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### Citizenship and justice: public prosecutors in social contexts in Portugal

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## Work in Progress

# Citizenship and justice: public prosecutors in social contexts in Portugal

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**ABSTRACT** *All over the world judicial systems are under tremendous pressure as the instruments used by citizens to access their full rights. The erosion of other state powers has transferred expectations of social intervention or, at least, protection for the rights of the weak and vulnerable, to the sphere of justice. Hence, in some countries the social role of judges or public prosecutors has become more important and their work is publicly scrutinised to ensure that their duties are performed correctly and fairly. In addition to criminal law, social areas of justice (concerning workers and children) have become more central to judicial systems, conferring a new public responsibility on these professionals.*

*In several countries, including Portugal, public prosecutors are unusual within the legal profession given that they have equal status in both social and criminal areas of law. In certain systems, public prosecutors may act as a party, defending the rights of powerless citizens and leading them through the judicial process. Such powers offer great potential for fairness and justice but at the same time can lead to dangerous professional controversies. Through an analysis of the Portuguese model, one of the more advanced of its kind (in terms of intervention), some of the main features will be described and identified.*

*Public prosecutors in Portugal have, for many years, been in charge of a set of very varied responsibilities within the context of the Family and Juvenile and Labour Courts which far exceed what is publicly acknowledged, particularly in criminal matters. However, their functions are not limited to those of the 'public prosecutor' or 'coordinator of the investigation' typically associated with responsibilities in criminal matters.*

*Within the context of these two major and socially sensitive areas, public prosecutors act as intermediaries between the different parties and entities involved in litigation, a fact which, in professional terms, endows them with features which are atypical of magistrates and places them in close contact with citizens. Thus, taking a case study based on the Coimbra Family and Juvenile and Labour Courts as its starting point, this paper aims to map out these formal*

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*and informal functions, which create a level of importance that is probably much higher than would have been expected, particularly given the lack of truly credible and effective alternatives that enable citizens to access law and justice.*

Ours is a judicial tradition defined by two basic pillars: legal positivism in interpreting laws and the law, and an institutional corporativism (not in a derogatory sense) which makes the system close in on itself and seek a self-legitimising discourse. (...) The citizen should be at the centre of the system and this is not the case in a system imbued with a positivist and authoritarian vision centred on the court and the judge, with the citizen appearing to enter from the outside as the beneficiary. The independence of the courts, which is enshrined in a state based on the rule of law, is a right of citizens and a duty of the courts. (Laborinho Lúcio, former Portuguese Ministry of Justice, *Público*, 29 January 2007)

### **1. Why are public prosecutors so important nowadays?**

In the last two decades, the increasing social visibility of the courts has conferred far greater importance on all its agents (judges, public prosecutors, lawyers, officials, etc.). The media focus, a recent phenomenon emerging in the 1980s, has grown significantly since the start of the twenty-first century. Even though it is unwanted, especially by judges, the growing importance of the courts is forcing them to adapt to new expectations and demands on the part of the general public.

The erosion of modern democratic systems and the diminishing prestige of their protagonists have gradually shifted the burden of the defence of democratic legitimacy to the courts (Tate & Vallinder, 1995; Dias & Almeida, 2010). This is due to the fact that the courts are legitimised by their recruitment and training methods as well as by professional performance, even though this departs from the constitutional principles of impartiality and independence (Nelken, 2009; Guarnieri, 2003).

Given that the executive and legislative powers, due to their dependence on electoral results, favour electoral strategies with short-term goals instead of coherent medium and long-term policies, and since it is difficult to create alternatives to the current models of government, politicians have been losing credibility. In contrast, the apparent stability of judicial power, based on principles rather than people, has helped strengthen its essential public credibility as a power that controls the other state powers, thus reinforcing this credibility at the core of the democratic system.

At the beginning of the twenty-first century, hopes of regaining social, economic and employment stability are invested in the courts. It is symptomatic of our troubled times that these old institutions, which have always been conservative,<sup>1</sup> are now, in the eyes of the public, one of the few bodies that can maintain a progressive stance against the voracious appetite of the capitalist economy and ensure the civil rights established in previous centuries (Santos *et al.*, 1996, p. 19). However, even the defence of civil

rights contains conservative elements if it does not incorporate new principles, above all involving a new stance against the new powers that have emerged in modern societies.<sup>2</sup>

In this context, the independence of the justice system is becoming increasingly important in terms of ensuring effective citizens' rights. This depends greatly on the ability of the courts to perform all the functions ascribed to them by law. However, this ability is significantly influenced by the means made available by the executive powers, the laws enacted by the legislator and the professionals working in the courts. Thus, in several countries there is a growing awareness of public prosecutors, one of the legal professions considered until recently to be of lesser importance.

As several studies have shown, the role performed by public prosecutors in different countries encompasses a wide range of functions and models which makes comparison difficult (Dias & Azevedo, 2008; Tak, 2004; Di Federico, 2005; Fionda, 1995; Luna & Wade, 2012). It is hard to find similar studies or comparative empirical data, especially when the focus extends beyond the traditional work on criminal cases to include work within the social areas of court activities, namely the Labour and Family and Juvenile Courts. In most countries, public prosecutors do not play a key role in these areas. Nevertheless, the global debate on judicial reforms has not overlooked the emancipatory potential included in the responsibilities for these sensitive areas in some countries nowadays, which calls for improved and more extensive court intervention. This has been the case, although on different levels and involving different models, in several countries including Portugal and Spain in Europe, and Brazil and Argentina in South America. The in-depth analysis of six European countries selected for a recent comparative study on the use of information and communication technologies in public prosecutors' offices (Fabri, 2007) shows that creating a comparative framework is not an easy task.

The aim of this paper is to focus on the social functions of public prosecutors in Portugal, therefore contributing towards creating a more reflective context for their potential role as agents involved in promoting the rights of socially vulnerable citizens. The article will therefore examine their performance from the point of view of the role they play within the judicial system in the Labour and Family and Juvenile Courts, their relationship with citizens, the (re)definition of their professional 'profile', and the mechanisms for internal, institutional-administrative and civic/community-orientated links. The analysis will also take into consideration current research into new legal aid mechanisms and different models or solutions in national contexts (Paterson & Sherr, 2007; Rhode, 2004), and the work of other professionals who exercise this role (Mather & Granfield, 2009). Some general conclusions are presented, outlining possibilities for a future reform of the role of public prosecutors in Portugal.

