



Study on children's involvement in judicial proceedings – contextual overview for the criminal justice phase – Greece

June 2013

This National Report has been prepared by Styliani Kaltsouni for Milieu Ltd in partnership with ICF GHK under Contract No JUST/2011/CHIL/PR/0147/A4 with the European Commission, DG Justice.

The information and views set out in this publication are those of the author(s) and do not necessarily reflect the official opinion of the European Union. Neither the European Union institutions and bodies nor any person acting on their behalf may be held responsible for the use which may be made of the information contained therein.

© European Union, 2013

Reproduction is authorised provided the source is acknowledged. The reproduction of the third-party textual or artistic material included is prohibited.

Contents

Executive summary	i
Abbreviations	iv
1 Overview of the institutional framework	1
2 Child-friendly justice before and during criminal judicial proceedings	7
2.1 The child as a victim	7
2.1.1 Reporting a crime.....	7
2.1.2 Provision of information.....	9
2.1.3 Protection from harm and protection of private and family life.....	10
2.1.4 Protection from secondary victimisation and ensuring a child friendly environment	12
2.1.5 Protecting the child during interviews and when giving testimony.....	14
2.1.6 Right to be heard and to participate in criminal proceedings.....	15
2.1.7 Right to legal counsel, legal assistance and representation.....	16
2.1.8 Remedies or compensation exist for violation of rights and failure to act.....	17
2.2 The child as a witness	19
2.2.1 Reporting a crime.....	19
2.2.2 Provision of information.....	19
2.2.3 Protection from harm and protection of private and family life.....	19
2.2.4 Minimising the burden of proceedings and ensuring a child friendly environment	20
2.2.5 Protecting the child during interviews and when giving testimony.....	20
2.2.6 Right to be heard and to participate in criminal proceedings.....	20
2.2.7 Right to legal counsel, legal assistance and representation.....	20
2.2.8 Remedies or compensation for violation of rights and failure to act	21
2.3 The child as a suspect/ defendant	21
2.3.1 Age of criminal responsibility	21
2.3.2 Provision of information.....	21
2.3.3 Immediate actions following first contact with police or other relevant authority	23
2.3.4 Conditions for pre-trial detention/ custody	24
2.3.5 Protection of private and family life	25
2.3.6 Alternatives to judicial proceedings.....	26
2.3.7 Minimising the burden of proceedings and ensuring a child friendly environment	27
2.3.8 Protecting the child during interviews and when giving testimony.....	27
2.3.9 Right to be heard and to participate in criminal proceedings.....	28
2.3.10 Right to legal counsel, legal assistance and representation.....	30
2.3.11 Remedies or compensation for violation of rights and failure to act	31
3 Child-friendly justice after judicial proceedings	33
3.1 The child as a victim or offender	33
3.1.1 Provision of information.....	33
3.1.2 Sentencing	34
3.1.3 Deprivation of liberty	36
3.1.4 Criminal records	41
4 Strengths and Potential Gaps	42
Conclusions	46

Executive summary

Overview of the general elements of child-friendly justice in criminal proceedings

In Greece, the institutional framework relevant to children involved in judicial proceedings is a mix of criminal and private law provisions. The institutions involved, as well as relevant laws and policies vary depending on whether the child is a suspect/defendant or a victim. For the most part witnesses are treated in the same way as victims though victims' rights are more extensive if they acquire the status of civil claimant in which case they are equipped with greater enforcement powers.

Prevention of relapse is one of the key principles of the Greek juvenile justice system with respect to child suspects/offenders; in order to achieve this goal, the Greek legislator clearly promotes child suspects'/offenders' social integration through their education. The criminal law provisions applicable to children do not form a separate body of law but are actually a separate chapter within the general Penal Code ('PC') namely Chapter eight under the title 'Special Provisions for Juveniles'. The PC recognises **different criminal responsibility for children of different ages**. Children between the ages of 8 and 14 are not 'criminally responsible'. According to the PC children below the age of 15 may be subject only to reformatory and therapeutic measures when they commit criminal acts. Children between 15 and 17 years of age are considered as either not criminally responsible, being subject only to reformatory or therapeutic measures, or as criminally responsible, in which case if necessary, they can be subject also to criminal correction measures entailing the deprivation of their liberty. The PC does not apply to children below the age of 8, which means that in case they commit a criminal act they can only be subject to parental custody. The adjudication of offences committed by children is undertaken by special courts called 'juvenile courts'.

Juvenile justice competent authorities include: juvenile judges serving in the juvenile courts; juvenile public prosecutors; juvenile investigating judges; juvenile probation officers; youth protection associations; and the police.

Child victims and witnesses on the other hand must go through the ordinary criminal justice system if the offender is an adult. This means that child victims are often dealt by officials who have not received specific child focussed education and training.

Overview of children's involvement before, during and after judicial proceedings

Victims

In Greece, crimes are either prosecuted by the public prosecutor on his/her own initiative (in which case the submission of a complaint by the child victim is not necessary for the commencement of the criminal proceedings) or *upon the filing of a complaint* by the victim. When the child victim is below 12 years of age the right of submitting a complaint belongs to the parent/legal guardian. If the child victim is 12 years of age and above both the child and the parent/legal guardian have the right to submit a complaint. In addition, children, like adults, may bring a crime to the attention of the police through the various help-lines established by the police.

Child victims may become parties to the judicial proceedings if they seek compensation. In this way they acquire significant rights which help them defend their claim. The application is submitted by both parents (if they have joint custody) or by the parent who has the child's custody. Child victims who do not become civil claimants appear in the proceedings only as witnesses.

Child victims are in general first informed about their rights by the police even though there is no legal requirement in this respect. The legislation has introduced obligations for the provision of certain information to victims of domestic violence, human trafficking and transportation of irregular migrants. Concerning child victims' protection from harm and protection of their private and family life several measures have been introduced for child victims of domestic violence (removal of the offender from his/her family residence) and of sexual crimes (removal of the perpetrator from the victim's environment). Furthermore, victims/witnesses (children and adults), who testify in cases concerning terrorism, victims of human trafficking and transport of irregular migrants and child victims (and their families or witnesses of the crime) of crimes of sexual exploitation and abuse are also provided with special protection during the investigation and at trial.

The Greek legislator has adopted measures to protect child victims of sexual exploitation from secondary victimisation including through the use of a child psychologist/psychiatrist and the pre-recording of the child's testimony.

Victims and witnesses

Child victims/witnesses have the right to participate in the criminal proceedings regardless of their age and maturity. Information obtained by child victims and witnesses is admissible in court but it is at the judge's discretion to consider it.

Child suspects

Child suspects must be informed of their rights as soon as they come into contact with the police though the police do not have to inform the child's parents. A range of rights have also been introduced to protect the child during proceedings including through the use of alternatives to judicial proceedings.

Restrictive conditions may be imposed on child suspects who are accused of crimes which are punishable with imprisonment of at least three months. Temporary pre-trial detention of a child is permitted with respect to the most serious offences and only if the child is 15 years of age and above. This pre-trial detention cannot exceed a total of nine months (six months initially with a three-month extension under exceptional circumstances).

Concerning the protection of child defendants' private and family life, the publicity of cases in the juvenile court is prohibited by the Greek Constitution. Furthermore, the media are prohibited from presenting a child as the perpetrator of criminal acts or as responsible for accidents.

With respect to the right to legal counsel it should be noted that child defendants have the right to be represented by two lawyers at the pre-trial proceedings and three lawyers at trial. Child offenders who have committed crimes which would have been considered a felony if committed by an adult (i.e. crimes for which the penalty stipulated in the law for adults is imprisonment between 5 and 20 years) are mandatorily appointed a legal counsel.

The juvenile court may impose different types of measures upon child offenders depending on their age as discussed above. Detention of children takes place in specialised institutions for males ('young offenders' detention facilities') and in special departments in women's prisons for females.

Promotion and monitoring of a child-friendly approach to criminal justice, with an overview of strengths and potential gaps

The Greek State has tried to introduce a child-friendly approach with respect to certain aspects of the criminal proceedings. This is most obvious with regard to child suspects/defendants/offenders.

Child victims have the right to become parties to the criminal proceedings (and thus enjoy a wide range of rights) if they become civil claimants, i.e. if they seek compensation for their damages or for their moral pain and suffering before the criminal courts. In addition, there is increased protection of child victims of certain offences in order to help and protect them throughout the judicial process. Of particular importance is the possibility of child victims of crimes against their personal and sexual freedom to be supported by child psychologists/psychiatrists throughout the pre-trial and trial proceedings and have their testimony recorded via audio-visual means. Nevertheless, the Greek State has not adopted any specific measures on the child-friendliness of the premises and places where child victims are involved in criminal proceedings and no special methods for the interviewing of children have been identified. The way child victims (and witnesses) are interviewed is at the discretion of the investigating officials and the judges who are not specifically trained for this.

Regarding child suspects/defendants/offenders, the Greek legislation has attempted to introduce safeguards for the protection of their rights. As of 2010, the minimum and maximum limits for the applicability of juvenile penal law were raised from 7 to 8 and from 17 to 18 years of age, thus complying with the definition of 'children' under the UN Convention on the Rights of the Child. Further, the prosecutor may refrain from criminal proceedings under certain circumstances thus protecting the child from the burden of these proceedings. The measures which can be imposed upon child offenders are primarily of an educational nature; detention may be imposed only if educational measures are not sufficient and only on children who are 15 years of age and above. On the other



hand, cases before the juvenile court take significant time to be adjudicated thus raising the burden imposed upon child defendants especially if the court trial takes place after the young defendant/offender turned 18. In addition, the public prosecutor does not frequently make use of the possibility to refrain from instituting criminal proceedings against children (diversion from prosecution or diversion from court trial with application of reformatory measures by the juvenile prosecutor) while judges hesitate to impose certain educational measures (e.g. community work) as the necessary structures/arrangements for the execution of such measures (e.g., insurance for children who provide community work, supervision during community work) do not exist. Investigating and judicial officers who come into contact with child suspects/defendants/offenders have not generally received specialised training while judges are not required to participate in seminars on juvenile justice.



Abbreviations

PC	Penal Code
PD	Presidential Decree
PPC	Penal Procedure Code

1 Overview of the institutional framework¹

In Greece, the institutional framework relevant to children involved in judicial proceedings is a mix of criminal and private law provisions. The institutions involved, as well as relevant laws and policies vary depending on whether the child is a suspect/defendant or a victim. For the most part witnesses are treated in the same way as victims though victims' rights are more extensive if they acquire the status of civil claimant and they have greater enforcement powers.

For the purposes of this study, only a brief overview is provided of the key elements of the institutional framework relevant to children. For a broader description of the Greek criminal justice systems please see the [European Commission's E-justice portal](#) and the [European Judicial Atlas](#) (for compensation matters).

Youth Justice System – child suspects/defendants and offenders

Prevention of recidivism is one of the key principles of the Greek juvenile justice system. In order to achieve this goal, the Greek legislator clearly promotes child suspects'/offenders' social integration through their education². The criminal law provisions applicable to children do not form a separate body of law but are actually part of the general Penal Code ('PC') under a special chapter entitled 'Special provisions for juveniles'.

Juvenile probation officers are another important constituent of the juvenile justice system. They are supervised by juvenile judges³ and amongst others:

- They conduct a **social inquiry of children involved in judicial proceedings** upon the request of the juvenile judge, the juvenile prosecutor, the prosecutor or the Minister of Justice, Transparency and Human Rights. The child's parents or other services may also request that a social inquiry is carried out. Probation officers gather evidence on the child's environment, conduct interviews with the child, his/her parents and relatives, teachers and anyone who is in contact with the child⁴.
- They draft a **detailed report based on the information collected** where the probation officer makes specific recommendations to the juvenile judge⁵.
- They **exercise care over children upon the court's judgment**⁶ and **supervise the implementation of reformatory measures**⁷, in particular probationary supervision⁸ after the court trial.
- They liaise with other specialised public agencies, NGOs, associations and institutions according to the specific needs of each young offender⁹.
- They supervise pre-trial restrictive conditions for children who have been placed 'on probation' before trial¹⁰.

Youth protection associations are also significant parts of the Greek juvenile system. Their primary objective is to help prevent victimisation and child delinquency. To this end, they provide material, social and psychological support to children and their families as well as vocational training, education, cultural and recreational activities and housing. They can

¹ Please note that in Greece consolidated versions of the legislation are not available online for free. Therefore, this report does not contain any hyperlinks to the laws mentioned therein.

² Pitsela, A., 'Greece' in *Juvenile Justice Systems in Europe – Current Situation and Reform*, p. 625.

³ Article 1(1) & (2) Presidential Decree (PD) 49/1979 'Operation of the Service of Probation Officers'.

⁴ Article 8(1) PD 49/1979 'Operation of the Service of Probation Officers'.

⁵ Article 8(2) PD 49/1979 'Operation of the Service of Probation Officers'.

⁶ Article 9(1) PD 49/1979 'Operation of the Service of Probation Officers'.

⁷ Article 10(3) PD 49/1979 'Operation of the Service of Probation Officers'.

⁸ Article 10(1) & (2) PD 49/1979 'Operation of the Service of Probation Officers'.

⁹ Information obtained through consultation with the Ministry of Justice, Transparency and Human Rights.

¹⁰ *ibid.*

organise conferences and participate in programmes aimed at the prevention of child victimisation or child delinquency. Youth protection associations support child suspects/defendants, child offenders who have been subject to reformatory or therapeutic measures or measures entailing the deprivation of their liberty and children who have been released from a young offenders' detention facility. They also provide legal aid to child suspects¹¹. It is worth noting however, that as of 9 January 2013 in view of the measures the Greek government has had to adopt to address the current economic and financial crisis, such associations will exist only in the cities where there is a court of appeals, i.e. 14 cities, whereas before they existed in all cities where there is a court of first instance, i.e., 63 cities¹².

The Police are the first service of the juvenile justice system that a child comes into contact with. In general, when a child (or any person) is arrested in accordance with the Constitution and the laws, the police must exhibit impeccable behaviour and avoid any actions that may harm the honour and reputation of the arrested person or, in general, affect his/her dignity. Only if it is considered absolutely necessary will the police use force¹³.

More specifically with respect to children, a special Directorate for Minors within the General Police Directorate of Attica was established in 1987¹⁴. This Department is responsible amongst others for the management of child offenders during their stay with the police and cooperation with the juvenile judicial authorities. As of 2001, the Directorate of Public Safety of the Police, responsible for the whole country, consists of four sections, including the **'Section dealing with Drugs and Juvenile Delinquency'**¹⁵. For all regions, except Attica, this section is responsible for offences committed by children. In the General Police Directorate of Attica a special **Sub-Directorate for the Protection of Minors** exists and is divided into two sections: the **Section for Protection of Minors**, conducting research on the social reasons behind child deviant behaviour and on the prevention and suppression of child delinquency, and the **Section for the Special Treatment of Minors**, which is responsible for the treatment of child offenders while with the police¹⁶.

Criminal Trials

Cases involving child offenders are adjudicated before the constitutionally juvenile courts established in each court of first instance¹⁷. 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 characterisation of the offence in the PC as a felony, misdemeanour or infringement¹⁸ which is based on the facts described in the indictment or the prosecutor's summons.

¹¹ Article 18 Law 2298/1995 'Conciliation of private disputes – accelerating the enforcement procedure – design and implementation of correctional policy and other provisions'.

¹² Article 12 of the law 'Abolishment and merger of legal persons of public law and of the broader public sector – Establishment of the General Secretariat for the coordination of governmental work and other provisions'. The law is not numbered yet as it was only voted by the Greek Parliament on 9 January 2013; it is available at http://www.hellenicparliament.gr/Nomothetiko-Ergo/Psifisthenta-Nomoschedia?law_id=fcdcef6e-44cb-4365-a5cd-f8ddad69aacd (in Greek).

¹³ Article 3(a) PD 254/2004 'Police Code of Conduct'.

¹⁴ Article 8(6) PD 95/1987 'Operation of the General Police Directorate of Attica'.

¹⁵ PD 14/2001 'Organisation of the Greek Police'.

¹⁶ Article 6 of PD 378/1995 'Reorganisation of the General Police Directorate of Attica'.

¹⁷ Article 96(3) of the [Constitution of Greece](#).

¹⁸ The Greek PC separates criminal behaviour into three categories: felonies, misdemeanours and infringements (Article 18 PC). Unless specified otherwise in the examined provision, penalties for such offences are as follows:

a) Felonies (*κακουργήματα*): life imprisonment (if specifically stated in the provision) / imprisonment (*κάθειρξη*) of five to twenty years (Article 52 PC);

b) Misdemeanours (*πλημμελήματα*): confinement (*φυλάκιση*) of ten days to five years / monetary penalty (*χρηματική ποινή*) of €150 to €15,000 (Articles 53 and 57 PC);

c) Infringements (*πταίσματα*): detention (*κράτηση*) from one day to one month / fine (*πρόστιμο*) of €29 to €590 (Articles 55 and 57 PC).

The **one-member juvenile court** is competent for:

- a) offences committed by children, except those which fall within the competence of the three-member juvenile court;
- b) infringements committed by children in the courtroom; and
- c) appeals against the decisions of the magistrates' court for infringements committed by children.

The one-member juvenile court also imposes the reformatory or therapeutic measures prescribed in the PC for children who are below 15 years old¹⁹.

The **three-member juvenile court** adjudicates offences committed by children which would be punishable with life imprisonment or imprisonment up to 20 years if they were committed by adults²⁰.

The **juvenile court of appeals** decides on appeals against the decisions of the one-member and three-member juvenile courts²¹.

Prosecution is exercised in the name of the State by the prosecutor of the first instance court. However, in the courts of Athens, Piraeus, Thessaloniki and Patra, a **special juvenile prosecutor** (and his/her deputy) is appointed by the prosecutor of the court of appeals²². In cases where children are involved, prosecutors (and special juvenile prosecutors, wherever they exist) have a range of competencies including:

- to register and forward criminal complaints;
- to register mature and referral case files in the computer files;
- to draft indictments;
- to designate cases to one-member and three-member juvenile courts;
- to prepare and post exhibits for evidence;
- to prepare writs of summons and subpoenas and forward them for service;
- to execute judgments issued by the juvenile courts;
- to lift or convert reformatory measures imposed upon children;
- discharge on parole²³.

The participation of **juvenile investigating judges** is obligatory during the main investigation stage²⁴ and possible during the preliminary investigation stage²⁵. In the courts of Athens, Thessaloniki and Piraeus judges with at least five years of service²⁶ are appointed as juvenile investigating judges.

