

# On the road towards a child-friendly justice system:

The individual assessment of  
child victims of crime in Greece

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## Abbreviations

CPG	Child Protection Groups
CPP	Code of Penal Procedure
EKKA	National Centre for Social Solidarity
EU	European Union
IAM	Individual Assessment Methodologies
ICH	Institute for Child Health
NGO	Non-governmental organization
PD	Presidential Decree
PDM	Police Department for the Protection of Minors
PLE	Private Legal Entity
SotC	Smile of the Child

## 1. Introduction

Child protection is not a new key point on the global legal agenda. Multiple legal instruments under the European or international framework focus on the advocacy of the rights of the child and the promotion of its best interest as a founding value in human rights law. Through this lens, a European Directive on the protection of the rights of victims of crime could not be envisaged as a complete legal document, unless explicitly regulating the status and protection of child victims. Thus, Directive 2012/29/EU (Victims Directive) specifically stipulates the legal standards for the treatment of child victims of crime during criminal proceedings.

Funded by the European Union, the E-PROTECT project endorses the idea of child vulnerability and aims at enhancing the advocacy of child rights, at raising general awareness on child victimization and at inspiring the creation of a network connecting the main actors of child protection. Towards this direction, 5 organizations from 5 EU Member States – Bulgaria, Austria, Greece, Italy and Romania – who are taking part in this project, share the same goal: to promote child protection in their countries and to provide an insight to the national practices regarding child victims participation in the criminal procedure.

The current report looks at the individual assessment of child victims during criminal proceedings described in Article 22 of the Victims Directive. In the unique case of Greece, the notion of child victimization gains more prominence in light of the recent political, economic and social developments. Both the financial and refugee crises had a tremendous effect on the rights of children in the country; as the country's debt reached unprecedented levels, child poverty climbed up to 55.1 % in 2014 (UNICEF Greece, 2017). At the same time, the country's position as the "threshold" of Europe to the Middle East has led to a continuous and immense inflow of immigrants seeking asylum in the European Union, among them a significant number of unaccompanied minors, who are residing in the country under adverse conditions, thus rendering the risk of child victimization more and more imminent (UNHCR, 2015; FXB, 2017).

Hence, the introduction of a new practice for the identification of the individual needs of child victims of crime and the implementation of tailored measures for each case, in accordance with the Victims Directive, is rather an urgent action and a welcome amendment in the national legislation. This is slightly ironic, considering that the transposition of the Victims Directive in the country did not occur until June 2017, less than six months before the creation of this report. Thus, the current discussion tackles the specifics of the individual assessments

conducted in cases of child victims of crime in the Greek territory, not under the light of the Directive, but mainly within the framework of the pre-existing legal situation in the State.

First, an overview of the statistical data regarding child victims of crime in Greece, as well as the main institutions commissioned with the protection of child victims will be provided. The following chapter focuses further on the organizations and authorities responsible for the individual assessments during criminal proceedings in the country. Once this necessary background is established, the reader will have the opportunity to gain an insight into the IAM adopted and implemented in Greece and the difficulties arising, along with the practical and legal implications of such assessments, as reflected in the criminal case and everyday life of the minor. A holistic view on this part was achieved through individual interviews, 12 in total, carried out with the most important stakeholders involved in this procedure in the country. Final remarks of the report pay special attention to the fundamental proposed amendments, with the purpose of ameliorating the protection of child victims of crime in Greece.

## 2. Quantitative Overview on child victims of crime in Greece

### 2.1. Numbers of child victims of crime

As it has been highlighted in the literature, an accurate estimate of the number of child victims in an international, European or even national level is almost impossible (Sykiotou, 2003, p.31). This is attributed by child protection actors to multiple factors; to name a few, a deficit in harmonization of data collection and analysis between the Member States and the various organizations, the reluctance of the child to admit and share such an experience with people from the family or school environment and their unwillingness to proceed to an official report of the incident via national helplines or police (UNCRC, 2012). Nevertheless, in the majority of the EU Member States, as well as within the framework of the European Union and international organizations for children, systematic efforts are made to gather and publish statistical data related to crimes committed against children, using several variables such as the age and gender of the victim or the type of the crime (UNICEF, 2017; Eurostat, 2013).

This, however, is not the case in Greece. No official record of crime reports of child victims is kept (Agathonos-Georgopoulou, 1997, p. 267), thus subjecting the State to severe criticism at a European and international level (CRC, 2012). Since no legal obligation exists, neither the Hellenic Statistical Authority, established 180 years ago and working as an independent authority since 2010, nor judicial or investigating authorities (e.g. Hellenic Police or Criminal Tribunals of each major city) have taken the initiative to create a system of reporting child victims' cases. Thus, the only option was to collect and present sporadic data published in articles or reports of various public, international or non-governmental organizations active on the field of child protection in Greece, by acknowledging in advance the risk of providing numbers which may be inaccurate for multiple reasons (namely, due to double recording of a case from different NGOs, to different interpretation and approach of each case according to each organization's internal policy etc.).

