



HELLENIC REPUBLIC

**GREEK NATIONAL COMMISSION FOR HUMAN RIGHTS**

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*GNCHR Observations on the Draft Law by the Ministry of Internal Affairs entitled “Transposition in the Greek legal order of Directives 2011/98/EC on a single application procedure for a single permit for third-country nationals to reside and work in the territory of a Member State and on a common set of rights for third-country workers legally residing in a Member State and 2014/36/EC on the conditions of entry and stay of third-country nationals for the purpose of employment as seasonal workers, provisions regarding citizenship issues and other provisions”*

- 12 November 2014 -

**GNCHR Observations on the Draft Law by the Ministry of Internal Affairs entitled “*Transposition in the Greek legal order of Directives 2011/98/EC on a single application procedure for a single permit for third-country nationals to reside and work in the territory of a Member State and on a common set of rights for third-country workers legally residing in a Member State and 2014/36/EC on the conditions of entry and stay of third-country nationals for the purpose of employment as seasonal workers, provisions regarding citizenship issues and other provisions*”<sup>1</sup>**

## **I. Introductory observations**

The Draft Law of the Ministry of Internal Affairs entitled: “*Introduction in the Greek legal order of Directives 2011/98/EC on a single application procedure for a single permit for third-country nationals to reside and work in the territory of a Member State and on a common set of rights for third-country workers legally residing in a Member State and 2014/36/EC on the conditions of entry and stay of third-country nationals for the purpose of employment as seasonal workers, provisions regarding citizenship issues and other provisions*”, accompanied by its introductory report, was sent to the GNCHR along with the 772/21 November 2014 letter by the Deputy Minister of Internal Affairs. The GNCHR was subsequently asked to address its observations on the aforementioned Draft Law, which is to be introduced in the Parliament within the next days.

The GNCHR welcomes the fact that the Draft Law was communicated to it for its observations and in the framework of its advisory role to the State on human rights issues, as defined in Article 1 of its founding Law 2667/1998 (OJ 281/12.18.1998/A), states the following observations regarding the Draft Law.

The GNCHR notes, however, that insofar as it is called to respond to the aforementioned request by the Ministry of Internal Affairs within a short deadline, its observations focus on the matters of principle raised, in consistency and continuity with the positions it has always adopted regarding these issues. At the same time, the GNCHR has traditionally stressed the need for its timely information of the legislative work, which is imperative in order to facilitate its response in a way appropriate with its institutional mission. This necessity becomes more imperative in the present period which is characterized by dense and complex legislative work.

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<sup>1</sup> The observations were unanimously adopted by GNCHR Plenary in its session of 12.11.2014. Rapporteurs: K., Papaioannou, GNCHR President and A., Tsampi, GNCHR Legal Officer.

Besides, the present Draft Law is called to regulate a big number of issues, among which citizenship issues and, at the same time, to introduce two European Directives in the Greek legal order.

In this context, the GNCHR also stresses that the cumulative regulation of a big number of issues by a single legislative text may degrade its quality and undermine legal certainty.

## **II. Specific observations**

### **PART I of the Draft Law: Provisions regarding Immigration Policy**

#### **Article 4(2) of the Draft Law**

Article 4(2)(1-2) of the Draft Law adds to the Immigration and Social Inclusion Code (Law 4251/2014) a new “19(A)” Article which includes, almost intact, the provisions of Article 1 of the Joint Ministerial Decision (JMD) 30651/2014 (OJ 1453/6.5.2014/B) “Defining category of residence permit on humanitarian grounds, as well as the type, the procedure and the specific requirements for its granting<sup>2</sup>”, regulating the regime for granting and renewing residents permits on humanitarian grounds.

This provision was initially included in Article 19 of the Draft Law “Immigration and Social Inclusion Code” (later to become Law 4251/2014). This article concerned the “granting and renewal of residence permits on humanitarian grounds”, in compliance with requirements of the Greek Constitution and international and European law.

