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EUROPEAN COMMITTEE ON CRIME PROBLEMS (CDPC)

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

MEETING REPORT

3rd meeting

19-20 October 2022

Online

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 two Consultants, Professors Suzan Van der Aa and Antony Pemberton on their proposal for an update and replacement of the Council of Europe Recommendation Rec(2006)8 of the Committee of Ministers to member States on Assistance to Crime Victims. Subsequently, the CDPC 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 third meeting, online, on 19-20 October 2022. Mr Carlo Chiaromonte, Secretary to the CDPC and co-Chair of the Working Group, opened the meeting and welcomed all participants. He expressed his appreciation to the experts for their excellent work and noted that, following the approval of the draft Recommendation on Rights, Services and Support for Victims of Crime by the Working Group, it will be sent to the Plenary meeting of the CDPC on 28-30 November 2022 for examination and approval. Following this, the draft Recommendation will be sent to the Committee of Ministers of the Council of Europe for final adoption with the draft Explanatory Report for information, at the beginning of 2023.

Professor Van der Aa, Consultant and co-Chair of the Working Group further welcomed all of the experts and thanked them for their extensive contributions during the 2nd meeting of the Working Group on 21-22 April 2022, following which, both texts had been revised to incorporate all of the proposals as far as possible. The third meeting was, therefore, dedicated to the examination of the revised draft Recommendation and its draft Explanatory Report in view of their finalisation and approval.

Professor Van der Aa opened the floor to the Working Group in which several Delegations underlined that the use of the term “*competent authorities*” for the purpose of this Recommendation should be limited to agencies in law enforcement, criminal justice and where applicable, elsewhere in the public sector.

Concerning *Article VI. Right to receive information*, the experts agreed to clarify in the draft Explanatory Report that the provisions under this Article do not refer to information that can amount to or be interpreted as legal advice. Moreover, they refer to general information rather than information specifically relating to an individual case.

When discussing *Article VIII. Rights of victims to information concerning their case*, the Working group clarified that victims are notified of their right to receive information about the criminal proceedings upon request and “*as a result of their formal complaint*”, further ensuring consistency with the EU Victims’ Rights Directive (hereafter the EU Directive).

The experts also underlined the importance of the existence of a link between the damage done and the crime itself, regarding *Article XIV. Right to State Compensation*. The Working Group agreed that compensation schemes independent from criminal proceedings are conditional to the occurrence of damage as a result of a crime. In this regard, the experts also agreed that a formal complaint may also be required to allow for more national discretion.

Furthermore, the Working Group agreed to remove the “serious” nature of the crime to avoid difficulties regarding variations in national definitions of the “seriousness” of the offence and to ensure consistency with the Council of Europe European Convention on Compensation of Victims of Violent Crimes and the EU Directive, of which do not refer to the term ‘serious’ in this domain.

The Working Group discussed the need to elaborate on what is meant by a “formal complaint” in the draft Explanatory Report, namely, that it is an (implicit) request to instigate investigations and prosecution, while in the case of a notification, the victim merely wishes to inform the police of the incident

Under *Article XIX on the Right to Victim Support*, the experts also expressed the need for further clarification in the Explanatory Report regarding the specific needs of victims of terrorism, whereby, this does not prompt further development of victim of terrorism support should generic services already suffice. In this regard, there is no obligation for new services for victims of terrorism.

The Working Group agreed on the need for *Article XXIII. Selection and training of staff* to be softened to be in line with the EU Directive, namely in separating the recommendation for lawyers from the recommendation for judges and prosecutors, with due respect for the independence of the legal profession.

Taking into account the deliberations held, the draft Recommendation was revised accordingly and thus approved by the Working Group in its 3rd meeting, subject to a one-week period for approval with each respective capital (deadline 28 October 2022). The CDPC Secretariat informed the Working Group that the draft Explanatory Report would be revised following the meeting to incorporate all of the proposals, to the extent possible, and would then be sent to the Working Group for a further one-week period for approval and written comments, if deemed necessary.

The Secretariat and Professors Van der Aa and Pemberton expressed their sincere appreciation to the Working Group for the fruitful discussions and congratulated the Working Group on the finalisation of their work.

APPENDIX I**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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Mme Louanne WELTER, Attachée, Ministère de la Communauté Germanophone, Maison de Justice

Mme Vicky De SOUTER, Conseiller, Service Public Fédéral Justice, Direction générale Législation, libertés et droits fondamentaux, Service des Principes de droit pénal et de la procédure pénale

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Ms Kalliopi THEOLOGITOU, Deputy Public Prosecutor of the Court of Appeal, Athens

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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)

SECRETARIAT OF THE COUNCIL OF EUROPE
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**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>
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Ms Lisa WOJCIECHOWICZ – Team Leader / Chef d'équipe

Mr Thomas BIGOT

Ms Christine TRAPP-GILL

APPENDIX II**AGENDA**

19 October 2022	
14:30	<p style="text-align: center;">Opening of the meeting</p> <p>Welcome and opening remarks by Prof. Dr Suzan Van DER AA, Consultant and co-Chair of the CDPC-VR Working Group</p> <ol style="list-style-type: none"> I. Information by the Secretariat II. Information by Prof. Dr Suzan Van DER AA and Prof. Dr Antony PEMBERTON, Consultants on the revised draft Recommendation and its Explanatory Report
	Reviewal and approval of the Draft Recommendation
	Reviewal of the Draft Explanatory Report
17:00	<i>Concluding remarks and close of the first day</i>

20 October 2022	
10:00	Continued
12:30 – 14:30	<i>Lunch Break</i>
	Approval of the draft Explanatory Report
	Identification of next steps and summary of discussions
17:00	<i>Concluding remarks and close of the meeting</i>