

# QUESTIONNAIRE

## GREECE

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### 1. Introduction

*Please read carefully before answering the questionnaire*

The RAYUELA project is aimed at protecting children in their online interactions. For this purpose, the project will develop a “game”, which will present the children with realistic scenarios relating to the following cybercrimes/cyber-facilitated crimes:

- **Online grooming** (further: OG) is the crime where the perpetrator (usually an adult) uses electronic communication services, including social media, to contact a minor and build rapport with the aim of eventually meeting in person for the purposes of sexual activity. The perpetrator may employ various strategies (deception, romantic/emotional attachment, promise of material or other benefits, blackmail, coercion, etc.) to lower a child's inhibitions, heighten their curiosity about sexual experiences, or otherwise convince them to meet up.
- **Cyber bullying** (further: CB) is a broad term that includes all types of bullying behaviour online. This includes cyber stalking and cyber harassment, and any other type of behaviour online aimed at hurting the victim. Cyber bullying may also have a sexual component.
- **Misinformation and deception** (further: MD) is a behaviour that may or may not be punishable by law depending on the context. It involves all kinds of information sharing that is fake, or deceptive. For a criminal qualification to apply, typically the behaviour will need to be intentional and there will need to be material consequences to this intention.
- **Human trafficking with a cyber component** (further: HT) is the online facilitation of human trafficking by grooming and attracting potential victims for human trafficking.

The purpose of the game is to teach children how to remain safe online, while the obtained insights will be used to provide policy recommendations and educational tools.

The game does not focus solely on the threats of potentially falling victim to one of these four crimes. It also aims to raise awareness about the general threats of using IT, such as the Internet and connected devices, and minors' capacity to make responsible choices in this regard.

A particular point of interest is understanding whether minors are aware of when they, or someone else, is crossing the line in becoming offenders themselves, as this is an important aspect of protecting children online. Due to the nature of online communication, inhibitions may be lowered, and certain actions may feel more innocent or less “real” than in real life. In addition, a perception may exist that what happens on the Internet has little or no impact beyond the digital world. This creates situations where minors engage in what they perceive to be relatively innocent behaviour (“everyone does this on the internet”), that may however have serious legal consequences.

One of the goals in RAYUELA is to ensure that minors realize when their behaviour may turn into actions that are punishable by law.

The present study and questionnaire are set up in the context of the RAYUELA project in order to provide an overview of the **legislative framework and relevant policies** in a number of countries, both in the EU and beyond, in relation to:

- How the main crimes of OG, CB, MD and HT are dealt with by the legal system i.e., which behaviours are punishable and under which conditions?
- How cybercrime and cyber-facilitated crime perpetrated by minors is dealt with in the legal system (both in general and specifically in relation to the crimes in focus)?
- What international instruments and cooperation mechanisms are available in dealing with cybercrime perpetrated by minors?

Importantly, we want to know both the legal rules and policies which are implemented in practice, and their effect on the **real enforcement situation**. If you have knowledge about the effects of current policies on crime rates by minors and on the crime rates for OG, CB, MD and HT, this would be of interest.

We are specifically interested in **case law** that illustrates the “why and how” of certain legal rules, principles and policies in practice. Case law will help us illustrate the similarities and differences between jurisdictions and is therefore *essential*. Please ensure to have a good amount of case law processed in your answers.

In addition, we want input on **international legal instruments and international cooperation** relevant for cybercrime, and in particular for cybercrime perpetrated by minors. What happens when cybercrimes is perpetrated in a cross-border context? What are the legal rules in place for cooperation with authorities from other countries, and how does this work out in practice (issues, problems, etc.)?

Lastly, we are interested in some **statistical information on cybercrime** in your country and cybercrime by minors specifically.

The purpose of this questionnaire is to help you provide this information for your jurisdiction.

## Question 1: Is online grooming punishable by law in your country?

### Answer:

**Online grooming** is punishable by criminal law in Greece and more specifically, **article 348B** and in some cases (in confluence with) **article 337** of the Greek Penal Code apply on such criminal acts. Below the respective articles are mentioned in more detail.

- According to **article 348B “Attracting Children for Sexual Reasons”** of the Greek Penal Code, whoever intentionally, through the use of information systems, proposes to a minor who has not reached the age of fifteen to meet with him/her or a third person with the aim of committing against the minor the offenses of **articles 339 par. 1 and 2 or 348A**, when this proposal is followed by further acts leading to such a meeting, is punishable by imprisonment of at least two years (and up to five years) and a fine (the fine is calculated in daily units and in this case could be imposed up to 360 daily units with each daily unit be no less than 1 euro and up to 100 euro, according to article 57 as amended with article 1 of Law 4637/18-11-2019).
- According to **article 339** of the Greek Penal Code (as it was amended with article 74 of Law 4855/12-11-2021) titled **“Sexual acts with Minors or before them”** and specifically, par.1 mentions that whoever commits sexual intercourse with a person under the age of fifteen or misleads them in order to commit or suffer such an act shall be punished, if there is no case to be punished more severely with articles 342 and 351A, as follows: a) if the victim has not reached the age of twelve (12) years old, with imprisonment of at least ten (10) years (and up to 15 years), b) if the victim has reached the age of twelve (12) years old, with imprisonment (that is from 5 years to 15 years according to article 52).
  - Par. 2 mentions that sexual intercourse between minors under the age of fifteen (15) years old is not punished, unless the age difference between the minors is greater than three (3) years, in which case only reformation or therapeutic measures can be imposed.
- According to **article 348A** of the Greek Penal Code (as it was amended with article 80 of Law 4855/12-11-2021) titled **“Child Pornography”**, (par.1) whoever intentionally produces, distributes, publishes, displays, imports or exports from the Territory, transfers, offers, sells or otherwise disposes of, buys, supplies, acquires or possesses child pornography material or disseminates or transmits information about committing the above acts, is punished with imprisonment of at least one (1) year and a fine.
  - Par. 2 mentions that whoever intentionally produces, offers, sells or in any way possesses, distributes, transmits, buys, supplies or possesses child pornography material or disseminates information on the commission of the above acts, through information systems, shall be punished by imprisonment of at least two (2) years (and up to five) and a fine up to 360 daily units with each daily unit be no less than 1 euro and up to 100 euro.
  - Par.3 mentions that **child pornography material**, within the meaning of the preceding paragraphs, is the representation or actual or virtual imprint on an electronic or other material of the genitals or body of the minor in general, in a manner that obviously causes sexual arousal, as well as real or fictitious sexual act performed by or with a minor.
  - Par. 4 mentions that the acts of par. 1 and 2 are punished with imprisonment (from 5 years to 15 years) and a fine up to 360 daily units with each daily unit be no less than 1 euro and up to 100 euro:
    - a. if performed professionally,
    - b. if the production of child pornography material is linked to the exploitation of necessity, mental illness or physical disability due to an organic illness of the minor, or to the exercise or threat of use of violence against a minor, or to the use of a minor under five years old, or if the production of child pornography material endangered the life of a minor and

- c. if the perpetrator of the production of child pornography material is a person to whom a minor has been entrusted to supervise or guard him, even temporarily.
- Par. 5 mentions that if the production of child pornography material is connected with the use of a minor who has not reached the age of twelve years old, imprisonment of at least ten (10) years (and up to 15 years old) and a fine (up to 360 daily units with each daily unit be no less than 1 euro and up to 100 euro) shall be imposed. The same penalty is imposed if the act of cases b 'and c' of the previous paragraph resulted in the grievous bodily harm of the victim, and if this resulted in death, life imprisonment is imposed.
  - Par. 6 mentions that anyone who knowingly gains access to child pornography material through information systems is punished by imprisonment of up to three (3) years or a fine (up to 180 daily units with each daily unit be no less than 1 euro and up to 100 euro).

In case of **life imprisonment** conditional release may be granted to the convicted person if he/she has remained in prison for eighteen (18) years. The above period of time is increased by one third (1/3) of the other penalties that may have been imposed, in case they are cumulative. In any case, however, the convicted person may be released if he/she has remained in prison for twenty (20) years, and twenty-five (25) years in case he/she is serving more than one life sentences.

- According to **article 337 “Insult of Sexual Dignity-Respectability”** of the Greek Penal Code, (as amended with article 72 of Law 4855/ 12-11-2021) whoever, with gestures of a sexual nature, with proposals concerning sexual acts, with sexual acts performed in front of another or with a demonstration of his/her genitals, brutally insults the honour of another, shall be punished by imprisonment of up to one (1) year or a fine. Prosecution requires a complaint, unless the victim is a minor.
  - Par. 2 mentions that the act of the previous paragraph is punished with imprisonment of up to two (2) years (min 10 days) or a fine, if the victim is younger than twelve (12) years.
  - Par. 3 mentions that an adult who, through the internet or other media or information technologies, makes contact with a person who has not reached the age of fifteen (15) years and with gestures or suggestions, insults the honour of the minor in the field of his sexual life, shall be punished with imprisonment of at least two (2) years old (up to 5 years). If an encounter ensued, the adult is punished with imprisonment of at least three (3) years (up to 5 years).
  - Par. 4 mentions that whoever makes sexual gestures or makes proposals for sexual intercourse to a person who is dependent on him for work or taking advantage of the position of a person who has joined a job search process, shall be punished by imprisonment of up to three (3) years (min 10 days).

### CASE LAW:

- No **141/02-02-2022 Decision** of the One-Member Juvenile Court of Thessaloniki.

Perpetrators: Four (4) Male Minors.

Criminal Prosecution: for violation of articles 1, 14, 16, 17, 18, 26, 27, 121 et seq., **348A** par.1, 2 and 4b of the new Greek Penal Code. (Distribution, acquisition and possession of child pornography material through information systems, exercising the threat of using violence against minor and use of a minor aged under 15 years old).

Decision: Imposition of the Reformation Measure of Reprimand.

- No **565/04-05-2022 Decision** of the One-Member Juvenile Court of Thessaloniki.

Perpetrator: Male Minor.

Criminal Prosecution: for violation of articles 1, 14, 18, 26 par. 1a, 27 par. 1, 50, 51, 52, 59, 79, 94 par.1, 121 et seq, **337 par. 2-1** και **339 par.3** of the new Greek Penal Code. (Sexual intercourse with a minor, Insult of Sexual Dignity-Respectability of a minor aged under 12 years old).

Decision: Imposition of the Reformation Measures.

- No **296/02-03-2022 Decision** of the One-Member Juvenile Court of Thessaloniki.

Perpetrator: Male Minor.

Criminal Prosecution: for violation of articles 1, 14, 26, 27 παρ.1, 42, 51, 53, 54, 57, 79, 94 par. 1, **348 par. 1** of the new Greek Penal Code. (Facilitating Insults on Minors).

Decision: Imposition of the Reformation Measure of Provision of Social Service.

**Question 2: Is cyberbullying punishable by law in your country? Please take into account a broad understanding of cyberbullying (cyber/online stalking, harassment, sexual harassment)?**

**Answer:**

In Greece, the term "**Cyberbullying**" does not exist in the Penal Code as such. However, such a criminal behaviour is approached through other criminal acts described in other articles of the Greek Penal Code.

For example, articles that could apply in such cases are, Art. 333 "Threat", Art. 361 "Insult", Art. 362-363 "Defamation", Art. 308 "Bodily Injury", Art. 309 "Dangerous Bodily Injury", Art. 310 "Severe Bodily Injury", Art. 311 "Fatal Bodily Injury", Art. 312 "Bodily Injury of Weak Individuals", and the violation of Law No 4624/2019 "Privacy - Protection of Personal Data", which are prosecuted on a case-by-case basis.

More specifically,

- According to **article 333 "Threat"** of the Greek Penal Code,

- Par.1 mentions that whoever causes to another person terror or anxiety threatening him/her with violence or other illegal act or omission, shall be punished by imprisonment of up to one year or a fine (up to 180 daily units with each daily unit be no less than 1 euro and up to 100 euro).
- The same punishment also applies to anyone who, without causing threat of violence or other illegal act, causes to another person terror or anxiety by persistently pursuing or monitoring it, such as by seeking constant contact through the use of telecommunications or electronic means or by repeated visits in his family, social or work environment, despite the victim's expressed opposite will.
- Par.2 mentions that imprisonment of up to three years or a fine shall be imposed if the offense is committed against a minor or a person who is unable to defend himself, provided that such persons are under the care or protection of the perpetrator by law, court decision or factual situation; cohabit with him or have a working or service relationship with him. The same penalty is imposed when the act is committed against a spouse during the marriage or against a partner during the cohabitation.
- Par.3 mentions that filing of a complaint is required for the criminal prosecution of the act of paragraph 1.