Among the persons for whom a residence permit on humanitarian grounds was provided, were third country nationals who were victims of and essential witnesses for felonies and other serious criminal or racist crimes, once a criminal prosecution has been exercised for these crimes and until a final court decision was issued.

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<sup>2</sup> The GNCHR prompted by the present legislative initiative brings to the fore a probably unintentional omission in the letter of the Joint Ministerial Decision 30651/2014 and calls for the State to rectify the respective provision for reasons of legal certainty. More specifically, it is the provision of Article 2(B)(1b). While in Article 1(1)(b) of the JMD it is provided that citizenship shall be granted for humanitarian reasons to victims of and essential witnesses for a number of criminal cases (namely those mentioned in Articles 187, 187(a), 309 and 310 of the Penal Code and in Articles 1 and 2 of Law 927/1979 (OJ 139/A) or punished as a felony offence and committed against life, health, physical integrity, property, real estate as well as personal and sexual freedom) once a preliminary investigation has been ordered regarding them or criminal prosecution has been exercised. In Article 2(B)(1b) which sets out the supporting documents for the initial granting of residence permit, it is only provided to file a document “by the competent prosecution authority that criminal prosecution has been exercised for the commission of a criminal act, provided by the provisions of Articles 1 and 2 of Law 927/1979 and Article 16(1) of Law 3304/2005”. Thus, reference to the remaining criminal acts of Article 1(1)(b) of the JMD and to the case where criminal prosecution has not been exercised but a preliminary investigation has been ordered instead, is omitted.

By means of an amendment to Article 19, introduced to Parliament during the voting procedure of the Draft Law, it was provided that “if a public official is falsely accused of any of the above crimes and the falsity of the accusation is presumed by a preliminary investigation, following which proceedings are withdrawn, the plaintiff shall be judged for the offences set out in the seventh chapter of the Penal Code by the procedure applying to flagrant crimes. In such cases, deportation may be imposed as a secondary penalty; otherwise, the administrative deportation proceedings shall apply”.

The GNCHR had expressed its deep concern regarding the aforementioned amendment pointing out that it violates fundamental human rights, especially the presumption of innocence and the rights of access to Justice and equal penal treatment<sup>3</sup>. The Council of Europe Commissioner for Human Rights had also expressed his deep concern<sup>4</sup>.

Finally, Article 19 of Draft Law “Immigration and Social Integration Code” was withdrawn, as a whole, during the legislative proceedings before the Parliament. Issues regarding the protection of victims of and essential witnesses for racist crimes were later regulated by means of the abovementioned JMD 30651/2014.

The GNCHR observes that since Article 4(2) of the present Draft Law (1-2) adds to the Immigration and Social Integration Code (Law 4251/2014) the provisions of Article 1 of JMD 30651/2014, the protection of victims of and essential witnesses for criminal acts will be guaranteed by means of a Law (Article 4(2)(1b) of the Draft Law), which is welcomed.

According to the introductory report of the Draft Law, the introduction of the JMD provisions in the Immigration and Social Inclusion Code is imperative “for reasons of codifying legislation”. The GNCHR recognises the value of codifying legislation for legal certainty, but it also stresses that this introduction guarantees the appropriate legal value of the protection of victims and essential witnesses of racist crimes.

The GNCHR points out that it is necessary that the State clearly expresses the necessity of combating racist crimes and exhausts every possible regulatory means by way of legislation, especially at a time of recession, during which crimes committed on the grounds of national or

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<sup>3</sup> GNCHR, “Press Release -24 March 2014”, available at: [http://www.nchr.gr/images/English\\_Site/NEWS/GNCHR\\_Press\\_Release\\_Article\\_19\\_Migration\\_Code.pdf](http://www.nchr.gr/images/English_Site/NEWS/GNCHR_Press_Release_Article_19_Migration_Code.pdf).

<sup>4</sup> Council of Europe, Commissioner for Human Rights. *Public Statement*, available at: <http://on.fb.me/1gphOxQ>.

ethnic origin, religion, colour, disability, sexual orientation or gender identity seem to be rebounding<sup>5</sup>.

