



## PRESS RELEASE No 188/24

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Judgment of the Court in Case C-126/23 | [Burdene] <sup>1</sup>

### **Compensation to victims of violent intentional crime: the automatic exclusion of certain family members of the victim of homicide does not guarantee ‘fair and appropriate’ compensation**

*Factors other than family ties alone must be taken into account, such as the extent of the harm suffered by the excluded family members*

In 2018, an Italian court ordered a man, the perpetrator of the homicide of his ex-partner, to pay compensation to the members of the victim’s family. As the perpetrator of the homicide was insolvent, the Italian State paid compensation, at a reduced amount as compared to that initially provided for, only to the victim’s children and her spouse, from whom she had been separated for several years. <sup>2</sup>

The victim’s parents, sister and children brought proceedings before the District Court, Venice (Italy) seeking ‘fair and appropriate’ compensation, which takes into account the harm they suffered as a result of the homicide.

In that context, the Italian court asks the Court of Justice whether national legislation which automatically excludes the payment of compensation to certain family members of the victim of violent intentional crime in the event of the death of that person resulting from homicide is compatible with the EU directive on compensation to crime victims. <sup>3</sup>

The Court states, first of all, that that directive requires Member States to establish a national scheme on compensation which is capable of covering not only persons who have themselves been subject to violent intentional crime, as **direct victims**, but also their close family members where those family members suffer, indirectly, the consequences of that crime, as **indirect victims**.

Furthermore, the Court reiterates that the directive in question **imposes** on each Member State **the obligation** to establish a **scheme on compensation** to victims of violent intentional crime which **guarantees fair and appropriate compensation**. Although Member States have a margin of discretion in that regard, they cannot confine themselves to purely symbolic or manifestly insufficient compensation having regard to the seriousness of the consequences, for those victims, of the crime committed.

The contribution must **adequately compensate** the suffering to which those victims have been exposed, in order to contribute to the **reparation of the material and non-material harm suffered**. In addition, where the national scheme concerned provides for fixed rate compensation, the compensation scale must be sufficiently detailed so as to avoid the possibility that the compensation provided for a specific type of violence proves to be manifestly insufficient.

The Court therefore holds that a national scheme that automatically **excludes certain family members** from entitlement to all compensation solely because of the presence of other family members, without taking into account other considerations (such as, inter alia, the material consequences for those family members of the

homicide of the person concerned or the fact that they were dependants of the deceased person or lived with him or her), **cannot result in 'fair and appropriate' compensation.**

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

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The full [text and, as the case may be, an abstract](#) of the judgment is published on the CURIA website on the day of delivery.

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<sup>1</sup> The name of the present case is a fictitious name. It does not correspond to the real name of any of the parties to the proceedings.

<sup>2</sup> The Italian compensation scheme on compensation for violent intentional crime provides that the parents of a deceased person may receive compensation only in the absence of a spouse and children and that the siblings may obtain compensation only in the absence of parents.

<sup>3</sup> Council [Directive 2004/80/EC](#) of 29 April 2004 relating to compensation to crime victims.