A first glimpse at the findings indicates that the most significant source of information about the volume of child victimization in Greece is currently the NGO named "The Smile of the Child". Actively involved in the protection of children in Greece for more than 20 years, SotC has established and manages one of the two national helplines for children, receiving thousands of calls each year regarding issues related to children. Based on the statistical data provided for the years 2011 to 2015, the number of reports for child victimization seem to have risen significantly throughout the years and the number of the victims has doubled – for

instance, 369 reports involving 711 children, compared to 784 reports involving 1.545 children (Smile of the Child, 2011-2015). Also, a "pattern" seems to exist in terms of the type of crime committed, the gender and age of the victim, as well as the relationship with the perpetrator, in lack of significant variation from one year to another (Smile of the Child, 2011-2015).

To elaborate on this pattern, the age allocation appears to be the most alarming one; the age group of children most commonly victimized is that of 0-6 years old (around 40% every year); a smaller percentage of child victims, approximately 32% every year, belongs to the group of 7-12 years old, whereas adolescents of 13-18 years are the less likely to be reported as victims of crime (around 15%). Equally alarming is the fact that the alleged perpetrators of the crime reported are almost always the parents or another relative and only in very few cases (4%-8% throughout the years) a non-relative. Furthermore, it is demonstrated that, in the vast majority of the cases, the offence is either physical maltreatment and/or neglect of the child (40%-51% and 40-50% respectively) and, in a small percentage, financial exploitation (trafficking) of any kind – child labor, sexual exploitation, less than 8% – and sexual violence crimes (around 2%).

To some extent, this distribution of child victims according to the typology of the crime, is corroborated by several reports and publications in the country. Regarding child maltreatment, although every form of corporal punishment is fully prohibited in Greece, a sizeable part of the reported crimes against children refers to domestic and school abuse. According to the alarming statement of the former President of UNICEF in 2006, 45.000 children living within the Greek territory are estimated to have been exposed to domestic violence. On the other hand, the prevention and treatment of bullying has gained an increased academic interest lately, particularly after the establishment of a network against violence in schools (UNCRC, 2012). However, the findings are highly diversified, as the percentage of children who have admitted bullying victimization widely ranges from 12% to 35% (HBSC, 2015). This may be explained by the age difference of the victims – for instance, bullying incidents appear to be more frequent during the last years of high school –, the methodology adopted in the different studies, or even the fact that students are reluctant to admit, even to their family members, that they fell victims of such a violent behavior in the school environment (Tsiantis et al., 2013, p. 243; Bibou-Nakou et al., 2013, pp. 64-65). In any case, it is evident that a coherent picture of the number of child victims of this crime in Greece cannot be developed.

In respect to trafficking and sexual violence committed against children, the low volume in SotC's annual statistics is consistent with the findings of other reports and statistics. For instance, the most recent UNICEF report on violence against children indicates that the percentage of female victims of trafficking under the age of 15 years amounts to 2% (UNICEF, 2017), whereas other international reports refer to a total of 24 identified child victims of trafficking during the period of 2003-2007 (UNODC, 2017). This is further justified by the scarce official trafficking statistics of the Hellenic Police, which have reported 13 child victims in 2011, 7 child victims in 2013 and 14 child victims in 2014. Moreover, special attention should be drawn to another particular form of trafficking, child labour, considering that the estimated number of child victims of this crime, according to the Ombudsman for the Child, surpasses 100.000 children in Greece.

Regardless of the validity and consistency of the data provided, it has been argued that it is not necessarily indicative of the real number of child victims of such crimes. As elucidated by important stakeholders of child protection, there is a significantly high estimated number of unreported cases of sexual offences or trafficking against children. This is also supported by the results of studies by several international and non-governmental organizations, according to which the victims of trafficking in Greece amount to approximately 40,000 women and children each year.

The truth may lie somewhere in the middle of these estimations, but no safe assumption can be made at the moment. One can only be certain that, if the statistical data on child victims continue to be scarce and not systematically organized at state level, notwithstanding the single efforts of the different child protection organizations operating in Greece, numbers will remain unreliable, further impeding the treatment and prevention of child victimization in the Greek territory.