- According to **article 361 "Insult"** of the Greek Penal Code,

- Par.1 mentions that whoever, except in the cases of defamation (Articles 362 and 363), insults the honour of another person by word or deed or in any other way shall be punished by imprisonment of up to six months or a fine.

If he/she commits the act in public in any way or via the internet, he/she is sentenced to up to one year in prison or a fine.

- Par.2 mentions that the provisions of paragraph 4 of Article 308 also applies in this case.

- According to **articles 362-363 “Defamation”** of the Greek Penal Code,

Whoever in any way before a third person claims or spreads about another person fact that could damage his/her honour or reputation is punished with imprisonment of up to one year or a fine.

If the act was committed in public in any way or via the internet, imprisonment of up to three years or a fine is imposed.

If the fact is false and the perpetrator knew that it was false, he/she is punished with imprisonment of at least three months and a fine and if he/she commits the act in public in any way or via the internet, with imprisonment of at least six months and a fine.

- According to **article 308 “Bodily Injury”** of the Greek Penal Code,

- Par.1 mentions that whoever causes physical injury or damage to one’s health is punished with imprisonment of up to two (2) years or a fine. If the injury or damage to one’s health is completely minor, the punishment would be a fine or provision of community service.

- Par.2 mentions that the prosecution of the act of the previous paragraph requires filing a complaint, unless the victim is an employee and the act was performed during the performance of his/her service or for reasons related to its execution or an auctioneer during the enforcement procedure and the act was caused on the occasion of the auction, so the prosecution is ex officio.

- Par.3 mentions that physical harm of par. 1 is not unjust, when it is attempted with the consent of the victim and does not contradict the good morals.

- Par.4 mentions that the perpetrator of the act of par. 1 may be acquitted of any punishment if he was drawn into the act by justified indignation, because of an immediately preceding act committed by the victim against him/her or before him/her and which was particularly cruel or brutal.

- According to **article 309 “Dangerous Bodily Injury”** of the Greek Penal Code,

If the act of article 308 was committed in a way that could have caused the victim a life-threatening or severe physical injury, imprisonment of up to three (3) years is imposed.

- According to **article 310 “Severe Bodily Injury”** of the Greek Penal Code,

- Par.1 mentions that if the act of article 308 resulted in grievous physical harm, imprisonment of at least one (1) year (up to 5 years) shall be imposed.

- Par.2 mentions that whoever causes serious bodily harm to another is punished with imprisonment of at least two (2) years (up to 5 years). If he/she sought to cause grievous bodily harm, he/she shall be punished by imprisonment (5 years to 15 years).

- Par.3 mentions that serious-severe bodily harm exists especially if the act caused the victim a life-threatening or severe and long-term illness or severe mutilation or disability or permanent deformity or if it significantly prevented the victim for a long time from using his/her body or mind.

- According to **article 311 “Fatal Bodily Injury”** of the Greek Penal Code,

If the bodily injury resulted in the death of the victim, imprisonment of up to ten years is imposed.

If the perpetrator sought the grievous bodily harm of the victim, imprisonment (5 years to 15 years) is imposed.

- According to **article 312 “Bodily Injury of Weak Individuals”** of the Greek Penal Code,

- Par.1 mentions that anyone who causes bodily injury or damage to the health of a minor or a person who is unable to defend themselves, if such persons are under the care or protection of the perpetrator by law, court decision or factual situation, reside with the perpetrator or have an employment or service relationship with him, is punished:
  - a) for the act of article 308 par. 1 subparagraph a), with imprisonment of at least one year (up to 5),
  - b) for the act referred to in Article 309, with imprisonment of at least two years (up to 5);
  - c) for the act of article 310 par. 1 par. a), with imprisonment of at least three years and if he sought to cause grievous bodily harm, by imprisonment (5 years to 15 years) and
  - d) for the act of article 311, with imprisonment (5 years to 15 years).
- Par.2 mentions that the same penalties are imposed when the act is committed against a spouse during the marriage or against a partner during the cohabitation. The performance of the act against a pregnant woman is an aggravating case.
- Par.3 mentions that the infliction of bodily harm on a minor under paragraph 1 (a) shall be equated with the commission of the acts of the preceding paragraphs before a minor.
- Par.4 mentions that the infliction of bodily harm in accordance with paragraph 1 (c) shall be likened to the method of inflicting severe physical pain or physical exhaustion dangerous to health, or mental pain capable of causing serious mental harm, in particular by prolonged isolation to the detriment of the persons of the first paragraph.

It is crucial to note that prior to July 1<sup>st</sup>, 2019 the then article 312 of the Penal Code titled “Causing damage with constant harsh behaviour” essentially concerned the criminal act of “Bullying” with certain provisions, however, the lawmaker in the amended article 312 changed the title to include not only minors but weak individuals in general as well, and also to include acts of domestic violence (law no 3500/2006).

- **Law No 4624/2019 “Protection of Personal Data”** concerns the implementation of GDPR, that is the Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data, and transposition of Directive (EU) 2016/680 of the European Parliament and of the Council of 27 April 2016.

**According to Article 38 “Criminal Penalties”** of the above law,

- Par. 1 mentions that anyone who, without legal grounds: (a) interferes in any way with a data filing system and in so doing is made aware of such data; (b) copies, removes, alters, harms, collects, registers, organises, structures, stores, adapts, modifies, recovers, seeks information, correlates, combines, restricts, erases, destroys, shall be punished with imprisonment of up to one (1) year, unless the act is punishable with a more severe penalty under another provision.
- Par. 2 mentions that anyone who uses, transmits, disseminates, discloses by transmission, makes available, announces or makes accessible to unauthorised persons personal data acquired pursuant to case (a) of paragraph 1, or allows unauthorised persons to become aware of such data, shall be punished with imprisonment (10 days to 5 years), unless the act is punishable with a more severe penalty under another provision.

- Par. 3 mentions that if the act referred to in paragraph 2 relates to special categories of personal data referred to in Article 9 of the GDPR or data relating to criminal convictions and offences or relevant security measures referred to in Article 10 of the GDPR, the offender shall be punished with imprisonment of at least one (1) year (up to 5 years) and a fine of up to one hundred thousand euros (EUR 100,000), unless the act is punishable with a more severe penalty under another provision.
- Par. 4 mentions that a person who has committed the acts referred to in the previous paragraphs shall be punished with imprisonment of up to ten (10) years (min 5 years), if he or she intended to secure for himself or herself or others an unjust profit, or cause financial loss to another person, or cause damage to another person, and the total profit or total loss exceeds the amount of one hundred and twenty thousand euros (EUR 120,000).
- Par. 5 mentions that if the acts referred to in paragraphs 1 to 3 have resulted in a risk to the free functioning of democracy or national security, they shall be punishable with imprisonment (5 to 15 years) and a fine of up to three hundred thousand euros (EUR 300,000).
- Par. 6 mentions that the felonies provided for in this article shall fall within the jurisdiction of the Court of Appeal for felonies.

### **CASE LAW:**

- No **337/03-03-2022 Decision** of the One-Member Juvenile Court of Thessaloniki.

Perpetrator: Female Minor.

Criminal Prosecution for continuous violation of **article 38§2 L.4624/2019** (Personal Data Protection) and serial and continuous Insult through Internet with Racist Characteristics in violation of articles 1, 12, 14, 16, 17, 18, 19, 26, 27 par. 1, 79, 82A, 94 par. 1, 98 par. 1, 121-126, **361 par. 1**, and 368 par. 1 of the new Greek Penal Code.

Decision: Imposition of the Reformation Measure of being supervised under Juvenile Curator.

**Question 3: When would misinformation and deception online constitute a criminal offence in your country? In other words, what potential qualifications could apply to wilful misinformation and deception on the internet?**

**Answer:**

- According to **article 191 “Dissemination of Fake News”** of the Greek Penal Code (as amended with article 37 of the Law 4855/12-11-2021),

Anyone who publicly or via the internet spreads or disseminates in any way fake news that is capable of causing concern or fear to the public or undermining public confidence in the national economy, the country's defence capacity or public health, is punishable by imprisonment of at least three (3) months (up to 5 years) and a fine.

If the act was repeatedly committed through the press or via the internet, the perpetrator is punished with imprisonment of at least six (6) months (up to 5 years) and a fine.

The actual owner or issuer of the medium with which the previous acts were performed is punished with the same penalty.

Important to note that dissemination of fake news or rumors capable of causing concern or fear to the public, disturbing public confidence or shattering public confidence in the national currency or the

country's armed forces is no longer sufficient to fulfill the conditions of the crime, but it needs to be provoked fear to an indefinite number of people or to a certain circle or category of persons, who are thus compelled to carry out unplanned acts or to cancel them, with the risk of damaging the economy, tourism or the defense capacity of the country or disturbing its international relationships.

#### **CASE LAW:**

- No **497/06-04-2022 Decision** of the One-Member Juvenile Court of Thessaloniki.

Perpetrator: Male Minor.

Criminal Prosecution: for disinformation- distribution of fake news and false report in violation of articles 1, 14, 16, 17, 18, 26a, 27§1, 51, 54, 57, 79, 94, 121, 122, 123, 124, 125, 127, **191 par. 1** and **230** of the new Greek Penal Code.

Decision: Imposition of the Reformation Measure of Reprimand.

**Question 4: What constitutes human trafficking and how is human trafficking facilitated by electronic means punished in your country? Are online grooming activities to find victims (e.g. lover boys) before the actual human trafficking punishable in itself? In addition, are these activities punishable as a separate crime if human trafficking does take place afterward?**

#### **Answer:**

Greek legislation addresses Trafficking in Human Beings through a comprehensive legal framework that is consistent with international conventions as well as other relevant European law texts. In particular:

- According to **article 323A “Trafficking in Human Beings”** of the Greek Penal Code (as amended with article 69 of the Law 4855/12-11-2021), what constitutes Human Trafficking (par. 1) is, the use of force, threat of violence or other coercive means or the imposition or abuse of power by someone in order to recruit, abduct, transport, illegally detain, sponsor, deliver or receive another person for the purpose of his/her exploitation. The punishment is (felony) imprisonment (5 to 15 years) and a fine.
  - Par. 2 mentions that the perpetrator is punished similarly even if, in order to achieve the same purpose, he/she commits the acts of the previous paragraph by obtaining the consent of the victim by using deceptive means or by luring him/her and taking advantage of the victim’s vulnerable position.
  - Par. 3 mentions that the act of the previous paragraphs is punished with imprisonment of at least ten (10) years (up to 15 years) and a fine when:
    - a) is performed by someone who is doing that professionally,
    - b) is made by an official who, in the exercise of his/her duties or benefiting from his/her capacity, commits or participates in any way in the act;
    - c) is associated with the illegal entry, stay or exit of the victim from the country or
    - d) resulted in severe bodily harm to the victim.

Life imprisonment (18 years) is imposed if the act resulted in death.

- Par. 4 mentions that the same punishment of the previous paragraph apply to the act of par. 1 and 2 when it is realised against a minor, even when it is committed without the use of the means mentioned in them. Anyone who, through the means of paragraphs 1 and 2, recruits a minor for the purpose of his/her use in armed operations is punished with the same penalties.

- Par. 5 mentions that the concept of exploitation in the preceding paragraphs includes the making of illicit property gains from:
  - a) the victim's slavery status or similar slavery practices;
  - b) the victim's work or begging (labour exploitation);
  - c) the victim's commission of criminal acts,
  - d) the removal of cells, tissues or organs of the victim's body;
  - e) the victim's performance thereof of sexual acts, whether real or fake, or the provision of work or services having the sole purpose of sexual arousal (sexual exploitation); or
  - f) enforced marriage of the victim
- Par. 6 mentions that any person who knowingly, without using the means of paragraphs 1 and 2, hires a person who is a victim of trafficking, accepts the services of this person, has sexual intercourse, or receives the income from its exploitation, shall be punished with imprisonment of at least three (3) years (up to 5 years) and a fine.
- Par. 7 mentions that whoever, without using the means of par. 1 and 2, forces minors to beg in order to exploit their income, shall be punished with imprisonment (10 days to 5 years) and a fine.
 