The GNCHR notes that hate crimes cannot be effectively addressed without guarantees for the ability to report them. The introduction by the present Draft Law of the provisions regarding the protection of alien victims in the Immigration and Social Inclusion Code, promulgating, thus, a special regime of residence permit for victims and essential witnesses for the time deemed necessary to prosecute and convict the perpetrators, constitutes a positive step in this direction.

The GNCHR also highlights the need to strengthen the above legislative framework so as to a) refrain from prosecuting persons entering illegally and b) prohibit the arrest and administrative detention of the reporting witness for the period between pressing the charges and the issuance of the special prosecutor's act. Thus, victims will not experience both the consequences of such criminal proceedings and those of a possible secondary victimization when they turn to the competent authorities in order to press charges, while they will also be encouraged to lodge the relevant complaints<sup>6</sup>.

## **PART II of the Draft Law: Provisions regarding Citizenship Issues**

The present Draft Law does not aim at systematically and comprehensively regulating and addressing citizenship issues. As appears from its introductory report, the Draft Law regulates specific citizenship issues which are limited in the following three categories: a) Issues arising after the judgment no 460/2013 of the Council of State Plenary which declared certain provisions of the Law 3838/2010 unconstitutional, b) Practical issues regarding the functioning of citizenship services and c) Issues regarding the codification of legislation on citizenship.

The GNCHR observes that the present Draft Law attempts to belatedly fill in the legal *vacuum* created by the Council of State's judgment which found unconstitutional the provisions regarding the award of Greek citizenship to second generation immigrants. The GNCHR deems absolutely necessary the regulation, without any further delay, of issues regarding citizenship of second generation immigrants<sup>7</sup>.

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<sup>5</sup> See also Racist Violence Recording Network, *2013 Annual Report*, available at: [http://rvrn.org/wp-content/uploads/2014/04/Report2013\\_EN.pdf](http://rvrn.org/wp-content/uploads/2014/04/Report2013_EN.pdf).

<sup>6</sup> Racist Violence Recording Network, *Press release on recent legislative amendment on combating racist crimes*, 10.6.2014, available at: <http://rvrn.org/2015/01/press-release-on-recent-legislative-amendment-on-combating-racist-crimes/>.

<sup>7</sup> The GNCHR welcomed the fact that Law 4251/2014 "Immigration and Social Integration Code and other provisions" (OJHR 80/4.1.2014/A) provided the granting of a 5-year residence permit to "third-country adult nationals who have

The GNCHR further observes that the provisions of the Draft Law entail one more amendment to the Greek Citizenship Code (hereafter the GCC)<sup>8</sup>. Although these provisions regulate some important issues, they overlook a number of others, which have not received the appropriate attention, not even in the context of the previous legislative proceedings, **on which GNCHR has already expressed its views.**<sup>9</sup>

The GNCHR stresses that the citizenship issues should be addressed in a comprehensive and careful manner, as they are connected with human rights protection.

In this framework, the GNCHR calls once again<sup>10</sup> upon the State to sign and ratify the UN Convention on the Reduction of Statelessness (1961, in force since 1975) as well as to ratify the Convention of the Council of Europe on Nationality (1997, in force since 2000), which Greece has already signed since 11/06/1997.

The GNCHR in view of the present Draft Law recalls its well-established position regarding citizenship issues and underlines the following issues regarding specific provisions of the Draft Law:

#### **Article 5(1) of the Draft Law**

#### **Acquisition of the Greek citizenship by an alien, upon declaration and application, on the grounds of attending school or University/Technical College in Greece**

In its 2010 Observations on the Draft Law by the Ministry of Internal Affairs, Decentralization and E-Government “Political participation of non-citizens of Greek origin and third-country nationals who reside legally and long-term in Greece” (successively Law 3838/2010 (OJ 49/3.24.2010/A: Current provisions for Greek citizenship and political participation of repatriated Greeks and legally

