

VICTIMS AND CORPORATIONS

**Implementation of Directive 2012/29/EU
for victims of corporate crimes and corporate violence**

EUROPEAN and INTERNATIONAL SELECTED LEGAL RESOURCES AND CASE LAW

**Appendix to the Project's Report
'RIGHTS OF VICTIMS,
CHALLENGES FOR CORPORATIONS
Project's First Findings'**

(December 2016, updated July 2017)

This collection of selected legal resources and case laws is a complement to the Report for the Project titled Victims and Corporations. Implementation of Directive 2012/29/EU for Victims of Corporate Crimes and Corporate Violence, co-funded by the conjunct programmes “Rights, Equality and Citizenship” and “Justice” of the European Union (Agreement number - JUST/2014/JACC/AG/VICT/7417).

The collection law has been compiled and edited by Claudia Mazzucato with the support of Davide Amato and Paola Cavanna. July 2017 update has been compiled by Davide Amato, Irene Gasparini, Paola Cavanna. Links to official websites are provided in order to access the official and updated texts of the selected documents and to access the summary of legislation.

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Università Cattolica del Sacro Cuore, Centro Studi “Federico Stella” sulla Giustizia penale e la Politica criminale, Milan, 2016
(updated in July 2017)



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“VICTIMS AND CORPORATIONS”

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Part I

European and International Hard Law & Soft Law

(A) - VICTIMS IN GENERAL

(Victims rights, support, protection, participation to criminal proceedings)

EUROPEAN UNION

- EUROPEAN UNION, [Charter of fundamental rights of the European Union](#)

For this project's purposes refer especially to:

- Article 1, Human dignity (Protection and respect);
- Article 2, Right to life;
- Article 3, Right to the integrity of the person;
- Article 6, Right to liberty and security;
- Article 7, Respect for private and family life;
- Article 8, Protection of personal data;
- Article 11, Freedom of expression and information (Right to receive information);
- Article 16, Freedom to conduct a business;
- Article 17, Right to property;
- Article 21, Non-discrimination (Prohibition of discrimination on grounds of nationality);
- Article 24, Rights of the child;
- Article 25, Rights of the elderly;
- Article 26, Integration of persons with disabilities;
- Article 27, Workers' right to information and consultation;
- Article 31, Fair and just working conditions (Respect for health, safety and dignity);

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- Article 34, Social security and social assistance (Entitlement to social security benefits and social services providing protection in cases such as, among others, illness or industrial accidents);
- Article 35, Health care (High level of human health protection);
- Article 37, Environmental protection (High level of environment protection; sustainable development);
- Article 38, Consumer protection (High level of consumer protection);
- Chapter VI – Justice: Articles 47-50 (Right to an effective remedy; fair trial; presumption of innocence; right of defence; principle of legality; principle of proportionality; double jeopardy).

See also the recital n. 66 of the Directive 2012/29/UE establishing *minimum standards on the rights, support and protection of victims of crime, and replacing Council Framework Decision 2001/220/JHA*

- **EUROPEAN UNION, [Treaty on the European Union](#) (TEU)**

For this project's purposes refer in particular to:

- Article 3 (Promotion of peace and well being of EU peoples; area of freedom, security and justice; prevention of crime; sustainable development; balanced economic growth; social progress; improvement of the quality of the environment; promotion of scientific and technological advance; social justice and protection; equality; solidarity; protection of EU citizens; protection of human rights and child's rights).

- **EUROPEAN UNION, [Treaty on the Functioning of the European Union](#) (TFEU)**

(TFEU) Victims rights

For this project's purposes refer in particular to:

- PART THREE - UNION POLICIES AND INTERNAL ACTIONS
 - Title V - Area of freedom, security and justice
 - Chapter 4 – Judicial Cooperation in Criminal Matters.



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- Article 82, according to which ‘the European Parliament and the Council may, by means of directives adopted in accordance with the ordinary legislative procedure, establish minimum rules’, concerning among others: ‘the rights of individuals in criminal procedure; the rights of victims of crime’;

See also

- Article 83, according to which ‘1. The European Parliament and the Council may, by means of directives adopted in accordance with the ordinary legislative procedure, establish minimum rules concerning the definition of criminal offences and sanctions in the areas of particularly serious crime with a *cross-border dimension* resulting from the *nature or impact of such offences* or from a special need to combat them on a common basis. These areas of crime are the following: terrorism, trafficking in human beings and sexual exploitation of women and children, illicit drug trafficking, illicit arms trafficking, money laundering, corruption, counterfeiting of means of payment, computer crime and organised crime. On the basis of developments in crime, the Council may adopt a decision *identifying other areas of crime that meet the criteria specified in this paragraph*. It shall act unanimously after obtaining the consent of the European Parliament. 2. If the approximation of criminal laws and regulations of the Member States proves essential to ensure the effective implementation of a Union policy in an area which has been subject to harmonisation measures, *directives may establish minimum rules with regard to the definition of criminal offences and sanctions in the area concerned*. Such directives shall be adopted by the same ordinary or special legislative procedure as was followed for the adoption of the harmonisation measures in question, without prejudice to Article 76’ [emphasis added].



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(TFUE) Environment protection, product safety, public health, workers' health and safety, consumer protection

For this project's purposes, also refer, among others, to the followings:

- Article 4 (Principal areas of EU competence: environment, consumer protection; freedom, security and justice; common safety in public health);
- Article 6(a) (Actions in the field of protection and improvement of human health);
- Article 9 (Adequate social protection; high level of protection of human health);
- Article 10 (Fight against discrimination);
- Article 11 (Environment protection);
- Article 12 (Consumer protection);
- Article 114(3), Approximation of laws (High level of protection as a base for health, safety, environment and consumer protection, taking account of development based on scientific facts);
- Articles 153(1, a) (EU support in improvement of the working environment to protect workers' health and safety);
- PART THREE - UNION POLICIES AND INTERNAL ACTIONS
 - Title XIV - Public health
- Article 168(4) (High standards of quality and safety of medical products and devices for medical use)
- Article 169(1) (Promotion of a high level of consumer protection; promotion of health, safety and economic interests of consumers; consumers' right to information; consumers' organisations).
- PART THREE - UNION POLICIES AND INTERNAL ACTIONS
 - TITLE XV - Consumer protection
- PART THREE - UNION POLICIES AND INTERNAL ACTIONS
 - Title XX – Environment
 - Article 191 (Environment protection; protection of human health; precautionary principle)

(TFUE) Humanitarian aid, victims of man-made disasters

- PART FIVE - THE UNION'S EXTERNAL ACTION



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TITLE III – Cooperation with third countries and humanitarian aid

- Chapter 3, Humanitarian aid
 - Article 214(1) (*Ad hoc* assistance and relief and protection for people in third countries who are victims of natural or man-made disasters)

TITLE VII – Solidarity clause

- Article 222 (Solidarity towards Member States object of a terrorist attack or victim of natural or man-made disaster).

- EUROPEAN UNION, [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](#)

'The Directive 2012/29/UE **Directive** establishing minimum standards on the rights, support and protection of victims of crime ensures that persons who have fallen victim of crime are recognised, treated with respect and receive proper protection, support and access to justice. The Directive replaces the 2001 Framework Decision on the standing of victims in criminal proceedings and considerably strengthens the rights of victims and their family members to information, support and protection and victims' procedural rights in criminal proceedings. The Directive also requires that the Member States ensure appropriate training on victims' needs for officials who are likely to come into contact with victims and encourage cooperation between Member States and coordination of national services of their actions on victims' rights' [Source: <http://ec.europa.eu/justice>].

- EUROPEAN COMMISSION, DG JUSTICE, [Guidance Document related to the transposition and implementation of Directive 2012/29/UE, December 2013](#)

The *Guidance Document* was issued by the DG Justice to assist Member States in the process of transposition and implementation of the Directive 2012/29/UE. It 'clarifies the provisions of the Directive, in order to help national authorities, practitioners and relevant service



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providers understanding what is required to make the victims' rights set out in the Directive a reality everywhere in the EU'
[Source: <http://ec.europa.eu/justice>].

- EUROPEAN UNION, [Resolution of the Council of 10 June 2011 on a Roadmap for strengthening the rights and protection of victims, in particular in criminal proceedings \(2011/C 187/01\) – Budapest Roadmap](#)

The Budapest Roadmap outlined a package of legislative proposals, including a directive (now Directive 2012/29/UE). The Budapest Roadmap 'put victims at the heart of the EU criminal justice agenda'.

- EUROPEAN COUNCIL, [The Stockholm Programme – An open and secure Europe serving and protecting citizens \(2010/C 115/01\)](#)

'In order to provide a secure Europe where the fundamental rights and freedoms of citizens are respected (...) [t]he Stockholm Programme sets out the European Union's (EU) priorities for the area of justice, freedom and security for the period 2010-14. Building on the achievements of its predecessors the [Tampere](#) and [Hague](#) programmes, it aims to meet future challenges and further strengthen the area of justice, freedom and security with actions focusing on the interests and needs of citizens'. [Source: eur-lex.europa.eu].

- EUROPEAN COMMISSION, [Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions of 20 April 2010 – Delivering an area of freedom, security and justice for Europe's citizens – Action Plan Implementing the Stockholm Programme \[COM\(2010\) 171 final\]](#)

The Action Plan 'provides a roadmap for the implementation of political priorities set out in the Stockholm Programme for the area of justice, freedom and security between 2010-14' [Source: eur-lex.europa.eu].



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- **EUROPEAN COUNCIL, [Internal Security Strategy for the European Union. Towards a European Security Model, 2010](#)**

‘The Treaty on the Functioning of the European Union (in particular Article 72), which entered into force in late 2009, along with the EU Charter on Fundamental Rights, laid the foundations for the development of an EU security policy based on the rule of law, respect for fundamental rights and solidarity. Following the adoption of the Stockholm programme (the EU's programme for justice and home affairs for the period 2010-14), the EU adopted, in 2010, its internal security strategy (ISS). Given that many security challenges (cybercrime, terrorism, illegal immigration and organised crime) are cross-border and cross-sectoral in nature, no single EU country is able to respond effectively to these threats on its own. In addition, the EU needs to improve its resilience to crises and disasters. The EU's ISS is thus its joint agenda to use all the resources and expertise available to jointly tackle these challenges (...).’ [Source: eur-lex.europa.eu]

Among the values and principles that inspired the ISS is the ‘protection of all citizens, especially the most vulnerable, with the focus on victims of crimes such as trafficking in human beings or gender violence, including victims of terrorism who also need special attention, support and social recognition’.

- **EUROPEAN COMMISSION, [Communication from the Commission to the European Parliament and the Council - The EU Internal Security Strategy in Action: Five steps towards a more secure Europe \(COM\(2010\) 673 final of 22.11.2010\)](#)**

The Communication aims at putting the EU [Internal Security Strategy](#) into action, focusing on organised crime, terrorism, cybercrime, border security and disasters, It provides for specific actions for the period 2011-14.



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- **EUROPEAN UNION, [Directive 2011/99/EU of the European Parliament and of the Council of 13 December 2011 on the European Protection Order](#)**

‘The Directive sets up a mechanism allowing persons who benefit from a protection order in criminal matters issued in one Member State to request a European Protection Order. Such an order allows for protection also in other Member States where the protected person travels or moves. Protection orders covered by the Directive concern situations where victims, or potential victims, of crime benefit from a prohibition or regulation of entering certain places, being contacted or approached by a person causing risk’ [Source: <http://ec.europa.eu/justice>]. Deadline for domestic implementation was January 11, 2015.

- **EUROPEAN UNION, [Council Directive 2004/80/EC of 29 April 2004 relating to compensation to crime victims](#)**

‘The Directive 2004/80/EC provides that persons can apply for state compensation when they have fallen victims to crime abroad, and receive assistance to do so. The Directive requires that all Member States have a state compensation scheme which provides fair and appropriate compensation to victims of intentional violent crime. The Directive also creates a system of cooperation between national authorities for the transmission of applications for compensation in cross-border situations, notably victims of a crime committed outside their Member State of habitual residence can turn to an authority in their own Member State to submit the application and get help with practical and administrative formalities’ [Source: <http://ec.europa.eu/justice>].

