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PC-S-AV (2006) 02

EUROPEAN COMMITTEE ON CRIME PROBLEMS
(CDPC)

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

SUMMARY REPORT
of the 4th meeting

Strasbourg, 18-20 January 2006

Secretariat memorandum
prepared by
the Directorate General of Legal Affairs

Executive summary:

The Group discussed and adopted the preliminary draft recommendation on assistance to victims and the prevention of repeat victimisation.

It agreed that the Chair and the Secretariat will identify the best ways to elaborate the explanatory memorandum.

The preliminary draft recommendation, with its explanatory memorandum, will be submitted to the CDPC and the CODEXTER members. The comments by CODEXTER members will be made available to the CDPC at its April plenary session.

I OPENING OF THE MEETING AND ADOPTION OF THE AGENDA

1. The Group held its fourth meeting in Strasbourg on 18-20 January 2006, chaired by Dame Helen REEVES (United Kingdom).
2. The Chair welcomed the participants, who are listed in Appendix 1 to this report.
3. The Group adopted the Agenda as it appears in Appendix II to this report.

II REPORT OF THE 3RD MEETING

4. The Group accepted the report as reflecting accurately the discussions held at the 3rd meeting (document PC-S-AV (2005) 12).
5. The Chair explained the reasons why, contrary to what was decided at the last meeting, the elements for a new recommendation were not transmitted to the CDPC and to the CODEXTER. The amount of substantial comments provided by the committee members on these elements lead to the necessity to thoroughly revise the text and made it inappropriate to consult other Committees at that stage. It was agreed that both Committees would be seized of the final preliminary draft, as well as its explanatory memorandum. The comments by CODEXTER members will be made available to the CDPC for its discussion at its April plenary session

III DISCUSSION ON THE PRELIMINARY DRAFT RECOMMENDATION ON ASSISTANCE TO VICTIMS AND THE PREVENTION OF REPEAT VICTIMISATION

6. The Committee discussed the preliminary draft recommendation on the basis of document PC-S-AV (2006)01.
7. It dealt in particular with matters such as:
 - The structure of the report:
 1. The proposed "definitions" section;
 2. The extent of the inclusion of "principles";
 3. Is the report too detailed/over prescriptive?
 - New sections on "social rights" and "training of other agencies";
 - The inclusion of victims of omissions (negligence);
 - Mediation issues: the inclusion of victims of intimate crimes and of terrorism and other issues relating to mediation;
 - The level of compensation to be recommended.
8. Following a thorough discussion on these questions and having reviewed the entire document, the Committee adopted the preliminary draft of the Recommendation, which appears as appendix III to this report.

9. The Committee agreed that the Chair and the Secretariat will identify the best ways to elaborate the draft explanatory memorandum. The explanatory memorandum will be attached to the preliminary draft recommendation and sent to the CODEXTER members for comments and to the CDPC for discussion and approval, before it is transmitted to the Committee of Ministers for final adoption.

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APPENDIX I**LIST OF PARTICIPANTS / LISTE DE PARTICIPANTS****SPECIALISTS / SPECIALISTES**

Ms Christa PELIKAN, Researcher, Institut für Rechts-und Kriminalsoziologie, Austria

Mme Michèle BERNARD REQUIN, Magistrate, Conseillère à la Cour d'Appel de Paris, France

Mr Lászlo SÖMJÉNI, Section Leader, Department of Legal Administration, Ministry of Justice, Hungary - Apologised / Excusé

Dame Helen REEVES, Director, **Chair of the PC-S-AV**, Victims Support National Office, United Kingdom

Ms Cristina SOEIRO, Assistant Professor, Institute of Judicial Police of Criminal Sciences, Bureau of International Relations, Ministry of Justice, Portugal

Mr Daniil ZUYKOV, Prosecutor, International Law Department, Office of the Prosecutor General of the Russian Federation, Russian Federation - Apologised / Excusé

Ms Anna WERGENS, Lawyer, Project Leader, Sweden

EXPERTS CONSULTANT

Dr. Professor Marc GROENHUIJSEN, Tilburg University, Department of Criminal Law, the Netherlands

Dr. Michael KILCHLING, Senior Researcher, Manager of public relations and administrative affairs, Germany

REPRESENTATIVES OF OTHER COMMITTEES / REPRESENTANTS D'AUTRES COMITES

Representatives of the Steering Committee for Human Rights (CDDH) / Représentant du Comité directeur pour les Droits de l'Homme (CDDH)

