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PC-S-AV (2005) 03

EUROPEAN COMMITTEE ON CRIME PROBLEMS
(CDPC)

Group of Specialists on the Assistance to Victims
(PC-S-AV)

SUMMARY REPORT
of the 1st meeting

Strasbourg, 28 February – 2 March 2005

adopted at the Second meeting (18 -20 May 2005)

Secretariat memorandum
prepared by
the Directorate General of Legal Affairs

Note: This Secretariat memorandum is to be considered as an informal document, relating the discussions within the PC-S-AV. The content of the document does not necessarily reflect the official position of the participating States.

Executive summary:

The Group adopted its working methods and elected its Chair (Dame Helen Reeves) and vice Chair (Mrs Christa Pelikan).

At this first meeting, the Group started working on the update of Recommendation n° R (87) 21. It agreed to work on the basis of the document on “the relevance today of Recommendation n° R (87) 21”, elaborated by its Chair for the PC-CSC in 2002.

It considered as a priority and as requested by its terms of reference, the assistance to victims of terrorism. The specialists decided to resume their discussion at their next meeting in May 2005. By then, an expert-consultant will have researched the situation and practice in member States on the protection and compensation of victims of terrorism.

The Group will report on the assistance to the victims of terrorism to the CDPC and to the CODEXTER, while keeping the CDDH informed, by 30 June 2005.

GENERAL INTRODUCTION

1. The terms of reference of the Group of Specialists on the Assistance to Victims were adopted by the Committee of Ministers on 15 December 2004. The Group is called upon to elaborate a draft recommendation (updating Recommendation n° R (87) 21) setting out inter alia appropriate standards and principles in this area.
2. The Group bases its discussion on the study made by Dame Helen Reeves for the PC-CSC in 2002 on “the relevance today of recommendation n° R (87) 21 on assistance to victims and the prevention of victimisation.
3. The Committee also refers to the discussions held in the PC-OC on the implementation of the European Convention on compensation of violent crimes (ETS n°116, 1983).
4. As far as victims of terrorism are concerned, the Committee also examines the work of CODEXTER and in particular the exchange of information and best practices which it collected.
5. It should also be mentioned that on 2 March 2005, the Committee of Ministers adopted “Guidelines on the protection of victims of terrorist acts”. These guidelines are complementary to the “Guidelines on Human Rights and the fight against terrorism” adopted in July 2002.

I OPENING OF THE MEETING AND ADOPTION OF THE AGENDA

Opening by the Director General of Legal Affairs

6. The first meeting of the Group was opened by Mr Guy DE VEL, Director General of Legal Affairs.
7. He first underlined the importance of the work of the Committee, considering the priority work of the Council of Europe in the fight against terrorism. This topic will be discussed at the Meeting of the European Ministers of the Interior (Warsaw, 17-18 March 2005), at the Conference of the European Ministers of Justice (Helsinki, 7-8 April 2005) and at the 3rd Summit of Heads of States (Warsaw, 16-17 May 2005).
8. He also referred to the various actions undertaken by the Council of Europe in the field of assistance to victims, upon which the Group can build. He ensured the group of the Secretariat’s support in its work.

Participants

9. The list of participants is appended (Appendix I).

II ADOPTION OF THE AGENDA

10. The Group adopted the agenda, as it appears in Appendix II to this report.

III ELECTION OF THE CHAIR AND DEPUTY CHAIR

11. The Group elected:

- as its Chair: Dame Helen Reeves (United Kingdom)
- as its deputy Chair: Ms Christa Pelikan (Austria) who ensured the Chairmanship of the meeting in the absence of Dame Helen Reeves.

