The European Union Immigration Regime and the Greek Immigration Policy: How Relevant?

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Contemporary Greece: Structures, Context and Challenges

Abstract

It has been widely acknowledged that Greece is a “new: immigration country. This paper attempts to look at to what extent EU legal developments have influenced the domestic Greek context- both in terms of legal developments as well as their implementation. For this purpose, the formation of the three immigration laws passed in 1991, 2001 and 2005 is examined in detail with “europeanisation” serving as a theoretical framework. Empirical evidence on the interaction of various actors points to the conclusion that “EU” influence has been formally strong where binding EU instruments were at place- minimizing the effects of “socialization”.
I. Introduction

Since the late 1980s Greece has been rapidly transformed from an immigrant-sending to an immigrant-receiving country. From the 1970s Greece started receiving her own national economic immigrants from Western European countries (Sitaropoulos, 2003, p.14). Return migration exceeded immigration in 1975 (King, Fielding and Black, 1997). The collapse of the communist regime in 1989 dramatically accelerated migration inflows. The country was overwhelmed by immigrants from the Balkans and the former Soviet Union. A striking majority came from the neighboring Albania (55.6% of immigrant population according to the 2001 census), making Greece the only country in the EU with such a large percentage of a single ethnic group. The number of immigrants (legal and illegal) residing in Greece amounted, according to estimations, at the end of 2004, to 950,000, comprising, with the national ethnic immigrants, 10.3% of the total population. (Baldwin-Edwards 2005). The same number for 1991 was, according to the census that took place on the same year, 270,000. The later suggests that the number of immigrants in Greece had been quadrupled in 13 years (ibid).

This new phenomenon for the Greek experience has coincided with an enhanced cooperation at the “EU” level in the field of immigration and asylum (expressed through “strong” and “soft” law instruments as well as accelerated forms of socialization). The absence of any previous experience in that form of immigration (i.e. that of an immigrant-receiving country) and the subsequent institutional vacuum at the Greek national context were followed by various, mostly spasmodic attempts to make up for the new phenomenon. The parallel chronological developments in the specific field at the European Union and the obligations that followed EU membership point to a vertical influence of the latter on the Greek immigration policy.
The paper takes a short look at the legal developments of the “European” level. Based mainly on empirical evidence at the Greek context, it attempts to trace to what extent the “EU” has shaped the Greek immigration policy. The body of the research is based upon the theoretical framework of “europeanisation” as institutionalism. A rough presentation of the developments on the “EU” level serves as a general framework. The three immigration laws of 1991, 2001 and 2005 that were respectively voted in Greece, as well as the three legalization programs that took place and their implementation effects are then examined, with the theory of europeanisation serving as a tool of partial explanation. The interaction of different actors (i.e policy considerations, political parties, public opinion, institutional framework, bureaucratic processes and actual implementation) in shaping these laws are taken into consideration. The deduction of this paper is that domestic concerns, actors and institutional legacies were intercepted with EU legal developments- with the former being more influential than the latter. Another rough conclusion (since this work is still in progress) is that, in the Greek case at least, the EU influence on the domestic context of legal developments was evident where “strong” EU instruments were already in place- minimizing the effects of “socialization” expressed in non-binding forms.

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1 For reasons of convenience the term “European” is used to describe both the developments that took place before the establishment of the TEU, as well as those that took place outside the “EU” framework, i.e. the Schengen Convention (1985), an intergovernmental at first form of agreement between five countries which was largely influential and later incorporated (1997) to the Amsterdam Treaty.
II. Theoretical Framework

Divisions between “old” and “new” immigration countries have been widely acknowledged in the literature. Some researchers (Baldwin-Edwards, 1997, Freeman, 1995, Geddes, 2003) argue that the “EU” factor has been influential in shaping immigration policies in countries such as Spain, Italy and Greece (all of which have been rapidly transformed into “immigrant-receiving” countries from 1990s onwards). This is mainly attributed to the absence of policies in the specific field, contrary to “Northern Europe”- since, as Baldwin-Edwards (1997) notes, division between “old” / “new” immigration countries coincides roughly with “Northern”/ “Southern” European countries dividing line. Recent research regards the former Eastern European countries, now members of the EU, as “laboratories” in the process of external pressure of “European” immigration policies on the domestic context (Geddes, 2003, Lavenex & Ucarer, 2002).

Research on the “EU” influence at the “domestic” context is roughly divided in the “restrictive” as opposed as “liberal” influence of the EU on the national immigration policies. The bulk of this literature draws extensively on the literature of “europeanisation”.

Europeanisation as an interdisciplinary theory, far from providing answers, poses rather questions. The latter tend to be approached mainly through empirical evidence from specific case studies-, which however do not exclude the existence of an ideational theoretical framework per se\(^2\).

