

 JUST CLOSER 

National Report on the youth justice system

GREECE



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Table of contents

Table of contents	3
Introduction: General characteristics of the Greek youth justice system.....	4
Main Legislation.....	5
Letters of formal notice of the European Commission	5
Accessibility	6
Information.....	6
Interpretation	6
Legal aid	6
Individual assessment	7
Procedures and behaviour of professionals.....	8
Speedy procedures	8
Diligence.....	8
Training of professionals	9
Adapted and focused on the rights of the child.....	9
Deprivation of liberty.....	9
Alternative means.....	10
Medical examination.....	10
Respecting the right to a due process	11
Legal assistance.....	11
Respecting the right to participate in and understand the proceedings	11
The right to be informed and to be heard.....	12
Respecting the right to a private and family life	12
Respecting the right to integrity and dignity	13
Behaviour of police officers and other professionals	13
Final Remarks	13

Introduction: General characteristics of the Greek youth justice system

The need for a specific protection of minors is recognized in fundamental provisions at national and international level. In particular, the need to enact special provisions concerning both minor perpetrators of crimes and minor victims of crimes by the Greek legal order comes from the general and guiding principles provided for in the provisions of the Constitution (in particular article 21 which provides, among other things, that childhood is under the protection of the State and that the State takes care of the protection of youth and article 96 par.3 which includes special provisions for juvenile courts), of the International Conventions that Greece has signed and ratified by internal law, as well as EU law.

Furthermore, the protection of minors is provided for in a number of international texts of a non-conventional nature (e.g. guiding principles, recommendations and decisions of the Council of Europe), the basic principles and directions of which have influenced both international and national legislation, being a basic interpretive guide¹.

At the level of national legislation, the "special provisions for minors", which includes the eighth chapter of the Greek Criminal Code (articles 121 – 133), indicate a different treatment for minor offenders, as well as the taking of appropriate measures corresponding to their age. In general, the treatment of minors is clearly more lenient than that of adults and the sanctions provided do not include the element of punishment, but must be governed by the "principle of education instead of punishment", as a basic principle of the criminal law of minors².

According to the Greek Criminal Code, the criminal act committed by a minor of twelve to fifteen years is not attributable to him/her. The court can impose reformatory or curative measures on him/her. Reformatory or therapeutic measures are also imposed on a minor who has committed a criminal act and has reached the age of fifteen, unless it is deemed necessary to impose a restriction in a special youth detention center³.

At a procedural level, the rights of minors, provided for in the Greek Code of Criminal Procedure, were significantly strengthened by Law 4689/2020 which incorporated Directive (EU) 2016/800, on procedural safeguards for children who are suspects or accused persons in criminal proceedings.

In this report the implementation of the nine principles distracted from the Guidelines on Child-friendly justice is analysed for the Greek context. The sources for the report, apart from the above-mentioned legislation, is the experience of both the children participating in the just Closer project and that of professionals in the juvenile justice system (Juvenile Judges, Juvenile Prosecutors and Juvenile Probation Officers).

¹ Κοσμάτος Κ. (2020), Δίκαιο Ανηλίκων, Θεωρία και Πράξη, Νομική Βιβλιοθήκη, page 54 et seq.

² Κοσμάτος Κ. (2020), *ibid* page 77

³ For the Greek criminal law, minors are those who, at the time of the act, are between the twelfth and eighteenth years of their full age (art. 121 CC). The Criminal Code (art. 133) includes also a special provision for post-adolescents/young adults, aged between 18 and 25 , who may be given the criminal treatment of a minor or a reduced sentence of an adult (from 1.5.2024, pursuant to articles 30 and 138 par.1 of Law 5090/2024, the age limit regarding the time of committing the punishable act is reduced to 21 years, with the possibility of the prisoner staying in a special youth detention center until the age of 25).

Main Legislation

Convention on the Rights of the Child, 20 November 1989, General Assembly Resolution 44/25 (CRC)
Directive (EU) 2016/800 of the European Parliament and of the Council of 11 May 2016 on procedural safeguards for children who are suspects or accused persons in criminal proceedings, in OJ L 132, 21.5.2016.

