

# **ACCESS TO JUSTICE FOR CHILDREN: GREECE**

*This report was produced by White & Case LLP in November 2013 but may have been subsequently edited by Child Rights International Network (CRIN). CRIN takes full responsibility for any errors or inaccuracies in the report.*

## **I. What is the legal status of the Convention on the Rights of the Child (CRC)?**

### **A. What is the status of the CRC and other relevant ratified international instruments in the national legal system?**

Greece ratified the CRC through Law 2101/1992,<sup>1</sup> and has also ratified the optional protocols on children in armed conflict and on the sale of children.<sup>2</sup> Pursuant to the Greek Constitution, the CRC, as well as any other international convention, has the force of the law from the date of ratification and publication in the Government Gazette.<sup>3</sup>

### **B. Does the CRC take precedence over national law?**

The CRC takes precedence over any conflicting national law.<sup>4</sup>

### **C. Has the CRC been incorporated into national law?**

The CRC has been incorporated into national law following Law 2101/1992.

### **D. Can the CRC be directly enforced in the courts?**

A provision of the CRC can be invoked directly before courts and administrative authorities insofar as it has “a self-executing character”.<sup>5</sup>

### **E. Are there examples of domestic courts using or applying the CRC or other relevant international instruments?**

Law 2101/1992 has been cited in court decisions in Greece. The Greek civil courts have discussed the CRC mainly in cases concerning children’s rights to communicate with their parents, cases concerning parental leave, and cases concerning the granting of asylum to children.

## **II. What is the legal status of the child?**

### **A. Can children and/or their representatives bring cases in domestic courts to challenge violations of children's rights?**

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<sup>1</sup> Available at:

<http://www.oijj.org/en/docs/general/law-no-21011992-official-gazette-a-192-ratification-of-the-international-convention-on->

<sup>2</sup> Available at: <http://indicators.ohchr.org/>.

<sup>3</sup> Constitution of Greece, Article 28, para. 1, available at: <http://www.hri.org/docs/syntagma/>.

<sup>4</sup> Ibid.

<sup>5</sup> CRIN, ‘Greece: national laws’, available at:

<https://www.crin.org/en/library/publications/greece-national-laws>.

Under the Civil Code and Code of Civil Procedure, children and their representatives are entitled to bring civil cases in Greek courts.

Under the Code of Criminal Procedure, children and their representatives can bring criminal cases in Greek courts.

Children and/or their representatives, including any person with direct knowledge about a violation of children's rights, may file complaints with the Children's Rights Department of the Greek Ombudsman about acts or omissions of the public services or private persons (whether physical or legal) that violate children's rights.<sup>6</sup> During the first eight-and-a-half years of its operation, the Greek Ombudsman received a total of 3,248 complaints concerning violations of children's rights.<sup>7</sup> These complaints concerned the areas of education, health and social insurance of children, family and immigration status of children, and media-related issues.

B. If so, are children of any age permitted to bring these cases by themselves in their own names/on their own behalf, or must the case be brought by or with the assistance of a representative?

The Civil Code provides that parental responsibility over children includes the child's representation before the courts.<sup>8</sup> As such, it is the child's parents who will bring such cases on behalf of their children before the courts. If the child's parents are not able or do not wish to exercise parental custody, the courts assign parental custody to a guardian.

The Code of Civil Procedure provides that children over 16 years of age can appear before the courts without a representative in cases that concern their personal status.<sup>9</sup> This includes cases concerning the birth, name and marriage of the child, the granting of a judicial permit for marriage, consensual divorce, judicial recognition of a child, adoption, judicial prohibition and the recognition of foreign court decisions that concern the child's personal status.

The Criminal Code provides that children below the age of 12 years can only bring complaints before the public prosecutor through their representatives.<sup>10</sup> If the victim is above the age of 12, the right of the complaint belongs both to the victim and his/her legal representative, meaning that either of them can make the complaint independently of the other. When the victim is above the age of 17, the right belongs to the victim alone.

