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NOTE

From: Presidency
To: Permanent Representatives Committee/Council

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Subject: Draft Council Conclusions on Victims' Rights

1. The reinforcement of the protection of the rights of the victims of crimes has been included among the priorities of the work-programme of the Presidency. A lunch debate was devoted to this subject at the JHA Council (Justice session) held on 7 October 2019 on the basis of its discussion paper¹. Delegations welcomed the initiative of the Presidency of addressing this subject and of taking further action in this field.
2. As a further step, the Presidency presented draft Council Conclusions², with the aim of strengthening the existing EU framework in the area of victims' rights, improving and making more efficient its implementation, as well as of further developing it. In this regard, the draft Council Conclusions identify concrete actions and initiatives to be taken and developed by the Commission and the Member States.

¹ 12401/19 + COR 1

² 12630/19

3. The draft Council Conclusions were considered by the Working Party on Judicial Cooperation in Criminal Matters held on 9 and 22 October 2019³. The text of draft Council Conclusions, as it resulted following these two meetings, taking also into account written comments submitted by Member States, following a silence procedure⁴ was submitted to CATS at its meeting on 12 November 2019⁵. Delegations confirmed their agreement on the text of the draft Council Conclusions as set out in the Annex to this Note.
 4. The Presidency intends to submit the text of the draft Council Conclusions, as set out in the Annex to this Note, to the Permanent Representatives Committee at its meeting on 20 November 2019 and to the JHA Council (Justice session), at its meeting on 3 December 2019, for adoption.
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³ 13125/19

⁴ 13531/19

⁵ 13631/19

DRAFT COUNCIL CONCLUSIONS ON VICTIMS' RIGHTS*The Council*

- recalling the significant progress achieved in the establishment of a comprehensive EU framework in the area of victims' rights;
 - underlining the importance of further developing this framework and to improve its smooth and efficient implementation, with the involvement of all the relevant stakeholders;
- (1) REITERATES the European Union's new strategic agenda, according to which protecting citizens and freedoms is a key priority of Union action for the years 2019-2024. The European Council has reaffirmed that Europe must be a place where people feel free and safe.
 - (2) NOTES with satisfaction the Commission's work both in further improving victims' rights and in identifying the appropriate improvements in the area of victims' access to compensation. Furthermore, the Council considers that the report 'Strengthening victims' rights: from compensation to reparation - For a new EU victims' rights strategy 2020-2025'⁶ provides a good basis for future work.
 - (3) RECOGNISES the significant work carried out by the European Union Agency for Fundamental Rights (FRA), especially in relation to research and surveys regarding the identification and elimination of shortcomings related to victims' rights, e.g. the set of four reports on justice for victims of violent crime published in April 2019. Based on the views presented in the aforementioned reports, the Council considers it evident that measures to improve victims' access to justice and to compensation are required.

⁶ The report is set out in 8629/19.

- (4) REITERATES the previous Council Conclusions on victims of terrorism⁷ and on preventing and combating all forms of violence against women and girls, including female genital mutilation, released in 2014⁸.
- (5) RECOGNISES the tangible results achieved through the work carried out under the horizontal mandate of the EU Anti-Trafficking Coordinator, as per Article 20 of the EU Anti-Trafficking Directive, including with respect to the access to and realisation of the rights of victims of trafficking in human beings, and in relation to the 2017 Communication ‘Reporting on the follow-up to the EU Strategy towards the eradication of trafficking in human beings and identifying further concrete actions’.
- (6) CONSIDERS it especially important to continue and step up work to strengthen victims’ rights in the European Union. To this effect, the assessment of the implementation of the most recent legal instruments - such as Directive (EU) 2017/541 of the European Parliament and of the Council on combating terrorism⁹, as well as Directive 2012/29/EU of the European Parliament and of the Council of 25 October 2012 establishing minimum standards on the rights, support and protection of victims of crime, and replacing Council Framework Decision 2001/220/JHA¹⁰ - which is still ongoing should shortly be completed. The Council is of the opinion that it is justified to continue to develop the European Union’s victims policy in line with the latest relevant EU statutes and in relation to the needs and rights of victims.
- (7) CONSIDERS the restitution of frozen property to the victim under Regulation (EU) 2018/1805 of the European Parliament and of the Council of 14 November 2018 on the mutual recognition of freezing orders and confiscation orders¹¹ an important means of acknowledging the victim.

