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PRESIDENTIAL DECREES

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PRESIDENTIAL DECREE No. 128

Adaptation of the greek legislation to the Directive 2005/71/EC of 12 October on a specific procedure for admitting third-country nationals for the purposes of scientific research.

**THE PRESIDENT
OF THE HELLENIC REPUBLIC**

Having regard to:

1. The provisions of article 3 law no. 1338/1983 (GG A' 34), as replaced by article 65 of law no. 1892/1990 (GG A' 101), and of article 4 of law no. 1338/1983, as replaced by article 6 section 4 law no. 1440/1984 (GG A' 70) and finally amended by article 48 law no. 3427/2005 (GG A' 312).
2. The articles 48 and 90 of the Statutes Code for the

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Government and government bodies, as codified by article one of the p.d. no. 63/2005 (GG A' 98).

3.The Council Directive 2005/71/EC of 12 October 2005 on a specific procedure for admitting third-country nationals for the purposes of scientific research (EE L 289/3.11.2005).

4.The fact that the provisions hereof entail no expenditure for the state budget.

5.The expert opinion no. 184/2008 of the State Council, upon the proposals of the Ministers of the Interior, Economy & Finance, Foreign Affairs, Development, National Education & Religious Affairs, and Employment & Social Protection, we decide:

CHAPTER I

GENERAL PROVISIONS

Article 1 (article 1 of the Directive)

Purpose

The purpose of this decree is to adapt the greek legislation to the Council Directive 2005/71/EC of 12 October 2005 “on a specific procedure for admitting third-country nationals for the purposes of scientific research” (EE L 289 of 3.11.2005), which lays down the conditions for the admission and stay of third-country researchers to the member states for more than three months for the purposes of carrying out a research project under hosting agreements with research organisations.

Article 2 (article 2 of the Directive)

Definitions

For the purposes of this Presidential Decree:

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- a) “third-country national” means any person who is not a Union citizen within the meaning of article 17 section 1 of the Treaty;
- b) “research” means creative work undertaken on a systematic basis in order to increase the stock of knowledge, including knowledge of man, culture and society, and the use of this stock of knowledge to devise new applications;
- c) “research organisation” means any public or private organisation which conducts research and which has been approved for the purposes hereof in accordance with the national legislation;
- d) “researcher” means a third-country national holding an appropriate higher education qualification, which gives access to doctoral programmes, who is selected by a research organisation for carrying out a research project for which the above qualification is normally required;
- e) “residence permit” means any authorisation bearing the term “researcher” issued by the greek authorities allowing a third-country national to stay legally on the greek territory, in accordance with article 1 section 2 a) of regulation (EC) No. 1030/2002 of the Council of 13 June 2002 laying down “a uniform format for residence permits for third-country nationals” (EE L 157/15.6.2002).

Article 3 (article 3 of the Directive)

Scope

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1.This decree shall apply to third-country nationals who apply to be admitted to the greek territory for the purpose of carrying out a research project.

2.This decree shall not apply to:

- a) third-country nationals staying in Greece as applicants for international protection or under temporary protection schemes;
- b) third-country nationals applying to reside in Greece as students within the meaning of Directive 2004/114/EC for the purposes of studies, pupil exchange, unremunerated training or voluntary service, in order to carry out research leading to a doctoral degree;
- c) third-country nationals whose expulsion has been suspended;
- d) researchers seconded by a research organisation to another research organisation in Greece.

Article 4 (article 4 of the Directive)

More favourable provisions

1.This decree shall apply without prejudice to more favourable provisions of:

- a) bilateral or multilateral agreements concluded between the Community or between the Community and its member states on the one hand and one or more third countries on the other;
- b) bilateral or multilateral agreements concluded between the Hellenic Republic or more member states and one or more third countries.

2.The competent greek authorities maintain the possibility to

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adopt or retain more favourable provisions for persons to whom it applies.

