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

**Preliminary draft revision
of the Guidelines on the Protection
of Victims of Terrorist Acts (2005)**

Introduction

1. In his report *The fight against violent extremism and radicalisation leading to terrorism* (CM(2016)64) presented at the 126th Session of the Committee of Ministers (Sofia, 18 May 2016), the Secretary General proposed a revision of the Guidelines on the Protection of Victims of Terrorist Acts, adopted by the Committee of Ministers on 2 March 2005, in order to incorporate additional elements in light of the new face of terrorism.
2. At its 85th meeting (15-17 June 2016), the Steering Committee for Human Rights (CDDH) asked its Secretariat to prepare a draft revision of the Guidelines based on written contributions by member States. The draft text will first be presented to the Committee of Experts on Terrorism (CODEXTER) for written comments at its 31st meeting (16-17

November 2016), and then to the CDDH for written comments with a view to its discussion and possible adoption at the 86th meeting (6-9 December 2016). The draft revised Guidelines will be sent to the Committee of Ministers at the beginning of 2017.

3. The original text of the Guidelines appears in Appendix I. The preliminary draft revision prepared by the Secretariat appears in Appendix II. It was prepared in light in particular of information provided by member States (Appendix III), of relevant case-law of the European Court of Human Rights (Appendix IV), of other references to case law of the European Court of Human Rights (regarding victims, but not necessarily those of terrorist acts) (Appendix V) and of relevant provisions originating from other international bodies (Appendix VI).
4. This preliminary draft bears in mind the following four action lines mentioned by the Secretary General in his above-mentioned report of May 2016:
 - (a) Implementing a general legal framework to assist victims
 - (b) Providing assistance to victims in legal proceedings
 - (c) Raising public awareness of the need for societal recognition of victims, including the role of the media
 - (d) Involving victims of terrorism in the fight against terrorism.

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Appendix I

For information: Current text

**GUIDELINES ON THE PROTECTION
OF VICTIMS OF TERRORIST ACTS**

*(Adopted by the Committee of Ministers on 2 March 2005
at the 917th meeting of the Ministers' Deputies)*

Preamble

The Committee of Ministers,

- a. Considering that terrorism seriously jeopardises human rights, threatens democracy, aims notably to destabilise legitimately constituted governments and to undermine pluralistic civil society and challenges the ideals of everyone to live free from fear;
- b. Unequivocally condemning all acts of terrorism as criminal and unjustifiable, wherever and by whomever committed;
- c. Recognising the suffering endured by the victims of terrorist acts and their close family and considering that these persons must be shown national and international solidarity and support;
- d. Recognising in that respect the important role of associations for the protection of victims of terrorist acts;
- e. Reaffirming the Guidelines on Human Rights and the Fight against Terrorism, adopted on 11 July 2002 at the 804th meeting of the Ministers' Deputies, as a permanent and universal reference;
- f. Underlining in particular the States' obligation to take the measures needed to protect the fundamental rights of everyone within their jurisdiction against terrorist acts, especially the right to life;
- g. Recalling also that all measures taken by States to fight terrorism must respect human rights and the principle of the rule of law, while excluding any form of arbitrariness, as well as any discriminatory or racist treatment, and must be subject to appropriate supervision;
- h. Considering that the present Guidelines aim at addressing the needs and concerns of the victims of terrorist acts in identifying the means to be implemented to help them and to protect their fundamental rights while excluding any form of arbitrariness, as well as any discriminatory or racist treatment;
- i. Considering that the present Guidelines should not, under any circumstances, be construed as restricting in any way the Guidelines of 11 July 2002;

Adopts the following Guidelines and invites member States to implement them and ensure that they are widely disseminated among all authorities responsible for the fight against terrorism and for the protection of the victims of terrorist acts, as well as among representatives of civil society.

I. Principles

1. States should ensure that any person who has suffered direct physical or psychological harm as a result of a terrorist act as well as, in appropriate circumstances, their close family can benefit from the services and measures prescribed by these Guidelines. These persons are considered victims for the purposes of these Guidelines.
2. The granting of these services and measures should not depend on the identification, arrest, prosecution or conviction of the perpetrator of the terrorist act.
3. States must respect the dignity, private and family life of victims of terrorist acts in their treatment.

II. Emergency assistance

In order to cover the immediate needs of the victims, States should ensure that appropriate (medical, psychological, social and material) emergency assistance is available free of charge to victims of terrorist acts; they should also facilitate access to spiritual assistance for victims at their request.

III. Continuing assistance

1. States should provide for appropriate continuing medical, psychological, social and material assistance for victims of terrorist acts.
2. If the victim does not normally reside on the territory of the State where the terrorist act occurred, that State should cooperate with the State of residence in ensuring that the victim receives such assistance.

IV. Investigation and prosecution

1. Where there have been victims of terrorist acts, States must launch an effective official investigation into those acts.
2. In this framework, special attention must be paid to victims without it being necessary for them to have made a formal complaint.
3. In cases where, as a result of an investigation, it is decided not to take action to prosecute a suspected perpetrator of a terrorist act, States should allow victims to ask for this decision to be re-examined by a competent authority.

V. Effective access to the law and to justice

States should provide effective access to the law and to justice for victims of terrorist acts by providing:

- (i) the right of access to competent courts in order to bring a civil action in support of their rights, and
- (ii) legal aid in appropriate cases.

VI. Administration of justice

1. States should, in accordance with their national legislation, strive to bring individuals suspected of terrorist acts to justice and obtain a decision from a competent tribunal within a reasonable time.
2. States should ensure that the position of victims of terrorist acts is adequately recognised in criminal proceedings.

VII. Compensation

1. Victims of terrorist acts should receive fair, appropriate and timely compensation for the damages which they suffered. When compensation is not available from other sources, in particular through the confiscation of the property of the perpetrators, organisers and sponsors of terrorist acts, the State on the territory of which the terrorist act happened must contribute to the compensation of victims for direct physical or psychological harm, irrespective of their nationality.
2. Compensation should be easily accessible to victims, irrespective of nationality. To this end, the State on the territory of which the terrorist act happened should introduce a mechanism allowing for a fair and appropriate compensation, after a simple procedure and within a reasonable time.
3. States whose nationals were victims of a terrorist act on the territory of another State should also encourage administrative cooperation with the competent authorities of that State to facilitate access to compensation for their nationals.
4. Apart from the payment of pecuniary compensation, States are encouraged to consider, depending on the circumstances, taking other measures to mitigate the negative effects of the terrorist act suffered by the victims.

VIII. Protection of the private and family life of victims of terrorist acts

1. States should take appropriate steps to avoid as far as possible undermining respect for the private and family life of victims of terrorist acts, in particular when carrying out investigations or providing assistance after the terrorist act as well as within the framework of proceedings initiated by victims.
2. States should, where appropriate, in full compliance with the principle of freedom of expression, encourage the media and journalists to adopt self-regulatory measures in order to ensure the protection of the private and family life of victims of terrorist acts in the framework of their information activities.
3. States must ensure that victims of terrorist acts have an effective remedy where they raise an arguable claim that their right to respect for their private and family life has been violated.

IX. Protection of the dignity and security of victims of terrorist acts

1. At all stages of the proceedings, victims of terrorist acts should be treated in a manner which gives due consideration to their personal situation, their rights and their dignity.
2. States must ensure the protection and security of victims of terrorist acts and should take measures, where appropriate, to protect their identity, in particular where they intervene as witnesses.

X. Information for victims of terrorist acts

States should give information, in an appropriate way, to victims of terrorist acts about the act of which they suffered, except where victims indicate that they do not wish to receive such information. For this purpose, States should:

- (i) set up appropriate information contact points for the victims, concerning in particular their rights, the existence of victim support bodies, and the possibility of obtaining assistance, practical and legal advice as well as redress or compensation;
- (ii) ensure the provision to the victims of appropriate information in particular about the investigations, the final decision concerning prosecution, the date and place of the hearings and the conditions under which they may acquaint themselves with the decisions handed down.

XI. Specific training for persons responsible for assisting victims of terrorist acts

States should encourage specific training for persons responsible for assisting victims of terrorist acts, as well as granting the necessary resources to that effect.

XII. Increased protection

Nothing in these Guidelines restrains States from adopting more favourable services and measures than described in these Guidelines.

Appendix II

Preliminary draft revision

Note – In this preliminary draft, all new elements are underlined. The other paragraphs come from the current text that is in force, but their location in the preliminary draft could have been changed compared to their initial location.

REVISED GUIDELINES ON THE PROTECTION OF VICTIMS OF TERRORIST ACTS

*(adopted by the Committee of Ministers on ... 2017
at the ... meeting of the Ministers' Deputies)*

Preamble

The Committee of Ministers,

- a. Considering that terrorism seriously jeopardises human rights, threatens democracy, aims notably to destabilise legitimately constituted governments and to undermine pluralistic civil society and challenges the ideals of everyone to live free from fear;
- b. Unequivocally condemning all acts of terrorism as criminal and unjustifiable, wherever and by whomever committed;
- c. Underlining in particular the States' obligation to take the measures needed to protect the fundamental rights of everyone within their jurisdiction against terrorist acts, especially the right to life;
- d. Reaffirming the Guidelines on Human Rights and the Fight against Terrorism, adopted on 11 July 2002 at the 804th meeting of the Ministers' Deputies, as a permanent and universal reference;
- e. Recognising the suffering endured by the victims of terrorist acts and their close family and considering that these persons must be shown national and international solidarity and support;
- f. Underlining that the effects of terrorism on victims and their close family members require at national level the implementation of an efficient protection policy, financial assistance

and compensation for victims in the light of Article 13 of the Council of Europe Convention on the Prevention of Terrorism (Warsaw, 16 May 2005, CETS No.196);

g. Recalling that effects of terrorism on society require at national level the implementation of an efficient public policy recognising the suffering of victims and remembering their memories as a way to prevent new acts of violence and give the rightful place to victims within society, against those who spread fear;

h. Recalling the Guidelines on The Protection of Victims of Terrorist Acts, adopted on 2nd March 2005 at the 917th meeting of the Ministers' Deputies and willing to revise them as a response to new forms of terrorism;

i. Recognising the important role of associations for the protection of victims;

Adopts the following revised Guidelines and invites member States to implement them and ensure that they are widely disseminated among all authorities responsible for the fight against terrorism and for the protection of the victims, as well as among representatives of civil society.

