



CDDH(2019)27

21/11/2019

## **STEERING COMMITTEE FOR HUMAN RIGHTS (CDDH)**

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**Recommendations of the Parliamentary Assembly  
transmitted by the Ministers' Deputies to the CDDH**

**Comments suggested by the Bureau  
for consideration by the CDDH**

### Introduction

This document contains the texts of the six Recommendations of the Parliamentary Assembly transmitted to the Steering Committee for Human Rights (CDDH) by the Committee of Ministers for information and possible comments, as well as the comments suggested by the Bureau at its 102<sup>nd</sup> meeting (13-15 November 2019) for consideration and possible adoption by the CDDH at its 92<sup>nd</sup> meeting (26-29 November 2019).

## **I. RECOMMENDATION 2158 (2019) – “ENDING COERCION IN MENTAL HEALTH: THE NEED FOR A HUMAN RIGHTS-BASED APPROACH”**

### ***Text of the Recommendation***

1. The Parliamentary Assembly refers to its Resolution 2291 (2019) “Ending coercion in mental health: the need for a human rights-based approach” and its Recommendation 2091 (2016) on the case against a Council of Europe legal instrument on involuntary measures in psychiatry.
2. The Assembly reiterates the urgent need for the Council of Europe, as the leading regional human rights organisation, to fully integrate the paradigm shift initiated by the United Nations Convention on the Rights of Persons with Disabilities (CRPD) into its work regarding the protection of human rights and dignity of persons with mental health conditions or psychosocial disabilities. It thus calls on the Committee of Ministers to prioritise support to member States to immediately start to transition to the abolition of coercive practices in mental health settings.
3. The Assembly notes with satisfaction that the Council of Europe Committee on Bioethics (DH-BIO) is planning to engage in a study on “Good practices in mental healthcare – how to promote voluntary measures”. It invites the Committee of Ministers to encourage the DH-BIO to carry out such a study, with the involvement of all relevant actors in the field and, in particular, relevant non-governmental organisations representing persons with mental health conditions or psychosocial disabilities.
4. The Assembly notes the continued widespread opposition to the pursuance of work on an additional protocol to the Convention on Human Rights and Biomedicine (ETS No. 164), concerning the protection of human rights and dignity of persons with mental disorder, with regard to involuntary placement and involuntary treatment. Taking into consideration the comments received during the consultations in 2015 and 2018 (including from the Assembly’s competent committees), which underline the draft protocol’s incompatibility with the CRPD and its incapacity to protect persons with mental health conditions or psychosocial disabilities from violations of their human rights, the Assembly invites the Committee of Ministers to redirect efforts from the drafting of the additional protocol to the drafting of guidelines on ending coercion in mental health.

### ***Comments suggested by the Bureau***

1. The Steering Committee for Human Rights (CDDH) takes note of the Parliamentary Assembly Recommendation 2158 (2019) – “Ending coercion in mental health: the need for a human rights-based approach”, a subject on which the CDDH has already expressed itself in the past.
2. It commends to the Committee of Ministers the comments provided by the Committee on Bioethics (DH-BIO) at its 16<sup>th</sup> meeting (Strasbourg, 19-21 November 2019), which read as follows:
 

[1. At its 1351bis meeting at Deputies level, the Committee of Ministers agreed to communicate Recommendation 2158 (2019) – “Ending coercion in mental health: the need for a human rights-based approach” to the Steering Committee for Human Rights (CDDH) and to the Committee on Bioethics (DH-BIO), for information and possible comments “by the exceptional deadline of 6 December 2019, due to the sensitive issues involved”.

