



REPUBLIC OF AUSTRIA  
FEDERAL MINISTRY OF JUSTICE

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Official in Charge:  
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European Criminal Bar Association, to the attention  
of Prof. Dr. Holger Matt  
25 Bedford Row  
WC1R4HD London  
UNITED KINGDOM  
[secretariat@ecba.org](mailto:secretariat@ecba.org)

Re: Statement on the Draft Directive establishing minimum standards  
on the rights, support and protection of victims of crime

Vienna, 21<sup>st</sup>. November 2011

Dear Prof. Dr. Holger Matt!

As Head of Unit for Criminal Procedural Law I have the honour to answer your letter to the Austrian Minister of Justice from 25 October 2011.

The proposal from the European Commission for a Directive establishing minimum standards on the rights, support and protection of victims of crime is to be seen as one measure concerning victims' rights und victims' support within criminal proceedings amongst others referring to defendants' rights in criminal proceedings. I would like to draw your attention also to the already adopted Directive 2010/64/EU on the right of interpretation and translation in criminal proceedings as well as to the proposal of the European Commission for a Directive on the right to access to a lawyer in criminal proceedings and on the right to communicate up on arrest. Even more measures to endorse minimum standards on procedural safeguards are planned (on Legal Aid and Legal Advice; on the Communication with Relatives, Employers and Consular Authorities; on Special Safeguards for Vulnerable Persons; Green Paper the Right to Review of the Grounds of Detention by the European Commission)..

Therefore at the level of the European Union the focus on creating minimum standards with regard to procedural rights does focus on defendant rights. The Commissions proposal for the directive on victims rights and victims support is not only to be seen to focus only on the victims position in criminal proceedings but also to supplement the other instruments with regard to a balanced improvement of victims and defendants rights in criminal proceedings.

During the last decades the improvement of victims' support and victims' rights in criminal proceedings had been given high priority in Austria. Whereby the balance of defendants' rights and victims rights in criminal proceedings is of great importance. In particular measures to protect vulnerable victims against secondary victimisation and further traumatisation caused by the criminal proceeding were implemented into the Austrian Criminal Code of Procedure. A balanced approach could be achieved by recognising the case law of ECHR with regard to Art 6 Par 3 ECHR. Also the Austrian negotiations on the proposal of the Directive on rights, support und protection of victims of crime at the EU Council are driven by the principle of a balanced approach with regard to defendants' rights and victims' rights.

I do not want to prejudice the outcome of the negotiations at the EU level, where beside the Member States the European Parliament and the European Commission have to find a compromise. But I am sure that there is consensus that victims of crimes should be protected against secondary victimisation and further traumatisation caused by or through the criminal proceeding following the crime. However I agree with you that these measures shall be inline with article 6 ECHR as well as with articles 47 to 50 of the Charter of Fundamental Rights of the EU.

Yours sincerely,

Friedrich A. Koenig

Signed electronically