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EUROPEAN COMMITTEE ON CRIME PROBLEMS
(CDPC)

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

SUMMARY REPORT
of the 5th and final meeting

Strasbourg, 15-16 March 2006

Secretariat memorandum
prepared by
the Directorate General of Legal Affairs

Executive summary:

The Group adopted the explanatory memorandum to the recommendation on assistance to victims and prevention of repeat victimisation.

It also adopted some amendments to the preliminary draft Recommendation.

The preliminary draft Recommendation and the explanatory report will be submitted to the CDPC at its 55th plenary session (3-7 April 2006).

It also identified a series of follow-up activities in the field of assistance of victims, which could be undertaken by the Council of Europe.

I OPENING OF THE MEETING AND ADOPTION OF THE AGENDA

1. The meeting was opened by the chair of the committee, Dame Helen REEVES (United Kingdom).
2. The agenda was adopted (Appendix I).
3. The list of participants forms the appendix II of the report.

II ADOPTION OF THE REPORT OF THE 4TH MEETING

4. The Group confirmed that the report reflects accurately the discussions from its 4th meeting.

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

5. The Group welcomed the comments made by some delegations from CODEXTER on the text of the preliminary draft Recommendation which was sent to them following the 4th meeting of the Committee. The Group took them into account while discussing the explanatory memorandum and finalising the draft Recommendation and agreed that these comments should be transmitted to the CDPC for its next plenary session.
6. Following a discussion on the Sections of the draft explanatory memorandum, the Group adopted the explanatory memorandum to the Recommendation on the assistance to victims and the prevention of repeat victimisation (Appendix IV)
7. As it appeared from the discussion on the explanatory memorandum some amendments to the preliminary draft Recommendation were also adopted (Appendix III).
8. The new version of the preliminary draft recommendation and its explanatory memorandum will be forwarded to the CDPC for their plenary session (3-7 April 2006).

IV FOLLOW-UP PROPOSALS ON THE ASSISTANCE TO VICTIMS, TO BE SUBMITTED TO THE CDPC

9. The Group identified the following priority proposals which could be considered by the CDPC:
 - i. Compensation for crime victims: survey and research on the implementation of existing standards, management of funds, best practices, difficulties and risks of overlap with other services such as social or health services.
 - ii. Restorative Justice and mediation in criminal matters: elaboration of modern European instruments in order to complement, at regional

level, the works undertaken by the UN in this field and to enlarge and update the existing CoE standard which deals with mediation and was elaborated in 1999.

- iii.* Promote the visibility of existing CoE norms in the field of victims, including the new recommendation, in the Member states, and in the public in general, through publications, translations, web sites, etc
- iv.* Strengthening of the assistance programmes in the field of victims in order to diffuse the CoE standards and assist in their implementation in member States

10. In addition, further work could be envisaged notably on the place of the victims in criminal law and criminal procedure (update of the Recommendation R(85)11) as well as on crime prevention/reduction.
11. The Group adopted a list of decisions taken by the Committee (PC-S-AV (2006)06) at this meeting.
12. As a conclusion, the group thanked warmly the Chair, Dame Helen Reeves, for her efficient chairmanship and for her expertise and commitment in this field.

APPENDIX I

LIST OF PARTICIPANTS / LISTE DE PARTICIPANTS

SPECIALISTS / *SPECIALISTES*

Ms Christa PELIKAN, Researcher, Institut für Rechts-und Kriminalsoziologie, Museumstrasse, VIENNA, Austria Apologised / Excusée

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

Mr László SÖMJÉNI, Section Leader, Department of Legal Administration, Ministry of Justice, BUDAPEST, Hungary

Dame Helen REEVES, **Chair of the PC-S-AV**, LONDON, United Kingdom

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

Mr Daniil ZUYKOV, Prosecutor, International Law Department, Office of the Prosecutor General of the Russian Federation, MOSCOW, Russian Federation

Ms Anna WERGENS, Lawyer, Project Leader, UMEÅ, Sweden

EXPERTS CONSULTANT

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

Dr. Michael KILCHLING, Senior Researcher, Manager of public relations and administrative affairs, Max Planck Institute for Foreign and International Criminal Law, Department of Criminology, FREIBURG i.Br., 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, STRASBOURG, France

Mr Martin EATON, Legal Consultant, BROMSGROVE, B60 1QP, 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), STOCKHOLM, Sweden;
Apologised / Excusée

Mrs Mar PREUS, Conseillère technique du Cabinet, Ministère de l'Intérieur, MADRID, 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 HAGUE, The Netherlands
Apologised / Excusée

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), VIENNA, Austria;

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

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

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

Ms Bridget O'LOUGHLIN, Head of the Criminal Justice Division, Department of Crime Problems, DG I - Legal Affairs /*Chef de la Division de la Justice Pénale, Service des problèmes Criminels, DGI – Affaires Juridiques*

Mr Humbert de BIOLLEY, Programme Adviser, **Secretary to the PC-S-AV**, Department of Crime Problems, DG I - Legal Affairs / *Conseiller de Programme, **Secrétaire du PC-S-AV**, Service des problèmes Criminels, DGI – Affaires Juridiques*

Ms Dominique WULFRAN, Assistant, Department of Crime Problems, DG I - Legal Affairs / *Assistante, Service des problèmes Criminels, DGI – Affaires Juridiques*

INTERPRETERS / INTERPRETES

Mr Robert SZYMANSKI

Mme Chloé CHENETIER

Mme Sylvie BOUX

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 4th meeting of the Group – comments / *Rapport de la 4^{ème} réunion du Groupe - observations***
4. **Discussion of the draft Explanatory memorandum to the draft Recommendation on the assistance to victims and the prevention of repeat victimisation / *Discussion du projet d'exposé des motifs du projet de Recommandation sur l'assistance aux victimes et la prévention de la victimisation répétée***
5. **Identification of follow-up proposals on the assistance to victims, to be submitted to the CDPC / *Identification de propositions de suivi en matière d'assistance aux victimes, à soumettre au CDPC***
6. **Miscellaneous / *Divers***
7. **Closing of the meeting / *Clôture de la réunion***

APPENDIX III

Preliminary draft of A NEW RECOMMENDATION (Updating Rec (87) 21) ON ASSISTANCE TO CRIME VICTIMS INCLUDING 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,

Aware of the fact that criminal victimisation is a daily phenomenon affecting the lives of citizens throughout 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, a better 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 support of victims of terrorist acts and their families;
- (v) Noting the work of the Committee of Experts on Terrorism (CODEXTER), dealing notably with victims of terrorism;
- (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 achievements 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 a 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 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 nor as to any characteristic of the person.
- 2.3 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 identify and support measures to alleviate the negative effects of crime and to ensure that victims are assisted in all aspects of their rehabilitation, in the community, at home and in the workplace.
- 3.2 The assistance available should include the provision of medical care, material support and psychological health services as well as social care and counselling. These services should be provided free of charge at least in the immediate aftermath of the crime.
- 3.3 Victims should be protected from secondary victimisation.