Mme Deniz AKÇAY, Conseillère juridique, Adjointe au Représentant Permanent de la Turquie auprès du Conseil de l'Europe, France - Apologised / Excusée

Mr Martin EATON, Legal Consultant, United Kingdom

Representatives of the Committee of Experts on Terrorism (CODEXTER) / Représentant du Comité d'Experts sur le terrorisme (CODEXTER)

Ms Ann Marie Bolin PENNEGÅRD, Ambassador, Ministry of Justice, Division for Criminal Cases and International Legal Cooperation (BIRS), Sweden - Apologised / Excusé

Mrs Mar PREUS, Conseillère technique du Cabinet, Ministère de l'Intérieur, Spain

INTERNATIONAL ORGANISATIONS / ORGANISATIONS INTERNATIONALES

European Commission / Commission européenne : No nomination

Council of the European Union / Conseil de l'Union européenne : No nomination

International Criminal Court (ICC) / Cour Pénale Internationale (CPI)

Ms Michaela BAUER, Support Officer, Victims and Witnesses Unit, International Criminal Court (ICC), The Netherlands; - Apologised / Excusé

United Nations Interregional Crime and Justice Research Institute (UNICRI): No nomination

United Nations Office on Drugs and Crime / Office contre la drogue et le crime (UNODC)

Ms Claudia BARONI, Crime Prevention and Criminal Justice Officer, Legal Advisory Services/DTA, United Nations Office on Drugs and Crime (UNODC) Austria

Office of the United Nations High Commissioner for Human Rights (OHCHR-UNOG) / Haut Commissariat des Nations Unies aux Droits de l'Homme (HCDH)

Ms Lucie WIERSMA, Service de la Recherche et du Droit au Développement, Haut Commissariat aux Droits de l'Homme

COUNCIL OF EUROPE SECRETARIAT / SECRETARIAT DU CONSEIL DE L'EUROPE

Ms Bridget O'LOUGHLIN, Head of the Criminal Justice Division, Department of Crime Problems

Mr Humbert de BIOLLEY, Programme Adviser, **Secretary to the PC-S-AV**, Department of Crime Problems, DG I - Legal Affairs

Ms Dominique WULFRAN, Assistant, Department of Crime Problems, DG I - Legal Affairs

INTERPRETERS / INTERPRETES

Mme Isabelle MARCHINI

Mr William WALK

Mr Derrick WORSDALE

APPENDIX II**AGENDA / *ORDRE DU JOUR***

1. **Opening of the meeting / *Ouverture de la réunion***
2. **Adoption of the agenda / *Adoption de l'ordre du jour***
3. **Report of the 3rd meeting of the Group – comments / *Rapport de la 3^{ème} réunion du Groupe - observations***
4. **Discussion of the preliminary draft Recommendation on the assistance to victims and the prevention of repeat victimisation and of its draft explanatory memorandum / *Discussion de l'avant projet de Recommandation sur l'assistance aux victimes et la prévention de la victimisation répétée ainsi que de son projet de rapport explicatif***
5. **Miscellaneous / *Divers***
6. **Closing of the meeting / *Clôture de la réunion***

APPENDIX III

Preliminary draft

RECOMMENDATION (Updating Rec (87) 21) ON ASSISTANCE TO CRIME VICTIMS AND THE PREVENTION OF REPEAT VICTIMISATION

Preamble

The Committee of Ministers, under the terms of Article 15.b of the Statute of the Council of Europe,

- (i) Having regard to Recommendation R(87)21 on the assistance to victims and the prevention of victimisation, intended to complement the 1983 European Convention on the Compensation of Victims of Violent Crime (ETS No. 116) and Recommendation R (85) 11 on the position of the victim in the framework of criminal law and procedure;
- (ii) Noting that, since the adoption of Recommendation R (87) 21, several Recommendations have been adopted by the Committee of Ministers and significant developments have occurred in the field of victims assistance including developments in national legislation and practice, changes in the understanding of the victims' needs and new research.;
- (iii) Bearing in mind the European Convention on the protection of human rights and fundamental freedoms (1950), the European Convention on the compensation of victims of violent crimes (1983), the Convention of the Council of Europe to prevent terrorism (2005) and the Convention of the Council of Europe against trafficking in human beings (2005);
- (iv) Recalling the resolutions of the Conferences of the European Ministers of Justice in 2003 and in 2005, inviting the Committee of Ministers to adopt new rules concerning the improvement of the support of victims of terrorist acts and their families and addressing the needs of groups of vulnerable victims;
- (v) Noting the work of the Committee of Experts on Terrorism (CODEXTER);
- (vi) Having considered the Guidelines on human rights and the fight against terrorism adopted by the Committee of Ministers on 11 July 2002 and the Guidelines on the protection of victims of terrorist acts, adopted on 2 March 2005;
- (vii) Taking account of the standards developed by the European Union and by the United Nations in the field of victims;
- (viii) Noting with appreciation the work of non-governmental organisations in assisting victims;

