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# EUDO CITIZENSHIP OBSERVATORY

## ***COUNTRY REPORT: GREECE***

Dimitris Christopoulos

Revised and updated January 2013



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European University Institute, Florence  
Robert Schuman Centre for Advanced Studies  
EUDO Citizenship Observatory

***Report on Greece***

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# Greece<sup>1</sup>

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.'<sup>2</sup>

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* (ιθαγένεια) and *ypikootita* (υπηκοότητα). 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 politis* (ιδιότητα του πολίτη). 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.

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 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

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<sup>1</sup> This text is based on the previous NATAC and EUDO reports and represents an english summary of the author's book: *Who is the Greek citizen? Status of the Greek nationality from the creation of the Greek State till the down of the 21st century*, Athens, Bibliorama Pub., 2012. (Ποιος είναι έλληνας πολίτης; Το καθεστώς ιθαγένειας από την ίδρυση του ελληνικού κράτους ως τις αρχές του 21<sup>ου</sup> αιώνα, Αθήνα, Εκδ Βιβλιόραμα, 2012)

<sup>2</sup> Even earlier, as is mentioned in the relevant chapter, of the so-called Revolutionary Constitutions of the 1820s.

define on its own a sense of *homogenis* or *allogenis*, but constitutes a subsidiary element for appraisal in a specific judgment.’<sup>3</sup>

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 *allogenis* 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.

## 2. Historical background

### 2.1 Nationality from ‘rum millet’ to the Greek nation: ‘genos’ (γένος) to ‘ethnos’ (έθνος)

‘Greek people are the Christian residents of a state, which has been founded following revolution’ (Dimoulis 2001: 96). The ‘revolutionary’ 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.<sup>4</sup> The ‘non-autochthonous’ category referred to non-indigenous Christians, whereas ‘foreigners’ referred to western *philhellenes*. (Kokkinos 1997: 83). 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.

The first law on Greek citizenship was promulgated in 1835 and represented a regulatory transition towards a law of origin.<sup>5</sup> It remained in force until 1856 when the

<sup>3</sup> 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).

<sup>4</sup> Sect. B ‘On the General Rights of the 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.’

<sup>5</sup> 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

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. 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<sup>a</sup> of the Civil Law). While confirming the absolute prevalence of *ius sanguinis*, this 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 Nationality acquisition as a result of territorial expansion

This 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 (1881) and, subsequently, of other territories (1913-1918) and ended with the territorial integration of Greece, following the annexation of the Dodecanese in 1947. The international treaties, which accompanied the expansion of the Greek state, included rules on citizenship acquisition 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.

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*. In line with the Neuilly Peace Treaty between the Allied and Associated Powers and Bulgaria<sup>6</sup> 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

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on the father’s citizenship (I. Georgiadou, *The Greek Nationality* (Athens [in Greek], 1941) at 9.

<sup>6</sup> 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.

Nations, the scope of the measure had been extended to the exchangeable populations that had resided and naturalised abroad prior to the exchange.<sup>7</sup>

During that period, the state's increasing discomfort concerning citizenship is related to Greek emigration overseas. 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. 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 acquisition of dual citizenship in Greek history. Together with Italy, Greece appeared prematurely tolerant vis-a-vis double nationality due to the desire of retaining ties to its Diaspora.

### 2.3 Nationality status during the Cold War

This period commences with the integration of the Dodecanese into Greece<sup>8</sup> 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 from political dissidents (i.e. communists) and members of national minorities, as a sanction reserved for citizens regarded as enemies. 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.

The Civil War constituted a point of intersection with modern history, following which the withdrawal of citizenship has been massively implemented. This practice was initiated by a Decree in 1927.<sup>9</sup> According to it, '*Allogenis* Greek citizens, who have fled Greek soil and have no intention of returning, lose their Greek citizenship.' 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 of 1975<sup>10</sup> and its continuance until 1998 clearly demonstrate its utmost national importance and institutional prestige over slightly 50 years (1955-1998).<sup>11</sup>

<sup>7</sup> 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.

<sup>8</sup> 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.

<sup>9</sup> 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.

<sup>10</sup> The transitional provision 111, para. 6 provided for the article being in force until it was abolished by law..