CHAPTER II – RESEARCH ORGANISATIONS

Article 5 (article 5 of the Directive)

Approval of research organisations

1. Any research organisation wishing to host a researcher under the admission procedure laid down in this decree shall first be approved for that purpose, in accordance with the related legislation.

2. The approval of the research organisations shall be granted by the General Secretariat of Research and Technology of the Ministry of Development (GSRT).

3. Any public research organisation or other respective research body of the public sector, or private law legal entity which is supervised by a state authority, as well as any recognised Higher Education Institute (AEI), namely any University and Technological Educational Institute (TEI), is held an approved organisation for the needs of this Presidential Decree.

4. For a private body to obtain an approval, it has to submit an application accompanied by the following supporting documents:

- i) Articles of incorporation of the body, establishing the existence of a Research and Development Department.
- ii) Documentation of the research activities of the body and of the costs for the research and technology activities, arising from the requests of the body in

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relation to the application of tax discounts on the research and technology costs, in accordance with law no. 3296/2004 (GG A' 253/14.12.2004).

iii) Sufficient documentation of the employment necessity of third-country researchers.

5.The abovementioned supporting documents shall be submitted to the GSRT, which shall assess them. In the event of positive assessment, the approval is granted for a period of 5 years.

6.All research organisations shall be required to submit to the GSRT a written undertaking that in cases where a researcher remains illegally in the greek territory after the termination of the hosting agreement, the said organisation is responsible for reimbursing the costs related to his/her stay and return incurred by public funds. The GSRT shall be required to communicate a copy of the said written undertaking to the Directive for Aliens of the General Secretariat of Public Policy. The financial responsibility of the research organisation shall end six months after the termination of the hosting agreement.

7.The research organisations shall be responsible for the check of the accuracy of third-country researchers' curriculum vitas and qualifications in the light of the research objectives, as evidenced by certified copies of his/her qualifications in accordance with article 2 (d).

8.All research organisations shall be required to communicate to the GSRT the hosting agreements they

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have signed. The GSRT shall check the said agreements.

9.The GSRT shall observe and check the conditions laid down in sections 4 and 6 hereof. In cases where it is found that they are not observed or that the approval has been fraudulently acquired or where the research organisation has signed a hosting agreement with a third-country national violating the provisions hereof, the approval shall be withdrawn or not renewed. When approval has been withdrawn or refused, the organisation concerned may be banned from reapplying for approval up to five years from the date of publication of the decision on withdrawal or non-renewal. The withdrawal or non-renewal of the approval is communicated to the Directorate for Immigration Policy of the Ministry of the Interior (MI) and to the competent Regional Services for Aliens and Immigration.

10.The GSRT shall publish and update annually lists of the research organisations approved for the purposes of this decree and shall communicate directly any alteration to the Directorate for Immigration Policy of the MI and to the Regional Services for Aliens and Immigration.

Article 6 (articles 6 and 5 [7] of the Directive)

Hosting agreement

1.Any research organisation wishing to host a researcher shall sign a hosting agreement with the latter whereby the researcher undertakes to complete the research project and the organisation undertakes to host the researcher for that purpose without prejudice to article 7.

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2. Research organisations may sign hosting agreements only if the following conditions are met:

- a) the research project has been accepted by the relevant authorities in the organisation, after examination of:
 - i) the purpose and duration of the research, and the availability of the necessary financial resources for it to be carried out;
 - ii) the researcher's qualifications in the light of the research objectives, as evidenced by a certified copy of his/her qualification in accordance with article 2 (d);
- b) during his/her stay the researcher has sufficient resources without having recourse to the social assistance system, which may not be less than EUR 900 monthly, to meet his/her expenses and return travel costs, as they are specified in accordance with the Decision of the Minister of the Interior and the Minister of Economy & Finance issued by the authority of sect.2, article 90, law no. 3386/2005, as currently in force. The amount of sufficient resources as per previous paragraph may be adjusted by the joint decision of the Minister of the Interior and the Minister of Economy & Finance and the Minister of Development, which shall be issued in accordance with the aforementioned provisions;
- c) during his/her stay the researcher has sickness insurance for all the risks covered for nationals in accordance with national legislation;
- d) the hosting agreement specifies the legal relationship

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and working conditions of the researchers, nationals in accordance with national legislation;

3. Once the hosting agreement is signed, the research organisation shall be required to provide the researcher with an individual statement that for costs within the meaning of article 5 section 6 financial responsibility has been assumed.

