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**WORKING DOCUMENT**

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| From: | Presidency |
| To: | Delegations |
| 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<br>- Presidency note |

Delegations will find below a Presidency note regarding the abovementioned file, in view of the JHA Counsellors meeting on 23 June.

ANNEX

In view of the trilogue scheduled on 25 June, the Presidency and the European Parliament are still discussing the wording of some articles, to be agreed upon during the trilogue.

At the JHA Counsellors meeting on 23 June, delegations are invited to indicate whether, in view of reaching a global compromise on Articles 3a, 8(6), 9(3)(b), 9a(3), 10b, 13, 16, 21(3), 26a and 28, as well as possibly on 28b, they could support the following compromise proposals on Articles 10b, 9(3)(b), 16 and 28b. Delegations are invited to note that there would be no further changes on the rest of the articles compared to their latest version (discussed in Coreper).

Changes compared to the latest version of the text discussed are indicated in **bold underlined** or ~~strikethrough~~.

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**Article 9(3)(b) - Sexual and reproductive healthcare services**

*Following discussions with the Parliament, which attaches great importance to this provision, the Presidency proposes a wording that ensures a full alignment with the Directive on combatting violence against women and domestic violence.*

(b) targeted and integrated support~~, including trauma support and counselling~~ as well as information on and, where appropriate, referral to **services providing medical [and forensic] examinations, which may include** comprehensive medical **health**care services, including sexual and reproductive healthcare services, in accordance with national law, **and information on and, where appropriate, referral to [social and psychological** – *wording of the VRD*] **OR [psychosocial** – *wording of VAW*] **counselling, including trauma care,** for victims with specific needs, such as victims of sexual violence, victims of gender-based violence, including violence against women and domestic violence covered by Directive (EU) …/… of the European Parliament and of the Council [on combating violence against women and domestic violence], victims of trafficking in human beings, victims of organised crimes, victims with disabilities, victims of exploitation, victims of hate crime, victims of terrorism, and victims of crimes falling within the jurisdiction of the International Criminal Court.

**Article 9(4)** *(new paragraph)*

**4. Member States shall provide for victims of sexual violence timely access to healthcare services, including sexual and reproductive healthcare services, in accordance with national law.**

*Recital*

For victims of sexual violence, such as rape, access to sexual and reproductive healthcare services, such as emergency contraception, post-exposure prophylaxis treatment, testing for sexually transmitted infections, is of vital importance and should be provided by the Member States. This is without prejudice to the Member States´ policies on the scope of sexual and reproductive healthcare for the general population.

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**Article 10b – Right to information on decision taken during court proceedings and right to review**

*Following the latest discussions within the Council and considering the comments made, the Presidency believes that the following compromise text could be supported by delegations.*

1. Member States shall ensure that victims, in accordance with their ~~role~~ **status** in the criminal proceedings as defined under national law, are informed without delay of a decision provided for in articles 7(1) in relation to decisions on interpretation during court hearings and 23(3), taken in court proceedings, that affect them directly.

2. Member States shall ensure that victims, in accordance with their ~~role~~ **status** in criminal proceedings, have the right to **request** a review under national law, at least, in respect of their right to interpretation or translation pursuant to Article 7(1) and their right to legal aid pursuant to Article 13. ~~AND/OR [right to reimbursement of expenses] AND/OR [of judicial decisions taken pursuant to Article 23(3)(d)].~~

The procedural rules for such review, **including whether it has or not a suspensive effect,** shall be determined by national law and any consideration of such review shall not unreasonably prolong the criminal proceedings.

*Recital (new)*

The right to request a review of a decision pursuant to Article 10b shall be construed in accordance with procedures in national law. That right does not entail the obligation for Member States to provide for a separate mechanism or complaint procedure in which such decision may be challenged and should not unreasonably prolong the criminal proceedings or suspend them, unless strictly necessary. An internal review of the decision in accordance with existing national procedures would suffice. Review also includes review rights within the same instance.

**Article 16 – Compensation**

1. Member States shall ensure, where appropriate, that victims are able to obtain a decision on compensation in the course of criminal proceedings.

2. Member States shall have execution or enforcement measures in place, aimed at facilitating the payment of the awarded compensation by the offender without undue delay.

3. In relation to victims of violent intentional crimes that have not received the awarded compensation from the convicted offender within a reasonable time and the measures referred to in paragraph 2 of this Article, were unsuccessful within a reasonable time, Member States may advance ~~at least a maximum amount of~~ the awarded compensation to the victim as defined under national law. **Member States may provide that** ~~S~~**s**uch advanced payment ~~shall~~ **does** not substitute the obligation of the offender to pay the awarded compensation and ~~Member States shall~~ **may** maintain the right to recuperate the advanced compensation from the convicted offender.

4. ~~Member States may provide that any compensation received by the victim through the application of Directive 2004/80/EC or any other compensation schemes may be deducted from the amount of compensation to be advanced to the victim under paragraph 3.~~

*Recital*

In order to ensure effective protection of the rights of victims of crime, Member States should guarantee that, where appropriate, victims are able to obtain a decision on compensation in the course of criminal proceedings. Once such a decision is made, the awarded compensation should be paid by the offender without undue delay. For the purpose of assessing delay, time shall be calculated from the last day of the deadline for final payment, and a delay is considered "undue" where it exceeds what could reasonably be expected given the circumstances of the case.
The awarded compensation referred to in this Directive is the compensation awarded after the decision on compensation has become final. ~~Where payment of the awarded compensation by the offender is not possible, or where the offender fails to fulfil their obligation, Member States should ensure that at least victims of violent intentional crimes have access to compensation mechanisms, such as those provided under Article 12(2) of Directive 2004/80/EC on compensation to crime victims. If compensation had been paid to the victim from such a mechanism prior to the decision on the awarded compensation is made, the competent authorities should not be required to repay or forfeit the amount received once the awarded compensation is paid. Member States may establish maximum limits for payments from such mechanisms. Member States may also provide that the advanced compensation can be taken into consideration in calculating the compensation by the~~

~~State under Directive 2004/80/EC. However, these mechanisms shall not substitute the offender's obligation to pay the awarded compensation, which remains in force.~~

Member States should have in place appropriate **execution or** enforcement measures to help victims in obtaining the awarded compensation. Such **execution or** enforcement measures may include, for example, the seizure of assets, enforcement by bailiffs, garnishment of income or public payments, or other civil or criminal procedures ensuring execution of the compensation.

**Member States should have discretion whether to advance the awarded compensation to the victim in accordance with national law. The advancement of compensation does not entail the obligation for Member States to establish new compensation mechanisms or to be the primary payer of the compensation.**

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**Article 28b – Resources**

*The EP indicated that an article on resources should be comprehensive. Following these exchanges, the Presidency proposes the following text, which also takes into account the need to respect national budgetary procedures.*

Member States shall ~~ensure that national authorities providing support services have a sufficient number of qualified staff and sufficient financial, technical and technological resources for the effective performance of their functions relating to the implementation of this Directive~~ **allocate sufficient human and financial resources to ensure the effective application of the measures set out in this Directive in accordance with their national budgetary procedures. Particular attention shall be paid to the functioning of the particular services provided for in Articles 3(a), 8, 9, 9(a) and 22. Where such services are provided by non-governmental organisations that receive financial assistance from the state, Member States shall ensure that such financial assistance is sufficient to ensure that the services are carried out effectively in accordance with national budgetary procedures.**