"Europeanising" national immigration policy: the case of Greece

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1 Introduction

A striking feature of the "Greek case" is the magnitude of the unexpected, undesired and quick transformation from a country of emigration to one of immigration, following and directly connected to the collapse of the former communist regimes in the Balkans and in the former Soviet Union. Whereas in the mid-1980s the number of foreign residents was estimated at sixty five thousand, the total number of immigrants (both legally and illegally resident) rose to approximately one million in the year 2000 (Cavounidis 2002: 48). At present, the number of foreign residents amounts to 990.000, of whom 940.000 are third country nationals (*Agelioforos* 21/2/2005). If these estimations are correct, foreign residents currently account for almost 10% of Greek population, one of the highest immigrant population rates among the EU member states. That becomes even more significant in the absence of any colonial tradition. In addition, Greece's immigrant population displays three distinct characteristics compared to the rest of the EU: it overwhelmingly origins from directly neighbouring countries; it is dominated by a single ethnic group, namely Albanian citizens; and it has been greatly involved in clandestine entry and/or residence.

Within the last 15 years, there have been three immigration laws voted upon by the Greek Parliament[2], each of which, while building on previous legislation, brought changes in the Greek legal order dealing with entry, residence and rights of aliens. Despite the great emphasis given on tackling clandestine immigration and (restrictive) measures of immigration control, common in all three legislative initiatives, more and more rights have been granted to aliens, resulting in greater security and continuity of residence. This, I argue, reveals a mid-term development in Greek immigration policy towards a more inclusive and integrative model that provides greater security of residence and more chances for immigrant integration.

So far, one of the most interesting claims that have arisen in the literature on immigration policies in Europe is that immigration policies in the "new" immigration countries are more likely to be influenced by European integration and the resulting policies at the EU level than in the "older" immigration countries. What is meant by the distinction between "new" and "older" immigration countries does not seem to be entirely clear, since it is very difficult to find

[2] In 1991, Law 1975/1991 *on "Entry and Exit, Residence, Employment, Expulsion of Aliens, the Procedure of Recognition of Alien Refugees and Other Provisions"*; in 2001, Law 2910/2001 *on "Entry and Residence of Aliens in the Greek Territory. Acquisition of Greek Citizenship through Naturalisation and Other Provisions"*; and in 2005, Law 3386/2005 *on "Entry, Residence and Social Integration of Third Country Nationals in the Greek Territory"*. There have been amendments to Laws 1975/1991 and 2910/2001. However, they introduced no significant changes concerning the provisions falling under the scope of this paper.

a country that has not been either the destination or the place of origin of migrants at any point in time. However, the significance of the size of migrant inflows as compared to the country's total population seems to play an important role in defining a "country of immigration". Additionally, the duration of these inflows and the continuity of residence of migrant populations, as well as the difference in time of transformation from a country of emigration to one of immigration could account for the distinction between "older" and "new" immigration countries. Indeed, some European countries have been hosts to numerically significant immigrant populations for centuries, such as those with long colonial traditions (United Kingdom, France), while in others this phenomenon has mainly been a characteristic of the post-war period owing to the de-colonisation process and/or the well-known "guest worker" programs (The Netherlands, Belgium; Germany, Sweden). Yet others had traditionally been countries of emigration until the mid-1970s, participating as countries of origin in the intercontinental and European migration systems (Greece, Italy, Spain, etc) before becoming themselves destinations of significant immigration flows in the 1980s and 1990s.

Due to the magnitude of immigration flows to Greece, the country`s recent experience with immigration flows and its almost 25-years-EU-membership, I therefore consider Greece to be a most likely case of "Europeanisation" of its national immigration policy. I then undertake to explore its nature and effects on national immigration policy change, keeping an eye on a specific policy area, that of residence rights of third country nationals. For the purposes of this paper, the term "policy change" refers to *legislative* change in one, some or all sub-fields of the area of immigration policy at the national level. This definition implies at least two conscious choices: one in favour of the *legislative*, as opposed to *administrative*, policy change; and the other in favour of policy *adoption* instead of *implementation*. Both choices are made with a view to facilitating the manageability and feasibility of the analysis given time and other constraints. Nevertheless, it should be acknowledged from the start that these choices also entail limitations to explanatory rigour and might even obscure policy change defined in a wider way[3]. At the same time, one might argue that policy adoption is not enough to account for policy change and it is mainly the way that adopted policies are implemented that makes a difference. Indeed, these arguments are important. However, my counter-argument would be that legislative change provides the legitimate and authoritative foundations, which administrative practice - even within more or less flexible limits, depending on the distinct national institutional settings - rests on. At the same time, policy

[3] For instance, it has been noted in the literature on comparative immigration policies that in some European countries, such as Sweden, immigration policy change in the 1970s took place in the form of changing the administrative interpretation of policy principles and means provided by the existing legal framework rather than by changing national immigration legislation (Hammar 1985: 279-287).

adoption, although it might not fully account for "real" eventual policy change, it nevertheless sets fundamental policy standards (rationale, principles, rights, obligations) on which policy implementation is expected to rely. Furthermore, the adoption of new legislation is easier to trace and therefore offers itself as a more manageable research subject than administrative policy change and implementation.

My analysis is based on primary material derived from the debates that have taken place in the Greek Parliament on the three Immigration Laws since 1991, and from a limited number of interviews with Greek politicians and experts in the field of immigration policy. I consider this material to be particularly valuable, likely to provide substantive information on the reasons behind legislative policy change and on the role and importance of social and political actors in shaping its content and direction. Due to the existence of a distinct EU legal framework on EU citizens and refugees, these two categories of aliens have been excluded from the scope of this paper. By focusing on security of residence of third country nationals in Greece, I wish to deal with a policy area that is rather rarely referred to in the literature, and question the alleged restrictive nature of EU impact on national immigration policy in the "new" immigration countries.

2 Theoretical framework

Studies advancing the claim that there is a greater impact of European integration on national immigration policies in the "new" rather than in the "older" immigration countries overwhelmingly concentrate on the impact of EU policies and institutions on the immigration policies in two groups of countries: the southern EU member states and the central and eastern European countries on the way to accession to the EU. Among the most cited authors on European immigration policies, Geddes (2003: 27) has suggested that

"if the impact [of European integration in the area of immigration policy] on [national] laws, institutions, policies and collective identities is to be explored then we could hypothesise that new immigration countries in southern, central and eastern Europe will be more open to EU influence on national policies".

In the case of the southern EU member states, it is claimed that they "have adapted to the restrictive elements of EU policy (...) with the result that legislation in southern European countries accords with that in other member states" (Geddes 2003: 171). In the case of central and eastern European accession countries, the EU "has exported immigration and asylum policies to outside of the EU that have tended to replicate those of existing EU member states", based simultaneously on coercion, willingness and mimicry to satisfy the

requirements for membership (Geddes 2003: 189). In general, then, “EU migration policies suggest an external influence on policy development derived from adherence to the requirements of ‘Schengenland’ and the normative expectation to restrict ‘unwanted’ immigration that goes with EU membership” (Geddes 2003: 156).

