

**OFFICIAL GAZETTE
OF HELLENIC REPUBLIC**

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CONTENTS

PRESIDENTIAL DECREES

131. Harmonization of the Hellenic Legislation with the Directive 2003/86/EC regarding the right of family re-union

THE PRESIDENT OF THE HELLENIC REPUBLIC

Having regard of :

1. The provisions of the article 3 and the article 4 of the l. 1338/1983 “Implementation of the Community Law” (A’34), as the article 3 has been modified by the paragraph 3 of the article 6 of the l. 1440/1984 : “participation of Greece in the capital, the reserve funds and the forecastings of the European Investment Bank in the capital of the European Community of Coal and Steel and the Supply Organization EURATOM” (A’70) and replaced with the article 65 of the l. 1892/1990 “About the modernization and the development and other provisions” (A’101) as the article 4 thereof has been replaced with the paragraph 4 of the article 6 of the l. 1440/1984 and modified with the article 48 of the l. 3427/2005 (A’312).

2. The article 90 of the Presidential Decree with no. 63/2005 “Codification of the legislation about the government and the governmental organs (A’98).

3. The no. 37930/ΔΙΟΕ1264/14.10.2005 common resolution of the Prime Minister and the Minister of

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Economy and Finance regarding “Determination of powers of the Deputy Ministers of Economy and Finance” (B.1432/14.10.2005) and especially the provisions of the article 7.

4. The fact that, from the provisions hereof, no charges are caused against the state budget.

5. The no. 113/2006 opinion of the Council of the State upon a proposal of the Ministers of Interior, Public Administration and Decentralization, Economy and Finance, Foreign Affairs, Employment and Social Protection, Health and Social Solidarity and Public Order, we hereby decide as follows :

CHAPTER I

Article 1

(article 1 of the Directive)

Purpose

The purpose of these presents is the harmonization of the Greek legislation to the Directive 2003/86/EC of the Council since September 22nd, 2003 “regarding the right of family re-union” (EE L 251/12 since 03.10.2003) and the determination of the conditions under which the citizens of third countries who legally live in the Greek State may exercise the right of family re-union.

Article 2

(article 2 of the Directive)

Definitions

For the purpose of this Presidential Decree, the terms :

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1. “citizen of a third country” will mean the natural person who has not the Hellenic nationality nor the nationality of any other state-member of the European Union in the meaning of the article 17 paragraph 1 of the EC Treaty,
2. “provider” means the citizen of a third country who legally lives in Greece and files an application of family re-union in order to be allowed the entry and stay of the members of his family in Greece, according to the provisions of these presents,
3. “family re-union” will mean the entrance and stay in the Country of family members of the citizen of a third country who legally lives in Greece, in order to be maintained the unity of his family, regardless whether the family bonds were caused before or after his entry.
4. “permit of residence” will mean any kind of certification that has been granted by the Hellenic Authorities and based on which it is allowed to a citizen of a third country to legally live in the Hellenic State, according to the provisions of the article 1 paragraph 2(a) of the regulation of EC with no. 1030/2002 of the Council since June 13th, 2002 for the establishment of a united form of permits of residence for the citizens of third countries (EC L 157/15.6.2002).
5. “refugee” will be the citizen of a third country or a person with no nationality who enjoys the status of a refugee in the meaning of the Convention of Geneva about the status of refugees since July 28th, 1951, that was ratified by the legislative decree 3989/1959 (A’201), as modified with the

Protocole signed at New York on January 31st, 1967 and which was ratified by the obligatory law 389/1968 (A'125).

Article 3

(article 3 of the Directive)

1. These presents applies when the provider holds a permit of residence that has been issued by the competent Hellenic authorities for a term of validity of at least one year which grants them the ability to acquire a right of permanent residence if the members of his family are citizens of a third country, regardless their status.

2. The present Presidential Decree does not apply when the provider :

a. has submitted an application for the recognition on him of the capacity of a refugee, on which application no Ministerial Resolution has been issued yet,

b. has obtained a permit of residence by virtue of temporary protection or requests the licence to stay under that status and expects for the issuance of a relevant resolution,

c. has obtained a licence of stay in Greece by virtue of additional forms of protection, according to the international obligations, the national legislation or the practices of the state members, or requests for a permit of residence under such status and expects for the issuance of a relevant resolution.

3. The present Presidential Decree does not apply on the members of the family of a citizen of the European Union.

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4. The present Presidential Decree applies without prejudice of more favourable provisions :

- a. of bilateral and multilateral agreements between the Community or the Community and its state members, on the one hand and third countries on the other,
- b. the European Social Chart dated October 18th, 1961 (l. 1426/1984, A'32), as in force.

