



Thematic Study on Child Trafficking

Greece

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Executive Summary

General anti-child trafficking framework

- [1]. The Greek legal framework for the protection of trafficked children is incomplete as Greece has signed, but not so far ratified, the 2007 Convention of the Council of Europe on the protection of children against sexual exploitation and sexual abuse, the 2005 Convention of the Council of Europe on action against trafficking in human beings and the 2000 UN Convention against transnational organized crime / Palermo Protocol to prevent, suppress and punish trafficking in persons.
- [2]. In 2002, Greece adopted the first Anti-trafficking Law (No. 3064/2002) which amended the Criminal Code and provided for the punishment of the criminal acts of trafficking, as defined *inter alia* in international and regional instruments protecting human rights. In December 2007 it ratified the Optional Protocol on the Sale of Children, Child Prostitution and Child Pornography amending accordingly the provisions of the national legislation; as a result, the treatment of trafficked children by the national courts fulfils the standards set by the international texts. Later, in 2003, Greece adopted the legislative framework that ensures to the victims of trafficking protection and assistance and, in 2005 transposed the Directive for the issuance of residence permits to the victims of trafficking.
- [3]. The Greek Constitution, the Civil Code and in general the Greek legislation proclaim, although in most cases not explicitly, for the best interests, the well being and the normal development of children.
- [4]. The first National Plan of Action against Trafficking in Human Beings (which is not promulgated by law) was adopted in 2004 and revised in 2006. The Plan of Action does not provide specifically for the treatment of trafficked children. Two committees are responsible for the coordination of the overall activities for combating trafficking in human beings; the first attended by the Secretaries General of the ministries concerned, institutionalized in 2006, coordinates the overall activities of prosecution, protection and assistance and proposes legislative or other measures for the strengthening of the national framework for combating trafficking in human beings; the second one, which was established by Presidential Decree 233/2003 on the protection and assistance provided to the victims of trafficking, coordinates the protection and assistance measures provided for to the victims of trafficking. Another Committee, established in 2007, examines the legal framework for combating trafficking in human beings, including *inter alia* the amendments that are necessary for the compliance of the Greek legislation with international instruments to combat trafficking in human beings that Greece has signed but not ratified, the transposition of the directive

of EU on the compensation to be granted to the victims of trafficking and the introduction of the anti-trafficking law in the curriculum of the School of Judges.

- [5]. Concerning the implementation of the standards set by the General Comment No. 6 of the Committee on the Rights of Child and as a general remark for the treatment of unaccompanied minors one could underline that Greek authorities tend to approach the Convention on the Rights of Child (which has been ratified and constitutes national law since 1992) as a theoretical text with limited practical application. This is confirmed by the fact that none of the authorities that contributed with data to the present study mentioned it in its reply (!!!). One of the problems highlighted by this study is the failure of the national authorities to create the national data base proclaimed in the National Plan of Action of 2004 for the registration of the cases of trafficking in human beings. As a result, every Ministry collects statistics pertaining to its fields of competence; the statistics are not comprehensive and allow neither for a clear picture of the situation nor for a clear picture of the affected groups, while discrepancies in methodology complicate things further.
- [6]. While almost none of the Ministries involved in the national anti-trafficking policy gave concrete data on the budget already allocated for the implementation of relevant activities, it seems that governmental agencies cooperate closely with NGOs through the participation in different EU programmes aiming not only to satisfy the protection and assistance needs of the victims but also to support research on child trafficking.
- [7]. The national anti-trafficking legislation does not establish a specific monitoring mechanism to cover the trafficking of the children; the Children's Ombudsman is the independent national Rapporteur who examines complaints and/or issues of interest in order to ensure that children actually enjoy the rights they are entitled to.
- [8]. National legislation (P.D. 233/2003) and the Memorandum of Cooperation signed between the Committee of Secretaries General with the IOM and twelve non governmental organizations ensure the protection of the rights of the identified trafficked children and their treatment according to international standards.
- [9]. On the basis of the information received Greece has not adopted so far a comprehensive training strategy for all actors involved in the identification, care and protection of trafficked children. However, a number of training seminars are organised for different categories of professionals such as judges, police officers etc.
- [10]. Greek juvenile system was reformed in 2003 in order to align to the international and regional documents on the protection of children and their rights; as a result children victims of trafficking are not criminalized.

Prevention of child trafficking

- [11]. The first specific campaign on child trafficking was launched in Greece in 2008 at the initiative of the Ministry of Foreign Affairs and the Greek Section of UNICEF.
- [12]. Although there is no evidence of direct participation of children, local communities and/or minority groups in preventive efforts, NGOs cooperate closely with governmental agencies and international organizations and implement awareness raising campaigns aiming mainly to inform the society and professionals (like journalists) about the problem of trafficking in women.
- [13]. Policies to protect children in a vulnerable position are usually hindered by the practical obstacles that prevent the full implementation of the legal framework for appointing legal guardians.

Appointment of legal guardian

- [14]. While the Greek anti-trafficking law does not provide specifically for the appointment of legal guardians in cases of unaccompanied children victims of trafficking, according to article 4 of the Civil Code, foreign unaccompanied children enjoy the same civil rights with nationals, and are thus entitled to invoke the provisions of the detailed framework of legal guardianship of the Civil Code. However, in practice, the main problem is that protection and/ or reception centers are in principle unwilling to fulfil this role and as a result the special needs of foreign unaccompanied children are usually not satisfied.
- [15]. Age assessment is another problematic issue; while the Ministry of Health and Social Solidarity stated that a relevant policy is being implemented consisting of interviews with the children conducted mainly by social workers, psychologists and other specialized professionals, with the exception of the procedure for the age assessment of the child described in the newly adopted Presidential Decree 90/2008 the national (anti-trafficking and aliens) legislation do not provide in details for any policy on age assessment, including the benefit of the doubt.
- [16]. In this context, it is not surprising that there is no evidence of specialized training for legal guardians employed for representation neither of trafficked children nor of appropriate time for preparation of cases for the legal guardian, including personal contact with the child.

Coordination and cooperation

- [17]. There is no formalised Task Force on child trafficking / coordination bodies comprising of key state and non state actors relevant for anti-trafficking efforts. There is also no evidence of formal cooperation agreements between relevant ministries. A Standing Committee established under the legislation for protection and assistance provided to the victims of trafficking ensures the cooperation of relevant ministries; however, since its establishment in 2003, the said Committee has not issued any circular (!!!).
- [18]. In the field of cooperation with NGOs, a Memorandum of Cooperation was signed in 2005 between the Committee of Secretaries General, IOM and twelve Greek NGO's. The Memorandum provides for the terms and/or details of protection and assistance guaranteed to the victims of trafficking, including women and children.
- [19]. While noting that Greece has not adopted so far Guidelines aimed at protecting personal data of trafficked children, Law 3625/2007 which ratified the Optional Protocol to the Convention on the Rights of the Child, on the Sale of Children, Child Prostitution and Child Pornography provides that the judicial and prosecuting authorities are competent for the protection of personal data in all cases of their concern, including crimes committed against children, such as exploitation for financial purposes of their sexual life, trafficking etc.
- [20]. In 2006 Greece signed a bilateral agreement with the Council of Ministers of the Republic of Albania for the protection and assistance of children victims of trafficking. However, the agreement has not yet been ratified by Greece.
- [21]. Greece, through Hellenic Aid, has actively supported anti-trafficking development assistance projects both in the EU area as well as in the countries of origin.

Care and protection

- [22]. Greek anti-trafficking legislation provides explicitly for a reflection period of at least 30 days for all victims of trafficking and allows for a one-month extension in cases of trafficked children.
- [23]. Legislation also guarantees the right of trafficked children to be granted a residence permit when they cooperate with the police and prosecuting authorities. Trafficked children who do not complain about the perpetrators of the trafficking in human beings are entitled to residence permit on humanitarian grounds, provided for in the national aliens' legislation, only when they are accommodated in protection centers by order of the Prosecutor.

- [24]. According to the available data, in the period from 2001 to 2007 three residence permits have been issued to victims of trafficking (no breakdown by age).
- [25]. Concerning the conditions of detention and expulsion of unaccompanied minors, national legislation, as a general rule, does not exclude children from the implementation of the measure of administrative detention and expulsion. Remarkably, with the exception of children victims of human trafficking and asylum seekers, other unaccompanied children are detained and returned to their countries of origin without formal determination of their best interests (the Greek legislation does not provide for any procedure to determine the best interests of the child in the context of administrative action).
- [26]. Unaccompanied children are treated separately from adults until the legal procedures for the assessment of their age, their nationality, and their status as asylum seekers are completed.
- [27]. For the protection of trafficked children only prosecutors and police authorities are responsible for the tracing, the soonest possible, of their family and the appointment of a legal guardian (article 47 of Anti-trafficking Law 3386/2005), while only prosecutors and police authorities are responsible to determine whether the trafficked child is unaccompanied (!!!). Another issue of concern is that there is no statutory provision for the conditions of repatriation and/or return of the trafficked children to their countries of origin. As a part of its practice, the International Organization for Migration, being responsible for the repatriation of the victims of trafficking, examines the family environment in the country of origin/destination of the victim; however Greek legislation does not provide for an assessment of the family environment of the trafficked child in its country of origin/destination prior to return.
- [28]. The National Center of Social Solidarity is the main authority responsible for the protection and the provision of assistance to the victims of trafficking. It operates and monitors shelters for provisional accommodation and Reception Services and maintains agreements with NGOs in this regard.
- [29]. No statistics are available on children leaving shelters with unknown destination.
- [30]. The Greek Anti-trafficking and Aliens legislation guarantees the right of all children, including unaccompanied trafficked children to legal aid, to translator's and/or interpreter's services, to health services, to education and professional training as well, to accommodation in protection/reception centers. Trafficked children accommodated in protection/reception centers actually enjoy these rights provided that the prosecutors and police authorities ensure the appointment of legal guardian the soonest possible.
- [31]. Greece operates on a 24hours basis the telephone line "801 801 1177", that is soon expected to work with the prefix 116, help line 197 and police line 100. In

addition, NGO “The Smile of the Child” operates help line 1056 (which covers the cases of missing children).

Best interests determination and durable solutions, including social inclusion/return

- [32]. While the national refugee legislation mentions explicitly article 1 of the 1951 Geneva Convention on the Rights of Refugees and therefore children victims of trafficking fulfilling the criteria of the refugee definition are entitled to the protection of the refugee status and/or subsidiary protection according to the relevant UNHCR’s Guidelines, the Greek anti-trafficking and aliens legislation does not provide for the process to be applied for the identification of durable solutions based on the best interests determination.
- [33]. Furthermore, in the implementation of the refugee status determination procedures “under no circumstances personal interviews are conducted without the presence of the unaccompanied minors” while the anti-trafficking legislation provides explicitly for the right of victims of trafficking to be informed in person on their rights concerning the issuance of the special residence permit and the possibilities of protection and assistance either by the police and judicial authorities or by protection centers. In addition, the presence of the child is necessary for the judicial and/or police authorities to specify its identity and nationality, to locate its family and to take all measures that ensure its legal representation.
- [34]. As already mentioned the Greek legislation ensures without discrimination to all children the access to full health care services, to education and vocational training, to translator’s and/or interpreter’s services; however no special integration programmes have been adopted for the cases of trafficked children.

Prosecution

- [35]. Law 3625/2007, which ratified the Optional Protocol to the Convention on the Rights of Child on the sale of children, child prostitution and child pornography introduced in the Greek criminal legislation child-sensitive procedures in front of police/prosecutor/court allowing for alternatives to direct confrontation with the trafficker victim/witness security and protection.
- [36]. Only two final convictions have been issued from Appeal Courts in the period in question. However, data might not be exhaustive since no national data collection mechanism is in place.

- [37]. Regarding the access of trafficked children to the right of compensation it should be noted that Greece has not transposed so far the directive 2004/80/EC relating to compensation to crime victims.