The Greek legislator has introduced provisions encouraging cooperation between different professionals in order to obtain a more comprehensive understanding of the child, especially the child suspect/defendant. In this regard, the juvenile court must seek an expert opinion from a team of doctors, psychologists and social workers before imposing, amending or

¹⁹ Article 113(1)(A) PPC.

²⁰ Article 113(1)(B) PPC.

²¹ Article 113(1)(C) PPC.

²² Article 27(1) PPC.

²³ See the website of the [Juvenile Division of the Public Prosecutor's Office of District Court Judges](#). See also Article 14 of the [Rules of the Public Prosecution Service of Court of Misdemeanours of Athens](#) (in Greek).

²⁴ Article 4(2)(a) PPC.

²⁵ Article 33(3) PPC.

²⁶ Article 26(1) Law 1756/1988 'Code on the Organisation of Courts and the Status of Judicial Officers'.

terminating any therapeutic measures²⁷. When ordering the most severe penalty which may be imposed upon children, i.e. detention in a young offenders' detention facility, the juvenile judge considers the child defendant's health, moral and mental status and his/her family environment which are also examined by the juvenile probation officers during the main investigation stage²⁸.

Young victims and child protection systems

Contrary to child suspects/offenders, when the offender is an adult, child victims and witnesses must go through the ordinary criminal justice system. This means that child victims are often dealt with by officials who have not had education and training focussed on the rights and needs of the child.

Very few rules and procedures exist which deal exclusively with child victims and these mostly refer to child victims of specific offences. Cooperation between different professionals is specifically required with respect to child victims against their personal and sexual freedom²⁹. In that case a child psychologist or child psychiatrist prepares the child for the examination and collaborates with the preliminary investigation officers and the judges.

The training and qualifications of professionals coming into contact with children during the criminal proceedings vary across the occupational fields. In Athens, Piraeus and Thessaloniki, judges who have at least five years of service are appointed as juvenile investigating judges. Specialist knowledge (criminology, psychology, pedagogy, etc), participation in a special training programme organised by the National School of Judges or the acquisition of a PhD or a Master's Degree on juvenile justice are taken into consideration for the appointment of juvenile judges and prosecutors³⁰. However, it is not obligatory for juvenile judges, juvenile investigating judges and juvenile prosecutors to have undertaken specific training in this regard. The National School of Judges organises conferences on juvenile justice and child victims but attendance is not obligatory³¹. The last seminar concerning 'Juveniles and the New legal system' was organised in December 2007³².

Police officers also receive some training on how to work with child victims/offenders. The officers who staffed the new department of the police in 1987 attended a seminar on juvenile justice where experienced juvenile judges, prosecutors, university professors and other scientists participated. However, similar seminars have not been repeated due to both financial reasons and the preference for a different type of training. Currently, police officers follow a four-year university education where they study various legal subjects including child law. This formal education is supplemented by seminars organised by other bodies such as the Ombudsman, the Athens Bar Association, etc. After the recent amendment of the PC and PPC concerning juvenile justice, seminars have again been organised but not systematically³³.

Juvenile probation officers are appointed from among graduates of Law Schools, Departments of Literature, Theology, Sociology, Economic and Political Sciences and Education³⁴. Currently probation officers are selected by the Supreme Council for the Selection of Personnel (ASEP) which evaluates the application and qualifications of each individual³⁵. The law provides that after their appointment probation officers must follow a

²⁷ Articles 123(2), 124 (2) & (3) PC.

²⁸ Article 239(2) PPC.

²⁹ Article 226A(1) PPC.

³⁰ Article 26(1) & (3) Law 1756/1988 'Code on the Organisation of Courts and the Status of Judicial Officers'.

³¹ Information obtained through interview with an investigating judge.

³² Information obtained through interview with an investigating judge.

³³ Spinellis, C., 'The juvenile system in Greece' in *European Juvenile Justice Systems*, Centro di Studio e di Ricerca sulla Ciustizia Minorile, 2007, p. 179.

³⁴ Article 2(2) Law 378/1976 'Juvenile Probation Officers'.

³⁵ Spinellis, C., 'The juvenile system in Greece' in *European Juvenile Justice Systems*, Centro di Studio e di Ricerca sulla Ciustizia Minorile, 2007, p. 185.

theoretical and practical training³⁶. However, it is understood that no training sessions for probation officers have taken place³⁷.

No provisions on the regular vetting of professionals working with children have been identified. With respect to the monitoring and assessment of courts, ‘regular’ judges are inspected by judges of a superior rank, as well as by the Public Prosecutor and the Deputy Prosecutor of the Supreme Civil and Criminal Court; public prosecutors are inspected by the Supreme Civil and Criminal Court judges and Public Prosecutors of a superior rank, as specified by law³⁸. This means that **the executive power and the Ministry of Justice, Transparency and Human Rights cannot exercise any kind of control on the decisions issued and the practice followed by the courts**. The responsibility for reviewing and reforming the legislation, policies and practice in relation to children’s involvement with the criminal justice system rests with the Ministry of Justice, Transparency and Human Rights.

General Approach towards children: definition of child, participation, evolving capacities, age and discrimination

Greek legislation reflects the obligations the Greek state has undertaken under the UN Convention on the Rights of the Child. Those who are under 18 are considered as children and are subject to special measures, regardless of whether they are victims or offenders. These special measures are at times extended to child suspects/offenders who are under 21 years of age.

The Greek juvenile criminal justice system is centred on the idea that children’s level of development, maturity and autonomy increase towards adulthood. As will be discussed in more detail in [Section 2.3.1](#), the PC recognises **different criminal responsibility for children of different ages**.

According to the PC, a child aged from 8 to 14 years inclusive cannot be held ‘criminally responsible’. The legislation with respect to the age of criminal responsibility is not entirely clear. It clearly states that a criminal offence committed by a child 8 to 13 years of age, inclusive, is not attributed to him/her. The law is not completely clear on the liability of children of 14 years of age who commit criminal acts. However, it can be inferred from Article 125 (i.e. its title and the application of reformatory and therapeutic measures) that even though they are not criminally responsible, any offences they commit can be attributed to them. In any case, children below 15 years of age can only be subject to reformatory and therapeutic measures. It is not clear what is the difference of having an offence attributed to a child and not.

Thus, for children aged from 8 to 14 years inclusive, the public prosecutor will refer the case to the juvenile court which can impose appropriate therapeutic or reformatory measures³⁹.

Two elements are requisite for the finding of criminal responsibility of a child⁴⁰. Firstly, only children from the ages of 15 to 17 years inclusive, can be held criminally responsible for crimes which if they were committed by an adult would be considered as a felony (serious crime) and contain elements of violence against the life or physical integrity of a person or are committed as a profession or habitually. Secondly, even in such cases, criminal responsibility will be found only where the judge determines, based on the circumstances of the crime and the personality of the child, that a therapeutic or reformatory measure is not appropriate and imprisonment must be imposed. Thus a child may be guilty of the above

³⁶ Article 2 PD 49/1979 ‘Functioning of the Juvenile Probation Officers Service’.

³⁷ Spinellis, C., ‘The juvenile system in Greece’ in *European Juvenile Justice Systems*, Centro di Studio e di Ricerca sulla Giustizia Minorile, 2007, p. 185.

³⁸ Article 87(3) of the [Constitution of Greece](#); see also Article 80 of Law 1756/1988 ‘Code on the Organisation of Courts and the Status of Judicial Officers’ on the Supreme Court Council for the Inspection of Civil and Criminal Courts.

³⁹ Article 126(1) PC.

⁴⁰ Articles 127(1) and 126(3) PC.

mentioned crimes but having had a therapeutic or reformatory measure imposed, they will not be deemed to be criminally responsible.

Note that the PC does not apply to children below the age of 8, which means that in case they commit a criminal act they can only be subject to parental custody⁴¹.

Both child victims and child suspects/offenders have the right to be heard and participate in judicial proceedings that affect their interests regardless of their age. The evolving capacities of the child are not mentioned in the legislation as such; even though there are some special provisions where the process has been adapted to the special needs of child victims and child suspects/offenders, these provisions are adapted to children as a group and do not allow for the consideration of the child's capacities on a case by case basis. In any case, the judge has the right to freely evaluate the evidence presented before him/her⁴² which means that he/she will consider the evidence obtained by the child taking into account his/her age and maturity.

Non-discrimination

Children in Greece are protected from discrimination in fields such as education, vocational training, health services and vocational services by virtue of Law 3304/2005 on equal treatment (race, ethnicity, religion, age, sexual orientation) which transposed Directive 2000/78/EC establishing a general framework for equal treatment in employment and occupation into the national legal order. Law 3304/2005 aims at addressing both direct and indirect discrimination while providing protection against harassment and instructions to discriminate. However, Law 3304/2005 does not apply to judicial proceedings and thus is not relevant for the purposes of this report.

It should be noted that children can be considered as protected from discrimination under the key principles of the Greek Constitution that all Greeks are equal before the law⁴³ and that childhood and the family are under the protection of the State⁴⁴.

⁴¹ Article 1532 seq. Civil Code.

⁴² Article 177 PPC.

⁴³ Article 4(1) [Constitution of Greece](#).

⁴⁴ Article 21(1) [Constitution of Greece](#).

2 Child-friendly justice before and during criminal judicial proceedings

2.1 The child as a victim

2.1.1 Reporting a crime

In Greece, crimes are divided into two categories: a) those which are **prosecuted *ex officio*** by the public prosecutor, in which case the submission of a complaint by the child victim is not necessary for the commencement of the criminal proceedings; and b) those which are **prosecuted only upon the filing of a complaint**, in which case the submission of the complaint by the child victim is a prerequisite for the commencement of the criminal proceedings⁴⁵.

Child victims may bring an offence to the authorities' attention either by submitting a **complaint** (έγκληση)⁴⁶ for those crimes which are prosecuted only upon the complaint of the victim or a **report** (μήνυση) for crimes which are prosecuted by the public prosecutor on his/her own initiative⁴⁷. The complaint or the report is filed with the public prosecutor or the other investigating officers, e.g., the police⁴⁸. When the child victim is below 12 years of age the right of submitting a complaint belongs to her/his parent/legal guardian. If the child victim is 12 years of age and above both the child and her/his parent/legal guardian have the right to submit a complaint while when the child turns 17 years of age only he/she is entitled to file a complaint⁴⁹. The complaint or the report can be submitted either orally or in writing; in the latter case, the official accepting the statement shall draft a report⁵⁰. In the future, reports will also be able to be filed via electronic means if they bear an electronic signature⁵¹.

However, as the relevant Presidential Decree, specifying the conditions under which this will be possible, has not been issued yet, it is not clear if and how children will be able to file reports via electronic means⁵². Note that anyone who witnesses an *ex officio* crime can inform the police who will investigate the matter. However, this is not classed as bringing a complaint.

Child victims who file a complaint or a report have to pay a **fee of €100**⁵³. Children who submit a complaint and who are entitled to legal aid⁵⁴ (in which case the income of the family is taken into consideration) or who are victims of crimes against sexual freedom, crimes of economic sexual exploitation and of domestic violence are exempted from this fee. When filing the complaint, the child victim must also provide all evidence available which supports his/her complaint⁵⁵.

With respect to crimes which are prosecuted only upon complaint, the child victim must **submit such complaint within three months** from the day he/she became aware of the offence and of the perpetrator⁵⁶. However, the authorities will refuse to institute criminal proceedings if certain time limits from the commission of the act have lapsed. These time limits differ depending on the nature of the offence and are as follows: 15 years for felonies

⁴⁵ Article 50(1) PPC.

⁴⁶ Article 46(1) PPC.

⁴⁷ Article 42(1) PPC.

⁴⁸ Article 42(2) PPC.

⁴⁹ Articles 118(1) and (2) PC.

⁵⁰ Article 42(2) PPC.

⁵¹ Article 42(5) PPC.

⁵² Information obtained through an interview with an investigating judge.

⁵³ Articles 42(4) and 46(2) PPC.

⁵⁴ According to Law 3226/2004 on 'Legal aid to low income citizens'.

⁵⁵ Articles 46(2) and (4) PPC.

⁵⁶ Article 117(1) PC.

(except for offences where the penalty provided is life imprisonment in which case the time limit for the initiation of criminal proceedings is 20 years after the commission of the act); 5 years for misdemeanours; 2 years for infringements⁵⁷.

In addition, children, like adults, may bring a crime to the attention of the police through the various help-lines established by the police. More specifically, children may call the emergency **number 100** for immediate police intervention or send a free text message from their mobile phone to the same number⁵⁸. With respect to the crimes of cyber-bullying, paedophilia or child pornography, children or anyone who becomes aware of such crimes may contact the Cyber Crime Unit in the special hotline 11012 (24/7) or via email in the following address 11012@hellenicpolice.gr⁶⁰.

Children who are victims of abuse, neglect, trafficking and other illegal activities may also call for free the **National Helpline for Children's Protection 1107**⁶¹ on a 24/7 basis or send an email at childline1107@ekka.gr. This service is operated by the National Centre for Social Solidarity, a State organisation based in Athens under the authority of the Ministry of Health and Social Solidarity. This national helpline is then responsible for informing the competent state authorities, including the police, the prosecuting and judicial authorities.

An obligation to report incidents of domestic violence against children is imposed on certain professionals. For example, teachers in primary and secondary education who during the educational process are in any way informed or understand that a crime of domestic violence has been committed against a student shall inform, without delay, the Director of the school. The Director shall report the offence to the competent prosecutor or the nearest police station. The same obligation applies to teachers and Directors of private schools as well as managers of any type of pre-school units⁶². Regarding children with disabilities, if the diagnostic team of the Centres of Differential Diagnosis, Evaluation and Support has clear indications that a child is being abused, they shall collaborate with the competent health, social and psychological services as well as the courts⁶³.

Apart from filing a complaint, child victims may also request **compensation for damages or compensation for their moral pain and suffering** before the criminal courts by becoming civil claimants⁶⁴. In practice, child victims request compensation before the criminal courts for a nominal amount and then seek to be compensated before the civil courts. The fee for becoming a civil claimant is €10. Child victims can pursue their claim before the criminal courts any time up until the commencement of the evidentiary process in the hearing, provided that the relevant documentation has been served to the defendant at least five days before the hearing⁶⁵. For child victims **the application to become a civil claimant is submitted by both parents** if they have joint custody of the child or **by the parent who has the child's custody**⁶⁶. If the defendant is one of the parents, then the other parent files the application alone (due to the conflict of interests of the child and the parent/defendant⁶⁷). As will be discussed in [Section 2.1.6](#) victims who become civil claimants acquire specific rights in the criminal proceedings.

⁵⁷ Article 111(2) PC.

⁵⁸ [Emergency Contact](#), Hellenic Police website (in Greek).

⁵⁹ [Helpful advice to prevent and protect children from abuse](#), Hellenic Police website (in Greek).

⁶⁰ [Helpful advice to prevent and protect children from abuse](#), Hellenic Police website (in Greek).

⁶¹ Article 8 Law 3961/2011 and Joint Decision of the Minister of Justice, Transparency and Human Rights and the Minister of Health and Social Solidarity 49540/04-05/2011 (Government Gazette B' 877/2011).

⁶² Article 23 Law 3500/2006 'Combating domestic violence'.

⁶³ Article 3699/2008 'Special Education'.

⁶⁴ Article 63 PPC.

⁶⁵ Articles 68(1) and 167 PPC.

⁶⁶ Supreme Court Decision 2437/2008, Criminal Section.

⁶⁷ Article 1517 Civil Code.

2.1.2 Provision of information

In order to ensure that victims are promptly and adequately informed of their rights the Greek legislation imposes specific obligations upon the various authorities which initially come into contact with victims.

Child victims are in general first informed about their rights by the police even though there is no legal requirement in this respect⁶⁸. Furthermore, even though the police are not legally obliged to provide such information in a child-friendly manner, it is expected that they take into account the victim's age and maturity⁶⁹. Furthermore, parents and guardians have the right to be informed about all aspects of the judicial proceedings as this is part of their parental care rights⁷⁰.

With respect to adult and child **victims of human trafficking or transportation of irregular migrants**, the law provides that the public prosecutor will afford them a **three-month reflection period**⁷¹ to remove them from the influence of the offenders in order to decide whether to cooperate with the authorities in the criminal proceedings against their traffickers. For child victims this reflection period may be extended by two months if this is in the child's interest. During this time, the competent prosecutors, the judicial authorities and the police take all the necessary measures to ensure the safety of victims, provide them with translation/interpretation services if they do not speak Greek, inform them of their legal rights as well as provide them with the required legal aid⁷².

Child victims of domestic violence, like adult victims, are entitled to moral support and the necessary material assistance by legal persons of public or private law which have been established specifically for these purposes by the Ministry of Health and Social Solidarity as well as by the social services of the local authorities. The police officers who investigate such cases are obliged, upon the request of the victim, to inform the above entities so that the necessary assistance is provided to the child⁷³.

Similarly to adult victims, child victims of intentionally committed violent offences⁷⁴, may be entitled to request compensation by the State if the offender does not have sufficient resources to compensate the victim, if the identity of the offender is not identified or if the offender cannot be prosecuted or if he or she cannot be subject to criminal penalties⁷⁵. Police officers, the public prosecutor and the investigating judge involved in the preliminary investigation and investigation stages of these offences are required to inform clearly these victims of the fact that they may be entitled to request compensation as well as of the conditions that need to be fulfilled in order to exercise such right⁷⁶.

When child victims are invited to testify before the investigating officials or the court they must be served with a subpoena. The subpoena specifies the date and time that the child has to present himself/herself for examination and must be signed and bear an official stamp. Further, it briefly describes the case that the child is called to testify for and

⁶⁸ Information obtained through interviews with the Ministry of Justice, Transparency and Human Rights and with an investigating judge.

⁶⁹ Information obtained through interview with the Children's Ombudsman.

⁷⁰ Article 1510 Civil Code.

⁷¹ Article 46(1), (2) & (3) Law 3386/2005 'Entry, residence and integration of third-country nationals in the Greek Territory'.

⁷² Article 49(3) Law 3386/2005 'Entry, residence and integration of third-country nationals in the Greek Territory'.

⁷³ Article 21(1) and (2) Law 3500/2006 'Combatting domestic violence'.

⁷⁴ As a crime of violence is defined: a) every intentional criminal act which is committed by using physical violence or threats of physical violence and which results in the death or serious physical or mental impairment of the victim; and b) every intentional criminal act which is committed using physical violence or threats of physical violence and is punished with imprisonment between 5 and 20 years (Article 3(4) Law 3811/2009 'Compensation to victims of violent crimes and other provisions').

⁷⁵ Article 3(2) Law 3811/2009 'Compensation to victims of violent crimes and other provisions'.

