DISCRIMINATION IN THE GREEK WORKPLACE AND THE CHALLENGE OF MIGRATION

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EMILIE examines the migration and integration experiences of nine EU Member States and attempts to respond to the so-called ‘crisis of multiculturalism’ currently affecting Europe. EMILIE studies the challenges posed by migration-related diversity in three important areas: Education; Discrimination in the workplace; Voting rights and civic participation, in Belgium, Denmark, France, Germany, Greece, Latvia, Poland, Spain and the UK. EMILIE aims to track the relationship between post-immigration diversity and citizenship, i.e. multicultural citizenship, across these EU countries, and to identify what kind(s) of, if any, multicultural citizenship is emerging and whether there is/are distinctive European pattern(s). EMILIE Project s, Events and Research Briefs are available at http://emilie.eliamep.gr

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1. Introduction

2000 has become a reference year for anti-discrimination policies in the European Union in the fields of employment, training, social protection, health care, education and access to goods and services, including housing. Two European directives, the Racial Equality directive (2000/43/EC of 29/06/2000) and the Employment Equality directive (2000/78/EC of 27/11/2000), were adopted on the basis of Art. 13 of the Treaty of Amsterdam thereby setting in place a framework for the development of specific and comprehensive anti-discrimination legislation and policies across all EU Member States. These directives define the principles that offer every individual in the EU a common, minimum level of legal protection against discrimination. They complement wide-ranging legislation that has been adopted to fight discrimination based on sex, on the grounds of racial or ethnic origin, religious or other beliefs, disability, age and sexual orientation, particularly in the workplace over the past three decades.

The EU Member states had to transpose these directives into national law by 2003/2004. This was mostly done through civil and labour law, and in a few exceptions also through criminal law (Cormack and Bell, 2005). Although there remain some gaps and a considerable degree of variation in the transposition of the directives regarding some sectors (private and public), or who is held liable for discrimination, the most important issue across the EU is the application of national anti-discrimination legislation and the active implementation and enforcement of equality rights in practice (ibid: 9).

At the end of 2004 Greece had still not transposed these directives into national legislation. After being placed in infringement proceedings with the European Court of Justice, Greece complied. In 2008 it was one of the seventeen EU Member States that had fully transposed the two Directives into national legislation. In a single act, Law 3304 (published in the Government Gazette A’16/27.01.2005), the two directives were more or less directly reproduced in Greek legislation. It is important to underline here that prior to this law there had been no anti-discrimination legislation in force in Greece (Ktistakis, 2007: 5).

This paper analyses the transposition and implementation of the two EU Anti-Discrimination Directives on Racial and Employment Equality (2000/43 and 2000/78) in Greece. In particular, the paper’s focus is on anti-discrimination policies in Greece and the extent and ways in which these are relevant for immigrants in the Greek labour market.

Greece continues to be considered a relatively ‘new’ destination country for immigrants even though it has been a reception country for almost two decades and approximately 10% of its population is composed of third country nationals (Gropas and Triandafyllidou 2007). Integration policies were developed rather recently due to the country’s general background of reactive and delayed responses in the field of migration policy. In fact, migrants have only relatively recently been acknowledged

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1 The 15 ‘older’ EU Member States had to transpose the Racial Equality Directive into national law by the 19th of July 2003 and the ‘newer’ ones by 1st May 2004, while the Employment Equality Directive had to be transposed by 2nd December 2003 in the former and 1st of May in the latter group of Member States.
as a more permanent reality in Greek society and as an integral part of the Greek labour market. Moreover, the application of non-discriminatory principles as regards EU citizens and third country nationals in the workplace is only gradually being realized as a fundamental obligation and responsibility, and thus is only slowly becoming a more wide-spread, conscious practice. To a large extent, attitudes in the public administration, among civil servants, and wider public opinion and employers, have not yet ‘caught up’ with the formal situation already in place.

Immigrants make up 9.5-13% of Greece’s labour force and have so far typically occupied jobs in the labour intensive sectors of the economy: construction, agriculture, tourism, domestic and home care (Triandafyllidou and Maroufof 2008). Given the high proportion of undocumented or irregular migrants in Greece and the large portion of the country’s informal economy, the most widespread challenges faced by migrants in the workplace have to do with job insecurity and ‘exploitation’ by their employers.

In this context, it is useful to consider the structural drivers of discrimination in the Greek workplace. A number of questions are thus raised. First, if and how is exploitation in the workplace (caused by standard labour market offer and demand dynamics) different from (opportunistic) discrimination? To what extent can migrants with irregular status (and therefore no legal status in the ‘host’ economy) be protected by anti-discrimination policies? Since some population groups may be at a disadvantage from the onset (in terms of skills, qualifications, access to social capital and networks, etc), to what extent should we distinguish between disadvantage and discrimination given that these may feed into one another? Finally, where, if at all, do anti-discrimination and migration policies meet? And, how relevant are EU policies in this context?

This paper concentrates on issues pertaining to discrimination in the workplace in the case of Greece. In studying discrimination, it is first necessary to present its various dimensions and definitions and then to clarify what kind of discrimination we are referring to both within and outside the workplace. This involves identifying who is discriminated against, as well as when and in what circumstances. The following section, therefore, presents some dimensions of discrimination in the employment field. It then goes on to present public perceptions of discrimination in Greece and offers an overview of attitudes towards equality and inequality, as well as perceptions of what constitutes discrimination and remedies against it. It also presents the findings of a very small number of recent studies and reports on the kind of discrimination immigrant workers tend to face in Greece at present. Section three introduces the European directives on racial and employment equality and discusses how these EC directives have been transposed in Greek legislation. In spite of a comprehensive legal and institutional framework, forms of discrimination continue to exist, while enforcement mechanisms are mostly either insufficient or inefficient. Lastly, section five presents some conclusions and proposes a set of direct and indirect recommendations aimed at targeting discrimination in the workplace.

1.2. Research methods and methodology

The conceptual background to this paper is based on a literature review of the anti-discrimination, equality and diversity management fields. The desk-based research
that was conducted for this paper involved collecting and analyzing reports and studies on anti-discrimination and equality (for instance the country report on Greece by the European Network of Legal Experts in the non-discrimination field), and the relevant Greek laws which transposed the EU directives into national legislation and the opinions of the relevant public authorities and social partners. In addition, statistics and data on employment, wages and social security contributions were obtained from the National Social Security Foundation (Ιδρυμα Κοινωνικών Ασφαλίσεων – ΙΚΑ).

The data collected was complemented by a series of interviews. Two exploratory interviews were conducted in late 2007 with the Greek Ombudsman and a Labour Inspection office in the northern part of Athens with a view to clarifying the focus of the study and to identifying the relevant policy and non governmental actors to be interviewed later. In the period between January and April 2008, nine more interviews were conducted by the authors with state institutions, independent authorities and legal experts. In addition we conducted informal conversations with trade union representatives and NGOs. A list of all stakeholders interviewed is provided in the annex to this paper. An interview guide (see below) was used to structure the course of the interview but the questions were open-ended and tailored to the specific field of expertise of each interviewee.

<table>
<thead>
<tr>
<th>Interview Guide</th>
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<tr>
<td><strong>Part 1: Regarding the law that transposes the RED directives into the national legislation:</strong></td>
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<tr>
<td>Does the law cover all the fields?</td>
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<td>Is the definition of discrimination functional?</td>
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<td>Are there any additional clauses necessary for the full transposition of the directives?</td>
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<td>Is there a problem with the transposition of the directives into national law?</td>
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<td>Is there any problem with the implementation of the law?</td>
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<td><strong>Part 2: Regarding the work of the independent authorities entrusted with the implementation of the law (and the directives)</strong></td>
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<td>The three bodies (Ombudsman, Labour Inspection Offices, Equal Treatment Authority) responsible for the implementation of anti-discrimination policy in Greece:</td>
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<td>What is their exact area of responsibility?</td>
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<td>How do they accomplish their functions? What do they exactly do? What kind of initiatives or activities do they take up?</td>
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<tr>
<td>What are their objectives?</td>
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<tr>
<td>What are the main problems they face?</td>
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<tr>
<td>How is it that none of the three bodies has been particularly active in the anti-discrimination field?</td>
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<tr>
<td>Is it a question of human resources? Of financial resources? Or of overlap of responsibility or overlap of tasks?</td>
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<tr>
<td>Are these bodies truly independent in fulfilling their functions?</td>
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<tr>
<td>How important is it for the government to implement the anti-discrimination provisions in the labour market?</td>
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<tr>
<td><strong>Part 3: Regarding civil society and socio-economic actors:</strong></td>
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<tr>
<td>What is the role of the Social and Economic Committee in the fight against discrimination in the workplace?</td>
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<tr>
<td>Why is the number of cases brought to court very small? And only in some areas (age, disability?)</td>
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<tr>
<td>Is there mobilization of civil society on this matter? If not, why not?</td>
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<tr>
<td>What is the role that trade unions play</td>
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<td>What is the role that associations of employers play?</td>
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2. Discrimination and inequality

