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**Law 3907**

**On the establishment of an Asylum Service and a First Reception Service, transposition into Greek legislation of the provisions of Directive 2008/115/EC “on common standards and procedures in Member States for returning illegally staying third-country nationals” and other provisions<sup>1</sup>**

**The President of the Hellenic Republic**

Hereby issue the following law voted by the Parliament

**CHAPTER I**

**ESTABLISHMENT OF THE ASYLUM SERVICE**

**Article 1**

**Setting up – mission - composition**

1. It is hereby established an autonomous Service within the Ministry of Citizen Protection, entitled “Asylum Service”, directly dependent on the Minister and with a territorial competence on the entire country. This Service operates as a Directorate and has the mission of applying the legislation on asylum and other forms of international protection for aliens and stateless persons, as well as contributing to the development and the formulation of the national asylum policy.
2. The Asylum Service, in the context of its mission is, in particular, competent for:

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<sup>1</sup> Unofficial translation by UNHCR – Athens.

- a. contributing to the drafting and formulating of the country's policy regarding the granting of asylum or other forms of international protection and monitoring and evaluating such implementation,
- b. registering, examining and ruling at first instance on all applications for international protection,
- c. informing applicants for international protection of the examination procedure for their applications, including the rights and obligations under this,
- d. collecting and assessing information on the economic, social and political situation of countries of origin of aliens and for constantly monitoring developments in these countries, in cooperation with other Greek or foreign authorities competent for this purpose, especially under relevant international agreements,
- e. providing aliens who are applicants for international protection, as well as beneficiaries of international protection, with the stipulated legal and travel documents,
- f. processing the applications for family reunification of refugees
- g. facilitating applicants insofar as material reception conditions are concerned, in cooperation with the other competent services,
- h. preparing draft legislative texts and administrative acts in matters of its competence, and
- i. cooperating with State institutions, independent authorities and non-governmental organizations, European Union bodies and institutions and international organizations in order to effectively fulfill its mission.

3. The Asylum Service is composed of the Central Service and the Regional Asylum Offices. Regional Asylum Offices are dependent on the Central Service. The Central Service plans, directs, monitors and controls the action of Regional Asylum Offices and ensures the presence of the necessary conditions for the exercise of their tasks. When the present law enters into force, Regional Asylum Offices will be set up in Attica, Thessaloniki, Alexandroupolis, Orestiada, Ioannina, Volos, Patras, Heraklion, Lesvos, Chios, Samos, Leros and Rhodes. The entry in operation of the Regional Asylum Offices established hereby will become operational shall be determined by decision of the Minister of Citizen Protection. A similar decision shall determine the distribution of personnel referred to in article 2, paragraph 4 of this law among the various Regional Asylum Offices; equally, it may decide to establish autonomous teams within the Regional Asylum Offices, located and operating in the premises of First Reception Centers or participating in mobile or temporary First Reception Units.

4. The Central Asylum Service shall have the following internal structure:

- a. Department for Strategic Planning and Legislative Work: it shall be competent to study and evaluate proposals and to develop the asylum policy, to submit proposals for the necessary modifications and improvements, to prepare

draft legislative and, more generally, regulatory texts and circulars and it is in charge of the country's representation at European and international level.

b. Department of Coordination: it shall be competent to coordinate the activities of the Regional Asylum Offices, shall be charge of liaising and cooperating with the First Reception Network Units and with other competent State services and independent authorities as well as with other civil society institutions and private companies, shall maintain lists of certified institutions, interpreters and mediators, shall monitor the implementation of the country's asylum policy by the individual institutions of the Asylum Service and the competent bodies and authorities and shall report thereon to the Minister of Citizen Protection and to the Interministerial Committee on Immigration Policy and Social Integration.

c. Department of Human Resources and Quality Assurance: it shall be competent to deal with Asylum Service's personnel issues, organize the initial and continuous training of the Service's personnel and ensures quality assurance procedures and for the asylum services provided.

d. Department of International Cooperation and Documentation: it shall be competent to search, collect, evaluate and keep information on the political, social and economic situation of the aliens' countries of origin in collaboration with other concerned authorities or relevant EU Member State authorities, under the relevant agreements, receives and transmits requests to take charge or take back, ensures the implementation of Council Regulation 343/2003 (L 50/25/2/2003) and any other relevant legislation and collaborates with the Service of the First Reception Network and other concerned government agencies with regard to taking, registering and recording fingerprints of applicants for international protection.

e. Administration Department: it operates the secretarial support of the Central Asylum Service. It collects, processes and maintains statistical data provided by the Regional Asylum Offices, it organizes and monitors the computer system of the Asylum Service and ensures appropriate linkage with records kept by other departments of the same or another Ministry or other relevant authorities of EU Member States, within the framework of relevant agreements.

f. Department of Finance, which draws up and implements the budget of the Asylum Service, investigates, prepares proposals, manages the European and other funding programs in the field of asylum and manages the material supply of the Asylum Service.

## **Article 2**

### **Recruitment**

1. The Asylum Service shall be headed by a Director. The Director shall be appointed by decision of the Minister of Citizen Protection, following a public call for interest, for a mandate of three years which can be renewed for another three-year term. The Director shall be a renowned personality, possessing a university degree, with administrative experience. The Director shall be in

charge of the Asylum Service and is accountable to the Minister of Citizen Protection; s/he can be dismissed before the end of his/her mandate at his/her own request, or in case s/he is unable to perform his/her tasks or for any other serious reason related to the exercise of his/her mandate. The Director's remuneration is decided by joint decision of the Ministers for Finances and of Citizen Protection. The Director shall be assisted by a secretariat, in whose context shall operate an autonomous Public Relations' and Public Information Office which shall take over and handle communication, public information and public relations matters.

2. The Asylum Service shall be recruited with civilian public officials, either seconded, moved or transferred from other State or public services (article 2 of law 3861/2010 O.G. 112 A') or from other state-owned public companies, or by personnel hired either as permanent staff or on non-fixed-term contracts according to the provisions in force.

3. The following organic posts shall be set up for the staffing of the Central Asylum Service:

- a. 25 posts grade PE (university graduates) Administrative and Financial sections
- b. 2 posts grade PE (university graduates) Informatics section
- c. 2 posts grade PE (university graduates) Communication and Media sections
- d. 3 posts grade TE (higher education graduates) Informatics section
- e. 10 posts grade DE (secondary education graduates) Administrative and Accounting sections
- f. 10 posts for specialized scientific personnel

4. The following organic posts shall be set up for the staffing of the Regional Asylum Services:

- a. 90 posts for special scientific staff. These posts are covered by the seconding, move or transfer of civil servants from other State or public services (article 2 of law 3861/2010 O.G. 112 A') or from other state-owned public companies and by personnel hired under non-fixed-term private law contracts.
- b. 90 posts grade DE (secondary education graduates) Administrative and Accounting sections. These posts are covered by the seconding, move or transfer of civil servants from other State or state-owned public companies services.

5. The qualifications for the special scientific staff mentioned above shall be in conformity with the provisions of article 2 paragraph 1 of presidential decree 50/2001 (Official Journal A-39). The posts mentioned in the previous subparagraph shall be covered by graduates in the fields of human, legal and social sciences. For the purpose of filling these posts by way of seconding, move or transfer of civil servants, a public call shall be carried by the Minister of Citizen Protection. Moves and transfers of personnel to the Asylum Service are

carried out according to the existing provisions. Seconding shall be carried out by a joint decision by the Minister of Citizen Protection and the relevant competent Minister, by derogation to any other general or special provision, following a recommendation by the Director of the Asylum Service who shall evaluate formal and substantial qualifications of candidates. Priority shall be given to transferring to the Asylum Service of personnel serving in State or public services that are to be abolished or merged. Seconded personnel shall receive the salary and any other regular emolument, as well as all other bonuses and other forms of compensation they received while in their organic post. The salary, other emoluments and benefits shall continue to be paid by the Service from which they are seconded.

6. Regional Asylum Offices may conclude contracts for the supply of services with interpreters who possess the necessary qualifications and are selected from among a relevant list drawn by the Central Service according to its Rules of Procedure. Interpreters are remunerated either by means of invoices for services rendered or on an hourly basis.

7. If a Regional Asylum Office faces problems in operating smoothly due to the lack of adequate or qualified staff or due to an excessive number of claims submitted, the processing of some of the Office's tasks, with the exception of those involving the exercise of public authority - such as the issue of administrative acts, the examination of asylum applications, the conduct of interviews and the provision of applicants with travel or identity documents- may be entrusted for a set period of time under the current provisions on public audit to civil society actors that meet appropriate standards of quality and safety. The decision on entrusting such tasks shall be taken by the Director of the Asylum Service, following a specific and reasoned proposal by the Head of the relevant Regional Asylum Office. A joint decision of the Ministers of Interior, Decentralization and E-Government, Finance and Citizen Protection shall determine the quality and safety standards to be met by civil society actors for the application of the previous subparagraph as well as the individual tasks of the Regional Asylum Offices that may be entrusted to them. The Central Asylum Service keeps a Registry of such bodies.

### **Article 3**

#### **Appeals' Authority**

1. It is hereby established an Appeals' Authority within the Ministry of Citizen Protection; its mission shall be to adjudicate, in accordance with article 5 paragraph 5, below, on appeals lodged by applicants for international protection against decisions issued by the Asylum Service.

2. The Appeals' Authority shall be directly under the authority of the Minister of Citizen Protection. Within this Authority, shall operate one or more three-member Appeals' Committees, set up, in accordance with the number of appeals lodged, by decision of the Minister of Citizen Protection for a two-year mandate which can be renewed. The same decision shall determine their territorial competence.

3. The Appeals' Committees shall be composed by a chairman, who shall be a renowned personality with specialization or experience in refugee, human rights or international law, a person, of Greek nationality, indicated by the United Nations High Commissioner for Refugees and a person holding a university degree in Law, Political or Social Sciences with specialization in international protection or human rights issues, as members, as well as their alternates. The chairman and the third member of the Committee, as well as their alternates, shall be appointed by the Minister of Citizen Protection from among a list drawn up by the National Commission for Human Rights according to its Rules of Procedure.

