

CO-HAPPINESS – Happy and Safe in Community

Legal Framework and the System of Protection



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Diak



Aim and learning outcomes

The aim of this module is to enhance the awareness of the participants regarding the legal framework for child abuse and maltreatment in Greece, as well as the system of protection and the key actors contributing in combating child abuse.



Upon completing this module, trainees should be able to:

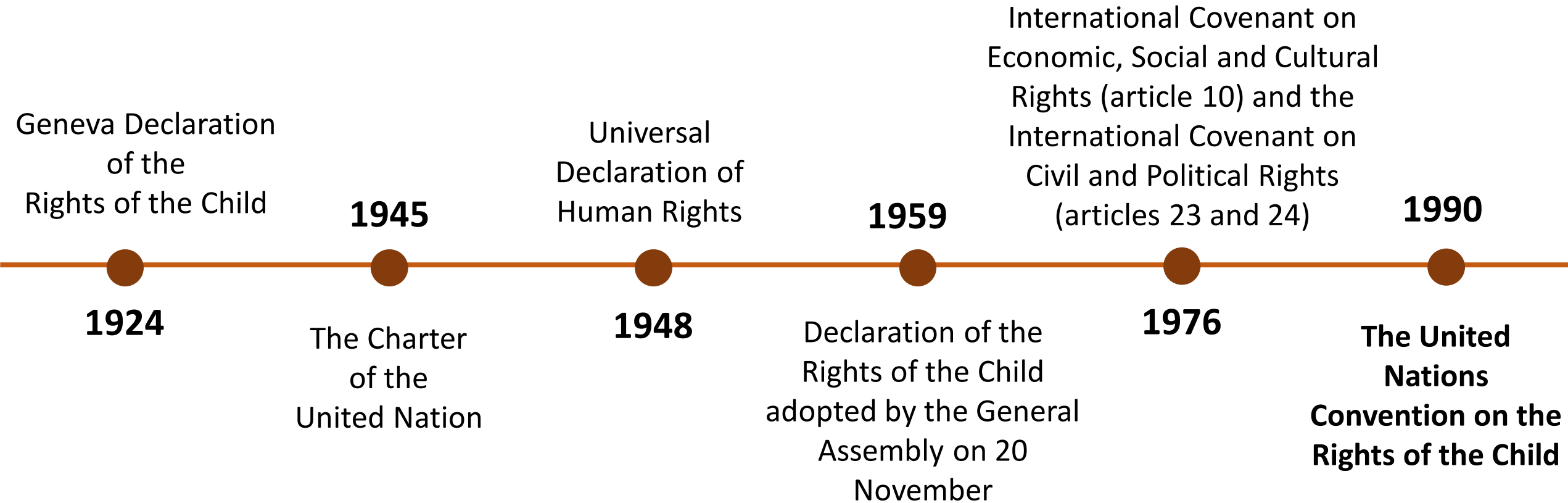
1. List the **law conventions** regarding the child abuse at the international and European level.
2. Describe the basic characteristics of the corresponding **laws of the national legal framework**.
3. Outline the **key actors** for the protection of the children.

Contents

1. International and European legal framework
2. National legal framework
3. Key Actors for children's protection
4. Helplines for psychological and legal support of the victims
5. The role of the child in the protection process



International Law Conventions



Notes:



International Law Conventions

- The United Nations Convention on the Right of the Child: ratified by General Assembly resolution 44/25 of 20 November 1989 and entered into force the 2nd of September 1990.
- The Charter of the United Nation : signed on 26 June 1945, in San Francisco, at the conclusion of the United Nations Conference on International Organization, and came into force on 24 October 1945, proclaiming “recognition of the inherent dignity and of the equal and inalienable rights of all members of the human family is the foundation of freedom, justice and peace in the world”.
- Geneva Declaration of the Rights of the Child: in 1924, the League of Nations adopted the Geneva Declaration recognizing and affirming for the first time the existence of rights attributed to children as well as the responsibility of adults towards children.
- Declaration of the Rights of the Child adopted by the General Assembly on 20 November 1959: it constituted the first major international consensus on the fundamental principles of children’s rights.
- Universal Declaration of Human Rights proclaiming in its 1st article that “All human beings are born free and equal in dignity and rights. They are endowed with reason and conscience and should act towards one another in a spirit of brotherhood”.
- The International Covenant on Civil and Political Rights, 1976

Article 23 of the ICCPR

- “1. The family is the natural and fundamental group unit of society and is entitled to protection by society and the State.
2. The right of men and women of marriageable age to marry and to found a family shall be recognized.
3. No marriage shall be entered into without the free and full consent of the intending spouses.
4. States Parties to the present Covenant shall take appropriate steps to ensure equality of rights and responsibilities of spouses as to marriage, during marriage and at its dissolution. In the case of dissolution, provision shall be made for the necessary protection of any children”.