2.1. The challenge of discrimination in the workplace: an overview

Discrimination in the workplace is rather commonplace across the European Union. Individuals belonging to ethnic and minority groups in particular tend to be at a disadvantage even in countries that have had institutionalised measures promoting equality and anti-discrimination for a long period of time. This is relevant for native or historical minority groups, just as much as it is for immigrants. In this paper, we limit our research however to the latter group, concentrating on the situation of migrants in Greece, including those who may have acquired Greek citizenship. We explore the relationship between discrimination in the workplace and migration given that migratory inflows have led to significant demographic changes within Europe since the end of World War II. Immigration trends have intensified in the past two decades and today, almost all EU Member States have large, and growing, immigrant populations. In response to the increasing demographic diversity, policies and initiatives have been developed by state, non-state and private actors to address some of the challenges posed by migration-related diversity in the labour markets. This includes improving and facilitating recruitment, professional development, career advancement, training, inclusion and participation, compensation and retention of individuals of diverse backgrounds in the employment market. Equality legislation, anti-discrimination legal structures and diversity management business practices have thus gradually been put in place across Europe (Wrench 2007). However, the existence of a notable employment gap and of indirect discriminatory practices even within the more open economies of the EU has significant implications for European societies (Heath and Cheung 2007).

Addressing discrimination issues in the workplace constitutes an important challenge for European governments and societies for a number of reasons. It is relevant for tackling poverty and social exclusion and promoting societal cohesion. It is equally necessary for moral reasons in a Union founded on democratic principles and principles of equality, rule of law, and the promotion of fundamental human rights for all regardless of race, ethnicity, gender, or creed. It is also a way to tap into the productive talent of significant (and growing) portions of the labour force during a time of increased and increasing international competition.

There exists extensive legislation in the European Union protecting against all forms of discrimination and inequality in employment. This includes promotion, working conditions, pay and dismissal, access to vocational training, membership and involvement in professional, workers’ and employers’ associations, social security, healthcare, education, access to goods and services and housing. European directives, national legislative frameworks, a wide range of public monitoring institutions, human rights organizations and extensive information campaigns aimed at raising

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2 Issues concerning discrimination of ethnic and religious minorities and the Roma in Greece, as well as cases concerning people with disabilities, gender and age discrimination or discrimination on the basis of sexual orientation are outside the scope of this research.

3 The main two directives that are also examined here are the Racial Equality Directive 2000/43/EC and the Employment Equality Directive 2000/78/EC. However, as early as 1997 the European Commission has published a number of action plans and annual programmes with the aim of combatting xenophobia, racism and discrimination. The European Centre for Monitoring Racism and
awareness of the right to equal treatment and non-discrimination have contributed to furthering the protection of fundamental human rights and freedoms of EU citizens and residents of the EU Member States.

This paper is based on the premise that EU anti-discrimination and equality policies are relevant for immigration related challenges because of their spill-over effects. The European directives on racial and employment equality protect all individuals from direct and indirect forms of discrimination. In this context, they fall within the wider EU objectives of furthering respect for human rights, and further consolidating democratic and tolerant societies. Thus, these directives protect third country nationals residing in EU Member States from racial and ethnic discrimination even though they do not affect provisions regarding their entry and residence and their access to employment. Even though their outreach into immigration policies is restricted, they merit close attention because of their relevance in the following:

- combating various forms of inequalities;
- providing the platform for a wider and more comprehensive legislative and institutional framework;
- and, placing the issue of discrimination higher on the public agenda.

All these are eventually relevant for greater social cohesion and solidarity within the EU Member States that have large and growing segments of their population of immigrant origin.

2.2. Defining discrimination

Discrimination involves exclusion, distinction, restriction or preference. Discrimination may be expressed directly and/ or indirectly on the basis of race, colour, gender, descent or national or ethnic origin, religion, age as well as physical condition, sexual orientation or other socio-cultural factors. Its purpose and its implications are that it prejudices or even cancels out equal access to and enjoyment of fundamental human rights and freedoms in the political, economic, social and cultural spheres of public life.

In the field of employment discrimination, John Wrench (2007) has proposed a comprehensive classification outlined below that is particularly useful for our research. Wrench defines the following (op. cit., 116-7):

- Direct or intentional discrimination, which encompasses racist, statistical and societal discrimination;
- Structural discrimination, which includes indirect, past-in-present and side-effect discrimination;
- And three additional types of discrimination that are mainly experienced by immigrant and ethnic minority workers in Europe, namely: opportunistic, legal and institutional discrimination.

Racist discrimination in the workplace refers to notions of superiority and inferiority and may be expressed through refusal to recruit an individual on the basis of his or her natural traits, or may be expressed through verbal or physical harassment. Some

Xenophobia was also established in 1997. The EUMC was more recently (2007) converted into the Fundamental Rights Agency (FRA) which has an extended mandate and more resources than its predecessor institution.
scholars have argued the need to distinguish between the racist dimension and *ethnic discrimination* (Heckmann 2001) which tends to be founded on prejudices and stereotypes of cultural difference but in most cases, there is a mixture of both (Wrench 2007: 117). Not all forms of racist or ethnic discrimination are intentional. In fact, the most common instances of discrimination involve insensitive or inappropriate handling of cultural differences, or practices that may be perceived to be culturally neutral and that may in fact alienate or frustrate employees from specific ethnic or cultural groups, thereby marginalizing them or hindering their development and participation in the workplace.

*Statistical discrimination* stems from perceptions that a certain group has characteristics that may have negative consequences for the organization or firm. In other words, individuals belonging to a certain group may be considered to be less productive or less suitable for a specific job on the basis of group characteristics and not on their individual merits. This kind of discrimination is motivated by an economic rationale on the part of the employer/recruiter and is thus distinguished from the previous kinds. Closely related to this is *societal discrimination* which involves cases where an employer him/herself may be free of preconceived stereotypes or prejudices but is aware that others may have negative attitudes towards members of a particular group. In this case, the employer may avoid promoting or recruiting employees belonging to certain groups in specific positions where they may have contact with customers or clients or other colleagues who could be reluctant to deal with them (ibid, 118).

*Indirect discrimination* is defined by Wrench as apparently ‘neutral’ recruitment practices or work policies that in practice discriminate against individuals belonging to certain groups. This may range from apparently objective criteria such as minimum height restrictions, to the rule of ‘last in, first out’ when redundancies are being made possibly disproportionately penalizing immigrants who have recently entered the specific workforce, to dress codes, canteen menus or holiday rules that do not take into account the multi-cultural dimensions of the workforce (ibid, 119). In the case of *past-in-present discrimination*, certain minority groups have traditionally been restricted to specific, and generally inferior, jobs and this structural discrimination continues in a *de facto* manner to the next generations. The third kind of structural discrimination involves discrimination in one social sphere that generates inequality in another even though there is no discrimination in the latter one. The typical example of *side-effect discrimination* is discrimination in housing or education that has direct implications for inequality in employment (ibid, 119).

Wrench has also identified three additional kinds of discrimination that are mainly relevant for immigrants (Wrench 2007: 120-1). *Opportunist discrimination* involves differential treatment (or even exploitation) of a particular group – for instance through inferior working conditions, lower pay, non-payment of social security contributions or overtime, etc – because this group is in a weaker position both in society and in the labour market. Immigrants, and especially migrants who have an irregular or undocumented status, are particularly vulnerable to this kind of discrimination. *Legal discrimination* involves the restriction of access of third country nationals to certain jobs (mainly in the public sector), or the use of restrictive work and residence permits which restrict immigrants’ mobility in the workforce. Such laws and administrative practices are unquestionably legitimate regarding access of
third-country nationals to specific positions so long as they do not differentiate on the 
grounds of racial or ethnic origin. Finally, *institutional discrimination* refers to the 
widder, more discreet structural conditions that may lead to inequality and exclusion. 
These conditions include rules, norms, routines, practices, attitudes and behaviours 
that constitute intentional or more frequently unintentional obstacles to ethnic or 
religious groups in enjoying the same rights as the majority of the population.