Miscellaneous

- [38]. The effective implementation of the national legal framework concerning the appointment of legal guardians is a challenge for Greece both with regard to the protection of unaccompanied children as well as with regard to the adoption and implementation of a policy for the prevention of the trafficking of children; recently, positive steps in this direction have been made especially in the case of unaccompanied children asylum seekers when they enter Greece. Another issue of concern for prosecutors and police authorities is the protection of children who beg in the streets and are victims of trafficking as it has been proved extremely difficult to evidence that they are exploited for financial profits.

Good practice

- [39]. The provision of Law 3625/2007 guarantees that the cases of children who are victims of trafficking are heard by the first and second instance criminal courts within two years from the time the crime is committed; this is considered is very positive measure because it serves both the best interest and well being of the children concerned as well as the proper administration and delivery of justice.

A. General anti-child trafficking framework

- [40]. Greece has ratified the 2000 Optional Protocol on the Sale of Children, Child Prostitution and Child Pornography by Law 3625/2007 (Official Gazette A 290, 24/10/2007) and the 1999 ILO Convention No. 182 on the worst forms of child labour by Law 2918/2001 (Official Gazette A 119). It has also signed the 2007 Convention of the Council of Europe on the protection of children against sexual exploitation and sexual abuse on 25/10/2007¹ and the 2005 Convention of the Council of Europe on action against trafficking in human beings on 17/11/2005 but so far none of these instruments has been ratified². In addition Greece has signed on 13/12/2000, but not yet ratified, the 2000 UN Convention against transnational organized crime / Palermo Protocol to prevent, suppress and punish trafficking in persons³.
- [41]. The anti-trafficking legal framework of Greece consists of the amendments of the relevant provisions of the Criminal Law and of the Code of Criminal Procedure, aimed to align the Greek legislation with the provisions of international conventions and/or EU legal texts that regulate the punishment of the perpetrators of the relevant acts and the protection and assistance granted to the victims. Law 3064/2002 “On combating trafficking, crimes against sexual freedom and general economic exploitation of sexual life and assistance to the victims of such acts” (Official Gazette A 248, 15/10/2002) introduced in the Criminal Code the crime of trafficking for tackling modern forms of trafficking, particularly those associated with the removal of organs of the body and forced or fraudulent labour exploitation of persons and the recruitment of minors for the purpose of their use in armed conflicts. Furthermore, Law 3064/2002 amended the provisions of the Criminal Code addressing the trafficking in human beings for the purpose of economic exploitation of sexual life with emphasis on the protection of minors and other vulnerable groups. With the adoption of this Law, Greece established for the first time the required legal framework for providing assistance to victims of all forms of trafficking, which is regulated in detail by the Presidential Decree 233/2003 “On the protection and assistance to the victims of trafficking” (Official Gazette A 204, 28/8/2003). Law 3625/2007 “Ratification, implementation of the Optional

¹ See Chart of signatures and ratifications at <http://conventions.coe.int/reaty/Commun/ChercheSig.asp?NT=201&CM=7&DF=6/15/2008&CL=ENG>. Accessed on June 15th, 2008.

² See Chart of signatures and ratifications at <http://conventions.coe.int/reaty/Commun/ChercheSig.asp?NT=197&CM=7&DF=6/15/2008&CL=ENG>. Accessed on June 15th, 2008.

³ See Status of Multilateral Treaties deposited with the Secretary General at: <http://untreaty.un.org/ENGLISH/bible/englishinternetbible/partI/chapterXVIII/treaty14.asp>. Accessed on June 15th, 2008.

Protocol to the Convention on the Rights of the Child on child trafficking, child prostitution and child pornography and other provisions” introduced the said protocol in the Greek legislation and amended some provisions of the national legislation in order to strengthen the status of trafficked children as witnesses in the trials of their perpetrators. The most important amendments are the following: Article 323 A of the Greek Criminal Code (adopted by Law 3064/2002), titled «trafficking in human beings», deals with modern forms of human trafficking apart from slave trade (article 323 of the Criminal Code) such as trafficking committed for the purpose of organ removal, forced or fraudulent exploitation of the labour of persons and the recruitment of children for armed conflicts. The penalties provided for are incarceration up to ten years and pecuniary penalty. If the offence turns against a minor, is perpetrated by a professional or by an officer, or has caused grievous bodily injury to the victim, the minimum penalty is ten years of incarceration and pecuniary penalty. In order to align the Greek legislation with article 8 par. 1 a and 3 of the Optional Protocol to the Convention on the Rights of the Child on the Sale of Children, Child Prostitution and Child Pornography, Law 3625/2007 introduced a new paragraph in article 323 A that provides that the punishment of the perpetrator is lifetime imprisonment in case the victim dies because of the above mentioned acts. In order to align the Greek legislation with article 10 par. 1 and 3 and the Preamble of the Optional Protocol to the Convention on the Rights of the Child on the Sale of Children, Child Prostitution and Child Pornography and to articles 2 a' and 5 par. 1 of the Council Framework Decision 2004/68/JHA on «combating the sexual exploitation of children and child pornography», Law 3625/2007 introduced to the Criminal Code article 323 B titled «sex tourism» that deals with the organization, the funding, the direction, the inspection, the advertising or the mediation, in any manner or means, of travels for the sexual exploitation of minors. Perpetrators are punished with incarceration up to ten years. Any person who participates with the above mentioned intention to similar trips is punished with imprisonment of at least one year, irrespective of his/her liability for other offences and of the place he/she committed the relevant crime. Article 338 of the Criminal Code titled «abuse of sexual freedom» as amended by Law 3625/2007 deals with the abuse of sexual freedom of persons who are unable to resist because they are mentally disturbed or because of any other reason. The crime is considered felony (punished with incarceration of at least ten years) when the perpetrator is abusing the sexual freedom of the victim in an “abnormal” way. The perpetrator is punished with imprisonment of at least six months when he/she offends the sexual freedom of the victim with acts like oral expressions or gestures. When the perpetrators are more than one they are punished with imprisonment of at least ten years. In order to align the Greek legislation with article 8 par. 3 of the Optional Protocol to the Convention on the Rights of the Child on the Sale of Children, Child Prostitution and Child Pornography, Law 3625/2007 amended paragraph 2 of article 339 of the Greek Criminal Code which states that if the perpetrator of the crime of seduction of child is not 18 years old the Court may order reformative or therapeutic measures. In order to align the Greek legislation with article 8 par. 1 a' and 3 of the Optional Protocol to the Convention on the Rights of the

Child on the Sale of Children, Child Prostitution and Child Pornography, Law 3625/2007 amended article 345 of the Greek Criminal Code which deals with sexual intercourse between parents and children and/ or siblings; the punishment is incarceration of at least ten years when the victim is not 15 years old and incarceration when the victim is more than 15 but less than 18 years old. In order to align the Greek legislation with articles 2 par. c', 3 par. 1 c' and 9 par. 5 of the Optional Protocol to the Convention on the Rights of the Child on the Sale of Children, Child Prostitution and Child Pornography, with article 9 of the Convention of the Council of Europe on Cybercrime and with articles 1, 3 and 5 of the Council Framework Decision 2004/68/JHA on «combating the sexual exploitation of children and child pornography», Law 3625/2007 amended article 348 A of the Criminal Code that deals with child pornography; the first paragraph of this article provides for imprisonment of at least one year and a pecuniary penalty ranging from 10.000 to 100.000 euros for anyone who produces, disseminates, distributes, presents, publishes, demonstrates, imports or exports from Greece or transfers, offers, sells or by any means makes available, purchases, supplies, obtains or possesses material of child pornography or transmits or communicates information on the commitment of the above mentioned acts; paragraph two of article 348 A provides for imprisonment of at least two years and a pecuniary penalty ranging from 50.000 to 300.000 euros for anyone who commits the acts described in paragraph one through a computer system or the internet; paragraph three of article 348 A provides for the definition of child pornography (as any representation or actual or virtual representation, on an electronic or other means, of the body or part of the body of a minor, in a way that clearly causes sexual stimulation, and of a real or virtual act carried out by or with a minor in a way which abuses the sexual freedom of the minor). Article 349 of the Greek Criminal Code⁴ deals with the crime of procuring or corruption of minors which is punished by incarceration up to ten years and pecuniary penalty if it is committed against a minor under 15 years old. Article 351 of the Greek Criminal Code⁵ refers to the economic exploitation of sexual life and more specifically when committed under the use of violence, threat or any other means of coercion. Coerced exploitation or exploitation of sexual life while knowing the vulnerable position of the victim is punished as a felony, while the act is punished as a distinguished case when it refers to minors or is connected with illegal entry, stay or exit of the victim from the country. Paragraph 6 of this article provides for the meaning of sexual exploitation, which is not limited only to any indecent act perpetrated for profit, but includes any use of the victim's body, voice or image and work or other services aiming at sexual stimulation. According to article 8 of the Criminal Code, as amended by Law 3625/2007, the acts of slave trade, trafficking in human beings, pimping, gross indecency with a minor for financial profit and sexual tourism or child pornography are punished when committed abroad, regardless of the law applicable at the place where they are

⁴ See at <http://www.legislationline.org/legislation.php?tid=178&lid=6551&less=false> for the English version of the article. Accessed on July 15th, 2008.

⁵ See at <http://www.legislationline.org/legislation.php?tid=178&lid=6551&less=false> for the English version of the article. Accessed on July 15th, 2008.

committed. Article 187 of the Criminal Code on criminal organizations lists among others the acts of human trafficking, pimping, child pornography and gross indecency with a minor for pay, thus providing to the witnesses the special protection applicable in these cases.

[42]. The Greek Criminal Legislation provides for additional acts that abuse children's wellbeing and personal security in a direct and/or indirect way. The relevant crimes abuse the notion of the family, personal security and/or freedom of the children and are committed either by family members of the children or by persons who, because of their profession or special relation with the children, are responsible for them. Article 360 of the Greek Criminal Code deals with the crime of negligence of the oversight of minors; the perpetrator is convicted to at least one year imprisonment if, being responsible for the child, fails to prevent the child from committing any criminal act, including prostitution. Article 409 of the Greek Criminal Code deals with the exploitation of street children who are begging. According to its wording, the crime is committed when the person who is responsible (guardian and/or parents) for the child fails to prevent it from begging or pushes it to beg. In addition, the crime is committed by anyone who gives and/or provides children younger than 18 years to others with the intention of gaining financial profit. Article 342 of the Greek Criminal Code «abuse of the sexual freedom of minors» deals with the crime of offending the sexual freedom of children by persons of their close family or who are responsible for their well being (grandparents, adoptive parent, guardian, teachers, priests). The punishment provided for in these cases is imprisonment of at least one year. Article 343 of the Greek Criminal Code deals with the «abuse of the sexual freedom of minors» by public servants being in relation of dependency with the minor due to their position and / or public servants working in prisons, detention centers, schools, hospitals or other institutions that provide therapeutic means to persons in need. The punishment provided for in these case is imprisonment of at least one year. Deceiving minors in debts is a crime, according to article 403 of the Greek Criminal Code; the punishment provided for the perpetrators is penalty or imprisonment up to one year.

[43]. According to Article 28 par. 1 of the Constitution «The generally recognised rules of international law, as well as international conventions as of the time they are sanctioned by statute and become operative according to their respective conditions, shall be an integral part of domestic Greek law and shall prevail over any contrary provision of the law. The rules of international law and of international conventions shall be applicable to aliens only under the condition of reciprocity»⁶. In relation with the applicability of article 28 par. 1 of the Constitution it should be underlined that Greek Courts always invoke this article when they apply directly provisions of international conventions ratified by Greece.