C. In the case of infants and young children, how would cases typically be brought?

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<sup>6</sup> Law 3094/2003, Article 4; See also 'What is the Ombudsman for Children?', available at: <http://www.0-18.gr/gia-megaloyis/anafora-proagogi-dikaiomaton-toy-paidioy>.

<sup>7</sup> The Greek Ombudsman Department of Children's Rights, 'Parallel report to the UN Committee on the Rights of the Child: Findings and recommendations of the Independent Authority "the Greek Ombudsman" on the implementation of Children's Rights in Greece (July 2003 – December 2011)', April 2012, section 2, available at: <http://www.synigoros.gr/resources/parallel-report-un.pdf>.

<sup>8</sup> Civil Code, Article 1510.

<sup>9</sup> Code of Civil Procedure, Article 742.

<sup>10</sup> Criminal Code, Article 118.

In the case of infants and young children, the child's parent or representative would typically initiate a lawsuit on behalf of the child for violations under civil law, as provided in the Civil Code.<sup>11</sup> A lawsuit would typically be filed with the secretariat of the competent court, whereas a complaint for criminal cases is filed with the public prosecutor.

D. Would children or their representatives be eligible to receive free or subsidised legal assistance in bringing these kinds of cases?

Legal aid is regulated by Law 3226/2004,<sup>12</sup> under which free legal assistance is available before all courts - civil, criminal and administrative - to persons with a low income. Generally, legal aid is available to individuals who establish that their annual family income does not exceed two thirds of the minimum annual individual income provided for by the National General Collective Employment Agreement.<sup>13</sup> This is the case for both Greek and non-Greek citizens who are domiciled or habitually resident in the European Union. Such non-Greek citizens are eligible for legal aid even if their income exceeds the threshold mentioned above provided that they prove they are unable to meet the costs of proceedings as a result of differences in the cost of living between Greece and their country of domicile or habitual residence.<sup>14</sup>

Children who are victims of crimes of sexual abuse, exploitation or child pornography are explicitly entitled to legal aid in any criminal and civil claims.<sup>15</sup>

Legal aid can be provided by the court following an application with supporting documentation submitted by the interested party at least 15 days before the hearing.<sup>16</sup> Courts must provide reasons for the acceptance or rejection of applications for legal aid.<sup>17</sup> Legal aid covers the costs related to court proceedings, including stamp duties, lawyers' fees, and the costs of witnesses and experts.<sup>18</sup>

Additionally, legal aid is regulated under the Code of Civil Procedure, which provides the conditions that need to be fulfilled in order to receive free legal assistance.<sup>19</sup> This is available to persons who do not have sufficient resources in order to cover the costs of legal representation or filing of a lawsuit with the courts. Furthermore, the Code of Criminal Procedure also provides for the possibility of receiving legal aid in case of a criminal trial.<sup>20</sup>

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<sup>11</sup> Civil Code, Article 1510.

<sup>12</sup> Available at: [http://ec.europa.eu/justice\\_home/judicialatlascivil/html/pdf/national\\_la\\_gr\\_en.pdf](http://ec.europa.eu/justice_home/judicialatlascivil/html/pdf/national_la_gr_en.pdf).

<sup>13</sup> Ibid., section 1.

<sup>14</sup> Ibid., section 10.

<sup>15</sup> Law 4267/2014 implementing Directive 2011/93/EU of the European Parliament and the Council of 13.12.2011 on sexual abuse, sexual exploitation of children and child pornography, section 17, available at: <http://spyridonadamnet.blogspot.co.uk/2014/06/n-42672014-13712062014.html#ixzz35iUjOaLT>.

<sup>16</sup> Law 3226/2004, section 2.

<sup>17</sup> Ibid., section 2(5).

<sup>18</sup> Ibid., section 9.

<sup>19</sup> Code of Civil Procedure, Articles 194-204.

<sup>20</sup> Code of Criminal Procedure, Articles 46, 100(2), 340(1) and 376.