2. The DH-BIO examined the recommendation at its 16th plenary meeting (19 – 21 November 2019).
3. In its recommendation, the Assembly calls on the Committee of Ministers to “prioritise support to member States to immediately start to transition to the abolition of coercive practices in mental health settings” and to “redirect efforts from the draft of the additional protocol [concerning the protection of human rights and dignity of persons with mental disorder with regard to involuntary placement and involuntary treatment] to the drafting of guidelines on ending coercion in mental health”.
4. The DH-BIO is of the opinion that it is of particular importance to carefully analyse any evolution of the situation concerning involuntary measures in the mental health care field, in particular as it comes to an “overall increase in the use of involuntary measures in mental health settings” in Europe evoked in the Parliamentary Assembly’s Resolution 2291 (2019). It agrees with the Parliamentary Assembly’s assessment of the need to reduce recourse to coercive measures in mental health care. The DH-BIO sees its work in the area of protecting human rights in mental health care as a contribution to reaching this shared aim.
5. The DH-BIO made a Recommendation in 2004 to improve the protections namely against involuntary measures and has assessed the impact of this text on legislation and practices. It was in light of this assessment that the Committee agreed to prioritise a legally binding instrument to improve the protections against involuntary measures.
6. The DH-BIO recalls the task with which it has been entrusted by the Committee of Ministers to conduct the work for the protection of human rights in the biomedical field. It reaffirms its commitment to promoting the rights and self-determination of all persons, and their participation in all decisions relating to their treatment and care.
7. Against this background, the DH-BIO perceives the current elaboration of a legal instrument safeguarding the rights of persons with regard to involuntary measures in the field of mental health as one of the tools to ensure that measures implemented without the person’s consent or assent are only used subject to strict criteria and only as a last resort, thus contributing to the effective reduction of recourse to such measures.
8. At the same time, the DH-BIO considers that certain provisions contained in such legal instrument could strengthen the State’s commitment to ensure the availability of a wide selection of appropriate, less restrictive and intrusive primary measures in mental health care.
9. The DH-BIO appreciates the Parliamentary Assembly’s support for its future work aimed at collecting “Good practices in mental healthcare – how to promote involuntary measures”. The DH-BIO sees this work, which it intends to launch with the participation of relevant stakeholders, as a complementary tool towards the same aim.
10. With regard to the “continued widespread opposition to the pursuance of work on an additional protocol” and reference to a perceived incompatibility with the CRPD, the DH-BIO refers to its comments on Recommendation 2091 (2019) and considers that the current draft text is not in conflict with the principles of the CRPD.
11. In view of the opinions received and the oral statements given by representatives of INGOs invited to the relevant sessions of its plenary meetings, the DH-BIO has decided that the current draft text had to be carefully reviewed, having particular regard to strengthening measures promoting autonomy in mental health care.]

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## **II. RECOMMENDATION 2160 (2019) – “STOP VIOLENCE AGAINST, AND EXPLOITATION OF, MIGRANT CHILDREN”**

### ***Text of the Recommendation***

1. The Parliamentary Assembly refers to its Resolution 2295 (2019) “Stop violence against, and exploitation of, migrant children”.
2. It welcomes the work done by the Council of Europe in the framework of its Action Plan on Protecting Refugee and Migrant Children in Europe as a follow-up to the Special Representative of the Secretary General on Migration and Refugees’ Thematic Report on migrant and refugee children, and in particular the chapter on preventing and responding to violence, trafficking and exploitation.
3. The Assembly acknowledges the work done by the Lanzarote Committee in monitoring the implementation of the Council of Europe Convention on the Protection of Children against Sexual Exploitation and Sexual Abuse (CETS No. 201, “Lanzarote Convention”) and in supporting the European States to adopt specific legislation and take measures to prevent sexual violence against children, to protect the victims, including migrant children, and to prosecute the perpetrators. In particular, it welcomes the Lanzarote Committee’s special report on “Protecting children affected by the refugee crisis from sexual exploitation and sexual abuse”.
4. It also welcomes the work of the monitoring mechanism of the Council of Europe Convention on Action against Trafficking in Human Beings (CETS No. 197), the Group of Experts on Action against Trafficking in Human Beings (GRETA), aimed at the implementation by the member States of the obligations to provide rights for victims of trafficking, including migrant children, for example the right to be identified as a victim, to be protected and to be assisted.
5. The Assembly also supports the work of the Ad hoc Committee for the Rights of the Child (CAHENF), in particular through its Parliamentary Campaign to End Immigration Detention of Children, and welcomes its current work to develop guidelines on children’s rights and safeguards in the context of migration, notably on guardianship and age assessment.
6. The Assembly therefore calls on the Committee of Ministers to:
  - 6.1. adopt as soon as possible the guidelines on guardianship and age assessment in order to provide appropriate safeguards for children in the context of migration, and invite the CAHENF and other relevant Council of Europe bodies to promote them among the member States;
  - 6.2. ask the Steering Committee for Human Rights (CDDH) to consider the possibility of developing European standards for non-custodial reception centres for migrant children;
  - 6.3. call on the member States that are Parties to the Lanzarote Convention and have not yet done so, to take action to comply with the recommendations of the Lanzarote Committee’s special report on “Protecting children affected by the refugee crisis from sexual exploitation and sexual abuse”.

