

PRESIDENTIAL DECREE 106/2007

Free movement and residence within the Greek territory of citizens of the
Union and their family members

**THE PRESIDENT OF
THE HELLENIC REPUBLIC**

Considering:

1. The provisions of article 4 of Law 1338/1983 “Application of Community Law” (A’-34), as replaced by article 6(4) of Law 1440/1984 (A’-70) and amended by article 7 of Law 1775/1988 (A’-101), article 31 of Law 2076/1992 (A’-130), article 19 of Law 2367/1995 (A’-261), article 22 of Law 2789/2000 (A’-21) and article 48 of Law 3427/2005 (A’-312).
2. The provisions of the second article, para.2, of Law 2077/1992 “Ratification of the Treaty on the European Union and the relevant Protocols and Statements included in the final Act” (A’-136).
3. The provisions of article 22(3) of Law 2362/1995 “Public Accounting audit of State expenditure and other provisions” (A’-247).
4. Joint resolution 37930/DIOE1264/14 Oct 2005 of the Prime Minister and the Minister of Economy and Finance, “Determination of powers of the Deputy Ministers of Economy and Finance” (B’ 1432/14 Oct 2005), especially the provisions of article 7, as amended by resolution 5733/DIOE 179/9 Feb 2006 (B’-204).
5. The provisions of article 90 of the Code of Legislation on Government and Governmental Bodies [presidential decree 63/2005] (A’-98).
6. The provisions of Directive 2004/38/EC of the European Parliament and of the Council of 29 April 2004 (OJ L 158 of 30 April 2004) on the right of citizens of the Union and their family members to move and reside freely within the territory of the Member States, as amended by its Corrigendum of 29 June 2004 (OJ L 229).

7. The fact that the provisions of this decree entail the following financial effects:

A. On the State budget:

1. Expenditure stemming from the institution of the principle of equal treatment with Greek nationals for the European Union citizens who reside in Greece. This expenditure, which depends on real facts (number of beneficiaries, type of subsidies, payments etc.) and cannot – for this reason – be determined accurately, shall be covered by the budget of the relevant Ministries.

2. Potential expenditure due to the provision of the benefit of indigence to any of the above persons who exercise remedies against the decision to expel them, provided that they do not have sufficient resources for this purpose. This expenditure, which depends on real facts and cannot be accurately assessed, shall be covered by the budget of the Ministry of Justice.

B. On the budget of state hospitals (legal entities in public law, subsidised by the State budget). Potential expenditure arising from carrying out free medical tests to citizens of European Union Member States and their family members, who have acquired the right to reside in Greece, in order to discover if they suffer from any disease that would justify the taking of measures to restrict their free movement. This expenditure, which depends on real facts and cannot be accurately assessed, shall be covered by the budgets of the relevant state hospitals.

8. Opinions number 67/2007, 69/2007 and 95/2007 of the Council of State, issued on recommendation of the Ministers of Interior, Public Administration and Decentralisation, Economy and Finance, Foreign Affairs, Employment and Social Protection, Health and Social Solidarity, Justice and Public Order, we hereby decide:

CHAPTER I

GENERAL PROVISIONS

Article 1

Subject

(Article 1 of Directive 2004/38/EC)

This decree lays down:

- (a) the conditions governing the exercise of the right of free movement and residence within the territory of Greece by Union citizens and their family members;
- (b) the right of permanent residence in Greece for Union citizens and their family members;
- (c) the limits placed on the rights set out in (a) and (b) on grounds of public policy, public security or public health, with the purpose of incorporating into the Greek legislation the provisions of Directive 2004/38/EC of the European Parliament and of the Council on the free movement and residence within the Greek territory of citizens of the Union and their family members.

Article 2

Definitions

(Article 2 of Directive 2004/38/EC)

For the purposes of this decree:

1. “Union citizen” means any person having the nationality of a Member State;
2. “family member” :
 - a) the spouse,
 - b) the partner with whom the Union citizen has contracted a registered partnership according to the Law of a Member State, on condition that the legislation of the host Member State treats registered partnerships as equivalent to marriage, and in accordance with the conditions laid down in the relevant legislation of the host Member State,
 - c) the descendants, relatives by blood in a direct line, of spouses and partners, below the age of 21 or irrespective of age, on

condition that they are dependants, and those of the spouse or the partner, as defined in point (b), based on the above distinction with regard to age, as well as the adopted children, also based on the above distinction,

d) the direct relatives of the Union citizen in the ascending line, irrespective of nationality, and those of the spouse or partner as defined in point (b), on condition that they are dependants."

3. "Third-country citizen" is the natural person who is neither a Greek national nor a national of another Member State of the European Union, in the sense of article 17(1) of the Treaty on the European Community (article 1(b) of Law 3386, Government Gazette 212/A/23 Aug 2005).

Article 3

Beneficiaries

(Article 3 of Directive 2004/38/EC)

1. This decree shall apply to all Union citizens who move to or reside in Greece and are not Greek nationals, and to their family members – irrespective of nationality – as defined in point 2 of Article 2 who accompany or join them.

2. Without prejudice to any right to free movement and residence the persons concerned may have in their own right, a two-year residence permit is granted, in accordance with the Greek legislation in force, to the following persons:

a) any other member of the family of a Union citizen, irrespective of nationality, not falling under the definition in Article 2, paragraph 2, provided this member is dependent on a Union citizen enjoying the same right to residence or lives under the roof of the Union citizen in the country of origin or if serious health grounds strictly require the personal care of the family member by the Union citizen, or the Union citizen having the right of residence is dependent on the family member and

(b) irrespective of nationality, the partner with whom the Union citizen has a durable relationship, duly attested.

