

OFFICIAL GAZETTE NUMBER A 223  
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The text is a consolidation of Presidential Decrees 167/2008 and 131/2006  
only for the provisions relating to family reunification of refugees  
The text in italics is the text added or modified by P.D. 167/2008<sup>1</sup>

Presidential Decree (P.D.) Number 167/2008

«Complementing presidential decree 131/2006 «harmonization of the Greek legislation to Council Directive 2003/86/EC on the right to family reunification» (Official Gazette A' 143)».

The President of the Hellenic Republic

Having regard to:

1. The provisions of article 1 paragraph 1 and of article 4 of law 1338/1983 "on the application of Community Law" (O.G. A'34) as the former article 1 has been amended by article 6 paragraph 1 of law 1440/1984 (O.G. A'- 70) and as article 4 has been replaced by article 6 paragraph 4 of law 1440/1984 and subsequently modified by article 48 of law 3427/2005 (O.G. A'- 312) and the provisions of article 3 of law 1338/1983 as replaced by article 65 of law 1892/1990 (O.G. A' - 101).

2. The provisions of article 24 paragraph 1 of Law 1975/1991 (OJ A'184) as replaced by article 1 of Law 2452/1996 (OJ A'283).

3. The provisions of article 90 of the Code ratified by article one of P.D. 63/2005 on the "Codification of the Legislation for the Government and the governmental organs (O.G. A' - 98) as well as the provisions set in article 1 paragraph 4 of L/ 2469/1997 (O.G.A' - 38).

4. Article 1 of Presidential Decree 205/2007 on "Merger of ministries" (O.G. A'- 231).

5. The provisions of article 1 of Presidential Decree 215/2007 "Formation of General Secretariats within the Ministry of the Interior and in the Ministry of Merchant Marine, of the Aegean and of Insular Policy" (O.G. A' 241).

6. The fact that the provisions of this Decree will place no charges on the State budget.

7. Opinions No 204/2007 and 201/2008 of the Council of State, following a proposal by the Ministers for the Interior, for Economy and Finance, for Foreign Affairs, for National Education and Religious Matters, for Labour and Social Protection, for Health and Social Solidarity and for Justice,

Decide the following:

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<sup>1</sup> Translation: UNHCR's office in Athens.

## CHAPTER I

### Article 1 (Article 1 of the Directive)

#### Purpose

The objective of the present Presidential Decree is to conform to Council Directive 2003/86/EC on the right to family reunification (O.J. L 251/12 from 3.10.2003) minimum standards on procedures in Member States for granting and withdrawing and to set the conditions under which third country nationals legally residing in Greece may exercise the right to family reunification.

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

#### Definitions

For the purposes of the present Presidential Decree:

1. "Third country national" means any person who is neither a Greek citizen nor a citizen another Member State of the European Union within the meaning of Article 17(1) of the E.C. Treaty.

2. "Sponsor" means a third country national residing lawfully in Greece and applying for family reunification in order to have the entry and residence of his/her family members in Greece.

3. "family reunification" means the entry into and residence in the country by family members of a third country national residing lawfully in Greece in order to preserve the family unit, whether the family relationship arose before or after the resident's entry.

4. "residence permit" means any authorization issued by the Greek authorities on the basis of which a third country national is allowed to stay legally in the Greek territory, in accordance with the provisions of Article 1(2)(a) of Council Regulation (EC) No 1030/2002 of 13 June 2002 laying down a uniform format for residence permits for third country nationals (O.J. L 157/15.6.2002),

5. (e) "Refugee" means a third-country national or a stateless person who enjoys refugee status in the meaning of the Geneva Convention relating to the status of refugees signed in Geneva on 28 July 1951, and was ratified by the Legislative Decree 3989/1959 (O.G. A' 201).as amended by the relating New York Protocol of 31 January 1967 which was ratified by the Obligatory Law 389/1968 (O.G. A; -125).