<sup>11</sup> The target group of the legislation on the withdrawal of citizenship from *allogenis* 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.

During the 1940s, the relevant legislation of nationality withdrawal did not concern only *allogenis*.<sup>12</sup> 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.<sup>13</sup> The festive inauguration of this regrettable period of Greek citizenship during the years of the Greek Civil War (1946-1949) 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).<sup>14</sup> 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).

Upon the restoration of democracy in 1974, those from whom citizenship had been withdrawn, according to the dictatorship’s Constitutional Act, could re-acquire it.<sup>15</sup> However, even the first socialist government of 1981 did not examine the possibility of the reacquisition of citizenship for, and repatriation of the Slav-Macedonian political refugees. The infamous 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. This article was abolished later, in 1998,<sup>16</sup> 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.<sup>17</sup> The practice of citizenship withdrawal from members of minorities was intended to minimise, in terms of population, the Muslim minority 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).

By the end of the 1970s, the issue of the Roma population 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.<sup>18</sup> At the end of this decade a thriving percentage of Roma had acquired Greek citizenship through an innovative implementation of *ius soli*. Roma

<sup>12</sup> 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.)

<sup>13</sup> 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.

<sup>14</sup> By art. 1 of the Legislative Decree 4234/23.7.1962 ‘on the regulation of issues concerning the country’s safety’.

<sup>15</sup> Art. 10 of the Constitutional Act of 5/8-7/8/1974.

<sup>16</sup> 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*.

<sup>17</sup> 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.

<sup>18</sup> 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.



were considered as people of non-definable citizenship, who were born in Greece and had consequently acquired Greek citizenship *ex lege*.<sup>19</sup>

## 2.4. Developments at the end of 20<sup>th</sup> century

### a. *Jus sanguinis ex matre*

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 18<sup>20</sup> 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 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 in the 80s 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 only 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’.<sup>21</sup> Not until 1997,<sup>22</sup> did Greek law provide for the

<sup>19</sup> 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.’

<sup>20</sup> According to art. 127 of the Civil Code, as amended by the Law 1329/1983.

<sup>21</sup> By art. 32 of the Law 2130.

<sup>22</sup> By art. 12, para. 2 of the Law 2503.

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.<sup>23</sup>

A few years later, the fall of the communist regimes in Central and Eastern Europe 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 Baltiotis colourfully expressed it: ‘all of a sudden, everybody is looking for his Greek ancestor’ (2004a: 316). This equally applied to the descendants 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, even, without. If we add to these large numbers the so-called ‘home-comers’ (palinostountes) from the former USSR (whose case will be discussed later), it is clear that the 1990s posed new challenges for Greek citizenship.

b. *Facing post-cold war migration to Greece: the (non-)naturalisation policy of *allogenis* versus a selective nationality acquisition by *homogenis**

It has been pertinently stressed that ‘the non-naturalisation of *allogenis* foreigners constitutes a structural perception of the state, which is carefully adhered to’ (Baltiotis 2004b: 93). During that period, the naturalisation rate of foreigners has been 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, established<sup>24</sup> a naturalisation fee of 1,467 Euros, with the aim of stemming the anticipated rise of naturalisation applications.<sup>25</sup>

The country abstained from ratifying any international instruments that could introduce deviations from the absolutely rigid way in which the policy was implemented. 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.<sup>26</sup>

<sup>23</sup> See art. 5, para. 2a of the Law 3284.

<sup>24</sup> By art. 58 of the Law 2910/2001.

<sup>25</sup> 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).

<sup>26</sup> 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 ‘*allogenis* who have

As said in the introduction, 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 consciousnesses'. 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. That is how, in practice, Greek communists were treated as *allogenis*: as non-ethnic Greeks, regardless of their *ex patre* Greek origin.

Sweeping changes have taken place since the end of the Cold War in the population makeup 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 through exceptional procedures. 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,<sup>27</sup> have been provided with a special *homogenis* identity card.