It is important to note that according to Par. 8, any victim of human trafficking who reports criminal acts committed against him/her by the perpetrators of human trafficking acts of the previous paragraphs, the criminal prosecutor may temporarily (until an irrevocable decision is issued for the reported acts) refrain from criminal proceedings against the victim concerning the Law on aliens and prostitution, as well as for offenses due to their participation in criminal activities, if such participation was a direct consequence of the fact that they were human trafficking victims (as described in the previous paragraphs).

If the report proves to be well-founded, the abstention from the criminal prosecution becomes final. Also, a crucial element of human trafficking is the making of illicit property gain from the exploitation of another human being.

Other Greek Law texts defining-addressing Human Trafficking are:

- **Law 3386/23-8-2005 "Entry, Residence and social integration of third country nationals in the Greek Territory."** (Article 1 et seq. And Articles 46-52)

This law clearly defines the concept of a victim of trafficking. Thus, a victim of human trafficking is the natural person who became a victim of the crimes, which are described in articles 323 (abolished) 323A, 349, 351 (abolished) and 351A of the Penal Code, regardless of whether he/she has entered the country legally or illegally (Article 1 par. j).

The purpose of the introduction in the law of Chapter IG (Articles 46 to 52) is to regulate the overall protection and assistance of victims of trafficking in the fight against the phenomenon and in accordance with the guidelines of Council Directive 2004/81/EC of the 29 April 2004 "On the residence permit issued to third-country nationals' victims of trafficking in human beings or conspiracy to commit illegal immigration in cooperation with the competent authorities".

- **Law 3625/24-12-2007 "Ratification, implementation of the Optional Protocol to the Convention on the Rights of the Child regarding trafficking in children, child prostitution and child pornography and other provisions"** were amended and added to the chapter of the Criminal Code referring to crimes against sexual freedom and crimes of exploitation of sexual life, articles 323A "Trafficking in human beings", 348A "Child Pornography" etc.

For the purposes of this Protocol according to article 2 par. (a):

**Child trafficking** means any act or transaction by which a child is transferred from any person or group of persons to another person for a fee or other remuneration.

- **Law 3692/25-08-2008 "Ratification of the Agreement between the Government of the Hellenic Republic and the Council of Ministers of the Republic of Albania on protection and assistance to victims of trafficking in minors"**.

For the purposes of this Cooperation Agreement, the Parties agree to the following definitions of the terms used:

**Trafficking in minors** is the recruitment, move, transfer, abetment or reception of a minor, including the exchange or transfer of control over that minor, for the purpose of exploiting that minor. The consent of the minor to the purpose of his exploitation, presumed or real, is irrelevant.

The trafficker is the perpetrator of child trafficking. The concept of perpetrator also includes legal persons, in accordance with the provisions of Article 4 of the Framework Decision of the Council of the European Union of 19 July 2002 on combating trafficking in human beings (2002/629 / JHA).

Exploitation includes the exploitation of the prostitution of minors or other forms of sexual exploitation, forced labour or service, slavery or similar practices, begging or the removal or transfer of organs.

A minor victim of trafficking is any person under the age of 18 against whom the act of trafficking as defined in this article has been committed. For the purposes of this Agreement, a minor shall be deemed to be an adult on the date of reaching the age of 18 years. In case the exact date of birth is not known, the minor is considered to be an adult on December 31 of the year of his 18th birthday. In the event that the person's age is not specified precisely but there are reasonable grounds for suspecting that the person is a minor, that person shall be deemed to be a minor and will benefit from this Agreement until his or her age is fully determined.

A minor potential victim of trafficking is a minor who is in a current, specific and serious situation, due to which he/she faces the risk of becoming a minor victim of trafficking as described above.

An unaccompanied minor is a person under the age of 18 who resides in the territory of one of the parties, has been separated from his or her parents and has not been placed under the custody / guardianship of an adult. Unaccompanied minors shall enjoy the protection provided by the relevant articles of this Agreement when designated as minors - potential victims of trafficking.

Furthermore, **article 323<sup>A</sup>** might be in confluence with other crimes described in the articles below:

- According to **article 349 "Pimping"** of the Greek Penal Code (as amended with article 81 of the Law 4855/12-11-2021),

- Par. 1. whoever, in order to serve the lascivious behaviour of others, promotes or forces a minor to prostitution or abets or coerces or facilitates or participates in the act of minors' prostitution, shall be punished by imprisonment of up to ten (10) years (5 to 10 years) and a fine.
- Par. 2 mentions that the perpetrator shall be punished with imprisonment (5 to 15 years) and a fine if the crime was committed:
  - a) against a person younger than fifteen (15) years,
  - b) by fraudulent means,
  - c) by ascendants or by adoptive parents, spouse, trustee or other person to whom the minor has been entrusted for upbringing, teaching, supervision or custody, even temporarily;
  - d) by an official who, in the course of his service or in his capacity as an official, commits or participates in any way in that act;

- e) using electronic means of communication;
- f) by offering or promising to pay money or any other remuneration.

▪ Par. 3 mentions that except for the cases of article 323A of the Greek Penal Code, whoever, by profession or for profit, promotes or extorts or forces another into prostitution or exploits the income from the prostitution of another, shall be punished by imprisonment of at least eighteen (18) months (up to 5 years) and a fine. The realisation of the criminal act by an employee, who in the exercise of his duties or benefiting from his capacity commits or participates in any way in the act, constitutes an aggravating circumstance.

- According to **article 351A “Sexual Intercourse with a Minor for a Fee”** of the Greek Penal Code (as amended with article 82 of the Law 4855/12-11-2021),

▪ Par. 1 mentions that sexual intercourse with a minor committed by an adult for a fee or in exchange of other material goods, or sexual intercourse between minors committed by an adult in the same manner and realised in front of him/her or another adult, shall be punished:

- a) if the victim has not reached the age of twelve (12) years old, with imprisonment of at least ten (10) years (10 to 15 years) and a fine,
- b) if the victim has reached the age of twelve (12), but not fifteen (15) years, with imprisonment (5 to 15 years) and a fine; and
- c) if he has completed fifteen (15) years, with imprisonment of at least three (3) years (up to 5 years) and a fine.

▪ Par. 2 mentions that if the act of par. 1 resulted in the death of the victim, life imprisonment (18 years) is imposed.

### Questions regarding cybercrime or cyber-facilitated crime committed by minors

**Question 5: How is crime committed by minors dealt with in your country, in general? Is there a specific juvenile justice system? If yes, please explain in detail how this works.**

**Answer:**

The criminal treatment of minors is found in **Chapter 8** of the **General Part of the Greek Penal Code**. These provisions (121-133 of the Penal Code) propose, in application of the principle of the Welfare State, not the punishment, but the rehabilitation and treatment of juvenile offenders, in order to achieve their social reintegration.

More specifically, according to **article 121** of the Greek Penal Code, **Minors** are those who at the time of the act are aged between the twelfth and the eighteenth year of age.

▪ In par. 2 is mentioned that minors shall undergo reformation or therapeutic measures or confinement in a special detention centre (for young persons).

- According to **article 122 “Reformation Measures”** par. 1 of the Greek Penal Code, such measures are:

- a) reprimand of the minor,
- b) award custody of the minor to his/her parents or guardians;

- c) award custody of the minor to a foster family;
- d) award custody of a minor to protection companies or juvenile institutions or to custodians of minors;
- e) conciliation between a juvenile offender and a victim for an apology and, in general, for the out-of-court settlement of the consequences of the act;
- f) the compensation of the victim or otherwise the removal or reduction of the consequences of the act by the minor;
- g) attendance of social and psychological programs in state, municipal, community or private bodies;
- h) attendance of vocational or other education or training schools;
- i) attendance of special traffic education programs;
- j) provision of community service,
- k) entrusting the custody and supervision of a minor to protection companies or juvenile custodians;
- l) placement in an appropriate state, municipal, community or private educational institution.

- Par.2 mentions that in any case, the Court may impose as additional corrective measures additional obligations concerning the lifestyle of the minor or his upbringing. In exceptional cases it may impose two or more of the measures provided for in points (a) to (k) of the preceding paragraph.

- Par. 3 mentions that the choice of the reformation measure to be imposed is governed by the principle of subsidiarity. The content and duration of each measure must be proportional to the gravity of the act performed, the personality of the minor and his living conditions.

Decisions of the Minister of Justice, Transparency and Human Rights regulate all issues related to the enforcement and enforcement of the measures of the first paragraph.

- According to **article 123** titled “**Therapeutic Measures**” of the Greek Penal Code, if the minor's condition requires special treatment, in particular if he or she suffers from a mental disorder or organic disease or is in a state of severe physical dysfunction or has been addicted to computers, alcohol or drugs and is unable to overcome it on its own, or show a substantial delay in its intellectual and moral development, the Court orders:

a) to award custody of the minor to his parents, guardians or foster family, b) to award custody of the minor in protection companies or juvenile custodians, c) the attendance of counselling treatment program by the minor or d) the referral of the minor to a treating or other appropriate institution. In exceptional cases, the measures provided for in points (a) or (b) may be imposed in conjunction with the measure provided for in point (c).

- Par. 2 mentions that therapeutic measures are ordered after prior diagnosis and opinion by a specialized team of doctors, psychologists and social workers, who on a case-by-case basis belong to a Unit of the Ministry of Justice, Transparency and Human Rights or to medical health centres or state hospitals.

The Court may at any time replace the imposed reformation measures with others, such as therapeutic, if it deems it necessary, or even revoke them. (Article 124, Greek Penal Code)

The reformation measures imposed by the Court shall cease automatically when the minor reaches the age of eighteen years old, of under specially reasoned decision, extend those measures until the age of twenty-one years old. However, the therapeutic measures may be extended even after the age of eighteen, after making an opinion, until the age of twenty-one years old. (Article 125, Greek Penal Code)

- According to **article 126 “Criminal Treatment of Minors”** of the Greek Penal Code, the criminal act committed by a minor of twelve to fifteen years of age shall not be charged to him. The court may impose reformation or therapeutic measures on him/her.

- Par. 2 mentions that a juvenile who has committed a criminal offense and has reached the age of fifteen shall also be subject to reformation or therapeutic measures, unless it is deemed necessary to impose a restriction on a special detention center under article 127.

- According to **article 127 “Confinement to a Special Youth Detention Centre”** of the Greek Penal Code, the restriction to a special detention centre for young people shall be imposed only on minors who have reached the age of fifteen, if their act supposedly committed by an adult would constitute a felony and contain elements of violence or be directed against life or physical integrity.

The decision shall specify the length of stay in that centre according to article 54 and must contain a specific and detailed reasoning, from which it must be clear why the reformation or therapeutic measures are not considered sufficient in that case in view of the special circumstances of the act and the personality of the minor.

- According to **article 54 “Confinement to a Special Youth Detention Centre”** of the Greek Penal Code, the period of confinement in such a special detention centre for young people does not exceed five years, nor is it less than six months, if for the act committed the law threatens imprisonment for up to ten years. If the threatened imprisonment is life imprisonment or temporary higher than that of the previous paragraph, the duration of confinement in a special detention facility shall not exceed eight years nor shall it be less than two.

- According to **article 128 “Replace the Confinement in a Special Youth Detention Centre”** of the Greek Penal Code, such a decision may be replaced in whole or in part by home restriction, with a similar application of article 105 par. 2.

Moreover, criminal acts described in the provisions of the Penal Code and are threatened with a single penalty of provision of community service, are punished with a fine. (Article 98 Law 4623/9-8-2019)

- According to **article 129 “Conditional Release”** of the Greek Penal Code, the Court may release the juvenile on parole after the expiration of one second (1/2) of the detention period in a special juvenile detention centre and shall set the probation period, which may not exceed the remainder of the sentence. For the granting of conditional release, the restriction that was set out is also considered the one that was calculated beneficially in accordance with the current provisions.

- The conditional release shall be granted in any case, unless it is deemed after a specific justification that the conduct of the minor during the restriction period makes it absolutely necessary to continue his/her detention, in order to prevent him/her from committing new criminal acts.
- For the granting of conditional release, the director of the centre where the minor is detained submits an application to the Juvenile Court in the Criminal Court of the place where the restriction imposed together with a report of the social service of the centre two (2) months prior the one second of the restriction period.

