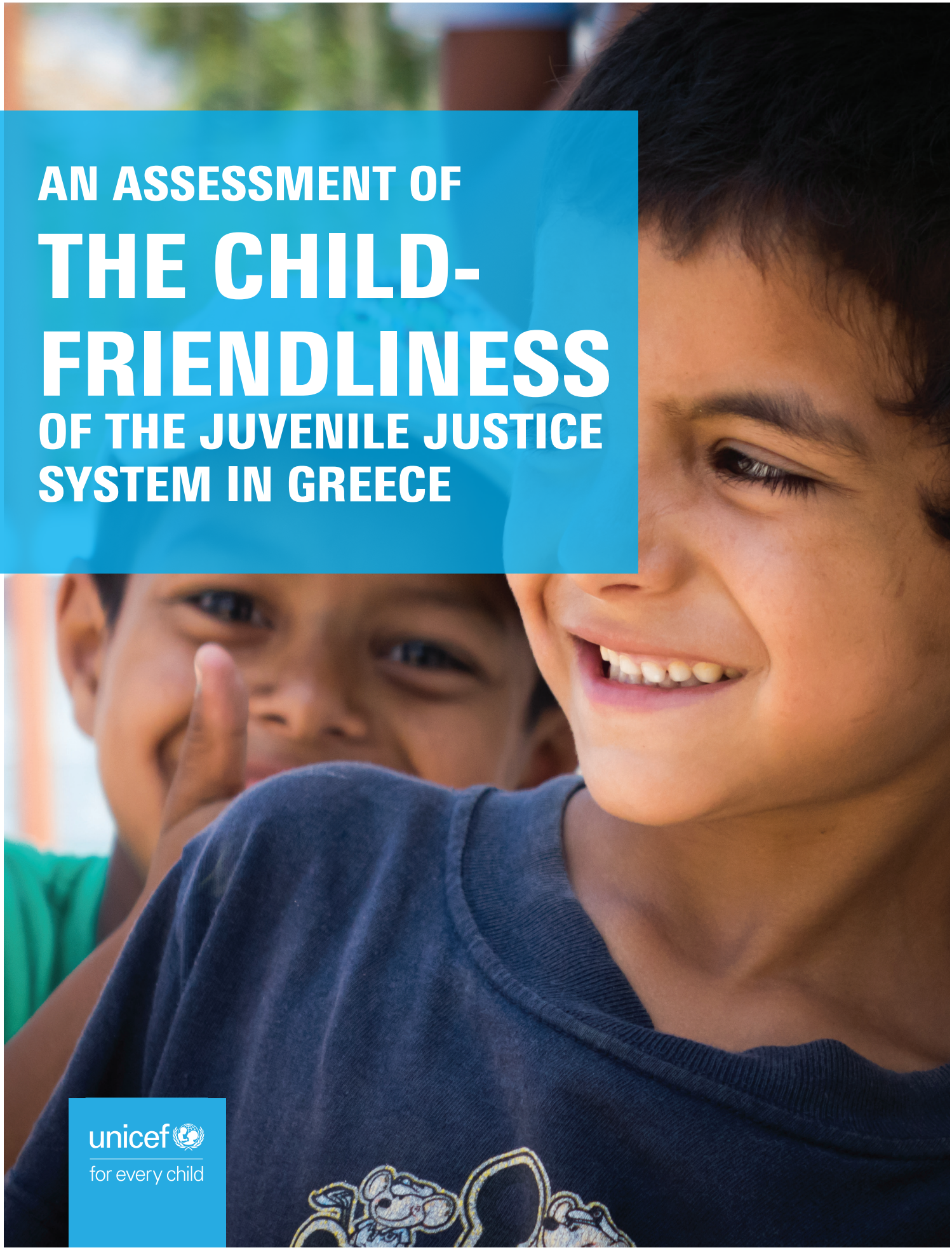

AN ASSESSMENT OF THE CHILD-FRIENDLINESS OF THE JUVENILE JUSTICE SYSTEM IN GREECE

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Terre des hommes
Αρωγοί των παιδιών παγκοσμίως.

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PART I

CONTEXT AND BACKGROUND

1 INTRODUCTION

"Children come into contact with the justice system in many ways, including when they are in conflict with the law. Finding the best way to deal with juvenile delinquency is a challenging task for all governments, who need to find the right balance between the protection of society and the best interest of the child, as a developing, learning human being who is still open to positive socialising influences."[1]

In attempting to address this dilemma, States are encouraged to adopt a 'child-friendly' justice system. It is not possible to find an authoritative definition, or indeed any concrete definition of 'child-friendly'. It can be regarded, however, as involving two concepts: the implementation in full of the provisions of the UN Convention on the Rights of the Child (the CRC) relating to the due process rights contained in Articles 37 and 40, as well as other international standards, especially the UN Minimum Standards and Norms of Juvenile Justice,[2] and as providing a range of strategies that can be used to adapt legal proceedings to the particular circumstances of the child involved.[3]

Regionally, the Council of Europe has defined "child-friendliness" in their Guidelines on Child-friendly Justice,[4] as *'justice that is accessible, age appropriate, speedy, diligent, adapted to and focused on the needs and rights of the child, respecting the rights of the child including the rights to due process, to participate in and to understand the proceedings, to respect for private and family life and to integrity and dignity'*.[5]

This report reviews the child-friendliness of the criminal justice system for children in Greece and consolidates the findings from a Desk Review on Juvenile Justice and Child Victims and Witnesses and 49 qualitative interviews of stakeholders in the criminal child justice system, including the police; prosecutors; defence lawyers; members of the judiciary; juvenile probation officers; House of the Child; NGOs; governmental employees; parents and children. Using this material, the strengths and gaps in the existing Greek criminal child justice system are analysed and compared with international and European standards and recommendations are made for improvement of the national legal and normative framework for justice for children. This review does not seek to cover all of the issues raised in the much longer Desk Review but focuses on the major areas of challenge.

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1 Author(s): Parliamentary Assembly. Origin - Assembly debate on 27 June 2014 (27th Sitting) (see Doc. 13511, report of the Committee on Social Affairs, Health and Sustainable Development, rapporteur: Mr. Stefan Schennach; and Doc. 13547, opinion of the Committee on Legal Affairs and Human Rights, rapporteur: Ms Kristien Van Vaerenbergh). Text adopted by the Assembly on 27 June 2014 (27th Sitting), available at: https://assembly.coe.int/nw/xml/XRef/Xref-XML2HTML-en.asp?%C2%AD%C2%ADfileid=21090&lang=en

2 This includes the Standard Minimum Rules for the Administration of Justice, (the Beijing Rules) the Guidelines for the Prevention of Juvenile Delinquency (the Riyadh Guidelines); the Rules for the Protection of Juveniles Deprived of their Liberty; the Guidelines on Justice in Matters involving Child Victims and Witnesses of Crime and the Guidelines for Action on Children in the Criminal Justice System.

3 See CRIN, https://archive.crin.org/en/guides/legal/child-friendly-justice-and-childrens-rights/examples-child-friendly-justice-practices.html

4 Council of Europe, Guidelines off the Committee of Ministers of the Council of Europe on child-friendly justice, 2010, at p. 17, https://rm.coe.int/16804b2cf3.

5 Council of Europe, Guidelines off the Committee of Ministers of the Council of Europe on child-friendly justice, 2010, https://rm.coe.int/16804b2cf3

2 METHODOLOGY

This review used a mixed-methods approach to data collection. It drew upon a range of data sources and data collection methods to ensure the reliability of results, promote impartiality, reduce bias, and ensure that the study was based on the most comprehensive and relevant information possible. The data collection methods relied upon included a secondary data review of national laws, policies, action plans, existing reports on access to justice for children in Greece,[6] qualitative interviews to understand the extent to which the child justice system is child friendly in practice and, to the extent possible, collection of secondary quantitative data and analysis to determine the extent to which children come into contact with the justice system.

Quantitative data was used to provide greater detail about the involvement of children in the justice system. Initial data gathering completed early in the process of this review indicated that data collection within the juvenile justice system appeared to be sporadic and scattered. Qualitative data provided a more in depth understanding of the way cases involving children are managed and helped to interpret and explain quantitative findings. Qualitative data was particularly useful for exploring subjective and contextual issues, and for explaining why certain laws, measures and approaches have turned out to be more or less effective.

A Desk Review was undertaken and a synthesis of laws and data relating to the child justice system (juvenile justice); how children are handled by the justice system; policies and strategic plans; stakeholder engagement and services available.

Key informant interviews were held with key stakeholders, including (but not limited to) judges, prosecutors, defence lawyers, juvenile probation officers, Houses of the Child, detention facilities, Ombudsperson, local NGOs, service providers and academics. In all, a total of 49 key informant interviews were undertaken.[7]

In addition to key interviews, two in-depth case studies were conducted, with children, their parents and juvenile probation officers concerned in the case as well as one case with a young adult who had committed a crime when his was underaged and another case with a mother of a child who had committed a crime and she had reported the crime.

As a result of COVID-19, it was not possible to hold focus group interviews. Neither was it possible to interview children in detention facilities.

All raw qualitative data was uploaded into Nvivo software and coded to identify key themes, patterns and relationships relevant to the study questions. A thematic analysis was then used, with a focus on understanding the child friendliness of the justice system and the extent to which existing laws are implemented as well as barriers and obstacles to implementation.

The major limitation to the research was the impact of COVID-19. Most interviews were carried out remotely rather than face to face. This inevitably means that some of the 'nuance' may have been lost.

The study methodology was limited in several respects. It appeared from the initial desk review that there was a lack of centrally kept data on the number of children diverted, the number of children charged and the number of children convicted, while the number of arrests of children is not publicly available. Further, it was not possible to obtain comprehensive disaggregation of the data by gender, age and ethnicity. The latter is a limitation in reviewing whether the practice of the law treats all children without discrimination. In addition, statistical data do not reveal the ethnicity of children who are detained, and whether these children are disproportionately from ethnic minority backgrounds.

There was also a risk that the research findings obtained may be influenced by reporting bias and recall bias. Professional stakeholders in the justice system may have been selective in what they revealed or suppressed in terms of information, hoping to 'look good' rather than to present the realities of their work. On the other hand, children and their parents involved in the case study may have inaccurately recollect memories and experiences, or omit certain details during interviews, leading to errors in the data collected. For example, children and parents may have underplayed the child's criminal behaviour. To mitigate against reporting bias, the research team emphasised the anonymity and confidentiality of the research to all stakeholders, to encourage transparent responses. Interview tools for children and parents were carefully constructed to minimise the risk of recall bias. [8]

6 More details on methodology can be found in the Inception Report for this project.

7 Interviews were carried out by Coram International and Terre des Hommes, Greece

8 For further information on the methodology and the ethical review undertaken, see Inception Report to this Review, available from UNICEF and Coram International.

3 INTERNATIONAL AND REGIONAL INSTRUMENTS ON CHILD JUSTICE

The two major international instruments governing justice for children in conflict with the law are the International Covenant on Civil and Political Rights (ICCPR) (ratified by Greece in May 1997) and the UN Convention on the Rights of the Child (signed in January 1990 and ratified in May 1993).[9] These Conventions are supplemented by the UN Minimum Standards and Norms on Juvenile Justice, [10] which while not binding in the same manner as the Conventions, have been adopted by the UN General Assembly and are regarded as standards with which States should comply and by the CRC Committee General Comment No. 24 on children's rights in the justice system.[11]

A number of regional instruments also contain provisions relating to juvenile justice. These include the European Convention on Human Rights and the Convention on the Exercise of Children's Rights (both of which have been ratified by Greece).[12] In addition, the Council of Europe has issued Guidelines on Child Friendly Justice which, while not binding are, once again, standards which member States should implement.[13] Case law from the European Court on Human Rights contributes further to the standards to be met by States.

The EU has addressed juvenile justice, primarily in Directive (EU) 2016/800 on Procedural safeguards for children who are suspects or accused persons in criminal proceedings. The procedural rights provided in other European directives are also applicable, such as the Directive (EU) 2016/1919 on legal aid for suspects and accused persons in criminal proceedings and for requested persons in European arrest warrant proceedings[14] and Directive 2010/64/EU on the right to interpretation and translation in criminal proceedings[15].

The protection of child victims and witnesses is addressed by the UN Guidelines on Justice in Matters Involving Child Victims and Witnesses of Crime, and at regional level by the EU in the Victim's Rights Directive of 2012;[16] the EU Strategy on Victim's Rights (2020-2025); and 'the Communication from the Commission to the EU Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions, EU Strategy on Victims Rights' (2020-2025) (the EU Communication).[17] Additionally, other EU law covering the rights of victims of specific crimes contain relevant provisions, such as Directive 2011/36/EU on preventing and combating trafficking in human beings and protecting its victims.[18] The Guidelines of the Committee of Ministers of the Council of Europe on child-friendly justice also covers victims and witnesses.[19]

This review takes the instruments ratified by Greece as forming the framework for the national child justice system, justified by the fact that Greece incorporated the CRC into Greek Law with Law 2101/1994 and operates a monist system of law, automatically incorporating ratified international instruments to which it is a party into national law.

In terms of juvenile justice, the fundamental elements of a juvenile justice system are set by Article 40(1) CRC. It provides that:

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9 Greece incorporated the CRC by L. 2101/1992 and by L. 3094/2003 the Greek Ombudsperson and a specific Deputy Ombudsperson for Children's Rights have been established

10 The UN Standard Minimum Rules for the Administration of Juvenile Justice (Beijing Rules, 1985), the UN Guidelines for the Prevention of Juvenile Delinquency (Riyadh Guidelines, 1990), the UN Rules for the Protection of Juveniles Deprived of their Liberty (Havana Rules, 1990) and the UN Guidelines for Action on Children in the Criminal Justice System (Vienna Guidelines, 1997) together with the UN Rules for the Treatment of Women Prisoners and Non-custodial Measures for Women Offenders (Bangkok Rules, 2010)

11 CRC/C/GC/24, 18 September 2019.

12 European Convention on Human Rights and Fundamental Freedoms ratified 28/03/1953. Convention on the Exercise of Children's Rights ratified 11/9/1997.

13 Adopted by the Committee of Ministers on 17 November 2010 at the 1098th meeting of the Ministers' Deputies, 17th November 2010, accessible at https://rm.coe.int/CoERMPublicCommonSearchServices/DisplayDCTMContent?documentId=09000016804b2cf3

14 https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX-:32016L1919

15 https://eur-lex.europa.eu/legal-content/EN/ALL/?uri=celex-%3A32010L0064

16 Directive 2012/29/EU of the European Parliament and of the Council of 25 October 2012 establishing minimum standards on the rights, support and protection of victims of crime and replacing Council Framework Decision 2001/220/JHA (the Victim's Rights Directive).

17 COMMUNICATION FROM THE COMMISSION TO THE EUROPEAN PARLIAMENT, THE COUNCIL, THE EUROPEAN ECONOMIC AND SOCIAL COMMITTEE AND THE COMMITTEE OF THE REGIONS EU Strategy on victims' rights (2020-2025), COM/2020/258 final

18 https://eur-lex.europa.eu/legal-content/en/TXT/?uri=CELEX-%3A32011L0036

19 https://rm.coe.int/16804b2cf3.

States Parties recognise the right of every child alleged as, accused of or recognised as having infringed the penal law to be treated in a manner consistent with the promotion of human rights and fundamental freedoms of others and which takes into account the child's age and the desirability of promoting the child's reintegration and the child's assuming a constructive role in society.

The UN Convention on the Rights of the Child places obligations on States to follow the principles of child-friendly justice. There is no definition of 'child-friendly justice' in the Convention, but it is taken to be a system of justice which follows and incorporates the provisions of the Convention and, in particular, the due process guarantees contained within Articles 37 and 40 as well as other international standards, especially the UN Minimum Standards and Norms of Juvenile Justice.[20]

20 This includes the Standard Minimum Rules for the Administration of Justice, (the Beijing Rules) the Guidelines for the Prevention of Juvenile Delinquency (the Riyadh Guidelines); the Rules for the Protection of Juveniles Deprived of their Liberty; the Guidelines on Justice in Matters involving Child Victims and Witnesses of Crime and the Guidelines for Action on Children in the Criminal Justice System.

4
THE GREEK JUVENILE JUSTICE SYSTEM

The criminal justice system in Greece derives from the continental tradition and has been influenced by the principles of Roman law, the Classical School of Criminal Law and the laws of various European countries under whose jurisdiction Greece fell from time to time. The first Greek criminal law of 1823 included only one provision relating specifically to children, according to which, murder committed by a child under the age of seven was to be forgiven. Despite the lack of other provisions, children under the age of seven were considered unaccountable for other minor offences, but over the age of seven children were regarded as having the same criminal liability as adult offenders.

The Penal Code of 1834 raised the minimum age to ten years, and Article 121 of the Penal Code now sets the minimum age of criminal responsibility at 12 years. Although the CRC does not set a minimum age of criminal responsibility, the CRC Committee recommended that the minimum age should not be below 12 in its General Comment No. 10 on Juvenile Justice in 2007[21]. Since then, however, taking into account recent scientific findings and the fact that the most common minimum age of age of criminal responsibility amongst States is 14, it recommends that States should raise the minimum age of criminal responsibility to 14 if it has not already done so. Further, taking into account that adolescent brains continue to mature even beyond teenage years, affecting certain kinds of decision making, the Committee commends States parties that have an even higher age of 15 or 16.[22]

Compulsory Law 2135/1939 provided for the establishment of a juvenile court, with the first Court established in Athens in 1940. Juvenile courts are now available across the country and deal with all cases involving children in conflict with the law who are over the minimum age of criminal responsibility up to the age of 18.

In Greece the institutional legal framework for the protection of the rights of children in criminal proceedings is mostly, but not wholly, in line with international and regional instruments. The main legal instrument is the Greek Constitution (1975),[23] supported by specific laws relating to children, further details of which are contained in the sections below. Greece does not have a Juvenile Justice Law, but provisions relating to the treatment of children in conflict with the law are found in the Penal Code, which was last amended in 2021 by Law 4855/2021; in the Criminal Procedure Code which was last amended in 2021 by Law 4855/2021 as well[24], and in Law No. 4689/2020[25], which incorporates EU Directive 2016/800[26] and provides procedural guarantees for children who are suspected or defendant in the context of criminal procedures.

21 CRC/C/GC/10
22 CRC/C/GC/24 paras 20 — 23.

23 https://www.hellenicparliament.gr/UserFiles/f3c70a23-7696-49db-9148-f24dce6a27c8/001-156%20aggliko.pdf
24 https://www.kodiko.gr/nomologia/download_fek?f=fek/2021/a/fek_a_215_2021.pdf&t=9cd4566ed78c5ae3a90f5f55ea4607a0
25 Government Gazette 95/A/11-6-2019, available at: http://www.et.gr/idocs-nph/search/pdfViewerForm.html?args=5C7QrtC22wFqnM3eAbJzrXdtvSoClrL8smx2PaOMA0btII9LGdkF53UIxsx942CdyqxSQYNuqAGCF0IfB9HI6qSYtMQEkEHLwnFqmgJSA5WIsIuV-nRwO1oKqSe4BlOTSpEWYhszF8P8UqWb_zFijEvIo-96KN5QRhtXjIrtIsGCUfNEKdOeNlYed-CLu6M4
26 DIRECTIVE (EU) 2016/800 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL: https://eur-lex.europa.eu/legal-content/EN/TXT/HTML/?uri=CELEX:32016L0800&from=EN

5
DATA ON CHILDREN IN CONFLICT WITH THE LAW, CHILD VICTIMS AND WITNESSES

The Committee on the Rights of the Child in General Comment No. 24 urges States to collect data in a systematic way, including the number and nature of offences committed by children, the use and the average duration of pretrial detention, the number of children dealt with by resorting to measures other than judicial proceedings (diversion), the number of convicted children, the nature of the sanctions imposed on them and the number of children deprived of their liberty.[27] The Committee also recommends that States ensure that the child justice system is regularly evaluated, and in particular this should cover the effectiveness of the measures taken, and matters such as discrimination, reintegration and patterns of offending. [28]

Obtaining statistical data in relation to children in conflict with the law in Greece is challenging. There is no systematic collection of digitised data across the child justice system. As a result, it is only possible to obtain fragmented data from selected bodies and authorities involved in the administration of the juvenile justice system in Greece. In terms of data that is collected, further issues arise: the different bodies involved in the child justice system (the police, prosecutors, the juvenile probation and social welfare service (juvenile probation) and the courts collect and categorize their data in different ways, and not all keep fully disaggregated data. The lack of uniformity across the different bodies in the collection and categorisation of data makes it particularly challenging to gain a systematic overview of both historical and the current levels of offending by children.

In addition, regular amendments to the Penal Code (2003, 2005, 2010, 2015, 2019, 2021) have resulted in changes to the nature of the information recorded. For instance, the age limits for criminal liability, the offences that are criminally punishable, how the offence is charged (as a misdemeanour or felony) and the measures that are applied on a finding of guilt, have all been subject to alterations. Such differentiations mean that it is challenging to get an accurate picture of juvenile offending or to get a coherent and continuous statistical report covering a reasonable span of years. This of course, in turn, makes it difficult to discern trends in offending and does not provide the necessary evidence on which to base effective and robust prevention strategies.

As can be seen from the figures below, the national statistical authority recorded 6,462 crimes committed during 2019 (the latest year for which there are full figures) by 13–17-year-old 'offenders'. It is unclear from the statistics what exactly is covered. A note attached to the table from the National Statistical Authority notes: "*the figures relate to the offences committed during the year, in the degree of Felony or Misdemeanour (ex officio or prosecuted on appeal), for which the regional services of the Hellenic Police, either pre-investigated, or submitted the relevant charges or approvals*." It is presumed therefore, that the figures are either 'reported crimes' or 'arrest' statistics or a mix of both, not all of which will result in prosecution or conviction. Obtaining accurate figures on offending by children from these statistics is made more difficult by the fact that the National Statistical Authority records figures for children aged 6-12 (inclusive), and for children aged 13-17 years. The minimum age of criminal responsibility is 12, and thus 12-year-olds should be bracketed with the 13–17-year-olds. Those under 12 are legally incapable of committing a crime and thus the figure here should be zero. Although statistics are disaggregated by sex for the total numbers of those offending, there is no breakdown by sex with respect to children, and it is not possible to tell what proportion of the children in these statistics were female. However, police interviewees indicate that of children in conflict with the law, the overwhelming majority are male.

The National Statistical Authority disaggregates the percentage of crimes committed by different age groups, with juvenile crime formed 5.2 per cent of all crimes recorded. However, in determining the percentage of offences committed by minors, the figures relating to those aged 7-17 are included (although are recorded for 6-17), despite the fact that the minimum age of criminal responsibility is 12.[29] The resulting percentage therefore, is somewhat lower.

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27 General Comment No. 24 (2019) on children's rights in the justice system, CRC/C/GC/24, 18 September 2019, paras. 113

28 General Comment No. 24 (2019) on children's rights in the justice system, CRC/C/GC/24, 18 September 2019, paras. 114.

29 Στατιστικές - ELSTAT (statistics.gr) (in Greek)

Table 1
Number of crimes committed by juveniles

CRIMES COMMITTED BY AGE (2000,2005, 2010-2019)

Year	Committed	Offenders for felonies and misdemeanours, known per year (perpetrators an accessories)						
	Total no. of committed crimes	Total of known suspects	By Age					
			7-12 years old	13-17 years old	18-20 years old	21-24 years old	25-29 years old	Percentage minors
2000	369,137	330,261	541	22,831	37,093	45,683	51,975	7.1%
2005	455,952	417,555	258	24,733	46,352	58606	67,423	6%
2010	333,988	261,533	412	12,023	26,300	36,677	43,887	4.8%
2011	194, 031	135,088	447	4337	12,215	18,519	24,553	3.5%
2012	194,244	126,265	753	3272	7,366	14,023	20,602	3.2%
2013	199,800	119,556	326	5442	7,278	12,664	17,131	4.8%
2014	190,213	109,772	319	4330	6,361	10,117	14,292	4.2%
2015	197,074	111,020	272	4321	6,873	10,810	14,226	4.1%
2016	205,216	122,727	554	5616	7,493	11,614	14,928	5%
2017	221,225	125,012	368	5847	8,688	11,336	14,581	5%
2018	210,272	130, 493	359	6038	9,037	13,068	15,813	4.9%
2019	220,403	131, 278	370	6462	9,460	13,615	15,946	5.2%

Source: Greek Statistical Authority[30]

30 They can be accessed here: Στατιστικές - ELSTAT (statistics.gr) (in Greek)

As can be seen from Table 2 below, the most common offences are property offences rather than offences of violence. The Greek Statistical Authority data indicates that crimes are most commonly committed by boys, with girls a small minority of the children in conflict with the law.[31]

Table 2
Different types of crimes divided by the age group of offenders[32]

YEAR	2018[33]			2019[34]			2020[35]		
Group ages	**7-12**	**13-17**	**18-20**	**7-12**	**13-17**	**18-20**	**7-12**	**13-17**	**18-20**
Homicide with intent	0	6	20	0	9	14	0	16	31
Resistance	0	100	180	1	82	187	1	81	202
Unprovoked insult (now abolished as a crime)		7	7	0	3	8	0	3	3
Rape	0	17	28	1	13	27	0	32	19
Disruption of traffic safety	1	12	11	2	15	30	1	26	39
Arson	3	21	41	1	63	53	0	51	49
Insulting behaviour [36]	8	107	199	4	118	204	6	160	281
Forgery	5	30	96	9	33	78	6	14	71
Unprovoked and dangerous physical harm	10	246	397	19	296	453	14	349	540
Other 'distinguished' theft (e.g. theft of cultural artifacts or theft from public bodies)	38	278	260	11	165	192	1	222	184
Other theft	147	1880	1762	162	2036	1984	128	1618	1241
Other theft with burglary	37	414	513	52	570	517	19	369	355
Other robbery	15	469	425	31	454	347	14	470	293
Fraud		6	42	0	48	84	0	34	118
Distinguished theft with burglary	17	139	179	4	90	122	2	143	100
Extortion	2	6	42	2	21	11	1	15	16
Theft with kidnapping	3	29	25	5	20	23	4	45	16
Robbery with kidnapping	1	11	5	0	12	3	1	6	6

Source: Annual data reports of the Hellenic Police

31 https://www.statistics.gr/el/statistics/-/publication/SJU03/-
32 http://archive.data.gov.gr/dataset/statistikh-epethrida
33 http://archive.data.gov.gr/dataset/513fc2ca-238f-4c15-be91-2ecfe5e2e2e9/resource/3486829a-6e4c-4c61-b3d9-91b0e6ce6638/download/epetirida20182.pdf
34 http://archive.data.gov.gr/dataset/513fc2ca-238f-4c15-be91-2ecfe5e2e2e9/resource/3486829a-6e4c-4c61-b3d9-91b0e6ce6638/download/epetirida20182.pdf
35 http://www.hellenicpolice.gr/images/stories/2021/files21/05062021statistika.pdf
36 Penal Code Article 361.

Further information on crimes committed by children can be obtained from the Ministry of Justice. For the same year, 2019, these statistics show that 3,509 children were ***convicted*** in 2019.[37] It is presumed that this covers children aged 12-18 and that the figures provided cover all the courts in Greece hearing cases against juveniles. There do not appear to be any publicly available figures for the number of children who were diverted, had their cases discontinued or were acquitted following prosecution.

Table 3
Children convicted of crimes by year and court [37]

TIME PERIOD	ONE-MEMBER JUVENILE COURT	THREE-MEMBERS JUVENILE COURT	THREE-MEMBERS JUVENILE COURT OF APPEALS
01/01/2018-30/06/2018	1.832	321	20
01/07/2018-31/12/2018	1.576	15	35
01/01/2019-30/06/2019	1.831	14	13
01/07/2019-31/12/2019	1.619	13	19
01/01/2020-01/06/2020	556	8	11
01/07/2020-31/12/2020	833	33	4
01/01/2021-30/06/2021	86	13	11
01/07/2021-31/12/2021	Not available yet	Not available yet	Not available yet

Source: Ministry of Justice

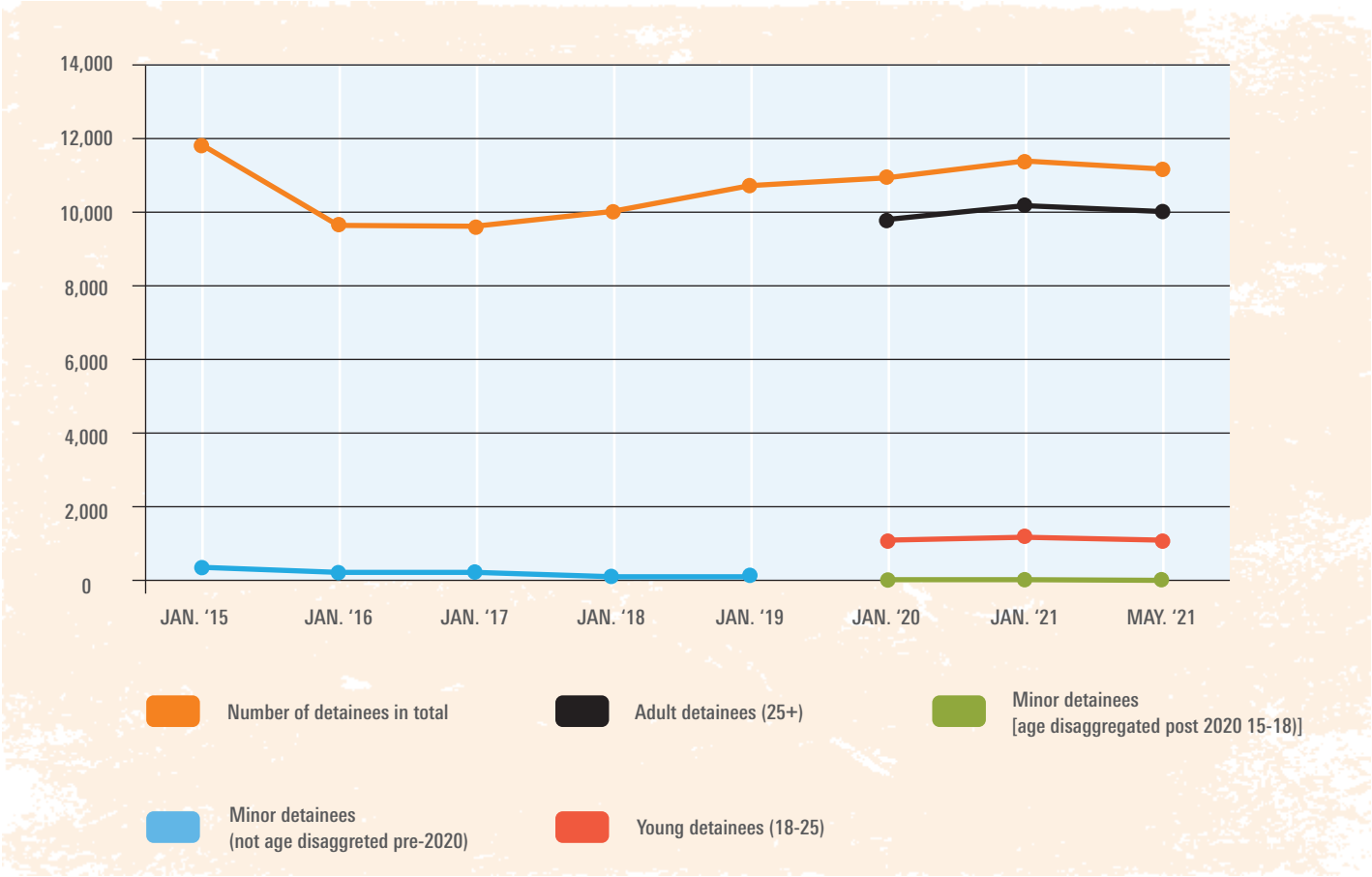
Figures are also available on the use of detention for children. A child may not be detained until he or she reaches the age of 15.[38] As can be seen in Table 3, the numbers are low, with just 30 detained in January 2020, which was down to 23 in May 2021, the last date for which figures were available at the time of writing. It does not include children in correctional centres, which are deemed an educational measure, but rather those in the detention facility in Corinth. It should be noted that the CRC Committee has recommended that the minimum age for detention should be set at 16 rather than the age of 15 as contained in the Penal Code.[39]

37 https://www.ministryofjustice.gr/?page_id=1603

38 Penal Code, Article 126 para. (2). See also Article 387 Criminal Procedure Code

39 CRC/C/GC/24 at para. 90.

Table 4
Detention of Children[40]



Source: General Secretariat of Anti-Crime Policy

The table below from the Athens Juvenile Probation and Social Welfare Service also shows that a measure of detention in their area is very low when compared to community rehabilitation measures.

Accurate data on child offending is essential not only for policy but also for the effective and efficient provision of services. It is difficult to devise an effective strategy for prevention unless the numbers, ages, gender and geographic distribution of those committing specific forms of crime are known. Equally it is difficult to ensure that the right services are in place in the right areas, without empirical data on where, geographically, they are needed.

The Government has sought to address the issue of data by incorporating Article 21 of EU Directive 2016/2020 into Article 18 of Law 4689/2020. Under Article 18, all public authorities including the Ministry of Justice, prosecutors and the juvenile probation and social welfare services, health services, social welfare and the National Centre for Social Solidarity (EKKA) are required to keep complete and up to date statistics on their work and how the rights in the Directive have been implemented, including the number of children in contact with the law who had access to a lawyer, the number of interviews/ investigations audio-visually recorded; the number of children deprived of their liberty and the number of children given corrective measures and therapeutic measures.[41] However, there is little evidence that this has been implemented as at the time of writing this report.

In addition to Law 4689/2020, Article 358 of Law 4700/2020 has established the Office for the Collection and

40 Ministry of Citizen's Protection, Statistical data on detainees: http://www.mopocp.gov.gr/index.php?option=ozo_content&perform=view&id=7055&Itemid=696&lang=GR

41 Article 18 para. 3 of Law 4689/2020.

Table 5

Decisions taken with regards to defendants in contact with Athens Juvenile Probation Service and Juvenile Courts (rehabilitation measure vs. special juvenile detention) 2016-2020.

Source: Athens Juvenile Probation and Social Welfare Service

Processing of Judicial Statistics (JustStat) in the central services of the Ministry of Justice. Its task is to collect qualitative and quantitative statistical data from all the courts in Greece. In June 2022, Presidential Decree 47/2022, titled "Establishment, organisation and operation of the Office for the Collection and Processing of Judicial Statistics at the Central Service of the Ministry of Justice," was issued. The mission of this Office is collect, analyse and disseminate data collected by the courts and prosecutor's offices within the country and to ameliorate the quality of the judicial statistics.[42]

Just as the data on children in conflict with the law is fragmented, so too is the data on child victims. The Ministry for Citizen Protection publishes data on the child victims of crime, though it is not clear whether the figures relate to cases where there has been a conviction of the perpetrator or all reported cases involving a child victim.[43] In addition, there is no mechanism in place for systematic reporting and/or recording of reported cases of child abuse and neglect. This gap that has been intensively highlighted by organizations and bodies concerned with child protection in Greece.[44] To address this, the Institute of Child Health (ICH), a semi-public agency funded by the Ministry of Health has been operating as a Centre for the Study and Prevention of Abuse - Neglect (CAN Center).[45] The ICH has developed the CAN-MDS System[46] which includes a methodology, necessary tools and synergies for the establishment of a national child abuse and neglect monitoring mechanism using a minimum data set, common methodology and definitions throughout all relevant sectors. This initiative could be used by the Greek State to develop a national mechanism for systematic reporting and/or recording of reported cases of child abuse and neglect.

42 https://www.kodiko.gr/nomologia/download_fek?f=fek/2022/a/fek_a_114_2022.pdf&t=b1da2dbd9989500ed33eb0a06a3d815f

43 See Α.Ε.Α./Κ.Α./ΔΙΕΥΘΥΝΣΗ ΔΗΜΟΣΙΑΣ ΑΣΦΑΛΕΙΑΣ

44 See Christina Zarafonitou: http://www.hscriminology.gr/wp-content/uploads/2019/08/crime-and-punishment-5.pdf. See also, the conclusions of the 2018 largescale Balkan Epidemiological Study of Child Abuse and Neglect (BECAN Study) available at http://www.becan.eu

45 under the No 2350/14-11-88 decision of the Minister of Health and Welfare

46 developed under the Project "Coordinated Response to Child Abuse and Neglect via Minimum Data Sets" [JUST/2012/AG/3250], co-funded by the EC Daphne III Programme (http://www.can-via-mds.eu/)

Table 6

Comparative table of cases involving victims who are children 2019 and 2020

Red indicates an increase in the number of cases and victims, blue indicates a decrease in cases and victims.