IV PRESENTATION OF RECENT COUNCIL OF EUROPE WORK PERTAINING TO VICTIMS

Draft Guidelines on the Protection of Victims of Terrorist Acts

12. The draft guidelines were presented by the two representatives of the Steering Committee on Human Rights (CDDH). They were adopted by that Committee in November 2004 with no amendments. The Committee of Ministers will discuss and could adopt them in March 2005.
13. The guidelines deal both with aspects relating to the exercise of justice and with other aspects such as assistance, compensation, protection and information for victims of terrorism. They set forth minimum standards for victims of terrorism. nothing restrains States from adopting more favourable services and measures than described in these guidelines.
14. It was agreed that the guidelines would be considered by the Group when discussing the specific aspects of the victims of terrorism. The Group would assess whether there is a particular responsibility of the States towards victims in cases of acts of terrorism. In case of a positive answer, what conclusions could be drawn in terms of the level of protection and assistance to be offered to victims?
15. The Committee would also bear in mind that the position of the victim in a criminal trial is covered by another Recommendation (Rec n° R (85) 11). That recommendation should probably also be updated but this would fall beyond the terms of reference of this Committee.

State of work on the fight against terrorism

16. The Secretariat presented the work of the CODEXTER and referred to the discussions on the 1983 Convention on compensation of victims of violent crimes and referred to ETS n° 116. Having consulted the PC-OC, the CODEXTER Committee agreed that there was no need to amend the Convention but that it would be very useful to increase the exchange of good practices on the compensation and insurance schemes introduced by member States. The CODEXTER had collected good practices and made them available to its members. These documents, as well as the “country profiles” prepared for the CODEXTER are at the disposal of the PC-S-AV.
17. It was also mentioned that the draft Convention on the prevention of terrorism contains a general provision on the protection, compensation and support to victims of terrorism (Art 13).

State of work on the fight against trafficking of human beings

18. The Secretariat presented the draft Convention on the fight against trafficking in human beings which deals with assistance to victims to a large extent. This Convention refers to the existing international instruments, such as the EU directive on the compensation of crime victims (29 April 2004), the UN Convention on transnational organised crime and the Palermo Protocol.

19. One of the particularities of the Council of Europe Convention resides in the possibility of a victim receiving a residence permit on humanitarian grounds. The other instruments foresee this right only on condition that the victim cooperates with law enforcement agencies. This condition is not included in the Council of Europe Convention.
20. Various measures for the protection of victims, including safe return, are also provided for in the draft Convention.

V DRAFTING OF A NEW RECOMMENDATION UPDATING RECOMMENDATION n° R (87) 21 ON ASSISTANCE TO VICTIMS

The situation and practice regarding the protection and compensation of victims of terrorism in member States with a view to making appropriate proposals to the Committee of Ministers

General discussion

21. The Group held a preliminary exchange of views on the way to consider victims of terrorism in the updating of Recommendation n° R (87) 21.
22. The general feeling was that victims of terrorism should be considered as victims in a general sense and that provisions on assistance to victims should apply to different categories of victims including, for instance, victims of terrorism. Where appropriate, provisions could deal with particular aspects applying to victims of terrorism.
23. The Group agreed that an expert-consultant would research the situation and practice on the protection and compensation of victims of terrorism in member States and would present his or her findings at the next meeting.

National situations and practices

24. The countries represented in the group described their national situation and practice related to victims of terrorism:
 - France has a specific regime on victims of terrorism whereby:
 - immediately after a terrorist act, the competent public prosecutor draws up a list of victims and forwards it to the “fonds de garantie - attentats”. Associations of victims (such as “SOS attentats”) have an immediate and privileged access to the list of names, in order to give immediate assistance to the victims.
 - victims of terrorism benefit from a special compensation procedure and are entitled to integral and swift compensation from the “fonds de garantie”;
 - Turkey has a solidarity scheme for victims of terrorism. In addition, Commissions have been set up following a law entered into force in 2004. These Commissions assess requests for compensation for damages in the framework of the fight against terrorism;
 - Austria, Hungary, Portugal, Spain, Russian Federation, Sweden, United Kingdom: they do not appear to have specific regimes for victims of terrorism.

25. The Chair concluded that the discussion showed the difficulty of identifying the differences between victims of terrorism and victims in general. At its next meeting, the Group would have to consider the result of the research (see item 24 above) in order to prepare its report to the CDPC and the CODEXTER.