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been born in Greece or have successfully completed six years of Greek school in Greece, before reaching 21 years of age and legally reside in the Country” (Article 108). The GNCHR welcomes the granting of long-term residence permit to second-generation immigrants, observing, of course, that the ability to acquire Greek citizenship is the fundamental condition for their full and essential integration. See GNCHR *Observations on the Draft of the Second Periodic Report of the Hellenic Republic for the International Covenant of Civil and Political Rights (ICCPR)*, *op.cit.*

<sup>8</sup> The Greek Citizenship Code was ratified by Law 3284/2004 (OJ 217/11.10.2004/A) which has been amended by Presidential Decree 92/2006 (OJ 95/5.8.2006/A), Law 3731/2008 (OJ 263/12.23.2008/A) and especially with Law 3838/2010 (OJ 49/3.24.2010) which was amended by Law 3870/2010 (OJ 138/8.9.2010) and Law 3938/2011 (OJ 61/3.31.2011).

<sup>9</sup> GNCHR, “Comments on the Draft by the Ministry of Internal Affairs, Decentralisation and e-Government entitled: *Political participation of non-citizens of Greek origin and third-country nationals who reside legally and long-term in Greece*”, 2010 and GNCHR, “[Loss of Greek Nationality by Virtue of Former Article 19 of the Greek Nationality Code and the Procedure for its Reacquisition](#)”, 2003.

<sup>10</sup> See the relevant GNCHR observations from 2003, GNCHR [http://www.nchr.gr/images/English\\_Site/ITHAGENEIA/Citizenship\\_Article\\_19%202003.pdf](http://www.nchr.gr/images/English_Site/ITHAGENEIA/Citizenship_Article_19%202003.pdf), 2003.

resident immigrants and other regulations))<sup>11</sup>, the GNCHR has welcomed the aforementioned legislative initiative as a particularly important step towards effective integration of immigrants residing legally in the country and working in Greece for a long time and in particular regarding the effective intergration of their children born or raised in Greece.

The GNCHR has held that this initiative was in the right direction and based on two fundamental pillars as far as immigration issues are concerned: respecting and promoting human rights of every person residing in the territory, while ensuring social cohesion and border security. That legislative initiative was attempting to ensure the full enjoyment of the rights of people legally and for a long time participating of the Greek society and contributing to the general well-being, while it was making clear the Greek State's position on irregular immigration<sup>12</sup>.

By Article 1 of Law 3838/2010 the new Article 1(A) was added to the GCC on acquiring Greek citizenship “Upon declaration and application, due to birth or school attendance in Greece”. According to this provision, the children of third-country nationals born in Greece, the so-called “second generation” immigrants, could acquire Greek citizenship under certain conditions. The GNCHR has stressed that this development constituted a significant step. It was the first time that the right of soil (*jus soli*) was introduced in the Greek citizenship law, based up to then only on the right of the blood (*jus sanguinis*). The right of soil (*jus soli*) is found as *per se* or in conjunction with *jus sanguinis* in many legal systems<sup>13</sup>.

By judgment 460/2013, the Council of State's Plenary declared unconstitutional the provision of Articles 1(A) of the Greek Citizenship Code and 24 of Law 3838/2010<sup>14</sup>. Respectively, the decisions of the Ministry of Internal Affairs on granting citizenship to aliens born in Greece by an alien parent – residing in the country upon at least 5 years or due to school attendance in Greece, were also cancelled.

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<sup>11</sup> GNCHR, “Comments on the Draft by the Ministry of Internal Affairs, Decentralisation and e-Government entitled: Political participation of non-citizens pf Greek origin and third-country nationals who reside legally and long-term in Greece”, 2010 Annual Report, p. 33 ff. See also GNCHR, “GNCHR Observations concerning Law 3386/2005 (OJ 212/A) Entering and residing of third-country nationals in the Greek State, Annual Report 2005.

<sup>12</sup> See also GNCHR, “[Observations on the Draft of the Second Periodic Report of the Hellenic Republic for the International Covenant of Civil and Political Rights \(ICCPR\)](#)” 2013.