YEAR 2019 AND YEAR 2020 (8 MONTHS) - 2020 IN BRACKETS										Variance 2020 - 2019 cases	Variance 2020 - 2019 Victims
Offences	**Cases**	**Victims**	**National**	**Alien**	**Males**	**Females**	**Age 0-8**	**Age 9-14**	**Age 15-18**		
Article 306 (exposure at risk)	65 (75)	94 (97)	71 (60)	23 (37)	60 (65)	34 (32)	38 (48)	38 (37)	18 (12)	15.38%	3.19%
Article 308 (Simple Physical Injury)	67 (79)	76 (87)	63 (73)	13 (14)	63 (63)	13 (24)	4 (7)	28 (25)	44 (55)	17.91%	14.47%
Article 308A (Bodily Harm without Intent)	11 (5)	15 (9)	12 (5)	3 (4)	9 (9)	6 (/)	2 (/)	7 (2)	6 (7)	-54.55%	-40.00%
Article 309 (Dangerous Bodily Harm)	23 (36)	35 (48)	17 (24)	18 (24)	31 (37)	4 (11)	2 (2)	2 (14)	31 (32)	56.52%	37.14%
Article 310 (Grievous Bodily Harm)	2 (/)	2 (/)	1 (/)	1 (/)	2 (/)	/ (/)	/ (/)	/ (/)	2 (/)	-100.00%	-100.00%
Article 311 (Fatal Injury)	/ (1)	/ (1)	/ (1)	/ (/)	/ (91)	/ (/)	/ (/)	/ (/)	/ (1)	100.00%	100.00%
Article 312 (Causing injury by continuous cruel ehaviour)	6 (9)	6 (9)	5 (6)	1 (3)	3 (6)	3 (3)	/ (3)	4 (5)	2 (1)	50.00%	50.00%
Article 314 (Physical Injury caused by neglect)	34 (70)	42 (79)	34 (68)	8 (11)	28 (59)	14 (20)	9 (8)	20 (33)	13 (38)	105.88%	88.10%
Article 322 (Abduction)	8 (22)	10 (26)	9 (24)	1 (2)	7 (10)	3 (16)	6 (14)	1 (7)	3 (5)	175.00%	160.00%

YEAR 2019 AND YEAR 2020 (8 MONTHS) - 2020 IN BRACKETS										Variance 2020 - 2019 cases	Variance 2020 - 2019 Victims
Offences	**Cases**	**Victims**	**National**	**Alien**	**Males**	**Females**	**Age 0-8**	**Age 9-14**	**Age 15-18**		
Article 336 (Rape)	21 (35)	26 (39)	16 (23)	10 (16)	6 (12)	20 (27)	5 (3)	8 (19)	13 (17)	66.67%	50.00%
Article 337 (Violation of sexual dignity)	66 (33)	78 (40)	67 (30)	11 (10)	18 (8)	60 (32)	4 (/)	41 (29)	33 (11)	-50.00%	-48.72%
Article 339 (Harassment of Minor)	44 (38)	46 (46)	33 (31)	13 (15)	79 (16)	39 (30)	19 (13)	18 (31)	9 (2)	-13.64%	0.00%
Article 342 (Indecent Contact with Minor)	7 (7)	9 (9)	7 (8)	2 (1)	3 (6)	6 (3)	3 (/)	4 (6)	2 (3)	0.00%	0.00%
Article 347 (Assault against nature)	/	/	/	/	/	/	/	/	/	/	/
Article 348A (Child Pornography)	11 (14)	16815 (	11 (14)	5 (1)	/ (3)	16 (12)	3 (2)	1(5)	12 (8)	27.27%	-6.25%
Article 348B (Approaching children for sexual reasons)	1 (1)	1 (1)	1 (1)	/	/	1 (1)	/ (/)	1 (1)	/ (/)	0.00%	0.00%
Article 348C (Pornographic performances by minors)	/ (1)	/ (1)	/ (1)	/	/	/ (1)	/	/	/ (1)	100.00%	100.00%
Article 349 (Forced prostitution)	2 (3)	2 (3)	2 (1)	/ (2)	/ (/)	2 (3)	/	/	2 (3)	50.00%	50.00%

YEAR 2019 AND YEAR 2020 (8 MONTHS) - 2020 IN BRACKETS										Variance 2020 - 2019 cases	Variance 2020 - 2019 Victims
Offences	**Cases**	**Victims**	**National**	**Alien**	**Males**	**Females**	**Age 0-8**	**Age 9-14**	**Age 15-18**		
Article 351[47] (Trafficking)	/	49 (74)	19 (23)	30 (51)	17 (39)	26 (35)	/	/	/	/	40.65%
Article 351A (Assault of Minor for remuneration)	1 (6)	1 (9)	1 (9)	/	/ (6)	1 (3)	/ (1)	/ (5)	1 (3)	500.00%	800.00%
Article 352B (protection of the privacy of minors)	1	2	2	/	1	1	/	2	/	-100.00%	-100.00%
Article 353 (Causing scandal with indecent acts)	8 (2)	13 (2)	13 (2)	/	/	13 (2)	2 (1)	5 (1)	6 (/)	-75.00%	-84.62%
L.3500/2006 (Domestic violence)	94 (92)	118 (101)	94 (67)	24 (34)	47 (51)	71 (50)	31 (23)	48 (49)	39 (29)	-2.13%	-14.41%

Source: Hellenic Police Headquarters / Directorate of Public Security

In order to meet the requirements of both the CRC and Law 4689/2020, there will need to be a significant change in the nature and form of the data collected both on children in conflict with the law and particularly, on child victims and witnesses. Fully disaggregated data are not available; data infrastructure and resources remain weak; there does not appear to be formal inter-agency sharing or an exchange of information mechanism and neither, as yet, is there an ICT system in place that ensures the full integration of the police, prosecution, court and social welfare database systems, apart from the CAN-MDS System mentioned above.

Although JustStat will go part of the way towards providing the necessary justice data, it will not provide a complete picture of children in contact with the criminal justice system. The UNICEF report **'Gauging the Maturity of an Administrative Data System on Justice for Children'**[48] sees a mature administrative data system on justice for children as one which generates high-quality information on a set of indicators at regular intervals and which has:

A comprehensive and coherent legal and normative framework for data and statistics on justice for children;

- → Effective governance and the ability to plan in the area of administrative data for children;
- → A well-equipped infrastructure: stable access to information and communication technologies (ICT) and da-

47 Especially for Art. 351 the statistics are from the Annual Reports of the Referral Mechanism for the Protection of Victims of Human Trafficking, available at: https://ekka.org.gr/index.php/en/rolos-skopos-tou-ekka-en/statistika-en

48 UNICEF, Division of Data, Analytics, Planning and Monitoring, June 2021.

tabase software, along with adequate human resources and financing to support data collection, analysis and reporting;
- → Strong coordination of data on justice for children;
- → Completeness of data on justice for children;
- → Effective and secure data transmission;
- → Standardized data and practices in relation to justice for children
- → Administrative data quality assurance
- → Relevant use, robust demand and regular dissemination of such data.

RECOMMENDATIONS

- It is recommended that the government review the CRC Committee's requirements for data on children in contact with the law and UNICEF's publication, 'Gauging the Maturity of an Administrative Data System on Justice for Children,[49] in order to help it move towards a 'mature' system of data collection. This in turn will help the government to understand child justice trends and assist it in developing policy and planning to meet the needs of this group of children.

- Further research should be undertaken to ascertain what proportion of adults who are subject to a custodial sentence were previously juvenile offenders. This will allow policy makers to gain an understanding of the effectiveness of measures imposed on juveniles.

49 UNICEF Division of Data, Analytics, Planning and Monitoring, June 2021.

6 POLICY AND STRATEGY

The UN Guidelines for the Prevention of Juvenile Delinquency[50] (the Riyadh Guidelines), see the prevention of juvenile delinquency as an essential part of crime prevention in society.[51] It notes the need for and importance of progressive delinquency prevention policies and the systematic study and elaboration of measures to avoid criminalising and penalising the child for behaviour that does not cause serious damage to the development of the child or harm to others.

The Guidelines set out the requirements for policies and measures which should, in particular, include:

- philosophies and approaches aimed at reducing the motivation, need and opportunity for, or conditions giving rise to offending by children;
- consideration that youthful behaviour or conduct that does not conform to overall social norms and values is often part of maturation and growth process and tends to disappear spontaneously in most individuals with the transition to adulthood; and
- awareness that in the predominant opinion of experts, labelling a young person as deviant or delinquent often contributes to the development of a consistent pattern of undesirable behaviour by children.
- Community based services and programme should be developed for the prevention of juvenile delinquency, particularly where no agencies have been established. Formal agencies of social control should only be used as a means of last resort. [52]

As noted in the desk review, the Government established the Central Scientific Council for the Prevention of Minors' Victimisation and Delinquency" (KESATHEA)" under Law 3860/2010 to coordinate and organise prevention activities; forward proposals to reduce juvenile crime and provide expert opinions to the Minister of Justice on the prevention of juvenile crime and addressing juvenile victimization. After its initial establishment in 2010, KESATHEA was reconstituted in 2016. The term of the Council expired on July 17, 2019, and since then there has been no decision by the Minister of Justice regarding its future composition. This appears to be due to an intention to restructure the Council, which was announced in 2019.[53] A parliamentary question was asked seeking information on what was to happen to KESATHEA addressed to the Minister of Justice in March 2021. According to the Minister's answer in June 2021[54] a committee has been established in order to introduce institutional changes and examine the operation and the rationale for the different institutions involved with victimization of children and juvenile delinquency. The Committee has concluded its work and the President has submitted a report to the Minister with specific recommendations for measures to achieve effective reforms. At the time of this report, the Ministry has indicated that it will give particular emphasis to the treatment of juvenile offenders, so that they can be fully reintegrated into society in the new National Action Plan.[55]

Law 3860/2010 was followed in 2011 by a new draft Law which also contained provisions for the establishment of a nationwide network "ORESTIS" which would electronically connect and coordinate the activities of all institutions working on the prevention and control of juvenile victimization and juvenile delinquency.[56] Despite the importance of such a step, ORESTIS has not been established.

The first National Plan on the Rights of the Child was drafted within the framework of the actions of the EU Strategy for the Rights of the Child and was adopted in June 2021 by the National Mechanism for the Development, Monitoring and Evaluation of Action Plans. It is currently being implemented. This National Action Plan was welcomed by the UN Committee on the Rights of the Child. However, the Committee recommended that the Greek State should ensure that the National Action Plan is equipped with time-bound and measurable goals and a

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50 Adopted and Proclaimed by General Assembly Resolution 45/112 of 14 December 1990.

51 The UN Guidelines for the Prevention of Juvenile Delinquency, Guideline 1.1, Adopted and Proclaimed by General Assembly Resolution 45/112 of 14 December 1990.

52 The UN Guidelines for the Prevention of Juvenile Delinquency, Guideline 1.5, Adopted and Proclaimed by General Assembly Resolution 45/112 of 14 December 1990.

53 See Presidential Decree 81/8-7-2019 on the restructuring of the Ministries.

54 https://www.hellenicparliament.gr/UserFiles/67715b2c-ec81-4f0c-ad6a-476a34d732bd/11670472.pdf

55 The new National Action Plan was not available at the time of writing of this report.

56 JMD 49540/2011, Government Gazette 877/B/2011: http://www.et.gr/idocs-nph/search/pdfViewerForm.html?args=5C7QrtC22wFYAFd-Dx4L2G3dtvSoClrL805i3CSI0pux5MXD0LzQTLf7MGgcO23N88knBzL-CmTXKaO6fpVZ6Lx3UnKI3nP8NxdnJ5r9cmWyJWeIDvWS_18kAE-hATUkJb0x1LIdQ163nV9K--td6SIucCGWqWghiwUzPmRRra9x-3JQZ4g8qZZ6FFPGWh0dIPLp

dedicated budget for its implementation; should activate the National Mechanism; ensure the monitoring and evaluation of the National Action Plan at the national and local levels; devise a comprehensive policy and a comprehensive strategy on children that encompass all areas covered by the Convention; allocate adequate human, technical and financial resources for their implementation, and ensure that children and organizations working for their rights participate in the preparation, implementation and evaluation of the policy, strategy and action plans.[57]

In terms of child-friendly justice Greece has made progress over the last few years. According to the EU Justice Scoreboard, in 2019 Greece was in the last position as none of the various arrangements in Member States that make justice system more accessible for children and suited to their needs were applicable.[58] In 2020, Greece made a small degree of progress by fulfilling one out of the six indicators of the Scoreboard.[59] In 2021 it was placed at the top of the Scoreboard, but only in relation to children who are suspected of or accused of a crime.[60]

Along with the absence of policy in the field of child justice or indeed, in child protection it has not been possible to find a strategy governing the delivery of child justice. The National Mechanism for the Development, Monitoring and Evaluation of Action Plans for the Rights of the Child was established by Article 8 of Law 4491/2017 with responsibility for developing and monitoring the last National Action Plan for the Rights of the Child[61] and a Ministerial Decision[62] has re-appointed members of the National Mechanism, which will continue the work. Hopefully, this will address the following interviewees comment:

> *"The current situation in child justice in Greece reflects the lack of a stable long-term policy on children's rights and children's policy in terms of social care, not just in terms of children involved in criminal proceedings but also in terms of how to look after children."*[63]

The Ministry of Justice participated in the initiative undertaken by the Council of Europe on "Consultation with children in the process of developing a new Council of Europe strategy on children's rights (2022-2027)"; in that framework, the Ministry of Justice organised consultations with children aiming to express their own perspective and propose solutions so that they will be reflected in the Council's strategy. Greece's contribution focused on children's experiences, views and ideas in relation to juvenile criminal justice.

In addition, the Ministry of Justice participates in the consortium of the Justice Closer, an EU funded project. Through a set of integrated activities and adopting a participatory approach, the Justice Closer project aims at promoting and reinforcing child participation in criminal proceedings through practice in the field as well as through children's direct experience. This project will contribute further to the effective and coherent application of EU criminal law, by focusing on the practical implementation of Directive 2016/800, which was transposed by law 4689/2020 into Greek legislation.

Still, the lack of a comprehensive juvenile justice policy has contributed to a lack of either purposeful multi- or cross-sectoral working to address offending by children, and a limited development of services for children in contact with the justice system. It has also meant that the gender balance of offending has not been addressed. Interviewees, and particularly juvenile probation officers emphasised that children in conflict with the law are predominantly male. The figures from the Athens Juvenile Probation and Welfare Service corroborate that view. There is a need to focus policy on offending by boys, while not neglecting the lesser levels of offending by girls.

Research and a comprehensive policy on child justice based on that research, would enable the government to understand trends in criminal offending, the extent to which current practices meet the needs of children and society, the development of more effective prevention strategies, and the development of effective services that will help children who offend to reintegrate into society.

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57 Concluding observations on the combined 4th to 6th periodic reports of Greece : Committee on the Rights of the Child. 28 June 2022, available at: https://digitallibrary.un.org/record/3978634

58 The 2020 EU Justice Scoreboard, available at: https://ec.europa.eu/info/sites/default/files/justice_scoreboard_2020_en.pdf

59 The 2021 EU Justice Scoreboard, available at: https://ec.europa.eu/info/sites/default/files/eu_justice_scoreboard_2021.pdf

60 The 2022 EU Justice Scoreboard , available at: https://ec.europa.eu/info/sites/default/files/eu_justice_scoreboard_2022.pdf

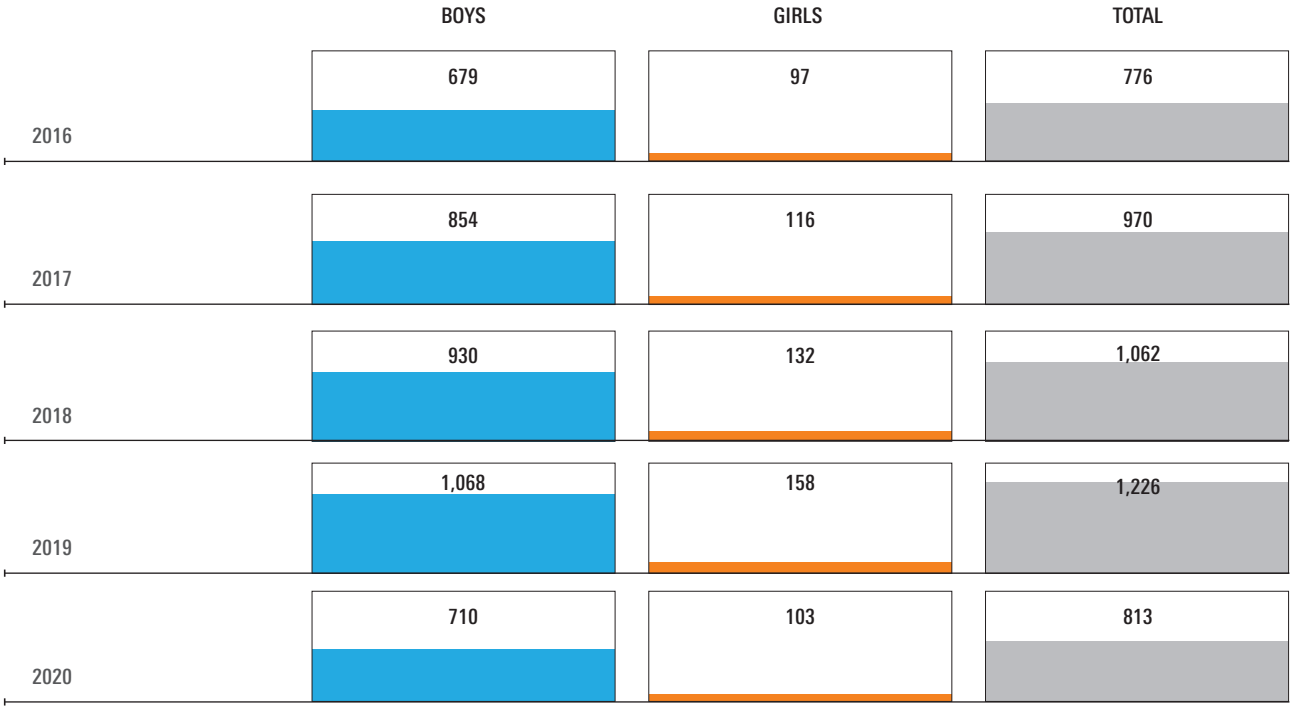
61 Article 10 Law 4491/2017.

62 Ministerial Decision No 47790οικ. /08.06.2021

63 Interviewee 13.

Table 7

Sex disaggregated data on children in contact with Athens Juvenile Probation Service and Juvenile Courts, 2016-2020.



RECOMMENDATIONS

- It is strongly recommended that the Government consider developing a child justice policy and a strategy based on the policy to enhance the operation of the child justice system.
- The Committee on the Rights of the Child recommends regular evaluation of the juvenile justice system to determine the extent to which it meets its aims and purposes.[64] It is recommended that the National Mechanism for the Development, Monitoring and Evaluation of Action Plans for the Rights of the Child should implement a five-year cycle of evaluation, and should ensure that involves external evaluators in the process.

64 United Nations Guidelines for the Prevention of Juvenile Delinquency (Riyadh Guidelines).

7
INFORMATION FOR CHILDREN ON THE JUSTICE SYSTEM

Up until the National Action Plan for the Rights of the Child, it does not appear that there has been a focus on providing children with easily accessible information about the justice system. The National Action Plan provides for a national telephone line providing information on child friendly justice on a 24/7 basis, promising to answer calls within twelve seconds, starting January 2022. It also provides for the implementation of an interactive website[65] and printed information material to inform parents and children about children's rights and the justice system. There will be a need to advertise these two information points widely and especially to children. Consideration should also be given to developing an 'App' so that the interactive website can be easily accessed on mobile phones. In addition, the government intends to add information on human rights and the national bodies to which children can turn for advice and assistance in the school curriculum in primary, secondary and high school.[66]

In the beginning of 2022, the Deputy Ombudswoman in collaboration with the Association of Juvenile Probation Officers and UNICEF Greece Country Office developed a child friendly guide including child rights information for children who come in contact with police authorities. The guide has been shared with the Ministry of Citizen Protection whose approval is pending. Once approved it is expected to be be used and disseminated by competent Police Departments at regional and local level.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65 Available here https://www.ministryofjustice.gr/?page_id=7812
66 Information from the Ministry of Justice.

PART 2

THE ADMINISTRATION OF THE CHILD JUSTICE SYSTEM

1 LAWS RELATING TO CHILDREN IN CONFLICT WITH THE LAW

RECOMMENDATION

- In order to make the law relating to children in contact with the criminal justice system more accessible, the Ministry of Justice should consider consolidating existing legislation pertaining to juvenile justice in a new Child Justice Law, or at least producing a manual containing all laws relating to children in contact with the criminal law that is freely available both online and in printed form.

Article 40(3) of the CRC provides that 'States Parties shall seek to promote the establishment of laws, procedures, authorities and institutions specifically applicable to children alleged as, accused of, or recognised as having infringed the penal law.'

At regional level, the Parliamentary Assembly of the Council of Europe has urged member states to "*establish a specialized juvenile justice system by means of dedicated laws, procedures and institutions for children in conflict with the law*".[67]

As was noted above, there is no Juvenile Justice Law as such. Rather, the laws relating to children in conflict with the law are to be found primarily, but not exclusively in the Penal Code, the Criminal Procedure Code and in Law No. 4619/2020,[68] which incorporates EU Directive 2016/800.[69] The fact that the laws relating to juvenile justice are spread across numerous instruments makes the law more difficult to access and more difficult for lay persons to understand.

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67 Child-Friendly Juvenile Justice: From rhetoric to reality, Doc 13511 19 May 2014.

68 Government Gazette 95/A/11-6-2019, available at: http://www.et.gr/idocs-nph/search/pdfViewerForm.html?args=5C7QrtC22wFqnM3eAbJzrXdtvSoClrL8smx2PaOMA0btIl9LGdkF53UIxsx942CdyqxSQYNuqAGCF0IfB9HI6qSYtMQEkEHLwnFqmgJSA5WIsIuV-nRwO1oKqSe4BIOTSpEWYhszF8P8UqWb_zFijEvIo-96KN5QRhtXjIrtIsGCUfNEKdOeNlYed-CLu6M4

69 DIRECTIVE (EU) 2016/800 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL: https://eur-lex.europa.eu/legal-content/EN/TXT/HTML/?uri=CELEX:32016L0800&from=EN

2 THE JUVENILE COURT

The CRC Committee General Comment No 24 notes that *"in order to ensure the full implementation of the principles and rights … It is necessary to establish an effective organisation for the administration of justice".*[70] This requires a Juvenile Court or similar court, specialised units within the police, the judiciary, and the prosecutor's office, as well as specialised defenders or other representatives who provide legal or other appropriate assistance to the child.

Article 96(3) of the Constitution of Greece requires that cases involving child offenders shall be handled by juvenile courts. Juvenile Courts were established by Compulsory Law 2135/1939 with a specialised procedure.[71] There are three types of juvenile courts: the one-member juvenile court, the three-member juvenile court and the Juvenile Court of Appeals. The Court's jurisdiction is based on the severity of the crime and its characterisation in the Penal Code as a felony or misdemeanour.[72] There is a Juvenile Court in each First Instance Court District, though there is no uniformity in how often the courts operate in the different districts. In Thessaloniki, the three-member court meets each month, dealing with four to five serious cases involving a child defendant in a day. In Chania, however, there were only two juvenile court days in 2021, dealing with fifty cases. In another region it was noted that it was not unusual for the juvenile court to have 20 or 30 cases before it in one day, and for the three-judge courts to hear more than 10 cases in a day.[73]

Clearly, if judges are required to deal with so many cases in a day, each case can only be given a short period of time and is likely to preclude any meaningful review of the case. There is a risk that cases will be dealt with in a perfunctory manner. Setting aside only two days in a year for the juvenile court sitting, as in Chania, also leads to delay: many children will have to wait months for their case to come to court. Current thinking in developed juvenile justice systems is that it is vital to demonstrate that every child accused of committing a crime will meet with a rapid response from the juvenile justice system.

RECOMMENDATIONS

- It is recommended that the Ministry of Justice review the organisation of juvenile court sittings to ensure that there is a court sitting at least once a month to prevent undue delay in hearing children's cases.
- Juvenile courts should ensure that cases are given sufficient time to enable children to participate effectively in their case, recognising that this will require more juvenile court days.

70 CRC/C/GC/24 Para 105.

71 Compulsory Law 2135/1939 provided for the establishment of the Minor's Court, with the first Court established in Athens in 1940. The Court dealt not only with children accused of a criminal offence, but also those who were on the verge of developing criminal behaviour.

72 The Greek PC separates criminal behavior into two categories: felonies and misdemeanors. Infringements were abolished through an amendment of the PC (Article 18 PC). The jurisdiction of each Minors' court is specified in art. 113, art. 114 and 115 of the Criminal Code of Procedure. The one-member juvenile court is competent for offences committed by minors, except those which fall within the competence of the three-member juvenile court. The three-member juvenile court is competent for offences committed by minors who are older than 15 years old and which are described in art. 127 of the PC i.e., crimes that if committed by an adult would be considered felonies and which include elements of violence or are against life of physical integrity. The juvenile court of appeals decides on appeals against the decisions of the one-member and three-member juvenile courts.

73 Interviewees provided information on the courts.

3 POLICE

Art. 6 of 7/2017 PD established the Sub-Directorate for the Protection of Minors under the Attica Directorate of Security. The Sub-Directorate consists of two departments: one of which is the Department for the Protection of Minors. This Department is responsible for the prevention and combatting of crimes committed by children or against them; the study of the social causes of crimes committed by children; cooperation with competent bodies on the prevention and repression of children' delinquency and searching for missing children. The second department is the Department for Addressing Minors' Delinquency which is responsible for addressing juvenile delinquency through cooperation with judicial authorities and competent bodies. It involves responsibility for the care and treatment of juvenile offenders during their presence in police facilities and especially during detention and transfer, as well as for protection and support of children in general. Although the Sub-Directorate for the Protection of Minors is intended to be national, it appears in practice that it only exists in a few places: for example, in Athens, Thessaloniki, Patra and Heraklion, Crete.[74]

In addition to the two departments above, a Department of Drugs and Minor's Delinquency has also been in operation since 2001 based on art. 6 PD 141/2001 (amended by PD 26/2011). The Department deals with research into preventive measures and the suppression of crimes connected to drugs, covering both crimes committed by children or against them; the collection, process and utilization of information on the habits, extra-curriculum activities, places where children meet and information on crimes in relation to drugs committed by or against children; the drafting of national action plans on combatting crimes related to drugs and the cooperative projects with relevant bodies on raising awareness of crimes related to drugs and juvenile delinquency.

Last, the Hellenic Police established Specialised Services aiming to Address Domestic Violence in 2019. The mission of such services is to ensure the protection of victims and to provide support while avoiding secondary victimisation. The mandate of the Specialist Services includes encouraging victims of domestic violence to make complaints; managing relevant complaints; coordinating the various actors involved; systematically monitoring the cases; continuous training of its personnel and promoting awareness of domestic violence amongst the public. The services operate at regional level and more specifically in all police directorates of every prefecture.[75]

The CRC Committee, in General Comment No 24, states very clearly that *"[i]t is essential for the quality of the administration of child justice that all the professionals involved receive appropriate multidisciplinary training on the content and meaning of the Convention. The training should be systematic and continuous and should not be limited to information on the relevant national and international legal provisions. It should include established and emerging information from a variety of fields on, inter alia, the social and other causes of crime, the social and psychological development of children, including current neuroscience findings, disparities that may amount to discrimination against certain marginalized groups such as children belonging to minorities or indigenous peoples, the culture and the trends in the world of young people, the dynamics of group activities and the available diversion measures and non-custodial sentences, in particular measures that avoid resorting to judicial proceedings. ….. There should be a constant reappraisal of what works."*[76]

There is little evidence available on the extent to which police officers in specialized departments who deal with juvenile crime have received specialised training. Participants in the research indicated that the police allocated to the Department on the Protection of Minors do not, as a rule, receive specialist training before placement.[77] Further, based on the information available in the official website of the Hellenic Police, it appears that the curriculum of the Police Academy does not include a specialised course on the protection of children or on handling cases involving children.[78] Interviewees indicated that there is some in-service training available: from time-to-time police officers receive training from non-governmental organisations and some also access training webinars, particularly from CEPOL or Interpol. Police officers indicated that training is

74 EU Study on children's involvement in judicial proceedings – contextual overview for the criminal justice phase – Greece, 2013.

75 Official Website of the Ministry of Citizen's Protection, Press release, 04 November 2019, available at: http://www.mopocp.gov.gr/index.php?option=ozo_content&lang=GR&perform=view&id=6960&Itemid=692?option=ozo_search&lang=EN&lang=GR

76 CRC/C/GC/24, 18 September 2019, paras. 111 and 112.

77 Interviewee.

78 http://www.astynomia.gr/index.php?option=ozo_content&perform=view&id=6124&Itemid=52&lang=&lang=EN

also available through the police, up to twice a year, focused on how to talk to children, how to treat them when they are in the police stations and their rights.[79]

There is a view amongst interviewees, that in areas of the country where police officers are expected to handle all types of cases, and are not specialised, that they are only at an 'average' level when it comes to knowledge and the management of cases involving children and would benefit from access to greater levels of training. On the other hand, a number of interviewees felt that police officers they came into contact with were well prepared and trained. However, an interviewee noted, "*knowledge followed their personal sensibility and empathy, while it should precede it*."

More than one interviewee commented that being appointed to work with children in conflict with the law is not a popular assignment and that some officers were reluctant to engage in training. When they did so, they presented as detached and though present in person were absent in attention, with very little change in their knowledge, attitudes and abilities as a result of the training. As one training provider noted, some police officers understood and were willing to learn the necessary skills while others were not, and no amount of training or seminars was likely to change their approach to children.

> *"They yell at me and call me names or they spit on me, so I am definitely not going to hold them by their hand."*[80]

RECOMMENDATIONS

- In order to meet international standards, it is recommended that the Ministry of Citizen Protection should review its current pre-service and in-service training for police officers to ensure that all officers receive basic training on dealing with children in conflict with the law and in managing child victims and witnesses. Training should be provided in accordance with international standards, should be inclusive, use interactive approaches and should be regularly evaluated.
- It is recommended that in order to meet international standards, the Ministry for Citizen Protection should ensure that a Department for the Protection of Minors is set up in every police area and staffed with at least 2 – 3 trained officers.
- Police officers should be evaluated before being selected to work in the Department for the Protection of Minors to assess their capacity to apply an appropriate and child friendly approach.
- The Ministry should ensure that all police officers in the Sub-Directorate for the Protection of Minors have received specialised training before or immediately on their transfer to the Sub-Directorate.
- In the absence of a Department for the Protection of Minors, members of the police force should be selected as suitable to work with children and receive training to enable them to do so.
- Police officers working with children should be subject to regular supervision and should be provided with support, especially in relation to child abuse cases.

79 Interviewee.
80 Interviewee.

4
PUBLIC PROSECUTOR

The public prosecutor plays a central role in the Greek justice system and is actively involved in the cases of child offenders and child victims. In cases of children who are alleged to or are accused of a crime, the public prosecutor will attend the juvenile court and advise the judge on the measures to be imposed. They also have the power to propose and initiate diversion at an early stage through the imposition of educational/reformatory measures.[81]

The CRC Committee General Comment No. 24 requires that the prosecution service should have specialised units to deal with children.[82] In Greece there are only five appointed public prosecutors for children: two at the courts in Athens, one in Piraeus and two in Thessaloniki.[83] In other regions, the general public prosecutor has responsibility for both children and adults.

As with other justice professionals, prosecutors, face challenges, some of which are structural. Prosecutors are appointed to deal with juvenile crime or have cases involving children assigned to them. Working with juveniles or child victims and witnesses is not popular and most do not see such an assignment as benefitting their career.

According to the official website of the National School for Judicial Officials, the curriculum for prosecutors includes 12 hours on the responsibilities of the prosecutor for minors and 6 hours on children's rights and child friendly justice.[84] A specific training on children's rights and child friendly justice took place recently (May 2022) in the National School for Judicial Officials. [85]

Any training on working with children at the present time is minimal and prosecutors are expected to gain experience from others in the office or from practising in the field. Many prosecutors assigned to work on children's cases fulfil their allotted time of two years and move on to other forms of cases. This leads to high turnover, a lack of follow-up on children's cases and a potential loss of institutional experience in the prosecutors department as a result. Prosecutors are expected to manage a high caseload, with most taking the view that they are understaffed with few resources and limited services that they can turn to in cases involving children.

RECOMMENDATIONS

- Public prosecutors for children should be appointed in each district where a Court of First Instance operates to take on children's cases and should receive and complete appropriate training before taking on the role.
- The Public Prosecutors Offices should be supported by multidisciplinary child protection teams under a dedicated social service.[86]
- The National School for Judicial Officials should offer, and prosecutors should receive mandatory training on handling cases involving children as soon as they are appointed as public prosecutors for minors so that they are prepared to manage such cases.

81 The role and the responsibilities of the prosecutor are outlined in several provisions throughout the Code of Criminal Proceedings, most notably in Articles 12, 20,27,28,30,46 and 227 Government Gazette 96/A/11/11-6-2019, http://www.et.gr/idocs-nph/search/pdfViewerForm.html?args=5C7QrtC22wFqnM3eAbJzrXdtvSoCIrL8PT2mIaPXRibtII9LGdkF53UIxsx942CdyqxSQYNuqAGCF0IfB9HI6qSYtMQEkEHLwnFqmgJSA5WIsIuV-nRwO1oKqSe4BIOTSpEWYhszF8P8UqWb_zFijGMqgncuOLN9VfqAr3uaqTfxgCPfk1b8I49-ZpbxDzxW. responsibilities are also prescribed in Law 4689/2020/ Government Gazette 103/A/27-5-2021, http://www.et.gr/idocs-nph/search/pdfViewerForm.html?args=5C7QrtC22wHUdWr4xouZundtvSoCIrL85SHhfC--biJ5MXD0LzQTLWPU9yLzB8V68knBzLCmTXKaO6fpVZ6Lx3UnKI3nP8NxdnJ5r9cmWyJWeIDvWS_18kAEhATUkJb0x1LIdQ163nV9K--td6SIuV0Wmy0IBLBJquGxkVZ1VUrB-5smbJGwKbLnFdFDYTe7

82 CRC/C/GC/24, 18 September 2019, Para 106.

83 Art. 27 par. 1 Criminal Procedure Code provides that the prosecutor of the court of appeals appoints a special Minors' prosecutor (and his/her deputy) in the courts of Athens, Piraeus, Thessaloniki and Patra

84 https://www.esdi.gr/wp-content/uploads/2022/03/2o_stadio_eis-agg28.pdf
https://www.esdi.gr/wp-content/uploads/2022/03/1o_stadio_eis-agg28.pdf

85 https://www.esdi.gr/seminars/%cf%87%ce%ac%cf%81%cf%84%ce%b7%cf%82-%ce%b8%ce%b5%ce%bc%ce%b5%ce%bb%ce%b9%cf%89%ce%b4%cf%8e%ce%bd-%ce%b4%ce%b9%ce%ba%ce%b1%ce%b9%cf%89%ce%bc%ce%ac%cf%84%cf%89%ce%bd-%ce%b4%ce%b9%ce%ba%ce%b1%ce%b9/

86 This has been also provided by L.2447/1996 Art. 49-54.

5 THE JUDICIARY

The CRC Committee has recommended that States parties should ensure the appointment of specialized judges for dealing with cases concerning child justice.[87] The juvenile courts are staffed by designated judges and investigating judges. Previous participation in a special training as organised by the National School of Judicial Officers or the possession of a doctorate or a postgraduate degree in a related subject shall be assessed for the appointment of a designated judge.[88] Currently, according to the official website of the National School for Judicial Officials, the curriculum for judges includes only 6 hours on children's rights child friendly justice.[89] As pointed out by a number of judges interviewed for this review: "*There is no such thing as specialisation". "From time to time there are various seminars that are organized and in which one can participate, if interested. It is up to the Judge to take care of and obtain the necessary knowledge and to handle it based on his/her character. Everyone does the best they can."*[90]

There has recently, however, been a change. Law 4871/2021, Reforms in the legal framework for the National School of Judicial Officers has set out compulsory training programmes for all judges of the civil and criminal courts. These consist of four training cycles which judicial officers must, complete over a four to eight year. Compulsory training in child friendly justice falls within the fourth cycle. [91]

RECOMMENDATIONS

- It is noted that the principles of 'child friendly' justice have been introduced as part of compulsory training programmes for judges, but clearly it will take some time until all judges handling children's cases complete their four cycles of training. It is recommended that training on child friendly justice should be offered as a priority to all judges hearing children's cases.

87 CRC/C/GC/24, 18 September 2019, Para 107.
88 Art.26 par 3 L.1756/1988
89 https://www.esdi.gr/wp-content/uploads/2022/03/1_stadio_28poleir.pdf
90 Interviewee
91 Article 43 of Law 4871/2021.

6
JUVENILE PROBATION AND SOCIAL WELFARE SERVICE
(JUVENILE PROBATION SERVICE)

CRC Committee Comment No, 24 requires specialised services, such as probation, counselling, or supervision together with specialised facilities, including day treatment centres and, where necessary, small-scale facilities for residential care.[92]

The juvenile probation service is another key-professional body within the Greek justice system. The Service is regional and is under the supervision of the Department of Justice Support Functions within the Ministry of Justice.[93] It operates in each court of first instance and in particular in the juvenile court, where such a court is established. The service is supervised by the head of the Prosecutor's Office of First Instance.[94] Their operation is regulated by Presidential Decree 49/1979 and Presidential Decree 6/2021. Article 26 of PD 6/2021 sets out the mission of the Juvenile and Social Welfare Services, which is to provide non-custodial supervision and support to juveniles who have committed an offence or who are in danger of becoming perpetrators or victims of criminal acts (i.e., are involved in anti-social behaviour). The service provides assistance and supervision to juveniles who have been sentenced to a suspended sentence under supervision, those whose sentence has been converted to community service and those released on parole. It also provides reports on juveniles to the sentencing judge about the child and his or her background and family and the conduct of social investigations and other actions to prevent juvenile delinquency.