With respect to cases of children's right to child support, EC Regulation 4/2009 on maintenance obligations provides a series of measures for the granting of child support/maintenance in cross-border cases, including legal aid for children and young persons under 21 years old.<sup>21</sup>

- E. Are there any other conditions or limits on children or chosen legal representatives bringing cases (e.g., would a child's parents or guardian have to agree to a case being brought)?

A child's parent or legal representative must consent to initiate legal proceedings. As mentioned above, a child over 16 years old can initiate legal proceedings for any issue that concerns his or her personal status.

Pursuant to the provisions of the Civil Code, if the parents of the child do not exercise their parental responsibility or exercise it in an abusive manner (including not agreeing to a case being brought on behalf of the child), the courts may take any appropriate measure.<sup>22</sup> The courts may act either following a request by the other parent, or any relative, so that the public prosecutor can initiate proceedings. In such cases, the public prosecutor can appoint another legal representative for the child, who can take the appropriate measures to challenge the violation.

### **III. How can children's rights violations be challenged before national courts?**

- A. If there is a potential violation of the Constitution or other principles established in domestic law, or with the CRC or other relevant ratified international/regional instruments, how can a legal challenge be brought?

Greece does not have a constitutional court; rather, any Greek court is competent to examine a potential violation of the Constitution or the CRC. This includes the power to examine whether or not a legal provision conforms with the Constitution. Proceedings can also be brought to challenge administrative acts that are not issued in accordance with the Constitution and the laws.

Children and their representatives may initiate legal proceedings in civil courts to challenge violations of their rights under domestic law, following the Civil Procedure Rules. Civil actions typically request compensation in the form of monetary damages, but may also seek an order or declaration ordering a party to carry out or cease a particular action.

If the violation of rights amounts to a crime, then the child or his/her representative must file a complaint with the public prosecutor, who will initiate a criminal investigation.

Law 3500/2006 provides increased protection to victims of domestic violence and establishes that such crimes can be prosecuted automatically, i.e., without a prior request by the victim or his/her representatives. This law also provides that teachers have a legal obligation to report to the public prosecutor any indication

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<sup>21</sup> EC Regulation 4/2009, Article 36.

<sup>22</sup> Civil Code, Article 1532.

of domestic violence of which they are aware. However, this law does not provide procedures other than the informing of the prosecutor in cases where teachers learn of or discover acts of domestic violence against students. Thus, in cases of suspected offences of domestic violence with no clear information from the child, school officials are impeded from referring such cases to the relevant psychosocial services to allow for their thorough investigation and the taking of measures to protect the rights of children.<sup>23</sup>

### *Council of Europe - ECHR*

The European Court of Human Rights decides cases concerning alleged violations of any of the rights contained in the European Convention on Human Rights.<sup>24</sup> Any individual, group of individuals or an NGO who is a victim of a violation of one of these rights may submit a complaint to the Court,<sup>25</sup> but the complaint will be admissible only if all domestic remedies have been exhausted.<sup>26</sup> Anonymous complaints are not permitted.<sup>27</sup> The procedural rules for the Court do not make any child-specific provisions. Persons may initially present an application themselves or through a representative, however, all applicants must be represented at hearings thereafter.<sup>28</sup> After examining the case, the Court renders a judgment which is binding on the State<sup>29</sup> and also has powers to award monetary compensation to the victims of human rights abuses.<sup>30</sup> It is also worth noting that the Court has an established practice of referring to other international human rights instruments, including the CRC, as guides to interpretation of the European Convention. The Court condemned Greece three times for discrimination against Roma students in Greek schools.<sup>31</sup>

### B. What powers would courts have to review these violations, and what remedies could they offer?

Civil courts have the power either to award monetary damages or to issue an order. The Code of Civil Procedure provides that, when ordering the return of a child to his/her parent by the other parent, the courts may also order the payment of an amount up to €50,000 in favour of the parent who requests the return of the child, or even the detention of the parent refusing to deliver the child.<sup>32</sup> The Code of Civil Procedure also allows the courts, in cases of support, to order the seizure of the parents' salary in order to ensure the payment of the amount due

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<sup>23</sup> The Greek Ombudsman Department of Children's Rights, section 7.5.2.