- **COMMISSION OF THE EUROPEAN COMMUNITIES, [Green Paper – Compensation to Crime Victims, COM\(2001\) 536, Brussels, 28 September 2001](#)**

The Green Paper ‘launches a consultation with all interested parties on possible measures to be taken at Community level to improve state compensation to crime victims in the EU’ [Source: eur-lex.europa.eu].



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- **EUROPEAN UNION, [Regulation \(EU\) No 606/2013 of the European Parliament and of the Council of 12 June 2013 on mutual recognition of protection measures in civil matters](#)**

‘The regulation sets up a mechanism allowing for a direct recognition of protection orders issued as a civil law measure between Member States. Thus, persons who benefit from a civil law protection order issued in the Member State of its residence may invoke it directly in other Member States by presenting [a certificate](#) to competent authorities certifying their rights. The Regulation applies as of 11 January 2015’ [Source: <http://ec.europa.eu/justice/>].

- **See also EUROPEAN UNION, [Council Regulation \(EC\) No 2201/2003 of 27 November 2003 concerning jurisdiction and the recognition and enforcement of judgments in matrimonial matters and the matters of parental responsibility, repealing Regulation \(EC\) No 1347/2000](#)**

‘A single legal instrument to help international couples resolve disputes, involving more than one country, over their divorce and the custody of their children. (...) It sets out: - rules determining which court is responsible for dealing with matrimonial matters and parental responsibility in disputes involving more than one country; - rules making it easier to recognise and enforce judgments issued in one EU country in another; - a procedure to settle cases in which a parent abducts a child from one EU country and takes them to another. (...) Child abduction: The Regulation also lays down rules to settle cases in which children are unlawfully removed or kept. The courts of the EU country where the child normally lived immediately before abduction continue to have jurisdiction until the child lives mainly in another EU country. Recognition: Under the Regulation, any EU country must automatically recognise judgments given in another EU country on matrimonial and parental responsibility matters. (...) Enforcement: A judgment on the exercise of parental responsibility enforceable in the EU country where it was issued can be enforced in another EU country when it has been declared enforceable there at the request of any interested party. However, no declaration is required for judgments granting rights of access or concerning the return of a child that have



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been certified by the original judge in accordance with the Regulation'.
[Source: eur-lex.europa.eu]

- EUROPEAN UNION, [Council Framework Decision 2001/220/JHA of 15 March 2001 on the standing of victims in criminal proceedings](#)

The Framework Decision 2001/220/JHA has been replaced by the Directive 2012/29/UE.



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(A) - VICTIMS IN GENERAL [Follows]

COUNCIL OF EUROPE

- COUNCIL OF EUROPE, [European Convention on Human Rights](#)

‘Signed in 1950 by the Council of Europe, the ECHR is an international treaty to protect human rights and fundamental freedoms in Europe. All 47 countries forming the Council of Europe are party to the Convention, 28 of which are members of the EU. The Convention established the European Court of Human Rights, intended to protect individuals from human rights violations. Any person whose rights have been violated under the Convention by a state party may take a case to the Court. This was an innovative feature, as it gave individuals rights in an international arena. Judgments finding violations are binding on the countries concerned. The Committee of Ministers of the Council of Europe monitors the execution of judgements. The Convention has several protocols, which amend its framework. **The Treaty of Lisbon, in force since 1 December 2009, permits the EU to accede to the ECHR and a draft agreement for accession was finalised in 2013**’. [Source: eur-lex.europa.eu] In December 2014 the Court of Justice gave Opinion No. 2/2013 concluding that the draft agreement on the accession of the EU to the ECHR is not compatible with EU law.

- COUNCIL OF EUROPE, [European Convention on the Compensation of Victims of Violent Crimes \(ETS No. 116\), Strasbourg, 1983](#)

‘This Convention puts upon States that become a Party to it the obligation to compensate the victims of intentional and violent offences resulting in bodily injury or death. The obligation to compensate is limited to offences committed on the territory of the State concerned, regardless of the nationality of the victim’. The Convention provides for a definition of compensation, and sets principles and conditions of application. [Source: www.coe.int]



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- COUNCIL OF EUROPE, [Recommendation Rec \(2006\)8 of the Committee of Ministers to Member States on Assistance to Crime Victims, 14 June 2006](#)
Principles of protection of victims' human rights and dignity; Assistance, support, information and access to remedies; Mediation; Public awareness-raising on the effects of crime.
- COUNCIL OF EUROPE, [Recommendation Rec\(2005\)9 of the Committee of Ministers to Member States on the protection of witnesses and collaborators of justice](#)
- COUNCIL OF EUROPE, [Recommendation Rec\(2000\)19 of the Committee of Ministers to Member States on the Role of Public Prosecution in the Criminal Justice System, 6 October 2000](#)
- COUNCIL OF EUROPE, [Recommendation No. R \(99\) 19 of the Committee of Ministers to Member States concerning mediation in penal matters](#)
The Recommendation promotes mediation in penal matters 'Considering the need to enhance active personal participation in criminal proceedings of the victim and the offender and others who may be affected as parties as well as the involvement of the community; Recognising the legitimate interest of victims to have a stronger voice in dealing with the consequences of their victimisation, to communicate with the offender and to obtain apology and reparation' [Source: www.coe.int].
- COUNCIL OF EUROPE, [Recommendation No. R \(97\) 13 of the Committee of Ministers to Member States concerning Intimidation of Witnesses and the Rights of the Defence](#)



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- COUNCIL OF EUROPE, [Recommendation No. R \(96\) 8 of the Committee of Ministers to Member States on Crime Policy in Europe in a Time of Change](#)

According to the Recommendation 'it is necessary both to enhance the confidence of victims in criminal justice and to have adequate regard, within the criminal justice system, to the physical, psychological, material and social harm suffered by victims'. Section I.B. of the Recommendation deals with 'economic crime'; para. 12-20 deal with provisions for the 'liability of corporate bodies' [Source: www.coe.int].

- COUNCIL OF EUROPE Committee of Ministers, [Recommendation R. \(87\)21 on Assistance to Victims and the Prevention of Victimisation, 17 September 1987](#)

Measures to provide assistance to victims, especially vulnerable ones, and prevent victimization; situational prevention policy through social development; victim-offender mediation.

- COUNCIL OF EUROPE, [Recommendation No. R \(85\) 11 of the Committee of Ministers to Member States on the Position of the Victim in the Framework of Criminal Law and Procedure](#)

Recommendation to Member States to review their legislation and practice in accordance with proposed guidelines in relation to police agencies, prosecution, court proceedings and questioning of the victim, compensation, and protection of privacy. Reinforcement of social norms and rehabilitation of offenders as a tool for victim-offender reconciliation.

- COUNCIL OF EUROPE, [Recommendation No. R. \(83\)7 of the Committee of Ministers to Member States on participation of the public in crime policy](#)

Recommendation to Member States to inform the public of its fundamental role in implementing a crime prevention policy and to encourage the public to 'assist victims both during and after the perpetration of the offence' assistance to victims; offender/State compensation to victims; assistance, legal aid.

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(Section III.D 'A crime policy taking account of the victims' interests'). Recommendation to Member States to 'establish contact with associations concerned with protecting the interests of victims in order to secure their support for a crime policy aimed both at fostering the reintegration of offenders, especially through non-custodial treatment, and at making appropriate provision for victims' (para. 24).



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(A) - VICTIMS IN GENERAL [Follows]

UNITED NATIONS

- UNITED NATIONS, [General Assembly, Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power , 29 November 1985 A/RES/40/34](#)

‘The Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power consists of two parts: Part A, on “Victims of Crime”, is subdivided into sections concerning “Access to justice and fair treatment”, “Restitution”, “Compensation”, and “Assistance”; and Part B, on “Victims of abuse of power”’. Para. 4 of the Preamble calls upon Member States ‘to take the necessary steps’ in order, among others, to endeavour: (...) (e) To promote disclosure of relevant information to expose official and corporate conduct to public scrutiny, and other ways of increasing responsiveness to public concerns; (f) To promote the observance of codes of conduct and ethical norms, in particular international standards, by public servants, including law enforcement, correctional, medical, social service and military personnel, as well as the staff of economic enterprises’. Para. 10. of the Declarations provides: ‘In cases of substantial harm to the environment, restitution, if ordered, should include, as far as possible, restoration of the environment, reconstruction of the infrastructure, replacement of community facilities and reimbursement of the expenses of relocation, whenever such harm results in the dislocation of a community’.

- UNITED NATIONS, [Office for Drug Control and Crime Prevention, Handbook on Justice for Victims. On the use and application of the Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power, New York, 1999](#)

‘The Handbook outlines the basic steps in developing comprehensive assistance services for victims of crime. (...) This Handbook has been drafted recognizing that differences arise when its principles are applied in the context of different legal systems, social support structures and life situations. (...) The Handbook is not meant to be prescriptive but to

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serve as a set of examples for jurisdictions to examine and test' [Source: www.unodc.org].

- UNITED NATIONS, [Economic and Social Council \(ECOSOC\), UN Economic and Social Council Resolution 2002/12: Basic Principles on the Use of Restorative Justice Programmes in Criminal Matters, 24 July 2002, E/RES/2002/12](#)

In setting the basic principles, the ECOSOC Resolution 2002/12 recognizes, among others, that restorative justice: a) 'promotes social harmony through the healing of victims, offenders and communities'; b) 'enables those affected by crime to share openly their feelings and experiences, and aims at addressing their needs'; c) 'provides an opportunity for victims to obtain reparation, feel safer and seek closure'; d) 'allows offenders to gain insight into the causes and effects of their behaviour and to take responsibility in a meaningful way'.

- UNITED NATIONS OFFICE ON DRUGS AND CRIME (UNODC), [Handbook on Restorative Justice programmes, New York, 2006](#)

The *Handbook* is a practical tool developed by UNODC to support countries in the implementation of the ECOSOC Resolution 2002/12 concerning the basic principles on restorative justice in criminal matters. The handbook 'offers, in a quick reference format, an overview of key considerations in the implementation of participatory responses to crime based on a restorative justice approach. (...) It was prepared for the use of criminal justice officials, non-governmental organizations and community groups who are working together to improve current responses to crime and conflict in their community' [Source: *Handbook on RJ programmes*].



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(B) - SPECIFIC GROUPS OF VICTIMS

EUROPEAN UNION

- EUROPEAN UNION, [Directive 2011/92/EU of the European Parliament and of the Council of 13 December 2011 on combating the sexual abuse and sexual exploitation of children and child pornography, and replacing Council Framework Decision 2004/68/JHA](#)

‘Directive 2011/92/EU brings into line criminal offences relating to sexual abuse committed against children, the sexual exploitation of children and child pornography throughout the EU. It also lays down minimum sanctions. The rules include provisions aimed at combating child pornography online and sex tourism’. The Directive also establishes provisions concerning the assistance, support and protection for victims that must be provided before, during and after criminal proceedings. ‘Child victims of sexual abuse, sexual exploitation or child pornography are considered as particularly vulnerable victims and must be treated in a manner which is most appropriate to their situation’. [Source: <http://eur-lex.europa.eu>]

- EUROPEAN UNION, [Directive 2011/36/EU of the European Parliament and of the Council of 5 April 2011 on preventing and combating trafficking in human beings and protecting its victims, and replacing Council Framework Decision 2002/629/JHA](#)

The Directive 2011/36/EU ‘lays down minimum common rules for determining offences of trafficking in human beings and punishing offenders. It also provides for measures to better prevent this phenomenon and to strengthen the protection of victims’. As of victims’ support, the Directive provides that ‘victims receive assistance before, during and after criminal proceedings so that they can exercise the rights conferred on them under the status of victims in criminal proceedings. This assistance may consist of the reception in shelters, or the provision of medical and psychological assistance and information services and interpretation. Children and teenagers (under 18) enjoy additional

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measures such as physical and psychosocial support, access to education and, where applicable, the possibility to appoint a guardian or representative. They should be interviewed immediately in suitable premises and by skilled professionals. Victims have the right to police protection and legal assistance to enable them to claim compensation'. [Source: <http://eur-lex.europa.eu>]

- EUROPEAN UNION, [Directive \(EU\) 2017/541 of the European Parliament and of the Council of 15 March 2017 on combating terrorism and replacing Council Framework Decision 2002/475/JHA and amending Council Decision 2005/671/JHA](#)

The Directive 'establishes minimum rules concerning the definition of criminal offences and sanctions in the area of terrorist offences, offences related to a terrorist group and offences related to terrorist activities, as well as measures of protection of, and support and assistance to, victims of terrorism' (see Article 1). It replaced the Framework Decision 2002/5475/JHA. It further specifies that measures of protection, support and assistance responding to the specific needs of victims of terrorism need to be adopted.

