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**LAW 4/2015, OF 27 APRIL,
ON THE STANDING OF VICTIMS OF CRIME**

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**Ley 4/2015, de 27 de abril,
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**LAW 4/2015, OF 27 APRIL,
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**FELIPE VI
KING OF SPAIN**

To all by whom these presents shall be seen and understood.

Know this: That the Spanish Parliament has approved and I do hereby enact the following law:

PREAMBLE

I

The purpose of making a law establishing the legal standing of victims of crime is to offer as broad a response as possible from the public authorities, which not only repairs damage in the context of criminal proceedings, but also minimises other traumatic emotional effects which the victims' situation may produce, regardless of their position in the case.

Therefore, in line with European regulations in this area and the demands of our society, this statute, taking recognition of victims' dignity as its starting point, is intended to protect their tangible and intangible property and, thereby, those of society as a whole.

With this statute, Spain brings together the totality of victims' rights in a single piece of legislation, on the one hand transposing the European Union Directives on the matter and, on the other, reflecting the particular requirements of Spanish society.

II

The background to this statute and its original basis are to be found in Council Framework Decision 2001/220/JHA, of 15 March 2001, on the standing of victims in criminal proceedings, which recognises a number of victims' rights in relation to criminal proceedings, including rights to protection and compensation, and which was the first serious attempt by the European legislator to achieve homogeneous recognition of victims throughout the European Union, the starting point for subsequent special regulations.

The degree of compliance with that Framework Decision was the subject of an April 2009 report by the European Commission, which highlighted that no Member State



had approved a single legal text which systematically brought together the rights of victims and stressed the need for general and effective implementation of certain aspects of the Decision.

With regard to Spain, the report highlighted the existence of a regulatory framework guaranteeing the rights of victims, although a large part of those rights are exclusively procedural or focus on certain very specific types of victims, according to the relevant legal provisions, namely, Law 35/1995, of 11 December, on support and assistance for the victims of violent crimes and crimes against sexual freedom (implemented by Royal Decree 738/1997, of 23 May), Organic Law 1/1996, of 15 January, on legal protection for minors, Organic Law 1/2004, of 28 December, on comprehensive protection measures against gender-based violence, and Law 29/2011, of 22 September, on the recognition and comprehensive protection of victims of terrorism.

The communication from the Commission to the European Parliament, the Council, the Economic and Social Committee and the Committee of the Regions, of 18 May 2011, entitled «Strengthening victims' rights in the EU», re-examines the aspects of protection existing up to that time which ought to be strengthened and reiterates the need for a European protection framework, such as that set out in Directive 2011/99/EU of the European Parliament and of the Council, of 13 December 2011, on the European protection order.

That led to the approval of Directive 2012/29/EU of the European Parliament and of the Council, of 25 October, establishing minimum standards on the rights, support and protection of victims of crime and replacing Council Framework Decision 2001/220/JHA. It is, therefore, necessary, to transpose into national law not only the matters raised by the 2009 Commission report regarding the degree of transposition of Framework Decision 2001/220/JHA, but also matters yet to be transposed in accordance with special Directives and the new rights and requirements contained in the 2012 Directive.

So, this legislative text not only responds to the minimum requirements set by the European legislator with the final approved text of the above-mentioned Directive 2012/29/EU, but also attempts to be more ambitious, incorporating the demands and needs of Spanish society, in order to complete the design of the rule of law, almost always focusing on procedural safeguards and the rights of the suspect, accused, defendant or convicted individual.

Indeed, with this focus it has been possible to warn, as our society makes clear with its demands, of a certain prostration of the rights and special needs of victims of crime, which, bearing in mind the greater value of justice which informs our constitutional order, must be addressed, with this transposition providing the ideal opportunity to do so.

The time limit set by the Directive for its incorporation into national law is 16 November 2015, but as this general European regulation is preceded by other special regulations which must be transposed sooner, we have opted to undertake the task in this text and add other regulations which are specifically applicable to certain categories of victims to the general catalogue of victims' rights.

Likewise, given that one of the effects of this Law is to provide a unified concept of the victim of crime, which goes beyond the procedural perspective, it is considered appropriate to include in the concept of an indirect victim certain circumstances which are not imposed by the European regulation, but are imposed by other international regulations, such as the United Nations Convention for the Protection of All Persons from Enforced Disappearance.

III

This Law on the standing of victims of crime is intended to be a general catalogue of the rights, procedural and otherwise, of all crime victims, notwithstanding references to special regulations concerning victims with special needs or who are especially vulnerable. It is therefore an obligation, where minors are concerned, that the best interests of the minor serve as a guide for any measure or decision which is taken, during criminal proceedings, concerning a minor who is the victim of a crime. In that regard, the adoption of the protection measures set out in Title III - and especially where those measures are not adopted - must be based on the best interests of the minor.

The starting point is a broad concept of the victim, whatever the crime and whatever the nature of the physical, emotional or material damage done. It includes direct victims and also indirect victims, such as family members or analogous individuals.

However, protection of and support for victims is not only procedural, nor does it depend on their position in proceedings, but rather it has an extra-procedural dimension. It is based on a broad concept of recognition, protection and support, in order to safeguard victims comprehensively. To that end, it is fundamental to make it as easy as possible for victims to exercise and protect their rights, by, among other measures, reducing unnecessary formalities which may cause secondary victimisation, effectively providing them with information and orientation regarding their rights and the services available to them, guidance by the competent authority, humane treatment and the possibility of being accompanied at every stage by an individual designated by them, notwithstanding the appropriate representation required by procedure.

Proceedings must always be orientated towards the individual, which requires every victim to be assessed and treated with sensitivity, while allowing for the specialised treatment required by certain types of victims.

As already mentioned, recognition and protection of and support for victims is not limited to material aspects and financial redress, but rather it also extends to the emotional dimension.

Moreover, such recognition, protection and support is provided, where appropriate, bearing in mind the special circumstances of victims who are not habitually resident in our country.

The effectiveness of these rights requires the utmost institutional cooperation and involves not only the different public authorities, the judiciary and professional and victims' groups, but also specific individuals who, in their work, have contact and dealings with victims and, lastly, society as a whole. Hence the need both to provide



institutions with action protocols and coordination and cooperation procedures and to promote specialist services to give staff technical training, both initially and on an ongoing basis, and to promote the awareness which dealing with victims requires, without forgetting the participation of associations and other groups.

Notwithstanding the unifying purpose of this Law and the references to special regulations for certain groups of victims, for whom assistance and protection would be expanded with the general catalogue of victims' rights, in view of the absence of specific regulations for certain especially vulnerable groups of victims, this text is intended to provide them with special protection by transposing other recent Directives: Directive 2011/93/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, and 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, and replacing Council Framework Decision 2002/629/JHA.

IV

As regards the content and structure of the Law, it begins with a preliminary title, dedicated to general provisions, which establishes an all-encompassing concept of the victim, insofar as it is extended to any individual who suffers physical, emotional or financial damage as a consequence of a crime.

The spouse or other individual linked to the victim by an analogous sentimental relationship, the victim's children or parents, direct relatives and individuals for whom the direct victim is responsible on account of death or disappearance caused by the crime are also recognised as indirect victims, as are holders of parental responsibility or guardianship in relation to the enforced disappearance of the individuals in their charge, where that causes a significant danger of secondary victimisation.

The rights brought together in the Law shall apply to all victims of crimes occurring in Spain or which may be prosecuted in Spain, regardless of the nationality of the victim or whether or not the victim is legally resident.

The preliminary title contains a general catalogue of rights, common to all victims, which are subsequently developed throughout the articles, and which refers to both the support and restorative justice services which are provided for by law and to all the stages of criminal proceedings - from preliminary investigation to enforcement - regardless of the outcome of those proceedings. Among others, that general catalogue includes the right to information, protection and support, in every case, the right to participate actively in criminal proceedings, the right to be recognised as a victim and the right to respectful, professional, sensitive and non-discriminatory treatment.

V

Title I recognises a number of extra-procedural rights, which are also common to all victims, regardless of whether or not they are a party to criminal proceedings or have decided to bring some kind of action, and even prior to the initiation of the criminal process.

A new development is that all victims, to allow them to feel protected on a personal level, may be accompanied by the individual designated by them, subject to the involvement of a lawyer where required, in any proceedings and dealings with the authorities.

