

Migration and Social Integration Code (law 4251/2014 as in force)

The Code of Immigration and Social Integration entered into force in June 2014 codifying and improving the existing legislation. In view of protection of migrants rights, Greece has adopted and implements measures to ensure the protection of migrants' rights and their specificities, with particular respect on vulnerable groups of migrants. The Migration and Social Integration Code (hereinafter Code), provides for transparent procedures on entry and residence of third country nationals (hereinafter tens) and guarantees migrants' rights eliminating of all forms of discrimination.

More specifically,

All persons residing in Greece, regardless of their residence status, enjoy:

- the right to education including the enrollment to public schools for children of refugees, asylum seekers and foreign citizens
- access to healthcare institutions for emergency treatment or childbirth. Foreign minors have access to health care regardless of their residence status or that of their parents

Concerning to **migrants legally residing in Greece**, they enjoy the same social security rights as Greek nationals, the right to social protection, equal access to public services and the right to be admitted in public hospitals and clinics. Furthermore, the implementation of the principle of equal treatment is linked to the purpose of stay. Specifically,

- tens with long term residence status (residing in Greece at least 5 years) enjoy equal treatment across all sectors of social-economic life
- tens with access to employment enjoy, according to the Single Permit Directive 2011/98/EU, equal treatment with nationals, in particular regarding working conditions, freedom of association and affiliation and membership of an organization, education and vocational training, recognition of diplomas, certificates and other professional qualifications e.t.c
- the second generation immigrants have the right to acquire the Greek citizenship
- access to goods, services and the supply of goods and services became available including procedures for obtaining housing as provided by national law without prejudice to the freedom of contract in accordance with Union and national law
- worth mentioning here is the protection of the legal status of migrants affected mainly by the financial crisis by a legal provision which reduces up to a minimum of 50 days of the insurance days required for the renewal of residence permits.

In practice, a new more coherent and flexible system is being adopted that is taking into account the labor market needs and the economy's needs. Another objective is the promotion of the long-term residence permit (extended rights, intra EU mobility rights) and the facilitation of social integration. Concerning, **humanitarian issues and other commitments, including combating trafficking in human beings**. Special protection is

provided to migrants recognised as victims of trafficking in human beings or smuggling of migrants who cooperate with the competent authorities according to 2004/81/EU Directive (Art. 49-56 of the Code). In case that victims of trafficking do not cooperate with the competent authorities, national law provides also for protective measures. According to a decision of the Minister for Migration Policy a residence permit for humanitarian reasons is granted to those victims. This permit may be renewed, provided that the same conditions are met. Third country nationals granted with the residence permit for humanitarian reasons, are entitled to free of charge medical services and health care, as well as to access to the labour market.

They are entitled to a residence permit of limited duration upon decision of the Minister for Migration Policy without any obligation to pay the relevant fee, if they are recognized as such by act of the competent prosecutor's office. This permit is of one year duration and renewable, provided that the same conditions are met. It grants the right to health care and permits access to the labour market, only for the period of its duration. It is worth mentioning that, after the final judgment, this residence permit, may be renewed for one of the grounds of the Code. Specific cases of migrants in vulnerable situation, granted with a residence permit for humanitarian reasons are indicated below:

- According to a decision of the Minister of Interior a residence permit for humanitarian reasons is granted to third country nationals residing in Greece and who are victims of trafficking not subject to the provisions of Articles 49-53 of Law 4251/2014, if they are designated as such by the competent Prosecutor, to victims and witnesses of crimes provided by Articles 187, 187a, 309 and 310 of Penal Code and by Articles 1 and 2 of Law 927/1979, to minor third country nationals victims of domestic violence, to migrants with serious health problems, to minor third country nationals who are employed with particularly exploitative working conditions, to third country nationals whose application for international protection, subject to the provisions of Article 28 of Presidential Decree 114/2010 has been rejected, to persons who attend an approved statutory mental dependency treatment program with a written confirmation from the Director of the program and to parents of minors third country nationals.

- According to a decision of the competent Decentralized Authorities of State a residence permit for humanitarian reasons is granted to minor third country nationals who need protective measures and are hosted by institutions or other charitable entities, to minors whose custody has been assigned according to a court decision in Greek families or in families of third country nationals legally residing in Greece or for whom an adoption is pending, to minor third country nationals in boarding schools operating under

supervision of the competent Ministries, to victims of work accidents or other accidents covered by Greek law, to adults born in Greece, as well as to those who attended for six (6) or more years the Greek school and until the age of 21.

Third country nationals granted with a residence permit for humanitarian reasons subject to the provisions and the criteria of the joint Ministerial Decisions for uninsured persons (official Gazette B' 1747/2006 and B* 1753/2014), will be entitled to free of charge medical services and health care.

In addition, it is worth mentioning here the conclusion of a bilateral agreement between Greece and Egypt in 1984 (ratified by Law 1453/1984), in order to facilitate legal migration opportunities in the two countries. More specifically, this agreement provides for the entry and residence of nationals of Egypt who wish to work in Greece, in a dependent employment relationship. In this framework, the relevant authorisation of stay for these people is granted under the provisions of the national legislation. The vast majority of Egyptian nationals entering Greece in order to work, under this bilateral agreement, are employed in fishery and can be considered as quasi seasonal workers. Their number is determined every year on the basis of local labour market needs in Greece.

