

JUDGMENT OF THE COURT (Fifth Chamber)

2 October 2025 (*)

(Reference for a preliminary ruling – Judicial cooperation in criminal matters – Directive 2004/80/EC – Article 12(2) – Compensation to victims of violent intentional crimes – Fair and appropriate compensation – National legislation excluding compensation for pain and suffering endured)

In Case C-284/24,

REQUEST for a preliminary ruling under Article 267 TFEU from the High Court (Ireland), made by decision of 12 April 2024, received at the Court on 23 April 2024, in the proceedings

LD

v

Criminal Injuries Compensation Tribunal,

Minister for Justice and Equality,

Ireland,

Attorney General,

THE COURT (Fifth Chamber),

composed of M.L. Arastey Sahún, President of the Chamber, D. Gratsias (Rapporteur), E. Regan, J. Passer and B. Smulders, Judges,

Advocate General: L. Medina,

Registrar: A. Calot Escobar,

having regard to the written procedure,

after considering the observations submitted on behalf of:

- LD, by C. Donnelly and M. Lynn, Senior Counsel, J. MacGuill, Senior Counsel, Solicitor, D. Brady, Barrister-at-Law, C. Donald, Solicitor, and E. Martin-Vignerte, avocate,
- the Criminal Injuries Compensation Tribunal, the Minister for Justice and Equality, Ireland and the Attorney General, by M. Browne, Chief State Solicitor, S. Finnegan, A. Joyce and J. Moloney, acting as Agents, and by M. Reilly, Senior Counsel, and M. Finan, Barrister-at-Law,
- the Czech Government, by M. Smolek, A. Pagáčová and J. Vláčil, acting as Agents,
- the German Government, by J. Möller and P.-L. Krüger, acting as Agents,
- the Netherlands Government, by E.M.M. Besselink, M.K. Bulterman and M.H.S. Gijzen, acting as Agents,
- the Polish Government, by B. Majczyna, acting as Agent,
- the European Commission, by S. Noë and J. Tomkin, acting as Agents,

having decided, after hearing the Advocate General, to proceed to judgment without an Opinion,

gives the following

Judgment

- 1 This request for a preliminary ruling concerns the interpretation of Article 12(2) of Council Directive 2004/80/EC of 29 April 2004 relating to compensation to crime victims (OJ 2004 L 261, p. 15).
- 2 The request has been made in proceedings between, on the one hand, LD and, on the other hand, the Criminal Injuries Compensation Tribunal (Ireland) ('the CICT'), the Minister for Justice and Equality (Ireland), Ireland and the Attorney General (Ireland) concerning an application for compensation submitted by LD under the Scheme of Compensation for Personal Injuries Criminally Inflicted ('the Irish scheme on compensation to victims').

Legal context

European Union law

Directive 2004/80

- 3 Recitals 2, 10 and 14 of Directive 2004/80 state:

'(2) The Court of Justice held in the [judgment of 2 February 1989, *Cowan*, 186/87, EU:C:1989:47] that, when Community law guarantees to a natural person the freedom to go to another Member State, the protection of that person from harm in the Member State in question, on the same basis as that of nationals and persons residing there, is a corollary of that freedom of movement. Measures to facilitate compensation to victims of crimes should form part of the realisation of this objective.

...

(10) Crime victims will often not be able to obtain compensation from the offender, since the offender may lack the necessary means to satisfy a judgment on damages or because the offender cannot be identified or prosecuted.

...

(14) This Directive respects the fundamental rights and observes the principles reaffirmed in particular by the Charter of Fundamental Rights of the European Union as general principles of Community law.'

4 Article 1 of that directive, entitled 'Right to submit an application in the Member State of residence', provides:

'Member States shall ensure that where a violent intentional crime has been committed in a Member State other than the Member State where the applicant for compensation is habitually resident, the applicant shall have the right to submit the application to an authority or any other body in the latter Member State.'

5 Article 12 of Directive 2004/80, the only article in Chapter II of that directive, entitled 'National schemes on compensation', provides, in paragraph 2 thereof:

'All 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.'