I. Purpose of the Guidelines

The present Guidelines aim at addressing the needs and concerns of the victims in identifying the means to be implemented to help them and to protect their fundamental rights while excluding any form of arbitrariness, as well as any discriminatory or racist treatment.

II. General legal framework for assisting victims

1. States should implement a general legal framework to assist persons who have suffered direct physical or psychological harm as a result of a terrorist act as well as, in appropriate circumstances, those close to them. These persons are considered as victims of terrorist acts (hereinafter: victims) for the purposes of these Guidelines.

2. Assistance should be available for:

- (i) all victims of terrorist acts within the territory of the country;
- (ii) nationals who have suffered such acts abroad;
- (ii) nationals participating to peacekeeping missions or security operations abroad and who are victims of terrorist acts.

3. States are encouraged to provide appropriate structures to address all of victims' needs. More specifically, they are encouraged to implement in an appropriate way:

- (i) rapid identification procedures for the bodies of victims (centralisation of identifying elements, and their verification) so as to inform and return bodies to the families concerned, while taking into full consideration the key issues arising in this context, particularly psychological trauma;
- (ii) a service for designating “victim” correspondents within the investigating department and the public prosecution service, in order to facilitate the collection of information and to produce, on that basis, a single list of victims present at the time and place of the terrorist act;
- (iii) a confidential and free reception and support service for victims through multi-disciplinary teams, taking full account of the specificity and seriousness of the acts and the damage suffered. In particular, these teams should be led and co-ordinated in real time by a suitable body such as an inter-ministerial unit providing assistance to victims. This body would also be in charge of setting up an appropriate single telephone helpline for victims;
- (iv) a network of local “terrorism” correspondents working in tandem with victim support associations. Each correspondent would *inter alia* be required to:
 - a. identify all of the local partners coming to the assistance of victims;
 - b. set up and manage an appropriate network of contacts;
 - c. liaise with the inter-ministerial unit and the public prosecution service;
 - d. co-ordinate and/or take action in support of the continuing assistance provided in cooperation with the victim support associations.
- (v) local committees to follow-up on victims and information points;
- (vi) free of charge access to translation or interpretation services, necessary for effective interaction with responsible agencies from another State.

4. States should adopt necessary measures to protect and support victims of terrorism that has occurred on its own territory. These measures should include financial assistance and compensation for victims, according to appropriate national systems and subject to domestic legislation.

5. In particular, States should provide the following, for the benefit of victims, in an appropriate way:

- (i) emergency assistance;
- (ii) measures allowing them to be quickly informed of their rights;

- (iii) measures allowing them to be afforded:
 - a. continuing assistance;
 - b. access to investigation and prosecution;
 - c. effective access to the law and to justice;
 - d. compensation;
 - e. protection of their private and family life;
 - f. an opportunity to involve themselves in the fight against terrorism;
 - g. recognition of their suffering by society.

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

7. States must respect the dignity and security of victims in their treatment.

III. Emergency assistance

In order to cover the immediate needs of the victims, States should ensure that appropriate (medical, psychological, social and material) emergency assistance is available free of charge to victims; they should also facilitate access to spiritual assistance for victims at their request.

IV. Information

States should give information to victims about the act of which they suffered, except where victims indicate that they do not wish to receive such information. For this purpose, States should in an appropriate way:

- (i) set up information *contact points* for the victims, concerning in particular their rights, the existence of support bodies, and the possibility of obtaining assistance, practical and legal advice as well as redress or compensation;
- (ii) ensure that victims are provided with information when dealing with the media;
- (iii) ensure the provision to the victims of relevant information in particular about the investigations, the final decision concerning prosecution, the date and place of the hearings and the conditions under which they may acquaint themselves with the decisions handed down.

V. Continuing assistance

1. States should provide victims with appropriate continuing medical, psychological, social and material assistance. This assistance should ensure that victims recover to their situation before the terrorist act as far as possible.
2. Continuing assistance should include *inter alia* measures aiming at:
 - (i) facilitating the reintegration of victims on the labour market, especially concerning access to employment or reorganising their working conditions due to their physical and psychological situation after the terrorist attack;
 - (ii) ensuring appropriate housing conditions and sufficient income to victims who have suffered disabling damages due to the terrorist attack;
 - (iii) granting privileged access to public transport in order to promote mobility and sociability of victims who have suffered disabling damages due to the terrorist attack.
3. If victims do not normally reside on the territory of the State where the terrorist act occurred, that State should co-operate with the State of residence in ensuring that victims receive such assistance.

VI. Investigation

1. Where there have been victims of terrorist acts, States must launch an effective official investigation into those acts.
2. In this framework, special attention must be paid to victims without it being necessary for them to have made a formal complaint. The materials and conclusions of the investigation should be sufficiently accessible by victims, to the extent it does not seriously undermine its efficiency.¹
3. States should ensure that investigators and prosecutors dealing with victims receive specific victim-sensitive training on the needs of victims, strategies for appropriately dealing with them and the need to prevent secondary victimisation.

VII. Prosecution

1. States should develop a procedure in their own national laws or criminal procedural codes whereby victims are entitled to ask for a review of a decision not to prosecute the alleged perpetrator of a terrorist act at the outcome of the inquiry.

¹ Cf. Eur.Court HR, *Finogenov v. Russia* of 4 June 2012, para. 270.

2. States should ensure that the position of victims is adequately recognised in criminal proceedings against persons suspected of terrorist acts.
3. States could consider a new Prosecutor position specifically responsible for prosecution related to terrorist acts.

VIII. Effective access to the law and to justice

1. States should provide effective access to the law and to justice for victims by providing:
 - (i) the right of access to competent courts in order to bring a civil action in support of their rights, and
 - (ii) free of charge and appropriate legal assistance, if necessary, in judicial proceedings, including interpretation services.
2. States should promote and support civil society and non-governmental organisations involved in providing support to victims within the criminal justice system.
3. States should ensure that criminal proceedings, including appeals, are conducted expeditiously.

IX. Compensation

1. Victims should receive fair, appropriate and timely compensation for the damages which they suffered. When compensation is not available from other sources, in particular through the confiscation of the property of the perpetrators, organisers and sponsors of terrorist acts, the State on the territory of which the terrorist act happened must contribute to the compensation of victims for direct physical or psychological harm, irrespective of their nationality.
2. Compensation should be easily accessible to victims, irrespective of nationality. To this end, the State on the territory of which the terrorist act happened should introduce a mechanism allowing for a fair and appropriate compensation, after a simple procedure and within a reasonable time.
3. States whose nationals were victims of a terrorist act on the territory of another State should also encourage administrative co-operation with the competent authorities of that State to facilitate access to compensation for their nationals.
4. Apart from the payment of pecuniary compensation, States are encouraged to consider, depending on the circumstances, taking other measures to mitigate the negative effects suffered by the victims (e.g., free or subsidised education, medical care or housing assistance; employment training and opportunities; tax reductions).

5. States should consider establishing national victims' funds, resourced by proceeds derived from assets seized in accordance with legislative provisions from persons convicted of serious crimes related to terrorism or legal entities that have been restrained and forfeited, having been found civilly liable for financing terrorist activities.

6. States should consider other means of resourcing a publicly administered fund for victims of terrorism (e.g., levies on life insurance policies or fines assessed or imposed by the courts when sentencing for criminal convictions).

7. States should consider prohibiting the sale or marketing of life insurance policies that exclude coverage for acts of terrorism.

X. Protection of the private and family life

1. States should take appropriate steps to avoid as far as possible undermining respect for the private and family life of victims, in particular when carrying out investigations or providing assistance after the terrorist act as well as within the framework of proceedings initiated by victims.

2. States should, where appropriate, and in full compliance with the principle of freedom of expression, encourage the media and journalists to adopt self-regulatory measures in order to ensure the protection of the private and family life of victims in the framework of their information and awareness-raising activities.

3. States must ensure that victims have an effective remedy where they raise an arguable claim that their right to respect for their private and family life has been violated.

XI. Protection of the dignity and security

1. At all stages of the proceedings, victims should be treated in a manner which gives due consideration to their personal situation, their rights and their dignity.

2. States must ensure the protection and security of victims and should take measures, where appropriate, to protect their identity, in particular where they intervene as witnesses.

XII. Specific training for persons responsible for assisting victims

States should encourage specific training for persons responsible for assisting victims, as well as granting the necessary resources to that effect.

XIII. Involving victims in the fight against terrorism

1. States should ensure that, under national laws, victims have a clear right to participate actively in criminal proceedings. Such a right may entail their being separately represented or having their interests fully considered and represented in court by the prosecutor.
2. In States where the direct participation of victims is not foreseen, States are encouraged to ensure that such mechanisms exist for their representation within the national prosecuting authority and legal system.

XIV. Raising public awareness

1. States are encouraged to take the appropriate measures in order to attain societal recognition of victims. For this purpose, they could:
 - (i) while fully complying with the principle of freedom of expression, encourage the media and journalists to contribute to such recognition;
 - (ii) involve the media and journalists in specific tasks aimed at raising awareness of the vulnerability of victims, their needs and the potential risk of secondary victimisation;
 - (iii) consider measures ensuring that educational programmes, in particular, those in the secondary education, contribute to the societal recognition of victims, by the dissemination of factual information on their situation and, when appropriate, by giving to victims who so wish the possibility to testify;
 - (iv) recognise publicly the suffering of victims and pay them public tribute through *inter alia* :
 - a. the presentation of an award;
 - b. the erection in a public place of a monument, a commemorative stele or any other element to commemorate their memory;
 - c. the establishment of foundations aiming at commemorating the memory of victims by enabling an awareness-raising of various sectors of society through conferences, exhibitions or any other appropriate means enabling the awareness-raising of the public opinion.

XV. Cooperation with associations for the protection of victims

1. States should work closely with associations for the protection of victims and civil society organisations, including recognised and active non-governmental organisations working with victims, in particular in the framework of policy, information and awareness-raising campaigns, research and education programmes, specific or other trainings, as well as in

monitoring and evaluating regularly the impact of measures to support and protect victims.

2. States should support the actions of victims' associations and civil society to highlight the human cost of terrorism, for example through public displays.

XVI. Increased protection

Nothing in these Guidelines restrains States from adopting more favourable services and measures than described in these Guidelines.