***Comments suggested by the Bureau***

1. The Steering Committee for Human Rights (CDDH) takes note of the Parliamentary Assembly Recommendation 2160 (2019) – “Stop violence against, and exploitation of, migrant children”. It draws attention to the work envisaged by its drafting Group on Human Rights and Migration (CDDH-MIG) which could help to find solutions to stop violence against, and exploitation of, migrant children: in 2020, the Group is expected to draft a non-binding document on family-based care for unaccompanied and separated children. This document will outline the relevant international legal standards and key practical considerations for effective implementation. Given the diversity of situations, it will contain a selection of good national practices in this area. The text should be adopted by the CDDH in November 2020 for transmission to the Committee of Ministers.
2. The particularly vulnerable situation of non-accompanied and separated children will be the backdrop for this work which could, as appropriate, provide a basis for considering the possibility raised by the Assembly in paragraph 6.2. of its Recommendation.

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### III. RECOMMENDATION 2161 (2019) - "PUSHBACK POLICIES AND PRACTICE IN COUNCIL OF EUROPE MEMBER STATES"

#### *Text of the Recommendation*

1. The Parliamentary Assembly refers to its Resolution 2299(2019) on pushback policies and practice in Council of Europe member States.
2. The Assembly is concerned about the persistent and increasing practice and policies of pushbacks, which are in clear violation of the rights of asylum seekers and refugees, including the right to (seek) asylum and the protection against refoulement, which are at the core of international refugee and human rights law.
3. In the face of the gravity of the human rights violations involved, the Assembly urges the governments of member States to provide adequate protection to asylum seekers, refugees and migrants arriving at their borders, and thus to refrain from any pushbacks, to allow for independent monitoring, and to fully investigate all allegations of pushbacks. There are persistent reports and evidence of inhuman and degrading treatment by member States and their agencies in the framework of those pushbacks, through intimidation, taking or destroying migrants' belongings, and even through the use of violence and depriving migrants of food and basic services.
4. The Assembly therefore recommends that the Committee of Ministers:
  - 4.1. exhort the governments of all member States to reject and prevent any form of pushback policy and action;
  - 4.2. promote the reconsideration of any bilateral agreements between member States on border control between neighbouring countries which jeopardise the human rights of migrants, refugees and asylum seekers arriving at their borders or trying to arrive there;
  - 4.3. ensure the swift execution of the relevant judgments of the European Court of Human Rights, including the implementation of interim measures;
  - 4.4. promote the work of national (ONG) and international (OING) non-governmental organisations as partners, refraining from action that undermines their legitimate activities aimed at saving human lives, to refrain from using stigmatising rhetoric against NGOs assisting migrants, and to invite the Council of Europe's INGO Forum to work on recommendations in this area for national NGOs;
  - 4.5. consider drafting guidelines for border policing practises along the lines of the Manual on Intercultural Community Policing of the Council of Europe's Intercultural Cities Programme, and examine how this programme could be used as a model;
  - 4.6. consider inviting the relevant Council of Europe committee to work on guidelines on ensuring access to rights of migrants arriving at borders or attempting to arrive there, including aspects such as access to complete and comprehensible information, to translation and interpretation services, to legal assistance at all stages of reception and asylum processes, to continued and child- and gender-sensitive medical, social and psychological services and to decent conditions of accommodation, prohibiting inhuman and degrading treatment in violation of Council of Europe and other international conventions.
5. Finally, the Assembly also asks the Committee of Ministers to formally encourage member States of the European Union to accelerate their work on an improved revised

Dublin Regulation in a way that furthers equal responsibility-sharing in order to relieve the burden for frontline States and in the interest of asylum seekers themselves. Meanwhile, the Committee of Ministers should encourage more efficient relocation programmes, to ease the pressure on Europe's external borders, which can lead to pushbacks.

