

# Raising the standards of child victims' protection:

An in-depth review of the  
transposition of the EU Victims'  
Directive in Greece

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## Abbreviations

CC	Civil Code
CLMC	Central Law-Making Committee
CPP	Code of Penal Procedure
ECOSOC	Economic and Social Council of United Nations
EU	European Union
GSG	General Secretariat of Government
FRA	European Union Agency for Fundamental Rights
ICH	Institute for Child Health
MS	Member States
NGO	Non-governmental Organisation
OGG	Official Government Gazette
PC	Penal Code
PD	Presidential Degree
TFEU	Treaty on the Functioning of the European Union
VD	Victims Directive (Directive 2012/29/EU)
VSO	Victim Support Organisation

## 1. Introduction

The last two decades, the European Union has manifested an increasing interest in creating a protective legal environment for the participation of victims of crime in the criminal proceedings. The commitment of national criminal justice systems to the offender's role justifies this recent legislative effort to maintain the balance between the parties of a criminal case by enhancing the role of the victim.<sup>1</sup> Towards this objective, a core legal act, Directive 2012/29/EU,<sup>2</sup> was adopted to lay down the minimum standards for the advocacy of victims' rights in every Member State. This instrument is considered to be of the utmost importance, particularly because it steers the national attitudes to the treatment and prevention of second or repeated victimization of highly vulnerable groups of victims, such as minors (Artinopoulou, 2016).

Although repeatedly subjected to severe criticism for the lack of a uniform system of child protection, Greece sadly was among the Member States who infringed the imposed deadline for the harmonization of the national legislation with the Victims Directive (CRC, 2012). No earlier than in June 2017 was the Directive finally transposed, when Law 4478/2017 entered into force. Thus, the recent character of the legal amendments calls for an analysis of the new law, not only to determine the accuracy and comprehensibility of its provisions, but also to examine the conformity with the Directive's requirements.

E-PROTECT, a European project operated by 5 organizations from 5 EU Member States – Bulgaria, Austria, Greece, Italy and Romania –, aims at intensifying the position of children in the criminal justice system and heighten the support of child victims, through the interconnection of all actors, public and private, commissioned with child protection in each country. In its action plan, the project entails the development of two country reports on the impact of the Victims Directive in the national legal order of each Member State. Therefore, the current Deliverable constitutes an in-depth review of the adoption of the Victims Directive in Greece, not in its entirety, but only the articles which pertain to underage victims and, hence, fall into the scope of the project.

In order for the reader to gain a deep insight into the new body of provisions governing the involvement of child victims in the criminal procedure, it must be contextualized into the

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<sup>1</sup> This was highlighted in the Explanatory Report of the Ministry of Justice during the law-making process for the transposition of the Directive 2012/29/EU, available at: [http://www.hellenicparliament.gr/en/Nomothetiko-Ergo/Anazitisi-Nomothetikou-Ergou?law\\_id=e8d154e1-d040-45be-bc33-a78301667b73](http://www.hellenicparliament.gr/en/Nomothetiko-Ergo/Anazitisi-Nomothetikou-Ergou?law_id=e8d154e1-d040-45be-bc33-a78301667b73), last accessed 22.1.2018, p. 12.

<sup>2</sup> The short version "Victims Directive" will hereon be used for the purposes of this report.

national legal order. For this purpose, the institutional framework of the transposition will be thoroughly described in the second chapter of the current report. First, the legislative background with regard to the role of child victims in the criminal proceedings in Greece serves as a brief introduction to the legal requirements for the transposition of the Victims Directive to the Greek legislation. A detailed description of the law-making process applied in Greece, including the specifics of the adoption of Law 4478/2017, is provided. In the following chapter, the focus lies on the legal analysis of the implementation of the Directive, mainly through the evaluation of the transposition of particular articles with regard to child victims of crime. The final section of this report assembles the main conclusions of the analysis, culminating in an overview of the legal transposition and the future practical steps anticipated to contribute to the amelioration of child victims' protection in Greece.

## 2. National legislative framework for transposing Directive 2012/29/EU

### 2.1. A historical tracking of the standing of child victims in the Greek criminal proceedings

The role of the victim in the criminal justice system of Greece has always been problematic. The establishment of a victim-friendly environment was never achieved, not even for adults who have fallen victims of a crime (Angelopoulou, 2016). Before the transposition of the Victims' Directive, no definition of "victim" had been included in the Greek criminal legislation. From this viewpoint, the adoption of a child-sensitive criminal approach within the national legal order of the MS of EU, as underpinned by several international and non-governmental organizations, is deemed to be urgent (FRA, 2017).

In Greece, the conceptualization of the child victim's vulnerability emerged in the 1990s, as a result of the State's abidance to its international legal obligations. By signing the International Convention on the Rights of the Child, which has been in place since 1990, the country agreed to take all the necessary measures for the treatment and social reintegration of the child victim. A number of legislative documents which carry relevance to different aspects of child protection have been enacted ever since; apart from the pertinent articles of CPP, Law 2298/1995 stipulating the foundation of the Companies for Child Protection, who were –at least in the beginning- competent for the prevention of both juvenile delinquency and victimization, PD 233/2003 regarding the protection of crime victims of certain offences against personal and sexual freedom and Law 3500/2006 for combating domestic violence, just to name a few.

In the more recent legislative history of the State, a reference point is considered to be the Law 3625/2007 for the ratification and accession of the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography (Themeli, 2016). The addition of a new provision, Article 226A, regarding the examination of child victims of such offences, was welcomed to the CPP. Even in its original version, this article bore significant similarities to the personalized assessment described in Article 22 of the Victims Directive, thus setting the basis for an improved protection of child victims of crime. Nevertheless, apart from the fact that it was only limited to offences against personal

or sexual freedom, some of the measures suggested were hardly ever implemented in practice.<sup>3</sup>

Even prior to the Victims' Directive, as a Member State, Greece benefited from the establishment of a constantly more protective legal environment for victims of crime inside the European Union. In 2001, the Council Framework Decision 2001/220/JHA on the standing of victims in criminal proceedings was enacted. Later, in 2009, an initiative to reinforce victim protection was taken by the European Council with the adoption of the Stockholm Programme. Soon, the Council developed the "Budapest Roadmap", a map of actions to be taken with the objective of promoting the advocacy of victim rights during criminal proceedings. Leading to the Victims' Directive, both Directives 2011/36/EU and 2011/92/EU enshrine provisions for the protection and assistance of child victims of human trafficking involved in the criminal justice process (transposed into the Greek legal order by the enactment of Law 4198/2013 and Law 4267/2014 respectively), whereas Directive 2011/99/EU introduced the notion of the European Protection Order for victims of crime in the European Union regardless of age. Finally, the Directive 2012/29/EU replacing the Framework Decision, addressed the main weaknesses identified in that act and expanded the protection and assistance of victims of crime, entailing the special treatment of child victims (Wieczorek, 2012).