Geddes is not alone in claiming a substantial impact of EU policies on national immigration policies in “new” immigration countries. He refers to Cornelius (1994) who argued that Spanish immigration policy arose almost entirely as a result of EU pressures; to Pastore (2001:1), claiming the existence of “systematic and profound links” between the Italian and the EU policy; and to Freeman (1995) and Baldwin-Edwards (1997), both arguing “that EU pressures have been a general feature of policy development in all southern European countries”, even to the extent that EU practices have been a major source of inadequate policies in those states due to their incompatibility with the economic and political realities of southern Europe (Baldwin-Edwards 1999). Along the same lines, Bigo’s claim (2001: 123) is that Italy, Greece and Spain had to change their domestic policy approach to immigration because of their participation in Schengen, whereas the restrictive character of the 1985 Law on Aliens in Spain is seen as a result of the need of the Spanish government, triggered by the importance of accession to the European Community, to adapt domestic legislation so as to fit the latter’s guidelines (Watts 2002: 139). In the case of Italy, the requirements for participation in the Schengen agreements, coupled with the fear of exclusion from the "European club" and the wish to avoid being a "laggard" among EU member states, are said to have been decisive factors behind the change of immigration legislation in 1998, driven by the high importance that full membership in Schengen had for Italy (Watts 2002: 141).

In all of the above cases, domestic policy change seems to have come about because of the importance of participating in common policy arrangements at the European level for the states involved. In turn, this change aimed at “correcting the misfit” of their previous policies with the content and the underlying principles of the EU migration regime that consists of, on the one hand, the liberalisation of migration inside the EU through freedom of movement and, on the other, the safeguarding of control over immigration from third countries (Lavenex & Uçarer 2002: 5). The same logic of domestic policy change is claimed to lie behind recent changes in immigration policies in the countries of Central and Eastern Europe that have been preparing for accession to the EU. There, too, "adaptation to the EU migration regime is an integral part of their efforts to join the Union (...)", with important consequences: under the pressure to adapt to the EU standards of immigration policies, these countries are "rapidly being transformed from former countries of emigration and transit into countries of immigration" (Lavenex & Uçarer 2002: 9).

In addition, it is usually implied that EU immigration policies are restrictive and, therefore, "new" immigration countries' policy has changed in a restrictive direction in order to adapt to EU policy prerogatives. However, if one wants to show that European policies indeed impact more on the national immigration policies of "new" immigration countries, a number of other relevant factors have to be controlled for. For example, it has to be shown that policy change in the countries under consideration can be *sufficiently* explained by the existence of EU policies and the requirements for (continuous) membership in the relevant institutional arrangements at the EU supranational level; that in turn would imply that the policies adopted as a result of these changes were different from the ones these countries would have adopted had the obligations for membership in those European integration initiatives been absent[4]. As has already been noted in the literature, we should avoid "ascribing political and institutional changes to the impact of the EU without first being sure that it was actually the EU that drove these changes rather than domestic or other international factors. The congruence of EU developments does not make the EU a cause of all change in the member states" (Geddes 2003: 27).

In addition, being a "new" immigration country should be able to account for an impact of European policies also *after* the countries under consideration become members of the European institutions they have sought to participate in (that is, also after accession to the EU or to the Schengen system has granted access to the institutional decision-making setting and the resources associated with and provided by membership). If this is not the case, the distinction between "new" and "older" immigration countries becomes tautological with that between "outsiders" and "insiders" of European institutions: the differential impact could then be sufficiently explained by the fact that "outsiders" by definition do not have access to the material and symbolic (economic and political) resources provided by membership. The absence of these resources, which feed into the EU policy making process, affects the capacity of states to influence policy making input and output at the European level. This, in turn, may explain the higher pressure for national policy adjustments that "outsiders" face when called to implement EU policies.

In this light, there are at least four striking points concerning the claims made so far in the literature: a) they are based on single-case or comparative studies explicitly focusing on "new" immigration countries of southern and central-eastern Europe; b) all arguments are based on cases when those states changed their immigration laws in order to make them compatible with some kind of desired membership in common European integration

[4] Furthermore, it has to be shown that in preparing for accession to the European Union and/or Schengen, "older" immigration countries have faced much less - or even no - need to change their national immigration policies.

arrangements (either the Schengen agreements, still outside the Community framework till 1999, or EU membership); c) there is a tendency to connect "new" immigration countries (only) with southern and central-eastern Europe, thus leaving aside "new" immigration countries in western and northern Europe (for instance, Ireland and Finland) that largely differ in their economic, political and social realities from the cases dealt with in the literature so far; and d) studies and arguments overwhelmingly focus on one distinct policy area, that of border and immigration controls.

A restricted, one-case study like the one I undertake can neither provide answers to all issues raised nor cover the gaps in the literature detected above. Indeed, my study of the Greek case falls *into* some of those gaps: it lacks a comparative basis of analysis that a simultaneous exploration of the EU impact on a "new" and an "old" immigration country would offer; it concentrates on what is seen as a typical "new" immigration country in the literature; and it lacks analysis on a broad spectrum of policy areas. Being aware of those shortcomings, I intend to concentrate mainly on one aspect of immigration policy, that of residence rights of aliens, and question the alleged restrictive nature of EU impact on national immigration policy in the "new" immigration countries.

3 Following up the developments in Greek immigration legislation: 1991-2005

Amidst a prevailing sense of a crisis caused by the political and economic turbulence in the Balkans in the beginning of the 1990s and having traditionally been a country of emigration, Greece was administratively, socially and politically unprepared to tackle the size and the unanticipated occurrence of the immigration phenomenon. The initial policy response to immigration, which remained dominant during the 1990s, was the adoption of a „zero-immigration" policy. The legal framework introduced in 1991 was directed towards controlling external borders, restricting immigration of third country nationals of non-Greek ethnic origin[5], safeguarding internal security and fighting illegal immigration. Ways for legally immigrating and residing in Greece were very much restricted, as were the chances for becoming eligible for naturalisation or being granted permanent resident status and the right to family

[5]A part of the immigrant population involves persons of Greek ancestry from the former Soviet Republics (mainly Georgia, Armenia and Russia) and Albania, who began arriving in Greece at the end of the 1980s and in the beginning of the 1990s, respectively. An estimated 100.000 ethnic Greeks from Albania settled in Greece in the 1990s, whereas 58.000 arrived from the former Soviet Republics from 1990 to 1995 (Fakiolas 1999: 194). Their status has been regulated by a separate legal framework with favourable provisions for their admission and residence; those from the former Soviet Union Republics have also been granted Greek citizenship. However, the majority of the immigrant population claims no special ties to the country. Additionally, the 1990s were also characterised by an increasing number of asylum seekers from the Middle East and North Africa.

reunification. The admittance of a foreign worker was fully depended on an employer`s request, on which temporary yearly work and residence permits were tied, while the required procedures were extremely bureaucratic in nature and time consuming. As long as working conditions were still met, those permits were to be renewed annually for a period of five years, at the end of which a foreign worker should leave the country or apply for special renewable biannual residence and work permits to be issued by the Minister of Public Order[6] himself. Only after fifteen years of continuous legal residence and work in Greece was he or she eligible to apply for a permanent residence status, provided that contributions to the social insurance system had been made for at least 10 years (Groenendijk, Guild & Barzilay 2000: 50). As noted by the same authors, due to the very restrictive provisions there was hardly any permanent residence permit issued to third country nationals admitted for employment purposes in Greece up to the year 2000 (Groenendijk, Guild & Barzilay 2000: 51). Concerning family reunion, third country nationals were granted this right only after a minimum of 5 years of continuous legal residence. Citizenship policy favoured naturalisation of ethnic Greeks while discouraging that of other foreigner citizens: a foreign resident was eligible for naturalisation after 15 years of continuous legal residence in Greece. Being married to a Greek citizen did not substantially affect a foreign resident's chances to be granted Greek citizenship or a work permit (Fakiolas 1999: 195). Those foreign citizens legally residing in Greece were provided with full access to the social security system and their children were granted access to public primary and secondary education. However, these provisions affected only a limited number of foreign workers and their families, who could immigrate legally and continuously maintain their legal status for the period required.

