

**INTERNATIONAL CONFERENCE “VICTIMS OF
CRIME IN EUROPE:
THE FUTURE IS NOW”
(CALOUSTE GULBENKIAN FOUNDATION,
LISBON)**

CONVENED BY: PORTUGUESE ASSOCIATION FOR VICTIM SUPPORT
EUROPE
AND
VICTIM SUPPORT EUROPE

GREETINGS

Distinguished Ministers,
President and members of the Portuguese Association for Victim Support and of Victim Support Europe,
Ladies and Gentlemen,

It is an honour for me to participate, on behalf of the Spanish Ministry of Justice, in this Conference intended to bring to light our shared concern in Europe and the work we are carrying out with the aim of providing protection and assistance to victims of crime. And this is so in particular because Spain has the pride of turning the future into “present and reality” as far as the protection of victims of crime is concerned, thanks to the very recent adoption of the **Ley del Estatuto de la Víctima del delito** (Law on the Statute of the Victims of Crime). Such a law has been a priority of the current Government and it is a true landmark in our legislation since it gathers in one and only text the complete catalogue of the rights of victims of crime.

I. - INTRODUCTION

On 27 April 2015, and with a large consensus in Parliament, Spain passed Law 4/2015, on the Statute of the Victims of Crime, by which Directive 2012/29/EU of the European Parliament and of the Council, of 25 October 2012, establishing minimum standards on the rights, support and protection of victims of crime, has been transposed, getting ahead of the final deadline for transposition set for 16 November 2015.

Furthermore, the unifying vocation of the Statute underpins the references included in the Law to the special regulations of certain groups of victims (such as victims of terrorism or victims of gender violence) and we have also taken into account the lack of a specific regulation for certain groups of victims with particular vulnerability (such as victims of human trafficking or minors) in order to include provisions regarding them. Thus, the Statute of the Victim has taken the opportunity to transpose other Directives as well, in which regards to specific groups of victims such as:

- Directive 2011/36/EU of the European Parliament and of the Council of 5 April 2011 on preventing and combating trafficking in human beings and protecting its victims.

- Directive 2011/92/EU of the European Parliament and of the Council of 13 December 2011 on combating the sexual abuse and sexual exploitation of children and child pornography.

I would also like to point out that the Spanish Statute of the Victims of Crime not only provides an answer to the minimum standards established by the European legislator in Directive 2012/29/UE, but goes far beyond by including into the text the demands and needs of the Spanish society and of victims of crime themselves.

This is the reason why the Statute offers a unitary concept of crime victim which goes much further than its sole procedural consideration introducing, with the concept of indirect victim, certain cases not imposed by the European regulation but included in other International rules such as the United Nations Convention on Enforced Disappearances.

II. - MAIN ASPECTS OF THE LAW ON THE STANDING OF VICTIMS OF CRIME

The Statute of the Victims of Crime establishes a general catalogue of procedural and extra-procedural rights for all victims of crime, without prejudice to the application of any other especial regulation regarding victims with particular protection needs or with a particular vulnerability, such as victims of terrorism¹ or victims of gender violence², which shall have the rights and the protection recognized by their respective specific regulations added to those recognized by the Statute itself.

Furthermore, as previously mentioned, we accept a broad concept of victim: the victim of any kind of offence, and irrespective of the nature of the physical, moral or material damage suffered.

This Law covers direct victims but also indirect victims such as family members or individuals officially under their care in case of death or disappearance of the direct victim. It also includes children under age and minors under the care and guardianship of women victims of gender violence, which shall be entitled to assistance and protection. Under the Statute, victims residing in Spain may lodge complaints before Spanish authorities for criminal facts committed in the territory of other countries of the European Union. In the event the Spanish authorities find they lack jurisdiction to initiate an investigation, they will immediately forward the complaint submitted to the competent authorities of the State in which the facts were committed. In any case the rights established in the Statute will be applicable to the victims of all crimes occurred in Spain or that may be prosecuted in Spain, regardless the citizenship of the victims or whether the victim resides legally or not in Spain.

I should also add that the Law comprises a wide array of obligations and services to be provided by the Administration, namely regarding information, assistance, protection and support to victims for their comprehensive safeguard, such as facilities for the exercise and enforcement of their rights, the reduction of unnecessary procedures that do result in a second victimization, information and effective guidance about rights and services they are entitled to, of course a humane treatment. And all the above from the first contact with the authority, during the provision of support services and restorative justice, during the whole of proceedings and for an adequate period of time after their completion.