⁷⁶ Article 4(3) Law 3811/2009 'Compensation to victims of violent crimes and other provisions'.

summarises the consequences if the child does not appear before the investigating official or the court. If the child is called to testify at the pre-trial stage of the proceedings, he/she must be informed at least 24 hours in advance; if he/she is called to testify at trial, the child witness must be summoned at least 15 days before the court hearing (if the child lives in EU or Mediterranean countries he/she must be summoned 30 days before the court hearing and 60 days if he/she lives in other countries)⁷⁷. Subpoenas are served to the person they are addressed to or to those persons with whom the addressee lives⁷⁸. In practice, court subpoenas are addressed and served to those child victims who are considered mature enough. If the child victim is of a very young age (e.g. 4 years old), his/her parents will be the addressees in the court subpoena and must therefore ensure that the child appears to be examined before the judicial officials⁷⁹. In urgent cases, the investigating official can orally summon the child to testify⁸⁰.

2.1.3 Protection from harm and protection of private and family life

The Greek legislator has established specific measures to ensure that victims of certain crimes are protected from harm from the accused, especially in cases of domestic violence, crimes against the sexual freedom of children, human trafficking and transportation of irregular migrants.

With respect to **child victims of domestic violence**, similarly to adult victims, the competent investigating judge, criminal court, or judicial council⁸¹ may order that the **offender is removed from his/her family residence** and prohibit her or him from approaching the child's home, the residences of close relatives and schools and shelters if this is considered necessary to protect the child's physical and mental health. The validity of the above restriction orders ends when the court issues its final judgment or when the prosecutor files the case if the child victim and the perpetrator have agreed to penal mediation⁸². The defendant can challenge these orders before the judicial body which ordered them; in that case, the child must also be summoned to the hearing⁸³. Before the imposition/withdrawal/amendment of restriction orders, the competent judicial body may request the opinion of psychiatrists, psychologists, social workers and other experts on domestic violence who are employed in public health institutions⁸⁴.

Police officers who carry out the preliminary investigation in domestic violence cases are prohibited from revealing the victim's name, address and any other elements which may disclose his or her identity⁸⁵. If they breach this obligation, they may be punished with imprisonment of up to two years.

It should be noted that in cases of domestic violence, family members testify as witnesses without giving an oath. Children are not summoned to testify during the trial; the testimony

⁷⁷ Articles 213(1) and 166 PPC.

⁷⁸ Article 155 PPC provides that in the criminal proceedings documents (subpoena, claims etc) must be served personally to the interested party or, if he/she is not there to persons who live with the interested party unless these are below 17 years of age (if the subpoena is addressed to an older person). However, there is no specific provision as to the procedure to be followed when the interested party (whether the perpetrator or the victim) is a child.

⁷⁹ Information obtained through an interview with an investigating judge. The Children's Ombudsman noted that it seems that the child can be served a summons as there is no special provision in this regard.

⁸⁰ Article 213(2) PPC.

⁸¹ The judicial council of the court of misdemeanours is a judicial body (Article 305 PPC). During the investigation or upon the completion or continuation of the investigation, the judicial council may, upon the proposal of the prosecutor or one of the parties or upon the request of the investigating judge preside over any disputes between the parties or between the parties and the prosecutor (Article 307 PPC). In criminal proceedings involving child defendants, a juvenile judge participates in the judicial council of the court of misdemeanours (Articles 305(1) and 12(3) PPC)

⁸² Article 18(1) Law 3500/2006 'Combatting domestic violence'.

⁸³ Article 18(2) Law 3500/2006 'Combatting domestic violence'.

⁸⁴ Article 18(3) Law 3500/2006 'Combatting domestic violence'.

⁸⁵ Article 20(1) Law 3500/2006 'Combatting domestic violence'.

given at the investigation stage is read aloud at the hearing unless the child's presence is considered necessary by the court⁸⁶.

When children are victims of **sexual crimes**, the prosecutor, the investigating judge or the court can order the **removal of the perpetrator from the victim's environment** or the removal of the victim so that he/she resides in a protected environment. Furthermore, the court may prohibit the communication between the victim and the perpetrator if this is considered necessary for the protection of the child⁸⁷.

Similarly to adults, child witnesses, including child victims, who testify in cases concerning the offence of constituting an **association of persons with the intent to commit crimes**⁸⁸ or in cases of **terrorist actions**⁸⁹ are afforded **special protection** both before and during criminal proceedings. Such protection measures include: protection by specially trained police officers; the right to testify through the use of electronic means (visual/sound or only sound transmission); non-disclosure in the examination report of the witnesses' victims' name, place of birth, residence, profession and age; change of identity; relocation to other countries or relocation to another post. Witnesses (and victims) must consent to these protection measures which should not restrict individual freedom beyond the extent necessary. The protection measures are discontinued if the witness so requests in writing or if he/she does not cooperate with the authorities⁹⁰.

At trial, child witnesses and victims, like adult witnesses and victims, whose identity has not been revealed are called with the name used in the examination report. If the prosecutor or one of the parties requests the disclosure of the child's identity, then the court decides on the issue. In any case, the court may on its own initiative require the disclosure of the witness' identity or issue an order providing that one member of the court will examine the witness in his/her home and then have the testimony read aloud at trial⁹¹. Note that if the identity of the witness is not revealed, his/her testimony by itself is not enough to convict the defendant⁹².

As of 2010, similar protection is afforded to **adult and child victims of trafficking** (trafficking for labour exploitation⁹³; human trafficking for the removal of organs⁹⁴; sex tourism targeting children⁹⁵; human trafficking for sexual exploitation⁹⁶) and **transport of irregular migrants**⁹⁷, **to child victims (and their families or witnesses of the crime) of crimes of sexual exploitation and abuse**⁹⁸ and **victims of violence on the occasion of athletic events**⁹⁹.

As mentioned in [Section 3.2](#), child **victims of human trafficking** or **transport of irregular migrants**, are provided by the public prosecutor with a **three-month reflection period**

⁸⁶ Article 19 Law 3500/2006 'Combating domestic violence'.

⁸⁷ Article 352A(4) PC.

⁸⁸ Article 187 PC.

⁸⁹ Article 187A PC.

⁹⁰ Article 9(2) Law 2928/2001 'Terrorism: amendment of the Penal Code, the Criminal laws etc.'.

⁹¹ Article 354 PPC.

⁹² Article 9(4) & (5) Law 2928/2001 'Terrorism: amendment of the Penal Code, the Criminal laws etc.'.

⁹³ Article 323 PC.

⁹⁴ Article 323A PC.

⁹⁵ Article 323B PC.

⁹⁶ Article 351 PC.

⁹⁷ Article 9(6) Law 2928/2001 'Terrorism: amendment of the Penal Code, the Criminal laws etc.' as amended with Article 8(5) Law 3875/2010.

⁹⁸ Article 8 Law 3727/2008 'Ratification and implementation of the Council of Europe Convention on the Protection of children against sexual exploitation and sexual abuse, measures to improve living conditions and decongestion of detention facilities, etc'.

⁹⁹ Article 4(2) Law 4049/2012 'Combat of Violence in Athletic Events etc.'.

(which can be extended by two months if considered to be in the interests of the child). During this period, child and adult victims may not be deported¹⁰⁰.

In the case of unaccompanied child victims of human trafficking or transport of irregular migrants, the competent prosecuting authority makes every effort to locate the child's family and to provide him/her with legal representation, including representation during potential criminal proceedings. The competent juvenile prosecutor (or, if there is no juvenile prosecutor, the public prosecutor) will order the necessary measures to guarantee the child's safety if his/her family cannot be located and repatriation is not considered to be in the child's interest. These measures apply until the court reaches a decision on this issue¹⁰¹.

Child and adult victims of human trafficking and transportation of irregular migrants are entitled to **protection by the Greek State regardless of whether they cooperate with the judicial authorities or not**. This protection includes police protection, attendance of primary and secondary schools for children and vocational training for young adults up to 23 years of age, health care, legal assistance and interpretation/translation services¹⁰².

With respect to the **disclosure of the child's identity in the media**, the Code of Conduct for news and political shows prohibits the disclosure of children's identity, including image, name or other elements which could reveal their identity when these children are witnesses or victims of crimes or accidents or are involved in 'troubled situations'. Interviewing children below the age of 14 is prohibited. Exceptionally, disclosure of children's identity is permitted when considered necessary to inform the public and is not harmful to the child. However, in this case the custodian of the child must provide his/her consent in writing¹⁰³. With respect to crimes against sexual freedom and economic sexual exploitation such as rape, no one must reveal elements which may lead to the disclosure of the child's identity¹⁰⁴.

On the other hand, the disclosure of information concerning criminal proceedings or convictions may be permitted by the prosecution for offences which are punished as felonies or misdemeanours¹⁰⁵, including offences against children¹⁰⁶ in order to protect society, vulnerable social groups and to facilitate their punishment¹⁰⁷.

2.1.4 Protection from secondary victimisation and ensuring a child friendly environment

When a child is examined as a victim of a crime against his/her personal and sexual freedom¹⁰⁸ a **child psychologist or child psychiatrist** is appointed and appears as an expert before the court¹⁰⁹. The child psychologist/child psychiatrist **prepares the child**

¹⁰⁰ Article 46(1), (2) & (3) Law 3386/2005 'Entry, residence and integration of third-country nationals in the Greek Territory'.

¹⁰¹ Article 48(2) Law 3386/2005 'Entry, residence and integration of third-country nationals in the Greek Territory'.

¹⁰² PD 233/2003 'Protection and assistance under Article 12 of Law 3064/2002 (OG 248 A) to victims of the crimes of Articles 323, 323 A, 323B, 348A, and 351A of the Penal Code, and Article 87, paragraphs 5, 6 and 88 of Law 3386/2005'.

¹⁰³ Article 10(1) PD 77/2003 'Code of Conduct for the news and political shows'.

¹⁰⁴ Article 352B PC. Note that for all victims of crimes against their sexual freedom, adults and children, the media are prohibited from using the victim's image, name or provide elements which can disclose the victim's identity (Article 11(4) PD 77/2003 'Code of Conduct for the news and political shows').

¹⁰⁵ Article 2(b) and Article 3 Law 2472/1997 'on the protection of personal data'.

¹⁰⁶ Article 3 Law 2472/1997 'on the protection of personal data'.

¹⁰⁷ Article 2(b) Law 2472/1997 'on the protection of personal data'.

¹⁰⁸ These crimes include: i.e., trafficking for labour exploitation (Article 323 PC); human trafficking for the removal of organs (Article 323A PC); sex tourism targeting minors (Article 323B PC); rape (Article 336 PC); insult of sexual dignity (Article 337 PC); indecent assault (Article 338 PC); seduction of children (Article 339 PC); abuse of a child (Article 342 PC); exploitation with abuse of power (Article 343 PC); incest (Article 345 PC); incest between relatives (Article 346 PC); indecent acts between men (Article 347 PC); facilitation of indecent acts (Article 348 PC); child pornography (Article 348A PC); pandering (Article 349 PC); human trafficking for sexual exploitation (Article 351 PC); indecent acts with children for consideration (Article 351A PC); acts facilitating illegal immigration (Article 87(5) & 6 and Article 88 Law 3386/2005 on entrance, residence and social integration of third country nationals in the Greek territory).

¹⁰⁹ Article 226A(1) PPC.

victim for the examination and collaborates with the preliminary investigation officers and the judges. For this purpose, he/she uses the appropriate diagnostic methods, decides on the perceptual ability and the mental condition of the child and submits his/her opinion in writing.

The child psychiatrist/psychologist is present during the pre-trial examination of the child. The child's legal representative may also be present, unless the investigating judge considers that there is a conflict between the interests of the child and the legal representative or believes that the legal representative is involved in the act under investigation¹¹⁰. The child's testimony is recorded in writing and, if possible, by electronic audio-visual means. A video or video link of the child's testimony replaces his/her physical appearance in the subsequent steps of the judicial process¹¹¹. The written testimony is read aloud at the hearing; if the child turns 18 during the hearing, he/she may attend the hearing in person.

After the commencement of the hearing, the prosecutor or either of the parties may request the examination of the child if he/she has not been examined during the investigation or if there is a need for a complementary examination. If the request is approved, the investigating officer will examine, based on clear questions, the child in his/her residence without any of the parties present¹¹². Moreover, in case of child victims the competent officials (including probation officers, social workers of municipalities/regions) may conduct a social inquiry into the child's living conditions¹¹³.

The investigation of cases where children are victims of certain offences against their sexual freedom is conducted as an absolute priority. The hearing must take place within six months at the latest from the referral of the case to trial in the first degree and within four months from the exercise of the appeal in the second degree. The uncertainty as to the victim's actual age does not prevent the commencement of the criminal proceedings¹¹⁴.

Children who are **victims of sexual crimes** are subject to a **mental and physical examination** to determine whether they are in need of special treatment. The treatment of the child victim is ordered by the competent prosecutor during the preliminary investigation, by the competent investigating judge during the main investigation and by the court during the hearing¹¹⁵.

Furthermore, **victims of domestic violence** are entitled to **moral support and material assistance** from legal persons of private or public law under the supervision of the Ministry of Health and Social Solidarity as well as by the social services of local authorities. The police examining cases of domestic violence must provide victims with information concerning these institutions if the victim so requests (i.e., not on their own initiative)¹¹⁶. Furthermore, in order to prevent their secondary victimisation, child victims of domestic violence are not summoned to testify during the trial; the testimony given at the investigation stage is read aloud at the hearing unless the child's presence is considered necessary by the court¹¹⁷.

The Police Code of Conduct stipulates that during the preliminary investigation of a crime **the police must protect victims and witnesses**, especially when it is possible that they will be threatened. The police must pay particular attention to victims of sexual or physical abuse

¹¹⁰ Article 226A(2) PPC.

¹¹¹ Article 226A(3) PPC.

¹¹² Article 226A(5) PPC.

¹¹³ 226A(6) PPC.

¹¹⁴ Article 7 Law 3727/2008 'Ratification and implementation of the Council of Europe Convention on the Protection of children against sexual exploitation and sexual abuse, measures to improve living conditions and decongestion of detention facilities, etc'.

¹¹⁵ Article 352A(3) PC.

¹¹⁶ Article 21 Law 3500/2006 'Combatting domestic violence'.

¹¹⁷ Article 19 Law 3500/2006 'Combatting domestic violence'.

in order to prevent their secondary victimisation¹¹⁸. Further, the police must focus on the protection of, amongst others, children, persons with disabilities and, in general, people from socially vulnerable groups. In particular, they must treat children with understanding and compassion in order to protect them from harmful impacts and risks to which they may be exposed. They must also treat with great sensitivity children exhibiting delinquent behaviour as well as children and women who are refugees or victims of physical, psychological or sexual violence and exploitation¹¹⁹.

Another issue of importance concerning secondary victimisation is the **publicity of trials**. In Greece the sittings of all courts are public except when the court decides that publicity would be detrimental to public morals or that special reasons call for the protection of the private or family life of the parties¹²⁰. Therefore, all trials are held in public and all court decisions are pronounced in public¹²¹. However, **the public character of the trial is waived** in order, amongst others, **to protect the private or family life of the parties**. This is particularly the case with respect to crimes against the sexual freedom or crimes of economic sexual exploitation where the publicity may lead to the mental suffering or humiliation of the victim, and especially the child victim¹²².

The Greek State has not adopted any specific measures on the child-friendliness of the premises and places where child victims are involved in criminal proceedings¹²³. It is expected though that the different officers interviewing children take their vulnerability into account when examining them¹²⁴. It is worth noting that the Greek State has undertaken the obligation to ensure that child victims are examined in child-friendly and non-intimidating premises¹²⁵ as it has ratified¹²⁶ the Optional Protocol on the Rights of the Child on the sale of children, child prostitution and child pornography.

Regarding **victim-offender mediation mechanisms**, under the Greek criminal legislation such mechanisms have been established with respect to **domestic violence** offences¹²⁷. In case of child victims, both the juvenile prosecutor and the person exercising parental care participate in the penal mediation process on the child's behalf (unless the child's guardian is the alleged offender). Only if both the juvenile prosecutor and the person exercising parental care agree, is penal mediation possible. Children 14 years of age and above can participate, if they wish, in the process and make their views known. Penal mediation is not possible if the alleged perpetrator is the guardian, legal guardian or foster parent of the child¹²⁸.

2.1.5 Protecting the child during interviews and when giving testimony

Under the Greek legal system, persons invited to testify cannot refuse unless such an option is specifically provided in the law¹²⁹. During the investigation and the main proceedings children may be examined without giving an oath¹³⁰. Civil claimants in criminal proceedings

¹¹⁸ Article 4(d) PD 254/2004 'Police Code of Conduct'

¹¹⁹ Article 5(3) and (4) of PD 254/2004 'Police Code of Conduct'.

¹²⁰ Article 93(2) of the [Constitution of Greece](#).

¹²¹ Article 329(1) PPC.

¹²² Article 330(1) PPC.

¹²³ Information obtained through an interview with an investigating judge.

¹²⁴ Information obtained through an interview with the Ministry of Justice, Transparency and Human Rights.

¹²⁵ Article 8 of the Optional Protocol on the Rights of the Child on the sale of children, child prostitution and child pornography.

¹²⁶ Article 209 PPC.

¹²⁷ Victim-offender-mediation mechanisms are also provided in field of juvenile justice; however, in that case it seems that victim-offender-mediation is ordered by a Court decision. This mechanism will be presented in detail under Section 3.2.6 of this Report.

¹²⁸ Article 11(3) and (4) Law 3500/2006 'Combating domestic violence'.

¹²⁹ Article 209 PPC. The spouse, parents and siblings of the defendant may refuse to testify at the pre-trial stage of the criminal proceedings or at trial. However, if the defendant is a child, the abovementioned persons do not have the right to refuse to testify (Article 222 PPC).

¹³⁰ Article 221(a) PPC.

are also examined without an oath¹³¹. In practice, this means that child victims and witnesses cannot be found guilty of perjury.

Witnesses (including victims) have the right to dictate their testimony to the investigating judge, if the latter does not raise any objections. The investigating judge's report should note the fact that the testimony has been read; if the victim does not read his/her testimony, then the investigating judge must record the testimony in his report, if possible, verbatim. The witness (including victim) cannot use notes unless the investigating judge or the court allow it for special reasons¹³². If the witness is under the age of 18, then **the interviewer must record verbatim in his/her report both the testimony and the questions posed**¹³³.

As already discussed under [Section 2.1.4](#), special provisions apply to children who are victims of crimes against their personal and sexual freedom. In addition, as mentioned in the same section victims of human trafficking and transport of irregular migrants are entitled to legal assistance and interpretation services.