Appendix III

Contributions received from Member States in view of the revision of the Guidelines

FRANCE

A/s : Suites de la réunion du CDDH du 13 au 15 juin 2016 – Proposition d'ajouts aux lignes directrices sur la protection des victimes d'actes terroristes

1. Lors de la 85^{ème} réunion du CDDH (13-15 juin 2016), il a été décidé que les Etats parties pouvaient communiquer, au plus tard le 15 août 2016, de bonnes pratiques existant dans le domaine de la protection des victimes d'actes terroristes ou des points devant être actualisés dans les lignes directrices.

2. Dans la perspective de la révision des lignes directrices sur la protection des victimes d'actes terroristes du 2 mars 2005, tenant compte des actes terroristes commis en France en 2015 et 2016 ayant confronté notre pays aux enjeux de la prise en charge d'un nombre élevé de victimes et des apports de l'instruction interministérielle relative à la prise en charge des victimes d'actes de terrorisme révisée le 13 avril 2016, le Gouvernement considère que les points suivants mériteraient d'être pris en compte par les Etats dans les lignes directrices.

• Les modalités d'identification des victimes et d'annonce des décès

3. Les récents attentats commis en France ont mis en évidence à la fois la difficile centralisation des éléments d'identification, leur vérification et la définition de procédures rapides d'identification des corps en vue de l'information et de la restitution aux familles, et les enjeux majeurs qui s'y rapportent.

4. A titre d'exemple, la France a mis en place un système de désignation de référents victimes au sein du service d'enquête et du parquet de Paris. Le référent victimes du service d'enquête coordinateur, en lien constant avec l'unité d'identification de victimes de catastrophes, transmet dans les meilleurs délais, au référent victimes désigné au sein du parquet de Paris, les identités des personnes identifiées comme victimes du ou des actes de terrorisme commis. A partir des informations transmises au référent victimes, le parquet de Paris établit une synthèse et arrête, en liaison étroite et permanente avec le service en charge de la coordination de l'enquête, une liste unique des victimes présentes sur les lieux au moment de la survenance de l'attentat.

L'accueil et le soutien des familles des victimes et des victimes

5. L'information, l'accueil et le soutien aux familles des victimes et aux victimes de terrorisme elles-mêmes devraient s'opérer par des structures dédiées, en raison de la spécificité et la gravité des actes et préjudices subis. Les Etats devraient être encouragés à mettre en place un accueil et un soutien par des équipes pluridisciplinaires.

6. A titre d'exemple, la France a institué une cellule interministérielle d'Aide aux Victimes (CIAV), placée sous l'autorité du Premier ministre et qui est constituée d'équipes pluridisciplinaires et interministérielles : les ministères de la justice, de l'intérieur, des affaires sociales, de la santé et des droits des femmes, et des affaires étrangères et du développement international y mobilisent leurs personnels.

7. Cette cellule centralise en temps réel l'ensemble des informations concernant l'état des victimes, informe et accompagne leurs proches et coordonne l'action de tous les ministères intervenants, en relation avec les associations de victimes et le Parquet. Elle coordonne l'action interministérielle de l'État dans la prise en charge des victimes d'actes de terrorisme et assure la mise en place d'une plateforme téléphonique dédiée. Elle informe les victimes et leurs familles et s'assure de leur prise en charge par les services compétents (associations d'aide aux victimes, CUMP, préfectures, établissements de Santé).

8. A la suite des attentats du 13 novembre 2015 a notamment été établi un lieu d'accueil unique pour les victimes et/ou leurs proches, afin de leur permettre de se signaler, d'être informés de la situation de la personne qu'ils recherchent, de bénéficier d'un soutien psycho-traumatologique adapté et de fournir les éléments nécessaires à l'identification le cas échéant. Ce dispositif est pérennisé par l'instruction interministérielle et placé sous l'égide de la CIAV.

La coordination des acteurs locaux

9. Les Etats pourraient être encouragés à favoriser la coordination entre les acteurs locaux, et identifier les bonnes pratiques en la matière. A titre d'exemple, la France a mis en place un réseau départemental de référents « terrorisme » au sein des associations d'aide aux victimes. Chaque référent a pour mission :

- d'identifier l'ensemble des partenaires locaux appelés à intervenir auprès des victimes, de créer et d'animer un réseau de contacts dédiés,

- de participer à la Cellule Interministérielle d'Aide aux Victimes mise en place au niveau des préfectures en cas d'attentat commis en province,
- de coordonner et/ou d'intervenir en appui dans la prise en charge sur le long terme en lien avec les autres associations d'aide aux victimes non référentes,
- d'être l'interlocuteur dédié du parquet local (correspondant des magistrats référents terrorisme), des *magistrat délégué à la politique associative et à l'accès au droit* et des fédérations d'associations de victimes, notamment s'agissant de la restitution des actions entreprises localement (compte-rendu de la situation globale, remontée d'information quantitative et qualitative)

10. Par ailleurs, la France a mis en place des comités locaux de suivi des victimes d'acte de terrorisme et des espaces d'information et d'accompagnement des victimes d'actes de terrorisme (décret n°2016-1056 du 3 août 2016). Le comité local de suivi des victimes d'actes de terrorisme est chargé du suivi de la prise en charge des victimes de terrorisme résidant dans le département ou la collectivité d'outre-mer concerné.

11. L'information des victimes d'actes terroristes sur les suites de la procédure judiciaire

12. Les lignes directrices sur la protection des victimes d'actes terroristes du 2 mars 2005 prévoient que les Etats devraient veiller à leur fournir des informations appropriées notamment sur le sort de l'enquête, la décision définitive concernant les poursuites, la date et le lieu des audiences et les conditions dans lesquelles il est possible de prendre connaissance des décisions rendues.

13. Dans le cadre du dispositif français, les magistrats en charge de la procédure organisent des réunions d'information des victimes afin de leur livrer un exposé complet des faits et des investigations.

14. Il convient, par ailleurs, de souligner que la proposition de directive du Conseil et du Parlement européen relative à la lutte contre le terrorisme, actuellement en cours de négociations (en phase de trilogue avec le Parlement européen) comporte précisément des dispositions spécifiquement dédiées à la protection, la prise en charge et aux droits des victimes de terrorisme. Le Parlement européen y attache une importance toute particulière.

SPAIN

REPORT ON THE COMPLIANCE WITH ARTICLE 13 OF THE CONVENTION ON THE PREVENTION OF TERRORISM

Spain has the heartbreaking number of more than 10,000 direct victims of terrorism, including deceased, injured and kidnapped persons.

The effects of terrorism on its victims and the society which unfortunately suffers it, demand to develop a generous policy aimed at supporting the victims, as well as to ensure a strong policy of remembrance, as an antidote to prevent further violence, which shall give the victims the legitimate place they should occupy in society against those who spread such terror.

Likewise, in a tumultuous society as we see it today, which is suffering a dizzying conversion regarding the new forms of terrorism, States need to adapt their machinery in order to deal with the global threat and to protect the victims left behind as a result of such cruelty.

IMPLEMENTATION OF ARTICLE 13 OF THE CONVENTION: PROTECTION, REDRESS AND SUPPORT TO VICTIMS OF TERRORISM¹ - ACT 29/2011 OF 22 SEPTEMBER, ON THE RECOGNITION AND COMPREHENSIVE PROTECTION OF VICTIMS OF TERRORISM

Act 29/2011 of 22 September, on the Recognition and Comprehensive Protection of Victims of Terrorism, is a complete legal system of subsidies, compensations and benefits addressed to victims of terrorism and which is independent from the legal framework regulating subsidies to victims of violent crimes.

With the adoption of the new Regulation of Royal Decree 672/2013, of 6 September, a single legal framework has been established regarding reparation, compensation, subsidies and honorary decorations recognised to victims of terrorism, which until then were regulated in different provisions. This single legal framework for compensation and aids has been accompanied by an increase to the scales fixed for each of the personal injuries caused (death, permanent disabilities at any level, injuries, etc) and to the maximum limits established in the event of material damages, as well as to grant specific aids to victims and their family members (psychological treatment, for instance).

¹ *Article 13 – Protection, compensation and support for victims of terrorism Each Party shall adopt such measures as may be necessary to protect and support the victims of terrorism that has been committed within its own territory. These measures may include, through the appropriate national schemes and subject to domestic legislation, inter alia, financial assistance and compensation for victims of terrorism and their close family members.*

The new regulation has implemented a fairer treatment to victims of terrorism irrespective of the time and place when the terrorist attack was perpetrated. A transitory period is hence provided for retroactive application of economic compensation from 1st July 1960 onwards.

The territorial scope of application shall be applied when acts are committed on Spanish territory or under Spanish jurisdiction and abroad, in the latter case whether victims are Spanish nationals and injuries have been produced by groups usually operating in Spain or victims of terrorist acts against the Spanish State or Spanish interests, or whether victims are Spanish nationals but the acts produced do not meet the characteristics described.

It is also worth noting the coverage provided for the said regulation regarding the Spanish contingent that participates in peacekeeping or security operations abroad and suffer a terrorist attack.

The Regulation also allows for those persons who prove suffering situations of direct and repeated threats –first time been mentioned in Act 29/2011- to be granted extraordinary aids from the competent Public Administrations in order to mitigate personal and financial need produced by the terrorist attack. In this regard, the extraordinary aid may contribute to defraying the cost of leaving their homes, school attendance and any other need connected with such situation. This has been one of the issues that greater expectations did generate with the adoption of the new regulation, especially in some professional groups which had traditionally faced threats and coercion, as well as in the Self-governing Community of the Basque Country, from where many people was forced to flee due to the threats from the terrorist group ETA.

Finally, a period of five years was opened under the said Regulation for applying for the Royal Order of Civil Recognition for Victims of Terrorism granted by the Ministry for Home Affairs.

Together with these provisions, the Regulation includes benefits for immediate psychological and psychiatric assistance as well as emergency health care for those persons affected by a terrorist attack; aids for health care assistance, psychological (which amounts to 3,600 euros per individualised treatment), psychoeducational and psychiatric care to victims and their family members; educational aids (which are directly processed and granted by the Ministry for Home Affairs); the conditions applied to state-subsidised housing; as well as a set of rights established regarding labour environment to those affected by terrorist attack.

Lastly, some provisions applicable to the processing of administrative procedures, the regulation for recognising compensations abroad and, finally, the procedure for the recognition of the Royal Order of Civil Recognition for Victims of Terrorism have also been regulated thereof.

