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Report on Greece

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Greece

Dimitris Christopoulos

1 Introduction

Greek nationality law is based on the principle of origin. *Ius sanguinis*, namely,, the automatic acquisition of the father's citizenship at birth, irrespective of where a child is born. The principle was identified as early as 1856 in the first article of the Code of Greek Nationality. 'The child of a Greek male [or female] acquires Greek nationality at birth.'¹

The most significant amendment ever made to Greek nationality law was the addition, in 1984, of the word 'Greek female' to the 1856 Code. This followed the modernisation of the provisions of the Greek Civil Code to ensure gender equality.

The Greek terms for citizenship are *ithageneia* and *ypikootita*. The term *ithageneia* is deeply entrenched in Greek history. It refers to the comprehensive character of the orthodox *genos*. *Genos* may be defined as the religious community of the rebel orthodox population within the Ottoman Empire that was gradually transformed into the Greek nation during the nineteenth century. Like "*ithageneia*", the term "*ypikootita*" refers to the legal bond between the individual and the state, so actually the two terms are synonyms. However, since *ypikootita* literally reflects the quality of a royal subject, its official use became somewhat obsolete. Ironically enough, the language that gave birth to the term "citizen" (*politis*) does not include in its official forms used by the Greek authorities a term translating *citizenship* as the bond between the citizen and the state. The exact translation of citizenship is *idhiotita tou politi*. However, in Greek legal vocabulary, this term does not have a concrete normative meaning.

Ithageneia is the term reflecting *par excellence* the ethnic connotations of Greek nationality. A distinction is made in Greek citizenship law, (in addition to a distinction between nationals and foreigners), between individuals of Greek Orthodox *genos* or descent, namely the *homogenis* and individuals of other descent, namely *allogenis*. This distinction is the subject of constant historical and political debate, which in itself is the most compelling aspect of Greek citizenship history. In Greece, all combinations of the above-mentioned nationality statuses are possible. The rule for acquiring Greek citizenship at birth is supplemented by two regulations relating to persons not born with Greek citizenship, but who wish to acquire it. The first regulation describes the naturalisation procedure for foreigners and prescribes very strict timelines and preconditions. These include a ten-year permanent lawful residence period in the country before a naturalisation application can be submitted. The second regulation, the so-called definition of nationality procedure, is reserved for those who prove to the competent Greek authorities, both that they are of Greek descent and that they 'behave like Greeks'. The use of the term 'definition of nationality' shows that, according to Greek law, all the prerequisites, i.e. Greek descent and national consciousness, exist prior to an individual starting the definition of nationality procedure. The administrative process simply confirms the existence of the specified prerequisites.

According to a Ministerial Circular of 1960: 'irrespective of the historical origin of the content of the term(s), it is necessary to point out that the Ministry, in its interpretation of the terms *homogenis* and *allogenis*, does not consider the racial origin of the individual as a unique criterion [...]. On the contrary, in compliance with the opinion of the Nationality Council and the relevant opinions in the field of theory, the Ministry has

¹ Even earlier, as is mentioned in the relevant chapter, of the so-called Revolutionary Constitutions of the 1820s.

always accepted that the main criterion for the distinction between *homogenis* and *allogenis* is national consciousness [...] The individual's racial origin or national descent does not define on its own a sense of *homogenis* or *allogenis*, but constitutes a subsidiary element for appraisal in a specific judgment.²

In the Greek legal order the term *homogenis* defines the non-Greek citizen of Greek ethnic origin. As this composite word describes, *homogenis* is a person who belongs to the same *genos* (descent), thus to the same nation, while being a citizen of another country. The principle that lies behind the legal status of *homogenis* is that the individual is of Greek descent. However, what is decisive and surprisingly sufficient is the person's 'Greek national consciousness'. The latter is defined as the link with the Greek nation, understood in terms of common language religion and traditions. In this sense, and if the argument is taken to an extreme, an individual may be considered and recognised as *homogenis*, even if he or she is not of Greek origin through his or her blood line. A Greek national consciousness could suffice. However, in practice, this is never the case. The norm is that the criteria of origin and consciousness are either employed cumulatively or the ethnic origin criterion prevails. Moreover, the Greek administration employs a case-by-case examination to determine a sense of belonging and an ethnic membership. Recourse to the subjective political criterion related to a national not only facilitates the acquisition of Greek nationality for *homogenis* foreigners, it also allows the exclusion of nationality status from those Greeks who are not considered to share a Greek national consciousness. During the twentieth century the main target groups for the withdrawal of nationality were Greek left-wing dissidents, as well as individuals belonging to national minorities.

The acquisition of citizenship in Greece clearly depends on whether the applicant is *homogenis* or not. The number of naturalisations is extremely low. It is indicative that less than 15,000 *allogenis* foreigners have been naturalised during the last 25 years. This number includes all potential categories of persons applying for Greek citizenship, i.e. spouses of Greek citizens; individuals born and brought up in Greece, whose parents did not acquire the Greek citizenship; and migrants and refugees. During the last decade of the same period, the country's population of ten million increased by one million foreigners. In contrast, the time required for *homogenis* individuals to acquire citizenship is much shorter. This procedure also applies to the Greek *Pontians* (*Efkseinos Pontos* is Greek for the Black Sea) from the former Soviet Union, most of whom acquired citizenship through summary procedures during the last decade. The numbers of *homogenis* that acquired Greek citizenship by way of the definition procedure may thus be estimated to be several hundred thousand. Unfortunately, there is no statistical data on the acquisition of citizenship for *homogenis* individuals.

At the end of the Cold War, Greek nationality law entered the most critical decade ever in its already turbulent history. During this decade, important political changes in Eastern Europe generated considerable migration and so-called 'repatriation.' These new phenomena challenged radically the self-perception of Greek nationhood and consequently the dominant citizenship policies. Nevertheless, the practice of citizenship withdrawal, which dominated state policy until the last decade of the twentieth century,

² See Ministry of the Interior, Circular 412, 19 December 1960 on the 'meaning of the terms *homogenis* and *allogenis* in the Greek Code of Nationality'. Forty years later, in another circular from the Ministry of the Interior providing relevant guidelines to the authorities with regard to the application of a new law, it is stated that a homogenis foreigner is 'a person not having Greek nationality but, nevertheless, who belongs to the Greek nation. In other words, it has to do with a foreigner with links to the Greek nation, in terms of language, religion, common tradition, and customs. All these criteria define someone as *homogenis*' (94345/14612/3-5-2001).

continued even after the ending of the Cold War.

In the first decade of this century, the Greek state showed major concern with regard to the regulation of Greek citizenship, bringing in new laws and circulars. The successive regulations and adjustments illustrate the reluctance and (to a certain extent) the difficulty the Greek administration faced in handling these new challenges in a realistic manner.

The new Code of Nationality, which was passed at the end of 2004 (Law 3284), did not introduce any new concepts capable of meeting the current challenges. It only offered a legally comprehensive systematisation of the previous regulations and a timid renovation of the stereotypical views that have traditionally dominated the relevant legislative and administrative discourses. However, ‘changing the boundaries’ (Bauböck 1994: 199) of Greek citizenship was already on the agenda.

2 Historical development

2.1 Greek nationality: from subordination of the orthodox *genos* to participation in the Greek state

Since 1864, Greek Constitutions have used the term ‘quality’ of being Greek.³ The focus of Greek citizenship on the principles of origin and *ius sanguinis* has left this largely unchanged. Nonetheless, there is one fundamental exception, which can be traced to its historic origin. This is not surprising. The newly established (under revolutionary law) state had to create its people in a certain way. In the first phase, extending the jurisdiction over persons living on land where Greek sovereignty was established constituted the safest criterion of citizenship. Additionally, due to the struggle to nation build by revolting Greeks at this early stage the territorial element was complemented by another, more apposite in a political sense, religious faith: ‘Greek people are the Christian residents of a state, which has been founded following revolution’ (Dimoulis 2001: 96). At the same time, the Constitution of Epidaurus of 1822 provided for two additional categories: ‘non-autochthonous’ (i.e. people coming from outside the borders of the country) and ‘foreigners’ who desired to naturalise.⁴ The ‘non-autochthonous’ category referred to non-indigenous Christians, whereas ‘foreigners’ referred to western *philhellenes*.

This *sui generis* combination of *ius soli* and *ius religionis*, which determined Greek citizenship according to pro-national criteria, was abandoned by the Constitution of 1823. The territorial prerequisite for the acquisition of Greek citizenship remained in force under this Constitution.⁵ The element of language was introduced for the first time as a prerequisite for the acquisition of nationality by the non-autochthonous population, who now had to ‘speak Greek as their mother tongue’ (the Greek text uses the term ‘father

³ See retrospectively art. 4, para. 3 of the Constitution 1975-86-01, art. 7, para. 2 of the Constitution of 1968, art. 3 of the Constitution of 1952, art. 4 of the draft Constitution of 1958, art. 6 of the Constitution of 1927, art. 5 of the Constitution 1925, art. 3 of the Constitutions 1991 and 1864, where reference is made to the ‘qualifications’ of Greek citizens set out by the law.

⁴ Sect. B ‘On the General Rights of t residents of Greek Territory’, para. b: ‘The indigenous residents of Greek Territory that believe in Jesus Christ are Greek, and enjoy all political rights [...].’ Para. d.: ‘The people coming from outside of the country’s borders residing or sojourning on Greek territory are equal to autochthonous residents before the law.’ Para. e.: ‘The Administration must have regard for the issuance of a law on naturalisation of foreigners who wish to become Greek.’

