

**REPORT**  
**on the Free Movement of Workers**  
**in Greece in 2006**

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November 2007



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## **GENERAL REMARKS**

From a migration law point of view the year 2006 was not dominated by the major changes of Greek Law on the status of aliens (Law 3386/2005, Official Journal of the Hellenic Republic A, 212/23.08.2005). However, there was a modification concerning the third country nationals who are long term residents, implementing so completely Directive 2003/109/EC (Presidential Decree 150/2006). There was also another modification concerning the implementation of Directive 2003/86/EC on the right to family reunification (Presidential Decree 131/2006). Both modifications are not particularly important as the above law has yet implemented these Directives.

With regard to EU citizens, there were no other legislative changes during the year 2006. The number of court cases based on EU law on the free movement of workers continues to be 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. Only the question of the admission of Bulgaria and Romania was discussed, but not very broadly. The government decided to proceed to a transitional arrangement for access to the country of workers who are nationals of the new EU member states.

## **CHAPTER I. ENTRY, RESIDENCE, DEPARTURE**

### ***A. 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 2006.

The transposition of Directive 2004/38/EC is not yet completed. Therefore, law 3386/2005 has partially implemented Directive 2004/38/EC on the right of family members to move and reside freely within the territory of the Member States.

#### *Draft legislation*

P.D. 106/2007 implemented Directive 2004/38/EC.

#### *Judicial practice*

#### *Miscellaneous*

#### *Recent legal literature*

### ***B. 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 2006.

*Draft legislation*

*Judicial practice*

*Miscellaneous*

*Recent legal literature*

**C. 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 .

*Draft legislation*

*Judicial practice*

There are no court cases on detention or deportation of EU citizens

*Miscellaneous*

*Recent legal literature*

## CHAPTER II. ACCESS TO EMPLOYMENT

### **1. Equal treatment in access to employment**

Ministerial decision 200295/2005 provides that new places of employment are subventioned 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 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.

### **2. Language requirement**

Law 3304/2005 implemented Directives 2000/43 and 2000/78 and lays down a framework for combating discrimination on the grounds of racial or ethnic origin. A language requirement is possible that constitutes a forbidden indirect discrimination, as it puts persons of a racial or ethnic origin at a particular disadvantage compared with other persons, unless it is objectively justified by a legitimate aim and the means of achieving that aim are appropriate and necessary (art. 3). A difference of treatment which is based on a characteristic related to racial or ethnic origin does not constitute discrimination where, by reason of the nature of the particular occupational activities concerned or of the context in which they are carried out, such a characteristic constitutes a genuine and determining occupational requirement, provided that the objective is legitimate and the requirement is proportionate (art. 5).

### **3. Recognition of diplomas (including the academic diplomas), any initiatives to transpose Directive 2005/36/EC?**

#### *Recognition of diplomas*

Presidential Decree 165/2000 concerning the recognition of higher education diplomas implements Directive 89/48/EEC. The Council of Recognition of Professional Equivalence of Higher Education Degrees which is the competent institution for recognition of professional qualifications does not recognise the diplomas awarded by the competent authorities of other Member States if the studies are in the context of a franchise basis, under licence. The action brought on 4 July 2005 by the Commission against the Hellenic Republic was discussed in January 2007 before the Court of Justice. Greek Government contends that the Greek Constitution (art. 16) does not permit the recognition of the above diplomas.

Further, after 2005, the Council of Recognition of Professional Equivalence of Higher Education Degrees is not competent for the recognition of professional qualifications not equivalent to Universities. So there is no competent institution for the recognition of diplomas of the intermediate level, the level between Universities and High Schools.

Law 3328/2005 (Off. Journ. 80 A/1.4.2005) concerning the academic recognition of higher education diplomas establishes the Hellenic National Academic Recognition and Information Center (DOATAP). 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 under licence on a franchise basis 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's 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.

No initiatives have been taken for the moment to transpose Directive 2005/36/EC.

