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ΔΙΚΑΣΤΗΡΙΟ ΤΗΣ ΕΥΡΩΠΑΪΚΗΣ ΕΝΩΣΗΣ  
COURT OF JUSTICE OF THE EUROPEAN UNION  
COUR DE JUSTICE DE L'UNION EUROPÉENNE  
CÚIRT BHREITHIÚNAIS AN AONTAIS EORPAIGH  
SUD EUROPSKE UNĚJE  
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HOF VAN JUSTITIE VAN DE EUROPESE UNIE  
TRYBUNAŁ SPRAWIEDLIWOŚCI UNII EUROPEJSKIEJ  
TRIBUNAL DE JUSTIÇA DA UNIÃO EUROPEIA  
CURTEA DE JUSTIȚIE A UNIUNII EUROPENE  
SÚDNY DVOR EURÓPSKEJ ÚNIE  
SODIŠČE EVROPSKE UNIJE  
EUROOPAN UNIONIN TUOMIOISTUIN  
EUROPEISKA UNIONENS DOMSTOL

## JUDGMENT OF THE COURT (Third Chamber)

26 March 2026 \*

(Reference for a preliminary ruling – Area of freedom, security and justice –  
Judicial cooperation in criminal matters – Article 82(2) TFEU – EU legislative  
competence – Directive 2012/29/EU – Minimum standards on the rights, support  
and protection of victims of crime – Article 2(1)(a) – Concept of ‘victim’ –  
Extraterritorial jurisdiction of the criminal courts of a Member State –  
Inapplicability of that directive)

In Case C-239/24 [Aurnois], <sup>i</sup>

REQUEST for a preliminary ruling under Article 267 TFEU from the cour  
d’appel de Bruxelles (Court of Appeal, Brussels, Belgium), made by decision of  
12 December 2023, received at the Court on 2 April 2024, in the proceedings  
initiated by

**FP,**

**LD,**

other party:

**Procureur fédéral,**

THE COURT (Third Chamber),

composed of C. Lycourgos, President of the Chamber, O. Spineanu-Matei,  
S. Rodin, N. Piçarra (Rapporteur) and N. Fenger, Judges,

Advocate General: J. Kokott,

Registrar: A. Calot Escobar,

\* Language of the case: French.

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

having regard to the written procedure,

after considering the observations submitted on behalf of:

- FP and LD, by M. Alié, avocate,
- the Procureur fédéral, by A. d’Oultremont, magistrat fédéral,
- the Czech Government, by A. Pagáčová, M. Smolek and J. Vláčil, acting as Agents,
- the Italian Government, by S. Fiorentino, acting as Agent, and by L. Fiandaca, avvocato dello Stato,
- the European Commission, by J. Hottiaux and J. Vondung, acting as Agents,

having decided, after hearing the Advocate General, to proceed to judgment without an Opinion,

gives the following

### **Judgment**

- 1 This request for a preliminary ruling concerns the interpretation of Article 2(1)(a)(i) of 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 (OJ 2012 L 315, p. 57).
- 2 The request has been made in proceedings initiated in Belgium by FP and LD against several leaders of the Kingdom of Saudi Arabia for crimes against humanity allegedly committed against their sister, SX, a Saudi national and women’s rights activist.

### **Legal context**

#### ***European Union law***

##### *Primary law*

- 3 Article 82(2) TFEU provides:

‘To the extent necessary to facilitate mutual recognition of judgments and judicial decisions and police and judicial cooperation in criminal matters having a cross-border dimension, the European Parliament and the Council may, by means of directives adopted in accordance with the ordinary legislative procedure, establish

minimum rules. Such rules shall take into account the differences between the legal traditions and systems of the Member States.

They shall concern:

- (a) mutual admissibility of evidence between Member States;
- (b) the rights of individuals in criminal procedure;
- (c) the rights of victims of crime;
- (d) any other specific aspects of criminal procedure which the Council has identified in advance by a decision; for the adoption of such a decision, the Council shall act unanimously after obtaining the consent of the European Parliament.

