

# ACCESS

FAIR ACCESS TO SOCIAL RIGHTS

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BUILD aims to protect, promote and raise awareness of EU fundamental rights and values, by supporting civil society organisations (CSOs) in Greece and Cyprus, and by increasing their capacity and sustainability. BUILD is co-funded by the European Union, through the Citizens, Equality, Rights, and Values (CERV) programme, and by the Bodossaki Foundation and NGO Support Centre, with a total grant amounting to €2.9 million. BUILD is coordinated by the Bodossaki Foundation (Greece) in partnership with the NGO Support Centre (Cyprus).



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## INTRODUCTION

### **The issue**

There are approximately 700,000 third-country nationals living legally in Greece with residence permits under the Migration Code. Third-country nationals face many different challenges at every stage of their residence in the country relating to their access to legal status, basic rights, citizenship as well as social integration.

Despite the fact that third-country nationals are not inherently vulnerable, vulnerability arises as a result of multiple, intersecting forms of discrimination and systemic inequalities. These forms of discrimination are exacerbated by the lack of access to information, by language barriers and by the lack of support services. As a result, they are often discriminated against and excluded from enjoying their rights.<sup>1</sup>

One of the most important aspects of this issue is the vulnerability of certain third-country national groups, such as older persons and persons with disabilities. In Greece, these particular categories face increased risks of exclusion from access to citizenship and social rights. The causes of these exclusions can be traced to legislative and institutional gaps, administrative malfunctions and the lack of appropriate support structures and integration mechanisms.

Discrimination with regard to access to disability benefits, pensions, but also to other procedures, such as the acquisition of Greek citizenship, while in breach of the Charter of Fundamental Rights of the European Union, are not well known, have not been scientifically studied or adequately addressed.

### **The organisation**

[Generation 2.0 RED](#) (G2RED) is a nonprofit organisation comprised of people of different origins who work together to promote equal participation in a diverse society, through the empowerment of communities. We combine action and research, aiming to promote human rights, equality and diversity, and to fight racism, xenophobia and discrimination in general.

The organisation has long-term experience in advocacy for rights and in highlighting discrimination against persons of migrant origin such as: [the insurance of children of third-country nationals who reach adulthood](#), [the direct ability to participate in public-sector calls for persons who have acquired Greek](#)

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1. OHCHR, Global Migration Group Working Group on Migration, Human Rights and Gender, Principles and Guidelines, supported by practical guidance, on the human rights protection of migrants in vulnerable situations, Available at: <https://www.ohchr.org/sites/default/files/PrinciplesAndGuidelines.pdf>



[citizenship](#), [the calculation of the pension for third-country nationals](#), and [access to the disability benefit administered by the Organization of Welfare Benefits and Social Solidarity \(OPEKA\)](#).

In particular, the organisation conducted a series of targeted actions, including, first, a study of the legislative framework, the identification of institutional gaps, communication/meetings with the responsible ministry, the submission of official letters/memos to the authorities or reports to the Greek Ombudsman and, finally, the publication of announcements or press releases to inform the public and raise awareness. In fact, as far as the first two of the abovementioned four themes are concerned, subsequent to the organisation's initiatives, the state eventually improved the legislative framework in order to eliminate discrimination.

Furthermore, in March 2021, having collated the main challenges faced by third-country nationals during their legal residence in the country, the organization documented them as a whole in an [interactive map](#), which presents them through the real stories of beneficiaries of its Legal Counselling Department with a view to raising public awareness. This mapping also includes the category "ACCESS TO SOCIAL RIGHTS", as a first record of the social discrimination they endure.

In 2023, the organisation participated in the public consultation on and submitted a memorandum regarding the new Migration Code (Law 5038/2023), which was passed on 1 April 2023 and came into force on 1 April 2024. Among our remarks was the arbitrary exclusion of third-country nationals that did not hold a residence permit on humanitarian grounds from receiving the OPEKA disability benefit. Not only was access to disability benefits conditional upon holding a humanitarian permit, but, prior to the adoption of the new code, this permit excluded its holders from accessing the labour market. At the same time, as we pointed out, because of the dependence of the residence permit of a minor third-country national on the type of residence permit of the parent, all minor third-country nationals with a certified disability whose parents did not have the same type of permit were automatically excluded from receiving the OPEKA benefit. With the adoption of the new code, accessing the OPEKA disability benefit continued to be conditional on holding a residence permit on humanitarian grounds, but the right of access to the labour market was recognized for its holders (Article 134, Law 5038/2023), providing relief for a large number of third-country nationals with disabilities who had been excluded from the labour market and relied exclusively on benefits that often did not exceed €400 a month. However, the new law provided no clarification regarding minor third-country nationals and their access to the disability benefit in cases where their parents do not have the same type of permit.