- The minor must be summoned at least ten (10) days before the court hearing, during which he can appear in person or be represented by an attorney appointed with a simple document certified by the director of the detention facility, by a lawyer or by the competent authorities. The court must meet within fifteen (15) days from the completion of the assessment of half of the restriction period imposed. If the application for conditional release is not accepted, a new application can be submitted after two (2) months from the rejection, unless there is new evidence.
- Conditional release may be granted even before serving one second (1/2) of the restriction period imposed, only for important reasons and if one third (1/3) of it has actually been served.
- During the probationary period, the released person may be subject to obligations related to his / her way of life and in particular to the place of residence, to the upbringing or to the attendance of a treatment program for detoxification from drugs or other substances approved by law. If the released person violates the conditions imposed on him, the release can be revoked, when it is probable that in view of the gravity of the breach of obligations, the manner and the general conditions in which it took place, the minor does not provide the expectation that in the future will meet its obligations. In case of revocation, the time from release to new arrest is not counted in the sentence imposed.
- If the person released at the time of the probation is convicted of a felony, the release shall be revoked and Article 132 shall apply.
- If after the release the probationary period set by the decision expires without revocation, the sentence shall be deemed to have been served.

- According to **article 129 “Release under the Condition of House arrest with Electronic Surveillance”** of the Greek Penal Code, minors who have been sentenced to restriction in a special juvenile detention centre may, at their request, be released on the condition of house arrest by electronic surveillance, as defined in Article 284 of the Code of Criminal Procedure, provided that they have served one third (1/3) of their sentence. The application is accompanied by a report from the Social Service of the detention centre and a report from the Juvenile Welfare Service, where special reference is made to the wider social environment of the convict, with particular reference to his/her relationships with persons with whom he/she may cohabit if released. (Par. 2 and 3 ed. B 'and c' of article 129 apply in this case as well).

- Par. 2 mentions the release under the condition of house arrest with electronic surveillance cannot be granted, in case the minor has not remained in the facility for a period equal to one-fifth (1/5) of his sentence.
- If the release under the condition of house arrest with electronic surveillance is revoked, the minor reserves the right to be released conditionally according to article 129.
- The release under the condition of house arrest with electronic surveillance is revoked, if the released during that period intentionally committed, as an adult, a misdemeanour for which he was irrevocably sentenced to imprisonment of at least one (1) year. In this case, the time from release to re-arrest is not counted in the sentence imposed. The minor reserves the right to be conditionally released under Article 129.
- Release under the condition of house arrest by electronic surveillance is revoked if the released person, during the term of the release, committed, as an adult, a felony or as a minor, an act which if performed as an adult, would be a felony, and for which was convicted at any time irrevocably. In this case, the time from release to re-arrest is not counted in the sentence imposed and the minor

acquires the right to conditional release under Article 129, after remaining in the special detention centre for one (1) additional year in relation to the defined in article 129 par. 1 and 4.

The same applies if, at the time when the conviction became irrevocable, the conditional release according to article 129 had already been granted, but the period referred to in article 129 par. 7. The preceding subparagraph shall not apply if, at the time the conviction was rendered irrevocable, conditional release under Article 129 had already been granted without revocation, with the result that the penalty for which the release was granted has already been granted. defined in article 129 par. 7.

- According to **article 130 “Judgment after the age of eighteen years old”** of the Greek Penal Code, (par. 1) the provision of article 126 par. 1 also applies to minors who committed a criminal act before the completion of the fifteenth year and are admitted to trial after the completion of the eighteenth year. In this case, the reformation measures cease automatically when the perpetrator reaches the age of twenty-five.

- Par. 2 mentions that the provision of article 127 par. 1 also applies to juveniles who have committed a criminal offense after the completion of the fifteenth year of their age and are admitted to trial after the completion of the eighteenth year.
- Par. 3 mentions that if the court considers that the imposition of reformation or therapeutic measures are not sufficient and that restriction in a special detention centre, although necessary for the criminal imprisonment of the convicted person, is no longer appropriate due to his/her age, the Court may order the serving of the sentence in a penitentiary. In this case the convict is held separately from the other adult convicts.
- Par. 4 mention that this decision can be taken by the Court of the place of sentencing and after the restriction in the special detention centre for young people, at the request of the director of the facility or the competent prosecutor, after hearing the above and the convicted person. When the convict reaches the age of 21, then every year, the same Court examines ex officio whether there is a case of serving the sentence in a penitentiary.

- According to **article 131 “Execution of the Decision after the age of eighteen years old”** of the Greek Penal Code, if a person sentenced to restriction in a special detention facility has reached the age of eighteen before the execution of the decision, that Court, if it considers that such restriction is no longer appropriate because of the convicted person's age, may order the serving of the sentence in a penitentiary.

- According to **article 132 “Confluence”** of the Greek Penal Code, (par. 1) if a detainee in a special juvenile detention centre commits a criminal offense before reaching the age of eighteen years old or if there is another case in confluence under Article 97, the court shall increase the sentence by its previous decision without exceeding the limits of Article 54.

- Par. 2 mentions that the same shall apply if a detainee in a special juvenile detention centre commits a criminal offense after the age of eighteen and before the age of twenty-five and his/her court imposes a restriction on him/her in a special juvenile detention centre, in accordance with Article 133 (a) or imprisonment.

- Par. 3 mentions that if a detainee in a special juvenile detention centre commits a felony after the completion of the eighteenth year and before the completion of the twenty-fifth year of age, for which he is sentenced to imprisonment, pursuant to Article 133 (b), the court imposes a total sentence of increased imprisonment. The increase may not be less than one-half of the sentence set by the previous court decision.

- According to **article 133 “Young Adults”** of the Greek Penal Code, when the perpetrator has not reached the age of twenty-five at the time of the commission of the offense, the court may: **(a)** order his/her restriction in a special detention centre for young people (Article 54), if the Court considers that the commission of the act is due to his/her insufficient development of his/her personality because of his/her young age and that this restriction will be sufficient to prevent the commission of other crimes; or **(b)** impose a reduced sentence (Article 83). In this case, the provision of par. 3 (b) of Article 130 applies.

**Question 6: Are there specific rules or is there a specific policy that deals with cybercrime by minors as a special topic, acknowledging the special characteristics of crime by minors in the cyber environment, and the fact that minors may not knowingly or intentionally break rules (issues with criminal intent)? Even absent a written policy, are minors prosecuted for cybercrime in practice?**

**Answer:**

There are no specific rules or even a specific policy so far, that deals with cybercrime committed by minors as a special topic in Greece.

Minors, as described in the previous questions are treated accordingly in criminal proceedings whether they commit a traditional crime or a cybercrime.

**Question 7: Can minors be punished for online grooming in your country? I.e. the situation of a minor capable of providing sexual consent (e.g. 17 year-old) grooming a minor who has not reached the age of sexual consent (e.g. 13 years old) to meet up with the intent to perform sexual activities? Please focus not only on the specific crime of online grooming (which, if present as a separate crime in your jurisdiction, often requires an adult perpetrator), but also on other crimes that would punish the activities that constitute online grooming (i.e. the use of different strategies to force a meeting with the minor victim with the intent to perform sexual activities). If criminal sanctions could apply, are minors prosecuted in practice?**

**Answer:**

Minors can be punished for online grooming in Greece, taking into consideration the provisions of article 126 of the Penal Code and the rest of the articles concerning the criminal treatment of minors mentioned above.

The age a minor is capable of providing sexual consent is 15 years old.

However, as mentioned above, **article 348B** of the Greek Penal Code explicitly mentions that whoever intentionally, through the use of information systems, proposes to a minor who has not reached the age of fifteen to meet with him/her or a third person with the aim of committing against the minor the

offenses of **articles 339 par. 1 and 2 or 348A**, when this proposal is followed by further acts leading to such a meeting, is punishable.

Furthermore, **article 339 “Sexual acts with minors or before them”** of the Greek Penal Code and specifically, par.1 mentions that whoever commits sexual intercourse with a person under the age of fifteen or misleads them in order to commit or suffer such an act shall be punished, if there is no case to be punished more severely with articles 342 and 351A, as follows: a) if the victim has not reached the age of twelve (12) years old, with imprisonment of at least ten (10) years (and up to 15 years), b) if the victim has reached the age of twelve (12) years old, with imprisonment (that is from 5 years to 15 years according to article 52).

Important to note is Par. 2 of article 339, which mentions that sexual intercourse between minors under the age of fifteen (15) years old is not punished, unless the age difference between the minors is greater than three (3) years, in which case only reformation or therapeutic measures can be imposed.

**Question 8: Can minors be punished for purely online behaviour with a sexual intent when other minors are the victim? E.g., the situation where a minor perpetrator obtains sexually explicit material from the minor victim in order to sell this or to force the victim to do something. If criminal sanctions could apply, are minors prosecuted in practice?**

**Answer:**

Minors can be punished and be prosecuted for any criminal behaviour whether it is purely online or offline, even when the victim is a minor, too.

**However**, during the criminal proceedings and before a decision is made, Judges take into consideration the provisions of article 126 of the Penal Code as well as the rest of the articles concerning the criminal treatment of minors mentioned above.

Thus, as in the example above, in the situation where a minor obtains child sexually explicit material in order to sell or to force the minor victim to further actions, then the articles that could apply are, article **348A par. 2, par. 4 and par. 5** depending on the age of the victim, and **article 348C** of the Greek Penal Code.

More specifically, according to article **348A par. 2, par. 4 and par. 5** whoever intentionally produces, offers, sells or in any way possesses, distributes, transmits, buys, supplies or possesses child pornography material or disseminates information on the commission of the above acts, through information systems, shall be punished by imprisonment of at least two (2) years (and up to five) and a fine, while par. 4 and par. 5 include relevant circumstances where perpetrators receive harsher penalties. (see above in detail article 348A)

- According to **article 348C “Pornographic Representations of Minors”** of the Greek Penal Code, (par.1) anyone who forces or seduces a minor in order to participate in or organize pornographic performances shall be punished as follows:

- a) if the victim has not reached the age of twelve, with imprisonment (5 to 15 years),
- b) if the victim has reached the age of twelve but not fourteen, with imprisonment of up to ten years (5 to 10 years);
- c) if the victim has reached the age of fourteen, with imprisonment of at least two years (up to 5 years).

Anyone who knowingly, having paid a relevant fee, watches a pornographic show in which minors participate is punished in cases (a) and (b) of the previous paragraph with imprisonment of at least two years (up to 5 years) and in case (c) with imprisonment of at least one year (up to 5 years).

- Par. 2 mentions that if the acts referred to in the preceding paragraph were committed with the use of force or intimidation, in order for a minor to participate in pornographic performances or for the purpose of seeking financial gain from them, the punishment is as follows:
  - a) in (a) case of the preceding paragraph, imprisonment of at least ten years (10 to 15 years);
  - b) in (b) case imprisonment (5 to 15 years),
  - c) in (c) case imprisonment for up to ten years (5 to 10 years).
- Par. 3 mentions that a pornographic representation within the meaning of the preceding paragraphs shall constitute an organized direct juvenile exposure intended for viewing or listening, inter alia, using information and communication technology:
  - a) a minor engaging in a genuine or fictitious sexual act; or
  - b) the genitals or body of the minor in general in a manner that obviously provoke sexual arousal.

**Question 9: Can minors be punished for cyberbullying behaviour, without there being a physical component to the crime? This includes behaviours such as cyberstalking and cyberharassment. If criminal sanctions could apply, are minors prosecuted in practice?**

**Answer:**

As mentioned above, in Greece, the term "**cyberbullying**" does not exist in the Penal Code as such.

However, such a criminal behaviour is approached through other criminal acts described in other articles of the Penal Code that were also mentioned in detail above.

These articles that could apply in such cases are, Art. 333 "Threat", Art. 361 "Insult", Art. 362-363 "Defamation", Art. 308 "Bodily Injury", Art. 309 "Dangerous Bodily Injury", Art. 310 "Severe Bodily Injury", Art. 311 "Fatal Bodily Injury", Art. 312 "Bodily Injury of Weak Individuals", and the violation of Law No 4624/2019 "Privacy - Protection of Personal Data", which are prosecuted on a case-by-case basis.

Thus, minors for criminal behaviour described in the above articles can be punished and be prosecuted.

**However**, during the criminal proceedings and before a decision is made, Judges take into consideration the provisions of article 126 of the Penal Code as well as the rest of the articles concerning the criminal treatment of minors mentioned above.

