

COUNCIL OF EUROPE

COMMITTEE OF MINISTERS

Recommendation Rec(2006)8 of the Committee of Ministers to member states on assistance to crime victims

*(Adopted by the Committee of Ministers on 14 June 2006
at the 967th meeting of the Ministers' Deputies)*

The Committee of Ministers, under the terms of Article 15.b of the Statute of the Council of Europe,

Aware of the fact that criminal victimisation is a daily phenomenon affecting the lives of citizens throughout Europe;

Having regard to Recommendation No. R (87) 21 on the assistance to victims and the prevention of victimisation, intended to complement the European Convention on the Compensation of Victims of Violent Crime (ETS No. 116, 1983) and Recommendation No. R (85) 11 on the position of the victim in the framework of criminal law and procedure;

Noting that, since the adoption of Recommendation No. R (87) 21, several recommendations have been adopted by the Committee of Ministers and significant developments have occurred in the field of assistance to victims including developments in national legislation and practice, a better understanding of the victims' needs and new research;

Bearing in mind the European Convention on the Protection of Human Rights and Fundamental Freedoms (ETS No. 5, 1950), the European Convention on the Compensation of Victims of Violent crimes (see above), the Council of Europe Convention on the Prevention of Terrorism (CETS No. 196, 2005) and the Council of Europe Convention on Action against trafficking in Human Beings (CETS No. 197, 2005);

Recalling the resolutions of the conferences of the European ministers of justice in 2003 and 2005, inviting the Committee of Ministers to adopt new rules concerning the support of victims of terrorist acts and their families;

Noting the work of the Committee of Experts on Terrorism (CODEXTER), with regard to victims of terrorism;

Having considered the Guidelines on human rights and the fight against terrorism adopted by the Committee of Ministers on 11 July 2002 and the Guidelines on the protection of victims of terrorist acts, adopted on 2 March 2005;

Taking account of the standards developed by the European Union and by the United Nations with regard to victims;

Noting with appreciation the achievements of non-governmental organisations in assisting victims;

Aware of the need for co-operation between states particularly to assist victims of terrorism and other forms of transnational crimes;

Aware of the need to prevent repeat victimisation, in particular for victims belonging to vulnerable groups;

Convinced that it is as much the responsibility of the state to ensure that victims are assisted as it is to deal with offenders,

Recommends that the governments of member states disseminate and be guided in their internal legislation and practice by the principles set out in the appendix to this recommendation which replaces Recommendation No. R (87) 21 on the assistance to victims and the prevention of victimisation.

1. Definitions

For the purpose of this recommendation,

1.1. Victim means a natural person who has suffered harm, including physical or mental injury, emotional suffering or economic loss, caused by acts or omissions that are in violation of the criminal law of a member state. The term victim also includes, where appropriate, the immediate family or dependants of the direct victim.

1.2. Repeat victimisation means a situation when the same person suffers from more than one criminal incident over a specific period of time.

1.3. Secondary victimisation means the victimisation that occurs not as a direct result of the criminal act but through the response of institutions and individuals to the victim.

2. Principles

2.1. States should ensure the effective recognition of, and respect for, the rights of victims with regard to their human rights; they should, in particular, respect the security, dignity, private and family life of victims and recognise the negative effects of crime on victims.

2.2. States should ensure that the measures set forth in this recommendation are made available to victims without discrimination.

2.3. The granting of these services and measures should not depend on the identification, arrest, prosecution or conviction of the perpetrator of the criminal act.

3. Assistance

3.1. States should identify and support measures to alleviate the negative effects of crime and to undertake that victims are assisted in all aspects of their rehabilitation, in the community, at home and in the workplace.

3.2. The assistance available should include the provision of medical care, material support and psychological health services as well as social care and counselling. These services should be provided free of charge at least in the immediate aftermath of the crime.

