

REPORT
on the Free Movement of Workers
in Greece in 2005

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General remarks

From an immigration law point of view the year 2005 was dominated by a modification of Greek Law on the status of aliens (Law 3386/2005, Official Journal of the Hellenic Republic A, 91/02.05.2001). This change concerns also the status of family members of European Union citizens who are not nationals of a Member State and constitutes an implementation of Directive 2004/38/EC on the right of citizens of the European Union and their family members to move and reside freely within the territory of the Member States. It also introduces also the status of the permanent resident implementing so the Directive 2003/109/EC. It implements finally Directive 2003/86/EC on the right to family reunification.

With regard to EU citizens, there were no important legislative changes during the year 2005. The number of court cases based on EU law on the free movement of workers is extremely small compared to the total number of cases relating to third country migrants. This is probably due to the fact that a relatively small number of EU citizens are employed in Greece (1 %), and that most of the legal issues have been resolved in the past.

The items concerning the free movement of workers following the enlargement of the European Union continue not to be broadly discussed. The nationals of new EU member states represent a small number compared to the total number of immigrants. The government decided in 2004 to proceed to a transitional arrangement for access to the country of workers who are nationals of the new EU member states. Greek government has recently (April 2006) decided to abolish the transitional measures, and has declared its intention not to continue the transitional arrangements.

Chapter I

Entry, residence, departure

Entry

Text in force

The rules on free movement of workers have been implemented into Greek law by the P.D. 499/31.12.1987.

Art. 2 (1) of the above Decree contains the basic rule on the right to enter and reside for a certain period, which applies to Union citizens and, cf. art. 2 (3), members of their family.

According to art. 3 (1) of the above Decree, an EU citizen is allowed to enter simply on production of a valid passport or a national identity card.

The abovementioned rules have remained unchanged throughout 2005.

Residence

Text in force

Art. 2 (1) of the P.D. 499/31.12.1987 contains the basic rule on the right of E.U. citizens to enter and reside for up to 3 months.

Art 4 of the above Decree provides that the residence permit is valid throughout the territory and for at least five years from the date of issue.

Art 7 of the above Decree provides that a worker pursuing an activity as an employed person where the activity is not expected to last for more than three months, has the right of residence without having a residence permit, issued to him.

The abovementioned rules have remained unchanged throughout 2005.

Departure

Text in force

The rules on expulsion in Article 74 of the Greek Penal Code, Decree 4429/1964 also apply to EU citizens. Art. 11 and 12 of the P.D. 499/31.12.1987 contain the rules concerning expulsion from Greek territory on grounds of public policy, public security or public health. Art. 11 (1) of the P.D. 499/31.12.1987 provides that measures taken on grounds of public policy or of public security shall be based exclusively on the personal conduct of the individual concerned and art. 11 (2) that previous criminal convictions shall not in themselves constitute grounds for the taking of such measures.

A decision on expulsion is usually made by a court of law, but in some cases it can also be decided administratively. Appeals against administrative decisions on expulsion have suspensory effect.

Chapter II

Access to employment

Text in force

Knowledge of the Greek language

Art 2 (3) of Law 2431/1996 provides that the knowledge of the Greek language is necessary for employment in the public sector. The degree of knowledge of the language is defined each time by proclamation taking into account the requirements of the post of employment. As proof of the degree of knowledge of the Greek language often requires either a Bachelors certificate from a Greek High School or a special language certificate granted by the Center of Greek Language. Thus other ways of proving the degree of knowledge of the language are not provided in the proclamation of the posts, e.g. the fact that the candidate has executed the same job for a long period in Greece.

Maritime sector

Presidential Decree 12/1993 modified Greek legislation concerning the employment of EU citizens to posts of merchant ships flying the Greek flag. These posts are open to seamen - EU citizens in the same way as concerning the Greek citizens. The quality of seaman is appreciated according the rules of the State of his origin. Art 2 par. 3 of Presidential Decree 12/1993 provides that wherever in Greek legislation it refers to Greek seamen this also includes nationals of EU States. Therefore, there is no field for difference of treatment between Greek and EU citizens.

Thus, there is still an exception concerning the posts of master and his substitute (chief mate). These posts are reserved to Greek nationals (art 2). This measure is reasoned by the fact that the master of a vessel is entrusted with powers under public law.

No measures have been taken or planned in order to bring the national rules into conformity with Community law as interpreted by the Court.

Notaries Public

Article 19 of the Code of Notaries Public (law 2830/2000) provides that posts of Notaries Public are open only to persons of Greek nationality. Therefore, these posts are reserved to Greek nationals. This measure is reasoned by the fact that Notaries Public are entrusted with powers under public laws.

Sports field

Greek Regulations concerning sportsmen provide the equal treatment of Greek and EU citizens. In the case of Football (Minist. Decision 18337/2001), both groups of persons are placed in the same category of athletes, while the aliens are placed in another category. Therefore there is no limit concerning the number of athletes-nationals of EU countries employed by Greek football companies.

In other cases (Basketball - Minist. Decision 14484/2001, Volleyball - Minist. Decision 18540/2002) Greek and EU citizens are placed in different categories, but it is provided that for both categories there is no limit concerning the number of sportsmen employed by Greek sports associations. However, there is another category composed only by amateur players of Greek origin, aged less than 18 years and having the right to participate in national sport teams. Up to four players belonging to this category have the right to be employed by a Sports Company. Therefore there exists a distinction between amateurs of Greek origin and amateurs of foreign origin, even of an EU country.