⁶ <http://www.parliament.gr/english/politeuma/syntagma.pdf>

- [44]. The Greek Constitution does not explicitly enshrine the principle of best interests of the child with the meaning of Article 3 paragraph 1 of the Convention on the Rights of the Child. However, it establishes a favourable regulatory environment for the child based on the general provisions related to the protection of human dignity (article 2 par. 1), the right to the free development of the personality (article 5 par. 1), the exercise of human rights of every person as a member of the society (article 25 par. 1) and childhood, which is placed under protection of the state. Specifically, article 21 of the Constitution states «1. The family, being the cornerstone of the preservation and the advancement of the Nation, as well as marriage, motherhood and childhood, shall be under the protection of the State. ... 3. The State shall care for the health of citizens and shall adopt special measures for the protection of youth, old age, disability and for the relief of the needy»⁷. Another constitutional provision with importance for the protection of children is paragraph 3 of article 96, which provides that special statutes shall regulate matters pertaining to juvenile courts. In this context, the judgements of the juvenile courts may be pronounced in camera. Further reference to the best interests of the child is made in various other legal provisions. According to article 1511 of the Greek Civil Code any decision of parents on the exercise of parental authority must serve the interest of the child. The interest of the child must be served by any court's decision when, according to the legislation, the court will decide on the award of parental care or on the way it will be exercised. All judgements must respect the equality between parents and not make distinctions based on sex, race, language, religion, political or other beliefs, nationality, ethnic or social origin or property. Depending on the maturity of the child, its opinion must be sought and taken into account before any decision on parental responsibility that relates to his interests. Article 1592 of the Greek Civil Code on the appointment of legal guardian determines that no one can be appointed legal guardian of a minor if he/she does not serve the best interests of the child. Article 1648 of the Greek Civil Code regulating the guardianship of minors states that every decision of the guardian should serve the best interests of the child. Further, in the context of refugee legislation, the obligation to ensure the best interests of unaccompanied asylum seekers is provided for in the newly adopted Presidential Decree 90/2008 (Official Gazette A 138, 11/7/2008)⁸. For the protection of children victims of crimes abusing their personal and sexual freedom and because of their seriousness, cases of trafficking in human beings are heard by the First Instance and the Appeal Courts of the criminal justice system within two years from the time the crime is committed or known to the competent authorities (article 5 of Law 3625/2007). Taking into consideration that the Convention on the Rights of the Child is applicable under the terms provided in article 28 par. 1 of the Constitution, its provisions are directly enforceable when the national law is contrary to them.

⁷ <http://www.parliament.gr/english/politeuma/syntagma.pdf>.

⁸ See article 12 of the Decree which transposed in the national legislation article 17 of the EU Council Directive 2005/85/EC of 1 December 2005 on minimum standards on procedures in Member States for granting and withdrawing refugee status (OJ L 326, 13.12.2005, p. 13–34).

- [45]. In July 2004, two and half years after the adoption of the first anti-trafficking law 3064/2002, the ad hoc Special Committee Against Trafficking in Human Beings, established with the participation of the Secretaries General of eight competent ministries (Justice, Finance, Interior, Foreign Affairs, Health and Social Solidarity, Labour and Social Protection, Education) presented the first National Plan of Action against Trafficking and Smuggling in Human Beings for sexual and economic exploitation. The Plan of Action has not been promulgated by the Parliament and has been revised once, in 2006⁹. With the exception of an Agreement concluded between the Government of the Hellenic Republic and the Council of Ministers of the Republic of Albania for the protection and assistance of children victims of trafficking, the Plan of Action does not provide specifically for the treatment of trafficked children. In general, it covers the entire spectrum of actions related to trafficking, namely monitoring of the phenomenon, identification and protection of victims, establishment and operation of shelters, medical and psychological support, legal aid and administrative assistance, voluntary/assisted repatriation, social rehabilitation projects in countries of origin, education, vocational training and employment integration of the victims that remain in Greece, police training and education, education of judicial officials and prosecutors, raising of public awareness and the creation of international networks to combat illegal trafficking and exchange information with countries of origin of victims (Balkans and Eastern Europe). The axes of the National Plan of Action, which place emphasis on the protection and assistance provided to trafficked women, constitute the guiding principles of national policy to combat trafficking in human beings. The 2004 Plan of Action provides for a national data base on the cases of trafficking in human beings and on the statistics of entry and exit from the country for specific nationalities with the participation of Ministries of Interior (for the cases investigated and the number of residence permits granted to the trafficked victims according to the EU and the national legislation), Justice (for the cases referred to the Courts), Health and Social Solidarity (for the shelters/protection centers and the telephone line «197» of the National Center of Social Solidarity), the International Organization for Migration (for the cases of repatriated trafficked persons) and non-governmental organizations (for their activities). However, this national database is still not in place and the statistics required for the present report were communicated by every ministry separately. In May 2006, the Minister of Justice institutionalised the ad hoc Special Committee Against Trafficking in Human Beings at Secretaries General level (Decision No. 41398 of the Minister of Justice, Official Gazette B 493 of 18/4/2006 as amended by Decision 355 of the Minister of Justice, Official Gazette, Special Issue of public administration bodies, No. 3, 3/1/2008); according to the relevant legislative amendment the Committee's work is to coordinate at political level the activities for the implementation of the

⁹ See the English version of the revised National Plan of Action Against Trafficking at the site of the Embassy of Greece in Washington DC <http://www.greekembassy.org/mbassy/content/en/Article.aspx?office=1&folder=904&article=19612> accessed on June 15th, 2008.

provisions of the anti-trafficking Law 3064/2002 and the proposal of legislative or other measures to combat trafficking.

- [46]. No information on an impact assessment of the National Plan of Action of 2004, prior or after its revision in 2006, was made available. However, one could identify the following changes following the adoption of the Action Plan; In 2005, by Law 3386/2005 “Entrance, residence and social inclusion of third country citizens in the Greek territory” (Official Gazette A 212, 23/8/2005) Greece transposed in the national legislation the Council Directive 2004/81/ED of 29.4.2004 “On the residence permit issued to third country nationals who are victims of human trafficking or who have been the subject of an action to facilitate illegal migration, who cooperate with the competent authorities”; articles 46 to 52 provide specifically for a definition of the victim of human trafficking and regulate in a comprehensive manner the issue of provision of protection and assistance to the victims of human trafficking. In terms of police action with a view to effectively combat the phenomenon of human trafficking, the Chief of the Hellenic Police decided to establish and operate anti-trafficking groups in 12 more police divisions of Greece (mainly in the capitals of the Regional Departments of Greece, thus covering the whole territory of the country) based on the evaluation of the action of the anti-trafficking groups operating since 2003 in the sub sections of the divisions of security in Attica and Thessalonica. In addition, by virtue of Presidential Decree 48/2006, special sections for combating trafficking in human beings were established in the divisions of security of the Hellenic Police in Athens and Thessalonica. At legislative level, in May 2007, the Minister of Justice established a Special Law Preparation Committee with the aim to propose legal initiatives and to promote activities against trafficking in human beings (Official Gazette, special issue of public administration bodies 204, 17/5/2007). The immediate priorities of this Special Law Preparation Committee are: the promotion of a more active role for the NGOs in the screening and referral procedure of the victims, the monitoring and follow up of the assistance offered to the identified victims, the promotion of the help line «197» on a 24 hours basis, the monitoring of implementation of the reflection period and of the prosecution cases, in order to introduce the necessary amendments to the legal framework, the monitoring of the cases of release from prison pending the hearing of the appeal, particularly of those who have been sentenced with penalties of long term imprisonment by the first instance court, the ratification of the Palermo Protocol, of the Supplementary Protocol for Trafficking in Human Beings and the ratification of the bilateral Agreement with Albania for minors victims of trafficking by the Hellenic Parliament¹⁰.
- [47]. In Greece, there is no formal data collection mechanism, despite the fact that this activity has been included in the National Plan of Action. Due to the lack of a national data collection mechanism, every competent state body participating in combating trafficking in human beings keeps its own statistics. As a result,

¹⁰ See paragraph 67 of the present study.

the anti-trafficking group of the 1st Section of the Public Security Division of the Hellenic Police is assigned with keeping the statistics of cases of human trafficking. The data is collected on the basis of reports sent by the operational anti-trafficking services of the Hellenic Police all over the country on the above mentioned cases. The Ministry of Justice is responsible for keeping statistics of the decisions issued by criminal courts when the perpetrators of acts of human trafficking (articles 351, 323A and 348A of the Greek Criminal Code) are convicted. The Ministry of Interior keeps the statistics on the number of residence permits issued to recognized victims of trafficking, IOM keeps statistics on the number of cases of repatriated trafficked persons and the Ministry of Health and Social Solidarity keeps its own statistics on the number of persons who enjoy the protection and assistance measures when accommodated in the reception/protection centers. Needless to say that the lack of a uniform way of collection of statistics creates confusion and problems both with regard to the comprehensiveness and comparability of the data (concerning the breakdown by age) as well as regarding accessibility and use in policy making. While the Hellenic Police and the Ministry of Justice keep statistics of the cases of identified trafficked children and of the final judgements issued on cases of child trafficking respectively without specifying the age of the trafficked children, both the Ministry of Health and Social Solidarity (responsible for the protection and assistance provided to the trafficked children) and the office of International Organization of Migration in Athens (responsible for the repatriation of the trafficked victims) keep statistics of the age group 16 to 30 years of age. The above mentioned problems which relate to the failure of the greek state to establish a data collection mechanism as agreed in the context of the National Plan of Action are also highlighted in the 2004 edition “Lost kids, lost futures – The European’s Union response to Child Trafficking¹¹”.

- [48]. To our knowledge, there is no designated budget allocated specifically for anti-trafficking measures. The General Directorate for International Development Co-operation (Hellenic Aid) of the Ministry of Foreign Affairs participates actively in the implementation of the National Action Plan. Its actions cover the entire spectrum against trafficking in human beings (prevention, protection and prosecution) through the cooperation with other involved ministries, international organizations, and hellenic and international NGOs. In 2003 Hellenic Aid allocated 1.100.000 euros for the implementation of programmes aimed at creating shelters providing hospitality and care to victims of trafficking and raising public awareness about the problem. Data for amounts allocated during other years was not provided. According to the information provided by the Ministry of Health and Social Solidarity the funds allocated in 2008 for anti-trafficking measures amount to 291.000 euros (80.000 euros for IOM, 186.000 euros for the non-governmental organization «Smile of the Child», 25.000 euros for the protection/reception center «Social Care of Volos», an institution

¹¹ See at www.tierradehombres.org/stop/docs/LostkidsLostfutures.pdf, p. 12, accessed July 25th, 2008.

responsible for the accommodation of children victims of trafficking). In this context it is stressed that the “Smile of the Child” is among the non governmental organizations who signed the Memorandum of Cooperation for Combating Trafficking in Human Beings and Providing Support to Victims together with the Special Committee of the Secretaries General and the office of IOM in Athens. In addition, the budget of National Center of Social Solidarity for the year 2008 is 3,5 million euros (amount designated in the National Budget of Greece) and the Department of Social Solidarity of the Ministry of Health and Social Solidarity has allocated a grant of 200.000 euros for 2008 in order to cover expenses for the implementation of new programmes and activities. Information for other years has not been made available.

- [49]. There is no systematic allocation of funds to support research on child trafficking (causes, impact on victims, dimensions, routes, impact on government efforts etc). In general, the relevant research is financed almost exclusively in the context of programmes financed by external and / or greek funds. During the period 2004 to 2006 the budget allocated by Hellenic Aid for actions against trafficking (TACT programme, Foundation of Clearing House for Missing Children in SE Europe, awareness-raising campaigns, regional cooperation with diplomatic and consular authorities of the countries of origin of the victims, cross-border co-operation against trafficking in human beings and organized crime, diplomatic initiatives undertaken by Greece when it was non permanent member of the Security Council of UN) amounted to 5 million euros¹².
- [50]. The Children’s Ombudsman, established by Law 3094/2003¹³, plays the role of a monitoring mechanism which covers among other issues, also the trafficking of children. The mandate of the Children’s Ombudsman includes the monitoring of the implementation of the UN Convention on the Rights of the Child and the dissemination of its principles. It also monitors the impact of the national and international legislation (i.e. international texts ratified by Greece and considered integral part of the national legislation) on children’s lives. For this purpose, the Ombudsman can investigate fields of social life that it considers of special interest and can draft special reports, which it submits to the relevant ministries/authorities. In the annual report that submits to the Parliament, the Children’s Ombudsman mentions all actions regarding the protection of children and the strengthening of their rights. In addition, it investigates actions, omissions or any complaints about individual and legal entities that violate the rights of children or endanger their wellbeing. In this context, following a complaint made by the Ombudsman of Albania, the Greek Ombudsman investigated the escape of a significant number of children from the «Agia Varvara» child-care institution where they had been provided shelter as beneficiaries of the

¹² See the National Plan of Action Against Trafficking at the site of Embassy of Greece in Washington DC www.greekembassy.org/embassy/Content/en/Article.aspx?office=1&folder=904&article=19612, accessed on June 15th, 2008.