The information obtained from child victims and witnesses is admissible in court. The judge has the right to freely evaluate the evidence presented before him/her¹³⁴ which means that he/she will consider the evidence obtained from the child taking into account his/her age and maturity. Note that the investigating officers are bound by the principle of legality which means that they do not have the discretion to evaluate whether evidence obtained by children should be admissible in court¹³⁵.

No special methods for the interviewing of children have been identified with this being left to the discretion of the judge. The National School of Judges organises seminars on juvenile justice which may also prove useful for the examination of child victims/witnesses.

2.1.6 Right to be heard and to participate in criminal proceedings

The right to be heard and participate in criminal proceedings is protected under the Greek Constitution according to which every person shall be entitled to receive legal protection by the courts and may plead before them his/her views concerning his/her rights or interests, as specified by law¹³⁶. This right is also explicitly provided for in the various stages of the criminal proceedings. The general procedural rules apply to children too unless there are specific provisions for them.

During the **investigation**, victims, child and adults, can: be represented by two lawyers¹³⁷; have access to the documentation of the investigation¹³⁸; be present in all investigation actions except the examination of the defendant and the witnesses¹³⁹, unless the witness will not be able to participate in the trial¹⁴⁰; ask questions and make observations during the investigation actions¹⁴¹; request the replacement of a judge¹⁴²; ask for the conduct of an expert report¹⁴³. Additionally, all victims can be heard before investigating judges and judicial councils issue their orders¹⁴⁴ while they can appeal the orders of the judicial councils¹⁴⁵.

¹³¹ Article 221(d) PPC.

¹³² Article 226(1) PPC.

¹³³ Article 226(2) PPC.

¹³⁴ Article 177 PPC.

¹³⁵ Information obtained through interview with the Children's Ombudsman.

¹³⁶ Article 20(1) of the [Constitution of Greece](#).

¹³⁷ Article 96 PPC.

¹³⁸ Articles 191, 308 and 309 PPC.

¹³⁹ Articles 97 – 98 PPC.

¹⁴⁰ Article 219(2) PPC.

¹⁴¹ Articles 99 and 309(2) PPC.

¹⁴² Articles 16 – 22 PPC.

¹⁴³ Article 183 PPC.

¹⁴⁴ Articles 138, 287 and 309 PPC.

At **trial**, child victims, similarly to adults can participate in the proceedings if they become **civil claimants**. Child victims can become civil claimants following the procedure presented in [Section 2.1.2](#). Otherwise, victims can only be present in the court hearings which are open to the public¹⁴⁶ and of course if they are summoned as witnesses.

Civil claimants have the right to: be represented by three lawyers at trial¹⁴⁷; examine the defendant and the witnesses¹⁴⁸; ask that the hearing is adjourned for reasons of health or unexpected or uncontrollable events (*force majeure*)¹⁴⁹; access the documentation of the case¹⁵⁰; and examine witnesses, experts and technical consultants¹⁵¹. Furthermore, civil claimants may pose questions to the defendant through their lawyer and comment after the testimony of a witness or the presentation of pieces of evidence¹⁵². Civil claimants may also ask for the conduct of an expert report¹⁵³ and for the replacement of a judge¹⁵⁴.

Regardless of whether they become civil claimants, **victims can be invited as witnesses in order to provide information on the incident** and answer additional questions.

Note that child victims of human trafficking, abduction and all sexual offences have the right to access the documentation of the investigation and the court proceedings even if they have not acquired the status of civil claimants¹⁵⁵.

No specific rules on the consideration of a child's age and maturity and any communication difficulties have been identified. As mentioned in [Section 2.1.5](#) information obtained from child victims and witnesses is admissible in court but it is at the judge's discretion to consider it. Furthermore, no rules are in place to ensure that the child understands proceedings, decisions and rulings¹⁵⁶ and children do not need a legal or other representative to exercise their right to be heard¹⁵⁷.

2.1.7 Right to legal counsel, legal assistance and representation

Both during the investigation and at trial, victims, including child victims, have the right to be represented by a lawyer¹⁵⁸, as already mentioned in [Section 2.1.6](#). Children have the right to choose their own lawyer¹⁵⁹; however, in practice it is usually the family that makes such a decision.

Victims, including child victims, are in general **responsible for paying for their own lawyer**. However, legal aid may be available in certain cases¹⁶⁰. Recipients of this legal aid are in principle **low-income citizens of any EU Member State**¹⁶¹; in the case of child victims, it is the income of the family which is taken into consideration in order to determine whether the child is entitled to legal aid. Furthermore, legal aid can be received by **all victims**,

¹⁴⁵ Article 310 and 476 PPC.

¹⁴⁶ Article 329 PPC.

¹⁴⁷ Article 96(1) PPC.

¹⁴⁸ Article 99 PPC.

¹⁴⁹ Article 349(1) PPC.

¹⁵⁰ Article 20(1) of the [Constitution of Greece](#); Articles 101, 108 and 104 – 106 PPC.

¹⁵¹ Articles 333 and 357 PPC.

¹⁵² Article 358 PPC.

¹⁵³ Article 333 PPC.

¹⁵⁴ Article 16 PPC.

¹⁵⁵ Article 108A PPC.

¹⁵⁶ Information obtained through interviews with the Children's Ombudsman and the Ministry of Justice, Transparency and Human Rights.

¹⁵⁷ Information obtained through an interview with the Ministry of Justice, Transparency and Human Rights.

¹⁵⁸ Article 96 PPC.

¹⁵⁹ Information obtained through interviews with an investigating judge and the Children's Ombudsman.

¹⁶⁰ According to Law 3226/2004 'Legal aid to low-income citizens'.

¹⁶¹ Article 1(3) Law 3226/2004 'Legal aid to low-income citizens'.

regardless of their age, of: trafficking for labour exploitation¹⁶²; human trafficking for the removal of organs¹⁶³, sex tourism targeting children¹⁶⁴; seduction of children¹⁶⁵; abuse of a child¹⁶⁶; child pornography¹⁶⁷; human trafficking for sexual exploitation¹⁶⁸; indecent acts with children for consideration¹⁶⁹; acts of illegal immigration¹⁷⁰, as well as **child victims of:** rape¹⁷¹; indecent assault¹⁷²; exploitation with abuse of power¹⁷³; incest¹⁷⁴; incest between relatives¹⁷⁵; indecent acts between men¹⁷⁶; facilitation of indecent acts¹⁷⁷; pandering/pimping¹⁷⁸. Legal counsels are appointed to the victims to prepare and submit the relevant complaint as well as to assist them to appear as civil claimants before the criminal court¹⁷⁹.

The **General Secretariat for Youth** also runs a programme for legal aid to children in cooperation with the Bar Associations of Athens and Thessaloniki as well as other Bar Associations throughout Greece¹⁸⁰.

2.1.8 Remedies or compensation exist for violation of rights and failure to act

Victims can challenge the decision of the public prosecutor not to indict the alleged offender on the basis of their complaint. The public prosecutor may reject a complaint if he/she considers that it is not based in the law, is manifestly unfounded or cannot be subject to judicial review. In that case he/she must issue an order containing a brief explanation and the victim has the right to be notified and receive a copy of that order¹⁸¹. Victims can appeal this order before the public prosecutor of the court of appeals. In order to do that they have to submit a bond of €300 in favour of the State. If the public prosecutor of the court of appeals upholds the appeal, he/she will order the conduct of a preliminary inquiry (for felonies) or the bringing of charges and will order the return of the fee to the victim¹⁸². As there are no special rules for children, arguably the same rules apply to both adult and child victims. No rule has been identified as to whether child victims can challenge the decision of the public prosecutor by themselves or whether this right is exercised through their parents.

Only the defendant and the prosecutor can appeal a decision of the judicial council on whether the defendant should be referred to trial¹⁸³. **Child victims, similarly to adult**

¹⁶² Article 323 PC.

¹⁶³ Article 323A PC.

¹⁶⁴ Article 323B PC.

¹⁶⁵ Article 339 PC.

¹⁶⁶ Article 342 PC.

¹⁶⁷ Article 348A PC.

¹⁶⁸ Article 351 PC.

¹⁶⁹ Article 351A PC.

¹⁷⁰ Article 87(5) & 6 and Article 88 Law 3386/2005 'Entry, residence and integration of third-country nationals in the Greek Territory'.

¹⁷¹ Article 336 PC.

¹⁷² Article 338 PC.

¹⁷³ Article 343 PC

¹⁷⁴ Article 345 PC

¹⁷⁵ Article 346 PC.

¹⁷⁶ Article 347 PC.

¹⁷⁷ Article 348 PC.

¹⁷⁸ Article 349 PC.

¹⁷⁹ Article 7(3) 3226/2004 'Legal aid to low-income citizens'.

¹⁸⁰ For further information see '[Youth Legal Aid](#)', General Secretariat for the Youth.

¹⁸¹ Article 47(1) PPC.

¹⁸² Article 48 PPC.

¹⁸³ Article 477 PPC. Note that Article 34(c) of Law 3904/2010 abolished Article 480 PPC which, in case of felonies, allowed the civil claimant to appeal decisions of the judicial council which ceased temporarily or

victims, may bring an appeal against court decisions in the following instances: a) if the defendant is convicted, only concerning their claim for compensation; b) if the defendant is acquitted, the civil claimants may appeal the decision only with respect to the chapters obliging them to pay compensation to the defendant and trial expenses or if the civil claim was rejected as unfounded in law¹⁸⁴. Civil claimants also have the right to lodge an appeal against acquitting decisions¹⁸⁵, against convicting decisions¹⁸⁶ as well as submit a writ of cassation against convicting decisions¹⁸⁷ and against acquitting decisions¹⁸⁸. Children can exercise their right to request the judicial review of court judgments without the involvement of their parents. However, in practice usually judicial remedies are exercised by the parents in the name of the child¹⁸⁹.

Compensation

In Greece victims may request compensation both by the State and by the offender himself/herself. In principle, the rules apply to both child and adult victims.

With regards to the State compensation system child victims of intentionally committed violent crimes may submit their compensation claims to the [Hellenic Authority of Compensation](#) within a year from the 'genesis' of the claim for compensation, i.e. after both the criminal court and the civil court have reached a final decision. State compensation is provided if the convicted offender does not have sufficient resources to compensate the victim, if he/she remains unidentified or if he/she cannot be prosecuted¹⁹⁰. In practice, this application is filed by the parents in the name of the child victim¹⁹¹. The fee for filing the application is €100¹⁹².

The victim may also request compensation from the offender in the course of both criminal and civil proceedings. The claim in criminal proceedings tends to be for a nominal amount (in order to obtain the status and rights of a civil claimant) while the real compensation is claimed in the civil court.

The victim can seek compensation from the offender before the competent criminal court for the material damages as well as for moral harm or pain and suffering as a result of the criminal act. For child victims **the application to become a civil claimant is submitted by both parents** if they have joint custody of the child or **by the parent who has the child's custody**¹⁹³. If the defendant is one of the parents, then the other parent files the application alone (due to the conflict of interests of the child and the parent/defendant¹⁹⁴). The criminal court that is examining the civil action must reach a decision on it. Exceptionally, it can refer the civil claim to the civil courts for any amount that is not settled provided that the latter exceeds €44. In any case, the criminal court adjudicating the compensation claim will do so on the basis of civil law rules. However, the criminal court cannot deal with the civil action if it has held that the defendant should not be prosecuted or that he should be discharged.

Furthermore, since any person who intentionally violates the law and damages from someone else is obliged to provide compensation to the victim, the victim may seek

permanently prosecution, declared inadmissible the criminal proceedings or concluded that no charges should be brought against the defendant

¹⁸⁴ Article 468(1) PPC.

¹⁸⁵ Article 486(1) PPC.

¹⁸⁶ Article 488 PPC.

¹⁸⁷ Article 505(1) PPC.

¹⁸⁸ Article 506 PPC.

¹⁸⁹ Information obtained through interview with the Children's Ombudsman.

¹⁹⁰ Law 3811/2009 on 'Compensation to victims of violent crimes and other provisions' which implements the provisions of Directive 2004/80/EC relating to compensation to crime victims.

¹⁹¹ Information obtained through communication with the Hellenic Authority of Compensation.

¹⁹² Article 13 Law 3811/2009 'Compensation to victims of violent crimes and other provisions'.

¹⁹³ Supreme Court Decision No. 2437/2008, Criminal Section.

¹⁹⁴ Article 1517 Civil Code.

compensation before the competent civil court independently from the criminal proceedings. A claim for damages already brought before a civil court may also be brought before a criminal court if no final judgment in the civil proceedings has been issued. If this right is exercised, the claim cannot be tried by the civil courts unless the criminal court refers the case back to the civil court for the amount that it considers the claim still to be unsettled for, provided that the latter exceeds €44.

2.2 The child as a witness

The protection of child witnesses is in most respects identical to the protection of child victims. Thus, this section will only focus on those aspects of child witnesses' rights which differ from those of child victims.

2.2.1 Reporting a crime

In order to initiate criminal proceedings with respect to an offence they became aware of, child witnesses may submit a report to the authorities concerning crimes which are prosecuted by the public prosecutor on his own initiative¹⁹⁵. Child witnesses cannot file a complaint as this right is reserved only to the direct victims of the offence. For more information on how child witnesses may submit a report please see [Section 2.1.1](#).

Furthermore, children, like adults, may bring a crime to the attention of the police through the various helplines established by the police and the State. For more information on this please see [Section 2.1.1](#).

2.2.2 Provision of information

Child witnesses, as all witnesses, are summoned in writing when requested to participate at the pre-trial stage of the criminal proceedings (concerning the subpoena and terms within the child must be summoned, see [Section 2.1.2](#) as the same rules apply).¹⁹⁶

In urgent cases, the investigating official can summon orally the child to testify. Furthermore, at the pre-trial stage a child may propose to testify on his/her own initiative; this, however, must be noted in the report of the examination¹⁹⁷.

Note that even though child and adult witnesses have the right to not testify on issues which may lead to their incrimination¹⁹⁸, no provision requiring the investigating officials (e.g., the police, the investigating judges) to inform witnesses of this right has been identified.

2.2.3 Protection from harm and protection of private and family life

A child who witnesses domestic violence offences in their family environment is not summoned to testify during the trial; the testimony given at the investigation stage is read aloud at the hearing unless the child's presence is considered necessary by the court¹⁹⁹.

Rules concerning the protection of witnesses, children and adults, are described in [Section 2.1.3](#) with respect to the following cases:

- the offence of constituting an association of persons with the intent to commit crimes;
- terrorist actions;
- trafficking (trafficking for labour exploitation; human trafficking for the removal of organs; sex tourism targeting children; human trafficking for sexual exploitation);
- transport of irregular migrants; and

¹⁹⁵ Article 42(1) PPC.

¹⁹⁶ Articles 213(1) and 166 PPC.

¹⁹⁷ Article 213(2) & (3) PPC.

¹⁹⁸ Article 224(3) PPC.

¹⁹⁹ Article 19 Law 3500/2006 'Combatting domestic violence'.

- child witnesses of crimes of sexual exploitation and abuse.

Concerning the protection of the child witness' identity please see [Section 2.1.3](#).

2.2.4 Minimising the burden of proceedings and ensuring a child friendly environment

No specific provisions aimed at minimising the burden of proceedings and ensuring a child-friendly environment for child witnesses who are not the victims of an offence have been identified apart from the general obligation of the police to protect witnesses (children and adults). For more information please see [Section 2.1.4](#).

The Greek State has not adopted any specific measures on the child-friendliness of the premises and places where child witnesses are involved in criminal proceedings even though it is expected that the various officers interviewing children take their vulnerability into account when examining them. For more information please see [Section 2.1.4](#).

2.2.5 Protecting the child during interviews and when giving testimony

As discussed in [Section 2.1.5](#) under the Greek legal system, persons invited to testify cannot refuse to do so unless such an option is specifically provided in the law. During the investigation and the main proceedings children may be examined without giving an oath which means that they cannot be found guilty of perjury. Concerning the procedure followed before the investigating judge when child witnesses testify see [Section 2.1.5](#).

Concerning the admissibility of the information obtained by child witnesses in court and the absence of special methods for interviewing children please see [Section 2.1.5](#).

At trial, before the court starts examining the witnesses (regardless of whether they are children and adults), the presiding judge orders that all witnesses are removed from the courtroom to a separate room. Child witnesses, like adult witnesses, must not communicate with any of the parties to the criminal proceedings nor listen to the trial itself. The presiding judge may order the necessary measures to prevent any undue communication between the witnesses and the parties²⁰⁰.

Further, when a child witness is examined in court, his/her testimony at the pre-trial stages of the procedure cannot be read. It is only possible to read excerpts from it to help the child's memory or to show the inconsistencies between what he/she said then and what he/she says at trial²⁰¹.

2.2.6 Right to be heard and to participate in criminal proceedings

Child witnesses have the right to be heard and participate in criminal proceedings. No specific rules on the consideration of a child's age and maturity and any communication difficulties have been identified. As mentioned in [Section 2.1.5](#) information obtained by child victims and witnesses is admissible in court but it is at the judge's discretion to consider it. Furthermore, no rules are in place to ensure that the child understands proceedings, decisions and rulings²⁰² and children do not need a legal or other representative to exercise their right to be heard²⁰³.

2.2.7 Right to legal counsel, legal assistance and representation

The child witness, as any adult witness, does not have the right to legal counsel, legal assistance and representation as these rights are reserved for the parties to the criminal procedure (i.e., the offender, the civil claimant and the person having the civil liability for the offence).

²⁰⁰ Article 350(1), (2) & (3) PPC.

²⁰¹ Article 357(4) PPC.

²⁰² Information obtained through interviews with the Children's Ombudsman and the Ministry of Justice, Transparency and Human Rights.

²⁰³ Information obtained through an interview with the Ministry of Justice, Transparency and Human Rights.

2.2.8 Remedies or compensation for violation of rights and failure to act

No provisions on child witnesses' right to remedy for violation of rights and failure to act have been identified. Since child witnesses are not parties to the criminal proceedings they cannot challenge the court's decision by submitting applications for judicial review (appeals, writ of cassation).

Witnesses, children and adults, who are summoned to testify before the public prosecutor, the investigating judge or the court are entitled to compensation²⁰⁴.