⁵ Symbolically weakened, since the term ‘residents of Greek territory’ in the title of the relevant sect. B of the Constitution of 1822 was replaced by the term ‘Greeks’ in 1823.

tongue') (para. b). The term 'a foreigner' was replaced by the term 'non-nationals'. Moreover, the conditions for their naturalisation were set out for the first time. These consisted of five years residence in the territory, accompanied cumulatively by the possession of 'immovable property' and the non-perpetration of criminal offences during the stay (para. 1). Alternatively, 'great valour and important services to the homeland's needs, including morality, were sufficient to create a right to naturalisation'.

The term 'Greek citizens' public right' appears for the first time in the Constitution of Trisina of 1827 and continued to exist until the establishment of the Constitution of 1952. The political, civil and social rights afforded to Greeks constitute the expression of the democratic principle conferring the status of national, as included in the Constitution's section under the term: 'Greek citizens' public right' (Kokkinos 1997: 83). This principle is based on the contradiction which is embedded in the history of Greek nation-building and, consequently, in the regulation of citizenship. Although political sovereignty served as a guarantee for Greeks' Rights without any discrimination on the basis of descent, the status of Greek national was conferred according to ethno-cultural criteria (Liakos 2002: 63-79). The Constitution of 1827 brought in an entire new section 'on nationalisation' and paved the way for *ius sanguinis*: 'Greek is: [...] whoever is born on foreign territory to a Greek father' and not merely a Greek-speaking person, as was provided for earlier.

The Constitution of 1832 proceeded with the extremely detailed regulation of the prerequisites relating to Greek citizenship (art. 13). This reflected a particular conflation of all possible criteria for the acquisition of nationality (*ius soli*, *ius religionis*, *ius sanguinis*). For the first time in Greek constitutional history it introduced a provision that sets out in detail the reasons for the withdrawal of nationality (art. 15). Finally, the Constitution of 1844 cited the laws which were expected to define the 'attributes' of Greek citizens, a practice to be adopted by all subsequent constitutional instruments.

During this period, many Greeks from throughout the Ottoman Empire, the so-called 'non-autochthonous', arrived in the newly established republic. The issue with respect to the rights and privileges of this population in the newly established state was a pure socio-economic conflict between the old inhabitants of the territory and the newcomers. The famous hostility between autochthonous and non-autochthonous Greeks concerned mainly the conflict for the latter's position in the state apparatus (Dimakis 1991). As a result, the autochthonous Greeks contested the Greek quality of the newcomers and they raised claims for the latter's exclusion from the status of Greek citizenship.

The first law on Greek citizenship was promulgated in 1835 and represented a regulatory transition towards a law of origin.⁶ It remained in force until 1856 when the Civil Law was passed. The provisions of the Civil Law on nationality survived for an entire century; they remained in force even after the promulgation of the Civil Code of 1946, only to be replaced by the first Code of Greek Nationality in 1955. It is of interest that currently most of its provisions are still in force and apply to those persons born prior to the date of promulgation of the 1955 Code.

In the course of this century, the major rules of Greek nationality could be captured in the following formulation: 'Greek is whoever has been born to a Greek father' (art. 14^a of the Civil Law). While confirming the absolute prevalence of *ius sanguinis*, this

⁶ A transitional provision set out that a Greek was someone who had acquired citizenship in line with the prior systems. It referred expressly to the acquisition of citizenship by *philhellenes*. Later the law focused on the father's citizenship (I. Georgiadou, *The Greek Nationality* (Athens [in Greek], 1941) at 9.

law introduced the first exceptions in favour of *ius soli* in the case of adopted children or children born out of wedlock or, in the case of individuals of unknown nationality, who are born on the Greek territory. These persons acquire Greek nationality despite *ius sanguinis*.

2.2 From the first expansion of the Greek state to its territorial integration

The period commenced with the promulgation of the Civil Law, it continued with the first territorial expansion of the Greek state to the north (the annexation of the regions of Thessaly-Arta and, subsequently, of other territories) and ended with the territorial integration of Greece, following the annexation of the Dodecanese in 1947. These successive changes rendered the law of Greek citizenship one of the most unapproachable and unreadable parts of Greek legislation. The territorial re-configurations and the major political evolutions that took place in the course of the hundred years before the adoption of the Code of Greek Nationality (1856-1955) left their traces on citizenship legislation. As a result, the relevant provisions are characterised by major inconsistency, incomprehensiveness, and segmentation. The consecutive amendments of these provisions have rendered Greek legislation on nationality an almost inaccessible regulatory regime, which has caused confusion among practitioners, as well as among contemporary scholars.

The international treaties, which accompanied the expansion of the Greek state, included rules on the citizenship of the persons residing in the respective regions, in a manner that was either binding or optional, subject to a series of prerequisites. The successive annexations of new lands to Greek territory have had two main impacts: large numbers of *homogenis* automatically acquired Greek nationality whereas the remaining Ottoman subjects were granted a time limit to stay in the Greek state, after which they had to leave Greek territory unless they converted to Orthodox Christianity. An eloquent example of collective incorporation can be found in the Treaty of 1881 between Greece and the Ottoman Empire following the annexation of Thessaly-Arta. This allowed a time limit of three years for persons wishing to retain Ottoman citizenship to leave the country. The Treaty of 1881 did not distinguish between *homogenis* and *allogenis*, hence the undifferentiated collective incorporation of all those who wished to acquire Greek citizenship. Nonetheless, this Treaty did not definitively settle the issue of the citizenship of Ottomans from Thessaly. The presence of many Ottomans who remained in Greece because they opted for Greek citizenship was finally regulated under extremely unfavourable terms for the Greek state after the military defeat by the Ottomans in 1897. In line with the new peace treaty, the Muslim residents of Thessaly who had acquired Greek citizenship under the terms of the Convention of 1881 were once more offered the right to opt for Ottoman citizenship. This time, they were offered the possibility of remaining in Greece, or even returning to Greece, in cases where they had been forced to flee Greek territory after 1881.⁷ This historically ‘asymmetrical’ right for Muslims was to last only a few years, since the imminent annexation of a major part of Macedonia and Thrace would reaffirm the status of 1881. From then on, only those who opted for Greek citizenship had the right of residence on Greek territory, while Ottoman subjects were granted a time limit of three years to leave Greek land, unless they converted to Orthodox Christianity and acquired Greek citizenship.⁸

⁷ The Peace treaty between Greece and the Ottoman Empire of 22 November 1897, which was ratified by law ΒΦΕ on 6 December 1897, *Official Gazette*, Issue no 181, 6 December 1987, p. 497.

⁸ The Treaty between Greece and the Ottoman Empire of 1/14 November 1913, which was ratified by Law

The collective incorporation through the free option of citizenship, which took place in line with the prior treaties, generated a new problem for the expanding Greek state. The traditional divergence between autochthonous and non-autochthonous populations receded. The novel counterpoint, which runs through the history of Greek citizenship, is between *homogenis* and *allogenis*. Within this framework, the use of the term *homogenia* and the conferment of the status of *homogenis* expressed the Greek irredentist aspirations towards its neighbouring countries.

In addition, the quality of *homogenis* justified discriminatory results in favour of persons subject to the so-called status, within or without Greek territory. The heritage of the Ottoman millet, i.e. the self-governed religious community in the Ottoman Empire, certainly offered a number of guarantees for the attribution of this definition. These guarantees were rather unstable though, for, as time progressed, the Macedonian landscape became an ethnic moving sand. Nevertheless, it is crucial to underline that the continuous reciprocation of the administrative practice as to the conferment of *homogenis* (or *allogenis*) status between ‘racial origin’ and ‘national conscious’, which can be identified even nowadays, originate from the substantially pro-national character of the certification of the Greek *genos*. The certification of an Albanian Muslim, a Turkish Muslim or of a Jew as *allogenis* was rather easy for the Greek authorities on the basis of the criterion of exclusion from the orthodox *genos*. The situation, however, became complicated when it came to the orthodox populations which had not been assimilated by the Greek nation. This mainly concerned the Bulgarian-Macedonian population of the New Lands and, to a lesser extent, the Aromanians-Vlachs.

In line with the Neuilly Peace Treaty between the Allied and Associated Powers and Bulgaria⁹ and the Convention between Greece and Bulgaria on mutual and voluntary migration of minorities on either side, (which mainly had a binding effect on the populations that were to be exchanged (Michailides 2003: 135)), an important part of the Slav-speaking population lost Greek citizenship. The fact that they left Greek territory entailed the loss of Greek citizenship and the acquisition of Bulgarian citizenship and vice-versa (art. 5). The same measure of collective incorporation and exclusion of citizenship was enacted in accordance with the Lausanne Treaty for the obligatory exchange of populations between Greece and Turkey. According to a decision of the Mixed Committee for Exchanges of the League of Nations, the scope of the measure had been extended to the exchangeable populations that had resided and naturalised abroad prior to the exchange.¹⁰ The Convention on nationality between Greece and Albania, signed in 1926,¹¹ included provisions with respect to collective incorporation. The latter provided for the recognition of Greek citizenship for former Ottoman subjects that were born in Albania, but had acquired Greek citizenship prior to the establishment of the Albanian state in 1913. Furthermore, it gave the possibility of opting between Greek and Albanian

⁹ 79, *Official Gazette*, Issue no 229, 14 November 1913, p. 809.

