

CHILD'S PROTECTION POLICY.

GREECE.

The policy followed by the Greek government is in alliance of the E.U one.

The majority of existing legislation is based on the European, and more analytically:

The Article 16 of the UN Convention on the Rights of the Child, which also implies in Greece, provides that No child should be object of arbitrary or illegal intervention of his / her privacy, his / her family, his / her home or in his correspondence, or even in unlawful insults of his / her honor and reputation.

It must be kept by everyone, even by the child's legal representatives.

The principle of Article 6 (c) of the Directive 95/46 / EC provides that only appropriate, relevant and not excessive data referred to the child, can be collected and processed.

In applying the principles of Art. 6 (c) the controllers of data possession should pay particular attention to the child's condition as they should respect his / her major interests at all times.

Namely, the institutional framework for the rights and protection of children at international, European and national level considering that being underage is a period in life, in which the person has not yet sufficiently formed their own personality, they are vulnerable and affected particularly by actions of adults and enjoy special protection by the legislator, both in national, European and international level. The institutional framework for the protection of children's rights consists of a wealth of international and European texts binding on Greece, but also on a variety of ordinance on the internal legal order, which are spread in abundant legislative texts. Among those, special position possesses the International Convention on the Rights of the Child from the organization of UN which only children exclusively receive. The implementation is supervised by the Committee on the Rights of the Child and the European Convention for the Protection of Human Rights and Fundamental Freedoms (ECHR) which addresses children and the subjects of which concern the interpretation and implementation referred to the jurisdiction of the European Court of Human Rights (ECtHR). In reference to the foremost international and European texts for the protection of children binding Greece are the following below:

a) United Nations Organization (UNO)

- Convention on the Rights of the Child (CRC) Law No. 2101/1992 (Government Gazette A' 192).

- Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict, Law No. 3080/2002 (Government Gazette A' 312).

- Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography, Law No. 3625/2007(Government Gazette A' 290).

- Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime, Law No. 3875/2010 (Government Gazette A'158)

Concerning to the potency of the Convention on the rights of the Child in the Greek internal legal order, at first the configurations of the art.28 paragraph 1 of the Constitution are crucial, which concern the potency of the international Conventions from which undeniably emerge that the Convention - ratified by Law No. 2101/1992 and has been in force - has superior legal force to any contrary law ordinance, even if the last-one is more specific or subsequent to the prior.

Due to the increased typical potency of international conventions based on Article 28 par. 1 of the Constitution and despite the lack of the explicit constitutional provision according to, the art.93 par.4 Const. concerning the control of the constitutionality of the laws (Chrysogonos 2002), the Greek courts of law in the framework of cases they judge, are required not to implement the law or regulative acts which conflict with the Convention. (Arnaoutoglou, 1982). Besides, the term about reciprocity of the subparagraph 2 of par. 1 of Article 28 Const. is not valid with regard to the implementation of the Convention by the Greek courts and government bodies, over foreigners, providing that the term doesn't apply to multilateral conventions, which reserve human rights and their implementation is protected by institutional mechanisms, such as the Committee on the Rights of the Child (Chrysogonos 2002).

Despite the fact that the Greek Constitution does not outright guarantee the principle of child protection, under the meaning of Article 3 par. 1 of the Convention, there is a favorable regulative framework for the child (Manassis,1989, Cutsobinas,1990, Chrysogonos 2002) which the general provisions of the Constitution configure, in the articles 2 par.1 (protection of human dignity), 5 par.1 (right to the free personality development), 5 par. 2 (protection of life, value and freedom without discriminations), 5 par. 3 (personal freedom), 25 par. 1 (protection of human rights as a member of society), 21 par. 1, provision establishing childhood under the protection of the state. Special concern is taken in the Art 96 par. 3 of the Const. in order to permit and to not apply in juvenile courts the provisions of Art. 93 par. 2 of Const. (meeting publicity) and 97 of Const. (trial of felonies and political crimes by mixed jury courts) as well as their decisions not be publicly recited. In the Art. 29 par. 1 of the Const. moreover, those underage the right to participate in youth sections of political parties is recognized. Through the Art. 4 par. 1 of the Const.3 the principle of all Greek citizens' equality is established before the law, the right which extends by the Art. 2 par. 1 of the Convention (principle of non-discrimination) including the foreign minors apropos with their rights foreseen in it. The provision of Art. 4 par. 2 of the Const. is also important as it ensures the equal treatment of the sexes, and therefore, with regard to minors it prohibits the discriminations related to their sex, but also the enforcement of men and women equality as parents it is also of great importance for the children's rights protection in the family. Furthermore, Art. 21 par. 1 Const. concerning the protection of the family, dictates the provision toward the family, in Art, 9 par. 1 of the Const. where it is clearly defined that individual's family life is inviolable, the State abstention is dictated from actions that could harm the family institution. The inviolable of family life involves an individual right both for Greeks and foreigners too, so as to be able to create and shape their lives within the desired frame ,protected from any state intervention, which may cause an obstruction of coexistence in family members (e.g. expulsion, prohibition of en-try in a country). In the