4. The Members of the Committees shall enjoy, during the exercise of their tasks, personal independence. The chairman and the members of these Committees shall be remunerated according to the provisions of the relevant contract for services or for tasks agreed either with them or with the institution to which they belong. Lawyers appointed as members of the above Committees shall abstain from any legal action on behalf of third-country nationals relating to immigration or international protection cases and shall not represent such clients before the authorities. Taking up such activities shall entail their automatic destitution from membership to such Committees.

5. The Appeals' Authority shall include a secretariat and a Director, who shall hold the grade PE (university graduate) in the branch of Administration-Finances. The Director of the Secretariat shall be appointed by decision of the Minister of Citizen Protection, following a public call for interest; s/he shall be a civil servant in a State or a public entity (article 2 of law 3861/2010 O.G. 112 A') of in a state-owned public company, preferably with administrative experience. The Director shall be in charge of the Authority's Secretariat and shall assist the Committees in their tasks.

6. The following posts shall be created for the recruitment of the Appeals' Authority Secretariat:

a. 8 posts of specialized scientific staff as experts-rapporteurs. The qualifications for the specialized scientific staff shall be in conformity with the provisions of article 2 of presidential decree 50/2001 (Official Journal A-39). Their areas of studies shall be these referred to in article 2, paragraph 5.

b. 5 posts grade DE (secondary education graduates) as secretaries.

7. The posts mentioned in paragraph 6 above may be filled by transferring, moving or seconding staff from other State or public sector services (article 2 of law 3861/2010 O.G. 112 A') or from other state-owned public companies. For the purpose of filling these positions, a public call of interest shall be carried out; the selection shall be made by the competent administrative staff committee, following an evaluation of formal and substantial qualifications of civil servants.

8. The Appeals' Authority shall be located within the premises of the Central Asylum Service which provides it with the necessary administrative support for its smooth operation. The operational costs of the Authority are covered by the budget of the Asylum Service.

## **Article 4**

### **Budget – financial management – procurement – location of the Services**

1. The Asylum Service shall have its own budget, included as a special heading in the budget of the Ministry of Citizen Protection. This budget shall include credits for the operation and staffing of the Service. It shall include, in particular, credits for the following items of expenditure:

- a. payment of rent for buildings which do not belong to the State and are used as Asylum Service offices,
- b. purchasing, leasing, repairing and maintaining any kind of logistical equipment,
- c. salaries of staff members who are not paid by the services from where they have been seconded, any overtime pay, compensation of the members of Appeals' committees, interpretation services fees, travel expenses and related compensations, as well as expenditure related to entrusting tasks of Regional Offices to civil society actors,
- d. operating costs, staff training costs and
- e. studies or research on matters of competence of the Service

2. A joint ministerial decision from the Ministers of Finance and Citizen Protection shall allow inscribing in the budget line of the Asylum Service other expenditure, besides these already mentioned in paragraph 1 above, which are necessary for the its operation.

3. The public investments budget shall contain credit lines for the construction of buildings and the equipment of the offices of the Asylum Service, within the limits of the yearly approved credits of the State Budget.

4. The Central Service shall be entrusted with a permanent advance of upfront funds to deal with its regular expenses, according to the provisions of article 46 of law 2362/1995 (O. G. A' - 247).
5. The financial management of the Asylum Service shall be effected by its competent services; all its expenditure shall be made, controlled, settled and ordered according to the provisions on State Accounting.
6. A joint ministerial decision by the Ministers of Finance and Citizen Protection shall regulate specific matters concerning the management of equipment, funds and all other relevant issues.
7. The Asylum Service shall be housed either in buildings belonging to the State or to local authorities conceded to it or to private-owned buildings leased by the State.
8. The Hellenic Public Real Estate Corporation may cede, free of charge, public-owned buildings to be used as offices of the Asylum Service according to the existing legal provisions. Any repair, maintenance or adaptation work on state-owned buildings for the purpose of housing Asylum Service departments shall be made by the technical services of each territorially competent decentralized Authority, following a relevant request by the Asylum Service.

## **Article 5**

### **General and enabling provisions**

1. The staff of the Asylum Service and the Appeals' Authority shall receive the necessary training by the Ministry of Citizen Protection, in cooperation with the United Nations High Commissioner for Refugees and other competent institutions, especially during the first application of the law.
2. A presidential decree, issued following a proposal by the Ministers of Interior, Decentralization and E-government, Finance and Citizen Protection, may, by derogation to the provisions of the present law, regulate on matters relating to the organization, operation, location and specific competences of the Central Service and the Regional Asylum Offices, merge or remove existing services and establish new ones, increase or reduce the number of organic posts for personnel, create new posts and decide on personnel matters.
3. A presidential decree, issued following a proposal by the Ministers of Interior, Decentralization and E-government, of Finance, of Foreign Affairs, of Labor and Social Security, of Education, Lifelong Learning and Religious Matters, of Justice, Transparency and Human Rights and Citizen Protection, shall regulate the procedures for the reception of applicants for international protection, the procedures for submitting and examining applications for international



protection and for the recognition of refugee status or the granting of the status of beneficiary of subsidiary protection or humanitarian status and the content thereof as well as the procedures for granting temporary protection in the case of mass influx of displaced persons. A similar decree shall regulate on the procedure for the examination of applications for international protection or appeals thereof still pending at the moment of the start of operation of the Asylum Service and the Appeals' Authority.

4. The Minister of Citizen Protection shall issue the Rules of Procedure of the Asylum Service following a proposal by its Director and the Rules of Procedure of the Appeals' Authority following a proposal by the Authority's Director and the Committees' chairmen; these rules shall determine specific internal structure and operational matters for the Asylum Service and the Appeals' Authority, respectively.

5. Asylum adjudications which reject an application for international protection or withdraw such status may be appealed against by a quasi-judicial appeal, according to the specific provisions set in the presidential decree to be issued by virtue of paragraph 3 above.

6. The administrative staff committees, which shall be competent for the civilian staff in the Ministry of Citizen Protection, are also competent for matters related to the personnel of the Asylum Service and the Appeals' Authority.

7. The Asylum Service and the Appeal's Authority shall become operational upon decision by the Minister of Citizen Protection, within 12 months after the entry into force of the present law.

## **CHAPTER II**

### **ESTABLISHMENT OF THE FIRST RECEPTION SERVICE**

#### **Article 6**

##### **Setting up and Missions**

It is hereby established, within the Ministry of Citizen Protection, an autonomous service entitled “First Reception Service”, directly under the authority of the Minister of Citizen Protection and with a territorial competence for the entire country. This Service operates as a Directorate and has the mission to effectively manage the flow of illegally entering third-country nationals in the country under conditions that respect their dignity by including them in the procedures of First Reception.

#### **Article 7**

##### **First Reception Procedures**

All third-country nationals who are arrested while entering the country without the legal formalities shall be subjected to First Reception procedures. First Reception procedures for third-country nationals shall include:

- a. their identity and nationality verification,
- b. their registration
- c. their medical examination and any necessary care and psycho-social support
- d. providing proper information about their obligations and rights, in particular about the conditions under which they can be placed under international protection and
- e. identifying between them those who belong to vulnerable groups so that they be given the proper procedure provided for.

2. By decision of the competent police authorities, third-country nationals arrested for illegal stay in the country, whose nationality and identity cannot be ascertained by any public document, may also be subjected to First Reception procedures.

## **Article 8**

### **Structure – Operation - Budget**

1. The First Reception Service shall be composed of the Central Service as well as the First Reception Centers (FRC) and temporary or mobile First Reception Units; these latter shall constitute the Regional Services, under the authority of the Central Service.

2. The Central Service shall plan, direct, monitor and control the activity of Regional Offices and shall ensure the presence of the necessary conditions for the exercise of their tasks, in cooperation with all other competent services. To this end, the Central Service may engage in international cooperation, especially with foreign authorities and bodies from EU Member States with related competences and to participate independently or jointly with other public agencies or civil society actors in bidding for programs and actions financed by the EU or other organizations.

3. The medical screening program, the program for psychosocial services and the referral of beneficiaries to support and accommodation facilities shall be decided by the Minister of Health and Social Solidarity.

4. A joint decision of the Ministers of Finance and of Citizen Protection shall establish FRCs in selected parts of the country which present a constant flow of illegal entries from third-country nationals; the same decision shall determine their territorial ambit and the distribution of the number of personnel among each Regional Service.

5. By decision of the Minister of Citizen Protection, a temporary or mobile First Reception Unit may be established in a certain area of the country when:

a. that area is not covered by the territorial jurisdiction of an existing First Reception Center and experiences a substantial flow of illegal entering third-country nationals, or

b. the existing First Reception Centre is not sufficient to cover the needs having arisen by an increasing flow of illegal entering third-country nationals, or

c. there is a need to provide First Reception services at the point of first entry of illegally entering third-country nationals.

6. The Central Service shall have its own budget, included as a special heading of the Ministry of Citizen Protection, where the credits for the operational needs of its services and staff are inscribed. It shall include, in particular, credits for the following items of expenditure:

- a. payment of rent for buildings which do not belong to the State and are used as First Reception Service offices,
- b. purchasing, leasing, repairing and maintaining any kind of logistical equipment,
- c. salaries of staff members who are not paid by the services from where they have been seconded, any overtime pay, interpreting service fees, travel expenses and related compensations, as well as expenditure related to entrusting tasks of Regional Offices to civil society actors,
- d. operating costs, staff training costs and
- e. studies or research on matters of competence of the Service

7. A joint ministerial decision from the Ministers of Finance and Citizen Protection shall allow inscribing in the budget line of the First Reception Service other expenditure, besides these already mentioned in paragraph 6 above, which are necessary for the its operation.

8. The public investments budget shall contain credit lines for the construction of buildings and the equipment of the offices of the First Reception Service, within the limits of the yearly approved credits of the State Budget.