<i>Greek Law (Number)</i>	<i>Title</i>	<i>Government Gazette</i>
4689/2020	Incorporation into Greek legislation of Directives (EU) 2016/800, 2017/1371, 2017/541, 2016/1919, 2014/57/EU, ratification of the Memorandum of Administrative Cooperation between the Ministry of Justice of the Hellenic Republic and the Ministry of Justice and Public Order of the Republic of Cyprus, amendments to Law 3663/2008 (A 99) to implement Regulation (EU) 2018/1727 and other provisions.	A' 103/27.5.2020
4620/2019	(Ratification of the) Code of Criminal Procedure	A' 96/11.06.2019
4619/2019	(Ratification of the) Criminal Code	A' 95/11.06.2019
2102/1992	Ratification of the International Convention on rights of the child	A' 192/2.12.1992

Letters of formal notice of the European Commission

Regarding the transposition into national law of Directive (EU) 2016/800, the European Commission sent Greece a first letter of formal notice on 23.7.2019 [no. Ref. C(2020) 1378] and a supplementary letter on 16.11.2023 [ref no. C(203) 7243], which concerns transposition measures of Article 12 paragraph 5, third and fourth subparagraphs, regarding situations of deprivation of liberty other than detention. It should be noted that these measures fall under the competence of the Ministry of Citizen Protection.

Accessibility

Justice must be accessible for all children. Any barriers to access to justice must be removed and children shall be provided adequate information about their rights. Justice must be free of charge and legal aid must be guaranteed, and so must be access to support services and remedies.

Information

According to Law 4689/2020, which incorporated Directive 2016/800, when the minor is informed that he/she is a suspect or accused, he/she is immediately informed, orally or in writing, of: 1. the right to inform the person exercising parental care, 2. The right lawyer assistance, 3. The right to protection of his /her private life, 4. The right to be accompanied by his/her guardian or another minor at all stages of the criminal proceedings, 5. The right to be granted legal assistance, 6. The right to effective remedies.⁴

As a rule, the above information takes place at the time of the arrest by the police, however in some police stations it may not take place. In any case, before his plea, the accused is informed in written of his rights.

Interpretation

According to the Code of Criminal Procedure, at any stage of the criminal procedure, when a suspect, accused, civilly liable or witness who does not speak or understand the Greek language is to be examined, he/she is provided without delay with interpretation. Suspects or accused persons who do not understand the language of the criminal proceedings shall be provided within a reasonable time with a written translation of all documents or parts of documents of the proceedings.⁵

In practice, when a child does not speak the Greek language, no documents are translated, but interpretation is always available. Only when requested in writing, relevant documents are translated. However, some difficulties are sometimes observed in immediately finding a suitable interpreter either because there is reluctance on the part of interpreters due to rigid and time-consuming procedures for reimbursement or because there are many different dialects and difficulties are found in securing an interpreter who speaks the particular language dialect, with resulting in a delay in the procedures. In any case, the procedure does not proceed if the presence of an interpreter is not ensured. It is a necessary condition for the trial of the case.

Legal aid

The statutory reference persons to whom children can turn with questions about criminal proceedings and their rights are lawyers. Law 4689/2020 provides that from the moment of arrest minors have the right to legal assistance and specifically provides that in order to ensure that minors effectively exercise their rights of defense, they are entitled to receive the assistance of a lawyer, without undue delay, as soon as they are informed by the competent authorities, by official notification or otherwise, at any stage of the criminal proceedings, that they have acquired the

⁴ Law 4689/2020, Article 4.

⁵ Code of Criminal Procedure, Article 233.

status of a suspect or accused for the commission of a criminal act. In any case, minors are entitled to receive the assistance of a lawyer in whichever of the following events occurs earlier: a) before they are examined by prosecuting or judicial authorities, b) during the performance of an investigative act or other act of gathering evidence by an investigative or other competent authority, c) without undue delay immediately after their arrest, d) when they have been summoned before a criminal court, in good time before appearing before the aforementioned court.⁶

However, in practice, the above provision is not applied throughout the country. It must be made possible for the right to legal assistance to be widely applied and for this it is necessary that it shall be provided for by the competent institutions throughout the country and that there shall be funding so that it can be applied by all bar associations.

In addition to lawyers, in practice children can direct questions to judges, prosecutors, investigators, juvenile probation officers and the police.

