is not one that meets the requirements of the 1973 business rules and you must refuse it.</p> <p>There is no minimum level of investment, but it must be proportional to the business needs and generate enough net profit to support the applicant and any dependants.</p> <p>If the applicant is joining an existing business, you must be satisfied from the evidence provided that the applicant will be actively concerned with its running and that there is a genuine need for their services and investment.</p> <p>For more information on refusing applications, see related link: Refusal wording.</p>	<p>In this section</p> <p>Evidence the funds or assets are the applicant's Evidence of business accounts for previous years Evidence the applicant can bear their share of debts and liabilities Proposed business is disguised employment Evidence of sufficient profits to support applicant and any dependants Applicant receiving public funds</p> <p>See also</p> <p>Refusal wording</p>
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Business applications under the Turkish EC Association Agreement

Evidence the funds or assets are the applicant's

Key facts Eligibility as a Turkish businessperson Pre-decision casework Breaches of immigration law Type of business structure Assessing the applicant meets the requirements Additional requirements if joining an existing business Requirements to continue operating their business Requirements to settle in the UK Dependent family members Refusal wording Examples of successful and unsuccessful applications Rights of appeal Administrative review Criminality Relevant Immigration Rules Background	<p>This page explains what type of documents should be submitted to show that a person applying as a businessperson under the Turkish EC Association Agreement is devoting funds or assets of their own to the business which can be invested on a long-term basis.</p> <p>While the 1973 rules do not specify the types of documents to be submitted in support of a business application, caseworkers should assess whether failure to provide relevant and/or requested documents undermines the credibility of the applicant's business proposal.</p> <p>Evidence the funds or assets are the applicant's</p> <p>Applicants should be able to provide sufficient evidence to show that:</p> <ul style="list-style-type: none">• the source of the funds is legitimate• the funds are under their own control• there is no possibility that the money may be recalled or withdrawn from the business at short notice <p>They should provide evidence of the available funding. This should include original bank statements for the last six months, Additional evidence must be provided to show the source of any unusual or irregular deposits into the applicant's account, such as:</p> <ul style="list-style-type: none">• transfers of funds from sources overseas• assets from the sale of land, gold or property overseas• gifts of money from business associates and close family members <p>You must convert money transfers from overseas into pounds sterling so they can be assessed. The official exchange rate used by the Home Office is the one produced by OANDA. You must use the exchange rate on the OANDA website (see related links) on the date on which the application was raised. This is an independent website which the Home Office is not responsible for.</p> <p>You may accept electronic bank statements from an online account with a supporting letter from the bank on company headed paper confirming that the documents are authentic. Or</p>	<p>In this section</p> <p>Evidence applicant is devoting sufficient funds or assets to the business Evidence of business accounts for previous years Evidence the applicant can bear their share of debts and liabilities Proposed business is disguised employment Evidence of sufficient profits to support applicant and any dependants Applicant receiving public funds</p> <p>See also</p> <p>Refusal wording</p> <p>Link to staff intranet removed</p> <p>External links</p> <p>OANDA IBAN checker</p>
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	<p>you can accept electronic bank statements bearing the official stamp of the bank issuing the statements. This stamp must appear on every page of the statement.</p> <p>You may use discretion if the level of financial investment is small in comparison to the expected profits generated, or where gifts from family members have been made.</p> <p>In all cases you must be satisfied enough evidence has been provided to show the money has been gifted by an individual who is financially able to make the gift, without the possibility of needing to recall the money at short notice.</p> <p>Gifts from a business associate are not acceptable.</p> <p>Applicants must show that the majority of funds to be invested are their own. Loans, either in the form of a business bank loan or from another source such as a family member, may form part of a funding package to set up in business but they must not be considered as assets belonging to the applicant.</p> <p>If they rely in part on a loan, they must show their business will realistically make sufficient profit to be able to repay the loan as well as to support the applicant and any dependants. Short-term loans are unacceptable as they may require repayment before the business is generating sufficient profit.</p> <p>You must refuse applications where a loan forms the only basis of investment.</p> <p>You must be satisfied the bank statements provided are genuine and any suspect documents must be referred to the North East, Yorkshire and the Humber (NEYH) regional verification team (see related link: Referring documents to the NEYH regional verification team).</p> <p>Applications where the documents provided show the applicant has invested money in the business but this money does not represent their own assets must be refused under paragraph 21 of the 1973 rules (HC510).</p> <p>For more information on refusing applications, see related link: Refusal wording.</p>	
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Business applications under the Turkish EC Association Agreement

Evidence of business accounts for the previous year

<p>Key facts Eligibility as a Turkish businessperson Pre-decision casework Breaches of immigration law Type of business structure Assessing the applicant meets the requirements Additional requirements if joining an existing business Requirements to continue operating their business Requirements to settle in the UK Dependent family members Refusal wording Examples of successful and unsuccessful applications Rights of appeal Administrative review Criminality Relevant Immigration Rules Background</p>	<p>This page explains how to use business accounts to assess the merits of a business application under the Turkish EC Association Agreement if the applicant is joining, or taking over an existing business.</p> <p>The financial statements of a business show how it is performing and indicate the financial position of the business in terms of its assets and liabilities.</p> <p>The financial statements normally consist of a profit and loss account (P&L) showing business turnover and net profit over a trading period of 12 months, and a balance sheet (BS) which is a snapshot of the overall financial position of the business at a particular time.</p> <p>The accounts must be professionally produced by a qualified or chartered accountant. For example, a qualification issued by the Institute of Chartered Accountants in England and Wales (ICAEW). You must check that the person or company collecting the accounts is suitably qualified from the documents or headed notepaper submitted.</p> <p>You must be satisfied that:</p> <ul style="list-style-type: none">• the business is viable (not insolvent)• the applicant can bear their share of the debts or liabilities of the business• the proposed investment is proportional to their role in the business• the net profit of the business is sufficient to support the applicant and any dependants included in the application <p>Management accounts may be submitted for the current year.</p> <p>Accounting requirements are different depending on whether the applicant is in business as a:</p> <ul style="list-style-type: none">• sole trader• director of a limited company• legal partnership	<p>In this section</p> <p>Evidence applicant is devoting sufficient funds or assets to the business Evidence the funds or assets are the applicant's Evidence the applicant can bear their share of debts and liabilities Proposed business is disguised employment Evidence of sufficient profits to support applicant and any dependants Applicant receiving public funds</p> <p>See also</p> <p>Refusal wording</p> <p>External links</p> <p>ICAEW website</p>
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	<p>For a sole trader, the net profit of the business will be taxed as income and can therefore be compared with the income from self-employment shown on other documents submitted such as:</p> <ul style="list-style-type: none"> • tax returns • tax documents • self-assessment tax calculations <p>You must also be satisfied that the details are credible when compared with any other evidence submitted such as invoices, contracts and business bank statements.</p> <p>For a limited company, the net profit is distributed to the shareholders in the form of dividends. The director of a limited company is regarded as an employee of the company and the director's income will be derived from remuneration and dividends. The income must correspond with other documents submitted such as:</p> <ul style="list-style-type: none"> • tax returns • tax documents • self-assessment tax calculations • P60 certificates • wage slips <p>For a partnership, each partner will take an equal share of the net profits unless the partnership agreement states otherwise.</p> <p>Applications to join an existing business where business accounts have not been provided, or are incomplete, must be refused under paragraph 21 of HC510 for the reason that not enough evidence has been provided to show the financial position of the business that they will be joining or taking over.</p> <p>For more information on refusing applications, see related link: Refusal wording.</p>	
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Business applications under the Turkish EC Association Agreement

Evidence the applicant can bear their share of debts and liabilities

<p>Key facts Eligibility as a Turkish businessperson Pre-decision casework Breaches of immigration law Type of business structure Assessing the applicant meets the requirements Additional requirements if joining an existing business Requirements to continue operating their business Requirements to settle in the UK Dependent family members Refusal wording Examples of successful and unsuccessful applications Rights of appeal Administrative review Criminality Relevant Immigration Rules Background</p>	<p>This page explains what type of documents should be submitted to show a person applying as a Turkish businessperson under the Turkish EC Association Agreement is able to bear their share of any liabilities the business may incur.</p> <p>While the 1973 rules do not specify the types of documents to be submitted in support of a business application, you should assess if failing to provide relevant and/or requested documents undermines the credibility of the applicant's business proposal.</p> <p>Applicants are responsible for any debts or liabilities that exist when they buy or join an existing business, or debts and liabilities run up by the business in the course of trading, such as overheads and purchasing large quantities of stock.</p> <p>The following figures shown on the balance sheet (BS) will be relevant in assessing if the applicant can bear their share of the liabilities:</p> <ul style="list-style-type: none">• the value of the business's fixed assets as shown on the BS (land, buildings, machinery, goodwill, trademarks, web site domain names)• the current assets of the business (stock, work in progress, debtors, cash in hand).• short-term liabilities falling due within one year (business loans, overdrafts, VAT, PAYE, Corporation Tax)• longer term liabilities falling due after one year• shareholder's funds• net profit or loss made by the business in the preceding 12 months <p>The applicant is not allowed to claim public funds in the UK or add to their business activities through paid employment, to top up the net profits of the business in order to meet any debts or liabilities of the business. However applicants may have insurance cover to meet the cost of any liabilities that may arise, such as a claim for damages.</p> <p>Applicants may not need to show they can meet their debts or liabilities straightaway. You must consider the size of the debt in relation to the overall value of the business and whether the business is likely to wipe out the debts or liabilities from the profits of the</p>	<p>In this section Evidence applicant is devoting sufficient funds or assets to the business Evidence the funds or assets are the applicant's Evidence of business accounts for previous years Proposed business is disguised employment Evidence of sufficient profits to support applicant and any dependants Applicant receiving public funds</p> <p>See also Refusal wording</p>
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	<p>business in following years.</p> <p>Applications with documents that show the business carries significant debts or liabilities that cannot be met by the applicant must be refused under paragraph 21 of the 1973 rules (HC510).</p> <p>For more information on refusing applications, see related link: Refusal wording.</p>	
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Business applications under the Turkish EC Association Agreement

Proposed business disguised employment

<p>Key facts Eligibility as a Turkish businessperson Pre-decision casework Breaches of immigration law Type of business structure Assessing the applicant meets the requirements Additional requirements if joining an existing business Requirements to continue operating their business Requirements to settle in the UK Dependent family members Refusal wording Examples of successful and unsuccessful applications Rights of appeal Administrative review Criminality Relevant Immigration Rules Background</p>	<p>This page explains the meaning of disguised or concealed employment for business applications under the Turkish EC Association Agreement.</p> <p>This is when the nature of the proposed work is actually employment and not self-employment.</p> <p>Disguised employment means the applicant claims to be self-employed when they are actually employed. It is defined as a proactive attempt to present employment as self-establishment. For example, the claimed investment is a transfer of money to the business owner while the applicant is managing the business on behalf of the owner.</p> <p>An applicant is self-employed if they can demonstrate they are in business on their own account and bear the responsibility for the success or failure of that business.</p> <p>You must refuse applications when you identify disguised employment.</p> <p>In some cases the applicant may genuinely believe that what they are doing is self-employment as they are providing services for a number of clients, but may actually be an employee with multiple employers. In these cases the application must be refused.</p> <p>You must apply the correct 'multiple test' to decide whether the applicant is employed rather than self-employed by considering the breadth of evidence provided. The reasons why an application falls for refusal can then be clearly set out in the refusal notice.</p> <p>Applicants are probably self-employed if they:</p> <ul style="list-style-type: none">• run their own business and take responsibility for its success or failure• have several customers at the same time• can decide how, when and where they do their work• are free to hire other people to do the work or help at their own expense• provide the main items of equipment to do their work.	<p>In this section</p> <p>Evidence applicant is devoting sufficient funds or assets to the business Evidence the funds or assets are the applicant's Evidence of business accounts for previous years Evidence the applicant can bear their share of debts and liabilities Evidence of sufficient profits to support applicant and any dependants Applicant receiving public funds</p> <p>See also</p> <p>Refusal wording</p>
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	<p>Applicants are probably employed if they:</p> <ul style="list-style-type: none"> • work for one person at a time who takes on the risks of the business • can be told how, when and where they do their work • can be moved from task to task • have to do the work themselves • have to work a set amount of hours or set pattern of work • are paid a regular amount according to the hours worked • receive overtime pay, sick pay, holiday pay or bonus payments • are ‘part and parcel’ of an organisation and receive employee type benefits such as a pension, access to grievance procedures • casual or part-time work can constitute employment. <p>There are a range of neutral factors which can be taken into account such as:</p> <ul style="list-style-type: none"> • the length of any contracts provided • how they can be terminated, and • whether tax and national insurance contributions have been deducted by the employer. <p>For further information on employment status, see related links.</p> <p>You can request an employment status check from HM Revenue & Customs (HMRC) if required. You must email the referral form to your higher executive officer (HEO) or senior caseworker for approval.</p> <p>Applications where the documents provided demonstrate the applicant has an involvement in the business which amounts to employment must be refused under paragraph 21 of the 1973 rules (HC510).</p> <p>For more information on refusing applications, see related link: Refusal wording.</p>	
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Business applications under the Turkish EC Association Agreement