## 2.2. Institutions and authorities working on child victimization in Greece

As repeatedly implied during the conducted interviews, the treatment of child protection in Greece is more of an ensemble of different practices, internal policies and experience of the relevant institutions and organizations, rather than a centralized legal arrangement of child rights. This further means that an exhaustive enumeration of the child protection centres in Greece, at least in such a broad scope, is almost impossible. In the more limited field of child victimization, however, notwithstanding the lack of coordination among the public and

private sector, a list of the main relevant stakeholders, at least the ones commissioned during criminal proceedings, could be compiled.

Hence, with regard to the public sector, law enforcement authorities (investigating and judicial authorities), are staffed with officers working, exclusively or not, with child victims of crime. Through this lens, apart from the police psychologists responsible for conducting the individual assessments and the officers involved in the criminal investigation, as described in the fourth chapter, special attention must be paid to the Public Prosecutor for Minors, who is currently handling all the cases in which minors are involved, regardless of their role in the criminal proceedings as a victim or as an offender. Furthermore, child cases are primarily assigned to First Instance Court Judges, who are admittedly faced with significant difficulties, mainly due to the absence of interconnection of the criminal cases with the pertinent civil ones and vice versa.

On the other hand, private organizations are, evidently, less actively involved in the child victims' protection during criminal proceedings, regardless of their legal form or scope of action. That being said, it should be noted that, providing the fact that the child victim is not allowed to testify as a witness during the hearing procedure until s/he becomes 18 years old, social workers and psychologists working for such organizations are frequently requested to provide a testimony instead of the child. This has been verified by NGOs and private child protection centres, such as "Melissa", which provides accommodation to young girls who have been victimized and/or temporarily (or permanently) removed from the family environment. As one of the oldest and most important institutions for minors in Thessaloniki – founded in 1921 -, "Melissa's" role is not limited to the housing of the female underage victims; acting as a true legal guardian, it guarantees the psychological and financial support of the girls during and after their stay in the premises; it organizes weekly interdisciplinary meetings to discuss separately each child case, according to the individual assessments produced by the institution's professionals; and, most importantly, it remains in cooperation with the police and judicial authorities for the advocacy of child victims' rights during criminal proceedings.

### 3. Organisational transposition of IAM for child victims of crime in Greece

Pursuant to Article 68 of Law 4478/2017, which transposed the Victims' Directive in June 2017, the individual assessments of the victims will be carried out by the Services of Social Assistance Guardians, which will operate at the seat of some Courts of First Instance in the country. In the event of a child victim of crime, which is treated as a per se vulnerable person in the light of the Directive, a new institution, the Independent Office for Protection of Child Victims, is going to be founded under the jurisdiction of these Services, commissioned with performing the individual assessment procedures in cooperation with a child psychologist or child psychiatrist from mental health institutions. The purpose of this assessment is the tailored approach of the individual needs of the minor and the suggestion, when needed, of the implementation of the appropriate special measures described in the following chapter. In simpler words, a decentralized public administration of child protection from crime has been recently introduced in the pertinent legal framework.

Nevertheless, until the enforcement of this legislation, the individual needs assessment procedure is not governed by a uniform system in child victimization, but depends on the offence committed. In cases of offences against personal or sexual freedom (enumerated in Article 226A of CPP), an expert psychologist serving at the Police Department of Minors is charged with carrying out a preliminary psychological assessment of the child victim. If, on the other hand, the alleged crime is not included in the aforementioned categories, such a preliminary expert opinion is not stipulated, and an individual assessment of the child victim's needs does not fall within the remit of a specific public service, but it appears to be "scattered" within the scope of state institutions and non-governmental organizations. The data collected during the interviews reflects, to some extent, the dynamics of the interrelation between the public and private sector in this procedure – or, in some cases, the problematic of the absence of such interrelation. Thus, in this chapter, the main institutions conducting individual assessments of child victims, both at first contact with the victim and at a later stage during criminal proceedings, will be briefly presented, in order to offer an introduction to the current situation and to the procedural complications described in the following section.

### 3.1. Police Department for the Protection of Minors

As the police authorities are responsible for the preliminary investigation on criminal cases, including the interrogation of the witnesses and examination of the alleged victim, it was imperative to establish a separate Department for the Protection of Minors addressed exclusively at child victims, which falls under the jurisdiction of which operates in the regional Security Directorates around the country. As stated above, in this stage of criminal proceedings, when the alleged offender is accused of one of the crimes included in Article 226A CPP, the individual assessment of the child is conducted by a police psychologist of the PDM, in order to evaluate the perceptive ability and mental state of the minor and decide upon further interrogation of the child at the following stage of investigation.

