

Criminal Mediation System (CMS)

The Criminal Mediation was introduced at Portugal through the Law n. ° 21/2007, 12th of June. Therefore, the XVII Constitutional Government executes the article 10. ° of Framework Decision n.º 2001/220/JAI, of the Council of the European Union, on the standing of victims in criminal procedure, which determines that the European Members should make efforts to promote the MEDIATION under criminal proceedings.

The CMS has competence to mediate disputes resulting from the practice of certain crimes.

For mediation to take place, it is necessary, namely:

- There is a criminal process;
- Are concerned crimes that rely on private prosecutions or crimes against persons or property which the criminal proceedings relies on complaints;
- Are concerned crimes against persons or property;
- Are concerned crimes whose sentence is imprisonment up to 5 years or penalty of a fine;
- That the victim has 16 years old or older;
- Are not concerned crimes against freedom or against sexual self-determination;
- That the proceeding form is not a summary proceeding.

Examples of crimes likely to mediate:

- Simple or negligence offense to physical integrity;
- Threat;
- Defamation;
- Actionable words;
- Domicile violation or disturbance of private life;
- Larceny;
- Abuse of trust;
- Damage;
- Bounders alteration:
- Trick:
- Trick to obtain food, drinks or services
- Usura;

During the inquisition phase, procedural stage in which it investigates the practice of a crime, the offender and the victim can, voluntary and with a joint decision, require the prosecutor to refer the case to MEDIATION. The prosecutor can also, during the same inquisition phase and if has collected evidences of the crime and who commits it, refer the case to MEDIATION, if understand that this way we can meet the demands of prevention, if they are felt. In which case there will only be MEDIATION if the offender and the victim agree. Where the MEDIATION produced an agreement the prosecutor is obliged to check whether it is legal and, if so, this agreement equals to withdrawal of a complaint by the victim and not the opposition of the offender, thus ending the process of criminal mediation. If the agreement was not fulfilled within the prescribed period, the victim can renew the complaint within one month and the inquiry is reopen.

The use of the CMS is gratuitous, no matter the quantity of mediations.

The CMS is operating in the circuits court of Barreiro, Braga, Cascais, Coimbra, Loures, Moita, Montijo, Porto, Santa Maria da Feira, Seixal, Setúbal e Vila Nova de Gaia and also in the pilot circuits court of Alentejo Litoral, Baixo Vouga and Grande Lisboa Noroeste.