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EUROPEAN COMMITTEE ON CRIME PROBLEMS (CDPC)

REPLIES TO THE QUESTIONNAIRE ON THE RIGHTS OF VICTIMS IN THE CRIMINAL JUSTICE SYSTEM

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Questionnaire on the rights of victims

When first considering the issue of the role and the rights of victims in the criminal justice system in October 2016, the CDPC Bureau decided to consider the role of victims within the criminal justice system as an important issue to be developed in CDPC future work provided that it is dealt with using a holistic approach.

At its 71st plenary session (November 2016), the CDPC decided in relation to the more general future work of the CDPC on victims' rights, that the drafting of a new convention should be discouraged but the idea of drafting a non-binding legal instrument (recommendation) or guidelines on this topic using a more comprehensive and broader approach should be further considered.

During its 74th plenary meeting (June 2018), the CDPC decided to have a *short* questionnaire developed 'on the issue of the role of victims in the criminal justice system, for consideration by the CDPC Bureau on the basis of the discussions held'. The questionnaire should aim at 'providing more clarity in relation to the practical experiences of the Member States in the implementation of existing CoE instruments', with a particular focus on the rights contained in Recommendation Rec(2006)8 of the Committee of Ministers to member states on assistance to crime victims. Discussions revealed that the CDPC is interested in two aspects:

- 1) What are the practical experiences of the member states with the implementation of Recommendation Rec(2006)8 in law and in practice?
- 2) Do member states feel a need for developing additional CoE instruments in this area?

The goal of the survey is *not* to present a complete picture of the state of the art or victims' rights in the CoE member states, but to serve as basis for decision by the CDPC in its ensuing decision making process on whether or not to create new guidelines that deal with crime victims' rights in a comprehensive fashion. The focus lies furthermore both on the practical experiences of the member states with the implementation of certain rights in national laws, regulation or guidelines ('law in the books') and their implementation in practice ('law in practice').

Below are three questions, please elaborate on your answers where possible.

Thank you in advance for your cooperation.

I. Practical experiences in your legal system with Recommendation Rec(2006)8 on assistance to crime victims

- 1) We would first like to establish the practical experiences of the member states in implementing Recommendation Rec(2006)8. In the table below you can find various clusters of rights covered by the Recommendation. If you look at the situation in your country today, have these rights been implemented? Or do you still experience practical issues/problems with implementing these rights in national laws, regulations, guidelines or in practice? Please elaborate on your answer in the final column. (*e.g., What specific problems do you still encounter? Why do you encounter problems with the implementation of a particular right? Which issues still require further guidance or attention?*)

	No problems with implementation in law or practice	Some problems with implementation <u>in the law</u>	Some problems with implementation <u>in practice</u>	Comments
Access to information throughout the proceedings, in a language known by the victim				
The right to be heard and provide evidence				
The right to be notified about important decisions or case developments				
The right to participate in criminal proceedings				
The right to legal aid (where appropriate)				
The right to mediation (where appropriate)				
The right to non-discrimination				
The right to protection from intimidation, victimization and retribution				
The right to respectful treatment from the police and judicial authorities				

2) In your opinion, has Recommendation Rec(2006)8 contributed to the development of victims' rights in your country?

- a. Yes, it has had an important impact. Thanks to the Recommendation, new rights have been introduced and/or existent rights have been revised.
- b. Yes, it has had an impact, but this impact was limited. The Recommendation helped introduce new rights or revise existent rights, but these changes were mainly caused by other factors (e.g., other international or regional legal instruments requiring change).
- c. No, it has had little to no impact. The Recommendation did not (really) contribute to the creation of new or improved victims' rights.
- d. Other, please specify....

Please, elaborate on your answer.... (*comments*)

II. Need for additional CoE Guidelines on victims' rights

When considering the question whether there would be an added value in drafting new or additional guidelines on victims' rights and role in criminal proceedings, the CDPC took note of the suggestion that such guidelines could allow the CoE to play an active facilitative role in addressing certain practical issues identified by member States and that such an approach might help to give concrete expression to victims' rights in their domestic laws and practice.

3) Would you, in principle, favour such guidelines? *Yes/no*

If not, please explain.

If you favour additional guidelines, what should they cover? (*multiple answers possible*)

- a. The guidelines should provide further guidance on the rights already contained in the Recommendation
- b. The guidelines should expand the rights already contained in the Recommendation
- c. The guidelines should cover topics such as tourists who fall victims to crime abroad....

ANDORRA

	Aucun problème dans la mise en œuvre en droit ou en pratique	Quelques problèmes dans la mise en œuvre <u>dans la loi</u>	Quelques problèmes dans la mise en œuvre <u>dans la pratique</u>	Commentaires
Accès à l'information tout au long de la procédure dans une langue connue par la victime		X		Il n'y a pas de prévision législative à cet égard. Dans la pratique les parts on accès au dossier, mais la traduction seulement est faite en ce qui concerne sa participation à la procédure
Le droit d'être entendu et de fournir des preuves	X			
Le droit d'être informé des décisions importantes ou de l'évolution concernant le cas	X			
Le droit de participer à la procédure pénale	X			
Le droit à l'aide judiciaire (le cas échéant)	X			
Le droit à la médiation (le cas échéant)		X		La médiation n'est pas prévue dans la loi pour résoudre des problèmes pénaux.
Le droit à la non-discrimination	X			
Le droit à la protection contre l'intimidation, la victimisation et de		X	X	La loi prévoit que les victimes doivent être protégées comme principe, mais les mécanismes de protection n'ont pas été

représailles				développes.
Le droit à un traitement respectueux par la police et les autorités judiciaires	X			

2) A votre avis, la Recommandation Rec(2006)8 a-t-elle contribué au développement des droits des victimes dans votre pays ?

a. Oui, elle a eu un impact important. Grâce à la Recommandation, de nouveaux droits ont été introduits et/ou les droits existants ont été révisés.

b. Oui, elle a eu un impact, mais cet impact a été limité. La Recommandation a permis d'introduire de nouveaux droits ou de réviser des droits existants, mais ces changements ont été principalement causés par d'autres facteurs (par exemple, d'autres instruments juridiques internationaux ou régionaux demandant des changements.)

c. Non, elle n'a eu que peu ou pas d'impact. La Recommandation n'a pas (réellement) contribué à la création de nouveaux ou une amélioration des droits des victimes.

d. Autres, veuillez-préciser...

S'il vous plaît, développez votre réponse (*commentaires*)

Il n'y a eu aucun développement législatif en postériorité à la Recommandation.

II. Besoin de nouvelles Lignes directrices du CdE sur les droits des victimes

En examinant la question de savoir s'il serait utile de rédiger des lignes directrices nouvelles ou supplémentaires sur les droits des victimes et leurs rôles dans les procédures pénales, le CDPC a pris note de la suggestion que de telles lignes directrices pourraient permettre au CdE de jouer un rôle actif de facilitateur dans la résolution de certains problèmes pratiques identifiés par les États membres, et qu'une telle approche pourrait contribuer à concrétiser les droits des victimes dans leurs législations et pratique nationales respectives.

3) Seriez-vous en principe favorable à de telles lignes directrices? Oui

Si non, expliquer s'il vous plaît.

Si vous préférez des lignes directrices supplémentaires, que devraient-elles couvrir? *(plusieurs réponses possibles)*

- d. Les lignes directrices devraient fournir des indications supplémentaires sur les droits déjà contenus dans la Recommandation
- e. Les lignes directrices devraient élargir les droits déjà contenus dans la Recommandation
- f. Les lignes directrices devraient couvrir des sujets tels que les touristes victimes d'actes criminels à l'étranger.

AUSTRIA

	No problems with implementation in law or practice	Some problems with	Some problems with implem	Comments
Access to information throughout the proceedings, in a language known by the victim	<p>The rights of the victims are regulated in §§ 66 et seq. Code of Criminal Procedure (CCP).</p> <p>Victims have, among other things, the right to be informed and instructed as well as communication guarantees. They have the right to be informed of the subject of the proceedings and of their essential rights before being questioned and to be informed of the progress of the proceedings (§ 66 para. 1 subpara. 3 and 4 CCP). Furthermore, victims have the right to have insight into official files and to translation assistance through interpreting services (§ 66 para. 1 subpara. 2 and 5 CCP). According to this, essential parts of the file are to be translated at the victim's request. Essential files that have to be translated at the request of the victim include the written confirmation of the report of the crime, notification of and the reasons for cessation of investigation proceedings as well as copies of the verdict and the penal order.</p>			
The right to be heard and provide evidence	<p>Victims of criminal offences have the right to participate in criminal proceedings (§ 10 para. 1 CCP). Victims therefore enjoy the status of a party, irrespective of whether the victim joins the proceedings as a private participant by declaration in order to request compensation for the damages sustained or the infringement of the rights. The fundamental rights of victims thus benefit all victims throughout the proceedings. Victims, for example, have the right to be present during the main trial and to interrogate the accused, witnesses and expert witnesses (§ 66 para. 1 subpara. 7 CCP). Furthermore they have the right to participate in an adversary questioning of witnesses and the accused and at the reconstruction of the offence (§ 66 para 1 subpara. 6 CCP).</p>			
	<p>Victims who have joined the proceedings as a private participant enjoy further special rights in addition to these general rights. In addition, these victims are then regarded as parties as defined in § 220 CCP and they have the right to a hearing in accordance with § 6 para. 2 CCP.</p>			

<p>The right to be notified about important decisions or case developments</p>	<p>As already mentioned, victims have the right to be informed of the progress of criminal proceedings (§ 66 para. 1 subpara. 4 CCP). Accordingly, victims are to be informed of the following processes:</p> <ul style="list-style-type: none"> - of the release of the accused person from custody (§ 177 para. 5 CCP) - the cessation and continuation of the proceedings (§ 194 para. 1 CCP) - the abortion of the proceedings (§ 197 para. 3 CCP) - a “diversion measure” with damage compensation (§ 206 CCP) - the withdrawal from the prosecution after a “diversion measure” (§ 208 para. 3 CCP) 			
<p>The right to participate in criminal proceedings</p>	<p>Victims of criminal offences generally have the right to participate in criminal proceedings (§ 10 para. 1 CCP). According to § 66 para. 1 subpara. 6 and 7 CCP victims have in particular the right to be present during the main trial and to interrogate the accused, witnesses and expert witnesses as well as to participate in an adversary questioning of witnesses and the accused and at the reconstruction of the offence.</p>			

<p>The right to legal aid (where appropriate)</p>	<p>Upon their request, victims</p> <p>a) who, through an intentionally committed criminal offence, might have been exposed to violence or dangerous threats, or might have been violated in their sexual integrity or sexual self- determination, or whose personal dependency might have been exploited by such an offence, as well as</p> <p>b) the spouse, registered partner, domestic partner, relatives in a direct ancestral line, siblings, and other dependants of a person, whose death might have been caused by a criminal offence, or other relatives who were witnesses of the crime (§ 65 para. 1 lit. a and b CCP),</p> <p>shall be granted psychosocial and legal assistance during criminal proceedings (§ 66 para. 2 CCP). Victims whose sexual integrity might have been violated and who are under 14 years old are granted psychosocial assistance in any case. This assistance is free of charge.</p> <p>Unless private participants must be afforded legal assistance for the proceedings by the court according to § 66 para. 2 CCP, they are to be granted legal aid for the proceedings by providing them with an attorney free of charge, insofar as the representation by an attorney is in the interest of justice, in particular if this is necessary for a purposeful assertion of their claims in order to avoid further civil proceedings and if they are unable to meet the costs for legal representation without compromising their necessary livelihood (§ 67 para. 7 CCP).</p>			
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<p>The right to mediation (where appropriate)</p>	<p>As an alternative to a trial, the public prosecutor's offices or the courts may offer a "victim- offender mediation" under certain conditions (§§ 198 para. 1 subpara. 4, 204 CCP).</p> <p>The prerequisites include, among others, the willingness of the accused to accept responsibility for the crime and confront the cause of the crime, as well the willingness to rectify the consequences of the crime in a manner appropriate to the circumstances, especially by rectifying any damages or contributing to the compensation for the consequences of the crime.</p> <p>The victim's consent is required to achieve conciliation, unless the victim does not consent for reasons that are not worthy of consideration in the criminal justice process.</p> <p>The prosecution authority may request the services of a mediator to provide the victim and the accused and their representatives with information about the possibility of victim- offender mediation, to notify them and to guide and support them in their conciliation efforts. In such cases, the prosecution must provisionally withdraw from the prosecution. The mediator has to notify the prosecution authority about any conciliatory agreements and has to check on the fulfilment of such agreements. The mediator has to provide a final report if the accused has, at a minimum, fulfilled his or her duties to an extent that, taking into account the accused's other behaviour, it can be assumed that the accused will continue to observe the agreements, or if it is no longer to be expected that conciliation can be achieved.</p> <p>In case of victim-offender mediation, the interests of victims have to be taken into consideration and supported to greatest extent possible, especially their interests concerning reparation. Victims have the right to consult a person they trust. In any case, victims must be notified within the meaning of § 70 para. 1 CCP without delay about their rights, especially their right to obtain legal assistance for the proceedings and any competent victim support organisation must be notified (§ 206 para. 1 CCP).</p>			
<p>The right to non-discrimination</p>	<p>The general prohibition of discrimination of the 12th Protocol of the ECHR applies and is constitutionally guaranteed in Austria.</p>			

<p>The right to protection from intimidation, victimization and retribution</p>	<p>General protection against violence, § 382e Execution Order:</p> <p>If it is unreasonable for a person to be in contact with another person because of a physical attack, threat of such an attack or because of conduct which seriously affects his or her mental health, the court shall</p> <ol style="list-style-type: none"> 1. prohibit that person from staying in designated places and 2. order that person to avoid meeting and further contact. <p>Serious interests of the defendant must be taken into account.</p> <p>Adversary questioning and separate hearing, §§ 165 para. 3 and 250 para. 3 CCP:</p> <p>In order to avoid secondary victimisation as well as the direct contact of the witness and the accused person §§ 165 and 250 para. 3 CCP provide for the possibility of an adversary and separate questioning of witnesses in investigation proceedings and in the main trial.</p> <p>If a victim with special protection needs (§ 66a CCP) or another witness who meets the criteria listed in § 66a CCP is questioned, or for other purposes to establish the truth, the opportunity to participate must be restricted in a manner that participants in the proceedings and their representatives can follow the questioning using technical audio and video transmission equipment and to exercise their right to pose questions without being present at the questioning. In particular, if special protection needs exist, an expert witness may be commissioned to carry out the questioning. In any event, insofar as possible care has to be taken that the witness does not encounter the accused and other participants in the proceedings (§ 165 para. 3 CCP). Witnesses who are minors and whose sexual sphere might have been violated through the criminal offence the accused allegedly committed must in any case be questioned by the court in this way and manner (§ 165 para. 4 CCP).</p> <p>According to § 250 para. 1 CCP, the presiding judge is entitled to send the accused out of the court room during the examination of a witness or a co- defendant in exceptional cases. Regarding the questioning of a witness, the well-founded fear that the mere presence of the accused could result in the witness not daring to testify truthfully is sufficient.</p>			
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The right to respectful treatment from the police and judicial authorities	All authorities, institutions and persons involved in criminal proceedings must treat victims during the proceedings with respect for their personal dignity and must respect the victims interest in preserving their highly personal sphere of life (§ 10 para. 3 CCP).			
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2) In your opinion, has Recommendation Rec(2006)8 contributed to the development of victims' rights in your country?

- a. Yes, it has had an important impact. Thanks to the Recommendation, new rights have been introduced and/or existent rights have been revised.
- b. Yes, it has had an impact, but this impact was limited. The Recommendation helped introduce new rights or revise existent rights, but these changes were mainly caused by other factors (e.g., other international or regional legal instruments requiring change).

In Austria the mentioned Recommendation had a limited impact.

- c. No, it has had little to no impact. The Recommendation did not (really) contribute to the creation of new or improved victims' rights.
- d. Other, please specify....

II. Need for additional CoE Guidelines on victims' rights

When considering the question whether there would be an added value in drafting new or additional guidelines on victims' rights and role in criminal proceedings, the CDPC took note of the suggestion that such guidelines could allow the CoE to play an active facilitative role in addressing certain practical issues identified by member States and that such an approach might help to give concrete expression to victims' rights in their domestic laws and practice.

3) Would you, in principle, favour such guidelines? *Such additional CoE guidelines could have an additional value especially in cross-border, not exclusively domestic cases.*

If not, please explain.

If you favour additional guidelines, what should they cover? *(multiple answers possible)*

- a. The guidelines should provide further guidance on the rights already contained in the Recommendation
- b. The guidelines should expand the rights already contained in the Recommendation
- c. The guidelines should cover topics such as tourists who fall victims to crime abroad....

Please elaborate on your answer *(comments)*

Possible guidelines should in any case cover situations described under c. above.

BELGIUM

	Aucun problème dans la mise en œuvre en droit ou en pratique	Quelques problèmes dans la mise en œuvre <u>dans la loi</u>	Quelques problèmes dans la mise en œuvre <u>ne œuvre dans la pratique</u>	Commentaires
Accès à l'information tout au long de la procédure dans une langue connue par la victime			X	<p>Ceci est un exercice permanente d'affiner les informations données aux victimes. Le cadre légal et réglementaire est suffisant en BE. Voir à titre d'exemple la COL 5/2009 (version révisée) qui donne un bon aperçu des informations qui doivent être données obligatoirement à la victime qui porte plainte (attestation de plainte + brochure), https://www.om-mp.be/sites/default/files/u1/col_5_2009_revisee_13.11.2014_-_depot_de_plainte.pdf.</p> <p>Les attestations de dépôt de plainte sont disponibles dans les trois langues nationales et la brochure est également disponible en anglais.</p> <p>Il convient également de renvoyer aux sites web des Communautés destinés aux victimes :</p> <p>www.slachtofferzorg.be</p> <p>www.victimes.be</p> <p>Ce commentaire vaut également pour les autres questions ci-dessous. Le cadre légal et réglementaire est bien développé, mais c'est surtout un exercice d'affiner ce cadre.</p>
Le droit d'être entendu et de fournir des preuves	X			
Le droit d'être informé des décisions importantes ou			X	Voir commentaire ci-dessus.

de l'évolution concernant le cas				
Le droit de participer à la procédure pénale	X			
Le droit à l'aide judiciaire (le cas échéant)	X			
Le droit à la médiation (le cas échéant)	X			
Le droit à la non-discrimination	X			
Le droit à la protection contre l'intimidation, la victimisation et de représailles	X			
Le droit à un traitement respectueux par la police et les autorités judiciaires			X	Voir commentaire ci-dessus.

2) A votre avis, la Recommandation Rec(2006)8 a-t-elle contribué au développement des droits des victimes dans votre pays ?

a. Oui, elle a eu un impact important. Grâce à la Recommandation, de nouveaux droits ont été introduits et/ou les droits existants ont été révisés.

b. Oui, elle a eu un impact, mais cet impact a été limité. La Recommandation a permis d'introduire de nouveaux droits ou de réviser des droits existants, mais ces changements ont été principalement causés par d'autres facteurs (par exemple, d'autres instruments juridiques internationaux ou régionaux demandant des changements.)

c. Non, elle n'a eu que peu ou pas d'impact. La Recommandation n'a pas (réellement) contribué à la création de nouveaux ou une amélioration des droits des victimes.

d. Autres, veuillez-préciser... *Les principes de la Rec(2006)8 étaient déjà présents, de manière sous-jacente, dans la politique en faveur des victimes telle que développée en Belgique. La Recommandation a permis de disposer d'une ligne de conduite et a amené des indications et des orientations à suivre dans la poursuite du développement de cette politique en faveur des victimes.*

S'il vous plait, développez votre réponse (commentaires)

III. Besoin de nouvelles Lignes directrices du CdE sur les droits des victimes

En examinant la question de savoir s'il serait utile de rédiger des lignes directrices nouvelles ou supplémentaires sur les droits des victimes et leurs rôles dans les procédures pénales, le CDPC a pris note de la suggestion que de telles lignes directrices pourraient permettre au CdE de jouer un rôle actif de facilitateur dans la résolution de certains problèmes pratiques identifiés par les États membres, et qu'une telle approche pourrait contribuer à concrétiser les droits des victimes dans leurs législations et pratique nationales respectives.

