Council of the European Union
General Secretariat

PUBLIC

Interinstitutional files:
2023/0250 (COD)

Brussels, 11 April 2025

WK 4824/2025 INIT

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WORKING DOCUMENT

From: To:	Presidency Delegations
N° Cion doc.:	ST 11840/23
Subject:	Proposal for a Directive of the European Parliament and of the Council amending Directive 2012/29/EU establishing minimum standards on the rights, support and protection of victims of crime, and replacing Council Framework Decision 2001/220/JHA - Presidency note

At the meeting of JHA Counsellors on 15 April, the Presidency will give a short debrief on the political trilogue held on 9 April on the abovementioned file. The Presidency would also invite delegations to continue the examination of the text, on the basis of the tentative amended text in Annex to this note, which focuses on specific articles of the draft directive. Delegations will be kindly asked to indicate whether, in view of reaching a global compromise, they could support these proposals.

ANNEX

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Proposals concerning Articles 19a, 21(3), 16, 10b, 26d

Article 19a (Right to protection of the dignity of victims)

The Presidency proposes an amended version of article, focusing on providing support and protection to victims who have suffered from glorification of a criminal offence.

Member States shall ensure that access to support and protection measures under this Directive may be granted to any victim who suffered from glorification of serious crimes, as defined under national law, and paying tribute to offenders of such crimes.

Recital: Glorification of a serious criminal offence or paying a tribute to the offender, as defined under national law, can result in depravation of victims' dignity and cause additional suffering for victims. Such acts can render victims particularly vulnerable to secondary victimisation, repeat victimisation, intimidation and retaliation. In this context, it should be recalled that glorification of terrorism constitutes a criminal offence under Directive 2017/541 on Combatting terrorism, whereas public incitement to any acts of racism or xenophobia or publicly condoning, denying or grossly trivialising crimes of genocide, crimes against humanity and war crimes constitute criminal offences under Framework Decision 2008/913 on Combatting Racism and Xenophobia. Particular attention should be paid to victims who suffered because of glorification of terrorism and from public incitement to racism, and xenophobia as well as other crimes committed in the context of the Framework Decision on Combatting racism and xenophobia.

Article 21(3) (Right to protection of privacy)

The Presidency would like to know whether delegations could support in principle a provision that ensures the protection of certain personal data by default, with exceptions.

3. Member States shall ensure that, once their competent authorities have assessed whether disclosure of victims' personal data is a necessary element of the case or non-disclosure would otherwise prejudice the rights of defence including the rights enshrined in Article 7 paragraph 4 of Directive 2012/13, such personal data shall not be disclosed. The victim's personal data subject to non-disclosure under this paragraph shall be limited to data concerning the victim's place of residence, [telephone number, and e-mail address].

Article 9a (Targeted and integrated support services for children)

4. Member States shall aim to ensure the provision of the services referred to in paragraph 2 within the same premises. Particular attention should be paid to [the interest of the child] OR [the seriousness of harm suffered by child victims].

Article 16 (Compensation)

In view of finding a compromise solution on this provision, the Presidency suggests a new proposal based on the need to improve access to compensation.

1. Member States shall ensure that in the course of the criminal proceedings, **unless other proceedings are easily available to victims,** victims are entitled to claim compensation and to obtain a decision on compensation by the offender within a reasonable time.

2. Member States shall **take the necessary measures to ensure that the adjudicated compensation is paid without undue delay in order not to create disproportionate burden on the victim as regards the execution of the adjudicated compensation.**

3. When the execution of the adjudicated compensation is not possible within a reasonable time, Member States shall ensure that compensation mechanisms are available to victims, at least as regards victims of serious and violent crimes. The maximum amounts payable by the compensation mechanism may be limited, [proportionate to the adjudicated compensation], taking into account the financial situation of the victim.

4. Such mechanisms shall not substitute the obligation on the offender to pay the adjudicated compensation.

Article 10b (Right to review)

The Presidency would like to know whether the scope of decisions taken in court proceedings that victims should be informed about could be expanded.

1. Member States shall ensure that victims, in accordance with their status in the criminal proceedings as defined under national law, are informed without delay of a decision ~~**provided for in article 23 (3)**~~, taken in court proceedings **that affect them directly**. Member States may provide the possibility for victims to request a review of decisions pursuant to Article 23(3).

2. Where victims may request a review of a decision under Article 23 (3), the procedural rules for such a review shall be determined by national law.

Decisions under Article 23(3) and any consideration of a review of such a decision shall not unreasonably prolong the criminal proceedings.

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Article 26d (Remedies)

The Presidency suggests a new proposal that would limit the right to an effective remedy to breaches of procedural rights.

In accordance with the national rules concerning the status of the victim in the criminal proceedings, Member States shall ensure that victims have an effective remedy under national law in the event of a breach of their **procedural** rights under this Directive.

+ recital making a distinction in terms of rights in the criminal proceedings (i.e. right to information) and other rights which are often determined in a way that is practically non-reviewable.

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