



*Improving Needs Assessment and Victims Support  
in Domestic Violence Related Criminal Proceedings*

## **The protection of IPV victims: legal framework and criminal procedures**

**PORTUGAL**

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# Law and regulations in Portugal

## The legal framework on DV /IPV

Policies on combating domestic violence emerged in Portugal during the 1980's - somehow later than in most European countries (UE15); this was particularly forced by the Convention to Eliminate All Forms of Discrimination against Women, ratified by Portugal on 1980 and which entered into force on September 3<sup>rd</sup> 1981.

Although recognising that domestic violence affects mainly women as victims and is frequently perpetrated by men, policies and legal regulations in Portugal still address domestic violence in a gender neutral way.

### *Policies*

In Portugal, the first reference to domestic violence within a governmental programme happens within the IX Constitutional Government (1983-1985), namely as regards the “adaptation of incentives, preventable or repressible, to combat violence against women” (own translation; cited in Duarte, 2013: 136). However, policies on combating domestic violence were mostly strengthened during the decades of 1990 and 2000. Thus, in 1991 the Parliament passes a law aiming at the protection of women victims of violence (see subchapter 1.1.2. Legal regulations) and in 1999 the first National Action Plan against domestic violence (NAP), 1999-2003 (Council of Minister Resolution 55/99)<sup>1</sup> is approved. Two of the most significant measures within this Plan were, on the one hand, the creation of a public network of shelters,<sup>2</sup> and, on the other hand, the establishment of the applicable regime to grant victims of domestic violence an advance payment by the state as compensation.<sup>3</sup>

Since 1999, a total of five National Action Plans have been approved and implemented. It is important to mention that the II National Plan against Domestic Violence (2003-2006) refers

<sup>1</sup> Available at: <http://dre.pt/pdf1s/1999/06/137B00/34263428.pdf>. This National Action Plan was structured around THREE main objectives: raise awareness and prevention; intervene to protect the victims of domestic violence (including, for instance, the application of the accessory penalty of prohibiting the perpetrator from having any contact with the victim; and the creation of protection measures available for witnesses); and to carry out research of the phenomenon.

<sup>2</sup> This measure resulted in Law 107/99 of 3 August. Available at: [www.dre.pt/pdf1s%5C1999%5C08%5C179A00%5C49944994.pdf](http://www.dre.pt/pdf1s%5C1999%5C08%5C179A00%5C49944994.pdf).

<sup>3</sup> Law 129/99 of 20 August. Available at: [www.dre.pt/pdf1s%5C1999%5C08%5C194A00%5C55365537.pdf](http://www.dre.pt/pdf1s%5C1999%5C08%5C194A00%5C55365537.pdf).



explicitly that the Plan was focusing mainly on domestic violence inflicted on women.<sup>4</sup> This Plan shifted somehow from the first one, and was structure around six areas of strategic intervention – Information; raising awareness and prevention; training; legal regulation and its implementation; protection and social inclusion of victims; research; and migrant women. It was within this Plan that the concept of domestic violence was defined as ‘all physical, sexual or psychological violence that occurs in a family environment, not limited to maltreatment, including sexual abuse of women and children, rape among spouses, crimes of passion, female genital mutilation and other harmful traditional practices, incest, threats, arbitrary deprivation of liberty, economic and sexual exploitation’.

The III National Plan against Domestic Violence (2007-2010) was structured in five areas of strategic intervention, maintaining areas such as information; raising awareness and prevention; training / qualifying professionals and research; and dividing the protection of victims into ‘protect the victims and prevent revictimisation; and qualifying and integrate victims of DV’. This is a plan that, in accordance to its preamble, “points clearly towards a consolidation of a policy of prevention and fighting against domestic violence”.<sup>5</sup> The period of its implementation is marked by a huge international activity in the field of DV, namely around the Task Force to Combat the Violence against Women, including the Domestic Violence (2006-2008), promoted by the Council of Europe.

The IV National Plan against Domestic Violence (2011-2013) was also structured around five areas of strategic intervention, maintaining areas such as information; raising awareness and prevention; training / qualifying professionals and investigation and research; recombining two areas - protection of the victims and promotion of their social integration; and adding a new area targeting not the victims but the perpetrators and their rehabilitation.<sup>6</sup> It is worth mention that the concept of DV upon which the Plan was developed was somehow confined to a criminal approach (a clear reproduction of the article 152 of the Portuguese Penal Code). Within the timeframe of the IV NAP a series of good practices were implemented, namely: law enforcement agencies developed an intranet webpage containing information useful for police officers (such as Safety Plan for victims, resource guide, legislation and a forum for the exchange of ideas and experiences); increase of the State financial allocations to shelters and victims’ support services; a better coordination between

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<sup>4</sup> Council of Ministers Resolution 88/2003, of 7 July. Available at: <http://dre.pt/pdf1s/2003/07/154B00/38663871.pdf>.

<sup>5</sup> III National Plan against Domestic Violence (2007-2010). Available at: [www.cig.gov.pt/wp-content/uploads/2013/12/III\\_National\\_Plan\\_Against\\_Domestic\\_Violence.pdf](http://www.cig.gov.pt/wp-content/uploads/2013/12/III_National_Plan_Against_Domestic_Violence.pdf).

<sup>6</sup> IV National Plan against Domestic Violence (2011-2013). Available at: [www.cig.gov.pt/wp-content/uploads/2013/12/IV\\_PNVD\\_2011\\_2013.pdf](http://www.cig.gov.pt/wp-content/uploads/2013/12/IV_PNVD_2011_2013.pdf)

law enforcement agencies, public prosecutors, courts, victims' support services, health care services, the implementation of various protocols with specialised district centres on domestic violence;<sup>7</sup> between the Commission for Citizenship and Gender Equality (the governmental institution responsible for the implementation of policies on combating DV) and local municipalities in order to support the empowerment and social integration of victims of DV and the transition from a shelter to a social housing apartment, etc. According to Perista et al (2013), there was a strong focus on the development of strategies and resources aimed towards victims' protection, such as the implementation of electronic surveillance, remote assistance, victims' transportation to shelters, the opening of additional emergency places in shelters, among others.

Finally, the present NAP – V National Plan to Prevent and Combat Domestic and Gender-based Violence (2014-2017)<sup>8</sup> – incorporates an explicit gender-based perspective into the overall policies on domestic violence, by “expanding its [V NAP] implementation scope, until then limited to domestic violence, to other forms of gender-based violence”, namely female genital mutilation and sexual assault. This perspective is aligned with the Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence, ratified by Portugal in February 2013. As stated in its preamble, the V NAP “aims to delineate strategies for the protection of victims, the intervention with perpetrators, the improvement of existing knowledge on the phenomena and its prevention, the qualification of the professionals involved and the strengthening of the support provided to the existing national network of support centres for victims” (V NAP). Nevertheless, the strategic intervention domains remain the same as in the previous NAP.

