Area of freedom, security and justice: compensation to crime victims

2002/0247(CNS) - 29/04/2004 - Final act

PURPOSE: To facilitate access to compensation for victims of cross-border crime.

LEGISLATIVE ACT: Council Directive relating to compensation to crime victims.

CONTENT: A number of reasons have prompted the EU to act for victims of cross-border crime. Firstly, the ECJ Cowan judgement which states that Member States must offer EU citizens (entitled to freedom of movement across the EU) the same right of protection against crime as that afforded to their own nationals. Secondly, the Tampere European Council, which calls for the drawing up of minimum standards on the protection of victims of cross-border crime including their right to compensation for damages and legal costs. Thirdly, the 2004 European Council Declaration on Combating Terrorism, which specifically calls on the Commission to adopt this Directive before May 2004.

This Directive complements Framework Decision 2001/220/JHA on the standing of victims in criminal proceedings, in which it is stated that victims of crime are entitled to claim compensation from the offender in the course of criminal proceedings. The purpose of this Directive is to set up a system of co-operation to facilitate access to compensation in cases where the crime was committed in a Member State other than that of the victim's residence. The following measures set up the system of co-operation:

- Victims of international cross-border crime have the right to submit an application for compensation in the Member State in which they habitually reside – even if the crime has been committed in another EU Member State.

- Compensation should be paid by the Member State on whose territory the crime was committed.

- Each Member States must set up "assisting authorities" capable of dealing with applications for compensation. These authorities are responsible for ensuring that victims have adequate access to information and are given adequate assistance during the application process. In addition, they are responsible for processing the applications. Importantly, they are not responsible for assessing the applications but must forward them to the Member State in which the crime was committed.

- Each Member State must set up "deciding authorities", who will hear cases for compensation lodged by victims of cross-border crime.

- In terms of compensation awarded, the Directive states that, access to compensation in cross-border situations, are to operate on the basis of compensation schemes drawn up in the Member State in which the crime was committed. Accordingly, Member States must ensure that their national rules provide for such compensation schemes.

- Member States will appoint central contact points to help in the exchange of information and to further co-operation between the assisting and the deciding authorities.

- The Directive allows for more favourable provisions in cases where there are compatible with this Directive.

IMPLEMENTATION: 1 January 2006. 1 July 2005 for provisions relating to the implementation of national rules providing for compensation to victims (article 12.2). Measures necessary to comply with this Directive shall apply only to applicants whose injuries result from crimes committed after 30 June 2005.

ENTRY INTO FORCE: 26 August 2004.