This Title regulates the right to obtain information from any authority or official approached, in simple and accessible language, from first contact. That information, which must be detailed and kept up to date, must guide and inform victims regarding their rights in matters such as: available support; how to report an offence; how and under what conditions they can obtain protection, legal advice and legal aid; compensation, interpretation and translation; measures to protect their interests if they reside in another country of the European Union; the procedure for reporting inactivity on the part of competent authority; contact details for communications; available restorative justice services; and how expenses incurred in judicial proceedings can be reimbursed.

It specifically regulates the rights of victims when making a complaint and, in particular, their right to receive a duly certified copy of the complaint, free linguistic assistance when making a complaint and free translation of the copy of the complaint made.

Likewise, it recognises the right of victims, regardless of whether or not they appear in proceedings, to receive information about the progress of their case.

In accordance with European regulations, it sets out the right to translation and interpretation, both during interviews, including during police questioning, and during active participation in court hearings, and it includes free written translation of essential information, in particular, any decision ending the proceedings and the appointment of the time and place of the trial.

It regulates access to support services, including initial reception, guidance and information and specific protection measures, subject to specific support for each victim, as suggested by their individual assessment and for certain especially vulnerable categories of victims.

It also attempts to make minors affected by gender-based or domestic violence more visible as victims, to guarantee them access to assistance and support services, as well as adopting protection measures, in order to facilitate their comprehensive recovery.

VI

Title II systematises the rights of victims in relation to their participation in criminal proceedings, as something independent of the protection measures relating to victims during proceedings, which are covered in Title III.

It recognises the right of victims to participate in proceedings, in accordance with the Spanish Criminal Procedure Rules (Ley de Enjuiciamiento Criminal), and strengthens the effectiveness of that right by means of different measures: on the one hand, notification of decisions to dismiss or shelve cases and recognition of the right to challenge those decisions within a sufficient period of time from notification, regardless of whether or not the victim has previously been established as a party to the



proceedings; on the other hand, recognition of the right to be reimbursed for expenses incurred, in preference to the right of the state to be compensated for the expenses incurred in the case, where the offence was ultimately prosecuted solely at the instance of the victim or a decision not to prosecute the offence was revoked as a result of an appeal brought against it being allowed.

The state, as is characteristic of any liberal model, retains an absolute monopoly on the enforcement of sentences, which is not incompatible with victims being provided with certain channels for participation which allow them to challenge, in the courts, certain decisions affecting the sentence compliance regime for particularly serious offences, to provide information which could be relevant to judges and courts in ruling on the enforcement of the sentence, civil liability or confiscation which has already been ordered, or to request control measures to be adopted in relation to individuals on conditional release who were convicted of such acts that a situation where the victim is in danger may reasonably arise.

The regulation of the involvement of victims in the enforcement phase of the sentence, where compliance with sentences for particularly serious offences is concerned, ensures that victims trust and cooperate with the criminal justice system, as well as ensuring observance of the principle of legality, given that the decision always rests with the judicial authority and therefore the reinsertion of the offender is not affected.

Moreover, it makes it easier for victims to exercise their rights, allowing applications for legal aid to be submitted to the authority or official responsible for informing them of their rights and thereby avoiding the need to travel to various offices; and it regulates the procedure applicable in cases where a complaint is made in Spain about criminal acts committed in other European Union countries, as well as notification of the victim, where applicable, regarding referral of the matter to the competent authorities.

This Law also recognises the right of victims to have their personal effects returned immediately, apart from exceptional circumstances where the property in question has, either temporarily or permanently, to remain in the custody of the authorities to ensure the proper conduct of the proceedings.

Finally, it includes a reference to the possible action of restorative justice services. On this matter, this Law goes beyond the traditional references to mediation between the victim and the offender and underlines the emotional inequality between them. The action of these services is therefore seen as being aimed at repairing the material and emotional harm done to the victim and presupposes the victim's free and informed consent and the prior acknowledgement of the relevant acts by their author. In any event, the possible action of restorative justice services is excluded where it could in any way put the safety of the victim at risk or could cause any other harm.

VII

Title III deals with matters relating to the protection and recognition of victims, as well as specific protection measures for certain kinds of victims.

The protection measures are intended to be effective against reprisals, intimidation, secondary victimisation, psychological harm and attacks on dignity during witness

questioning and statements, and they range from physical protection measures to others, such as the use of separate rooms in courts, to avoid contact between the victim and the offender and others, at the court's discretion, as the circumstances require.

To avoid secondary victimisation in particular, the victim's statement must be taken without delay after the complaint, the number of statements and medical examinations must be kept to the minimum necessary and the right of victims to be accompanied, not only by their legal representative but also by another person of their choice, must be guaranteed, unless a reasoned decision has been made to the contrary.

The adoption of measures and access to certain services are preceded by an individual assessment, to determine the victim's specific needs as regards protection and possible special measures. Those measures must be updated as proceedings unfold and according to the circumstances arising.

Specific protection measures are adopted taking into account the character of the individual, the offence and its circumstances, the nature and severity of the harm and the vulnerability of the victim. Therefore, along with references to current special regulations in this area, specific protection measures are included for groups lacking special legislation and, especially, measures relating to children who are victims of abuse, exploitation or child pornography, victims of human trafficking, individuals with disabilities and other groups, such as offences affecting a number of individuals and those having a catastrophic effect.

VIII

Finally, Title IV contains a number of common provisions, such as those relating to the organisation and functioning of victim support offices, promoting the training of legal professionals and justice administration staff in dealing with victims, raising awareness by means of information campaigns, research and education in relation to support and protection for and solidarity with victims, cooperation with civil society and at international level, as well as promoting media self-regulation in relation to the handling of reports which could affect victim's dignity.

It should also be noted that this Title introduces various provisions for strengthening coordination between the different services with victim support functions, as well as cooperation with public and private networks, with a view to making the services provided to the public more effective, thereby following the guidelines of the Spanish public administration reform commission (Comisión para la Reforma de las Administraciones Públicas: CORA).

Lastly, it regulates the requirement for fraudulent victims, who are found guilty of simulating the offence or making false allegations, to reimburse the state, where it has incurred expenses as a result of its recognition, information, protection and support, as well as on account of the services provided, without prejudice to any other civil or criminal liability which may be applicable.



IX

The Law includes two additional provisions. The first additional provision, which establishes the creation and subsequent regulatory implementation of a mechanism for the periodic overall assessment of the victim support and protection system, with the participation of the agents and groups involved, to serve as a basis for future initiatives and for the gradual improvement of the system; and the second additional provision, relating to the media.

Notable among the final provisions is the first final provision, amending the current Criminal Procedure Rules. These changes to the rules of criminal procedure are necessary to complement the substantive regulation of rights contained in this Law, which transposes Directive 2012/29/EU.

The remaining final provisions refer to the introduction of a very detailed reform of the Criminal Code, regulatory implementation, adaptation of the rules of the Spanish legal profession (Estatutos Generales de la Abogacía y Procuraduría) and the Law's entry into force.

PRELIMINARY TITLE

General provisions

Article 1. *Scope.*

The provisions of this law shall apply, subject to the provisions of article 17, to the victims of offences committed in Spain or which may be prosecuted in Spain, regardless of their nationality, of whether they are of legal age or minors and of whether or not they are legally resident.

Article 2. *Subjective scope. General concept of the victim.*

The provisions of this Law shall apply:

- a) As direct victims, to any natural person who has suffered harm or loss in relation to their person or property, in particular physical or psychological injuries, or emotional harm or financial loss, directly caused by the commission of an offence.
- b) As indirect victims, in cases of the death or disappearance of a person which has been directly caused by an offence, unless the person in question was responsible for the act:

1. To the victim's spouse, where they are not legally or effectively separated, and to any children of the victim or the victim's spouse, where they are not legally or effectively separated, who are living with them at the time of the death or disappearance; to any person who, at the time of the death or disappearance, is in a comparable sentimental relationship with the victim and to any children of that person who are living with the victim at the time of the death or disappearance; to the victim's parents and relatives in the direct or collateral lines up to the third degree for whom the victim has parental responsibility and persons under the victim's guardianship or who are being fostered by the victim.

2. Where none of the above persons exist, to other relatives in the direct line and to the victim's siblings, with preference, among them, to the victim's legal representative.

The provisions of this Law shall not apply to third parties who have suffered harm or loss arising from the offence.