### 3.2. Judicial authorities

As already described, investigation and judicial competent bodies (judges, Public Prosecutor for Minors) maintain a fundamental role in the protection of child victims and particularly in the individual assessments procedures. At this point, however, it is worth mentioning that another independent body, namely the Service of Minors' Guardians of the Minors' Courts, operates at the seat of every Court of First Instance where there is a Minors' Court and it is apparently destined for minors.<sup>1</sup> Notwithstanding the fact that it is legally competent for both child offenders and child victims, in practice this body gives weight exclusively on the extra-institutional treatment of child offenders, facilitated in this end by the respective Company of Minors' Protection in the area and does not bear any involvement to the treatment of child victims of crime.

### 3.3. National Centre for Social Solidarity

Founded in 2003 and supervised by the Ministry of Labour, Social Security and Social Solidarity, EKKA is the National Center for Social Solidarity, which acts as the coordinator of the "Orestis" network of social care services regarding child protection. In this perspective, EKKA has established the National Helpline for Child Protection "1107", a primary tool for reporting cases of child victimization. Furthermore, it provides guidance and consultancy to

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<sup>1</sup> Article 29 of P.D. 96/2017.

Child Protection Groups nationwide and directly conducts social research, exclusively in cases of severe criminal offences against children. Although its personnel, consisting primarily of social workers and psychologists, provides support to child victims upon receiving the parent's consent, it has been clarified that, devoid of suitable tools and methods, no individual assessments are carried out and therefore all the cases are forwarded to child psychiatry departments of public hospitals.

### 3.4. Health professionals

In the majority of the cases, when an individual assessment is required, the minor is examined by a child psychologist or psychiatrist working at a public hospital (UNCRC, 2012).<sup>2</sup> As discussed in the following chapter, in cases of offences against personal or sexual freedom of the child, this health professional is assigned by the Court to evaluate the physical and mental state of the child and to prepare it for the judicial examination process.<sup>3</sup> Furthermore, a coroner's examination may be requested, especially in cases of sexual assault or when an age assessment process is necessary, according to Article 45 of Law 4375/2016. In the wider public health sector, the Department of Mental Health and Social Welfare of the "The Institute of Child Health" (ICH) occupies a significant position in child health and, more importantly, in the study and prevention of child abuse.<sup>4</sup>

Apart from public health providers, experts appointed by the judicial authorities for the individual assessment of child victims can also be private practitioners, listed as such in official catalogues held in every Court of First Instance. Moreover, parties involved in pertinent cases are likely to proceed, on their own initiative and expenses, in hiring such an expert, in order to obtain a distinct opinion, either in the form of a written report or through a deposition, on the needs and the specific, beneficial for the child, measures to be taken. However, the lack of expertise of such professionals on forensic psychology has raised concern regarding the approach and assessment of this particularly vulnerable group of minors.

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<sup>2</sup> This was also underpinned by the interviews conducted in the framework of this report.

<sup>3</sup> Article 226A CPP.

<sup>4</sup> ICH's role in the advocacy of child health rights is further described at: <http://www.ich-mhsw.gr/en>, last accessed 13.12.2017.

### 3.5. Child protection organisations

Several NGOs actively operating in the field of child protection also make use of individual assessments to define the specificities of each case and decide upon the way of treatment of every child, on the basis of vulnerability. An illustrative example is ARSIS's child protection service protocol, which entails an evaluation of the child's specific needs, taking into consideration the medical and family history, the mobility of the child (mostly in cases of migrants or refugees) etc.<sup>5</sup> During the assessment, ARSIS may request a medical examination of the child, thus further involving other NGOs, international (such as "Doctors of the World" - Médecins du Monde) and national ones (e.g. PRAXIS). If, by the end of this procedure, there are grounds for suspecting the commitment of a crime against the minor, ARSIS refers directly to the Public Prosecutor for the Minors, after informing the organization's legal counsellor and the child about the upcoming report. ARSIS's scope of action does not focus only on Greek nationals under 18 years old, but extends to unaccompanied minors, including refugees, homeless children, children working in the streets and other groups of minors exposed to high risk of victimization.

Although ARSIS is not yet one of them, other NGOs have established child friendly infrastructure for conducting the individual assessments. The "Centre for Trauma", founded by the "Initiative for the Child"<sup>6</sup>, was specifically designed for the interviews of child victims of maltreatment and remains at the disposal of any health professional, judicial or investigating officer carrying out such a procedure during a criminal investigation. In doing so, "Initiative for the Child" has ensured the promotion of the child's best interests, at least in the region of Imathia, where it operates, by providing an alternative to the impersonal, noisy – and at times "harmful" for the child's psychological state – office used by the police or judicial authorities for this purpose.

