

August 2015



EU Supplement

This supplement covers the significant EU developments from May 2015 to July 2015 in the broad areas of social policy, consumer policy and citizens' rights.

There is further information about almost all the issues mentioned on the Europa website europa.eu. In some cases, we give the extended website address. The Official Journal of the EU may be accessed at eur-lex.europa.eu.

Consumer affairs

Renting cars abroad

Five major car rental companies have agreed to review how they deal with consumers as a result of a joint action by the European Commission and national enforcement authorities. The aim is to provide greater clarity on insurance policies and tank refuelling options, more fairness when handling damages, and more price transparency. The action was taken because complaints related to car rentals received by the European Consumer Centres increased from just over 1,000 in 2012 to more than 1,750 in 2014.

http://ec.europa.eu/justice/newsroom/consumer-marketing/news/150713_en.htm

Insurance

Agreement has been reached on the proposal for a revised Directive on insurance sales, known as the Insurance Distribution Directive. This aims to improve the way insurance products are sold. The new Directive will replace the 2002 Insurance Mediation Directive.

The 2002 Directive regulates selling practices by brokers and other intermediaries selling insurance products. It covers the sale of general insurance products such as motor insurance as well as life insurance policies, including those which contain investment elements such as unit-linked life insurance products.

The new Directive requires, among other things, that:

- Insurance distributors become more transparent about the price and the costs of their products. In particular, the consumer should know whether the seller of an insurance product has an own economic incentive to sell that particular product.
- Better and more comprehensible information be provided to consumers; there must be a simple, standardised Product Information Document for non-life insurance products. This is already a requirement for life insurance products.
- Where insurance products are offered in a package with another good or service, for example, when a new car is sold together with motor insurance, consumers will have the choice to buy the main good or service without the insurance policy

These rules will now also apply when a product is bought directly from an insurance company, and not only when products are bought via a broker or intermediary.

http://ec.europa.eu/finance/insurance/consumer/mediation/index_en.htm

Roaming charges

The Council and the European Parliament have reached agreement on the abolition of roaming charges within the EU by 15 June 2017. From then, you will pay the same price for using your mobile phone in your home country and in any other EU member state.

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It had already been agreed that roaming charges would reduce from April 2016. From then, operators will be able to charge only a small additional amount to domestic prices: up to €0.05 per minute of phonecall made, €0.02 per SMS sent, and €0.05 per MB of data used (excluding VAT). At present, the roaming charges can be up to €0.19 per minute of phonecall made, €0.06 per SMS sent, and €0.20 per MB of data used (excluding VAT).

The agreement also provides for new rules to safeguard open access to the internet throughout the EU. This is designed to ensure that internet content is not unfairly blocked or slowed down by internet service providers. It means that it will no longer be possible to pay for priority for particular content or services.

The new rules will prevent any blocking, throttling, degradation or discrimination of internet traffic by internet service providers. This is subject to exceptions in the interests of law enforcement.

Justice and home affairs

Data protection

The Council has reached general agreement on the proposed data protection Regulation. The Regulation aims to improve the level of data protection for individuals and to increase business opportunities in the Digital Single Market.

There is also a proposal for a data protection Directive in the law enforcement area. Agreement is expected to be reached on this later this year.

The existing data protection rules provide that personal data must be collected and processed lawfully and for a legitimate purpose.

The new Regulation aims to give data subjects:

- Easier access to their data
- More detailed information about what happens to their personal data once they decide to share it: data controllers must be more transparent about how personal data is handled, for example, by informing individuals about their privacy policy in clear and plain language
- A right to have their personal data erased and "to be forgotten", for example, you will be entitled to require that a service provider remove, without delay, personal data collected when you were a child
- A right to portability which would enable easier transmission of personal data from one service provider, for instance a social network, to another
- Limits to the use of 'profiling', that is, automated processing of personal data to assess personal aspects, such as performance at work, economic situation, health, personal preferences

The Regulation also provides for EU-wide implementation of data protection rules. You will have the right to have any decision by a data protection authority (for example, the Data Protection Commissioner in Ireland) reviewed by your national court irrespective of the member state in which the data controller is established.