Article 3. *Victims' rights.*

1. All victims are entitled to protection, information, support, assistance and care, as well as to participate actively in criminal proceedings and to receive respectful, professional, personal and non-discriminatory treatment from their first contact with the authorities or officials, while victim assistance and support and restorative justice services are being provided, throughout criminal proceedings and for a sufficient



period of time after their conclusion, regardless of whether or not the identity of the offender is known and of the outcome of the proceedings.

2. The exercise of these rights shall be regulated by the provisions of this Law and its implementing regulations, as well as by the provisions of special legislation and the applicable procedural rules.

TITLE I

Basic rights

Article 4. *Right to understand and to be understood.*

All victims are entitled to understand and to be understood in any act occurring from the time of making the complaint and during criminal proceedings, including any information given prior to the complaint being made.

To that end:

- a) All communications with victims, whether oral or in writing, must be effected in clear, simple and accessible language, taking into account the victim's personal characteristics and, in particular, the needs of individuals with sensory, intellectual or mental disabilities or who are not of legal age. Where the victim is a minor or the victim's capacity has been modified by a court, communications must be addressed to the victim's representative or to the person who assists the victim.
- b) From their first contact with the authorities or with victim support offices, victims must be provided with the assistance and support they need to make themselves understood, which includes interpretation in the sign languages recognised by law and oral communication support measures for deaf individuals, individuals with impaired hearing and deaf-blind individuals.
- c) Victims may be accompanied by a person of their choice from their first contact with the authorities and officials.

Article 5. *Right to receive information from the first contact with a competent authority.*

1. From their first contact with the authorities and officials, including the moment prior to making the complaint, all victims are entitled to receive, without unnecessary delay, information adapted to their personal circumstances and situation and to the nature of the offence committed and the harm or loss suffered, regarding the following points:

- a) Available assistance and support, whether medical, psychological or physical, and the procedure for obtaining it. Where appropriate, this shall include information about the possibility of alternative accommodation.
- b) The right to make a complaint and, where applicable, the procedure for making a complaint and the right to provide the authorities responsible for investigating with evidence.
- c) The procedure for obtaining legal advice and defence and, where applicable, access to legal aid.
- d) The possibility of requesting protection measures and, where applicable, the procedure for doing so.



- e) Compensation to which they may be entitled and, where applicable, the procedure for claiming it.
- f) Available interpretation and translation services.
- g) Available communication support and auxiliary services.
- h) The procedure by which victims can exercise their rights where they reside outside Spain.
- i) Appeals which may be lodged against decisions which victims consider to be contrary to their rights.
- j) Contact details of the authority responsible for dealing with the procedure and channels for communicating with that authority.
- k) Available restorative justice services, where legally possible.
- l) Circumstances in which expenses incurred in legal proceedings may be reimbursed and, where applicable, the procedure for claiming them.
- m) The right to request to be notified of the decisions referred to in article 7. To that end, victims must designate, in their request, an email address or, failing that, a postal address or place of residence, to which communications or notifications from the authority are to be sent.

2. This information must be updated at each stage of the proceedings, to ensure that victims are able to exercise their rights.

Article 6. *Rights of victims when making a complaint.*

When making a complaint, all victims have the following rights:

- a) To receive a duly certified copy of the complaint.
- b) To free linguistic assistance and written translation of the complaint made, where the victim does not understand or speak any of the official languages in the place where the complaint is made.

Article 7. *Right to receive information about their case.*

1. All victims who have requested it, in accordance with point m) of article 5.1, must be informed, without unnecessary delay, of the date, time and place of the trial, as well as the nature of the charges against the offender, and they must be notified of the following decisions:

- a) Any decision not to initiate criminal proceedings.
- b) Any judgment concluding the proceedings.
- c) Any decision remanding the offender in custody or subsequently releasing the offender, or where the offender has escaped detention.
- d) Any decision to adopt individual precautionary measures or which modifies those already adopted, where the object was to ensure the safety of the victim.

e) Decisions by any judicial or prison authority which affect individuals convicted of offences committed with violence or intimidation and which pose a risk to the safety of the victim. In such cases and to that end, the prison authorities must immediately notify the judicial authority of the decision, so that the victim affected can be notified.

f) The decisions referred to in article 13.

These communications must include, as a minimum, the operative part of the decision and a brief summary of the reasons for it and must be sent to the victim's email address. In exceptional cases, where the victim does not have an email address, they shall be sent by ordinary mail to the address provided. In the case of individuals residing outside the European Union, where they do not have an email or postal address, the communication shall be sent to the Spanish diplomatic or consular office in their country of residence for publication.

Where victims have formally appeared in the proceedings, decisions shall be notified to their court procedural representative and shall be notified to the victim at the email address provided, subject to the provisions of the following section.

2. At any time, victims may express their wish not to be informed of the decisions referred to in this article, thereby rendering their earlier request null and void.

3. In the case of victims of offences involving gender-based violence, they shall be notified of the decisions referred to in points c) and d) of section 1, without the victim needing to request it, unless they have expressed their wish not to receive such notifications.

4. Where they request it, victims will also be provided with information relating to the state of the proceedings, unless such notification could adversely affect the proper handling of the case.

Article 8. *Period of reflection to guarantee victims' rights.*

1. Lawyers and court procedural representatives may not address the direct or indirect victims of disasters, public calamities or other events producing a high number of victims, as determined by the regulations, and which may constitute an offence, to offer them their professional services, until 45 days have elapsed since the event.

This prohibition shall be rendered without effect in the event that the victim has expressly requested the provision of such professional services.

2. Failure to comply with this prohibition shall give rise to disciplinary liability for a very serious infringement, without prejudice to any other liability which may apply.

Article 9. *Right to translation and interpretation.*

1. All victims who do not speak or understand Spanish or the official language used in the act in question shall be entitled:



a) To be assisted, free of charge, by an interpreter who speaks a language which they understand, during questioning by the judge, the public prosecutor or police officers, or when they appear as a witness during the trial or at any other oral hearing.

This right shall also apply to individuals with impaired hearing or speech.

b) To free translation of the decisions referred to in section 1 of article 7 and article 12. Where the victim requests it, the translation must include a brief summary of the reasons for the decision.

c) To free translation of any information which is essential for the exercise of the rights referred to in Title II. Victims may submit a request, giving reasons, for a document to be regarded as essential.

d) To be informed, in a language which they understand, of the date, time and place of the trial.

2. The assistance of an interpreter may be provided by means of videoconferencing or any other means of telecommunication, unless the judge or court, ex officio or at the request of the victim, orders the physical presence of the interpreter to safeguard the victim's rights.

3. In exceptional cases, written translation of documents may be replaced by an oral summary of their content in a language which the victim understands, where, in doing so, there are sufficient guarantees of the fairness of the process.

4. Where, in their dealings with the police, the police decides not to provide victims with interpretation or translation, an appeal may be lodged with the investigating judge. This appeal shall be regarded as having been lodged when the person affected by the decision expresses their dissatisfaction at the time of being denied.

5. An appeal may be lodged with an upper court against a judicial decision not to provide a victim with interpretation or translation.

Article 10. *Right to access assistance and support services.*

All victims are entitled, free of charge and in confidence, as determined by the regulations, to access the assistance and support services provided by the public authorities, as well as those provided by victim support offices. This right may be extended to the relatives of the victim, as also established by the regulations, in the case of offences which have caused particularly serious harm.

Authorities or officials coming into contact with the victims must direct them to victim support offices where necessary in view of the seriousness of the offence or where the victim requests it.

Children who are minors and minors for whom victims of gender-based violence or domestic violence are guardians or have parental responsibility shall also be entitled to the assistance and protection measures set out in Titles I and III of this Law.

TITLE II

Participation by victims in criminal proceedings

Article 11. *Active participation in criminal proceedings.*

All victims are entitled:

- a) To bring criminal and civil proceedings in accordance with the Criminal Procedure Rules, subject to any possible exceptions.
- b) To be heard by the authorities responsible for the investigation to provide them with evidence and any information they consider relevant to clarify the facts.

Article 12. *Notification and review of a decision not to prosecute at the request of the victim.*

1. The decision not to prosecute shall be notified, in accordance with the Criminal Procedure Rules, to the direct victims who reported the act and also to other direct victims whose identity and address are known.

In cases of the death or disappearance of a person which has been directly caused by an offence, the individuals referred to in point b) of article 2 shall be notified, in accordance with the Criminal Procedure Rules. In such circumstances, the judge or court may, giving reasons, order the notification of all the relatives to be dispensed with where several of them have already been successfully notified or where efforts to locate them have proved unsuccessful.