OTHER RULES ESTABLISHED FOR THE PROTECTION OF VICTIMS OF TERRORISM

The three amendments listed thereupon regarding labour environment were introduced by Act 3/2012, of 6 July, on urgent measures for labour market reform.

- **Act 56/2003, of 16 December, on Employment:** victims of terrorism are included (as in the case of victims of domestic violence, handicapped persons, etc.) as a group with a special status in the labour environment due to their specific needs. The possibility of adopting some actions and labour integration measures in order to grant them the access and stay in a job are provided for.
- **Act 43/2006, of 29 December, for improving growth and employment:** bonuses for hiring victims of terrorism under contract are provided for.
- **Consolidated text of the Workers' Statute, amended by Royal Legislative Decree 1/1995, of 24 March:** the right of victims of terrorism and threatened persons to reduce or accommodate their working hours as well as to facilitate geographical mobility has been regulated.

Further measures:

- **Approving of Royal Decree 233/2013, of 5 April, regulating the State Plan to promote housing rental, building restoration and urban regeneration and renovation, 2013-2016.** Victims of terrorism receive preferential treatment by the said State Plan, whose development corresponds to the State-governing Communities. In particular, the exemption to apply the family income threshold or the cohabitation unit to those persons who have suffered disabling damages due to terrorist attacks, to their direct relatives as well as to threatened persons is envisaged.
- **Consolidated text of the General Social Security Act, approved by Royal Legislative Decree 1/1994, of 20 June:** the aim pursued is that those released convicted for terrorism, who are entitled to receive unemployment benefits, have the duty to prove, through the corresponding certificate issued by the penitentiary Administration, that they have met the requirements established in Article 72.6 of Organic Law 1/1979, of

28 September, General Penitentiary, namely, that they show unequivocal signs of having abandoned terrorist objectives and resources, and, besides, that they actively cooperate with authorities in order to prevent the perpetration of other crimes on the part of the armed gang, organization or terrorist group, with the purpose to mitigate the effects of their offences, etc.

- **Royal Decree 126/2014, of 28 February, establishing the basic curriculum for primary education and Royal Decree 1105/2014, of 26 December, establishing the basic curriculum for compulsory secondary education and A Level [*Bachillerato*]:** to include educational contents based on rejection of terrorist violence, respect and due regard to victims of terrorism and the prevention of terrorism and any act of violence, as well as to disseminate among students the victims' testimony and account of facts, and to learn the Spanish and worldwide terrorist fact from a social and historical point of view.
- **Approving of Act 4/2015, of 27 April, on the standing of victims of crime:** victims of terrorism, within its subjective context, are covered, by considering those victims with specific, protective needs and allowing them to take part in penal enforcement.
- **Act 7/2007, of 12 April, on the Basic Statute of the Public Employee – the amendment taken by Organic Law 9/2015, of 28 July, regulating Human Resources of National Police-** specific measures have been included regarding paid and unpaid leaves, mobility and a system for provision of posts to those victims who are working at Public Administrations as a civil servants or temporary employees, in the same line already established for self-employed persons by labour rules.
- **Act 42/2015, of 5 October, amending Act 1/2000, of 7 January, on Civil Procedure (third final provision):** the right to obtain free legal assistance is granted for victims of terrorism, regardless of their financial resources.
- **Act 31/2015, of 9 September, which modifies and updates the regulations on self-employment and adopts measures to promote and stimulate freelance work and the social economy:** the possibility to obtain social relief and bonuses to victims of terrorism establishing themselves as self-employed persons is provided for.
- **Act 42/2015, of 5 October, amending Act 1/2000, of 7 January, on Civil Procedure,** the right to obtain free legal assistance shall be granted to victims of terrorism, regardless of their financial resources, as well as specialised legal support and attention from the first moment that a complaint is filed. Likewise, associations of victims of terrorism shall be granted the right to free legal assistance, regardless of their financial resources.

FINANCIAL DATA REGARDING COMPENSATIONS

The amounts paid by the Ministry for Home Affairs to victims of terrorism are listed below, broken down according to the typology of the contingency and to the financial years when the compensations were granted, with reference to years 2012-2015.

Rectangular Snip

Even though Act 29/2011, of 22 September, currently in force, entered into force during the last quarter of 2011, both in the said year and in subsequent years (2012, 2013, 2014 and 2015), compensations to victims have been further granted to victims in accordance with former rules (Act 13/1996, of 30 December, on tax, administrative, labour and social security measures, and Act 32/1999, of 8 October, on assistance to victims of terrorism), in force regarding applications for compensations submitted prior to Act 29/2011.

Financial data regarding compensations paid (in Euros) by contingency and year, irrespective of the regulation under they were recognised, are listed below.

RECOGNISED TYPOLOGY	2012	2013	2014	2015	TOTAL
Death	7.085.323,03	6.869.877,81	51.453.274,91	9.770.766,11	75.179.241,86
Severe disability	191.939,22	264.666,29	2.360.595,59	790.262,48	3.607.463,58
Absolute permanent disability	4.605.442,89	2.871.137,29	4.717.667,25	1.887.117,62	14.081.365,05
Total permanent disability	4.097.750,57	4.162.388,01	8.329.443,08	3.664.412,35	20.253.994,01
Partial permanent disability	158.151,49	279.584,27	466.160,20	261.382,63	1.165.278,59
Non-disabling injuries and temporary disability	2.052.590,41	2.458.172,75	5.429.528,18	2.866.515,28	12.806.806,62
Kidnapping		88.949,37	116.436,26	13.156,65	218.542,28
Threats		246.308,95	118.491,29	1.266.918,78	1.631.719,02
Health and psychological assistance and prótesis	47.656,66	103.944,39	166.401,65	124.096,46	442.099,16
Subsidies	69.484,00	34.274,00	84.500,00	166.835,00	355.093,00
Compensation	112.202,99	162.007,89	12.551,94	30.506,51	317.269,33
Other benefits	846.376,87	866.352,19	1.070.438,81	487.422,79	3.270.590,66
TOTAL AMOUNT (in Euros)	19.266.918,13	18.407.663,21	74.325.489,16	21.329.392,66	133.329.463,16

FINANCIAL DATA REGARDING COMPENSATIONS PAYED ABROAD

Finally, Act 29/2011 does include the regulation of a new item, which was not included in former regulation, regarding the possibility for the Ministry for Home Affairs

to pay compensations (extraordinary aids) to Spanish citizens having suffered terrorist attacks abroad, subject to certain legal limitations according to circumstances.

The compensations paid to victims due to different possible cases are listed in the table hereinafter, namely: Spanish nationals who may be victims abroad (regardless of whether the group does usually operate in Spain or not, or the terrorist acts are directed against the Spanish State or Spanish interests), as well as persons belonging to the Spanish contingent that participates in peacekeeping or security operations abroad and suffer a terrorist attack.

RECOGNISED CONTINGENCY	2012	2013	2014	2015	TOTAL
Death	1.729.028,81	575.470,14	1.865.515,34	934.347,21	5.104.361,50
Severe disability	511.611,24	575.997,18	25.432,20		1.113.040,62
Total permanent disability	51.919,03	503.172,97	140.792,47	400.059,64	1.095.944,11
Non-disabling injuries and temporary disability	658,43	202.363,13	310.065,74	160.928,23	674.015,53
Kidnapping		76.904,67	116.436,26	13.156,65	206.497,58
Ayudas sanitarias, prótesis y psicológicas	2.275,00	3.405,06	11.666,00	1.270,00	18.616,06
Subsidies			2.300,00	5.900,00	8.200,00
TOTAL AMOUNT (in Euros)	2.295.492,51	1.937.313,15	2.472.208,01	1.515.661,73	8.220.675,40

PSYCHOSOCIAL CARE MEASURES

The comprehensive support being sought through Act 29/2011 shall require the adoption of measures allowing victims to normalize their familiar, social and working life. For that purpose, the Ministry for Home Affairs has implemented a number of programs and projects in various areas of intervention, aimed at assisting persons in this target group in a personal and comprehensive manner.

Social, family involvement

The Directorate General for Support to Victims of Terrorism rely on a group of social workers who keep direct, personal and ongoing contact over time with the affected persons, providing them assistance, support and advice from an integral perspective, in order to allow them psychological and social welfare. Social workers first make a diagnosis of their social, family, labour and psychological needs for, afterwards, the required social intervention for each case is designed; they inform them of their available rights and resources for victims of terrorist attacks; they help them with applications for specific aids they would be entitled to; and when appropriate, they will derive them to appropriate support and services (legal assistance, psychological support, labour integration, etc.)

Accompaniment to victims in criminal proceedings

Victims are offered personal accompaniment to trials held in relation with terrorist acts for which the affected persons filed an action, providing support and emotional containment to the affected persons and attending specific requests which may arise all along the hearing. The following table shows the number of personal accompaniment performed in the last four years:

2012	12
2013	15
2014	9
2015	12

Labour integration

A) LABOR@ PROJECT

Through the LABOR@ program, victims of terrorism and their family members are assisted for active work searching. The purpose is to promote their labour integration when facing unemployment or job insecurity by offering them a network of labour and training resources in order to facilitate their recruitment and to improve their employability.

YEAR	INTERVIEWS WITH COMPANIES	RECRUITMENT PER YEAR	MEDIATION WITH COMPANIES ²
2012	15	5	201
2013	15	88	540
2014	13	102	553
2015	8	84	1.460

² Persons included in the programme are derived to interviews with companies which offer employment according to their professional profiles.

In the framework of the said programme, it is worth noting that on 8 September 2014 some cooperation agreements were entered with the following domestic companies: REPSOL; PSA PEUGEOT CITROËN; CLECE S.A.; PAGE PERSONNEL; GRUPO NORTE; INMEDIA STUDIO COMUNICACIÓN S.L. and KONECTA. As a result of these agreements, 65 victims of terrorism have been hired under contract.

These companies, as well as some other which informally cooperate with the Ministry for Home Affairs, shall facilitate their job vacancies and the professional profiles required. Among persons taking part in LABOR@, candidates who best adapt to the profiles required are selected by the companies, who receive their curricula for entering in processes of personnel selection.

Furthermore, specific activities and courses are developed in order to improve training and access to employment for victims of terrorism.

Psychophysical Project

This project is linked to the regulation under Article 9 of Act 29/2011, on "*Immediate psychological and psychiatric assistance*", where it has been established that those persons affected by a terrorist attack shall benefit from immediate and free psychological and mental assistance for as long as they may need, according to the medical indications, in order to ensure their prompt and satisfactory recovery.

