



Strasbourg, 15 February 2022

CDPC-VR(2022)1

EUROPEAN COMMITTEE ON CRIME PROBLEMS (CDPC)

WORKING GROUP OF EXPERTS ON VICTIMS' RIGHTS (CDPC-VR)

MEETING REPORT

1st meeting

10-11 February 2022

Teleconference

Document prepared by the CDPC Secretariat
Directorate General I – Human Rights and Rule of Law

During the 77th Plenary meeting of the Council of Europe European Committee on Crime Problems (CDPC), held on 3-6 December 2019, the CDPC underlined the importance of further examining the issue of victims' rights and protection, and thus invited two Consultants, Professors Suzan Van der Aa and Antony Pemberton "to make concrete proposals for a revised version of Rec(2006)8 to member States on Assistance to Crime Victims."

Subsequently, the CDPC held an exchange of views with the two Consultants in the 79th Plenary meeting of the CDPC on the Proposal for an Update of CM Recommendation Rec(2006)8 to member States on Assistance to Crime Victims (hereafter the Proposal) and thus, decided to set up a Working Group entrusted with the drafting of a Recommendation on the rights of victims, taking into account the rights and position of offenders and other persons involved in the criminal law process.

The Working Group held its first meeting via the electronic platform KUDO, on 10-11 February 2022. Mr Carlo Chiaromonte, Secretary to the CDPC, opened the meeting and welcomed all participants. The Working Group agreed that Mr Chiaromonte and Professor Van der Aa would co-Chair of this meeting of the Working Group and proceeded with a *tour de table* in which all the experts introduced themselves and their national experience on victims' rights.

Mr Chiaromonte underlined the aim of the first meeting of the Working Group, namely, to examine the Proposal through a chapter-by-chapter and article-by-article analysis. With regards to the methodology, upon finalisation of the draft Recommendation and its accompanying Explanatory Memorandum by the Working Group, the texts would be sent to the CDPC for examination and approval. Following this, the Recommendation would be sent to the Committee of Ministers of the Council of Europe for its final adoption, with the Explanatory Memorandum for information. Following the advice of the Directorate of Legal Advice and Public International Law (DLAPIL) of the Council of Europe, Mr Chiaromonte clarified that the drafting of a Recommendation to member States on the Rights of Victims would not be an update to the existing Rec(2006)8, but would rather become a new Council of Europe Recommendation in its entirety, thus replacing Rec(2006)8.

Mr Chiaromonte invited Professor Van der Aa to present the Proposal in which she provided information on the three strategic choices made. Firstly, to draft a new and more detailed Recommendation and accompanying Explanatory Memorandum that is up to date with current standards and secondly, to utilise existing instruments as a point of departure, such as 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 (hereafter the Victims' Rights Directive). Thirdly, the Consultants invited the Working Group to consider going beyond existing instruments, using a "bandwidth" approach between minimum and more ambitious standards. Professor Van der Aa provided an overview of the three key chapters of the Proposal, namely, *Chapter I: Access to justice, individual assessment, information and support, Chapter II: Legal Proceedings (a. criminal proceedings or b. criminal and other legal proceedings and Chapter III. Other Provisions.*

The co-Chairs opened the floor for any general comments on the Proposal in which the Delegations strongly welcomed the new Recommendation and expressed their appreciation for the excellent work that had been carried out by the two Consultants. The use of existing instruments such as the Council of Europe Lanzarote and Istanbul Conventions and the Victims' Rights Directive was supported by the Working Group. This said, the importance of ensuring that the new Recommendation does not extend too far beyond existing standards was raised by several Delegations, emphasising, therefore, that such extensions should be presented as encouragements rather than obligations.

The analysis began with *Article 1: Definitions*, in which many Delegations underlined the need to ensure that the definitions are consistent with the Victims' Rights Directive, for example, maintaining the definition of "family members" in line with Article 2(2)b and to also consider including several other definitions, such as "Support Services", "Competent Authorities" and "Complaint". The co-Chairs then opened the discussion on *Article 2: Principles*, in which the experts proposed the inclusion of an additional article "2(7)" stating that "Wherever reference is made to "other legal proceedings", the rights granted to victims do not affect or limit the fundamental principles of these types of proceedings in national law and do not go against the right of the accused and shall be interpreted in accordance with these principles."

Within the discussions on *Chapter I. Access to Justice, Individual Assessment*, several Delegations noted that *Article 3. Barriers to access to justice and support* should ensure that support services are sufficiently elaborated, inclusive of both online and offline access to justice and could be further developed in the Explanatory Memorandum. Delegations expressed possible concerns towards the term "witnesses" in Article 3(3) in which the consultants agreed that this could be reassessed. Discussions under Articles 4, 5 and 6, highlighted that the current wording used could be more specific and take existing domestic legislation into consideration.

