



*Misuse of the Right to Family
Reunification:
Marriages of convenience and false
declarations of parenthood*

National Contribution: Greece

EMN FOCUSED STUDY 2012

European Migration Network 2012

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Misuse of the Right to Family Reunification: Marriages of convenience and false declarations of parenthood

National Contribution from Greece

Disclaimer: The following responses have been provided primarily for the purpose of completing a Synthesis Report for the above-titled EMN Focussed Study. The contributing EMN NCPs have provided information that is, to the best of their knowledge, up-to-date, objective and reliable within the context and confines of this study. The information may thus not provide a complete description and may not represent the entirety of the official policy of an EMN NCPs' Member State.

Section 1

Top-line 'Fact sheet' (National Contribution) / Executive Summary (Synthesis Report)

National Contribution (one page only)

Overview of the National Contribution – drawing out key facts and figures from across all sections of the Study, with a particular emphasis on elements that will be of interest to policymakers.

Marriages of Convenience: [Member State should add their contribution here]

Marriages of convenience are an escalating phenomenon in Greece. According to data from publications, press releases, police reports and means of parliamentary control it can be deduced that marriages of convenience are the most widespread means of circumventing the provisions on family reunification in Greece and are gradually becoming an issue of public concern. In the absence of statistics, there is no accurate picture of the phenomenon or the categories of individuals who engage in marriages of convenience.

The Greek administration addresses the problem primarily in a punitive rather than preventive way, as most cases recorded are related to incidents where the police or other agencies intervened following complaints or during the investigation of other criminal acts. The existing legal framework provides for preventive action by the administration only in the case of family reunification between third country nationals, through interviews with the family members to come to Greece by the Greek consular authorities in the country of origin.

National policy and practice, as results from the study of legislation and circulars issued by the administration, is based on two pillars: a) on the principle of the probative force of public documents provided by foreigners as proof of family ties, unless challenged for forgery and b) on verification of family/marital status by officials, when there is evidence or following complaints about misuse of family reunification legislation.

Dealing with the phenomenon requires: a) statistics of cases in which the revocation of residence permits is due to abuse of the legal framework for family reunification, so that the Greek state obtains data on the profile of those involved and the methods and techniques used to circumvent the relevant provisions b) a possible extension of preventive measures for misuse of the family reunification legislation to other categories of aliens besides third country nationals c) introduction of necessary changes by the Greek government to the existing legal framework as to the means of proof or the legal consequences of marriages of convenience and d) strengthening cooperation with other countries for providing data and know-how to restrict the phenomenon

False declarations of parenthood: [Member State should add their contribution here]

The existing data does not suggest that false declarations of parenthood are used as a means of circumventing the legislation on family reunification. All available sources refer to marriages of convenience and not relationships between children and parents. However, the lack of statistical data does not allow an accurate picture of the phenomenon.

Section 2

National legislative framework and definitions

National Contribution (1 - 2 pages)

2.1 How are concepts of ‘marriage’ and the ‘family’ defined and understood in your Member States in the laws and regulations relating to family reunification?? E.g. do concepts of marriage cover civil partnerships, same-sex marriage, cohabitation, etc.)? – Please refer to any specific pieces of legislation and relevant Articles.

Marriages of convenience:

A) Greek family law recognizes the nuclear family as the standard family. This includes the spouses [of opposite sexes] and the children, if any, regardless of whether they are biological or adopted. Alternative forms of cohabitation between individuals of opposite sexes are recognized by the Greek law in the form of civil partnership, concluded by a notarised document. Persons who live in free union have access to medically assisted human reproduction and are covered by the legal framework for the fight against domestic violence. Thus, according to Greek family law, the free union of two persons of opposite sexes is not identical to marriage, but nevertheless creates a family. Greek law recognizes kinship based on forms of socio-emotional bonds.

A civil partnership between persons of the same sex concluded in a country where such civil partnership is established is legally recognized in Greece for family reunification between a Greek or EU citizen and a third country national. The conditions for the recognition of a same-sex civil partnership as a legal title for family reunification purposes are the following: a) to be drawn up in a country that recognizes this form of relationship and b) be drawn up between a Greek or EU citizen and a third country national. As a result, it does not include cases of civil partnership concluded between third country nationals.

A critical legal question is whether it is possible to recognize a marital relationship when the marriage is celebrated in a way that the Greek legal system does not recognize as valid [e.g. marriage by proxy] but is recognized as valid by other jurisdictions of EU Member States. The Legal Council of the State with the Opinion No. 155/2008 adopted the view that the non-recognition of such a marriage, when it concerns marriage between EU citizens or EU citizens and third country nationals, contradicts EU law and in particular the provisions concerning the free movement of EU citizens and therefore should be recognised¹.

B) According to the Greek legal framework for reunification, the term “family” refers only to spouses or partners of Greek citizens or EU citizens who are over 18 years old. When referring to a civil partnership concluded in a country that recognizes same sex civil partnership, persons of the same sex are considered as family members for the purposes of family reunification. It should also be noted that the current legal framework in Greece does not differentiate between the reunification of members of the family of third-country nationals already in place before the entrance of one member in Greece, and the reunification of members of family created after the entrance of the alien in Greece, as is the case in other European countries (e.g. the Netherlands), where the latter case is subject to more stringent criteria, considering that existing family ties are a presumption in favour of sincerity of the declaration of the alien on his/her family situation. The main criterion is whether the family

¹ See Intervention of the Hellenic Ombudsman, 6/7/2012, accessible at: http://www.synigoros.gr/resources/telefonikos_gamos.pdf

exists at the time of application for family reunification. Consequently, the provisions transposing EU Directives are not applied in cases where families are formed in Greece by legally resident third country nationals (See Circular 15/2009 Ministry of Interior p. 11). However, art. 40 par. 4 & 5 of law 3731/2008 consolidated this possibility provided that the third country nationals concluding marriage have residence permits according to law 3386/2005. In this case, there is no need to prove the existence of adequate resources from the part of the breadwinner. The main criterion for subjecting third country nationals to these provisions is the composition of the family in Greece at a time when the aliens were legally resident in the country.

The only case in which the current legal framework requires legal residence in Greece for at least one year before the alien can enjoy the benefits emanating from family ties is the case of civil partnership established in Greece by a Greek or EU citizen with a third country national.

More specifically, the Greek legislation for family reunification, as grounds for the issuance of a residence permit to an alien, regulates the following cases:

a) a **third country national** residing lawfully in the territory of a Member State seeking reunification with a **third country national** applying for residence permit so as to maintain the unity of the family [Presidential Decree 131/2006 transposing Directive 2003/86/EC]

b) a **mobile citizen of the European Union**, i.e. a citizen exercising the right to move and reside freely within the territory of the Member States, seeking reunification to a **third country national** [Presidential Decree 106/2007 transposing Directive 2004/38/EC]. This Directive regulates the right of citizens of the Union and their family members to move and reside freely within the territory of the Member States.

c) a **non-mobile Greek national** residing in Greece seeking reunification to a third country national who has entered the member state with the aim of family reunification, issue that falls within the exclusive jurisdiction of member states and is regulated in Greece by Presidential Decree 107/2007 and Law 3386/2005 [articles 54, 61-64, 75].

d) The case of a non-mobile citizen of the European Union, seeking to grant right of residence under European Union law to the members of his/her family who are third country nationals, according to CJEU case-law [Gerardo Ruiz Zambrano v Office national de l'emploi, C-34/09] is not regulated under Greek law, since in practice it concerns only cases in which a minor has acquired citizenship of an EU member state by birth [jus soli] and the removal of the parents places the minor's best interest at serious risk. Under Greek law, acquiring Greek citizenship by birth was established for the first time by Law 3838/2010, and requires the parents' legal residence in the country for five years prior to the birth of the child, and their written statement to the competent authorities within three years from the child's birth that they wish their child to have the Greek citizenship. Therefore for the time being there are no circumstances matching those that created the aforementioned CJEU case law.

