Basic information

2002/0247(CNS) CNS - Consultation procedure Directive	Procedure completed
Area of freedom, security and justice: compensation to crime victims **Subject** 7.40.04 Judicial cooperation in criminal matters	

Key players

European Parliament

Committee responsible	Rapporteur	Appointed
LIBE Citizens' Freedoms and Rights, Justice and Home Affairs	ANGELILLI Roberta (UEN)	10/12/2002

Committee for opinion	Rapporteur for opinion	Appointed
JURI Legal Affairs and Internal Market	The committee decided not to give an opinion.	

Council of the European Union

Council configuration	Meetings	Date
Justice and Home Affairs (JHA)	2579	2004-04-29
Justice and Home Affairs (JHA)	2574	2004-03-30
Justice and Home Affairs (JHA)	2538	2003-11-06

European Commission

Commission DG	Commissioner
Justice and Consumers	

Key events

Date	Event	Reference	Summary
16/10/2002	Legislative proposal published	COM(2002)0562	Summary
07/11/2002	Committee referral announced in Parliament		
30/09/2003	Vote in committee		Summary
30/09/2003	Committee report tabled for plenary, 1st reading/single reading	A5-0330/2003	
22/10/2003	Debate in Parliament		

23/10/2003	Decision by Parliament	T5-0451/2003	Summary
06/11/2003	Debate in Council		
30/03/2004	Debate in Council		Summary
29/04/2004	Act adopted by Council after consultation of Parliament		
29/04/2004	End of procedure in Parliament		
06/08/2004	Final act published in Official Journal		

Technical information

Procedure reference	2002/0247(CNS)
Procedure type	CNS - Consultation procedure
Procedure subtype	Legislation
Legislative instrument	Directive
Legal basis	EC Treaty (after Amsterdam) EC 308
Stage reached in procedure	Procedure completed
Committee dossier	LIBE/5/16867

Documentation gateway

European Parliament

Document type	Committee	Reference	Date	Summary
Committee report tabled for plenary, 1st reading/single reading		A5-0330/2003	30/09/2003	
Text adopted by Parliament, 1st reading/single reading		T5-0451/2003 OJ C 082 01.04.2004, p. 0319-0480 E	23/10/2003	Summary

European Commission

Document type	Reference	Date	Summary
Legislative proposal	COM(2002)0562 OJ C 045 25.02.2003, p. 0069 E	16/10/2002	Summary
Document attached to the procedure	SEC(2004)0322	15/03/2004	
Follow-up document	COM(2009)0170	20/04/2009	Summary
Follow-up document	SEC(2009)0495	20/04/2009	

Other institutions and bodies

Institution/body	Document type	Reference	Date	Summary

EESC	Economic and Social Committee: opinion, report	CES0286/2003 OJ C 095 23.04.2003, p. 0040-0044	26/02/2003	

Additional information		
Source	**Document**	**Date**
European Commission	EUR-Lex	

Final act	
Directive 2004/0080 OJ L 261 06.08.2004, p. 0015-0018	Summary

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

2002/0247(CNS) - 23/10/2003 - Text adopted by Parliament, 1st reading/single reading