Discussion on the updating of the provisions of Recommendation n° R (87) 21

Basis for discussion

26. The Group agreed to work on the following basis:

- the list of relevant documents contained in the document PC-S-AV (2005) 2;
- the study by Dame Helen Reeves (Chair of the Committee) on the relevance today of Recommendation n° R (87) 21, study carried out in 2002 for the Criminological Scientific Council (PC-CSC);
- the experience of each of the specialists of the Group, of the representatives of the other Committees (CDDH and CODEXTER), of the International Organisations (UE, ICC) and of the observers (UNODC, UNHCHR, UNICRI).

Preamble to the Recommendation

27. The group agreed that the preamble would be discussed at a later stage.

Rec I. Research and evaluation

28. Surveys should deal with **general victimisation**, but also with **specific groups** of victims and **specific types of crimes**. Surveys should be conducted in particular on the types of crimes and groups of victims which have developed since the 1987 Recommendation. Surveys on victims of terrorism should be promoted.
29. **Comparative analyses** between States as well as evaluative research should be developed on victims' reactions to crime, their needs and the effectiveness of current victims' services.
30. **Evaluative research**: the effectiveness of legislation and of the support provided by non-governmental victims' services or by statutory agencies should also be assessed in how they help victims to overcome the impact of crime.
31. **Monitoring and evaluation of services**: the provisions of this Recommendation should be extended in order to cover those currently provided for in Art. 18. A new provision should provide for more research into the rates of victimisation, the needs of victims of crime, the availability of services for victims and the effectiveness of those services in meeting those needs.
32. The importance of **training** for researcher-monitors will be emphasised in the explanatory memorandum.

Rec II. Raising consciousness

33. This Recommendation needs to be **modernised** in its objectives and content.
34. The new Recommendation could promote public awareness of the status of victims of **terrorism**.

35. Given that both governmental and public ignorance of victims' issues remains high, it was recommended that this article be strengthened to encourage **governments** to use any means possible to prioritise and publicise this issue.
36. Given the current climate of **Internet** usage, it was recommended that any future guideline should include means of publicising or engaging debate using this medium. The use of other "traditional" media remains important. The media should however be aware of the possible negative impact on the public of over emotional and "sensational" publicity. The media should use their potential to give positive and constructive messages to the public and avoid raising the fear of crime.
37. Governments should also be encouraged to work in partnership with the **non-governmental sector** to encourage and support the promotion of their work and objectives.

Rec III. Support to a national victim organisation

38. It is important that the governments of member States:

- identify and evaluate any previously existing public or private victim services and
- establish a comprehensive national victim service organisation where none currently exists or support and promote the development an appropriate organisation which has already been established.

It was recommended that this Recommendation be strengthened by merging it with Art. 11 (Support the establishment, if necessary, of national organisations which advance the interests of victims).

Promotion of a single national organisation: the advantages

39. **The main advantages** of such an organisation are:

- to speak with a coherent and unified voice on victim related matters
- to lend more weight to government policies;
- to coordinate assistance to victims;
- to deal with large scale phenomena, such as terrorist acts, natural disasters or collective accidents;
- to proceed with an inventory of existing services and to assess their qualities and deficiencies.

Status

40. The **status** of a national organisation differs from country to country. States should define it as a **public or a private** body.

National examples vary: in France, the national organisation is a non governmental organisation (NGO).

Sweden has a non-governmental organisation providing victims with practical and emotional support. There is also a public national institution: the Crime Victim Compensation and Support Authority, mandated to act for the needs and interests of crime victims in general. Its main task is to administrate criminal injuries compensation, *i.e.* state compensation to crime victims.

In the Russian Federation, the national organisation has public status.

In Portugal, there is no such national organisation.

The French example

41. The practice in **France** was presented in some detail. The French national organization (**INAVEM**) is an NGO which opens its membership to every French “general” association, i.e. the associations which give assistance to different categories of victims. *A contrario*, the specialised associations (for instance for women, for children or for victims of terrorism) are not affiliated to it.

INAVEM represents its member associations before the government. It organises training and gives technical assistance, notably for administrative requests to obtain public funds. It has the possibility of refusing membership to organisations which do not respect the criteria or the objectives of the national association. It works in close co-operation with the State Secretary for Victims’ rights as well as with specialised organisations.

Each association remains free to organise itself and, if it wishes, to seek membership of the INAVEM.