2. Victims may appeal against a decision not to prosecute in accordance with the Criminal Procedure Rules, without the need for them to have previously appeared in the proceedings.

Article 13. *Participation by victims in enforcement.*

1. Victims who, in accordance with point m) of article 5.1, have requested to be notified of the following decisions may appeal against them in accordance with the Criminal Procedure Rules, even where they have not taken part in the case:

- a) An order by the sentence review judge authorising, in accordance with the provisions of the third paragraph of article 36.2 of the Criminal Code, the possible classification of the convicted individual as third degree, before half of the sentence has been completed, where the offence committed was one of the following:
 1. Homicide.
 2. Abortion under article 144 of the Criminal Code.
 3. Bodily harm.



4. Offences against freedom.
5. Torture and offences against emotional integrity.
6. Offences against sexual freedom and indemnity.
7. Robbery committed with violence or intimidation.
8. Terrorism.
9. Human trafficking.

b) An order by the sentence review judge stating, in accordance with the provisions of article 78.3 of the Criminal Code, that prison privileges, temporary release, classification as third degree and calculation of time for conditional release must refer to the completion date of the sentence and not to the sum total of the sentences imposed, where the offence committed was any of those referred to in point a) of this section or an offence committed within a criminal group or organisation.

c) An order granting the convicted individual conditional release, where the offence was any of those referred to in the second paragraph of article 36.2 of the Criminal Code or any of the offences referred to in point a) of this section and where a prison sentence of more than five years was imposed.

Victims must inform the relevant court clerk of their wish to appeal within five days of being notified, in accordance with the provisions of the second and third paragraphs of article 7.1, and must lodge the appeal within fifteen days of that notification.

Victims do not require legal representation when informing the court clerk of their wish to appeal.

2. Victims shall also be entitled:

a) To request that such measures or rules, relating to behaviour and established by law, as they consider necessary to guarantee their safety are imposed on an individual granted conditional release, where the offender was convicted of such acts that a situation where the victim is in danger might reasonably arise;

b) To provide the judge or court with any information which is relevant to deciding regarding enforcement of the sentence imposed, any civil liability arising from the offence or any confiscation which has been ordered.

3. Before the sentence review judge can issue any of the decisions indicated in section 1 of this article, he or she shall inform the victim so that the victim can lodge his or her statement within five days, provided that the victim has made the request referred to in point m) of section 1 of article 5 of this Law.

Article 14. *Reimbursement of expenses.*

Victims who have participated in proceedings shall be entitled to reimbursement of the expenses required to exercise their rights and any court fees they have incurred, in preference to payment of expenses incurred by the state, where their payment is ordered in the judgment and the accused has been convicted, at the instance of the victim, for offences for which the public prosecution service has not brought charges or

after a decision to shelve the case has been revoked on account of an appeal lodged by the victim.

Article 15. Restorative justice services.

1. Victims may access restorative justice services, as determined by the regulations, in order to obtain adequate redress for the material and emotional harm arising from the offence, where the following requirements are met:

- a) the offender has acknowledged the relevant acts from which his or her liability arises;
- b) the victim has given his or her consent, after receiving exhaustive and impartial information about their content, the possible outcomes and the procedures for enforcing them;
- c) the offender has given his or her consent;
- d) the mediation process does not pose a risk to the victim's safety and there is no danger that it could cause new material or emotional harm to the victim; and
- e) it is not prohibited by law for the offence committed.

2. The discussions which take place during the mediation process shall be confidential and may not be divulged without the consent of both parties. The mediators and other professionals who take part in the mediation process shall be subject to the obligation of professional secrecy in relation to the facts and statements they become aware of in performing their function.

3. The victim and the offender may revoke their consent to participate in the mediation process at any time.

Article 16. Legal aid.

Victims may submit applications for free legal assistance to the official or authority providing them with the information referred to in point c) of article 5.1. That official or authority will pass it, along with any documentation provided, to the relevant bar association.

The application may also be submitted to the Justice Administration's victim support offices, which will send it to the relevant bar association.

Article 17. Victims of offences committed in other member states of the European Union.

Victims resident in Spain may lodge complaints with the Spanish authorities regarding criminal acts committed in the territory of other countries of the European Union.

In the event that the Spanish authorities decide not to investigate due to lack of jurisdiction, they will immediately send the complaint to the competent authorities of the state in whose territory the acts were committed and the complainant will be notified by the procedure designated in accordance with point m) of article 5.1 of this Law.



Article 18. *Return of property.*

Victims shall be entitled, in accordance with the Criminal Procedure Rules, to the return, without delay, of any returnable property belonging to them which has been seized in the course of proceedings.

Its return may be refused where, to ensure the proper conduct of criminal proceedings, it is essential for the relevant authority to retain the property and it is not sufficient to impose on the owner an obligation to make the property available to the judge or court.

The return of such property may also be refused, in accordance with the provisions of the applicable legislation, where it is necessary to retain it as part of a technical investigation procedure relating to an accident.

TITLE III

Protection of victims

Article 19. *Victims' right to protection.*

The authorities and officials responsible for investigating, prosecuting and trying offences shall, in accordance with the Criminal Procedure Rules, employ the measures necessary to protect victims and their relatives, to ensure their physical and psychological integrity, freedom, safety and sexual freedom and indemnity, as well as adequately protecting their privacy and dignity, particularly where they make a statement or have to testify in court, to avoid the risk of secondary or repeat victimisation.

In the case of victims who are minors, the public prosecutor's office must take particular care to ensure that this right to protection is complied with, adopting adequate measures in the victims' best interests where necessary to prevent or reduce any harm which the conduct of the proceedings may cause them.

Article 20. *Right to avoid contact between victim and offender.*

The buildings in which criminal proceedings take place, including the investigation stage, must be arranged in such a way that direct contact between, on the one hand, the victim and his or her relatives and, on the other, the suspect or accused, is avoided, in accordance with the Criminal Procedure Rules and subject to the provisions of the following articles.

Article 21. *Protection of victims during criminal investigations.*

The authorities and officials responsible for the criminal investigation, as far as is possible without compromising the proceedings, must ensure that:

- a) Interviews are conducted with victims, where necessary, without unjustified delay.
- b) Interviews with victims are kept to the minimum number possible and are only conducted where strictly necessary for the purposes of the criminal investigation.
- c) In addition to their procedural and, where applicable, legal representative, victims may be accompanied by a person of their choice during all proceedings in which they have to take part, unless a reasoned decision has been made to the contrary by the official or authority responsible for those proceedings, to ensure the their proper conduct.
- d) Medical examinations of victims are carried out only where it is strictly necessary for the purposes of the criminal proceedings and are kept to the minimum number possible.

**Article 22.** *Right to protection of privacy.*

The judges, courts, public prosecutors and other authorities and officials responsible for the criminal investigation, as well as all those who take part in the proceedings in any way, must, in accordance with the law, employ the measures necessary to protect the privacy of all victims and their relatives and, in particular, to prevent the disclosure of any information which could identify victims who are minors or victims with disabilities and in need of special protection.

Article 23. *Individual assessment of victims to identify specific protection needs.*

1. The protection measures, regulated in the following articles, which must be employed to avoid significant harm to the victim which, otherwise, may arise from the proceedings, must be identified after an assessment of their particular circumstances.

2. This assessment shall, in particular, take into account:

- a) The personal characteristics of the victim and particularly:
 1. Whether the victim has disabilities or whether there is relationship of dependence between the victim and the alleged offender.
 2. Whether the victim is a minor or in need of special protection or whether there are factors which make the victim particularly vulnerable.
- b) The nature of the offence and the severity of the harm caused to the victim, as well as the risk of the offence being repeated. To that end, the assessment shall take particular account of the protection needs of victims of the following crimes:
 1. Terrorist offences.
 2. Offences committed by a criminal organisation.
 3. Offences committed against the offender's spouse or against a person who is or has been in a comparable sentimental relationship with the offender, even where they do or did not live together, or against the offender's own progeny or progenitors or siblings, whether by blood, adoption or affinity, or those of the offender's spouse or cohabiting partner.
 4. Offences against sexual freedom and indemnity.
 5. Human trafficking.
 6. Enforced disappearance.
 7. Offences with racist or anti-Semitic motives or motives related to ideology, religion or beliefs, family situation, the ethnicity, race or nationality of a family's members, their country of origin, gender, sexual orientation or identity, illness or disability.
- c) The circumstances of the offence, in particular whether it involved violence.