¹⁰ The Neuilly Peace Treaty of 14/27 November 1919, which was ratified by Law 2433, *Official Gazette*, Issue no 162, 23 July 1920, p. 1615. The Treaty provides for the compulsory automatic acquisition of Greek citizenship by Bulgarian citizens who were settled in Western Thrace before 1913. In that way, the *ipso jure* acquisition of citizenship concerned exclusively the former Ottoman subjects of the annexed part who had acquired Bulgarian citizenship under the Treaty of Istanbul, in 1913. The Bulgarians that had settled in the region following 1913 were allowed to acquire Greek citizenship, though only upon the Greek government’s authorisation.

¹¹ Decision No 22 of 9 May 1924 of the Mixed Committee of the League of Nations. In this way the emigrants that visited Greece were treated as Greek by the administration, so that they could be enlisted. This situation ended in 1940 when, in terms of the related Mandatory Law 2280, their foreign citizenship was retroactively recognised.

¹¹ 13 October 1926, ratified by the Law 3655 on 13 October 1928.

citizenship to the residents of Western Thrace who had emigrated from Albania.

The choice of principles relating to Greek citizenship during the period from the expansion until the territorial integration of the Greek state demonstrated an increasing level of awkwardness, as well as two key major legislative or administrative concerns.

The first key concern was related to the ethno-cultural identification of persons meeting the criteria for acquiring Greek citizenship. However, generous concessions to persons belonging, by law, to the status of *allogenoi* are also found. These people were either perceived as supporters of the revolution or they resided in Greece as asylum seekers, such as the Armenians and Caucasians.¹² The Constitution of 1927 provided for the acquisition of Greek citizenship, ‘without any other stipulation’, by the monks of Mount Athos. The provision in question is still in force.¹³ Besides that, in the enacted legislation there are remaining facets of the *honoris causa* naturalisations, concerning foreigners ‘who have offered superior services to Greece or the naturalisation of whom may serve an interest of utmost importance to Greece’.¹⁴

The second key concern of the Greek administration, as expressed in the legislation on collective incorporation, clearly coincided with the related strategies of the neighbouring countries, which aimed at the definitive purge of potential internal enemies, i.e. national minorities. The relevant provisions of the compulsory population exchange treaties from then on constituted a regrettable principle in international law, which has been intensely criticised by Greek scholars of international law of that period (Seferiades 1928: 328).

The state’s increasing discomfort concerning citizenship is related to Greek emigration overseas. The law of 1856 provided for the loss of Greek citizenship in cases of naturalisation abroad. As of the end of the nineteenth century, an increasing flow of emigrants had as destination states in which *ius soli* was implemented (USA, Australia, Canada). Consequently, legislation which stipulated the exclusivity of Greek citizenship resulted in the loss of citizenship for children of thousands of Greek emigrants to these states. In 1914, this situation was redressed by Greek legislation. This movement caused paradoxical situations, since a large part of this population did not wish to breach their bonds with Greece. Furthermore, it was judged as detrimental to the nation, since it deprived the country of soldiers at a rather demanding historical juncture (Georgiadou 1941: 76). Law 120/1914 ruled that authorisation by the Greek government was required for the loss of Greek citizenship. This provision is still in force. As a rule, Greek emigrants who acquired foreign citizenship at birth after 1914 did not require the Greek government’s authorisation. Therefore, they retained Greek citizenship by virtue of being children of Greeks. This is the first clear example of the acquisition of dual citizenship in Greek history.

¹² Art. 5 of the Decree of 12 August 1927 ‘on ratification and amendment of the Legislative Decree of 13/15 September 1926 ’on amendment of provisions of the Civil Law’.

¹³ See art. 105, para. 1 of the Constitution in force.

¹⁴ See art. 17, para. 1,b of the Code of Greek Nationality.

2.3 Nationality during the Cold War

This period commences with the integration of the Dodecanese into Greece¹⁵ and the end of the Civil War in 1949. It extends to the period of the Cold War. Its main feature is the withdrawal of citizenship. This was a sanction reserved for citizens regarded as enemies. During the first century of the existence of the Greek state, there was no comprehensive ideology with respect to the characteristics of Greek citizenship. Contrarily, during the Cold War period, policy relating to citizenship was marked by the endeavour of the Greek state to purge, by any means, persons considered as ‘unworthy’ to be Greek. In parallel, the state was extremely reluctant to accept the acquisition of Greek citizenship by former Greek citizens, who belonged to Greek minorities in Albania and Turkey and had returned to Greece. The state adopted this strategy, so that specific minorities continued to be reinforced. Moreover, the Greek state demonstrated, paradoxically, an extremely sparing attitude towards any other category of Greeks Diaspora who wished to acquire Greek citizenship. This cautiousness towards the naturalisation of Greek *homogenis* abroad was also visible in policy concerning foreign spouses and the families of Greek citizens. This policy began to hesitantly change towards the end of the twentieth century.

Certainly, the practise of withdrawal of nationality had not been commenced during that period.¹⁶ Equally, it was exclusively reserved for national enemies and political dissidents as it had been in the course of that period.¹⁷ The Civil War constituted a point of intersection with modern history, following which the withdrawal of citizenship has been massively implemented. The citizens from whom citizenship was withdrawn were either communists or members of minorities.

This practice was initiated by a Decree in 1927.¹⁸ The Decree included a rule, which can be held responsible for the negative perception of the Greek law on citizenship even today: ‘*Allogenisi* Greek citizens, who have fled Greek soil and have no intention of returning, loose their Greek citizenship. Minor children who emigrate with them also loose Greek citizenship alongside their parents. The intention not to return constitutes a real fact and may be presumed from any relative fact [...]. The Minister of Foreign Affairs examines the intention not to return, as well as any element related to this article ad hoc’. High-ranking administration officials admitted, however, that the loss of citizenship in this way ‘does not politically constitute an institution worthy of being established [...] However, in a practical sense, it serves a national need of the highest importance’ (Georgiadou 1941: 82). The replacement of art. 4 of the Decree of 1927 by art. 19 of the Code of Greek Nationality in 1955, its reinforcement by the Constitution

¹⁵ The Italian citizens that were residing in Dodecanese on 10 June 1940 and their children who had been born subsequently acquire *ex lege* Greek citizenship, in accordance with law (517/1948) that was issued to implement the Paris Treaty between the Allies and Italy.

¹⁶ As already mentioned, in the course of rather unpredictable years for a newly-established state, even the Constitution of Trisina of 1827 had provided for the loss of nationality. Art. 29 thereof stipulates that ‘any autochthonous or naturalised Greek residing on Greek territory and enjoying citizen’s rights, who prefers to resort to the protection of a foreign force, ceases to be a Greek citizen’.

¹⁷ As a rule, the loss and the withdrawal of Greek citizenship (regulated by art. 17-21 of the Code of Greek Nationality) can occur due to the acquisition of foreign citizenship and the expression of intent of the person, due to the assumption of service in a foreign state or due to adoption by a foreigner. It is of importance, though, to underline that even the expressed intention to renounce the Greek citizenship, where the person has been naturalised abroad without prior authorisation, does not bind the Minister of the Interior to withdraw citizenship.

¹⁸ Decree of 12 August 1927 on the ratification and amendment of the Legislative Decree ‘on amendment of provisions of the Civil Law’, 13/15 September 1926.

of 1975¹⁹ and its continuance until 1998 clearly demonstrate its utmost national importance.²⁰

Since 1940 the relevant legislation did not concern only *allogenesis*.²¹ In the course of the German occupation, the collaborationist government adopted a new rule introducing the concept of the ‘unworthiness’ to be a Greek citizen as a reason for the withdrawal of citizenship.²²

The festive inauguration of this regrettable period of Greek citizenship during the years of the Cold War took place in 1947 with the Resolution of 1947 by the Fourth Revisionary Parliament ‘on the withdrawal of the Greek citizenship from persons that are acting in an anti-national way abroad.’ This Resolution was maintained in force even following the enactment of the Code of Greek Nationality and repealed only in 1962 (however not retroactively).²³ The measure was applied to over 56,000 Greeks who had departed for Eastern Europe during the years 1947-1949 (Centre of Planning and Economic Research 1978: 46), among whom there were a significant number of Slav-Macedonians (Kostopoulos 2000: 219). Acting similarly to the Italian fascists or by applying the Nazi German principle of the withdrawal of nationality, the Greek administration enforced *en masse* withdrawals of citizenship under summary proceedings until the new Constitution of 1952 came into force (Alivizatos 1979: 490).

However, even following the abolition of the Resolution, Greek legislation still retained a safe arsenal enabling the withdrawal of citizenship from ‘persons who were acting or had acted in an anti-national way. The only, obviously fictitious, difference was that the withdrawal of citizenship was no longer binding, but at the administration’s discretion.²⁴ In fact, the dictatorship did not need to invent new regulations, but only to tap into the already applicable law by means of its own Constitutional Act.²⁵

Upon the restoration of democracy, those from whom citizenship had been withdrawn, according to the dictatorship’s Constitutional Act, could re-acquire it.²⁶ The reacquisition concerned however only those from whom citizenship had been withdrawn according to the regime’s Constitutional Act and not those from whom citizenship had been withdrawn by normal regulatory means provided for by the Code of Nationality during the dictatorship. These provisions (under art. 9 and 20 of the Code) were still implemented even after the restoration of democracy. It is worth noting that a transitional provision of the Constitution of 1975 stipulated that ‘Greeks, from whom citizenship had been withdrawn by any means prior to the entering into force of the Constitution reacquired it following a judgment issued by specific committees composed of judges, in accordance with the law’. However, no such committees ever convened nor

¹⁹ The transitional provision 111, para. 6 provided for the article being in force until it was abolished by law..

