

Children's Right to Identity in Greece

Factsheet* submitted to the UN Committee on the Rights of the Child

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1

Creation of identity

- Commendably, birth registration in Greece is currently 100% covered.¹ Birth registration procedures which normally taking place at public and private maternity hospitals have been recently digitalized. Immediately after birth, an infant receives its Social Security Insurance Number (AMKA) and is automatically eligible to receive the Social Security benefits of their parents.
- In the case of mothers giving birth without identification documents, a specific procedure as described in Law 4554/2018 (art. 62) is followed. Beneficiaries of international protection in asylum matters have reported that if their child is born in Greece and they do not have and/or cannot obtain a certified marriage certificate from their country of origin, the child is considered born out of wedlock in the birth certificate.² In this case, the only details and documents needed are those of the mother. The name of the father can be added later, following a voluntary acknowledgment of parentage on behalf of the father.³ The requirement of a certified marriage certificate may represents an obstacle for legal identity (SDG 16.9) and indicates the need to establish a system of portability of identity documents as foreseen by the Convention (No. 34) on the issue of multilingual and coded extracts from civil-status records and multilingual and coded civil-status certificates.
- Regarding civil registration, beneficiaries of international protection face language barriers due to the absence of interpreters at the Registration Offices of the municipalities. This leads to errors in birth or marriage certificates, which are difficult to correct.⁴ If the mistake is simple the correction may be made by a Public Prosecutor's order. If the mistake is more complicated a Court decision (time-consuming process requiring legal aid) is necessary.⁵
- Greece allows for concealed identity of the birth mother at birth but also allows the mother to be searched for. In 2010, Greece had one of the highest percentages of children in institutions as a result of abandonment (86%).⁶ Strategies aimed at preventing child abandonment may reduce the flow of children into institutions and reduce the overall number of children in institutional care. However, it is not clear what measures has Greece put in place in order to reduce the phenomenon of child abandonment.

- On a positive note the government has taken steps to improve the situation for children lacking parental care (currently 1.518 children are in institutional care).⁷ Law 4538/2018 reformed the legislative framework for foster care and adoption, and established a National Registry of Minors and Special Registries of Minors in need of Fostering, as well as a National Registry of Prospective Foster Carers. Moreover, with Ministerial Decision 13734/538 in April 2019, the development and implementation of an Information System for Special and National Registries of minors in need of fostering, foster carers and adoptions is foreseen.
- Greece has expressly legalised altruistic and gestational surrogacy since 2002 (Article 1458 Civil Code, as amended by Law 3089-2002 on Medically Assisted Human Reproduction). All other kinds of surrogacy are prohibited by the law.⁸ Moreover, since Law 4272/2014 abolished the prerequisite of the surrogate's permanent stay in Greece, international arrangements are allowed.
- After the signing of the surrogacy agreement and before the in vitro fertilization, a pre-birth court order that approves the gestational surrogacy is to be granted.⁹ The intending mother who obtains the court permission is indicated to be the mother of the child in the birth certificate, regardless of her genetic connection with the child (no transfer of parenthood in favour of intending parents required).¹⁰ The outcome concerning birth certificate of the child is that the name of the intending mother (and that of her partner) appears but the details of the surrogate mother appear not to be recorded anywhere.¹¹
- Regarding gamete donation, anonymity of the donors and recipients is ensured to the detriment of the child's right to find their origin. Indeed, information related to the donor is kept confidential unless it is needed for medical reasons.¹²

Potential Consideration(s):

- *What strategies has Greece adopted to prevent child abandonment?*
- *What is Greece doing to preserve the child's identity in assisted reproductive technology and future access to origins?*



2

Modification of identity

- Commendably, Greece is closely collaborating with UNICEF for the finalization of the National Deinstitutionalization Strategy, strengthening of family and community-based care options including foster care.¹³ Moreover, the Hellenic Parliament recently passed Law 4538/2018 “Measures on the promotion of Foster Care and Adoption Institutions plus other provisions” which represents an important opportunity to improve foster care in Greece.¹⁴
- In May 2021, the Ministry of Labour and Social Affairs and UNICEF launched an awareness raising campaign on Foster Care.¹⁵ In fact, research shows that there is lack of public awareness about foster care, which leads to the false presumption that foster care will be a prelude to adoption. As a result, few families apply in relation to the number of children in need of foster care.¹⁶
- Regrettably, there is still no harmonised approach to reintegration with the biological family after foster care. Indeed, in many cases the child is permanently placed in foster care against the core principle of foster care as a temporary solution.
- The surrogate mother has no rights in relation to the child. No visitation rights or any other relationship with the child are granted to her. Notwithstanding this, the law does not exclude the contact of the surrogate mother with either the child or the intending parents, though such contact will be rare. As open arrangements are not encouraged, this may prevent the child born through surrogacy from knowing their origins.¹⁷
- Article 3 of the Code of Greek Citizenship establishes that nationality is acquired by adoption if the child is adopted by a Greek man or woman.¹⁸

