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**AN ANALYTIC COMMENTARY ON THE  
GREEK IMMIGRATION BILL, 2000**

*by Martin Baldwin-Edwards*

# AN ANALYTIC COMMENTARY ON THE GREEK IMMIGRATION BILL, 2000

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## 1 CONTINUITY AND CHANGES WITH THE 1991 LAW

The bill, despite some innovations, preserves a good deal of continuity with the provisions of the 1991 immigration law, and also for that matter with immigration practices prior to 1991. In particular, it maintains two fundamental approaches:

- the need for two separately awarded but interdependent documents for residence and work of non-EU nationals
- absurdly onerous obligations on potential employers of immigrants for authorisation to enter Greece

Hand in hand with these two approaches comes the state bureaucracy, with unwieldy and inefficient structures and generally an incapacity to fulfil its obligations adequately. In the award of residence permits, for example, although the predominant role of the Ministry of Public Order has been removed, and apparently 'modernised', it has in fact been replaced by a complex structure involving the new Immigration Committees, prefectures, the police, OAED, the Interior Ministry and the "Foreigner and Immigration Service". Furthermore, it would seem that every applicant for issue or renewal of a residence permit is required to *appear in person* before an Immigration Committee; the resultant overwhelming of the system and long delays are simply inevitable.

Two novelties introduced in this bill are the legalisation procedure, continuing the White Card/Green Card process passed by Presidential decree, and a new procedure attempting to recruit seasonal and longer-term workers from abroad.

### ***The legalisation process***

The extensive demands made on illegal immigrants, which proved problematic in the previous legalisations, are repeated here [see Ombudsman's Report, 2000]: this time, the permits are for a duration of only 6 months and do not automatically permit work. Far from simplifying the process, it would seem that the bill intends to complicate it. There are some curious provisions, which require comment: that a residence permit will be granted to those withdrawing an appeal against an OAED decision or who asked for the award of a Green Card on compassionate grounds; and a requirement of Declaration 1599/1986 by the Mayor of the municipality for applicants who need to prove that they resided in Greece for two years prior to 15/11/2000. This latter stipulates that the municipality may not exceed a size of 20,000 citizens, without offering any alternative to an applicant if it does!

### ***The work permit arrangements***

As in the 1991 Law, these are both employer-specific, occupation-specific and location-specific and cannot normally be changed. The draft law introduces a new procedure involving overseas consulates, as well as a new seasonal worker permit [6 months' duration, non-renewable]. However, it largely continues the previous system, and consists of three stages:

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\* I am indebted to my research assistant, Olga Leventis, for help in translating the draft bill; also to Ira Emke-Poulopoulos, Rossetos Fakiolas and Xanthi Petrinioti for reading and commenting on earlier versions of this paper. Naturally, any errors or misreadings remain my sole responsibility.

- i. Application for authorisation to enter Greece for *specific employment* with an employer who has never met the future employee
- ii. Need to obtain employment contract, social insurance and housing
- iii. Within 10 days of arrival in Greece, application for residence permit with above documents

There are some differences with the arrangements under the 1991 Law, however. Under the existing system, pre-authorisation is needed to enter Greece [a visa for work]; a residence permit must be obtained upon arrival in Greece, and a work permit applied for within one month. The proposed arrangements appear to grant the work permit in the overseas consulates, make new demands of social insurance and housing as preconditions for the award of a residence permit, and require the application for that permit to be made within only 10 days. Thus, the draft law makes much more severe demands on the immigrant than the 1991 Law.

The future employer is required to produce guarantees not only of employment of an unknown person, but responsibility for survival expenses until a residence permit is granted or, if one should be refused, until the immigrant leaves Greece. For seasonal work, the employer must make a formal statement that s/he will hire "a certain number of foreign workers for a certain time for a certain type of work" [Art. 24], in addition to bank guarantees of living expenses for 3 months and the possible repatriation costs.

The determination of suitable occupational sectors for immigrant labour is to be made annually by OAED, who are supposed to conduct serious analyses of the regional labour markets across Greece. However, there is no provision in the bill to finance such research, which at present is not available: it is unclear how OAED would be able to compile these annual reports, what their degree of reliability would be, and how many years it would take for such a system to become operational. In fact, this provision exists also in the 1991 Law and appears never to have been operationalised.