Therefore, throughout the previous period, the organisation had already identified and spoken publicly about unequal treatment as regards several social rights, offering legal knowledge and experience in designing a strategy on how to fight for the removal of injustices through improvements in legislation and administrative

practice. This project is an opportunity to systemise previous experience, to produce concrete analyses and conclusions in order to reinforce advocacy actions and intensify lobbying activities.

### **The project**

Most third-country national permits fall under the categories of employment, studies, family reunification, second generation, long-term residency, humanitarian reasons and exceptional reasons. Data on other characteristics (age, gender, special categories such as persons with disabilities, unemployed, pensioners, etc.) are not provided by the state or by reliable studies or reports. The lack of this critical information is part of the problem, i.e., the non-visibility of the most vulnerable third-country nationals in need of special social protection, such as older people and persons with disabilities. At the same time, the demand from these groups for the organisation's legal counselling has increased, mainly as the result of referrals from other social services.

Through our everyday contact with persons of migrant origin, our organisation has identified discrimination in third-country nationals' access to citizenship and social rights such as (a) the access of persons with disabilities to the disability benefit, (b) the access of persons with disabilities to the procedures for acquiring Greek citizenship, (c) the access of older persons to legal status and to acquiring Greek citizenship, and (d) the access and calculation of the pension of older persons. These discriminatory practices are in breach of several provisions of the Charter of Fundamental Rights of the EU that generally apply to all persons legally residing in the EU.

The Access – Fair Access to Social Rights project aims, on the one hand, to monitor the national legislative framework, to document best practices in EU states, to make recommendations to the state in order to solve discrimination and to highlight the issues more broadly, and on the other, to empower vulnerable third-country nationals (mostly persons with disabilities and older persons) through personalised legal counselling. This project is co-funded by the European Union, Bodossaki Foundation and NGO Support Center.

### **Summary of actions**

#### **1. Legal counselling**

In the context of personalised legal counselling, our legal team has offered its services to about 30 third-country nationals in order to empower and support them in requests related to (a) legal status, (b) access to citizenship and (c) the disability benefit for third-country nationals with disabilities. Vulnerable women were given priority, given that they face multiple forms of discrimination.

## **2. Focus groups**

With a view to raising the above issues, exchanging knowledge, experience and best practices, as well as gathering information on the gaps and needs in relation to these issues, Generation 2.0 RED organised two focus groups, inviting members of migrant communities as well as representatives of related institutions (Ministry of Migration, Ministry of Labour, General Secretariat for Citizenship, Directorate for Aliens and Migration, OPEKA, National Confederation of Disabled People Greece, Office of the Athens Vice-Mayor for the Social Integration of Migrants) and members of civil society to participate.

## **3. Questionnaires**

Based on a survey and the findings from the two focus groups, we prepared a targeted questionnaire on citizenship and social rights issues concerning migrants with disabilities and older persons in the EU. The questionnaire was distributed to European CSOs dealing with similar issues to share know-how and best practices. Through this action, it became evident that CSOs lacked the required expertise on these issues that would enable them to respond to the questionnaire. While the answers we gathered underline the gaps in legislation and in administrative practice in other EU countries as well, as set out below, the reduced response reveals the gaps and deficiencies among the CSOs in terms of knowledge and involvement with these issues not only in Greece but also in the EU as a whole.

## **4. Memoranda**

Based on extensive research and on the conclusions of the focus groups, we developed four memos concerning (a) access to citizenship for migrants with disabilities, (b) access to financial support for migrants with disabilities, (c) access to the state pension for older migrants, and (d) access to legal status for older migrants. These memos have been submitted to the responsible authorities and the responsible government officials and, more specifically, to the General Secretariat for Migration Policy, the General Secretariat for Citizenship, the General Secretariat for Social Security and OPEKA's General Directorate of Benefits. We arranged meetings with these authorities in order to demand changes in the legislative and administrative regime with a view to improving the access of older migrants and migrants with disabilities to citizenship and social rights.

### **A. Access of third-country nationals with disabilities to citizenship and social rights**

#### **I. Access to citizenship**

As an organisation that constantly monitors the implementation of the provisions of the Greek Citizenship Code, we have identified substantial gaps and malfunctions in the process of acquiring citizenship by

virtue of birth and education, and the naturalisation process for third-country nationals with disabilities. Already in November 2023, we filed a [report](#) with the Greek Ombudsman to request its intervention regarding the lack of equal access for persons with disabilities to the procedures for acquiring Greek citizenship. However, some of the issues raised in that report persist and have led to the exclusion of many persons with disabilities of migrant origin from acquiring Greek citizenship:

#### **i. Access of children with disabilities to Greek citizenship**

Articles 1A and 1B of the Greek Citizenship Code, as amended by Article 31 of Law [4604/2019](#), allows minors and young persons with a certified disability of over 80% who were born or raised in the country to apply for citizenship without providing a certificate of study, but with certificates showing they have received specialised care services and psychosocial or therapeutic rehabilitation. However, the implementation of this provision requires a joint ministerial decision, which will define the details concerning the certification bodies for the above-mentioned necessary exemption documents.

