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NOTE

From:	General Secretariat of the Council
To:	Delegations
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Subject:	Victims-report by special advisor Milquet, 'From compensation to reparation'
	– Questions by the Commission - Exchange of views

Delegations will find attached a discussion paper with questions by the Commission services on the Milquet report.

Discussion paper by Commission services

Recommendations of the Special Adviser Joëlle Milquet to the President of the European Commission from her report on “Strengthening victims’ rights: from compensation to reparation” - discussion on possible next steps

The Commission services would like to raise Member States’ attention of the recommendations of Special Adviser Joëlle Milquet presented in her report on compensation and to trigger a related discussion on possible next steps in the area of victims’ rights.

In particular, the Commission services would like to invite Member States to consider which of the recommendations they find useful and would like to start implementing at national and/or EU level.

1. Background

In October 2017, President Juncker appointed Mrs Joëlle Milquet, as his Special Adviser on compensation to victims of crime. The mandate included the preparation of a report on how to improve victims’ access to compensation in the European Union.

The Special Adviser presented the report on 11 March 2019.

The report shows that victims’ difficulties in accessing justice and compensation are often due to a lack of information, insufficient support, and overly restrictive eligibility criteria or procedural hurdles. For persons who become victims of crime when travelling to another EU country, it can be even more difficult to receive compensation – especially if they do not know the country and do not reside there.

The report takes into account the views of various stakeholders, including victims of crime and victim associations.

2. The report

Special Adviser Joëlle Milquet's report to the President of the European Commission on "Strengthening victims' rights: from compensation to reparation" takes a holistic approach to compensation. It is not limited to financial aspects of compensation, but aims at tackling the underlying causes of the problems that victims face when claiming compensation. It is founded on a human rights-based approach to criminal justice.

The Special Adviser is calling for the new Commission to set up **a new strategy on victims' rights** based on achievements so far at EU and national level. The Special Adviser calls for a new strategic approach to tackle the scale of problems and their cross-cutting nature.

The strategy is composed of **41 specific recommendations** on how to improve victims' access to justice and compensation. The recommendations are divided into 6 thematic blocks: strengthening cooperation; access to information; training; state compensation; offender compensation; and access to support services. The report includes specific chapters on victims of terrorism, victims of trafficking in human beings and victims of gender-based violence.

The report is an independent document that does not necessarily reflect the position of the European Commission or its President. Nonetheless, the Commission services find that there are numerous recommendations that merit further reflection and discussion.

3. Questions to Member States – which recommendations from the report should be followed, by whom and how (what methods)

The Commission services invite Member States to consider which of the report's recommendations can be implemented, and to what extent, by the next Commission (at EU level) and which of the recommendations can be integrated into the national policies on victims' rights of particular Member States. In this regard, the Commission services invite Member States to consider the proposed methods of implementing particular recommendations (legislative or non-legislative actions).

The questions below will be discussed at the COPEN meeting of 19 June 2019.

To facilitate the discussion, the Commission services invite Member States to consider the following questions about recommendations in relation to particular sections/areas of the report:

1) What is your view on the recommendations in the area of cooperation and coordination?

In the area of **cooperation and coordination**, the recommendations include the adoption of national strategies on victims' rights and national coordinators for victims' rights. At EU level, the Special Adviser calls for the nomination of an EU Coordinator for victims' rights and for the establishment of an EU multidisciplinary centre for victims of all crime. Such a centre could build on the EU Centre for Expertise for victims of terrorism that is due to be set up by the Commission in 2019. The Special Adviser also calls for an EU solidarity fund for victims of terrorism.

2) What is your view on the recommendations in the area of access to information and training?

When it comes to recommendations related to **access to information**, a set of actions is proposed, including measures to oblige prosecutors/judges to verify victims' awareness of their right to claim compensation during criminal proceedings. Mandatory **training** for all persons meeting victims is also recommended. In addition, the EU and Member States should take actions to set up victims-friendly websites and provide for awareness-raising campaigns.

3) What is your view on the recommendations in the area of state compensation and access to support services?

Several recommendations aim at improving **state compensation** that goes beyond simple cash payments and include free-of-charge multidisciplinary victims support services (such as resilience centres that have a capacity to take care of victims in a comprehensive manner, including psychological and practical assistance) and personal navigators/assistants that could be designated to particular victims (at least those of the most serious crime) to accompany them in an individualised manner. Member States should set up national compensation funds and single compensation contact points for victims. A further recommendation is to facilitate victims' access to compensation through mandatory emergency and upfront payment by the state.

4) What is your view on the recommendations in the area of offender compensation?

Recommendations to improve **offender compensation schemes** (within the criminal proceeding) include the introduction of a possibility for criminal judges to impose compensation to victims of crime in a form of an accessory penalty (that should facilitate the execution of victim's compensation from the offender). The Special Adviser also calls for better access to legal aid for victims of crime and better enforcement measures.

The above presentation constitutes a brief summary of some of the recommendations. Member States are invited to consult all recommendations presented in the report of the Special Adviser. The full report is available online here:

https://ec.europa.eu/info/policies/justice-and-fundamental-rights/criminal-justice/victims-rights_en