⁷ 9719/18.

⁸ 9543/14.

⁹ OJ L 88, 31.3.2017, p. 6.

¹⁰ OJ L 315, 14.11.2012, p. 57.

¹¹ OJ L 303, 28.11.2018, p. 1.

- (8) UNDERLINES the importance of strengthening the transition of statutes related to victims' rights into best practice in Member States. It is important that victims feel that their rights apply in practice and regardless of in which Member State the crime has occurred. Victims' access to rights needs to be ensured by increasing the effectiveness of communication towards victims by all the appropriate measures. Moreover, the training and expertise of people encountering victims need comprehensive and permanent endorsement.
- (9) EMPHASISES the importance of EU funding for the promotion of the rights of crime victims in the Member States. The Council considers it essential that the possibility to fund actions and initiatives aiming at improving victims' rights be included in the Justice Programme, the Rights and Values programme and the Internal Security Fund of the Union's multiannual financial framework for 2021-2027.
- (10) ACKNOWLEDGES that matters related to victims' rights are inter-institutional, cross-governmental, multidimensional and require coordination. In developing EU-level coordination, experiences regarding tasks related to coordination need to be evaluated before considering establishing new coordination structures or modifying existing tasks. In particular, any overlaps with existing mandates and EU-level coordination frameworks established under EU law should be avoided. It is important for the EU to be active in fostering cross-border cooperation between Member States. National coordination structures should however remain under the sole responsibility of Member States.
- (11) NOTES that, despite substantial efforts to ensure that rules are applied and rights upheld in cyberspace, all forms of cybercrimes and harmful online behaviours continue to increase, bringing about the need to provide protection to victims suffering a violation of their fundamental rights, economic losses, identity theft and damages against their reputation across borders.

- (12) CONSIDERS that cooperation at both EU and national level must be strengthened. Cooperation between Member States, and its effectiveness, needs to be increased by using existing EU networks. Cooperation between the European Network on Victims' Rights (hereinafter 'ENVR')¹² and other relevant EU networks such as the European Judicial Network¹³ and the European Crime Prevention Network (hereinafter 'EUCPN')¹⁴ could be considered. Furthermore, the Council considers that meetings of central contact points defined in the Compensation Directive could be organised on a more regular basis, for instance in connection with the meetings/activities of the ENVR. In order to firmly recognise the point of view of victims and to strengthen the support granted to them, partnerships with organisations and/or other actors providing support services to victims need to be actively promoted.
- (13) CONSIDERS that compensation of damages caused to victims by crime belongs to the core rights of victims. Whilst the primary obligation to effectively compensate victims lies with the offender. Special efforts should be made in the near future to improve victims' effective access to state compensation as provided for under the provisions on national compensation schemes of the Compensation Directive. This will improve the situation of victims of violent intentional crime in particular.

¹² ENVR was established to implement the Council Conclusions establishing an Informal European Network on Victims' Rights, adopted in June 2016 (9997/16).

¹³ Council Decision 2008/976/JHA of 16 December 2008 on the European Judicial Network (OJ L 348, 24.12.2008, p. 130).

¹⁴ Council Decision 2009/902/JHA of 30 November 2009 setting up a European Crime Prevention Network (EUCPN) and repealing Decision 2001/427/JHA (OJ L 321, 8.12.2009, p. 44).