It is important, however, to note that prior to July 1<sup>st</sup>, 2019 the then **Article 312 "Causing Damage with Constant Harsh Behaviour"** (now amended and not in force) of the Greek Penal Code, essentially concerned the criminal act of "Bullying" with certain provisions, however, the lawmaker in the amended article 312 changed the title and the description to include weak individuals (including minors) in general, and also to include acts of domestic violence (referred to in Law No 3500/2006).

For the sake of completeness, the previous **Article 312 titled "Causing Damage with Constant Harsh Behaviour"** of the Penal Code (this article now has been amended and not in force), stated that, whoever with continuous cruel/harsh behaviour causes to another person bodily injury or other damage to his/her physical or mental health, unless there is a case of a more serious criminal offense, shall be punished by imprisonment. If the act is performed between minors, it is not punished unless the age difference between them is greater than three (3) years, in which case only rehabilitative or therapeutic measures are imposed.

**Question 10: Can minors be punished for wilful misinformation or deception online (sharing false news, false information, pretending to be someone else, pretending to be an expert, etc.)? Which crimes/qualifications could possibly apply? If criminal sanctions could apply, are minors prosecuted in practice?**

**Answer:**

Minors can be punished and be prosecuted for criminal behaviour such as, wilful misinformation or deception online (sharing false news, false information, pretending to be someone else, pretending to be an expert, etc.).

The aforementioned criminal behaviour is described in the **article 191 “Dissemination of Fake/False News”** of the Greek Penal Code, according to which anyone who publicly or via the internet spreads or disseminates in any way fake/false news that is capable of causing concern or fear to the public or undermining (disturbing or shattering public confidence) public confidence in the national economy, the country's defence capacity or public health, is punishable by imprisonment of at least three (3) months (up to 5 years) and a fine.

Furthermore, pretending to be someone else or pretending to be an expert, might also violate **article 38** of the **Law 4624/2019 “Protection of Personal Data”** concerning the implementation of GDPR, in case the minor perpetrator has made use of such characteristics and personal data in order to impersonate other/third person for any reason whether it is legal or illegal. According to **article 38 “Criminal Penalties”** of the above law, the penalties are as follows:

- Par. 1 anyone who, without legal grounds: (a) interferes in any way with a data filing system and in so doing is made aware of such data; (b) copies, removes, alters, harms, collects, registers, organises, structures, stores, adapts, modifies, recovers, seeks information, correlates, combines, restricts, erases, destroys, shall be punished with imprisonment of up to one (1) year (min 10 days), unless the act is punishable with a more severe penalty under another provision.
- Par. 2 anyone who uses, transmits, disseminates, discloses by transmission, makes available, announces or makes accessible to unauthorised persons personal data acquired pursuant to case (a) of paragraph 1, or allows unauthorised persons to become aware of such data, shall be punished with imprisonment (10 days to 5 years), unless the act is punishable with a more severe penalty under another provision.
- Par. 3 mentions that if the act referred to in paragraph 2 relates to special categories of personal data referred to in Article 9 of the GDPR or data relating to criminal convictions and offences or relevant security measures referred to in Article 10 of the GDPR, the offender shall be punished with imprisonment of at least one (1) year (up to 5 years) and a fine of up to one hundred thousand euros (EUR 100,000), unless the act is punishable with a more severe penalty under another provision.
- Par. 4 mentions that a person who has committed the acts referred to in the previous paragraphs shall be punished with imprisonment of up to ten (10) years (min 5 years), if he or she intended to secure for himself or herself or others an unjust profit, or cause financial loss to another person, or cause damage to another person, and the total profit or total loss exceeds the amount of one hundred and twenty thousand euros (EUR 120,000).
- Par. 5 mentions that if the acts referred to in paragraphs 1 to 3 have resulted in a risk to the free functioning of democracy or national security, they shall be punishable with imprisonment (5 to 15 years) and a fine of up to three hundred thousand euros (EUR 300,000).
- Par. 6 mentions that the felonies provided for in this Article shall fall within the jurisdiction of the Court of Appeal for felonies.

Moreover, in case the minor perpetrator in the above situations has the intention to damage other's property and obtain illicit gains from that act, might also violate article 386 "Fraud" of the Greek Penal Code.

- According to **article 386 "Fraud"** of the Greek Penal Code (as it was amended with article 92 of the Law 4855/12-11-2021), (par. 1) whoever, by knowingly presenting false facts as true or by unlawfully concealing or falsifying true facts, harms others' property by persuading someone to act, omit or tolerate in order for him/her or any third person to obtain from that damage is punished by imprisonment (10 days to 5 years), and if the damage caused is particularly large, with imprisonment of at least three (3) months (up to 5 years) and a fine. If the damage caused exceeds the total amount of one hundred and twenty thousand (120,000) euros, imprisonment of up to ten (10) years (min 5 years) and a fine is imposed.

- Par. 2 mentions that if the fraud is aimed directly against a legal entity in Greece, legal entities of public law or the local government bodies and the damage caused exceeds the total amount of one hundred and twenty thousand (120,000) euros, imprisonment of at least ten (10) years (up to 15 years) is imposed and a fine of up to one thousand (1,000) daily units. This act expires after twenty (20) years.

**However**, as we have already mentioned above, during the criminal proceedings and before a decision is made, Judges take into consideration the provisions of article 126 of the Penal Code as well as the rest of the articles concerning the criminal treatment of minors mentioned above.

**Question 11: Can minors be punished for online actions facilitating human trafficking? Typically, this includes the selection and grooming of victims (e.g., lover boy phenomenon). If criminal sanctions could apply, are minors prosecuted in practice?**

**Answer:**

Minors can also be punished and be prosecuted for criminal behaviour such as, online actions in order to facilitate Human Trafficking.

Minor perpetrators do not have to realise all parts of what constitutes the criminal act of human trafficking in order to be punished for that. They might have an assisting role (a role of an associate) in materialising a crucial part of the whole criminal act. In any case, such persons who provide their help/assistance in order to facilitate the commission of a crime, might be punished either as perpetrators (as if they had committed the full criminal act) or as an associate according to **article 47** of the Greek Penal Code and receive a reduced penalty according to certain provisions of the **article 83** of the Penal Code.

- More specifically, firstly, the legal framework that addresses such acts is mainly **article 323A "Trafficking in Human Beings"** of the Greek Penal Code (as amended with article 69 of the Law 4855/12-11-2021), which describes in detail any act that constitutes human trafficking along with the respective penalties.

In particular, according to **article 323A** par. 1, whoever uses force, threat of violence or other coercive means or the imposition or abuse of power in order to recruit, abduct, transport, illegally detain, sponsor, deliver or receive another person for the purpose of his/her exploitation, is punished by imprisonment (felony) (5 to 15 years) and a fine.

- Par. 2 mentions that the perpetrator is punished similarly even if, in order to achieve the same purpose, he/she commits the acts of the previous paragraph by obtaining the consent of the victim by using deceptive means or by luring him/her and taking advantage of the victim's vulnerable position.
  - Par. 3 mentions that the act of the previous paragraphs is punished with imprisonment of at least ten (10) years (up to 15 years) and a fine when:
    - a) is performed by someone who is doing that professionally,
    - b) is made by an official who, in the exercise of his/her duties or benefiting from his/her capacity, commits or participates in any way in the act;
    - c) is associated with the illegal entry, stay or exit of the victim from the country or
    - d) resulted in severe bodily harm to the victim.

Life imprisonment (18 years) is imposed if the act resulted in death.
  - Par. 4 mentions that the same punishment of the previous paragraph apply to the act of par. 1 and 2 when it is realised against a minor, even when it is committed without the use of the means mentioned in them. Anyone who, through the means of paragraphs 1 and 2, recruits a minor for the purpose of his/her use in armed operations is punished with the same penalties.
  - Par. 5 mentions that the concept of exploitation in the preceding paragraphs includes the making of illicit property gains from:
    - a) the victim's slavery status or similar slavery practices;
    - b) the victim's work or begging (labour exploitation);
    - c) the victim's commission of criminal acts,
    - d) the removal of cells, tissues or organs of the victim's body;
    - e) the victim's performance thereof of sexual acts, whether real or fake, or the provision of work or services having the sole purpose of sexual arousal (sexual exploitation); or
    - f) enforced marriage of the victim
- According to **article 45 “Collaborators”** of the Greek Penal Code, if two or more persons committed together, in whole or in part, the elements of the criminal act described in the law, each of them shall be punished as the perpetrator.
- According to **article 47 “Associate”** of the Greek Penal Code, whoever, except for the case of paragraph 1 of article 46 (Provoke Someone to Commit a Crime and Agent Provocateur), intentionally offered to another person any assistance before the commission or during the commission of the criminal act committed, is punished with a reduced penalty (Article 83). The court may impose the punishment of the perpetrator, if the perpetrator offers immediate assistance in the preparation and execution of the act, placing the object of the insult at the disposal of the natural perpetrator.

**However**, as we have already mentioned above, during the criminal proceedings and before a decision is made, Judges take into consideration the provisions of article 126 of the Penal Code as well as the rest of the articles concerning the criminal treatment of minors mentioned above.

**Question 12: Can minors be punished for acts of online piracy in your jurisdiction, i.e., the illegal use and/or distribution of content protected by intellectual property rights? Please focus on the elements of criminal nature. If criminal sanctions could apply, are minors prosecuted in practice?**

**Answer:**

Minors can also be punished and be prosecuted for online piracy in Greece.

**Law 2121/1993 “Copyright, Related Rights and Cultural Issues”** in its **article 66**, provides for criminal penalties ranging from at least one year imprisonment and a €2,900 to €15,000 fine for illegal-  
unauthorised copies, reproductions and sale of material that are protected under its provisions. Moreover, Article 65 of the above law provides for civil liabilities in case of copyright infringement and Article 65A for administrative penalties up to €1,000 per copy if someone reproduces or sells illegal copies (see below in detail the updated Law 2121/1993).

**However**, as we have already mentioned above, during the criminal proceedings and before a decision is made, Judges take into consideration the provisions of article 126 of the Penal Code as well as the rest of the articles concerning the criminal treatment of minors mentioned above.

- According to the **Law 2121/04.03.1993 “Copyright, Related Rights and Cultural Issues”** (as it is updated with **Law 4821/31.07.2021**), the intellectual creators, with the creation of their work, acquire intellectual property on it, which includes, exclusive and absolute rights, the right of exploitation of their work (property right) and the right of protection of their personal bond to it (moral right).

Acts and penalties in violation of that law are mentioned in **Article 66, “Criminal Sanctions”** which is as follows:

- Par. 1, A punishment of imprisonment of at least one year (up to 5 years) and a fine of 2,900 -15,000 euros shall be imposed on whoever, without right and in violation of the provisions of this law or the provisions of multilateral international conventions for the protection of intellectual property, registers works or copies of them, reproduces them directly or indirectly, temporarily or permanently, in any form, in whole or in part, translates, remakes, adapts or converts them, distributes them to the public on payment or other means or keeps them for distribution, leases, executes publicly, broadcasts in any way, presents to the public works or copies of them in any way, inserts copies of the work illegally produced abroad without the consent of the author and generally exploits works, copies or copies that are copyrighted or infringes the moral right of the creator to decide on the publication of the work as well to present it unchanged without additions or cuts (article 8 par. 1 of Directive 2001/29).
- Par. 2. The same punishment shall be imposed on anyone who, in violation of the provisions of this law or the provisions of international conventions ratified by law for the protection of related rights, commits the following acts: **A)** Without the permission of the performers: a) records the performance on a material body, b) reproduces directly or indirectly, temporarily or permanently by any means and form, in whole or in part, the recording of their performance on a material carrier, c) makes distributes to the public the recording of the performance or owns it for distribution; d) leases the recording material of the performance; this broadcast is a legal broadcast, f) presents to the public the live performance performed in any way so that anyone can have access whenever he/she decides; **B)** Without the permission of the producers of phonograms (producers of material of sound carriers): a) reproduces directly or indirectly, temporarily or permanently by any means and form, in whole or in part, their phonograms; b) makes them available to the public, wired or wireless, so that anyone has access, wherever and whenever he/she chooses, to their phonograms, e) introduces the above material carriers produced abroad without creator’s consent **C)** Without the permission of the producers of audiovisual works (producers of video or audio and video media): (a) reproduce, directly or indirectly, temporarily or permanently, by any means and form, in whole or in part, the original and copies of their films; (b) distribute to the public such material, including copies thereof, or keeps them for distribution; c) leases such material, d) makes them available to the public, wired or wireless, so that anyone can have access to the original and the copies of their films, where and when they choose, e) imports the above material carriers produced abroad without his/her consent, f) broadcasts the above material by radio and television in any way, including satellite broadcasting; or cable broadcasting, as well as presentation to the public. **D)** Without the permission of the

broadcasters: a) rebroadcasts their broadcasts in any way, b) presents to the public their broadcasts in places where entry is allowed with a ticket, c) records the broadcasts audio or video or audio and video, whether these broadcasts are transmitted wired or wirelessly, including cable or satellite broadcasting; d) make direct or indirect, temporary or permanent reproduction by any means and form, in whole or in part, of the material integration of the broadcast; (e) distributes material to the public by recording their broadcasts; (f) leases the material to the public by recording their broadcasts; (g) makes it available to the public, wired or wireless, so that anyone has access; wherever and whenever the creator chooses, in the material integration of their broadcasts (article 8 par. 1 of Directive 2001/29).