Adoption of the minimum rules referred to in this paragraph shall not prevent Member States from maintaining or introducing a higher level of protection for individuals.’

*Directive 2012/29*

4 Recitals 3, 4, 13 and 50 of Directive 2012/29 state:

‘(3) Article 82(2) [TFEU] provides for the establishment of minimum rules applicable in the Member States to facilitate mutual recognition of judgments and judicial decisions and police and judicial cooperation in criminal matters having a cross-border dimension, in particular with regard to the rights of victims of crime.

(4) ... this Directive aims to revise and supplement the principles set out in [Council] Framework Decision 2001/220/JHA [of 15 March 2001 on the standing of victims in criminal proceedings (OJ 2001 L 82, p. 1)] and to take significant steps forward in the level of protection of victims throughout the Union, in particular within the framework of criminal proceedings.

...

(13) This Directive applies in relation to criminal offences committed in the Union and to criminal proceedings that take place in the Union. It confers rights on victims of extra-territorial offences only in relation to criminal proceedings that take place in the Union. Complaints made to competent authorities outside the Union, such as embassies, do not trigger the obligations set out in this Directive.

...

(50) The obligation set out in this Directive to transmit complaints should not affect Member States’ competence to institute proceedings and is without prejudice to the rules of conflict relating to the exercise of jurisdiction, as laid down in Council Framework Decision 2009/948/JHA of 30 November 2009 on prevention and settlement of conflicts of exercise of jurisdiction in criminal proceedings [(OJ 2009 L 328, p. 42)].’

5 Under the first subparagraph of Article 1(1), the purpose of that directive is to ensure that victims of crime receive appropriate information, support and protection and are able to participate in criminal proceedings.

6 Article 2(1) of that directive sets out, inter alia, the following definitions:

‘(a) “victim” means:

- (i) a natural person who has suffered harm, including physical, mental or emotional harm or economic loss which was directly caused by a criminal offence;
  - (ii) family members of a person whose death was directly caused by a criminal offence and who have suffered harm as a result of that person’s death;
- (b) “family members” means the spouse, the person who is living with the victim in a committed intimate relationship, in a joint household and on a stable and continuous basis, the relatives in direct line, the siblings and the dependants of the victim’.

***Belgian law***

7 Article 10 of the loi du 17 avril 1878 contenant le titre préliminaire du code de procédure pénale (Law of 17 April 1878 which includes the preliminary title of the Code of Criminal Procedure) (*Moniteur belge* of 25 April 1878, p. 1265, in the version applicable to the dispute in the main proceedings; ‘the TPCCP’), provides:

‘Except in the cases referred to in Article 6 and Article 7(1) a foreign national may be prosecuted in Belgium for any of the following offences committed by that foreign national outside the territory of the Kingdom:

...

*1bis* a serious breach of international humanitarian law referred to in Book II, Title *Ibis* of the Code pénal [(Criminal Code)], committed against a person who, at the time of the offences, is a Belgian national or a refugee recognised in Belgium and for whom Belgium is his or her place of habitual residence, within the meaning of the [Convention relating to the Status of Refugees, signed in Geneva on 28 July 1951] [*United Nations Treaty Series*, Vol. 189, p. 150, No 2545 (1954), which came into force on 22 April 1954,

as supplemented by the Protocol relating to the Status of Refugees concluded in New York on 31 January 1967, which came into force on 4 October 1967], or a person who has actually, habitually and lawfully resided in Belgium for at least three years.

The prosecution, which includes the investigation, may be brought only at the request of the Procureur fédéral [(Federal Prosecutor, Belgium)], who assesses any complaints.

The Federal Prosecutor, to whom a complaint has been made under the preceding paragraphs, shall ask the investigating judge to investigate the complaint except where:

- 1° the complaint is manifestly unfounded; or
- 2° the acts set out in the complaint do not correspond to a classification of the offences referred to in Book II, Title *Ibis* of the Code pénal [(Criminal Code)]; or
- 3° no admissible public prosecution may be brought in respect of that complaint; or

...