Cases in which there could be facts similar to those that formed the basis for the CJEU case-law are a) the case of acquisition of Greek citizenship by children of aliens born in Greece who have not acquired a foreign citizenship [stateless]. In this case the current Greek law [Greek Citizenship Code, article 1 paragraph 2 sect. c] states that the child automatically acquires the Greek citizenship, and thus becomes an EU citizen and b) the acquisition of Greek citizenship because one of the parents is Greek. Given the case-law of Greek courts, according to which the administration is obliged to renew or grant a residence permit to an alien parent of a Greek citizen, even if he/she is divorced and does not have custody of the child, because, according to its rationale, the Greek Constitution guarantees the inviolability of family life [See Council of State (hereinafter CoS) 2921/2005] we can assume with relative certainty that if there were a case with similar facts, the decision of the Greek court would be similar to the case law of the CJEU.

False declarations of parenthood: [Member State should add their contribution here]

Regarding the relationship of children to the creation of bonds which, under Greek law are recognised as family ties, it should be noted that the existence of children automatically creates a family; unmarried mothers and unmarried fathers constitute a family unit with their children, regardless of whether they live together with their partners or if they have entered into a civil partnership. Regarding civil partnership, children born after its establishment, have the legal position of children born in wedlock. Also, according to Greek law, unwed women are entitled to assisted human reproduction. Thus, the existence of children in Greek law suggests the existence of a family.

The current legal framework covers family reunification between antecedents and descendants, and therefore cases of false declarations of parenthood are a violation of EU directives and their transposition in Greek law.

Please refer to Section II (General Context) above

2.2 What national legislation regulates family reunification between:

(i) a third-country national residing lawfully in the EU / Norway reunifying with a third-country national applying to enter / reside there in order to preserve the family unit.

(ii) A mobile EU national reunifying with a third-country national

(iii) A non-mobile EU citizen reunifying with a third-country national on the basis of jurisprudence (and reference to the EU Treaty)

(iv) A non-mobile EU citizen reunifying with a third-country national.

Please provide the name of the legislation and the conditions under which family reunification can take place.

Please note that family reunification between two third-country nationals in the EU is regulated under Directive 2003/86/EC, however this Directive leaves room for national discretion in certain areas; therefore a detailed description of national legislation in this area is necessary.

Note also that separate or the same legislation may regulate reunification between two spouses as between a parent and child. Please clarify which is the case in your country below.

For family reunification between two spouses please also distinguish, where relevant, between marriage, civil partnerships, same-sex marriage, cohabitation, etc.

Marriages of convenience:

2a. Family reunification of third-country national to third-country national

According to Presidential Decree 131/2006 [article 4] transposing EU Directive 2003/86 the term “family members” of a third country national entering Greece for the purpose of family reunification refers to a) the other spouse, who is over 18 years of age, as well as the minor unmarried children of the sponsor and of his/her spouse, including children legally adopted in accordance with a decision taken by the competent authority in Greece or with a decision which is automatically enforceable or has been recognised in Greece,

In cases of polygamy, if the sponsor already has a wife living with him in Greece, he is not entitled to family reunification with another wife. Moreover, there is no mention to civil partners or persons that can be considered as partners out of wedlock, since Directive 2003/86

EC does not include any relevant provision.

2.b Family reunification of a mobile EU national with a third-country national

Pursuant to the provisions of Presidential Decree 106/2007 [article 2] transposing Directive 2004/38 the term ‘family members of a Union citizen’ entering Greece with the purpose of family reunification, refers to

- the spouse, irrespective of citizenship
- the dependent direct relatives of the EU citizen in the ascending line and those of the spouse, who are dependent, irrespective of citizenship

Under recent legislation [Joint Ministerial Decision 23443/2011, sole article] third-country nationals who are partners of an EU or Greek citizen in a permanent relationship, can enter the country to reunite and to enjoy the benefits of reunification. The provision covers same-sex couples if the contract has been drawn up in a country recognising this form of relationship.

2. c Family reunification of a non-mobile EU national with a third-country national based on case law (and reference to the EU Treaty)

As already mentioned above [2.1] the only instance of implementation of CJEU case law in the Greek legal order is in the case of rupture of family ties between parents and children and not between spouses. So this case law could not have effect in cases of marriages between EU nationals and third- country nationals.

2. d Family reunification of a non-mobile EU national [Greek] to an alien

Pursuant to the provisions of Presidential Decree 106/2007 [article 2] and Joint Ministerial Decision 23443/2011, sole article, par. 1 & 5 family members entitled to family reunification to Greek nationals include the other spouse, who is over 18 years of age, and the partners of Greek nationals in a permanent relationship. In this case, since there is no mobility between member states, the Greek law regarding civil partnership is exclusively implemented, thus restricting this right to partners of opposite sexes.

False Declarations of Parenthood: [(Member) State should add their contribution here]

2a Family reunification of third country national to third country national

According to Presidential Decree 131/2006 [article 4] the term “family members” of a third country national entering Greece for the purpose of family reunification refers to the minor children including adopted children of the sponsor or the spouse, where the sponsor or the spouse have custody and the children are dependent on him or her.

The sponsor is not entitled to family reunification with other minor children, apart from those he/she shares with the wife/husband already living with him/her in the country, except in cases he/she has legal custody [article 4 par. 2 PD 131/2006]

2.b. Family reunification of a mobile EU national to a third country national

Pursuant to the provisions of Presidential Decree 106/2007 [article 2] as amended by art. 42 par.1 of law 4071/2012 the term ‘family members of an EU citizen’ entering Greece with the purpose of family reunification, refers to direct descendants, irrespective of citizenship and namely

- the joint direct descendants of the spouses who are under the age of 21
- the other direct descendants of the spouses, irrespective of age provided they are dependant
- adopted descendants who are under the age of 21
- adopted descendants irrespective of age provided they are dependant,

2.c Family reunification of a non-mobile EU national with a third-country national based on case law (and reference to the EU Treaty)

As already mentioned above [2.1] the only cases similar to those, which were the basis for the CJEU case law are a) the case of acquisition of Greek citizenship by children of aliens born in Greece who have not acquired a foreign citizenship [stateless]. In this case the current Greek law [Greek Citizenship Code, article 1 paragraph 2 sect.c] states that the child automatically acquires the Greek citizenship, and thus becomes an EU citizen and b) the acquisition of Greek citizenship because one of the parents is Greek. Given the case-law of Greek courts under which the administration is obliged to renew or grant a residence permit to an alien parent of a Greek citizen, even if he is divorced and does not have custody of the child, because, according to its rationale, the Greek Constitution guarantees the inviolability of family life [See Council of State 2921/2005] we can assume with relative certainty that if there were a case with similar facts, the decision of the Greek court would be similar to the case law of the CJEU.

2.d Family reunification of a Greek national to an alien

Pursuant to the provisions of Presidential Decree 106/2007 [article 2] as amended by art. 42 par.1 of law 4071/2012, applicable in these cases as well, the term ‘family members of an EU citizen’ entering Greece with the purpose of family reunification, refers to direct descendants, irrespective of citizenship and namely

- the joint direct descendants of the spouses who are under the age of 21
- their joint direct descendants of the spouses, irrespective of age, provided they are dependants
- adopted descendants who are under the age of 21
- adopted descendants above the age of 21 provided they are dependant.

