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## 127<sup>th</sup> Session of the Committee of Ministers (Nicosia, 19 May 2017)

Revised Guidelines of the Committee of Ministers on the protection of victims of terrorist acts

Document prepared by the Steering Committee for Human Rights (CDDH)

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### **Preamble**

The Committee of Ministers,

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 aspiration of everyone to live free from fear;

Unequivocally condemning all acts of terrorism as criminal and unjustifiable, wherever and by whoever committed;

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;

Underlining 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;

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 all forms of arbitrariness and discriminatory treatment, and must be subject to appropriate supervision, and reaffirming member States' obligation to respect, in particular, the Convention for the Protection of Human Rights and Fundamental Freedoms (ETS No. 5), and abide by the final judgments of the European Court of Human Rights to which they are parties;

Reaffirming the Guidelines on Human Rights and the Fight against Terrorism, adopted on 11 July 2002 at the 804<sup>th</sup> meeting of the Ministers' Deputies, as a permanent and universal reference;

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 light particularly of Article 13 of the Council of Europe Convention on the Prevention of Terrorism (Warsaw, 16 May 2005, CETS No. 196), including, in an appropriate way, the societal recognition of the suffering of victims and the maintenance of the duty of remembrance;

Recalling the Guidelines on the Protection of Victims of Terrorist Acts, adopted on 2<sup>nd</sup> March 2005 at the 917<sup>th</sup> meeting of the Ministers' Deputies and wishing to revise them as a response to all forms of terrorism;

Recalling the United Nations Office on Drugs and Crime handbook of 2012 *The Criminal Justice Response to Support Victims of Acts of Terrorism*;

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

Having regard to the work carried out by the Steering Committee for Human Rights (CDDH) which, apart from a Revised Text of the Guidelines, produced also a background paper to them, in consultation with the Committee of Experts on Terrorism (CODEXTER);

Adopts the following revised Guidelines on the protection of victims of terrorist acts which shall replace the ones adopted on the same subject-matter on 2 March 2005, and invites member States to use them as a practical tool in order to address the above challenges in the light of all forms of terrorism and towards ensuring better protection of human rights and fundamental freedoms;

Invites the governments of the member States to ensure that the revised guidelines are widely translated and 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 on the protection of victims of terrorist acts**

The present Guidelines aim at recalling the measures to be taken by the member States in order to support and protect the fundamental rights of any person who has suffered direct physical or psychological harm as a result of a terrorist act, and, in appropriate circumstances, of their close family. These persons are considered victims for the purposes of these Guidelines.

## **II. Principles**

1. States should have an appropriate legal and administrative framework including suitable internal structures, in order for victims of terrorist acts (hereafter “the victims”) to benefit from the services and measures prescribed by these Guidelines.
2. The granting of these services and measures should exclude all forms of arbitrariness, as well as any discriminatory treatment and should not depend on the identification, arrest, prosecution or conviction of the perpetrator of the terrorist act.
3. States must respect the dignity and the private and family life of victims.

## **III. Emergency assistance**

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

## **IV. Information**

1. States should give information to victims relating to the act from which they have suffered, except where victims indicate that they do not wish to receive such information.
2. For this purpose, States should:
  - a. set up appropriate 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;
  - b. ensure that victims are provided with appropriate information in particular about the investigations, the final decision concerning prosecution, the date and place of the hearings, any opportunity in that context to introduce an action for damages, and the conditions under which they may acquaint themselves with the decisions handed down.

## **V. Continuing assistance**

1. States should provide for appropriate continuing medical, psychological, social and material assistance for victims. This assistance should ensure that victims are able, as far as is practicable, to resume the normal course of their activities and lives which they enjoyed before the terrorist act.
2. If the victim does 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 the victim receives such assistance.

## **VI. Investigation and prosecution**

1. States must effectively investigate terrorist acts without delay, particularly where there have been victims.
2. In this framework, special attention should be paid to victims without it being necessary for them to have made a formal complaint.
3. States should ensure that their investigators receive specific victim-sensitive training on the needs of victims.
4. 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, independent and impartial tribunal within a reasonable time.
5. 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 ensure that victims are able to ask for a review of this decision by a competent authority.
6. States should ensure that the position of victims is adequately recognised in criminal proceedings.

## **VII. Effective access to the law and to justice**

States must provide effective access to the law and to justice for victims by providing the right of access to competent courts in order to bring a civil action in support of their rights, including legal assistance and interpretation as required to this end.

## **VIII. 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 should contribute to the compensation of victims for direct physical or psychological harm, irrespective of their nationality. To this end States could consider the creation of specific funds, if they do not already exist.
2. Compensation should be easily accessible to victims, irrespective of nationality. To this end, the State on the territory of which the terrorist act took place should introduce a mechanism allowing for fair and appropriate compensation, after a simple procedure and within a reasonable time.
3. States whose nationals are 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 harmful consequences of the terrorist act suffered by the victims.

## **IX. Protection of 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.

**X. Protection of 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 take measures, where appropriate, to protect their identity, in particular where they appear as witnesses.

**XI. Specific training for persons working with victims**

States should encourage specific training for persons working with victims, and grant the necessary resources to that effect.

**XII. Raising public awareness and involving victims**

States are encouraged to:

- a. take measures, in an appropriate way, in order to attain societal recognition and remembrance of victims;
- b. facilitate the involvement of representatives of the victims of terrorist acts in raising public awareness.

**XIII. Co-operation with civil society**

States are encouraged to co-operate with and facilitate as much as possible the actions of civil society representatives, and especially those of the associations for the protection of victims.

**XIV. Increased protection**

Nothing in these Guidelines prevents States from providing services and adopting measures more favourable than those described in these Guidelines.