«6. «unaccompanied minor» is a person below the age of 18 who arrives in the Greek territory unaccompanied by an adult responsible for him/her whether by law or by custom applying in the country of origin, and for as long as he/she is not effectively taken into the care of such a person, or a minor who is left unaccompanied after he/she has entered Greece».

«7. «authorities competent to receive and examine an application for family reunification» means the Services of the Greek Police who are responsible to initiate the procedure and examine an application for asylum, that is: the Asylum Departments of the Aliens' Directorates of Athens and Thessaloniki, the Security Departments of State Airports and the Sub-Directorates and Departments of Security of the Police Directorates».

Article 3  
(Article 3 of the Directive)

Scope

1. This Presidential Decree shall apply where the sponsor is holding a residence permit issued by the competent Greek authorities for a period of validity of one year or more which provides to him/her reasonable prospects of obtaining the right of permanent residence, if the members of his or her family are third country nationals of whatever status.

2. This Presidential Decree shall not apply where the sponsor is:

a. applying for recognition of refugee status whose application has not yet given rise to a Ministerial decision, or

b. authorized to reside on the basis of temporary protection or applying for authorization to reside on that basis and awaiting a decision on his status, or

c. has received the authorization to reside in Greece on the basis of a subsidiary form of protection in accordance with international obligations, national legislation or the practice of the Member States or applying for authorization to reside on that basis and awaiting a decision on his status.

3. This Presidential Decree shall not apply to members of the family of a Union citizen.

4. This Presidential Decree is without prejudice to more favorable provisions contained in:

a. Bilateral and multilateral agreements between the Community or the Community and its Member States, on the one hand, and third countries, on the other,

b. The European Social Charter of 18 October 1961 (law 1426 /1984, O.G. A' 32), as it is in force.

Article 4  
(Article 4 of the Directive)

Family members

1. The following family members of a third country national shall be considered as family members and allowed to enter Greece in the context of family reunification:

a. his/her spouse if the spouse is above 18 years of age, as well as the unmarried children below the age of 18 of the refugee and of his/her spouse, including children who have been legally adopted in Greece or have been adopted by decision which is automatically enforceable in Greece, or has been proclaimed enforceable or has been recognized as *res iudicata* in Greece.

b. the remaining minor, unmarried children of the sponsor or of his/her spouse, including children adopted, as per above, where the sponsor has lawfully the custody of his/her children and the spouse the custody of his/her own children.

2. In the event of a polygamous marriage, where the sponsor already has a spouse living with him in Greece the family reunification of a further spouse, is not authorized. The family reunification of the sponsor's minor children with another wife shall not be authorized with the exception of cases where the sponsor has been legally given the custody of the children ...

CHAPTER D  
Article 9  
(Articles 5, 6, 16, 17 of the Directive)

Refusal of an application, withdrawal or refusal to renew a residence permit

1. A residence permit on family reunification grounds is not granted, withdrawn or its renewal is refused in the following cases:

a. on grounds of public order and security. The examination of issues relating to the public order and security of Greece is a prerequisite for allowing family reunification and for the issuance of the initial residence permit to the family members. The competent services for Aliens and Migration of the regional administrations shall forward, each month, to the territorially competent Police or Security Directorates of the Greek Police a detailed list with the data of all third country nationals whose residence permits have been renewed. Reasons of public order and security which arose following the granting of the initial residence permit constitute grounds to withdraw it.

b. on public health grounds. The only diseases that may give rise to such a refusal of entry or of the right of residence are those provided for by the World Health Organization as well as other infectious, transmissible or parasitical diseases which impose taking measures to protect public health. If, after the issuing of the initial residence permit, it is ascertained that the person concerned contracted the disease after the entry into Greece, this shall not constitute a ground for refusing to renew the residence permit or for removing the person from the Greek territory.

c. when deciding to withdraw or refuse to renew the residence permit of a family member of the sponsor on grounds of public order, public security or public health, account shall be taken, in addition to the above mentioned provisions as well as to the relevant provisions in article 8 of law 33/86/2005, of the severity and type of the offence committed as well as of the dangers emanating from that person.

d. when the conditions set in the present Decree are not or no longer satisfied.

e. when the sponsor and his/her family member(s) no longer live in a real marital or family relationship.

f. when it is ascertained, by a final court ruling, that false or misleading information, false or falsified documents were used, fraud was otherwise committed or other unlawful means were used.