- 3.4 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.
- 3.5 Wherever possible, the assistance should be provided in a language understood by the victim.

4. THE ROLE OF THE PUBLIC SERVICES

- 4.1 States should identify and support measures to encourage respect and recognition of victims and understanding of the effects of crime amongst all personnel and organisations coming into contact with victims.

Criminal Justice Agencies

- 4.2 The police and other criminal justice agencies should identify the needs of victims to ensure that appropriate information, protection and support is made available.
- 4.3 In particular, States should facilitate the referral of victims by the police to assistance services so that the appropriate services may be offered.
- 4.4 Victims should be provided with explanations of decisions made in the progress of their case and opportunities to provide relevant information to the criminal justice personnel responsible for making these decisions.
- 4.5 Legal advice should be made available where appropriate.

Agencies in the community

- 4.6 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.

Role of Embassies and Consulates

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

5. VICTIM SUPPORT SERVICES

- 5.1 States should provide or promote dedicated services for the support of victims.

Minimum standards

- 5.2 Such services should:
- be easily accessible;
 - provide victims with free emotional, social and material support before, during and after the investigation and legal proceedings;
 - be fully competent to deal with the problems faced by the victims they serve;
 - provide victims with information on their rights and on the services available;
 - refer victims to other services when necessary;
 - respect confidentiality when providing services.

Specialised centres

- 5.3 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.

National help lines

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

Coordination of victim services

- 5.5 States should take steps to ensure that the work of dedicated victim services is coordinated, 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
- services are accessible to government for consultation on proposed policies and legislation.

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

6. INFORMATIONProvision of information:

- 6.1 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.
- 6.2 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.

Content of the information

- 6.3 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.
- 6.4 When an offence has been reported to law enforcement agencies, the information provided to the victim should also include as a minimum:
- the procedures which will follow and the victims' role in 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 State compensation, if eligible;
 - if they are resident in another State, any arrangements available in order to protect their interests.

Information on criminal proceedings

- 6.5 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, the 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.

7. RIGHT TO EFFECTIVE ACCESS TO OTHER REMEDIES

- 7.1 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.
- 7.2 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.

8. STATE COMPENSATION

Compensation scheme

- 8.1 States should adopt a compensation scheme for the victims of crimes committed on their territory, irrespective of the victim's nationality.
- 8.2 The compensation awarded to victims should be based on the principle of social solidarity.
- 8.3 The compensation should be granted without undue delay, at a fair and appropriate level.
- 8.4 Since many European citizens are victimised in European States other than their own, States are encouraged to co-operate 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

- 8.5 Compensation should be provided by the State for:
- victims of serious intentional crimes of violence, including sexual violence;
 - the immediate family and dependants of persons who have died as a result of such crime.

Damages to be compensated

- 8.6 Compensation should be provided for:
- treatment and rehabilitation for physical injuries and
 - pain and suffering and psychological injuries.
- 8.7 States should also consider compensation for loss of income, funeral expenses and loss of maintenance for dependants.

Subsidiarity

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

9. INSURANCE

- 9.1 States should evaluate the extent of cover available under public or private insurance schemes for the various categories of criminal victimisation. The aim should be to provide equal access to insurance for all residents.
- 9.2 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.
- 9.3 States are encouraged to ensure that insurance policies do not exclude damages caused by terrorism.

10. PROTECTIONA. Protection of physical and psychological integrity

- 10.1 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.
- 10.2 Specific protection measures should be taken for victims at risk of intimidation, reprisals or repeat victimisation.
- 10.3 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, except where the victim does not wish to receive such information.

B. Protection against repeat victimisation

- 10.4 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.
- 10.5 All personnel in contact with victims should receive adequate training on the risks of repeat victimisation and on ways to reduce such risks.
- 10.6 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

- 10.7 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.
- 10.8 States should encourage the media to adopt and respect self regulation measures in order to protect the victim's privacy.

11. CONFIDENTIALITY

- 11.1 States should encourage all agencies, statutory or non-governmental, in contact with victims, to 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.
- 11.2 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.

12. SELECTION AND TRAINING OF PERSONNEL

- 12.1 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

- 12.2 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

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

Training of personnel in other services

- 12.4 Member States should ensure that appropriate training is provided for:
- The police and other 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.
- 12.5 Such personnel 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.

13. MEDIATION

- 13.1 When dealing with victims, statutory agencies should, where appropriate, consider the possibilities offered for mediation between the victim and the offender.
- 13.2 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.
- 13.3 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, the possibility to withdraw from the process at any stage and the competence of mediators.

14. COORDINATION AND CO-OPERATION

- 14.1 Each State should develop and maintain co-ordinated strategies to promote and protect 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;
 - 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 to 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 of the needs of victims, 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 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 for victimological research including comparative research by researchers from within or outside their own territory.

Research should include:

- criminal victimisation and its impact on victims;
 - prevalence and risks of criminal victimisation including factors affecting risk;
 - the effectiveness of legislative and other measures for the support and protection of victims of crime – both in criminal justice and in the community;
 - the effectiveness of intervention by criminal justice agencies and victim services.
- 17.2 States should take into consideration the latest state of victimological research knowledge available in developing consistent and evidence based victim policies.
- 17.3 States should encourage all governmental and non-governmental agencies dealing with victims of crime to share their expertise with other agencies and institutions – nationally and internationally.

* * *

APPENDIX IV

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

INTRODUCTION

Background to Recommendation R(87)21 on assistance to victims and the prevention of victimisation

1. Statistics show that victimisation is a daily phenomenon in Europe. Threats of terrorism, as well as terrorist acts and other forms of transnational crimes, also call for improved forms of assistance to victims.
2. In 2003, following a study¹ on the relevance of Recommendation No. R (87) 21, the Criminological Scientific Council (PC-CSC) concluded that a new recommendation should be developed on this topic that would update Recommendation No. R (87) 21.
3. Recommendation No. R (87) 21 was designed to complement the 1983 European Convention on the Compensation of Victims of Violent Crime (ETS No. 116) and Recommendation No. R (85) 11 on the position of the victim within the framework of criminal law and procedure.
4. Since the adoption of Recommendation No. R (87) 21 in 1987, there have been significant developments in the field of assistance to victims in Europe. Member states' legislation and practice have evolved, as documented in several related surveys.
5. In 1996, the Council of Europe' Committee of Ministers adopted Recommendation No. R (96) 8 on "crime policy in Europe in a time of change", which calls member states to have a coherent and rational crime policy directed towards, *inter alia*, the provision of assistance to victims. In addition, the Committee of Ministers has adopted several other Recommendations² which provide for assistance to particular categories of victims.
6. The United Nations³ and the European Union⁴ have elaborated several standards in the field of victims.

¹ Document [PC-CSC \(2003\)1](#), "The relevance today of Recommendation R(87)21 on the assistance to victims", Helen Reeves, 16 January 2003.

² Notably: Recommendation nr R(85)4 on violence in the family, R(97)13 concerning intimidation of witnesses and the rights of the defence, R(99)19 concerning mediation in penal matters, R (2000)11 on action against trafficking in human beings for the purposes of sexual exploitation, R(2001)16 on the protection of children from sexual exploitation, R(2002)05 on protection of women against violence, R(2005)09 on the protection of witnesses and collaborators of justice.

