Freedom, security and justice: standing of victims in criminal procedures. Framework Decision. Initiative Portugal

2000/0813(CNS) - 14/04/2000 - Document attached to the procedure

This document comprises an explanatory note from the Portuguese Republic regarding its initiative for a Framework Decision on the standing of victims in criminal procedure. The proposed Framework Decision has its origins in the provisions in the Treaty on European Union relating to an area of freedom, security and justice, the Action Plan of the Council and the Commission on how best to implement the Treaty's provisions on these aspects, and the Commission's July 1999 Communication entitled 'Crime victims in the European Union: reflection on standards and action'. The guiding principles followed in drawing up the draft Framework Decision have been to: - focus on addressing the basic issue for citizens of access to justice as regards the standing of victims in criminal procedure and related matters; - take an initiative by way of a proposal for a Framework Decision as the form best suited to a subject involving per se the need for approximation of legislative and regulatory provisions; - find some initial common ground on the type of initiative, the need for it and its scope, as done form January 2000 onwards in liaison with Portugal's three successors in the Presidency, the Commission, the General Secretariat of the Council and the European Forum for victim support groups. The results of the strategy established show that: 1) the importance of an integrated approach to the issue of victims in the context of access to justice have been pointed out and acknowledged, leaving the alternative of putting forward individual proposal to resolve problems faced by victims, which would in particular fail to live up to the decisions taken in Tampere; 2) in this context, in the course of criminal procedure and directly related aspects, the proposals put forward are designed to address the points identified as essential to a proper response to victims' needs; 3) all the subjects identified by the Commission communication as needing to be addressed have been covered as part of a consistent approach to the need for approximation of laws and regulations. The main provisions of the proposal for a Framework Decision deal with: - the treatment of victims with respect and dignity at all levels of the criminal procedure, incluing the protection of their privacy and safety, - the availability of contact persons in court to assist victims and witnesses with matters in relation to the procedure and/or, depending on the jurisdiction, other services available for support and advice, bearing in mind also the requisite cooperation of victim support groups and the need for 'procedure' to be broadly construed, - making it possible for a foreign victim to participate adequately in a procedure, - the availablity of court premises, such as separate waiting rooms, assuring that a victim or witness does not have to confront the offender more than necessary, - the restitution of stolen property to victims as early as possible, - additional research and experiments in victim-offender mediation with evaluation of the particular interests of victims, as well as practical arrangements for mediation. The approach taken to the issue of victims throughout the draft Articles stems from the realisation that, in dealing with the position of victims generally in criminal procedure and particularly victims resident in another country, there can be no getting away from the central focus on victims as individuals and on what they go through in relation to the responses which they receive, in various ways, from various sources, before reporting an offence, in the course of procedure and at the enforcement stage after judgment has been given. Hence the importance attached in the draft to the involvement of victim support groups, training of personnel coming into contact with victims, networks of contact points, specific aspects of compensation in criminal procedure, without seeking to deal exhaustively with this subject, which needs to be covered in full separately, and the use of mediation in procedure.