2.3 Is the prevention of misuse of residents’ permits for family reunification as defined in the context of this study specifically covered in national legislation? If so, what are the provisions?

Please explain what changes in legislation and/or practice are being considered in your Member State to fight against such misuses. Please refer to the specific piece of legislation and relevant Articles.

Marriages of convenience :

According to the existing legal framework, preventive measures aimed at verifying family ties are provided for only in case of family reunification between third-country nationals. The Secretary General of the competent Decentralised Administration, prior to making a decision, is obliged to ask for the opinion of the competent police authority for issues regarding public order and security of the country, as well as the opinion of the competent Greek consular authorities with the aim of establishing the existence of family ties “especially through personal interviews with family members” [article 6 par.2 PD 131/2006]. There has been no information related to the practices used by the administration for dealing with abuses of the legislative framework.

For the remaining cases of family reunification [namely between Greek or EU nationals and

third-country nationals], it has been provided since 2001 [article 33 L. 2901/2001] that is there is reasonable doubt with regard to the existence of family ties, controls must be performed.

With regard to this procedure, several complaints have been addressed to the Greek Ombudsman for delays in the issuance of permits due to suspicions from the competent authority with regard to the validity or the purpose of the wedding. It has been supported that the control (through the interview) should be exercised from the perspective that an eventual refusal limits the exercise of the right to family life. Thus, it is considered necessary to have a personalized examination of every case, to avoid lists of incidents that might be indicative of the inexistence of a real relationship, to take into account the need to balance the right to family life with public interest and the need for specific reasoning of negative administrative acts. Eventual refusals should be based on facts and not on indications².

False Declarations of Parenthood:

Under the current legal framework there is no differentiation in family reunification between spouses and family reunification between parents and children, and therefore the above remarks apply in this case too. However there is no specific provision for this category of family relationships as, in practice, it has not emerged as a problem in Greece.

2.4 Where relevant and where information is available, give a brief description of the impacts (if any) of European Court of Justice case law, which has focused on family reunification (e.g. Zambrano, McCarthy, Dereci) in your Member State?

Marriages of Convenience: [(Member) State should add their contribution here]

In cases of marriage between Greek nationals and aliens after the entry of the alien in the country, the critical legal question is whether the lawful entry of the alien in the country is a prerequisite for the granting of a residence permit as family member of a Greek. On this issue the views of the Greek administration and the case law of Greek courts are divergent. The Greek administration considers that the legal entry of the alien in the country before the marriage is a prerequisite for the benefits granted to the alien by the marriage, while the case-law of the Greek courts firmly believes that legal entry is not a requirement for these benefits [e.g. residence permit], as the adoption of the contrary view is incompatible with a number of constitutional provisions protecting family life and free development of personality [see indicatively CoS 22/2009]. This view is similar to the view expressed by the CJEU in *Metock v UK*.

However, according to 2011 legislation, it is now provided that in this group of aliens, the administration may grant residence permits on humanitarian grounds [art.42 par.1 sect. 9, L. 3907/2011].

False Declarations of Parenthood: [(Member) State should add their contribution here]

The case of a non-mobile national of the European Union, seeking to grant right of residence under European Union law to the members of his/her family who are third country nationals, according to CJEU case-law [*Gerardo Ruiz Zambrano v Office national de l'emploi*, C-34/09] is not regulated under Greek law, since in practice it concerns only cases in which a minor has acquired citizenship of an EU member state by birth [jus soli] and his parents moving away puts the minor's best interest at serious risk. Under Greek law, acquiring Greek citizenship by birth was established for the first time in Law 3838/2010, and requires the parents' legal

² Kalliope Stefanaki, 'Residence permit for family reunification', 15.2.2004, accessible at: <http://www.synigoros.gr/resources/meta-paramoni-08b.pdf>

residence in the country for five years prior to the birth and their written statement to the competent authorities within three years from the child's birth, that they wish their child to have the Greek citizenship. Therefore for the time being there are no circumstances matching those that created the aforementioned CJEU case law.

There are two cases, however, similar to those, which were the basis for the CJEU in the Zambrano case. Namely:

a) the case of acquisition of Greek citizenship by children of aliens born in Greece who have not acquired a foreign citizenship [stateless]. In this case the current Greek law [Greek Citizenship Code, article 1 paragraph 2 sect.c] states that the child automatically acquires the Greek citizenship, and thus becomes an EU citizen and

b) the acquisition of Greek citizenship because one of the parents is Greek. Given the case-law of Greek courts (under which the administration is obliged to renew or grant a residence permit to an alien parent of a Greek citizen, even if he/she is divorced and does not have custody of the child, because the Greek Constitution guarantees the inviolability of family life, see Council of State 2921/2005) it can be assumed with relative certainty that if there were a case with similar facts, the decision of the Greek court would be similar to the case law of the CJEU.

<p><u>Section 3</u></p> <p>The situation in Greece</p>
<p><i>National Contribution: (3-5 pages in total)</i></p>
<p><u>Scope of the issue</u></p> <p><i>3.1 Are a) marriage of convenience and b) false declaration of parenthood recognised as examples of misuse of residents' permits for family reunification in your (Member) State?</i></p> <p><i>Please give an overview of the problem, (to the extent that it is recognised as a problem in your (Member) State) and the context (e.g. please refer here to any policy documents, media coverage, NGO campaigns, case law examples, etc. that demonstrate the ongoing problems)</i></p>
<p><i>Marriages of Convenience:</i></p> <p>Press releases and police reports periodically report incidents of marriages of convenience with the purpose of obtaining a residence permit by third country nationals. Combined with publications and related references in means of parliamentary control it can be deduced that marriages of convenience are gradually becoming an issue of public concern and debate. However, the lack of statistical data does not allow any systematic conclusions with regard to the extent of the phenomenon.</p> <p>The fact that marriages of convenience are a problem that needs to be addressed, results not only from public debates but also by the penalties contained in the existing legal framework for cases of abuse of the relevant provisions.</p> <p>Firstly, marriages of convenience are recognized as grounds for cancellation of residence permits granted for family reunification [article 9 of Presidential Decree 131/2006, see 3.7]. The intervention of the Greek authorities focuses on the intent of true partnership between the spouses. It should be noted, however, that preventive action to avoid marriages of convenience in practice concerns family reunification between third-country nationals, for which there is explicit provision of an interview as a means of preventing abuse. As for how the administration verifies the intention of true partnership between the spouses, the CoS case-law requires proof of marriage of convenience based on facts and not mere indications, such as those based on age difference between the two spouses.</p>
<p><i>False Declarations of Parenthood:</i></p> <p>With regard to false declarations of parenthood, there is no concrete evidence that it is recognised as a problem in Greece. Data from case-law, which is an indication of the categories of persons suspected for misusing reunification law, concern exclusively cases of marriages of convenience.</p>
<p><i>3.2 Optionally, please describe any other forms of misuses detected in your (Member) State (e.g. adoptions of convenience)</i></p>
<p><i>Marriages of Convenience: [(Member) State should add their contribution here]</i></p> <p>There is no data on marriages of convenience in Greece. Information from press reports, case-law, police reports is circumstantial and cannot adequately document the extent and the features of the phenomenon. Indicatively, few relevant cases that were recently in the spotlight are presented below.</p>

Recent police activity (January 2013) revealed a criminal organization that organized, for a fee, marriages of convenience between third country nationals and EU nationals. The criminal organization aimed to legalise third country nationals being illegally in the country. The irregular immigrants applied for refugee status and received a pink card. Following their marriage (of convenience) they applied for a residence permit for family reunification purposes³. Press releases on marriages of convenience of women EU nationals with third country nationals or vice versa have been in the spotlight in the past as well. In December 2012 a parliamentary question was discussed in the context of parliamentary control dealing with marriages of convenience with the aim to acquire residence permits⁴. The responses of the competent Ministers of Public Order and Internal Affairs focused on the current legal framework and the competencies of the authorities involved⁵.

