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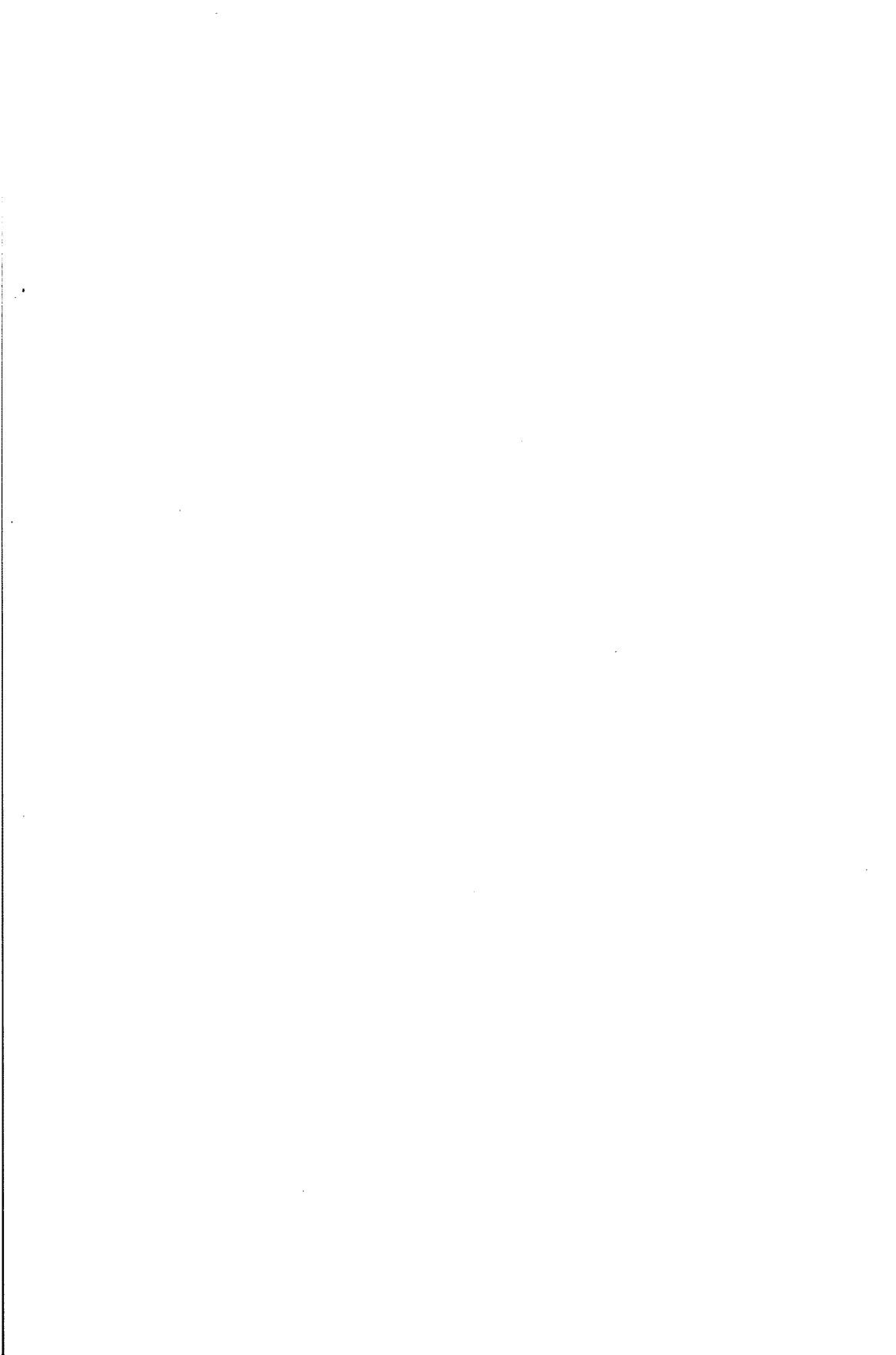
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# Juvenile Justice in Greece

## An Overview Following the Legislative Reform of 2019\*

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### I. Legal Sources of the Juvenile Justice System in Greece