## 2.2. The procedural standards for transposing the Directive in Greece

As one of the forms of legal acts that can be adopted by the institutions of the European Union<sup>4</sup>, a Directive, such as a Regulation, is legally binding for all Member States. The difference between those two types is not found in a hierarchical superiority of the latter, as underpinned by the jurisprudence of the CJEU<sup>5</sup>, but in the way of enactment. Contrary to a Regulation's direct application in the national legal order, further legislative actions by the national authorities are required in order for a Directive to be transposed. For this purpose, each MS must choose the most suitable legally binding methods and measures and proceed, in a timely manner, to the transposition. Nevertheless, if the national legislation already

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<sup>3</sup> More information on article 226A and its role in the examination of the minor can be found in the Deliverable D3.12 for the purposes of the current project

<sup>4</sup> Article 288 TFEU.

<sup>5</sup> Judgement of 26 February 1976, Commission of the European Communities v Italian Republic, C- 52-75, ECLI:EU:C:1976:29

adheres fully to the Directive's imperatives, the enactment of a new legal act is not necessary, but the European Commission should be informed and provided with a list of the pertinent legal provisions (Christianos, 2011; GSG, 2013, p.16).

In Greece, the transposition of a European Directive is achieved through the enactment of a new law, a Presidential Degree or a Ministerial Decision, according to Greek Law 1338/1983. The wide-ranging time required for the harmonization depends on the type of the legal document selected *in concreto* and it varies from 13-17 months (for a ministerial decision), to 17-21 months (for a law) or even 20-24 months (for a presidential degree). In the case of the Victims' Directive, law was chosen as the optimal form for the harmonization of the national legislation to the European imperatives, thus leading one to the reasonable conclusion that the duration of the legislative procedure would not exceed 1,5 years.

Regardless of the type of legal act, the time plan for the compliance with the EU legal acts is meticulously designed and in full detail, as further elaborated in the next section. Therefore, it should come as no surprise that Greece has ranked in the 4<sup>th</sup> best place among all MS regarding the transposition deficit, according to the official statistics of the European Commission.<sup>6</sup> In 2016, the State successfully transposed 60 EU Directives and considerably decreased the compliance deficit to 0.3%.<sup>7</sup> Furthermore, the country's "less impressive" score indicated a total delay of 6 months for overdue directives, compared to almost a year delay observed in other MS, such as the Netherlands or Denmark.<sup>8</sup> This data clashes with the government's point of view upon the matter, which claims that the delayed implementation of the European legislation is a well-established national practice.<sup>9</sup>

That being said, the case of the implementation of the Victims' Directive appears to be an unfortunate example. Providing that the deadline for the harmonization of the national legislation was 16<sup>th</sup> November 2015, Greece was not only amongst the 16 (!) Member States which did not send a communication to the European Commission, but ultimately transposed the Directive 17 months later, in June 2017. This was due to the fact that the law-making procedure only started in late 2016, thus inducing a significant reduction of the time provided

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<sup>6</sup> See: [http://ec.europa.eu/internal\\_market/scoreboard/performance\\_by\\_governance\\_tool/transposition/index\\_en.htm#maincontentSec2](http://ec.europa.eu/internal_market/scoreboard/performance_by_governance_tool/transposition/index_en.htm#maincontentSec2), last accessed 2.2.2018.

<sup>7</sup> See: <http://www.ggk.gov.gr/?p=5807>, last accessed 2.2.2018.

<sup>8</sup> Ibid, n. 5.

<sup>9</sup> Document no. 880/3-6-2016 of the Office for the Coordination of Institutional, International and European affairs on Guidelines to the Transposition of EU Directives in the national law, available at: <http://www.ggk.gov.gr/?p=5269> (available only in Greek), last accessed 28.1.2018.

for the completion of the individual steps of the process; indicatively, the public consultation procedure lasted for 7 days, instead of one (in urgent cases) or two months.<sup>10</sup>

The State's procrastination upon the transposition of the Victims' Directive led to the activation of the infringement mechanism by the Commission, which serves as Guardian of the Treaties. The case opened in 27<sup>th</sup> January 2016 and, pursuant to article 258 TFEU, a Letter of Formal Notice was sent to the Greek government.<sup>11</sup> Moreover, 27<sup>th</sup> of April 2017, the Commission proceeded to the next step, the "Reasoned Opinion", in which the Commission urged the Greek authorities to take immediate actions towards the harmonization of the Greek legislation to the EU law, within two months.<sup>12</sup> Fortunately, the country adopted the new law in 23<sup>rd</sup> June 2017 and communicated the enactment to the Commission before the referral of the case to the CJEU.<sup>13</sup> In the following subchapter, the legislative proceedings carried out with the purpose of the adoption of this new legislation, will be thoroughly examined.

### 2.3. The law-making process for the transposition of the Victims' Directive

According to the national guidelines for the transposition of a European Directive, the 17-month-long law-making procedure is initiated by the formal announcement of the publication of the Directive in the Official Journal by the General Secretariat of the Government (GSG) to the competent Ministry.<sup>14</sup> In the case of the Directive 2012/29/EU, the competent governmental authority was the Ministry of Justice, Transparency and Human Rights.<sup>15</sup> There, a transposition plan is formulated, which encompasses a timetable of the procedure, details on the Directorate in charge, the potential impediments and the legislative amendments which must be made. At the same time, a list of the existing legislation which

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<sup>10</sup> This is evident in the official website for the public consultation, where the date of the opening and closing of the procedure is noted.

<sup>11</sup> Case infringement number is 20160057.

<sup>12</sup> Available at: [http://europa.eu/rapid/press-release\\_MEMO-17-1045\\_EN.htm](http://europa.eu/rapid/press-release_MEMO-17-1045_EN.htm), last accessed 26.1.2018.

<sup>13</sup> Nevertheless, according to the official data of the European Commission, the case seems to remain active. See: [http://ec.europa.eu/atwork/applying-eu-law/infringements-proceedings/infringement\\_decisions/index.cfm?lang\\_code](http://ec.europa.eu/atwork/applying-eu-law/infringements-proceedings/infringement_decisions/index.cfm?lang_code)

[=EN&r\\_dossier=20160057&noncom=0&decision\\_date\\_from=16%2F11%2F2015&decision\\_date\\_to=30%2F06%2F2017&active\\_only=1&EM=EL&title=&submit=Search](http://ec.europa.eu/atwork/applying-eu-law/infringements-proceedings/infringement_decisions/index.cfm?lang_code=EN&r_dossier=20160057&noncom=0&decision_date_from=16%2F11%2F2015&decision_date_to=30%2F06%2F2017&active_only=1&EM=EL&title=&submit=Search), last accessed 25.1.2018.

<sup>14</sup> Available at: <http://www.ggk.gov.gr/wp-content/uploads/2013/10/versionB.pdf> (available only in Greek), last accessed 25.1.2018.

<sup>15</sup> Hereby referred to simply as "Ministry of Justice".

either overlaps or doesn't comply with the Directive's provisions is composed and a first draft of the bill to be adopted is designed.