However, the NGOs' fundamental role consists of the implementation of special measures for child protection proposed in the assessment process during the criminal proceedings by competent authorities or as a private initiative of every organization. These measures vary significantly, from the accommodation of the child, e.g. in case of deprivation of parental

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<sup>5</sup> ARSIS is an NGO operating in Greece since 1992, whose founding values are the equity and protection of child and youth rights. More information on the services provided by this key stakeholder on child protection can be found at:

<http://arsis.gr/en/home/>, last accessed 20.12.2017.

<sup>6</sup> More information on the scope of action, facilities and goals of the NGO available at: <http://www.propaidigr.org/en>, last accessed 23.12.2017.

responsibility, to the provision of multiple creative or educational activities for the minors, either in the form of separate, frequently organized programmes – such as the one run annually by “ENTOS-EKTOS”<sup>7</sup> – or within the operation of Day Care Centres, such as the ones managed by the “Initiative of the Child”, “SOS Children’s Villages” or the “Smile of the Child”.<sup>8</sup> Furthermore, the latter has also developed the “House of the Child”, a Day Center addressed exclusively to child victims of any form of violence.

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<sup>7</sup> ENTOS-EKTOS” is a Greek NGO operating in Thessaloniki, Greece, and working on the protection of minors. For further information, see at: <http://www.entos-ektos.com/index.php/en/>, last accessed 23.12.2017.

## 4. The individual assessment procedure and special measures for child victims of crime in Greece

As already stated, the principal notion of special treatment of child victims of crime is not a novelty in the Greek legislative system. The Greek Code of Penal Procedure, even prior to the Victims Directive, enshrined a body of provisions exclusively oriented towards children's participation in criminal proceedings. Although an analysis of the pertinent legislation does not fall into the scope of this report, a brief introduction regarding individual assessments will be made to provide an essential background for the comprehension of the current situation regarding child victims of crime in Greece.

Towards this aim, special attention should be paid to Article 226A CPP, which was incorporated in 2007 and establishes the procedure of questioning child witnesses and victims of offences against personal or sexual freedom. Even in the original form of the provision, before the latest amendment of the article with respect to the transposition of the Directive in 2017, this procedure bore significant similarities to the articles 22-24 of the Victims' Directive, especially regarding the special measures implemented during criminal proceedings. Hence, at least in principle, the conceptualization of child vulnerability was integrated in the national legislation almost a decade before Law 4478/2017 entered into force.

Pursuant to the preexisting version of this article, in cases of child witnesses or victims of the abovementioned crimes (which are exhaustively enumerated in the provision), a child psychologist or child psychiatrist is appointed as an expert at an early stage of the preliminary proceedings, for the following purposes:

- a) To prepare the child for the examination during the criminal investigation. The preparation is always conducted in cooperation with the preliminary investigation officers and the judicial officers, suitable diagnostic methods are used and a report on the findings regarding the perceptive ability and mental state of the child is submitted.
- b) To support the child by attending the examination process. The physical presence of the legal representative is also permitted, unless explicitly prohibited by the investigating officer on important grounds.

An expert's opinion can also be requested at a later stage of the preliminary proceedings by the investigative officers, in accordance with Article 183 CPP. Last, an expert may be appointed to provide his opinion during hearing proceedings, in the event either that such an

opinion did not take place during the criminal investigation or that a supplementary examination of the child victim is deemed to be necessary (article 226A § 5 CPP).

Moreover, Article 226A stipulates the details of questioning the child. Under the light of the provision, the examination is carried out in premises designed or adapted for this specific purpose, in a limited number of interviews and the deposition is preferably recorded in an audiovisual way rather than solely in writing. These last legal requirements are of great significance to the promotion of the best interests of the child, as they aim at protecting the child from being subjected to repeated interrogations (Sykiotou, 2003, p. 110) , as well as at eliminating the risk of visual contact between the minor and the offender during the hearing proceedings. Nevertheless, under specific circumstances and upon the Prosecutor's or the parties' request, a supplementary examination of the child may be ordered by the Court. In such case, an interrogating officer is appointed in order to conduct the examination at the location of the minor, without the presence of any other individual. This supplementary deposition is founded on questions explicitly asked in advance by the parties and recorded in a written form by the interrogating officer, pursuant to paragraph 2 of article 226 CCP.

Hence, in theory, criminal law (namely the provisions of CPP and pertinent legislation) streamline the protection of child victims in Greece, by entailing this "primitive form" of individual assessments and regulating the special measures of their examination during criminal proceedings even before the transposition of the Directive. In practice, this legislation appears to be implemented in the majority of the cases; however, a number of practical difficulties, authorities' ignorance and lack of coordination between the different child protection institutions raise multiple issues (UNCRC, 2012). In the following subchapters, this practice will be thoroughly examined, based on the data collected from interviews, and the procedural stages of criminal proceedings involving child victims, from the report of the offence to the hearing date, will be further explained.