3. In any event, an extensive examination shall be undertaken of the personal circumstances and any denial of entry or residence to these people shall be justified.

CHAPTER II

RIGHT OF EXIT AND ENTRY

Article 4

Right of exit

(Article 4 of Directive 2004/38/EC)

1. Without prejudice to the provisions on travel documents applicable to national border controls, all Union citizens with a valid identity card or passport and their family members who are third-country nationals and who hold a valid passport shall have the right to leave the territory of Greece to travel to another Member State.

2. No exit visa or equivalent formality may be imposed on the persons to whom paragraph 1 applies.

Article 5

Right of entry

(Article 5 of Directive 2004/38/EC)

1. Without prejudice to the provisions on travel documents applicable to national border controls, Greece shall grant leave to enter its territory:

(a) to any Union citizen with a valid identity card or passport; no entry visa or equivalent formality may be imposed, and

(b) to family members who are not nationals of a Member State with a valid passport. Such persons shall only be required to have an entry visa in accordance with Regulation (EC) No 539/2001 or, where appropriate, with national law.

Such persons shall be granted every facility to obtain the necessary visas. Such visas shall be issued free of charge as soon as possible and on the basis of an accelerated procedure.

2. Possession of a valid residence card by a Union citizen's family member shall exempt the persons under paragraph 1(b) hereof from the entry visa requirement.

3. No entry or exit stamp shall be placed in the passport of family members who are not nationals of a Member State under article 2(2) hereof, provided that they present a residence card of a Union citizen's family member.

4. Where a Union citizen, or a family member who is not a national of a Member State, does not have the necessary travel documents or, if required, the necessary visas, the Greek police authorities shall, before turning them back, give such persons every reasonable opportunity to obtain the necessary documents or have them brought to them within one month from their entry into Greek territory or to corroborate or prove by other means that they are covered by the right of free movement and residence.

CHAPTER III

RIGHT OF RESIDENCE

Article 6

Right of residence for up to three months

(Articles 6 and 14(1) of Directive 2004/38/EC)

1. Union citizens and the members of their family who are also Union citizens shall have the right of residence on Greek territory for a period of up to three months without any conditions or any formalities other than the requirement to hold a valid identity card or passport. This period is rightfully/automatically/de jure extended for another three months for the persons who really seek employment

2. Family members of a Union citizen who are third-country nationals shall have the right of residence in Greece for a period of up

to three months without any conditions or any formalities, provided that they hold a valid passport and they accompany or come to join the Union citizen.

3. Union citizens and their family members, irrespective of nationality, shall have the right of residence provided above, as long as they do not become an unreasonable burden on the social assistance system of Greece.

Article 7

Right of residence for more than three months

(Articles 7 and 14(2) of Directive 2004/38/EC)

1. All Union citizens shall have the right of residence in Greece for a period of longer than three months if they:

(a) are workers or self-employed persons; or

(b) have sufficient resources for themselves and their family members, according to article 8(3) hereof, not to become a burden on the social assistance system of the country during their period of residence and have comprehensive sickness insurance cover; or

(c) are enrolled at a private or public educational establishment, accredited or financed by the Greek State on the basis of its legislation or administrative practice, for the principal purpose of following a course of study, including vocational training, and have comprehensive sickness insurance cover in Greece and assure the relevant police authority, by means of a declaration or by such equivalent means as they may choose, that they have sufficient resources for themselves and their family members, according to article 8(3) hereof, not to become a burden on the social assistance system of the country during their period of residence; or

(d) are family members accompanying or joining a Union citizen who satisfies the conditions referred to in points (a), (b) or (c).

2. The family members of a Union citizen who are not nationals of a Member State, accompanying or joining the Union citizen, shall have the right of residence for a period of longer than three months, provided that such Union citizen resides permanently in Greece pursuant to paragraph 1(a), (b) or (c) hereof.

3. For the purposes of paragraph 1(a), a Union citizen who is no longer a worker or self-employed person shall retain the status of worker or self-employed person in the following circumstances:

(a) he/she is temporarily unable to work as the result of an illness or accident;

(b) he/she is in duly recorded involuntary unemployment after having been employed for more than one year and has registered as a jobseeker with the relevant employment office;

(c) he/she is in duly recorded involuntary unemployment after completing a fixed-term employment contract of less than a year or after having become involuntarily unemployed during the first twelve months and has registered as a job-seeker with the relevant employment office. In this case, the status of worker shall be retained for no less than six months;

(d) he/she embarks on vocational training, which has to be relevant to his/her previous employment in order to retain the status of worker, unless he/she is involuntarily unemployed

4. By way of derogation from paragraphs 1(d) and 2 above, only the spouse and dependent children, as defined in article 2(2) hereof, shall have the right of residence as family members of a Union citizen meeting the conditions under 1(c) above. The entry and residence of dependent direct relatives in ascending order of the Union citizen who resides in Greece because he/she meets the conditions under 1(c) and his/her spouse shall be facilitated according to the provisions of article 3(2) hereof.