3. Throughout the criminal proceedings, the protection measures employed for victims who are minors shall take into account their personal situation, immediate needs, age, gender, any disabilities and their level of maturity and shall have complete respect for their physical, mental and emotional integrity.

4. In the case of minors who are victims of an offence against sexual freedom or indemnity, the measures set out in points a), b) and c) of article 25.1 shall always apply.

Article 24. Competence and assessment procedure.

1. Assessment of the victim's needs and the determination of protection measures shall be the responsibility:

a) During the investigation stage, of the investigating judge or judge dealing with violence against women, without prejudice to the provisional assessment which must be carried out and the provisional decision which must be made by the public prosecutor, at the start of the criminal investigation or in proceedings subject to the Organic Law on the Criminal Liability of Minors, or the police officers involved in the first stage of the investigation.

b) During the trial stage, the judge or court responsible for hearing the case.

The decision made must be reasoned and must reflect the circumstances which have been assessed in reaching it.

The assessment and any modification of it shall be processed, documented and handled in accordance with the regulations.

2. Assessment of the victim's protection needs shall always include those expressed by the victim, as well as the victim's wishes.

Victims may, in accordance with articles 25 and 26, revoke the protection measures ordered.

3. In the case of victims who are minors or individuals with disabilities in need of special protection, the assessment shall take into account their opinions and interests.

4. Victim support services may only provide third parties with information received from the victim where they have the victim's prior and informed consent. In all other cases, such information may only be passed, where appropriate and in confidence, to the authority ordering the protection measure.

5. Where there is any significant change in the circumstances on which the individual assessment of the victim's protection needs was based, the assessment must be updated and, where applicable, the protection measures ordered must be modified.

Article 25. Protection measures.

1. During the investigation stage, the following measures may be ordered for the protection of victims:

a) Victims may be interviewed in buildings specially conceived and adapted for the purpose.

b) Victims may be interviewed by professionals who have received special training to reduce or limit harm to the victim, or with the help of such professionals.



c) All statements from a single victim may be taken by the same person, except where doing so could have a significant adverse effect on the conduct of the proceedings or where the statement must be taken by a judge or public prosecutor directly.

d) In the case of any of the victims referred to in numbers 3 and 4 of point b) of section 2 of article 23 and victims trafficked for the purposes of sexual exploitation, statements may be taken by a person of the same sex as the victim where the victim requests it, except where doing so could have a significant adverse effect on the conduct of the proceedings or where the statement must be taken by a judge or public prosecutor directly.

2. During the trial stage, in accordance with the Criminal Procedure Rules, the following measures may be ordered for the protection of victims:

a) Measures to avoid visual contact between the victim and the alleged offender, even when giving evidence, for which communication technologies may be used.

b) Measures to ensure the victim can be heard without being present in the courtroom, by using appropriate communication technologies.

c) Measures to avoid the victim being asked questions relating to his or her private life which are not relevant to the offence being tried, apart from exceptional cases where the judge or court considers that they must be answered to adequately assess the facts or the credibility of the victim's statement.

d) Holding a private oral hearing. In such cases, the judge or the presiding judge may, nevertheless, authorise the presence of persons who can show they have a particular interest in the case.

The measures referred to in points a) and c) may also be employed during the investigation stage.

3. One or more of the protection measures referred to in article 2 of Organic Law 19/1994, of 23 December, on the protection of witnesses and experts in criminal cases, may also be ordered for the protection of victims.

Article 26. *Measures to protect minors and persons with disabilities in need of special protection.*

1. In the case of victims who are minors or victims with disabilities in need of special protection, as well as the measures provided for in the preceding article, such measures shall be employed, in accordance with the Criminal Procedure Rules, as are necessary to avoid or limit, as far as possible, the conduct of the investigation or the trial becoming a new source of harm for the victim. In particular, the following shall apply:

a) Statements taken during the investigation stage shall be recorded by audiovisual means and may be played in court in the cases and under the conditions determined by the Criminal Procedure Rules.

b) Statements may be taken by experts.

2. The public prosecutor shall obtain from the judge or court the appointment of a court-appointed guardian for the victim, to represent him or her in the investigation and the criminal proceedings, in the following cases:



- a) Where the public prosecutor considers that there is a conflict of interest between a victim who is a minor or a person whose capacity has been modified by a court and his or her legal representatives, whether or not it arises from the act under investigation, which makes it impossible to be sure that the victim's interests will be properly represented in the investigation or the criminal proceedings.
 - b) Where the victim is a minor a person whose capacity has been modified by a court, the conflict of interest referred to in point a) of this section relates to one of the victim's parents and the other is not in a position to properly represent or assist the victim.
 - c) Where the victim is a minor or person whose capacity has been modified by a court and is not accompanied or is separated from his or her legal guardians or those having parental responsibility.
- 3.** Where there are doubts about the age of the victim and it can be established for certain, it shall be assumed that the person is a minor for the purposes of the provisions of this Law.

TITLE IV Common provisions

CHAPTER I Victim Support Offices

Article 27. *Organisation of victim support offices.*

1. The government and the autonomous regions with powers in relation to justice shall organise the victim support offices for which they are responsible.
2. The Ministry of Justice or the autonomous regions may enter into collaboration agreements with public or private non-profit entities to provide the assistance and support services referred to in this Title.

Article 28. *Functions of victim support offices.*

1. Victim support offices shall provide assistance including, as a minimum:
 - a) General information regarding victims' rights and, in particular, the possibility of accessing a public compensation scheme.
 - b) Information regarding available specialist services which can assist victims, in light of their personal circumstances and the nature of the offence which may have been committed against them.
 - c) Emotional support for victims.
 - d) Advice on financial rights related to the proceedings, in particular, the procedure for claiming compensation for any harm or loss suffered and the right to access legal aid.
 - e) Advice on the risk of and how to prevent secondary or repeat victimisation, intimidation or reprisals.
 - f) Coordination of the different organisations, institutions and bodies which provide victim support services.
 - g) Coordination with judges, courts and the public prosecution service to provide victim support services.
2. Victim support offices shall carry out an assessment of the victim's individual circumstances, especially as regards the circumstances referred to in section 2 of article 23, in order to determine what assistance and support the victim should be provided with, which may include:
 - a) The provision of psychological support and assistance.
 - b) Being accompanied during the trial.

- c) Information regarding available psychosocial and welfare resources and, where the victim requests it, referral to them.
- d) Special support measures which may be necessary in the case of victim with special protection needs.
- e) Referral to specialist support services.

3. Access to victim support services shall not be conditional on a complaint having been made.

4. Victims' relatives may access victim support services, in accordance with the regulations, in the case of offences which have caused particularly serious harm.

5. Victims with disabilities or special protection needs, as well as their relatives, where applicable, shall receive the assistance and support necessary, either directly or by referral to specialist services.

Article 29. *Support functions in relation to restorative justice and out-of-court disposals.*

Victim support offices, as determined by the regulations, shall provide support in relation to restorative justice services and other out-of-court disposal procedures established by law.

CHAPTER II

Training

Article 30. *Training in the principles of victim protection.*

1. The Ministry of Justice, the General Council of the Judiciary, the Chief Public Prosecutor's Office and the autonomous regions, within their respective areas of responsibility, shall ensure that general and specific training relating to the protection of victims during criminal proceedings is included in training courses for judges and senior judges, public prosecutors, court clerks, security forces, medical examiners, employees of the justice administration, victim support office employees and, where appropriate, officials of the central state administration or the autonomous regions who perform functions in this area.

Such courses shall pay particular attention to victims in need of special protection, to those where there are factors which make them particularly vulnerable and victims who are minors or have disabilities.

2. *Bar associations and associations of court procedural representatives shall promote the training of their members, as well as raising awareness among them, in relation to the principles of victim protection contained in this Law.*

Article 31. *Action protocols.*

In order to protect victims and the rights conferred on them by this Law more effectively, the government and the autonomous regions, within their areas of responsibility, shall approve whatever protocols are necessary for the protection of victims.



Likewise, professional associations whose members, in their work, have dealings with or provide services to victims of crime shall also promote the development of action protocols which provide guidance on the protection of victims.

CHAPTER III Cooperation and best practice

Article 32. *Cooperation with professionals and assessment of victim care.*

Public authorities shall encourage cooperation with professional groups specialising in dealing with, caring for and protecting victims.

The participation of such groups in schemes for assessing the functioning of rules, measures and other instruments employed to protect and assist victims shall be encouraged.