The main substantive law provisions concerning delinquent minors in Greece are contained not in an autonomous law on juvenile justice, but in the Penal Code (eighth and final chapter of the General Part, art. 121 – 133), under the title: “Special provisions for minors”. This Code was enacted in Greece in June 2019,<sup>1</sup> together with a new Code of Penal Procedure.<sup>2</sup> Both replaced the previously in force respective Codes, which, however, had already been reformed before in relation to minors, mainly in 2003, in 2010, and in 2015. Apart from these special provisions anchored in (substantive and/or procedural) criminal law and applied as “*lex specialis*” in relevant cases, relevant provisions are also included in special laws, such as those concerning TV broadcasts.<sup>3</sup> Besides, Greece has ratified all major international or European conventions, such as the UN Convention on the Rights of the Child (1989), the UN Optional Protocol on the Sale of Children, Child Prostitution and Child Pornography (2000) and the European Convention on the Exercise of Children’s Rights (1996). Greece has furthermore signed up to many soft law instruments (in the sense of rules and recommendations) of the United Nations and the Council of Europe.

### II. Aims and Objectives

The principal objective of the Greek legislation on juvenile justice is to prevent repeat offending and, in particular, to ensure social integration, mainly through

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<sup>1</sup> Law-Nr. 4619/2019.

<sup>2</sup> Law-Nr. 4620/2019.

<sup>3</sup> See for example art. 8 sec. 1 of Presidential Decree 100/2000 and articles 12 and 13 of Presidential Decree 77/2003.

the education of minors and other welfare measures. Human rights of minors, either accused or convicted, are equally a cornerstone of the juvenile system in Greece. Hence, the basic model of criminal policy which marks this system is a mixture of the welfare model with the justice model.

### III. The Juvenile Courts

The sole judicial authority for ordering sanctions to juveniles when they infringe criminal law is the Juvenile Court. In ordinary cases, it consists of one judge sitting in Provincial Courts. In cases of felonies, for which a juvenile detention can be imposed (cf. *infra*, VIII), the court is constituted by three judges (art. 113 Greek Code of Penal Procedure – CCP). Both courts are composed exclusively of professional judges and are competent to try all offenses committed by minors, that is by those who were aged 12 to 18 at the time of the offense. Furthermore, there are Juvenile Courts of Appeal, consisting of three judges (art. 114 GrCPP).

### IV. Legal guarantees for Offenders and Victims

As an accused, the juvenile is guaranteed the same basic procedural rights as those to which accused adults are entitled: Among others (cf. art. 92 and 96 Greek Penal Code – GrCPP), this comprises the right to be heard before the court (art. 20 Greek Constitution) and the principles of *nulla poena sine lege* (art. 7 sec. 1 Greek Constitution and art. 1 & 2 GrPC) and of *ne bis in idem* (double jeopardy, art. 57 GrCPP), the right to be present at the hearing (art. 92 GrCPP), the right to put forward questions (art. 94 GrCPP), the right to remain silent (art. 273 sec. 2 GrCPP) and the right to be defended by a public defense counsel (art. 89 and art. 99 sec. 3 GrCPP). Besides, he/she enjoys all rights which derive from the principle of fair trial (art. 6 of the European Convention on Human Rights and of art. 40 of the UN Convention on the Rights of the Child).

Furthermore, the minor's trial can be held *in-camera* ("closed doors"), including the promulgation of judgment (cf. art. 96 sec. 3 of the Greek Constitution).

On the other hand, the victim in juvenile court procedures, if he/she brings a civil action, becomes a party in the proceedings (art. 70, 89 ff. GrCPP) and, as a consequence, has mainly the same rights as the accused, especially if the offense is related to sexual freedom and sexual exploitation (cf. art. 108 GrCPP). However, the victim bringing a civil action before the Juvenile Court may usually claim only a symbolic compensation with a maximum of 44 euros, whilst further compensation must be claimed before the Civil Courts.

## V. Main Categories of Minors and Their Treatment

It is interesting, at this point, to examine the three main categories of minors and their legal treatment. Legally, there can be a distinction between minors of up to 12 years of age, those between the age of 12 and 15 and those between the ages 15 and 18; for the last two categories treatment takes the form of educational or therapeutic measures, while only for the last category (15–18) juvenile detention may be imposed for some serious offenses. More specifically, *minors up to the age of 12* are not mentioned in the new Greek Penal Law (until June 2019 the minimum age was 8 years) and, therefore, the system of sanctions (measures and juvenile detention) is not applicable to these children. If such persons commit an act punishable by law, the courts may only impose to the parents or guardians either civil measures related to parental custody (art. 1532 ff. Greek Civil Code) and/or penal sanctions for neglecting the supervision of their minors (art. 360 GrPC).

*Minors between the ages of 12 and 15* are considered as not criminally responsible; the court can only impose educational or therapeutic measures (art. 126 sec. 1 GrPC).