Article 24 of the ICCPR

- “1. Every child shall have, without any discrimination as to race, colour, sex, language, religion, national or social origin, property or birth, the right to such measures of protection as are required by his status as a minor, on the part of his family, society and the State.
2. Every child shall be registered immediately after birth and shall have a name.
3. Every child has the right to acquire a nationality”.

Notes:

- International Covenant on Economic, Social and Cultural Rights, 1976

Article 10 of the Covenant

“The States Parties to the present Covenant recognize that:

1. The widest possible protection and assistance should be accorded to the family, which is the natural and fundamental group unit of society, particularly for its establishment and while it is responsible for the care and education of dependent children. Marriage must be entered into with the free consent of the intending spouses.
2. Special protection should be accorded to mothers during a reasonable period before and after childbirth. During such period working mothers should be accorded paid leave or leave with adequate social security benefits.
3. Special measures of protection and assistance should be taken on behalf of all children and young persons without any discrimination for reasons of parentage or other conditions. Children and young persons should be protected from economic and social exploitation. Their employment in work harmful to their morals or health or dangerous to life or likely to hamper their normal development should be punishable by law. States should also set age limits below which the paid employment of child labour should be prohibited and punishable by law”.

Sources:

<https://www.unicef.org/child-rights-convention/what-is-the-convention>

<https://www.ohchr.org/en/professionalinterest/pages/crc.aspx>

<https://www.un.org/en/charter-united-nations/>

<https://www.humanium.org/en/geneva-declaration/>

<https://www.humanium.org/en/declaration-rights-child-2/>

<https://www.un.org/en/universal-declaration-human-rights/>

<https://www.ohchr.org/en/professionalinterest/pages/ccpr.aspx>

<https://www.ohchr.org/en/professionalinterest/pages/cescr.aspx>

<https://www.coe.int/en/web/conventions/full-list/-/conventions/treaty/201>

The UN Convention on the Rights of the Child



The UN Convention on the Rights of the Child, the most widely ratified human rights treaty in history, has transformed children's lives.

An indicative list
of articles of the
Convention
related to child
maltreatment and
abuse:

- Article 6 on children's inherent right to life
- Article 12 on children's right of expression and legal support
- Article 16 on children's protection against interference or attacks
- Article 19 on state measures for children protection
- Article 34 on children's protection against sexual exploitation

Notes:



Article 6

- "1. States Parties recognize that every child has the inherent right to life.*
- 2. States Parties shall ensure to the maximum extent possible the survival and development of the child".*

Article 12

- "1. States Parties shall assure to the child who is capable of forming his or her own views the right to express those views freely in all matters affecting the child, the views of the child being given due weight in accordance with the age and maturity of the child.*
- 2. For this purpose, the child shall in particular be provided the opportunity to be heard in any judicial and administrative proceedings affecting the child, either directly, or through a representative or an appropriate body, in a manner consistent with the procedural rules of national law".*

Article 16

- "1. No child shall be subjected to arbitrary or unlawful interference with his or her privacy, family, home or correspondence, nor to unlawful attacks on his or her honour and reputation.*
- 2. The child has the right to the protection of the law against such interference or attacks".*

Article 19

- "1. States Parties shall take all appropriate legislative, administrative, social and educational measures to protect the child from all forms of physical or mental violence, injury or abuse, neglect or negligent treatment, maltreatment or exploitation, including sexual abuse, while in the care of parent(s), legal guardian(s) or any other person who has the care of the child.*
- 2. Such protective measures should, as appropriate, include effective procedures for the establishment of social programmes to provide necessary support for the child and for those who have the care of the child, as well as for other forms of prevention and for identification, reporting, referral, investigation, treatment and follow-up of instances of child maltreatment described heretofore, and, as appropriate, for judicial involvement".*