### **Comments suggested by the Bureau**

1. The Steering Committee for Human Rights (CDDH) takes note of the Parliamentary Assembly Recommendation 2161 (2019) – “Pushback policies and practice in Council of Europe member States”. It draws attention to the fact that, following the previous work of the Parliamentary Assembly,<sup>1</sup> the Committee of Ministers adopted in 2009 its Guidelines on human rights protection in the context of accelerated asylum procedures<sup>2</sup>. The drafting of this text had been entrusted to the CDDH.
2. These Guidelines reaffirm that asylum seekers enjoy the guarantees set out in the European Convention on Human Rights in the same way as any other person within the jurisdiction of States Parties, in accordance with Article 1 of the Convention. The Guidelines are applied *mutatis mutandis* in procedures whereby a State may declare an application inadmissible without considering the merits of the claim.<sup>3</sup>
3. Regarding the invitation made by the Assembly in its Recommendation 2161 (2019) to work on guidelines on ensuring access to rights of migrants arriving at borders or attempting to arrive there,<sup>4</sup> the CDDH recalls that the above-mentioned Guidelines of the Committee of Ministers set out a framework of minimum procedural guarantees<sup>5</sup> which must be granted for asylum seekers and underline that asylum seekers have the right to *an individual and fair examination* of their applications by the competent authorities.<sup>6</sup> Moreover, the Guidelines:

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<sup>1</sup> Resolution 1471 (2005) and Recommendation 1727 (2005) on “Accelerated asylum procedures in Council of Europe member states”, and the related report by the Committee on Migration, Refugees and Population of the Parliamentary Assembly of the Council of Europe.

<sup>2</sup> 1062<sup>nd</sup> meeting of the Ministers' Deputies, 1<sup>st</sup> July 2009.

<sup>3</sup> See Guideline I (*definition and scope*).

<sup>4</sup> See paragraph 4.6. of the Recommendation of the Parliamentary Assembly 2161 (2019) “Pushback policies and practice in Council of Europe member States”.

<sup>5</sup> For example, guidelines IV (procedural guarantees), V (the safe country of origin concept), VI (the safe third country concept), VII (*non-refoulement* and return), VIII (quality of the decision-making process), IX (time for submitting and considering asylum applications), X (right to effective and suspensive remedies), XI (detention), XII (social and medical assistance), XIII (protection of private and family life) and XV (increased protection).

<sup>6</sup> Guideline II, § 2.

- recall all the minimum procedural guarantees that asylum seekers should enjoy;<sup>7</sup>
- recall in particular the rights of the most vulnerable asylum seekers;<sup>8</sup>
- clarify concepts such as *safe country of origin* and *safe third country*, and recall the right of asylum seekers to have an effective opportunity to rebut the presumption of security of their country of origin or that of the third country,<sup>9</sup> as well as the right to an effective and suspensive remedy for asylum seekers whose applications have been rejected;<sup>10</sup>
- stress in particular the obligation of the State receiving an asylum application "to ensure that the return of the asylum seeker to his/her country of origin or any other country will not expose him/her to a real risk of the death penalty, torture or inhuman or degrading treatment or punishment, persecution, or serious violation of other fundamental rights which would, under international or national law, justify the granting of protection".<sup>11</sup> It is also reiterated, as in Article 4 of Protocol No. 4 of the Convention, that collective expulsion of aliens is prohibited.<sup>12</sup>

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<sup>7</sup> Guideline IV, *supra*.