## **2. Defining public prosecutors in Portugal: a complex set of responsibilities**

As Deborah L. Rhode (2004) clearly describes, although referring to the situation in the United States, there is a major gap in almost all Western countries between the fundamental right of access to law and justice and the practical reality. It is one of those principles aptly described by the old saying "law in books/law in practice",

with major consequences for the erosion of citizens' rights. Several countries have introduced reforms in order to achieve a fair balance between the resources available and the demands of citizens. Nevertheless, recent economic developments in Europe, for instance, have led states to withdraw financial resources and slow down the (new) legal mechanisms that might promote a wider system of access to law and justice for citizens (Pedroso *et al.*, 2003a; Ferreira *et al.*, 2007). In her article, Sommerlad (2008) draws on a series of studies of legal aid reforms to conclude that, given the neo-liberal nature of the reforms, the wider social and political meaning of the 'master ideal' of access to justice leads to the erosion of both social rights and access to justice.<sup>3</sup>

Any analysis of the impact of the public prosecutor's role in Portugal must therefore consider its integration within a complex system of legal mechanisms that facilitate access to law and justice. In Portugal, the public prosecution service is a separate profession, but has a parallel status to the judiciary (Dias, 2012). Access to both professions is via the same procedure which selects, on average, 150 candidates per year to enter the Centre for Judicial Studies. Once admitted, they then choose whether to become judges or public prosecutors.<sup>4</sup>

Since the 1974 Revolution, when the fascist government was replaced by new democratic institutions, the role of the public prosecutor has been extended, not only in terms of its competencies, but also its autonomy. Thus, in theoretical terms, public prosecutors are classified as important players within the existing mechanisms that provide access to law and justice. The way in which this judicial body has evolved has meant that its actions have become increasingly important, not only because of its wider role, but also its increased capacity to operate, partly as a result of a continuous process of institutional affirmation since 25 April 1974 (Dias *et al.*, 2008).

The current model of autonomy for public prosecutors encompasses a huge number of responsibilities which include directing criminal investigations and instituting criminal proceedings, promoting and coordinating measures to prevent crime, controlling the constitutionality of laws and regulations, monitoring the Judicial Police, and promoting social (labour, family and children's) rights, in addition to defending the interests of the state and various other interests (e.g. the environment and consumer issues). However, traditionally public prosecutors also play a crucial role in access to law and justice since, in many cases, they are the first contact citizens have with the judicial system. This proximity lies within the scope of their competencies but also includes informal mechanisms, making it far more important than judicial statistics reveal (especially in areas of a more social nature associated with workers, the family and children).

Due to their status within the official justice system and their ability to set up partnerships and cooperate with other state, private or civil society entities prior to the judicial process,<sup>5</sup> the public prosecutor's status as an 'intermediary' enables them to play a leading role in combining formal and informal means of conflict resolution, in addition to being able to take on either of these roles. Although they can, and very often do, exercise this function, this is not always the case.

This is very relevant since there has been a tendency in recent years to reformulate the responsibilities and roles of the different (new and old) legal professions operating within the Portuguese judicial system, introducing processes to make justice

more informal and less court-centred in order to provide citizens with access to law and justice (Pedroso *et al.*, 2002, 2003a; Dias & Pedroso, 2002). The wide range of activities carried out by public prosecutors gives them a multifunctional status,<sup>6</sup> which raises several doubts and issues and makes them the target of differing and not always consensual opinions. However, it is my working assumption that within the current social, political and judicial context the performance of public prosecutors cannot be ignored and cannot, and should not, be understated, as this would risk reducing effective citizens' rights (Dias, 2005).

### **3. A multiple and ongoing in-depth analysis of Portuguese public prosecutors**

The main purpose of this article is to engage with the ways in which citizens and institutions establish relations with public prosecutors working in areas associated with labour, the family and children, whether as part of their legal powers or through informal practices. This may be of great importance to the (re)definition of their professional 'profile', depending on how these findings are integrated and implemented. It demands reflection on the possible changes which may have to be introduced and the duties that should be assumed, bearing in mind those of the other legal professions. It also enables the current mechanisms for internal, institutional-administrative and civic/community-orientated links to be mapped out and studied, which, due to their 'intermediary' position, have become the central focus of public debate whenever the reform of the Statute of Public Prosecutors is discussed.

In terms of methodology, the article gathers its information from previous and ongoing research projects concerned with access to justice and law, the organisation and training of the judiciary and the legal professions, developed over the last 10 years at the Centro de Estudos Sociais, mostly within the Permanent Observatory on Portuguese Justice. The combination of quantitative and qualitative methods allows for in-depth, comprehensive results that consider the judicial system from a general perspective. There are, therefore, no boundaries between the different types of research, which allows the different contributions to be supplemented and combined, ranging from interviews, focus groups, workshops, non-participatory observation, analysis of court cases (based on selected samples of cases), to legal analysis and national and local judicial statistics (including statistical analysis per case category in all the legal areas, namely criminal, civil, labour, family and juvenile law).

This article draws on all these methods, focussing mainly on interviews, local and national judicial actors (including national public prosecutors with coordination responsibilities), legal analysis, focus groups held with judges, public prosecutors and actors responsible for the Portuguese Bar Association, the National Commission for the Protection of Children, the social services, trade unions and business associations, amongst others, and non-participatory observation of the Labour and Family and Juvenile Courts in Coimbra. The case study, undertaken in a medium-sized city, provides general but complex information, combining cases

typical of the bigger cities such as Porto and Lisbon with the variety of cases still brought before the smaller courts. As previous research has demonstrated, an analysis based on Coimbra can be extrapolated to a national level, with the normal precautions.

Finally, this article is also embedded in two different research projects. The first, entitled ‘The role of public prosecutors in citizens’ access to law and justice in family, children and labour conflicts: a case study of the Coimbra Courts’ was completed in 2008, serving as a preliminary approach and enabling the main materials to be gathered through fieldwork. The second research project, ‘Who are they? Insights into the professional characterisation of judges and public prosecutors in Portugal’, began in 2010 (and will continue until 2013). Amongst other objectives, it aims to produce a national survey of judges and public prosecutors, with a particular focus on the functions, identities, professional ideas and behaviour associated with their role as facilitators of access to law and justice.

The importance that can be attributed to this analysis, from an international comparative perspective as is customary in our research, lies in the transformation or reform of an existing profession that may have enormous potential for improving the conditions under which citizens access the judicial system and which differ from country to country. In addition, public prosecutors in Portugal, and several other countries, undeniably occupy a key (intermediary) position, not only in the judicial system but also within state and public/private entities whose mission is to protect citizens’ rights. The analysis therefore begins from this background.