There will be a single set of rules, valid across the EU and applicable both to European and non-European companies offering their online services in the EU, which aim to prevent conflicting national data protection rules from disrupting cross-border exchanges of data. In certain transnational cases, where a number of supervisory authorities are involved, a single supervisory decision will be taken. This means that a company with subsidiaries in a number of member states will have to deal only with the data protection authority of the member state where it is established.

Data controllers will be required to implement appropriate security measures and provide notice of any breaches of the personal data rules to the supervisory authorities and to those significantly affected by the breach without delay.

The Regulation also provides for the protection of transfers of personal data to third countries and international organisations.

<http://www.consilium.europa.eu/en/press/press-releases/2015/06/15-jha-data-protection/>

The rules for data protection in the EU institutions and the duties of the European Data Protection Supervisor (EDPS) - are set out in Regulation (EC) No 45/2001. The EDPS is an independent supervisory authority which aims to protect personal data and privacy and promote good practice in the EU institutions and bodies. This is done by:

- Monitoring the EU administration's processing of personal data
- Advising on policies and legislation that affect privacy
- Cooperating with similar authorities to ensure consistent data protection

European Small Claims Procedure

Agreement has been reached on the proposed Regulation amending the European Small Claims Regulation and the European Order for Payment Regulation. This proposal will amend Regulation 861/2007 of the European Small Claims Procedure which has been in effect since 2009.

The main elements of the new Regulation are:

- At present the Small Claims Procedure is available for claims of up to €2,000. The Regulation proposed to increase this to €5,000.
- There will be an obligation on member states to ensure the court fees charged for European Small Claims Procedure

are not disproportionate and not higher than the court fees for national simplified court procedures (for example, the Small Claims Court in Ireland)

- Member states will be obliged to offer remote means of payment for the payment of court fees
- There will be greater scope for using distance communication technology for oral hearings and for the taking of evidence and arrangements for the electronic service of documents
- You will be able to use the Small Claims Procedure if a statement of opposition is lodged against a European order for payment

<http://www.consilium.europa.eu/en/press/press-releases/2015/06/29-small-claims-procedure/>

Victims of crime

Directive 2012/29/EU establishing minimum standards on the rights, support and protection of victims of crime must be implemented by 16 November 2015. The text of the Directive is available at http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=uriserv:OJ.L_.2012.315.01.0057.01.ENG

The General Scheme of the Criminal Justice (Victims of Crime) Bill 2015 has been published. This provides for the implementation of the Directive in Ireland. The text is available at [http://www.justice.ie/en/JELR/Pages/Criminal_Justice_\(Victims_of_Crime\)_Bill](http://www.justice.ie/en/JELR/Pages/Criminal_Justice_(Victims_of_Crime)_Bill)

The aim of the Directive is to ensure that victims of crime receive appropriate information, support and protection and are able to participate in criminal proceedings.

The following is a summary of the main provisions of the Bill.

The term 'victim' includes the person who has been directly harmed by the offence and, in cases where the direct victim has died as a result of the offence, family members of the victim.

There is a wide definition of 'family member' in cases where a person's death was directly caused by a criminal offence. It includes spouses, partners (whether or not in a formal relationship), descendants and antecedents, siblings, people in loco parentis and any other person whom a court or a Garda considers to have had a sufficiently close connection with the deceased. However, you are not regarded as a family member if you are under investigation for or been charged with an offence in relation to the death.

Information to be provided to victims or family members

If you make a complaint to the Gardaí that you or another person has been the victim of a criminal offence, you must be given information about the following:

- Procedures for making a complaint alleging an offence
- Services which provide support for victims of crime
- The role of the victim in the criminal justice process
- The protection measures available for victims
- Services providing legal advice and legal aid
- The Criminal Injuries Compensation Tribunal and the power of a court to make a compensation order
- Entitlement to interpretation and translation or other linguistic assistance
- Procedures for victims who are living outside the State
- Entitlement to expenses arising from participation in the criminal justice system
- Entitlement to inform the court of trial how you have been affected by the offence
- The procedure to get information from the Prison Service about the release of a prisoner
- Available grievance procedures

If you make a complaint to the Gardaí alleging you or another person were the victim of a criminal offence in another EU member state, the Garda must record the details and send them to the appropriate authorities in the other member state. (In some cases, offences which occurred in other member states may be prosecuted in Ireland.)