The second day of the meeting began with discussions on *Chapter 2. Legal Proceedings (a. Criminal Proceedings)*. Within *Article 7. Rights of Victims in notifying authorities*, the experts underlined the importance of recognising the different methods of notifying authorities in the Explanatory Memorandum, for example, notify, report or report plus a request for prosecution. Given the more substantial discussions related to *Article 8. Rights of victims to information concerning their case*, the Working Group agreed to send written comments to the Secretariat on this Article to be incorporated during the revision of the Proposal by the two Consultants. The experts further underlined that *Article 9. Right to interpretation and translation* should remain consistent with the Victims' Rights Directive in terms of providing interpretation during any interviews or questioning of the victim and ensuring that negative decisions in this regard are subject to review.

Under *Article 10. Right to be heard*, the Working Group agreed to redraft article 10(4), to identify minimum standards in accordance with national law. Similarly, regarding *Article 12. Right to legal aid*, the experts proposed the deletion of Article 12(2), considering the implementation of the access to an effective remedy under *Article 16. Right to Remedy*, instead.

The co-Chairs provided an overview of the next steps of the Working Group in which each Delegation was invited to submit written comments for **Articles 8, 14 and 16 to the Secretariat by 7 March 2022 at: phoebe.jamieson@coe.int**.

Taking into account the discussions held and the written comments to be submitted by the Delegations, the Consultants will revise the Proposal in which the new text will be sent to all members of the Working Group to form the basis of the discussions at the second meeting. The exact date, format and place of the next meeting will be communicated to all members of the Working Group in due course.

APPENDIX I

COUNCIL OF EUROPE



CONSEIL DE L'EUROPE

Strasbourg, 11 February 2022

CDPC-VR(2022)LP Fin

**EUROPEAN COMMITTEE ON CRIME PROBLEMS
COMITE EUROPEEN POUR
LES PROBLEMES CRIMINELS
(CDPC)**

**Working Group of experts on Victims' Rights /
Groupe de travail d'experts sur les droits des victimes (CDPC-VR)**

10-11 February / février 2022

**Council of Europe / Conseil de l'Europe, Strasbourg
Teleconference**

List of participants / liste des participants

AUSTRIA / AUTRICHE

Ms Evelyn WAGNER, Judge, Ministry, criminal legislation, units for substantive and for procedural criminal law

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CROATIA / CROATIE

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CZECH REPUBLIC / RÉPUBLIQUE TCHÈQUE

Ms Pavla PEŠATOVÁ, Senior Ministerial Counsellor, Legislative Department, Ministry of Justice of the Czech Republic

FINLAND / FINLANDE

Ms Kirsi PULKKINEN, Counsellor of Legislation, Ministry of Justice

Ms Katja REPO, Senior Specialist, Ministry of Justice

FRANCE

Ms Camille BRUEDER, Adjointe au bureau de la négociation pénale européenne et internationale à la direction des affaires criminelles et des grâces, Ministère de la justice

GERMANY / ALLEMAGNE

Ms Dr. Petra VIEBIG-EHLERT, Legal Officer, Federal Ministry of Justice

GREECE / GRÈCE

Mrs Kelly THEOLOGITOU, Deputy Public Prosecutor of the Court of Appeal, Athens,

Mr Panagiotis MANIATIS, Prosecutor of First Instance

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Ms Grazia MANNOZZI, Director of the Center for Restorative Justice and Mediation Studies (CeSGReM) Professor of Criminal Law, Department of Law, Economics and Cultures, University of Insubria, Via S. Abbondio 12, 22100, Como, Italy

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POLAND / POLOGNE

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Ms Natalia HAJDASZ, Expert, European and International Criminal Law Division, Legislation Department of Criminal Law, Ministry of Justice, Warsaw

RUSSIAN FEDERATION / FEDERATION DE RUSSIE

Mr Anton KURDYUKOV, Senior Prosecutor, Legal Department, Prosecutor General's Office of the Russian Federation

Ms Irina CHASHCHINA, Researcher at Research Institute of the University of the Prosecutor's Office

SLOVAK REPUBLIC / REPUBLIQUE SLOVAQUE

Ms Kristina KROČKOVÁ, PhD., Ministry of Justice of the Slovak Republic

TURKEY / TURQUIE

Ms. Gökçe Bahar ÖZTÜRK, Rapporteur Judge, Department of Justice Assistance Victim Services, Ministry of Justice

