



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

FLASH REPORT

Country:	Greece
Title:	Abolition of positive measures that concerned stateless Roma and attempted abolition of positive measures regarding persons with disabilities
Date:	18 March 2020
Expert:	Athanasios Theodoridis
Context	
Issue at stake:	Enactment of unfavorable conditions for access of stateless Roma to procedures of naturalisation and attempted enactment regarding persons with disabilities
Grounds of discrimination:	Racial or ethnic origin, Disability
Field of application:	Other field
Source:	National legislation
Applicable law:	Law 4674/2020 (Article 40)

Content

Law development: Law 4674/2020,¹ which was voted by the Greek Parliament on 10 March 2020, abolished a positive measure that concerned access of stateless Roma to procedures of naturalisation.

In March 2019, Parliament adopted Law 4604/2019,² introducing a positive measure for the acquisition of Greek citizenship for two categories of people: (1) stateless Roma and (2) children with disabilities who do not – due to their disability – meet the regular naturalisation requirement of continuous and successful education. Regarding this latter category, children born in Greece who have a certified disability of more than 80% and whose parents are legally residing in Greece are not required to succeed in education if they attend specialised care services and psychosocial or therapeutic rehabilitation interventions for an appropriate period of time. Regarding stateless Roma, the law stipulated that persons of Roma origin with Greek birth certificates and with long-term presence in Greece but without registration in the municipal records could acquire citizenship through a specific transparent procedure for the identification of a stateless person and an individualised examination under multiple controls of each case on behalf of public administration, based on evidence that was included in the law on indicative basis. Both measures constituted exceptions to the generally applicable procedure for acquiring Greek citizenship but had not yet been implemented.

¹ Greece, Law 4674/2020 on 'Strategic Development Perspectives of Local Authorities, Settlement of Ministry of Interior Issues and Other Provisions' (Νόμος 4674/2020 για τη 'Στρατηγική αναπτυξιακή προοπτική των Οργανισμών Τοπικής Αυτοδιοίκησης, ρύθμιση ζητημάτων αρμοδιότητας Υπουργείου Εσωτερικών και άλλες διατάξεις') (OG A 53/11.03.2020).

² Greece, Law 4604/2019 on 'promoting effective gender equality, preventing and combating gender-based violence -Legal arrangements on citizenship and other provisions' (Νόμος 4604/2019 'για την προώθηση της ουσιαστικής ισότητας των φύλων, πρόληψη και καταπολέμηση της έμφυλης βίας – Ρυθμίσεις για την απονομή ιθαγένειας') (OG A 50/26.03.2019).

In February 2020, a draft law was tabled in Parliament which implied both procedural and substantive changes to the acquisition of Greek citizenship. More specifically, Article 42 of the draft law stipulated that the positive measures described above would be abolished.

According to the initial Explanatory Report of the draft Law, the measure foreseen for children with disabilities would be abolished because 'specialised care services and psychosocial or therapeutic rehabilitation interventions do not constitute permanent educational services and are therefore incompatible with the content of that law, a basic condition for the application of which is the concept of continuous and successful study'. In other words, an exception to the general rule of citizenship by birth and education, which had been introduced as a positive measure to compensate for severe disability, would be abolished solely on the grounds that it was an exception.

Regarding the measure foreseen for stateless Roma, the Explanatory Report stipulated that the relevant provisions did not specify, how Roma ethnicity and long-term presence in the Greek territory can be 'unequivocally proven' because there is a generally applicable regime for stateless persons born and living in Greece so that stateless Roma could be subjected to it.

Human rights organisations such as Generation 2.0, Hellenic League of Human Rights and National Confederation of Persons with Disabilities found Article 42 of the bill (which became Article 40 of the voted Law) to be problematic, at both practical and symbolic level. According to them, the abolition of Articles 32 and 31 of Law 4604/2019 would contradict the Greek State's commitments by ratifying the United Nations Convention on the Rights of Persons with Disabilities under Law 4074/2012, and in particular Articles 7, 9, 11 and 18 thereof. Moreover, the NGOs claimed that the argument of the Government that the provisions of Law 4604/2019 had not been implemented in practice so far and therefore their abolition would not be a problem is not convincing.

Finally, after the reactions of the above NGOs, the Minister of Interior withdrew the provision that concerned children with disabilities. However, despite the reactions, the Minister decided not to withdraw the provision on stateless Roma and therefore the bill became law on 10 March 2020.

Key points of analysis: Finding ambiguity in the criteria for eligibility for the special citizenship procedure, the Greek legislator did not, as one would expect, enrich this process with specific criteria or further controls to avoid abuse, but abolished it completely. The concerned Roma individuals are referred to the current general procedure for "proven stateless" persons, although the lack of clarified criteria for their subjection in the special positive process under the previous regime was not their fault.

Internet link source: <https://www.e-nomothesia.gr/autodioikese-demoi/nomos-4674-2020-phek-53a-11-3-2020.html>.