Consequently, this paper is based on evidence “on the ground” from shaping factors in the development of the three legal instruments at the national

\(^2\) For a further analysis see Radaelli, 2004
Greek context, under the light of the parallel decisions that took place close to the time examined at the “EU” level. Different actors that were involved in the forming of Greek immigration laws are taken into consideration and are examined through their positions - as the latter where expressed in parliamentary discussions, avis that were published and led to different amendments of the laws, public opinion etc. The relevant institutional framework is also taken into consideration both as a factor of shaping as well as implementing these laws by their transformation into concrete policies.

A possible drawback of this approach is the focus on “europeanisation as institutionalism” as opposed to “europeanisation as governance” and “europeanisation as socialization” (Radaelli, 2004). However, since, as it has already been pointed out, the transformation of Greece into an “immigrant-receiving” country took place unexpectedly and rapidly, the experience of immigration as a shock for the Greek domestic context excludes by definition the process of “socialization” or “anticipation” that pre-determine adaptation to policies before the latter are formally formed. From this, it follows that the more time it elapses between this structural shock, the more distant the hypothesis of socialization as a shaping factor of immigration policies becomes. Socialization, however, is a double process that involves the interception of “EU” and “national” actors (in the theoretical divide “EU”/”Domestic”). The distinction between europeanisation as socialization and as a learning process that stems from learning procedures, which take place inside the national context, proves thus often to be more complicated than it seems.

Under this light, europeanisation as institutionalization seems an appropriate theoretical framework to explain the institutional changes that took place during the first steps of the formation of Greek immigration policy. The implementation of these legal changes, however, as well as the formal legal developments that followed cannot be easily examined in this framework.

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3 A point supported extensively by empirical data.
Another issue that arises is when the reference to the “EU” as an “external” factor of influence on the domestic context is not a “scapegoat,” but a real force of adaptational change. In other words, the mere reference to the “EU” and the obligations that arise from EU membership do not necessarily mean that “Europe” is the main actor for the institutional change that takes place.

The answer to this dilemma may lay in the examination of a set of other factors, such as the “political cost” of a decision as well as the actual demands and obligations that arise from mostly binding EU legal instruments. Where political cost is involved, the EU may indeed be a safe “explanation” for institutional or implementation changes—although this should always be examined parallel to the actual claims that arise from EU membership.

III. EU Framework

In 1991 the first Greek immigration law was voted in the parliament (1975/1991). The previous law that existed since then dated from 1929. After two presidential degrees providing for the regularization of illegal immigrants, law 1975/1991 was followed by laws 2910/2001 and 3386/2005.

Immigration as an explicit policy area in the EU treaties emerged only in the Maastricht Treaty (Baldwin-Edwards, 1997). Until then developments were taken place at the Ad Hoc Immigration Group, a forum operating under secrecy, outside parliamentary and judicial scrutiny (ibid.).

A parallel development was the Schengen Agreement (1985), a text worked out through intergovernmental procedures, outside the Community framework. The Schengen Convention was signed in 1990 and came into force in

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4 Radaelli, 2004
1995. In 1997 it was incorporated in the Amsterdam Treaty (into force on May, 1999). Greece became a member of the Schengen Convention in 1992 (along with Portugal and Spain). Notorious for its restrictive nature, the Schengen Convention aimed at the creation of a “Fortress Europe”.

a) The Schengen Agreement

Basic Elements:

- Common rules for Control at external borders of the Schengen Area
- Adjustment of conditions for border crossing visa policy
- Sanctions against air companies which carry people without proper documents
- Criteria for which country should handle asylum applications
- Exchange of information on asylum seekers

TABLE1: EU developments in immigration from 1992 Maastricht Treaty) until 1997 (Amsterdam Treaty)

1) Expulsion and Illegality

- Recommendation Regarding Practices Followed by Member States on Expulsion 1992

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5 Baldwin-Edwards, 1997
6 For the purposes of this paper the field of asylum is omitted. The Table is included in Baldwin-Edwards, 1997. Communications are not included.
2) Immigration

- Resolution on family reunification 1993
- Resolution on Employment 1994
- Resolution on admission for self-employment 1994
- Resolution on admission for Study 1994
- Resolution on Third-Country nationals with Long-Term Residence

There are two rough points that arise from the above classification:

- The non-binding nature of the instruments
- The qualitative emphasis on restrictive rather than positive immigration measures.

3) Visas
- Regulation 1683/95 Establishing a Common Visa
- Regulation 2317/95 on Countries Requiring Visas

In contrast, regulations are binding legal instruments.

b) The establishment of the Amsterdam Treaty

The establishment of the Amsterdam Treaty brought the incorporation of the Schengen Agreement in the EU framework (although with limited the role for ECJ). From the Amsterdam Treaty onwards as far as immigration is concerned there has been a proliferation of legally binding instruments (regulations, directives) and non-binding ones (communications, programs). The Treaty communitarised immigration and asylum (although intergovernmental procedures were active until 2004). From 2004 the Commissions exercises the legislative initiatives and the Council decides on unanimity which issues will be subjected to qualified majority voting.