Article 4

(article 4 of the Directive)

Family Members

1. As family members of a citizen of a third country who enter Greece within the context of the family re-union, are meant the following persons :

- a. The other spouse if he/she has completed the 18th year of age, as well as the unmarried, common children of theirs, under 18 years old, including those who have been legally adopted in Greece or by a judgement that is *ex officio* executable or has been pronounced executable or its *res judicata* has been recognised in Greece.
- b. the rest, under 18 years, unmarried children of the provider or the other spouse, including the children who have been adopted, as per above, provided the custody has been legally assigned for the provider's children upon him/her, and for the other spouse's children, to that spouse.

2. In case of polygamy, if the provider has already a spouse who lives with him in Greece, it is not allowed the family re-union with another spouse.

It is not allowed the family re-union of minor children of the provider and another spouse's, except for the cases that the custody has been legally assigned upon him.

CHAPTER II

Article 5

(articles 5, 7,8 of the Directive)

Requirements of family re-union

1. The citizen of a third country who legally lives in Greece for a period of two years is entitled to apply for the entry and stay in the Country, of members of his family, according to the article 4 hereof. The application is submitted and examined when these members live out of the Hellenic State.

2. For the exercise of the precedent paragraph's right, the provider will have to prove the family relation with the members of his family for whom he asks the re-union in Greece as well as that he, himself, fulfils the following conditions cumulatively:

- a. disposes a shelter able to cover the needs of himself and his family members' for whom he requests the re-union,
- b. disposes an annual personal income stable and regular, sufficient for the needs of himself and his family which does not accrue from any recourse to the Country' social support system. Such income cannot be less than the annual

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reward of an unspecialized worker, increased by 20% for the spouse and 15% for every child. Such increase of 15% for each child is not required in the case that both spouses legally live in Greece,

c. disposes full disease coverage as to all of the risks covered for the respective categories of nationals workers, which may cover also the members of his family.

3. For the ascertainment of existence of the family relation, the competent organ may call the provider to a personal interview.

4. The application of the provider should be attached to the following supportive documents :

a. an exact photocopy of a valid passport or another travelling document recognised by our country and the valid permit of his residence.

b. a recent certificate of family status, from which to ensue the relatives' bond, officially translated and attested by the competent Hellenic Authorities,

c. a residence purchase contract or a residence lease contract attested by a Public Revenue Service or another attested document from which to ensue that the provider disposes a shelter able to cover the needs of himself and his family members,

d. a copy of the last Statement of Account of the Internal Revenue Service for the last financial year or another official document from which to ensue that he disposes annual income higher or equal to eight thousand five hundred

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(8.500) euro increased by 20% for the other spouse and by 15% for every child, according to the provisions of the paragraph 2(b) of the same article,

e. a certificate by the security fund where he is insured for the coverage of hospital expenses, medical and pharmaceutical treatment, which should be able to cover also the members of his family that will be supported by him,

f. In the case of family reunion with a minor child as per paragraph 2, article 4, a document of the competent authority of the child's country of residence, from which to be proven the assignment of custody upon the provider exclusively.

Article 6

(articles 5, 6, 13 of the Directive)

Submission and examination of the application for the approval of the family re-union

1. The provider files an application of family re-union, along with the supportive documents of the paragraph 4 of the article 5 hereof, upon the competent organ, according to the provisions of the 1. 3386/2005 (Off.Gaz. A'212).

2. The organ that is competent to examine the application, according to the provisions of the 1. 3386/2005, is obliged to immediately ask for the opinion of the relevant police authority on matters that concern the public order and security of the Country, as well as the opinion of the competent Hellenic Consular Authority, in order to

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ascertain the existence of the family relation, especially through personal interviews with the members of the family and the examination of the risks that ensue for the public health. These opinions are provided within an exclusive deadline of three months.

The competent organ examines the application as to the fulfilment of the conditions of the articles 4 and 5 hereof. At the examination of the application for family reunion, it is especially assessed the interest of the minor children.

The competent organ, after taking into account the above opinion, will issue a relevant resolution.

3. The competent organ transfers the resolution to the relevant Hellenic Consular Authority which, if the request has been accepted grants the required special visas of entry to the members of the family, without prejudice of the provisions for prohibition of entry of the article 8 L. 3386/2005.

CHAPTER III

Article 7

(article 5 of the Directive)

Provision of the Permit of Residence

1. Every member of the family, after his entry in the Country and before the expiry of the entry visa, submits an application for the provision of the relevant permit of residence, along with the required supportive documents, to the competent organ, according to the provisions of the 1. 3386/2005. For the minor children the application is

submitted by the person who exercise the custody and grants a personal permit of residence to them.

2. The application for the provision of the permit of residence is filed together with the following supportive documents:

- a. an exact photocopy of a valid passport or another travelling document recognised by our country, with the valid entry visa for family re-union,
- b. three (3) coloured photographs,
- c. a deposit fee in the form of a type B' duplicate receipt by the Service competent to receive the application, according to the provisions of the article 92 of the l. 3386/2005.