The mandate of juvenile probation officers includes the provision of support to child victims and witnesses, although multiple probation officers interviewed for the study stated that they did not carry out this function in practice.[95] Others referred to the probation service's ability to deal with victims as being at a "primitive" stage.[96] The juvenile probation officers are from a variety of disciplines including social workers, sociologists, social anthropologists, psychologists, law professionals, political scientists. Most are well educated with undergraduate and masters' degrees in a variety of fields.[97]

Interviews undertaken for this assessment highlighted that, in practice, juvenile probation officers are the 'backbone' of the child justice system and play an integral role in dealing with children in conflict with the law, pre- and post-trial, but their work is severely constrained by human and financial resource related challenges, which have resulted in an acutely understaffed and overburdened service. As one participant commented, '*probation officers carry the whole weight of juvenile delinquency in Greece.*'[98]

In terms of their **prevention work,** probation officers receive reports from the Public Prosecutor for Minors in relation to a child who is exhibiting aberrant behaviour but against whom no legal proceeding has been brought. It is usually the child's parents or professionals from education/healthcare settings who submits the report to the Public Prosecutor for Minors. The service is then obliged to carry out a social investigation into the child's personality and home environment, identifying the root causes of child offending, before drafting an assessment report with proposals to address the issues. According to participants, the only service available is the juvenile probation service – and the recommendation is generally that the child be placed under the custody or the supervision of the probation service for an average of 6 months.[99] Participants expressed concern about the legality of placing a child in the custody of the juvenile probation service as possibly violating the right to family life in Article 8 of the European Convention on Human Rights and Fundamental Freedoms . As one interviewee explained: '*the paradox in this procedure is that the Juvenile Probation Office pronounces its expert opinion that said child should be assigned to the custody of the Service. A report is submitted, and a decision is taken by the Minister of Justice. It is not a decision taken by a judicial body, with all the safeguards and the guarantees established by the Constitution. In this case, the decision is taken by a member of the executive power. A lot of things have been written on this anti-institutional management of these cases, but it still applied as such."*[100]

92 CRC/C/GC/24 Para 108.
93 Presidential Decree 6/2021, Article 15.3
94 Presidential Decree 6.2021, Article 26.2(e).
95 Interviewees.
96 Interviewees.
97 All probation interviewees were asked about their qualifications.
98 Interviewee.
99 Interviewee.
100 Interviewee.

At **pre-trial** stage, probation officers become involved in a case when a child is charged with an offence and the prosecutor makes an order for the probation officer to submit a report on the child. Probation officers do not attend the police station and are generally not present when the child is taken before the investigating judge,[101] although there was some disagreement amongst juvenile probation officers on this matter. Some interviewees stressed that at times, probation officers meet with the child just before the hearing before the investigating judge, which does not allow sufficient time for them to understand the context and background of the child's case nor properly interview the child / parents in person. [102]

In drafting the report, the probation officer is required to consider the child's situation, including the social environment, family situation, school enrolment, the child's mental state and any addiction issues, before proposing measures for the child's rehabilitation. Some participants were of the opinion that the probation officer was under a duty to submit the report to the prosecutor and the Judge before the case is tried and that the hearing may not proceed without the report.[103] Others stated that the report is handed to the Judge mid-hearing.[104] Participants in the review were in agreement however, that in the overwhelming majority of cases, both the prosecutor and the judge accept the recommendations made by the probation officers and the measures proposed. In those rare cases where they do not agree, this has to do with new issues that arise during the hearing.[105] The investigating Judge may impose pre-trial reformative measures, the most common of which is to be monitored by the Juvenile Probation Service, until trial.[106] There are no penalties for failing to comply with pre-trial measures, but attendance is known to be looked upon favourably by the Judge at court in considering post-conviction measures.[107] Depending on the measure imposed, probation may also be required to monitor children post-conviction.

The juvenile probation service faces a number of challenges which, if not addressed, are likely to have a significant impact on children in conflict with the law and the ability of Greece to comply fully with the CRC.

6.1. Recruitment of probation officers

Due to a freeze on the hiring of public sector workers in 2003 as a result of the financial crisis, probation officers in employment now tend to be around 50 years old and older. There have been only a few new appointments with seven newly recruited probation officers in 2021.[108] Although some specialised officers joined from different sectors under the *Public Service Mobility Scheme* over the period of the freeze, interviewees considered the lack of 'new, young blood' entering the juvenile probation service to be a considerable weakness. One of the difficulties of the long period of recruitment freeze is what will happen when these probation officers retire, as one stakeholder commented *'We will need a new generation!'*[109]

6.2. Training of juvenile probation officers

According to Presidential Decree 49/1979, which regulates the Juvenile Probation Services, officers must attend training, following the curriculum set out in the Decree[110] while in the probationary period of employment. This provision does not appear to have been implemented. In practice, there is a distinct lack of any form of structured training programme for juvenile probation officers on the specifics of their work with children, with many seeking out and paying for training opportunities themselves, sometimes using their allocated annual leave to attend. There are currently some introductory courses on the law concerning children being offered by INEP (the Vocational Training Institute)[111] and these are to be increased to provide continuous education under the National Action Plan for Child Rights 2021-2023.

Due to the lack of training offered, many of the juvenile probation officers have not been trained on updates and amendments to the law or new practices in working with children in conflict with the law. Interviewees commented on this, noting '*There are people sitting in these services in their 60s, who started working 40 years ago, applying different laws and mentalities.'*[112]

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101 Interviewee.
102 Child interviewee.
103 Interviewee.
104 Interviewee.
105 Interviewee.
106 Interviewee.
107 Interviewee.

108 http://www.et.gr/idocs-nph/search/pdfViewerForm.html?args=5C7QrtC22wHUdWr4xouZundtvSoClrL8Brhf8tweTVIpCCmqt-4mgGBYFbrLslLKgyqxSQYNuqAGCF0IfB9HI6qSYtMQEkEHLwnFqmgJ-SA5WIsluV-nRwO1oKqSe4BIOTSpEWYhszF8P8UqWb_zFijMv4PzMjHX-byfwkt5m6CHA6j-vLwX2queaaR4QtgaNyE
109 Interviewee.
110 Presidential Decree 49/1979 Art. 2: https://www.eetaa.gr/np/mhtrwo_np/pdf/1979/fek_11a.pdf
111 Interviewee.
112 Interviewees.

6.3. Expansion of mandate

Despite the limited recruitment over the years, the mandate of the service has been incrementally widened to include a range of roles and responsibilities not previously foreseen. This includes (technically) responsibility for child victims, whom probation officers do not feel at all equipped to deal with, in light of their complex and varied needs. As one probation officer noted *'If for juvenile offenders the interdisciplinary work is 1 on the scale, when it comes to child victims, it is 10 on the same scale.'*[113] In practice, as noted above, very few probation officers interviewed appear to be carrying out this additional mandate in relation to child victims. One participant reported there can also be a reluctance on behalf of victims to work with the probation service due to a perception they are part of the justice system and will take the side of the offender.[114] Another significant expansion of the service is the inclusion of responsibility for adult offenders, which eats into the time available to deal with children's cases. One participant described how he feels he is working in a 'double role' – simultaneously expected to carry out the responsibilities of a juvenile probation officer and a 'social assistance officer' for adults, though he had no say in this expansion of his job description.[115]

6.4. Limited time per case

Due to staff shortages and the expansion of their mandate, probation officers are faced with an extremely high caseload and, as a result, are only able to dedicate limited time to each individual case. For instance, in Athens, there are 17 probation officers to cater to the needs of the population of nearly 4 million.[116] The ratio is even worse in decentralised regions. In Drama, there is 1 probation officer dealing with juvenile cases as well as alternative measures for adults.[117] One probation officer interviewed for the research estimated she dealt with 300 cases per year, meaning she produces approximately 6 social reports per week.

The limited time available per case means that reports submitted by probation officers can be extremely brief (1 or 2 pages long). According to one participant, there is not an established outline for the probation report with clear requirements of what it should contain,[118] leading to a lack of standardisation between reports of different probation offices and geographical variations. Other participants commented on the fact that probation officers tend to receive very limited information from the public prosecutor who orders the report (i.e. a one-word telegram stating 'submit a report on case X'), without the requisite psychiatric expert report and other necessary details relating to the child.[119]

6.5. Failed multi-disciplinary approach

Multiple stakeholders commented on the fact that the probation service does not operate according to a 'multi-disciplinary approach', as is foreseen by the law. The idea behind this requirement is that the service would be made up of professionals from a range of disciplines – lawyers, social workers, psychologists, sociologists and anthropologists – reflecting the fact that juvenile delinquency cannot be addressed unilaterally. In reality, though, there are too few probation officers to implement an interdisciplinary approach successfully, as the service is often staffed by 1 or 2 officers per area. On rare occasions, probation officers may informally discuss aspects of individual cases with colleagues of a different profession, but overwhelmingly they handle cases individually. This means that a juvenile case will be handled *exclusively* by one individual of a highly specialised profession (either a social worker, or lawyer, or psychologist) leading to an inevitable discrepancy in the handling of cases, and a clear weakness in the system.[120] Multiple interviewees questioned how a probation service can operate successfully with just one public servant employed (of one professional background) to cover the needs of a whole city, and expressed the view that each office should be staffed by at least one interdisciplinary team. Some respondents expressed concern about the limited legal understanding of probation officers with backgrounds in social work, some of whom do not understand the difference between the role of the public prosecutor and the investigative judge or the difference between a misdemeanour and a felony.[121] Others commented on the lack of connection between probation offices in different regions,[122] leading to the service operating in silos around the country, with no opportunity to discuss individual cases or share best practice approaches.

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113 Interviewee.
114 Interviewee.
115 Interviewee.
116 Interviewee.
117 Interviewee.
118 Interviewee.
119 Interviewee.
120 Interviewee.
121 Interviewee.
122 Interviewee.

6.6. Supervision and burnout

Multiple probation officers noted the distinct lack of any form of supervision or professional development, or support for dealing with stress. One probation officer interviewed was administratively supervised by a higher rank officer, whom he had never met but who, nevertheless, still 'evaluates' his performance.[123] Another informed the interviewer she was paying for 'supervision' (i.e. regular sessions with a therapist/psychologist where the 'supervisors' advises on how to handle cases and the work-related stress). Burnout amongst probation officers themselves is high, owing to the lack of supervision, training and support. As one participant commented:

> *"This approach really leads to burnout of the [probation] colleagues – they feel that they do not get the support that they need. There is a lot that needs to be done to support them – they are under resourced and facing increased demand. There is a lot that needs to be done to see how the whole approach can be changed for their benefit. There is heavy burnout, really, in all of the social services. This is not something that has been acknowledged by the administration, and, with probation officers, because they are front line professionals, it is absolutely necessary to address this issue."*[124]

6.7 Lack of technical equipment

Probation officers have limited access to technical equipment facilities, which may further hinder their work. Some offices declined requests to be interviewed for the study owing to a lack of equipment to carry out the interviews. For instance, in the Court of Egion in Akhaia, there is still no wi-fi on the premises, while in others there are no computers, meaning that juvenile probation officers often have to provide their own laptop (and data) at work.

6.8 Acute challenges for offices in remote regions

Although the challenges described above are faced by the probation service generally, they are more acute in the offices based in the country-side.

As one probation officer noted:

> *"Whatever you hear from Athens and Thessaloniki, put it on the 'nth', so that we can be within the rationality frame."*[125]

Another recommended:

> *"In the short-term, they should rethink the probation service across the whole country. We are not talking about Athens and Thessaloniki, it's the rest of the country […] The needs are even higher when it comes to the countryside."*[126]

The Juvenile Probation and Social Welfare Service is a fundamental part of the child justice system and is rapidly reaching a crisis point. While those working in the probation service are dedicated and very hard working, many will reach retirement age or leave the service in the not-too-distant future. There is no indication that there are other officers waiting in the wings to replace them. Without the juvenile probation service, it is difficult to see how non-custodial measures imposed by the court on children in conflict with the law will be managed. This is exacerbated by the lack of establishment of the Scientific Team for Juvenile Assessment as provided in Law 4689/2000.

RECOMMENDATIONS

- Undertake an in-depth review of the juvenile probation service and devise a strategy for its development for the next 10 years;
- Ensure the training provisions contained in the National Action Plan on Child Rights 2021-2023 are relevant, accessible and fully implemented and ensure that juvenile probation officers are provided with the time to undertake the training offered,
- As part of the review undertake an in-depth evaluation of the work of the probation service including with children and carers who received support from the probation service to determine effectiveness, impact and outcomes of probation support;
- Devise a number of short-term measures to support the probation service to deliver quality services to children while the review is being undertaken including the provision of regular training programmes that probation officers can access.
- Put in place a supervision system for juvenile probation officers as a support mechanism for officers.

123 Interviewee.
124 Interviewee.
125 Interviewee.
126 Interviewee.

7 LEGAL AID

Article 14(3)(d) of the International Covenant on Civil and Political Rights provides that the right to legal representation is a minimum guarantee in the criminal justice system for all persons, and this includes children. Article 37 of the CRC reiterates this provision by providing that a child "*shall have the right to prompt access to legal aid and other appropriate assistance".* The CRC Committee in General Comment No 24 requires States to ensure that the child is guaranteed legal or other appropriate assistance from *the outset* of the proceedings (i.e., from the moment of apprehension), in the preparation and presentation of the defence and until all appeals and reviews are exhausted. The Committee recommends that States provide legal representation free of charge, for all children who are facing criminal charges and should not permit children to waive their right to legal representation.[127] In addition the European Convention on Human Rights, Article 6(3) provides for the right to legal aid.

The right to legal representation is established by Art. 20 of the Greek Constitution. It is also provided for in Articles 91 and 99 of the Criminal Procedure Code. In addition, Art. 6 para. 1 of Law 4689/2020 provides that the child has a right of access to a lawyer. The right applies as soon as the child is informed by the competent authorities that he or she has acquired the status of a suspect or accused. Children are entitled to receive legal assistance before they are questioned by the police or any other competent authority during any investigating act or any other evidence-collection processes.[128] While this provision appears to implement the international standards, it should be noted that although children have a right to legal representation, they do not necessarily have a right to *free* legal representation in all instances under Greek Law (though this is implied in Directive 2016/800). The provision of legal aid, as well as the general requirements that govern it are provided for in Law 3226/2004 which was partially amended by Law 4274/2014. Free legal aid is only granted to a suspect or the accused in criminal cases where that person meets the financial criteria (i.e., they are of low income). In the case of children, if they are not employed, they will be assessed on the parents' income, which puts children at a disadvantage as they have to rely upon the willingness of parents to pay for legal representation if they do not meet the financial criteria for legal aid.

The General Secretariat for Lifelong Learning and Youth had been implementing a legal aid program for children and youth up to 35 years old aiming to provide tangible and immediate legal support to children and young people belonging to vulnerable social groups who lacked the resources and in general the ability to bear the financial costs and responsibility for their representation both in court and out of court. The programme was implemented from 1997 until 2019 in cooperation with Bar Associations and the cases were handled exclusively by young lawyers up to 35 years old, as a way to encourage and support young lawyers during their entry into the labour market. This particular program ended in 2019 and currently the free legal aid is provided by the Bar Associations through the institution of 'Provision of legal aid to low-income citizens' as provided for by the Law 3226/2004, which was last amended in 2021.

Article Art. 16 of Law 4689/2020 amended the Law 3226/2004 and provides that a child has a right to free legal aid when accused of a felony and, in the case of a misdemeanour, where the crime, if committed by an adult, could be punishable with a sentence of at least 6 months of imprisonment. The assistance of a lawyer is also mandatory when the child is brought before a prosecutor or judicial authority in order to take a decision as to whether the child should be deprived of liberty and at any time while the child is detained. The general standard internationally, however, is that wherever there is a possibility of deprivation of liberty, the child should be represented by a lawyer, and this includes when the child is alleged to have committed a crime and is questioned by the police.

Law 4689/2020 Article 6 para. 3 gives child suspects and/or accused the right to meet with his or her lawyer in private before being questioned by the competent authorities as well as the right to have their lawyer present and participating during their questioning (which must be explicitly mentioned in the drafted report following the questioning). The child also has a right to representation by a lawyer at identity parades, confrontations and reconstructions of a crime scene (in accordance with Article 6(4)(c) of Directive 2016/800.

There is a power to derogate from article 6 and to permit a child to be questioned without a lawyer present for a temporary period for one of two reasons: there is an urgent need to prevent serious adverse consequences to life, freedom or the physical integrity of a person, or when immediate action by the investigating authorities is imperative to prevent substantial jeopardy to criminal proceedings in re-

127 CRC/C/GC/24 at para. 51.
128 Law 4689/2020 article 6 para 2.

lation to a serious criminal offence. In deciding to derogate from the child's right to legal representation, the best interests of the child must be the primary consideration. This power of derogation is in line with the EU Directive.

There was considerable criticism with respect to the legal aid amendments contained in Law 4689/2020. Although theoretically, a child now has the right to consult with a lawyer prior to and during interrogation, the unavailability of legal aid lawyers to attend the police station make this right illusory for those who do not already have a relationship with a lawyer on whom they can call.[129] The lack of coverage also extends to children who are being questioned in relation to a misdemeanour that does not carry with it a possible six-month sentence if committed by an adult, and to a child whose parents' means are too great to qualify for legal aid but who fail to engage a lawyer for the child. The lack of legal protection for the child may lead him or her to make admissions or confessions which he or she later says were gained by oppression or the promise of an advantage, making it difficult to prepare an adequate defence for the child.

The provisions in Law 4689/2020 granting automatic legal aid in cases where an adult would face a minimum term of imprisonment of 6 months goes some way towards meeting the standards of provision of legal aid expected by the CRC but is not in full compliance.

Currently, there is not a single dedicated authority in Greece with responsibility for legal aid. At present, responsibility for legal aid is shared between the Ministry of Justice, the Courts and the Bar Associations throughout the country. Lawyers are paid by the Ministry of Justice for providing free legal aid but are appointed by the Court according to a list drawn up the local Bar Association. Lawyers offering legal aid services are registered in specific lists which are available in the courts. There are no separate codes or standards for lawyers providing free legal aid,[130] and there does not appear to be any supervision or monitoring of the service provided by appointed lawyers.

Although in theory children are able to access legal aid for the purposes of representation, in practice there are a number of challenges. Children in need of a legal aid lawyer must submit an application to the court at first instance, and then have to wait until a lawyer is appointed to take the case. The practice is for the Court to appoint the lawyer whose name has come to the top of the list, who may or may not take the case when approached. If the lawyer refuses, then the next name on the list will be informed. Many parents decide that the wait, often a couple of weeks but sometimes more, is too long, and contact a lawyer themselves. For those who choose to wait, or cannot find the money, a lawyer will be appointed, though there is no guarantee that the lawyer will have any experience in the field of juvenile justice or criminal law, or indeed, much experience in taking on case work in the courts.

A further challenge relates to remuneration. As in many countries, the legal aid system pays at a low rate, and it may take up to 18 months for a lawyer to receive payment for the case. Further, payment is for representation only and does not cover reimbursement of additional expenses, such as travel or photocopying. Interviewees indicated that the low level of pay and non-reimbursement for expenses impacts on the level of service that lawyers offer. Although many lawyer' names are on the list provided by the Bar Association, many are not willing to take on legal aid cases. In many instances those who are prepared to take the cases are younger, newly qualified lawyers who wish to get practice experience. The more experienced a lawyer becomes, the less attractive it is to them to take on a legal aid case. This is not necessarily a challenge provided that the lawyer is supervised but, in many cases, junior lawyers are left to manage on their own. There was some criticism of legal aid lawyers from interviewees including that, in some instances, they paid only superficial attention to cases and sought to conclude them summarily to avoid a lengthy delay in getting paid and incurring additional expenses.

There is currently no requirement that a lawyer taking on a juvenile case should have received training specifically related to handling a criminal case for a child. As noted above, there does not appear to be any supervision of legal aid lawyers and little requirement as to the quality of service that they provide. While no doubt there are a number of dedicated lawyers who provide an excellent service, there also appear to be some who do not reach this standard.

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129 Open Society Justice Initiative and Justicia, Legal Aid in Greece, https://www.justiceinitiative.org/uploads/997f9adc-0614-4ed3-a027-cefe721007bc/eu-legal-aid-greece-20150427.pdf.

130 Open Society Justice Initiative and Justicia, Legal Aid in Greece, https://www.justiceinitiative.org/uploads/997f9adc-0614-4ed3-a027-cefe721007bc/eu-legal-aid-greece-20150427.pdf.

RECOMMENDATIONS

- The government should consider making it mandatory for all children who are the subject of criminal proceedings, however minor, to have access to free legal aid;
- The current procedure for making an application for legal aid and the appointment of a legal aid lawyer to a case should be thoroughly reviewed, with a view to eliminating delay and ensuring a quality service.
- The Bar Associations in collaboration with the Ministry of Justice should review the process for putting names forward for the court 'list' of lawyers willing to take legal aid cases to ensure that those whose names are on the list are prepared to accept such cases and have the skill and experience to do so.
- The Bar Associations should monitor lawyers on the list and consider whether, in the light of refusal to take cases without good reason, their name should be removed from the list.
- Lawyers approached to take a case should respond to the court within 2 working days indicating whether or not they will take on the case.
- The Bar Association, in cooperation with the Ministry of Justice should consider setting standards for defence lawyers representing children
- All lawyers taking on children's legal aid cases should be required to complete a training module to be prepared by the Bar Association on how to communicate with children, how to encourage participation and how to provide appropriate standards of service to children.
- The Ministry of Justice should review the payment of legal aid lawyers to ensure that incidental costs, such as photocopying and travel to court are covered and repaid.

PART 3

PROCEDURAL RIGHTS

Articles 37 and 40 of the CRC, supplemented by Articles 10-12 of the UN Standard Minimum Rules for the Administration of Juvenile Justice (the Beijing Rules)[131] provide for basic procedural rights during investigation and prosecution.

Prior to the Police Code of Conduct (Presidential Decree 254/2004) there were no specialized procedures when a child was apprehended by the police, although Article 5 para. 4 of the Police Code placed an obligation on police officers to treat children with understanding and humanity, and to protect them from exposure to destructive effects and dangers in line with Article 40(1) of the CRC.[132]

EU Directive 2016/800 on procedural guarantees for children who are suspects or accused in criminal proceedings (which takes into account the Guidelines of the Council of Europe on child-friendly justice) was incorporated into the national legislation by Law 4689/2000. Together with the Criminal Procedure Code, which contains procedural safeguards for children once the investigation stage is reached, it significantly reinforces the procedural protection for children suspected of or accused of a crime.

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131 Adopted by General Assembly Resolution 40/33 of 19 November 1985.
132 See https://www.policinglaw.info/assets/downloads/2004_Code_of_Police_Ethics_(Greece).pdf

1 RIGHTS OF THE CHILD AT THE POLICE STATION

Article 10 of the Beijing Rules requires that upon apprehension of a child, the parents or guardian shall be notified immediately and, where this is not possible, within the shortest possible period of time.

The child should not be questioned without his or her parents present. This means that the police should wait for the parents to arrive before questioning the child. In the absence of a parent, another appropriate adult should accompany the child to ensure that the questioning is not oppressive. Article 5 of Directive 2016/800 also requires that the police should inform parents about the procedural rights of the child either orally or in writing as soon as possible and in such detail as is necessary to safeguard the fairness of the proceedings and the effective exercise of the rights of the child.

No data are available on the extent to which parents are informed in a timely fashion when a child is apprehended, or whether the police always wait for the arrival of the parents before questioning the child, though one police officer interviewed for this paper stated that if a parent could not be contacted or failed to arrive at the police station within a reasonable period of time, they would proceed with questioning in their absence and would not seek to find another suitable person to accompany the child. Juvenile probation officers were clear in interview that they do not attend police stations and only get involved at the stage where the child appears before the investigating judge (unless the prosecutor is considering diversion).

Article 37 of the CRC provides that children shall have prompt access to legal and other appropriate assistance when he or she is being questioned as a suspect. The right is mirrored in Article 6(3) of the European Convention on Human Rights and Fundamental Freedoms. The right to legal representation is established by Article 20 of the Greek Constitution and is also contained in the Criminal Procedure Code.[133] In addition, Article 6 para. 1 of Law 4689/2020 provides that a child who is suspected of, or is accused of, a criminal offence has a right to receive legal assistance before they are questioned by the police or any other competent authority during any investigating act or any other evidence-collection processes.[134] While this appears to comply with international standards, it should be noted that although children have a right to legal representation, they do not necessarily have a right to *free* legal representation in all instances under Greek Law (though this is implied in Directive 2016/800.

No data are available on the number of children who were represented by lawyers at the police station but both police and prosecutor interviewees were of the view that in the case of minor crimes it was not always necessary for the child to have a lawyer:

> *When the crime is small, say petty theft only a small percentage have a lawyer and the rest do not. But when we get to more serious crimes then the percentage increases. That is, more than half of them get a lawyer. Especially in our service in both departments where we usually deal with the most serious crime, almost all minors have a lawyer*[135]

Police officers are required to tell the child and the parents that they can have a lawyer present during the questioning. However, in practice, there is no 'duty lawyer' scheme at the police station (i.e. lawyers who are on call to attend children at the police station) and it is up to the parents to locate a lawyer. It appears from interviewees that the police do not see it as part of their role to assist parents in finding a lawyer for the child.

> *In general, as a police force, we do not deal with this issue [finding a lawyer]. This will be done later in the criminal proceedings, when the child leaves the police and goes to the Prosecutor, where they can ask for a lawyer. Mostly they find a lawyer when the case goes to an investigating judge, and when they cannot find a lawyer, the respective investigating judges will appoint one.*

133 Penal Procedure Code Art. 97, 100, 105, 340 https://www.kodiko.gr/nomologia/download_fek?f=fek/2019/a/fek_a_96_2019.pdf&t=fb-1c3def51c2d1423139f802b2cdc089

134 Law 4689/2020 article 6 para 2.

135 Police interviewee

Despite the absence of either a parent or a lawyer, police officers do, in some cases, take a written statement from the child, ask the child to sign the statement and seek to rely on that statement before the investigating judge.[136] This is particularly worrisome as the child may also not be represented by a lawyer before the investigating judge. Where the child is represented, this frequently results in a written complaint by the defence lawyer to the investigating judge.

It was not possible due to COVID-19 to visit police stations or to determine whether and if so, to what extent, children were placed with adults while awaiting their parents or a decision to bail them. Nor has it been possible to determine the extent to which treatment and conditions at the police station comply with international standards. However, the National Plan of Action for Children's Rights 2021-2023 has as one of its actions, the issuance or orders by the Hellenic Police Headquarters on the treatment of children during police and procedural actions, their arrest, examination and detention.

RECOMMENDATIONS

- Ensure that before a child is questioned at the police station either a parent or, where the parent is not available, an appropriate adult is present. This may require the organisation at local level of an 'appropriate adult'[137] scheme.
- The National Action Plan for the Rights of the Child 2021-2023 provides for a national, free of charge, 24/7 telephone number, that can be called from either a mobile or landline to provide information on child-friendly justice. The date for establishment of the line was January 2022. Police should ensure that there are posters and leaflets advertising the phone number and should permit, encourage and enable children (and their parents) to call the number so they are fully informed of their rights prior to any questioning.
- Children should also be provided with age appropriate, and language appropriate leaflets explaining their rights while at the police station. As mentioned also above, the use and dissemination of the child friendly guide including child rights information for children that come in contact with police authorities as developed by the Greek Deputy Ombudswoman for Children's Right, the Association of Juvenile Probation Officers and UNICEF Greece Country Office is an initial step towards this direction.

136 Interviewee.

137 Referred to in CRC General Comment No 24. An appropriate adult is a person who attends police questioning to support the child and ensure that the child is treated fairly and in accordance with the protections provided in the Law.

2 RIGHTS OF THE CHILD DURING INVESTIGATION (PRE-TRIAL)

The public prosecutor for children, or if the latter is not available, the competent public prosecutor should be informed as soon as possible of the arrest of a child, and the child must appear before the prosecutor within 24 hours.[138] If the offence alleged would have been a felony if committed by an adult or the child was arrested on the basis of an arrest warrant, the public prosecutor will refer the child's case to the juvenile investigating judge.[139] If the offence is a misdemeanour, the public prosecutor can initiate prosecution by ordering a preliminary investigation or a main investigation or by referring the case to trial by directly summoning the child.

It was noted in a report on the Greek juvenile justice system in 2013 that parents or guardians were not permitted to be present when a child suspect was interviewed.[140] However, Law 4689/2020 Article 14 makes it clear that the child is to be accompanied by a person exercising parental responsibility at all stages of the criminal proceedings including the investigation stage. The only exceptions to this are where the presence of a parental responsibility holder may not be in the best interests of the child; or if it has been impossible to find or communicate with the parental responsibility holder or his or her presence may substantially jeopardise the criminal proceedings. This new provision incorporates article 15 para.2 of the EU Directive 2016/800 and is in line with international standards. In such cases, the child has the right to nominate another appropriate adult to accompany him or her. If the person nominated by the child is not acceptable to the prosecutor another person may be designated from a body responsible for the protection of children (Law 4689/2020 art. 14 para 2).

Law 4689/2020 article 7 requires that a child who is suspected or accused of a criminal act must be assessed by the Juvenile Probation and Social Welfare Service after a written order from the prosecutor or a judicial officer. The report should include information on the child's personality, economic, social and family environment, as well as the mental and physical state of the child.[141] This provision mirrors EU Directive 2061/2020 article 7.[142] The Deputy Ombudswoman for Children's Rights has suggested the development and use of individual need assessment tools for children who come in contact with the law[143] In that context, Terre des hommes Hellas through the EU funded project *'FOCUS on my needs: working together for children in criminal proceedings'* has created an e-learning course and a series of tools aiming to ensure the capacity building of professionals with a specific focus on how they can apply individual assessments tools in their specific context and everyday work.[144]

In addition, Law 4689/2020 art. 7, para 2 introduces a new body, the Scientific Team for the Assessment of Minor Offenders, which will assist with an evaluation of the child in cases where the Juvenile Probation and Social Welfare Services are either not operating or where they seek a specialized assessment on the child's mental health or drug addiction. This body, however, has not been established as at the time of writing.

138 Criminal Procedure Code, Art. 279.
139 Criminal Procedure Code, article 279(1).
140 ICF GHK Study on children's involvement in judicial proceedings – contextual overview for the criminal justice phase – Greece, June 2013 (European Union 2013).
141 Law 4689/2020, article 7 para. 1
142 A report on the child was mandatory, even before law 4689/2020. However, it is the first time that this report and the social inquiry upon which is based is being referred to as an "individual assessment of the child".
143 according to art 22 of the EU Directive 2012/29, art. 19 of the EU Directive and article 7 of the EU Directive 2016/800.
144 https://focus.justicewithchildren.org/en

3 DIVERSION AT PRE-TRIAL STAGE

Once the police have referred the case, the public prosecutor may, at this point (and without judicial intervention or approval), divert a child who has committed petty offences and stop the criminal process, reducing the risk of stigmatization to the child and further harm as a result of the formal proceeding.[145] This provision mirrors Article 40(3)(b) of the CRC which provides that States shall seek to promote laws and procedures which prioritise measures for dealing with such children without resorting to judicial proceedings. The power to divert children may be exercised where the child has committed a misdemeanour and the prosecutor deems, based on the circumstances of the act, and the overall personality of the child, that prosecution is not necessary to prevent reoffending.

Before deciding on diversion, the public prosecutor must meet with and hear the views of the child and must have received an evaluation from the juvenile probation and social welfare service.[146] If the prosecutor decides to proceed with diversion, he or she may set a deadline by which the child must complete the imposed diversionary measure. The prosecutor retains the power to proceed with prosecution if the child fails to complete the diversionary measure within the set timeframe. There are no other criteria to be fulfilled under the Penal Code prior to diversion being ordered. For instance, the prosecutor does not have to be satisfied that the child is freely and voluntarily admitting his or her guilt to the offence of which he or she is accused.

If the prosecutor decides to proceed with diversion, a deadline is generally set for completion of the imposed diversionary measure, which can include any of the non-custodial reformative measures contained in Article 122 of the Penal Code. The prosecutor retains the power to proceed with prosecution if the child fails to complete the diversionary measure within the set timeframe.

The Beijing Rules, which form part of the UN Minimum Standards and Norms of Juvenile Justice, require the State to establish safeguards with respect to diversion that minimise the potential for coercion and intimidation: children should not feel pressured into consenting to diversion.[147] The child must be provided with '*adequate and specific information on the nature, content and duration of the measure, and on the consequences of a failure to cooperate, carry out or complete the measure*' prior to consenting to the diversion.[148] In addition, children should be given the opportunity to express their views concerning the (alternative) measures that may be imposed, and those wishes should be given due weight.[149] It does not appear to be the case that these standards currently underpin the prosecutor's decision on diversion.

The Committee on the Rights of the Child in General Comment No. 24 have also emphasised the following:

- Diversion should be used only when there is compelling evidence that the child committed the alleged offence, that he/she freely and voluntarily admits responsibility, and that no intimidation or pressure has been used to obtain that admission and, finally, that the admission will not be used against him/her in any subsequent legal proceeding;
- The child must freely and voluntarily give consent to the diversion, a consent that should be based on adequate and specific information on the nature, content and duration of the measure, and on the consequences of a failure to cooperate, carry out and complete the measure;
- The law should indicate the cases in which diversion is possible, and the powers of the police, prosecutors and/or other agencies to make decisions in this regard should be regulated and reviewed. All State officials and actors participating in the diversion process should receive the necessary training and support;
- The child must be given the opportunity to seek legal or other appropriate assistance on the appropriateness of the diversion offered by the competent authorities, and on the possibility of review of the measure;
- The completion of the diversion by the child should result in a definite and final closure of the case. Although confidential records can be kept of diversion for administrative and review purposes, they should not be viewed

145 According to Article 46 Penal Procedure Code, the prosecutor may decide not to prosecute the child and, instead, to order one or more of the non-custodial, reformatory measures provided for in Article 122 of the Penal Code.

146 Kosmatos K. 2020, p. 220-221.

147 Rule 11.3, Commentary, of Beijing Rules.

148 Committee on the Rights of the Child, General Comment No. 10 (2007), para. 27.

149 Committee on the Rights of the Child, General Comment No. 10 (2007), para. 45 (relating to the child's right to participate in the juvenile justice process, as enshrined in Article 12 of the CRC).

as "criminal records" and a child who has been previously diverted must not be seen as having a previous conviction. If any registration takes place of this event, access to that information should be given exclusively and for a limited period of time, e.g. for a maximum of one year, to the competent authorities authorized to deal with children in conflict with the law.

In practice, the prosecutor rarely opts for diversion, especially in districts where there is not a specialised public prosecutor for children.

Interviewees commented that diversion is not used in a systematic or consistent way, possibly because of the lack of formal diversion programmes or services to which children can be referred, together with a lack of support by child protection services for children in conflict with the law. Prosecutors feel more comfortable referring children to the juvenile probation service knowing that the probation officer will follow up with the child.

> *If you look at the profile of the majority of the young people in the criminal justice system, their family problems, social problems, migration profile, Roma profile, it might be that prosecutors think that there aren't sufficient services to support the child outside the criminal justice system. When the case goes through the court system, the juvenile probation service is there, and prosecutors feel more confident that the probation officers will follow up the case.* [150]

A juvenile probation officer interviewee took a different, rather more negative view: that although the prosecutors have the ability to divert, a number had what was referred to as a 'punitive' mentality and felt that the child should be taken through criminal proceedings to demonstrate the seriousness of offending behaviour, even in the case of minor crimes.

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150 Interviewee.

4
CRIMINAL PROSECUTION

If a case is not diverted, the provisions of Article 43 of the Penal Procedure Code, amended by Law 4885/2021 will apply and the Prosecutor will initiate a criminal prosecution. The participation of the child in the investigation process and the rights of the child at this stage, are covered by articles 4, 5, 6, 7 and 9 Law 4689/2020, all of which continue to apply at this stage, as well as in the police station. General provisions concerning the rights of suspects contained in the Criminal Procedure code also apply. Those safeguards are described in art. 92 - 100 of the Criminal Procedure Code and include the right to access all relevant documentation (art. 100 CCP), the right to interpretation (art. 101 PPC), the right to remain silent and the right against self-incrimination (art. 104 PPC). These provisions are in line with the CRC procedural guarantees.

Law 4689/2020 Article 6 para. 6 provides that the investigating judge has an obligation to appoint an advocate where the person exercising parental responsibility has not appointed a lawyer to represent the child. In addition, Art 99 of Penal Procedure Code states that if the accused in a felony or misdemeanor is a minor, the investigating judge is obliged to appoint a lawyer for him/her ex officio, and that it is not possible for the child (or the parent) to waive this right (but note that this does not apply until the child comes before the investigating judge). Further, Article 6 para. 7 of Law 4689/2020 states that when the child is entitled to the assistance of a lawyer, but the lawyer is not present, the prosecutor or competent authority carrying out the investigation should postpone the examination of the child or the performance of other investigative or evidence-gathering acts for a reasonable period of time in order to await the arrival of the lawyer or, where the child has not nominated a lawyer, to arrange a lawyer for the child.[151] This provision is in line with international standards.


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Once the child has appeared before the investigating judge and the judge is satisfied that there is sufficient evidence for the case to go to trial, the child faces a long wait, often up to a year, before the trial takes place.