- EUROPEAN UNION, [Council Framework Decision 2008/913/JHA of 28 November 2008 on combating certain forms and expressions of racism and xenophobia by means of criminal law](#)

See, in particular, Recital 11 and Article 8, according to which 'It should be ensured that investigations and prosecutions of offences involving racism and xenophobia are not dependent on reports or accusations made by victims, who are often particularly vulnerable and reluctant to initiate legal proceedings'.

- EUROPEAN UNION, [Council Directive 2000/43/EC of 29 June 2000 implementing the principle of equal treatment between persons irrespective of racial or ethnic origin](#)

For the purposes of this project, see in particular: a) Recital (16) 'It is important to protect all natural persons against discrimination on grounds of racial or



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ethnic origin. Member States should also provide, where appropriate and in accordance with their national traditions and practice, protection for legal persons where they suffer discrimination on grounds of the racial or ethnic origin of their members'; b) Recital 20: 'The effective implementation of the principle of equality requires adequate judicial protection against victimisation'; c) Recital 24: 'Protection against discrimination based on racial or ethnic origin would itself be strengthened by the existence of a body or bodies in each Member State, with competence to analyse the problems involved, to study possible solutions and to provide concrete assistance for the victims'; d) Article 9: 'Victimisation. Member States shall introduce into their national legal systems such measures as are necessary to protect individuals from any adverse treatment or adverse consequence as a reaction to a complaint or to proceedings aimed at enforcing compliance with the principle of equal treatment'.



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(B) - SPECIFIC GROUPS OF VICTIMS [Follows]

COUNCIL OF EUROPE

COUNCIL OF EUROPE - CONVENTIONS

- COUNCIL OF EUROPE, [Convention against Trafficking in Human Organs \(CETS No. 216\), Santiago de Compostela, 25/03/2015](#)

Among other provisions, 'the Convention calls on governments to establish as a criminal offence the illegal removal of human organs from living or deceased donors also provides protection measures and compensation for victims as well as prevention measures to ensure transparency and equitable access to transplantation services'.

- COUNCIL OF EUROPE, [Additional Protocol to the Council of Europe Convention on the Prevention of Terrorism \(CETS No.217\), Riga, 2015](#)

'The Protocol to the Council of Europe Convention on the Prevention of Terrorism will make a number of acts, including taking part in an association or group for the purpose of terrorism, receiving terrorist training, travelling abroad for the purposes of terrorism and financing or organising travel for this purpose, a criminal offence. The Protocol also provides for a network of 24-hour-a-day national contact points facilitating the rapid exchange of information' [Source: www.coe.int]

- COUNCIL OF EUROPE, [Convention on preventing and combating violence against women and domestic violence \(CETS. No. 210\), Istanbul, 2011](#)

The Convention 'opens the path for creating a legal framework at pan-European level to protect women against all forms of violence, and prevent, prosecute and eliminate violence against women and domestic violence. The Convention also establishes a specific monitoring mechanism ("GREVIO") in order to ensure effective implementation of its provisions by the Parties'. [Source: www.coe.int] It has been signed also by the EU: see the [Council](#)

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[Decision \(EU\) 2017/866 of 11 May 2017 on the signing, on behalf of the European Union, of the Council of Europe Convention on preventing and combating violence against women and domestic violence with regard to asylum and non-refoulement.](#)

- COUNCIL OF EUROPE, [Convention on the Protection of Children against Sexual Exploitation and Sexual Abuse \(CETS No. 201\), Lanzarote, 2007](#)

This Convention establishes ‘the various forms of sexual abuse of children as criminal offences’ and outlines ‘preventive measures’. ‘The Convention also establishes programmes to support victims, encourages people to report suspected sexual exploitation and abuse, and sets up telephone and internet helplines for children (...). The new legal tool also ensures that child victims are protected during judicial proceedings, for example with regard to their identity and privacy’. [Source: www.coe.int]

- COUNCIL OF EUROPE, [Convention on the Prevention of Terrorism \(CETS No. 196\), Warsaw, 2005](#)

The Convention aims ‘to increase the effectiveness of existing international texts on the fight against terrorism’ and ‘to strengthen member States’ efforts to prevent terrorism (...). The Convention contains a provision on the protection and compensation of victims of terrorism. A consultation process is planned to ensure effective implementation and follow up’. [Source: www.coe.int]

- COUNCIL OF EUROPE, [Convention on Action against Trafficking in Human Beings \(CETS No. 197\), Warsaw, 2005](#)

‘The Convention is a comprehensive treaty mainly focused on the protection of victims of trafficking and the safeguard of their rights. It also aims at preventing trafficking as well as prosecuting traffickers’ [Source: www.coe.int]



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- COUNCIL OF EUROPE, [European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment \(CETS No. 126\), Strasbourg, 1987](#)

‘The Convention provides for the setting up of an international committee empowered to visit all places where persons are deprived of their liberty by a public authority. The committee, composed of independent experts, may make recommendations and suggest improvements in order to strengthen, if necessary, the protection of persons visited from torture and from inhuman or degrading treatment or punishment. This preventive, non-judicial machinery is an important addition to the system of protection already existing under the European Convention on Human Rights’ [Source: www.coe.int]

COUNCIL OF EUROPE, COMMITTEE OF MINISTERS, RECOMMENDATIONS AND GUIDELINES

- COUNCIL OF EUROPE, Committee of Ministers, [Guidelines on child-friendly justice \(2010\)](#)
- COUNCIL OF EUROPE, Committee of Ministers, [Guidelines on the Protection of Victims of Terrorist Acts \(2005\)](#)
- COUNCIL OF EUROPE, [Recommendation Rec\(2002\)5 of the Committee of Ministers to Member States on the protection of women against violence](#)
Legislation and policies tailored on victims’ needs; Empowering victims to prevent secondary victimization; Information and public awareness on the consequences of crimes on victims; Effective assistance, treatment and counselling; Compensation; Access to justice and procedural rights.



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- COUNCIL OF EUROPE, [Recommendation No. R \(2000\) 11 of the Committee of Ministers to Member States on action against trafficking in human beings for the purpose of sexual exploitation](#)
- COUNCIL OF EUROPE, [Committee of Ministers, Recommendation No. R \(91\)11 concerning sexual exploitation, pornography and prostitution of, and trafficking in children and young adults](#)
- COUNCIL OF EUROPE, [Committee of Ministers, Recommendation No. R \(85\)4 on violence in the family](#)

COUNCIL OF EUROPE – PARLIAMENTARY ASSEMBLY, RECOMMENDATIONS

- COUNCIL OF EUROPE, [Parliamentary Assembly, Recommendation 1178 \(2007\) on Child victims: stamping out all forms of violence, exploitation and abuse](#)
- COUNCIL OF EUROPE, [Parliamentary Assembly, Recommendation 1777 \(2007\) on Sexual assaults linked to “date-rape drugs”](#)
- COUNCIL OF EUROPE, [Parliamentary Assembly, Resolution 1530 \(2007\) Child victims: stamping out all forms of violence, exploitation and abuse](#)
- COUNCIL OF EUROPE, [Parliamentary Assembly, Recommendation 1583 \(2002\) on Prevention of recidivism in crimes against minors](#)
- COUNCIL OF EUROPE, [Parliamentary Assembly, Recommendation 1582 \(2002\) on Domestic violence against women](#)



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- COUNCIL OF EUROPE, [Parliamentary Assembly, Recommendation 1426 \(1999\) on European democracies facing up to terrorism](#)





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(B) - SPECIFIC GROUPS OF VICTIMS [Follows]

UNITED NATIONS

- UNITED NATIONS OFFICE ON DRUGS AND CRIME (UNODC), [Handbook on the Criminal Justice Response to Support Victims of Acts of Terrorism, New York, 2012](#) [revised edition]

‘Victims have long played a secondary, and mostly silent, role in criminal trials. UNODC recognizes the importance of representing victims’ interests in criminal proceedings and the relevance of developing comprehensive programmes that effectively provide adequate treatment to victims of acts of terrorism. Effective criminal prosecution of alleged perpetrators is a crucial factor in reducing the perception of victimization and of impunity for terrorist acts. Granting victims equal and effective access to justice is also essential. In order to further integrate the perspective of victims into UNODC’s capacity-building activities addressing the criminal justice aspects of countering terrorism, the role of victims and their surviving family members in criminal proceedings needs to be emphasized’. [Source: *Handbook on the Criminal Justice Response to Support Victims of Acts of Terrorism*].

- UNITED NATIONS, Economic and Social Council (ECOSOC), [UN Economic and Social Council Resolution 2005/30: Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law, 25 July 2005, E/RES/2005/30](#)

Relevant topics: Victims’ right to remedies and reparation; Ensuring that domestic legislations provides the same level of protection as international standards; Enforcement of reparation judgments against liable entities; Information of the public and of victims of the violations and the remedies available; Victims entitled to seek causes of their victimization; Reparation for the harm suffered consisting in: a) restitution; b) compensation; c) rehabilitation; d) satisfaction; e) guarantee of non-repetition.



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- UNITED NATIONS, Commission on Human Rights, [Commission on Human Rights Resolution 2004/34: The Right to Restitution, Compensation and Rehabilitation for Victims of Grave Violations of Human Rights and Fundamental Freedoms, 19 April 2004, E/CN.4/RES/2004/34](#)

International community is called to ensure restitution, compensation and rehabilitation to victims of grave violations of human rights and fundamental freedoms.

- UNITED NATIONS, [Protocol to prevent, suppress and punish trafficking in persons, especially women and children, supplementing the United Nations Convention against transnational organized crime, 2000](#)

The Protocol deals with trafficking where pursued transnationally, as part of organized crime. It sets the fundamental international framework, where the '4Ps' stand for Prosecution, Prevention, Protection and Partnerships. Indeed, it was intended "(a) to prevent and combat trafficking in persons, [...] (b) to protect and assist the victims of such trafficking, with full respect of their human rights and (c) to promote cooperation among States Parties" (see Article 2).

- UNITED NATIONS, [General Assembly, Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, 10 December 1984](#)

- UNITED NATIONS, [General Assembly, Optional Protocol to the Convention Against Torture and other Cruel, Inhuman and Degrading Treatment or Punishment, 9 January 2003, A/RES/57/199](#)



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- UNITED NATIONS, [General Assembly, Convention on the Elimination of All Forms of Discrimination Against Women, 18 December 1979](#)



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(C) PROJECT'S RELATED TOPICS

Personal data protection

Disclosure of non-financial information

Environment

Product safety

Food safety

Safety of medical products and devices for medical use

Safety on the workplace and protection of workers

Action for damages (infringements of the competition law provisions)

Personal data protection

- EUROPEAN UNION, [Regulation \(EU\) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC \(General Data Protection Regulation\)](#)
Regulation (EU) 2016/679 allows European Union (EU) citizens to better control their personal data. It also modernises and unifies rules allowing businesses to reduce red tape and to benefit from greater consumer trust.
- EUROPEAN UNION, [Directive \(EU\) 2016/680 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data by competent authorities for the purposes of the prevention, investigation, detection or prosecution of criminal offences or the execution of criminal penalties, and on the free movement of such data, and repealing Council Framework Decision 2008/977/JHA](#)

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Directive (EU) 2016/680 ‘aims to better protect individuals’ personal data when their data is being processed by police and criminal justice authorities.

It also aims to improve cooperation in the fight against terrorism and cross-border crime in the EU by enabling police and criminal justice authorities in EU countries to exchange information necessary for investigations more efficiently and effectively. The Data Protection Directive for Police and Criminal Justice Authorities is part of the EU data protection reform package along with the General Data Protection Regulation (Regulation (EU) 2016/679). [Source: <http://eur-lex.europa.eu>].