Article 33. *International cooperation.*

Public authorities shall promote cooperation with other states and especially with the member states of the European Union as regards the rights of victims of crime, in particular by exchanging experiences, promoting information, sharing information to make it easier for the authorities in their place of residence to assist specific victims, awareness-raising, research and education, cooperation with civil society, attending networks on victims' rights and other related activities.

Article 34. *Awareness-raising.*

Public authorities shall promote social awareness-raising campaigns on behalf of victims, as well as the self-regulation of publicly and privately owned social media, in order to preserve the privacy and dignity of victims and their other rights. These rights must be respected by social media outlets.

CHAPTER IV Reimbursement obligation

Article 35. *Reimbursement obligation.*

1. Any person who has benefitted from subsidies or aid on account of being a victim and who has been the subject of any of the protection measures regulated in this Law shall be obliged to reimburse the amounts received on such grounds and to pay any expenses incurred by the state as a result of its recognition, protection and support, as well as on account of the services provided, plus interest charged at the statutory rate plus five per cent, where that person is found guilty of making false allegations or simulating the offence.

2. The procedure for paying amounts arising under the above reimbursement obligation and determining the amounts relating to each item shall be as laid down in the regulations.

3. This provision shall apply without prejudice to the provisions of the Spanish Legal Aid Act (Ley de Asistencia Jurídica Gratuita).

First additional provision. *Periodic assessment of the victim support system in Spain.*

The functioning of victim support institutions, mechanisms and guarantees shall be assessed on an annual basis by the Ministry of Justice in accordance with the procedure determined by the regulations.

These assessments, the results of which will be published on the Ministry's website, will serve as a guide for improving the protection system and adopting new measures to ensure its efficacy.

The government shall provide the Spanish Parliament with an annual report containing the assessment and proposals for improving the victim protection system and measures to ensure its efficacy.

Second additional provision. *Resources.*

The measures included in this Law must not imply the provision of more staff or higher salaries or other staffing costs.

Sole transitional provision. *Temporary application.*

The provisions contained in this Law shall apply to victims of crime from the date of its entry into force, but will not apply retroactively to procedures which have already been completed.

Sole repealing provision. *Repeal of regulations.*

All regulations of equal or lower rank, insofar as they contradict the provisions of this Law, are hereby repealed.

First final provision. *Amendment of the Criminal Procedure Rules for the purposes of transposing certain of the provisions contained in 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.*

The Criminal Procedure Rules are hereby amended as follows:

One. Article 109 is amended to be worded as follows:

«Article 109.

When complainants having the necessary legal capacity are being questioned by the judge, the court clerk shall inform them of their right to take part in the proceedings and to relinquish or otherwise the restitution of property, redress for any damage and compensation for the harm caused by the punishable act. He or she shall also inform them of their rights under current legislation, but may delegate this function to staff specialising in victim support.

Where the victim is a minor or the victim's capacity has been modified by a court, the same information shall be given to the victim's legal representative or the person assisting the victim.



In cases other than those provided for in the two preceding paragraphs, the parties to civil or criminal proceedings shall not be notified in any way which prolongs or holds up the conduct of the case, although that does not prevent the court clerk trying to inform an absent complainant of that right.

In any event, in the procedures applicable to offences included in article 57 of the Criminal Code, the court clerk shall ensure that the victim is notified of any proceedings which could affect his or her safety.»

Two. A new article 109a is introduced and is worded as follows:

«Article 109a.

1. Victims of crime who have not waived their right to do so may bring criminal proceedings at any time before the offence is formally classified, although that does not make it permissible to go back to or repeat proceedings which have already taken place prior to the victim taking part.

In the event of the death or disappearance of the victim as a consequence of the offence, criminal proceedings may be brought by his or her spouse, where they are not legally or effectively separated, or by any children of the victim or his or her spouse, where they are not legally or effectively separated, who are living with them at the time of the death or disappearance; by any person who, at the time of the death or disappearance, is in a comparable sentimental relationship with the victim or by any children of that person who are living with the victim at the time of the death or disappearance; by the victim's parents and relatives in the direct or collateral lines up to the third degree for whom the victim has parental responsibility and persons under the victim's protection or guardianship or who are being fostered by the victim.

Where none of the above persons exist, proceedings may be brought by other relatives in the direct line or by the victim's siblings, with preference, among them, to the victim's legal representative.

2. The fact that criminal proceedings have been brought by any of the persons entitled to do so in accordance with this article does not prevent other entitled persons from doing so subsequently. Where there are numerous victims, all of them may take part independently and with their own representation. Nevertheless, in such cases, where the proper conduct of the proceedings or the right to proceedings without undue delay may be affected, the judge or court, giving a reasoned decision and after hearing all parties, may order them to be represented by one or various court procedural representatives and by one or various legal representatives, in light of their respective interests.

3. Criminal proceedings may also be brought by victims associations and by juristic persons having locus standi to defend the rights of victims, provided that the victim of the crime has authorised it.

Where the aim of the offence, whether summary or indictable, was to prevent local authority officials from carrying out their public duties, or to obstruct them in doing so, the local authority in whose territory the punishable act was committed may also take part in the proceedings.»

Three. Article 110 is amended to be worded as follows:

«Article 110.

Those adversely affected by an offence, whether summary or indictable, and who have not waived their right to do so may take part in proceedings, if they do so before the offence is formally classified, and may bring whatever civil proceedings are appropriate, as they wish, although proceedings which have already taken place will not be affected on that account.

Even where those who are adversely affected do not take part in the case, they shall not on those grounds be regarded as having waived their right to any restitution, redress or compensation ordered in their favour in any final decision. Where applicable, that right must be waived in a clear and categorical manner.»

Four. Article 261 is amended to be worded as follows:

«Article 261.

Nor shall the following persons be obliged to lodge a complaint:

1. The offender's spouse, where they are not legally or effectively separated, or the person in a comparable sentimental relationship with the offender.
2. The offender's progenitors or progeny and his or her collateral relatives up to and including the second degree.»

Five. Article 281 is amended to be worded as follows:

«Article 281.

The following are exempt from compliance with the preceding article:

1. The injured party and his or her heirs or legal representatives.
2. In cases of murder or homicide, the spouse of the deceased or the person in a comparable sentimental relationship with the deceased, the progenitors and progeny of the deceased and his or her collateral relatives up to and including the second degree, the victim's heirs and the parents and children of the offender.
3. Victims associations and juristic persons having locus standi to defend the rights of victims, provided that the victim has expressly authorised them to bring criminal proceedings.

Exemption from bail does not apply to foreign nationals where they are not entitled to it under international treaties or on account of the principle of reciprocity.»

Six. The first paragraph of article 282 is amended to be worded as follows:

«The aim of the Criminal Investigation Department (Policía Judicial) and the obligation of all its members shall be to investigate the public offences committed within its territory or boundaries; according to its powers, to take the steps necessary to verify them and identify the offenders, gathering any property, implements and evidence related to the offence and in danger of disappearing and placing them at the disposal of the judicial authority. Where victims come into contact with the Criminal Investigation Department, the Department must comply with the obligations relating to information provided for by current the legislation. Likewise, the Department must carry out an assessment of the particular



circumstances of those victims, to determine, provisionally, what protection measures should be employed to ensure that they are adequately protected, without prejudice to any final decision made by the judge or court.»

Seven. Article 284 is amended to be worded as follows:

«Article 284.

As soon as officers of the Criminal Investigation Department become aware of a public offence, or where they are asked not to investigate on account of a private offence, they shall inform the judicial authority or the representative of the public prosecution service of that fact, where they can do so without ceasing any crime prevention actions. Otherwise, they will do so as soon as they have completed those actions.

Where weapons, implements or property of any kind which may be related to the offence has been gathered and was found in the place where the offence was committed or in the vicinity of that place, or in the possession of the accused or other known party, a record shall be made of where, when and the occasion on which it was found, to include a detailed description giving an exact idea of it and the circumstances in which it was found, which may take the form of a photographic report. The record must be signed by the person in whose possession the property was found.

The seizure of property which may belong to a victim of the offence must be notified to that victim.

The person affected by the seizure may, at any time, lodge an appeal against the measure with the investigating judge, in accordance with the provisions of the third paragraph of article 334.»

Eight. Article 301 is amended to be worded as follows:

Details of the investigation shall be confidential and shall not be made public until the criminal trial begins, with the exceptions established by this Law.

The lawyer or court procedural representative of any party who improperly reveals the content of the investigation shall receive a fine of between €500 and €10,000.