- Par. 3. If the benefit sought or the damage threatened by the acts of par. 1 and 2 are particularly large, imprisonment of at least two years and a fine of six thousand (6,000) to thirty thousand (30,000) euros shall be imposed. If the perpetrator performs the above acts professionally or on a commercial scale or if the circumstances under which the act testifies that the perpetrator is particularly dangerous for the protection of intellectual property or related rights, imprisonment of up to 10 years and a fine of fifteen thousand (15,000) to sixty thousand (60,000) euros is imposed, as well as the revocation of the business license in in the context of which the transaction was performed. The act is considered to have been committed professionally and when the perpetrator has been convicted for offenses of this article or for violation of the provisions on intellectual property that were in force before that with an irrevocable decision in a custodial sentence. The infringement of intellectual property and related rights in the form of a felony is adjudicated by the competent Three-Member Criminal Court of Appeal (as amended by art. 54 par. 9 par. A) of law 4481/2017).
- Par. 4. The penalty of paragraphs 1, 2 and 3 punishes anyone who has not paid to a collective management organization the fee provided in article 18 par. 3 of this law. The same penalty is punished for the debtor who after the issuance of the decision of the Single Member Court of First Instance does not submit the responsible statement in accordance with the provisions of article 18 par. 6 of this law.
- Par. 5. The penalty of par. 1 punishes anyone who: a) uses or distributes or possesses for distribution purposes systems or means whose sole purpose is to facilitate the unauthorized removal or neutralization of a technical system that protects a computer program, b) manufactures or imports or uses or distributes or possesses for the purpose of distribution devices or other reproduction material of a work that does not meet the specifications that will be determined according to article 59 of this law, c) manufactures, imports or uses or distributes or possesses objects for distribution; acts that may nullify the effect of the above specifications, d) reproduces or uses works without the use of the devices or without application of the systems that will be determined according to article 60 of this law, e) distributes or possesses in order to distribute audio or video material or audio and video without the special official or film control that will have been provided for in article 61 of this law.
- Par. 6. As an exception to the provision of Article 82 (10) (b) of the Penal Code, in the event of a conversion of the custodial sentence, the conversion amount shall be set at five times the limits of the conversion amount provided for each time in the Penal Code (as replaced by a. 54 par. 9 par. b) of law 4481/2017).
- Par. 7. In case of mitigating circumstances, the fine may not be reduced below half of the minimum limit provided on a case-by-case basis in this law.
- Par. 8. Anyone who unauthorizedly makes temporary or permanent reproduction of the database, translation, adaptation, arrangement and any other modification of the database, distribution of the database or copies thereof, announcement, demonstration or presentation of the database to the public, is punished with imprisonment of at least one (1) year and a fine of three thousand (3,000) to fifteen thousand (15,000) euros (as amended by art. 54 par. 9 par. c) of law 4481/2017).

- Par. 9. Anyone who extracts and/or reuses all or a substantial part of the contents of the database without the permission of the manufacturer shall be punished by imprisonment of at least one year and a fine of three thousand (3,000) to fifteen thousand (15,000) euros (as amended by art. 54 par. 9 par. c) of law 4481/2017).
- Par. 10. Where the object of the infringement concerns computer programs, the unconditional payment of the administrative fine by the perpetrator in accordance with the provision of paragraph 1 of Article 65A and under the conditions provided for, shall entail the non-prosecution of the criminal prosecution and the abolition of any started when the infringement concerns a quantity of up to fifty (50) programs (as amended by art. 54 par. 9 par. d) of law 4481/2017 and was renumbered by art. 54 par. 9 par. G) of law 4481/2017).
- Par. 11. Where the object of the infringement concerns material sound carriers, to which a work which is the subject of intellectual property has been registered, the, in accordance with the provision of paragraph 2 of Article 65A and under the conditions provided, the unconditional payment of the administrative fine by the perpetrator implies the non-exercise of the criminal prosecution and the abolition of any initiated when the infringement concerns a quantity of up to five hundred (500) illegal audio material carriers (as amended by art. 54 par. 9 par. d) of law 4481/2017 and was renumbered with art. 54 par. 9 par. G) of law 4481/2017).
- Par. 11.A. Where the object of the infringement concerns phonograms (musical compositions) stored on any technical storage medium or computer, the unconditional payment of the administrative fine by the perpetrator in accordance with paragraph 2 of Article 65A and under the conditions provided for it implies the non-exercise of the criminal prosecution and the abolition of any initiation, when the object of insult is up to 1,000 musical compositions (as added with art.54 par. 9 par. e) of law 4481/2017).
- Par. 12. The payment of the fine as well as the non-exercise or the abolition of the criminal prosecution do not release the perpetrators from the obligation to pay the corresponding copyright and related rights, compensations and other charges to these beneficiaries according to the provisions of the relevant laws (as amended by art. 54 par. 9 per. f) law 4481/2017 and was renumbered with art. 54 par. 9 par. G) of law 4481/2017).
- Par. 13. In case of recurrence within the same financial year, the administrative fine provided in article 65A is doubled (as renumbered by art. 54 par. 9 par. G) of law 4481/2017).

### **CASE LAW:**

- No **613/2018 Decision** of the One-Member Juvenile Court of Thessaloniki.

Perpetrator: Male Minor.

Criminal Prosecution: for possession and distribution of counterfeit products of article 66 of Law 2121/1993, etc.

Decision: He was acquitted of the charges.

**Question 13: Can minors be punished for acts of hacking (i.e., unauthorized access to a computer system)? In particular, would this also apply to various scenarios exploiting vulnerabilities in IoT and connected devices? If criminal sanctions could apply, are minors prosecuted in practice?**

**Answer:**

Minors can also be punished and be prosecuted as perpetrators for acts of hacking in Greece, by gaining unauthorized access to any information and communications technology, including the cases in which they might also take advantage and exploit any vulnerabilities in IoT or connected devices. Besides, the respective article 370D that applies to such a criminal behaviour explicitly mentions “*..gain unauthorized access to part or to a whole information system...*” (see below respective articles in more detail).

**However**, as we have already mentioned above, during the criminal proceedings and before a decision is made, Judges take into consideration the provisions of article 126 of the Penal Code as well as the rest of the articles concerning the criminal treatment of minors.

- According to the **article 370B “Illegal Access to Information System or Data”** of the Greek Penal Code, (par. 1) whoever, in violation of protection measures and without right, gains access to part or to the whole of the information system or electronic data is punished with imprisonment of up to two years (min 10 days) or a fine. In particular mild cases the act goes unpunished.
  - Par. 2 mentions that if the perpetrator is in the service of the lawful holder of the information system or electronic data, the act referred to in the preceding paragraph shall be punished only if it is explicitly prohibited by an internal regulation or by a written decision of the holder or its competent official.
  - Par. 3 mentions that if the act referred to in paragraph 1 refers to the infringement of scientific or professional privacy of an entity of the public or private sector, it shall be punished with imprisonment for a term not exceeding three years (min 10 days) or with a fine.
  - Par 4, mentions that if the perpetrator is in the service of the legal holder of the data as well as if privacy is of particularly great financial value, imprisonment and a fine are imposed.
  - Par 5, finally, mentions that a report is required for the criminal prosecution of the acts of paragraphs 1 and 4.
- According to the **article 370D par. 2** of the Greek Penal Code, whoever gains unauthorized access to all or part of the information system or data transmitted by telecommunication systems, and doing so by violating prohibitions or security measures taken by its rightful owner, shall be punished by imprisonment (10 days to 5 years).
- Also, **article 292B “Obstruction of the Operation of Information Systems”** of the Greek Penal Code, may apply if the hacking has seriously obstructed or interrupted the operation of an information system by entering, transmitting, deleting, destroying, altering digital data or by blocking access to such data. The punishment includes imprisonment ranging from 10 days to 5 years depending on the severity of the (hacking) result and imposition of a penalty fee.
- According to **article 15 of Law 3471/2006**, which regulates privacy in the field of electronic communications, if the offender gained unauthorized access to personal data of the subscribers or users of the information system, a penalty fee ranging from 10.000 euro to 100.000 may be imposed.

**Question 14: Can minors be punished for acts of using Cybercrime as a Service? If yes, under what qualification? In particular, how would this apply to using such services for exploiting vulnerabilities in IoT and connected devices e.g., the device of a friend or acquaintance? Does it matter if the intent is somewhat innocent (i.e., the minor thinks it's a joke or a prank)? If criminal sanctions could apply, are minors prosecuted in practice?**

**Answer:**

**Cybercrime-as-a-Service (CaaS)** is a new phenomenon and rapidly growing one around the world. That is due to the fact that it offers the opportunity even to those not aware of (new) technologies to perpetrate cybercrimes or to bring cybercriminals with different 'skills-expertise' together and share the profit.

However, and while there is no such term in the Greek legal framework, criminal acts describing the use of Cybercrime-as-a-Service can be punished and prosecuted in Greece even when the perpetrators are minors.

More specifically, concerning the criminal act of using such services for exploiting vulnerabilities of certain devices and gaining unauthorized access to them, **articles 370B and 370D par.2** could apply in confluence with **articles 45 or 46 or 47** of the Greek Penal Code.

Furthermore, **article 292C** concerning the possession or use of hardware, software or other tools to commit cybercrime may also apply to such an act.

Moreover, as for the intention of the commission of such an act, most of the above crimes contain the condition of purpose in order for the sanctions to apply. Thus, for example in article 370C 'Hacking' the perpetrator is sanctioned when acts unfairly – a condition that excludes cases such as ethical hacking. Another example could be article 292C which requires the perpetrator to make available, possess or use of hardware, software or other tools with the intent to commit cybercrime, otherwise it goes unsanctioned. In the above-mentioned case of 'somewhat innocent' and if there are reasonable grounds for that or could be proved enough during the criminal proceedings, the Criminal Court will decide based on purpose and intention.

**However**, as we have already mentioned above, during the criminal proceedings and before a decision is made, Judges take into consideration the provisions of article 126 of the Penal Code as well as the rest of the articles concerning the criminal treatment of minors mentioned above.

- According to **article 45 “Collaborators”** of the Greek Penal Code, if two or more persons committed together, in whole or in part, the elements of the criminal act described in the law, each of them shall be punished as the perpetrator.
- According to **article 46 “Abettor and Agent Provocateur”** of the Greek Penal Code, (par.1) whoever (abettor) intentionally caused another person to make the decision to commit a criminal act, receives the same punishment as that one of the perpetrator.
  - Par. 2, mentions that whoever (agent provocateur) intentionally caused another person to make the decision to commit a crime, in order to catch him/her while attempting to commit the crime or while attempting a criminal preparatory act and with the will to stop him before completing the crime, shall be punished with the same penalty as the perpetrator reduced by half.
- According to **article 47 “Associate”** of the Greek Penal Code, whoever, except for the case of paragraph 1 of article 46 (Abettor and Agent Provocateur), intentionally offered to another person any assistance before the commission or during the commission of the criminal act committed, is punished with a reduced penalty (Article 83). The court may impose the punishment of the perpetrator, if the

perpetrator offers immediate assistance in the preparation and execution of the act, placing the object of the insult at the disposal of the natural perpetrator.

