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1. The topic of my intervention sounds like and actually is a contradiction in terms. The reason for this is double-edged: First, in order to talk about applicability of international migrant labour law in a certain state the latter normally has to have this law ratified, that is, incorporated into its own domestic legislation and practice. Secondly, in order for a state to be able to effectively apply international migrant protection standards it has to have already in place a coherent and smooth domestic legislative and administrative framework. In the case of Greece both of these basic prerequisites are regrettably not satisfied.

2. To date Greece has avoided ratifying the most important international and European treaties providing for protection of migrant labour. On the international plane we have the **(C97) 1949 and (C143) 1975 Conventions of the International Labour Office concerning Migration for Employment**. These treaties contain provisions of fundamental importance to states receiving migrant labour.

First of all they provide guidelines for the establishment of an efficient administrative infrastructure that would facilitate the entry of immigrants (see eg article 2 of C 97 (1949) concerning the establishment by the employment states of **“an adequate and free service to assist migrants for employment, and in particular to provide them with accurate information”** – the provision of this kind of service by the Greek state has been one of the main claims of migrants for years).

Secondly the ILO treaties provide for the protection by the employment states of a series of fundamental social rights of legal immigrants (on the basis of national treatment) such as remuneration, trade union memberships, accommodation, social security, legal proceedings (article 6 C 97) .

The ILO Convention of 1975 (C143) (which focuses mainly on the intra-state cooperation against illegal labour migration) also provides some invaluable legal rules for migrant workers, such as that of article 8 according to which legal migrant workers may not be regarded as illegal or irregulars by the mere fact of the loss of their employment, which, in itself, may not imply the withdrawal of the authorisation of residence or work permit. Accordingly these migrant workers should enjoy equality of treatment with nationals in respect of guarantees of security of employment, the provision of alternative employment, relief work and retraining. A similar provision (article 49) is contained in the **1990 UN Convention on Migrant Workers and Members of their Families** which entered into force on 1st July 2003 and is today the most comprehensive treaty for the protection of migrant workers' human rights. We have to stress that the above rule, separating the validity of residence from employment, is of special interest to migrants in Greece where current immigration rules tie, in an asphyxiating manner, residence permit to the employment reason for which entry has been permitted in the first place.

Finally, article 9 of the 1975 ILO Convention (C143) is another noteworthy provision regarding migrant workers who remain in a host state without having their status regularised. These persons should have the right to enjoy equality of treatment for them and their families in respect of rights arising out of past employment as regards remuneration, social security and other benefits.

3. Another very important migrant labour treaty that Greece has wrongly avoided to ratify so far is the **European Convention on the Legal Status of Migrant Workers (Council of Europe, 1977)**. Contrary to the ILO treaties that are applicable to **all** migrant workers in receiving states parties to the treaties, the European Convention applies only to migrants coming from states members of the CoE who are also parties to this Convention. This however detracts nothing from its significance since treaties of this kind are normally a consolidation of international rules or standards based on international (human rights) law.

Of direct relevance to our discussion today, and to the Greek situation, is actually article 8 (on work permits) and article 9 (on residence permits). Article 8 para. 2 expressly states that a work permit issued for the first time may not as a rule bind the worker to the same employer or the same locality for a period longer than one year. This flexibility rule exists in Greek Immigration Law (art. 22 para. 3 Law 2910/2001) but it is doubtful whether it may be effectively applied by foreign workers. This rule is of great significance for the effective presence and employment of an immigrant in a host state. On the other hand, article 9 para. 4 of the European Convention contains another important provision for the protection of migrants who are temporarily incapable of work as a result of illness or accident or because they are involuntarily unemployed. In order to seek re-employment the European Convention on Migrant Workers grants these immigrants the right, in principle, to remain in the host state for at least five months. This is a significant social rights protection-oriented provision that should have also been included in Greek immigration legislation.

4. The refusal or reluctance of Greece, to date, to accede to or to ratify the above international and European conventions containing fundamental standards for the protection of civil and social rights and promoting social integration of migrant workers is to be regretted. Immigration law practice, as evidenced by a 2002 Circular of the Greek Supreme Court Public Prosecutor and by a series of reports by the Greek Ombudsman and the Greek National Commission for Human Rights, shows a serious chasm between immigration reality in Greece and the above standards laid down by ILO and the Council of Europe.

The serious reluctance by Greece to incorporate in her legislation and practice the above international human rights standards may be explained but in no way be justified. It may be explained by the general indifference, to date, of the Greek state towards the effective promotion of international human rights standards on national level. Human rights promotion (education) in Greece has been either minimal or non-existent. In any case it has been inadequate. It may also be explained by the obvious, at least until 2001, lack of political will to lay down a long-term immigration law and policy in this country.

However Greek state's phobia towards the incorporation of international and European migrant labour standards may in no way be justified in the case of a country like Greece whose Constitution (article 2.1) has enshrined the "respect and protection of the value of the human being" as "the primary obligations of the State". Because what international migrant labour standards do in effect is, among other things, exactly this: the effective implementation of article 2.1 of the Greek Constitution or, in other words, the implementation of the ILO Philadelphia Declaration principle according to which "labour is not a commodity".

Nonetheless it should be stressed that the non-transposition of the above migrant worker treaties by Greece does not automatically exclude the implementation of other international human rights treaties, such as the International Covenant on Economic, Social and Cultural Rights, which have been ratified by Greece and may and do play a supplementary or even substitute role vis-à-vis the special migrant labour treaties.

Regarding now current Greek immigration law and practice, this is unfortunately bound by its own straightjacket, that is, its inflexible and labyrinthine character and the mentality of "crisis (or migrant entry) control". The infamously dysfunctional Greek administration has compounded the already highly problematic legal rules.

The Greek state is to exit, first, this mentality of "crisis control" in order to be able to enter the second stage of immigration management. Greek immigration law, policy and practice are to be urgently based on an in-depth study of the immigration phenomenon in Greece, taking into account the interests of Greek society and economy **as well as** the lawful interests of labour migrants who have been an integral part of modern Greek society for so many years now.

The recognition and incorporation of the above-mentioned international and European migrant law standards by Greece are to be considered as a high priority for any Greek immigration law and policy makers. These are

standards corresponding to contemporary human rights law and as a consequence have the real capacity, if effectively transposed, to renew and restructure the Greek immigration regime. This new regime that should emerge is to seriously take into account the lawful interests of the host state but at the same time the interests of the main subjects of the immigration phenomenon, that is, migrant workers and members of their families.