<sup>8</sup> For example, guideline III (Vulnerable persons and complex cases);

<sup>9</sup> Guidelines V and VI, cited above.

<sup>10</sup> Guideline X cited above.

<sup>11</sup> Guideline VII cited above.

<sup>12</sup> Since the entry into force of Protocol No. 4, the Court has found a violation of Article 4 of Protocol No. 4 in only six cases (*Conka v. Belgium*, Application No. [51564/99](#), final judgment on 05/05/2002, *Georgia v. Russia (I)* Application No. [13255/07](#) [GC], judgment final on 03/07/2014, *Shioshvili and Others v. Russia*, Application No. [19356/07](#), Judgment final on 20 / 03/2017, *Berdzenishvili and Others v. Russia*, Applications Nos [14594/07](#) and following, judgment final on 20/03/2017, *Hirsi Jamaa and Others v. Italy* [GC], Application No. [27765/09](#), judgment final on 23 / 02/2012 and *Sharifi and Others v. Italy and Greece*, Application No. [16643/09](#), judgment final on 21/01/2015. For some of these cases, the Court also found a violation of Article 4 of the Protocol No. 4 in relation to Article 13 (right to an effective remedy); (e.g. *Conka v. Belgium*, *Georgia v. Russia (I)*, *Hirsi Jamaa and Others v. Italy*, *Sharifi and Others v. Italy and Greece*, cited above).



#### IV. RECOMMENDATION 2162 (2019) – “IMPROVING THE PROTECTION OF WHISTLE-BLOWERS ALL OVER EUROPE”

##### *Text of the Recommendation*

1. The Assembly refers to its Resolution 2300 (2019) “Improving the protection of whistle-blowers all over Europe”, its Recommendation 2073 (2015) “Improving the protection of whistle-blowers” and the Committee of Ministers’ reply of 25 January 2016.
2. It recalls that a proposal for a directive of the European Parliament and of the Council on the protection of persons reporting on breaches of Union law, the aim of which is to set minimum common standards to ensure a high level of protection for whistle-blowers in all EU member States, is about to come into force. This draft directive is inspired in large part by the Committee of Ministers’ Recommendation CM/Rec(2014)7 on this subject, but it also contains clarifications of, and improvements to, that recommendation. The draft directive addresses an issue of particular importance for democracy, the rule of law and human rights, especially the fight against corruption and the protection of freedom of expression and of information.
3. In order to avoid a new legal divide in this area that falls within the Council of Europe’s three priorities, the Assembly reiterates its invitation to the Committee of Ministers to begin preparations for negotiating a binding legal instrument in the form of a Council of Europe Convention as a follow-up to its Resolution 2060 (2015) and its Recommendation 2073 (2015). This instrument should draw on the above-mentioned European directive, taking due account of the clarifications and additions proposed in Assembly Resolution 2300 (2019).

##### *Comments suggested by the Bureau*

1. The Steering Committee for Human Rights (CDDH) takes note of the Parliamentary Assembly’s Recommendation 2162 (2019) – “Improving the protection of whistle-blowers all over Europe”. Whistleblowing represents an important means in the fight against corruption and tackling gross mismanagement in the public and private sectors. The protection of whistle-blowers is a fundamental aspect of freedom of expression and freedom of conscience.
2. The CDDH recalls that recent developments within the Council of Europe member States and within the European Union as regards the existing practices and/or standards on the protection of whistle-blowers are addressed in the “Guide to good and promising practices on the way of reconciling freedom of expression with other rights and freedoms, in particular in culturally diverse societies”, prepared by the CDDH and transmitted to the Committee of Ministers for information at its 1357<sup>th</sup> meeting (16 October 2019).<sup>13</sup>
3. The CDDH shares the opinion of the Parliamentary Assembly on the importance to maintain coherence between the Council of Europe’s approach reflected in Recommendation CM/Rec(2014)7 of the Committee of Ministers<sup>14</sup> and the EU’s approach reflected in the proposal for a directive of the European Parliament and of

<sup>13</sup> See document [CM\(2019\)148](#), §§ 361-373.