Evidence of sufficient profits to support applicant and any dependants

Key facts Eligibility as a Turkish businessperson Pre-decision casework Breaches of immigration law Type of business structure Assessing the applicant meets the requirements Additional requirements if joining an existing business Requirements to continue operating their business Requirements to settle in the UK Dependent family members Refusal wording Examples of successful and unsuccessful applications Rights of appeal Administrative review Criminality Relevant Immigration Rules Background	<p>This page explains how to assess if a person applying as a Turkish businessperson under the Turkish EC Association Agreements can realistically maintain and accommodate themselves and any dependants without recourse to employment or public funds.</p> <p>Applicants must demonstrate that a sufficient level of profit from the business will be generated to maintain and accommodate themselves and any dependants without employment or public funds.</p> <p>Evidence of the net profit (monies remaining after deducting business expenses) generated from the business should be provided in the form of:</p> <ul style="list-style-type: none">• business accounts• tax returns• other form of business evidence <p>While the 1973 rules do not specify the types of documents to be submitted in support of a business application, you must assess whether failure to provide relevant and/or requested documents undermines the credibility of the applicant's business proposal.</p> <p>You must take care not to count capital purchases as revenue expenses as these items will be used for several years. Depreciation expenses can also be added back.</p> <p>You must not take into account any income from other sources such as:</p> <ul style="list-style-type: none">• investment• sub-letting• bank account interest <p>Contributions from any dependants included in the application must not be considered, as they are dependants of the main applicant. This includes any contributions made in the form of mortgage repayments and accommodation costs where the dependant is named on the mortgage or tenancy agreement.</p>	<p>In this section</p> <p>Evidence applicant is devoting sufficient funds or assets to the business Evidence the funds or assets are the applicant's Evidence of business accounts for previous years Evidence the applicant can bear their share of debts and liabilities Proposed business is disguised employment Applicant receiving public funds</p> <p>See also</p> <p>Refusal wording</p>
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	<p>Evidence of personal expenditure (outgoings) must be provided in the form of personal bank account statements and other documents showing significant personal expenditure. These include:</p> <ul style="list-style-type: none"> • tenancy agreements • mortgage statements • council tax bills • utility bills <p>Outgoings include any personal loan repayments which may have been declared by the applicant or shown as regular deductions from the applicant's personal bank account statements.</p> <p>Outgoings may also include commitments to support family members living abroad.</p> <p>You may use discretion if there are particular circumstances to do with assessing if the applicant can realistically maintain and accommodate themselves and any dependants included in the application without recourse to employment or public funds.</p> <p>Examples include:</p> <ul style="list-style-type: none"> • the accuracy and credibility of the evidence of income and outgoings must be taken into account in considering all the supporting documentation provided by the applicant • the applicant may have provided business accounts from the previous financial year and recent evidence of maintenance and accommodation so that up to date management accounts are required to inform the decision • the applicant may not have generated the level of profit required throughout the first two years of their stay, but has remained in business and maintained and accommodated themselves during that time without recourse to employment or public funds • you must consider the overall performance of the business across several years, and if poor performance has been offset by good performance • evidence has been provided to explain why the applicant is unable to present results for a full year's trading due to factors such as late start ups, sick leave, or paternity 	
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	<p>leave</p> <ul style="list-style-type: none">• if the business is producing losses or only marginal profits and is incapable of supporting anyone in the UK or have a negative impact on the welfare of the applicants, this may be a reason not to exercise discretion in the applicant's favour <p>Applications where insufficient profit has been generated to maintain and accommodate the applicant and any dependants must be refused under paragraph 21 of HC510.</p> <p>For more information on refusing applications, see related link: Refusal wording.</p>	
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Business applications under the Turkish EC Association Agreement

Applicant receiving public funds

Key facts Eligibility as a Turkish businessperson Pre-decision casework Breaches of immigration law Type of business structure Assessing the applicant meets the requirements Additional requirements if joining an existing business Requirements to continue operating their business Requirements to settle in the UK Dependent family members Refusal wording Examples of successful and unsuccessful applications Rights of appeal Administrative review Criminality Relevant Immigration Rules Background	<p>This page explains how to consider applications for businesspersons under the Turkish EC Association Agreement when the applicant has received public funds while living in the UK.</p> <p>Turkish nationals on low income are entitled to claim a range of benefits while living in the UK because of an agreement between the UK and Turkey. These include:</p> <ul style="list-style-type: none">• child benefit• child tax credit• working tax credit• income related allowance (income support)• social fund payments• housing benefit• council tax benefit <p>If you find the applicant has received public funds, you must consider if they could maintain and accommodate themselves from their share of the profits of the business if they were to immediately stop claiming those funds.</p> <p>Under paragraph 21 of HC510, applicants must show their share of the profits from the business is sufficient to support themselves and any dependants.</p> <p>You must not refuse an application if the person can maintain and accommodate themselves if they were to stop claiming public funds, unless there are other reasons for refusal.</p> <p>But applicants are not allowed to ‘top up’ their business profits with benefits in order to show that their business is making sufficient profits, as they still need to meet the requirement that the profits of the business alone can support them and their dependants.</p> <p>If you find that the applicant has received public funds and they are unable to maintain and accommodate themselves without those funds you must refuse the application under paragraphs 4 and 21 of HC510 as they have breached the conditions of their leave.</p>	<p>In this section</p> <p>Evidence applicant is devoting sufficient funds or assets to the business Evidence the funds or assets are the applicant's Evidence of business accounts for previous years Evidence the applicant can bear their share of debts and liabilities Proposed business is disguised employment Evidence of sufficient profits to support applicant and any dependants</p> <p>See also</p> <p>Refusal wording Link to staff intranet removed</p>
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	For more information on refusing applications, see related link: Refusal wording .	
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Business applications under the Turkish EC Association Agreement

Evidence to assess an applicant has met the requirements of the Turkish ECAA

<p>Key facts Eligibility as a Turkish businessperson Pre-decision casework Breaches of immigration law Type of business structure Assessing the applicant meets the requirements Additional requirements if joining an existing business Requirements to continue operating their business Requirements to settle in the UK Dependent family members Refusal wording Examples of successful and unsuccessful applications Rights of appeal Administrative review Criminality Relevant Immigration Rules Background</p>	<p>This section explains what documents an applicant should submit with an application to prove they meet the requirements of the Turkish EC Association Agreement (ECAA).</p> <p>While the 1973 rules do not specify the types of documents to be submitted in support of a business application, you must assess if failure to provide relevant and/or requested documents undermines the credibility of the applicant's business proposal.</p> <p>The documentary evidence should include:</p> <ul style="list-style-type: none">• application form ECAA2 (version 02/2012 which is a specified form)• business plan• business accounts for the previous two years (if appropriate)• funding evidence• bank statements, overseas money transfers, bank loans• certificate of registration with Companies House (if appropriate)• tax and/or national insurance (NI) registration and tax documents• partnership agreement• copies of contracts and invoices• educational and vocational qualifications• testimonials• proof of advertising• premises agreements• licence required or obtained• staff details• insurance details• evidence of personal living costs <p>Requests for further information</p> <p>You must decide on a case by case basis whether it is appropriate to request further information from the applicant. Where a refusal is based partly or wholly on the applicant failing to provide necessary documentation, you must make it clear in the decision letter why</p>	<p>In this section</p> <p>Bank statements showing funds required to invest Registered to make tax and national insurance contributions Evidence of experience and qualifications Evidence of proficiency in English</p> <p>See also</p> <p>Refusal wording</p>
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and how any missing documents led to a refusal.

Verification

You must verify the documents with the appropriate agency to determine if the documents are genuine, false or inconclusive if you have reasonable doubts that any supporting documents:

- are genuine, including passports, or
- do not reflect the claims made in the application.

You can also conduct verification checks on key documents such as references and relevant business documents by contacting the provider in the usual way. All verification reports must be recorded in the case notes and linked to the file.

If documents are confirmed as being false, you must refuse the application under paragraph 4 of HC510.

Fraudulent and abusive conduct is the term used when referring to the submission of false documents and/or statements to gain leave to remain in the UK.

Interviewing applicants

If you are unable to determine whether an application is genuine solely from the documents provided you must consider if it is necessary to interview the applicant in person.

For example, you may have concerns about:

- the authenticity of the documents provided
- inconsistencies in the evidence provided
- significant omissions in the documents required
- the involvement of a third party in preparing the application
- applications which appear to be identical with other applications previously submitted
- the credibility of the application is in doubt

The interview questions and record sheet must be linked to the file.

	For more information on refusing applications, see related link: Refusal wording.	
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Business applications under the Turkish EC Association Agreement

Bank statements showing funds required to invest

<p>Key facts Eligibility as a Turkish businessperson Pre-decision casework Breaches of immigration law Type of business structure Assessing the applicant meets the requirements Additional requirements if joining an existing business Requirements to continue operating their business Requirements to settle in the UK Dependent family members Refusal wording Examples of successful and unsuccessful applications Rights of appeal Administrative review Criminality Relevant Immigration Rules Background</p>	<p>This page tells you how to assess whether a person applying as a businessperson under the Turkish EC Association Agreement has sufficient funds to invest in the business.</p> <p>This is to show they have a genuine intention to invest their own money in the business.</p> <p>Although there is no formal requirement in the 1973 business rules for the applicant to provide bank statements, if the applicant fails to provide this evidence it may undermine the credibility of their claim that they have a genuine intention to self-establish.</p> <p>The applicant must provide evidence of available funding including six months of original bank statements, or less if the source of the funds is clearly shown.</p> <p>More evidence must be provided to show the source of unusual or irregular deposits into the account, such as:</p> <ul style="list-style-type: none">• transfers of funds from sources overseas• assets from the sale of land• gold or property overseas• gifts of money from business associates and close family members <p>You may accept electronic bank statements from an online account with a supporting letter from the bank on company headed paper confirming the documents are authentic. Or you can accept electronic bank statements bearing the official stamp of the bank issuing the statements. This stamp must appear on every page of the statement.</p> <p>You must not automatically refuse applications where the applicant has not provided bank statements under paragraph 21 of the 1973 rules (HC510) unless there are other reasons for refusal. Self-establishment must be assessed on the basis of the business activities proposed or being undertaken.</p> <p>For more information on refusing applications, see related link: Refusal wording.</p>	<p>In this section</p> <p>Registered to make tax and national insurance contributions Evidence of experience and qualifications Evidence of proficiency in English</p> <p>See also</p> <p>Refusal wording</p>
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Business applications under the Turkish EC Association Agreement

Registered to make tax and national insurance contributions

<p>Key facts Eligibility as a Turkish businessperson Pre-decision casework Breaches of immigration law Type of business structure Assessing the applicant meets the requirements Additional requirements if joining an existing business Requirements to continue operating their business Requirements to settle in the UK Dependent family members Refusal wording Examples of successful and unsuccessful applications Rights of appeal Administrative review Criminality Relevant Immigration Rules Background</p>	<p>This page tells you if a person applying as a businessperson under the Turkish EC Association Agreement needs to show they have registered to make tax and national insurance contributions as a self-employed businessperson and have received the relevant insurance and other business documents to support the application.</p> <p>Documentation to show whether the applicant is registered for the payment of income tax and national insurance contributions is a legal requirement but not a requirement of the 1973 business rules. This should be taken into account as part of the overall assessment of the evidence provided.</p> <p>Evidence may include:</p> <ul style="list-style-type: none">• tax returns (P35)• self-assessment tax calculations (SATCs)• national insurance receipts (class 2 and 4) <p>Other business evidence may include:</p> <ul style="list-style-type: none">• invoices• contracts for work undertaken as a subcontractor (for example, contract for services)• testimonials• references <p>This will help to confirm the type of work the applicant is doing, the frequency of work and details of who they are working for.</p> <p>Most applicants would be expected to provide evidence of public liability insurance (PLI).</p> <p>By law, if the applicant employs staff as part of the business, they must have employers liability insurance (ELI), unless they are family members.</p> <p>Licenses may be required such as a premises licence or personal licence for liquor sales.</p>	<p>In this section Bank statements showing funds required to invest Evidence of experience and qualifications Evidence of proficiency in English</p> <p>See also Refusal wording</p>
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	<p>Applications where the applicant has not registered to make tax and national insurance contributions must not be refused under paragraph 21 of the 1973 rules (HC510) unless there are other reasons for refusal. Self-establishment must be assessed on the basis of the business activities proposed or being undertaken.</p> <p>For more information on refusing applications, see related link: Refusal wording.</p>	
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Business applications under the Turkish EC Association Agreement

Evidence of experience and qualifications

<p>Key facts Eligibility as a Turkish businessperson Pre-decision casework Breaches of immigration law Type of business structure Assessing the applicant meets the requirements Additional requirements if joining an existing business Requirements to continue operating their business Requirements to settle in the UK Dependent family members Refusal wording Examples of successful and unsuccessful applications Rights of appeal Administrative review Criminality Relevant Immigration Rules Background</p>	<p>This page explains how a person's experience and qualifications can be used in part to assess their ability to establish in business or continue operating their business when applying as a businessperson under the Turkish EC Association Agreement.</p> <p>Experience and qualifications are not requirements of the 1973 business rules but should be taken into account as part of the overall assessment of the evidence provided.</p> <p>You must examine this evidence in the context of the proposed business, taking into account the other supporting evidence provided. You must check the evidence is correct and genuine using CRS to check relevant information on previous visa applications.</p> <p>In some circumstances common sense will tell you it may be possible for the applicant to establish in business without relevant experience or qualifications. In other circumstances, a lack of previous experience and/or qualifications may be a barrier to establishing a business. For example, it could extend the time taken to establish the business and slow the rate of growth of the business in subsequent years.</p> <p>All businesspersons are expected to show they have at least a basic understanding of business and financial management including cash-flow management.</p> <p>All qualifications must be recognised in the UK and be acceptable for the purpose for which they are proposed.</p> <p>You must check the evidence is correct and genuine.</p> <p>Evidence of specific qualifications needed in some trades will strengthen the credibility of the application, but it is the applicant's responsibility alone to make sure they meet any legal requirements.</p> <p>For example, self-employed workers in information technology (IT) trades and accountants may choose not to register with an appropriate professional body, even though this would strengthen the credibility of an application to establish in business.</p>	<p>In this section</p> <p>Bank statements showing funds required to invest Registered to make tax and national insurance contributions Evidence of proficiency in English</p> <p>See also</p> <p>Refusal wording</p>
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Mandatory qualifications

You must see mandatory professional qualifications before you make a decision on a case.

These might include

- Driving Licence
- Gas Safe Register
- Environmental Health Service Registration
- Gaming Licence
- Healthcare Professions Council
- Ofsted Registration
- Buildings and Electrical Safety Regulations
- Performing Rights Society
- Premises and Personal Licence for the Sale of Alcohol
- Security Industry Authority (SIA) Licence

Insufficient evidence

In cases where the applicant does not provide sufficient evidence of their previous experience and/or qualifications relevant to the application, you must ask them to provide further written evidence. This may take the form of employer references and certificates.

In cases where previous experience and/or qualifications are particularly relevant you may wish to consider interviewing the applicant.

If the applicant does not provide sufficient evidence of relevant experience and/or qualifications they must be refused leave under paragraph 21 of the 1973 rules (HC510).

For more information on refusing applications, see related link: Refusal wording.