Concerning the amateurs sports associations, the ministerial decisions regulating the participation of sportsmen in these associations provide that citizens of EU States who reside permanently in Greece and the members of their family are entitled to be registered in the associations and to participate in the games and in every kind of championship (e.g. Gymnastics, Handball, Swimming, Tennis, Horse-riding). Therefore, there is no distinction between Greek and EU citizens in this field.

Most Regulations concerning the employment of sport trainers provide that only nationals have the right to be recruited as trainers. For the recruitment of aliens as trainers the permission of the General Secretary of Sports is necessary. However, they require that EU legislation must be respected. This is the case of the Regulation Basketball (Minist. Decision 41556/1992) and Volleyball (Minist. Decision 1588/1993) trainers. However, in other points some differences of treatment continue to exist. It is provided that if an alien is employed as a trainer and another person is recruited as his col-

laborator, the latter must be a Greek citizen (art 1 par. 4 Minist. Decision 41556/1992 concerning basketball trainers, art 1 par. 5 Minist. Decision 1588/1993 concerning volleyball trainers). It is also provided that if an alien is dismissed from an association, he does not have the right to be employed during the same sports session by another association (art 1 par. 5 Minist. Decision 41556/1992 concerning basketball trainers, art 1 par. 5 Minist. Decision 1588/1993 concerning volleyball trainers). There is no distinction among aliens, citizens, and non citizens of an EU State. Therefore, there is a discrimination between Greek and EU citizens concerning the conditions of employment as Sport trainers. However these restrictions seem not to be applied in practice

The new Regulation concerning Football trainers provides (art 3 par. 1 Minist. Decision 25533/2005 concerning football trainers), that for the recruitment of aliens as trainers the permission of the General Secretary of Sports is necessary. Some special conditions are also provided for the recruitment of these persons, such as the previous experience in a national team, the age under 70 years and the recruitment of a Greek citizen as his collaborator (art 4 par. 1 Minist. Decision 25533/2005). There is no distinction among aliens, citizens, and non citizens of an EU State. Therefore, there is a discrimination between Greek and EU citizens concerning the conditions of employment as football trainers. The only distinction concerns the recruitment of an aliens as football trainer from amateur associations and from professional football companies of B and C category. In this instance the recruitment of an alien is forbidden, but the law provides that this restriction does not affect EU citizens.

Concerning UEFA's proposals, the Greek Football Federation agrees with them completely and is planning to implement them.

Advocates

Presidential Decree 152/2000 provides that advocates of an EU country may exercise their professional activities in Greece. Presidential Decree 261/2005 modified the above Decree which added the professional titles of advocates of the new EU countries.

Recognition of diplomas

The question of recognition of degrees by foreign universities has been the subject of a recent legislative modification. Law 3328/2005 (Off. Journ. 80 A/1.4.2005) established a new institution, the Hellenic National Academic Recognition and Information Center (DOATAP). Pursuant to the declarations of the Government this law will facilitate the procedure of recognition of foreign degrees. Thus the new organization follows a more severe procedure of recognition of foreign diplomas. It does not recognize the diplomas granted by foreign universities collaborating with private Institutes operating in Greece. In the past there was some flexibility by recognizing as years of normal studies the academic years completed abroad and not recognizing the years completed in Greece. The solution given was to complete some additional courses in a Greek University or to consider as years of studies for the fundamental diploma the years of a Master diploma granted by a foreign institution and completed abroad. The new organization does not follow such a practice. It rejects the recognition of a diploma granted by a foreign university in collaboration with a private Institute operating in Greece if the total of the academic years are not completed abroad. It does not give an alternative solution as was done in the past.

Presidential Decree 44/2005 (art. 1 par. 5) provides that university diplomas acquired in EU countries are recognised and accepted for access to the public sector of employment if an act of recognition of professional equivalence is granted. Other titles of professional education acquired in EU countries, to which the right of exercise of a profession is recognised, are also accepted according to a relative decision of the competent authority of recognition of professional education.

Judicial practice

Recognition of diplomas

Council of State decision 494/2006 held that DIKATSA (Greek Organisation responsible for the equivalence of foreign titles) acts should as administrative acts be fully justified concerning the recognition of foreign diplomas. Therefore, a DIKATSA decision refusing the immediate recognition and requiring some additional examinations should be justified by reference to specific elements (academic criteria, such as the duration and the quality of studies, scientific research to program structure,

teaching methods and examination procedures etc). An imprecise reference to the applicant's Bachelor level is not sufficient.

The Council of State held (Decision 795/2005) that a DIKATSA decision should not simply focus on the shorter duration of studies held abroad and ignore important aspects of academic education. Therefore, a DIKATSA decision should incorporate a thorough analysis of the courses offered abroad and the courses offered at the correspondent university department in Greece.

Under Directive 85/384/EEC, Architectural degrees obtained within EC borders, are automatically recognized in all EC member-states, as long as the duration of studies has been at least four (4) years. There is only one derogation, as far as Fachhochschule are concerned (that already exist in Germany), since their duration of studies is limited to three (3) years, subject to the condition that a further probationary practice of four (4) years has been obtained. However, if studies in Fachhochschule require education of four (4) years' duration, the degree is automatically recognized as equivalent, even if the program structure includes a period of probationary practice.

According to Council of State (decision 462/2006) a foreign university (Fachhochschule) degree should be recognized as equivalent, under the condition that the studies' duration has been at least four (4) years, even if several semesters are not purely academic and refer to professional training organised under the responsibility of this institution.