Nevertheless, more than four years after the enactment of the legislative provision, the relevant joint ministerial decision has not yet been issued. Instead, the relevant [Ministerial Decision no. 43388/2019](#) that had been issued was annulled before it was even implemented by Article 40, paragraph 2, of [Law 4674/2020](#), since, according to the explanatory memorandum of the draft law, “specialised care services and psychosocial or therapeutic rehabilitation interventions ... do not constitute permanent and stable educational services ... and are therefore incompatible with the content of this law ..., a basic requirement of whose application is the concept of continuous and successful study.”

At the time, in a [joint press release](#), the National Confederation of Disabled People Greece, the Hellenic Association for Human Rights and Generation 2.0 RED stressed that the revocation of the joint ministerial decision issued under Article 31 of Law 4604/2019 contradicted the commitments made by the Greek state to ratify the [United Nations Convention on the Rights of Persons with Disabilities](#) under Law 4074/2012, and in particular Articles 3, 4 and 5 in conjunction with Articles 7, 9 and 18.

To this day, the possibility provided by Article 31 of Law 4604/2019 remains an empty letter, and children of migrant origin with severe disabilities are de facto deprived of their right to obtain Greek citizenship. This fact affects not only the legal status of children born or raised in Greece, as it prolongs the ordeal in accessing residence permits and identification documents as well as the unimpeded access to other rights such as education, full access to the labour market and, subsequently, the right to vote and to be elected.

In order to bridge this long-standing gap in a fair way, the provision should be implemented immediately and indeed retroactively, so that it encompasses persons that have already come of age and have

exceeded the age limit that exists as a prerequisite for the special procedure for the second generation to acquire citizenship. In other words, in addition to issuing a joint ministerial decision, the necessary transitional provisions for adult second-generation persons with disabilities need to be enshrined in law, as was the case when Law 4332/2015 was in force, where transitional provisions for a period of three years were established for second-generation adults.

## **ii. Financial criteria and the naturalisation process**

[Ministerial Decision no. 29845/2021](#) introduced for the first time the requirement to demonstrate an adequate minimum income as the main proof of financial integration in the context of the naturalisation procedure. As we have already highlighted [on many occasions](#), the naturalisation of persons with strong ties to the country should in no way depend on financially established criteria involving minimum amounts of income. However, with the latest amendments to [Law 4873/2021](#), the adequate minimum income requirement has been in place for over three years. Applicants have informed us that many decisions continue to be rejected on the basis of low or zero income.

With respect to the financial criteria for persons with disabilities, initially no exception was foreseen regarding income criteria. Subsequently, according to Interior Ministry circular [no. 81/4-2-2022](#), the adequate minimum income required was reduced from €7,500 per year per person, as applies in the general category, to €5,500. In addition to the annual declared income of persons with disabilities, “benefits of any kind possibly received from the social welfare system” are included in the calculation of sufficient income. However, this provision covers applicants who are certified with a disability of more than 67% instead of 67% or more, which is the usual scale of disability rates in social benefit arrangements. While this particular provision is an improvement in the financial criteria framework for persons with disabilities, it is considered insufficient, as it leaves many categories of persons with disabilities whose benefit does not exceed [€362 per month](#) (or €4,344 per year) unprotected.<sup>2</sup>

## **iii. Access to naturalisation examinations (PEGP)**

In order to prove the social integration of naturalisation applicants, [Law 4735/2020](#) introduced written exams to obtain the Certificate of Knowledge Adequacy for Naturalisation (PEGP). The written exams follow the model of the Panhellenic matriculation exams and the examination topics are drawn from a predefined curriculum (500 questions) included in an [Item Bank](#). However, the Item Bank is not suitably designed to ensure accessibility to all categories of persons with disability. For example, visually impaired persons cannot access the questions and answers in the Bank since they are published in electronic format with no audio aid. Therefore, these persons cannot prepare independently and

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2. As applicable until 30 April 2023 and revised to €391 a month from 1 May 2023, amounting to €4,692 per year.

appropriately for the PEGP examinations, which is a necessary condition for accessing naturalisation and acquiring Greek citizenship.

Moreover, there is no provision for access to naturalisation procedures for persons who have been placed under judicial support, including persons with disabilities.

As a result, the effective inclusion of persons with disabilities of migrant origin in Greek society is hindered and they are excluded time and again from rights connected to Greek citizenship, such as the right to participate in the political life of the country.

