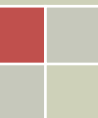


## **IKV BRIEF**

# **WHAT'S LEFT FROM THE INTERNAL SECURITY PACKAGE: ASSESMENT OF THE WITHDRAWN ARTICLES**

**Ahmet Ceran**  
***IKV Junior Researcher***



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## Introduction

Internal Security Package<sup>1</sup> has been one of the main topics of Turkish politics since the beginning of 2015. Even though only the first 67 articles that contain the most controversial 10 amendments (and 2 executive articles; 131, 132) have passed in The Turkish Parliament's General Assembly and approved by the President; draft law which has been subject of heated discussions contained 132 re-regulation articles at first.

After 69 articles of "Omnibus Internal Security Bill" were published within the Official Gazette on April 4th 2015, withdrawn articles number 68 to 130 in 4th and 5th chapters of the draft bill faded from the public agenda. Since the ratification of 69 articles of the bill, the withdrawn articles were no more attractive in Turkey. It should not be forgotten that those removed articles were also constituted by legislative bodies, heavily argued by civil society and approved by Turkish Parliament's EU Harmonization Commission and planned to be included in future regulations. Also it should be emphasized that some of those withdrawn articles of the Internal Security Package are designed with the perspective of alignment with the criteria related to integrated border management, cooperation among the cross border authorities and visa policies which were defined clearly in Turkey-EU Visa Liberalization Roadmap and some withdrawn articles contain positive steps towards aligning EU data protection *acquis* as well.

Thus, further analysis of those withdrawn articles which might be included in future omnibus bill and considered as positive steps towards Turkey-EU Visa Liberalization Dialogue and Turkey-EU Accession Negotiations is necessary. This brief examines the possible hypothetical effects of ratification of those articles suspended from the package in the future.

## Further steps towards aligned visa policy and data protection law

Under "Visa Policy" section of Visa Liberalization Roadmap, European Commission expects from Turkish Authorities to increase capacity and fulfill requirements regarding document management, visa/passport quality and civilian personnel training.

Withdrawn chapters of the package had contained amendments towards fulfilling these following criteria of the Roadmap:

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<sup>1</sup> Full text of Draft Internal Security Package: <http://t24.com.tr/haber/iste-tartisilan-ic-guvenlik-paketinin-tam-metni,287681>

- **“Enhance training on document security of the consular and border staff of Turkey, and develop and use the Turkish Visa Information System”**
- **”Pursue the alignment of Turkish visa policy, legislation and administrative capacities towards the EU acquis, notably vis-à-vis the main countries representing important sources of illegal migration for the EU”**

The articles within the draft bill that correspond to these criteria are; amendment **article 123** that transferring responsibility of Law Enforcement Agency (*Emniyet Teşkilatı*) over passport services and giving the authority to civil officers of General Directorate of Civil Registration and Nationality (*Nüfus ve Vatandaşlık İşleri Genel Müdürlüğü*) and **article 99** of the package that allows assignment of Civil Registration Officers at foreign representative offices (consulate etc.).

Through increased power of General Directorate of Civil Registration and Nationality over decisions regarding assessment of personal information appearing on passport files; type of biometric data, visual design of the passports, printing and delivery of passports, in long term, capacity and experience of civilian personnel responsible of documents security and visa issues would be increased. Mediatly it would help enhancing legislative-administrative capacity and alignment in related fields. Increase in numbers of competent personnel and increase in numbers of Civil Registration Officers at foreign representative offices would help better training of consulate officers regarding visa issues and transfer of profession would become easier.

Data protection issue is considered as one of the main justice and home affairs topics in the EU. **Articles between 68 and 71** of 4th chapter that excluded from the omnibus bill had included positive steps towards protection of personal data and practical, electronically flow of the data. Data protection reform is one of the main expectations of the European Commission from Turkey regarding Chapter 24 Justice, Freedom and Security chapter in Turkey-EU negotiations. Also necessity of new legislative steps towards new data protection law has been mentioned within progress reports and Turkey-EU Visa Liberalization Roadmap. Associated with the draft bill, establishment of a platform to transfer useful data regarding passport and civil registration services properly between public authorities in Turkey and foreign representative offices abroad was foreseen.