3.3. Victims should be protected as far as possible from secondary victimisation.

3.4. States should ensure that victims who are particularly vulnerable, either through their personal characteristics or through the circumstances of the crime, can benefit from special measures best suited to their situation.

3.5. Wherever possible, the assistance should be provided in a language understood by the victim.

4. Role of the public services

4.1. States should identify and support measures to encourage respect and recognition of victims and understanding of the negative effects of crime amongst all personnel and organisations coming into contact with victims.

Criminal justice agencies

4.2. The police and other criminal justice agencies should identify the needs of victims to ensure that appropriate information, protection and support is made available.

4.3. In particular, states should facilitate the referral of victims by the police to assistance services so that the appropriate services may be offered.

4.4. Victims should be provided with explanations of decisions made with regard to their case and have the opportunity to provide relevant information to the criminal justice personnel responsible for making these decisions.

4.5. Legal advice should be made available where appropriate.

Agencies in the community

4.6. States should promote the provision of special measures for the support or protection of victims by organisations providing, for example, health services, social security, housing, education and employment.

Role of embassies and consulates

4.7. Embassies and consulates should provide their nationals who become victims of crime with appropriate information and assistance.

5. Victim support services

5.1. States should provide or promote dedicated services for the support of victims and encourage the work of non governmental organisations in assisting victims.

Minimum standards

5.2. Such services should:

- be easily accessible;
- provide victims with free emotional, social and material support before, during and after the investigation and legal proceedings;
- be fully competent to deal with the problems faced by the victims they serve;
- provide victims with information on their rights and on the services available;
- refer victims to other services when necessary;
- respect confidentiality when providing services.

Specialised centres

5.3. States are encouraged to support the setting up or the maintenance of specialised centres for victims of crimes such as sexual and domestic violence and to facilitate access to these centres.

5.4. States may also consider it necessary to encourage the establishment or maintenance of specialised centres for victims of crimes of mass victimisation, including terrorism.

National help lines

5.5. States are encouraged to set up or to support free national telephone help lines for victims.

Co-ordination of services for victims

5.6. States should take steps to ensure that the work of services offering assistance to victims is co-ordinated and that:

- a comprehensive range of services is available and accessible;
- standards of good practice for services offering help to victims are prepared and maintained;
- appropriate training is provided and co-ordinated;
- services are accessible to government for consultation on proposed policies and legislation.

This co-ordination could be provided by a single national organisation or by some other means.

6. Information

Provision of information

6.1. States should ensure that victims have access to information of relevance to their case and necessary for the protection of their interests and the exercise of their rights.

6.2. This information should be provided as soon as the victim comes into contact with law enforcement or criminal justice agencies or with social or health care services. It should be communicated orally as well as in writing, and as far as possible in a language understood by the victim.

Content of the information

6.3. All victims should be informed of the services or organisations which can provide support and the type and, where relevant, the costs of the support.

6.4. When an offence has been reported to law enforcement or criminal justice agencies, the information provided to the victim should also include as a minimum:

- i. the procedures which will follow and the victims' role in these procedures;
- ii. how and in what circumstances the victim can obtain protection;
- iii. how and in what circumstances the victim can obtain compensation from the offender;
- iv. the availability and, where relevant, the cost of:
 - legal advice,
 - legal aid, or
 - any other sort of advice;
- v. how to apply for state compensation, if eligible;
- vi. if the victim is resident in another state, any existing arrangements which will help to protect his or her interests.

Information on legal proceedings

6.5. States should ensure in an appropriate way that victims are kept informed and understand:

- the outcome of their complaint;
- relevant stages in the progress of criminal proceedings;
- the verdict of the competent court and, where relevant, the sentence.

Victims should be given the opportunity to indicate that they do not wish to receive such information.

7. Right to effective access to other remedies

7.1. Victims may need to seek civil remedies to protect their rights following a crime. States should therefore take the necessary steps to ensure that victims have effective access to all civil remedies, and within a reasonable time, through:

- the right of access to competent courts; and
- legal aid in appropriate cases.