#### *Judicial practice*

The Technical Chamber of Greece is required enroll on its registers all persons having completed their studies in a Member State University under the condition of recognition of their qualification by the competent organ of the Greek State (Council of State 3557/2006, Elliniki Dikaiosi, 2006,1186).

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, Elliniki Dikaiosi 1986, 1211) 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.

#### **4. Nationality condition for captains of ships**

##### *Text in force*

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.

During 2007 the Greek Government made proposals in order to bring the national rules into conformity with Community law. However it is not sure that these proposals are in conformity with the community rules as interpreted by the Court.

##### *Draft legislation*

##### *Judicial practice*

##### *Miscellaneous*

##### *Recent legal literature*

## CHAPTER III. EQUALITY OF TREATMENT

### **1. Working conditions, social and tax advantages**

#### *Working conditions*

Law 3305/2005 implements 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. The above law 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).

#### *Social advantages*

Ministerial decision 200295/2005 provides that new places of employment are subventioned 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.

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

#### ***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.

### **2. Other obstacles to free movement of workers**

#### *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 collaborator, 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

### ***3. Specific issue: frontier workers***

The question of frontier workers is not of importance in Greece as there are no other frontier EU countries, than Bulgaria and Romania whose workers are subject of transitional measures.

GREECE

## CHAPTER IV. EMPLOYMENT IN THE PUBLIC SECTOR

### 1. Access to public sector

#### 1.1. Nationality condition for access to positions in the public sector

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).

#### 1.2. Language requirement

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.

#### 1.3. Recruitment procedures: follow-up of *Burbaud* case

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.

#### 1.4. Recognition of diplomas

Presidential Decree 44/2005 (art. 1 par. 5) provides that university diplomas acquired in EU countries are 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. However Hellenic National Academic Recognition and Information Center (DOATAP) does not recognize the diplomas granted by foreign universities collaborating with private Institutes operating under licence on a franchise basis in Greece.

#### 1.5. Recognition of professional experience for access to the public sector

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 ser-

vice 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.

## ***2. Equality of treatment***

### *2.1. Recognition of professional experience for the purpose of determining the professional advantages*

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. The seniority in the private sector is not recognized.

*Draft legislation*

*Judicial practice*

*Miscellaneous*

*Recent legal literature*

## CHAPTER V. MEMBERS OF THE FAMILY

### 1. Residence rights

#### *Text in force*

Art. 61 of the law 3386/2005 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.

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

*Miscellaneous*

The Greek Ombudsman intervened in order to convince Greek authorities to grant a residence card to a family member, even if a “certificate of family situation” provided in Greece, is not produced, under the condition that the State of the EU citizen does not provide the issuance of this certificate. The competent institution should be satisfied with a simple certificate of marriage and a certificate of the Embassy of the EU State that the issuance by this State of a “certificate of family situation” is not provided.

The Greek Ombudsman also intervened in order to convince the competent Greek authorities for granting residence cards to accept certificates, without ratification from the Minister of Foreign Affairs, from States being part of the European Convention of 7 June 1968.

The Greek Ombudsman intervened finally in another case in which the application for granting a residence card to a family member of a EU citizen was rejected because the member was not present for an interview before the competent authority inside the requested period, even if he had been summoned three times. The family member contended either that he was absent abroad or that he had changed address. The Ombudsman mentioned that the competent authorities have the right to summon an applicant for interviewing in order to verify that a marriage of convenience does not exist. However the Ombudsman recommended that the competent authority should again summon the member to prepare to be present for interview.

In all these cases the authorities have accepted the positions of Greek Ombudsman.

**2. Access to work**

The family members of a Union citizen having been granted the right of residence are entitled to work in Greece (art. 61 of the law 3386/2005).

**3. Access to education**

**4. Other issues concerning equal treatment**

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.

**CHAPTER VI. RELEVANCE/INFLUENCE/FOLLOW UP OF RECENT COURT OF JUSTICE JUDGMENTS**

There is no particular influence of the recent Court of Justice judgments 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 mentioned above, 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 judgments *van Lent*, *Commission v. Denmark*.