Disclosure of non-financial information

- EUROPEAN UNION, [Directive 2014/95/EU of the European Parliament and of the Council of 22 October 2014 amending Directive 2013/34/EU as regards disclosure of non-financial and diversity information by certain large undertakings and groups](#)

Directive 2014/95/EU ‘requires certain large companies to disclose relevant non-financial information to provide investors and other stakeholders with a more complete picture of their development, performance and position and of the impact of their activity. (...) Such companies are required to give a review of policies, principal risks and outcomes, including on: environmental matters; social and employees aspects; respect for human rights; anti-corruption and bribery issues; diversity on boards of directors. (...) If companies do not have a policy on one of these areas, the non-financial statement should explain why not. (...) Companies are given the freedom to disclose this information in the way they find useful or in a separate report. In preparing their statements, companies may use national, European or international guidelines such as the [UN Global Compact](#).’ [Source: <http://eur-lex.europa.eu>].



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- EUROPEAN COMMISSION, [Communication from the Commission - Guidelines on non-financial reporting \(methodology for reporting non-financial information\)](#)

Pursuant Article 2, Directive 2014/95/EU and following a public consultation, the Commission has made available non-binding guidelines on methodology for reporting non-financial information, with a view to facilitating relevant, useful and comparable disclosure. In doing so, the Commission has taken into account best practices, relevant developments and the results of related initiatives, both within the EU and at international level.

- **See also Århus Convention and related documents**



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Environment

Environment protection

- EUROPEAN UNION, [Council Decision \(EU\) 2016/1841 of 5 October 2016 on the conclusion, on behalf of the European Union, of the Paris Agreement adopted under the United Nations Framework Convention on Climate Change](#)

The Decision 'ratifies the **Paris Agreement on climate change** on behalf of all European Union (EU) countries. The agreement aims to strengthen the global response to the threat of climate change, including by limiting warming to well below 2°C' [Source: <http://eur-lex.europa.eu>].

- EUROPEAN UNION, [Directive 2014/52/EU of the European Parliament and of the Council of 16 April 2014 amending Directive 2011/92/EU on the assessment of the effects of certain public and private projects on the environment](#)

The objective of the Directive is 'to ensure a high level of protection of the environment and of human health, through the establishment of minimum requirements for the environmental impact assessment of projects', as well as to strengthen 'public access to information and security' and 'ensure a high level of protection of the environment and human health' [Source: Recitals n. 18, 22, 41].

- EUROPEAN UNION, [Decision No 1386/2013/EU of the European Parliament and of the Council of 20 November 2013 on a General Union Environment Action Programme to 2020 'Living well, within the limits of our planet'](#)

'The 7th Environment Action Programme (EAP) will guide European environment policy until 2020. The new Plan identifies nine priority objectives and sets out a long-term vision of where it wants the EU to be by 2050. Guided by the long-term vision of "In 2050, we live well, within the planet's ecological limits", the [7th Environment Action Programme \(EAP\)](#) identifies 3 priority action areas for the EU: 1) Natural capital (...); 2) Resource-efficient economy

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(...); Healthy environment of healthy people (...). (...) The EAP's priority objectives 4 to 7 (the four 'I's) aim to help Europe deliver on the first three goals through: better implementation of legislation; better information by improving the knowledge base; more and wiser investment for environment and climate policy; full integration of environmental requirements and considerations into other policies. The programme's final two priority objectives are: sustainable cities; tackling international challenges (environmental and climate) [Source: <http://eur-lex.europa.eu>].

This Decision 'sets forth a general European Union action programme in the field of the environment for the period up to 31 December 2020, called the 7th Environment Action programme. This programme is based on the precautionary principle, the principles of preventive action and of rectification of pollution at source and the polluter-pays principle. It has the following priority objectives: (a) to protect, conserve and enhance the European Union's natural capital; (b) to turn the European Union into a resource-efficient, green and competitive low-carbon economy; (c) to safeguard the European Union's citizens from environment-related pressures and risks to health and well-being; (d) to maximise the benefits of European Union environment legislation by improving implementation; (e) to improve the knowledge and evidence base for European Union environment policy; (f) to secure investment for environment and climate policy and address environmental externalities; (g) to improve environmental integration and policy coherence; (h) to enhance the sustainability of the European Union's cities; and (i) to increase the European Union's effectiveness in addressing international environmental and climate-related challenges' [Source: <http://www.ecolex.org/>].

- EUROPEAN UNION, [Directive 2012/18/EU of the European Parliament and of the Council of 4 July 2012 on the control of major-accident hazards involving dangerous substances, amending and subsequently repealing Council Directive 96/82/EC Text with EEA relevance](#) [Seveso III Directive]

'This Directive lays down rules for the prevention of major accidents which involve dangerous substances, and the limitation of their consequences for human health and the environment, with a view to ensuring a high level of



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protection throughout the Union in a consistent and effective manner' [Source: <http://rod.eionet.europa.eu/instruments/661>].

- EUROPEAN UNION, [Directive 2011/92/EU of the European Parliament and of the Council of 13 December 2011 on the assessment of the effects of certain public and private projects on the environment](#)

The Directive 'contains a legal requirement to carry out an environmental impact assessment (EIA) of public or private projects likely to have significant effects on the environment, before they begin' [Source: <http://eur-lex.europa.eu>].

- EUROPEAN UNION, [Directive 2008/99/EC of the European Parliament and of the Council of 19 November 2008 on the protection of the environment through criminal law](#)

[Directive 2008/99/EC](#) 'defines a number of serious offences that are detrimental to the environment. It requires EU countries to introduce effective, proportionate and dissuasive penalties for these types of offence when committed intentionally or as a result of serious negligence. (...) This Directive builds upon [Directive 2004/35/EC](#), which lays down rules on environmental liability with regard to the prevention and remedying of environmental damage' [Source: <http://eur-lex.europa.eu>].

- EUROPEAN UNION, [Directive 2004/35/CE of the European Parliament and of the Council of 21 April 2004 on environmental liability with regard to the prevention and remedying of environmental damage](#)

'Directive 2004/35/EC on environmental liability with regard to the **prevention** and **remedying** of environmental damage (ELD) establishes a framework based on the **polluter pays principle** to prevent and remedy environmental damage. As the ELD deals with the "pure ecological damage", it is based on the powers and duties of public authorities ("administrative approach") as distinct from a civil liability system for "traditional damage" (damage to property, economic loss, personal injury). The ELD was amended three times through [Directive](#)



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[2006/21/EC](#) on the management of waste from extractive industries, through [Directive 2009/31/EC](#) on the geological storage of carbon dioxide and amending several directives, and through [Directive 2013/30/EU](#) on safety of offshore oil and gas operations and amending Directive 2004/35/EC' [Source: <http://ec.europa.eu/environment>].

- EUROPEAN UNION, [Directive 2002/49/EC of the European Parliament and of the Council of 25 June 2002 relating to the assessment and management of environmental noise - Declaration by the Commission in the Conciliation Committee on the Directive relating to the assessment and management of environmental noise](#)

'This Directive is aimed at controlling noise perceived by people in built-up areas, in public parks or other quiet areas in an agglomeration, in quiet areas in open country, near schools, hospitals and other noise-sensitive buildings and areas. It does not apply to noise that is caused by the exposed person him or herself, noise from domestic activities, noise created by neighbours, noise at work places or inside means of transport or noise due to military activities in military areas' [Source: <http://eur-lex.europa.eu>].

- COUNCIL OF EUROPE, [Convention on the Protection of Environment through Criminal Law \(ETS No. 172\), Strasbourg, 1988](#)

'The Convention is aimed at improving the protection of the environment at European level by using the solution of last resort - criminal law - in order to deter and prevent conduct which is most harmful to it. It also seeks to harmonise national legislation in this field. (...) It establishes as criminal offences a number of acts committed intentionally or through negligence where they cause or are likely to cause lasting damage to the quality of the air, soil, water, animals or plants, or result in the death of or serious injury to any person. It defines the concept of criminal liability of natural and legal persons, specifies the measures to be adopted by states to enable them to confiscate property and define the powers available to the authorities, and provides for international co-operation. The sanctions available must include imprisonment



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and pecuniary sanctions and may include reinstatement of the environment, the latter being an optional provision in the Convention. Another major provision concerns the possibility for environmental protection associations to participate in criminal proceedings concerning offences provided for in the Convention' [Source: www.coe.int].





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Århus Convention: access to information, public participation, access to justice in **environmental matters** (United Nations, European Union)

Århus Convention 1998

'Århus Convention 1998 in force since 30 October 2001, is based on the premise that greater public awareness of and involvement in environmental matters will improve environmental protection. It is designed to help protect the right of every person of present and future generations to live in an environment adequate to his or her health and well-being. To this end, the Convention provides for action in three areas: a) ensuring public access to environmental information held by the public authorities; b) fostering public participation in decision-making which affects the environment; c) extending the conditions of access to justice in environmental matters' [Source: <http://eur-lex.europa.eu>].

Transposition of the Århus Convention into Community law

'The Community has undertaken to take the necessary measures to ensure the effective application of the Convention. The first pillar of the Convention on [public access to information](#) was implemented at Community level by Directive [2003/04/EC](#) on public access to environmental information. The second pillar, which deals with public participation in environmental procedures, was transposed by [Directive 2003/35/EC](#). A proposal for a Directive published in October 2003 is intended to transpose the third pillar which guarantees [public access to justice in environmental matters](#). Finally, a Regulation adopted in 2006 is intended to guarantee the application of the provisions and principles of the Convention by [Community institutions and bodies](#)' [Source: <http://eur-lex.europa.eu>].

- UNITED NATIONS, [United Nations Economic Commission for Europe \(UNECE\), Convention on Access to Information, Public Participation in Decision-Making and Access to Justice in Environmental Matters, Århus Convention, 25 June 1998](#)



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The Århus Convention establishes a set of rights of the public (individuals and associations) with regard to the environment: a) the right to access to environmental information; b) the right to participate in environmental decision-making; c) the right to review procedures to challenge public decisions that have been made without respecting the two aforementioned rights or environmental law in general (access to justice).

More info here: <http://ec.europa.eu/environment/aarhus/>

- EUROPEAN UNION, [Directive 2003/4/EC of the European Parliament and of the Council of 28 January 2003 on public access to environmental information and repealing Council Directive 90/313/EEC](#)

[First pillar of the Århus Convention: access to information]

Directive 2003/4/EC 'adapts national laws to the **1998 Århus Convention** on access to information. It guarantees the public access to environmental information held by, or for, public authorities, both upon request and through active dissemination. It sets out the basic terms, conditions and practical arrangements where access upon request may be exercised' [Source: <http://eur-lex.europa.eu>].

- EUROPEAN UNION, [Directive 2003/35/EC of the European Parliament and of the Council of 26 May 2003 providing for public participation in respect of the drawing up of certain plans and programmes relating to the environment and amending with regard to public participation and access to justice - Council Directives 85/337/EEC and 96/61/EC](#)

[Second pillar of the Århus Convention: public participation]

- EUROPEAN UNION, [2005/370/EC Council Decision of 17 February 2005 on the conclusion, on behalf of the European Community, of the Convention on access to information, public participation in decision-making and access to justice in environmental matters](#) 'This Decision approves the Århus Convention



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1998 (signed by the European Community and its Member States in 1998) on behalf of the Community' [Source: <http://eur-lex.europa.eu>]

- EUROPEAN UNION, [Regulation \(EC\) No 1367/2006 of the European Parliament and of the Council of 6 September 2006 on the application of the provisions of the Aarhus Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters to Community institutions and bodies](#)

[Third pillar of the Århus Convention: access to justice]

Regulation 1367/2006 'requires the EU's institutions and various bodies to implement the obligations contained in the Århus Convention. These obligations guarantee the public access to information, participation in decision making and access to justice on environmental issues. (...) EU institutions and bodies must [among others]: grant the public access to justice on EU environmental matters; avoid any discrimination based on citizenship, nationality or domicile when treating a request for environmental information. (...) Environmental databases or registers must contain: authorisations given which could affect the environment; environmental impact studies and risk assessments' [Source: <http://eur-lex.europa.eu>]

- EUROPEAN UNION, [Communication from the Commission of 28.4.2017 – Commission Notice on Access to Justice in Environmental Matters \[C\(2017\)2616final\]](#)

C(2017)2616 final is an 'Interpretative Communication on access to justice in environmental matters (...). By bringing together all the substantial existing CJEU case-law, and by drawing careful inferences from it, it would provide significant clarity and a reference source for the following: national administrations who are responsible for ensuring the correct application of EU environmental law; national courts, which guarantee respect for EU law and are competent to refer questions on the validity and interpretation of EU law to the CJEU; the public, notably individuals and environmental NGOs, who



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exercise a public-interest advocacy role; and economic operators, who share an interest in the predictable application of the law' [Source: Para. 9].