²⁰ The target group of the legislation on the withdrawal of citizenship from *allogenesis* belonging to minority groups was gradually being differentiated: in the first stage, the main victims of the withdrawal of nationality were ethnic Macedonians. Afterwards and mainly due to the shrinking of the Greek minority of Istanbul and the invasion of the Turkish armament in Cyprus the measure targeted the Turkish minority of Thrace.

²¹ Mandatory Law 2280/1940 (extensively in: T. Kostopoulos, ‘Nationality Withdrawals: The Dark Side of Modern Greek History’, *Synchrona Themata*, 83 (2003), 53-75 [in Greek] at 56.)

²² The term ‘unworthiness’ appears in the Law 580/1943 during the occupation period and was kept in force after liberation, by virtue of a decision of the Ministerial Council in 1946.

²³ By art. 1 of the Legislative Decree 4234/23.7.1962 ‘on the regulation of issues concerning the country’s safety’.

²⁴ In line with art. 20, para. 2 of that time (currently 17) of the Code of Greek Nationality.

²⁵ See art. 1 of the Constitutional Act /67 of the Constitutional Act of the regime ‘on the withdrawal of nationality of persons acting in an anti-national way and on the confiscation of their property’.

²⁶ Art. 10 of the Constitutional Act of 5/8-7/8/1974.

has a related law ever been issued to date (Grammenos 2003: 202). In an attempt to limit the administrative discretion on issues related to the withdrawal of citizenship, the new Constitution provided that the ‘withdrawal of citizenship is permitted under the conditions and procedures prescribed by law’²⁷ if a Greek national undertakes anti-Greek service in a foreign country.

The regulation of Greek citizenship has always lagged behind the overall political evolution. It is indicative that the Resolution of the Fourth Revisionary Parliament of 1947 was expressly abolished in 1985.²⁸ Even the first socialist government of 1981 did not examine the possibility of the reacquisition of citizenship and repatriation of the Slav-Macedonian political refugees. The express exclusion from repatriation of those who were not ‘Greeks as to *genos*’ currently constitutes the sole instrument that recognises, through exclusion, the existence of Slav-Macedonians in the country.²⁹

All other ways to withdraw citizenship had been abolished or weakened. As a result, art. 19 of the Code of Greek Nationality dominated during the period following the downfall of the colonels’ regime (1967- 1974). According to this article ‘it could be judged that *allogenis* who had fled Greek land without the intention of returning, lost Greek citizenship. As already mentioned, the article was also abolished later, in 1998,³⁰ after causing international condemnation and after having accomplished the ‘national objective’ for which it had been adopted. According to the administration, the number of people who had lost Greek citizenship from the time the article had been put into force (in 1955) until its abolition amounted to 60,000.³¹ The practice of citizenship withdrawal from members of minorities was intended to minimise, in terms of population, minorities from Thrace. This fact, combined with the important migratory flow towards Turkey and Western Germany has resulted in the population being maintained at levels similar to those existing in the period of the Lausanne Treaty (approximately 100,000).

At a time when the Greek administration demonstrated its most repugnant face towards those who (were supposed to) constitute a threat, it was also ineffective at conducting negotiations ‘as the mother-country’ in order to promote Greek citizenship among national minorities in Turkey. It compensated, however, for this by an expression of generosity towards Greeks coming from Turkey: it awarded those from whom Turkish citizenship had been withdrawn with a unique status of citizenship under which the granting of a Greek passport was not equivalent to the conferment of citizenship status.³² This situation resulted in a small, but not negligible, number of persons subject

²⁷ Art. 4, para.3, al. 2b of the Constitution. The norm implementing the constitutional provision is found in art. 17 (till 2004, art. 20) of the Nationality Code.

²⁸ By art. 9 of Law 1540/1985 ‘on the regulation of property of political refugees’.

²⁹ Joint Decision 106841/1983 of the Ministers of Interior and Public Order on ‘Free repatriation and granting of Greek citizenship to political refugees’, in accordance with which ‘all Greeks, by *genos*, who had fled abroad as political refugees in the course of the Civil War 1946-1949 and because of it, may freely return to Greece, even if their citizenship had been withdrawn.’

³⁰ By art. 9 of the Law 2623/98. Given that the abolition of art. 19 had no retroactive impact, the procedure for the re-acquisition of Greek citizenship falls under the procedure for the naturalisation of *allogenis*.

³¹ According to a non-registered document of the Ministry of the Interior, Public Administration and Decentralisation addressed to the National Commission for Human Rights, dated 18 June 2003.

³² The Ministerial Council, after the fall of the colonels’ regime, according to a decision classified as ‘Top Secret’ ‘Issuing of special passports of *homogenis* to non-Greek citizens from Turkey and North Ipirus Act No 22, 1/3/1976’ has affirmed that ‘taking into consideration: that many *homogenis* that have been deprived of their ordinary passports [by the countries of origin] meet abroad insurmountable difficulties in their transfer, residence and right to work; that their naturalisation is not possible and that a passport does not always constitute full proof of citizenship, but refutable presumption of citizenship, decided: to provide Greek passports, the acquisition of which did not attribute the Greek citizenship: [...] (a) to the *homogenis*

to this category of *homogenis* who still remained under this *sui generis* form of hostage. During the critical decades, the stance of the Greek state was clear: ‘no Greek citizenship for *homogenis*’. The Greek state preferred to subordinate these people to a status of semi-citizenship, in order to keep a Greek minority statically alive in Turkey, against the deterrent policies of the Turkish state.

By the end of the 1970s, the issue of the *Tsigans*’ statelessness was settled. An unknown number of them had never acquired Greek citizenship. This was due to hindrances that the Greek state attached to the ‘*Tsigans* reluctance to cooperate with the competent authorities.³³ At the end of this decade a thriving percentage of *Tsigans* had acquired Greek citizenship through an innovative implementation of *ius soli*. *Tsigans* were considered as people of non-definable citizenship, who were born in Greece and had consequently acquired Greek citizenship *ex lege*.³⁴

3 Recent developments and current institutional arrangements

3.1 Main general modes of acquisition of citizenship

Acquisition of citizenship through a Greek mother

The most important modification of Greek citizenship law to date occurred in 1984 by virtue of the Law 1438 ‘an amendment of the provisions of the Code of the Greek Nationality and of the law on birth certificates’. The Law entailed major changes concerning the citizenship status of the Greek women. They were given the right to transfer their citizenship to their children for the first time in the Greek history. This law put into practice, in the field of citizenship, the constitutional stipulation of 1975 for gender equality. The main amendments worth mentioning are the following:

- The generalisation of citizenship acquisition to persons born either to a Greek father or mother. It should be noted that, up to then, only the children that were born out of wedlock or of whose father was stateless could acquire the citizenship through a Greek mother.
- A reduction in the time limit for the coming of age for those who wanted to become naturalised, from 21 to 18³⁵ years, according to the new Civil Code.
- Civil marriage was considered valid according to the law 1250/1982. Until then, the non-Orthodox marriage of a Greek man to a foreign woman excluded his

from Turkey deprived of their Turkish citizenship. (b) The *homogenis* from Turkey residing in Greece for more than five years without Turkish passport’. The difficulties encountered by any stateless citizen abroad seem absolutely reasonable. However, Greek lawmakers realised that naturalisation of these persons was not possible. At the same time they provided them with a Greek passport, which did not grant them Greek citizenship. This attitude generated questions, at first sight. The well-known passport of the *homogenis* of Turkey and Albania (O.T.A.) established a third category of people who move between the status of citizen and the status of foreigner or stateless person. In line with the same Ministerial Decision, *homogenis* from Albania were subject to the same status, as well. However, the prerequisite of non-possession of the Albanian citizenship did not exist for them, for the Albanian regime never used the measure of withdrawal of citizenship *en masse*, as the Greek or the Turkish ones did.

³³ General Order 212 of the Ministry of the Interior, dated 20 October 1978, on ‘Regularisation of citizenship of the *Tsigans* residing in Greece’. See also the General Order 81 of the abovementioned ministry, dated 12 March 1979.

³⁴ Pursuant to art. 1 para. 2 of the Code of Greek Nationality, according to which: ‘Greek citizenship is acquired at birth by any person that is born on Greek territory, if the said person does not acquire at birth foreign citizenship or is of unknown citizenship.’

³⁵ According to art. 127 of the Civil Code, as amended by the Law 1329/1983.

children from Greek citizenship.

– The establishment of the principle of independency or individuality of citizenship; until that time the existing principle was one of acquisition of citizenship by marriage. Greek law proceeded with a radical reform, in line with which ‘marriage does not entail the acquisition or loss of Greek citizenship’. This provision abolished the previous ones, according to which a Greek woman who was married to a foreign man would lose Greek citizenship, unless she declared in advance her intention to the contrary; conversely a foreign woman who was married to a Greek man would automatically acquire the Greek citizenship, unless she had previously declared that she had no such intent.