The V NAP includes two measures which are particularly important for the purpose of this report. They regard the increase of the protection of victims' of domestic violence targeted at law enforcement agencies – measure No 34) ‘To consolidate and assess the methodology for evaluating the risk of revictimisation used by law enforcement agencies in cases of domestic violence’; and measure No 35) ‘To deepen proactive approaches in police response to cases of domestic violence’.

In the V NAP there is no reference to intimate partner violence.

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<sup>7</sup> For detailed information on specialised district centres on domestic violence, see subchapter ‘Existing formal referral procedures involving the criminal justice system and victim support services’.

<sup>8</sup> V National Plan to Prevent and Combat Domestic and Gender-based Violence (2014-2017). Available at: [www.cig.gov.pt/wp-content/uploads/2014/06/CIG-VPNPCVDG\\_2014-2017\\_ENG.pdf](http://www.cig.gov.pt/wp-content/uploads/2014/06/CIG-VPNPCVDG_2014-2017_ENG.pdf).

## Legal regulations

The legal regulations included in this chapter are presented in a chronological manner. The criteria for the selection of the following legal regulations were based on: i) their impact on the protection of victims of intimate partner violence and ii) their focus on specific aspects which may impact on the judicial trajectories of domestic violence / intimate partner violence cases.

The Penal Code of 1982, approved by **Decree-Law 400/82** of 23 September introduces the crime of *maltreatment or overload of minors or people in subordination or between spouses* to the Penal Code. The elements of this type of crime included the evil nature or selfishness of the perpetrator. It was a public crime.

On August 1991, the **Law 61/91** of 13 August<sup>9</sup> on the protection of women victims of violence was implemented. It aimed at reinforcing the legal protection mechanisms for women victims of violence, including the creation of shelters and victims' support services, the establishment of specific sections within police stations for the assistance of victims of domestic violence, the advance payment by the State of a civil compensation to the victims, the application of the provisional suspension of the process with the consent of the victim and alongside, whenever necessary, banning the perpetrator from the victim's home. This law represented a landmark in Portugal. However, only in 1999, eight years after the approval of the Law, did the Portuguese Parliament finally issue a resolution leading to its regulation and actual implementation.<sup>10</sup>

**Decree-Law 48/95** of 15 of March amends the Penal Code abolishing the reference to the evil or selfish nature of the perpetrator and including psychological harm as part of the behaviours that would amount to this crime. It also enlarged the specter of victims to include people living with the aggressor in conditions equivalent to those of spouses and provided for an aggravated penalty upon the result. The crime becomes semi-public.

**Law 59/98** of 25 August amends the Code of Criminal Procedure. The crime is still semi-public but the public prosecutor can initiate the proceedings if "the interest of the victim so imposes and the victim does not oppose to it before an accusation is made". The Law comprises a provision on removing violent partners from marital home.

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<sup>9</sup> Law 61/91, of 13 August. Available at: <http://dre.pt/pdf1s/1991/08/185A00/41004102.pdf>.

<sup>10</sup> Resolution of the Parliament 31/99 of 14 April. Available at: [www.dre.pt/pdf1s/1999/04/087A00/19881988.pdf](http://www.dre.pt/pdf1s/1999/04/087A00/19881988.pdf). Later, the regulation was integrated in Law 107/99 of 3 of August.



**Law 93/99** of 14 July directly addresses the protection of witness, by regulating the implementation of measures to protect witnesses within criminal proceedings.<sup>11</sup> It considers, for instance, the possibility for the witness to testify without being present in court through the use of technical means in real time; this resource can be requested by the public prosecutor, the victim or the perpetrator. The Law also foresees the possibility for the witness to provide an address which is different from their usual address (which is the case of IPV victims temporarily living in a refuge); the possibility to have access to transport provided by the State in order to go to court; to stay in a waiting room different from the one where the perpetrator is; and to benefit from police protection. All these measures can be requested, during the investigation stage, by the public prosecutors, the witness or the police and have to be confirmed by a judge. This Law has a chapter on vulnerable witnesses (related to the young age of the witnesses).

**Law 129/99** of 20 August approves the rules applicable for the advance payment by State of the compensation due to victims of domestic violence.

On 1999, **Law 107/99** of 3 August finally lays down the creation of a public network of shelters and counselling services for women victims of violence through the provision free services and support.<sup>12</sup> This Law was regulated in 2000 through **Decree-Law 323/2000** of 19 December.<sup>13</sup> This was the first legal regulation that presumed that women victims of violence were mainly those who were considered in the No 2 of the article 152 of the Criminal Code, i.e. women victim of marital / conjugal maltreatment.

**Law 7/2000** of 27 May amends the article 152 of Penal Code and the articles 281 and 282 of the Code of Criminal Procedure. With this Law, the crime of maltreatment assumed the nature of a public crime. In practice, this change means that anyone (not only the victim) who has knowledge of the crime may present a criminal complaint even against the explicit wish of the victim; it also means that the complaint cannot be withdrawn by the victim and that criminal investigations must be pursued. It also introduces the accessory penalty of prohibition of contacts, including the barring order (for a maximum period of two years).

Six years later, the Government adopted the **Regulatory Decree 1/2006** of 25 January which defined the conditions for the organisation, functioning and monitoring of shelters.<sup>14</sup> It introduces a set of

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<sup>11</sup> Law 93/99 of 14 July. Available at: <http://dre.pt/pdf1sdip/1999/07/162A00/43864391.pdf>.

<sup>12</sup> Law 107/99 of 3 August. Available at: <http://dre.pt/pdf1sdip/1999/08/179A00/49944994.pdf>.

<sup>13</sup> Decree-Law 323/2000 of 19 December. Available at: [www.dre.pt/pdf1s%5C2000%5C12%5C291A00%5C73757377.pdf](http://www.dre.pt/pdf1s%5C2000%5C12%5C291A00%5C73757377.pdf).

<sup>14</sup> Regulatory Decree 1/2006 of 25 January. Available at: [www.dre.pt/pdf1s%5C2006%5C01%5C018B00%5C05940601.pdf](http://www.dre.pt/pdf1s%5C2006%5C01%5C018B00%5C05940601.pdf).

technical rules aiming at ensuring a greater coherence on minimum operating standards, in order to improve the quality of services provided to women victims of domestic violence.

**Law 59/2007** of 4 September amends the Penal Code by introducing the crime of domestic violence as an autonomous crime, detached of the crime of maltreatment.

According to its article 152, domestic violence is defined as any kind of physical or psychic abuse which is inflicted to the spouse or ex-spouse, to a person of the same or of different sex who has (or had) a relationship similar to that of spouses even if not cohabitating, to a person with whom one has a child or to any person living with the perpetrator that is particularly vulnerable given his/her health, disability, illness, pregnancy or economic dependency.