The lack of statistical data does not allow forming an accurate picture of the profile and the groups of aliens involved in marriages of convenience. However, the available information indicates that although the matter initially concerned mostly marriages between greek men and alien women, there is a gradual increase of marriages between male third country nationals with female EU nationals. It is noteworthy that in research findings on female migration dating a few years back (2006), an important percentage of the respondent alien women mentioned that they got married in order to acquire a residence permit⁶. In several cases, the alien women involved in marriages of convenience appear to be victims of trafficking.

Despite the lack of systematic data, the available information allows to deduct that marriages of convenience constitute (compared to false declarations of parenthood) the main form of abuse of family reunification legislation in Greece.

False Declarations of Parenthood: [(Member) State should add their contribution here]

There has been no report of data showing abuse of the family reunification legislation in Greece through false declarations of parenthood.

National means of preventing misuse

3.3 How are misuses of residence permits by a) marriages of convenience and b) false

³ General Police Directorate of Thessaloniki, Press Release 23-01-2013, accessible at: <http://www.ethnos.gr/article.asp?catid=22768&subid=2&pubid=63771153>, Kathimerini(newspaper), 'Up to 7.000 Euros for marriages of convenience, http://news.kathimerini.gr/4dcgi/w_articles_ell_3_24/01/2013_508901, Ta Nea (newspaper), 'A circuit of marriages of convenience for legalization dismantled' <http://www.tanea.gr/ellada/article/?aid=4783932>, Eleftherotypia (newspaper), 'Marriages of convenience for nationality' <http://www.enet.gr/?i=news.el.article&id=338088>

⁴ Parliamentary question of Ilias Kassidiaris to the Ministers of Interior, Public Order and Citizen Protection, 3/12/2012, <http://www.hellenicparliament.gr/UserFiles/c0d5184d-7550-4265-8e0b-078e1bc7375a/7852418.pdf>

⁵ Nikos Dendias, 'Reported marriages of convenience between aliens with the aim of legalising their residence. Activities of authorities', 22/12/2012, <http://www.hellenicparliament.gr/UserFiles/67715b2c-ec81-4f0c-ad6a-476a34d732bd/7893277.pdf> and Charalabos Athanassiou, 'Parliamentary control: the No 4695/03/-12-2012 Question', <http://www.hellenicparliament.gr/UserFiles/67715b2c-ec81-4f0c-ad6a-476a34d732bd/7894114.pdf>

⁶ Research Centre for Equality, 'Female Migration in Greece. Findings of the panhellenic research of KETHI', 2007

declarations of parenthood prevented?

As well as the legislative framework identified above, please describe national policy and practice in this area, highlighting any good practice measures.

Marriages of Convenience: [(Member) State should add their contribution here]

The national policy and practice resulting from the study of legislation and relevant circulars issued by the public administration is based on two pillars: a) on the principle of the probative force of public documents provided by foreigners as proof of family ties, unless challenged for forgery and b) on the control of marital status by officials, when there is evidence or following complaints about misuse of family reunification legislation.

More specifically, in order to obtain a residence permit, **family members of EU citizens** should meet the following requirements:

- a) demonstrate in writing their family relationship with the EU citizen
- b) demonstrate in any convenient manner that they are dependents of EU citizens, in cases where this fact is required, namely in cases of dependent children older than 21 years and antecedents.

Together with the application, the third country national concerned will be required to submit proof of fulfilment of the above requirements, according to Ministerial Decree oik. 993 Minister [OJ B 53/2009] of the of Interior, among which:

For the spouse

- Copy of the marriage certificate or equivalent document proving the family relationship, which should have been issued by the competent service provided by the national law of that State, or a marriage registration certificate by a Greek public authority in case of marriage in Greece.

The permit is revoked if an irrevocable decree or judgment establishes the forgery of documents. Also, when the data in the file create doubts about the existence of a family relationship, the administration is entitled to invite the persons concerned for an interview in order to examine the accuracy of the documents. It should also be noted that even if the concerned is called in for an interview, a rejection of the application can only be based on objective evidence and not speculation.

Family reunification of third-country national to third-country national

An initial permit of residence with an expiry date identical to that of the provider's permit of residence is granted to the members of the family of a third country national. At the renewal phase, the residence permit of the family members follows the fate of the provider's permit of residence. [article 8 PD 131/2006]

The conditions to be fulfilled are the following [article 5 PD 131/2006]:

- For the exercise of the above mentioned right, the provider will have to prove the relation with the members of family with whom re-union in Greece is requested. The provider will also have to prove that he cumulatively fulfils the following conditions.

The organ that is competent to examine the application, according to the provisions of the Presidential Decree 131/2006, is obliged to immediately ask for the opinion of the competent police authority on matters related to public order and security, as well as the opinion of the competent Hellenic Consular Authority, in order to ascertain the existence of the family relation, especially through personal interviews with the members of the family and the examination of risks for public health. These opinions are provided within an exclusive deadline of three months [article 6 par.2 PD 131/2006].

Family reunification of a Greek national to third-country national

The alien family members of a Greek national entering the country with him/her or for reunification purposes, have the right to enter and stay unconditionally for three months, based on the analogous implementation of PD 106/2007. The documents required are the following:

For the spouse

- A copy of the marriage registration certificate
- A certified copy of the Identity Card of the Greek spouse
- An affidavit of no modification of the marital status [in cases of renewal]

The permit is revoked if an irrevocable decree or judgment establishes the forgery of documents. There is no obligation for an interview of the concerned individual prior to granting the residence permit, except in cases when the data in the file show misuse or fraud. It should be noted that even if the concerned is invited for an interview, rejection of the application can only be based on objective evidence and not speculation.

False Declarations of Parenthood:

The same principles apply for the reunification between parents and children. However, there is no relevant data, as this form of misuse of family reunification legislation has not yet proven to be a problem in Greece.

More specifically, the documents required for the children in cases of **family reunification of an EU citizen to third-country national** are:

- Birth registration certificate or any other official document proving the family ties
- Official document for the competent foreign authority, confirming permission to stay in Greece, in case of non-joint or minor children (court judgment, written agreement of the parents regarding custody duly certified etc).
- Adoption act, when necessary.

The documents required for the children in cases of **family reunification of a third-country national to a third-country national** are:

- recent family status certificate providing the family relation, officially translated and certified by the competent Greek authorities, and, in case of non-joint children, a public document by the competent foreign authorities officially certified and translated, showing the relation between the children and the other spouse, accompanied by an official document of a foreign authority, confirming permission to stay in Greece (court judgment, written agreement of the parents regarding custody duly certified etc).

If the sponsor seeks reunification with a minor born in a polygamous marriage with a wife different from the one reunited in Greece and for which he has been legally assigned custody, he must provide additional document from the country of residence of the child, officially certified and translated, demonstrating the assignment of the exclusive custody of the child.