Potential Consideration(s)

- How does the Hellenic Republic intend to ensure that children born through surrogacy arrangements can access information about their origins related to the surrogate mothers and possible use of donation?

3

Falsification of identity

- Research shows that between 1950-1962 more than 3,000 Greek-born children were sent to the United States for adoption. Some of the adoptions were the product of crime: unmarried mothers were told that their baby died, while their child was sent to the United States for adoption.¹⁹ Other unmarried mothers were not offered any support or any viable alternatives.

- Other adoptions were facilitated by intermediaries almost exclusively driven by financial incentives and who operated undisturbed with an extreme degree of freedom granted by the Greek government.²⁰

The majority of the adoptions that occurred in this period appear to be “the product of the political climate of the time, which encouraged the adoption of Greek children by American couples. In this way, many were adopted without the correct procedures, with no one caring what became of them”.²¹

- Commercial surrogacy is unlawful in Greece. The surrogate can only be reimbursed for her reasonable expenses, namely, the expenses of the IVF procedure, pregnancy and childbirth, any actual damages because of her absence from work during the IVF (this amount is currently set at a maximum of EUR10,000 by the National Authority of Medical Assisted Reproduction).²² However, what emerges from published judicial decisions is that in most cases the surrogate mother and the intending parents were total strangers before the agreement. “The judges give their permission to the surrogacies without investigating further into the existence of a close relationship, following a formal bureaucratic procedure. Case law is extremely formalistic in these cases (the decisions look like administrative decisions, not judicial judgments).”²³ As such, a best interest determination does not appear to occur, let alone an examination into the commercial nature of the arrangements, which may lead to the sale of children.
- In Greece, reports of children engaging in transactional sex to finance their journey to other parts of Europe are increasing. “Child migrants themselves communicated to service providers in the island camps that they knew of networks explicitly engaged in facilitating the participation of migrant children in the sex industry.”²⁴ The children involved in the sex trade are typically young males.²⁵ There have been several reports of UASC engaging in transactional sex in urban areas of Athens and Thessaloniki.²⁶ “In Athens, the sexual exploitation of refugee children has been witnessed by locals and documented through direct testimonies of migrant children”.²⁷ The main cause of child migrant sexual exploitation is the children’s lack of financial resources. Other contributory factors are to be looked for in the failure of the child protection and welfare system to act as a safety net for these children and in the protracted and overly burdensome path to legalised status. Migrant children who find themselves trapped in oppressive and apparently endless temporary situations become desperate for exit strategies.²⁸ Thus, they decide to secure funding to pay smugglers and leave the country by selling their bodies. This exploitative situation impacts not only their safety and physical and psychological health, but also their identity as children.

Potential Consideration(s)

- What laws and sanctions are there in place to penalise activities that lead to the falsification of identity?

4 Preservation of identity and access to origins

- In medically assisted reproduction, the system of donors' anonymity is applied. The identities of the donors, the parents and the child remain secret. However, an exception to the anonymity system occurs when there is an urgent need that cannot be satisfied with simple medical information. In this case, it is possible to receive information concerning the donor. Such information is kept in the confidential National Record of Donors and Receivers of The National Board of Assisted Reproduction (Article 1460 § 1b and c CC, Article 8 § 6 and 20 § 2c of L. 3305/2005). This is a clear exception of the anonymity system.²⁹
- Many children have been separated from their families on the journey to Greece: smugglers reportedly do not think of keeping families together but put as many people as possible into a boat, often leaving a parent or child behind.³⁰ Delays in the registration process, and the lack of representation and legal support for unaccompanied children in the hotspots, undermine their ability to reunite with family members in other EU countries. A three-month deadline for the submission of a family reunification request is often unmet because unaccompanied children are not identified during that period.³¹ As of February 29th 2020 there are 5,463 unaccompanied Children in Greece who remain in urgent need of durable solutions, including expedited registration and family reunification.³²
- Regarding adoption, the Hellenic Central Authority and the relevant social welfare body are the authorities responsible for permanently preserving information regarding the child's origins. The Central Authority of Greece is responsible for the maintenance of all adoption records including information on the PAPs and on the child's origin permanently.³³ Similarly, the regional social welfare services preserve each adoption record permanently³⁴ (this is, however, not the case as far as the more than 3,000 post-war adoptions are concerned, of which there is no central record).³⁵ The Central Authority or the regional welfare services may give a copy of the non-sensitive personal data to the adopted child, upon his/her request, after the age of 18, in order to find his/her roots. The adopted persons who want to search for their origins have also access to counselling and support. The CA or the welfare services may assist the biological or adoptive parents through administrative or psychological assistance, only after the adopted child's consent.