6 Article 18 of that directive, entitled 'Implementation', provides, in paragraph 2 thereof:

'Member States may provide that the measures necessary to comply with this Directive shall apply only to applicants whose injuries result from crimes committed after 30 June 2005.'

Directive 2012/29/EU

7 Article 2 of Directive 2012/29/EU of the European Parliament and of the Council of 25 October 2012 establishing minimum standards on the rights, support and protection of victims of crime, and replacing Council Framework Decision 2001/220/JHA (OJ 2012 L 315, p. 57), entitled 'Definitions', provides, in paragraph 1 of that article:

'For the purposes of this Directive the following definitions shall apply:

(a) "victim" means:

(i) a natural person who has suffered harm, including physical, mental or emotional harm or economic loss which was directly caused by a criminal offence;

...

Irish law

8 The Irish scheme on compensation to victims is an administrative scheme, established in 1974, which is designed to compensate victims of criminal offences for injuries suffered. The administration of that scheme is entrusted to the CICT. As is apparent from the order for reference, that scheme, in its original version, made provision for the payment of 'general' damages, including in respect of pain and suffering endured.

9 Following an amendment to that scheme on 1 April 1986, no compensation is awarded for pain and suffering, in respect of general damages, because, as the referring court in essence observes, the scope of the relevant provisions prior to their amendment had serious consequences for the finances of the Irish State which, at that time, was going through a period of profound economic recession.

The dispute in the main proceedings and the questions referred for a preliminary ruling

10 On 12 July 2015, LD, born in Spain and residing in Ireland, was the victim of a violent criminal assault committed by a group of persons in front of his home in Dublin (Ireland).

11 On 1 October 2015, LD submitted an application for compensation to the CICT under the Irish scheme on compensation to victims.

12 In that application, LD stated that, because of that assault, he had suffered a significant eye injury resulting in a permanent partial loss of vision, and various other injuries, inter alia to the jawbone, left shoulder, left arm, waist and chest. He maintained that he also suffers from mental distress and anxiety. It was claimed that, after having been absent from work following that assault, LD was dismissed by his employer and was unemployed at the time when that application was submitted.

13 After finding that LD had suffered personal injuries and material loss arising from the violent intentional crime of which he had been the victim and that he had not obtained compensation from other sources, the CICT awarded him, *ex gratia*, the sum of EUR 645.62 in respect of the out-of-pocket expenses incurred by him as a direct result of that crime. Following a request by LD to that effect, the CICT provided him with a breakdown of the amount of the compensation awarded, stating that LD had been awarded the sum of EUR 44.20 for the replacement of his driving licence, EUR 339 for the replacement of his spectacles, EUR 28.82 for the purchase of medicine, EUR 100 for hospital costs and EUR 133.63 for travel expenses.

