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GREECE

CHILDREN'S RIGHTS

Executive Summary

Based on the constitutional mandate to protect and safeguard children and on its international obligations arising from ratifications of agreements on children's rights, which have the status of domestic law upon ratification, Greece has enacted various laws and has adopted a number of measures and services to promote and advance the rights of the children. The topics covered in this report are health and social welfare, education, labor and exploitation, and juvenile justice. In 2002, the Greek Parliament adopted a new law on human trafficking, and the government has allocated a number of resources in an effort to eliminate this scourge. In 2003, the juvenile system was reformed. An additional law was enacted in 2006 to combat intra-family violence, which also encompasses a prohibition of corporal punishment of children.

I. Introduction

The Greek Constitution contains a number of solemn proclamations affecting the status of children: that childhood shall be under the protection of the State; that families with a large number of children, war orphans, and everyone who suffers from incurable physical or mental illness have the right to special care by the State; and that the latter also have the right to enjoy measures that secure and facilitate their independence, their professional integration, and their participation in the financial, political, and social life of the country. It also states that the State cares for the health of its citizens and takes special measures for the protection of the children. Furthermore, it proclaims that housing for those in need is the responsibility of the State.¹ Another guiding principle enshrined in the Greek Constitution and legislation that also has a bearing on children is the prohibition of discrimination based on race, gender, physical or mental disability, language, or social status.²

While the Constitution does not further elaborate on the scope and the extent of these general pronouncements, subsequent statutes and secondary legislation that have been enacted are based on the constitutional mandate to secure the rights of children and to prohibit discrimination. Furthermore, the various policies, services, and programs designed for children that are adopted and implemented by the State at a central or regional level and that are discussed below reflect to a large extent the country's efforts to protect its children. Nevertheless, Greece still faces numerous challenges, especially in the areas of violence against women and children, trafficking of persons, and discrimination against Roma children.³

¹ Art. 21, ¶ 1 of the Constitution. Ephemēris tes Kyverneseos tes Ellenikes Demokratias [EKED], Part A, No. 85, Apr. 18, 2001.

² Art. 5, ¶ 2 of the Constitution, *id.*

³ Roma, also called "gypsies" are members of "a people with dark skin and hair who speak Romany and who traditionally live by seasonal work and fortunetelling; they are believed to have originated in northern India but now are living on all continents (but mostly in Europe, North Africa, and North America)," according to Wordnet, <http://wordnet.princeton.edu/perl/webwn> (last visited Sept. 14, 2007). For more information see U.S. Department of State, *Greece*, COUNTRY REPORTS ON HUMAN RIGHTS PRACTICES, Mar. 6, 2007, available at <http://www.state.gov/g/drl/rls/hrrpt/2006/78815.htm>.

In Greece, children under the age of fifteen constitute about 15.5 percent of the overall population (11,000,000), which is below the average percentage in the European Union.⁴ Greece, as other European countries, has experienced in the last few years a high rate of influx of immigrants. As a result, a new multi-cultural and multi-ethnic society has emerged. There are approximately 130,000 immigrant students, mostly from Albania and other Balkan countries, that attend local schools and benefit from the services and programs offered by the Greek State.⁵

In Greece, there is no centralized agency designated to provide care and assistance and to supervise the various services provided by the State. Instead, a number of government agencies are responsible for providing social welfare and health services, as well as free education and child care. Generally speaking, the Ministry of Health and Welfare is responsible for health services, and the Ministry of Social Assistance is responsible for assistance to children who are vulnerable, that is orphans, the handicapped, and trafficked children. The Ministry of Health and Welfare and the Ministry of the Interior have joint responsibility at the national level for early childhood care. Local authorities are responsible for preschools and child care services; the Ministry of Education supervises the early childhood programs at the national level. The Ministry of Labor and Social Security handles the social insurance benefits and the family allowances for each child. The Social Insurance Institute (IKA) administers benefits through local offices.⁶

II. Implementation of International Rights of the Child

The Greek Civil Code defines a child indirectly. Articles 34 through 36 state that a person, from the moment of its birth, is subject to rights and obligations, as long as it is born alive, irrespective of its viability.⁷ From the civil law perspective, minors attain the age of majority upon completion of the seventeenth year. Since 2003, for criminal law purposes, the age of majority has been raised from the seventeenth year to the eighteenth.

Greece signed the Convention on the Rights of the Child on January 26, 1990,⁸ and ratified it by Law 21101/1992.⁹ Pursuant to article 28, paragraph 1 of the Constitution, this Convention has the force of law from the date of ratification and publication in the Official Gazette.¹⁰ It also takes precedence over any conflicting domestic legislation. In addition, on September 11, 1997, Greece ratified the European Convention on the Exercise of Children's Rights. This Convention has as its chief objective to protect the best interests of the child and also provides that children have the right to express their opinions in

⁴ United Nations High Commissioner for Refugees, *Country Operations Plan, Overview: Greece, Planning Year: 2006*, at 2, Web site of the Clearinghouse on International Developments in Child, Youth, and Family Policies of Columbia University, <http://www.childpolicyintl.org/countries/greece.html> (last visited Sept. 13, 2007).