Business applications under the Turkish EC Association Agreement

Evidence of proficiency in English

<p>Key facts Eligibility as a Turkish businessperson Pre-decision casework Breaches of immigration law Type of business structure Assessing the applicant meets the requirements Additional requirements if joining an existing business Requirements to continue operating their business Requirements to settle in the UK Dependent family members Refusal wording Examples of successful and unsuccessful applications Rights of appeal Administrative review Criminality Relevant Immigration Rules Background</p>	<p>This page explains how a person applying as a businessperson under the Turkish EC Association Agreement's proficiency in English can be used to assess their ability to establish in business or continue operating their business.</p> <p>Fluency in English is not a requirement of the 1973 business provisions but should be taken into account as part of the overall assessment of the evidence provided.</p> <p>If the applicant has little or no English you must consider this in the context of the proposed business, taking into account the other supporting evidence provided.</p> <p>In some circumstances common sense will tell you that it may be possible for the applicant to establish in business with little or no English. In other circumstances, not being able to speak good English may present severe difficulties. For example, it could extend the time taken to establish the business and slow the rate of growth of the business in subsequent years.</p> <p>In cases where the applicant does not provide sufficient evidence of proficiency in English and this is relevant to the application, you must ask the applicant to provide further written evidence of their fluency. This may take the form of an appropriate qualification in English or a certificate of attendance from a college where they are studying English.</p> <p>You must check that the evidence is correct and genuine.</p> <p>In cases where proficiency in English is particularly relevant you may consider interviewing the applicant.</p> <p>Applications where the applicant does not provide sufficient evidence of fluency in English, where you consider this to be important for the business as proposed, must be refused in conjunction with other reasons under paragraph 21 of the 1973 rules (HC510).</p> <p>For more information on refusing applications, see related link: Refusal wording.</p>	<p>In this section</p> <p>Bank statements showing funds required to invest Registered to make tax and national insurance contributions Evidence of experience and qualifications</p> <p>See also</p> <p>Refusal wording</p>
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Business applications under the Turkish EC Association Agreement

Additional requirements if joining an existing business

<p>Key facts Eligibility as a Turkish businessperson Pre-decision casework Breaches of immigration law Type of business structure Assessing the applicant meets the requirements Additional requirements if joining an existing business Requirements to continue operating their business Requirements to settle in the UK Dependent family members Refusal wording Examples of successful and unsuccessful applications Rights of appeal Administrative review Criminality Relevant Immigration Rules Background</p>	<p>This page explains what additional evidence must be provided if a person applying as a businessperson under the Turkish EC Association Agreement is intending to join an existing business.</p> <p>Business accounts for the previous years</p> <p>Applicants joining an existing business must provide audited business accounts immediately prior to joining the existing business. This is to establish the financial position of the business and show that they will be joining a legitimate business that is able to support them and any dependants.</p> <p>You must be satisfied that the:</p> <ul style="list-style-type: none">• business is viable (not insolvent)• applicant can bear their share of the debts or liabilities of the business• proposed investment is proportional to their role in the business• net profits of the business are sufficient to support the applicant and any dependants included in the application <p>Written statement of the terms on which the applicant is to enter the business</p> <p>Applicants joining an existing business need to provide a written statement of the terms on which they will enter the business.</p> <p>This should take the form of a legally binding agreement between the applicant and the current owner of the business and deal with all the financial aspects of the partnership.</p> <p>The following factors can be taken into account when assessing an applicant joining an existing business:</p> <ul style="list-style-type: none">• the applicant is devoting their own funds or assets to the business• they are making a financial investment in the business proportional to their role in the business• they are taking their share of the profits of the business	<p>Related links See also</p> <p>Evidence of business accounts for previous years</p> <p>Refusal wording</p> <p>External links</p> <p>Business Link Starting up in business Companies House</p>
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- they are involved in strategic decision-making and long-term operational decisions
- they have responsibility for their share of the business liabilities

For more information, see related links.

Evidence the applicant will be actively involved in running the business

Applicants joining an existing business must be actively involved in that business and not using the application as an attempt to secure leave for some other purpose.

You must be satisfied the evidence provided confirms the terms of the partnership agreement and the partnership agreement has a realistic chance of being fulfilled. The involvement should take up most of the applicant's working time.

Evidence there is a genuine need for the applicant's services and investment

Applicants joining an existing business need to show there is a genuine need for their services and investment. This could be demonstrated by showing how the proposed investment will be used to grow and increase the net profit of the business.

You must be satisfied the proposed investment is backed up by legal documents, such as the partnership agreement, and the applicant must show they will be fully integrated into the business and have an active involvement in the business.

If they are joining a business which is already successfully established, you must be satisfied the proposed investment will be used to grow and increase the net profit of the business.

Articles of Memorandum or a Certificate of Incorporation

Applicants joining an existing limited company must provide Articles of Memorandum or a Certificate of Incorporation.

You must check the evidence is correct and genuine using the Companies House Direct website (see related links). This will show all company appointments and resignations and indicate if the company is still active.

Applications to join an existing business where business accounts have not been provided,

	<p>or are incomplete, must be refused under paragraph 21 of HC510. This is because insufficient evidence has been provided to establish the current financial position of the business that they will be joining.</p> <p>For more information on refusing applications, see related link: Refusal wording.</p> <p>Applications to join an existing business where the applicant is not named on the partnership agreement, or the partnership agreement does not satisfactorily outline how they will be actively involved in running the business, must be refused under paragraph 21 of HC510.</p> <p>This is because insufficient evidence has been provided to show the terms on which they will enter the business.</p> <p>Where the applicant intends to join an existing business, audited accounts must be produced to show its financial position together with the terms on which they are to enter into it. Whilst not actual requirements as laid out under paragraph 21 of HC510, you must take the following points into consideration:</p> <ul style="list-style-type: none"> • the applicant is joining an existing business which is already operating with a good profit • there is no evidence to show the applicant's involvement will help to grow the business <p>This is because insufficient evidence has been provided to show there is a genuine need for their services and investment. For more information on refusing applications, see related link: Refusal wording.</p>	
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Business applications under the Turkish EC Association Agreement

Requirements to continue operating their business

<p>Key facts Eligibility as a Turkish businessperson Pre-decision casework Breaches of immigration law Type of business structure Assessing the applicant meets the requirements Additional requirements if joining an existing business Requirements to continue operating their business Requirements to settle in the UK Dependent family members Refusal wording Examples of successful and unsuccessful applications Rights of appeal Administrative review Criminality Relevant Immigration Rules Background</p>	<p>This page tells you how to decide whether a Turkish national meets the requirements for an ‘appropriate extension of stay’ to continue operating their business under the Turkish EC Association Agreement.</p> <p>Under paragraph 21 of the after entry 1973 business rules Turkish nationals who have already been granted a period of leave to remain in the UK as a businessperson under the 1973 business rules are entitled to apply for an extension of stay to continue operating their business.</p> <p>The applicant meets all the requirements</p> <p>Whether the applicant can be granted permission to continue operating their business depends on a number of factors, including evidence as set out in the minimum requirements of the 1973 business rules.</p> <p>You must be satisfied that:</p> <ul style="list-style-type: none">• they have devoted assets of their own to the business• they are able to bear their share of the liabilities the business may incur• their part in the business does not amount to disguised employment• their share of the profits of the business will be sufficient to support themselves and any dependants without recourse to employment or public funds <p>Applicants who have already been granted a period of leave to remain in the UK as a businessperson under the 1973 business rules may be granted an ‘appropriate extension’ to continue operating their business under the 1973 business rules. This should normally be for three years under code 2 conditions. This is unless you have doubts. In these circumstances you should grant 12 months (see below).</p> <p>You must refuse applications that fail to meet the requirements of the 1973 business provisions as set out in paragraph 21 of the 1973 rules (HC510).</p> <p>For more information on refusing applications, see related link: Refusal wording.</p>	<p>In this section</p> <p>Evidence applicant is devoting sufficient funds or assets to the business Evidence the funds or assets are the applicant’s Evidence of business accounts for previous years Evidence the applicant can bear their share of debts and liabilities Proposed business is disguised employment Evidence of sufficient profits to support applicant and any dependants Applicant receiving public funds</p> <p>See also</p> <p>Refusal wording</p>
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	<p>Granting an extension for a further 12 months</p> <p>If you have any doubts about refusing an application outright, you may decide, based on the merits of the application and the relevant circumstances, it is appropriate to grant an extension of stay for a further 12 months on code 2 conditions rather than a grant for the full three years.</p> <p>Relevant circumstances can include:</p> <ul style="list-style-type: none"> • the business is established but has experienced difficulties during the initial 12 months of operating and its ongoing success is still to be proven • the business is producing losses or only marginal profits while it is being set up • the applicant is unable to provide business accounts but only submits bank statements instead <p>The applicant would need to apply again for a further extension at the end of that period.</p> <p>You must refuse applications that fail to meet the requirements of the 1973 business provisions as set out in paragraph 21 of the 1973 rules (HC510).</p> <p>For more information on refusing applications, see related link: Refusal wording.</p>	
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Business applications under the Turkish EC Association Agreement

Requirements to settle in the UK

<p>Key facts Eligibility as a Turkish businessperson Pre-decision casework Breaches of immigration law Type of business structure Assessing the applicant meets the requirements Additional requirements if joining an existing business Requirements to continue operating their business Requirements to settle in the UK Dependent family members Refusal wording Examples of successful and unsuccessful applications Rights of appeal Administrative review Criminality Relevant Immigration Rules Background</p>	<p>This page explains how to assess an application for indefinite leave to remain (ILR) as a person applying as a businessperson under the Turkish EC Association Agreement (ECAA).</p> <p>Under paragraph 28 of the 1973 rules (HC510), Turkish nationals who have remained for at least four years as a self-employed person in the UK may have the time limit on their stay removed, unless there are reasons for maintaining it. If granted ILR, there are no further time restrictions on their length of stay in the UK or restrictions on their employment.</p> <p>You must follow a three stage process when considering applications for ILR as follows:</p> <ul style="list-style-type: none">• has the applicant remained lawfully in the UK for four years as a self-employed person• in light of all the relevant circumstances is it appropriate to grant indefinite leave to remain• if it is not appropriate to grant ILR, are there grounds for maintaining the time limit <p>Has the applicant remained lawfully in the UK for four years as a self-employed person?</p> <p>Whether you grant permission to settle in the UK depends on a number of factors. This includes evidence to show the applicant has spent a continuous period of four years lawfully in the UK, of which the most recent period of leave must be as a Turkish ECAA businessperson and the rest made up of leave as:</p> <ul style="list-style-type: none">• a Turkish ECAA businessperson• a Tier 1 migrant who has been self-employed• a businessperson• an innovator <p>If you are refusing an application, you must set out the particular reasons why it is not appropriate to exercise discretion and grant indefinite leave to remain.</p> <p>In light of all relevant circumstances, is it appropriate to grant ILR?</p> <p>You should grant ILR after four years of lawful self-employment unless there are enough</p>	<p>Related links See also</p> <p>Link to staff intranet removed</p> <p>Refusal wording</p> <p>Relevant Immigration Rules – on entry requirements</p>
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	<p>relevant circumstances to refuse it.</p> <p>As a guide, you must consider applications with all the following relevant circumstances in mind, although this is not an exhaustive list:</p> <ul style="list-style-type: none"> • is it desirable, in the light of the applicant's character, conduct or associations to permit them to remain in the UK indefinitely -if not you must refuse the application • would the applicant represent a danger to national security - if the applicant does you must refuse the application • does the evidence show the business is not trading at the time of the application, or you have doubts it will continue trading for the next 12 months • does the evidence show the business is producing losses or only marginal profits and you have doubts the business is capable of supporting anyone in the UK (and those applicants are not of independent means) • does the evidence show the applicant has had recourse to PAYE employment or public funds in breach of their conditions of leave • is there insufficient proof of funds for the business - for example, has the applicant failed to provide business accounts, or does the balance sheet show they cannot bear their share of the liabilities for the business falling due in the next 12 months • does the evidence raise concerns the business is not genuine - for example, a business with only one client may indicate an employer, employee relationship which indicates paid employment • does the evidence show the business is being passed between family members and friends in order to support ECAA applications <p>You must refuse applications for ILR under paragraph 28 of the 1973 business rules (HC510) where the documents provided raise enough doubts over the current operation or future prospects of the business.</p> <p>For example, this might be the case if the business carries with it significant debts or liabilities and there is insufficient evidence to show they can bear their share of the liabilities. Alternatively, you may be satisfied that the business is completely dormant and there is insufficient evidence to show that they are still engaged in business in line with the requirements of the 1973 business provisions.</p>	
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	<p>For more information on refusing applications, see related link: Refusal wording.</p> <p>If not, are there grounds for maintaining the time limit? If there are enough relevant circumstances as stated above you must decide if it is appropriate to exercise discretion in the applicant's favour and grant further leave to remain (FLR) in the UK for 12 months as a self-employed Turkish businessperson under the provisions of the ECAA.</p> <p>Applicants, who are refused ILR but granted FLR for a period of 12 months, may apply again for indefinite leave to remain at the end of that period.</p> <p>This allows them a further opportunity to demonstrate their business circumstances have changed enough to allow them to be granted ILR. For example, their business is more profitable, or they have sufficient funds to continue to run their business in accordance with the requirements of the 1973 business provisions.</p> <p>Curtailling indefinite leave to remain In some circumstances the grant of ILR can be ceased or invalidated.</p> <p>For example, if a fraudulent application is uncovered, if the person resides outside of the UK for more than two years, or as a result of a criminal conviction that results in a deportation order coming into force. For more information, see related link: Curtailment of leave.</p>	
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Business applications under the Turkish EC Association Agreement

Dependent family members

Key facts Eligibility as a Turkish businessperson Pre-decision casework Breaches of immigration law Type of business structure Assessing the applicant meets the requirements Additional requirements if joining an existing business Requirements to continue operating their business Requirements to settle in the UK Dependent family members Refusal wording Examples of successful and unsuccessful applications Rights of appeal Administrative review Criminality Relevant Immigration Rules Background	<p>This section tells you how to consider applications from dependent family members of persons applying as a businessperson under the Turkish EC Association Agreement.</p> <p>For more information, see related links:</p> <ul style="list-style-type: none">• Dependent partners• Dependent children	<p>In this section</p> <p>Dependent partners Dependent children</p>
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Business applications under the Turkish EC Association Agreement