Following the drafting period, a public consultation takes place in the official website of the Ministry of Justice for 1 or 2 months, where recommendations and amendments can be suggested openly by any Greek citizen and are taken into consideration. In the duration of 4 months, the competent Ministry (or Ministries) proceed in the signature of the bill and a report on additional expenses, which are going to be induced by the adoption of the bill's provisions, is issued by the General Accounting Office (GAO) of the State. The transposition plan, along with the draft of the bill, the report of the GAO, an explanatory report of the competent Ministry, and the text of the provisions which are amended or repealed are submitted to the Central Law-Making Committee (CLMC), which operates under the jurisdiction of GSG and undertakes the task to review the bill, as well as to assess the adjustment of the bill to the recommendations suggested in the review, during a time period of 2 months.

The final stage of the development of the bill is carried out within the Greek Parliament. The bill is discussed and voted in the competent standing parliamentary committee,<sup>16</sup> in a two-tier procedure: first, a debate in principle and separately on each article and, second, the second reading and debate, which culminates in the voting of the bill, by article. During this procedure, members of every party, who participate in the Committee, may pose questions and make remarks on the bill. Also, key stakeholders and special permanent committees may express their expert's opinion upon the draft. The bill is mandatorily supplemented, apart from the aforementioned reports which were previously submitted to the CLMC, by an Impact Assessment Report, the report of the public consultation and a special financial report stipulated by Article 75 par. 3 of the Constitution. Before submission to the Plenum for a final debate and vote, which is concluded in one session,<sup>17</sup> the bill may be submitted to the Scientific Agency of the Hellenic Parliament for a final review.

Finally, after a total duration of 17 months, the transposition of a Directive into the Greek legal order is completed with the publication of the law at the Official Government Gazette, which signifies its entry into force. Nevertheless, in case that the harmonization of the national law with the European Directive did not occur timely, as required, the pertinent legal provisions are enacted, with a retroactive effect, from the final date for the transposition.<sup>18</sup>

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<sup>16</sup> Article 70 par. 2 of the Constitution.

<sup>17</sup> Article 72 par. 4 of the Constitution.

<sup>18</sup> ΣτΕ ΠΕ 415/2001 (Decision of the Council of State).

Following the enactment, a communication of the new legislation and the Correspondence Table of the articles with the Directive's provisions is sent to the European Commission and, specifically, at the electronic platform for the notification of the national measures of transposition, where the transposition is confirmed.

The legal framework for the law-making procedure in Greece, although very thorough in principle, was not entirely adhered to in the case of the Victims' Directive, predominantly due to the overdue character of the transposition. In this perspective, some stages of the process were "shrunk", to the end of preventing the European Commission from referring the infringement to the CJEU. As already noted, the public consultation was completed in only a week during February 2017, thus allowing a very limited period of time for the public to take notice of the procedure. Then, the parliamentary discussion of the bill commenced on 6th June 2017, when the first meeting of the Committee took place, and ended on 21<sup>st</sup> June 2016, after the final voting of the new law by the Plenum.

Prior to the subjection of the bill to this final voting, several reports were composed to accompany the legal document, pursuant to articles 84-88 and 93-107 of the Standing Orders of the Parliament. First, the report for the public consultation encompassed the few remarks made, which mostly revolved around the notion of gender identity and features, a term that has already been introduced in the Greek legislation since 2015.<sup>19</sup> This was added in several articles, as it was deemed to be a justified amendment in favour of the transsexual and intersex individuals. Another welcomed addition was that of the category of crimes against race to the scope of articles 61 and 62 of the bill, bearing on the victims entitled to access and assistance from victims support services.<sup>20</sup> Conversely, a broader interpretation of victims entitled to an individual assessment,<sup>21</sup> in order to include professionals working in child protection (such as lawyers or NGO personnel), with the rationale that they are also exposed to danger of victimization, was rejected in the case of individual assessments by the competent directorate of the Ministry of Justice.

Furthermore, the explanatory report, signed by the competent Ministers and addressed to the Parliament, elaborated on the scope of the bill, mainly the enhancement of the legal framework for the victims of crime and their protection through their active participation in the criminal proceedings. Also, the document provided an article-based analysis, clarifying the content and wording of the provisions. In this light, the foundation of the "Houses of

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<sup>19</sup> The term "gender features" appears in Law 4356/2015 and Law 4443/2016.

<sup>20</sup> Articles 8 & 9 VD respectively.

<sup>21</sup> Article 68 Law 4478/2017, correspondent to Article 22 VD.

Child”, a novelty for the Greek legal system, is described. This institution, which was first established in the USA during 1980s and later in Europe around 15 years ago, serves one of the key purposes of the Directive, which is the promotion of a child-friendly justice system.<sup>22</sup>

From a financial viewpoint, two mandatory reports, the GAO report and the Special Report of Article 75 par. 3 of the Constitution, analysed the anticipated state expenditure by the implementation of the new law, deriving primarily from the payroll and training of professionals, as well as the foundation and operation of the new child protection centres. As observed by in several studies, the public funding of social welfare and victim protection has been a recurrent problem, deeply afflicted by the adoption of multiple austerity measures during the financial crisis (FRA, 2017). Providing that the recruitment of new staff, specialized in victims’ support, is indissolubly linked to the provision of adequate financial resources, it follows that the matter would be thoroughly discussed in the parliamentary stage of the law-making process.<sup>23</sup>

This last stage provided the appropriate environment for a constructive discussion on the bill among members of the parliament and the key stakeholders of victims’ protection invited. Towards this purpose, it was first elucidated that the underlying rationale of the bill’s arrangement was to counterbalance the defendant’s and victim’s rights during criminal proceedings. In view of the fact that the component parts of the bill are divided in defendant-oriented (the first three) and victim-oriented protection (the last one), a holistic approach on the rights of the key parties of a criminal prosecution is achieved.<sup>24</sup>

This arrangement was not further discussed in the meetings of the Committee, as the focus lay on specific ambiguities, or complications stemming from the body of provisions, particularly those with regard to child victims of crime. In a general overview, the majority of the interlocutors highlighted the need to prevent in various ways the second victimization induced within the services involved in the criminal justice system – for instance, by subjecting the victim to repeated examinations –;<sup>25</sup> considering the fact that Greece ranked

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<sup>22</sup> Explanatory Report, available at: [http://www.hellenicparliament.gr/en/Nomothetiko-Ergo/Anazitisi-Nomothetikou-Ergou?law\\_id=e8d154e1-d040-45be-bc33-a78301667b73](http://www.hellenicparliament.gr/en/Nomothetiko-Ergo/Anazitisi-Nomothetikou-Ergou?law_id=e8d154e1-d040-45be-bc33-a78301667b73), last accessed 23.1.2018, p.16.

<sup>23</sup> This is evident in the meeting of the Standing Parliamentary Committee and during the Plenum session, where the main arguments of the parties were repeated.

