



**COUNCIL OF
THE EUROPEAN UNION**

Brussels, 30 March 2009

**7855/1/09
REV 1**

DROIPEN 14

NOTE

from : Presidency
to : COREPER/Council

Subject : Draft Presidency conclusions from the Conference on the protection of vulnerable victims and their standing in criminal proceedings
(Prague 17/18 March 2009)

In view of the expected review of existing EU legislation on the standing of victims in criminal proceedings,¹ as well as the revisions of two Framework Decisions planned by the European Commission, the one on combating the sexual exploitation of children and child pornography² and the other on combating trafficking in human beings³, the Czech Presidency considers it appropriate to discuss and assess the level of protection for victims within the EU.

¹ Council Framework Decision 2001/220/JHA on the standing of victims in criminal proceedings (JO L 82, 22.03.2001, p. 1).

² Council Framework Decision 2004/68/JHA on combating the sexual exploitation of children and child pornography (JO L 13, 20.01.2004, p. 44).

³ Council Framework Decision 2002/629/JHA on combating trafficking in human beings (JO L 203, 1.08.2002, p. 1).

From the Presidency's point of view, special attention should be given to the protection of children and other victims, who find themselves in a vulnerable situation e.g. due to their mental or physical disability or the type of offence they were victims of. In the course of criminal proceedings particularly vulnerable victims might be subject of continuing secondary victimization. Furthermore, due to their vulnerability, they are inevitably at a disadvantaged position which could hamper comprehensive and adequate opportunities for them to claim their rights.

In the light of the above, the Ministry of Justice of the Czech Republic in co-operation with the Academy of European Law invited on 17/18 March 2009 practitioners, representatives of the Member States, representatives of the European Union and of the Council of Europe as well as academics and NGOs, to a conference titled "Protection of vulnerable victims and their standing in criminal proceedings", to discuss the important issue of the protection of vulnerable victims.

The conference included special workshops targeting practical needs, possible improvements to the standing of vulnerable victims in the European Union as well as exchange of best practices.

The objective of the conference was to contribute to the review of the current legal framework and to future improvements in the overall approach to the issue of vulnerable victims.

The aim of the Presidency is to draw conclusions from the debates in order to contribute to awareness raising and development of standards with a cross-cutting character among the Member States of the European Union.

COREPER/Council are therefore requested to take note of the draft Presidency conclusions set out in the Annex .

Draft Presidency conclusions on the Conference for the protection of vulnerable victims and their standing in criminal proceedings

The Presidency

- *Reaffirms* that the protection of victims, including vulnerable victims, is an actual topic of great importance across the European Union.
- *Takes note* that with a view to the evaluation of the implementation of the Council Framework Decision of 15 March 2001 on the standing of victims in criminal proceedings and Council Directive of 29 April 2004¹ relating to compensation for crime victims, which were the two main instruments adopted in follow-up to the Tampere conclusions, the European Commission intends to submit a proposal for the amendment of the above mentioned Framework Decision, in the fall of 2009.
- *Underlines* that emphasis should be put on the proper implementation of the above mentioned instruments.
- *Welcomes* the fact that the Commission, having identified the need to adopt special rules for the protection of certain types of victims such as children and victims of trafficking in human beings, proposed a set of specific rules relating to these victims in the new revised Framework Decisions, which were recently submitted, i.e. the Framework Decision on the fight against sexual exploitation of children and child pornography and the Framework Decision on combating trafficking in human beings.
- *Recognizes* that although, at this stage, it may seem challenging to agree at European Union level on a common definition on vulnerable victims, namely due to the variety of national legal systems and diversity of specific cases, the needs for special protection of victims in vulnerable situation shall be further discussed in order to achieve their effective protection.

¹ JO L 261, 06.08.2004, p. 15.

- *Takes note* that Member States acknowledge in their national legal systems, various criteria, such as the age, the mental and physical ability, the type of criminal offence or the relationship with the perpetrator, in order to determine whether a victim finds him/herself in a vulnerable situation.
- *Emphasizes* that particular attention should be given to the protection of vulnerable victims against secondary victimization, which is a crucial principle in this area of protection.
- *Underlines* the need for a fair trial and for balance between the rights of the victim and the defendant.
- *Welcomes* the fact that the exchange of best practices was generally supported. For this purpose the overview of replies of the Member States to the questionnaire on standing of vulnerable victims, which was prepared by the Presidency may serve as a useful tool.
- *Calls on* Member States to promote an efficient enforcement of their legislation in this area with a special focus on training of practitioners.
- *Is convinced* that the conference provided significant amount of inspiration for future negotiations of legislative instruments at European Union level, the future activities of Council of Europe as well as for the purposes of a possible review of national legal systems on protection of victims.
- *Believes* that the protection of vulnerable victims will continue to receive particular attention from the Member States.