<sup>13</sup> GNCHR, “Comments on the Draft Law by the Ministry of Internal Affairs, Decentralisation and e-Government entitled: *Political participation of non-citizens pf Greek origin and third-country nationals who reside legally and long-term in Greece*”, *op.cit.*

<sup>14</sup> The provisions of Articles 14-21 of Law 3838/2010 on the participation of aliens in municipal elections were also judged unconstitutional. In a recent decision, the GNCHR noted that it is about time the issue of aliens participating in municipal elections be addressed in the framework of a constitutional reform. See GNCHR, *Observations on the Draft of the Second Periodic Report of the Hellenic Republic for the International Covenant of Civil and Political Rights (ICCPR)*, *op.cit.*

Article 5(1) of the present Draft Law regarding Greek citizenship replaces the provisions of Article 1(A) of the GCC. The award of the Greek citizenship is no longer provided by “declaration and application on the grounds of birth or schooling in Greece” but “declaration and application on the grounds of attending school or University/Technical College in Greece”. According to the explanatory memorandum, the proposed regulation “takes into account” the aforementioned Council of the State judgment.

The Draft Law proposes for the award of the Greek citizenship, the combination of the formal criterion of legal residence in the country with the substantive criterion of integration in the Greek society through education.

More specifically, the Draft Law's provision in question provides that: *“A third-country national legally residing in Greece can be awarded Greek citizenship upon relevant declaration and application filed by himself/herself before the competent authority of Decentralised Administration of his/her municipality of residence once he/she meets at least one of the following conditions: (I) to have successfully attended at least nine years of Greek school in Greece or (II) to have successfully attended six years of secondary Greek school in Greece or (iii) to have successfully completed his/her studies in a Department or Faculty of Greek University or Technical College and to hold a diploma issued by a Greek high school in Greece.”*

At the same time, the Draft Law provides that the declaration and application of registration is filed once the applicant has reached 16 years of age. In this case citizenship is awarded upon reaching the age of adulthood. It is noted that the aforementioned regulations do not distinguish between children born in Greece and those born in a third country and subsequently raised in Greece.

The GNCHR observes that in this way the Draft Law excludes both alien children born in Greece and those raised in Greece from being awarded citizenship during childhood. Therefore, a minor having successfully completed at least nine years of Greek school in Greece is provided with the possibility to file a declaration and application (upon reaching 16 years of age) but he/she is not granted the right to be awarded Greek citizenship on the grounds of being a minor, even though he/she meets the conditions laid down in the Draft Law.

Regarding this provision, the Draft Law’s introductory report mentions that “In virtue of Article 129 of the Civil Code a minor can have limited legal capacity from the age of 16. In this case, citizenship shall be awarded once the applicant has reached adulthood”.

The GNCHR stresses that the acquisition of citizenship is not linked to the spirit of the Civil Code’s provisions regarding legal capacity. The GNCHR observes that, on the one hand, the acquisition of



citizenship is not synonymous to legal capacity and, on the other hand, the Civil Code provisions regarding limited legal capacity aim at protecting the minor's legal interest. The GNCHR has already stressed that what the acquisition of Greek citizenship entails is the acquisition of the status of Greek citizen. The status of citizen marks the bond between an individual and a particular State. This bond is based on the will of the former to be part of a specific State by accepting its laws and values and by joining its political community.<sup>15</sup>

Besides, according to Article 134 of the Civil Code "A minor having reached 16 years of age is able to have legal capacity from which solely legitimate benefit can derive." Even if the acquisition of citizenship is considered to entail both obligations and rights for the minor<sup>16</sup>, this should not exclude the minor of 16 years of age, especially in the context of Greek legal order where a minor having reached 15 years of age is granted the possibility to conclude an employment contract (Article 136 of the Civil Code "A minor having reached 15 years of age can, upon his/her legal guardians' general consent, conclude an employment contract as an employee. [...]").