Miscellaneous

The Ombudsman, in his recent (March 2006) letter to Hellenic National Academic Recognition and Information Center (DOATAP), highlights significant delays in handling citizens' issues, attributed not only to organizational and functional malfunctions but also to important problems, as far as the organization's substance is concerned.

Precisely:

1. Denies accepting for recognition of a foreign diploma, by stating that the holder of the diploma should also be holder of a residence and labor permit in Greece. However, the report underlines that this requirement in no case concerns foreign citizens living abroad.
2. Delays in examining the application data, by requiring direct mail from the foreign Academic Institution.
3. Delays in examining applications for specific degrees, such as the ones granted by an "Open University" (distant learning) and some Electrical Engineers University departments.
4. Denies recognition of degrees granted by the "Florence European University", despite the fact that the aforementioned Institution is a European University-level Academic Institution, pursuant to a special E.U. members' agreement, which has been ratified by Greece.

Taking all these elements into consideration, the Ombudsman underscores prolonged dysfunctions and intense discomfort of the citizens appealing to DOATAP. Therefore, the Ombudsman requires that DOATAP deal with all the problems that could be solved immediately

Chapter III

Equality of treatment

Social advantages

Art 39 of Law 2459/1997 provides that the allowances for parents having more than two children and for the members of their family are also granted to the citizens of EU States who reside or work in Greece under the same conditions as to the Greek citizens.

Ministerial decision 200295/2005 provides that new places of employment are subventionned by the State in case of unemployed persons either of Greek or of a EU member State nationality.

Art. 27 of law 3016/2002 provides a special allowance for families including students in Greek schools of age less than 16 years. This allowance is granted also to the citizens of EU States under the same conditions as to the Greek citizens.

Art 27 of law 3016/2002 provides a special allowance for long term unemployed workers. The law also provides that this special allowance is granted only to Greek citizens and to the citizens of EU member States.

Art. 1 of law 1296/1982 provides that Greek citizens or people of Greek origin older than 68 years and not having sufficient resources are granted a special pension and free medical care. This pension and the medical care are not granted to the citizens of EU States even if they reside in Greece. Therefore, there is a discrimination between Greek and EU citizens concerning the conditions of granting this allowance and the medical care.

Tax advantages

Ministerial decision 1036725/2005 provides that the release from the tax of transmission of real estate is dependent on the continuous work or residence in Greece for at least 12 months.

Chapter IV

Employment in the public sector

Text in force

Approximately 35 presidential decrees (PD) are issued in order to specify the posts in the public sector which involve “direct or indirect participation in the exercise of powers conferred by public law and in the discharge of functions whose purpose is to safeguard the general interests of the state or of other public authorities and which therefore require a special relationship of allegiance to the state on the part of persons occupying them and reciprocity of rights and duties which form the foundation of the bond of nationality”.

Most of them provide that only persons of Greek nationality can be promoted as General Directors, Directors and Seniors of Sections of the Ministry of Finance, as security guards, policemen, firemen, frontier guards, special guards, rural policemen or civil servants of the Police. But in some cases it is doubtful if the specified posts really imply the exercise of public powers or the responsibility to safeguard the interests of the State. It is provided that only persons of Greek nationality can be appointed to the Ministry of Finance as data base-network-software-hardware specialists (PD 8/2002) to the Ministry of Transports and Communications as counselors of the Minister, special collaborators and journalists (PD 74/2002), as civil servants of the Fire Brigade (PD 88/2002).

In Greece there do not exist competition procedures which give access to training and employment afterwards in the public sector with only one exception being the competition for recruiting judges.

The promotion to a higher grade is dependent in the service in the lower grade of the same job. On the contrary, the salary of the employees of the public sector is determined by taking into account their seniority in the public sector for every job. The seniority in the private sector is not recognized. Article 15 of the Law 3205/2003 provides that the seniority in the public sector of another EU State is also taken into account in order to determine the salary of the employee.

Judicial practice

Art 1 par. 7 of Law 2834/2000 provides a system of recruitment of teachers of primary schools and professors of high schools taking into account, among other elements, the service of the candidate. Additional points are awarded for this service placing candidates at a higher position. The Supreme Administrative Court -Council of State (decision 196/2004) has interpreted this regulation conforming to the European community and accepted that it shall be taken into account in the same way as the service of the candidate in another member state.

Art 95 of the Greek Constitution provides that the Council of the State participates, expressing its opinion, in the elaboration of all decrees of a general regulatory effect. The 61/2004 and 36/2004 Opinions of Elaboration of the Council of the State (EDDDD 2004, p. 310, 325) dealt with the matter of employment of E.U. citizens in public administration. In both cases, the Court opted for a narrow interpretation of Article 4 para. 4 of the Greek Constitution which forbids E.U. citizens from having access to public posts, taking into account Article 39 para. 4 of the E.C. Treaty

The Court held that a post of public administration is under the sphere of application of Article 39 para. 4 only if, a) it belongs to the stricto sensu public administration, and b) a functional criterion is fulfilled, that is, all the duties deriving from the specific post should relate to the exercise of public power or to safeguarding of state interests or interests of an organization or enterprise of the public sector.