¹³ See www.synigoros.gr/0-18/en/adults/adults_main_gr.htm, accessed on June 20th, 2008. See also P.D. 273/1999 on the status of the Ombudsman.

program «Protection and social welfare of street children» during the period 1998-2001. The Children's Ombudsman indicated the overall deficiencies of the institution to adequately respond to the challenging objective of the government programme set up at the time and aimed at giving protection and social care to street children¹⁴. In June 2005 the Children's Ombudsman with the Office of the United Nations High Commissioner for Refugees in Greece prepared guidelines for asylum seeking children¹⁵. Furthermore, in October 2005 the Children's Ombudsman submitted a special report¹⁶ to the Prime Minister of Greece, the President of the Greek Parliament and the competent Ministries (Ministry of Interior, Ministry of Public Order and Ministry of Justice) on the detention and the deportation of children, who are third country nationals. In December 2006 the Children's Ombudsman submitted to the Ministers of Interior, Public Order, Health and Social Solidarity and Justice a special report concerning the treatment of unaccompanied children detained in "Pagani" in the island of Mytilini; in this report it highlighted the need to provide social services to the children by adequately trained professionals and to adopt and implement effectively the notion of «legal guardian» to all unaccompanied children (irrespective of their status as asylum seekers), who are third country nationals¹⁷. In October 2006, as coordinator of the European Network of Ombudspersons for Children, it proposed and elaborated a public statement for Unaccompanied Minors which was signed by all the members of the network¹⁸. In February 2008, the Greek Ombudsman and the Head of the Children's Ombudsman informed two permanent Committees of the Hellenic Parliament on their work for the protection of the rights of children, including their protection on cases of child trafficking¹⁹. Among others they called for close cooperation of the competent authorities for the protection of the rights of children (including public awareness campaigns) and for the funding of activities in order to improve the services provided for the wellbeing of the children and of the family in general.

¹⁴ See the relevant report in Greek at http://www.synigoros.gr/reports/ag_varvara.pdf, accessed on June 10th, 2008. See also the press release of the Special Rapporteur on the sale of children, child prostitution and child pornography on his visit to Greece http://www.unhcr.ch/hurricane/hurricane.nsf/view01/0AC5E76ECD6E126BC12570BA_0030-ABF6?opendocument and the relevant report which includes the answer of the Greek Government at <http://daccess-ods.un.org/access.nsf/Get?Open&DS=E/CN.4/2006/67/dd.3&Lang=E>, accessed on July 11th, 2008.

¹⁵ See at www.synigoros.gr/0-18/en/adults/ektheseis_ad.html, accessed on July 11th, 2008. See also the leaflet in Greek at http://www.synigoros.gr/docs/odigies_prosfigon.pdf, accessed on July 11th, 2008.

¹⁶ See the relevant report in Greek at <http://www.synigoros.gr/reports/SR-detention-expulsionOCTOBER-2005.pdf>, accessed on June 20th, 2008.

¹⁷ See the relevant report in Greek at http://www.synigoros.gr/reports/Porisma_Pagani_Mytilinis.pdf and http://www.synigoros.gr/reports/Perilipsi_orisma_Pagani_Mytilinis.pdf, accessed on June 20th, 2008.

¹⁸ See the statement in English at http://www.crin.org/docs/ENOC_Statement_naccompanied.doc, accessed on June 20th, 2008.

¹⁹ See at www.synigoros.gr/0-18/gr/adults/newsnewsad.html, accessed on July 11th, 2008.

- [51]. The National Plan of Action adopted in 2004 and revised in 2006 and the Presidential Decree 233/2003 “on the protection and assistance to the victims of trafficking” (Official Gazette A 204, 28/8/2003) are the instruments that provide for the systematic, formalised and standardised cooperation and referral of the victims of trafficking in human beings. In the referral mechanism, the role of the protection centers listed in the Annex of the Presidential Decree 233/2003 is crucial because the accommodation of the victims in their premises guarantees the protection and assistance measures provided by the anti-trafficking law regardless of the criminal prosecution for the crime of trafficking. In addition, the Memorandum of Cooperation²⁰ which was signed on November 29th, 2005 between the Special Committee Against Trafficking in Human Beings, twelve NGOs and the IOM’s office in Greece specifies the general cooperation terms in order to ensure effective protection and assistance to the victims of human trafficking within the framework of the national legislation (i.e. Law 3064/2002 and Presidential Decree 233/2003) and the principles of international law and the international conventions on the protection of human rights. Article 9 of the above mentioned Memorandum of Cooperation provides specifically for the protection and assistance of trafficked unaccompanied children, namely for their right to special treatment and protection measures according to the national legislation and to the international Convention for the Rights of Children, for their referral, by the prosecution authorities, to the appropriate shelters for accommodation not only when they live illegally in Greece but also when they are legally in the country.
- [52]. A comprehensive training strategy for all actors involved in the identification, care and protection of trafficked children is not in place on the basis of the information received. However, various training activities, targeting different actors take place. In the framework of its international mandate, IOM Greece implements activities aiming at combating discrimination suffered by victims of trafficking, protecting and claiming for their fundamental rights and creating appropriate conditions for their social and labour market integration. In the context of the close cooperation established between IOM Greece and the Ministries of Employment and Social Protection, Foreign Affairs, Health, Interior (including the General Secretariat for Gender Equality), Justice²¹, the Hellenic Police, and the Associations of Judges and Prosecutors, the Office of IOM in Athens has a leading role in the organization of training seminars and public awareness activities²². In the period from 2002 to 2007, the IOM has organized in cooperation with the competent authorities twelve training seminars for prosecutors, judges of civil and/ or criminal and administrative

²⁰ The English version of the Memorandum is published at the site «Networking Against Human Trafficking» (www.ahtnet.org) http://83.103.85.186/Gettrattano/Documenti/Greek_Memorandum_on_Trafficking.pdf, accessed on June 15th, 2008.

²¹ For a detailed presentation of the seminars organized for the prosecutors and judges between 2004 and 2006 see pages 25 and 26 of the Revised Plan of Action.

²² See at www.iom.int/jahia/Jahia/pid/836, accessed on July 11th, 2008 and article 8 of the Memorandum of Understanding which is published in English at the site «Networking Against Human Trafficking» (www.ahtnet.org).

courts, police officers, students of the National School for Public Administration, Labour Inspectors and staff of NGOs and of Municipalities. More specifically, in 2007 training seminars were organized in 9 cities around Greece (Thessaloniki, Patras, Volos, Iraklio, Preveza, Kalamata, Komotini, Ioannina and Mytilini) addressed to professionals involved in the combating of trafficking and in the provision of protection and assistance to the victims of trafficking. The conclusions of these seminars were presented in a conference held in April 2008 in Korinthos. In addition, at a more specific level, judges and prosecutors are trained through the introduction of the relevant courses in the curriculum of the National School of Judges and through the organization of continuous training seminars every year in Komotini. Furthermore, the Police Academy has included in its curriculum, in all levels of training (basic training at the Police Academy and continuous training of the police staff), the topic of trafficking in human beings (combat – identification/location of victims, providing assistance and protection to the victims). The Hellenic Police also produced a «Manual of Best Practices» and a «Memorandum of Cooperation for Operational Activities» aiming at facilitating police cooperation in the combating of trafficking of women and children.

- [53]. Based on the constitutional mandate to protect and safeguard children and on its obligations arising from the ratification of international conventions, which have the status of domestic law upon ratification, Greece has enacted various laws and has adopted a number of measures and services to promote and advance the rights of children. In this context the juvenile system was reformed in 2003 (Law 3189/2003, Official Gazette A 243²³), in order to be adapted to the legally binding and non binding international norms adopted by United Nations and the Council of Europe, such as the UN Convention for the Protection of the Rights of Children, the Convention of the Council of Europe on the Exercise of Children's Rights²⁴, the 1985 Beijing Principles for the Administration of Juvenile Justice, the 1990 UN Rules for the Protection of Juveniles Deprived of their Liberty, the 1997 UN Model Law on Juvenile Justice (1997), the United Nations Guidelines for the Prevention of Juvenile Delinquency (Guidelines for the Riad Plan of Action), the Resolutions and the Recommendations of the Council of Europe (i.e. Resolution 78 (62) on the short-term treatment of young offenders of less than 21 years, Resolution 78 (62) on juvenile delinquency and social change, Recommendation 87 (20) on social reactions to juvenile delinquency, Recommendation (88) 6 on social reactions to juvenile delinquency among young people from migrant families, Recommendation 2000 (20) on the role of early psychosocial intervention in the prevention of criminality). Law 3189/2003 introduced changes concerning the

²³ A summary of the legislation in english is available at: <http://childinclusion.istitutodegliinnocenti.it/modules.php?name=Downloads&do=op=getit&lid=247>, accessed on July 11th, 2008. For a more detailed analysis of the law in english see also www.loc.gov/law/help/child-rights/greece.html, accessed on July 11th, 2008.

²⁴ Ratified by Law 2502/1997 (Official Gazette 103 A'). [http://conventions.coe.int/Treaty/Commun/Cherche Sig.asp?NT=160&CM=7&DF=7/11/2008&CL=ENG](http://conventions.coe.int/Treaty/Commun/ChercheSig.asp?NT=160&CM=7&DF=7/11/2008&CL=ENG), accessed on July 11th, 2008.

lower and upper limits of the period during which a person is considered minor for the purposes of criminal responsibility from 7 to 17 years of age to 8 and 18. Since the Convention on the Rights of Child defines a child as anyone under the age of 18 without further differentiation, the Greek Criminal Code was brought into line with the Convention. Children, who are victims of trafficking, are not criminalised. Article 126 of the Criminal Code absolves a minor between 8 and 13 years of age from any criminal responsibility for wrongdoing. In case of a minor who has completed at the time of commission of a criminal offence the 13 years of age the Court takes into account all the circumstances of the case and may decide that it is optimal to order the confinement of the minor in a special institution for youth for a specific period of time (article 127 of the Criminal Code). In addition, according to the new paragraph 2 of article 339 of the Greek Criminal Code (amended by Law 3625/2007) if the perpetrator of the crime of seduction of child is not 18 years old the Court may order reformatory or therapeutic measures. In general, according to the national criminal legislation, delinquent children are protected and are offered assistance, rehabilitation and/or educational and other services which are adequate to their special status as children.

B. Prevention of child trafficking

- [54]. Few awareness raising activities on the issue of human trafficking have taken place in Greece and only recently with regard to child trafficking. The General Secretary for Gender Equality (entity under the auspices of the Ministry of Interior) has prepared a television spot²⁵ describing the story of a girl from the moment she decides to migrate for a better life in order to address the problems of poverty and unemployment she is facing in her country of origin. When she arrives at the country of destination she becomes a victim of trafficking. The aim of the spot is to disprove the myth of free choice and to prove that there are women who are victims of the organized crime of trafficking in human beings. A leaflet was also prepared in four languages (Greek, English, Albanian and Russian²⁶) for the combating of trafficking in human beings calling the victims to report the criminal treatment they are suffering. In 2008, Hellenic Aid of the Ministry of Foreign Affairs in cooperation with the Greek section of UNICEF initiated a campaign to raise public awareness on the issue of combating smuggling and trafficking of children; in this context in a special event the Minister of Foreign Affairs presented the Greek version of UNICEF's manual "Combating Child Trafficking".

²⁵ Available at http://www.isotita.gr/var/uploads/pubs/video/VTS_01_1.mpg, accessed on July 11th, 2008.