Environment: Pollution

- EUROPEAN UNION, [Directive \(EU\) 2016/2284 of the European Parliament and of the Council of 14 December 2016 on the reduction of national emissions of certain atmospheric pollutants, amending Directive 2003/35/EC and repealing Directive 2001/81/EC](#)

Directive (EU) 2016/2284 should 'contribute to achieving, in a cost effective manner, the air quality objectives set out in Union legislation and to mitigating climate change impacts in addition to improving air quality globally and to improving synergies with Union climate and energy policies', as well as 'contribut[ing] to the reduction of air pollution'. Its aim, 'inter alia, is to protect human health' [Source: Recitals n. 9, 11, 27].

- EUROPEAN UNION, [Directive 2009/123/EC of the European Parliament and of the Council of 21 October 2009 amending Directive 2005/35/EC on ship-source pollution and on the introduction of penalties for infringements](#)
'The purpose of Directive 2005/35/EC ⁽³⁾ and of this Directive is to approximate the definition of ship-source pollution offences committed by natural or legal persons, the scope of their liability and the criminal nature of penalties that can be imposed for such criminal offences by natural persons (...). Criminal penalties, which demonstrate social disapproval of a different nature than administrative sanctions, strengthen compliance with the legislation on ship-source pollution in force and should be sufficiently severe to dissuade all potential polluters from any violation thereof (...)' The Directive also aims at 'reinforc[ing] maritime safety and help[ing] prevent ship-source pollution' in view of the 'the need to ensure a high level of safety and protection of the environment' [Source: Recitals n. 1, 3, 4, 10]



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- EUROPEAN UNION, [Directive 2006/11/EC of the European Parliament and of the Council of 15 February 2006 on pollution caused by certain dangerous substances discharged into the aquatic environment of the Community](#)

'This Directive lays down rules for protection against, and prevention of, pollution resulting from the discharge of certain substances into the aquatic environment. It applies to inland surface water, territorial waters and internal coastal waters' [Source: <http://eur-lex.europa.eu>].

- EUROPEAN UNION, [Directive 2005/35/EC of the European Parliament and of the Council of 7 September 2005 on ship-source pollution and on the introduction of penalties for infringements](#)

[Directive 2005/35/EC](#) 'creates rules that are applicable EU-wide on the imposition of penalties in the event of discharges of oil or other polluting substances from ships sailing in its waters' [Source: <http://eur-lex.europa.eu>].

Environment: Waste

- EUROPEAN UNION, [Directive 2012/19/EU of the European Parliament and of the Council of 4 July 2012 on waste electrical and electronic equipment \(WEEE\)](#)

'This legislation is designed to prevent electrical and electronic waste by requiring EU countries to ensure the equipment is recovered, reused or recycled' [Source: <http://eur-lex.europa.eu>].

- EUROPEAN UNION, [Directive 2008/98/EC of the European Parliament and of the Council of 19 November 2008 on waste and repealing certain Directives](#)

The abovementioned Directive 'establishes a legal framework for treating waste in the EU. This is designed to protect the environment and human health by emphasising the importance of proper waste management, recovery and recycling techniques to reduce pressure on resources and improve their use' [Source: <http://eur-lex.europa.eu>].



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- EUROPEAN UNION, [Regulation \(EC\) No 1013/2006 of the European Parliament and of the Council of 14 June 2006 on shipments of waste](#)

The regulation 'lays down rules for controlling waste shipments in order to improve environmental protection. It also incorporates the provisions of the Basel Convention and the revision of the OECD's 2001 decision on the control of transboundary movements of wastes destined for recovery operations (i.e. where a waste is processed to recover a usable product or converted into a fuel) in EU law' [Source: <http://eur-lex.europa.eu>].

- EUROPEAN UNION, [Directive 2006/12/EC of the European Parliament and of the Council of 5 April 2006 on waste](#)

The scope of the Directive 2006/12/EC is 'the protection of human health and the environment against harmful effects caused by the collection, transport, treatment, storage and tipping of waste', in order to achieve and ensure, among others, 'a high level of environmental protection' [Recitals n. 1, 6, 11].

Environment: Chemicals

- EUROPEAN UNION, [Regulation \(EU\) 2017/852 of the European Parliament and of the Council of 17 May 2017 on mercury, and repealing Regulation \(EC\) No 1102/2008](#)

'The provisions of this Regulation on the import of mercury and of mixtures of mercury are aimed at ensuring the fulfilment by the Union and the Member States of the obligations' of the 2013 Minamata Convention on Mercury [see infra] [Source: Recital n. 13].

- EUROPEAN UNION, [Council Decision \(EU\) 2017/939 of 11 May 2017 on the conclusion on behalf of the European Union of the Minamata Convention on Mercury](#)

The Decision approves, on behalf of the European Union, the Minamata Convention on mercury. 'The Convention provides for a framework for the control and limitation of the use, and of anthropogenic emissions and releases,

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of mercury and mercury compounds to air, water and land, with a view to protecting human health and the environment' [Source: Recital 2, Article 1].

- EUROPEAN UNION, [Regulation \(EU\) No 528/2012 of the European Parliament and of the Council of 22 May 2012 concerning the making available on the market and use of biocidal products](#)

This Regulation 'harmonises the EU's rules concerning the sale and use of biocidal products, while ensuring high levels of protection of human and animal health and of the environment' [Source: <http://eur-lex.europa.eu/>].

- EUROPEAN UNION, [Regulation \(EC\) No 1107/2009 of the European Parliament and of the Council of 21 October 2009 concerning the placing of plant protection products on the market and repealing Council Directives 79/117/EEC and 91/414/EEC](#)

The regulation 'lays down rules for authorising the sale, use and control of plant protection products in the EU. It recognises the precautionary principle which EU countries may apply if there is scientific uncertainty about the risks a plant protection product might pose to human or animal health or the environment' [Source: <http://eur-lex.europa.eu/>].

- EUROPEAN UNION, ['Regulation \(EC\) No 1907/2006 of the European Parliament and of the Council of 18 December 2006 concerning the Registration, Evaluation, Authorisation and Restriction of Chemicals \(REACH\), establishing a European Chemicals Agency, amending Directive 1999/45/EC and repealing Council Regulation \(EEC\) No 793/93 and Commission Regulation \(EC\) No 1488/94 as well as Council Directive 76/769/EEC and Commission Directives 91/155/EEC, 93/67/EEC, 93/105/EC and 2000/21/EC](#)

'The REACH (registration, evaluation, authorisation and restriction of chemicals) regulation provides a comprehensive legislative framework for chemicals manufacture and use in Europe. It shifts from public authorities to the industry the responsibility for ensuring that chemicals produced, imported, sold and

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used in the EU are safe. It also: i) promotes alternative methods to animal testing; ii) creates a single market for chemicals; iii) aims to foster innovation and competitiveness in the sector; iv) establishes a European Chemicals Agency (ECHA)' [Source: <http://eur-lex.europa.eu>].



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Product safety

- EUROPEAN UNION, [Directive 2001/95/EC of the European Parliament and of the Council of 3 December 2001 on general product safety](#)

Directive 2001/95/EC 'aims to ensure a high level of consumer safety when the public buy goods on sale in Europe. It requires firms to ensure that items on sale are safe and to take corrective action when that is found not to be the case. (...) Products placed on the EU market must be safe. They must bear information enabling them to be traced, such as the manufacturer's identity and a product reference. Where necessary for safe use, products must be accompanied by warnings and information about any inherent risks. A product is considered safe if it meets specific national requirements or EU standards' [Source: <http://eur-lex.europa.eu>].

- EUROPEAN COMMUNITIES, [Council Directive 85/374/EEC of 25 July 1985 on the approximation of the laws, regulations and administrative provisions of the Member States concerning liability for defective products](#)

Directive 85/374/EEC 'establishes the principle of liability without fault applicable to European producers. Where a defective product causes damage to a consumer, the producer may be liable even without negligence or fault on their part. The Directive applies to damage: caused by death or by personal injuries; caused to private property (...). The injured person carries the burden of proof (...). However, he does not have to prove the negligence or fault of the producer or importer' [Source: <http://eur-lex.europa.eu>].



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Food safety

- EUROPEAN UNION, [Regulation \(EU\) 2017/625 of the European Parliament and of the Council of 15 March 2017 on official controls and other official activities performed to ensure the application of food and feed law, rules on animal health and welfare, plant health and plant protection products, amending Regulations \(EC\) No 999/2001, \(EC\) No 396/2005, \(EC\) No 1069/2009, \(EC\) No 1107/2009, \(EU\) No 1151/2012, \(EU\) No 652/2014, \(EU\) 2016/429 and \(EU\) 2016/2031 of the European Parliament and of the Council, Council Regulations \(EC\) No 1/2005 and \(EC\) No 1099/2009 and Council Directives 98/58/EC, 1999/74/EC, 2007/43/EC, 2008/119/EC and 2008/120/EC, and repealing Regulations \(EC\) No 854/2004 and \(EC\) No 882/2004 of the European Parliament and of the Council, Council Directives 89/608/EEC, 89/662/EEC, 90/425/EEC, 91/496/EEC, 96/23/EC, 96/93/EC and 97/78/EC and Council Decision 92/438/EEC \(Official Controls Regulation\)](#)

This Regulation seeks 'to establish a harmonised Union framework for the organisation of official controls, and official activities other than official controls, along the entire agri-food chain, taking into account the rules on official controls laid down in Regulation (EC) No 882/2004 and in relevant sectoral legislation, and the experience gained from the application of those rules' [Recital n. 20].

- EUROPEAN UNION, [Regulation \(EU\) No 1169/2011 of the European Parliament and of the Council of 25 October 2011 on the provision of food information to consumers, amending Regulations \(EC\) No 1924/2006 and \(EC\) No 1925/2006 of the European Parliament and of the Council, and repealing Commission Directive 87/250/EEC, Council Directive 90/496/EEC, Commission Directive 1999/10/EC, Directive 2000/13/EC of the European Parliament and of the Council, Commission Directives 2002/67/EC and 2008/5/EC and Commission Regulation \(EC\) No 608/2004](#)

Regulation (EU) 1169/2011 'guarantees consumers their right to adequate information by establishing the general principles, requirements and responsibilities for the labelling of foodstuffs they consume. It provides



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sufficient flexibility to respond to future developments in the food sector. It merges the previous legislation, [Directives 2000/13/EC](#) on the labelling of foodstuffs and [90/496/EEC](#) on nutritional labelling' [Source: <http://eur-lex.europa.eu>].

- EUROPEAN UNION, [Regulation \(EC\) No 853/2004 of the European Parliament and of the Council of 29 April 2004 laying down specific hygiene rules for food of animal origin](#)

'This regulation aims to ensure a high level of food safety and public health. It complements [Regulation \(EC\) No 852/2004](#) on the hygiene of foodstuffs, whose rules mainly cover the approval of operators in the sector. The regulation's rules apply to unprocessed and processed products of animal origin. They generally do not apply to food that contains both products of plant origin and processed products of animal origin. European Union (EU) countries must register and, where necessary, approve establishments handling products of animal origin' [Source: <http://eur-lex.europa.eu>].

- EUROPEAN UNION, [Regulation \(EC\) No 852/2004 of the European Parliament and of the Council of 29 April 2004 on the hygiene of foodstuffs](#)

'The Regulation and its annexes define a set of food safety objectives that firms working with food must meet' [Source: <http://eur-lex.europa.eu>].

- EUROPEAN UNION, [Regulation \(EC\) No 178/2002 of the European Parliament and of the Council of 28 January 2002 laying down the general principles and requirements of food law, establishing the European Food Safety Authority and laying down procedures in matters of food safety](#)

The Regulation 'strengthens the rules on the safety of food and feed in the EU. It also sets up the [European Food Safety Authority](#) (EFSA), which provides support for the scientific testing and evaluation of food and feed. The Regulation does not cover primary production for private domestic use or the handling of food at home' [Source: <http://eur-lex.europa.eu>].