This categorization is useful to identify and better understand the different kinds of 
discrimination that may be experienced by immigrants or citizens of immigrant origin 
in the EU. Some of these are already relevant for countries like Greece that are 
relatively new immigration countries; others may become more relevant as anti-
discrimination issues, and the need to manage immigration-related diversity rise on 
the agenda. We propose that *statistical and societal discrimination, opportunistic 
discrimination, legal and institutional discrimination* are the most relevant and 
pertinent kinds of discrimination for the labour force in Greece at present.  

The next sections discuss how discrimination and inequality are perceived by 
European public opinion. More detailed reference is made to Greek public opinion, 
and the picture is complemented by the perceptions of immigrants residing in Greece 
on discrimination and inequality.

2.3. Perceptions of discrimination and inequality in Greece

The Directorate General for Employment, Social Affairs and Equal Opportunities of 
the European Commission has commissioned several survey studies to investigate the 
attitudes of EU citizens on the matter of discrimination. Thus, special issues of the 
Eurobaromètre were published in 1997 (EB47.1 on Attitudes towards Racism and 
Xenophobia), in 2003 (EB 57, on Attitudes towards Discrimination), in 2007 (EB 
65.4 on Attitudes towards Discrimination) and most recently in July 2008, EB 69.1 
again on perceptions, experiences and attitudes towards discrimination.  
This series of 
studies shows both the continuing interest of European institutions to the issue but 
also the importance that is accorded to it for the improvement of the quality of life and 
working conditions of all residents of the EU.

In this section we shall briefly discuss some of the results of the two most recent 
Eurobaromètre surveys on discrimination, highlighting the results of the Greek 
sample on perceptions towards discrimination and inequality against the background 
of the EU average. Our aim here is to put the Greek results into their European 
context and of course to interpret them in the sections that follow later against the 
specific immigration experience and policy of Greece.

Three quarters (76%) (EB 69.1: p. 105) of the Greek respondents consider 
discrimination on the basis of ethnic background to be widespread. This is remarkably 
more than the EU average of 62% (ibid.). There seems, however, to be a slight 
positive trend on this matter (unclear though whether it relates to direct experiences or 

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4 Past-in-present discrimination, side effect, indirect and ethnic discrimination is potentially more 
relevant for individuals belonging to ethnic and religious minority groups in Greece. This, however, 
falls outside the scope of EMILIE’s research focus and is therefore not elaborated on in this paper.

to perceptions about the phenomenon), with 57% considering that this is less the case than 5 years ago, against 44% of the EU average. In the EB survey of 2007 (EB 65.4: p. 36 and p. 40) 75% of the respondents considered that the police in Greece stops and questions people of different ethnic origin more frequently than the rest of the population – again here the percentage is markedly higher than the EU average of 55% (EB65.4, p. 37). These results indicate that Greek public opinion perceives ethnic discrimination to be a tangible reality in Greek society.

As regards discrimination on the basis of religion, 48% consider it to be widespread, this being quite close to the EU average of 42% (EB69.1, p.109).

In addition in the EB survey of 2007, 32% of the respondents considered that being part of a religion that is different to the country’s main religion tends to work as a disadvantage in Greece (EB65.4). In fact, there is a strong majority (72%) that considers discrimination on the basis of religion to be less common than five years earlier against only 42% of EU average on this question (EB69.1, p. 115). These results suggest that religious discrimination is also a tangible reality in Greece. Although the situation seems to be improving, again it is unclear whether this positive trend refers to experiences of discrimination becoming more rare or to a perception that other people suffer religious discrimination less often than they used to. This positive trend is likely to be related to the low visibility of religious minorities among the immigrant population of Greece and the absence of any radical movements among them (Triandafyllidou and Maroukis 2008).

On matters of equality in the workplace in Greece, the EB survey of 2007 showed that a slight majority considers that belonging to a religion different from the main religion in the country (55% vs. 62% of the EU average) or being a foreigner (61%, nearly as much as the EU 25 average of 58%), or not being white (68% vs 59% in EU25 average), may work as a disadvantage in terms of equal access to a job, promotion and training in the event of equivalent qualifications and diplomas between two candidates (EB65.4, pp. 134-43). Religion is considered much less important in putting people at a disadvantage with regard to employment and training opportunities as only 32% considered this to be the case in Greece, compared to 39% on EU25 average (EB65.4, pp. 134-43).

It remains unclear how these findings relate to direct experiences or perceptions of racial, ethnic, or religious diversity. Greek respondents are particularly sensitive both to populations that they are in frequent contact with (e.g. foreigners, given that nearly one tenth of the country’s residence today are of a different nationality) and to populations that they have rather rare contacts with (e.g. non white people who are numerically a small minority among immigrants in Greece). At the same time, they seem to be indifferent to populations with which they have limited interaction, such as people of minority religions, as most of the immigrants living in Greece are Christians or non practicing Muslims. In short, the results of the survey suggest a complex influence of both situational and experience factors with pre-existing stereotypes and prejudice.

Knowledge of one’s rights is fundamental in terms of being able to identify discriminatory practices when these occur and seeking appropriate remedies or responses to discrimination. Levels of awareness of the existence of anti-
discrimination legislation are disappointingly low across the EU with the exception of legislation regarding disabilities. An EU average of 39% and 42% of respondents were not aware in 2007 that their country had a law prohibiting discrimination on the basis of ethnic origin and religious beliefs respectively when hiring an employee (vs 36% and 35% who were aware of this respectively) (EB65.4, p.32). In the case of Greece, the situation is even more disappointing: one of two respondents (54%) claimed that s/he is not aware of her/his rights in the event s/he is the victim of discrimination.

Moreover, in response to the question of who they would turn to in the event of discrimination in the workplace, only 19% declared they would turn to a national body for equal treatment to seek advice and remedy. This percentage is even lower than the already dwindling EU25 average of 25%, indicating lack of information and low levels of trust in national institutions (EB65.4, p. 33). Even less respondents were aware of the procedures available to file a formal complaint in the event of discrimination since only 25% would first turn to the national body for equal treatment (EB65.4, p. 32).

Just as relevant is that 56% of the Greek respondents in the 2007 survey considered that not enough effort is being made in Greece (vs. 51% of EU average) to fight all forms of discrimination (EB65.4, p. 23 and 20). This finding, however, needs to be taken with a pinch of salt as ignorance of the law prohibiting discrimination was widespread: two thirds of the respondents were not aware that there is such a law in Greece prohibiting discrimination in employment on the basis of ethnic origin (64%) and religion (68%) when hiring new employees.

It is insightful here to complement the above with the perceptions of third-country nationals residing in Greece. The European Monitoring Centre on Racism and Xenophobia (EUMC) coordinated a pilot study on migrants’ experiences of racism and xenophobia in twelve EU Member States in 2006. The study that was conducted in Greece focused on the largest immigrant groups in the country: Albanians, Romanians, nationals from the former USSR and nationals from various Arab countries. Some of the most relevant findings of this study are summarized below:

More than half of the respondents across all nationalities reported having experienced discrimination in the context of commercial transactions (i.e. in terms of having been denied housing, or credit), and around 46% experienced discrimination in the workplace. More specifically, 52% reported that a particular job had been denied to them because of their ethnic background, 34% felt that they had not been promoted for this same reason, and 56% reported having been the victim of harassment in their workplace. Twenty-six percent of the respondents experienced discriminatory practices in their contact with state institutions, this mainly being the case for employment agencies, social insurance offices, as well as health and social security services. Finally, 21% reported that they had experience some form of discrimination in the public arena and their private life (i.e. in their neighbourhood, on the street and when using public transportation, etc) (see EUMC, 2006: 40-43).

The above survey findings suggest that on one hand Greek public opinion is highly aware of ethnic and religious discrimination, believed to be rather widespread. This is complemented by the testimonies of immigrants themselves. Nonetheless, Greek
citizens are much less aware of the remedies that they have recourse too and many ignore even the basic fact that discrimination and in particular ethnic and religious discrimination in employment is prohibited by law. In the following sections we dig further into this reality to understand how the EU anti-discrimination directives have been transposed into national legislation and what problems or issues have arisen in the course of their implementation that could justify both the ignorance and the inertia of the affected populations.