<sup>24</sup> European Convention for the Protection of Human Rights and Fundamental Freedoms ("European Convention on Human Rights"), 1950, Articles 19 and 32, available at: <https://www.crin.org/en/library/legal-database/european-convention-protection-human-rights-and-fundamental-freedoms>.

<sup>25</sup> Ibid., Article 34.

<sup>26</sup> Ibid., Article 35.

<sup>27</sup> Ibid.

<sup>28</sup> Rules of Court, July 2014, Rule 36, available at: [http://www.echr.coe.int/documents/rules\\_court\\_eng.pdf](http://www.echr.coe.int/documents/rules_court_eng.pdf).

<sup>29</sup> European Convention on Human Rights, Article 46.

<sup>30</sup> Ibid., Article 41.

<sup>31</sup> Available at: <http://www.amnesty.fr/Presse/Communiqués-de-presse/La-Cour-europeenne-des-droits-de-l-homme-condamne-la-Grece-pour-discrimination-contre-des-enfants-ro-8697>.

<sup>32</sup> Code of Civil Procedure, Article 950.

for the support of the child.<sup>33</sup>

Criminal courts have the power to order the appropriate penalties provided by law. Law 3811/2009 provides that any victim of a crime that involves violence and that has been committed on Greek territory is entitled to compensation from the Greek State, in case the person who committed the crime does not have the resources to pay such compensation or cannot be found or prosecuted.

Any Greek court has the power to examine legal provisions that are alleged to be inconsistent with the Constitution. If a court finds a legal provision to be unconstitutional, it decides not to apply it to the particular case, but it cannot declare it to be null and void. The Supreme Special Court, however, is the only court that can declare an unconstitutional legal provision "powerless" and expel it from the Greek "law and order". The Supreme Special Court is a non-permanent court with jurisdiction only in certain matters, including disputes concerning the true meaning or the constitutionality of a legal provision following the issuing of contradictory decisions of the Supreme Courts. A decision of the Supreme Special Court declaring the unconstitutionality of a legal provision is final, irrevocable, and binding for every Greek court, including the Supreme Courts.<sup>34</sup>

Administrative courts, including the Council of State (Supreme Administrative Court), have the power to examine petitions for judicial review of administrative acts and annul such acts that are found to be illegal. The elaboration of all decrees of a regulatory nature falls under the jurisdiction of the Council of State which has the competence to give an opinion concerning the legality thereof.<sup>35</sup>

C. Would such a challenge have to directly involve one or more individual child victims, or is it possible to challenge a law or action without naming a specific victim?

Administrative proceedings do not require the identification or involvement of individual child victims. These proceedings may be brought by parties that can justify a "legal interest". Persons or organisations directly affected by the subject matter of the violation which is the subject of the judicial review proceedings may also participate in the case.<sup>36</sup>

Other legal proceedings (civil or criminal) require the identification of a specific victim, although hearings are held in private where necessary to protect the interests of any child.

D. Is any form of collective action or group litigation possible, with or without naming individual victims?

The Code of Civil Procedure and the Code of Administrative Procedure allow for collective action for the challenge of any right, as long the claimants can

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<sup>33</sup> Ibid., Article 982; See also Criminal Code, Article 358.

<sup>34</sup> See Constitution of Greece, Article 100.

<sup>35</sup> 'Council of State', available at: [http://www.ste.gr/FL/main\\_en.htm](http://www.ste.gr/FL/main_en.htm).

<sup>36</sup> Code of Administrative Procedure, Articles 47 and 115.

show they have the same legal interest.<sup>37</sup> Each individual claimant should be identified.

E. Are non-governmental organisations permitted to file challenges to potential children's rights violations or to intervene in cases that have already been filed?

