

Strasbourg, 26 April 2022

COUNCIL OF EUROPE



CONSEIL DE L'EUROPE

CDPC-VR(2022)2

# EUROPEAN COMMITTEE ON CRIME PROBLEMS (CDPC)

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

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**MEETING REPORT**

**2<sup>nd</sup> meeting**

**21-22 April 2022**

Hybrid, Strasbourg

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

During the 79th Plenary meeting of the Council of Europe European Committee on Crime Problems (CDPC), held on 28-30 June 2021, the CDPC held an exchange of views with the two Consultants, Professors Suzan Van der Aa and Antony Pemberton on their proposal for an update and replacement of Recommendation Rec(2006)8 of the Committee of Ministers to member States on Assistance to Crime Victims and decided to set up a Working Group entrusted with the drafting of a new 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 second meeting in hybrid format in Strasbourg, on 21-22 April 2022. Mr Carlo Chiaromonte, Secretary to the CDPC and co-Chair of the Working Group, opened the meeting and welcomed all participants. He informed the group that due to the decision taken by the Committee of Ministers of the Council of Europe on 16 March 2022, the Russian Federation has been excluded from the Council of Europe and is no longer participating in the CDPC and its subordinate Working Groups, including the CDPC-VR. Professor Van der Aa, Consultant and co-Chair further welcomed all experts to the meeting and provided an overview of the progress and status of the Working Group. Namely, that on the basis of the deliberations held in the first meeting of the Working Group on 10-11 February 2022, the draft Recommendation and its accompanying draft Explanatory Report had been revised by the Consultants, incorporating the written comments received from Delegations to the extent possible, concerning *Article 8. Rights of victims to information concerning their case*. Mr Chiaromonte expressed his sincere appreciation to the Working Group for their active contributions and to the two Consultants for the revised text.

The second meeting was, therefore, dedicated to an examination of this revised document and to continue the chapter-by-chapter and article-by-article analysis of the remaining text, taking into consideration the written comments received from Delegations regarding *Article 14. Right to State Compensation* and *Article 16. Right to Remedy*.

Professor Van der Aa opened the floor to the Working Group in which minor changes were proposed to Articles 1-13, specifically with regards to ensuring that the language was consistent with existing Council of Europe instruments, such as the Istanbul and Lanzarote Conventions and by modifying some paragraphs as “encouragements” to be in accordance with existing domestic legislation. Furthermore, the Working Group highlighted the importance of ensuring that, if applicable by national law, victims should only be informed of the possibility of being approached by victim support services, should they consent.

Professor Van der Aa opened the discussion on *Article 14. Right to state compensation*, of which eight (8) States had submitted written comments concerning, in particular, the need to allow for more national discretion. The Working Group underlined that, generally, compensation for the victim is to be paid by the State on whose territory the crime was committed. In addition, the principle of subsidiarity should be rephrased to clarify that a victim should not be required to wait for State compensation until all other sources of compensation have been exhausted, but rather that the respective State should eventually retrieve compensation from the offender. The relevant procedure for attaining compensation could also be explained in the Explanatory Report with regards to ensuring that all applications are made without undue financial burden on the victim.

Under *Article 15. Right to protection*, the Working Group proposed to rephrase “professional and personal characteristics” and to include separate waiting areas in new Court premises to avoid, where possible, contact between the victim, his/her family and the offender. The experts agreed that *Article 16. Right to remedy* should be split into two separate articles, namely, one article involving the victims' right to access civil courts and the other dealing with remedies. The experts underlined that fundamental rights should be seen by a competent authority, however, it should be clarified in the

Explanatory Report that a remedy is not always a formal remedy (e.g., a judicial review), but can also entail informal ways to address violations of victim rights (e.g., internal complaint procedure).

When discussing *Article 17. Right to insurance*, the experts highlighted that the principle of freedom of contracts for insurance companies means it is very difficult for States to include the availability, content or terms of private insurance companies. It was, therefore, agreed to rework this Article including possible examples in the Explanatory Report.