⁵ See remarks of the Minister of Education *Integration Through Education: Migrant Workers in Greece*, Woodrow Wilson Center Web site, Mar. 29, 2006, available at http://www.wilsoncenter.org/index.cfm?fuseaction=events.event_summary&evnet_id=1775.

⁶ Id.

⁷ PENELOPE AGALLOPOULOU, *BASIC CONCEPTS OF GREEK CIVIL LAW* 39 (2004).

⁸ For implementation of this Convention in Greece, see P.NASKOU-PERRAKI Et. Al., *HE DIETHES SYMBASE GIA TA DIKAIOMATA TOU PAIDIOU KAI HE ESOTERIKE ENNOME TAKSE* [The International Convention on the Rights of the Child and the Greek Legal Order] 34 (2002).

⁹ *Episemos Ephemeris tes Hellenikes Demokratias (EEHD)*, Part A No. 192 (1992).

¹⁰ Art. 28, ¶ 1 provides that the “generally recognized rules of international law, as well as international conventions as of they time the are sanctioned by statute and become operative according to their respective conditions, shall be an integral part of domestic Greek law and shall prevail over any contrary provision of the law. The rules of international law and of international conventions shall be applicable to aliens only under the condition of reciprocity.”

judicial proceedings concerning custody issues.¹¹ On September 7, 2000, Greece signed the Optional Protocol to the Convention the Rights of the Child on the Sale of Children, Child Prostitution, and Child Pornography.¹² On October 22, 2003, Greece also ratified the Optional Protocol to the Convention on the Rights of the Child on the Involvement of Children in Armed Conflict.¹³

On June 7, 1983, Greece ratified the Convention on the Elimination of All Forms of Discrimination against Women. In 2001, Greece ratified the Optional Protocol to the Convention on the Elimination of all Forms of Discrimination against Women.¹⁴ In 2002, the General Secretariat for Gender Equality and the Office of the United Nations High Commission in Greece signed a Memorandum of Cooperation in a joint effort to promote the rights of women and minor girls who have been granted asylum status.

Institutions Dealing Specifically with Children's Rights

Greece has established the following institutions designed to tackle issues and questions related to children:

- The National Observatory on the Rights of Children, to ensure effective implementation of the Convention on the Rights of the Children;
- The Department of Children's Rights;
- The Child Health Institute, in the area of child abuse and neglect; and
- The National Human Rights Committee.

While the first three deal exclusively with children's rights, the jurisdiction of the fourth is broader and includes anyone whose human rights are infringed upon.

Department of Children's Rights

The Department of Children's Rights was established within the office of the Greek Ombudsman in 2003, by law 3094/2003.¹⁵ The scope of its mandate is to investigate actions, omissions, or any complaints about individuals and legal entities that violate the rights of children or endanger their wellbeing. The Department is composed of a Deputy Ombudsman and fifteen investigators with expertise in a variety of areas. During the first year following its establishment, the Ombudsman and his team established closer relations with agencies working with children and reviewed a number of complaints issued either by minors themselves or by adults about infringements of children rights. During the period 2004-2005, the Department accomplished the following:

- published a leaflet on "Defending Children's Rights" designed to raise public awareness about the role of the Child Ombudsman and the services provided by his office. It is disseminated to schools and other institutions working with children;
- created a special website for children and those interested in the wellbeing of children and a free telephone line for children in need;

¹¹ European Convention on the Exercise of Children's Rights, Jan. 25, 1996, Web site of the Council of Europe, <http://conventions.coe.int/Treaty/en/Treaties/Html/160.htm>.

¹² Optional Protocol to the Convention on the Rights of the Child on the Sale of Children, Child Prostitution and Child Pornography New York, 25 May 2000, Web site of the Office of the United Nations High Commissioner for Human Rights, July 13, 2007, http://www.ohchr.org/english/countries/ratification/11_c.htm.

¹³ Status of Ratifications of the Optional Protocol to the Convention on the Rights of the Child on the Involvement of Children In Armed Conflict, Web site of the Office of the United Nations High Commissioner for Human Rights, Nov. 14, 2003, <http://www.unhcr.ch/html/menu2/6/crc/treaties/status-opac.htm>.

¹⁴ Law No. 2952/2001.

¹⁵ Constitution, EKED, Part A. (2003).

- published and distributed a booklet on “Guidelines for the Treatment of Unaccompanied and Separated Minors,” in cooperation with United Nations High Commissioner for Refugees (UNHCR), with the objective of safeguarding the rights of those children who arrive in Greece without any escort or who are separated from relatives;
- assisted the Ministry of Justice in the preparation of a new law on corporal punishment; and
- within the framework of a project undertaken in cooperation with the Council of Europe, the Deputy Ombudsman exchanged visits with institutions working on children rights in neighboring countries in order to promote exchange of information and best practices.¹⁶

III. Child Health and Social Welfare

The general framework law on social care is Law 2646/1998 on Reorganization of the National System of Social Care and Other Provisions.¹⁷ Based on the constitutional mandate that social care is the responsibility of the state, the Law reaffirms the right of access to social care and welfare services provided by the National Health System to everyone who legally resides in Greece. Thus, the main objective is to ensure participation of all people in the services provided, in order to ensure that all people have an acceptable standard of living.

