

## Case C-129/19

### Court Hearing on 2<sup>nd</sup> March 2020

#### Directive 2004/80/EC Relating to Compensation to Crime Victims

##### Applicability to Non-Cross-Border Persons?

PEOPIL members Marco Bona and Umberto Oliva, representing the victim of a rape, will discuss, before the Grand Chamber of the Court of Justice of the European Union, on the 2<sup>nd</sup> of March 2020, the Case C-129/19 about the applicability of the Directive 2004/80/EC relating to compensation to crime victims also to non-cross-border persons following the request for a preliminary ruling lodged from the Italian Supreme Court Corte on the 19<sup>th</sup> of February 2019.

In particular, the main proceedings concern an action of damages brought by an Italian citizen resident in Italy - victim of a crime of sexual violence and unable to obtain, from those directly responsible, full compensation for the damaged sustained - against the Italian Presidency of the Council of Ministers (responsible for the implementation of the directives), on grounds of non-fulfilment and/or incorrect and/or incomplete fulfilment of the obligations laid down in Directive 2004/80/EC relating to establish a mechanism for compensation of violent and intentional crime victims, when impossible to obtain it by the direct perpetrators.

In relation to the situation of late (and/or incomplete) implementation in the national legal system of Directive 2004/80/EC, the first referred question concerns the existence or not of an imposition on Member States of a liability also “*in relation to non-cross-border (and thus resident) persons, who are not the direct addressees of the benefits deriving from implementation of the directive but who, in order to avoid infringement of the principle of equal treatment/non-discrimination [...], should have and could have — if the directive had been implemented in full and in good time — benefited from the effect utile of that directive*”<sup>1</sup>, meaning the same abovementioned compensation mechanism.

The second referred question, whose examination depends from an affirmative answer to the first one, concerns the compensation established for the victims of violent intentional crimes by the Italian institutions in the fixed amount of Euro 4.800, whether it could be considered as “*fair and appropriate compensation to victims*” within the meaning of Article 12(2) of Directive 2004/80/EC.

The theory developed by the victim’s lawyers in relation to the first issue is that Article 12 of the Directive applies to all persons affected by intentional violent crimes including those who suffer a crime in the country where they reside, as in the Case C-129/19, hence there is not any need to

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<sup>1</sup> Case C-129/19, Application (OJ), in *InfoCuria Case law of the Court of Justice*.

address the scope of the Directive by relying on the “reverse discrimination” evoked by the Italian Supreme Court.