Thus, aimed at harmonizing the criteria for psychological assistance and coverage to victims of terrorism as well as promote the best psychological assistance in order to facilitate mental recovery and normalisation of those affected by terrorist attacks, on 18 July 2015 a cooperation agreement was entered between the Ministry for Home Affairs and the General Council of the Official College of Psychologists. Among the activities designed for being implemented, the following should be noted:

- 1) Identifying a network of nationwide professionals for the treatment of persons with psychological disorders due to terrorist attacks, who may immediately act when an attack has been produced, or to whom psychological assistance for victims in need of treatment would be diverted; it was launched on 1st April 2016.
- 2) Developing courses and workshops on psychological assistance for victims of terrorism, provided by trained staff.

- 3) Drawing up a Good Practice Guide for psychological assistance to victims of terrorism.

RECOGNITION AND REMEMBRANCE MEASURES

Different actions regarding collective remembrance of victims of terrorism have been developed, as in the case of public recognition through the award of the Royal Order of Civil Recognition for Victims of Terrorism, or the support given to projects regarding remembrance that the Association has been carrying out (as well as financial support through subsidies).

The Royal Order of Civil Recognition for Victims of Terrorism consist of three decorations: with the rank of Grand Cross, to those killed in terrorist acts; with the rank of Commander, to those wounded or kidnapped in terrorist acts; and with the rank of Badge, to those threatened, those who have suffered a terrorist act which did not result in any damage, and their relatives up to the second degree of consanguinity. Recently, the scope of recipients of the Badge has been broaden to family members of those injured who had suffered disabling injuries up to the second degree of consanguinity, for taking care of their injured relatives.

The following table shows the data regarding processed applications in each fiscal year since the Ministry for Home Affairs is responsible for handling the decoration of the Royal Order of Civil Recognition for Victims of Terrorism:

Rank	Granted in 2013	Granted in 2014	Granted in 2015	Total number
Grand Cross	16	12	3	31
Commander	101	1040	56	1197
Badge	14	584	603	1201
Total number	131	1636	662	2429

INITIATIVES UNDER STUDY OR PENDING IMPLEMENTATION AIMED AT FURTHER ENHANCING THE PROTECTION TO VICTIMS OF TERRORISM

Finally, this report should gather those suggestions, requests or petitions considered unresolved by victims themselves, and which might be addressed in the next legislature:

1. Victims of terrorism as well as associations and foundations show their fears to be forgotten, that their memory and the facts truly happened could be in danger of being eventually diluted. Public authorities owe a debt to victims and to Spanish society regarding the story of 50 years of terrorism performed by ETA and the flourishing jihadi terrorism. Thus, the following two courses of action might be pursued:

- Educational project:

Under Article 59 LRPVT -“ *The educational administrations, with the aim of guaranteeing respect for human rights and the defence of freedom within the democratic principles of peaceful coexistence, shall promote plans and projects of education for freedom, democracy and peace, and shall endeavour to obtain the direct testimony of victims of terrorism as part thereof*”- the LOMCE has included in their curricular development values against terrorism and the role of victims of terrorism, as well as specific lessons in the Compulsory Secondary Education and *Bachillerato*. The effective development of these curricula must be guaranteed, both with educational book publishers with whom they have already worked, and with the Self-Governing Communities through sectoral Conferences. Further information and social awareness actions in educational institutions should be implemented, with the unquestionable and crucial cooperation of the victims, their associations and foundations.

- *Centro para la Memoria de las Víctimas del Terrorismo* Foundation:

The educational and social awareness actions are expected to play a leading role in the Foundation’s dynamics. Such actions would be performed through activities and workshops at the Institution’s headquarters, and they would even be addressed to direct training of teachers, so that afterwards they may be able to teach their students, as well as actions at schools, at social institutions and at the core of those international organizations in which Spain has been member, everything intended to guarantee the dissemination of victims’ account and testimony with the purpose to prevent violent radicalisation.

2. There have been two main demands in respect of amending Act 29/2011, on the Recognition and Comprehensive Protection of Victims of Terrorism:

- Unifying compensation amounts to be paid by the State, regardless of whether a civil liability determined by a judicial decision on terrorism does exist or not. In effect, Articles 17 and 18 of Act 29/2011 refer to scales included in Annexes to the law for the payment of personal injuries caused by terrorist attacks. Meanwhile, Article 20 -“ *Payment by the State of the sum imposed as civil liability by the Courts: Exceptional nature of the payment.*”, in section 4,

establishes the limit to be paid by the State as civil liability determined by a judicial decision, an even higher limit than lawful scales.

The fact that more than 300 assassinations perpetrated by ETA are still judicially unsolved has provoked that from different sectors of victims and associations a unified compensatory treatment regarding victims who have perceived compensations fixed by a court order, with the purpose of avoid to financially aggravate the moral damage caused by the lack of a criminal sentence to the perpetrators of the attack.

The scarce time of validity of Act 29/2011, which entered into force at the outset of the present legislature, and the necessary parliamentary consensus for the passing of the said amendment of the law has caused it not to be driven forward.

Another gesture in favour of unsolved attacks might be the creation of a specific Prosecutor's office with the objective of investigating such attacks, as it has been suggested by some association of victims.

- Article 6 of Act 29/2011 regulates the territorial scope of application herein by stating that: *"the system of subsidies, benefits and compensation shall be applied when acts are committed on Spanish territory or under Spanish jurisdiction"*, and offering a double covering scenario:

On the one hand, section 2 (a) of the law extends its scope of application to Spanish nationals who may be victims abroad of groups usually operating in Spain or victims of terrorist acts against the Spanish State or Spanish interests; and (b) to persons belonging to the Spanish contingent that participates in peacekeeping or security operations abroad and suffer a terrorist attack.

On the other hand, section 3 extends the general coverage to those Spanish nationals who are victims of terrorist acts abroad and are not included in the above paragraphs, who shall only be entitled to the benefits established in Article 22 of said Act: 50% or 40% of regulated compensations, respectively, depending on whether the recipient of the benefits has a regular residence in the country where the attack has been perpetrated or not, and without her or him being entitled to perceive the remaining benefits regulated in the law: psychological, subsidies...

Indeed, the fact that Spanish citizens are increasingly working and traveling abroad as well as the fresh forms of international terrorism, has been argued by the victims and their associations in favour of unifying compensations, irrespective of whether acts are committed on Spanish territory or not.

Spain has also referred to the relevant legislation:

“Act on the Recognition and Comprehensive Protection of Victims of Terrorism“:

Aside from that, Spain has a wide updated legal framework dealing with the protection of victims of crime in general (Statute of victims of crime, Law 4/2015 of 27th April, <https://www.boe.es/boe/dias/2015/04/28/pdfs/BOE-A-2015-4606.pdf>)

Appendix IV

Relevant case law of the European Court of Human Rights

***Finogenov v. Russia* of 4 June 2012, paras. 206-209; paras. 269-272 (Judgment of First Section)**

“206. Article 2 of the Convention, which safeguards the right to life and sets out the circumstances in which deprivation of life may be justified, ranks as one of the most fundamental provisions in the Convention, from which no derogation is permitted. Together with Article 3 of the Convention, it also enshrines one of the basic values of the democratic societies making up the Council of Europe. The circumstances in which deprivation of life may be justified must therefore be strictly construed (see *Salman v. Turkey* [GC], no. [21986/93](#), § 97, ECHR 2000-VII).

207. As the text of Article 2 itself shows, the use of lethal force by law-enforcement officers may be justified in certain circumstances. Nonetheless, Article 2 does not grant them *carte blanche*. Unregulated and arbitrary action by State agents is incompatible with effective respect for human rights. This means that, as well as being authorised under national law, policing operations must be sufficiently regulated by it, within the framework of a system of adequate and effective safeguards against arbitrariness and abuse of force (see, *mutatis mutandis*, *Hilda Hafsteinsdóttir v. Iceland*, no. [40905/98](#), § 56, 8 June 2004; see also Human Rights Committee, General Comment no. 6, Article 6, 16th Session (1982), § 3)), and even against avoidable accident.

208. When lethal force is used within a “policing operation” by the authorities it is difficult to separate the State’s negative obligations under the Convention from its positive obligations. In such cases the Court will normally examine whether the police operation was planned and controlled by the authorities so as to minimise, to the greatest extent possible, recourse to lethal force and human losses, and whether all feasible precautions in the choice of means and methods of a security operation were taken (see *Ergi v. Turkey*, 28 July 1998, *Reports* 1998-IV, § 79; see also *McCann and Others v. the United Kingdom*, 27 September 1995, Series A no. 324, §§ 146-50, § 194; *Andronicou and Constantinou v. Cyprus*, 9 October 1997, *Reports* 1997-VI, § 171, §§ 181, 186, 192 and 193, and *Hugh Jordan v. the United Kingdom*, no. [24746/95](#), §§ 102–04, ECHR 2001-III).

209. The authorities’ positive obligations under Article 2 of the Convention are not unqualified: not every presumed threat to life obliges the authorities to take specific measures to avoid the risk. A duty to take specific measures arises only if the authorities knew or ought to have known at the time of the existence of a real and immediate risk to life and if the authorities retained a certain degree of control over the situation (see, *mutatis mutandis*, *Osman v. the United Kingdom*, 28 October 1998, § 116, *Reports* 1998-VIII; see also the admissibility decision of 18 March 2010 in the present case). The Court would only require a respondent State to take such measures which are “feasible” in the circumstances (see *Ergi*, cited above). The positive obligation in question must be interpreted in a way which does not impose an impossible or disproportionate burden on the authorities, bearing in mind the difficulties involved in policing modern societies, the unpredictability of human conduct and the operational choices which must be made in terms of priorities and resources (see *Makaratzis*, cited above, § 69, with further references; see also *Osman*, cited above, and *Maiorano and Others v. Italy*, no. [28634/06](#), § 105, 15 December 2009).”

“269. The Court points out that not every investigation should necessarily be successful or come to a conclusion which coincides with the claimant’s account of events; however, it should in principle be capable of leading to the establishment of the facts of the case and, if the allegations prove to be true, to the identification and punishment of those responsible (see *Mahmut Kaya v. Turkey*, no. [22535/93](#), § 124, ECHR 2000-III; see also *Paul and Audrey Edwards v. the United Kingdom*, no. [46477/99](#), § 71, ECHR 2002-II).