3. The competent organ issues a resolution by which the permits of residence are granted.

4. The procedure of family re-union is completed the latest within nine months after the application of the article 6 paragraph 1 was submitted, together with the required supportive documents, for the approval of the famiy re-union. In case of existence of exceptional reasons, the above deadline may exceed the nine (9) months even by three (3) months at most.

Article 8

(article 13, 16 of the Directive)

Term and Renewal of the Permit of Residence

1. An initial permit of residence with expiry date that of the provider's permit of residence is granted to the members of the family. At the renewal, the permit of residence of the

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members follows the fate of the provider's permit of residence.

In the case the provider acquires the status of a long-staying resident, the initial permit of residence of the members of his family for whom a family re-union has been requested, is granted for one (1) year and is renewed every two years.

2. At the renewal of the permit of residence, when the provider does not have sufficient resources without recourse to the Country's social support system, as mentioned in the paragraph 2(b) of the article 5 hereof, the contributions of the family members to the total income of the family are taken into account.

3. The member of the family who wishes for the renewal of the permit of residence for reasons of family re-union is obliged, before its expiry, to file an application to the organ competent per case, along with the following supportive documents :

- a. an exact photocopy of a valid passport or another travelling document recognised by our country, with the valid permit of residence,
- b. an attested copy of the valid permit of residence of the provider,
- c. an attested copy of the Statement of Account or a copy of the Statement of Account of the provider and the members of his family for the precedent tax year, from which to ensue their income. The piece of evidence about the income of the

family members is required in the case that such income is also counted, according to the paragraph 2 of this article,

d. a recent certificate of family status, from which to ensue the bond of relation, officially translated and attested by the competent Hellenic Authorities,

e. a certificate of insurance for the coverage of hospital expenses and medical-pharmaceutical treatment,

f. in the case the residence has changed, it is submitted a lease contract for the new residence attested by an Internal Revenue Service or a E9 Statement in case of ownership,

g. a deposit fee in the form of a 'Type B' duplicate receipt from the Service competent to receive the application, according to the provisions of the article 92 of the 1. 3386/2005

h) three (3) coloured photographs.

CHAPTER IV

Article 9

(articles 5, 6, 16, 17 of the Directive)

Rejection of application, revocation or non renewal of the permit of residence

1. The permit of residence for family re-union is not granted, is revoked or not renewed in the following cases :

a. there is a danger for the public order and security,

The examination of the reasons that concern the public order and security of the Country is a requisite condition for the approval of the family re-union and the initial provision of the permit of residence to the members of the family. The

competent Services of Aliens and Immigration of the Districts are obliged, at the end of every month, to send at the local police directorates or security directorates of the Hellenic Police, lists with the accurate details of the citizens of third countries whose permits of residence have been renewed. The existence of the reasons of public order and security that ensue after the provision of the initial permit of residence, constitute a reason for its revocation,

b. there are reasons of public health. The sole diseases that may justify the refusal of the entry or the right of residence are those provided for by the World Health Organization as well as other infectious, contagious or parasitical diseases which impose the implementation of measures for the protection of public health. The ascertainment after the provision of the initial permit of residence, that the interested person suffers from a disease from which he was infected after his entry in the Country, is no reason for the non renewal of his permit of residence or his removal from the territory of the Country.

c. At the revocation or the non-renewal of the permit of residence of a member of the provider's family for reasons of public order, public safety or public health, it is also examined, apart of the above provisions, also the relevant provisions of the article 8 of the l. 3386/2005, the gravity or the kind of the offence committed and the risks caused by that person,

- d. the conditions set herein are not fulfilled or are not fulfilled any more,
- e. the provider and the members of his family have ceased leading an actual conjugal or family life,
- f. it is proven by a final judgement that false or misleading information, forged or falsified documents have been used, that a deceit has been committed in any mode or other illegal means have been used,
- g. it is ascertained that the family relation, especially the marriage, the adoption or the recognition of children has been concluded with the purpose to abolish the provisions hereof in order to be achieved the entry or the residence in the Country,
- h. The provider's residence is terminated and the family member does not dispose an independent right of residence, according to the provisions of the article 11 hereof.
2. Inspections may be effected in every case that the Services of the paragraph 1 are notified of any incident that could justify the revocation of the permit of residence.
3. For the rejection of an application, the revocation or the refusal of renewal of the permit of residence, or in case that a measure of removal is taken against the provider or members of his family, it is also assessed the character and the stability of the family bonds of the person, the term he has lived in the country as well as the existence of family, cultural and social bonds with the country of his origin.