In case of **family reunification of a Greek national with an alien**, the documents required for the children are:

- A certified copy of the Identity Card of the Greek national
- Birth registration certificate or other official document showing the family relation
- In case of non joint children, an official document of the competent foreign authority, proving the assignment of the custody of the child to the spouse of the Greek national.
- An adoption act, if the children are adopted.

In all the above cases, similarly to marriages of convenience, a) the permit is revoked if an irrevocable decree or judgment establishes the forgery of documents and b) in cases when the data in the file create suspicion of misuse or fraud, the administration is entitled to invite the persons concerned for an interview c) in cases of reunification with third country nationals, the prior opinion of the greek consular authority is mandatory.

National means of detecting misuse

Please describe both strategic and practical approaches that are applied, and information sources. Please include the extent to which detection results from those involved admitting the misuse (for example, women wishing to exit a marriage of convenience). Is a special status or amnesty granted in such cases?)

3.4 What factors trigger an investigation of individual cases? How are a) marriages of convenience and b) false declarations of parenthood detected and investigated? Are there any factors that have prevented investigations into suspected misuses from progressing?

Marriages of Convenience: [(Member) State should add their contribution here]

The factors that trigger an investigation are either individual complaints or gaps in the file or documents submitted which indicate that there might be a possibility of a marriage of convenience or a false declaration of parenthood and police investigations for illegal acts. So far there have been no cases of complaints from women wishing to "leave" a marriage of convenience. However there are reports of women victims of trafficking forced into marriage, which, without focusing on the issue of the marriage, lead de facto to the investigation of its validity. In these cases immunity is provided because of the status of the victim as a victim of trafficking.

False Declarations of Parenthood: [(Member) State should add their contribution here]

There is no evidence that false declarations of parenthood have been investigated by the administration or the police.

3.5 What evidence is needed to prove that the marriage/declaration is false (e.g. DNA-testing, etc.)? Who has the 'burden of proof' (the third-country national concerned to prove that the relationship is real or the authorities to prove that it is false)?

Marriages of Convenience: [(Member) State should add their contribution here]

According to article 9 of Presidential Decree 131/2006 a family relationship is considered to circumvent provisions regulating the entrance or residence in the country especially when the members of the family ignore issues related to the personal situation of other members or the circumstances and this allows to deduct the inexistence of any cohabitation between the members of the family.

According to the case law of the Council of State, the burden of proof for establishing the relationship rests with the alien and the burden of proof for the non-existence of the relationship lies with the administration. For this reason, according to the case-law of the Greek courts, aliens who, when invited by the administration to provide information or undergo an interview failed to show up, cannot challenge the administration's decision on the absence of family relationship [see CoS 1559/2011].

False Declarations of Parenthood: [(Member) State should add their contribution here]

According to article 9 of Presidential Decree 131/2006 the family relationship (adoption or recognition of children) is considered to circumvent provisions regulating the entrance or residence in the country especially when the members of the family ignore issues related to the personal situation of other members or the circumstances allow to deduct the inexistence of any cohabitation between the members of the family.

There is no specific list of means of proof of family relationship in cases of family reunification between parents and children, such as DNA test.

3.6 Who (e.g. which national authorities) are responsible for detecting such misuses? If multiple authorities are involved, how are they coordinated? Is there an official mandate – e.g. an Action Plan - governing the involvement of these authorities?

Marriages of Convenience: [(Member) State should add their contribution here]

The national authorities involved in detecting misuses are those competent for issuing residence permits, the police authorities competent for border controls and in the course of regular police investigations and the Greek consular authorities in cases of family reunification of third-country nationals.

In specific, the Aliens Directorates of the decentralized administrations are competent for the issuance of residence permits for family members of EU nationals. They are responsible to investigate the files and identify phenomena of misuse or fraud. In cases where the data or information in the file allows suspicions of misuse, fraud or forgery the authorities must make the necessary controls to collect evidence⁷.

The Aliens Directorate of the Hellenic Police are also competent on the matter. According to article 6 of presidential Decree 131/2006 police authorities provide an opinion on the conditions of granting or renewal of residence permit on matters of public order and security within an exclusive deadline of three months.

According to the above provision, a (simple) opinion lies with the greek consular authorities, particularly with regard to the verification of the family relationship⁸.

No coordination mechanisms, Action Plans or other related measures have been identified. The only form of formal cooperation concerns the obligation (article 9 par. 1 of Presidential Decree 131/2006) of the Aliens' services of the decentralized administrations to send, at the end of each month, to local police directorates or security directorates of the Hellenic Police reports with the detailed data of third country nationals whose residence permits have been renewed.

The Ombudsman has highlighted in several interventions the complex nature of the family reunification procedures and the need for effective coordination of the authorities involved⁹.

⁷ Charalabos Athanassiou, 'Parliamentary control: the No 4695/03/-12-2012 Question', <http://www.hellenicparliament.gr/UserFiles/67715b2c-ec81-4f0c-ad6a-476a34d732bd/7894114.pdf>

⁸ See Intervention of the Hellenic Ombudsman to the consular office in Tirana Refusal of granting of visa for family reunification due to previous illegal entry/residence in the country', 9/7/2012, accessible at: <http://www.synigoros.gr/resources/tirana.pdf>. See also the intervention of the Hellenic Ombudsman on the problems in the implementation and interpretation of the provisions on family reunification from consular authorities, 11/11/2010, accessible at: <http://www.synigoros.gr/resources/visa.pdf>

False Declarations of Parenthood: [(Member) State should add their contribution here]

The national authorities responsible for detecting misuse are the same as those involved in detecting marriages of convenience.

National action against those misusing

Please describe the likely penalties imposed, and any impacts on: EU citizens / Third-country nationals

3,7 Once detected, how does your Member State treat people found to be misusing family reunification through a) marriages of convenience and b) false declarations of parenthood)?

Marriages of Convenience:

The imposed sanctions are administrative sanctions or penal. In the former case, the permit is revoked, while in the latter case, the courts impose sanctions for the offence of fraudulent procurement of false official certification.

In particular, if a marriage of convenience is proved, the residence permit is revoked or is not granted, while a return decision is issued (according to Law 3907/2011). In cases where the alien submitted fraudulent documents when applying for a residence permit, the competent unit informs the Public Prosecutor's Office of District Court Judges for the initiation of prosecution and the Aliens' Department of the Hellenic Police headquarters for inclusion in the National List of Undesired Aliens (Schengen Information System Alerts) for reasons of public order and security (Joint Ministerial Decision 4000/4/32-λα 5/10/2010). However, according to case law of administrative courts, conviction by penal courts does not make it compulsory for the administration to revoke the permit.

Family reunification of an EU citizen to a third country national

In addition to reasons of public order, security or public health, the benefits and the residence or permanent residence card can be revoked or not granted, in cases where it has been duly ascertained, particularly by court judgment or irrevocable judicial council ruling, that fraudulent or misleading information or falsified documents have been used, and in general in cases where abuse of right or fraud can be established, as in the occasion of marriages of convenience. [article 26 PD 106/2007].