- 14 On 2 August 2019, LD brought proceedings before the referring court, the High Court (Ireland), seeking inter alia (i) a declaration that the Irish scheme on compensation to victims is incompatible with Directive 2004/80 and/or Articles 1, 3, 4, 7 and 9 of the Charter of Fundamental Rights ('the Charter'), in that the scheme fails to provide for fair and appropriate compensation by reason of the exclusion of general damages, including in respect of pain and suffering, and (ii) a declaration that, as a victim of crime, he is entitled to damages for such pain and suffering.
- 15 The referring court observes, first of all, that it is true that the judgment of 16 July 2020, *Presidenza del Consiglio dei Ministri* (C-129/19, EU:C:2020:566), provides useful clarifications regarding the interpretation of Article 12(2) of Directive 2004/80. However, in its view, that judgment does not answer the question whether and to what extent fair and appropriate compensation, within the meaning of that provision, must be provided for in order to contribute to the reparation of both material and non-material loss suffered by victims of violent intentional crimes, including pain and suffering. In that regard, it is quite clear from the order for reference that, under Irish law, pain and suffering fall within the broader category of non-material loss.
- 16 Next, while recalling the broad discretion enjoyed by Member States in the matter, the referring court states that it has doubts, which are shared by the Court of Appeal (Ireland), as to the possibility of limiting the scope of national compensation schemes as regards non-material loss. According to the referring court, the judgment of 16 July 2020, *Presidenza del Consiglio dei Ministri* (C-129/19, EU:C:2020:566), admittedly did not specify what loss or harm might be classified as non-material. Nevertheless, it points out that, according to its own interpretation of that judgment, first, the Court of Justice's use of the term 'suffering' implies an obligation to provide compensation for pain and suffering, at least to some extent. Second, it observes that it would be difficult to accept the exclusion of such compensation when, according to that judgment, the compensation provided for by Directive 2004/80 must take into account the seriousness of the consequences, for the victim, of the crime committed.
- 17 Lastly, the referring court makes reference to the Report from the Commission to the Council, the European Parliament and the European Economic and Social Committee of 20 April 2009 on the application of Council Directive 2004/80/EC relating to compensation to crime victims (COM(2009) 170 final), concerning the period from 1 January 2006 to 31 December 2008, according to which the majority of Member States provided, under their national schemes, for compensation for disease and mental injury.
- 18 In those circumstances the High Court decided to stay the proceedings and to refer the following questions to the Court of Justice for a preliminary ruling:
- [(1)] Does the obligation imposed on Member States by Article 12(2) of Directive [2004/80] to provide "fair and appropriate compensation" to victims of violent intentional crimes, require that a victim be compensated for both material and non-material loss within the meaning of [the judgment of 16 July 2020,] *Presidenza del Consiglio dei Ministri v BV* ("BV") (Case C[-]129/19, EU:C:2020:566)?
- [(2)] If the answer to Question [1] is yes, what forms of loss fall within the scope of "non-material loss"?
- [(3)] In particular, does a victim's "pain and suffering" fall within the scope of "non-material loss"?
- [(4)] If the answer to [Questions 1] and [3] is yes, bearing in mind that [M]ember [S]tates are required to ensure that their schemes are financially viable, what relationship should the "fair and appropriate compensation["] awarded to a victim pursuant to ... Directive [2004/80] bear to the damages in tort that would be awarded to that victim as against the relevant perpetrator as tortfeasor[?]
- [(5)] Can the compensation established for victims of violent intentional crimes under the [Irish scheme on compensation to victims] be regarded as "fair and appropriate compensation to victims" within the meaning of Article 12(2) of ... Directive [2004/80] if a victim is awarded the sum of [EUR] 645.65 as compensation for a serious eye injury resulting in permanent sight impairment?
- #### Consideration of the questions referred
- 19 By its questions, which it is appropriate to examine together, the referring court asks, in essence, whether Article 12(2) of Directive 2004/80 must be interpreted as precluding a national scheme on compensation to victims of violent intentional crimes which, as a matter of principle, excludes, as regards non-material harm, any compensation for pain and suffering endured by such victims.
- 20 It must be observed, as a preliminary point, that, by means of that directive, the legislature has provided for a scheme on compensation which is subsidiary to the reparation that such victims may obtain on the basis of the tortious liability of the offender.
- 21 As is apparent from recital 10 of that directive, it was adopted in the light, inter alia, of the recognition that those victims will often not be able to obtain compensation from the offender, since that offender may lack the necessary means to satisfy a judgment on damages or because he or she cannot be identified or prosecuted.
- 22 In particular, under Article 12(2) of Directive 2004/80, all Member States are required to ensure that 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.
- 23 As regards the scope of Article 12(2) of Directive 2004/80, the Court has stated that that provision confers the right to obtain fair and appropriate compensation not only on victims of violent intentional crime committed in the territory of a Member State who find themselves in a cross-border situation, within the meaning of Article 1 of that directive, but also on victims who reside habitually in the territory of that Member State (judgment of 16 July 2020, *Presidenza del Consiglio dei Ministri*, C-129/19, EU:C:2020:566, paragraph 55).
- 24 With respect to the determination of such compensation, having regard, first, to the margin of discretion conferred on the Member States by that provision as regards both the 'fair and appropriate' nature of the amount of such compensation and the detailed rules for determining it, and, second, to the need to ensure the financial viability of national schemes, that compensation need not necessarily correspond to the damages which may be awarded, against the perpetrator of an offence falling within the scope of