Article 20 par. 1 of Const. the right of legal provision and judicial protection is reserved and therefore judicial audience is reserved as well, while in par. 2 of the same Article the right of the previous administrative audience is reserved. The above constitutional provisions explicitly guarantee the children's rights derived from the article 12 of the Convention (Respect for the views of the child). The Child's freedom of expression and information are also reserved by the provisions of Article 14 par. 1 and 5A par. 1 of the Const., whereas the freedom of artistic expression is protected by the provision of Article 16 par. 1 of the Const., recognizing the freedom of art as an independent individual right. The right to the education, reserved in international and European legal texts for the protection of human rights, is itself fundamental and determinant for the materialization of civil and political freedom, economic and social rights. The non-actualization of which renders access to other rights theoretical, and the person vulnerable to human rights violations.

In the Greek Constitution, it is enacted that, the at least nine-year education is compulsory for everybody. The freedom of religion is guaranteed in the Article 13 par. 1 and 2 of the Const. The impaired children are protected by the Articles 21 par. 2, 3 and especially 6 of the Const. The Constitution defining the article 21 par.3 that (The State funds for the health of citizens), recognizes the right to health. It is not disputed that, in this ordinance the constitutional mandate to the legislator is included, permitting the latter freedom of a choice. The legislator should take the appropriate measures in order to maximize the desired result, which is health protection. However, that ordinance does not establish a respective civil claim (Kremalis,1987), while a more correct interpretation is the one with the auxiliary support of other ordinances of the Constitution (Article 2 par. 1, Article 5 par. 2) which accepts that, the protection of health addresses the entire population and not only the Greek citizens. The child's right to the social security is not explicitly guaranteed in the Greek Constitution, but concluded with clarity by a complex of constitutional provisions: a) From the Article 22 par. 5 in the measure that it entrenches the structural characteristics of the Greek social security system, and therefore the child protection either as employee or as a dependent child, b) The provisions of Article 21, on the one side directly justifies a self-contained and specially protected as a social good childhood and youth and also contribute indirectly to their protection through special provisions to protect the family, motherhood, families with many children and orphans (Manessis, 1992). For the actualization of these objectives either an appropriate favorable adjustment of social security must be imposed or preferential measures must be taking, and c) Generally, at the beginning of the social state, which functions coherently and it incorporates the specific objectives which enforcing the conformation of a functional and efficient social protection system, in which the child has an eminent position (Kaidatzis, 2002). Finally, based on the Art. 7 par. 2 of the Const. the enactment of penalties is prohibited, either those concern criminal or disciplinary sanction, as well as the enactment of any other penalty which the individual is used as an object and thus his dignity is offended.

In reference to the brief overview about the constitutional provisions, it is clear that there are three big categories of child rights which are included in the Convention related to: a) **The protection** (from all forms of abuse, exploitation, discrimination, racism, etc.), b) the **benefits** (right to education, health, social welfare, recreation, etc.) and c) **the participation** (the right to the free expression of opinion, information, leisure, etc.) as well as the four basic principles, as they are defined in the international Convention on the Rights of the Child, which means the right to non-discrimination (Article 2), the right to take into consideration primarily the convenience of the child in all actions and decisions which

concern them (Article 3), the right to life, survival and development (Article 6), the right of the child to express their opinions about all the issues concerning them and taking them all into consideration ,in proportion to their age and maturity (Article 12) which generally are guaranteed in the Greek Constitution.

Conclusively, the Greek legislation in conjunction with the European, create a strong protective fence for the young citizens of the country.