

## IOE Comments on Article 4 of the third revised draft treaty

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Thank you very much chair for giving us the floor. There are four aspect that we want to raise.

1) We observe that we are dealing with an overly prescriptive article, which in our view is somehow ignoring fundamental aspects of due process.

While we agree on the need to grant proper assistance to victims seeking access to justice.

The article, which focus on the rights of complainants overlooks the fact that there are also **rights for those who may have claims lodged against them**, such as for example the aspect on confidentiality rights which is applicable to both parties.

We should not forget that there is a wide normative corpus and provisions at international level providing a right to a remedy for victims of violations of international human rights.

All these are referred in the Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law (Adopted by General Assembly resolution 60/147 of 16 December 2005).

Moreover, these rights have to give due regard to national law and available mechanisms at national level.

2) The second aspect we want to raise is around “**Collective redress**” and “**Class action**” which is referred in this article. it is important to observe that these concepts are not recognized in many legal systems.

3)The third aspect we want to raise is around the **rules on legal aid**. Rules on legal aid must on the one hand ensure that the victims that the victims of human rights violations have access to justice, and on the other hand, these most not facilitate frivolous or bad faith claims. To achieve this balance of interests, certain conditions for a right to legal aid are needed, which the text continue not to include.

4) Finally, on the “**access to information**” we should acknowledge that this right is not absolute, nor is an illimited right, it should be tempered wirh an effective recognition of the vital importance of confidential nature of some information. The right to information has to be limited to the causes leading to the victimization or the conditions pertaining to gross violations of international human rights law and serious violations of international humanitarian law.

I thank you.