3. Immigrants and discrimination in the Greek labour market

3.1. Immigrant insertion in the Greek labour market

Third country nationals account for 9.5-13% of the employed population in Greece.\(^6\) The fact, however, that a significant percentage of immigrants in Greece have been, and continue to live and work in the country with an irregular or at least unstable legal status makes it difficult to present a complete and accurate picture of the Greek labour market and of the role of the migrant workforce. This is further complicated by the structure of the Greek labour market and the characteristics of the Greek economy. In effect, the country has a large informal sector and an economy built mainly on small and medium sized companies, frequently family owned and, where social networks are important for recruitment and doing business. Greece’s employment structure has traditionally been very different to the rest of the EU Member States, with exceptionally high percentages of ‘employers and self-employed’ and ‘family workers’ (and comparatively lower percentages of waged and salaried employment) (see Cavounidis 2006 for more).

In the past couple of decades, there has been a shift in this structure because of the decreasing importance of the agricultural sector and also because of the expansion of the migrant labour force in the category of ‘salaried employment.’ Migrant workers have so far mainly taken on what was previously performed by family labour – i.e. either in family enterprises or with respect to domestic care and care for dependents. Moreover, the migrant workforce has been prepared to work both for lower wages and/or ‘illegally.’ Two reasons have largely contributed to this. First, their irregular status within the country; and second, the widespread practice of ‘undeclared’ employment, (i.e. employment in part, or in total concealed from the relevant state authorities) particularly in the agricultural, construction and home care sectors of the economy.

| Table 1: Employed Population in Greece by nationality and professional status (2001) |
|-----------------------------------------------|---------------|---------------|---------------|
| Employers | Employees | Other Employed (Self Employed, Family aides) |
| Nationals | 12.8% | 68.7% | 24.4% |
| Non-Nationals EU citizens | 13.3% | 68.7% | 18% |
| Non-Nationals non-EU citizens | 2.4% | 89.8% | 7.8% |

Source: Table from Cavounidis (2006: 646) based on statistics from NSSG (2001)

\(^6\) As indicated in Cavounidis (2006), according to the 2001 census foreigners account for 9.5% of the labour force and based on OECD data (2002) immigrants’ share of the labour force is estimated at approximately 13%.
In spite of the consecutive regularization programmes, a significant portion of the immigrant population in Greece falls in and out of legality because of bureaucratic hurdles in the process of renewing their permits, while others were unable to participate in any of the previous regularisation schemes and hence are trapped into irregular status.

Due to lack of reliable estimates on irregular workers in Greece, the data presented in this section concerns legal migrant workers registered with the National Social Security Foundation (IKA) which covers dependent employees ranging from manual workers or cleaners to all types of business clerks and also high skilled jobs in the private sector. According to data provided by IKA (March 2007), 13.14% of the total employees registered are third country nationals. Of these, 53.25% are Albanian nationals. Among the foreign male registered social security contributors, 58.69% are Albanian, 7.96% are Pakistani, 5.03% are Romanian, and Russians make up 4.80%. Among the foreign female social security contributors, 38.93% are Albanian, 16.17% are Russian and 11.54% are Bulgarian.

Approximately half of the Albanian workers are employed in the construction sector, 16% in the manufacturing sector, 13% in wholesale and retail trade and around 9% in the tourist and catering sector. In addition, over 68% are registered as unskilled workers. The two tables below provide additional details regarding the breakdown per nationality in terms of sector of the economy in which they are employed and professional activity. The overwhelming majority of the foreign workers legally employed and paying into the IKA social security system are employed in the unskilled and labour intensive sectors of the economy.

Table 2: Distribution of Insured Population by Nationality in the Business and Construction sectors (March 2007)

<table>
<thead>
<tr>
<th>Nationality</th>
<th>Number of Insured Individuals (1)</th>
<th>Number of Insured Individuals in Construction (1)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Albania</td>
<td>13.14%</td>
<td>53.25%</td>
</tr>
<tr>
<td>Romania</td>
<td>7.96%</td>
<td>5.03%</td>
</tr>
<tr>
<td>Russian</td>
<td>4.80%</td>
<td>5.03%</td>
</tr>
<tr>
<td>Bulgaria</td>
<td>3.69%</td>
<td>2.11%</td>
</tr>
<tr>
<td>Greece</td>
<td>3.69%</td>
<td>2.11%</td>
</tr>
<tr>
<td>Turkey (Georgia)</td>
<td>3.69%</td>
<td>2.11%</td>
</tr>
<tr>
<td>Poland (Poland)</td>
<td>3.69%</td>
<td>2.11%</td>
</tr>
<tr>
<td>Ukraine (Ukraine)</td>
<td>3.69%</td>
<td>2.11%</td>
</tr>
<tr>
<td>Cyprus (Cyprus)</td>
<td>3.69%</td>
<td>2.11%</td>
</tr>
<tr>
<td>United Kingdom</td>
<td>3.69%</td>
<td>2.11%</td>
</tr>
<tr>
<td>Denmark (Germany)</td>
<td>3.69%</td>
<td>2.11%</td>
</tr>
<tr>
<td>Norway (Sweden)</td>
<td>3.69%</td>
<td>2.11%</td>
</tr>
<tr>
<td>Iceland (Iceland)</td>
<td>3.69%</td>
<td>2.11%</td>
</tr>
</tbody>
</table>

(1) The number of insured individuals is distinctive.

Source: IKA (March 2007)
3.2. Discrimination against immigrants in the Greek labour market

It is difficult to assess the extent to which immigrants experience discrimination in the workplace as well as to identify what form of discrimination might be more widespread in the Greek labour market. Do immigrants living and working in Greece experience discrimination on the grounds of race and ethnicity? On the grounds of nationality? Religion? Age or gender? Are there differences between sectors of the economy? Are these differences more relevant to some nationalities and less to others, or in some parts of Greece less than in others (i.e. in rural or urban areas)? Are most forms of discrimination direct or indirect? Has there been a change in more recent years as the immigrant workforce has grown larger and has been regularized to a larger degree? And, are immigrants who have been the victims of discrimination seeking appropriate recourses to challenge cases of discrimination and protect their rights, particularly in the employment sector? Here we only sketch a tentative picture based on the existing studies and data.

Discrimination in wages

Census data on migrants’ wages does not exist (Drydakis and Vlassis, 2007: 3). The only reliable primary source of data that can be useful in this context is the regular employment overview statistics presented by IKA. This is the data that has been used in the previous section. Moreover, very limited research has been undertaken on this subject. The material that does exist is principally in the form of reports compiled by national observatories and in the annual reports of designated authorities. The most noteworthy, reliable and thorough ones include the annual reports of the Greek Ombudsman and the reports by the European Commission against Racism and Intolerance (ECRI). The only research that has been identified by the literature review...
that was conducted in the preparation of this report is a study conducted by Lianos, Sarri and Katseli (1996) comparing the wages of Greek nationals and third country nationals in rural areas of northern Greece. This study revealed that in the mid-1990s, migrant workers (with a legal status) were paid approximately 15% less than Greeks employed for the same job, whereas illegal/irregular migrant workers were paid up to 60% less. This wage discrimination pattern, though it has improved overall, persists today.

Recent data (2007) obtained from the regular tri-monthly updates of the National Welfare Institute (IKA) concerning waged labourers show a significant inequality between the wages of different nationalities. Foreign workers receive wages that are between 30% and 50% lower than those of Greeks for general waged work and services. However, this inequality is significantly lower (between 6% and 15%) when it comes to the construction sector (Triandafyllidou and Maroufof 2008).

Inequality similarly affects citizens of larger immigrant groups who come from neighbouring countries, citizens of Eastern European countries and citizens of Asian countries with no previous cultural or historical ties with Greece. Thus, it appears that discrimination and inequality is structured along the axis Greek/non-Greek rather than depending on the specific nationality of the worker. Naturally, this hypothesis needs further testing. Also the pattern of wage inequality suggests that in the ethnicised sectors of the labour market such as construction, discrimination and inequality in wages is lower, showing that there is probably a higher need for immigrant work and a better insertion of migrant labourers in these sectors.

These findings are confirmed by a recent study (Drydakis and Vlassis 2007) on low-skilled male workers, which suggests that Albanians (the largest immigrant group in Greece): (1) receive monthly wages up to 8.8% lower that Greeks (and 5.3% below the legal minimum wage); (2) face a 43.5% less chance of being recruited (access to employment); and (3) are 36.5% less likely to be formally declared and thereby receive appropriate and full insurance coverage.