In both the 61/2004 and 36/2004 Opinions of Elaboration, the Court reached the conclusion that the interdiction of E.U. citizens to access to posts of directors of general management, or of management of departments, or of other equivalent organic units, and to posts of political or military personnel of the Ministry of National Defense as well as to posts of Court secretaries is legal, provided that the duties of these posts relate to the exercise of public power and the safeguarding of state interests on a permanent basis. On the contrary, the Court reached the conclusion that is not legal for the interdiction of E.U. citizens to access to posts of Engineers, Translators, and Interpreters employed by the

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Greek Courts, as their duties do not relate to the exercise of public power and the safeguarding of state interests on a permanent basis

Chapter V Members of the family

Text in force

The new Law 3386/2005 implements the Directive 2004/38/EC on the right of citizens of the European Union and their family members to move and reside freely within the territory of the Member States.

Art. 61 of the law provides that family members of a Union citizen who are not nationals of a Member State may be granted a “Residence card of a family member of a Union citizen” for a time period of five years from the date of issue, or for the envisaged period of residence of the Union citizen if this period is less than five years. The family members of a Union citizen who have been granted the right of residence are entitled to work in Greece.

As “family member” the law considers the spouse, the direct descendants who are under the age of 21 or the dependants of the spouse, the dependent direct relatives in the ascending line and those of the spouse. Those not considered as family members are the partner with whom the Union citizen has contracted a registered partnership, on the basis that Greece does not treat registered partnerships as equivalent to marriage.

For periods of residence longer than three months it is required that a family member apply for a residence card. The deadline for submitting the residence card application may be fixed at three months from the date of arrival.

For the residence card to be issued, the requirements are the presentation of a valid passport, a document attesting to the existence of a family relationship and proof of residence in Greece of the Union citizen whom they are accompanying or joining;

The “residence card of a family member of a Union citizen” should be issued not later than six months from the date on which these family members have submitted the application.

Art. 62 of the above law also provides that the Union citizen's death does not entail loss of the right of residence of his/her family members who are not nationals of a Member State and who have been residing in Greece as family members for at least one year before the Union citizen's death. A divorce does not entail loss of the right of residence of Union citizen's family members where prior to initiation of the divorce proceeding the marriage had lasted at least three years, including one year in Greece. There is no loss of the right of residence of the above family members who are not nationals of a Member State if this is warranted by particularly difficult circumstances, such as having been a victim of domestic violence while the marriage was subsisting.

Art 63 of the law 3386/2005 provides that family members who are not nationals of a Member State and have resided legally for a continuous period of five years in Greece have the right of permanent residence. The permanent residence card is renewable automatically every 10 years. The family members of a Union citizen who have the right of permanent residence are entitled to access to the labour market. An interruption to residence not exceeding two consecutive years shall not affect the validity of the permanent residence card.

If the E.U citizen dies while still working, but before acquiring permanent residence status in Greece, his family members who are residing with him in Greece acquire the right of permanent residence on condition that the E.U citizen had, at the time of death, resided continuously in the territory of that Member State for two years, or the death resulted from an accident at work or an occupational disease.

Finally, art. 64 of the above law provides that the validity of the Residence card and the continuity of residence are not affected by temporary absences not exceeding a total of six months per year, or by absences of a longer duration for compulsory military service, or by one absence of a maximum of 12 consecutive months for important reasons such as pregnancy and childbirth, serious illness, study or vocational training, or a posting in another Member State or a third country.

The law states that no fees are required for the acquiring of a residence card or a permanent residence card.

The quality of a family member of an EU citizen does not exclude the obligation of acquisition of a visa if it is provided by rules of general application. However, the refusal to grant a visa shall be

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justified by reasons of disruption of public order. This justification shall be specific and not general in abstract.

Miscellaneous

The new Law 3386/2005 implements Council Directive 2003/86/EC on the right to family reunification. Family reunification issues are developed in Chapter VII.

Chapter VI

Relevance/influence/follow up of recent Court of Justice judgements

There is no particular influence of the recent Court of Justice judgements in the cases *Trojani*, *Collins*, *Ioannidis*. However, we have to mention that most social allowances do not depend on the residence, but on employment in Greece. On the other hand, as it is above mentioned, Art. 1 of law 1296/1982 provides that Greek citizens or people of Greek origin older than 68 years and not having sufficient income are entitled to a special pension and to free medical care. Therefore this entitlement is conditional on Greek nationality and constitutes a discrimination between Greek and EU citizens concerning the conditions of entitlement to this allowance and to the medical care.

There is no particular influence of the Court of Justice judgements *van Lent*, *Commission v. Denmark*.

No measures have been taken nor planned concerning posts of merchant ships flying the Greek flag in order to bring the national rules into conformity with Community law as interpreted by the Court (cases C-405/01 and C-47/02).

Sport issues are examined in Chapter II.

Chapter VII

Policies, texts and/or practices of a general nature with repercussions on free movement of Workers

Text in force

Migration law

The year 2005 was dominated a modifications of Greek Law on the status of aliens. The major changes of Law 3386/2005 are:

- a) Creation of a ministerial committee for the coordination of the migration policy
- b) Unification of work and residence permits in one document
- c) Rationalisation of the type of permits of residence and reduction of the equivalent categories
- d) Provision of fundamental principles for the acquisition of the special status of third-country nationals who are long-term residents
- e) Provision of fundamental principles for the social integration of foreign workers.
- f) Establishment of a framework for the facilitation of family reunification.
- g) Legalisation concerning illegal workers residing in Greece in December 2004

Family reunification

The new Law 3386/2005 implements Council Directive 2003/86/EC on the right to family reunification.