Extreme enthusiasm, however, stemming from the political atmosphere of the first governance of the country by a socialist party resulted in Greek lawmakers interpreting the principle of the independence of women’s citizenship in the most inflexible way. As a result, the spouses of Greek citizens were subjected for many years to the same status as others applying for naturalisation, without receiving any advantage in the acquisition of Greek citizenship in recognition of their marriage to a Greek man. This illogical situation was remedied in 1993, when it was ruled that ‘marriage to a Greek person is also taken into consideration when the administration judges an application for naturalisation’.³⁶ Not until 1997,³⁷ did Greek law provide for the naturalisation of Greek foreign spouses by excluding the prerequisite of a period of prior residence in the country, in the case where a child had been born within the marriage. This generosity did not last long, since the new Code of Nationality that was passed at the end of 2004 added a requirement of three years residence in the country to the existing prerequisites for the naturalisation of spouses.³⁸

In fact, the intention of the law makers in 1984, namely, the retroactive settlement of citizenship on Greek women and their children, was not fully expressed. In that respect, the law of 1984 provided for a transitional period until the end of 1986 for the implementation of provisions related to the acquisition of citizenship both for the children that were born and for the women that had been married before its promulgation (8 May 1984). In the course of those two and a half years, Greek women and children who wished to acquire Greek citizenship could do so by submitting a relevant declaration to the Greek authorities. Many people had, however, not been informed that a strict deadline existed. As a result, the time-limit lapsed with many eligible persons failing to avail themselves of the provision. Seventeen years were needed for the promulgation of Law 2910/2001 and for the abolition of the unrealistic, strict time-limit stipulated by the law of 1984. This resulted in a striking rise in the number of citizenship acquisitions from 2001 onwards. The rise remains however invisible, as the Greek authorities cannot provide even elementary statistics on cases of citizenship acquisition by way of this procedure.

This omission was not so important until the early 1990s, given that the acquisition of citizenship using this procedure was scarce. The fall of the regimes in Central and Eastern Europe, however, resulted in unanticipated developments for the country. A significant number of persons, who in the meantime had acquired citizenships from socialist states, had the opportunity to travel to Greece (which they considered as the country of their ancestors) and to lawfully claim Greek citizenship. As Baltsiotis

³⁶ By art. 32 of the Law 2130.

³⁷ By art. 12, para. 2 of the Law 2503.

³⁸ See art. 5, para. 2a of the Law 3284.

colourfully expressed it: ‘all of a sudden, everybody is looking for his Greek ancestor’ (2004a: 316). This applied to the descents of second or third generation emigrants to the USA, Australia and Canada, who gradually discovered the comparative advantages offered by citizenship of an EU Member State, either by returning to Greece or, mainly, without. If we add to these large numbers, the so-called ‘home-comers’ from the former USSR (who will be discussed later), it is clear that the 1990s posed new challenges to Greek citizenship, faced with which it had to once again decide its course.

The (non-)naturalisation policy

It has been pertinently stressed that ‘the non-naturalisation of *allogenis* foreigners constitutes a structural perception of the state, which is carefully adhered to’ (Baltziotis 2004b: 93). The naturalisation rate of foreigners is extremely low. Indicatively, from 1985 to 2003 approximately 13,500 persons acquired Greek citizenship and in the period 1985-1997 fewer than 4,500. After the naturalisation of spouses was institutionalised, in deviation from the generally applicable rule requiring a stay of ten years in the country, the rates more than doubled. In 2001, the Greek state, aiming to impede the rise of applications for naturalisation, given that a decade had passed since a significant number of immigrants had arrived in the country, established³⁹ a naturalisation fee of 1,467 Euros, with the aim of stemming the anticipated rise of naturalisation applications.⁴⁰

The prerequisite of lawful prior residence in the country has been gradually and continuously extended over the years. Initially, Greek citizenship law stipulated a three-year residency period prior to application, as a necessary prerequisite of naturalisation. In 1968, the prerequisite of residence in the country changed: from then on, people who were already legal residents in Greece for eight years could apply for Greek citizenship. In line with the law of 1993, the eight years became ten. Finally, in 2001, the prerequisite allowing for residence in the country following submission of the application, to count towards the residency period, was abolished. The aim was obvious: to achieve the greatest possible bulwark against the increasing number of naturalisation applications.

By the 1980s, Greece gradually began to acquire the attributes of a modern capitalist society, into which the first immigrants flowed (mainly from Lebanon, Pakistan and Egypt). At the same time, the phenomenon of mixed marriages became statistically visible. The citizenship policy was reinforced with stricter regulations, so that the Greek state could face the oncoming immigrant wave defensively. In any case, citizenship policy could not remain passive towards the overall evolution of social modernisation and state democratisation, which were mainly embarked upon by the first socialist government in 1981. The following paradox then became apparent: the regulatory prerequisites for the acquisition of Greek citizenship became stricter, even though citizenship politics became more apparent. This attitude, which continued during the 1990s, did not suffice to change the profoundly xenophobic way in which any foreigner who wished to acquire Greek citizenship was treated: as a menace to national homogeny. In the past, this fear was extended even to Greek *homogenis*, emigrants or political refugees. It was generally considered that since these persons had abandoned Greece, the state owed them nothing.

The country abstained from ratifying any international instruments that could introduce deviations from the absolutely rigid way in which the policy was implemented.

³⁹ By art. 58 of the Law 2910/2001.

⁴⁰ A year later, *homogenis* were exempted from the obligation to pay a naturalisation fee, under an amending provision (by the art. 21, para. 3 of the Law 3013/2002).

It was obvious that a potential ratification of the European Convention on Nationality of 1997 by Greece would influence the highly discriminatory treatment between *homogenis* and *allogenis* with regards to the acquisition of nationality (Papassiopi-Passia 2004: 36). Equally, it would influence a series of restrictions existing in the Greek legal order against naturalised foreigners. These restrictions, being mostly of a symbolic rather than a substantial nature, are indicative of the already mentioned phobia.⁴¹

The main mode of citizenship withdrawal: art. 19 of the previous Nationality Code

The above-mentioned elements reflect a series of nationalist and authoritarian strategies, which were implemented in the country during the major part of the twentieth century, mainly after the Civil War (1946-1949). Equally, these strategies demonstrate Greece's position in the geo-political environment of the Cold War Balkans. It is no exaggeration to claim that Greece systematically encountered the issue of acquisition of Greek citizenship by foreigners for the first time in the 1980s. Until then, the Greek administration exercised another practice with particular fervour: citizenship withdrawal. As already mentioned, the regrettable measure of citizenship withdrawal had reached its peak during the Cold War. From 1960 it was restricted only to the Turkish minority in Thrace. This practice continued until 1998 when the infamous art. 19 of the Code of Greek Nationality, which stipulated the withdrawal of citizenship for those leaving Greek soil without intending to return, was abolished.⁴²

Art. 19 had been severely criticised by the country's legal community (Sitaropoulos 2004), because it was *prima facie* unconstitutional. The Greek Constitution provides for the possibility of citizenship withdrawal 'only in cases where a person has voluntarily acquired another citizenship, or he or she has engaged anti-national service'.⁴³ At the beginning of the 1990s, the pressure put on Greece by international organisations, such as the Council of Europe and the OSCE, for the abolition of this article was reinforced. However, according to the official records of discussions in Parliament, this article was only abolished when it was deemed that, if continued, it would create more problems than it would actually resolve (Anagnostou 2005). The abolition of art. 19 was not retrospective. Should the persons, from whom citizenship had been withdrawn, according to this article, wish to re-acquire the Greek citizenship, they would have to follow the mode of naturalisation applicable to *allogenesis* foreigners, no other regulations were applicable.

In practice, the issue of citizenship reacquisition was a matter of indifference to the majority of the 47,000 people from whom citizenship had been withdrawn, given that they no longer had ties to Greece. Most of them moved to Turkey or Germany. There are still, to this day, a number of affected people who are settled in Greece. The fact that they are nominally individuals 'that have left Greek soil without the intention to return', while still living in Greece is an obvious paradox. Such a paradox can however be explained by the unrehearsed, arbitrary and *maladroit* way in which this specific

⁴¹ Pursuant to art. 4, para. 4 of the recent Civil Servants Code (Law 2683/1999) 'whoever acquires Greek citizenship by naturalisation, may be appointed as a civil servant only one year following acquisition'. In the specific case, the period of one year had replaced one of five years, which was the rule in the previous Code of 1977. A new restriction, of a three-year period, specifically applies to civil servants at the Ministry of Foreign Affairs (art. 53 of the Ministry's Regulation), as well as to court clerks (art. 2, para. 2 of the Law 2812/2000). Finally, it is worth mentioning that a provision of 1977 ruling that '*allogenesis* who have acquired the Greek citizenship may not be appointed as notaries', was abolished in 2000 (art. 19, para. 1 of the Law 2830/2000).

⁴² By art. 9 of the Law 2623/1998.

⁴³ Art. 4, para. 3 of the Constitution 1975/1986/2001.

provision was implemented. In other words, there are many cases where citizenship was withdrawn regardless of the fact that the individuals in question had never left the country. The case of a male person who lost his nationality according to Art.19, while serving in the Greek Army, is a case in point(Kostopoulos 2003: 73).

In Thrace there are still no less than 1,000 stateless persons of advanced age, members of the minority, who still hope to find justice. They constitute a reminder of a regrettable and very recent history of Greek citizenship.