The European Parliament adopted a resolution drafted by Roberta AGNELILLI (UEN, Italy) by 431 votes in favour, 35 against and 5 abstentions. The main amendments are as follows: - a new recital states that the needs of crime victims should be considered and dealt with in an integrated fashion, so as to avoid partial or inconsistent measures which could lead to secondary victimisation; -in view of the wide divergences in national legislation as regards compensation to crime victims, the first step should be to establish minimum standards on the matter, while aiming for future harmonisation on a gradual basis. The Commission had stated that an approach aiming at a minimum standard rather than harmonisation is to be preferred; - a minimum standard should dependants and spouses and first-degree relatives of crime victims who have died or become permanently and irreversibly incapacitated as a result of injuries sustained. This replaces the Commission's wording of close relatives; - the minimum standard should be based on the approximation of the existing rules on civil and criminal liability of each Member State and on the model that underlies all the existing compensation schemes, rather than the Commission's wording of tort laws; - there should not be undue delay in compensation the victim, especially where the offender cannot be identified, located or put on trial or lacks the means to pay, or where there are clear signs that the trial will last more than one year; - the directive has a dual objective of establish a minimum standard for compensation of victims of crime and to facilitate access to such compensation in cross-border situations; - each Member State must compensate victims who have become permanently incapacitated or have sustained personal injury directly caused by an intentional crime or by an act of grave negligence for which the author of the crime can reasonably be held responsible against the victim's life, health or personal, physical or psychological integrity, committed on its territory; - compensation will cover pecuniary losses resulting from material damage and damage to property, and non pecuniary losses resulting from non material damage; - Member States may define a maximum amount of no less than EUR 100 000 rather (than EUR 60 000) for the total compensation that can be paid out to an individual applicant. This amount will be updated annually in line with the cost of living index as defined officially by Eurostat; - Member States may set a minimum threshold not exceeding EUR 250 in order to exclude the award of compensation to victims who have sustained only minor injuries, defined as injuries that do not have a significant pecuniary or non-pecuniary, direct or indirect, impact on the victim's life and its quality; - Member States may make the award conditional upon unsuccessful efforts to obtain and enforce a judgment on compensation against the offender and having exhausted the possibilities of compensation through state or private insurance schemes; - Member States must establish the harmonised compensation application form as well as the harmonised form for communication between authorities.

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

2002/0247(CNS) - 30/03/2004

The Council reached a general approach, subject to Parliamentary scrutiny reservations from the German and the United Kingdom delegations, on the basis of a Presidency compromise on a Directive on compensation to crime victims. The Council instructed its preparatory bodies to finalise the text of the Directive with a view to its adoption before 1 May 2004, as requested by the European Council on 25 and 26 March 2004.

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

2002/0247(CNS) - 16/10/2002 - Legislative proposal

PURPOSE : to establish a minimum standard for compensation to crime victims in the EU and to facilitate the access to such compensation in cross-border situations. CONTENT : it is well-known that victims often face difficulties in getting compensation from the offender of the crime, since the offender may remain unknown or lack the means to pay any damages awarded to the victim. For this reason, thirteen Member States have so far

introduced state-funded general compensation schemes for crime victims. However, these schemes show large divergences between them. The amount of compensation a victim can obtain is largely determined by in which Member State the crime was committed, due to the different criteria applied. No assistance is available for victims who need to apply for compensation from another Member State. The proposal is the Commission's response to a request from the European Council, which in its meeting in Tampere 1999 called for the drawing up of minimum standards of crime victims in the EU. The proposed directive obliges Member States to award compensation to victims of intentional crime and terrorism committed on their territory. The compensation should cover all losses the victim has sustained as a direct result of the crime. Member States may make the compensation conditional upon that the victim has tried to get compensation from the offender before turning to the State. Compensation should also be awarded to close relatives and dependants of victims who have died as a result of the injuries caused by the crime. To be more specific, the amount of compensation shall be determined: - on a case-by-case basis where the compensation, taken as a whole, does not deviate significantly from what has been or could be expected to be awarded in damages to the applicant in accordance with civil law in the Member State responsible for paying the compensation; or - in accordane with pre-defined tariffs, for the entire compensation or for some or all of the individual items of losses that is covered by the compensation. More importantly, Member States may define a maximum amount of no less that EUR 60 000 for the total compensation that can be paid out to an individual. The compensation shall be defined on the basis of the national laws on damages in each Member State, in order to take into account socio-economic differences within the EU and to respect different legal traditions among the Member States. When EU citizens or residents become victims of a crime abroad, they shall have the right to turn to an authority in their Member State of residence to get assistance when applying to the Member State where the crime was committed. This will ensure that tourists, temporary workers and other citizens using their right to free movement in the EU will have easy access to compensation in practice, even when the crime was committed outside their Member State of habitual residence. Lastly, it should be noted that the present proposal will complement the action taken by the EU in judicial cooperation in civil and criminal matters, in particular the framework decision 2001/220/JHA on the standing of victims in criminal proceedings(refer to CNS/2000/0813).