If the Federal Prosecutor is of the view that one or several of the conditions set out in points 1, 2 and 3 of paragraph 3 are satisfied, he or she shall make submissions before the Indictment Division of the cour d'appel de Bruxelles [(Court of Appeal, Brussels, Belgium)], seeking a declaration that there are no grounds for prosecution or that the prosecution is inadmissible, as the case may be. Only the Federal Prosecutor shall be heard.

...'

### **The dispute in the main proceedings and the questions referred for a preliminary ruling**

- 8 On 2 December 2021, FP and LD ('the complainants') lodged a complaint with the Federal Prosecutor's Office against several leaders of the Kingdom of Saudi Arabia for crimes against humanity under the code pénal belge (Belgian Criminal Code), which were committed against their sister, SX, a Saudi national and women's rights activist. The complainants object to the repression carried out by the Saudi regime against not only their sister but also a number of other people who have been the subject of arbitrary and illegal arrest and detention, torture, inhuman treatment, enforced disappearance and assassinations.
- 9 It is apparent from the order for reference that the complainants submit that they are not only indirect victims but also direct victims of the serious breaches of

international humanitarian law which were allegedly committed against their sister. Thus, as individuals close to a person subject to such breaches, they are liable to suffer mental or emotional harm as a result of the psychological impact and the trauma caused by those breaches and economic loss, in particular in the event of an inability to work due to such trauma.

- 10 The complainants therefore claim that they are ‘victims’ within the meaning of Article 2(1)(a)(i) of Directive 2012/29 and submit that that concept is included within the concept of a ‘person against whom a serious breach of international humanitarian law has been committed’, as follows from Article 10, first paragraph, *1bis* of the TPCPP. Furthermore, since the alleged offences took place between 2018 and 2021, or after the complainants had registered as residents in Belgium, the complainants also satisfy the criteria set out in that latter provision in order to prosecute in Belgium a person other than a Belgian national for offences committed outside of national territory.
- 11 Having received the complaint referred to in paragraph 8 above, the Federal Prosecutor requested the Indictment Division of the cour d’appel de Bruxelles (Court of Appeal, Brussels), which is the referring court, to declare that the Belgian courts do not have jurisdiction and that the public prosecution is inadmissible, in accordance with the fourth paragraph of Article 10 of the TPCPP. According to the Federal Prosecutor, the conditions set out in Article 10, first paragraph, *1bis* are not satisfied as regards the offences committed in Saudi Arabia against the complainants’ sister. The Federal Prosecutor therefore refused to recognise the complainants as ‘person[s] against whom a serious breach of international humanitarian law has been committed’ in accordance with Article 10, first paragraph, *1bis* of the TPCPP.
- 12 The referring court explains that, in accordance with Article 10, first paragraph, *1bis* of the TPCPP, the jurisdiction of the Belgian courts under the passive personality principle, as regards crimes committed outside of national territory by a person other than a Belgian national, is accepted where, first, the alleged offences constitute a serious breach of international humanitarian law and, second, that breach has been committed against a Belgian national, a person who has refugee status in Belgium or a person who has resided in that Member State for at least three years.
- 13 That court notes that SX, the sister of the complainants, was the victim of crimes that may constitute, *prima facie*, a serious breach of international humanitarian law, but that she was not, at the time of the offences, a Belgian national, had not been granted refugee status in Belgium and was not residing in the territory of that Member State. In those circumstances, the extraterritorial jurisdiction of the Belgian courts must be excluded under Article 10, first paragraph, *1bis* of the TPCPP.
- 14 The referring court points out that, to establish the extraterritorial jurisdiction of the Belgian courts, Article 10, first paragraph, *1bis* refers not to the concept of

direct or indirect ‘victim’, but to the concept of a ‘person against whom a serious breach of international humanitarian law has been committed’ and who ‘at the time of the offences, is a Belgian national or a refugee recognised in Belgium and for whom Belgium is their habitual residence’. It states that that latter concept requires there to be a strict connecting factor with Belgium in order to prevent complaints from being lodged by persons establishing themselves in the national territory with the sole aim of bringing complaints before the courts of that country for offences of which they claim to have been victims outside of the territory.