Functions and goals

43. The **functions and goals** of a single national organisation can be to:

- organise training: for affiliated associations, and also for public services and other professionals dealing with victims;
- provide technical assistance on managerial aspects (status, budget, accountability) or for requests for public funds;
- set standards of practices for victims’ services;
- make suggestions to the government;

Each national organisation should be encouraged to exercise its functions in the spirit of good cooperation with other existing services, either public or private. It can play a very important role in developing regular contacts with different victim services (public and private) in order to facilitate the co-ordination of their activities and ensuring the best management of victims’ needs. By setting up service standards, the national association can also avoid victims being considered as victims “of a specific organisation”, as has been observed in cases such as victims of terrorism or of domestic or sexual violence.

Rec IV. Protection

44. The Group agreed with the comments made on this Recommendation by Dame Helen Reeves: “It is recommended that this guideline should be **broken down** and that most sections should be assimilated elsewhere within the recommendations. In addition, it is suggested that a new section should be included to cover the important issues of **victim protection**, drawing upon the **protection programmes** which have proved to be most effective in individual member States and recommending their extension to other countries. The new section should include provisions aimed at the **protection of privacy**.”

45. A new provision should encourage member States to adopt **protection measures**. These measures can be of different nature:

- a. legislative,
- b. procedural or
- c. practical.

They should ensure the protection of victims' safety and privacy.

46. Protection measures should **respect**, in principle, the **victim's wishes**. The authority or the association granting protection should make sure that the victim has been able to express his or her fear and needs. The measures should be tailored in such way that they effectively address those needs and fears.

The measures should take into account the risk of reprisals, in line with existing data on the rate of reprisals for certain categories of crimes (and of victims).

47. **Good practices** of protection mechanisms could be collected. They could be recommended to the member States. A collection of good practices could be inserted in the explanatory memorandum or in an appendix to it.

The measures collected should be as different in nature as possible:

- legislation, such as the Austrian Victims' Protection Act or the French law on the threat of reprisals,
- procedural measures, complementary to the measures promoted by the Recommendation n° R (85) 11 on the position of victims in a criminal trial,
- practical measures such as personal alarms, closed-circuit TV, role of neighbours or of the community. Reference should be made to examples under the "guidelines on the protection of victims of terrorist acts".

48. **Research** on the effectiveness of existing protection regimes should also be promoted.

49. Specific protection regimes should be set up by member States in order to address domestic violence and violence against children in general.

50. The subject of the **prevention of repeat victimisation** is closely related to the protection of certain categories of victims, notably victims of domestic violence. The Group agreed to reconsider this question at a later stage.

51. The role of **NGOs** in promoting the setting up of these different types of protective measures is crucial. The role of NGOs in the assistance to victims in general should therefore be clearly stated in the future recommendation, as well as in its explanatory memorandum.

52. The explanatory memorandum could also make reference to existing case law of the European Court of Human Rights (ECtHR). The Court has confirmed that, as a consequence everyone's right to personal integrity, member States are obliged to take necessary measures to protect the persons under its jurisdiction, notably by adopting preventive protection regimes.

Rec V. Assistance

53. Although the **preventive** and the **protective** measures can also be considered as a kind of **assistance** to victims, the Group agreed to consider these three matters separately: protection under provision IV, assistance under V and prevention to be developed in another recommendation.

54. The Group agreed that the **main principle** to be respected when dealing with assistance to victims is that the type of assistance should address the victim's real needs, and as far as possible, respond to the victim's wishes.

55. **Immediate assistance** to victims should be promoted. Once victims have received immediate assistance, they should be referred to the competent services or agencies.

56. A need for **close and effective co-operation** between victim services, both for immediate assistance and for long term assistance, was underlined. This implies a good level of **co-ordination** among existing services. The role of the National Victim Service (see Rec III) is very instrumental in ensuring co-ordination among the, sometimes numerous, victim services and in avoiding potentially detrimental competition among these services. A good level of co-ordination and co-operation would for example allow for a general assistance service to provide a victim with immediate assistance and to refer the victim to a specialised service for longer term assistance. This specialised service could be public (hospital, court registrar, police and / or social services) or private. A good level of co-ordination should be facilitated by regular contact between the existing services (public, private, general, specialised, judicial, non judicial, etc) and possibly through the role of a national association of victims' services.