151 Law 4689/2020 Article 6 par. 8 provides for some exceptional cases where the preliminary proceedings can take place without a lawyer: when there is an urgent need to prevent serious adverse effects on the life, liberty or physical integrity of a person, or when it is imperative that the investigating authorities take immediate action to prevent a significant risk to the criminal proceedings in relation to a serious criminal offence, the primary criteria being the best interest of the child. A pre-investigation officer wanting to exercise this right of derogation must obtain the prior approval of the competent Public Prosecutor.

5 QUASI-DIVERSION

It was explained by interviewees that in some cases, the investigative judge refers the child to the juvenile probation service for 'reform measures' to be implemented, even though there is, at the time, no official finding of guilt, and the case is still listed for trial.

CASE STUDY 1: The police and prosecutor came to the house to see A, aged 13.5 years who was alleged to have committed a sexual cyber-crime offence involving a female child. The police and prosecutors (5 in total) came to the house and interviewed A in the absence of either his parents or a lawyer. Neither the child nor the parent was informed at the time that A had a right to a lawyer, and when the mother spoke to the prosecutor the next day and asked whether she should get a lawyer for A, was told it was not necessary at that stage. A appeared before the investigating judge for the first time approximately four months later. On the second appearance before the investigating judge, A, accompanied by his lawyer, was questioned. The parents were not admitted to the hearing although they were present in the court building.

The child and parents were informed that the outcome of the hearing was that the child was to see a psychologist and the probation officer on a regular basis and the case was set down for trial. The child started seeing the psychologist within a week of the appearance before the investigating judge and continued to see him, at first every two weeks and then every month. He also saw the probation officer regularly. The trial did not take place for 18 months after the last hearing before the investigative judge. At the trial the mother was a witness, but was only allowed into court when she gave evidence and, once again, neither the mother nor the father were permitted to attend the court and sit with the child, contrary to Article 13(2) of Law 4689/2020. The trial judge did not impose any further measures on the child, despite convicting him of the offence on the basis that the child's attendance at the psychologist and work with the juvenile probation officer rendered any further measures unnecessary.

CASE STUDY 2: B, aged 17, who was adopted, met up with his biological siblings and was with them when they stabbed and killed a man at the beginning of 2020. The siblings, who were adults, were convicted of intentional homicide. B was temporarily detained before being seen by a juvenile probation officer and a report being prepared. When the report was prepared, the juvenile probation officer recommended that the child be released on condition that he was monitored by a psychiatrist with whom he had already established a serious and good quality therapeutic relationship. When the case reached the trial stage, the defence lawyer, with the support of the juvenile probation officer sought an adjournment with the trial postponed until September 2022, more than two and a half years since the offence took place. During this time, B has cooperated with the juvenile probation officer and the psychiatrist. The probation officer sees the delay as purposeful and achieving the best possible results, as she will be able to tell the court in September 2022 that B's behaviour has been good and *'commensurate with the expectations of society'*, has not committed any further offences and has avoided destructive behaviour. In her view *'slowness depending on how it is utilized, can give good results*.'

This practice of imposing or agreeing reformative measures between the time of the hearing in front of the investigative judge and the full trial could be termed 'quasi-diversion'. It is a practice by which reformative measures are introduced almost straight away after the child has been before the investigative judge in order to show that the reformative measures have worked, and reduce the severity of the measures the court might otherwise impose. Delay is encouraged or at least not discouraged to give the child long enough to demonstrate that the measures have worked.

While the approach taken in quasi-diversion is undoubtedly well-meaning, it remains the case that this is verging on a subversion of the criminal justice process. Measures are imposed when there is no finding of fact by the Court, no need for an admission of guilt and no consent to the measures is required on the part of the child, as he or she is ordered to undertake the measures by the investigating judge. Such an approach does not meet international standards. The correct approach would be to permit the investigating judge to refer the case back to the prosecutor for diversion where the criteria exist and to address the delays which appear to be endemic in the criminal justice system to allow the trial court to reach a decision on measures.

6 TEMPORARY DETENTION

As a general rule, a child will not be detained pending trial and will return to his or her family, in line with Article 37(b) of the CRC which provides that detention shall only be used as a measure of last resort and for the shortest appropriate period of time.

If the child does not have a 'protective environment' to return to, or it is not in the child' s best interest to return to his/her family environment, the child may be placed in an appropriate institution/shelter for children (Article 122(k) Penal Code) such as the Houses operated from the Associations for the Protection of Minors which were established by Law 2298/1995 with the aim to actively contribute to the prevention of delinquency among juveniles who, because of their personality, their family environment or other circumstances and causes, are likely to engage in delinquent behaviour. Interviewees indicated that such institutions and shelters are not 'closed' institutions and children are not deprived of their liberty, but that they are not permitted to leave the institution without notice and permission. Interviewees stated that the prosecutor, rather than the judge, has the power to order that the child live away from his or her family. Removal of the child from his or her family without a hearing before a court has the potential to be a violation of the right to family life under Article 8 of the European Convention on Human Rights.

Where there are serious indications that the child has committed a crime and there is a danger that the child may commit further offences and/ or abscond and fail to attend the trial, restrictive measures may be imposed. These include the payment of bail (though according to the CRC Committee in General Comment No 24 this should not be a requirement as it discriminates against poor and marginalised children and families),[152] a requirement that the accused child appears before the investigating judge or another authority at regular times, a prohibition on visiting or residing in a specific location or travelling abroad and a requirement not to meet or have contact with certain named persons.[153]

According to Art. 287 of the Penal Procedure Code, a child accused of a crime may be also temporarily detained for a period not exceeding six months if he or she has reached the age of fifteen and is accused of an act referred to in Article 127 of the Penal Code (i.e. a felony with elements of violence). A decision to order temporary detention must contain specific and detailed reasoning, as to why remedial or therapeutic measures or placement in an appropriate state, municipal, community or private educational institution are not considered sufficient. Violation of the restrictive conditions imposed on the child may not in itself lead to temporary detention. The provisions relating to temporary detention would appear to be in line with the requirement of Article 37(b) CRC that detention be a measure of last resort.

Article 6 (4) of the Greek Constitution provides that *the maximum duration of detention pending trial shall be specified by law; such detention may not exceed a period of one year in the case of felonies or six months in the case of misdemeanours. In entirely exceptional cases, these maximum limits may be extended by six or three months respectively, by decision of the competent judicial council*. It is not clear to what extent the ability to extend a child's period of detention is permitted under the Constitution.

CRC Committee General Comment recommends that a child should only be placed in pre-trial detention in the most serious cases and detention should be primarily used for ensuring appearance at the court proceedings and if the child poses an immediate danger to others.[154] The CRC Committee also recommend that the minimum age for detention should be set at 16 rather than the age of 15 as contained in the Penal Code. The maximum duration of six months for per-trial detention is, however, in line with the recommendations of the CRC Committee.[155] The Committee also recommends regular reviews of pre-trial detention with a view to ending it,[156] a provision that is not contained in the Greek Law.

152 CRC/C/GC/24 para 88. where bail is set it means that there is a recognition in principle by the court that the child should be released, and other mechanisms can be used to secure attendance.

153 EU Study on children's involvement in judicial proceedings – contextual overview for the criminal justice phase – Greece, 2013, p. 24.

154 CRC/C/GC/24 at para. 87.

155 CRC/C/GC/24 at para. 90.

156 CRC/C/GC/24 at para. 87.

RECOMMENDATIONS ON THE PRE-TRIAL PROCESS

- Greater focus should be placed on pre-trial diversion. Training should be offered to prosecutors on the advantages of diversion as an alternative to judicial proceedings with greater cooperation between prosecutors and juvenile probation officers. It would also be beneficial, bearing in mind the criteria contained in General Comment No. 24 on pre-trial diversion, to issue guidelines covering the use of pre-trial diversion and introduce pilot diversion projects with the aim of aiding reintegration of children, the reduction of re-offending and reducing delay in dealing with children's cases.
- Consideration should be given to permitting an investigating judge to require the prosecutor to provide reasons for not diverting a child and power to refer a child's case back to the prosecutor to consider whether diversion would be appropriate.
- Consider raising the age of temporary detention to sixteen (16) in line with the recommendation contained in the CRC Committee's General Comment No. 24.
- Introduce regular two-week reviews of pre-trial detention in accordance with the recommendations of CRC Committee General Comment No. 24.[157]

157 CRC/C/GC/24 Para 87.

7 THE TRIAL PROCESS

The right to a fair trial is fundamental to all justice systems and is provided for in the ICCPR and the CRC. The CRC Committee in General Comment No 24, building on the case law of the European Court of Human Rights in T and V v the United Kingdom[158] sets out the fair trial principles. [159] These include" the presumption of innocence with placement of the burden of proof of the charge on the prosecution, regardless of the offence; the right to be heard; the right to remain silent; the right to examine witnesses who testify against them and to involve witnesses to support their defence and the right to effective participation in the proceedings in accordance with Article 40(20(b)(iv). The CRC Committee set out what is meant by effective participation in General Comment No 24 at Para. 46:

> *"A child who is above the minimum age of criminal responsibility should be considered competent to participate throughout the child justice process. To effectively participate, a child needs to be supported by all practitioners to comprehend the charges and possible consequences and options in order to direct the legal representative, challenge witnesses, provide an account of events and to make appropriate decisions about evidence, testimony and the measure(s) to be imposed. Proceedings should be conducted in a language the child fully understands or an interpreter is to be provided free of charge. Proceedings should be conducted in an atmosphere of understanding to allow children to fully participate. Developments in child-friendly justice provide an impetus towards child-friendly language at all stages, child-friendly layouts of interviewing spaces and courts, support by appropriate adults, removal of intimidating legal attire and adaptation of proceedings, including accommodation for children with disabilities".*

Art. 329 para. 2 of the Criminal Procedure Code, in accordance with CRC art. 14(1)(d) provides that juvenile courts must hear cases behind closed doors and that apart from the parties, counsel and the juvenile probation officer, only parents or legal guardians should be permitted to attend. Law 4689/2020 Art. 13 para. 2 repeats the restrictions on attendance during proceedings but also provides that the Court may order the child to be temporarily removed from the court room if this is considered to be in their best interest or in cases where it is considered that their presence may affect the giving of a testimony. In such instances, the legal counsel of the child shall remain in the court room.
In terms of participation, interviewees with experience of the courts, including children, indicated that children did understand the proceedings, that the process was explained to them and that they were able to participate.

> *'Children get a fair trial: A strict trial but a fair one'.*

Delay between the hearing before the investigating judge and the trial is seen by many of the participants in the review as a major problem. While the COVID-19 pandemic has clearly contributed to delays, this has exacerbated rather than created the problem. Interviewees noted that even before COVID-19 a child could wait a year before his or her case came up for trial. The primary cause of delay currently appears to be a lack of juvenile court sitting dates, with some areas having only one juvenile court sitting each month or even less. While some interviewees indicated that that the requirement for a probation report causes delay,[160] others noted that the probation reports were always available on time. However, there do not appear to be provisions setting timelines for the production of reports, nor is there any detail on how often the system requires the reports to be updated.

CRC Committee General Comment No 24 reiterates the recommendation given in previous General Comment No. 10 that the period of time between the commission of the offence and the conclusion of proceedings should be as short as possible. The reasoning behind this approach is that it confronts the young person with the consequences of their offending quickly, helps them to address their offending behaviour in a positive way and helps the child link the response to the offence. The longer this period, the

158 Application No. 36256/97, 15 June 2004, accessible at http://hudoc.echr.coe.int/eng?i=001-61816
159 CRC/C/GC/24, Part D.

160 Application No. 36256/97, 15 June 2004, accessible at http://hudoc.echr.coe.int/eng?i=001-61816 i Rome, October 2015, http://www.prisonobservatory.org/alternatives/ALTERNATIVES%20TO%20PRISON%20IN%20EUROPE.%20GREECE.pdf

more likely it is that the response loses its desired outcome. It also recommends that States parties set and implement time limits for the period between the commission of the offence and the decision of the prosecutor (or other competent body) to institute charges, and the final decision by the court or other judicial body.[161]

RECOMMENDATIONS:

- The major issue to be addressed is the delay between the commission of the offence and the conclusion of proceedings. This is a matter for the administration of justice. It is recommended that time limits should be imposed for each stage of the proceedings, and tighter case management procedures introduced.
- It is also recommended that the Ministry of Justice issue guidelines on time-limits for the delivery of reports, the required content of the report, and how often reports may be requested or should be updated.

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161 CRC/C/GC/24 paras. 54 and 55.

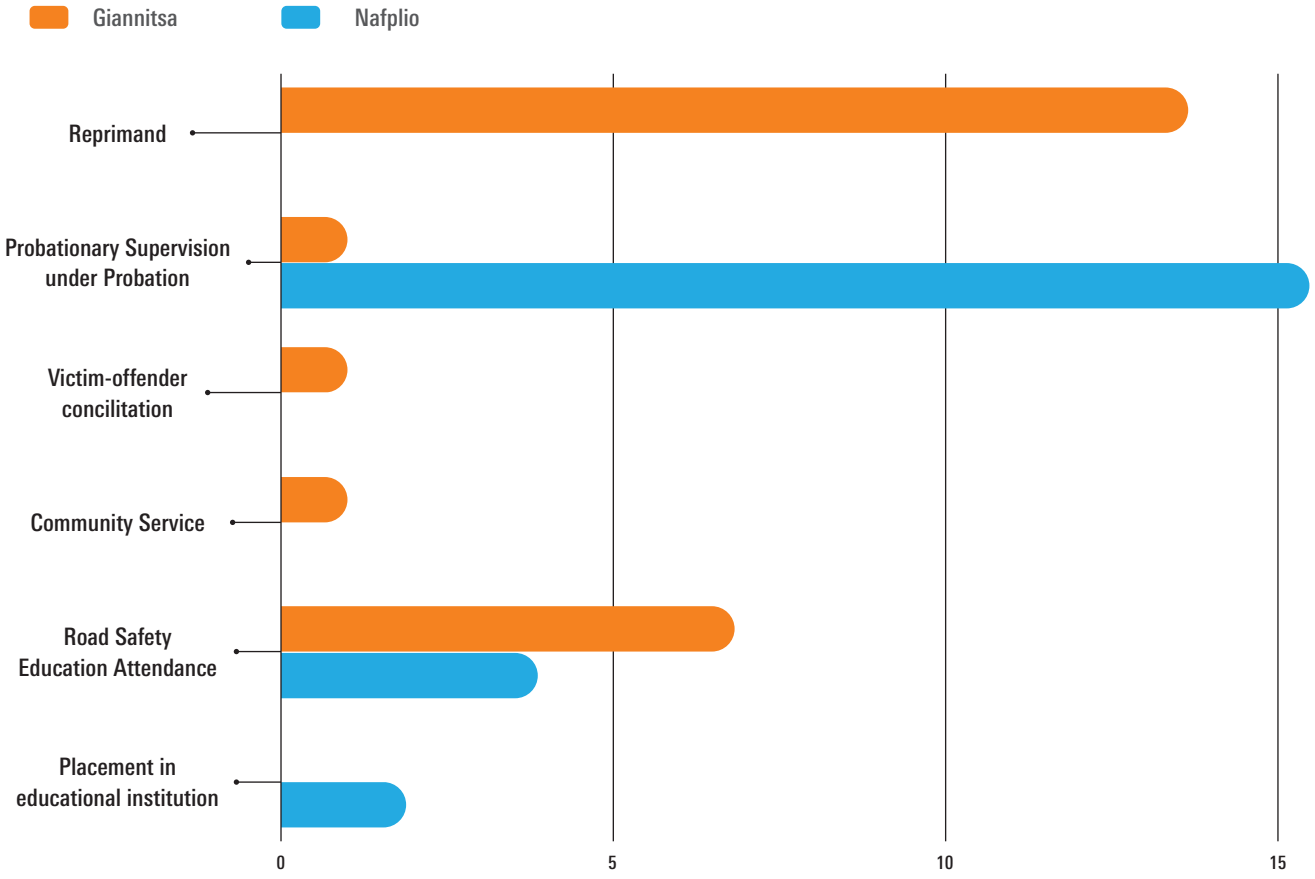
8 EDUCATIONAL AND REFORMATORY MEASURES

Article 40(4) of the CRC requires that States have in place a range of non-custodial measures that may be applied when a child is found guilty of an offence: '*such as care; guidance and supervision orders; counselling; probation; foster care; education and vocational training programmes and other alternatives to institutional care shall be available to ensure that children are dealt with in a manner appropriate to their well-being and proportionate to their circumstances and the offence.*'

Under Act 3189/2003 and Article 122 para. 1 of the Penal Code, Greece introduced a variety of reformatory/educational measures including reprimand, assignment of custody to a foster carer or other, diversion, victim/offender mediation, attendance at treatment or educational programmes, attending professional or training programmes and community service. Before deciding on the appropriate reformatory or therapeutic measure (article 123 Penal Code), Law 4689/2020 requires a juvenile probation officer to update the evaluation throughout the proceedings, providing the judge with information on which she/he can base his or her decision. The evaluation should include a final recommendation on the measures to be taken for the offender (reformatory measures, therapeutic measures, incarceration etc.).

The table below is indicative of the measures handed down. Specifically, it contains data from the Juvenile Probation Services from Nafplion, in Argolis region, in Peloponnese and Giannitsa, in Pella region in Central Macedonia. Whereas it was not possible to obtain data from all the Juvenile Probation Services across the country, the table indicates the trend as it shows that the most common imposed measures are the reprimand and the victim-offender mediation.

Table 8
Measures handed down to juveniles 2019-2020 in Giannitsa and Nafplio



8.1 Victim/offender mediation

Victim / offender mediation is one of the reformative measures contained in Article 122 of the Penal Code. Its purpose is for the "expression of forgiveness and the extra-judicial arrangement of the consequences of the act in general". There is a view that victim/offender mediation can be ordered by the prosecutor as a diversionary measure, while others take the view that victim / offender mediation falls within the measures that may only be ordered by the court.[162] There does not appear to be any restriction on the cases in which it can be ordered, though clearly this is problematic where there is no 'victim' as such. As Panagos points out "*The Greek State does not provide any other guidelines or directions about the procedure of mediation, the role, the obligation and the rights of each participant, as well as any other kind of details in general... The Explanatory Note of the Law states Juvenile Probation Officers have the abstract duty to carry out the process; however, there is no other direction on how they are to perform this role.*"[163]

There are no statistics available indicating how often victim/offender mediation is ordered by either the public prosecutor or the court, but between 2010 and 2015, the Athenian courts for Juveniles imposed the measure 56 times[164] and the Thessaloniki Juvenile Courts 90 times.[165] Up to date figures are not available but the general response from stakeholders is that victim/offender mediation is not widely used, due to some fundamental structural challenges. First, it is seen as a European transplant, introduced to meet EU requirements and not a concept that sits particularly well with Greek culture or mentality. Second, the victim has to agree to victim/offender mediation and not all victims will do so.

Structurally, the organisation of victim/offender mediation as a non-custodial measure falls upon juvenile probation officers as there is no specific body set up to offer such mediation. When it was first introduced, probation officers did not have the training necessary to undertake the role of mediator and many were not comfortable in so doing. Further challenges include what has been referred to by interviewees as the 'paedo-centric' approach of juvenile probation officers: In other words, they are focused on the child in conflict with the law and not on victims. The desire on the part of some victims to be financially compensated and the length of time it takes to arrange and prepare the parties for victim/offender mediation all militate against its use. Despite these difficulties, as can be seen from the figures, victim/offender mediation does take place, though only in a small number of cases.

Nearly every participant interviewed for the assessment commented on their inability to use most of the other measures provided for in Article 122 of the Penal Code due to the lack of services. This, in the view of probation officers, makes it almost impossible to address the underlying causes of offending in the manner they would wish.

> ***'Do you have enough programmes to refer children to? No not at all, and this is the great difficulty we have. At the institutional level, the way things are described by law, everything seems perfect. What happens in real life is that there are no educational programmes to which children can be referred to, and which could really help them. There are no institutions to support young offenders/juvenile offenders. This is our great grief, this is a very sad thing for us, because we do all of this work and it's all cancelled.'***[166]

> ***"Unfortunately, where we are, in a small city, we do not have such services [i.e., child and family support services] to help us. Our hardest cases are juvenile drug users. Just imagine – in our city, we do not have any services to refer them to. Greece has no supportive services anymore across the whole country."***[167]

This leads to frustration on behalf of probation officers who, despite their best efforts, are considerably constrained in the ways that they can address the root causes of children's offending behaviour. Though there is very limited data available on rates of recidivism, many respondents had observed, empirically, high rates of recurrent of-

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162 Panagos, K. I., On Being a Mediator in Victim/Offender Mediation: the Case of the Greek Juvenile Justice System, Essays in Honour of Nestor Courakis, 2017.

163 Panagos, K. I., On Being a Mediator in Victim/Offender Mediation: the Case of the Greek Juvenile Justice System, Essays in Honour of Nestor Courakis, 2017.

164 Mouchimoglou 2016The implementation of reformative measures in practice in the frame of restorative justice', Nauplion: Conference Paper – The Association of Greek Judges and Public Prosecutors for the Democracy and the Liberties <http://eedd.gr/> [in Greek].

165 Karaberi (2016), 'Juvenile delinquency – a sociological approach to the institutions of formal social control. The paradigm of the juvenile Court of Thessaloniki' (dissertation), Supervisor: Emeritus Professor N. Intzesiloglou, Thessaloniki: Aristotle University of Thessaloniki [in Greek].

166 Interviewee.

167 Interviewee.

fending.[168] The lack of service provision is exacerbated by the lack of joint working with child protection services. The majority of juvenile probation officers interviewed had no links with child protection social workers in their area.

In total, there are very few non-custodial measures open to the Court which address children's offending behaviour and assist with reintegration of the child. The most common measure is to place the child under the supervision of the juvenile probation officer. Given the high case load shouldered by juvenile probation officers, it is not possible to give intensive support to children under their superhvision.

RECOMMENDATIONS

- Effective and successful implementation of non-custodial measures requires staff numbers in the juvenile probation service to be increased and a need for financial and human investment in programmes and services that are shown by research to reduce offending by children.
- The National Action Plan on the Rights of the Child post - 2023 should provide for the development of a greater number of community-based services across the country for children in conflict with the law.
- Consider establishing new 'mediator' posts within the juvenile probation service or commission such services from local organisations, to ensure the availability of well-qualified and experienced, independent mediators.


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168 Interviewee.

9 THE USE OF DETENTION

In line with Article 37(b) CRC, Article 127 of the Penal Code provides for the use of detention for a child who has reached the age of 15 only where the child has committed an act which, if committed by an adult would be a felony and contains elements of violence or is directed against life or physical integrity. A decision to place a child in a special youth detention centre must be accompanied by specific and detailed reasoning as to why the reformative or therapeutic measures contained in Articles 122 and 123 of the Penal Code are not deemed to be sufficient in the case and refer to the special circumstances of the crime and the personality of the child. The decision must also set the exact duration of the sentence (Penal Code Art. 127 para. 2).[169] Article 128 para, 1 of the Penal Code also provides that a sentence of detention under Article 127 can be replaced totally or partially by placement at home with restrictions on freedom of movement.

When detention is used, boys are detained in young offender's detention facilities in Corinth, while girls are detained in separate sections/units in women's prisons. 23 children were detained in 2021:[170] a low figure compared to most countries and representing only a fraction of those who are subject to community rehabilitation measures. It should be noted, however, that children can be placed in correctional institutions, from which they are not free to leave, though it has not been possible to obtain figures on the number of children who have been placed in such centres.

The conditions of detention and the rights of people in detention are mainly provided for in the Correctional Code. The rights of young offenders and issues relating to the conditions in young offenders' detention facilities are included in Ministerial Decision 62367/ 2005.

Where the Court issues a custodial sentence, the child will be conditionally discharged after the expiry of half of his or her period of detention and then placed on probation, for a period not exceeding the remaining time of the sentence. During the probation period, specific conditions may be imposed on the child in relation to their lifestyle, residence, education or participation in treatment programmes. Children who have been sentenced to detention may also, after serving one-third of their sentence request the court to release them on house arrest with electronic tagging. The application must be accompanied by a report from the detention centre and a report from the juvenile probation service on the children's social environment if he or she were to be released.[171] It is not clear, however, what services are available to the child on release, or the extent to which social services are involved where the child is still under the age of 18.

The provisions relating to detention and the low number of children currently detained should be regarded as in line with the CRC standards.

RECOMMENDATION

- In accordance with the UN Committee on the Rights of the child, the Greek State should ensure that detention, including pre-trial detention, is used only as a measure of last resort and with due consideration for the seriousness of the crime, and that greater efforts be made to provide alternatives to detention. The minimum standards for child detention should be met and actions and programmes to address children's offending behaviour and allow their social reintegration should be promoted to reduce recidivism.

169 Article 122 Penal Code.

170 See General Secretariat of Anti-Crime Policy, Ministry of Citizen's Protection, Statistical data on detainees: http://www.mopocp.gov.gr/index.php?option=ozo_content&perform=view&id=7055&Itemid=696&lang=GR

171 Article 129A Criminal Procedure Code.

PART 4

CHILD VICTIMS AND WITNESSES

1 LEGAL PROVISIONS RELATING TO CHILD VICTIMS AND WITNESSES

Greece has ratified key European Directives on the protection of child victims.[172] Law 4478/2017, and specifically Part IV, sets out minimum standards for the support and protection of victims and for the first time refers to their active involvement in the criminal proceedings.[173] Article 54 para. 2 of the Law highlights that, in cases involving a child victim of crime, the best interests of the child shall be a primary criterion in the implementation of the provisions of the law, with the child's best interests assessed on an individual basis. In addition, the Law provides that every child victim shall be approached with sensitivity, with due regard to their age, degree of maturity, views, needs and concerns. The child and his or her parental guardian or any other legal representative shall be informed of measures and rights relating to the child.

Article 61 of Law 4478/2017 provides that the victims, and those closely associated with them, depending on the gravity of their needs and the harm suffered, shall be given access to confidential and free victim support services, before, during, and for a reasonable period after the end of criminal proceedings provided either by the police or other competent authority and public agencies. In the case of child victims these may include the police special unit for the protection of children, specialised services established in local authorities, mental health services for children and adolescents, the services offered by the National Centre of Social Solidarity (EKKA), the Independent Child Victims' Protection Offices of the Ministry of Justice or non-governmental organisations.

Law 4478/2017 Article 68 para. 3 stipulates that child victims who require special protection due to the specific risk of being subjected to secondary and repeated victimisation, intimidation and retaliation should be individually assessed by the "Independent Victims' Protection Offices of the Minor Protection Services (Houses of the Child)" and, where these have not been established, from the juvenile probation service, in collaboration with a child psychologist or psychiatrist. The prosecutor or judicial authorities may appoint a juvenile probation officer to act as a legal guardian for a child victim for the duration of the criminal proceedings, if the parents are unable to act as legal guardians or the child is an unaccompanied child or separated from their family[174].

An amendment to the Criminal Procedure Code by Law 4620/2019, Article 227 now provides that where a child is a victim or witness to a crime 'against personal and sexual freedom' a specialised child-psychologist or child-psychiatrist shall be present during the child's examination and shall prepare the child for the examination beforehand. Under Article 227, the examination must take place in the House of the Child or, if there is not an operational "House of the Child" in the area, in a space specifically designed and adjusted for child victims and witnesses. In line with best practice, the examination is to be concluded without delay and with the least number of interviews possible. The examination is to be recorded by audio-visual means which can be reproduced in court, thus removing the need for the child victim or witness to be present in court. If audio-visual recording is not possible, the written testimony given by the child is to be read out in court. Further examination of child victims after the case has reached the court stage, is only to be undertaken as an exception. In such cases, the child will be examined by a designated investigating officer at the child's residence, without the presence of the parties. The questions to be addressed to the child are to be provided in writing beforehand by the defendants and addressed to the victim, unless the child specialist considers them to be detrimental to the psychological state of the

172 The Directive against the sexual abuse and exploitation of children was ratified by Law 4267/2014, and the Council of Europe Convention on the Protection of Children against Sexual Exploitation and Sexual Abuse was ratified by Law 3727/2008. The Victims' Rights Directive 2012/29/EU in Greece was adopted in 2017 though law 4478/2017 which provided rights for all victims, without discrimination, and regardless of their country of origin or their residence status; K. Panagos (2018), Rights and support to victims of Crime: The 2012/29/EE Directive as a tool for procedural justice, rational anti-crime policy and social justice, Criminology 1-2/2018, p. 88 et.

173 RACIST VIOLENCE RECORDING NETWORK ANNUAL REPORT 2017 available at: http://rvrn.org/wp-content/uploads/2018/03/Report_2017eng.pdf

174 Greece – My rights as a victim available at European Justice Website: https://e-justice.europa.eu/content_rights_of_victims_of_crime_in_criminal_proceedings-171-EL-maximizeMS-en.do?clang=en&idSubpage=5&member=1

child.[175] This provision responds to criticism raised in the past that the rights of the defendant were being overruled by the protective provisions for child witnesses. [176]

The aim of the Houses of the Child is to provide child victims with specialized support from the time they report the criminal act, to the completion of the criminal proceedings, with a focus on protection of the child and repair of the harm caused by the crime. Five new House of the Child institutions were established in Greece's larger cities (Athens, Piraeus, Thessaloniki, Patras, and Heraklion-Crete), although at the time of this review only one, based in Athens, is functioning. As a result of Law 4640/2019, art 35, these institutions have been granted administrative independence and integrated into the General Directorate of Administration of Justice, International Legal Affairs and Human Rights of the Ministry of Justice. The intention is to provide the Houses of the Child with special equipment, child-friendly interview rooms and specialised personnel who will assess child victims individually in order to identify specialized protection needs (Article 74 par. 1c, d and e) and to assist in the forensic examination of child witnesses and victims during criminal proceedings.

A Ministerial Decision 7320/2019,[177] included a Protocol for Forensic Interviews to be used by the Houses of the Child. The Protocol sets out in detail how the forensic interview of a child victim or witnesses of abuse is to be conducted. The Protocol describes each stage of the process and makes direct reference to what a professional should and should not say, along with remarks on where attention and additional care should be paid.

The legislative framework has been further strengthened by provisions introduced by Law 4855/2021 which amended the Penal Code and the Code of Criminal Procedure. The amendments provide enhanced protection for children who are victims of crimes, both on a substantive and procedural level. In particular, the amendment provides for a change in the manner of examination of juvenile victims of sexual abuse to prevent re- victimization. In addition, as a result of Law 4947/2022, the Criminal Code now includes a provision on revenge pornography emphasizing the protection of child victims.

As can be seen, the Greek laws relating the protection of child victims and witnesses largely meet international standards. However, as with other aspects of legislation, implementation in practice has been a challenge. The lack of training to specialised personnel and the lack of adequate resources to enable implementation remains a challenge. Specific challenges impeding the implementation of victim protection laws are set out below.

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175 In Greek literature, when the protective measures for the victims of crimes against sexual and personal freedom within the criminal process are described, there is usually reflection on whether this set of provisions impairs the procedural rights of the accused and whether it coincides with the principle of fair trial. More on this issue can be found at: A. Triantafillou (2014) Issues of witness testimony in criminal proceedings, Athens: Sakkoulas.

176 Indicatively see A. Dionisopoulou (2017), The right of the accused in the examination of prosecution witnesses (article 6 par. 3d of the ECHR) - The influence of common law and the case law of the ECtHR in the Greek criminal trial, Legal Library, Athens, and K. Panagos (2015), Looking for the balance between the rights of the accused and the protection of the minor witness: Greek law in the light of international and European texts on anti-crime policy, Criminology 1-2/2015, p. 101 et.

177 OG 2238/B/10-6-2019.

2 CHALLENGES IN RELATION TO VICTIMS AND WITNESSES

A. "Houses of the Child"

While the framework contained in Law 4478/2017 and Ministerial Decision 7320/2019 is to be welcomed and is in compliance with international and European standards and current understanding of good practice, the legislation is yet to be fully implemented and, apart from Athens, the Houses of the Child have yet to become operational some four years after their establishment. It should be noted however, that ensuring the operation of the Houses of the Child has been included as an action within the National Action Plan for the Rights of the Child, 2021 – 2023, along with training for the staff and record keeping systems.

Those interviewed for the assessment were positive, in theory, about the introduction of the Houses of the Child, noting that they will fill a substantial gap in the current system for child victims and witnesses, once fully operational. There are no other specialised, dedicated services or structures in place for dealing with child victims, meaning that child victims are subject to the normal procedures used for adults when they are interviewed. This includes, often, being interviewed and having their complaints dealt with by officials who have not had specialist education and training on the rights and needs of children. It has also meant that children have been interviewed repeatedly, a practice likely to lead to further victimisation of the child, to further trauma, and in the end, to less than credible evidence.

While there is overall support for the concept of the Houses of the Child from stakeholders, most take the view that there has been insufficient long-term planning, strategy development and resources assigned to ensure proper implementation of either the 2017 law or the Ministerial Decision of 2019. Multiple participants considered the introduction of the Houses of the Child to be a *'tick box'* exercise, in order to satisfy EU obligations, but with nowhere near the sufficient preparation or investment within the broader framework in which the Houses of the Child are intended to operate.

> *'They describe an idea of Houses of the Child – of course there is a real need for this – I don't question the need for support structures for vulnerable child victims. However, the whole description and vision of the House of the Children – it's difficult to implement the law.'* [178]

> *'The EU developments play a role in establishing new services, which is a good thing as a start, but I feel again that they have the same future as other services because if you do not invest, it's just "ticking the box", you need to invest in these types of services…The framework in which the Houses of the Child are going to work together with other services does not exist.'*

> *'There is no strategy nor anything concrete… there is a need to be consistent and have sustained services. We just don't see the consistency and the resources to enable the Houses of the Child to function: this has to change. This all relates to the need for long-term planning.'* [179]

Interviewees also commented that although the Houses of the Child were given the power to conduct forensic interviews with child victims and witnesses, this is not an exclusive power, meaning that there is nothing to stop other bodies also undertaking forensic interviews with the same child. This runs the risk of actually increasing, rather than decreasing, the number of times child victims' are interviewed.

> *'The way the law is at the time being, any case, any child can be interviewed by the police, the prosecutor, a mental health centre or by social services and can also referred be to House of the Child to be interviewed. That is wrong, that is not correct. The reason the government has not restricted the capacity of other services to carry out forensic interviews, is that they didn't want to get engaged in a quarrel with other services. If they don't regulate and ensure that all forensic interviews are carried out by House of the Child, then the House of the Child is useless. It just makes the 28 interviews 29, instead of making it one.'* [180]

178 Interviewee.
179 Interviewee.
180 Interviewee.

Other participants were of the opinion that the national law that transposed the EU directive does not reflect the 'spirit and content' of the directive, with discrepancies in the definition of "victim":

> *'The national law that harmonised with European law is a bad law….it created new institutions like House of the Child, without first agreeing on strategy, based on empirical evidence and data. They provide a totally new institution without sufficient consideration of context. The Greek law relates only to special categories of victims and neglects the general victims of crimes.''*[181]

Issues related to the staffing of the Houses of the Child were also raised by interviewees. Initially, 5 psychologists were deployed to the 'Houses' in Patras, Athens, Thessaloniki, Piraeus and Crete. The last of these was a secondment which was not renewed and, therefore, there is currently no psychologist available to the House of the Child in Crete. Under the public sector's mobility scheme 2021, three more colleagues joined the "Houses", leading to a total of 7 psychologists nationwide (except for Crete). Apart from Athens, there is no provision for administrative staff in the "Houses". Therefore, all scientific and administrative duties fall to the available staff (i.e., the psychologists and the social workers). If, in the future, there is a substantial flow of cases, staff are concerned that it will be practically impossible for them to keep up with the administrative workflow.[182] Using highly qualified staff for routine administrative tasks is also not an efficient use of their time.

Interviewees commented on the paradox of trying to create specialised services without recruiting specialised people. Instead, staff have been seconded from other public services through the mobility scheme, on short-term contracts. They also questioned how the Houses of the Child will function 24/7 as foreseen, given there is no provision at this stage for a 24/7 rotation of the staff in the Houses. Interviewees assumed that, as a result, some forensic interviews will continue to be conducted by the Police when abuse occurs during the night.

Further comments in relation to staffing focused on the ability of psychologists to carry out forensic interviews without having received criminal law training. This raises questions as to the utility of the interview. A forensic interview is needed for judicial proceedings, whereas psychologists may be more oriented towards disclosure and a 'treatment' model. In most countries of Europe, forensic interviews are undertaken by a member of law enforcement (either police or prosecutor depending upon the legal system) with a child protection social worker or psychologist present to support and explain terms or questions to the child when he or she is having difficulty in understanding or answering the questions put to him or her by the interviewer. It may be more appropriate and more efficient to conduct forensic interviews in this manner.

Other concerns include the lack of multidisciplinary abilities across the staff team when it came to providing support to the child victim or witness:

> *The law says that Houses of the Child should be staffed by a multidisciplinary team. It isn't, it's very psychological oriented (rather than legally oriented) – very psychiatric in terms of expertise. I would like to see a more holistic philosophy in the service providing support to victims.'*[183]

More practically, there is a lack of available building space for the "House of the Child" in Patras, who are currently being temporarily hosted by the juvenile probation service.[184] In Thessaloniki, the Houses of the Child are housed in a cramped room that was provided to them after the Prosecutor of Economic Crime transferred to a different office.