- According to the **article 370B “Illegal Access to Information System or Data”** of the Greek Penal Code, (par. 1) whoever, in violation of protection measures and without right, gains access to part or to the whole of the information system or electronic data is punished with imprisonment of up to two years (min 10 days) or a fine. In particular mild cases the act goes unpunished.
  - Par. 2 mentions that if the perpetrator is in the service of the lawful holder of the information system or electronic data, the act referred to in the preceding paragraph shall be punished only if it is explicitly prohibited by an internal regulation or by a written decision of the holder or its competent official.
  - Par. 3 mentions that if the act referred to in paragraph 1 refers to the infringement of scientific or professional privacy of an entity of the public or private sector, it shall be punished with imprisonment for a term not exceeding three years (min 10 days) or with a fine.
  - Par 4, mentions that if the perpetrator is in the service of the legal holder of the data as well as if privacy is of particularly great financial value, imprisonment and a fine are imposed.
  - Par 5, finally, mentions that a report is required for the criminal prosecution of the acts of paragraphs 1 and 4.
- According to the **article 370D par. 2** of the Greek Penal Code, whoever gains unauthorized access to all or part of the information system or data transmitted by telecommunication systems, and doing so by violating prohibitions or security measures taken by its rightful owner, shall be punished by imprisonment (10 days to 5 years).

## **2. General questions regarding cross border cybercrime, international legal instruments applicable to fighting cybercrime and regarding international cooperation**

**Question 15: How does your country deal with the cross-border nature of many cybercrimes? When is jurisdiction established? Can judgements have extra-territorial effect?**

**Answer:**

- Cybercrime consists of criminal acts committed online by using electronic communications networks and information systems. Its ever-evolving and cross-border nature poses more challenges for countries that call for a collective approach in order to address them.

Greece in order to effectively and efficiently deal with the cross-border nature of cybercrime make use of international cooperation and collaboration with other stakeholders, such as law enforcement authorities, prosecutors, industry, etc. around the world and the application of relevant international and national laws.

- Jurisdiction under Articles 109-115 of the Greek Procedural Code is determined by the characterization of the act by the penal code as a felony or misdemeanor, based on the facts contained in the report of the referral board or the summons of the prosecutor (in the case of direct trial of the case).

Jurisdiction of the Court may be subject-matter or territorial depending on the place where the crime was committed or where the accused temporarily resides or resides when the criminal prosecution begins

(Article 122 of the Greek Procedural Code). In case of dispute in jurisdiction, article 132 of the Greek Procedural Code concerning the rules for jurisdiction mentions that the Court of Appeal will determine on the issue.

- The Greek Penal Code applies for all criminal offences with their “place of the offence” within Greece even when committed by aliens (Art. 5 par. 1 of the Greek Penal Code).
- The “place of the offence” is defined under Art. 16 par. 1 of the Greek Penal Code as the place where the offender actually committed the offence, in whole or in part, as well as the place where the result of the offence took or would have taken place.
- Greek criminal law also applies to an act characterized as a felony or misdemeanour and committed abroad by a native, if it, with its specific characteristics, is criminal under the laws of the country in which it was committed (Article 6 par. 1 of the Greek Penal Code).
- According to Article 8 of the Greek Penal Code, Greek penal laws apply for Greeks and aliens, irrespective of the laws of the place where the crime was committed, for acts, among others, of human trafficking, any other crime covered by special provisions or international conventions that are signed and ratified by the Greek state, providing for the application of the penal laws of Greece.

**Question 16: What international legal instruments (bi-lateral, multi-lateral) apply in your country to the fight against (cross-border) cybercrime and how have they been implemented in national law (if implementation is necessary)?**

**Answer:**

In Greece apply the following international legal instruments:

- The **Council of Europe's Convention on Cybercrime (2001)**, is one of the most important multilateral treaties tackling the issue of cybercrime and electronic evidence. This Convention is a criminal justice multilateral treaty that provides States with:
  - The criminalization of certain actions by means of computers and internet;
  - Procedural law to investigate cybercrime and admission of electronic evidence in relation to any crime; and
  - International police and judicial cooperation on cybercrime and electronic evidence.
- The Additional Protocol to the Convention on Cybercrime, concerning the criminalisation of acts of a racist and xenophobic nature committed through computer systems (ETS No. 189)
- **Greek Law 4411/2016**, concerning the ratification of the Council of Europe Convention on Cybercrime and its Additional Protocol on the criminalization of acts of a racist and xenophobic nature, committed through Computer Systems, and the transposition into Greek law of Directive 2013/40/EU of the European Parliament and of the Council on attacks against information systems.
- The **Lanzarote Convention (2007)**, on the protection of children against sexual exploitation and sexual abuse. It was the first international instrument and most comprehensive in this field to establish the various forms of child sexual abuse as criminal offences and require parties to adopt appropriate legislation and measures to prevent such offences from occurring, to protect victims, and to prosecute perpetrators.

- The main EU legal instrument is **Directive 2011/93/EU** on combating the sexual abuse and sexual exploitation of children and child pornography. The directive has criminalised various forms of child sexual abuse and exploitation, harmonised these criminal offences across the EU and established minimum sanctions. Furthermore, article 25 of the directive, on the removal of and blocking access to websites containing or disseminating CSAM, contributes to the fight against online child sexual exploitation and abuse. **Greek Law 4267/12-6-2014** “Combating child sexual abuse and exploitation and child pornography and other provisions” harmonizes Greek legislation with Directive 2011/93/EU of the European Parliament and of the Council on combating the sexual abuse and exploitation of children and child pornography and the replacement of Council Framework Decision 2004/68/JHA.
- The **Directive 2014/41/EU** regarding the **European Investigation Order** in criminal matters (**EIO Directive**). The basis of that Directive was Article 82 par.1 of the Treaty on the Functioning of the European Union, that is the principle of mutual recognition of judgments and orders, a principle which is systematically characterized by the Tampere European Council on 15-16 October, 1999 onwards, as a cornerstone of judicial cooperation in criminal matters in the Union. The EIO was transposed into Greek legislation with **Law 4489/02-10-2017**.
- **Greek Law 4624/2019**: Authority for the Protection of Personal Data, measures in implementing **Regulation (EU) 2016/679** (GDPR) of the European Parliament and of the Council of 27 April 2016 on the protection of individuals with regard to data processing personalization and transposition into national law of **Directive (EU) 2016/680** of the European Parliament and of the Council of 27 April 2016 and other provisions.
- **Greek Law 4727/2020** regarding “Digital Governance (which is a transposition into Greek legislation of EU Directive 2016/2102 and EU Directive 2019/1024) – Electronic Communications and other provisions (which is a transposition into Greek legislation of EU Directive 2018/1972). Outlines the responsibilities of essential service operators, i.e. critical infrastructure operators in the fields of energy, transportation, banking and finance, health, drinking water and IT infrastructures.
- **Greek Law 4577/2018**, which is the transposition into Greek legislation of NIS Directive 2016/1148/EU, regarding the measures for a high common level of security of network and information systems.
- **Greek Law 3471/2006**, which incorporates Directive 2002/58/EC (E-Privacy Directive) – as amended by Directive 2006/13/EC is complementary and specific to the institutional framework for the protection of personal data in the electronic communications.
- **Regulation 2021/1232** on a temporary derogation from certain provisions of Directive 2002/58/EC (e-privacy Directive) as regards the use of technologies by providers of number-independent interpersonal communications services for the processing of personal and other data for the purpose of combatting CSA online.
- **Regulation (adopted on 07/12/2020) On European Production Order and Preservation Order for Electronic Evidence in Criminal Matters**. The present regulation targets the specific problem created by the volatile nature of electronic evidence and its international dimension. It seeks to adapt cooperation mechanisms to the digital age, giving the judiciary and law enforcement tools to address the way criminals communicate today. It also speeds up the process to secure and obtain electronic evidence that is stored and/or held by service providers established in another jurisdiction. This instrument co-exists with the current judicial cooperation instruments. The serving and execution of orders, under this instrument, authorities should rely on the legal representative designated by the service providers.

- **Greek Law 3663/2008 (as amended with Law 4531/2018)**, with which Greece complied with the Council Decision 2002/187/JHA setting up the **European Judicial Cooperation Unit (EUROJUST)**, and with Council Framework Decision 2002/465/JHA adopting the provisions of this decision and providing for the establishment of **Joint Investigation Teams (JITs)** to investigate crimes related to drug trafficking, human trafficking and terrorist acts.

- **Greek Law 4689/2020**, which transposed into Greek legislation the Directives (EU) 2016/800, 2017/1371, 2017/541, 2016/1919, 2014/57/EU, ratified the Memorandum of Administrative Cooperation between the Ministry of Justice of the Hellenic Republic and the Ministry of Justice and Public Order of the Republic of Cyprus, and amended Law 3663/2008 to implement Regulation (EU) 2018/1727 and other provisions.

Directive 2016/800/EU concerns the procedural guarantees of suspects or accused minors in criminal proceedings (EE L 132/21.5.2016)

- **Greek Law 3771/2009** that ratified the Protocol on the Convention on Mutual Assistance in Criminal Matters between Greece and the United States of America, signed on 26.5.1999. Article 2 repeats Article 5 of the EU - US Agreement.

**Question 17: What forms of international cooperation exist in your country to the fight against cross-border cybercrime? Please describe different routes/options/procedures and the measures that can be requested (e.g., asking for investigative actions, exchange of information/evidence, etc.)?**

**Answer:**

- **International cooperation** is key to effective law enforcement and judicial cooperation necessary complement to police efforts to fight cross-border cybercrime. Bilateral agreements with key partners also play a significant role in securing information and evidence from beyond the EU, while Interpol, one of the largest inter-governmental criminal police organisations, has an important role, too.

- **Cooperation and Information sharing** are the most powerful tools towards that direction. One of the main EU instruments supporting law enforcement cooperation between Member States is the **Schengen Information System**.

Greece makes use of the **Schengen Information System (SIS)**, the most widely used information-sharing instrument today. Competent national authorities can use it to consult alerts and exchange data on wanted or missing persons and objects, both inside the Union and at the external border in real time.

- Greece also (as all EU Member States) uses **Europol** as its channel of first choice for law enforcement information sharing across the EU. Europol's Secure Information Exchange Network Application (SIENA) allows Member States to exchange information in a swift, secure and user-friendly way with each other, with Europol, or with third parties that have a cooperation agreement with Europol. The active use of information exchange instruments also needs the right interface between the EU's tools and national law enforcement systems, such as Single Points of Contact.

- Greece also uses the **European Investigation Order (EIO)**. It's a judicial decision issued in or validated by the judicial authority in one EU country to have investigative measures to gather or use evidence in criminal matters carried out in another EU country. It is valid throughout the EU, but does not apply in Denmark and Ireland. The EIO is based on mutual recognition, which means that the

executing authority is, in principle, obliged to recognise and ensure execution of the request of the other country.

**Greek Law 4489/02-10-2017** transposed the EIO that was established by Directive 2014/41/EU into Greek legislation.

The EIO Directive creates a single comprehensive framework for obtaining evidence (with the exception of JITs). The **investigative measures** include, for instance, the hearing of witnesses, telephone interceptions, covert investigations and information on banking operations. **Eurojust provides support and advice** to national authorities across the full life cycle of the EIO, from drafting to the execution phase.

1. The **issuing Member State's** judicial authority **drafts the EIO**, with the support of Eurojust, where needed, e.g. in regard to form and content.
  2. The **issuing Member State's** judicial authority **transmits the EIO** to the judicial authority of the executing Member State, with the support of Eurojust, where needed.
  3. The **executing Member State's** judicial authority **recognises and executes the EIO**, with the support of Eurojust, where needed, e.g. by improving communication between the issuing and executing Member States' judicial authorities; and in overcoming legal and/or practical difficulties.
- **Greece**, also uses **Interpol's i-24/7**, a secure global police communications system. This is the technical network that links law enforcement authorities in all member countries and enables authorized users to share sensitive and urgent police information with their counterparts around the globe.
- **Greece**, moreover, uses recognized international co-operation procedures, such as **Letters of Rogatory** or **Mutual Legal Assistance (MLA)**, the latter of which is based on bi-lateral or multi-lateral treaties. Greece makes use of the Council of Europe's **Budapest Convention on Cybercrime**, which remains the international standard for cooperation and acts as a mutual legal assistance treaty (i.e., an agreement between countries to cooperate on investigations and prosecutions of certain and/or all offences proscribed by both parties under national law) for countries that do not have one with the country requesting assistance. It allows involved countries to identify what systems and communication channels they need to put in place to be able to work effectively with each other.