³ This includes the following UN Conventions: International Convention for the suppression of the financing of terrorism (1999), UN Convention against Transnational Organized Crime and its Protocol on the Trafficking in Human Beings (General Assembly resolution 55/25, 8 January 2001); UN Convention against corruption (General Assembly, 21 November 2003, A/RES/58/4), as well as the Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power (General Assembly resolution 40/34 of 29 November 1985), Implementation of the Declaration of Basic Principles of Justice for Victims and of Crime and Abuse of Power (Economic and Social Council resolution 1989/57), Plan of Action for the Implementation of the Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power (Economic and Social Council resolution 1998/21), Vienna Declaration on Crime and Justice: Meeting the Challenges of the Twenty-first Century (General Assembly resolution 55/59 - 2000), Guidelines on Justice Matters involving Child Victims and Witnesses of Crime (adopted by Economic and Social Council resolution 2005/20 of 22 July 2005), Basic principles and guidelines on the right to a remedy and reparation for victims of gross violations on international human rights law and serious violations of international humanitarian law (adopted by UN General Assembly on 10 November 2005, document A/RES/60/147).

⁴ In particular: the European Union Council Framework Decision of 15 March 2001 on the standing of victims in criminal proceedings, the European Union Council Directive 2004/80/EC of 29 April 2004 relating to compensation for victims of crime.

Victims of terrorism

7. Assistance to victims of terrorism has been considered a priority after the terrorist acts in New York in 2001, in Beslan (Russian Federation), in Madrid in 2004, and in London in 2005.
8. Within the Council of Europe, the work in the legal field has been involved to the Committee of Experts on Terrorism (CODEXTER), which has notably been involved in the elaboration of legal instruments to fight terrorism.
9. At their Conferences in 2003 and in 2005, the European Ministers of Justice invited the Committee of Ministers, where necessary, to adopt new rules concerning the improvement of, *inter alia*, the types of support offered to victims of terrorist acts and their families⁵.
10. As a result of the CODEXTER's work, the Council of Europe's Convention on the Prevention of Terrorism, CETS 196, was opened for signature in May 2005. Article 13 of the Convention specifically deals with the protection of, compensation of, and assistance to victims of terrorism⁶.

Terms of reference of the Group of Specialists on Assistance to Victims

11. The Committee of Ministers approved, on 15 December 2004, the terms of reference for a Group of specialists on assistance to victims and prevention of victimisation (PC-S-AV).
12. The Committee is called upon, under the authority of the CDPC, to elaborate a draft Recommendation (updating Recommendation No. R (87) 21) setting out, *inter alia*, appropriate standards and principles in this area, and notably taking into account the relevant Council of Europe Recommendations and Resolutions.

Work of the Group of Specialists on Assistance to Victims

13. The PC-S-AV held five meetings between January 2005 and March 2006. In accordance with its terms of reference, the PC-S-AV followed a twin-track approach: initially it was requested to give priority, in terms of time and content, to assistance to the victims of terrorism, on which it reported to both the CDPC and to the CODEXTER in June 2005, while keeping the CDDH informed, and only subsequently did it concentrate on the wider aspects of assistance to victims, on which it reported to the CDPC.
14. After having consulted the CODEXTER and kept the CDDH informed, the group adopted at its 5th meeting, 15-16 March 2006, the preliminary draft Recommendation and its explanatory memorandum, which were sent to the CDPC for approval.
15. The draft recommendation was approved by the CDPC on --- and adopted by the Committee of Ministers of the Council of Europe on ---.

GENERAL CONSIDERATIONS: AIMS OF THE RECOMMENDATION

16. The aims of the Recommendation are threefold.

⁵ Resolution No. 1 on Combating Terrorism of the 25th Conference of European Ministers of Justice, Sofia, 9-10 October 2003, Resolution no 3 on the Fight against Terrorism of the 26th Conference of European Ministers of Justice, Helsinki, 7-8 April 2005.

⁶ Web site of the convention: <http://conventions.coe.int/Treaty/Commun/QueVoulezVous.asp?NT=196&CM=1&DF=24/02/2006&CL=ENG>

17. The first aim is to update Recommendation R(87)21 on the assistance to victims, taking into account developments in the legislation and practice of the member States since 1987.
18. The second aim is to assist member States in the prevention of repeat victimisation, in particular for victims from vulnerable sections of society.
19. The third aim is to provide member States with useful guidance in defining their legislation and practice on assistance to victims of terrorism.

COMMENTARY ON THE PROVISIONS OF THE RECOMMENDATION.

Preamble

Victims of crime and victims of terrorism – paras. iv, v and vi.

20. From the outset, the Committee had to decide to what extent the new Recommendation should be devoted specifically to assistance to victims of terrorism as opposed to victims in general.
21. Although the crime of terrorism has been prioritised in some countries, the Committee was of the opinion that the needs of victims of terrorism were essentially the same of those of victims of other crimes.
22. It based its reflections on national legislation and practice of Member States. For this purpose, it requested the assistance of the Max Planck Institute for Foreign and International Criminal Law, which produced a study entitled “Victims of Terrorism – Policies and Legislation in Europe – an overview on victim related assistance and support”.⁷
23. The report shows that a few countries have specific assistance policies for victims of terrorism, such as France, Italy, Greece, Russian Federation, Spain, Turkey, United Kingdom (Northern Ireland). Most States have some assistance programmes which apply to victims in general and thus may apply also to victims of terrorism. Fewer States have implemented State compensation schemes for victims of crime in general or victims of terrorism in particular.
24. The Group took also into particular account the relevant Resolutions of European Justice Ministers, the Guidelines on Human Rights and the Fight Against Terrorism adopted by the Committee of Ministers in July 2002, the Guidelines on the Protection of Victims of Terrorist Acts adopted by the Committee of Ministers on 2 March 2005⁸ and the work of the CODEXTER, including their country profiles on relevant legal and institutional capacities in the fight against terrorism⁹.
25. On the basis of the materials provided to the Committee by the scientific expert from the Max Planck Institute, the Committee adopted a report on the assistance to victims of terrorism in June 2005, which was sent to the CODEXTER and to the CDPC,¹⁰ which have given comments on it.

⁷ “Victims of Terrorism – policies and legislation in Europe. An overview on victim related assistance and support”, by Hans-Joerg Albrecht and Michael Kilchling, Max Planck Institute for Foreign and International Criminal Law, May 2005 ([PC-S-AV \(2005\) 04](#)).

⁸ The text of the guidelines are available on :

<http://www.coe.int/T/CM/system/WCDdoc.asp?Ref=CM/Del/Dec%282005%29917/4.2&Ver=0002&Sector=CM&Lang=en#>

⁹ The country profiles are available on the web site of the CODEXTER: www.coe.int/gmt

¹⁰ “Report on the assistance to victims of terrorism”, 21 June 2005, sent to the European Committee of Crime Problems (CDPC) and to the CODEXTER (Committee of Experts on Terrorism) – document [PC-S-AV \(2005\) 07](#).