5. Union citizens and their family members, irrespective of nationality, shall have the right of residence provided for in Articles 7 hereof as long as they meet the conditions set out therein. In specific cases where there is a reasonable doubt as to whether these conditions are met, checks may be carried out by police authorities of their place of residence being competent to handle matters of aliens (in case of Union citizens or family members being also Union citizens) or the competent Aliens and Immigration Services of the relevant Region (in case of a Union citizen's family members who are third-country nationals). This verification shall not be carried out systematically.

6. If the Union citizen resides in Greece for the purpose of studies, only the spouse and dependent children, as defined in article 2(2) (a) and (b) hereof, shall be considered as family members being third-country nationals.

Article 8

Issuance of certificate of registration to Union citizens

(Article 8 of Directive 2004/38/EC)

1. Union citizens who shall reside in Greece for periods longer than three months from the date of their arrival shall be obliged, after the end of the three-month period, to register in person with the police authorities of their place of residence, which are competent to handle matters of aliens. These authorities shall register them and shall immediately issue a relevant certificate, stating the name and address of the person registering and the date of the registration. Failure to comply with the registration requirement shall be punished according to the provisions of article 27 hereof.

2. For the registration certificate to be issued, the aforesaid authorities shall be presented with a true photocopy of a valid identity card or passport, as well as

(a) for Union citizens to whom point (a) of Article 7(1) applies, a confirmation of engagement from the employer or a

certificate of employment, or proof that they are self-employed persons,

(b) for Union citizens to whom point (b) of Article 7(1) applies, official proof that they satisfy the conditions laid down therein,

(c) for Union citizens to whom point (c) of Article 7(1) applies, proof of enrolment at an accredited establishment and of comprehensive sickness insurance cover and the declaration or equivalent means referred to in point (c) of Article 7(1). This declaration need not refer to any specific amount of resources.

3. For the calculation of the Union citizen's sufficient resources, the personal status of the interested party, as well as the level of minimum pension granted in Greece shall be taken into consideration

4. For the registration certificate to be issued to family members of Union citizens, who are themselves Union citizens, the following documents shall be presented:

(a) a true copy of a valid identity card or passport;
(b) a document attesting to the existence of a family relationship;

(c) where appropriate, a true copy of the registration certificate of the Union citizen whom they are accompanying or joining;

(d) a true copy of the birth certificate of the children of the Union citizen and/or his/her spouse or a corresponding certificate of age;

(e) for children of the Union citizen and/or his/her spouse over 21 years of age and for direct relatives in ascending order, a document issued by the relevant authority in the country of origin or country from which they are arriving certifying that they are dependants; for the other family members of the Union citizen falling

under the provisions of article 3(2)(a), a document issued by the relevant authority in the country of origin or country from which they are arriving certifying that they were living under his/her roof in the country of origin or proof of the existence of serious health grounds which strictly require the personal care of the family member by the Union citizen;

(f) in cases falling under Article 3(2)(b), proof of the existence of a durable relationship with the Union citizen.

Article 9

Issue of residence cards to family members of a Union citizen who are third-country nationals

(Articles 10 and 9(1), (2) and (3) of Directive 2004/38/EC)

1. The right of residence of family members of a Union citizen who are not nationals of a Member State shall be evidenced by the issuing of a document called “Residence card of a family member of a Union citizen”.

2. Family members of a Union citizen who are not nationals of a Member State and wish to have the said residence card issued shall apply for such card to the competent authorities stated in article 9(6) hereof within three months from their arrival in Greece, provided that they meet the following conditions:

(a) They hold a valid passport or other travel document recognised by Greece;

(b) They can prove in writing the existence of a family relationship with the Union citizen;

(c) They can prove the legitimate residence in Greece of the Union citizen;

(d) In cases falling under points (c) and (d) of Article 2(2), they hold proof that they are dependants of the Union citizen;

(e) In cases falling under Article 3(2)(a), they can prove, by a document issued by the relevant authority in the country of origin or country from which they are arriving, that they are dependants or members of the household of the Union citizen, or proof of the existence of serious health grounds which strictly require the personal care of the family member by the Union citizen;

3. The application for the issue of a residence card shall be accompanied by the documentation required to prove that the conditions of paragraph 2 are met, according to resolution oik.24103/2005 of the Deputy Minister of Interior, Public Administration and Decentralisation “Determination of documentation required for the issue and renewal of the residence card according to the provisions of Law 3886/2005” (Government Gazette 1804 B’), as currently in force, as well as by a certificate of health, if required under the provisions of article 21(9) hereof.

4. The agency under paragraph 6 hereof shall check the completeness of the documentation and shall issue immediately a certificate of application for residence card. The application and the required documentation shall be forwarded to the competent Aliens and Immigration Service of the relevant Region within 15 days from the date of application. The Aliens and Immigration Service of the relevant Region shall examine the application and, if there are no grounds of public order and security or grounds of public health, shall deliver a decision issuing a residence card to the family members of the Union citizen within six (6) months from the date of application, provided that the documentation is complete.

5. In the event that the application under paragraph 2 hereof is not submitted within a year from the date of entry in the Greek territory, a monetary fine of fifty euros (€50.00) shall be imposed by decision of the General Secretary of the Region. The fine is equal to the one imposed for late submissions of renewal

applications, according to article 11, para.1 of Law 3386. The said monetary fine shall be certified and paid in accordance with the provisions of the Code of Collection of State Revenue (KEDE).

6. Competent for receiving the application shall be the agency defined by the provisions of article 11 of Law 3386/2005 (Government Gazette 212 A') on the receipt of applications, as currently in force.