Art. 53 of the above law provides that third country nationals having stayed lawfully in Greece for a period of two years, may request the entry and residence of his family members. When the application for family reunification is submitted, the third country national shall provide evidence that a) there exists a family relationship, b) there is a sickness insurance in respect of all risks normally covered for himself and the members of his family c) he has stable and regular resources which are sufficient to maintain himself/herself and the members of his family without recourse to the social assistance system These resources are evaluated by reference to the level of the minimum salary d)the number of family members are going to stay with him.

Art. 54 of the above law provides that as family members are considered the spouse, the minor children of the sponsor and of his spouse, including adopted children. In the event of a polygamous marriage, where the sponsor already has a spouse living with him in Greece. The law does not authorise the family reunification of a further spouse. and of minor children of a further spouse and the sponsor.

When the sponsor submits an application for family reunification as soon as the application for family reunification has been accepted, the entry of the family member is authorised. The members of the family, after their entry in Greece, may submit an application for a residence permit. The residence permit is granted for one year and is renewable every two years.

The application for a residence permit or for its renewal may be rejected and the privilege of residence is withdrawn: a) where the sponsor and his family member do not, or no longer, live in a real marital or family relationship b) the family relationship was contracted for the sole purpose of enabling the person concerned to enter or reside in Greece c) where the conditions laid down by the law are not or are no longer satisfied, d) it is proven by a judicial act that false or misleading information, false or falsified documents were used, fraud was otherwise committed, or other unlawful means were used and e) where the sponsor's residence comes to an end and the family member does not yet enjoy an autonomous right of residence.

Art. 59 provides that the sponsor's family members are entitled, in the same way as the sponsor, to access to education, to employment and self-employed activity and to vocational guidance including initial and further training and retraining. A ministerial decision will establish the conditions under which family members shall exercise an employed or self-employed activity during the first 12 months

Art 60 of the law 3356/2005 provides that family members accepted for reasons of family reunification are entitled to an autonomous residence permit independent of that of the sponsor a) after five years of residence, and provided that the family member has not been granted a residence permit for

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reasons other than family reunification, b) if the spouse and a child have reached majority c) in the event of death of the sponsor under the condition that the family member remains in Greece at least 12 months before the death d) in case of divorce, annulment of the marriage, and separation. The limit of this residence permit shall not exceed 12 months but it is renewable.

Discrimination

New legislation was adopted in 2005 (law 3305/2005) in order to implement EC Directives 2000/43 and 2000/78 concerning the equal treatment between persons, irrespective of racial or ethnic origin, and the establishment of a general framework for equal treatment in employment and occupation. Law 3305/2005 constitutes an important modification as it is addressed for all, old and new discrimination grounds, like race, ethnic origin, belief, religious belief, disability, age and social orientation and also provides new measures like positive action against discrimination, reversal of the burden of proof and the possibility of collective action (class action).

Chapter VIII EU enlargement

Text in force

According to the Accession Treaty Greece has made use of the right to suspend the freedom of movement of workers and to proceed to a transitional arrangement for the access to the country of workers, who are nationals of the new EU member states with the exception of Malta and Cyprus. These persons are considered as EU citizens excepting employment in a dependent way. By way of derogation from Articles 1 to 6 of Regulation (EEC) No 1612/68 and until the end of the two year period following the date of accession, Greece will apply national measures, regulating access to its labour markets by nationals of the new EU member states. Nationals of the new EU member states legally working in Greece on the date of accession and admitted to the labour market for an uninterrupted period of 12 months or longer will enjoy access to the labour market of Greece. Circulars 31411/29.6.2004 of Ministry of Employment and 37/2004 of Ministry of Interior Affairs contain the rules of access to the Greek labour market of the above persons. The period of employment must be proved by the accomplishment of their social security duties towards the competent entity. The Prefecture which is competent for granting a labour permit will grant the necessary attestation. This attestation will be the fundamental element for granting the residence permit by the competent authorities of the Ministry of Public Order.

Nationals of the new EU member states legally working in Greece on the date of accession and admitted to the labour market for an uninterrupted period less than 12 months will be considered as EU citizens concerning employment after having been employed for an uninterrupted period of 12 months. The above rules concerning the granting of a residence permit are also applied in this case.

Nationals of the new EU member states being employed in Greece before the date of accession whose the employment permit has expired, and has not been renewed, will be considered as EU citizens after having accomplished their social security duties.

The same circular states that nationals of the new EU member states having entered in Greece during the transitional period and employed in a dependent work, have the right to change their activity and choose an independent economic activity. However, nationals of the new EU member working in an independent economic activity do not have the right to change their activity in order to be employed in a dependent way.

Circular 30422/18.2.2005 of the Ministry of Employment provides that the above rules are also applied to nationals of the new EU member states granted a residence permit which also constitutes a work permit (i.e spouses of Greeks or other EU citizens, Tour leaders, employees of foreign embassies, members of foreign archeological Schools). These persons, according to law 2910/2001, are employed only if they desire, and their residence in Greece is not dependent on their employment. They now have the possibility to obtain a residence permit of an EU citizen under the same conditions as the other categories of nationals of the new EU member states; that is to say that after the employment for an uninterrupted period of 12 months or longer proved by the accomplishment of their social security duties towards the competent entity or organisation.

Particularly, Circular 37/2004 of Ministry of Interior Affairs Nationals states that members of a family of a national of a new EU member state (legally working in Greece at the date of accession and admitted to the labour market for a period of 12 months) living in Greece on the date of accession have free access to the labour market. If they are not living in Greece on the date of accession they will have, during transitional period, free access to the labour market after having lived in Greece for a period of 18 months.