3) Seriez-vous en principe favorable à de telles lignes directrices? Oui en ce qui concerne des directives supplémentaires/non

Si non, expliquer s'il vous plaît.

Si vous préférez des lignes directrices supplémentaires, que devraient-elles couvrir? (plusieurs réponses possibles)

a. Les lignes directrices devraient fournir des indications supplémentaires sur les droits déjà contenus dans la Recommandation Oui

b. Les lignes directrices devraient élargir les droits déjà contenus dans la Recommandation

c. Les lignes directrices devraient couvrir des sujets tels que les touristes victimes d'actes criminels à l'étranger.

S'il vous plaît élaborer vos réponses (commentaires) *Il pourrait être utile d'illustrer les lignes directrices avec des bonnes pratiques qui se sont développées depuis 2006.*

(Place pour des commentaires supplémentaires)

BOSNIA AND HERZEGOVINA

I. Practical experiences in your legal system with Recommendation Rec(2006)8 on assistance to crime victims

In reference to the first question relating the practical experience of implementing Recommendation Rec(2006)8 on assistance to crime victims, we have herewith attached a table submitted with this act.

II. In your opinion, has Recommendation Rec(2006)8 contributed to the development of victims' rights in your country?

In reference to the second question: "has Recommendation Rec(2006)8 contributed to the development of victims' rights in your country", we would like to say the following:

The impact of the Recommendation to the development of victims' rights in the criminal legislation of Bosnia and Herzegovina is limited. First of all, we must underline here that the laws on criminal processing in BiH do not contain the term "victim", only the term "damaged party". Although these two notions "victim of a criminal offence" and "damaged party" are often used as synonyms, it is clear that these are two different terms. The Criminal Procedure Act in BiH has introduced the term "damaged" to signify persons whose any such personal or property right has been damaged or put under risk by means of a criminal offence. This term is also used in the criminal procedure legislation in the Federation of BiH, Republika Srpska and the Brčko District.

The rights of the damaged party are not precisely stated in the criminal procedure legislation in Bosnia and Herzegovina. The majority of those rights are indirectly concluded. The responses relating certain rights are contained in the table attached as part of the response to question number one.

The reform of the criminal legislation implemented in 2003 in Bosnia and Herzegovina was aimed at consolidating the domestic criminal legislation with the international standards of human rights as a form of accepting experiences of other countries in the combat against modern forms of crime. The goal was to provide an efficient solution to criminal matters while upholding the procedure that guarantees a fair treatment of the suspected, i.e., convicted person. On the other hand, due to the intention to protect the rights of the suspected, i.e., convicted person, the interests of the damaged party were significantly neglected.

A positive step was taken with the adoption of special laws for the protection of witnesses under threat and vulnerable witnesses. Unfortunately, these laws stipulate protection of rights only for the damaged persons who are witnesses in the procedure and they do not relate to other victims of the criminal procedure. Such laws have been adopted at the state, entity and the Brčko District level.

Even though victims' rights are not expressly anticipated in the criminal procedure laws, Bosnia and Herzegovina is a signatory, and thus obliged to uphold the provisions of numerous international regulations that protect human rights in various manners especially the EU Convention for the Protection of Human Rights and Fundamental Freedoms which is a composite part of the Constitution of Bosnia and Herzegovina and is directly applied and has priority over all other provisions.

III. Need for additional CoE Guidelines on victims' rights

In terms of question number three relating the development of new guidelines, we believe that the new guidelines should provide additional guidelines on the rights already contained in the Recommendations. Such new guidelines would assist the implementation and adoption of existing rights and would probably resolve some as of yet unresolved practical issues relating the role of victims in the criminal proceedings.

	No problems with implementation in law or practice	Some problems with implementation <u>in the law</u>	Some problems with implementation <u>in practice</u>	Comments
Access to information throughout the proceedings, in a language known by the victim	The criminal procedure laws in BiH stipulate that witnesses and other criminal procedure participants have the right to use their maternal tongue or language that they speak. If a person should not speak one of the official languages in BiH, oral interpretation shall be provided for everything that party and others are saying, as well as for documents and other written evidences.	<p>The submission of information to the damaged party during a procedure is not expressly defined by law, therefore this obligation of the court to inform the damaged party on the course of the procedure must be directly agreed.</p> <p>After a criminal offence has been reported, the legislation does not describe the duty of the one to whom the offence is reported in terms of giving to the person who informed of the offence information on the procedure that entails after the report has been filed.</p>	Access to information is guaranteed by the Freedom of Access to Information Act, however the Criminal Procedure Act does prescribe certain limitations in terms of access to information in the investigation stage, therefore the provisions of the Freedom of Access to Information Act cannot be applied.	<p>The criminal legislation of BiH does not have the notion of “victim”, only the notion of the “damaged party”.</p> <p>Although these two terms, “victim” and “damaged party” are used as synonyms, the Criminal Procedure Act of BiH introduced the term “damaged” relating to any person whose private or property rights have been violated or threatened by a criminal offence.</p>
The right to be heard and provide evidence		The criminal procedure laws of BiH do not have a provision that expressly anticipates this right.		Hearing and provision of evidence is realised through provisions relating witness hearings.
The right to be notified about important decisions or case	The criminal procedure laws of BiH do not have provisions that expressly	The criminal procedure laws of BiH do not have provisions that expressly		For example, if a prosecutor makes a decision on not conducting an investigation, it is the duty of the

developments	protect this right.	protect this right.		prosecutor to notify thereof the damaged party, as is the case for all other important decisions.
The right to participate in criminal proceedings		This right of the damaged party is not expressly prescribed, but the right of damaged parties to participate in the main hearing can be deduced indirectly from legal provisions.		It is the duty of the judge, or the council president, to inform the damaged party before the main hearing, if they are present, that they can submit a property-legal request until the end of the main hearing, in case they have failed to do so beforehand (Article 258(4) of the Criminal Procedure Act of BiH). It is also the duty of the judge, or the council president, to inform both the damaged party and the defendant on their right to appeal upon the pronouncement of judgment (Article 288(1) of the Criminal Procedure Act of BiH)
The right to legal aid (where appropriate)		The Law on Free Legal Aid is adopted at the level of BiH and contains provisions that give right to the victim to access legal aid during the submission of the property-legal request. However, these provisions are not contained in other		The representation of the damaged party in the criminal procedure through a legal representative or an attorney is not expressly anticipated in a legal provision, but this right of the damaged party can be agreed indirectly (e.g. Article 242(3 and 4) and Article 185(2)(i) of the Criminal Procedure Code of

		free legal aid laws adopted at lower government levels.		BiH).
The right to mediation (where appropriate)	This right is prescribed in the criminal procedure acts in BiH.			(e.g. Article 198 of the Criminal Procedure Act of BiH)
The right to non-discrimination	This right is protected by the Law on Prohibition of Discrimination adopted at the level of BiH.			(see Article 6 of the Law on Prohibition of Discrimination)
The right to protection from intimidation, victimization and retribution		Special laws have been adopted on the protection of witness under threat and vulnerable witnesses that contain provisions of witness protection, but they do not refer to all victims of criminal offences.		The passed laws are not applicable to the victims of criminal offences that due to some reason are not witnesses in the criminal procedure.
The right to respectful treatment from the police and judicial authorities		This right is not expressly defined in the criminal procedure acts in BiH but it is protected through the application of other provisions that protect human rights and fundamental freedoms.		This right is protected by provisions that describe the duties of police officers. The Law on Police Officers anticipates the obligation of police officers to act, in the course of their official duty, in the manner that is impartial and lawful, guided by a public interest to serve and assist the public by promoting the development and preservation of the democratic practice in line with

				<p>the protection of human rights and fundamental freedoms.</p> <p>The European Convention for the Protection of Human Rights and Fundamental Freedoms is an integral part of the BiH constitution and is directly applied in Bosnia and Herzegovina.</p>
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ESTONIA

	No problems with implementation in law or practice	Some problems with implementation <u>in the law</u>	Some problems with implementation <u>in practice</u>	Comments
Access to information throughout the proceedings, in a language known by the victim			X	There is constant work with providing better information throughout the proceedings in an understandable and timely manner for the victims of crime. Information sheets with practical information for the victims have been translated for example, for providing better assistance and quick aid for the victims in various languages.
The right to be heard and provide evidence	X			
The right to be notified about important decisions or case developments			X	Different measures should provide the sharing of information. There will be a handbook for law enforcement officials concerning the sensitive treatment of victims of crime. Different IT-systems (the public E-file) can be better used for informing victims of different decisions over the investigation and proceeding.
The right to participate in criminal proceedings	X			
The right to legal aid (where appropriate)			X	There are trainings for professionals who provide legal aid – the legal aid provided for the victims of crime should be professional, sensitive and needs to take into account the needs of the victim. Therefore trainings have to be available for all professionals.
The right to mediation (where appropriate)			X	The tradition of mediation is not long-existing in Estonia. There is a growing trend that restorative justice methods are used more for the sake of victims. Trainings are also provided for specialists to be better

				in facilitating mediation and restorative justice methods.
The right to non-discrimination	X			
The right to protection from intimidation, victimization and retribution	X			
The right to respectful treatment from the police and judicial authorities			X	Estonia is in process of creating a holistic system for gathering feedback from victims of crime in every stage of the proceeding. The aim is to get all kind of feedback from the victims for improving the design of different kinds of services, information sharing, legal aid, psychological help etc. The victim should be able to give feedback – criticism or positive example – at every stage of the proceeding.

2) In your opinion, has Recommendation Rec(2006)8 contributed to the development of victims' rights in your country?

- a. Yes, it has had an important impact. Thanks to the Recommendation, new rights have been introduced and/or existent rights have been revised.
- b. **Yes, it has had an impact, but this impact was limited. The Recommendation helped introduce new rights or revise existent rights, but these changes were mainly caused by other factors (e.g., other international or regional legal instruments requiring change).**
- c. No, it has had little to no impact. The Recommendation did not (really) contribute to the creation of new or improved victims' rights.
- d. Other, please specify....

Please, elaborate on your answer.... (*comments*)

II. Need for additional CoE Guidelines on victims' rights

When considering the question whether there would be an added value in drafting new or additional guidelines on victims' rights and role in criminal proceedings, the CDPC took note of the suggestion that such guidelines could allow the CoE to play an active facilitative role in addressing certain practical issues identified by member States and that such an approach might help to give concrete expression to victims' rights in their domestic laws and practice.

3) Would you, in principle, favour such guidelines? Yes/**no**

If not, please explain.

If you favour additional guidelines, what should they cover? *(multiple answers possible)*

- a. The guidelines should provide further guidance on the rights already contained in the Recommendation
- b. The guidelines should expand the rights already contained in the Recommendation
- c. The guidelines should cover topics such as tourists who fall victims to crime abroad....

Please elaborate on your answer

For the protection of victim's rights Estonia tries to focus on practical support and access to services. We pay attention to the training of law enforcement and victim support workers, also public health workers. We elaborate our it-systems and services for better helping the victims of crime – for providing better flow of information before, during and after the criminal proceeding.

CROATIA

	No problems with implementation in law or practice	Some problems with implementation <u>in the law</u>	Some problems with implementation <u>in practice</u>	Comments
Access to information throughout the proceedings, in a language known by the victim	✓			
The right to be heard and provide evidence	✓			
The right to be notified about important decisions or case developments	✓			
The right to participate in criminal proceedings	✓			
The right to legal aid (where appropriate)	✓			
The right to mediation (where appropriate)	✓			
The right to non-	✓			

discrimination				
The right to protection from intimidation, victimization and retribution	✓			
The right to respectful treatment from the police and judicial authorities	✓			

2) In your opinion, has Recommendation Rec(2006)8 contributed to the development of victims' rights in your country?

- a. Yes, it has had an important impact. Thanks to the Recommendation, new rights have been introduced and/or existent rights have been revised.
- b. Yes, it has had an impact, but this impact was limited. The Recommendation helped introduce new rights or revise existent rights, but these changes were mainly caused by other factors (e.g., other international or regional legal instruments requiring change).
- c. No, it has had little to no impact. The Recommendation did not (really) contribute to the creation of new or improved victims' rights.
- d. Other, please specify....

Yes, it has had an important impact. Thanks to the Recommendation, new rights have been introduced and/or existent rights have been revised.

II. Need for additional CoE Guidelines on victims' rights

When considering the question whether there would be an added value in drafting new or additional guidelines on victims' rights and role in criminal proceedings, the CDPC took note of the suggestion that such guidelines could allow the CoE to play an active facilitative role in addressing certain practical issues identified by member States and that such an approach might help to give concrete expression to victims' rights in their domestic laws and practice.

3) Would you, in principle, favour such guidelines? *Yes/no*

If not, please explain.

If you favour additional guidelines, what should they cover? *(multiple answers possible)*

- a. The guidelines should provide further guidance on the rights already contained in the Recommendation
- b. The guidelines should expand the rights already contained in the Recommendation
- c. The guidelines should cover topics such as tourists who fall victims to crime abroad....

The guidelines should provide further guidance on the rights already contained in the Recommendation

CZECH REPUBLIC

	No problems with implementation in law or practice	Some problems with implementation <u>in the law</u>	Some problems with implementation <u>in practice</u>	Comments
Access to information throughout the proceedings, in a language known by the victim			X	<p>The Czech Republic has already implemented into its law all relevant rights as provided for by the Recommendation Rec(2006)8 (hereinafter “the Recommendation”).</p> <p>At the European Union level, the rights contained in the Recommendation are codified in a binding way in the Directive 2012/29/EU of the European Parliament and of the Council establishing minimum standards on the rights, support and protection of victims of crime, and replacing Council Framework Decision 2001/220/JHA, state compensation is regulated by the Council Directive 2004/80/EC relating to compensation to crime victims.</p> <p>The European Union thus disposes of comprehensive legislative framework on rights of crime victims which all EU member states have to transpose into their legislation and implement in practice.</p> <p>The legislation of the Czech Republic is fully in line with the requirements of the relevant EU law instruments as well as with the Recommendation.</p> <hr/> <p>However, there are problems with implementation into daily practice.</p> <p>Victim as a harmed person¹ has relatively wide range of rights in criminal proceedings. Police of the Czech Republic, authorities involved in criminal proceedings and entities listed in the registry of providers of assistance to victims of crime are obliged to inform the victims in a comprehensible</p>

¹ Generally, the Czech legal order distinguishes between the term “victim” and the term “harmed party”. A harmed party is one of the parties to the criminal proceedings defined in Act No 141/1961, Code of Criminal Procedure. The harmed party can be a natural or a legal person. Victim may claim compensation for damage, non-pecuniary harm or unjust enrichment. In principle, you will also be a witness. Victim is defined in § 2 Act No. 45/2013 Coll., on Victims of Crime – as natural person who suffered (or allegedly suffered) an injury to health, pecuniary or non-pecuniary damage or at whose expense the perpetrator enriched him/herself. In principle, the term encompasses all victims, except those who are victims due to a family relationship with a person who has died as a result of a crime.

				<p>manner, taking into account their age, intellectual and volitional maturity, literacy and health, including their psychological state</p> <p>In practice, there are several problems. Law enforcement authorities provide information formally, very often with no additional explanation. Especially police authority, which is in first and most often contact with victim, is overwhelmed and does not provide adequate instruction to victims (or provides only formal information). The effective enforcement of the right to information is in practice threatened by the submission of a large amount of new information in a short period of time. In the end victims are overwhelmed by information and are unable to fully absorb them.</p> <p>The analysis of the situation shows that even if the victims seek help from the police and receive information about their rights, they are often unable to absorb all the information. Eventually, they later realize that they need more information, they do not understand and do not get involved. An analogous situation can also be observed in the case of transferring contacts to the victim support organization. Victims very often don't know that they can get help from these organizations.</p> <p>Victim has a right to use in contact with law enforcement authorities (and also in court trial) his/her mother tongue and/or a language that he or she declares to speak (Art. 2 par. 14 of the Code of Criminal Procedure). In practice, especially in smaller cities and police departments, policemen or professionals are not skilled in providing information in foreign language, and this could lead to secondary victimization. Law enforcement authorities aren't fully skilled to effectively provide information in Czech language, in foreign language the situation is much more complicated (despite using interpreter). On the other hand, the victim sometimes claims he knows the language and rejects the offer of an interpreter, but his knowledge is weak and his/her testimony may be misinterpreted. There are of course also problems with tourists leaving the country before the start of prosecution.</p>
The right to be heard and provide evidence			x	<p>Authorities involved in criminal proceedings are obliged to advise the harmed person on his rights and to provide him with a full possibility to exercise them.</p>

				<p>Victim can make a statement about the impact of the crime on his life at any stage of the criminal proceedings, both verbally and in writing. As a victim, i.e. as one of the parties to the proceedings, you may search for, present and propose evidence. This instrument is in practice used relatively frequently and could explain the real impact of crime.</p> <p>For criminal proceedings victim is important as witness, who provides important evidence. Law enforcement authorities are obliged to protect their personalities and their rights. Interrogation of victims in criminal proceedings shall be carried out by a person trained for that purpose.</p> <p>Victim must be interrogated particularly sensitively and interrogation should be adapted to the age, personal experience and mental state of the witness. Questions referring to the intimate area of the interviewed witness can only be asked, if necessary to clarify matters of importance for the criminal proceedings, in a particularly gentle and exhaustive manner. Victim can be accompanied by a trustee, who provides psychological support to the victim. The trustee chosen by the victim may not interfere in any way in the course of the conducted act, in which the trustee accompanies the victim</p> <p>Although sensitive approach to victim during interrogation is guaranteed by legislation, in practice there still appear cases where insensitive interrogation and insensitive questions are a source of secondary victimization.</p> <p>Relevant authorities (especially law enforcement authorities during criminal proceedings) alleviate victim's situation, their impartiality, their willingness and have lack of appreciation of how the victims have been approached at the time.</p> <p>Filing testimonials, the process of obtaining evidence and drafting protocols are difficult and often unpleasant for the victims, but are necessary for the conduct of an investigation. Especially police officers should have more sensitive approach to victim.</p> <p>The situation is improving thanks to Act No. 45/2013 Coll., on victims of crime, and activities of victims support organizations and cooperation with law enforcement too.</p>
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				<p>For next development, it is important to improve education and training in communication (especially by police officers).</p> <p>There are practical problems too as sometimes the victim may be omitted or cannot be got hold.</p>
The right to be notified about important decisions or case developments			X	<p>As was already written above, law enforcement authorities are obliged to inform victims properly about their rights and to provide full possibility to exercise them during criminal proceedings. Harmed party is informed about main decisions, for example when the trial will be held by the court. Harmed party can also apply for information on the status of the proceedings. Such information must be provided to victim by the competent authority; this does not apply if such information may be detrimental to the purpose of the criminal proceedings.</p> <p>Despite this, our experiences show that victims aren't informed properly about case developments. Casual reason is overwhelming of law enforcement authorities and personal fluctuation.</p> <p>The victim has to ask about several relatively important decisions in criminal proceeding (law enforcement authorities for example aren't obliged to inform victim about conditional release of offender). The victim must be informed about these rights (where information is not provided automatically) at the start of criminal proceedings. But level of providing information is very inadequate (during first contact the victims usually receive too many formal information which they cannot absorb).</p> <p>Another problem is, when harmed party receives written information (usually via post office), but simply doesn't understand the content. For average victim (usually in bad psychological status) it is basically very complicated to understand criminal proceedings. Victims usually don't know what to do, although they should be properly and timely instructed about their rights.</p> <p>Generally, this is main challenge for law enforcement authorities and victim support organizations – properly explain to all victims their rights and provide them with help during criminal proceedings.</p>