2.3 The child as a suspect/ defendant

2.3.1 Age of criminal responsibility

The Penal Code provides that children are considered as those **persons between the ages of 8 and 18**. According to the PC, a child aged from 8 to 14 years inclusive cannot be held 'criminally responsible'. The legislation with respect to the age of criminal responsibility is not entirely clear. It clearly states that a criminal offence committed by a child 8 to 13 years of age, inclusive, is not attributed to him/her. However, the liability of children of 14 years of age who commit criminal acts is not so well-defined; nonetheless, it can be inferred from Article 125 (i.e. its title and the application of reformatory and therapeutic measures) that even though they are not criminally responsible, any offences they commit can be attributed to them. In any case, children below 15 years of age can only be subject to reformatory and therapeutic measures. It is not clear what is the difference of having an offence attributed to a child and not. In conclusion, for children aged from 8 to 14 years inclusive, the public prosecutor will refer the case to the juvenile court which can impose appropriate therapeutic or reformatory measures²⁰⁵. Two elements are requisite for the finding of criminal responsibility of a child²⁰⁶. Firstly, only children from the age of 15 to 17 inclusive can be held criminally responsible for crimes which if they were committed by an adult would be considered as a felony and contain elements of violence against the life or physical integrity of a person or are committed as a profession or habitually. Secondly, even in such cases, criminal responsibility will be found only where the judge determines, based on the circumstances of the crime and the personality of the child, that a therapeutic or reformatory measure is not appropriate and imprisonment must be imposed. Thus children may be guilty of the above mentioned crimes but having had a therapeutic or reformatory measure imposed, they will not be deemed to be criminally responsible.

Sections [3.1.2](#) and [3.1.3](#) present in detail the reformatory, therapeutic and punitive correction (detention) measures which may be imposed on children by the juvenile courts. Note that decisions imposing reformatory or therapeutic measures are considered as acquitting decisions and not as convicting ones²⁰⁷.

2.3.2 Provision of information

Different measures are in place to ensure that children effectively receive information relevant to the proceedings and their rights depending on the stage of the criminal proceedings.

When the police arrest a child (as when they arrest an adult), they must immediately inform him/her on the grounds of the arrest, the charges against him/her, his/her rights and the

²⁰⁴ Articles 228 and 581(2) PPC.

²⁰⁵ Article 126(1) PC. In view of the fact that children between 8 – 13, inclusive, cannot be imputed with liability some public prosecutors, depending on the nature of the offence, decide not to institute proceedings against them (according to Article 45(A) PPC, discussed under [Section 2.3.6](#)). In that case, public prosecutors imposed upon children, with an order, reformatory measures (information obtained through an interview with an investigating judge).

²⁰⁶ Articles 127(1) and 126(3) PC.

²⁰⁷ Supreme Court Decision No. 961/2009, Criminal Section.

procedure applicable to his/her case²⁰⁸. The police are not obliged to inform the child's parents²⁰⁹. If the child is arrested when committing the offence or within 24 hours following the date he/she committed the offence the police can arrest him/her without an arrest warrant²¹⁰. In all other cases, children (like adults) cannot be arrested without a specifically and thoroughly justified warrant issued by the investigating judge or the judicial council. The arrest warrant includes the first and last name of the child, his/her residence and a detailed description of the child, the offence for which he/she is accused of as well as the relevant criminal law provisions. Furthermore, the arrest warrant must bear an official stamp²¹¹. It is issued by the juvenile investigating judge if the (juvenile) public prosecutor agrees on this and only in the cases where the child can be subject to pre-trial detention, as examined in detail in [Section 2.3.4](#)²¹².

Both children and adults have similar rights to be informed about any criminal proceedings against them. At the **preliminary inquiry stage** (*προκαταρκτική εξέταση*) if a complaint has been submitted against a child or if during the inquiry an offence is attributed to a child, this **child suspect** is invited to provide explanations within 24 hours without taking an oath. The officer conducting the preliminary inquiry is obliged to inform him/her of his/her rights. The child has the right to appear with a counsel, to refuse to provide information at that time and to be given up to an extra 48 hours to provide the requested information. In addition, he/she has the right to access copies of the documentation of the case, propose witnesses and furnish other evidence to rebut the allegations against him. The above rights may be exercised either by the child himself/herself or by his/her counsel, unless the child's presence is considered necessary. Any written report of an examination of the child suspect carried out in the absence of his/her counsel cannot be part of the file but will remain with the prosecution. The preliminary inquiry is short and in principle cannot exceed three months²¹³.

Child suspects (like adult suspects) acquire the status of a defendant if the public prosecutor commences judicial proceedings against them or if at any stage of the investigation an offence is attributed to them²¹⁴. The acquisition of this status is important as it is accompanied by certain rights (for a detailed presentation of child defendants' rights see [Section 2.3.9](#)). The juvenile investigating judge, immediately after the confirmation of the identity of defendant must clearly explain to the child all these rights, draft a report where the answer of the child is noted and have him/her sign the report²¹⁵. In addition, the juvenile investigating judge must clearly explain the offence which the defendant is accused of and indicate their means of defence²¹⁶.

In order to appear before the court, child defendants (like adult defendants) are served with a special subpoena²¹⁷ which must contain the following information:

- a) The name and, if necessary, other elements to identify the defendant;
- b) The juvenile court that the child must appear before;
- c) The date, exact day of the week and the time that he/she must appear before the juvenile court;

²⁰⁸ Article 3(b) PD 254/2004 Police Code of Conduct.

²⁰⁹ Information obtained through interview with the Children's Ombudsman; see also Presidential Decree 141/1991 where such an obligation is not imposed upon the police.

²¹⁰ Article 242 PPC. The PPC introduces a separate procedure when the offender is caught when committing the offence or within 24 hours from the day following the commission of the offence (*flagrante delicto* procedure). However, Article 242(4) PPC provides that even in these cases, the offences committed by children are not tried according to this accelerated procedure.

²¹¹ Article 276(1) & (3) PPC.

²¹² Article 276(2) PPC.

²¹³ Article 31 PPC.

²¹⁴ Article 72 PPC.

²¹⁵ Article 103 PPC.

²¹⁶ Article 273(2) PPC.

²¹⁷ Article 320 PPC.

- d) The exact offence for which he/she is accused of (and also the exact date this offence took place) and the relevant provisions of the PC;
- e) The number, official seal and signature of the public prosecutor who issued the subpoena²¹⁸.

The subpoena must be served to the child defendant, as the addressee of the subpoena, at least 15 days before the hearing²¹⁹. In addition, the child defendant must be served with the civil claimant's claim at least 5 days before the hearing²²⁰.

In general, parents or guardians have the right to be informed on all aspects of judicial proceedings as this constitutes an expression of their parental care rights²²¹.

2.3.3 Immediate actions following first contact with police or other relevant authority

The Police are the first service of the juvenile justice system that a child comes into contact with. In general, when a child (and any person) is arrested in accordance with the Constitution and the laws, the police must exhibit impeccable behaviour and avoid any actions that may harm the child suspect's honour, reputation or dignity. Only if it is considered absolutely necessary will the police use force²²².

As mentioned in [Section 2.3.3](#), the police must immediately inform the arrested on the grounds of the arrest, the charges against him or her, his/her rights and the procedure applicable to the case²²³. In addition, they must ensure that the arrested child can communicate by phone or other appropriate means with a person of his/her choice²²⁴. The police also need to facilitate the provision of legal assistance to the arrested child by ensuring his/her immediate and unimpeded communication with his/her lawyer²²⁵.

In order to address juvenile delinquency more effectively, a specific juvenile department has been established in each police station. The police are obliged to take **special measures** with respect to children, including:

- **Avoid the use of handcuffs**, unless the children is considered a flight risk²²⁶;
- The police officers accompanying children **should not wear a uniform**, whenever possible²²⁷;
- Children should be **detained in special areas** within the police facilities²²⁸;
- Apply **special interviewing techniques**²²⁹;
- **Avoid detaining children**. When detention is considered absolutely necessary, children should be kept in units which would be more like a child guidance clinic or a primary school classroom than a police detention area²³⁰.

²¹⁸ Article 321(1) PPC.

²¹⁹ Article 166(1) PPC.

²²⁰ Articles 68 and 167 PPC.

²²¹ Article 1510 PPC.

²²² Article 3(a) PD 254/2004 'Police Code of Conduct'.

²²³ Article 3(b) PD 254/2004 'Police Code of Conduct'.

²²⁴ Article 3(c) PD 254/2004 'Police Code of Conduct'.

²²⁵ Article 3(d) PD 254/2004 'Police Code of Conduct'.

²²⁶ Article 8(6) PD 95/1987 'Operation of the General Police Directorate of Attica'.

²²⁷ Article 8(6) PD 95/1987 'Operation of the General Police Directorate of Attica'.

²²⁸ Article 8(6) PD 95/1987 'Operation of the General Police Directorate of Attica'.

²²⁹ Spinellis, C., 'The juvenile system in Greece' in European Juvenile Justice Systems, Centro di Studio e di Ricerca sulla Ciustizia Minorile, p. 179,

²³⁰ Spinellis, C., 'The juvenile system in Greece' in European Juvenile Justice Systems, Centro di Studio e di Ricerca sulla Ciustizia Minorile, p. 179.

After a child has been arrested (see [Section 2.3.2](#)), he/she is brought before the public prosecutor within 24 hours. If the relevant offence is a felony or the child was arrested on the basis of an arrest warrant, the public prosecutor refers the case to the juvenile investigating judge²³¹. If the offence is a misdemeanour the public prosecutor initiates prosecution by ordering a preliminary investigation (*προανάκριση*) or a main investigation (*κύρια ανάκριση*) or by referring the case to trial by directly summoning the child²³².

At the stage of the **preliminary inquiry**, the suspect has the right to be present with a counsel, to refuse to provide information completely or partially and be given up to an extra 48 hours to provide the requested information. However, it is not explicitly provided in the Greek legislation that the police need to caution the child that he/she may remain silent²³³.

Parents or guardians cannot be present when a child suspect is interviewed and do not have the right/obligation to sign the child's statements²³⁴. Furthermore, any suspect has the right to be interviewed in the presence of his/her lawyer, however he/she may waive such a right²³⁵.

2.3.4 Conditions for pre-trial detention/ custody

At the pre-trial stage of the criminal proceedings, **restrictive conditions** may be imposed on **child suspects** who are **accused of felonies or misdemeanours** which are punishable with imprisonment of at least three months if this is deemed absolutely necessary²³⁶. These restrictive conditions include the payment of bail, the obligation of the accused child to appear before the investigating judge or another authority at regular intervals, the prohibition to go or reside in a location or to meet or have contact with certain persons²³⁷. In addition to the above restrictive conditions, which can be imposed to child and adult suspects alike, the reformatory measures analysed in [Section 3.1.2](#) may also be imposed upon children as restrictive conditions²³⁸.

Temporary pre-trial detention of a child is permitted, only if the child is **accused of the commission of an offence for which a penalty of imprisonment of at least 10 years would be imposed on an adult and the child is 15 years of age and above**. Pre-trial detention may be imposed only if both the (juvenile) public prosecutor and the investigating judge agree on this. The violation of the restrictive conditions cannot lead by itself to the temporary detention of the child. The initial detention period may not exceed a maximum of six months. However, it may be extended by up to three months if the court postpones the adjudication of the case and within the next 30 days the maximum period for pre-trial detention is completed²³⁹. The time spent in pre-trial detention counts towards the detention or imprisonment imposed by the court²⁴⁰.

²³¹ Article 279(1) PPC.

²³² Article 43(1) PPC. It should be noted that in cases involving felonies or misdemeanours tried by the three-member court of misdemeanours, the public prosecutor of the court of misdemeanours initiates prosecution only when a preliminary inquiry or pre-investigating acts have already been performed in accordance with Article 243(2) PPC and adequate indications of guilt support prosecution. A preliminary inquiry need not be carried out, if a sworn administrative investigation has been carried out and has provided sufficient indications of guilt which support prosecution (Article 43(1) PPC).

²³³ Information obtained through an interview with an investigating judge.

²³⁴ Information obtained through interviews with the Ministry of Justice, Transparency and Human Rights and an investigating judge.

²³⁵ Information obtained through an interview with an investigating judge.

²³⁶ Article 282(1) PPC.

²³⁷ Article 282(2) PPC

²³⁸ Article 282(2) PPC.

²³⁹ Articles 282(5) and 291(1) PPC.

²⁴⁰ Article 87(1) PC.

Child suspects are held in young offenders' detention facilities²⁴¹, established with the aim of serving the special needs of child detainees.

An accused child can appeal against an arrest warrant or a decision imposing restrictive conditions within 5 days of the decision before the judicial council of the court of misdemeanours²⁴². This appeal does not suspend the pre-trial detention or the restrictive conditions imposed²⁴³. Child suspects who are in pre-trial detention or who have been subject to restrictive conditions can also apply to the juvenile investigating judge to have restrictive conditions removed or to have pre-trial detention replaced with restrictive conditions. If the application is rejected, the child may appeal against that decision before the judicial council of the court of appeals²⁴⁴. The juvenile investigating judge can also automatically or upon recommendation of the public prosecutor revoke such measures²⁴⁵.

2.3.5 Protection of private and family life

In principle all trials are held in public in Greece²⁴⁶. However, since 1955 **trial proceedings in juvenile courts are held behind closed doors** with the participation only of the parties, their lawyers, the juvenile probation officers, the parents or guardians and the representatives of the youth protection associations²⁴⁷. The juvenile court may order that the child defendant is temporarily removed from the courtroom if it considers that this removal is necessary to protect the child or that the child's presence would prevent the witness or co-defendant from testifying honestly. In that case, the child defendant's lawyer remains in the courtroom²⁴⁸.

The prohibition of publicity with regard to child defendants/convicts is threefold:

- a) Trial proceedings before juvenile courts **are held behind closed doors**, as discussed above.
- b) **Prohibition to display or transmit information in relation to the case of a child offender in the media:** in general, the total or partial transmission by TV or radio stations or the filming or recording of trial proceedings before a criminal, civil or administrative court is prohibited, unless the court grants its permission. In that case the prosecutor and the parties should grant their consent and the transmission of information should serve the public interest²⁴⁹. However, the presentation of a child as the perpetrator of criminal acts or as responsible for accidents is strictly prohibited²⁵⁰. Moreover, the news and political shows cannot reveal the identity of the child suspect's/child offender's relatives by using their name, image or any other elements of their identity, unless such reference is indispensable in order to report the facts of the case²⁵¹.
- c) **Secrecy and confidentiality of the child's criminal record** (see [Section 3.1.4](#)).

²⁴¹ Article 15(1) Correctional Code

²⁴² Article 285(1), (2) & (3) PPC.

²⁴³ Article 285(2) PPC.

²⁴⁴ Article 286(2) PPC.

²⁴⁵ Article 286(1) PPC.

²⁴⁶ Article 93(2) of the [Constitution of Greece](#) reads 'the sittings of all courts shall be public except when the court decides that publicity would be detrimental to the good usages or that special reasons call for the protection of the private or family life of the litigants'. Nonetheless, Article 96(3) of the [Constitution](#) provides that exception from the rule of Article 93(2) may be introduced with respect to Juvenile Courts.

²⁴⁷ Article 1(1) Law 3315/1955 'Complementing the provisions on Juvenile Justice and on the treatment of minors'.

²⁴⁸ Article 1(2) Law 3315/1955 'Complementing the provisions on Juvenile Justice and on the treatment of minors'.

²⁴⁹ Article 8(1) Law 3090/2002 'Establishment of a body for the inspection and control of detention facilities and other provisions'

²⁵⁰ Article 10(2), PD 77/2003 'Code of Conduct for the news and political shows'.

²⁵¹ Article 11(2) PD 77/2003 'Code of Conduct for the news and political shows'.

A child suspect's wife/husband²⁵² and blood relatives up to the second degree, i.e., his/her parents and siblings²⁵³, are obliged to testify in order to inform the court of his/her personality and problems²⁵⁴. Juvenile probation officers are also responsible for informing the court of the accused child's personality, development and social and family background²⁵⁵. These social inquiry reports are confidential and only the juvenile judge and the persons responsible for the child's welfare can have access to them²⁵⁶. In addition, juvenile probation officers cannot testify before the court on information they obtained through their professional capacity²⁵⁷.

2.3.6 Alternatives to judicial proceedings

The Greek legislator has introduced certain **alternatives to formal judicial proceedings** for children. Where a child commits an infringement or a misdemeanour, the **public prosecutor may decide not to institute criminal proceedings**, if, after having examined the conditions under which the act was committed and the whole personality of the child, he/she concludes that prosecution is not necessary to prevent the child from committing any new offences²⁵⁸. For example, if a child commits domestic violence offences (misdemeanours), the public prosecutor can decide not to institute criminal proceedings²⁵⁹. Before making such decision, the child must be allowed to express his/her views²⁶⁰.

In addition, instead of commencing criminal proceedings, the prosecutor may also decide to impose upon the child one or more of the reformatory measures presented in detail in [Section 3.1.2](#) and the payment of €1000 to a non-profit organisation. The prosecutor sets the period within which these measures will have to be complied with²⁶¹.

The Greek legal system also provides for victim-offender mediation as a means of diverting from prosecution but also as one of the reformatory measures (presented in detail in [Section 3.1.2](#)) which may be imposed upon child offenders by means of a court trial. Under these measures, the child is required to apologise to the victim and repair the damage caused by his/her act²⁶² or pay compensation to the victim or repair the consequences of his/her act by any other means²⁶³. Note, however, that this mediation is imposed by the court and thus it is questionable whether it constitutes an alternative to judicial proceedings. As in Greece currently there are no mediation societies or individual mediators, the task of facilitating the mediation between the victim and the offender is undertaken by the juvenile probation officers. Juvenile probation officers explore the possibilities of reconciliation between the parties and draft a pre-trial report which is submitted to the court²⁶⁴. Thus, the juvenile court, at its discretion, might deem it beneficial for the best interests of the child to apply victim offender mediation by means of a court decision.

²⁵² According to Article 1350 of the Civil Code 'For the contracting of marriage the agreement of the future spouses is required. The related declarations are done in person and without conditions or time limits. The future spouses must have completed the 18th year of their age. The court, after hearing the future spouses and the persons who have the custody of the child, may allow the marriage even before the completion of that age, if performing it is imposed by an important reason'.

²⁵³ Article 1463 Civil Code.

²⁵⁴ Article 222(c) PPC.

²⁵⁵ Article 239(2) CCP.

²⁵⁶ Article 5(1) Law 378/1976 'Juvenile Probation Officers'.

²⁵⁷ Article 5(2) Law 378/1976 'Juvenile Probation Officers'.

²⁵⁸ Article 45A(1) PPC.

²⁵⁹ Article 11(5) Law 3500/2006 'Combatting domestic violence'

²⁶⁰ Article 45A(1) PPC.