***E.K. is of Turkish origin and has been living in Greece since 2002. He is a recognised political refugee and person with disabilities due to visually impairment. The Item Bank is not available in a format that makes it accessible to visually impaired persons (e.g., audio access to the questions and answers). Therefore, he is prevented from properly preparing for the PEGP exams and obtaining Greek citizenship.***

The existence of certification bodies that can issue the necessary exemption documents that would allow second-generation persons with disabilities access Greek citizenship, the elimination or, in any case, the modification of the financial criteria for naturalisation and ensuring accessibility to naturalisation exams are deemed necessary actions if discrimination is to be addressed and the process is to be compliant with the requirements of EU law – both with Article 21 of the Charter of Fundamental Rights of the EU that prohibits discrimination, among others on the basis of nationality or disability, and with Article 26, as incorporated in the Greek Constitution (Article 21, paragraph 6), according to which EU member states must respect the right of persons with disabilities to independence, social and occupational integration and participation in the life of the community. Furthermore, the commitments made by the Greek state in ratifying the [United Nations Convention on the Rights of Persons with Disabilities](#) under Law 4074/2012, and in particular Articles 3, 4 and 5 in conjunction with Articles 7, 9 and 18, should also be taken into account.

## **II. Access to disability benefits**

The exclusion of third-country nationals with disabilities from acquiring the disability benefit from OPEKA, with the sole exception of holders of a residence permit on humanitarian grounds and family members of a Greek or EU citizen, constitutes discrimination on the basis of nationality with regard to access to social security benefits and creates inequalities among third-country nationals legally residing in the country.

According to Article 18, paragraph 3 of Law [5038/2023](#) (Migration Code), it is stipulated that: “3. Legislative Decree no. 57/1973 (Government Gazette A 149) on social protection applies also to third-country nationals legally residing in Greece. Legislative Decree no. 162/1973 (Government Gazette A 227, corrected by A 298), Article 22 of Law 2646/1998 (Government Gazette A 236), as well as the regulatory decisions issued pursuant to them, also apply to third-country nationals who have been granted a residence permit on humanitarian grounds.” From the combined reading of the above provisions, it appears that only third-country nationals who are holders of a residence permit on humanitarian grounds are eligible for state financial aid for persons with disabilities. The exact same is also stipulated in circular [no. 09-4785](#) issued by OPEKA’s General Directorate of Benefits, which states that only third-country nationals who are holders of a residence permit on humanitarian grounds or family members of a Greek or EU citizen are entitled to the disability benefit.

In accordance with national legislation, it appears that holders with disabilities of any other residence permit (e.g., long-term resident permit or 10-year permit) are excluded from accessing the disability benefit despite the general principle of equal access to social protection and the relevant obligations arising from EU directives for those permits provided for at EU level.<sup>3</sup> To ensure their access, they need to convert the type of permit they hold into a residence permit on humanitarian grounds. The latter is a short-term permit (1 year) and does not offer its holders strong guarantees of residence, while it deprives them of their sense of security and stability given that they need to be renewed frequently.

In view of the above, the restrictive conditions still imposed by the Migration Code and OPEKA seem to completely ignore social reality: that is, the fact that people have been residing, legally, in Greece for decades, and yet they are not entitled to the disability benefit, even when this turns out to be necessary for their basic livelihood. The obligation of third-country nationals to obtain a residence permit on humanitarian grounds in order to receive the disability benefit constitutes a breach of Article 21 of the Charter of Fundamental Rights of the EU<sup>4</sup> as discrimination on the grounds of nationality and ignores

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3. For example, Article 152, paragraph 1d, of Law 5038/2021 that provides for the equal treatment of long-term residents with nationals in terms of social security and the basic benefits of social assistance and protection, incorporating Article 11 of European Directive 2003/109. On the same issue, see the Greek Ombudsman, [“Comments and remarks on the draft law of Ministry of Migration and Asylum ‘Migration code’”](#), p. 12.

4. Article 21, EU Charter of Fundamental Rights, Non-discrimination: “1. Any discrimination based on any ground such as sex, race, colour, ethnic or social origin, genetic features, language, religion or belief, political or any other opinion, membership of a national minority, property, birth, disability, age or sexual orientation shall be prohibited. 2. Within the scope of application of the Treaty establishing the European Community and of the Treaty on European Union, and without prejudice to the special provisions of those Treaties, any discrimination on grounds of nationality shall be prohibited.”

the right of every person legally residing in an EU state to have access to social security benefits in compliance with Article 34 of the same charter.<sup>5</sup>