During 2005 was not confirmed a considerable increase of the number of workers who are nationals of the new EU member states. The number of EU citizens residing in Greece, and particularly of nationals of the new EU members states remained very small compared to the number of citizens of third countries residing in Greece. The Greek government has declared its intention not to continue the transitional measures in place.

Chapter IX

Statistics

(Source: Ministry of Public Order and Ministry of Interior Affairs February 2005)

Foreign Workers (valid permits)

Total	2004	2005
Community workers	6.711	6672
Third country citizens		501224

Repartition of community workers by sex

Total	2004	2005
Men	3418	3892
Women	3923	2764

Community workers Repartition by nationality

	2004	2005
Austria	156	115
Belgium	168	107
Danemark	252	126
Finland	185	62
France	584	580
Germany	1.114	869
Holland	301	230
Ireland	58	62
Italy	682	606
Luxembourg	3	2
Portugal	32	29
Spain	125	116
Sweden	349	187
United Kingdom	1.816	1205
Poland	545	1390
Cyprus	304	888
Malta	2	4
Slovenia	1	3
Hungary	5	20
Czech Republic	15	21
Slovakia	8	17
Lithuania	5	19
Latvia	1	11
Estonia	0	2
Total	6.711	6672

From these statistics we can conclude that there was not during 2005 a significant increase of the number of workers who are nationals of the new EU member states, and particularly those of the eight new countries concerned by transitional measures. The number of EU citizens residing in Greece remained very small compared to the number of citizens of third countries.

Chapter X Social security

Text in force

Presidential Decree 227/2004 implemented European Directive 98/49/E.C. in Greece. Directive 98/49 is intended to protect the rights of members of supplementary pension schemes who move from one Member State to another. Each worker should be able to move to a job in another Member State without loss of rights to future retirement benefits. In particular, it deals with the issue that workers and others holding entitlement should have certain guarantees for equal treatment regarding their preservation for the vested pension rights deriving from supplementary pension schemes.

The protection afforded by the Presidential Decree refers to pension rights under both voluntary and compulsory supplementary pension schemes, with the exception of schemes covered by the Regulation 1408/1971. The Presidential Decree applies to members of supplementary pension schemes and others holding entitlement under such schemes, who have acquired, or are in the process of acquiring, rights in one or more Member State. As defined in Article 3, supplementary pensions are retirement pensions schemes established in conformity with Greek legislation and practice, invalidity and survivors' benefits, intended to supplement or replace those provided in respect of the same contingencies by statutory social security schemes.

The core of the Presidential Decree is found in Article 4. It applies the principle of equal treatment to migrant workers in respect to pensions to which contributions are no longer being made. In particular, the vested pension rights for members of a supplementary pension scheme, in respect of whom contributions are no longer being made to that scheme as a consequence of their moving from Greece to another Member State, are preserved to the same extent as for members in respect of whom contributions are no longer being made but who remain in Greece. In addition, in respect to beneficiaries of supplementary pension schemes and others holding entitlement under such schemes, supplementary pension schemes make payment in other Member States, exclusive of any taxes and transaction charges which may be applicable to all benefits due under such schemes.

Article 5 of the Presidential Decree deals with the position of posted workers. It enables contributions to continue to be made to a supplementary pension scheme established in Greece, by or on behalf of a posted worker, who is a member of such a scheme during the period of his or her posting in another Member State. The posted worker should merely declare within 30 days from the notification to him or her of his or her detachment, his will to continue to make the abovementioned contributions to the Greek supplementary pension scheme.

Moreover, Article 6 provides that employers, trustees, or others responsible for the management of supplementary pension schemes provide adequate information to scheme Members when they move to another Member State as to their pension rights and the choices which are available to them under the scheme. As far as assurance companies are concerned, the information should be given in writing.

Furthermore, Article 7 states that all persons who consider themselves wronged by failure to apply the provisions of this Presidential Decree are enabled except for lodging their complaints with any competent administrative authorities, to pursue their claims by judicial process.

This Presidential Decree is applied retroactively since 14-8-2001.

Miscellaneous

Art. 39 of law 2459/1997 provides that children's allowances are granted to EU citizens and to the members of their family under the same conditions as to Greek citizens, provided that they reside or work in Greece. We have also to underline the decision 329/1999 of the Administrative Court of First Instance of Iraklio (EDKA 2001, 937) which held that the provision of Article 2 of Illness Regulation of the Institution of Social Security in Greece, as far the maternity allowance depends on the residence of the beneficiary in Greece, constitutes indirect or disguised discrimination. The Court held that this condition set by Illness Regulation which concerns both Greek nationals and nationals of the other member states, is irrelevant, since it is fulfilled more easily by Greek nationals than by other E.U. citi-

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zens. Consequently, the Court, held that this clause is invalid and not in compliance with the demands of the European Union Law

Recent legal literature

P. Mavridis, The free movement of persons, workers and services as a fundamental principle of the European integration and the Social Security (in Greek), *Review of European Law* 2005, 279 and 501 ss.