In civil and administrative proceedings, any third party, including non-governmental organisations, may intervene as a third party, as long it can prove that it is affected and can justify a “legal interest”.<sup>38</sup>

*European Social Charter - European Committee of Social Rights*

Greece has ratified the Additional Protocol to the European Social Charter Providing for a System of Collective Complaints,<sup>39</sup> meaning that complaints of violations of children's rights contained in the European Social Charter<sup>40</sup> can be made to the European Committee of Social Rights. Such complaints of unsatisfactory application of the Charter may only be submitted by international NGOs that have participatory status with the Council of Europe.<sup>41</sup> The Committee reviews the information provided by both sides and writes a report with its conclusions, which is sent to the Committee of Ministers of the Council of Europe that adopts a resolution and makes a recommendation to the State.<sup>42</sup> The State then must provide information about the steps taken to comply with the recommendation in its next report under the Charter.<sup>43</sup>

**IV. Practical considerations.** Please detail some of the practical issues, risks and uncertainties that might be involved in bringing a case to challenge a violation of children's rights, such as:

A. Venue. In what courts could a case be filed (e.g., civil, criminal, administrative, etc.)? What would the initial filing process entail?

Civil cases are filed with the ordinary courts. Civil cases at first instance are determined by the District Courts or the Courts of First Instance, according to the estimated value of the matter disputed at law. The Code of Civil Procedure provides guidance as to how to initiate civil proceedings.

Criminal prosecution is initiated by the public prosecutor following the receipt of a complaint.

Petitions for judicial review (annulment) of administrative acts are heard in principle by the Council of State, which decides in first and last instance. Certain categories of judicial review (annulment) cases fall under the jurisdiction of ordinary administrative courts, following a special provision by law, for reasons

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<sup>37</sup> Code of Civil Procedure, Article 74.

<sup>38</sup> Ibid., Articles 79-93; Code of Administrative Procedure, Articles 112-120.

<sup>39</sup> Available at: <http://conventions.coe.int/Treaty/en/Treaties/Html/158.htm>.

<sup>40</sup> Available at: [http://www.coe.int/t/dghl/monitoring/socialcharter/Presentation/TreatiesIndex\\_en.asp](http://www.coe.int/t/dghl/monitoring/socialcharter/Presentation/TreatiesIndex_en.asp).

<sup>41</sup> Additional Protocol for a System of Collective Complaints, Article 1. See also:

[http://www.coe.int/t/dghl/monitoring/socialcharter/OrganisationsEntitled/OrgEntitled\\_en.asp](http://www.coe.int/t/dghl/monitoring/socialcharter/OrganisationsEntitled/OrgEntitled_en.asp).

<sup>42</sup> Additional Protocol for a System of Collective Complaints, Articles 8-9.

<sup>43</sup> Additional Protocol for a System of Collective Complaints, Article 10.

pertaining to their nature and their importance.<sup>44</sup>

- B. Legal aid / Court costs. Under what conditions would free or subsidized legal aid be available to child complainants or their representatives through the court system (i.e., would the case have to present an important legal question or demonstrate a likelihood of success)? Would child complainants or their representatives be expected to pay court costs or cover other expenses?

As mentioned in part II.D above, child claimants and their representatives may qualify for free or subsidised legal assistance in civil, criminal or administrative matters.

Civil courts charge various filing and administrative fees upon the filing of the lawsuit,<sup>45</sup> which may be covered by legal aid.<sup>46</sup>

- C. Pro bono / Financing. If legal aid is not available, would it be possible for child complainants or their representatives to obtain legal assistance from practicing lawyers on a pro bono basis, through a children's rights organization, or under an agreement that does not require the payment of legal fees up front?

Pro bono legal services are not regulated in the Greek legal system, and the provision of such services in Greece is not well-established or widespread. However, a number of organisations provide pro bono legal services to children, including:

- General Secretariat for Youth of the Greek State<sup>47</sup> - the Youth Legal Aid program provides free legal aid to children and socially vulnerable target groups of young citizens (up to 30 years old). The program deals with the following cases: criminal law cases (abuse, intra-family violence, human trafficking, drug-related offences); civil cases; administrative cases; and labour law-related cases;
- Marangopoulos Foundation for Human Rights<sup>48</sup> - provides free legal assistance to persons whose fundamental human rights and freedoms have been infringed and who are unable to pay for legal counsel; and
- AITIMA<sup>49</sup> - provides free legal advice and consultation to vulnerable groups, including refugees, minority and newly arrived communities.<sup>50</sup>

- D. Timing. How soon after a violation would a case have to be brought? Are there any special provisions that allow young adults to bring cases about violations of their rights that occurred when they were children?