B. Repeated interviewing of child victims

The most commonly mentioned gap in the system for victims as it currently stands is the tendency for repeated interviews. This was recognised by nearly all professionals interviewed for the research, including judges, prosecutors and police, who noted that a child may be interviewed '*as many times as is required.*' The recording of the child's interview is a new practice that is being introduced in order to reduce the number of times a child is required to testify and reduce the risk of re-traumatisation. However, this is rarely practiced across the country and, where it is, interviewees expressed frustration at instances where investigating Judges had failed to watch or listen to the recording before speaking to the child and, as a result, end up asking exactly the same questions the child has already been asked and answered. One interviewee recounted a case in which the

181 Interviewee.
182 Interviewee.
183 Interviewee.
184 Interviewee.

child had been required to provide 27 or 28 interviews, including formal testimonies, forensic interviews, testimonies to the prosecutor, etc.[185] Another knew of cases where the child was called on to testify 14 times.[186] Interviewees were of the view that repeated interviews are both unnecessary and harmful for children, but continue to occur due to the nonexistence of mechanisms to prevent this happening:

> *'It is absolutely sure that nobody really believed that there would be any piece of truth revealed by the 28th interview that has already not been revealed. We know this type of "training" contaminates the content of the memory and is useless in terms of finding the truth. It's just that the justice system is functioning in such a manner that when there is a request submitted (e.g., by the defendant's lawyer), there is no way to refuse that request. Or at least, prosecutors / judges are not regularly refusing the exercise of these rights to the parties in the criminal proceedings.'*[187]

Another causal factor highlighted by interviewees relates to the contradictory provisions transposed into Greek law in 'bits and pieces' from international treaties. For instance, the law that implemented the Lanzarote Convention included a provision requiring the capacity of the child victim to be able to understand the difference between truth and lies and for this to be pre-checked before the child gives testimony. This provision was introduced without consideration being given to its impact on procedures. It means that, in a case of sexual abuse of a child, the child is first interviewed by a mental health professional who solely enquires about the mental capacity of the child. Then, the child is called to testify to the prosecutor accompanied by the mental health professional to prove capacity. After this, there is yet another interview about whether historical truths had happened or not. This process is described by one participant as '*a total mess*.'

When asked for recommendations on what should change to improve the situation for child victims, interviewees repeatedly mentioned the need to introduce strict restrictions on repeated interviewing of children and a clear understanding of which body was responsible for carrying out a forensic interview.

> *"In relation to forensic interviews, I would introduce one unified procedure for every allegation or report or suspicion in any service. I would introduce a clear-cut procedure with set steps, forbidding any deviation from the procedure. I would not allow any degree of liberty to the police or the prosecutor to conduct their own enquiry. I would refocus the Houses of the Child to ensure scientific rigour with staff who are competent and well trained in conducting forensic interviews and communicating with children. I would put additional barriers in the way of prosecutors and judges ordering additional or extra interviews. In countries with a Roman-Germanic legal system in which there is a separation of the trial and pre-trial there might need to be 2 interviews –one in pre-trial and one in trial, but that should be it.'*[188]

C. Delay

Closely linked to the challenge of repeated interviewing is that of delay. Interviewees recounted instances where children's cases take up to 10 years to conclude. One professional had come across a case in which a child of 4 years old had disclosed to the mother in 2002 that the father had been sexually abusing her, but the proceedings were not concluded until 2013.[189] Another professional spoke of a case in which the victim reported abuse 10 years ago, but the case had still to reach the ordinary investigation phase. Despite the introduction of the protocol of forensic interviewing, the victim in question, now 16 years old, had been called on repeatedly to provide the same testimony he had first provided when he was 5 years old.[190]

D. Different actors operating in siloes

A factor recognised as contributing to both repeated interviewing and delay is the fragmentation between agencies, meaning that none of the agencies has a holistic view of a child's case. One interviewee recounted a recent case concerning two girls. After interviewing the children, the House of the Child requested access to the case file in its entirety. Only then did it become apparent that the case dated back 15 years. The complete file contained multiple social reports and reports from other departments unknown to the House of the Child when they started working with the girls. There

185 Interviewee.
186 Interviewee.
187 Interviewee.
188 Interviewee.
189 Interviewee.
190 Interviewee.

is currently no established procedure for different actors in the system to communicate and ensure the House of the Child has access to the full case file.

E. Lack of child-friendly spaces

Participants from the police expressed concern about the lack of child friendly interview rooms in the police stations. One department had on their own initiative, painted the walls in different colours, and bought a sofa, some books and toys, in an attempt to render the space friendlier to child victims. However, the interviewee from that department commented himself that despite these changes, child victims still have to pass a police guard wearing full police officer uniform in order to enter the building and are well aware that they are in a police station.[191]

These challenges should be mostly addressed with the introduction of the Houses of the Child, but currently the Houses of the Child in Patras is being housed within the probation service because of the lack of premises. As probation officers are frequently meeting with child offenders, this makes the space inappropriate for victims of crimes. Further, in some cases the offices are in a residential apartment block and are inaccessible to people with disabilities.

A related challenge is the lack of technical equipment. Forensic interviews are not always recorded for the very simple reason that there are not any cameras in the interview rooms. According to interviewees, up until a few years ago, the Greek courts and the office of the prosecutors did not have Wi-Fi, and some small towns continue not to do so.

F. Lack of link between civil and penal system

A concerning particularity of the system raised by one interviewee is the lack of an automatic initiation of penal proceedings against a perpetrator of child abuse where it has been recognised by the civil courts that they have molested a child. In Greece, where child abuse is perpetrated within the family, there are two judicial proceedings: one is the penal proceedings for punishment of the perpetrator and the other consists of civil proceedings to assign custody of the child and to consider whether the children should have contact with a perpetrating parent.

In both civil and criminal proceedings, a person with a legal interest has to initiate proceedings. Interviewees recounted that mothers tend to opt for submitting a file to the civil courts, in order to prevent the alleged perpetrator having contact (visitation) with the child and are less likely to submit a file to the criminal courts. This is believed to be due to their awareness of the challenges outlined above, and because they do not want to subject their child to the repeated interviews inherent in the Greek penal system. If the civil courts decide the alleged perpetrator has sexually abused the child, this decision does not automatically trigger penal proceedings. The mother still has to initiate the penal proceedings herself. As an interviewee asked: '*Why not introduce an automatic initiation? Is it possible in a civilised country that a court of law decides that someone has committed an offence against a child and yet the penal system does not automatically punish the offender?'*

G. Data breaches

Not all the Houses of the Child have their own computers, but use computers of other bodies in whose premises they are located. Even where the House of the Child has its own computers, data is saved on the general server. The same appears to occur when the police hold forensic interview data on a child. One interviewee from the police service expressed significant concern over data leaks in relation to the testimony of child victims, recounting multiple instances in which he had taken the testimony of a child, which was then posted on the internet, with nobody able to ascertain the source of the leak. In one case the testimony he had taken from a three-and-a-half-year-old victim was leaked onto mainstream news sites. [192]

191 Interviewee.

192 Interviewee.

RECOMMENDATIONS

- Law 4478/2017 on the protection of victims is still not fully implemented. No specialised victim support services are in place, there is no proper coordination amongst the actors involved, and there is a lack of systematic training. A first step in improving the protection of child victims and witnesses would be to implement Law 4478/2017 fully.
- There needs to be a clear decision from the Ministry of Justice as to which body has exclusive responsibility for conducting forensic interviews of child victims and witnesses.
- It is recommended that the current Protocol on forensic interviews of child victims and witnesses should be reviewed to ensure that such interviews are undertaken by law enforcement personnel who have received specialist training on the forensic interviewing of child victims, in the presence of either a child psychologist or social worker.
- To ensure confidentiality and privacy, written statements and audio and visual records of forensic interviews should not be saved on general servers or on computers other than those used exclusively by the Houses of the Child. The Ministry of Justice should ensure that a separate, secure server is available in each region/area to hold forensic interview data, accessible only by designated persons. All testimony from a child victim or witness, whether written or audio or visual should be kept on a secure server used only for the purpose of holding evidence. The police and the prosecutor should be instructed to keep a 'chain of custody' record.
- Houses of the Child should either employ staff from a multi-disciplinary background or be able to call on a multi-disciplinary group to discuss the support required for individual child victims both during the investigation and trial stage and thereafter. The House of the Child should coordinate the multi-disciplinary group.
- Child protection services appear to be largely missing from the Houses of the Child but play an integral part in supporting and safeguarding a child victim or witness. They should form part of the multi-disciplinary group and play an active role.

PART 5

SPECIFIC CHALLENGES FACED BY REFUGEE, MIGRANT AND ROMA CHILDREN

Although not a specific focus of the assessment, the heightened challenges experienced by refugee, migrant and Roma children who come in contact with the justice system came out strongly in interviews, particularly in relation to access to information.

In order to be able to participate in criminal proceedings a child must be able to understand what is taking place. International standards place a clear obligation on States to ensure that this happens. The CRC obliges States to provide the free assistance of an interpreter "if the child cannot understand or speak the language used".[193] Article 6 of the European Convention on Human Rights contains the same obligation. A failure to provide a professionally qualified interpreter is likely to amount to a violation of the child's right to a fair trial. [194]

Participants from every discipline in the justice system (from police to probation officers, lawyers, prosecutors, judges and detention facility staff) expressed the view that there are insufficient interpretation services at all stages of proceedings, meaning children whose native language is not Greek are not appropriately informed about their status, situation and rights, and find it nearly impossible to understand what is being asked of them.

> ***"The most important thing in recent years is the issue of communication with children. When we are dealing with children from camp, from countries e.g. Somalia, e.g. from the Middle East anyway, we have a communication problem. We cannot communicate with them easily because they have a different culture. Some things that we consider to be illegal or completely outside the framework that we can accept as a society, they consider normal. So, our first problem that we face almost everywhere is communication".*** [195]

One practical barrier to the provision of interpretation services for refugee, migrant or Roma children in court is that of delayed payment. One participant had observed court-appointed interpreters repeatedly not being paid for their services and after 1-4 times of this happening, they stop answering their phone to requests from the court.[196] Where interpreters are available, they are not always familiar with the requisite legal terms (in Greek and the language in question) to interpret proceedings sufficiently to children. One prosecutor explained they are not informed beforehand of a child's interpretation needs, meaning arrangements for interpretation services cannot be made and the child is unable to testify upon arrival in court. A participant who was detained in Avlonas detention centre as a child recalled being taken before the public prosecutor and the investigative judge with a court appointed lawyer, but the lawyer could not speak English, nor the participant's native language, and there was no interpretation, meaning they were completely unable to communicate.

Probation officers explained that there are no interpretation services to facilitate their meetings with children, so they rely on interpretation of a co-national instead, raising questions of confidentiality and possibly conflicts of interest, and causing confusion when (as commonly occurs) this informal interpreter does not understand the concepts and terms related to justice proceedings, even in their simplified form. Where a child is referred to probation from an organised structure (e.g. an NGO), the organisation usually provides interpretation services.[197]

A further challenge reported by probation officers is that migrant and Roma children do not understand the letters they receive from the prosecutor referring them to probation service before trial. This is not obligatory but when deciding on the case the Judge will consider whether or not the child has been cooperating with the service pre-trial. In most instances, migrant children do not attend probation pre-trial because they don't receive or understand the letter and there are no formal procedures for following up on referrals.

> ***For example, for information/access to justice for children: you have an immigrant child – the interpretation services are provided by law, but me as a social worker, later on I have to work with this child, I don't have access to interpretation service, outside the court, it's a huge gap, very difficult, so you use informal interpre-***

193 Art. 40(b)(2)(vi) of CRC. Article 6 of the European Convention on Human Rights, which is identical to Article 40(2)(b)(vi), was the subject of interpretation in the ECHR case of *Cuscani v. UK*, in which it was ruled that the failure to provide a professionally qualified interpreter at the applicant's trial breached Article 6. It further stated that the judge should have ensured that the applicant understood the trial proceedings. (*Cuscani v. UK*, Application No.3277/96, [2002] ECHR 625, (2003) 36 E.H.R.R. 2, Council of Europe: European Court of Human Rights, 24 September 2002).

194 See *Cuscani v. UK*, 2002, in which it was ruled that the failure to provide a professionally qualified interpreter at the applicant's trial breached Article 6. It further stated that the judge should have ensured that the applicant understood the trial proceedings.

195 Interviewee.

196 Interviewee.

197 Interviewee.

tation service. It's difficult, all the paperwork, everything that goes to the parent etc. it's all in Greek. We are not there yet. When it comes to the right to information, there might be leaflets for the procedures, but having the Roma child who does not read, or the parents cannot access this information – they definitely cannot understand – that is for sure.[198]

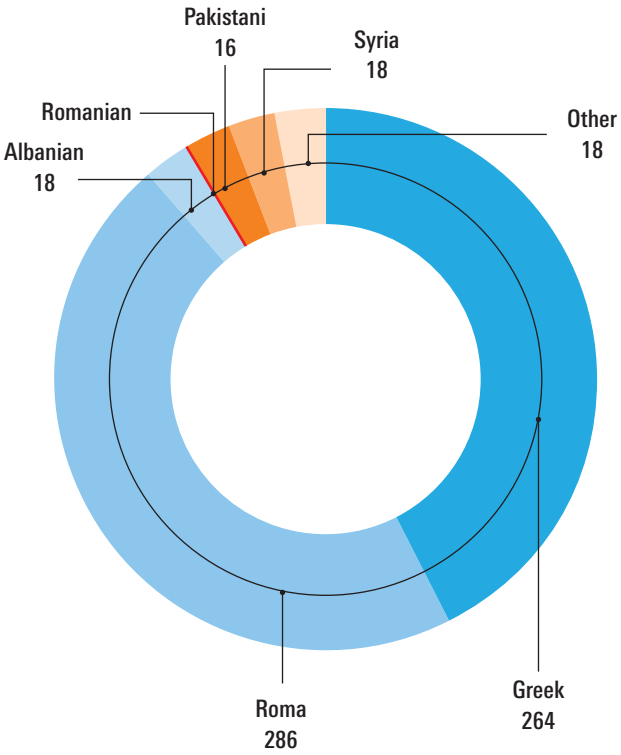
Saying to a Roma child you have to go there, they probably didn't get it, you have to say it again and again. The parents may not take responsibility either. Most cases, when the paper comes to the house where they set the date for the court hearing, they will appear and reach out to the probation service, this is the time that they will look for the child because they are overwhelmed with the cases. We know in the probation services which are the cases, but if they don't come to us, the time we are going to look for them is when we have the hearing plan. This is because of the lack of resources: we don't have the ability to go and search for every child. The focus is always on severe cases. The petty offences etc. will fall through the cracks because they are not a priority – lost opportunity in terms of prevention.[199]

A social worker from a detention centre commented on the need for interpretation services for non-native inmates and recommended this could be provided by NGOs on a weekly basis. She considered this would enable the facility staff to delve deeper into the needs and psychology of the inmates and be more supportive. Currently other inmates serve as interpreters, even when addressing private matters, which raises obvious issues of confidentiality.[200]

The Greek Deputy Ombudswoman for Children's Right in collaboration with the Association of Juvenile Probation Officers and UNICEF Greece Country Office has prepared a leaflet available in various foreign languages (Farsi, Dari, Arabic) explaining what children have to do at any stage of the procedure if they do not understand the language, if they suffer from any disability etc. The leaflet was shared with the Ministry of Citizens' Protection on Children's Rights in September.[201]

Participants also commented on the overrepresentation of migrant and Roma children in the child justice system as well as patterns of offending behaviour and mental health needs amongst these populations. Participants observed that children tend to be involved in robberies and thefts but may also be the victims of crimes.

Table 9
Nationality of children admitted to juvenile court of Kos 2018-2020



Multiple participants commented on the interaction of the asylum/migration procedures with criminal law. As mentioned by a juvenile defence lawyer, '*as soon as children have crossed the border into Greece, they are illegal. Anyone crossing, regardless of age will be facing prosecution unless they apply for international protection. If they do, they are faced with a waiting period, until they get refugee status. Unaccompanied minors, arrive in violation of the law, but often don't claim asylum immediately. The time they spend in Greece, could be in violation of the law as well.*'[202]

198 Interviewee.
199 Interviewee.
200 Interviewee.
201 Interviewee.

202 Interviewee.

The entry of individuals into the Greek territory is regulated by the Schengen Border Code[203] and the Immigration and Social Integration Code[204]; the latter providing for the prerequisites for the stay of third country nationals or stateless persons in Greece[205]. If individuals, though, wish to apply for international protection, then applicable are the Geneva Convention[206] and New York Protocol[207] complementing it, as well as Law 4639/2022 on international protection, as amended and the Dublin III Regulation[208] per case. A third country national or stateless child is not entitled to legal residence status just because of his/her minority status. He/she should apply either for international protection or for a residence permit on humanitarian grounds according to article 19 A of the Immigration and Social Integration Code[209].

Persons who do not wish to apply for international protection or whose request is rejected by final judgment during the border procedure or who do not require any other kind of protection, are referred for deportation, return or readmission[210].

RECOMMENDATIONS

- Financial support should be made available for the translation of information material on children's rights in the criminal justice system, and the procedure that will be followed during a criminal investigation into a range of languages.
- All children should have access to an interpreter at all stages of criminal proceedings where they do not speak or understand Greek. The Ministry of Justice should increase the accessibility of interpretation services, using innovative methods, such as online or telephone interpretation where interpreters are not available.

203 Schengen Borders Code, EU Regulation 2016/399 of the European Parliament and the Council of 9 March 2016 on a Union Code on the rules governing the movement of persons across borders.
204 L. 4251/2014, as amended.
205 Ibid.
206 Legislative Decree 3989/1959
207 Emergency Law 389/1968
208 Regulation 604/2013 of the European Parliament and of the Council «Dublin III», establishing the criteria and mechanisms for defining the Member State responsible for examining an application for international protection lodged in one of the Member States by a third country national or a stateless person (recast)
209 L. 4251/2014, as amended. Specifically, art. 19 A was inserted with the provisions of L. 4332/2015, which was later amended.
210 L. 4636/2019.

PART 6

CONCLUSION AND RECOMMENDATIONS

1 CONCLUSION

As noted by the CRC Committee in General Comment No. 24, many efforts have been made by States to establish juvenile justice systems in compliance with the CRC. However, they also recognised that many States still have a long way to go in achieving full compliance. [211] Greece has taken steps to put in place a legal framework for juvenile justice but still has much to do if that legal framework is to be fully implemented and children's rights protected. As one interviewee noted:

> *The latest legal developments are progressive and align with EU and international standards, and this is great. The problem lies with implementing the law and the lack of the structures and services that are essential in juvenile justice.*

The issues facing the Greek juvenile justice system lie not so much with the content of laws, but with the implementation of those laws. Greece must, as a matter of EU Law, harmonise its legislation with European Directives and it is acknowledged that these can be expensive to implement. There are, however, a number of structural challenges. These include the number of different legal instruments and their complexity; the pace and regularity of changes to the laws, the lack of functioning institutions, services and specialist units for children in contact with the criminal justice system; the lack of sufficient, dedicated, specialist, trained staff working with children in contact with the law across the country within law enforcement, the judiciary, probation and social services; a lack of training provision; and the lack of sufficient 'update' training on the contents and implications of the new laws; non-replication of pilot programmes to implement the laws; redeployment of staff rather than the appointment of new, more qualified staff to work with children in contact with the law, without provision of specialist training to qualify them for their new role and a lack of resources, both human and financial.

The major issues facing the juvenile justice system have been outlined in this review. It is noted that financial stringencies have impacted on the implementation of new, child-friendly laws, but it is also evident that the system lacks coordination and direction. Further there is a lack of evidence on outcomes for children and to what extent the juvenile justice system is effective in preventing further offending and in reintegrating children post offending. There is a need, to undertake further research on the effectiveness of the current delivery of child justice, especially in relation to outcomes for children. Building on that evidence, a detailed strategy should be developed addressing the organisation and coordination of the juvenile justice system, responsibilities of the various bodies involved, plans for the development of services, a time frame for implementation, the human capacity required and costs of the strategy. Ensuring a child-friendly juvenile justice has costs, but the failure to ensure an effective juvenile justice system has long-term costs both for the child and for society at large.

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211 CRC/C/GC/24, para, 3.

2 CONSOLIDATED RECOMMENDATIONS

Data

- It is recommended that the government review the CRC Committee's requirements for data on children in contact with the law and UNICEF's publication, 'Gauging the Maturity of an Administrative Data System on Justice for Children,[212] in order to help it move towards a 'mature' system of data collection. This in turn will help the government to understand child justice trends and assist it in developing policy and with planning to meet the needs of this group of children.
- Further research should be undertaken to ascertain what proportion of adults who are subject to a custodial sentence were previously juvenile offenders. This will allow policy makers to gain an understanding of the effectiveness of measures imposed on juveniles.

Policy and strategy

- It is strongly recommended that the Government consider developing a child justice policy and a strategy based on the policy to enhance the operation of the child justice system.
- The Committee on the Rights of the Child recommends regular evaluation of the juvenile justice system to determine the extent to which it meets its aims and purposes.[213] It is recommended that there should be a five-year cycle of evaluation.

Laws relating to children in conflict with the law

- In order to make the law relating to children in contact with the criminal justice system more accessible, the Ministry of Justice should consider consolidating existing legislation pertaining to juvenile justice in a new Child Justice Law, or at least producing a manual containing all laws relating to children in contact with the criminal law that is freely available both online and in printed form.

Juvenile Court

- It is recommended that the Ministry of Justice review the organisation of juvenile court sittings to ensure that there is a court sitting at least once a month to prevent undue delay in hearing children's cases.
- Juvenile courts should ensure that cases are given sufficient time to enable children to participate effectively in their case, recognising that this will require more juvenile court days.

Police

- In order to meet international standards, it is recommended that the Ministry of Citizen Protection should review its current pre-service and in-service training for police officers to ensure that all officers receive basic training on dealing with children in conflict with the law and in managing child victims and witnesses. Training should be provided in accordance with international standards, should be inclusive, use interactive approaches and should be regularly evaluated.
- It is recommended that in order to meet international standards, the Ministry for Citizen Protection should ensure that a Department for the Protection of Minors is set up in every police area and staffed with at least 2 – 3 trained officers.
- Police officers should be evaluated before being selected to work in the Department for the Protection of Minors to assess their capacity to apply an appropriate and child friendly approach.
- The Ministry should ensure that all police officers in the Sub-Directorate for the Protection of Minors have received specialised training before or immediately on their transfer to the Sub-Directorate.
- In the absence of a Department for the Protection of Minors, members of the police force should be selected as suitable to work with children and receive training to enable them to do so.
- Police officers working with children should be subject to regular supervision and should be provided with support, especially in relation to child abuse cases.

Prosecutors

- Specialist prosecutors should be appointed in each area to take on children's cases, They should receive and complete appropriate training before taking on the role.

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212 UNICEF Division of Data, Analytics, Planning and Monitoring, June 2021.

213 United Nations Guidelines for the Prevention of Juvenile Delinquency (Riyadh Guidelines).

- The Public Prosecutors Offices should be supported by multidisciplinary child protection teams under a dedicated social service.[214]
- The National School for Judicial Officials should offer, and prosecutors should receive mandatory training on handling cases involving children as soon as they are appointed as public prosecutors for minors so that they are prepared to manage such cases.

The judiciary

- It is noted that the principles of 'child friendly' justice have been introduced as part of compulsory training programmes for judges, but clearly it will take some time until all judges handling children's cases complete their four cycles of training. It is recommended that training on child friendly justice should be offered as a priority to all judges hearing children's cases.

Juvenile Probation and Social Welfare Service

- Undertake an in-depth review of the juvenile probation service and devise a strategy for its development (or replacement) for the next 10 years;
- Ensure the training provisions contained in the National Action Plan on Child Rights 2021-2023 are relevant, accessible and fully implemented and ensure that juvenile probation officers are provided with the time to undertake the training offered;
- As part of the review undertake an in-depth evaluation of the work of the probation service including with children and carers who received support from the probation service to determine effectiveness, impact and outcomes of probation support;
- Devise a number of short-term measures to support the probation service to deliver quality services to children while the review is being undertaken including the provision of regular training programmes that probation officers can access.
- Put in place a supervision system for juvenile probation officers as a support mechanism for officers.

Legal Aid

- The government should consider making it mandatory for all children who are the subject of criminal proceedings, however minor, to have access to free legal aid;
- The current procedure for making an application for legal aid and the appointment of a legal aid lawyer to a case should be thoroughly reviewed, with a view to eliminating delay and ensuring a quality service.
- The Bar Associations should review the process for putting names forward for the court 'list' of lawyers willing to take legal aid cases to ensure that those whose names are on the list are prepared to accept such cases and have the skill and experience to do so.
- The Bar Associations should monitor lawyers on the list and consider whether, in the light of refusal to take cases without good reason, their name should be removed from the list.
- Lawyers approached to take a case should respond to the court within 2 working days indicating whether or not they will take on the case.
- The Bar Association, in cooperation with the Ministry of Justice should consider setting standards for defence lawyers representing children.
- All lawyers taking on children's legal aid cases should be required to complete a training module to be prepared by the Bar Association on how to communicate with children, how to encourage participation and how to provide appropriate standards of service to children.
- The Ministry of Justice should review the payment of legal aid lawyers to ensure that incidental costs, such as photocopying and travel to court are covered and repaid.

Rights of the child at the police station

- Ensure that before a child is questioned at the police station either a parent or, where the parent is not available, an appropriate adult is present. This may require the organisation at local level of an 'appropriate adult' scheme.
- The National Action Plan for the Rights of the Child 2021-2023 provides for a national, free of charge, 24/7 telephone number, that can be called from either a mobile or landline to provide information on child-friendly justice. The date for establishment of the line was January 2022. Police should ensure that there are posters and leaflets advertising the phone number and should permit, encourage and enable children (and their parents) to call the number so they are fully informed of their rights prior to any questioning.
- Children should also be provided with age appropriate, and language appropriate leaflets explaining their rights while at the police station. As mentioned above, the use and dissemination of the child friendly guide including child rights information for children that come in contact with police authorities as developed by the Greek Deputy Ombudswoman for Children's Right, the Association

214 This has been also provided by L.2447/1996 Art. 49-54.

of Juvenile Probation Officers and UNICEF Greece Country Office is an initial step towards this direction.

Rights of the child during the pre-trial process

- Greater focus should be placed on pre-trial diversion. Training should be offered to prosecutors on the advantages of diversion as an alternative to judicial proceedings with greater cooperation between prosecutors and juvenile probation officers.
- It would also be beneficial, bearing in mind the criteria contained in General Comment No. 24 on pre-trial diversion, to issue guidelines covering the use of pre-trial diversion and introduce pilot diversion projects with the aim of aiding reintegration of children, the reduction of re-offending and reducing delay in dealing with children's cases.
- Consideration should be given to permitting an investigating judge to require the prosecutor to provide reasons for not diverting a child and power to refer a child's case back to the prosecutor to consider whether diversion would be appropriate.
- Consider raising the age of temporary detention to 16 in line with the recommendation contained in the CRC Committee's General Comment No. 24.
- Introduce regular two-week reviews of temporary detention in accordance with the recommendations of CRC Committee General Comment No. 24.[215]

The trial process

- The major issue to be addressed is the delay between the commission of the offence and the conclusion of proceedings. This is a matter for the administration of justice. It is recommended that time limits should be imposed for each stage of the proceedings, and tighter case management procedures introduced.
- It is also recommended that the Ministry of Justice issue guidelines on time-limits for the production of juvenile probation reports, the required content of the report, and how often reports may be requested or should be updated.

Educational and reformatory measures

- Effective and successful implementation of non-custodial measures requires staff numbers in the juvenile probation service to be increased and a need for financial and human investment in programmes and services that are shown by research to reduce offending by children.
- The National Action Plan on the Rights of the Child post - 2023 should provide for the development of a greater number of community-based services across the country for children in conflict with the law.
- Consider establishing new 'mediator' posts within the juvenile probation service or commission such services from local organisations, to ensure the availability of well-qualified and experienced, independent mediators.

Use of child detention

- In accordance with the UN Committee on the Rights of the child, the Greek State should ensure that detention, including temporary detention, is used only as a measure of last resort and with due consideration for the seriousness of the crime, and that greater efforts be made to provide alternatives to detention. The minimum standards for child detention should be met and actions and programmes to address offending by children and allow for their social reintegration should be promoted to reduce recidivism.

Child victims and witnesses

- Law 4478/2017 on the protection of victims is still not fully implemented. No specialised victim support services are in place, there is no proper coordination amongst the actors involved, and there is a lack of systematic training. A first step in improving the protection of child victims and witnesses would be to implement Law 4478/2017 fully.
- There needs to be a clear decision from the Ministry of Justice as to which body has responsibility for conducting forensic interviews of child victims and witnesses.
- It is recommended that the current Protocol on forensic interviews of child victims and witnesses should be reviewed to ensure that such interviews are undertaken by law enforcement personnel who have received specialist training on the forensic interviewing of child victims, in the presence of either a child psychologist or social worker.
- To ensure confidentiality and privacy, written statements and audio and visual records of forensic interviews should not be saved on general servers or on computers other than those used exclusively by the Houses of the Child. The Ministry of Justice should ensure that a separate, secure server is available in each region / area to hold forensic interview data, accessible only by designated persons. All testimony from a child victim or witness, whether written or audio or visual should be

215 CRC/C/GC/24 Para 87.

kept on a secure server used only for the purpose of holding evidence. The police and the prosecutor should be instructed to keep a 'chain of custody' record.

- → Houses of the Child should either employ staff from a multi-disciplinary background, or be able to call on a multi-disciplinary group to discuss the support required for individual child victims both during the investigation and trial stage and thereafter. The House of the Child should coordinate the multi-disciplinary group.
- → Child protection services appear to be largely missing from the Houses of the Child but play an integral part in supporting and safeguarding a child victim or witness. They should form part of the multi-disciplinary group and play an active role.

Specific challenges faced by refugee, migrant and Roma children

- → Financial support should continue to be made available for translation of information material on children's rights in the criminal justice system, and the procedure that will be followed during a criminal investigation into a range of languages.
- → All children should have access to an interpreter at all stages of criminal proceedings where they do not speak or understand Greek. The Ministry of Justice should increase the accessibility of interpretation services, using innovative methods, such as online interpretation where interpreters are not available.

ANNEX A

DESK REVIEW OF THE JUVENILE JUSTICE SYSTEM IN GREECE

1 INTRODUCTION

"Children come into contact with the justice system in many ways, including when they are in conflict with the law. Finding the best way to deal with juvenile delinquency is a challenging task for all governments, who need to find the right balance between the protection of society and the best interest of the child, as a developing, learning human being who is still open to positive socialising influences."[216]
UNICEF has commissioned Coram International[217] with support from Terre des hommes, Greece, to determine the child-friendliness of the Greek justice system in terms of existing structures, institutions, legal provisions, mechanisms and processes for justice. This annex consists of the desk review of the juvenile justice system in Greece, and the extent to which the law currently meets international and regional standards.


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216 Author(s): Parliamentary Assembly Origin - Assembly debate on 27 June 2014 (27th Sitting) (see Doc. 13511, report of the Committee on Social Affairs, Health and Sustainable Development, rapporteur: Mr Stefan Schennach; and Doc. 13547, opinion of the Committee on Legal Affairs and Human Rights, rapporteur: Ms Kristien Van Vaerenbergh). Text adopted by the Assembly on 27 June 2014 (27th Sitting), available at: https://assembly.coe.int/nw/xml/XRef/Xref-XML2HTML-en.asp?-fileid=21090&lang=en

217 Coram International is a Department of Coram Children's Legal Centre, a NGO based in London, UK.

2 TERMS AND CONCEPTS

Child

Article 1 of the CRC states that a child is a person under the age of 18 years, unless majority is attained earlier. Law 2101/1992 ratified the Convention and adopted this definition.

Juvenile

A term used to describe a child under the age of majority. This term has, over time, come to have criminal connotations. In some instruments, children in conflict with the law are referred to as juvenile offenders or juvenile delinquents. This paper uses, when it can, the term preferred by the Committee on the Rights of the Child, which is "children in conflict with the law" and uses "child" or "minor" rather than "juvenile".

Child in conflict with the law

A child in conflict with the law is a person alleged to, accused of, or recognised as having infringed the criminal law after attaining the minimum age of criminal responsibility and before the age of 18.

Minimum age of criminal responsibility

The minimum age below which children shall be presumed not to have the capacity to infringe the criminal law. Article 121 of the Penal Code provides that the minimum age of criminal responsibility is twelve years of age.

Juvenile justice

The term refers to legislation, norms and standards, procedures, mechanisms and provisions, institutions and bodies specifically applicable to children considered as offenders.

Child-friendly justice

'Child-friendly' justice requires not only that children in contact with the law have access to justice but that they are able to access a form of justice that takes into account the specific needs of children. According to the Council of Europe, child-friendly justice "*means creating a justice system which guarantees the respect and the effective implementation of all children's rights, giving due consideration to the child's level of maturity and understanding and to the circumstances of the case. It is, in particular, justice that is accessible, age appropriate, speedy, diligent, adapted to and focused on the needs and rights of the child, respecting the rights of the child including the rights to due process, to participate in and to understand the proceedings, to respect for private and family life and to integrity and dignity*."[218]

Child sensitive justice

This is a concept that is applied more commonly to victims and witnesses. The United Nations Guidelines on Justice in Matters Involving Child Victims and Witnesses of Crime define 'child-sensitive' justice as "*an approach that balances the child's right to protection and that takes into account the child's individual needs and views*".[219]


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218 Guidelines of the Guidelines of the Committee of Ministers of the Council of Europe on Child-Friendly Justice, article II.a (Adopted by the Committee of Ministers on 17th November 2010 at the 1098th meeting of Ministers deputies).

219 Economic and Social Council resolution 2005/20 article 9(d).

3 INTERNATIONAL STANDARDS AND NORMS ON JUVENILE JUSTICE

This review takes as its framework the international and regional instruments relevant to juvenile justice. The two major instruments are the International Covenant on Civil and Political Rights (ICCPR) and the UN Convention on the Rights of the Child (CRC), both of which have been ratified by the Hellenic Republic of Greece.[220] These are supplemented by the UN Minimum Standards and Norms on Juvenile Justice,[221] which while not binding in the same manner as the Conventions, have been adopted by the UN General Assembly and are regarded as standards with which States should comply.

Regional instruments include the European Convention on Human Rights and the Convention on the Exercise of Children's Rights (both of which have been ratified by Greece). The Council of Europe has issued Guidelines on Child Friendly Justice,[222] applicable to juvenile justice. In addition, the EU has addressed juvenile justice, primarily in Directive (EU) 2016/800 on 'Procedural safeguards for children who are suspects or accused persons in criminal proceedings.' Further, Directive (EU) 2016/1919 on legal aid for suspects and accused persons in criminal proceedings and for requested persons in European arrest warrant proceedings[223] and Directive 2010/64/EU on the right to interpretation and translation in criminal proceedings[224] are applicable to children. Case law from the European Court on Human Rights also contributes to the standards to be met by States in their treatment of children who are alleged to, are accused of, or are found to have infringed the criminal law.

The protection of child victims and witnesses has also been an issue of concern to the international and regional bodies concerned with children's rights. This concern has been addressed by the United Nations in the UN Guidelines on Justice in Matters Involving Child Victims and Witnesses of Crime, and at regional level is covered by the EU in the Victim's Rights Directive in 2012,[225] the EU Strategy on Victim's Rights (2020-2025) and 'the Communication from the Commission to the EU Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions, EU Strategy on Victims Rights' (2020-2025) (the EU Communication).[226] The Guidelines of the Committee of Ministers of the Council of Europe on child-friendly justice also covers victims and witnesses.[227] Additionally, Directive 2011/36/EU on preventing and combating trafficking in human beings and protecting its victims, contains provisions relating to child victims.[228]

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220 Greece incorporated the Convention on the Rights of Children with Law 2101/1992, while Law 3094/2003 created an Ombudsman for Children.

221 The UN Standard Minimum Rules for the Administration of Juvenile Justice (Beijing Rules, 1985), the UN Guidelines for the Prevention of Juvenile Delinquency (Riyadh Guidelines, 1990), the UN Rules for the Protection of Juveniles Deprived of their Liberty (Havana Rules, 1990) and the UN Guidelines for Action on Children in the Criminal Justice System (Vienna Guidelines, 1997) together with the UN Rules for the Treatment of Women Prisoners and Non-custodial Measures for Women Offenders (Bangkok Rules, 2010)

222 Adopted by the Committee of Ministers on 17 November 2010 at the 1098th meeting of the Ministers' Deputies, 17th November 2010, accessible at https://rm.coe.int/CoERMPublicCommonSearchServices/DisplayDCTMContent?documentId=09000016804b2cf3

223 https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX-:32016L1919

224 https://eur-lex.europa.eu/legal-content/EN/ALL/?uri=celex-%3A32010L0064

225 Directive 2012/29/EU of the European Parliament and of the Council of 25 October 2012 establishing minimum standards on the rights, support and protection of victims of crime and replacing Council Framework Decision 2001/220/JHA (the Victim's Rights Directive).

226 COMMUNICATION FROM THE COMMISSION TO THE EUROPEAN PARLIAMENT, THE COUNCIL, THE EUROPEAN ECONOMIC AND SOCIAL COMMITTEE AND THE COMMITTEE OF THE REGIONS EU Strategy on victims' rights (2020-2025), COM/2020/258 final

227 https://rm.coe.int/16804b2cf3.