4. Research organisations shall promptly inform the authorities designated, in accordance with article 7 sect.2 hereof, for the purpose of granting the residence permit of any occurrence likely to prevent implementation of the hosting agreement.

5. Hosting agreements with research organisation where the approval has been withdrawn shall cease to be in force. Similarly, the hosting agreement shall automatically lapse when the researcher is not admitted or when the legal relationship between the researcher and the research organisation is terminated.

CHAPTER III-ADMISSION AND STAY OF RESEARCHERS

Article 7 (articles 7, 14 and 15 of the Directive)

Residence permit

1. If all conditions laid down in article 5 and 6 hereof are met, a third-country national shall submit to the relevant authorities an application for a residence permit under the law no. 3386/2005 (GG A' 212), which shall be accompanied by the following supporting documents:

a) true copy of the valid passport or other travel

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document as determined by the national law, and a visa for that purpose;

- b) three (3) recent coloured photographs;
- c) a fee as determined by the provisions of sect. 1, article 92, law no. 3386/05, as currently in force;
- d) health certificate from a state hospital confirming that the third-country national does not suffer from any disease, which in accordance with the World Health Organisation (WHO) may pose a threat to public health;
- e) true copy of the hosting agreement signed by a research organisation pursuant to the provisions of article 6, specifying the conditions of cooperation, the time of completion and the cover of the stay and living costs in Greece;
- f) statement of financial responsibility issued by the research organisation in accordance with article 6 sect.3 hereof;
- g) confirmation that an application for social security has been submitted to the appropriate social security in accordance with national legislation.

2. The applications shall be submitted to the municipality or community of the place of residence or stay of the applicant. The municipalities and the communities shall check the completeness of the supporting documents and shall forward the related file to the competent Region Service of Aliens and Immigration, which shall be responsible for checking the application for residence permits hereof.

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3.If the information supplied in support of the application is inadequate, the competent authorities shall inform the applicant of any further information they need.

4.After consulting the police authority on issues concerning public policy and public security of the Country, the Regional Service of Aliens and Immigration shall process the application with all supporting documents in order of precedence and, provided the conditions set out in article 6 hereof and in sect.1 of this article are met, it shall issue a related decision on whether it accepts the request or not. In the event of an affirmative decision, the third-country nationals shall be provided with the respective residence permit.

5.The third-country nationals researchers may be accompanied or joined by their:

a) spouse who is of legal age (18 years old) and minor children (below 18 years old, single), including any adopted ones;

b) any other minor children (below 18 years old, single) of the spouse, including any adopted children, provided the parental care has been assigned to the spouse.

Article 8 (article 8 of the Directive)

Duration and renewal of residence permit

1.The duration of a researcher's residence permit shall be the same as that of the hosting agreement. If the hosting agreement is extended, the residence permit shall be renewed for the equivalent time period.

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2.To renew the residence permit, a researcher shall be required to submit an application prior to the expiry of the permit, to the authority which is competent to receive applications, in accordance with the law no.3386/2005, as in force, which shall be accompanied by the supporting documents:

- a) true copy of all the pages of a valid passport or other travel document as determined by national law and any previous residence permit of the researcher;
- b) three (3) recent coloured photographs;
- c) a fee as determined by the provisions of sect. 1, article 92, law no. 3386/05, as currently in force;
- d) true copy of the contract on extension of hosting signed with a research organisation in accordance with the provisions of article 6, specifying the conditions of cooperation, the time of completion and the cover of the stay and living costs in Greece;
- e) certificate or copy of a health booklet issued by the appropriate social security body.