Rec VI Volunteers and training

57. The Group recognized that volunteers have an important role to play in assistance to victims.
58. There is however a large variety of practices among member States in the recruitment, training and actual work of volunteers. In some member States, assistance to victims is mostly provided by volunteers. In other member States, it is mostly carried out by professionals. In several countries, e.g. France and Austria, it is a mixed system where victim services are composed entirely of professionals, or entirely of volunteers or of volunteers and professionals.
59. The new recommendation should encourage member States to work with volunteers. The recruitment of volunteers should be made carefully, if possible with the assistance of a psychologist. Volunteers should be supported by well-trained professional staff.

Rec VII Awareness of victims' needs

60. The current Recommendation remains very pertinent.
61. The Group agreed with the conclusions made by Dame Helen Reeves in her study, in that "personnel in these services (*i.e. health and psychological services, housing, social security, education and employment*) should be **trained** to recognise the effects of crimes, whether or not they have been reported to the police, to respond in a way which will avoid secondary victimisation, and to make appropriate referrals to victim services. Where necessary, special measures should be introduced to give a higher priority to the effects of crime, for example in re-housing programmes or in the provision of emergency social security provisions".
62. Such training can be given:
- either by specialised bodies (such as doctors, police officers, magistrates, social services) to victim services or
 - by specialised members of victims services (e.g. those working with victims of specific types of violence) to other professionals.
- A national organisation should co-ordinate these initiatives.
63. These training initiatives could also be collected as good practices and made available to interested member States.

Outstanding issues

Follow-up discussion on updating of Recommendation n° R (87) 21

64. At its next meeting, the Group would consider the following provisions of Recommendation n° R (87) 21:

- VIII: **information** to the public and for the victims
- IX: protection of private life, to be incorporated under IV “protection”
- X: **coordinated strategies** by governments to promote the interests of victims
- XI: support to national organisations: already covered by provisions III and V
- XII, XIII, XIV, XV, XIX: crime reduction: this falls beyond the scope of the committee’s terms of reference
- XVI: **compensation and insurance**
- XVII: victim-offender **mediation**
- XVIII: monitoring, evaluation, research on victim assistance: already covered by I.

Victims of terrorism

65. The Group would also discuss matters related to victims of terrorism, on the basis of the research made on the situation and practices in member States on the protection and compensation to victims of terrorism (see 24 above).

66. This research would be carried out by the Max Planck Institute of Comparative Criminal law (Professeur Michael Kilchling). The results of its work should reach the Secretariat by 30 April 2005. It would then be communicated to the Group.

67. The Group should prepare its report on victims of terrorism, which, having informed the CDDH, should reach the CODEXTER and the CDPC by 30 June 2005.

Follow-up to PA recommendations

68. The Group would also discuss the possible ways to address the following PA recommendations:

- Rec 1673 (2004) on counterfeiting: problems and solutions
- Rec 1681 (2004) on the fight against domestic violence against women in Europe

VI FUTURE WORK AND WORKING METHODS

Observers and expert consultants

69. The group agreed to propose to the CDPC that the following international organisations should be admitted as observers to the Committee:

- the United Nations Interregional Crime and Justice Research Institute (UNICRI),
- the United Nations Office for Drugs and Crime (UNODC)
- the United Nations High Commissioner for Human Rights (UNHCHR).

70. The group also decided to ask an expert consultant to undertake research on victims of terrorism (see Paragraphs 24 and 66).

Presentation of the Website of the Committee: [http://www.Council of Europe.int/T/E/Legal%5FAffairs/Legal%5Fco%2Doperation/Transnational%5Fcriminal%5Fjustice/Assistance_to_victims_\(PC-S-AV\)/_Summary.asp#TopOfPage](http://www.Council of Europe.int/T/E/Legal%5FAffairs/Legal%5Fco%2Doperation/Transnational%5Fcriminal%5Fjustice/Assistance_to_victims_(PC-S-AV)/_Summary.asp#TopOfPage)

Objectives and meeting calendar

71. As requested in its terms of reference, the Group will submit a report on victims of terrorism to the CODEXTER and to the CDPC, by 30 June 2005, while keeping the CDDH informed.
72. This report would be discussed during the next meeting, on 18-20 May 2005.
73. The wider aspects of assistance to victims would be dealt with during future meetings. A preliminary draft Recommendation should be discussed in autumn 2005. The new draft Recommendation, and its explanatory memorandum should be finalized in a future and final meeting of the committee, in good time before the end of its terms of reference (June 2006).