*g. when it is ascertained that family relationship, in particular marriage, adoption or recognition of children has been contracted for the sole purpose of circumventing the provisions of the present Decree in order to obtain entry into the country. Family relationship is considered to have been contracted for this purpose in particular when the family members ignore issues that are related to the personal status of the other family members, or that circumstances arise that allow to assume that there has never been life in common among the family members.*

h. where the sponsor's residence comes to an end and the family member does not yet enjoy an autonomous right of residence under the provisions of article 11 of this Decree.

2. The services mentioned in paragraph 1 above may also conduct checks and inspections whenever they receive information on actions or reasons that may give rise to withdrawing the residence permit.

3. When taking a decision to reject an application, withdraw or refuse to renew a residence permit or decide to order the removal of the sponsor or members of his family, due account shall be taken of the nature and solidity of the person's family relationships, the duration of his/her

residence in Greece and of the existence of family, cultural and social ties with his/her country of origin.

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Article 11  
(Article 15 of the Directive)

Autonomous right of residence for the family members

1. Persons which have been admitted in the country on the grounds of family reunification are entitled, following a relevant application accompanied with the documents referred to in paragraph 3 below, to receive an autonomous residence permit in Greece under the following conditions:

a. at least five years have elapsed since the first residence permit on family reunification grounds was granted, provided that the family member has not been granted a residence permit for one of the reason referred to in law 3386/2005 other than family reunification,

b. the person concerned has reach majority.

2. An autonomous residence permit may be issued to persons admitted in the country on family reunification grounds in the following cases:

a. the death of the sponsor, when the family members reside in the country for at least one year previous to the date of the death

b. in the case of divorce, annulment of marriage or confirmed interruption of the marital relationship on condition that:

i. the marriage lasted at least three years, out of which one in Greece, before the start of the proceedings for the divorce, the annulment of the marriage or the confirmation of the interruption of the marital relationship

ii. Particularly difficult circumstances arise, such as when a family member has been victim of family violence while the marriage still existed.

3. When one of the above mentioned conditions is fulfilled, each family member shall lodge a separate application for an autonomous residence permit to the municipality of his/her place of residence; the application shall include the following documents:

a. a certified photocopy of the applicant's valid passport or other travel document recognized by Greece and his/her valid residence permit.

b. certified photocopies of previous residence permits on family reunification grounds which confirm that the applicant has a total of at least five years of lawful residence in Greece, in the case that the five-year period is invoked, or

c. a birth certificate, in the case that the condition of majority is invoked, or

d. a certificate of the death of the sponsor, in the case that the sponsor's demise is invoked, or

e. a court ruling pronouncing the divorce or the annulment of the marriage, as well as a copy of the marriage certificate, when the condition of divorce is invoked,

f. a copy of the complaint filed with the competent Greek authorities, alleging violence, if the condition of family violence is invoked.

g. in the case of change of residence, a copy of the new lease contract or a property declaration (E9 declaration) must also be attached.

h. copy of the payment of the handling fees, in the form of a B-type receipt, issued by the competent service to receive the application, pursuant to the provisions of article 92 of law 3386/2005

j. three (3) photos in color of the applicant.

4. The validity of the autonomous residence permit shall not exceed one year. Its renewal shall be permitted on other grounds allowed for in law 3386/2005, with the exception of those on family reunification.

5. The right of residence for minor children follows the rights of residence for the parent who is entrusted with the care of the child.