It was only in 1998 that the first illegal immigrants' legalisation round signalled a change in policy, followed by the new Law on Aliens passed by the Parliament in 2001 (Law 2910/ 2001). While not abandoning - and partly even strengthening - immigration control policy measures[7], the new Law passed on the responsibility for dealing with immigration issues to the Ministry of Internal Affairs and introduced an immigration regulation system based on the promotion of legal immigration by setting annual quotas for the legal entrance, residence and work of immigrants[8], accompanied by severe penalties for offences related to smuggling and

[6] In contrast to most EU member states, in Greece there is a special Ministry to administer policing and security issues - the Ministry of Public Order – that is completely separate from the Ministry of Internal Affairs.

[7] Law 2910/2001 was heavily criticised in Parliament, mainly by the political left, for its provisions of strengthening internal immigration controls by obliging both public administration personel and individuals in various professional capacities to report to the police of clandestine immigrants and illegal residents. See also the comments on the draft 2001 Law submitted by the Hellenic League for Human Rights (2001) and the National Committee for Human Rights (2000; 2001).

[8] For the first time, the Law clearly differentiated between seasonal and permanent employment, as well as between paid- and self-employment with provisions concerning self-employed foreign workers being more favourable than those related to paid employment. A mechanism for determining the number and kind of

trafficking of people as well as for employing clandestine and illegal immigrants; provided for yet another legalisation round; and established more favourable provisions for the activation of certain important rights for third country nationals, such as the right to family reunion and long-term residence. Changes included the reduction of the minimum period of continuous legal residence required for the activation of the right to family reunion from 5 to 2 years[9], and for the acquisition of long-term resident status from 15 to 10 years[10]. Regarding citizenship, changes in conditions for naturalisation included the reduction of the minimum period of legal residence from 15 to 10 years and its abolition for the spouses of Greek citizens having children with them and being resident in Greece[11]. Moreover, the previously required minimum period of residence for those third country nationals born and having continuously lived in Greece[12] was abolished. For the first time, this provision introduced an element of *jus soli* (as opposed to *jus sanguini*) in Greek citizenship norms, thus accounting for a limited but nevertheless interesting qualitative change in the way the Greek state treats foreign citizens and evaluates their connection to and incorporation into the political community of the nation-state. Legal residence was recognised to be accompanied by the entitlement to certain rights, such as the right to social security and education as well as freedom of movement and settlement within the country, albeit with some restrictions on the basis of national security concerns.

The very recent 2005 immigration law[13] has gone further in establishing more favourable provisions for security of residence for third country nationals. The duration of the initial residence permit issued after entry varies from 1 to 3 years, depending on the reason for entry and/or the type of economic activity to be pursued; however, the minimum duration of a renewed residence permit in the majority of cases is set to 2 years. For the first time, 5 years of continuous legal residence now grant a right to long-term resident status, while, at the same time, the old long-term residence permit granted after 10 years continues to remain an option for those having established that right. Additionally, those admitted on the grounds of family reunification are now granted an autonomous right to residence after 5 years of legal residence. A special, more favourable status is now introduced for third country nationals who are family members of Greek citizens or nationals of other EU member states by

employment vacancies for foreign citizens was established, involving a number of Ministries, the employment agency (OAED) and the local government authorities.

[9] Provided that the applicant possesses the adequate means for the maintenance and health insurance of the persons involved (Article 28 of the Law 2910/2001).

[10] However, no right to permanent residence was conferred on the applicant; upon fulfilling the requirements, the permanent residence status remained with the discretion of the administration (Skordas 2002: 28)

[11] Article 58 of the Law 2910/2001

[12] Article 58 of the Law 2910/2001

[13] Law 3386/2005, debated and voted upon in the Greek Parliament in July 2005

granting them a residence permit of an initial duration of 5 years and the right to permanent residence after 5 years of legal residence in Greece. Most types of residence permit also entitle their holders to the right to work, albeit with some time-restrictions in some categories of entry. Finally, and contrary to previous legislation, the legal framework on aliens in Greece now entails provisions on their social integration.

Security of residence, provided by long-term resident status, provides immigrants "with a firm base for orientation towards settlement and integration in the new society" and is a "clear signal" for the native population that "public authorities have accepted the indefinite residence of newcomers (...) and that unequal treatment can no longer be justified on the basis of their provisional status in society" (Groenendijk, Guild and Dogan 2001: 5). Moreover, naturalisation, apart from granting a full set of economic, civil and political rights, is in most European countries the only way to full security of residence (Groenendijk, Guild and Dogan 2001: 98). It can therefore be argued that current Greek immigration policy has been increasingly departing from the policy provisions of the 1990s, which were principally aiming at immigration control (Triandafyllidou and Veikou 2002: 202), towards a more inclusive policy that provides greater security of residence and more chances for integration to legally resident third country nationals.

4 Discussing explanations

4.1 The impact of EU-membership

4.1.1 Formal obligation

Up until the beginning of the present decade, when the first EU directives on the long-term resident status and on the entry and residence of third country nationals for studying purposes and family reunification were adopted, there had been no direct, formal obligation of the EU member-states to transpose EU-level decisions concerning immigration policy into their national legal order. The only exception was the area of visa policy, which had been already communitarised under the Maastricht Treaty. However, this general comment does not apply in the case of those countries participating or wishing to participate in the *Schengenland*. In fact, becoming a party to the *Schengen* system meant that candidate countries had to put into force specific legal provisions concerning border controls, visa policy and the fight against clandestine immigration. Although having wished to become a party to *Schengen* since the beginning of the 1990s, only in 1998 did Greece manage to meet the standards required by the other Schengen-parties and join the treaty. Indeed,

authors supporting the claim of a restrictive impact of EU-level immigration policy on Greek immigration policy since the beginning of the 1990s cite the example of obligations derived by the *Schengen* arrangements (Freeman 1995; Baldwin-Edwards 1997, 1999; Bigo 2001; Watts 2002).