Any person who is not a public official and is guilty of the same of infringement shall incur the same fine.

In the case described in the preceding paragraphs, a public official shall incur the liability stated in the Criminal Code for that place.»

Nine. A new article 301a is introduced and is worded as follows:

«Article 301a.

The judge, either ex officio or at the request of the public prosecution service or the victim, may order any of the measures referred to in section 2 of article 681, where necessary to protect the privacy of the victim and due respect for the victim and his or her family.»

Ten. Two new paragraphs, a third and a fourth, are added to article 334 and are worded as follows:

«The person affected by the seizure may, at any time, lodge an appeal against the measure with the investigating judge. This appeal shall not require the involvement of a lawyer where it is lodged by third parties other than the accused. The appeal shall be regarded as having been lodged where the person affected by the measure, or a relative of that person who is of legal age, has expressed their dissatisfaction at the time of the seizure.

Property belonging to the victim of the offence shall be returned immediately, apart from exceptional circumstances in which it has to be retained as evidence or for other official purposes, in which case it will be returned as soon as possible. Property shall also be returned immediately where it must be preserved as evidence or for other official purposes, but its preservation can be guaranteed by imposing on the owner an obligation to make it available to the judge or court. The victim may, in any event, appeal against such a decision in accordance with the provisions of the preceding paragraph.»

Eleven. Article 433 is amended to be worded as follows:

«Article 433.

When arriving to give evidence, witnesses shall hand the court clerk a copy of the witness summons.

Witnesses who are of legal age shall take an oath or promise to say everything they know about whatever they are asked, the judge being obliged to inform them, in clear and comprehensible language, of their obligation to be truthful and that it is an offence to give false evidence in criminal proceedings.

Witnesses who, in accordance with the provisions of the Victims of Crime Act (Estatuto de la Víctima del Delito), are classified as victims of the offence may be accompanied by their legal representative or by a person of their choice during these proceedings, unless, in the latter case, the investigating judge makes a reasoned decision to the contrary, to ensure the proper conduct of the proceedings.

In the case of witnesses who are minors or persons whose capacity has been modified by a court, the investigating judge may, in view of the victim's lack of maturity and where necessary to avoid causing him or her serious harm, order evidence to be taken from them by experts and with the involvement of the public prosecution service. To that end, the judge may also order that the victim be asked questions directly by experts or even exclude or limit the presence of parties in the place where the victim is being questioned. In such cases, the judge will determine what is necessary to allow the parties to ask the victim questions or request clarification, where possible.

The judge shall order the recording of the testimony by audiovisual means.»

Twelve. Article 448 is amended to be worded as follows:

«Article 448.

If the witness, having been warned in accordance with article 446, states that it is impossible for him or her to attend court on account of having to be out of the country, or where he or she reasonably has sufficient reason to fear his or her death or physical or mental incapacity before the start of the criminal trial, the



investigating judge shall order the testimony to be taken immediately, while always ensuring the parties have the opportunity to rebut it. To that end, the court clerk shall inform the accused to instruct a lawyer within twenty-four hours, if he or she has not yet done so, or that, failing that, one will be appointed for him or her, ex officio, to advise him or her when the witness is testifies. After that time, the judge will hear an oath from the witness and re-examine him or her, in the presence of the defendant and his or her lawyer and also in the presence of the public prosecutor and the complainant, where they wish to attend the proceedings, allowing them to ask the witness whatever questions they wish, except those which the judge considers to be manifestly impertinent.

The answers to the questions shall be recorded by the court clerk and the record shall be signed by all those present.

The testimony of witnesses who are minors or persons whose capacity has been modified by a court may be taken avoiding visual confrontation between them and the accused, using, to that end, any technical means which makes it possible for them to give evidence.»

Thirteen. Section 7 of article 544b is amended to be worded as follows:

«7. Civil measures must be requested by the victim or by his or her legal representative, or by the public prosecution service where children who are minors or persons whose capacity has been modified by a court are involved; the compliance regime applicable to them must be determined, as well as any additional measures necessary, where applicable, provided that they have not previously been ordered by a civil court, without prejudice to the measures provided for in article 158 of the Civil Code. Where there are minors or persons whose capacity has been modified by a court living with the victim and who depend on him or her, the judge must decide on the appropriateness of the above measures.

Such measures may consist in awarding them use of the family home, determining the custody regime, visits from and communication with minors or persons whose capacity has been modified by a court, the maintenance regime, as well as any ruling which is considered appropriate to keep them out of danger and avoid them being caused harm.

The civil measures contained in the protection order shall have temporary validity for a period of 30 days. Where, during that time, family proceedings are initiated in the civil courts at the instance of the victim or his or her legal representative, the measures ordered shall remain in effect for thirty days after the claim is lodged. During this time, the measures must be ratified, modified or lifted by the competent judge of first instance.»

Fourteen. A new article 544d is introduced and is worded as follows:

«Article 544d.

1. In cases where one of the offences mentioned in article 57 of the Criminal Code is being investigated, the judge or court, where necessary to protect the minor or person whose capacity has been modified by a court, where appropriate and giving reasons, shall order any of the following measures:

a) Suspension of the parental responsibility of one of the parents. In this case, the judge may establish a visiting and communication regime in the interests of the minor or person whose capacity has been modified by a court and, where applicable, the conditions and guarantees applicable to its implementation.

b) Suspension of guardianship, custody or fostering.

c) Establishment of a regime for supervising the exercise of parental responsibility, guardianship or any other tutelary, protection or support role in relation to the minor or person whose capacity has been modified by a court, without prejudice to the powers of the public prosecution service and competent public bodies.

d) Suspension or modification of any regime for visiting or communicating with an absent parent or other relative which may be in place, where necessary to ensure the protection of the minor or person whose capacity has been modified by a court.

2. Where, during the course of the proceedings, it becomes apparent that a minor is at risk or possibly be neglected and, in any event, where any of the measures in points a) or b) of the preceding section were ordered, the court clerk shall immediately notify the competent public body with legal responsibility for the protection of minors of that fact, as well as the public prosecution service, so that they can put in place the necessary protection measures. For the same purposes, they shall be notified of their lifting or any other modification, as well as the decision referred to in section 3.

3. Once the proceedings have concluded, the judge or court, exclusively assessing the interests of the person affected, shall ratify or lift the protection measures which have been put in place. The public prosecution service and the parties affected by a measure may ask the judge to modify or lift it, in accordance with the procedure set out in article 770 of the Spanish Civil Procedure Rules (Ley de Enjuiciamiento Civil).»

Fifteen. Article 636 is amended to be worded as follows:

«Article 636.

The only avenue of appeal available against a decision to dismiss proceedings, where applicable, is a petition for cassation.

The decision to dismiss the proceedings shall be notified to the victims of the offence, by email or, failing that, by ordinary mail at the postal address or place of residence designated in the application provided for in article 5.1 m) of the Victims of Crime Act.



In cases of death or disappearance caused by the offence, the decision to dismiss the proceedings shall be notified in the same way to the persons referred to in the second paragraph of section 1 of article 109a, where their identity and email or postal address are known. In such circumstances, the judge or court may, giving reasons, order the notification of all the relatives to be dispensed with where several of them have already been successfully notified or where efforts to locate them have proved unsuccessful.

Exceptionally, in the case of individuals residing outside the European Union, where they do not have an email or postal address, the notification shall be sent to the Spanish diplomatic or consular office in their country of residence for publication.

Where five days have passed since the notification, it shall be regarded as having been validly carried out and shall take full effect, with the time limit for lodging an appeal being calculated from that point. Cases where the victim can prove that he or she could not reasonably access the content of the notification shall be exempt from this regime.

Victims may lodge an appeal against a decision to dismiss proceedings within twenty days, even where they were not a part to the case.»

Sixteen. Article 680 is amended to be worded as follows:

«Article 680.

In order to be valid, hearings in criminal trials must be held in public, subject to the provisions of the following article.»

Seventeen. Article 681 is amended to be worded as follows:

«Article 681.

1. After hearing the parties, the judge or court may, ex officio or at the instance of any of the parties, order all or some of the trial proceedings or hearings to be held in private, where necessary for reasons of safety or public order, or to adequately protect the fundamental rights of those appearing, in particular, the victim's right to privacy and due respect for the victim and his or her family, or where necessary to avoid significant harm to the victims which, otherwise, may arise from the ordinary conduct of the proceedings. The judge or the presiding judge may, nevertheless, authorise the presence of persons who can show they have a particular interest in the case. The above restriction, without prejudice to the provisions of article 707, shall not apply to the public prosecution service, persons injured by the offence, defendants, private prosecutors, victims who are also bringing civil proceedings and their respective counsels.