The right to participate in criminal proceedings			X	<p>Victim as a harmed person is a party to criminal proceedings with a relatively wide range of procedural rights. However, participation in criminal proceedings is not mandatory. The harmed person may even waive his procedural rights by an express declaration made to the authorities involved in criminal proceedings.</p> <p>As was written above, authorities involved in criminal proceedings are obliged to advise the aggrieved person on his rights and to provide him with a full possibility to exercise them.</p> <p>The harmed party also has the right to file motions for additional evidence, consult the files, attend the trial, attend the public session on appeals, express his or her opinion on the case before the end of the proceedings, take part in negotiating the agreement on guilt and punishment and attend the public session on its approval, the right to be represented by a representative and the right to file appeals and applications in specified cases.</p> <p>Despite this, if the victim is not active and asks for information, he/she has often problems to execute rights properly.</p> <p>Victim as harmed party is very often used as source of evidence and victims' rights are in practice reduced to compensation. Victims' needs aren't usually satisfied by law enforcement authorities. Level of victim participation in criminal proceedings depends on the victims' activity, education and motivation.</p> <p>On the other side, there exists a relatively functional and developed network of victim support organizations, which can provide professional help to victim. These organizations usually provide legal information (how to apply rights in criminal process) and psychological support. They provide their services generally for free.</p>
The right to legal aid (where appropriate)			X	<p>Victim can receive legal assistance even before the criminal proceedings are initiated. Victims can receive it throughout the proceedings as well as after its termination. Legal assistance is provided by lawyers. Particularly vulnerable victims may receive legal assistance in criminal proceedings free</p>

				<p>of charge. Additionally, it may be provided free of charge or at a reduced price to a victim who has suffered severe harm due to an intentional criminal offence, or to the survivor of a victim who has died as a result of a criminal offence; these persons must demonstrate that they do not have sufficient funds. Other victims have the right to legal assistance for a fee. Legislation provides relatively wide legal assistance for free.</p> <p>Despite legislation and improving situation, victims are not identified in legal terms, nor when filing applications or forms. At the same time, many victims are not aware where to find out legal aid.</p> <p>In practice, there is problem with local availability of lawyers who can provide legal aid for free (especially in smaller cities).</p> <p>There is problem about lack of information about free legal aid. Victims as harmed party very often don't know they have right to legal aid for free.</p> <p>Victim support organizations can only provide legal information (usually about criminal process and victims right) to the victim, but cannot provide legal aid. In practice, victim support organizations seek to strength local cooperation between victim support organization and local lawyers, who provide legal aid.</p>
The right to mediation (where appropriate)	x			<p>The Probation and Mediation Service, which is also one of the victim assistance providers, provides mediation services. Mediation is free and based on the consent of both parties, i.e. the victim and the offender. Mediation is conducted by a conflict resolution expert who maintains a friendly and balanced approach to both parties and helps to find a solution.</p> <p>Mediation and agreements reached within its course belong among so called alternative procedures, which are aimed at dealing with criminal cases outside of the criminal-law system. From the point of view of procedural criminal law, mediation is a special non-procedural form of dealing with criminal case, results of which may be projected in the decision on the case. If an agreement on settlement of mutual relationships between the accused and harmed person is reached, including compensation of any harm caused by the crime, it may at the same time fulfill one of the conditions for application of divergence in criminal proceedings. However,</p>

				<p>mediation itself is not regulated by the law.</p> <p>The Probation and Mediation Service is a state organizational unit whose mission is, among other things, to mediate an effective and socially beneficial resolution of crime-related conflicts, and which, as such, is able to ensure the victim's safety during mediation negotiations.</p> <p><i>In practice, preparation and realization of mediation need time and capacity. At the moment Probation and Mediation service is overwhelmed and law enforcement authorities push the speed of criminal proceedings (especially in pre-trial proceedings when mediation is usually settled).</i></p> <p><i>Thus opportunity to extend mediation activities is relatively limited.</i></p>
The right to non-discrimination	X			<p>Victims are entitled to rights regardless of race, ethnicity, nationality, gender, sexual orientation, age, disability, religion, belief or world opinion. Victims are entitled to rights regardless of their nationality</p> <p>In practice according to our experiences, there is no problem with discrimination (for minorities, age, sex etc.), but with language barriers as already mentioned above.</p>
The right to protection from intimidation, victimization and retribution			X	<p>There are a number of options for the victims' protection (mainly during criminal proceedings)</p> <p>Police may provide victim with 'short-term protection' if there exists possible risk of bodily harm or another serious risk. Such protection may include physical protection, change of residence or advisory and preventive activities.</p> <p>Especially in cases of domestic violence, police may also order the accused person to leave the household where victim lives together with the offender and its vicinity for a period of 10 days if there is a risk of attack against victim's life or health.</p> <p>The Crime Victims Act No. 45/2013 Coll. introduced in the criminal proceedings new institutes of preliminary injunctions, for example</p>

				<p>prohibiting the accused person to contact the victim or to enter the common household where the victim lives.</p> <p>In practice, most used institute is the banishment, when an offender must immediately leave the household – according to police statistical data it was used in 1283 cases. The situation in victim protection in cases of domestic violence is slowly improving.</p> <p>Other preliminary injunctions aren't used so often, it depends on the activity of public prosecutor. Unfortunately, there were cases when the courts do not apply the law on the provision of assistance to victims of crime or they do not always use all the measures offered or even required by law.</p>
The right to respectful treatment from the police and judicial authorities			x	<p>One of the ground principles of criminal proceeding states that law enforcement authorities are obliged to deal with harmed person with the necessary consideration.</p> <p>According to Act No. 45/2013 Coll., relevant authorities (incl. police, public prosecutor and judicial authorities) are obliged to respect the personality and dignity of the victim, treat the victim politely and gently and, if possible, fulfill his/her wishes.</p> <p>In practice, upholding these rights mainly depend on the personality and skills of policemen, prosecutors and judges.</p> <p>Law enforcement authorities and courts relatively often cause secondary victimization by:</p> <ul style="list-style-type: none"> - asking inappropriate questions (during interrogation) - assessing victim's behavior during crime act - blaming victim - formal and insensitive approach <p>The situation is improving thanks to Act No. 45/2013 Coll., activities of victims support organizations and cooperation. Important is also improved education and training in communication - all police officers undergo basic vocational training, where they learn how to communicate with victims of crime.</p>

2) In your opinion, has Recommendation Rec(2006)8 contributed to the development of victims' rights in your country?

- a. Yes, it has had an important impact. Thanks to the Recommendation, new rights have been introduced and/or existent rights have been revised.
- b. **Yes, it has had an impact, but this impact was limited. The Recommendation helped introduce new rights or revise existent rights, but these changes were mainly caused by other factors (e.g., other international or regional legal instruments requiring change).**
- c. No, it has had little to no impact. The Recommendation did not (really) contribute to the creation of new or improved victims' rights.
- d. Other, please specify....

Please, elaborate on your answer

The Recommendation being a non-binding instrument had only a limited impact. Crucial was the impact of binding instruments, adoption of the Law on the provision of assistance to victims of crime in 2013 and particularly the aforementioned EU legislation. The problem is the lack of knowledge or lack of willingness to apply the law by the law enforcement and the judiciary.

II. Need for additional CoE Guidelines on victims' rights

When considering the question whether there would be an added value in drafting new or additional guidelines on victims' rights and role in criminal proceedings, the CDPC took note of the suggestion that such guidelines could allow the CoE to play an active facilitative role in addressing certain practical issues identified by member States and that such an approach might help to give concrete expression to victims' rights in their domestic laws and practice.

3) Would you, in principle, favour such guidelines? *NO*

If not, please explain.

In the Czech Republic's view, the victims' rights are comprehensively regulated by the national law and EU directive. As regards international cooperation with CoE member states which are not EU member states, it is already addressed by the existing Recommendation.

We do not think new guidelines are necessary, it is more important to comply with the existing rules and guidelines (not only in paper, but in practice). Trainings and education of relevant stakeholders on how to implement these rules are more important than drafting more detailed rules which might in the end cause bigger problems as they would have to be accommodated to different legal systems.

If you favour additional guidelines, what should they cover? *(multiple answers possible)*

- a. The guidelines should provide further guidance on the rights already contained in the Recommendation
- b. The guidelines should expand the rights already contained in the Recommendation
- c. The guidelines should cover topics such as tourists who fall victims to crime abroad....

FINLAND

	No problems with implementation in law or practice	Some problems with implementation <u>in the law</u>	Some problems with implementation <u>n in practice</u>	Comments
Access to information throughout the proceedings, in a language known by the victim			x	The provision of information should be further improved. Ensuring the linguistic rights of the victim should be intensified.
The right to be heard and provide evidence	x			
The right to be notified about important decisions or case developments	x			
The right to participate in criminal proceedings	x			
The right to legal aid (where appropriate)	x			
The right to mediation (where appropriate)	x			
The right to non-discrimination	x			
The right to protection from intimidation, victimization and retribution	x			
The right to respectful treatment from the police and judicial authorities			x	Regular training is needed to increase sensitivity and competence of the authorities about victims' needs.

2) In your opinion, has Recommendation Rec(2006)8 contributed to the development of victims' rights in your country?

- a. Yes, it has had an important impact. Thanks to the Recommendation, new rights have been introduced and/or existent rights have been revised.
- b. Yes, it has had an impact, but this impact was limited. The Recommendation helped introduce new rights or revise existent rights, but these changes were mainly caused by other factors (e.g., other international or regional legal instruments requiring change).
- c. **No, it has had little to no impact**. The Recommendation did not (really) contribute to the creation of new or improved victims' rights. X
- d. Other, please specify....

Please, elaborate on your answer.... (*comments*)

The implementation of the Directive 2012/29/EU on minimum standards on the rights, support and protection of victims of crime (Victims' Rights Directive) has been essential to the development of victims' rights in Finland. The answers in the table above are based on the information of the practical implementation of the Victims' Rights Directive.

II. Need for additional CoE Guidelines on victims' rights

When considering the question whether there would be an added value in drafting new or additional guidelines on victims' rights and role in criminal proceedings, the CDPC took note of the suggestion that such guidelines could allow the CoE to play an active facilitative role in addressing certain practical issues identified by member States and that such an approach might help to give concrete expression to victims' rights in their domestic laws and practice.

3) Would you, in principle, favour such guidelines? Yes/ **no** X

If not, please explain.

Because of the implementation of the EU-instruments, we do not find it necessary to introduce new or additional Guidelines on victims' rights and role in criminal proceedings to develop the situation nationally in Finland. However, CoE Guidelines might have an added value for developing victims' rights on the CoE level as a whole, and specially for helping the development in the member states that are not members in the EU. Such guidelines could also allow CoE to play an active role in addressing focus more on victims' rights. If the new or additional CoE Guidelines are introduced, they hopefully will be in harmony with the EU-instruments.

If you favour additional guidelines, what should they cover? (*multiple answers possible*)

- a. The guidelines should provide further guidance on the rights already contained in the Recommendation
- b. The guidelines should expand the rights already contained in the Recommendation
- c. The guidelines should cover topics such as tourists who fall victims to crime abroa

FRANCE

	Aucun problème dans la mise en œuvre en droit ou en pratique	Quelques problèmes dans la mise en œuvre <u>dans la loi</u>	Quelques problèmes dans la mise en œuvre <u>dans la pratique</u>	Commentaires
Accès à l'information tout au long de la procédure dans une langue connue par la victime	<p>Plusieurs dispositions du code de procédure pénale prévoient des dispositifs de traduction pour les victimes ne comprenant pas la langue française : au moment du dépôt de plainte (D. 594-12 du code de procédure pénale), lors de leur audition (D. 594-11 CPP), en tant que parties civiles (10-3 CPP et D 594-13 et suivants), à l'audience (article 407 CPP), et pour la victime, même non partie civile, le droit à la traduction de l'avis d'audience (article 391 CPP).</p> <p>La traduction des pièces essentielles du dossier est gratuite.</p> <p>Plusieurs guides pratiques existent.</p>			
Le droit d'être entendu et de fournir des preuves	<p>Tout commissariat ou brigade de gendarmerie est tenu de recevoir la plainte d'une victime, quels que soit sa résidence ou le lieu de commission de l'infraction (article 15-3 CPP).</p> <p>La victime peut toujours verser des éléments en procédure.</p> <p>En tant que partie civile, la victime peut :</p> <ul style="list-style-type: none"> - faire appeler des témoins - poser des questions aux témoins et à l'accusé/prévenu par l'intermédiaire du président d'audience - déposer des conclusions - formuler des demandes d'actes. 			
Le droit d'être informé des	La victime a le droit d'être avisée des suites de l'enquête et peut interroger à ce sujet les services de police ou de gendarmerie, le procureur ou le juge			

décisions importantes ou de l'évolution concernant le cas	<p>d'instruction.</p> <p>En cas d'ouverture d'information, elle en est avisée. En tant que partie civile, elle a accès au dossier.</p> <p>Elle est informée de la décision prise en fin d'enquête (classement sans suite, alternative aux poursuites ou saisine d'une juridiction) et, si un procès a lieu, elle est informée des infractions retenues contre la personne poursuivie, de la date et du lieu d'audience.</p>			
Le droit de participer à la procédure pénale	<p>Si le procureur de la République décide d'un classement sans suite à l'issue de l'enquête, la victime peut former un recours en saisissant le procureur général de la cour d'appel.</p> <p>En outre, si la plainte déposée auprès du procureur de la République a fait l'objet d'un classement sans suite, ou si un délai de trois mois s'est écoulé depuis cette plainte, la victime peut déposer plainte directement en se constituant partie civile, devant le juge d'instruction compétent. En qualité de partie civile, elle peut notamment formuler des demandes d'acte auprès du juge d'instruction.</p> <p>Enfin, la victime peut faire citer directement l'auteur présumé devant le tribunal en demandant à un huissier de lui remettre la convocation. La victime devra alors verser une consignation, dont le montant est fixé par le tribunal en fonction de ses ressources.</p> <p>La victime est avisée de la date du procès, et peut assister à l'audience.</p>			
Le droit à l'aide judiciaire (le cas échéant)	<p>Un numéro vert national disponible 7 jours sur 7, de 9 heures à 21 heures, permet l'accès à une plateforme d'écouter professionnels, un service qui oriente vers les associations d'aide aux victimes de proximité, qui rassure et qui informe la victime sur ses droits.</p> <p>Les bureaux d'aide aux victimes présents dans les tribunaux remplissent également ce rôle d'information et d'orientation de la victime.</p> <p>L'aide aux victimes est fournie par les associations d'aide aux victimes. Ces 174 associations ont pour mission de fournir une orientation, une aide socio-juridique ou un soutien psychologique à toutes les victimes d'infractions, qu'elles soient ou</p>			

	<p>non impliquées dans une procédure pénale.</p> <p>La victime peut ainsi obtenir des informations sur ses droits dans les tribunaux (160 bureaux d'aide aux victimes), les maisons de la justice et du droit, les points d'accès au droit, les mairies et les centres sociaux, dans lesquels les associations d'aide aux victimes tiennent des permanences. Des consultations juridiques gratuites, accessibles sans condition d'âge, de nationalité ou de ressources, sont également dispensées par des professionnels du droit, notamment des avocats, dans ces lieux.</p> <p>Par ailleurs, la victime peut bénéficier de l'aide juridictionnelle si elle est ressortissante d'un Etat Membre de l'Union Européenne ou d'un Etat ayant signé une convention internationale avec la France. Pour certains crimes, l'aide juridictionnelle est de droit sans condition de ressources (viol, terrorisme...).</p> <p>En outre, la partie civile, et la victime appelée à comparaître pour apporter son témoignage devant le tribunal ou la cour, peuvent demander le remboursement des frais occasionnés par sa participation à l'audience si elles en font la demande pendant le procès.</p>			
Le droit à la médiation (le cas échéant)	<p>La médiation fait partie des mesures que le procureur de la République peut ordonner, avant de prendre sa décision sur l'action publique, s'il lui apparaît qu'une telle mesure est notamment susceptible d'assurer la réparation du dommage causé à la victime.</p> <p>Elle peut être ordonnée à la demande ou avec l'accord de la victime.</p> <p>Par ailleurs, à tous les stades de la procédure, la victime et l'auteur d'une infraction, sous réserve que les faits aient été reconnus, peuvent se voir proposer une mesure de justice restaurative.</p>			
Le droit à la non-discrimination	<p>Les droits sont identiquement protégés quelle que soit la nationalité de la victime et plus généralement, sa situation (sexe, origine, nom, état de santé, apparence...).</p> <p>Constituerait une infraction pénale, le fait pour une personne dépositaire de l'autorité publique ou chargée d'une mission de service public, dans l'exercice ou à l'occasion de l'exercice de ses fonctions ou de sa mission, de refuser de manière discriminatoire le bénéfice d'un droit accordé par la loi (article 432-7 du</p>			

	code pénal).			
Le droit à la protection contre l'intimidation, la victimisation et de représailles	<p>Plusieurs dispositifs existent pour protéger les victimes et par exemple :</p> <ul style="list-style-type: none"> - des mesures coercitives (d'interdiction de rentrer en contact avec la victime) à l'égard des personnes soupçonnées - un dispositif de télé protection dans les situations de risque de grave danger de violences intrafamiliales. <p>Y compris au cours de l'exécution de la peine, la victime a le droit :</p> <ul style="list-style-type: none"> - De saisir l'autorité judiciaire de toute atteinte à ses intérêts ; - A la prise en compte, s'il y a lieu, de la nécessité de garantir sa tranquillité et sa sûreté. <p>Il s'agit enfin d'une infraction spécifique (menace et intimidation commise à l'égard d'une victime visant à ne pas porter plainte ou se rétracter) prévue par l'article 434-5 du code pénal.</p>			
Le droit à un traitement respectueux par la police et les autorités judiciaires	<p>La sensibilisation des professionnels de police et justice est forte, dès la formation initiale et lors de la formation continue.</p> <p>S'agissant spécifiquement des mineurs et notamment dans les affaires de mœurs, des équipes spécialisées reçoivent les plaintes selon un protocole destiné à garantir, dans la mesure du possible, un traitement respectueux (enregistrement, locaux adapté, assistance de tiers...).</p> <p>Plusieurs guides pratiques sont mis à disposition afin d'améliorer le traitement et la prise en charge des victimes dans le processus judiciaire (guide à venir en outre sur les infractions sexuelles)</p>			

2) A votre avis, la Recommandation Rec(2006)8 a-t-elle contribué au développement des droits des victimes dans votre pays ?

- a. Oui, elle a eu un impact important. Grâce à la Recommandation, de nouveaux droits ont été introduits et/ou les droits existants ont été révisés.
- b. Oui, elle a eu un impact, mais cet impact a été limité. La Recommandation a permis d'introduire de nouveaux droits ou de réviser des droits existants, mais ces changements ont été principalement causés par d'autres facteurs (par exemple, d'autres instruments juridiques internationaux ou régionaux demandant des changements.)
- c. Non, elle n'a eu que peu ou pas d'impact. La Recommandation n'a pas (réellement) contribué à la création de nouveaux ou une amélioration des droits des victimes.
- d. Autres, veuillez-préciser...