Notably, the reversal of the previous legislative regime and the establishment of the right to employment for third-country nationals holding a residence permit on humanitarian grounds, as provided for in Article 134 of Law 5038/2023, was necessary and essential. Not only because it ensures a more dignified standard of living considering the low benefits received by migrants with disabilities, but it also strengthens their sense of autonomy and visibility in society through their participation in the labour market. Moreover, this regulation is also in compliance with the requirements of EU law. According to Article 21 of the Charter of Fundamental Rights of the EU, discrimination is prohibited, among others on the basis of nationality and disability, while according to Article 26, as incorporated in the Greek Constitution (Article 21, paragraph 6)<sup>6</sup>, EU member states are obliged to respect the right of persons with special needs to independence, social and occupational integration and participation in the life of the community.<sup>7</sup> However, the fact that there is no provision allowing for the retroactive application of Article 134 prevents third-country nationals with disabilities who were already holders of a permit on humanitarian grounds before Law 5038/2023 came into force from accessing the labour market. Therefore, in order to ensure that all holders of the same permit have access to the same rights, access to the labour market for those already holding a residence permit on humanitarian grounds must be provided through a transitional provision.

Finally, according to Article 11, paragraph 10 of Law 5038/2023, third-country nationals in possession of a certificate of renewal-change of purpose of their permit to a permit on humanitarian grounds maintain the rights under the existing permit whose renewal-change they have applied for. This means that until they receive confirmation of legal residence on humanitarian grounds, they cannot apply for the disability benefit. The excessive delays that occur in the issuing of residence permits also have a knock-on effect on the access of persons to social benefits such as disability allowances. Under the new Migration Code, permits on humanitarian grounds are issued by the Ministry of Migration and

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5. Article 34, EU Charter of Fundamental Rights, Social security and social assistance: "1. The Union recognises and respects the entitlement to social security benefits and social services providing protection in cases such as maternity, illness, industrial accidents, dependency or old age, and in the case of loss of employment, in accordance with the rules laid down by Community law and national laws and practices. 2. Everyone residing and moving legally within the European Union is entitled to social security benefits and social advantages in accordance with Community law and national laws and practices."

6. Article 21, paragraph 6, "People with disabilities have the right to benefit from measures ensuring their self-sufficiency, professional integration and participation in the social, economic and political life of the Country."

7. Article 26, EU Charter of Fundamental Rights, Integration of persons with disabilities "The Union recognises and respects the right of persons with disabilities to benefit from measures designed to ensure their independence, social and occupational integration and participation in the life of the community."



Asylum. However, significant delays are evident and there is insufficient information on the processing rates of applications and no possibility to request that a procedure be expedited. When it comes to the financial support of citizens due to disability, the immediate granting of residence permits on humanitarian grounds ensuring their access to the benefit is crucial for their quality of life.

In view of the above, this report deems it essential that possession of a residence permit on humanitarian grounds should no longer be a prerequisite for a third-country person with disabilities to receive the OPEKA disability benefit. Instead, it recommends that the type of residence permit be uncoupled from access to the disability benefit and that the right of access to anyone legally residing in the country be recognised with a simple certification of their disability from the competent body.

***M.A., originally from Albania, has been living legally in Greece for 22 years and is recognised as a person with disabilities. In order to ensure her access to the disability benefit, in January 2024 she had to apply to convert her residence permit from a 10-year permit to a permit on humanitarian grounds. Even though she was asked to switch to a much shorter-term permit, by June 2024 she still had not received the benefit she is entitled to. The reason? While she has requested a renewal of her 10-year permit to one on humanitarian grounds, she retains her rights under the existing permit. Therefore, until the permit on humanitarian grounds is issued, she has the rights under the 10-year permit and cannot access the benefit. Given the understaffing of the relevant services and the volume of applications, there are huge delays in the issuing and renewal of permits, with the waiting time extending up to two years. For M.A., such obstacles make her feel alien even after all these years of living in Greece.***

## **B. Access of senior third-country nationals to the state pension and to legal status**

### **I. Access to the state pension**

Under current legislation (Law 4387/2016), third-country nationals, as well as Greek citizens, must have at least 20 years of insurance and 40 years of permanent and legal residence in Greece in order to receive the full amount of the state pension (€348 monthly). Those unable to prove 40 years of permanent residence receive a pension that has been reduced at a rate of 1/40th for each year they fall short. For example, if a person has resided permanently and worked continuously in the country for 30 years, their pension entitlement is reduced by 10/40ths, as the person is short 10 years of legal residence of the total of 40 years of residence required for the full sum. Permanent and legal residence for third-country nationals is proved by residence permits. Since the first coordinated regularisation procedure began in

1998 under presidential decrees [nos. 358 and 359/1997](#), a large number of third-country nationals who are now of retirement age are unable to prove 40 years of continuous legal residence. Furthermore, due to institutional gaps and malfunctions in the public administration, migrants in Greece can very easily lose their legal resident status.