²⁶¹ Article 45A(2) PPC.

²⁶² Article 122(e) PC.

²⁶³ Article 122(f) PC.

²⁶⁴ 'Analysis and Mapping of Experiences of Restorative Justice and Criminal mediation in Cyprus, Greece and Italy', Freedom Wings Project for the European Commission, available at http://www.freedomwings-project.eu/upload/documenti/deliverables_freedomwings/D4_FREEDOM_WINGS_REPORT.pdf, p. 72.

2.3.7 Minimising the burden of proceedings and ensuring a child friendly environment

No provisions have been identified in the Greek criminal legislation providing that the relevant decisions and the commencement of proceedings take place without undue delay. Furthermore, no measures have been taken up to this moment to ensure that the premises and places where children are involved in proceedings are child-friendly and non-intimidating²⁶⁵.

Youth protection associations provide material, social and psychological support as well as legal aid to child suspects/defendants and their families. It is worth however noting that as of 9 January 2013 such associations will exist only in the cities where there is a court of appeals, i.e. 14 cities, whereas before they existed in all cities where there is a court of first instance, i.e., 63 cities²⁶⁶.

Furthermore, during the investigation of the offence, investigating judges can require the child to meet with the juvenile probation officer (who also prepares the social inquiry report) and thus provide him/her with the necessary support during this time²⁶⁷.

2.3.8 Protecting the child during interviews and when giving testimony

Child defendants, like adults, have **the right to silence**²⁶⁸ and **the right against self-incrimination**. The right against self-incrimination is protected under international conventions²⁶⁹ which have been ratified by the Greek State²⁷⁰ and thus, by virtue of the Constitution²⁷¹, take precedence over any other domestic law. However, as noted in [Section 2.3.3](#), Greek legislation does not explicitly state that the police need to caution the child that he/she may remain silent.

At trial, the juvenile judge invites the child defendant to the stand in order to testify for the act he/she is accused of. During this testimony, the child must not be interrupted, unless he/she insists on referring to unrelated issues, and must not be prevented from referring to facts which rebut the charges. After the child completes his/her testimony the judges and the public prosecutor may pose questions to him/her.

The other parties and their lawyers are allowed to question the child defendant only through the presiding judge²⁷². If the child defendant's testimony is different to what he/she stated during the pre-trial proceedings, excerpts of these previous testimonies may be read in the court²⁷³. During the trial, the child defendant (as adult defendants) may consult with his/her lawyer; such consultation is prohibited if aimed at answering a specific question. If the child refuses to testify or answer a question, this is noted in the record²⁷⁴.

No specific interview methods for the examination of children have been identified. Furthermore, no specific rules for the presence of a lawyer when child defendants are examined at trial exist²⁷⁵; however, the standard rules applicable to adults also apply to children. This means that a lawyer must only be present at the examination of a child who is

²⁶⁵ Information obtained through interview with an investigating judge.

²⁶⁶ Article 12 of the law 'Abolishment and merger of legal persons of public law and of the broader public sector – Establishment of the General Secretariat for the coordination of governmental work and other provisions'. The law is not numbered yet as it was only voted by the Greek Parliament on 9 January 2013; it is available at http://www.hellenicparliament.gr/Nomothetiko-Ergo/Psifisthenta-Nomoschedia?law_id=fcdcef6e-44cb-4365-a5cd-f8ddad69aacd (in Greek).

²⁶⁷ Information obtained through interview with an investigating judge.

²⁶⁸ Articles 31 and 273(2) PPC.

²⁶⁹ Article 14(3)(g) of the International Covenant on Civil and Political Rights.

²⁷⁰ The International Covenant on Civil and Political Rights has been ratified with Law 2462/1997.

²⁷¹ Article 28(1) of the [Constitution of Greece](#).

²⁷² Article 366(1) PPC.

²⁷³ Article 366(2) PPC.

²⁷⁴ Article 366(3) PPC.

²⁷⁵ Information obtained through interview with an investigating judge.

accused of an offence which, if committed by an adult would be considered as a felony, as only these children must obligatorily be assisted by a lawyer during the proceedings (for further information please see [Section 2.3.10](#)).

As in the case of child victims/witnesses, the information obtained by child suspects is admissible in court; the judge has the right to freely evaluate the evidence presented before him/her²⁷⁶ which means that he/she will consider the evidence obtained from the child taking into account his/her age and maturity. Note that the investigating officers are bound by the principle of legality which means that they do not have the discretion to evaluate whether evidence obtained by children should be admissible in court²⁷⁷. When the child defendant, as adult defendants, does not speak Greek the investigating officials at the pre-trial stage of the proceedings and the judge are obliged to appoint an interpreter²⁷⁸. Finally, as discussed in [Section 2.3.7](#), in the course of the proceedings child defendants are supported by juvenile probation officers and the youth protection associations.

2.3.9 Right to be heard and to participate in criminal proceedings

The right to be heard and participate in criminal proceedings is constitutionally protected under Greek law²⁷⁹. This right is also explicitly provided for in the various stages of the criminal proceedings. The general procedural rules apply to children too unless there are specific provisions for them.

At the preliminary inquiry stage, if a complaint has been submitted against a child or if during the preliminary inquiry an offence is attributed to a child, that child (**'the suspect'**) is **invited to provide explanations within 24 hours** without taking an oath. He/she has the right to be present with a counsel, to refuse the provision of information at that time and be given up to 48 hours to provide the requested information. In addition, he/she has the right to access copies of the documentation of the case, propose witnesses and furnish other evidence to rebut the allegations against him/her. The above rights may be exercised either by the child him or herself or by his/her counsel, unless the child's presence is considered necessary²⁸⁰.

At the preliminary²⁸¹ and main investigation²⁸² stage, by acquiring the **status of the defendant²⁸³** the child has various rights including:

- a) The right to remain silent²⁸⁴;
- b) The right to be represented by two lawyers in the pre-trial proceedings and three lawyers at trial²⁸⁵;
- c) The right to have a lawyer present during any actions in the pre-trial proceedings²⁸⁶;

²⁷⁶ Article 177 PPC.

²⁷⁷ Information obtained through interview with the Children's Ombudsman.

²⁷⁸ Article 233(1) PPC.

²⁷⁹ Article 20(1) of the [Constitution of Greece](#) reads that 'every person shall be entitled to receive legal protection by the courts and may plead before them his views concerning his rights or interests, as specified by law'.

²⁸⁰ Article 31 PPC.

²⁸¹ According to Article 243(1) PPC, a preliminary investigation is conducted by any investigating official upon the written request of the public prosecutor. In principle it is conducted for misdemeanours which are adjudicated by the three-member court of misdemeanours, i.e. those misdemeanours where the law provides that the minimum penalty which can be imposed is incarceration of one year and above (Article 244(1) PPC).

²⁸² The main investigation is conducted only by the investigating judge upon the written request of the public prosecutor. Such a request is made: a) for felonies; and b) for misdemeanours for which restrictive conditions may be ordered, i.e. when the child suspect is accused of felonies or misdemeanours which are punishable with imprisonment of at least three months if this is deemed absolutely necessary (Article 246(3) PPC).

²⁸³ Article 72 PPC.

²⁸⁴ Article 273(2) PPC.

²⁸⁵ Article 96(1) PPC.

²⁸⁶ Article 100(1) PPC.

- d) The right to access the documentation of the investigation²⁸⁷;
- e) The right to communicate with a lawyer²⁸⁸;
- f) The right to be given 48 hours before being examined by the investigating judge, which may be further extended²⁸⁹;
- g) The right to participate in the investigating acts²⁹⁰;
- h) The right to submit the defence in writing²⁹¹.

Furthermore at the **preliminary investigation**, the investigating officer must **invite the child defendant to testify**²⁹²; this stage cannot be considered as completed unless the child is invited to testify²⁹³. The preliminary investigation stage is concluded: a) with the direct summoning of the child defendant to the court; b) with the submission of a proposal by the prosecutor to the judicial council; c) or with an order to the investigating judge, if it appears that a felony has been committed²⁹⁴. The case is referred to the judicial council if the prosecutor deems that there is not enough evidence to refer the child defendant to trial²⁹⁵.

The **main investigation also cannot be considered as completed, if the child defendant does not testify**. If the child was invited to testify and he/she did not present himself/herself, the main investigation can be considered as completed if there is no circumstantial evidence against the child²⁹⁶. If the child defendant was invited but did not appear before the investigating judge in contempt and there is evidence against him/her, then the investigation can be considered as concluded with the issuing of an arrest warrant or a warrant to bring the child before the investigating officer²⁹⁷. Furthermore, the child has the right to learn the content of the public prosecutor's proposal before the end of the main investigation²⁹⁸. The end of the main investigation is ordered by the judicial council which either refers the accused to trial or decides that no charges should be brought²⁹⁹. Exceptionally, in the case of misdemeanours, the main investigation can also be terminated with the referral of the accused to trial with an order of the prosecutor, if the investigating judge so agrees³⁰⁰.

The public prosecutor must inform the child defendant at least five days before the trial as to who will be the witnesses for the prosecution; civil claimants also have the same obligation³⁰¹. On the other hand, the child defendant is not in principle obliged to inform the other parties of the witnesses he/she has invited for his/her defence³⁰².

At **trial**, the child **defendant must appear** in person before the court and **can appoint a lawyer as a counsel** for his/her defence³⁰³ (see [Section 2.3.10](#) on children's right to legal counsel). As mentioned in [Section 2.3.8](#), the child defendant is called on the stand in order to

²⁸⁷ Article 101 PPC.

²⁸⁸ Article 100(4) PPC.

²⁸⁹ Article 102 PPC.

²⁹⁰ Articles 97 and 99 PPC.

²⁹¹ Article 273(2) PPC.

²⁹² Article 243(2) PPC.

²⁹³ Article 245(1) PPC.

²⁹⁴ Article 245(1) PPC.

²⁹⁵ Article 245(2) PPC.

²⁹⁶ Article 270(1) PPC.

²⁹⁷ Article 270(2) PPC.

²⁹⁸ Article 308(2) PPC.

²⁹⁹ Article 308(1) PPC.

³⁰⁰ Article 308(3) PPC.

³⁰¹ Article 326(1) & (2) PPC.

³⁰² Article 326(3) PPC.

³⁰³ Article 340(1) PPC.

testify for the act he/she is accused of³⁰⁴. The child defendant and his/her counsel have the right to be the last ones to be heard in the proceedings³⁰⁵. Child defendants have a right to participate in the proceedings in their own right, i.e., they do not have to act through a legal representative³⁰⁶.

Concerning the weight the court gives to the views of the child defendant, the judge has the right to freely evaluate the evidence presented before him/her³⁰⁷ which means that he/she will consider the evidence obtained by the child taking into account his/her age and maturity.

2.3.10 Right to legal counsel, legal assistance and representation

The presence of a lawyer is not required by law in all stages of criminal proceedings. Child defendants, as adults, have the right (but not an obligation) to be represented by two lawyers at the pre-trial proceedings and three lawyers at trial³⁰⁸. Furthermore, they have the right to have their lawyer present during all actions at the pre-trial proceedings³⁰⁹. When the child is examined by the investigating judge he/she can request to be appointed a legal counsel³¹⁰; the child's communication with his/her lawyer cannot be hindered³¹¹.

At trial, the child defendant must appear in person before the court and can appoint a lawyer as a counsel for his/her defence³¹². As of 2010, juvenile judges are required to appoint a legal counsel to child defendants who are accused of an offence which, if committed by an adult, would be considered as a felony³¹³.

Legal aid can be provided to **low income citizens**³¹⁴. Defence counsels can be appointed for certain offences and at certain stages of the procedure³¹⁵. The law does not explicitly refer to crimes adjudicated by the juvenile courts. However, it has been argued that this provision applies analogously to children³¹⁶, especially in view of the fact that the right to legal counsel is protected in various international legal instruments which have been ratified by Greece and which, by virtue of the Constitution³¹⁷, take precedence over any other conflicting provision of domestic law. In order to be granted legal aid it is the income of the **family** which is taken into consideration. Youth protection associations may also assist in the provision of legal aid to child defendants³¹⁸.

In theory children have the right to choose their legal representation without any involvement from the parents³¹⁹. In practice however it is the parents who choose the legal representation for child defendants; if the relationship of the child with his/her parents is problematic and the latter do not appoint a legal counsel for the child, the probation officer who conducts the

³⁰⁴ Article 366(1) PPC.

³⁰⁵ Article 333(3) PPC.

³⁰⁶ Information obtained through interviews with the Children's Ombudsman and an investigating judge.

³⁰⁷ Article 177 PPC.

³⁰⁸ Article 96(1) PPC.

³⁰⁹ Article 100(1) PPC.

³¹⁰ Article 100(3) PPC.

³¹¹ Article 100(4) PPC.

³¹² Article 340(1) PPC.

³¹³ Article 340(1) PPC.

³¹⁴ Law 3226/2004 'Legal aid to low-income citizens'.

³¹⁵ Article 7(2) Law 3226/2004 'Legal aid to low-income citizens'.

³¹⁶ Kourakis, N., 'Juvenile Justice in Greece', 2006, available at <http://www.niotho-asfalisi.gr/na/meletes16.pdf>, p. 49 – 50.

³¹⁷ Article 7(2) Law 3226/2004 'Legal aid to low-income citizens'.

³¹⁸ See for example information on the legal aid program run by the Youth Protection Association of Athens which is available in its website <http://www.epaa.gr/> (in Greek).

³¹⁹ Information obtained through interview with the Children's Ombudsman.

social inquiry shall take note of this and will ensure that the child has the necessary legal representation³²⁰.

Note that children are never ordered to pay the costs of the other parties³²¹.

2.3.11 Remedies or compensation for violation of rights and failure to act

The child can lodge an **appeal against decisions of the juvenile courts** which order detention in a young offenders' detention facility or reformatory or therapeutic measures³²². In addition, an appeal may be brought by the public prosecutor³²³.

In general, the application for judicial remedies can be submitted either by the defendant him or herself or by her/his legal counsel³²⁴. There is no prohibition on the exercise of judicial remedies by either the child him/herself or by his/her parents. If the child's legal counsel submits an application for judicial review and the child disagrees with it, the application can be retracted only with the consent of the child's parent or guardian³²⁵.

Appeals against the decisions of the judicial council are permitted only if they refer the defendant to be tried in court the court for a felony. However, since 'felonies' committed by children are considered from a legal perspective as misdemeanours³²⁶ children cannot **appeal against the decisions of judicial councils referring them to the juvenile courts**³²⁷.

Children who have been subject to pre-trial detention and were subsequently acquitted or children who have been detained based on a court decision which have been subsequently acquitted are **entitled to request compensation** if it has been established that they did not commit the criminal offence for which they were detained³²⁸. Child offenders who have been subject to pre-trial detention or who have been detained based on a court decision may also seek compensation if, even though they committed the offence, no penalty was imposed upon them³²⁹.

The court which issues the decision on the child's case is also competent to decide on whether to grant compensation to children who have been wrongly detained. In order to do this, the child must submit either orally or in writing the relevant claim; both the public prosecutor and the child must be heard before the court issues its decision on the issue of compensation³³⁰. The compensation for the material and moral damages of the child ranges between **approximately €9 and €29 per day**³³¹. The relevant claim may also be submitted within 10 days from the pronouncement of the decision at the court or from the notification of the decision³³². If the criminal court acknowledges the child's right to compensation but does

³²⁰ Information obtained through interview with the Ministry of Justice, Transparency and Human Rights.

³²¹ Article 3(5) Law 663/1977 'Amending and Supplementing the provisions of the Penal Procedure Code, the Penal Code and the Code "on stamp fees, relating to the costs and charges of judicial proceedings and other provisions"

³²² Article 489(1)(d) PPC. It is worth noting that until 2010 (Law 3904/2010), children could not appeal decisions ordering educational or therapeutic measures in spite of the fact that the placing of a child in an appropriate public, municipal, local authority or private educational institution, which is a reformatory measure under Article 122 PC in fact constitutes a penalty as it restricts the child's liberty.

³²³ Article 464 PPC.

³²⁴ Article 465(1) PPC.

³²⁵ Article 466(1) PPC.

³²⁶ Article 18 PC.

³²⁷ See Supreme Court Decision No. 829/2000, Criminal Section.

³²⁸ Article 533(1) PPC.

³²⁹ Article 533(2) PPC.

³³⁰ Article 536(1) PPC.

³³¹ Article 536(2) PPC.

³³² Article 537(2) PPC.



not determine its amount or if the amount awarded is considered insufficient, the child may bring the relevant claim for compensation before the civil courts³³³.

³³³ Article 539(1) PPC.

3 Child-friendly justice after judicial proceedings

3.1 The child as a victim or offender

3.1.1 Provision of information

Child victims

Child victims who have taken on the role of civil claimants have the right to be served the decision of the court³³⁴. Parents and legal representatives also have the right to be informed about all aspects of judicial proceedings as this is part of their parental care rights³³⁵.

Child victims of human trafficking, abduction and all sexual offences have the right to access the documentation of the investigation and the court proceedings even if they have not acquired the status of civil claimants. Furthermore, they have the right to be informed by the competent prosecutor when the offender is temporarily or permanently released from the prison or he/she is awarded a leave of absence³³⁶.

No further provisions on informing child victims of their rights after the completion of the trial have been identified.

In addition, research has indicated that no child-friendly measures exist for child victims after the criminal judicial proceedings. In Greece victims are not involved in measures which can be taken against offenders who do not comply with criminal court judgments. For example, even though child victims may request compensation for damages or compensation for their moral pain and suffering before the criminal courts, in practice they request a nominal amount (e.g. €40) and then seek to be compensated before the civil courts (see [Section 2.1.1](#)). Thus, if the offender fails to comply with a civil court judgment ordering him/her to pay compensation to a child victim, the enforcement proceedings take place under the relevant provisions of the Civil Code³³⁷.

Child offenders

Child offenders have the right to be served the decision of the court³³⁸. Parents and legal representatives also have the right to be informed about all aspects of judicial proceedings as this is part of their parental care rights³³⁹. No further provisions on informing child offenders of their rights after the completion of the trial have been identified.

The juvenile court is not explicitly obliged to inform child offenders of their right to lodge an appeal against the convicting decision. In contrast, with respect to felonies and political crimes committed by adults which are tried by mixed courts (i.e., composed of regular judges and jurors), the court is required to inform convicted adults of their right to lodge an appeal or a writ of cassation against the decision imposing the sentence within the period provided in the law. The court must also briefly explain to the adult convict all the requirements in order for these judicial remedies to be admissible³⁴⁰. Even though a similar provision has not been

³³⁴ This can be deduced from Article 473(1) PPC according to which 'The deadline to appeal to judicial review procedures is 10 days from the publication of the decision, unless otherwise provided. If the person who has the right to make recourse to such mechanisms was not present at the pronouncement of the decision, the above deadline is also ten days, unless he lives abroad or he has an unknown residence in which case the deadline is 10 days, and in any case starts from the serving of the decision'.