Chapter XI

Establishment, provision of services, students

Text in force

Residence permit of workers detached in Greece

Greece requires national of third countries workers to apply for a permit even though they are legally employed in a different EU state, and their firm is sending them to Greece on a short term contract. Article 18 of Law 3386/2005 modified article 35 par. 1 of Law 2910/2001 concerning the conditions of entry of third country nationals employed by companies established in a different EU country, but does not include important changes. These persons must be legally and regularly employed by the above companies, and they have to be detached in Greece in order to execute a work or a contract. The residence permit is granted for the time needed for the execution of the work or contract which cannot exceed 12 months. Only under exceptional circumstances may the permit be renewed for an additional 6 months if it is necessary for the execution of the work or contract. These persons may be accompanied by the members of their family. A residence permit is also granted to these family members for a time equal to that as this of the residence of the worker

Long-term resident status

Articles 68-70 of law 3386/2005 implement Council Directive 2003/109/EC of 25 November 2003 which concerns the status of third-country nationals who are long-term residents. According to these provisions long-term resident status is granted to third-country nationals who have resided legally and continuously within Greek territory for five years immediately prior to the submission of the relevant application. Periods of absence from the territory do not interrupt the above period and are taken into account for its calculation where they are shorter than six consecutive months and do not exceed 10 months in total.

Third-country nationals acquiring long-term resident status should provide evidence that they have for themselves and for dependent family members: (a) stable and regular resources which are sufficient to maintain himself and the members of his/her family without recourse to the social assistance system (b) sickness insurance (c) appropriate accommodation (d) sufficient knowledge of the Greek language and (e) sufficient knowledge of Greek history and Greek civilisation.

Professional titles of dental practitioners coming from a Member State of the European Union

Presidential Decree 240/2004 has implemented European Directive 2001/19. This European Directive is intended to enable dental practitioners coming from any Member State of the European Union to exercise their profession in another Member State of the European Union. The Greek Presidential Decree sets certain legal prerequisites so as to confer on the professional titles and qualifications of dental practitioners coming from other E.U. Member States the same effect as those awarded by Greece.

Article 4 of P.D. 240/2004 stipulates that for the recognition of a diploma or a certificate or other title of dental practitioners in general, or of those specializing in orthodontics and oral surgery, all the conditions referred in Articles 1, 2, and 3 of Directive 78/687 E.C. should be met.

In addition, pursuant to Article 7 of P.D. 98/1986, as amended – new Article 4 of P.D. 240/2004, the competent Greek authorities, having assessed the content and duration of the training of the person concerned on the basis of the diplomas, certificates and other evidence of formal qualifications submitted and taking into account any professional experience, additional training and continuing dental education that he possesses shall inform him of the period of additional training required and of the fields to be covered by it. The abovementioned Greek authorities should render their decision within 4 months of the date on which the applicant submits his application together with full supporting documentation.

Furthermore, new Article 5 of P.D. 240/2004 (as it supplemented the previous Article 5 of P.D. 98/86) sets the requirements for the conferment of the license to use the title of dental practitioner in Greece to those dental practitioners who are E.U. citizens. Except for the diploma, certificate, or other evidence of formal qualifications, it is important that they also have the license of exercising the dental practitioner's profession.

Moreover, pursuant to recent P.D. 240/2004, Greece recognizes the diplomas, certificates and other evidence of formal qualifications of dental practitioners specializing in orthodontics and oral surgery awarded to nationals of Member States by other Member States and grants such qualifications the same effect in its territory as the diplomas, certificates and other evidence of formal qualifications which it itself awards.

Another important provision lies in Article 10 of P.D. 98/1986 as amended (New Article 6 of P.D. 240/2004) refers to diplomas and certificates in specialized dentistry which were awarded to their possessor before the implementation of Directive 76/687 and do not satisfy the minimum training requirements set by the latter. In such cases, Greece requires that such diplomas, certificates and other evidence of formal qualifications be accompanied by a certificate issued by the competent authorities of the Member State of origin or of the Member State from which the foreign national derives, stating that he has been engaged in activities of specialized dentistry for a period equal to twice the difference between the length of specialized training in the Member State of origin or in the Member State from which the foreign national derives and the minimum training period. (see also new Article 8 of P.D. 240/2004).

Moreover Articles 6 and 7 of P.D. 240/2004 set the legal requirements for the recognition of the Italian diplomas or certificates of dental practitioners and specialized dental practitioners issued 18 months after the notification of Directive 76/686 as well as of those of the former German Democratic Republic, which do not satisfy all the minimum training requirements laid down in Article 1 of Directive 76/687.

The competent authority examines all the diplomas, certificates and other evidence of formal qualifications in the field covered by Directive 78/686 and obtained by the holder outside the E.U. in cases where these have been recognised in another Member State as well as the training undergone and the professional experience gained in a Member State. The Greek competent authority shall give its decision within 3 months of the date on which the applicant submits his application together with full documentation.

In the event the applicants are rejected the decisions of the competent Greek authorities should be reasonably justified.

Applicants shall also have a right of appeal before the courts under national law. That right of appeal shall likewise apply in the event of failure to reach a decision within the stipulated period.

P.D. 240/2004 is applied retroactively from 1-1-2003

Professional titles of medical doctors coming from a Member State of the European Union

Presidential Decree 38/2004 has implemented European Directive 2001/19. This European Directive aims to enable the free movement of the establishment of medical doctors within the E.U. by harmonizing the legal prerequisites set by all of the E.U. Member States concerning the exercise of the profession of medical doctor in the E.U. The Greek Presidential Decree lays down certain legal requirements that should be met so that the professional titles of medical doctors coming from other E.U. Member States are recognized and have the same effect as those awarded by Greece.