- (ix) Aware of the need for co-operation between States particularly to assist victims of terrorism and other forms of transnational crimes;
- (x) Aware of the need to prevent repeat victimisation, in particular for victims belonging to vulnerable groups;
- (xi) Convinced that it is as much the responsibility of the State to ensure that victims are assisted as it is to deal with offenders.

Recommends that the governments of member states take the following measures:

1. DEFINITIONS

For the purpose of this Recommendation,

- 1.1 Victim means a natural person who has suffered harm, including physical or mental injury, emotional suffering or economic loss, caused by acts or omissions that are in violation of the criminal law of a Member State. The term victim also includes, where appropriate, the immediate family or dependants of the direct victim.
- 1.2 Repeat victimisation means the situation when the same person suffers from more than one criminal incident over a specific period of time.
- 1.3 Secondary victimisation means the victimisation that occurs not as a direct result of the criminal act but through the response of institutions and individuals to the victim.

2. PRINCIPLES

- 2.1 States should ensure the effective recognition of, and respect for, the rights of victims, based on their human rights; they should, in particular, respect the security, dignity, private and family life of victims and should recognise the negative effects of crime on victims.
- 2.2 States should ensure that the measures set forth in this Recommendation are made available to victims with no discrimination as to the type of crime or as to the characteristics of the person.
- 2.3 The services proposed to victims should be based on the principle of social solidarity.
- 2.4 The granting of these services and measures should not depend on the identification, arrest, prosecution or conviction of the perpetrator of the criminal act.

3. ASSISTANCE

- 3.1 States should provide victims with free emotional, social and material support before, during and after the investigation and legal proceedings.

Assistance to particularly vulnerable victims

3.2 States should ensure that victims who are particularly vulnerable either through their personal characteristics or through the circumstances of the crime can benefit from special measures best suited to their situation.

3.3 Wherever possible, the assistance should be provided in a language understood by the victim.

Referrals

3.4 States should facilitate the referral of victims by the police to assistance services so that the appropriate services may be offered to victims.

National help lines

3.5 States are encouraged to set up or to support free national telephone help lines for victims.

4. INFORMATION

Provision of information:

4.1 States should ensure that victims have access to information of relevance to their case and necessary for the protection of their interests and the exercise of their rights.

4.2 The information should be provided as soon as the victim comes into contact with law enforcement agencies or with social or health care services. It should be communicated orally as well as in writing and as far as possible in a language understood by the victim.

4.3 Embassies and Consulates should provide their nationals who become victims with appropriate information and assistance.

Content of the information

4.4 All victims should be informed of the services or organisations which can provide support and the type and, where relevant, the costs of the support.

Should 4.5 and 4.6 be part of a Section on criminal justice?

4.5 When an offence has been reported to law enforcement agencies, the information provided to the victim should at least include:

- the procedures which will follow and the victims' role in with these procedures;
- how and in what circumstances they can obtain protection;
- how and in what circumstances they can obtain compensation by the offender;
- the availability and, where relevant, the cost of:
 - (i) legal advice,
 - (ii) legal aid, or
 - (iii) any other sort of advice,
- how to apply for financial compensation, if eligible;
- if they are resident in another State, any arrangements available in order to protect their interests.

Information on criminal proceedings

4.6 Except where the victim does not wish to receive information, States should ensure that he or she is kept informed and understands:

- the outcome of the complaint;
- relevant stages in the progress of criminal proceedings including any decision to charge, not to charge, to discontinue the prosecution dates of court hearings and decisions relating to the release of the accused from pre-trial detention;
- the verdict of the court and, where relevant, the sentence.