Age-appropriate

At all stages of the proceedings, children must be treated according to their age, their specific needs, their degree of maturity and level of understanding. Everything must be explained in a language they can understand.

Individual assessment

Following the incorporation into the Greek legislation of Directive 2016/800 with Law 4689/2020, the individual assessment of the child is carried out by juvenile probation officers and is taken into account by prosecutors and judicial officials at all stages of the criminal procedure⁷. In the past, there was less familiarity on the part of the judicial authorities with the individual assessment of juveniles, since 2020, however, as the individual assessment procedures have been upgraded and are provided throughout the juvenile's criminal course, there has been a greater familiarity of criminal justice professionals. Usually, the Greek judicial system is effectively inspired by the individual assessment, however judges and prosecutors are not bound by the content of the individual assessment in their decision regarding the treatment of the child, they are therefore not obliged to adopt the proposals of the juvenile probation officers regarding the treatment of minors. In any case, whether the Greek justice system is effectively inspired by an individual assessment depends both on the personal work of each juvenile probation officer and the compilation of a full and thorough social investigation report, as well as on the due diligence of the judicial authorities and the perception of the prosecutor and judge in a meaningful and empathetic manner of the content of the individual assessment. As a rule, however, our system is effectively inspired by individual evaluation.

Some problems are identified in the procedures that make them sometimes rigid and this happens mainly in the pre-trial. In some courts of first instance, during the pre-trial stage, an individual assessment is not requested, possibly due to workload and the need to speed up the process. In other courts of first instance, during the interrogation stage, the investigators asked for an individual assessment to be carried out and a relevant report to be submitted on behalf of juvenile probation officers, however, the need to quickly conclude the interrogation, in several cases makes the whole process procedural, as often the investigators, before receiving the individual assessment report, immediately proceed to issue a restraining order for minors, therefore not taking into account the individual assessment, which they order because it is required by law.

The individual assessment should be carried out without delay from the child's first contact with the criminal justice system and in particular from their arrest, however in most cases this cannot be done due to heavy workloads. In any case, the law provides that the individual assessment must be available at the beginning of the hearing and at

⁶ Law 4689/2020, Article 6.

⁷ Law 4689/2020, Article 7.

this stage the procedure is effective, the individual assessment is always taken into account by the judicial authorities and affects the outcome of the trial.

Procedures and behaviour of professionals

On a case-by-case basis, the child's age and maturity are taken into account in the proceedings concerning him/her, but this is not the rule. It depends on each professional's personality, attitude, ability to empathize, education and training. Where special police sub-divisions for the protection of minors operate, in large cities, the appropriate behavior of the police in relation to the age of the child is ensured to some extent. In general, where there is experience, training and expertise of police departments, the situation is better than in police departments where the corresponding expertise does not exist.

Specific training is needed for all professionals involved in juvenile criminal justice, and personality, empathy, and the ability to communicate with juveniles through psychometric assessment tools should be considered as prerequisites for placement of professionals in the juvenile justice system.

With regard to the reception environment for children, not all services have suitable and sufficient spaces for holding meetings with children. Care must be taken to create functional and child-friendly spaces in order to ensure respect for their rights and effective cooperation with them.

Speedy procedures

The principle of urgency must be applied in order to provide a quick response, in the light of the child's best interest. Preliminary decisions must be reviewed.

Despite the fact that the processing time of criminal proceedings involving children has been improved in recent years, the time frames are not considered satisfactory in light of the principle of speedy processing of juvenile cases. Especially after the recent health crisis caused by the COVID -19 pandemic, due to the suspension of the courts' operation and the multiple postponements of the adjudication of cases, there are long delays in the administration of justice.

There are no official statistics as concerns the time frames for criminal proceedings. It is possible to be looked for in the registries of the local courts, however they are not officially kept.

Improvements need to be made so that the time of the process is sufficient, taking into account the best interest of the child. However, efforts are being made in this direction.

Diligence

Diligence is the quality in which commitment, care, thoroughness and converge. Juvenile-friendly justice must encompass all of these qualities, respecting the rights of children and always acting in their best interests.