270. To be “effective”, an investigation should meet several basic requirements, formulated in the Court’s case-law under Articles 2 and 3 of the Convention: it should be thorough (see *Assenov and Others v. Bulgaria*, 28 October 1998, §§ 103 et seq., *Reports* 1998-VIII; see also, *mutatis mutandis*, *Salman v. Turkey*, cited above, § 106, ECHR 2000-VII; *Tanrikulu v. Turkey* [GC], no. [23763/94](#), §§ 104 et seq., ECHR 1999-IV; and *Gül v. Turkey*, no. [22676/93](#), § 89, 14 December 2000), expedient (see *Labita v. Italy* [GC], no. [26772/95](#), §§ 133 et seq., ECHR 2000-

IV; *Timurtaş v. Turkey* cited above, § 89; *Tekin v. Turkey*, 9 June 1998, § 67, *Reports* 1998-IV; and *Indelicato v. Italy*, no. [31143/96](#), § 37, 18 October 2001), and independent (see *Öğür v. Turkey*, [GC], no. [21954/93](#), §§ 91-92, ECHR 1999-III; see also *Mehmet Emin Yüksel v. Turkey*, no. [40154/98](#), § 37, 20 July 2004; and *Güleç v. Turkey*, 27 July 1998, §§ 80-82, *Reports* 1998-IV); and the materials and conclusions of the investigation should be sufficiently accessible for the relatives of the victims (see *Oğur v. Turkey* [GC], no. [21594/93](#), § 92, ECHR 1999-III, and *Khadzhialiyev and Others v. Russia*, no. [3013/04](#), § 106, 6 November 2008), to the extent it does not seriously undermine its efficiency.

271. More specifically, a requirement of “thorough investigation” means that the authorities must always make a serious attempt to find out what happened and should not rely on hasty or ill-founded conclusions to close their investigation or as the basis of their decisions. They must take all reasonable steps available to them to secure the evidence concerning the incident, including, *inter alia*, eyewitness testimony, forensic evidence, and so on. Any deficiency in the investigation which undermines its ability to establish the cause of injuries or the identity of the persons responsible will risk falling foul of this standard (see, among many authorities, *Mikheyev v. Russia*, no. [77617/01](#), §§ 107 et seq., 26 January 2006, and *Assenov and Others v. Bulgaria*, 28 October 1998, *Reports* 1998-VIII, §§ 102 et seq.).

272. Finally, the investigation’s conclusions must be based on thorough, objective and impartial analysis of all relevant elements. Failing to follow an obvious line of inquiry undermines to a decisive extent the investigation’s ability to establish the circumstances of the case and the identity of those responsible (see *Kolevi v. Bulgaria*, no. [1108/02](#), § 201, 5 November 2009). Nevertheless, the nature and degree of scrutiny which satisfy the minimum threshold of the investigation’s effectiveness depend on the circumstances of the particular case. They must be assessed on the basis of all relevant facts and with regard to the practical realities of investigation work (see *Velcea and Mazăre v. Romania*, no. [64301/01](#), § 105, 1 December 2009).”

***Tagayeva and others v. Russia* of 9 June 2015, para. 468; para. 473; paras. 476-481; paras. 495-499; paras. 504-505; para. 509; para. 517; paras. 581-582 (Decision of First Section)**

“[...] 468. Six applicants died (see Appendix; for example, applicant no. 69 in no. [26562/07](#)), and their close relatives expressed the intention to continue in their stead. The Court reiterates that where an applicant has died after the application was lodged, the next-of-kin or heir may in principle pursue the application, provided that he or she has sufficient interest in the case (see *Centre for Legal Resources on behalf of Valentin Câmpeanu v. Romania* [GC] no. [47848/08](#), § 97, ECHR 2014; and *Malhous v. the Czech Republic* (dec.), no. [33071/96](#), ECHR 2000- XII). In line with the Court’s practice, the names of the deceased persons can be maintained, as they were the ones who had originally launched the applications. The successors can maintain the applications on behalf of their deceased relatives (see *Balenko v. Russia*, no. [35350/05](#), § 39, 11 October 2011, and *Makharadze and Sikharulidze v. Georgia*, no. [35254/07](#), § 52, 22 November 2011).”

“473. These examples attest to the Court’s reasonable flexibility in ensuring that formal criteria related to admissibility and representation do not result in unjustified exclusion of the most vulnerable victims from the protection guaranteed by the Convention. At the same time, the Court must ensure, having regard to its case law on victim status and the notion of “standing”, that the conditions of admissibility governing access to it are interpreted in a consistent manner (see *Centre for Legal Resources on behalf of Valentin Câmpeanu*, cited above, § 105).”

“476. The Court’s case-law on the issues of direct and indirect victim status and the representation of applicants who have deceased or are unable to represent themselves has recently been summarised in the judgments delivered in the cases of *Centre for Legal Resources on behalf of Valentin Câmpeanu* (cited above, §§ 96-103) and *Lambert and Others v. France* ([GC], no. [46043/14](#), §§ 93-102, 5 June 2015). As a general principle, in order to be able to lodge an application in accordance with Article 34, an individual must be able to show that he or she was “directly affected” by the measure complained of (see *Burden v. the United Kingdom* [GC], no. [13378/05](#), § 33, ECHR 2008, and *İlhan v. Turkey* [GC], no. [22277/93](#), § 52, ECHR 2000- VII). This is indispensable for putting the protection mechanism of the Convention into motion, although this criterion is not to be applied in a rigid, mechanical and inflexible way throughout the proceedings (see *Karner v. Austria*, no. [40016/98](#), § 25, ECHR 2003- IX, and *Fairfield and Others v. the United Kingdom* (dec.), no. [24790/04](#), ECHR 2005- VI).

477. More specifically, the Court has on many occasions recognised the standing of the victim’s next-of-kin to submit an application where the victim has died or disappeared in circumstances allegedly engaging the responsibility of the State (see *Çakıcı v. Turkey* [GC], no. [23657/94](#), § 92, ECHR 1999- IV, and *Bazorkina v. Russia* (dec.), no. [69481/01](#), 15 September 2005). In the case of *Varnava and Others v. Turkey* ([GC], nos. [16064/90](#), [16065/90](#), [16066/90](#), [16068/90](#), [16069/90](#), [16070/90](#), [16071/90](#), [16072/90](#) and [16073/90](#), ECHR 2009), the applicants lodged the applications both in their own name and on behalf of their disappeared relatives. The Court did not consider it necessary to rule on whether the missing men should or should not be granted the status of applicants since, in any event, their close relatives were entitled to raise complaints concerning their disappearance (ibid., § 112). The Court examined the case on the basis that the relatives of the missing persons were the applicants for the purposes of Article 34 of the Convention. The applicant’s participation in the domestic proceedings has been found to be only one of several relevant criteria (see *Nölkenbockhoff v. Germany*, 25 August 1987, § 33, Series A no. 123; *Micallef v. Malta* [GC], no. [17056/06](#), §§ 48-49, ECHR 2009; and *Kaburov v. Bulgaria* (dec.), no. [9035/06](#), §§ 52-53, 19 June 2012).

478. Lastly, the Court reiterates that in the case *Finogenov and Others* (cited above, (dec.), § 204) it found it justified to delete from the list of applicants the husband of an applicant who had been held hostage and who had lodged her own complaint, while the husband’s complaint was based exclusively on the events concerning his wife’s situation as a direct victim. Similarly, it refused to grant standing to the relatives of direct victims where the latter had failed to lodge complaints or to argue their inability to do so (see *Benzer and Others v. Turkey*, no. [23502/06](#), §§ 100 and 102, 12 November 2013).

479. The Court acknowledges the exceptional nature of the present case. It understands that the hostages’ relatives, mainly parents, first, lived through gnawing uncertainty and fear for the fate of their loved ones, including minor children, taken hostage by a ruthless and heavily armed group, and subsequently through the tragic climax of the three-day stand-off; and, second, have borne the burden of participation in the numerous domestic proceedings, some of which remain pending to this day. It also understands that many of the direct victims were unable, for objective reasons, to assume entirely their proper roles in the proceedings which followed, both before the domestic authorities and at the time when the applications were lodged before the Court. The decisions by the domestic authorities to grant the status of victims not only to the direct victims, but also to their close relatives, appear fully justified in such circumstances, and must be seen as a measure to ensure the most effective protection of vulnerable victims.

480. However, as noted above, the question of participation in the domestic proceedings is only one of the factors to be taken into account. The scope and purpose of the domestic criminal investigations and of the related civil proceedings cannot be amalgamated with the complaints lodged under Articles 2 and 13 of the Convention, which raise issues of State responsibility under the positive, negative and procedural aspects of the right to life and the right to have effective remedies against the alleged violations and which constitute the crux of the applicants’ grievances in the present case.

481. On the basis of the Court’s approach to relatively similar cases (see *Finogenov and Others*, (dec.), § 204, and *Benzer and Others*, §§ 100 and 102, both cited above), it appears possible to conclude that wherever there are direct victims of the violations alleged, it is first and foremost their role to bring the complaints before the Court, unless there are exceptional circumstances which justify the transfer of this standing, usually to a close family member. A review of exceptional circumstances reveals the following two main criteria: the risk that the direct victim will be deprived of effective protection of his or her rights, and the absence of a conflict of interests between the victim and the applicant (see *Lambert and Others*, cited above, § 102).”

“495. In the communication report the Court decided to treat the applicants as a “restricted group”, based on the assumption that the substance of their complaints and their position vis-à-vis the domestic investigation have been relatively similar, whether or not each of them had participated in every given procedural step on the domestic level, either directly or through their representatives (see *Abuyeva and Others*, § 181, and *Finogenov and Others*, § 196, both cited above).

496. The Court notes, in particular, that the applicants in the present case form a restricted group in so far as they had been directly and personally affected by the events that took place between 1 and 3 September 2004, they have very similar complaints, have coordinated their efforts and have taken similar steps vis-à-vis the domestic

authorities. More specifically, the requests lodged by various applicants in the context of the criminal investigation no. 20/849 demonstrate that they aimed to influence the scope of the investigation as a whole, and thus the outcome was relevant to the entire group (as examples, see paragraphs 266 and 265 above). In such circumstances, the applicants who have not pursued the same remedy that had proven ineffective for the other applicants in the same position can be reasonably absolved from doing so (see, *mutatis mutandis*, *Kleyn and Others v. the Netherlands* [GC], nos. [39343/98](#), [39651/98](#), [43147/98](#) and [46664/99](#), § 156, ECHR 2003-VI).