- 15 In so far as the complainants submit, first, that they should be classified as ‘victims’ within the meaning of Article 2(1)(a) of Directive 2012/29 and, second, that that concept must be understood as being included in the concept of a ‘person against whom a serious breach of international humanitarian law has been committed’, as follows from Article 10, first paragraph, *1bis* of the TPCPP, the referring court states that an interpretation of Article 2(1)(a) is necessary in order to determine the scope of that latter concept and, therefore, to decide whether, in the present case, the conditions for bringing a public prosecution in Belgium are satisfied.
- 16 That court notes, however, that the Cour de cassation (Court of Cassation, Belgium) held, in a judgment of 17 December 2003, that there is no rule of international law which obliges the Kingdom of Belgium to exercise universal jurisdiction in the area of crimes against humanity and finds, in addition, that both Article 5 of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment of 10 December 1984 (*United Nations Treaty Series*, Vol. 1465, p. 85, No 24841 (1987)) and Article 9 of the International Convention for the Protection of All Persons from Enforced Disappearance of 20 December 2006 (*United Nations Treaty Series*, Vol. 2716, p. 3, No 48088 (2010)) provide that a State party may establish its passive jurisdiction only if it ‘considers it appropriate’.
- 17 In those circumstances the Cour d’appel de Bruxelles (Court of Appeal, Brussels) decided to stay the proceedings and to refer the following questions to the Court of Justice for a preliminary ruling:
  - ‘(1) Must Article 2[(1)(a)(i)] of Directive [2012/29] be interpreted as including within the definition of “victims”, thereby entitling them to the rights set out in [that] directive, close family members of a person who, in the context of a serious breach of international humanitarian law, has been subjected to enforced disappearance or torture, taking into account the International Convention for the Protection of All Persons from Enforced Disappearance [of 20 December 2006] and the United Nations Convention against Torture [of 10 December 1984]?’
  - (2) Must Article 2[(1)(a)(i)] of ... Directive [2012/29] be interpreted as including within the definition of “victims”, thereby entitling them to the rights set out in [that] directive, family members who have suffered mental

or emotional harm or material loss directly caused by a serious breach of international humanitarian law which was primarily committed against their close family member?’

### **Procedure before the Court**

- 18 By a request for information of 29 May 2024, the Court of Justice asked the referring court to set out the reasons why it considered there to be a link between the dispute in the main proceedings, concerning the extraterritorial jurisdiction under Belgian law for crimes against humanity and the provisions of Directive 2012/29.
- 19 By letter received at the Registry of the Court of Justice on 11 July 2024, the referring court informed the Court of Justice that it had scheduled a hearing for 12 November 2024 in order for the question raised by the Court to be subject to an exchange of arguments between the parties to the main proceedings, while stating that it would be able to respond to that request for information only after that hearing.
- 20 On 12 July 2024, the President of the Court, after hearing the Advocate General and the Judge-Rapporteur, decided to stay the proceedings until receipt of the response of the referring court to the request for information.
- 21 On 29 January 2025, in response to that request for information, the referring court sent to the Court of Justice the written submissions that were submitted to it by the complainants and the Federal Prosecutor.
- 22 On 5 February 2025, the President of the Court, after hearing the Advocate General and the Judge-Rapporteur, decided to place in the file the documents lodged by the referring court, to send to the parties to the main proceedings and the persons concerned those documents together with the request for information and to resume the proceedings.

### **Admissibility of the request for a preliminary ruling**

- 23 The Federal Prosecutor submits that the request for a preliminary ruling is inadmissible. The European Commission also expresses doubts as to the admissibility of that request.
- 24 According to the Federal Prosecutor, no provision of Directive 2012/29 is intended to govern the conditions for the admissibility of a public prosecution brought before the national courts for crimes committed outside the national territory so that Article 2(1)(a)(i) of that directive, which is the subject of the questions referred for a preliminary ruling, is not applicable in the dispute in the main proceedings. In those circumstances, the question as to whether that provision must be interpreted as meaning that a close family member of a victim

of a serious breach of international humanitarian law may also be classified as a ‘victim’ and therefore benefit from the rights set out in that directive, is irrelevant to the resolution of this dispute.

