

HELLENIC REPUBLIC  
GREEK NATIONAL COMMISSION FOR HUMAN RIGHTS

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**Comments on Law 3536/2007 titled “Special Provisions  
regarding Migration Policy and Other Issues falling under  
the competence of the Ministry of Interior, Public  
Administration and Decentralisaation.**

Law 3536/2007 is based on the premise that immigration constitutes a dynamic, multifaceted, unavoidable phenomenon. The aforementioned Law, which amends Law 3386/2005, provides for the legalization of certain categories of third country nationals and aims at simplifying and accelerating the procedures of issuing and renewing residence permits in order for the aliens’ integration to be promoted.

However, some provisions of the new law are not compatible with the set goals and raise several concerns. In particular:

1. The establishment of a National Committee for the Social Integration of Immigrants demonstrates the need to plan, organize and coordinate policies and actions of integration. Nevertheless, the fact that both the immigrants themselves via their unions and NGOs are not represented in the Committee is surprising, to say the least. Article 1(2) provides that the representation of immigrants will be taking place via the mediation of the President of the Institute of Migration Policy. This provision is not appropriate for a modern European policy towards immigration and immigrants.

2. In some cases the new law makes dysfunctional choices along the lines of the previous Law 2910/2001. A typical example is the permit granted on ‘humanitarian grounds’. Article 44 of Law 3386/2005 provided

for the issuing of residence permits on humanitarian grounds without requiring possession of passport with visa, thus improving considerably the legal framework of Law 2910/2001. In practice, the chance was given to people, who had no legalizing documents due to negligence of the Administration or whose deportation was objectively impossible (e.g. spouses or children of nationals, people born in Greece, trafficking victims) to obtain residence permits. Unfortunately, the new law (article 11(1)) sets as a precondition for granting residence permit on humanitarian grounds the possession of visa, thus taking a step back.

3. In order for applicants to benefit from the 'legalization' process they need to prove, by submitting certain certificates, that they have been residing in Greece before the 31<sup>st</sup> of December 2004. The fact that the asylum application is not included in the enumerated certificates which can be used in order to prove the time period of residence raises serious concerns. This omission results in a large group of aliens, whose deportation is not possible, continue living in a state of insecurity and uncertainty.

4. The Law lacks amendments regarding the procedure and terms of administrative deportation and detention of aliens, despite comments and recommendations submitted by numerous institutions. The issues concerning the complete and sufficient protection of alien minors from deportation; the consecutive orders of administrative deportation; repeated detention for three months imposed against the same person, although the deportation is not feasible; the exhaustion, in any case, of the time limit of administrative detention and the residence status of aliens whose deportation is not possible have not been touched upon. Problems also raises the continued limitation of movement of documented immigrants (article 6(3), (4), 9(2), (3)) whether it concerns the choice of profession, the location of providing services, or the investment for exercising independent economic activities.

5. The varied migration waves combined with consecutive legislative changes and bureaucratic impediments while implementing

them has created groups of aliens with different levels of integration into domestic social life. Nowadays, an increasingly percentage of migrants calls for not just integration but also further rights (e.g. the right to vote in local elections). Thus, the inclusion of migrants' organization in the National Committee for the Social Integration of Migrants is deemed imperative. A different approach is required towards those immigrants who face severe problems regarding their integration, despite the quite long duration of residence in Greece. Those problems, although vary on a case-by-case basis, are partially due to the lack of legalizing documents. A flexible policy is required which will aim at the integration of the specific groups of migrants, by resolving firstly, in cases of long-term residents, the issue of the legality of their stay.

In concluding we would like to draw the Administration's attention to the following:

a) Given the nature of the Law, the numerous executive acts and circulars to be issued should try to interpret the provisions as broadly as possible, so as to ensure the integration and not the exclusion of those who fulfill the requirements.

b) On the contrary, the provisions containing sanctions should be interpreted narrowly. However, it needs to be noted that such an interpretation is problematic due to the phrasing of several provisions having a sanctioning character (e.g. article 3 which does not define nor how the sanction is imposed nor the type of crime that the refusal of the administration to grant or renew residence permit may entail).

14 March 2007