



Press and Information

Court of Justice of the European Union  
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Judgment in Case C-129/19  
Presidenza del Consiglio dei Ministri v BV

## **Member States must grant compensation to all victims of violent intentional crime, including to those victims residing in their own territory**

*The compensation is not required to cover full reparation for the loss suffered, but the amount cannot be purely symbolic*

In the judgment **Presidenza del Consiglio dei Ministri** (C-129/19), delivered on 16 July 2020, the Court, sitting as the Grand Chamber, held, in the first place, that the rules on non-contractual liability of a Member State for damage caused by a breach of EU law applies, on the ground that that Member State did not transpose, within the appropriate time, Directive 2004/80<sup>1</sup> as regards victims residing in that Member State, on the territory of which the violent intentional crime was committed. In the second place, the Court held that a fixed rate of compensation granted to victims of sexual violence under the national scheme on compensation of victims of violent intentional crime cannot be classified as ‘fair and appropriate’, within the meaning of that same provision, if it is fixed without taking into account the seriousness of the consequences, for the victims, of the crime committed and does not therefore represent an appropriate contribution to the reparation of the material and non-material harm suffered.

In the present case, in October 2005, BV, an Italian citizen residing in Italy, was the victim of sexual violence committed on the territory of that Member State. The €50,000 that the perpetrators of that violence were ordered to pay to her, by way of damages and interest, could not be recovered as their whereabouts were unknown. In February 2009, BV brought a claim before Presidenza del Consiglio dei Ministri (Presidency of the Council of Ministers, Italy) for compensation for the harm that she alleged she had suffered as a result of the failure by Italy to transpose, within the appropriate time, Directive 2004/80.<sup>2</sup> In those proceedings, the Presidenza del Consiglio dei Ministri was ordered, at first instance, to pay BV the sum of €90,000, which was reduced on appeal to €50,000.

Hearing an appeal brought by the Presidenza del Consiglio dei Ministri, the referring court has doubts as to, first, the applicability of the rules on non-contractual liability of a Member State, owing to the late transposition of Directive 2004/80, as regards victims of violent intentional crime who are not in a cross-border situation. Second, that court has doubts as to whether the fixed sum of €4,800, laid down in the Italian legislation<sup>3</sup> for the compensation of victims of sexual violence, is ‘fair and appropriate’ within the meaning of Directive 2004/80.

As regards the first question, the Court first of all recalled the conditions for establishing the non-contractual liability of Member States for losses caused to individuals by breaches of EU law, namely that the EU law infringed must confer rights on individuals, there must be a sufficiently serious breach of that law and a causal link between the breach and the loss or damage suffered

<sup>1</sup> Council Directive 2004/80/EC of 29 April 2004 relating to compensation to crime victims (OJ 2004 L 261, p. 15).

<sup>2</sup> Under Article 12(2) of the directive, ‘[a]ll Member States shall ensure that their national rules provide for the existence of a scheme on compensation to victims of violent intentional crimes committed in their respective territories, which guarantees fair and appropriate compensation to victims’.

<sup>3</sup> It should be noted that, after the present claim for non-contractual liability was instituted against Italy, that Member State established a scheme for the compensation of victims of violent intentional crime committed on Italian territory, whether those victims resided in Italy or not. That scheme also covered, retroactively, crimes of that type committed from 1 July 2005 onwards.

by the individuals. In the present case, having regard to the wording, context and objectives of Directive 2004/80, the Court held in particular that, by that provision, the EU legislature had opted not for the establishment, by each Member State, of a specific compensation scheme restricted to victims of violent intentional crime who were in a cross-border situation only, but for the application, in favour of those victims, of national schemes on compensation to victims of violent intentional crime committed in the respective territories of the Member States. At the end of its analysis, the Court held that **Directive 2004/80 imposes on each Member State the obligation to provide a scheme on compensation that covers all victims of violent intentional crime committed on its territory, and not only victims that are in a cross-border situation.** The Court concluded from the foregoing that Directive 2004/80 confers the right to obtain fair and appropriate compensation not only on victims of crime who are in such a situation, but also on victims who habitually reside on the territory of the Member State in which the crime was committed. Consequently, provided that the two other aforementioned conditions are met, an individual has a right to compensation for loss caused to him or her by the breach, by a Member State, of its obligation under Directive 2004/80, irrespective of whether or not that individual is in a cross-border situation at the time he or she was the victim of the crime in question.

As regards the second question, the Court held that, in the absence of any indication in Directive 2004/80 as to the amount of the compensation deemed to be **'fair and appropriate' compensation**, that provision allows Member States discretion in that regard. While that compensation **need not necessarily ensure the complete reparation of material and non-material loss suffered by the victims** of violent intentional crime, **it must not however be purely symbolic or manifestly insufficient having regard to the gravity of the consequences**, for those victims, of the crime committed. According to the Court, the compensation granted to such victims under that provision must, in fact, compensate to an appropriate extent the suffering to which they have been exposed. In that regard, the Court also states that a fixed rate of compensation for such victims may be classified as 'fair and appropriate', provided that the compensation scale is sufficiently detailed so as to avoid the possibility that, having regard to the circumstances of a particular case, the fixed rate of compensation provided for a specific type of violence proves to be manifestly insufficient.

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**NOTE:** A reference for a preliminary ruling allows the courts and tribunals of the Member States, in disputes which have been brought before them, to refer questions to the Court of Justice about the interpretation of European Union law or the validity of a European Union act. The Court of Justice does not decide the dispute itself. It is for the national court or tribunal to dispose of the case in accordance with the Court's decision, which is similarly binding on other national courts or tribunals before which a similar issue is raised.

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The [full text](#) of the judgment is published on the CURIA website on the day of delivery.

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