9. The Central First Reception Service shall be entrusted with a permanent advance of upfront funds to deal with its regular expenses, according to the provisions of article 46 of law 2362/1995 (O. G. A' - 247).

10. The financial management of the First Reception Service shall be effected by its competent services; all its expenditure shall be made, controlled, settled and ordered according to the provisions on State Accounting.

11. A joint ministerial decision by the Ministers of Finance and Citizen Protection shall regulate specific matters relating to the management of equipment, funds and all other relevant issues.

12. A presidential decree, issued following a proposal by the Ministers of Interior, Decentralization and E-government, Finances, Health and Social Solidarity and Citizen Protection, may, by derogation to the provisions of the present chapter, regulate on issues relating to the organization, operation, staff duties and specific competences of the Central Service or the Regional First

Reception Services; it may establish or remove organic posts for the Central Service or the Regional First Reception Services. A joint decision of the Minister of Health and Social Solidarity and the Minister of Citizen Protection shall set up the General Rules of Operation of the Centers and of the Units of First Reception which shall regulate specific matters of the internal structure and operation of Centers and Units.

13. In order to cover the operational needs of FRCs, it is allowed to undertake contracts for rendering services or tasks, whose cost may be covered by national or EU funding, according to the provisions on State accounting. Paragraph 8 of article 4 here above shall apply, *mutatis mutandis*, to First Reception Services.

14. It is hereby allowed to make use of the premises of military camps no longer used by the military, offered for use by the Ministry of Defense to the Ministry of Citizen Protection, by derogation to any existing provision on city planning at any level, for the needs of hosting FRCs. Such places and premises may also be used as detention places, as stipulated in article 31 below. Where it is required to proceed to repairs, improvements and any necessary additional construction to these premises, the Ministry of Citizen Protection shall apply *mutatis mutandis* the provisions concerning the carrying out of military works and construction inside camps. A joint decision of the Ministers of Finance, National Defense, Environment, Energy and Climate Change the Minister of Citizen Protection shall lay down the relevant conditions and details for the application of the above provisions.

## **Article 9**

### **Recruitment**

1. The First Reception Service shall be headed by a Director. The Director shall be appointed by the Minister of Citizen Protection, following a public call of interest, for a term of three years which can be renewed for a further three-year term. The Director shall be a renowned personality, possessing a university degree, with administrative experience. The Director shall be in charge of the First Reception Service and shall be accountable to the Minister of Citizen Protection; s/he can be dismissed before the end of his/her mandate at his/her own request, or in case s/he is unable to perform his/her tasks or for any other serious reason related to the exercise of his/her mandate. The Director shall be assisted by a secretariat. The Director's remuneration shall be decided by joint decision of the Ministers for Finances and of Citizen Protection.

2. The positions of the Heads of the Centers and Units of First Reception shall be occupied, for a term of three years which is renewable for another three years, by State civil servants or personnel from state-owned public entities, whether permanent staff or hired by an indefinite-term private-law contract. These persons shall be selected by the competent administrative staff committee

of the Ministry of Citizen Protection, following a public call of interest, preferably from among university graduates in an area of studies related to the tasks of the Service and with administrative experience.

3. The First Reception Service shall be recruited with personnel who is transferred, moved or seconded from other State or public services (article 2 of law 3861/2010 O.G. 112 A') or from other state-owned public companies following a public call of interest or by personnel hired under non-fixed-term private law contracts in accordance with applicable legislation. The seconding of personnel for the recruitment of the First Reception Service shall be conducted and revised by joint decision of the Minister of Citizen Protection and the competent Minister, upon proposal by the Director of the First Reception Service, by derogation to any general or special provision of law. Priority shall be given to transferring to the First Reception Service of personnel serving in State or public services that are to be abolished or merged.

4. First Reception Centers and Units may enter into service contracts with interpreters who have the necessary qualifications and are selected from a list drawn up by the Central Service, according to its Rules of Procedure. Interpreters shall be compensated by an invoice for services rendered or an hourly rate.

5. If the effective functioning of the First Reception Centre or Unit is hindered due to lack of adequate or appropriate personnel, the processing of individual reception procedures, with the exception of those involving the exercise of public authority - such as the issue of administrative acts - can be entrusted for some time, under the current provisions on public audit, to civil society agents who meet the appropriate standards of quality and security. The decision on entrusting such tasks shall be taken by the Director of the First Reception Service, following a specific and reasoned proposal by the Head of the relevant Regional First Reception Center or Unit. A joint decision of the Ministers of Finance, Health and Social Solidarity and Citizen Protection shall determine the details of the quality and safety standards to be met by civil society actors for the application of the previous subparagraph. The Central Service shall keep a Registry of such bodies. The cost of such assignment may be covered by co-financed or national funds.

6. To meet unforeseen and urgent needs created by a massive influx of immigrants, it is allowed to recruit staff in accordance with the provisions of Article 20 of law 2190/1994.

7. The personnel of the First Reception Centers are trained for the purpose of their mission, under the provision of the Central Service, in cooperation with other competent Ministries. Medical doctors, in particular, who provide services to the FRCs are trained in assessing victims of torture, care of the above

mentioned services in cooperation with the United Nations High Commissioner for Refugees.

8. The administrative staff committees, which shall be competent for the civilian staff in the Ministry of Citizen Protection, are also competent for matters related to the personnel of the First Reception Service.

## **Article 10**

### **First Reception Regional Services Administration and Structure**

1. The Head of the First Reception Centre or Unit, whether mobile or temporary shall coordinate, direct and control the work of these services and shall ensure their orderly operation in cooperation with all other relevant authorities or institutions, in accordance with the specific provisions in this law and the delegated, under this law, regulatory acts.

as well as social institutions and organizations under the guidance and direction of the Central Service.

c. is responsible for providing all necessary assistance to those subjected to the processes of first reception and facilitates their access to legal or social services they may need,

d. with the assistance of the police authority responsible for the safety of the first host procedures, he has control of incoming and outgoing facilities,

e. authorizes permission to leave to those subjected to the proceedings if it considers that there is no risk of escape,

f. facilitates access to first reception facilities of independent authorities or other national supervisory authorities and representatives of international organizations to which the country participates, and recognized international organizations,

g. allows access to social institutions, upon application, informing the Central Service, not to disrupt the orderly processes of reception and

h. shall, in accordance with the legislation on public accounting, assign sub-projects of first reception procedures, purchases property and concludes contracts for the supply of goods or services.

2. First Reception Centers and Units shall be structured in operationally distinct cells, as follows: administrative cell, competent for the administrative support of the Center or Unit; verification cell, competent to verify the identity and other

data of third-country nationals; medical screening and psychosocial support cell, competent for the provision of these services; and information cell, competent to inform third-country nationals on their rights and obligations. In addition, cells shall have other tasks, in accordance with the specific provisions in this law or in delegated by this law regulatory acts.

## **Article 11**

### **Separation and referral**

1. First Reception services shall inform third-country nationals on their rights and obligations. Applicants for international protection shall be referred to the territorially competent Regional Asylum Office, which may operate a specific cell inside the First Reception Center. At each stage of the First Reception procedures, the submission of an application for international protection regime shall require the separation of the applicant and his/her referral to the territorially competent Regional Asylum Office. The receipt of applications and the interviews of the applicants may be held within the First Reception premises and the applicants may remain in these premises while their application is being processed, without prejudice to the provisions of paragraph 5 below. If, by the end of this period, the examination of the application for international protection has not been completed, the territorially competent Regional Asylum Office shall issue to the applicant a asylum seeker's special identity card and shall refer him/her to the appropriate accommodation structures operating under the authority of the Ministry of Health and Social Solidarity. If an application and the appeal thereof are rejected while a third-country national remains in the First Reception Center or Unit, s/he shall be referred to the authority competent for including him/her under the deportation, return or readmission procedures.

2. The Head of the Center of Unit shall, upon recommendation of the head of the medical screening and psychosocial support cell, refer persons belonging to vulnerable groups and recommends to the competent body of social support or protection. For the purposes of the present, vulnerable groups are:

- a. unaccompanied minors,
- b. people with disabilities or suffering from incurable diseases
- c. elderly persons,
- d. women in pregnancy or having recently given birth,
- e. single parents with minor children,
- f. victims of torture, rape or other serious forms of psychological, physical or sexual violence or exploitation and



g. victims of trafficking.

3. The remaining third-country nationals are referred to the authority which is competent to decide, under the applicable provisions of the legislation, whether placing them in the deportation, return or readmission procedures. Referral shall be decided by the Head of the Center of Unit, following a recommendation by the head of the cell which conducted the control during first reception. Such persons may remain in the First Reception premises until their removal or the issuing of a return or deportation decision when the stipulated procedure applies. Where the authority competent to decide the deportation or forced return of third-country nationals considers that this should be postponed or that detention is not necessary, the third-country national concerned shall be provided with a relevant written confirmation and shall be permitted to leave the First Reception premises, under the restrictive conditions that may have been imposed to him pursuant to article 22, paragraph 3 below.

4. if The Head of the First Reception Centre or Unit rejects the recommendation under paragraphs 1-3 above, the final decision shall be taken by a committee composed by the Head of the First Reception Centre or Unit and the heads of each cell of this Center or Unit. The Central Service shall be informed thereof.

5. In the cases mentioned in paragraphs 2 and 3 above, the referral note to the competent authority shall be issued within fifteen (15) days, at the latest, from the admission of the third-country national to first reception procedures. In exceptional circumstances, the period of admission to the verification and separation procedures may be extended, if reasoned, for another ten (10) days maximum. If the delay in verification is due to wrongful or improper conduct of the person subjected to first reception procedures, this person shall be considered as refusing to cooperate for the preparation of his return and shall be transferred in view of his/her removal, deportation or return. Time limits and procedures of this article shall only apply in the context of the operation of the First Reception Centers.