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- EUROPEAN UNION, [White paper on food safety of 12 January 2000 \[COM/99/0719 final\]](#)

‘A series of crises concerning human food and animal feed (BSE, dioxin etc.) has exposed weaknesses in the design and application of food legislation within the EU. This has led the Commission to include the promotion of a high level of food safety among its policy priorities over the next few years. As was stressed at the Helsinki European Council in December 1999, particular attention must be focused on improving quality standards and reinforcing systems of checks throughout the food chain, from farm to table. The White Paper on food safety is an important element in this strategy. The Commission is proposing a number of measures which will enable food safety to be organised in a more coordinated and integrated manner (...)’ [Source: <http://eur-lex.europa.eu>].

- EUROPEAN COMMUNITIES, [The general principles of food law in the European Union – Commission Green Paper \[COM/97/0176 final\], Brussels, 1997](#)

‘The aim of this Green Paper is to: examine the extent to which the legislation is meeting the needs and expectations of consumers, producers, manufacturers and traders; consider how the measures to reinforce the independence and objectivity, equivalence and effectiveness of the official systems for the control and inspection of foodstuffs are fulfilling their objectives; invite a public debate on our food legislation to provide guidance to the Commission in its future legislative initiative on food, and accordingly; enable the Commission to propose measures allowing, wherever possible, to improve the protection of public health laid down in its measures for the internal market and the common agricultural policy, improve the coherence of Community food law, consolidate and simplify it, improve the operation of the internal market, and take into account the increasingly, important external dimension, notably the policies followed by our most advanced trading partners and the requirements of the WTO agreements (...)’ [Source: <http://eur-lex.europa.eu>].



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- EUROPEAN COMMUNITIES, [Council Directive 92/59/EEC of 29 June 1992 on general product safety](#) [See supra]

‘The purpose of the provisions of this Directive is to ensure that products placed on the market are safe’ [Article 1].

Food safety: GMO

- EUROPEAN UNION, [Directive 2009/41/EC of the European Parliament and of the Council of 6 May 2009 on the contained use of genetically modified micro-organisms](#)

The Directive ‘lays down rules for the contained use of genetically modified microorganisms (GMMs) in order to protect human health and the environment in the EU’ [Source: <http://eur-lex.europa.eu>].

- EUROPEAN UNION, [Regulation \(EC\) No 1829/2003 of the European Parliament and of the Council of 22 September 2003 on genetically modified food and feed](#)

Regulation No 1829/2003 ‘lays down rules on how genetically modified organisms (GMOs) are **authorised** and **supervised**, and on how genetically modified food and animal feed is **labelled**. It aims to protect: people’s lives and health; animal health and welfare; environmental and consumer interests’ [Source: <http://eur-lex.europa.eu>].

- EUROPEAN UNION, [Regulation \(EC\) No 1946/2003 of the European Parliament and of the Council of 15 July 2003 on transboundary movements of genetically modified organisms](#)

Regulation No 1946/2003 ‘seeks to implement certain points of the Cartagena Protocol on preventing biotechnological risks. This is because some genetically modified organisms (GMOs) may have adverse effects on the environment and human health’. It also aims ‘To ensure an adequate level of protection, it creates a system for notifying and exchanging information on the export of

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GMOs to non-EU countries' [Source: <http://eur-lex.europa.eu>].

- EUROPEAN UNION, [Directive 2001/18/EC of the European Parliament and of the Council of 12 March 2001 on the deliberate release into the environment of genetically modified organisms and repealing Council Directive 90/220/EEC](#)

The Directive 2001/18/EC 'aims to make the procedure for granting consent for the deliberate release and placing on the market of genetically modified organisms (GMOs)* more efficient and more transparent. It also limits such consent to a period of 10 years (renewable) and introduces compulsory monitoring after GMOs have been placed on the market' [Source: <http://eur-lex.europa.eu>].



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Safety of medical products and devices for medical use

EUROPEAN UNION

- EUROPEAN UNION, [Regulation \(EU\) No 2017/746 of the European Parliament and of the Council of 5 April 2017 on in vitro diagnostic medical devices and repealing Directive 98/79/EC and Commission Decision 2010/227/EU](#)

‘This Regulation aims to ensure the smooth functioning of the internal market as regards medical devices, taking as a base a high level of protection of health for patients and users, and taking into account the small- and medium-sized enterprises that are active in this sector. At the same time, this Regulation sets high standards of quality and safety for medical devices in order to meet common safety concerns as regards such products’. However, ‘The scope of application of this Regulation should be clearly delimited from other legislation concerning products, such as medical devices, general laboratory products and products for research use only’ [Recitals n. 2, 7].

- EUROPEAN UNION, [Regulation \(EU\) No 2017/745 of the European Parliament and of the Council of 5 April 2017 on medical devices, amending Directive 2001/83/EC, Regulation \(EC\) No 178/2002 and Regulation \(EC\) No 1223/2009 and repealing Council Directives 90/385/EEC and 93/42/EEC](#)

‘This Regulation aims to ensure the smooth functioning of the internal market as regards medical devices, taking as a base a high level of protection of health for patients and users, and taking into account the small- and medium-sized enterprises that are active in this sector. At the same time, this Regulation sets high standards of quality and safety for medical devices in order to meet common safety concerns as regards such products’. However, ‘The scope of application of this Regulation should be clearly delimited from other Union harmonisation legislation concerning products, such as *in vitro* diagnostic medical devices, medicinal products, cosmetics and food’ [Recitals n. 2, 7].



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- EUROPEAN UNION, [Regulation \(EU\) No 282/2014 of the European Parliament and of the Council of 11 March 2014 on the establishment of a third Programme for the Union's action in the field of health \(2014-2020\) and repealing Decision No 1350/2007/EC](#)

'The health programme aims to improve Europeans' health and reduce health inequalities by complementing Member States' health policies in four ways. It is designed to: promote good health and prevent disease: here, countries would exchange information and good practices on how to deal with various risk factors such as smoking, drug and alcohol abuse, unhealthy diets and sedentary lifestyles; ensure that citizens are protected from cross-border health threats: increased international travel and trade mean that we are potentially exposed to a wider range of health threats than in the past, requiring a rapid and coordinated response; support innovation and sustainability in EU countries' health systems: the programme seeks to help capacity building in the health sector, find optimal ways of making scarce resources go further and encourage the uptake of innovations in approaches, working practices, as well as technologies; improve access to quality and safe healthcare: this means, for example, ensuring that medical expertise is available beyond national borders by encouraging the creation of networks of centres of expertise across the EU' [Source: <http://eur-lex.europa.eu>].

- EUROPEAN UNION, [Commission Delegated Regulation \(EU\) No 357/2014 of 3 February 2014 supplementing Directive 2001/83/EC of the European Parliament and of the Council and Regulation \(EC\) No 726/2004 of the European Parliament and of the Council as regards situations in which post-authorisation efficacy studies may be required](#)

This Regulation authorisation decisions and post-authorisation efficacy studies for human medicinal products [Source: Recitals n. 1, 2].



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- EUROPEAN UNION, [Commission Implementing Regulation \(EU\) No 520/2012 of 19 June 2012 on the performance of pharmacovigilance activities provided for in Regulation \(EC\) No 726/2004 of the European Parliament and of the Council and Directive 2001/83/EC of the European Parliament and of the Council](#)

This Implementing Regulation concerns quality systems for the performance of pharmacovigilance system [Source: Recital n. 5].

- EUROPEAN UNION, [Commission Directive 2011/100/EU of 20 December 2011 amending Directive 98/79/EC of the European Parliament and of the Council on in-vitro diagnostic medical devices](#)

- EUROPEAN UNION, [Regulation \(EC\) No 726/2004 of the European Parliament and of the Council of 31 March 2004 laying down Community procedures for the authorisation and supervision of medicinal products for human and veterinary use and establishing a European Medicines Agency](#)

Regulation (EC) No 726/2004 'seeks to guarantee high standards of quality and safety of medicines, and includes measures to encourage innovation and competitiveness. It sets out procedures for the authorisation and supervision of medicinal products for human and veterinary use and sets up the [European Medicines Agency](#) (EMA)' [Source: <http://eur-lex.europa.eu>].

- EUROPEAN UNION, [Directive 2001/83/EC of the European Parliament and of the Council of 6 November 2001 on the Community code relating to medicinal products for human use](#)

The aim of this Directive is to bring 'together all the existing provisions in force on the sale, production, labelling, classification, distribution and advertising of medicinal products for human use in the EU' [Source: <http://eur-lex.europa.eu>].



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COUNCIL OF EUROPE

- COUNCIL OF EUROPE, [Convention on the counterfeiting of medical products and similar crimes involving threats to public health \('MEDICRIME Convention'\) \(CETS No. 211\), Moscow, 2011](#)

'The "Medicrime Convention" is the first international criminal law instrument to oblige States Parties to criminalise: the manufacturing of counterfeit medical products; supplying, offering to supply and trafficking in counterfeit medical products; the falsification of documents; the unauthorised manufacturing or supplying of medicinal products and the placing on the market of medical devices which do not comply with conformity requirements. The Convention provides a framework for national and international co-operation across the different sectors of the public administration, measures for coordination at national level, preventive measures for use by public and private sectors and protection of victims and witnesses. Furthermore, it foresees the establishment of a monitoring body to oversee the implementation of the Convention by the States Parties' [Source: <http://www.coe.int/>].



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Safety on the workplace – Protection of workers

- EUROPEAN UNION, [Commission Recommendation \(EU\) No 2017/761 of 26 April 2017 on the European Pillar of Social Rights](#)

‘The European Pillar of Social Rights expresses principles and rights essential for fair and well-functioning labour markets and welfare systems in 21st century Europe. It reaffirms some of the rights already present in the Union *acquis*. It adds new principles which address the challenges arising from societal, technological and economic developments’ [Recital n. 14].

- EUROPEAN UNION, [Directive 2009/148/EC of the European Parliament and of the Council of 30 November 2009 on the protection of workers from the risks related to exposure to asbestos at work](#)

Directive 2009/148/EC ‘aims to protect workers against risks to their health arising from exposure to asbestos at work. It lays down exposure limits and specific requirements with regard to safe work practices, including in respect of: demolition, repairing, maintenance and asbestos removal work; information, consultation and training of workers; health monitoring’. Eu-wide there is a general ban of asbestos: ‘the only exception from this prohibition is the treatment and disposal of products resulting from demolition and asbestos removal’. [Source: <http://eur-lex.europa.eu>]

- EUROPEAN COMMUNITIES, [Council Directive 89/391/EEC of 12 June 1989 on the introduction of measures to encourage improvements in the safety and health of workers at work](#)

Directive 89/931/ECC ‘introduces measures to improve the health and safety of people at work. It sets out obligations for both employers and employees to reduce accidents and occupational disease in the workplace. The directive applies to all sectors of public and private activity (industrial, agricultural, commercial, administrative, service, educational, cultural, leisure and others)’. It stipulates that employees have, among others, the following duties: ‘to ensure the health and safety of their workforce (this includes evaluating and



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avoiding risks, developing an overall safety policy and providing appropriate training to staff); (...) to assess the risks particular workers might face and ensure the necessary protective measures are in place; provide employees and/or their representatives with all relevant information on possible health and safety risks and the measures taken to prevent them'. [Source: <http://eur-lex.europa.eu>]





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Action for damages (infringements of the competition law provisions)

- EUROPEAN UNION, [Directive 2014/104/EU of the European Parliament and of the Council of 26 November 2014 on certain rules governing actions for damages under national law for infringements of the competition law provisions of the Member States and of the European Union](#)

Directive 2014/104/EU 'lays down new rules allowing firms that are victims of cartel or antitrust violations to be compensated for damages. It also seeks to make leniency programmes more efficient (i.e. cases where firms that admit their involvement in a cartel or abuses of dominant market positions pay a reduced fine or are given immunity)' [Source: <http://eur-lex.europa.eu>].



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(D) – BUSINESS & HUMAN RIGHTS

- UNITED NATIONS OFFICE OF THE HIGH COMMISSIONER FOR HUMAN RIGHTS, [Human Rights Resolution 2005/69, UN Doc. E/CN.4/RES/2005/69, 20 April 2005](#)

With Resolution 2005/69, the UN Commission on Human Rights requested “Secretary-General to appoint a special representative on the issue of human rights and transnational corporations and other business enterprises”.