In this context, the GNCHR deems it necessary that any references to age limits regarding both declaration and application of registration and the acquisition of Greek citizenship must be removed. Being a minor cannot constitute a ground for limiting the right of acquiring Greek citizenship, in particular in light of the constitutional protection of childhood (Article 21(1) of the Constitution) and the international obligations of the country (see International Convention on the Rights of the Child, ratified by Law 2101/1992 (OJ 192/12.2.1992/A)).

Instead of the wording "The declaration and the application are filed by the time the applicant reaches the age of 16 years, provided that the applicant meets one of the aforementioned conditions. In case the applicant is an adult, the Greek citizenship is acquired from the date of the publication of the summary of the acquisition decision in the Official Journal of the Hellenic Republic. In case the applicant is a minor, Greek citizenship is acquired after reaching adulthood", GNCHR proposes the following wording: "the Greek citizenship is acquired starting from the date of the publication of the summary of the acquisition decision in the Official Journal of the Hellenic Republic".

In conclusion, the GNCHR observes that this new regulation regarding the acquisition of the Greek citizenship hampers citizenship legislation from its primary mission as a tool for accelerating,

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<sup>15</sup> GNCHR, "Comments on Draft of the Ministry of Internal Affairs, Decentralisation and e-Government entitled: *Political participation of non-citizens of Greek origin and third-country nationals who reside legally and long-term in Greece*", *op.cit.*

<sup>16</sup> See A., Takis, "The 'right' to citizenship and the democratic legislator's power in naturalisation", available at <http://www.constitutionalism.gr/site/2303-to-dikaiwma-stin-itageneia-kai-i-exoysia-toy-dimok/>.

facilitating and ensuring the social integration of children born or raised in Greece. In particular, regarding second-generation immigrants born in Greece by parents who have been integrated into Greek society, the present regulation favours their entrapment into the alien status during their childhood. Concerning alien children born in Greece and immediately registered to a Greek school, the acquisition of Greek citizenship is possible only upon successfully completing 9 years of schooling or 6 years of secondary education or after completing studies in a Greek university/technical college and under the condition that the applicant has reached the age of 18 as the law provides for any other alien child. In this sense, the notion of integration in the political community is perceived in a problematic and undifferentiated way. This is also demonstrated by the fact that acquiring the Greek citizenship for a child born and raised in Greece is much more time-consuming and arduous compared to its parents who entered the country as adolescents or adults.

In times when social cohesion is threatened and multiple cases of xenophobic or racist treatment against young people residing in the country ever since birth, participating in the Greek education and contributing to Greek society in various ways are observed, the excessively restrictive and dilatory policy of the State regarding the acquisition of citizenship by second-generation immigrants entails additional risks for the social cohesion.

### **Rejection of the application due to penal impediment**

The present Draft Law provides that an application for Greek citizenship “is rejected in case of penal impediment according to Article 5(1)(b) or for reasons of public or national security according to Article 5(B)” of the GCC.

The GNCHR finds that the wording of Article 5(1)(b) of the GCC, added under Law 3838/2010, should be re-examined, under the light of the GNCHR observations, formulated prior to its adoption.<sup>17</sup>

The GNCHR has highlighted that the wording of case b, numbering quite a large number of offences, does not clarify the *ratio* of the provision. In particular it should be mentioned that offences dramatically varying in gravity – such as the offence of treason in the country and the offence of theft – entail the exact same adverse consequences regarding acquiring citizenship. The Draft Law, also, provides a great number of offences, which if committed and regardless of the

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<sup>17</sup> GNCHR, “Comments on the Draft of the Ministry of Interior, Decentralisation and e-Government entitled: *Political participation of non-citizens of Greek origin and third-country nationals who reside legally and long-term in Greece*”, *op.cit.*

sentence imposed and the time of the Penal's Court Decision, prohibit formal conditions of citizenship to be met. This is a burdensome and disproportionate measure.

The GNCHR considers that a **general provision providing that the applicant** must not have been irrevocably convicted in the 20 years prior to the submission of the citizenship application should be foreseen. Moreover, the GNCHR calls the State to carefully review the list of offences included in case b. Only the most serious offences should be retained, such as crimes against the interest of the Greek State<sup>18</sup> and international crimes<sup>19</sup>, the commission of which justifies the *prima facie rejection* of a citizenship application.