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<sup>44</sup> 'The Council of State', available at: [http://www.ste.gr/FL/main\\_en.htm](http://www.ste.gr/FL/main_en.htm).

<sup>45</sup> See European Commission, 'Costs of proceedings', 5 June 2013, available at: [https://e-justice.europa.eu/content\\_costs\\_of\\_proceedings-37-el.do](https://e-justice.europa.eu/content_costs_of_proceedings-37-el.do).

<sup>46</sup> See European Commission, 'Legal aid', 23 October 2012, available at: [https://e-justice.europa.eu/content\\_legal\\_aid-55-el.do](https://e-justice.europa.eu/content_legal_aid-55-el.do).

<sup>47</sup> See

<http://www.neagenia.gr/frontoffice/portal.asp?cpage=RESOURCE&cresrc=1287&cnode=1&clang=1>.

<sup>48</sup> See <http://www.mfhr.gr/?ln=1>.

<sup>49</sup> See <http://www.aitima.gr/en>.

<sup>50</sup> Latham & Watkins, 'A survey of pro bono practices and opportunities in 71 jurisdictions', August 2012, pp. 95-96, available at:

<http://www.probonoinst.org/wpps/wp-content/uploads/a-survey-of-pro-bono-practices-and-opportunities-in-71-jurisdiction-2012.pdf>.

A case can be brought immediately after a violation has been committed. The limitation period for bringing cases to court depends on the type of claim brought. For example, prosecution of serious crimes is barred after 15 to 20 years from the commission of the offence.<sup>51</sup> The statute of limitations does not apply to crimes involving child abuse.<sup>52</sup> Furthermore, in relation to certain offences concerning sexual abuse and other crimes committed against minors,<sup>53</sup> the limitation period is suspended until the victim reaches the age of majority plus one year, in the case of a misdemeanour, or three years, in the case of a felony.<sup>54</sup>

The limitation period for a claim for damages based on tort is five years and starts from the date when the injured party became aware of the damage and the identity of the person who is liable to compensate him/her. In any case, such a claim is subject to a limitation period of 20 years which starts to run from the date of the commission of the unlawful act.<sup>55</sup>

- E. Evidence. What sort of evidence is admissible/required to prove a violation? Are there particular rules, procedures or practices for dealing with evidence that is produced or presented by children?

The Code of Civil Procedure<sup>56</sup> sets out the kind of evidence that is admissible in civil proceedings, including documents, physical evidence, photographs, or video recordings and witness statements or testimony. The rules also provide for expert testimony. The Code of Civil Procedure also provides that in certain cases the hearing can take place in private when children are involved.<sup>57</sup>

Certain legal regulations provide for special and individual protection of child witnesses. Specifically:

- Article 226A of the Code of Criminal Procedure, as amended by the provisions of Law 3625/2007 and 3727/2008, regulates the preparation of the child by a child psychologist/psychiatrist, who is present during the testimony, and the use of technical means to record the testimony, in order to avoid the physical presence of the child during the hearing;
- Article 108A of the Code of Criminal Procedure regulates the specific information that should be provided to the child victim, both concerning information about the case file and about the execution of the perpetrator's sentence, even when the child is not participating as a plaintiff in the relevant criminal case;
- Article 20 of Law 3500/2006 introduces the rule that, in cases of family violence, minors may not be examined during hearings, but their testimony

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<sup>51</sup> See Criminal Code, Articles 111-116.

<sup>52</sup> US Embassy Athens, Greece, 'Assistance for crime victims', January 2013, available at: [http://athens.usembassy.gov/ac\\_crime\\_victims.html](http://athens.usembassy.gov/ac_crime_victims.html).