S'il vous plait, développez votre réponse (*commentaires*)

Le code de procédure pénale fait une place de plus en plus large aux droits des victimes. Un grand nombre de dispositions citées précédemment ont ainsi fait l'objet de formalisation et de précisions dans des lois assez récentes.

Parmi d'autres textes de portée internationale, la Recommandation Rec(2006)8 a contribué à élever le niveau de prise de conscience et d'exigence en la matière.

II. Besoin de nouvelles Lignes directrices du CdE sur les droits des victimes

En examinant la question de savoir s'il serait utile de rédiger des lignes directrices nouvelles ou supplémentaires sur les droits des victimes et leurs rôles dans les procédures pénales, le CDPC a pris note de la suggestion que de telles lignes directrices pourraient permettre au CdE de jouer un rôle actif de facilitateur dans la résolution de certains problèmes pratiques identifiés par les États membres, et qu'une telle approche pourrait contribuer à concrétiser les droits des victimes dans leurs législations et pratique nationales respectives.

3) Seriez-vous en principe favorable à de telles lignes directrices? *Oui/non*

Si non, expliquer s'il vous plaît.

Si vous préférez des lignes directrices supplémentaires, que devraient-elles couvrir? (*plusieurs réponses possibles*)

- a. Les lignes directrices devraient fournir des indications supplémentaires sur les droits déjà contenus dans la Recommandation
- b. Les lignes directrices devraient élargir les droits déjà contenus dans la Recommandation
- c. Les lignes directrices devraient couvrir des sujets tels que les touristes victimes d'actes criminels à l'étranger.

S'il vous plaît élaborer vos réponses (*commentaires*)

(*Place pour des commentaires supplémentaires*)

De nouvelles lignes directrices ne nous apparaissent pas nécessaires. Les droits des victimes tels qu'ils sont contenus dans la Recommandation sont suffisamment précis pour être mis en œuvre sans nécessiter d'indications supplémentaires. Elle évoque déjà l'importance de l'identification des besoins, d'une prise en charge pluridisciplinaire et gratuite, de la coordination, comme le risque de victimisation secondaire ou le traitement des cas transfrontaliers.

La notion de victime est par ailleurs entendue largement, sans distinction par type de contentieux ou de nationalité. Le développement de lignes directrices spécifiques à des catégories de victimes induirait à l'inverse et de manière erronée que les recommandations initiales n'intégraient pas certaines catégories de victimes.

Enfin, les droits des victimes sont envisagés à tous les stades de la procédure pénale permettant ainsi de garantir un équilibre entre les intérêts des parties et les nécessités de l'enquête.

GERMANY

	No problems with implementation in law or practice	Some problems with implementation <u>in the law</u>	Some problems with implementation <u>in practice</u>	Comments
Access to information throughout the proceedings, in a language known by the victim				The right to access to information had already been implemented in 2006 and was extended by the 3rd Victim Rights Reform Act of 3.12.2015, which implements the EU Victim Protection Directive of 25.10.2012.
The right to be heard and provide evidence				Already implemented through various legislative projects, beginning with the Victim Protection Act of 18.12.1986.
The right to be notified about important decisions or case developments				This right had already been implemented and was then restructured and extended by the 3rd Victim Rights Reform Act of 3.12.2015, which implements the EU Victim Protection Directive of 25.10.2012.
The right to participate in criminal proceedings				Already implemented through various legislative projects, beginning with the Victim Protection Act of 18.12.1986.
The right to legal aid (where appropriate)				The law was inserted by the Victim Protection Act of 18.12.1986 and has been extended step by step since then.
The right to mediation (where appropriate)				German law already offers victim-offender compensation, which also includes elements of mediation as reparation.

The right to non-discrimination				This right is already regulated in the German constitution and therefore also applies in criminal procedural law.
The right to protection from intimidation, victimization and retribution				German criminal procedural law contains various rules set out for the protection of victims. It allows, for example, child victims of sexual crimes to testify before the main hearing by means of a video recording. They may be spared further testimony in court in order to avoid further victimization.
The right to respectful treatment from the police and judicial authorities				This right is already ensured by German criminal procedure law and guidelines regarding interrogation and investigation activities. For example all negotiations, hearings and other investigations concerning the victim must always be conducted with due regard to the victim's particular need of protection (Article 48 of the Code of Criminal Procedure). The repeated questioning of children and adolescents before the main hearing should be avoided as far as possible because of the psychological burden this places on these witnesses (Number 19 of the guidelines for criminal proceedings and the fine procedure).

- 2) In your opinion, has Recommendation Rec(2006)8 contributed to the development of victims' rights in your country?

Victim protection in criminal proceedings has been strengthened by a large number of laws in recent years, beginning with the Victim Protection Act of 18.12.1986. Against this background, the rights set out in the Recommendation Rec(2006)8 had already been implemented by national legislation.

II. Need for additional CoE Guidelines on victims' rights

When considering the question whether there would be an added value in drafting new or additional guidelines on victims' rights and role in criminal proceedings, the CDPC took note of the suggestion that such guidelines could allow the CoE to play an active facilitative role in addressing certain practical issues identified by member States and that such an approach might help to give concrete expression to victims' rights in their domestic laws and practice.

- 3) Would you, in principle, favour such guidelines? *Yes/no*

The guidelines could provide further guidance on the rights already contained in the Recommendation, oriented on the rights laid down in the EU Victim Protection Directive 2012/29 EU of 25.10.2012. This could help CoE - Member States that are not part of the EU and have therefore not implemented the Victims' Rights Directive, to adopt a higher standard in the area of victim protection.

IRELAND

	No problems with implementation in law or practice	Some problems with implementation in the law	Some problems with implementation in practice	Comments
Access to information throughout the proceedings, in a language known by the victim	<p>Ireland has recently introduced new victim oriented legislation which strengthens access to information for victims of crime.</p> <p>Access to such information is now provided by way of a statutory right for victims,</p> <p>Please see the comments column across for more information in this regard.</p>		<p>Challenges may be experienced, for example, in circumstances where access to interpretation/translation services for an infrequently or rarely used language in Ireland may not be readily or easily available.</p> <p>This is a matter which will continue to be assessed as application of the new victim oriented legislation beds down in practice.</p>	<p>In Ireland, the primary legislation which provides for specific rights for victims of crime is the Criminal Justice (Victims of Crime) Act, 2017. It is this legislation which gives effect at national level to the EU Victims Directive 2012/29/EU</p> <p>The 2017 Act includes provisions to ensure that access to information to victims throughout the criminal justice process is provided in a way that is understood by victims, including by way of any necessary translation and interpretation services.</p> <p>Work continues to be advanced by the criminal justice agencies in Ireland to ensure that all victims needs in this regard will be met, as required, and in line with the requirements of the Act and the EU Directive</p>
The right to be heard and provide evidence	No specific problems have been reported in			In the Irish criminal justice system, as provided for by the Constitution of Ireland crimes and offences are prosecuted in the name of the people by the independent

	this regard			<p>Office of the Director of Public Prosecutions.</p> <p>Under this system, victims of crime are as appropriate, involved in providing evidence as part of the proceedings.</p> <p>In certain cases and with the approval of the court, special measures may be utilised by victims of crime in the presentation of evidence.</p> <p>For example, special measures can be availed of by vulnerable victims to aid their giving of evidence and to prevent intimidation or any possible secondary victimisation</p> <p>This includes facilities for the use of pre-recorded evidence, evidence by video link or the use of screens in courts. Access to the use of intermediaries to assist in evidence provision by vulnerable victims is also provided for under Irish law.</p> <p>It is also the case that in all cases where a guilty verdict is reached that a victim of crime has a <u>statutory right</u> to make a victim impact statement before the Court if they so wish.</p> <p>Such a statement outlining the impacts and effect which the crime has had on the victim (and their family members) can be taken into account by the judge in determining sentencing.</p> <p>Court accompaniment services may also be available to victims of crime to assist their participation in court proceedings.</p>
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<p>The right to be notified about important decisions or case developments</p>	<p>No specific problems have been reported in this regard.</p> <p>Enhanced arrangements have been put in place in recent years by the respective criminal justice agencies, as applicable to them, in this regard.</p> <p>This is, to ensure that victims are kept informed about important decisions or case developments in line with the requirements set out in the Criminal Justice (Victims of Crime) Act, 2017.</p> <p>Please see the comments column across for more information.</p>			<p>While it has been operational practice for some time now to keep victims of crime informed of case developments, new statutory rights to ensure victims are notified about important decisions and/ or case developments have been introduced by way of the Criminal Justice (Victims of Crime) Act, 2017.</p> <p>This includes the provision of notifications to victims on any significant developments relating to their case such as :</p> <ul style="list-style-type: none"> • The right for victims to receive comprehensive information on the criminal justice system and their role within it (and the range of services and entitlements victims) may access from their first contact with the Irish policing authorities (An Garda Síochána) or the Garda Síochána Ombudsman Commission. (investigates complaints of police misconduct) • The right to be provided with information upon request concerning the progress of the investigation and any court proceedings. • The right to be informed, upon request, of any decision not to institute a prosecution in relation to the offence committed against them (and the reasons for such a decision) and the right to request a review of that decision. • The right to receive upon request information on the release, temporary release, or escape from custody of an offender who is serving a sentence for an offence committed against the victim.
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<p>The right to legal aid (where appropriate)</p>		<p>Prior to 2018, an issue for victims of domestic abuse having to provide a financial contribution in availing of the State's civil legal aid scheme was identified as a barrier in accessing such aid.</p> <p>This requirement was seen as discouraging those without financial resources coming forward in seeking legal aid.</p> <p>To address this problem, as of from January 1 2018, this requirement for a financial contribution to be made in such cases was removed by the Government</p>	<p>As noted above, in the Irish criminal justice system crimes and offences are prosecuted in the name of the people by the independent Office of the Director of Public Prosecutions.</p> <p>Under this system, victims of crime generally do not have their own legal representation in court or any requirement for separate legal aid etc.</p> <p>This is except in the case of serious sexual offences where legal aid (separate legal representation) is available for complainants where consideration of prior sexual history is being sought by the defence as part of the court proceedings.</p> <p>Separately to this, civil legal aid can be available for victims of domestic abuse in the civil courts (in these cases the victim is the applicant).</p>
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The right to mediation (where appropriate)				<p>As part of its restorative justice services, Ireland's Probation Service can provide Victim Offender mediation services.</p> <p>This is a process which provides an opportunity for victims and offenders to meet in a safe and controlled setting, assisted by a trained mediator.</p> <p>After preparing for the meeting independently with each party, the mediator facilitates a discussion between the victim and offender for the purpose of addressing/repairing the harm caused by the offending behaviour.</p> <p>The Courts may request Victim Offender mediation post-sentence, but victim participation in such mediation is always on a voluntary basis.</p>
The right to non-discrimination				<p>The rights which are provided for under the Criminal Justice (Victims of Crime) Act, 2017 apply to all victims of crime in Ireland.</p> <p>In addition, under Article 40 of the Irish Constitution all citizens are to be held equal before the law.</p>
The right to protection from intimidation, victimization and retribution				<p>It is the case that measures have been in place for some time now in Irish law to address issues of intimidation/fear of reprisal etc.</p> <p>This includes the Non-Fatal Offences against the Person Act, 1997, which includes specific criminal offence provisions in the area of threatening and harassment type behaviour.</p> <p>In addition to this, there are also provisions in place</p>

				<p>under the Criminal Justice Act, 1999, to protect people from any form of intimidation in their reporting of crime and in their assisting with the policing authorities (An Garda Síochána) in crime investigation.</p> <p>Under this Act, it is also a criminal offence in itself to harm or threaten, menace or in any other way intimidate or put in fear another person who is assisting in an investigation by the Garda Síochána of an offence.</p> <p>There has also been increasing recognition in recent times that the criminal justice system can intrinsically operate in a way that is intimidating and which may re-victimise people (secondary victimisation).</p> <p>To address and look to rebalance this, the Criminal Justice (Victims of Crime) Act, 2017 has introduced a range of measures to better serve the interests of victims through the criminal justice process.</p> <p>This includes the following provisions being introduced under the Act :</p> <ul style="list-style-type: none"> • The right for a victim to have an individual assessment of their protection needs and measures to be carried out by the policing authorities to safeguard victims from possible further victimisation and intimidation. • A number of special measures can also be availed of by vulnerable victims to prevent intimidation or any possible secondary victimisation. • This includes enhanced provisions for the use of
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				<p>pre-recorded evidence, evidence by video link and/or the use of screens in courts in victims presenting of evidence.</p> <ul style="list-style-type: none"> • Access to the use of intermediaries to also assist in evidence provision by vulnerable victims is also provided for under Irish law. <p>Further to this, there is also a major review underway of the existing protections for vulnerable witnesses in the investigation and prosecution of sexual offences in Ireland. The group carrying out this review is expected to report in early 2019.</p>
<p>The right to respectful treatment from the police and judicial authorities</p>				<p>The Irish Police Force (An Garda Síochána) are guided by the following policing principles which state that policing services must be provided :</p> <ul style="list-style-type: none"> • independently and impartially • in a manner that respects human rights • in a manner that supports the proper and effective administration of justice. <p>To underpin this, An Garda Síochána has a Code of Ethics in place which applies to every function of policing and security including in assisting victims of crime.</p> <p>It is also the case that it remains open to any person who is directly affected by what they believe to be misconduct by any members of An Garda Síochána to submit a complaint to the Garda Síochána Ombudsman Commission.</p> <p>The Commission is the independent statutory body in place in Ireland to investigate any such complaints of</p>

				<p>police misconduct.</p> <p>In Irish law, judges are, subject to the Constitution and the law, independent in the exercise of their judicial functions.</p> <p>Further to this, new legislation in the form of the Judicial Council Bill is currently progressing through the Irish Parliament.</p> <p>The purpose of the Bill is to establish a Judicial Council, the functions of which include promoting and maintaining excellence in the exercise by judges of their judicial functions and high standards of conduct among judges.</p> <p>The Bill also provides for a Judicial Conduct Committee which will be tasked with considering complaints concerning the conduct of a judge and, in an appropriate case, referring complaints for resolution by informal means or undertaking an investigation in accordance with the provisions of the Bill.</p>
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2) In your opinion, has Recommendation Rec(2006)8 contributed to the development of victims' rights in your country?

- a. Yes, it has had an important impact. Thanks to the Recommendation, new rights have been introduced and/or existent rights have been revised.
- b. Yes, it has had an impact, but this impact was limited. The Recommendation helped introduce new rights or revise existent rights, but these changes were mainly caused by other factors (e.g., other international or regional legal instruments requiring change).
- c. No, it has had little to no impact. The Recommendation did not (really) contribute to the creation of new or improved victims' rights.

d. Other, please specify....

Please, elaborate on your answer.... *(comments)*

The b option is chosen as it is felt that while yes the Recommendation has had a positive impact on victims' rights, this impact was necessarily limited.

This is because the main driver of development of victims' rights in Ireland's case, is the EU Framework Decision 2001/220/JHA on victims' rights. and the subsequent introduction of the EU Victims Directive 2012/29/EU (25 October 2012) - the implementation of which is binding on the State.

II. Need for additional CoE Guidelines on victims' rights

When considering the question whether there would be an added value in drafting new or additional guidelines on victims' rights and role in criminal proceedings, the CDPC took note of the suggestion that such guidelines could allow the CoE to play an active facilitative role in addressing certain practical issues identified by member States and that such an approach might help to give concrete expression to victims' rights in their domestic laws and practice.

3) Would you, in principle, favour such guidelines? *Yes/no*

If not, please explain.

If you favour additional guidelines, what should they cover? *(multiple answers possible)*

- a. The guidelines should provide further guidance on the rights already contained in the Recommendation
- b. The guidelines should expand the rights already contained in the Recommendation
- c. The guidelines should cover topics such as tourists who fall victims to crime Please elaborate on your answer *(comments)*

(Room for additional comments)

The EU Victims Directive 2012/29/EU provides an enforceable framework in Ireland in relation to victims' rights. This has been transposed into Irish law by the Criminal Justice (Victims of Crime) Act, 2017. We are currently drafting a Victims Charter reflecting this new legislation to replace the existing Charter from 2010. It is expected that this will form the necessary guidance in Ireland.

ITALY

	No problems with implementation in law or practice	Some problems with implementation <u>in the law</u>	Some problems with implementation <u>in practice</u>	Comments
Access to information throughout the proceedings, in a language known by the victim	Article 90 bis Code of Criminal procedure (CCP) : Information to the victim			
The right to be heard and provide evidence	Art. 90 CCP : Rights and powers of the victim			
The right to be notified about important decisions or case developments	90 ter CCP : Notification of any escape and release about the suspect or the accused person			
The right to participate in criminal proceedings	90 CCP Rights and powers of the victim			
The right to legal aid (where appropriate)	Decree of the President of the Republic (DPR) n. 115/2002 art. 74			
The right to mediation (where appropriate)	For minors: DPR 444/88 art. 9, 27 e 28; DPR 230/2000; L. 354/75 art. 47 according to Racc. NR (87) 20 CoE and Racc. NR (99) 19 CoE			
The right to non-discrimination	Art. 3 of the Constitution			

The right to protection from intimidation, victimization and retribution	Law 6/2018: provisions for the protection of witnesses for justice (among whom the victim is)			
The right to respectful treatment from the police and judicial authorities	Art. 2 - 3 – 27 Constitution			

2) In your opinion, has Recommendation Rec(2006)8 contributed to the development of victims' rights in your country?

a. Yes, it has had an important impact. Thanks to the Recommendation, new rights have been introduced and/or existent rights have been revised.

X Yes, it has had an impact, but this impact was limited. The Recommendation helped introduce new rights or revise existent rights, but these changes were mainly caused by other factors (e.g., other international or regional legal instruments requiring change).

b. No, it has had little to no impact. The Recommendation did not (really) contribute to the creation of new or improved victims' rights.

c. Other, please specify....

Please, elaborate on your answer.... *(comments)*

II. Need for additional CoE Guidelines on victims' rights

When considering the question whether there would be an added value in drafting new or additional guidelines on victims' rights and role in criminal proceedings, the CDPC took note of the suggestion that such guidelines could allow the CoE to play an active facilitative role in addressing certain practical issues identified by member States and that such an approach might help to give concrete expression to victims' rights in their domestic laws and practice.

3) Would you, in principle, favour such guidelines? *Yes/no*

If not, please explain.

If you favour additional guidelines, what should they cover? *(multiple answers possible)*

a. The guidelines should provide further guidance on the rights already contained in the Recommendation

X The guidelines should expand the rights already contained in the Recommendation

b. The guidelines should cover topics such as tourists who fall victims to crime abroad....