## VI. Educational and Therapeutic Measures

*Educational measures* are mainly non-custodial. They are gradated by the law according to the intensity of intervention and include mainly the following measures (art. 122 sec. 1 GrPC):

- reprimand;
- placing the minor under the responsible custody of parents or guardians;
- placing the minor under the responsible custody of a foster family;
- placing the minor under the custody of Youth Protection Associations, Youth Centers, or Juvenile Court Aid (note that the Juvenile Court Aid is also tasked with preparing for the court a social inquiry report on the situation and personality of the minor; art. 239 sec. 2 GrCPP);
- mediation between the young offender and the victim;
- compensation of the victim;
- performance of community service;
- participation in social, psychological, and good driving programs.

From the above measures, courts usually select reprimand, parental care, Juvenile Court Aid and, more recently, community service. In general, the court may always replace the educational or therapeutic measures by others or revoke them (art. 124 GrPC).

The most severe educational measure is undoubtedly the custodial one, that is the placing of the minor in a public educational institution. However, this measure is imposed rarely (only 4 persons up to 13 years and no one aged 14 to 18 in 2010).<sup>4</sup> Consequently, there is only one educational institution in whole Greece, namely in the city of Volos (Central Greece).

On the other hand, as regards *therapeutic measures*, these are imposed when the minor's physical, psychological or mental condition necessitates special treatment, particularly in cases of mental illness and drug or alcohol dependency. Among these measures, some are similar to the aforementioned educational ones (parental care, juvenile court aid), whilst, in more serious cases, the minor can be placed in a therapeutic or other appropriate institution (art. 123 GrPC). These measures have been rarely applied by the courts. Instead, courts, which are mainly preoccupied in this domain by cases of drug dependency, apply to them the respective regulations of the special law on drugs (Law-Nr. 4139/2013).

Finally, *minors between the ages of 15–18* are regarded by the law as having relative criminal responsibility. They are principally subjected to educational or therapeutic measures, as is also the case for minors aged between the ages of 12–15. However, for specific serious offenses, the Penal Code provides for punishment in the form of detention in a young offenders' institution, that is juvenile detention.

It is noteworthy that, in 2010, educational or therapeutic measures were imposed to 353 minors (341 boys and 12 girls aged 14–18) and to 4 boys up to 13 years old. At a more general level, concerning the trend of imposing educational or therapeutic measures during the last decades, we note a clear decline from 1998 (4,411 cases) to 2010 (1,256 cases). Similarly, regarding reoffending, we may speak of a fluctuating, but rather decreasing tendency of educational or therapeutic measures from 1998 (23 cases) to 2010 (4 cases).

## VII. Young Persons Above the Age of 18 and Diversion

There are specific provisions for minors who, at the time of sentencing or at the time of the enforcement of the judgment, have already reached the age of 18, and also for young adults committing offenses between the ages of 18–25. More specifically, the following applies:

If, at the time of sentencing, the juvenile has reached the age of 18 and has committed an offense after the age of 15, the court has the power, instead of ordering educational or therapeutic measures (which could be regarded in the specific case at issue as insufficient), to impose juvenile detention until the age of 25. In extreme

<sup>4</sup> Cf. the relevant statistical information for what follows [in Greek]: <http://www.statistics.gr/el/statistics/pop/> > Πληθυσμός και Κοινωνικές Συνθήκες > Ποινική Δικαιοσύνη and/ or Καταστήματα Κράτησης, and <http://www.ministryofjustice.gr/site/el/> > ΣΩΦΡΟΝΙΣΤΙΚΟ ΣΥΣΤΗΜΑ > Στατιστικά στοιχεία κρατουμένων.

cases, this detention can be served in a separate section of a prison for adults (art. 130 GrPC).

Furthermore, if a person sentenced to juvenile detention reached the age of 18 before enforcement of the judgment, the court may order the young adult to serve his detention in a prison for adults (art. 131 GrPC).

Finally, if a young adult, at the time of committing an offense, has not yet reached the age of 25, the court may decide to impose juvenile detention or a mitigated prison sentence (art. 133 GrPC).

Besides, if a minor commits a misdemeanor, diversion strategies may be applied by the public prosecutor, who may decide not to initiate proceedings if he/she believes that prosecution is not necessary to prevent the minor from committing further offenses. However, according to art. 46 GrCPP, the public prosecutor may then impose on the minor one or more of the non-custodial educational measures (cf *supra*, VI.).