Consequently, as long as foreign nationals and their children have proof of legal residence, they are eligible for the welfare services and programs offered, including daycare centers, infant care centers, state-run holiday camps, and others.

The institution of foster parents was introduced in 1992.¹⁸ Minors under the age of eighteen who have no place to stay or who live in unhealthy family living conditions could in theory be placed with foster families until they attained the age of majority. Children with special needs could stay with foster families beyond that age. However, the Greek Ombudsman reported in 2005 that the foster parent program was not put into operation.¹⁹

Since 1973, the state-run orphanages have been converted into child care centers. Abandoned children or those with no place to stay, from the age of five to fifteen, are accepted free of charge. The decision to place a child in a child care center is made based on a report prepared by the social worker assigned to the case and upon verification that living with family or relatives is not feasible. Orphans who have lost one or both parents are given preference, followed by children whose single parent is blind, deaf-mute, handicapped from birth, mentally ill, or incarcerated.²⁰

Children between the ages of three and six are accepted at state-run kindergartens. There are also state-run nurseries that cover the needs of children from the age of eight months until they are accepted at elementary schools.²¹

Since 1960, Law 4051 on Supporting Unprotected Children has offered financial benefits to children who meet certain qualifications. Eligible children are those below the age of fourteen (and in some instances up to sixteen) who live with their own families and are:

¹⁶ GREEK OMBUDSMAN ANNUAL REPORT 2005 (2006), available at, http://www.synigoros.gr/en_annual_2005.htm.

¹⁷ It was amended by law 3106/2003.

¹⁸ Law 2082/1992 on Reorganization of Social Welfare and Introduction of New Methods of Social Welfare.

¹⁹ GREEK OMBUDSMAN ANNUAL REPORT 2005, *supra* note 16, at 46.

²⁰ Royal Decree 273/1973 on Reorganization of National Orphanages to Centers of Child Care, as amended.

²¹ Law 1431/1984 on Regulation of Issues of Offices of Social Welfare-Child Protection and Other Institutions, as amended.

- orphans who have lost both parents;
- orphans without fathers;
- children whose fathers cannot support them for reasons of health; or
- children born outside marriage.

Children who live in state-run institutions do not qualify for these allowances. Other state-run institutions also provide a small allowance to children of single parents, to those close to the poverty line, or to those children whose families experience medical or social hardships.²²

The government also makes monetary contributions of a lump-sum, at the beginning of each school year, to families with children up to sixteen years old who attend public schools and whose annual income is no more than €3,000 (about US\$4,161, at the exchange rate of €1=US\$1.39, effective Sept. 17, 2007).²³ Another allowance is €1000 to families with children studying in cities other than the place of residence of their families.

Other laws directly or indirectly assist low-income families with children. An annual allowance of €15 to purchase school items is given to families of the unemployed and to single-parent families. Another example is Law 3227/2004, on Measures against Unemployment, which gives an incentive to employers to hire unemployed mothers of at least two children. The incentive consists of a subsidy of an amount equal to the employer's insurance contribution liability for providing insurance coverage for the employed mothers. The subsidy is equal to a year's contribution for each child of the employed mother.

Moreover, the same law exempts women farmers from contributing to the Farmers' Fund (Agricultural Insurance Organization O.G.A.) for every child born after the first child. The government also provides pensions for low-income families in rural areas and financial incentives for children who attend school. Other government programs also provide a certain amount of money for families with three children.²⁴

It should also be noted, that the National Center for Emergency Social Care, which operates as a legal entity, under the authority of the Ministry of Health and Welfare, has extended its services in almost all regions of Greece. Thus, separated children or victims of human trafficking may receive emergency assistance in such centers.

IV. Education

As article 16 of the Greek Constitution provides, education is provided to all Greek citizens for free at all levels in all public institutions. Parents have no option to offer home schooling to their children. They are legally obliged to send their children to schools for nine years. This is the minimum mandatory duration of education.²⁵ Schoolbooks in all subjects and at all levels of education are provided for free to all students, as well as transportation if the students live far from the schools. Instruction in the

²² Information based on a questionnaire on separated Children prepared by Greek authorities in 2003. *Greece - Questionnaire for Country Assessment*, Website of the Separated Children in Europe Programme (jointly published by the organization Save the Children and the United Nations High Commissioner for Refugees, http://www.separated-children-europe-programme.org/separated_children/publications/assessments/greece_engq.htm (last visited Sept. 12, 2007).

²³ See Ministerial Order 2/37645/0020/2002.

²⁴ See Statement by the Vice-Minister for Health and Social Welfare to the United Nations Special Session on Children, United Nations, May 10, 2002, available at <http://www.un.org/ga/children/greeceE.htm>.

²⁵ According to the 2001 census, 99.4% of school-age children attend school. The majority also complete the mandatory education requirement. Within the Roma community, however, there is a persistent problem of non-compliance with this requirement. According to statistics, 63% of Roma children do not attend school. There have also been a number of incidents of parents withdrawing their children from schools because of the presence of Roma children attending the same schools. U.S. Department of State, *supra* note 3, at 14.