The Administration can conduct controls even without the existence of a court judgment, since article 26 of PD 106/2007 mentions the existence of a court judgment as an indication of fraud, without explicitly excluding other indications. However, according to Circular 10/2008 of the Ministry of Interior [p.22] *«the controls conducted must in no case be systematic; We clearly state that call to an interview is not a prerequisite for the granting or renewal of the residence card and all invitations to the concerned individuals to appear before the Immigration Board must be based on objective data in the file of the third country nationals who are family members of EU citizens, from which serious indications derive as to possible fraud or abuse of right, as in the occasion of marriage by convenience».*

Family reunification of a third country national to a third country national

⁹ Hellenic Ombudsman, 'Rejection of applications for entry visas for family reunification purposes. Intervention of the Ombudsman to the greek consulate in New Delhi', 13/10/2008, accessible at: http://www.synigoros.gr/resources/6837_1_neodelhi.pdf

The residence permit on the grounds of family reunification is not granted, is revoked or is not renewed in the following cases (article 9 of Presidential Decree 131/2006):

- if proven by a final judgment that false or misleading information, forged or falsified documents have been used, that fraud has been committed in any way or other illegal means have been used,
- if ascertained that the family relation, especially the marriage, the adoption or the recognition of children has been concluded with the purpose to infringe the provisions in force in order to achieve entry or residence in the country. This is especially the case when family members ignore personal issues of the other members or there is evidence that there has never been a cohabitation of the family members [art.9 PD 131/2006]

Controls can be conducted whenever the competent authorities (Decentralised Administration, Aliens Directorate) acquire knowledge of any incident that can be used as grounds for revocation of the residence permit. For the rejection of the application, revocation or refusal of renewal, or the infliction of the sanction of removal against the sponsor or members of his family, the following factors must be assessed: the nature and stability of family ties of the person, the duration of stay in the country, the existence of family, cultural and social ties to the country of origin [art. 9 par.2 & 3 PD 131/2006].

Family reunification of a Greek national to an alien

The family members of a Greek national have the same rights and obligations with the family members of an EU citizen with the analogous application of the provisions of Presidential Decree 106/2007 [Circular 10/2008 p. 29]. Consequently, the rights and the residence card or permanent residence card of a family member of a Greek national cannot be denied or revoked, unless for reasons of public order, security or public health, as well as in cases where it has been duly ascertained, particularly by a court judgment or irrevocable judicial council ruling, that fraudulent or misleading information or falsified documents have been used, and in general in cases where abuse of right or fraud can be established.

Moreover, according to article 61 par. 5 sect. b of Law 3386/2005 the rejection of a relevant application of a family member of a Greek national or EU citizen *is possible exceptionally, only in cases when it is ascertained that the family relation, especially the marriage, the adoption or the recognition of children has been concluded with the purpose to infringe the provisions in force in order to obtain the Residence Card or Card of Permanent Residence*". The provision states as a possible indication that *"the family relation is considered to have been concluded with this purpose especially when there is no cohabitation or possibility of communication among the family members, or when one spouse ignores identity data of the other spouse"*.

The administration can conduct controls, even without the previous existence of a court judgment. However, according to Circular 10/2008 of the Ministry of Interior [p.22] *«the controls conducted must in no case be systematic; we clearly state that call to an interview is not a prerequisite for the granting or renewal of the Residence Card and all invitations to the concerned, to appear before the Immigration Board must be based on objective data in the file of the family members of EU citizens that are third country nationals, bearing serious evidence to possible fraud or abuse of right, as in the occasion of marriage by convenience»*.

False Declarations of Parenthood: [(Member) State should add their contribution here]

In case of false declarations of parenthood, the existing legal framework imposes the same sanctions as in cases of marriages of convenience, namely the revocation or refusal of the permit.

3.8 Do persons accused of abusing/misusing family reunification have a right to appeal?

<p><i>Marriages of Convenience:</i> [(Member) State should add their contribution here]</p> <p>Refusal to grant or revocation of a residence card to a family member of an EU national is subject to an administrative appeal before the Secretary General of the Decentralised Administration, or a judicial appeal before the Council of State [articles 24 & 26 of PD 106/2007]. In addition, the concerned can file a complaint with the Greek Ombudsman, the independent authority for investigating maladministration.</p> <p>Refusal to grant or revocation of a residence card to a family member of a third-country national is subject to an administrative appeal before the Secretary General of the Decentralised Administration, or a judicial appeal before the Council of State [article 12 of PD 106/2007]. In addition, the concerned can file a complaint with the Greek Ombudsman.</p> <p>Refusal to grant or revocation of a residence card to a family member of a Greek national, is subject to an administrative appeal before the Secretary General of the Decentralised Administration, or a judicial appeal before the Council of State. In addition, the concerned can file a complaint with the Greek Ombudsman.</p>
<p><i>False Declarations of Parenthood:</i> [(Member) State should add their contribution here]</p> <p>Individuals whose permits have been refused or revoked on the grounds of false declarations of parenthood, have the same means of redress available in cases of marriages of convenience, namely: grant administrative appeal before the Secretary General of the Decentralised Administration, judicial appeal before the Council of State or a complaint with the Greek Ombudsman.</p>
<p><i>3.9 Are there any examples of trans-national cooperation (e.g. between Member States or between Member States and third countries in combating misuse of family reunification?)</i></p>
<p><i>Marriages of Convenience:</i> [(Member) State should add their contribution here]</p> <p>There is no available information on examples of cooperation for combating misuse of family reunification.</p>
<p><i>False Declarations of Parenthood:</i> [(Member) State should add their contribution here]</p> <p>There is no available information on examples of cooperation for combating misuse of family reunification.</p>
<p><u>Reasons and motivations</u></p> <p><i>3.10 Where possible (i.e. based on previous research undertaken, media interviews, etc.) describe the motivations for the <u>sponsor</u> engaging in a marriage of convenience / false declaration of parenthood. These may be economic, humanitarian or emotional considerations.</i></p> <p><i>Where possible describe the motivations for the <u>third-country national</u> engaging in a marriage of convenience / false declaration of parenthood rather than (other) legal routes into the Member State.</i></p>
<p><i>Marriages of Convenience:</i> [(Member) State should add their contribution here]</p> <p>As a result of police investigations and judicial investigation of related matters, the provider</p>

has financial motives and the aliens aim at the benefits relevant to residence permits.

False Declarations of Parenthood: [(Member) State should add their contribution here]

Due to lack of data on this type of circumvention of the legal framework ruling family reunification is not possible to give details.

Synthesis Report

Section 4

Available statistics, data sources and trends

National Contribution

See Appendices

Statistics: General Context

4.1 Please provide the main / (readily) available national statistics (and the data sources with their status, i.e. published / not published) related to and in order to give a general context for the Study. What are the gaps? What are the available years?

Data might include for example: statistics on residence permits / visas granted for the purpose of family reunification, plus other reasons of entry; general characteristics of those entering for family reunification purposes, etc.

Note that Eurostat has statistics available on first permissions granted for the purpose of family reunification in accordance with Article 6 of Regulation 862/2007/EC ('Statistics on residence permits and residence of third-country nationals'), available for 2009-2010. The Eurostat statistics are disaggregated by length of validity of permit (i.e. 3-6 months, 6-12 months, and 12 months and more) and by category of family member (e.g. child, spouse, etc.). Moreover, statistics are disaggregated by the type of reunification (TCN joining TCN and TCN joining EU-citizen).

Marriages of Convenience: [(Member) State should add their contribution here]

There is no cumulative data regarding the permits granted for family reunification, i.e. reunification for spouses or parents with children. The available data [source: Interior Ministry] shows the number of renewals is steadily multiple to initial granting of permits. However, while in 2009 the ratio between them was 3 to 1, in 2012 the relative ratio is 15 to 1. More specifically, in 2009 there were 15721 renewals and 4232 initial granting; In 2010 26.439 renewals and 4.133 initial granting; in 2011, 13.802 renewals and 3.349 initial granting; in 2012, 34.287 renewals and 1.713 initial granting. However there is no evidence leading to reliable conclusions about the reduction of initial granting in comparison with the increase of renewals. It is also worth noting as a statistic, that, according to a research by the National Centre for Social Research, [2007] the percentage of aliens involved in offences related to falsifying documents increased from 12% in 1998, to 92, 8% of the total. It is noteworthy that a survey of the National Centre for Social Research [2007] the percentage of aliens involved in crimes related to falsification of documents has increased from 12% in 1998 to 92,8% on the total cases¹⁰.