#### **4. The functions of public prosecutors: from discrete actions to visible importance**

Law No. 60/98 of 27 August, which first appeared as the Public Prosecutors’ Statute (PPS) following the 1997 Constitutional Review, introduced a new definition of public prosecutors, according to which

Public prosecutors represent the State, defend the interests determined by law, take part in conducting criminal policy as defined by the sovereign bodies of the state, exercise penal action guided by the principle of legality, and defend democratic legality, in accordance with the terms of the Constitution, this Statute and the law. (Article 1, 1)

Cunha Rodrigues (1999, p. 34) asserts that “the wording evolved from a definition to a competency norm. It now has the potential to express the complex characteristics attributed to public prosecutors and, as such, the features of their identity”.

In fact, one of the basic characteristics of public prosecutors in Portugal concerns their polymorphism and vast, heterogeneous and transversal set of attributes and competencies. According to Gomes Canotilho and Vital Moreira (1993, p. 830 ff), the functions of public prosecutors can be grouped into four areas:

representing the state, namely in the courts, in the proceedings in which they are involved, acting as a type of state lawyer; instituting criminal proceedings

(...); defending democratic legality, intervening in administrative and fiscal litigation amongst other areas, and monitoring constitutionality; defending the interests of certain persons who have a greater need for protection, namely, after ascertaining certain requirements, children, absent individuals, workers, etc.<sup>7</sup>

Under the terms of the PPS, public prosecutors are entrusted with the following responsibilities: representing the state,<sup>8</sup> the autonomous regions, local authorities, persons lacking legal capacity, and persons who are unknown or whose whereabouts are unknown; applying criminal policy as defined by the sovereign bodies of the state; instituting criminal proceedings guided by the principle of legality; officially representing workers and their families, defending their social rights; defending various collective interests under the terms prescribed by law; defending the independence of the courts within the scope of their duties and ensuring that jurisdictional functions are conducted in accordance with the Constitution and the law; ensuring that the court decisions they are legitimately allowed to promote are implemented; directing criminal investigations, even if conducted by other bodies; producing and implementing crime prevention measures; monitoring the constitutionality of normative acts; intervening in bankruptcy and insolvency cases and in all cases involving the public interest; consultancy work; monitoring the procedural work of criminal police organisations; appealing whenever a decision results from collusion between the parties for the purpose of defrauding the law or with the intention of breaking the law; and any other functions conferred on them by law<sup>9</sup> (cf. Article 3).

These duties are also mentioned in procedural law and other legislation. Public prosecutors can intervene as principals<sup>10</sup> or as accessory parties, depending on whether they represent or are the main representative of the party or whether their role is merely to safeguard the interests attributed to them by law. It can therefore be concluded that in addition to being transversal to the entire process, the work of public prosecutors also involves specific functions in which they are sometimes the plaintiff and at other times the defendant or even *amicus curiae* (Dias *et al.*, 2008).

### **5. Public prosecutors in the context of labour and family and juvenile matters: recent changes**

The study undertaken in 2002 by Pedroso *et al.* at the Permanent Observatory of Justice set out to analyse the work of public prosecutors in labour conflicts and conflicts involving families and children. Both in this study and in more recent ones (Ferreira *et al.*, 2007; Santos & Gomes, 2006), public prosecutors stand out in terms of procedural aspects, due mainly to qualitative features rather than quantitative performance, and this has reinforced the importance of their role in increasingly sensitive areas. In other words, the complexity of the matters under analysis makes increasing demands on the profession. This was partly acknowledged when it was decided that more experienced magistrates should be appointed to these posts: the public prosecution service in the Labour and Family and Juvenile Courts is now



represented by District Prosecutors, whereas previously such posts had been entrusted to Deputy District Prosecutors.<sup>11</sup>

The advent of court cases attracting intense media interest in both these areas, especially cases involving children, is one of the best indicators of the growing drama surrounding the work of public prosecutors in social areas. This 'sign' is even clearer when the symptoms of a wider economic and social crisis, such as Portugal is currently facing with the so-called state debt crisis, are examined in greater depth. Interestingly, media attention has been most intense in the area which has registered a slight decrease, proving yet again that a causal relationship cannot always be established between the performance and discharge of justice.

The analysis of statistics for the previous decade has enabled three major trends to be identified with regard to the involvement of public prosecutors in labour affairs in Portugal: (1) an increase in the number of cases involving work-related accidents in which public prosecutors intervened (there was also an increase in closed cases; (2) fewer cases of work-related sickness than work-related accidents, but an overall increase in incoming cases and a decrease in closed cases; and (3) a decrease in the number of pending cases involving individual employment contracts, following a decrease in the total number of cases (Ferreira *et al.*, 2007).<sup>12</sup>

During the same period, the data for cases involving the family and juveniles in which public prosecutors intervened reveal a number of trends reflecting reforms that have been introduced and which have reduced the volume of cases, namely: (1) an increase in the total number of incoming cases; (2) an increase in closed cases; and (3) an increase in pending cases. In terms of the supervisory aspects of the work of public prosecutors, despite an increase in incoming cases, the number of closed cases decreased slightly. This same situation is reflected in cases involving the protection and promotion of children's rights (Ferreira *et al.*, 2007; MJ, 2011).

In addition to intervening in cases, public prosecutors also provide a public consultation service, a situation which has also achieved some prominence and will be explored later. However, it should first be noted that this role is carried out in collaboration with other institutions which provide information and legal counselling within the context of labour, family and children's issues. As António Casimiro Ferreira notes with regard to labour matters, a wide range of options are currently available both in the state sector (the IDICT/IGT,<sup>13</sup> CITE<sup>14</sup> and public prosecutors) and the private sector (lawyers and other legal professions) as well as in the community (trade unions and associations) for those seeking information or legal advice (Ferreira, 2005a, p. 404; 2005b). This is also true in the context of the family and children, albeit with less diversity. In addition to public prosecutors and the police, citizens can apply to the Commissions for the Protection of Children, the social services or several associations working in this field.

In this multilateral system, to which can be added the arbitration, conciliation and mediation services already in place in this area (although underperforming), public prosecutors act as intermediaries between citizens in search of their 'tutelage' and the wide range of institutions which offer different responses to the multiple needs of citizens.