26. In its discussions on the text of the new Recommendation on the assistance to victims in general, the Committee decided to discuss each Section successively and to include, where appropriate, provisions applying specifically to victims of terrorism.
27. Unless stated otherwise, the provisions included in the Recommendation should be understood as applying to all crime victims, including victims of terrorism.
28. This Explanatory Memorandum contains some examples of national practice. In addition, the report “Victims of Terrorism – policies and legislation in Europe”, as well as the country profiles gathered by the CODEXTER provide information about the main elements of national practices and legislation on the compensation of victims of terrorism. These elements may be considered by States when applying Art. 13 of the Council of Europe Convention on the Prevention of Terrorism (CETS 196)¹¹.

Scope of assistance to victims

29. Assistance to victims has been understood, for the purposes of this Recommendation, as including various measures which States are encouraged to adopt with the overall aim of alleviating the negative effects of crime on victims and helping the victim’s rehabilitation in the community.
30. Accordingly, in addition to support services offered to victims, the recommendation also deals with such matters as the provision of information to victims, victim protection, social measures, selection and training of staff working with victims, aspects of criminal and civil justice systems, compensation and mediation. Such a holistic approach to victim assistance reflects the ways in which the different actors and institutions in society should interact with victims.
31. The Recommendation provides detailed provisions on the various types of assistance to victims. The detailed character of the Recommendation is deliberate, and is intended to provide useful guidance for practitioners and public authorities in the development of practice and legislation. The standards set forth in the Recommendation should contribute to defining new aspirations in the field of assistance to victims.

Role of Non-Governmental Organisations (NGO’s) – para. viii

32. The Committee paid tribute to the important role played by non-governmental organisations (NGO’s) in assisting victims and in developing a dialogue with the relevant public authorities. NGOs have made a significant contribution to the promotion of victims’ issues and to the strengthening of relevant institutional and legal frameworks.
33. In particular, the Committee made reference to the work and experience gained by associations such as the “European Forum for Victim Services” (hereafter “the Forum”), a network of 21 non-governmental national organisations from nineteen European States. The Committee was assisted by policy statements adopted by the Forum on several issues¹².

¹¹ “Article 13 – Protection, compensation and support for victims of terrorism: Each Party shall adopt such measures as may be necessary to protect and support the victims of terrorism that has been committed within its own territory. These measures may include, through the appropriate national schemes and subject to domestic legislation, *inter alia*, financial assistance and compensation for victims of terrorism and their close family members. »

¹² More information on the European forum of victim services on its web site: <http://www.euvictimservices.org/>.

Crime prevention and prevention of repeat victimisation - para. x

34. The Recommendation covers assistance to victims and the prevention of repeat victimisation. Unlike the Recommendation R (87) 21, it does not deal with crime prevention in general, a matter now more commonly referred to as “crime reduction”.
35. Crime reduction is considered to be an issue that affects the whole community, not just those people who have become the victims of crime¹³. In view of the large volume of work carried out on this subject, it has been agreed that this topic should be made the subject of a separate document and excluded from the Committee’s terms of reference.
36. Far more is now known about the phenomenon known as “repeat victimisation”¹⁴, which is the only aspect of crime reduction which does have immediate relevance for people who have already been the victims of crime. Research in various European countries has confirmed that once a crime has been committed, the possibility of a similar crime being committed against the same victim, or the same household, increases dramatically.
37. The new Recommendation draws attention to this phenomenon and to the State’s responsibility to include measures to prevent repeat victimisation within the general provision of services to victims.

General considerations on assistance to victims – para. xi

38. The Committee expressed its firm conviction that assistance to victims should be understood, developed and promoted for its own sake.
39. In particular, assistance provided to victims needs to be conceived, organised and provided independently from the overall interests of the criminal justice system. Even when the interests and the position of victims are taken into consideration as part of the criminal justice procedure, the overall aim of assistance policies to victims should have the interests of victims as their primary focus.

Increased protection

40. Nothing in the Recommendation prevents States from adopting more favourable measures and services than the ones described in the Recommendation.

2. DEFINITIONS

41. The definitions proposed in this Section aim to help the reader understand the scope for application of terms referred to in the Recommendation which are not defined in other Council of Europe instruments.
42. Victim: the definition is consistent with the European Union Framework Decision on the standing of victims in criminal proceedings Art.1¹⁵. It covers natural persons who are victims of all types of crimes, including non-violent crimes and crimes committed through negligence.

¹³ For more complete elements on the matter, see H. Reeves, “the relevance today of Recommendation R(87)21”, doc [PC-CSC \(2003\)01](#), 16 January 2003.

¹⁴ This phenomenon is further elaborated under Chapter 10 B. of this document

¹⁵ Doc 2001/220/JHA adopted on 15 March 2001 Art1: “(a) “victim” shall mean a natural person who has suffered harm, including physical or mental injury, emotional suffering or economic loss, directly caused by acts or omissions that are in violation of the criminal law of a Member State;”.

43. For the purposes of the Recommendation, the immediate family and dependents of the victim of crime have been included in the definition of victims. “Immediate family” includes partners, both married and unmarried.
44. The definition of victims and the inclusion of family members and dependents is consistent with the UN standards, such as the Declaration of basic Principles of Justice for Victims of Crime and Abuse of Power (1985)¹⁶.
45. Repeat victimisation: the definition has been agreed by the PC-S-AV on the basis of the work of researchers and practitioners. It refers to situations when the same person suffers from more than one criminal incident over a specific period of time. It applies, for example, to victims of repeated burglaries, continuing domestic violence or any form of harassment.
46. Secondary victimisation: Research and professional experience show that secondary victimisation, generated by institutions or individuals, is often experienced by victims in the aftermath of crime. Secondary victimisation involves a lack of understanding of the suffering of victims which can leave them feeling both isolated and insecure, losing faith in the help available from their communities and the professional agencies. The experience of secondary victimisation intensifies the immediate consequences of crime by prolonging or aggravating the victim’s trauma; attitudes, behaviour, acts or omissions can leave victims feeling alienated from society as a whole.¹⁷

3. PRINCIPLES

47. The State’s responsibility to assist victims derives from the obligations set out in the European Convention on Human Rights (ECHR). States party to the Convention have a positive obligation to “secure to everyone within their jurisdiction the rights and freedoms defined in [the] Convention” (Art 1 ECHR), and in particular their rights to life (Art 2), security (Art 5), private and family life (Art 8).
48. States should recognise the negative effects of crime on victims and take measures to alleviate these effects and help the victim’s rehabilitation in the community.
49. The personal characteristics of a victim, such as race, colour, sex, sexuality, age, language, religion, nationality, political or other opinion, cultural beliefs or practices, property, birth or family status, ethnic or social origin, and disability should not be grounds for refusing assistance.
50. This does not however preclude States from making special provisions when specific characteristics or circumstances of the victims require.
51. The types of criminal acts that caused the victimisation should not constitute grounds for deciding whether or not assistance should be provided.
52. The conduct of the victim before, during and after the criminal event should not constitute grounds for refusing assistance to him or her. It could however be taken into account when considering the scope of compensation.
53. Unrelated prior criminal conviction of the victim should not constitute grounds for refusing any provision of the Recommendation.