Article 10

Duration and validity of the residence card of family members of a Union citizen who are not nationals of a Member State
(Article 11 of Directive 2004/38/EC)

1. The residence card of family members of a Union citizen who are not nationals of a Member State shall be valid for 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.

2. The validity of the residence card shall not be affected by temporary absences not exceeding six months a 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.

Article 11

Retention of the right of residence by family members in the event of death or departure of the Union citizen
(Articles 12, 13 and 14(2) of Directive 2004/38/EC)

1. Without prejudice to the ensuing subparagraph, the Union citizen's death or departure from Greece shall not affect the right of residence of his/her family members who are nationals of a Member State. Before acquiring the right of permanent residence, the

persons concerned must meet the conditions laid down in points (a), (b), (c) or (d) of Article 7(1).

2. Without prejudice to the ensuing subparagraph, the Union citizen's death shall 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. Before acquiring the right of permanent residence under article 13 hereof, the right of residence of the persons concerned shall remain subject to the requirement that they are able to show that they are workers or self-employed persons or that they have sufficient resources for themselves and their family members not to become a burden on the social assistance system of Greece during their period of residence and have comprehensive sickness insurance cover in Greece, or that they are members of the family, already constituted in Greece, of a person satisfying these requirements. "Sufficient resources" shall be as defined in Article 8(3) hereof.

For the retention of the right of residence:

(a) the Union citizen's family members who are nationals of a Member State shall submit to the local police authorities empowered to deal with matters of aliens the documentation provided for in article 8(2) hereof, accompanied by a death registration certificate of the Union citizen or a statutory statement of the other spouse that the Union citizen has departed from Greece.

(b) the Union citizen's family members who are not nationals of a Member State shall submit to the authorities stated in article 9(6) hereof the following documentation:

- A true photocopy of a valid residence card
- A certified copy of the tax authority's income tax statement

or other official proof of sufficient funds, as defined in article 8(3) hereof

- A certificate by the insurance carrier with which they are insured on the full coverage of healthcare expenses for themselves and their dependent family members

- For the certification of the facts of this article, a death registration certificate of the Union citizen or a statutory statement of the other spouse that the Union citizen has departed from Greece.

3. The Union citizen's departure from Greece or his/her death shall not entail loss of the right of residence of his/her children or of the parent who has actual custody of the children, irrespective of nationality, if the children reside in Greece and are enrolled at an educational establishment, for the purpose of studying there, until the completion of their studies. To prove this fact, interested parties shall submit to the local police authorities empowered to deal with matters of aliens (in case of Union citizens) or the competent authorities under article 9(6) hereof (in case of third-country nationals) a certificate of enrolment of the children at an educational establishment.

4. Union citizens' family members shall have the right of residence provided for by this article as long as they meet the conditions set out therein. In specific cases where there is a reasonable doubt as to whether the conditions of this article are satisfied, verification shall be carried out by the police authorities of their place of residence empowered to deal with matters of aliens (in case of Union citizens or family members who are nationals of a Member State) or the competent Aliens and Immigration Services of the relevant Region (in case of Union citizen's family members who are not nationals of a Member State). This verification shall not be carried out systematically.

Article 12

Retention of the right of residence by family members in the event of divorce, annulment of marriage or termination of registered partnership with the Union citizen

(Articles 12, 13 and 14(2) of Directive 2004/38/EC)

1. Without prejudice to the second subparagraph, divorce, annulment of the Union citizen's marriage shall not affect the right of residence of his/her family members who are nationals of a Member State. Before acquiring the right of permanent residence, the persons concerned must meet the conditions laid down in points (a), (b), (c) or (d) of Article 7(1) hereof.

2. Without prejudice to the second subparagraph, divorce or annulment of marriage shall not entail loss of the right of residence of a Union citizen's family members who are not nationals of a Member State where:

(a) prior to initiation of the divorce or annulment proceedings, the marriage has lasted at least three years, including one year in Greece;

(b) by one of the prescribed arrangements, the spouse who is not a national of a Member State has custody of the Union citizen's children;

(c) this is warranted by particularly difficult circumstances, such as having been a victim of domestic violence while the marriage was subsisting;

(d) by one of the prescribed legitimate arrangements, the spouse who is not a national of a Member State has the right of access to a minor child, provided that the court has ruled that such access must be in Greece, and for as long as is required.

Before acquiring the right of permanent residence under article 13 hereof, the right of residence of the persons stated in paragraphs 1 and 2 shall remain subject to the requirement that they are able to show that they are workers or self-employed persons or that they have sufficient resources for themselves and their family members not to become a burden on the social assistance system of Greece during their period of residence and have comprehensive sickness insurance cover in Greece, or that they are members

of the family, already constituted in Greece, of a person satisfying these requirements. “Sufficient resources” shall be as defined in Article 8(3).

3. To retain the right of residence under the provisions of this article, the Union citizen family member shall submit the following documentation to the competent authorities:

(a) Union citizen’s family members who are nationals of a Member State shall submit to the local police authorities empowered to deal with matters of aliens the documentation defined in article 8(2) hereof, accompanied by:

- a judgment of divorce from the Union citizen, or
- a court order annulling the marriage, or
- a certified copy of the report submitted to a competent Greek authority in the event of family violence or any other proof of very difficult situations or court order, or
- official proof or statutory statement of the Union citizen on the termination of registered partnership.