## 6. Public prosecutors and citizens: a multi-faceted relationship

Providing information and legal advice, promoting forms of conciliation or legal aid or referring citizens to other bodies or entities involved in conflict resolution are some of the everyday activities of public prosecutors with regard to labour, the family and children, and also in other areas which, in most instances, are not derived directly from their legal competencies.<sup>15</sup> Citizens therefore have access to a multi-faceted judicial body, mostly through a public consultation service, which not only pursues citizens' rights by judicial means, but also involves conflict resolution in the form of legal information/advice, conciliation and/or mediation.<sup>16</sup> However, there is very little recognition of this practice by other judicial and political players and it is undervalued, deliberately or otherwise, by public prosecutors themselves.

In the words of António Casimiro Ferreira, this work in the context of labour affairs is set within a framework of labour jurisdiction to which public prosecutors have, over the years, ascribed greater importance and recognition. According to this author, among their various duties,

the public consultation service has become (...) one of the main activities developed by public prosecutors in this area, with their role reduced at times to that of a mere provider of legal information since there is no need to cite any legal provision, or to highly successful attempts to resolve conflicts outside the courts. (Ferreira, 2005a, p. 430)

The same can be said of the jurisdiction covering the family and children, given that the importance of the consultation service is very similar.

In 2007, three developments took place in this area which merit attention, given the reverse trend they reveal. The first involved the concern voiced by the Public Prosecutors' Union (PPU) during its congress held from 1 to 3 February 2007 on the theme of 'The Community Responsibilities of Justice: the Role of Public Prosecutors'. In fact, the PPU strategically re-directed public discourse away from the legitimacy of public prosecutors, not just to its constitutional functions in a restricted sense, as is customary, but to a broader perspective, focusing on how its functions respond to citizens' needs. Moreover, it highlighted the duties/responsibilities/role of public prosecutors with regard to citizens as part of their different functions, including the public consultation service.<sup>17</sup>

Secondly, the appointment of the Attorney General, Fernando Pinto Monteiro, appeared to signal a change in terms of the value ascribed to the public prosecutor's relationship with citizens. He issued a directive on 30 May 2007 in which he referred to the fact that the

public prosecutors' magistracy should be increasingly seen as an active, cooperative magistracy, close to the community it serves, able to respond in timely fashion to the needs of citizens and of justice in every situation in which it is called upon to act.

He added that it was

imperative that the public prosecution service should be organised in such a way as to be able to respond effectively and in timely fashion to the requests that fall within its sphere of competencies, in a culture of proximity to citizens. To this end, efforts will have to be redoubled with a view to enhancing the public consultation services already in place, as an important component of the duties of public prosecutors, in addition to ensuring that this service is available in areas where it has not yet been implemented.<sup>18</sup>

Finally, as part of the process of compulsory professional assessment for public prosecutors, the discussion document for the reform of the Regulations for Inspection of Public Prosecutors, published in 2007 by the committee chaired by the Deputy General Adjunct, Rodrigues Maximiano, highlights the importance of this professional area. One of the report's findings considers that

inspections to assess the professional merit of public prosecutors must gauge all the areas in which duties are discharged, which implies not just analysing the results obtained and the achievement of the objectives set, but also tasks which are not usually a focus of the inspections, such as incoming and outgoing correspondence, how public prosecutors respond to enquiries from the public, and their conduct inside and outside the courts.

To the best of our knowledge, this concern, supported by the PPU in its written opinion of 6 March 2007, has not yet been incorporated into inspection procedures.

Some of the issues which involve public prosecutors working closely with citizens will now be briefly considered.

### 6.1. *The public prosecution consultation service*

Most public prosecutors working in the lower, general or specialised courts, such as the Labour or Family and Juvenile Courts, have office hours, allowing citizens access to an informal service whereby they can obtain an opinion from a judicial authority. Such services, as described informally by many public prosecutors contacted by the author, confirm that information and legal advice are provided to citizens.

This service enables matters raised by citizens to be screened so that they can then receive immediate advice, assistance in filing a judicial case or advice on how to do so. As far as information and legal advice are concerned, public prosecutors seek to resolve matters which concern citizens immediately.

Public prosecutors are called upon to resolve a wide range of situations. This study, which refers to the Labour and Family and Juvenile Courts in Coimbra, provides certain indicators for the more frequent cases, as well as the results of citizens' first contact with the courts.<sup>19</sup> However, public prosecutors do not provide the same attendance service in every court, as the survey and the personal accounts given by public prosecutors make clear. In fact, the situation varies enormously from one court to another.

An *a priori* distinction must be made between the two types of service provided to the public. The data which were consulted and the information gleaned from several

public prosecutors providing services in various courts enabled a difference to be established between *administrative attendance*, when the citizen merely adds an item to their ongoing court case or attempts to find out the status of the case, and *legal attendance*, when information is given and either a possible solution is found for the problem or it is referred to another procedural phase or authority. The data made available by the few courts that collect information on public attendance do not always allow for this distinction to be made. It is possible that a significant percentage (probably in excess of 50%) refers merely to administrative attendance.

### 6.2. *Public attendance practices*

Informal contact with several public prosecutors working in different specialised courts which vary in scale and number enabled different models to be identified. Some courts offer daily consultation services, usually when a sufficient number of public prosecutors are available. Other courts offer a weekly service when no more than one or two public prosecutors are available. The exception is the service for citizens involved in ongoing court cases, in which case advice is given by the public prosecutor responsible for the case concerned. In this respect, sizeable Labour and Family and Juvenile Courts, such as those in Lisbon, succeed in running stable consultation services, with public prosecutors working in shifts and providing an adequate response to the various demands. Other public prosecutor services offer a fluctuating system with no fixed timetable, depending to a large extent on the availability/willingness and 'profile' of the public prosecutors involved.

It would appear advisable to standardise procedures and timetables to suit the social and economic context and the courts' human resources, given the diversity of the existing situations. If citizens know what the timetables are in advance, they will be better equipped to organise their personal and professional lives. However, the fact that most current court consultation timetables run from 9.30 to 12.30 and from 13.30 to 16.00 significantly limits access, since, in most cases, they are incompatible with normal working hours. Naturally, this problem is not exclusive to the courts, but calls for multiple responses (online or telephone consultations, preferred points of contact, prior arrangements for meetings, etc.), so that the limited timetables do not restrict citizens' access to the law and justice.

Providing a consultation service for the public is a skill which requires legal training and preparation, in addition to keen social awareness.<sup>20</sup> For this reason, it is a matter of concern that this service is sometimes provided by court officials rather than public prosecutors. This is significant because it is through this initial contact with the court that citizens become aware of their rights and can consider the different alternatives associated with their problem. Making this the responsibility of court officials, no matter how experienced they may be in terms of initial screening and deciding whether or not the problem is 'worth' taking to the public prosecutor, seems to be too great a risk.