<sup>24</sup> Record of the Committee’s meetings on 6-6-2017, available at: [http://www.hellenicparliament.gr/en/Nomothetiko-Ergo/Anazitisi-Nomothetikou-Ergou?law\\_id=e8d154e1-d040-45be-bc33-a78301667b73](http://www.hellenicparliament.gr/en/Nomothetiko-Ergo/Anazitisi-Nomothetikou-Ergou?law_id=e8d154e1-d040-45be-bc33-a78301667b73), last accessed 22.1.2018

<sup>25</sup> As supported by the representative of the Ombudsman for the Child, see the Records of the Committee’s meeting on 15-6-2017, available at: [http://www.hellenicparliament.gr/en/Nomothetiko-Ergo/Anazitisi-Nomothetikou-Ergou?law\\_id=e8d154e1-d040-45be-bc33-a78301667b73](http://www.hellenicparliament.gr/en/Nomothetiko-Ergo/Anazitisi-Nomothetikou-Ergou?law_id=e8d154e1-d040-45be-bc33-a78301667b73), last accessed 22.1.2018

last in a European survey on victim satisfaction by the law enforcement treatment (Walklate, 2017); to ensure the systematic training of professionals and police officers in the appropriate treatment of victims; and to effectively make use of all the technological tools available, in order not only to conduct the individual interviews or to ensure the substitution its physical presence during hearing proceedings, but primarily to unify all the actors involved in child protection in the country.<sup>26</sup>

While the bill was finally voted by the majority of the parliament's members and, thus, adopted in the Greek legal order, it remains to be seen if the issues reported during the parliamentary stage of the law-making process, along with the legal complications of the provisions analysed in the following chapter, will raise barriers in the protection of the child victim within the Greek criminal justice system.

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<sup>26</sup> Representative of the ICH during the Committee's meeting on 15-6-2017, Ibid.

### 3. Legal evaluation of the transposing provisions in Law 4478/2017

#### 3.1. Introduction

Notwithstanding the fact that Greece did not promptly adhere to the legal obligations stemming from the European legislation, the European Parliament verified that the Victims' Directive has been fully transposed to the national legal order (EPRS, 2017). Articles 54-71 of Part IV of Law 4478/2017 are dedicated to the harmonization of the Greek legislation with the Directive's requirements and have incorporated the majority of the Directive's provisions. In some cases, such as Article 62 - correspondent to article 9 VD -, this transposition was done verbatim, leading to objections, voiced during the parliamentary discussion, of breaching the essence of coherency and harmonization of the internal legislation to the European Directive.<sup>27</sup> As illustrated in the Correspondence Table, the remaining articles of the Victims Directive were deliberately not repeated in the new law, because they overlap with existing provisions of the CPP and other Greek legal documents.<sup>28</sup> The fourth part of the law is supplemented by Articles 72-77, which specify the details for the foundation and operation of the newly established agencies, empowered with the assessment of the individual needs of victims of crime.

Arguably, the comprehensiveness of the national transposition does not necessarily denote a "flawless" adoption of the Victims' Directive. An in-depth research is required to assess the efficiency, accuracy and clarity of the new legislation. In terms of the latter, it would be fair to admit that certain terms were already vague in the original text and remained as such by being transferred in the Greek law without any changes in wording or any further elucidation. For instance, the notion of the "child's best interest", a founding value in article 1 VD (article 54 of the Law), has been widely regarded as complicated and unclear (FRA, 2017). ECOSOC's Resolution 2005/20 provides, to an extent, an understanding of the concept, by determining two of its key components: the right to protection and the right to a chance for harmonious development (ECOSOC, 2005). Nevertheless, an official definition of this term has yet to be included in a legal document, thus allowing for various interpretations and practices at national or European level (FRA, 2017).

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<sup>27</sup> Such as the one voiced by the President of Bar Associations in Greece, during the Committee's meeting on 15.6.2018, available at: [http://www.hellenicparliament.gr/en/Nomothetiko-Ergo/Anazitisi-Nomothetikou-Ergou?law\\_id=e8d154e1-d040-45be-bc33-a78301667b73](http://www.hellenicparliament.gr/en/Nomothetiko-Ergo/Anazitisi-Nomothetikou-Ergou?law_id=e8d154e1-d040-45be-bc33-a78301667b73), last accessed 22.1.2018.

<sup>28</sup> The excluded articles were: 10-11, 13-16 & 18 VD. The Correspondence Table of the bill for the Law 4478/2017 is available at: <http://www.opengov.gr/ministryofjustice/?p=7978> (only in Greek), last accessed 25.1.2018.

This constitutes merely one of the many examples detected in this new legal body that require further analysis. Consequently, in order for the thorough evaluation of the transposition to be a realistic objective and taking into account the fact that E-PROTECT aims principally at promoting child protection, the current report will focus only on the provisions which pertain to child victims of crime. To this end, in the following subchapters, Articles 68-69 and 61-62 of Law 4478/2016 will be scrutinized, in the basis of a juxtaposition with the correspondent Articles 22, 23-24 and 8-9 VD respectively, as well as with the pre-existing pertinent provisions of the Greek criminal law. Also, the examination of other relevant points of other provisions, along with critical observations made during the law-making procedure, add significant value to the understanding of the new legal framework regarding child victimization.

### 3.2. Individual assessments of victims (Article 68 Law 4478/2017)

Article 68 corresponds to Article 22 VD and follows, to some extent, the structure of the original provision. Paragraph 1 repeats, almost word for word, the content of the correspondent article of the Directive. Nevertheless, two additions were made to the adjusted provision:

- a) A reservation is introduced in the Greek version, giving precedence to the personal and professional freedom of the judicial authorities over the importance of the individual assessment. This reservation is not included in paragraph 3 about child victims.
- b) The referral of the victim to the competent authorities for the procedure depends upon the victim's relevant request. Such a prerequisite is not only additional to the original form, but also demanded solely for adult victims of crime, as explained below.

Instead of single-phrase bullets, Paragraph 2 of Art. 68 offers a far more detailed explanation of the criteria which constitute the basis of the individual assessment. This was articulated in accordance with the relevant Recital 56 VD and the EU guidelines for the implementation of the Directive's provisions in MS,<sup>29</sup> as well as, interestingly enough, the recommendations

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

made during the law-making process in the country.<sup>30</sup> The description is not exhaustive, but rather indicative of the parameters that should be considered for the identification of a victim's special needs. Nevertheless, with regard to minors, key public actors have underlined the urgent need to adopt a special protocol, in order to unify the several practices for the performance of individual needs in case of child victims.<sup>31</sup>

Paragraph 3 of Article 68 focuses exclusively on the standing of this particular group of victims. In contrast with adults, minors are more susceptible to victimization and, hence, are presumed by default to be in need of special protection; that is, irrespective of the results of the individual assessment. Providing the special status of minors, it follows that a distinct agency, namely the Independent Offices for Protection of Child Victims, always working in cooperation with experts of mental health institutions, would be commissioned with the personalized evaluation procedure and the protection of the child victims, carried out in the soon-to-be established "Houses of the Child".

While the foundation of the "Houses of the Child" was praised by the majority of the participants in the parliamentary discussion of the bill, as the means to employ a new perspective on prevention and treatment of child victimization in the country, a main point of dispute was the operation of this institution under the jurisdiction of the Services of Social Assistance Guardians of the Ministry of Justice. Notwithstanding the fact that it is legally competent for both child offenders and child victims, in practice this body has always been exclusively occupied with the extra-institutional treatment of child offenders. This is consistent with the belief that the Greek criminal justice system is mainly focused on the offender, rather than the victim of a criminal act (Artinopoulou and Mihail, 2016). Thus, it was argued, both by political actors and by social service providers, that the operation of the Independent Office for the Protection of Child Victims, the public service responsible for the "Houses of Child" should be a self-referencing entity or fall under the remit of another body.<sup>32</sup> An exception to this would only be acceptable in cases of "crossover youth", namely of children who have both fallen victims and manifested criminal behaviour (Kranidioti and

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<sup>30</sup> Regarding the "features of the gender", which was a welcomed comment made during public consultation procedure.