3.The authority which is competent to take applications shall check the completeness of the supporting documents and shall forward the file in order of precedence to the competent Regional Service of Aliens and Immigration.

4.The Regional Service of Aliens and Immigration shall process the application and provided the conditions laid down in articles 6 and 7 hereof are still met and upon non-concurrence of the reasons provided for in article 11

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hereof, it shall issue a decision to renew the residence permit of a researcher.

Article 9 (article 9 of the Directive)

Residence permit of family members

1.A residence permit is granted to the family members of a researcher, and the duration of validity of their residence permit shall be the same as that of the residence permit of the researcher.

2.A member of a researcher's family shall submit an application for residence permit in accordance with the provisions of article 7 hereof, accompanied by the following supporting documents:

- a) certified copy of the residence permit of a dependent member or confirmation that the related application has been submitted;
- b) true copy of a valid passport or other document as determined by the national law, and a visa for that purpose;
- c) three (3) recent coloured photographs;
- d) a fee as determined by the provisions of sect. 1, article 92, law no. 3386/05, as currently in force;
- e) health certificate from a state hospital institute confirming that the third-country national does not suffer from any disease, which in accordance with the World Health Organisation (WHO) may pose a threat to public health;
- f) recent family certificate issued by the immigration authorities, showing the marriage or the relation or

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certificate of marriage or birth if the marriage was solemnized in the greek territory or if the children were born in the Greek territory;

g) confirmation that an application for social security has been submitted to the social security authority to cover the costs of hospitalisation and medical care.

3.To renew the residence permit, a family member has to submit an application prior to its expiry, to the related authority, in accordance with law no. 3386/2005, as in force. The application shall be accompanied by items (a) to (d) of section 2 of this article, and the following supporting documents:

- a) certificate of hospitalisation and medical care costs coverage by a social security fund;
- b) affidavit that the financial situation or certificate of birth in case of children that were born in the greek territory has not changed.

Article 10 (articles 13 and 14 of the Directive)
Third-country nationals' right and permit to reside in
Greece who have obtained a residence permit as
researchers in another member state of the European
Union

1.A third-country national who has been admitted as a researcher in another member state of the European Union and holds a residence permit in that member state on the basis of the Directive 2005/71/EC, he/she may carry out part of the research in our country on the conditions of this article.

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2.If the researcher stays in the country for a period up to three months, the research may be carried out on the basis of the hosting agreement concluded in the first member state, provided that the researcher does not pose a threat to public policy, public security or public health.

3.If the researcher stays in the country for more than three months, a new hosting agreement may be required to carry out the research in the country, in accordance with the provisions of articles 6 and 7 hereof respectively.

4.An application for residence permit in the case described in the section above, shall be submitted by the researcher who is a third-country national provided he is residing inside the territory of the country, in accordance with the procedure and the conditions set out in article 7 hereof.

5.To obtain a residence permit, the persons described in sect.1 of this article, shall submit an application in no later than three months as from their entry in the country to the related authority, in accordance with law no.3386/2005, as in force. The application shall be accompanied by the following supporting documents:

- a) certified copy of a valid passport or other travel documents as determined by our country, and a requisite visa in accordance with national legislation;
- b) copy of the “Researcher’s” residence permit which was issued by another member state;
- c) supporting documents required to meet the conditions set out in articles 6 and 7 hereof.

6.The duration of validity of the researcher’s residence

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shall be the same as that of the hosting agreement and shall be renewed in accordance with the provisions of article 8 hereof.

7.The family members of the researcher may accompany or join the researcher, as specified in sect.5 article 7 hereof, provided they have a valid residence permit as family members of the researcher in another member state.