6. By derogation to paragraph 4 above, the autonomous residence permit for children who reach majority, may be renewed each year and till when the adult children reach the age of 21. Its renewal shall be permitted on other grounds allowed for in law 3386/2005 with the exception of those on family reunification.

7. When the above mentioned autonomous residence permit is renewed on the grounds of studies, the third country national may ask for an autonomous renewal of one year further to the conclusion of the studies. Its renewal shall be permitted on other grounds allowed for in law 3386/2005 with the exception of those on family reunification.

## Article 12 (Article 5, 18 of the Directive)

### Right to appeal

1. Where an application for a residence permit on the grounds of family reunification is rejected, the relevant decision shall be duly reasoned, according to article 17 of law 2690/1999 (O.G. A' 45), as it is in force.

2. *Decisions issued in application of the provisions of this Decree relating to the family reunification of third country nationals legally residing in the country, with the exception of refugees, may be challenged through legal remedy, according to the provisions of article 24 of law 2690/1999 (O.G. A' 45), as it is in force. Decisions on family reunification of refugees may be appealed against before the Head of the Security and Order Branch of the Greek Police Headquarters within ten (10) days from their notification».*

3. Where an application for family reunification is rejected or a residence permit is not renewed or revoked, or a measure of removal is taken, according to the provisions of this Decree, the provisions of article 15 of law 3068/2002 (O.G. A' 274) shall apply.

## CHAPTER VI

### Article 13 (Article 10 of Directive 2003/86/EC)

#### *Family members of refugees*

1. *An alien who has received refugee status may, at any time and on the grounds of family reunification without prejudice to article 4 paragraph 2 above, request the entry and to be united with his/her family members mentioned in paragraph 1 of article 4 and, in addition:*

*a. the adult unmarried children of the refugee or his /her spouse, where they are objectively unable to provide for their own needs on account of their state of health.*

b. his/her parents, where they, on declaration of the refugee, lived together and were dependent on the latter before their arrival in Greece and do not enjoy the necessary family support in the country of origin.

c. his or her unmarried partner with whom the sponsor is in a duly attested stable long-term relationship.

2. If the refugee is an unaccompanied minor, family reunification shall be allowed with:

a. his/her first-degree relatives in the direct ascending line, no matter whether the conditions set in paragraph 1 case (b) are fulfilled

b. his/her legal guardian or any other member of the family, where the minor has no relatives in the direct ascending line or such relatives cannot be traced.

#### Article 14

(Articles 5 paragraph 4, 11 and 12 of Directive 2003/86/EC)

##### *Submission and examination of the application for family reunification of refugees*

1. In order to bring the family members mentioned above in article 13, the refugee must submit to the authorities competent to receive and examine the following documentation:

a. An application by the refugee where he/she expressly states that s/he wishes to bring the members of his/her family to Greece

v. A recent certificate of family situation or another document officially translated in Greek and certified by a competent Greek authority which establishes the family relationship of the invited persons with the refugee, as well as their age. If the refugee cannot provide the above mentioned documents, the authorities competent to receive and examine an application for asylum shall take into account other adequate evidence. A decision rejecting an application shall not be based solely on the fact that this documentary evidence is lacking.

c. Copies of the travel documents of the family member or members.

d. In the case of family reunification with parents, it is further necessary to provide:

i) Copy of a document by a social security organism which shall establish that the refugee has full sickness insurance for all risks covered for the respective labor categories of Greek nationals too, for himself/herself and the dependent members of the family.

ii) an income tax return declaration from a tax authority or any other public document which shall prove that the refugee has stable and regular annual resources which are sufficient to maintain himself/herself and the members of his/her family, without recourse to the social assistance system of the country. Such resources shall not be lower than the annual remuneration of an unskilled worker, adding a further 20% for the spouse and 15% for each child and

iii) any certified copy of a deed for the purchase or a contract leasing a residence, certified by a tax authority or any other certified document proving that he/she has accommodation suitable for lodging himself/herself and his/her family.