The fact that there are many instances in the consultation service files of documents simply being handed in to be attached to a case, a situation which officials can easily manage, does not reduce the need for public prosecutors to be/obliged to assess the remaining situations, such as those involving employment contracts or

affecting children. A second aspect to be borne in mind when consultation services are not provided by public prosecutors concerns a dual loss of credibility. Firstly, this affects justice in general, since citizens seeking the assistance of a public prosecutor and only gaining access to junior staff may become disillusioned with the image they have of justice and its agents. Secondly, it affects the public prosecutors themselves, in the sense that it implies that working in direct contact with citizens is less prestigious.

Doubts have therefore emerged concerning the ways in which the public prosecution consultation services operate in terms of schedules and quality/credibility. The trend, as analysed in the documents quoted in Section 5, is to professionalise and revalue these practices. However, other problems have also emerged, as will be discussed below.

### *6.3. The geography of justice or the geography of citizens' rights*

Providing a service at the national level which effectively covers the entire territory guarantees that citizens will have easy, swift, informed and free access. This is one of the advantages ensured by the distribution of public prosecutor services under the current model for the organisation and functions of the judiciary. However, the poor national distribution of Offices for Legal Advice, for which the Bar Association and local authorities are responsible, and the (non)existence of other mechanisms to facilitate access to law and justice on the same scale, makes the presence of public prosecutors even more essential. In addition, the small number of other, non-judicial structures providing legal information and advice, even in more specialised areas, limits the choices available to citizens. It should be emphasised that the services offered nationally by lawyers or offices of the Inspectorate-General for Labour and Commissions for the Protection of Children, among others, do not provide the same coverage as public prosecutors. There is also the matter of paying for the services provided by lawyers, unlike the services provided by public prosecutors, which may make all the difference to many citizens.

Given this geographical distribution, a certain historical tradition in establishing a direct and informal relationship between citizens and public prosecutors can be cited. This tradition is very pronounced in the area of labour law and has been reinforced within the context of family and children. It should, however, be noted that this alleged tradition derives to a large extent from an historical lack of alternatives, including lawyers, who were rarely to be seen in many regions of Portugal until a few decades ago and even to this day in some regions.<sup>21</sup>

The costs associated with a court case, with or without legal aid, can be another limiting factor affecting the way citizens exercise justice in the area of labour or family and children's law. Thus, good consultation service timetables, which take into account the different options available to citizens, represent added value and can, in the initial stages, help solve situations which at first sight could only be resolved in a court of law.

One important aspect regarding the territorial distribution of courts concerns the possibility/need – in areas where there is no Labour or Family and Juvenile Court – for the initial consultation session to be conducted by a public prosecutor working in a

general court. If it is impossible to respond to the needs of citizens or certain legal doubts are involved, the public prosecutor may contact a colleague working in the nearest appropriate court with a view not only to obtaining swift clarification but also to making prior arrangements for the citizen to go to the Labour or Family and Juvenile Court in question. These intra-professional links are important in terms of extending the response provided by public prosecutors and providing them with greater flexibility.

Intra-professional links are fragile, since they are more likely to develop out of the active engagement of public prosecutors than from institutionalised professional practices that are the result of professional training or directives. As far as could be established, these links are tenuous, limited and depend on personal relations between public prosecutors. They exist, but are very limited in terms of scope and efficacy.

#### *6.4. Citizens' 'confidence' in public prosecutor services*

The 'image' of credibility and independence associated with magistrates (judges and public prosecutors) is another factor which may contribute towards the level of trust citizens place in the consultation services provided. Despite all the controversy surrounding justice, surveys show that courts and magistrates in general still generate confidence as far as citizens are concerned, through their aura of competence, independence and lack of bias.

The public prosecutor's ability to resolve situations by referring citizens to other more competent and specialised bodies is another feature which endows them with a degree of confidence and competence, since they are very familiar with the system within which they work. Thus, the work of public prosecutors may involve several stages, sequentially, alternatively or simultaneously. As an example, in the area of labour law a public prosecutor can: (a) refer workers to their trade union, if they are unionised and the union offers legal services; (b) advise workers, as applicable, to request legal aid; (c) clarify the worker's situation; (d) implement a conciliation strategy, in order to find a solution for the parties; (e) lodge a complaint with the Inspectorate-General for Labour or inform the appropriate bodies of situations which are beyond their powers; or (f) advise workers to take the case to court, represented by a public prosecutor.

These actions enable public prosecutors to provide swift and informed assistance to citizens, or at least to inform them of the mechanisms at their disposal. The fact that public prosecutors are involved on a financially and functionally independent basis means that they can act efficiently as an intermediary between the multiple mechanisms within the system and the citizen's interests and concerns.

## **7. Public prosecutors at a professional crossroads: justice and citizenship**

### *7.1. Citizenship rights vs. professional 'pressure'*

In terms of access to law and justice, the public consultation services have, for a long time, been undervalued by the state, judges, public prosecutors and lawyers. This is

evident in an analysis of the role, evolution and statistical data for Legal Advice Offices, for which the Bar Association, the state and local authorities are responsible (Pedroso *et al.*, 2002; MJ, 2011). It is also clear that creating several mechanisms for conflict resolution serves, to a large extent, to resolve ongoing situations rather than prevent or clarify them. Certain public services, such as the Inspectorate-General for Labour (IGT, 2007), which has improved access to labour-related information, have been developed more successfully, together with the provision of legal information and the Commissions for the Protection of Children (CNPJCR, 2006), which have led to informal progress in cases that would otherwise have been difficult to introduce into the system via the courts (Ferreira *et al.*, 2007).

As a rule, professionals have always sought to legitimise their functions through increased specialisation and technical expertise (Kritzer, 1999; Dias & Pedroso, 2002). When faced with a crisis in professional identity, the reformulation of professional functions and competencies and a growing demand for citizenship, professionals seek to revalue themselves via direct contact with their *raison-d'être*: citizens. However, this is not yet the case where public prosecutors are concerned.

As prominent players in terms of citizens' contact with the courts, public prosecutors have committed a triple strategic error, which has contributed towards undervaluing their contact with citizens:

- (a) internally, by the public prosecutors themselves (through their hierarchical structures), in failing to highlight or question this aspect of their daily performance, or to ensure that it features in official reports and performance assessments (Dias, 2004);
- (b) externally, since it is not highlighted by the public prosecutors themselves and therefore is not included in professional agenda-setting and/or political and professional discourse; and
- (c) inter-professionally, since it is not valued in relation to other legal operators as a specific element capable of guaranteeing better access to law and justice.