There were four important changes introduced with this Law: widening the type of relationship existent between the victim and the perpetrator to qualify it as domestic violence, not only spousal or spousal-like relationships; introducing aggravated penalties on the grounds of circumstances (for instance, where a minor is present); eliminating the requirement that the abuse had to be continued and intense; and introducing more accessory penalties: prohibition of contacts now also including prohibition of approaching the workplace of the victim, prohibition of using and caring a gun, ban of exercise of parental authority or custody or guardianship for a period of 1 to 10 years, and mandatory attendance of domestic violence prevention programmes.

Regarding access to justice, the **Order of the Ministry of Home Affairs 1593/2007** of 17 December establishes the possibility to present a complaint on domestic violence via internet, by a system of electronic complaint.<sup>15</sup>

In 2009 there was a clear shift in the way in which the legal system perceives domestic violence. First, September 14, **Law 104/2009** activates the possibility for the compensation awarded to victims of domestic violence and violent crimes.<sup>16</sup>

Later, on September 16, **Law 112/2009** is implemented. This Law establishes the possibility for the police to arrest the perpetrator - even when not caught in committing the act (article 30)- whenever: i) there is a danger of repeated criminal activity or whenever the arrest is deemed essential for the protection of the victim; and ii) when it is not possible to wait for the intervention of the judiciary authority, due to the urgent nature of the situation and the danger of delaying the arrest.

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<sup>15</sup> Order of the Ministry of Home Affairs 1593/2007 of 17 December. Available at: <http://dre.pt/pdf1s/2007/12/24200/0894508949.pdf>.

<sup>16</sup> Law 104/2009, of 14 of September. Available at: [www.dre.pt/pdf1s/2009/09/17800/0624106246.pdf](http://www.dre.pt/pdf1s/2009/09/17800/0624106246.pdf).



According to Duarte (2013: 156), this Law “proceeded the creation of a special regime of detention and use of coercion orders in cases where there are evidences of a domestic violence crime” (own translation). This is considered, within the Portuguese criminal code, as an exceptional regime concerning the arrest of the perpetrator.

The referred Law also perceives a special regime for the use of coercion orders – it foresees the possibility for the court to implement urgent coercion orders within 48 hours, such as: i) not to acquire, use or deliver any weapon or objects that could facilitate the continuing practice of the crime; ii) to oblige the perpetrator to attend DV perpetrator’s programme; iii) to ban the perpetrator from the victim's home; iv) to prohibit the perpetrator from having any contact with the victim or from attending certain places.

According to Law 112/2009, victims have the right to be informed on the type of support they can obtain (psychological, medical, shelter, specialised and legal support); on where and how they can present a complaint; on how they can obtain legal aid; on what conditions and how they can obtain protection; on how to benefit from interpretation services when they do not understand correctly the Portuguese language, among other issues. The right to be informed also includes information regarding: the follow-up of the complaint; any decision of closure of the process or to the decision of not to accuse the perpetrator; the liberation of the perpetrator or his escape from prison; and the court sentence (article 15 of Law 112/2009 of 16 September).

According to Durão (2013: 296), citing the Minister of Home Affairs, the interpretation which people make regarding this Law is that it is a Law favourable to victims, without any reflection on what should be done to perpetrators, mainly executed by the justice system and with a controlled participation of law enforcement agencies (own translation).

The implementation of some of the measures included in the above mentioned Law, namely as regards remote assistance provided to victims and the electronic surveillance of perpetrators were translated into **Order 220-A/2010** of 16 April.<sup>17</sup> These two measures aiming at the protection of victims of domestic violence were introduced first as a pilot experience (tested only in the Oporto and Coimbra districts). In 2011, this Order was rectified (**Order 63/2011** of 3 February),<sup>18</sup> and the implementation of those measures was extended to all the country.

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<sup>17</sup> Order 220-A/2010 of 16 April. Available at: <http://dre.pt/pdf1s/2010/04/07401/0000200003.pdf>. For detailed information on the teleassistance and the electronic surveillance, see subchapter ‘Existence of practices aiming at protecting the victim during the judicial trajectory’.

<sup>18</sup> Order 63/2011 of 3 February. Available at: <http://dre.pt/pdf1s/2011/02/02400/0067200673.pdf>.

Later, **Law 33/2011**, of 2 September introduced further regulations for the use of electronic surveillance technical means.<sup>19</sup>

**Law 19/2013** of 21 February amends the Penal Code by introducing situations of dating relationships (either present or past) in the definition of domestic violence. This Law also brought the mandatory nature of using electronic monitoring for the accessory penalty of prohibition of contacts, which until then was possible but not an obligation. The Law also amended Law 112/2009 by introducing the mandatory electronic monitoring for all protection orders included in its articles 31, as well as those established in article 52 and 152 of the Penal Code, if deemed necessary for the victim.

But the most important aspect of this amendment of the Penal Code was related to the definition of “person particularly vulnerable”. The characteristics of vulnerability listed are no longer an exhaustive enumeration but instead a merely exemplifying one.

**Law 130/2015** of 4 September amended the Criminal Procedural Code and introduced in a separate diploma the Statute of Victim. This law encompasses the transposition into the Portuguese system of the Directive 2012/29/EU establishing minimum standards on the rights, support and protection to victims of crime.

This Law establishes rights to all victims of crime and does not interfere with specific legislation for certain types of crime, as is the case of domestic violence victims. However, it does impact on victims of domestic violence in several aspects, among which are a more robust right to information, with proactive obligations to the authorities, communication guarantees throughout the proceedings, as well as measures to prevent secondary victimisation.

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<sup>19</sup> Law 33/2011 of 2 September. Available at: [www.dre.pt/pdf1s/2010/09/17100/0385103856.pdf](http://www.dre.pt/pdf1s/2010/09/17100/0385103856.pdf).

## *Penal Code*

It is, by now, perceived that the combat against domestic violence in Portugal has mainly been developed through the criminal system, by placing the main focus on prosecution, conviction and rehabilitation of perpetrators.

In 1982, for the first time, the Portuguese Criminal Code referred to the criminalisation of maltreatment between spouses in an independent article (No. 153). Later, in 1995, a semi-public nature was attributed to the crime, consolidated in Article 152, which also includes psychological maltreatment which is extended to persons comparable to spouses. In 2000, the crime of maltreatment assumed the nature of a public crime (Law 7/2000 of 27 May). In practice, this change means that anyone (not only the victim) who has knowledge of the crime can file a criminal complaint even against the explicit wish of the victim; it also means that the victim cannot withdraw the complaint and that criminal investigations must continue.

In fact, Article 152 of the Criminal Code defines domestic violence as a typified crime (since 2007)<sup>20</sup> punishable with a prison sentence of 1 up to 5 years. The crime consists “in the infliction, whether repeatedly or not, of physical and psychological maltreatment, including corporal punishment, restriction of freedom and sexual offences to a partner, ex-partner, person of the same sex or different sex who have maintained or have a relationship analogous to that of partners, or to a person who is vulnerable due to age, disability, sickness, pregnancy or economic dependence living with the perpetrator”<sup>21</sup>.