228 https://eur-lex.europa.eu/legal-content/en/TXT/?uri=CELEX-%3A32011L0036

4
DEVELOPMENT OF THE JUVENILE JUSTICE SYSTEM IN GREECE


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Greece (with the official constitutional name of Hellenic Republic) is a country in south-eastern Europe at the southern tip of the Balkan Peninsula. Its capital and largest city is Athens. The modern Greek State gained its independence in 1830 after a revolution broke out against the Ottoman Empire. It has had a very turbulent political history but from 1974 until today, the state's political regime has been one of parliamentary democracy.

Greece became a member of the European Union in 1981, of the Schengen Area in 2000 and of the Eurozone in 2001. It has been a member of NATO since 1952 and a founding member of the UN since 1945. According to official estimates by the European Statistical Office, the population of the country on January 1st, 2020, was estimated at 10,691,204. 13.9 per cent of the population were estimated to be aged 0-14 in 2019.[229] 85,605 live births were recorded in 2020, though the statistical data does not indicate how many of these births were to permanent residents.[230]

Greece's criminal justice system derives from continental tradition and has been influenced by the principles of Roman law, the Classical School of Criminal Law and the laws of European countries at the time. The first Greek criminal law of 1823 included only one provision relating specifically to children, according to which, murder committed by a child under the age of seven was to be forgiven. Despite the lack of other provisions, children under the age of seven were considered unaccountable for other minor offences, but over the age of seven children were regarded as having the same criminal liability as adult offenders.

The Penal Code of 1834, some ten years later set the minimum age of criminal responsibility at 10 years. The Code was based on the principle that individuals are able to exercise free will, from which the notion of criminal responsibility flows. The only people viewed as not being able to exercise their free will and, as a result not criminally liable, were the insane and children. The Code also provided for 'relative' criminal liability with respect to children aged 10 to 14 years old. The decision as whether a child aged 10 to 14 should be treated as criminally liable was left to the discretion of the judge who would determine whether the minor understood

229 https://www.statista.com/statistics/276391/age-distribution-in-greece/
230 https://www.ypes.gr/politikes-kai-draseis/statistika/statistika-2

the nature of his or her act and that it was unlawful (*doli incapax*). If the child had sufficient understanding of the unlawfulness of his or her acts, he or she was to be treated as an adult, though the child's age would be considered in relation to any sanction imposed. Where the judge regarded the child as being unable to 'discern' or understand the unlawfulness of his or her act, an acquittal was issued, followed either by an order to return the child to his or her parents or by an order placing the child in a reformatory institution.

The Penal Code of 1834 set the age of majority at fourteen. Children over this age were to be treated in the same manner as adults. Article 121 of the current version of the Penal Code now sets the minimum age of criminal responsibility at 12 years.

Compulsory Law 2135/1939 provided for the establishment of a juvenile court, with the first Court established in Athens in 1940. Juvenile courts are now available across the country and deal with all cases involving children in conflict with the law who are over the minimum age of criminal responsibility up to the age of 18.

In Greece the institutional legal framework for the protection of the rights of children in criminal proceedings is mostly, but not wholly, in line with international and regional instruments. The main legal instrument is the Greek Constitution (1975)[231], supported by specific laws relating to children, further details of which are contained in the sections below. Greece does not have a Juvenile Justice Law, but provisions relating to the treatment of children in conflict with the law are found in the Penal Code, which was last amended in 2021 by Law 4855/2021; in the Criminal Procedure Code which was last amended in 2021 by Law 4855/2021 as well[232], and in Law No. 4619/2020[233], which incorporates EU Directive 2016/800[234] and provides procedural guarantees for children who are suspected or defendant in the context of criminal procedures.

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231 Government Gazette A 111/1975, available at: http://www.et.gr/idocs-nph/search/pdfViewerForm.html?args=5C7QrtC22wGlc9CeQB02P-3dtvSoClrL8cQSZ2LcahYN5MXD0LzQTLWPU9yLzB8V68knBzLCmTXKaO-6fpVZ6Lx3UnKl3nP8NxdnJ5r9cmWyJWelDvWS_18kAEhATUkJb0x1LId-Q163nV9K--td6SIuQglcp8gb_mtoLy52DjVcsZX8Wwa-d_fGCTlif9n3WCH

232 https://www.kodiko.gr/nomologia/download_fek?f=fek/2021/a/fek_a_215_2021.pdf&t=9cd4566ed78c5ae3a90f5f55ea4607a0

233 Government Gazette 95/A/11-6-2019, available at: http://www.et.gr/idocs-nph/search/pdfViewerForm.html?args=5C7QrtC22wFqn-M3eAbJzrXdtvSoClrL8smx2PaOMA0btII9LGdkF53UIxsx942CdyqxSQY-NuqAGCF0IfB9HI6qSYtMQEkEHLwnFqmgJSA5WIsIuV-nRwO1oKqSe-4BlOTSpEWYhszF8P8UqWb_zFijEvIo-96KN5QRhtXjIrtIsGCUfNEKdOeN-lYed-CLu6M4

234 DIRECTIVE (EU) 2016/800 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL: https://eur-lex.europa.eu/legal-content/EN/TXT/HTML/?uri=CELEX:32016L0800&from=EN

5 STATISTICAL DATA

5.A. Children in conflict with the law

Obtaining statistical data in relation to children in conflict with the law in Greece is challenging. The juvenile justice system involves a large number of competent bodies, some of which are inactive or only partly active either as a result of being severely understaffed/underfunded or only recently established. This situation is exacerbated by the lack of systematic cooperation between the different bodies involved, a lack of internal organisational structures and a lack of digitisation of data. As a result, it is only possible to obtain fragmented data from selected bodies and authorities who are engaged in the juvenile justice system in Greece, such as the Juvenile Probation Officers. A further, complicating issue is that the different bodies involved have collected and categorized their data in different ways. The lack of uniformity across the different bodies in the collection and categorisation of data makes it particularly challenging to gain a systematic overview of both historical and the current levels of offending by children.

In addition, regular amendments to the Penal Code (2003, 2005, 2010, 2015, 2019, 2021) have resulted in changes to the nature of the information recorded. For instance, the age limits for criminal liability, the offences that are criminally punishable, how the offence is charged (as a misdemeanour or felony) and the measures that are applied on a finding of guilt, have all been subject to alterations. Such differentiations mean that it is challenging to get an accurate picture of juvenile offending or to get a coherent and continuous statistical report covering a reasonable span of years. There is, however, some data available, mainly through the Greek Statistical Authority and the Minors' Probation Services which is included in the following tables.

Table 1 presents the number of committed crimes (felonies and misdemeanours) per year and known offenders per year divided by age group. The data has been extracted from the website of the Greek Statistical Authority. It should be noted that the statistics include children who are *under* the minimum age of criminal responsibility (i.e., younger than 12 years old, the current minimum age of criminal responsibility), Table 2 provides details of the different types of crimes divided by the age group of offenders. It should be noted that the details of the different type of crimes does not represent the latest amendments to the Penal Code in 2021. This data has been extracted from the annual data reports of the Hellenic Police.[235] The annual reports also provide data for each general category of crimes divided by the offenders age groups. The data can be accessed from the same source.

As can be seen from Table 2, the vast majority of offences committed by children are property offences rather than offences of violence.

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235 They can be accessed here divided by year: http://archive.data.gov.gr/dataset/statistikh-epethrida in Greek)

Table 1
Number of crimes committed by per age group

CRIMES COMMITTED BY AGE (2000,2005, 2010-2019)

Year	Committed	Offenders for felonies and misdemeanours, known per year (perpetrators an accessories)						
	Total no. of committed crimes	Total of known suspects	By Age					
			7-12 years old	13-17 years old	18-20 years old	21-24 years old	25-29 years old	Percentage of minors
2000	369,137	330,261	541	22,831	37,093	45,683	51,975	7.1%
2005	455,952	417,555	258	24,733	46,352	58606	67,423	6%
2010	333,988	261,533	412	12,023	26,300	36,677	43,887	4.8%
2011	194, 031	135,088	447	4337	12,215	18,519	24,553	3.5%
2012	194,244	126,265	753	3272	7,366	14,023	20,602	3.2%
2013	199,800	119,556	326	5442	7,278	12,664	17,131	4.8%
2014	190,213	109,772	319	4330	6,361	10,117	14,292	4.2%
2015	197,074	111,020	272	4321	6,873	10,810	14,226	4.1%
2016	205,216	122,727	554	5616	7,493	11,614	14,928	5%
2017	221,225	125,012	368	5847	8,688	11,336	14,581	5%
2018	210,272	130, 493	359	6038	9,037	13,068	15,813	4.9%
2019	220,403	131, 278	370	6462	9,460	13,615	15,946	5.2%

Source, Greek Statistical Authority [236]

236 They can be accessed here: Στατιστικές - ELSTAT (statistics.gr) (in Greek)

YEAR	2018[237]			2019[238]			2020[239]		
Group ages	**7-12**	**13-17**	**18-20**	**7-12**	**13-17**	**18-20**	**7-12**	**13-17**	**18-20**
Homicide with intent	0	6	20	0	9	14	0	16	31
Resistance	0	100	180	1	82	187	1	81	202
Unprovoked insult (now abolished as a crime)		7	7	0	3	8	0	3	3
Rape	0	17	28	1	13	27	0	32	19
Disruption of traffic safety	1	12	11	2	15	30	1	26	39
Arson	3	21	41	1	63	53	0	51	49
Insulting behaviour [240]	8	107	199	4	118	204	6	160	281
Forgery	5	30	96	9	33	78	6	14	71
Unprovoked and dangerous physical harm	10	246	397	19	296	453	14	349	540
Other 'distinguished' theft (e.g. theft of cultural artifacts or theft from public bodies)	38	278	260	11	165	192	1	222	184
Other theft	147	1880	1762	162	2036	1984	128	1618	1241
Other theft with burglary	37	414	513	52	570	517	19	369	355
Other robbery	15	469	425	31	454	347	14	470	293
Fraud		6	42	0	48	84	0	34	118
Distinguished theft with burglary	17	139	179	4	90	122	2	143	100
Extortion	2	6	42	2	21	11	1	15	16
Theft with kidnapping	3	29	25	5	20	23	4	45	16
Robbery with kidnapping	1	11	5	0	12	3	1	6	6

As far as the judicial treatment of child offenders is concerned, the available data on court decisions, is presented below. Table 3 contains the number of children convicted of crimes brought before the Minors' Courts throughout Greece between 2018 and 2021, with data obtained from the official website of the Ministry of Justice.

Table 3
Children convicted of crimes by year and court [229]

TIME PERIOD	ONE-MEMBER JUVENILE COURT	THREE-MEMBERS JUVENILE COURT	THREE-MEMBERS JUVENILE COURT OF APPEALS
01/01/2018-30/06/2018	1.832	321	20
01/07/2018-31/12/2018	1.576	15	35
01/01/2019-30/06/2019	1.831	14	13
01/07/2019-31/12/2019	1.619	13	19
01/01/2020-01/06/2020	556	8	11
01/07/2020-31/12/2020	833	33	4
01/01/2021-30/06/2021	86	13	11
01/07/2021-31/12/2021	Not available yet	Not available yet	Not available yet

Source: Ministry of Justice

Finally, data is provided by the General Secretariat of Anti-Crime Policy on the detention of children. This is updated twice per month. Based on the below table, in May 2021, there were 23 boys detained in the Korinthos Detention Facility and one girl in the Elaionas Thivon Detention Facility.

Table 4
Detention of Children[231]

DESCRIPTION	JAN. '15	JAN. '16	JAN. '17	JAN. '18	JAN. '19	JAN. '20	JAN. '21	MAY '21
Number of detainees in total	11,798	9,611	9,560	10,011	10,654	10,891	11,379	11,133
Minor detainees (not age disaggregated, pre 2020)	358	245	250	139	173	--	--	--
Minor detainees, [age disaggregated post 2020 (15+-18)]	Not available	Not available	Not available	Not available	Not available	30	33	23
Young detainees (18+-25)	Not available	Not available	Not available	Not available	Not available	1,086	1,177	1,082
Adult detainees (25+)	Not available	Not available	Not available	Not available	Not available	9,775	10,169	10,051

Source: General Secretariat of Anti-Crime Policy

242 https://www.ministryofjustice.gr/?page_id=1603

243 The data has been extracted by the website of the General Secretariat of Anti-Crime Policy, Ministry of Citizen Protection and can be accessed at: Γενική Γραμματεία Αντεγκληματικής Πολιτικής - Υπ. Προστασίας του Πολίτη (minocp.gov.gr) (in Greek).

244 Ministry of Justice, Statistical data on detainees: http://www.justice.gr/site/el/%CE%A3%CE%A9%CE%A6PO%CE%9D%CE%99%CE%A3%CE%A4%CE%99%CE%9A%CE%9F%CE%A3%CE%A5%CE%A3%CE%A4%CE%97%CE%9C%CE%91/%CE%A3%CF%84%CE%B1%CF%84%CE%B9%CF%83%CF%84%CE%B9%CE%BA%CE%AC%CF%83%CF%84%CE%BF%CE%B9%CF%87%CE%B5%CE%AF%CE%B1%CE%BA%CF%81%CE%B1%CF%84%CE%BF%CF%85%CE%BC%CE%AD%CE%BD%CF%89%CE%BD.aspx

5.B. Statistical data on child victims

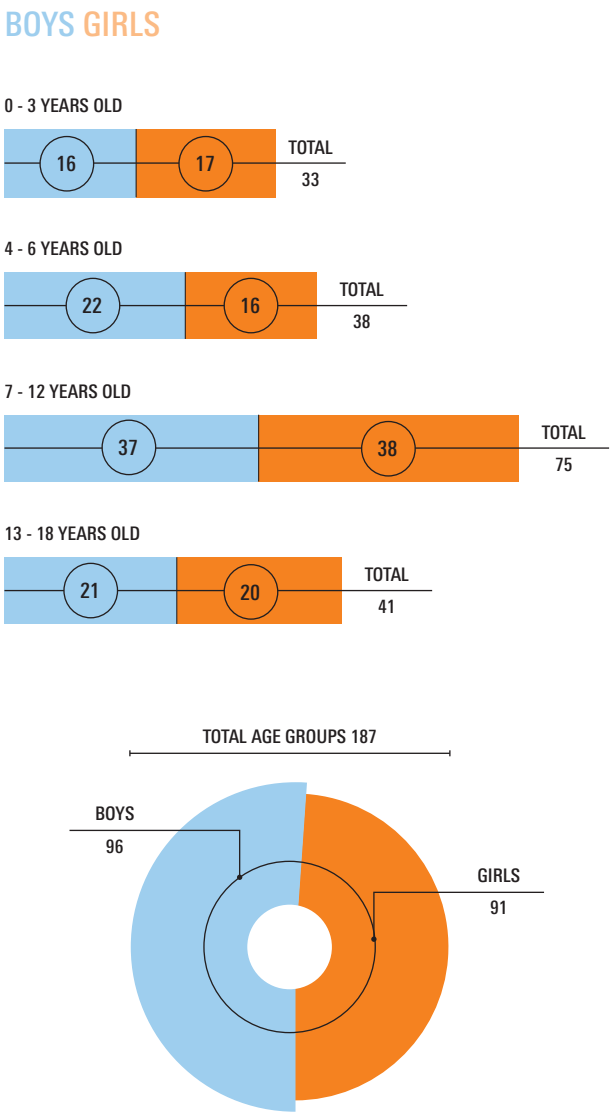
Just as the data on child offenders is fragmented, so too is the data on child victims. The Ministry for Citizen Protection publishes data on the child victims of crime, though it is not clear whether the figures relate to cases where there has been a conviction of the perpetrator or all reported cases involving a child victim.[245]

There is currently no register, however, recording the names of children who have been the subject of child protection referrals making it difficult to find out whether a child is known to social services or the police as the victim or possible victim of a crime. This gap that has been intensively highlighted by organizations and bodies concerned with child protection in Greece.[246] Despite efforts by different bodies from time to time to rectify this omission, there is still no systematic collection of that data.

A policy brief under the title "*Joining forces to better protect children from abuse and neglect*" published by the Institute of Child Health in 2019 mentions as its main finding the lack of knowledge regarding the number of children affected by abuse and neglect, since there is no mechanism in place for systematic reporting and/or recording of reported cases of child abuse and neglect. Professionals who took part in the research noted that data collection (regarding child abuse and neglect) does take place, but it is neither systematic nor at a national level. Further, where data collection is in place, various tools and methodologies are used, making any national statistics virtually impossible to produce. It also means that data from different organisations and geographical locations is not comparable.

Partial data on child victims can be found in databases kept by different organizations involved in child protection. The "Smile of the Child" NGO,[247] established in 1996, provides child protection services across Greece. The organization's annual reports and data are available online and provide some partial data on the number of reported in the hotline concerning child victims of violence and neglect. Data extracted from their 2020 report are contained in Tables 6.1 and 6.2 below[248]. Table 6.1 sets out the number of requests for child protection services provided by Smile of the Child by official authorities, while table 6.2 categorises the reason for referral. However, as can be seen, not all children who are referred for services are necessarily the victim of a crime.

Table 6.1
Child victims per age group



Source: Annual Report, The Smile of the Child 2020

245 See Α.Ε.Α./Κ.Α./ΔΙΕΥΘΥΝΣΗ ΔΗΜΟΣΙΑΣ ΑΣΦΑΛΕΙΑΣ

246 See the interview of Christina Zarafonitou, renowned criminologist, professor and General Secretary of the Greek Association of Criminology who states that in the Greek judicial system, the position of the victim is obviously neglected which es evident when considering that at a policy level no statistics on child victimization are being kept, accessible here: http://www.hscriminology.gr/wp-content/uploads/2019/08/crime-and-punishment-5.pdf. See also, the conclusions of the 2018 largescale Balkan Epidemiological Study of Child Abuse and Neglect (BECAN Study) available at http://www.becan.eu

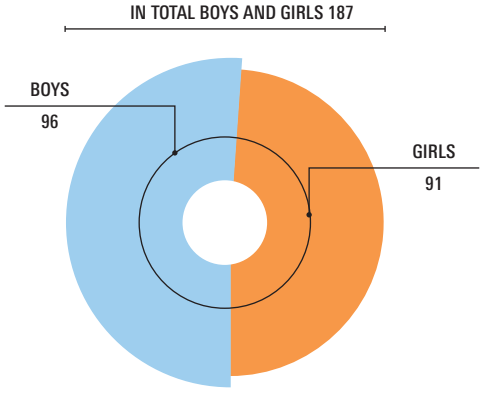
247 https://www.hamogelo.gr/gr/en/

248 The data have been extracted from, and be accessed here: file:///C:/Users/lenovo/Downloads/p1etjo6qtkh4guqg126c5dipl9.pdf

Table 6.2
Reason for referrals in 2020

BOYS GIRLS

	BOYS	GIRLS	TOTAL
NEGLECT	39	34	TOTAL 74
ABANDONMENT	9	4	TOTAL 13
PHYSICAL ABUSE	6	10	TOTAL 16
SEXUAL ABUSE	2	5	TOTAL 7
PSYCHOLOGICAL ABUSE			TOTAL 0
ABUSE & NEGLECT	5	7	TOTAL 12
FINANCIAL WEAKNESS OF PARENT(S)/LEGAL GUARDIAN(S)	9	5	TOTAL 14
PSYCHOLOGICAL WEAKNESS OF PARENT(S)/LEGAL GUARDIAN(S)	2	5	TOTAL 7
DEATH OF PARENT(S)/LEGAL GUARDIAN(S)	6	1	TOTAL 7
HOSPITALIZATION OF PARENT(S)/LEGAL GUARDIAN(S)	1		TOTAL 1
IMPRISONMENT OF PARENT(S)/LEGAL GUARDIAN(S)	2		TOTAL 2
VICTIM OF TRAFFICKING		1	TOTAL 1
OTHER (UNACCOMPANIED MINORS)	15	19	TOTAL 34



Source: The Smile of the Child, Annual Report 2020.

The UN Committee on the Rights of the Child (the CRC Committee) in General Comment No. 24, published in 2019, has urged States to collect disaggregated data including on the number and nature of offences committed by children, the use and the average duration of pretrial detention, the number of children dealt with by resorting to measures other than judicial proceedings (diversion), the number of convicted children, the nature of the sanctions imposed on them and the number of children deprived of their liberty in a systematic fashion.[249]

The Government has clearly sought to address the issue of data by incorporating Article 21 of EU Directive 2016/2020 into article 18 of Law 4689/2020. Under article 18, until June 2021 and thereafter, data are to be sent to the European Commission to demonstrate how the Government has implemented the rights set out in the Directive every three years. All public authorities including the Ministry of Justice, prosecutors and the juvenile probation and social welfare services, health services, social welfare and the National Centre for Social Solidarity (EKKA) are required to keep complete and up to date statistics on their work and how the rights in the Directive have been implemented.

Article 18 para. 3 of Law 4689/2020 specifically requires that statistics shall include

1. the number of children who had access to a lawyer;
2. the number of individual evaluations of children performed;
3. the number of medical examinations of children in conflict with the law;
4. the number of interviews / investigations that were audio-visually recorded;
5. the number of children deprived of their liberty
6. the number of children given corrective measures;
7. the number of children on whom therapeutic measures were imposed

As can be seen from the above, considerable reform to the current nature of data collection will be required to meet the requirements of both the CRC and Law 4689/2020. The system of data collection needs further interrogation to enable the hurdles to systematic data collection across the juvenile justice field to be identified.

Additional data on child victims can be found on the table below, issued by the Hellenic Police:

Table 7

Comparative table of cases involving victims who are minors 2019 and 2020

Red indicates an increase in the number of cases and victims, blue indicates a decrease in cases and victims.

YEAR 2019 AND YEAR 2020 (8 MONTHS) - 2020 IN BRACKETS										Variance 2020 - 2019 cases	Variance 2020 - 2019 Victims
Offences	Cases	Victims	National	Alien	Males	Females	Age 0-8	Age 9-14	Age 15-18		
Article 306 (exposure at risk)	65 (75)	94 (97)	71 (60)	23 (37)	60 (65)	34 (32)	38 (48)	38 (37)	18 (12)	15.38%	3.19%
Article 308 (Simple Physical Injury)	67 (79)	76 (87)	63 (73)	13 (14)	63 (63)	13 (24)	4 (7)	28 (25)	44 (55)	17.91%	14.47%
Article 308A (Bodily Harm without Intent)	11 (5)	15 (9)	12 (5)	3 (4)	9 (9)	6 (/)	2 (/)	7 (2)	6 (7)	-54.55%	-40.00%

249 CRC/C/GC/24 para 113.

YEAR 2019 AND YEAR 2020 (8 MONTHS) - 2020 IN BRACKETS										Variance 2020 - 2019 cases	Variance 2020 - 2019 Victims
Offences	**Cases**	**Victims**	**National**	**Alien**	**Males**	**Females**	**Age 0-8**	**Age 9-14**	**Age 15-18**		
Article 309 (Dangerous Bodily Harm)	23 (36)	35 (48)	17 (24)	18 (24)	31 (37)	4 (11)	2 (2)	2 (14)	31 (32)	56.52%	37.14%
Article 310 (Grievous Bodily Harm)	2 (/)	2 (/)	1 (/)	1 (/)	2 (/)	/ (/)	/ (/)	/ (/)	2 (/)	-100.00%	-100.00%
Article 311 (Fatal Injury)	/ (1)	/ (1)	/ (1)	/ (/)	/ (91)	/ (/)	/ (/)	/ (/)	/ (1)	100.00%	100.00%
Article 312 (Causing injury by continuous cruel ehaviour)	6 (9)	6 (9)	5 (6)	1 (3)	3 (6)	3 (3)	/ (3)	4 (5)	2 (1)	50.00%	50.00%
Article 314 (Physical Injury caused by neglect)	34 (70)	42 (79)	34 (68)	8 (11)	28 (59)	14 (20)	9 (8)	20 (33)	13 (38)	105.88%	88.10%
Article 322 (Abduction)	8 (22)	10 (26)	9 (24)	1 (2)	7 (10)	3 (16)	6 (14)	1 (7)	3 (5)	175.00%	160.00%
Article 336 (Rape)	21 (35)	26 (39)	16 (23)	10 (16)	6 (12)	20 (27)	5 (3)	8 (19)	13 (17)	66.67%	50.00%
Article 337 (Violation of sexual dignity)	66 (33)	78 (40)	67 (30)	11 (10)	18 (8)	60 (32)	4 (/)	41 (29)	33 (11)	-50.00%	-48.72%
Article 339 (Harassment of Minor)	44 (38)	46 (46)	33 (31)	13 (15)	79 (16)	39 (30)	19 (13)	18 (31)	9 (2)	-13.64%	0.00%
Article 342 (Indecent Contact with Minor)	7 (7)	9 (9)	7 (8)	2 (1)	3 (6)	6 (3)	3 (/)	4 (6)	2 (3)	0.00%	0.00%
Article 347 (Assault against nature)	/	/	/	/	/	/	/	/	/	/	/

YEAR 2019 AND YEAR 2020 (8 MONTHS) - 2020 IN BRACKETS										Variance 2020 - 2019 cases	Variance 2020 - 2019 Victims
Offences	**Cases**	**Victims**	**National**	**Alien**	**Males**	**Females**	**Age 0-8**	**Age 9-14**	**Age 15-18**		
Article 348A (Child Pornography)	11 (14)	16815 (	11 (14)	5 (1)	/ (3)	16 (12)	3 (2)	1(5)	12 (8)	27.27%	-6.25%
Article 348B (Approaching children for sexual reasons)	1 (1)	1 (1)	1 (1)	/	/	1 (1)	/ (/)	1 (1)	/ (/)	0.00%	0.00%
Article 348C (Pornographic performances by minors)	/ (1)	/ (1)	/ (1)	/	/	/ (1)	/	/	/ (1)	100.00%	100.00%
Article 349 (Forced prostitution)	2 (3)	2 (3)	2 (1)	/ (2)	/ (/)	2 (3)	/	/	2 (3)	50.00%	50.00%
Article 351[250] (Trafficking)	/	49 (74)	19 (23)	30 (51)	17 (39)	26 (35)	/	/	/	/	40.65%
Article 351A (Assault of Minor for remuneration)	1 (6)	1 (9)	1 (9)	/	/ (6)	1 (3)	/ (1)	/ (5)	1 (3)	500.00%	800.00%
Article 352B (protection of the privacy of minors)	1	2	2	/	1	1	/	2	/	-100.00%	-100.00%
Article 353 (Causing scandal with indecent acts)	8 (2)	13 (2)	13 (2)	/	/	13 (2)	2 (1)	5 (1)	6 (/)	-75.00%	-84.62%
L.3500/2006 (Domestic violence)	94 (92)	118 (101)	94 (67)	24 (34)	47 (51)	71 (50)	31 (23)	48 (49)	39 (29)	-2.13%	-14.41%

Source: Hellenic Police Headquarters / Directorate of Public Security

250 Especially for Art. 351 the statistics are from the Annual Reports of the Referral Mechanism for the Protection of Victims of Human Trafficking, available at: https://ekka.org.gr/index.php/en/rolos-skopos-tou-ekka-en/statistika-en

6 THE NATURE OF A JUVENILE JUSTICE SYSTEM

The CRC places a duty on States to *undertake all appropriate legislative, administrative and other measures for the implementation of the rights recognised in the present Convention.'* In relation to juvenile justice, the rights contained in the CRC are to be found in Articles 37 and 40, which cover both substantive and procedural rights. These rights are supplemented, and more detail is given on these rights in the UN Minimum Standards and Norms of Juvenile Justice, [251] which accompany and complement the CRC. At regional level, the Parliamentary Assembly of the Council of Europe has urged member states to "*establish a specialized juvenile justice system by means of dedicated laws, procedures and institutions for children in conflict with the law*".[252]

While the CRC does not explicitly provide that every State must pass a juvenile justice law or establish a juvenile court, nevertheless the duties placed on the State require this in practice. The Committee on the Rights of the Child (the CRC Committee) in General Comment No. 24 provide the rationale for the requirement for States to establish a juvenile justice system: "*children differ from adults in their physical and psychological development. Such differences constitute the basis for the recognition of lesser culpability and for a separate system with a differentiated, individualised approach. Exposure to the adult criminal justice system has been demonstrated to cause harm to children, limiting their chances of becoming responsible adults.*" [253] At the same time, the Committee acknowledges that the preservation of public safety is a legitimate aim of the justice system, including the child justice system.[254]

Greece does not have a single juvenile justice law, but rather includes provisions relating to children in conflict with the law within the Penal Code. It has however, established a Juvenile Court with its own specialised procedure. [255] Article 96(3) of the Constitution of Greece requires that cases involving child offenders shall be handled by **juvenile courts**. There are three types of juvenile courts: the one-member juvenile court, the three-member juvenile court and the Juvenile Court of Appeals. The Court's jurisdiction is based on the severity of the crime and its characterisation in the Penal Code as a felony or misdemeanour.[256] The jurisdiction of each Minors' court is specified in art. 113 , art. 114 and 115 CCP.[257] There is a Juvenile Court in each First Instance Court District.

Children are treated differently from adults while at the police station, in the Courts and in terms of the measures that are imposed on children who are found to have committed offences. This is dealt with in greater detail below.

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251 There are four juvenile justice instruments that support the rights contained in the CRC: the United Nations Guidelines for the Prevention of Juvenile Delinquency (Riyadh Guidelines); the United Nations Standard Minimum Rules for the Administration of Juvenile Justice (Beijing Rules); United Nations Rules for the Protection of Juveniles Deprived of their Liberty (Havana Rules); and the Guidelines for Action on Children in the Criminal Justice System (Vienna Guidelines).

252 Child-Friendly Juvenile Justice: From rhetoric to reality, Doc 13511 19 May 2014.

253 CRC/C/GC/24 Paras 1.

254 CRC/C/GC/24 Paras 2.

255 Compulsory Law 2135/1939 provided for the establishment of the Minor's Court, with the first Court established in Athens in 1940. The Court dealt not only with children accused of a criminal offence, but also those who were on the verge of developing criminal behaviour.

256 The Greek PC separates criminal behavior into two categories: felonies and misdemeanors. Infringements were abolished through an amendment of the PC (Article 18 PC).

257 The one-member juvenile court is competent for offences committed by minors, except those which fall within the competence of the three-member juvenile court. The three-member juvenile court is competent for offences committed by minors who are older than 15 years old and which are described in art. 127 of the PC i.e. crimes that if committed by an adult would be considered felonies and which include elements of violence or are against life of physical integrity. The juvenile court of appeals decides on appeals against the decisions of the one-member and three-member juvenile courts.

7
THE ACTORS IN THE JUVENILE JUSTICE SYSTEM

CRC Committee General Comment No 24 notes that *"in order to ensure the full implementation of the principles and rights …. It is necessary to establish an effective organisation for the administration of justice".*[258] This requires the establishment of specialised units within the police, the judiciary, the court system and the prosecutor's office, as well as specialised defenders or other representatives who provide legal or other appropriate assistance to the child. It also requires specialised services, such as probation, counselling, or supervision together with specialised facilities, including day treatment centres and, where necessary, small scale facilities for residential care.

Within the Greek context, there is a multitude of bodies, services and professionals who are involved with children who come into contact with the justice system, but unfortunately there is an overall lack of clarity over the roles and duties of these actors. In some instances, the role of a particular body or service has changed significantly over time or duplicates the role of another body or service. In other cases, the legal framework provides for the existence and operation of a body/association/service but, in practice, it is not operational. This is an issue that will be addressed through qualitative interviewing during the course of the Study.

→ **The police** is the first service that a child will come into contact with when a crime is alleged to have been committed, whether the child is a suspect, a victim or a witness.[259] Art. 6 of 7/2017 PD established the Sub-Directorate for the Protection of Minors under the Attica Directorate of Security. The Sub-Directorate consists of two departments: one of which is the Department for the Protection of Minors, responsible for the prevention and combatting of crimes committed by children or against them; the study of the social causes of crimes committed by children; cooperation with competent bodies on the prevention and repression of children' delinquency and searching for missing children. The second department is the Department for Addressing Minors' Delinquency, responsible for combatting criminal offending by children and involves responsibility for the care and treatment of children in conflict with the law and especially during detention and transfer, as well as for protection and support of children in general. Although the Sub-Directorate for the Protection of Minors is intended to be national, it appears in practice that it only exists in a few places: for example, in Athens, Thessaloniki, Patra and Heraklion Crete.[260]

In addition to the two departments above, a Department of Drugs and Minor's Delinquency has also been in operation since 2001 based on art. 6 PD 141/2001 (amended by PD 26/2011). The Department deals with research into preventive measures and the suppression of crimes connected to drugs, covering both crimes committed by children or against them; the collection, process and utilization of information on the habits, extra-curriculum activities, places where children meet and information on crimes in relation to drugs committed by or against children; the drafting of national action plans on combatting crimes related to drugs and the cooperative projects with relevant bodies on raising awareness of crimes related to drugs and juvenile delinquency.

There is little evidence available on the extent to which police officers in the departments dealing with juvenile crime have received specialised training, It should also be noted that in March 2021, the Minister of Citizen Protection issued "The White Paper"[261] in which two fundamental reforms were proposed for the Greek police: a new organisational chart and a new educational policy. No further announcement has yet been made in regard to these reforms, and it is unclear to what extent the new organisational chart or educational policy will impact on police officers who deal with children in conflict with the law or as victims and witnesses. The CRC in General Comment No 24 state very clearly that *"[i]t is essential for the quality of the administration of child justice that all the profession-*

258 CRC/C/GC/24 Para 105.
259 EU Study on children's involvement in judicial proceedings – contextual overview for the criminal justice phase – Greece, 2013.
260 EU Study on children's involvement in judicial proceedings – contextual overview for the criminal justice phase – Greece, 2013.
261 Accessible at : http://www.mopocp.gov.gr/index.php?option=-ozo_content&perform=view&id=7337&Itemid=719&lang=

als involved receive appropriate multidisciplinary training on the content and meaning of the Convention. The training should be systematic and continuous and should not be limited to information on the relevant national and international legal provisions. It should include established and emerging information from a variety of fields on, inter alia, the social and other causes of crime, the social and psychological development of children, including current neuroscience findings, disparities that may amount to discrimination against certain marginalized groups such as children belonging to minorities or indigenous peoples, the culture and the trends in the world of young people, the dynamics of group activities and the available diversion measures and non-custodial sentences, in particular measures that avoid resorting to judicial proceedings. ….. There should be a constant reappraisal of what works."[262]

It is unclear whether the Greek police training is meeting these standards at the current time.

The UNICEF and UNODC Justice in Matters involving Child Victims and Witnesses of Crime Model Law and Commentary (2009) and the Handbook for Professional and Policymakers on Justice Matters involving Child Victims and Witnesses of Crime (2009) require the use of specially trained investigators in cases involving child victims and witnesses, using a child sensitive approach, and a reduced exposure to the justice system. This includes avoiding repeat interviews to prevent secondary victimisation and the provision of support.

It has not been possible to determine to what extent the provisions of the handbook are incorporated into police practice. It was not possible to determine whether there is a specialist unit of trained police who deal with child victims and witnesses, nor whether there are special facilities at which children are interviewed or who is present during the interview. It has also not been possible to discover whether interviews with child victims and witnesses are recorded, either through audio or video recordings. The system for interviewing child victims and witnesses will be explored during the data collection.

→ **The public prosecutor** plays a central role in the Greek justice system and is actively involved in the cases of child offenders and child victims. CRC Committee General Comment No. 24 requires that the prosecution service should have specialised units to deal with children.[263] In Greece there are only five public prosecutors for children: two at the courts in Athens, one in Peiraeus and two in Thessaloniki.[264] In the other regions, the general public prosecutor is responsible for both children and adults. These prosecutors do not specialise in child cases and, it has been suggested, sometimes lack the time to devote to cases relating to children due to excessive workload. The role of the public prosecutor mainly concerns criminal cases, but they may become involved in civil matters such as divorce where there are serious issues that are likely to impact on children (such as when separations become acrimonious and/or where there are malicious allegations of abuse).