The Greek state uses the term 'homecoming' (*palinostisi* – *παλιννόστηση*) for Pontians coming from the states that succeeded the USSR, mainly Georgia and Kazakhstan, as well as for the Greeks of 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 acquisition. Most of these people were granted Greek citizenship under specific provisions, by means of a summary mode of acquisition, later called 'specific naturalisation'.<sup>28</sup> Thousands of such 'specific naturalisations' have been registered 'as

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acquired the Greek citizenship may not be appointed as notaries', was abolished in 2000 (art. 19, para. 1 of the Law 2830/2000).

<sup>27</sup> 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.

<sup>28</sup> Circular 7914/6330/2.3.2000 of the Ministry of the Interior on 'Acquisition of the Greek citizenship by *homogenis* of the ex-USSR'.

opposed to any other general or specific provision that prescribed the submission of a series of supporting documents'.<sup>29</sup>

For the rest, 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.<sup>30</sup> According to reliable information from the Ministry of Public Order, approximately 200,000 of these were conferred with the status of *homogenis* in accordance with the relevant Ministerial Decision.<sup>31</sup> 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 till 2006. There was a fear at the time, 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. It is only in November 2006 that the Greek State changed its strategy vis-a-vis Greeks from Albania by starting their naturalisation.

The new Nationality Code, which has been 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 foreign 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. 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.<sup>32</sup>

### 3. The current citizenship regime

If 2010 was not only the year in which Greece officially plunged into the greatest debt crisis of her modern history, the "year's headline" would certainly refer also to the amendments of the Greek Citizenship Code through law 3838/2010. The public debate triggered by this law (in the first months of 2010) was, after all, the last to have autonomously occupied the Greek opinion and political system without being linked to the notorious "rescue plan", which has since then for good reasons monopolized the discussions about the future of the country.

<sup>29</sup> Circular 28700/11333/26.5.1993 of the Ministry of the Interior on 'Notification of provisions of the Law 2130/1993'.

<sup>30</sup> 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).

<sup>31</sup> 4000/3/10-/2001.

<sup>32</sup> 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.

The law entered into force in March 2010, virtually a month before the Greek Government announced the infamous “memorandum” with the IMF, the ECB and the EC. Therefore, Law 3838/2010 “Current provisions for Greek citizenship, the political participation of repatriated Greeks and lawfully resident immigrants and other provisions” (Official Gazette Issue A 49/24-03-20) is a historically unfortunate legislation. Not only has it been adopted against the expressed will of the right and far right wing opposition, but it also had to be implemented at a point in time where the drastic restrictions on revenue and expenditure undermined every attempt of reform within Greek administration.

### 3.1. The major shift: from decisions to norms

The most notable of all changes that the new law opened the way to was the transition from decisions to rules. And yet, in the public debate, it did not attract the attention it deserved. Until 2010, certain areas of Greek Citizenship Law could so far be labelled “law” only euphemistically. It rather consisted in decisions that were not even instantiated in normative texts; they were just practiced and reproduced through administrative practice.

This controversial decision-making practice proceeded through the application of two *rules of exception*<sup>33</sup>. These two rules had been the absence of: 1) time frames<sup>34</sup> and 2) justification in naturalisation decisions<sup>35</sup>. Practically speaking, these rules established an unlimited discretion in the application of citizenship law. It might seem obvious that if the state itself keeps considering some (lawfully submitted) applications as excepted from administrative authorities’ constitutional duty to respond<sup>36</sup>, then something goes very wrong with implementation of the rule of law. In this sense, the issuing of new special timeframes (Article 12) within which administrative authorities should decide citizenship cases within a deadline of a year<sup>37</sup> is the most significant change that the new law brings to the old regime: the epitome of the transition from facticity to rule-based normativity.

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<sup>33</sup> The state of necessity has been discussed by Hobbes, Schmitt and most recently by Agamben (2005) who considers it as a “governance model”.

<sup>34</sup> Article 31 of the Citizenship Code provided stated that “the timeframes provided under Article 4 of the 2690/1999 Act [viz. the Code of Administrative Procedure] do not apply to cases touching upon acquisition, recognition, loss and reacquisition of Greek Citizenship”.

<sup>35</sup> According to the previous version of Article 8 of the Citizenship Code, “the decision that rejects an application for naturalisation need not be reasoned”.