The GNCHR believes that in this way the *ratio* of the provision will be made clear. It is also reminded that an extract of the applicant's criminal records for judicial use, is asked ex officio by the competent body for the examination of the citizenship application. In any event, as the obligation to justify any negative decision is introduced, the administration has the opportunity to state as a reasonable cause for the refusal to grant Greek citizenship the applicant's conviction for an offence. Consequently, GNCHR considers the rewording of the provision necessary.

#### **Article 5(6) of the Draft Law**

##### **Repeal of the possibility to submit Objections**

The present Draft Law **repeals the** applicant's **possibility of submitting objections** before the Citizenship Council in case a negative advisory opinion is delivered by the competent Citizenship Committee.

The introductory report states as a reason of the repeal the abusive use of the Objection's possibility. More specifically, it is mentioned that despite the fact that all persons with a negative decision were appealing, a very few number of appeals were actually accepted. The report also mentions that "given the great volume of objections, the Citizenship Council needs more time in order to review all these applications than the time needed in order for the alien to have the right to submit a new citizenship application".

The GNCHR considers that the repeal of objections deprives the applicants of their right to have their application re-examined. The serious delay before the Citizenship Council, which eliminates *de facto* the value of appealing, must be a ground in order for the way the administrative body in

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<sup>18</sup> Such as violations against the democratic State (Article 134 of the Penal Code ff.) and treason against the Country (Article 138 of the Penal Code ff).

<sup>19</sup> As they are laid down in the Statute of the International Criminal Court.

question functions and it is organised to be reviewed and a reason for limiting *de jure* the aforementioned right.

### **Article 5(7) of the Draft Law**

#### **Submission of new citizenship application**

Article 5(7)(3) of the Draft Law redefines the time limit within which it is possible to submit a new citizenship application in case of a negative decision. The Draft Law provides that a new application can be submitted in two years from the date of the negative decision, instead of one year that was provided in Article 6 of Law 3838/2010.

The GNCHR observes that the introductory report of the Draft Law does not mention sufficient reasons for justifying this change. Moreover, as the Draft Law provides for the aforementioned repeal the possibility to submit objections in case of a negative advisory opinion, the GNCHR recommends that the possibility of submitting a new application for citizenship “once **one year** from the date the rejecting decision of the previous application was issued has elapsed” should be retained.

### **Article 6 of the Draft Law**

#### **Establishment of a Committee for drafting the Greek Citizenship Code**

The GNCHR has stressed the **value of systematising and codifying legislation** in order to protect legal certainty. In this direction, it welcomes the initiative of establishing a Committee for drafting the Greek Citizenship Code.

#### **GNCHR's participation in the Committee for drafting the Greek Citizenship Code**

The introductory report of the Draft Law proposes GNCHR's participation in the Committee for drafting the Greek Citizenship Code, as the GNCHR “indicates one of its members in the Citizenship Committees operating in the Country's Decentralised Administrations”.

Indeed, by virtue of the provisions of Article 12 of GCC<sup>20</sup> (Law 3284/2004, OJ 217/A), a Citizenship Committee is established in every single Decentralised Administration. This Committee should issue an advisory opinion, advising if substantive conditions of a citizenship application are

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<sup>20</sup> As amended by Article 8 of Law 3838/2010 *Current provisions for Greek citizenship and political participation of repatriated Greeks and legally residing immigrants and other regulations* and was replaced by Article 26(1-2) of Law 3938/2011 *Establishment of an Office for Incidents of Misconduct in the Ministry of Citizen Protection and other provisions*.

met. One of the member of this Committe, along with his/her alternate and according its rule of procedure is indicated by the GNHCR.

The GNCHR welcomes its participation in the Committee for drafting the Greek Code of Citizenship, within its mandate as an independent advisory body to the State in human rights issues according to its founding Law 2667/1998.