#### 4.1. Institutional preconditions

Conducting individual assessments of child victims in criminal cases entails, first, the report of a case of child victimization to the competent authorities or institutions. In the "front line" of receiving such reports – which also falls within the remit of police authorities –, both public and private institutions are found. At the moment, as noted in the previous chapter, two national helplines specialised in intervention in child victim cases are active: the National

Helpline for Child Protection 1107, operated by the National Centre of Social Solidarity and the National Helpline for Children SOS 1056, operated by SotC. Under the framework of the European Union, SotC is also the operator of the European Helpline for Children and Adolescents 116111 on prevention of child victimization. Furthermore, at a regional level, a system of recording crime reports in a specific region has been formulated by certain NGOs, such as the "Initiative of the Child".

Following the registration of a report of child victimization, a social research is conducted by competent organizations, namely Child Protection Groups of the competent Municipality, EKKA – in cases of severe offences against children –, or by organizations specialised in child protection (e.g. ARSIS or SotC). A pertinent Order of the Public Prosecutor for Minors does not always predate the research by the competent public institution; in many cases, the latter proceeds to the research and the Prosecutor takes knowledge solely of cases in which the imperilment of the child has been ascertained. Moreover, the notion of social research is not limited to the unannounced visit at the child's home, but it is also extended to the surroundings of the child, such as the neighborhood and the school environment, with the purpose of gaining a holistic view of the living conditions of the victim.

The findings of the research are submitted in written form to the Public Prosecutor for Minors. This report also encompasses suggestions regarding the treatment of the child (for instance, the removal from the family environment, supervision of the child and the parents through monthly meetings etc.), as well as conclusive comments on the commission of the reported crime. When the evidence points to that direction, the state mechanism of criminal prosecution is activated. During these proceedings, the role of social workers involved in the social research remains active, both in the sense of providing psychological support to the child victim, and of testifying as witnesses on the date of the hearing procedure. In cases where the social workers' testimony cannot substitute that of the child victim (or witness), as clarified both in literature and by the interviewees, the interrogation of the child victim, raises high concern, especially with regard to the traumatic effect this procedure may bear on the child's psychological state (Goodman et al., 1992, p. 103).

#### 4.2. Operational aspects

As mentioned above, an individual assessment of the child victim, referred to in practice as a "preliminary psychological expert's opinion", is only obligatory in the offences listed in article 226A CPP, namely in crimes against personal or sexual freedom. This evaluation is carried

out by a psychologist serving at the Police Department for Minors, whose primary task is to identify, according to the child's physical and mental state, whether its participation in the investigation should be permitted. Towards this objective, as illustrated during the pertinent interview, the perceptive ability and comprehension of the child, as well as the speech articulation and the existence of any physical impediment or mental disability are meticulously examined. It was highlighted in the interviews that this is mainly achieved through observation and clinical psychology, rather than through the use of psychometric tests.

However, the implementation of the rest of the legal requirements deriving from article 226A CCP appears to be problematic. Regarding the location where the preliminary individual assessment takes place, it is not in premises designed and destined for this purpose, but in offices situated inside the central police station, and no audiovisual media are available for recording the interview (UNCRC, 2012).<sup>9</sup> In addition, the expert is not assigned based on the gender of the child, unless such a desire is explicitly expressed by the victim or considered in concreto by the expert to be necessary. Nevertheless, the most significant problem is the lack of adequate and sustained training of the personnel, which is currently limited to sporadic educational programs provided at European level. This was identified not only by the police psychologist, but unanimously by all the interviewees participating in this research, thus placing educational deficiency on top of the list of issues related to child victims that need to be addressed.

As soon as the individual assessment is completed, the psychologist produces a report, which becomes an integral part of the case file, and decides on whether the investigating officers should proceed with the examination of the child victim. If the answer is positive, the examination takes place immediately and is comprised solely of one interview. It is also ensured that the questions posed are not inappropriate and harmful for the psychological state of the child. By contrast, in case the expert's opinion is against the deposition of the victim, the evidence is collected through other means (such as witnesses' testimonies) and the child is not subjected to this procedure, at least not at this stage of the preliminary criminal investigation. In any case, it is worth mentioning that, contrary to other countries, where the child victim can be subjected to questioning by the prosecutor and the defense attorney during the hearing procedures, which may generate even more important issues

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<sup>9</sup> This is consistent with the UNCRC monitoring of the Greek implementation of the Convention.

regarding the consistency in the answers and, hence, the validity of the testimony, in Greece the child victim is not allowed to testify in court (Andrews et al., 2015, p. 257).