<sup>36</sup> Under Article 10 of the Constitution “Each person, acting on her own or together with others, has the right, in accordance with the law, to petition public authorities, that are then under an obligation to take prompt action, in accordance with the provisions in force, and to give a written and reasoned reply to the petitioner as provided by law.” The 2001 Constitutional amendment added a 3rd section to Article 10; a section that is probably unusually detailed for a Constitution. It provides that “The competent service or authority is obliged to reply to requests for information and for issuing documents, especially certificates, supporting documents and attestations within a set deadline not exceeding 60 days, as specified by law.”

<sup>37</sup> “Timeframes. 1. For naturalisation the following special timeframes, starting from the submission of the application, are issued:

a. Six months from the submission of the application for naturalisation to the Prefecture to the invitation of the applicant for interview before the Naturalisation Committee. Within that period the competent authority of the Prefecture should look for the supporting documents that are mentioned in article 7, section 2, subsection a, as well as for the opinion of the competent security authorities of the Ministry of Citizen Protection. If the application for naturalisation is not complete, the timeframe starts from the time of completion of the relevant file or from the resubmission of the application in full. Any delay in the forwarding of the sought supporting documents does not suspend the examination of the file.

The second novelty that has been promoted by the new law and marks the transition from facticity to rule-based normativity – viz. to the rule of law - is instantiated in Article 6, paragraph 2: “*decisions on naturalisation applications shall be reasoned according to the relevant provisions of the Code of Administrative Procedure*”. Before 2010, the Council of State has repeatedly emphasised that in this area administrative authorities enjoyed large discretion that is to be exercised for the sake of national interest: no justification is required for the approval or rejection of the naturalisation application. The Council of State’s case law on this issue does simply accept that in case that the relevant decision or document makes reference to the reasons for which administrative authorities deny naturalisation, the reasons should be lawful and are subject to judicial review. In simpler words, it had been fully legitimate that administrative authorities abstain from justifying their decisions. Yet if they provided reasons for their decisions, then this could not be done but on the basis of lawful (or at least legally admissible) arguments. In essence, the Greek judiciary had fully accepted administrative authorities’ discretion. The only limit it sets is that non-naturalisation cannot be reasoned on the basis of obviously unlawful reasons.

### 3.2. A new mode of nationality acquisition

Until 2010, Greek citizenship law provided for the following five ways of acquiring Greek citizenship (Greek Citizenship Code, Chapter A): *by birth* from Greek parents (Article 1, paragraph 1) or by birth on Greek soil, in the event that the child has no right to acquire any other foreign citizenship or her citizenship is unknown at the time of birth (Article 1, paragraph 2); *by recognition* of fatherhood, if at the time of recognition the child is a minor (Article 2); *by adoption* (Article 3); *by enlistment in the armed forces*<sup>38</sup> (Article 4); and by *naturalisation* (Article 5).

The legislative reform of 2010 caused drastic changes with regard to the acquisition of citizenship by birth and by naturalisation. It left untouched the provisions regulating the other three ways of acquisition of citizenship (recognition, adoption, enlistment in the armed forces), but also issued a new way of acquisition of citizenship, *by declaration*. The second paragraph of Article 1 provides that “*Greek Citizenship is acquired upon the birth of a child in Greece in the event that: a) one of the parents of the child was born in Greece and has been permanently domiciled in the Country since his or her birth...*” This new provision is a major novelty in Greek citizenship law in that it issues the principle of double *ius soli* providing for the automatic acquisition of citizenship by foreign citizens that belong to the so-called “third generation”. As stated in the preamble: “given the fact that these persons have strong links to our country and that their parents were born in Greece and have integrated into the Greek society, there is no doubt that they too will integrate.”

The rule of automatic acquisition of citizenship by the “third generation” has been criticised as “illiberal” by the conservative (Nea Dimokratia) and far right wing (L.A.O.S.) members of parliament in the sense that it makes one a Greek citizen beyond one’s wish:

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b. Four months from the invitation of the applicant for interview to the submission of the opinion of the Committee to the Minister of the Interior, Decentralisation and E-Governance.

c. Two months for the relevant ministerial decision to be made and published in the Government Gazette”.