### ***Other changes in immigration regulation***

#### Residence permits

The provision of the 1991 Law is that one year permits are initially given out; after 5 years the immigrant *must* leave Greece or apply for a 2-year permit. After a total stay of 15 years [excluding periods of study], s/he can apply for a permit of unlimited duration: this requires 10 years of social insurance contributions. The draft law actually *increases* the period needed to apply for a 2-year permit to 6 years, but will grant an indefinite stay permit after a total of 10 years.

As in the previous legislation, a residence permit will not give the right to work; nor does admission to Greek territory for the purpose of work give the right to receive a residence permit, which has additional requirements. As noted above, the proposed conditions for granting a one-year permit are more restrictive than those existing at present.

#### Family Reunion

The 1991 Law facilitates family reunion, as provided by subsequent Presidential decree, only for holders of 2-year residence permits, i.e. those who have stayed legally in Greece for more than 5 years *and* have been awarded the 2-year permit. Data for the actual numbers granted are not available, but are thought to be extraordinarily low. In principle, the 1991 Law allows reunion of dependent parents as well as dependent children. The draft law reduces the waiting period before application to 2 years, with requirements for the head of household of minimum income, suitable accommodation, and social insurance for the entire family. The beneficiaries are confined to married spouse and dependent children under 18 years of age; they are prohibited from any form of work for a period of 3 years.

### Access to healthcare

State hospital care is provided for undocumented immigrants only in emergency cases and until the condition is stable, and requires state employees to notify the police.

### Access to education

Despite stipulating that all minor children must attend school, as required for Greeks, the draft law does not embrace the current *contra legem* practice of not requiring documentation for the children of undocumented immigrants. (Exception is made for refugees recognised by the State or UNHCR, asylum applicants, and “those who come from areas of unrest” [Art. 42] without specifying any procedure for such determinations.) The route is left open to a possible future decision on such matters by the Ministries of the Interior, Public Order, and Education – which decision may never occur, of course.

As far as tertiary education is concerned, the bill makes no special provision for immigrant children or adults who might wish to enrol; it takes no account of schooling or qualifications obtained elsewhere, but flatly states that children have the same right of access as Greek nationals.

### State charges

The charges for residence permits are defined as Dr 50,000 for a 1-year permit, 100,000 for a 2-year permit, *et seq.* The fee for an application for Greek nationality is put at Dr 500,000.

## 2 COMPARISONS WITH OTHER EU COUNTRIES

### ***Residence permit arrangements***

Given the necessarily complex and bureaucratic procedures involved in applying for a residence permit – often requiring documents or employment records that immigrants are unable to provide – there has been a general recognition across Europe that these procedures actually *create* illegal immigrants. Short term residence permits exacerbate the problem of maintaining a legal status for two reasons: bureaucratic delays and malfunctioning; and the formal demands made by the state for employment contracts, social security contributions or tax records. As one Italian economist states:

The requirement of renewal of legal status every few years (from two to four) conflicts with the characteristics of the Italian labour market and with the marginal... position of immigrants in it. (Quassoli, 1999:224)

There is now a tendency across Europe to grant longer term permits. Both Spain and Italy had in their 1985 and 1986 Laws respectively (Baldwin-Edwards, 1991) provision only for 1-year residence and work permits: these policies are now adjudged to have failed and to have been a primary cause of illegality (Cornelius, 1994; Zincone, 1999).

Thus, since 1996 for Spain (Mendoza, 2000) and 1990 in Italy (Quassoli, 1999), permits of longer duration are more frequently awarded – typically 3 years in Spain and 2/4 in Italy. Even so, the situation in those two countries has been characterised as “institutionalized precarious employment” (Watts, 1999:134).