<sup>14</sup> CM/Rec(2014)7 of the Committee of Ministers to member States on the protection of whistle-blowers, adopted by the Committee of Ministers on 30 April 2014 at the 1198th meeting of the Ministers’ Deputies.

the European Council on the protection of persons reporting on breaches of Union law.

4. As regards the Assembly's invitation to the Committee of Ministers to begin preparations for negotiating a binding legal instrument in the form of a Council of Europe Convention in this field which would draw on, *inter alia*, the above-mentioned European directive and the Council of Europe acquis on this matter, namely Recommendation CM/Rec2014(7) and the above-mentioned CDDH Guide, the CDDH notes that this issue will be considered by the European Committee on Legal Co-operation (CDCJ). The CDDH expresses its availability to, if appropriate, co-operate with the CDCJ in this field.

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## **V. RECOMMENDATION 2163 (2019) – “OMBUDSMAN INSTITUTIONS IN EUROPE – THE NEED FOR A SET OF COMMON STANDARDS”**

### ***Text of the Recommendation***

1. Referring to its [Resolution 2301 \(2019\)](#) on “Ombudsman institutions in Europe – the need for a set of common standards”, the Parliamentary Assembly recommends that the Committee of Ministers:

- 1.1 take all necessary measures to promote the Principles on the Protection and Promotion of the Ombudsman Institution (“the Venice Principles”) and their implementation by member States of the Council of Europe;
- 1.2 consider establishing a mechanism of appropriate composition and mandate to which Council of Europe member States would regularly report on the situation and activities of their Ombudsman institutions, including the state of implementation of the Venice Principles;
- 1.3 condemn any attack or threat against Ombudsman institutions coming from the authorities of a Council of Europe member State;
- 1.4 streamline its work in relation to the activities of Ombudsman institutions through better co-ordination with the Council of Europe Commissioner for Human Rights, the European Commission for Democracy through Law (“Venice Commission”), the Congress of Local and Regional Authorities and the Assembly;
- 1.5 adopt without delay the draft recommendation on the development of the Ombudsman institution, ensuring its compliance with the Venice Principles;
- 1.6 continue its co-operation in this field with other international organisations, in particular the European Union and the United Nations Organisation as well as with international associations of Ombudsman institutions such as the International Ombudsman Institute.

### ***Comments suggested by the Bureau***

1. The Steering Committee for Human Rights (CDDH) takes note with interest of the current debate in Europe on the Ombudsman institutions and, in this context, of the Parliamentary Assembly’s Recommendation 2163 (2019) – “Ombudsman institutions in Europe – the need for a set of common standards”.
2. Further to the invitation appearing in paragraph 1.5, the CDDH recalls that its draft Recommendation on the development of the Ombudsman institution has been adopted by the Committee of Ministers on 16 October 2019 as [Recommendation CM/Rec\(2019\)6](#).<sup>15</sup> This instrument is in compliance with the Venice Principles adopted by the European Commission for Democracy through Law on 19 March 2019. The CDDH considers it crucial to ensure wide dissemination and awareness-raising among national authorities to the standards contained in the recommendation and in the Venice Principles. To this end, the International Ombudsman Institute, with which the CDDH cooperated closely in the preparation of the CM Recommendation, could play an important role.

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<sup>15</sup> This recommendation was adopted by the Committee of Ministers on 16 October 2019 at the 1357<sup>th</sup> meeting of the Ministers’ Deputies.

