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NEWS REPORT

Country:	Greece
Title:	Protected Family Members of Third-Country Nationals who are primary insurance beneficiaries
Date:	18 September 2017
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<u>Context</u>	
Issue at stake:	Discrimination in the field of social protection against legal resident third-country workers, who pay the same contributions to insurance agencies as Greek citizens
Ground of discrimination:	Race/ethnic origin
Source:	National equality body
Field:	Social protection
Applicable law:	Anti-discrimination Law 4443/2016 (Article 3, para. 2)

Content

Case development: The Greek Ombudsman, which according to anti-discrimination Law 4443/2016 is a designated equality body responsible for promoting and monitoring the application of the principle of equal treatment, irrespective of, *inter alia*, race, colour, ethnicity or ethnic origin, received through File No. 224709 a referral jointly submitted by the non-profit organization 'Solidarity Now' and the civil non-profit organisation 'Generation 2.0 RED'.

The subject concerned the limitation of insurance rights of third-country nationals and their family members. Secondary beneficiaries regarded as protected family members and therefore offered health services by the relevant insurance bodies are limited to the children of third-country nationals up until the age of 18 years. On the other hand, for other categories of insured persons (i.e. nationals and EU citizens), family members covered by a person's insurance include children over the age of 18 years, as well as parents, grandchildren and siblings, as long as they satisfy the criteria set by the legal framework in order to be characterized as 'protected family members'.

Opinion of the Equality Body (non binding): According to Greek Ombudsman, the provisions of the insurance legislation as it applies, arbitrarily exclude children above 18 years and family members of primary insurance beneficiaries who are third-country nationals from relevant benefits which are nevertheless awarded to the protected family members of Greek nationals and EU citizens, who are dependent on the primary beneficiary and who satisfy the criteria set by insurance law (e.g. unemployed family members or those incapable of work, etc.). This practice, however, leads to the different treatment of insurance beneficiaries who are third-country workers, since it limits the scope of benefits which are available to their protected family members, based solely on both their ethnicity and ethnic origin, without any justification for such a deviation, from the, in principle, equal reciprocal character of insurance contributions paid by all primary

insurance beneficiaries, irrespective of any characteristics they may bear (racial, ethnic national, etc.).

Therefore, the Ombudsman believes that according to Article 3, para. 2 of the anti-discrimination Law 4443/2016 which stipulates that *"...[...] taking into account paragraphs 3, 4, 6 of the present as well as article 4, the principle of equal treatment irrespective of race, colour, ethnicity or ethnic origin applies to all persons in both the public as well as the private field and in reference to: a) social protection, including social and healthcare insurance, b) social benefits and taxation advantages or facilitations..."*, primary insurance beneficiaries who are third-country nationals should also in principle be awarded the rights of social coverage and healthcare for their family members on the same terms as they apply to the family members of Greek nationals and EU citizens and that otherwise – if the specific rights are not awarded - there is a violation of the anti-discrimination framework. On the other hand, the limitation of this right for only the children under the age of 18 years of third-country nationals, solely on the grounds that these are the family members which are recognized with the right to family reunification, appears to correlate two different categories of rights which aim to satisfy different needs, i.e. that of family reunification and that of healthcare benefits for family members.

Moreover, according to the Ombudsman, the provisions of civil law 1846/1951, as amended by the provisions of Article 48 para. 10 of Law 3996/2011, introduced additional preconditions for the recognition of health benefits to family members of third-country nationals that are opposed to the provisions of the Greek Immigration and Integration Code, which clearly states that legal resident third-country nationals enjoy the same insurance rights as Greek nationals (Article 21 para. 2 of Law 4251/2014). In fact, in order for third-country nationals and their family members to enjoy health insurance benefits, the first have to be 'long-term residents' and the latter have to satisfy the criteria of Presidential Decree 150/2006 (A' 160) (Directive 2003/109/EC) and reside permanently in Greece. This way, only long-term residents i.e. third-country nationals with a relevant resident permit, are in principle awarded healthcare benefits, thus excluding from a similar protection other third-country nationals who are lawfully insured.

Key points of analysis: The Greek Ombudsman found the specific insurance provisions to be discriminatory as they inadvertently lead to an evident incoherent restriction of the scope of beneficiaries of insurance rights and the rights of the primary insurance beneficiary who is a third-country national in comparison to the insurance benefits enjoyed by a Greek national or an EU citizen, even though they all pay the same contributions without distinction.

Internet link source:

<http://www.solidaritynow.org/wp-content/uploads/2017/08/%CE%A0%CE%91%CE%A1%CE%95%CE%9C%CE%92%CE%91%CE%A3%CE%97-%CE%A3%CE%A5%CE%9D%CE%97%CE%93%CE%9F%CE%A1%CE%9F%CE%A5-%CE%B3%CE%B9%CE%B1-%CE%91%CE%A3%CE%A6%CE%91%CE%9B%CE%99%CE%A3%CE%97-%CE%9C%CE%95%CE%A4%CE%91%CE%9D%CE%91%CE%A3%CE%A4%CE%A9%CE%9D.pdf>.