The pressure to adopt and implement those policy provisions that would guarantee the "European" character of Greek immigration legislation as well as secure Greek participation in *Schengen* was obvious during the 1991 parliamentary debate: most of the references made to International Law and its developments at that time concerned European treaties, and the vast majority of the latter were focused on the provisions and policy framework of the Schengen Treaty. The importance of adopting a strict border control policy and measures against illegal immigration was stressed by the Minister of Public Order: after having characterised *Schengen* as a "relatively hard Treaty" and predicting its adoption by more EEC-member states in the future, he insisted that, despite harsh opposition by the opposition parties, Greece should become a party to it in order to be able to voice its positions and play a role in any modifications of the *Schengen* system that should be agreed upon in the future (Greek Parliament Plenary Sessions 15/10/1991: 205). Furthermore, the Deputy Foreign Minister acknowledged that a number of certain articles of the Law to be voted upon were designed to be Schengen-adaptive: article 5 providing for measures punishing clandestine entry; article 10 on penalising facilitation of clandestine entry by owners of transportation means; article 33 on punishing individuals participating in networks facilitating clandestine migration; and article 14 providing for family reunification of legally resident immigrants in Greece. She also stressed that Greece had very recently applied for the observer status to the Schengen Treaty and its outcome was to be decided upon by the *Schengen* parties on October 25th, 1991, just two weeks after the estimated date of the adoption of the Immigration Act in Parliament (Greek Parliament Plenary Sessions 15/10/1991: 210).

The predominance of references to the Schengen provisions during the 1991 parliamentary debate, as well as the fact that wishing to join that Treaty was used as a basis for government reasoning for adopting certain provisions of the 1991 immigration law, support the claims already made in the literature concerning the impact of the Schengen Treaty on the formulation and adoption of national immigration policy in Greece in the beginning of the 1990s. However, participation in *Schengen* entailed obligations to adopt certain legal provisions for third country nationals concerning entry to and short stay in *Schengenland* – also setting very specific policy area limits to its impact on national immigration policy. Furthermore, it becomes interesting to see whether the eager to adopt policy provisions agreed upon at the EEC/EU-level continued to exist also after Greece had fully joined in to the process establishing a common European immigration policy.

In 2001, two years after the entry into force of the Amsterdam Treaty and in parallel to the process of drafting legislation at the EU level, the second immigration law was debated upon in the Greek Parliament. The Treaty, replacing the previous formal intergovernmental arrangements that had minimised the involvement of supranational institutions, communitarised immigration and asylum issues (Geddes 2003: 135) and incorporated Schengen into the Community *acquis*. Communitarisation most notably increased the role, importance and influence of the Commission by delegating authority "coupled with operational resources and capabilities " (Uçarer 2001 cited in Geddes 2003: 139-140) and endowing it with agenda-setting powers. However, the transfer of competences to supranational institutions fell short of supranationalisation: intergovernmentalism was kept alive until at least 2004 by preserving unanimity in the Council, introducing a shared right of initiative between member states and the Commission and minimising the role of the European Court of Justice and the European Parliament[14]. After 2004, the Commission exercises a monopoly over legislative initiatives and the Council is able to decide in unanimity whether some of these areas or all of them will be subjected to qualified majority voting in the Council, co-decision with the European Parliament and judicial control by the European Court of Justice [15].

If there had been any causal role of supranational institutions on Greek domestic change of immigration legislation up to 2001, therefore, this should have lied with the Commission and the Council after the Amsterdam Treaty coming into force (1999). Indeed, concerning the adoption of immigration policy legislation at the supranational level, the Commission had been very active in proposing policy measures in the field of immigration[16], aspiring to offer a comprehensive "policy package" to bridge the differences in third country national admission rules among the member states and to provide for the harmonisation of immigration policy. A number of legislative initiatives concerning asylum, visas, external border controls, and fighting illegal immigration, had been adopted by the Council till 2001. However, these did not include the adoption of binding legal instruments on "core" immigration policies (rights of third country nationals, regulation of immigration for employment purposes), which were left to be made till 2004. In fact, the relevant Directives that could have caused the need for

[14] Article 67(1) of the EC Treaty

[15] Article 67 (2) of the EC Treaty. However, questions can be raised whether the member states will actually decide to proceed further with integrating their immigration policies, given the fact that the United Kingdom and Ireland are for the most part out of the Community framework in immigration issues and at least one more member state, Denmark, has been very reluctant in transferinfg its sovereign powers to the Community level.

[16] The Commission initiatives have included, *inter alia*: a) the *Proposal for a Council Directive on the right of citizens of the Union and their family members to move and reside freely within the territory of the Member States;* the *Proposal for a Council Directive on the right to family reunification;* the *Proposal on a Council Directive on the conditions of entry and residence of third country nationals for the purpose of paid employment and self-employment activities; and the Proposal for a Council Directive concerning the status of third-country nationals who are long-term residents.*

adaptation of Greek legislation concerning rights of residence of aliens were only adopted after 2002.

By contrast, a series of provisions of the 2005 Law dealing with residence of aliens have been the result of Greek obligation to transpose EU directives into national law and harmonise the latter with the EU legal framework (Ministry of Interior 2005: 2). In total, 32 out of 98 articles of the law served the full or partial incorporation into the Greek legal order of various Council Directives (see Table I below). In addition, specific provisions were put in place in order to facilitate implementation of Council Regulation 1030/2002 on a uniform format of residence permits issued to third country nationals, and EU secondary law based on the provisions of the EEC Treaty (Ministry of Interior 2005: 6).

Table I: Transposition of EU legal provisions on immigration into Greek Law of 2005.

EU-level legislation	2005 Greek immigration law
Council Directive 2003/109/EC concerning the status of third country nationals who are long-term residents	Articles 67-69, 91
Council Directive 2003/86/EC on the right to family reunification	Articles 53-60
Council Directive 2004/38/EC on the right of citizens of the Union and their family members to move and reside freely within the territory of the Member States	Articles 8, 9, 61-64
Council Directive 2004/44/EC on the conditions of admission of third country nationals for the purposes of studies, pupil exchange, unremunerated training or voluntary service	Articles 28-35
Council Directive 2004/81/EC on the residence permit issued to third country nationals who are victims of trafficking in human beings or who have been the subject of an action to facilitate illegal immigration, who cooperate with the competent authorities	Articles 46-52
Council Directives (general)	Article 1 (definitions, area of application of the law)
EU secondary law based on Article 49 of EEC Treaty and European Court of Justice roulings on the right to move within the Union of workers who are third country nationals legally resident in another Member State	Article 18

Although Council Directives were transposed in a restrictive manner into the 2005 law, providing for the minimum standards of the rights set in them, their full incorporation into Greek legislation still remains to be seen, as the law entailed a series of authorisations for the issuing of Presidential Decrees and Ministerial Decisions to regulate issues that were left unsettled by its provisions. Even in that case, however, the new Law has already signalled a significant enhancement of the rights of third country nationals towards greater security and continuity of residence, as it has already been discussed in part III of this paper.

4.1.2 Voluntary adjustment to EU-developments

What about domestic policy change *in anticipation* of future policy developments at the supranational level? One may think that member state governments are aware of the policy provisions promoted by the Commission and may want to proceed with domestic policy reforms in order to accommodate for European policy changes "coming soon".