## **Article 12**

### **Regional Supervisory Committee**

1. A Regional Supervisory Committee shall monitor and evaluate the operation of each First Reception Center or Unit. The Committee shall be established by a decision of the Minister of Citizen Protection and shall be composed of:

- a. the Head of the Directorate of Aliens and Migration of the Decentralized Administration, within the administrative limits of which is located the First Reception Centre or Unit, as chairman, with his/her alternate,
  - b. a representative of the Region, with its alternate, appointed by the competent regional council,
  - c. a representative of the civil society active within the territorial jurisdiction of the Centre or Unit, as a member, with an alternate, proposed by the Head of the Regional Service of First Reception, and
  - d. a representative of the competent regional Health Service with an alternate, appointed by their Director, as members
2. The Committee may, as part of its mission, seek the assistance of officials and of other entities, whether public or private, where appropriate.
  3. The Committee shall meet at regular intervals as stipulated in the rules of procedure of the Centre or Unit and in exceptional cases, when it deems necessary or when invited by the Director of the Central Service.
  4. The competencies of the Committees shall be set out by the Rules of Procedure of the Centre or Unit and shall include, in particular:
    - a. monitoring and evaluating the overall functioning of the First Reception Centre or Unit and submitting an annual report to the Minister of Citizen Protection, also notified to the Minister of Health and Social Solidarity and to the Director of the First Reception Central Service,
    - b. formulating opinions on the regulation of specific issues regarding the internal functioning of the Centre or Unit,
    - c. formulating opinions on dealing with specific issues, in particular regarding the cooperation with the local population
    - d formulating opinions on any issue raised by the Director.

### **Article 13**

#### **Residence status in First Reception Facilities**

1. Third-country nationals who are arrested while entering the country illegally shall be directly taken, under the responsibility of the authority that conducted

the arrest, to the First Reception Centre or Unit within the territorial jurisdiction of which they were arrested.

2. For the purposes of identification and other first reception procedures, persons subjected to it shall be under a situation of restriction of their freedom. They shall compulsorily remain within the premises of the First Reception Centre or in other suitable premises which are guarded; their stay there shall be regulated by the Rules of Operation, of whose content they shall be properly informed. Persons subjected to first reception procedures may leave these premises only upon specific written authorization of the Head of the Centre or Unit.

3. In any case, throughout the duration of the first reception procedures, the Head and staff of the Centre or Unit shall ensure, as provided in each case, that third-country nationals:

- a. shall live under decent living conditions,
- b. shall be allowed to keep, to the extent of the possible, family unity,
- c. shall have access to emergency medical care and all necessary medical treatment or psychosocial support,
- d. shall enjoy, if they belong to vulnerable groups, appropriate treatment
- e. shall be adequately informed of their rights and obligations,
- f. they have access to guidance and legal advice regarding their situation and
- g. shall be able to maintain contact with social agencies and organizations.

## **Article 14**

### **Custody - Facilities**

1. The competent police authority shall have the responsibility for the external guarding of the Centre's or the Unit's facilities; it shall take all appropriate restrictive measures in any concessioned or leased premises. External guarding may, upon approval by the Secretary of Citizen Protection, be entrusted to a specialized private company providing security services, in parallel with the competent police authority.

2. If there are no adequate facilities for conducting the first reception procedures, or if the existing facilities are insufficient, it is allowed, by

derogation to the existing provisions, the use of other public facilities, upon appropriate adjustment, as well as leasing properties with the appropriate infrastructure, or in emergency cases, the renting of tourist facilities.

## **Article 15**

### **Transitional provisions**

1. The existing places for temporary accommodation of third-country nationals, the existing records and other logistic infrastructure shall be transferred in use to the Ministry of Citizen Protection on the date of the closing down of the relevant prefectural administrations.
2. A decision of the Minister of Citizen Protection may regulate the use of existing places for the temporary accommodation of third-country nationals either as Special Premises for the Stay of Aliens under article 81 of law 3386/2005, or as facilities under article 31 of this law or as First Reception Centers under article 8 paragraph 1 of this law as well as any matter relating to their operation.
3. Any already committed credits and grants by national, European or other entities related to ongoing actions of the Special Premises for the Stay of Aliens shall run normally, or else they shall be transferred to be executed by the First Reception Centers.
4. Until First Reception Centers start operating, the provisions of article 13 of presidential decree 114/2010 (O.G. 195 A') shall apply for the detention of asylum seekers.

## **CHAPTER III**

### **TRANSPOSITION INTO GREEK LAW TO THE PROVISIONS OF THE DIRECTIVE 2008/115/EC**

## **Article 16**

### **Objective**

**(Article 1 of the Directive)**

This chapter aims to transpose into Greek legislation of Directive 2008/115/EC of the European Parliament and of the Council, of 16 December 2008 ‘on common standards and procedures in Member States for returning illegally staying third-country nationals (OJ L 348, of 24.12.2008), according to the fundamental rights guaranteed by EU law, international conventions that bind the country and the generally recognized principles of international law, including refugee protection.

## **Article 17**

### **Scope**

#### **(Article 2 of the Directive)**

1. The provisions of this chapter apply to third-country nationals staying illegally on the Greek territory.
2. This chapter does not apply to third-country nationals who:
  - a. are subject to a refusal of entry in accordance with article 13 of the (EC) Regulation 562/2006 of the European Parliament and the Council, of 15th of March 2006, establishing the Schengen Borders Code on the rules governing the movement of persons across the borders (EE L 105/13.4.2006) or who are apprehended or intercepted by the competent authorities in connection with the irregular crossing by land, sea or air of the external borders, as defined in article 2 paragraph 2 of the Schengen Borders Code and who have not subsequently obtained an authorization or a right to stay in the country.
  - b. are subject to a deportation order, by virtue of a judicial decision, or as safety measure or an ancillary sentence or are subject to extradition proceedings in accordance with the provisions of an international convention binding the country or Articles 436 to 456 of the Code of Criminal Procedure or law 3251/2004 “European arrest warrant amending of 2928/2001 on criminal organizations and other provisions”, or
  - c. enjoy the Community right of free movement as defined in article 2 paragraph 5 of the Schengen Borders Code and p.d.106/2007 (O. G. A - 135).

## **Article 18**

### **Definitions**

**(Article 3 of the Directive)**

1. For the purpose of the provisions of this chapter, the following definitions shall apply:

a. “third-country national” means any person, who is not a Greek citizen or a citizen of the Union within the meaning of Article 17(1) of the Treaty and does not enjoy the Community right of free movement as defined in article 2 paragraph 5 of the Schengen Borders Code.

b. “illegal stay” means the presence in the Greek territory of a third country which does not fulfill, or no longer fulfils the conditions of entry as set out in Article 5 of the Schengen Borders Code, or other conditions for entry, stay or residence set by the existing legislation,

c. “return” means the process of a third-country national going back -whether in voluntary compliance with an obligation to return, or enforced - to: a) his or her country of origin, or b) a country of transit in accordance with Community or bilateral readmission agreements or other arrangements, or c) another third country, to which the third-country national concerned voluntarily decides to return and in which he or she will be accepted;

d. “return decision” means an administrative act, stating or declaring the stay of a third-country national to be illegal and imposing or stating an obligation to return;

e. “removal” means the enforcement of the obligation to return, namely the physical transportation of a third-country national out of the Greek territory

f. ‘entry ban’ means an administrative act accompanying a return decision which prohibits entry into and stay on the Greek territory or the territory of another EU Member State for a specified period

g. ‘risk of absconding’ means the existence of a well-founded presumption, which is based on converging objective criteria, that, in an individual case, a third-country national who is the subject of return procedures may abscond. Such objective criteria are -but not limited- to:

ga) not complying with a voluntary departure obligation

gb) the explicit expression of intent for non-compliance with the return decision

gc) possession of false documents

gd) providing false information to authorities

ge) the existence of convictions for criminal offenses, pending prosecutions or serious indications that he has committed or is about to commit a criminal offense from this person,

gf) the lack of travel or other confirmation of the identity documents

gh) prior escape and

gi) non compliance with an existing entry ban

h) voluntary departure means compliance with the obligation to return within the time-limit fixed for that purpose in the return decision.

i). 'vulnerable persons' means minors, unaccompanied minors, disabled people, elderly people, pregnant women, women having recently given birth, single parents with minor children and persons who have been subjected to torture, rape or other serious forms of psychological, physical or sexual violence as well as victims of trafficking.

## **Article 19**

### **More favorable provisions**

#### **(Article 4 of the Directive)**

1. The provisions of this chapter shall be without prejudice to more favorable provisions of:

a. bilateral or multilateral agreements between the European Union or the European Union and its Member States and one or more third countries;

b. bilateral or multilateral agreements between the Hellenic Republic and/or one or more Member States and one or more third countries;

c. laid down for third-country national in the European Union acquis relating to immigration and asylum.

2. With regard to third-country nationals excluded from the scope of this chapter in accordance with Article 17 par. 2, case a, the competent Greek authorities shall a) ensure that their treatment and level of protection are no less favorable than as set out in Article 23 par. (4) and (5) (limitations on use of coercive measures) article 24 par. (2), first case (postponement of removal for reasons relating to physical or mental condition of a third-country national), article 29 par. 1 on emergency health care and taking into account the needs of vulnerable persons and articles 30 and 31 (detention conditions) and b) respect the principle of non-refoulement.

## **Article 20**

### **Non refoulement, best interests of the child, family life and state of health**

#### **(Article 5 of the Directive)**

1. When implementing this chapter, the competent authorities shall take due account of: a) the best interests of the child, b) family life, c) the state of health of the third-country national concerned, and respect the principle of non-refoulement.

## **Article 21**

### **Return decision**

#### **(Article 6 of the Directive)**

1. In case of rejection of an application for or renewal of residence permit, as well as in case of revocation of a valid residence title, the competent authority shall issue a return decision of the third country national. The return decision is an integral part of the decision rejecting the application for the residence permit or revoking it. In all other cases, for third-country nationals residing illegally in Greek territory, a return decision is issued by the competent bodies, under Article 76 paragraph 2 of Law 3386/2005. Return decisions are issued without prejudice to the exceptions provided for in paragraphs 2-5 below.