This triple error has given rise, as we have seen, to some confusion concerning the way in which the services provided by public prosecutors are viewed and integrated. Although the service exists, it is not evaluated, is not accountable and therefore is not valued. The public prosecutor who displays a greater 'tendency' to provide the service is likely to be penalised for not settling as many cases as he/she should (since the latter do count in terms of statistics).

This aspect of the work of public prosecutors, especially in social contexts, has gradually been gaining recognition, albeit not as a central issue or a true priority. Its inclusion in the agenda of the last two PPU Congresses and the concerns expressed in documents on reforms to the regulations for the inspection of public prosecutors and the Public Prosecutors Statute have not yet been presented consistently and systematically as a central aspect of professional performance.

### 7.2. *The civic–professional aptitudes of public prosecutors*

The training of public prosecutors, which may very often not be as complete and adequate as desired for the purposes of covering personal situations which do not involve any criminal matters, can lead to a certain amount of controversy and limit the exercise of citizens' rights. The diversity and social complexity of the issues involved may even highlight the question of the quality of the service provided. Even in legal terms, the information and advice offered may require a different training from that currently provided by the Centre for Judicial Studies, since it is a different function from the one for which prosecutors are 'trained', which focuses on the civic aspects of their work. In other words, legal knowledge alone is not sufficient; listening, understanding and intervention skills are also required.

The demand for compulsory additional training for public prosecutors working in specialised courts such as the Labour and Family and Juvenile Courts should be an issue on the public prosecutors' agenda. It should not simply cover legal knowledge, but also the procedures for offering advice to citizens and attempting informal conflict resolution at an early stage. In addition, providing direct advice to citizens nowadays calls for demanding professional practices which can be developed through training programmes, since not all individuals develop these skills over time. Citizens cannot wait for public prosecutors to acquire a 'feel' for their practice or experience or to develop an inclination towards consultation work.

The opinion put forward by Paulo Morgado de Carvalho, mentioned above (see note 20) is that the performance of public prosecutors working with citizens cannot depend on the 'profile' of each professional, arguing that, as is the case with other duties, public prosecutors should be provided with the necessary tools, through training and professional awareness, to guarantee a quality consultation service.

### 7.3. *Legal and professional legitimacy*

The legitimacy of tendering legal information and advice is at present subject to a great deal of questioning. There is an ongoing debate as to whether carrying out these functions means exceeding the public prosecutor's remit and possibly usurping the competencies of other legal professions, especially lawyers. The issue of legitimacy is, above all, linked to 'competition' in terms of legal competencies and a surplus of professionals in a small-scale market. In addition, the impartiality with which public prosecutors dispense information and legal advice is seen as questionable, given that in the later procedural stages they may become one of the parties. Thus, the opinions of public prosecutors may lack impartiality and objectivity since they are 'formatted', that is, bound by principles and criteria which 'force' them to place their legal duty above other considerations. Legal imperatives do not always prevail over personal dilemmas and there is a possibility that the information and advice tendered may not necessarily follow what is laid down in law.

The issue of legal information and advice, together with legal aid, rendered to citizens by public prosecutors constitutes one of the most controversial aspects



affecting the different legal agents (more so in the context of labour than family and children's issues). Several arguments were put forward (in the context of labour law) during several focus groups held as part of earlier research (Pedroso *et al.*, 2002, 2003b; Ferreira *et al.*, 2007) in which the topic was discussed. The arguments that emerged are summarised here:

- (1) arguments presented against public prosecutors providing legal information and representing workers: (a) the lack of human resources; (b) the need for public prosecutors to re-focus on their duties as magistrates; (c) the inequality between public prosecutors and lawyers representing workers, given that the former take on a dual role as 'lawyer' and judicial authority, symbolically influencing the parties involved in litigation; and (d) the existence of other bodies which provide legal information; and
- (2) arguments in favour of keeping the current model: (a) the potential to prevent litigation and offer conciliation; (b) the lack of credible alternatives for less wealthy, non-unionised citizens; (c) the good performance of the current 'informal' system; (d) the need for public prosecutors to continue to perform all their other functions in the courts; and (e) the intermediary role of public prosecutors within the system as a whole.

Despite these arguments, the lack of consistent and effective alternatives has substantially reduced the controversy, even amongst the professionals who would benefit most from a possible reformulation/reduction of the public prosecutor's role in social contexts. In the context of family and children's issues, the work of public prosecutors is not directly contested, given the vulnerable situations in which they are involved, especially when this affects children at risk, even though lawyers may consider that they could also defend children, subject to state compensation (Ferreira *et al.*, 2007). Structures that have been created or reinforced in recent years, such as Justices of the Peace, the arbitration and mediation systems or the legal advice offices, are not yet able to ensure or replace the work of public prosecutors. They can, however, supplement their work, as is evident in their current performance, providing citizens with a wider range of methods for resolving conflicts.

## **8. The different public prosecutor coordination mechanisms**

The role which public prosecutors can/should play in the context of labour, family and children's matters can thus be characterised as an intermediary position. Exercised from within the judicial system, it can be developed through three coordination mechanisms: internal, institutional and/or administrative, and civic or community orientated.<sup>22</sup>

With regard to the first, it is the duty of public prosecutors to improve their internal coordination mechanisms. A number of the issues raised above, such as standardising professional procedures and practices on an internal level, and creating links with other external bodies, would be facilitated if the work of the public prosecutors in the different Labour and Family and Juvenile Courts was coordinated effectively, either formally or informally through the Attorney General's Office or via their

regional representatives. At present, given the lack of any hierarchical interest in coordinating and standardising practices and procedures, an earlier study (Ferreira *et al.*, 2007) recorded that some of the inefficiency detected was the result of a lack of internal coordination, especially within specific legal areas.

Institutional and/or administrative coordination is another area in which the public prosecutor's intermediary role is more prominent, through the capacity and potential to play a central role in relations with other bodies (Commissions for the Protection of Children, mediation systems, trade unions, associations, etc.) and when referring administrative cases, assisting citizens in what is, at times, a tortuous bureaucratic procedure. The public prosecutor's natural aptitude, as a result of their legal remit, to promote inter-institutional dialogue also means that potential contacts within different areas of law operate more efficiently and swiftly. The practice set up by some public prosecutors in cases concerning children is highlighted by some non-judicial agents as being speedier and more flexible in resolving urgent situations, such as those involving children at risk.