¹⁶ Art 2: “The term “victim” also includes, where appropriate, the immediate family or dependants of the direct victim and persons who have suffered harm in intervening to assist victims in distress or to prevent victimization.”

¹⁷ Extract from the [statement](#) of the European Forum for Victim Services on the Social Rights of Victims of Crime (1998).

4. ASSISTANCE

General remarks

54. The scope of assistance to victims has been elaborated in para. 28-30 above.

55. States should ensure that the services mentioned in the Recommendation are available for as long as needed by the victim.

Types of assistance

56.

- Immediate assistance should consist of a preliminary medical assessment and first aid if needed, as well as general information on assistance available to victims. The personnel in contact with victims should be aware of the risk of secondary victimisation and should have adequate training to prevent it.
- In the medium term, it has proved particularly useful to appoint a contact person or an “agent de liaison” between the victim, community services and investigation teams. The person should be well-trained in the available services and be able to understand and respond to the victim’s emotional needs. In addition, the protection of the victim’s privacy should be ensured.
- In the longer term, the range of services that are proposed in the short and medium term should remain available as long as needed. The victim may wish to be referred to specialised services or to victims’ self help groups where they can share their experiences with other victims. However, such initiatives should avoid unnecessarily prolonging the individual’s perception of being a “victim”.

Assistance to particularly vulnerable victims

57. States should ensure the provision of assistance to particular groups of victims, who can be considered vulnerable either by virtue of their personal characteristics (as in the case of children or people with physical or learning disabilities) or of the type of crime they have been exposed to (e.g. domestic violence, sexual violence or organised crime). Such victims should benefit from special measures designed to suit their situation.

58. Particular attention should be paid to victims who do not understand the local language. Wherever possible, assistance should be provided in a language understood by the victim.

Assistance to victims of multiple victimisation

59. In cases of multiple victimisation, which may involve terrorism, some victims may benefit from group work or networking among victims of the same event.

60. States should also foresee provisions for large scale assistance in the immediate aftermath of such incident, as described under Chapter 15 below.

5. THE ROLE OF PUBLIC SERVICES

Criminal Justice Agencies

61. Research has shown that victims benefit from referrals by law enforcement agencies to victims support services. Some States interpret data protection legislation in a way which precludes the transmission of the victim's personal data by referral. Research shows however that victims are satisfied with the transmission of their personal data to victims support services. The practice in countries such as France, the Netherlands and in the United Kingdom has demonstrated the effectiveness of such referrals.
62. Victims should be explicitly told that they can refuse referrals to victim services or offers of assistance from victim support services.
63. Victim support services who receive referrals from the police should, in addition to offering their own services, provide victims with access to relevant specialist organisations dealing with victims of specific crimes (e.g. terrorism) or with specific victim groups (e.g. women, children).
64. Although many States provide information on the main decisions taken during criminal proceedings, fewer States take measures to give explanations for these decisions. Explanations should be provided in particular regarding decisions described in Art 6.5 of the Recommendation.
65. Whenever the victim is well aware of the decisions taken, he or she would more likely provide with additional information which could be relevant to the case.
66. In addition to the training of criminal justice agencies to recognise victims' needs, as provided for in Chapter 12 of the Recommendation, it has been demonstrated that systems to monitor performance are more likely to encourage good practice.
67. Victims should receive legal advice on any aspect of their involvement in the criminal justice process, including on the possibility to becoming "*partie civile*" or to claim compensation.

Agencies in the community

68. The measures proposed in this Section relate to the wider aspects of the victim's life in the community, which are not covered by the criminal justice system or by State compensation. The Recommendation recognises that many victims require, for example, medical services for both physical and psychological injuries, whether or not the crime has been reported to the police. Similarly, some victims of repeated burglaries or racist or other harassment will need help with home security or re-housing.
69. Although these provisions are available in most countries, for instance the relocation of a victim who is a witness of organised crime, the rights of other victims have rarely been recognised and would deserve higher consideration.
70. The policy statement adopted by the European Forum for Victim Services on "the social rights of victims of crime" (1998)¹⁸ provides examples of social measures which could be considered by States in fields such as access to health care services, income, home security, employment, education.¹⁹

Role of Embassies and Consulates

¹⁸ Available on http://www.euvictimservices.org/EFVSDocs/social_rights.pdf

¹⁹ See also the publication made by the United Kingdom Home Office, "a new deal for victims and witnesses", 2003, available at: <http://old.homeoffice.gov.uk/docs2/viewitstrat.pdf>

71. States should take the necessary steps to ensure that their embassies and consulates provide national victims with information on assistance available to them both in their host country and in their own countries. They should also, to the extent possible, provide national victims with immediate assistance by helping them to obtain such things as new identity documents, flight tickets and accommodation.

6. VICTIM SUPPORT SERVICES

72. In addition to assistance provided by criminal justice agencies and public services, States should provide or promote dedicated services for the support of victims. Such services can be of many different natures, although research²⁰ has indicated the positive value of the establishment and promotion of independent non-governmental national victim support agencies.
73. While the majority of victim service organisations are formed within the voluntary sector, their success depends greatly upon the support of government. The 2001 EU Framework Decision on the standing of victims in criminal proceedings, requests Member States to “promote the involvement of victim support systems responsible for organising the initial reception of victims and for victim support and assistance, thereafter”.²¹
74. Of the recommendations in the Phare Rule of Law Project, Module IV, one crucially asks that in every state, “named senior officials in the relevant ministries and criminal justice agencies be charged with express responsibility for the identification and promotion of policies and programmes for victims and witnesses”.²²

Minimum standards

75. Victim support services should adopt and abide by defined standards of services. As a minimum, the victims support services should respect the standards set forth in this Section of the Recommendation.
76. Nothing should prevent such services from going further in their definitions of standards of services. To this end, reference could be made to the Statement of victims’ rights to standards of services adopted by the European Forum for Victim Services in 1999²³.
77. The services should be available to the victims regardless of when the victim makes contact with victim support services. Particularly in cases of violence against minors, a long period of time can elapse before the victim takes the initiative to contact a victim support service.
78. Training, as described under Chapter 12, should enable the relevant personnel to be fully competent to deal with the problems of the victims they serve.
79. Specialised services, dealing for example with children, victims of rape or victims of terrorism are of great value. General services are encouraged to provide these services or to refer victims to other specialists. Such services should be easily accessible. The coordination of victim support services, as mentioned under §§ 83 – 87 and 145 below is important in this perspective.

²⁰ Brienen, M.E.I., Hoegen, E.H. *Victims of Crime in 22 European Criminal Justice Systems: The Implementation of Recommendation (85) 11 of the Council of Europe on the Position of the Victim in the Framework of Criminal Law and Procedure*, Niemegen, Netherlands: WLP, 2000.