5. RIGHT TO EFFECTIVE ACCESS TO OTHER REMEDIES

- 5.1 Victims may need to seek civil remedies to protect their rights following a crime. States should therefore take steps to promote effective access, within a reasonable time for victims to any civil remedies available through:
- the right of access to competent courts; and
 - legal aid in appropriate cases.
- 5.2 States should institute procedures for victims to claim compensation from the offender in the context of criminal proceedings. Advice and support should be provided to victims in making these claims and in enforcing any payments awarded.

6. STATE COMPENSATION

Compensation scheme

- 6.1 States should adopt a compensation scheme for the victims of crimes committed on their territory, irrespective of the victim's nationality.
- 6.2 Since many European citizens are victimised in European States other than their own, States should make provisions to enable victims to claim compensation from the State in which the crime occurred by applying to a competent agency in their own country.

Beneficiaries

- 6.3 Compensation should be provided by the State for:
- those who have sustained serious physical or psychological injury directly attributable to an intentional crime of violence, including sexual violence;
 - the immediate family and dependants of persons who have died as a result of such crime.

Subsidiarity

- 6.4 State compensation should be awarded to the extent that the damage is not covered by other sources such as the offender, insurance or other provisions.

Scope of application

- 6.5 States should consider compensation for loss of income, funeral expenses and loss of maintenance for dependants.

7. PROTECTION

A. Protection of physical and psychological integrity

- 7.1 States should ensure, at all stages of the procedure, the protection of the victim's physical and psychological integrity. Particular protection may be necessary for victims who could be required to provide testimony.
- 7.2 Specific protection measures should be taken for victims at risk of intimidation, reprisals or repeat victimisation.
- 7.3 States should take the necessary measures to ensure that, at least in cases of crimes against the person or crimes of harassment, the victim is informed of the release of the offender.

B. Protection against repeat victimisation

- 7.4 States should develop policies to identify and combat repeat victimisation. The prevention of repeat victimisation should be an essential element in all strategies for victim assistance and crime prevention.
- 7.5 All personnel in contact with victims should receive adequate training on the risks of repeat victimisation and on ways to reduce such risks.
- 7.6 Victims should be advised on the risk of repeat victimisation and of the means of reducing these risks as well as assistance in implementing the measures proposed.

C. Protection of privacy

- 7.7 States should take appropriate steps to avoid as far as possible impinging on the private and family life of victims, in particular during the investigation and prosecution of the crime.
- 7.8 States should encourage the media to adopt and respect self regulation measures in order to protect the victim's privacy.

8. CONFIDENTIALITY

- 8.1 All agencies, statutory or non-governmental, in contact with victims, should adopt clear standards by which they shall not disclose to any third party information received from or relating to a victim
 - unless the victim has consented to such disclosure,
 - there is a legal requirement to do so or
 - there is an overriding moral consideration.
- 8.2 In these three cases of exception, clear rules should govern the disclosure procedures. Complaints procedures should be published for dealing with alleged breaches to the adopted rules.

9. SOCIAL MEASURES

- 9.1 In order to alleviate the negative effects of crime and to support the rehabilitation of the victim in the community, at home and in the workplace, States should take active steps to

encourage recognition and understanding of the effects of crime amongst all personnel and organisations coming into contact with victims.

- 9.2 States should promote the provision of special measures for the support or protection of victims by organisations providing, for example, health services, social security, housing, education and employment.

10. VICTIM SUPPORT SERVICES

- 10.1 States should promote Services dedicated to the support of victims (check wording).

Minimum standards

- 10.2 Such services should:

- be easily accessible
- be fully competent to deal with the problems faced by the victims they serve
- provide victims with information on their rights, on the services available and support in accessing these services,
- refer victims to other services when necessary,
- respect confidentiality when providing services.

Specialised centres

- 10.3 States are encouraged to support the setting-up or the maintenance of specialised centres for victims of crimes such as sexual violence and domestic violence and to facilitate access to these centres through promotion and other means.

Coordination of victim services

- 10.4 States should take steps to ensure that work of dedicated victim services is coordinated, as to ensure that:

- a comprehensive range of services is available and accessible
- standards of good practice for victim services are prepared and maintained
- appropriate training is provided and coordinated
- they are available for government consultation for policies and legislation developments.

This could be provided by a single national organisation or by some other means.

11. SELECTION AND TRAINING OF PERSONNEL

- 11.1 States should assist and support victim services to:

- develop appropriate standards for the selection of all paid and voluntary staff providing direct assistance to victims;
- organise training and support for all paid and voluntary staff to ensure that such assistance is delivered according to professional standards.