*The situation in Greece cannot easily be compared with any other southern European country, owing to the very delayed response to the presence of illegal immigrants [with only one legalization so far] and the insistence of the Greek state on granting 1-year work and residence permits as a norm. The new regularization procedure outlined in the draft law, giving only 6 month permits without the automatic right to work, will put Greece on a very different track from not only Europe but also southern Europe.*

### Acquisition of Permanent Residence

Permanent residence status is a limited guarantee of security for migrants, much easier to obtain than nationality and without the degree of commitment and integration demanded by most countries for citizenship acquisition. Thus it is particularly important for 'exclusive' type countries, such as Germany, Switzerland and Greece. Table 1 shows the current requirements of most EU member states in granting permanent residence rights. As with the trend of increased award of longer-term residence permits, there has also been a trend of reduction in the number of years required to grant permanent residence rights. Greece and Portugal are the outliers here: even the proposed reduction to 10 years makes Greece one of the most restrictive in Europe. Although Portugal is more so in this regard, there are extenuating factors which mark a clear difference with Greece [see *Work permits*, below].

### **Work permits**

Work permits under the 1991 Law and also the new draft law are employer-specific, occupation-specific and location-specific and are normally valid for one year. Whereas this is often *initially* the case in other European countries, there is elsewhere *always* a process over time through which the immigrant can more or less automatically acquire a better status. The most demanding country in this regard is Germany, which requires 4-6 years to grant unrestricted access to the German labour market (Morris, 2000) and longer for better statuses up to the 'Right of Abode' which requires 8 years' residence along with 5 years' contributions to a pension fund. Nevertheless, even in Germany, loss of employment does not lead automatically to loss of legal residence and the future right to work.

Across southern Europe, both Italy and Spain have attempted policies which restricted employment to a specific employer and profession. In Italy, the 1986 Law established a scheme similar to that proposed in Greece: almost no occupations were certified as needing immigrant employment, despite employers' interest in so doing. The Law had at least the merit of placing foreigners on an equal footing with Italians after only 2 years, and also separating residence permits from work permits so that loss of a migrant's employment did not lead to illegal residence or expulsion (Calavita, 1994: 315). The 1990 Law had also the same idea of establishing a "Flows Committee" to determine how many immigrants were needed in what sectors, with the result that almost none were approved (Zincone, 1999: 51). In Spain, the 1985 immigration law required legal immigrant workers needing to change employer to apply again for a work permit and leave the country if refused (Cornelius, 1994: 339). Thus even *legal* immigrants were converted into illegal ones. A 1993 scheme – a quota system for recruiting immigrant labour from abroad – had few employers interested, largely because of onerous demands on them for workers they had not met. When the scheme was extended to cover illegal immigrants resident in Spain, the number of job offers from employers increased by a factor of 5 to 25,000.

Learning in Spain and Italy from the massive illegality which inappropriate state policies had actually created, and the consequent need for many legalization programmes, was fairly rapid. In Italy, Reyneri (1997) notes that almost all non-EU immigrants had obtained their work permits through the 1990 regularization. RIMET (1997:70) similarly notes a doubling of work permits simply because of the 1991 regularization in Spain. Thus by 1998 in Italy, and 1996 in Spain, enlightened attitudes prevailed and established policies which attempt to keep immigrants in a legal status, whatever their misfortunes with employment and finances. Simultaneously, there are clampdowns on illegal immigration and illegal employment – not least because these represent a serious electoral threat to any government.

Thus, since 1996 Spain has carried out a 3-tier policy of work permits. The initial permit is employer-specific and for 9 months. Then, a 1-year permit is issued which is sectorally specific and confined to one province. After 3 years, unrestricted access to the Spanish labour market is granted. Italy has introduced sponsored immigration (Zincone, 1999) which allows immigration into Italy for the purpose of job-seeking; furthermore, Italy now gives permanent residence after 5 years of legal stay without a criminal record, and generous family reunion policies. Portugal, since 1981, has not required work permits but allows free access to the labour market with a residence

permit. After 5 years, a 5 year permit is issued; after 20 years, an unlimited permit. Although the latter looks restrictive, these other provisions are not at all restrictive and it may well be more important to have free access to all sectors of the labour market than permanent residence after some years.