<sup>31</sup> Such as the Representative of the Central Scientific Council for the Treatment of Child Victimization and Juvenile Delinquency, expressed during the Committee's Meetings on 15-6-2017, available at: [http://www.hellenicparliament.gr/en/Nomothetiko-Ergo/Anazitisi-Nomothetikou-Ergou?law\\_id=e8d154e1-d040-45be-bc33-a78301667b73](http://www.hellenicparliament.gr/en/Nomothetiko-Ergo/Anazitisi-Nomothetikou-Ergou?law_id=e8d154e1-d040-45be-bc33-a78301667b73), last accessed 22.1.2018.

<sup>32</sup> The Representative of the socialist party, as well as the Representative of Social Workers' Association, during the Committee's Meeting on 15.6.2017, available at: [http://www.hellenicparliament.gr/en/Nomothetiko-Ergo/Anazitisi-Nomothetikou-Ergou?law\\_id=e8d154e1-d040-45be-bc33-a78301667b73](http://www.hellenicparliament.gr/en/Nomothetiko-Ergo/Anazitisi-Nomothetikou-Ergou?law_id=e8d154e1-d040-45be-bc33-a78301667b73), last accessed 22.1.2018.

Zagoura, 2016). In the opposite side of the controversy, the Prosecutor of the Supreme Court of Greece, based on this stance of crossover youth, endorsed the idea of a united legal scheme for children, regardless of their role in the criminal proceedings, an illustrative example of which is reportedly the Police Department for Minors.<sup>33</sup>

The last passage of the paragraph, forming another extension to the Directive's provision, is linked to the discussion about the maturity of the child. Age is believed to contribute significantly to the perception of the child's opinion on the part of the judicial authorities and their general level of involvement in the criminal proceedings (FRA, 2017). That, however, should not be interpreted as a right to restrain the minor from participating in the criminal justice system or renounce, a priori, the validity of its deposition as witness in the case (ECOSOC 2005/20). As academics and several professionals supported,<sup>34</sup> the assessment of maturity, which is closely associated with the victim's age, is a key factor to the determination of child's needs, as well as the level up to which the child's wishes will be taken into consideration during an individual assessment (Themeli, 2010).

Child's wishes are explicitly stated, under paragraph 4 of Article 68, to play a decisive role in the implementation of the special measures described in the following article. Rather than leaving a margin of discretion to the authorities to evaluate the child's desire upon the measures, as in the Victims' Directive,<sup>35</sup> the national legislator chose to make the child's wish to benefit from such measures legally binding. In other words, the Greek legislation sets, in this case, higher standards than the VD, by attaching the consent of the victim to the application of the protective mechanisms of Article 69 (ILGA Europe, 2013). Finally, given the fact that the wording of paragraph 7 Article 22 VD which makes reference to the update of the individual assessment was copied in paragraph 5 Article 68 Law 4478/2017, the ambiguity of "significant change" remains unaddressed at a national level too.

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<sup>33</sup> Prosecutor of Supreme Court of Greece during the Committee's meetings on 15-6-2017, available at: [http://www.hellenicparliament.gr/en/Nomothetiko-Ergo/Anazitisi-Nomothetikou-Ergou?law\\_id=e8d154e1-d040-45be-bc33-a78301667b73](http://www.hellenicparliament.gr/en/Nomothetiko-Ergo/Anazitisi-Nomothetikou-Ergou?law_id=e8d154e1-d040-45be-bc33-a78301667b73), last accessed 22.1.2018.

<sup>34</sup> 12 interviews were carried out with key stakeholders on child protection in Greece, during the course of November 2017.

<sup>35</sup> As 22(6) VD stipulates. See: Ibid, n. 29.

### 3.3. Right to protection of victims with specific protection needs and child victims during criminal proceedings (article 69 Law 4478/2017)

Article 69 embodies both Articles 23 and 24 VD, harmonizing the new legislation with already existing provisions of the Code of Penal Procedure.

Similar to the articulation of the Victims' Directive, special measures are segregated into two main categories, depending on the stage of criminal proceedings during which they can be implemented: criminal investigation and court hearing. As only child victims' protection in the criminal justice system falls into the scope of this report, paragraphs 4, 5 and 6a of the present article will not be examined.

Paragraphs 1 and 2 of Article 69 set the basic principles for the adoption of special protection methods for victims with distinctive needs, regardless of age, and are almost verbatim copies of the Directive's correspondent provisions. However, the debate hereto derives from the single divergence of par. 1 Article 69 from the European version, namely the omission, in the former, of the reservation in favour of the defendant's rights and the judicial authorities' operation. This reservation reflects the dynamics of the balance between the different parties' rights (EPRS, 2017, p.85) and the concern raised around the implicit or explicit violation of the offender's rights. Procedural exceptions introduced to the rules governing the child victim's participatory rights in the criminal proceedings due to his/her vulnerable status, have been highly criticized as undermining the position of the defendant in the criminal justice process (Nikolopoulou, 2016).

This becomes quite evident in paragraph 3, where a new practice for the examination of child victims of offences against personal or sexual freedom is established, in combination with pertinent article 226A CPP, which was last amended by Article 77 Law 4478/2017. Questions with regard to who, where, when and how the child's interview shall take place are herein answered:

**a) Who:** the investigative and judicial authorities, but always in the physical presence of an expert, namely a child psychologist or child psychiatrist who either serves at the Independent Offices for the Protection of Child Victims or, in lack of such an agency seated in the region, is included in the official catalogue of experts of the competent Court of First Instance. The health practitioner undertakes the task to prepare the minor for the upcoming examination and is assisted in this procedure by the competent authorities; the latter's assistance, however, should not be misunderstood as an active participation in the preparation process.

In the pre-existing version of Article 226A CPP, this preliminary stage of the criminal investigation –prior even to the questioning of the child victim–, was usually conducted by a police psychologist of the Police Department for the Protection of Minors.<sup>36</sup> In addition to this, Article 352A of the Penal Code, added by Law 3625/2007, also stipulates that in cases of child victim of crimes against sexual freedom and economic exploitation, both the victim and the offender are subjected (the latter upon his own consent) to diagnostic tests during any stage of the criminal proceedings, in order to identify his/her mental – and physical, concerning the minor – state.<sup>37</sup>

An important and controversial exception to the general provisions regarding preliminary investigation is the fact that the appointment of a technical adviser is explicitly prohibited under this paragraph and the Article 226A CPP – even before the recent amendment (Nikolopoulou, 2016). Coupled with the fact that the law allows only for investigative authorities, the health professional and the legal representative to be present during the examination, it follows that the defence is excluded from this stage, which has been argued to be opposed to Article 6 par. 3d ECHR (Nikolopoulou, 2016). This is underpinned by the settled case-law of CJEU, which has ruled in favour of such exceptions during the criminal interrogation process in cases of sexual offences, but not to the extent that the alleged perpetrator’s advocate cannot even be present or indirectly pose questions to the witness (Nikolopoulou, 2016). Nevertheless, and always with due respect to Article 6 ECHR, the Greek jurisprudence not only does not seem to share this viewpoint, but also underlines that the expert’s appointment for the examination of the child during the preliminary criminal stage, pursuant to Article 226A CPP, safeguards the defendant’s rights too, especially taking into consideration the rights’ limitations imposed in the cases enumerated in Article 226A CPP.<sup>38</sup>

b) **Where:** at the premises of the aforementioned institutions, namely at the “Houses of the Child” or, if not available, in structures designed especially for this purpose. Such an obligation was already imposed by the pre-existing version of Article 226A CPP. Sadly, as stated by multiple actors of child protection, that was only on paper; no child friendly infrastructure exists to date and this procedure has been carried out, for the most part, in regular police offices of the PDPM (or, in certain cases, in structures created by child support organizations and set at the disposal of law enforcement authorities).