Finally, public prosecutors play a civic and/or community role by acting as a link between citizens who apply to them and other institutions which may be better prepared to deal with their queries or resolve their problems. This intermediary role between citizens and the Inspectorate-General of Labour, trade unions, social services, Commission for the Protection of Children or the Victim Support Association (APAV), for example, and public prosecutors working in penal law, is essential in guaranteeing that those who are less well-informed and the more vulnerable and excluded have decent and inclusive access to services and organisations that can resolve their problems. This not only implies that public prosecutors must be informed about developments and changes at work in society, but also that they are proactive and able to listen, understand and be sensitive to the wide range of situations they face on a daily basis.

Therefore, given the current organisation of the public prosecution service and its duties in social contexts, does it have the availability, capacity and skills to exercise these functions proactively? When situations are identified or suspected that may indicate irregularities in businesses or involve children who are at risk, does it investigate or refer them to the competent bodies? Are there, in fact, links with the various bodies working in the areas of labour, family and children? Are there structures which can act, either formally or informally, as mechanisms to link the different types of action?

The answers to some of these questions may be affirmative, since there are public prosecutors who are more active. Others will be negative, given the overall attitude towards withdrawing responsibility and the autonomous and somewhat individualistic perspective applied to these functions. Naturally, it is not simply up to the public prosecution service to assume leadership of initiatives which seek to establish the necessary links. However, it is unquestionably the responsibility of the players who can exert the most pressure, in a positive sense, with a view to institutionalising mechanisms for cooperation between the Labour and Family and Juvenile Courts and the appropriate bodies in areas which remain sensitive. Locating all the different players in the same physical premises would make citizens' lives far easier. The distances and journeys for those who try to solve their problems in Coimbra in a single day, involving

visits to the Social Security Office, Tax Office, Institute of Forensic Medicine or Inspectorate-General for Labour, in addition to the Labour Court, is one example of the current difficulties citizens face.

## 9. Where are public prosecutors heading? Concluding notes

Contrary to current claims, public prosecutors in Portugal have changed considerably over time. Even though they retain their core role as the defenders of legality, just as in times gone by they defended the monarch's interests, the range of functions they have gradually acquired has made them key figures in the 'architecture' of the judicial power structure and as guarantors of legality and citizens' rights (Dias, 2010). Given their status, identity and professional role, public prosecutors are undoubtedly one of the main players currently involved in access to law and justice and in promoting citizens' rights. However, their performance and ability to adjust to ongoing changes in the sphere of justice (participating actively in decision-making) will be crucial in defining their future remit, (formal and informal) professional practices and the extent of their involvement in a new, integrated system of access to law and justice (Pedroso *et al.*, 2003a, p. 52).

The arguments presented here regarding the work of public prosecutors in social contexts (the Labour and Family and Juvenile Courts) lead to the conclusion that their duties extend far beyond the legal remit laid down by the law. Although it is their duty to 'serve' the citizen, public prosecutors are also expected to act as an 'intermediary', both within and outside the judicial power structure, for the different players acting in these areas, whether institutions, associations or merely citizens in search of 'justice'.

Three perspectives have been examined in this analysis of the role and performance of public prosecutors within the judicial system: their relationship with citizens (through public consultation services and their more important attributes); the (re)definition of their professional 'profile' (which involves not only reflecting internally on their role, but also on their commitment to new professional skills and assuring their legal-professional legitimacy); and the mechanisms for internal, institutional-administrative and civic/community-orientated links.

Thus it can be established that public prosecutors have become key players in labour and family and children's matters by promoting citizens' rights and access to justice. In terms of citizens' expectations this work, which combines formal and informal professional practices, has four major features: (1) it is *unavoidable* in many situations when, due to the nature of the conflict, citizens can only apply to public prosecutors or, in other cases, do not know where to go or do not 'trust' other potential players; (2) it is *complementary* when, in addition to the support provided by other areas or institutions, they require institutional/judicial 'cover' to protect them from some unexpected problem; (3) it *guides* citizens by explaining the legal-institutional paths open to them, in addition to or as an alternative to the public prosecution service; and (4) it *resolves* conflicts through the information it provides or the way in which it intervenes between the parties, seeking a swift (in)formal solution.

The new players emerging with competencies for conflict resolution, such as mediation and arbitration services or Justices of the Peace, are not yet sufficiently well-established to assume some of these functions. Whether due to the judicial culture of citizens, poor resources for implementing these mechanisms, the 'reactions' of the various legal professions or simply because of their perceived lower credibility in guaranteeing a balance between the parties involved in conflicts, these responsibilities remain very relevant and make public prosecutors invaluable players in the current configuration of the system for conflict resolution.

The growing challenges emerging in our global society on different legal fronts are bringing a great deal of pressure to bear on public prosecutors, which has not always been well managed, and has led to demands being made of them in terms of monitoring and guaranteeing the effectiveness of rights. The response they will be able to give, in terms of performance within their current remit, will thus be a crucial element in deciding their professional evolution and forms of organisation. The promotion of citizens' rights depends in part on their professional performance. For this reason, public prosecutors who are effective, competent and swift are a structuring element in the judiciary and the democratic system itself, by promoting access to law and justice.

In short, faced with a lack of alternative mechanisms to ensure that the current responsibilities of public prosecutors in social areas are carried out, it is difficult to envisage any alteration that does not involve improving their working conditions. However, this position must not involve any sense of complacency. Proactive public prosecutors are both possible and desirable within an integrated conflict resolution system. This is the role they crave and the role that citizens' rights demand.

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### Notes

- [1] Carlos María Cárcova states that the law has sanctioned different forms of unequal distribution of goods and power, which often appear as *naturalised* in hegemonic social discourses (1998, p. 9).
- [2] The courts are, nowadays, also essential in overseeing and ensuring the equilibrium emerging out of the 'rethinking' of citizenship in the twenty-first century. In this sense, see Yegen (2008).