Article 34

- "States Parties undertake to protect the child from all forms of sexual exploitation and sexual abuse. For these purposes, States Parties shall in particular take all appropriate national, bilateral and multilateral measures to prevent:*
- (a) The inducement or coercion of a child to engage in any unlawful sexual activity;*
 - (b) The exploitative use of children in prostitution or other unlawful sexual practices;*
 - (c) The exploitative use of children in pornographic performances and materials".*

European Law Conventions

- **1950**
European Convention on Human Rights (ECHR)
- **2000**
The Charter of Fundamental Rights of the European Union
- **2007**
 1. Treaty on European Union and on the Functioning of the European Union
 2. Council of Europe Convention on the Protection of Children against Sexual Exploitation and Sexual Abuse

Notes:



- **European Convention on Human Rights (ECHR)**

Article 5 of the ECHR

“Spouses shall enjoy equality of rights and responsibilities of a private law character between them, and in their relations with their children, as to marriage, during marriage and in the event of its dissolution. This Article shall not prevent States from taking such measures as are necessary in the interests of the children”.

- **The Charter of Fundamental Rights of the European Union (2000/C 364/01), 2000**

Article 24 of the Charter

- “1. Children shall have the right to such protection and care as is necessary for their well-being. They may express their views freely. Such views shall be taken into consideration on matters which concern them in accordance with their age and maturity.*
- 2. In all actions relating to children, whether taken by public authorities or private institutions, the child’s best interests must be a primary consideration.*
- 3. Every child shall have the right to maintain on a regular basis a personal relationship and direct contact with both his or her parents, unless that is contrary to his or her interests”.*

Article 32 of the Charter on the prohibition of child labor

*“The employment of children is prohibited. The minimum age of admission to employment may not be lower than the minimum school-leaving age, without prejudice to such rules as may be more favorable to young people and except for limited derogations.
Young people admitted to work must have working conditions appropriate to their age and be protected against economic exploitation and any work likely to harm their safety, health or physical, mental, moral or social development or to interfere with their education”.*

- **Treaty of European Union and on the Functioning of the European Union, 2007**

Article 3 (3) of the TFEU

*“3. The Union shall establish an internal market. It shall work for the sustainable development of Europe based on balanced economic growth and price stability, a highly competitive social market economy, aiming at full employment and social progress, and a high level of protection and improvement of the quality of the environment. It shall promote scientific and technological advance.
It shall combat social exclusion and discrimination, and shall promote social justice and protection, equality between women and men, solidarity between generations and protection of the rights of the child.
It shall promote economic, social and territorial cohesion, and solidarity among Member States.
It shall respect its rich cultural and linguistic diversity and shall ensure that Europe’s cultural heritage is safeguarded and enhanced”.*

- **Council of Europe Convention on the Protection of Children against Sexual Exploitation and Sexual Abuse, 2007**

It constitutes the first instrument to establish various forms of sexual abuse of children as criminal offences, outlines preventive measures, establishes programs to support victims, encourages people to report suspected sexual exploitation and abuse, and sets up telephone and internet helplines for children.

Sources:

- https://ec.europa.eu/info/policies/justice-and-fundamental-rights/rights-child/eu-action-rights-child_en
- <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex%3A12012M%2FTXT>
- https://www.europarl.europa.eu/charter/pdf/text_en.pdf
- https://www.echr.coe.int/Documents/Convention_ENG.pdf

The Council of Europe Convention on the Protection of Children against Sexual Exploitation and Sexual Abuse

“The Lanzarote Convention”

<p>Opened for signature on the 25th of October 2007</p> <hr/> <p>Entered into force on the 1st of July 2010</p>	<p>The Convention of 47 signatories harmonizes the legal framework to combat sexual abuse against children in various forms.</p>	<p>The first treaty to establish the various forms of sexual abuse of children as criminal offences, including trafficking in children.</p>	<p>The aim of the Convention is, among others, to promote national and international co-operation against sexual exploitation and sexual abuse of children.</p>
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The Convention aims to:

- prevent and combat sexual exploitation and sexual abuse of children;
- protect the rights of child victims of sexual exploitation and sexual abuse;
- promote national and international co-operation against sexual exploitation and sexual abuse of children.

Sources:

<https://www.coe.int/en/web/conventions/full-list/-/conventions/treaty/201>