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

2002/0247(CNS) - 20/04/2009 - Follow-up document

The Commission presents a report on the application of Council Directive 2004/80/EC.

Crime victims in the European Union are entitled to fair and appropriate compensation for the injuries they have suffered, regardless of where in the European Community the crime was committed. Council Directive 2004/80/EC relating to compensation to crime victims set up a system for cooperation to facilitate access to compensation to victims of crime in cross-border situations. The system operates on the basis of the Member State's schemes on compensation to victims of violent intentional crime, committed in their respective territories.

Article 19 of the Directive stipulates that the Commission is to present a report on the application of the Directive by 1 January 2009. This report complies with that obligation. It covers the period from 1 January 2006 to 31 December 2008.

In accordance with Article 18(1), Member States were to bring into force the laws, regulations and administrative provisions necessary to comply with the Directive by 1 January 2006. 15 Member States adopted the national transposing measures before the said deadline (Bulgaria, Denmark, Germany, Estonia, Spain, France, Ireland, Luxembourg, Netherlands, Austria, Poland, Slovenia, Finland, Sweden and the United Kingdom) and notifications from seven further Member States (Belgium, the Czech Republic, Cyprus, Lithuania, Hungary, Portugal and Slovakia) were received in early 2006.

The Commission launched the infringement procedure against Greece, Italy, Latvia, Malta and Romania for non-notification in 2006-2007. Since then, Italy, Latvia, Malta and Romania have notified national transposing legislation in accordance with their obligation. To date, Greece has not notified national transposing measures for the Directive. It was condemned by the European Court of Justice in July 2007 and the Commission launched the procedure under Article 228 of the EC Treaty against Greece in 2008, which is currently pending.

Application and Effectiveness of the Directive in practice: only limited data is available on the practical application of the Directive in the different Member States. Overall, however, it is noted that there have been very few cases of cross-border applications made.

The Commission draws the following **conclusionsconcerning the application of the Directive**:

- Concerning the national compensation schemes required by the Directive, it appears that Member States provide fair and appropriate compensation for victims of violent intentional crimes. In this regard, there seems to be a substantial degree of compliance across Member States;
- As far as the procedural aspects of the Directive for cross-border cases are concerned, Deciding and Assisting Authorities are broadly positive about the operation of the current system including Central Contact Points, the use of standard forms, languages and the use of communications technology. Claimants are, however, much less positive about the process than authorities. Many find the process of applying complicated and time-consuming and consider that language barriers – and communication in general – constitute a major obstacle in facilitating the victim application process.

The Commission is therefore of the opinion that **the functioning of the Directive should be improved with regard to the following aspects of its application** :

- Member States should seek to collect data on the application of the Directive in order to able to better assess the effectiveness of the process;
- Member States should, as far as possible, ensure that more information on the Directive and on national compensation schemes is provided to citizens, since too few potential claimants seem to be aware of their rights;
- Member States should ensure that the language requirements of the Directive are respected in order to ensure the most efficient processes for claimants;
- clarity and transparency concerning key elements of national compensation schemes is important. This concerns in particular the questions of which offences are included in the schemes and which injuries are covered by them. The Atlas and the website of the European Judicial

Network in Civil and Commercial Matters contain already a substantial amount of information on national compensation schemes. It should, however, be considered whether efforts are required to further improve information available on the Directive and on national compensation schemes in these websites.

Because of the short period and consequent limited practical experience on the application of the Directive, the Commission will not propose amendments to the Directive but considers that the implementation can be improved on the basis of the current provisions. Furthermore the Commission will use its powers under the Treaty to urge the Member States to complete the possible deficient measures.

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.