3.2 Special categories and quasi citizenship

The procedure of ‘definition’ of the Greek citizenship for homogenis

Citizenship acquisition through the procedure of ‘definition’ has constituted an extremely important legal instrument for the Greek administration. The procedure of definition made it possible for the Greek administration to separate citizenship acquisition by *homogenis* foreigners from the far stricter prerequisites for naturalisation by *allogenesis* foreigners. The ‘definition’ is a *sui generis* procedure for the acquisition of Greek citizenship from an ancestor, even when the ancestor has already passed away. The objective of this procedure is to determine a direct relationship between an ancestor that once held Greek citizenship and the person applying for citizenship, to be granted on the basis of *ius sanguinis*. Quite often this procedure amounts to the acquisition of citizenship by whole, one or more, families, provided that there is proof of an ancestor with Greek citizenship. Given the retroactive implementation of the provisions regarding gender equality in citizenship (1984), the right to acquire Greek citizenship may also be established where Greek origin exists on the mother’s side.

It must be noted, however, that there is no article in the Code of Greek Nationality that clearly defines the exact requirements for the procedure for citizenship definition. It is only stipulated that the Secretary General of the Region is mandated to issue confirmatory acts for the definition (art. 21). However, it is not evident from any provision what exactly ‘definition’ is or what the related necessary prerequisites are. Naturally, this deficiency may not be an imperfection of the law, but a conscious option of the lawmakers not to submit the procedure of citizenship definition to transparent legal limitations. The procedure is covered in detail in the relevant circulars of the Ministry of the Interior addressed to its services. Particular legislative lacunae are addressed by the executive power’s regulatory acts. This is particularly true when it comes to assigning *homogenis* status. The answer to the question ‘who are the Greek *homogenis*?’ has some historical constants, but a series of variables as well (Christopoulos & Tsitselikis 2003a: 87-89). The historical constant and limit is the subordination to the orthodox *genos*: only Christian orthodox people may be *homogenis*. The variables mainly consist of a series of deviations that historical conjuncture dictates to the administration, according to the international or domestic circumstances. The terms *homogenis* and *allogenesis* are not defined as strict legal categories, but rather as flexible ideological concepts (Baltsiotis 2004b) susceptible to change according to the political priorities of the time (Baltsiotis 2004b: 88). In this framework, their meaning is under continuous negotiation and confidential administrative consultation.

As a rule, *homogenis* are individuals of Greek origin and of Greek consciousness, as well. The case law of the Council of State reached that conclusion, while examining the opposite concept of *allogenesis*.⁴⁴ This decision clarified two issues. Firstly, that

⁴⁴ ‘*Allogenesis* Greek citizens of non-Greek descent are those, whose origin, distant or not, is linked to

participation in the Greek nation is not determined on the basis of ethnic origin alone. Non-ethnic Greeks may also be part thereof, provided that they assimilate. Secondly, Greek national consciousness and non- Greek identity are mutually exclusive (Stavros 1996: 119).

Consequently, a definition of *homogenis* could serve the needs of a given historical-political conjuncture, but it could not satisfy the respective needs of another period (Tsioukas 2005: 34). The turbulent history of Greek citizenship could not bear a static definition of the term, in accordance with which, the quality of *homogenis* is attributed to citizens of certain countries or residents of certain regions who are of Greek descent. One of the numerous indicative examples is the following: Vlachs who migrated to Romania during the 1920s and 1930s constituted one of the target groups *par excellence* of the first legislative instruments on the withdrawal of Greek citizenship from Greek *allogenis*. During the 1990s, the certification of an Albanian citizen of Vlach origin by the Greek consulate of Korce in South Albania was a necessary prerequisite for him or her to acquire a special *homogenis* identity card (Christopoulos & Tsitselikis 2003b: 33). This card proves that he or she belongs to a Greek ethnic group; it is also a prerequisite for the granting of residence and work permits, as well as for full access to special benefits for social security, health and education (Tsitselikis 2004: 7).

Based on the definition procedure, a sort of dormant citizenship is established. This dormant citizenship is formally entrenched when the person proves that his or her ancestor had been registered in the rolls of a municipality of the Greek state. The legal basis of Greek citizenship derives from this registration. The related ‘municipal roll certificates’ constitute the legal presumption of Greek citizenship. The local authorities may issue such certificates following the submission of an application either via the Greek Consulates abroad, or directly to the municipality. Registration of the parents’ marriage, as well as that of the birth, in the rolls of the municipality or community of the Greek state constitutes a prerequisite for the issuance of the related certificates.

The *homogenis* that are able to produce such certification of their ancestry follow a trouble-free and flexible procedure of definition for the acquisition of Greek citizenship. Otherwise they have to follow the ordinary naturalisation procedure, but are exempted from the prerequisite of ten years lawful prior residence in the country and the 1,500 Euro- fee which normally applies. The authorities who handle the definition procedure are also different from those who deal with naturalisations. Naturalisations have always fallen within the mandate of the Ministry of the Interior and the related investigations have always fallen within the mandate of the respective Directorate of Nationality of the Ministry. On the other hand, the authority for citizenship definition is decentralised. In 1995,⁴⁵ the authority for issuing acts for citizenship definition was transferred to the country’s Prefects, while the related investigation remained with the Ministry’s central services. In 1998,⁴⁶ the entire procedure, as well as prior investigation was transferred to the Regional Services. The Secretary General of the Region signs the decision for the acquisition of citizenship. The very large number of definition applications submitted during the 1990s explains this initiative for decentralisation. Although it responds to certain needs, many objections have been raised, as to whether and to what extent the Regional Services are sufficiently staffed to deal with the complicated issues regarding

persons of a different nation; who by their actions and general conduct have expressed sentiments confirming the lack of a Greek national consciousness, in a way [this proves that] they cannot be considered as having assimilated into the Greek nation.’ (Decision 57/1981)

⁴⁵ By art. 9 of the Law 2307.

⁴⁶ By art. 1 of the Law 2648.

citizenship definition (Grammenos 2003: 152-55).

It should be mentioned though that a number of cases of investigation for citizenship definition remains unofficially within the mandate of the central services of the Ministry of the Interior, due to the particular ‘national significance’ that they present. This fact demonstrates the lack of trust, which in many cases is justified, in the judgment of the Regions.⁴⁷ These cases refer to:

- Turks of Thrace who have lost Greek citizenship in various ways in the past;
- Slav-Macedonian political refugees who have not been considered ‘Greeks with regard to *genos* and who have not reacquired Greek citizenship upon their repatriation’, in accordance with the related ministerial decision of the first socialist government on ‘free repatriation and conferment of the Greek nationality to political refugees’;⁴⁸
- The so-called fugitives in Bulgaria. These are mainly members of minorities of Bulgarian descent who fled Greek soil after the Second Balkan War until the outbreak of the Civil War and had gone to Bulgaria;
- The Albanian Muslims of Thesprotia (Chams) who were forced by the Greek National Army to leave Greece and go to Albania during the summer of 1944. Their citizenship was withdrawn in a legally contestable mode by simple erasure from the municipality rolls;
- The Aromanian-Vlachs who began to migrate to Romania in the 1920s;
- Greek-Armenians, who directly migrated to the Republic of Armenia of the ex-USSR, and who were persecuted in Turkey during the 1920s;
- Greek Jews, who had begun to migrate to the land of the future Israel, even before the beginning of the Second World War.⁴⁹

The Greek Pontian ‘homecomers’ from the former USSR

Sweeping changes have taken place since the end of the Cold War of the population map of Greece. The government estimates that almost 180,000 Pontian ‘homecomers’ from USSR countries reside permanently on Greek territory. By the end of 2003, almost 125,000 people had acquired Greek citizenship, mostly through the definition procedure. According to the General Secretariat for Home Comers of the Ministry of Macedonia-Thrace, the majority of *homogenis* from the former USSR come from Georgia (52 per cent), Kazakhstan (20 per cent), Russia (15 per cent), Ukraine (2 per cent) and Uzbekistan (2 per cent) (Ministry of Macedonia-Thrace 2000: 51). *Homogenis* who did not wish to acquire Greek citizenship, mainly in order not to lose their former one,⁵⁰ have been provided with a special *homogenis* identity card.

The Greek state uses the term ‘homecoming’ for Pontians coming from the states that succeeded the USSR, mainly Georgia and Kazakhstan, as well as for the Greeks of

⁴⁷ In this regard, if the Regional authorities have evidence that the person requesting citizenship belongs to certain population groups they forward the file to the competent Directorate of Definition of the Ministry of the Interior.

⁴⁸ Joint Ministerial Decision 106841/29.12.1982 of the Ministers of the Interior and Public Order.

⁴⁹ Under Act 621 of the Ministerial Council of 1949, Greeks, Armenians and Jews were losing Greek citizenship through the provision of an one-way travel document to Israel and the USSR, and after having declared in writing that they did not wish to return to Greece (see Baltsiotis 2004b: 90-92 and Kostopoulos 2003: 55).

⁵⁰ It should be mentioned that the Nationality Code of Ukraine and Georgia provides for the loss of citizenship in the case of the acquisition of another one.

Marioupolis of the Ukraine. This term is neither ideologically neutral nor pragmatically valid. It originates from a fiction, an illusionary past. The term ‘homecoming’ illustrates more the peoples’ expectance to escape poverty than their will to ‘return’ to the home country. These people never left Greece in order to come back to it. It is also characteristic of the Greek state that it persists in calling them ‘*homogenis* of Pontian origin’ or ‘Greek-Pontians’. On the contrary, the Greek public is more familiar with the term ‘Russian-Pontians’, which is rather derogatory.