(b) Union citizen’s family members who are not nationals of a Member State shall submit to the competent authorities defined in article 9(6) hereof, the following documentation:

- true photocopy of a valid residence card
- certified copy of the tax authority’s income tax statement or other official proof of sufficient funds, as defined in article 8(3) hereof
- a certificate by the insurance carrier with which they are insured on the full coverage of healthcare expenses for themselves and their dependent family members
- a judgment of divorce in case of divorce, or
- a judgment of divorce and court order on the custody of children, in case it has been granted to the other spouse, or

- a certified copy of the report submitted to a competent Greek authority in the event of family violence or any other proof of very difficult situations or court order, or

- a written agreement of the spouses or a court order evidencing the arrangement of the right of access of the other spouse, who is not a Member State national, with their children in Greece.

4. Union citizens' family members shall have the right of residence provided for by this article as long as they meet the conditions set out therein. In specific cases where there is a reasonable doubt as to whether the conditions of this article are satisfied, verification shall be carried out by the police authorities of their place of residence empowered to deal with matters of aliens (in case of Union citizens or family members who are nationals of a Member State) or the competent Aliens and Immigration Services of the relevant Region (in case of Union citizen's family members who are not nationals of a Member State). This verification shall not be carried out systematically.

CHAPTER IV

RIGHT OF PERMANENT RESIDENCE

Article 13

General rule for Union citizens and their family members

(Article 16 of Directive 2004/38/EC)

1. Union citizens who have resided legally for a continuous period of five years in Greece and family members under article 2(2) hereof who have been legitimately residing with the Union citizen for a continuous period of five years shall have the right of permanent residence. This right shall not be subject to the conditions provided for in Chapter III.

2. Continuity of residence under paragraph 1 hereof shall not be affected by temporary absences not exceeding a total of six months a 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.

3. Once acquired, the right of permanent residence shall be lost only through absence from Greece for a period exceeding two consecutive years.

Article 14

Exemptions for persons no longer working in Greece and their family members

(Article 17 of Directive 2004/38/EC)

1. By way of derogation from Article 13, the right of permanent residence of Union citizens shall be enjoyed before completion of a continuous period of five years of residence by:

(a) workers or self-employed persons who, at the time they stop working, have reached the age laid down by the law of Greece for entitlement to an old age pension or workers who cease paid employment to take early retirement, provided that they have been working in Greece for at least the preceding twelve months and have resided there continuously for more than three years. If the law of Greece does not grant the right to an old age pension to certain categories of self-employed persons, the age condition shall be deemed to have been met once the person concerned has reached the age of 60;

(b) workers or self-employed persons who have resided continuously in Greece for more than two years and stop working as a result of permanent incapacity to work. If such incapacity is the result of an accident at work or an occupational disease entitling the person concerned to a benefit payable in full or in part by an institution in Greece, no condition shall be imposed as to length of residence;

(c) workers or self-employed persons who, after three years of continuous employment and residence in Greece, work in an

employed or self-employed capacity in another Member State, while retaining their place of residence in Greece, to which they return, as a rule, each day or at least once a week.

For the purposes of entitlement to the rights referred to in points (a) and (b), periods of employment spent in the Member State in which the person concerned is working shall be regarded as having been spent in Greece.

Periods of involuntary unemployment duly recorded by the relevant employment office, periods not worked for reasons not of the person's own making and absences from work or cessation of work due to illness or accident shall be regarded as periods of employment.

2. The conditions as to length of residence and employment laid down in point (a) of paragraph 1 and the condition as to length of residence laid down in point (b) of paragraph 1 shall not apply if the worker's or the self-employed person's spouse is a Greek national or has lost the Greek nationality by marriage to that worker or self-employed person.

3. Irrespective of nationality, the family members of a worker or a self-employed person who are residing with him in the territory of Greece shall have the right of permanent residence, if the worker or self-employed person has acquired himself the right of permanent residence in Greece on the basis of paragraph 1.

4. If, however, the worker or self-employed person dies while still working but before acquiring permanent residence status in Greece on the basis of paragraph 1, his family members who are residing with him in Greece, irrespective of nationality, shall acquire the right of permanent residence there, on condition that:

(a) the worker or self-employed person had, at the time of death, resided continuously on the territory of Greece for two years;
or

(b) the death resulted from an accident at work or an

occupational disease; or

(c) the surviving spouse lost the Greek nationality following marriage to the worker or self-employed person.

Article 15

Acquisition of the right of permanent residence by certain family members who are not nationals of a Member State
(Article 18 of Directive 2004/38/EC)

Without prejudice to Article 14, the family members of a Union citizen who are not nationals of a Member State, to whom Articles 11(2) and 12(2) apply and who satisfy the conditions laid down therein, shall acquire the right of permanent residence after residing legally for a period of five consecutive years in Greece.

Article 16

Document certifying permanent residence for Union citizens
(Article 19 of Directive 2004/38/EC)

Upon receiving the registration certificate which verifies the duration of residence of Union citizens entitled to permanent residence, the competent police authorities of their place of residence empowered to deal with matters of aliens, shall issue a document certifying permanent residence as soon as possible.