In cases of children who are alleged to or are accused of a crime, the public prosecutor will attend the juvenile court and advise the judge on the measures to be imposed. They also have the power to propose and initiate diversion at an early stage through the imposition of educational/reformatory measures. The role and the responsibilities of the prosecutor are outlined in several provisions throughout the Code of Criminal Proceedings, most notably in Articles 12, 20,27,28,30,46 and 227[265]. Several of the responsibilities are also prescribed in Law 4689/2020/.[266]

In cases of child abuse, the role of public prosecutors is extensive and wide. They can initiate an investigation into a case of alleged abuse against a child victim and can also refer a case to municipal social services with a request that a social (family) assessment be undertaken. Based on the assessment and the recommendations made by social services, the public prosecutor will decide what, if any, action should be taken. If the risk to the child is identified as being low or medium, the prosecutor may require social services to monitor the family. Alternatively, the

262 CRC/C/GC/24, 18 September 2019, paras. 111 and 112

263 CRC/C/GC/24, 18 September 2019, Para 106.

264 Art. 27 par. 1 CCP provides that the prosecutor of the court of appeals appoints a special Minors' prosecutor (and his/her deputy) in the courts of Athens, Piraeus, Thessaloniki and Patra

265 Government Gazette 96/A/11/11-6-2019, http://www.et.gr/idocs-nph/search/pdfViewerForm.html?args=5C7QrtC22wFqnM3eAbJzrXdtvSoClrL8PT2mlaPXRibtIl9LGdkF53UIxsx942CdyqxSQYNuqAGCF0IfB-9HI6qSYtMQEkEHLwnFqmgJSA5WIsIuV-nRwO1oKqSe4BIOTSpEWYhszF8P8UqWb_zFijGMqgncuOLN9VfqAr3uaqTfxgCPfk1b8I49-ZpbxDzxW

266 Government Gazette 103/A/27-5-2021, http://www.et.gr/idocs-nph/search/pdfViewerForm.html?args=5C7QrtC22wHUdWr4xouZundtvSoClrL85SHhfC--biJ5MXD0LzQTLWPU9yLzB8V68knBzLCmTXKaO6fpVZ6Lx-3UnKI3nP8NxdnJ5r9cmWyJWeIDvWS_18kAEhATUkJb0x1LIdQ163n-V9K--td6SIuV0Wmy0IBLBJquGxkVZ1VUrB-5smbJGwKbLnFdFDYTe7

prosecutor may decide that the risk is so great that the child should be removed from home. Art. 1532 of the Civil Code provides the legal basis for a court decision on removal of parental responsibilities. In extremely urgent cases, where there is an imminent danger to the physical or mental health of the child, the public prosecutor has the power to order appropriate measures (including removal of the child from the family environment) pending a decision of the court, to which the case must be referred within 90 days, with a possibility of justified extension for an additional 90 days. The removal of a child will be handled by the police (a police officer from the Department of Protection of Minors). In such cases the public prosecutor will also decide where the child will be placed once removed from the family.

The extent to which prosecutors receive training on handling cases involving children as offenders and as victims and witnesses will be explored during data collection, including how cases are managed where there are no specialised prosecutors for children.

According to the official website of the National School for Judicial Officials, the curriculum for prosecutors includes 12 hours on the responsibilities of the prosecutor for minors and 6 hours on the protection of vulnerable populations in general, including minors.[267] It would appear from the website, however, that there have not been any educational seminars focusing on children over the past 5 years.[268]

→ **The Judiciary:** Although the juvenile courts are staffed by designated judges and investigating judges, there is no legal requirement for the judges to demonstrate any particular experience or training on handling cases involving children. The CRC Committee has recommended that States parties should ensure the appointment of specialized judges for dealing with cases concerning child justice.[269] At present there do not appear to be any regular training programmes for those who will be sitting or are sitting as a juvenile judge.

→ **The Juvenile Probation and Social Welfare Service** is another key-professional body within the Greek justice system. The Service is regional, and is under the supervision of the Department of Justice Support Functions within the Ministry of Justice.[270] It operates in each court of first instance and in particular in the juvenile court, where such a court is established. The service is supervised by the head of the Prosecutor's Office of First Instance.[271] The Juvenile Probation Service was established in its current form in 1976 (under Law 378/1976). In 2014 they were merged with social welfare services and are now referred to as the Juvenile Probation and Social Welfare Service. Their operation is regulated by Presidential Decree 49/1979 and Presidential Decree 6/2021. Article 26 of PD 6/2021 sets out the mission of the Juvenile and Social Welfare Services, which is to provide non-custodial supervision and support to juveniles who have committed an offence or who are in danger of becoming perpetrators or victims of criminal acts (i.e., are involved in anti-social behaviour). The service provides assistance and supervision to juveniles who have been sentenced to a suspended sentence under supervision, those whose sentence has been converted to community service and those released on parole. It also provides reports on juveniles to the sentencing judge about the child and his or her background and family and the conduct of social investigations and other actions to prevent juvenile delinquency.

The mandate of juvenile probation officers includes the provision of support to child victims and witnesses but there is no evidence that they exercise this role in practice. The juvenile probation officers are from a variety of disciplines including social workers, sociologists, social anthropologists, psychologists, law professionals, political scientists, and have generally received training in different fields. According to Presidential decree 49/1979 which regulates the Juvenile Probation Services, it is compulsory for officers to attend training during their probation period, the curriculum of which is to be determined by a Ministerial Decision issued by the Minister of Justice. It does not appear that a Decision has yet been issued. In practice, there is a distinct lack of any of form of structured training programme for probation officers on the specifics of their work with children, with many seeking out and paying for training opportunities themselves, sometimes using their allocated annual leave to attend. There are currently some introductory courses on

267 https://www.esdi.gr/nex/index.php/el/2013-01-17-08-02-21/2013-01-24-15-04-34/2013-01-24-15-05-20/kateythynsys-eisaggeleon
268 https://www.esdi.gr/nex/index.php/en/2015-07-21-12-01-18
269 CRC/C/GC/24, 18 September 2019, Para 107.
270 Presidential Decree 6/2021, Article 15.3
271 Presidential Decree 6.2021, Article 26.2(e).

the law concerning minors being offered by INEP (the Vocational Training Institute).[272]

Apart from the above duties related to children who are accused of or found to have committed a criminal act, the Juvenile Probation and Social Welfare Service also plays an important role in the field of crime prevention for juveniles. Their role in preventing delinquency is to provide authorities with a needs assessment of the child's case when requested to do so, and to provide counselling for the child and/or their family.

Article 26 of PD 6/2021 also requires that the Juvenile Probation and Social Welfare Service collect statistical data[273] and[274] cooperate with the Department of Support Operations of Justice of the Central Service of the Ministry of Justice for the compilation of statistical studies on the prevention and suppression of juvenile delinquency.

→ **The Associations/Companies for the Protection of Minors** (Art.18 of L. 2298/1995) were established by Law 2724/1940, shortly after the establishment of the Juvenile Courts. They are public entities, supervised by the Ministry of Justice. [275] However, in 2013, the regional associations were abolished by Art. 11 par. 1, 2 of Law 4109/2013 and only the Associations based at the Court of Appeal in the larger cities remain operational. The main purpose of the Associations is to help prevent the victimization and delinquency of children through the provision of material and social support to minors who have been subjected to remedial measures; have been discharged from a juvenile education institution, or a special juvenile detention facility; against whom criminal proceedings are pending; children at risk of being victims or offenders due to an inappropriate or non-existent family environment or other adverse social conditions and causes. They also provide vocational training, education, cultural education, entertainment and if possible, housing to minors. Parts of their mandate would appear to overlap with that of the Houses of the Child. In addition, the Associations seek to support families by providing assistance with parenting and addressing children's anti-social or offending behaviour.

Recently in an answer to a Parliamentary Question in June 2021,[276] the Minister of Justice announced that it was the intention of the Government to abolish the Associations for the Protection of Minors.

→ **The Scientific Team for Juvenile Assessment.** In 2020, Law 4689/2020 about Procedural Guarantees for Children who are Suspected or are a Defendant in the Context of Criminal Procedures was enacted. Article. 7 provides that a child who is suspected of or accused of committing a criminal act must be assessed without delay by the Minor's Probation and Social Welfare Service. Article 7 para. 2 establishes a new, additional body: the Scientific Team for Juvenile Assessment.

Where the Minor's Probation and Social Assistance Service is not operating, or it issues an opinion that a specialised assessment of the mental health or drug misuse of the minor is required, the case will be referred to the Scientific Team. The Scientific Team is to consist of an experienced child (or adolescent and youth) psychiatrist, a psychologist experienced in working with children, adolescent and young people and an experienced social worker or a juvenile probation officer. Specific lists of those with the required experience will be drawn up and kept at each Prosecution's Office. Until the Scientific Teams for Juvenile Assessment are formed, their responsibilities will be undertaken by the competent structures of the National Health System appointed by the Court. So far, no step has been taken towards developing this body.

Article 7 is considered to be an important new measure, since it introduces for the first time the requirement to conduct a multidisciplinary assessment of a child suspect or accused, which has been identified in the past as an important gap. What remains to be seen is how this provision will be implemented in practice, as well as the time that will be needed for the setting up and operation of the Scientific Teams.

→ **Legal Aid:** Article 14(3)(d) of the International Covenant on Civil and Political Rights provides that the right to le-

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272 https://www.ekdd.gr/wp-content/uploads/2019/01/%CE%99%CE%9D%CE%95%CE%A0-%CE%A4%CE%9F%CE%9C%CE%95%CE%91%CE%A3-

273 Article 26.3 (nn) and (h)..

274 https://www.hellenicparliament.gr/UserFiles/67715b2c-ec81-4f0c-ad6a-476a34d732bd/11670472.pdf

275 The associations have their own property that comes from subscriptions of members of the association, from fundraisers, donations, bequests and State grants, the revenues of which are deposited in the NBG. Revenues and expenditures are controlled by the competent Financial Services of the State. See http://www.justice.gr/site/en/PenitentiarybrSystem/PreventionandControlofCrime.aspx

276 https://www.hellenicparliament.gr/UserFiles/67715b2c-ec81-4f0c-ad6a-476a34d732bd/11670472.pdf

gal representation is a minimum guarantee in the criminal justice system for all persons, and this includes children. Article 37 of the CRC reiterates this provision by providing that a child *"shall have the right to prompt access to legal aid and other appropriate assistance".* The CRC Committee in General Comment No 24 requires States to ensure that the child is guaranteed legal or other appropriate assistance from *the outset* of the proceedings (i.e., from the moment of apprehension), in the preparation and presentation of the defence and until all appeals and reviews are exhausted. The Committee recommends that States provide legal representation free of charge, for all children who are facing criminal charges and should not permit children to waive their right to legal representation.[277]

Currently, there is not a single dedicated authority in Greece with responsibility for legal aid. At present, responsibility is shared between the Ministry of Justice, the Courts and the Bar Association. Lawyers are paid by the Ministry of Justice for providing free legal aid but are appointed by the Court. Lawyers offering legal aid services are registered in specific catalogues which are available in the courts.[278] There are no separate codes or standards for lawyers providing free legal aid.[279]

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277 CRC/C/GC/24 at para. 51. The General Secretariat for Lifelong Learning and Youth was implementing a legal aid program for minors and youth up to 35 years old which ended in 2019; https://www.minedu.gov.gr/aei-9/nomothesia-aei/1497-categories-2021/dioikisi-2021/ggd-vmng-geniki-grammateia-dia-viou-mathisis-kai-neas-genias/nea-genia/nea-genia-deltia-typou/30579-03-10-17-nomiki-voitheia-gia-neous-4

278 Additionally, there is a provision for legal aid on civil cases based on the income. An application is required along with documentation proving the annual income which must be submitted in the competent court at least 15 days before the trial or the action for which a lawyer must be appointed, Law 3226/2004 Articles 1 and 2, Government Gazette 24/A/ 4/4-2-2004 https://www.ministryofjustice.gr/wp-content/uploads/2019/08/103_Nomos_3226_2004.pdf

279 Open Society Justice Initiative and Justicia, Legal Aid in Greece, https://www.justiceinitiative.org/uploads/997f9adc-0614-4ed3-a027-cefe721007bc/eu-legal-aid-greece-20150427.pdf.

8 THE ADMINISTRATION OF JUSTICE

Responsibility for the administration and implementation of the juvenile justice system is spread between the Ministry of Citizen Protection and the Ministry of Justice.

In July 2019, the General Secretariat for Anti-Crime Policy, (a role provided for in Art. 17 of PD 96 /2017 (A' 136) together with the Juvenile Probation and Social Welfare Service were originally transferred from the Ministry of Justice to the Ministry of Citizen Protection.[280]

The transfer raised serious issues and was severely criticized by the Greek Ombudsman.[281] In particular, the transfer gave the Ministry of Citizen Protection authority in relation to the police, the prosecution, educational, reformatory and reintegration elements of the juvenile justice system as well as the penitentiaries. This offended against the internationally accepted approach that there should be a separation of responsibility between law enforcement and the justice system and went against the Council of Europe Recommendation (2001)10, which provides that: "*There shall be a clear distinction between the role of the police and the prosecution, the judiciary and the correctional system; the police shall not have any controlling functions over these bodies".*[282]

Following criticism of the transfer, a further reform was introduced through art. 18 par. 5 of L. 4625/2019 (art.139) which excluded from the transfer to the Ministry of Citizens Protection, the Associations for the Protection of Minors, the Forensic Service and the Juvenile Probation and Social Assistance Services, all of which remained under the Ministry of Justice.

The following table shows the previous structure of the Secretariat of Anti-Crime and Correctional Policy under the Ministry of Justice.

In January 2021, all these departments were abolished by PD6/2021, and a new body was introduced: the Department of Support Operations of Justice under the newly established Human Resources and Organization Directorate of the Ministry of Justice. The Department does not have a preventive role but is tasked with: caring for the efficient operation of the Minors' Probation Services and the Independent Offices for the Protection of Minor Victims; providing any kind of assistance to the central inspector of the Juvenile Probation and Social Welfare Services; assisting the Minister of Justice in supervising the Associations for the Protection of Minors and taking any necessary action to support their work and the general strengthening of the institution; handling issues concerning the official status and training of the Juvenile Probation and Social Welfare Services; preparing their annual inspection reports; planning, organizing and monitoring the implementation of new therapeutic, reformatory or alternative sentencing measures in cooperation with the above Services; regulating issues arising in what concerns the community service as a reformatory measure; caring for the issuance of a decision on the placement of minors under administrative supervision, as well as extension or subtraction of such decision; and administratively supporting the Central Scientific Council for the Prevention of Minors' Victimization and Delinquency" (KESATHEA) (art. 15 par. 2c). Following the issuance of the PD, no further steps or actions have been taken to facilitate the operation of this newly established department.

GENERAL DIRECTORATE OF ANTI-CRIME AND CORRECTIONAL POLICY	
Secretariat for Anti-Crime Policy	Secretariat for the Organization and Operation of Detention Centres
Department of Strategic Planning and Anti-Crime Policy Assessment	Department of General and Agricultural Detention Centres
Department of Crime Prevention and After-Correctional Care	Department of Youth Detention and Therapeutic Centres
Department of Detainees' Labour and Education	Department of Service Status of Correctional Officers, Minors' Probation Officers and Welfare Probation Officers

280 Art. 2 par. 5.1 of the PD 81/2019 (B' 119)

281 Annual Report 2019, p. 142, accessible here: Ετήσιες εκθέσεις | Συνήγορος του Πολίτη (synigoros.gr) (in Greek).

282 At para. 6.

9 PREVENTION OF JUVENILE CRIME

The UN Guidelines for the Prevention of Juvenile Delinquency[283] (the Riyadh Guidelines), see the prevention of juvenile delinquency as an essential part of crime prevention in society.[284] It notes the need for and importance of progressive delinquency prevention policies and the systematic study and the elaboration of measures to avoid criminalising and penalising the child for behaviour that does not cause serious damage to the development of the child or harm to others.

The Guidelines set out the requirements for policies and measures which should, in particular, include:

- philosophies and approaches aimed at reducing the motivation, need and opportunity for, or conditions giving rise to offending by children;
- consideration that youthful behaviour or conduct that does not conform to overall social norms and values is often part of maturation and growth process and tends to disappear spontaneously in most individuals with the transition to adulthood; and
- awareness that in the predominant opinion of experts, labelling a young person as deviant or delinquent often contributes to the development of a consistent pattern of undesirable behaviour by children.
- community based services and programme should be developed for the prevention of juvenile delinquency, particularly where no agencies have been established. Formal agencies of social control should only be used as a means of last resort. [285]

Although, as seen above, a number of bodies were already involved in preventing juvenile crime, the Government established the **Central Scientific Council for the Prevention of Minors' Victimisation and Delinquency" (KESATHEA)"** under Law 3860/2010. The purpose of the Council, which formed part of the General Secretariat for Anti-Crime Policy was to coordinate and organise prevention activities, forward proposals to reduce juvenile crime and provide expert opinions to the Minister of Justice on the prevention of juvenile crime and addressing juvenile victimization. When KESATHEA was first established, it was seen as an important initiative in the field of child justice. Despite the establishment of this body, there does not appear to be a coherent government policy that specifically addresses the prevention of juvenile crime, though the Greek General Secretariat for Justice, Transparency and Human Rights (now abolished), developed a National Action Plan on the Rights of the Child 2015 – 2020, part of which was a commitment by Government to ensuring child-friendly justice.

In 2011, through a new draft Law, KESATHEA announced a number of important initiatives in the field of child protection and child justice. The draft law provided for a National Registry of Child Protection and a national phone line of child protection (1107). The National Registry was not established but the national phone line was and continues to operate under EKKA. The draft Law also contained provisions for the establishment of a nationwide network "ORESTIS" which would electronically connect and coordinate the activities of all institutions working on the prevention and control of juvenile victimization and juvenile delinquency[286]. Despite the importance of such a step, ORESTIS has not been established. Further, for all its promising beginnings, KESATHEA has not established an on-line presence familiarising stakeholders and the public with its activities.

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283 Adopted and Proclaimed by General Assembly Resolution 45/112 of 14 December 1990.

284 The UN Guidelines for the Prevention of Juvenile Delinquency, Guideline 1.1, Adopted and Proclaimed by General Assembly Resolution 45/112 of 14 December 1990.

285 The UN Guidelines for the Prevention of Juvenile Delinquency, Guideline 1.5, Adopted and Proclaimed by General Assembly Resolution 45/112 of 14 December 1990.

286 JMD 49540/2011,Government Gazette 877/B/2011: http://www.et.gr/idocs-nph/search/pdfViewerForm.html?args=5C7QrtC22wFYAFd-Dx4L2G3dtvSoClrL805i3CSI0pux5MXD0LzQTLf7MGgcO23N88knBzL-CmTXKaO6fpVZ6Lx3UnKI3nP8NxdnJ5r9cmWyJWeIDvWS_18kAE-hATUkJb0x1LIdQ163nV9K--td6SIucCGWqWghiwUzPmRRra9x-3JQZ4g8qZZ6FFPGWh0dIPLp

After its initial establishment in 2010, the Council was reconstituted in 2016. The term of the Council expired on July 17, 2019, and since then there has been no decision by the Minister of Justice regarding its future composition. This appears to be due to an intention to restructure the Council, which was announced in 2019.[287] A parliamentary question was asked seeking information on what was to happen to KESATHEA addressed to the Minister of Justice in March 2021. According to the Minister's answer in June 2021[288] a committee has been established in order to introduce institutional changes and examine the operation and the rationale for the different institutions involved with victimization of minors and juvenile delinquency. The Minister announced that the Associations for the Protection of Minors will be abolished and a new public law entity will be introduced, which will be responsible for the Houses of the Child.

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287 See Presidential Decree 81/8-7-2019 on the restructuring of the Ministries.

288 https://www.hellenicparliament.gr/UserFiles/67715b2c-ec81-4f0c-ad6a-476a34d732bd/11670472.pdf

10 THE MINIMUM AGE OF CRIMINAL RESPONSIBILITY

Article 40(3)(a) of the CRC requires States to establish "*a minimum age below which children shall be presumed not to have the capacity to infringe the penal law*". In CRC Committee General Comment No 10, issued in 2007, recommended that States should not set the minimum age of criminal responsibility too low and concluded that that a minimum age below 12 years would not be internationally acceptable.[289] In General Comment No 24, the CRC Committee have revised their views on the minimum age, and now encourage States to set the minimum age not below the age of 14. Their reasoning for this is based on a number of factors: first, the most common minimum age of criminal responsibility internationally is 14; second, and more importantly, "*documented evidence in the fields of child development and neuroscience indicates that maturity and the capacity for abstract reasoning is still evolving in children aged 12 and 13 due to the fact that their frontal cortex is still developing*". [290]As a result, children of this age are unlikely to understand the impact of their actions or understand criminal proceedings.

Article 121 of the Penal Code sets the minimum age of criminal responsibility in Greece at 12. If a child is under the age of 12 commits a criminal act, the child has no responsibility in any form. A child between 12 and 15 years of age is also not regarded as being 'criminally liable' ("a criminal offence shall not be imputed to him") though article 126 of the Penal Code provides that the child may be subjected to therapeutic or rehabilitative measures,[291] thus attributing the commission of the crime to him or her. A child who has reached the age of 15 shall be treated as having 'full' criminal responsibility and may be subject to reformatory or therapeutic measures if found guilty of a crime, but may also, unlike a 12-15 year old, be subject to placement in a special detention centre.[292] This may only be ordered where the act, if committed by an adult, would be a felony involving elements of violence or directed against life or physical integrity.[293]

In terms of determining whether or not the child is criminally liable, the Penal Code takes the age of the child at the time of the commission of the offence and not the time when the act became known or a result of the act occurred.[294]

Lastly, the recently amended Art. 133 GPC stipulates that if an individual commits a crime before reaching the age of 25, the latter is considered to be a 'young adult'. In this case, the Court may impose a reduced sentence or order the individual's confinement in a special detention centre for minors, if the Court confirms that the criminal act was committed due to the individual's overall underdevelopment caused by their young age and that such a restriction would be sufficient to prevent the individual from committing more crimes.

In the case of adults, crimes are classified as misdemeanours and felonies. Under the Penal Code the classification differs when a child is charged with a crime. In the case of a child a crime may only be a misdemeanour. A crime committed by a child will not be treated as a felony. Hence, a criminal offence that is a felony if committed by an adult, is always a misdemeanour if committed by a juvenile and it maintains its character as a misdemeanour even if the minor is brought to trial after the age of eighteen.[295]

289 CRC/C/GC/10 25 April, 2007, para. 32.
290 CRC/C/GC/24, 18 September 2019 para. 22
291 Penal Code, Article 126 para. (1).
292 Penal Code, Article 126 para. (2).
293 Penal Code, Article 127 para. (1).
294 Penal Code, Article 130.
295 See Penal Code, Article 18.

11 PROCEDURE AT THE POLICE STATION

Article 40 of the CRC supplemented by Articles 10-12 of the UN Standard Minimum Rules for the Administration of Juvenile Justice (the Beijing Rules)[296] provide for basic procedural rights during investigation and prosecution. Article 10 of the Beijing Rules requires that upon apprehension of a child, the parents or guardian shall be notified immediately and, where this is not possible, within the shortest possible period of time. Article 10 also requires that contact between the police and a child offender should be managed in such a way as to respect the legal status of the child, promote his or her well-being and avoid harm.

Before 2020, the Greek law did not provide for specialized procedures when a child was apprehended by the police. The Police Code of Conduct (Presidential Decree 254/2004) provided only very limited requirements when it came to procedural guarantees for children. Article 5 para. 4 of the Police Code placed an obligation on police officers to treat children with understanding and humanity, and to protect them from exposure to destructive effects and dangers in line with Article 40(1) of the CRC.[297] In addition, police officers were required to treat children exhibiting delinquent behaviour, refugee children and victims of physical, psychological or sexual violence or exploitation, with special sensitivity. What this involved or the specific actions to be taken by the police to ensure this, was not stipulated. Other provisions include a requirement to ensure, to the extent possible, that children were detained separately from adults (article 3 of the Police Code).

Article 8 para. 6 of the 95/1987 Presidential Decree that established the Minors' Police Department provided additional guidelines: that children should not be handcuffed during any transfer except when they were considered as presenting a high risk of fleeing and that children should be detained separately from adults. It also required that, if possible, police officers accompanying them should not wear uniforms. In the absence of any further guarantees, the general provisions that governed the process for adults were applied to children as well.

On the 27th May 2020, a new law, **Law 4689/2020** was published. This Law incorporates EU Directive 2016/800 on procedural guarantees for children who are suspects or accused in criminal proceedings into the national legislation. This has had the effect of significantly reinforcing the framework of protection for children suspected of or accused of a crime, but any questioning that may occur at this stage is subject to the duties set out above. The extent to which the duties imposed on the police by Law 4689/2020 are followed in police stations is an issue which should form part of the data collection.

The right to legal representation is established by Article 20 of the Greek Constitution and is also contained in the Code of Criminal Proceedings.[298] Article 6 para. 1 of Law 4689/2020 addresses children directly and provides that a child who is suspected of, or is accused of a criminal offence has a right of access to a lawyer. The right applies as soon as the child is informed by the competent authorities that he or she has acquired the status of a suspect or accused. Children are entitled to receive legal assistance before they are questioned by the police or any other competent authority during any investigating act or any other evidence-collection processes.[299] While this appears to comply with international standards, it should be noted that although children have a right to legal representation, they do not necessarily have a right to *free* legal representation in all instances under Greek Law (though this is implied in Directive 2016/800).

The provision of legal aid, as well as the general requirements that govern it are provided for in Law 3226/2004 which was partially amended by Law 4274/2014. Free legal aid is only granted to a suspect or the accused in criminal cases where that person meets the financial criteria (ie they are of low income). In the case of children, if they are not employed, they will be assessed on the parents' income, which puts children at a disadvantage as they have to rely upon the willingness of parents to pay for legal representation if they do not meet the financial criteria for legal aid.

Article Art. 16 of Law 4689/2020 amended the Law 3226/2004 and provides that a child has a right to free legal aid when accused of a crime which, if committed by an adult, could be punishable with a sentence of at least 6

296 Adopted by General Assembly Resolution 40/33 of 19 November 1985.

297 See https://www.policinglaw.info/assets/downloads/2004_Code_of_Police_Ethics_(Greece).pdf

298 Code of Criminal Proceedings Art. 97, 100, 105, 340 https://www.kodiko.gr/nomologia/download_fek?f=fek/2019/a/fek_a_96_2019.pdf&t=fb1c3def51c2d1423139f802b2cdc089

299 Law 4689/2020 article 6 para 2.

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months of imprisonment. The assistance of a lawyer is also mandatory when the child is brought before a prosecutor or judicial authority in order to take a decision as to whether the child should be deprived of liberty and at any time while the child is detained. The general standard internationally, however, is that wherever there is a possibility of deprivation of liberty, the child should be represented by a lawyer, and this includes when the child is alleged to have committed a crime and is questioned by the police.

Law 4689/2020 Article 6 para. 3 gives child suspects and/or accused the right to meet with his or her lawyer in private before being questioned by the competent authorities as well as the right to have their lawyer present and participating during their questioning (which must be explicitly mentioned in the drafted report following the questioning). The child also has a right to representation by a lawyer at identity parades, confrontations and reconstructions of a crime scene (in accordance with Article 6(4)(c) of Directive 2016/800.

There is a power to derogate from article 6 and to permit a child to be questioned without a lawyer present for a temporary period for one of two reasons: there is an urgent need to prevent serious adverse consequences to life, freedom or the physical integrity of a person, or when immediate action by the investigating authorities is imperative to prevent substantial jeopardy to criminal proceedings in relation to a serious criminal offence. In deciding to derogate from the child's right to legal representation, the best interests of the child must be the primary consideration. This power of derogation is in line with the EU Directive.

There has been considerable criticism of the provision of legal aid leading up to the amendment in 2020, only some of which have been addressed. Legal aid was not available at the police investigation stage or at the time the suspect was being questioned by police. This has now been provided for in Law 4689/2020. Although theoretically, suspects have the right to consult with a lawyer prior to and during custodial interrogation, the unavailability of le-

gal aid lawyers to attend the police station make this right illusory for most people.[300] There also remains a lack of coverage in relation to children who are facing a criminal charge where that offence does not carry with it a possible six month sentence, or a child whose parents' means are too great to qualify for legal aid, but who fail to engage a lawyer for the child. In addition to these difficulties, legal aid lawyers are often very junior, poorly trained and are often not available to attend at the police station. The lack of legal protection for the child may lead him or her to make admissions or confessions which he or she later says were gained by oppression or the promise of an advantage, making it difficult to prepare an adequate defence for the child.

The provisions in Law 4689/2020 granting automatic legal aid in cases where an adult would face a minimum term of imprisonment of 6 months goes some way towards meeting the standards of provision of legal aid expected by the CRC but is not in full compliance.

A further amendment was made recently, in Law 4885/2021, which further amends Article 99 of the Criminal Procedure Code and provides that where a minor is *accused of a felony or misdemeanour, the investigating judge is obliged to appoint a lawyer for him ex officio, without a possibility of waiving this right.*

Article 9 of Law 4689/2020 provides that the examination of a child suspected of or accused of a criminal offence under specified articles of the Penal Code (involving offences of violence, kidnapping, human trafficking and sexual offences (referred to as offences of personal and sexual freedom) shall be recorded in an electronic audio-visual recording. An audio-visual recording is mandatory when the child is not assisted by a lawyer and when he or she has been deprived of liberty. It is also mandatory with respect to any offence which, if committed by an adult, would be considered a felony for which the penalty could involve life-imprisonment. In this latter case, the examination / interview must be audio-visually recorded irrespective of whether or not the child is assisted by a lawyer or has been deprived of his/her liberty. In other cases, the interview questions and answers can be recorded in writing. Questioning that is aimed exclusively at identifying the child does not require audio-visual recording.

There is an exception to the requirement of audio-visual recording. According to Law 4689/2020 Article 9, para. 4, an examination can be recorded in writing, even though it is a case where audio-visual recording is mandatory, if there are insurmountable technical problems, it is not considered appropriate to postpone the examination and this serves the best interests of the child.

Apart from the safeguards introduced by 4689/2020, the process of arresting a child is mainly governed by the general provisions of the Code of Criminal Procedure which apply to both children and adults. The police can arrest a child immediately if the child is caught when committing the act or within 24 hours of committing the act.[301] In all other cases, the police would need a warrant as prescribed in art. 275 and 276 of the Code of Criminal Procedure. Unlike adults, children are exempted from the expedited process of *flagrante delicto*,[302], which is regulated by art. 417 -427 of the Code of Criminal Procedure and permits the prosecutor to refer the accused to a court the same day without a written preliminary hearing.

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300 Open Society Justice Initiative and Justicia, Legal Aid in Greece, https://www.justiceinitiative.org/uploads/997f9adc-0614-4ed3-a027-cefe721007bc/eu-legal-aid-greece-20150427.pdf.

301 EU Study on children's involvement in judicial proceedings – contextual overview for the criminal justice phase – Greece, 2013, p. 22.

302 See Penal Code, article 242, para. 3.

12 PROCEDURAL REQUIREMENTS FOR THE PROSECUTOR

Following arrest, the child must be transferred to the nearest police station, where he or she should be kept for the shortest period of time. The public prosecutor for children, or if the latter is not available, the competent public prosecutor should be informed as soon as possible of the arrest and the child must appear before to the prosecutor within 24 hours.[303] If the offence alleged would have been a felony if committed by an adult or the child was arrested on the basis of an arrest warrant, the public prosecutor refers the child's case to the juvenile investigating judge.[304] If the offence is a misdemeanour the public prosecutor can initiate prosecution by ordering a preliminary investigation or a main investigation or by referring the case to trial by directly summoning the child. Age assessment processes will also take place at this stage, if age is disputed.

In cases where there are no official documents proving the age of an alleged perpetrator, the public prosecutor can request the initiation of age assessment process. Where age is a matter of dispute in case of a third country national or a stateless person arriving in Greece, the age assessment process set out in Arts. 39 and 75 of Law 4636/2019 and in the Joint Ministerial Decision 9889/13.08.2020 (B' 3390) will apply.[305] This involves three-steps: a physical development assessment, a psychological assessment and a medical assessment. There is no similar regulatory framework for other cases where an age assessment is sought. If the age of an alleged offender is unclear, the public prosecutor can request the police authorities to initiate an age assessment process. This usually takes the form of a medical examination in a public hospital, including the taking of x-rays where necessary.[306] There is no obvious reason for the legal inconsistency in age assessment procedures between immigration and asylum cases and criminal justice cases. Rather, it would appear to be the result of a failure to equal up the two systems, which are contained in different laws. In accordance with[307] CRC General Comment No. 6 Art. 3 of Law 4689/2020 provides that when it is not certain if the person is above or below 18, it is to be inferred that the person is a child.

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303 Criminal Procedure Code, Art. 279.

304 Code of Criminal Procedure, article 279(1).

305 According to article 1(2) JMD 9889/2020 (Gov. Gazette B'335/16-2-2016), in case of doubt of the person's age, the RIS or the Asylum Service or any authority/organisation competent for the protection of minors or the provision of healthcare or the Public Prosecutor should inform -at any point of the reception and identification procedures or the asylum procedure- the Manager of the RIC or the Facility of temporary reception/hospitality, where the individual resides, or the Head of RIS or the Asylum Service -if the doubt arises for the first time during the personal interview for the examination of the asylum application-, who, acting on a motivated decision, is obliged to refer the individual for age assessment.

306 Initially, the assessment will be based on the macroscopic features (i.e. physical appearance) such as height, weight, body mass index, voice, and hair growth/facial hair, following a clinical examination from properly trained healthcare professionals (physicians, paediatricians, etc) who will consider body-metric data. (Article 1(5)(a) JMD 9889/2020). In case the person's age cannot be adequately determined through the examination of macroscopic features, a psychosocial assessment is carried out by a psychologist and a social worker to evaluate the cognitive, behavioural and psychological development of the individual. If a psychologist is not available or there is no functioning social service in the nearest public health institution, this assessment can be conducted by a specially trained psychologist and a social worker available from a certified civil society organisation but it cannot be conducted by an organisation in charge of providing care or housing to the person whose age is in question. The outcome of the age assessment at this point is a combination of the psychosocial assessment and the examination of the development of macroscopic features. (Art. 1(5)(b) JMD 9889/2020). Whenever a conclusion cannot be reached after the conduct of the above procedures, the person will be subjected to the following medical examinations: either left wrist and hand X-rays for the assessment of the skeletal mass, or dental examination or panoramic dental X-rays or to any other appropriate means which can lead to a firm conclusion according to the international bibliography and practice. (Art 1(5)(c) JMD 9889/2020).

According to Art. 1(7) JMD 9889/2020 the opinions and evaluations are delivered to the person responsible for the referral (RIS or Asylum Director), who issues a relevant act to adopt the abovementioned conclusions, registers the age in the database of Reception and Asylum, and notifies the act to the Special Secretariat for the Protection of Unaccompanied Minors.

After the age assessment procedure is completed, the individual should be informed in a language he or she understands about the content of the age assessment decision, against which he or she has the right to appeal in accordance with the Code of Administrative Procedure. The appeal has to be submitted to the authority that issued the contested decision within 15 days from the notification of the decision on age assessment. (Art1(9) JMD 9889/2020)

307 See, CRC General Comment No. 6, Para. 31(i) and UN High Commissioner for Refugees (UNHCR), Guidelines on International Protection No. 8: Child Asylum Claims under Articles 1(A)2 and 1(F) of the 1951 Convention and/or 1967 Protocol relating to the Status of Refugees, 22 December 2009, HCR/GIP/09/0 para. 75, ("Child Asylum Claims Guidelines") available at: http://www.refworld.org/docid/4b2f4f6d2.html

It was noted in a report on the Greek juvenile justice system in 2013 that parents or guardians were not permitted to be present when a child suspect was interviewed.[308] However, Law 4689/2020 Article 14 makes it clear that the child is to be accompanied by a person exercising parental responsibility at all stages of the criminal proceedings including the investigation stage. The only exceptions to this are where the presence of a parental responsibility holder may not be in the best interests of the child; it has been impossible to find or communicate with the parental responsibility holder or his or her presence may substantially jeopardise the criminal proceedings. This new provision incorporates article 15 para.2 of the EU Directive 2016/800 and is in line with international standards. In such cases, the child has the right to nominate another appropriate adult to accompany him or her. If the person nominated by the child is not acceptable to the prosecutor another person may be designated from a body responsible for the protection of children (Law 4689/2020 art. 14 para 2).

Article 97 of the Criminal Procedure Code also makes it clear that if a child is deprived of liberty, a person with parental responsibility must be informed, unless this is against the interests of the minor, in which case another appropriate adult or 'the appropriate authority responsible for the protection of minors" shall be informed.[309]

Law 4689/2020 article 7 requires that a child who is suspected or accused of a criminal act must be assessed by the Juvenile Probation and Social Welfare Service after a written order from the prosecutor or a judicial officer. The report should include information on the child's personality, economic, social and family environment, as well as the mental and physical state of the child.[310] This provision mirrors EU Directive 206/2020 article 7.[311] In addition, Law 4689/2020 art. 7, para 2 introduces a new body, the Scientific Team for the Assessment of Minor Offenders, which will assist with an evaluation of the child in cases where the Juvenile Probation and Social Welfare Services are either not operating or where they seek a specialized assessment on the child's mental health or drug addiction.

The child should be informed about the right to individual assessment (Article 7), as well as the right to request a medical examination, including the right to medical care (Article 8) and his or her rights concerning deprivation of liberty, including the right to a periodical review of their detention and the possibility of replacing detention with reformatory or therapeutical measures (Article 10), the right to be accompanied by the person exercising parental responsibility during the hearing procedure (Article 14), the right to appear in person at trial (Article 340 CCP).

Once the police have referred the case to the public prosecutor, the latter becomes responsible for the case and will continue to investigate, clarify certain aspects of the case and confirm the child's criminal responsibility. The public prosecutor may, at this point (and without judicial intervention or approval), divert a child who has committed petty offences and stop the criminal process, reducing the risk of stigmatization to the child and further harm as a result of the formal proceeding (mirroring CRC Article 49(3)(b)). According to art. 46 Criminal Procedure Code, the prosecutor can decide not to prosecute the child and, instead, to order one or more of non-custodial, reformatory measures provided for in article 122 of the Penal Code (see below). This power may be exercised where the child has committed a misdemeanour and the prosecutor deems, based on the circumstances of the act, and the overall personality of the child, that prosecution would not benefit the prevention of recidivism.