<sup>53</sup> Articles 323a, 324, 336, 338, 339, 342, 343, 345, 346, 347, 348, 348A, 349, 351, 351A of the Criminal Code.

<sup>54</sup> Criminal Code, Article 113(6).

<sup>55</sup> Criminal Code, Article 937; Dr. Aida Economou, 'Greece', p. 14, available at: [http://ec.europa.eu/competition/antitrust/actionsdamages/national\\_reports/greece\\_en.pdf](http://ec.europa.eu/competition/antitrust/actionsdamages/national_reports/greece_en.pdf).

<sup>56</sup> Code of Civil Procedure, Article 335-420.

<sup>57</sup> Ibid., Articles 800, 802.

- is simply read out;<sup>58</sup> and
- Article 330 of the Code of Criminal Procedure provides that the hearing of witness testimony from children takes place in private, in order to protect the children involved.

In family law cases, the court must request and take into account the opinion of the child, taking into consideration his or her maturity.<sup>59</sup> Despite this express provision, judges often proceed to trial without seeking the child's opinion. A factor contributing to this is the lack of judges' specific relevant training and the state's failure to implement the provisions of Law 2447/1996 on the operation of family courts.<sup>60</sup>

- F. Resolution. How long might it take to get a decision from the court as to whether there has been a violation?

There is no official data available in Greece on the length of trials before civil courts. According to a 2011 report, the average time elapsing between the initiation of a case to the publication of an irrevocable judgement of a civil case fluctuates, depending on the local competence of the courts, from two to four years.<sup>61</sup> In general, there seems to be a problem of unreasonable delay within the trial of a case that runs through every stage and kind of a trial.<sup>62</sup>

With regard to cases concerning child abduction, Law 2102/1992, implementing obligations under the Convention on the Civil Aspects of International Child Abduction,<sup>63</sup> provides that the Greek State shall use the most expeditious procedures in such matters. As such, the Greek courts follow the procedure in interim measures proceedings and issue decisions within 20 days to three months after the hearing.

Finally, in relation to certain crimes committed against minors, including human trafficking, abduction, sexual abuse and others,<sup>64</sup> investigation is carried out with absolute priority.<sup>65</sup>

- G. Appeal. What are the possibilities for appealing a decision to a higher court?

In civil and administrative proceedings, a decision can be appealed as long as it

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<sup>58</sup> *Second and third periodic reports of Greece to the UN Committee on the Rights of the Child*, CRC/C/GRC/2-3, 11 April 2011, paras 144-147. Available at: [http://tbinternet.ohchr.org/\\_layouts/treatybodyexternal/Download.aspx?symbolno=CRC%2fC%2fGRC%2f2-3&Lang=en](http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CRC%2fC%2fGRC%2f2-3&Lang=en).

<sup>59</sup> Civil Code, Article 1511; Code of Civil Procedure, Article 681 C, para. 2.

<sup>60</sup> The Greek Ombudsman Department of Children's Rights, section 6.4.

<sup>61</sup> European Union Agency for Fundamental Rights, 'Greece', 2011, p. 4, available at: [http://fra.europa.eu/sites/default/files/fra\\_uploads/1528-access-to-justice-2011-country-EL.pdf](http://fra.europa.eu/sites/default/files/fra_uploads/1528-access-to-justice-2011-country-EL.pdf).

<sup>62</sup> *Ibid.*

<sup>63</sup> Convention on the Civil Aspects of International Child Abduction, 25 October 1980, available at: [http://www.hcch.net/index\\_en.php?act=conventions.text&cid=24](http://www.hcch.net/index_en.php?act=conventions.text&cid=24).

<sup>64</sup> Articles 323A, 324 and 336-353 of the Criminal Code.