²⁶ http://www.isotita.gr/var/uploads/pubs/TRAFFICKING%2007/TRAF_GRK_17x24_er5.pdf,
http://www.isotita.gr/var/uploads/pubs/TRAFFICKING%2007/17x24_ver5eng_HI.pdf,
http://www.isotita.gr/var/uploads/pubs/TRAFFICKING%2007/17x24_al.pdf,
http://www.isotita.gr/var/uploads/pubs/TRAFFICKING%2007/17x24_ru.pdf, accessed on July 11th, 2008.

- [55]. Non Governmental Organisations through their cooperation with governmental agencies and international organizations play an active role in awareness-raising campaigns aimed at the combating of trafficking of human beings. The Developmental Partnership to Promote Equal Rights for Trafficked Persons²⁷ (ASPIDDA²⁸) is a consortium of governmental and non-governmental entities²⁹ established for the implementation of a project funded in the framework of the 2nd round of the Community Initiative “EQUAL” Programme in Greece, with the aim to implement a project targeting the tragic consequences of trafficking in human beings. The project was financed by the European Social Fund and the Ministry of Employment and Social Protection. ASPIDDA prepared two guides to be used in the anti-trafficking awareness campaign: a multi-language Information Guide addressed to victims of trafficking (in Albanian, English, French, Greek, Rumanian, and Russian) and a Guide for Journalists «Trafficking in Human Beings and Greek Mass Media»³⁰. In addition, article 8 of the Memorandum of Cooperation signed on 29.11.2005 between the Secretaries of Ministries, twelve NGOs and IOM’s office in Athens provides for the implementation of information, awareness raising and education campaign and in this regard, NGOs and IOM, in cooperation with the competent authorities will conduct researches seeking also the cooperation with governmental and non governmental entities that are based in the victim's country of origin.
- [56]. There is no evidence of direct participation of local communities and/or minority groups, such as Roma and Travellers, in preventive efforts.
- [57]. There are no policies to prevent children in a vulnerable position (such as unaccompanied asylum seekers) from becoming victims of child trafficking upon their arrival to Greece. There is a «gap» in the implementation of the legal provisions concerning the designation of legal guardians for the unaccompanied children who arrive in Greece and as a result they may become easily victims of exploitation because they live and / or work in Greece without proper representation (while the consent of the parents is requested by the competent authorities to allow children to work, unaccompanied children do not benefit from the protective measures provided by the Greek legislation for working children due to the «gaps» of implementation of the provisions of national

²⁷ www.aspidda.org

²⁸ See http://www.aspidda.org/products/D10_AFISAaspiddaFINAL.jpg for a poster prepared in the context of public awareness campaign.

²⁹ The International Organization for Migration (IOM – Greece), the NGO Solidarity (affiliated to the Church of Greece), the Hellenic Migration Policy Institute (IMEPO), the Rehabilitation Center for victims of torture and other forms of abuse (CRTV), the Research and Support Center for Victims of maltreatment and social exclusion (CVME), the National and Kapodistrian University of Athens, European Profiles S.A. and the Human Rights Defence Center (HRDC).

³⁰ For details on the products and / or public awareness products see http://ec.europa.eu/employment_social/equal/practical-examples/employ-07-aspidda_en.cfm and <http://www.greekembassy.org/embassy/Content/en/Article.aspx?office=1&folder=9&article=20600>, accessed on July 23rd, 2008.

legislation on the appointment of legal guardians)³¹. The relevant problems which are crucial for the protection of unaccompanied minors are also highlighted in the reports of the Children Ombudsman.

C. Appointment of legal guardian

[58]. The Greek anti-trafficking law does not deal with details on the appointment of legal guardians in cases of unaccompanied children identified as victims of trafficking. Article 12 of the Anti-trafficking Law 3064/2002 specifies the measures and the provision of protection, assistance and care to the victims of trafficking. According to this article, the victims are provided for as long as it is considered necessary free of charge assistance for housing, nourishment and human living conditions, medical and health care, psychological support, legal aid and the services of an interpreter. Concerning the treatment of minors, article 12 of the Anti-trafficking Law provides only for their right to have access to educational and training programmes. In addition, the Presidential Decree 233/2003 on the Protection of Victims of Trafficking (adopted on the basis of article 12 of Anti-trafficking Law 3064/2002) does not provide specifically for the appointment of legal guardians. Article 47 of Aliens Law 3386/2005 provides vaguely for the obligation of the police and prosecuting authorities to adopt the soonest possible all the necessary measures for the legal representation of the unaccompanied minors. However, a positive legislative development in this field is the issuance of Presidential decree 220/2007 «Adjustment of Hellenic Legislation to the Provisions of the Council Directive 2003/9/EC in relation to the minimum requirements for the reception of asylum seekers in the member states»³² (Official Gazette A 251, 13/11/2007) which is applicable to all unaccompanied children who are in Greece irrespective of their status as asylum seekers. This means that the provisions for the appointment of legal guardian foreseen in P.D. 220/2007 are applicable to all unaccompanied

³¹ See the survey on unaccompanied minors conducted by G. Dimitropoulou and I. Papageorgiou in 2008 for the status of unaccompanied minors who are seeking asylum in Greece available at: http://hosting01.vivodinet.gr/unhcr/UAM_survey.pdf, accessed on June 20th, 2008). See also

<http://hosting01.vivodinet.gr/unhcr/ProtectionPoints%20UAMS%202008.doc>, on the recommendations of UNHCR's Office in Athens for the protection of unaccompanied asylum seekers in Greece (document in Greek), accessed on July 11th, 2008.

³² «Unaccompanied minors shall mean a third country national or a stateless person below the age of eighteen, who arrives in the Greek territory unaccompanied by an adult responsible for him (her) whether by law or by custom, and for as long as they are not effectively taken into the care of such a person; it shall include minors who are left unaccompanied after they have entered the Greek territory» (article 1 f of the P.D. 220/2007). Article 19 of the P.D. 220/2007 transposed article 19 of the Directive and provides in details for the treatment of unaccompanied minors, including their representation by legal guardians. According to article 1 g of the P.D. 220/2007 «Representative of unaccompanied minor shall mean the person appointed by the locally competent Public Prosecutor for Minors, or where there is no Public Prosecutor for Minors, by the Public Prosecutor of the Court of First Instance».

children, including the children who are victims of trafficking³³. According to the information received by the Ministry of Health and Social Solidarity the local prosecutor is by law the guardian of unaccompanied children victims of trafficking on a provisional basis, until the appointment of the legal guardian by the Court. Therefore legal guardianship is regulated by the general provisions of the Civil Code. According to article 4 of the Greek Civil Code aliens enjoy the civil rights of nationals. Article 24 of the Greek Civil Code provides that Greek Courts may appoint a legal guardian for a foreigner who has his/her usual residence in Greece. In the case of aliens who do not have their habitual residence in Greece legal guardians are appointed by the Greek Courts by application of the procedure of precautionary measures. Furthermore, articles 1589 to 1647 of the Greek Civil Code provide specifically for the appointment of legal guardian in the case of minors and set the conditions to be fulfilled in this end. According to article 1591 of the Civil Code the Court may order the appointment of the guardian following the submission of an application or automatically (i.e. the public servants, the staff working at the municipalities, the prosecutors and the staff of social services have the obligation to report to the Court every case of minor in need of appointment of legal guardian). In principle, the Court appoints a relative of the minor as legal guardian; in cases no one is willing to be appointed legal guardian, the court may trust the minor to a special institution or at last resort to the social services. The Greek Civil Code provides also for the possibility to designate a foster family for the everyday care of the child; the relevant decision is issued by the Court upon application of the legal guardian. It is underlined that a report of the social service of the Court is required for it to decide on the appointment of the legal guardian. Unfortunately, in practice, unaccompanied minors who are third country nationals, in several cases cannot enjoy the protection and the assistance of a legal guardian mainly because the childcare institutions, which are competent for the accommodation of unaccompanied children, are not willing to undertake the obligations that a legal guardian has vis-à-vis the children³⁴.

- [59]. According to article 4 of the Greek Civil Code aliens and nationals enjoy the same civil rights. Article 127 of the Greek Civil Code under the title «Adult» provides that anyone who has completed 18 years of age is able to act. Therefore, children below the age of 18 years old are considered minors and need a legal guardian in order to be represented in all aspects of their life (i.e. in order to be registered at school, to work in jobs allowed for minors etc).
- [60]. According to information provided by the Ministry of Health and Social Solidarity the policy implemented for the age assessment of unaccompanied minors/refugees consists of interviews with the children conducted by social workers, psychologists and other specialized professionals. It is noted that

³³ See the P.D. 220/2007 for the definition of the term «unaccompanied minor».

³⁴ See the survey on the status of unaccompanied minors who are seeking asylum in Greece available at: http://hosting01.vivodinet.gr/unhcr/UAM_survey.pdf, accessed on June 20th, 2008.

according to paragraph 3 of article 9 of the Memorandum of Cooperation of 29.11.2005 «in case where there are serious and well founded doubts on whether a victim/alleged victim is underage or not, and his/her precise age cannot be specified, he/she should be considered as underage and therefore enjoy the increased protection foreseen by law on underage individuals». The Greek Aliens Legislation providing for the issuance of residence permits to the victims of trafficking (Law 3386/2005 as it is in force today) or the national anti-trafficking legislation (Presidential Decree 233/2003 on the protection of the victims of trafficking) do not provide for any policy on age assessment, including benefit of a doubt. The only obligation of the Greek Authorities is to inform the Minors Prosecutor and/ or the Prosecutor of the place of residence of the child. A recent circular of the Greek Police³⁵ (which is the body competent for the refugee status determination procedure) underlines the obligation of the authorities to inform the Minor's Prosecutor even in cases of unaccompanied minors who are not asylum seekers. In principle unaccompanied children are registered as minors when they declare so without any cross-checking and/or further examination of their declaration concerning their age. In this context, it is noted that article 17 of the Council Directive 2005/85/EC (on minimum standards on procedures in Member States for granting and withdrawing refugee status), which was transposed into the national legislation by Presidential Decree 90/2008 (Official Gazette, 138, 11/7/2008), provides that Member States may use medical examinations to determine the age of unaccompanied minors within the framework of the examination of an application for asylum³⁶. According to paragraph 4 of article 12 of the above mentioned Presidential Decree titled "Asylum claims of unaccompanied minors" the authorities who are competent for the examination of the asylum claims may use medical examinations to determine the age of the unaccompanied minors with the framework of the examination of an application for asylum. In cases where medical examinations are used, the following is ensured: a) the respect of the right of the unaccompanied minors to be informed in a language they understand, prior to the examination of their asylum claim, of the possibility that their age may be determined by medical examination. The unaccompanied minors are entitled to be informed on the method of examination and the possible consequences of the result of the medical examination on their asylum claim as well as on the consequences of their refusal to undergo the medical examination, b) the consent of the unaccompanied minors and /or their representatives to carry out an examination to determine the age of the minors concerned, c) the rejection of the asylum claim submitted by an unaccompanied minor who refused to undergo the age medical examination is not based solely on that refusal d) until the completion of the medical examination the person claiming to be a minor deserves the treatment the minors are entitled to. The best interest of the child shall be a

³⁵ Circular No. 5401/1-261100 of February 23rd, 2008.

³⁶ There is no feedback on the implementation of article 17 of the EU Directive mainly because it was adopted recently. For the practice before its transposition in the national legislation see the survey on unaccompanied minors available at http://hosting01.vivodinet.gr/unhcr/UAM_survey.pdf.

primary consideration when implementing the above mentioned medical examination for the age assessment of the unaccompanied children asylum seekers.

- [61]. While taking into consideration that there are no institutions (protection centers and / or shelters) in Greece who act and/or are appointed as legal guardians for foreign unaccompanied children it can be presumed that there is no evidence of specialised training for legal guardians employed for representation of trafficked children.
- [62]. There is no evidence of appropriate time for preparation of cases for the legal guardian, including personal contact with the child.