Already in August 2019, Generation 2.0 RED filed a report to the Greek Ombudsman calling on it to intervene regarding the lack of equal access to the state pension for senior migrants. With an [answer](#) in February 2020, the Ombudsman pointed out that “the years-of-residence criterion is foreign to the Greek social security system,” as the state pension is an insurance benefit that is granted on the basis of previous insurance, and not on the basis of residence in the Greek state – the granting state. At the same time, the reduction of the state pension on the basis of years of residence leads to very large inequalities among those with the same years of insurance and the same pensionable earnings. Generation 2.0 RED, in a [joint report](#) along with HIAS Greece, has raised the same issue before the UN Committee on the Elimination of Racial Discrimination.

The lack of equal access of senior third-country nationals to the state pension is in breach of EU law, more specifically Article 21 prohibiting discrimination, among others, on the basis of nationality, and Article 25 of the Charter of Fundamental Rights of the EU, which states: “The Union recognises and respects the rights of the elderly to lead a life of dignity and independence and to participate in social and cultural life.”

[Joint Ministerial Decision no. 77446/2022](#) established a new way of calculating the state pension of non-nationals of Greek descent from Albania or the former Soviet Union, reducing the required period of legal residence for them from 40 to 30 years. It is obvious that this provision does not solve discrimination but perpetuates it. On the one hand, it does not apply to all third-country nationals, creating yet another subcategory and two speeds in the calculation of the state pension for foreigners. On the other hand, the reduction to 30 years is not sufficient for most non-nationals of Greek descent as the Special Identity Card for Expatriates (EDTO) was introduced in 1998, that is, 26 years ago.

In view of the above, the additional requirement of 40 or 30 years of legal residence, apart from the years of insurance, should be abolished considering the legal vacuum of the 1990s and also the subsequent institutional issues in maintaining legal residence in the country. And this should be done immediately, because the current regime constitutes unequal treatment among pensioners who have paid equal contributions to the social security system.

## **II. Access to legal status**

As regards the access of senior third-country nationals to legal status, a legislative gap exists. There are

many cases of third-country nationals over the age of 67 who, while living legally in the country, are now unable to renew their residence permit. The residence permit stipulated in Article 163, paragraph 8 of Law 5038/2023, i.e., the residence permit as an “financially independent person”, appears to be perhaps the most appropriate of those provided for senior migrants. In reality, however, obtaining this particular residence permit requires sufficient means of subsistence which a large portion of third-country nationals, and particularly those over 67 years of age, are unable to demonstrate.


This inability stems from the fact that they are unable to retire due to the particularly strict requirements of the Greek legal system. Furthermore, considering the rates of [undeclared work](#) in Greece, which are not properly recorded, we can understand the extent of undeclared work in vulnerable migrant communities for which there is no official data. Employment through undeclared work is a major barrier to the retirement of migrants, which, as developed above, is linked to the amount of insurance stamps they have obtained, their years of legal residence in the country and, therefore, the maintenance of their legal status.

Moreover, the fact that the only safeguard for legalisation after a long-term residence in Greece is a residence permit for exceptional reasons, which is in fact granted once, as stipulated in Article 134, paragraph 5 of Law 5038/2023, is yet another reason for the exclusion of seniors from legal residence. Due to institutional gaps (e.g., lack of regulations for access to legal status adapted to the needs of migrant populations and the socio-economic conditions of the country) and to malfunctions in the public administration (e.g., delays), migrants in Greece can very easily be deprived of their legal residence status. In this context, many in the past have been forced to obtain a residence permit for exceptional reasons, since they were unable to renew their residence permit, for example due to a lack of the required number of insurance stamps. Therefore, these same citizens, now as seniors, no longer have the right to maintain their legal status through a residence permit for exceptional reasons, even after a long period of residence in the country.

The positive change brought about by the new Migration Code, which gives holders of 10-year permits the possibility to renew their residency with long-term permits, under Article 161, paragraph 3 of Law 5038/2023, did not solve the problem for the majority of seniors, since not all of them are holders of a 10-year residence permit. At this point, it is worth noting that, according to the previous Migration Code, there was no provision for the issuing of a 10-year residence permit. Therefore, as of 1 June 2014, the date that Law 4251/2014 entered into force, until 1 April 2024, the date that the new Migration Code (Law 5038/2023) entered into force, i.e., for 10 consecutive years, no third-country national could obtain a 10-year residence permit, apart from those in possession of a residence permit of indefinite duration who had to replace it with a 10-year permit after the abolition of the indefinite duration permit under Law 4251/2014.