Before deciding on diversion, the public prosecutor must meet with and hear the views of the child and must be in receipt of an evaluation from the juvenile probation and social welfare service. [312] If the prosecutor decides to proceed with diversion, he or she may set a deadline by which the child must complete the imposed diversionary measure. The prosecutor retains the power to proceed with prosecution if the child fails to complete the diversionary measure within the set timeframe. There are no other criteria to be fulfilled under the Penal Code prior to diversion being ordered. For instance, the prosecutor does not have to be satisfied that the child is freely and voluntarily admitting his or her guilt to the offence of which he is accused. In practice, the prosecutor rarely opts for diversion especially in districts where there is not a specialised Public Prosecutor for minors. The extent to which prosecutors use their discretionary power to divert the child from formal judicial proceedings is an issue that will be explored during data collection.

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308 ICF GHK Study on children's involvement in judicial proceedings – contextual overview for the criminal justice phase – Greece, June 2013 (European Union 2013).

309 See also Article 97 para. 3 for exceptional cases, where the police may not permit the child to inform a 3rd party of his or her arrest. In such cases, another third party may be informed. In the case of a child, the Juvenile Probation and Social Welfare Service must also be informed.

310 Law 4689/2020, article 7 para. 1

311 A report on the child was mandatory, even before law 4689/2020. However, it is the first time that this report and the social inquiry upon which is based is being referred to as an "individual assessment of the child".

312 Kosmatos K. 2020, p. 220-221.

If a case is not diverted, the general provisions of the Penal Code will be applied. According to Article 43 of the Criminal Procedure Code, following the amendment introduced by Law 4855/2021, the Prosecutor shall initiate a criminal prosecution by ordering an interrogation or by directly summoning the accused to the hearing, where this is provided for, or by forwarding the case file to the appellate prosecutor, or by filing an application for a criminal injunction (Article 409). In the case of felonies or misdemeanours within the jurisdiction of a three-member district court, as well as in the case of misdemeanours within the jurisdiction of a three-member court of appeal (Article 111 par. 6 Criminal Procedure Code), the prosecutor shall only initiate criminal proceedings if a preliminary examination or an ex officio preliminary inquiry pursuant to Article 245 par. 2 Criminal Procedure Code has been carried out and there are sufficient indications to initiate such proceedings. The same procedure is to followed in the case of minors, for acts which, if committed by an adult, would be subject to a preliminary investigation.

The investigation file will be then referred to the judicial Council who will either decide to cease the prosecution or to refer the case to trial (Code of Criminal Procedure art. 308). Under the same article, the investigation can also be concluded by order of the prosecutor and his/her referral of the case to trial with the agreement of the investigating judge. This can only be done in cases of misdemeanours (Code of Criminal Procedure art. 308 para. 3). However, the article includes a special provision for minors, which stipulates that the ordinary process must be followed (referral by order of the judicial council) for cases where the act would be considered a felony if committed by an adult and for which restriction to a detention facility may be ordered under art. 127 of the Penal Code.

The participation of the child in the investigation process and the rights of the child at this stage, are covered by articles 4, 5, 6, 7 and 9 Law 4689/2002, all of which continue to apply at this stage, as well as in the police station. General provisions concerning the rights of the suspects contained in the Code of Criminal Procedure also apply. Those safeguards are described in art. 89 et seq. of the Code of Criminal Procedure and include the right to access all relevant documentation (art. 100 CCP), the right to interpretation (art. 101 CCP), the right to remain silent and the right against self-incrimination (art. 104 CCP).

As far as legal representation is concerned, Law 4689/2020 Article 6 para. 6 provides that the investigator has an obligation to appoint an advocate where the person exercising parental responsibility has not appointed a lawyer to represent the child. Additionally, Art 99 of Code of Criminal Proceedings states that If the accused in a felony or misdemeanour is a minor, the investigating judge is obliged to appoint a lawyer for him ex officio, and that it is not possible for the child (or the parent) to waive this right**.** Further, Article 6 para. 7 of Law 4689/2020 states that when the child is entitled to the assistance of a lawyer, but the lawyer is not present, the prosecutor or competent authority carrying out the investigation should postpone the examination of the child or the performance of other investigative or evidence gathering acts for a reasonable period of time in order to await the arrival of the lawyer or, where the child has not nominated a lawyer, to arrange a lawyer for the child.

At the beginning of the hearing, the president of the court shall, for all children's cases, determine whether the accused persons lack defence lawyers. Cases in which defence lawyers are appointed in accordance with the above shall be heard in a session after an adjournment in order to allow the appointed lawyer to be properly prepared. The hearing after such adjournment may not be more than thirty (30) days away. A lawyer may also be appointed before the hearing, if the accused child so requests, even by a simple letter to the prosecutor. The public prosecutor shall appoint counsel from the panel and make the case file available to him. If the accused refuses to be defended by the appointed counsel, the President of the court shall appoint another lawyer from the same list.

NB The child cannot waive his or her right to legal representation.

In exceptional cases and only during the preliminary process, it is possible to derogate from the above provisions, when there is an urgent need to prevent serious adverse effects on the life, liberty or physical integrity of a person, or when it is imperative that the investigating authorities take immediate action to prevent a significant risk to the criminal proceedings in relation to a serious criminal offense, with the primary criterion of the best interest of the child. A pre-investigation officer wanting to exercise this right of derogation must obtain the prior approval of the competent Public Prosecutor (Art.6 par. 8).

A date will be then set for the trial to occur. As a general rule, the child will not be detained pending trial and will return to his or her family. If the child does not have a 'protective environment' to return to, or it is s not in the child' s best interest to return to his/her family environment, the public prosecutor may order that the child be admitted into an appropriate institution/shelter for children. Such institutions and shelters are not 'closed' institutions and children are not deprived of their liberty, but the institution may monitor the child, and particularly keep a record of the child's 'comings and goings'.

Based on the general provisions concerning adults and in cases where there are serious indications that the child

may have committed a crime, the child's freedom may be restricted and measures may be imposed on the child in order to avoid the danger of the child committing further offences and/ or to make sure that the child does not abscond and attends the trial. The restrictive measures that may be imposed include the payment of bail (though this is not recommended by the CRC Committee in General Comment No 24)[313], a requirement that the accused child appears before the investigating judge or another authority at regular times, a prohibition on visiting or residing in a specific location or travelling abroad and a requirement not to meet or have contact with certain named persons.[314] Additionally, the non-custodial, reformatory measures of Art. 122 of the Penal Code described below can be imposed as restrictive measures in the case of children (Code of Criminal Procedure, art. 283 para. 1).

According to Art. 287 of the Criminal Procedure Code, a child accused of a crime may also be temporarily detained for a period not exceeding six months if he or she has reached the age of fifteen and is accused of an act referred to in Article 127 of the Penal Code (ie a felony with elements of violence). A decision to order temporary detention must contain specific and detailed reasoning, as to why remedial or therapeutic measures or placement in an appropriate state, municipal, community or private educational institution are not considered sufficient. Violation of the restrictive conditions imposed on the minor may not in itself lead to temporary detention.

Article 6 (4) of the Greek Constitution provides that *the maximum duration of detention pending trial shall be specified by law; such detention may not exceed a period of one year in the case of felonies or six months in the case of misdemeanours. In entirely exceptional cases, these maximum limits may be extended by six or three months respectively, by decision of the competent judicial council*. It is not clear to what extent the ability to extend a child's period of detention is permitted under the Constitution.

CRC Committee General Comment recommends that a child should only be placed in pre-trial detention in the most serious cases and should be primarily used for ensuring appearance at the court proceedings and if the child poses an immediate danger to others.[315] The CRC Committee also recommend that the minimum age for detention should be set at 16 rather than the age of 15 as contained in the Penal Code. The maximum duration of six months for per-trial detention is, however, in line with the recommendations of the CRC Committee.[316] The Committee also recommends regular reviews of pre-trial detention with a view to ending it.

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313 CRC/C/GC/24 para 88. where bail is set it means that there is a recognition in principle by the court that the child should be released, and other mechanisms can be used to secure attendance.

314 EU Study on children's involvement in judicial proceedings – contextual overview for the criminal justice phase – Greece, 2013, p. 24.

315 CRC/C/GC/24 at para. 87.

316 CRC/C/GC/24 at para. 90.

13
THE TRIAL PROCESS

The right to a fair trial is fundamental to all justice systems and is provided for in the ICCPR and the CRC. The CRC Committee in General Comment No 24, building on the case law of the European Court of Human Rights in T and V v the United Kingdom.[317] The requirements of the CRC include the presumption of innocence with placement of the burden of proof of the charge on the prosecution, regardless of the offence; the right to be heard; the right to remain silent; the right to examine witnesses who testify against them and to involve witnesses to support their defence and the right to effective participation in the proceedings in accordance with Article 40(20(b)(iv). The CRC Committee set out what is meant by effective participation in General Comment No 24 at Para. 46:

> *"A child who is above the minimum age of criminal responsibility should be considered competent to participate throughout the child justice process. To effectively participate, a child needs to be supported by all practitioners to comprehend the charges and possible consequences and options in order to direct the legal representative, challenge witnesses, provide an account of events and to make appropriate decisions about evidence, testimony and the measure(s) to be imposed. Proceedings should be conducted in a language the child fully understands or an interpreter is to be provided free of charge. Proceedings should be conducted in an atmosphere of understanding to allow children to fully participate. Developments in child-friendly justice provide an impetus towards child-friendly language at all stages, child-friendly layouts of interviewing spaces and courts, support by appropriate adults, removal of intimidating legal attire and adaptation of proceedings, including accommodation for children with disabilities.*

Art. 329 para. 2 of the Criminal Procedure Code, in accordance with CRC art. 14(1)(d) provides that juvenile courts must hear cases behind closed doors and that apart from the parties, counsel and the juvenile probation officer, only parents or legal guardians should be permitted to attend. Law 4689/2020 Art. 13 para. 2 repeats the restrictions on attendance during proceedings but also provides that the Court may order the child to be temporarily removed from the court room if this is considered to be in their best interest or in cases where it is considered that their presence may affect the giving of a testimony. In such instances, the legal counsel of the child shall remain in the court room.
Children have the right to legal representation throughout the trial (Law 4869/2020 art 6). In those instances where free legal aid is not available, it is up to the family to provide and pay for a private lawyer.

If the court finds the child guilty of the offence, it must decide on the measures to be imposed. The decision should be based on the evaluation and recommendations submitted by the juvenile probation officers. This duty is also covered by Law 4689/2020 which requires the juvenile probation officer to undertake an initial evaluation as soon as the child is a suspect or is an accused and to update the evaluation throughout the proceedings, providing the judge with information on which he can base his or her decision on the appropriate measures to be taken. The evaluation should include a final recommendation to the juvenile court on the measures to be taken for the offender (reformatory measures, therapeutic measures, incarceration etc.). The failure to produce such report is one of the reasons for the court to postpone the final hearing of the case.[318] The capacity of the juvenile probation service to provide such reports and the time taken to produce such reports are unknown as is the impact of this on delay in cases. There do not appear to be provisions setting time lines for the production of reports, nor is there any detail on how often the system requires the reports to be updated.

317 Application No. 36256/97, 15 June 2004, accessible at http://hudoc.echr.coe.int/eng?i=001-61816

318 N. Koulouris, W. Aloskofis, S. Vidali, D. Koros, S. Spyrea (2015), European Prison Observatory Alternatives to Prison in Europe. Greece, Antigone Edizioni Rome, October 2015, http://www.prisonobservatory.org/alternatives/ALTERNATIVES%20TO%20PRISON%20IN%20EUROPE.%20GREECE.pdf

14 EDUCATIONAL AND REFORMATORY MEASURES

Article 40(4) of the CRC requires that "a variety of dispositions, such as care; guidance and supervision orders; counselling; probation; foster care; education and vocational training programmes and other alternatives to institutional care shall be available to ensure that children are dealt with in a manner appropriate to their well-being and proportionate to their circumstances and the offence".

Under Act 3189/2003 and art. 122 para. 1 of the Penal Code, Greece introduced a variety of reformatory/educative measures as alternatives to institutional care:

A. Reprimand or Warning

A reprimand or warning given to the child entails a formal verbal disapproval of the act committed by the Court. It is the most common and lowest level of sanction that can be applied. Its aim is to motivate the child and enhance their sense of responsibility. Even though the presence of the child at the court is deemed necessary for the implementation of this measure, it has also been applied in cases where the child defendant is absent.

B. Probationary supervision / Intensive custody by protective associations, an institution or a juvenile probation officer

The provision refers to the Associations for the Protection of Minors, while the supervision or custody by an institution is generally non-applicable since it could not practically signify a non-custodial measure. The most frequent application of this provision entails the supervision/custody by probation officers and consists of systematic communication over a period of time and cooperative working on the part of the officer, the child and the family to support the child to overcome his or her delinquent behaviour and assist smooth social reintegration[319].

C. Placement under parental supervision/custody or under the supervision of a guardian

This measure can only be imposed in cases where the family or custodial environment is found to be healthy and supportive despite the delinquent behaviour exhibited by the child. It is a measure reinforced by the CRC, art. 9 para. 1 and the principle of not separating the child from their parents.

D. Supervision by a foster family

Foster care involves the temporary assignment of the actual care of a child to a third person (or family).[320] This measure is imposed in cases where the court finds that the parents or guardians of the child are not in a position to undertake the child's care.

E. Reconciliation between the minor and his/her victim(s) as well as payment/compensation to the victim(s)

The reconciliation measure is akin to a restorative approach both for the child and the victim, even though it is imposed as a sentencing measure and imposes a duty on the child. The juvenile probation officers are responsible for implementing this measure and facilitating the encounter.

The aim of the requirement to compensate the victim is once again to enable the child to take responsibility for their actions and to compensate for the damage caused. In imposing compensation, the Court should take into account the age, the financial situation and the capacity of the child him or herself and not that of the parents.

F. Participation of the minor in a social or psychological (mental health or substance rehabilitation) or educational program offered by public, municipal or private services

These programmes are implemented in psycho-educational institutes for children, children's hospitals, by NGOs etc. These measures are different to those prescribed in Art.123 of the Penal Code, in that they apply only to healthy minors. The programmes are implemented mostly in cities (Athens, Thessaloniki and Patras) by the Probation Services, meaning that those living in areas outside the main cities rarely have access to them. Generally, these projects are aimed at children who commit drug offences, and involve engagement

319 Kosmatos K. 2020, p. 94.

320 In Greece the legal framework on foster care has been updated under Law 4538.2018.

of children in activities; educational provision and preparation for social reintegration. It has not been possible to find evaluations of the effectiveness of these programmmes.

G. Professional or other training

The educational, reformatory and supportive character of these measures echo European good practices in the field. However, it is important that the consent of the child is obtained and that the child is prepared before joining such programmes. This requires the child to be linked to the juvenile probation and social welfare service and to undertake some preparatory work. Successful implementation of such measures depend heavily on the availability of appropriate programmes, as well as the degree to which such programmes meet the needs and profile of child offenders. This is an issue that needs further researching. In particular, there is little evidence as to the extent to which the programmes meet the needs of minority groups or those with particular circumstances and additional vulnerabilities, such as Roma children, refugees, children with mental health needs etc.

H. Special traffic training programs

This measure is to be imposed when the child's conviction is related to traffic offences.

I. Community service

This reformatory measure for children was inserted into the Greek legal framework by Law 3189/2003. It is considered to be the harshest of reformatory measures and, following the principle of subsidiarity (see below), it is imposed only in the most severe cases. The consent of the child must be obtained as well as the feasibility of the child being able to complete the imposed measure. The role of the juvenile probation service is crucial as they have the responsibility for finding a body / community where the child will undertake his or her community service, as well as monitoring the measure.

In 2017 a Joint Ministerial Decision (73461/2017) was issued on the application framework for community service as a reformatory measure imposed on children, and the list of bodies at which children can serve their community sentence and how community service should be applied were included. The joint ministerial decision provides that community service should take place either on a daily basis, or during certain days of the week, outside of school, educational or working hours, and in a way that does not impede with the educational or work obligations of the child. Community service may not exceed 4 hours per day and 12 hours per week for children and young people aged 15-20 and can in no case exceed 150 hours in total. The duration of the measure must not exceed 9 months from the time that the court decision or prosecutorial order is imposed. In cases where the offence committed by the child would be a felony if committed by an adult, or in cases where a child has committed multiple or repeated criminal offences, the maximum duration should not exceed 180 hours in total.

J. Placement of juvenile in a special educational public institution, i.e. deprivation of liberty

This is the strictest as well as the only custodial measure provided for in the Penal Code. Art. 122 par. 3 provides explicitly that the principles of subsidiarity and proportionality should govern any decision on the implementation of the reformatory measures and thus, measures that are softer should be prioritized over stricter ones, and non-custodial measures over custodial measures. Hence, the measures of community service, supervision by protective associations or juvenile probation officers and placement of the minor in a public institution are considered secondary.[321] In practice, not all the above measures can be applied since the services are not available and neither are the bodies necessary to support their implementation.

The court may impose additional obligations relating to the lifestyle of the child or to his/her upbringing as a reformatory measure. Therapeutic measures can also be provided after a specialised socio-psychiatric/psychological diagnosis. More specifically, according to Art. 123 of the Penal Code, if the child's condition requires special treatment, and in particular if they suffer from a mental disorder or organic disease or are in a state of severe physical dysfunction due to exposure to substances or excessive use of electronic equipment, and are unable to act on their own or show a considerable delay in their intellectual and moral development, the court may order that the child:

a. be placed under the supervision/custody of their parents, guardians or a foster family,
b. be placed under the supervision/custody of a special institution/agency or a juvenile custodian;
c. attend a treatment programme; or
d. be referred to an institution for treatment.

All these non-custodial measures are applicable either on conviction or as a diversionary measure, as well as non-custodial alternatives to pre-trial and post-trial detention.

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321 Kosmatos K. 2020, p. 87.

According to art. 124 of the Penal Code, the court may replace any of the reformatory or therapeutic measures imposed with other measures in cases where this is deemed necessary. It may also revoke the measures if it finds that they have fulfilled their purpose. In order to replace or revoke therapeutic measures, the court must first, however, seek an expert's opinion in much the same way as it does before initially imposing the measure. Article 124 Para. 4 further stipulates that no later than one year after imposing a measure, the Court must examine whether conditions that justify replacement or revocation are fulfilled. It is unlikely, in practice, that this Article is much used, given the short term nature of most of the measures imposed.

Articles 18, 121 and 127 of the Penal Code treat a sentence of detention in a correctional institution as the heaviest penalty that can be imposed on minors. Detention as a sentence can only be imposed if the child has reached the age of 15 year and only as a means of last resort, for very serious crimes, when educational measures are deemed insufficient. This is in line with Article 37(b) of the CRC. After the recent amendment of the Criminal Code in 2019, a custodial measure must only be imposed where the child crime consists of an act which, if committed by an adult, would constitute a felony and involves violence or is directed against the life or physical integrity of a victim. As with pre-trial detention, the court decision must provide detailed reasons as to why reformatory measures are not deemed to be sufficient in the case and refer to the special circumstances of the crime and the personality of the child. The decision must also provide for the exact duration of the sentence (Penal Code Art. 127 para. 2). When detention is used, boys are detained in young offender's detention facilities in Corinth, while girls are detained in separate sections/units in women's prisons.

The conditions of detention and the rights of people in detention are mainly provided for in the Correctional Code. The rights of young offenders and issues relating to the conditions in young offenders' detention facilities are included in Ministerial Decision 62367/ 2005.

In accordance with the requirement in the CRC that deprivation of liberty should be a matter of last resort and for the shortest appropriate period of time (Art 37(b), Article 128 para, 1 of the Penal Code provides that deprivation of liberty for young people can be replaced totally or partially by home restriction. Article 284 of the Criminal Procedure Code states in paragraph 7 that the provisions of this Article shall also apply where a child is accused of an act referred to in Article 127 of the Penal Code (ie a felony with violence). In this case, home restriction with electronic monitoring may be ordered, for a period not exceeding six months. If the child fails to comply with the obligations imposed on him/her in relation to house arrest with electronic tagging or tries to damange or remove the electronic tag, the home arrest may be replaced by temporary detention.

Where the Court issues a custodial sentence, it shall conditionally discharge the juvenile after the expiry of half of his period of detention and place the child on probation, for a period not exceeding the remaining time of the sentence. During the probation period, specific conditions may be imposed on the child in relation to their lifestyle, residence, education or participation in treatment programmes. Children who have been sentenced to detention may also, after serving one-third of their sentence request the court to release them on house arrest with electronic tagging. The application must be accompanied by a report from the detention centre and a report from the juvenile probation service on the children's social environment were he or she to be released. [322]

It is up to the Court to decide which measure is the most appropriate for the child. Based on art. 549 par. 4 of the Criminal Procedure Code, the juvenile public prosecutor is responsible for the ex officio execution of the decisions issued by the juvenile court. The same article stipulates that the prosecutor is responsible for overseeing the implementation of the reformatory and therapeutic measures, as well as custodial sentences for children.

After the court decision is issued, the child must be informed of the right to appeal (Law 4689/2020 art. 6). Art. 489 of the Criminal Procedure Code provides for the right of the child to appeal against the decision to impose a custodial sentence or any reformatory or therapeutic measures within a limited time frame (Criminal Procedure Code Art. 473). The appeal will be heard by the Court of Appeal.

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322 Article 129A Criminal Procedure Code.

15 CHILD VICTIMS AND WITNESSES

Greece has taken steps to increase the protection of child victims and witnesses and to provide strict guarantees throughout their participation in criminal proceedings.

Where a crime is alleged to have been committed against a child, the prosecution of the offender is usually initiated by the public prosecutors or upon the submission of a complaint by a (child) victim. In the case of a child below the age of 13 years, only the parent or legal guardian has a right to file the complaint. For children over the age of 13 years, either the child and his or her parent or legal guardian have this right (Art. 115 PC). Unlike children who are suspected or accused of a crime, children who are the victims of or witnesses to a crime alleged to have been committed by an adult are subject to the normal, adult criminal procedures. The result is that child victims and witnesses are often interviewed, and their complaints dealt with by officials who have not had specialist education and training on the rights and needs of child victims. This is currently being addressed through the establishment of the Houses of Child, which will put in place a child-friendly environment for child victims and witnesses

The duty to implement a more child-friendly framework in relation to access to justice by child victims has existed since Greece ratified the Convention on the Rights of Children (CRC) through Law 2101/1992 with additional legal effect. In addition, Greece has ratified key European Directives on the protection of child victims: The Directive against the sexual abuse and exploitation of children was ratified by Law 4267/2014, and the Council of Europe Convention on the Protection of Children against Sexual Exploitation and Sexual Abuse was ratified by Law 3727/2008. The Victims' Rights Directive 2012/29/EU in Greece was adopted in 2017 though law 4478/2017 which provided rights for all victims, without discrimination, and regardless of their country of origin or their residence status[323].

Law 4478/2017 and specifically Part IV sets out minimum standards for the support and protection of victims and for the first time refers to their active involvement in the criminal proceedings.[324] Within the law there are also specific provisions related to child victims. However, this law has yet to be implemented.

Law 4478/2017 art. 54 para. 2 highlights that in cases involving a minor victim of crime, the best interests of the child shall be a primary criterion in the implementation of the provisions of the law, with the child's best interests assessed on an individual basis. In addition, the Law provides that every child victim shall be approached with sensitivity, with due regard to their age, degree of maturity, views, needs and concerns, without prejudice towards him/her or his/her parents or legal representatives. The child and his or her parental guardian or any other legal representative shall be informed of any measures or rights relating to the child. Law 4478/2017 art 67 also makes direct reference to the right of the child victim to privacy and stipulates that especially where child victims are involved, the court may order that the trial, or part of it, is to be conducted without publicity if publicity would be detrimental to the child. In addition, art. 330 of the Criminal Procedure Code provides that the court may order the trial to be conducted behind closed doors if open court would be detrimental to the child victim's wellbeing.

Article 61 of Law 4478/2017 provides that the victims, and those closely associated with them, depending on the gravity of their needs and the harm suffered, shall be given access to confidential and free of charge victim support services, before, during, and for a reasonable period after the end of criminal proceedings. Further, article 61 para. 4 provides that general and special victim support services may be provided by the police and any other competent authority and public agencies. In the case of minor victims these may include the police's special unit for the protection of minors, specialized services established in local authorities, mental health services for children and adolescents, the services offered by the National Centre of Social Solidarity (EKKA), the Independent Child Victims' Protection Offices of the Ministry of Justice, and other organisations. Special provision is made for the children of women victims of sexual abuse, exploitation, domestic violence, trafficking, and racism who are also entitled to the support and care measures of this article (Law 4478/2017 art 61 para.5).

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323 K. Panagos (2018), Rights and support to victims of Crime: The 2012/29/EE Directive as a tool for procedural justice, rational anti-crime policy and social justice, Criminology 1-2/2018, p. 88 et.

324 RACIST VIOLENCE RECORDING NETWORK ANNUAL REPORT 2017 available at: http://rvrn.org/wp-content/uploads/2018/03/Report_2017-eng.pdf

Completing the protections, Law 4478/2017 art 68 para. 3 stipulates that child victims who require special protection due to the specific risk of being subjected to secondary and repeated victimization, intimidation and retaliation should be individually assessed by the Independent Victims' Protection Offices of the Minor Protection Services (Houses of the Child), and where these have not been established, from the juvenile probation service, in collaboration with a child psychologist or psychiatrist. Explicit reference is also made (in article 69 para. 3) to child victims of crimes of sexual and personal freedom and the specialized support to which they are entitled during the pre-trial and trial proceedings. Additionally, child victims are entitled to the appointment by the prosecutor or judicial authorities of a juvenile probation officer to act as a legal guardian and represent them at any stage of the criminal proceedings, if the parents are unable to act as legal guardians or in cases of unaccompanied minors, or those who are separated from their family.[325] There was no evidence, however, of this happening in practice. With the latest amendment to Article 227 of the Criminal Procedure Code as a result of Law 4855/2021, this provision is also applicable to child victims of offences referred to in para. 1 of Article .

Support services for child victims and witnesses

The **National Centre for Social Solidarity (EKKA)** is an independent legal entity which operates under the supervision and control of the Ministry of Labour and Social Affairs. It is based in Athens with offices in Thessaloniki. Its institutional mission entails, amongst other things, the provision of psychological services and social support to minors, adults and vulnerable groups who find themselves in a state of emergency. Essentially, EKKA is a child protection body providing social welfare services. It is not prescribed as part of the justice system structure, but it has a role and mandate for the provision of child protection services to child victims.

EKKA is also responsible for the operation of the National Child Protection Line (197), for the provision of psychological and social support of minors in emergencies and for the National Child Protection Registry. All bodies and agencies providing social welfare, care and solidarity services must coordinate with the existing system regulating the operation of the National Registry. [326]

Until 2020, EKKA was also the responsible actor for the management of accommodation requests and for the placement of unaccompanied and separated children in shelters as well as for the monitoring and evaluation of the services provided in the shelters. However, such responsibilities have now been transferred to the newly established Special Secretariat for the Protection of Unaccompanied Minors in the Ministry of Migration and Asylum and only the implementation of the guardianship and/or representation programs still remains with EKKA.

Law 4478/2017 provides for the foundation of the Independent Offices for the Protection of Minors Victims, also called "**Houses of the Child**" for the judicial examination of child victims of abuse, with the aim of providing protection from secondary victimization within the criminal justice system. Their creation and modus of operandi was based on the USA Child Advocacy Centers[327]. Five (5) new institutions ("Houses of the Child") were established in Greece's larger cities (Athens, Piraeus,[328] Thessaloniki, Patras, and Heraklion-Crete) within the Office of Minors' Justice and Social Welfare of the Ministry of Justice. As a result of Law 4640/2019, art 35,[329] these institutions gained administrative independence and were integrated into the General Directorate of Administration of Justice, International Legal Affairs and Human Rights of the Ministry of Justice.[330] The aim of the Houses of the Child is to provide child victims with specialized support from the time they report the criminal act, to the completion of the criminal proceedings, with a focus on protection of the child and repair of the harm caused by the crime. The Houses of the Child are to be provided with special equipment, child-friendly interview rooms and specialized personnel who will individually assess child victims to identify specialized protection needs (art. 74 par. 1c, d and e) and will assist in the forensic examination of child witnesses and victims during criminal proceedings.

A Ministerial Decision 7320/2019[331] was issued to cover the regulation of operational issues by Houses of the Child, which included in its annex: A Protocol for Forensic Inter-

325 Greece – My rights as a victim available at European Justice Website: https://e-justice.europa.eu/content_rights_of_victims_of_crime_in_criminal_proceedings-171-EL-maximizeMS-en.do?clang=en&idSubpage=5&member=1

326 Joint Ministerial Decision 49540/2011 (B' 877) "Coordination of child protection actions and services"

327 More information on this and the good practices upon which the creation of the Houses of the Child was based at: O. Themeli (2019).

328 The Piraeus House was then merged with the Athens House.

329 Government Gazette 190 A / 30-11-19.

330 See PD6/2021.

331 OG 2238 / B / 10-6-2019.

views. The Decision covers the procedures to be followed in assessing the special protection needs of child victims (art. 6), as well as the conduct of the forensic examination (art. 10-14); the measures to be taken for setting the appropriate conditions; the arrangement of the space for the victim's examination and the recording of their testimonies (art. 7). The protocol in Annex A sets out in detail how the forensic interview of a child victim or witnesses of abuse is to be conducted. The protocol describes each stage of the process and makes direct reference to what a professional should and should not say, along with remarks on where attention and additional care should be paid. All actions and processes are to be guided by the best interest of the child and in accordance with the provisions of Article 3 of the CRC.

In practice, the professional called upon to implement the Protocol is the child-psychologist on the staff of the Houses of the Child. The forensic examination follows an assessment of the child and a first assessment of the child's cognitive capacities. The number of the interviews to be conducted should be kept to a minimum, with one interview being the ideal scenario.[332] The examination should take place in a specially equipped room within the Houses of the Child with a one way mirror so that the investigating authorities (as well as the defendant's lawyer) can follow the process and pose any questions they may have through the examining psychologist (though the question will not be asked if the psychologist believes the proposed question would be detrimental to the child's condition). The whole process is to be video recorded (and transcribed), and the child will no longer be obliged to repeat his or her testimony or be re-examined thus relieving the child of the need to relive his/her trauma multiple times.[333] After concluding the process and at a later stage, a follow-up interview may be necessary, but at the time this procedure to be followed has not been detailed.

While the framework contained in Law 4478/2017 and Ministerial Decision 7320/2019 is to be welcomed and is in compliance with international and European standards and current notions of good practice, the legislation is yet to be fully implemented and the Houses of the Child have yet to become operational some four years after their establishment.

According to the reply to the parliamentary question asking for information on what was to happen to KESATHEA addressed to the Minister of Justice,[334] the Houses of the Child will fall under the administration of the new Public Law Legal Entity that will be created. The Ministry of Justice has already provided the new Houses of the Child with special protocols reflecting those in force in other countries, and has leased and equipped premises in Athens, Thessaloniki and Heraklion and is in the process of preparing the necessary legal framework and undertaking the training of the employees.

The Criminal Procedure Code has provided for a generic individual needs' assessment in cases involving child victims since 2007,[335] when Greece ratified the Optional Protocol to the Convention on the Rights of the Child concerning child sale, child trafficking, child prostitution and child pornography (Law 3625/2007). It sets the foundation for an improved protection of child victims, but it had not set up any structures or procedure for its implementation prior to the passing of Law 4478/2017. As a result of the amendment of the Criminal Procedure Code by Law 4620/2019, art. 227 now makes reference to child witnesses and victims of crimes against personal and sexual freedom and provides that a specialized child-psychologist or child-psychiatrist shall be present during the child's examination and shall prepare the child for the examination beforehand. Article 227 provides that the examination shall take place in the Houses of the Child or, where these are not operational, in spaces specifically designed and adjusted for child victims and witnesses. The examination is to be concluded without delay and with the least number of interviews possible. The examination is to be recorded by audio-visual means which can be reproduced in court thus removing the need for the victim to appear. If this is not possible, the written testimony given by the child is read out in court. Further examination of child victims after the case has reached the court stage, is only to be undertaken as an exception. In such cases, the child will be examined by a designated investigating officer at the child's current residence, without the presence of the parties and with all the preconditions previously described. The questions to be addressed to the child are to be provided in writing beforehand by the defendants and addressed to the victim unless the child specialist considers them to be detrimental to the

332 Ibid.
333 Ibid.
334 https://www.hellenicparliament.gr/UserFiles/67715b2c-ec81-4f0c-ad6a-476a34d732bd/11670472.pdf

335 K. Panagos (2018), Greek National Report. The Greek legal framework concerning the rights and support of victims of criminal acts. Challenges and perspectives for the effective implementation of the Directive 2012/29/EU - Support Voc30 Family & Childcare Centre – KMOP National Centre for Social Solidarity – EKKA, April 2018, available at: https://www.supportvoc.eu/wp-content/uploads/2019/03/SupportVoC_Greek-Report_GR.pdf (in Greek), *also* APAV (2016) IVOR Report, p. 153.

psychological state of the child.[336] This provision responds to criticism raised in the past that the rights of the defendant were being overruled by the protective provisions for minor witnesses. [337]

Until the commencement of the operation of the "Houses of the Child", child victims of sexual crimes continue to be interviewed by police psychologists in the Minors' Police Department, in accordance with the previous process. It is important to highlight that the Minors' Police Department only undertakes cases of crimes against the sexual and personal freedom of a child. If the investigated crime against a child does not fall under the categories provided for in art. 227 of the Criminal Procedure Code, there is no specific provision indicating which service is to undertake the individual assessment of the child victim, which is usually conducted, if conducted at all, by state institutions and NGOs.[338] Usually, the general provision of art. 183 of the Criminal Procedure Code will be activated and a child psychiatrist or psychologist will be ordered to provide an expert's opinion if it is deemed necessary. No further details, guidelines or protocols are available to indicate how the individual assessment and the examination of the child should be conducted.

It should be noted that it only became possible to audio-visually record a child's testimony in 2021 and only in the Minors' Police Department in Athens. Prior to this year, forensic interviews with child victims and witnesses were not recorded and this remains the case in police departments in other regions.

Further protective measures for child victims within the Criminal Procedure Code include their right to access the trial records even if they have not filed an action and the right to obtain information on whether the offender has been released (art. 108). The victim may also claim compensation from the perpetrator according to the Civil Code.[339] In cases where the perpetrator is unknown or does not have adequate resources to compensate the victim, or the penal procedure has finally absolved the perpetrator, the victim may apply to the Hellenic Assisting Authority within a year of the incident.[340] The examination and prosecution authorities are under an obligation to inform the victim about this possibility and the procedure to be followed.[341]

Victims and witnesses (children and adults) involved in cases of terrorism, human trafficking and transport of irregular migrants, or entering the country without legal formalities have access to stronger legal basis for protection in the course of the proceeding, including legal and interpretation services (that are not guaranteed for all categories of victims – including children – and are instead related to the specific offence and to the income of the child/family). This protection must be offered regardless of their willingness to collaborate with the authorities.[342] Law 4636/2019 provides further protection to this group of children, who are regarded as being 'vulnerable'. This protection includes – on paper – an adequate standard of living, access to education and health care, vocational training and leisure activities. The authorities, in assessing the best interests of the minor are required to take into account, in particular, the possibilities of family reunification, the quality of life and social development of the minor, safety and security issues, and in particular, whether there is a risk of the minor being trafficked. Children's right to leisure and the provision of appropriate psychological services should also be provided.[343] The extent to which this is the case will be followed up during data collection.

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336 In Greek literature, when the protective measures for the victims of crimes against sexual and personal freedom within the criminal process are described, there is usually reflection on whether this set of provisions impairs the procedural rights of the accused and whether it coincides with the principle of fair trial. More on this issue can be found at: A. Triantafillou (2014) Issues of witness testimony in criminal proceedings, Athens: Sakkoulas.

337 Indicatively see A. Dionisopoulou (2017), The right of the accused in the examination of prosecution witnesses (article 6 par. 3d of the ECHR) - The influence of common law and the case law of the ECtHR in the Greek criminal trial, Legal Library, Athens, and K. Panagos (2015), Looking for the balance between the rights of the accused and the protection of the minor witness: Greek law in the light of international and European texts on anti-crime policy, Criminology 1-2/2015, p. 101 et.

338 E-protect (2019), Country report, p. 18.

339 E.g. art. 932 CC: monetary compensation for the moral harm he/she sustained due to the unjust act committed against him/her, or art. 914 CC

340 L. 3811/2009 "Compensation of victims of intentional crimes of violence (in compliance with Directive 2004/80/EC of the Council of European Union of 29 April 2004) and other provisions", as amended.

341 L. 3811/2009, as amended, art. 15.

342 Law 4636/2019, Articles 39,58 and 59

343 Law 4636/2019, Article 59.

16
CONCLUSION

As can be seen, the Greek laws relating to juvenile justice and the protection of child victims and witnesses largely meet international standards. However, promulgating legislation is not, of itself, sufficient to ensure a child friendly justice system both for children in conflict with the law and child victims and witnesses. Legislation needs to be implemented in practice and those who have responsibility for implementing the framework need to receive training and be given adequate resources to fulfil their legal duties. The legal framework relating to children in conflict with the law and child victims and witnesses currently in place, is complex, involving a plethora of bodies and is resource heavy, placing significant burdens on the justice system and particularly on the Juvenile Probation and Social Welfare Service. Therefore, it is still necessary to achieve full compliance with the international and regional standards by consolidating existing legislation pertaining to juvenile justice in a new Child Justice Law.

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