The Greek state has shown extreme generosity towards the ‘Greek-Pontians’ regarding citizenship. Most of these people were granted Greek citizenship under specific provisions, by means of a summary mode of acquisition, later called ‘specific naturalisation’.⁵¹ Thousands of such ‘specific naturalisations’ have been registered ‘as opposed to any other general or specific provision that prescribed the submission of a series of supporting documents’.⁵²

The fluid status of the Greeks from Albania

Most of the migrants who came to Greece during the 1990s were Albanians. According to the National Census of 2001, Albanian immigrants represent more than half the total number of immigrants in Greece and amount to half a million.⁵³ According to reliable information from the Ministry of Public Order, approximately 200,000 of these where conferred with the status of *homogenis* in accordance with the relevant Ministerial Decision.⁵⁴ The exact number is not known, since the Ministry of Public Order refuses to publicise it, invoking ‘reasons of national security’ (Baldwin-Edwards 2005: 2).

A critical issue here is the Greek state’s strategic choice to absolutely refuse Greek citizenship to Greeks from Albania. There is a fear that acquiring Greek citizenship may cause the withdrawal of their Albanian citizenship and consequently represent the definitive historical extinction or statistical death of a Greek minority in Albania. The Albanian Constitution does not prohibit dual citizenship. Nonetheless, Greek-Albanian relations have been dogged by a serious lack of trust. In both states there survives residual, though ever decreasing, irredentism towards each other. The endeavour for bilateral settlement, which was intensified in the summer of 2002 with a view to concluding a bilateral agreement between Greece and Albania, was not successful. Ever since, the issue is pending, but complaints within the population of the Greek minority of Albania are growing.⁵⁵

The only categories of Albanian citizens who have lately acquired Greek citizenship

⁵¹ Circular 7914/6330/2.3.2000 of the Ministry of the Interior on ‘Acquisition of the Greek citizenship by *homogenis* of the ex-USSR’.

⁵² Circular 28700/11333/26.5.1993 of the Ministry of the Interior on ‘Notification of provisions of the Law 2130/1993’.

⁵³ According to the census results, 443,550 of the declared 796,713 immigrants are Albanians (M. Pavlou, ‘Annex’, in D. Christopoulos and M. Pavlou (eds.), *Greece of Migration* (Athens: Kritiki Publishing [in Greek], 2004), 367-402 at 373. Valid estimates show that their number has increased by almost 200,000, reaching one million (Baldwin-Edwards 2005: 4).

⁵⁴ 4000/3/10-/2001.

⁵⁵ In fact, the Greek state is confronted with an impasse stemming from the incredibly large number of Albanian citizens who have been given the special *homogenis* identity card. As already mentioned, the number of Greek Albanians does not exceed 100,000 people, even according to the most Greek-oriented statistical assessment (compared to the 60,000 that Albania recognises). However, the holders of these cards amount, as already mentioned, to double that number. The motives for this policy to provide the *homogenis* identity card to a large number of Christian Orthodox Albanians, who have migrated to Greece, can be questioned. The only certain thing is that the prospect of these people all acquiring Greek citizenship causes certain discomfort to the Greek authorities.

have been the former holders of *homogenis* passports from Turkey and Albania. As of 2001, those individuals who were in a position to prove that an ancestor of theirs had Greek citizenship in the past were able to acquire Greek citizenship.⁵⁶ In 1998, the provision of a special *homogenis* identity card ‘to the Citizens of Albania who are of Greek descent and live in Greece,’⁵⁷ was opted for instead of conferment of Greek citizenship. The police authorities, who conduct investigations in order to ascertain a person’s Greek origin, provide these identity cards. The identity cards are valid for a three-year period, are renewable and are granted to the spouses and descendants of *homogenis*, as well.

This brief description demonstrates in the clearest possible way that a double standard exists regarding the policy for the acquisition of citizenship by Greek *homogenis*. This policy has created numerous problems. The Greek state does not take into account the genuine will or capacity of these people to be integrated into the Greek society in any of the criteria for granting (or not) Greek citizenship. The only criteria which have been put into practice constitute the results of obvious, although rarely admitted, political choices, mainly in the area of interstate relations or in the name of ‘national commitment towards Greek brothers’. These criteria, however, generate obvious injustices, inequalities and impasses, which the Greek state has not yet managed to tackle.

3.3 Institutional arrangements: Greek law on citizenship as an exceptional normative framework

Greek citizenship law is *par excellence* a normative framework of multiple exceptions from the general rules governing the relationships between the administration and individuals. These exceptions originate from two provisions of the Code of Greek Nationality.

According to art. 8, para. 2 of the Code, the decision rejecting an application for naturalisation need not be justified, whereas, as a general constitutional principle, all administrative acts unfavourable to the individual should be fully justified. The second provision prescribes that the articles of the Code of Administrative Procedure concerning the deadline for the administration’s obligation to reply to the citizens’ requests do not bind the administration ‘in cases related to the acquisition, recognition or reacquisition of Greek citizenship’.⁵⁸ The first exception entails the non-subordination of administrative acts or omissions related to citizenship to any jurisdictional control. The second exception excludes any obligation to respond to individuals addressing their claims *in scripto* to the administration.⁵⁹ These two exceptional characteristics are the main reasons for the lack of

⁵⁶ Until recently, there were people who were descendants of Greek minority families from Albania born on Greek territory during the 1940s, 1950s and 1960s; these people continued to have Albanian citizenship, albeit having no bonds at all with Albania nor had they ever visited it. We refer to the group of persons that has been already examined, the ‘quasi-stateless people’, according to the aforementioned Ministerial Decision of 1976 (see *supra* footnote 32). Before the Second World War, the borders between Greece and Albania were open. Many individuals moved from Greece to Albania either due to family bonds or due to professional or other activities. Therefore, at the decisive moment, after the Second World War, they did not expect the Albanian government’s abrupt political decision to close the borders with Greece. As a result, a not insignificant group of people was blockaded in Albania. They only managed to leave for the first time in 1990. A similar thing has happened in reverse, for many members of the Greek minority of Albania that have been blockaded in Greece. These people have only started to acquire Greek citizenship in 1999. Until then, they had been subordinated to the particular status of semi- citizenship, in accordance with the Secret Ministerial Decision of 1976.

⁵⁷ It should be mentioned that the proof of a person’s Greek origin is sufficient in Greek law. National consciousness is not examined at all, as normally applies to other cases of *homogenis*; this confirms overtly the flexible nature of the quality of *homogenis*, which has been already analysed.

⁵⁸ See art. 31 of the Code. The ordinary deadline provided for by the Code of Administrative Procedure (L. art. 5, para. 4 of Law 2690/1999) is sixty days.

⁵⁹ The excuse for this is ‘work pressure’. On this matter we would like to draw attention to the relevant circular

case law on Greek administrative justice on issues related to citizenship loss or acquisition.

Without overstating the case, it is obvious that this regime of multiple exceptions dominating Greek citizenship law flagrantly limits the possibility of effective juridical remedies and judicial control. These particular legislative provisions incorporate the consolidated view of the Greek administration that all tangible issues related to citizenship do not pertain to the exercising of human rights and freedoms, but to the field of exercising sovereignty and protecting state interests. The limited jurisprudence of the Council of State, the country's highest administrative court, also proves this. It therefore comes as no surprise that its case law is non-existent with regard to cases of citizenship acquisition. The Court's case law is also limited with regard to cases of citizenship withdrawals.⁶⁰

This perception, which is not a Greek inspiration or novelty, has largely contributed to the formation of a systemic mal-administrative mentality within Greek authorities on issues pertaining to citizenship. This mentality is founded on the unlimited exercising of discretionary powers on issues related to citizenship loss and acquisition. Dispensation from the general terms provided by the Code of Administrative Procedure allows the administration to keep naturalisation applications in the archives for years, even decades. The typical answer, which is given verbally by the Ministry's employees to applicants, is that 'your file is under examination'. The discretionary power of the administration on such cases is, strictly speaking, infinite. It is also indicative that the first administrative document inviting the Ministry's staff not to abuse this discretion was the latest circular issued for the implementation of the new Nationality Code in January 2005.⁶¹ An eminent professor of constitutional law who was appointed Minister of the Interior by the socialist government prior to the 2004 elections, declared at a conference: 'When I took over my post I requested an official briefing on citizenship issues. It was then that I first heard about a verbal instruction by the former Minister. The instruction was that public servants should not proceed with any naturalisations of people from the Balkans' (Alivizatos 2005).

This verbally communicated policy has just as much to do with the content of the distinction *homogenis-allogenis* which encourages a differentiated treatment of foreigners on issues pertaining to citizenship acquisition. Recognition of the *homogenis* status for a foreign citizen represents further privileged treatment as far as the procedure for acquiring citizenship is concerned. Nevertheless, as we have already pointed out, the virtue of *homogenis* is extremely loose and flexible, dictated by what the Greek authorities consider as necessity, of interest or threat at that specific moment. As a result, the policy of

of the Ministry of the Interior according to which 'the obligation of the public service to respond to applicants within the time laid down by law, is not valid when it concerns issues related to Greek citizenship. The necessity of such a regulation is obvious, since much more time is required for investigation and collection of data related to such cases in order to be in position to evaluate the applications.' See Circular .32089/10641, 26 May 1993 'Notification of provisions of the Law 2130/1993 on amendments of the articles of the Code of Greek Nationality and instructions for their implementation'.