Concerning the reasons for legislative change in 2001, the government argued in its introductory report to the Parliament that the previous legislative framework had proved completely inadequate in dealing with immigration flows while contributing to the problem of clandestine entry and residence of aliens, an issue of great Greek concern throughout the 1990s. Legislative change was therefore considered imperative for the formulation of a "long-term immigration policy, which shall take into account the change in the facts, the new situations that have been created and the new [policy] tendencies that are being formed at the international level" (Ministry of Interior 2001: 1). The policy promulgated by the new Law was defended as "fully echoing current [policy] understandings and tendencies that have been formed in the European Union, which demand that immigrants are treated on the basis of human rights and the principles governing a modern and democratic state of order" (Ministry of Interior 2001: 2). During the debate in Parliament, the government supported its legislative initiative as one keeping a balance between the country`s specific, domestic interests and its international, mostly EU, obligations (Greek Parliament Plenary Sessions, 6/3/2001-afternoon: 5657-5658; 13/3/2001: 5917-5919, 5931). Extensive references to the gradual development of an immigration policy at the EU level, to the conclusions of the European Summit at Tampere and to immigration policy in other EU member-states were made by the Deputy Minister of Interior (Greek Parliament Plenary Sessions 6/3/2001-afternoon: 5656-5658) in stressing the pan-European character of the migration phenomenon and the necessity to take into account Greek membership in the EU while formulating the principles and provisions of the Law. Nevertheless, this argument was contested by the main opposition party. The latter, supporting more restrictive provisions for enty and residence of third country nationals, claimed that the Tampere conclusions served as general policy principles and did not have any binding force upon legislation adoption at the national level (Greek Parliament Plenary Sessions 13/3/2001: 5920).

On the first site, and in spite of stressing EU-obligations and the importance of EU immigration policy on-the-making, these rather played a role only at the declaratory level, albeit with one exception: the partial incorporation of the 1997 Council Resolution on combating of marriages of convenience in the provisions concerning residence permits for

third country nationals who are spouses of Greek or EU citizens[17] (Greek Parliament Plenary Sessions 20/3/2001: 6154).

On family reunification, the written proposals submitted to the Parliament by the National Committee on Human Rights (2000: 4-5; 2001: 3-4) and the Hellenic League for Human Rights (2001:2), based on the European Commission's proposals and relevant decisions in the Council of Europe, asked for the inclusion of first-degree relatives in the direct ascending line of the sponsor into the term "family members". They also asked for the activation of the right to family reunification after one (as opposed to two) year(s) of legal residence. On the same issue, the Scientific Committee of the Parliament (2001: 5) stressed the restrictive character of the provisions of the draft Law, comparing them with the European Commission proposals.

Despite these suggestions, defended by these organisations during parliamentary hearings, as well as the pressure exercised by the left-wing parties during parliamentary debate, the government considered the incorporation of non-obligatory EU-level provisions as inappropriate. The Minister of Interior acknowledged that one year would most probably be the relevant provision in the forthcoming Council Directive, but insisted that Greece would first wait for the European developments to take place and then adjust its policy accordingly; she argued instead that the government considered it more appropriate to deal with national Greek concerns, such as the legalisation and registration of illegal residents (Greek Parliament Plenary Sessions 20/3/2001: 6134; 27/3/2001: 6348).

Nor was there any attempt to discuss the issue of long-term residence status of third country nationals and the gradual equality of their rights to those of EU-citizens, despite written proposals submitted by the National Committee for Human Rights, asking for more favourable treatment of long-term residents (2000: 4)[18]. Furthermore, there was no specific reference to any other Commission initiative under discussion at the EU level at that time. On the contrary, the Deputy Minister of Interior repeatedly stressed the government's efforts to safeguard Greek domestic interests, even in spite of EU-level legislation. That was the case of the provisions limiting the right of legally resident third country nationals to free movement within the country, owing to Greek national security and public order concerns, in spite of EU

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[17] Council Resolution of 4 December 1997 *on measures to be adopted on the combating of marriages of convenience*, OJ C 382 16.12.1997 p.1

[18] The National Committe for Human Rights suggested that *"long-term immigrants (immigrants who have legally and continuously resided for a period of at least five years in a receiving country) should be subjected to favourable treatment by the administration (...) therefore, specially dealing with this category of immigrants in a special provision/special provisions of the draft Law is recommended (...)"* (my translation). The National Committee for Human Rights (2000: 4) argued on the basis of Recommendation No 15 of the Committee of Ministers of the Council of Europe of 13 September 2000.

law granting that right (Greek Parliament Plenary Sessions 6/3/2001-afternoon: 5658; 13/3/2001: 5932).

Therefore, the evidence does not support the anticipation-hypothesis. Although the government side very often argued for the need to adopt a new Law in accordance with the ongoing "European developments" and especially the conclusions of the Tampere European Council, this did not go so far as anticipating these developments. The provisions of the Law 2910/2001 were not a result of obligations derived by EU membership. Nevertheless, in a period of great mobility at the EU level on immigration policy issues, these provisions may in fact have been an attempt to formulate a national legal framework designed to tackle domestic Greek concerns, that could also serve as a basis for bargaining at the EU level. This, however, is a hypothesis that needs further exploration and research.

4.2 The counterfactual argument: domestic factors

Would Greek legislation on residence rights of aliens have changed towards the enhancement of those rights had it not been for obligations derived from membership in EU institutional arrangements?

4.2.1 Public opinion

Concerning policy and institutional reforms, Olsen and Peters (1996: 34) have noted that "[democratic] governance is to be judged by, and to be accountable to, public opinion and thereby changing popular beliefs and attitudes (...) In the last resort, governance has to attend to what ordinary citizens find just, appropriate, or acceptable, even if such criteria are defined as irrelevant in the institutional contexts such as science, the market, orthodox religion, and others." The beliefs and attitudes of Greek public opinion towards immigrants and their development since the beginning of the 1990s might therefore have been a domestic factor explaining national immigration policy change. A change of attitudes towards more inclusive approaches in dealing with immigration, which should be indicated by a more open attitude towards foreigners and, consequently, the acceptance of their co-existence with the native population, could account for the adoption of a more open approach in immigration legislation.

Public opinion surveys, however, do not seem to support this type of explanation. According to the *Eurobarometer*,[19] during the 1990s Greeks have become more sceptical concerning the immigration phenomenon and have displayed an increasingly negative stance towards immigrants (Table I). In fact, they have been occupying one of the most "immigration-sceptical" positions among the European publics, far more sceptical than the "average European" and the population in other Southern European countries. Moreover, the results of the 2003 European Social Survey reflect a profile of the Greek public opinion that is the most xenophobic and least tolerant towards immigrants and foreigners in western Europe[20] (*Eleftherotypia* 6/11/2003).

