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

2000/0813(CNS) - 20/07/2000 - Legislative proposal

PURPOSE: Portuguese initiative regarding the adoption of a Framework Decision on the standing of victims in criminal procedure. CONTENT: It was agreed at the Tampere European Council in October 1999 that minimum standards should be drawn up on the protection of the victims of crimes, in particular on crime victims' access to justice and on their right to compensation for damages, including legal costs. In addition, national programmes should be set up to finance measures, public and non-governmental, for assistance to and protection of victims. The guiding principles used 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, as pointed out in the Commission's 14 July 1999 communication entitled 'Crime victims in the European Union: reflections on standards and action'; - take an initiative by way of a proposal for a Framework Decision as the best form 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 from 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 main provisions of the Framework Decision cover: - definitions of 'victim', 'victim support group' and 'procedure'; - respect and recognition: Member States are required to ensure that victims are treated with respect for the dignity of the individual and to recognise the rights and legitimate interests of victims at all stages of procedure. Appropriate measures shall be taken for victims who are particularly vulnerable on account of their age, their sex or other circumstances; - right to provide information: the right of victims to be heard in the procedure and their right to furnish evidence must be safeguarded by Member States; - right to receive information: victims must have access to information of relevance for the protection of their interests from the outset; - communication safeguards: Member States are required to take necessary measures to prevent language difficulties, or inadequate powers of expression or comprehension, from impeding either victims' direct or indirect understanding of important steps in the procedure or any involvement of victims in such steps, particularly through the use of appropriate interpreting and communication facilities; - right to participate in the procedure and have access to legal aid: Member States must ensure that all victims, regardless of their means, have access to legal advice, provided free of charge, if need be; - legal costs: Member States shall not require victims to pay any legal costs or shall arrange for the possibility of having such costs refunded; - right to a suitable level of protection for crime victims and their families or persons in a similar position, particularly asregards their safety and protection of their privacy, where there is a serious risk of reprisals or firm evidence of intent to intrude upon their privacy; - right to compensation under criminal procedure: Member States shall ensure that victims have the option of seeking compensation in the course of criminal procedure; - dispute settlement through mediation, where deemed appropriate; - victims resident in another Member State must be able to participate properly in the criminal procedure, being placed at a minimum of disadvantage as a result of their place of residence; - the role of specialist services and victim support groups; - training for personnel involved in the proicedure or coming into contact with victims.