Article 17

Permanent residence card for family members who are not nationals of a Member State
(Articles 20, 21 and 36 of Directive 2004/38/EC)

1. Union citizens' family members who are not nationals of a Member State entitled to permanent residence shall be issued with an individual permanent residence card, known as "Permanent Residence Card of a Union citizen family member".
2. The application for a permanent residence card shall be submitted by the family members who are not nationals of a Member State to

the competent authorities under article 9(6) hereof before the residence card expires and shall be accompanied by the following documentation:

- (a) copy of a valid residence card
- (b) certified copy of the certificate of registration or the document certifying the permanent residence of the Union citizen according to the provisions of articles 8 and 16 hereof, respectively
- (c) in case of death of the Union citizen, a document of the competent authority certifying the duration of residence in Greece or a document of the competent authority that the death was the result of an accident at work or an occupational disease
- (d) a recent certificate of family status or other official document certifying kinship.

3. The competent agency shall check the completeness of the documentation and shall issue immediately a certificate of application for permanent residence card. The application and the required documentation shall be forwarded to the competent Aliens and Immigration Service of the relevant Region within 15 days from the date of application. The Aliens and Immigration Service of the relevant Region shall examine the application and, if there are no grounds of public order and security or grounds of public health, shall deliver a decision issuing a permanent residence card to the family members of the Union citizen within six (6) months from the date of application, provided that the documentation is complete.

4. In the event that the application under paragraph 2 hereof is not submitted within a year after the expiration date of the residence card, a monetary fine of fifty euros (€50.00) shall be imposed by decision of the General Secretary of the Region. The fine shall be equal to the one imposed for late submissions for renewal applications, according to article 11, para.1 of Law 3386/2005. The said monetary fine shall be certified and paid in accordance with the provisions of the Code of Collection of State Revenue (KEDE).

5. Interruption in residence not exceeding two consecutive years shall not affect the validity of the permanent residence card.

Article 18

Continuity of residence

(Article 21 of Directive 2004/38/EC)

For the purposes of this decree, continuity of residence may be attested by any means of proof in use in Greece. Continuity of residence is broken by any expulsion decision duly enforced against the person concerned.

CHAPTER V

PROVISIONS COMMON TO THE RIGHT OF RESIDENCE AND THE RIGHT OF PERMANENT RESIDENCE

Article 19

Territorial scope

(Article 22 of Directive 2004/38/EC)

The right of residence and the right of permanent residence shall cover the whole territory of Greece. Territorial restrictions on the right of residence and the right of permanent residence may be imposed only where the same restrictions apply to Greek nationals.

Article 20

Rights and obligations of Union citizen family members

(Articles 23, 24, 25 and 26 of Directive 2004/38/EC)

1. Irrespective of nationality, the family members of a Union citizen who have the right of residence or the right of permanent residence in Greece shall be entitled to take up employment or self-employment there.

2. Subject to such specific provisions as are expressly provided for in the Treaty establishing the European Communities and in secondary law, all Union citizens residing on the basis of this decree in the territory of Greece shall enjoy equal treatment with the Greek nationals within the scope of the Treaty. The benefit of this right shall be extended to family members who are not nationals of a Member State and who have the right of residence or permanent residence.

3. By way of derogation from paragraph 2, Greece shall not be obliged to confer entitlement to social assistance during the first three months of residence or, where appropriate, the longer period in which the Union citizen proves that he/she is seeking employment in Greece or has a genuine chance of being engaged, nor shall it be obliged, prior to acquisition of the right of permanent residence, to grant maintenance aid for studies, including vocational training, consisting in student grants or student loans to persons other than workers, self-employed persons, persons who retain such status and members of their families.

4. Possession of a registration certificate as referred to in Article 8, of a document certifying permanent residence, of a certificate attesting submission of an application for a family member residence card, of a residence card or of a permanent residence card, may under no circumstances be made a precondition for the exercise of a right or the completion of an administrative formality, as entitlement to rights may be attested by any other means of proof.

5. All documents mentioned in the previous paragraph shall be issued free of charge.

6. Persons who, during checks carried out by the competent authority or officer, refuses to show or produce the residence or permanent residence card or the certificate attesting submission of an application for such cards or who states false facts in relation to them shall be punished according to the provisions of article 27 hereof, provided that such action is not punished more severely by other provisions.

7. Third-country nationals holding a residence or permanent residence card shall enjoy all rights of third-country nationals, in accordance with the provisions of articles 71 and 72 of Law 3386/2005 (Government Gazette 212 A').

8. By way of derogation from article 71(5) of Law 3386/2005, the right of re-entry of Union citizens family members who are not nationals

of a Member State shall be regulated according to the provisions of article 5 hereof.

CHAPTER VI
RESTRICTIONS ON THE RIGHT OF ENTRY AND THE RIGHT OF
RESIDENCE ON GROUNDS OF PUBLIC POLICY, PUBLIC
SECURITY OR PUBLIC HEALTH

Article 21

Restrictions on the right of entry and the right of residence on grounds of
public policy, public security or public health

(Articles 27, 29, 32 and 15(1) and (3) of Directive 2004/38/EC)

1. Subject to the provisions of this Chapter, restrictions may be imposed to the freedom of movement and residence of Union citizens and their family members, irrespective of nationality, on grounds of public policy, public security or public health. These grounds shall not be invoked to serve economic ends.

2. Measures taken on grounds of public policy or public security shall comply with the principle of proportionality and shall be based exclusively on the personal conduct of the individual concerned. Previous criminal convictions shall not in themselves constitute grounds for taking such measures. The personal conduct of the individual concerned must represent a genuine, present and sufficiently serious threat affecting one of the fundamental interests of society. Justifications that are isolated from the particulars of the case or that rely on considerations of general prevention shall not be accepted.