There is a debate around the supposed neutrality of legal regulations in areas like domestic violence. According to Hagemann-White (2009), “the legal definition of domestic violence is not gender-based and tends to define harmful acts between family members in a very general way, in particular using a framing that includes child abuse and elder abuse as well”<sup>22</sup>. Also Duarte (2013), referring to the Portuguese case, stresses the absence of the integration of a gender perspective into domestic violence law.

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<sup>20</sup> Only in 2007 the denomination of the crime was change from maltreatment to domestic violence and still is by now.

<sup>21</sup> Hagemann-White, Carol (2009). Typology of domestic violence laws in Council of Europe member states – a preliminary overview. Ad Hoc Committee on preventing and combating violence against women and domestic violence (CAHVIO). Strasbourg: Council of Europe, p.10. Available at: [www.coe.int/t/dghl/standardsetting/violence/CAHVIO%20\\_2009\\_13%20%20e.pdf](http://www.coe.int/t/dghl/standardsetting/violence/CAHVIO%20_2009_13%20%20e.pdf) (accessed on 16 November 2012)

<sup>22</sup> Hagemann-White, 2009: 20.

This is particularly evident in the definition of victim which, according to article 152 of the Penal Code,<sup>23</sup> includes: spouses or ex-spouses, girlfriend/boyfriend, partners or ex-partners, parents and persons who are vulnerable due to age, disability, sickness, pregnancy or economic dependence living with the perpetrator; all regardless of their sex or sexual orientation.

Nevertheless, the different way(s) in which the criminal law has named the subject throughout the several stages is worth mentioning – from the crime of maltreatment of minors and subordinates and between spouses in early 1982, maltreatment of minors, incapable persons and spouse in 1995, maltreatment and security rules infraction in 1998/2000 to domestic violence in 2007. More recently, works are being carried out by the Directorate-General of Justice Policies in order to ensure that the transposition of the Victims' Directive is implemented. Nevertheless, some stakeholders involved in the preliminary hearings consider that in Portugal the Commission for the Protection of Crime Victims considers that the transposition of the Directive will not imply many changes, since the Portuguese internal law already foresees many of the situations mentioned, although there may be room for deepening some specific aspects. Such is the case of the victims' rights at trial and the authorities' obligation to provide information to crime victims. Importantly, the nature of the crime has also changed over time as illustrated in the table below.

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<sup>23</sup> When the 'name' of the crime was change from maltreatment to domestic violence, it encompassed also a change on the typology of victims, considering former partners and same-sex partners cohabitating or not or with whom the victim has maintained or has a relationship analogous to that of partners. And in 2013 it also extended to dating relationships (article 2 of Law 19/2013, of 21 February).

	Criminal act	Elements of criminal act	Victim	Penalty	Accessory penalty	Aggravating	Nature of the crime
1982	Maltreatment or overburden of minors and subordinates and between spouses	With meanness and selfishness, physical maltreatment, cruel treatment or absence of care or health assistance	Spouse	6 month to 3 years and a fine up to 100 days			Public
1995	Maltreatment of minors, incapable persons and spouse	Physical or mental maltreatment	Spouse or a person with whom the perpetrator lives on similar conditions to spouse	1 to 5 years		Depending on the result: serious offence against physical integrity: 2 to 8 years; death: 3 to 10 years	Semi-public
1998	Maltreatment and security rules infraction	Physical or mental maltreatment	Spouse or a person with whom the perpetrator lives on similar conditions to spouse	1 to 5 years		Depending on the result: serious offence against physical integrity: 2 to 8 years; death: 3 to 10 years	Semi-public
2000	Maltreatment and security rules infraction	Physical or mental maltreatment	Spouse or a person with whom the perpetrator lives on similar conditions to spouse	1 to 5 years	Prohibiting the perpetrator from having any contact with the victim; banning the perpetrator from the victim's home for a maximum period of 2 years	Depending on the result: serious offence against physical integrity: 2 to 8 years; death: 3 to 10 years	Public
2007	Domestic violence	Infliction, whether repeatedly or not, of physical and psychological maltreatment, including corporal punishment, restriction of freedom and sexual offences	Partner, ex-partner, person of the same sex or different sex who have maintained or have a relationship analogous to that of partners, or to a person who is vulnerable due to age, disability, sickness, pregnancy or economic dependence living with the perpetrator	1 to 5 years	prohibiting the perpetrator from having any contact with them; banning the perpetrator from the victim's home and/or work place, which can be monitored by remote technical means (electronic bracelet); prohibition of using firearms and holding firearms license (from 6 months to 5 years); and obligation to attend programmes to prevent domestic violence. The perpetrator can be banned from exercising paternal authority, tutelage or family authority (from 1 to 10 years).	Depending on the circumstances: against a minor or in the presence of a minor, on the couple's home or the victim's home: 2 to 5 years.  Depending on the result: serious offence against physical integrity: 2 to 8 years; death: 3 to 10 years	Public

Source: Duarte, 2013: 137

## Investigation mechanisms implemented by the police, the public prosecution offices and the criminal courts related to DV/IPV

In Portugal, there are two main law enforcement agencies – the Public Safety Police (PSP), responsible for the safety in urban areas, and the National Republican Guard (GNR), active in the rural areas. Since 2004 and 2006 both law enforcement agencies<sup>24</sup> have specialised units and teams for preventing and combating domestic violence (‘NMUNE – Núcleo Mulher e Menor’ which was changed to ‘NIAVE - Núcleo de Investigação e de Apoio a Vitimas Específicas’ as regards the GNR and ‘EPAV - Equipas de Proximidade e de Apoio à Vítima’ as regards the PSP).

Police intervention can be divided between two areas – the first line and the second line police officers. The first line corresponds to a more operational type of intervention – it often represents the first contact victims and/or witnesses have with police officers and the first register of incidents (the police completes a standardised notification form which is called the ‘Auto de Notícia Padrão’). This form came into force in January 2006 and since then all police forces use it for registering domestic violence incidents. It includes the characterisation of the complainant; the victim; the perpetrator and the context of the aggression, allowing distinguishing the type(s) of violence concerned and the type of victimization. In parallel a risk assessment may be made, but in practice this is only done occasionally.

Reporting a crime or making a complaint is free of charge, does not require formalities and can be done verbally or in writing.

Once the crime is reported, criminal proceedings start with the investigation. The criminal investigation includes all actions aimed at checking whether there was a crime, who committed it and their responsibility, and finding and collecting evidence.

This is the first phase of the criminal proceedings, also known as the investigation stage and is executed by a criminal police body under the direction of the Public Prosecutor<sup>25</sup>. Second line police officers are involved in this stage.