3. The CDDH expresses its serious concern about the challenging working conditions, threats, pressures and attacks which Ombudsman institutions and their staff are at times exposed to in member State. As indicated in the above-mentioned Recommendation of the Committee of Ministers CM/Rec(2019)6, "Member States should take all measures necessary to protect Ombudsman institutions against threats and harassment. Any cases of alleged reprisal or intimidation against Ombudsman institutions and their staff, or against individuals who co-operate or seek to co-operate with them, should be promptly and thoroughly investigated and the perpetrators brought to justice." (see paragraph 7).
4. The CDDH stresses the importance of continuing support to Ombudsman institutions in all their diversity (national, regional and local Ombudsman institutions, including those dealing with specific thematic issues). A continuous strengthening of these institutions needs to be ensured and any measures which might weaken them must be avoided.
5. Concerning follow-up, the CDDH recalls that the Committee of Ministers will examine the implementation of Recommendation CM/Rec(2019)6 no later than five years after its adoption.
6. Finally, the CDDH recalls that, according to its terms of reference for 2020-2021, it will revise in 2020 Recommendation No. R(97)14 of the Committee of Ministers to member States on the establishment of independent national institutions for the promotion and protection of human rights. This exercise will certainly contribute to a better knowledge of the action conducted by Ombudsman institutions.

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## **VI. RECOMMENDATION 2164 (2019) – “PROTECTING AND SUPPORTING THE VICTIMS OF TERRORISM”**

### ***Text of the Recommendation***

1. The Parliamentary Assembly refers to Resolution 2303 (2019) “Protecting and supporting victims of terrorism” and welcomes the action taken by some Council of Europe member States to accompany their counter-terrorism strategies with concrete measures to ensure appropriate protection and assistance to the victims of terrorism.
2. The Assembly also welcomes the 2017 Revised Guidelines of the Committee of Ministers on the protection of victims of terrorist acts as well as the Council of Europe Counter-Terrorism Strategy (2018-2022), which includes recognition of the fact that efforts to increase security and effectively combat terrorist organisations should be accompanied by better co-ordinated assistance to victims.
3. The Assembly considers that a more sustained commitment on the part of member States is needed to ensure an adequate protection of victims of terrorist acts in all Council of Europe member States. It wishes to stress that victims’ assistance must be given an international dimension due to the increased likelihood of citizens of member States becoming victims in other European countries and outside of Europe.
4. Therefore, the Assembly calls on the Committee of Ministers to:
  - 4.1. recommend member States to:
    - 4.1.1. implement the Revised Guidelines of the Committee of Ministers on the protection of victims of terrorist acts of 19 May 2017, on a proactive basis;
    - 4.1.2. promote the full implementation of Article 13 of the Council of Europe Convention on the Prevention of Terrorism (CETS No. 196) on “Protection, compensation and support for victims of terrorism”;
    - 4.1.3. strengthen international co-operation with a view to better sharing information between national compensation services and avoid a situation of double compensation and co-ordinate assistance;
    - 4.1.4. share good practices, experience and expertise, also through the Council of Europe and the European Union, to allow the international community to learn from the unique experience of certain States;
    - 4.1.5. prioritise the improvement of support for cross-border victims of terrorism in future reforms;
  - 4.2. speed up its work to establish a network of single contact points for the exchange of procedural information regarding the legal standing of victims of terrorism in the jurisdictions of the member States, as well as other relevant States, also outside Europe;
  - 4.3. examine, in consultation with the European Union, the possibility of adopting a European charter of the rights of the victims of terrorism to facilitate recognition, communication and co-ordination in the wider Europe.
5. The Assembly wishes to continue being fully informed about work on action against terrorism and the protection of victims done by the Committee of Ministers and by relevant committees and working parties.

### **Comments suggested by the Bureau**

1. The Steering Committee for Human Rights (CDDH) takes note of the Parliamentary Assembly's Recommendation 2164 (2019) – "Protecting and supporting the victims of terrorism". Noting that the Committee of Ministers has requested its Committee on Counter-Terrorism (CDCT) to draft an opinion on this Recommendation at its 4<sup>th</sup> meeting (19-21 November 2019), the Bureau of the CDDH would like to send the following elements to the CDCT, so that the work already conducted by the CDDH is also reflected.
2. The Bureau notes that the draft CDCT opinion rightly mentions the Revised Guidelines of the Committee of Ministers on the protection of victims of terrorist acts (2017) which was prepared by the Steering Committee for Human Rights (CDDH). In this respect, it would be useful to also mention the Workshop "Protection of Victims of Terrorist Acts", organised under the aegis of the French Presidency of the Committee of Ministers in Strasbourg on 20 June 2019 at the 91<sup>st</sup> CDDH plenary meeting. This mention could take the form of a footnote (see below).
3. As regards the possibility expressed in the last paragraph of the draft CDCT opinion of a cooperation between the CDDH and the CDCT in order to examine the feasibility of a European Charter of the Rights of the Victims of Terrorism, as proposed by the Parliamentary Assembly in paragraph 4.3. of its Recommendation 2164 (2019), the CDDH will consider the issue at its 92<sup>nd</sup> CDDH meeting (26-29 November 2019) and will identify appropriate means for this co-operation. It could be established in the form of participation in the work of the CDCT of a contact person designated by the CDDH and a member of the Secretariat.