Table II: The development of Greek public opinion towards immigrants during the 1990s

Year	Spring 1993	Autumn 1994	Autumn 1997
Opinion			
„There are too many foreigners in the country"	57%	64%	71%
„I feel disturbed by the presence of other nationalities in the country"	28%		34%
„I feel disturbed by the presence of people of different race in the country"	25%		31%
„There should be no acceptance of economic immigrants from the Southern Mediterranean"	32%		29%
„There should be no acceptance of economic immigrants from Eastern Europe"	31%		30%
„There should be no acceptance of political asylum seekers"	24%		24%

Source: Eurobarometer Standard Reports No 39, 42, 48

[19] I recognise that the *Eurobarometer* Reports present a significant problem, namely, the fact that questionnaires do not entail the same questions over the period under consideration. Therefore, comparability of data becomes problematic (except from those reports that contain exactly the same questions to a specific issue). However, one can at least deduct a general trend in the public opinion towards foreigners in the country. For the purpose of this paper, positive statements or affirmative stance concerning the potential positive effects of the presence of non-EC/EU foreign citizens in Greece are regarded as a positive stance of the Greek public opinion vis-à-vis immigrants, whereas negative statements concerning third country nationals and the presence of residents „different" in terms of race and nationality is regarded as a negative stance towards immigration.

[20] According to the survey, 82,7% of the Greeks prefer none or only a few persons of a different race or ethnicity to be allowed to come and reside in the country; 60% is negatively disposed to religious plurality in Greece; 69,1% is in favour of expelling immigrants in case they are long-time unemployed; and 80% holds foreigners responsible for the increase in criminality. The Portuguese, who are the "closest" to the Greeks when it comes to the attitude towards foreigners, nevertheless lag behind Greek scores. For instance, 56,7% of the Portuguese believe none or only a few foreigners could be allowed to come and reside in Portugal and a 44,8% oppose religious plurality (*Eleftherotypia* 6/11/2003).

Comparing the Greek public opinion profile of the 1990s with the Eurobarometer data of Autumn 1988, shortly before extensive immigration to Greece began (1989/1990), reveals a clear difference, in that the latter portrays a more inclusive and positive Greek public towards non-EC nationals. That year, Greek public opinion was half divided with regards to assessments of the presence of non-EC foreign citizens in the country[21], but, among those responding, half thought that the presence of non-EC foreign citizens in Greece was at least "good to some extent" for the future of the country and 80,5% were against restricting the rights of non-EC foreign citizens[22] (Eurobarometer Standard Report Autumn 1988: 63-65). It is then plausible to argue that Greek public opinion has turned more exclusionary towards immigrants, a development that cannot explain the gradual introduction of legal provisions enhancing security and continuity of residence for third country nationals.

4.2.2 Impact of domestic institutional actors

In explaining the enhancement of residence rights of third country nationals, one may want to explore the role of civil society and domestic pro-immigrant actors, such as Non Governmental Organisations and Trade Unions, in promoting a more inclusive immigration policy, influencing the legislative process and having an impact on its final outcome. Although it has to be acknowledged that the role of those actors in drafting legislation is difficult to trace, one can nevertheless attempt to retrieve information on their policy input by analysing parliamentary debates in combination with interviewing parliamentarians and experts in the field.

As the archives of the debates in the Permanent Parliamentary Committee on Public Administration, Public Order and Justice reveal, there was no hearing of civil society organisation in 1991. In 2001 hearings were limited to the representatives of two organisations for the promotion of human rights[23], who argued for more favourable provisions concerning the rights of third country nationals admitted on the grounds of family reunification. Their impact was limited to the incorporation into the Law of their suggestion concerning the right of family members to work. However, their claim for the activation of the right to family reunification after one year of legal residence was rejected.

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[21] Similar to France. There were German, Belgian and Danish majorities in unfavourable assessments, whereas the majorities in Spain, Ireland, Italy, Luxembourg, The Netherlands and the United Kingdom were favourably expressed about the presence of non-EC foreign citizens in their countries (these statements exclude those interviewees who gave no answer) (Eurobarometer Standard Report Autumn 1988: 63).

[22] 43% were in favour of extending their rights and 37,5% thought their rights should remain as they were. These figures are the product of my calculation, based on the data in *Eurobarometer Standard Report Autumn 1988*: 64-65.

[23] These were the *Hellenic League for Human Rights*; and the *Marangopoulou Foundation for Human Rights*.

But what about the influence of civil society in drafting legislation *before* debating it in Parliament? In general, the government side claimed a significant impact of trade unions and non-governmental organisations promoting the rights of immigrants (Interview with Th. Tsiokas[24], 5/1/2005), but in reality, civil society does not seem to have played a significant role since non-governmental organisations had not yet been very active in immigration issues (Interview with T. Papadopoulou, 21/1/2005[25]). On the side of trade unions, the General Confederation of Workers in Greece (GSEE) had been successful in promoting the incorporation of central policy positions into the draft law (Interview with P. Linardos-Rylmond[26], 19/1/2005). Its role in shaping some of the provisions of the 2001 law on aliens is widely acknowledged. Nevertheless, the latter mostly concerned the provisions on the legalisation of illegal residents and the integration of immigrant workers into the social security system, whereas promoting security of residence of third country nationals in general was not a priority.

On the side of public administration, a significant development was the transfer of competence on immigration issues from the Ministry of Public Order to the Ministry of Internal Affairs in 2000. This transfer of competence, first and foremost a political choice, also meant a dominant role of the Ministry of Internal Affairs in drafting legislation. It seems plausible to argue that this development entailed a change in approaching immigration issues and can explain, at least partially, the departure from the "policing spirit" and the very strict provisions of the 1991 law to the more favourable provisions for third country nationals introduced in 2001. The transfer of competence to the Ministry of Internal Affairs, however, also meant lack of experience in handling with immigration issues, thus possibly opening a window of opportunity for learning. Indeed, if the Ministry of Public Order back in 1991 (also lacking experience in dealing with extensive immigration flows, which had just begun) had derived both its main policy directions and specific provisions from the restrictive *Schengen* framework, one may also ask about the references and sources which the Ministry of Internal Affairs relied upon in drafting legislation in 2001. Again, this is difficult to trace. Nevertheless, an albeit incomplete attempt will be made below.

[24] Mr Theoharis Tsiokas is an MP elected with PASOK, which was the governing party in 2001. In 2001 he was a member of the permanent parliamentary committee on internal affairs, public order and justice. He also sponsored the government`s legislative initiative in Parliament.
[25] Mrs Tatiana Papadopoulou is Legal Advisor to the Greek Ministry of Foreign Affairs.
[26] Mr Petros Linardos-Rylmond is scientific advisor to the Employment Institute of the General Confederation of Workers in Greece.

4.2.3 Learning in a "new" immigration country

When new legislation was being drafted in 2000 and 2001, it had already been a decade since the turn into a country of immigration. Back in 1991, Greece was "caught" unprepared - politically, socially and legally - to deal with immigration flows, that being a common acknowledgement throughout the 1990s. A decade later, however, there was a growing realisation - evident during the debates in Parliament among parliamentarians of the governing party and of the parties of the left - of the problems caused by extensive clandestine immigration and the lack of appropriate legislation: rising xenophobia among the local population, rising criminality rates, social exclusion of immigrants and increasing corruption in the police and in public administration. At the same time, and contrary to the beginning of the 1990s, experience at the domestic level had shown that immigrants had come to Greece to stay, something that was evident in the growing number of immigrant families, as well as in the growing number of pupils of foreign nationality in primary and secondary education (*Agelioforos* 21/2/2005). In addition, there were domestic Greek concerns, first and foremost the ailing social security and pensions system which, the government and the leftist parties hoped, could be tackled by the legalisation and the greater social integration of the immigrant population into the country`s economic and social institutions. Finally, there was a growing acceptance of the importance of immigrant employment for the survival of specific economic sectors (most importantly agriculture, domestic services, and construction works), and for the country`s economic development in general[27].