D. Coordination and cooperation

- [63]. There are no formalised Task Forces on child trafficking/coordination bodies, comprising of key state and non-state actors relevant for anti-trafficking efforts. The 2004 National Plan of Action provides for the steps to be followed in the cases of trafficked persons for their protection and assistance and of the duties of the agencies/bodies concerned. As already mentioned, a Memorandum of Cooperation was signed in 2005 between the Special Coordination Committee (where the Secretaries General of eight ministries participate) at political level, IOM's office in Athens and twelve NGOs, aimed to ensure the effective protection and assistance to the victims of trafficking.
- [64]. There are no formal cooperation agreements concerning child trafficking between relevant Ministries, such as Ministries for the Interior and Ministries for Children/Youth Welfare Affairs, but the National Plan of Action implemented under the auspices of the Special Coordination Committee at political level provides for the cooperation of the ministries concerned, in their respective field of competence. Article 9 of the P.D. 233/2003 on the Protection of Victims of Trafficking provides for a Standing Committee under the presidency of the General Secretary of Welfare of the Ministry of Health and Social Solidarity which coordinates the activities of protection and assistance provided to the victims of trafficking and for the issuance on circulars. According to information received from the Ministry of Health and Social Solidarity no circular or other document has been issued by this Standing Committee so far.
- [65]. The Memorandum of Cooperation signed between the Special Committee, twelve NGOs and the office of IOM in Athens provides for, among others, accommodation offered by NGOs, assistance in the identification of the victims, social and administrative assistance, psychological support, free medical and

health care, legal aid and training of competent authorities responsible to identify and assist victims of human trafficking (officers, prosecutors etc). In addition to the above, the Hellenic Ministry of Health and Social Solidarity, which operates 20 shelters for unaccompanied children, is a major partner in the EQUAL project and has signed Memoranda of Cooperation with several NGOs³⁷ (like «The Smile of the Child», «ARSIS», «International Association for the Support of the Family» and the «Hellenic Care of Volos»).

- [66]. To align the Greek legislation with articles 8 par. 1 e of the Optional Protocol to the Convention on the Rights of the Child on the Sale of Children, Child Prostitution and Child Pornography and with article 9 of the Council framework decision 2004/68/JHA on «combating the sexual exploitation of children and child pornography», Law 3625/2007 introduced article 352 B in the Greek Criminal Code providing for the protection of the identity and of the private life of the minor who is a victim of trafficking. According to this article, the disclosure of the conditions of the crime of child trafficking and/or financial and/or sexual exploitation which may lead to the identification of the victim, is punished by imprisonment up to two years. The prosecuting authority has the responsibility for the implementation of this provision. Greece has not adopted so far Guidelines for the protection of personal data of trafficked children. In this context, the role of the Hellenic Data Protection Authority is decisive, since it operates a special child-sensitive site on the protection of the rights of the children concerning their personal and private life³⁸. Greece is a signatory member to the Convention of the Council of Europe for the Protection of Individuals with regard to Automatic Processing of Personal Data (Law 2068/1992 Official Gazette 118, vol. A) and has adopted Law 2472/1997 on the Protection of Individuals with regard to Automatic Processing Data. Article 8 of Law 3625/2007³⁹ which amended Law 2472/1997 states that the implementation of the national legislation on the protection of personal data is excluded from the competence of the Hellenic Data Protection Authority in the cases of concern to the judicial and prosecuting authorities, including crimes committed against children, such as exploitation for financial purposes of their sexual life, trafficking etc. The above mentioned provision explicitly states that the protection of the personal data in these cases is regulated by criminal law and the code of criminal procedure. Greece has signed, but not yet ratified the Additional Protocol to the Convention for the Protection of Individuals with

³⁷ See the Speech of the Secretary General of the Greek Ministry of Justice, Mr. Panagiotis Panouris, at the event held at the American Congress with the subject: «Trafficking in persons: Modern Day Slavery», Washington 13th of March 2007, Speech of the Secretary General of the Greek Ministry of Justice, Mr. Panagiotis Panouris at cm.greekhelsinki.gr/uploads/2007_files/ghm867_trafficking_greek.doc, accessed on June 15th, 2008.

³⁸ http://www.dpa.gr/portal/page?_pageid=33,11144&_dad=portal&_schema=PORTAL, accessed on July 17th, 2008.

³⁹ It is the law which incorporated in the national legislation the Optional Protocol to the Convention on the Rights of the Child on the Sale of Children, Child Prostitution and Child Pornography. See paragraph 3 of the report.

regard to Automatic Processing of Personal Data, regarding supervisory authorities and transborder data flows⁴⁰.

- [67]. On February 27th, 2006 Greece signed a bilateral agreement with the Council of Ministers of the Republic of Albania for the protection and assistance of children victims of trafficking⁴¹. The aim of the agreement is to address trafficking in children and unaccompanied minors, their humanitarian repatriation and social integration through the effective harmonisation of definition of crimes and procedures and the cooperation on the basis of mutually accepted principles and methods, including the police authorities of the two countries, the institutionalization and the implementation of measures preventing the trafficking of children, including awareness raising campaigns, the identification, the protection and the assistance of the victims, their referral to the competent authorities, the appointment of provisional guardians, the individualised assessment of the cases by the police authorities of the two countries, the finding and the implementation of permanent solutions for the trafficked children, including their safe repatriation, their integration, and / or their relocation in a third country. According to article 20, the agreement should enter into force 30 days following the second written notification by the contracting parties, in which they would announce the completion of the relevant national procedures. Greece has not yet ratified the agreement. According to information received from the Ministry of Health and Social Solidarity, the National Center of Social Solidarity will be the Responsible Authority for the Protection and Assistance of the victims of trafficking.
- [68]. Hellenic Aid of the Ministry of Foreign Affairs is the national agency of international development cooperation and in this context funds programmes aimed at combatting trafficking in Greece, as transit and host country of the victims, and in the developing countries of origin of the victims. During the period 2003 – 2007, Hellenic Aid financed projects against trafficking implemented by non governmental organizations with a total budget of more than 7,000,000 euros, including programmes against child trafficking, such as the programme TACT (Transnational Action against Child Trafficking). The project dealt with the issue of child exploitation and trafficking and contributed to the set up and operation of protection mechanisms for Albanian children. «Terre des hommes» and «ARSIS» in cooperation with Albanian authorities and other donors have sought to provide protection to the children in need regardless of their geographic location. The experience and knowledge of the organizations «Terre des hommes» and «ARSIS» in their efforts to address the phenomenon of exploitation and trafficking of Albanian children in the streets of Greece is presented in the publication «Transnational Protection of Children – The Case of Albania and Greece: 2000-2006»⁴². In the period 2005 to 2007,

⁴⁰ <http://conventions.coe.int/Treaty/Commun/ChercheSig.asp?NT=181&CM=7&DF=7/17/2008&CL=ENG>, accessed on July 17th, 2008.

⁴¹ For details on the text see www.legislationline.org/legislation.php?tid=189&lid=7753&less=false, accessed on June 15th, 2008.

⁴² See at http://www.crin.org/docs/tdh_transnat_protection.pdf, accessed on July 18th, 2008.

the Hellenic Migration Policy Institute and the office of IOM in Moldova implemented the programme «ITHAKI», financed in the context of the development assistance from Greece to the Republic of Moldova; the aim of this programme was firstly, to strengthen the capacity of civil society of Moldova to deal effectively with trafficking and to contribute to the protection and effective reintegration of women victims of trafficking who repatriated to Moldova and, secondly, to combat human trafficking through the prevention and the direct support to victims of human trafficking. The aim of the programme's actions were: a) to support the long-term rehabilitation of victims of trafficking through training on the development of small enterprises (46 women participated in relevant seminars and subsidy was granted to 33 of them for the development of their enterprise), b) to support the professional development of repatriated victims of human trafficking (34 adults and 19 minors benefited from this action of the programme attending course at centres for vocational education and training), c) to examine the situation of irregular migration and trafficking in Moldova and to describe the profile of potential migrants / trafficking victims (in this context a contest of essays and paintings was organized to record the problem of abandoned children in Moldova as a result of migration and trafficking in human beings and to inform the society) d) to inform the society and to support the referral of potential victims of trafficking through the distribution of calendars e) to support the victims of trafficking through their identification among the wider population of Moldovan illegal immigrants deported from Turkey through Odessa (49 victims of trafficking were identified 26 of whom have asked to join the rehabilitation programme of the centre which operates in Chisinau), f) to support the development of a national integration mechanism for the victims of trafficking in Moldova and g) to support the integration of the victims through the assistance provided to the Rehabilitation Center of IOM – Chisinau (Moldova). Further, upon initiative of the Ministry of Public Order and the Headquarters of the Hellenic Police, a national and international operation plan– interagency anti-trafficking action was implemented for dealing with human trafficking; the action plan «ILAEIRA» was subjected in the framework of the overall planning, for the coordination of all the involved agencies and attempted, through specific actions by all the countries of south-eastern Europe and the Balkans, to bring a comprehensive approach within the scope of domestic safety inside the European Union. The objective of the action plan was to develop simultaneous action by the countries of south-eastern Europe, on the one hand at the level of prosecuting authorities and on the other hand, at the level of supporting assistance to the victims so as to achieve the optimal results in dealing with human trafficking.

E. Care and protection

- [69]. Article 48 of Law 3386/2005 which transposed the Council Directive 2004/31/EC of 19.4.2004 «On the residence permit issued to third country

nationals who are victims of human trafficking or who have been the subject of an action to facilitate illegal migration who cooperate with the competent authorities» provides for a reflection period of at least 30 days. According to paragraph 2 of the above mentioned article «especially for the minors the reflection period can be extended for one more month following the decision of the Prosecutor and the application of the principle of the best interests of the child».

- [70]. The anti-trafficking legislation (i.e. Law 3386/2005) does not guarantee a right/entitlement to residence to trafficking victims, irrespective of cooperation with police/prosecutor⁴³. However, the national aliens legislation, in the context of protection and care of unaccompanied children, provides for the issuance of residence permit on humanitarian grounds (article 44 par. 1 c' of Aliens Law 3386/2005) to persons (under 18 years of age) who are sheltered at Children's Protection Centers by order of the Prosecutor at no cost. This means that a trafficked child who does not want to cooperate with the authorities in the legal anti-trafficking framework is entitled to request a residence permit on humanitarian grounds provided he/she is accommodated at a Children's Protection Center by order of the prosecutor.
- [71]. Residence permits are granted to the victims of trafficking by the Ministry of Interior (central authority). According to the statistics kept by the said Ministry no application was submitted between 2001 and 2005 for the issuance of residence permit to children victims of trafficking. However, in the period from 2005 to 2007, three residence permits were granted to victims of trafficking (no breakdown by age, gender and year was made available). In the same period, one residence permit was granted on humanitarian grounds to a child placed in children's protection unit by order of the Prosecutor without being characterized victim of trafficking. The residence permit is granted gratis by decision of the Minister. It is valid for one year and renewable for one year until the issuance of final judicial decision of the criminal court. One month after the issuance of the court's decision the beneficiary of the residence permit is entitled to apply for a residence permit for any reason provided for by the Aliens Legislation (Law 3386/2005).
- [72]. As already mentioned, Greece has ratified the UN Convention on the Rights of the Child, which provides explicitly (article 37) for the terms of the administrative detention/detention pending deportation for children. However, the Hellenic Police considers that only the relevant provisions of the Aliens Law (which does not specify for the terms of administrative detention/detention pending deportation for children) are applicable in the cases of deprivation of

⁴³ See page 15 of the «Practices, tools and models to prevent and combat human trafficking», Examples from Greece, Italy, Latvia and Sweden, May 2007, see at http://83.103.85.186/Gettrattano/Documenti/Publication_Act5_Practices.pdf, accessed on June 16th, 2008.

liberty of children by administrative decision⁴⁴. Article 79 of Aliens Law 3386/2005 prohibits the deportation of children whose parents live legally in Greece and/or of children under reformatory measures ordered by a Juvenile Court and article 74 of the Criminal Code determines the conditions that need to be taken into consideration by the court before it orders the deportation of the child. These conditions are: the permanent settlement and legal residence of the child's family in Greece, or in case its family is living abroad the serious risk of ill-treatment or the serious threats against its life, personal safety and sexual well-being in his country of origin.