Training

- 11.2 Training should as a minimum include:

- Awareness of the negative effects of crime on victims;

- Skills and knowledge as required to assist victims
- Awareness of the risk of causing secondary victimisation and the skills to prevent this.

Specialised training

11.3 Specialised training should be provided to all personnel working with victims of special categories of crime in particular victims of domestic violence, sexual violence, hate crimes and families of murder victims.

Training of personnel in other services

11.4 Member States should ensure that appropriate training is provided for:

- The police and all personnel involved in the administration of justice;
- The emergency services and others attending the scene of a major incident;
- Relevant staff in health, housing, social security, education and employment services.

11.5 Staff should be trained to a level which is appropriate to their contact with victims; training should include, as a minimum:

- General awareness of the effects of crime on a victim's attitudes and behaviour, including verbal behaviour;
- The risk of causing secondary victimisation and the skills required to minimise this risk;
- The availability of services providing information and support specific to the needs of victims and the means of accessing these services.

12. MEDIATION

12.1 When dealing with victims, statutory agencies should consider where appropriate the possibilities offered for mediation between the victim and the offender.

12.2 The interests of victims should be the main consideration when deciding upon and during a mediation process. Due consideration should be given to the potential benefits and the potential risks for the victim.

12.3 States should support the adoption of clear standards to protect the interests of victims. These should include the ability of the parties to give free consent, issues of confidentiality, access to independent advice and the possibility to withdraw from the process at any stage and competence of mediators.

13. INSURANCE

13.1 States should evaluate the extent of cover available under public or private insurance schemes for various categories of criminal victimisation. The aim should be to provide equal access to insurance for all residents.

13.2 States are encouraged to find ways to ensure that insurance is available to as many people as possible. Insurance should be available to cover the person's belongings, as well as their physical integrity. To ensure that adequate cover can be offered to persons

occupying public property, States should encourage public housing landlords to negotiate collective insurance policies for all their tenants.

- 13.3 States are encouraged to ensure that insurance policies do not exclude terrorism damages caused by terrorism.

14. COORDINATION AND CO-OPERATION

- 14.1 Each State should develop and maintain co-ordinated strategies to promote the rights and interests of victims.
- 14.2 To this end, each State should ensure, both nationally and locally, that
- all agencies involved in criminal justice, social provision and health care, in the statutory, private and voluntary sectors work together to ensure a co-ordinated response to victims (should part of it be moved in a Section on criminal justice?)
 - additional procedures are elaborated to deal with large scale victimisation situations, together with comprehensive implementation plans including the identification of lead agencies.

15. INTERNATIONAL CO-OPERATION

Preparation of States' responses

- 15.1 States should co-operate in preparing an efficient and co-ordinated response for transnational crimes. They should ensure that a comprehensive response is available to victims and that services co-operate in providing assistance.

Co-operation with the state of residence

- 15.2 In cases where the victim does not normally reside in the State where the crime occurred, that State and the State of residence should co-operate to provide protection to the victim and assist the victim in reporting the crime as well as in the judicial process.

16. RAISING PUBLIC AWARENESS OF THE EFFECTS OF CRIME

- 16.1 States should contribute to raising public awareness to the needs of victims and to encouraging understanding and recognition of the effects of crime in order to prevent secondary victimisation and to facilitate the rehabilitation of the victim.
- 16.2 This should be achieved through government funding and publicity campaigns, using of all available media.
- 16.3 The role of the non governmental sector in focusing public attention on the situation of victims should be recognised, promoted and supported.

17. RESEARCH

- 17.1 States should promote, support, and, to the extent possible, fund or facilitate fund raising regarding all kinds of victimological research, in particular research on
- criminal victimisation and its impact on victims,
 - factors and risks of criminal victimisation,
 - the effectiveness and the effects of legislative and other measures and programmes for the support and protection of victims of crime – inside and outside the Criminal Justice System,
 - the effectiveness and the effects of intervention by criminal justice agencies and victim services on the victims.
- 17.2 States should promote, support, and, to the extent possible, fund or facilitate fund raising for comparative research in all of these areas conducted by researchers from either inside or outside their own territory.
- 17.3 States should develop consistent and evidence-based victim policies and take into consideration the latest state of victimological research knowledge available.
- 17.4 States should promote, support or facilitate that all governmental and non-governmental agencies dealing with victims of crime develop good practices in victim assistance and share their expertise with other agencies and institutions – nationally and internationally.

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