The case law of the Court of Justice (C-310/90, C-199/91), has been cited by the judges of the Council of State in decision 462/2006, "*Elliniki Dikaiosi*", 2006, 1211. This case law is cited in order to arrive at the conclusion that the degree of Fachhochschule should be automatically recognized as equivalent, if studies in this institution require education of four (4) years' duration, even if the program structure includes a period of probationary practice.

**CHAPTER VII. POLICIES, TEXTS AND/OR PRACTICES OF A GENERAL NATURE WITH REPERCUSSIONS ON FREE MOVEMENT OF WORKERS**

***Text in force***

*Family reunification*

The new Presidential Decree 131/2006 implements Council Directive 2003/86/EC on the right to family reunification.

Art. 4 of the above Decree 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.

Art. 5 of the above Decree 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 d) he has a convenient accommodation .

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 up to the date of expiration of the residence permit held by the sponsor and is renewable following the expiry.

Art. 9 of the above Decree provides that the application for a residence permit or for its renewal may be rejected: a) on grounds of public order and security b) on grounds of public health c) in case of withdrawn or refusal(refusal) to renew of the residence permit of the sponsor d) where the conditions laid down by the Decree are not or are no longer satisfied e) where the sponsor and his family member do not, or no longer, live in a real marital or family relationship f) 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 g) the family relationship was contracted for the sole purpose of enabling the person concerned to enter or reside in Greece and h) where the sponsor's residence comes to an end and the family member does not yet enjoy an autonomous right of residence.

Art. 10 of the above Decree 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. The law 3368/2005 provides the conditions under which family members shall exercise an employed or self-employed activity.

Art 11 of the above Decree 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 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.

*Long term resident status*

The new Presidential Decree 131/2006 implements Council Directive 2003/86/EC on 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, of Greek history and of Greek civilisation.

*Draft legislation*

*Judicial practice*

*Miscellaneous*

*Recent legal literature*

## **CHAPTER VIII. EU ENLARGEMENT**

### **1. Information on transitional arrangements regarding EU 8, relating to:**

#### *1.1 Changes in national law and practice in all EU Member States since previous national reports*

The Greek government has decided (April 2006) to abolish the transitional measures declaring its intention not to continue the transitional arrangements.

#### *1.2. Changes in position with regard to the second phase of the transitional arrangements*

#### *1.3. Details of the legal regime, including relevant legislation, applicable for the second phase*

*Professional titles of architects coming from a new Member State of the European Union*  
Presidential Decree 53/2004 has implemented European Directive 85/3004. This European Directive aims to enable the free movement of the establishment of architects 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 architect in the E.U.

New Article 3 of Presidential Decree 253/2006 recite all of the diplomas, certificates or titles in medicine awarded by new Member States which are recognized as being equivalent to those awarded by Greece.

#### *1.4. Practical problems, individual cases and national case law pertaining to the transitional arrangements (e.g. concerning the application of 12-months rule)*

### **2. Transitional measures for workers from Bulgaria and Romania**

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 Bulgaria and Romania. These persons are considered as EU citizens excepting employment. By way of derogation from Articles 1 to 6 of Regulation (EEC) No 1612/68 and until the end of the transitional period, Greece will apply national measures, regulating access to its labour markets by nationals of the above 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. Circular 30269/9.2.2007 of the Ministry of Employment contains the rules of access to the Greek labour market of the above persons. The period of employment must be proved by their residence permits. A residence permit of an EU citizen will be granted 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.

The same circular states that members of a family of a national of a new EU member state residing legally in Greece at the date of accession have free access to the labour market, if the person who maintains them acquires the status of EU citizens. If they are not living in Greece on the date of accession they will have, during a transitional period, free access to the labour market after having lived in Greece for a period of 18 months.

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Circular 22/13.3.2007 of the Ministry of Internal Affairs, Department of Residence Permits, completes the above rules in details concerning the acquisition of a residence permit.