- ORGANIZATION FOR ECONOMIC CO-OPERATION AND DEVELOPMENT (OECD), [OECD Guidelines for Multinational Enterprises, OECD, Paris, adopted in 1976 revised in 2011](#)

The OECD Guidelines for Multinational Enterprises form part of the 1976 OECD Declaration on International Investment and Multinational Enterprises, a policy commitment by adhering governments to provide an ‘open and transparent environment’ for international investment, encouraging the positive contribution of MNEs to economic and social progress. Nowadays, the Guidelines are a leading international instrument for the promotion of responsible business conduct. Observance of the Guidelines is voluntary, yet adhering governments should establish National Contact Points with the task to promote the Guidelines, to act as a forum for discussion and to remediate in case of conflict.

- UNITED NATIONS - HUMAN RIGHTS COUNCIL, [Protect, Respect and Remedy: a framework for business and human rights. Report of the Special Representative of the Secretary-General on the issue of human rights and transnational corporations and other business enterprises, UN Doc. A/HRC/8/5, 7 April 2008](#)

The Special Representative on the issue of human rights and transnational corporations and other business enterprises - Prof. Ruggie - proposed a policy

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framework comprising three core principles: the State duty to protect against human rights abuses by third parties, including business, through appropriate policies, regulation, and adjudication; the corporate responsibility to respect human rights, which means to act with due diligence to avoid infringing on the rights of others; and the need for greater access by victims to effective remedies, judicial and non-judicial.

- UNITED NATIONS - HUMAN RIGHTS COUNCIL, [Human Rights Resolution 8/7, UN Doc. A/HRC/RES/8/7, 18 June 2008](#)

With Resolution 8/7, the Human Rights Council renewed the Special Representative's mandate for a period of three years until June 2011 for the purpose of operationalizing the 2008 Protect, Respect and Remedy Framework.

- UNITED NATIONS - HUMAN RIGHTS COUNCIL, [Report of the Special Representative of the Secretary-General on the issue of human rights and transnational corporations and other business enterprises, John Ruggie. Business and human rights: further steps toward the operationalization of the protect, respect and remedy framework, UN Doc. A/HRC/14/27, 9 April 2010](#)

The report builds further on the Protect, Respect and Remedy Framework, summarizing the current knowledge on the three pillars and providing for synergies among them, pointing towards the guiding principles that will constitute the mandate's final product.

- UNITED NATIONS - HUMAN RIGHTS COUNCIL, [Guiding Principles on Business and Human Rights. Implementing the United Nations "Protect, Respect and Remedy" Framework, UN Doc. A/HRC/17/31, 21 March 2011](#)

The final report of the Special Representative presents the "Guiding Principles on Business and Human Rights: Implementing the United Nations 'Protect, Respect and Remedy' Framework" for consideration by the Human Rights Council.



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- UNITED NATIONS - HUMAN RIGHTS COUNCIL, [Resolution 17/4, UN Doc. A/HRC/RES/17/4, 6 July 2011](#)

With Resolution 17/4 of 16 June 2011, the Human Rights Council endorsed the Guiding Principles and established a Working Group on the issue of human rights and transnational corporations and other business enterprises.

- UNITED NATIONS OFFICE OF THE HIGH COMMISSIONER FOR HUMAN RIGHTS, [Guiding Principles on Business and Human Rights. Implementing the United Nations "Protect, Respect and Remedy" Framework, OHCHR, New York - Geneva, 2011](#)

The publication contains the Guiding Principles on Business and Human Rights providing for extensive commentary under each principle.

- EUROPEAN COMMISSION, [Communication from the Commission to the Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions: a renewed EU strategy 2011-2014 on corporate social responsibility, COM\(2011\) 681, Brussels, 2011,](#)

It is the main EU policy addressing the implementation of the Guiding Principles. Particularly, improving the coherence of EU policies with the UN Guiding Principles through National Action Plans is seen as a critical challenge.

- UNITED NATIONS OFFICE OF THE HIGH COMMISSIONER FOR HUMAN RIGHTS, [The Corporate Responsibility to Respect Human Rights. An Interpretative Guide, OHCHR, New York - Geneva, 2012](#)

The Interpretive Guide provides further explanation of the Guiding Principles that relate to the corporate responsibility to respect human rights.



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- COUNCIL OF THE EUROPEAN UNION, [EU Strategic Framework and Action Plan on Human Rights and Democracy, Council of the EU, Luxembourg, 2012, 11855/12](#)

With its Strategic Framework and Action Plan on Human Rights and Democracy, the Council of EU pledged its full support to the Guiding Principles.

- EUROPEAN UNION, [United Nations Human Rights Council - Forum On Business And Human Rights 3-4 December 2013, EU, Geneva, 2013](#)

During the 2013 Forum on Business and Human Rights, the EU reiterated its commitment to the implementation of the Guiding Principles.

- UNITED NATIONS - HUMAN RIGHTS COUNCIL, [Resolution 26/22, UN Doc. A/HRC/RES/26/22, 15 July 2014](#)

With Resolution 26/22, the Human Rights Council mandated further work on exploring “the full range of legal options and practical measures to improve access to remedy for victims of business-related human right abuses”.

- UNITED NATIONS OFFICE OF THE HIGH COMMISSIONER FOR HUMAN RIGHTS, [Frequently Asked Questions about the Guiding Principles on Business and Human Rights, OHCHR, New York - Geneva, 2014](#)

The publication with frequently asked questions (FAQs) is not intended as operational guidance, rather it aims to explain the background and the contents of the Guiding Principles and how they relate to the broader human rights system and other frameworks.

- EUROPEAN COMMISSION, [Commission Staff Working Document on Implementing the UN Guiding Principles on Business and Human Rights - State of Play, SDW\(2015\) 144 final, European Commission, Brussels, 14 July 2015](#)



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The Document reinforces the EU's commitment to the UNGPs by presenting the EU's activities in implementing the UNGPs and promoting progress in the area of business and human rights.

- UNITED NATIONS HUMAN RIGHTS COUNCIL, [Improving accountability and access to remedy for victims of business-related human rights abuse. Report of the United Nations High Commissioner for Human Rights, UN Doc. A/HRC/32/19, 10 May 2016](#)

The report sets out guidance to improve accountability and access to remedy for victims of business-related human rights abuses, following the Accountability and Remedy Project of the Office of the United Nations High Commissioner for Human Rights and in response to the request by the Human Rights Council in its Resolution 26/22.

- COUNCIL OF THE EUROPEAN UNION, [Council Conclusions on Business and Human Rights, Doc. 10254/16, Council of the EU, Brussels, 20 June 2016](#)

The Council reaffirmed the EU strong and active engagement to prevent abuses and ensure remedy, through the UNGP's implementation. In particular, the Council requested the EU Fundamental Rights Agency to "*issue an expert opinion on possible avenues to lower barriers for access to remedy at the EU level, taking into account existing EU legal instruments and competences at EU and Member States' levels*".

- EU AGENCY FOR FUNDAMENTAL RIGHTS, [FRA Opinion - 1/2017, FRA, Vienna, 10 April 2017](#)

The EU Fundamental Rights Agency (FRA) was explicitly requested by the Council of the EU to draft an Opinion on "*possible avenues to lower barriers for access to remedy* [in the context of business-related human rights abuse]



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at the EU level, taking into account existing EU legal instruments and competences at EU and Member States' levels". Identifying and lowering barriers to access to remedy (Article 47, EU Charter) is understood as a precondition for victims of business-related human rights abuse to see their rights realised. The Opinion covers the area of judicial and non-judicial remedies and their effective implementation. With regards to judicial remedies, interestingly both civil justice and criminal law cases are reviewed, addressing adverse human rights impacts both within and outside the EU. The rationale is that the EU internal market would be strengthened by establishing a more accessible and uniform system of remedies, providing a level-playing field for businesses and more accessible avenues for victims to access justice.

- UNITED NATIONS - COMMITTEE ON ECONOMIC, SOCIAL AND CULTURAL RIGHTS, [General Comment No. 24 on State Obligations under the International Covenant on Economic, Social and Cultural Rights in the Context of Business Activities, UN Doc. E/C.12/GC/24, 23 June 2017](#)

The General Comment seeks to clarify the duties of States parties to the Covenant with a view to preventing and addressing the adverse impacts of business activities on human rights. For the purposes of this project see in particular: section IV) 'Remedies' and section V) 'Implementation'.



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(E) – RIGHTS OF SUSPECTS AND ACCUSED PERSONS (European Union)

'The EU works towards achieving common minimum standards of procedural rights in criminal proceedings to ensure that the basic rights of suspects and accused persons are protected sufficiently' [Source: ec.europa.eu].

More information, list relevant legal documents and summary of legislation, [here](#):

- **European Convention on Human Rights**

See especially Articles 5, 6, 7.

- **EUROPEAN UNION, Charter of fundamental rights of the European Union**

Especially Chapter VI – Justice: Articles 47-50 (Right to an effective remedy; fair trial; presumption of innocence; right of defence; principle of legality; principle of proportionality; double jeopardy).

- **EUROPEAN UNION, [Directive \(EU\) 2016/1919 of the European Parliament and of the Council of 26 October 2016 on legal aid for suspects and accused persons in criminal proceedings and for requested persons in European arrest warrant proceedings](#)**

The purpose of this Directive is to ensure the effectiveness of the right of access to a lawyer as provided for under Directive 2013/48/EU of the European Parliament and of the Council (3) by making available the assistance of a lawyer funded by the Member States for suspects and accused persons in criminal proceedings and for requested persons who are the subject of European arrest warrant proceedings pursuant to Council Framework Decision 2002/584/JHA (4) (requested persons).



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- **EUROPEAN UNION, [Directive \(EU\) 2016/800 of the European Parliament and of the Council of 11 May 2016 on procedural safeguards for children who are suspects or accused persons in criminal proceedings](#)**

The purpose of this Directive is to establish procedural safeguards to ensure that children, meaning persons under the age of 18, who are suspects or accused persons in criminal proceedings, are able to understand and follow those proceedings and to exercise their right to a fair trial, and to prevent children from re-offending and foster their social integration.

- **EUROPEAN UNION, [Directive \(EU\) 2016/343 of the European Parliament and of the Council of 9 March 2016 on the strengthening of certain aspects of the presumption of innocence and of the right to be present at the trial in criminal proceedings](#)**

The Directive 'aims to guarantee: the presumption of innocence of anyone accused or suspected of a crime by the police or justice authorities; the right of an accused person to be present at their criminal trial'. 'The directive applies to any individual (natural person) suspected or accused in criminal proceedings. It applies at all stages of the criminal proceedings, from the moment a person is suspected or accused of having committed a criminal offence to the final verdict.' [Source: eur-lex.europa.eu]

- **EUROPEAN UNION, [Directive 2013/48/EU of the European Parliament and of the Council of 22 October 2013 on the right of access to a lawyer in criminal proceedings and in European arrest warrant proceedings, and on the right to have a third party informed upon deprivation of liberty and to communicate with third persons and with consular authorities while deprived of liberty](#)**

'This European Union (EU) law ensures that suspects and accused persons in criminal proceedings and requested persons in European arrest warrant proceedings (hereafter 'citizens') have access to a lawyer and have the right to communicate while deprived of liberty'. [Source: eur-lex.europa.eu]



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- **EUROPEAN UNION, Directive 2012/13/EU of the European Parliament and of the Council of 22 May 2012 on the right to information in criminal proceedings**

‘The directive sets out minimum standards for all EU countries regardless of a person’s legal status, citizenship or nationality. It is designed to help prevent miscarriages of justice and reduce the number of appeals’. [Source: eur-lex.europa.eu]

- **EUROPEAN UNION, Directive 2010/64/EU of the European Parliament and of the Council of 20 October 2010 on the right to interpretation and translation in criminal proceedings**

‘It establishes minimum EU-wide rules on the right to interpretation and translation in criminal proceedings and in proceedings for the execution of the European Arrest Warrant. It is the first step in series of measures to establish minimum rules for procedural rights across the EU in accordance with a 2009 roadmap. It was followed in 2012 by the directive on the right to information in criminal proceedings’. [Source: eur-lex.europa.eu]

- **EUROPEAN UNION, Council Framework Decision 2002/584/JHA of 13 June 2002 on the European arrest warrant and the surrender procedures between Member States - Statements made by certain Member States on the adoption of the Framework Decision**

Council Framework Decision 2002/584/JHA ‘improves and simplifies judicial procedures to speed up the return of people from another EU country who have committed a serious crime. (...) The European arrest warrant replaces the extradition system. It requires each national judicial authority to recognise and act on, with a minimum of formalities and within a set deadline, requests made by the judicial authority of another EU country. (...) The warrant applies in the following cases: offences punishable by imprisonment or a detention order for a maximum period of at least 1 year; where a final custodial sentence has been passed or a detention order has been made, for sentences of at least 4 months. Proportionate use of the warrant: EU countries must

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take the following into consideration (non-exhaustive list): the circumstances and the gravity of the offence; the likely sentence; less coercive alternative measures. [Source: eur-lex.europa.eu]

See also:

- EUROPEAN UNION, EUROPEAN COMMISSION, *GREEN PAPER Strengthening mutual trust in the European judicial area – A Green Paper on the application of EU criminal justice legislation in the field of detention, COM (2011) 327, 14 June 2011*
- EUROPEAN COUNCIL, The [Stockholm Programme](#) – *An open and secure Europe serving and protecting citizens (2010/C 115/01)*
- EUROPEAN COMMISSION, *Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions of 20 April 2010 – Delivering an area of freedom, security and justice for Europe's citizens – Action Plan Implementing the Stockholm Programme [COM(2010) 171 final]*



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Part II

Court of Justice of the European Union

Selected Case Law Concerning Victims of Crime

Related links

<http://curia.europa.eu>

<http://eur-lex.europa.eu>

- [CJEU - Case C-484/16, Semeraro, 8 September 2016](#)

Criminal proceedings against Antonio Semeraro

Reference for a preliminary ruling: Giudice di Pace di Taranto – Italy Manifest inadmissibility (Article 53, para. 2, Rules of Procedure of the Court of Justice) -

lack of connection with EU law

Judicial cooperation in criminal matters - Directive 2012/29/EU - The Charter of Fundamental Rights of the European Union - insult Repeal of the crime by the national legislator.