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<sup>36</sup> More details on the pre-existing, yet still in place, status of the “preliminary psychological expert’s opinion” can be found in Deliverable 3.12, issued in the framework of E-PROTECT project.

<sup>37</sup> Article 352A PC, par. 1 & 3.

<sup>38</sup> Decision number 113/2015, Criminal Court of Appeal of Crete, available at: [https://lawdb.intrasoftnet.com/nomos/3\\_nomologia\\_rs\\_sub.php](https://lawdb.intrasoftnet.com/nomos/3_nomologia_rs_sub.php), last accessed 1.2.2018.

c) **When:** without unreasonable delay. Equally ambiguous wording with the one contained in Article 59 – correspondent to Article 7 VD – regarding the translation of documents within a “reasonable period of time”, were subject to reactions at the law-making Committee’s meetings, as arguably posing the risk of excessive delays in the proceedings.<sup>39</sup>

d) **How:** The first step, consisting in the preparation of the minor, shall be performed through the utilization of suitable diagnostic tools and the expert’s report forms part of the case file. The second step, the examination of the child victim, shall be concluded in the minimum number of interviews and the deposition shall be recorded in written form and with the use of audiovisual media. Considering the fact that the police departments remain totally underequipped to this matter, the practical adoption of these conditions is going to be instrumental in safeguarding the child’s best interests and preventing second victimization.<sup>40</sup> That is why a welcomed adjustment to the bill, recommended by stakeholders invited in the parliamentary meetings, was the deletion of the phrase “if possible” from the wording of the present paragraph, which made the audiovisual recording optional.<sup>41</sup> Furthermore, light was shed on the procedural details during the parliamentary meetings, according to which the investigating officers will not be standing in the same room as the child, but address the questions via the child psychologist and supervise the procedure through a double mirror.<sup>42</sup> Consequently, it is evident that paragraph 3 encompasses the minimum standards, in accordance with the Victims’ Directive, for the involvement of a child victim to the criminal investigation. Moreover, the paragraph’s last passage, whose wording is repeated in paragraph 6b, pertains to and introduces the discussion upon the second level of child victims’ participation in the criminal justice system, during the court hearing.

First, with due respect to the principle of preventing the visual contact between the victim and the alleged offender, it is stipulated in paragraph 6b that the child victim’s deposition shall be read in the courtroom, and the physical presence of the child shall only be allowed if he/she has come of age by the date of the hearing and is deemed to be indispensable for the case. In other words, the child’s deposition, obtained during the preliminary stage,

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<sup>39</sup> Objection was raised by the Rapporteur, Nikolaos Panagiotopoulos, during the law-making Committee’s meetings, available at: [http://www.hellenicparliament.gr/en/Nomothetiko-Ergo/Anazitisi-Nomothetikou-Ergou?law\\_id=e8d154e1-d040-45be-bc33-a78301667b73](http://www.hellenicparliament.gr/en/Nomothetiko-Ergo/Anazitisi-Nomothetikou-Ergou?law_id=e8d154e1-d040-45be-bc33-a78301667b73), last accessed 23.1.2018.

<sup>40</sup> President of the “Smile of the Child” during the law-making Committee’s meeting on 15-6-2017, available at: [http://www.hellenicparliament.gr/en/Nomothetiko-Ergo/Anazitisi-Nomothetikou-Ergou?law\\_id=e8d154e1-d040-45be-bc33-a78301667b73](http://www.hellenicparliament.gr/en/Nomothetiko-Ergo/Anazitisi-Nomothetikou-Ergou?law_id=e8d154e1-d040-45be-bc33-a78301667b73), last accessed 22.1.2018.

<sup>41</sup> *Ibid*, n.31.

<sup>42</sup> See the Minutes of the law-making Committee’s meeting on 19-6-2017 (1<sup>st</sup> reading), available at: [http://www.hellenicparliament.gr/en/Nomothetiko-Ergo/Anazitisi-Nomothetikou-Ergou?law\\_id=e8d154e1-d040-45be-bc33-a78301667b73](http://www.hellenicparliament.gr/en/Nomothetiko-Ergo/Anazitisi-Nomothetikou-Ergou?law_id=e8d154e1-d040-45be-bc33-a78301667b73), last accessed 23.1.2018.

substitutes his/her physical presence in the court,<sup>43</sup> in order to eliminate the danger of revictimization, stemming from the contact with the perpetrator. To this end, it has been argued that separate courthouse waiting rooms for victims and offenders should also be formulated (ECOSOC, 2005).

Second, upon request from the Prosecutor's or the parties' part and provided that a child victim's examination has not been carried out during the preliminary proceedings or that a supplementary deposition is needed, the Court may order a new examination of the minor. In such case, an interrogating officer is appointed by the Court in order to conduct the examination at the location of the minor, without the presence of any other individual. This supplementary deposition is based on questions explicitly posed in advance by the parties and recorded in a written form by the interrogating officer, pursuant to paragraph 6b of Article 69 Law 4478/2017 and paragraph 2 of Article 226A CPP.

Finally, paragraphs 6c, 7 and 8 of the present Article 69, verbatim copies of the correspondent provisions of the Victims' Directive, complete the grid of the minimum legal measures that apply in cases of child victimization, without having raised significant dispute.

#### 3.4. Access and support from victim support services (articles 61-62 Law 4478/2017)

Transposing Articles 8 and 9 VD respectively, Articles 61 and 62 of Law 4478/2017 regulate the role of victim support services in the treatment and protection of victims regardless of age. From a legal analysis perspective, Article 62 was adopted completely unchanged.<sup>44</sup> On the other hand, minor differences can be traced between Article 8 VD and the correspondent Article 61.

As already mentioned above, the vagueness regarding the accurate meaning of "a reasonable period of time" has been criticized at the parliamentary stage of the law-making process. Nevertheless, one could easily identify the key point of contrast of Article 61 Law 4478/2017 with Article 8 VD, at the level to which the provision of services by the victim support structures is also extended to the victim's closest persons. Before proceeding to this point, it should be highlighted that in the Greek legal document, the original term "family

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<sup>43</sup> Article 69(3).