7.2. States should institute procedures for victims to claim compensation from the offender in the context of criminal proceedings. Advice and support should also be provided to victims in making these claims and in enforcing any payments awarded.

8. State compensation

Beneficiaries

8.1. Compensation should be provided by the state for:

- victims of serious, intentional, violent crimes, including sexual violence;
- the immediate family and dependants of victims who have died as a result of such crime.

Compensation scheme

- 8.2. States should adopt a compensation scheme for the victims of crimes committed on their territory, irrespective of the victim's nationality.
- 8.3. The compensation awarded to victims should be based on the principle of social solidarity.
- 8.4. The compensation should be granted without undue delay, at a fair and appropriate level.
- 8.5. Since many persons are victimised in European states other than their own, states are encouraged to co-operate to enable victims to claim compensation from the state in which the crime occurred by applying to a competent agency in their own country.

Damages requiring compensation

- 8.6. Compensation should be provided for treatment and rehabilitation for physical and psychological injuries.
- 8.7. States should consider compensation for loss of income, funeral expenses and loss of maintenance for dependants. States may also consider compensation for pain and suffering.
- 8.8. States may consider means to compensate damage resulting from crimes against property.

Subsidiarity

- 8.9. State compensation should be awarded to the extent that the damage is not covered by other sources such as the offender, insurance or state funded health and social provisions.

9. Insurance

- 9.1. States should evaluate the extent of cover available under public or private insurance schemes for the various categories of criminal victimisation. The aim should be to promote equal access to insurance for all residents.
- 9.2. States should encourage the principle that insurance be made available to as many people as possible. Insurance should be available to cover the person's belongings, as well as their physical integrity.
- 9.3. States are encouraged to promote the principle that insurance policies do not exclude damages caused by acts of terrorism unless other applicable provisions exist.

10. Protection

Protection of physical and psychological integrity

- 10.1. States should ensure, at all stages of the procedure, the protection of the victim's physical and psychological integrity. Particular protection may be necessary for victims who could be required to provide testimony.
- 10.2. Specific protection measures should be taken for victims at risk of intimidation, reprisals or repeat victimisation.
- 10.3. States should take the necessary measures to ensure that, at least in cases where there might be danger to the victims, when the person prosecuted or sentenced for an offence is released, a decision may be taken to notify the victims if necessary.

10.4. In so far as a state forwards on its own initiative the information referred to in paragraph 10.3, it should ensure that victims have the right to choose not to receive it, unless communication thereof is compulsory under the terms of the relevant criminal proceedings.

Protection against repeat victimisation

10.5. States should develop policies to identify and combat repeat victimisation. The prevention of repeat victimisation should be an essential element in all strategies for victim assistance and crime prevention.

10.6. All personnel in contact with victims should receive adequate training on the risks of repeat victimisation and on ways to reduce such risks.

10.7. Victims should be advised on the risk of repeat victimisation and of the means of reducing these risks as well as assistance in implementing the measures proposed.

Protection of privacy

10.8. States should take appropriate steps to avoid as far as possible impinging on the private and family life of victims as well as to protect the personal data of victims, in particular during the investigation and prosecution of the crime.

10.9. States should encourage the media to adopt and respect self regulation measures in order to protect victims' privacy and personal data.

11. Confidentiality

11.1. States should require all agencies, whether statutory or non-governmental, in contact with victims, to adopt clear standards by which they may only disclose to a third party information received from or relating to a victim under the condition that:

- the victim has explicitly consented to such disclosure;
- there is a legal requirement or authorisation to do so.

11.2. In these two cases of exception, clear rules should govern the disclosure procedures. Complaints procedures should be published for dealing with alleged breaches to the rules.