2. Third-country nationals staying illegally on the Greek territory and holding a valid residence permit or other authorization offering a right to stay issued by



another EU Member State shall be required to go to the territory of that other Member State immediately. In the event of non-compliance by the third-country national concerned with this requirement, or where the third-country national's immediate departure is required for reasons of public order or national security, the Greek competent police authorities shall issue a return decision.

3. The competent authorities may refrain from issuing a return decision to a third-country national staying illegally on the Greek territory if the third-country national concerned is taken back by another Member State under bilateral agreements or arrangements existing on the date of entry into force of Directive 2008/115/EC (13-1-2009). If Greece takes back this third-country national under such bilateral agreements or arrangements, a return decision shall be issued by the competent police authorities.

4. The competent authorities may at any moment decide to grant an autonomous residence permit for compassionate, humanitarian or other reasons to a third-country national staying illegally on Greek territory, in accordance with the provisions of Chapter H of law 3386/2005 or of article 15, paragraph 4 of law 1975/1991. In that event no return decision shall be issued. Where a return decision has already been issued, it shall be withdrawn or suspended for the duration of validity of the residence permit.

5. Against a third-country national who has submitted timely an application for or renewal of residence permit with all the required documents and has received the relevant certificate, provided for in article 11 paragraph 4 of law 3386/2005 or other similar special provision, no return decision on the grounds of illegal stay shall be issued, until the request is conclusively determined. Similarly, it is not possible to issue a return decision on a third-country national for whom a first-instance Administrative Court has issued a interim order or decision suspending the execution of the administrative act which rejected an application for issuing or renewing the residence permit or revoking such permit, in accordance with the existing legislation.

## **Article 22**

### **Voluntary departure**

#### **(Article 7 of the Directive)**

1. A return decision for a third-country national shall provide for an appropriate period for voluntary departure of between seven and thirty days, without prejudice to the provisions in paragraphs 2 and 4 below. The above mentioned

time is granted automatically, without requiring an application by the third-country national. The granting of a period for voluntary departure does not exclude the possibility of third-country nationals to leave Greek territory earlier.

2. The authorities responsible for issuing the return decision may, by reasoned decision, extend the period for voluntary departure by an appropriate period, which may not exceed one (1). In order to reach such a decision, due account is taken of the specific circumstances of each case, such as the length of stay of a third-country national in Greece, the existence of children attending school and the existence of other family and social links.

3. The competent authorities to issue the return decision have also the possibility to impose, over the period of voluntary departure, obligations on a third-country national such as regular reporting to the authorities, deposit of an adequate financial guarantee, the submission of documents or the obligation to stay at a certain place, in order to avoid the risk of absconding. The amount of the procedure for depositing such financial guarantees shall be determined by joint decision by the Ministers of Finances and Citizen Protection,

4. If there is a risk of absconding, or if an application for a legal stay has been dismissed as manifestly unfounded or fraudulent, or if the third-country national poses a risk to public policy, public security or national security, the competent, on each case, authorities may refrain from granting a period for voluntary departure, or may grant a period shorter than seven (7) days.

5. A return decision with voluntary departure is notified to the third-country national and provides, during the period for the voluntary departure, a lawful right to remain in Greece and, if permitted by the residence authorization this former possessed, as the case may be, access to employment, respecting the relevant provisions of labour and social security legislation.

## **Article 23**

### **Removal**

#### **(Article 8 of the Directive)**

1. The competent police authorities shall take all necessary measures to enforce the return decision if: a) no period for voluntary departure has been granted for the reasons set out in Article 22 paragraph 4, or b) if the obligation to return has not been complied with within the period for voluntary departure.

2. The competent police authorities, when a period for voluntary departure has been granted in accordance with the provisions of Article 22, shall enforce the

return decision only after the said period has expired unless one of the grounds referred to in paragraph 4 of Article 22 arises during that period.

3. In the cases of paragraph 1 above, no autonomous removal order shall be issued. When a return decision becomes immediately enforceable before the end of the period granted for voluntary departure in application of Article 22 paragraph 4, the competent police authority shall issue an ascertaining act and notify it to the third-country national concerned.

4. The competent authorities may impose coercive measures under the provisions of paragraph 4 of Article 80 of Law 3386/2005 and the joint ministerial decision 4000/4/46-a from 27.7.2009 (O. G. B - 1535) against a third-country national who resists during the enforcement of a return decision. In this case the measures are taken with respect to the personality and fundamental rights of individuals, without exceeding the necessary measures in accordance with the principle of proportionality.

5. In case of removal by air, account is being taken of the common Guidelines on security provisions for joint removals by air, annexed to Decision 2004/573/EC (OJ L 261/6-8-2004).

6. Removal procedures are subjected to a monitoring system that operates under the independent authority “the Greek Ombudsman”, which cooperates for this purpose with international organizations and NGOs. A joint decision by the Ministers of Interior, Decentralization and E-Government and Citizen Protection, issued upon proposal by the Ombudsman, shall specify the details for the organization and operation of this monitoring system, especially.

## **Article 24**

### **Postponement of removal**

#### **(Article 9 of the Directive)**

1. The removal of a third-country national who is under return procedure is compulsorily postponed when: a) it would violate the principle of non-refoulement, or b) it has been suspended in accordance with the provisions of article 28 paragraph 2.

2. The police authorities competent for implementing the return decision may, with a reasoned decision, postpone the removal, for an appropriate time, taking

into account the specific circumstances of each case and in particular: a) the physical or mental condition of a third-country national, or b) technical reasons such as lack of transport capacity, or failure of the removal due to objective lack of identification.

3. If removal is postponed as provided in the preceding paragraphs, these authorities may impose to the third-country national the obligations referred to Article 22 paragraph 3.

4. The decision to postpone the removal is notified to the third-country national and constitutes a written confirmation that the return decision cannot be enforced temporarily (certificate of postponement of removal). This certificate is valid for six months and may be renewed after a new assessment on the continuation of the impossibility of removal. During the period of validity of the written certificate, its holder has a temporary right of stay in Greece and must, in any case, remain at the disposal of authorities competent for the enforcement of the removal and cooperate with them, in order to make such removal possible soon.

## **Article 25**

### **Return and removal of unaccompanied minors**

#### **(Article 10 of the Directive)**

1. Before deciding to issue a return decision in respect of an unaccompanied minor and after having given due consideration to the best interests of the child, assistance shall be given by appropriate bodies, other than the authorities enforcing return, pursuant to Article 19 of p.d.220/2007 (A - 251) who shall act accordingly.

2. Before removing an unaccompanied minor from the territory of the country, the competent authorities shall ascertain that he or she will be returned to a member of his or her family, a nominated guardian or adequate reception facilities in the State of return.

## **Article 26**

### **Entry ban**

#### **(Article 11 of the Directive)**

1. An entry ban of a third-country national in Greece is issued compulsorily with the return decision, if: a) no period for voluntary departure has been granted or b) the third-country national has not complied with his or her obligation to return. Moreover, an entry ban can be imposed if the presence of a third country national in Greece may be a danger to public order and safety, national security or public health.
2. The length of the entry ban shall be determined with due regard to all relevant circumstances of each individual case and shall not exceed five (5) years starting from the date of the removal. It may however exceed five years if the third-country national represents a serious threat to public order, public security or national security. Every case shall be automatically reviewed every three years.
3. The competent authorities may revoke or suspend an entry ban where a third-country national who is the subject of an entry ban, issued in accordance with paragraph 1, case (b) above, can demonstrate that he or she has left the Greek territory in full compliance with the return decision. Victims of trafficking in human beings as well as victims of illegal smuggling of migrants who have been granted a residence permit pursuant to articles 46 - 51 of law 3386/2005, shall not be subject of an entry ban, provided that they do not represent a threat to public order or public security or national security and provided that they comply fully with the return decision issued if for any reason they lose the right to stay in the country. The competent authorities may not issue, suspend or revoke an entry ban for humanitarian reasons or reasons of public interest, in accordance with the provisions of paragraph 2 of article 8 of law 3386/2005 and joint ministerial decision number 4000/4/32-ib from 09.04.2006.
4. When it is considered issuing a residence permit or other authorization offering a right to stay to a third-country national who is the subject of an entry ban issued by another EU Member State, the competent service shall first consult via the SIRENE national office with the Member State which issued the entry ban, according to Article 25 of the Schengen Convention.
5. The provisions of the previous paragraphs shall apply without prejudice to the right for international protection as per article 2 case (a) of presidential decree 96/2008 (O. G. A' 152).

## **Article 27**

### **Form**

#### **(Article 12 of the Directive)**

1. Return decisions and entry bans, issued pursuant to the provisions of this chapter, are issued in writing and give reasons in fact in accordance with the provisions of the Code of Administrative Procedure (law 2690/1999, O.G. A-45) as in force at each time. The above mentioned decisions are communicated to the concerned person and contain the reasons in law and fact for their adoption, as well as information on available remedies. Information concerning the reasoning of a return decision may be limited where necessary to safeguard national security, defense, public security and for the prevention, investigation, detection and prosecution of criminal offences.

2. The services competent for handling alien-related matters shall ensure, upon request by the person concerned, written or oral translation of the main points of return decisions, according to paragraph 1, including information on the remedies available in a language that the third-country national understands or it is reasonably considered that he understands..

3. Paragraph 2 shall not apply to third country nationals who have illegally entered the Greek territory and who have not subsequently obtained an authorization or a right to stay in Greece. In this case, decisions related to return, referred to in paragraph 1 shall be given by means of a standard form as set out in article 1, paragraph 2 of the joint ministerial decision No. 4000/4/46-a from 22/07/2009. This form is translated into at least five of the languages used more frequently or understood better by third country nationals who enter illegally into the Greek territory.

## **Article 33**

### **Remedies**

#### **(Article 13 of the Directive)**

1. Third country nationals may lodge a quasi-judicial appeal against return decisions issued by the competent police authorities under the provisions of Article 77 of Law 3386/2005. Third country nationals are entitled to appeal against return decisions integrated in decisions rejecting an application to be granted or to renew a residence permit, as well as revoking a valid residence permit, in accordance with article 24 of the Code of Administrative Procedure.