²¹ Council Framework Decision of 15 March 2001 on the standing of victims of crime in criminal proceedings (2001/220/JHA) OJ, L82, 22 March 2001, Article 13.

²² Phare Horizontal Programme on Justice and Home Affairs, *Reinforcement of the Rule of Law: Final report on the first part of the project*. European Commission: August 2002. p. 57

²³ Available on http://www.euvictimservices.org/EFVSDocs/service_standard_rights.pdf

Specialised centres

80. The existence of these centres has proved to be of particular value to victims of sexual violence, trafficking and domestic violence. Such victims may be fearful of reporting to the police and might prefer to turn to such centres first. They should be able to obtain support and information whether or not they decide to report the crime to the authorities. These centres should be aware of the importance of securing evidence for possible criminal proceedings at a later date.

National help lines

81. It is recommended that national help lines should be available in addition to other services listed in the Recommendation. Help lines should as a minimum provide general support and information and referrals to victim support agencies.

82. All personnel should be trained to provide basic support according to the needs expressed.

Coordination of victim services

83. It is important that States ensure the effective provision of support to victims. They should ensure that adequate services are available and that they work in a coordinated manner. In several countries, the setting up of national generalist organisations contributes to achieving such objective.

84. The co-ordination of dedicated victims services contributes to:

- voicing the needs and concerns of member associations and allowing for better access to and more influence on government policies and institutions;
- having an overview of the existing services available to victims, being in a position to assess them and identify their strengths and weaknesses;
- preparing and maintaining standards of good practice for victim services;
- co-ordinating assistance to victims
- co-ordinating the provision of training.

85. The recommendations issued by the Phare Working Group, propose that in all states “strenuous efforts should be made either to aid the development of an existing generalist organisation for victims or to create and aid the development of such an organisation where none exists”.²⁴

86. The European Forum for Victim Services has also long advocated the establishment of effective national victim services. The forum is composed of 21 national organisations from 19 member States.

87. National victim assistance services have emerged in many European states²⁵ and they have proved to be effective in lobbying for victim policy decisions on the part of governments. These organisations are consulted before important decisions are taken by government, and in some instances, the organisations themselves initiate the discussion.

²⁴ Phare Horizontal Programme on Justice and Home Affairs, *Reinforcement of the Rule of Law: Final report on the first part of the project*. European Commission: August 2002. p. 57

²⁵ Brienen, M.E.I., Hoegen, E.H. *Victims of Crime in 22 European Criminal Justice Systems: The Implementation of Recommendation (85) 11 of the Council of Europe on the Position of the Victim in the Framework of Criminal Law and Procedure*, Niemegen, Netherlands: WLP, 2000, p. 45.

7. INFORMATION

88. This Section of the Recommendation corresponds closely to the Art 4 of the EU Council Framework Decision of 15 March 2001 on the standing of victims in criminal proceedings²⁶.

Provision of information

89. Victims should be informed as soon as possible of the services available when they report a crime to the police. They should also be informed of the possibility that victim support services will approach them.
90. If the victim contacts victim support services before reporting the crime, he or she should be informed how to report the offence to the police.
91. Procedures should be put in place to ensure that victims have easy access to information relevant to their case and necessary for the protection of their interests.
92. In particular for cases where the information is to be given to a victim by a statutory agency (e.g. police), a review mechanism should be set up to ensure that the procedures are well-implemented and adhered to.
93. In order to provide victims with additional information, many States have provided internet sites or leaflets and handbooks. The information provided may be adapted to fit the needs of various types of victims (children, victims of domestic violence, murder, or sexual assault etc.).

Content of the information

94. In case where the victim reports a crime, he or she should be informed of the procedures which will follow and of his or her role in these procedures. This should include, where appropriate, the possibility of exercising his or her rights in criminal proceedings, the possibility of obtaining protection, of being called as a witness, etc.

Information on criminal proceedings

95. Victims should be informed of the progress of the case. In particular, information on decisions to release offenders should be provided to the victim in cases of violent crimes against the person or harassment and when the offender has been given a lengthy sentence (e.g. 12 months or more).
96. Sometimes victims do not want to receive information regarding the offender or the progress of criminal proceedings. Victims should therefore have the possibility to express their wish not to receive such information.

8. RIGHT TO EFFECTIVE ACCESS TO OTHER REMEDIES

²⁶ Available on :

http://europa.eu.int/smartapi/cgi/sga_doc?smartapi!celexapi!prod!CELEXnumdoc&lg=en&numdoc=32001F0220&model=guichett

97. Victims who suffer damages as a result of a crime should be entitled to effective access to justice in order to protect their rights. They should have access to justice to deal with such problems as child custody, property ownership, home security and claims for damages against the offender. Where relevant, exclusion orders or other injunctions should be made available.
98. Victims should also be entitled to claim compensation from the offender in the context of criminal proceedings. This is in line with the Council framework decision of 15 March 2001 on the standing of victims in criminal proceedings (Art 9).
99. Assistance should also be provided to victims to enforce any payment awarded. In some States, assistance is given by the State, to enforce a payment awarded by a criminal court. Research has demonstrated that this is the most effective way to ensure that payment is made. States should therefore consider what steps are needed to ensure payment.

9. STATE COMPENSATION

Compensation scheme

100. Each State should adopt a compensation scheme for victims.
101. It is asserted that the obligation of the State to pay compensation is based on the principle of social solidarity by which the society, as a whole, accepts to share the burden produced by the crime.
102. The practice, in terms of victim compensation, varies widely among States. They are therefore encouraged to compare systems of compensation, including the provision of funding. Sources of funding for State compensation schemes can be public funds, confiscation of perpetrators' assets, fines, a tax imposed on insurance contracts (as in the French practice) or other sources.
103. National compensation schemes should compensate all eligible victims of crimes committed within their national borders, irrespective of the victim's nationality.

Damages to be compensated

104. As an expression of social solidarity, the treatment and rehabilitation for physical injuries as well as pain and suffering and psychological injuries should be compensated.
105. The Recommendation emphasises the fact that, in addition to compensation for physical injuries, pain and suffering as well as psychological injuries should be compensated. This is particularly relevant for numerous victims of sexual violence.
106. Physical injuries and loss of income can often be covered by private insurances and/or social security. The immaterial damage is often the main damage to be compensated. The inclusion of pain and suffering as a damage to be compensated is therefore crucial in cases where there is no material injury but considerable moral harm caused by the crime.
107. Compensation for special damages, such as loss of income, funeral expenses and loss of maintenance for dependants should also be considered by States.
108. As to the level of compensation to be awarded, it is suggested that it should be the same for all victims, regardless of the situation and needs of the individual victim.