The Working Group underlined the importance of *Article 18. Restorative justice*, proposing to clarify in the Explanatory Report, that such services should only be offered if it is in the best interest of the victim to avoid any risk of secondary victimisation. By doing so, this would also take into consideration that restorative justice services are not available nor suitable in every case, in line with the Istanbul Convention (e.g. certain cases of domestic violence).

The experts also agreed that further clarification was required in the Explanatory Report, regarding referral under *Article 19. Right to victim support* whereby it is not necessarily the role of police forces to refer victims to specialist support services but at least to generic support services (if the victim consents). These generic services can, in turn, refer to specialist services, depending on the needs and upon consent. Additionally, the experts expressed that referral (both passive and active) should not be viewed as contingent on the identification of needs.

The Working Group discussed the inclusion of the territoriality principle under *Article 20. Cross-border victims and international cooperation*, in line with the Istanbul Convention and to avoid the provision of double compensation to victims of a crime across borders. Several Delegations mentioned that *Article 23. Selection and training of staff* could be in accordance with Article 25 of Directive 2012/29/EU of the European Parliament and of the Council on Establishing Minimum Standards on the Rights, Support and Protection of Victims of Crime and to ensure due respect to judicial independence whereby, whilst there is a need to cater for the training of judges and prosecutors, the decision to do so remains with them. Furthermore, the Working Group agreed that Article 15 of the Istanbul Convention on *Training of Professionals* could also be drawn upon when revising this Article.

The experts proposed to include “Restorative Justice Services” as an area for research under *Article 25. Research and data collection*, noting also that the list of research possibilities should not be exhaustive and should respect States’ discretionary power to decide where specifically it should be conducted. Finally, the Working Group agreed that *Article 26. Monitoring of the Recommendation* should be redrafted to differentiate from Article 25 and to avoid the implication that States should provide regular assessments and reports.

Professor Van der Aa provided an overview of the next steps, namely that the two Consultants will revise the draft Recommendation and its accompanying Explanatory Report on the basis of the deliberations held, in view of its distribution to the Working Group by the Secretariat prior to its third meeting. The exact date and format of the next meeting of the Working Group will be communicated to all members of the Working Group in due course.

APPENDIX I



Strasbourg, 22 April 2022

CDPC-VR(2022)LP2 Fin

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

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**2<sup>nd</sup> meeting of the Working Group of experts on Victims' Rights /  
2<sup>ème</sup> réunion du Groupe de travail d'experts sur les droits des victimes (CDPC-VR)**

**21-22 April / avril 2022**

**Council of Europe / Conseil de l'Europe, Strasbourg  
Hybrid meeting, Palais, Room 7**

**List of participants / liste des participants**

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**AUSTRIA / AUTRICHE**

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

**BELGIUM / BELGIQUE**

Ms Isabelle VANDERHOEVEN, Attachée, Département Bien Être, Santé et Famille, Section Maisons de Justice, Koning Albert II-laan 35 bus 30, 1030 Bruxelles

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**CROATIA / CROATIE**

Ms Nikica Hamer VIDMAR

**CZECH REPUBLIC / RÉPUBLIQUE TCHÈQUE**

Mr Tomáš CIESLAR, Criminal Law Unit, Ministry of Justice of the Czech Republic

**FINLAND / FINLANDE**

Ms Kirsi PULKKINEN, Counsellor of Legislation, Ministry of Justice, Helsinki

Ms Katja REPO, Senior Specialist, Ministry of Justice, Helsinki

**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, Paris

**GERMANY / ALLEMAGNE**

Ms Martina PETER, Referatsleiterin, Referat RB4, Internationales Strafverfahrensrecht und Gerichtsverfassung; Opferschutz und Datenschutz im Strafverfahren Bundesministerium der Justiz, Mohrenstraße 37, 10117 Berlin