- 25 The Commission states that Directive 2012/29 does not include any provision concerning the determination of the jurisdiction of the courts of the Member States in criminal matters and that that directive applies only to criminal proceedings for which such jurisdiction has already been established. EU law, in general, does not contain any relevant rule for the interpretation of a provision of national law which governs the exercise of extraterritorial jurisdiction in criminal matters, such as that at issue in the main proceedings.
- 26 Furthermore, the Commission bases its doubts as regards the admissibility of the request for a preliminary ruling on the fact that, in response to the request for information referred to in paragraph 18 above, the referring court did not expressly set out the reasons why it considers that there is a link between the dispute in the main proceedings and the provisions of that directive, merely forwarding the written submissions of the complainants and the Federal Prosecutor in that regard.
- 27 According to settled case-law, questions on the interpretation of EU law referred by a national court in the factual and legislative context which that court is responsible for defining, and the accuracy of which is not a matter for the Court to determine, enjoy a presumption of relevance. The Court may refuse to give a ruling on a request for a preliminary ruling from a national court only where it is quite obvious that the interpretation of EU law sought bears no relation to the actual facts of the main action or its purpose, where the problem is hypothetical, or where the Court does not have before it the factual or legal material necessary to give a useful answer to the questions submitted to it (judgment of 1 August 2025, *Alace and Canpelli*, C-758/24 and C-759/24, EU:C:2025:591, paragraph 38 and the case-law cited).
- 28 In the present case, the referring court asks, in essence, whether the concept of a ‘person against whom a serious breach of international humanitarian law has been committed’, as follows from Article 10, first paragraph, *1bis* of the TPCPP, must be understood as including the concept of ‘victim’, defined in Article 2(1)(a) of Directive 2012/29, the interpretation of which it seeks in order to decide whether the conditions for bringing a public prosecution in Belgium are satisfied. In the event that the Court finds that that directive is applicable to the dispute in the main proceedings, the interpretation of that concept of ‘victim’ would have an influence on the resolution of this dispute.
- 29 Since it is not obvious that the interpretation of Directive 2012/29 bears no relation to the facts of the dispute in the main proceedings or its purpose, the objection alleging the inapplicability of that directive does not concern the admissibility of the request for a preliminary ruling but the substance of the questions referred (see, to that effect, judgments of 4 October 2024,

*Bezirkshauptmannschaft Landeck (Attempt to access personal data stored on a mobile telephone)*, C-548/21, EU:C:2024:830, paragraph 67, and of 17 October 2024, *FA.RO. di YK & C.*, C-16/23, EU:C:2024:886, paragraph 48).