Concerning the **combating racism, xenophobia, intolerance and discrimination**, it should be stressed that Greece put emphasis in the human rights area, working closely with its EU partners, and cooperates with regional organisations and instruments as well as with international Organisations in providing fair treatment of tens and full respect of their rights and extended protection against human rights violations. National legislation concerning the direct or indirect combating of racial discrimination may be summarized as follows:

- According to Art. 21 of the Code, offences provided for in articles 1 to 3 of law 927/1979 (on punishing acts or activities aiming at racial discrimination) shall be prosecuted ex officio.
- According to the same Art. 21 of the Code, migrants who live legally in Greece are subject to the relevant social security system and enjoy the same rights as natives.
- Additionally, according to the above mentioned Art., migrants being detained shall be informed about their rights and obligations in a language they understand, directly after their entry in a penitentiary institution.
- According to the same Art., migrants who legally reside in Greece, are subject to obligatory school attendance, such as Greek nationals are. Minor migrants, who attend all levels of education, have, without any restriction, access to school and educational community activities. These rights are not restricted for minors which are under the refugee status or under the protection of the United Nations High Commissioner for Refugees, or they have submitted an application for asylum or they live in Greece, even if their legal residence status is still pending.
- According to Art. 26 of the Code, migrants legally residing in Greece have access to national health system. Hospitals, health centres and clinics are bound to supply their services to migrants who need to be hospitalised or minors.

Additional protection under law 4251/2014

- **Migrants being detained** shall be informed about their rights and obligations in a language they understand, directly after their entry in a penitentiary institution (Art. 21 of the Code).
- **Right of family reunification/protection of family life (law allows reunification regardless the family relationship arose before or after the resident's entry):** third country

nationals, who are family member of a third country national residing lawfully in Greece or of a Greek citizen, are entitled to a family reunification permit in order to preserve the family unit, regardless whether the family relationship arose before or after the resident's entry (Art. 69-87 of the Code). The sponsor's family members are entitled, in the same way as the sponsor, access to education and to paid employment.

- **Special protection** is provided to migrants recognised as victims of trafficking in human beings or smuggling of migrants **who cooperate** with the competent authorities according to 2004/81/EU Directive (Art. 49-56 of the Code). They are granted with a residence permit of one year duration and renewable, if one of the conditions provided by law are met. It grants the right to health care and permits access to the labour market, only for the period of its duration. It is worth mentioning that this residence permit may be renewed for one of the grounds of the Code by decision of the Minister of Interior or of the Decentralized Authorities of the State.

- The **promotion of third-country nationals' legal employment and of labor and social security rights** is safeguarded by law 4052/2012, which transposes the 2009/52/EU Directive and sets minimum standards regarding the procedure for imposing sanctions against employers of third country nationals illegally residing in Greece. The employer should in any event be required to pay to the tens any outstanding remuneration for the work which they have undertaken and any outstanding taxes and social security contributions.

Law regulations launched to address issues regarding the residence and the rights of tens (ad hoc/case by case procedure)

- acquisition of a residence permit for humanitarian reasons covering cases of vulnerable migrants such as, victims of trafficking, victims and witnesses of racist crimes, tens with serious health problems, and people with disabilities and special needs, minors victims of domestic violence, minors employed with particularly exploitative working conditions etc.

- acquisition of a residence permit for exceptional reasons for migrants whose legal status is pending mainly due to financial reasons (e.g. they did not succeed to renew their residence permit due to the lack of the required days of employment for every year).

Law 4332/2015

Additional provisions enhancing migrants' rights are included in law 4332/2015. Those provisions introduce:

- transposition into national law of the Directive 2014/36/EU on the conditions of entry and residence of third-country nationals for the purpose of employment as seasonal workers

- integration of the provisions of previous joint ministerial decision regarding the granting of residence permit for humanitarian reasons

- simplification of the procedures of issuance of residence permit for exceptional reasons mainly through decentralising the process.
- the right of the second generation immigrants to acquire Greek citizenship
- transposition of the Single Permit Directive 2011/98/EU in national law, which provides for a common set of rights based on equal treatment with the nationals. The safeguarding of equal treatment was already provided by national law prior to the transposition of the Directive for certain categories of tens (BC, long term residents, researchers), though the new regulations further develop the equal treatment between nationals and non- nationals who are not yet long-term residents. In particular the new framework specified the fields in which equal treatment between nationals and tens legally residing and working in Greece (holder of a residence permit with access to employment) is safeguarded.

Protection of unaccompanied minor migrants

- Special care is provided to minor third country nationals, who are victims of trafficking in human beings or smuggling of migrants, if they are unaccompanied minors (Art. 49-56 of the Migration Code). They are entitled to a residence permit of limited duration upon decision of the Minister of Interior if they are recognized as such by act of the competent prosecutor's office. In this case the competent authorities take the necessary measures in order to establish their identity and nationality and the fact that they are unaccompanied. They also make every effort to locate their families as quickly as possible and take the necessary steps immediately to ensure their legal representation including representation in criminal proceedings.
- Pursuant to Code adopting a joint ministerial decision (30651/2014) which has specified the issuance of residence permits for humanitarian reasons, it should be noted the following:
 - According to a decision of the Minister of Interior a residence permit for humanitarian reasons is granted **i)** to minor third country nationals who are victims of domestic violence and **ii)** to minor third country nationals who are employed with particularly exploitative working conditions.
 - According to a decision of the competent Decentralized Authorities of State a residence permit for humanitarian reasons is granted **i)** to minor third country nationals who need protective measures and are hosted by institutions or other charitable entities, **ii)** to minors whose custody has been assigned in accordance to a court decision in Greek families or in families of third country nationals legally residing in Greece or for whom an adoption is pending, **iii)** to minor third country nationals in boarding schools operating under supervision of the competent Ministries.