497. As to the Government's argument that the dates of the applications should be calculated individually in respect of each applicant, based on the dates on which certain procedural documents had been signed, the Court finds that their intent to lodge applications was expressed sufficiently clearly already in the first communications with the Court, when provisional lists of applicants were submitted with each of the applications forming the present case (see paragraphs 3-12 above). It would anyway be unrealistic to expect that hundreds of persons, many of them still suffering from the consequences of the events, could have participated in each step of the proceedings domestically, or signed all the interim complaints and other documents necessary to lodge a complaint to the Court on the same date, as the Government seem to suggest.

498. As to compliance with the six months criteria, criminal investigation no. 20/849 into the organisation of the terrorist act is still pending, and most of the applicants' grievances are inseparably linked with this set of proceedings. In so far as the Government argue that the applicants should have realised that the investigation was futile no later than February 2006, this stands in contrast with the applicants' continued and steadfast efforts to obtain an effective investigation after that date (see, for example, paragraphs 262-67 above). It cannot be said that by the time of lodging of the complaints the applicants had remained idle in the face of a dormant investigation for significant periods of time, or that the overall length of proceedings has been such so as to alert them to the obvious ineffectiveness of the investigation (see *Bucureşteanu v. Romania*, no. [20558/04](#), § 42, 16 April 2013; and compare and contrast with *Nasirkhaeva v. Russia* (dec.), no. [1721/07](#), 31 May 2011; *Finozhenok v. Russia* (dec.), no. [3025/06](#), 31 May 2011; and *Dzhamaldayev v. Russia* (dec.), no. [39768/06](#), 22 January 2013). The Court is mindful of the need to maintain a strict and predictable application of its admissibility criteria, including the six months limit; however it does not find that any of the applications lodged in the present proceedings raise an issue under Article 35 § 1 of the Convention.

499. In view of the above, the Court maintains the "restricted group" approach as outlined above, rejects the Government's request to apply the criteria of exhaustion and six months to each applicant separately, and dismisses the objections of six months and non-exhaustion in so far as they concern the complaints under Articles 2 and 13 of the Convention."

"504. The Court recalls that a decision or measure favourable to an applicant is not, in principle, sufficient to deprive that individual of his or her status as a "victim" unless the national authorities have acknowledged, either expressly or in substance, and then afforded redress for the breach of the Convention (see *Nikolova and Velichkova v. Bulgaria*, no. [7888/03](#), § 49, 20 December 2007, and *Gäfgen v. Germany* [GC], no. [22978/05](#), § 115, ECHR 2010, and the cases cited therein). The applicants' principal complaints concern the authorities' alleged failures to prevent the terrorist act, their response to the situation of hostage-taking and the investigation of the events effectively and in full. The existence of these violations, or at least their scope, are disputed between the parties, and it therefore appears premature to speak of their acknowledgement and redress.

505. In so far as the Government refer to the payment of compensations, the Court's practice confirms that confining the authorities' reaction to incidents of deprivations of life to the mere payment of compensation would also make it possible in some cases for agents of the State to abuse the rights of those within their control with virtual impunity, and the general legal prohibitions on killing, despite their fundamental importance, would be ineffective in practice (see *Leonidis v. Greece*, no. [43326/05](#), § 46, 8 January 2009). In any event, the compensations in the present case have been paid to the applicants as victims of a criminal act by third parties and do not cover their principal complaints as stated above."

"509. The Court recalls that the parties have a duty to cooperate with it fully in the conduct of the proceedings (Rule 44A of the Rules of Court) and to participate effectively in the proceedings, within the meaning of Rule 44C of the Rules of Court. These rules may be applicable to the situation of communication with the Court and, in certain cases, extend to the situations arising out of the relations between the applicants and their representatives, or lack

thereof (see, for example, *Havelka v. the Czech Republic*, no. [29725/11](#) (dec.), and *Gross v. Switzerland* [GC], no. [67810/10](#), § 33, ECHR 2014). Failure to comply with these rules allows the Court to draw such inferences as it deems necessary (Rule 44C).”

“517. The Court recalls that Article 2 of the Convention may imply a positive obligation on the authorities to take preventive operational measures to protect an individual whose life is at risk from the criminal acts of another individual (see *Osman v. the United Kingdom*, 28 October 1998, § 115, Reports 1998-VIII). For the Court to find a violation of the positive obligation to protect life, it must be established that the authorities knew, or ought to have known at the time, of the existence of a real and immediate risk to the life of an identified individual from the criminal acts of a third party and that they failed to take measures within the scope of their powers which, judged reasonably, might have been expected to avoid that risk (see *Osman*, cited above, § 116; *Paul and Audrey Edwards v. the United Kingdom*, no. [46477/99](#), § 55, ECHR 2002-II; *Medova v. Russia*, no. [25385/04](#), § 96, 15 January 2009; and *Tsechoyev v. Russia*, no. [39358/05](#), § 136, 15 March 2011).”

“581. The complaint under Article 3, as formulated by the applicants in this group, contains two distinct aspects. Their first argument is that the suffering of the hostages in captivity of the terrorists (and their relatives, by witnessing that suffering) could be attributed to the State as such, in so far as the authorities had failed to alleviate this situation. In this respect, the Court notes that, according to a general rule of international law, “the conduct of private persons is not as such attributable to the State” (International Law Commission, Articles on Responsibility of States for Internationally Wrongful Acts, *Yearbook of the International Law Commission* 2001. Vol. II, Part 2, p. 38, para. 3). This principle holds also true in respect of the Convention: human rights violations committed by private persons are outside of the Court’s competence *ratione personae*. Independently of the outcome of the complaint which concerns the alleged omissions of the Russian authorities for the prevention of the life-threatening terrorist attack, in the present case the Court finds no grounds to conclude that the authorities should bear the responsibility under the Convention for the acts of the terrorists causing suffering to the hostages. It follows that this aspect of the complaint is incompatible *ratione personae* with the provisions of the Convention within the meaning of Article 35 § 3 and must be rejected in accordance with Article 35 § 4 (see *Finogenov and Others*, cited above, § 229).

582. In so far as the complaint concerns the second aspect of applicants’ argument – the provision of rescue, medical care and fire-fighters’ response, the Court finds that this allegation essentially raises issues under Article 2 of the Convention, and concerns the planning and control of an operation involving lethal force. There is nothing in the applicants’ submissions to indicate that there are separate aspects of this complaint which raise issues under Article 3 of the Convention.”

***Association SOS Attentats and De Boery v. France* of 4 October 2006, para. 30; para. 32; paras. 36-37 (Decision of Grand Chamber)**

“30. [...] While it is true that an applicant’s undertaking to withdraw from proceedings which he or she has initiated before the Court is capable of justifying the striking out of that application, in accordance with Article 37 § 1 of the Convention, such a waiver, in order to be valid, must be unequivocal (see *Zu Leiningen v. Germany* (dec.), no. [59624/00](#), ECHR 2005-XIII). [...]”

“32. In order to conclude in the instant case that the matter has been resolved within the meaning of Article 37 § 1 (b) and that there is therefore no longer any objective justification for the applicant to pursue his application, it is necessary to examine, firstly, whether the circumstances complained of directly by the applicants still obtain and, secondly, whether the effects of a possible violation of the Convention on account of those circumstances have also been redressed. This approach reflects the structure of the Convention’s supervisory machinery, which provides both for a reasoned decision or judgment as to whether the facts in issue are compatible with the requirements of the Convention (Article 45), and, if they are not, for an award of just satisfaction if necessary (Article 41) (see *Pisano*, cited above, § 42).”

“36. In order to decide whether the application should be struck out of the list in application of Article 37 § 1 (c), the Court must consider whether the circumstances lead it to conclude that “for any other reason ... it is no longer justified to continue the examination of [it]”.

37. It is clear from this provision that the Court enjoys a wide discretion in identifying grounds capable of being relied upon in striking out an application on this basis, it being understood, however, that such grounds must reside in the particular circumstances of each case.

Its case-law illustrates this point. The Court has, for example, ruled that in certain circumstances it may be appropriate to strike an application out of its list of cases under this provision on the basis of a unilateral declaration by the respondent Government even though the applicant wishes the examination of the merits of his case to be continued (see *Tahsin Acar v. Turkey* (preliminary issue) [GC], no. [26307/95](#), § 75-77, ECHR 2003- VI; see also, in particular, *Akman v. Turkey* (striking out), no. [37453/97](#), ECHR 2001- VI; *Haran v. Turkey*, no. [25754/94](#), 26 March 2002; *Meriakri v. Moldova* (striking out), no. [53487/99](#), 1 March 2005; and *Van Houten v. the Netherlands* (striking out), no. [25149/03](#), ECHR 2005- IX). It has also proceeded in that manner in cases where the applicants had reached an agreement or settlement with the domestic authorities which largely satisfied the demands that they had made under the Convention, and had thus lost their victim status (see, for example, *Calì and Others v. Italy* (striking out), no. [52332/99](#), 19 May 2005, and *La Rosa and Alba v. Italy* (striking out), no. [58274/00](#), 28 June 2005). It has also struck applications out of its list in application of this provision on the ground that the applicant in question had died in the course of the proceedings and that no heir or close member of their family had expressed the wish to pursue the proceedings (see, for example, *Gładkowski v. Poland* (striking out), no. [29697/96](#), 14 March 2000, and *Sevgi Erdoğan v. Turkey* (striking out), no. [28492/95](#), 29 April 2003) or that the heir who expressed such an intention had no legitimate interest in that regard (see *S.G. v. France* (striking out), no. [40669/98](#), 18 September 2001), or, in the light of a lack of diligence on the part of the applicant (see, for example, *Hun v. Turkey* (striking out), no. [5142/04](#), 10 November 2005, and *Mürrüvet Küçük v. Turkey* (striking out), no. [21784/04](#), 10 November 2005) or his or her lawyer (see, for example, *Falkovych v. Ukraine* (striking out), no. [64200/00](#), 4 October 2005; and *Fleury v. France* (dec.), no. [2361/03](#), 6 July 2006), or on the ground that the applicant had failed to appoint a lawyer to represent him pursuant to Rule 36 §§ 2 and 4 (a) of its Rules of Court (see *Grimaylo v. Ukraine* (dec.), no. [69364/01](#), 7 February 2006).”