violent intentional crime, to the victim of that offence. Consequently, the compensation referred to in Article 12(2) of Directive 2004/80 is not necessarily required to ensure the complete reparation of material and non-material loss suffered by that victim (see, to that effect, judgment of 7 November 2024, *Burdene*, C-126/23, EU:C:2024:937, paragraph 57 and the case-law cited).

- 25 In that context, it is ultimately for the national court to ensure, with regard to the national provisions establishing the compensation scheme concerned, that the sum awarded to a victim of violent intentional crime pursuant to that scheme is fair and appropriate compensation, within the meaning of Article 12(2) of that directive (judgments of 16 July 2020, *Presidenza del Consiglio dei Ministri*, C-129/19, EU:C:2020:566, paragraph 61, and of 7 November 2024, *Burdene*, C-126/23, EU:C:2024:937, paragraph 58).
- 26 However, a Member State would exceed its discretion under that provision if the national provisions provided compensation to victims of violent intentional crime that was purely symbolic or manifestly insufficient having regard to the seriousness of the consequences, for the victims, of the crime committed (judgments of 16 July 2020, *Presidenza del Consiglio dei Ministri*, C-129/19, EU:C:2020:566, paragraph 63, and of 7 November 2024, *Burdene*, C-126/23, EU:C:2024:937, paragraph 59).
- 27 Since the compensation granted to such victims represents a contribution to the reparation of material and non-material losses suffered by them, such a contribution may be regarded as ‘fair and appropriate’ only if it compensates, to an appropriate extent, the suffering to which those victims have been exposed (see, to that effect, judgments of 16 July 2020, *Presidenza del Consiglio dei Ministri*, C-129/19, EU:C:2020:566, paragraph 64, and of 7 November 2024, *Burdene*, C-126/23, EU:C:2024:937, paragraph 60).
- 28 Accordingly, in order to be classified as ‘fair and appropriate’, within the meaning of Article 12(2) of Directive 2004/80, compensation awarded under the national scheme on compensation to such victims must be fixed taking into account the seriousness of the consequences, for the victims, of the crime committed and therefore represent an appropriate contribution to the reparation of such material and non-material harm suffered (see, to that effect, judgments of 16 July 2020, *Presidenza del Consiglio dei Ministri*, C-129/19, EU:C:2020:566, paragraph 69, and of 7 November 2024, *Burdene*, C-126/23, EU:C:2024:937, paragraph 62).
- 29 Concerning, more specifically, the reparation of non-material harm suffered by such victims, while it is true that that provision does not contain any express reference to such harm, it must be observed that the broad wording of that provision in no way limits the scope of the compensation provided for therein as regards the types of harm in respect of which it is capable of contributing to reparation.
- 30 Furthermore, as the Court stated in paragraph 48 of the judgment of 7 November 2024, *Burdene* (C-126/23, EU:C:2024:937), the scope of the concept of ‘victims’ as contained in Article 12(2) of Directive 2004/80 is clarified by the definition of the concept of ‘victims’ set out in Article 2(1)(a) of Directive 2012/29, which refers to ‘a natural person who has suffered harm, including physical, mental or emotional harm or economic loss which was directly caused by a criminal offence’. It is clear from the wording of the latter provision that it covers both victims who have suffered material harm and those who have suffered non-material harm. In particular, the fact that that provision refers to physical as well as mental or emotional harm confirms that the harm suffered by such victims also covers pain and suffering endured by them.
- 31 It is, therefore, apparent from the case-law of the Court that no distinction can be drawn according to the types of harm which the victims of the crimes committed may have suffered or the consequences to which those victims may be exposed.
- 32 Even if the wording of Article 18(2) of Directive 2004/80, which, *inter alia* in its French- and Romanian-language versions refers only to ‘personal injuries’, might suggest the existence of such a distinction, it must be noted that, in several other language versions of that provision, the term ‘injuries’ is not accompanied by any adjective intended to limit its scope.
- 33 According to settled case-law, provisions of EU law must be interpreted and applied uniformly in the light of the versions existing in all the languages of the European Union and, where there is any divergence between those various versions, the provision in question must be interpreted by reference to the general scheme and the purpose of the rules of which it forms part (judgment of 17 January 2023, *Spain v Commission*, C-632/20 P, EU:C:2023:28, paragraph 42 and the case-law cited).
- 34 In that regard, no other provision of Directive 2004/80 permits the inference that a distinction must be drawn between the types of harm or loss suffered by the victims who fall within its scope.
- 35 Moreover, it is apparent from recital 2 of Directive 2004/80 that measures to facilitate compensation to victims of crimes should form part of the realisation of the objective of ensuring the protection of the persons concerned from harm. In addition, as stated in recital 14 thereof, that directive respects the fundamental rights and principles reaffirmed in particular by the Charter. As is apparent from Article 3(1) of the Charter, the integrity of the person must be understood as being both physical and mental.
- 36 Accordingly, it must be held that the compensation provided for in Article 12(2) of Directive 2004/80 must be capable, where appropriate, of contributing to the reparation of any non-material harm, including harm relating to pain and suffering.
- 37 In that regard, as the referring court observes, in essence, in the context of the fifth question referred for a preliminary ruling, a violent criminal assault such as that suffered by LD may give rise to serious consequences, in respect of both material harm and non-material harm, *inter alia* by reason of pain and suffering, which must be reflected in the amount awarded.
- 38 Thus, in the present case, compensation for the harm suffered by LD cannot, subject to verification by the referring court, constitute fair and appropriate compensation, within the meaning of Article 12(2) of Directive 2004/80, *inter alia* if non-material harm such as that referred to in the preceding paragraph were excluded from that compensation, in so far as it would cover only part of the harm suffered by the victim of the crime in question and cannot, therefore, be regarded as taking into account the seriousness of the consequences, for that victim, of the crime.
- 39 In the light of all the foregoing considerations, the answer to the questions referred is that Article 12(2) of Directive 2004/80 must be interpreted as precluding a national scheme on compensation to victims of violent intentional crimes which, as a matter of principle, excludes, as regards non-material harm, any compensation for pain and suffering endured by such victims. Notwithstanding the need to ensure the financial viability of national compensation schemes, such that the Member States are not necessarily obliged to