In case of the commission of a crime not included in the article 226A CPP, or in the event that a preliminary psychological expert's opinion was not provided at the stage of preliminary criminal investigation, the general provisions of Article 183 CPP are applied and a child psychiatrist or a child psychologist is ordered to give an expert's opinion on the child victim. However, it has been pointed out that no official protocol regulates, at national level, the way of carrying out the child's individual assessment. In other words, it is at the expert's disposal to decide which diagnostic tools, tests or scientific methods are suitable for the assessment of the needs and state of the child. Such tools can be found in scientific publications providing guidelines for the approach of the victims and the clinical interview with them, such as the European Guidelines of the British Psychological Society, the Principles of the American Psychiatric Association and the Protocol of Investigation, Diagnosis and Treatment of Child Abuse and Neglect, issued by the Department of Mental and Social Welfare of the ICH.<sup>10</sup> Thus, according to the features of the child and the type of the crime, the practitioner may apply typical psychometric tests or techniques related to personality, intelligence, skills, even evaluation of the relationship of the child with the parents.

Furthermore, whereas no information could be obtained from health professionals working in the public sector, light was shed by a private practitioner specialized in child victims regarding duration and frequency of the interviews. Based on the data collected, the minimum number of interviews with the child is three, along with a separate interview with the parents (or relatives playing a principal role in the child's everyday life), in order for the psychologist to form an opinion on the history and living environment of the child. These interviews normally last 50', but they can be prolonged in exceptional cases (e.g. when the victim is subjected to a longer test). This, however, is not consistent with the practice of the preliminary psychological assessment expert, which is founded on the idea that no rule for a standard duration can be adopted, as the examination depends significantly on the age of the victim, its maturity and willingness to share his/her traumatic experience.

Last, special emphasis was put on the impartiality of the expert both during the individual assessment and after the end of it. The significance of such a quality becomes more evident

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<sup>10</sup> Department of Mental and Social Welfare of the Institute for Child Health, *Protocol of Investigation, Diagnosis and Treatment of Child Abuse and Neglect*, available at: [http://www.0-18.gr/downloads/protokollo-eyretirio-kakopoiisis/Protocol\\_ICH\\_06.2015.pdf](http://www.0-18.gr/downloads/protokollo-eyretirio-kakopoiisis/Protocol_ICH_06.2015.pdf) (available only in Greek), last accessed 22.12.2017

in cases where a series of leading questions are posed to the child victim, resulting in untruthful or conflicting answers on her/his part – especially if repeatedly examined by different experts – and, in the end, in unsubstantial accusations of the alleged offender. In this context, it has been highlighted that the court demonstrates a general reluctance to order an individual assessment of the victim during the hearing procedure and, if this cannot be avoided, it frequently endeavours to appoint an expert already familiar with the particular case and the child victim.

Although not immediately linked to the examination of a child victim dictated by the criminal legislative system, individual assessments are also carried out by several NGOs. As described in a detailed form by a relevant Greek NGO, it is usually a two-tier evaluation of the child's special features and needs, both in a psychological and educational level, which is frequently updated. During this procedure, the individual conducting the assessment takes into consideration the severity and conditions of the crime committed and, to some extent, the victim's desire, always defending the best interest of the child and aiming at the prevention of a second victimization. However, the lack of a uniform child protection policy renders it challenging to scrutinize the practice of each NGO individually and it does not fall within the scope of this report.

#### 4.3. 4.3 Outline of special measures

Pursuant to Article 68 of Law 4478/2017, which has transposed Article 22 of the Victims Directive into national law, the objective of the individual assessment is to identify the special needs of the child victim and to determine whether the latter should benefit from the special measures laid down within the following article 69 - transposing Articles 23 and 24 of the Directive. This leads to the conclusion that the implementation of the special measures regarding the participation of the child victim in the criminal investigation or the hearing proceedings of the case solely depends on the remarks of the individual assessment and the consent of the victim. In other words, is considered to be the result of the "second step" of this assessment, following a case-by-case approach (DG Justice, 2017).<sup>11</sup>

In the pertinent, still in force, pre-existing legal framework, this is not the case. As thoroughly explained earlier in this chapter, the implementation of such measures is only stipulated

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<sup>11</sup> DG JUSTICE GUIDANCE DOCUMENT related to the transposition and implementation of Directive 2012/29/EU of the European Parliament and of the Council of 25 October 2012 establishing minimum standards on the rights, support and protection of victims of crime, and replacing Council Framework Decision 2001/220/JHA.

under article 226A CPP, when a crime against personal and sexual freedom of the minor is committed. Even in this case, however, the wording of the provision implies that these measures constitute legally bounding procedural requirements rather than a list of potential suggestions based on the individual assessment of the child. To simplify, the examination room configuration, for instance, was not suggested only in certain cases, as a special protection measure, dictated ad hoc by the child's special needs, but it was required in every case entailing an examination of a child victim under article 226A CPP. Consequently, a core difference appears to exist between the notion of special measures in the previous and current version of the provision.

