



## PORTUGAL | Developments on the implementation of victim assistance mechanisms

### DEFINITION OF VICTIM

After recent amendments to the Criminal Procedural Code, Portugal has now included the term victim in national legislation. Through the Law 130/2015, of 4 September 2015, it is considered a victim i) the natural person who has suffered harm, including an attack on their physical or mental integrity, moral or emotional damage, or damage to property, directly caused by act or omission, under the commission of a crime; ii) the family members of a person whose death has been directly caused by a criminal offense and that have suffered harm as a result of that death. For this matter, within the concept of victim it is included “the surviving spouse not legally separated from persons and property, or the person who coexisted with the victim in conditions similar to those of spouses, descendants and ascendants, in the strict extent that they have suffered damage by the death, except the offender who caused the death”.

### VICTIM SUPPORT

In Portugal, victim protection focuses on women, victims of domestic violence, civil and family, and migrant matters. NGOs are very active in victims’ support and especially in the fight against domestic

violence and for the promotion of children rights.

APAV, a charitable national organization with the objective of promote and contribute to information, protection and support to citizens who are victims of criminal offences, and of support victims of crime, their families and friends, providing quality and confidential services, free of charge, was founded in 1990. It is the only national organization providing support to all victims of crime and violence.

### RESTORATIVE JUSTICE

There is a well organized and differentiated mediation system in Portugal for minor crimes, but not when the victim is under 16. The Portuguese Penal Mediation System has the power to mediate disputes arising from the commitment of certain crimes and it is free.

Among crimes susceptible of Portuguese Penal Mediation System those include simple offenses to physical integrity or by negligence, threat, defamation, violation of domicile or disruption of privacy, theft, damage.

Whenever the mediation results in an agreement the prosecutor must check whether it is legal, and if so, if this agreement will as consequence withdraw the complaint by the victim and that the accused does not oppose, ending thereby the process of mediation. If the agreement is not fulfilled within the prescribed period,



the victim can renew the complaint within a month and the investigation is reopened.

## **VICTIMS RESIDENT IN ANOTHER MEMBER STATE**

In Portugal international agreements create the context, while judicial co-operation in cross-border crimes is achieved via rogatory letters or letter of request.

Rogatory letters are previewed under article 111º, nr 3, al. b) of the Criminal Procedure Code and it is a procedure used to request for legal proceed acts in a foreign territory, as well as other measures such as extradition and sentence homologation (mainly regulated under article 229º93 of the Criminal Proceed Code and followings).

There are currently a number of measures taken through joint research teams (from various countries) and that integrate police officers of several countries and also through International Liaison Officials, Centers of Police, through Interpol, Europol and others.

There are still a number of crimes where the investigation and prosecution is very difficult, even with the effective cooperation established and that works very well in practice.

## **INDIVIDUAL NEEDS ASSESSMENT AND VULNERABLE GROUPS**

Special victims' needs are not sufficiently identified in Portugal: victims of violent

crime can be compensated afterwards and there is some understanding of protection of vulnerable witnesses, but except for domestic violence cases, few are declared to have that status in practice.

Measures adopted include teleconferencing; separation; witness protection, especially in cases of organized crime; surveillance in cases of domestic violence, assistance for incapacitated persons during trial.

In Portugal, there is appointment of an assistant; separate questioning and unsworn testimony when they are under 16 years of age; psychological support in investigation on sexual crimes; provision of support when they are victims of trafficking, smuggling or domestic violence.

## **TRAINING OF PRACTITIONERS**

In Portugal training relating to victims' issues is offered to police officers, judges, prosecutors, court officials, and public official dealing with victims.

Certain groups of victims and/or certain crimes are more targeted than others.

The Law 112/2009, 16th September explicit that "The criminal police and forensic technicians receive component specific training in the area of domestic violence with a view to preventing forms of secondary victimization, particularly in the context of the collection of evidence".



The former Portuguese Secretary of State for Parliamentary Affairs and Equality stated that in 2012 and 2013 training on human trafficking was given to 300 work inspectors to better act in cases of criminal exploitation working purposes.

Depending on which groups of victims/types of crime, training is available and focused on specific groups of practitioners.

## COOPERATION AND COORDINATION OF SERVICES

Recent measures in the field of human trafficking, such as a protocol that has created a Network of Support and Protection of Victims of Human Trafficking (RAPVT), involving public bodies and NGOs for the prevention and protection of victims of human trafficking, as well as the “the opening of the first shelter for male victims, as recommended by the Group of Experts on Action against Trafficking in Human Beings (GRETA), run by an NGO and public funding from Community funds” are examples of coordination and cooperation.

Also, APAV coordinates specialized networks (that involve partnership of other state agencies) devoted to specific crimes and certain groups of victims: the RAFAVH (Support to Family and Friends of Victims of Homicide) and CARE (Support to Children and Youngsters Victims of Sexual Abuse).

Domestic violence is another crime that in these last years has been subject of much attention from networking and cooperation services, including at local/regional level.

The information contained in this Factsheet was retrieved from interviews conducted under Project IVOR with experts and from the National Report of *Project Protecting Victims' Rights in the EU: the theory and practice of diversity of treatment during the criminal trial* (available at <http://www.victimprotection.eu/>).

More information at [www.apav.pt/ivor](http://www.apav.pt/ivor)