CHAPTER V

Article 10

(article 14 of the Directive)

Rights and Obligations of the family members
of a third country citizen

1. The providers' family members are entitled, equally with him, :

a. to have access to education,

b. to have access to salaried work and independent financial activity,

The family member who wishes to occupy himself in a salaried work or an independent financial activity, files an application for this purpose, to the organ which granted the permit of residence to him. This access is under the terms and the conditions determined by the common ministerial resolution of the par.1 of the article 90 of the l. 3386/2005.

For the first twelve months of residence since the provision of the initial permit of residence, for family re-union, the competent organ will decide based on the vacant posts of work per specialty, as these have been determined by the procedure of the article 14 of the l. 3386/2005,

c. to have access to vocational orientation, basic and further education as well as further training.

2. The holders of the permits of residence for family re-union are subjected to the general rights and obligations of the citizens of third countries, according to the provisions of the l. 3386/2005.

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Article 11

(article 15 of the Directive)

Independent permit of residence of the family members

1. The persons who have been admitted for reasons of family re-union are entitled, upon request filed along with the supportive documents of the paragraph 3 of this article, to obtain an independent permit of residence in Greece in the following cases :

a. lapse of five years since the provision of the permit of residence for family re-union for one of the rest of the reasons as per law 3386/2005,

b. coming into age.

2. An independent permit of residence may be granted to the persons who have been admitted by virtue of family reunion in the following cases :

a. death of the provider, since the members of the family live at the Country for at least one year before his death,

b. in case of divorce or cancellaton of the marriage or proven interruption of the marital cohabitation, if :

i) the marriage has lasted until the beginning of the proceedings for a divorce or cancellation of the marriage or proven interruption of the marital cohabitation for at least three (3) years of which the one year has been ran at the Country.

ii. there are particularly difficult situations such as in case the member of the family has been a victim of family violence while the marriage was still existing.

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3. Every member of the family submits an application for the provision of an independent permit of residence if he fulfills one of the above conditions, at the municipality or the community of the place of his residence, along with the following supportive documents :

a. an exact photocopy of valid passport or another travelling document recognised by our country, with the valid permit of residence,

b. exact photocopies of previous permits of residence for family re-union from which to be fully proven the five-year legal residence of him in Greece for this purpose, in the case of lapse of the five-year period or

c. a registrar's act of birth, for the case of coming into age or

d. a registrar's act of death of the provider in the case of death or

e. a judgement of divorce or cancellation of the marriage along with an attested extract of a registrar's act of marriage, in the case of divorce, or

f. an attested copy of the accusation submitted to a competent Hellenic Authority in the case of intrafamilial violence,

g. in case the residence has changed, an attested photocopy of the new residence lease contract or a E9 statement should be submitted, in the case of ownership,

h. a deposit fee in the form of a Type B' duplicate receipt by the Service competent to receive the application, according to the provisions of the article 92 of the l. 3386/2005,

i. Three (3) coloured photographs.

4. The term of the independent permit of residence cannot exceed the one year. A further renewal of it is allowed for other reasons, except for the family re-union, according to the provisions of the l. 3386/2005.

5. The right of the minor children's residence follows the fate of the parent's right of residence, upon whom the custody has been assigned.

6. For children who come into age, the independent permit of residence, in deviation of the paragraph 4 of this article may be renewed every year and in every case, until the completion of the 21st year of their age. A further renewal of it is allowed for other reasons except for family re-union, according to the provisions of the l. 3386/2005.

7. In case the above independent permit of residence is renewed for studies, the citizen of a third country may, after the completion of his studies, have such permit independently renewed for one more year. A further renewal of it is allowed for other reasons except for family re-union according to the provisions of the l. 3386/2005.

Article 12

(article 5,18 of the Directive)

Right of Appeal

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No.Φ092.22/6416

1. Every resolution that rejects an application for the provision of a permit of residence for family reunion has to be justified, according to the article 17 of the l. 2690/1999 (A'45) as in force.
2. For the resolutions issued by virtue of these presents, it is filed an application of restitution according to the article 24 of the l. 2690/1999 as in force.
3. In cases of rejection of an application for family reunion, of non renewal or revocation of the permit of residence or taking a measure of removal, according to the provisions hereof, the provisions of the article 15 of the l. 3068/2002 (A'274) will apply.

Article 13 - Beginning of Validity

The validity of the present decree begins on the date of its publishment in the Official Gazette.

Athens, July 12th, 2006

The President of the Republic

KAROLOS GR. PAPOULIAS

The Ministers

of Interior, Public Administration
& Decentralization

P. PAVLOPOULOS

of Foreign Affairs

TH. BAKOYIANNI

of Health and Social Solidarity

D. AVRAMOPOULOS

of Economy & Finance

G. ALOGOSKOUFIS

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Social Protection

SAVVAS TSITOURIDIS

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V. POLIDORAS

Exact translation from the Greek attached document.

Athens 21.12.2006 The translator THEODOSSIA KAPELONI

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