Dependent partners

Key facts Eligibility as a Turkish businessperson Pre-decision casework Breaches of immigration law Type of business structure Assessing the applicant meets the requirements Additional requirements if joining an existing business Requirements to continue operating their business Requirements to settle in the UK Dependent family members Refusal wording Examples of successful and unsuccessful applications Rights of appeal Administrative review Criminality Relevant Immigration Rules Background	<p>This page explains which partners can join a person applying as a businessperson under the Turkish EC Association Agreement (ECAA) and the requirements they must meet to qualify for leave under the Immigration Rules.</p> <p>If the applicant is coming to the UK with someone who has valid leave to remain as a Turkish ECAA businessperson, or a person who at the same time is being granted entry clearance, leave to enter or leave to remain as a Turkish ECAA businessperson they must be either the:</p> <ul style="list-style-type: none">• dependent spouse• civil partner• unmarried partner or same-sex partner <p>Para 41 of HC510 states ‘The family should be regarded as consisting of the person’s wife, their children under 21, their other dependent children, and their dependants. Reference to ‘wife’ should be treated as including husband, civil partner, unmarried or same sex partner.’</p> <p>The dependent partner must not:</p> <ul style="list-style-type: none">• fall for refusal under the general grounds under paragraph 4 in light of their character, conduct or associations• represent a danger to national security• be an illegal entrant <p>For more information on the general grounds for refusing, see related links.</p> <p>Entry clearance, leave to enter or leave to remain</p> <p>You must be satisfied that:</p> <ul style="list-style-type: none">• the marriage or civil partnership, or relationship similar to marriage or civil partnership, is subsisting at the time the application is made• the applicant does not intend to stay in the UK beyond any period of leave granted to	<p>In this section</p> <p>Dependent children</p> <p>See also</p> <p>Link to staff intranet removed</p>
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	<p>the ECAA businessperson</p> <ul style="list-style-type: none"> the business is generating sufficient profits to support the applicant and any other dependants <p>Unmarried partners or same-sex partners will also need to prove:</p> <ul style="list-style-type: none"> any previous marriage, civil partnership or similar partnership by the applicant or the Turkish ECAA businessperson with another person has permanently broken down the applicant and the Turkish ECAA businessperson are not so closely related that they would be stopped from marrying each other in the UK the applicant and the Turkish ECAA businessperson have been living together in a relationship similar to marriage or civil partnership for a period of at least 2 years. <p>Switching</p> <p>If a partner wishes to apply as the dependant of a Turkish business person, switching will be allowed if the partner is in the UK lawfully in any category of the Immigration Rules.</p> <p>‘Switching’ will not be allowed and the application must be refused if the applicant wishing to join the Turkish business person is, in the UK:</p> <ul style="list-style-type: none"> on temporary admission on temporary release illegally <p>Granting or refusing leave to remain</p> <p>If the dependent partner meets all the above requirements you must grant leave in line with the Turkish ECAA partner on code 1 conditions.</p> <p>Indefinite leave to remain</p> <p>You must be satisfied that:</p> <ul style="list-style-type: none"> the applicant does not fall for refusal under the general grounds and is not an illegal entrant the applicant is the spouse or civil partner, unmarried partner or same-sex partner of a Turkish ECAA businessperson who, at the same time, is being granted indefinite leave 	
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to remain as a Turkish ECAA businessperson

- the applicant must have, or have last been granted, leave as the partner of the Turkish ECAA businessperson who is being granted indefinite leave to remain
- where the applicant is a spouse, civil partner same sex or unmarried partner, they must have been living in the UK with the Turkish ECAA business person for a period of at least 2 years
- the marriage or civil partnership, or relationship similar to marriage or civil partnership, must be subsisting at the time the application is made
- the applicant and the Turkish ECAA businessperson normally intend to live permanently with the other as their spouse or civil partner, unmarried or same-sex partner

Granting or refusing indefinite leave to remain

If the dependent partner meets all the above requirements you must grant indefinite leave in line with the Turkish ECAA partner.

Dependent partners must be in the UK to apply, and must have previously been granted leave as the dependant of a Turkish ECAA businessperson.

Supporting documents required

Documentary evidence might include:

- the applicant's current passport
- the applicant's police registration certificate if they have to register with the police
- documents confirming the applicant's relationship to the Turkish ECAA sponsor such as a full marriage certificate or a 'Livret de Famille'
- documents confirming the applicant and the Turkish ECAA sponsor have been living together for at least 2 years, such as letters from official sources and utility bills addressed jointly to the applicant and the Turkish ECAA sponsor or separately to them at the same address

You must check that the documents are correct and genuine.

Application forms

The applicant and any dependants must be included on form ECAA2.

	<p>Form ECAA3 is used if dependants are applying separately for an extension of stay in line with someone who has already been granted leave as a Turkish ECAA businessperson.</p> <p>If the ECAA Turkish businessperson has already been granted indefinite leave to remain the applicant is no longer eligible to apply for leave under the 1973 business provisions. A separate application is required using form SET(F).</p>	
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Business applications under the Turkish EC Association Agreement

Dependent children

Key facts Eligibility as a Turkish businessperson Pre-decision casework Breaches of immigration law Type of business structure Assessing the applicant meets the requirements Additional requirements if joining an existing business Requirements to continue operating their business Requirements to settle in the UK Dependent family members Refusal wording Examples of successful and unsuccessful applications Rights of appeal Administrative review Criminality Relevant Immigration Rules Background	<p>This page explains the requirements for dependent children of a person applying as a businessperson under the Turkish EC Association Agreement (ECAA) to qualify for leave.</p> <p>The applicant must be the dependent child of a parent of a person who has valid leave to remain as a Turkish ECAA businessperson, or a person who at the same time is being granted entry clearance, leave to enter or leave to remain as a Turkish ECAA businessperson.</p> <p>The dependent child must be under the age of 21 on the date the application is made. The dependent child must not:</p> <ul style="list-style-type: none">• fall for refusal under the general grounds because of their character, conduct or associations• represent a danger to national security• be an illegal entrant <p>For more information, see related links.</p> <p>Entry clearance, leave to enter or leave to remain</p> <p>You must be satisfied that:</p> <ul style="list-style-type: none">• the applicant is not married or in a civil partnership, has not formed an independent family unit, and is not leading an independent life• the applicant does not intend to stay in the UK beyond the period of leave granted to the Turkish ECAA businessperson parent• both of the applicant's parents are either lawfully in the UK, or being granted entry clearance or leave to remain at the same time as the applicant. (For more information see related link: Safeguard and promoting child welfare)• there are serious or compelling family or other considerations which would make refusal undesirable and suitable arrangements have been made for the applicant's care• the business is generating sufficient profits to support the applicant and any other	<p>In this section</p> <p>Dependent partners</p> <p>See also</p> <p>Link to staff intranet removed</p>
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	<p>dependants</p> <p>Granting or refusing leave to remain If the child meets all the above requirements you must grant leave in line with the Turkish ECAA parent on code 1 conditions.</p> <p>Children must be in the UK to apply, but they do not need to have entered the UK with valid entry clearance as the dependant of a Turkish ECAA businessperson to join their parents. Children admitted as visitors may apply.</p> <p>Indefinite leave to remain (ILR) You must be satisfied that:</p> <ul style="list-style-type: none"> • the applicant does not fall for refusal under the general grounds and is not an illegal entrant • the applicant is the child of a parent who, at the same time, is being granted ILR as a Turkish ECAA businessperson • the applicant has, or has last been granted, leave as the child of the Turkish ECAA businessperson who is being granted ILR • the applicant is not married or in a civil partnership, has not formed an independent family unit and is not leading an independent life • both of the applicant's parents are lawfully in the UK, or are being granted leave at the same time as the applicant <p>Granting or refusing ILR If the child meets all the above requirements you must grant ILR in line with the Turkish ECAA parent.</p> <p>Applicants (children) must be in the UK to apply, and must have previously been granted leave as the dependant of a Turkish ECAA businessperson.</p> <p>Safeguarding and promoting the welfare of children If one of the child's parents is not included in the application, or a new child is included or an old child is missing from an application, you must examine the case history carefully and follow the safeguarding children guidance.</p>	
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	<p>You must be satisfied that:</p> <ul style="list-style-type: none"> • the Turkish ECAA businessperson is the applicant's sole surviving parent • the Turkish ECAA businessperson parent has and has had sole responsibility for the applicant's upbringing • the absent natural parent has provided a signed declaration stating their agreement to the applicant living with the Turkish ECAA businessperson in the UK or other official documents to explain why such a letter cannot be provided (the address of the absent parent should be given on the application form if this is appropriate), or • there are most exceptional, serious or compelling family or other considerations which would make exclusion of the child undesirable and suitable arrangements have been made for the child's care <p>Supporting documents required Documentary evidence might include:</p> <ul style="list-style-type: none"> • the applicant's current passport (and police registration certificate if required). • documents confirming the applicant's relationship to the Turkish ECAA sponsor such as a full birth certificate or a 'Livret de Famille' • documents confirming that the Turkish ECAA sponsor has and has had sole responsibility for the applicant's upbringing such as a death certificate, divorce certificate, custody certificate, or adoption certificate • signed letter from an absent parent <p>You must check that the documents are correct and genuine.</p>	
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Business applications under the Turkish EC Association Agreement

Refusal wording

<p>Key facts Eligibility as a Turkish businessperson Pre-decision casework Breaches of immigration law Type of business structure Assessing the applicant meets the requirements Additional requirements if joining an existing business Requirements to continue operating their business Requirements to settle in the UK Dependent family members Refusal wording Examples of successful and unsuccessful applications Rights of appeal Administrative review Criminality Relevant Immigration Rules Background</p>	<p>This section contains suggested refusal notice wording to use when you are refusing a person who has applied for entry clearance, leave to enter, leave to remain or indefinite leave to remain as a businessperson under the Turkish EC Association Agreement (ECAA).</p> <p>The refusal wordings set out:</p> <ul style="list-style-type: none">• the specific reasons for refusal based on the requirements of the 1973 business provisions, followed by• the suggested wording for refusal notices describing why the requirements have not been met <p>You must always add to the refusal wording so that it accurately explains why the application falls for refusal against the relevant paragraphs of the 1973 business provisions. The wording must explain exactly which requirements have not been met and why they have not been met due to the evidence provided.</p> <p>If none of the examples are relevant, you must draft other wording that explains which requirements have not been met and why they have not been met.</p> <p>See the following related links for entry clearance, leave to enter and leave to remain applications:</p> <ul style="list-style-type: none">• Refusal wording: entry clearance and leave to enter• Refusal wording: leave to enter• Refusal wording: fraudulent and abusive practise• Refusal wording: leave to remain• Refusal wording: indefinite leave to remain. <p>For information on appeals see related link: Rights of appeal.</p>	<p>In this section</p> <p>Refusal wording - entry clearance and leave to enter Refusal wording - leave to enter Refusal wording - fraudulent and abusive practise Refusal wording - leave to remain Refusal wording where an applicant is joining an existing business Refusal wording - indefinite leave to remain Refusal wording - dependants</p> <p>See also</p> <p>Rights of appeal</p>
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Business applications under the Turkish EC Association Agreement

Refusal wording: entry clearance and leave to enter

Key facts Eligibility as a Turkish businessperson Pre-decision casework Breaches of immigration law Type of business structure Assessing the applicant meets the requirements Additional requirements if joining an existing business Requirements to continue operating their business Requirements to settle in the UK Dependent family members Refusal wording Examples of successful and unsuccessful applications Rights of appeal Administrative review Criminality Relevant Immigration Rules Background	<p>This page gives the suggested refusal wordings for refusal notices on general reasons when you refuse a person who has applied for entry clearance or leave to enter as a businessperson to enter the UK.</p> <p>This is under paragraphs 43 and 52 of HC510 (after entry) and paragraph 68 of HC509 (on entry), the business provisions in force in 1973.</p> <p>‘You have applied for entry clearance/leave to enter as a businessperson under the Turkey – European Community Association Agreement (ECAA). This contains a ‘standstill clause’ which means that the United Kingdom may not impose conditions for business applicants less favourable than were in force when the Agreement came into force for the United Kingdom in 1973. I have therefore assessed your application in accordance with the On Entry business provisions in force in 1973 and also the provisions in paragraphs 43 and 52 of HC510 and paragraph 68 of HC509. However, your application is refused because’</p> <table><tr><th>Paragraph number</th><th>Reason</th><th>Suggested wording</th></tr><tr><td>43 and 52</td><td><p>You have failed to comply with a condition of your stay</p><p>Your exclusion is conducive to the public good</p></td><td><ul style="list-style-type: none">• you have failed to comply with the conditions attached to the grant of your leave to enter or remain• your exclusion from the United Kingdom is conducive to the public good• you are the dependent spouse, civil partner, unmarried partner, same-sex partner or dependant child under 18 of the person ordered to be deported• you are a person over 17 and convicted of an offence which</td></tr></table>	Paragraph number	Reason	Suggested wording	43 and 52	<p>You have failed to comply with a condition of your stay</p> <p>Your exclusion is conducive to the public good</p>	<ul style="list-style-type: none">• you have failed to comply with the conditions attached to the grant of your leave to enter or remain• your exclusion from the United Kingdom is conducive to the public good• you are the dependent spouse, civil partner, unmarried partner, same-sex partner or dependant child under 18 of the person ordered to be deported• you are a person over 17 and convicted of an offence which	<p>In this section</p> <p>Refusal wording - leave to enter Refusal wording - fraudulent and abusive practise Refusal wording - leave to remain Refusal wording where an applicant is joining an existing business Refusal wording - indefinite leave to remain Refusal wording - dependants</p>
Paragraph number	Reason	Suggested wording						
43 and 52	<p>You have failed to comply with a condition of your stay</p> <p>Your exclusion is conducive to the public good</p>	<ul style="list-style-type: none">• you have failed to comply with the conditions attached to the grant of your leave to enter or remain• your exclusion from the United Kingdom is conducive to the public good• you are the dependent spouse, civil partner, unmarried partner, same-sex partner or dependant child under 18 of the person ordered to be deported• you are a person over 17 and convicted of an offence which						

			is punishable with imprisonment and the court recommends deportation	
	68	You are subject to a deportation order	<ul style="list-style-type: none"> • you are currently the subject of a deportation order signed on [enter date] 	