<sup>65</sup> Law 3904/2010, section 29, available at: <https://nomoi.info/%CE%A6%CE%95%CE%9A-%CE%91-218-2010-%CF%83%CE%B5%CE%BB-10.html>.

is final and the person appealing the decision has a legal interest in the appeal.<sup>66</sup>

In civil cases, decisions of the District Courts or Courts of First Instance can be appealed to the Courts of First Instance or the Courts of Appeal respectively, according to the estimated value of the matter disputed at law. Decisions can be appealed to the Court of Cassation when a writ of certiorari is filed against a final decision of the Court of Appeal. The Court of Cassation's decisions are irrevocable.

In administrative proceedings, decisions of the Administrative Courts of First Instance can be appealed to the Administrative Courts of Appeal. Decisions of all the administrative courts may be appealed to the Council of State with a writ a certiorari.

In criminal proceedings, a civil party may appeal the decision as long as it has requested compensation during the initial proceedings. The public prosecutor can appeal any decision issued in criminal proceedings. Decisions of the Court of First Instance can be appealed to the Court of Appeal, then the Court of Cassation when a writ of certiorari is filed against a final decision of the Court of Appeal.

- H. Impact. What are the potential short-term and long-term impacts of a negative decision? Is there a possibility for political backlash or repercussions from a positive decision?

No information on this issue could be found.

- I. Follow up. What other concerns or challenges might be anticipated in enforcing a positive decision?

With respect to child abductions and in order to enforce a court decision ordering the return of the child to one parent, under the previous regime, the bailiff was ordered by the court to retrieve the child and return him/her to the rightful parent. However, under Law 2102/1992 that implements the Convention on the Civil Aspects of International Child Abduction,<sup>67</sup> this procedure has been abolished. This may render the enforcement of the court's decision problematic. In such case, the interested party can file a complaint for failure to conform with a court order.<sup>68</sup>

- V. **Additional factors**. Please list any other national laws, policies or practices you believe would be relevant to consider when contemplating legal action to challenge a violation of children's rights.

During the last eight years, the Greek legal framework has adapted to a considerable extent to the requirements of the CRC, and specific legislation has been introduced on the protection of children from violence. Specifically:

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<sup>66</sup> Code of Civil Procedure, Articles 511-537; Code of Administrative Procedure, Articles 93-98.

<sup>67</sup> Convention on the Civil Aspects of International Child Abduction.

<sup>68</sup> Code of Civil Procedure, Article 947.

- Law 3500/2006 on the management of domestic violence includes the prohibition of corporal punishment of children;
- Law 3625/2007 ratified the Optional Protocol of the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography, which includes significant changes to criminal law and criminal procedure; and
- Law 3727/2008 ratified the Convention of the Council of Europe for the protection of children against sexual exploitation and abuse.<sup>69</sup>

In 2005, a Network for the Prevention and Combating of Corporal Punishment of Children was established, coordinated by the Greek Ombudsman, which brought together as founding members various representatives of ministries and other state bodies and NGOs. Important steps were taken towards improving the legislative framework, providing information and raising awareness.<sup>70</sup>

In 2008, the Ombudsman invited NGOs dealing with children's rights to form a national network for monitoring the implementation of the CRC. This network was established in October 2009, involving 47 NGOs.

With regard to criminal matters, the Ombudsman has noted that prosecutors with exclusive jurisdiction over juvenile matters are appointed only in Athens and Thessaloniki, while elsewhere such cases are undertaken by prosecutors with general duties. The prosecutors are not supported by social services, as the relevant provision of Law 2447/1996 on the creation of social services in the first instance courts has not been implemented. Therefore, they issue investigation orders to various public social services, which in some cases believe that they do not have the relevant expertise or lack sufficient time to conduct visits to the family. The heavy case-load of the juvenile prosecutors of Athens and Thessaloniki, in combination with the small number of prosecutors and the shortcomings in the field of social services, creates additional difficulties in taking measures to protect children.<sup>71</sup>

*This report is provided for educational and informational purposes only and should not be construed as legal advice.*

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<sup>69</sup> The Greek Ombudsman Department of Children's Rights.

<sup>70</sup> Ibid.

<sup>71</sup> Ibid., p. 6.