8.A residence permit shall be granted to the family members in accordance with the provisions of article 9 hereof.

9.A researcher who meets the conditions of this article is not required to leave the greek territory to submit an application for residence permit.

CHAPTER IV – COMMON PROVISIONS

Article 11 (articles 10 and 15 of the Directive)

Withdrawal or non-renewal of the residence permit

1.The residence permit of a researcher and the residence permit of a family member of the researcher shall be withdrawn or shall not be renewed in cases where the permit has been fraudulently acquired or wherever it appears that the holder did not meet the conditions for entry and residence provided by articles 6, 7 and 9 respectively, or is residing for purposes other than that for which he/she was authorised to reside.

2.The country may withdraw or refuse to renew a residence permit for reasons of public policy, public security or public health.

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Article 12 (article 15 sections 3 and 4 of the Directive)

Right to have recourse

1. Any decision granting or renewing a residence permit, by virtue hereof, shall be issued and notified to the person concerned in accordance with the provisions of the relevant law no. 3386/2005.

2. Any decision rejecting an application for a residence permit granting or renewing, or withdrawing a residence permit issued by virtue hereof shall be duly justified, in accordance with article 17 of the Administrative Procedure Code ratified by article one of law no. 2690/1999 (GG A' 45) as in force. Any decision notified to the person concerned, who shall be informed by means of a notification that shall specify the redress procedures, as described in the following sections and the time limit for taking action.

3. A petition for remedy of the decisions issued by virtue hereof may be filed in accordance with article 24 of the abovementioned Administrative Procedure Code.

4. A petition for cancellation of the decision rejecting the application for a residence permit of a researcher, or withdrawal or non-renewal and of the decision of expulsion, may be filed before the related administrative court, in application of the provisions of article 15, law no. 3068/2002 (GG A' 274), as in force.

Article 13 (article 11 of the Directive)

Teaching

Researchers admitted under this decree may teach in accordance with national legislation.

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Article 14 (article 12 of the Directive)

Equal treatment

Holders of a residence permit shall be entitled to equal treatment with nationals as regards:

- a) recognition of diplomas, certificates and other professional qualifications, in accordance with the relevant national procedures;
- b) working conditions, including pay and dismissal;
- c) branches of social security as defined in Council Regulation (EEC) No 1408/1971 of 14 June 1971 on the application of social security schemes to employed persons, to self-employed persons and to members of their families moving into the Community. The special provisions in the Annex to Council Regulation (EC) No 859/2003 of 14 May 2003 extending the provisions of Regulation (EEC) No 1408/71 and Regulation (EEC) No 574/72 to nationals of third countries who are not already covered by these provisions solely on the ground of their nationality shall apply accordingly;
- d) tax benefits;
- e) access to goods and services and the supply of goods and services made available to the public.

CHAPTER V – FINAL PROVISIONS

Article 15

Provisions repealed

As of the entry into force hereof, any general or special provision which is contrary to the regulations or treating

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the issues forming the subject matter hereof shall be repealed.

Article 16

Entry into force

1.The provisions hereof shall enter into force on 12.10.2007, save those providing for the enforcement of sanctions, which shall enter into force on the day following its publication in the Government Gazette.

2.The Minister of the Interior is assigned to publish and execute the present.

Athens, 5 September 2008

THE PRESIDENT OF THE REPUBLIC

KAROLOS GR. PAPOULIAS

THE MINISTERS

THE MINISTER OF THE INTERIOR

PR. PAVLOPOULOS

THE MINISTER OF ECONOMY & FINANCE

G. ALOGOSKOUFIS

THE MINISTER OF FOREIGN AFFAIRS

TH. BAKOGIANNI

THE MINISTER OF DEVELOPMENT

CH. FOLIAS

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THE MINISTER OF NATIONAL EDUCATION
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EVR. STYLIANIDIS

THE MINISTER OF EMPLOYMENT
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FANI PALLI-PETRALIA