2. The administrative bodies competent for ruling on the appeals referred to in paragraph 1 are also competent to review ex officio both the legality and the

substance of return decisions and to temporarily suspend their enforcement. An interim judicial protection is provided in accordance with the provisions of law 3900/2010 (O.G. 213 A') and presidential decree 18/1989 (O.G. 8 A').

3. The competent aliens' authorities are obliged to provide information and all possible assistance to a third country national seeking legal advice, representation by a lawyer and linguistic assistance in order to exercise the rights contained in this article.

4. The necessary legal assistance and representation is provided on request free of charge in accordance with the provisions of law 3226/2004 (O.G. 24 A') when, according to the judge's opinion, the application to annul is not manifestly unacceptable or manifestly unfounded by analogous application of article 15 paragraphs 3-5 of Directive 2005/85/EC, as transposed into Greek legislation by the presidential decree 114/2010 (O.G. 195 A'). This paragraph shall enter into force on 24.12.2011.

5. An application to annul a return decision shall be lodged in accordance with article 15 paragraph 1 of law 3068/2002 (O.G. 274 A'), as amended by article 49 of law 3900/2010.

## **Article 29**

### **Safeguards pending return**

#### **(Article 14 of the Directive)**

1. The competent authorities ensure that the following measures are taken into account as far as possible in relation to third-country nationals during the period for voluntary departure granted in accordance with article 22 and during periods for which removal has been postponed in accordance with article 24: a) to ensure family unity of the third-country national and their family member living in Greece b) to provide access for minors to the compulsory education system, depending on the duration of their stay, pursuant to article 72 of law 3386/2005. c) to provide access to emergency health care and necessary treatment in accordance with article 84 paragraph 1 of law 3386/2005, and d) take into account the special needs of vulnerable persons. The situation of third-country nationals in detention is governed by the specific provisions of articles 31 and 32.

2. Third-country nationals referred to in paragraph 1 above shall be given the documents provided in article 22, paragraph 5 and article 24, paragraph 4 above.

**Article 30****Detention****(Article 15 of the Directive)**

1. Third-country nationals who are the subject of return procedures, pursuant to article 21, paragraph 1 are kept in detention in order to prepare the return and to carry out the removal process only if, in a specific case, no other sufficient but less coercive measures, such as those stipulated in article 22 paragraph 3, can be applied effectively. The measure of detention is applicable when (a) there is a risk of absconding or b) the third-country national concerned avoids or hampers the preparation of return or the removal process or c) for reasons of national security.

Detention is imposed and maintained for as short a period as possible and as long as removal arrangements are in progress and executed with due diligence. In any case, the imposition or the continuation of the detention measure must take into account the availability of adequate detention facilities and the ability to provide decent living conditions for prisoners.

2. The detention order shall contain the reasons in law and fact thereof and shall be issued in written form, in accordance with the provisions of article 76, paragraph 2 of law 3386/2005; if no return decision has been issued, it shall be issued within three (3) days. The third-country national detained, along with their rights to which he is entitled under the Code of Administrative Procedure, may raise objections to the detention order or to its extension before the President or the first-instance administrative court or the judge of this court appointed by the former, which is territorially competent for the Region where s/he is detained. As for the rest of the procedures to submit objections against detention the provisions of article 76 paragraphs 4 and 5 of law 3386/2005 (O.G. 212 A'), as amended by article 55 of law 3900/2010, shall be valid, by analogous application. The third-country national concerned shall be informed immediately for his/her rights under this paragraph. S/he shall be released immediately if it is ascertained that the detention is not lawful.

3. In any case the conditions of detention shall be reviewed automatically, every three months, by the institution that issued the detention order. In case of an extension of the detention, the relevant orders are forwarded to the President - or to the judge appointed by him - of the first-instance administrative Court of paragraph 2, who shall rule on the legality of the detention and shall issue immediately his/her decision, summarize it in written form in a relevant record and forward it immediately to the competent police authority.

4. When it becomes manifest that there no longer exists a reasonable prospect of removal, for legal or other considerations, or the conditions laid down in



paragraph 1 no longer exist, detention ceases and the third-country national shall be released immediately.

5. Detention shall be maintained for as long a period as the conditions laid down in paragraph 1 are fulfilled and it is necessary to ensure successful removal. The maximum period of detention may not exceed six months.

6. The timeline of paragraph 5 may be extended for a limited period not exceeding twelve months, in cases where, regardless of all reasonable efforts by the competent authorities, the removal operation is likely to last longer owing to: (a) a lack of cooperation by the third-country national concerned, or (b) delays in obtaining the necessary documentation from third countries.

## **Article 31**

### **Detention conditions (Article 16 of the Directive)**

1. Detention shall take place as a rule in specialized detention facilities. In all cases, third-country nationals in detention are kept separated from ordinary prisoners.

2. Third-country nationals in detention shall be allowed — on request — to establish contact with their legal representatives, family members and competent consular authorities.

3. Third-country nationals in detention receive emergency health care and the necessary treatment of illness. Particular attention shall be paid to the situation of vulnerable persons.

4. Relevant and competent national, international and non-governmental organizations and institutions have the opportunity to visit the detention facilities referred to in paragraph 1, to the extent they are used for the detention of third-country nationals in accordance with this chapter. These visits are subject to authorization by the police authority competent for guarding the facility.

5. Third-country nationals kept in detention shall be systematically provided with information which explains the rules applied in the facility and sets out their rights and obligations. Such information shall include information on their entitlement to contact the organizations and bodies referred to in paragraph 4.

**Article 32****Detention of minors and families  
(Article 17 of the Directive)**

1. Unaccompanied minors and families with minors shall only be detained as a measure of last resort, only when no other adequate and less coercive measure can be used for the same purpose, and for the shortest appropriate period of time.
2. Families detained pending removal shall be provided with separate accommodation guaranteeing adequate privacy.
3. Minors in detention shall have the possibility to engage in leisure activities, including play and recreational activities appropriate to their age, and shall have, depending on the length of their stay, access to education, in accordance with the provisions of article 72 of law 3386/2005.
4. Unaccompanied minors shall as far as possible be provided with accommodation in institutions provided with personnel and facilities which take into account the needs of persons of their age.
5. The best interests of the child shall be a primary consideration in the context of the detention of minors pending removal.

**Article 33****Emergencies****(Article 18 of the Directive)**

1. In situations where an exceptionally large number of third-country nationals to be returned places an unanticipated heavy burden on the capacity of the detention facilities or on the administrative or judicial staff of the country, it is possible to allow, as long as the exceptional situation persists, for periods for judicial review longer than those provided for under article 30, paragraph 2, and to take urgent measures in respect of the conditions of detention derogating from those set out in article 31 paragraph 1 and article 32 paragraph 2.
2. When resorting to such exceptional measures, the competent authorities shall inform thereof the European Commission. The Commission shall also be informed as soon as the reasons for applying these exceptional measures have ceased to exist.

3. Nothing in this article shall be interpreted as allowing the competent authorities to derogate from their general obligation to take all appropriate measures, whether general or particular, to ensure fulfillment of their obligations under this Chapter.

## **CHAPTER IV**

### **Regulation of return matters**

#### **Article 34**

##### **Readmission**

Immediately after the illegal entry of third-country nationals who are outside the scope of Chapter III of this law by virtue of article 17, paragraph 2, subparagraph (a), the conditions and procedures for their readmission on the basis of international agreements binding the country alone or as a member of the European Union or who derive from international customary law rules as well as the existing provisions of law 3386/2005 (O.G. 212 A') shall apply.

#### **Article 35**

### **Regulation of return matters**

1. Return decisions and any related item such as the compliance of the third-country national with the requirement for voluntary departure within the time period and the implementation of removal shall be entered directly by the relevant services in their electronic files or records, kept under law by them; if more services participate in the return process, these files or records shall be in full operational interconnection between them.

2. In order to inform the third-country national on the return decision, according to article 27, paragraph 2 above, the competent services may apply to and use the assistance of civil society actors and organizations, and individuals with the skills for the adequate mediation and communication between the services and person concerned.

3. The special detention facilities for third-country nationals, stipulated in article 31 above, are established by joint decision of the Ministers of Interior, Decentralization and E-Government, Finances, Health and Social Solidarity and Citizen Protection and are under the authority of the Minister of Citizen Protection and the Greek Police. The same decision shall regulate the operation details of these facilities.

4. Health care and medical treatment services, stipulated in article 31, paragraph 3 above, may, in addition, be provided by non-governmental organizations or other competent actors.

## **Article 36**

### **Regulation of voluntary return matters**

1. The extension of the voluntary departure period, stipulated in article 22, paragraph 2 above, is granted following a relevant request submitted by a third-country national before the initial deadline and it is examined by priority within fifteen (15) days after its submission; during this time, the period for voluntary departure shall be considered as implicitly extended. In the silence of the competent authority within the time limit, the extension remains in force until the competent authority decides on the request. Such extension shall only be granted in order for the third-country national concerned to settle pending obligations caused by these circumstances, in view the departure. During that period, the third country national concerned does not have access to social integration programs, while the period of stay of a third country national, in the context of the extension of the period for voluntary return, cannot be counted in when applying the provisions of law 3838/2010 (O.G. A - 49) on access to Greek citizenship.

2. The deadline for the voluntary departure begins from the notification of the relevant decision or the date of the established notification to the person concerned to come and be handed it, in case he or she refuses to do so immediately or two months after the date of the decision if the person concerned has not been found, despite the repeated efforts to locate him/her through the contact information provided by this latter. If the third-country national did not submit in time the application for the renewal of his/her residence permit, the competent authority shall issue a return decision against him/her by providing an automatic period of time for voluntary departure. This return decision shall be issued by the competent, for each case, authority of the Ministry of Interior and Decentralization and E-Government or the territorially competent Aliens and Immigration Service. Otherwise, the provisions of paragraph 1 of this article are applicable. The competent, for each case, authority of the Ministry of Interior, Decentralization and E-Government and the territorially competent Aliens and Immigration Service after the deadline for voluntary departure as well as when it has not been possible to notify (or serve) the decision to the third-country national concerned, in particularly where the address given was inexact, shall inform, within three days from the end of the deadline, the competent police authorities in order to initiate the return process by removal.