Potential consideration(s)

- How does the government intend to speed up the identification process of unaccompanied minors and improve legal support in order to facilitate reunification?

5 Restoration of identity

- With regard to the adoptions occurred in the period 1950-1962 (and as late as 1970), it is commendable that the government of Greece is considering providing support to Greek adoptees and their descendants in the United States, Netherlands and Sweden through its Consulates. However, it is regrettable that neither public recognition of the history of these unfortunate adoptions nor public apologies were made by the government—or have thus far been considered. This is so notwithstanding the fact that Greece and various money-making intermediaries bear responsibility for the overseas adoptions that occurred in the 50s and 60s.³⁶ In order to correct this historic wrong, together with public recognition and apologies, it is recommended that their Greek citizenship be restored as an act of restorative justice.³⁷ Indeed, their Greek citizenship was invalidated by these haphazard adoptions which left the adopted children with very few records.³⁸
- No explicit provision exists providing for the rights of children born following surrogacy, including their right to identity.³⁹ It appears reasonable to recognise that the child has the right to seek identity of the surrogate mother and any donors that may have been used. This right could be substantiated in Article 5 of the Greek Constitution, according to which everyone has the right to develop one's personality freely. In fact, knowing their biological origin constitutes an important factor in developing their personality freely.⁴⁰

Potential consideration(s)

- Action needs to be taken on behalf of the more than 3,000 Greek-born children who were adopted out roughly between 1950-1970, mainly to the USA, and who are now looking for their roots with very little acknowledgement or assistance.

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¹ UNICEF, *The State of The World's Children 2019: Children, food and nutrition Growing well in a changing world*, 233 (2019).

² Asylum Information Database

(https://asylumineurope.org/reports/country/greece/content-international-protection/status-and-residence/civil-registration/#_ftnref1)

³ UNHCR (<https://help.unhcr.org/greece/living-in-greece/registration-of-a-birth/>)

⁴ Asylum Information Database

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⁵ UNHCR (<https://help.unhcr.org/greece/living-in-greece/registration-of-a-birth/>)

⁶ University of Nottingham, *Child Abandonment and its Prevention in Europe*, 4 (2012). (<https://bettercarenetwork.org/sites/default/files/attachments/Child%20Abandonment%20and%20its%20Prevention%20in%20Europe.pdf>)

⁷ Paidi.gov.gr <https://paidi.gov.gr/viothesia-kai-anadoxi-se-arithmous/>. (

⁸ H. Constandinidou-Stavropoulou & K. Stavropoulos, *Family Law in Greece: Overview* (2020); A.N. Hatzis, *The Regulation of Surrogate Motherhood in Greece* (2010)



⁹ Prior to issuing the order, the court must be satisfied that the following conditions have been fulfilled: (i) a written surrogacy agreement, (ii) no financial benefits, (iii) medical reasons for the surrogacy, and (iv) both parties to the agreement must be permanent residents of Greece. In fact, the application of the Greek Civil Code rules relating to surrogate motherhood is conditioned on the fact that both the intended mother and the gestational mother are domiciled in Greece.

¹⁰ Article 1464 § 1 Civil Code.

¹¹ H. Constandinidou-Stavropoulou & K. Stavropoulos, *Family Law in Greece: Overview* (2020); See also: A.N. Hatzis, *The Regulation of Surrogate Motherhood in Greece* (2010).

¹² Article 1460 Civil Code; I. Kriari, *Human Assisted Procreation and Human Right: The Greek response to the felt necessities of the time*, (<http://bioethics.org.gr/Greekresponsekriari.pdf>).

¹³ UNICEF (<https://www.unicef.org/greece/en/children-lacking-parental-care>).