It provides that if the residence permit for employment expires after 1.1.2007, the only necessary document for the renewal is the former permit proving the uninterrupted period of residence of 12 months. Any deposits for renewal must be returned to the worker.

In case that the residence permit for employment expired before 31.12.2006, it is additionally necessary a proof that a complete application for renewal was submitted within the deadline provided by the law. If this application for renewal has not been submitted within this deadline or if the application was incomplete, the worker must first follow the procedure according to the law 3386/2005 (pay a fine or social security contributions) and after submit an application for granting a community residence permit. Deposits for renewal are returned to the worker in the above cases.

In other cases (for example first permit), nationals of Romania or Bulgaria who cannot be considered as EU citizens, shall apply for the granting of a residence permit according to the procedure of the law for the third country nationals (3386/2005), following pay the deposit provided by the law.

Nationals of Romania or Bulgaria who applied for a visa for their family members, shall be informed that, due to accession of their countries in EU a visa is no more necessary.

*Miscellaneous*

**CHAPTER IX. STATISTICS**

(Source: Ministry of Public Order and Ministry of Interior Affairs March 2007)

**Foreign Workers (valid permits)**

<i>Total</i>	<i>2005</i>	<i>2006</i>
Community workers	6672	8185
Third country citizens	501224	307.206

**Repartition of community workers by sex**

<i>Total</i>	<i>2005</i>	<i>2006</i>
Men	3892	4795
Women	2764	3390

**Community workers Repartition by nationality**

	<i>2005</i>	<i>2006</i>
Austria	115	118
Belgium	107	131
Danemark	126	119
Finland	62	78
France	580	608
Germany	869	906
Holland	230	246
Ireland	62	57
Italy	606	663
Luxembourg	2	0
Portugal	29	23
Spain	116	135
Sweden	187	197
United Kingdom	1205	1321
Poland	1390	1741
Cyprus	888	1597
Malta	4	4
Slovenia	3	2
Hungary	20	33
Czech Republic	21	60
Slovakia	17	51
Lithuania	19	76
Latvia	11	13
<u>Estonia</u>	<u>2</u>	<u>6</u>
Total	6672	8185

**New members**

Bulgaria	25015	26479
Romania	11376	14976

The number of EU citizens residing in Greece remained very small compared to the number of citizens of third countries.

**CHAPTER X. SOCIAL SECURITY*****Supplementary pension schemes***

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.

*Recent legal literature*

P. Tsantilas, *International mobility of workers - detachment and social security* (in greek), Dikaio Epiheiriseon kai Etairion 2005, 1265 p.

## **CHAPTER XI. ESTABLISHMENT, PROVISION OF SERVICES, STUDENTS**

### ***Establishment***

#### *Professional titles of veterinary surgeons coming from a Member State of the European Union*

Presidential Decree 40/2006 has implemented European Directive of 18 December 1978 concerning the mutual recognition of diplomas, certificates and other evidence of formal qualifications in veterinary medicine, including measures to facilitate the effective exercise of the right of establishment and freedom to provide services in Greece. This European Directive, as it has been amended, aims to protect the rights of veterinary surgeons 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 veterinary surgeons coming from other Member States of the European Union the same effect as those awarded by Greece.

Articles 2 and 5 of Presidential Decree 40/2006 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 11-13 of the above Presidential Decree set all of the conditions for the recognition of titles in veterinary medicine awarded by other Member State of the E.U. in Greece.

### ***Students***

There are no particular foreign students' quotas in Greece.

## CHAPTER XII. MISCELLANEOUS

The Institute of Strategy and Development Studies in December of 2006 organised an International Conference entitled 'Migration: Development and Labour Market'.

### *Important sites*

[www.dsa.gr](http://www.dsa.gr) (Athens Bar Association)

[www.parliament.gr](http://www.parliament.gr) (Greek Parliament)

[www.mmo.gr](http://www.mmo.gr) (Mediterranean Migration Observatory)

[www.imepo.gr](http://www.imepo.gr) (Migration Policy Institute)