*The Greek draft law grants 1-year work permits as a norm, and appears not to allow change of employment. Greece is unique in Europe in not having tiered access to the labour market, but simply renewal of one year restricted permits. Furthermore, Greece is also unique in linking residence status definitively to continuous employment, as used to happen in Spain and Italy in the 1980s: now, all other European countries regard both of these policies as a breach of fundamental rights, as well as a serious structural cause of illegality.*

### **Family reunion**

With the worst record in Europe on family reunion, it is appropriate that the draft law address this issue. However, the provisions are the least generous across the European Union. Table 2 delineates the different national approaches to family reunion policy. What seems clear is that Greece has much more demanding requirements than any other single country, although it is not completely out of line with Europe. More problematically, it appears that the standards required for accommodation, for example, are not objective and open to variable interpretation by bureaucrats and possible abuse. The requirement of social insurance is also extreme, with Austria being the only other country apparently insisting on it (CEC, 1999). Generally, over the 1990s European countries have reduced their waiting periods for application for family reunion; this may be because the time taken for the state actually to process the applications has been increasing. There is no provision in the Greek law to require the state to process applications within a certain period, unlike in Italy where 90 days is set as the maximum (Zincone, 1999).

Interestingly, Greece seems to be out of line with southern Europe, where respect for the family unit is evidenced by Spain, Portugal and Italy's preparedness to admit not only dependent parents, but also other close relatives. This is also borne out in practice: despite Italy's short history of immigration, by 1997 some 25% of residence permits were given to beneficiaries of family reunion (Zincone, 1999: Table 3). Presumably this stance reflects the southern European countries' strong support for the institution of the family; Greece, Portugal and Italy all have constitutional protection of the family. In fact, there was more generous (theoretical) provision of family reunion in the 1991 Greek immigration law – allowing dependent parents – which has been removed from the draft law.

The prohibition on any form of work for a period of three years is extraordinary. Although up-to-date comparative data on this are difficult to find, in Germany the family members must wait for one year to gain employer-specific access to the labour market, and 4 years to be given unrestricted access. It is unlikely that any EU country has more severe restrictions than Germany; besides, clearly this is an incitement to participation in the black economy when it is unlikely that third country nationals can afford to stay without employment for such a length of time.

### **Access to healthcare**

This varies greatly across the EU, and information seems to be deliberately suppressed by national governments. Generally, it seems that state facilities are available to undocumented and uninsured immigrants – even if only for emergency treatment. Attempts to make doctors report illegal immigrants to the police have been met with hostility in most countries, although it seems not in Germany. Across southern Europe, there continue to be *contra legem* practices – although these often vary substantially by local region (Ugalde, 1997; Zincone, 1999). In Italy, a 1995 decree law permits not only free emergency medical care for undocumented immigrants, but also for serious illnesses and some preventative prescriptions; the 1998 Immigration Law extended all state medical services to undocumented children (Zincone, 1999:67).

### **Access to education**

Generally across the EU there appears to be a toleration of undocumented children in schools, simply through the appalling consequences of not taking as a priority the needs of the child. This principle is enshrined in international law, and accepted throughout the European Union. In Italy, Ministry of Education circulars in 1994 requested schools to admit undocumented immigrant children and also to award their diplomas. The 1995 decree law and the 1998 immigration law confirmed the right to education for *all* foreign children on Italian soil (Zincone, 1999: 70).

### **Costs for permits and nationality applications**

The Greek proposed costs are very high by international standards, although comparative data are not available. It has been the practice in international migration for states to minimise their charges to migrants, and this principle is enshrined in much international law [see below]. For nationality applications, the proposed Greek charge is three times the level of the German. Taking into account the differential earnings possibilities in Greece and Germany, it is even higher. Thus this policy gives a clear exclusionary signal to all non-Greeks residing in Greece. Furthermore, the idea that charges to the legal immigrants should pay for the costs of policing illegal immigration is itself fundamentally out of line with other EU countries' practices – not least because it is self-defeating. Legal immigrants already pay taxes and other dues to the state: additional burdens will further encourage retreat into illegality, as well as being morally questionable.