TABLE2: EU quantitative developments in immigration since the coming into force of the Amsterdam Treaty (May, 1999)\(^7\).

1) External Borders

- 5 Council Decisions

\(^7\) Table based on the JAI- Acquis European Commission DG Justice, Freedom and Security (update October 2006). It follows the divisions set out by the EU Acquis. Asylum is again omitted for the purpose s of the paper. For lack of space legal instruments are not explicitly mentioned. Instead, the paper includes a quantitative enumeration.

- 1 Council Recommendation
- 1 Common Decision
- 1 Decision of EP/Council
- 1 Resolution of Representatives of Governments of member States (Res. 2000/C 310/01 Supplementing the Resolutions of 23 June 1981, 30 June 1982, 14 July 1986 and 10 July 1995 as regards the security Characteristics of Passports and Other travel Documents

2) VISA

- 10 Council Regulations
- 8 Council Decisions amending the Common Consular Instructions
- 2 Council decisions
- 2 Commission Decisions
- 2 Council Recommendations
- 1 Commission Recommendation
- 1 Recommendation of EP/Council
3) Immigration

i) Admission

- 3 Council Decisions (last amended by 2004/867/EC)
- 3 Council Directives:

ii) Fight Against Illegal Immigration and Return

- 10 Council Decisions + 1 Council Framework Decision
- 2 Commission Decisions
- 6 Council directives
  - Council Directive 2004/81/EC of April 2004 on the Residence Permit Issued to Third-Country nationals who are Victims of Trafficking in Human Beings or who have been Subject of an Action to facilitate Illegal Immigration, who cooperate with the Competent Authorities

- 4 Readmission Agreements between the EC and Third Countries (Albania, 2005, Democratic Socialist republic of Sri Lanka, 2005, Macao Special Administrative Region of the People’s Republic of China, 2004, the Government of the Hong Kong Special Administrative Region of the People’s Republic of China)
c) Human Rights Related Instruments


d) Schengen Horizontal issues (SIS)

- 33 Council Decisions
- 4 Council Regulations

e) Other European Union Instruments and Documents


The bulk of immigration instruments is considerably bigger than the developments which took place before the incorporation of the Schengen Acquis to the Treaty of Amsterdam. In addition, the above JAI’s classification does not include framework decisions such as the Council Framework Decision 2002/629/JHA of 19 July 2002 on combating trafficking in human beings. The
same applies for Council Directive 2000/43/EC of 29 June 2000, implementing the principle of equal treatment on grounds of racial and ethnic origin and Directive 2000/78/EC of 27 November 2000, establishing a general framework for equal treatment in employment and occupation, both of which are based on EC Article 13 and are mentioned under the classification “Fundamental Rights” on the JAI webpage. In addition, the JAI Acquis does not include Commission Communications, (i.e Green Paper on an EU Approach to managing Economic Migration, 2005), or European Council Conclusions (i.e. Tampere, 1999). The later, although non-binding for the member-states, provided a guiding framework for binding developments in immigration (i.e. Council Directive 2003/109/EC of November 2003 concerning the status of Third-Country nationals who are Long-Term Residents, Council Directive 2003/86/EC of 22 September 2003 on the Right to Family Reunification). However, these non-binding instruments, although influential for EU developments on immigration were not directly transposed into binding decisions in the domestic level of EU countries. Their influence, which should not be underestimated, since they served as a basis for substantial developments, was limited to EU binding decisions (which in their turn influenced the domestic context). The JAI Acquis, as it is published by the European Commission DG JFS, is about restrictive rather than inclusive immigration instruments, repeating the same rationale of immigration developments before the Treaty of Amsterdam- albeit with some positive improvements (ie. Council Directive on Family reunification, as opposed to Resolution on Family Reunification, 2003). The logic of “Fortress Europe” is prominent, throughout the measures of strenghtening the external borders, the development of the SIS II with inclusion of biometric data and so on.
III. Immigration Developments in Greece