provide complete reparation of the material and non-material loss suffered by those victims, fair and appropriate compensation, within the meaning of that provision, requires, when determining such compensation, that account be taken of the seriousness of the consequences, for the victims, of the crimes committed and of the reparation that such victims may obtain on the basis of the tortious liability of the offender.

Costs

- 40 Since these proceedings are, for the parties to the main proceedings, a step in the action pending before the referring court, the decision on costs is a matter for that court. Costs incurred in submitting observations to the Court, other than the costs of those parties, are not recoverable.

On those grounds, the Court (Fifth Chamber) hereby rules:

Article 12(2) of Council Directive 2004/80/EC of 29 April 2004 relating to compensation to crime victims

must be interpreted as precluding a national scheme on compensation to victims of violent intentional crimes which, as a matter of principle, excludes, as regards non-material harm, any compensation for pain and suffering endured by such victims. Notwithstanding the need to ensure the financial viability of national compensation schemes, such that the Member States are not necessarily obliged to provide complete reparation of the material and non-material loss suffered by those victims, fair and appropriate compensation, within the meaning of that provision, requires, when determining such compensation, that account be taken of the seriousness of the consequences, for the victims, of the crimes committed and of the reparation that such victims may obtain on the basis of the tortious liability of the offender.

[Signatures]

¹ Language of the case: English.