The fact that immigrants usually receive lower pay for equal time and type of work compared to Greece was also confirmed in our interviews with officials of the labour permit unit dealing with third-country nationals in the Employment Directorate of the Greek Ministry of Employment (Interview, 31st October 2007). During the interview, the Greek Ministry of Employment officials stated that their experience in previous posts at Labour Inspection Offices shows that immigrants, Albanians in particular, are all employed (compared to Greeks who, in their view, face more difficulties in findings a job). According to the interviewees, Albanian immigrants and also generally irregular migrants accepted lower wages – this was the reason why they were preferred by employers. This was perceived as a conscious entry-method into the labour market on the part of immigrants. The interviewees argued that once immigrants have the job and develop the relevant and necessary skills, they then demand higher wages from the employer. Thus, eventually they reach the same levels as a Greek worker would be paid. This difference in wage was not considered a discriminatory practice that had to be combated because it was unfair, unequal and perpetuated conditions of insecurity. Rather, it was considered as unfair competition on the part of immigrants that put Greek workers at a disadvantage. Hence, the role of the Employment Directorate (responsible also for checking labour market shortages
annually and planning new inflows to fill vacancies in specific sectors and regions) was seen as one of putting a stop to migration with a view to protecting the ‘vulnerable’ Greek workers rather than ‘leaving the labour market without controls, letting all migrants come here as they wish.’ (Interview 1).

These views of Greek public officials are indeed interesting as they turn the notion of discrimination and inequality on its head: it is those who are discriminated against that actually ‘discriminate’ against those who receive the legal wages!

Discrimination in wages in the Greek labour market takes other forms as well. Migrants are more vulnerable than Greeks, on average, both economically and in terms of legal status: they need to be in employment both to survive and to renew their stay permits. They thus often accept to work without welfare insurance which, however, they end up paying through their own means with a view to buying the necessary welfare ‘stamps’ which prove their employment and are a sine qua non condition for renewing their permits.

Indeed, Greece has a large informal economy that facilitates the persistence of undeclared work both for natives and immigrants. Indeed the informal economy has been both a salvation for migrants, irregular migrants in particular (and the vast majority of immigrant workers initially arrived in Greece without appropriate permits) and a curse. It is difficult even for migrants with legal status to find employers willing to pay their insurance as they should (Triandafyllidou and Maroufof 2008). This is one of the forms of inequality that immigrant workers suffer in Greece that can be characterized clearly as a form of opportunistic discrimination: being a non EU foreigner and hence somebody with insecure legal status creates the conditions for their being discriminated against by employers who are prepared to engage in discriminatory employment practices.

**Discrimination in job hiring**

In its third report, ECRI denounced the existence of job-advertisements in the classified sections of nation-wide newspapers that clearly state in the application criteria that ‘third-country nationals are excluded’ (2004: 16). ECRI noted that even though these practices have been denounced by NGOs and some newspapers have committed themselves to not publish such advertisements in the future, no penalties have so far been imposed against any party responsible for engaging or supporting discriminatory behaviour.

The Greek Economic and Social Committee also refers to research conducted by the Ministry of Employment and Social Protection in 2007 which monitored the classified sections of four large nation-wide newspapers. According to this research, 35% of all job advertisement contained a criterion that stated some sort of preference. Of these, in 20% of the cases the criterion was related to the gender of the job applicant, 14% was related to the age and 1% was related to the ethnic background (ESC 2008: 10).

The situations described above shows the existence of widespread opportunistic discrimination, as described by Wrench (2007), affecting immigrant workers in Greece. The question that naturally arises is how does this happen in the face of broad
anti-discrimination legislation both at the European and Greek level. This is the question that we set out to answer through our fieldwork.

4. The legislative framework of anti-discrimination in Greece and its enforcement

Anti-discrimination policies came onto the Greek agenda in a top-down manner, i.e. through the EU level following the adoption of the EC Directives on Anti-Discrimination and Equality. This is a different process to the ones experienced in Britain and France for instance where the debate on various forms of discrimination was a result and a product of the longer migration experience, and where discrimination on the basis of race, ethnicity and religion became an important and politically sensitive issue on the public agenda. Policies thus had to be formulated to respond to the pressures raised largely from below. In the case of Greece, similarly to other southern European countries that have become destination countries for immigrants from around the world in the past twenty years, anti-discrimination policies are a recent phenomenon that have been developed as a result of the transposition of the EC directives in national legislation. This transposition is elite driven and is only recently and gradually triggering the attention of civil society.

This section presents the legal framework currently in place in Greece relating to equality and anti-discrimination and the principle specialized/enforcement bodies and agencies that are involved in this field. It also provides an overview of the current state of implementation of this legislation as it applies to migrants and employment.

4.1. The legal framework

Law 3304/2005 aims at setting up a general, regulatory framework for combating discrimination on the grounds of racial or ethnic origin, as well as combating discrimination on the grounds of religion, belief, disability, age or sexual orientation as regards employment and occupation, with a view to putting into effect the principle of equal treatment. Both direct and indirect/implicit discrimination is defined in the legislation. In the case of the former it refers to situations when an individual experiences less favourable treatment than another in a comparable situation for reasons of racial or ethnic background. In the case of the latter, it refers to an apparently neutral provision, criterion or practice that may place individuals belonging to a particular racial or ethnic background at a disadvantage, unless this can be objectively justified by a legitimate aim and the means for achieving this aim are appropriate and necessary (Art.3).

These provisions are applicable to all public and private actors as regards access to employment and employment in general. This includes recruitment, employment conditions, promotion and professional development at all levels of professional hierarchy, wages and compensation in the event of dismissal. The legislation is also applicable to all kinds and levels of professional and vocational training, education, membership and participation in workers’ or employers’ organizations, social protection including social security and healthcare, as well as access to social goods and services.
As regards the general legal principle concerning equal employment rights, Presidential Decrees no. 358/1997 and 359/1997 confer equal employment rights to Greek citizens and foreign nationals legally working in Greece. Thus, third country nationals legally employed in Greece are subject to Greek labour law on the same conditions as Greek nationals. In this context, third country nationals enjoy the same rights to membership and activity in trade unions, employers and employee organizations; however, there are discriminatory provisions towards third-country nationals regarding compensation in case of a work accident (unless there is reciprocity between Greece and the individual’s country of origin) (Ktistakis, 2007: 25). ‘Social care’ is also provided without any distinction since it involves the state’s responsibility and every person legally residing in Greece who is in a state of emergency is entitled to social care (Law no. 2646/1998). And, as mentioned above, social goods (including housing, public education, labour law protection and social security, reduced fares and coupons for large families, etc.) are also granted to all on the basis of equal treatment and non-discrimination.

The law also lays out a number of exceptions to the applicability of the principle of equal treatment. Differentiated treatment does not constitute discrimination in cases where by reason of the nature of the particular occupational activities concerned, or the context in which these are carried out, certain restrictions apply provided that the objective is legitimate, genuine and proportionate. As such, there are special provisions for professions related to churches, religious institutions, the armed forces and security forces (police, prison or emergency services such as the fire department). The law also stipulates that it does not affect provisions on entry and residence of third country nationals or stateless person in Greece.

In the event an individual considers he/she has been discriminated against then they need to present the court or the competent authority with the facts on which they consider there has been direct or indirect discrimination. The significant step forward in this field is that the burden of proof lies with the respondent to indicate that in civil law cases there has been no breach of the principle of equal treatment. Infringements of the law prohibiting discrimination on the grounds of racial or ethnic origin, religious or other beliefs, disability, age or gender in the context of public goods and services may be punishable by incarceration (between 6 months and 3 years) and fines (ranging between 1,000-5,000 euro). Infringement of this legislation by an employer is punishable by the relevant fines and sanctions; these are stipulated in the employment legislation outlined in Law 2639/1998 (Government Gazette 205 A’), they may be identified as civil, penal or administrative infringements and fines may range between 500-30,000 euro.

Contrary to what was suggested by the European legislation Greece has put some restrictions concerning to the level of initiative that NGOs can take on behalf of affected individuals. The latter need to give their consent in writing that an NGO sues a given employer for a discrimination case on their behalf. Moreover, for the NGO to

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7 Although there were difficulties in terms of third country nationals joining professional associations until relatively recently based on the Civil Code that stipulated that executive board members of non-profit organizations had to be Greek nationals, this has been amended principally on the basis of the interpretation of the freedoms of association and non-discrimination stipulated in the ECHR (Ktistakis, 2007: 31-32).
bring a case to court, they have to include in their statute as part of their mission the
fight against discrimination or the protection of the rights of a given group that is then
found to be discriminated against.