Business applications under the Turkish EC Association Agreement

Refusal wording: leave to enter

Key facts Eligibility as a Turkish businessperson Pre-decision casework Breaches of immigration law Type of business structure Assessing the applicant meets the requirements Additional requirements if joining an existing business Requirements to continue operating their business Requirements to settle in the UK Dependent family members Refusal wording Examples of successful and unsuccessful applications Rights of appeal Administrative review Criminality Relevant Immigration Rules Background	<p>This page gives the suggested wordings for when you refuse a Turkish EC Association Agreement businessperson who has applied for leave to enter the UK under paragraph 12 of HC509 (the business rules in force in 1973).</p> <p>‘You have applied for leave to enter the United Kingdom in order to establish yourself in business under the Turkey – European Community Association Agreement (ECAA). This contains a ‘standstill clause’ which means that the United Kingdom may not impose conditions for business applicants less favourable than were in force when the agreement came into force for the UK in 1973. I have therefore assessed your application in accordance with the On Entry business provisions in force in 1973. However, your application is refused because’</p> <table><tr><th>Paragraph number</th><th>Reason</th><th>Suggested wording</th></tr><tr><td>12(a)</td><td>False representations were employed and/or material facts were not disclosed whether or not to the holder’s knowledge for the purpose of obtaining entry clearance</td><td><ul style="list-style-type: none">• your entry clearance issued on [date] was obtained on the basis of false representations and/or false documents submitted. I am satisfied that the [statement/documents] you submitted were false because [state reasons]• you failed to disclose the following facts [state facts] in your application. I am satisfied that these facts were material to the application because [state reasons]</td></tr><tr><td>12(b)</td><td>A change in circumstances since entry clearance was issued has removed the basis of the holder’s claim to admission</td><td><ul style="list-style-type: none">• you were given leave to enter the United Kingdom on [date] but I am satisfied that there has been such a change in</td></tr></table>	Paragraph number	Reason	Suggested wording	12(a)	False representations were employed and/or material facts were not disclosed whether or not to the holder’s knowledge for the purpose of obtaining entry clearance	<ul style="list-style-type: none">• your entry clearance issued on [date] was obtained on the basis of false representations and/or false documents submitted. I am satisfied that the [statement/documents] you submitted were false because [state reasons]• you failed to disclose the following facts [state facts] in your application. I am satisfied that these facts were material to the application because [state reasons]	12(b)	A change in circumstances since entry clearance was issued has removed the basis of the holder’s claim to admission	<ul style="list-style-type: none">• you were given leave to enter the United Kingdom on [date] but I am satisfied that there has been such a change in	<p>In this section</p> <p>Refusal wording - entry clearance and leave to enter Refusal wording - fraudulent and abusive practise Refusal wording - leave to remain Refusal wording where an applicant is joining an existing business Refusal wording - indefinite leave to remain Refusal wording - dependants</p>
Paragraph number	Reason	Suggested wording									
12(a)	False representations were employed and/or material facts were not disclosed whether or not to the holder’s knowledge for the purpose of obtaining entry clearance	<ul style="list-style-type: none">• your entry clearance issued on [date] was obtained on the basis of false representations and/or false documents submitted. I am satisfied that the [statement/documents] you submitted were false because [state reasons]• you failed to disclose the following facts [state facts] in your application. I am satisfied that these facts were material to the application because [state reasons]									
12(b)	A change in circumstances since entry clearance was issued has removed the basis of the holder’s claim to admission	<ul style="list-style-type: none">• you were given leave to enter the United Kingdom on [date] but I am satisfied that there has been such a change in									

			<p>circumstances in your case since the leave was granted that it should be cancelled. I therefore cancel your leave to enter/remain</p> <ul style="list-style-type: none"> • in view of the fact that [state facts] since the leave was granted the basis of your claim to admission has been removed 	
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Business applications under the Turkish EC Association Agreement

Refusal wording: fraudulent and abusive practice

Key facts Eligibility as a Turkish businessperson Pre-decision casework Breaches of immigration law Type of business structure Assessing the applicant meets the requirements Additional requirements if joining an existing business Requirements to continue operating their business Requirements to settle in the UK Dependent family members Refusal wording Examples of successful and unsuccessful applications Rights of appeal Administrative review Criminality Relevant Immigration Rules Background	<p>This page gives the suggested wordings for refusal notices when you refuse a person who has applied for leave to remain as a Turkish EC Association Agreement businessperson and there is evidence of fraudulent and abusive practice.</p> <p>All refusals on this basis are under paragraph 4 of HC510, (the business provisions in force in 1973).</p> <p>You must use the following introductory paragraph in all formal notices to applicants or their representatives, followed by the appropriate wording in the table below.</p> <p>‘You have applied for leave to remain in the United Kingdom in order to establish a business (continue operating your business) under the Turkey – European Community Association Agreement (ECAA). This contains a ‘standstill clause’ which means that the United Kingdom may not impose conditions for business applicants less favourable than were in force when the United Kingdom became bound by the agreement in 1973. Your application has therefore been assessed in accordance with the after entry business provisions in force in 1973 (HC510). You are referred to paragraph 4 of HC510, which states:</p> <p>‘In deciding these matters account is to be taken of all the relevant facts; the fact that the applicant satisfies the formal requirements of these rules for stay, or further stay, in the proposed capacity is not conclusive in his favour. It will, for example, be relevant whether the person has observed the time limit and conditions subject to which he was admitted; whether in the light of his character, conduct or associations it is undesirable to permit him to remain; whether he represents a danger to national security; or whether, if allowed to remain for the period for which he wishes to stay, he might not be returnable to another country.’</p> <p>Further to the highlighted section of paragraph 4 (and paragraphs 21/28 below) your application is refused because you have breached immigration law in the following regard’</p> <table><tr><th>Reason</th><th>Suggested wordings</th></tr><tr><td>It would be undesirable to permit you to remain in</td><td><ul style="list-style-type: none">it would be undesirable to permit you to remain in the United Kingdom in light of your conduct.</td></tr></table>	Reason	Suggested wordings	It would be undesirable to permit you to remain in	<ul style="list-style-type: none">it would be undesirable to permit you to remain in the United Kingdom in light of your conduct.	<p>In this section</p> <p>Refusal wording - entry clearance and leave to enter Refusal wording - leave to enter Refusal wording - leave to remain Refusal wording where an applicant is joining an existing business Refusal wording - indefinite leave to remain Refusal wording - dependants</p>
Reason	Suggested wordings					
It would be undesirable to permit you to remain in	<ul style="list-style-type: none">it would be undesirable to permit you to remain in the United Kingdom in light of your conduct.					

	the United Kingdom	<p>character or associations</p> <ul style="list-style-type: none"> • your exclusion from the United Kingdom is conducive to the public good • you represent a danger to national security • you were convicted for [type of offence, date convicted, court, sentence] 		
	You previously breached the United Kingdom's Immigration Rules	you have been served with IS151A on [date] as an illegal entrant or person liable to administrative removal.		
	You have sought or obtained leave by deception	you have sought leave by deception as a [category] in the following regard [give details of the deception used].		
	You have overstayed previous leave	you have made your application having overstayed your previous leave by [xxx] months. Your previous leave to remain expired on dd/mm/yyyy but you submitted your application for leave to remain as a Turkish ECAA businessperson on dd/mm/yyyy.		
	You have failed to comply with a condition of your previous leave	you have failed to comply with the conditions attached to the grant of your leave to remain.		
	You have established in business in breach of a condition of your previous leave	you have established in business in breach of your conditions of leave as a [category] which did not permit you to engage in business.		
	You have breached the conditions of your temporary admission to the UK	<ul style="list-style-type: none"> • you are in breach of your conditions of temporary admission whilst in the United Kingdom which did not permit you to engage in business • you have absconded while on temporary admission • you have been served with IS96 on [date] as an applicant with reporting restrictions while on temporary admission to the United Kingdom 		
	You have sought to obtain refugee status by making an asylum claim that is discredited	you have sought to obtain refugee status by making an asylum claim that was refused and upheld on appeal and which has been found to be untrue by the Immigration Judge [appeal determination promulgated		

		on date].		
	You have made false representations and/or failed to disclose material facts	in the course of making this application you have made false representations, [submitted false documents] or [failed to disclose material facts] in the following regard [give details of deception].		
	There is a material link between the current business proposal and previous fraudulent or abusive conduct	<ul style="list-style-type: none"> • in making a new business proposal it can be shown that previous fraudulent or abusive conduct has allowed the application to be made • you have used relevant experience while establishing in business as an illegal entrant in developing your current business proposal 		

Business applications under the Turkish EC Association Agreement

Refusal wording: leave to remain main

Key facts Eligibility as a Turkish businessperson Pre-decision casework Breaches of immigration law Type of business structure Assessing the applicant meets the requirements Additional requirements if joining an existing business Requirements to continue operating their business Requirements to settle in the UK Dependent family members Refusal wording Examples of successful and unsuccessful applications Rights of appeal Administrative review Criminality Relevant Immigration Rules Background	<p>This page gives suggested wordings for when you refuse a person who has applied for leave to remain or further leave to remain as a Turkish EC Association Agreement businessperson.</p> <p>All refusals for the reasons outlined on this page are under paragraph 21 of HC510 (the business provisions in force in 1973).</p> <p>There are additional requirements if the applicant is claiming to be joining an existing business.</p> <p>For more information on refusals based on the additional requirements, see related link: Refusal wording where an applicant is joining an existing business.</p> <p>You must use the following introductory paragraph in all formal notices to applicants or their representatives.</p> <p>‘You have applied for leave to remain in order to establish yourself in/continue operating your business under the Turkey – European Community Association Agreement (ECAA). This contains a ‘standstill clause’ which means that the United Kingdom may not impose conditions for business applicants less favourable than were in force when the agreement came into force for the UK in 1973. I have therefore assessed your application in accordance with the After Entry business provisions in force in 1973. However, your application is refused because I am not satisfied that’</p> <table><tr><th>Reason</th><th>Suggested wordings</th></tr><tr><td>You do not genuinely wish to establish in business as proposed/you have not genuinely established in business as proposed</td><td><ul style="list-style-type: none">• the documentation you have submitted does not reflect a business proposal with a realistic chance of success because [state reasons]• you are not named on the partnership agreement• the partnership agreement does not satisfactorily outline what your level of involvement in the business will be</td></tr></table>	Reason	Suggested wordings	You do not genuinely wish to establish in business as proposed/you have not genuinely established in business as proposed	<ul style="list-style-type: none">• the documentation you have submitted does not reflect a business proposal with a realistic chance of success because [state reasons]• you are not named on the partnership agreement• the partnership agreement does not satisfactorily outline what your level of involvement in the business will be	<p>In this section</p> <p>Refusal wording - entry clearance and leave to enter Refusal wording - leave to enter Refusal wording - fraudulent and abusive practise Refusal wording where an applicant is joining an existing business Refusal wording - indefinite leave to remain Refusal wording - dependants</p>
Reason	Suggested wordings					
You do not genuinely wish to establish in business as proposed/you have not genuinely established in business as proposed	<ul style="list-style-type: none">• the documentation you have submitted does not reflect a business proposal with a realistic chance of success because [state reasons]• you are not named on the partnership agreement• the partnership agreement does not satisfactorily outline what your level of involvement in the business will be					

		<ul style="list-style-type: none"> the documentation which you have submitted does not include [state documents]. This documentation is considered to be essential evidence to show that you can run a business of this nature because [state reasons] you claim to be establishing in business as [state facts] but you have not shown that you have the relevant [qualifications] [experience] which are considered essential to running such a business your level of English is not sufficient to allow you to run your business with a realistic chance of success because [state reasons]. 	
	You will not be bringing into the country money of your own to establish in business as proposed/you have not devoted assets of your own to the business as proposed	<ul style="list-style-type: none"> your business proposal does not require any investment you have not shown that you have sufficient funds to invest in the business you have not shown that you have invested any money into the business you have not shown that your money has been invested in the business in a way that will grow the profit and goodwill of the business because [state reasons] you have shown that money has been invested in the business but this money does not represent your own assets because [state reasons] you have devoted assets of your own to the business but do not have a controlling or equal interest in the business because [state reasons] 	
	You can not bear your share of any liabilities that the business may incur/you can not bear your share of any liabilities that the business has incurred	you have provided documents to show that your business carries with it significant debts or liabilities. However, insufficient evidence has been provided to show that you can bear your share of these liabilities because [state reasons].	
	Your share of the profits of	<ul style="list-style-type: none"> your share of the net profit of your business was 	

	your business will be insufficient to support you and any dependants/your share of the profits of your business are insufficient to support you and any dependants	<p>[£XXX] but your annual living costs were [£XXX] and you have not provided sufficient evidence to show that you can maintain and accommodate yourself and your dependants without recourse to employment or public funds</p> <ul style="list-style-type: none"> • you claim that the net profit of your business was [£XXX] and your annual living costs were [£XXX] but you have not taken account of your loan repayments • you have not provided evidence to substantiate your living costs in the form of a tenancy agreement 	
	Your part in the business will amount to disguised employment/your part in the business does amount to disguised employment	<ul style="list-style-type: none"> • on the basis of your proposed day to day involvement in the business, insufficient evidence has been provided to show that your part in the business will not amount to disguised employment • you claim to have established in business but insufficient evidence has been provided to show that your part in the running of the business does not amount to disguised employment • there are transactions on your bank account statements showing regular credits from [state facts] indicating paid employment • the contract you have submitted shows employment terms and conditions, for example contracted hours, holiday entitlement • the invoices you have provided do not generate the business turnover indicated in your business accounts and you have not provided an explanation for the discrepancy • you have provided wage slips from [state facts] showing that national insurance/tax has been paid as an employee. 	
	You need to supplement your business activities by	<ul style="list-style-type: none"> • you have not shown that your business will generate sufficient profits to support you and any 	

	employment for which a work permit is required/you have supplemented your business activities by employment for which a work permit is required	<p>dependants without recourse to paid employment or public funds</p> <ul style="list-style-type: none"> • you have declared that you are in receipt of public funds 	
	There is not a genuine need for your services and investment/there was not a genuine need for your services and investment	<ul style="list-style-type: none"> • from the evidence provided there are doubts about whether there is a genuine need for your services and investment as a [state facts] in the area near to where you live • there is evidence to show you will face fierce competition from others already providing this type of service in your area. A search conducted on yell.com reveals [state facts] services near your postal district • in your documentation you have listed your previous experience and qualifications as strengths, but the level of competition poses a real threat to the establishment of a successful and profitable business 	