12. Selection and training of personnel

12.1. States should assist and support victim support services to:

- develop appropriate standards for the selection of all paid and voluntary staff providing direct assistance to victims;
- organise training and support for all paid and voluntary staff to ensure that such assistance is delivered according to professional standards.

Training

12.2. Training should as a minimum include:

- awareness of the negative effects of crime on victims;
- skills and knowledge required to assist victims;
- awareness of the risk of causing secondary victimisation and the skills to prevent this.

Specialised training

12.3. Specialised training should be provided to all personnel working with child victims and victims of special categories of crime, for example, domestic or sexual violence, terrorism, crimes motivated by racial, religious or other prejudice, as well as to families of murder victims.

Training of personnel in other services

12.4. Member states should ensure that appropriate training is provided for:

- the police and personnel involved in the administration of justice;
- the emergency services and others attending the scene of a major incident;
- relevant staff in health, housing, social security, education and employment services.

12.5. Such personnel should be trained to a level which is appropriate to their contact with victims. Training should include, as a minimum:

- general awareness of the effects of crime on a victim's attitudes and behaviour, including verbal behaviour;
- the risk of causing secondary victimisation and the skills required to minimise this risk;
- the availability of services providing information and support specific to the needs of victims and the means of accessing these services.

13. Mediation

13.1. Taking into account the potential benefits of mediation for victims, statutory agencies should, when dealing with victims, consider, where appropriate and available, the possibilities offered for mediation between the victim and the offender, in conformity with Committee of Ministers' Recommendation R (99) 19 on mediation in criminal matters.

13.2. The interests of victims should be fully and carefully considered when deciding upon and during a mediation process. Due consideration should be given not only to the potential benefits but also to the potential risks for the victim.

13.3. Where mediation is envisaged, states should support the adoption of clear standards to protect the interests of victims. These should include the ability of the parties to give free consent, issues of confidentiality, access to independent advice, the possibility to withdraw from the process at any stage and the competence of mediators.

14. Co-ordination and co-operation

14.1. Each state should develop and maintain co-ordinated strategies to promote and protect the rights and interests of victims.

14.2. To this end, each state should ensure, both nationally and locally, that:

- all agencies involved in criminal justice, social provision and health care, in the statutory, private and voluntary sectors, work together to ensure a co-ordinated response to victims;
- additional procedures are elaborated to deal with large scale victimisation situations, together with comprehensive implementation plans including the identification of lead agencies.

15. International co-operation

Preparation of states' responses

15.1. States should co-operate in preparing an efficient and co-ordinated response for transnational crimes. They should ensure that a comprehensive response is available to victims and that services co-operate in providing assistance.

Co-operation with the state of residence

15.2. In cases where the victim does not normally reside in the state where the crime occurred, that state and the state of residence should co-operate to provide protection to the victim and to assist the victim in reporting the crime as well as in the judicial process.

16. Raising public awareness of the effects of crime

16.1. States should contribute to raising public awareness of the needs of victims, encouraging understanding and recognition of the effects of crime in order to prevent secondary victimisation and to facilitate the rehabilitation of victims.

16.2. This should be achieved through government funding and publicity campaigns, using all available media.

16.3. The role of the non-governmental sector in focusing public attention on the situation of victims should be recognised, promoted and supported.

17. Research

17.1. States should promote, support, and, to the extent possible, fund or facilitate fund-raising for victimological research, including comparative research by researchers from within or outside their own territory.

17.2. Research should include:

- criminal victimisation and its impact on victims;
- prevalence and risks of criminal victimisation including factors affecting risk;
- the effectiveness of legislative and other measures for the support and protection of victims of crime – both in criminal justice and in the community;
- the effectiveness of intervention by criminal justice agencies and victim services.

17.3. States should take into consideration the latest state of victimological research available in developing consistent and evidence-based policies towards victims.

17.4. States should encourage all governmental and non-governmental agencies dealing with victims of crime to share their expertise with other agencies and institutions nationally and internationally.