### VIII. Juvenile Detention

Juvenile detention is a *sui generis* punishment, the only one available under juvenile's law. It is imposed only when educational or therapeutic measures are considered by the court as insufficient to prevent the juvenile from committing further criminal acts (art. 127 GrPC). Hence, juvenile detention must be the last resort or *ultima ratio* (in line with the principle of subsidiarity).

As has already been mentioned above, juvenile detention is imposed on minors who have reached 15 years of age and, thus, have relative criminal responsibility. Therefore, this kind of detention presupposes the establishment of the minor's criminal liability. Furthermore, it is applied only when the juvenile has committed a felony (not a mere misdemeanor) and only if this felony entailed an element of violence or is directed against the life or corporal integrity of another person. Such felonies are mainly intentional homicide, fatal bodily harm, rape and robbery (respectively art. 299, 310, 336, 380 GrPC). No life imprisonment can be imposed on minors, and their detention must not exceed 8 years (art. 54 GrPC). A prison sentence that has been imposed on minors cannot be commuted into a fine. Equally, a prison sentence cannot be suspended, though in my opinion, this limitation is not plausible from the viewpoint of criminal policy, given that a non-custodial measure, such as a suspended sentence, can indeed be useful also for juveniles.

As becomes apparent in jurisprudence, the courts are reluctant to impose a penalty of juvenile detention. According to the available statistics, only 35 juveniles aged 14 to 18 had been sentenced to detention in 2010, corresponding to 9.9 % of the total sanctions (measures and detention) imposed on minors, which amounted to 353 cases. In 2012, 39 juveniles aged 14–18 (37 boys and 2 girls) were sentenced to juvenile detention, corresponding to 0.26 % of the total number of detainees (of all

ages) in the same year, which amounted to 15,128 individuals. However, there were also another 63 juveniles aged 14 to 18 (0.42 %) who served, during that year, previously imposed sentences of juvenile detention from one month up to temporary incarceration. As a result, the share of detainees aged 14–18 in that year amounted to 0.68 % of the total number of detainees.

### **IX. Conditional Release**

It is extremely seldom that juveniles sentenced to a custodial sentence serve their full sentence. According to art. 129 GrPC, the Courts will, in principle, conditionally release a juvenile when half the period of the sentence has been served. Release takes place almost automatically and is rejected only if the court considers, on the basis of specially documented reasons, that the conduct of the juvenile while serving the term of detention makes it absolutely necessary to continue such detention so that reoffending be prevented.

Juveniles may be released at an even earlier time than half their period of detention if serious reasons require it (for example, if the addicted juvenile has successfully attended a drug rehabilitation program), provided that the juvenile has effectively served at least one third of the sentence. Similarly, juveniles may be released after one third of the sentence if they accept to be placed in home confinement with electronic monitoring (respectively art. 129 sec. 4 and 129 A GrPC).

It should also be noted that a period of probation must not exceed the remaining period of detention (art. 129 sec. 1 GrPC).

### **X. The Young Offender's Institutions**

If sentenced to juvenile detention, the Greek Correctional Code – GrCC (art. 12 and 19 sec. 3) provides that the minor shall be accommodated separated from adults in specially constructed institutions or in special sections of adult prisons. In Greece there are two closed institutions for minor male detainees, one in a town named Avlona, about 50 km from Athens, and another in the city of Volos, in central Greece. In addition, a prison farm for young offenders exists in the region of Kassavetia, about 30 km from the city of Volos. Finally, a small number of young women are detained in the sole independent women's institution for closed detention, near Thiva, about 95 km from Athens.

In all these institutions there are currently mainly young adults who are detained (art. 12 GrCC). Indicatively, as of 1st October 2018, 199 young adults were detained



in Avlona, 111 in Volos, 34 adults (and only one juvenile) in Kassavetia and 16 adults (and two juvenile females) in Thiva.<sup>5</sup>

According to the Correctional Code (art. 12 sec. 2), young offenders' institutions shall provide educational and vocational training programs. The basic education of young prisoners is obligatory (art. 35 sec. 5 GrCC). In contrast, there is no obligation to work, but anyone who does perform work can reduce his/her time spent in detention. Indeed, one working day counts towards two and a half days of detention; this reduction is also taken into account for calculating the time of regular leaves and of conditional release (art. 40 ff. GrCC).

## XI. Detention on Remand for Minors

Apart from convicted minors, institutions for young offenders also house minors on remand. Yet, according to the law (art. 287 GrCPP), remand must not last for more than six months.