3. For any measure taken by virtue of paragraph 1 hereof on grounds other than public policy, public security or public health, the provisions of articles 23 and 24 hereof shall apply.

No prohibition of entry may be imposed in conjunction with a decision of expulsion to which the previous subparagraph applies.

4. In order to ascertain whether the person concerned represents a danger for public policy or public security, the police authorities of the place

of residence empowered to deal with matters of aliens, when issuing the registration certificate to Union citizens and their family members who are also nationals of a Member State, or the competent Aliens and Immigration Services of the relevant Region, when issuing the residence card to Union citizens' family members who are not nationals of a Member State, may, should it consider this essential, request the Member State of origin and, if need be, other Member States to provide information concerning any previous police record the person concerned may have. Such enquiries shall not be made as a matter of routine. Similar requests by other Member States of the Union shall be satisfied by the competent agencies of the Ministry of Justice within two months.

5. The Greek authorities which issued the passport or identity card shall allow the Union citizen or family member, irrespective of nationality, who holds the document and who has been expelled on grounds of public policy, public security, or public health from another Member State, in exercising the right of free movement by virtue of Directive 2004/38/EC, to re-enter its territory without any formality even if the document is no longer valid or the nationality of the holder is in dispute.

6. Persons against whom a decision prohibiting their entry in Greece has been issued on grounds of public policy or public security may submit an application for lifting of the prohibition of entry after a reasonable period, depending on the circumstances, and in any event after three years from enforcement of the final prohibition order, by putting forward arguments to establish that there has been a material change in the circumstances which justified the decision ordering the prohibition of entry. The Director of the Aliens Directorate of the Hellenic Police Headquarters shall reach a decision on this application within six months of its submission. If, due to the prohibition of entry, the person has been included in the List of Unwanted Aliens of and the application is admitted, the removal from the List shall be ordered. If the decision of inclusion in the List of Unwanted Aliens has been imposed, according to the applicable legislation, following a court order of

expulsion, the application shall be submitted to the Minister of Justice, in application of articles 74(3) and 99(3) of the Criminal Code, three years after the expulsion and, if admitted, article 3(2)(c) of the joint resolution of the Ministers of Interior, Public Administration and Decentralisation, of National Defence, of Justice and of Public Order 4000/4/32-ib/4 Sep 2006 “Determination of the criteria and the procedure for inclusion and removal of aliens in/from the National List of Unwanted Aliens” shall apply.

7. The persons referred to in paragraph 6 shall have no right of entry to the territory of Greece while their application is being considered.

8. The only diseases justifying refusal of entry or residence or other measures restricting freedom of movement on grounds of public health shall be the diseases with epidemic potential as defined by the relevant instruments of the World Health Organisation and other infectious diseases or contagious parasitic diseases if they are the subject of protection provisions applying to Greek nationals.

9. Where there are serious indications that it is necessary, the police authorities of the place of residence being competent to handle matters of aliens (in case of Union citizens entitled to residence) or the competent Aliens and Immigration Services of the relevant Region (in case of third-country nationals) may, within three months of the date of arrival in Greece, require such persons to undergo, free of charge, a medical examination to certify that they are not suffering from any of the conditions referred to in paragraph 8 hereof. Such medical examinations may not be required as a matter of routine.

10. Diseases occurring after a three-month period from the date of arrival in Greece of a Union citizen or family members shall not constitute grounds for expulsion from the territory.

Article 22

Expulsion – Protection from expulsion

(Articles 28, 33, 14(3)(4) and 15(2) of Directive 2004/38/EC)

1. Before taking an expulsion decision on grounds of public policy or public security, Greece shall take account of considerations such as how long the individual concerned has resided on its territory, his/her age, state of health, family and economic situation, social and cultural integration into Greece and the extent of his/her links with the country of origin.

2. The expulsion decision against Union citizens or their family members, irrespective of nationality, who have the right of permanent residence on Greek territory shall be taken only on serious grounds of public policy or public security. As to the competent expulsion bodies, the procedure of delivery and enforcement of the expulsion order, the exceptions and other relevant matters, the provisions of articles 76(2)-(5), 77, 78, 79, 80, 81 and 82 of Law 3386/2005 shall apply.

3. An expulsion decision may not be taken against Union citizens, except if the decision is based on imperative grounds of public security, as defined by Member States, if they:

(a) have resided in Greece for the previous 10 years; or

(b) are a minor, except if the expulsion is necessary for the best interests of the child, as provided for in the United Nations Convention on the Rights of the Child of 20 November 1989.

4. An expulsion measure shall not be the automatic consequence of a Union citizen's or his/her family member's recourse to the social assistance system of Greece.

5. Expiry of the identity card or passport on the basis of which the person concerned entered Greece and was issued with a registration certificate or residence card shall not constitute a ground for expulsion from Greece.

6. Grounds of general fiscal policy cannot justify the measure of expulsion.

7. Expulsion order may not be issued by a court against Union citizens or their family members as a penalty or legal consequences of a

custodial penalty, according to the relevant provisions of the Criminal Code, unless they conform to the requirements of articles 21 and 22. If the expulsion order will be enforced more than two years after it was issued, the competent enforcement authority shall check that the individual concerned is currently and genuinely a threat to public policy or public security and shall assess whether there has been any material change in the circumstances since the expulsion order was issued.