Please elaborate on your answer *(comments)* *In Italy information on the existing services of assistance (according to art. 3 of the Racc.) is being collected, to verify the existence of possible criticalities and a coordination table among all the operators of the supporting services has been recently established.*

LATVIA

	No problems with implementation in law or practice	Some problems with implementation <u>in the law</u>	Some problems with implementation <u>in practice</u>	Comments
Access to information throughout the proceedings, in a language known by the victim	X (no problems with implementation in law)		<u>The Ministry of the Interior:</u> Occasionally, especially in countryside districts a victim should wait longer term to be provided with translation.	Provided by the national law.
The right to be heard and provide evidence	X			Provided by the national law.
The right to be notified about important decisions or case developments	X			<u>The Ministry of the Interior:</u> Provided by the national law which also stipulates possibility to receive necessary additional information by the request of a victim.
The right to participate in criminal proceedings	X			<u>The Ministry of the Interior:</u> The national law provides an opportunity for a victim to receive legal aid in case of necessity and desire. For a victim who is a minor legal aid is mandatory in specific

				case related to violence committed by a person, upon whom the minor victim is financially or otherwise dependent, or regarding a criminal offence against morals or sexual inviolability.
The right to legal aid (where appropriate)	X			Provided by the national law.
The right to mediation (where appropriate)	X (no problems with implementation in law)		<u>The Ministry of the Interior:</u> Overall, mediation provided by the State Probation Service has been used rarely by the victims.	<u>The Ministry of the Interior:</u> The national law provides the right to meditation for a victim by the expressed desire.
The right to non-discrimination	X			Provided by the national law.
The right to protection from intimidation, victimization and retribution	X (no problems with implementation in law)		<u>The Ministry of the Interior:</u> Absolute protection cannot be guaranteed from victimization committed by the neighbours, colleagues or the media. <u>The Prosecution's Office:</u> In separate cases the re-victimization of the	Provided by the national law.

			persons is found in the result of similar criminal offences.	
The right to respectful treatment from the police and judicial authorities	X			Provided by the national law.

2) In your opinion, has Recommendation Rec(2006)8 contributed to the development of victims' rights in your country?

Yes, it has had an impact, but this impact was limited. The Recommendation helped introduce new rights or revise existent rights, but these changes were mainly caused by other factors (e.g., other international or regional legal instruments requiring change).

The Recommendation Rec(2006)8 made a certain impact, but as a part of general policies, mostly represented by national legislation, which existed before the Recommendation, and EU directives, like - 2012/29/ES.

The Prosecution's office:

Recommendation Rec(2006)8 enhanced the improving the rights of victim in the criminal procedure, at the same time into the Criminal Procedure Law of Latvia is incorporated a range of the victims' rights laid down by the Directive 2011/36/EU of the European Parliament and of the Council of 5 April 2011 on preventing and combating trafficking in human beings and protecting its victims, and replacing Council Framework Decision 2002/629/JHA, Directive 2011/92/EU of the European Parliament and of the Council of 13 December 2011 on combating the sexual abuse and sexual exploitation of children and child pornography, and replacing Council Framework Decision 2004/68/JHA, Directive 2011/99/EU of the European Parliament and of the Council of 13 December 2011 on the European protection order and Directive 2012/29/EU of the European Parliament and of the Council of 25 October 2012 establishing minimum standards on the rights, support and protection of victims of crime, and replacing Council Framework Decision 2001/220/JHA. For example, into the Criminal Procedure Law was introduced the concept of victim enjoying the special protection, thereby is ensured the special attitude and procedures in all cases when the victim of the criminal offence is under-aged person, a person who due to mental or other health disorders is not capable to enjoy his/her procedural rights himself/herself, a person who is victim of the criminal offence against morals or sexual inviolability of a person, or of the human trafficking, or a person who has suffered from the criminal offence related with the violence or threatened violence committed by a relative of the victim, former spouse or a person with whom the victim was in constant sexual relationships, a person who in the result of the criminal offence is allegedly inflicted the grievous bodily injuries or mental disturbances, a person who has suffered from the criminal offence allegedly committed due to racist, national, ethnic or religious motives

II. Need for additional CoE Guidelines on victims' rights

When considering the question whether there would be an added value in drafting new or additional guidelines on victims' rights and role in criminal proceedings, the CDPC took note of the suggestion that such guidelines could allow the CoE to play an active facilitative role in addressing certain practical issues identified by member States and that such an approach might help to give concrete expression to victims' rights in their domestic laws and practice.

3) Would you, in principle, favour such guidelines? *Yes/no - Yes, but it depends on what exactly guidelines will be created.*

If not, please explain.

If you favour additional guidelines, what should they cover? *(multiple answers possible)*

- a) The guidelines should provide further guidance on the rights already contained in the Recommendation
- b) The guidelines should expand the rights already contained in the Recommendation - NO!
- c) The guidelines should cover topics such as tourists who fall victims to crime abroad....

The Ministry of the Interior:

The Ministry of interior of the Republic of Latvia takes a stand that comprehensive regulation concerning the rights of victims in criminal justice system has already been introduced. Nonetheless, the Ministry of the Interior of the Republic of Latvia has no objections towards suggestion of creating additional rights to the victims in criminal justice system if the necessity is expressed by the consensus of the member states of the Council of Europe.

The Prosecution's Office:

The Prosecution's Office has no objections against the developing of new guidelines regarding the rights and role of the victim in the criminal procedure. At the same time, during the developing of the guidelines, the global trends of the crimes should be taken into the consideration, for example, criminal offences in the digital environment, additional possibilities for prevention of the re-victimization.

MOLDOVA

	No problems with implementation in law or practice	Some problems with implementation <u>in the law</u>	Some problems with implementation <u>in practice</u>	Comments
Access to information throughout the proceedings, in a language known by the victim	-			An injured party shall review the materials in the criminal case file as of the moment of completion of the criminal investigation, including in the case of criminal proceedings, and to copy out any information from the case file. These provisions prohibit the injured party, the accused, the civil party, the suspect and the civilly liable party from having access to the criminal case files during the criminal prosecution. These provisions have been submitted by judicial control. The Constitutional Court has been requested regarding their legality. By the Constitutional Court's decision was accepted that the interdiction can pursue the legitimate aim of preserving the confidentiality of criminal prosecution. At the same time, the Court noted that the legitimate purpose of preserving the confidentiality of criminal prosecution must be related to the particular interests of each part of the process. As a conclusion, considering the fact that this unconstitutionality exception was raised in a criminal case involving the investigation of an alleged crime of torture, by the Court decision of 29.11.2018, victims of torture and their representatives will have access to all criminal case material during the criminal prosecution, which is the general rule.

The right to be heard and provide evidence	yes			
The right to be notified about important decisions or case developments	yes			
The right to participate in criminal proceedings	yes			
The right to legal aid (where appropriate)	yes			
The right to mediation (where appropriate)	yes			
The right to non-discrimination	yes			
The right to protection from intimidation, victimization and retribution	yes			
The right to respectful treatment from the police and judicial authorities	yes			

2) In your opinion, has Recommendation Rec(2006)8 contributed to the development of victims' rights in your country?

- d. Yes, it has had an important impact. Thanks to the Recommendation, new rights have been introduced and/or existent rights have been revised.
- e. Recommendation had a positive impact, being applied in conjunction with other international Conventions that refer to the victim's interests to a greater or lesser extent, including another Conventions of Council of Europe:
 - preventing and combating violence against women and domestic violence;
 - the fight against trafficking in human beings;
 - for the protection of children against sexual exploitation and sexual abuse;
 - preventing torture and punishment or inhuman or degrading treatment

II. Need for additional CoE Guidelines on victims' rights

When considering the question whether there would be an added value in drafting new or additional guidelines on victims' rights and role in criminal proceedings, the CDPC took note of the suggestion that such guidelines could allow the CoE to play an active facilitative role in addressing certain practical issues identified by member States and that such an approach might help to give concrete expression to victims' rights in their domestic laws and practice.

3) Would you, in principle, favor such guidelines? *Yes/no*

Yes.

If not, please explain.

If you favor additional guidelines, what should they cover? *(multiple answers possible)*

- a. The guidelines should provide further guidance on the rights already contained in the Recommendation
- b. The guidelines should maybe expand the possibility of assistance already contained in the Recommendation.

It is necessary for the victim to be assisted by a trusted person, who could be assured by the state or by a non-governmental organization. In this regard, could be appropriate to provide in guideline the possibility for "advocacy" immediately after committing the offence and in criminal proceedings.

MONTENEGRO

	No problems with implementation in law or practice	Some problems with implementation	Some problems with implementation	Comments
Access to information throughout the proceedings, in a language known by the victim	No problems with implementation in law or practice			Parties, witnesses and other persons involved in the proceedings have the right to use their own language or language they understand. If the proceedings are not conducted in the language of any of these persons, translation of statements, documents and other written evidence will be ensured. Translation is entrusted to a court interpreter.

<p>The right to be heard and provide evidence</p>	<p>No problems with implementation in law or practice</p>			<p>The injured party has the right to point out all facts during the investigation and to propose evidence of relevance to the criminal matter and his property claim.</p> <p>At the main trial, the injured party and the private prosecutor have the right to propose evidence, ask questions to the accused, witnesses and expert witnesses, give remarks and explanations regarding their testimonies, and make other statements and suggestions.</p> <p>The injured party, the injured party as the prosecutor and the private prosecutor, have the right to examine the files and to examine the cases that serve as evidence.</p> <p>The injured party who is a victim of a criminal offense against sexual freedom has the right to be heard by a judge of the same sex, who will conduct the proceedings, if the composition of the court makes it possible.</p> <p>The injured party who is the victim of a criminal offense against sexual freedom, as well as the child being interviewed as a witness, has the right to testify in a separate room before a judge and a recorder, and the prosecutor, the defendant and the defense attorney to watch it from another room with the possibility to ask questions to the witness, about which the court is obliged to educate them, which is recorded in the minutes.</p>
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The right to be notified about important decisions or case developments	No problems with implementation in law or practice			
The right to participate in criminal proceedings	No problems with implementation in law or practice			See previous comments in the table.
The right to legal aid (where appropriate)				<p>When the criminal proceedings are prosecuted for a criminal offense with the imprisonment sentence of more than three years prescribed, and the injured party can not bear the costs of legal representative, an attorney may be appointed upon request of the injured party if it is in the interest of justice. If a minor is injured party, the court will evaluate ex officio in the course of the entire criminal proceedings whether it is necessary to appoint an attorney.</p> <p>Also, the victim can also exercise the right to free legal aid based on a special law - the Law on Legal Aid.</p>
The right to mediation (where appropriate)	No problems with implementation in law or practice			
The right to non-discrimination	No problems with implementation in law or practice			

<p>The right to protection from intimidation, victimization and retribution</p>			<p>Although Victims Support Services are provided to witnesses of trafficking in human beings and domestic violence, services are not used sufficiently, and their promotion and awareness of victims with this type of support is needed.</p>	<p>In all basic and higher courts in Montenegro, as well as misdemeanor courts, the Victims Support Services have been established for witnesses of trafficking in human beings and domestic violence.</p> <p>These services provide different types of support:</p> <ul style="list-style-type: none"> - practical information regarding the work of the court, criminal and misdemeanor procedure, place of sitting in the courtroom, rights and obligations as an injured party / witness, protection measures and other issues relating to appearance and testimony before the court and protection against violence or trafficking in human beings; - emotional support and escort during testimony; - receiving witnesses of victims when entering court and staying with them during in a special waiting rooms and courtrooms during the trial. - providing conditions for safe and secure testimony, i.e. protection against physical assaults or insults before and after trial at court premises; - cooperation with police, social welfare centers, courts and civil society organizations to provide comprehensive support; - cooperation with prisons and probation department; - notifications of the release of perpetrators of violence or trafficking in human beings from the execution of
<p>The right to respectful treatment from the police and judicial authorities</p>				

2) In your opinion, has Recommendation Rec(2006)8 contributed to the development of victims' rights in your country?

- a. Yes, it has had an important impact. Thanks to the Recommendation, new rights have been introduced and/or existent rights have been revised.
- b. Yes, it has had an impact, but this impact was limited. The Recommendation helped introduce new rights or revise existent rights, but these changes were mainly caused by other factors (e.g., other international or regional legal instruments requiring change).
- c. No, it has had little to no impact. The Recommendation did not (really) contribute to the creation of new or improved victims' rights.
- d. Other, please specify....

Please, elaborate on your answer.... (*comments*)

II. Need for additional CoE Guidelines on victims' rights

When considering the question whether there would be an added value in drafting new or additional guidelines on victims' rights and role in criminal proceedings, the CDPC took note of the suggestion that such guidelines could allow the CoE to play an active facilitative role in addressing certain practical issues identified by member States and that such an approach might help to give concrete expression to victims' rights in their domestic laws and practice.

3) Would you, in principle, favour such guidelines? Yes

If not, please explain.

If you favour additional guidelines, what should they cover? (*multiple answers possible*)

- a. The guidelines should provide further guidance on the rights already contained in the Recommendation
- b. The guidelines should expand the rights already contained in the Recommendation
- c. The guidelines should cover topics such as tourists who fall victims to crime abroad....

THE NETHERLANDS

	No problems with implementation in law or practice	Some problems with implementation <u>in the law</u>	Some problems with implementation <u>in practice</u>	Comments
Access to information throughout the proceedings, in a language known by the victim	<p>Access to information is guaranteed in the provisions, laid down in Article 51ab, 51ac, 51b of the Dutch Code of Criminal Procedure (DCCP).</p> <p><u>Article 51ab</u> rules that the officer of the police, the public prosecutor or other investigating officers shall ensure that the victim is immediately provided with information, on his first contact with the investigating officer concerned, to enable him to gain access to the rights that are due to him.</p> <p><u>Article 51ac</u> rules that the public prosecutor shall ensure that the victim is immediately informed of his right to receive sufficient information about the commencement and progress of the case, subsequent to an offence committed against the victim.</p> <p>The victim shall in particular be informed of his right to receive information about:</p> <p>a. waiving a criminal investigation or</p>			All written information for victims, both in print and on websites, has been transposed to generally understood language (B1). This information is available in multiple languages.

	<p>terminating it;</p> <p>b. not prosecuting a criminal offense;</p> <p>c. submitting a report to a suspect;</p> <p>d. the commencement and continuation of the prosecution, including the issuance of a punishment order;</p> <p>e. the nature of the accused accused;</p> <p>f. the place, date and time of the hearing;</p> <p>g. the final verdict in the criminal case against the suspect;</p> <p>h. setting up or failing to appeal.</p> <p>Victims can, on the ground of Article 51ca (1) request for the translation of the information above in a language he understands.</p> <p>Article 51ac furthermore grants a right to the victim to be informed, at his request, about the commencement and progress of the case and about the release or escape of the suspect who is in pre-trial detention or of the offender who has been detained. At his request, the prosecutor also informs the victim about the protective measures that have been taken if the suspect in pre-trial detention or the detained offender has been released or escaped.</p> <p><i>Further rules and rules concerning the application of the aforementioned rights</i></p>			
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	<p><i>are laid down in the Decree on the Victims of Crime</i> (https://wetten.overheid.nl/BWBR0038468/2017-04-01)</p> <p><u>Article 51b</u> grants the victim a right to request the public prosecutor to add documents that he considers relevant for the assessment of the case against the suspect or his/her claim against the suspect. Furthermore, the victim has a right of requesting the prosecutor to give access of case file documents that are of interest to the crime victim.</p>			
The right to be heard and provide evidence	<p>Crime victims have a right to deliver a victim impact statement and a victim opinion statement before the courts, guaranteed for in Article 51e DCCP. Furthermore, victims have the possibility of requesting the public prosecutor to add documents to the criminal dossier (Article 51b, paragraph 2, DCCP).</p>			
The right to be notified about important decisions or case developments	<p>See above, under ‘Access to information throughout the proceedings, in a language known by the victim’</p>			
The right to participate in criminal proceedings	<p>As said above, victims can deliver a victim impact statement and victim opinion statement before the courts. Victims</p>	<p>There are no general provisions (yet) for step- and foster family to</p>		

	furthermore have a right to claim financial compensation in criminal proceedings and can also participate in the criminal proceedings by requesting the public prosecutor to add documents to the case file (see above)	deliver a victim impact/opinion statement. The Dutch government however currently prepares a Bill that allows step- and foster family to deliver this statement.		
The right to legal aid (where appropriate)	<p>All crime victims have a right to be supported by Victim Support (<i>Slachtofferhulp Nederland</i>) on the basis of the Decree on the Victims of Crime (Article 2).</p> <p>All victims furthermore have the right to be assisted by a lawyer, during the investigation and during court hearings (Article 51c). The victim has a right to assistance by an interpreter if he doesn't understand the Dutch language in a sufficient manner.</p> <p>Victims of serious violent and sexual offences have a right to <i>financed</i> legal aid on the ground of the Legal Aid Act.</p>			Lawyers have to follow a special course before being accredited as a victim lawyer.
The right to mediation (where appropriate)	Article 51h DCCP states that the Public Prosecutors Office promotes police officers to inform victim and suspect about the possibilities for mediation in an early stage		Victim-offender mediation after conviction is still more common then as part of	The Ministry of Justice and Security also funds an organization (Perspectief Herstelbemiddeling) that facilitates mediation. Furthermore, mediation will have a

	of the criminal proceedings.		or alternative for criminal proceedings.	more prominent position in the new Dutch Code of Criminal Procedure.
The right to non-discrimination	<p>The public prosecutor shall be responsible for ensuring that all crime victims are treated appropriately.</p> <p>All persons in the Netherlands shall be treated equally in equal circumstances. Discrimination on the grounds of religion, belief, political opinion, race or sex or any other grounds whatsoever shall not be permitted (Article 1, Dutch Constitution).</p>			
The right to protection from intimidation, victimization and retribution	<p>The rights of crime victims in Title IIIA – which have been elaborated upon of the DCCP seek to protect victims against further victimization and retribution. In this respect it is especially important to address the right to be assisted and supported by Victim Support.</p> <p>Moreover, victims have a right to be assisted by a lawyer. Victims of serious violent and sexual offences have a right to financed legal aid on the ground of the Legal Aid Act.</p> <p>Furthermore, the investigating officer, or other official of an organization responsible for the investigation of criminal offences,</p>			

	<p>shall ensure that the victim, during or as soon as possible after the first contact, receives a timely and individual assessment to identify specific protection needs and to determine whether and to what extent the victim should be able to use special measures during criminal proceedings and the execution of criminal decisions, given his particular vulnerability to secondary and repeat victimization, to intimidation and to retaliation.</p> <p>The details of these procedures are codified in the Decree on the Victims of Crime</p>			
The right to respectful treatment from the police and judicial authorities	<p>The right to be treated in a respectful manner is codified in Article 51aa DCCP and further elaborated upon in the Decree on the Victims of Crime. In the Decree the authorities are furthermore obliged to provide for an individual assessment of the need of specific victims (Chapter 5).</p>		<p>This right is relatively new and currently being implemented in the organization of the Dutch Police and the PPS.</p>	

2) In your opinion, has Recommendation Rec(2006)8 contributed to the development of victims' rights in your country?

- a. Yes, it has had an important impact. Thanks to the Recommendation, new rights have been introduced and/or existent rights have been revised.
- b. **Yes, it has had an impact, but this impact was limited. The Recommendation helped introduce new rights or revise existent rights, but these changes were mainly caused by other factors (e.g., other international or regional legal instruments requiring change).**
- c. No, it has had little to no impact. The Recommendation did not (really) contribute to the creation of new or improved victims' rights.
- d. Other, please specify....

Please, elaborate on your answer.... (*comments*)

The Recommendation is an important development in the ongoing process of enhancing victims' rights in criminal proceedings. Furthermore, it gave an impetus to elaborate upon the development of these rights on the level of the EU. This eventually led to the establishment of the Directive 2012/29/EU of the European Parliament and of the Council of 25 October 2012 establishing minimum standards on the rights, support and protection of victims of crime, and replacing Council Framework Decision 2001/220/JHA. This document was very influential for the further development of the rights of the victim in the Dutch Code of Criminal Procedure. In sum, the Recommendation can be considered an important part of a more thorough evolution of the rights of victims.