¹⁴ The new law provides for a National Registry of Minors. All children accommodated in Child Protection Foundations, or who are expected to be placed in reception families, are obliged to be added to this Registry. Furthermore, EKKΑ (National Centre for Social Solidarity) must also keep a Registry of Candidate Foster Parents and a Registry of Approved Foster Parents. The new legislation also provides that foster families will be financially supported by OPEKA (Agency for Welfare Allowance and Social Solidarity). See: Law 4538/2018, Government Gazette, 85/A/16-5-2018. Available in Greek at: <https://www.e-nomothesia.gr/oikogeneia/nomos-4538-2018-phem-85a-16-5-2018.html>.

¹⁵ Paidi.gov.gr (<https://paidi.gov.gr/yiothesia-kai-anadoxi-se-arithmous/>).

¹⁶ ALFACA II, *Country Report Greece: State of the art on family based care for unaccompanied children*, 10 (2019).

¹⁷ K. Trimmings & P. Beaumont, *International Surrogacy Arrangements Legal Regulation at the International Level* (2013).

¹⁸ Code of Greek Citizenship, Part I. Available at: https://www.helleniccomserve.com/greek_citizenship1.html

¹⁹ See: G. Van Steen, *Adoption, Memory, and Cold War Greece: Kid pro quo?* (2019).

²⁰ M. Cardaras & G. Van Steen, *The Pappas Post Opinion: Bring them Back*, June 16, 2021.

²¹ N. Konstandaras, *We owe the lost children justice*, July 2021, Available at: <https://www.ekathimerini.com/culture/1164672/we-owe-the-lost-children-justice/>

G. Van Steen, *Adoption, Memory, and Cold War Greece: Kid pro quo?* (2019).

²² H. Constandinidou-Stavropoulou & K. Stavropoulos, *Family law in Greece: overview*, Practical Law Country Q&A 3-571-0094, 24 (2020).

²³ A.N. Hatzis, *The Regulation of Surrogate Motherhood in Greece* (2010).

²⁴ V. Digidiki & J. Bhabha, *An Emergency within an Emergency: The Growing Epidemic of Sexual Exploitation and Abuse of Migrant Children in Greece*, GXB Centre for Health and Human Rights Harvard University, 23 (2017).

²⁵ Bhabha et al., *Children on the Move: An Urgent Human Rights and Child Protection Priority* (2017).

²⁶ UNICEF & Reach, *Children on the Move in Italy and Greece*, 61 (2017).

²⁷ D. Howden, *Refugees caught up in child prostitution in Athens*, July 14th 2016, Available at:

<https://deeply.thenewhumanitarian.org/refugees/articles/2016/07/14/refugees-caught-up-in-child-prostitution-in-athens>

²⁸ UNICEF & Reach, *Children on the Move in Italy and Greece*, 2 (2017).

²⁹ M. Milapidou, K. Kipouridou, *Deficiencies and Shortcomings In the Greek Legal Framework On Medically Assisted Reproduction*, Rivista IUS et SALUS, 2019; See also: <https://www.ivfathenscenter.gr/en/regulation/>

³⁰ UNICEF & Reach, *Children on the Move in Italy and Greece*, 58 (2017).

³¹ Human Rights Watch (<https://www.hrw.org/news/2020/03/04/greece/eu-urgently-relocate-lone-children>).

³² OHCHR, (https://www.ohchr.org/Documents/Issues/Migration/CallEndingImmigrationDetentionChildren/CSOs/SOS_ChildrensVillagesinGreece_submission.pdf)

³³ HCCH Country Profile, 19 (2020).

³⁴ HCCH Country Profile, 19 (2020).

³⁵ G. Van Steen, *Adoption, Memory, and Cold War Greece: Kid pro quo?* (2019).

³⁶ G. Van Steen, *Adoption, Memory, and Cold War Greece: Kid pro quo?* (2019).

³⁷ M. Cardaras & G. Van Steen, *The Pappas Post Opinion: Bring them Back*, June 16 (2021).

³⁸ M. Cardaras & G. Van Steen, *The Pappas Post Opinion: Bring them Back*, June 16 (2021).

³⁹ See: K. Trimmings & P. Beaumont, *International Surrogacy Arrangements Legal Regulation at the International Level* (2013).

⁴⁰ K. Trimmings & P. Beaumont, *International Surrogacy Arrangements Legal Regulation at the International Level* (2013).