a) Legal Developments and Institutional Inertia from 1991 to 2001

In 1991 the first immigration law was voted. The previous Greek law on immigration dated from 1929 (law 4310/1929), revealing the absence of any experience in the specific domain (Greece was an immigrant-sending country) and a subsequent institutional vacuum. Changes however were dramatic as the massive influx of immigrants, due to the collapse of the communist regime, in 1989 rapidly transformed Greece into the country with the highest immigration influx in Europe. In the early 1980s aliens recorded in Greece constituted 1.8% of the Greek population. Between 1991-2000 migratory movements have been estimated to have contributed by 96.9% to the population increase in Greece (Sitaropoulos, 2003). An astonishing majority of the newcomers came from neighbouring Albania. According to the 2001 Census, 55.6% of the total immigrant population were of Albanian origin. This makes Greece unique, since no other European country had such an overwhelming single immigrant majority, rising, partly due to the tensions between the two countries, security concerns. In addition, contrary to other southern European “new” immigration countries, (Portugal, Spain), immigration to Greece was not tied to any colonial past. It comes as no surprise that the sudden overwhelming of newcomers was experienced as a shock, both by local populations, as well as policy elites. The relevant institutional framework was absent at the time and the Greek political culture, notorious for its bureaucratic nature and inertia, proved unable to respond to the new challenges. Public opinion, as far as immigration is concerned, was one of the most hostile in Europe. A 1985 survey on the rise of fascism and racism in Europe showed that the Greeks were tolerant, xenophilic
and generally free of racial prejudice\textsuperscript{8} (Karyotis, 2005). Contrary, in 1993 a research by the University of Athens revealed that almost 79\% of Greek citizens considered immigrants as a danger to society (ibid.). Another survey by the Athens Labour Center (EKA) showed that 61\% of Greeks thought that immigrants had a negative impact on society (only 5.8\% considered that their influence was positive) (ibid). The results are not surprising given that according to the 1991 national census 95\% of the Greek of the registered Greek population was linguistically, ethnically and religiously homogenous\textsuperscript{9}. An astonishing number of immigrants came from a single country, neighbouring Albania- a phenomenon unknown to any other European country- maximizing perceptions of immigration as a security threat. On the other hand the influx of foreign workers (albeit as temporary workers for the ad hoc economic needs of the country) had been supported earlier by the Federation of Greek Industries (SEV) (ibid.). The sudden developments came at the absence of any institutional framework (notorious for its slow adaptational character) while Greek political elites were unprepared to handle the situation. NGOs, immigration societies, civil rights organizations and independent authorities (the Greek Ombudsman was only founded in 1998) were absent from the policy-making procures.

It was under this domestic framework that the first contemporary Greek immigration law (1975/1991) was formed, debated and finally came into force. As it has been widely acknowledged, the first Greek immigration law was a draconian, restrictive legal instrument, which aimed expressively at the prevention and control of entrance of immigrants through the strengthening of the external borders of the country and the facilitation of expulsions. The restrictive nature of law 1975/1991 is expressed form its title: “Entrance-Exit, Sojourn, Work, Expulsion of immigrants, Process of Recognition of immigrants, refugees and other Arrangements”. The aims of the law are obvious from its very first provisions: articles 3-5 were about “police control of border entries”. Article 5 in

\textsuperscript{8} European Parliament (1985), Committee of Inquiry into the rise of Fascism and Raciism in Europe, Luxembourg, pp. 43-44
\textsuperscript{9} National Census, 1991
particular was about the establishment for the first time, of patrol squads along the Greek borders for the control of the entrance of immigrants and the prevention of illegal immigration. The pre-occupation of the Greek state with the control of immigration is also apparent in Article 6 which proclaimed that the entrance of an immigrant in Greece could be prevented even in cases where he/she possessed a valid visa document, if the relevant Greek authorities certified that his/her case fell under the excluding provisions of the same article. The law provided also that the criteria for the inclusion and exclusion of aliens were to be determined by an inter-ministerial decision. The government wished to exclude the publication of the above decision in the Official journal under a secrecy clause, which was finally dropped due to severe criticism from the opposition parties in the parliamentary debate of the bill (Sitaropoulos, 2003). It was also the first time that a special section on aliens’ expulsion was included in the Greek immigration law (ibid). As far as residence permits were concerned, their duration (with the exception of those granted for education purposes) ranged from three months to one year. Aliens who wished to stay in Greece after a five year period, might do so only after a special application lodged by them and approved by the minister of Public Order (Sitaropoulos, 2003). It is thus obvious the Greek legislator considered immigration as a temporal phenomenon and failed to provide the relevant framework for an inclusive immigration policy. In that respect Greece has fallen behind other Southern European countries (“new” immigrant countries all of them), which, however, had been transformed to “immigrant-receiving” ones, shortly earlier than the former. Immigrants who entered the country without the necessary certification were de facto considered as unwanted and were not allowed by the border authorities to enter the country\(^{10}\)(Article 6.8). Immigrants who did not possess the specified documents were automatically expelled without having the right of appeal to the court. The possession of false documents was punishable with severe penalties ranging from 3 months to 5 years in prison (Sitaropoulos, 2003).