Training of professionals

In recent years, especially after the enactment of Law 4689/2020, trainings for juvenile criminal justice professionals have been increased. Trainings are carried out by the National School of Judicial Officers, the National Center for Public Administration, the Ministry of Justice, the Association of Juvenile Probation Officers in collaboration with Panteion University and the Police. However, they are not considered sufficient and the participation of professionals is not mandatory. There should be more trainings, mandatory, permanent, systematic and with a long duration, as short-hour or few-day seminars do not ensure the essential training of the participants.

Coordination between professionals

Coordination between the professionals involved is left to the personal care and concern of a professional in the particular case (prosecutor, judge, juvenile probation officer). There is no formal provision for coordination between the different agencies or persons dealing with juveniles in the penal system. It depends on each case.

Adapted and focused on the rights of the child

The entire proceedings must be carried out with the child's needs and rights in mind. Any form of deprivation of a child's freedom must be a measure of last resort and of the shortest duration possible. Alternative means must be encouraged if they are in the best interests of the child. This section may concern, in particular, detention (in child institutions) and probation.

Deprivation of liberty

There is relevant jurisprudence regarding the application of deprivation of liberty measures to minors, but it is not binding (caselaw is not applied in the Greek legal system). The possibility of depriving minors of their liberty is provided for by law and there are cases where they have been deprived of their liberty.

It follows from the legislation (Criminal Code and Law 4689/2020) that the deprivation of liberty of minors is imposed as a last resort and under strict conditions. Specifically, in article 127 of the Criminal Code it is provided that confinement in a special youth detention center is imposed only on minors who have reached the age of fifteen, since their act, if committed by an adult, would be a felony and contains elements of violence or is directed against life or bodily integrity⁸. The decision must contain specific and detailed reasoning, from which it can be deduced why the reformative or therapeutic measures or the serving of the sentence at home in combination with such measures are not considered sufficient in the specific case in view of the particular circumstances of the act and his personality minor. Accordingly, Law 4689/2020 prioritizes alternative measures for the treatment of minors (reformative and therapeutic measures) over the deprivation of their freedom⁹.

⁸ From 1.5.24, pursuant to article 29 of Law 5090/24, confinement in a special youth detention center is imposed only on minors who have reached the age of fifteen, since their act, if committed by an adult, would be a felony. The words "and contains elements of violence or is directed against life or bodily integrity" are deleted.

⁹ Law 4689/2020, Article 10.

Alternative means

Our legal system provides for certain alternative means regarding minors, namely:

- Reformativ¹⁰and therapeutic¹¹ measures
- Reformativ measures as restraining orders¹²
- Conditional dismissal of the juvenile prisoner¹³
- Replacement of confinement in a special detention center for young people with house confinement¹⁴
- Partially replacement of confinement in a special detention center for young people with community service.¹⁵
- House confinement with electronic monitoring¹⁶
- Replacing detention with reformativ measures¹⁷
- Diversion from prosecution¹⁸
- Suspensive effect of the appeal¹⁹

We consider that the above alternative means are sufficient with regard to the rights and needs of children.

Medical examination

The minor's right to a medical examination is specifically provided for in Law 4689/20. According to article 8 of the above law, 1. A minor deprived of his liberty has the right to request a medical examination of his mental and physical condition without undue delay. The medical examination is as minimally invasive as possible and is carried out without delay by a doctor or other qualified health professional. A written report is drawn up for the medical examination, which forms part of the case file. In cases where it is deemed necessary, the minor is provided with medical treatment. If required by the circumstances, any other medical examination is also carried out. 2. The results of the medical examination are taken into account when they determine the minor's ability to fully understand and follow the criminal procedure, such as investigative acts, acts of gathering evidence or any measures taken or intended to be taken against him. 3. The medical examination is carried out either ex officio, if there are specific indications that require verification of the mental and physical condition of the minor, or upon a relevant request by any of the following persons: a) the minor, b) the person exercising parental care or another suitable person, in accordance with the provisions of articles 5 and 14 and c) of the minor's defense attorney.

¹⁰ Criminal Code, Article 122.

¹¹ Criminal Code, Article 123.

¹² Code of Criminal Procedure, Article 283.

¹³ Criminal Code, Article 129.

¹⁴ Criminal Code, Articles 128 and 105.

¹⁵ Criminal Code, Article 128.