- [CJEU - Case C-79/11, Giovanardi, 12 July 2012](#)

Judgment of the Court (Second Chamber) of 12 July 2012. Criminal proceedings against Maurizio Giovanardi and Others. Reference for a preliminary ruling: Tribunale di Firenze - Italy.

Police and judicial cooperation in criminal matters - Framework Decision 2001/220/JHA - Standing of victims in criminal proceedings - Directive 2004/80/EC - Compensation to victims of crime - **Liability of a legal person** - Compensation in criminal proceedings.

- [CJEU - Case C-507/10J, X, 21 December 2011](#)

Judgment of the Court (Second Chamber) of 21 December 2011.

Criminal proceedings against X.

Reference for a preliminary ruling: Tribunale di Firenze - Italy.

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Police and judicial cooperation in criminal matters - Framework Decision 2001/220/JHA - Standing of victims in criminal proceedings - **Protection of vulnerable persons** - Hearing of minors as witnesses - Special measure for early taking of evidence - Refusal by the Public Prosecutor to request the judge in charge of preliminary investigations to hear a witness.

- [CJEU - Joined cases C-483/09 and C-1/10, Gueye – Sanchez, 15 September 2011](#)

Judgment of the Court (Fourth Chamber) of 15 September 2011. Criminal proceedings against Magatte Gueye (C-483/09) and Valentín Salmerón Sánchez (C-1/10).

References for a preliminary ruling: Audiencia provincial de Tarragona - Spain. Police and judicial cooperation in criminal matters - Framework Decision 2001/220/JHA - Standing of victims in criminal proceedings - Domestic crimes - Obligation to impose as an ancillary penalty an injunction prohibiting the offender from approaching the victim of the offence - **Choice of forms of penalty and level of penalty** - Compatibility with Articles 2, 3 and 8 of the Framework Decision - Provision of national law excluding mediation in criminal cases - Compatibility with Article 10 of the Framework Decision.

- [CJEU - Case C-205/09, Eredics – Sápi, 21 October 2010](#)

Judgment of the Court (Second Chamber) of 21 October 2010. Criminal proceedings against Emil Eredics and Mária Vassné Sápi. Reference for a preliminary ruling: Szombathelyi Városi Bíróság - Hungary.

Police and judicial cooperation in criminal matters - Framework Decision 2001/220/JHA - Standing of victims in criminal proceedings - **Meaning of 'victim' - Legal persons** - Mediation in criminal proceedings - Detailed rules of application.

- [CJEU - Case C-404/07, Katz v Sós, 9 October 2008](#)

Judgment of the Court (Third Chamber) of 9 October 2008. György Katz v István Roland Sós.

Reference for a preliminary ruling: Fővárosi Bíróság - Hungary.



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Police and judicial cooperation in criminal matters - Framework Decision 2001/220/JHA - Standing of victims in criminal proceedings - Private prosecutor in substitution for the public prosecutor - **Testimony of the victim as a witness.**

- [CJEU – Case C-164/07, Wood v Fonds de garantie des victimes des actes de terrorisme et d’autres infractions, 5 June 2008](#)

Judgment of the Court (Second Chamber) of 5 June 2008.

James Wood v Fonds de garantie des victimes des actes de terrorisme et d’autres infractions.

Reference for a preliminary ruling: Commission d’indemnisation des victimes d’infractions du tribunal de grande instance de Nantes - France.

Article 12 EC - **Discrimination on grounds of nationality - Compensation** awarded by the Fonds de garantie des victimes des actes de terrorisme et d’autres infractions - Not included.

- [CJEU - Case C-467/05, Dell’Orto, 28 June 2007](#)

Judgment of the Court (Third Chamber) of 28 June 2007. Criminal proceedings against Giovanni Dell’Orto.

Reference for a preliminary ruling: Tribunale di Milano - Italy.

Police and judicial cooperation in criminal matters - Framework Decision 2001/220/JHA - Directive 2004/80/EC- **Concept of ‘victim’ in criminal proceedings - Legal person** - Return of property seized in the course of criminal proceedings.

- [CJEU - Case C-105/03, Pupino, 16 June 2005](#)

Judgment of the Court (Grand Chamber) of 16 June 2005.

Criminal proceedings against Maria Pupino.

Reference for a preliminary ruling: Tribunale di Firenze - Italy.

Police and judicial cooperation in criminal matters - Articles 34 EU and 35 EU - Framework Decision 2001/220/JHA - Standing of victims in criminal proceedings - **Protection of vulnerable persons** - Hearing of minors as witnesses - **Effects of a framework decision.**



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- [CJEU – Case 186/87, Cowan v Trésor public, 2 February 1989](#)

Judgment of the Court of 2 February 1989.

Ian William Cowan v Trésor public.

Reference for a preliminary ruling: Tribunal de grande instance de Paris - France.

Tourists as recipients of services - **Right to compensation** following an assault – State compensation for victim of an assault – **Prohibition of discrimination** on grounds of nationality

Directive 2004/80/EC - Failure to transpose, failure to fulfil

- [CJEU - Case C-601/14, European Commission v Italian Republic, 11 October 2016](#)

Judgment of the Court (Grand Chamber) of 11 October 2016.

European Commission v Italian Republic.

Failure of a Member State **to fulfil obligations** — **Directive 2004/80/EC** — Article 12(2) — **National compensation schemes** for victims of violent intentional crime guaranteeing fair and appropriate compensation — National scheme not covering all violent intentional crimes committed on the national territory.

- [CJEU - Case C-112/07, Commission of the European Communities v Italian Republic, 29 November 2007](#)

Judgment of the Court (Fifth Chamber) of 29 November 2007.

Commission of the European Communities v Italian Republic.

Failure of a Member State to fulfil obligations - **Directive 2004/80/EC** - Police and judicial cooperation in criminal matters - **Compensation to crime victims** - **Failure to transpose** within the prescribed period.

- [CJEU - Case C-26/07, Commission of the European Communities v Hellenic Republic, 18 July 2007](#)

Judgment of the Court (Sixth Chamber) of 18 July 2007.

Commission of the European Communities v Hellenic Republic.

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"Federico Stella" Centre for Research on Criminal Justice and Policy (CSGP) – Università Cattolica del Sacro Cuore, Milan, Italy.

CSGP is the coordinator of the project. CSGP is a research centre on criminal law and criminal policy, committed to promote theoretical and applied interdisciplinary research, aiming at improving the criminal justice system. Its activities, projects and expertise cover a wide range of themes, including business criminal law, corporate liability, criminal law reform, restorative justice and victim support, environmental law, law and the humanities, law and the sciences. An Advisory Committee of prominent scholars, judges and leading experts in juridical, economic, philosophical and psychological disciplines coordinates its scientific activities.



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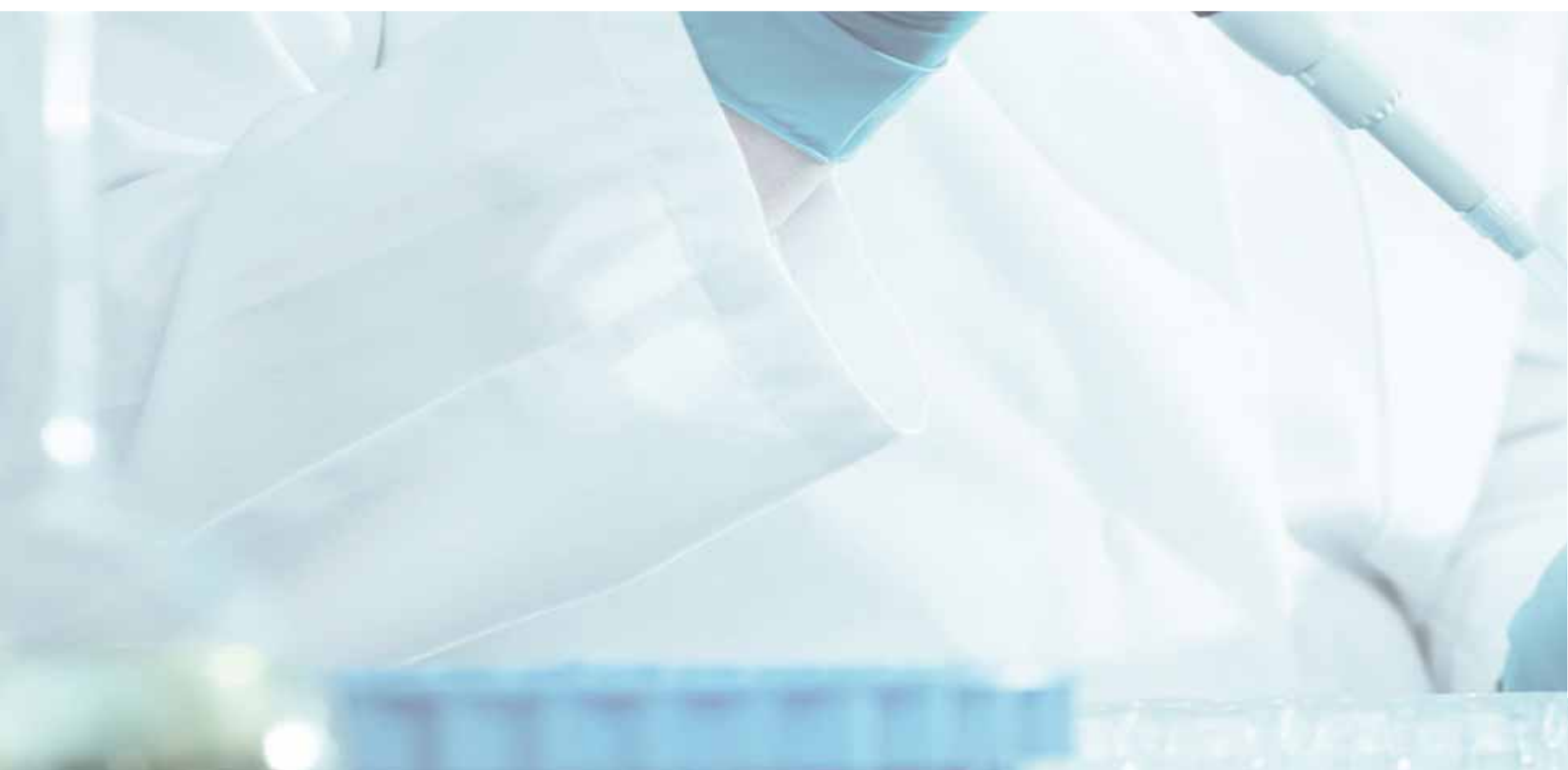
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