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<sup>24</sup> To simplify the terminology, from this point onwards law enforcement agencies will be replaced by the term ‘police’.

<sup>25</sup> According to article 55, paragraph 1 of the Code of Criminal Procedure the police (as a criminal police body) has a role of assisting the judicial authorities, and they perform their duties under the direction and occupational dependence of the judicial authorities (article 56). They however have duties on their own initiative regarding making notice of a criminal offence, avoiding its consequences, find who the perpetrators are and take urgent necessary measures to ensure preservation of evidence (article 55, paragraph 2).

Normally the public prosecutor delegates competencies to the police to pursue the investigation, sometimes giving clear guidelines and deadlines. Frequently this implies further inquiring of the victim, witnesses and suspect, usually in this order.

In this stage of the proceedings, it is also mandatory that, after inquiring the suspect and holding her/him as defendant, putting her/him under statement of identity and residence, which is a coercive measure required for the continuation of the investigation (and the only measure that can be imposed by the public prosecutor, without the agreement of a judge). Proceedings for the crime of domestic violence are given procedural urgency (article 28 of the Law 112/2009, ex vi article 103, paragraph 2, g) of the Code of Criminal Procedure), meaning the investigation of these cases is to be considered urgent, regardless of whether the perpetrator was detained or not. The public prosecutor can furthermore decide if the investigation should be considered “particularly urgent”, namely according to the victims’ particular vulnerability. If so, the investigations must be done within the first 48 hours following the complaint.

Investigation mechanisms implemented by the police comprise the following:

- Photos of the place where the crime occurred. These can be taken by the first police officer arriving at the scene of crime and are considered as an early measure. As far as we know this is not a usual proceeding on each DV/IPV case but rather used on high risk cases or homicides.
- Photos of injuries and/or the victim(s). This is something that requires informed consent from the victim, namely informing that photos are going to be used as evidence, and police officers should obtain permission for it.
- Forensic procedures and examinations: these examinations determine the extension of the psychological and physical damages perpetrated on the victim and assure credibility to the facts presented by the victim. This should be assured by first line police intervention; during the first contact of the victim with the police, the victim should receive a notification to appear in a forensic office or Hospital in a specific date. The outcomes of these examinations will be used as evidence.
- Questioning and interviews. The Directorate-General of Home Affairs recently developed a police manual regarding domestic violence<sup>26</sup>. The manual gives detailed information on how to carry an interview, it describes the purpose of the interview, the importance of

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<sup>26</sup> Still not available.

establishing a relationship of trust among police officers and victims / witnesses, it gives practical examples of questions and reaffirms the need to perform the interviews in a private space and to adjust the language and the posture taking into consideration the characteristics of the victims, the witnesses and the suspects.

- Apprehension of existing weapons (used or not in the context of the crime).
- Apprehension of any object used in the context of the crime.

Investigation mechanisms implemented by the public prosecution offices and the criminal courts related to DV/IPV may comprise the following:

- Transcription of electronic messages: this can be order by the court to obtain further evidence.
- Videoconference or teleconference: the court can obtain declarations and testimonies from the victim without the victim being present at the court room; this possibility can be requested by the victim and granted by a judge.
- Declarations for future record (articled 33 of Law 112/2009 of 16 September). This mechanism is granted by a judge based on a request made by the public prosecutor or the victim. Within the interview, the victim can be accompanied by a professional from a victim's support service. The interview is carry out by a judge but the public prosecutor and lawyers can also afterwards question the victim. The declarations resulting from this mechanism are to be used, whenever necessary, within the trial.

The declarations for future record where an important legal opportunity introduced in the Portuguese law in order to ensure that evidence provided by the victim can still be used at a later stage even if the woman decides to remain silent, namely during the trial. However, according to the opinion of several public prosecutors, even when such declarations are available, the judge has the right –and in most cases uses it – to ask the victim to provide evidence at the trial instead of using the existing records. This represents a major drawback for victims who have to be questioned twice, although they were told that the initial declarations aimed at avoiding the need for her to testify directly at court. As a consequence, several prosecutors have stopped using such legal mechanism.

There is a legal obligation that requires law enforcement agencies to inform victims, perpetrators and other witnesses from the family that they can refuse to give testimony. In the majority of domestic violence cases, the main mean of evidence is testimonial; so if a victim decides not to give

testimony, the most probable outcome would be the closure of the inquiry due to lack of sufficient evidences.

On the other hand, victims also have the right of becoming assistants in the cases and therefore to be represented by a lawyer (article 68 of the Code of Criminal Proceedings). Moreover victims have the right to a legal aid regime (depending on the lack of adequate financial resources), including the nomination and payment of the lawyers' fees and to be exempt to pay justice fees or to pay them in stages.

If there is more than one file regarding the same victim and perpetrator on domestic violence, files are joint and the judicial decision is made taking all information into account.

When the police consider the investigation complete, all the information is forwarded to the public prosecutor. Sometimes the public prosecutor decides to proceed to further questioning of the victim, perpetrator or witness. After that stage, the public prosecutor either closes the inquiry due to lack of evidence; promotes the provisional suspension of the process (that has to be confirmed by a judge); or accuses the perpetrator / defendant. In the latter case, the file is followed by a court hearing with a judge.

The provisional suspension of the process is a legal measure which can be applied during the investigation phase of the process (i.e. when the file is still under the responsibility of the public prosecutor) and when there is evidence that a domestic violence crime occurred. It is a measure that depends on a request made by the victim, accepted by the public prosecutor and agreed by the perpetrator<sup>27</sup>.

After passing the above phases, and if the public prosecutor proceeds to the accusation, the file is sent to the court, where a judge will proceed with court hearing(s), and decide upon a sentence. This can be an acquittal sentence, a custodial sentence / imprisonment or a suspended sentence.

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<sup>27</sup> Nevertheless, we found some files where this measure was proposed by the public prosecutor to the victim and then to the perpetrator.

## Victim's protection mechanisms / practices

From the 1990s, support services and organisations aiming at the protection of victims of domestic violence began to emerge, driven by different laws. The last and current National Action Plan (2014-2017) drifted a little its approach considering (also) gender-based violence.

The history of having common practices regarding the protection of victims is somehow recent in Portugal. The first nationwide project entitled INOVAR and dated of 1999, targeting police forces, was focusing on developing a specific programme to DV victims' protection.<sup>28</sup> The project implemented a series of raising awareness campaigns and training of law enforcement agencies. It also implemented in some police stations a specialised unit and developed a manual for the support of domestic violence victims and guidelines for the development of safety plans within law enforcement agencies.

## Risk assessment procedures available within the judicial system in Portugal

In the perspective of the judicial system (Leal, 2011), risk assessment procedures are useful, above all, to the protection of victims; but risk assessment procedures also play a relevant role on the way the judicial system is structured around each IPV case – it is a tool for immediate decision-making on safety procedures, assisting the judicial decision-making and an opportunity for referral IPV victims to the victims' support services.