## **3 CONFORMITY WITH INTERNATIONAL STANDARDS**

Greece has acceded to all the major UN human rights treaties, with the exception of the *International Convention on the Protection of all Migrant Workers* (1990). Of particular note is the *Convention on the Rights of the Child* (CRC) signed 11 May 1993. Within the Council of Europe<sup>a</sup>, Greece has signed and ratified the *European Convention on Human Rights*, 1951; the *European Convention on Establishment* (ETS 019), effective from 2 March 1965; and signed on 24 November 1977, but did not ratify, the *European Convention on the Legal Status of Migrant Workers* (ETS 093). Greece is also a signatory to the *European Social Charter* of 1961 (ETS 035), which has limited provisions for migrant workers. Although Greece is not a signatory to the *ILO Migration for Employment Convention (Revised)*, 1949 (C97), this has 41 signatories of which 8 are EU states, including all the traditional European immigration countries. This Treaty formed the basis of human rights norms in guestworker recruitment in previous years, and its provisions may well be accepted as part of 'customary international law' and therefore binding.

### Children's education and healthcare

Several aspects of the draft law are in direct contravention of the CRC: these are the failure to make adequate provision for *all* children's healthcare and education, including the children of undocumented immigrants. CRC Article 2(1) forbids discrimination against any child on the basis of his parents' ...status, including illegal status; Article 3(1) states that:

In all actions concerning children, whether undertaken by public or private social welfare institutions, courts of law, administrative authorities or legislative bodies, the best interests of the child shall be a primary consideration

Article 4 *requires* legislative, administrative and other measures for the implementation of rights granted by the Convention. Specifically, Article 26 covers social security (public healthcare) whilst Article 28 covers primary, secondary and higher education.

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<sup>a</sup> *A Note on the Applicability of the Council of Europe Conventions*

These treaties, despite their character of promoting human rights, are entirely reciprocal. That is to say, they are binding only between signatories. The only signatory outside EU/EFTA is Turkey; thus these agreements are binding on Greece with respect to Turkish nationals, given that EC law confers substantially stronger rights on EU and EFTA nationals.

### Refusal of continuation of residence permit through ill health or unemployment

This is probably in breach of customary international law, and could be enforced; specifically, Article 8 of ILO Convention 97 gives the right to stay after illness or unemployment, although allowing a state to specify a minimum period of employment necessary to acquire that right. ETS 094 in Article 9(4) permits a migrant to remain for 5 months after illness or unemployment, for the purpose of finding work.

### Excessive charges for state documents

This practice is outlawed in both the *European Convention on Establishment* and the *European Convention on the Legal Status of Migrant Workers*. Article 21(2) of ETS 019 states that the amount levied should be “not more than the expenditure incurred by such formalities”. ETS 093 goes further, and states in Article 9(2) that residence permits should be “issued and renewed free of charge or for a sum covering administrative costs only”.

### Duration of residence and work rights

ETS 019 in Article 12(2) grants full employment equality with nationals after 10 years [Declaration by Greece], but requires that renewal of authorisation “may in no case be refused” after 5 years of residence and work. It is not clear, especially with the extension of the qualifying time period to 6 years in the draft law, that Greece is in conformity with this provision.

### Family reunion

The right of family reunification is a principle endorsed by various ILO conventions and recommendations, and is probably part of customary international law. It is dealt with more explicitly in ETS 093, Article 12(1) which stipulates a maximum waiting period of 12 months; CRC Article 10(1) requires that

applications by a child or his or her parents to enter or leave a State Party for the purpose of family reunification shall be dealt with by States Parties in a positive, humane and expeditious manner.

The prohibition of employment for 3 years by family members may be in breach of ETS 019 Protocol Section V b, which states that

The husband or wife and dependent children of nationals of any Contracting Party lawfully residing in the territory of another Party who have been authorised to accompany or rejoin them shall as far as possible be allowed to take up employment in that territory in accordance with the conditions laid down in this Convention.

*Thus it can be seen that the draft law is potentially in breach of the internationally accepted fundamental rights of immigrants in several areas: education and healthcare for undocumented children, duration and continuity of residence permits, excessive charges for state documents and procedures, and the right to work of family members.*

## **4 SOME CONCLUSIONS**

Despite the substantial defects and problems associated with the 1991 Law, the draft immigration law represents a significant backward step in the management of immigration into Greece. The operation of the 1991 Law resulted in a decline in the number of residence permits granted, and also in the total number valid over the period 1989-96 (Baldwin-Edwards and Fakiolas, 1999: Table 2); the number of work permits issued annually over that period fluctuated at around 30,000 total (*idem*, Table 3) of which 7-12,000 were non-EU workers. This was at a time when the illegal population was estimated at around 400-500,000. Even given this extreme policy failure to control

illegal immigration and employment (notwithstanding over 1,000,000 expulsions in the period 1991-95 (*idem*, Table 7)), the proposed Law will likely *increase* the extent of illegal immigration. This will happen through:

- 1) Maintenance of the current financial burdens on potential employers
- 2) Increased bureaucratic burdens on both employers and immigrant workers
- 3) New burdens of proof (including housing) for migrants to acquire a residence permit
- 4) The vastly higher costs of permits
- 5) For legalised immigrants [Green Cards], the proposal of 6 month permits without the automatic right to work

Furthermore, even those immigrants who acquire legal status will inevitably tend to drop into clandestinity, as the frequent renewal of such permits is linked to continuity of employment and social security contributions – amply demonstrated elsewhere. Other aspects which will encourage avoidance of the official machinery are the deprivation of family members to the right to work; and the bureaucratic delays in recruitment which will accompany even the seasonal work programme. The consequences of all this can only be to promote an increase in illegal residence and work of immigrants, whilst hypocritically denouncing such. Furthermore, some of the expenditures involved in extending the Greek state machinery are very high – over Dr 2,500,000,000 – and cannot be justified.

As has been demonstrated above, the draft law is seriously at odds with many international standards and conventions: in particular, have been noted education and healthcare services for undocumented children, the duration and continuity of residence permits, excessive charges for state documents, and the right to work of family members.

In comparison with other European countries, we have already noted a trend across Europe to grant longer-term residence/work permits; to give permanent residence rights after an average period of 4,9 years; to promote innovative foreign employment initiatives; to offer frequent and more inclusive legalisations as well as even annual ‘concealed’ legalisations. In terms of immigrants’ rights, the southern European countries are becoming increasingly generous in family re-union policy, in tolerating a decoupling of employment record from residence rights, and in allowing access of all children (and in some countries or regions, in specified ways, adult undocumented immigrants) to state services such as healthcare and education. The draft bill is in complete contradiction to policy in other European countries, even though there have been recent changes in Spain (2001), Italy (2000) and Portugal (2001) which are less tolerant of illegal immigrants. The Greek situation has been caused by the refusal of the Greek state to grant legal status to economically useful immigrants; the draft Law will not remedy that.

Recent research shows that the Greek population, as in most other countries, is concerned with two major issues relating to immigrants – localised immigrant/ population density, usually in border regions, and illegality linked with criminality (Baldwin-Edwards and Safilios-Rothschild, 2000). At the same time, it is recognised that illegal immigrants have an important, even essential, role in the Greek economy (Lianos *et al.*, 1996). This draft law does nothing to address the needs of Greek society, of Greek employers or of immigrants themselves.

The interests underlying the construction of the bill appear to be those of various ministries and bureaucrats, rather than the interests and needs of Greece. The fundamental philosophy informing it is statist and control oriented; it is out of step with the rest of Europe, and oddly inconsistent with the liberalisation and deregulation which are proceeding in other related areas, such as the labour market. The policy is inherently regressive, and similar in both cause and effect to the Japanese failure to deal with illegal immigrants. There, it is said that “bureaucratic decision-making prevails, resting upon a conservative consensus about the upholding of cultural and ‘racial’ homogeneity that has never been shaken” (Thränhardt, 1999: 205). At the same time, there is massive demand for immigrants in the construction industry and small companies, as in Greece.

Presumably, it can be taken as a starting point that the objective of an immigration law is to make legal arrangements for the employment of immigrants who are needed in the Greek economy, whilst minimising the extent of illegal entry, residence and work in Greece. Why does the bill fail to achieve this? There are several requisites which it fails to address. They are as follows:

- To simplify bureaucratic procedures, for both immigrants and Greek employers
- To comprehend employers' needs, which may not be predictable by them
- To provide legal certainty for both employers and immigrants
- To recognise migrants' rights, as a *quid pro quo* for legal status
- To enforce laws relating to illegal immigration and employment, but focusing on those who exploit rather than those who are being exploited

Below, I make some recommendations on what procedures could make some progress in the struggle against illegal residence and employment of immigrants in Greece.