- [73]. The status of unaccompanied children seeking asylum in Greece is regulated by the Presidential Decree 220/2007 (which transposed the EU Directive on the Reception of Asylum Seekers). Therefore, unaccompanied children seeking asylum in Greece are entitled to and in practice enjoy the special safeguards (in principle they are not detained, they are sheltered in special protection/reception centers for asylum seekers, and they are placed in separate facilities from adults due to their special protection needs, i.e. need to be represented by legal guardian etc) provided for by EU legislation. According to the information provided by the Hellenic Police, in places of detention of migrants entering illegally in Greece, officers separate children from adults until the accomplishment of the procedures for the assessment of their age, their nationality, and their status as asylum seekers. In the opposite case, according to the Hellenic Police, unaccompanied children who are illegal migrants in Greece are treated like adults because their status is not regulated by a special legal framework providing for their transfer to special protection centers adequate to shelter children. In addition, according to the Hellenic Police there are not sufficient children's protection centers to address the special needs of the number of unaccompanied illegal minors who enter and/or live in Greece. Despite the above mentioned «problems» mentioned by the Hellenic Police, unaccompanied illegal minors are not detained in the same places as adults. However, according to a recent report of the Children's Ombudsman, the places of detention of children visited are not suitable to address their special needs⁴⁵.

⁴⁴ According to the Hellenic Police, in 2008, 6031 minors were arrested for deportation and 1153 were returned to their countries of origin, mainly to Turkey, Egypt and Albania. One should note the statement of the UN Commission on Human Rights Special Rapporteur on the Sale of Children, Child Prostitution and Child Pornography who visited Greece in 2005 : «The protection of unaccompanied minors in Greece is to be improved. Although the Government is making efforts in this direction, in practice unaccompanied children are too often treated as adult illegal migrants. This is particularly concerning for more vulnerable categories of unaccompanied minors, such as victims of trafficking and asylum seekers, who may end up being deported without having had the possibility to access the protection measures they are entitled to».

⁴⁵ See paragraph 12 of this report on the activities of the Children's Ombudsman and the Report of CPT to the Government of Greece on the visit carried out in August/September 2005 (document CPT/inf (2006) 41 at <http://www.cpt.coe.int/documents/grc/2006-41-inf-eng.pdf> (see page 13 of the report and in particular paragraph 11 on the effective implementation of the safeguards that the Greek legislation and/or practice provides for persons detained) and the Report of CPT to the Government of Greece on the visit carried out in February 2007 at

- [74]. Article 13 of the Anti-trafficking Law 3064/2002 provides for the right of every victim of trafficking to be repatriated in safety and dignity. In the case of minors the Officer of Minors of the Hellenic Police is preparing a report. The collaboration of the Prosecutor of Minors is required for the operation of the repatriation. According to information provided by the Hellenic Police and the Ministry of Health and Social Solidarity IOM's Office in Athens is operating the repatriation of the victims of trafficking. In these cases prior to the repatriation IOM conducts a special assessment on the family environment of the person concerned in his/her country of origin/destination. According to statistics provided by the office of IOM in Athens, eight unaccompanied minors were repatriated in the period 2002 – 2007 (one to Bulgaria, one to Ukraine, three to Romania, two to Lithuania and one to Moldova). But, in the cases of unaccompanied minors who are not identified victims of trafficking, the Hellenic Police is taking care of their repatriation; in these cases when their parents or legal guardians are not located in Greece INTERPOL is informed in order to trace the parents in their countries of origin. According to the Hellenic Police, in these cases the children are handed over from the National Center of Social Solidarity of Greece to the respective agency of the country of destination.
- [75]. The annex of the Presidential Decree 233/2003 lists the institutions, which provide assistance and protection to the victims of trafficking. According to information provided by the Ministry of Health and Social Solidarity the National Center of Social Solidarity is the main authority responsible for the protection and the provision of assistance to the victims of trafficking. The Center, which functions under the supervision of the Ministry of Health and Social Solidarity - the main monitoring body for the assistance and the provision of services of social solidarity - operates shelters for provisional accommodation and Reception Services and to this end has signed bilateral agreements with NGOs («Smile of the Child», «International Association for the Support of the Family», «ARSIS» and the «Hellenic Care of Volos»). In 2008, the National Center of Social Solidarity will operate two more shelters of provisional accommodation in Athens and in Thessalonica. In addition, according to articles 3 and 4 of the Memorandum of Cooperation of 29.11.2005 the shelters of the NGOs who have signed it will accommodate unaccompanied minors that have been referred by the Prosecution Authorities and the competent authorities will specify ad hoc the protection and referral of the unaccompanied minors before the prosecuting, judicial and administrative authorities.
- [76]. According to the statistics provided by the Ministry of Health and Social Solidarity, in 2005 the National Center of Social Solidarity provided welfare services to 72 victims of trafficking (44 among them were referred for accommodation to shelters run by NGOs or returned back to their countries of

<http://www.cpt.coe.int/documents/grc/2008-03-inf-eng.pdf> (see in particular paragraphs 27 and 31 for the living conditions in the detention facilities where children are also deprived their liberty), accessed on July 12th, 2008.

origin), in 2006 to 14 (mainly from countries of the former USSR) and in 2007 to 21 (mainly from Romania). According to the above mentioned information the victims were between 16 and 30 years old. No specific breakdown per age is provided which means that the authorities do not keep statistics for children in the meaning of article 2 of the UN Convention on the Rights of Child nor information about the number of children who left the shelters without permission.

- [77]. Article 12 of the Law 3064/2002 and Presidential Decree 233/2003 provide for the protection and assistance granted to the victims of trafficking. Medical and health care, psychological support by psychologists and / or social workers is provided free of charge to victims who are sheltered at the Protection/Reception Centers mentioned in the Annex (article 7). The protection and the assistance granted do not depend on the prosecution of the perpetrators of trafficking in human beings. It depends on the stay of the victims in the protection/reception centers (article 2). In addition, paragraph 6A of the Ministerial Decision 139491/16.11.2006 (Official Gazette B 1747) provides for the access to full health care services at the national public hospitals for the victims of trafficking who do not have social insurance (for the period of implementation of measures of protection and assistance and provided they present the relevant certificate of the police authorities). Instead of providing specific statistics on the number of children who received full health care services during the reporting period, the Ministry of Health and Social Solidarity noted that according to the above mentioned national legislation all children accommodated in protection/reception centers of the National Center of Social Solidarity, of non governmental organizations or other agencies operating under the auspices of the Ministry enjoy the same services and benefits provided to all children in the country (psychosocial support, equal access to health care).
- [78]. According to article 5 of the P.D. 233/2003 minors with less than 18 years have access to public schools (article 5). For those who are up to 23 years old, and possess the required qualifications, registration with the technical and vocational education through the Hellenic Manpower Employment Organization's (OAED) programmes is provided. Victims of trafficking who are older than 15 years are provided special programmes of vocational training depending on their needs (article 6). Taking into consideration that the above mentioned provisions guarantee the unhindered access of children to the secondary and vocational education and/ or training and the fact that no specific statistics were provided on the specific number and the age of the children accommodated by the National Center of Social Solidarity, the exact number of trafficked children who had access to the secondary and vocational education and/or training is unknown. In this context, it should be noted that article 72 par. 3 d' of the Aliens law 3386/2005 guarantees the access to the primary and secondary education to all migrant children living in Greece irrespectively of their status of residence in the country.

- [79]. Article 8 of the P.D. 233/2003 provides that the victims of trafficking accommodated in the Protection/Reception Centers are entitled to legal aid. The number of trafficked children who received legal assistance for the reporting period is unknown. In a more recent legislative development aiming to the conformity of the Greek legislation with articles 9 par. 4 and 8 par. 1 a to d of the Optional Protocol to the Convention on the Rights of the Child on the Sale of Children, Child Prostitution and Child Pornography, Law 3625/2007 amended the legislation on the legal aid (Law 3226/2004 «on the provision of legal aid free of charge», Official Gazette A 24) and article 173 of the Code of Civil Procedure in order to ensure the provision of legal aid free of charge to the trafficked children for their civil and criminal actions introduced at the courts. The new legislation provides for the cases where the Court, the Prosecutor or other bodies concerned of the criminal justice appoint ex officio a lawyer for the protection of the interests of the trafficked children, mainly when the damage suffered is considered serious and the victim does not have the possibility to appoint one because it is unaccompanied or because the perpetrators of the crime are his parents or because his parents and / or the guardian do not care or do not understand (due to mental incapacity) the importance of the damage suffered or because the care providers of the victim do not have the financial means to cover the fees of the lawyer.
- [80]. According to article 8 of the P.D. 233/2003 victims of trafficking are entitled to interpretation services when they do not speak the Greek language. The Hellenic Police has elaborated an information sheet with useful information about the victims translated in 13 languages (English, Albanian, Arabic, Bulgarian, French, German, Spanish, Italian, Polish, Romanian, Russian, Serbian and Turkish) and transmitted it to all the services dealing with trafficking cases. The information sheet is given to the victims so that they feel safe and trust the police officers.
- [81]. The Operational Programme Health – Welfare of the Ministry of Health and Social Solidarity funded the telephone line «801 801 1177» for the psychological support of children and adolescents (functioning under the auspices of the Association of the Psychological Health and Social Wellbeing of the Children and Adolescents) and it is soon expected to work with the prefix 116 (which was granted by the National Committee of Telecommunication and Postal Services) like similar lines at European level.
- [82]. Help line 197 of the National Center of Social Solidarity (EKKA) operates on a 24 hours basis and offers counseling, information and urgent assistance to persons in need. Help line 1056 of the NGO «The Smile of Child» operates on a 24 hours basis, and receives complaints, even anonymous, concerning cases of abuse, exploitation or disappearance of children. The staff answering this line offers advice to children and parents. In addition to the number «100» of the Greek Police, information about children at risk can be reported at the number

«1056» (Missing Children), which is the official telephone line of the Greek state for the support and protection of children⁴⁶.

F. Best interests determination and durable solutions, including social inclusion/return

- [83]. There is no formalised statutory process for identification of durable solutions based on the best interests determination, including risk and security assessment prior to possible return of the child. Special provision is made (article 47 paragraph 2 of Law 3386/2005) for the cases of unaccompanied minors victims of trafficking in connection with the measures which must be taken by the competent police and judicial authorities in order to specify the identity and nationality of the victims, so as to determine the fact that they are unaccompanied. Within the context of this provision, all possible efforts are made in order to locate the minor's family.
- [84]. Greece has ratified the 1951 Convention and the 1967 Protocol on the Status of Refugees and has not yet transposed the Council Directive 2004/83/EC of 29 April 2004 on minimum standards for the qualification and status of third country nationals or stateless persons as refugees or as persons who otherwise need international protection and the content of the protection granted which provides for the subsidiary protection. Presidential Decree 61/1999⁴⁷ which is applicable in cases of refugee status determination mentions explicitly the refugee definition in article 1 paragraph 1. Therefore the possibility exists for the application of the refugee definition to the child victims of trafficking in line with the UNHCR's «Guidelines on International Protection No. 7: The Application of Article 1A(2) of the 1951 Convention and/or 1967 Protocol Relating to the Status of Refugees to Victims of Trafficking and Persons At Risk of Being Trafficked», issued on April 7th, 2006 (HCR/GIP/06/07)⁴⁸.
- [85]. In the asylum procedure the participation of the child in the decision making hearing is absolutely necessary in all the stages of the refugee status determination procedure (according to article 1 par. 3 of the P.D. 61/1999 the asylum claim is submitted in person by the alien). Article 1 par. 4 of the P.D. 61/1999 provides that «an asylum claim can also be submitted by an alien aged

⁴⁶ See the site of the NGO «The Smile of the Child», www.hamogelo.gr, accessed on June 16th, 2008.