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### *Existence of common / different tools used by different judicial system professionals*

As far as we know, all police agencies use the same risk assessment form and applied common procedures. Although risk assessment should be done in each case of intimate partner violence, the reality is that the usage of such procedures is often dependant on the police officer's perceptions and experience with DV / IPV cases – if the case involves physical injuries of some degree, then, and only then, a risk assessment is carried out.

Police has been using a form for risk assessment that is somehow very descriptive, lacking some objectivity to the fields to be completed. However, recently, the Directorate-General of Home Affairs,

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<sup>28</sup> Council of Ministers Resolution 6/99, of 8 February. Available at: [www.dre.pt/pdf1s/1999/02/032B00/07020703.pdf](http://www.dre.pt/pdf1s/1999/02/032B00/07020703.pdf)

the PSP and the GNR, with the scientific support of the Minho University of Psychology, developed, tested and validated a form for risk assessment on domestic violence.<sup>29</sup>

The new form contains a set of 20 yes or no questions covering subjects such as the use of physical violence from the perpetrator towards the victim and / or other family members; former attempts to strangle, suffocate, drown or physically torture the victim and / or other family members; the need for medical assistance; the increase and / or aggravation of violent episodes; the use or threaten to use weapons against the victim and / or other family members; easy access to weapons; victim's believe of the capability of the perpetrator to kill her and / or other family members; prior attempts or threatens of killing the victim and / or other family members; stalking, coercion, controlling and / or intimidation behaviours perpetrated against the victim and / or other family members; emotional or psychological instability of the perpetrator; prior attempts of the perpetrator committing suicide; prior criminal complaints; perpetrators' abuse of alcohol and / or drugs; perpetrators' prior violation of court order; financial constrains; conflict regarding the custody or contacts with their children; intention of or marital rupture; victim's and / or other family members' special needs; victim's pregnancy or recent motherhood.

The response to this set of questions is then translated into a score and classified within a scale ranging from high to low risk. The form also includes a question related to the perception/perspective of the police officer. And finally the form contains a set of protective measures to be implemented whenever the assessment made of the risk requires it.

As to the public prosecutors and / or the courts, they rely entirely on the risk assessment made by the police and, in the regions where there are local networks on combating domestic violence that includes both the judicial system entities as victims' support services and health care services, on risk assessment made by those services.

Last, although not integrating the judicial system, considering victims' support services, namely shelters for victims of domestic violence, on the report on an organisational diagnosis of the public network of shelters, Baptista, Silva and Silva (2013) found that 96% of the Portuguese shelters implements risk assessment procedures; but for only half of them risk assessment procedures are based on structured tools (such as check-lists, tests and risk assessment grids). Additionally, shelters' risk assessment procedures are done according to different moments but not all shelters have the

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<sup>29</sup> To avoid subjective interpretations and be operational, risk assessment procedures must comprise questions related to well-known risk factors and scored as well as protection measures to be implemented. These were subjects that the risk assessment form available to the police in Portugal did not contemplate. But as far as we know, the new form is by now built upon the mentioned references.

same procedures. In fact, the use of different types and forms of risk assessment on shelters and overall victims' support services contributes to complicate the work done within the judicial system among professionals who often are not experts on the field and / or do not have the adequate training on the field of intimate partner violence.

## Protection measures / procedures available within the judicial system in Portugal

The implementation of risk assessment procedures is one of the recommendations that police officers have to consider when receiving a complaint and filling in the standardised notification form. Another positive practice concerns the development of a safety plan. Safety plans are considered a tool for protection but also a risk management tool. The development of safety plans are usually not undertaken by law enforcement agencies or by the public prosecutor or the court. It is rather a common practice among victims' support services. In that respect, there are good examples of collaborative work between the police, the justice system and local networks specialised on combating domestic or intimate partner violence.<sup>30</sup>

### *Existence of practices aiming at protecting the victim during the judicial trajectory*

The already mentioned Law 112/2009 establishes the legal regime applicable to the prevention, protection, and assistance of victims of domestic violence. This specific legislation regarding domestic violence is focussed on measures for protection of victims from further abuse, and does not address criminalisation or punishment, but introduces tools and procedures aimed at promoting the safety of victims; it seeks to provide a more adequate action unifying previous laws (for instance, Law 107/99).

Law 112/2009 determines, for example, the attribution of the standing of victims,<sup>31</sup> which is a written document comprehending the victim's rights and duties. This status cover the victim's right to be informed, the victim's right to be heard and to present proofs, the right to protection and the right to be heard in an informal and confidential atmosphere in order to avoid secondary victimisation. The victim's status ceases by expressed will of the victim, by the confirmed existence of unfounded complaint or with the closure of the case.

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<sup>30</sup> Further information regarding networking among the judicial and other local entities is available on the subchapter 'Existing formal referral procedures involving the criminal justice system and victim support services'.

<sup>31</sup> Order 229-A/2010, of 23<sup>rd</sup> April, approves the document that proves the attribution of the victim's status.

Aside from protection orders, there are a serious of measures that fulfil the right to protection of victims that can be in place before trial,<sup>32</sup> such as:

- Increasing the police surveillance to the victim's home.
- Remote assistance: This measure arose from the need to ensure protection and safety to victims of domestic violence and decrease their risk of re-victimization; it is coordinated by the Commission for Citizenship and Gender Equality (CIG), which is the Governmental agency responsible for installing, securing and maintaining technical systems in operation. The measure aims to increase the protection and safety of the victim, ensuring 24 hours free and adequate response to emergency and crisis situations; it is foreseen for a period of time not exceeding six months, but renewable by Court decision. It comprehends access to information, emotional support and, if necessary, police protection. In addition to a telephone service, the technological support system allows the victim's geographical tracking (fundamental in emergency/crisis situations) - Equipment given to victims consists of a mobile voice and GPS device connected directly to a call-centre, involving professionals specifically prepared to give an appropriate response to every situation; this call-centre accesses the victim's signal via a web platform, obtaining real-time information on the victim's position (article 20, paragraph 4 of Law 112/2009 of 16 September).
- Police accompaniment of the victim to withdraw all personal possessions from home; this measure is determinate by the police / law enforcement agencies (article 21, paragraph 4 of Law 112/2009 of 16 September).
- Avoidance of contacts between the victim and the perpetrator within places where enquiries are taking place; this measure has to be secured by law enforcement agencies, public prosecutors and courts (article 20, No 2 and 3 of Law 112/2009 of 16 September).
- Determining conditions for giving testimony in an informal and confidential atmosphere preventing re-victimisation (article 22, No 1 of Law 112/2009 of 16 September).