### **Consideration of the questions referred**

- 30 By its questions, which it is appropriate to examine together, the referring court asks, in essence, whether Article 2(1)(a)(i) of Directive 2012/29 must be interpreted as meaning that the concept of ‘victim’, referred to in that provision, includes the close family members of a person in relation to whom there has been a serious breach of international humanitarian law or, at the very least, those family members who have suffered from either mental or emotional harm or economic loss directly caused by that breach.
- 31 As noted in paragraph 28 above, the referring court is asked, in the context of the dispute before it, to interpret a provision of national law, namely Article 10, first paragraph, *1bis* of the TPCPP, which establishes the jurisdiction of national courts to hear and determine serious breaches of international humanitarian law committed outside the national territory against a Belgian national, a person who has refugee status in Belgium or a person who has resided in that Member State for at least three years. To that end, that court seeks, in essence, to ascertain whether that provision must be interpreted in accordance with Article 2(1)(a)(i) of Directive 2012/29.
- 32 In that context, it is necessary to examine, first of all, whether Directive 2012/29 is applicable in the context of a dispute concerning the jurisdiction of the criminal courts of a Member State to hear and determine acts committed outside of its territory, which would be liable to affect the scope of the provisions of national law which provide for such jurisdiction.
- 33 It must be borne in mind that that directive was adopted under Article 82(2) TFEU. As is apparent from recital 3 of that directive, that provision of the FEU Treaty empowers the EU legislature to establish minimum rules applicable in the Member States to facilitate mutual recognition of judgments and judicial decisions and police and judicial cooperation in criminal matters having a cross-border dimension, in particular with regard to the rights of victims of crime and also the rights of individuals in criminal procedure and the mutual admissibility of evidence between the Member States, as provided for in Article 82(2)(a) to (c) TFEU.
- 34 In that regard, it should be noted that Directive 2012/29, in accordance with its title, establishes minimum standards on the rights, support and protection of victims of crime. Recital 4 of that directive states that that directive aims to revise and supplement the principles set out in Framework Decision 2001/220 and to take significant steps forward in the level of protection of victims throughout the Union, in particular within the framework of criminal proceedings.

- 35 Under the first subparagraph of Article 1(1), the purpose of Directive 2012/29 is to ensure that victims of crime receive appropriate information, support and protection and are able to participate in criminal proceedings.
- 36 For the purposes of the application of that directive, the concept of ‘victim’ is defined in Article 2(1)(a)(i) as referring to a natural person who has suffered harm, including physical, mental or emotional harm or economic loss which was directly caused by a criminal offence. That concept also includes, in accordance with Article 2(1)(a)(ii) of that directive, family members of a person whose death was directly caused by a criminal offence and who have suffered harm as a result of that person’s death. Furthermore, Article 2(1)(b) of that directive defines ‘family members’ as the spouse, the person who is living with the victim in a committed intimate relationship, in a joint household and on a stable and continuous basis, the relatives in direct line, the siblings and the dependants of the victim.
- 37 Directive 2012/29 sets out, in essence, a series of rights from which those victims must benefit in the national criminal proceedings. First, as regards information and support, that directive establishes, inter alia, the right to understand and be understood, the right to receive information from the first contact with a competent authority and the right to receive information about their case. Second, as regards participation in criminal proceedings, that directive provides, inter alia, for the right to be heard and the right to legal aid. Third, as regards the protection of victims, including those with specific needs and of children, that directive guarantees the right to avoid contact between the victim and the offender and the right to protection of privacy.
- 38 Only recital 13 of Directive 2012/29 refers to ‘victims of extra-territorial offences’, by stating that that directive triggers the obligations set out therein only in criminal proceedings that take place in the Union. The grant of rights to those victims presupposes therefore that the Member States have exercised their jurisdiction to bring criminal proceedings. As the Federal Prosecutor and the Commission rightly pointed out in their written observations, that directive applies only to criminal proceedings for which such jurisdiction has first been established.
- 39 That finding is confirmed by recital 50 of that directive from which it is apparent that that directive does not affect Member States’ competence to bring criminal proceedings or the application of the rules of conflict relating to the exercise of jurisdiction in criminal proceedings, as set out in Framework Decision 2009/948.
- 40 In the light of all the foregoing considerations, Directive 2012/29 must be interpreted as meaning that it is not applicable to a dispute concerning the jurisdiction of the criminal courts of a Member State to hear and determine acts committed outside the territory of that Member State and cannot affect the scope of provisions of national law which provide for such jurisdiction.

## Costs

- 41 Since these proceedings are, for the parties to the main proceedings, a step in the action pending before the referring court, the decision on costs is a matter for that court. Costs incurred in submitting observations to the Court, other than the costs of those parties, are not recoverable.

On those grounds, the Court (Third Chamber) hereby rules:

**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,**

**must be interpreted as meaning that it is not applicable to a dispute concerning the jurisdiction of the criminal courts of a Member State to hear and determine acts committed outside the territory of that Member State and cannot affect the scope of provisions of national law which provide for such jurisdiction.**

[Signatures]