¹⁶ Criminal Code, Article 129A, Code of Criminal Procedure, Article 284 paragraph 7.

¹⁷ Code of Criminal Procedure, Article 291.

¹⁸ Art. 46 of the Code of Criminal Procedure provides that, when a minor is accused of having committed a misdemeanor of a petty offence, the public prosecutor may decide to abstain from the prosecution if, after having examined the conditions under which the act was committed and the personality of the child, he/she concludes that prosecution is not necessary to prevent him/her from committing any new offences. The hearing of the minor is required. The prosecutor may decide to impose upon the minor one or more reformativ measures. Before his/her decision, the juvenile probation officer must submit a social inquiry report.

¹⁹ Code of Criminal Procedure, Article 497.

The rules for the application of the right to a medical examination in practice are provided for, in addition to article 8 of the Law 4689/2020, in relevant provisions of the Criminal Code and the Code of Criminal Procedure²⁰.

This right is effectively implemented by referring children to units of the national health system, staffed by specialized and qualified professionals.

Respecting the right to a due process

Children, like adults, must be guaranteed all the principles of due process, such as the principle of legality and proportionality, presumption of innocence, right to a fair trial, right to legal assistance, right of access to justice.

Legal assistance

As already mentioned in the framework of the analysis of the first principle “Accessibility”, according to Law 4689/2020, from the moment of arrest minors have the right to legal assistance and specifically provides that in order to ensure that minors effectively exercise their rights of defense, they are entitled to receive the assistance of a lawyer, without undue delay, as soon as they are informed by the competent authorities, by official notification or otherwise, at any stage of the criminal proceedings, that they have acquired the status of a suspect or accused for the commission of a criminal act. In any case, minors are entitled to receive the assistance of a lawyer in whichever of the following events occurs earlier: a) before they are examined by prosecuting or judicial authorities, b) during the performance of an investigative act or other act of gathering evidence by an investigative or other competent authority, c) without undue delay immediately after their arrest, d) when they have been summoned before a criminal court, in good time before appearing before the aforementioned court.²¹

However, in practice, the child’s right to legal assistance is not adequately guaranteed, since the above provision is not applied throughout the territory. It must be made possible for the right to legal assistance to be widely applied and for this it is necessary that it shall be provided for by the competent institutions throughout the country and that there shall be funding so that it can be applied by all bar associations.

The presence of a lawyer is provided by law at all stages. However, in practice, when it comes to the child's contact with the police, it is not always ensured. Not even at the preliminary examination stage it is ensured. During the interrogation stage, the presence of a lawyer is always ensured in every case, as the investigator has the obligation to appoint a lawyer ex officio in the event that the minor or the person exercising parental care has not appointed a lawyer of his/her choice. With regard to the procedure in the audience, the presence of a lawyer is ensured only in felonies, as only in these cases is the court obliged to appoint a lawyer ex officio.

Respecting the right to participate in and understand the proceedings

Children must be informed in a language they can understand about their rights and about all judgments and decisions that affect them. They must understand how the situation may or will evolve, what options they have and what the consequences will be. They have the right to be heard and to give their opinion in all matters that affect them.

²⁰ Criminal Code, Articles 69-71, 75, Code of Criminal Procedure, Articles 80, 183 et seq.

²¹ Law 4689/2020, Article 6.

The right to be informed and to be heard

Adequate explanations are given to children at the stage of questioning by the investigating officer, during the hearing process by the prosecutor and the juvenile judge, and by juvenile probation officers at all stages of the process in which they come into contact with the children. Care is usually taken to use child-friendly language. When children come into contact with the police, however, we do not know whether they are adequately informed about the procedures and their rights. They are given a document outlining their rights, but we have some reservations about providing adequate explanations. In some police stations the appropriate briefing takes place, but in others, it is not implemented.

The child has the right to appear in person at the trial in accordance with the UN Convention on the Rights of the Child²², the Code of Criminal Procedure²³ and Law 4689/2020²⁴, as well as the right to be accompanied by the person exercising parental care or by another adult at all stages of the criminal procedure²⁵. The rights of the child, as provided for in Directive 2016/800 which was incorporated into the Greek legal order by Law 4689/2020 and in general the principles of child-friendly justice that have been reflected in our legislation, frame the rules for the participation of children in criminal proceedings.