Victims also have the right to claim a civil compensation from the perpetrator, primarily granted by the State which is then rewarded by the accused perpetrator. On the other hand, victims have the right to receive financial support to rent a house or access to a social housing apartment (article 45 of Law 112/2009 of 16 September); to the transfer or revaluation of child benefit (article 47 of Law

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<sup>32</sup> Nevertheless, victims have to be considered at-risk of re-victimisation and to have specific security needs; it is proposed by public prosecutors and decided by a Criminal Court. Victims have to give their consent / accordance to the implementation of these protection measures.

112/2009 of 16 September); to the social insertion income (article 4, No 2 of Law 13/2003 of 21 May); for children to be transferred to a school near the shelter (article 74 of Law 112/2009 of 16 September); to be temporarily or permanently transferred to another work place within the same company (article 42 of Law 112/2009 of 16 September; article 195 of the Labour Code); to the justification of work absences due to the crime of IPV (article 43 of Law 112/2009 of 16 September; article 249, No 2 j) of the Labour Code); to be exempted to pay user charges on health care services (article 50 of Law 112/2009 of 16 September; Decree-Law 2001/2007 of 24 May).

The law also foresees the implementation of measures to control the perpetrator, and, therefore, protecting the victim. There are different types of judicial protection orders in place in Portugal, namely:

- Detaining order – the police can detain a perpetrator when caught in the act of committing the crime or not; this action has then to be confirmed afterwards by a judge (article 30 of Law 112/2009 of 16 September). Nevertheless, Durão (2013) refers that the police – similarly to other judicial professionals – have a very conservative approach regarding the possibility to detain a perpetrator– in fact, it is frequently expected that police officers have to witness the offences in loco in order to make a detention of the perpetrator.
- Eviction orders - banning the perpetrator from the residence / victim’s home and/or the victim’s place of work for a specified period, or permanently (article 31, No 1 c) of Law 112/2009 of 16 September).
- Restraining orders - placing other limits on the actions of a perpetrator such as requiring him to stay away from specific areas, or forbidding the use of violence and prohibiting of use of firearms and of firearms’ license (from 6 months to 5 years) (article 31, No 1 a) of Law 112/2009 of 16 September).
- Non–molestation orders - specifically ordering the perpetrator not to contact, by any means, or harass the victim, including imposing that the perpetrator does not use certain means (for eg.: telephone) or does not attend certain places (for eg.: does not approach a victim’s workplace)(article 31, No 1 d) of Law 112/2009 of 16 September).

These measures can be complemented by electronic surveillance of the perpetrator; this consists of putting an electronic bracelet on the perpetrator’s leg and having a device on the perpetrator’s home which receives information on his location (article 35, No 1 of Law 112/2009 of 16 September) and also on the victim’s home informing the police of an eventual approach of the perpetrator. It is a measure that requires the confirmation by the court and is executed by the Directorate-General for

Social Reintegration (the Portuguese probation service); and it is mandatory to have the victim's and the perpetrator's consent (article 36, paragraph 1 of Law 112/2009). However, if the judge considers, and so decides presenting the reasoning behind this decision, that the victim can only, in the case, be duly protected if there is electronic monitoring, then it is possible to waive consent. The perpetrator has to be confined to his home but there is the possibility to establish authorised exits; in other cases the perpetrator is monitored not to approach certain locations but can leave the house; whenever the perpetrator does not comply with the rules, the probation services inform the police and police officers can arrest the perpetrator and take him to court. The electronic surveillance is a practice applicable within precautionary measures during the investigation phase, during the provisional suspension of the process and when the perpetrator is convicted.

The main aim of all these coercive measures imposed on the defendant is namely to stop the continuity of his criminal activity.

The perpetrator can also be banned from exercising paternal authority, tutelage or family authority (from 1 to 10 years).

As referred to before, the provisional suspension of the process is a legal measure which can be applied during the investigation phase of the process. The law determines that such a measure is possible in cases of domestic violence which are not aggravated by the result. In this case, the prosecution may decide to provisionally suspend the process, at the explicit and voluntary request of the victim, with the agreement of the judge and the perpetrator, when several conditions are met, such as: absence of previous convictions for a crime of the same nature (instead of criminal antecedents); the absence of a previous application of this measure in the context of a crime of the same nature; the absence of a high degree of guilt. In cases of domestic violence, the maximum period of the suspension is 5 years.

The injunctions (suspension conditions) can be applied separately or cumulatively and 'selected' from a set of conditions related to: a monetary compensation (made either to the victim, the State or a private institution of social solidarity), the attendance of rehabilitation programmes (for aggressors or alcohol misuse), the prohibition of living or staying in a certain place / geographical area, the dispossession of certain objects capable of facilitating another crime being committed, among others.

A suspect can only benefit from the provisional suspension of a process once and if there are no other DV complaints or convictions made against him. If during the period of suspension the perpetrator does not comply with the injunctions, the suspension stops and the public prosecutor

proceeds to the accusation and to further court hearing. However, if the perpetrator complies with all the injunctions, the public prosecutor closes the file without any further accusation and this is not registered in the perpetrator criminal register.

Lastly, the victim can also be placed in a shelter for victims of domestic violence. When victims are in shelters, their home address should be the one of the counselling centre which provided the necessary support.

## Existing formal referral procedures involving the criminal justice system and victim support services

In Portugal, there was a need for establishing specialised local networks involving different types of organisations (police, courts, public prosecutors, social services, victim's support services, local municipalities, etc.) particularly in the largest regions in Portugal. The establishment of those networks was driven by difficulties in responding to (all) victim's needs of support and assistance rather than by legal regulations; nevertheless the IV National Plan Against Domestic Violence (2011-2013) explicitly mentions the need for providing an holistic approach to victim's needs.<sup>33</sup> The V National Plan to Prevent and Combat Domestic and Gender-based Violence (2014-2017) also takes good consideration regarding the setup and maintenance of existing specialised local networks, namely within measure No 19) "To develop actions to ensure/improve the cooperation within Public Prosecution intervention in criminal, family and civil jurisdictions handling domestic violence cases".

It is relevant to highlight that Law 112/2009 of 16 of September, on its article 53, called upon the need for cooperation amongst the specialised units and teams for preventing and combating domestic violence within law enforcement agencies, shelters and victims' support services, district centres for the support of domestic violence victims, self-help support groups and the national telephone information service for victims of domestic violence.

By now there are some specialised local networks around the country (formal and non-formal), namely based on all 10 district centres for the support of victims of domestic violence. Some of these networks work closely drawing on specific cases and experiences (i.e., in Sintra), whilst others have

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<sup>33</sup> Particularly mentioned on measures 8 (Development of cooperation actions between criminal and civil courts in cases of domestic violence), 9 (Promotion of practices contributing to a better articulation among the justice system and the victim's support services) and 17 (Strengthen the articulation among existing services for children and youth at risk of vicarious).

developed more on strategic and long term goals (i.e., in Lisbon). Several formal partnerships involving law enforcement agencies have been set up in recent years (e.g. Coimbra, São Miguel (Azores), Cascais, Sintra, Lisbon and Oporto): public prosecutors; health care services; social services; municipalities; the Commission for the Protection of Children and Young people at risk; universities; and victims' support services.