False Declarations of Parenthood: [(Member) State should add their contribution here]

There is no cumulative data regarding the permits granted for family reunification, i.e. reunification for spouses or parents with children. The available data [source: Interior Ministry] shows the number of renewals is steadily multiple to initial granting of permits. However, while in 2009 the ratio between them was 3 to 1, in 2012 the relative ratio is 15 to 1. More specifically, in 2009 there were 15721 renewals and 4232 initial granting; In 2010 26.439 renewals and 4.133 initial granting; in 2011, 13.802 renewals and 3.349 initial granting; in 2012, 34.287 renewals and 1.713 initial granting. However there is no evidence leading to reliable conclusions about the reduction of initial granting in comparison with the

¹⁰ Ioanna Tsinganos, Julia Lambrakis, Ioanna Fatouros, Evangelos Hainas, "Immigration and Criminality", Athens, 2010, ed. EKKE.

increase of renewals.

Statistics: Specific indicators of the intensity of the issue:

4.2.a What is the intensity of the issue in your (Member) State?

Data might include the number of marriages of convenience and false declarations of parenthood that have been detected in your (Member) State; applications rejected because of presumption of marriage of convenience or false declaration of parenthood; residence permits issued for the purpose of family reunification later revoked, due to suspicion / evidence of them representing a marriage of convenience / false declaration of parenthood cases; case law.

Please provide statistics where available.

Marriages of Convenience: [(Member) State should add their contribution here]

There is no available data on the number of marriages of conveniences, the number of applications rejected for this reasons, residence permits issued and revoked due to suspicion/evidence on marriage of convenience.

A recent response of competent Ministers to a parliamentary question reported that in the Police Directorate of Pieria 22 marriages of convenience have been detected, while similar investigations are taking place in Police Directorates of Chania and Rethymnon. No verified incidents of marriages of convenience were however announced¹¹. Police reports and press releases on a criminal organisation in northern Greece made reference to 68 marriages of convenience concluded and 70 that were about to take place¹².

False Declarations of Parenthood: [(Member) State should add their contribution here]

There is no available data on the number of false declarations of parenthood, the number of applications rejected for this reason, residence permits issued and revoked due to suspicion/evidence on false declarations of parenthood.

Characteristics of those involved

4.2.b For: a) Marriages of Convenience and b) False Declarations of Parenthood, please describe where possible, a) the EU status (e.g. EU citizen, legally resident third-country national), the nationality and sex of those involved.

Please provide details of data sources.

Marriages of Convenience: [(Member) State should add their contribution here]

There is no official data with regard to the status, nationality and sex of those involved in marriages of convenience. From incidents reported in the press it can be deduced that although a few years back the matter concerned mostly marriages between greek men and alien women, there is a gradual increase of marriages of convenience between men third country nationals and women EU nationals. In several cases the women involved in marriages

¹¹ Nikos Dendias, 'Reported marriages of convenience between aliens with the aim of legalising their residence. Activities of authorities', 22/12/2012, <http://www.hellenicparliament.gr/UserFiles/67715b2c-ec81-4f0c-ad6a-476a34d732bd/7893277.pdf>

¹² General Police Directorate of Thessaloniki, Press Release 23-01-2013, <http://www.ethnos.gr/article.asp?catid=22768&subid=2&pubid=63771153>,

<p>of convenience appear to be victims of trafficking.</p> <p>A recent parliamentary question concerned marriages of convenience between women nationals of Bulgaria and Romania and men nationals of Pakistan and Syria¹³. Other press releases concerned marriages of nationals of former USSR countries with EU nationals¹⁴, while weddings between EU nationals and nationals of Africa countries have also been reported in the press¹⁵.</p> <p>In any case, this information is circumstantial and cannot provide a systematic picture of the phenomenon.</p>
<p><i>False Declarations of Parenthood:</i> [(Member) State should add their contribution here]</p> <p>There is no available data.</p>
<p><i>4.2.c Please also provide information about the location of the misuse (i.e. whether the marriage took place in your (Member) State or on the territory of another (Member) State.</i></p>
<p><i>Marriages of Convenience:</i> [(Member) State should add their contribution here]</p> <p>There is no available data on the location of the misuse.</p> <p>Recent police reports on a criminal organization aiming to legalise irregular third country nationals through marriages of convenience did not refer to the location of marriage. The fact that local government officials were involved allows to deduct that the marriages (of convenience) were conducted in Greece. It was also reported that in some cases marriages took place in the aliens' country and the person was then granted a visa for family reunification purposes¹⁶.</p>
<p><i>False Declarations of Parenthood:</i> [(Member) State should add their contribution here]</p> <p>There is no available data.</p>
<p><i>Synthesis Report (up to 1 page)</i></p> <p><i>Description of available statistics / data and identified gaps.</i></p> <p><i>Overall synthesis, drawing out key points to be highlighted at national / Member State level. This section could include graphics such as a map outlining the patterns of instances of misuse + synthesis of trends/data to show which Member States most commonly experience these phenomena.</i></p>

¹³ Nikos Dendias, 'Reported marriages of convenience between aliens with the aim of legalising their residence. Activities of authorities', 22/12/2012, <http://www.hellenicparliament.gr/UserFiles/67715b2c-ec81-4f0c-ad6a-476a34d732bd/7893277.pdf>

¹⁴ Kathimerini, 'Up to 7.000 Euros for marriages of convenience', 24/1/2013, accessible at: http://news.kathimerini.gr/4dcgi/w_articles_ell_3_24/01/2013_508901

¹⁵ 'Marriages of convenience for a passport', 6/1/2012 accessible at: <http://www.zougla.gr/greece/article/eikoniki-gami-gia-ena-diavatrio>, 'Aliens' marriages of convenience for a visa' accessible at: http://www.eglimatikotita.gr/2011/07/blog-post_2704.html

¹⁶ General Police Directorate of Thessaloniki, Press Release 23-01-2013, http://www.astynomia.gr/index.php?option=ozo_content&perform=view&id=24109&Itemid=1034&lang=

Section 5

Summary and conclusions

National Contribution (up to one page only)

Marriages of Convenience: [(Member) State should add their contribution here]

Regarding marriages of convenience, aiming at the misuse of the provisions on family reunification, the following can be highlighted:

A) The available evidence indicates that marriages are the most common form of misuse of the relevant provisions.

B) The characteristics of the individuals involved in marriages of convenience can not be depicted with statistical accuracy, but the investigation of such cases by the police, as well as press reports, indicate that, while initially the vast majority of cases concerned marriages of women to Greek men, gradually, cases of marriages with citizens of the EU, as well as marriages of third-country men with women also appear. Furthermore, in many cases women who have entered into such marriages are victims of trafficking in human beings. Nationals of African countries, asian countries and former USSR countries are involved in the reported incidents.

C) National policy and practice resulting from the study of legislation and the circulars issued by the government, is based on two pillars: a) on the principle of the probative force of public documents provided by foreigners as proof of family ties, unless challenged for forgery and b) on the verification of marital status by officials, when there is evidence or following complaints about misuse of family reunification legislation. As a general rule, the intervention of the Greek authorities focuses on the intent of true partnership between the spouses. It should be noted, however, that preventive action to avoid marriages of convenience concerns only family reunification between third-country nationals for whom there is an explicit provision for interviews as a means of preventing abuse. As for to how the administration verifies the intention of true partnership between the spouses, the Council of State case-law requires from the administration the proof of marriage of convenience based on facts and not mere speculations, such as those based on the age difference between the spouses.