⁶⁰ Such judicial decisions concern mainly the undue implementation of the former art. 19 of the Code of Greek Nationality (Kostopoulos 2003: 64). A recent decision of the Council of State is worth mentioning (603/2003). This one revokes citizenship withdrawal from individuals who were not notified in due time. The act of citizenship withdrawal was revoked based on the principle of the so-called 'protected confidence' of citizens by the administration. The grounds were that the administration was, for example, not permitted to surprise an individual who had lived for thirteen years believing he was a Greek citizen by birth.

⁶¹ 'Certainly, regarding uncomplicated citizenship issues, when there is no need for investigation and when the civil servant has all the documents needed, the acts of the administration will be immediate, the applicant will be informed in due time and there will be no abuse of the provision in question'. Circular of the Ministry of the Interior /102744/2709, 28 January 2005.

citizenship acquisition or loss depends less on the law and more on the Ministry's circulars and on the will and (overt or covert) motives of political leaders or high ranking administrative officials.

This phenomenon of *de facto* reversal of the hierarchy of legal norms, with circulars attaining greater legal significance than the law, is familiar to the Greek administration and does not only apply to issues related to citizenship. The larger the discretionary powers of the administration, the wider the normative framework covered by the ministerial circulars. One extreme, but an indicative case, is that of the Common Ministerial Decision on the 'definition of citizenship of *homogenis* of Pontian origin from the USSR'⁶² issued in the early 1990s, providing for the acquisition of Greek citizenship by the Pontian 'homecomers' by summary procedure. This decision, which gave the green light to thousands of citizenship acquisitions for the first time in Greek history since the population exchanges of 1923, was actually *contra legem* until 1993. At the time of its issuance, the mandatory law of 1940, which practically prohibited the acquisition of Greek citizenship by this population group, was still in force.⁶³ It was only three years later that the law of 1940 was abolished.⁶⁴

4 Current debates

Towards the end of the twentieth century, the citizenship regime based on *ius sanguinis* has been influenced by residence-based modes of citizenship acquisition in a considerable number of European countries. To date, this fact does not seem to bother the Greek authorities. The new Nationality Code, which was adopted by the Greek Parliament at the end of 2004, does not even slightly move in the direction of adopting specific rules for citizenship acquisition by individuals born and living in Greece. As a result, their naturalisation procedure is subject to the same, in practice stricter, rules as the generally applicable ones. For the foreign parents of children born in Greece, the lapse of a ten-year period suffices; children born in the country have to first come of age (i.e. eighteen years) unless, of course, they acquire citizenship as unmarried minors through their parents' naturalisation. This is an obviously introverted and weak-spirited legislative development: one (more) lost chance towards a perceptive and far-sighted plan, disengaged from out-of-date views and obsolete methods, at least as far as standards for human rights are concerned.

The Code was passed *en bloc* without any prior public consultation with relevant bodies, with an absolute majority of votes by the two big political parties. It is rather indicative that the Code was elaborated by the Ministry of the Interior during the previous socialist government and was brought into Parliament and passed, without the slightest amendment, by the new conservative government.⁶⁵

⁶² 24755/6.4.1990.

⁶³ See art. 11 and 12 of the Mandatory Law 2280/1940.

⁶⁴ By art. 23 of L. 2130/1993.

⁶⁵ The Code was voted against by the two political parties on the left, the Communist Party and the Left Coalition, their MPs expressing serious objections particularly regarding the naturalisation fees of 1,500 euros as well as the generally strict preconditions of the naturalisation procedure. None of them, however, contested the fundamental regulatory categories and concepts of the Greek citizenship law, such as the preferential treatment of *homogenis*, etc.

5 Conclusions

Citizenship has never been on the political or even the academic agenda in Greece. There are specific reasons for this. On the one hand, the Greek state never felt safe enough to address citizenship matters, considering the issue as ‘nationally sensitive’ *par excellence*. On the other hand, Greek society has never been really concerned with citizenship matters, and reasonably so. The only occasion on which such matters became broadly known was the case of citizenship acquisitions by the Greek Pontians of the former USSR. This issue preoccupied public opinion more because of its scandalous political nature than for any other reason. The Greek people showed their disdain for governments who ‘create Greeks’⁶⁶ in order to collect votes.

Greek academia has very little to say on the subject of citizenship. Apart from limited literature related to private international law (Papassiopi-Passia 2004) or to former high-ranking civil servants of the Nationality Directorate of the Ministry of the Interior (Grammenos 2003), the disciplines of Greek legal, political science or sociology have made only few contributions to this research. Issues such as ‘active’, ‘civic’ or ‘social’ citizenship, which have recently preoccupied the policies and literature of other countries in the European Union, are simply not on the agenda in Greece (Tsitselikis 2004: 14).

At the outset of this century, the Greek state was highly defensive and phobic towards migration, which has had an impact on Greek policy on citizenship loss and acquisition. It is commonly acknowledged today that ‘it took more than five years for the Greek government to realise that immigrants were there to stay and the new phenomenon could not be managed only through stricter border control and massive removal operations’ (Gropas & Triantafyllidou 2005: 5). A leading NGO in the field of human rights pointed out that ‘the Greek legislator [...] considers migration, at the best of times, a historical accident, and at the worst, as a crime.’⁶⁷ As of the first year of its operation, the Greek Ombudsman has stressed that ‘as in other European countries, the insistence of Greek law on *ius sanguinis* (the so-called blood principle) generates many problems [...], not only for foreigners of non-Greek descent who settle permanently in Greece with the intention of integrating into Greek society or acquire Greek citizenship, but also for individuals of Greek descent seeking to acquiring Greek citizenship or to have their citizenship recognised, as well as for stateless persons and persons of indeterminate citizenship’ (The Greek Ombudsman 1999: 28).

The various aspects related to citizenship loss or acquisition date back to the foundation of the modern Greek state. This model of state is based on the following combination: on the one hand, sovereignty of the Greek political community is founded on the recognition of the rights and freedoms of all, without discrimination. Yet, on the other hand, accession to citizenship is ensured through the recognition of certain ethno-cultural characteristics, according to the priorities of the time. Nevertheless, the abovementioned model has been going through a structural crisis due to the political conflict between the left and the ‘nationally-minded state’ (*ethnikofron kratos*). This conflict dominated the Greek political scene during the major part of the twentieth century. In its longwinded culmination, from the beginning of the Civil War till the end of the dictatorship (1946-1974), the Greek state went so far as to deem that Greek

⁶⁶ As stressed before, the pejorative term widely used for the acquisitions of citizenship by Pontian Greeks is the one of ‘hellenopoiisis’ i.e. ‘made Greek’.

⁶⁷ Hellenic League for Human Rights, Press Release 12/2000 on the occasion of the adoption of new legislation on migration. See www.hlhr.gr.

communists were not (worthy to be) Greeks. Therefore, they were not entitled to Greek citizenship.

Within this conflict, the Greek state has been threatened and triumphed, not by achieving a consensus, but by forcing the subordination of the majority of the Greek people. Apart from the Left, which was considered to be the internal enemy number-one until 1974, there remain considerable relics of national minorities, perceived collectively as the Trojan Horses of neighbouring irredentist nationalisms. After the fall of the dictatorship in 1974, the communists stopped being perceived as enemies, giving their place to individuals belonging to minorities. However, the appearance of a million migrants (particularly from Albania) during the last decade of the twentieth century has generated new suspicions. ‘What will happen with a new Albanian minority in Greece?’ is a common but often unmentionable fear.

In fact, the persistence of old attitudes is such, that the Greek state and society still consider themselves under a continuous state of threat, even if, from an impartial point of view, such a threat is non-existent.

According to the tradition of 1789, Greek polity is indelibly sealed by the classical pattern of Jacobinism. Belonging to this polity signals the suppression of any mediatory body between the state and the individual with the sole exception of (one) nation (Wallerstein 2003: 655). Nevertheless, the Greek Jacobinism is imperfect (Christopoulos 2004: 359-61). If in its traditional form this ideology sees the nation as the exclusive mediator between state and individual, the Greek version has an additional pretension: the interference with the (orthodox) *genos*.

The Greek political community resorts to assimilation strategies, because it cannot conceive of non-assimilated members. That has been the essence of the country’s policy towards minorities throughout the twentieth century. However, the Greek political community cannot conceive that some individuals are in a position to be assimilated and, therefore, potentially entitled to Greek citizenship. To put it simply: anybody can become French, as long as he or she is inspired by the ideals of the French revolution, nation, etc. Within Greek perception, Turks cannot become Greeks, unless they convert to Christianity.⁶⁸

In concluding, we would argue that the abovementioned Greek model displays the symptoms of definite historical exhaustion. The major challenge of its redefinition has already matured. The reason for this is the recent phenomenon of mass migration to the country. The structural contradiction of this model lies in that, on the one hand, it regards assimilation as an absolute condition for the social integration of migrants, while, on the other hand, it obstinately refuses Greek citizenship to the overwhelming majority of these people, in the name of the pro-national and static category of the orthodox *genos*. In other words, the adherence to the rights-oriented 1789 ideology is undermined by a purely ethno-cultural, ontological perception of the foundations of the political community. Of course, this is no Greek peculiarity. ‘National citizenship, as an ideology and an institutional practice, has always embodied both of these components’ (Soysal 1996: 17).

At the end the twentieth century Greek citizenship finds itself facing new tormenting dilemmas and in quest of brave new inclusion strategies. This is its inescapable point in time.

⁶⁸ That has been the case for a considerable number of Muslims in the newborn Greek State in the nineteenth century. In order to acquire Greek citizenship and reside in Greece, they converted to Christianity.

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