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CONSULTANTS

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Prof. Dr. Antony PEMBERTON, KU Leuven, Belgium, Netherlands Institute for the Study of Crime and Law Enforcement (NSCR), Amsterdam, the Netherlands

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SECRETARIAT DU CONSEIL DE L'EUROPE

Directorate General of Human Rights and Rule of Law /
Direction Générale des droits de l'Homme et Etat de Droit

Mr Carlo CHIAROMONTE	Head of Criminal Law Division / <u>Secretary to the CDPC</u> Chef de la Division du droit pénal / <u>Secrétaire du CDPC</u>
Ms Phoebe JAMIESON	Administrative Officer / Administrateur
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Interpreters / Interprètes

Mme Bettina LUDEWIG
M. Didier JUNGLING



Strasbourg, 13 January / janvier 2022

CDPC(2022)OJ1

**EUROPEAN COMMITTEE
ON CRIME PROBLEMS
COMITÉ EUROPÉEN
POUR LES PROBLÈMES CRIMINELS
(CDPC)**

**WORKING GROUP OF EXPERTS ON VICTIMS' RIGHTS
GROUPE DE TRAVAIL D'EXPERTS SUR LES DROITS DES VICTIMES
(CDPC-VR)**

1st Meeting / 1^{ère} réunion

10-11 February / février 2022

Online / en ligne

**AGENDA
ORDRE DU JOUR**

Document prepared by the CDPC Secretariat
Directorate General I – Human Rights and Rule of Law

10 February 2022	
10:00	<p style="text-align: center;">Opening of the meeting</p> <p>Welcome and opening remarks by Mr Carlo CHIAROMONTE, Secretary to the CDPC</p> <ol style="list-style-type: none"> I. Nomination of the Chair of the Working Group II. <i>Tour de table</i>: Brief introduction by the participants presenting their functions and expertise III. Information by the Secretariat on the aims and methodology of the Working Group IV. Exchange of views and agreement on the aims and methodology of the Working Group
	<p>Presentation by Prof. Dr. Suzan van der Aa, the Council of Europe Consultant and Prof. Dr. Antony Pemberton, the Council of Europe Co-Consultant on the proposal for an update of Committee of Ministers Recommendation Rec(2006)8 to member States on Assistance to Crime Victims</p>
	<p>Exchange of views on the Preamble and Appendix to the proposed Recommendation</p>
12:30 – 14:30	<i>Lunch Break</i>
	<p>Exchange of views on Chapter I: Access to justice, individual assessment, information and support</p>
	<p>Exchange of views on Chapter II: Legal proceedings (a. criminal proceedings or b. criminal and other legal proceedings)</p>
17:00	<i>Concluding remarks and close of the first day</i>

11 February 2022	
10:00	Exchange of views on Chapter III: Other Provisions
12:30 – 14:30	<i>Lunch Break</i>
	Exchange of views on the Explanatory Report
	Identification of next steps
	Summary of discussions, outcomes and dates of next meeting
17:00	<i>Concluding remarks and close of the meeting</i>

10 février 2022	
10h00	Ouverture de la réunion
	<p>Bienvenue et remarques introductives, par M. Carlo CHIAROMONTE, Secrétaire du CDPC</p> <p>I. Nomination du Président du groupe de travail II. <i>Tour de table</i> : Brève présentation des participants, de leurs fonctions et leur expertise III. Informations par le Secrétariat concernant les objectifs et la méthode de travail du groupe de travail IV. Échange de vues et accord concernant les objectifs et la méthode de travail du groupe de travail</p>
	Présentation par le Prof. Dr Suzan van der Aa, Consultante du Conseil de l'Europe et le Prof. Dr Antony Pemberton, Co-Consultant du Conseil de l'Europe, sur la proposition de mise à jour de la Recommandation Rec(2006)8 du Comité des Ministres aux États membres sur l'assistance aux victimes d'infractions
	Échange de vues sur le préambule et l'annexe à la proposition de recommandation
12h30 – 14h30	<i>Pause de midi</i>
	Échange de vues sur le chapitre I : Accès à la justice, évaluation personnalisée, information et soutien
	Échange de vues sur le chapitre II : Procédures judiciaires (a. procédures pénales ou b. procédures pénales et autres procédures judiciaires)
17h00	<i>Remarques finales et clôture de la première journée</i>

11 février 2022	
10h00	Échange de vues sur le chapitre III : Autres dispositions
12h30 – 14h30	<i>Pause de midi</i>
	Échange de vues sur le rapport explicatif
	Identification des prochaines étapes
	Résumé des discussions, résultats et dates de la prochaine réunion
17h00	<i>Observations finales et clôture de la réunion</i>