¹ Ley 29/2011, de 22 de septiembre, de Reconocimiento y Protección Integral a las Víctimas del Terrorismo

² Ley 35/1995, de 11 de diciembre, de ayudas y asistencia a las víctimas de delitos violentos y contra la libertad sexual.

Ley Orgánica 1/2004 de 28 de diciembre, de Medidas de Protección Integral contra la Violencia de Género.

With this Law we have ensured that the recognition, protection and support to the victim is therefore not limited to material aspects but, it is also extended to the human and personal dimension.

In line with the aforementioned, this Law offers the victims an individual assessment. Individualization in assessment and treatment is a pivotal idea in the Statute. The protection measures should be always orientated towards the individual, which requires an assessment of the personal characteristics of the victim, of the type or nature and circumstances of the crime.

Action as regards victims also involves the monitoring of support and protection measures. Thus, any relevant modification of the circumstances on which the individual assessment should be based shall determine their updating and, if appropriate, the modification of the protection measures agreed.

The development of performance protocols set out in the Law shall be in this area of particular relevance, which will allow a coordinated action by the Public Administrations involved, as well as the provision of a high quality service.

Among the extra-procedural rights, it must be highlighted as an innovative measure, the right of the victim of being accompanied by a person of his/her choice, besides the right to a lawyer conducting any activity before public authorities.

Despite the State's monopoly in the execution of criminal sanctions, the Statute sets forth participative avenues for victims. For example, victims are acknowledged the right to be given information on sensitive aspects of the executive of penalties, the right to challenge or ever being heard before certain decisions are taken, such as putting the offender on probation.

Besides the organization at a national level, the Ministry of Justice of Spain together with France, the United Kingdom, Poland and Portugal, is part of the European project Evaluation of Victims (EVVI) which has the aim to draw up an evaluation report on victims and a handbook that can be submitted as an indicative guide at European level.

Moreover, we wish to give particular attention to the special protection for certain particularly vulnerable victims, as victims with a disability; minors; disaster victims; victims of human trafficking crimes; victims of crimes against sexual freedom and indemnity; victims of crimes committed by criminal organizations or of crimes committed for reasons of racism or discrimination, among others, for whom the needs of protection shall be specifically valued.

The last point I would like to emphasize about our Law on the Statute of the Victims of Crime concerns the Victims Assistance Offices that, from now on, will see their sphere of action extended. They will offer the victims information on their rights and on the specialized services available, as well as emotional support, assessment and psychological assistance, accompanying victims to trial, information on psychosocial and aid resources available. And, if the victim applies for it, the referral to them or information on the special support measures that may be necessary in the case of a victim with special needs of protection, measures that are certainly not affected by the prior submission of a complaint by the victim.

The Statute also provides for the necessary training of legal agents and of the judicial staff for a fair treatment of victims, the conscious-raising and awareness through information campaigns, the investigation and education in terms of support, protection and solidarity with the victims; the cooperation with civil society and at international level, as well as the promotion of self-regulation by the mass media of the processing of information affecting the victims' dignity.

As you can see, Spain is on the way to improving the situation of victims in our country and in the European Union. The Statute of the Victims of Crime that we have just adopted takes a giant step in this direction, which progress we shall review through a periodic yearly evaluation by the Ministry of Justice in order to improve the protection system and to adopt new measures to ensure its effectiveness.

The adoption of this Law is a collective achievement, since for its development we have sought the views of numerous experts and heard and requested the collaboration of those affected by this legislation, the victims, as they know best the needs and shortcomings they are faced with.

With this in mind, we have counted on the collaboration and participation –among other associations- of the Association of Victims of Terrorism, Associations of persons affected by air traffic accidents, Amnesty International, Save The Children, UNICEF, Platform of Childhood Organisations, Mediation Services, Association Pro-Human Rights, Platform of Women before Congress, Association for the Prevention of Traffic Accidents, the Commission for Research on the Abuse of Women, United Nations High Commissioner for Refugees or the Council of Europe Commissioner for Human Rights.

Our gratitude to all of them, as they enabled us to produce a text whose aim is to include and meet all the needs of persons who suffer and endure the consequences of crime.

And to conclude, Spain remains at the disposal of other governments and victims associations in order to share our experience in setting standards to better regulate the standing of the victims of crime and to improve the effectiveness of their protection in practice.

Thank you very much.

Áurea Roldán Martín

Under-Secretary of State of the Spanish Ministry of Justice