D) In view of the above, the following actions are considered necessary: a) statistics of cases in which the revocation of residence permits is due to abuse of the legal framework for family reunification, so that the Greek state obtains data on the profile of those involved and the methods and techniques used to circumvent these provisions b) possible extension of preventive measures for misuse of the family reunification legislation to other categories of aliens besides third country nationals c) the Greek government to make the necessary changes to the existing legal framework as to the means of proof or the legal consequences of such marriages, which are not similar to those of any sham transaction, according to which such transactions are unsubstantiated and non-existent; Even if we can consider such a solution possible according to the general principles of civil law regarding sham transactions, legal theory cannot support this point of view, since the legal status of marriage is ruled by special provisions [article 1376 et seq. Civil Code], stating that every marriage is valid until it has been annulled by a court judgment. It is therefore critical, for reasons of safety of law, to amend the CC with a provision stating that marriages of convenience do not produce legal effects, as all other sham transactions d) the extent of the phenomenon underlines the need to strengthen the cooperation with other countries in this field.

False Declarations of Parenthood: [(Member) State should add their contribution here]

Statistics on cases where revocation of residence permits is due to circumvention of the law ruling family reunification, will help clarification of cases of false declaration of parenthood, and their characteristics in breaking the law. In absence of such data, it is impossible either to reach conclusions or to make proposals.

Synthesis Report (2-4 pages)

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ANNEX I
STATISTICAL DATA
RESIDENCE PERMITS BY TYPE 2009-2012

10-year residence permit (L.3731/08, art. 39, par. 1)					
	Renewal	2009	2010	2011	2012
		3791	18177	6763	28068
	Granting	2009	2010	2011	2012
		0	0	0	0

Undetermined duration (L.3386/05, art. 91, par. 2)					
	Renewal	2009	2010	2011	2012
		1146	57	0	2
	Granting	2009	2010	2011	2012
		0	0	0	0

Parent of minor greek national (L.3386/05, art. 62 and 94)					
	Renewal	2009	2010	2011	2012
		1	0	0	0
	Granting	2009	2010	2011	2012
		0	0	0	0

Parent of minor greek national (L.3386/05, art. 63 and 94)					
	Renewal	2009	2010	2011	2012
		18	0	0	0
	Granting	2009	2010	2011	2012
		0	0	0	0

Parent of minor greek national (L.3386/05, art. 94)					
	Renewal	2009	2010	2011	2012
		417	352	440	1539
	Granting	2009	2010	2011	2012
		58	63	63	90

Parents of Greek citizen (L.3386/05, art. 61)					
	Renewal	2009	2010	2011	2012
		374	448	381	515
	Granting	2009	2010	2011	2012
		511	470	312	151

Parents of Greek citizen (L.3386/05, art. 62)					
	Renewal	2009	2010	2011	2012
		8	6	4	3
	Granting	2009	2010	2011	2012
		0	0	0	0

Parents of Greek citizen (L.3386/05, art. 63)					
	Renewal	2009	2010	2011	2012

	159	103	129	63
Granting	2009	2010	2011	2012
	0	0	0	0

Parents of EU citizen (PD 106/07, art. 9)				
Renewal	2009	2010	2011	2012
	4	6	9	3
Granting	2009	2010	2011	2012
	7	3	6	4

Parents of EU citizen (PD 106/07, art. 17)				
Renewal	2009	2010	2011	2012
	0	0	1	0
Granting	2009	2010	2011	2012
	0	0	0	0

Spouse of EU citizen (PD 106/07, art. 9)				
Renewal	2009	2010	2011	2012
	117	149	96	60
Granting	2009	2010	2011	2012
	162	195	123	46

Spouse of EU citizen (PD 106/07, art. 11 & 12)				
Renewal	2009	2010	2011	2012
	4	2	2	0
Granting	2009	2010	2011	2012
	0	0	0	0

Spouse of EU citizen (PD 106/07, art. 17)				
Renewal	2009	2010	2011	2012
	45	35	43	23
Granting	2009	2010	2011	2012
	0	0	0	0

Spouse of greek citizen (L.3386/05, art. 61)				
Renewal	2009	2010	2011	2012
	3187	2470	1766	1190
Granting	2009	2010	2011	2012
	3007	2968	2540	1306

Spouse of greek citizen (L.3386/05, art. 62)				
Renewal	2009	2010	2011	2012
	370	234	198	110
Granting	2009	2010	2011	2012
	0	0	0	0

Spouse of greek citizen (L.3386/05, art. 63)				
Renewal	2009	2010	2011	2012
	4438	3614	3224	2229
Granting	2009	2010	2011	2012
	0	0	0	0

	0	0	0	0
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Long term resident (L.3731/08, art. 40, par. 7)				
Renewal	2009	2010	2011	2012
	10	16	26	26
Granting	2009	2010	2011	2012
	3	4	1	2

Long term resident (PD 150/06)				
Renewal	2009	2010	2011	2012
	40	200	190	142
Granting	2009	2010	2011	2012
	0	0	0	0

Dependent family members of EU citizen (PD 106/07, art. 9)				
Renewal	2009	2010	2011	2012
	5	3	3	1
Granting	2009	2010	2011	2012
	6	4	1	3

Dependent family members of Greek citizen (N.3386/05, άρθρο 61)				
Renewal	2009	2010	2011	2012
	188	2	0	0
Granting	2009	2010	2011	2012
	104	0	0	0

Children of Greek citizen (L.3386/05, art. 61)				
Renewal	2009	2010	2011	2012
	337	443	366	219
Granting	2009	2010	2011	2012
	353	414	283	103

Children of Greek citizen (L.3386/05, art. 62)				
Renewal	2009	2010	2011	2012
	36	24	15	8
Granting	2009	2010	2011	2012
	0	0	0	0

Children of Greek citizen (L.3386/05, art. 63)				
Renewal	2009	2010	2011	2012
	103	75	125	79
Granting	2009	2010	2011	2012
	0	0	0	0

Children of EU citizen (PD 106/07, art. 9)				
Renewal	2009	2010	2011	2012
	5	20	20	5
Granting	2009	2010	2011	2012
	21	12	20	8

Children of EU citizen (PD 106/07, art. 11 & 12)				
Renewal	2009	2010	2011	2012
	1	0	1	0
Granting	2009	2010	2011	2012
	0	0	0	0

Children of EU citizen (PD 106/07, art. 17)				
Renewal	2009	2010	2011	2012
	0	2	0	1
Granting	2009	2010	2011	2012
	0	0	0	0

Family members of EU citizen (L.3386/05, art. 62)				
Renewal	2009	2010	2011	2012
	53	1	0	0
Granting	2009	2010	2011	2012
	0	0	0	0

Family members of EU citizen (L.3386/05, art. 63)				
Renewal	2009	2010	2011	2012
	850			1
Granting	2009	2010	2011	2012
	0	0	0	0

Family members of EU citizen (PD 106/07, art. 11 & 12)				
Renewal	2009	2010	2011	2012
	1	0	0	0
Granting	2009	2010	2011	2012
	0	0	0	0

Family members of EU citizen (PD 106/07, art. 17)				
Renewal	2009	2010	2011	2012
	4	0	0	0
Granting	2009	2010	2011	2012
	0	0	0	0