Christian Orthodox religion, which is the predominant religion in Greece, is mandatory. Students of other religions are exempted from this obligation, upon written request.²⁶ The State provides financial aid to those students who are eligible based on merit or financial need. During the last fifteen years, Greece has focused its attention on the creation of vocational training. In 1992, it established the Organization of Vocational Education and Training to oversee services related to vocational training. Vocational guidance is given only to those who are able to speak Greek.

Disabled children may be schooled in the traditional mainstream schools, including high school, provided that they are able to do so. There are thirty-five special schools for deaf children and twenty for the physically challenged. Blind children are free to attend regular secondary schools. All handicapped children may attend higher education in universities without undergoing the necessary entrance examinations. Vocational training for the disabled is also offered, but to a limited extent. There are seven special vocational schools under the aegis of the Minister of Education. A number of workshops operated within rehabilitation centers offer opportunities for disabled children to acquire new skills. Such centers operate in big urban centers, so they are not able to meet the needs of children with special needs in remote areas.²⁷

The rehabilitation centers offer either in-center job placement or community job placement. In most instances, they also offer follow-up services to ensure that children have adjusted well to the real world environment. By law, employers are required to hire a certain number of disabled workers.

Statistics from the Ministry of Health and Welfare provide a grim picture of children with special education needs. In 2004, there were approximately 180,000 to 200,000 such children, of whom only 18,585 were attending school, either because there were not enough schools in close geographic proximity to their residences or because those schools were not physically accessible for those with special needs.²⁸

Minority Children and Children of Immigrants

Greece also has minority schools to meet the needs of children who are Muslims; they are located mainly in Thrace, a province in northern Greece.²⁹ The curriculum is taught in Turkish and Greek. There are also two Koranic schools for the Muslim minority. In 2001, Thrace had 225 minority primary schools and four such schools for secondary education.³⁰

Roma children, as a group and because of their family's lifestyle, have particular needs. Since 1997, under the aegis of the Ministry of National Education and Religious Affairs, a program has been established to ensure school attendance and to offer counseling to Roma families about education, outreach to teachers and other professionals, information on health and hygiene issues, and other programs.³¹ The Ministry of Education provides an annual benefit of €300 for every child in primary

²⁶ For more information on the educational system in Greece, see *National Report of Greece*, International Conference on Education, Geneva, Sept.8-11, 2004, available at <http://www.ibe.unesco.org/International/ICE47/english/Natreps/reports/greece.pdf>.

²⁷ *Greece, Overview*, Web site of the European Agency for Development in Special Needs Education, <http://www.european-agency.org/transit/overview/greece/overview.html> (last visited Sept. 5, 2007).

²⁸ U.S. Department of State, *supra* note 3, at 16.

²⁹ The legal status of the Muslim minority is governed by the 1923 Treaty of Lausanne and other subsequent bilateral agreements.

³⁰ National Report of Greece, *supra* note 26, at 15. GREEK OMBUDSMAN ANNUAL REPORT 2005, *supra* note 16

³¹ Ministry of the Interior of Greece, Public Administration and Decentralization, General secretariat for Gender Equality, *Report on Progress for the Implementation of the Platform for Action of the 4th world Conference on Women of the United Nations (Beijing, 1995) and the Outcome of the 23rd Special Session of the General Assembly of the United Nations (New York, 2000)*, June 2004, available at <http://www.isotita.gr/en/index.php/docs/c2/> (Web site of the General Secretary for Gender Equality).

education to Roma families who have annual incomes of less than €3,000.³² This benefit was later extended to other migrant parents who meet the low income threshold.³³

There are also the so-called intercultural schools that provide a school environment suitable to children whose native language is other than Greek in order to meet their special needs, such as social, cultural, or other problems. Such schools have been operating since 1996, with the objective of facilitating the children's integration into mainstream society. A public school is designated by law as intercultural when the number of foreign students "reaches or exceeds forty-five percent of the total number of students."³⁴ The school curricula are the same as that of regular public schools, with additional Greek language training. During the 2002-2003 school year, twenty-six intercultural schools were operating, located mainly in Athens and Thessaloniki to accommodate children of Greek emigrants, ethnic Greeks from Albania, and children of other nationalities.³⁵

Children of immigrants have also the right to attend public schools, including those whose parents live in Greece illegally. In September 2003, the Greek Minister of Internal Affairs issued a circular which banned the children of immigrants without valid residence permits from enrolling in public schools. The Minister withdrew the circular after a strong protest from the Department of Children's Rights. The latter argued that the Greek authorities, pursuant to legal obligations arising from the Constitution and the ratification of the Convention of the Rights of the Child, must provide every child with access to basic education, regardless of the legal status of the parents.³⁶

Public Institutions

In the last ten years, Greece has paid more attention to the issue of balancing family responsibilities and work.³⁷ Greece has established numerous institutions run by the state to accommodate working mothers and also to provide a safe environment for children. In Greece there are 3,964 primary and 2,169 nursery schools. There are also 1,306 public day care centers, which serve children from two and a half years of age until the age of six, and 132 daycare centers for infants and children that accommodate approximately 10,000 children from eight months old until they reach the age of six. These public day care centers fall under the competence of local administration authorities.³⁸ Moreover, 164 daycare centers for children and infants have been transferred to the competent authorities of the municipalities and communities where they operate.³⁹ The European Union, through its Community Support Framework, has provided funds for these institutions and others, such as Creative Occupation Centers for children with disabilities and the Program for Employment and Vocational Training.