Concerning positive actions undertaken in combating all forms of discrimination, the
law stipulates that the adoption or maintenance of special measures to prevent or
compensate for disadvantages linked to racial or ethnic origin, religious or other
beliefs, disability, age or sexual orientation will not be considered discrimination. In
this context, the Ministries of Labour and Finance with the Greek Labour Force
Organisation (OAED) have started promoting measures to promote the inclusion of
so-called ‘vulnerable social groups’ into the labour market. Immigrants, refugees and
persons with specific religious or cultural characteristics such as the Roma, fall into
this categorization. The Third Community Support Framework and the European
Social Fund have provided the wider framework for these measures.

Ktistakis has effectively argued that the general framework laid out by this law is
formally correct, yet essentially it does not fully respond to the spirit of the Council
Directive. The Greek authorities limited themselves to copying the provisions rather
than providing specific regulations and taking concrete actions in order to adequately
implement them in the Greek legal system (2007: 6). In effect, the need for improved
legislation was underlined by the European Commission in early 2008. EU
Commissioner for Employment, Social Affairs and Equal Opportunities, Mr. Vladimir
Spidla, identified eleven EU Member States that have not correctly transposed the EU
Directives into national law thereby not enabling them to achieve their full potential
(IP/08/155, 31 January 2008). Greece was among these eleven Member States and the
European Commission’s ‘reasoned opinion’ stipulated that in the case of Greece there
was (1) an incorrect definition of what constitutes harassment, and (2) the fire services
were excluded from the legislation transposing the Employment Equality Directive

As a final note for this section, given that there has not yet been a case judged in the
Greek courts on the application or interpretation of the anti-discrimination legislation,
there is at the time of writing (April 2008) no case-law to complement the current
legislative framework (Ktistakis, 2007: 6).

4.2. Specialised actors in the field of employment: competences and lacunae

The law specifies a number of specialized committees and bodies that are responsible
for promoting the principle of equal treatment, for reporting on developments in this
field and for monitoring the implementation of the relevant legal provisions.

The Economic and Social Committee (Οικονομική και Κοινωνική Επιτροπή) (ESC),
established by Law 2232/1994 (Government Gazette 140 A’), is responsible for
drafting annual reports on the implementation of the anti-discrimination legislation
with particular reference to the workplace (Art.18). The ESC is assigned the task of
proposing measures to the government and the social partners aimed at promoting the
principle of equal treatment and combating discrimination. It is additionally
responsible for encouraging and engaging in a wider dialogue with civil society and
non-governmental organizations active in combating all forms of discrimination and
in promoting awareness of anti-discrimination legislation and measures at the national and local levels.

The Greek Ombudsman (Συνήγορος του Πολίτη) is the designated authority for cases where public authorities have infringed the principle of equal treatment. As an Independent Authority (operating under Article 103 of the Constitution and Law 2477/1997), the Ombudsman is responsible for reporting and publishing special reports on the enforcement and promotion of the principle of equal treatment. The Ombudsman may provide legal aid, assistance and general advice to persons who consider themselves to have been victims of discrimination, and may request public services to provide relevant information and documentation relating to relevant cases.

Cases where individuals and private actors have infringed the principle of equal treatment, fall within the remit of the Equal Treatment Committee’s responsibilities (Επιτροπή Ισής Μεταχείρισης), which falls under the jurisdiction of the Ministry of Justice. The Equal Treatment Committee was set up in 2005 and has competence over all fields with the exception of the public sector (covered by the Ombudsman) and it does not cover employment and occupation (since this falls within the Labour Inspectorate’s remit). It has the competence to examine complaints for violation of equal treatment, publish relevant reports and issue recommendations on discrimination issues, but it cannot intervene in legal cases concerning discrimination, nor cannot it impose sanctions (Ktistakis, 2007: 52).

The Labour Inspectorate (Σώµα Επιθεώρησης Εργασίας) is responsible for infringements in the workplace. It performs inspections aimed at ensuring the implementation of legislation and has the authority to institute criminal proceedings or impose fines against employers in cases of infringement. As Ktistakis has noted (2007: 5), however, and also our fieldwork confirmed (Interview 3), the Labour Inspectorate is under-resourced and its staff lack the appropriate training and expertise to be able to fulfill the Inspectorate’s role to its full potential. Finally, the Equal Treatment Service of the Social Protection Service of the Ministry of Employment and Social Protection is responsible for the following tasks: supporting the work of the Work Inspectorate; acting as a mediator in the case of a claim; publishing opinions interpreting the legal provisions on equality and non-discrimination; informing and promoting equal opportunity initiatives aimed at social cohesion.

Interviews were conducted with representatives or associates of all these institutions in order to better understand their respective roles; the challenges that have been faced as far as the implementation of the EC Directives is concerned and the issues that need to be addressed; the kind of discrimination they perceive is present in the Greek labour market particularly as regards migrant workers; and the priorities that they consider need to be pursued in the anti-discrimination field.

A first conclusion that may be drawn is that there exists an evident lack of coordination between these actors. The aforementioned legislation indicates the frequency at which the Committee meetings should take place and stipulates that these designated authorities should work in collaboration. As has also been reported by the Greek Ombudsman, the number of meetings that have taken place between these authorities and the content of the issues examined have been described as being ‘extremely limited’ (2006a). According to one of the people holding the secretariat of
this Committee, the meetings are limited because of the lack of complaints and the overall inertia of civil society (Interview 6).

In its Annual Report (2006a), the Greek Ombudsman deplored the fact that the Equal Treatment Committee remains under-resourced and therefore unable to sufficiently fulfill its responsibilities. It also noted that meetings remained restricted to exchange of opinions rather than in-depth examination of cases of alleged discrimination brought to the relevant designated authorities. The report also questions the Equal Treatment Committee’s ability to act as an independent actor given its institutional affiliation with the Ministry of Justice (2006a: 187). In effect, the ESC similarly underlines the shortcomings of the Equal Treatment Committee and its lack of response to requests for information or collaboration in this field and proposes that the competences currently assigned to it be transferred to the Greek Ombudsman. The ESC argues that the Ombudsman’s impressive and positive record in its current competences would constitute valuable experience in this field, while such an extension would effectively involve an extension of the Ombudsman responsibilities in the field of gender equality (2008: 12). This proposal was also strongly supported by one of the legal experts in the field of discrimination and human rights who we interviewed and who has also served as member of the Equal Treatment Committee (Interview 7). He argued that the Ombudsman is at present the only Independent Authority in Greece that would be able to effectively, efficiently and coherently take on the task of monitoring policies and practices and the extent to which these fulfill the equal opportunity and anti-discrimination principles.

Regarding the extent to which the Labour Inspectorate fulfilled its responsibilities, here too the Ombudsman’s Annual Report noted inefficiencies. In this case, however, according to the Ombudsman, the Labour Inspectorate’s shortcomings stemmed from the fact that lower and middle rank employees had not been made aware of the Inspectorate’s new, specialized responsibilities on issues of discrimination in the workplace and the new legislative framework (ibid: 187). The ESC, in its report, noted that the Labour Inspectorate had not published an annual report on these matters and that in response to the ESC’s written request for information, it had replied that no cases regarding the infringement of the equal treatment principle had been reported in matters falling within its competences (based on Law 3304/2005). However, our own fieldwork (Interview 3) suggests that immigrants frequently turn to their local Labour Inspection Offices to denounce exploitation by employers (refusal to pay past wages, or to pay extra for overtime, nightshifts, working on weekends, and irregular firing practices). Our interviewee suggested that they are able to settle most of these disputes without going to court by simply calling on and summoning the employers. They noted that immigrants used their services that are provided free of charge, rather than turning to lawyers. Moreover, they informed us that their services were being used increasingly often and that Labour Inspector’s mediation was preferred in order not to have to face the exploitative employer personally. Naturally, these are the views of the Head of the Labour Inspection office of a particular district with a high proportion of immigrant employment in greenhouses and construction work at the northern periphery of Athens and may as well reflect her personal views and experiences rather than any generalisable trend.
Table 4: Complaints at a Labour Inspectorate in Northern Athens

<table>
<thead>
<tr>
<th>Year</th>
<th>Total complaints</th>
<th>Complaints by foreigners</th>
<th>% of the total</th>
</tr>
</thead>
<tbody>
<tr>
<td>2007</td>
<td>360</td>
<td>91</td>
<td>25.27%</td>
</tr>
<tr>
<td>2006</td>
<td>299</td>
<td>50</td>
<td>16.72%</td>
</tr>
<tr>
<td>2005</td>
<td>343</td>
<td>100</td>
<td>29.15%</td>
</tr>
<tr>
<td>2004</td>
<td>355</td>
<td>75</td>
<td>21.12%</td>
</tr>
<tr>
<td>2003</td>
<td>391</td>
<td>103</td>
<td>26.34%</td>
</tr>
</tbody>
</table>


Indeed, our own observation of the activity of this specific office (see table 4 above) shows that the number of cases that concerned foreigners remains small compared to the size of the immigrant working population in this Athens area. However, the role of labour inspectorates appears to be acquiring relevance for the defence of migrant workers’ rights. Labour Inspection offices, however, do not appear to be aware that the cases they examine may involve discriminatory and not just exploitative practices, the distinction between the two being indeed sometimes quite subtle and difficult to prove.

