



European network of legal experts in gender equality and non-discrimination

FLASH REPORT

Country:	Greece
Title:	Abolition of time-limit from naturalisation for employment in public sector
Date:	1 April 2019
Expert:	Athanasios Theodoridis
Context	
Issue at stake:	Discrimination in public sector recruitments on grounds of (national) origin
Grounds of discrimination:	Racial or ethnic origin
Field of application:	Employment
Source:	Legislation
Applicable law:	Article 47 of Law 4604/2019

Content:

Law development: On 19 March 2019 the Greek Parliament voted the Law 4604/2019,¹ which includes a major change with regard to the equal treatment of Greek citizens as far as origin is concerned. In specific, para 1 of Article 47 of the new Law abolished the requirement which used to set a time-limit of at least one year from the awarding of citizenship through naturalisation, in order to be appointed at a public body or employed in a position of public sector. This means that a discriminatory practice which targeted naturalized citizens and which was contrary to the constitutionally established principles of equality and equal treatment irrespective of race, religion, national or ethnic origin, has finally been abolished. Under the previous legal framework, calls for recruitment to the public sector used to set a waiting period of at least one year (sometimes up to five years) from the acquisition of citizenship, for interested citizens to be able to apply. This criterion had been applied to all recruitment processes for the public sector in accordance with the Public Employees Code (Law 3528/2007² Article 4, para 4) as well as the Municipal and Community Employees Code (Law 3584/2007³ Article 12, para 4) which both stated that "*Those who acquire Greek citizenship by naturalization cannot be appointed as*

¹ Greece, Law 4604/2019 on 'promoting substantial gender equality, preventing and combating gender-based violence – Regulations for the granting of Citizenship – Provisions for the Local Government elections – Other provisions of the Ministry of the Interior' (Νόμος 4604/2019 για την 'πρώτωση της ουσιαστικής ισότητας των φύλων, πρόληψη και καταπολέμηση της έμφυλης βίας - Ρυθμίσεις για την απονομή Ιθαγένειας - Διατάξεις σχετικές με τις εκλογές στην Τοπική Αυτοδιοίκηση - Λοιπές διατάξεις') (OJ 50 A/26.03.2019).

² Greece, Law 3528/2007 on the ratification of the Code for the status of public employees and employees of legal entities of public law and other provision (Νόμος 3528/2007 'για την κύρωση του Κώδικα κατάστασης των δημοσίων πολιτικών υπαλλήλων και των υπαλλήλων νομικών προσώπων δημοσίου δικαίου και άλλες διατάξεις') (OJ 26 A/09.02.2007).

³ Greece, Law 3584/2007 on the ratification of the Code for the status of municipal and communal employees (Νόμος 3584/2007 'για την κύρωση του Κώδικα κατάστασης δημοτικών και κοινοτικών υπαλλήλων') (OJ 143 A/28.06.2007).

employees before the completion of one (1) year from its acquisition.” The new Law abolished the above provisions.

In August 2018, in light of a call for applications from the Employment Organization of Greece (OAED), in the framework of their community service based programs, the migrant NGO 'Generation 2.0 RED had also raised the issue of this chronic discrimination against Greek citizens due to national or ethnic origin by addressing itself to the Greek Ombudsman after public interventions in March 2018 on behalf of members of Parliament representing the Democratic Alignment Party. It should be also mentioned that the previous legal provisions were not in compliance with a previous decision of the Hellenic Council of State that had found that such differentiation among Greek citizens for the purpose of access to public functions, was not constitutionally permissible.⁴ The Court ruled that the anti-discrimination regulations override any contrary national regulation as they incorporate the letter of the Directive 2000/43. Moreover, the Greek Ombudsman, the equality body that is competent for monitoring and promoting the implementation of the principle of equal treatment in the public and private sector, had dealt with this issue in the past, underlining that the time-limit conflicts with the prohibition of discriminations entailed by the provisions of Law 4443/2016. According to the Ombudsman, this was so because the principle of equal treatment presupposed the equal exercise of a right or the enjoyment of a legitimate good among Greek citizens, irrespective of their national origin. Thus, according to the aforementioned provisions, as the Greek Ombudsman pointed out by referring to the exception for genuine and determining occupational requirements (Art. 4 of both Directives) this direct discrimination was not 'objectively justified 'on the basis of a legitimate aim that could be achieved through the use of appropriate and necessary means, as the particularity of the body for which the posts are opened allows, in principle, the exclusion of foreigners; however, a clause permitting the exclusion cannot be applied as a criterion to discriminate among Greek citizens.

Key points of analysis: The new law ensures that the acquisition of Greek citizenship equates with the enjoyment and exercise of the same rights, as upheld by the Greek Constitution. What is more, such discriminatory practices go against the principle of equal treatment as defined in Article 3, para 1 of the Equal Treatment legislation (Law 4443/16).

Internet link source: <https://www.hellenicparliament.gr/UserFiles/c8827c35-4399-4fbb-8ea6-aebdc768f4f7/10968444.pdf>.

⁴ Greece, Council of State, Decision No. 3317/2014.