That being said, special measures deriving from the individual assessment of the child victim during criminal proceedings are very limited. Considering that the primary aim of this procedure is to identify whether and under what circumstances a child has been victimized, the most important measure is the provision of support to the family or, in the worst-case scenario of child maltreatment or sexual abuse, the withdrawal of the child from the family environment. In addition to the above, the expert's report mainly encompasses health-related measures, such as sessions with a child psychiatrist or psychologist to deal with traumatic experiences, medical examination by a general practitioner or a coroner, particularly in cases of sexual abuse, and speech therapy sessions in order to address learning difficulties.

Beyond the criminal investigation procedure, a greater diversification exists in the suggested protection measures of the individual assessments carried out by other institutions and organizations. Forming part of each NGO's different policies concerning the particular child case, the evaluation is founded on the determination of the child's individual qualities, skills and needs, hence the measures proposed focus primarily on the child's education, socialization and reintegration. Indicatively, these may include supplementary teaching programmes, sports and hobbies, or even special outdoor excursions or activities, such as museum visits or mock criminal trials.<sup>12</sup> It should, finally, be mentioned that this is not the case only with child victims of crime; the Company of Minors' Protection operating in each area employs the same tools and offers similar kind of activities for child offenders too, following the recommendations of the Service of Minors' Guardians of the Minors' Courts.<sup>13</sup>

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<sup>12</sup> The latter was an initiative developed by "ENTOS-EKTOS" and was specifically addressed to Roma children, for who are considered to be an extremely vulnerable group to both victimization and delinquency.

<sup>13</sup> The reformatory and therapeutic character of the measures implemented in cases of child offenders, as well as the several legal and practical difficulties this body is facing, were described in detail in the

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interview provided by the Company of Minors' Protection of Thessaloniki, Greece for the purpose of this report.

## 5. Conclusions

To sum up, the idea of introducing a distinctive body of provisions for the treatment of child victims of crime, within the Greek criminal justice system, was conceptualized long before the transposition of the Victims' Directive in Greece. As thoroughly demonstrated, special articles promoting child victims' protection during criminal proceedings were first incorporated many years prior to the adoption of the EU Directive and a large group of institutions, authorities and organizations are involved in the advocacy of child's rights, including those related to justice and prevention of violence. However, due to legislative limitations, organizational complications and other practical deficiencies, the current national practice has proved to be imperfect and, at times, highly problematic.

Therefore, the first step towards the optimization of child support in Greece is the creation of a national system of child protection. In this light, a public institution should be founded, exclusively commissioned with the coordination, monitoring and supervision of all the actors, public and private, forming part of the already existing network of child support in the country. This rather complex network could be upgraded through the introduction of a new decentralized infrastructure of services and associations, operating under the jurisdiction of the aforementioned central public institution. Such an organizational modification has also been proposed by several NGOs as a way to tackle the problem of regional distribution and excessive load of work generated by the local concentration of child victims' services. Last, another relevant identified deficiency which requires immediate action is the lack of temporary accommodation for the children who are withdrawn from the family environment, before their placement in a house or institution for child protection becomes feasible.

As soon as the structural and administrative issues are addressed, the focus should be put on the personnel employed in the area of child protection. The main parameters to be taken into consideration are the field of expertise of the staff, the diversity of experts participating in the different victim support groups and the adoption of a protocol that all professionals dealing with children will be obliged to follow. Nevertheless, the most important measure is considered to be the systematic, continual and intensive training of everyone involved in child-related criminal proceedings as a national educational programme, instead of an optional initiative which is currently developed individually and is often funded by private resources.

Certainly, one would be at least optimistic, if not naïve, to believe that such a plan could be achieved merely through legislative amendments. In a field as sensitive and

multidimensional as child victimization, the emerging problems are more sociopolitical than legal; that being said, a protective legal regime constitutes the basis, without which no plan of change, no matter how urgent it may be, can be realized. It remains to be seen if the transposition of the Victims' Directive will provide this necessary foundation, upon which a new, optimal system of child protection could be established in Greece.

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