The judge has a legal obligation to hear the child's opinion at the hearing. The interrogator during the child's statement at the interrogation stage. The child's opinion is always taken into account, as the Judge/Investigator/Prosecutor cannot make a decision before hearing the child. As long as the child's right to be heard has been violated or his hearing is not legal, the procedure is completely null and void²⁶.

Respecting the right to a private and family life

The private life and personal data of children who are or have been involved in any proceedings should be protected. No information, images or data that could directly or indirectly allow the identification of the child may be disclosed. The authorities should provide limited access to records or documents, and all proceedings involving minors should take place behind closed doors.

In Law 4689/20 and specifically in article 13 "Right to protection of private life", which reflects article 14 of Directive 2016/800, the framework for protecting the private and family life of minors involved in criminal proceedings is regulated in detail.

As a rule, the rules for the protection of children's privacy during criminal proceedings are applied in practice. Any deviations resulting from external factors, e.g. lack of respect for children's privacy by the Media or leaking of case files by lawyers.

The imposition of reformatory or therapeutic measures is not recorded in the children's criminal record. Only cases of deprivation of liberty of minors are recorded. As for all other elements, no one has the right to be informed except for the child himself/herself, his/her parents, his/her advocate, the competent judicial and prosecuting authorities and the juvenile probation officers.

Children always have the right to maintain regular contact with their parents and relatives during detention or alternative means.

²² UN Convention on the Rights of the Child, Article 12 (the UNCRC was ratified by Greece under the Law 2101/1992).

²³ Code of Criminal Procedure, Article 340.

²⁴ Law 4689/2020, Article 4.

²⁵ Law 4689/2020, Article 14.

²⁶ Code of Criminal Procedure, Article 171.

Respecting the right to integrity and dignity

Children must be protected from harm, including intimidation, reprisals and secondary victimisation. They must always be treated with care, sensitivity, fairness and respect, and with full respect for their physical and psychological integrity. Special protection and care must be provided for the children in special conditions vulnerability. If deprived of their liberty, they must be separated from adults. Children must not be subject to torture or inhuman and degrading treatment or punishment. This section also concerns the condition of detention.

Behaviour of police officers and other professionals

Young people pointed out mainly the behaviour of police officers towards them. Based on the testimonies of children who have come into contact with the police, there are police officers who treat them with respect for their rights and police officers who, with their behavior towards them, violate the minors' right to integrity and dignity. There are no follow-up procedures for the conduct of police officers or other professionals.

The continuous and systematic training of police officers, but also of all professionals involved in the juvenile criminal justice system, such as court officials, juvenile probation officers, lawyers, is necessary, as special skills are required for their contact and communication with children.

As regards the detention conditions, adequate infrastructure, care for the compliance with hygiene conditions and systematic training of the competent professionals are needed in order to improve the detention conditions of minors.

Final Remarks

Having as basic legal tools the Law 4689/2020, which incorporated into the Greek legal order the Directive 800/2016 on procedural safeguards for children who are suspects or accused persons in criminal proceedings, in combination with the relevant provisions of the Greek Criminal Code (that provides sufficient alternative means with regard to the rights and needs of children) and the Code of Criminal Procedure, Greece respects and applies the principles of the child – friendly justice, as these principles are captured and specified in the form of procedural safeguards in the above Directive.

However, based on both the experience of professionals in the field of juvenile criminal justice and the valuable recording of the experience and opinions of the children and young people participating in the Just Closer project (Youngsters and Youth Leaders), as far as the practical application of the directive 800/2016 in Greece is concerned, the following main points that need improvement, are noted:

- Full exercise of children's right to information during the procedure at the police stations
- Issues related to the immediate finding of suitable translators/interpreters
- Application of individual assessment in pretrial
- Provision of legal assistance throughout the country
- Coordination of professionals

- Strengthening the training of all categories of professionals in the field of juvenile criminal justice - and especially police officers - with an emphasis on issues regarding their behavior towards minors.

The outcomes of the above analysis in the framework of this national report are considered particularly useful in the light of strengthening the effective implementation of the Directive 2016/800/EU in the Greek criminal justice system.



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