Victims of terrorism

109. As far as victims of terrorism are concerned, the Committee had an extensive discussion on the types of losses to be compensated as well as on the types of compensation to be awarded.
110. The report on “Victims of Terrorism – policies and legislation in Europe. An overview on victim related assistance and support”, elaborated by the Max Planck Institute for Foreign and International Criminal Law²⁷ as well as the “Report on the assistance to victims of terrorism”, adopted by the Committee in June 2005²⁸ provide useful suggestions and national examples.
111. As to the forms that compensation may take, due consideration should be given, in this regard, to Guideline VII of the Council of Europe Guidelines on the Protection of Victims of Terrorist Acts: “apart from the payment of pecuniary compensation, states are encouraged to consider, depending on the circumstances, taking other measures to mitigate the negative effects of the terrorist act suffered by the victims.” Such other forms of acknowledgment for victims could be considered in all cases of multiple victimisation²⁹.
112. In some countries, compensation is offered to the community which is associated with the victim of a terrorist act. This community could use this compensation to build a hospital, school or memorial, or to set up an association or foundation.
113. A system of voluntary contributions to a trust fund for the benefit of an affected community can be considered.
114. The level of evidence required from victims of terrorism during any judicial procedure for compensation should be limited. The evidence that a terrorist act has been committed and that the claimant is a victim should be sufficient. Evidence of intention should not be necessary.

Subsidiarity

115. State compensation should be awarded to the extent that the damage is not covered by other sources such as the offender, insurance company or State-funded health and social provisions.
116. The application of this principle varies among States. In many States, for example, the compensation obtained from private insurance companies is taken into account when fixing the amount of compensation to be paid by the State. In some States, however, it is not and State compensation is received in addition to any indemnity received from the insurance company.

10. INSURANCE

117. States should evaluate the extent of insurance cover provided by public or private insurance schemes for the various relevant categories of criminal victimisation. Where necessary, states should also seek ways to make insurance more accessible for families at greatest risk of victimisation and for those with limited means.
118. Research in the United Kingdom (1998 British Crime Survey) has shown that almost one in five United Kingdom households does not have home contents insurance. Low

²⁷ “Victims of Terrorism – policies and legislation in Europe. An overview on victim related assistance and support”, by Hans-Joerg Albrecht and Michael Kilchling, Max Planck Institute for Foreign and International Criminal Law, May 2005 ([PC-S-AV \(2005\) 04](#))

²⁸ “Report on the assistance to victims of terrorism”, adopted by the PC-S-AV, 21 June 2005, transmitted to the European Committee of Crime Problems (CDPC) and to the CODEXTER (Committee of Experts on Terrorism); document [PC-S-AV \(2005\) 07](#).

²⁹ See the UN Declaration of Basic Principles of Justice for Victims and Abuse of Power, 1985

income households were the least likely to have insurance; about half of those living in accommodation rented from a public or social landlord were not insured. The survey also showed that those least likely to have insurance are most at risk of burglary.³⁰ Further research has shown that the most common reason for not being insured is cost – it is relatively more expensive to insure on a low income. Those families with the lowest incomes living in neighbourhoods with high crime levels are three to four times less likely to have insurance than households with high incomes.

119. A valuable alternative for those who cannot afford conventional insurance cover is a “tenant’s contents insurance scheme”. These schemes, which can be operated by public or social landlords, generally involve the collection of insurance premiums with rent. The landlord is able to negotiate preferential rates with insurance companies and these savings can be passed on to tenants. Tenants receive cover that is affordable, flexible and meets their needs. Landlords are able to demonstrate that they have fulfilled their obligations to promote social inclusion. Research commissioned shows that schemes like this do operate successfully but much more needs to be done to set up and promote tenants contents insurance.³¹

11. PROTECTION

A. Protection of physical and psychological integrity

120. Special protective measures should be available to particularly vulnerable categories of victims, such as children, persons with learning disabilities, victims of domestic violence and other types of victims subject to repeat victimisation, including victims of trafficking in human beings, sexual violence, and victims of all forms of harassment. In such cases, police forces could inform the victims of the potential or actual risks of repeated crimes or reprisals and on ways to protect themselves. Adequate training and adequate resources should be provided to police forces for this purpose.
121. Particular protection should be available for victims who might be called as witnesses and are at risk of harassment, intimidation or reprisals. The Council of Europe Recommendations R (1997) 13 concerning intimidation of witnesses and the rights of the defence³² and R (2005) 09³³ on the protection of witnesses and collaborators of justice provides useful guidance on this matter.
122. Protection can include legal and procedural measures. It could also include practical measures, such as alarm systems, closed circuit TV, video cameras and involving neighbours, the community, etc
123. Re-location should be made available as an option for particularly vulnerable victims or victims under threat. Where applicable, States are encouraged to enter into bi-lateral agreements to define the procedures for such re-location and the associated rights of the victim (residence, social rights, health care, education, etc).

B. Protection against repeat victimisation

³⁰ Budd, T. (1999) *Burglary of domestic dwellings: findings from the British Crime Survey*. (Home Office statistical bulletin; 4/99) London Home Office.

³¹ Housing Corporation (2001) *Insurance for all: a good practice guide*. London: the Housing Corporation, 2001.

³² Available on :

<http://wcd.coe.int/com.intranet.InstraServlet?Command=com.intranet.CmdBlobGet&DocId=574854&SecMode=1&Admin=0&Usage=4&IntranetImage=43025>

³³ Available on :

<http://wcd.coe.int/ViewDoc.jsp?id=849237&BackColorInternet=9999CC&BackColorIntranet=FFBB55&BackColorLogged=FFAC75>

124. Wherever the possibility of repeat victimisation exists, measures to help victims to avoid further victimisation should be regarded as an essential element of the assistance to victims.
125. Research in various countries in Europe has confirmed that once a crime has been committed, the possibility of a similar crime occurring against the same victim, or the same household, increases dramatically. For example, a household which has been burgled is four times more likely to be burgled again within six weeks of the first crime³⁴. Statistics show, for instance in Germany, that 70% of all self-reported crimes have been committed against only 14% of the adult population³⁵. In the case of violent crimes, 45% are committed against 17% of the population.
126. As an example of national practice, in some areas in England and Wales, Victim Support offers special projects to prevent burglary victims being targeted repeatedly. Repeat victims are identified using specialised referral software and assistance is given through the provision of appropriate crime prevention hardware and other advice.
127. Other groups with specific victimisation risks such as victims of racist and hate crimes have been offered special services by Victim Support in conjunction with local government agencies and the police. Special reporting centres have been set up based at doctor's surgeries, council offices and Citizen Advice Bureaus, which enable repeat victims of racist and hate crime to report harassment or intimidation without having to increase their vulnerability by reporting directly to a police station.

C. Protection of privacy

128. The protection of the victim's privacy should be ensured in particular when the crime receives a high level of media coverage.
129. There is a tendency in some countries for journalists to harass victims, their families, friends and neighbours for personal information. Pressure is also placed on agencies in contact with the victim to provide access to victims which would not otherwise be available. This behaviour should not be tolerated. It is the responsibility of the State to protect the individual's right to respect of private and family life, as set forth in Art 8 of the European Convention on the protection of human rights and fundamental guarantees (ECHR).³⁶

12. CONFIDENTIALITY

130. When dealing with the issue of confidentiality and without prejudice to the situations covered under 71-72, the interests of the victim should always be the priority, including the protection of his or her personal data. The disclosure of the victim's details can be granted if the victim consents to it, or if there is a legal requirement or an overriding moral consideration to do so. In these three exceptions, clear rules should govern the

³⁴ Graham Farrell, Multiple victimisation: Its Extent and Significance in: *International Review of Victimology* 2 (1992)

³⁵ Schneider, Hans Joachim, *Victimological Developments in the World during the Last Three Decades: Proceedings of the Montreal Symposium 2000*, World Society of Victimology.