⁴⁷ See the legislation in English at www.unhcr.org/cgi-bin/texis/vtx/refworld/rwmain?page=category&docid=3ae6b4d830&skip=&category=LEGAL&publisher=NATLEGBOD&coi=GRC, accessed on June 18th, 2008.

⁴⁸ See <http://www.unhcr.org/cgi-bin/texis/vtx/refworld/rwmain?docid=443679fa4>, accessed on June 15th, 2008.

between 14 and 18 years old who is not accompanied by his parents if, from the general situation the interviewer considers that his mental maturity allows him to comprehend the meaning of this action. In any other case of asylum claims submitted by aliens under 18 old who are not accompanied by their parents or other guardian, the competent police authority informs the Public Prosecutor for Minors and, when such does not exist, the locally competent First Instance Public Prosecutor, in order that he/she acts as a special temporary guardian of the minor until the final decision on his claim has been taken». As a general rule, the prosecutors appoint lawyers to act as special temporary guardians during the procedure of the refugee status determination of unaccompanied minors. According to article 12 par. 1 of the newly adopted Presidential Decree 90/2008 which transposed into the Greek legislation the EU Directive on «minimum standards on procedures in Member States for granting and withdrawing refugee status «Under no circumstances personal interviews are conducted without the presence of the unaccompanied minor». At the level of appeal, the Committee which examines the recourse filed against the first instance negative decision invites the appellant, who is promptly informed about the venue and the date of the examination of his appeal, as well as about his right to be present in person or accompanied by his legal representative, to orally state, with the assistance of an appropriate interpreter, his arguments and to provide clarifications or to submit additional complementary evidence (article 3 par. 7 of P.D. 61/1999). Unaccompanied minors present themselves at the Committee accompanied by their lawyers, who are appointed special temporary guardians until a final decision is taken on their asylum claims. In the case of the children, victims of trafficking who are not asylum seekers, Law 3386/2005 is applicable; article 46 of the law provides that the application for the issuance of residence permit can be filed either in person or through the prosecutor. Article 47 par. 1 provides that the victims of trafficking are informed on their rights concerning the issuance of the special residence permit and the possibilities of protection and assistance either by the police and judicial authorities or by the Protection/Reception Centers that offer protection and assistance (as mentioned in P.D. 233/2002). In addition, article 47 par. 2 of the same law provides that the competent police and judicial authorities are obliged to specify the identity and the nationality of the victims, so as to determine the fact that they are unaccompanied. In this context, all possible efforts are made in order to locate the minor's family and to take all required measures in order to ensure their legal representation. Interpretation and translation services are provided when the victims do not speak the Greek language (article 49 par. 3 of Law 3386/2005).

- [86]. Trafficked children accommodated in the protection/reception centers enjoy full access to health care and educational and vocational training under the terms of articles 5, 6 and 7 of the Presidential Decree 233/2003 on the protection and assistance provided to the victims of trafficking.
- [87]. No specialised integration programmes are established for trafficked children. According to information provided by the Ministry of Labour and Social

Protection in the framework of the operational programme «Employment and vocational training 2000-2006» learning programmes in the Greek language are implemented addressed to unemployed persons over 16 years old, including migrants and refugees in order to enable their social and professional integration as well as to unemployed persons who do not speak the Greek language. In addition, the new operational programme «Development of Human Resources 2007-2013» aiming at the promotion of the smooth integration of immigrants into Greek society and the labour market provides for the implementation of programmes of horizontal action (indicative psychological and legal support, social strengthening and preparatory actions) for the victims of trafficking in order to acquire or improve the skills that will facilitate their social and professional integration.

- [88]. As already mentioned, there is no specific legal framework for the protection and assistance provided to the unaccompanied children who are victims of trafficking. As a result, the special needs of children coming from different ethnic backgrounds are met in the context of the general anti-trafficking legislation. According to article 49 of the Anti-trafficking Law 3386/2005 translation and interpretation services are provided to the victims of trafficking who do not understand the Greek language. Furthermore, according to article 5 par. 1 of the 2005 Memorandum of Cooperation signed between the Special Committee of Secretaries General of the ministries concerned and twelve non governmental organizations and IOM «for the period of stay in the shelters the administration staff will supply the protected individual with ... a. information about the existing legal framework and legal assistance provided, in a language that the victim understands». Regarding children with special needs, Greece has signed but not yet ratified the UN Convention on the Rights of Persons with Disabilities⁴⁹. There is no evidence of specific measures for taking into account their special needs.

G. Prosecution

- [89]. Law 3625/2007 on the ratification of the Optional Protocol to the Convention on the Rights of Child on the sale of children, child prostitution and child pornography introduced article 352A in the Criminal Code which provides for the examination of the psychological condition and of the sexual life of the perpetrator of the crime of trafficking against children, aiming first to facilitate the family and social re-integration of the perpetrator and secondly to decide whether the referral of the child victim of trafficking to a shelter and its treatment for the bad experience it suffered is needed. Paragraph 5 of the article provides for the issuance of Presidential Decree in order to clarify among others the conditions of the above mentioned examination and of the treatment of the

⁴⁹ See at <http://www.un.org/disabilities/documents/maps/enablemap24June08%20copy.jpg>, accessed on July 18th, 2008.

victim and of the suspected or the defendant. Law 3625/2007 introduced new articles in the Code of Criminal Procedure in order to ensure the rights of the trafficked children during the criminal procedure; the child, victim of trafficking, is entitled to read the documents of the investigation even in cases it does not introduce its civil claim at the criminal trial; during the investigation and the hearing of the case at the criminal court it is not obligatory for persons under 18 years old to give oath; in cases of witnesses under 18 years old the magistrate writes down «mot-a-mot» the questions asked (article 108A of the Code of Criminal Procedure). To align the national legislation with article 12 of the Convention on the Rights of Child and with article 8 par. 1 and 3 of the Optional Protocol to the Convention on the Rights of Child on the sale of children, child prostitution and child pornography article 226A of the Code of Criminal Procedure (introduced by Law 3625/2007) provides for the special framework for the examination of children – witnesses in the crimes of abuse of personal and sexual freedom; a child psychologist is appointed as expert in order to prepare the witness for the examination by the magistrates and / or the staff of the investigation authority. To this end the expert applies the adequate psychological methods, defines the perceptiveness ability and the psychological condition of the victim-witness and drafts a report which is part of the criminal file. The testimony of the minor is drawn up in writing and whenever possible is registered in audio-visual equipment. The electronic projection of the testimony of the child replaces its natural presence in the next steps of the criminal procedure. The written testimony of the minor – victim is always read during the trial. In case the minor has completed its 18 years of age at the hearing of the case by the criminal court it is entitled to be present in person. If there is a need to supplement the testimony of the minor victim of trafficking it is examined in its place of residence by the investigation official without the presence of the other parts of the case. Social workers of the Society for the Protection of Minors conduct the examination and draft the relevant report on the mental and physical health of the minor, on the family environment and on the adequacy of the environment it lives.

- [90]. According to the statistics of the Ministry of Justice for the reporting period one final decision was issued by the Criminal Appeal Court of Ioannina and two final decisions were issued by the Criminal Appeal Court of Creta. The perpetrators were convicted for trafficking of children (according to article 351 of the Criminal Code) to incarceration ranging between 10 and 12 years and to imprisonment ranging between 12 to 20 months. No breakdown per year was made available by the Ministry of Justice. As the relevant authorities failed to create the central database for the phenomenon of trafficking in Greece, the Ministry of Justice was unable to provide information within the available timeframe on final criminal decisions on cases involving children issued by all the Appeal Courts of the country.
- [91]. While article 6 of Law 3625/2007 (ratifying the Optional Protocol to the Convention on the Rights of Child on the sale of children, child prostitution and child pornography) provides that children victims of trafficking are entitled to

legal aid for their civil and criminal claims, Greece guarantees only the provision of legal aid and has not transposed so far in the national legislation the Directive 2004/80/EC relating to compensation to crime victims⁵⁰.

- [92]. It has already been noted that Greece has not so far adopted special provisions for the compensation of the children who are victims of trafficking. Therefore there is no statistical data concerning the amounts of compensation paid to trafficked children per year.

H. Miscellaneous

- [93]. An issue of serious concern for the prosecutors and police authorities is the protection of the children who beg in the streets and are victims of trafficking; it has been proved extremely difficult to evidence that they are exploited for financial profit and therefore the perpetrators are not prosecuted. Another challenge for Greece is to abide with the principles of protection of unaccompanied children, as defined in the General Comment No. 6 of the Committee on the Rights of Children as far as all aspects of their protection, mainly the appointment of legal guardians, who guarantee that the best interests of the child are taken into consideration in all decisions concerning them and the effective exercise of the rights they are entitled to.
- [94]. In his 2005 report for Greece, the Special Rapporteur on the sale of children, child prostitution and child pornography of the United Nations Commission on Human Rights noted the lack of an overarching institutional set up for child protection and the fact that institutional responsibilities are spread among different ministries without a coordinating entity. The Rapporteur recommended first, the creation of a body for the improvement of the institutional capacity to respond to the problems of child protection and the cooperation of NGOs in the implementation of the specific measures (such as specialized educators and social workers, outreach programmes, community centers and resourced shelters) and secondly the creation of an advisory board of civil society and public authorities to advice on the design of policies and on priority areas, which can be instrumental to give an institutional framework to the participation of the civil society. While the 2005 Memorandum of Cooperation between the Special Committee of Secretaries General, twelve non governmental organizations and IOM can be considered to ensure the operation of the advisory board proposed by the Special Rapporteur, the Committee of Secretaries General, although institutionalized, is not entrusted with specific responsibilities for the coordination of the activities of the authorities concerned. Surprisingly, the Standing Committee under the presidency of the Secretary

⁵⁰ On July 18th, 2007 Greece was convicted by the Court of European Communities (Case C-26/07) for failure to transpose in the national legislation the Directive 2004/80/EC relating to compensation to crime victims. For the relevant decision see at: eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:62007J0026:EN:HTML

General of the Ministry of Health and Social Solidarity, provided for in the legislation for the protection and assistance granted to trafficked victims, has not issued any circular and/or guidelines since its establishment in 2003.

I. Good practice

- [95]. Article 5 of Law 3625/2007 provides that the cases of children who are victims of trafficking are heard by the First Instance and the Appeal Courts within two years after the crime is committed. The adoption of this provision is justified by the need to ensure the best interest and the wellbeing of the children concerned and the proper administration of justice. No statistics are available on the implementation of this provision because it is relatively new. While the number of children recognized as victims of trafficking in human beings is small, one positive aspect of the relevant legislation (article 2 of Presidential Decree 233/2003) is the provision of protection and assistance to every child who is accommodated in the protection/reception centers regardless of the prosecution of the alleged perpetrator and the protection of all unaccompanied minors – victims or alleged victims – who are traced in the country either with or without legal documents (article 7 par. 5 of the 2005 Memorandum of Cooperation signed between the Special Anti-trafficking Committee, twelve NGOs and IOM's office in Athens).

Annex 1 - Tables and Statistics

	2000	2001	2002	2003	2004	2005	2006	2007
Number of children being granted temporary stay on grounds of trafficking	n/a	n/a	n/a	n/a	n/a	n/a	3	n/a
Number of trafficked children receiving full health care services, including psychosocial care and rehabilitation (e.g. not just emergency treatment)	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a
Number of trafficked children receiving education/training, in particular secondary education and vocational training	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a
Number of trafficked children receiving legal assistance (e.g. for claiming compensation)	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a
Number of final convictions based on child trafficking cases, per year	n/a	n/a	n/a	n/a	n/a	n/a	n/a	3
Total of amount of compensation paid to trafficked children, per year	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a

Average of amounts of compensation paid to trafficked children, per year	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a
Range of amount of compensation paid to trafficked children, per year	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a

Any other tables or statistics relevant for child trafficking, where available

Trafficked children identified by the police authorities	n/a	n/a	n/a	n/a	14	5	1	4
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