Learning from domestic experience with the immigration phenomenon throughout the 1990s, as well as the existence of domestic Greek concerns to tackle, can therefore explain the turn to legislative provisions offering more rights to third country nationals and greater security of residence. Nevertheless, this explanation cannot be considered sufficient because it ignores the sources of information on the issues involved, on which the Greek Ministry of Internal Affairs and Greek MPs based their understanding and derived their positions and proposals.

According to the former Deputy Minister of Internal Affairs, the 2001 Law was a blend of provisions derived from previous Greek legislation, domestic experience based on the first legalisation round of clandestine immigrants in 1998 (Greek Parliament Plenary Sessions 6/3/2001-afternoon: 5657-5658; 13/3/2001: 5931), and from immigration legislation in other

[27] The contribution of immigrant workers into the country's economic development was widely acknowledged during the debate in Parliament. At the same time, the government was even accused by the opposition of tolerating illegal immigration with the aim of lowering inflation and employment costs in preparing for joining the EMU (Greek Parliament Plenary Sessions 6/3/2001-afternoon: 6546).

countries[28]. It has been argued that it was "a technocratic choice to study mainly the systems of Germany and France" (Interview with Th. Tsiokas, 5/1/2005, my translation), because

"one the one hand, in Germany a great many Greeks lived and they had experienced both positive and negative aspects, so they could contribute, whereas in France on the one hand they, too, had the equivalent experience, but on the other hand their experience was related to a percentage [of immigrants] coming to us from African and Asian countries (...) where it is other cultures and needs we are talking about" (Interview with Th. Tsiokas, 5/1/2005, my translation).

Although the study of foreign immigration legislation is seriously contested (Interview with T. Papadopoulou, 21/1/2005; Interview with A. Skordas 21/1/2005[29]), these two countries also dominate in the references made by Greek parliamentarians to foreign countries in parliamentary debates in 1991 and 2001. Among them, three issues are of importance: the social and political developments related to immigration (such as xenophobia and the role of right-wing anti-immigrant parties), their experiences, practice and policy concerning immigration flows (such as the long-term character of the immigration phenomenon, the rise in the size of the immigrant population in due course of time, the "zero" immigration policy prerogative of the past) and the comparisons with their immigration legislation (See Diagrams below). Apart from being the two major powers driving the European unification process, Germany and France have been two major "older" immigration countries in western Europe and the two main destinations of Greek emigrants after World War II. At the same time, Europe (most importantly the EEC/EU but also European countries individually) dominated among references to the international community. Interestingly enough, and in contrast to parliamentary debates in 1991, one may note the growing interest of the Greek government and of the MPs in other southern European, "new" immigration countries (Italy, Spain and Portugal), understood as facing similar challenges in dealing with immigration issues[30]. In preparing new legislation in 2000 and 2001, Greece being a "new" immigration country was considered to entail a positive aspect as well, namely that

"Greece was not walking blind. It could, within its range of abilities, also utilise other [countries`] experiences" (Interview with Th. Tsiokas, 5/1/2005, my translation).

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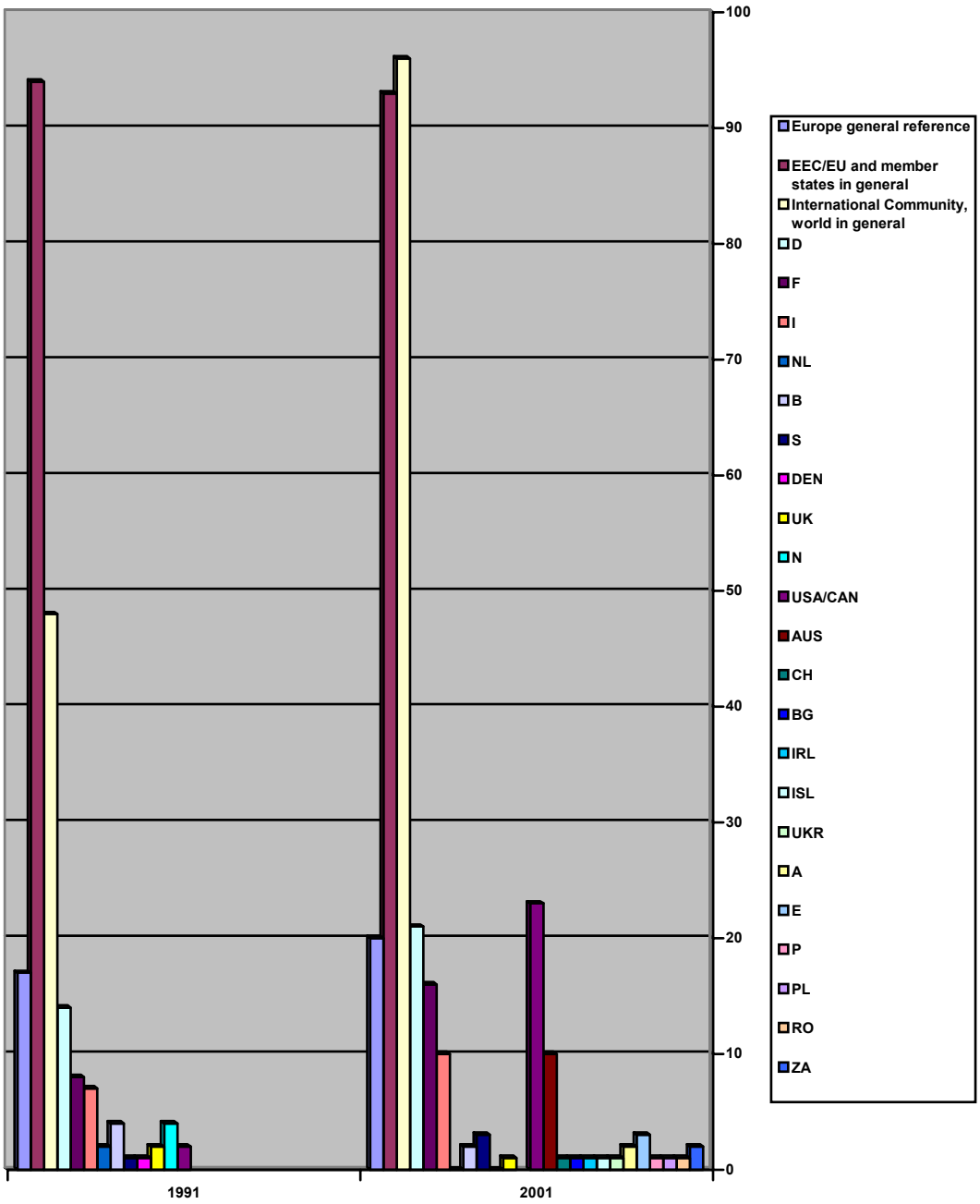
[28] Personal communication.

[29] Mr Achilles Skordas is Associate Professor at the School of Law, Economic and Political Sciences, University of Athens.