Corporal Punishment

Corporal punishment in schools has not been permitted by law since 1998, when Presidential Decree No 201/98 explicitly banned it. However, the Children Rights Department, other notable

³² See Ministerial Decision 2/37645/0020/08.72002.

³³ European Racism and Xenophobia Information Network, *National Focal Point for Greece*, RAXEN NATIONAL REPORT 2004 DATA COLLECTION, at 25, http://www.antigone.gr/listpage/reports_on_greece/2004/NAR_2004_GR_01_12.2005.pdf (last visited Sept. 13, 2007).

³⁴ Law 2413/1996, EKED, Part A. No. 124 (June 17, 1996)

³⁵ *National Focal Point for Greece*, *supra* note 33.

³⁶ GREEK OMBUDSMAN ANNUAL REPORT 2005, *supra* note 16.

³⁷ The European Union, through its public awareness campaigns and funds, has greatly assisted Greece in reaching this objective.

³⁸ See art. 12 of Law 2880/2001.

³⁹ Art. 8 of Law 3106/2003.

individuals, and various NGOs expressed concerns over the lack of effective civil and criminal penalties in cases of corporal punishment by teachers and parents.

Even though the principle of the best interests of the child permeates many pieces of legislation and especially the family law provisions on relations between children and parents, it has been argued that corporal punishment has been interpreted as permissible under the Civil Code. Specifically, article 1518 of the Greek Civil Code states that parents have the right to take any disciplinary measures, as long as such measures are necessary and do not violate the children's dignity.⁴⁰ However, on October 19, 2006, the Greek Parliament adopted Law 3500/2006 on Combating Intra-Family Violence.⁴¹ This Law explicitly prohibits physical violence against children within the family. Parents who use physical punishment as a disciplinary method will be considered as abusing their parental authority, which may result in removal of parental authority by the courts.

V. Child Labor and Exploitation

Government statistics released in 2001 estimated that there were approximately 80,000 adolescents aged fourteen to nineteen who assist the family through work, mostly in agricultural jobs; in fishing; as car mechanics; or in hotel, restaurant, or construction jobs. This estimate does not include young children who are forced to work without money, the children of economic migrants, or "traffic light kids," the approximately 5,800 street children between the ages of three and fifteen who clean the windshield wipers of cars at traffic lights or sell small items on the streets.⁴²

Since 1989, the minimum age for employment has been established at fifteen.⁴³ A Presidential Decree No 62/1998 prohibits the employment of children below the minimum age of employment in family businesses in the agricultural, forestry, and livestock sectors.

In 2001, Greece enacted another law that extends the ban on night work to young persons employed in family business in the agricultural, forestry, and livestock sectors⁴⁴ and in the maritime and fishing industries.⁴⁵

In 2003, Greece outlawed activities such as begging and other forms of labor in the streets, including selling flowers, cleaning shoes, or cleaning car windshields. There is no punishment for the above crimes, except the crime of begging. Article 409 of the Criminal Code punishes anyone who forces persons under his care to beg for financial benefit with imprisonment of up to six months or a fine. It is an aggravating circumstance if it involves children under the age of eighteen, or those who are older who but are mentally or physically challenged.⁴⁶

Greece has also ratified the 1999 ILO Convention No. 182 on the Worst Forms of Child Labor.⁴⁷

⁴⁰ See Greek Civil Code, Family Law.

⁴¹ EKED, Part. A, No.

⁴² See *Greece*, Non-Governmental Organizations' Report in Application of the United Nations Convention on the Rights of the Child 23 (2001).

⁴³ Law 1837/1989.

⁴⁴ Law 29956/2001.

⁴⁵ Presidential Decree No. 407/2001.

⁴⁶ The aggravating case was added to the Criminal Code provision in 2003, by art. 2, ¶ 7 of Law. 3189/2003, EKED, Part. A. 243.

⁴⁷ Convention No. C-182, web site of the International Labor Organization <http://www.ilo.org/ilolex/cgi-lex/ratific.pl?C182> (last visited Sept.13, 2007).

VI. Sexual Exploitation of Children

Child Pornography

Greece outlawed child pornography in 2002.⁴⁸ Article 348A of the Criminal Code punishes those who, for profit, manufacture, offer, provide, possess, or sell pornographic material in any format of a real or a virtual act involving a minor with imprisonment of at least one year and a fine of €10,000 to €100,000 (about US\$13,890 to \$138,900). It is an aggravating circumstance if the pornographic materials involve exploitation of the need or mental incapacity, deafness, or inexperience of an under age person or involve the use of violence against him or her. In such cases, perpetrators are punished by imprisonment for up to ten years and a fine of €50,000 to €100,000. If the victim is injured, then the punishment is at least ten years of imprisonment and the fine is augmented from €100,000 to €500,000.