Consequently, senior migrants who have been residents of the Greek state after a long period of legal residence in the country are suddenly faced with the inability to continue their legal residence and are therefore required to return to their country of origin, which in most cases now seems foreign to them. All the above points to the existence of a legislative gap in terms of seniors maintaining their legal status, which not only prevents them from continuing to reside in the country where they have lived and worked perhaps for most of their lives, but also from maintaining a stable and decent standard of living. This gap is in breach of the requirements of EU law. More specifically, under Article 25 of the EU Charter of Fundamental Rights, “The Union recognises and respects the rights of the elderly to lead a life of dignity and independence and to participate in social and cultural life.” However, in Greece, in view of the lack of a specific legislative framework for senior migrants, they are often obliged to seek legal employment in order to continue their legal residence, which proves to be impossible due to their advanced age as well as the phenomenon of undeclared work in the country. Requiring a senior third-country national who has resided legally in the country to ensure the continuation of his or her legal residence through employment is far from legitimate in a well-governed state of law that respects the principles of EU law.

For all the aforementioned reasons, it would be appropriate to add a new provision to the Migration Code regarding the legal status of seniors, in order to take into account the particular conditions of being elderly (e.g., health issues, inability to work) and the fact that most senior third-country nationals are unable to secure access to a pension and therefore also to the stipulated residence permit as financially independent persons. The decoupling of access to a pension from access to a residence permit for seniors, and the provision of a special category of beneficiaries of residence permits for exceptional reasons for those who have had long-term legal residency in the past, as was the case under Article 44, paragraph 4 of Law 3386/2005, which was repealed by Article 139 of Law 4251/2014, could cover this gap and ensure the continuation of legal residence for seniors. This way, those who have lived, worked and created strong lifelong ties with the country could be guaranteed a sense of security and fairness.



***C.P. is 71 years old, originates from Ukraine and has been living in Greece since 1995, that is, for 30 years. She has no access to a stable status or a pension as she has accumulated few insurance stamps and does not have the required 40 years of legal residence. Because of her age, she cannot work. Maintaining her residence status in Greece is up in the air. According to her history, C.P. was granted a one-off residence permit for exceptional reasons in accordance with the provisions of the law. On the expiry of that residence permit and since she is not receiving a pension and cannot work due to her age, she cannot switch to any other residence***

*permit. During the period in which she was able to work, she was not fully insured and did not build up pensionable capacity, with the result that she has not accumulated the required number of stamps for the state pension. Furthermore, even if she had accumulated them, the 40-year requirement would prevent her from accessing the full pension. Since she is not financially independent, she cannot renew her residence permit as a financially independent person nor as a residence permit for work. C.P.'s case showcases the legal gap as regards the renewal of residence permits for senior third-country nationals.*

### **C. Findings from the European framework**

Aiming at a first mapping of the above issues at EU level, the highlighting of best practices and the reinforcement of advocacy actions at the national as well as European level, we prepared a targeted questionnaire on issues of citizenship and social rights for migrants with disabilities and elderly migrants in EU countries.

While the answers<sup>8</sup> that we collected highlight that gaps in legislation and administrative practice exist in other EU countries as well, the low response rate and the lack of detailed answers also revealed the gaps and deficiencies among CSOs in terms of knowledge and involvement with the said issues not only in Greece but also in EU as a whole.

In Finland, holders of a valid residence permit can access the disability benefit by registering with the municipal authority. However, a lack of information and language barriers make it difficult to navigate the Finnish system. As regards the connection between health issues and access to legal status, persons who cannot leave the country or cannot be deported due to health problems have access to a temporary residence permit. As regards access to citizenship, the strict language requirements and demanding procedures prevent many from claiming access to Finnish citizenship, without any accommodation being made for elderly persons or persons with disability. As a result, people who have lived in the country for more than 10 or 20 years remain on permanent residence permits instead of applying for citizenship.

In Malta, disability benefits are accessible through various permits, but applicants face challenges in understanding the requirements and barriers due to a lack of interpretation services. It is extremely difficult to access a pension regardless of status. Persons with chronic illnesses and elderly persons

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8. The answers are based on a specially designed questionnaire which was sent to members of European CSOs based on their know-how, not on a survey conducted by Generation 2.0 RED.

have access to temporary humanitarian protection which provides access to social benefits, health care and employment support. There are significant delays in processing applications, however, while no documentation is provided during the waiting period. Acquiring citizenship is difficult for all third-country nationals, with no specific provisions for vulnerable groups. However, there are no financial requirements for access to citizenship.

In Romania, migrants have access to health services but face obstacles in accessing the disability benefit and pension benefits. As regards access to citizenship, there are no specific measures for persons with disabilities or the elderly, but financial criteria are not a barrier.