During the pre-trial stage, and in line with the principle of subsidiarity, remand may be imposed on an accused minor when the purpose of such detention cannot be achieved by other, less burdensome measures, namely by the non-custodial "restrictive measures". These include *inter alia* bail, an order to appear at regular intervals before the competent authorities, residence restrictions, educational measures or, in more severe cases, electronic monitoring (art. 284 sec. 7 GrCPP). In principle, remand detention for minors may be imposed on an accused juvenile under the same general conditions as is the case of adults, for example if the accused's address is unknown or if he/she prepares to escape from the country (art. 283 GrCPP). However, additional prerequisites apply in the case of accused juveniles. According to art. 287 GrCPP, a remand order may be imposed only on juveniles between the ages 15–18 and only if there is a compelling suspicion that the juvenile has committed a felony involving an element of violence or having been directed against life or corporal integrity of another person, similar to the already mentioned provision for juvenile detention (cf. *supra*, VIII.). Under the same conditions, the accused minor may be placed in home confinement with electronic monitoring (art. 284 para 7 grCPP). It should be noted that the investigating judge has the power to put restrictive measures aside or to replace them with others, or to replace detention by restrictive measures and vice versa (art. 291 GrCPP).

In practice, remand of minors is imposed by the judicial authorities with a certain parsimony. In 2012, there were only 137 such cases, compared to a total of 5,547 de-

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<sup>5</sup> Consequently, in 2018, only 3 juveniles were detained under juvenile detention. This constitutes a sharp reduction of the aforementioned numbers from 2012 and is due to legislative reform, introduced in 2015, according to which juvenile detention should be imposed only in very rare cases (art. 7 para 3, Law-Nr. 4322/2015).

tainees on remand (hence, only 2.47 % thereof). Many of these detainees are foreigners, who usually lack a residence in Greece.

## XII. Recent Trends in Juvenile Delinquency

To complete this overview, it is useful to briefly also look at current developments in juvenile delinquency in Greece, so as to better understand the courts' lenient attitude towards young offenders.

At a general level, and leaving aside traffic offenses which form the majority (around 40 % in 2010) of alleged offenses committed by minors, their share in the total number of alleged offenses committed in Greece does, according to police statistics, not surpass 3 %.

Regarding the types of offenses, simple theft is the most frequent offense in adolescence. On the other hand, an increase is observed in the last years (especially since the 1990s) in violent crimes (particularly robbery) and in drug related offenses. The problem seems to be more acute in case of young adults (ages 18–25), although, in order to evaluate this tendency, we also have to take into consideration the intensification of police monitoring in recent years.

## XIII. Conclusion

Juvenile justice in Greece still faces problems of implementation due to the lack of appropriate personnel, in particular with regard to the Juvenile Court Aid. In addition, there are still problems of infrastructure and of facilities. Yet, a lot of progress has been achieved over the last decades, especially after Greece ratified the UN Convention on the Rights of the Child in 1992, which has served as an impetus for necessary reforms in the field of juvenile criminal law. This became apparent, especially in 2003 and in 2010, with the adoption of innovative measures such as the introduction of complete criminal responsibility at the age of 18 (and not at 17, as was the legal age before), the extension of the catalogue of non-custodial measures, the abolition of indefinite juvenile detention, the introduction of the right to appeal against a sentence of juvenile detention, and the introduction of diversion programs as a means to settle a criminal law conflict.<sup>6</sup>

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<sup>6</sup> Cf. *Angeliki Pitsela*, Greece, in: F. Dünkel/J. Grzywa/P. Horsfield/I. Pruin (eds.), *Juvenile Justice Systems in Europe*, Vol. 2, Forum Verlag 2011, pp. 623–670, 674–675, describing in detail the juvenile legal system in Greece before the amendments of the new Penal Code and the new Code of Penal Procedure in 2019; for the applied terminology see also the translation of the former Greek Penal Code by *Emmanouil Billis/Vassiliki Chalkiadaki*, Duncker & Humblot 2017. For an analysis of the socio-economic factors underlying criminal careers of minors in Greece, see *Nestor Courakis*, *Juvenile Delinquents and Society: A Study of the*

These measures have, in my opinion, largely contributed to a reform by means of which – as was mentioned above (*supra*, II.) – the welfare model is combined harmoniously with the justice model “in the best interests of the child”.<sup>7</sup>

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fundamental values, institutions and juvenile delinquency in Greece, Ant. N. Sakkoulas Publishers 1999.

<sup>7</sup> Cf. art. 3 sec. 1 of the UN Convention on the Rights of the Child.