In its assessment of the role of the specialized bodies in combating all forms of discrimination, the National Human Rights Committee (Εθνική Επιτροπή Δικαιωμάτων του Ανθρώπου) similarly criticizes the fact that these specialized bodies, and in particular the Equal Treatment Committee and the Labour Inspectorate:
- are limited to a role of conciliator or mediator between the accused and the victim;
- do not have the competence to provide legal assistance to victims and intervene on their behalf;
- lack institutional independence (since they are affiliated to the Ministries of Justice and Labour respectively);
- and, are under-resourced both in terms of staff and means.

To conclude, since 2005 the degree of active enforcement of the anti-discrimination legislation has been disappointingly low. There has been inaction on the part of the relevant authorities in pushing for a more proactive and meaningful implementation of the anti-discrimination legislation.

The Ombudsman expressed the conviction that this transition period was over and that it expected a growing mobilization on matters of equality and non-discrimination on the part of the Labour Inspectorate as well as on the part of the Confederation of Trade Unions (ΓΣΕΕ) and the General Secretariat for Gender Equality (Interview 9). Overall, all interviewees emphasized that now that the legislative and institutional framework was in place and the first period of raising awareness on anti-discrimination issues was completed, developments in this field were gradually expected. In fact, both the ESC and the Equal Treatment Committee informants (Interviews 4, 5 and 6) referred to the experience in the field of gender equality where some time (indeed more than a decade) had been required both for a useful case-law to develop and for a shift in attitudes and expectations to take place thus giving meaning and content to the principles outlined in the relevant legislation and policy priorities. Similarly, it was expected that given that the law was only two years old, the anti-discrimination framework would soon take on a substance of its own and it
will be able to draw from the resources and precedents set in the field of gender equality to all other areas of discrimination.

It is interesting to note the repeated reference by all actors to the EU context. Reference to the importance of the EU was underlined both directly and indirectly in legislative terms, as regards the setting of policy priorities and the importance of the financial resources that have been made available. For one, the present anti-discrimination legislation is the direct result of the transposition of the EC Directives. Second, the discourse of all actors highlighted that anti-discrimination matters were an EU standard that had to be met within the Greek labour market and efforts had to be intensified in this direction. Indeed the Minister of Employment Fani Palli Petralia giving a speech at a major conference against discriminations sponsored by the European Commission and the Greek government noted explicitly that the fight against all forms of discrimination and the respect for human rights was related both to our own roots and to our European identity (broadcasted in the prime time evening news of 30 September 2008, ET 1, National Television Network). Symbolic talk on Europe is thus an important part of the anti-discrimination policy and politics in Greece.

Third, EU initiatives and funding have been pivotal in kick-starting national initiatives and interest in this field. The funding and awareness raising that has been made possible during the 2007 Equal Opportunities Year and the 2008 Multicultural Dialogue Year, or in the framework of the European Social Fund’s EQUAL and PROGRESS programmes, or through the INTI and ARGO programmes,8 provided the platform, the resources and the wider context within which training programmes could be developed, awareness raising campaigns were organized by public authorities and civil society initiatives were able to be implemented. One such example is that in 2007 the Hellenic Ministry of Employment and Social Protection implemented a public awareness and information campaign on respect for diversity and on promoting the representation of people belonging to different social groups at the local, regional and national levels in the framework of the 2007 Equal Opportunities Year. It also supported the completion of eight National Thematic Networks (funded by the EQUAL programme) that focus on discrimination on the basis of age and diversity management in the workplace (ESC 2008: 10). EU policies in this field have acted as a powerful pull factor in the Greek context.

4.3. Other challenges of enforcement

The disappointingly low response rate to the new legislative framework is not only a characteristic of the designated authorities. Civil society representatives, and in particular non-governmental organizations that focus on issues of equality and non-discrimination issues, have not responded to the new possibilities offered for recourse in this field in a dynamic manner.

It is notable that until 2006 only two reports were submitted to the Ombudsman with the active involvement of an NGO on the claim that the principle of equal treatment

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8 INTI concerns the integration of third country nationals and ARGO concentrates on cooperation between administrations on border, asylum and migration issues.
had been breached (2006a: 188). Rather than taking an active, front-seat role in supporting individuals or groups vulnerable to discrimination, Greek NGOs have continued to focus principally on dissemination of information and awareness-raising on matters of equal treatment and non-discrimination. This point was reiterated in the 2007 Annual Report of the Ombudsman.

In spite of the slow and limited reaction of both the public authorities and Greek civil society in tackling instances of discrimination in the workplace, there was a substantial increase in the number of cases examined by the Greek Ombudsman during 2006 and 2007 on the grounds of this legislation. A significant number of these cases relating to discrimination in the workplace and in the field of education were submitted on the basis of ethnic origin and involved immigrants or naturalized citizens (2006a: 190-195), while most cases in unequal access to social goods and services, and particularly housing on the basis of ethnic origin involved Roma.

The Ombudsman, however, underlines that the low number of discrimination cases filed is disconcerting. It suggests a reluctance and hesitation on the part of victims of discrimination to come forward and publicly expose their personal or social life (particularly regarding cases of discrimination on the basis of sexual orientation, religious beliefs or sexual harassment) and turn to the designated national bodies for remedies (2007; Interview 9). This raises the issue of levels of trust towards state institutions and of the existence of a set of personal and societal factors that discourage claims to legal protection.

Thus, although the Greek anti-discrimination legislative framework has formally fully transposed the EU directives, there is a significant gap in the manner in which it is implemented. The principle reasons for the implementation deficiency are synthesized below.

First, middle and low-ranking public service employees have not been made aware and/or have not sufficiently understood the new responsibilities and duties assigned to them by the national legislation in the field of non-discrimination. This is even more so the case concerning the responsibilities they assume that they have (or rather do not have) towards migrants on employment matters. This is the case for the staff of the Labour Inspectorate, which is the competent authority for ordinary employment contracts, just as it is for the wider public sector. As the Greek Ombudsman has underlined, cases ‘have not been investigated or were not even registered as such while the main institutional tool provided by the new framework (namely the ‘shift’ of the burden of proof) had not been even activated’ (2006b: 2).

Second, there are a number of structural and practical shortcomings affecting the designated bodies assigned with combating discrimination in the public and private sectors. They are under-staffed and under-resourced. In some cases, their legal standing is not conducive to the role they are called to fulfill as regard the necessary independence from the relevant Ministries required to this intent. And, they have not yet established a regular pattern of coordination and collaboration. This suggests that the implementation of this legislation has not been considered a top priority by the national government that has not invested the necessary (and appropriate) human and material resources in these bodies, nor the required political capital to prioritise the objective of combating all forms of discrimination. If we contextualize this in the
general background of Greece’s history of reactive and delayed responses in the field of migration policy then this can be explained in part by the fact that as a more recent immigration country, and with migrants only relatively recently being acknowledged as a more permanent reality in Greek society and in the Greek labour market, attitudes in the public administration, among civil servants, and wider public opinion and employers, have not yet ‘caught up’ in a way with the existing situation. As such, the obligation and responsibility to equally apply non-discriminatory principles to third country nationals in the workplace is only recently becoming a more wide-spread, conscious practice.

Third, the traditional weakness of Greek civil society adds another dimension to the present deficiency. With some noteworthy exceptions of course, Greek civil society does not function as a sufficiently dynamic, proactive push factor in pressuring the various public and private authorities to respect, implement and adhere to the new legislative framework. Nor has it taken creative initiatives in bringing cases of discrimination forward and seeking remedies and thereby provoking change and progress from the bottom up. The legacy of a paternalistic state and political party system has acted as a factor hindering the development of a civil society with a ‘lobbying’ mentality. However, the resources that have been provided, particularly from the EU level over the past decade have created a critical mass and the foundations for NGOs to be able to implement their projects and to have access to the wider public sphere and contribute to the public debate on these issues.