Pimping

The Criminal Code also punishes those who encourage prostitution of minors with imprisonment for up to ten years and a fine of €10,000 to €50,000. The punishment is more severe if the crime involves a minor under the age of fifteen or is committed by parents or step-parents, relatives, guardians, custodians, or teachers.⁴⁹

Lewd Acts against Minors

Adults who commit lewd acts against minors in exchange of money or other material exchange or adults who cause lewd acts among minors committed before other people are punished as follows:

- If the victim is less than 10 years old, by imprisonment of at least ten years and a fine of €100,000 to 500,000;
- If the victim is between 10-15 years old, by imprisonment of up to ten years and a fine of €50,000 to 100,000; and
- If the victim is more than fifteen years old, by imprisonment of one year at least and a fine of €10,000 to 50,000.
- If the victim dies, by life imprisonment.⁵⁰

Seduction of Minors

Article 339 of the Criminal Code⁵¹ punishes one who commits the offense of seduction of a person younger than fifteen years old. More severe punishment is provided if the victim is younger than ten.

VII. Sale and Trafficking of Children

Trafficking of children, as a serious social phenomenon raising legal and humanitarian concerns, emerged in Greece in the early 2000s, when several major cities witnessed an influx of street children, selling small items or flowers or cleaning the windshields at traffic lights. These children came to be known as “street children” or “traffic light children.” According to surveys, the children came mainly from Albania, following relatives and friends or even unknown people, with the promise of a better

⁴⁸ Art. 6 of Law 3064/2002, EKED, Part. A 248.

⁴⁹ Art. 349 of the Criminal Code.

⁵⁰ Art. 351A of the Criminal Code.

⁵¹ It was amended in 2002 and 2003 by Law 3064/2002 and Law 3160/2003.

future.⁵² They were required to work hard and pass their earnings to those who facilitated their entry through the Greek borders. This problem grew rapidly, and the situation facilitated the creation of a profitable market for traffickers due to two factors: a) the failure of the Greek government to act promptly and to coordinate its actions efficiently, and b) the generosity of the local people, who were willing to give money to the street children, which enabled their street lives. Finally, the issue caught the attention of the press and various NGO's dealing with human rights.

A number of organizations, including the Greek Helsinki Monitor and others, reported in 2003 that during the period of 1998 and 2002, 502 children disappeared from the state-run institution Aghia Varvara.⁵³ The center was established to temporarily accommodate street children. The Greek authorities did not investigate the issue until the Albanian Ombudsman sent a formal request to his Greek counterpart to conduct an investigation. The 2004 report of the Greek Ombudsman apparently dealt only with problems that the institution faced, such as absence of guards, insufficient funding etc.

According to more recent estimates, the number of Albanian children being trafficked into Greece in 2005 and 2006 has decreased. However, there are reports that Albanian Roma children are still trafficked for labor exploitation.⁵⁴

Legislative Action

The Ministry of Public Order took a step in the right direction through the establishment of the Group against Human Trafficking (OKEA) to study the phenomenon and to set the legislative process in motion. In 2002, the Greek Parliament unanimously adopted Law No 3064/2002 on Measures to Combat Trafficking in Human Beings, Sexual and Economic Exploitation, and Child Pornography.⁵⁵ An implementing Presidential Decree, No. 233, followed in 2003.

Article 323 of the Law punishes trafficking of human being for labor purposes. The Article provides for punishment of up to ten years and a fine of €10,000 to €50,000 for anyone who, by force, threat, or other coercive means, including abuse of power, hires or transports someone within or outside the Greek territory with the purpose of exploiting his or her labor. A punishment of at least six months is provided to someone who knowingly accepts the labor of such a person.⁵⁶ If the act involves a minor, then the punishment increases to imprisonment of at least ten years and a fine of €50,000 to €100,000. The same punishment is extended under that article to anyone who recruits a minor in order to use him or her in armed conflict.

Article 351 punishes trafficking of human beings for sexual exploitation. It provides for imprisonment of up to ten years for anyone who by force, threat, or other kinds of coercive means transports, within or outside the country; hands over a person to someone else with or without something in exchange; or receives from somebody a person with the purpose of sexually exploiting that person either personally or by another person. The same punishment is also provided to a person who, sexually exploits another even if he receives the consent of a person in need by making promises, giving presents, or providing payment or other benefits or by the use of fraudulent means. The Criminal Code provides more severe punishment if the act of human trafficking involves a minor. Thus, in such a case, a

⁵² For more information see *Transnational Action against Child Trafficking Transnational Protection of Children, The Case of Albania and Greece 2000-2006*, Web site of the European Network of Ombudsmen for Children, Oct. 18, 2006, available at <http://www.crin.org/enoc/resources/infoDetail.asp?ID=10732&flag=report>.

⁵³ This was established in 1998 under the aegis of the Deputy Minister of Health and Welfare, in order to promote the protection and social welfare of street children.

⁵⁴ U.S. Department of State, *supra* note 3, at 15.

⁵⁵ Law No. 3064/2002/.

⁵⁶ PHILIPPOS N. ANDREOU, POINIKOS KODIKAS [Criminal Code] 1274 (2005).

perpetrator receives a sentence of at least ten years and a fine of fifty to one hundred euros in the following if the crime was: committed against a person younger than eighteen years or was committed by a relative or adopted parent, a guardian, or another person with a close relationship to a minor.