## ***Eight Recommendations for a Migration Policy***

### **RECOMMENDATION 1**

***That employment recruitment outside Greece be abandoned, with the possible exception of seasonal agricultural workers. It should be replaced by (i) annual quota recruitment by employers from illegal residents of Greece; and (ii) sponsored immigration for job-seekers.***

The pre-authorisation employment arrangement is a failed policy in Greece, Spain (1993), Italy (1986; 1990) and almost all other European countries (ICMPD, 1994: 62-3). It is suitable only for highly skilled and qualified workers, whose CVs are enough for employers' recruitment needs, and perhaps for unskilled factory work. It is doubtful that it is even suitable for seasonal work recruitment, given the obligation of employers to predict their labour needs precisely and well in advance – simply to suit the Greek state bureaucracy.

Southern European labour markets have a preponderance of small family businesses which need to see the employee before they can offer work. Furthermore, the demand by the state that employers should bear all the costs if the state fails to grant a residence permit to the employee, is quite unacceptable. The two alternative policies suggested above are carried out in Spain and Italy, and appear to have some success in limiting the extent of illegality.

### **RECOMMENDATION 2**

***That the work and residence permit system be completely overhauled. Work and residence permits should be combined with ONE application, one process and one official document, reducing administrative costs and delays.***

This is such a self-evident statement, and one carried out by most countries, that it seems odd to have to include it. However, in linking the two permits it is essential that the right to work does not carry an obligation to be in continuous employment: this is unrealistic and contrary to international norms (*ILO Convention 97; European Convention on Legal Status of Migrant Workers*).

### RECOMMENDATION 3

***That residence/work permits be re-scheduled and simplified in a clear hierarchical pattern, with transition from one status to another as a norm. Initially, a 1-year employer-specific permit, renewable once; after two years, a 3-year sectoral-specific permit; after 5 years, an unrestricted 5-year permit; and after 10 years, an unrestricted permit, both in duration and labour market access.***

Again, a simplified stratification of this sort is cost-effective for the state, quicker and easier to implement, and gives *legal certainty* to immigrants and employers. The gradual removal of labour market restrictions is on a par with practices elsewhere in Europe and is not likely to have significant impact on employment levels of Greeks. The 5-year permit after total residence of 5 years would be similar to the arrangements in Portugal; permanent residence rights after 10 years are as proposed in the draft bill.

### RECOMMENDATION 4

***That the planned legalisation programme be modified to give two different statuses [as suggested above]: a 1-year permit with the automatic right to work, for those with minimal employment and social security records; a 3-year permit for those who satisfy more stringent criteria.***

The proposed 6 month permits in the legalisation programme will be almost worthless, particularly as they do not give the right to work. Immigrants will be obliged to spend enormous amounts of time collecting documents and queueing up at state offices, when at the same time they need to work to earn money to survive and also to satisfy the criteria for future renewals. This will simply push most into illegality, as well as creating unnecessary work in the state bureaucracy. The proposed programme can only be an expensive fiasco. Furthermore, these lengths of permits compare badly with Italy's legalizations (2 or 4 year permits) or Portugal's free access to the labour market for all with residence permits of whatever duration.

### RECOMMENDATION 5

***That Greece should show its respect for the family [as required by the Greek Constitution] and facilitate family reunion with less strict and more precise criteria, and also extend its possibility to other close relatives on compassionate or dependency grounds. Further, family members should be given immediate access to the labour market.***

These provisions would take Greece into the mainstream of southern European thinking on the matter, as well as being consistent with Greek traditional values. The criteria of eligibility should be minimal and explicit, not subject to variable interpretation by bureaucrats on matters such as "suitable" housing, and should guarantee (as in Italy) a maximum timeframe for the state decision. The possibility – although not automatic right – for family reunion of other dependent relatives should be taken as a serious commitment to fundamental human rights. Insofar as employment rights are concerned, family members will simply enter the black economy, therefore there is little point in denying them legal employment.