II. Need for additional CoE Guidelines on victims' rights

When considering the question whether there would be an added value in drafting new or additional guidelines on victims' rights and role in criminal proceedings, the CDPC took note of the suggestion that such guidelines could allow the CoE to play an active facilitative role in addressing certain practical issues identified by member States and that such an approach might help to give concrete expression to victims' rights in their domestic laws and practice.

3) Would you, in principle, favour such guidelines? Yes/no

If you favour additional guidelines, what should they cover? *(multiple answers possible)*

- c. The guidelines should provide further guidance on the rights already contained in the Recommendation
- d. The guidelines should expand the rights already contained in the Recommendation
- e. The guidelines should cover topics such as tourists who fall victims to crime abroad....

NORTH MACEDONIA

	No problems with implementation in law or practice	Some problems with implementation <u>in the law</u>	Some problems with implementation <u>in practice</u>	Comments
Access to information throughout the proceedings, in a language known by the victim ²	<p>In article 9 of the LCP is prescribed that defendant, the injured party, the private plaintiff, the witnesses and all other participants in the procedure who speak an official language other than Macedonian, shall have the right to use their own language and alphabet during the proceedings.</p> <p>The entity that conducts the procedure shall ensure verbal interpretation of anything said and presented by the parties, as well as of any documents and other written exhibits and evidence. The entity that conducts the procedure shall ensure a written translation of all written submissions that are important for the procedure or defense of the accused.</p> <p>Article 10 prescribes that any claims, appeals and all other submissions shall be submitted in the language in which the procedure is being conducted. Any citizens who speak an official language other than Macedonian may submit their filings in their own language and alphabet. Such filings shall be translated and distributed to all parties in the proceedings.</p> <p>Article 11 prescribes that court summons, decisions and other written materials shall be delivered in the language used in the procedure. Any citizens who speak an official language other than Macedonian shall also receive the summons, decisions and other written materials in their own language</p> <p>In article 57 of the LCP paragraph 3 is prescribed that the victim/injured party has a right to use his or her language and alphabet and the right to be</p>	No	No	

² According to the article 21 of the Macedonian Law on criminal procedure:

- 1) A **victim** of a criminal offense shall be any individual who has suffered some kind of damage, including physical or mental injuries, emotional suffering, property loss or any other violation or endangerment of his or her rights and interests, as a consequence of a criminal offense that has been committed.
- 2) An **injured party**, apart from the victim shall also be any other individual who's personal or property rights have been violated or endangered by a criminal offense and who participates in the criminal procedure by joining the criminal prosecution or for the purpose of effectuating a property loss claim.

	assisted by an interpreter, i.e. a translator if he or she does not understand the language used during the procedure.			
The right to be heard and provide evidence	Article 57 paragraph 5 stipulates that the victim has a right to indicate facts and propose evidence	No	No	
The right to be notified about important decisions or case developments	In article 57 paragraph 11 is prescribed that the victim/ injured party has right to be informed about any lack of action or waiver of criminal prosecution rights by the public prosecutor	No	No	
The right to participate in criminal proceedings	In article 53 of the LCP is prescribed that the victim/injured party has right to participate in the criminal procedure as an injured party by joining the criminal prosecution or for the purpose of a legal-property claim for damages. Also in paragraphs 5,6 and 7 of the article 57 prescribes that the injured party has a right to indicate facts and propose evidence; to be present at the evidentiary hearing; to be present at the main hearing and to participate in the evidentiary procedure, as well as to comment on the legal or property claim and the legal and criminal event; and after the investigation has been completed, to review the files and items that are going to be used as exhibits and evidence;	No	No	
The right to legal aid (where appropriate)	Article 53 stipulates that in accordance with the special regulations, any victim of a crime, which entails a prison sentence of at least four years, shall have the right to get a councilor paid by the state budget before giving a statement, i.e. declaration or filing the legal-property claim, if the victim has serious psycho-physical impairment or if there are serious consequences as a result of the crime. In article 55 of the LCP is prescribed that apart from the rights established in Article 53, the victim of crimes against gender freedom and gender morality, humanity and international law, shall also have right before the interrogation, to speak to a counselor or a proxy free of charge, if he or she participates in the procedure as an injured party.	No	No	
The right to mediation (where appropriate)	In article 57 paragraph 15 is prescribed that the injured party has right to participate in the mediation process, in a manner and under conditions as	No	No	

	prescribed in this Law.			
The right to non-discrimination	<p>It is regulated in the Law on prevention and protection against discrimination.</p> <p>This Law provides prevention and protection against discrimination in realizing the rights guaranteed with the Constitution of the Republic of Macedonia, the law and ratified international agreements.</p> <p>The law prescribes the basis for discrimination, application of the law, forms of discrimination, competent body – Commission, procedure in front of the Commission, right to court protection and misdemeanors provisions.</p>	No	No	
The right to protection from intimidation, victimization and retribution	<p>Article 54 of the LCP prescribes the Special rights of victims of vulnerable categories of victims.</p> <p>The victims shall have the right to special measures of process protection when giving statement or being interrogated during all stages of the procedure:</p> <p>1) if, at the time when giving the statement, the victim is less than 18 years of age;</p> <p>2) if giving a statement or an answer to a certain question would mean exposing themselves or another close person to a serious threat for their life, health or physical integrity (endangered victims);</p> <p>3) if, because of their age, the nature and consequences of the crime, the physical or psychological disability or another significant health condition, the social or cultural history, family circumstances, religious beliefs and the ethnic affiliation of the victim, the behavior of the defendant, members of the defendant's family or friends towards the victim, there might be harmful consequences for their psychological or physical health or if it has a negative effect on the quality of the statement provided (especially vulnerable victims).</p> <p>The special measures of process protection shall be determined by the court, upon proposal from the public prosecutor or the victim, or upon its own initiative, when it is necessary to protect the endangered and especially vulnerable victims.</p> <p>When deciding on the determination of the special measures of process protection, the court shall have to take into account the victim's will.</p> <p>The court shall have to assign special measures of process protection in the</p>	No	No	

	<p>cases:</p> <p>1) when a child victim has a need for special care and protection; or</p> <p>2) when the child is a human trafficking victim, victim of violence or sexual abuse.</p> <p>In these cases (1 and 2), individually or along with another special measure of protection, the court has to ask for a video and audio recording of the statement and interrogation of the child, so that it can be used as evidence in the procedure. In exceptional cases, because of newly established circumstances in the case, the court may order additional interview of the child victim, once more at the most, through the use of technical means of communication.</p> <p>The manner of implementation of the special measures of process protection of child victims is regulated with a separate law.</p>			
The right to respectful treatment from the police and judicial authorities	Article 53 paragraph 2 stipulates that the victim has a right to get special care and attention by the bodies and entities that participate in the criminal procedure.	No	No	

- 2) In your opinion, has Recommendation Rec(2006)8 contributed to the development of victims' rights in your country?
- Yes, it has had an important impact. Thanks to the Recommendation, new rights have been introduced and/or existent rights have been revised.
 - Yes, it has had an impact, but this impact was limited. The Recommendation helped introduce new rights or revise existent rights, but these changes were mainly caused by other factors (e.g., other international or regional legal instruments requiring change).**
 - No, it has had little to no impact. The Recommendation did not (really) contribute to the creation of new or improved victims' rights.
 - Other, please specify....

The Law on criminal procedure was drafted in time period of two years (2008 – 2009) and in this time many experts were engaged, as well as many international instruments/standards were consulted. The law was enacted and the vacatio legis was 2 years. This period was needed in order to prepare all main actors in the criminal justice system for the new and modern criminal procedure.

After couples of years of implementation, the Ministry of Justice, within the working group composed of experts from judicial sector, prepared new draft for changes and amendments of the law. This was necessary having in mind the located gaps and problems in the practice. In this draft, we also consulted and implemented the latest standards in the criminal law. The law is in draft version, but is expected to be send to government procedure in the next period. In the next period the accent will be put on the implementation process.

II. Need for additional CoE Guidelines on victims' rights

When considering the question whether there would be an added value in drafting new or additional guidelines on victims' rights and role in criminal proceedings, the CDPC took note of the suggestion that such guidelines could allow the CoE to play an active facilitative role in addressing certain practical issues identified by member States and that such an approach might help to give concrete expression to victims' rights in their domestic laws and practice.

3) Would you, in principle, favour such guidelines? *Yes/no*

No.

If you favour additional guidelines, what should they cover? *(multiple answers possible)*

- a. The guidelines should provide further guidance on the rights already contained in the Recommendation
- b. The guidelines should expand the rights already contained in the Recommendation
- c. The guidelines should cover topics such as tourists who fall victims to crime abroad....

NORWAY

I. Practical experiences in your legal system with Recommendation Rec(2006)8 on assistance to crime victims

1. Norway has implemented the vast majority of the rights in Rec(2006)8. No particular challenges as to their implementation have been reported.
2. Alternative b) seems to be the most adequate alternative for Norway.

II. Need for additional CoE Guidelines on victims' rights

3. As previously stated, Norway is in favour of a new set of guidelines. In our view, the guidelines should cover a) and – in some areas – possibly also b). We are not currently in the position to have any specific opinion on whether c) should be included or not.

PORTUGAL

- 1) What are the practical experiences of the member states with the implementation of Recommendation Rec(2006)8 in law and in practice?

Recommendation Rec(2006)8, together with Directive 2004/80/EC on compensation to crime victims, had implications in the national legal order, with a particular impact on improving the protection of victims and on the State compensation for crime victims and domestic violence. Moreover, it provided the grounds for restructuring State's intervention in this area. For instance, in 2010, the Commission for the Protection of Victims of Crime was created as an administrative independent body, replacing the former Commission for the Management of the Compensation Requests of Victims of Violent Crimes.

- 2) Do member states feel a need for developing additional CoE instruments in this area?

We believe that it would be important to update and develop what already exists in the CoE on victims' rights, particularly as regards transnational victims in order that, where possible, the victims of crime can have the same level of support and protection in all Member States.

The goal of the survey is *not* to present a complete picture of the state of the art or victims' rights in the CoE member states, but to serve as basis for decision by the CDPC in its ensuing decision making process on whether or not to create new guidelines that deal with crime victims' rights in a comprehensive fashion. The focus lies furthermore both on the practical experiences of the member states with the implementation of certain rights in national laws, regulation or guidelines ('law in the books') and their implementation in practice ('law in practice').

Below are three questions, please elaborate on your answers where possible.

Thank you in advance for your cooperation.

	No problems with implementation in law or practice	Some problems with implementation <u>in the law</u>	Some problems with implementation <u>in practice</u>	Comments
Access to information throughout the proceedings, in a language known by the victim	No problem			<p>Articles 11 (1) and (3) and 12 of the Victim's Statute foresees the communication right to victims, which includes the possibility to appoint an interpreter and to have a translation of the documents, in accordance with the rules set forth in Article 92 of the Criminal Procedural Code (CPP).</p> <p>However, it should be noted that sometimes, regarding some languages, difficulties are faced in quickly getting an interpreter</p>
The right to be heard and provide evidence	No problem			Articles 67-A (4) and 68 of the CPP are very clear regarding the rights of the victim, namely the right to participate in the proceedings and to provide evidence.
The right to be notified about important decisions or case developments	No problem			<p>Article 67 (4) of the CPP and Article 11 of the Victim's Statute are very clear regarding the rights of victims of crime.</p> <p>Even if the victim have not declared in the beginning of the proceedings that he/she wants to be notified (Article 11(7)), he/she can at any time ask for information's (Article 11 (6)).</p>

				However when the offender is considered a dangerous person, the victim must be notified on the main judicial decisions affecting the offender status, in particular the application of coercive measures.
The right to participate in criminal proceedings	No problem			The victim can participate actively in the criminal proceedings. For that, he/she must request to be considered as « <i>assistente</i> » – Articles 68 and 69 of the CPP.
The right to legal aid (where appropriate)	No problem			According to the conditions set forth in Law no. 34/2004, of 29 de July, victims have the right to legal aid provided by the State. The right to legal aid is also foresee in Article 13 of Victim's Statute.
The right to mediation (where appropriate)	No problem			Law no. 21/2017, of 12 June, that establishes the Legal Regime for Penal Mediation, foresees the right to mediation.
The right to non-discrimination	No problem			The principle of equality is foreseen in Article 3 of the Victim's Statute. It is important to state that this principle of equality is a structural constitutional principle (Article 13 of the Constitution of the Portuguese Republic) regardless of the fact that the person is or is not a victim of crime.
The right to protection from intimidation, victimization and	No problem			Article 67-A (4) of CPP In addition, these rights are foreseen in

retribution				<p>Articles 15, 16 and 17 of Victim's Statute.</p> <p>Portuguese authorities are undertaking all the efforts needed to make this an effective measure all over the country, for instance that all courts have separate attending and waiting spaces for the victims and defendants.</p>
The right to respectful treatment from the police and judicial authorities	No problem			<p>A special reference to Articles 18 and 28 of the Victim's Statute should be made.</p> <p>Portuguese authorities are making great efforts to, namely, provide training to all police and court's officials who have direct contact with victims.</p>

2) In your opinion, has Recommendation Rec(2006)8 contributed to the development of victims' rights in your country?

- a. Yes, it has had an important impact. Thanks to the Recommendation, new rights have been introduced and/or existent rights have been revised.
- b. Yes, it has had an impact, but this impact was limited. The Recommendation helped introduce new rights or revise existent rights, but these changes were mainly caused by other factors (e.g., other international or regional legal instruments requiring change).
- c. No, it has had little to no impact. The Recommendation did not (really) contribute to the creation of new or improved victims' rights.
- d. Other, please specify....

Please, elaborate on your answer

Recommendation Rec(2006)8 had an impact in EU legal instruments and consequently in the national legal order.

II. Need for additional CoE Guidelines on victims' rights

When considering the question whether there would be an added value in drafting new or additional guidelines on victims' rights and role in criminal proceedings, the CDPC took note of the suggestion that such guidelines could allow the CoE to play an active facilitative role in addressing certain practical issues identified by member States and that such an approach might help to give concrete expression to victims' rights in their domestic laws and practice.

3) Would you, in principle, favour such guidelines? *Yes/no*

YES

If not, please explain.

If you favour additional guidelines, what should they cover? *(multiple answers possible)*

- a. The guidelines should provide further guidance on the rights already contained in the Recommendation
- b. The guidelines should expand the rights already contained in the Recommendation
- c. The guidelines should cover topics such as tourists who fall victims to crime abroad

Please elaborate on your answer *(comments)*

More than expand rights it will be important to consider to update recommendations in this matter and assess the need for enact guidelines for the one that already exist. How to grant that all victims have equal treatment in the territory of CoE States could be an issue to discuss. In addition, it would be important to share countries' good practices regarding the protection of foreign victims, allowing for the issuing of guidelines.

RUSSIA

1. In the Russian Federation various clusters of rights covered by Recommendation Rec(2006)8 are implemented in laws and in practice. There are no practical issues/problems with implementing these rights. Please find attached a completed table.
2. Recommendation Rec(2006)8 made a positive impact on the development of victims' rights in our country but this impact was limited. The Recommendation helped introduce new rights or revise existent rights, but these changes were mainly caused by other factors, in particular, by international legal instruments.
3. Regarding the question whether Member States would need additional guidelines of the Council of Europe on victims' rights, we note that these guidelines could be developed on specific topics such as protection of the rights of tourists who fall victims to crimes abroad, remedying environmental damage, etc.

Legal regulation of assistance to crime victims

Question 1	No problems with implementation in law or practice	Comments
Access to information throughout the proceedings, in a language known by the victim	<p>A court on behalf of the Russian Federation delivers a sentence; therefore, justice is exercised in a State language of the Russian Federation or State language of its republics.</p> <p>According to the Constitution of the Russian Federation, Article 68, Part 1, the Russian language is a state language on the entire territory of the Russian Federation and according to the Constitution of the Russian Federation, Article 26, Part 2, everyone has the right to use their native language.</p> <p>Federal Constitutional Law No. 1-FKZ of December 31, 1996 "On the judiciary system of the Russian Federation" envisages that court and legal proceedings in the Constitutional Court of the Russian Federation, the Supreme Court of the Russian Federation, arbitral courts and military courts are exercised in the Russian language, i.e., in a State language of the Russian Federation. Court and legal proceedings in other federal courts of general jurisdiction may be exercised in a State language of the republic where the court is located.</p>	The right is enshrined in law and implemented in practice

	<p>As stipulated by the Criminal Procedure Code of the Russian Federation (hereinafter referred to as "the CPC"), Article 18 and Article 42, Part 2, paras. 6 and 7, the participants in criminal court proceedings, including victims with no or poor command of the language in which criminal court proceedings are conducted, should be clarified and guaranteed the right to make statements, to give explanations and provide evidence, to file petitions and complaints, to review the materials of the criminal case and to take the floor in the court using their native language or another language they have a good command of, and to use free of charge interpreter's services in accordance with the procedure, established by the Code. All the investigation and judicial documents that have to be served on victims should be translated into their native language or into the language they have a good command of.</p> <p>The interpretation should be performed by an interpreter, i.e., a person fluent in a language of interpretation (the CPC of the Russian Federation, Article 59, Part 1). The CPC Articles 59 and 169 stipulate that the investigator and the court must not only clarify their rights and responsibility to the interpreters but also check their competence. In pursuance of the CPC, Articles 59 and 263, an interpreter is notified of criminal liability for malicious misinterpretation, as stipulated by the Criminal Code of the Russian Federation (hereinafter referred to as "the CC"), Article 307.</p> <p>According to the CPC, Articles 42, 69, 266, a victim is eligible to file recusation against an interpreter.</p> <p>Under the CPC, Articles 389.17, the violation of the victims right to use a language they have a good command of, and interpreter's assistance is a fundamental breach of criminal procedure legislation and causes a reversal of the sentence.</p>	
Question 2	No problems with implementation in law or practice	
The right to be heard and provide evidence	<p>According to the CPC, Article 5, para. 47, Articles 20, 21 and 22, criminal prosecution on behalf of the State on criminal cases of public or private-public prosecution is conducted by a prosecutor, as well as by an investigator and interrogator. A victim together with the prosecutor and investigator acts as a party of charge and has a right to participate by themselves or through their representative in the criminal prosecution of the party accused, while in criminal cases of the private prosecution – to lay and press charges following the procedure established by the CPC.</p> <p>In pursuance of the CPC, Article 15, criminal prosecution is carried out on the basis of adversarial nature of judicial proceedings and parties' equal rights.</p> <p>To protect their interests victims are endowed with the rights envisaged by the CPC, Article 42, Part 2, including the right to testify, to bring evidence, to file petitions and recusations, by the authority of an investigator or interrogator to take part in crime investigation procedure, carried out upon their own petition, to participate in judicial proceedings on a criminal case in first- and second-instance courts,</p>	The right is enshrined in law and implemented in practice