3. Return decisions which have granted a voluntary departure period must include the address of the third-country national who is obliged to notify the service having issued the act of any change of his/her address during this time.
4. The authority which has issued the return decision is responsible for the confirmation of the voluntary departure. To this end, it may cooperate with police or municipal authorities of the place of residence or stay of the alien, as well as with any other authority or body which may provide relevant information, such as consular and diplomatic authorities, police authorities at airports, individuals and legal persons engaged in economic activity in the transport of persons, international organizations and NGOs active in the field of immigration and police liaison officers.
5. The competent authorities, in the context of a wider programmatic cooperation with the first-level local administration, may confer to the appropriate authorities of the Municipal Police, the competence to notify the above administrative acts to the third-country nationals concerned.

## **Article 37**

### **Regulation of removal matters**

1. When, during the period of voluntary departure, any of the grounds set in paragraph 4 of article 22 arises or if the third-country national breaches the obligations that have been imposed on him during the period of voluntary departure or its extension under the provisions of Article 22 paragraph 3, the return decision shall be immediately executed and the granting of a period of voluntary departure or the extension of this deadline are automatically revoked.
2. The provisions of article 80 of law 3386/2005 and of the joint Ministerial decision 4000/4/46 from 27/07/2009 (O.G. B-1535) shall apply, *mutatis mutandis*, for covering the costs of removal.
3. The competent authority shall evaluate, in each case, the feasibility of removal based on specific elements put forward by the person concerned, taking into account all available information regarding the practice followed in each third country, in terms of cooperation on readmission. To this end, the competent authority may request the assistance of the competent department of the Asylum Service.
4. If it is ascertained that the third-country national has violated the obligations that have been imposed on him under the provisions of article 22 paragraph 3, the return decision shall be immediately executed and the decision to suspend the removal shall be automatically revoked. If removal is not technically

possible, a new decision shall impose further restrictive measures, as provided for in article 22, paragraph 3; in case of a relapse, such measures may extend to include administrative detention, without prejudice to the time-limits set in article 30.

5. When the competent, on each case, authorities are unable to ensure with their own resources or means that the third-country nationals, whose removal has been postponed, enjoy, during the period of postponement, the minimum decent conditions of temporary housing in public or charitable accommodation facilities and generally can cover immediate living needs, third-country nationals may be allowed, upon approval, to work as salaried employees in specific sectors of the economy and in specific regions of the country. A presidential decree issued following a proposal by the Ministers of Interior, Decentralization and E-Government, of Labor and Social Security and the Minister of Citizen Protection shall set the sectors of the economy and regions of the country where third-country nationals whose removal has been postponed may work as salaried employees, their social security status, the conditions, prerequisites, procedures and the bodies competent to issue such work permits and any other related matter. In any case, during the time of postponement of removal, the third country does not have access to social inclusion programs, while this period of residence of a third country national can not be counted in when applying the provisions of law 3838/2010 on access to Greek citizenship, or when applying the provisions on access to the status of long-term resident.

## **Article 38**

### **Regulation of matters relating to the entry ban**

1. The entry ban stipulated in article 26 shall be imposed by entering the alien to the relevant stop-list kept in the Ministry of Citizen Protection, according to article 82 of Law 3386/2005, and Chapter IV of regulation (EC) 1987/2006 on the establishment, operation and use of the second generation Schengen Information System (OJ L 381/28-12-2006). Each case shall be automatically reviewed every three years.

2. The full compliance with the return decision under the terms of article 26 paragraph 3 also includes the case of the voluntary departure of a third-country national whose removal is suspended as well as the case of the voluntary departure of a third-country national after the end of the period set to this purpose, if the delay is due to reasons of force majeure. The application to revoke or suspend an entry ban is submitted by the Greek consular authorities of the place of residence of the person concerned.

## **Article 39**

### **Delegating provision**

The Minister of Citizen Protection and, where necessary, other competent Ministers may, by ministerial decision, regulate any other specific issue related to the application of the provisions of article 21, paragraph 1 and article 22, paragraphs 2 and 3.

## **CHAPTER V**

### **OTHER PROVISIONS**

#### **Article 40**

#### **Return of nationals of EU member states and their family members, and of family members of Greek citizens**

1. For the return of persons enjoying the Community right of free movement in accordance with article 2, paragraph 5 of the Schengen Borders Code, as well as the provisions of presidential decree 106/2007 ( O.G. A - 135), the provisions set in chapter III of the present regarding institutions, procedures, procedural safeguards and judicial protection of aliens in return are applicable, without prejudice to the existence in articles 22 to 24 of the above mentioned presidential decree 106/2007 of more favorable provisions.
2. Regarding the substantive requisites and conditions for issuing return decisions against the persons mentioned in the preceding paragraph the provisions contained in articles 22 to 24 of presidential decree 106/2007 (O.G. A - 135) shall continue to apply.
3. The provisions of paragraphs 1 and 2 above shall apply also in cases of family members of a Greek citizen.

#### **Article 41**

#### **Protection against return**

1. The return of an alien is prohibited if:
  - a. He or she is a minor and his or her parents or persons having custody are legal residents in Greece.

b. He or she is parent of a Greek minor and has custody or support obligation, which he/she complies.

c. He or she is over 80 years old.

d. He or she was granted international protection or he or she has applied for such status and the request has not been conclusively determined, without prejudice to articles 32 and 33 of the Geneva Convention of 1951.

e. He or she is a minor to whom rehabilitation measures have been imposed by decision of the Juvenile Court.

f. His/her has been ascertained as having the status of an ethnic Greek.

The prohibition of return includes pregnant women during pregnancy and six months after childbirth.

2. The return is not prohibited in cases (b), (c) and (f) of the previous paragraph, where the alien is a danger to public order or national security or public health.

3. In cases of unaccompanied minors, the provisions of articles 32 and 25 of this law shall apply.

4. The protection afforded by the provisions of this article shall also extend to persons who are outside the scope of Chapter III of this law.

## **Article 42**

### **Amendments to provisions of Law 3386/2005**

1. Article 44 of law 3386/2005 is replaced as follows:

“1. By joint decision of the Ministers of Interior, Decentralization and E-Government and Labor and Social Security, residence permits may be issued on humanitarian grounds to third-country nationals who fall into one of the following categories, on condition that they do not pose a risk to public order and security:

a. Victims of human trafficking, who do not cooperate with law enforcement authorities, if classified as such by the competent Prosecutor of First Instance according to the provisions set in paragraph 2 case (a) of article 1.

b. Victims of criminal acts, in accordance with articles 1 and 2 of law 927/1979 (O.G. A'-139) and article 16, paragraph 1, of law 3304/2005 (O.G. A'-139),



when criminal prosecution on these acts has been initiated and till the issuing of the judicial decision. If these people are under medical treatment, residence permits shall be issued for the duration of their treatment.

c. Adults, victims of domestic violence or persons unable to take care of their affairs due to health reasons or minors in established need of protective measures and hosted by relevant institutions or other charitable entities, provided that their return to a safe environment is impossible.

d. Minors, whose custody is entrusted by a Greek or court decision, or by a foreign court decision recognized by the Greek authorities, to Greek families or to third-country nationals' families legally staying in the country or for whom there are pending adoption proceedings before the Greek authorities.

e. Victims of labor accidents and other accidents covered by Greek law for the duration of their treatment or for the period they receive a pension for the same reason. A prerequisite for applying to grant a residence permit to persons of this category is their prior possession of a valid residence permit, unless they have been victims of particularly abusive working conditions and their stay in the country is necessary for the clearance of the employers' obligations towards them.

f. Persons with severe health problems. The existence of serious health problems and the duration of treatment are established by a recent medical certificate. In case where the health problem relates to an infectious disease, the issuance of such decision requires the consent of the Minister of Health and Social Solidarity that there is no risk to public health. A prerequisite for granting residence permits to persons suffering from serious health problems is their prior possession of a valid residence permit.

g. Minors hosted in boarding schools, which operate under the supervision of the competent ministries.

h. Adults born in Greece as well as those who have attended at least six classes of a Greek school before they reached adulthood, if they continue to reside in the country

i. Spouses, parents of a minor Greek citizen and dependent family members of a Greek citizen.

The granting of residence permits to persons of these categories requires their possessing a passport, even if it has expired. A residence permit is granted when it is established that the concerned person is objectively unable to provide a passport, on condition that the said person submits a relevant reasoned application and following a relevant opinion by the committee set up by virtue of article 84 of law 3386/2005.

The duration of the initial residence permit in the case (a) is of one year and may be renewed each time for two years only provided that the investigation of the criminal proceedings continues. If the process is terminated in any manner or it is filed, the permit may be renewed for one of the other reasons set the present paragraph after consulting the Committee set by virtue of paragraph 1 of article 89 and on condition that the general circumstances and the elements of the file make obvious that there is great reason to do so.

The duration of the initial residence permit in cases (b), (c), (d) and (g) is of one year and can be renewed each time for two years under the same conditions. The duration of the residence permit in cases (e) and (f) is of two years and may be renewed every two years under the same conditions. The duration of residence permit in cases (h) and (i) is of one year and may be renewed only for one of the other grounds set in this law.

In order to process the application for a residence permit under the present paragraph, no fee shall be paid, except for cases (h) and (i) where a fee of 150 Euros is paid.

Holders of residence permits on the basis of cases (a), (b) and (h) and those who obtain a residence permit as spouses of Greek citizens on the basis of the case (i) have the right to work on salaried employment or services or work rendering.