**GREECE / GRÈCE**

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

Mr Panagiotis MANIATIS, Prosecutor of First Instance

**ITALY / ITALIE**

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

**NORTH MACEDONIA / MACEDOINE DU NORD**

Ms Slavica ZERAJK, Head of Unit, Sector for Judiciary

**POLAND / POLOGNE**

Ms Katarzyna NASZCZYSKA, Deputy Director – Judge, Legislation Department of Criminal Law, Ministry of Justice, Warsaw

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

**SLOVAK REPUBLIC / REPUBLIQUE SLOVAQUE**

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

**SWEDEN / SUÈDE**

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**TURKEY / TURQUIE**

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

**UKRAINE / UKRAINE**

**Apologised/Excusée**

Ms Kateryna SHEVCHENKO, Head of the International Legal Assistance Department, Deputy Head of the International Law Directorate, Ministry of Justice

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**CONSULTANTS**

Prof. Dr. Suzan VAN DER AA, Maastricht University, the Netherlands

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 / <b><u>Secretary to the CDPC</u></b> Chef de la Division du droit pénal / <b><u>Secrétaire du CDPC</u></b>
Ms Phoebe JAMIESON	Administrative Officer / Administrateur
Ms Marjaliisa JÄÄSKELÄINEN	Assistant / Assistante

**Interpreters / Interprètes**

Mme Chloé CHENETIER  
M. Jean-Jacques PEDUSSAUD  
Mme Isabelle MARCHINI

APPENDIX II

COUNCIL OF EUROPE



CONSEIL DE L'EUROPE

CDPC(2022)OJ2

Strasbourg, 16 March / mars 2022

**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)**

**2<sup>nd</sup> Meeting / 2<sup>ème</sup> réunion**

**21-22 April / avril 2022**

**Hybrid / hybride**

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**AGENDA  
*ORDRE DU JOUR***

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



<b>21 April 2022</b>	
10:00	<p style="text-align: center;"><b>Opening of the meeting</b></p> <p>Welcome and opening remarks by Mr Carlo CHIAROMONTE, Secretary to the CDPC and Prof. Dr Suzan VAN DER AA, Consultant and co-Chairs of the CDPC-VR Working Group</p> <ul style="list-style-type: none"> <li>I. Information by the Secretariat</li> <li>II. Information by Prof. Dr Suzan VAN DER AA and Prof. Dr Anthony PEMBERTON, Consultants, on the revised draft Recommendation on Rights, Services and Support for Victims of Crime</li> </ul>
	Continued examination by the Working Group on the revised draft Recommendation
12:30 – 14:30	<i>Lunch Break</i>
	Continued
17:00	<i>Concluding remarks and close of the first day</i>

<b>22 April 2022</b>	
10:00	Continued
12:30 – 14:30	<i>Lunch Break</i>
	Continued
	Identification of next steps
	Summary of discussions, outcomes and dates of next meeting
17:00	<i>Concluding remarks and close of the meeting</i>

<b>21 avril 2022</b>	
10h00	<p style="text-align: center;"><b>Ouverture de la réunion</b></p> <p>Bienvenue et remarques introductives, par M. Carlo CHIAROMONTE, Secrétaire du CDPC et Prof. Dr. Suzan VAN DER AA, Consultant et co-Présidents du groupe de travail CDPC-VR</p> <ul style="list-style-type: none"> <li>I. Information par le Secrétariat</li> <li>II. Information par Prof. Dr Suzan VAN DER AA et le Prof. Dr Anthony PEMBERTON, Consultants, sur le projet révisé de Recommandation sur les droits, les services et le soutien aux victimes d'infractions</li> </ul>
	Poursuite de l'examen par le Groupe de travail du projet révisé de Recommandation
12h30 – 14h30	<i>Pause de midi</i>
	Continuation
17h00	<i>Remarques finales et clôture de la première journée</i>

<b>22 avril 2022</b>	
10h00	Continuation
12h30 – 14h30	<i>Pause de midi</i>
	Continuation
	Identification des prochaines étapes
	Résumé des discussions, résultats et dates de la prochaine réunion
17h00	<i>Observations finales et clôture de la réunion</i>