Appendix V

**Other references to case-law
of the European Court of Human Rights
(regarding victims but not necessarily those of terrorist acts)**

Cindrić and Bešlić v. Croatia of 6 September 2016 (Judgment of Second Section)

Atiye Karabay v. Turkey of 3 November 2015 (Decision of Second Section)

Mezhiyeva v. Russia of 16 April 2015 (Judgment of Fifth Section)

Grubić v. Croatia of 9 June 2015 (Decision of First Section)

Jelić v. Croatia of 12 June 2014 (Judgment of First Section)

Dönmez and others v. Turkey of 17 June 2014 (Decision of Second Section)

Tüzer v. Turkey of 17 December 2013 (Decision of Second Section)

Esmukhambetov and others v. Russia of 29 March 2011 (Judgment of First Section)

Shandrov v. Russia of 15 March 2011 (Judgment of First Section)

Ebcin v. Turkey of 1 February 2011 (Judgment of Second Section)

Dink v. Turkey of 14 September 2010 (Judgment of Second Section)

Alican v. Turkey of 26 January 2010 (Judgment of Second Section)

Milasinovic v. Croatia of 1 July 2010 (Partial Decision of First Section)

Amaç and others v. Turkey of 20 November 2007 (Judgment of Second Section)

Paul and Marlène Haudricourt v. France of 3 July 2007 (Decision of Second Section)

Çiçek v. Turkey of 30 March 2006 (Decision of Third Section)

Luluyev and others v. Russia of 9 November 2006 (Judgment of First Section)

Kavak v. Turkey of 6 July 2006 (Judgment of First Section)

O`Loughlin and others v. The United Kingdom of 25 August 2005 (Decision of Fourth Section)

Akkum and others v. Turkey of 24 March 2005 (Judgment of First Section)

Fatma Kaçar v. Turkey of 15 July 2005 (Judgment of First Section)

Mastromatteo v. Italy of 24 October 2002 (Judgment of Grand Chamber)

Appendix VI

Relevant provisions emanating from other bodies

United Nations Office on Drugs and Crime

Good Practices in Supporting Victims of Terrorism within the Criminal Justice Framework
(February 2016)

Legal framework, institutional capacity and coordination

- States should develop, in consultation with victims, civil society, victims' associations and relevant experts, government strategies, policies and legislation for providing effective responses to support victims of terrorism within the criminal justice framework.
- States should establish victim support specialists, focal points or liaison persons within criminal justice agencies.²
- States should establish procedures and practices, such as for identifying the immediate actions to be taken and designating the agencies to take charge of each intervention, to be followed by law enforcement and criminal justice agencies when responding to acts of terrorism, particularly with regard to potential victims.
- The use of multidisciplinary crisis response teams can help promote a victim-centred approach. States should be prepared, from a wide professional perspective, to deal with the needs of victims and their families immediately after a terrorist attack.³
- States should ensure that victims, in accordance with their needs, have access to confidential victim support services free of charge, before, during and for an appropriate time after criminal proceedings.
- Victims of terrorism should be provided, free of charge, access to translation or interpretation services necessary for effective interaction with responsible agencies from another State.

Assistance and support for victims of terrorism during criminal investigations and prosecutions

The need for a victim-centred approach to the investigation and prosecution of acts of terrorism

- States should ensure that victim support professionals are assigned to victims at an early stage of the investigation to inform them of all available support services, identify their needs and, if necessary, facilitate referrals or initial contact with service providers.
- States should ensure that investigators, prosecutors and other specialists (e.g., medical practitioners) limit, as much as possible, the number of interviews with victims and the number of medical examinations undergone by victims.⁴
- States should ensure that prosecutors trained in dealing with victims of terrorism are included in multidisciplinary teams, in which all members have been vetted for security purposes, to work with investigators, in order to increase the likelihood of successful prosecution outcomes and improved outcomes for victims.
- States should ensure that trained victim and witness coordinators or advocates serve as the primary contact point for victims, in order to answer victims' questions and provide information pertaining to the case, or to arrange referrals to support services.
- States should ensure that investigators, prosecutors and any other professionals dealing with victims receive specific victim-sensitive training on the needs of victims, strategies for appropriately dealing with them and the need

² European Commission, Directorate General for Justice, guidance document related to the transposition and implementation of 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/JHA (Brussels, December 2013).

³ Council of Europe, "Guidelines on the protection of victims of terrorist acts", adopted by the Committee of Ministers on 2 March 2005 at the 917th meeting of the Ministers' Deputies. Madrid Memorandum on Good Practices for Assistance to Victims of Terrorism Immediately after the Attack and in Criminal Proceedings.

⁴ 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/JHA (directive 2012/29/EU, art. 20 (b) and (d)).

to prevent secondary victimisation.⁵

Access to justice, legal advice, representation and participation

- States should establish mechanisms for the early identification and registration of, and contact with, victims in a manner consistent with international law and national data protection laws.
- States should ensure that criminal investigations into alleged acts of terrorism are commenced promptly and carried out expeditiously, thoroughly and in a manner that ensures public accountability. Victims should be provided with accurate and timely information pertaining to the investigation and its likely outcomes.⁶
- States should ensure that victims are promptly informed of their right to access to justice, the avenues available to them and related services (e.g., interpretation, legal advice). Such services should be provided at no cost to the victim.
- States should ensure that criminal proceedings, including appeals, are conducted expeditiously.
- States should ensure that victims are contacted and provided with updated and detailed information prior to and during the criminal proceedings.⁷
- Victim safety is paramount. Risks to the safety of victims should be assessed throughout the investigation and prosecution, and, where necessary, States should take measures to protect victims during their participation in the criminal justice system.
- Where victims are required or wish to attend court hearings, States should take measures to prevent or reduce the risk of their having personal contact with defendants and their families or supporters.
- Where necessary, States should provide interpretation of court proceedings at no cost to victims or their next of kin.
- States should ensure that, under national laws, victims have a clear legal right to participate actively in criminal proceedings. Such a right may entail their being separately represented or having their interests fully considered and represented in court by the prosecutor.
- In States where the direct participation of victims is not foreseen, existing mechanisms for their representation within the national prosecuting authority and legal system may be available or considered.⁸
- States should develop a procedure in their own national laws or criminal procedural codes whereby victims are entitled to ask for a review of a decision not to prosecute.⁹
- Victims of their next of kin should be provided with legal aid at no cost to facilitate their representation in court proceedings.

Information, personal privacy and dealing with the media

- States should ensure that victims have the right to protection from unreasonable intrusions into their personal privacy by the media or public.
- States should provide remedies for victims against the media for breaches of privacy, when necessary, through cessation, rectification actions or sanctions.
- States should encourage the media to adopt self-regulatory measures to ensure victim-sensitive coverage (e.g., media guidelines or standards developed by the industry in consultation with the Government, civil society and victim support professionals).
- States should involve the media in other specific tasks aimed at raising awareness of the vulnerability of victims, their needs and the potential risk of secondary victimisation.
- States should ensure that victims are provided with information when dealing with the media.
- States should ensure that officials dealing with or providing information to victims are given specific training on victim-sensitive approaches.

⁵ Madrid Memorandum on Good Practices, good practice 15 and European Union directive 2012/29/EU establishing minimum standards on the rights support and protection of victims of crime, art. 25.

⁶ Report of the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism (A/HRC/20/14), para. 36.

⁷ Madrid Memorandum on Good Practices, good practice 13.

⁸ Report of the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism (A/HRC/20/14), paras. 38 and 39.

⁹ Guidance document related to the transposition and implementation of directive 2012/29/EU establishing minimum standards on the rights, support and protection of victims of crime.

Restitution, reparation and financial compensation

- States should ensure that victims have the right to timely and fair restitution, reparation and compensation.
- States should ensure that judges are under a mandatory obligation to order a report on the financial means of a defendant after a criminal conviction, and that they have the right to make an order for reparation or restitution to the victims.
- States should ensure that financial intelligence units and investigators are trained on the need to investigate, trace and present to judges reports on the defendant's financial means and ability to pay restitution or reparation.
- States should consider providing forms of indirect financial assistance to victims (e.g., free or subsidised education, medical care or housing assistance; employment training and opportunities; and tax reductions).
- States should consider establishing national victims' funds, resourced by proceeds derived from assets seized in accordance with legislative provisions from persons convicted of serious crimes related to terrorism or legal entities that have been restrained and forfeited, having been found civilly liable for financing terrorist activities.
- States should consider other means of resourcing a publicly administered fund for victims of terrorism (e.g., levies on life insurance policies or fines assessed or imposed by the courts when sentencing for criminal convictions).
- States should consider prohibiting the sale or marketing of life insurance policies that exclude coverage for acts of terrorism.
- States should ensure that victims receive equal treatment in their status as beneficiaries of a compensation scheme, according to the harm suffered, regardless of their individual circumstances and nationality.

The role of victims' associations and civil society

- States should work closely with civil society organisations, including recognised and active non-governmental organisations working with victims of crime, in particular in policymaking initiatives, information and awareness-raising campaigns, research and education programmes, and training, as well as in monitoring and evaluating the impact of measures to support and protect victims of terrorism.
- States should promote and support civil society and non-governmental organizations involved in providing support to victims of terrorism within the criminal justice system.
- In order to increase transparency, States should review the basis and implementation of grants awarded to non-governmental organisations providing support to victims, in order to monitor and evaluate the technical quality of the support offered, as well as to enhance mutual collaboration, coordination and communication between Governments and non-governmental actors.
- States should encourage government agencies to coordinate with suitable civil society and non-governmental organisations in order to improve the coordination and delivery of justice-related services to support victims of terrorism.
- States should support the actions of victims' associations and civil society to highlight the human cost of terrorism, for example through public displays.

International cooperation

- States should have measures in place to ensure that victims of terrorism who are foreign nationals have the same entitlements to assistance and support as local nationals and can access all relevant support services.
- When facilitating international cooperation requests, States should pay due regard to the status, role and rights of victims of terrorism, including those who are foreign nationals, within the criminal justice framework.
- States should ensure that their embassies, consulates and other international diplomatic posts are able to provide effective assistance and support to their nationals who might become victims of terrorism abroad, and have the capacity to cooperate with key government and private sector counterparts and actors.