<sup>38</sup> With special reference to foreign nationals of Greek origin that have been admitted to military academies or enlisted in the armed forces as volunteers.

*malgré lui*<sup>39</sup>. The acquisition of Greek Citizenship “*by declaration and application*” is the most significant novelty introduced by the new law. Greek citizenship is granted to immigrants’ children born in Greece – provided that both their parents have lawfully and permanently resided in Greece for at least five continuous years (Article 1A, paragraph 1). A child born before her parents complete the five-year period of lawful and permanent residence in the country acquires citizenship by her parents’ declaration only after the completion of the fifth year. Parents should submit the said declaration within three years after the birth of their child. It goes without saying that in the event that no declaration is submitted within the three-year time limit, the right to submit declaration expires. Then, if the child wishes to acquire citizenship, he or she may be granted it by using other relevant provisions.

As for the “one and a half” generation, the law adds a further condition: “*successful completion of at least six school grades at a Greek school in Greece*” (Article 1A, paragraph 2). Once this condition has been met, then citizenship can be acquired by declaration. It is also worth noting that the acquisition of citizenship by persons belonging to either the one-and-a-half or the second generation – that is, the acquisition by declaration – is now governed by its own procedural rules. These rules differ from the rules that generally apply to the acquisition of citizenship by birth. Consider for instance that the acquisition of citizenship by declaration is completed through the publication of the relevant decision of the Prefecture in Government Gazette (this is also the case with naturalisation decisions). The law does not allow that Municipality Authorities proceed with direct registration at the City Registry once the conditions are fulfilled, as it is the case with acquisition of citizenship by birth. Yet even if the parents fail to complete all the necessary procedural steps within the time limit and their child misses the chance to acquire citizenship, the law does still allow for the child herself to steer the relevant process, once she reaches the age of majority (Article 1A, paragraph 6). The conditions required here are basically those applying to naturalisation. In that respect, this stage is very similar to the naturalisation process. And naturalisation (to be discussed in what follows) is still the most demanding administrative procedure within the Greek legal order.

### 3.3. A new naturalisation framework

The practice of naturalisation has undergone fundamental changes. It would not be an overstatement to say that naturalisation is now dressed in a fresh normative outfit. As already pointed out, two important novelties have been put forward: a) the issuance of time limits and b) the justification requirement for naturalisation decisions. They both radically alter the practice of unconditional administrative discretion without yet affecting the character of naturalisation decision as an expression of state sovereignty.

As stated in the Preamble of the new law on Greek citizenship: “*the proposed provisions generally render the typical conditions for naturalization more realistic yet demanding*”.<sup>40</sup>

<sup>39</sup> The interest of these two parties in the free development of children’s personality would be genuine, only if their cautiousness towards acquisition of citizenship by immigrants’ grandchildren did also apply to the case of Greek citizens’ grandchildren or children, who acquire Greek citizenship or are given their names without being asked. With that in mind, it becomes evident that citizenship by birth does inescapably involve a certain element of constraint. But this constraint is rather unimportant given the fact that the person concerned is a minor. The same rationale applies, when it comes to names.

<sup>40</sup> In its effort to boost support for the bill, the parliamentary majority defended it through placing emphasis on this very dimension. Consider for instance that just a few hours before the bill was passed, the Minister of Interior said to the leader of the far right wing L.A.O.S.:

The Greek Parliament drew inspiration from the “long term residence status” permit and thus left behind various classifications of types of residence that have so far applied in the Greek legal order. The old classifications have produced various modes of unfair treatment and misadministration but will gradually die out<sup>41</sup>. The legislative intent is that all individuals who have been living lawfully in Greece for more than five years acquire the status of “long-standing residence”. Yet it is unclear whether Greek administrative authorities can make within the coming years all necessary changes to the relevant presidential decree (the decree, through which the EU directive on the issue was implemented in the Greek legal order)<sup>42</sup>, so that thousands of individuals that could easily meet the relevant conditions, can enjoy this status.

