

EUROPEAN COMMITTEE ON CRIME PROBLEMS (CDPC)

QUESTIONNAIRE ON THE EUROPEAN CONVENTION ON THE COMPENSATION OF VICTIMS OF VIOLENT CRIMES, ETS No 116

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Introduction: Aims of the questionnaire

At the 71st plenary meeting of the CDPC (29 November – 1 December 2016), it was decided to hold a discussion on the issue of compensation to victims and to draft a questionnaire directed to the CDPC delegations. The replies to the questionnaire gathered from member States will constitute the basis for an analysis by the CDPC, to be sent to the Committee of Ministers of the Council of Europe.

The aim of this questionnaire is threefold. The first objective is to gather information on the implementation of the Convention and the practical difficulties related to its application. With regard to the need to ensure access to justice for victims, a particular dimension of this objective is to find out which assistance is given to applicants and potential applicants of compensation.

The second aim is to identify the specific problems related to victims of cross-border victimisation.

The questionnaire is finally intended to gather views from the member states about how the implementation of the Convention could be improved.

Draft questionnaire related to the European Convention on the Compensation of Victims of Violent Crimes, ETS No 116

A. QUESTIONS TO STATE PARTIES TO THE CONVENTION

Eligibility

1. Does your national law on state compensation operate on the basis of the principle of subsidiarity? In other words; is compensation only paid when it is not fully available from other sources? Please explain how the principle is applied.
- 2.a) Which crimes are covered by the national law on state compensation in your country?
2.b) Are crimes, not classified as intentional crimes of violence, also covered by the law? Please specify.
3. Is your national law restricted to serious bodily injury or impairment of health, as stated in the Convention? If not, please specify.
4. Which elements of compensation are paid to victims by the State in your country? (for example, loss of earnings, medical and hospitalisation expenses, non-material compensation).
- 5.a) How is compensation to victims of violent crimes decided and calculated?
5.b) How are the provisions of Article 8 of the Convention¹ reflected in your legislation and how are they applied?
5.c) Does your national law provide for the possibility to provide the applicant with advances on costs prior to the final decision on compensation? If yes, for which purpose and to what limits?
5.d) Does your national law prescribe a period of time in which to apply for compensation?
6. Do victims of terrorism have any specific status in your domestic law?

Access to justice

7. Which steps have been taken to ensure that information about the scheme is available to potential applicants?
- 8.a) Have measures been taken to assist victims in making an application for compensation?
8.b) To which competent authorities should applications for compensation be submitted?
8.c) Are applicants obliged to bear any legal expenses related to applications for compensation?
8.d) Do perpetrators have the status of a party in compensation proceedings?
9. Can decisions on State compensation be appealed against by the applicant?

¹ Article 8 of the European Convention on the Compensation of Victims of Violent Crimes

- 1 *Compensation may be reduced or refused on account of the victim's or the applicant's conduct before, during or after the crime, or in relation to the injury or death.*
- 2 *Compensation may also be reduced or refused on account of the victim's or the applicant's involvement in organised crime or his membership of an organisation which engages in crimes of violence.*
- 3 *Compensation may also be reduced or refused if an award or a full award would be contrary to a sense of justice or to public policy (ordre public).*

10. Have studies been undertaken on the implementation of the domestic scheme for State compensation? If the answer is yes, what are the main results?

The cross-border dimension and international co-operation

11. Are tourist victims or other individuals who are not permanent residents in your country but who are nationals of other Parties to the Convention and/or of Council of Europe member States, eligible for state compensation?

12. Are residents of countries that are not members of the Council of Europe, eligible for State compensation in your country?

13. How is information about State compensation made available to cross-border victims?

14. What legal basis do you use to ensure international co-operation? *For the European Union Member States, other than Council Directive 2004/80/EC of 29 April 2004 relating to compensation to crime victims, what legal basis do you use to ensure international cooperation?

15. Has the administration of State compensation come across problems in the management of cross-border applications? If yes, please specify.

B. QUESTIONS FOR STATES THAT ARE NOT PARTIES TO THE CONVENTION

16. Is your government considering ratifying the Convention?

17. Has legislation been enacted on compensation from the State to victims of violent crimes? Is it available in English?

18. Are victims of crime in your country covered by State compensation irrespective of their nationality or residence, or are there restrictions as to the territorial scope of application?

19. Is your government considering proposals in order to improve the status of victims of violent crimes? If yes, please specify.

C. VIEWS FROM ALL MEMBER STATES

20. Would you favour an update of the European Convention on the Compensation of Victims of Violent Crimes (ETS No. 116) by means of an additional or an amending protocol? If so, please specify what such an update or amendment should cover.

21. Would you prefer the development of a recommendation with guidelines complementing the Convention? If so, please specify what these guidelines should cover.