Business applications under the Turkish EC Association Agreement

Refusal wording where an applicant is joining an existing business

Key facts Eligibility as a Turkish businessperson Pre-decision casework Breaches of immigration law Type of business structure Assessing the applicant meets the requirements Additional requirements if joining an existing business Requirements to continue operating their business Requirements to settle in the UK Dependent family members Refusal wording Examples of successful and unsuccessful applications Rights of appeal Administrative review Criminality Relevant Immigration Rules Background	<p>This page gives additional suggested refusal wordings that you may use if the applicant is claiming to be joining an existing business as a Turkish EC Association Agreement businessperson.</p> <p>Refusals on this basis are under paragraph 21 of HC510 (the business provisions in force in 1973).</p> <p>‘However, your application is refused because I am not satisfied that’</p> <table><tr><th>Reason</th><th>Suggested wording</th></tr><tr><td>You have not provided accounts that establish the financial position of the business that you will be joining</td><td><ul style="list-style-type: none">• you have not provided business accounts for the business you claim to be joining. Without these accounts there is insufficient evidence to establish the current financial position of the business that you will be joining• the business accounts that you have provided relate to the financial years [state dates] and so do not indicate the current financial position of the business that you will be joining• the business accounts you have provided are incomplete because they do not take account of other items of expenditure that you have referred to elsewhere in your application. Without these figures it is not possible to establish the financial position of the business that you will be joining</td></tr><tr><td>You have not provided a written statement of the terms on which you will enter the business</td><td><ul style="list-style-type: none">• you have not provided any legal documents such as a partnership agreement or a written statement to show the terms on which you will be joining the business• you have not provided sufficient evidence to show the terms on which you will enter the business that you claim to be joining</td></tr></table>	Reason	Suggested wording	You have not provided accounts that establish the financial position of the business that you will be joining	<ul style="list-style-type: none">• you have not provided business accounts for the business you claim to be joining. Without these accounts there is insufficient evidence to establish the current financial position of the business that you will be joining• the business accounts that you have provided relate to the financial years [state dates] and so do not indicate the current financial position of the business that you will be joining• the business accounts you have provided are incomplete because they do not take account of other items of expenditure that you have referred to elsewhere in your application. Without these figures it is not possible to establish the financial position of the business that you will be joining	You have not provided a written statement of the terms on which you will enter the business	<ul style="list-style-type: none">• you have not provided any legal documents such as a partnership agreement or a written statement to show the terms on which you will be joining the business• you have not provided sufficient evidence to show the terms on which you will enter the business that you claim to be joining	<p>In this section</p> <p>Refusal wording - entry clearance and leave to enter Refusal wording - leave to enter Refusal wording - fraudulent and abusive practise Refusal wording - leave to remain Refusal wording - indefinite leave to remain Refusal wording - dependants</p>
Reason	Suggested wording							
You have not provided accounts that establish the financial position of the business that you will be joining	<ul style="list-style-type: none">• you have not provided business accounts for the business you claim to be joining. Without these accounts there is insufficient evidence to establish the current financial position of the business that you will be joining• the business accounts that you have provided relate to the financial years [state dates] and so do not indicate the current financial position of the business that you will be joining• the business accounts you have provided are incomplete because they do not take account of other items of expenditure that you have referred to elsewhere in your application. Without these figures it is not possible to establish the financial position of the business that you will be joining							
You have not provided a written statement of the terms on which you will enter the business	<ul style="list-style-type: none">• you have not provided any legal documents such as a partnership agreement or a written statement to show the terms on which you will be joining the business• you have not provided sufficient evidence to show the terms on which you will enter the business that you claim to be joining							

		<ul style="list-style-type: none"> • you have not shown that you will be establishing in business by virtue of a legitimate involvement in the business that you will be joining 		
	You will not be actively concerned in the running of the business/you are not actively concerned in the running of the business	<ul style="list-style-type: none"> • you have not provided any evidence in support of the business activities that you claim to be undertaking • the evidence that you have provided does not support the level of involvement that you claim you will have • the content of the partnership you have provided does not show how you will be actively involved in running the business • you have failed to show that you will be fully integrated into the business and have an active involvement in the business • your involvement in the business does not amount to establishment in business because [state reasons] 		
	There is a not genuine need for your services and investment/there was not a genuine need for your services and investment	<ul style="list-style-type: none"> • the nature of the business that you claim to be joining does not require the involvement of any more business partners • you are joining a business which is already profitable and you have not provided sufficient evidence to show there is a genuine need for your services and investment • you have failed to demonstrate how the proposed investment will be used to grow and increase the net profit of the business 		

Business applications under the Turkish EC Association Agreement

Refusal wording: indefinite leave to remain

Key facts Eligibility as a Turkish businessperson Pre-decision casework Breaches of immigration law Type of business structure Assessing the applicant meets the requirements Additional requirements if joining an existing business Requirements to continue operating their business Requirements to settle in the UK Dependent family members Refusal wording Examples of successful and unsuccessful applications Rights of appeal Administrative review Criminality Relevant Immigration Rules Background	<p>This page gives the suggested refusal wordings for when you refuse a person who has applied for indefinite leave to remain as a Turkish EC Association Agreement (ECAA) businessperson.</p> <p>All refusals for the reasons outlined on this page are under paragraph 28 of HC510 (the business provisions in force in 1973).</p> <p>When you have considered all the relevant circumstances you may decide that it is appropriate to refuse indefinite leave to remain and to exercise discretion in the applicant’s favour and grant further leave to remain in the UK for 12 months as a self-employed Turkish businessperson under the provisions of the ECAA.</p> <p>See related link: Eligibility for indefinite leave to remain.</p> <p>You must use the following introductory paragraph in all formal notices to applicants or their representatives, followed by the appropriate wording in the table below.</p> <p>‘You have applied for indefinite leave to remain in the United Kingdom as a businessperson under HC510, the Immigration Rules in force in 1973, by virtue of the terms of the Turkey – European Community Association Agreement (ECAA), but your application has been refused because I am not satisfied that’</p> <table><tr><th>Reason</th><th>Suggested wording</th></tr><tr><td>You are not still engaged in business in accordance with the requirements of the 1973 business provisions</td><td><ul style="list-style-type: none">• you have not provided audited business accounts prepared by a qualified or chartered accountant for the past 12 months• you have not provided sufficient evidence of your business activities in the form of invoices and letters of recommendation for the past 12 months• your itemised bank statements for the past 12 months show that no income has been received</td></tr></table>	Reason	Suggested wording	You are not still engaged in business in accordance with the requirements of the 1973 business provisions	<ul style="list-style-type: none">• you have not provided audited business accounts prepared by a qualified or chartered accountant for the past 12 months• you have not provided sufficient evidence of your business activities in the form of invoices and letters of recommendation for the past 12 months• your itemised bank statements for the past 12 months show that no income has been received	<p>In this section</p> <p>Refusal wording - entry clearance and leave to enter Refusal wording - leave to enter Refusal wording - fraudulent and abusive practise Refusal wording - leave to remain Refusal wording where an applicant is joining an existing business Refusal wording - dependants</p> <p>See also</p> <p>Eligibility for indefinite leave to remain</p>
Reason	Suggested wording					
You are not still engaged in business in accordance with the requirements of the 1973 business provisions	<ul style="list-style-type: none">• you have not provided audited business accounts prepared by a qualified or chartered accountant for the past 12 months• you have not provided sufficient evidence of your business activities in the form of invoices and letters of recommendation for the past 12 months• your itemised bank statements for the past 12 months show that no income has been received					

		<p>from your business during that time</p> <ul style="list-style-type: none"> • you have provided documents to show that your business carries with it significant debts /liabilities and insufficient evidence has been provided to show that you can bear your share of these liabilities • you were declared bankrupt on [date] and your business has ceased trading 	
	<p>You have not spent a continuous period of four years as a Turkish ECAA businessperson (including time spent as a Tier 1 Entrepreneur, Businessperson or an Innovator)</p>	<ul style="list-style-type: none"> • you have not provided audited business accounts prepared by a qualified or chartered accountant for the whole of the past four years • you have not provided sufficient evidence of your business activities in the form of invoices and letters of recommendation for the whole of the past 4 years • you have not provided substantive evidence in the form of original itemised bank statements for the whole of the past 4 years 	

Business applications under the Turkish EC Association Agreement

Refusal wording: dependants

Key facts Eligibility as a Turkish businessperson Pre-decision casework Breaches of immigration law Type of business structure Assessing the applicant meets the requirements Additional requirements if joining an existing business Requirements to continue operating their business Requirements to settle in the UK Dependent family members Refusal wording Examples of successful and unsuccessful applications Rights of appeal Administrative review Criminality Relevant Immigration Rules Background	<p>This page gives the suggested wordings for when you refuse a person applying as a family member of a Turkish EC Association Agreement (ECAA) businessperson.</p> <p>All refusals for dependants of a Turkish ECAA businessperson for the reasons outlined on this page are under paragraphs 271 – 273F or 274 - 276 of HC395 (as amended) (the current points-based Immigration Rules).</p> <p>‘You have applied for leave to enter/leave to remain as the dependant of a Turkish EC Association Agreement (ECAA) businessperson. The 1973 rules allow for general considerations and relevant facts to be taken into consideration when assessing applications. However, your application is refused because’</p> <table border="1"> <thead> <tr> <th>Paragraph Number</th><th>Reason</th><th>Suggested wording</th></tr> </thead> <tbody> <tr> <td>271 – 273F of HC395 (as amended)</td><td>You are not the spouse/civil partner/unmarried partner/same sex partner of a person who has valid leave to enter or remain as a Turkish ECAA businessperson</td><td> <ul style="list-style-type: none"> you applied for leave to remain in the United Kingdom as the dependent spouse/civil partner/unmarried partner/same sex partner of [name] under the provisions of the Turkish EC Association Agreement but their application has been refused. In view of this I am not satisfied that you are the dependant spouse/civil partner/unmarried partner/same sex partner of a person with leave to remain in the UK under paragraph 271 of HC 395 (as amended). Your application is therefore being refused because you are being refused in line with the main applicant you applied for leave to remain in the United Kingdom as the dependent </td></tr> </tbody> </table>	Paragraph Number	Reason	Suggested wording	271 – 273F of HC395 (as amended)	You are not the spouse/civil partner/unmarried partner/same sex partner of a person who has valid leave to enter or remain as a Turkish ECAA businessperson	<ul style="list-style-type: none"> you applied for leave to remain in the United Kingdom as the dependent spouse/civil partner/unmarried partner/same sex partner of [name] under the provisions of the Turkish EC Association Agreement but their application has been refused. In view of this I am not satisfied that you are the dependant spouse/civil partner/unmarried partner/same sex partner of a person with leave to remain in the UK under paragraph 271 of HC 395 (as amended). Your application is therefore being refused because you are being refused in line with the main applicant you applied for leave to remain in the United Kingdom as the dependent 	<p>In this section</p> <p>Refusal wording - entry clearance and leave to enter Refusal wording - leave to enter Refusal wording - fraudulent and abusive practise Refusal wording - leave to remain Refusal wording where an applicant is joining an existing business Refusal wording - indefinite leave to remain</p>
Paragraph Number	Reason	Suggested wording						
271 – 273F of HC395 (as amended)	You are not the spouse/civil partner/unmarried partner/same sex partner of a person who has valid leave to enter or remain as a Turkish ECAA businessperson	<ul style="list-style-type: none"> you applied for leave to remain in the United Kingdom as the dependent spouse/civil partner/unmarried partner/same sex partner of [name] under the provisions of the Turkish EC Association Agreement but their application has been refused. In view of this I am not satisfied that you are the dependant spouse/civil partner/unmarried partner/same sex partner of a person with leave to remain in the UK under paragraph 271 of HC 395 (as amended). Your application is therefore being refused because you are being refused in line with the main applicant you applied for leave to remain in the United Kingdom as the dependent 						

			spouse/civil partner/unmarried partner/same sex partner of [name] under the provisions of the Turkish EC Association Agreement but in view of the fact that [state reasons] I am not satisfied that your marriage/civil partnership/relationship is subsisting at the time of the application	
	274 – 276 of HC395 (as amended)	You are not the child of a person who has valid leave to enter or remain as a Turkish ECAA businessperson	you applied for leave to remain in the United Kingdom as the dependent child of [name] under the provisions of the Turkish EC Association Agreement but their application has been refused. In view of this I am not satisfied that you are the dependent child of a person with leave to remain in the UK under paragraph 274 of HC 395 (as amended). Your application is therefore being refused because you are being refused in line with the main applicant.	

Business applications under the Turkish EC Association Agreement

Examples of successful and unsuccessful applications

Key facts Eligibility as a Turkish businessperson Pre-decision casework Breaches of immigration law Type of business structure Assessing the applicant meets the requirements Additional requirements if joining an existing business Requirements to continue operating their business Requirements to settle in the UK Dependent family members Refusal wording Examples of successful and unsuccessful applications Rights of appeal Administrative review Criminality Relevant Immigration Rules Background	<p>This page gives examples of successful and unsuccessful applications under the Turkish EC Association Agreement (ECAA).</p> <p>The examples are intended only as a rough guide. Each application must be assessed on its own merits using the ECAA guidance.</p> <table border="1"> <thead> <tr> <th>Business</th><th>Successful</th><th>Unsuccessful</th></tr> </thead> <tbody> <tr> <td>Fast food outlet or shop</td><td>Owns all or a significant amount of the business through investment of own funds, is the legally-registered owner, has final say on opening times, recruiting employees, sources of supplies, and so on.</td><td>Has paid money to the business owner but business was already operating successfully, no evidence of origin of funds, applicant has no controlling influence over the day to day running of the business.</td></tr> <tr> <td>Cleaning</td><td>Has invested in equipment, premises, transportation, has employees, simultaneously provides services for different clients.</td><td>Pays tax as a self-employed person but has bought only a small amount of equipment, works for one client at a time, is paid by the hour or week.</td></tr> <tr> <td>Business or IT consultancy</td><td>Has bought and uses own equipment, work consists of single projects at set prices for a variety of clients, evidence that applicant is looking to expand his business.</td><td>Is well qualified but works for one client on a long-term contract, is based in the client's office, uses client's equipment, work is determined by the day to day demands of the business.</td></tr> <tr> <td>Travel agency</td><td>Owns or rents business premises, meets all costs of running office from profits of business, organises travel directly with travel providers, has employees.</td><td>Claims to work specialising in certain types of client on a self-employed basis as part of a larger agency, works from the agency's office, uses their equipment and relies on their</td></tr> </tbody> </table>	Business	Successful	Unsuccessful	Fast food outlet or shop	Owns all or a significant amount of the business through investment of own funds, is the legally-registered owner, has final say on opening times, recruiting employees, sources of supplies, and so on.	Has paid money to the business owner but business was already operating successfully, no evidence of origin of funds, applicant has no controlling influence over the day to day running of the business.	Cleaning	Has invested in equipment, premises, transportation, has employees, simultaneously provides services for different clients.	Pays tax as a self-employed person but has bought only a small amount of equipment, works for one client at a time, is paid by the hour or week.	Business or IT consultancy	Has bought and uses own equipment, work consists of single projects at set prices for a variety of clients, evidence that applicant is looking to expand his business.	Is well qualified but works for one client on a long-term contract, is based in the client's office, uses client's equipment, work is determined by the day to day demands of the business.	Travel agency	Owns or rents business premises, meets all costs of running office from profits of business, organises travel directly with travel providers, has employees.	Claims to work specialising in certain types of client on a self-employed basis as part of a larger agency, works from the agency's office, uses their equipment and relies on their	
Business	Successful	Unsuccessful															
Fast food outlet or shop	Owns all or a significant amount of the business through investment of own funds, is the legally-registered owner, has final say on opening times, recruiting employees, sources of supplies, and so on.	Has paid money to the business owner but business was already operating successfully, no evidence of origin of funds, applicant has no controlling influence over the day to day running of the business.															
Cleaning	Has invested in equipment, premises, transportation, has employees, simultaneously provides services for different clients.	Pays tax as a self-employed person but has bought only a small amount of equipment, works for one client at a time, is paid by the hour or week.															
Business or IT consultancy	Has bought and uses own equipment, work consists of single projects at set prices for a variety of clients, evidence that applicant is looking to expand his business.	Is well qualified but works for one client on a long-term contract, is based in the client's office, uses client's equipment, work is determined by the day to day demands of the business.															
Travel agency	Owns or rents business premises, meets all costs of running office from profits of business, organises travel directly with travel providers, has employees.	Claims to work specialising in certain types of client on a self-employed basis as part of a larger agency, works from the agency's office, uses their equipment and relies on their															

			marketing and so on, has no previous experience in the industry.	
	Hairdressing	Owns or rents premises, has employees, making good profit, member of the National Hairdressing Federation as a salon owner.	Rents chair in hairdressers, pays tax on own takings but has no say over use of business premises and day to day running of the business.	