³⁶ See also the forum's Statement on Social Rights of Victims, dealing with protection of privacy http://www.euvictimservices.org/EFVSDocs/service_standard_rights.pdf

disclosure procedures. Complaints procedures should be published for dealing with alleged breaches to the adopted rules.³⁷

131. Practitioners recognise in general that in situations where the health or security of anyone, including the victim, is at risk, this would constitute an overriding moral consideration which would allow overruling the confidentiality principle.

13. SELECTION AND TRAINING OF PERSONNEL

132. Rules for selection of staff and training should apply to all personnel whose work involves contact with victims. It applies to professional and voluntary staff.
133. In many European States, victim services are supported by dedicated teams of volunteers.³⁸ The employment of trained volunteers is a preferred option with many non-governmental organisations and is crucial to the success of victim services, as volunteers are representative of the community which they serve. In these organisations, trained professional staff offer training and supervision, as well as administrative, financial, and personal support to the volunteer workforce.
134. The development of a professional framework for the training, support and supervision of volunteers is crucial to the effectiveness of these organisations. Under Article 14 of the 2001 EU Framework decision, each member state must enable personnel involved with victims, “to receive suitable training with particular reference to the needs of the most vulnerable groups”.

Training

135. Training of personnel should include, as a minimum, awareness of the negative effects of crimes, the range of victims' reactions, the risks of causing secondary victimisation and the skills and competences to assist victims.
136. The competences to be taught vary according to the type of service provided by the personnel concerned. To the extent necessary, the training will cover psychological aspects of victimisation, the types of assistance available and the ways to access them, information on legal and judicial provisions etc.
137. Training can be facilitated by national victim assistance services, which can coordinate the organisation of training both to public services (medical and social services, magistrates, police forces) and to associations and organisations providing assistance to victims.

Training of personnel in other services

138. Section underlines the necessity of providing training for personnel in police forces, the judiciary, Embassies and Consulates, as well as in health, housing, social security, education and employment services. Relevant personnel, i.e. persons in direct contact with victims, should be trained to recognise the effects of crime on victims, the risk of causing secondary victimisation and on the availability of services providing support or information.

³⁷ The European forum of Victim Services' Statement of Victims' Rights to Standards of Service provides useful reference in this matter, see under http://www.euvictimservices.org/EFVSDocs/service_standard_rights.pdf

³⁸ Brienen, M.E.I., Hoegen, E.H. (2000) *Victims of Crime in 22 European Criminal Justice Systems: The Implementation of Recommendation (85) 11 of the Council of Europe on the Position of the Victim in the Framework of Criminal Law and Procedure*, Niemegen, Netherlands: WLP, 2000.

14. MEDIATION

139. is a shared consensus that victim-offender mediation offers benefits as well as presenting potential risks for the victim. Such benefits and risks need to be carefully balanced when involving a victim in a mediation process.
140. Mediation should be avoided in situations linked to intimate relationships, such as domestic violence, where the victim may not be in a position to express free consent to the mediation process.
141. Cases which are unsuitable for mediation, as a diversion from the criminal justice system, may still benefit from mediation at any stage following the sentence.
142. In designing national legislation and practice on victim-offender mediation, member states should give particular attention to issues such as the risk of secondary victimisation, the ability of parties to give free consent, issues of confidentiality, competence of mediators and the possibility to withdraw from the process at any stage.
143. Advice from an independent person on the possibilities offered by mediation is particularly important in order to provide the victim with objective information on the matters raised in the preceding paragraph. This could enable the victim to have a clearer idea on the benefits and potential risks offered by mediation.
144. States should take into account the relevant international and national norms and practices, notably
- the Council of Europe Recommendation Rec(99)19 on mediation in criminal matters³⁹,
 - United Nations Basic principles on the use of restorative justice programmes in criminal matters, ECOSOC Resolution 2002/12, 24 July 2002⁴⁰
 - European Forum of Victim Services' statement on the position of the victim within the process of mediation.⁴¹

15. COORDINATION AND CO-OPERATION

145. The need for coordination is particularly important in countries where several victim services co-exist. If organisations with overlapping or similar services approach an individual victim without coordination, there is a higher risk of confusion and of secondary victimisation. The role of a national organisation in ensuring coordination and co-operation between services and institutions can be beneficial in this context.

16. INTERNATIONAL CO-OPERATION

Preparation of States' responses

³⁹ Available on : <http://cm.coe.int/ta/rec/1999/99r19.htm>

⁴⁰ Available on : <http://www.un.org/docs/ecosoc/documents/2002/resolutions/eres2002-12.pdf>

⁴¹ See on <http://www.euvictimservices.org/>

146. Particularly in situations of mass victimisation such as terrorist acts, States should ensure a well-prepared and co-ordinated response. The emergency response should be part of the general civil and public disaster response schemes which are in place in most European countries.

These emergency plans should:

- designate an agency to take the lead in co-ordinating the response,
- identify the key actors who will deal with the victims, both statutory and voluntary, such as the police, medical staff, support services,
- ensure a co-ordinated and immediate response.

The efficiency of such emergency plans presupposes:

- well-trained specialised services, such as public services, police, victim services and NGO's.
- realistic drill exercises with the participation of key actors to be involved at the disaster scene, in particular in trans-frontier situations.

147. Measures taken by States in this area should meet the requirements of the Art 3 of the Council of Europe Convention on the Prevention of Terrorism, dealing with national prevention policies.

17. RAISING PUBLIC AWARENESS OF THE EFFECTS OF CRIME

148. Although it is recommended that States have a primary role in public education, media also have an important role to play in this context.

149. The media should be encouraged to play a positive role in raising public awareness on the negative effects of crimes on victims. The media should avoid transmitting to the public mere sensationalist or emotive images or facts. They should be aware of the risks of provoking an increase in fear as well as secondary victimisation.

150. The media are also encouraged to show examples of ways in which members of the public can contribute to the rehabilitation of victims.

18. RESEARCH

151. States should contribute to or support the funding of victimological research. States could either provide direct funding, or give assistance to the raising of external research funds.

152. States can also provide practical support for example by giving the necessary permissions to conduct particular research projects or by allowing access to data, etc.

153. Comparative research should be promoted. Researchers from other countries should have equal access to research, research resources and research data.

154. Such comparative research could be conducted for example on:

- the effectiveness of the existing protection (procedural and practical) measures;
- training programmes for public services and for associations and organisations providing assistance to victims;
- compensation schemes for victims in general and victims of terrorism in particular;
- the organisation of immediate assistance to victims and notably: the planning, training and co-ordination of these personnel, the specific role of the police at the crime scene, appropriate methods of taking victims' witness statements by investigators.

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