8. An expulsion measure may in no case be adopted against Union citizens, or members of their family, even if they ceased to satisfy the conditions of articles 6 (3), 7, 11(1) and 12(1) hereof, without prejudice to the provisions of Chapter VI, if the Union citizens are workers or self-employed persons or entered the Greek territory in order to seek employment. In this case, the Union citizens and their family members may not be expelled for as long as they can provide evidence that they are continuing to seek employment and that they have a genuine chance of being hired.

Article 23

Notification of decisions

(Article 30 of Directive 2004/38/EC)

1. The persons concerned shall be notified in writing of any decision taken under Article 21(1), also in accordance with the provisions of article 19 of Law 2690/1999 (Government Gazette 45 A') in such a way that they are able to comprehend its content and the implications for them. The persons concerned shall be informed, precisely and in full, of the public policy, public security or public health grounds on which the decision taken in their case is based, unless this is contrary to the interests of State security.

2. The notification shall specify the court or administrative authority with which the person concerned may lodge an appeal, the time limit for the appeal according to article 24 hereof and, where applicable, the time allowed for the person to leave the territory of Greece. Save in duly

substantiated cases of urgency, the time allowed to leave the territory shall be not less than one month from the date of notification.

Article 24

Procedural safeguards – Right of appeal

(Article 31 of Directive 2004/38/EC)

1. An administrative appeal may be lodged against the administrative expulsion order, according to article 77 of law 3386/2005 and article 1(19) of joint ministerial resolution 7004/3/40-ş/23 April 2004 “Transfer of powers of the Minister of Public Order to subordinate bodies” (B’-649), as amended and currently in force. In case of expulsion as a sequential penalty or safety measure by court order, articles 74(3) and 99(3) of the Criminal Code shall apply.

2. A cassation appeal before the Council of State, in application of the provisions of article 15(3) of Law 3068/2002 (Government Gazette A’ 274), as currently in force, may be lodged against the decision issued on the administrative appeal under the previous paragraph and against the decision to reject the application for a certificate of registration, residence or permanent residence card or its revocation or non-renewal.

3. Where the administrative or judicial appeal against the expulsion decision is accompanied by an application for an interim order to suspend enforcement of that decision, actual removal from the territory may not take place until such time as the decision on the interim order has been taken, except:

- where the expulsion decision is based on a previous judicial decision; or
- where the persons concerned have had previous access to judicial review; or
- where the expulsion decision is based on imperative grounds of public security under articles 21 and 22 hereof.

4. The examination of the administrative appeal shall allow for an examination of the legality of the decision, as well as of the facts and

circumstances on which the proposed measure is based. The relevant conditions laid down in article 22 hereof shall also be evaluated.

5. The individual concerned may be prohibited from entering Greece pending the redress procedure, but the individual may not be prevented from submitting his/her defence in person, except when his/her appearance may cause serious troubles to public policy or public security or when the appeal concerns a denial of entry to the Greek territory.

6. For exercising the remedy against the expulsion decision, the individual concerned who does not have sufficient funds for this purpose shall be given the benefit of indigence, according to the applicable legislation.

CHAPTER VII

FINAL PROVISIONS

Article 25

Publicity

(Article 34 of Directive 2004/38/EC)

The Ministries of Interior, Public Administration and Decentralisation and of Public Order, as well as the Aliens and Immigration Services of the country's Regions shall disseminate information concerning the rights of Union citizens and their family members, irrespective of nationality, to move and reside freely on Greek territory, as well as the other rights and obligations arising from this decree. The information shall be disseminated particularly by means of posting information material on the websites of the above organisations or by awareness-raising campaigns conducted through national and local media and other means of communication. The material shall be regularly updated.

Article 26

Abuse of rights

(Article 35 of Directive 2004/38/EC)

When it is ascertained on justified grounds, especially by court order or irrevocable decree of judicial council, that false or misleading information or forged documents were used or in the case of abuse of rights or fraud, such

as marriages of convenience, the rights and the residence or permanent residence cards shall not be issued or shall be revoked. Any such measure shall subject to the procedural safeguards provided for in articles 23 and 24.

Article 27

Sanctions

(Article 36 of Directive 2004/38/EC)

The sanctions provided for in article 458 of the Criminal Code shall be imposed in case of breach of the provisions of articles 8(1) and 20(6) hereof, subject to more specific provisions.

Article 28

Repeal of provisions

The provisions of presidential decrees 525/1983 (A'-203), 499/1987 (A'-238) and 278/1992 (A'-144) and any other general or special provision containing arrangements contrary to the provisions of this decree shall be repealed.

Article 29

Entry into force

This decree shall enter into force on the day of its publication in the Government Gazette.

The Ministers of Interior, Public Administration and Decentralisation and of Public Order shall be entrusted with the publication and enforcement of this decree.

Athens, 14 June 2007

THE PRESIDENT OF THE REPUBLIC

CARLOS G. PAPOULIAS

THE MINISTERS OF

INTERIOR, PUBLIC ADMINISTRATION	ECONOMY AND
AND DECENTRALISATION	FINANCE

P. PAVLOPOULOS

G. ALOGOSKOUFIS

FOREIGN AFFAIRS

EMPLOYMENT AND
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TH. BAKOYANNI

V. MAGINAS

HEALTH AND SOCIAL
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PUBLIC ORDER

V. POLYDORAS