³³⁵ Article 1510 Civil Code.

³³⁶ Article 108A PPC.

³³⁷ Information obtained through an interview with an investigating judge.

³³⁸ This can be deduced from Article 473(1) PPC according to which 'The deadline to appeal to judicial review procedures is 10 days from the publication of the decision, unless otherwise provided. If the person who has the right to make recourse to such mechanisms was not present at the pronouncement of the decision, the above deadline is also ten days, unless he lives abroad or he has an unknown residence in which case the deadline is 10 days, and in any case starts from the serving of the decision'.

³³⁹ Article 1510 Civil Code.

³⁴⁰ Article 407 PPC.

identified with respect to the procedure followed by the juvenile courts or the ordinary procedure followed by criminal courts, in practice juvenile judges when pronouncing the decision inform the child if the sentence imposed can be subject to judicial review³⁴¹.

Acquitting decisions are enforceable as soon as they are issued³⁴². Convicting decisions are enforceable as soon as they become irrevocable, i.e., when the decision cannot be subject to judicial review, when the application for judicial review was not brought in good time or when the application for judicial review was dismissed³⁴³. The juvenile prosecutor is responsible for the execution of a measure or a sentence imposed on a child offender³⁴⁴. A child's compliance with the reformatory measures imposed upon him/her (see Section 3.1.2) is checked by the juvenile probation officer who then reports to the juvenile judge; if the child does not comply with the imposed measures, the juvenile judge can modify them³⁴⁵. Therefore, there is no need for legal remedies against the failure to enforce a court decision.

The Greek legislator does not require the child's lawyer or legal representative or judges to use a specific language when explaining the court's decision to them. However, in practice juvenile judges explain to child offenders their decision using language which is appropriate to their age and level of understanding³⁴⁶.

3.1.2 Sentencing

As already noted in [Section 2.3.1](#), the Penal Code considers as children those persons aged between 8 and 18³⁴⁷. Children under the age of 15 who have committed an offence may be subject only to reformatory or therapeutic measures³⁴⁸. Children 15 years of age and above are subject to reformatory or therapeutic measures unless:

- they have committed an offence which if it was committed by an adult would be considered as a felony and contains elements of violence against the life or physical integrity of a person or is committed as a profession or habitually; and
- it is considered necessary that they are subject to punitive correction measures³⁴⁹.

This section will focus on the reformatory and therapeutic measures that may be imposed on the child while [Section 3.1.3](#) will elaborate on the deprivation of liberty measures that children 15 years of age and above may be subject to.

The **reformatory measures that may be imposed upon the child** include:

- a) the reprimand of the child;
- b) placing the child under the responsible care of parents or guardians;
- c) placing the child under the responsible care of a foster family;
- d) placing the child under the care of youth protection associations, youth centres or juvenile probation officers;

³⁴¹ Information obtained through interviews with the Ministry of Justice, Transparency and Human Rights and the Children's Ombudsman.

³⁴² Article 547 PPC.

³⁴³ Article 546 PPC.

³⁴⁴ Article 549(1) PPC.

³⁴⁵ Information obtained through an interview with an investigating judge; with respect to the replacement and revocation of reformatory and therapeutic measures, see Article 124 PC.

³⁴⁶ Information obtained through interview with the Ministry of Justice, Transparency and Human Rights.

³⁴⁷ Article 121(1) PC. Note, however, that there are still provisions which state that the age of majority is 17 years of age (e.g., Articles 150 and 155 of the Code of Criminal Procedure and Articles 347 and 469 of the Criminal Code).

³⁴⁸ Note that, there is a division of opinions amongst practitioners as to whether children below 13 years of age can be subject to reformatory and therapeutic measures as they do not have criminal responsibility (information obtained through interview with an investigating judge).

³⁴⁹ Articles 126(1), (2) & (3), 127 PC.

- e) mediation between the young offender and the victim, so that the offender expresses his/her apology and the consequences of the act are settled out of court;
- f) offering compensation to the victim or removing or alleviating the consequences of the act by some other means;
- g) community work by the child;
- h) attendance of social and psychological programmes in state, municipal, local or private institutions;
- i) attendance of vocational schools or other institutions providing professional training;
- j) attendance of special road safety training programmes;
- k) placing the child under the intensive care and supervision of youth protection associations or juvenile probation officers;
- l) placing the child in an appropriate state, municipal, local or private educational institution³⁵⁰.

In each of these cases, the court may impose as additional reformatory measures obligations concerning the child's lifestyle or education. In exceptional cases, the court may order that two or more of the reformatory measures (a) to (k) are imposed on the child³⁵¹. In any case, the court decides on the maximum duration of the reformatory measure³⁵². In practice, juvenile courts usually impose the measures (a) to (f) as the realisation of the rest requires some kind of participation from the State and the necessary structures do not exist³⁵³.

Currently, there is only one **Educational Institution for Minors**³⁵⁴ where children can be placed to serve the relevant reformatory measure. This institution is located in Volos and is only for male children. During their stay, children can accept visits from their family members throughout the week without any restrictions except at noon and at night. In addition, the children's telephone communication is not monitored by the institution; children have at their disposal a card-phone device as well as a second telephone line. As far as their written correspondence is concerned, children have the right to open their own letters; however, this happens in front of a member of the institution's personnel in order to ensure that the child does not receive any prohibited items³⁵⁵. A special educational programme is drawn up for each child with respect to his education, vocational training, cultural activities, physical education and recreational activities³⁵⁶.

Children are informed by the Head of the Educational Institution for Minors of their right to lodge complaints orally or in writing either with Head or with a social worker. In addition, children can submit their complaints to the Children's Ombudsman. In practice, children submit their complaints to the institution, and if they are considered as justified the prosecution service of Volos is informed in order to take the most appropriate action³⁵⁷.

³⁵⁰ Article 122(1) PC.

³⁵¹ Article 122(2) PC.

³⁵² Article 122(3) PC.

³⁵³ Information obtained through an interview with an investigating judge.

³⁵⁴ With respect to the establishment of Educational Institutions for Minors see Article 17 of Law 2298/1995 'Conciliation of private disputes – accelerating the enforcement procedure – design and implementation of correctional policy and other provisions'.

³⁵⁵ [21st National Report on the implementation of the European Social Charter submitted by the Government of Greece](#), RAP/Cha/GR/XXI(2011), 7 February 2011, p. 59.

³⁵⁶ Article 17(7) Law 2298/1995 'Conciliation of private disputes – accelerating the enforcement procedure – design and implementation of correctional policy and other provisions'.

³⁵⁷ [21st National Report on the implementation of the European Social Charter submitted by the Government of Greece](#), RAP/Cha/GR/XXI(2011), 7 February 2011, p. 59.

In 2011, the Educational Institution for Minors in Volos was home to 24 boys between 11 and 18 years old³⁵⁸.

Therapeutic measures are ordered when the situation of the child necessitates special treatment, especially if he/she suffers from a mental illness or serious mental disturbance or an organic disease or condition which causes serious physical disability, if he/she is addicted to alcohol or narcotics and cannot overcome such addiction by himself/herself or if he/she presents an abnormal delay in his/her mental/moral development. Therapeutic measures include:

- a) the placement of the child under the responsible care of his/her parents, guardians or foster family;
- b) the placement of the child under the care of youth protection associations or juvenile probation officers;
- c) attendance of a therapeutic advisory programme;
- d) the placement of the child in a therapeutic or other suitable institution.

In exceptional cases the juvenile court may impose the measures mentioned under (a) or (b) combined with the measure of case (c)³⁵⁹. These therapeutic measures are imposed after **the child is examined by a specialised team of doctors, psychologists and social workers**³⁶⁰. If the child is a drug addict and he/she cannot overcome this addiction by him or herself, the court - before imposing any therapeutic measures - orders a psychiatric and a laboratory examination³⁶¹.

The juvenile court imposing reformatory measures may modify them whenever deemed necessary. If they fulfilled their aim, the juvenile court may completely revoke them³⁶². It may also replace or revoke the imposed therapeutic measures or replace reformatory measures with therapeutic ones only after the child is examined by a specialised team of doctors, psychologists and social workers³⁶³. The court must examine within one year of the imposition of the reformatory or therapeutic measures whether the conditions for replacing or revoking them are fulfilled³⁶⁴.

In principle, reformatory measures end when the child turns 18 years old. The juvenile court, with a justified decision, may order that the measures are extended until the offender becomes 21 years old³⁶⁵. **Therapeutic measures may also be extended by the court up until the offender becomes 21 years old;** however, in that case the court must first take into account the opinion of a specialised team of doctors, psychologists and social workers³⁶⁶.

3.1.3 Deprivation of liberty

Children may be detained in young offenders' detention facilities only if they are 15 years of age and above, they committed offences which would be considered as felonies if they were committed by an adult and contain elements of violence, against the life or corporal integrity of the victim or they are part of the child's systematic activity.

³⁵⁸ [21st National Report on the implementation of the European Social Charter submitted by the Government of Greece](#), RAP/Cha/GR/XXI(2011), 7 February 2011, p. 59.

³⁵⁹ Article 123(1) PC.

³⁶⁰ Article 123(2) PC.

³⁶¹ Article 123(3) PC.

³⁶² Article 124(1) PC.

³⁶³ Article 124(2) & (3) PC.

³⁶⁴ Article 124(4) PC.

³⁶⁵ Article 125(1) PC.

³⁶⁶ Article 125(2) PC.

The decision must be sufficiently justified and show why reformatory or therapeutic measures are not sufficient, taking into account the specific circumstances under which the act was committed and the personality of the child³⁶⁷. The judgment must specify the period of detention³⁶⁸ which varies depending on the severity of the offence committed: for offences where the penalty provided is imprisonment up to 10 years, the period of detention for a child is between six months and five years; for offences where the penalty provided is life imprisonment or imprisonment above ten years, the period of detention for a child is between two and ten years. In exceptional cases, for offences where the penalty provided is life imprisonment or imprisonment of at least ten years, the period of detention of the child may be up to 15 years³⁶⁹.

After the child has served half of his/her sentence, the court releases him/her on probation, the duration of which is limited to the remaining duration of the original sentence³⁷⁰. This conditional release is always granted unless it is justifiably considered that the child's conduct when serving the sentence renders absolutely necessary that he/she continues to be detained so that he/she does not commit new crimes. When the child has served half of his/her sentence, before the conditional release is approved the Director of the institution where the child is detained must submit a report along with a report of the social service of the institution. The child is summoned at least 10 days before the court hearing, where he/she can either appear personally or be represented by a lawyer³⁷¹.

Conditional release may also be granted if there is sound justification for doing so, in cases where the child has served at least one third of his/her sentence³⁷². Participation in drug or alcohol addiction programmes when detained constitutes an important reason which allows the release of the child after he/she has served one third of his/her sentence³⁷³. In addition, the provisions for the favourable calculation of prison time (i.e., every working day is calculated as an additional half a day served³⁷⁴; one day in prison is calculated as two days served for offenders suffering from specific serious diseases as well as for women/girl prisoners with children for as long as they have their children with them in the prison³⁷⁵) are also applicable when calculating the minimum time served for the award of conditional release³⁷⁶.

While on probation, the child may need to comply with specific requirements relating to his/her lifestyle and in particular his/her residence, education or participation in a treatment programme for drug or alcohol addicts³⁷⁷. If the child commits a felony or misdemeanour while on probation, the release is revoked; if the child is below 18 years of age at the time the next crime is committed, the court may increase his previous penalty but not above certain limits³⁷⁸. If he/she commits a new offence when he/she is 18 years of age and above, then if the penalty imposed for this offence is up to five years imprisonment, the court increases the first penalty but without exceeding the limits mentioned before. If the penalty

³⁶⁷ Article 127(1) PC.

³⁶⁸ Article 127(2) PC.

³⁶⁹ Article 54 PC.

³⁷⁰ Article 129(1) PC

³⁷¹ Article 129(2) PC.

³⁷² Article 129(3) PC.

³⁷³ Article 129(9) PC.

³⁷⁴ Article 105(2) PC; on the ability of child detainees to work while detained in Young Offenders' Institutions see Article 20(5) of Ministerial Decision 62367/2005 'Internal Regulation of Young Offenders' Institutions'

³⁷⁵ Article 105(7) PC.

³⁷⁶ Article 129(4) PC.

³⁷⁷ Article 129(5) PC.

³⁷⁸ For offences where the penalty provided is imprisonment up to 10 years, the period of detention for a child is between six months and five years; for offences where the penalty provided is life imprisonment or imprisonment above ten years, the period of detention for a child is between two and ten years. In exceptional cases, for offences where the penalty provided is life imprisonment or imprisonment of at least ten years, the period of detention of the child may be up to 15 years

imposed for the new offence is imprisonment above five years, then the court increases the new penalty³⁷⁹.

When the probation period lapses and no new offences have been committed, the penalty is considered as served³⁸⁰.

Note that if the request for conditional release is not approved, it may only be resubmitted within two months, unless the child submits new facts/evidence³⁸¹.

With respect to children who committed an offence between the ages of 15 and 17 but are introduced to trial after they have reached the age of majority the reformatory measures imposed by the court end automatically when they reach the age of 25. If the court concludes that the imposition of reformatory or therapeutic measures is not sufficient and that detention in a young offenders' detention facility, whilst necessary is no longer appropriate, it can impose the penalty provided for adults, reduced to take account of the fact that the offence was committed by a child³⁸². These sentences cannot lead to a deprivation of civil rights or referral to a work institution. In general, these young offenders should be detained separately from adult offenders³⁸³.

When a person sentenced to detention in a young offenders' detention facility reaches the age of 18 before execution of the judgment, the court may, if it considers that detention in such a facility is no longer appropriate, replace it with the punishment applicable to an adult offender, reduced³⁸⁴.

Concerning young adults, note that the court may impose a reduced penalty to offenders if at the time of the commission of the act they were between 18 and 21 years of age³⁸⁵.

Young Offenders' Detention Facilities

According to the Correctional Code, young detainees are considered those aged between 13³⁸⁶ and 20 years of age³⁸⁷. Young detainees are allowed to continue to be detained in these institutions until the completion of their 25th year of age in order to graduate from the

³⁷⁹ Article 132 PC.

³⁸⁰ Article 129(7) PC.

³⁸¹ Article 129(10) PC.

³⁸² Article 130(1) PC. According to Article 83 PC wherever the general part of the Penal Code provides for a reduced penalty without any additional indication, the penalty that must be imposed is calculated as follows:

- (a) Instead of the death penalty or life-imprisonment, imprisonment of at least ten years is imposed;
- (b) Instead of imprisonment of more than ten years, a term of up to twelve years or imprisonment of at least two years is imposed;
- (c) Instead of imprisonment of up to ten years, imprisonment between five and six years or confinement between one and five years is imposed;
- (d) In any other case, the judge freely reduces the penalty up to the minimum limit of the penalty;
- (e) If the law provides for a custodial penalty and a pecuniary penalty cumulatively, the latter may be the only one imposed.

³⁸³ Article 130(2) & (3) PC.

³⁸⁴ Article 131 PC. According to Article 83 PC wherever the general part of the Penal Code provides for a reduced penalty without any additional indication, the penalty that must be imposed is calculated as follows:

- (a) Instead of the death penalty or life-imprisonment, imprisonment of at least ten years is imposed;
- (b) Instead of imprisonment of more than ten years, a term of up to twelve years or imprisonment of at least two years is imposed;
- (c) Instead of imprisonment of up to ten years, imprisonment between five and six years or confinement between one and five years is imposed;
- (d) In any other case, the judge freely reduces the penalty up to the minimum limit of the penalty;
- (e) If the law provides for a custodial penalty and a pecuniary penalty cumulatively, the latter may be the only one imposed.

³⁸⁵ Article 133 PC.

³⁸⁶ It would seem that this provision has not been updated as only children above the age of 15 can be detained.

³⁸⁷ Article 12(1) Correctional Code.

programmes they attend, provided that they wish so and they do not cause any problems in the common life and smooth operation of the facility³⁸⁸. Detainees 18 years of age and above can be transferred to adults' prisons if there are important reasons³⁸⁹ (e.g. when the investigating judge of another district than the one where the young offenders' detention facility is located summons the child detainee to be questioned, the child detainee can be detained in that district's adults' prisons until he or she is returned to the young offenders' detention facility³⁹⁰). Young detainees with disabilities or mental health problems must follow the necessary therapeutic programmes³⁹¹. It is worth highlighting that only males are admitted to young offenders' detention facilities and that there are no equivalent institutions for females. Thus, minor girls are detained in special departments in women's prisons. However, it is expected that the same rules apply to these departments too.

For child detainees (as for adult detainees) only the right to personal freedom is restricted. Thus, they are not prevented from developing their personality and exercising the rights conferred by law, either in person or through a proxy³⁹². Child detainees (like adults) are brought before the Director, the doctor and social service of the young offenders' detention facility. The Director informs the child of his/her rights and responsibilities as well as for the rules of the institution and hands to the child a relevant brochure which is published by the Ministry of Justice, Transparency and Human Rights. Foreign child detainees must be informed in a language they understand with the possible contribution of the relevant consular authority in which case, if they consent, the Greek authorities can provide the consulate with information about the detention³⁹³. Furthermore, child detainees have the right to be informed by the social worker of the assistance provided by the institution's social service and receive such assistance when needed³⁹⁴.

Young offenders' detention facilities provide **specialised education and vocational training programmes**³⁹⁵. Thus, child detainees may attend **educational programmes of all levels in the institution**; the degrees conferred are equivalent to those obtained outside these institutions and do not mention that the person obtained them in a detention facility³⁹⁶.

Child detainees can also request to be visited **by representatives of the religion or doctrine of their choice** in order to provide them with moral support. Such requests are approved by the Ministry of Justice, Transparency and Human Rights within three days upon the recommendation of the Board of the Prison³⁹⁷. Furthermore, they have the right to receive appropriate healthcare³⁹⁸.

Child detainees may be granted leaves of absence from the young offenders' detention facility³⁹⁹. Furthermore, they can **accept visits** from their spouses and parents, siblings or children once a week at least for an hour⁴⁰⁰; the child can apply so that these meetings take place in an area where there are no dividers between him/her and his/her family⁴⁰¹.

³⁸⁸ Article 12(6) Correctional Code.