	<p>courts of cassation or supervision, as well as in furtherance of a sentence, to plead, to hold charge and to object sentencing without a trial per standard procedure.</p> <p>Articles 119, 120 and 159 of the CPC stipulate that victims during pre-trial or trial have a right to file a petition to hold proceedings or formulate proceeding decisions, aimed at establishing the facts of importance for the criminal case to protect their legal interests.</p> <p>Moreover, a petition may be filed at any time during criminal proceedings, and reasoned decisions are delivered thereon. Victims' request to examine witnesses, or carry out a forensic investigation or any other investigative activities, as well as to include evidence, including expert opinions, in the criminal case file, if the facts they plead for are relevant to the criminal case, cannot be refused. A decision to refuse the petition satisfaction can be appealed through the due process of law, a refusal of a petition does not deny victims opportunity to refile it.</p> <p>The CPC, Article 86, Part 2 clarifies that victims have a right to collect and submit written documents and objects for adducing them as evidence.</p> <p>According to the CPC, Articles 244, 246, 249, 271, 274, 277, 291, 299, judicial proceedings are conducted with the participation of a victim, after the completion of court investigation victims are eligible for adding to the court investigation and for speaking at a debate and delivering its opinion to the court regarding the merit of the case.</p> <p>If a case is heard with the participation of a jury, a victim has a right to take part in its drawing, to question potential jurors, to file a challenge for cause or peremptory challenge, to plead for dismissal of the jury, if they deem it incapable of returning a non-biased verdict. A victim is eligible for planting questions to be solved by jurors (the CPC, Articles 327, 330, 338).</p> <p>Victims enjoy their right to address the court and submit additional materials after sentencing during the process of its appeal in court of appeal, cassation, and supervision (the CPC, Articles 389.13, 389.14, 401.2, 401.13, 412.1, 412.10), and during proceedings in furtherance of the sentence (the CPC, Article 399, Parts 2.1, 3).</p>	
Question 3	No problems with implementation in law or practice	
The right to be notified about important decisions or case developments	According to the CPC, Article 42, Part 2 paras. 1, 10, 11, 13, 17, 20, during criminal proceedings victims have a right to know the charges brought against the accused, to review the protocols of investigative activities, performed with their participation, and to submit comments thereto, to review the decision on initiation of forensic investigation and experts' opinion, to receive copies of an order on institution of criminal proceedings, on recognizing them as victims, on the refusal to place the accused into	The right is enshrined in law and implemented in practice

	<p>custody as a pre-trial restriction, on termination of the criminal case, on suspension of the criminal proceedings, on deferring jurisdiction, on calling a preliminary hearing or a court session, as well as the copies of the sentence of a first-instance court or decisions of courts of appeal and cassation. Victims are eligible for receiving copies of any other service documents affecting their interests, especially a copy of a conclusion to indict, etc., at their request.</p> <p>Victims have a right to review the court records and to submit comments thereto, to learn about the complaints and adductions, submitted to the criminal case, and to file objections thereto, on the basis of a court decision or ruling resulting from the victim's petition, to be informed on arrival of a sentenced to imprisonment to the detention facility, including the transfer from one correctional facility to another, on departure of a sentenced to imprisonment from the relevant facility, on release time of the convicted from detention facilities, as well as to be informed on the judicial consideration given to the questions related to the sentence execution on release from punishment, respite of sentence or on substitution of unserved part of punishment with a lighter one.</p> <p>Criminal proceedings are carried out within a reasonable time, as stipulated by the CPC, Article 6.1. If the said provision is violated during pre-trial criminal proceedings, a victim or other parties concerned can lodge a complaint with a prosecutor or investigating authority head, as envisaged by the CPC, Article 123, which has to be considered in the manner and within the time limits specified in legislation. If the case has been brought to the court, but have seen no consideration, or judicial proceedings have been protracted, a victim is eligible for addressing the court president with an application for the case expedition.</p>	
Question 4		
The right to participate in criminal proceedings	<p>In pursuance of the CPC, Article 42, Part 2, para. 14, a victim has a right to participate in judicial proceedings on a criminal case in first- and second-instance courts, courts of cassation or supervision, to object sentencing without a trial per standard procedure, and to participate in a court session to the extent permitted by applicable law when questions on execution of a sentence are under consideration.</p> <p>The CPC, Article 125 provides for a victim's right to take part in judicial consideration of their complaint against the actions (lack of action) or decisions of an interrogator, investigator or prosecutor that affect victim's legal interests.</p> <p>The CPC, Article 249 specifies that court proceedings take place with the participation of a victim and/or their representative.</p> <p>According to the CPC, Articles 125, 231, 234, 389.11, 401.12, 399, 412.10, the victim's right to take part</p>	The right is enshrined in law and implemented in practice

	<p>in court proceedings corresponds to the court's obligation to inform the victim on a date, time and place of the criminal trial in advance.</p> <p>The CPC considers a failure to perform a stipulated by law obligation to inform a victim on trial held in his absence without the relevant petition as a significant violation of law that limits the victim's guaranteed right and entails a reversal of the judgment.</p>	
Question 5		
The right to legal aid	<p>Under the CPC, Article 5, para. 47, interests of a victim participating in judicial proceedings together with a prosecutor and investigator are mainly protected by the said representatives of public authorities who are tasked to perform criminal prosecution of offenders on behalf of the State and, in fact, protect the rights and lawful interests of victims. Citizens with a law degree fill such positions in public authorities.</p> <p>According to the CPC, Article 42, Part 2, para. 8, a victim is eligible for having their representative in criminal proceedings, e.g., a lawyer, that under the CPC Article 45 is endowed with the same procedural rights as a victim.</p> <p>Moreover, a representative can participate in criminal proceedings either individually or together with a victim's participation.</p> <p>To protect rights and lawful interests of victims that are underage or cannot defend their rights and legitimate interests by themselves due to their physical or mental condition participation of their guardians or representatives in criminal proceedings is mandatory.</p> <p>A general rule is that according to the CPC Articles 131, 132 victims spending on repayment to their representatives are included into the procedural costs and collected from the convicted, or in case of their bankruptcy are paid from federal funds.</p>	
Question 6		
The right to mediation	The Russian criminal legislation lacks the term "mediation." Victims exercise their rights and lawful interests either by themselves or through their representative.	
Question 7		
The right to non-discrimination	According to the provisions of the Constitution of the Russian Federation, all people are equal before the law and court. The State guarantees the equality of human and civil rights and freedoms regardless of gender, race, nationality, language, origin, social and economic status, place of residence, religious beliefs, views, affiliation with non-commercial organizations, or other circumstances. All forms of restrictions on citizens' rights on social, racial, national, language or religious grounds are prohibited.	

	Man and woman enjoy equal rights and freedoms and have equal possibilities to exercise them. In the Russian Federation, foreign citizens and stateless persons enjoy the rights and bear obligations on the same terms with citizens of the Russian Federation, (the Constitution, Articles 13,19,26,28,29,62).	
Question 8		
The right to protection from intimidation, victimization, and retribution	<p>In pursuance of the provision of the Constitution to protect human and civil rights and freedoms a court, prosecutor, investigator and interrogator have to inform victims of their rights and provide an opportunity to enjoy them.</p> <p>When there is sufficient data to prove that a victim, as a participant in criminal proceedings, as well as their immediate family members, relatives or other people close to them are threatened with murder, violence, destruction or damage of their property, or with other dangerous wrongful acts, a court, prosecutor, investigating authority representatives take security measures within their competence that are stipulated by law and relate to the said persons, including non-disclosure of personal information, monitoring, and recording of phone or other conversations, conducting identification or examination in a way that the victim cannot be seen or closed judicial proceedings. Closed judicial proceedings are carried out for criminal trials of offences against sexual inviolability and sexual freedom or other crimes when disclosure may cause divulging information on the intimate aspects of victim's life or humiliating and degrading their dignity information or if required for security of a victim, their immediate family members, relatives or other people close to them (the CPC, Articles 11,166,186,193,241,277,278).</p> <p>If a victim is underage, their teacher takes part in proceedings together with their legal representative (parent, adoptive parent or guardian) (the CPC, Article 280, Part 1). Moreover, if there are reasons to believe that actions of a victim's legal representative violate their interests such legal representative can be excluded from participation in criminal proceedings and replaced by another one under a decision of interrogator, investigator, judge or a ruling of court (the CPC, Article 45, Part 2.2.).</p> <p>Investigation of victims who are under 18 years old can be conducted in the absence of the accused, that is stipulated by an order or ruling of a court, to protect the rights of underage parties to a petition and at the initiative of the court (the CPC, Article 280, Part 2).</p> <p>Other security measures can be taken during criminal proceedings, as stipulated by Federal Law No. 119-FZ of August 20, 2004 "On State Protection of Victims, Witnesses and Other Parties to Criminal Proceedings", that include personal protection, protection of dwellings or property, provision of special means of individual protection, communications equipment and warning devices, guarantees of data confidentiality related to a person under protection, relocation, substitution of documents, etc.</p>	

	<p>To protect victim's interests and prevent repeated victimization under a court decision adopted in response to the victim's petition a victim has a right to be informed on arrival of a sentenced to imprisonment to the detention facility, on their transfer from one correctional facility to another, on departure of a sentenced to imprisonment from the relevant facility, on release time of the convicted from detention facilities, as well as to be informed on the judicial consideration given to the questions related to sentence execution on release from punishment, respite of sentence or on substitution of unserved part of punishment with a lighter one (the CPC, Article 42, Part 2, para. 21.1).</p>	
Question 9		
The right to respectful treatment from the police and judicial authorities	<p>Following the Constitution of the Russian Federation, Articles 21, 22, 23 and 53, human dignity is protected by the State, and no one can be subject to torture, violence or other cruel or humiliating treatment or punishment. Everyone has the right to freedom and personal immunity, privacy, personal and family secrets, the protection of one's honor and good name, State compensation for damage caused by unlawful actions (lack of action) performed by public authorities or their officials.</p> <p>The CPC Article 9 prohibits the actions and decisions humiliating to a participant of the criminal proceeding in their course, or treatment degrading to their human dignity or threatening their life or health. Participants in criminal proceedings cannot be subject to violence, torture or any other cruel treatment or treatment degrading their human dignity.</p> <p>Actions or lack of action, and decisions of the court, prosecutor, head of investigating authority, investigator, of a head of interrogation authority and interrogator can be appealed under the procedure, established by law (the CPC, Article 19). Order of appeal is described in the CPC, Chapter 16.</p> <p>According to the CC of the Russian Federation, Article 302, victims' coercion to testify through threats, blackmail, or other illegal actions performed by an investigator or interrogator, or any another person with the consent or the acquiescence of the investigator or interrogator, as well as the said actions associated with violence, bullying and torture are punishable by criminal law. Moreover, under the CC, Articles 285,286,292,293, abuse or excess of power, forgery, or negligence, i.e., non-fulfillment or improper fulfillment of duties due to a dishonest and nonchalant attitude to the job or official responsibilities, performed by officials are punishable by criminal law.</p> <p>Article 10 of the Code of Judicial Ethics provides for equal treatment for all persons participating in the case, sustaining the balance between the parties, ensuring equal opportunities for every party, showing integrity and impartiality, treating all the participants of judicial proceedings equally, independent from their gender, race, nationality, language, origin, social and economic status, place of residence, religious beliefs, views, affiliation with non-commercial organizations and from other circumstances. A judge must behave ethically when communicating with citizens, respect the moral</p>	

	<p>customs and traditions of peoples, act with regard to the cultural sensitivities and other features of different ethnic and social groups and denominations, promote the interethnic and interreligious concord, prevent conflict situations, which may harm the reputation of the judge or the authority of the judicial power.</p> <p>A judge must not demonstrate their religious affiliation in the performance of judicial duties.</p> <p>A judge must perform professional duties with no preference or actual or perceived bias or discrimination, securing the necessary conditions for the parties to fulfill their procedural obligations and enjoy their rights, ensuring a fair trial within a reasonable time.</p>	
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SERBIA

	No problems with implementation in law or practice	Some problems with implementation <u>in the law</u>	Some problems with implementation <u>in practice</u>	Comments
Access to information throughout the proceedings, in a language known by the victim	X			The victim has access to information in his/her native language throughout the proceedings and through court interpreters (with respect and protection of the personality of the victim)
The right to be heard and provide evidence	X			The victim has the right to participate actively in the proceedings, to propose and comment on evidence. Evidence is provided by the police.
The right to be notified about important decisions or case developments	X			The victim has this right in the proceedings and he/she is always notified about important decisions or developments in the case.
The right to participate in criminal proceedings	X			This right is regulated by the Code of Criminal Procedure and it depends on the statement of the victim.
The right to legal aid (where appropriate)	X			The victim has the right to legal aid in the manner and to the extent prescribed by the Code of Criminal Procedure.
The right to mediation (where appropriate)	X			The victim has this right and it depends on the will and interest of the victim.
The right to non-discrimination	X			The victim has this right completely, in accordance with the provisions of the Code of Criminal Procedure.

				The court is responsible for respecting this right.
The right to protection from intimidation, victimization and retribution	X			The victim has full protection from intimidation, victimization and retribution through the procedure provided by the law (for example, a special approach when questioning the victim in a separate room).
The right to respectful treatment from the police and judicial authorities	X			This right, prescribed by the provisions of the Code of Criminal Procedure is fully respected, taking care of the special needs of the victim in the examination.

2) In your opinion, has Recommendation Rec(2006)8 contributed to the development of victims' rights in your country?

- a. Yes, it has had an important impact. Thanks to the Recommendation, new rights have been introduced and/or existent rights have been revised.
- b. Yes, it has had an impact, but this impact was limited. The Recommendation helped introduce new rights or revise existent rights, but these changes were mainly caused by other factors (e.g., other international or regional legal instruments requiring change).
- c. No, it has had little to no impact. The Recommendation did not (really) contribute to the creation of new or improved victims' rights.
- d. Other, please specify....

Please, elaborate on your answer.... (*comments*)

a.Recommendation has influenced the further promotion of the rights of victims and the introduction of new techniques and the manner of its examination at the trial, without further victimization.

II. Need for additional CoE Guidelines on victims' rights

When considering the question whether there would be an added value in drafting new or additional guidelines on victims' rights and role in criminal proceedings, the CDPC took note of the suggestion that such guidelines could allow the CoE to play an active facilitative role in addressing certain practical issues identified by member States and that such an approach might help to give concrete expression to victims' rights in their domestic laws and practice.

3) Would you, in principle, favour such guidelines? ☐ Yes/☐ no

If not, please explain.

If you favour additional guidelines, what should they cover? (*multiple answers possible*)

- a. The guidelines should provide further guidance on the rights already contained in the Recommendation
- b. The guidelines should expand the rights already contained in the Recommendation
- c. The guidelines should cover topics such as tourists who fall victims to crime abroad....

Please elaborate on your answer (*comments*)

- b. The guidelines should also provide for additional mechanisms to protect the victim from the pressure of the perpetrator, in order to refuse for testifying when the victim is related to the perpetrator. Also, the guidelines should extend the rights of the victim, especially in the categories of juvenile victims, victims of domestic violence offences, rape offence and offences against sexual freedom with special protection of victim in psychological, social, emotional, health and social terms.
- c. The guidelines should cover other potential victims, such as foreign tourists who are victims of crimes, migrants, etc.

SLOVAK REPUBLIC

	No problems with implementation in law or practice	Some problems with implementation <u>in the law</u>	Some problems with implementation <u>in practice</u>	Comments
Access to information throughout the proceedings, in a language known by the victim	x			<p>The current Slovak legislation does not explicitly provide provision on “language known by the victim”. Victims are entitled to information that should be provided in an understandable way (especially in pre-trial period). After the beginning of criminal proceedings, victims/ aggrieved persons* are entitled to obtain information in understandable way and to help of an interpreter/translator in case they do not understand Slovak language.</p> <p>To our knowledge, there is not an official translation of the instruction for victims about their rights (given by police officers on first contact and hearing). The current instruction is available only in the Slovak language, in case when need arises, an interpreter is brought in.</p> <p>*aggrieved person in respect of criminal proceeding – a person where the criminal offence caused bodily harm, damage to assets, moral or other damage, or whose rights or freedoms protected by law were violated or threatened (term used by the Code of Criminal Procedure, differs from definition of victim – a natural person and his/hers immediate family or dependents, victim is considered a victim irrespective of the start of criminal proceeding).</p>
The right to be heard and provide evidence	x			Enshrined in Code of Criminal Procedure.
The right to be notified about important	x			Decisions directly linked to claims of aggrieved person (e.g. compensation claims) are delivered to the provided address.

decisions or case developments				
The right to participate in criminal proceedings	x			Aggrieved person/victim is entitled to participate in criminal proceeding, to raise claim for compensation and provide evidence.
The right to legal aid (where appropriate)	x			Based on Act on Victims of Crimes victims are entitled for legal aid in criminal and civil proceeding if they raised claim for compensation. This legal aid is provided by victim's support organizations and by the Centre for Legal Aid. In criminal proceeding, judge can nominate an <i>ex offio</i> attorney if the aggrieved person claiming compensation does not have sufficient funds for an attorney.
The right to mediation (where appropriate)	x			Aggrieved persons are entitled to make claims and suggestions for mediation or conclusion of an agreement with perpetrator.
The right to non-discrimination	x			Enshrined in Act on Victims of Crimes and Code of Criminal Procedure.

The right to protection from intimidation, victimization and retribution	x			<p>The right to protection from secondary victimization is guaranteed in Act on Victims of Crimes and Code of Criminal Procedure.</p> <p>However, not all professionals have received or took part in training for protection of secondary victimization. Some training is in progress, though not for professionals in every field (e.g. judiciary, police, health care providers, etc.)</p>
The right to respectful treatment from the police and judicial authorities	x			Included in Act on Victims of Crimes and Code of Criminal Procedure.

2) In your opinion, has Recommendation Rec(2006)8 contributed to the development of victims' rights in your country?

- a. Yes, it has had an important impact. Thanks to the Recommendation, new rights have been introduced and/or existent rights have been revised.
- b. Yes, it has had an impact, but this impact was limited. The Recommendation helped introduce new rights or revise existent rights, but these changes were mainly caused by other factors (e.g., other international or regional legal instruments requiring change).
- c. No, it has had little to no impact. The Recommendation did not (really) contribute to the creation of new or improved victims' rights.
- d. Other, please specify....

Please, elaborate on your answer.... *(comments)*

The changes introduced to the Slovak legislation were based on requirements of Directive 2012/29/EU of the European Parliament and of the Council transposition of 25 October 2012 establishing minimum standards on the rights, support and protection of victims of crime, and replacing Council Framework Decision 2001/220/JHA (hereinafter referred to as “Directive”). By transposition of the Directive into Slovak national legislation the rights of victims were amended and harmonized with EU legislation.

However, most of the rights (e.g. access to information, right to be heard and to participate in criminal proceedings, right to mediation and legal aid, non-discrimination) were present in the Slovak legislation even prior adoption of the Recommendation Rec(2006)8 of the Committee of Ministers to member states on assistance to crime victims (hereinafter referred to as “Recommendation”) and prior the Directive. Basic principles of these rights (not specifically in respect of victims, but in general terms) are present in the Constitution of the Slovak Republic. Extent of these rights changed to some degree after transposition of the Directive (novelization introduced new definitions of victimization, victim, particularly vulnerable victim; strengthened the position of a victim and imposed more precisely specified duty to provide information by relevant authorities).

II. Need for additional CoE Guidelines on victims’ rights

When considering the question whether there would be an added value in drafting new or additional guidelines on victims’ rights and role in criminal proceedings, the CDPC took note of the suggestion that such guidelines could allow the CoE to play an active facilitative role in addressing certain practical issues identified by member States and that such an approach might help to give concrete expression to victims’ rights in their domestic laws and practice.

3) Would you, in principle, favour such guidelines? **Yes/no**

If not, please explain.

If you favour additional guidelines, what should they cover? *(multiple answers possible)*

- a. The guidelines should provide further guidance on the rights already contained in the Recommendation
- b. The guidelines should expand the rights already contained in the Recommendation
- c. The guidelines should cover topics such as tourists who fall victims to crime abroad....

Please elaborate on your answer (*comments*)

(*Room for additional comments*)

Within the EU, the Directive stipulates provision on cooperation of states when it comes to inter-state compensation claims. Such recommendation, to harmonize and develop system of cooperation, establishment of network such as ENVR for exchange of good practices at the COE level could be beneficial and appreciated.