APPENDIX I

LIST OF PARTICIPANTS / LISTE DE PARTICIPANTS

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APPENDIX II

AGENDA / *ORDRE DU JOUR*

1. **Opening of the meeting / *Ouverture de la reunion***
2. **Adoption of the agenda / *Adoption de l'ordre du jour***
3. **Election of the Chair and Deputy Chair / *Election du Président et du Vice-Président***
4. **Presentation of the recent Council of Europe works pertaining to victims / *Présentation des travaux récents du Conseil de l'Europe relatifs aux victimes***
 - Draft Guidelines on the Protection of Victims of Terrorist Acts / *Projet de Lignes directrices sur la protection des victimes d'actes terroristes*
 - State of work on fight against terrorism / *Etat des travaux sur la lutte contre le terrorisme*
 - State of work on fight against trafficking of human beings / *Etat des travaux sur la lutte contre la traite des être humains*
5. **Drafting of a new Recommendation (updating Recommendation (87)21) on assistance to victims / *Elaboration d'une nouvelle Recommandation (mise à jour de la Recommandation (87)21) sur l'assistance aux victimes***
 - Specific Terms of Reference of the Group of Specialists on assistance to Victims and Prevention of Victimization (PC-S-AV) / *Mandat spécifique du Groupe de Spécialistes sur l'Assistance aux Victimes et la Prévention de la Victimization (PC-S-AV(2005)1)*

Subjects to be considered / *Sujets à examiner:*

- ⇒ the situation and practice regarding the protection and compensation of victims of terrorism in member states with a view to making appropriate proposals to the Committee of Ministers / *la situation et la pratique concernant la protection et la compensation des victimes du terrorisme dans les Etats membres en vue de faire des propositions appropriée au Comité des Ministres ;*
- ⇒ the available comparative analysis of levels of victim services and their effectiveness, including the use of 'new media' to raise awareness of the availability of those services / *les études comparatives disponibles sur le niveau de services aux victimes et leur efficacité, y compris le recours aux « nouveaux médias », afin de mieux sensibiliser l'opinion à l'existence de ces services ;*
- ⇒ the role of governmental and non-governmental bodies in providing comprehensive dedicated services for victims of all crimes, including 'new crimes' involving technology and economic crimes / *le rôle des organismes*

gouvernementaux et non gouvernementaux dans la prestation de services spécialisés très étendus pour les victimes de tous types d'infraction pénale, y compris les « nouvelles infractions », dont les délits technologiques et économiques ;

- ⇒ the training and supervision given to volunteers and paid staff / *la formation et la supervision des bénévoles et du personnel rémunéré ;*
- ⇒ the information and assistance given to victims, including their own determination of what they need / *l'information et l'aide apportée aux victimes, dont leur propre évaluation de leurs besoins ;*
- ⇒ the protection of victims' privacy / *la protection de la vie privée des victimes ;*
- ⇒ the question of private insurance, including collective insurance arrangements available in some member states / *la question de l'assurance privée, y compris des dispositions relatives à l'assurance collective existant dans certains Etats membres ;*
- ⇒ the problem of repeat victimisation, especially in connection with domestic violence, trafficking and property offences / *le problème de la victimisation répétée, notamment en rapport avec la violence domestique, la traite et les atteintes à la propriété.*

6. Future work and working methods / *Travaux futurs et méthodes de travail*

- Observers and expert consultants / *Observateurs et experts consultants*
- Presentation of the Website of the Committee / *Présentation du site Web du Comité*
- Objectives and meeting calendar / *Objectifs et calendrier des réunions*

7. Closing of the meeting / *Clôture de la réunion*