2. The judge or court may also order the following measures to protect the privacy of the victim and his or her relatives:

a) Prohibition on divulging or publishing information relating to the identity of the victim, details which could, directly or indirectly, make it easier to identify the victim, or the personal circumstances assessed in order to decide on the victim's protection needs.

b) Prohibition on obtaining, divulging or publishing images of the victim or his or her relatives.

3. In any event, it is prohibited to divulge or publish information relating to the identify of victims who are minors or victims with disabilities and in need of special protection, details which could, directly or indirectly, make it easier to identify them, or the personal circumstances assessed in order to decide on their protection needs; it is also prohibited to obtain, divulge or publish images of such victims or their relatives.»

Eighteen. Article 682 is amended to be worded as follows:

«Article 682.

After hearing the parties, the judge or court may restrict the presence of audiovisual media at trial hearings and prohibit all or any of the hearings being recorded, where that is essential to preserve order at those hearings and protect the fundamental rights of the parties and others appearing, especially the right of victims to privacy, due respect for victims and their families and the need to avoid significant harm to victims which, otherwise, may arise from the ordinary conduct of the proceedings. To that end, the judge or court may:

- a) Prohibit audio or video recording when certain kinds of evidence are being given or determine what proceedings may be recorded and broadcast.
- b) Prohibit images of one or more of the persons appearing being taken and broadcast.
- c) Prohibit the identity of the victims, witnesses, expert witnesses or any other person appearing in the trial being disclosed.

Nineteen. Article 707 is amended to be worded as follows:

CRIMINAL CODE AND ADDITIONAL LEGISLATION

All witnesses shall be obliged to say what they know about whatever they are asked, except for the persons stated in articles 416, 417 and 418, in their respective cases.

Where necessary to prevent or reduce any harm which may arise for them from the conduct of the proceedings in question, evidence may be taken from witnesses who are minors, or those having disabilities and in need of special protection, avoiding visual confrontation between them and the accused. To that end, any technical means may be used which makes it possible for such evidence to be taken, including using communication technologies to enable witnesses to be heard without being present in the courtroom.

These measures shall also apply to evidence taken from victims where their initial or any subsequent assessment indicates that they need such protection measures.»

Twenty. Article 709 is amended to be worded as follows:

«Article 709.

The presiding judge shall not allow the witness, during examination or cross-examination, to answer trick, leading or irrelevant questions.



The presiding judge may order measures to avoid the victim being asked unnecessary questions relating to his or her private life which are not relevant to the offence being tried, apart from exceptional cases where the judge or court considers that they must be answered to adequately assess the facts or the credibility of the victim's statement. Where such questions are asked, the presiding judge shall not allow them to be answered.

A petition for cassation may be lodged against any decision made in this regard, where the relevant objection is raised at the time.

In that case, the question which the presiding judge has not allowed to be answered shall be stated in the record of the proceedings.»

Twenty-one. Article 730 is amended to be worded as follows:

«Article 730.

At the request of any of the parties, records of the investigation stage of the proceedings, which, for reasons other than the wishes of the parties, may not be played during the trial, may be read or played, as may evidence taken during the investigation stage, in accordance with the provisions of article 448, from victims who are minors or victims with disabilities in need of special protection.»

Twenty-two. Section 2 of article 773 is amended to be worded as follows:

«2. Where the public prosecution service is notified of an apparently criminal act, either directly or on account of a complaint or statement being made, it shall notify the victim of his or her rights under current legislation; it shall carry out a provisional assessment of and make a provisional decision regarding the victim's needs, in accordance with the provisions of current legislation, and shall take the steps necessary, or shall order the Criminal Investigation Department to take the steps necessary, to verify that an offence has been committed and establish the responsibilities of those involved. The public prosecutor shall order the discontinuance of the proceedings where the act in question does not appear to be an offence, notifying whoever claimed to have been harmed or offended of the dismissal and the grounds for it, so that he or she may repeat the complaint to the investigating judge. Otherwise, the public prosecutor shall ask the investigating judge to initiate the relevant proceedings, with reference to the proceedings which have already taken place, placing at the judge's disposal the person under arrest, where applicable, and any material related to the offence.

The public prosecution service may require any person to appear before it to give evidence, in accordance with the legal provisions for judicial summonses, in which case the same guarantees as indicated in this law for evidence given before a judge or court shall apply.

The public prosecutor shall take no further steps as soon as he or she becomes aware of the existence of judicial proceedings dealing with the same acts.»

Twenty-three. Rule 1 of section 1 of article 779 is amended to be worded as follows:

«1. Where he or she considers that the act does not constitute a criminal offence, or where there does not appear to be sufficient evidence for it, he or she shall issue the appropriate order dismissing the proceedings. Where, although the act may constitute an offence, there is no known perpetrator, he or she shall order the suspension of the prosecution and the shelving of the case.

The decision to dismiss the proceedings shall be notified to the victims of the offence, by email or, failing that, by ordinary mail at the postal address or place of residence designated in the application provided for in article 5.1 m) of the Victims of Crime Act.

In cases of death or disappearance caused by the offence, the decision to dismiss the proceedings shall be notified in the same way to the persons referred to in the second paragraph of section 1 of article 109a, where their identity and email or postal address are known. In such circumstances, the judge or court may, giving reasons, order the notification of all the relatives to be dispensed with where several of them have already been successfully notified or where efforts to locate them have proved unsuccessful.

Exceptionally, in the case of individuals residing outside the European Union, where they do not have an email or postal address, the notification shall be sent to the Spanish diplomatic or consular office in their country of residence for publication.

Where five days have passed since the notification, it shall be regarded as having been validly carried out and shall take full effect. Cases where the victim can prove that he or she could not reasonably access the content of the notification shall be exempt from this regime.

Victims may lodge an appeal against a decision to dismiss proceedings within twenty days, even where they were not a part to the case.»

Twenty-four. Section 3 of article 785 is amended to be worded as follows:

«3. Where the victim has requested it, even where he or she is not a party to the proceedings, nor required to appear, the court clerk must inform him or her, in writing and without undue delay, of the date, time and place of the trial, as well as the content of the charges preferred against the offender.»

Twenty-five Section 2 of article 791 is amended to be worded as follows:

«2. The court clerk shall set a date for the hearing to take place in the following fifteen days and all the parties shall be summoned to appear. Where the victim has requested it, he or she shall be informed by the court clerk, even where he or she is neither a party nor required to appear.

The hearing shall begin, where applicable, with evidence being taken and recordings being played, where necessary. The parties shall then give an oral summary of the evidence and the grounds for their claims.»



Second final provision. *Amendment of Organic Law 10/1995, of 23 November, on the Criminal Code.*

Section 2 of article 126 of Organic Law 10/1995, of 23 November, on the Criminal Code, is amended to be worded as follows:

«2. Where the offence is one that may be prosecuted at the request of party, the private prosecutor's costs shall be paid in preference to compensating the state. The payment of procedural costs incurred by the victim in the circumstances referred to in article 14 of the Victims of Crime Act shall have the same preferential status.»

Third final provision *Jurisdiction.*

This Law is enacted under the exclusive jurisdiction in relation to criminal and procedural legislation conferred on the state by article 149.1.6 of the Spanish Constitution. The foregoing excludes Title IV, which is enacted under the exclusive jurisdiction in relation to the administration of justice conferred on the state by article 149.1.5 of the Spanish Constitution, and the provisions of Title I, which is enacted under the exclusive jurisdiction in relation to regulating the basic conditions ensuring the equality of all Spaniards in the exercise of their rights and in the fulfilment of constitutional duties, conferred on the state by article 149.1.1 of the Spanish Constitution.

Fourth final provision. *Authorisation for regulatory implementation.*

The government is authorised to approve the regulatory provisions necessary to implement the provisions of this Law.

Fifth final provision. *Adaptation of the rules of the Spanish legal profession.*

Associations and general councils of lawyers and court procedural representatives shall take the measures necessary to adapt their respective rules to the provisions of section 2 of article 8 of this Law, within one year of its entry into force.

Sixth final provision. *Entry into force.*

This Law shall enter into force six months from its publication in the official gazette of the Spanish state (Boletín Oficial del Estado).



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