When it comes to tourists, the EU member states should grant compensation to victims in case when crime occurred in their territory. Authorities of member states provide information and help when claiming compensation. Elaboration on this topic at the COE level would be also beneficial.

On other note, the compensation schemes among states differ. Some states provide compensation after the end of criminal proceedings and only for victims of intentional violent crimes. However, victims of unintentional crimes are often in very similar situation in terms of financial or social background and thus should be entitled for similar compensation when e.g. their capacity to work is diminished. The Recommendation covers also topic of minimum standards of victims support services. These include material support, further guidelines on this topic would be welcomed as well.

SPAIN

	No problems with implementation in law or practice	Some problems with implementation <u>in the law</u>	Some problems with implementation <u>in practice</u>	Comments
Access to information throughout the proceedings, in a language known by the victim	There are no problems with the implementation in law of this right, and, in general, there is no evidence of problems in practice.			<p>The adoption of Law 4/2015 of 27 April, on the Status of Crime Victims involved the transposition in Spain of the European Parliament and Council Directive 2012/29/EU of 25 October 2012, establishing minimum standards with respect to the rights, the support and the protection of crime victims.</p> <p>In particular, Articles 4 and 5 of Law 4/2015 refer both to the victim's right to understand and be understood in any situation, from the moment the complaint is lodged and all along criminal proceedings. This includes getting information prior to the complaint (for which all communications with the victims, either oral or written, should be made in a clear, plain and accessible language) and the right to receive information from the first contact with the relevant authorities on, among other aspects, the supporting and assisting measures available. Moreover, it includes the right to complain and how to do it, the procedure to obtain legal advice and legal defence and, where appropriate, the conditions to be eligible for legal aid, as well as on the interpretation and translation services available. Article 7, in turn, regulates the right of the victim to receive information on the criminal case.</p> <p>Within the scope of the Ministry of Justice, the 27 Offices for the Assistance of Crime Victims reporting to it provide</p>

				detailed information, in an understandable language, on the rights of victims and how to exercise them, according to Article 19.2 of Royal Decree 1109/2015 of 11 December, implementing Law 4/2015 of 27 April, on the Status of Crime Victims and the Offices for the Assistance of Crime Victims.
The right to be heard and provide evidence	There are no problems with the implementation in law of this right, and, in general, there is no evidence of problems in practice.			Article 5.1.b) of Law 4/2015 establishes the right of all victims to provide relevant evidence to the authorities in charge of the investigation. Article 11 b) of the same text provides for the right of all victims to appear before the investigating authorities in order to present sources of evidence and any information deemed relevant to shed light on the facts.
The right to be notified about important decisions or case developments	There are no problems with the implementation in law of this right, and, in general, there is no evidence of problems in practice.			<p>Article 7 of Law 4/2015 determines the right of victims to be notified about certain decisions. Among others, it includes decisions dismissing to initiate criminal proceedings, judgments putting an end to procedures, decisions agreeing the imprisonment or the later release of convicts, as well as regarding any possible escapes or decisions from any judicial or prison authorities with regard to persons convicted of crimes committed with violence or intimidation and that may involve a threat to the victim's safety.</p> <p>When victims request to be notified about this kind of decisions, they may ask that decisions are also submitted to the Offices for the Assistance of Crime Victims or, where appropriate, to the Office for Information and Assistance to Victims of Terrorism of the <i>Audiencia Nacional</i> (National High Court).</p>
The right to participate in criminal proceedings	There are no problems with the implementation in law of this right, and, in			According to Article 11 of Law 4/2015, all victims are entitled to initiate criminal and civil proceedings under the provisions of the Code of Criminal Procedure, and to appear before the

	general, there is no evidence of problems in practice.			investigating authorities to provide sources of evidence and any information deemed relevant to shed light on the facts.
The right to legal aid (where appropriate)	There are no problems with the implementation in law of this right, and, in general, there is no evidence of problems in practice.			Within the scope of the Ministry of Justice, the Offices for the Assistance of Crime Victims reporting to it provide information about the way to obtain legal advice and legal defence. Furthermore, these Offices inform eligible victims about their right to obtain legal aid helping them to process it (according to Law 1/1996 on Legal Aid). The requests for legal aid may be directly submitted to the Offices, which shall send them to the corresponding bar association. Where appropriate, the Offices for the Assistance of Crime Victims shall also contact bar associations for the appointment of lawyers.
The right to mediation (where appropriate)	There are no problems with the implementation in law of this right, and, in general, there is no evidence of problems in practice.			Regarding the Offices for the Assistance of Crime Victims reporting to the Ministry of Justice, they may inform the victims on the different measures of restorative justice if applicable, propose the judicial authority to resort to mediation when deemed beneficial for the victim and provide supporting actions to extrajudicial mediation services.
The right to non-discrimination	There are no problems with the implementation in law of this right, and, in general, there is no evidence of problems in practice.			<p>According to the provisions of Law 4/2015, all victims have the right to receive a non-discriminatory treatment from their first contact with public officials and authorities, during the intervention of the services for the assistance and support to victims, throughout criminal proceedings and for a reasonable period after completion.</p> <p>Moreover, all communications with victims shall be made taking into account their personal circumstances and, very especially, the needs of persons with sensory, intellectual or mental impairment or under legal age.</p>

<p>The right to protection from intimidation, victimization and retribution</p>	<p>There are no problems with the implementation in law of this right, and, in general, there is no evidence of problems in practice.</p>			<p>Public officials and authorities responsible for investigating, prosecuting and judging criminal offences shall adopt the necessary measures to protect the life of all victims and their families, their physical and mental integrity as well as their sexual freedom, safety and indemnity. They shall also duly protect their privacy and dignity especially when receiving their statements or when they have to testify in a criminal trial, and to avoid the risk of secondary or repeat victimization. In case of victims under age, the Office of the Public Prosecutor will have special regard for the observance of this right to protection.</p> <p>Concerning the protection of victims during criminal investigation, public officials and authorities in charge of the investigation shall ensure that the statement of victims, whenever is necessary, is received without undue delays, the fewest times as possible, and only when it is strictly necessary for criminal investigation purposes.</p> <p>During the trial stage, measures can be adopted, for instance, to avoid visual contact between the victim and the alleged offender, or to ensure that the victim is heard without being present in the courtroom, for which communication technologies can be employed.</p> <p>The Offices for the Assistance of Crime Victims reporting to the Ministry of Justice shall provide victims with information concerning the possibility to ask for protection measures and, where appropriate, the procedure for doing so. In case of victims of gender-based and domestic violence, information shall be provided on the possibility to ask for a protection order and the procedure for doing so. Furthermore, these Offices will suggest victims the appropriate protection</p>
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The right to respectful treatment from the police and judicial authorities	There are no problems with the implementation in law of this right, and, in general, there is no evidence of problems in practice.			All victims are entitled to receive respectful, professional and individual treatment from their first contact with authorities or public officials.

- 2) In your opinion, has Recommendation Rec(2006)8 contributed to the development of victims' rights in your country?
- Yes, it has had an important impact. Thanks to the Recommendation, new rights have been introduced and/or existent rights have been revised.
 - Yes, it has had an impact, but this impact was limited. The Recommendation helped introduce new rights or revise existent rights, but these changes were mainly caused by other factors (e.g., other international or regional legal instruments requiring change).
 - No, it has had little to no impact. The Recommendation did not (really) contribute to the creation of new or improved victims' rights.
 - Other, please specify....

Please, elaborate on your answer.... (*comments*)

II. Need for additional CoE Guidelines on victims' rights

When considering the question whether there would be an added value in drafting new or additional guidelines on victims' rights and role in criminal proceedings, the CDPC took note of the suggestion that such guidelines could allow the CoE to play an active facilitative role in addressing certain practical issues identified by member States and that such an approach might help to give concrete expression to victims' rights in their domestic laws and practice.

3) Would you, in principle, favour such guidelines? *Yes/no*

If not, please explain.

If you favour additional guidelines, what should they cover? *(multiple answers possible)*

- a. The guidelines should provide further guidance on the rights already contained in the Recommendation
- b. The guidelines should expand the rights already contained in the Recommendation
- c. The guidelines should cover topics such as tourists who fall victims to crime abroad...

It would be most useful to have further guidance on other topics such as the action of assistance services in case of victims of cross-border crime and, in particular, defining the functions of those services in Spain at that regard (determining whether the case of foreign tourists passing through Spain and victims of a crime in our country should also be included), and creating efficient coordination mechanisms with other European countries. In accordance with European Council Directive 2004/80/EC of 29 April 2004 on the compensation to crime victims, the Spanish Offices for the Assistance of Crime Victims are the competent authorities dealing with the assistance to cross-border crime victims when the crime is committed in a Member State of the European Union other than Spain and the victim has habitual residence in Spain. In cases involving crimes of terrorism, the Ministry of the Interior is the competent assisting authority for the foregoing purposes.

SWEDEN

	No problems with implementation in law or practice	Some problems with implementation <u>in the law</u>	Some problems with implementation <u>in practice</u>	Comments
Access to information throughout the proceedings, in a language known by the victim	X			
The right to be heard and provide evidence	X			
The right to be notified about important decisions or case developments	X			
The right to participate in criminal proceedings	X			
The right to legal aid (where appropriate)	X			
The right to mediation (where appropriate)	X			
The right to non-discrimination	X			
The right to protection from intimidation,	X			

victimization and retribution				
The right to respectful treatment from the police and judicial authorities	X			

2) In your opinion, has Recommendation Rec(2006)8 contributed to the development of victims' rights in your country?

- a. Yes, it has had an important impact. Thanks to the Recommendation, new rights have been introduced and/or existent rights have been revised.
- b. Yes, it has had an impact, but this impact was limited. The Recommendation helped introduce new rights or revise existent rights, but these changes were mainly caused by other factors (e.g., other international or regional legal instruments requiring change).
- c. No, it has had little to no impact. The Recommendation did not (really) contribute to the creation of new or improved victims' rights.

The Recommendation covers important aspects of assistance to crime victims. As far as Swedish matters are concerned, similar regulation was already in place and the recommendation has therefore not resulted in new or improved victims' rights.

- d. Other, please specify....

II. Need for additional CoE Guidelines on victims' rights

When considering the question whether there would be an added value in drafting new or additional guidelines on victims' rights and role in criminal proceedings, the CDPC took note of the suggestion that such guidelines could allow the CoE to play an active facilitative role in addressing certain practical issues identified by member States and that such an approach might help to give concrete expression to victims' rights in their domestic laws and practice.

3) Would you, in principle, favour such guidelines? *Yes/no*

If not, please explain.

If you favour additional guidelines, what should they cover? *(multiple answers possible)*

- a. The guidelines should provide further guidance on the rights already contained in the Recommendation
- b. The guidelines should expand the rights already contained in the Recommendation

c. The guidelines should cover topics such as tourists who fall victims to crime abroad....

No, the Recommendation is extensive and covers all aspects that Sweden believes it should include. We believe that the existing Recommendation is sufficient and that there is no need for additional guidelines provided by the CDPC.

SWITZERLAND

	Aucun problème dans la mise en œuvre en droit ou en pratique	Quelques problèmes dans la mise en œuvre <u>dans la loi</u>	Quelques problèmes dans la mise en œuvre <u>dans la pratique</u>	Commentaires
Accès à l'information tout au long de la procédure dans une langue connue par la victime	X			305 CPP ³ + 8 LAVI ⁴ : information de la victime et annonce des cas + 143 al. 1 lit. c : information de manière générale lors d'une audition + 330 al. 3 CPP + 118 al. 4 CPP : information de la possibilité de se porter partie plaignante 92a CP ⁵ + 214 al. 4 CPP : information exécution des peines et détention provisoire 68 al. 1 CPP : traduction
Le droit d'être entendu et de fournir des preuves	X			107 CPP : droit d'être entendu, dont le droit de fournir des preuves (107 al. 1 lit. e CPP). 101 CPP : consultation des dossiers
Le droit d'être informé des décisions importantes ou de l'évolution concernant le cas	X			84 CPP : notification des prononcés 301 al. 2 CPP : lorsque la victime n'est pas partie plaignante
Le droit de participer à la				118 ss CPP : partie plaignante 107 al. 1 lit. b CPP : participation à des actes de

³ Code de procédure pénale suisse (<https://www.admin.ch/opc/fr/classified-compilation/20052319/index.html>)

⁴ Loi fédérale sur l'aide aux victimes d'infractions (<https://www.admin.ch/opc/fr/classified-compilation/20041159/index.html>)

⁵ Code pénal suisse (<https://www.admin.ch/opc/fr/classified-compilation/19370083/index.html>)

procédure pénale	X			procédure 147 CPP : droit de participer à l'administration des preuves
Le droit à l'aide judiciaire (le cas échéant)	X			136 ss CPP : assistance judiciaire gratuite pour la partie plaignante
Le droit à la médiation (le cas échéant)				Le droit pénal suisse ne prévoit pas de droit à la médiation
Le droit à la non-discrimination	X			8 al. 2 Constitution ⁶
Le droit à la protection contre l'intimidation, la victimisation et de représailles	X			152 CPP : Mesures générales visant à protéger les victimes 153 CPP : Mesures spéciales visant à protéger les victimes d'infractions contre l'intégrité sexuelle
Le droit à un traitement respectueux par la police et les autorités judiciaires	X			3 CPP : Respect de la dignité et procès équitable

Seule la mise en œuvre des droits des victimes dans la loi a été examinée. Nous ne sommes pas en mesure de fournir des renseignements concernant la mise en œuvre de ceux-ci dans la pratique.

- 2) A votre avis, la Recommandation Rec(2006)8 a-t-elle contribué au développement des droits des victimes dans votre pays ?
 - a. Oui, elle a eu un impact important. Grâce à la Recommandation, de nouveaux droits ont été introduits et/ou les droits existants ont été révisés.

⁶ Constitution fédérale de la Confédération suisse (<https://www.admin.ch/opc/fr/classified-compilation/19995395/index.html>)

- b. Oui, elle a eu un impact, mais cet impact a été limité. La Recommandation a permis d'introduire de nouveaux droits ou de réviser des droits existants, mais ces changements ont été principalement causés par d'autres facteurs (par exemple, d'autres instruments juridiques internationaux ou régionaux demandant des changements.)
- c. Non, elle n'a eu que peu ou pas d'impact. La Recommandation n'a pas (réellement) contribué à la création de nouveaux ou une amélioration des droits des victimes.
- d. Autres, veuillez-préciser...

S'il vous plait, développez votre réponse (*commentaires*). Le Code de procédure pénale suisse a été adopté le 5 octobre 2007 et est entré en vigueur le 1^{er} janvier 2011. Avant cela, les différents codes cantonaux de procédure pénale prenaient déjà en compte la situation particulière de la victime et lui octroyaient un statut particulier. Ils renvoyaient en effet à la loi sur l'aide aux victimes d'infractions, dont la première version est entrée en vigueur le 1^{er} janvier 1993, soit avant la Recommandation Rec(2006)8 sur l'assistance aux victimes d'infractions. Le droit suisse attachait ainsi de l'importance à la situation particulière de la victime et lui octroyait des droits supplémentaires dans le cadre de la procédure pénale avant même que la Recommandation n'ait été élaborée. La nouvelle LAVI est entrée en vigueur le 1^{er} janvier 2009.

Par ailleurs, on constate en tout état de cause que la recommandation est, dans ses grandes lignes, reprise et appliquée en Suisse.

II. Besoin de nouvelles Lignes directrices du CdE sur les droits des victimes

En examinant la question de savoir s'il serait utile de rédiger des lignes directrices nouvelles ou supplémentaires sur les droits des victimes et leurs rôles dans les procédures pénales, le CDPC a pris note de la suggestion que de telles lignes directrices pourraient permettre au CdE de jouer un rôle actif de facilitateur dans la résolution de certains problèmes pratiques identifiés par les États membres, et qu'une telle approche pourrait contribuer à concrétiser les droits des victimes dans leurs législations et pratique nationales respectives.

3) Seriez-vous en principe favorable à de telles lignes directrices? *Oui/non*

Si non, expliquer s'il vous plaît.

Non. En l'état, nous n'en voyons pas la nécessité.

Le Code de procédure pénale suisse prend en compte de manière suffisante la situation particulière de la victime et lui attribue des droits supplémentaires dans le cadre de la procédure pénale. La victime est suffisamment protégée par le droit suisse.

Si vous préférez des lignes directrices supplémentaires, que devraient-elles couvrir? (*plusieurs réponses possibles*)

- a. Les lignes directrices devraient fournir des indications supplémentaires sur les droits déjà contenus dans la Recommandation
- b. Les lignes directrices devraient élargir les droits déjà contenus dans la Recommandation
- c. Les lignes directrices devraient couvrir des sujets tels que les touristes victimes d'actes criminels à l'étranger.

TURKEY

	No problems with implementation in law or practice	Some problems with implementation in the law	Some problems with implementation in practice	Comments
Access to information throughout the proceedings, in a language known by the victim	X			In case of the increasing number of refugees in Turkey, the number of translators in court houses has increased.
The right to be heard and provide evidence	X			These rights are issued in Turkish Criminal Procedure Code Article 234. Judicial Interview Rooms are established in the court houses to prevent secondary victimization of victims who are accepted as a "vulnerable".
The right to be notified about important decisions or case developments	X			These rights are issued in Turkish Criminal Procedure Code Article 234.
The right to participate in criminal proceedings	X			Right to participate in criminal proceedings is entitled in Turkish Criminal Code, Article 234, 2.
The right to legal aid (where appropriate)	X			Right to legal aid in criminal proceedings is entitled in Turkish Criminal Code, Article 234/a.3. and 234/b.5. Represented by a lawyer in these specific crimes are free.
The right to mediation (where appropriate)	X			Mediation proceedings are issued in Turkish Criminal Code, Article 253/1. Mediation is free and can be implied only in some crimes that mentioned in Turkish Criminal Code.

The right to non-discrimination	X			Constitutional right
The right to protection from intimidation, victimization and retribution	X			In judicial process victims can apply for a protecting and preventing measures in case of ongoing violence.
The right to respectful treatment from the police and judicial authorities	X			A guideline named "How to Approach a Victim" has prepared by Ministry of Justice (Victims' Rights Department). In the guideline there are basic principles for the authorities who has contact with victims.

2) in your opinion, has Recommendation Rec(2006)8 contributed to the development of victims' rights in your country?

- a. Yes, it has had an important impact. Thanks to the Recommendation, new rights have been introduced and/or existent rights have been revised.
- b. **X Yes, it has had an impact, but this impact was limited. The Recommendation helped introduce new rights or revise existent rights, but these changes were mainly caused by other factors (e.g., other international or regional legal instruments requiring change).**
- c. No, it has had little to no impact. The Recommendation did not (really) contribute to the creation of new or improved victims' rights.
- d. Other, please specify. ..

Please, elaborate on your answer....(*comments*)

II. Need for additional CoE Guidelines on victims' rights

When considering the question whether there would be an added value in drafting new or additional guidelines on victims' rights and role in criminal proceedings, the CDPC took note of the suggestion that such guidelines could allow the CoE to play an active facilitative role in addressing certain practical issues identified by member States and that such an approach might help to give concrete expression to victims' rights in their domestic laws and practice.

3) Would you, in principle, favour such guidelines? Yes/ no/ not, please explain.

If you favour additional guidelines, what should they cover? (*multiple answers possible*)

- a. **X The guidelines should provide further guidance on the rights already contained in the Recommendation**
- b. The guidelines should expand the rights already contained in the Recommendation
- c. The guidelines should cover topics such as tourists who fall victims to crime abroad....