Business applications under the Turkish EC Association Agreement

Rights of appeal

Key facts Eligibility as a Turkish businessperson Pre-decision casework Breaches of immigration law Type of business structure Assessing the applicant meets the requirements Additional requirements if joining an existing business Requirements to continue operating their business Requirements to settle in the UK Dependent family members Refusal wording Examples of successful and unsuccessful applications Rights of appeal Administrative review Criminality Relevant Immigration Rules Background	<p>This page tells you whether a person applying for leave as a businessperson under the Turkish EC Association Agreement (ECAA) has a right of appeal if their application is refused.</p> <p>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. Further information on administrative review can be found in the left hand links.</p> <p>Applicants who have been refused before 6 April 2015 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.</p> <p>For further details of the grounds see the notice of decision issued on ICD.4547. You can access this through the document generator tool on CID.</p> <p>Appeals are 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.</p> <p>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 that applicants can only have one application running at any one time.</p> <p>Information on any appeals lodged with IAC can be found on the appeals maintenance screen on CID.</p> <p>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 applicant is assumed to have received the notice of decision. They are assumed to have received it two days after the decision was despatched, unless there is any evidence to the contrary.</p>	Related links Link to staff intranet removed
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	<p>Entry clearance refusals If assessed under the 1973 business provisions, the applicant has a full out of country right of appeal, unless section 88 of the act applies, in which case there will be a limited right of appeal.</p> <p>Leave to enter refusals If an applicant has a Turkish ECAA business entry clearance and is not refused entry on the grounds of seeking entry for a different purpose, they will have a full in-country right of appeal, unless section 88 of the act applies, in which case there will be a limited right of appeal.</p> <p>If an applicant has a Turkish ECAA business entry clearance and is refused entry on the grounds of seeking entry for a different purpose, they will have a limited out-of-country right of appeal by virtue of sections 89 and 92.</p> <p>If an applicant does not have any entry clearance they will have a limited out-of-country right of appeal by virtue of sections 89 and 92.</p> <p>A person who would otherwise have only an out-of-country right of appeal is allowed to appeal in-country if they have made an asylum or human rights claim.</p> <p>Leave to remain and indefinite leave to remain refusals You must consider whether the application was raised in time, out of time or whether the applicant has extant leave as follows:</p> <ul style="list-style-type: none"> • applicants who apply in time and are refused - and there is no leave left as a result of the decision - have a full right of appeal by virtue of sections 89 and 92 • applicants who apply out of time and are refused - have no right of appeal • if an applicant has extant leave despite the refusal - and that leave is not curtailed – they have no right of appeal <p>Notice of decision with right of appeal Where the decision attracts a right of appeal, you must issue both:</p>	
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	<ul style="list-style-type: none"> • a notice of decision using ICD.4547 summarising the main grounds for refusal • a reasons for refusal letter (RFRL) using ICD.3050 setting out the detailed circumstances why the application falls for refusal against the relevant paragraphs of HC510 <p>You must put in the telephone number of the appropriate immigration, compliance and engagement (ICE) team in the notice of decision letter using the ICE finder. This is to allow the applicant to contact their regional team if they do not wish to appeal the decision, or abandon appeal proceedings and leave the UK. See related links for the ICE finder.</p> <p>You must send a blank appeal form (IAFT-1) to the applicant or representative with the notice of decision and reasons for refusal letters. You can access this on ICD.1041 through the document generator tool on CID.</p> <p>You must update the harm matrix (see related links) and special conditions screen on CID before referring any case for enforcement action.</p> <p>Notice of decision with no right of appeal</p> <p>If the decision does not attract a right of appeal, you must issue a notice of decision using ICD.2242 summarising the main grounds for refusal and explaining the circumstances why the application falls for refusal against the relevant paragraphs of HC510.</p> <p>Action to take with passports, identity cards and valuable documents</p> <p>You must keep any valid passport and biometric residence permits (BRP) securely on the file if you curtail leave with immediate effect, and the applicant is served with a joint removal decision (under section 47 of the Immigration, Asylum and Nationality Act 2006) or if the applicant has no right of appeal (for example out of time applications).</p> <p>You must handle them in line with the related link: Valuable documents.</p>	
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Business applications under the Turkish EC Association Agreement

Administrative review

Key facts Eligibility as a Turkish businessperson Pre-decision casework Breaches of immigration law Type of business structure Assessing the applicant meets the requirements Additional requirements if joining an existing business Requirements to continue operating their business Requirements to settle in the UK Dependent family members Refusal wording Examples of successful and unsuccessful applications Rights of appeal Administrative review Criminality Relevant Immigration Rules Background	<p>This page tells you whether a person applying for leave as a businessperson 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.</p> <p>Page contents</p> <p>Applications made on or before 5 April 2015 Applications made on or after 6 April 2015 Decision letters Administrative reviews Requesting an administrative review The applicant's status while an administrative review is being undertaken Decisions where administrative reviews can be undertaken Claimed errors which may be raised in administrative review Who should consider the request for administrative review How to consider the administrative review request Administrative reviews - Outcomes Administrative reviews - Recording outcomes on GCID The administrative review decision letter Decisions where administrative review cannot be undertaken</p> <p>Applications made on or before 5 April 2015</p> <p>If an application for leave to remain or indefinite 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.</p> <p>Applications made on or after 6 April 2015</p> <p>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</p>	<p>Related links</p> <p>See also</p> <p>Link to staff intranet removed</p> <p>External links</p> <p>Link to staff intranet removed</p>
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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.

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 reviews consider whether an 'eligible decision' is wrong because of a caseworking 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**.

Requesting an administrative review

Applicants have 14 calendar days from the date the applicant receives the notice (7 calendar days if they are detained.) to apply for an administrative review. This is done by completing the online form available from the GOV.UK website and paying the £80 fee. Failure to meet these requirements will lead to the request being rejected. Applications made by letter or fax will not be accepted. For further information on how to apply to apply for an administrative review, the validation process and the fee (including fee waivers) see related links.

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

If the applicant has immigration leave and applies 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.

Decisions where administrative reviews can be undertaken

Administrative review can be requested where either:

- an application under the Turkish ECAA has been refused
- an application where leave under the Turkish ECAA has been granted but a review of the period or conditions of that leave has been requested

Applicants can request a review if they think that the alleged caseworking error could have made a difference to the original decision. Equally, they can make a request if they think the decision could have an unfair impact because it relates to:

- an adverse credibility assessment
- a finding that the applicant had submitted false documents

A finding that there has been a lack of credibility or there has been a submission of false documents could lead to refusals on general grounds should an applicant later apply under a different immigration category. As a result they may want to use an administrative review to prove they were credible or that the documents were genuine even if the actual refusal decision is maintained.

Claimed errors which may be raised in administrative review

Administrative review will only consider the claimed caseworking errors, which are specified in AR3.4 of appendix AR of the Immigration Rules. The table below shows what these errors are and whether an applicant who alleges such errors can submit new evidence:

Caseworking error	Example scenario	Can new evidence be provided?
AR3.4(a) Where the original decision-maker applied the wrong Immigration Rules.	The caseworker applies the current Immigration Rules instead of those applicable in 1973.	No
AR3.4(b) Where the original decision-maker applied the 1973 Immigration Rules	The caseworker refuses the application because they believe there is a set amount of money the	No

	incorrectly.	applicant must invest in the business when there is no such specific amount detailed in the 1973 rules.			
	AR3.4(d) Where there has been an error in calculating the correct period of immigration leave either held or to be granted.	Calculating the period of leave granted incorrectly, for example granting leave to expire on a calendar day that does not exist such as 31 June or entering the incorrect year by mistake.	No		
	AR3.4(e) Where the original decision-maker has not considered all the evidence that was submitted as evidenced in the eligible decision.	Where the caseworker has overlooked a piece of evidence such as business bank statements and so come up with an incorrect figure regarding profit/loss/liabilities. As a result the application is incorrectly refused on the basis that there are insufficient profits to maintain the applicant and any dependents.	Yes – only to prove what evidence was originally submitted.		
	AR3.4(f) Where the original decision-maker has considered some or all of the evidence submitted incorrectly as	Where the applicant has submitted multiple sets of bank statements and the amounts have been added up incorrectly by	No		

	evidenced in the eligible decision.	the caseworker, resulting in a refusal decision on the grounds of insufficient funds.			
	AR3.4(g) Where the Immigration Rules provide for the original decision maker to consider the credibility of the applicant and the caseworker has reached an unreasonable decision on the credibility of the applicant.	The applicant has completed the application form in good written English, has supplied the necessary documents and evidence, but is refused on the sole basis that the business is not credible because his understanding of English is unlikely to be sufficient.	Yes – only to prove that the decision on the credibility assessment was so unreasonable that no rational decision-maker could have made it.		
	AR3.4(h) Where the original decision to refuse an application was on the basis that the supporting documents were not genuine was incorrect.	The applicant has submitted internet bank statements which appear to have been stamped in a branch. The statements were verified and the issuing bank stated that they were false. The applicant has evidence from the bank that states the verification was done incorrectly and the statements are genuine.	Yes – only to prove that the evidence originally submitted was genuine.		
	AR3.4(i) Where the original decision to refuse an application on the	The caseworker considered the documents provided to be	No		

	basis that the supporting documents did not meet the requirements of the 1973 Immigration Rules was flawed.	copies. The documents were in fact original.	
	AR3.4(j) Where the original decision-maker has incorrectly refused an application on the basis that it was made more than 28 days after leave expired.	The caseworker used the date on which the application was input onto CID as the date of application rather than the date the application was posted. The 28 day period has therefore been calculated incorrectly.	Yes – only to prove that date on which the application was submitted.
	AR3.4(k) Where the original decision-maker failed to apply the Secretary of State's relevant published policy and guidance.	The caseworker failed to correctly apply the policy relating to breaches of conditions in ECAA cases even though the breach was not material to the applicant's ability to meet the ECAA requirements.	No
<p>Who should consider the request for administrative review</p> <p>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.</p> <p>If you are given an administrative review case to consider and you were the original decision-maker or reviewer, you must refer the case to your manager so it can be re-</p>			

allocated to another caseworker.

You must never carry out an administrative review of a decision on a case that you:

- originally considered
- were involved in considering
- previously reviewed

For further information on how administrative reviews are considered can see related links.

How to consider the administrative review request

You must:

- normally only consider the specific aspects of the decision challenged in the administrative review request - if it becomes clear during your review that the original decision contained errors which the applicant or representative has not identified, you must also correct those
- carefully consider all the claimed errors raised in the application and address each of them in the decision
- request additional information if the applicant is allowed to provide it and you need it to conduct the review
- not consider any new evidence or information, unless it impacts upon the decision and the applicant is allowed to provide new evidence under paragraph AR2.4 of appendix AR of the Immigration Rules
- consider if correcting the casework error would change the outcome of the original decision (whether or not the outcome of the administrative review is that the original decision is overturned)

For further information see related links.

Administrative reviews - Outcomes

After an administrative review has been conducted there are three possible outcomes:

- maintain the decision but correct errors
- maintain the decision

- change the decision

For further information on each of these possible outcomes see related links.

Administrative reviews - Recording outcomes on GCID

Administrative reviews have their own outcomes on GCID under the AR category. The caseworker conducting the administrative review should:

- check that the new outcomes 'AR Received' and 'AR Validated' have been added in the CID outcome field
- add the decision to the CID outcome field, from the list of administrative review CID outcomes (see related link)
- address every point raised by the applicant, or representative, and the Home Office response to those points on the 'case notes' screen

This makes sure there is a clear audit trail so the applicant will not get a second review unless they are entitled to one and any future legal challenge about the review can be robustly defended.

For further information on GCID outcomes see related link: CID outcomes for Administrative review.