\(^{10}\) This was not the case for immigrants of Greek nationality: the authorities in charge did not have the right to prevent them from entering the country
Similarly to Southern European countries, however, the influence of the Schengen Agreement on the domestic Greek framework, expressed in the provisions of law 1975/1991 and the parliamentary debate of the bill, is evident. Article 33 of law 1975/1991 introducing for the first time severe penalties (imprisonment for at least one year coupled with heavy fines for each clandestinely carried alien) constitutes a clear transposition of Articles 26-27 of the Schengen Convention, demonstrating the country’s efforts to harmonize its policies with the obligations arising from the latter. In the Parliamentary debate\(^\text{11}\) the Schengen Convention became a point of reference that served as a justification of the provisions of the law. Migration flows were presented by the conservative party of New Democracy (ND) (which introduced the immigration law) as a “security threat”. The perception follows the rationale behind the Schengen Agreement (revealing thus a process of “europeanisation” of Greek policies vis-à-vis the “EU”, although the Schengen Agreement was at the time outside the Community context and was only incorporated to it in 1997). Domestic factors, as they have already been analyzed above, were determinants that shaped the perception of immigration as a security threat (or even a “national threat\(^\text{12}\)) that should be answered through restrictive measures. Under this light the Greek restrictive response to immigration influx seems inevitable, and rather a product of both “external” as well as “internal” factors.

At the same time the discussion of the bill in the Parliament was tense and its approval moved across partisan lines: the socialist and communist opposition voted against the bill which was introduced by the conservative government. According to political parties of the left, the bill should have been focused more on human rights issues and less on policing and expulsions. The restrictive nature of law 1975/1991 was condemned by leftish parties. Answering criticism on the restrictive nature of the law, Theodoros Anagnostopoulos, Minister of


\(^\text{12}\) Term used by a New Democracy MP during the discussion
Public Order, (ND) argued that the specific provisions were necessary for the harmonization with the provisions of the Schengen Agreement (Greece signed the Schengen Agreement in 1992).

It comes as no surprise that the first Greek immigration law failed to respond both to the issues that arose from the immigrant inflows to the country, as well as to the prevention of their entrance. Apart from the draconian measures that it introduced (which proved to be ineffective) it lacked sufficient structures: it contained over twenty “legislative authorizations” that provided for the promulgation of a series of Ministerial Decisions and Presidential Decrees, subject to no parliamentary scrutiny for determining the details of their provisions (Sitaropoulos, 2003) revealing thus an institutional vacuum that led to inadequate policies. Rather than being a social and economic issue, immigration was considered to be an issue which was supposed to be tackled by policing authorities, with the law strengthening the powers of the administration to the extend that it opposed basic constitutional rights.

Far from solving the “problem” of immigrant influx, the strengthening of the external borders and the heavy involvement of the police led to a dramatic increase of the number of illegal immigrants in the country. By 1995 around 1,000,000 illegal aliens (mainly of Albanian origin) were expelled from the country (Baldwin-Edwards). Most of them returned shortly after their removal. Responding to the social realities and following the example of other Southern European countries the socialist Greek government decided in late 1997 to proceed to a legalization programme of illegal immigrants regulated by two Presidential Decrees (P.D. 358/1997 and P.D 359/1997). Spain had proceed with its first regularisation programme in 1991 which provided legal statues for 112,000 immigrants residing illegally in the country, Portugal embarked on its first
legalization in 1992 with the registration of 38,364 aliens and Italy in 1986 legalized for the first time 118,000 aliens\textsuperscript{13}.

\textbf{b) First Regularisation Attempt}

Despite the proclamation of human rights issues during the parliamentary debate of law 1975/1991, the council of ministers of the Greek socialist government, decided on 27 June 1997, that the two regularization Presidential decrees would not apply to foreign workers originating from Albania, Bulgaria, the Former Yugoslav republic of Macedonia and Turkey. According to the governments the decision was taken to prevent mass migration from Albania into Greece\textsuperscript{14}. Domestic concerns seemed to prevail on immigration policy-making, with the perception of aliens as a “security/national threat” being strong. Trade unions, however, and employers (mainly farmers) reacted firmly against the decision of the Greek government. The Greek General Confederation of Labour (GSEE) sent a letter to the then prime Minister demanding the withdrawal of the proposition. On the other hand, opposition of Greek public opinion on the legalization of immigrants was strong. According to a 1998 survey by VPRC, 58,5\% of Greek citizens opposed the process\textsuperscript{15}. The 1997 Eurobarometer reveals that 72\% of Greeks “tended to agree” that “all illegal immigrants should be sent back to their country of origin” (ibid.). Despite public opinion opposition, the Government bent to the demands of trade unions and employers and decided not to include the envisaged exception. The Ministry of Employment played central role in the regularization process (Linos, 2001), revealing a gradual movement from the securitisation of immigration (although still present) to factional perceptions of market needs. Immigrants were finally considered as a source of economic profit for the state through their contributions to the social system: the latter was a pre-condition for their legalisation.

\textsuperscript{13} Data included in \textit{Policies of Immigrant Integration: The European Experience}, (in Greek), (IMEPO, September 2006).