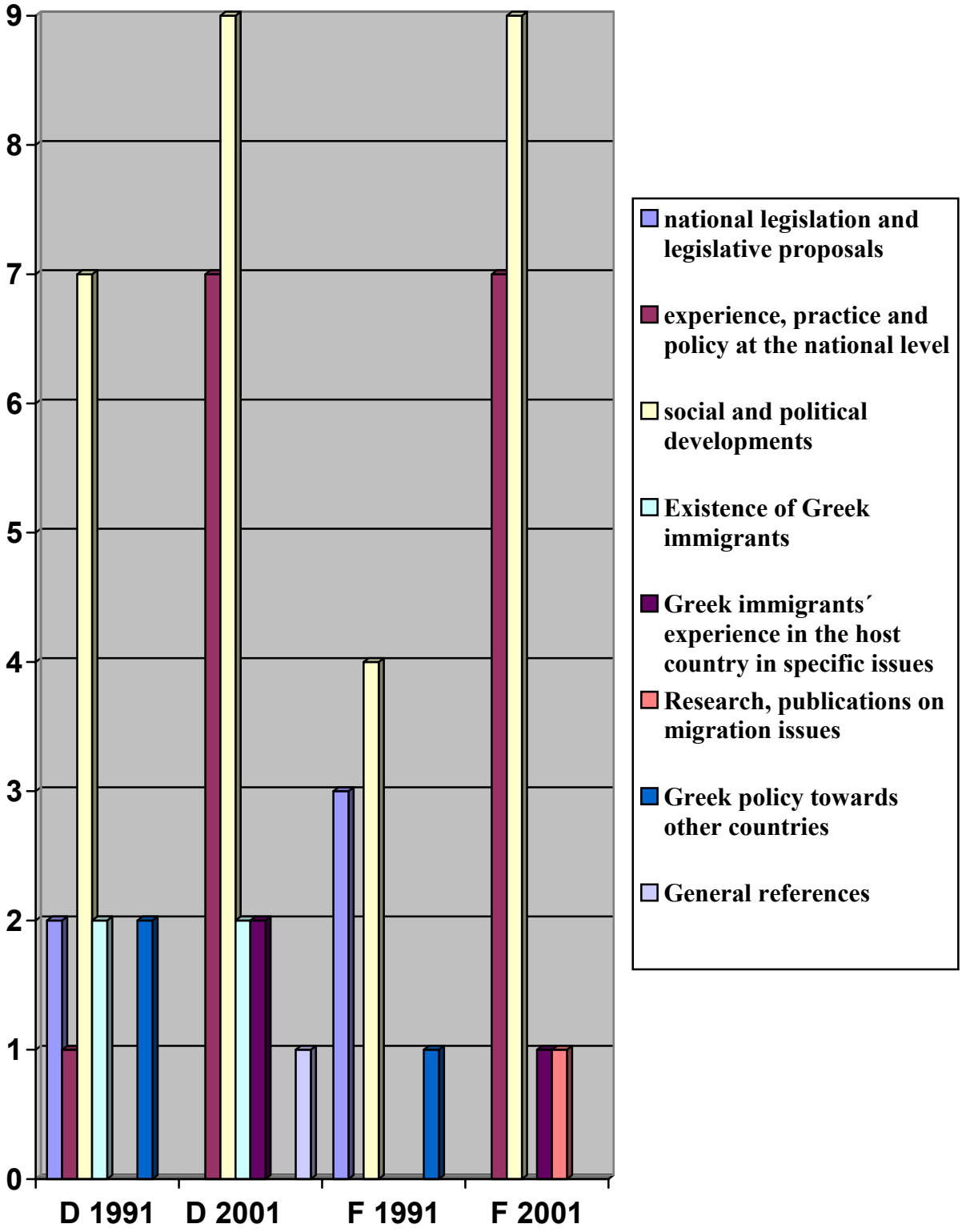
[30] Back in 1991, references to southern Europe were limited to the way Italy was treating clandestine Albanian immigrants in repatriation and border control issues, whereas in 2001 interest was focused on the policy of legalisation of residence of clandestine immigrants in Italy, Spain and Portugal, as well as on the Spanish bilateral agreements on seasonal employment. For the extensive references made by the Deputy Minister of Interior to these issues, see: Greek Parliament Plenary Sessions 6/3/2001-afternoon: 5656-5658.

But also the transfer of competence to EU institutions in immigration policy issues functioned as a source of information for the Greek public administration, due to the exchange of experiences taking place within the EU institutional setting among the member states, especially as regards to ministerial technical experts participating in various working groups and committees in Brussels. The latter were then articulating positions and recommendations to their Greek political leadership – in the Ministry of Public Order during the 1990s and in the Ministry of Internal Affairs thereafter. On the basis of policy developments in other European countries as well as at the EU-level, there had been a growing realisation that the old 'zero immigration' dogma was out-of-date and Greek immigration policy should move towards controlled immigration (Interview with T. Papadopoulou, 21/1/2001). In that respect, domestic institutional factors that can explain a mid-term development of Greek immigration legislation towards a more inclusive model for third-country nationals shall nevertheless not be considered as being completely independent of the Greek membership in the European Union and of immigration policy developments at the EU supranational level and in other EU member states.

References made by MPs to Foreign Countries during Parliamentary Debates in Plenary in 1991 & 2001



References made by MPs to Germany and France during Plenary Parliamentary Discussions in 1991 & 2001



5 Conclusions

In this paper I have sought to explore the validity and importance of being an EU-member state and a "new" immigration country in explaining national immigration policy change by taking up the case of Greece. In particular, I have chosen to look at the developments in Greek legislation since 1991 concerning a specific area of policy, that of residence rights of third country nationals. I have argued that there has been a mid-term development in Greek immigration policy towards a more inclusive and integrative model that provides more security of residence and chances for immigrant integration. I then undertook to explore the reasons behind this development by looking at both the domestic and European level. I have based my analysis on the debates that have taken place in the Greek Parliament on the three Immigration Laws since 1991 while assisting it with a limited number of interviews with Greek politicians and experts in the field of immigration policy.

My analysis has revealed the role of domestic factors and the obligations derived from Greek membership in the European Union in departing from the very restrictive legal framework set up in the beginning of the 1990s and bringing about and shaping the changes in Greek immigration legislation. While the obligation to transpose a number of EU directives into the Greek legal order has had a significant impact on the provisions of Greek legislation adopted in 2005, there were mainly domestic factors and institutions that can explain the change in legislation in 2001.

Nevertheless, also in the latter case, the role of EU-membership cannot be ignored: in a "new" immigration country lacking long-term experience in tackling the problems and challenges related to extensive immigration flows, EU-membership has provided an important source of information and understanding of the issues involved for the Greek public administration and for parliamentarians. Therefore, deriving from the "European experience" since 1991 has been two-fold, entailing both the adjustment to the developments at the EU supranational level and comparisons with social, political and legislative developments at the national level of other EU member states. My findings, albeit limited in one specific policy area, also challenge the dominant claim that EU immigration policy has had a restrictive impact on national immigration policy in the "new" immigration countries. However, it still remains to be explored whether the various forms of EU - impact detected in the Greek case actually reflect different types of the same "Europeanisation" phenomenon.

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