<sup>44</sup> Apart from the addition of the "gender features" in the paragraph 3b, adjusted in accordance with the recommendations from the public consultation process.

members” was intentionally replaced by the broader “persons who are closely related to the victim”.<sup>45</sup> The explanatory factor behind this amendment was to guarantee the protection of all the persons who are indirectly affected by the occurrence of the crime against the victim, in order not to allow for a *stricto sensu* interpretation of the definition, such as the one of Article 932 CC regarding compensation of victims for non-pecuniary damage.<sup>46</sup> Nevertheless, it was explicitly clarified that this expansion is only limited to the victim’s rights and does not affect in any way the right to launch a civil action during criminal proceedings.<sup>47</sup>

Pursuant to Article 61, contrary to the relevant obligation imposed by the Victims’ Directive, these “persons who are closely related to the victim” are entitled to special assistance only if and to the extent that their needs and degree of harm inflicted due to the occurrence of the crime demands so. The wording is herein significant; whereas the phrase “shall have access” is used in the original text, in Article 61 it is replaced by the phrase “the protection may be extended to”. Such a margin of discretion is not consistent with the guidelines provided by DG Justice regarding the interpretation and transposition of the Victims’ Directive, where the extension of support to family members is seen as an imperative and only the needs assessment methodologies is left to the discretion of the national authorities.<sup>48</sup>

Conversely, paragraph 2 is harmonized with the pertinent guideline of DG Justice in relation to the referral of the victim to a VSO. With due respect to the relevant recommendation, the national law depends the referral, carried out by the police or any other authority where the crime has been reported, upon the victim’s request.<sup>49</sup> On the other hand, the referral and access to VSOs is not dependent upon the filing of a formal complaint on behalf of the victim, pursuant to paragraph 3 of Article 61. Furthermore, for the purposes of this provision, a new category of holders of the right to access the VSOs is introduced, namely the children of female victims of multiple offenses enumerated in paragraph 5.

Last, the definition of VSOs encompasses a wide range of entities, both public and private, operating at a national or regional level, covering various fields of victim support. Through

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<sup>45</sup> This is an informal translation made by the author of this report, in an attempt to better describe the content of the term. The latter is defined in Article 55 of Law 4478/2017, as to include the spouses, the persons who cohabitates and maintains a stable and constant relationship with the victim regardless of the gender, the fiancé(e)s, relatives by blood or affinity in straight line, adopting parents and adoptive children, siblings and their spouses or fiancé(e)s, as well as the dependents of the victim, apart from the children.

<sup>46</sup> As it was explained by the relevant Committee of the Ministry of Justice: Ibid, n. 1, p. 13.

<sup>47</sup> Ibid.

<sup>48</sup> Ibid, n.29.

<sup>49</sup> This is consistent to DG Justice Document, where it is stated that “the police should explain what services can be offered and refer victims to a VSO unless victim does not want such support”.

this lens of child protection, the ambiguity of the role of the NGOs raised political concern in this parliamentary stage. While their contribution was not overlooked, it was claimed that, as child rights are at stake, the prerequisites for their involvement should be specified and depend upon the relevance of each NGO's policy to the protection of minors.<sup>50</sup> Regardless of the validity of this point, it should be noted that the NGOs constitute, at the moment, the main defender of child protection in the country, providing, among others, psychological and physical support, consultancy and – almost exclusively – accommodation; this was underpinned by several actors and agents, including the “Smile of the Child’s” President who conducted an intervention in the meeting, who publicly announced that the organization’s expertise and premises for the internal individual assessments of the children, remain at the government’s disposal.<sup>51</sup>

Respectively, sceptical reflections were made regarding the role of victim support institutions of the public sector. As described in Article 62, the minimum services that these legal entities (public or private) are required to provide, include victim reception centres, accommodation, safe residence and full support for the most vulnerable groups of victims.<sup>52</sup> The main argument here was whether such requirements could be met, taking into account that no public structure in Greece appears to fulfil such criteria, not only due to malfunction, but also due to the insufficient funding and personnel of such services in the country.<sup>53</sup>

### 3.5. Other provisions

Apart from the articles under scrutiny in this report, along with articles 72-74, which elaborate on the operation of the new public services, no other provision applies exclusively in cases of child victims. Nevertheless, in order to provide a better understanding of the impact of the new legislation to child protection, a few key points will be briefly discussed below.

First, a terminology issue was raised during the parliamentary debate of the Directive’s transposition. In the Greek translation of the Victims Directive, the word «δράστης» – “perpetrator” – is selected to translate the term “offender”, instead of the suitable legal terms

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<sup>50</sup> Ibid, n. 36.

<sup>51</sup> Ibid, n. 34.

<sup>52</sup> Article 62 (3) Law 4478/2017.

<sup>53</sup> Ibid, n. 36.

“defendant” or “suspect”, with due regard to the Greek Code of Penal Procedure.<sup>54</sup> This is seen as an unfortunate “slip” and as a violation of the presumption of innocence, a fundamental value in the criminal justice system of the country.<sup>55</sup>

Unfortunate, or rather unnecessary, is stated to be the repetition, in paragraphs 4 & 5 of Article 67 (correspondent to Article 21 VD), of the prohibition of dissemination and media broadcasting of the court hearing and the victims’ faces during all stages of criminal proceedings.<sup>56</sup> That is because this prohibition has already been in place in Greece since the adoption of Article 8 Law 3090/2002, which also introduced the same exception to this rule, namely in cases of substantive interest to the public (for instance, the broadcast of the Greek Junta Trials in 1975). Apart from the above, the provision does establish new rules, especially regarding the publicity of court hearing, which may be waived – by a court decision – in aid of the child victim’s right to protection of privacy, particularly in crimes against sexual freedom or sexual exploitation.<sup>57</sup>

Both during the law-making process and in the aftermath of the publication of Law 4478/2017, Article 63 (correspondent to Article 12 VD), which introduces and reinforces the role of restorative justice in the prevention of secondary or repeated victimization, was found in the centre of academic and political attention. This mechanism, which has been debated and is constantly evolving during the last 30 years offers, in principle, an alternative to the punitive character of criminal justice (Artinopoulou and Mihail, 2016; Panagos, 2016). However, recent studies indicate that victims in Greece are generally ignorant of the existence of such an alternative practice or the specifics of its performance (Artinopoulou and Mihail, 2016). Regardless of victim’s awareness, it has been stated that the importance of this practice gains more prominence in the field of child victimization and, even more so, in the treatment of juvenile delinquency (Panagos, 2016).

The value of the provision and of the restorative practices in general, has been highly disputed. As unanimously voiced by the representatives of political parties that addressed the issue during the parliamentary meetings, the notion of restorative justice is similar to the already existing reformatory measure of criminal conciliation between the victim and the

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<sup>54</sup> Ibid, n. 27. Also see the Minutes of the law-making Committee’s meeting on 19-6-2017, available at: [http://www.hellenicparliament.gr/en/Nomothetiko-Ergo/Anazitisi-Nomothetikou-Ergou?law\\_id=e8d154e1-d040-45be-bc33-a78301667b73](http://www.hellenicparliament.gr/en/Nomothetiko-Ergo/Anazitisi-Nomothetikou-Ergou?law_id=e8d154e1-d040-45be-bc33-a78301667b73), last accessed 23.1.2018.