\textsuperscript{14} \url{www.eurofound.europa.eu/eiro/1997/07/inbrief}

\textsuperscript{15} Linos, 2001
The legalisation of illegal immigrants however had limited effects due to the excessive formal demands of the PDs as well as administrative shortcomings of the Greek bureaucracy. The special Commission which was founded by article 16 of law 2434/1996 for the drawing of the PDs was composed from representatives of different ministries\textsuperscript{16} signaled a change form the exclusive competence of the Ministry of Public Order in the issue. The results however were minimal in practice. Within a period of five months immigrants were obliged to submit to the Greek Labour Force Employment Organisation (OAED) various papers from different authorities ranging from travel documents to social insurance contributions (EKA), penal code certificates, (Ministry of Justice) certificate of non-inclusion in the list of undesirable aliens (Ministry of Public Order). The PD provided for the distinction between “white cards” temporary residence card (i.e. given to aliens who had not provided all the necessary papers) and “green card” limited duration residence card (for aliens who had no “white card” due to administrative problems). The deadline for the ‘green card” submission was extended twice: until October 1998 and then until 30 April 1999 (Sitaropoulos, 2003). The duration of the “green cards” was dependent on the nature of employment of the immigrant and as well as market considerations (ibid.).

Not surprisingly, the first regularization process was far from successful: although there was a target for the regularization of 500.000 aliens, only 371.641 managed to apply for a “white card”, while the number of those who managed to get finally a “green card” was even lower: 148.000 by 2000 according to official data (Sitaropoulos, 2003). The number of immigrants that were left outside the first regularization attempt of the Greek state was significant given that according to estimations in 1997 the number of illegal aliens in Greece was close to 700.000 (Fakiolas, 2003).

\textsuperscript{16} Sitaropoulos, 2003
**c) From 2001 to 2005: Changes and Institutional Legacies**

It was under this domestic context that the second Greek immigration law 2910/2001 was voted in the Greek parliament. Entitled “Entry and Residence of Aliens in the Territory of Greece. Acquisition of Greek citizenship by naturalization and other provisions”, the new law was proclaimed as a modernization process that would harmonise the Greek policies of immigration with the European and international framework. Contrary to law 1975/1991, which had only 36 articles, the new law contained 81 articles in fifteen sections (Sitaropoulos, 2003). Indeed, after almost ten years of immigration experience, and one attempt of regularization of illegal immigrants, the new law introduced certain institutional changes, while providing for a second process of legalisation of aliens. A significant institutional change which reveals a difference in the perception of immigration was the transfer of competence from the Ministry of Public Order to the Ministry of the Interior. Following the example of other European countries Greece transferred the responsibility of immigration to the regional administration. The new law provided for the establishment of a new Directorate of Aliens and Immigration (Sitaropoulos, 2003). The main executive organ for granting residence permits to aliens became the Secretaries General of the Greek Regions (ibid.). The law provided for the creation of a three-member Immigration Committee, of consultative nature, which would consist of three members (two officials of the regional service of aliens and one representative of the police). The creation of a special immigration institute (IMEPO) was also proclaimed. For the first time the law provided for the entrance of self-employed immigrants—although entrance for the rest of the aliens was dependent on his/her recruitment by a Greek employer. In addition, it reduced the period required for the grant of an infinite stay permit from 15 to 10 years, although it increased the time needed for a two year permit from 5 to 6 years. The new legal instrument perpetuated however the system of short-term residence permits, although at the
time the tendency in other Southern European countries\(^\text{17}\) (which experienced immigration influxes relatively earlier than Greece) had been the provision of longer residence permits (with the former procedure proving ineffective and creating more illegal immigrants). Law 2910/2001 provided also for the recruitment of temporary workers— a provision absent in law 1975/199—and reduced the period of time for family reunion from five to two years. The economic considerations behind the inclusive provisions of law 2910/2001 were evident from the central role played by OAED. The number of immigrants that would enter the country depended on estimations from the specific organization on an annual basis for the labour needs. According to the estimations of OAED the number of immigrants that would enter the country would be regulated by an interministerial decision. A special provision (Article 18) which allowed for part-time employment for alien students, was added to the new law— signaling an improvement from the previous one. Despite the market-oriented development, however, Greece was the only European country which tied residence permit to constant and uninterrupted employment\(^\text{18}\). This was an unrealistic demand excluding aliens who did not have a permanent job or ceased to work. The new law introduced a new system, according to which the alien should be recruited abroad in order to be allowed to enter the country. The task was undertaken by Greek embassies and consulars which established special employment offices. The provision was criticized as burdensome and ineffective by specialists\(^\text{19}\). As far as family reunification is concerned the period of time for this right was reduced from five to two years (Article 28.1). However, the provision excluded the parents of the immigrant and his/her wife/husband who cohabited with the alien in his/her country and were dependent upon him/her. The previous law provided for the specific members of the family of the immigrant, while at the time they were included in the Commissions Proposals for a Council Directive on family reunification.