If the human trafficking results in serious physical injury to the victim, an imprisonment of at least ten years is imposed, and in case of the death of the victim, the law provides for the maximum penalty, which is life imprisonment.

Assistance to Victims of Trafficking

The law also provides that victims of trafficking whose life, physical well-being, and personal and sexual freedom are endangered be offered protection. Assistance is also provided in the form of shelter, food, psychological support, and medical care. Legal counsel and translation services are provided. If minors are involved, they are provided all the above services and are placed in educational and vocational programs, as appropriate.⁵⁷ If the minors reside in Greece illegally, the law provides for safe repatriation, provided that they wish to be repatriated. In such a case, the minor must express his will in writing before a designated official. The district attorney assigned to juvenile cases must also concur in the minor's repatriation.⁵⁸ If the minor does not wish to be repatriated, the law provides that the minor must be allowed to stay temporarily. Presidential Decree 233/2003 requires that Greek authorities not repatriate foreign victims, including minors.

Despite the enactment of the human trafficking law, problems still remain in this area. In a report released on June 13, 2007,⁵⁹ Amnesty International criticized the Greek government for failing to guarantee protection and justice to a large number of trafficked women and children forced into prostitution.

Under Greek immigration law, victims of trafficking against whom deportation proceedings are pending are offered a reflection period. The reflection period is given by the Prosecutor and lasts one month for adults and for two months for minors. The purpose is to give the victims time to consider whether they wish to cooperate with the police. At the end of this period, if the victims are willing to cooperate, residence permits are issued.⁶⁰

Since 2004, victims of human trafficking have been entitled to residence and work permit for a period of six months. Their permit is renewable, until a court decides on their fate.

Presidential Decree 233/2003 establishes the various forms of assistance to victims, which include the following: a) medical; b) psychological; c) legal through the assignment of the case involving a minor to a special "legal assistant"; d) educational; e) protection of witnesses in trials involving human trafficking; f) non-repatriation in case of foreign victims; and g) equal protection of all victims, including foreigners.

Agreement between Greece and Albania on Child Victims of Trafficking

Greece has signed several agreements with neighboring countries concerning human trafficking. On February 27, 2006, Greece signed a bilateral agreement with Albania against trafficking in children. This is the first agreement that Greece has entered into with another country that relates specifically to

⁵⁷ Law 3064/2002, art. 13.

⁵⁸ *Id.*, art. 14.

⁵⁹ *Greece: Uphold the Rights of Women and Girls Trafficked Sexual Exploitation*, Amnesty International Web site, <http://web.amnesty.org/actforwomen/gre-120607-action-eng> (last visited Sept. 6, 2007).

⁶⁰ Law 3386/2005, effective Jan. 1, 2006; it harmonizes the provisions of the Council Directive 2004/81/EC of Apr. 29, 2004.

children. Since this agreement is the first of its kind, it is intended to be used as a model for similar agreements with other states. Its objective is to protect and provide assistance to children from Albania who are trafficked to Greece and to reduce the risk of trafficking of children in Albania. The success of this agreement naturally will lie in its full implementation by both governments.⁶¹ The Ministry of Foreign Affairs is in the process of negotiating a child trafficking agreement with Malta.

Financial Assistance

The Greek government has also financed a number of measures to fight trafficking of human beings. There are four shelters, in Athens and in northern Greece, offering protection to victims, including social and psychological support and also assistance in eventual repatriation of the victims. These are funded by the Ministry of Foreign Affairs. There are also two hostels operated by the Ministry of Health and Welfare, in Athens and Thessaloniki, offering assistance for the first hours after a victim is located. Another measure provides funds for a protection center for unaccompanied or neglected children after their return to their homeland. In addition, there are a number of shelters run by NGOs in major cities.

The Ministry of Health and Welfare operates the national center of Emergency Social Care. Victims can call a hotline (#197) and file complaints regarding detention; they also receive psychological support, medical advice, and further referrals to appropriate institutions for legal advice or to health centers for medical and pharmaceutical care.

A Permanent Committee for the Protection and Assistance of Victims of Human Trade was established in 1993.⁶² Its mandate and competencies have been strengthened in the last few years.

The Ministry of Justice has undertaken the task of providing seminars to train and familiarize active judges, as well as future judges graduating from the National School of Judges.

In spite of the statutory framework, a number of problems persist. A 2005 report prepared by the Special Rapporteur on the Sale of Children, Child Prostitution, and Child Pornography identifies the lack of an effective system in place to identify minor victims of trafficking and exploitation. Consequently, children who may be victims are caught, arrested, and deported along with adults on grounds of illegal entry. Even though the law prohibits deportation until a final hearing, apparently children have been deported in great numbers.⁶³

⁶¹ *Albania and Greece Sign First Bilateral Agreement on Trafficking*, USAID/ALBANIA, Feb. 27, 2006, available at <http://albania.usaid.gov/bu2s504zz32wb45kpafj45/en/Story.aspx?id=87>.

⁶² By virtue of art. 9 of Presidential Decree 233/2003.