## RECOMMENDATION 6

***That Greece should accept its obligations under international law, as well as morally, and provide explicit acceptance of all children resident in Greece – including undocumented – by the education system and public healthcare system.***

This is standard practice across the civilised world, as required by the UN *Convention on the Rights of the Child*, 1990. Furthermore, although there is no legal obligation to treat undocumented adults, the implications for Greek public health are perhaps more serious than has been admitted, particularly given the known health problems of certain immigrant communities in Greece.

## RECOMMENDATION 7

***That the state charges for bureaucratic papers be reduced to a reasonable level, as required by international law; that the costs of longer term permits should be little more than the cost of short term permits, not pro rata, as in the draft law.***

It is quite unreasonable to expect poor immigrants to subsidise the Greek economy, when they are already paying taxes if employed legally. The extra administrative costs proposed in the bill are largely unnecessary and wasteful; those which are needed, such as proper detention centres for illegal immigrants, should be taken from a general budget. These high charges, especially the cost of longer term permits, contravene the *European Convention on Establishment* and the *European Convention on the Legal Status of Migrant Workers*.

The proposed level of charge for a citizenship application will be viewed by both immigrants and other governments as offensively racist and exclusionary: it is unclear why the Greek Government would wish to broadcast such a message across the European Union.

## RECOMMENDATION 8

***That victims of trafficking and prostitution be granted protection and immunity from deportation, with the proviso that they testify, if needed, against the criminal organisations.***

The draft law completely ignores the victims of criminal gangs, the complicity of state agencies in such matters, and the need to stamp out the extensive pattern of organised prostitution and racketeering. Most other countries of the EU have developed policies which try to protect innocent victims whilst addressing the real culprits – the massively profitable organisations which exploit women and children. Given the extent of this phenomenon in Greece, one might expect some sort of state policy dealing with it: there appears to be little interest in the matter, except for some highly restrictive measures dealing with work permits for dancers and entertainers.

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## TABLES

**Table 1**

*Permanent residence requirements*

Country	Years of residence normally required
Austria	5
Belgium	3-5
Denmark	3
Finland	2
France	10¶
Germany	8
Greece	15 [10 in bill]
Italy	5§
Netherlands	5
Norway	3
Portugal	20¥
Spain	6¥
Sweden	0
Switzerland	5-10
UK	4

SOURCES: ICMPD (1994:Table 8) updated by OECD-SOPEMI (various years)

*Notes*

¥ taken from Mendoza (2000)

§ taken from Zincone (1999)

¶ no longer an automatic right

**Table 2**  
*Family Re-unification policies in European countries*

Country	*General waiting Period	‡ Unmarried [including samesex] partner?	*Adequate Resources Requirement?	*Accommodation Requirement?	‡ Minor Children	‡ Provision for other relatives
Austria	quota	No	Social insurance	Yes, multiple criteria	<19 years	Special grounds
Belgium	0	No	No	No	<18 years	None
Denmark	3	Yes	unknown	No	<18 years	>60 dependent; also special reasons
France	1	No	= minimum wage	'normal' standard	<18 years [ <21¶ ]	None [recent change]
Germany	0	No	= minimum pension	Standard of social housing	<16 years	Special grounds
Greece	5 [2 in new bill]	No	[= minimum wage + social insurance]	Yes, multiple criteria [also in new bill]	<18 years	Dependent parents ['None' in new bill]
Italy	0	No	unknown	Yes, multiple criteria	<18 years	Dependent parents; also adult children and other needy relatives
Netherlands	0	Yes	= minimum pension	'normal' standard	<18 years	Special grounds
Norway	0-3 §	unknown	unknown	unknown	<18 years	Special grounds
Portugal	0	No	= minimum wage	'normal' standard	<18 years	Dependent parents; others may be considered
Spain	1	unknown	= minimum wage	Case-by-case decision	<18 years	Dependent parents; also adult children
Sweden	0	Yes	No	No	<20 years	Parents over 60
Switzerland	2-5 §	No	unknown	unknown	<18 years	Special grounds
UK	0	No	No recourse to public funds	Yes, multiple criteria	<18 years	Widows >65

SOURCES:

- \* CEC (1999)
- ‡ Lahav (1997)
- § ICMPD (1994)

Note:

¶ for females, and parties to the European Social Charter

## BIOGRAPHICAL NOTE

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