New Articles 3 and 4 of Presidential Decree 38/2004 recite all of the diplomas, certificates or titles in medicine awarded by other Member States which are recognized as being equivalent to those awarded by Greece.

Article 6 of P.D. 38/2004 sets all of the conditions for the recognition of titles in specialized medicine awarded by other Member State of the E.U. in Greece. It refers to medical doctors of an E.U. Member State who wish to obtain a title in specialized medicine although awarded in Greece, is not awarded by the Member State of origin nor the Member State from which the foreign national derives. (See Article 11 par. 1 of P.D. 84/1986).

The competent Greek authorities shall, however, take into account, in whole or in part, the training periods completed by the nationals referred to in paragraph 1 attested by the award of a diploma, certificate or other evidence of formal training by the competent authorities of the Member State of origin of the Member State from which the foreign national derives, provided such training periods correspond to those required in the host Member State for the specialized training in question. In addition, the competent Greek authorities should assess any professional experience, additional training and continuing medical education that he/she possesses. The competent Greek authorities, having verified the content and duration of the specialist training of the person concerned on the basis of the

diplomas, certificates and other evidence of formal qualifications submitted, shall inform him/her of the period of additional training required and of the fields to be covered by it.

Moreover, new Article 7 of Presidential Decree 38/2004 sets all of the legal conditions that should be fulfilled for the recognition of diplomas, certificates and other evidence of formal qualifications in medicine as well as in specialized medicine awarded by other E.U. Member States which do not satisfy all the minimum training requirements laid down in Article 23 of Directive 93/16.

New Article 9 of P.D. 38/2004 introduces a new chapter in the present Presidential Decree identified as “specific training in general medical practice”, which describes all of the preconditions for the exercise of the medical specialization of “general medical practice”.

In addition, pursuant to new Article 10 of Presidential Decree 38/2004, Greece recognizes as sufficient proof in respect of nationals of Member States whose diplomas, certificates and other evidence of formal qualifications in the field covered by Directive 93/16 do not correspond to the names listed for that Member State in this Directive, the diplomas, certificates and other evidence of formal qualifications awarded by those Member States and accompanied by a certificate issued by the competent authorities or bodies. This certificate states that the abovementioned titles have been awarded on completion of education and training that complies within the provisions of Directive 93/16 and are treated by the Member State as equivalent to those whose names are listed therein.

Furthermore, the competent authority examines all of the diplomas, certificates and other evidence of formal qualifications in the field covered by Directive 93/16 obtained by the holder outside of the E.U. in cases where these have been recognized in another E.U. Member State, as well as the training undergone and the professional experience gained in a Member State. The Greek competent authority shall render its decision within 3 months of the date on which the applicant submits his/her application together with full documentation.

In the event the applicants are rejected, the decisions of the competent Greek authorities should be reasonably justified in writing.

Professional titles of architects coming from a Member State of the European Union

Presidential Decree 53/2004 has implemented European Directive 85/384 in Greece. This European Directive, as it has been amended, aims to protect the rights of architects coming from any Member States of the European Union to exercise their activity/profession freely in another Member State within the European Union. The Greek Presidential Decree lays down certain legal requirements in order to confer on the professional titles of architects coming from other Member States of the European Union the same effect as those awarded by Greece.

Article 2 of the aforementioned Presidential Decree provides that members of the European Union are enabled to be established in Greece and exercise their activities in the sector of architecture after acquiring of the relevant license of the Technical Chamber of Greece. All of the requirements imposed by the Greek Technical Chamber are set out in detail in Article 6. The relevant documents should not be presented more than three months after their date of issue.

Article 3 requires and describes certain standards of theoretical and practical studies of University level in the field of architecture that a person entitled to exercise the profession of architect in Greece should have.

The core of the Presidential Decree is found in Articles 4 and 5 that confer the relevant diplomas and certificates regarding architecture awarded by other Member States of E.U. to their nationals the same effect within Greece as the titles of formal qualifications which Greece awards in architecture.

Pursuant to Article 6 of Directive 85/384, as amended by Directive 2001/19 and Article 5 of Presidential Decree, the Technical Chamber of Greece shall render its decisions within 3 months of the date on which the applicant submits his/her application together with full supporting documentation. Where the application is rejected the relevant decision shall be reasonably justified.

Furthermore, Article 7 of the Presidential Decree stipulates that every person who considers him/herself wronged is enabled to pursue his/her claim by lodging petition for annulment to the State Council pursuant to Presidential Decree 19/1999 (see also Article 6a of amending Directive 2001/19).

Accordingly, each member of the E.U., who has obtained his/her license to exercise the profession of architect in Greece by the Greek Technical Chamber has the same rights and obligations as a graduate architect-engineer and is subjected to the same disciplinary provisions of professional or ad-

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ministrative nature with the exception of those provisions that concern membership to the Greek Technical Chamber (Articles 8,9 of P.D.).

The present Presidential Decree also applies to those European citizens that exercise or intend to exercise the profession in the sector of architecture as employees pursuant to E.U. Regulation 1612/88.

Chapter XII

Miscellaneous

The Migration Policy Institute in October of 2005 organised an International Conference entitled 'Capturing the Benefits of Migration'. The same institution organised in March of 2005 a conference entitled 'Migration. The position of the Parties of the Greek Parliament'.

Important sites

www.dsa.gr (Athens Bar Association)
www.parliament.gr (Greek Parliament)
www.mmo.gr (Mediterranean Migration Observatory)
www.imepo.gr (Migration Policy Institute)