*“For citizens of EU Member States, for spouses of Greek citizens with a child, for those who have parental responsibility for a Greek citizen, for recognised political refugees and stateless persons, it suffices that they have lawfully resided in Greece for at least three continuous years”*(Article 2, paragraph 1, sect. d). In practice, this exception will impact on a high number of those who have a right to apply for naturalisation. It applies to two large groups of immigrants in Greece: the Bulgarians and the Romanians (given that they are EU citizens). The third largest group of immigrants that could benefit from the aforementioned provision are the parents of children who in the meantime acquired Greek citizenship by declaration.

For the first time in the history of Greek citizenship laws, it is provided that applicants for naturalisation should not only have an adequate knowledge of the Greek language and history, but also meet a vast number of knowledge conditions and educational criteria, such as an *“adequate familiarity with the institutions of the political regime of the Hellenic Republic and the political life of the Country as well as a basic knowledge of Greek political history, particularly in the modern era”*<sup>43</sup>.

Apart from the criterion of historic knowledge, emphasis has also been placed on the criterion of *“smooth integration”*. As for the fulfilment of this criterion, the law provides a

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“As for the process of naturalisation, we are now taking innovative initiatives. The point is, on the one hand, to increase transparency, and on the other, to securely clarify whether those who apply for citizenship do actually deserve to be granted it. We have made our intentions clear and we are going to make them clear once again tonight. We believe that under previous laws citizenship was granted even to people that did not deserve to become Greek citizens. [...] The chance to acquire Greek citizenship that we now provide to economic immigrants is not a novelty. On the contrary, what is actually innovative in our initiative is the implementation of a scheme guaranteeing that Greek citizenship will be acquired only by people who deserve to get it”  
<http://www.parliament.gr/ergasies/showfile.asp?file=syne100311.txt>

<sup>41</sup> According to the Preamble “different types of residence titles are regarded as presumptions of permanent lawful residence; the most characteristic among them is the long-term residence permit that is now treated as a presumption of successful basic integration into the Greek society, as it is also the case in the Federal Republic of Germany”.

<sup>42</sup> P.D. 150/2006.

<sup>43</sup> Article 5A, paragraph 1, clause c. As stated in the Preamble: *“These conditions embody the conception of Greek citizenship and patriotism that inspires the present bill. Although the adequate knowledge of Greek language has for obvious reasons always been an essential condition, it is now further concretized and regarded as a necessary stage in helping the applicant realize her future citizenship duties. The rest of the conditions are considerably different to both the conceptually thin requirement of knowledge about Greek history and culture (now provided for in Article 5 of the Greek Citizenship Code) and the moralistic criterion of “morals and character” (now checked by the Naturalisation Committee, as provided for under Article 7). The new conditions foster the broadening and intensification of a foreign citizen’s actual integration into the Greek society as well as of her capacity to get actively engaged in the Greek political life; and this is vital, given that the foreign citizens who apply for naturalisation might soon become our co-citizens.”*



scholastically detailed list of relevant considerations (excessively detailed for the standards of a legal text) to be taken into account.<sup>44</sup> Finally, the criterion of foreign citizens' adequate language level "*so that they can fulfil the obligations stemming from Greek citizenship*" might turn out to be a highly problematic legal device. This is not only because Greece has so far fully failed to provide a realistic and adequate framework for immigrants to learn the Greek language, but also because the alleged proximity between speaking Greek and "*fulfilling the obligations stemming from Greek citizenship*" is unclear in terms of content and has been proved as a rather authoritarian criterion in Greek political history. The law also provides that administrative authorities may organise a test to ensure whether the said conditions are fulfilled. Finally, the Ministry of Interior gave the Prefectures guidelines on the application of the new law through issuing two detailed circulars in August 2010. The first meeting of the Naturalisation Committee in which decisions were made on the basis of the new law (3838/2010), was held just a few days before Christmas 2010.