When making a complaint, you will be entitled to have another person with you unless the Garda taking the complaint reasonably believes that the presence of that person would hinder the taking of the complaint, could prejudice the investigation or criminal proceedings or would not be in your best interests.

The Garda taking the complaint must make an assessment, in consultation with you, of:

- The measures, if any, that may be necessary for your protection from any secondary or repeat victimisation, intimidation or retaliation
- If you would, in the course of the investigation of the offence alleged, benefit from any of the special measures for certain victims such as victims of domestic abuse

This assessment must take account of your personal characteristics, including your age, gender and gender identity or expression, ethnicity, race, religion, sexual orientation, physical or mental health issues and ability to communicate. It must also take account of the type and nature of the offence alleged, its severity, the degree of harm suffered by you, the circumstances in which the offence was committed and any relationship between you and the alleged offender.

Protection measures may include advice as to personal safety, protection of property, availability of protection or barring orders, seeking to remand an offender in custody or seeking conditions on bail, if granted, to prevent contact with you.

The Citizens Information Board provides independent information, advice and advocacy on public and social services through citizensinformation.ie, the Citizens Information Phone Service and the network of Citizens Information Services. It is responsible for the Money Advice and Budgeting Service and provides advocacy services for people with disabilities.

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If the Garda conducting the assessment considers that you have a limited capacity to contact a service supporting victims of crime and that you may benefit from such a service, or where you request the Garda to do so, the Garda may contact the service on your behalf.

The Garda must give you a written acknowledgement of the making of the complaint including particulars of the offence alleged and information on where to address any enquiries concerning the complaint.

The Garda must tell you that, if you wish, you may get information on the following as they arise:

- Significant developments in the investigation of the offence
- Any decision not to proceed with, or to discontinue an investigation into the offence alleged and the reasons or a brief summary of the reasons
- If it is proposed to deal with an alleged offender in relation to the offence in a manner which does not involve prosecution
- Any decision not to prosecute an alleged offender and the reasons or a brief summary of the reasons
- The date and place of the trial of, and the nature of the charges against, any alleged offender
- The date and place of any appeal by an alleged offender or by the Director of Public Prosecutions against any decision in the trial of the alleged offender
- The final decision in the trial and the outcome of any appeal against that decision
- The release from custody of the alleged offender

Victim Personal Statement

There is already provision for victim impact statements to be made when sentencing is being considered in cases of sexual offences, offences involving violence or threats of violence and cases of non-fatal offences against the person. The new legislation will provide that, in the case of other offences, you may, if you wish, make a statement, in writing, to be known as a Victim Personal Statement. This statement may set out how you have been affected by the offence, physically, emotionally, financially or in any other way. You are not allowed to make any prejudicial comment on the offender or comment on the appropriate sentence to be imposed on the offender.

Review of decision not to prosecute

The Bill provides that victims and family members are also entitled to seek a review of a decision not to prosecute.

Information concerning release or escape of offender

If you ask for this information, you must be notified about:

- When the convicted person is expected to be released from custody
- The temporary release or transfer to another prison of the convicted person
- Any escape from custody

Training

The bodies which deal with victims, including the Gardaí, the Courts Service, Director of Public Prosecutions, must provide training for their staff in relation to how they deal with victims.

Obligations on the Courts Service

The Bill would place an obligation on the Courts Service to have special regard to the victims of crime as users of the courts. It would be obliged to ensure, insofar as is practicable, that in premises under its control where criminal proceedings are conducted that contact between victims and accused persons may be avoided except where necessary for the purposes of the proceedings. When commissioning new premises, the Courts Service must ensure that there are separate areas for victims.

Citizens Information 

LOG ON citizensinformation.ie

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DROP IN 260 locations nationwide