2. The Minister of Interior, Decentralization and E-Government may, exceptionally and following the relevant opinion of the Committee set by virtue of paragraph 1 of article 89, grant a residence permit of one (1) year duration to third-country nationals who live in Greece and have proven that they have developed particularly strong links with the country, on condition that no grounds of public order is risen against him/her. The said residence permit on exceptional grounds may be renewed only for one of the other grounds set in this law.

An application to grant a residence permit on exceptional grounds is only examined when the third-country national concerned provides: (a) an entry visa or residence permit, even if it has expired (b) a passport, still in validity, (c) a fee of 300 euro as well as (d) documents establishing that he/she has developed particularly strong links with the country which render compelling his/her remaining in the Greek territory.

Exceptionally, the third-country national concerned needs not provide the documents set in case (a) above if s/he can demonstrate by documents with an established date his/her effective presence in the country for at least twelve (12) consecutive years. By ministerial decision, the Minister of Interior, Decentralization and E-Government may set, on a restrictive basis, these documents with an established date to be used for demonstrating a person's 12-year presence in the country.

Furthermore, it is not necessary to hold a valid passport if the third country national concerned claims reasonably his/her objective impossibility to provide any travel document in accordance with the provisions of article 84 of law 3386/2005.

When the particularly strong links claimed by the third country national relate to serious health grounds either of the applicant himself or a minor child of his/hers, s/he must demonstrate that these reasons have arisen following his/her entry in Greece and they are linked with his/her stay in the country.

In order to establish the existence of such particularly strong links with the country, the following elements are, in particular, taking into account: a) a very good knowledge of the Greek language, b) having followed classes in a Greek primary or secondary school, c) the length of the person's stay in Greece, especially the length of his/her lawful such stay, d) the length of this person's insurance in a Greek main social security organism and the payment of taxes, e) the family relationship with a Greek national or an ethnic Greek.

2. The above mentioned applications are submitted to the Directorate of Migration Policy of the Ministry of Interior, Decentralization and E-Government. The lodging of the application for a residence permit on exceptional grounds does not lead to the lawful stay of the applicant during the period necessary for the examination of the said application. While the application is being examined, the provisions of article 12, paragraph 1, third subparagraph shall not apply.

4. Persons belonging to paragraph 1 above, whose family members are in possession of a residence permit on family reunification grounds, may have their residence permits renewed for the same duration with the permit on humanitarian grounds. The relevant decision is taken by the General Secretary of Decentralized Administration. Where the condition set in case c) or article 53 is not fulfilled, such permit may be granted by derogation to it.

5. A residence permit granted by virtue of cases (b), (c), (d), (e) and (f) of paragraph 1 of this article may be renewed for one of the other grounds set in this law, if the grounds for which it was issued have disappeared.

6. Residence permits issued by virtue of paragraph 2 of this article 3 allow the third-country national concerned access to work on salaried employment or services or work rendering. A residence permit for independent financial activity shall only be allowed if the third country national concerned was previously in possession of a residence permit which allowed him/her to exercise an independent financial activity and if such activity still exists. When renewing residence permits set in the previous phrase, the fulfillment of the conditions for the renewal of residence permits for independent financial activity shall be examined”.

2. The third and fourth subparagraphs of paragraph 1 of article 84 of law 3386/2005, as amended by paragraph 1 of Article 15 of Law 3536/2007, are replaced as follows:

“Especially in cases where the third country national can not provide a valid passport or other travel document, a residence permit may be granted by decision of the Secretary General of the Region, where the third country national claims specifically and reasonably objective impossibility due to special conditions or circumstances, upon consulting the Committee set below, unless compelling reasons of public order and safety.

It is hereby established within the Ministry of Interior, Decentralization and E-Government a special three-member committee, for the above purpose, which advises on the existence of an objective impossibility to present a valid passport; it is composed, by decision of the Minister, as follows:

- a. An Assistant of the Legal Council of the State before the Ministry of Interior, Decentralization and E-Government as chair;
- b. The Head of the competent department of the Ministry of Interior, Decentralization and E-Government and
- c. A staff member of the Asylum Service, proposed by the Director of the Service. Until the nomination of this latter, this committee shall include a officer of the Aliens Directorate of the Greek Police Headquarters.

A member of the staff of the competent department in the Directorate of Migration Policy of the Ministry of Interior, Decentralization and E-Government, and an alternate, are appointed as rapporteurs to the said committee”.

3. Paragraph 1 of article 89 of law 3386/2005 is replaced as follows:

“1. Within the Ministry of Interior, Decentralization and E-Government there are hereby established three (3) Committees on Migration, which advise on the existence for third-country nationals of particularly strong links with the country’s social life before granting them a residence permit; they shall also advise on all cases referred to them within the framework of granting or renewing of residence permits by decision of the Minister of Interior, Decentralization and E-Government. Similar decisions of the Minister set the committees in function and appoint their permanent and alternate members and secretaries with their alternates.

Each of these committees is composed of:

a. One (1) official of the General Directorate of Immigration Policy and Social Integration of the Ministry of Interior, Decentralization and E-Government, who is head of a position of responsibility, as chair.

b. An officer of the Aliens Directorate of the Greek Police Headquarters and

c. A representative of civil society proposed by the National Commission on Human Rights.

Officials of the Directorate of Immigration Policy of the Ministry of Interior, Decentralization and E-Government are appointed as rapporteurs to the Migration Committees”.

4. Paragraph 4 of article 73 of law 3386/2005 is hereby repealed.

5. Paragraph 5 of article 73 of law 3386/2005, as amended by article 14, paragraph 3 of law 3536/2007, is replaced as follows:

“A third country national who violates the deadline for voluntary departure, or in any other case, stays illegally in the country for a period not exceeding thirty (30) days, is required upon departure to pay fourfold the anticipated fee for an one-year residence permit. If the period of illegal stay is longer than thirty (30) days, the third country national shall pay eight times the anticipated fee for an one-year residence permit.

The establishment and payment procedure of that fine is determined by a decision of the Ministers of Interior, Decentralization and E-Government, Finance and Citizen Protection.

The following categories are excluded from paying the fines: a) minors, b) those who are qualified as ethnic Greeks c) those who have the status of the spouse or parent of a Greek national, an ethnic Greek or an EU national, d) those who have been included in procedures and programs for voluntary repatriation e) those who have violated the lawful period of residence in the Greek territory for reasons of force majeure, if they leave within thirty (30) days from the elimination of the event. The police authorities responsible for the control of the departure of the alien shall in all events decide on the exclusion for each case”.

6. Article 79 of law 3386/2005 is hereby repealed.

## **Article 43**

### **Transitory provisions**

Pending applications submitted in accordance with the provisions of Article 44 paragraph 2 of law 3386/2005, as amended, shall be processed under the

provisions of paragraph 1 of that article, as modified by the provisions of article 42 of this Law, provided that the corresponding conditions are fulfilled.

## **Article 44**

### **Appeals Committees**

1. Private individuals engaged on a full-time basis as members of the Appeals' committees set up by virtue of article 26 of P.D. 114/2010 (O.G. 195 A') are compensated according to the provisions of the relevant contract for services or for task, either signed with the individuals themselves or the institution they belong to.

2. The Appeals' committees set up by virtue of article 26 of P.D. 114/2010 (O.G. 195 A') may be chaired by civil servants from the Ministry of Interior, Decentralization and E-government, or the Ministry of Justice, Transparency and Human Rights or from legal entities supervised by them, including local government; such persons should belong to the category PE (university graduates) civil servants, with a degree in human, social or legal studies. They, as well as their alternates, are appointed by the competent Minister.

## **Article 45**

1. Paragraph 1 of article 68 in o.l. 2440/1940 (O.G. 287 A') is modified as follows:

“1. a license to set up a private supplementary school is granted to: a) natural persons who have the qualifications for becoming a member of the teaching staff in public primary or secondary education, which provide the right to teach at them or other similar academic titles or, b) legal persons which fulfill all the following criteria: i) their seat, according to their constitutive act or statutes is in a member state of the European Union, ii) their purpose, as set in their constitutive act or statutes, includes providing educational services and iii) they have not been declared insolvent. A decision of the Minister of National Education, Lifelong Learning and Religious Affairs, to be published in the Official Gazette, sets the requisites necessary for issuing the said licenses for legal persons and regulates all relating matters”.

2. Paragraph 3 of article 68 in o.l. 2440/1940 is hereby repealed.

## **CHAPTER VI**

**FINAL PROVISIONS****Article 46  
Repealed provisions**

As of the entry into force of this law, any general or special provision, which is contrary to the provisions of the present, shall be repealed.

**Article 47****Entry into force**

The present law shall enter into force on the date of its publication to the Official Gazette, unless the individual provisions set otherwise.

We order the publication of the present law in the Official Gazette and its execution as a law of the State.

Athens, January 21, 2011

The President of the Republic  
Karolos Papoulias

**THE MINISTERS**

OF INTERIOR, DECENTRALIZATION AND E-GOVERNMENT - IOANNIS  
RAGKOUSIS,

OF FINANCES - GEORGIOS PAPAKONSTANTINOU

OF FOREIGN AFFAIRS – DEMETRIOS DROUTSAS

OF NATIONAL DEFENCE – EUAGGELOS VENIZELOS

OF ECONOMY, COMPETITIVENESS AND SHIPPING – MICHAEL  
CHRISOCHOIDES

OF ENVIRONMENT, ENERGY AND CLIMATE CHANGE – KATERINA  
BIRBILI

OF EDUCATION, LONG LIFE LEARNING AND RELIGIOUS AFFAIRS –  
ANNA DIAMANTOPOULOU

OF LABOUR AND SOCIAL SECURITY – LOUKIA-TARSITSA KATSELI

OF HEALTH AND SOCIAL SOLIDARITY – ANDREAS LOVERDOS

OF JUSTICE, TRANSPARENCY AND HUMAN RIGHTS –  
CHARALAMPOS KASTANIDES

OF CITIZEN PROTECTION - CHRISTOS PAPOUTSIS

Certified and sealed with the Great Seal of the State

Athens, January 21, 2011

THE MINISTER OF JUSTICE

CHARALAMPOS KASTANIDES