A fourth issue that has been identified in this study is the confusion between exploitation and discrimination in the Greek labour market. While immigrants face widespread inequality in terms of their level of wages, jobs they are offered, other benefits (e.g. insurance, overtime pay, etc.) it remains unclear whether such inequality is the result of opportunistic discrimination or simply a question of unscrupulous employers who know it is very unlikely that they will face an inspection and who take advantage of the immigrant’s socio-economic vulnerability. This dilemma is common in other southern European countries too (Zapata Barrero 2008), notably whether to define inequality as exploitation or discrimination. The question also arises as regards irregular migrants who are obliged to work in the informal economy and who in Greece in particular are not allowed to turn to public authorities for help and protection. Indeed, we need more empirical studies on this subject both with immigrant workers and their employers to explore the latter’s attitudes towards employing an immigrant worker, with or without appropriate documents.

5. Concluding remarks and policy recommendations

The combined lack of awareness, coordination and initiative, leads to the present reality, namely that the new regulatory framework is not yet being appropriately and adequately implemented. This has two equally significant consequences. First, there are continuing discriminatory practices in the employment field. Second, there is as yet no tangible progress towards rendering the anti-discrimination legislation more appropriately tailored to the Greek reality, economy and society. Once specific cases are made public or brought to court, these will be able to serve as a gradually accumulated experience that will, in turn, permit specific improvements to be made.
The challenge of implementation is further complicated by the aforementioned characteristics of the Greek economy, where a significant portion of employment and economic activity is conducted informally. Thus, even with perfect laws and with well-functioning processes in place, when individuals are employed without being declared, the challenge of protecting and enforcing their rights (ranging from employment protection, wages, social security benefits, insurance, equality, promotion, etc) becomes all the more greater. Naturally, this is even more the case for migrant workers who do not have the social networks or the local social capital to be able to protect themselves. On this matter, the need to continue proceeding with efforts to regularize and legalise the status of the migrant population in Greece has to be pursued in parallel with wider efforts to formalize larger segments of the country’s economic activity and with comprehensive policies promoting social cohesion and social inclusion. This requires a clear political commitment on the part of the government and public administration.

It is necessary to underline here the importance and impact of the EC Directives and of a range of EU initiatives (such as declaring 2007 as the Year for Equal Opportunities for All and 2008 as the Year for Multicultural Dialogue) and funding for addressing and tackling discrimination in Greece. Prior to these directives the anti-discrimination legislative and institutional field had not been set up (with the exception of gender equality legislation). The resources that have been made available via the EU have permitted a range of activities, including awareness raising efforts and trainings on these issues. In this sense there has been a clear top-down spill over effect from the EU to the national level in terms of bringing anti-discrimination issues into public policy and gradually making them relevant for the standards that in principle ought to be respected in the Greek labour market.

Finally, in practical terms the following issues need further consideration on the part of policy makers and relevant actors:

- People belonging to groups that may be ‘vulnerable’ to various forms of discrimination must be made aware of their rights to equal opportunities and non-discrimination; in addition, they must be informed of procedures and responsible bodies, channels that they can use to ask for protection.
- Awareness needs to be raised in ways that are suited to each group’s particularities and needs, while relevant activities need to branch out far beyond the ‘usual’ participants of the native majority that tend to take part in general public campaigns, with a view to including immigrant actors.
- Public service employees and officials at the local, regional and national levels of governance, across all sectors but particularly those who may be in more regular contact with individuals falling into one or more ‘vulnerable’ group, need to be adequately informed and trained on human rights and on responsibilities ensuing from the equality and anti-discrimination legislation; social workers, justice officials, public prosecutors, police officers, and labour inspection employees are among the top priorities.
- Greater coordination and information sharing - in quantitative and qualitative terms – is required among the relevant actors (Ministries, Independent Authorities, etc) on the initiatives and activities that they intend to pursue in this field in order to maximize synergies, coherence and use of resources. The more active and substantial involvement and inclusion of actors such as the Economic and Social Committee could be useful here because of its wider
networks with representatives from the private, public and non-governmental sectors (including its networks with the immigrant civil society).

- Efforts to regularize and legalise the status of the migrant population in Greece and formalize larger segments of the country’s economic activity, cannot rely solely on the efforts and top-down initiative of central public authorities. The role the Confederation of Trade Unions can play in terms of awareness building and in promoting equality and anti-discrimination principles in the sectors where it has a strong presence is pivotal.

- The Labour Inspectorate has a core role to play in conducting more thorough, regular and exhaustive inspections across the country and across all sectors of the economy and in engaging in the appropriate procedures against employers where irregularities are noted. These constitute necessary requirements for the anti-discrimination and equality legislation to eventually be effectively implemented.

- The experience and authority that has been acquired by the Greek Ombudsman in its spheres of competence is particularly useful in the anti-discrimination field. Our research on the subject has led us to the conclusion that either the scope of competences of the Ombudsman must be expanded beyond gender matters to encompass all aspects of discrimination in the public and private employment sector, or a new authority needs to be created that will be equipped with the independence and resources similar to those of the Ombudsman to be able to fulfill the requirements on the field.

- The legal system needs to be more proactive in this field by dynamically launching a voluntary, no-fee based legal advice service to support both individuals and civil society organizations in defending their rights on the basis of equal opportunity and the non-discrimination principles, and in seeking remedies where necessary.

- With a view to strengthening civil society bottom-up action in the field, the law needs to be reformed so as to (a) waive the need of the person suffering the discrimination to give her/his consent in writing for an NGO to act on her/his behalf; and (b) abolish the requirement that the NGO in question that can act on behalf of the complainant has to have as its stated mission (as stated in its statute) the defence of the relevant vulnerable group or the fight against discrimination.

- The legal and judicial systems also need to take more initiative in this field by examining the existing legislation and contributing to the clarification of certain concepts in practical terms (i.e. as regards the burden of proof, definitions of discrimination, the extension of equality beyond the employment sector, representation, etc).

- Greek NGOs that have an interest in this field must become more ‘hands-on’ in pursuing certain cases with the relevant authorities in order to actively contribute to the development of case-law that will provide the equality and anti-discrimination framework with actual meaning and substance. This in part also requires a shift in mentalities on the part of Greek civil society that should act more as a ‘push’ factor for reforms and policies. Improvement needs to also come from ‘below’ to be more coherent and to correspond to the actual needs of the more ‘vulnerable’ groups, rather than wait for the governmental and state authorities, that retain a paternalistic legacy /approach, to take the initiative on moving beyond the current situation of essentially formal protection against discrimination.
6. List of Interviews

Interview 1 & 2 Employee, Ministry of Employment, Department of Employment, and Director and Head of Department of department for the employment of aliens, Athens, 31 October 2007 (10.00-12.00).

Interview 3, Head of Regional Labour Inspectorate (SEPE), area of Anoixi, northern Athens, 22 November 2007

Interview 4 & 5, Joint interview with Scientific Advisor responsible for social security and social policy and Scientific Consultant in the field of labour law of the Greek Economic and Social Committee, conducted at the ESC’s headquarters in Athens on 19th June 2008 (09:00 – 11:00)

Interview 6, Employee working at the Secretariat of the Equal Treatment Committee of the Hellenic Ministry of Justice interview conducted at the Ministry in Athens on 19th June 2008 (11:30 – 13:30)

Interview 7, Legal expert on anti-discrimination, Lecturer, Democritus University of Thrace, Greece, interview conducted at a café in Komotini, Thrace, 3 June 2008, 09.00-10.00.

Interview 8, Legal expert who had participated in the Inter-ministerial Committee preparing the bill that later became Law 3304/2005, currently Associate Professor, Democritus University of Thrace, Greece, 17 June 2008, 15.00-16.00

Interview 9, Deputy Greek Ombudsman, Interview conducted at the Ombudsman’s office in Athens, 24 June 2008 (11:00 – 13:00)

Interview 10, Research Associate, Greek Ombudsman, Interview conducted in Athens on 17 December 2007 (15:00 – 16:15).

7. References


EU Documentation:


European Commission, Public Consultation: Discrimination – does it matter?

‘Employment Directive (2000/78/EC): list of Member States to which a reasoned opinion or letter of formal notice will be sent, MEMO/08/68, Brussels, 31 January 2008.

Greek Ombudsman Documentation:

Greek Ombudsman, Annual Report 2006a, in Greek, downloaded from www.synigoros.gr on 1st March 2008


Other reports, surveys and statistical data:


European Commission against Racism and Intolerance (ECRI), Ευρωπαϊκή Επιτροπή κατά του Ρατσισμού και της Μισαλλοδοξίας, Τρίτη Έκθεση για την Ελλάδα (Third Report on Greece), 5 December 2003, Strasbourg, Council of Europe.