In particular, the Convention requires Parties to put in place **production orders** to obtain computer data from service providers in their territory and subscriber data from service providers offering services in their territory. Moreover, the Convention provides for **preservation orders** where there are grounds to believe that the computer data is particularly vulnerable to loss or modification

However, MLA is usually considered slow and bureaucratic and often delay or hamper the investigation for not having immediate access to data that could be used as evidence in a criminal investigation. We could say that 'does not fit' for crimes committed through the Internet when data retention periods vary from country to country and pose restrictions throughout the process.

- In Greece, given the relative inflexibility and the long duration to execute and receive the results of the MLA, as well as other routes and procedures, the competent Law Enforcement authorities might directly request data/evidence (logs, etc) from the legal teams of the respective private companies after issuing an appropriate Court Order. Thus, avoiding additional steps and gaining time in getting the requested data.

**Question 18: Do the rules (national, international) and policies mentioned in your answers in this section have any particular effect or impact on cybercrime committed by minors?**

**Answer:**

There is no other particular effect or impact on cybercrime committed by minors of the aforementioned rules except for those already mentioned.

**Question 19: Do you have any information on the rates/statistics of cybercrime in your country and their recent evolution? Of particular interest would be statistics related specifically to the crimes covered in this questionnaire and statistics on cybercrime by minors (ideally also specifically for the crimes covered above)? If there were any (relatively) recent legislative or policy changes, please try to find statistical information on how this has impacted the incidence of cybercrime in practice, and in particular cybercrime by minors.**

**Answer:**

According to the annual report of the Hellenic Cyber Crime Division, the rates and statistics on cybercrime and specific crime categories perpetrated online/via the Internet in Greece, are as follows:

For the year **2019**, the investigated cases concerning the below categories are:

Category	Total
Child Pornography Online (Article 348A Greek Penal Code)	259
Online Child Sexual Exploitation (337, 348B, 348C Greek Penal Code)	70

It is pointed out that in the aforementioned cases, 27 people were arrested and in fifty-two (52) of them the minor victims were identified. A 39% of the victims were under the age of 15 and 61% over the age of 15, while 82% of the victims were female. Also, 17% of the perpetrators were minors (aged 12 years-17 years), while 83% of the perpetrators were adults, aged 18 to 87 years. Finally, 90% of them were male.

In 2019, **275 cases** of cyberbullying and adult bullying (with sexual component), were investigated.

For the year **2020**, the investigated cases concerning the below categories are:

Category	Total
Online Fraud/ E-Commerce	2.055
Privacy-Personal Data Protection/Threat/Defamation	983
Hacking – Unauthorized Access to Information Systems/ Phishing/ Privacy in Telecommunications	399
Child Pornography Online/ Online Child Sexual Exploitation	300

<b>Piracy – Intellectual Property</b>	<b>24</b>
<b>Gambling and Online Betting</b>	<b>13</b>
<b>Reports on Intention to Commit Suicide</b>	<b>348</b>
<b>National Security / Espionage / Terrorism (via internet)</b>	<b>5</b>
<b>Racism / Hate Speech Online</b>	<b>36</b>
<b>Advertising - Trafficking in Drugs, Illicit Drugs Online</b>	<b>23</b>

It is pointed out that in the aforementioned cases (300 cases in Child Pornography), 19 people were arrested and in seventy-six (76) of them the minor victims were identified. A 27% of the victims were under the age of 15 and 73% over the age of 15, while 89,48% of them were female. Also, 2,6% of the perpetrators were minors (aged 12 years-17 years), while 97,4% of the perpetrators were adults, aged 18 to 75 years old. Finally, 95% of the perpetrators were male.

In **2020**, 341 cases of cyberbullying and adult bullying (with sexual component), were investigated.

In the above 348 investigated reports on intention to commit suicide, 15% of people reported online such intention (to commit suicide) were minors and 61% were male.

In the case of hacking (illegal access to computer systems), the most common modus operandi remains Phishing using social engineering and the method of the "intermediate" (man-in-the-middle). Attacks with ransomware or emotet malware also showed a significant percentage.

Online fraud increased by 13.66% since 2019, of which the most common modus operandi were money transfers through banking systems and frauds related to the purchase of material goods. Also appeared new ways of committing online frauds such as, the scams with replacement/change of mobile phone SIM card (sim swap) and the Investment Scams (promise of investment services).

For the year **2021**, the investigated cases concerning the below categories are:

<b>Category</b>	<b>Total</b>
<b>Online Fraud/ E-Commerce</b>	<b>2.610</b>
<b>Privacy-Personal Data Protection/Threat/Defamation</b>	<b>985</b>
<b>Hacking – Unauthorized Access to Information Systems/ Phising/ Privacy in Telecommunications</b>	<b>395</b>
<b>Child Pornography Online/ Online Child Sexual Exploitation</b>	<b>288</b>
<b>Piracy – Intellectual Property</b>	<b>15</b>
<b>Gambling and Online Betting</b>	<b>21</b>

<b>Reports on Intention to Commit Suicide</b>	<b>482</b>
<b>National Security / Espionage / Terrorism (via internet)</b>	<b>6</b>
<b>Racism / Hate Speech Online</b>	<b>10</b>
<b>Advertising - Trafficking in Drugs, Illicit Drugs Online</b>	<b>18</b>

It is pointed out that in the aforementioned cases, 32 people were arrested for the below cases, Child Pornography, Privacy, Defamation-Insult, Online Fraud, Piracy-Intellectual Property.

In **2021**, 65 cases of cyberbullying and adult bullying (with sexual component), were investigated.

In the above 482 investigated reports on intention to commit suicide, **19%** of people reported online such intention (to commit suicide) were minors and 53% were female.

In the case of hacking (illegal access to computer systems), the most common modus operandi remains Phishing using social engineering and the method of the "intermediate" (man-in-the-middle). Attacks with ransomware or emotet malware showed a significant increase of 110%.

Online fraud increased by 27% since 2020, of which the most common modus operandi were money transfers through banking systems and card payment frauds. Also, the largest increase in percentage appeared in money transfers through banking systems (354%) and Investment Scams (promise of investment services) (307%).

**Question 20: Do you have any other comments to make that may be relevant to your jurisdiction?**

**Answer:**

First and foremost, there is no specific Strategy or Policy concerning online child protection including all forms of violence against children (Sexual exploitation and abuse, Cyberbullying, Trafficking in HB, etc).

However, it is also important to note some crucial provisions of Greek legislation, that is:

- The **new Greek Penal-Criminal Code** was ratified with **Law 4619/11-6-2019** and came into act on **July 1<sup>st</sup>, 2019** (since then several articles of the Penal Code have been amended with other laws mentioned above respectively).
- The **new Greek Criminal Procedural Code** was ratified with **Law 4620/11-6-2019** and came into act on **July 1<sup>st</sup>, 2019** (since then several articles of the Criminal Procedural Code have been amended with other laws mentioned above respectively).
- In terms of **Case Law**, due to the fact that the new Greek Penal as well as Criminal Procedural Code implemented on **July 1<sup>st</sup>, 2019**, recent case law is hard to find because such cases in Greece take a few years to go on trial in Juvenile Courts, and when they go it might take even more time for a decision to be made, which is an issue in terms of the immediate application of the law.

More specifically, there are quite a few new cases scheduled for trial from June through the end of 2022 and beginning of year 2023, and some others that have been recently went on initial trial, however they have been postponed for a later time.

For example:

- No **41/20-01-2022 Decision** of the One-Member Juvenile Court of Thessaloniki.

Perpetrators: Two (2) Male Minors.

Criminal Prosecution: for violation of articles 1, 14, 16, 17, 18, 26§1a, 27§1, 51, 53, 60, 63, 65, 79, 121, 122, 123, 125, 126, 348A par. 2, 3, 4 of the new Greek Penal Code. (Possession and Distribution, of child pornography material through information systems, for the production of which a minor aged under 15 years old was used).

Decision: Postponed.

- No **311/02-03-2022 Decision** of the One-Member Juvenile Court of Thessaloniki.

Perpetrator: Male Minor.

Criminal Prosecution: for violation of articles 1, 14, 16, 17, 18, 19, 26, 27 par. 1, 51, 53, 57, 79, 80, 94 par. 1, 121-126, 130 par. 1, **325** and **337 par. 2-1** of the new Greek Penal Code. (Insult of Sexual Dignity-Respectability and Illegal Detention).

Decision: Postponed.

- No **683/19-05-2022 Decision** of the One-Member Juvenile Court of Thessaloniki.

Perpetrator: Male Minor.

Criminal Prosecution: for violation of articles 1, 14, 16, 18, 26 par. 1a, 27 par. 1, 42 par. 1, 51, 53, 57, 79, 94, 121, 122, 124, 125, 126, **337 par. 1**, **330 par. 1** of the new Greek Penal Code. (Insult of Sexual Dignity-Respectability and Attempted Unlawful-Illegal Violence).

Decision: Postponed.

- And many other cases...

- According to **article 113 “Juvenile Court”** of the Criminal Procedural Code (as amended with Article 7 par. 13 Law 4637/18-11-2019) (par. 1) the Juvenile Courts shall decide (judgement) on criminal offenses committed by minors and impose reformation or therapeutic measures, as defined by the Penal Code or respective penalties, as follows:

A. The single-member Juvenile Court decides on acts committed by minors other than those being decided by the three-member Juvenile Court.

B. The three-member Juvenile Court decides on criminal offenses committed by minors who have reached the age of fifteen (15) and are referred to in Article 127 of the Penal Code.

- According to **article 114 “Juvenile Court of Appeal”** of the Criminal Procedural Code, the Juvenile Court of Appeals decides on appeals against decisions made by single-member and three-member Juvenile Courts (as mentioned in art. 113).

- According to **article 287 “Temporary Detention of Minors”** of the Criminal Procedural Code, (par. 1) the temporary detention may also be imposed on a minor suspect who has reached the age of fifteen, under the conditions of article 286 and if he is accused of an act referred to in Article 127 of the Penal-Criminal Code. In this case the temporary detention can in no case exceed six (6) months. Violation of the restrictive conditions imposed on the minor may not itself lead to pre-trial (temporary) detention. The pre-trial detention order must contain a specific and detailed reasoning as to why the reformation or therapeutic measures are not considered adequate in this case, taking into account on a case-by-case basis the particular circumstances of the act committed and the personality of the minor.

▪ Par. 2 mentions that if the minor has committed an act which for the adult is a felony, except in the cases of par. 1, the Judge may impose restrictive conditions, including reform measures of article 122 Penal Code.

- According to the **article 360 “Neglect of Juvenile Supervision”** of the Greek Penal Code (as amended with article 84 of Law 4855/12-11-2021) (par. 1) whoever, while having the obligation to supervise a minor, fails to prevent him/her from committing a criminal act, shall be punished by imprisonment of up to one (1) year (min 10 days), unless there is a case to be punished more severely by another provision.
  - Par. 2 mentions that if the aforementioned perpetrator of the omission is a person who has custody of the minor and in particular a parent or guardian under whose responsibility the minor has been placed in accordance with Articles 122 and 123, imprisonment of up to two (2) years (min 10 days) shall be imposed.
  
- According to **article 50 “Types of Penalties”** of the Greek Penal Code, the main penalties are:
  - a) Imprisonment
  - b) Fine
  - c) Community Service.
  
- According to **article 51** of the Greek Penal Code the imprisonment can be further categorized in Felony Imprisonment (5-15 years, and Life imprisonment), Imprisonment (10 days-5 years), and Confinement in a Special Detention Facility for Young Persons.
  
- According to **article 55 “Provision of Community Service”** of the Greek Penal Code, the provision of community service may not last more than seven hundred and twenty (720) hours or less than one hundred (100) hours, unless otherwise specified.
  
- **Greek Law 3917/2011**, which transposes the Directive 2006/24/EC of the European Parliament and of the Council, regulates the retention period of data that is produced or processed based on the provision of publicly available electronic communication services or public communication networks, use of audio or video surveillance systems in public places. In Greece that data retention period is 12 months after which the relevant data/information must be automatically deleted.
  
- Although the following are not legislation per se, they are included for reasons of completeness:
  - The National Cybersecurity Authority of the Ministry of Digital Governance has issued its National Cybersecurity Strategy for the period 2020–2025.
  - The National Cybersecurity Authority has issued a Cybersecurity Handbook regarding best practices for protection and resilience on information systems.