- (14) CONSIDERS that in order to improve victims' access to compensation, appropriate measures should be considered. These measures could include strengthening cooperation at national and EU level. The possible revision of the Compensation Directive could also be considered depending on the outcome of the ongoing evaluation. Part of the possible revision work should be to further define the tasks of national contact points. Furthermore, in order to consider future action in the area of victims' access to compensation, more information should be provided in relation to difficulties encountered in implementing the Compensation Directive. In addition, more information on national criteria for compensation and definitions of intentional violent crimes in Member States is needed.
- (15) UNDERLINES that in order to simplify state compensation schemes, as well as to adequately take into consideration the differences between Member States, compensation needs to remain pecuniary. Member States should aim at ensuring that victims are not exposed to secondary victimisation when claiming compensation by providing appropriate support and protection. The Council does not consider the harmonisation of compensation and of state compensation schemes possible; however, it could be explored whether the definition of victims entitled to state compensation could to some extent be harmonised.

The European Commission is invited to:

1. DRAW UP an EU strategy for 2020-2024 on victims' rights. The strategy should be comprehensive and cover all victims of crime, with a special emphasis on victims of violent crimes. It should include a systematic approach to ensure victims' effective access to justice and compensation.
2. INCLUDE in the strategy the following measures: promotion of best practices among the Member States on how to improve victims' access to information, support and protection, new practical initiatives for training and, coordination and strengthening the activities of existing EU networks such as the European Network on Victims' Rights and the network of the national contact points established under Article 16 of the Compensation Directive. In this context, the Commission is invited to evaluate the activities and value of the ENVR and the network of national contact points and to assess the appropriateness of merging these two networks.
3. EVALUATE the existing legislative framework on victims' rights as part of the abovementioned strategy. Special attention should be paid to the review of the EU rules relevant to compensation such as the Compensation Directive. The effects of Council Framework Decision 2005/214/JHA of 24 February 2005 on the application of the principle of mutual recognition to financial penalties¹⁵ on victims' access to compensation should also be examined.
4. INVITE Eurojust, FRA, the European Institute for Gender Equality and the ENVR to look into the question of how to improve the cooperation and exchange of information between the competent authorities concerning victims of violent crime in cross-border cases. Furthermore, the European Judicial Training Network and the European Union Agency for Law Enforcement Training could also contribute in particular with respect to the training of competent authorities.
5. MAKE FULL USE of the EU funding instruments in the promotion of the rights of crime victims and actively disseminate information on EU-funding opportunities that aim at improving victims' rights in the Member States.

¹⁵ OJ L 76, 22.3.2005, p. 16.

Member States are called on to:

1. ENSURE the complete and correct transposition and effective practical implementation of the existing EU legislation on victims' rights.
2. FULFIL the commitment to implement the measures agreed in the recent Council Conclusions in the area of victims' rights.
3. ENSURE that the national compensation authorities participate, when needed, in national and bilateral action and in meetings of national contact points to strengthen cooperation.
4. ENSURE a comprehensive and holistic approach to victims' rights, that will involve all actors likely to come into contact with victims and will include victims' access to information about their rights, support and protection in accordance with victims' individual needs.
5. ENSURE the existence of national compensation policies on victims' access to compensation and if necessary develop measures to improve their functioning. Part of this development may concentrate on improving the possibilities for using new technology in order to better inform victims about compensation. Information should be interactive, user-friendly and accessible to all users. Member States should consider making this information available at least in English in addition to national languages. Member States are also encouraged to develop electronic services and user-friendly forms for applying for compensation.
6. STRENGTHEN the awareness of officials likely to come into contact with victims about the state compensation schemes, for example by providing training. Furthermore, Member States are invited to consider whether the training under Article 25 of the Victims' Rights Directive should also be provided to compensation authorities.
7. MAKE FULL USE of the EU funding instruments in the promotion of the rights of crime victims, including for instance by developing and setting up interactive and user-friendly national websites, telephone helplines and mobile applications for compensation authorities in the Member States.