

ECJ: Victim Participation Not Required in Proceedings to Quash Convictions Rendered in absentia

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News

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On 23 April 2026, the ECJ delivered its [judgment in Case C-24/26 PPU, Casotta](#). In the first place, the ECJ clarified the scope of victims' rights under Directive 2012/29/EU in proceedings seeking to reopen criminal cases concluded by a final conviction rendered in the defendant's absence. It held that the Victims' Rights Directive does not require Member States to inform victims who did not join the criminal proceedings as civil parties of an application to quash such a conviction. Nor does it oblige them to grant these victims the right to participate in the ensuing proceedings. In the second place, the ECJ confirmed that Directive (EU) 2016/343 does not preclude Member States from granting persons convicted *in absentia* access to a new trial under more favourable conditions than those required by EU law.

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Background of the case and questions referred

The request for a preliminary ruling was made by the *Corte d'appello di Roma* (Court of Appeal, Rome, Italy). Under Art. 629-bis of the Italian Code of Criminal Procedure, a person convicted *in absentia* may apply to have a final conviction quashed and the criminal proceedings reopened if the conditions for conducting the trial in his or her absence were not fulfilled. If the application is granted, the conviction is set aside and the proceedings resume.

The referring court raised two questions:

- Do Arts. 6, 10 and 18 of Directive 2012/29 preclude national legislation under which a victim who has not joined the criminal proceedings as a civil party is neither informed of an application to reopen the proceedings nor entitled to participate in them?
- Do Arts. 8 and 9 of Directive 2016/343, read in the light of the prohibition of abuse of rights under Art. 54 CFR, preclude national case law on the reopening of convictions rendered *in absentia* given that the deliberate avoidance of becoming aware of the criminal proceedings may be established only by direct proof? In the referring court's view, this evidentiary standard results, in practice, in an almost systematic reopening of proceedings and may reward evasive conduct by defendants.

The ECJ's ruling on the interpretation of the Victims' Rights Directive

As regards the first question, the Court observed that information concerning an application to reopen criminal proceedings falls, if at all, within the scope of Art. 6(2)(b) of [Directive 2012/29](#), which concerns the victim's right to receive information on the "state of the criminal proceedings." However, the extent of that

information right depends on the victim's procedural role under national law. Accordingly, where national law grants the relevant procedural rights only to victims who have joined the proceedings as civil parties, the Directive does not require Member States to notify victims who have not acquired that status. The Court added that this interpretation does not leave victims without protection. Art. 6(5) and (6) of the Directive require Member States to inform victims of the offender's release or escape, irrespective of their participation as civil parties in the original proceedings.

The Court reached the same conclusion with regard to the right to be heard under Art. 10 of the Directive. While this provision guarantees victims the opportunity to be heard during criminal proceedings, it does not confer a right to be heard at every stage of those proceedings. Its purpose is to enable victims to participate in proceedings concerning the offence committed against them, notably by contributing to the establishment of the relevant facts and the gathering of evidence on the alleged offence and the harm suffered. By contrast, the purpose of proceedings to reopen a final conviction rendered *in absentia* is to determine whether the procedural conditions for conducting the original trial in the defendant's absence were met, particularly whether the defendant deliberately avoided becoming aware of the proceedings. Since neither the defendant's criminal liability nor the merits of the conviction or sentence are at issue, the rationale underlying Art. 10 does not require the victim to be heard again.

Nor does Art. 18 of the Directive alter this conclusion. The Court observed that this provision concerns the protection of victims against secondary and repeat victimisation during criminal proceedings. It governs *how* victims are to be protected during questioning, but not *whether* they may be questioned again in subsequent proceedings at all. Accordingly, Art. 18 cannot be interpreted as conferring a right to participate in proceedings to reopen a final conviction solely in order to prevent a new trial and the possibility of renewed questioning.

The ECJ's ruling on the interpretation of the Presumption of Innocence Directive

Turning to the second question, the Court recalled that, under Arts. 8(2) and 9 of [Directive 2016/343](#), as interpreted in its settled case law (most recently in [Case C-135/25 PPU, Kachev](#)), a person convicted *in absentia* may be refused a new trial if he or she deliberately avoided becoming aware of the criminal proceedings. The Directive does not require direct proof of such conduct; it may also be established on the basis of precise and objective indicia. Although the referring court considered such indicia to be present in the case before it, the Court held that EU law does not preclude Member States from applying a stricter evidentiary standard. Referring to recital 48 of the Directive, it observed that the Directive lays down minimum rules only and therefore allows Member States to provide a higher level of protection. Accordingly, Member States remain free to require direct proof that the person deliberately avoided becoming aware of the proceedings before refusing to reopen them.

Finally, the Court rejected the referring court's argument that an application to reopen the proceedings under the national rules at issue could constitute an abuse of rights within the meaning of Art. 54 CFR. It held that, where a person convicted *in absentia* seeks a new trial on the basis of safeguards exceeding the minimum standards laid down in Directive 2016/343, the right relied on is conferred by national rather than EU law. Exercising that right therefore cannot amount to an abuse of rights under EU law.

Put in focus

Notably, the judgment illustrates the different implications of the minimum-harmonisation approach underlying both directives. While Member States remain free to grant persons convicted *in absentia* procedural safeguards exceeding the minimum standards set out in Directive 2016/343, Directive 2012/29 does not require them to afford victims procedural rights that go beyond those attached to their status under national

law. The information and participation rights at issue therefore depend on the victim first acquiring a specific procedural status, such as that of a civil party.

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