**TABLE 1: Number of naturalised foreign nationals (11/10/04 to 07/12/12)**

<b>Year</b>	<b>Foreign Nationals of Greek origin</b>	<b>Foreign Nationals</b>	<b>Total</b>
2004	73	197	270
2005	545	1.313	1.858
2006	570	1.348	1.918
2007	5.823	1.071	6.894
2008	9.946	898	10.844
2009	12.354	612	12.966
2010	6.162	375	6.537
2011	6.551	930	7.481
2012	2.629	392	3.021
<b>TOTAL</b>	<b>44.653</b>	<b>7.136</b>	<b>51.789</b>

The results of the situation caused by the implementation process of naturalisation in Greece are that naturalisation essentially concerns specific groups of the foreign national population and particularly those defined as homogeneous (foreign nationals of Greek origin). The observed rapid increase by 1000% in the homogeneous naturalisations from 2006 to 2007 (from 570 naturalisation to 5823) is easily attributable to the political decision by the Ministry of Interior in November 2006, under which the acquisition of Greek citizenship would thereafter be possible for the Greeks of Albania.

<sup>44</sup> According to Article 5A, paragraph 1, section b: "*familiarity with Greek history and Greek culture, his or her professional activity or any other economic activity, any public or charity activity he or she is involved in, his or her attendance at Greek educational institutions, his or her participation in social groupings or collective entities that count Greek citizens among their members, any family relationship that he or she has to a Greek citizen, even if it is an in-law relationship, the consistent fulfilment of his or her tax obligations and his or her obligations towards social security institutions, his or her full ownership of immovable property to be used as residence and his or her property condition. As for the estimation of an applicant's ability to integrate, any positive comments (regarding her personality, social and professional life) made by Greek citizens, born in Greece, are of particular importance*".

### 3.4. An alarming post-scriptum on the reform

On February 2011, the 4<sup>th</sup> Chamber of the State Council has questioned the constitutionality of the law 3838/2010 concerning the immigrants' right to vote at the local elections and the *ipso jure* acquisition of Greek nationality for the migrants' "second generation". The case is referred at the Court's plenary for the final verdict most probably by the end of 2011.

The main points of the 4<sup>th</sup> Chambers' verdict as regards to the law 3838/2010 are the following:

- a. the perception of the nation as a normative fact differentiated from the concept of the constitutionally enshrined "greek people"
- b. the proclamation of *jus sanguinis* as a constitutional principle,
- c. the assessment that, because of the above mentioned points, a personalized judgement as far as the applicant's "national conscience" is concerned, is the only attribute that could offer him a place among the Greek people, on condition that he fulfils the requirements of five years of residence of his parents and six years of attendance in a Greek school. Therefore, it is only by the means of naturalization that a foreigner may acquire Greek nationality.
- d. finally, the belief that, since the municipal elections are also held in order to elect about a public authority, the right to participate is restrained to citizens.

The present Greek Government under Mr. Samaras, a ferocious opponement of the 2010 reform, has already announced in June 2012 its will to "align the Greek Nationality Code with the average of the European Southern countries facing problems with migration similar to Greece's". Yet, nothing has been officially announced by mid October 2012. The first possibility is that the presence of the centre left partners in Samaras' government might function as an obstacle to the announced changes. The second and most probable one, is that the 2010 law will go through serious changes concerning notably the acquisition of nationality via parents' declaration and schooling for kids born or raised in Greece. Additionally, it is sure that the Council of State will not come up with a decision before the final changes of the law are announced by the government. As a bottom line, things are extremely fluid and the final outcome of this ongoing 'citizenship' struggle is hard to foresee.

## 4. Conclusions

It is only the 2010 reform that brought citizenship on the political and even the academic agenda in Greece. Traditionally, 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, until 2010.

Greek academia has had very little to say on the subject of citizenship. Apart from limited literature related to private international law (Papassiopi-Passia 2011) 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. 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).

Despite of implementation difficulties and the extremely fragile political environment, major constitutive premises of the 2010 reform are here to stay. It remains to be seen to what extent, in such times of crises, the Greek state will prove capable of implementing long term strategies for migrants’ integration, among which citizenship acquisition has a cardinal role.

In our days, “Who is the Greek citizen?” is an open question par excellence. A question that has been giving rise to semantic contradictions and different political apprehensions, stimulating further questions. ‘Who is the Greek citizen?’ is a question worth to be posed, especially today when the country undergoes a period of extreme financial uncertainty and political cruelty. A question that, by all means, has had and still has a great impact on the destiny of people with a ‘genuine link’ to Greece; even - or especially - during the country’s most difficult times.

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