\(^{17}\) Baldwin-Edwards, 2001
\(^{18}\) (ibid.)
\(^{19}\) Sitaropoulos, 2003, Baldwin-Edwards 2001
Following the same institutional paths established by law 1975/1991, law 2910/2001 introduced a double system of residence and work permits. Residence permits were issued by the Regional Secretary General while employment permits by the Prefects. The process was criticized as ineffective even before the approval of the bill into law (reports by MMO, the Greek Ombudsman). Indeed, it proved to be such due to its unrealistic provisions, staff shortages and inherent slow structures of the Greek bureaucracy.

Similarly, restrictive provisions introduced due to the participation in the Schengen Convention were perpetuated and became even more severe: the fines for the transportation of illegal aliens became stricter\(^{20}\) (at least one year of imprisonment and fines ranging approximately from 3,000 to 13,000 euros). Severe fines were also provided for employers who employed illegal immigrants or who lent accommodation to unregistered aliens. Exclusionary terms for a denial of entry such as inclusion in the list of “undesirable aliens”, “risk for public security”, or “public health” were also present.

Despite governmental claims that it constituted a big leap towards modernisation, law 2910/2001 was severely criticized for not taken into account human rights considerations. Immigration activists (mobilized at the time, contrary to the early 1990s), labour unions, the Greek Ombudsman and immigrant institutions (MMO) argued that the law lacked basic social provisions. As a consequence, the three year restriction for the access to the alien’s family members to the labour market in the bill was finally dropped form the law, while following the suggestions of the Greek Ombudsman, the government decided to provide for the education of undocumented immigrants’ children\(^{21,22}\).

The vote of the bill moved again along party lines: the main conservative opposition party (New Democracy) considered the involvement of OAED and the

\(^{20}\) Sitaropoulos, 2003
\(^{22}\) Human Rights Watch, World Report 2002, Greece
estimations of the market’s needs unrealistic, while it objected to a second regularization programme\textsuperscript{23}. The discussions in the parliament made clear that the socialist government of PASOK which introduced the new law considered immigration as a temporary rather than permanent phenomenon. The Greek Minister of Interior (Vasso Papandreou) argued that immigration should be of temporary nature due to the fact that the majority of aliens came from neighbouring Balkan countries\textsuperscript{24}.

Law 2910/2001 nevertheless provided for a second regularization of illegal immigrants. Contrary to the 1998 programme it included family reunification provisions (Sitaropulos, 2003). By 2 August 2001, there had been submitted 351,110 applications (ibid.). However, this regularization programme proved as well to be ineffective in practice due to the bureaucratic procedures of the system (despite the fact that the relevant competences had been transferred to the regional authorities).

d) \textbf{From 2005 Onwards: Developments and Challenges}

In 2005 a new immigration law was voted partly in order to correct the shortcomings of the previous legal framework as well as to incorporate the relevant European developments. It included some improvements in comparison to the previous law, following at the same time to a great extend the same institutional paths established by law 2910/2001.

i) \textbf{Administrative Changes}

Law 3386/2005 under the title “Entry, Residence and Integration of Third-Country Nationals in the Greek Territory” comprises of 98 articles under 20 sections. From that point it appears to be a more comprehensive legal instrument

\textsuperscript{23} Parliamentary Proceedings, 2001
\textsuperscript{24} ibid.
in comparison to the previous immigration laws. An important administrative development that has been highlighted is the establishment of a single administrative process the unification of the resident and work permits into a single document. This was a significant (although not a quick) improvement, aiming to correct the bureaucratic problems that the previous process created. The need for the specific process had been already stressed from various experts (Baldwin-Edwards) in their proposals for the improvement of the provisions of the draft bill of 2001- albeit without any effect. The duration of the permits was extended from one to two years, following the example of other European countries. Longer duration applied also to temporary residence permits, extended to one year from the previous six-month duration and to victims of human trafficking (from 9 months to a year). The period for the submission of the application was extended from two to three months- although the extension is only marginal given the institutional shortcomings of the administrative system.

Law 3386/2005 assigned the responsibility of issuing and renewal of residence permits to a single office, the Region (article 11). It also provided (albeit after a period) for the possibility of conversion of residence permits from dependent employment into independent activity, demonstrating some flexibility in comparison to the previous law.

Another institutional development was the extension of the members of the Committee of Migration in each region from three to five (4 officials of the relevant Aliens and Immigration Bureau of the region and one police official). Another committee was established at the center of each region consisting of the Secretary General of the Region or the Director of Aliens and Immigration Bureau, the Director of the Labour Inspectorate, a representative of the Employment Manpower Origination, a representative of the Union of Municipal Self-Administration of Greece, a representative of the regional trade union, a representative of the local chambers, as well as a representative of the General
Confederacy of Unions of Agricultural Associations. The main task of that committee was the drafting of an annual report on the current regional needs in labour force that could be covered by third-country nationals, submitted to the Ministry of Labour and Social Inclusion. The maximum number of residence permits for working reasons would be decided, based on the above report, by an interministerial decision (Ministry of Interior, Public Administration and Decentralisation, Foreign Affairs, Labour and Social Protection).

ii) Incorporation of EU Directives


The incorporation of EU directives to the domestic legal framework brought substantial changes that were absent from the previous laws. Aligning with European provisions, as expressed in the form of directives, the law limited the period of time required for the acquisition of long-term resident permit from 10 to five years. Immigrants admitted under the provision of family reunification were granted autonomous right of residence after five years of legal stay in the country.