Ratification of the draft regulations that give the authority to store personal data regarding passports to civil officers of General Directorate of Civil Registration and Nationality in the near future would contribute to storing citizens’ personal data in a more proper suitable atmosphere to civil-rights. And implementation of the amendment to enhance the capacity to transfer personal data electronically would be considered as a positive step. Besides, as mentioned within the 4th chapter of the draft bill, successful enactment of the amendment that ensure the biometric data to be stored only

electronically shall directly be reflected as a positive development towards Turkey-EU visa liberalization dialogue.

### **Strengthening Turkey's position in border management**

Some regulations that were foreseen to be implemented by 4th and 5th chapters of the package included positive steps towards aligning Turkey's position in border management quoted on Turkey-EU Visa Liberalization Roadmap's Block 2: Migration Management. Especially, some amendments that lead to increased civilian supervision over border control units of Turkish Armed Forces (*Türk Silahlı Kuvvetleri*); more centralized authority, more coordinated cooperation and increased capacity of border control bodies; better use of human resources regarding border management have been removed from the ratified bill. Those changes are expected to be included future legislative arrangements.

Removed articles from 4th and 5th chapters of the package included amendments towards fulfilling these following criteria of Migration Management Block (**Border Management**) of the Roadmap:

- **“Adopt and effectively implement legislation governing the movement of persons at the external borders, as well as legislation on the organization of the border authorities and their functions, in accordance with the "National Action Plan for the Implementation of Turkey's Integrated Border Management strategy", approved on by Turkish authorities on 27th March 2006, and in line with the principles and best practices enshrined in the EU Schengen Border Code and the EU Schengen Catalogue”**
- **“Enhance cooperation and information exchange between the staff and bodies in charge of border management, the custom service and the other law enforcement agencies, in view of enhancing the capacity to collect intelligence, to use human and technical resources efficiently, and to act in a coordinated manner”**

**Article 51 and article 52** that were withdrawn from the package would grant the power of appointing gendarmerie and coast guard forces to the Ministry of Interior. Also Interior Minister and civilian authorities (*vali and kaymakam*) would have supervisory power over gendarmerie and coast guards (**articles 55, 56, 66 and 67**). As mentioned at Commission's progress reports, demilitarization of the border control units is one of the keys to integrated border control mechanism.

Also the removed **article 58** would allow Interior Minister to delegate some of his or her power to Commander of the Turkish Gendarmerie Forces (*Jandarma Genel Komutanı*) or governors when necessary. That would enhance capacity to use human and technical resources efficiently and act in a more coordinated manner.

## **What's next?**

Enactment and practical consequences of the foreseen measures within the ratified first three chapters of the package would remain as an attractive topic of discussion. As reflected by national and international media, EP representatives and European Commission tend to act as main observers regarding application of the package, especially 10 controversial articles of the ratified bill.

On the other hand, it was important to put the positive steps contained in 4th and 5th chapters of the draft bill which was presented to Turkish Parliament's General Assembly at first place back to the table. Hence, more attention of the media, implementers and civil society should be directed towards these key measures. That would strengthen Turkey's hand in visa liberalization dialogue.

It is possible to bring forward two general assessments regarding the "withdrawn articles". Firstly, some reform steps of Turkish legislative bodies which reflected to public opinion by this draft bill should be appreciated. And it is a positive development that there exists a draft law towards fulfilling some key EU-Turkey negotiation and visa liberalization criteria that both Turkish and European stakeholders could work on. These draft articles possibly would be included in some other relevant future omnibus bill.

Secondly, removal of these articles would affect the reform and alignment pace negatively. At present, Turkey needs to increase the reform speed to catch the appointed time specified within National Action Plan for EU Accession. Before and after the general elections programmed to be held in June 2015, further deceleration in legislative actions could be presumed. This would cause loss of time especially towards visa liberalization dialogue which is considered as a time-sensitive process. It is important to note that Turkey has already lost a lot of time and energy (economically and socially) with the so-called visa problem. It should be the prime interest of both sides to rapidly conclude the process granting visa-free travel for Turkish nationals in the EU. Therefore it is important for Turkey to pursue steps fulfilling roadmap criteria in which withdrawn articles would function as accelerator.