According to Baptista, Silva and Silva (2013), working within larger partnerships is a common practice for most of the Portuguese shelters for victims of domestic violence; on the one hand, law enforcement agencies and health care services are the most frequent entities with whom shelters have secured a partnership; but on the other hand, the public prosecutors and the courts are the entities shelters refer they miss the most within those partnerships. In fact, one of the duties of the police is to give victims of domestic violence information regarding victims' support services in the surrounding areas of the victim's home.

Three examples of existing local networks:

- In the Amadora municipality there is a network called 'RIIVA - Rede Integrada de Intervenção na Violência na Amadora' (Integrated Network for the Intervention on Violence on the Amadora municipality). This network has five areas of intervention – knowledge and research of the phenomenon of violence; information and training of professionals; preventing violence; psychosocial intervention with perpetrators; and support to victims of violence. It includes professionals from the municipality; the police; local hospital and health care centres; public prosecutors; probation services; support services for victims of domestic violence; services for older people; services for people with disabilities; social security agency; schools; and local counsellors (from parish council).
- In the region of Évora there is a network entitled 'RIIDE - Rede de Intervenção Integrada do Distrito de Évora' (Integrated Network for the Intervention on the district of Évora). This network is structured around the following areas of intervention – knowledge and research of the phenomenon of violence through the perceptions of different professionals; information and training of professionals; training of police officers and public prosecutors; implementation of an holistic approach to victims' needs; and community mobilisation on combating all sorts of violence.
- The municipality of Cascais implemented a forum against domestic violence ('Fórum Municipal de Cascais contra a Violência Doméstica'). This forum is an inter-institutional platform of services in the field of domestic violence that aims: to promote knowledge about

domestic violence in Cascais based on a research action approach; prevent violent behaviors among adults, youth and children through awareness raising activities; and to provide quality support to victims of domestic violence.

To conclude, although there are formal and non-formal partnerships involving the criminal justice system and victims' support services, the knowledge about existing formal referral procedures per se is only documented when a formal and written protocol exists. And those procedures are mostly related to the referral of victims among entities taking into account the specificities of the different entities. In fact, the main objective of these partnerships is to facilitate the referral procedures among different types of entities.

# State of the art regarding victims' needs and victims' rights in Portugal

## Existing research on victims' needs

Research on victim's needs is almost inexistent in Portugal. This conclusion is drawn from a detailed search on the internet and from the outcome of a direct contact with the person responsible for the area of domestic violence within the governmental agency accountable for the development and implementation of policies on combating and preventing domestic violence.

The only research projects found related to this issue have focused on an outcome evaluation of refuges which is centred on the needs of women and which was developed on a strengths-based approach when considering women who had experienced domestic violence (Baptista, I., 2006, 2009, 2013). The last research concluded that four in each five women victims of domestic violence temporary living in a shelter expressed needs regarding access to information, namely on legal aspects, and on how to stay safe (Baptista et. al, 2013).

It is worth mentioning that the response given to the needs shelter clients expressed regarding psychological and legal support is granted either through the organisation's internal resources or externally in accordance with an individualized safety plan based on the principles of safety, capacity-building and empowerment of women. As a result, women were able to gain awareness on the need to develop alternative life projects and to gain knowledge about existing support services for women survivors of intimate partner violence (Baptista et. al, 2013).

## Best practices regarding the protection of different groups of IPV victims

UNIFEM (2010) affirms that all national action plans on combating domestic violence should comprise the capacity to implement adequate actions towards the cultural and social diversity of victims and contexts of violence. The Portuguese V National Action Plan takes this recommendation in good count, by developing a set of measures targeting different groups of intimate partner violence victims. However, at least four out of seven of those measures relate to awareness raising (measures No 4, 8, 9 and 10); one to the development of pedagogical material (No 5) and two to prevention of violence among youth (measures n. 6 and 7).

Law 23/2007 of 4 July refers to the legal regime of entry, residence, exit and expulsion of foreign nationals;<sup>34</sup> its article 107 comprehends the attribution of autonomous residence permit to victims of domestic violence covered by family reunification.

There are some migrant and LGBT associations that are working to support victims of intimate partner violence among migrant and LGBT communities, respectively. For instance, the ComuniDária association, founded by migrants and non-migrants, gives informal support and information to victims particularly those coming from the the Portuguese speaking African countries. The ILGA Portugal on June 2014 gave a training session on violence against LGBT people to the police officers present in the CEPOL training course.

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<sup>34</sup> Law 23/2007 of 4 July. Available at: <http://dre.pt/pdf1s/2007/07/12700/42904330.pdf>.

## Main conclusions

In Portugal, the combat against domestic violence has mainly been developed through the criminal system, with a special focus on prosecution, conviction and rehabilitation of perpetrators.

Indeed, although Portugal has a framework Law on domestic violence, a gender perspective is not included. Domestic violence or intimate partner violence are still often perceived as a family matter, which raises serious dilemmas in regard to the necessary intervention of the justice system along the different stages.

In fact, and despite all efforts regarding awareness raising and training of law enforcement agencies and judicial professionals, intimate partner violence is still regarded as “one of the crimes which is most complicated for police officers”, namely due to the private nature of the crime but also due to “the perception police officers have that they were not prepared (at an institutional and personal level) to deal with a phenomenon that became a public crime” (own translation; Durão, 2013: 284).

According to Durão (2013) police officers are too much concentrated on the bureaucratic aspects of the crime, resulting in an evident lack of (individual) commitment towards the victims. Police officers see their job mainly as a registration on the complaint file of objective info related to the crime which is then forwarded to the judicial. As stated by some agents from law enforcement agencies in Durão (2013) “It is best not to take too many risks. We forward the file; it is up to the judges to decide” (own translation; Durão, 2013: 288). What is clear is the outcome of most cases: near half of the DV files do not reach courts. Who is deciding and based on what?

At present, law enforcement agencies are the only entities to have harmonized risk assessment forms and procedures. All other entities involved in the support of intimate partner violence victims use their own risk assessment, making it difficult to make a judicial decision based on the different approaches to risk factors. The harmonization of risk assessment principles, procedures and tools should be discussed and decided among local networks supporting victims of intimate partner violence. This is would be particularly important in conjunction with a clear definition of the roles, duties and responsibilities of each public and private organisation working in the area, thus promoting a culture of institutional and professional responsibility.

The judicial system plays a fundamental role in controlling the perpetrators and in protecting the victims; when making a decision, it is therefore important to implement risk assessment procedures common to all judicial professionals. Nevertheless, risk assessment and risk management should not be resumed to the applications of tools; they should be based on a holistic approach on intimate

partner violence, based on the good collaboration of victims, by validating their needs and their life experiences.



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