- [3] This is one of the main reasons that has led several authors to consider access to justice a human right and a crucial instrument in guaranteeing equal justice for all citizens (Smith, 2007; Pedroso *et al.*, 2002).
- [4] In the last two years, due to the financial crisis in Portugal, the government has decided not to recruit any judges or public prosecutors, thus delaying career renewal and reducing the overall number of professionals at a time when the amount of cases reaching the courts is still increasing. The number of pending cases at the end of each year is therefore becoming unacceptable. For an analysis of the reasons behind the financial crisis, and its impact in several areas, see, among others, Santos (2011), Estanque (2011) and Ferreira (2012).
- [5] One example is the way in which public prosecutors deal with contractual non-compliance on the part of employers, initially by providing legal information to the worker, and later by attempting informal reconciliation between the parties (organising individual and joint meetings and solutions). A second stage, should an irregularity be detected for which some other body is responsible, may consist of referring the case to the Inspectorate-General for Labour, for example. Finally, they can support the worker's law suit, should the latter be non-unionised, if this is seen as the best way to resolve the conflict, by defending their labour rights or suggesting the worker applies to the Department of Social Security to request legal aid.
- [6] The various functions exercised by Portuguese public prosecutors do not differ very much from those of other public prosecutors, especially in Latin American countries. On the remit and functions of public prosecutors in several legal jurisdictions, see Machado (2007), Aaken *et al.* (2010) and Dias and Azevedo (2008).
- [7] The same authors also argue that the simultaneous exercise of the different functions may not be lacking in conflicts and incompatibilities, since the defence of the state's private interests cannot always be balanced with, for example, the defence of democratic legality (Canotilho & Moreira, 1993, p. 830 ff).
- [8] It is of interest here to know whether this is a case of legal representation or of representation. Referring to the administrative aspect, Sérvulo Correia (2001) appears to view this as legal representation. Cunha Rodrigues (1999, p. 156) also appears to view the matter thus, when he refers to the work of public prosecutors as "an exercise in state advocacy". Contrary to this, although he is referring to the activity of public prosecutors in civil jurisdiction, Carlos Lopes do Rego (2000, p. 83) states that this is "a true, organic representation of the Central Administration before the courts" – and not a mere legal patronage conducted by agents of the public prosecutors which, in the author's view, would imply compulsory representation, with the intervention of a judicial mandate signifying, as prescribed by Article 20(1) of the Code of Civil Procedure, a most exceptional situation requiring "a law passed by Parliament or a Decree-Law sanctioned by the legislative authority, given that we are dealing with matters in the public prosecutor's remit and attributes – within the scope of the legislative competency of Parliamentary responsibility [Article 165(1), cl. p] – Portuguese Constitution]" (2000, p. 98).
- [9] As an example of these additional functions prescribed by law, emphasis should be placed on liaising between the support services associated with a ruling and its implementation and the court, within the context of legislation relating to children.
- [10] Public prosecutors intervene as a principal when, as prescribed by Article 5 of the PPS, they represent the state, the autonomous regions and local government, persons lacking legal capacity, and persons whose whereabouts are unknown (provided the legal representatives do not formally object to such intervention in the case). They also officially represent workers and their families and various collective interests, and intervene in the remaining cases as prescribed by law.
- [11] In Portugal the following categories of public prosecutor exist: Prosecutor-General (Procurador-Geral da República); Deputy Prosecutor-General (Procurador-Geral Adjunto); District Prosecutor (Procurador da República); Deputy District Prosecutor (Procurador-Adjunto).
- [12] The current official statistics were consulted directly via the website of the Ministry of Justice, using its new online service that makes the data available to the general public (see: [http://www.siej.dgpj.mj.pt/webeis/index.jsp?username=Publico&pgmWindowName=pgmWindow\\_634742484174748750](http://www.siej.dgpj.mj.pt/webeis/index.jsp?username=Publico&pgmWindowName=pgmWindow_634742484174748750)) (MJ, 2011).

- [13] Currently the Authority for Conditions in the Workplace (ACT).
- [14] Commission for Equality in Labour and Employment (CITE).
- [15] Reports presented by the Ministry of Justice and the Prosecutor-General's Office do not provide statistical data for these practices, restricting such information to the cases recorded in court. This omission does not provide an accurate idea of the real work of public prosecutors. Only some courts record activities relating to the public consultation service and the results of this work (referrals, clarifications, support in filing a case, etc.).
- [16] There is an unacknowledged dialectic between the option favouring real justice (in the courts) and social justice (which has a greater effect on citizens), the latter being far quicker than the former (Pedroso & Ferreira, 1997; Ost, 2001; Van de Kerchove *et al.*, 2000). Public prosecutors choose one of these options, depending on legal areas, concrete cases and individual professional practice, in an evaluation which 'blends' the principle of legality (in force in the Portuguese legal framework) and the principle of opportunity, applied in practice whenever the option is for a solution other than applying the principle of legality.
- [17] The last congress, held at the beginning of 2012, maintained this focus by highlighting the theme of "Justice, Citizenship, and Development".
- [18] In spite of the good intentions in the directive, hardly anything has been done in recent years to establish a national public service in Public Prosecutors' Offices in courts as an organised and coordinated national strategy advocated by the Public Prosecutors Union and part of the initial goal of the Attorney General.
- [19] The data gathered are not yet systematised or completely reliable. Such data are not always submitted by public prosecutors themselves and the archives containing these documents on attendance sessions are not always retained from one year to the next. The latter situation is, regrettably, the case with the Coimbra Family and Juvenile Court.
- [20] Paulo Morgado de Carvalho, public prosecutor and former Inspector-General for Labour, has argued that, given the variety of practices and aptitudes, it has become necessary to institutionalise and record the public prosecutor consultation services, reinventing a credible 'historical tradition' which confers a very positive specific character on public prosecutors in terms of their relations with citizens (talk given at the Advanced Training Course on 'The new challenges of Labour Law', organised by the Centro de Estudos Sociais and the Union Association of Portuguese Judges, from 9 to 17 May 2008).
- [21] In 2012 the Ministry of Justice is preparing a new reform of the judiciary, following the agreement signed with the *troika* (the European Commission, European Central Bank and International Monetary Fund) under the international financial assistance programme resulting from the Portuguese state debt crisis, which will close courts dealing with small numbers of cases (less than 300 per year). This will mainly have an impact in rural areas of the country where the courts are still considered an important public service in resolving conflicts. At the same time, the programme is also considering concentrating a number of courts within large structures, leaving access points for citizens in certain villages or small cities only. Critics of this strategy point out the danger of greatly complicating easy access to justice, thus reducing the exercise of citizen's rights.
- [22] With the necessary adjustments, I have drawn up this characterisation of the role of public prosecutors, taking as a starting point the approach recommended by João Pedroso, as far as the law pertaining to children is concerned, which "will thus imply defining a renewed role for public prosecutors as a pivotal interface, since, given the nature of their functions, they are the only body able to articulate community, administrative and judicial work (...)" (1998, p. 75).

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