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NEWS REPORT

Country:	Greece
Title:	Discriminatory deletion of a person from public Employment Organisation's records
Date:	11 June 2015
Expert:	Athanasios Theodoridis
<u>Context</u>	
Issue at stake:	Discriminatory treatment regarding the availability of a person to be employed in a job found by the competent public organisation
Ground of discrimination:	Race/ethnic origin
Source:	National equality body
Field:	Employment, social advantages
Applicable law:	Article 4(1) (f) of anti-discrimination Law 3304/2005, Article 22 para. 1 of Legislative Decree 2961/1954

Content

Case development: On 25 May 2015 the Greek Ombudsman publicised a non binding Opinion concerning the investigation of a request on behalf of a long-term unemployed person of non Greek ethnic origin (and national of third country), who due to his absence from Greece had been removed from the register of the Manpower Employment Organisation (OAED), which is a public organisation that is competent to help unemployed persons to find a job.

The reason for his deletion consisted in his "non-availability" to work, which incidentally was found when he went to the Centre of Employment Promotion (which is an office that belongs to OAED) to submit a request to participate in a training program for unemployed persons. Following an inspection of his passport, a few days' absence abroad was discovered, and therefore he was immediately deleted from the register of long-term unemployed persons.

Under the current institutional framework for all registered unemployed in OAED's records, regardless of nationality, the finding of "non-availability" due to their transition abroad, constitutes a reason for removal from the register of unemployed persons (Article 22 para. 1 of Legislative Decree 2961/1954). Therefore, legislation does not differentiate between recipients on the ground of nationality, which means that the reason for the removal is **not** related to this person's lack of Greek citizenship.

In order for OAED to provide the relevant benefits to all registered unsubsidized unemployed, except for their physical presence, a demonstration of a public document from which their identity can be determined is also required. As a consequence, Greek nationals' and EU citizens' certificate of identity is the identity card, and for third country nationals residing permanently in Greece the identification document is their passport.

The Greek Ombudsman pointed out that examination of identification documents suggests finding of going abroad - and, therefore, of "non-availability" - only for nationals of third countries. By contrast, for the Greek citizens and citizens of the EU possibly traveling within the Schengen area, there is no way of finding their continuous "availability".

As a result, according to the Greek Ombudsman, only the unemployed third country nationals suffer the consequences of possible "non-availability" (due to an absence from the Greek territory), such as the removal from the record of unemployed and the loss of other rights and benefits (e.g. tax exemptions, etc.). But, as the Greek Ombudsman emphasises, this is not the most appropriate instrument for establishing the "availability" of total unemployed and therefore it constitutes an indirect discrimination against nationals of third countries in comparison with the Greek citizens and citizens of the EU which according to the Ombudsman is based on their ethnic/racial origin because the absence from the Greek territory is an objective criterion that could not be related "by definition" to the nationality of a person and therefore all persons might fulfill or not fulfill this condition regardless of their nationality, which shows that indirectly there is a hidden ground of discrimination.

For this reason, the Ombudsman asked from OAED to change the existing practice and apply appropriate detection measures of "non-availability" of the unemployed, which would serve legitimate and lawful, in principle, restrictions without placing unemployed nationals of third countries in a disadvantaged situation, in contrast to Greek nationals and EU citizens.

The administration of OAED responded that every unemployed person is obliged to declare his/her absence from the Greek territory and that the employees of the organisation had implemented the existing legal framework and do not have the discretionary power not to take into account this fact because otherwise the law would not be enforced. The organisation committed itself that a specific list of rights and duties of unemployed persons would be issued in the following period.

Key points of analysis: It is noteworthy that in this case the Greek Ombudsman provided a substantiated explanation why there is a hidden ground of discrimination, and in particular why a discriminatory treatment against nationals of third countries could be regarded under specific circumstances as discrimination on the ground of ethnic/racial origin. Moreover, as it is obvious from the answer of OAED, only a legislative amendment would solve the problem and improve the existing situation.

Internet link source:

<http://www.synigoros.gr/resources/docs/synoyh-diamesolavhshs- oaed-diakriseis .pdf>