However NGOs have repeatedly stressed the heavy economic burdens placed upon the immigrant as a condition of family reunification (which were criticized as being among the strictest in the EU given the realities of the Greek labour market). Another issue that has been underlined is the restrictions of the
movement of the immigrants (who are obliged to stay and work at the region where their permit has been issued\(^{25}\)).

The bill did not originally provide for the enforcement of Council directive 2003/109/EC before 2010. Under heavy criticisms from NGOs though and the possibility of the involvement of the ECJ, the Greek government incorporated the above Directive to law 3386/2005.

Following on the same institutional shortcomings of the previous regularization processes the “third chance” of legalisation (at it came to be known) that was included in the new law proved to be ineffective. Despite the fact that the original target had been the regularisation of 100.000 illegal immigrants (out of the estimated 500.000), by the end of the deadline (31/12/2005) there had been submitted only 36.000 applications\(^{26}\). The Ministry of the Interior extended the deadline until 28/2/2006. This too proved to be ineffective and the deadline was again extended until 2/5/2006.

The law provided for the first time for the social integration of the immigrants (following from the transposition of the relevant Council Directive) as well for the granting of residence permits for victims of human trafficking (Council Directive 2004/81/EC). In order to get a long-term residence permit the immigrant was obliged to pay 900 euros and to attend classes of 125-hour duration. Again this drew the criticism of NGOs, independent authorities etc, raising again the issue of the way EU Directives are transposed into national law.

During the parliamentary discussion of the bill, opinions moved again according to party lines. The conservative government of New Democracy stressed the fact that the new bill harmonized domestic policies with the EU framework. The Socialist Party from its behalf asked for the provision of more

\(^{25}\) Although this has been dropped in the January 2007 amendment.

\(^{26}\) Data from the Ministry of the Interior
rights for the immigrants. George Papandreou the leader of the main opposition party (PASOK) asked for the right of participation of immigrants in local government elections after five years of legal residence. Left parties criticized the restrictions that the new bill imposed on the movement of the immigrants (the latter were obliged to stay and work in the region where their residence permit was issued). The Coalition of the Left (Synaspismos) criticized the requirement of fluency in Greek language and knowledge of Greek history and culture for the application for long-term residence. MPs from the Communist party argued against temporary residence permits, claimed that this would perpetuate the uncertain statues of many immigrants. The focus of the discussion, contrary to 1991, was not about security concerns- revealing a significant change (at least in the thinking of policy-makers) in the rationale vis-à-vis immigration. The bill was approved on the final day of parliament's final parliament session- a fact that drew criticism form various NGOs, authorities and policy experts. The latter argued that their contribution to the final law was marginal.

According to a 2005 survey of the European Monitoring Centre on Racism and Xenophobia on the other hand 87,6% of Greeks were negative towards immigration (highest percentage in Europe). A Eurobarometer survey (2006) also showed that 57% of Greeks believed that “immigrants do not contribute a lot to their country” (EU25: 52%).

IV. Conclusion

Greece has showed significant (albeit slow mainly due to institutional shortcomings) changes in the issue of immigration. From the initial shock of the sudden influx of thousands of immigrants in the early 1990s, the country has progressively moved into a more comprehensive approach, which involves the inclusion of the immigrants in the social structure.
Policy-making was influenced by the involvement of various actors (NGOS, Independent Authorities, Immigrant’s organisations etc)- although their effects have not been that strong. European Union on the other hand was an actor of influence, both in the first phases of the formation of immigration policy as well as in current developments. It interacted with domestic concerns in a complex way. The Schengen Agreement and the security rationale that sprung from it coincided with the considerations that arose in the domestic context at the time, imposing obligations, and justifying at the same time policy choices.

Institutional changes and decentralization took place both as a learning process from domestic failures, as well as from relevant examples set by other European countries. During the first phase of the formation of Greek immigration policy, the developments in the EU were marginal (with the exception of the Schengen Agreement, outside, at the time of the community framework). Commission Communications, the Conclusions of the Tampere European Council (1999), the Hague Programme etc, although very important developments were not expressed in concrete legal instruments, acting rather as a guide to political elites.

Council Directives and EC Regulations on the other hand were translated due to their binding nature into legally binding provisions (with a wide range of variations for the former). Policy outcomes were however obstructed due to institutional inertia, policy legacies and lack of relevant expertise.

In overall, Greece has adopted its policies vis-à-vis immigration, with EU improvements towards a stronger “common immigration and asylum policy”, as well as the learning process in the domestic context, suggesting the further “europeanisation” of the process.
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