⁶³ *Rights of the Child*, Addendum to the Report of the Special Rapporteur on the Sale of Children, Child Prostitution and Child Pornography (Nov. 8-15, 2005)

VII. Juvenile Justice

In 2003, the juvenile justice system underwent significant changes.⁶⁴ The impetus for these changes was the desire to harmonize the criminal law provisions with those of the Convention of the Rights of the Child and also to bring the juvenile system in line with the constitutional mandate regarding the responsibility of the state to protect children.⁶⁵

Some cosmetic changes are noteworthy, since they reflect a changed attitude of the society at large and of the criminal justice system in particular towards criminal acts committed by minors. First, the word “delinquent” was eliminated from those articles of the Criminal Code dealing with minors. Secondly, rather than confinement in an institution, the term “confinement in a special institution for minors” was used. Another important change concerns the lower and upper limits of the period during which a person is considered a minor for the purposes of criminal responsibility. These were changed from seven to seventeen years of age to eight to eighteen. Since the Convention defines a child as anyone under the age of eighteen, without further differentiation, the Criminal Code has now been brought into line with the Convention.⁶⁶

Criminal Responsibility

The Criminal Code absolves a minor between the ages of eight and thirteen from any criminal responsibility for wrongdoing. Such a person is subject only to reformatory or therapeutic measures. If a minor at the time of commission of a criminal offense has completed the thirteenth year of age, the court takes into consideration all the circumstances surrounding the case and may decide that it is optimal to order the confinement of the minor in a special institution for youth for a specific period of time.⁶⁷ Confinement may last from five years up to twenty years, if the same act committed by an adult would require confinement from ten years to life imprisonment. In all other cases, confinement lasts from six months to ten years.

The court may impose reduced punishment on anyone who has committed a criminal act when at the time of the commission he had completed the eighteenth year of age but not the twenty-first.⁶⁸

If a minor commits a misdemeanor, then he is only subject to two reformatory measures: a) a reprimand; and b) assignment of the minor under the responsible care of his parents or guardians.⁶⁹

If a minor who has completed the thirteenth year of age commits a criminal act and is brought to trial after the completion of the eighteenth year of age, the court may order that the minor be subject to a reduced sentence, rather than be confined in a special institution. In such a case, minors must be kept in separate quarters from adult criminals.

Reformatory and Therapeutic Measures

As stated above, minors are subject only to reformatory or therapeutic measures. Minors between the ages of thirteen and eighteen who engage in criminal acts are tried by special courts. The Code of Criminal Procedure provides that those are either: a) a single-member Court for Minors; b) a three-

⁶⁴ Law 3189/2003, Part. A, No. 243.

⁶⁵ For more information see C. D. SPINELLIS AND A. TSITOURA, *THE EMERGING JUVENILE SYSTEM IN GREECE* (2006).

⁶⁶ PHILIPPOS N. ANDREOU, *supra* note 56.

⁶⁷ Criminal Code, art. 127.

⁶⁸ *Id.*, art. 133.

⁶⁹ *Id.*, art. 128.

member Court; or c) the Court of Appeals. Appeals from the single-member court for minors are heard before the Court of Appeals and not before the three-member court.

The 2003 amendments of the juvenile justice system specify twelve possible reformatory measures, listed in order of severity. These include: a) a reprimand; b) placing the child under the responsible care of his parents or to his guardians; c) assignment of the care of the child to foster parents;⁷⁰ d) placing the child in the care of “societies for the protection of children” or institutions designated for the care of children; e) communication between victim and underage perpetrator, so that the latter will have the opportunity to express apologies and remorse; f) compensation of the victim; g) community service performed by the minor; h) attending social and psychological programs in special institutions; i) attending vocational schools or enrolling in training; and several other measures. In exceptional cases, the courts may impose two or three measures concurrently.

The therapeutic measures are designed to assist minors who need special treatment, especially due to mental or physical illness or due to addiction to drugs or alcohol, and who are unable to assist themselves. In such cases, the court, based on an expert's diagnosis and opinion, may assign the care of such a minor either to his parents, guardians, or a foster family or may order the care of such a minor in protection agencies.⁷¹ These measures are imposed by a single-member court, based on an opinion issued by a team of doctors, psychologists, and social workers.

The reformatory measures cease *ipso jure* when the minor attains majority. In exceptional circumstances, the court has the right to extend these measures until the minor reaches the twenty-first year of age.⁷² On the other hand, the therapeutic measures do not come to an end automatically. Only the team that ordered them in the first place has the right to order that such measures be terminated.

Greece has established a public prosecutor for minors in the Athens court district.⁷³ His responsibilities include assignment of custody, provision of cooperation and assistance to offices of public and private agencies designed to prevent and combat juvenile crime, submission of applications for security measures to the courts for minors, and initiation of legal actions to remove parental custody or child supervision.

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⁷⁰ The institution of foster parents was established in 1992. Law No. 2082 provides that children under the age of eighteen who have no place to stay or who live under conditions that are unhealthy and dangerous to their physical and mental well-being may be placed under the care of foster families until they reach the age of majority.

⁷¹ The Criminal Code, as amended, art. 123.

⁷² *Id.*, art. 125.

⁷³ Regulation of the Internal Service of the Prosecution of the Athens Court of first Instance, Part. B 1017.