### For information of the CDDH

The text below will be examined by the CDCT at its 4<sup>th</sup> meeting (19-21 November 2019)

*Draft opinion of the Council of Europe Committee on Counter-Terrorism (CDCT) on Recommendation 2164 (2019) "Protecting and supporting the victims of terrorism" of the Parliamentary Assembly*

1. At the occasion of its 1357<sup>th</sup> meeting on 16 October 2019, the Committee of Ministers (Ministers' Deputies) agreed to communicate Recommendation 2164 (2019) – "Protecting and supporting the victims of terrorism" – to the Committee on Counter-Terrorism (CDCT) for information and possible comments by 22 November 2019.
2. The CDCT examined the aforesaid Recommendation during its 4<sup>th</sup> Plenary meeting on 19 – 21 November 2019, and adopted the following opinion:
3. The CDCT agrees with the Parliamentary Assembly that it is essential to give a strong international dimension to the assistance to victims of terrorism – not only in Europe, but globally.
4. As regards the situation of victims of terrorism in Europe, the CDCT considers that there is a need to further deepen coordination and cooperation in this field between the Council of Europe and the European Union, both in order to exploit synergies and to avoid unnecessary duplication of work. Cooperation between the two Organisations could, inter alia, take place in the form of concrete joint projects to develop and implement common standards.
5. To this end the member States of the Council of Europe have already taken a number of important steps through the adoption of the **Revised Guidelines of the Committee of**

**Ministers on the protection of victims of terrorist acts (2017)<sup>16</sup>, the assessment of the implementation of Article 13 of the Council of Europe Convention on the Prevention of Terrorism (CETS No 196)** carried out by the Consultation of the Parties to the aforesaid Convention, and the resulting prioritisation of efforts by the CDCT to address **the situation of persons who become victims of terrorist attacks perpetrated outside the territories of their own States** (activity 3.3 of the Council of Europe Counter-Terrorism Strategy (2018 – 2022). Finally, the CDCT has at its 3<sup>rd</sup> Plenary meeting (14 – 15 May 2019) decided to establish a **network of contact points for the exchange of procedural information regarding the legal standing of victims of terrorism**. This network, which became operational on 1 November 2019, is intended to become global, incorporating not only member States of the Council of Europe, but all interested States around the world.

6. The CDCT will, as in the past, on a regular basis hold exchanges between its members and participants concerning the legal situation of victims of terrorism in the Council of Europe member States, as well as on best practices in assisting and compensating such victims.
7. As regards the proposal by the Parliamentary Assembly on the adoption of a European charter of the rights of the victims of terrorism, cf. paragraph 4.3. of the Parliamentary Assembly Recommendation 2164 (2019), the Committee considers that the Steering Committee for Human Rights (CDDH) and the CDCT in cooperation could examine the feasibility of such an undertaking by the Council of Europe and report thereon to the Committee of Ministers.

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<sup>16</sup> In this context, it is worth also mentioning the Workshop “*Protection of Victims of Terrorist Acts*” organised by under the aegis of the French Presidency of the Committee of Ministers in Strasbourg on 20 June 2019. This Workshop gave the opportunity to exchange experience and good practices between Governments and representatives of the civil society concerning the implementation of the Guidelines. The Programme can be found in document CDDH(2019)R91, Appendix VI. The proceedings will be published soon.