The administrative review decision letter

You must inform the applicant, or their legal representative (if they have one) of the outcome of the review in writing, using the correct letter templates. For more information on what letters to produce, see related links:

- Administrative review: change the decision
- Administrative review: change the reasons for the decision
- Administrative review: maintain the decision

The content of your letter may form part of any following judicial review that challenges the decision. It is important that your letter is:

- clear

	<ul style="list-style-type: none"> • concise • responds to all points the applicant or their representative raise in the administrative review <p>For more information on judicial reviews, see related link: Reconsiderations, appeals and judicial reviews.</p> <p>Decisions where administrative review cannot be undertaken It will not be possible to use administrative review to:</p> <ul style="list-style-type: none"> • ask for a decision to be reviewed if it is not an eligible decision as specified in the Immigration Rules • seek leave on some other basis beyond the route of the original application • make a protection or human rights claim • to claim that the applicant has a right to reside under EU law <p>For further details on what to do if a request is made for an administrative review but the decision is not eligible, please see the related link: Requests that cannot be made using administrative review.</p>	
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Business applications under the Turkish EC Association Agreement

Criminality

<p>Key facts Eligibility as a Turkish businessperson Pre-decision casework Breaches of immigration law Type of business structure Assessing the applicant meets the requirements Additional requirements if joining an existing business Requirements to continue operating their business Requirements to settle in the UK Dependent family members Refusal wording Examples of successful and unsuccessful applications Rights of appeal Administrative review Criminality Relevant Immigration Rules Background</p>	<p>This page tells you how to consider business applications under the Turkish EC Association Agreement (ECAA) when there is evidence of criminality.</p> <p>You must consider refusing applications if it would be undesirable to allow the applicant to remain in the UK because of their character, conduct or associations, or if they represent a danger to national security under paragraph 4 of HC 510.</p> <p>Since December 2012 new sentencing thresholds have replaced the assessment under the Rehabilitation of Offenders Act 1974. If an applicant with a criminal conviction is applying for leave or indefinite leave as a business person under the Turkish ECAA on or after 13 December 2012, you must consider these new sentencing thresholds.</p> <p>If an applicant declares a criminal conviction which would be deemed as spent according to the 'old' definition, you must not take it into account when deciding the case.</p> <p>You must consider all the relevant circumstances of the case. For example the:</p> <ul style="list-style-type: none">• 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 upon 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 <p>Sentencing thresholds (applications made on or after 13 December 2012)</p> <p>In line with the current sentencing thresholds you must refuse an applicant who is applying for leave or indefinite leave to remain on or after 13 December 2012, if they:</p> <ul style="list-style-type: none">• have been convicted of an offence and sentenced to imprisonment for at least 4 years• were convicted of an offence and sentenced to imprisonment for at least 12 months but	<p>Related links</p> <p>Link to staff intranet removed</p>
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less than 4 years, and 15 years has not passed since the end of the sentence

- were convicted of an offence and sentenced to imprisonment for less than 12 months, and 7 years has not passed since the end of the sentence
- have, within the 24 months immediately before the date of the application, been convicted of or admitted to an offence and received a non-custodial sentence or other out of court disposal recorded on their criminal record

Applicants subject to a deportation order

If an applicant has applied for leave under the Turkish ECAA, but is subject to a deportation order, such applications should normally be refused. You must consult your senior caseworker in the first instance should such a case arise.

Referrals to criminal casework

When an applicant has been convicted of a criminal offence, you may need to refer the application to criminal casework (CC).

Before you casework such a case, you must check if the applicant meets the CC referral criteria. If the applicant meets the criteria and CC accept it, you must refer the case to CC. You must not grant an application which is of interest to CC. For more information, see the related link: When to refer a case to criminal casework (CC).

Convictions falling below the criminal casework threshold

There may be circumstances where a person has been convicted of a criminal offence which, by its nature or circumstances, may suggest the person's presence in the UK is not conducive to the public good, but the person has received a sentence falling below the threshold for referring the case to CC.

If a case falls into this category you must refer it to your team leader to consider if the case falls for refusal under paragraph 322(5) of the Immigration Rules.

Examples could include (but are not limited to):

- offences involving violence
- sexual offences
- offences against children

- serious drug offences

Applications made on or before 12 December 2012

If an application was made before the introduction of the new sentencing thresholds, these will continue to be assessed under the Rehabilitation of Offenders Act 1974.

Whether a conviction affects the outcome in such cases will depend on whether the conviction has been spent. A spent conviction is a conviction which, under the terms of Rehabilitation of Offenders Act 1974, can effectively be ignored after a specified amount of time.

The amount of time for rehabilitation depends on the sentence imposed, not on the offence. It is calculated from the date of conviction or the date the caution is administered.

The rehabilitation periods are shown in the table below.

Sentence or disposal	Rehabilitation period for adults (18 or over at the time of conviction or the time the disposal is administered)	Rehabilitation period for young period (under 18 at the time of conviction or the time the disposal is administered)
Imprisonment or detention in a young offender institution for over 30 months (two and a half years)	Never spent	Never spent
Imprisonment or detention in a young offender institution over six months but not more than 30 months (two and a half years)	10 years	5 years
Imprisonment up to six months	7 years	Three and a half years
Fine	5 years	Two and a half years
Community sentence	5 years	Two and a half years

	Conditional discharge	The period of the order, or a minimum of 12 months (whichever is the longer)	The period of the order, or a minimum of 12 months (whichever is the longer)	
	Absolute discharge	6 months	6 months	
	Conditional caution	3 months	3 months	
	Simple caution, reprimand, final warning	Spent immediately	Spent immediately	
	Some sentences carry variable rehabilitation periods. The main ones are as follows:			
	Compensation order	On the discharge of the order (that is when it is paid in full)	On the discharge of the order (that is when it is paid in full)	
	Supervision order	Not applicable	The period of the order, or a minimum of 12 months (whichever is longer)	
	Bind over	The period of the order, or a minimum of 12 months (whichever is longer)	The period of the order, or a minimum of 12 months (whichever is longer)	
	Attendance centre order	A period ending one year after the order expires	A period ending one year after the order expires	
	Hospital order	5 years, or a period ending 2 years after the order expires (whichever is longer)	5 years, or a period ending 2 years after the order expires (whichever is longer)	
	Further information For further information on general grounds of refusal and all the above, see related links.			

Business applications under the Turkish EC Association Agreement

Relevant Immigration Rules

Key facts Eligibility as a Turkish businessperson Pre-decision casework Breaches of immigration law Type of business structure Assessing the applicant meets the requirements Additional requirements if joining an existing business Requirements to continue operating their business Requirements to settle in the UK Dependent family members Refusal wording Examples of successful and unsuccessful applications Rights of appeal Administrative review Criminality Relevant Immigration Rules Background	<p>This section tells you about the Immigration Rules that are relevant to applications as a Turkish EC Association Agreement businessperson.</p> <p>For more information, see links in this section:</p> <ul style="list-style-type: none">• Relevant Immigration Rules – on entry requirements• Relevant Immigration Rules – after entry requirements	<p>In this section</p> <p>Relevant Immigration Rules – on entry requirements Relevant Immigration Rules – after entry requirements.</p>
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Business applications under the Turkish EC Association Agreement

Relevant Immigration Rules: on entry requirements

Key facts Eligibility as a Turkish businessperson Pre-decision casework Breaches of immigration law Type of business structure Assessing the applicant meets the requirements Additional requirements if joining an existing business Requirements to continue operating their business Requirements to settle in the UK Dependent family members Refusal wording Examples of successful and unsuccessful applications Rights of appeal Administrative review Criminality Relevant Immigration Rules Background	<p>This page tells you about the Immigration Rules that apply to passengers seeking entry clearance to come and establish in business in the UK as a Turkish EC Association Agreement businessperson.</p> <p>Paragraph 12 of HC509</p> <p>‘Visas, entry certificates and Home Office letters of consent (described in the Act by the generic term ‘entry clearance’) are issued in accordance with the rules contained in this statement. A passenger who holds an entry clearance which was duly issued to him and is still current is not to be refused leave to enter unless the Immigration Officer is satisfied that:</p> <ul style="list-style-type: none">• false representations were employed or material facts were concealed, whether or not to the holder’s knowledge for the purpose of obtaining the clearance, or• a change in circumstances since it was issued has removed the basis of the holder’s claim to admission’ <p>But an Immigration Officer is not precluded from refusing leave to enter on grounds of restricted returnability, on medical grounds, on grounds of criminal record, because the passenger is the subject of a deportation order or because exclusion would be conducive to the public good. The scope of the power to refuse leave to enter on these grounds is set out in paragraphs 14 and 65-69.’</p> <p>Paragraph 29 of HC509</p> <p>‘Businessmen admitted to the UK as visitors are free to transact business during their visit.’</p> <p>Paragraph 30 of HC509</p> <p>‘Passengers who have obtained entry clearances for the purposes of establishing themselves in the UK in business, whether a new or existing business, should be admitted for a period not exceeding 12 months with a condition restricting their freedom to take employment. Passengers who are unable to present such a clearance but nevertheless seem likely to be able to satisfy the requirements of one of the next two paragraphs should be admitted for a period of not more than two months, with a prohibition on employment, and advised to present their case to the Home Office.’</p>	<p>In this section</p> <p>Relevant Immigration Rules – after entry requirements</p>
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Paragraph 31 of HC509

‘For an applicant to obtain an entry clearance for this purpose he will need to show, if joining an established business, that he will be bringing money of his own to put into the business; that he will be able to bear his share of the liabilities; that his share of the profits will be sufficient to support him and his dependants; that he will be actively concerned in the running of the business; and that there is a genuine need for his services and investment. The accounts of the business for previous years will require to be produced, in order to establish the precise financial position. An entry clearance will not be issued where it appears that the proposed partnership or directorship amounts to disguised employment or where it seems likely that, to obtain a livelihood, the applicant will have to supplement his business activities by employment for which a work permit is required.’

Paragraph 32 of HC509

‘If the applicant wishes to establish in business in the UK on his own account, he will need to show that he will be bringing into the country sufficient funds to establish a business that can realistically be expected to support him and any dependants without recourse to employment for which a work permit is required.’

Paragraph 35 of HC509

‘The wife and children under 18 of a person admitted to the UK as a self-employed person should be given leave to enter for the period of his authorised stay. Their freedom to take employment should not be restricted.’

Paragraph 65 of HC509

‘Where the Medical Inspector advises that for medical reasons it is undesirable to admit the passenger the Immigration Officer should refuse leave to enter unless he considers admission warranted by strong compassionate reasons. He may also refuse leave to enter where the passenger declines to submit to a medical examination. And where the Medical Inspector advises that a passenger is suffering from a specified disease or condition which may interfere with his ability to support himself or his dependants, the Immigration Officer should take account of this, in conjunction with other factors, in deciding whether to admit the passenger.’

Paragraph 68 of HC509

‘Any passenger who is currently subject to a deportation order is to be refused leave to

	<p>enter. If he wishes to make representations, he should be advised that on return to his own country it will be open to him to apply for revocation of the order, and where appropriate, that he will have a right of appeal if revocation is refused.'</p> <p>Paragraph 69 of HC509</p> <p>'Any passenger except the wife or child under 18 of a person present and settled in the UK may be refused leave to enter on the ground that his exclusion is conducive to the public good, where the Secretary of State has personally so directed, or from information available to the Immigration Officer it seems right to refuse leave to enter on that ground if, for example, in the light of the passenger's character, conduct or associations it is undesirable to give him leave to enter.'</p>	
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Business applications under the Turkish EC Association Agreement

Relevant Immigration Rules: after entry requirements

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a businessman in the first instance may be granted an appropriate extension of stay if the conditions set out above are still satisfied at the end of the period for which he was admitted initially.'

Paragraph 28 of HC510

'A person who is admitted in the first instance for a limited period, and who remains here for 4 years in approved employment or as a businessman or a self-employed person or a person of independent means may have the time limit on his stay removed unless there are grounds for maintaining it. Applications for removal of the time limit are to be considered in the light of all the relevant circumstances, including those set out in *paragraph 4*. Once the time limit is removed no further permission from the Home Office or Department for Employment is needed to engage in any type of business or employment. Application for variation of leave to enter with a view to settlement may also be received from people originally admitted as, for example, visitors; but permission is to be limited to close relatives of people already accepted for settlement. Particulars are set out in paragraphs 37-44 of the Rules for Control on Entry dated October 1972 (HC509).'

Paragraph 43 of HC510

'Under sections 3(5)-(6) and 5(1)-(4) of the Immigration Act 1971 the Secretary of State may, if he thinks fit, make a deportation order requiring a person who is not *patria* to leave and to remain thereafter out of the UK:

- if the person has failed to comply with a condition attached to his leave to enter or remain beyond the authorised time;
- if the Secretary of State deems the person's deportation to be conducive to the public good;
- if the person is the wife or the child under 18 of a person ordered to be deported;
- if the person, after reaching the age of 17, is convicted of an offence for which he is punishable with imprisonment and the court recommends deportation.'

Paragraph 52 of HC510

'Deportation will normally be the proper course of action where the person has persistently contravened or failed to comply with a condition or has remained without authorisation. (So also where it has been recommended for deportation on conviction of entering the UK unlawfully). But full account is to be taken of all relevant circumstances before a decision is

reached.'

Paragraph 67 of HC510

'Applications for the revocation of a deportation order will be carefully considered in the light of the grounds on which the order was made and of the case made in support of the application. The interests of the community, including the maintenance of an effective immigration control, are to be balanced against the interests of the applicant, including any circumstances of a compassionate nature. In the case of an applicant with a serious criminal record continued exclusion, for a long number of years, will normally be the proper course. In other cases revocation of the order will not normally be authorised unless the situation has been materially altered either by a change of circumstances since the order was made or by fresh information coming to light which was not before the court that made the recommendation or the appellate authorities or the Secretary of State. The passage of time since the person was deported may also, in itself, amount to such a change of circumstances as to warrant revocation of the order. Since so much depends on other relevant circumstances, it is not practicable to specify periods as appropriate in relation to particular grounds of deportation. All applications for revocation will be carefully considered when made, but the Secretary of State does not himself initiate the review of deportation orders, with a view to deciding whether they need to be maintained, until they have been in force for at least 3 years.'

Business applications under the Turkish EC Association Agreement

Background

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	<p>This guidance only applies to Turkish nationals who wish to set up in business in the UK. Applications made under the worker provisions of the Turkish ECAA are considered separately in accordance with different requirements.</p> <p>Family members of Turkish nationals establishing in business under the Turkey ECAA are not subject to the 'standstill clause'. They must be considered against the requirements of the current Immigration Rules paragraphs 240 – 245 if the ECAA applicant were granted.</p> <p>For more information, see related links:</p> <ul style="list-style-type: none"> • Relevant Immigration Rules – on entry requirements • Relevant Immigration Rules – after entry requirements 	
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Business applications under the Turkish EC Association Agreement

Contact

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Business applications under the Turkish EC Association Agreement

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This page tells you about this version of the 'Business applications under the Turkish EC Association Agreement' guidance and who owns it.

Version	6.0
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If the question cannot be answered at that level, they or you may email the European Operational Policy Team who will ask the Guidance, Rules and Forms team (GRaFT) to update the guidance, if appropriate.

The GRaFT will accept direct feedback on broken links, missing information or the format, style and navigability of this guidance. You can send these using the link: Email: Guidance, - making changes.

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Link to staff intranet removed