³⁸⁹ Article 12(3) Correctional Code.

³⁹⁰ Information obtained through interview with an investigating judge

³⁹¹ Article 12(4) Correctional Code.

³⁹² Article 4 Correctional Code.

³⁹³ Article 24(1) & (2) Correctional Code; Article 32(1) of Ministerial Decision 62367/2005 'Internal Regulation of Young Offenders' Institutions'.

³⁹⁴ Article 32(2) of Ministerial Decision 62367/2005 'Internal Regulation of Young Offenders' Institutions'.

³⁹⁵ Article 12(2) Correctional Code.

³⁹⁶ Article 35(1) and (3) Correctional Code; on the education, vocational training and work of detainees in Young Offenders' Institutions see also Article 20 of Ministerial Decision 62367/2005 'Internal Regulation of Young Offenders' Institutions'.

³⁹⁷ Article 32(8) Ministerial Decision 62367/2005 'Internal Regulation of Young Offenders' Institutions'.

³⁹⁸ Article 32(8) Ministerial Decision 62367/2005 'Internal Regulation of Young Offenders' Institutions'.

³⁹⁹ Article 24 Ministerial Decision 62367/2005 'Internal Regulation of Young Offenders' Institutions'.

⁴⁰⁰ Article 21(1) Ministerial Decision 62367/2005 'Internal Regulation of Young Offenders' Institutions'.

⁴⁰¹ Article 21(7) Ministerial Decision 62367/2005 'Internal Regulation of Young Offenders' Institutions'.

In case of **illegal actions against them or illegal orders**, child detainees (like adults) have in principle the **right to submit a complaint** in writing within a reasonable time to the Board of the Prison. Within 15 days from the notification of the decision which rejects their complaint or within a month from the submission of the report if no decision has been issued, child detainees have the right to appeal to the judicial council of the court of misdemeanours of the region where the young offenders' detention facility is located. If the judicial council accepts the complaint, it reverses the effects of the illegal action or order⁴⁰². It is the responsibility of the competent department of the Ministry of Justice, Transparency and Human Rights to ensure that the decision of the judicial council of the court of misdemeanours is enforced⁴⁰³. If the child detainee wishes to send a report or a letter to any public authority or international organisation, the management of the institution is obliged to send it to the intended recipient within three days at the latest without having knowledge of its content⁴⁰⁴.

A **Disciplinary Board** is established in each young offenders' detention facility (as in all detention facilities) with competence to award benefits and impose sanctions upon the child detainees. The Disciplinary Board is composed of a judge, as its chairman, the Director of the institution and the most senior social worker. Appeals against its decisions may be brought before the judicial council of the court of misdemeanours of the region where the institution is located⁴⁰⁵. Reports for child detainees' misconduct must be submitted in writing to the Disciplinary Board within 10 days from its commission. The chairman of the Disciplinary Board invites the person who has submitted the report to confirm its content. It then notifies in writing, without delay, the child detainee who is accused of the misconduct and invites him/her to defend himself/herself. If the child does not speak Greek, a translator is appointed⁴⁰⁶. The Disciplinary Board convenes within five days except for certain disciplinary offences where it must convene within 48 hours⁴⁰⁷. It takes into account the personality of the child, the seriousness of the disciplinary offence, the remaining time of detention and issues a justified decision⁴⁰⁸. The penalties which can be imposed include: a) confinement in a detention cell for one to ten days with a daily visit from a doctor; b) transfer to another institution; c) imposition of penalty points. The Disciplinary Board may order the child's confinement in a cell only under special circumstances⁴⁰⁹ and only with a specifically reasoned opinion; otherwise, it shall impose the other penalties⁴¹⁰. The child detainee may

⁴⁰² Articles 6(1) and 87(1) Correctional Code.

⁴⁰³ Article 6(2) Correctional Code.

⁴⁰⁴ Article 6(3) Correctional Code.

⁴⁰⁵ Article 70(1) & (2) Correctional Code.

⁴⁰⁶ Article 71(1) & (2) Correctional Code.

⁴⁰⁷ Article 71(3) Correctional Code. In combination with the provisions of Article 68 of the Correctional Code note that the disciplinary offences for which the Disciplinary Board must convene within 48 hours are the following:

- a) Disobedience to unlawful orders issued by the staff of the Young Offenders' Institution;
- b) Violent escape of more prisoners who have joined their forces;
- c) Exercise or threat to exercise violence against the staff of the institution;
- d) Physical violence against another detainee;
- e) Violation of the right to sexual freedom;
- f) Intentional construction or possession of sharp or in general dangerous objects which can be used as weapons;
- g) Import, production, mixing, cultivation, possession, distribution or use of drugs or alcohol and any other offence of the anti-drug legislation;
- h) Destruction of high-value or special purpose assets of the institution;
- i) Bribery of a member of the staff of the institution
- j) Possession or use of a mobile phone.

⁴⁰⁸ Article 71(6) Correctional Code.

⁴⁰⁹ This term has not been defined in the law.

⁴¹⁰ Articles 69(1) & (5) Correctional Code. In addition, the Disciplinary Board may deprive the detainee from his/her right to participate in work programmes or vocational training programmes. However, from Article 69(5) states that unless there are special circumstances, the Disciplinary Board shall either order the transfer of the

challenge the decision of the Disciplinary Board within five days before the judicial council of the court of misdemeanours of the region where the institution is located⁴¹¹.

The (juvenile) public prosecutor supervises and visits, on a weekly basis, the young offenders' detention facilities of his/her region to solve any problems presented therein⁴¹². Child detainees have the opportunity to inform the (juvenile) prosecutor of any complaints they have in his/her weekly visits to the facility⁴¹³ which must last at least two hours⁴¹⁴.

When released, child detainees can request to be informed by the institution's qualified scientific personnel on the bodies which can provide them with support at this new stage; the child can request such information even after he/she has been released from the young offenders' detention facility.

3.1.4 Criminal records

According to the Greek CCP, decisions imposing reformatory measures or detention upon a child as well as decisions amending reformatory measures or approving conditional release of a child are noted in his/her criminal record⁴¹⁵. Two types of copies of criminal records may be issued: one for judicial and one for general use. Without getting into a detailed examination of their differences, note that the judicial copy of the criminal record (to be used by the judicial authorities and other public authorities when the legislation so provides) contains all elements of a person's criminal record whereas in the public copy of the criminal record certain information is omitted⁴¹⁶.

With respect to children who have been subject to reformatory or criminal correction measures, the copies of the criminal record are deleted when the child reaches the age of 17⁴¹⁷. When the court orders the detention of the child, the criminal record is deleted five years after the child has served his or her penalty, if the imprisonment was less than a year; or eight years after the child has served his or her penalty, if the imprisonment was more than a year. In case of conditional release from the juvenile facility, the above mentioned periods start after the completion of his/her probation⁴¹⁸.

It should be noted that even though court judgments imposing reformatory measures are considered as acquitting judgments, they are still noted in the child's criminal record. Furthermore, when a child commits an infringement, any reformatory measures⁴¹⁹ imposed upon him/her are noted in his/her criminal record. This contrasts with adult situation since the penalties imposed for infringements are not noted in the person's criminal record.

child detainee to another institution or impose penalty points, i.e., Article 69(5) does not include in the disciplinary penalties which can be imposed upon a child the deprivation of his/her participation in work programmes or vocational training programmes.

⁴¹¹ Article 71(7) Correctional Code.

⁴¹² Article 7 of Ministerial Decision 62367/2005 'Internal Regulation of Young Offenders' Institutions'; see also See for example Article 14 of the [Rules of the Public Prosecution Service of Court of Misdemeanours of Athens](#) (in Greek).

⁴¹³ Information obtained through interview with an investigating judge.

⁴¹⁴ Article 25(a) of Ministerial Decision 62367/2005 'Internal Regulation of Young Offenders' Institutions'.

⁴¹⁵ Article 574(2)(bb) PPC.

⁴¹⁶ Articles 576 PPC.

⁴¹⁷ This provision has not been amended to provide for the deletion of a child's criminal record when he/she turns 18.

⁴¹⁸ Article 578(1)(e) PPC.

⁴¹⁹ Article 128 PC.

4 Strengths and Potential Gaps

In the Greek legal system the strengths with respect to the involvement of children in judicial proceedings lie predominantly in the regulation of child suspects'/defendants' rights. On the other hand gaps have been identified with respect to the protection of both child victims/witnesses and child suspects/defendants/offenders.

Strengths in the protection of the rights of child victims/witnesses

- Child victims have the right to become civil claimants at criminal trials against their offenders, thus becoming parties to the criminal proceedings. This means that they acquire numerous rights which can assist them in defending their position.
- Child victims of certain crimes are afforded special protection (victims and witnesses who testify in cases concerning the offence of constituting an association of persons with the intent to commit crimes or in cases of terrorist actions, adult and child victims of trafficking, transport of irregular migrants). These special protection measures include protection by specially trained policemen; the right to testify with the use of electronic means (visual/sound or only sound transmission); non-disclosure in the examination report of the witnesses'/victims' name, place of birth, residence, profession and age; change of identity; relocation to other countries or relocation to another post. This protection is afforded both during the investigation and at trial.
- Child and adult victims of human trafficking and transportation of irregular migrants are entitled to protection by the Greek State regardless of whether they cooperate with the judicial authorities or not.
- When a child is examined as a victim of crimes against his/her personal and sexual freedom a child psychologist or child psychiatrist is appointed and appears as an expert before the court. The child psychologist/child psychiatrist prepares the child victim for the examination and collaborates with the preliminary investigation officers and the judges. The child's testimony is recorded in writing and, if possible, by electronic audio-visual means. The electronic projection of the child's testimony replaces his/her physical appearance in the subsequent steps of the judicial process. The written testimony is read aloud at the hearing.

Strengths in the protection of the rights of child suspects/offenders

- The prosecutor may refrain from pressing charges against a child if, after having examined the conditions under which the act was committed and the whole personality of the child, he/she concludes that prosecution is not necessary to prevent the child from committing any new offences.
- Child offenders who have committed crimes which would have been considered a felony if committed by an adult are mandatorily appointed a legal counsel.
- As of 2003 there is a wide range of reformatory measures which are alternatives to traditional measures such as probation or attendance of special programmes. These include community work, victim-offender mediation, foster care, making amends for the harm done. All the above help the young offender assume responsibility, relate better to what has happened and avoid recidivism. The significance of these measures has been highlighted in order to encourage judges to make use of them⁴²⁰.
- Measures to protect the privacy of the child defendant have been introduced (private trials, prohibition to display or transmit information in relation to the case of a child offender in the media, secrecy and confidentiality of a child's criminal record).

⁴²⁰ Pitsela, A., 'Greece', in *Juvenile Justice Systems in Europe – Current Situation and Reform Developments* (Vol. 2, 2nd revised editions), p. 53.

- Schools in young offenders' detention facilities provide high quality education to child offenders⁴²¹.

Gaps in the protection of the rights of child victims

- Child victims who file a complaint (*έγκληση*) or a report (*μήνυση*) have to pay a fee of €100. Child victims below the age of 12 file complaints only through their parents/legal representatives. With respect to child victims of 12 years of age and above, both the children themselves and their parents can file a complaint or report. If the child victim is 17 years of age, only he/she has the right to file the report complaint.
- Even though it is legislatively provided that the testimony of child victims of certain offences (against the personal and sexual freedom, victims and witnesses who testify in cases concerning the offence of constituting an association of persons with the intent to commit crimes or in cases of terrorist actions, adult and child victims of trafficking, victims of transport of irregular migrants) can be electronically recorded, in practice this possibility is not used as the necessary structures are not in place. In addition, not all child victims can make use of this option.
- The Greek State has not adopted any specific measures on the child-friendliness of the premises and places where child victims are involved in criminal proceedings. This is in spite of the fact that Greece has ratified the Optional Protocol on the Rights of the Child on the sale of children, child prostitution and child pornography, thus undertaking the responsibility to ensure the child victims are examined in child-friendly and non-intimidating premises.
- No special methods for the interviewing of children have been identified; in practice, the way child victims (and witnesses) shall be interviewed is at the discretion of the investigating officials and the judge.
- Police examining cases of domestic violence are required to provide victims with information concerning support institutions only if the victim so requests (i.e., not on their own initiative).
- Greek criminal legislation has introduced a victim-offender mediation scheme for domestic violence offences. However, in the case of child victims, penal mediation is possible only if the juvenile prosecutor and the person exercising parental care agree on it.
- Even though child and adult witnesses have the right to not testify on issues which may lead to their incrimination⁴²², investigating officials (e.g., the police, the investigating judges) are not required to inform witnesses of this right.
- Investigating and judicial officers coming into contact with child victims/witnesses do not have sufficient training to perform their activities. The National School of Judges organises seminars on this but attendance to them remains at the discretion of the judge.

Gaps in the protection of the rights of child suspects/offenders

- As of 9 January 2013 in view of the measures the Greek government has had to adopt to address the current economic and financial crisis, youth protection associations supporting child suspects/defendants and child offenders exist only in the cities where there is a court of appeal, i.e. 14 cities, whereas before they existed in all cities where there is a court of first instance, i.e., 63 cities⁴²³.

⁴²¹ Information obtained through interview with the Children's Ombudsman and an investigating judge.

⁴²² Article 224(3) PPC.

⁴²³ Article 12 of the law 'Abolishment and merger of legal persons of public law and of the broader public sector – Establishment of the General Secretariat for the coordination of governmental work and other provisions'. The law is not numbered yet as it was only voted by the Greek Parliament on 9 January 2013; it is available at http://www.hellenicparliament.gr/Nomothetiko-Ergo/Psifisthenta-Nomoschedia?law_id=fcdcef6e-44cb-4365-a5cd-f8ddad69aacd (in Greek).

- The law provides that, after their appointment, probation officers must follow theoretical and practical training. However, it is understood that no training sessions for probation officers have taken place.
- Cases involving child suspects/offenders take significant time to be adjudicated⁴²⁴.
- The police are not obliged to inform the child's parents when arresting him/her⁴²⁵.
- In practice, the public prosecutor does not frequently make use of the possibility to refrain from instituting criminal proceedings against children⁴²⁶.
- News and political shows are prohibited from revealing the identity of the child suspect's/child offender's relatives by using their name, image or any other elements of their identity, unless such reference is indispensable in order to report the facts of the case⁴²⁷, a provision which can be misused by the media.
- Judges do not impose certain reformatory measures (e.g., community work) as the necessary structures/arrangements for the execution of such measures (e.g., insurance or supervision for children who provide community work) are absent⁴²⁸.
- Investigating and judicial officers coming into contact with child suspects/defendants/offenders do not have sufficient training to perform their activities. The National School of Judges organises seminars on juvenile justice but attendance to them remains at the discretion of the judge.
- The authorities involved with child offenders need to be better coordinated and attend better to the needs of the child's family⁴²⁹.
- In practice, **criminal cases before juvenile courts take significant time to be adjudicated**⁴³⁰ which ranges for some of them from one and a half to two years⁴³¹.
- Pre-trial detention in Greece for juvenile defendants may last up to 9 months.
- No provision has been identified requiring juvenile judges when pronouncing the decision to inform the child whether the sentence imposed can be subject to judicial review; in practice, however, juvenile judges do so.
- Even though court judgments imposing reformatory measures are considered as acquitting judgments, they are still noted in the child's criminal record. Furthermore, when a child commits an infringement, any reformatory measures⁴³² imposed upon him/her are noted in his/her criminal record. This contrasts with the adult situation, since the penalties imposed for infringements are not noted in the person's criminal record.

⁴²⁴ Information obtained through interview with the Children's Ombudsman.

⁴²⁵ Information obtained through interview with the Children's Ombudsman; see also Presidential Decree 141/1991 where such an obligation is not imposed upon the police.

⁴²⁶ Pitsela, A., 'Greece', in *Juvenile Justice Systems in Europe – Current Situation and Reform Developments* (Vol. 2, 2nd revised editions), p. 54.

⁴²⁷ Article 11(2) PD 77/2003 'Code of Conduct for the news and political shows'.

⁴²⁸ Information obtained through an interview with an investigating judge.

⁴²⁹ Information obtained through an interview with an investigating judge.

⁴³⁰ Information obtained through interview with the Children's Ombudsman. Note that that Greece has been convicted by the European Court of Human Rights more than 360 times for violating the right to a speedy trial (in civil, criminal and administrative proceedings) (Explanatory Memorandum for the Draft Law for a fair trial and confrontation of denial of justice (2011), available at <http://www.opengov.gr/ministryofjustice/wp-content/uploads/downloads/2011/12/telikh-aitiologikh-ekthesi-13-12-20111.pdf>, p. 1).

⁴³¹ 'Social inquiry – early intervention – advisory role of the Juvenile Probation Officers' (in Greek) p. 2.

⁴³² Article 128 PC.



- The Children's Ombudsman identified serious problems with the detention of children, as they are often detained together with young adults who are also detained in these facilities while pre-trial child detainees and convicted child offenders are held together⁴³³.

⁴³³ Children's Ombudsman on Special Juvenile Detention Facilities, Press Release 11.8.2008, available at <http://www.synigoros.gr/resources/docs/178726.pdf>, p. 1.

Conclusions

In Greece juvenile courts are constitutionally established in order to adjudicate cases involving child suspects/defendants. Juvenile judges serve in these specialised courts; however, they are not obliged to undergo specific training before taking this position. During the criminal proceedings child suspects/defendants also come into contact with the police, public prosecutors, juvenile investigating judges, juvenile probation officers and youth protection associations.

According to the Penal Code, a child between the ages of 8 and 14, inclusive, cannot be held 'criminally responsible' for a crime but can nevertheless be subject to reformatory or therapeutic measures by the court, with the former being noted in the child's criminal record. Only children from the age of 15 to 17, inclusive, can be held criminally responsible for certain serious crimes where it is deemed necessary to imprison the child. The PC does not apply to children below the age of 8, which means that in case they commit a criminal act they can only be subject to parental custody.

The adjudication of offences committed by children is undertaken by special courts called 'juvenile courts'. The provisions applicable to child suspects/offenders are to be found in the Penal Code, the Penal Procedure Code, the Correctional Code as well as specialised legislation.

Child victims and witnesses are protected under the Penal Code, the Penal Procedure Code as well as specialised legislation. Child victims who acquire the status of civil claimants become parties to the criminal proceedings against their offender and thus have significant rights in order to defend their position.

In the Greek legal system the strengths with respect to the involvement of children in judicial proceedings lie predominantly in the regulation of child suspects' rights. On the other hand gaps have been identified with respect to the protection of both child victims/witnesses and child suspects/defendants/offenders.