2. In the case of family reunification with the unmarried partner of refugee, evidence of such a relationship are considered to be, in particular, the existence of a child of them, former living together and any other suitable proof of evidence.

3. If the application for family reunification is not submitted within three months after refugee status was granted, it is, in addition and in all cases, necessary to submit the documents referred to in point (d) of paragraph 1 above, unless the refugee is an unaccompanied minor.

4. The competent authorities referred to in paragraph 1 shall check the documents and forward them with their recommendations to the Aliens Directorate of the Greek Police Headquarters. In order to establish the presence of family relationship, the competent authorities

may conduct interviews with the refugee and the member or members of the family, as well as undertake any other research considered necessary.

5. The Aliens Directorate of the Greek Police Headquarters shall decide on the application for family reunification and shall notify its decision within nine (9) months from the date the application was lodged. In exceptional cases, where there are objective difficulties in establishing whether the conditions for family reunification are fulfilled, the examination of the application may be prolonged by an extra two (2) months. The interests of the minor children shall be taken into account during the examination of the application.

Article 15  
(Article 13 of Directive 2003/86/EC)

*Entry and residence of family members of a refugee*

1. The Aliens Directorate of the Greek Police Headquarters shall transmit the decision for family reunification to the competent Greek consular authority, through the Department of Correspondence of the Ministry for Foreign Affairs; this consular authority shall issue the entry visa, without prejudice to the provisions on entry prohibition set in article 8 of law 3386/2005 (O.G. A'212). The said visa shall mention the specific purpose of the alien's arrival in Greece as well as the protocol number of the decision allowing the family reunification.

2. The family members of the recognized refugee who entered the country according to the provisions of the previous paragraph shall be obliged, within one month from their arrival, to apply, in person or, if they are minors, through the person who requested their entry in Greece, to the competent authorities for receiving and examining of their place of residence for the issuance of a residence permit. This permit shall be issued free-of-charge and shall have a period of validity of at least one year, without prejudice to the following paragraph.

3. The period of validity of a residence permit issued to a family member shall not go beyond the date of expiry of the residence permit held by the refugee. When renewed, the residence permits for family members shall have the same validity with the refugee's.

4. The Representative of the UNHCR in Greece shall be duly informed of the issuance of residence permits to family members of refugees.

Article 16  
(Article 14 of Directive 2003/86/EC)

*Rights of the family members of refugees*

The family members of the refugee who are legally in Greece shall have the same rights and obligations with the recognized refugee, according to the provisions in force.

Article 17  
(Articles 6, 16 and 17 14 of Directive 2003/86/EC)

*Rejection on an application for family reunification, revocation or non-renewal of a residence permit of a family member*

A refugee's application for family reunification shall be rejected and the relevant residence permits refused or withdrawn or not renewed in the cases mentioned in article 9, as well as when it is ascertained that the refugee or the unmarried partner of the refugee has contracted marriage or is in a long-lasting stable relationship with another person from the refugee's family.



Article 18  
(Article 15 of Directive 2003/86/EC)

*Autonomous right of residence for the family members of refugees*

*Persons who have entered Greece on grounds of family reunification with the refugee shall be entitled, following a relevant application, to receive an autonomous residence permit in Greece according to the provisions of article 11».*

Article 5

Article 13 of Presidential Decree 131/2006 is renumbered to article 19.

Article 6

*Repealed provisions*

*The provisions of article 7 of P.D. 61/1999 (O.G. A' 63) shall be repealed as of the entry into force of this Decree.*

Article 7

*Entry into force*

*The provisions of this Presidential Decree shall enter into force from 13.7.2006 with the exception of articles 4 and 6 which shall enter into force from 3.10.2005.*

*We assign the publication and execution of this Decree to the Minister for the Interior.*

Athens, 21 October 2008

THE PRESIDENT OF THE REPUBLIC  
KAROLOS PAPOULIAS