<sup>55</sup> Ibid.

<sup>56</sup> Ibid, n. 28.

<sup>57</sup> Article 67(2).

juvenile offender, regulated by Law 3189/2003.<sup>58</sup> This model has been argued to strengthen the position of the offender over that of the victim, to the extent that a more vulnerable victim, such an underage one, could be exposed to the risk of becoming a “tool” in the process of socially reintegrating the offender (Nouskalis, 2015). Moreover, given that the role of the mediator is assigned to Guardians of Minors, who are empowered exclusively with the treatment of juvenile offenders and have minimum or no contact with the child victims, it follows that the procedure is focused on the promotion of the former’s rights, rather than being carried out impartially (Panagos, 2012; Papadopoulou, 2012). Consequently, and in view of the socio-economic inequalities at a national level, overcoming the above issue and enhancing the protection of child victims through the enforcement of restorative justice practices is envisaged, at least from the politicians’ perspective, as an unrealistic scenario.<sup>59</sup> Further attention should also be drawn to Article 13 VD regarding the victims’ right to gain access to legal aid. The mechanism of legal aid is comprehensively governed by Law 3226/2004 and, hence, Article 13 was not transposed as a separate provision.<sup>60</sup> Apart from the factors repeated in VD concerning the involvement of the victim as a party in the criminal proceedings, Law 3226/2004 entails a number of other factors determining the individual’s entitlement to this right, such as the type of the offence, the victim’s income or residency status, which is considered to be problematic (EPRS, 2017). Equally disturbing is the fact that no income exception has been introduced in cases of child victims, opposite to the UN guidelines for the establishment and promotion of a child friend justice system (FRA, 2017). Nevertheless, child victims of crimes against sexual freedom benefit from full access to legal aid both during civil and criminal proceedings, irrespective of the other criteria required in the general provisions of Law 3226/2004.<sup>61</sup>

In spite of the fact that it does not directly transpose a provision of the Victims’ Directive, Article 74 cannot be overlooked, as it specifies the scope of action of the Independent Offices for the Protection of Child Victims (the “Houses of the Child”). Apart from the performance of individual needs assessments under specific conditions - previously described in this report and defined in this provision-,<sup>62</sup> the new agency is competent for the provision of general

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<sup>58</sup> Members of the parliament representing different parties during the Committee’s meetings on 6-6-2017 and 19-6-2017, both available at: [http://www.hellenicparliament.gr/en/Nomothetiko-Ergo/Anazitisi-Nomothetikou-Ergou?law\\_id=e8d154e1-d040-45be-bc33-a78301667b73](http://www.hellenicparliament.gr/en/Nomothetiko-Ergo/Anazitisi-Nomothetikou-Ergou?law_id=e8d154e1-d040-45be-bc33-a78301667b73), last accessed 23.1.2018.

<sup>59</sup> Ibid. This, however, was not endorsed by the Rapporteur, contrary to the previous argument.

<sup>60</sup> Ibid, n.28.

<sup>61</sup> Article 1 (3) Law 3226/2004.

<sup>62</sup> Article 74 (1c,d and e) Law 4478/2017.

support services for child victims, in accordance with Article 62.<sup>63</sup> Interestingly enough, this was contradicted by the Minister of Justice during the law-making Committee's meetings, who clarified that "House of the Child" is not a victim support centre.<sup>64</sup> Furthermore, another objection emerged from the temporary appointment, in the fourth paragraph, of the Services of Minors' Guardians of Social Assistance Guardians as the authority responsible for carrying out the individual assessments of child victims of crime, until the establishment of the "Houses of the Child".<sup>65</sup>

## 4. Conclusions

As the European Parliament confirmed, Greece transposed in whole, "better late than never", the Victims' Directive into the national legal order, at least at a legislative level (EPRS, 2017). Taking into account the lack of a harmonized system on child protection in the country, the adoption of the new Law 4478/2017 is perceived as a remarkable step towards the creation of a legal "grid" of safeguards for child victims of crime. To this end, the legislation does not only establish the procedural standards for the participation of child victims in criminal proceedings, but also emphasizes the need to raise general awareness, as well as to create a solid network of institutions and professionals who are constantly trained in the field of the promotion of child victims' rights.<sup>66</sup>

In most aspects, the European legal act was adopted verbatim, nuanced with elucidations provided in the respective Recitals and the DG Justice's guidelines. Such is, for instance, the case of Article 68 on individual needs assessments, where the criteria for conducting the evaluation are cited in detail, in accordance with Recital 56 VD. As much as this verbatim "technique" may serve in the compliance of the national legislation to the European one, it appears to sometimes "transfer" issues and ambiguities from one text to another, rather than clarifying what was, deliberately or not, vague in the original act. Furthermore, the exact translation of certain terms has been disapproved by professionals in the field of law for being unsatisfactory and inconsistent with the Greek legal terminology.

In some regards, Law 4478/2017 even went beyond the minimum regulative framework of the Victims Directive. This is reflected in various ways; by the expansion of the legal protection of victims either in general, through broader definitions of main terms, such as

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<sup>63</sup> Article 62 Law 4478/2017.

<sup>64</sup> Ibid, n. 25.

<sup>65</sup> Ibid.

<sup>66</sup> Article 74 and 75 Law 4478/2017, correspondent to Article 26 and 25 VD respectively.

indirect victims or in specific provisions,<sup>67</sup> through the inclusion of additional categories of persons who benefit from the victim support service;<sup>68</sup> by the adoption of more detailed versions of the original correspondent provisions, in order to comply with the guidelines for the Victims' Directive and to adjust the new law to the pertinent, already existing legislation of the country,<sup>69</sup> and by the elaborated description of certain measures and mechanisms, in order to improve their implementation.<sup>70</sup> Last, the few shortcomings of the new law pinpointed, mainly during the law-making process, are associated with administrative issues, rather than substantial omissions in the transposition of the European Directive.

To sum up, it has been underlined that, with the adoption of the new legislation, Greece seeks *inter alia* to fortify the role of child victims in the criminal justice system, without jeopardizing the protection of their rights.<sup>71</sup> Overall, the new Law 4478/2017 seems to have set the grounds for the attainment of that objective, at least in theory. That being said, it is too soon to proceed in any conclusions regarding the effectiveness and efficiency of the new legislation (EPRS, 2017). Time is of the essence here, in order for sufficient public resources to be allocated to the operation of the newly established agencies and, most importantly, the training of personnel and for a concerted action plan of the State and all the organizations involved in child protection to be put in practice. Time is of the essence, in order to be able to assess whether, and to what extent, the Victims' Directive's transposition will have, as expected and hoped, a robust effect in the establishment of a new, enhanced and comprehensive system of child victim protection in the country.

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<sup>67</sup> Article 55(1b).

<sup>68</sup> Article 61(5).

<sup>69</sup> e.g. Article 69, which was articulated with due respect not only to VD, but also to Articles 226A CPP and 352A PC.

<sup>70</sup> Such is the case of Article 63, correspondent to Article 12 VD, regarding the restorative justice mechanism.

<sup>71</sup> *Ibid*, n. 1.

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