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NEWS REPORT

Country:	Greece
Title:	Recognition of benefits regarding access to insurance coverage and medico-pharmaceutical care
Date:	10 April 2018
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<u>Context</u>	
Issue at stake:	Discriminatory treatment of family members of third country national in the field of social protection
Ground of discrimination:	Race/ethnic origin
Source:	Legislation
Field:	Social protection
Applicable law:	Law 4529/2018, para 5 (a)

Content

Law development: With the Law 4529/2018,¹ which was published on 23 March 2018, the legislator places additional conditions for the recognition of benefits regarding access to insurance coverage and medico-pharmaceutical care to protected family members of insured third country nationals. Before the entry into force of Law 4529/2018 all third country nationals used to have access to insurance and medical care, and not only the long-term residents. The new law stipulates that the beneficiaries should fall into the category of "long-term residents" and that their family members should be eligible for the above benefits only "if they meet the conditions of Presidential Decree 150/2006 (Directive 2003/109/EC) which specifies the legal status of long term residents and reside permanently in Greece".

In this way, insurance and medical benefits are recognised only for foreigners who are long term residents, that is to say not for all third country nationals who have acquired the specific permit of stay. This means that under the new provisions all other legal third country nationals are excluded from this protection. The new legislative regulation appears to maintain in force a practice that it is discriminatory on ground of ethnic/racial origin since Greeks and legal foreigners should have equal rights in the field of social protection - and that is not consistent with the legislative development concerning the entry into force of Law 4529/2018 that had taken place after the enforcement of the Code of Immigration and Social Integration, regarding the equal treatment of foreigners as for their right to insurance coverage and medico-pharmaceutical care. In specific, with its Article 21A, the Code of Immigration and Social Integration (Law 4251/2014, as has been modified and put into effect with Law 4332/2015) stipulates that Greeks and legal

¹ Greece, Law 4529/2018 on the transposition of Directive 2014/104/EC concerning rules on lawsuits of reparation for violation of provisions on fair competition and other provisions (Νόμος 4529/2018, "Ενσωμάτωση στην ελληνική νομοθεσία της Οδηγίας 2014/104/ΕΕ, σχετικά με κανόνες που διέπουν τις αγωγές αποζημίωσης για παραβάσεις των διατάξεων του δικαίου ανταγωνισμού και άλλες διατάξεις") (OJ 56 A/ 23.03.2018).

foreigners have equal rights in the fields of employment and social welfare care. The Code does not foresee a differentiated treatment based on ethnic/ racial origin.

More specifically, the equal treatment of third country nationals is stipulated with regard to: (a). The access in the employed or not employed professional activity and the terms of employment and work, (b). the education and the professional training, including the scholarships of study, (c). The recognition of professional diplomas, certificates and other titles, (d). Social security, (e). Tax facilitations, (f). The access to the provision of goods and services that are in the disposal of public and the access in the process of acquisition of housing. From the above it is concluded that according to the current insurance legislation, the legally residing third country nationals enjoy the same rights with the insured native and/or citizens of EU. Consequently, the new provision seems to be inconsistent with the existing relevant provisions of the Code of Immigration and Social Integration, since it is explicitly stipulated in the latter that all the legally residing foreigners have the same insurance rights with the Greek citizens and EU Member States citizens (Article 21, para. 2 of Law 4251/2014) and therefore factors such as ethnic/racial origin should be indifferent. However, the new provision indirectly raises the issue of discriminatory treatment since it concerns only the group of third country nationals.

It should be clarified that insurance coverage of the family members of Greek and EU Member States citizens (adult children, parents etc) is provided only if they meet all special conditions that are required by Law 4251/2014 (such as being depended on the directly insured person because of their unemployment or their incapacity to work). More specifically, children aged above 18 years could be regarded as protected members and entitled to insurance coverage only if: a) they are unemployed (until the completion of the 24th year of their age) or b) they continue their studies (for a maximum period of 2 years after the expiration of their period of study. It is noteworthy that also the Greek Ombudsman -with its Opinion with number 224709/2017- considers that the right to insurance coverage and medico-pharmaceutical care should be recognised for the family members of all the directly insured third country nationals under the same conditions as for family members of a Greek or a EU Member State citizen. In the text of its Opinion the Ombudsman specifically refers to its competence to deal with cases concerning equal treatment regardless of "race, colour or ethnic origin" as Equality Body established by the anti-discrimination Law 4443/2016.

Key points of analysis: The description of the case raises the issue of unequal treatment based on ethnic origin regarding access to insurance coverage and medico-pharmaceutical care, because although there is no strict reference to the anti-discrimination law, the new Law makes a clear distinction between family members of Greeks / EU citizens/ third country nationals who are long term residents, on the one hand, and family members third country nationals (without status of long term residence) on the other hand.

Internet link source: <https://www.e-nomothesia.gr/kat-emporeio/nomos-4529-2018-phek-56a-23-3-2018.html>.