In Sweden, a permanent residence permit, refugee status or subsidiary protection is required for the disability benefit. For minors, the legal residence status of the parents may affect the child's access to the disability benefit. Furthermore, bureaucracy, lack of information, the inadequate training of services and inconsistent implementation of the framework create obstacles. Access to pension requires permanent residence, refugee status or subsidiary protection and at least three years of residence before retirement age (65 years). The pension amount depends on the total years of residence and employment in Sweden.

Sweden grants residence permits on humanitarian grounds to persons with disabilities and elderly persons. However, applicants often face complex bureaucratic procedures, the inconsistent implementation of the existing framework, inadequate support services, language barriers, a lack of information and long processing times which cause delays, stress and increase the chances of rejection for applicants. As regards access to citizenship, the Swedish legal framework offers exemptions and facilitations in terms of language requirements and civic education for persons with disabilities and the elderly as well as support services during the application procedure. The assessment of social integration and financial independence is also more lenient. However, subsidised employment is not recognised as income that counts towards the current financial criteria, which affects many persons with disabilities who work in subsidised programs.

In Cyprus and Spain, no specific policies to facilitate access to citizenship and social rights for older migrants and migrants with disabilities were recorded, while it was reported that such issues do not receive attention in these countries.

This summary highlights common challenges in terms of access to social rights and citizenship for persons with disabilities and elderly third-country nationals in EU countries, such as delays, bureaucratic complexity and inadequate support. Based on the answers, most countries do not have specific measures in place to facilitate access to citizenship and social rights for older migrants and migrants with

disabilities, while in some of them access is completely impossible. Regarding naturalisation procedures in particular, the language proficiency requirements and complex procedures pose significant obstacles. Financial criteria (e.g., income thresholds or pensions) often exclude these groups due to their limited financial means. In view of the above, there is a strong need for systemic reforms in all the countries surveyed, both on a legislative and administrative level.

## **D. Recommendations**

Based on the above findings, we present recommendations for the improvement of the national legislative framework and administrative practice regarding access of persons with disabilities and older third-country nationals to citizenship and social rights. We hope that these recommendations will contribute to the protection of these persons from social discrimination and to the alignment of the national framework with European rights and values.

### **A. Access of third-country nationals with disabilities to social rights and citizenship**

#### **I. Access to citizenship**

The government should

- immediately issue a ministerial decision designating the certification bodies for the necessary exemption documents for second-generation persons with disabilities to access Greek citizenship. It should also legislate for the necessary transitional provisions for adult second-generation persons with disabilities who have exceeded the age limit as a consequence of this administrative gap.
- eliminate or, in any case, adjust the financial criteria for the naturalisation of persons with disabilities, taking into account the amount of the disability benefit.
- ensure accessibility of all categories of persons with disabilities to naturalisation exams through the appropriate configuration of the Item Bank with the use of audio aids or other technologies.
- provide special access to naturalisation procedures for persons who have been placed under judicial assistance, including persons with disabilities.
- establish a procedure to monitor and report on accessibility to naturalisation procedures, with the participation of bodies such as the National Confederation of Disabled People Greece and other relevant organisations.
- increase awareness and training of evaluators/assessors/inspectors regarding the rights and needs of the persons with disabilities being examined.

#### **II. Access to disability benefits**

The government should

- decouple the residence permit type from access to the disability benefit, and recognise the right

of access to whomever resides legally in the country with a simple certification of disability from the responsible body.

- retrospectively apply the provision under Article 134 of Law 5038/2023 granting access to the labour market to persons with disabilities who were holders of a residence permit on humanitarian grounds before the adoption of the new Migration Code.

## **B. Access of senior third-country nationals to the state pension and legal status**

### **I. Access to the state pension**

The government should

- universally abolish the requirement for 40 or 30 years of legal residence in order to ensure equal treatment among pensioners who have paid equal contributions to the social security system.
- implement, at the same time, a transitional regulation until the abolition of the legal residence requirement so as to accommodate reduced years of legal residence in light of the first regularisation procedure (1998).

### **II. Access to legal status**

The government should

- introduce a special provision to the Migration Code that will provide for a residence permit for senior third-country nationals with long-term residence in the country regardless of their current ability to prove adequate means.
- simplify renewal procedures for seniors (prioritisation of applications, simplification of required documentation, support through services), taking into account issues of health, age and difficulty in accessing employment.

## **C. General recommendations**

The government should

- strengthen the efficiency of the public administration services involved, with additional resources, training and staff.
- accelerate the process of issuing and renewing residence permits, particularly for persons with disabilities and senior third-country nationals as their access to social services depends on it.
- strengthen the information and support mechanisms for persons with disabilities and elderly third-country nationals, so that they are aware of their rights and of the processes that they must follow to access citizenship and social rights as well as to access and maintain their legal status.





Athens, January 2025

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